

VOLUME TWO OF THREE

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Larry B. Hyman, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROBERT PALMER,

APPELLANT

APPELLATE CASE NO. 2011-203766

RECORD ON APPEAL

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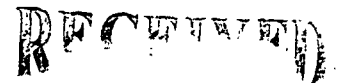
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SC Court of Appeals

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THE FOLLOWING EXHIBITS ARE BEING TRANSPORTED TO THIS COURT:

STATE'S EXHIBIT #64 (CD – PALMER STATEMENT)
STATE'S EXHIBIT #65 (CD – GORMAN STATEMENT)

Mr. Whiteis - Cross Examination by Mr. Galmore

618

1 Q No, okay, so you work in conjunction with
2 the police?

3 A We do.

4 Q And you did so in this case?

5 A We did.

6 Q You talked about the hotline, was the
7 hotline used in this case?

8 A It was.

9 Q Okay, and what information did you receive
10 off the hotline?

11 Ms. Grabert-Lowenstein: Objection, foundation
12 of who said it and hearsay.

13 The Court: I think it would be, Mr. Galmore.

14 Mr. Galmore: Okay.

15 Q (Continuing) Do you know who the person was
16 that called the hotline?

17 A Of course.

18 Q And who was that person?

19 A I don't think I'm able to tell that by
20 state law as to who made the report. I think the
21 reporter's information even in this courtroom would be
22 still confidential.

23 Q Do you know if it was a hospital employee?

24 A I know who called.

25 Q All right, what time did you receive a call

Mr. Whiteis - Cross Examination by Mr. Galmore

619

1 on the hotline?

2 A They actually called us the night before.
3 We got a call from the reporter at 8:50 p.m. and we do, the
4 hotline is actually not on at that time. It gets re-routed
5 to a on call investigator, someone who works after hours,
6 and the weekends. When the report would have come in it
7 would have been handled by our on call investigator who
8 would have called the on call supervisor, I'm not sure who
9 that was at the time, but I do know since the child was at
10 the hospital it was technically safe and not in harms way
11 anymore it was something that we could go out in the
12 morning. It wasn't something that we were going to go out
13 on at 8:00.

14 Q Okay, so the determination was made to wait
15 until the next day?

16 A That's right, that's right, and, and, and
17 I'll tell you what the main reason for that is our on-call
18 worker is not supposed to leave the county cause if we all
19 had a one person run it's the whole CPS show in Horry
20 County so if they leave the county we have no one in Horry
21 County so it's pretty common that we wait on a case like
22 this until the morning to send a person out.

23 Q In this instance the child was at the
24 hospital?

25 A Correct.

Mr. Whiteis - Cross Examination by Mr. Galmore

620

1 Q You said you called Ms. Gorman at some
2 point?

3 A I did.

4 Q Did she take your call?

5 A She did.

6 Q Did she answer your questions?

7 A Yes, she certainly did.

8 Q Did she have to answer your questions?

9 A No, she did not.

10 Q She told you where she worked?

11 A She did.

12 Q She gave you her shift?

13 A She did.

14 Q Were you able to independently verify that
15 information?

16 A I would not have done that; the
17 investigator would have handled the case from here and her
18 immediate supervisor actually at the time it was actually
19 two cps supervisors who, who run that unit, Yvette Brown,
20 who handled the investigation has an immediate supervisor,
21 them two would have taken over from there, so anything that
22 Ms. Gorman would have told me I would not have further
23 looked into.

24 Q Okay ---

25 A So I did not.

Mr. Whiteis - Cross Examination by Mr. Galmore

621

1 Q So it would have been Ms. Brown or perhaps
2 her supervisor who would have had the responsibility of
3 following up on the information that was received?

4 A That's right, yes, sir.

5 Q Okay, did you do a home visit?

6 A No.

7 Q Did you ask Ms. Brown to do a home visit?

8 A She was, recommendations for the
9 investigation would have come from her immediate supervisor
10 so, no, I wouldn't have asked anything of her.

11 Q You wouldn't have been in the loop at that
12 point?

13 A Exactly.

14 Mr. Galmore: I don't have any more questions,
15 thank you, sir.

16 The Court: Ms. Cote?

17 Ms. Cote: Your Honor, I have no further
18 questions for Mr. Whiteis.

19 The Court: All right, Mr. Whiteis, you may step
20 down.

21 Ms. Grabert-Lowenstein: I've just one further.

22 The Court: I'm sorry.

23 Recross Examination

24 By Ms. Grabert-Lowenstein:

25 Q Mr. Whiteis ---

Ms. Brown - Direct Examination by Ms. Lively

622

1 Mr. Galmore: I'm sorry, Your Honor, she did not
2 cross examine the witness.

3 Ms. Grabert-Lowenstein: I'm sorry, Your Honor.

4 The Court: Okay.

5 Ms. Grabert-Lowenstein: That's fine.

6 Ms. Cote: Your Honor, may Mr. Whiteis be
7 excused from his subpoena?

8 The Court: Any objection?

9 Mr. Galmore: No, sir.

10 Ms. Grabert-Lowenstein: No, Your Honor.

11 The Court: You're excused.

12 Ms. Lively: The State calls Yvette Brown to the
13 stand.

14 The Court: Come around, Ms. Brown.

15 **Yvette C. Brown**

16 **being first duly sworn, testified as follows:**

17 Madam Clerk: Please state your full name and
18 spell your last name for the Court?

19 The Witness: My name is Yvette Catherine Brown,
20 my last spelling on my last name is b-r-o-w-n.

21 **Direct Examination**

22 **By Ms. Lively:**

23 Q Yvette, please tell the jury where you're
24 currently employed?

25 A I'm currently employed with the Horry

Ms. Brown - Direct Examination by Ms. Lively

623

1 County Department of Social Services.

2 Q How long have you worked there?

3 A Approximately nine years.

4 Q And what are your duties there?

5 A I'm an investigator; I work in child
6 protective services.

7 Q Okay, and is Mr. Whiteis someone that you
8 work with quite often?

9 A Correct.

10 Q Okay, who's your direct supervisor now?

11 A Brad Whiteis.

12 Q Brad Whiteis?

13 A Yes.

14 Q All right, now, Yvette, did you have the
15 opportunity to become involved in a case with a patient by
16 the Victim [REDACTED] in July of 2008?

17 A I did.

18 Q Will you, please, tell this jury why you
19 were given this case?

20 A Well we go by rotation so I was the next
21 one up for the next case that was received.

22 Q Okay, and so you were next in line?

23 A Yes, I was.

24 Q All right, and tell the jury exactly what
25 you did once you learned this case was assigned to you and

Ms. Brown - Direct Examination by Ms. Lively

624

1 what you had to do?

2 A I had to travel to MUSC in Charleston to
3 get the information that was going on with the child.

4 Q Okay, and before you actually go to, to
5 begin your investigation are you provided with just some
6 preliminary information about what to expect?

7 A Yes, I am.

8 Q Okay, so what preliminary information were
9 you given regarding this particular case?

10 A The allegations were that Richard, age one,
11 was brought to the E.R. by his grandmother, the baby was
12 dropped off at grandma's house by, by his mother a couple
13 of days ago and she hasn't been in contact since the child,
14 since then. The child was cranky and sleepy. The baby was
15 diagnosed with a fractured skull and blood on the brain and
16 he was transported to MUSC.

17 Q Okay, and, and based upon that information
18 that, was that how you knew what it was that you were
19 walking into at MUSC?

20 A Yes, yes.

21 Q Okay, now what time did you leave Horry
22 County to go to MUSC?

23 A I left the office approximately 9:30, 9,
24 9:30.

25 Q Okay, and tell the jury when you got there

Ms. Brown - Direct Examination by Ms. Lively

625

1 where did you go?

2 A I went straight to the NICU to check on the
3 child.

4 Q All right, and whenever you got there tell
5 the jury what it was that you observed?

6 A When I got there I observed Ms. Gorman, the
7 nurse, Victim they were in the NICU room, I looked at the
8 child.

9 Q And tell the jury exactly what you
10 observed?

11 A I observed him with a neck brace on and I
12 also observed some bruising on his thighs and his lower
13 legs.

14 Q And when he was in that, in that bed what
15 did he have on him, were there clothes or not?

16 A No, there were no clothes, there was just a
17 lot of tubes, ventilators, a neck brace, and they had a
18 little like a little pamper but it wasn't closed.

19 Q At that time did you personally observe any
20 reactions or movements by the child?

21 A At that time, no, no.

22 Q Okay, now you mentioned that you saw
23 bruises what, if anything, did you learn regarding these
24 bruises that day?

25 A Well I asked the nurse initially because he

Ms. Brown - Direct Examination by Ms. Lively

626

1 had darker bruises on his thigh area ---

2 Ms. Grabert-Lowenstein: Objection, hearsay, and
3 lack of foundation for any description of the bruises, this
4 person is not qualified.

5 The Court: I don't think, I don't think she
6 said what the nurse said and she can give a layperson's
7 description of the bruises.

8 Ms. Lively: Yes, sir.

9 Q (Continuing) Just give me your description
10 of the bruises, not what the nurse told you, okay?

11 A Okay.

12 Q Just tell this jury what you saw?

13 A I saw purple bruises on his thigh and I
14 also saw like yellow greenish bruises down on his lower
15 legs.

16 Q Okay, and when you saw those bruises who,
17 if anyone, did you ask about those bruises?

18 A I asked Ms. Gorman about the bruises.

19 Q All right, tell the jury what she told you
20 when you asked about those bruises?

21 A She said he liked to pinch himself, that
22 was the, that's what she said when I asked him how did he
23 get the bruises, oh, he likes to pinch himself is what she
24 said to me.

25 Q He likes to pinch himself?

Ms. Brown - Direct Examination by Ms. Lively

627

1 A Correct.

2 Q Were you there when photos of Victim were
3 taken?

4 A Yes.

5 Q Did the photos, and I'm just going to show
6 you but you don't have to go through each one, but I'm just
7 going to, there were several and just, if you'll just
8 quickly look through, are these consistent with what you
9 saw whenever you went to the hospital on July the 15th,
10 2008?

11 The Court: Identify those?

12 Ms. Lively: I'm sorry, Your Honor, those are
13 State's Exhibit, I believe, Number 34 through 55, 34
14 through 55, Your Honor, thank you.

15 The Court: Very well.

16 Ms. Lively: (Continuing)

17 Q And like I said you don't have to identify
18 each one just tell us if they're consistent with what your
19 personal observations were that day?

20 A Yes, they are.

21 Q They are, thank you, Yvette, now what was
22 the next step in your duties as an investigator in this
23 case? Do you need some water?

24 A Please.

25 Q What's the next thing you have to do,

Ms. Brown - Direct Examination by Ms. Lively

628

1 Yvette?

2 A I then spoke with the doctors and the
3 assigned social worker.

4 Q Okay, and after you spoke to the doctors
5 and the social worker what then were you required to do as
6 a part of your investigation?

7 A I was required to speak with Ms. Gorman but
8 that happened later on, to get demographics and stuff of
9 that nature, to kind of find out what happened to Victim

10 Q And whenever you begin an investigation
11 like this what are you trying to determine regarding the
12 primary caretakers of the child?

13 A We're trying to determine basically what
14 happened to the child and whose care was the child in when
15 the injury occurred.

16 Q Okay, all right, and so were you aware of
17 who the primary caretakers were at that point?

18 A Yes, I was.

19 Q Okay, and would this have been information
20 you could have received through your supervisor Whiteis?

21 A With the allegations, yes.

22 Q Okay, now, Yvette, did you end up speaking
23 with Defendant Gorman and Defendant Palmer on that day?

24 A I did.

25 Q Now whenever you meet with a caregiver how

Ms. Brown - Direct Examination by Ms. Lively

629

1 do you present yourself in regards to what it is your job
2 duties are?

3 A I identify myself and with whom I'm
4 employed. I then give the state mandated brochures to let
5 them know that they are being investigated by our
6 department, the civil rights information and all of that,
7 and then we proceed with the interview.

8 Q Do you make sure that they completely
9 understand what your job duties are?

10 A Yes, they do.

11 Q Okay, and at any point in time do you
12 threaten them, coerce them, or tell them you have any type
13 of, that you could lock them up if you wanted to?

14 A No, ma'am.

15 Q Okay, all right, so whenever you talk to a
16 caregiver how would you describe your demeanor towards this
17 person?

18 A My demeanor is non threatening at all, you
19 know, we are social services so we want to hear all parties
20 sides of what happened.

21 Q Okay, all right, so who did you speak with
22 first?

23 A Ms. Gorman.

24 Q And whenever you spoke to her tell us the
25 environment that you spoke to her in?

Ms. Brown - Direct Examination by Ms. Lively

630

1 A We were in a room just she and I during the
2 interview.

3 Q All right, and will you, please, tell the
4 jury what took place during that, during that conversation
5 with Ms. Gorman?

6 A Like I stated she gave me all of her
7 demographics, the state she lived in, any other minor
8 children, where they were located, information like that.

9 Q Okay, and what information, if any, did she
10 give you regarding the biological mother and father of
11 Victim

12 A She told me that Cesalee dropped Victim off
13 and she left on July 2nd and Richard, Sr. was actually in
14 Virginia at a military base and Cesalee went to Arizona for
15 some personal business and I guess she was going to come
16 back to pick Victim up and be united with Mr. Richard in
17 Virginia.

18 Q Okay, and how did she describe Victim to
19 you while he had been in her care?

20 A She said he was cranky, he looked
21 underweight, undernourished, and that his head had a
22 squishy feel to it like it didn't have bone structure.

23 Q Okay, did that strike you as odd?

24 A It did.

25 Q Okay, what else did, if anything, did she

Ms. Brown - Direct Examination by Ms. Lively

631

1 tell you about Victim before you got to the July 14th date?

2 A She had taken him to a doctor and the
3 doctor said that he was okay.

4 Q Okay, so she told you she had been having
5 him treated?

6 A Correct.

7 Q All right, did she give you any information
8 regarding any kind of injuries that Victim suffered while
9 in her care?

10 A No.

11 Q At any time did Ms. Palmer, Ms. Palmer, I'm
12 sorry, did Ms. Gorman provide you with information as to
13 any other caregivers for Victim while he had been living
14 with her?

15 A No one other than Mr. Palmer.

16 Q Okay, so just the two of them?

17 A The two of them, correct.

18 Q Okay, was she working at the time?

19 A Yes, she was.

20 Q All right, did she tell you where?

21 A At Bass Pro Shop.

22 Q All right, did she tell you whether Mr.
23 Palmer was working?

24 A He was not at the time.

25 Q All right, now, Yvette, how did you get to

Ms. Brown - Direct Examination by Ms. Lively

632

1 your questioning about how the child came to the E.R. on
2 the 14th?

3 A I just asked her what happened and that's
4 when she told me that he had a little, that he was seizing
5 and that's when she called 911.

6 Q Did she give you any more details about
7 specifically what happened on the 14th, like what kind of
8 day it was, what she had done, what Victim had done?

9 A Yes, they are at, I was, she told me that
10 they were at a picnic at Mr. Palmer's parents home and they
11 were just at a picnic, that they had a cookout with Mr.
12 Palmer's son and they had a little pool for them to play in
13 and he was okay.

14 Q Okay, she told you he was okay?

15 A Right.

16 Q At that event?

17 A Right.

18 Q All right, what did she tell you about the
19 14th, the day that he was actually seen in Conway Medical
20 Center, and if you need to refer to your notes you can?

21 A Okay, what was your question?

22 Q Okay, specifically for the day that Victim
23 went to the E.R. did she give you any details about what
24 she personally did that day?

25 A No.

Ms. Brown - Direct Examination by Ms. Lively

633

1 Q Okay, all right, so what were there, if,
2 did she tell you anything about what happened with Victim
3 that day before he got to the E.R.?

4 A No.

5 Q Okay, now after you were finished
6 interviewing her what did you do?

7 A I went back, that's when I was informed
8 that the detectives were there, I'm sorry, cause I
9 interviewed her twice, I went to the NICU twice, I then
10 went out and spoke with Mr. Palmer.

11 Q Okay, and when you spoke with Mr. Palmer
12 was it in the same environment as you were in with Ms.
13 Gorman?

14 A No.

15 Q All right, where did you speak with him?

16 A Outside under the vestibule, I think, is
17 what it's called.

18 Q Okay, and, please, tell the jury what Mr.
19 Palmer, what information he provided to you?

20 A Just basic demographics, he was born and
21 raised in Horry County; he had a five year old son who was
22 currently with his parents because he goes to a camp. He,
23 that was basically it, he, he was jut stunned, bewildered.

24 Q Okay, stunned and bewildered?

25 A Right, like, yeah.

Ms. Brown - Direct Examination by Ms. Lively

634

1 Q Well did you ask him what had taken place
2 on July the 14th of 2008 when Victim ended up in the E.R.?

3 A I did.

4 Q And what information did Mr. Palmer provide
5 to you?

6 A He said he didn't know, he just didn't
7 know.

8 Q He didn't know?

9 A No, ma'am.

10 Q After you did these interviews, Yvette, did
11 you have any other duties at that time in regards to
12 investigating this case?

13 A No, no.

14 Q And in regards to your conversations with
15 Gorman and Palmer did you document those conversations?

16 A I did.

17 Q Okay, and since that time is the DSS case
18 just remained open pending this case?

19 A No, it's closed.

20 Q It is closed, okay, did you speak to any
21 other individuals other than Julie Gorman and Robert Palmer
22 in this investigation?

23 A I have.

24 Q Who else did you speak to in your
25 investigation?

Ms. Brown - Cross Ex. by Ms. Grabert-Lowenstein

635

1 A Ms. Gail Palmer and Mr. Palmer.

2 Q Mr. Palmer, would those be Robert's
3 parents?

4 A Robert's parents, yes.

5 Q Okay, and were they able to provide you any
6 kind of information to explain what had happened or how
7 Victim got to the E.R. on July 14th, 2008?

8 A Not how he got to the E.R., no.

9 Ms. Lively: Okay, Yvette, thank you so much,
10 please answer any questions the defense may have for you.

11 The Court: Ms. Grabert-Lowenstein?

12 Ms. Grabert-Lowenstein: Just briefly, Your
13 Honor.

14 Cross Examination

15 By Ms. Grabert-Lowenstein:

16 Q Can you tell us when the call through the
17 hotline came in?

18 A I didn't take the call so I cannot, I ---

19 Q Would it have come in prior to you getting
20 assigned to the case?

21 A Yes.

22 Q You said that Ms. Gorman gave you
23 demographic information, where are her other children
24 living?

25 A In Hawaii.

Ms. Brown - Cross Examination by Mr. Galmore

636

1 Q With, with whom?

2 A With her ex-husband.

3 Q And did Mr. Palmer answer all your
4 questions?

5 A Yes..

6 Q Did Ms. Gail Palmer answer all your
7 questions?

8 A Yes.

9 Q And did Mr. James or Jimmy Palmer answer
10 all your questions?

11 A Yes.

12 Q Okay --

13 Ms. Grabert-Lowenstein: If I could have just a
14 moment, Your Honor, but I believe that's everything. I
15 have no further questions.

16 The Court: Mr. Galmore?

17 Cross Examination

18 By Mr. Galmore:

19 Q Good morning, Ms. Brown.

20 A Good morning.

21 Q Just a few questions. So you are, what is
22 your title with DSS?

23 A Investigator.

24 Q Okay, as an investigator are you authorized
25 to arrest people?

Ms. Brown - Cross Examination by Mr. Galmore

637

1 A No.

2 Q No, okay, so you work in conjunction with
3 the police?

4 A Yes.

5 Q I assume that you've had classes and
6 training in investigating signs of abuse, cases of abuse?

7 A I have.

8 Q Let me ask you a few questions about your
9 report, you said in your report that the child was dropped
10 off at the grandmother's house by the mother a couple of
11 days ago; how did you receive that information?

12 A Through our intake unit, those were the
13 allegations. We have an intake unit where a intake hotline
14 where all of the calls for abuse and neglect come through.
15 Those are simply allegations at the time but then we're
16 assigned the case and we go out and investigate the
17 allegations.

18 Q So the information that the child had been
19 dropped off a couple of days ago was on the hotline?

20 A That's what was on the allegations, yes, on
21 the intake sheet.

22 Q Okay, did you ask Ms. Gorman for any type
23 of documentation to verify that the child was dropped off a
24 few days ago?

25 A I didn't, no.

Ms. Brown - Cross Examination by Mr. Galmore

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1 Q Okay, I mean you're the investigator and
2 you get a report that the child was just brought here would
3 it be prudent to try to get a bus ticket or something?

4 A I asked her when, when was the mom there
5 and when did she leave, she said she arrived some time in
6 June, she could not remember the date, and she left on July
7 2nd.

8 Q Did you ask the same of Mr. Palmer?

9 A No, I did not.

10 Q So you had this information on the hotline
11 and then you verified it by asking the mother; is that
12 correct?

13 A The grandmother, yes.

14 Q Yes, the grandmother, all right?

15 A Yes.

16 Q Now your report says that the child had
17 fractured skull and blood on the brain?

18 A Fresh blood on the brain.

19 Q Yes, ma'am, where did you receive that
20 information?

21 A From Dr. Abel and from Ms. Major, the
22 social worker at the hospital.

23 Q Did you ask for any hospital records to try
24 to verify that claim?

25 A Not at the time because they were still

Ms. Brown - Cross Examination by Mr. Galmore

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1 doing further testing so it wasn't conclusive; this is for
2 the preliminary report.

3 Q Did you receive a report from the hospital;
4 a written report from the hospital?

5 A No, I did not.

6 Q Did you take any steps, and I know this
7 might sound a little ridiculous, but did you take any steps
8 to verify the claim that the child in fact had a fractured
9 skull?

10 A No, I did not because once law enforcement
11 was involved there were no other minor children in the home
12 I was advised by my supervisor for us to close our case and
13 let law enforcement go with the criminal portion.

14 Q Okay, would it be fair to say that that
15 information that the child had a fractured skull came from
16 a reputable source, the doctors?

17 A Yes, yes.

18 Q When you received information from that
19 type of source, the doctor or the hospital, not really
20 necessary to go back and independently verify that?

21 A It depends on the case.

22 Q Okay?

23 A Each case is different cause you're dealing
24 with humans and, of course, when there were, like I stated
25 before there are no other minor children in the home our

Ms. Brown - Cross Examination by Mr. Galmore

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1 investigation then stops.

2 Q Yes, ma'am, your reports says that the
3 mother hadn't been in contact since she dropped the child
4 off; is that correct?

5 A That's according to Ms Gorman, yes.

6 Q Okay, did you have an opportunity to talk
7 with Ms. Carnaghie to try to verify that information?

8 A No, I did not.

9 Q You accepted what Ms. Gorman said and took
10 it at face value?

11 A That was during my interview with her; I
12 dictated what she informed me at the time.

13 Q Yes, ma'am, and you also say in your report
14 that the child was cranky and sleepy; is that information
15 that you got from Ms. Gorman also?

16 A Correct.

17 Q Were you able to verify that information?

18 A Like I stated before, sir, once I got the
19 information from Ms. Gorman on the initial interview when
20 there are no other minor children in the home we staff the
21 case with our supervisors and I was advised at that time to
22 close our case so our investigation stopped so, no, I
23 didn't get any other information.

24 Q Okay, did you visit the home out on Highway
25 129?

Ms. Brown - Cross Examination by Mr. Galmore

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1 A Yes, I did, I attempted anyway.

2 Q Would that have been after law enforcement
3 was involved?

4 A That was after law enforcement was
5 involved.

6 Q But before your case was closed?

7 A Correct.

8 Q Okay, now you said you spoke with Ms.
9 Gorman at the hospital down in Charleston; is that correct?

10 A Correct, sir.

11 Q And she told you that the child was cranky,
12 she told you that the child was underweight?

13 A Yes.

14 Q When, did you have an opportunity to look
15 at the child for yourself?

16 A I did, I did.

17 Q Did he appear underweight to you?

18 A He appeared small, yes.

19 Q Okay, she also told you that his head was
20 squishy?

21 A Yes.

22 Q Did you get an opportunity to, an
23 opportunity to examine Victim's head at the hospital?

24 A I'm not a medical doctor, sir.

25 Q Okay.

Ms. Brown - Cross Examination by Mr. Galtmore

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1 A I don't examine heads.

2 Q Yes, ma'am, and it would be kind of
3 difficult because he had skull fractures?

4 A Correct.

5 Q Well did Ms. Gorman indicate to you that
6 she had taken the child to a family physician for that
7 condition?

8 A She did.

9 Q Did you talk to the family physician?

10 A No, I did not.

11 Q Would it be fair to say that Ms. Gorman
12 answered your questions?

13 A She did.

14 Q Did Ms. Gorman refuse to answer any of your
15 questions?

16 A She did not.

17 Q Could she have refused to answer your
18 questions?

19 A Of course, yes, she could have.

20 Q The pamphlet you gave her said she could?

21 A Right.

22 Q So while she's giving you this information
23 did she say I did it?

24 A No, she did not.

25 Mr. Galtmore: Thank you very much, Ms. Brown.

Ms. Brown - Cross Examination by Mr. Galmore

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1 A You're welcome.

2 Ms. Grabert-Lowenstein: No questions, Your
3 Honor.

4 The Court: Ms. Lively?

5 Ms. Lively: That's all for this witness, Your
6 Honor, if she may please be excused from her subpoena?

7 The Court: Mr. Galmore, do you have further
8 need for Ms. Brown?

9 Mr. Galmore: No, sir, Your Honor.

10 The Court: Ms. Grabert-Lowenstein?

11 Ms. Grabert-Lowenstein: No, Your Honor.

12 The Court: You're excused from your subpoena.

13 A Thank you.

14 The Court: Thank you, all right, it's time for
15 our morning break.

16 Ms. Lively: Your Honor, before you step down I
17 do have a matter I do want to approach for just a moment.

18 The Court: Okay, take the jury out.

19 Ms. Lively: Thank you.

20 (Whereupon, the jury retired to the jury room at
21 10:59 a.m.)

22 (Whereupon, a recess was taken by court personnel
23 and the following takes place on the record after the
24 recess.)

25 (Whereupon, State's Exhibits Numbers 64 and 65

Detective Troxell - Direct Examination by Ms. Lively 647

1 jury room, I mean in the courtroom. Are you ready to
2 proceed?

3 Ms. Lively: Yes, Your Honor, thank you, the
4 State would call Detective Tim Troxell to the stand.

5 **Detective Timothy Troxell**

6 **being first duly sworn, testified as follows:**

7 Madam Clerk: Please state your full name and
8 spell your last name for the Court?

9 The Witness: Tim Troxell, t-r-o-x-e-l-l.

10 **Direct Examination**

11 **By Ms. Lively:**

12 Q Detective Troxell, where are you currently
13 employed?

14 A With the Horry County Police Department.

15 Q And how long have you worked there?

16 A Nine years.

17 Q And what are duties there at Horry County
18 P.D.?

19 A Currently I'm a supervisor in our
20 investigations division assigned to our property crimes
21 unit.

22 Q Okay, and in regards to your position in
23 July of 2008, have they changed?

24 A Yes, ma'am, I was promoted in May of 2010.

25 Q Okay, and so in 2008 what was your position

Detective Troxell - Direct Examination by Ms. Lively 648
1 at Horry County P.D.?

2 A I was a detective within our violent crimes
3 division.

4 Q And in July of 2008 did you have an
5 opportunity to become involved with the investigation of a
6 minor child by the name of Victim Victim

7 A Yes, ma'am, I did.

8 Q Okay, please tell the jury how you became
9 involved in this investigation?

10 A On the evening of July 14th, 2008,
11 Detective David Weaver was called out to Conway Medical
12 Center and assume the investigation on the morning of July
13 15th, I was tasked with assisting him on the investigation.

14 Q Okay, and what information were you
15 provided that gave you an idea of what the two of you would
16 be investigating?

17 A Detective Weaver provided me with the
18 preliminary findings from doctors at Conway Medical Center
19 of the injuries that Victim sustained.

20 Q Okay, and based upon the information that
21 you had was it one of those situations where you're
22 required to follow up and investigate?

23 A Yes, ma'am.

24 Q Okay, what were the concerns?

25 A The severe trauma that Mr. Grimes sustained

Detective Troxell - Direct Examination by Ms. Lively 649
1 to his head.

2 Q Okay, and where did you go on July 15th,
3 2008, as a part of your investigation?

4 A Detective Weaver and I traveled to the
5 Medical University of South Carolina in Charleston.

6 Q Okay, and while you were at the Medical
7 University of South Carolina on July 15th, 2008, who did
8 you speak with regarding this case?

9 A We spoke with Ms. Gorman and Mr. Palmer as
10 well as the attending medical staff at the hospital.

11 Q Did you speak with Dr. Abel?

12 A Dr. Abel and I believe Dr. Tecklenburg.

13 Q Okay, all right, and at that time what
14 information did you receive as to the, the condition of the
15 child?

16 A As far as which conversation are you
17 referring?

18 Q Okay, in regards to the conversation that
19 you had with the doctors, what was the condition of the
20 child?

21 A The child's condition was critical; he had
22 sustained some skull fracturing and bleeding on the brain.

23 Q Okay, and why do you receive this
24 information before you go and follow up with your
25 investigation and talking to caregivers?

Detective Troxell - Direct Examination by Ms. Lively 650

1 A That way we can know the basis of our
2 questions to ask whereas the location of the injuries how
3 were they inflicted and things of that nature.

4 Q Okay, and so, Detective Troxell, did you
5 speak to medical personnel first or did you speak with the
6 defendants first?

7 A If I recall we actually spoke with the
8 defendants first, this was my first involvement in the case
9 and I wanted to get the preliminaries from them as well and
10 then we spoke with medical staff.

11 Q Okay, and but at the time when you spoke
12 with them you are, did you know about the condition of his
13 skull and --

14 A Yes, Detective Weaver had obtained that
15 from Dr. Cacace at Conway Medical Center the previous
16 evening.

17 Q Okay, and when you spoke with the
18 defendants at MUSC tell the jury how that came about?

19 A Detective Weaver and I arrived at the
20 hospital and they were, I believe, in a NICU unit with Mr.
21 or Baby Grimes, and we asked to speak with them in one of
22 the consultation rooms.

23 Q Okay, and whenever you spoke to the two of
24 them were they separated or were they together in the room
25 with you?

Detective Troxell - Direct Examination by Ms. Lively 651

1 A They were together.

2 Q All right, and if you will tell this jury
3 at that time was the, was the interview a custodial
4 interview or were you gathering information, would you
5 explain to the jury what you were doing at that time?

6 A We were merely trying to gather the facts
7 to determine what could have happened to the child to where
8 he sustained these injuries.

9 Q Okay, so did you have any history at that
10 point other than the condition of the child?

11 A No, ma'am.

12 Q All right, so when you went into this
13 interview room with Palmer and Gorman what information were
14 you able to obtain regarding their care of the child?

15 A We were able to obtain that they were the
16 primary and sole caregivers for Victim

17 Q Okay, all right, and where were they
18 living; did they give you that information?

19 A They were living at 2867 Highway 129 in the
20 Galivants Ferry section of Horry County.

21 Q All right, and were you given any
22 information as to why the child was in the care of Gorman
23 and Palmer?

24 A Ms. Palmer or Ms. Gorman's daughter had
25 come to the area, I believe, in June of 2008 and had left

Detective Troxell - Direct Examination by Ms. Lively 652

1 the area on July 2nd and left temporary guardianship to Mr.
2 Palmer and Ms. Gorman.

3 Q Okay, and did you do a follow up to confirm
4 that, that Cesalee had actually left in July?

5 A Yes, ma'am, I obtained the airline
6 itinerary from Delta Airlines for Ms., for Cesalee's plane
7 ticket.

8 Q Okay, all right, and --

9 Ms. Lively: If I may approach, Your Honor?

10 The Court: Certainly.

11 Ms. Lively: (Continuing).

12 Q I'm just going to ask you, this is already
13 in evidence, Cesalee's plane ticket?

14 A I believe I have a copy in the file.

15 Q You do have a copy?

16 A Yes, ma'am.

17 Q Okay, if you don't mind looking at your
18 copy, it is actually in evidence? I'm sorry, here's
19 State's 15 in evidence; is that what you're referring to?

20 A Yes, ma'am.

21 Q Okay, so once you received this information
22 at that point in time what does that do regarding your time
23 line of who you're looking at as caregivers of the child?

24 A It will narrow down the caregivers and
25 obviously removed Cesalee from being a caregiver.

Detective Troxell - Direct Examination by Ms. Lively 653

1 Q Okay, so as you're talking to Gorman and
2 Palmer at that time what other information were you able to
3 gather in that particular interview?

4 A We were trying to obtain their activities
5 over, from what the doctor had explained initially they
6 thought the injuries were sustained one to three days, so
7 we were trying to go back three days and get a time line
8 down of their activities and who was in care custody of the
9 child.

10 Q Okay, and based upon that information that
11 you received what conclusions were you able to arrive at
12 regarding who had care and custody of the child?

13 A Ms. Gorman and Mr. Palmer.

14 Q All right, did they ever place the child
15 alone with any other caregivers?

16 A Not in that weekend span, no, ma'am.

17 Q Okay, now, Detective Troxell, will you tell
18 us what, what particularly, what information was provided
19 to you about Victim as a child during that interview at
20 MUSC, if anything, the type of child he was or anything
21 like that?

22 A Nothing out of the ordinary was obtained.

23 Q Okay, were you given any type of
24 explanation or concerns of potential causes of injury that
25 they knew about?

Detective Troxell - Direct Examination by Ms. Lively 654

1 A The two explanations ---

2 Ms. Grabert-Lowenstein: Objection vague as to
3 source.

4 Q They being Palmer and Gorman when you were
5 interviewing them?

6 A Yes, ma'am.

7 Ms. Grabert-Lowenstein: Compound, Your Honor.

8 The Court: I'll allow it.

9 Ms. Lively: (Continuing)

10 Q Okay, as to, I'm sorry --

11 The Court: I'll allow it, go ahead and ask the
12 question.

13 Ms. Lively: Thank you, Your Honor.

14 Q (Continuing) As to Gorman and Palmer were
15 you provided any reasons why this child may have been
16 injured?

17 A The two explanations that we were provided
18 initially neither one of them knew anything, couldn't,
19 couldn't provide an explanation and ultimately it came down
20 to the bulldog potentially knocked him over or a stroller
21 falling down the stairs.

22 Q Okay, and once again were you interviewing
23 the two of them together?

24 A Yes, ma'am.

25 Q All right, did you record this interview by

Detective Troxell - Direct Examination by Ms. Lively 655

1 chance, Tim?

2 A I attempted to record it but I had a new
3 camcorder the county had just issued us and it was
4 malfunctioning and it did not record.

5 Q Okay, in regards to what was told to you
6 for potential injuries to Victim did they give you a time
7 line was to when those things had occurred?

8 A The initial findings from the doctors at
9 Conway Medical Center and preliminary from MUSC was one to
10 three days, of course all their testing wasn't completed at
11 that time but that was the time frame we were given.

12 Q Okay, what about the time frame that was
13 given from Gorman and/or Palmer during that interview as to
14 when the bulldog incident and the stroller occurred?

15 A The stroller occurred prior to July 2nd
16 when Cesalee was in town; the bulldog I don't recall if
17 there was a date given for that.

18 Q Okay, all right, did they ever tell you he
19 had been hospitalized or cared for while they had him in
20 their care?

21 A I believe there was a prior hospital visit
22 maybe a week before at Conway Medical Center.

23 Q Now, Detective Troxell, after you spoke to
24 the two of them that day on the 15th did you do any other
25 investigative work in this case during that day?

Detective Troxell - Direct Examination by Ms. Lively 656

1 A Yes, ma'am, I believe on the 16th Detective
2 Weaver and I went to their residence on Highway 129.

3 Q Okay, so this was the next day?

4 A Yes, ma'am.

5 Q And how did you know to go to their
6 residence on the 16th?

7 A Based on the information that we got from
8 medical personnel this did not appear to be accidental so
9 Detective Weaver and I wanted to go, I guess look at the
10 crime scene on the residence where Victim lived.

11 Q Okay, and when you got there on the 16th
12 about what time of day was it, do you recall?

13 A It was in the afternoon, if I'm not
14 mistaken.

15 Q And at that time, and let me just back up
16 for a second, while you were there on the 15th did you ever
17 come into contact with the biological mother or biological
18 father of Victim

19 A No, ma'am, I, until this week I had not met
20 the biological parents.

21 Q Okay, whenever you, how did you know when
22 you went on the 16th that you were going to be able to gain
23 entry to the home?

24 A We didn't.

25 Q Okay, did you have a search warrant?

Detective Troxell - Direct Examination by Ms. Lively 657

1 A No, ma'am.

2 Q So tell the jury then when you got to the
3 home on the 16th how you were able to gain entrance?

4 A We met with Mr. Palmer and Ms. Gorman
5 outside the residence and they provided us with a consent
6 to search form for their residence.

7 Q So, so both of them were at the home?

8 A Yes, ma'am.

9 Q And this was July 16th?

10 A Yes, ma'am.

11 Q Okay, and at that time was Victim still
12 alive or not?

13 A Yes, ma'am, he was.

14 Q Did you have any information that that
15 condition was going to change at any time soon?

16 A Based on our conversations with medical
17 staff on the 15th we were informed that he was on life
18 support, that in essence he was brain dead and that would
19 be, the prognosis for him making a recovery was minimal.

20 Q Okay, at that time what, based upon that
21 information in your mind as a detective what did you
22 believe this investigation was leading you to?

23 A When the time came this was coming to be a
24 homicide.

25 Ms. Grabert-Lowenstein: Objection, relevance,

Detective Troxell - Direct Examination by Ms. Lively 658

1 it's his belief.

2 Ms. Lively: Based upon the medical information.

3 The Court: I'll allow it.

4 Q Okay, just based on the medical information
5 that you had to know what it was that you were going to
6 potentially be looking for what did you think this case was
7 going to be?

8 A Based on the information provided to us by
9 the doctors that Victim was on life support the injuries
10 appeared non accidental it appeared these were inflicted
11 severe injuries that would lead us to a homicide
12 investigation.

13 Q Okay, based upon that information so you
14 had that information as a detective before you walked into
15 that home?

16 A Yes, ma'am, we did.

17 Q All right, now whenever you went into that
18 home, Detective Troxell, were you prepared with a camera,
19 other devices, to help you to document what you were
20 seeing?

21 A Yes, ma'am, we had a digital camera for
22 still photographs.

23 Q Okay, and were photographs taken of the
24 home at that time?

25 A Yes, ma'am, they were.

Detective Troxell - Direct Examination by Ms. Lively 659

1 Q Okay, and those photographs did you save
2 them into evidence and provide them to me for this case?

3 A Yes, ma'am, they were.

4 Q Okay --

5 Ms. Lively: Your Honor, may I approach the
6 witness?

7 The Court: Yes.

8 Ms. Lively: Thank you.

9 Q I'm going to show you what's been marked
10 for I.D. purposes State's 17 through 34, which actually
11 removes one of the pictures that had been previously marked
12 for State's I.D. but now is in evidence as Defense 1, I'm
13 going to let you hold that one that's already in, but if
14 you would, please, State's Exhibit 17 through 34 ask if you
15 recognize these photos and are these the photos that were
16 taken in your presence?

17 A Yes, ma'am, they are.

18 Q Okay, and are those an accurate
19 representation of the photos that you took on that date?

20 A Yes, ma'am.

21 Ms. Lively: Your Honor, at this time the State
22 would move to introduce 17 through 34 into evidence?

23 Ms. Grabert-Lowenstein: And if I could briefly
24 see?

25 Ms. Lively: Sure.

Detective Troxell - Direct Examination by Ms. Lively 660

1 Ms. Grabert-Lowenstein: No objection on behalf
2 of Mr. Palmer, Your Honor.

3 The Court: All right.

4 Mr. Galmore: No objection.

5 The Court: Without objection, they're admitted.

6 Ms. Lively: Okay.

7 (Whereupon, State's Exhibits Numbers 17, 18, 19,
8 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34
9 entered into evidence.)

10 Ms. Lively: (Continuing)

11 Q Now, Detective, Troxell, I'm going to hand
12 you these and I'm going to ask you about individual photos;
13 in State's Exhibit number 17 is that you standing in that
14 photo?

15 A Yes, ma'am

16 Q Okay, what was the purpose of you taking a
17 tape measure in State's Exhibit Number 17?

18 A We were trying to ascertain the height from
19 the top rail of the playpen where Victim slept to the floor
20 in the trailer.

21 Q And once again who was in the home with you
22 other than Weaver when you were taking these photos?

23 A Ms. Gorman and Mr. Palmer.

24 Q Who was providing you information regarding
25 where Victim slept?

Detective Troxell - Direct Examination by Ms. Lively 661

1 A Both of them.

2 Q And about how high was the top of this
3 playpen, I know it's hard to see but maybe if you recall
4 when you measured it?

5 A It appears to be your standing playpen I'm
6 assuming maybe thirty inches, I can't read the ruler that
7 well.

8 Q Okay, it seems to come up to about your
9 lower thigh; is that fair to say?

10 A Yes, ma'am.

11 Q Will you stand up for us? All right, just
12 walk around here, so it comes up to about your lower thigh
13 so about there, okay, all right, thank you. Now I'm going
14 to ask you about State's 18?

15 A That would be the bulldog in the home in
16 his pen or crate.

17 Q In his crate, okay, did Gorman and/or
18 Palmer tell you this was the bulldog they were referring to
19 when they told you about Victim

20 A Yes, ma'am.

21 Q Okay, so is that why you took this picture?

22 A Yes, ma'am.

23 Q Okay, was he aggressive towards you when
24 you went to the house?

25 A No, ma'am.

Detective Troxell - Direct Examination by Ms. Lively 662

1 Q Okay, I'm going to show you State's 19, 23,
2 now one of the other things that was told you, I believe
3 you've already testified to, was that a stroller and a set
4 of stairs came into play at some point?

5 A Yes, ma'am.

6 Q Okay, I'm going to show you 19 and 23 and
7 ask you if you recognize why you took those particular
8 photos, and here I'm going to hand you 34 as well?

9 A To document again the height from the
10 stairs to the ground had Victim fallen from that height to
11 the ground.

12 Q Okay, and actually, Detective Troxell, it
13 appears you took several photos of those stairs?

14 A Yes, ma'am, I believe we actually ended,
15 ended up taking a photograph of each individual step to the
16 ground.

17 Q Okay, do you remember what the highest
18 level of the stairs were that you, that you looked at?

19 A If I may?

20 Q That's fine, just tell which exhibit it is
21 that shows it from the top from the highest step, please?

22 A That would be, that would be State's 33.

23 Q Okay?

24 A And I can't make out the measurement.

25 Q Okay.

Detective Troxell - Direct Examination by Ms. Lively 663

1 A But again it comes to just above my thigh.

2 Q Just above your thigh again, okay, and in
3 State's Exhibit Number 22, why did you take a picture of
4 that particular item?

5 A To document the stroller that was in the
6 acertation of falling down the stairs.

7 Q Okay, so you were provided information that
8 this was the stroller?

9 A Yes, ma'am.

10 Q Okay, and once again why are you
11 documenting all these things?

12 A Again to either prove or disprove if these
13 injuries were accidental or intentionally inflicted.

14 Q Okay, and once again the information you
15 had regarding the statement that there was a fall down the
16 stairs occurred when?

17 A Prior to July 2nd.

18 Q Okay, and I see that we, now did Ms. Gorman
19 or Palmer tell you which set of stairs it was that, that
20 this occurred on?

21 A I believe so because they were the front
22 stairs.

23 Q The front stairs, okay, why did you take a
24 picture of the back stairs?

25 A Just in case it may have been the back

Detective Troxell - Direct Examination by Ms. Lively 664

1 stairs to fully document everything.

2 Q Okay, and once again that would be in 20
3 and 21?

4 A Yes, ma'am.

5 Q Okay, so you took that as well just in
6 case?

7 A Yes, ma'am.

8 Q All right, now, Detective Troxell, will
9 you, please, tell us about how big of a home this was?

10 A It's your standard single wide mobile home,
11 metal or tin, two bedroom, one bath, I believe.

12 Q Okay, and I'm going to show you State's 24
13 and ask you what is that depicting, what room is that?

14 A That would be the first bedroom where we
15 were told Cesalee and Victim were staying.

16 Q Okay, and would that be 27 as well?

17 A Yes, ma'am.

18 Q Okay, and I see that you actually used the
19 tape measure to measure the height of that bed that was
20 next to his playpen, correct?

21 A Yes, ma'am.

22 Q Okay, and why was it so important for you
23 to measure height of different objects in the home?

24 A Again based on the medical information the
25 doctors indicated to us the only way that these injuries

Detective Troxell - Direct Examination by Ms. Lively 665

1 could have been sustained would be either a motor vehicle
2 accident or a fall from a great height so we were trying to
3 document the items in the home that [Victim] could have had
4 access to and had he fallen would that height have been
5 great enough to inflict these injuries.

6 Q And I'm going to show you 31 and ask you
7 where that picture was taken?

8 A That's the rear bedroom or the master
9 bedroom of the home.

10 Q Okay, all right, and once again that's you
11 with the tape measure, correct?

12 A Yes, ma'am.

13 Q Okay, were you ever provided any
14 information from either Gorman or Palmer that the child had
15 ever slept on that bed?

16 A No, ma'am.

17 Q Okay, but you measured it anyway?

18 A Just to be sure.

19 Q Okay, and here's another picture of the
20 dog?

21 A Yes, ma'am.

22 Q Okay, all right, and what area of the house
23 is that?

24 A That would be living room area.

25 Q The living room area, okay, all right, now

Detective Troxell - Direct Examination by Ms. Lively 666

1 tell the jury why you took pictures of the items that are
2 in 25 and 32?

3 A We had been told that Victim had been under
4 the care of a doctor, Aynor Family Medicine, and we
5 inquired as to was he under any, any medicine and these
6 were the medicines that we were told had been provided to
7 him.

8 Q Okay, and will you tell the jury what
9 medicines that you see if you can tell from those pictures?

10 A There's baby Tylenol and it appears to be
11 baby ibuprofen, ora-jel and some prescription cream, I'm
12 not sure what kind of cream that is.

13 Q Okay, that's fine, did you ever come into
14 contact with a prescription by the name of Xyzal; does that
15 sound familiar?

16 A No, ma'am, I have not had that before.

17 Q Okay, that's fine, and once again why do
18 you take photos of any prescriptions or medicines of a
19 child?

20 A It was to document that he had been under
21 the care of a doctor and in case given the information we
22 had that this would be a homicide any other medicine that
23 shown up in the toxicology and the autopsy.

24 Q Okay, and then finally, Detective Troxell,
25 what is this a photo of?

Detective Troxell - Direct Examination by Ms. Lively 667

1 A That would be a photo from the Highway 129
2 looking back at the residence.

3 Q So is this a pretty good indication of the
4 outside size of the mobile home?

5 A Yes, ma'am.

6 Q Okay, and have you looked at the diagrams
7 that's in evidence which has their home to scale?

8 A Yes, ma'am, I have.

9 Q All right, oh, and let me just ask you,
10 what's in Defense Exhibit Number 1?

11 A A trampoline.

12 Q Why did you take a picture of the
13 trampoline?

14 A Detective Weaver took that picture, I asked
15 him this morning and he didn't know.

16 Q Okay, fair enough, all right, but, but this
17 was on the property?

18 A Yes, ma'am, it was on the rear of the
19 house.

20 Q Okay, all right, thank you, okay, now as
21 far as the home, okay, and will you, please, if you don't
22 mind stepping down, I'm going to have you right here in
23 front of the microphone, okay, okay, now if you will tell
24 the jury where Victim bedroom is in this, in this scale?

25 A It's marked bedroom number two.

Detective Troxell - Direct Examination by Ms. Lively 668

1 Q Okay, and, and so would this be Julia and
2 Robert's bedroom?

3 A Yes, the master bedroom at the rear of the
4 home.

5 Q Okay, and let me ask you because how much
6 time did ya'll spend in the home that day; do you remember?

7 A If I recall it was forty five minutes to an
8 hour, not very long.

9 Q Okay, when you were walking throughout the
10 home did you notice anything about how, you know, the walls
11 or the doors or anything regarding the home?

12 A The doors were hollow, you could hear, if
13 Weaver was back here and I was at the living room we could
14 hear each other.

15 Q Okay, all right, and in regards to the, the
16 master bedroom and bedroom number two, did ya'll find any
17 type of indication anything like holes or any damage to
18 those particular rooms?

19 A No, ma'am.

20 Q If you had would you have noted that?

21 A Yes, ma'am.

22 Q Okay, did you look for it?

23 A Yes.

24 Q Okay, all right, and were you able to
25 locate any type of potential places of impact?

Detective Troxell - Direct Examination by Ms. Lively 669

1 A No, ma'am.

2 Q All right, okay, but did you look for it?

3 A Yes.

4 Q All right, and once again who let you into
5 the home that day?

6 A Ms. Gorman and Mr. Palmer.

7 Q Okay, and how long had Victim been away
8 from the home by that time, when was he taken to the E.R.?

9 A He was taken to the emergency room on the
10 evening of the 14th and this was on the afternoon of the
11 16th so maybe two days.

12 Q Was the house clean?

13 A Yes, it was.

14 Q All right, was it organized?

15 A Yes.

16 Q Was Victim room clean?

17 A Yes.

18 Q Have a seat, and if you don't mind just for
19 demonstrative purposes for the jury's benefit, I'm going to
20 have you hold this, will you tell me by looking at this,
21 and it's at the end of this scale, what was the width of
22 this home?

23 A Thirteen feet nine inches.

24 Q All right, let me see here, will you hold
25 this for me, thirteen point nine?

Detective Troxell - Direct Examination by Ms. Lively 670

1 A Yes, ma'am.

2 Q Was the width of the home?

3 A Yes, ma'am.

4 Q Was the, was there a need for you to try
5 and do any type of fingerprinting or DNA analysis in this
6 particular case?

7 A No, ma'am, in a standard criminal
8 investigation DNA and fingerprints are used for
9 identification purposes. In this particular case we knew
10 who the residents of the home were, Victim Mr. Palmer, and
11 Ms. Gorman, so there was no need to gather that kind of
12 evidence.

13 Q Now when was the next time that you had any
14 contact or let me ask you this, when you left that day did
15 you do anything else additional regarding the investigation
16 on the 16th?

17 A No, ma'am.

18 Q Okay, what was the next thing that you did
19 in furtherance of the investigation into Victim
20 condition?

21 A On the morning of the 18th Detective Weaver
22 and I again met with Ms. Gorman and Mr. Palmer outside the
23 residence and requested they come to the Horry County
24 Police Department for an actual videotape interview.

25 Q Okay, and did they agree?

Detective Troxell - Direct Examination by Ms. Lively 671

1 A Yes, ma'am.

2 Q Okay, so they came willingly?

3 A Yes, ma'am.

4 Q Okay, and at that time what, what had
5 happened to Victim by then?

6 A He had passed away.

7 Q So on the, on July 18th of 2008 were you
8 involved in the interview of Julia Gorman and Robert
9 Palmer?

10 A Yes, I was.

11 Q Okay, were you present for those
12 interviews?

13 A Yes, I was.

14 Q And during the interviews, Detective
15 Troxell, did you do anything to ensure that the defendants
16 would understand why they were there and the potential
17 statements they were giving?

18 A Yes.

19 Q And what was that?

20 A Are you referring to the being advised of
21 the Miranda rights?

22 Q Absolutely?

23 A Yes, ma'am, both defendants were advised of
24 their Miranda warnings.

25 Q Okay, and when you advised them of their

Detective Troxell - Direct Examination by Ms. Lively 672

1 Miranda warnings did they waive those warnings and agree to
2 speak with you at that time?

3 A Yes, ma'am, both did.

4 Q Okay, do you mind retrieving your Miranda
5 warnings for the benefit of --

6 A I believe they're still in evidence from
7 the Jackson v. Deno hearing, I never received them back.

8 Q Okay, all right --

9 Ms. Lively: Your Honor, may I approach?

10 The Court: Certainly.

11 (Whereupon, a bench conference was held off the
12 record in the presence of the jury, but out of the hearing
13 of the jury and the court reporter.)

14 Ms. Lively: (Continuing)

15 Q Whenever you, after you gave them Miranda
16 warnings and they waived them, who did you interview first?

17 A Mr. Palmer.

18 Q Okay, and whenever you interviewed Mr.
19 Palmer at that time did you, did he appear to be under the
20 influence of any alcohol or drugs?

21 A No, ma'am.

22 Q Was he, did he appear to be incoherent or
23 not understand your statements?

24 A No, ma'am.

25 Q All right, and based upon how he appeared

Detective Troxell - Direct Examination by Ms. Lively 673

1 to you did you go forward with the interview and record it?

2 A Yes, we did.

3 Q Okay, all right, let me show you what's
4 already been marked as State's Exhibit Number 64 and ask
5 you if you've looked at this before and you're familiar
6 with it?

7 A Yes, this would be the DVDR containing the
8 interview with Mr. Palmer.

9 Q Okay, thank you --

10 Ms. Lively: Your Honor, at this the State moves
11 State's Exhibit 64 into evidence.

12 Ms. Grabert-Lowenstein: Your Honor, we have
13 seen this, no objection on behalf of Mr. Palmer.

14 Mr. Galtmore: Sixty-four is the interview with
15 Mr. Palmer?

16 Ms. Lively: Correct.

17 Mr. Galtmore: No objection.

18 Ms. Lively: Thank you.

19 (Whereupon, State's Exhibit Number 64 entered
20 into evidence.)

21 Ms. Lively: (Continuing)

22 Q And same questions basically, Detective
23 Troxell, in regards to Ms. Gorman, did she appear to be
24 under the influence of any alcohol or drugs?

25 A No, ma'am.

Detective Troxell - Direct Examination by Ms. Lively 674

1 Q Was she, did she appear coherent and ready
2 to answer your questions?

3 A Yes, she was.

4 Q Okay, and once again you already said she
5 did sign the Miranda form regarding the waiver?

6 A She did.

7 Q Okay, and let me show you what's been
8 marked as State's Exhibit Number 65, and ask you is this
9 what you have reviewed and seen as her interview from July
10 the 18th?

11 A Yes, it's the DVDR containing the interview
12 with Ms. Gorman.

13 Ms. Lively: Okay, Your Honor, the State would
14 move to introduce State's 65 into evidence at this time?

15 The Court: Can I see counsel?

16 Ms. Lively: Yes, sir.

17 (Whereupon, a bench conference was held off the
18 record in the presence of the jury, but out of the hearing
19 of the jury and the court reporter.)

20 Ms. Lively: And as for State's Exhibit Number
21 65, Your Honor, that's been marked for I.D.?

22 Mr. Galtore: We had previously placed our
23 objection but subject to that.

24 The Court: All right.

25 Ms. Grabert-Lowenstein: No objection on behalf

Detective Troxell - Direct Examination by Ms. Lively 675
1 of Mr. Palmer.

2 The Court: Okay, all right.

3 Ms. Lively: Okay, thank you.

4 (Whereupon, State's Exhibit Number 65 entered
5 into evidence.)

6 Ms. Lively: (Continuing)

7 Q Now, Detective Troxell, before I publish
8 these to the jury let me ask you something, whenever you
9 went to interview Ms. Gorman did you notice anything that
10 she may have brought with her?

11 A She had a notebook in her possession.

12 Q Okay, and what was that notebook?

13 A I believe if I recall correctly it was a
14 journal that she maintained of Cesalee's teenage years and
15 some issues that she was having with him or with her that
16 she was documenting.

17 Q Okay, and did you ask her to bring that
18 with her?

19 A No, ma'am.

20 Q And whenever you, and it shows on the
21 interview, but let me ask you, whenever the, when you saw
22 the notebook did you seize it or take it from her?

23 A No.

24 Q Okay, why not?

25 A Again based on the, the evidence that we

Detective Troxell - Direct Examination by Ms. Lively 676

1 had from the medical professionals that this was a fresh
2 injury and having information from Delta Airlines that
3 Cesalee was not here it was irrelevant to us.

4 Q Okay, all right, so when she brought it to
5 your attention that she had this information what did you
6 do with it?

7 A To be frank we discarded it. It didn't
8 matter to us, Cesalee wasn't here, therefore, and based on
9 the medical evidence couldn't have inflicted the injuries.

10 Q Oh, let me back up for just a second before
11 we publish these, did you receive any information from
12 either Julia or Robert that, that Julia had gone anywhere
13 other than work and home that day of July 14th?

14 A No.

15 Q Okay, did you receive information from me
16 later on that there was a possibility she had stopped off
17 somewhere before she went home?

18 A Yes.

19 Q Okay, and where was that?

20 A The IGA grocery store in Aynor.

21 Q Okay, and what did I ask you to do in
22 regards to the possibility that she had stopped by there on
23 the way home?

24 A I was requested to get the distance to
25 drive the distance and get a approximate time that it would

Detective Troxell - Direct Examination by Ms. Lively 677

1 take to travel from the IGA to their residence?

2 A Okay, and will you tell this jury how far
3 the IGA is from that home they lived in?

4 A The IGA is one point eight miles from their
5 residence.

6 Q Okay, and how long driving the speed limit
7 did it take you to get to their home from the IGA?

8 A It took me three minutes and forty seconds.

9 Ms. Lively: Wait just one minute, okay? Your
10 Honor, at this time the State is prepared to publish the
11 interviews of the, oh, wait, no, I'm not, I forgot, one
12 thing that I have right here that I need to address, I
13 apologize.

14 Q (Continuing) Let me show you what's been
15 marked as State's 63, I'm sorry, I forgot to ask you about
16 this, Detective Troxell. Did you obtain information to
17 confirm the whereabouts of Ms. Gorman during those days
18 before Victim went to the E.R.?

19 A Yes, she informed us that she was at work
20 at the Bass Pro Shops.

21 Q Okay, and did you get documentation from
22 Bass Pro Shop as to the times that she would clock in and
23 clock out each day?

24 A Yes, ma'am.

25 Q Okay, and is that what's related to State's

Detective Troxell - Direct Examination by Ms. Lively 678

1 Exhibit Number 63?

2 A Yes, this is the actual punch detail
3 history from Bass Pro Shops.

4 Ms. Lively: Your Honor, we'd move to introduce
5 this as State's Exhibit 63 at this time.

6 The Court: Mr. Galmore?

7 Mr. Galmore: I need to see it for a second, may
8 I obtain it from the witness, Your Honor?

9 The Court: Yes.

10 Mr. Galmore: No objection, Your Honor.

11 The Court: Ms. Grabert-Lowenstein?

12 Ms. Grabert-Lowenstein: Your Honor, objection
13 as Detective Troxell is not a custodian of records and we
14 don't know about the validity of the record.

15 The Court: She objects, I guess that's a
16 hearsay objection.

17 Ms. Grabert-Lowenstein: Hearsay.

18 Ms. Lively: Well, Your Honor, at this time I
19 can ask for a person's name for a better foundation for
20 this particular, cause he's obviously not the custodian
21 from Bass Pro Shop.

22 The Court: I understand so I don't think it
23 comes in.

24 Ms. Lively: Okay, that's fine. All right, Your
25 Honor, now the State is prepared to, to publish their

Detective Troxell - Direct Examination by Ms. Lively 679

1 statements and as I stated before we brought the jury back
2 in, Your Honor, my office has actually had these statements
3 transcribed and we've discussed this with defense and they
4 do not object to me providing to the jurors a copy of each
5 one of the recorded statements for help and during times
6 when they cannot understand or hear what is being said
7 during the interviews.

8 The Court: All right.

9 Ms. Lively: If I may distribute them at this
10 time?

11 The Court: Yes, you may.

12 Ms. Lively: If I could have Ms. Cote assist me?

13 The Court: Could I see the last proffered
14 document?

15 Ms. Lively: Your Honor, if I may approach I'm
16 going to provide you with copies as well.

17 The Court: Ladies and gentlemen of the jury,
18 sometimes it may be difficult to hear what's being said on
19 the videotape. In that regard the Solicitor has prepared
20 transcripts of this particular tape. You may not even need
21 it, you may be able to hear it just fine, but it's provided
22 for you just in case you wanted to flip along or you maybe
23 didn't hear something you could refer back to it or look at
24 it and see what was said, okay.

25 Ms. Lively: Are we ready, Your Honor?

Detective Troxell - Direct Examination by Ms. Lively 680

1 The Court: Yes.

2 Ms. Lively: Thank you.

3 The Court: And I would remind you that those
4 transcripts are not the evidence, the evidence is what is
5 here on the screen.

6 (Whereupon, State's Exhibit Number 64 is played
7 in open court.)

8 Detective Troxell: How you doing with
9 everything?

10 Mr. Palmer: Not good.

11 Detective Troxell: How's Julia holding up?

12 Mr. Palmer: Not good, like I said we tried to
13 lay down last night and just tossed and turned, tossed and
14 turned. It seemed like the later it got the more I went to
15 sleep. I ended up, got out of bed and went around to the
16 other side of the bed cause she had got on, you know, just
17 tossed and turned and just ridiculous.

18 Detective Troxell: Have you talked to or has
19 she talked to Cesalee?

20 Mr. Palmer: Yes, she was up here yesterday when
21 she got there I guess, you know, everything was kosher.
22 Everybody was just, you know, in a state of shock. She
23 stayed around, picked her Mama up from the bus, bus
24 station, but she was, she didn't sleep once again the whole
25 night and she came home yesterday and she's just like

Detective Troxell - Direct Examination by Ms. Lively 681

1 entirely whipped cause she didn't get back till about 7:30,
2 8:00 last night, back to South Carolina from Conway. She
3 went up there after we talked to ya'll the last time and
4 come out and took pictures, and she went up there and I
5 guess maybe slept maybe thirty or forty minutes the whole
6 time, so.

7 Detective Troxell: I can imagine that's a
8 helluva weight to bear, especially, I mean, you've only
9 known him a couple of weeks, but --

10 Mr. Palmer: Yeah.

11 Detective Troxell: It's still a little baby.

12 Mr. Palmer: Yeah, you're exactly right.

13 Detective Troxell: What we need to do is kind
14 of like I said when we talked to you in the hospital my
15 tape recorder died.

16 Mr. Palmer: Okay.

17 Detective Troxell: And we kind of need to go
18 back over and ---

19 Mr. Palmer: Okay.

20 Detective Troxell: --- some of the things that
21 happened and I know with the way things have been going
22 we'll start say when the baby went in the hospital and just
23 kind of go backwards as ---

24 Mr. Palmer: Which time do you want me to talk?

25 Detective Troxell: The most recent.

Detective Troxell - Direct Examination by Ms. Lively 682

1 Mr. Palmer: The most recent when we went in
2 Monday?

3 Detective Troxell: Yeah, when you went in
4 Monday and go backwards, but being that **Victim** has passed
5 away, or whatever, and this investigation has taken more of
6 a serious note instead of just trying to get information
7 we've got to advise everybody that we talk to from this
8 point forward of their Miranda rights. It doesn't mean
9 you're under arrest or anything like that; it's just before
10 we talk we've got to advise everybody of these, okay.

11 Richard, what is your highest level of education?

12 Mr. Palmer: Robert.

13 Detective Troxell: I'm sorry, Robert, Richard
14 is the victim.

15 Mr. Palmer: Yes.

16 Detective Troxell: Robert, what is your highest
17 level of education?

18 Mr. Palmer: Twelfth grade, I graduated high
19 school.

20 Detective Troxell: You under the influence of
21 any narcotics right now?

22 Mr. Palmer: No.

23 Detective Troxell: Alcohol?

24 Mr. Palmer: I had a couple last night.

25 Detective Troxell: You fine to drive?

Detective Troxell - Direct Examination by Ms. Lively 683

1 Mr. Palmer: Yeah.

2 Detective Troxell: Not got any, you got your
3 mental capacity?

4 Mr. Palmer: Say it again?

5 Detective Troxell: You've got your mental
6 capacity; you know what we're talking about?

7 Mr. Palmer: Yeah, yeah.

8 Detective Troxell: How about narcotics or
9 pills?

10 Mr. Palmer: None.

11 Detective Troxell: Okay, I'm going to read
12 these to you and what I want you to do is just after I read
13 these I want you to put your initials on those lines
14 indicating that you understand those, okay?

15 You have the right to remain silent. Anything
16 you say can and will be used against you in a court of law;
17 you understand that?

18 Mr. Palmer: Yes.

19 Detective Troxell: Put your initials there.
20 You have the right to talk with a lawyer and have him
21 present while you are being questioned; you understand
22 that?

23 Mr. Palmer: Okay.

24 Detective Troxell: Initial there. If you
25 cannot afford to hire an attorney one will be appointed to

Detective Troxell - Direct Examination by Ms. Lively 684

1 represent you before any questioning if you so desire; if
2 you understand that put your initials there.

3 And if you make a statement or answer any
4 questions you have the right to stop me at any time; do you
5 understand that, put your initials there. You understand
6 everything that I have read to you?

7 Mr. Palmer: Yes.

8 Detective Troxell: Okay, put your initials
9 there. You want to talk to me about what happened to
10 **Victim** and answer our questions?

11 Mr. Palmer: Yeah.

12 Detective Troxell: Okay, put your initials
13 there and sign. It's 9:07 on the 18th, just put 9:07 or 7-
14 18-08 and then 9:07 there.

15 Mr. Palmer: What was that again, 9:07?

16 Detective Troxell: Yeah, 9:07 is the time on 7-
17 18.

18 Mr. Palmer: 9:07 on 7-18.

19 Detective Troxell: Yeah, all right, like I said
20 I just kinda want to start Monday, what time did you go to
21 the hospital on Monday?

22 Mr. Palmer: Monday evening?

23 Detective Troxell: Yeah?

24 Mr. Palmer: Probably around six, 6:15,
25 somewhere around that time frame. Like I said the

Detective Troxell - Direct Examination by Ms. Lively 685

1 paramedics showed up at our house, I had like I said they
2 showed up at the house, took Victim It seemed like they
3 took the scenic route; they went around and this and that
4 but ended up at Conway Hospital. I met them up there at
5 Conway Hospital; they took him in around six, 6:15 around
6 that time.

7 Detective Troxell: Julia was working on Monday
8 night?

9 Mr. Palmer: Yes.

10 Detective Troxell: What time does she go in?

11 Mr. Palmer: I want to say, she had to be there
12 about six, so she got up around like 4:45 in the morning.

13 Detective Troxell: Did she check on Victim that
14 morning?

15 Mr. Palmer: I don't know.

16 Detective Troxell: You don't?

17 Mr. Palmer: I don't recollect.

18 Detective Troxell: All right, so she got up at
19 4:45, what time did you get up?

20 Mr. Palmer: About that time cause she is real
21 loud when she wakes up.

22 Detective Troxell: When did you first check on
23 Victim

24 Mr. Palmer: I went in there at 9:30 and woke
25 him up.

Detective Troxell - Direct Examination by Ms. Lively 686

1 Detective Troxell: Okay, and what was he doing
2 when you --

3 Detective Troxell: He didn't want to get up.
4 He was just laying there and was, you know, just like
5 tired, like he had never slept but, you know, I picked him
6 up and took him to the kitchen, got him something to eat,
7 and tried to play with him for a little while, but he just
8 wanted to lay down so I was let's play with your toys and
9 he'd act like he wanted to lay down again so I put him on
10 the couch, let him lay up there and watch t.v. and he was
11 just like, you know, tossing and turning.

12 Detective Troxell: Okay, did you feed him lunch
13 or anything?

14 Mr. Palmer: Yeah, I fed him lunch.

15 Detective Troxell: About what time was that?

16 Mr. Palmer: I want to say about 11:30 or 12,
17 somewhere around that time frame. I tried to get him to
18 eat some stuff. He ate a little bit of chicken, a little
19 bit of this and that but, you know, he just seemed like he
20 was tired so I was going to lay him down, laid him down.
21 He just, just tossed and turned, whined out a couple of
22 times.

23 Detective Troxell: What time did you lay him
24 down?

25 Mr. Palmer: I laid him down, made him stay in

Detective Troxell - Direct Examination by Ms. Lively 687

1 there for about, you know, thirty, thirty something minutes
2 to see if he would go to sleep but he just kept whining,
3 whined a little bit, just not like whining, it was like a
4 whimper. It was like kind of, like if you met him and seen
5 him he would just hold his hands out, whine, whine like,
6 you know, come pick me up, come pick me up, so I let him
7 lay there for a while. I picked him back up, took him back
8 in the living room, tried to get him to play with some more
9 toys and tried to get him to, you know, watch t.v. and just
10 stay awake, and just try to, you know, work itself out of
11 whatever it is that he was doing but just, you know, it
12 seemed like it was not going to stop, the whining and just
13 tried acting so around like three, 3:30 I put him back
14 down, laid him down and he went to sleep that time and like
15 I said Julie came home around four, 4:15 around that time
16 frame. She came in, she said, where's he at, I said, he's
17 laying down, taking a nap. I said, you want to check on
18 him, we walked in, both of us walked in to the edge, edge
19 of the door.

20 Detective Troxell: And that's the room that we
21 went into?

22 Mr. Palmer: Yes, sir, yes, peeked in and like
23 that and he was just asleep.

24 Detective Troxell: Okay, that was about four,
25 4:15?

Detective Troxell - Direct Examination by Ms. Lively 688

1 Mr. Palmer: Around that time frame.

2 Detective Troxell: And what did you and Julie
3 do after that?

4 Mr. Palmer: After that we went outside, I mean,
5 went, went out and talked for a little bit, you know, just
6 telling me what, how her day was and this and that and, you
7 know, just talked and started prepping dinner. We had
8 tacos and so we cut up all the stuff and had everything
9 ready, cooked, and then we sat down around like six to eat
10 dinner and she said do you want to wake him up now or do
11 you want us to eat first and I was like, well let's eat and
12 that way, you know, if he wants to act up or something
13 happens, you know, we, we'll both of us be able to take
14 care of him, so she went in there and that's when she found
15 him having like a seizure thing.

16 Detective Troxell: Can you kind of describe
17 what he was doing?

18 Mr. Palmer: When she picked him up and brought
19 him around the corner his, I mean his head was just like
20 limp, his body, his arms. It's kind of hard, it was, his
21 arms and everything was like bowed up at, it was, acted
22 like, it was like a seizure. I mean I've never seen
23 anything like that, so she gave him, I said give him here.
24 I said get me a wet washcloth on his head right here and
25 set him on the end of the couch and had him at like a forty

Detective Troxell - Direct Examination by Ms. Lively 689

1 five degree angle and was holding him like that. I said
2 call 911, something's wrong, you know, and cause I was
3 talking to him and he was just, he was swinging with his, I
4 mean his fist balled up sideways like that and was swinging
5 it and hitting me in the face and I was sitting there and I
6 was just shaking cause I didn't what was going on and she
7 called 911 and the paramedics came and then they took him
8 to Conway.

9 Detective Troxell: Sunday, what happened on
10 Sunday?

11 Mr. Palmer: Sunday?

12 Detective Troxell: Did Julia work on Sunday?

13 Mr. Palmer: Yes, yes, she, she went to work
14 Sunday, I talked to my Mom and Dad, they asked us ---

15 Detective Troxell: What time did she go to
16 work, I'm sorry?

17 Mr. Palmer: I don't know if it was six or eight
18 that morning, I don't really remember.

19 Detective Troxell: But you got up in the
20 morning and --

21 Mr. Palmer: Yeah, she got up in the morning
22 again I talked to my Mom and Dad the day before and they
23 wanted us, me and **Victim** and Julie to come over to the pool
24 in their neighborhood, so I was like okay. I said when he
25 gets up, which once again at 9:30 Sunday I had to wake him

Detective Troxell - Direct Examination by Ms. Lively 690

1 up' cause he didn't want to get up, went in there and got
2 him up and got him, you know, his bag together, swimming
3 clothes, and extra diapers and snacks, and this and that.
4 My Dad came and picked me up around like 11, 11:30; we went
5 over to my Mom and Dad's. I took him over there cause my
6 son Dillon wanted to go to the pool so my, me, Dillon, and
7 my Dad and Victim went over there. I had one of those
8 little floatie round things for small children, I set him
9 in it and he just laid there.

10 Detective Troxell: Okay.

11 Mr. Palmer: He just laid there, I mean he
12 didn't, didn't splash in the water, didn't do anything.

13 Detective Troxell: No movement at all in the
14 water?

15 Mr. Palmer: I mean he just, he'd lay there and
16 he'd whine and whimper.

17 Detective Troxell: Okay, what time did Julia
18 get to your Mom and Dad's house?

19 Mr. Palmer: I want to say it was around three,
20 3:30, around that time frame.

21 Detective Troxell: Did you guys all stay there?

22 Mr. Palmer: We, we ate, Mama went to the store
23 and picked up some food at Food Lion down the road here.
24 We had like a chicken, we picked the chicken off of the,
25 you know, the rotisserie chickens, got one of those and

Detective Troxell - Direct Examination by Ms. Lively 691

1 picked the chicken off of that. We had like, you know,
2 some other stuff, we ate, and then, you know --

3 Detective Troxell: Who went to the store?

4 Mr. Palmer: My Mom.

5 Detective Troxell: Your Mom, okay, then you and
6 Julia obviously go back home?

7 Mr. Palmer: No, no, we stayed at my Mom and
8 Dad's, I said you want to go to the pool and I asked her
9 and she said, yeah, so we went back again for the second
10 time to the pool but this time it was my Mama, my son
11 Dillon, Victim Julie, and me.

12 Detective Troxell: Okay, what time did you
13 finally leave your Mom and Dad's house?

14 Mr. Palmer: I want to say like 6, 6:30.

15 Detective Troxell: And you and Julia go back to
16 --

17 Mr. Palmer: Our house.

18 Detective Troxell: Okay, did anybody go with
19 you, is there anyone else there, just you and Julia?

20 Mr. Palmer: Yeah.

21 Detective Troxell: Okay, and that's where you
22 remained until 9:00 that next morning when --

23 Mr. Palmer: Yes.

24 Detective Troxell: Okay, how about Saturday; do
25 you remember Saturday?

Detective Troxell - Direct Examination by Ms. Lively 692

1 Mr. Palmer: Saturday, I don't, I don't have a
2 clue about Saturday. Saturday, oh, Saturday Julie went to
3 work, I was at home with Victim and, you know, I mean the
4 same thing, tried to get him up around 9:30, he acted like
5 he didn't want to do anything, tried a little bit of
6 breakfast. He wanted to get right back, you know, I asked
7 him to go play with his toys and, you know, just to try to
8 do something because I mean he wasn't active at all. He'd
9 just, he'd walk over there and pick up something just look
10 off, look off and look at you like can I please go sit down
11 or something, I mean it was just, that's all he did.

12 Detective Troxell: Okay, did anything, did you
13 guys go anywhere Saturday, do anything?

14 Mr. Palmer: No.

15 Detective Troxell: I meant go to dinner and
16 t.v. that?

17 Mr. Palmer: Yeah, well that evening, that
18 evening we went to dinner. I mean, but that was around
19 like six, seven that evening.

20 Detective Troxell: Okay, did anyone go with you
21 or was it just you, Julie, and Victim

22 Mr. Palmer: Yeah, just me, Julie, and Victim

23 Detective Troxell: And for time we're going to
24 speed up a little bit and going back further but you guys
25 got Victim from Julie's daughter, Cesalee?

Detective Troxell - Direct Examination by Ms. Lively 693

1 Mr. Palmer: Yes.

2 Detective Troxell: And from what I can remember
3 the temporary guardianship was signed over July 1st?

4 Mr. Palmer: Right.

5 Detective Troxell: And she left maybe the day
6 or day after that?

7 Mr. Palmer: Yeah, the next day she left.

8 Detective Troxell: And since then you guys, you
9 and Julia have been the primary caregivers?

10 Mr. Palmer: Right.

11 Detective Troxell: And providers?

12 Mr. Palmer: Well mostly, I guess you would say
13 me because Julia has a job and --

14 Detective Troxell: That's, and that's, yeah.

15 Mr. Palmer: And I'm unemployed.

16 Detective Troxell: During the day when Julia is
17 working and you're the only one that cares and provides for

18 Victim

19 Mr. Palmer: Yes.

20 Detective Troxell: Okay, does anyone else come
21 over and assist you and help you?

22 Mr. Palmer: No.

23 Detective Troxell: Okay, at night when Julia
24 comes over does anyone come over to help and assist you
25 guys?

Detective Troxell - Direct Examination by Ms. Lively 694

1 Mr. Palmer: When Julie comes home?

2 Detective Troxell: Or when Julia comes back
3 from work, yeah, I'm sorry, does anybody else come over and
4 --

5 Mr. Palmer: Like I said the only time we only
6 had our neighbor just come over and, you know, the one's
7 you talked to, come over and talked to us for a little bit,
8 I mean, you know, other than that, that's it.

9 Detective Troxell: And they babysat him when?

10 Mr. Palmer: The date, I'm not exactly sure, I
11 want to say it was right after Cesalee left so it might
12 have been around the first week in July.

13 Detective Troxell: Third, fourth, fifth, sixth?

14 Mr. Palmer: Somewhere around that time frame,
15 yes.

16 Detective Troxell: Okay, and since then no one
17 else has watched or cared for Victim or been alone with
18 Victim no other adults? Okay, Weaver, you got anything?

19 Detective Weaver: Julie over the weekend she
20 was working, did, did she have any problems a work that you
21 know of; did she come home --

22 Mr. Palmer: She's had ---

23 Detective Weaver: Did she talk about work or
24 anything?

25 Mr. Palmer: Yeah, they've had, I guess they've

Detective Troxell - Direct Examination by Ms. Lively 695

1 had different people in, cause a lot of people, the higher
2 ups are, are I guess getting fired, getting this and that
3 and I mean she's always, it's always something going on
4 she says, you know, in the cash office, that's where she
5 works at, the Bass Pro Shop.

6 Detective Weaver: Did she, did she come home
7 agitated or upset?

8 Mr. Palmer: Yeah.

9 Detective Weaver: Any date?

10 Mr. Palmer: It's like an every day thing, you
11 know, I mean she, when she's ---

12 Detective Weaver: Right.

13 Mr. Palmer: Well she's steady putting in
14 applications trying to get out of there.

15 Detective Weaver: She's not happy there?

16 Mr. Palmer: Well with the drive, the gas
17 prices, and, you know, just one week they tell you, you
18 know, you can get thirty something hours and the next week
19 maybe you can get forty hours and then they keep, it keeps
20 going back and forth, you know, it's --

21 Detective Weaver: When she comes home from work
22 does she pretty much take over the primary duties of taking
23 care of Victim?

24 Mr. Palmer: Yeah, I mean she misses him and she
25 wants to, you know, see him.

Detective Troxell - Direct Examination by Ms. Lively 696

1 Detective Weaver: So she, she takes cares of
2 him?

3 Mr. Palmer: Pretty much, yeah, she asked me,
4 you know --

5 Detective Troxell: So you pretty much
6 relinquish the duties?

7 Mr. Palmer: Yeah.

8 Detective Weaver: When she comes home?

9 Mr. Palmer: Yeah, yes, yes.

10 Detective Weaver: Okay.

11 Mr. Palmer: Whenever she, you know, she wants
12 to do nothing when she comes in, hey, she calls him, hey,
13 Buttercup, and this and that, I mean she's, she misses him.
14 I guess it's like having one of her own, you know, but it's
15 just --

16 Detective Weaver: Okay.

17 Detective Troxell: You said when the paramedics
18 got there you had Victim

19 Mr. Palmer: At a forty five angle sitting up
20 like this.

21 Detective Troxell: And he was shaking and --

22 Mr. Palmer: Shaking and he was like swinging,
23 one of his arms was swinging, I don't know which, I want to
24 say it was his right arm.

25 Detective Troxell: You look like something is

Detective Troxell - Direct Examination by Ms. Lively 697

1 weighing heavy on you, Robert; what's on your mind? I know
2 you're upset cause of the passing of Victim but is there
3 something else?

4 Mr. Palmer: No.

5 Detective Troxell: Okay, here's the situation?

6 Mr. Palmer: I'm sitting here.

7 Detective Troxell: Here's the situation,
8 listen, just listen to me, hear me, okay, we've talked to
9 the doctor's. We've spent a week doing this, okay, there's
10 been no one else around. We know when this happened to
11 Victim and we've got it down medically and scientifically.
12 We've already discussed and we've covered when the doctor's
13 said it happened, okay. If it was an accident or something
14 happened at this point in time we need to know?

15 Mr. Palmer: No.

16 Detective Troxell: No.

17 Mr. Palmer: No.

18 Detective Troxell: There's nothing?

19 Mr. Palmer: No, I'm telling you right now
20 truthfully, I don't know what happened. I don't know what
21 the doctors have told ya'll but I'm telling you I've not
22 hurt that child; I would not hurt a child.

23 Detective Troxell: And we're not saying you
24 did.

25 Mr. Palmer: Well you're sitting here and

Detective Troxell - Direct Examination by Ms. Lively 698

1 telling me ---

2 Detective Troxell: No, no.

3 Mr. Palmer: You ---

4 Detective Troxell: You, you're crying and
5 you're upset and that's fine, I understand that, but what
6 I'm saying to you is now we've got to get to the bottom of
7 this.

8 Mr. Palmer: I understand.

9 Detective Troxell: And the explanations and the
10 things that have, the dog knocking the baby over and the
11 stroller, those are the only things you know that have
12 happened to Victim

13 Mr. Palmer: When I was there with her, yes, I
14 mean Victim yes, that's the only things I know of but like
15 I said she was with him.

16 Detective Troxell: And him falling off the bed,
17 those are the only three explanations that have been given
18 to us about what happened to Victim correct?

19 Mr. Palmer: Like I said, yeah.

20 Detective Troxell: Okay.

21 Mr. Palmer: The only ones I know of.

22 Detective Troxell: Well the experts at MUSC are
23 saying that's not possible. What happened to Victim was
24 recent, it was when he was in your and Julia's care. Now
25 if Julia did something and told you we, we've got to get to

Detective Troxell - Direct Examination by Ms. Lively 699

1 the bottom of it?

2 Mr. Palmer: I understand.

3 Detective Troxell: And it ---

4 Mr. Palmer: I've been cooperative so far.

5 Detective Troxell: And I know you are and we
6 appreciate that. You, we've went and woke you up at 8:00
7 this morning, we're not by any means saying you're not
8 cooperating, but what I'm saying is you've got a lot to
9 loose in this for a kid that isn't even ---

10 Mr. Palmer: She, she's ---

11 Detective Troxell: --- doesn't even have any
12 relation to you?

13 Mr. Palmer: --- a girlfriend, I understand.

14 Detective Troxell: And ---

15 Mr. Palmer: I understand and I'm sitting here,
16 like I said.

17 Detective Troxell: And now you can't even see
18 your five year old kid anymore.

19 Mr. Palmer: Right.

20 Detective Troxell: You probably won't be able
21 to see him for a while ---

22 Mr. Palmer: Well ---

23 Detective Troxell: --- until this is resolved
24 and you're going to end up going down a road that you don't
25 need to go down. If there was an accident or something

Detective Troxell - Direct Examination by Ms. Lively 700

1 happened to [Victim] if Julia told you, this is what
2 happened.

3 Mr. Palmer: I don't know, she never said
4 anything out of the way, I mean she, to tell me anything, I
5 mean I don't know. I wasn't with her Friday, that Friday
6 that just, Friday and, you know, Friday and Saturday and
7 Sunday and a Monday, that, that Friday I was not with her,
8 I went out with the next, with my next door neighbor for a
9 little while.

10 Detective Troxell: Where did ya'll go?

11 Mr. Palmer: We went to Beef O'Brady's in
12 Conway.

13 Detective Troxell: Okay, that's the first time
14 we've heard of that.

15 Mr. Palmer: You've only asked for, you know,
16 ya'll keep wanting to say Saturday and Sunday, I mean
17 Sunday and Monday, you know, that's what you --

18 Detective Troxell: Like I said there's a reason
19 for that.

20 Mr. Palmer: Okay.

21 Detective Troxell: And the doctors have
22 explained to us that whatever happened to [Victim] happened
23 in a certain time frame ---

24 Mr. Palmer: I do not believe.

25 Detective Troxell: --- within, you're not going

Detective Troxell - Direct Examination by Ms. Lively 701

1 to believe that?

2 Mr. Palmer: I'm just telling you that, that ---

3 Detective Troxell: Do you want to read where
4 the doctor wrote that?

5 Mr. Palmer: No, no, I don't want to read it. I
6 had a doctor tell me that the other day in, in the hospital
7 when we got there at like 4:00 in the morning, he said,
8 this is recent. I said, there's no way, there's nothing
9 that, that, he's been around me that would have caused
10 something like that, there's nothing.

11 Detective Troxell: We're not saying you're a
12 violent, mean person.

13 Mr. Palmer: Well --

14 Detective Troxell: Accidents happen,
15 frustration kicks in, it's not your kid, but if, if
16 something happened at this point we've got to get that out
17 on the table so we can address it and move forward.

18 Mr. Palmer: Okay.

19 Detective Troxell: By stalling and going here
20 and staying here then we're not going to be able to move
21 forward and deal with the situation at hand.

22 Mr. Palmer: Okay.

23 Detective Troxell: And I'm not accusing you of
24 doing anything mean, I don't think you have a malicious
25 bone in your body. I've done a background on you; I know

Detective Troxell - Direct Examination by Ms. Lively 702

1 you ain't, you've never been in trouble. You're trying to
2 do right for your kid and this is just a bump in the road.

3 Mr. Palmer: A huge bump.

4 Detective Troxell: That we're all going to get
5 through and we're going to get past, but it's going to take
6 someone owning up and admitting what happened because the
7 doctors are putting it in yours and Julia's hands; I'm
8 going to put it point blank to you.

9 Mr. Palmer: That's all right.

10 Detective Troxell: I'm not going to beat around
11 the bush, I'm not going to bullshit you.

12 Mr. Palmer: I know, I know, that's why ---

13 Detective Troxell: So you and Julia, you're
14 going to end up going to jail for this.

15 Mr. Palmer: I've never even been in one, I
16 don't even know what it looks like.

17 Detective Troxell: And you've got the most to
18 loose ---

19 Mr. Palmer: I understand.

20 Detective Troxell: --- out of this whole deal
21 and the most to gain, and help me, help me understand,
22 explain it to me cause I've got you guys saying there ain't
23 no way in hell cause the baby's been like this since
24 Thursday when I can prove scientifically, no, it happened
25 recently.

Detective Troxell - Direct Examination by Ms. Lively 703

1 Mr. Palmer: I don't know what to tell you cause
2 I haven't hurt him, I haven't done anything. I've been
3 trying to give him more than what he came with.

4 Detective Troxell: Exactly, you've done nothing
5 but care for this baby and he ain't even yours. I'd say
6 you have no ties with him. You've been there from six in
7 the morning till three in the afternoon caring for a kid
8 that you've got no ties to. You're a caring person.
9 You're upset that you've lost a kid that you don't have
10 anything but three weeks invested in. That shows a lot to
11 your character and a lot to the person you are. We've met
12 your parents and they've spoken highly of you.

13 Mr. Palmer: This is, I don't know, I have no
14 clue what to tell you.

15 Detective Troxell: Have you ever seen Julia
16 loose her grip and loose her control with Victim

17 Mr. Palmer: Not while I was there.

18 Detective Troxell: Not while you were there;
19 does she ever loose her grip and go out of control with
20 you? Has she got a temper?

21 Mr. Palmer: I mean just normal things like I
22 said, everything that's happened to us it seems like are
23 happening bam, bam, bam, you know, the car, me getting laid
24 off, you know, Cesalee coming, and all this with Victim a
25 number of things. I wish there was something I could help

Detective Troxell - Direct Examination by Ms. Lively 704

1 you with but I'm --

2 Detective Weaver: What do you think, what do
3 you think happened to him?

4 Mr. Palmer: I don't have a clue, I wish I knew,
5 I mean, like I said he was, she left --

6 Detective Weaver: But the time frame we have,
7 we know is, we know it, it just happened, okay, it
8 happened, we know the time, we know, we know the time
9 frame, this is your opportunity to tell us what happened,
10 Robert, it's very important.

11 Mr. Palmer: I'm telling you.

12 Detective Weaver: Listen to me, listen to me,
13 you're a military guy, right?

14 Mr. Palmer: I was, yes.

15 Detective Weaver: You're a Navy guy, right?

16 Mr. Palmer: Yes.

17 Detective Weaver: You served your country,
18 right?

19 Mr. Palmer: Yes.

20 Detective Weaver: You have integrity, right?

21 Mr. Palmer: Yes.

22 Detective Weaver: You're right, you did an
23 honorable thing serving our country. Why don't you do an
24 honorable thing right now and tell us what happened? This
25 is your time, buddy, this is your time cause you're going

Detective Troxell - Direct Examination by Ms. Lively 705

1 to go to jail?

2 Mr. Palmer: Okay, that's fine.

3 Detective Weaver: And you need to tell us what
4 happened?

5 Mr. Palmer: I don't do anything.

6 Detective Weaver: If it was an accident we need
7 to know that?

8 Mr. Palmer: I didn't do anything.

9 Detective Weaver: Did you ever see Julie?

10 Mr. Palmer: I don't ---

11 Detective Weaver: Hurt him?

12 Mr. Palmer: Not when I was there, no, I'm
13 telling you I don't know. I just, you know, if I had known
14 this was going to happen I would have sit here and got a
15 lawyer, I mean cause ya'll sitting here and accusing me of
16 this.

17 Detective Weaver: We're not, we're trying to
18 find out what happened. Listen, listen to where we're
19 coming from, okay, we've got a little boy that's dead.

20 Mr. Palmer: I understand.

21 Detective Weaver: We're just trying to find out
22 the facts.

23 Mr. Palmer: I'm living with that.

24 Detective Weaver: I understand that, but we've
25 got to find out what happened to him. That's, that's what

Detective Troxell - Direct Examination by Ms. Lively 706

1 we have to do, and we're up to this point whatever you're
2 telling us is not adding up. What the doctors tell us
3 ain't adding up.

4 Mr. Palmer: That's fine, I don't know either.

5 Detective Weaver: We need some answers.

6 Mr. Palmer: I can't help you, all I know is
7 that this is crazy.

8 Detective Weaver: I'm trying to help you, man.

9 Mr. Palmer: That's fine, I understand that.

10 Detective Weaver: But you've got to help me.

11 Mr. Palmer: I'm not hiding anything, if I was
12 hiding anything wouldn't I come up clean; I don't want to
13 go to jail.

14 Detective Weaver: I know you don't.

15 Mr. Palmer: I've never been in jail.

16 Detective Weaver: How long you been with Julie?

17 Mr. Palmer: About four years.

18 Detective Weaver: Four years, is she worth
19 going to jail over?

20 Mr. Palmer: What do you think, nobody's worth
21 going over to jail.

22 Detective Weaver: I'm, I'm asking you?

23 Mr. Palmer: No.

24 Detective Weaver: Well then you need to tell us
25 if you know something about Julie you need to tell us?

Detective Troxell - Direct Examination by Ms. Lively 707

1 Mr. Palmer: I don't know, I don't know. It
2 seems like the more we, investigating, the more I find out
3 about her and Cesalee and everything they've had. I don't
4 know, but this was all new to me and I didn't know all this
5 stuff about Cesalee, didn't want her to come in the first
6 place, her and Julie couldn't get along.

7 Detective Troxell: How is not being able to see
8 Dillon affecting you or not even being able to bring Dillon
9 over to your house by yourself?

10 Mr. Palmer: I mean, well how do you, what would
11 you feel?

12 Detective Troxell: I can't imagine, I don't
13 have children of my own, but I can imagine it is possibly
14 tearing you up.

15 Mr. Palmer: It's awful.

16 Detective Troxell: And you're fine with sitting
17 here and going to jail and possibly not seeing him for a
18 real long time because it's you or Julia, we're throwing
19 Cesalee out, okay, it didn't happen. Cesalee was gone,
20 we've already covered that. We've got her airplane
21 documentation, date, time, flight numbers, when Cesalee
22 left Myrtle Beach, okay. She is not in, in the realm of
23 possibility. The only thing she may be guilty of is being
24 a bad, horrible mother, but she wasn't here when these
25 injuries were inflicted to Victim okay, and we can go

Detective Troxell - Direct Examination by Ms. Lively 708

1 ahead and throw Friday out the window when you, you were
2 out with your neighbor, it didn't happen Friday, okay.
3 We've got the doctors saying within x amount of time from
4 when we got Victim is when this happened, and you're fine
5 with going to jail?

6 Mr. Palmer: No, I'm not fine with going to
7 jail, I mean seriously I don't know what to tell you. What
8 you're looking for you're not going to find it in me cause
9 I've not done anything out of the way to that child.

10 Detective Troxell: Okay.

11 Mr. Palmer: So I mean if, if I gotta go to jail
12 then I guess I gotta go to jail, so --

13 Detective Troxell: And you're just going to
14 leave it at that?

15 Mr. Palmer: What do you want me to do? I
16 can't, I --

17 Detective Troxell: You've got to know
18 something. There's no way you don't, that trailer isn't
19 that big?

20 Mr. Palmer: I understand.

21 Detective Troxell: What's, what happened to
22 Victim ---

23 Mr. Palmer: Yes.

24 Detective Troxell: --- was a violent enough act
25 that it would have been known immediately. He would have

Detective Troxell - Direct Examination by Ms. Lively 709

1 shown symptoms, he would have been symptomatic immediately,
2 that is straight from, and I'll read all her credentials.

3 Mr. Palmer: I, you don't have to go through
4 the, I mean it's, she's a doctor, right?

5 Detective Troxell: Dr. Anna Able, Medical
6 Director of the Violence Intervention Prevention Center.
7 This lady's an expert, she's the one who's, it's not going
8 to be me and Weaver sitting on the stand, well we think
9 this, it's going to be an expert. I know this is what
10 happened.

11 Detective Weaver: That all she does, man.

12 Mr. Palmer: That's fine.

13 Detective Weaver: She's an expert. It's all
14 she does.

15 Mr. Palmer: I understand, I --

16 Detective Troxell: And you're going to chalk it
17 up to that's fine.

18 Mr. Palmer: No, I mean what do you want me to
19 say?

20 Detective Troxell: I don't understand.

21 Mr. Palmer: What do you want me to say?

22 Detective Weaver: Do you, do you have any
23 knowledge at all? Have you talked about it? Has Julie
24 said anything to you about it?

25 Mr. Palmer: No, she hasn't been around. She

Detective Troxell - Direct Examination by Ms. Lively 710

1 came home last night around 7:30.

2 Detective Weaver: No, I'm talking about Monday
3 or Sunday or any time?

4 Mr. Palmer: We hadn't been ---

5 Detective Weaver: Have you talked about it?

6 Mr. Palmer: We hadn't been alone. I mean it's
7 been in, in and out of questioning and going to see Victim

8 Detective Weaver: You've been in automobiles.
9 You've been driving together.

10 Mr. Palmer: Yeah, I mean she's talking on the
11 phone.

12 Detective Weaver: You've been at the hospital
13 together.

14 Mr. Palmer: She's been talking on the phone to
15 all kinds of people. I've been doing all the driving.
16 She's been talking on the phone, you know, telling, you
17 know, I don't know what, like I said I'm finding more and
18 more out now that, about Cesalee and her relationship, you
19 know, that I had nothing, I had no clue of. I don't, I
20 don't know what to tell you.

21 Detective Weaver: I talked to your parents. I
22 know what kind of person you are.

23 Mr. Palmer: I understand that, I mean --

24 Detective Weaver: Okay, you're a good person.

25 Mr. Palmer: Right.

Detective Troxell - Direct Examination by Ms. Lively 711

1 Detective Weaver: But things happen. Maybe it
2 was an accident, we need to know right now, man. We need
3 to know cause, once we walk out of this room, we need to
4 know right now.

5 Detective Troxell: But there's no coming back
6 here.

7 Detective Weaver: We need to know what
8 happened.

9 Mr. Palmer: That's fine.

10 Detective Weaver: Like I said I, I know what
11 kind of person, we've checked around.

12 Mr. Palmer: That's good, I mean, you know, it's
13 not going to do me any good now because of you guys.

14 Detective Weaver: You feel the same way about
15 Julie?

16 Mr. Palmer: Huh?

17 Detective Weaver: You feel the same way about
18 Julie. You think she's a good person?

19 Mr. Palmer: From what I've seen of her, yes.
20 I, I don't know what you want me to say and I'm not going
21 to say anything.

22 Detective Troxell: We're coming to you first.
23 There's a reason ---

24 Mr. Palmer: That's fine.

25 Detective Troxell: --- we came to you first.

Detective Troxell - Direct Examination by Ms. Lively 712

1 Mr. Palmer: And I know there was a reason you
2 came to me first cause you wanting, this is all cause I'm
3 the one that gave him primary care.

4 Detective Troxell: Wrong.

5 Detective Weaver: No.

6 Detective Troxell: Wrong, you're the only one
7 that in the entire time that we've talked to you that has
8 showed any care or compassion or has remotely teared up.
9 When we sat down in that hospital room Julia was stone cold
10 straight faced and we talked. When you came in and when
11 you were describing how you held Victim and he was shaking
12 you got teary then. That showed me what kind of person you
13 are. It shows me what kind of character you have. It also
14 leads me to believe that if there was something that might
15 have happened you would be the one to step up and say, you
16 know what, someone needs to speak for this child.

17 Mr. Palmer: I understand.

18 Detective Troxell: He can't speak for himself.

19 Mr. Palmer: I understand. I, I, if I could
20 help you I would, I told you that. I'm not going to change
21 my story. I, I have nothing to hide.

22 Detective Troxell: Okay, nothing to hide,
23 nothing else you want to add, nothing? You can't, think
24 back, let me, we'll step out and give you a few minutes to
25 think, maybe something happened, maybe he fell off

Detective Troxell - Direct Examination by Ms. Lively 713

1 something, he did something, I don't know, something
2 happened.

3 Detective Weaver: Think hard, man. Hey, look
4 at me, this is the most important day in your life right
5 now, okay?

6 Mr. Palmer: You're telling me.

7 Detective Weaver: So you need to think about
8 it.

9 Detective Troxell: Have you been able to
10 possibly think of anything, any explanation as to why we're
11 here and going through what we're going through?

12 Okay, do you know what's going to happen from
13 this point forward?

14 Mr. Palmer: Yes, I do.

15 Detective Troxell: Not only with you but with
16 Victim.

17 Mr. Palmer: I guess I'm going to jail.

18 Detective Troxell: We're going to the autopsy.
19 Detective Weaver and I are going to attend that and we're
20 going to photograph that, and we're going to have the
21 radiographs, our photographs that we take, the forensic
22 pathologist, and we're going to examine the skull, and
23 there is [sic] ways that we can medically and
24 scientifically prove that the fractures on it are, are
25 fresh fractures, and the way they can prove that is the

Detective Troxell - Direct Examination by Ms. Lively 714
1 fractures aren't healed nor are they calloused, okay.

2 There is going to be a mountain of evidence
3 that's saying something happened in that house or something
4 happened while, as you put it, you and Julia were caring
5 for the child, cause no one else could have done it. No
6 one else had access. There was no one else but you guys so
7 I am going to have all this over here and you're saying I
8 don't know, and then you're saying I guess I'm going to
9 jail.

10 Mr. Palmer: What do you want me to say? I mean

11 ---

12 Detective Troxell: You're at a crossroads in
13 your life, like Weaver said, your life, your life is never
14 going to be the same as, once we walk out of this, this
15 office, the next time we walk out of here.

16 Mr. Palmer: It seems like that for the last two
17 years, so I mean nothing's changed, steady going downhill,
18 you do something nice and look where it gets you. I'm in
19 here talking to ya'll two.

20 Detective Troxell: But you can change it?

21 Mr. Palmer: I, I, I ---

22 Detective Troxell: You have the power to change
23 it.

24 Mr. Palmer: Listen to me, I did not do anything
25 to that child. All I did was try to care for him.

Detective Troxell - Direct Examination by Ms. Lively 715

1 Detective Troxell: I'm not saying you did
2 anything to that child and I know you tried to care for it,
3 at no point have we said, Robert, you did something to that
4 kid, did we?

5 Mr. Palmer: I'm the primary caregiver, that's
6 what I'm trying to --

7 Detective Troxell: You're the primary
8 caregiver, yeah, but there's also times where the care
9 isn't in your hands, there's Julie.

10 Mr. Palmer: Right.

11 Detective Troxell: The hand of one is the hand
12 of all, if you know something, if she did something I'm
13 telling you now you need to tell us cause you're going to
14 go down, you're going down a path you don't need to.

15 Mr. Palmer: I understand, but I, if I knew I
16 would tell you, I don't know anything. She has not said
17 anything. I haven't done anything. I don't know what to
18 tell you. I mean, when I'm not there exactly what, I'm not
19 there. I don't have a camera, you know, a camcorder going
20 the whole time saying this is what she did while I was
21 gone, no, I don't know what, while I was not there.

22 Detective Troxell: But she, you don't think
23 she's capable of doing something?

24 Mr. Palmer: I don't know, I don't know.

25 Detective Weaver: I find it hard to believe the

Detective Troxell - Direct Examination by Ms. Lively 716

1 last couple of days ya'll didn't talk about what you felt
2 happened to [Victim] You didn't talk about it at all, what
3 happened to him?

4 Mr. Palmer: Yeah, we, yeah, what we said was, I
5 guarantee it was Cesalee.

6 Detective Weaver: Not possible.

7 Mr. Palmer: Okay, then ---

8 Detective Weaver: Medically it's not possible.

9 Mr. Palmer: Okay, that's fine. That's what we
10 said, you know, I mean she left.

11 Detective Troxell: Don't you think it's a
12 little odd that she was so quick to throw Cesalee under the
13 bus? So quick to not say maybe it was an accident but that
14 ---

15 Detective Weaver: Her own daughter, flesh and
16 blood, thrown under the bus.

17 Detective Troxell: That she could care less,
18 she could care less about her daughter?

19 Mr. Palmer: Well that must say something that
20 I'm not the one, wouldn't you think?

21 Detective Troxell: But the hand of one is the
22 hand of all and if you ---

23 Mr. Palmer: I understand.

24 Detective Troxell: --- don't know anything you
25 can't say anything.

Detective Troxell - Direct Examination by Ms. Lively 717

1 Mr. Palmer: I don't know anything, I don't.
2 That's what I'm trying to tell you. I do not know what
3 happened to that child.

4 Detective Troxell: So you're going to roll the
5 dice on Julia maning up and saying I did something because
6 if she doesn't then both of you are going to end up going
7 to jail?

8 Mr. Palmer: What I know that's what, I can't
9 stop this, this is the way the justice system works. What
10 do you want me to say?

11 Detective Troxell: It's not the justice system.
12 It's not anything being put on you, it's what we can prove.

13 Mr. Palmer: That's ---

14 Detective Troxell: We don't go to Court with
15 assumptions, we go to Court with fact.

16 Mr. Palmer: I got you, I understand that.

17 Detective Troxell: Didn't you think it was odd
18 that we came in there and we didn't just measure the bed?
19 I measured every damn thing in your house that had a flat
20 surface ---

21 Mr. Palmer: I know, I ---

22 Detective Troxell: --- to disprove that he
23 could have fallen from anything.

24 Detective Weaver: Yes, there's no way. I knew
25 that.

Detective Troxell - Direct Examination by Ms. Lively 718

1 Detective Troxell: All of that has been chucked
2 out the window.

3 Mr. Palmer: Okay, I don't know what, what you
4 want me to say. Do you want me to just to fess up and say,
5 hey, I did this, I'm not going to do that. I did nothing
6 to that child. I'm, I'm not going to change my story. I
7 did not do anything to this child. Whatever you want me to
8 say, I'm not going to say it. I did nothing to this child.

9 Detective Troxell: At no point, I don't want
10 you to say that, if you didn't do it. All I can ask you to
11 give me is the truth.

12 Mr. Palmer: It seems like ya'll want me to, you
13 walk out and then you come back in and want me to think of
14 something, I don't know, I'm trying to.

15 Detective Troxell: I'm just giving you a chance
16 to job your memory.

17 Detective Weaver: We just want the truth.

18 Detective Troxell: And to stress the things
19 that ---

20 Mr. Palmer: I, I want the truth.

21 Detective Troxell: And to stress the things
22 that have happened over the course of the week, if you take
23 time to think, you haven't slept, probably haven't eaten,
24 you haven't got adequate rest, things jog your memory. I'm
25 not trying to give you, give me an explanation, that's not

Detective Troxell - Direct Examination by Ms. Lively 719

1 what I want.

2 Mr. Palmer: I didn't, you know, after
3 everything that happened Monday or, and Tuesday, where, you
4 know, we was questioned and brought in by different people,
5 nobody once give a rip about how much sleep we had, so
6 right now that's not here nor there.

7 Detective Weaver: That's not true, I asked you
8 a couple of times you getting any rest, how you doing?

9 Mr. Palmer: I didn't get any. I got maybe
10 thirty minutes in a hospital, if you know how hospitals
11 are, it's slamming, beating, people walking, and doing this
12 and that, not once on forty-something hours have I changed
13 my story and I won't do it now.

14 Detective Troxell: Okay, that's fine.

15 Detective Weaver: No problem with that. This
16 interview's over, buddy.

17 Mr. Palmer: All right.

18 Detective Weaver: Sit down, you ain't going
19 anywhere just yet, we've gotta get a set of handcuffs for
20 you.

21 (Whereupon, a bench conference was held off the
22 record in the presence of the jury, but out of the hearing
23 of the jury.)

24 The Court: All right, ladies and gentlemen,
25 the next tape will be about an hour long so what I have

Detective Troxell - Direct Examination by Ms. Lively 720

1 done is I've ordered some lunch for you and I'm going to
2 let you go back in your jury room, rest a few minutes, have
3 lunch brought to you, that way we might can save some time
4 today, move this thing along. Mr. Ropp, if you would take
5 them back to the room, make sure they have soft drinks and
6 things of that nature.

7 Ms. Lively: Your Honor, before they go do you
8 want them to just leave the transcripts in their seats
9 instead of taking them back to the jury room?

10 The Court: Certainly, they can just leave the
11 transcripts in their seats.

12 Ms. Lively: Thank you.

13 The Court: And we will have some lunch and get
14 back started a little earlier than we would otherwise if
15 everyone had to go and find some lunch.

16 (Whereupon, the jury was excused for lunch at
17 12:49 p.m.)

18 The Court: Okay, we're at ease.

19 Ms. Lively: Thank you, Your Honor.

20 (Whereupon, Court was recessed for lunch.)

21 The Court: Ms. Floyd, if you would have them
22 bring the jury in.

23 (Whereupon, the jury returns to the courtroom at
24 1:59 p.m. and the following takes place on the record after
25 the lunch recess.)

Detective Troxell - Direct Examination by Ms. Lively 721

1 The Court: All right, all our jurors are back,
2 ready to proceed, Ms. Lively?

3 Ms. Lively: Yes, sir, Your Honor, when we broke
4 the State was getting ready to publish the interview of
5 Defendant Julia Gorman and we're ready to proceed.

6 The Court: All right, and we're ready for you
7 to proceed.

8 Ms. Lively: Thank you, Your Honor, let us have
9 the screen.

10 (Whereupon, State's Exhibit Number 65 is played
11 in open court.)

12 Detective Troxell: Grab a seat for me, we'll be
13 right with you.

14 Ms. Gorman: Okay.

15 Detective Troxell: I've got to get Weaver.

16 Ms. Gorman: I don't like this.

17 (Whereupon, Detective Weaver enters the interview
18 room with Detective Troxell.)

19 Detective Weaver: Hey, Julie.

20 Ms. Gorman: Hey.

21 Detective Weaver: Have a seat here.

22 Ms. Gorman: Okay.

23 Detective Weaver: That's my seat.

24 Ms. Gorman: That's my seat, I don't see a name
25 tag.

Detective Troxell - Direct Examination by Ms. Lively 722

1 Detective Weaver: We'll get to that later.

2 Ms. Gorman: I know, I was just reading, passing
3 time.

4 Detective Weaver: Okay.

5 Detective Troxell: What is that, that?

6 Ms. Gorman: This is when she was in, when we
7 lived in North Carolina, I had told him that remember I was
8 looking for it for you?

9 Detective Troxell: Yeah, yeah.

10 Ms. Gorman: It was just, I wanted you to read
11 even through school, you know, she had problems.

12 Detective Troxell: Y ---

13 Ms. Gorman: Here's her discharge papers,
14 contract from the doctor that, you know, she was supposed
15 to follow the rules at least for the, you know, failure to
16 comply, what would be happening, the letter she wrote me.

17 Detective Troxell: Yeah, we'll get to all that
18 in just a second, how are you doing this morning?

19 Ms. Gorman: How do I look?

20 Detective Troxell: You look exhausted.

21 Ms. Gorman: Robert told me, he goes, I may have
22 went to bed last night, he was but I tossed and turned.

23 Detective Troxell: How you handling everything;
24 how you dealing with it?

25 Ms. Gorman: Trying to stay strong, I've gotta

Detective Troxell - Direct Examination by Ms. Lively 723

1 stay strong for everybody. I don't, I don't know, I don't
2 if it's hit me, but I'm sure it will. I came home because
3 I thought it best as I was telling Detective Weaver after
4 everything that, that I was being told, things that have
5 been said to me, I just felt very uncomfortable and felt it
6 was best I come home.

7 Detective Troxell: What were you being told,
8 what was being said to you?

9 Ms. Gorman: Wednesday, Tue -- Tuesday, I'm
10 trying to get my dates right because everything just kind
11 of comes together now, I don't know about 7:00, you know,
12 we were leaving the hospital because we needed to get some
13 rest, you know, we had been up for over forty hours, told
14 the nurse, gave our cell phones, and said if Richard shows
15 up, please, give me a call so I can come back. No phone
16 call, so we went on, woke up at 4:00, couldn't sleep, so I
17 left the hotel room and went to the hospital with Victim
18 went to the phone and they told me I couldn't come in
19 because no visitors were allowed for the father. Okay, I
20 could accept that and I was in the hallway waiting for him
21 to come up and he saw me and I put my finger up, you know,
22 cause I was on the phone, hold on a second, and he stopped
23 and he told me he debated on stopping or just keep walking,
24 and he, and, and, you know, he, he told that, you know,
25 that he was brain, you know, Victim was brain dead and, of

Detective Troxell - Direct Examination by Ms. Lively 724

1 course, it's devastating and but all my, all my feelings
2 aside I stepped up to him and gave him a hug, you know, I'm
3 sorry, you know, I'd do that to anybody, and we talked and
4 I told him and I said, you know, any animosity that anybody
5 has my family, your family, you know, because both of our
6 families don't like each other, I said this isn't about us
7 no more. It's about Victim you know, so he, he agreed
8 that, you know, I could go back in and I could see him on
9 my own, I didn't have to have supervision or anything and I
10 said I, I appreciate that, you know, I've been here since
11 day one, you know, to take that away from me, you know, is,
12 is, this is punishment enough.

13 It's punishment enough what I'm going through but
14 that's even more punishment for me, so we went inside, told
15 the nurse, he said, you know, I would be allowed back in
16 unless there was a confrontation. I said, okay, they said,
17 okay. I told them I was going home, you know, to get my
18 car and everything. That's when ya'll showed up to take
19 pictures and everything.

20 And when I got back, you know, and I called him
21 and said I was on my way and that's when I got the message
22 that Victim had passed, as I was driving back to
23 Charleston, and it was just devastating. I got there, went
24 up to the room, you know, saw Victim took Richard, I
25 didn't have to go back, you know, I could have stayed home

Detective Troxell - Direct Examination by Ms. Lively 725

1 but I needed to make sure he was okay, like or not like,
2 make sure you're okay, too.

3 We went to dinner at Uno Mas and we talked and
4 everything and he offered me to stay in his hotel room, you
5 know, cause I told him I would sit up with a pillow and a
6 blanket and I would sleep in my car, it was no big deal.
7 And he goes, no, come stay there, he wasn't, I said all
8 right, so I drive him to the Air Force Base. We went up
9 there and we were talking and he was telling me that he'd
10 spoke to Detective Weaver and told him, I can't do it
11 verbatim, that it was your day off, you said you were off.
12 He says I'm a marine, I'm in the military, I work twenty
13 four seven, and you will do the same and if you can't
14 comply, you know, do that then you need to give the case to
15 somebody else because you don't get a day off. I said,
16 okay, I didn't say nothing more. I just bit my tongue and
17 cause he doesn't know that I've been conversing with you,
18 you know, I've kept that to myself. I can't remember if I
19 told him that you guys were at my house. I believe I did
20 but I didn't tell him why you were there, and then he told
21 me that the reason why my mother was coming here, I said,
22 my mom didn't know anything, I mean she didn't even see,
23 she didn't know nothing more cause I thought it wasn't good
24 for her to know on a bus, you know, three day trip. My mom
25 is about sixty, you know, I didn't know if she could take

Detective Troxell - Direct Examination by Ms. Lively 726

1 that and I felt it would be better here, you know, there
2 when she got here, if anything was to happen to her, crack
3 emotionally, we were in a facility. They could take care
4 of her.

5 He told me the reason why my mother was coming
6 was to help get Victim well, and then when I was at work
7 one day I wouldn't know when I came home from work she
8 would have packed his stuff and left, be gone. It's very
9 deceitful, you know, very, you know, dirty and I almost
10 said something to him about, nothing new to me my mother's
11 done it to me before, you know when I, when I was in high
12 school, I was a sophomore, when I was a freshman, going
13 into freshman high school in Kansas, we went to Kansas to
14 visit my dad and I hadn't know, I hadn't really seen my dad
15 in years and she made me stay. She told me I had to stay
16 for a couple of weeks, get to know your dad and your
17 brothers, begged and promised, please let me come home.
18 She said a couple of weeks you can come home. After she
19 left Kansas she called me and told me I was staying. I
20 don't know this man from a hill of beans, I mean my dad's
21 like hell I will tell you that, hell, couldn't tell you if
22 he was alive, that's how I felt that year because I was
23 angry, you know.

24 My sophomore year my parents remarried and they
25 fought a lot. There were -- my mom told me that they got

Detective Troxell - Direct Examination by Ms. Lively 727

1 into a fight again, you know, arguing, she was leaving,
2 told me I could come with her. I said, no, I'm on the
3 honor roll student, really good grades, really good school
4 and I had good friends. She said, okay, permission not to
5 come home after school I was going to the mall and my
6 brothers called and told me I needed to come home now, I
7 was like, come home now. When I came home our house was
8 cleaned out except my bedroom. She took everything and
9 left us. She already had it planned, you know, so I mean
10 once again I've been abandoned so, you know, and, and to
11 tell me that you're going to do this to a baby, to take him
12 from my home without me, again abandonment, you know,
13 you're taking from me, taking my life.

14 Detective Troxell: Right.

15 Ms. Gorman: So I didn't say nothing and then he
16 told me, let's see, well then I told him I'll step outside
17 and talk on the phone. I called my sister, you know, I was
18 telling, talking to my sister and I was telling her these
19 things. My sister's got reason to be because it's happened
20 to her, too, you know, growing up and I said, all right, we
21 talked about an hour and I went back inside the hotel room
22 and sat there for a minute, couldn't sleep, very
23 uncomfortable being here now because, and at first I didn't
24 want to stay anyway. I was trying to be okay with
25 everything and so I wrote him a note saying I can't sleep,

Detective Troxell - Direct Examination by Ms. Lively 728

1 I'm going to back to the hospital to be with Victim call
2 me in the morning, you know, so I left, called my sister
3 back and I said you need to talk to me, back to the
4 hospital so I had something to do for the, for that I don't
5 know forty five minutes or whatever.

6 Then she talked to me and stayed out in the
7 parking lot for a minute and I went upstairs and Nancy's
8 the nurse that was there and, excuse me, and her and I
9 talked for a long time, just talking and she told me to go,
10 you know, cause they were checking on Victim and his fever
11 and I said I was getting emotional and she says why don't
12 you go take a break and when you come back then we'll give
13 him a bath and change his beddings and make me feel useful
14 so that I can do for him, went downstairs took a break,
15 smoked some cigarettes, came upstairs and we cleaned him
16 up, changed, you know, did everything we were supposed to
17 do and it made me feel good.

18 It's something to do, it's like this, this was
19 like my ending chapter and I don't mean it like that but it
20 was the final thing that I could do for him and then
21 Richard called me and asked where I was at and I said did
22 you get my note. He goes, no, and I said it's sitting
23 there by the keys, it says I came to the hospital. He
24 said, okay. I stayed at the hospital and then he called me
25 and said that they were, him and Cesalee were downstairs

Detective Troxell - Direct Examination by Ms. Lively 729

1 and I was very hesitant to go down there because I didn't
2 know what I was going to come into, you know, if she was
3 going to lash out. And they walked up and I walked
4 downstairs and I didn't touch her, didn't, we were caught
5 up like this. I, I couldn't go to her, it's just it, it's,
6 I was so afraid, I didn't know if she was going hit me, you
7 know, because she has before so it, it's nothing new and --

8 Detective Troxell: Why do you think she would
9 hit you?

10 Ms. Gorman: Angry, you know, just to be
11 expected, you know, just I, you know, if I was in her
12 position, you know, if it was me and I, I don't know what I
13 would do either, you know, but because I know her
14 background and everything and I, I was already prepared.

15 So we were talking and I was, you know, she said
16 she made a scrape book and everything and asked me if I
17 wanted to look at it and ---

18 (Whereupon, Ms. Gorman's cell phone rings.)

19 Ms. Gorman: --- stop phone, and I looked at it,
20 you know, they asked if they could put their luggage in my
21 car, not a problem. Before we did that, you know, we were
22 talking and everything and I was telling, I said did they
23 call you and tell cause it was very adamant **Victim** being in
24 a private room and ---

25 (Whereupon, Ms. Gorman's cell phone rings.)

Detective Troxell - Direct Examination by Ms. Lively 730

1 Ms. Gorman: --- sorry ---

2 Detective Troxell: Could you just shut that off
3 or something?

4 Detective Weaver: Could you cut that off?
5 Just, just cut it off.

6 Detective Weaver: A little bit of a hassle.
7 Let's keep moving.

8 Ms. Gorman: --- letting them, letting them know
9 that they decided not to move Victim to a private room
10 because his blood pressure was like, you know, going up and
11 down and they felt like if they moved him he might go into
12 cardiac arrest. So I told him and he was mad because they
13 didn't call him and I said because he surely didn't want
14 information from me and I said it wasn't right that they
15 were giving me information, I was, I just happened to be
16 there and, and, I said so he is still in the same spot, you
17 know. And of course Cesalee asked what cardiac arrest
18 meant and I said it means heart failure and his comment was
19 it doesn't mean nothing because he ain't there anyway. No
20 that's not I mean, his heart works but it might be by
21 machine but his heart, his lungs, his organs work so don't,
22 you know, that upset me because he said that, to where he
23 it, even though he's gone, his soul, but physically his
24 body works and, and I wanted her to know that. So we
25 walked to the car, put our stuff in the car, put their

Detective Troxell - Direct Examination by Ms. Lively 731

1 stuff in the car and Richard had told me that him and
2 Cesalee had talked and, and Ceslaee was standing there,
3 that they didn't want anybody to go to jail. They said
4 whoever did this it's punishment enough because, cause
5 they're going to be, whoever killed my son is going to have
6 to live with this for the rest of their life and jail is,
7 is a privilege, a luxury. I was, like, okay, what do you
8 want me to say, you know. Okay. So, and then, you know,
9 at the, at the car I was telling Cesalee what had happened
10 Monday, you know, from the time I left, the time I got home
11 and I was telling her, you know, he was having seizures and
12 Richard told me, he goes, he wasn't having seizures in your
13 arms, he was dying in your arms, he was already dead.
14 Okay. I didn't say nothing. I just, you know, Detective
15 Weaver, I mean, this is way of grief, you know, and I
16 accept that, you know, and that's why I bit my tongue. I
17 didn't lash back, say anything because, you know, what am I
18 supposed to say?

19 You know I, very, I called Doctor, I mean,
20 Detective, I'm sorry, Detective Weaver, and I said he told
21 me this stuff and I said I don't feel comfortable being
22 here. I said I promised I would pick up my mom and I'm
23 coming home. They were going to have him baptized, blessed
24 and while we were at the hospital before I picked up my
25 mother, one of the children in the hospital may have

Detective Troxell - Direct Examination by Ms. Lively 732

1 claimed to have kidney failure so immediately they went to
2 the family and offered Victim kidneys. Well, from,
3 fortunately the child's kidneys did not fail yet and always
4 a, a baby on one of the floors had a bad heart so they're
5 donating his heart to that baby.

6 Detective Troxell: Okay.

7 Ms. Gorman: I, I don't know if that's how it
8 works immediately you're a waiting list or you're on a
9 list, you know, for all the states, I don't know how it
10 works, and so he said that he was down, he was down getting
11 a CAT scan to make sure all their organs, his organs were
12 functional and being able to be able to donate. And, of
13 course, you know me I said well as long as he's compatible,
14 and he's like he's compatible to everybody cause he's O
15 positive and I said, okay, I wouldn't know that, you know,
16 I'm not a doctor. And I got a message on my, you know,
17 Robert texted me and told me that Victim was on the news
18 and I went, oh, my gosh, so, of course, my, I told Richard,
19 my mom, Cesalee, and Richard were standing there, we were
20 outside the emergency room because I told them to meet me
21 there. I moved my car with all their stuff cause I was
22 leaving. I said I got information that Victim been on
23 the news. The first words out of his mouth was the
24 airport, picks up the phone calls his Master Chief and the
25 first thing out of his mouth is Master Chief Victim been

Detective Troxell - Direct Examination by Ms. Lively 733

1 on the news, they're telling everything, you know, what's
2 happened. I said, whoa, whoa, whoa, I said that is not
3 what I said. I said do not put words in my mouth. I said
4 I told you I heard he was on the news and that's it. When
5 I get home I'll find out and I'll call you back. Robert
6 told me, you know, because of how, you know, it keeps
7 getting words in mouths and saying things he says don't
8 call him back, so I would ask if you guys could let him
9 know how it got out, you know, public information, that
10 it's going to be, it's in the paper today because Robert
11 said every time I tell him something it seems like things
12 get twisted and I said, okay, so I let it be. I didn't
13 call him back and he said all it's doing is just creating
14 more problems.

15 And I have to respect that. And we stood there
16 for a while and we talked and we went through everything
17 and like I, you know, and before I got to the hospital ---
18 I picked my mom up and before I got to the hospital I
19 stopped because my mom knew and I told mom everything, you
20 know, from basically, you know, from the weekend on and how
21 he felt and everything and my mom cried and like I told
22 Cesalee and my mom and Richard I said he's in a, you know,
23 he's up in the clouds playing with Mikey and Nora, our pet
24 dog from when the kids were little.

25 Detective Weaver: Who's Mikey?

Detective Troxell - Direct Examination by Ms. Lively 734

1 Ms. Gorman: He was our dog.

2 Detective Weaver: Oh.

3 Ms. Gorman: You know, like Cesalee was little,
4 you know, we had him since she was five.

5 Detective Weaver: Right.

6 Ms. Gorman: So until she was sixth grade and so
7 from first grade to sixth grade he was our family dog.

8 Detective Weaver: Yeah.

9 Ms. Gorman: And we had him cremated and he's in
10 a box.

11 Detective Weaver: Yeah.

12 Ms. Gorman: And we buy flowers for him, put
13 them in the house, so and, you know, just to let her know
14 that he's playing fetch and Mikey will watch over him cause
15 Mikey was our, he was a good dog.

16 Detective Weaver: Yeah.

17 Ms. Gorman: And, of course, you know, to make
18 some things funny and I said and the turtle, too. And
19 Richard's like the turtle? And I said, oh, yeah, the
20 turtle drowned in the fish tank and so, you know, you had
21 to find some sense of humor. You had to find some things
22 to laugh about ---

23 Detective Weaver: Yeah, sure.

24 Ms. Gorman: --- you know, to get through it and
25 I said, you know, grandpa's there, you know, and --- but,

Detective Troxell - Direct Examination by Ms. Lively 735

1 you know, these people are now our family and his family
2 there's all kinds of people up there for him. And I told
3 them I said, and I told Cesalee and I told Richard he
4 doesn't look the same as what you saw yesterday. I said,
5 you know, he's more swollen and I described, you know, how
6 he looked and I said I want you to remember this, you
7 remember [Victim] as he is, not was or when, as he is not how
8 he looks because he, he ---

9 Detective Troxell: Julia, I hate to interject
10 but now that we've, we've kind of got to the point where
11 [Victim] is deceased. Before we talk and this is just
12 standard practice with everybody, we did it with Robert
13 earlier, you've got to be advised of your Miranda rights,
14 the investigation as, you know, has taken a turn into now a
15 death investigation.

16 Ms. Gorman: Okay.

17 Detective Troxell: Just an advisement standard
18 policy and procedure I've got to advise you of these.
19 These are an advisement of your Miranda rights. What I'm
20 going to do is I'm going to read each line to you and I
21 want you to initial beside each line.

22 Ms. Gorman: Okay.

23 Detective Troxell: Just indicating you
24 understand them, okay. "You have the right to remain
25 silent. Anything you say can and will be used against you

Detective Troxell - Direct Examination by Ms. Lively 736

1 in a court of law." You understand that?

2 Ms. Gorman: Yes.

3 Detective Troxell: Okay, put your initials
4 there. "You have the right to talk with a lawyer and have
5 him present while you're being questioned." Do you
6 understand that?

7 Ms. Gorman: Yes.

8 Detective Troxell: Put your initials there.
9 "If you cannot afford to hire a lawyer one will be
10 appointed to represent you before any questioning if you so
11 desire"?

12 Ms. Gorman: Yes.

13 Detective Troxell: Okay. "If you make a
14 statement or answer any questions you have the right to
15 stop at any time." Do you understand that?

16 Ms. Gorman: Yes.

17 Detective Troxell: Okay, then put your initials
18 there.

19 Ms. Gorman: I was just reading it, I'm sorry.

20 Detective Troxell: I'm sorry.

21 Ms. Gorman: You spoke fast.

22 Detective Troxell: You understand everything
23 that I've just read to you?

24 Ms. Gorman: Yes.

25 Detective Troxell: Okay, initial there. Do you

Detective Troxell - Direct Examination by Ms. Lively 737

1 want to answer my questions and continue to make a
2 statement and stuff?

3 Ms. Gorman: That's fine, I don't have anything
4 to hide.

5 Detective Troxell: Okay, initial, yes. It's
6 10:06, put 7-18 and the time there, okay, I'm sorry, I
7 didn't mean, you can ---

8 Ms. Gorman: That's, that's okay, I mean you got
9 to do what you got to do, too.

10 Detective Troxell: --- kinda get to the crux of
11 it because we're running time, we've got to get down to
12 Charleston. Monday, take us through the events of Monday.
13 I know you've already done all this one time before ---

14 Ms. Gorman: I knew that.

15 Detective Troxell: --- but our tape recorders
16 malfunctioned.

17 Ms. Gorman: Monday morning I got up 4:30,
18 quarter to five and it's on my side hit my alarm clock a
19 few times, getting ready, get dressed. I walk by his room,
20 I go in, I check on him, he's sleeping good, leave. I go
21 to work. Robert calls me 9 - 9:30 and says to me he woke
22 him up because he, he'd been asleep for a while and, you
23 know, that we're trying to get him out of sleeping so much,
24 of course, because of how she was and he goes, you know, he
25 was tired, you know, cranky. He fed him breakfast and

Detective Troxell -- Direct Examination by Ms. Lively 738

1 called me again and told me he fed him lunch and he was in
2 there playing with his toys and everything. When I got
3 home he was taking a nap. I went in there and checked on
4 him.

5 Detective Troxell: What time did you get home?

6 Ms. Gorman: I want to say by four.

7 Detective Troxell: About four, so you ---

8 Ms. Gorman: Four fifteen, it just ---

9 Detective Troxell: You left at five and got
10 back at four?

11 Ms. Gorman: Yeah.

12 Detective Troxell: Okay.

13 Ms. Gorman: But, by that time I, I don't know,
14 it could be four, four-thirty.

15 Detective Troxell: Exactly, yeah, okay,
16 sometime between four and four-thirty.

17 Ms. Gorman: I can't, because, you know, traffic
18 and, you know, came home, walked in, and checked on him, of
19 course.

20 Detective Troxell: Right when you got home you
21 checked on him?

22 Ms. Gorman: Yeah.

23 Detective Troxell: And what was he doing when
24 you checked on him?

25 Ms. Gorman: He was still sleeping, you know,

Detective Troxell - Direct Examination by Ms. Lively 739

1 cause he was taking his nap and he takes a few hour nap,
2 you know, and he, he was breathing fine, everything was
3 fine. He had his blankie, so I walked out and a little bit
4 later when Robert and I were walking by, you know, going to
5 the bedroom we stopped and checked on him. I mean we check
6 on him periodically, still everything was fine. So I went,
7 you know, and cooked dinner and Robert says to me, what do
8 you want to do about Victim I said, let's eat dinner
9 first, you know, kinda peaceful instead of trying to feed
10 him and eat mine at the same time. So we ate and Robert
11 took the dog out and I went back in the bedroom to get him,
12 to wake him up, you know, because I was going to wake him
13 up now and that's when he was making the really strange
14 noises and slack looking, saliva.

15 Detective Troxell: And what time was that?

16 Ms. Gorman: By, by 6:00 I, I presume because it
17 --

18 Detective Troxell: So sometime between,
19 something happened between four and six-fifteen, didn't it,
20 because when you went in at six-fifteen he was salivating,
21 okay?

22 Ms. Gorman: Because, you know, when we checked
23 on him and everything, well I checked on him even after
24 four and he was fine so, so anywhere between dinner time,
25 you know, as we were eating dinner until by six, whatever

Detective Troxell - Direct Examination by Ms. Lively 740

1 time I called 911.

2 Detective Troxell: Okay.

3 Ms. Gorman: And that's on Robert's phone.

4 Detective Troxell: Okay.

5 Ms. Gorman: Cause I used his, it was the first
6 one I could grab.

7 Detective Troxell: While you're at work, who
8 cares for Victim

9 Ms. Gorman: Robert does.

10 Detective Troxell: Robert, does anyone come
11 over to assist Robert in caring for him?

12 Ms. Gorman: Nope.

13 Detective Troxell: Okay, so Robert was the only
14 one that had access to Victim all day Monday?

15 Ms. Gorman: Yes.

16 Detective Troxell: Okay, Sunday, what happened
17 on Sunday?

18 Ms. Gorman: Sunday, went to work because Robert
19 didn't work. Robert called me and said his Daddy was
20 coming over, you know, picked them up, him and Victim and
21 they were going over to his parents house.

22 Detective Troxell: What time did you have to go
23 to work on Sunday?

24 Ms. Gorman: I think I went to work at six.

25 Detective Troxell: You left your house at six

Detective Troxell - Direct Examination by Ms. Lively 741

1 or you got there at six?

2 Ms. Gorman: I got to work at six.

3 Detective Troxell: Okay.

4 Ms. Gorman: That means I leave my house at
5 5:15.

6 Detective Troxell: Okay.

7 Ms. Gorman: So he called me and told me he'd
8 fed him breakfast and they got him ready and everything,
9 got their bags together. His daddy came and picked them up
10 and they went over to his parents house and he called me
11 and to tell me that, you know, they were going to the pool
12 and stuff. I said, okay, you want me to get off now or,
13 you know, keep working because at my job or at least what I
14 do when I'm finished I can leave or I can stay and do other
15 things to make time. He goes, go ahead and leave, I said,
16 okay, so I left work, I got there about 1:00.

17 Detective Troxell: And you got there where,
18 Robert's parents house?

19 Ms. Gorman: Robert's parents house.

20 Detective Troxell: Okay.

21 Ms. Gorman: It was one or two, I can't remember
22 which time I clocked out, and I walked in the house and his
23 Mama was in there so, of course, I talked to her for a
24 minute and I asked where Robert and them were, and she
25 said, well they're at the pool with Paw Paw and Dylan,

Detective Troxell - Direct Examination by Ms. Lively 742

1 which is his dad, and I said, okay, and about, you know,
2 ten minutes later Paw Paw, Dylan, Robert, and Victim were
3 coming back and he goes I was waiting for you to come to
4 the pool and I looked at him, I said, who was in the house
5 ---

6 Detective Troxell: Yeah.

7 Ms. Gorman: --- you know what happens when
8 Mama's in the house, so, you know, he was a little cranky
9 and he was still tired, lethargic acting and, you know, I
10 said, there's something wrong, and I said, I'm going to
11 make him a doctor's appointment, you know, because my
12 thought was he, he might have a disability because of being
13 seventeen months and not talking very well maybe he was
14 slow and I wanted to check on that, you know. I was
15 concerned ---

16 Detective Troxell: Uh-huh.

17 Ms. Gorman: --- because if there was any mental
18 problems we could start a system cause Robert says can they
19 do that, and I said, absolutely, you know, I says young
20 childrens is when they go and find out their chromosomes
21 are in, you know, not together. He said, okay, you know,
22 and we fed him lunch. He had chicken and some okra and,
23 yuck, potato salad, some baked beans, and laid him down,
24 take a little nap, and he wouldn't go to sleep, he just
25 laid there with his eyes open, you know, kind of slit. He

Detective Troxell - Direct Examination by Ms. Lively 743

1 was so tired he wouldn't go to sleep, so put his bathing
2 suit back on and his mom and Dylan and Robert and I and
3 Victim we went back to the pool and he's in this baby tube,
4 you know, that way when he sits in it if he goes, leans
5 forward, you know, the face can't get in the water, if he
6 leans backwards there's a pillow behind him so they can't,
7 they can't go nowhere sideways or nothing, so I let him,
8 I'd hang on to the back and I'd swim with him, you know,
9 and then I would play with Dylan. Robert's playing with
10 Dylan, you know, and Gail would, you know, talk to Victim
11 and, and we'd, you know, he was right there by my side and
12 everything and he just sat there and, you know, most babies
13 would kick, love water, but he was just whatever. I put
14 some sunglasses on him, put a hat on him, you know, so I
15 could make sure the sun doesn't, you know, get sun burnt
16 and, you know, we put sun block on him, and I put, we put
17 water on his face. We like watered him on his face, you
18 know, to keep it cool and cause it's hot, it wasn't that
19 hot, but I mean just, you know, how it is even for us, so
20 we swam for a little bit and then we took him out of the
21 pool and I dried him off. We sat out there in the pool
22 area, you know, to kind of dry off our bathing suits. We
23 went back to the house. We changed our clothes and we
24 probably stayed about ten, twenty minutes longer, I guess,
25 we came home and fed him.

Detective Troxell - Direct Examination by Ms. Lively 744

1 Detective Troxell: When you say we, it was you,
2 Robert, and Victim

3 Ms. Gorman: Yeah, it was me, Robert, and
4 Victim

5 Detective Troxell: Okay.

6 Ms. Gorman: We left his parents house and we
7 came home, gave him something to eat and he was just, you
8 know, he was exhausted by now. The heat makes you tired,
9 you know, pool makes you tired, so we laid him down and he
10 went to sleep, that was Sunday.

11 Detective Troxell: Okay, Saturday, you have to
12 work Saturday?

13 Ms. Gorman: Yes, I did, it was my weekend to
14 work.

15 Detective Troxell: What time did you go in on
16 Saturday, six?

17 Ms. Gorman: No five.

18 Detective Troxell: What time did you get off?

19 Ms. Gorman: Three.

20 Detective Troxell: And, of course, Victim was
21 being cared for by Robert?

22 Ms. Gorman: Right.

23 Detective Troxell: When you got home at three
24 what happened?

25 Ms. Gorman: When I walked in the door, of

Detective Troxell - Direct Examination by Ms. Lively 745

1 course, Victim making his whine, whine, whine, you know.
2 It just gets louder when I get home, but that's just the
3 way he is, you know. If, if I walk in the door he starts,
4 I mean he, he, he makes noises but it just seems like when
5 a woman walks in it just gets more loud and he comes over
6 and he starts trying to climb up my leg and cause he wants
7 to be carried and we don't carry him because we were trying
8 to break a habit.

9 Sounds mean, sounds ugly but, you know, I can't
10 clean, cook, or do anything if I've got a baby hooked to
11 me, you know, so, you know, I grabbed his finger, you know.
12 He takes my finger and we walk around, you know, and I went
13 over to the toys and, you know, sit down and, you know,
14 talk to him and everything and, and cooked dinner, I can't
15 think what I cooked. No, I lied, we went to dinner because
16 I was so tired from working such long hours so I said we
17 got a gift certificate from T-Bones and so we drove to T-
18 Bones at Barefoot Landing and he was tired and cranky, he
19 just kept itching and itching and itching, so I gave him
20 some of his allergy medicine thinking, you know, maybe that
21 would help relieve the itching just as if I would take
22 Benadryl or something.

23 There was a waiting list so Robert stayed inside
24 the restaurant and Victim and I went walking around, you
25 know, just right there by the, the bucking bull, if that's

Detective Troxell - Direct Examination by Ms. Lively 746

.1 what it's called, and the mechanical bull, and when we
2 would walk his, his leg would give out. His right leg gave
3 out so, of course, you know, your reaction is to grab the
4 little tiger so he don't fall and then, you know, he has
5 his toes curled and we walked some more and then his leg
6 gave out again. I was like did, did the nurse put the
7 shots in his --- did the nurse actually hit his muscle when
8 she was putting the shots in cause these shots didn't have
9 to go in his muscle. So we went back over to the
10 restaurant and I sat him in the rocking chair that's
11 outside and I laid him next to me and we were talking and
12 everything and he was just sitting there and we'd rock 'and
13 he'd make some, you know, a whiny noise and I'd say, you
14 know, stop and Robert would look out the window cause he
15 was sitting right there and I said, well let's go inside.
16 You want, you want some Apple Jacks cause we brought some
17 Apple Jacks for him. So we went inside and he kept
18 bothering his leg so Robert was sitting here, Victim was
19 sitting here, I was sitting here, so I had put my hand
20 right here on his leg so he couldn't mess with his boo boo,
21 so his head was like laying right here on my shoulder and
22 he just, you know, being irritable, you know, he's
23 teething, what, you know, and that, and he bit me, and I
24 was just like, what? That's the first time he's ever bit
25 me since he's bit there, been there because before Cesalee

Detective Troxell - Direct Examination by Ms. Lively 747

1 left he bit her, slapped her, head butted her, and we were
2 just like you can't do those things, you know, head butting
3 and stuff you'll get a concussion and she said well Richard
4 allowed him to do it. I was like you guys can't do that.
5 I said because then he goes running against things with his
6 head, you know, cause it's okay to do, and you're telling
7 him, no, you know, you can't do that. It's owwie's, you'll
8 get hurt, you know, go in the kitchen, get him out of the
9 kitchen, this is hot, you know, the stove, I'm cooking hot,
10 grease, and come get him, you know, and so we did that, ate
11 some dinner, and he was so tired and so I laid him down on
12 the bench, you know, next to me and he went to sleep, and
13 after we ate dinner, picked him back up, about 9:00 I
14 guess, which is, you know, 8:30, 9:00 is his bedtime. So
15 we were out, you know, late for him, got back in the truck,
16 put him in his car seat, drove home, changed his diaper and
17 laid him back down to go to sleep.

18 Detective Troxell: Okay, Ms. Gorman, you came
19 to, became to be the primary caregiver of Victim when your
20 daughter Cesalee came here, right, she signed over
21 temporary guardianship to you July 1st?

22 Ms. Gorman: Right.

23 Detective Troxell: And she returned back to
24 Arizona sometime shortly thereafter like the second, I
25 believe?

Detective Troxell - Direct Examination by Ms. Lively 748

1 Ms. Gorman: The next day.

2 Detective Troxell: Okay, and since that time
3 there's been no one else that has cared for or provided for
4 Victim other than you and Robert?

5 Ms. Gorman: Right, and our neighbors one time
6 babysat him.

7 Detective Troxell: And that was a couple of
8 days right after, like the 4th, 5th, or 6th of July?

9 Ms. Gorman: Right, right.

10 Detective Troxell: So after say the 6th of July
11 there's no one Victim has been alone with?

12 Ms. Gorman: No, just me and Robert.

13 Detective Troxell: Just you and Robert, okay,
14 and, Julia, I'm going to cut to the chase. That's the
15 problem we're having, you know, we talked to the doctors.
16 We've spent every day since Tuesday in Charleston. You may
17 not have seen us but we've been in Charleston and we know
18 when Victim was injured. We can scientifically and we can
19 medically prove when Victim was injured, okay, and the
20 reason for me bringing that up and the necessity of that is
21 it wasn't Cesalee and we can prove beyond a shadow of a
22 doubt that it wasn't Cesalee, so to get to the gist of your
23 last statement being Robert and I, which one was it? If
24 something happened and it was an accident or something got
25 a little bit out of control now is the time we need to put

Detective Troxell - Direct Examination by Ms. Lively 749

1 it on the table cause as you said it's already, it was in
2 the paper today.

3 Ms. Gorman: Right.

4 Detective Troxell: Today's headline was "Abused
5 Child Dead," tomorrow's headline is "Arrest Made in Abused
6 Child Death." Do you get what I'm saying?

7 Ms. Gorman: Yeah.

8 Detective Weaver: It's not adding up, Julie?

9 Ms. Gorman: I've, but I've told you everything.
10 We've told you everything.

11 Detective Troxell: And here, here's the other
12 part I have with you, Julia, that's the first tear I've
13 seen from you. Robert sat here and bawled when he told
14 that story. When you're confronted with going to jail then
15 you start tearing up and I've got and now the tears are
16 gone. This is serious, okay, your life at this point is
17 changed. Your life was changed on Monday. The decisions
18 you make in this room with me and Weaver now are going to
19 affect you from this point forward. It determines if you
20 go home today or not or if you go to the jail. Something
21 happened, we know it did, like I said we can prove it.

22 Ms. Gorman: Okay, I understand that, but I've
23 never laid a hand on him. I've never, I've never ---

24 Detective Troxell: You ---

25 Ms. Gorman: --- abused him. Yes, I've smacked

Detective Troxell - Direct Examination by Ms. Lively 750

1 him on the butt, you know, with his diaper on and I have
2 admitted to that. I've smacked his hands, I've admitted to
3 those things.

4 Detective Troxell: Right.

5 Ms. Gorman: But I have never hurt him.

6 Detective Troxell: The explanations that were
7 given for Victim injuries, and correct me if I'm wrong --

8 -

9 Ms. Gorman: Okay.

10 Detective Troxell: --- I don't want to put
11 words in your mouth, were the bulldog puppy may have
12 knocked him over, correct?

13 Ms. Gorman: Right, right.

14 Detective Troxell: The, the stroller going
15 backwards down the steps but he never fell out of the
16 stroller and hit the steps, correct?

17 Ms. Gorman: Right.

18 Detective Troxell: Falling off the bed?

19 Ms. Gorman: Right.

20 Detective Troxell: Which is only eighteen
21 inches off the ground?

22 Ms. Gorman: Right.

23 Detective Troxell: And hitting the carpeted
24 floor?

25 Ms. Gorman: Well that's, you know, that's what

Detective Troxell - Direct Examination by Ms. Lively 751

1 we're being told now, you know, but we don't know if there
2 was a toy, well, yeah, she said he hit a toy.

3 Detective Troxell: Okay, so even a less than
4 eighteen inches fall into a toy?

5 Ms. Gorman: Okay.

6 Detective Troxell: And what else?

7 Ms. Gorman: She texted me and said he kicked,
8 crawled out of it or he got out of it, the playpen.

9 Detective Troxell: We ran everyone of those by
10 Dr. Abel, who by her own title is ---

11 Ms. Gorman: The forensic.

12 Detective Troxell: There you go, Forensic
13 Medical Director of the Violence Intervention and
14 Prevention Center, and she said there ain't no way in hell.
15 Something violent happened to Victim whether it was
16 accidental or malicious is what we need to get to the
17 bottom to and if it was accidental put it out on the table,
18 let us know so we can go that route with it.

19 Ms. Gorman: I, my heart is racing a thousand
20 miles a minute. I never laid a hand on, on my grandson.

21 Detective Weaver: Tell us what happened, Julie?

22 Ms. Gorman: I'm telling you.

23 Detective Weaver: Tell us what happened?

24 Detective Troxell: No, you're not, you're not
25 telling us.

Detective Troxell: Direct Examination by Ms. Lively 752

1 Ms. Gorman: What do you want?

2 Detective Weaver: If it was an accident we need
3 to know; we need to know what happened?

4 Ms. Gorman: Well I, but I, I didn't do anything
5 to, to my grandson. Robert didn't do anything to our
6 grandson, you know, there's a time ---

7 Detective Troxell: So Victim skull just
8 magically cracked in three spots.

9 Ms. Gorman: I, I, I, oh, my God.

10 Detective Troxell: It couldn't, by your own
11 statement, it couldn't have been anybody else but you or
12 Robert, so who was it? Was it you, was it Robert? Did
13 Robert do something and he told you and you don't want to
14 tell us?

15 Ms. Gorman: No.

16 Detective Troxell: Then it was you?

17 Ms. Gorman: No, no, no.

18 Detective Troxell: Look, Julie, the, the skull
19 fractures didn't just appear there. They, something caused
20 it?

21 Ms. Gorman: I understand that. You --

22 Detective Weaver: And they're fresh.

23 Ms. Gorman: I mean, I, you know --

24 Detective Weaver: They're fresh, Julie.

25 Ms. Gorman: You know there's a moment that, you

Detective Troxell - Direct Examination by Ms. Lively 753

1 know, of our, you know, if our dog knocked him over again.

2 Detective Troxell: Nope, ran that by, not
3 possible.

4 Ms. Gorman: There is no way in, and I'm sorry,
5 no way in hell we would hurt a child. I've never hurt any
6 of my children and I'm not going to hurt anybody else's
7 child, I wouldn't ---

8 Detective Troxell: Okay.

9 Ms. Gorman: --- do that.

10 Detective Troxell: I, I, let's play a little
11 scenario game here, okay? Let's pretend we're in a
12 courtroom cause this is where this is going to end up
13 going, okay?

14 Ms. Gorman: Okay.

15 Detective Troxell: Cause tomorrow's headline is
16 going to read "Couple Arrested in Child's Death."

17 Ms. Gorman: Okay.

18 Detective Troxell: Do you know who the couple
19 is?

20 Ms. Gorman: Yes, me and Robert.

21 Detective Troxell: There you go. You're on the
22 right track with me, okay, so we're sitting in a courtroom
23 six, eight, nine months down the road from now. You got a
24 judge, you've got the jury of twelve of your peers sitting
25 to your left, okay, and I'm representing this case and it's

Detective Troxell - Direct Examination by Ms. Lively 754

1 not going to be me and Weaver on the stand saying we
2 believe this is what happened, we believe this. It's going
3 to be the medical director of the Intervention and
4 Prevention of Child Abuse, Dr. Abel, on the stand saying
5 there ain't no way in hell that this happened twelve or
6 three or four weeks ago with Cesalee, that this happened in
7 the time frame that we've discussed, okay, because we know
8 when it happened, that's why we were discussing the time
9 frame that we're discussing. I'm not going to tell you the
10 date that I know it happened or the hour ---

11 Ms. Gorman: Right.

12 Detective Troxell: --- that I know it happened,
13 but I know it happened in those days that we discussed and
14 the doctor is going to say, no way, it can't happen at,
15 okay?

16 Ms. Gorman: Okay.

17 Detective Troxell: Well, thank you, Doctor, for
18 your testimony. Doctor, or Detective Troxell, who was in
19 care and custody and control of the child? Well by their
20 own statement it was Robert and Julie.

21 Ms. Gorman: Right.

22 Detective Troxell: Okay, what do you think
23 it's, how long do you think it's going to take a jury of
24 twelve or your peers to say you're guilty?

25 Ms. Gorman: I've seen it on t.v. and I, I don't

Detective Troxell - Direct Examination by Ms. Lively 755

1 know if ---

2 Detective Troxell: And ---

3 Ms. Gorman: --- it is --

4 Detective Troxell: Sweetheart, this isn't t.v.,
5 this is real life, this is the rest of your life you're
6 playing with.

7 Ms. Gorman: I, I know, I mean all I've ever
8 known, I, I've never --

9 Detective Troxell: How long do you think ---

10 Ms. Gorman: I've never been in --

11 Detective Troxell: --- it's going to take for
12 me to get a guilty verdict on you?

13 Ms. Gorman: Seconds.

14 Detective Troxell: There you go.

15 Ms. Gorman: Seconds.

16 Detective Troxell: And you know what's going to
17 happen. You're not, there's not a bit of remorse coming
18 from you, you're fine, until now you're crying ---

19 Ms. Gorman: No, you don't understand.

20 Detective Troxell: --- because you're going to
21 jail.

22 Ms. Gorman: I'm sitting here and you're ---

23 Detective Troxell: Are you, are you a cold-
24 blooded killer?

25 Ms. Gorman: No.

Detective Troxell - Direct Examination by Ms. Lively 756

1 Detective Troxell: Did you cold-bloodedly kill
2 your seventeen-month-old grandkid?

3 Ms. Gorman: No.

4 Detective Troxell: Then what the hell happened
5 to him?

6 Ms. Gorman: I don't know.

7 Detective Troxell: Yes, you do.

8 Ms. Gorman: No, I don't.

9 Detective Troxell: Yes, you do.

10 Ms. Gorman: No, I don't.

11 Detective Troxell: Now is the time ---

12 Ms. Gorman: I swear.

13 Detective Troxell: --- to come in ---

14 Ms. Gorman: I swear.

15 Detective Troxell: --- and put it on the table.

16 Ms. Gorman: I swear to God.

17 Detective Troxell: Did you kill your grandson?

18 Ms. Gorman: No, I did not.

19 Detective Troxell: Because that's what it looks
20 like, sweetheart, and you're going to jail for it.

21 Ms. Gorman: I didn't do nothing.

22 Detective Troxell: You can't convince me of it,
23 you can't convince your damn self of it. You killed your
24 grandbaby.

25 Ms. Gorman: No, I didn't.

Detective Troxell - Direct Examination by Ms. Lively 757

1 Detective Troxell: Yes, you did. Now it's time
2 to come to grips with it. Let's own up and let's cross the
3 bridge and let's handle it.

4 Ms. Gorman: I'm not going to admit to something
5 I didn't do.

6 Detective Troxell: Okay, well then don't admit
7 to it cause I've already proven it. I don't need you to
8 admit it. I'm giving you the opportunity to explain
9 yourself, the opportunity to give me why it happened, how
10 it could have happened, what explanation do you have, and I
11 have nothing. When I can prove that there was something,
12 that's not going to fly, and like you said it's going to
13 take me seconds, seconds. That's fine. Shake your head,
14 I, I don't know.

15 Ms. Gorman: I, I ---

16 Detective Troxell: Something happened.

17 Ms. Gorman: --- I don't know.

18 Detective Troxell: If it was accidental tell
19 us.

20 Ms. Gorman: I wish I could tell you if there
21 was something that happened but I'm telling you the truth,
22 I'm telling you the truth.

23 Detective Troxell: Go ahead, Weaver, I'm just
24 about done with this.

25 Detective Weaver: Julie, Julie, look at me.

Detective Troxell - Direct Examination by Ms. Lively 758

1 Ms. Gorman: I, can I take my medicine, is that
2 okay?

3 Detective Weaver: No, I need you to talk to me,
4 it's very important, Julie. You need to tell me what
5 happened. It wasn't, listen to me, if it was an accident
6 you need to tell me?

7 Ms. Gorman: Detective Weaver, if there was
8 something that happened I would tell you if I hurt my
9 grandson.

10 Detective Weaver: Julie, something happened.

11 Ms. Gorman: I would tell you.

12 Detective Weaver: Evidence is saying something
13 happened.

14 Ms. Gorman: I understand that.

15 Detective Weaver: Okay, did you have a bad day
16 at work? Did you come home from work ---

17 Ms. Gorman: No.

18 Detective Weaver: --- things got out of hand
19 maybe?

20 Ms. Gorman: No.

21 Detective Weaver: You and Robert had a fight,
22 maybe you took it out on Victim

23 Ms. Gorman: No.

24 Detective Weaver: Accidentally?

25 Ms. Gorman: No.

Detective Troxell - Direct Examination by Ms. Lively 759

1 Detective Weaver: Something happened?

2 Ms. Gorman: No, I would never, Robert and I
3 haven't argued.

4 Detective Weaver: Why?

5 Ms. Gorman: I'm not lying to you, I swear to
6 you I'm not lying to you.

7 Detective Weaver: Maybe you didn't mean to do
8 it, Julie, but it happened.

9 Ms. Gorman: I didn't do it, I did not hurt my
10 grandson. I have never ever picked him up angry, you know
11 ---

12 Detective Weaver: Never.

13 Ms. Gorman: --- or anything like that, you
14 know. I get frustrated, which anybody would, but I've
15 never grabbed him, moved him, shoved him.

16 Detective Weaver: Julie, something had to
17 happen, I mean the evidence doesn't lie.

18 Ms. Gorman: I understand that.

19 Detective Weaver: The medical evidence doesn't
20 lie.

21 Ms. Gorman: I understand that. You know, he,
22 he's not in our height, in our sight a hundred percent of
23 the time, you know, he may go to the bedroom. He may walk,
24 our dog is free to roam the house, I, I --

25 Detective Weaver: Dr. Abel discredited all

Detective Troxell - Direct Examination by Ms. Lively 760

1 that, it didn't happen. Cesalee didn't do. It's fresh, it
2 just happened. We know exactly when it happened.

3 Ms. Gorman: I, I understand.

4 Detective Weaver: This is very, this is the
5 most important day in your life.

6 Ms. Gorman: I understand.

7 Detective Weaver: I promise you.

8 Ms. Gorman: And I'm telling you everything.

9 Detective Weaver: If it's an accident we need
10 to know.

11 Ms. Gorman: I understand.

12 Detective Weaver: I don't, I don't think you're
13 a cold-blooded killer, but I think something happened, I
14 know it happened.

15 Ms. Gorman: I never laid a hand on him, I've, I
16 never would do that, I wouldn't do that.

17 Detective Weaver: I don't believe you and I,
18 you know I --

19 Ms. Gorman: I wouldn't do something like that,
20 I know, no, I wouldn't do anything like that. I have three
21 children and I've never hurt my children ever, no.

22 Detective Weaver: You sure about that?

23 Ms. Gorman: Yes, I respect my kids, yes, I've
24 never abused my children. I've I, they've never gone to
25 the doctors or hospital because of ---

Detective Troxell - Direct Examination by Ms. Lively 761

1 Detective Weaver: You sure?

2 Ms. Gorman: Yes, the only time my, my kids have
3 been in the hospital is because my son, when he was little,
4 he was across the street and his Dad was sitting on the
5 steps and there was a, a man that was standing, Kyle had
6 went behind the man and the man didn't know he was there
7 and he stepped back, my son fell. Robert took, Rob took
8 him to the hospital immediately and had him checked.

9 Another time, I can give you every one, I was
10 going for an interview at Mervyn's. My friend had come
11 over to watch my son. Her and her son and my son were
12 playing, they bumped heads in the front. My son went limp,
13 you know, he fell, you know, on, on, we had some futon and
14 stuff right there, called 911. We, I drove with him to the
15 hospital and everything. The third time we were in
16 Virginia. We walked, I was taking them to the day care and
17 I walked from the day care later to the bus stop, there was
18 ice on the road, I held on to my kids ---

19 Detective Weaver: All right, let's get back to
20 Victim okay.

21 Ms. Gorman: Okay, but I'm letting you know that
22 these are the only things that ever happened to my
23 children. You know when Cesalee was in Washington she was
24 outside playing ---

25 Detective Weaver: You know, do you think Robert

Detective Troxell - Direct Examination by Ms. Lively 762

1 had something to do with it?

2 Ms. Gorman: No, no, and I swear to you, no.

3 Detective Weaver: Julie, it's either you or
4 Robert.

5 Ms. Gorman: We didn't do anything.

6 Detective Weaver: You can't say ---

7 Ms. Gorman: Oh, my God.

8 Detective Weaver: We can't say it was the dog.
9 We can't say it was the, the stair, the stairs. We can't
10 say that, we can't, we can't say that, the doctors can't
11 say that.

12 Ms. Gorman: I, I understand that, I understand
13 that, but we wouldn't hurt him. We wouldn't hurt him. I
14 know we wouldn't hurt him. I know we didn't hurt him. I
15 swear on my life. I, I'll swear to God and I don't swear
16 to him.

17 Detective Weaver: I don't believe you. I
18 believe something happened and, Julie, this is very
19 important today because once we walk out of this room today
20 there's going to be no more opportunities, if it was an
21 accident people understand that.

22 Ms. Gorman: I understand it, too.

23 Detective Weaver: If you got angry, everybody
24 gets angry.

25 Ms. Gorman: I know but it, I ---

Detective Troxell - Direct Examination by Ms. Lively 763

1 Detective Weaver: I mean everybody gets angry,
2 everybody, things, things happen, people get out of
3 control, it happens. It doesn't mean you're a bad person.

4 Ms. Gorman: I know that.

5 Detective Weaver: It just means that it
6 happened.

7 Ms. Gorman: I understand.

8 Detective Weaver: But you've got to take
9 responsibility for it.

10 Ms. Gorman: And I will take responsibility.

11 Detective Weaver: It's not, let me tell you
12 something, it's going to look a lot better if you say,
13 yeah, it was an accident. I lost my temper, I lost my mind
14 for a minute, okay. It happened but when we get on there,
15 like Troxell said we get up there, how do you think it's
16 going to say, she's a cold-blooded killer.

17 Ms. Gorman: I know.

18 Detective Weaver: How long do you think it's
19 going to take?

20 Ms. Gorman: Seconds, like I told you.

21 Detective Weaver: Right, but if it was an
22 accident, you lost your cool, you had a bad day, you had a
23 fight with Robert, something happened. We know, we know
24 something happened, there's no disputing that. We need to
25 find out what happened.

Detective Troxell - Direct Examination by Ms. Lively 764

1 Ms. Gorman: I swear to you like I told both of
2 you, I'm trying to calm down now and not scream and yell,
3 I'm sorry, I'm yelling, you know.

4 Detective Weaver: It's all right.

5 Ms. Gorman: I'm sure it's very frustrating for
6 ya'll. This is, I'm overwhelmed now and because this is
7 happening and I'm telling you, I swear to you we never hurt
8 my grandson. I don't know, arguing, frustration, whatever,
9 I have never manhandled my grandson. Robert has never
10 manhandled my grandson. I'm telling you this from my
11 heart, my soul, I, I, we, I didn't ---

12 Detective Weaver: Would you, the last couple of
13 days what have you been talking about, you and Robert?
14 Didn't, didn't you all discuss how, how this could happen
15 to Victim

16 Ms. Gorman: I'm sorry?

17 Detective Weaver: Didn't you all discuss, you,
18 you and Robert, didn't, the last couple of nights, since
19 Monday, weren't you all bouncing it back to each other what
20 happened to him? I don't know what happened to him, tell
21 me what happened?

22 Ms. Gorman: Yes, we, we had ---

23 Detective Weaver: Which?

24 Ms. Gorman: We don't, we ---

25 Detective Weaver: What did you all talk about,

Detective Troxell - Direct Examination by Ms. Lively 765

1 what happened to him?

2 Ms. Gorman: And that's what we'd ask. We, we,
3 were dumbfounded, we just, we don't know. We don't know,
4 we had no answers for each other, Just, you know, he, he
5 he, all we know is he wasn't feeling good, you know, so I
6 made an appointment for, for Tuesday for him to go to the
7 doctor's because Monday I was, you know, I couldn't get him
8 there Monday afternoon, you know, cause it was, it was too
9 soon.

10 Detective Weaver: And that, that's what I'm
11 saying, Julie, I don't think you're a bad person. You
12 brought that baby here, you take, you took, you're taking
13 care of him. You take, you're, you took him to doctor's
14 appointments. You've tried, I, I know you love this baby.
15 I know something happened. I, I mean you were trying to do
16 the right things and take care of him but something
17 happened when you got angry, you got upset, things got out
18 of control. It happens all the time but I need you to tell
19 me that, otherwise you're going to go to jail as a, as a
20 cold-blooded killer; you understand what I'm saying?

21 Ms. Gorman: Yes, I do.

22 Detective Weaver: It looks a lot better if you,
23 if something happened to set you off other than they look
24 at you like a calculated cold-blooded killer that killed
25 her grand, grandson; you understand what I'm saying?

Detective Troxell - Direct Examination by Ms. Lively 766

1 Ms. Gorman: Yes, I understand what you're
2 saying.

3 Detective Weaver: But it does, it doesn't add
4 up for me cause I know you've tried to care for this kid.
5 You've, you've ---

6 Ms. Gorman: I have, I mean ---

7 Detective Weaver: You've tried to take him to
8 the doctor.

9 Ms. Gorman: We've taken, we did in here.

10 Detective Weaver: You've fed, you've bathed
11 him, okay, I know you're a, I know you didn't mean to hurt
12 him but something happened and you need to take
13 responsibility right now, right here and now.

14 Ms. Gorman: I didn't, I've told you everything.
15 I've taken responsibility for my actions, I did not hurt my
16 grandson.

17 Detective Weaver: I don't believe you.

18 Detective Troxell: What do you think is going
19 to happen from this point forward, Julie?

20 Ms. Gorman: I'm not going home.

21 Detective Troxell: Okay, and tomorrow we're
22 going to attend the autopsy of seventeen-month-old Victim
23 and one thing we're going to do, we're gonna, we're going
24 to have physical evidence because now we can actually get
25 in and physically examine the skull cap, which is where

Detective Troxell - Direct Examination by Ms. Lively 767

1 he's been injured, okay, and we're going to have
2 photographs. There's going to be a doctor that's going to
3 be able to hold Victim skull up in court and see the
4 cracks in his skull and be able to testify that there's no
5 way a bulldog puppy knocked him over and caused all these,
6 these skull fractures and these breaks in his skull.
7 There's no way a fall from a, a bed that's seventeen inches
8 off the ground could have caused this. Every explanation
9 you've offered the doctor is going to be there, an expert,
10 who's going to be there and say there's no way, we can't do
11 it. I mean, imagine you've got a china bowl and you drop
12 it from here it might be a little stress, a little stress
13 fracture. You drop it from here and the crack's going to
14 get a little bit bigger, you drop it from up here the damn
15 things going to break.

16 Ms. Gorman: Right, I understand.

17 Detective Troxell: And that's what we're
18 looking at, that's something from up here.

19 Ms. Gorman: I never dropped him. I've never
20 dropped him ever, I'm just --

21 Detective Troxell: Something happened.

22 Ms. Gorman: I'm, I'm going through my brain
23 right now.

24 Detective Troxell: Okay.

25 Ms. Gorman: Let ---

Detective Troxell - Direct Examination by Ms. Lively 768

1 Detective Troxell: Well take your time, we'll
2 step out if you want and ---

3 Ms. Gorman: No, you don't have to do that.

4 Detective Weaver: We need some kind of
5 explanation, did ---

6 Ms. Gorman: I'm telling you.

7 Detective Troxell: Well then explain it to us,
8 give us something that caused **Victim** to no longer be with
9 us?

10 Ms. Gorman: I wish I could.

11 Detective Troxell: Because I can tell you what
12 I'm going to read to, what Dr. Abel's going to read in
13 court. "History given by Robert and MGM," that's maternal
14 grandmother, "of recent minor, the bulldog puppy and fell
15 three steps in a stroller, comma, does not explain this
16 child's clear recent head injury," okay?

17 Ms. Gorman: Right.

18 Detective Troxell: "And this is due to
19 radiological appearance of blood in the head seen in
20 radiographs and x-rays." That's what's going to be read,
21 and I mean we've got no other adult could have been around,
22 could it?

23 Ms. Gorman: No, there's no other adults in the
24 home. All there was, was Robert, me and the day Robert and
25 I went out and Tony and Erica came to our house cause we

Detective Troxell - Direct Examination by Ms. Lively 769

1 asked them to come to our house because it was --

2 Detective Troxell: But that wasn't within the
3 last couple of days and that was ---

4 Ms. Gorman: I understand that.

5 Detective Troxell: --- weeks ago.

6 Ms. Gorman: But I'm, you know, they came to our
7 house and watched him there because, you know, they can put
8 him in his bed instead of us coming home and carrying him
9 from there to here cause it was raining. He, the only
10 other places he's been, you know, besides us taking him out
11 to eat is Robert took him over to his parent's house and we
12 all went swimming, came home, and we laid him on the bed,
13 never dropped him in his bed, never, never just threw him
14 anywhere.

15 Detective Troxell: Robert never has lost his
16 temper? I mean he has no ties to Victim it's not his kid.

17 Ms. Gorman: No.

18 Detective Troxell: I mean, it's like, it's kind
19 of been thrown in, into the mix of all this and he's, he's
20 just your boyfriend. He's got to now watch a child that he
21 didn't help create, who's the child of someone he doesn't
22 really like too much, hasn't heard anything good about.

23 Ms. Gorman: Right, that's all he's heard is,
24 you know, what I've told him. I mean --

25 Detective Weaver: And he didn't think it was a

Detective Troxell - Direct Examination by Ms. Lively 770

1 good idea for them to come from the get go?

2 Ms. Gorman: And he didn't, he didn't.

3 Detective Weaver: I mean do you think it's
4 possible that maybe he had something to do with it?

5 Ms. Gorman: No, I mean he just, he ---

6 Detective Weaver: He's got a pretty good, he's
7 got a bad temper, doesn't he?

8 Ms. Gorman: Robert?

9 Detective Weaver: Yeah.

10 Ms. Gorman: No.

11 Detective Weaver: No?

12 Ms. Gorman: No, he's actually very even
13 tempered.

14 Detective Weaver: I was misinformed?

15 Ms. Gorman: No, I mean, I mean we've, we have
16 our arguments but he doesn't have a bad temper, you know,
17 he's never laid a hand on me ever, you know.

18 Detective Troxell: Well every logical
19 explanation ---

20 Ms. Gorman: He's never physically hurt me, you
21 know.

22 Detective Weaver: You don't think it was him?

23 Ms. Gorman: No. Robert and I have been
24 together about four years and I and that was one of my, my
25 things, a man touched me I would leave because I have

Detective Troxell - Direct Examination by Ms. Lively 771

1 already been through that once and I refuse to be
2 physically abused by a man and, or be cheated on because of
3 some things that happened to me in the past.

4 Detective Troxell: Okay, so you've just said,
5 and there's no way in your mind it could have been Robert?

6 Ms. Gorman: No.

7 Detective Troxell: Okay, so out of the two
8 possible, no one in your mind, that leaves you.

9 Ms. Gorman: I understand that.

10 Detective Troxell: So tell us what happened.
11 Something happened, Julie, something happened in that
12 house.

13 Ms. Gorman: Well, what is your name? I can't
14 even remember.

15 Detective Troxell: Tim.

16 Ms. Gorman: Tim. Tim, I'm looking at you and,
17 you know that, how much sleep I got, you know, I've been at
18 that hospital every day until yesterday evening when I left
19 because I felt, because I can't, and the rest of my family
20 can be there and have their time, I came home. Robert and
21 I didn't discuss it, you know, I told him, we talked about,
22 he told me about what was on the news and we went out for a
23 little bit, you know, just to unwind because it's just been
24 so stressful, we came home, went to bed.

25 Detective Troxell: We, it's been the same for,

Detective Troxell - Direct Examination by Ms. Lively 772

1 we've been in Charleston, you may not have seen us.

2 Ms. Gorman: I know, I know.

3 Detective Troxell: But we've been there.

4 Ms. Gorman: That's what he said, you know, you
5 guys have said, I mean I wasn't, no one said I looked for
6 ya'll or anybody else. I didn't, I never looked behind my
7 shoulders to see if anybody was watching me or anything,
8 you know, because I'm not, I'm not guilty. If I was, if
9 you're guilty you're constantly looking over your
10 shoulders, you know, you're, you're looking constantly. I
11 don't have that, I was there trying to hear. When you,
12 when I talked to you and you said that you wanted to, you
13 know, talk to me today, you know, I didn't expect it to be
14 so early but, you know, I just stuck my phone in the living
15 room and, you know, Robert said someone is at the door. We
16 got up ---

17 Detective Weaver: That's why, that's why ---

18 Ms. Gorman: --- be right there ---

19 Detective Weaver: I think it was an accident.

20 Ms. Gorman: --- you know.

21 Detective Weaver: I'm trying to give you an out
22 here. I don't think you killed him cold-bloodedly, okay.

23 Ms. Gorman: No.

24 Detective Weaver: I know you've been to the
25 hospital. You've been there from, from since Monday. I

Detective Troxell - Direct Examination by Ms. Lively 773

1 know you, I know you've been there for him, you feel bad
2 what happened.

3 Detective Troxell: I'm going to get you some
4 tissue.

5 Detective Weaver: You tried to care for him.

6 Ms. Gorman: Thank you, please, thank you.

7 Detective Weaver: All right, Julie, you hear
8 what I'm saying?

9 Ms. Gorman: I understand it, just ---

10 Detective Weaver: I mean, I know even
11 afterwards, I mean you've been there for him and you, and I
12 truly believe you, you feel bad what happened, but come on,
13 everything leads back to you. You had the care. I need
14 you to tell, I need you to give me something. I need you
15 to give me something, you've got to tell me what happened?

16 Ms. Gorman: All I know is my dog had knocked
17 him down, that's all I know.

18 Detective Weaver: Julie, Julie.

19 Ms. Gorman: I swear to you.

20 Detective Weaver: That is not possible.

21 Ms. Gorman: I know, I mean --

22 Detective Weaver: I promise you, I wish it was,
23 but that's not possible. I need you to tell me what
24 happened. We've talked before, right? I believe you, I
25 believe you. I, I, I never, listen to me, look at me.

Detective Troxell - Direct Examination by Ms. Lively 774

1 Since he came, since Cesalee left and you took care of him

2 ---

3 Ms. Gorman: Yes, sir.

4 Detective Weaver: --- you made sure he went to
5 the doctors.

6 Ms. Gorman: Yes, sir.

7 Detective Weaver: You made sure he was fed.

8 Ms. Gorman: Yes.

9 Detective Weaver: You put him in bed, you cared
10 for him.

11 Ms. Gorman: Yes, yes.

12 Detective Weaver: I know that.

13 Ms. Gorman: Yes.

14 Detective Weaver: Right?

15 Ms. Gorman: Yes.

16 Detective Weaver: But something happened along
17 the way, I don't know, I need you to fill in the blanks for
18 me and I know you feel bad what happened to him because
19 you've been at the hospital. You've been there for the
20 little guy, you've been there, you put lotion on him. You
21 feel bad what happened to him, but you can't change what
22 happened.

23 Ms. Gorman: And you're right, I can't change
24 what happened to him.

25 Detective Weaver: Right, but you can tell me,

Detective Troxell - Direct Examination by Ms. Lively 775

1 you can tell me what happened. You can explain what
2 happened, if it was an accident we need to know because
3 you're going to jail for murder. You need to tell me what
4 happened. I can't help you if you don't help me.

5 Ms. Gorman: All I know is, all I know is Victim
6 went and picked up Binkie, which is that big stuffed animal
7 and Logan knocked him down.

8 Detective Weaver: Julie.

9 Ms. Gorman: Lo ---

10 Detective Weaver: Julie, that's not possible,
11 look at me. Do you want me to help you?

12 Ms. Gorman: I want you to help me.

13 Detective Weaver: Do you want me to help you?

14 Ms. Gorman: I do, this is the ---

15 Detective Weaver: Probably nobody ever helps
16 you, do they? You've been doing everything on your own all
17 these years, haven't you?

18 Ms. Gorman: Yes, sir.

19 Detective Weaver: Yeah, I'm here to help you,
20 but I can't help you unless you tell me what happened. I
21 can't be on your side until you tell me what happened. I
22 can, I can go to the jury. I can go to the Solicitor, I
23 can tell them it was an accident but I need you to tell me
24 that. I need you tell me that it was an accident, whether,
25 whether you just lost your temper, whatever happened. I

Detective Troxell - Direct Examination by Ms. Lively 776

1 need you, I need something, I need you, I need you to work
2 with me. I need you to work with me so I can work for you.
3 You understand what I'm saying? Right now you're giving me
4 nothing. You're giving me nothing. It just doesn't seem
5 possible. Nobody's going to believe, nobody's going to
6 believe it.

7 Ms. Gorman: I understand that.

8 Detective Weaver: Listen, I'm going to give you
9 a few minutes to think about it. I, believe it or not,
10 look at me, look at me, believe it or not I'm here to help
11 you.

12 Ms. Gorman: I know you are and ---

13 Detective Weaver: I'm on your side.

14 Ms. Gorman: --- and I believe you.

15 Detective Weaver: I'm on your side but you've
16 got to give me something to work with. You've got to help
17 me. I'll be right back. I need to go to the, use the
18 restroom. I'll give you a few minutes to think about it.

19 (Whereupon, Detective Weaver exits the interview
20 room.)

21 Ms. Gorman: Why is all this happening? I
22 didn't do anything. He went to go get Blinkie, Logan came
23 to the crate and knocked him down. That's the only thing I
24 can think of and I, and I remember it, that's it. I keep
25 being called a liar --- a liar.

Detective Troxell - Direct Examination by Ms. Lively 777

1 (Whereupon, Detective Troxell enters the
2 interview room.)

3 Ms. Gorman: I need to take my medicine. That's
4 all I know, Lord, help me. I didn't, I never hurt any of
5 my children. I can take my medicine?

6 Detective Troxell: Do you have medicine on you?

7 Ms. Gorman: Yes.

8 Detective Troxell: Okay, you don't have any
9 guns or anything in your purse, do you?

10 Ms. Gorman: No.

11 Detective Troxell: Good, feel free to take your
12 medicine.

13 Ms. Gorman: I don't carry of that stuff.

14 Detective Troxell: Lee me see it before you
15 take it real fast, make sure you're, you're not taking
16 illegal drugs.

17 Ms. Gorman: I take one.

18 Detective Troxell: Okay.

19 Ms. Gorman: I take it twice a day.

20 Detective Troxell: Like I said this is, we're
21 trying to give you and Robert a opportunity to explain what
22 may of, what could of and ultimately what did happen?

23 Ms. Gorman: I understand that.

24 Detective Troxell: I mean ---

25 Ms. Gorman: I understand.

Detective Troxell - Direct Examination by Ms. Lively 778

1 Detective Troxell: --- we both agree something
2 happened, right?

3 Ms. Gorman: I understand, yes, I understand.

4 Detective Troxell: Okay.

5 Ms. Gorman: I understand all that.

6 Detective Troxell: And I told you we're going
7 to have the physical evidence of the skull, in addition the
8 jury is going to see these pictures. They're going to look
9 at these pictures, **Victim** staring up looking like that
10 while you're standing vigil over his bed. If he could have
11 moved would he have cried? I mean he's the last one, he
12 knows what happened to him.

13 Ms. Gorman: I understand.

14 Detective Troxell: Okay, unfortunately he's not
15 here to speak for himself.

16 Ms. Gorman: I know that.

17 Detective Troxell: So he's got now a team
18 Detective Weaver, myself, the other guys we work with and
19 the medical staff at MUSC, we're speaking for him now.

20 Ms. Gorman: Right.

21 Detective Troxell: But if he had been able to
22 that day in the hospital would he have grunted like he did
23 and pointed at you and to him?

24 Ms. Gorman: He wouldn't have pointed at me and
25 Robert.

Detective Troxell - Direct Examination by Ms. Lively 779

1 Detective Troxell: He wouldn't have?

2 Ms. Gorman: No, I'm certain we did not hurt my
3 grandbaby. This is my blood, this is, this is, this is my
4 grandbaby. I didn't treat him as my grandson. I treated
5 him as my baby as if I gave birth to him.

6 Detective Troxell: And we're not disputing for
7 one second you cared for him. You fed him, you clothed
8 him, bathed him, kept him, took him to the doctor, did
9 everything that you could but at some point something bad
10 happened and we know that and we just agreed that at some
11 point something bad happened.

12 Ms. Gorman: But we agreed but I can't tell you
13 what, you know? All I know is that you keep telling me,
14 you keep telling me that it's not possible. The only thing
15 I know is that one time Victim went and I remember it all,
16 he went over to the crate got Binkie, Logan knocked into
17 him.

18 Detective Weaver: Not possible, Julie.

19 Ms. Gorman: I know that, I understand all that,
20 but in the bathtub, he's never fallen in the bathtub. I,
21 I've picked him up out of the bathtub, have never dropped
22 him.

23 Detective Troxell: Well, well let's take
24 falling away.

25 Ms. Gorman: He's never slipped and falled [sic]

Detective Troxell - Direct Examination by Ms. Lively 780

1 even on the floor of the bathroom.

2 Detective Troxell: Okay.

3 Ms. Gorman: Because we have carpet down.

4 Detective Troxell: Well let's, let's take
5 falling out of the equation, let's say Victim didn't fall?

6 Ms. Gorman: Okay.

7 Detective Troxell: Another explanation for it
8 is that he was shook.

9 Ms. Gorman: No, I've never shook him, never
10 shook him. Shake a baby, no, no, I, I, no.

11 Detective Troxell: Well I, I guess we're going
12 to agree to disagree on that because ---

13 Detective Weaver: What about, what about
14 Robert?

15 Ms. Gorman: No.

16 Detective Weaver: Does he get frustrated?

17 Ms. Gorman: No, Robert has better patience than
18 I do to be honest with you, and he, you know, I walk out of
19 the house because Victim was whining and stuff because it's
20 just, it's ---

21 Detective Troxell: It gets to you?

22 Ms. Gorman: Well he, he and, you know ---

23 Detective Weaver: That's what I'm saying.

24 Ms. Gorman: --- and I've told you he, I go
25 outside because the whining and crying I just, it's non

Detective Troxell - Direct Examination by Ms. Lively 781

1 stop but I go outside or I send him to his room. Robert
2 takes Victim you know, outside with him a lot even though
3 he's still, you know, whining and crying and he just walks
4 him around, you know, and it doesn't faze him, you know,
5 you know, he's just, we just figured it was separation from
6 his mama and everything but, no.

7 Detective Weaver: That's what I'm saying, maybe
8 you had a bad day at work, maybe a fight with Robert, you
9 picked him up, he was whining, you got a little frustrated
10 and you shook him a little hard?

11 Ms. Gorman: I don't think hard, I don't believe
12 I ---

13 Detective Weaver: Is it possible?

14 Detective Troxell: But it's possible that you
15 could have done that, is it?

16 Detective Weaver: Look, look at the little guy.

17 Detective Troxell: It's possible, isn't it?

18 Ms. Gorman: I, I don't want to see him no more.

19 Detective Weaver: Look at the little guy,
20 doesn't he deserve, doesn't he deserve to know what
21 happened to him?

22 Detective Troxell: It's, it's possible you just
23 said it's possible you could have got a little frustrated,
24 is it not, Julie?

25 Ms. Gorman: I don't know anymore.

Detective Troxell - Direct Examination by Ms. Lively 782

1 Detective Troxell: You, you ---

2 Ms. Gorman: I did not hurt my family.

3 Detective Troxell: You didn't intentionally
4 cause any harm to your grandson, we know that. You are a
5 caring grandmother that took your grandbaby to the doctor,
6 fed him and clothed him.

7 Detective Weaver: And that's what we want to be
8 able to tell people that this was an accident, you got a
9 little frustrated.

10 Ms. Gorman: I, I, I never, I don't believe I've
11 ever shook him.

12 Detective Troxell: But it's possible you could
13 have?

14 Detective Weaver: Did you get aggravated?

15 Detective Troxell: Is it not?

16 Detective Weaver: Or you don't remember?

17 Ms. Gorman: No.

18 Detective Weaver: Maybe, maybe you got angry,
19 you don't remember, you lost, lost control for a little bit
20 and shook him?

21 Ms. Gorman: No.

22 Detective Weaver: Is it possible?

23 Detective Troxell: And we're not saying ---

24 Ms. Gorman: I don't know.

25 Detective Troxell: --- is ---

Detective Troxell - Direct Examination by Ms. Lively 783

1 Detective Weaver: It is possible.

2 Ms. Gorman: I don't know, I don't know, it's
3 possible.

4 Detective Weaver: Look at the little guy.

5 Ms. Gorman: I don't want to see them no more.

6 Detective Weaver: He deserves to know what
7 happened to him.

8 Ms. Gorman: Please, I, I don't want to see
9 those.

10 Detective Weaver: Julie, I can't help you if
11 you don't talk to me.

12 Ms. Gorman: I'm telling you I don't know.

13 Detective Weaver: I'm here for you, but I can't
14 help you ---

15 Ms. Gorman: I know, I know.

16 Detective Weaver: --- if you don't talk to me.
17 We need to know what happened. You know me, we've been
18 through, I've, I've known you for four days now?

19 Ms. Gorman: And I ---

20 Detective Weaver: I believe you're a good
21 person.

22 Ms. Gorman: I ---

23 Detective Weaver: And you know I'm here for
24 you.

25 Ms. Gorman: I know.

Detective Troxell - Direct Examination by Ms. Lively 784

1 Detective Weaver: But I can't help you if you
2 don't talk to me, I can't.

3 Ms. Gorman: I don't recall if I sh -- shook
4 him, okay, I don't.

5 Detective Troxell: Is it completely in the
6 realm of possibility?

7 Detective Weaver: Julie, it happens.

8 Ms. Gorman: Well I, you know what, excuse me,
9 I'm sorry, I didn't mean to spit.

10 Detective Weaver: Please, Julie, just tell me.

11 Ms. Gorman: You know what I wish?

12 Detective Weaver: I can't help you.

13 Ms. Gorman: I don't know if I shook him hard, I
14 don't know, I don't.

15 Detective Troxell: Let me just ---

16 Ms. Gorman: I don't, I don't even recall it.

17 Detective Troxell: Let me just say ---

18 Ms. Gorman: I don't recall shaking him at all.

19 Detective Troxell: --- what you just said.

20 Ms. Gorman: I know what I said.

21 Detective Troxell: I don't think I shook him
22 hard.

23 Ms. Gorman: Right, I know what I said.

24 Detective Troxell: That you shook him easy.

25 Ms. Gorman: But I don't think I, you know how

Detective Troxell - Direct Examination by Ms. Lively 785

1 you play with them and but I don't, I know what I said.

2 Detective Troxell: So ---

3 Ms. Gorman: I know what I'm saying to you.

4 Detective Troxell: --- so you're starting to
5 remember. It, it's possible that you shook him, maybe not
6 meaning to hurt him at all because there's not a mean bone
7 in your body, you didn't mean to hurt him?

8 Ms. Gorman: I know I wouldn't hurt him.

9 Detective Troxell: You didn't want to hurt him,
10 you didn't want this to happen.

11 Ms. Gorman: No one would wish this on their
12 worst enemy. I wouldn't, I wouldn't wish this on anybody.
13 I wouldn't wish this on anybody. God Almighty, my life has
14 just been so ---

15 Detective Weaver: You've had a hard road,
16 Julie. I know, I know, but things are hitting rock bottom
17 right now.

18 Ms. Gorman: Oh, my God.

19 Detective Weaver: But I promise you I'm here to
20 help you. I'm here with you, but I need to know. I need
21 you to remember. I need you to tell me because I can't go
22 to the jury and say she killed him, the doctors will tell
23 you she killed him, I need to tell them why, I need ---

24 Ms. Gorman: I didn't do that.

25 Detective Weaver: I need, I need to have them

Detective Troxell - Direct Examination by Ms. Lively 786

1 see this side of you that, that you took care of the little
2 guy, that you're sorry that you, you didn't mean for it to
3 happen. But I can't do it unless you tell me?

4 Ms. Gorman: I understand that, I understand
5 that, I understand that, all I, I don't know. I really
6 don't know if I shook him hard, if I did I would tell you
7 and, and ---

8 Detective Weaver: That's what happened, isn't
9 it?

10 Ms. Gorman: I don't know.

11 Detective Weaver: You do know.

12 Ms. Gorman: Honestly, Detective.

13 Detective Weaver: Julie?

14 Ms. Gorman: I swear to God.

15 Detective Weaver: Julie, you're almost there,
16 tell me the truth.

17 Ms. Gorman: I would if I could.

18 Detective Weaver: Tell me the truth, you'll
19 feel so much better.

20 Ms. Gorman: I wish, look at me, I'm broken. I
21 have been honest. I've, I've told you everything I've
22 done. I feel I've told you everything I've done from the
23 bottom of my heart, my soul, I was gonna sit down and write
24 everything down.

25 Detective Weaver: Do you want to do that?

Detective Troxell - Direct Examination by Ms. Lively 787

1 Would it be easier for you?

2 Ms. Gorman: No, I don't think, I mean
3 everything that has happened, you know, because I, you
4 know, from the time it all, from Monday to now the, the
5 things that I said I felt that if I wrote it down because
6 of all the statements and everything that it was, it's not,
7 you know, when, when I talked to you yesterday and I
8 thought about all the things I was being told I was going
9 to go home and write it out.

10 Detective Troxell: Uh-huh.

11 Ms. Gorman: I was so exhausted that I just, I
12 needed a break just for myself just to, just to put
13 everything in, you know, when my friends asked me last
14 night, how's he doing, we didn't tell them that he, that he
15 passed away. I just, I just wanted a break just to, just
16 to ---

17 Detective Troxell: What did you do to take a
18 break? Did you go anywhere?

19 Ms. Gorman: We went to Beef O'Brady's and we
20 went to Fatz, shot some pool. We went to Beef O'Brady's
21 first and I spoke to Kim, I spoke to Sam, Meg, and Jessica.

22 Detective Weaver: This was last night?

23 Ms. Gorman: Yeah.

24 Detective Weaver: Was this after we spoke?

25 Ms. Gorman: Oh, yeah.

Detective Troxell - Direct Examination by Ms. Lively 788

1 Detective Weaver: And we talked about what,
2 eight or 9:00 last night?

3 Ms. Gorman: Yeah, we did because I got home,
4 took a shower and everything and we left. I told Robert
5 and we, let's just go out, you know.

6 Detective Weaver: Julie, look at me. I'm going
7 to have to cut you off, time's running out, dear. I need
8 to know what happened, if you want me to help you and stand
9 beside you and help you.

10 Ms. Gorman: I want to tell you exactly.

11 Detective Weaver: I want you to tell, I want
12 you to tell.

13 Ms. Gorman: What do you want me to tell you?

14 Detective Weaver: Julie, I want you to tell me
15 that you were angry, that you had a bad day, that you shook
16 him, you didn't mean to, I mean, I know I've already done
17 the background on you. I know you've had a hard life. I,
18 I know you didn't mean to do this.

19 Ms. Gorman: A background won't reveal anything
20 on me, I've never ---

21 Detective Weaver: I'm not talking about
22 arrests.

23 Ms. Gorman: No, I was going to say I don't have
24 anything on my record.

25 Detective Weaver: No, no, I'm not talking about

Detective Troxell - Direct Examination by Ms. Lively 789

1 that. I've talked to people that know you, I know what
2 kind of person you are.

3 Ms. Gorman: You, I mean I have had a rough life
4 and I admit it.

5 Detective Weaver: Exactly.

6 Ms. Gorman: But you know what?

7 Detective Weaver: But this was an accident.

8 Ms. Gorman: I still took care of my kids and
9 I've taken care of Victim

10 Detective Weaver: I understand that, but this
11 was an accident, but time's running out. I can't help you.
12 It, I'm the only one that can help you.

13 Ms. Gorman: If, if I shook him I swear to you I
14 don't believe I shook him hard, you know. I don't think I
15 have that much, I don't know.

16 Detective Weaver: But what, but --

17 Ms. Gorman: That's the only explanation I got,
18 I'm sorry.

19 Detective Weaver: But when you get angry you
20 don't know, you don't know you snapped but you did shake
21 him?

22 Ms. Gorman: I never picked him up when I was
23 angry, you know.

24 Detective Weaver: Oh.

25 Ms. Gorman: I know.

Detective Troxell - Direct Examination by Ms. Lively 790

1 Detective Weaver: Julie, I, I can't help you
2 if you're not going to sit there and help me. I mean I'm
3 just ---

4 Ms. Gorman: I know I picked him up, but I don't
5 think I did it hard. I can't tell you if I did but I have
6 shaken him but I, I don't know if I shook him hard. I don't
7 know if I ---

8 Detective Weaver: You sure, you didn't, you
9 sure out of anger, maybe you had a fight with Robert
10 something, something? I, I, how am I supposed to go and
11 help you and say ---

12 Ms. Gorman: I know.

13 Detective Weaver: --- yes, she thinks she shook
14 him but she don't know it was real hard. I want to see you
15 take responsibility, yeah, you made a mistake, it was an
16 accident. You didn't mean for it to happen but this is
17 what happened. Let's make it better, and I'll be here to
18 help you make it better but I can't do it if you're not
19 going to be totally honest with me. I can't do, Julie.

20 Ms. Gorman: I ---

21 Detective Weaver: I can't fabricate.

22 Ms. Gorman: I'm not asking you to fabricate. I
23 don't want you to fabricate. I don't want you to, I don't
24 want people to put words in my mouth. I don't want, I
25 don't want, oh, my God.

Detective Troxell - Direct Examination by Ms. Lively 791

1 Detective Weaver: I'm running out of options,
2 I don't know how.

3 Ms. Gorman: I understand.

4 Detective Weaver: I don't know how to help you.

5 Detective Troxell: Julie?

6 Ms. Gorman: Yes, sir?

7 Detective Troxell: Can you show me when you
8 shook him easy how you did it?

9 Ms. Gorman: I went like this.

10 (Whereupon, Ms. Gorman demonstrates.)

11 Detective Troxell: Like that?

12 Ms. Gorman: Yes.

13 Detective Troxell: Okay.

14 Ms. Gorman: And I, I don't know if that's hard
15 or anything.

16 Detective Troxell: Okay, when was this?

17 Ms. Gorman: I, I can't keep the date.

18 Detective Troxell: But you, you shook him?

19 Ms. Gorman: Yes, I believe it.

20 Detective Weaver: Was, was it Monday when you
21 came home from work; did you have a bad day?

22 Ms. Gorman: No, no, I didn't.

23 Detective Weaver: How about Sunday?

24 Ms. Gorman: No, I mean work is work.

25 Detective Troxell: What was the --

Detective Troxell - Direct Examination by Ms. Lively 792

1 Detective Weaver: We're, you just frustrated
2 with him because --

3 Ms. Gorman: It was just --

4 Detective Weaver: I mean I know it's
5 frustrating.

6 Detective Troxell: Y ---

7 Ms. Gorman: I was frustrated with him because,
8 you know, what I mean, I mean I just feel like I'm this bad
9 person.

10 Detective Troxell: By no means you're not a bad
11 person. We've sat here and tried to tell that for an hour.

12 Ms. Gorman: I know you have.

13 Detective Troxell: We don't, we're not here to
14 pass judgment on you. We're not here to, to think, wow,
15 what a horrible person.

16 Ms. Gorman: I feel like I've been judged since
17 day one.

18 Detective Weaver: No.

19 Detective Troxell: Not at all.

20 Detective Weaver: Julie, listen to me, if I
21 thought that, do you think I'd be sitting here trying to
22 help you right now?

23 Ms. Gorman: No, and I know ---

24 Detective Weaver: I can, I guarantee --

25 Ms. Gorman: --- that, I know you guys believe

Detective Troxell - Direct Examination by Ms. Lively 793

1 me.

2 Detective Weaver: I, I ---

3 Ms. Gorman: And I know you believe him, I know
4 you guys do.

5 Detective Weaver: I'd be out the door in a
6 heart, in a heartbeat and just go by what we have, okay,
7 but I'm trying to get, you're, we're here for you. This is
8 your opportunity to tel your side of the story, okay, this
9 is, this is for Julie.

10 Detective Troxell: We've been ---

11 Ms. Gorman: My work is my work, I leave it
12 there, you know. I might be there for hours, you know,
13 fixing problems and trying, you know, I mean, you know,
14 what I do. I work in a cash office. I count money all day
15 long. We have a new program, we're a day behind because we
16 count day before, you know, yesterday's stuff.

17 Detective Weaver: Right.

18 Ms. Gorman: So we have to learn a new program,
19 so I'm at work a little bit longer because of the fact that
20 the system's changed. I have to go from one desk to
21 another desk to find answers and go back and try to fix
22 things. I work long, I was working long hours, I mean I
23 did, you know --

24 Detective Weaver: Was it maybe you were just
25 frustrated because he ---

Detective Troxell - Direct Examination by Ms. Lively 794

1 Ms. Gorman: But Monday I, I never touched him
2 Monday.

3 Detective Troxell: Let's, let's go back. We'll
4 get that out of the way. Don't worry about that, is that
5 normally how you carry him was like that? When you carry
6 him, can you show me how you normally carry him?

7 Ms. Gorman: I carry him like this when I do or
8 sometimes like this.

9 (Whereupon, Ms. Gorman demonstrates.)

10 Detective Troxell: Okay.

11 Ms. Gorman: Sometimes it's on my hips so I can
12 lean sideways but or I carry him up here.

13 Detective Troxell: When you held him in front
14 of you what were you doing? Where were you at?

15 Ms. Gorman: W ---

16 Detective Troxell: But like we were saying we,
17 we've been working this thing and wanted to get you an
18 opportunity to explain yourself. We had information from
19 the doctor's on Tuesday. We could have just said to hell
20 with it on Tuesday and left the hospital with you and
21 Robert and, and gone to jail.

22 Ms. Gorman: Right.

23 Detective Troxell: But we want to give you the
24 opportunity to tell us what happened in your own words and,
25 and show us and explain to us why this might have happened

Detective Troxell - Direct Examination by Ms. Lively 795

1 and to let us know that, you know, I, I didn't
2 intentionally do anything to harm my grandson.

3 Ms. Gorman: I, I would never hurt him, God, I
4 would never hurt him.

5 Detective Weaver: Not on purpose.

6 Ms. Gorman: No.

7 Detective Weaver: Not on purpose.

8 Ms. Gorman: No.

9 Detective Troxell: Maybe that day he was just
10 crying and just --

11 Ms. Gorman: I guess, I don't know.

12 Detective Weaver: Julie, I, I like you that's
13 why I'm taking this time to help you. I like you, I think
14 you're a good person. Not too many grandmothers would take
15 their grandchild and take, and take him from their daughter
16 and take him to the doctor. You got him shots, you got the
17 little guy shots. He was having problems with a headache
18 you took him to the emergency room, right?

19 Ms. Gorman: Yes, yes.

20 Detective Weaver: Right. They gave him,
21 remember they gave him a popsicle when he was throwing up?

22 Ms. Gorman: Yes, yes.

23 Detective Weaver: Not too many ---

24 Detective Troxell: And that was the first time
25 you had seen him when he since he was born, right?

Detective Troxell - Direct Examination by Ms. Lively 796

1 Ms. Gorman: Yes.

2 Detective Troxell: You had never seen him
3 before?

4 Ms. Gorman: No.

5 Detective Weaver: Not too many grandmothers
6 would do that. You since this happened you've been at the
7 hospital every day, forty hours, no sleep. I know you're a
8 good person, that's why I'm taking this time with you, but
9 if you can't help me I can't help you. I need to know what
10 happened. If you got angry and you shook him accidentally
11 it looks a lot better than that you hurt him on purpose.
12 Do you understand what I'm saying?

13 Ms. Gorman: Yes.

14 Detective Weaver: We're running out of time,
15 Julie, if you want me to help you.

16 Ms. Gorman: I never come home angry from work,
17 I don't. I will say that, you know, because work is, work
18 is work, he cries every day, he's cranky every day, whines
19 every day.

20 Detective Troxell: And on top of that you,
21 he's, he's your grandbaby but he's also a bit of a burden
22 you don't want.

23 Ms. Gorman: He's not a burdensome, you, just,
24 he's not a burden.

25 Detective Troxell: And I don't mean it in a bad

Detective Troxell - Direct Examination by Ms. Lively 797

1 way, but he, he's actually changed your lifestyle a little
2 bit. You're used to doing, you and Robert are doing what
3 you want to do when you want to do it, but now you've got
4 to care for a baby. He ---

5 Ms. Gorman: But that was a choice I made. I
6 was willing to change, sacri--, you know.

7 Detective Troxell: And you did, you made the --
8 -

9 Ms. Gorman: And it is a sacrifice ---

10 Detective Weaver: You made those sacrifices.

11 Ms. Gorman: --- you know, to change ---

12 Detective Weaver: Because of him, Julie.

13 Ms. Gorman: --- you know.

14 Detective Weaver: You were frustrated because
15 you didn't know what to do for the little guy, that's what
16 happened.

17 Ms. Gorman: No.

18 Detective Weaver: You were frustrated. You,
19 the little guy's crying, whimpering, you got frustrated
20 with yourself and it just happened. You shook him but you
21 weren't upset with him, it was you. You were upset, you
22 were kind of frustrated that you didn't know how to help
23 the little guy; isn't that possible? I mean in like ---

24 Ms. Gorman: Yes, that's possible.

25 Detective Troxell: How long after you shook him

Detective Troxell - Direct Examination by Ms. Lively 798

1 was the seizures?

2 Ms. Gorman: I didn't, I never, Monday when I
3 picked him up was when I picked him up out of the bed was
4 the only time I picked him up Monday. He was asleep when I
5 left, when I came home he was taking his nap, checked on
6 him. We checked on him again and he was still napping. By
7 6:00, like I said, I went in there to go wake him up to,
8 you know, feed him dinner. He was making that strange
9 noise and the saliva, I picked him up out of the bed. I
10 leaned him over my arm because I didn't know if he was
11 choking or if he was going to throw up because I didn't
12 want him to choke on it. That's what I did, I whipped him
13 over my arm, okay, that's what I did.

14 Detective Troxell: Okay, you were trying to
15 provide care for him then.

16 Ms. Gorman: You know.

17 Detective Troxell: You've done everything in
18 your power, everything you possibly could.

19 Ms. Gorman: You know, it --

20 Detective Weaver: What was it like?

21 Ms. Gorman: You know just, I mean we have him
22 on videotape, you know, the noises he makes but this is
23 when I'm not home.

24 Detective Weaver: Yeah.

25 Ms. Gorman: And so take that and you intensify

Detective Troxell - Direct Examination by Ms. Lively 799

1 it.

2 Detective Troxell: Usually when you get him he
3 gets louder, yeah?

4 Ms. Gorman: Yeah, so it intensifies louder.

5 Detective Troxell: Okay.

6 Ms. Gorman: So Robert, but Robert did it so he
7 could say that, you know, when you're not here this is how,
8 you know, he's not as loud, you know, as when you are here,
9 you know, just that he was, I'm not trying to be a jerk,
10 you know, cause I was like, damn, every time I walk in the
11 house. I'm going outside ---

12 Detective Weaver: And ---

13 Ms. Gorman: --- and as soon as I walk outside
14 he stops crying.

15 Detective Weaver: Right.

16 Ms. Gorman: You know, I'd sit on the porch,
17 smoke a cigarette, you know, and then as soon as I'd walk
18 back in he'd start, start it all over.

19 Detective Weaver: All right.

20 Ms. Gorman: So he comes ---

21 Detective Weaver: That's, that's how he is.

22 Ms. Gorman: --- grabs my leg, you know, and
23 takes his foot and tries to climb up my leg, and, no, you
24 know, stop ---

25 Detective Weaver: I've got stuff to do.

Detective Troxell - Direct Examination by Ms. Lively 800

1 Ms. Gorman: --- you know, I've got to cook
2 dinner. You want to eat, don't you, you know, I got to
3 cook dinner, you know. It's not that Robert can't cook
4 cause he can, I just, I'm the woman I guess, I don't know.
5 It's my job, my duty, I guess it's a job duty but, you
6 know, but I provide for Victim to make sure he has a good
7 healthy balanced meal.

8 Detective Weaver: Sure, I know how that is.

9 Ms. Gorman: And that we have a good healthy
10 balanced meals as well. I mean we don't eat junk. We
11 don't buy t.v. dinners, you know, or any of that crap, you
12 know, picked him up, "stop," put him back down, took him by
13 his fingers as usual.

14 Detective Troxell: And then walked him to his
15 bedroom.

16 Ms. Gorman: Walked him to his room and I
17 stopped at the door, "go to your bed," because we didn't
18 want the portacrib to be punishment because I didn't want
19 him to think every time he went into the portacrib he,
20 because he was between bedtime and naptime.

21 Detective Troxell: Bedtime and naptime.

22 Ms. Gorman: So we used the other bed as, you
23 know, to go sit down on cause I don't want that because you
24 know, you, I didn't want that. I didn't want him to be
25 confused because he's been confused, you know, with his

Detective Troxell - Direct Examination by Ms. Lively 801

1 Mama and everything.

2 Detective Weaver: Where was Robert at when --

3 Ms. Gorman: He could have been outside, he
4 could have been in the back room, but he wasn't in the room
5 with me.

6 Detective Weaver: Did Victim stop crying after
7 that or did he cry more?

8 Ms. Gorman: He didn't cry any, any, you know,
9 any differently.

10 Detective Weaver: Yeah.

11 Ms. Gorman: It was still the same noises.

12 Detective Weaver: Yeah.

13 Ms. Gorman: And he doesn't shed tears or
14 anything.

15 Detective Weaver: No?

16 Ms. Gorman: When I took him to the room I
17 stopped at the door and he goes in and he still looks at
18 you and whines and cries but I walk away and went back to
19 cook dinner and then walked back there. I believe I walked
20 back there and said, you ready to come out, no crying, you
21 know, we're not going to cry no more.

22 Detective Weaver: Right.

23 Ms. Gorman: And he'll start right, you know,
24 take a deep breath and, you know, he'd start again ---

25 Detective Weaver: Right.

Detective Troxell - Direct Examination by Ms. Lively 802

1 Ms. Gorman: --- come out, play with the toys.
2 I'd sit down on the floor with him, you know. He, he wants
3 to lean on me, he wants to try and crawl in my lap, you
4 know, those are all the things that he did with his mother,
5 you know ---

6 Detective Weaver: Right.

7 Ms. Gorman: --- until she got ---

8 Detective Weaver: Right.

9 Ms. Gorman: --- tiresome of it then she'd shove
10 him away. You know he would be confused why one minute I
11 can do it and ---

12 Detective Weaver: Right.

13 Ms. Gorman: --- then I can't, so we, you know,
14 we are, I was just trying to break these habits ---

15 Detective Weaver: Sure.

16 Ms. Gorman: --- you know, so when he went home
17 to his mother, you know, she, she'd be able to handle him,
18 you know.

19 Detective Weaver: Right.

20 Ms. Gorman: It wouldn't be such, you know, a
21 tiresome thing for her for, you know, she's frustrated.

22 Detective Weaver: Right.

23 Ms. Gorman: She's angry, she doesn't know what
24 to do, and here I'm trying to break all these habits, you
25 know, and make him a fresh little boy ---

Detective Troxell - Direct Examination by Ms. Lively 803

1 Detective Weaver: Yeah.

2 Ms. Gorman: --- good boy, so when she got well,
3 you know, and everything ---

4 Detective Weaver: That's what I'm saying,
5 you're just, you ---

6 Ms. Gorman: --- got well, and she could take
7 care of her son.

8 Detective Weaver: That's what I'm saying,
9 you're trying to do the right thing. It just got out of
10 hand. How hard did you shake him?

11 Ms. Gorman: I don't think any harder than that.

12 Detective Weaver: Julia, you had to. Come on,
13 it's just me and you talking?

14 Ms. Gorman: I know.

15 Detective Weaver: We've got a good rapport.

16 Ms. Gorman: I understand that.

17 Detective Weaver: And I like you, I think you
18 like me, tell me?

19 Ms. Gorman: I do, I ---

20 Detective Weaver: You had to shake him more
21 than that, medical evidence said you did. People don't ---

22 Ms. Gorman: I don't think I went like this,
23 that would ---

24 (Whereupon, Ms. Gorman demonstrates.)

25

Detective Troxell. - Direct Examination by Ms. Lively 804

1 Detective Weaver: Nobody's going to believe me,
2 nobody's going to believe me.

3 Ms. Gorman: You.

4 Detective Weaver: When I try and tell them
5 that.

6 Ms. Gorman: I never extended my arms out. I,
7 you can't, I can't do that. I don't know, it's always my
8 arms are here, he's here. I, I don't know, I can sit here
9 all day and do this, I don't know how hard or anything, I
10 just, oh, my God.

11 Detective Weaver: Hang in there, I'll get you.

12 Ms. Gorman: Detective Weaver, I'm telling you,
13 I can't tell you how hard.

14 Detective Weaver: Tell me, Julie.

15 Ms. Gorman: That's it, that's what I'm telling
16 you.

17 Detective Weaver: Come on, his injuries say
18 different.

19 Ms. Gorman: I understand what you guys are ---

20 Detective Weaver: His injuries ---

21 Ms. Gorman: --- telling me.

22 Detective Weaver: His injuries are different,
23 you have to ---

24 Ms. Gorman: I've never, I've never dropped him,
25 never, never.

Detective Troxell - Direct Examination by Ms. Lively 805

1 Detective Weaver: How do you explain those
2 injuries then?

3 Ms. Gorman: I can't.

4 Detective Weaver: He's got a fractured head.

5 Ms. Gorman: I know that.

6 Detective Weaver: How, how am I supposed to
7 help you? How am I supposed to say, yes, all she did was
8 just shake him? He's got a fractured head. How am I, who,
9 who's going to believe me? You need to tell me what
10 happened, time's running out, Julia. I'm not, you know, I
11 like you, I want to help you, but if, if you're going to
12 sit there and not tell me what, what happened, you know,
13 I'm not going to make stuff up for you.

14 Ms. Gorman: I don't want you to make stuff up
15 for ---

16 Detective Weaver: You've got to tell me what
17 happened?

18 Ms. Gorman: I don't want you to make up stuff
19 for me.

20 Detective Weaver: Okay.

21 Detective Troxell: It was an accident, that's
22 neither here nor there. Did we discuss what Robert, was he
23 not there? Did you tell him, toss it back around on the
24 ride home from Charleston, you know?

25 Ms. Gorman: No.

Detective Troxell - Direct Examination by Ms. Lively 806

1 Detective Troxell: So Robert has no idea that
2 this ever transpired?

3 Ms. Gorman: No. No, Robert doesn't even know,
4 you know, what my daughter told you what Richard said that
5 the baby died in my arms. I couldn't tell him that because
6 that's devastating and I felt I couldn't tell him and I'm
7 not going to tell him that.

8 Detective Troxell: Tell him?

9 Ms. Gorman: What Richard had said because I
10 don't know because like everything Richard said to me, what
11 I'm being told is a lie. you know, I caused him to leave
12 her and I'd say, well Richard says this and he goes he's
13 not, just like when you guys came to my house and he had
14 said that you guys were charging me.

15 Detective Troxell: We hadn't met with him ---

16 Ms. Gorman: I know.

17 Detective Troxell: --- Richard.

18 Ms. Gorman: You know and you guys said, and you
19 were just like what, what the hell, you know, and I
20 remember what you said, you know, in your eyes and I could
21 see it in you guy's eyes just the, you know, where is this
22 coming from, you know, I, I, you know, you can read things,
23 too. And when called I told him again what you had said
24 that you better do your job, you know, you better, that you
25 don't get days off and such and so on, and I knew then even

Detective Troxell - Direct Examination by Ms. Lively 807

1 before because you guys had told me we have not saw him
2 personably, we're not going to release any information
3 until we can identify him and everything else. But I was
4 doing what I felt was right by calling you and letting you
5 all know what I'm being told ---

6 Detective Troxell: Yeah.

7 Ms. Gorman: --- you know.

8 Detective Troxell: Uh-huh.

9 Ms. Gorman: Everything I've been told, I'm sad,
10 too, and I mean, and grieving or not grieving, hell I
11 haven't ever been able to cope. I haven't even got over my
12 shock. I haven't even got over to, to be able to deal
13 because I have to be so fricking strong for everybody else
14 to make sure that they can do, you know ---

15 Detective Troxell: Because that's the type
16 person you are, from what I've got to know from you over
17 the course of the week that's the kind of person you seem
18 to be or you're the, you're the glue that holds everything
19 together. You try to provide for everybody else and, and -
20 --

21 Ms. Gorman: And I do.

22 Detective Troxell: --- and not so much for
23 yourself.

24 Ms. Gorman: And I do. Everybody comes before
25 me and I, if, you know, called me and said you needed help,

Detective Troxell - Direct Examination by Ms. Lively 808

1 you know, what I'd be right there to just that's me, that's
2 my nature. That's what I was given my gift for was to help
3 people. I will be bent over backwards. I may be shifted
4 on a lot, but you know what, that's okay. It isn't what
5 comes around goes around, it's that's okay, you know. It's
6 not my loss, it's yours when it comes to things like that,
7 you know. I mean I have a big family and I only talk to
8 two people in my family because none of them care about me
9 and that's fine, that's their loss not mine, you know.

10 Detective Troxell: Why didn't you?

11 Ms. Gorman: All I know ---

12 Detective Troxell: Go ahead, I'm sorry.

13 Ms. Gorman: If, if I shook him I, I can't, I
14 don't, Robert doesn't know, Robert doesn't know.

15 Detective Troxell: Why didn't you tell Robert?
16 Why not tell Robert in the car on the, when we're, when
17 you're driving back and it's an hour and a half drive and
18 you're trying to toss around and figure what happened but
19 you know what?

20 Ms. Gorman: You know what, when we drove we
21 really didn't talk, obviously we really, I mean we bits and
22 pieces because we just ---

23 Detective Troxell: Just so physically ---

24 Ms. Gorman: We needed ---

25 Detective Troxell: --- and mentally drained.

Detective Troxell - Direct Examination by Ms. Lively 809

1 Ms. Gorman: We needed a, you know, that was our
2 break. For the most part we were quiet, being quiet, you
3 know, might say something funny, you know, get a laugh here
4 and there because he, you know, he was frustrated because
5 the fact that when, when I, when we went to the hospital,
6 you know, went back to the hospital Tuesday night said that
7 we were going to the hotel and told the nurse, gave them
8 our cell phone numbers and everything but stop while you
9 were ahead, and then, and something about the father and
10 she goes, well his mother's already called and said she did
11 not want you guys here with Richard because of, there will
12 be confrontation and I say, Ma'am, I'm going to tell you
13 now, I said there will be no confrontation from us. If he
14 wants to be that way I'll leave because this isn't a place
15 to have a scene. This is, you know, ICU and, number one,
16 it's not about us, okay. That, that hurt Robert, you know,
17 and then when I got to the hospital Richard saw me. Richard
18 said that, you know, he debated on stopping and talk to me,
19 and Robert stayed at the hotel because he felt if he came
20 there might be a confrontation, you know. So he was, you
21 know, alleviating anything, you know, he didn't want to
22 walk in and you come charging him, you know, and Richard
23 said, he goes if I would of saw Robert he goes I would have
24 charged him. I would have and I was like that's why he
25 didn't come and I told Robert that and Robert's like I'm

Detective Troxell - Direct Examination by Ms. Lively 810

1 going home, you know, and I said, we'll go.

2 Detective Troxell: It's not the place for a
3 confrontation.

4 Ms. Gorman: You know and it's not, you know,
5 and I told him, I said, come pick me up from the hospital
6 and I'll go home with you and, you know, I'll get my car
7 and I can come back, you know, make sure Richard has
8 everything he needs, you know. I don't, I don't like
9 Richard, I don't and I'm very honest about that, you know.
10 I mean the whole time Cesalee was there just text messages
11 and, you know, she, he would tell her to "F" you and go to
12 hell, I want a divorce, you know, just back and forth, back
13 and forth between them and then he'd call my phone. He'd
14 text my phone, you know, and I'd have to sit there and, and
15 be the mediator in the middle. Leave her alone, you know,
16 you know she has problems, you know how she is, you know,
17 she's, she's going to flip and I said now, you know, we
18 don't want that.

19 When she pulled her stunt about, you know, going
20 out till 6:00 in the morning, 6:30, whatever time it was,
21 and then the next night doing it again. I called him and I
22 told him to shut up and listen and I said, you need to get
23 your wife and your young'un and you need to take them home
24 immediately is what I told him, and then after, you know,
25 as, and I was driving when I did this so I had left work

Detective Troxell - Cross Ex. by Ms. Graber-Lowenstein 811

1 and called. When I got home I, I took Cesalee outside,
2 just Cesalee and I had told her, and I wasn't yelling or
3 screaming because I had calmed down by now because, you
4 know, I was venting and then, you know, I went inside and
5 Robert says, you know, she can go but the baby can stay and
6 he goes and then he's, he's like, you know, she don't have
7 to go either, even though he was very hesitant to let her
8 come and, you know, and he was very hesitant, but it's my
9 daughter, you know, do the right thing, now look, look who
10 we are.

11 Detective Troxell: I know shit happens to good
12 people, Julia, but it's just how we take corrective action
13 to fix and atone for the bad thing. It'll get better, like
14 Weaver said we're here to, to help you. I mean we've been
15 beside you a hundred percent through this whole ordeal till
16 the end. We could have been the mean assholes like you
17 said after we talked on Tuesday and, but we were trying to
18 ---

19 Ms. Gorman: Sunday and Monday, I mean just
20 Monday it could have, and I know that.

21 Detective Troxell: Give me one second, I'll be
22 right back with you.

23 (Whereupon Detective Troxell exits the interview
24 room.)

25 Ms. Gorman: I don't think I did that either.

Detective Troxell - Cross Ex. by Ms. Graber-Lowenstein 812

1 I'm just, fuck it, say it, do whatever. No one's going to
2 go down with me, and I'm not going to let anyone else take
3 the fall.

4 Detective Weaver: Hey, Julie, can you come with
5 me? We're going to take a break for a little bit, all
6 right, I'm going to, I'm --

7 Ms. Gorman: Can I go outside and smoke a
8 cigarette?

9 Detective Weaver: --- going to get you in a
10 more comfortable place, In a little bit, I'll take you
11 out, get your purse.

12 Ms. Gorman: You dropped a paper down on the
13 ground.

14 Detective Weaver: I'll get that, no big deal.

15 (Whereupon, the playing of the video statement of
16 Julia Gorman is concluded.)

17 The Court: Ms. Lively?

18 Ms. Lively: No further questions of this
19 witness, Your Honor.

20 The Court: Mr. Galmore or Ms. Grabert-
21 Lowenstein?

22 Ms. Grabert-Lowenstein: Yes, if I could have
23 just a moment, Your Honor?

24 Cross Examination

25 By Ms. Grabert-Lowenstein:

Detective Troxell - Cross Ex. by Ms. Graber-Lowenstein 813

1 Q Detective Troxell, good afternoon.

2 A Good afternoon.

3 Q When you and Detective Weaver went to the
4 residence you had an opportunity to examine the entire area
5 around that residence; would that be correct?

6 A Yes, ma'am.

7 Q This is not in a mobile home park?

8 A No, ma'am.

9 Q Out in the country?

10 A Yes.

11 Q Large lot?

12 A Yes.

13 Ms. Grabert-Lowenstein: Okay, if I could have,
14 might we approach the witness, Your Honor, and for
15 counsel's edification what, Defense 1?

16 Q (Continuing) Do you recognize, I believe
17 you've already testified you recognize what's in that
18 picture?

19 A Yes, ma'am.

20 Q Did you measure that in any fashion?

21 A No, ma'am.

22 Q And but it is large?

23 A Yes.

24 Q Would it be an over estimate that from the
25 trailer to where this pine tree is is probably a quarter of

Detective Troxell - Cross Ex. by Ms. Graber-Lowenstein 814

1 a mile?

2 A I have no idea.

3 Q But it is, it is quite a distance?

4 A Yes.

5 Q Okay, when you did the interviews that we
6 just saw you had already spoken to Mr. Palmer?

7 A Yes, ma'am.

8 Q What kind of recording equipment did you
9 take with you?

10 A I took a, you talking about at MUSC?

11 Q I'm sorry, yes, at MUSC?

12 A I had a camcorder.

13 Q Did you have a regular tape recorder?

14 A No, ma'am.

15 Q Did you think it might be important to have
16 back up?

17 A That's all I had with me at the time; I
18 didn't have a back up recorder.

19 Q I'm confused because during the interview
20 with Ms. Gorman you indicated that your tape recorder
21 didn't work?

22 A That's what I was referring to was the
23 digital camera or the camcorder.

24 Q You didn't have any other back up on you?

25 A No, ma'am.

Detective Troxell - Cross Ex. by Ms. Graber-Lowenstein 815

1 Q Did Detective Weaver?

2 A No, ma'am.

3 Q You tried to do as thorough job as
4 possible?

5 A Yes, ma'am.

6 Q Would it have been thorough to have back up
7 and be able to present what his statements were from MUSC?

8 A I don't believe at the time the county had
9 issued us any other recording device other than that
10 camcorder.

11 Q That wasn't my question, would it have been
12 thorough to have a back up given the nature of the case?

13 A Had I had a back up available to me I would
14 have had it.

15 Q You went through the entire home?

16 A Yes, ma'am.

17 Q It was clean?

18 A Yes, ma'am.

19 Q Okay, there were lots of hard surfaces?

20 A Yes.

21 Q Okay, now when you interviewed Robert you
22 already had spoken to both of them at MUSC; did you have
23 information about his whereabouts on Friday night?

24 A No, ma'am.

25 Q You had no information?

Detective Troxell - Cross Ex. by Ms. Graber-Lowenstein 816

1 A Not to my recollection, no.

2 Q Okay, you did later find out that he wasn't
3 in the residence on Friday night?

4 A Yes, I believe he said in his interview he
5 was outside ended up going out with a friend or something.

6 Q Okay, and you, you uncovered no information
7 that would dispute that?

8 A No, I believe his friend was even spoken
9 to; I believe Detective Weaver may have interviewed his
10 friend and confirmed that.

11 Q And you guys were doing the case together?

12 A Yes, ma'am.

13 Q So you would know if that had been found to
14 be a false statement?

15 A I believe Detective Weaver would have
16 relayed that to me, yes.

17 Q And it was, that it was actually that he
18 had been out with a friend, correct?

19 A Yes, ma'am.

20 Q Okay, and during your interview, excuse me,
21 during your investigation did you run into anybody that
22 told you they saw Robert manhandle or mistreat Victim

23 A No, ma'am.

24 Q Anybody who said he hit him?

25 A No, ma'am.

Detective Troxell - Cross Ex. by Ms. Graber-Lowenstein 817

1 Q Anybody who said they had ever seen him do
2 that to any other child?

3 A No, ma'am.

4 Q You talked to him about his five year old
5 son, didn't you?

6 A Yes, ma'am.

7 Q And did he answer all your questions?

8 A Yes, ma'am.

9 Q Did he answer all your questions at MUSC?

10 A Yes, ma'am.

11 Q So he was totally cooperative during the
12 process of your investigation?

13 A Yes, ma'am.

14 Q Detective, if you were to ask me what you
15 had for breakfast this morning and I didn't know the answer
16 I'd have no way of knowing that, would I?

17 A Correct.

18 Q So if Mr. Palmer wasn't in the residence
19 when Julia shook, whatever else she may have done to
20 **Victim** he wouldn't have any knowledge of it, would he?

21 Ms. Lively: I would just object to speculation,
22 Your Honor.

23 The Court: I'll let him answer that question,
24 the answer is so obvious.

25 Ms. Lively: Yes, sir, thank you.

Detective Troxell - Cross Ex. by Ms. Graber-Lowenstein 818

1 The Witness: (Continuing)

2 A No, ma'am.

3 Q Okay, and you discovered no information to
4 repute him saying I was never told about any injury to

5 Victim

6 A No, ma'am.

7 Q You uncovered no information that indicated
8 that he was present when the injuries occurred, correct?

9 A Correct.

10 Q In fact during Ms. Gorman's interview she
11 indicated he was outside?

12 A I believe that was what was placed.

13 Q Did you ever follow up on that piece of
14 information?

15 A As I stated I believe Detective Weaver may
16 have confirmed that he was out with a friend.

17 Q Let me rephrase, she's talking about
18 Monday?

19 A Okay.

20 Q Did you ever follow up whether or not he
21 was inside the trailer when she was cooking dinner?

22 A There was no one else to follow up with; it
23 was just the two of them at home.

24 Q We watched you come in and out a lot during
25 the two interviews; were they both present at the station?

Detective Troxell - Cross Ex. by Ms. Graber-Lowenstein 819

1 A Yes, ma'am.

2 Q Okay, and would you have had an opportunity
3 prior to Robert's interview ending to ask him if he had
4 been outside ---

5 A We actually ---

6 Q --- on that Monday?

7 A Yes, ma'am, we could have.

8 Q You would have had that opportunity?

9 A Yes.

10 Q Did you take that opportunity?

11 A No, ma'am.

12 Q Do you think that was important?

13 A Yes.

14 Q Okay, you were trying to collect a complete
15 investigation of information, correct?

16 A Yes, ma'am.

17 Q And yet you didn't follow up on whether
18 Robert was outside or not?

19 A No, ma'am.

20 Ms. Graber-Lowenstein: If I would have just a
21 moment, Your Honor?

22 Q (Continuing) I do have a couple of
23 questions. Robert had no problem consenting to search of
24 the trailer, did he?

25 A No, ma'am.

Detective Troxell - Cross Ex. by Ms. Graber-Lowenstein 820

1 Q And when you interviewed them at MUSC I'd
2 like to just ask were they together or separate?

3 A Together.

4 Q Is it your practice to interview two
5 suspects together like that?

6 A They weren't suspects at that time, that
7 was the first initial interview I had conducted. We were
8 just gathering information.

9 Q Would it have assisted the integrity of the
10 investigation by separating them even at that point?

11 A Had they been suspects at that point, yes,
12 but they were not suspects.

13 Q Oh, that was my, my question was this,
14 Detective, would it have increased the integrity of the
15 investigation by separating them?

16 A At that point, no.

17 Q You didn't find any direct evidence in the
18 house of Mr. Palmer specifically being the one to inflict
19 any injuries, did you?

20 A No, ma'am.

21 Q In fact what did Ms. Gorman say about
22 whether or not he had inflicted any injuries?

23 A She insisted he had not.

24 Q She was adamant about that, wasn't she?

25 A Yes, ma'am.

Detective Troxell - Cross Examination by Mr. Galtmore 821

1 Ms. Grabert-Lowenstein: I have no further
2 questions.

3 Cross Examination

4 By Mr. Galtmore:

5 Q Detective Troxell, let's talk about this
6 interview that you conducted with Ms. Gorman, the
7 videotaped one, what was that, the 18th?

8 A Yes, sir.

9 Q Okay, and let's break it up, now there is a
10 point in that video that Ms. Gorman asked you if she could
11 take her medicine; is that correct?

12 A Yes, sir.

13 Q And what was your response to her?

14 A I believe I said, yes.

15 Q Well you said, yes, but then you said wait
16 a minute let me look at it?

17 A To make sure it was prescribed to her, yes.

18 Q Okay, to make sure it wasn't anything
19 illegal?

20 A Yes.

21 Q I think is what you said?

22 A Yes.

23 Q So you looked at it and was it prescribed
24 to her?

25 A Yes, sir.

Detective Troxell - Cross Examination by Mr. Galtore 822

1 Q Do you remember what the medication was?

2 A No, sir.

3 Q Now she was alone in the room before asking
4 you if she could take her medication; is that correct?

5 A Yes, sir.

6 Q And she had her purse and the medicine was
7 in the purse?

8 A Yes, sir.

9 Q She had an opportunity to take her
10 medication without asking you first?

11 A Yes, sir.

12 Q But she didn't, she asked for your
13 permission?

14 A Correct.

15 Q She also asked Detective Weaver on that
16 video if she could take her medication?

17 A Yes, sir.

18 Q And Detective Weaver told her, no, is that
19 correct?

20 A Yes, sir.

21 Q He didn't look at the bottle first to
22 figure out what it was before telling her no, did he?

23 A No, sir.

24 Q Out of hand he said, no, no medication; did
25 you write down what the medication was?

Detective Troxell - Cross Examination by Mr. Galmore 823

1 A No, sir.

2 Q But you did look at it?

3 A Yes.

4 Q You looked at the prescription bottle?

5 A Yes.

6 Q Do you remember what it wasn't?

7 A No, sir.

8 Q Do you recall if it was anything dangerous
9 like a poison or something?

10 A No, sir.

11 Q But the bottle did not say cyanide on the
12 side of it?

13 A No.

14 Q You sure about that?

15 A Positive.

16 Q Cause you would not have allowed her to
17 take it if it did?

18 A Correct.

19 Q Was it a prescription bottle or an over the
20 counter medication?

21 A From what I recall seeing the video it
22 appeared to be a prescription medication bottle.

23 Q Do you remember where the prescription came
24 from?

25 A No, sir, I remember nothing about the

Detective Troxell - Cross Examination by Mr. Galmore 824

1 bottle or the medication.

2 Q Do you remember if it was a controlled
3 substance or not?

4 A No, sir.

5 Q Do you think it would make a difference if
6 it were a controlled substance or not?

7 A No, sir.

8 Q So it's your testimony that if she took a
9 controlled substance that was prescribed to her it wouldn't
10 make a difference as far as the interview?

11 A No, sir, if it's prescribed by a doctor
12 then she's authorized to take it.

13 Q But Detective Weaver said, no, no
14 medication?

15 A Yes, sir.

16 Q You testified I don't remember, how long
17 have you been a police officer?

18 A Nine years.

19 Q I've bet you've done a lot of interviews in
20 nine years?

21 A Yes, sir.

22 Q Can you give the jury a ball park figure of
23 how many interviews you've done?

24 A No, countless.

25 Q At least a hundred?

Detective Troxell - Cross Examination by Mr. Galtmore 825

1 A Yes.

2 Q Way more than a hundred more than likely?

3 A More than likely.

4 Q Okay, is it a common occurrence for people
5 to take a break in the middle of an interview and ask to
6 take their medication?

7 A I can't say that's happened routinely, no.

8 Q It doesn't happen routinely, can you give
9 the jury a ball park figure on how often this would happen?

10 A Very few.

11 Q Less than five percent of the interviews
12 you've conducted?

13 A Probably so.

14 Q Okay, so you said you remember that it was
15 not dangerous, and you remember looking at it to make sure
16 that it had her name on the bottle?

17 A Yes, sir.

18 Q Can you remember anything else about the
19 medication?

20 A As I stated, Mr. Galtmore, no, sir, I
21 cannot.

22 Q Don't remember what it was?

23 A No, sir.

24 Q All right, well let's talk about how many
25 times you had an opportunity to speak to Ms. Gorman; when

Detective Troxell - Cross Examination by Mr. Galmore 826

1 was the first time you spoke with Ms. Gorman?

2 A At MUSC.

3 Q And that would have been on what date?

4 A The 15th.

5 Q Did you go to Conway Hospital on the 14th?

6 A No, sir, I did not.

7 Q Did Detective Weaver go to Conway Hospital?

8 A Yes, sir, he did.

9 Q So Detective Weaver had an opportunity to
10 speak with her on the 14th?

11 A Yes, sir.

12 Q Then you had an opportunity to speak with
13 her on the 15th?

14 A Yes, sir.

15 Q When Detective Weaver talked to her on the
16 14th did Ms. Gorman confess to this crime?

17 A Not to my knowledge.

18 Q When you talked to Ms. Gorman at MUSC on
19 the 15th, did she confess to you that she did it?

20 A No, sir.

21 Q Are you aware whether or not Yvette Brown
22 from DSS spoke with Ms. Gorman at MUSC?

23 A No, sir, I'm not aware, I learned that
24 through the testimony today but I was not aware prior.

25 Q So you don't know if Ms. Gorman talked to

Detective Troxell - Cross Examination by Mr. Galmore 827

1 her or not?

2 A No, sir.

3 Q Except from what you heard in court today?

4 A Yes.

5 Q Okay, did you talk to Ms. Gorman at work?

6 A No, sir.

7 Q Why didn't you do that?

8 A She wasn't at work through the course of
9 this investigation.

10 Q She had taken the time off?

11 A Yes, sir.

12 Q Okay, you talked to Ms. Gorman when you
13 went to the house?

14 A Briefly, yes.

15 Q And what date did you go out to the house?

16 A On the 16th.

17 Q And that's when you took all those
18 pictures?

19 A Yes, sir.

20 Q Measuring things?

21 A Yes, sir.

22 Q You took the picture of the stroller?

23 A Yes, sir.

24 Q And you took the picture of the dog?

25 A Yes, sir.

1 Q And the dog cage?

2 A Yes, sir.

3 Q And the steps?

4 A Yes, sir.

5 Q And the trampoline?

6 A Yes, sir.

7 Q Why were you taking all these pictures?

8 A Again to document the height of the items
9 inside the residence.

10 Q When you did the walk through at the house
11 on the 16th and you briefly talked to Ms. Gorman on the
12 16th, did she confess to you at that time?

13 A No, sir.

14 Q No, she did not, so now we come to the
15 18th?

16 A Yes, sir.

17 Q How long did you interview Mr. Palmer?

18 A I believe the video footage said it was
19 thirty nine minutes.

20 Q And how long did you interview Ms. Gorman?

21 A I believe the video footage said it was an
22 hour and thirty nine minutes.

23 Q And there was a break in the video, a time
24 where you all stepped out of the room and gave her --

25 A Yes, sir.

Detective Troxell - Cross Examination by Mr. Galmore 829

1 Q -- some time by herself, Ms. Gorman had a
2 book during that interview; is that correct?

3 A You're referring to the notebook?

4 Q The notebook?

5 A Yes, sir.

6 Q Yes, sir, did you read the notebook?

7 A No, sir.

8 Q No, so when you testified on direct that it
9 was a book that Ms. Gorman had where she took notes about
10 Cesalee you don't know that to be true?

11 A I believe she said that.

12 Q Okay, but you didn't read the book so you
13 don't know what was in it?

14 A Correct.

15 Q What did you do with the book?

16 A Nothing.

17 Q Okay, during the interview wasn't the book
18 taken from Ms. Gorman?

19 A I didn't take the notebook from Ms. Gorman.

20 Q Is it a standard police practice and
21 technique to take any items from a witness while doing an
22 interview?

23 A No, sir.

24 Q It's not, is it a standard police practice
25 and technique to conduct an interview at the police

Detective Troxell - Cross Examination by Mr. Galtore 830

1 station?

2 A Yes, sir.

3 Q Okay, and that's because you take a person
4 out of their comfort zone; is that correct?

5 A And also to document the interview.

6 Q Well you got a tape recorder you can
7 document it at MUSC, right?

8 A It malfunctioned.

9 Q But I mean you went out there with a tape
10 recorder?

11 A Yes, sir.

12 Q And you were conducting an interview right
13 up until it malfunctioned?

14 A Yes, sir.

15 Q And you were documenting an interview?

16 A Yes, sir.

17 Q And that interview was not at MUS, was not
18 at the, at the M.L. Brown building?

19 A Yes, sir.

20 Q Okay, so it is a standard police technique
21 to interview people at the police station?

22 A Yes, sir.

23 Q And that's because it takes a person of his
24 comfort zone?

25 A Yes, sir.

Detective Troxell - Cross Examination by Mr. Galmore 831

1 Q It's a lot better than interviewing the
2 person in his or her home?

3 A Yes, sir.

4 Q Isn't it also true that it is a standard
5 police technique to take any items from a person to take
6 them out of their comfort zone?

7 A I can't explain why the notebook was taken,
8 I, her purse was left there as well so that would go to
9 that statement as well.

10 Q Okay, do you know where the book is now?

11 A No, sir.

12 Q Was the book taken into evidence?

13 A I do not believe so.

14 Q You're the person that collects evidence?

15 A I didn't collect that piece of evidence; it
16 wasn't evidence for me.

17 Q And your partner did he collect the
18 evidence?

19 A I see no evidence sheet in his case file so
20 I can say, assume no.

21 Q So this notebook has disappeared?

22 A Yes, sir.

23 Q All right, so you take her down to the
24 police station for an interview; that's correct?

25 A Yes, sir.

Detective Troxell - Cross Examination by Mr. Galtore 832

1 Q And for the first hour or so she doesn't
2 say anything?

3 A Yes, sir.

4 Q And you and Detective Weaver suggest to her
5 that maybe it was an accident?

6 A Yes, sir.

7 Q And you suggested that multiple times?

8 A Yes, sir.

9 Q Would it be fair to say that you repeatedly
10 suggested that maybe it was an accident?

11 A Yes, sir.

12 Q When you made the suggestion repeatedly
13 that it was an accident before she took this medication did
14 she give you a confession?

15 A No, sir.

16 Q You suggested to Ms. Gorman during the
17 interview that she was going to jail, right?

18 A Yes, sir.

19 Q You suggested that more than once?

20 A Yes, sir.

21 Q When you made those suggestions prior to
22 Ms. Gorman taking this pill did she give you a confession?

23 A No, sir.

24 Q During the interview you showed her these
25 baby pictures from the hospital, correct?

Detective Troxell - Cross Examination by Mr. Galtmore 833

1 A Yes, sir.

2 Q And you told her we're going to the
3 autopsy, we're going to get the skull and be able to look
4 at it; is that ---

5 A Yes, sir.

6 Q --- a fair representation of what was said?

7 A Yes, sir.

8 Q And again prior to her taking this pill she
9 did not give you any type of confession?

10 A Correct.

11 Q If I suggested to you that the pill was
12 Zanax would you remember having looked at the bottle?

13 A No, sir.

14 Q But you do admit that you looked at the
15 bottle?

16 A Yes.

17 Q Did you look at the name of the pill?

18 A No, sir.

19 Q Okay, you didn't even look at the name you
20 just made sure it said Julie Gorman on it?

21 A Yes, sir.

22 Q Well how did you know it wasn't cyanide
23 then?

24 Ms. Lively: Your Honor, I'd just object to the
25 defense really kind of beating a dead horse.

Detective Troxell - Cross Examination by Mr. Galmore 834

1 The Court: If you really, really think that's a
2 legitimate question repeat it and let him answer it?

3 Mr. Galmore: We'll let it go, we'll let it go.

4 Q (Continuing) You talked to the doctors on
5 the 15th at MUSC; is that correct?

6 A Yes, sir.

7 Q And Detective Weaver talked to the doctors
8 at Conway Hospital on the 14th?

9 A Yes, sir.

10 Q And he also spoke with the doctors at MUSC
11 on the 15th?

12 A Yes, sir.

13 Q They provided for you a diagnosis of blunt
14 force trauma to the head?

15 A Yes, sir.

16 Q There's a point in this interview when you
17 bring in a leprechaun and you give it to Ms. Gorman and ask
18 her how she shook the baby; is that correct?

19 A Yes, sir.

20 Q At the time you asked her how she shook the
21 baby is it fair to say that you were aware that his cause
22 of death was blunt force trauma to the head?

23 A Yes, sir.

24 Q Would it be fair to say that shaking the
25 baby in and of itself could not cause blunt force trauma to

Detective Troxell - Cross Examination by Mr. Galmore 835

1 the head?

2 Ms. Lively: Objection, Your Honor, asked for a
3 medical conclusion, he's not an expert, could have asked
4 that to any of the medical experts, Your Honor, I'd object.

5 The Court: Sustained.

6 Ms. Lively: Thank you, Your Honor.

7 Mr. Galmore: (Continuing)

8 Q Subsequent to Ms. Gorman taking this pill
9 did you ask her to provide you a written confession?

10 A No, sir.

11 Q Did you ask Ms. Gorman to do a walk through
12 of the home on Highway 129?

13 A No, sir.

14 Q To show you exactly what happened?

15 A No, sir.

16 Q Did you ask Ms. Gorman to perform any type
17 of re-enactment of these alleged injuries?

18 A That would be the demonstration with the
19 leprechaun, that was the purpose of that.

20 Q That would, so you're saying that was the
21 re-enactment of what happened to Victim

22 A To demonstrate how she, yes, sir, how she
23 had shaken Victim

24 Q When you walked through the home did you
25 find any surfaces that had hair or blood on them?

Detective Troxell - Cross Examination by Mr. Galtore 836

1 A No, sir.

2 Q Any surfaces that had skin on them?

3 A No, sir.

4 Q Did you find any object in the home that
5 had hair or blood?

6 A No, sir.

7 Q Any object that had skin?

8 A No, sir.

9 Q Did you find any type of instrumentality
10 that might have been used to inflict these wounds?

11 A No, sir.

12 Q Did you ask Ms. Gorman where's the weapon?

13 A No, sir, that was not a suggestion they
14 offered up for the explanation of Victim injuries.

15 Q Now you asked Ms. Gorman to come in and
16 talk with you, right?

17 A Yes, sir.

18 Q Did she have the right to not come in and
19 talk with you?

20 A Yes, sir.

21 Q Did you tell her that?

22 A No, sir.

23 Q I mean I saw the interview with Mr. Palmer
24 and, you know, you said you have the right to stop
25 questioning at any time, are you on any narcotics,

Detective Troxell - Cross Examination by Mr. Galtore 837

1 questions like that, did you ask those same questions of
2 Ms. Gorman?

3 A She was advised of these same Miranda
4 rights, yes.

5 Q So she was aware that she did not have to
6 speak to you?

7 A Yes, sir.

8 Q Isn't it true that Ms. Gorman was trying to
9 offer you various explanations of what could have happened
10 to Victim

11 A No, sir.

12 Q She told you that she didn't think Robert
13 would have had anything to do with it?

14 A That's correct.

15 Q And she explained to you that she thought
16 maybe the dog had something to do with it?

17 A That and the stroller.

18 Q And the stroller, yes, and your testimony
19 is that medically from what you heard from the doctors that
20 those could not have been possible explanations?

21 A That is correct.

22 Q And after you asked her is it possible that
23 you did it, she then explored that possibility with you?

24 A Yes, sir.

25 Q Now you drove some distance from the house

Detective Troxell - Cross Examination by Mr. Galtmore 838

1 on Highway 129 to the IGA at the request of the Solicitor;
2 is that correct?

3 A Yes, sir.

4 Q And you said it took you how long?

5 A Three minutes and forty seconds.

6 Q Okay, and what was the distance?

7 A One point eight miles.

8 Q Okay, well did you drive the distance from
9 Bass Pro Shops to the house on 129?

10 A No, sir.

11 Q Did you drive the distance from the video
12 store in Aynor to the house on Highway 129?

13 A No, sir.

14 Mr. Galtmore: The Court's indulgence, Your
15 Honor?

16 Q (Continuing) Did you testify before the
17 grand jury in this case?

18 A No, sir.

19 Q Do you know who did testify before the
20 grand jury?

21 A No, sir.

22 Q Do you know if it was Detective Weaver?

23 A No, sir, I can explain our, our practice
24 for who testifies to the grand jury if you would like?

25 Q Yes, sir?

1 A We have a rotational system of detectives
2 that present all our cases to the grand jury and whoever
3 happens to be on rotation that month presents the cases to
4 the grand jury.

5 Q So it may not have even been a detective
6 involved in this case that testified before the grand jury?

7 A That's correct.

8 Q Do you know how many times this detective
9 has testified before the grand jury?

10 A It depends on each individual detective and
11 their experience.

12 Q But no case did you ever testify before the
13 grand jury in this case?

14 A No, sir, I have not.

15 Mr. Galmore: Thank you, Detective, no further
16 questions.

17 The Court: Ms. Lively?

18 Ms. Lively: Your Honor, at this time I just for
19 the record want to make sure we had discussed the matter
20 regarding the Miranda forms which the Clerk actually ---

21 The Court: And we have stipulated when the
22 Clerk retrieves them from my file from the October 31st
23 hearing they will be introduced.

24 Ms. Lively: If I may approach?

25 The Court: They'll be shifted from that file

1 into this file as State's Numbers, the next consecutive
2 numbers, and that was with Mr. Galmore and Ms. Grabert-
3 Lowenstein --

4 Madam Court Reporter: That would be 66 and 67.

5 The Court: 56 and 57.

6 Madam Court Reporter: Sixty-six.

7 Ms. Lively: Sixty-six.

8 The Court: And 67.

9 Ms. Lively: Your Honor, then at this time as I
10 stated those will be in evidence on behalf of the State the
11 Miranda forms of both of the defendants that Detective
12 Troxell has testified to, and based upon the fact that I
13 have no further questions for this witness I would ask that
14 he be excused.

15 (Whereupon, State's Exhibit Number 66 and 67
16 entered into evidence.)

17 The Court: Wait a minute, does Ms. Grabert-
18 Lowenstein, did you have another question?

19 Ms. Grabert-Lowenstein: I don't, Your Honor,
20 thank you.

21 The Court: All right, very well, all right, any
22 objection to excusing this witness, Mr. Galmore?

23 Mr. Galmore: No, sir.

24 The Court: Ms. Grabert-Lowenstein?

25 Ms. Grabert-Lowenstein: No, Your Honor, thank

1 you.

2 The Court: All right, Detective Troxell, you're
3 excused and released from your subpoena.

4 A Thank you, Your Honor.

5 The Court: Thank you for coming. Yes, ma'am?

6 Ms. Lively: Yes, sir, Your Honor, at this time
7 the State rests.

8 The Court: All right, Mr. Ropp, take the jury
9 out. Please leave the transcripts.

10 (Whereupon, the jury retired to the jury room at
11 4:10 p.m.)

12 The Court: All right, counsel?

13 Mr. Galmore: Your Honor, as a threshold matter
14 I would move to dismiss. I don't believe the State has
15 established jurisdiction in this case. Detective Troxell
16 did not testify that this injury was inflicted in Horry
17 County.

18 The Court: Well they both testified that it
19 occurred on Highway 129 in here and that is Horry County.
20 The EMS responded, Horry County EMS, they've testified as
21 to the location where they found the child. I think
22 they've established, sufficiently established jurisdiction.

23 Mr. Galmore: Respectfully, Your Honor, I'm not
24 sure exactly how long Highway 129 is or whether it crosses
25 into any other county. I understand that this case is

1 somewhere in the Aynor area.

2 The Court: Well it's one point three miles from
3 the Aynor IGA, Mr. Galmore.

4 Mr. Galmore: And there is the border between
5 Marion County and Horry County.

6 The Court: It's not within one point three
7 miles, you've got Galivants Ferry in there. It's one point
8 three miles and Galivants Ferry community, where it's been
9 testified this, this, this family lived is certainly within
10 Horry County.

11 Mr. Galmore: Yes, sir, I just thought that the
12 State had to establish each element of the offense.

13 The Court: Galivants Ferry is this side of the
14 river.

15 Mr. Galmore: I'm sorry?

16 The Court: Galivants Ferry is the Horry County
17 side of the river.

18 Mr. Galmore: Yes, sir, we would respectfully
19 take exception with the ruling in that regard.

20 The Court: All right.

21 Mr. Galmore: Your Honor, at this time we would
22 make a motion for a directed verdict as well. The Court is
23 familiar with the standard for directed verdict. We would
24 submit that in this case directed verdict should be granted
25 when the State fails to produce evidence of the offense

1 charged.

2 The Court: Isn't the standard any evidence upon
3 which a jury could reasonably find a verdict of guilty
4 beyond a reasonable doubt; isn't that the standard?

5 Mr. Galmore: It has to be any direct evidence
6 or substantial circumstantial evidence. In this case I
7 don't believe the State has produced any direct evidence of
8 Ms., Ms. Gorman's involvement in this case. They've
9 established that an injury was inflicted upon Victim
10 Grimes; they have not established, they have not connected
11 that injury to Ms. Gorman. What they've done is said, well
12 statistically we're the only two people who could have done
13 it but they have not produced any evidence that said either
14 he is the person that inflicted this injury or she was the
15 person that inflicted this injury.

16 The Court: How about the evidence of shaking?

17 Mr. Galmore: Well that's, that's kind of
18 questionable because we, we know that shaking was not the
19 cause of death in this case.

20 The Court: How about the co-defendant's
21 statement that he didn't do it?

22 Mr. Galmore: That's good to know.

23 The Court: Doesn't that leave enough evidence
24 at least pointing circumstantial evidence pointing to her,
25 heard evidence it could have only been two people.

1 Mr. Galtmore: My client likewise said she didn't
2 do it.

3 The Court: That's correct.

4 Mr. Galtmore: And the detective specifically
5 asked well how soon after you shook him did you pick him up
6 and he started having a seizure and the answer was I didn't
7 shake him on Monday.

8 The Court: But isn't that what jury's are for,
9 Mr. Galtmore, to make findings of fact?

10 Mr. Galtmore: Well I think the first thing we
11 need to establish is whether or not there's any direct
12 evidence in this case and I submit that there is none.

13 The Court: All right, thank you, I'll hear from
14 you, Ms. Lively?

15 Ms. Lively: Yes, sir, Your Honor, clearly in
16 looking at a directed verdict motion the Court is to look
17 at all the evidence in the light most favorable to the
18 State and in this particular circumstance just like in the
19 State v. Smith in cases where we have two alleged
20 perpetrators and who are alone with a victim and the victim
21 is dead under those circumstances we would place both of
22 those defendants there. Clearly they backed each other up
23 in their stories; clearly the evidence, the medical
24 evidence shows that these symptomatic, the symptoms of the
25 child would have been immediate and both of these people

1 were there and had the child in their case, so based upon
2 that information plus the information that the child was
3 bruised, you know, Defendant Gorman claims that he was
4 pinching himself, the jury can clearly draw a conclusion
5 based upon the entire picture of the evidence that these
6 defendants were involved and the way that the, or either
7 one or the other inflicted the injury. And the problem
8 with these cases, Your Honor, as I stated in my opening,
9 was that we don't have direct evidence necessarily as to
10 who inflicted the blow; however, the homicide by child
11 abuse statute is very clear as it could be whether they
12 acted or failed to act and that there was an act that was
13 inflicted on the child with extreme indifference to human
14 life which every single one of my medical experts said that
15 this act that was inflicted on this child would have been
16 so obvious to the perpetrator the child would have been
17 immediately symptomatic, they would have known it was
18 dangerous to the life of the child. We have two people who
19 were there, clearly in a very short time frame before the
20 child became symptomatic and then was brought to the E.R.
21 already practically brain dead, so I would submit to you
22 that there is a mountain of circumstantial evidence that
23 the State has been able to present to the Court as well as
24 to this jury for it to go to the jury.

25 The Court: Mr. Galmore, there is ample evidence

1 that there was a homicide in this case. The State's case,
2 the State has produced likewise a substantial amount of
3 circumstantial evidence that really puts forth just in my
4 view two scenarios. Number one, that Mr. Palmer injured
5 the child and the child was unconscious when Ms. Gorman
6 came home and she found him that way. Other ---

7 Mr. Galmore: That doesn't mean she failed to
8 act, Judge.

9 The Court: Other, other that Ms., the other is
10 that Ms. Palmer came home and the child was as Mr. Palmer
11 said, or Ms. Gorman came home and as Mr. Palmer said the
12 child was fine and that she injured the child, who knows, I
13 don't right now, but that's what a jury is for and I think
14 this should go to the jury. Ms. Grabert-Lowenstein?

15 Ms. Grabert-Lowenstein: Your Honor, and if I
16 may because this is an important situation, I am not, I am
17 making my own separate motion for a directed verdict and,
18 Your Honor, I have prepared a written motion. I think,
19 frankly, Your Honor, you've hit it on the head, there has
20 to be substantial evidence and ---

21 The Court: Or both could have been involved in
22 it, so there's three scenarios.

23 Ms. Grabert-Lowenstein: Your Honor, what we
24 know is this did happen in a short time frame. What we
25 know is that Mr. Palmer has, if I may, has always denied

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1 any evidence. There's no direct or circumstantial evidence
2 of him committing the injury and Ms. Galtore [sic], Ms.
3 Gorman had always said he didn't do it, she never told him
4 of anything. Your Honor, there is such a weak, weak string
5 here that the State wants to drag him along.

6 There is evidence that he was outside and, and no
7 other evidence that he knew or was involved at all. How
8 can we when we're looking for a willful disregard say that
9 there was willful disregard here? This man was part in
10 getting this child to the doctor. The evidence is that
11 there were no bruises when the emergency people picked him
12 up. The first bruises weren't seen until seven, according
13 to the testimony. There's no evidence that he had any
14 knowledge of that child being injured. Ms. Gorman is
15 emphatic about him having more patience. We have seen the
16 demonstration of her as well as her own testimony about her
17 propensity and, Your Honor, it was only for lack of being
18 able to give information he didn't have that he was
19 arrested that day. There is absolutely no, it has to be
20 substantial circumstantial evidence and there's no direct
21 or substantial circumstantial evidence. He is in a
22 completely different situation than Ms. Gorman and we ask
23 for the directed verdict.

24 The Court: Ms. Grabert-Lowenstein, what about
25 this scenario, there's no question there's ample evidence

1 of his death by, brought on by these fractures. We've
2 heard evidence about what force it would take to cause
3 these fractures. We've heard a lot of evidence about when
4 this occurred, the time frame in which it occurred. Now
5 we've heard Ms. Gorman who first of all says he wouldn't do
6 that, but as you pointed out with your questions on cross
7 examination how would she know, how would someone who
8 wasn't there know? She says she came home after having
9 been at work since 5:45 that morning, she came to the
10 house, she did not touch the child. She had no contact
11 with the child other than to look in on the child and then
12 at 6:00 or approximately 6:00 when she picks the child up
13 the child is afflicted. Now what is that evidence of?
14 Does that not support a, a jury's verdict that would, of
15 guilt of your client? What if they believe her when she
16 says all I did was stick my head in, in fact believe your
17 client when he says that's all she did was stick her head
18 in, she goes in and picks up the child and comes out. I
19 think that there is substantial circumstantial evidence. I
20 don't know how this case will go, that's why we have
21 juries.

22 Ms. Grabert-Lowenstein: Your Honor, I think
23 given the evidence of the symptomology certainly and how
24 quickly Donna Roberts, Dr. Abel say these injuries would
25 have happened there would have been symptomology if this

1 had occurred prior to the time that it is said she got
2 home.

3 The Court: Didn't she testify someone could
4 look in and the child be unconscious and he could appear to
5 be asleep, sleeping peacefully, but in reality the child
6 was unconscious; how about that?

7 Ms. Grabert-Lowenstein: Your Honor, there's --

8 The Court: Did you counter that testimony with
9 an expert?

10 Ms. Grabert-Lowenstein: She did say that this
11 could have happened within an hour. The point is, Your
12 Honor, that the State made great pains at, you know, making
13 this as short as possible and that's the time that my
14 client was out of the house; that's the point of the
15 directed verdict at this point. There is no evidence to
16 show that he inflicted the injury. His interview is
17 replete that Detectives Weaver and Troxell because of
18 information they had believed that it was Julia Gorman.
19 There has to be, there's just no evidence that he had
20 anything to do with it and while I understand the point the
21 Court's making to allow this to go to the jury without the
22 substantial circumstantial evidence --

23 The Court: There is substantial circumstantial
24 evidence in my view, all right, thank you very much.

25 Ms. Grabert-Lowenstein: Thank you.

1 The Court: All right, we'll take about five
2 minutes for everyone to refresh themselves and we'll be
3 right back, okay.

4 (Whereupon, a recess was taken and the following
5 takes place on the record after the recess.)

6 The Court: Are we ready?

7 Ms. Lively: Your Honor, Mr. Galmore is not
8 present at this time. Here he comes.

9 The Court: Okay, Mr. Galmore, Ms. Grabert-
10 Lowenstein, it's time to present the defense if you choose
11 to do so. Have you discussed with your client, Mr.
12 Galmore, her right to testify in this matter?

13 Mr. Galmore: Yes, sir, Your Honor.

14 The Court: Has she made a decision as to
15 whether she will testify or not?

16 Mr. Galmore: Yes, sir.

17 The Court: And what is that decision?

18 Mr. Galmore: She will elect to take the witness
19 stand.

20 The Court: Ms. Grabert-Lowenstein?

21 Ms. Grabert-Lowenstein: Your Honor, I have
22 discussed it, I've discussed it many times with my client.
23 I would ask that I have one other opportunity to consult
24 with him prior to making that final decision. He's not
25 made a decision at this point.

Ms. Robertson - Direct Ex. by Ms. Graber-Lowenstein 856

1 have all of our jurors and the alternate back in the
2 courtroom. All right, the defense?

3 Ms. Grabert-Lowenstein: Yes, Your Honor, on
4 behalf of Mr. Palmer our first witness will be Adrian
5 Robertson and she should be right outside.

6 **Adrian Robertson**

7 **being first duly sworn, testified as follows:**

8 Madam Clerk: Please state your full name and
9 spell your last name for the Court?

10 The Witness: My name is Adrian Robertson, r-o-
11 b-e-r-t-s-o-n.

12 **Direct Examination**

13 **By Ms. Grabert-Lowenstein:**

14 Q Adrian, do you know Robert Palmer?

15 A Yes, ma'am, I do.

16 Q Is he sitting in the courtroom?

17 A Yes, ma'am, he is.

18 Q Where?

19 A Right there.

20 Ms. Grabert-Lowenstein: Let the record reflect
21 she's identified Mr. Palmer.

22 Q (Continuing) How do you know him?

23 A His sister Alicia has kept my daughter and
24 through the Palmer family I've met Robert.

25 Q Okay, do you know the rest of his family

Ms. Robertson - Direct Ex. by Ms. Graber-Lowenstein 857

1 besides Alicia?

2 A Yes, ma'am, I do.

3 Q Okay, and when did you first meet him?

4 A I met Robert in, at the end of '04 or the
5 beginning of '05.

6 Q Okay, was that when he returned to Horry
7 County from being discharged, honorably discharged from the
8 Navy?

9 A No, ma'am, he was still in the Navy at the
10 time.

11 Q Okay, and have you remained in contact with
12 him since he has moved back to Horry County?

13 A Yes, ma'am, he works with me.

14 Q Okay, and where do you work?

15 A I work at the Horry Independent.

16 Q Thank you, and is he, is he employed there
17 also?

18 A Yes, ma'am, he is.

19 Q Okay, now, ma'am, do you have children?

20 A Yes, ma'am, I do.

21 Q And tell us how many?

22 A I have three girls, eleven, five, and nine
23 months.

24 Q Okay, and what is the eleven-year-olds
25 name?

Ms. Robertson - Direct Ex. by Ms. Graber-Lowenstein 858

1 A Her name is Caroline.

2 Mr. Galmore: Objection, relevance, Your Honor.

3 The Court: Mr. Galmore, I'm going to give her
4 some leeway here.

5 Mr. Galmore: Yes, sir.

6 Ms. Grabert-Lowenstein: I'll link it up, Your
7 Honor, thank you.

8 Q (Continuing) How old is she?

9 A She's eleven.

10 Q And I'm sorry, what was her name?

11 A Her name is Caroline.

12 Q Okay, and have you seen Robert interact
13 with Caroline?

14 A Yes, ma'am, I have.

15 Q Have you seen him interact with her at your
16 employment?

17 A Yes, ma'am, I have.

18 Q How does he interact with her?

19 A He's warm, he's gentle, he's nice, he's
20 caring with Caroline.

21 Q Would you describe Caroline?

22 A She's an eleven-year-old that is non
23 verbal. She has seizures and she has mental and physical
24 disabilities.

25 Q And you said she's non verbal?

Ms. Robertson - Direct Ex. by Ms. Graber-Lowenstein

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1 A Yes, ma'am, she is.

2 Q Would you have any hesitation in letting
3 Robert be around your daughter?

4 A No, ma'am, I do not.

5 Q Be alone with your daughter?

6 A No, ma'am, I do not.

7 Q Now your next oldest is how old?

8 A She's five.

9 Q And what's her name?

10 A Her name is Callie.

11 Q And has Robert been around Callie?

12 A Yes, ma'am, she has.

13 Q And tell me on how many occasions?

14 A Callie is at the office every day so Robert
15 gets to see her pretty much every day.

16 Q Okay, would you describe any interaction
17 between the two of them?

18 A He laughs, plays, jokes around, is warm,
19 just very, very kind to Callie as well.

20 Q Would you have any hesitation in having him
21 around Callie?

22 A No, ma'am, I wouldn't.

23 Q Your youngest is nine months old?

24 A Yes, ma'am.

25 Q How old is she?

Ms. Robertson - Cross Examination by Mr. Galmore

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1 A She's nine months.

2 The Court: She's nine months.

3 Ms. Grabert-Lowenstein: (Continuing)

4 Q I'm sorry, what is her name, excuse me, and
5 what's her name?

6 A Her name is Carlie.

7 Q Okay, and has Robert been around Carlie?

8 A Yes, ma'am, she's at the office with me
9 every day.

10 Q Okay, on how many occasions would you say?

11 A Probably, she's been at the office since
12 she was two weeks old.

13 Q Okay, any hesitation in having Robert
14 around her?

15 A No, ma'am, I don't.

16 Q And leaving Carlie alone with him?

17 A I don't have a problem with that, no,
18 ma'am.

19 Ms. Grabert-Lowenstein: If I could have just a
20 second, Your Honor?

21 No further questions, Your Honor.

22 The Court: Mr. Galmore?

23 Cross Examination

24 By Mr. Galmore:

25 Q Ms. Robertson, would it be fair to say that

Ms. Robertson - Cross Examination by Mr. Galtmore

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1 you are a friend of Mr. Palmer's?

2 A Yes, sir, it would be.

3 Q Would you help him if you could?

4 A No, sir, I would not.

5 Q You are here as his friend, though?

6 A Yes, sir, I am.

7 Q You wouldn't lie for him in Court, would
8 you?

9 A No, I would not.

10 Q And how long have you all been friends?

11 A Since the end of '04 or the beginning of
12 '05.

13 Q And I think you testified that you all work
14 together?

15 A Yes, sir, we do.

16 Q So you know him from your work environment?

17 A I know him from the work environment and
18 also on a friend, a friend environment as well. I mean
19 I've, it's just not work that I, that I've known Robert
20 from.

21 Q Well let's talk about work environment
22 first, do you know other people at work who know Mr. Palmer
23 also?

24 A Yes, sir, I know other people that know
25 Robert.

Mr. James Palmer - Dir. Ex. by Ms. Graber-Lowenstein 862

1 Q Okay, do these people discuss his
2 reputation for gentleness with children?

3 A I guess in regards to the circumstances
4 that Robert is under we have discussed that as well.

5 Q Would it surprise you to know that Mr.
6 Palmer does not currently have custody of his own child?

7 A I know that, sir.

8 Mr. Galmore: Thank you very much, ma'am, no
9 further questions.

10 The Court: Ms. Lively?

11 Ms. Lively: One moment, Your Honor. No
12 questions, Your Honor, thank you.

13 The Court: You may step down, may she be
14 released?

15 Ms. Lively: I didn't subpoena her, I don't
16 object.

17 The Court: I mean, Mr. Galmore?

18 Mr. Galmore: No, I have no objection.

19 Ms. Grabert-Lowenstein: No objection.

20 The Court: Thank you for coming and you're
21 released from your subpoena.

22 Ms. Grabert-Lowenstein: Your Honor, James
23 Palmer.

24 The Court: James Palmer, okay.

25 Ms. Grabert-Lowenstein: He should be right.

Mr. James Palmer - Dir. Ex. by Ms. Graber-Lowenstein 863

1 outside also.

2 The Court: Mr. Palmer, come around and be
3 sworn, please.

4 James E. Palmer

5 being first duly sworn, testified as follows:

6 Madam Clerk: Please state your full name and
7 spell your last name for the Court?

8 The Witness: James Earl Palmer, p-a-l-m-e-r.

9 Direct Examination

10 By Ms. Grabert-Lowenstein:

11 Q Sir, do you know Robert Palmer?

12 A Yes, I do.

13 Q What is your relationship to him?

14 A He's my son.

15 Q And are you familiar with Victim

16 A Yes, I am.

17 Q And how many times did you see Victim

18 Victim after he came to Horry County?

19 A One time.

20 Q And when was that?

21 A That Sunday.

22 Q And when you say that Sunday would that be
23 the 13th ---

24 A Yes.

25 Q --- of July of 2008?

Mr. James Palmer - Dir. Ex. by Ms. Graber-Lowenstein 864

1 A Yes, it was.

2 Q Okay, and how did you have occasion to see
3 him on that date?

4 A On that occasion Julie had the only one
5 vehicle they had and she was at work. Robert wanted to
6 bring Victim over to the house to eat and take him to the
7 swimming pool.

8 Q Okay, and did you invite Victim Ms.
9 Gorman, and Robert over?

10 A Well like I say it was just Victim and
11 Robert and Gail did all the talking, all I did was just go
12 pick them up.

13 Q Okay, and when you picked them up where was
14 Robert in terms of their residence?

15 A Well Gail told me that they would be
16 standing on the front porch cause they had moved and I
17 didn't know where they were at the time so he said he'd be
18 standing on the porch and I drove down the road and I
19 looked to the right and Robert was on the porch standing
20 there holding Victim hand.

21 Q And how was Victim dressed?

22 A He was dressed in a little bulldog outfit
23 that used to be my grandson's so I recognized it right off
24 and he was just standing there on the steps.

25 Q And was Robert appearing to have any

Mr. James Palmer - Dir. Ex. by Ms. Graber-Lowenstein 865

1 difficulty with him?

2 A Robert picked him up, brought him out to
3 the Xtera, put him in the back seat because he's small and
4 he had to be put in a child restraint seat, and he was a
5 little fussy but didn't cry or nothing so it seemed like it
6 was taken for a long time so I wheeled around and looked
7 real quick and I asked him have you got him fastened in
8 yet. Well by that time Victim looked up at me and started
9 crying and I said, I apologize, I said, I'm sorry, little
10 fellow, I didn't mean to scare you none but he just kind of
11 whimpered for a minute or two and quit.

12 Q Did Robert display any angst over that
13 whimpering?

14 A No, no, he didn't say a thing.

15 Q Okay, and they then went to your house?

16 A Yes.

17 Q Was Victim changed into swim trunks at some
18 point?

19 A He was changed in the house before he went.
20 Well since Robert is a guest I'd have to go to the pool
21 with them since Gail was cooking, so I waited till Robert
22 changed him and me, him, my grandson, and Aydian went over
23 to the swimming pool.

24 Q How old was your grandson at that time?

25 A Eight, he had to be five.

Mr. James Palmer - Dir. Ex. by Ms. Graber-Lowenstein 866

1 Q And what is his name?

2 A Dylan Palmer.

3 Q Okay, and did you observe them while they
4 were at the pool?

5 A I observed them when they got dressed in
6 his little bathing suit and then Robert picked him up and
7 carried him over to the pool. I grabbed some toys and
8 floats to carry over there with us.

9 Q And did Robert have any difficulty with
10 Victim at the pool?

11 A No, no.

12 Q Did Victim have, appear to have fun?

13 A Yes, he, he was in the water, you know,
14 his, he was kind of a little lethargic, you know, but, you
15 know, I heard he had been sick, you know, so I didn't think
16 nothing of it, you know.

17 Q Okay, and did you, all of you go back to
18 your residence ---

19 A Yes.

20 Q --- after you were at the pool?

21 A Yes.

22 Q Okay, did Robert feed Victim over at your
23 house?

24 A I believe he tried to eat something over at
25 house, yes.

Mr. James Palmer - Dir. Ex. by Ms. Graber-Lowenstein 867

1 Q Okay, was there any difficulty when Robert
2 was trying to do that?

3 A No, no.

4 Q Now you mentioned that you have a grandson
5 who was five at that time; did you ever have occasion to
6 observe your son with Dylan, his son, when he was the same
7 age as Victim

8 A Yes.

9 Q How, how did they interact?

10 A Fine. Robert's just a good nature, he's
11 never raised his voice to Dylan.

12 Q Did you ever seen him hit Dylan?

13 A No.

14 Q Are you close to Dylan?

15 A Yes.

16 Q Dylan ever confide in you that his father
17 was being rough or hitting?

18 A No, never.

19 Q I asked you specifically about when Dylan
20 was Victim age, but since that time do you on a regular
21 basis get to see Robert interact with Dylan?

22 A Yes.

23 Q And describe that interaction?

24 A Typical father and son.

25 Q Warm relationship?

Mr. James Palmer - Dir. Ex. by Ms. Graber-Lowenstein 868

1 A Yeah, yes.

2 Q Did, has Robert ever been frustrated when
3 trying to take care of, of Dylan?

4 A No, no.

5 Q When you, did you have a chance to observe
6 Victim in his bathing suit?

7 A Yes.

8 Q How would you describe his skin tone?

9 A Well when Robert was putting on the sun
10 screen I noticed he was extremely white.

11 Q Okay, and did you observe any bruises?

12 A No.

13 Q Mr. Palmer, you've taken an oath today;
14 what does that mean to you?

15 A Means I'm going to tell the truth.

16 Q Now you're aware your son is facing very
17 serious charges?

18 A Yes, I am.

19 Q Would you lie to help him?

20 A So far I have.

21 Q I'm sorry?

22 A Yes, I have.

23 Q No, I said would you lie to help him?

24 A Oh, lie, no, the truth is the truth, a lie
25 is a lie.

Mr. James Palmer - Cross Examination by Mr. Galmore 869

1 Q Okay, if you would have ever observed him
2 being rough with Victim what would you have done?

3 A Well to begin with it's not my nature of my
4 son to do that but I would have interfered and said
5 something.

6 Q Okay, likewise if you would have ever seen
7 him be rough with Dylan or do anything like hitting like
8 that what would you have done?

9 A I wouldn't have stood for it for one thing,
10 I'd have stopped him immediately. I don't care any kind of
11 discipline you don't want to go overboard and there's other
12 ways of discipline a child.

13 Ms. Grabert-Lowenstein: Thank you, I have no
14 further questions.

15 Cross Examination

16 By Mr. Galmore:

17 Q Mr. Palmer I believe you testified that you
18 only saw Victim one time when they came to the house and
19 went to the pool that day?

20 A That one time.

21 Q Okay, when, when you saw Victim could you
22 describe his general demeanor or behavior?

23 A Just, well he wasn't real active, he was
24 just kind of slow, you know, just a little bit slow acting,
25 you know.

Mr. James Palmer - Cross Examination by Mr. Galmore 870

1 Q Well how was he acting in the pool?

2 A Floating around, just, just kicking a
3 little bit, you know, he wasn't doing too much, you know,
4 he wasn't thrashing around in the water or nothing.

5 Q Not very active in the pool?

6 A Not very active, no.

7 Q I think the word you used was lethargic?

8 A Yeah.

9 Q Now during that time when you all were at
10 pool did there come an occasion where Ms. Gorman joined you
11 all at the pool?

12 A Well when it was dinner time we all went
13 back to the house and then when Julie showed up my wife
14 went over to the pool with them, I stayed at the house.

15 Q Okay, so you were in the pool with Victim
16 and Robert before Julia got there, and Dylan?

17 A No, I didn't say that.

18 Q Okay, please explain.

19 A I went with them to the pool because he's a
20 guest.

21 Q Right.

22 A I work outside so I try to avoid the sun, I
23 was sitting in the shade.

24 Q Yes, sir.

25 A I didn't get in the pool.

Mr. James Palmer - Cross Examination by Mr. Galmore 871

1 Q You were at the pool but you didn't get
2 into the pool?

3 A No.

4 Q Okay, how was Victim dressed, with swimming
5 trunks?

6 A Yeah.

7 Q Okay, would you say you had an opportunity
8 to observe his body?

9 A Yeah.

10 Q Did you see any bruises on his body?

11 A No, he was too white, bruises would have
12 showed up real bad on him.

13 Q And this would have been on Sunday July
14 13th, 2008?

15 A Yes.

16 Q Now when Ms. Gorman came out there did you
17 all have an occasion to go back to the pool again?

18 A I didn't go back, like I say I stayed at
19 the house.

20 Q Okay, you stayed at the house?

21 A Gail went with them.

22 Q Did you have an opportunity to observe Ms.
23 Gorman's interactions with Victim?

24 A When they came to the house she tried to
25 feed him.

Mr. James Palmer - Cross Examination by Mr. Galtmore 872

1 Q Okay, was she, did she strike Victim

2 A No, no.

3 Q Now you, you were not at, at their home the
4 next day July 14th; is that fair to say?

5 A No, no.

6 Q And you do not know what happened inside
7 that home on the 14th; do you?

8 A No.

9 Q You don't know which of these two people
10 inflicted an injury to Victim do you?

11 A No, I don't.

12 Q Okay, you don't know if either one of them
13 did it?

14 A Exactly.

15 Q I think you said that your son was good
16 natured; is that correct?

17 A Yes.

18 Q I think you said that it's not in your
19 son's nature to, to be harmful in that way?

20 A Be mean or raise his voice.

21 Q Are you saying that your son has a
22 reputation for peacefulness in the community?

23 A I don't say it's a reputation, it's just
24 known that's he's quiet and reserved.

25 Q Would you say it is your opinion that your

Mr. James Palmer - Cross Examination by Mr. Galmore 873

1 son is a peaceful person?

2 A Yes.

3 Q Would it surprise you to know that his ex-
4 wife Amanda Palmer filed for a restraining order against
5 him?

6 Ms. Grabert-Lowenstein: Objection, hearsay.

7 Mr. Galmore: Specific acts of conduct, Your
8 Honor.

9 The Court: You put him up as a character
10 witness, Ms. Grabert-Lowenstein?

11 Ms. Grabert-Lowenstein: Your Honor, if we could
12 approach?

13 (Whereupon, a bench conference was held off the
14 record in the presence of the jury, but out of the hearing
15 of the jury and the court reporter.)

16 Mr. Galmore: May I proceed, Your Honor?

17 The Court: Yes.

18 Mr. Galmore: (Continuing)

19 Q So would it surprise you to know that Mr.
20 Robert Palmer's ex-wife Amanda Palmer filed for a order of
21 protection against Mr. Palmer based on physical abuse on
22 August 7th, 2006?

23 A Can you believe that?

24 Q You don't believe it?

25 A I do not believe it.

Mr. James Palmer - Redirect Ex. by Ms. Graber-Lowenstein874

1 Q Yes, sir --

2 Mr. Galtmore: We ask the Court to take judicial
3 notice of this legal document?

4 The Court: You have an exemplified copy?

5 Mr. Galtmore: No problem. All right, thank you
6 very much, Mr. Palmer.

7 **Redirect Examination**

8 **By Ms. Grabert-Lowenstein:**

9 Q Mr. Palmer, do you know whether that
10 petition actually went through or not or whether it was
11 dropped?

12 A That's the first I've heard of it.

13 Ms. Grabert-Lowenstein: No further questions.

14 The Court: Any questions?

15 Ms. Lively: Yes, sir, please, thank you.

16 **Cross Examination**

17 **By Ms. Lively:**

18 Q Now, Mr. Palmer do you recall having a
19 conversation with a Detective Weaver and your wife, Gail,
20 being present that was recorded after **Victim** died?

21 A Oh, yeah, yeah, yeah, at the house.

22 Q Yes, sir?

23 A Yeah.

24 Q Okay, you do recall that?

25 A I remember having the conversation not what

Mr. James Palmer - Cross Examination by Ms. Lively 875

1 was said.

2 Q Okay, and I understand that and I'll be
3 glad to, to help you refresh your recollection, but at that
4 time whenever you were interviewed wasn't one of the things
5 that the detective was asking you about was Robert's
6 financial situation at that time?

7 A I have no idea, if you say so, I don't
8 remember.

9 Q Do you want to look at the statement and I
10 can refer it to you where you stated that ya'll, you and
11 your wife had to actually assist sometimes with food and
12 other items because he wasn't working?

13 A That's what parents are supposed to do.

14 Q I understand that, but do you recall that
15 now?

16 A No.

17 Q You don't recall saying that?

18 A No.

19 Q I apologize, this was quite a long
20 conversation, so I'm going to --

21 The Court: Couldn't you just ask him if that is
22 the case?

23 Ms. Lively: Yes, sir.

24 Q (Continuing) Do you recall being asked
25 about Robert being laid off from his job in Market Commons?

Mr. James Palmer - Cross Examination by Ms. Lively

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1 A What did he ask, ma'am, you know?

2 Q He asked you what about your financial
3 situation and Julie having Cesalee come here and with
4 Cesalee coming Julie didn't want her to come and you don't
5 really know who made the, anyway, all I know is that she
6 came and with Robert laid off and just no hope of a job; do
7 you recall that conversation?

8 A Word for word, you know, I don't remember
9 that now, you know.

10 Q And there were times whenever your wife
11 would go to the store and pick things up for them, you
12 know, just to help and support and feed, you know, we would
13 send food over there and that's what we do. He might be a
14 grown man but that's still our son, you know?

15 Ms. Grabert-Lowenstein: This is beyond a scope
16 of direct.

17 Ms. Lively: I'm sorry, cross examination.

18 The Court: This is cross examination, she may
19 ask the questions.

20 Ms. Lively: Thank you.

21 Q (Continuing) Would you deny that you made
22 those statements to Detective Weaver regarding their
23 financial situation?

24 A No, I won't deny.

25 Q Okay, and in regards to Cesalee coming

Mr. James Palmer - Cross Examination by Ms. Lively 877

1 there and bringing her son with her were you aware at that
2 time that it was going to fall on Robert Palmer to be the
3 responsible caretaker for the child during the day since he
4 was unemployed?

5 A Yes, I remember, yeah, yes, ma'am.

6 Q And in regards to the fact that you were
7 having to be the primary caretaker of Robert's own son,
8 Dylan, how did that make you feel in regards to having him
9 take care of a child that he wasn't even biologically
10 related to?

11 Ms. Grabert-Lowenstein: Objection, relevance.

12 Ms. Lively: It's very relevant, Your Honor, it
13 goes to the ---

14 The Court: I'm going to allow it.

15 Ms. Lively: Thank you.

16 A (Continuing) You want me to go ahead and
17 answer?

18 Q Yes, sir?

19 A There again, you know, I might not have
20 thought nothing about it. I don't know, you know, it's,
21 if, if I had known now what I wish I had known then I would
22 have took Victim too, but I --

23 Q You would have taken Victim too, what
24 cause you were concerned about his safety?

25 A No, the finances.

Mr. James Palmer - Cross Examination by Ms. Lively 878

1 Q Okay, so you were concerned about the
2 finances and putting Victim in that stressing situation
3 with Julie and Robert; isn't that true?

4 A I don't know how stressful it was, I don't
5 know.

6 Q Okay, but financially you and your wife
7 were having to help them with food and supplies, I mean you
8 stated that, right?

9 A Yes.

10 Q Okay, so if you had known then what you
11 know now your statement is you would have taken Victim out
12 of there as well as you had taken Dylan; isn't that right?

13 A No, I didn't taken Dylan, I just wound up
14 with him for the summer a couple of times.

15 Q And isn't it true that in your statement
16 that you also told Detective Weaver that you and your wife
17 when you were referring to Robert and his ex-wife the two
18 of ya'll had Dylan actually most of the time other than the
19 other two; isn't that right?

20 A Oh, yes.

21 Q Okay, all right --

22 Ms. Lively: Thank you, Mr. Palmer, no further
23 questions.

24 The Court: Redirect?

25 Ms. Grabert-Lowenstein: Yes.

Mr. James Palmer - Redirect Ex. by Ms. Graber-Lowenstein879

Redirect Examination

By Ms. Grabert-Lowenstein:

Q Mr. Palmer, why did you have at times primary care of Dylan, you and your wife?

A Sometimes I just didn't think that anybody had any time for him so I guess they had lives and me and my wife don't.

Q Okay, and would that be, does his mother Amanda leave him with you on a regular basis?

A Oh, yeah.

Q And does she sometimes extend those times?

A Sometimes.

Q So you are willing to take that and if it's Robert live in the household?

A Yes.

Q Okay, now you said if you knew what you knew now you would have taken Victim too, is that, did you say that because you were concerned about Victim safety because of Robert?

A No.

Q Why was it?

A It just seemed, well I don't know, I don't know, just --

Q But it was not because you were concerned about Victim safety being around Robert?

Mr. James Palmer - Recross Examination by Mr. Galmore 880

1 A No, no.

2 Ms. Grabert-Lowenstein: No further questions.

3 Mr. Galmore: Briefly, Your Honor?

4 The Court: Yes.

5 **Recross Examination**

6 **By Mr. Galmore:**

7 Q Mr. Palmer, isn't it true that July of 2008
8 Julia Gorman had a job at the Bass Pro Shops?

9 A Yes.

10 Q And isn't it true that as of July of 2008
11 your son Robert Palmer was unemployed?

12 A Yes.

13 Q Now referring to Dylan isn't it true that
14 Amanda preferred to drop Dylan off with you and your wife
15 Gail as opposed to dropping him off with Robert?

16 A I don't think they wanted contact. I don't
17 know if it was preferred, you know, maybe they just didn't
18 want to be around each other. I don't know, I don't know.

19 Q Did Amanda drop Dylan off more often with
20 you or did Amanda drop Dylan off more often with Robert?

21 A With me.

22 Mr. Galmore: Thank you, sir, no further
23 questions.

24 Ms. Lively: No questions, Your Honor.

25 The Court: Thank you very much, you may step

Ms. Palmer. - Direct Examination by Ms. Graber-Lowenstein881

1 down, sir, can Mr. Palmer be excused?

2 Ms. Lively: Oh, yes, sir.

3 Ms. Grabert-Lowenstein: Yes, Your Honor.

4 Mr. Galmore: Yes, sir.

5 The Court: All right, Mr. Palmer, you are
6 released from your subpoena, thank you for coming.

7 Mr. Galmore, I mean Ms. Grabert-Lowenstein?

8 Ms. Grabert-Lowenstein: Your Honor, I'm going
9 to call Gail Palmer.

10 Gail M. Palmer

11 being first duly sworn, testified as follows:

12 Madam Clerk: Please state your full name and
13 spell your last name for the Court?

14 The Witness: My name is Gail M., last name
15 Palmer, p-a-l-m-e-r.

16 Direct Examination

17 By Ms. Grabert-Lowenstein:

18 Q How are you related to Robert Palmer?

19 A I'm his mother.

20 Q Is this difficult for you today?

21 A Very.

22 Q I'd like to call your attention to July
23 13th of 2008; did you have occasion to see Robert and
24 Victim on that day?

25 A Yes, I did.

Ms. Palmer -- Cross Examination by Mr. Galtore

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1 Q Where?

2 A At my home.

3 Q Okay, and how was Victim acting?

4 A Victim was not very active, just, just not
5 active, wanted to just rest.

6 Q And did he, was he changed into a swimming
7 suit?

8 A Yes, he was.

9 Q Did you see any bruises?

10 A None, none.

11 Q Are you, are you aware of what your son's
12 work status was during that time?

13 A Yes.

14 Q And were you aware of whether or not he was
15 receiving unemployment?

16 A Yes, he was.

17 Q And what did, if you're aware, what did he
18 do with that unemployment?

19 A Well to my knowledge they put in a joint
20 checking account; he would hand it over and put it in the
21 joint checking account.

22 Q So to your knowledge he was contributing to
23 the household?

24 A Correct.

25 Ms. Grabert-Lowenstein: I have no further

Ms. Palmer - Cross Examination by Mr. Galmore

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1 questions.

2 The Court: Mr. Galmore?

3 Cross Examination

4 By Mr. Galmore:

5 Q Ms. Palmer, on July 13th, 2008, did you
6 have an opportunity to observe Ms. Gorman with Victim
7 Grimes?

8 A Yes, I did.

9 Q What, what did you observe between the two
10 of them?

11 A After Ms. Gorman came home from, came to my
12 home from work we had Sunday dinner. Ms. Gorman had her
13 dinner and we proceeded to go over to the community pool
14 and take a swim with Victim my grandson, Ms. Gorman,
15 myself, and my son.

16 Q Did you see her strike Victim

17 A No.

18 Q When you were at the pool did you see any
19 bruises on Victim body?

20 A No.

21 Q Let me just hand you what's been marked for
22 identification purposes as Defense Exhibit Number 2 and ask
23 you if you recognize this document?

24 A Yes, I recognize it.

25 Q And what is that document?

1 A It is temporary guardianship of Victim
2 Victim a minor child.

3 Q Yes, ma'am, is your name on that document?

4 A Yes, it is.

5 Q Where, why is your name on that document?

6 A I was the notary.

7 Q You notarized the signatures on that
8 document?

9 A I notarized the signature of Cesalee only.

10 Q Okay, so if Richard Grimes signed the
11 document you did not notarize his signature?

12 A No, I did not notarize his signature; I
13 only notarized Cesalee's and from what I was told this
14 would be forwarded on to Richard for it to be notarized and
15 signed in the state of Virginia, I believe.

16 Q So you're saying that Richard should have
17 had a notary in Virginia to notarize his signature?

18 A Correct.

19 Q Would you agree with me that it appears
20 that you notarized this document without verifying that the
21 signature belonged to Richard Grimes?

22 A No, sir, that's, that signature. I
23 notarized that signature in the presence of Ms. Cesalee.

24 Q And it's your testimony you had nothing to
25 do with notarizing the signature of Richard?

Ms. Palmer - Cross Examination by Ms. Cote

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1 A Of Richard, none.

2 Q Thank you ---

3 A It was to be, it was to be mailed to him.

4 Q Yes, ma'am, thank you very much.

5 A Mailed to him for signature and notary.

6 Mr. Galmore: I'm done, ma'am, thank you.

7 The Court: Ms. Cote?

8 Ms. Cote: Thank you, Your Honor.

9 Cross Examination

10 By Ms. Cote:

11 Q All right, Ms. Palmer, the first time you
12 met Victim was right when Cesalee got to South Carolina
13 with him; is that right?

14 A The very first day, correct.

15 Q The very first day?

16 A Correct.

17 Q And that day you saw him and he was playing
18 and ---

19 A That evening.

20 Q Excuse me, that evening when you saw him,
21 that's what I meant, he wasn't acting lethargic in any way,
22 playing; is that correct?

23 A No, he was not acting lethargic.

24 Q Okay, and then the next time you saw him
25 was about two weeks later; is that correct? Cesalee was

Ms. Palmer - Cross Examination by Ms. Cote

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1 still in town and you took ---

2 A I took food and things to the home like on
3 a weekend.

4 Q That's correct, and it was to the
5 defendants home, correct?

6 A Correct.

7 Q Okay, and Cesalee was still there and he
8 was playing around that day, wasn't he, Victim

9 A They were outside.

10 Q Do you remember telling Detective Weaver
11 with Horry County Police Department that Victim was
12 actually running around the car and making vroom, vroom
13 noises; do you remember that?

14 A Right off I don't remember that, but I mean
15 he, he was outside, you know, playing in, walking around in
16 the yard.

17 Q Okay, thank you. I know the next time that
18 you spoke of they had, Cesalee had gone back to Arizona; is
19 that right, when, when Victim and Robert came over to your
20 home and visited ya'll's community pool?

21 A That's correct, that's correct, Cesalee was
22 gone.

23 Q Okay, and so at that point Victim was just
24 left in Julia and Robert's care; is that right?

25 A Correct.

Ms. Palmer - Redirect Exam. by Ms. Graber-Lowenstein 887

1 Q Did you see Victim eating or drinking
2 anything that day?

3 A On Sunday when he was at, yes.

4 Q Yes, ma'am?

5 A Yes.

6 Q Okay?

7 A Robert fed him.

8 Q Yes, ma'am, and I believe you actually fed
9 him some, too?

10 A Too, yes.

11 Q And now you and your husband basically
12 raise Dylan; is that right?

13 A Dylan, our grandson?

14 Q Yes, ma'am?

15 A You may as well say, yes.

16 Q Okay, and you told law enforcement that to
17 have him you feel like he's in good hands with you; is that
18 right?

19 A Dylan?

20 Q Yes, ma'am?

21 A Most definitely.

22 Q Yes, ma'am, and Robert and Dylan's mother,
23 Amanda, they were actually still married at the time when
24 Robert and Julia were living together; is that correct?

25 A That's correct, but Robert had paid for a

Ms. Palmer - Redirect Exam. by Ms. Graber-Lowenstein 888

1 divorce in the state of Virginia for the dismissal.

2 Q You were concerned about Cesalee bringing
3 Victim to South Carolina, weren't you?

4 A No, not really.

5 Q Do you remember, do you remember talking to
6 Detective Weaver of Horry County P.D., don't you?

7 A I remember the day exactly in our living
8 room, yes.

9 Q Okay, if I refresh your memory, didn't you
10 tell him that with Cesalee coming Julie didn't want her to
11 come and I don't really know who made the, anyway all I
12 know is that she came, and you continued to say with the
13 financial situation, you know, and with Robert laid off and
14 just no hope of a job; didn't that give you some concern?

15 A Sure.

16 Ms. Cote: I have no further questions.

17 **Redirect Examination**

18 **By Ms. Graber-Lowenstein:**

19 Q Ma'am, you say Dylan is in good hands when
20 he's in you and your husband's home, is that as opposed to
21 be with his mother?

22 A Yes, it is.

23 Q How often does Amanda leave Dylan with you?

24 A Prior to this incident probably eighty five
25 percent of the time, people thought we had custody of

Ms. Palmer - Redirect Exam. by Ms. Graber-Lowenstein 889

1 Dylan, neighbors, day care.

2 Q And counsel asked you if Robert and Amanda
3 were still married when he and Ms. Gorman were living
4 together, are you familiar as to why they were still
5 married? Let me rephrase that, are you familiar with
6 whether Robert had done anything to secure the divorce?

7 A Yes, he had.

8 Q And are you familiar with when he did that?

9 A I'd have to think of the time frame. It
10 had been well over a year, maybe close to two years that he
11 offered and paid for a divorce in the state of Virginia.

12 Q Was he in the Navy?

13 A Yes, he was. He sought counsel also here
14 in South Carolina about the divorce and in the state of
15 Virginia, but filed in the state of Virginia.

16 Q And are you familiar with why the divorce
17 hadn't gone through?

18 A Yes, Amanda would never sign the papers and
19 send them back to Virginia.

20 Q Okay, and has Robert ever objected to the
21 way Amanda treats Dylan?

22 A Sure.

23 Q Do you object to the way she treats Dylan?

24 A Most definitely.

25 Q And how, strike that, you said you were

Ms. Palmer - Redirect Exam. by Ms. Graber-Lowenstein 890

1 concerned about Cesalee coming, counsel asked you about a
2 statement, was it because you were concerned about Robert
3 and any safety issues with Cesalee and/or Victim

4 A No, it's just the financial hardship that
5 would be placed on them by having the two in the house.

6 Q And ---

7 A Plus the relationship that I had been told
8 between mother and daughter.

9 Q That there were issues with that
10 relationship; would that be accurate?

11 A That's accurate.

12 Q And you indicated earlier that you were
13 familiar with the finances, did Robert ever indicate his
14 concern about the way that Julia was handling the finances,
15 that Ms. Gorman was handling the finances?

16 A He didn't go into a lot of detail other
17 than to say she was, she was the one who paid the bills.
18 He would turn over his money and she was responsible for
19 paying the bills for the household.

20 Q Did he ever go into detail that they
21 weren't paid?

22 A Once or twice he made note to me or made a
23 comment to me that, you know, I've give my money and I
24 thought so and so was paid and I found out that it wasn't.

25 Ms. Grabert-Lowenstein: No further questions.

Ms. Palmer - Redirect Exam. by Ms. Graber-Lowenstein 891

1 Mr. Galmore: The Court's indulgence one moment.

2 Ms. Grabert-Lowenstein: Could I see that,
3 please? Your Honor, I'm going to object, if we could
4 approach?

5 The Court: Send the jury out for a moment.

6 (Whereupon, the jury retired to the jury room at
7 5:27 p.m.)

8 The Court: Yes, ma'am?

9 Ms. Grabert-Lowenstein: Your Honor, we've all
10 had copies of my client's military records indicating
11 honorable discharge. The sheet that counsel has the top
12 one says recommended for retention into service. There
13 were deficiencies in his performance and frankly I think to
14 be blunt and I apologize to my client I think it meant that
15 he was just a little bit lazy or a little bit slow working.
16 I'm going to object on relevancy grounds. We have a
17 document that is before 2004 because he was, I believe
18 that's when his discharge was, and this is actually, I
19 believe, '01, February of '01. Your Honor, what relevance
20 to some deficiency in his work performance have?

21 The Court: All right, she's making a 401
22 objection.

23 Mr. Galmore: Your Honor, the defendant has
24 offered the witness. The witness has testified as to his
25 apparent reputation for being a fiscally and financially

Ms. Palmer - Recross Examination by Mr. Galmore

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1 Mr. Galmore: Thank you, sir.

2 (Whereupon, Court's Exhibit Number 1 marked for
3 identification.)

4 The Court: Get my jury, please.

5 (Whereupon, the jury returns to the courtroom at
6 5:32 p.m.)

7 The Court: All right, Mr. Galmore?

8 **Recross Examination**

9 By Mr. Galmore:

10 Q Ms. Palmer, just a few questions. As of
11 July of 2008 isn't it true that Ms. Gorman was employed at
12 the Bass Pro Shops?

13 A Yes.

14 Q Isn't it true that your son was not
15 employed at that time?

16 A That's correct.

17 Q You've made some mention of finances of
18 this whole different household so let me ask you who paid
19 their rent?

20 A They paid their rent except for the last
21 month, me and my husband paid it.

22 Q Well how paid the rent if your son was
23 unemployed?

24 A I suppose Julie paid it with the income
25 coming into the checking account.

Ms. Palmer - Recross Examination by Mr. Galmore

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1 Q She had a job, right?

2 A She had a job.

3 Q Who paid the light bill in the house?

4 A They did.

5 Ms. Grabert-Lowenstein: Foundation of
6 knowledge.

7 Mr. Galmore: She's testified all about these
8 other people's finances.

9 The Court: Come on, answer the question.

10 The Witness: (Continuing)

11 A I did not live, I did not live and reside
12 in their household. I'm just assuming she was working and
13 an unemployment check was being placed in the account to
14 pay their bills.

15 Q Okay, when did your son become unemployed?

16 A All I can tell you is one week after
17 Broadway, not Broadway, Market Commons opened up, whatever
18 that year was.

19 Q Can you tell us how long your son was going
20 without a job prior to July of 2008, cause I mean
21 unemployment doesn't last forever?

22 A No, sir, it does not, I realize that. Like
23 I said whenever Market Commons opened up whatever that date
24 is, and I do not recall, I do not know, one week later he
25 was laid off. That may have been in March of 2008, I'm not

Ms. Palmer - Recross Examination by Mr. Galmore

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1 sure of the date that Market Commons opened up.

2 Q Ever since Market Commons opened your son
3 was without a job?

4 A Unemployed a week after that.

5 Mr. Galmore: Thank you very much, Ms. Palmer.

6 A You're welcome.

7 The Court: Ms. Lively?

8 Ms. Lively: We have nothing further, Your
9 Honor.

10 The Court: All right, thank you.

11 Ms. Grabert-Lowenstein: Nothing further, Your
12 Honor.

13 The Court: All right, you may step down, Ms.
14 Palmer, any objection to her being excused?

15 Ms. Grabert-Lowenstein: No, Your Honor.

16 Mr. Galmore: No, sir.

17 The Court: Ms. Palmer, you are released from
18 your subpoena, thank you for coming.

19 A Thank you.

20 The Court: Witness?

21 Ms. Grabert-Lowenstein: Your Honor, we have no
22 further witnesses at this time, we'll have them here in the
23 morning.

24 The Court: I will not continue this case unless
25 the witness has been subpoenaed and there's a doctor's

Ms. Palmer - Recross Examination by Mr. Galmore

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1 excuse saying why that witness is here.

2 Ms. Grabert-Lowenstein: No, Your Honor, that's
3 not what I'm saying, that witness is available in the
4 morning.

5 The Court: No, ma'am, this case was set for day
6 certain months ago.

7 Ms. Grabert-Lowenstein: I understand, Your
8 Honor, and it was an emergency with that witness came up.

9 The Court: That witness had a doctor's
10 appointment is what you told me earlier.

11 Ms. Grabert-Lowenstein: Your Honor, at this
12 point we need a little bit of time for the decision that we
13 talked about?

14 The Court: All right, we'll take a ten minute
15 break.

16 (Whereupon, the jury retired to the jury room at
17 5:37 p.m.)

18 (Whereupon a recess was taken at this time and
19 the following takes place on the record after the recess.)

20 The Court: Ms. Grabert-Lowenstein, will your
21 client testify?

22 Ms. Grabert-Lowenstein: No, Your Honor, we
23 have, just for the record, we've discussed it extensively,
24 you know, from before this time to when the trial started
25 and we've just had a final consultation, which I thank the

Ms. Gorman - Direct Examination by Ms. Graber-Lowenstein902

1 Mr. Galmore: . Your Honor, just for the Court's
2 information it is our, well we had an expert witness that
3 we planned to call in this case, neuropathologist, we have
4 decided that we're not going to call that witness. We
5 believe that the time line established by the State for
6 when the injuries were impacted is consistent with what our
7 expert witness was going to testify about. With that said
8 our only witness is going to be Ms. Gorman and I feel like
9 she may be a lengthy witness, not so much from me but I
10 suspect that she's going to have long cross examinations
11 from both co-counsel and from the Solicitor's office. I
12 would request that we take her testimony and present our
13 case in the morning.

14 The Court: No, sir, we're going to go forward.

15 Mr. Galmore: Yes, sir, go forward, what are we
16 planning on doing after that?

17 The Court: After that I'm going to have a
18 conference on the charges with counsel, have everything
19 ready and lined up in the morning so that in the morning we
20 can go straight into closing arguments and the charge.

21 Mr. Galmore: Yes, sir.

22 (Whereupon, the jury returns to the courtroom at
23 5:55 p.m.)

24 The Court: All right, Ms. Grabert-Lowenstein?

25 Ms. Grabert-Lowenstein: Your Honor, other than

Ms. Gorman - Direct Examination by Ms. Graber-Lowenstein903

1 --

2 The Court: The one witness I would allow you to
3 call out of order.

4 Ms. Grabert-Lowenstein: And that and there may
5 be one piece of documentation, Your Honor, we'll have that
6 ready in the morning. The people, I'm sorry, the defense
7 on behalf of Mr. Palmer would rest with those conditions.

8 The Court: What document?

9 Ms. Grabert-Lowenstein: The witness in the
10 morning and one potential rebuttal document.

11 The Court: No, there will be no witnesses in
12 the morning, we're going to finish today, the testimony.

13 Ms. Grabert-Lowenstein: Okay, what I'm saying
14 if she can, if she can get here.

15 The Court: All right.

16 Mr. Galmore: Your Honor, did the defense rest?

17 The Court: She has rested. I will allow her
18 some leeway and let her call one witness out of order today
19 at the end of trial.

20 Mr. Galmore: Yes, sir.

21 Ms. Grabert-Lowenstein: Thank you, Your Honor.

22 The Court: Mr. Galmore?

23 Mr. Galmore: Yes, sir, we would call Julia
24 Gorman to the stand.

25 Julia Gorman

Ms. Gorman - Direct Examination by Mr. Galmore

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1 being first duly sworn, testified as follows:

2 Madam Clerk: Please state your full name and
3 spell your last name for the Court?

4 The Witness: My name is Julia Shawnette Gorman,
5 g-o-r-m-a-n.

6 Direct Examination

7 By Mr. Galmore:

8 Q Ms. Gorman, give us some information about
9 yourself, how old are you?

10 A I'm forty years old.

11 Q Are you married, single, divorced?

12 A Divorced.

13 Q Do you have any children?

14 A Yes, I have three.

15 Q Tell us your children's names and ages?

16 A I have Cesalee, she's twenty two, have
17 Kyle, he'll be, be sixteen, I have Kayla who's fourteen.

18 Q Do your children reside with you?

19 A No, Kyle and Kayla live with their father
20 and Cesalee resides on her own.

21 Q Cesalee is twenty-two, she's out of the
22 house?

23 A Yes, sir.

24 Q So Kyle and Kayla live with their father?

25 A Yes, sir.

Ms. Gorman - Direct Examination by Mr. Galmore

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1 Q Where is that?

2 A Last to my knowledge they lived in Hawaii.

3 Q Why were they living in Hawaii?

4 A Back in 2007 during the summer after my son
5 graduated from elementary school they went to their dad's
6 for the summer to visit and then I got a phone call saying
7 they weren't coming back.

8 Q Is your ex-husband in the Navy?

9 A Yes.

10 Q And where is he stationed?

11 A He was stationed in Hawaii.

12 Q He's also from Hawaii?

13 A He's not originally from Hawaii, He's,
14 actually he was born in Nevada and his family is from North
15 Carolina and Ohio.

16 Q Does he have family in Hawaii?

17 A He does have family in Hawaii.

18 Q So your children are out there with their
19 father who's in the Navy in Hawaii?

20 A Yes, sir.

21 Q We've heard testimony that Mr. Palmer was
22 in the Navy also?

23 A Yes, sir.

24 Q Are you attracted to the military men or
25 something?

1 A No.

2 Q So this is just a coincidence?

3 A Just a coincidence.

4 Q Let me turn your attention to July 2008,
5 okay, the summer of 2008, can you explain for the jury the
6 circumstances of how Cesalee and Victim came to stay with
7 you in Aynor?

8 A Cesalee called me and said that she was in
9 Florida visiting her husband, at the time he was in
10 Pensacola doing they call it T.A.D., temporary assignment
11 duty, and she really couldn't see him, so I said why don't
12 you just come on down and come visit us. I had never seen
13 my grandson before, we can get acquainted and everything,
14 We thought it was a great idea, so Richard put her on a bus
15 and they came down to Myrtle Beach and I picked them up
16 there on 10th Avenue, is it 10th Avenue North, I believe,
17 is where the bus station is, and I picked Cesalee and my
18 grandson up there and when I picked them up they didn't
19 have their luggage or a car seat, so --

20 Q Was it unusual that they didn't have any
21 luggage?

22 A That's the bus station so it happens.

23 Q It wasn't like they didn't have clothes?

24 A No, it just they got lost.

25 Q Would that be the same for the stroller?

Ms. Gorman - Direct Examination by Mr. Galmore

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1 A No, they had an umbrella stroller when we
2 got, when I picked them up.

3 Q This would have been the first time that
4 you saw your grandson [Victim]

5 A Yes.

6 Q At the bus stop or the bus station in
7 Myrtle Beach?

8 A Yes.

9 Q How did he appear to you?

10 A He was small, he looked underweight. I
11 took her, you know, I took him from her when she got off
12 the bus and I mean I was a stranger so, of course, he was
13 not, you know, not familiar with me so, you know, he wasn't
14 for sure to come to me and I put my hands, you know, wanted
15 to touch him, you know, cause he's a baby, and I put my
16 hands on his head and he just kind of pushed my hand away
17 and his head feels soft so I was concerned and so, you
18 know, and Cesalee came back and said they didn't have her
19 stuff so I, you know, I gave the baby back because, you
20 know, he wanted his mom because I was a stranger so, you
21 know, I give him back. I didn't want him to cry because,
22 you know, he didn't know who I was, it wouldn't be very
23 fair.

24 Q Did you and Cesalee and [Victim] do anything
25 special that first night?

1 A Yeah, we went to my work. We went to the
2 Bass Pro Shop, went to Islamorada Restaurant and I took
3 them to lunch, and then we went inside and I think we
4 bought some sun block for him and could have bought him
5 some, some shorts or something, then we went down to the
6 beach and I had some friends down at the beach and took him
7 to the beach that day for a couple of hours, then we ran
8 back up to the bus stop to see if their stuff had come in
9 on a different, you know, route, but it didn't and then we
10 went home.

11 Q Okay, so you introduced your daughter and
12 your grandson to your friends and your coworkers?

13 A Yes.

14 Q How was the relationship when Cesalee and
15 **Victim** were staying with you?

16 A At the beginning it was fine, you know, I
17 think cause we hadn't seen each other in so long, you know,
18 that, I guess we just thought that, you know, with her
19 having a baby, you know, she had grown up and you change,
20 you know she wasn't that little girl anymore, you know, now
21 she had the responsibility to be a mom, too, you know.

22 Q How was Cesalee with **Victim**?

23 A For the most part she was good. There was
24 times when, you know, she'd get frustrated and, you know,
25 if he was wallering or anything and she was tired of it,

Ms. Gorman - Direct Examination by Mr. Galmore

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1 you know, she'd push him away, you know. She'd put him in
2 the bedroom or she would ignore him, I mean that was just
3 what she did, but other than that she, she loved on him,
4 too, I mean she did both.

5 Q Now while Victim was here did there become
6 a medical issue with him?

7 A Yes.

8 Q Tell us what happened?

9 A He got bit by some ants and ---

10 Q Where was that at?

11 A In my back yard.

12 Q Okay ---

13 A And ---

14 Q What was done as a result of that?

15 A They called me at work and said that he got
16 bit by some ants and his leg it was swelling, so I called
17 my doctor's office and, and I came home and picked them up,
18 picked her and Victim up and I took them to the doctor's
19 office and we filled out the paper work and everything and
20 we went and saw the doctor there in Aynor.

21 Q Would that be Dr. Hutson?

22 A Yes, sir, and ---

23 Q He was your physician as well as Victim
24 physician?

25 A I see the other physician there but he saw

Ms. Gorman - Direct Examination by Mr. Galmore

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1 Dr. Hutson.

2 Q Okay, was there a problem with Victim
3 insurance?

4 A We were having problems with it cause he
5 didn't have any and so Cesalee didn't have any of his paper
6 work with his insurance or anything and Cesalee, Cesalee
7 and Richard were having their own problems with their
8 marital problems, but you intervene as a parent because you
9 love your children regardless of what your own personal
10 opinions are; and I called, I called Richard's staff
11 sergeant and I called the chaplain and I called his staff
12 sergeant to tell them that we didn't have this information
13 and within a few minutes I was getting the information we
14 needed to get insurance for Victim and within a couple of
15 days I had all the information mailed to us for his
16 insurance to be active so we can get him the proper
17 medical, you know, attention so he could have his
18 insurance, so we took him to Aynor and had him to be seen
19 and everything; and I, we took him there and we told him
20 about his shots and that, you know, he had signs of
21 allergies or mess with them and I explained to the doctor,
22 you know, I would have concerns about his head being soft
23 and squishy and, you know, from, from that point on I've
24 always, you know, expressed my concerns about that.

25 Q Did you explain to the doctor about his

Ms. Gorman - Direct Examination by Mr. Galmore

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1 head being squishy during the first appointment on July the
2 1st?

3 A Yes.

4 Q When you were there for the ant bites?

5 A Yes.

6 Q I think the doctor testified that you were
7 or you or Cesalee had complained that he was grabbing at
8 his ear and he had a head cold; was that one of the
9 concerns?

10 A No, we talked about his ant bites and I
11 complained that his head was soft, it was squishy. It
12 wasn't like, I know children have soft spots, but it wasn't
13 the normal, normal places; it was everywhere.

14 Q Did Dr. Hutson examine [Victim] head?

15 A Not really, he just said it was probably
16 just soft because of allergies.

17 Q Okay, and he prescribed you some allergy
18 medication for him?

19 A Yes, he prescribed allergy medicine and
20 some steroid cream for the ant bites.

21 Q Did you have an occasion to have to take
22 [Victim] to the hospital again?

23 A Yes.

24 Q And when was that?

25 A I don't know the exact date, could have

Ms. Gorman - Direct Examination by Mr. Galmore

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1 been the 7th or the 8th. He was, he was throwing up and it
2 got to the point where he was projectileing and I didn't
3 know why so I took him to the emergency room and I took him
4 there and he wouldn't projectile there. They gave him a
5 popsicle and we observed him for a while and they sent him
6 back home and just told me just and I had an appointment
7 for him to go see the doctor that following day for his
8 immunization records; and when I took him to the doctors
9 for that and I asked the doctor would it be still okay to
10 give him his shots and said just took him to the emergency
11 room because he was being sick and he said yes, so he
12 administered his immunization shots.

13 Q Now this visit to the emergency room was
14 Cesalee with you for that?

15 A No, it was Robert and myself.

16 Q Okay, so Robert had went with you to the
17 emergency room?

18 A Yes.

19 Q Why didn't Cesalee go?

20 A She wasn't here.

21 Q She wasn't here, okay, where was she?

22 A She would have been back in Arizona.

23 Q What were the circumstances of Cesalee
24 leaving to go back to Arizona?

25 A The circumstances for Cesalee going back to

Ms. Gorman - Direct Examination by Mr. Galmore

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1 Arizona was that she was supposed to back to start getting
2 herself back together. She has her own personal issues and
3 she was supposed to get herself back together so that way
4 when her and her husband got back together that she would
5 be able to, be able to take care of herself, take care of
6 her son so that way when her husband did have to deploy for
7 any reason she would be able to take care of a home, take
8 care of a child while he was gone and be able to take care
9 of all those things without any problems. It's hard being
10 a military wife. It's hard to do those things when you're
11 by yourself.

12 Q You say Cealee needed the opportunity to
13 get herself together; what do you mean by that?

14 A Cesalee just has a past history of medical
15 services as she grew up and everything. She was diagnosed
16 with bipolar and opposition defiant disorder. So when we
17 had talked she said, you know, she'd go back home and, you
18 know, go back to accept the fact that she had it and go see
19 a doctor and everything so she can help with that so we
20 were keeping her son so she can get that under, you know,
21 help and everything; and when she got that taken care of
22 then, you know, her and her husband after they got settled
23 and after he got finished with school in graduate wherever
24 they were going to get stationed at then they'd come back
25 and get their son and then they could have their home and

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1 everything and they could have their son back.

2 Q Was there a discussion about how long

3 Victim was supposed to be staying with you?

4 A Not that I'm aware of, I don't recall. It
5 wouldn't have mattered if it was a week, two months, ten
6 years, it wouldn't have mattered.

7 Q We've seen this temporary guardianship
8 paperwork that says one year, was there a discussion that
9 Victim was going to stay with you for an entire year?

10 A No, it was just a, I think that's just the
11 standard, I think it's just the standard to have a year on
12 there but it could be null and void at any time.

13 Q So just because it says a year doesn't mean
14 ya'll had planned for Victim to stay with you for a year?

15 A No.

16 Q Were you trying to take Victim from
17 Cesalee?

18 A No.

19 Q So you took Victim to Dr. Hutson on July
20 1st for ant bites?

21 A Yes.

22 Q And you, you complained about his head
23 being squishy?

24 A Yes.

25 Q And when you went to the hospital on the

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1 7th, that was for the projectile vomiting?

2 A Yes.

3 Q Did there come another occasion where you
4 went back to Dr. Hutson's office?

5 A Yes, I took him again when I took him to
6 go get his immunization shots.

7 Q And when was that?

8 A It was right after I took him to the E.R.

9 Q The next day?

10 A I don't, I don't know the exact dates, I
11 don't have them written down.

12 Q Let me hand you what's been marked for
13 identification purposes as Defense Exhibit 3 and ask you if
14 this document helps to refresh your memory as to when your
15 second appointment was with Dr. Hutson?

16 A It was July 8th of 2008.

17 Q Okay, and when was the appointment, excuse
18 me, when was the emergency room visit at Conway Medical
19 Center?

20 A It was July 7th.

21 Q So after the vomiting incident the next day
22 you took **Victim** to Dr. Hutson's office?

23 A Yes, sir.

24 Q Did Robert accompany you?

25 A Yes, sir.

1 Q Did you have to take off work that day to
2 take him?

3 A I don't recall, I don't, I don't know
4 because I don't know what time his appointment was and if I
5 had to work that day or not.

6 Q Okay, well what were the, where were your
7 complaints when you went to Dr. Hutson on that 8th?

8 A My complaints were I still was concerned
9 about his head; I was still concerned the fact he was
10 projectiling the day before and because he was projectiling
11 would it still be safe to give him shots because of that
12 and the doctor said he didn't have a fever so he'd be fine.

13 Q So he was given the shots on the 8th?

14 A Yes.

15 Q And you said Cesalee was gone by this time?

16 A Yes.

17 Q Well explain to us how things, how things
18 worked in your household with you, Robert, and Victim

19 A On a daily basis I'd get up in the morning
20 early cause I have to be at work anywhere between five,
21 six, anywhere between five and eight in the morning,
22 depending on what day it is, so if I had to be at work at
23 five I'm out of the house by 4:15, have to be, and I go to
24 work anywhere from an eight to a ten hour day. I come
25 home, generally the first thing I do is walk in the house

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1 and ask where Victim is cause he's my buttercup, generally
2 Robert would probably tell me he's in bed so I go check on
3 him. I pretty much relieve the duties. I clean the house,
4 I cook dinner, I make our plates. I cut up Victim food,
5 I put him in the chair. I eat my food while I feed him as
6 we talk. I have a snack, generally a lot of times we have
7 a banana. I take a bite half of it and he gets the other
8 half.

9 Q Victim was in Robert's care and custody
10 during the day on a daily basis?

11 A Yeah.

12 Q Was there anybody else in the house with
13 Robert when you were at work?

14 A As far as I know, no, always him by
15 himself.

16 Q Let me ask you about July 14th, what time
17 did you get up that morning?

18 A I think I was up about 4:15 that morning.

19 Q And what did you do?

20 A I got up, got ready and went to work.

21 Before I leave I always check on Victim he was asleep in
22 his bed, go outside, jumped in the truck, and went to work.

23 Q Do you know what time you clocked in at
24 work that day?

25 A No, I'd have to see my time card.

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1 Q Okay, let me hand you what's been marked
2 for identification purposes as State's Exhibit 63 for I.D.,
3 and ask you if you recognize this document?

4 A Yes, this is my time card from work.

5 Q Okay, it has your name on it?

6 A Yes, it does.

7 Q Okay, does that time card appear to be
8 accurate or does it appear to have been altered in any way
9 from when you initially used it?

10 A No.

11 Mr. Galmore: Your Honor, I would at this time
12 move to have State's Exhibit 63 for I.D. entered into
13 evidence as Defendant's next exhibit.

14 Ms. Lively: Well, Your Honor, obviously I've
15 marked it and I wanted it in there so that's perfectly
16 fine.

17 Ms. Grabert-Lowenstein: Objection, hearsay.

18 The Court: All right, I'm going to allow it.
19 This witness can identify it and it appears to be what it
20 is, it is well founded the admission under Rule 803.

21 (Whereupon, State's Exhibit Number 63 remarked as
22 Defendant Gorman's Exhibit Number 4 and entered into
23 evidence and Defendant Gorman's Exhibit Number 5 marked for
24 identification.)

25 Mr. Galmore: (Continuing)

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1 Q Ms. Gorman, does Defense Exhibit Number 4
2 show what time you went to work on the morning of July
3 14th, 2008?

4 A Yes, it shows I clocked in at 6:00 in the
5 morning.

6 Q Okay, and what time did you clock out that
7 day?

8 A 3:45.

9 Q Were you at work all day?

10 A Yes.

11 Q Did you leave and sneak home in the middle
12 of the day?

13 A No.

14 Q You, you got off at 3:45; is that correct?

15 A Yes, that's what time I clocked out.

16 Q What, what did you do after you clocked
17 out?

18 A After I clock out I got to walk from the
19 back, our clock is in the back of the building, back of the
20 Bass Pro Shop, so you got to walk all the way from the back
21 all the way to the front, so you tend to get stopped by
22 customers. You got to stop and help people, and so it
23 takes you probably about ten, ten to fifteen minutes to get
24 from the back to the front, and then to get outside you got
25 to walk to the side of the building to get to your vehicle.

1 Q I understand the Bass Pro Shop is a pretty
2 big place?

3 A It is.

4 Q Is it routine that customers will stop you
5 on the assumption that you're still on the clock?

6 A Yes, sir, cause you still have your work
7 shirt on and your name tag.

8 Q What time did you clock out again?

9 A I clocked out at 3:45.

10 Q Did you go immediately home after you
11 clocked out?

12 A Yes, I went home first.

13 Q What route did you take to get from Bass
14 Pro Shops to your house?

15 A I take Highway 22 to 319 to Golden Leaf
16 Road to Highway 129.

17 Q How long does that ride generally take?

18 A Take me about forty-five, fifty minutes, I
19 think.

20 Q Okay, so you got off at 3:45, takes a few
21 minutes to walk through the store, got in the car and you
22 headed home, and it takes about forty-five minutes for you
23 to get home; would it be fair to say that you got home
24 maybe 4:30 to 4:45?

25 A Could be.

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1 Q Now when you got home what did you do?

2 A Came inside and asked Robert where Victim
3 was; he told he was taking a nap, walked to the door,
4 walked to the bedroom door, saw Victim was laying down in
5 the bed in the port a crib, walked away and talked to
6 Robert for a minute and I went to IGA. I left the house
7 and went to IGA, grabbed us something to eat for dinner,
8 and then I stopped at, I left there and I stopped at the
9 video, the video store and I picked up a movie, and then I
10 came back to the house, come back inside and I cooked our
11 dinner and then we decided we would sit down and have
12 dinner first before we woke up Victim

13 Q And so you said that when you got home the
14 first you said was where was Victim

15 A Uh-huh, yes.

16 Q And you looked in on him?

17 A Yes.

18 Q What was his condition?

19 A He was asleep.

20 Q Well during the day on the 14th did you
21 have occasion to call home and check on Victim

22 A No, Robert calls me at work, tells me ---

23 Q Robert calls you?

24 A Yes.

25 Q So did you have an occasion to talk to

Ms. Gorman - Direct Examination by Mr. Galmore

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1 Robert about Victim during the day on the 14th?

2 A Yeah, Robert called me at work, he called
3 me in the morning and he called me in the afternoon.

4 Q What was Victim doing?

5 A He was just telling me what he had for
6 breakfast and what he had for lunch and then he told me
7 they were taking their naps.

8 Q Did they go out anywhere on the 14th?

9 A No, he never claimed they went anywhere.

10 Q So they were at home alone all day on the
11 14th?

12 A Yes.

13 Q So you got home from work and the first you
14 did was check on Victim

15 A Yes.

16 Q Did you pick him up when you first walked
17 through the door?

18 A No.

19 Q Why didn't you pick him up?

20 A Cause he was asleep.

21 Q Let him take his nap?

22 A Let him take his nap.

23 Q I think you testified that you left the
24 house to go get something to eat?

25 A Yes.

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1 Q Go get dinner at the IGA is what you said?

2 A Yes.

3 Q When you left the house what time do you
4 think that would have been? Let me ask it like this, how
5 long do you think you were at home after you got off work
6 when you said you went in and looked in on **Victim** and he
7 was asleep?

8 A I may have been home maybe ten minutes.

9 Q Okay?

10 A And then leave and went to the store and
11 maybe was in the store maybe fifteen minutes and just ---

12 Q Okay, so you were home maybe ten minutes
13 and then to the IGA?

14 A Then I went to the IGA.

15 Q Let me hand you what's been marked for
16 identification purposes as Gorman Defense Exhibit Number 5
17 and ask you if you recognize this document?

18 A Yes, it's a check I wrote.

19 Q Okay, and what is the date that the check
20 was written?

21 A July 14th, 2008.

22 Q And who is the check made payable to?

23 A IGA.

24 Q And whose signature is on the check?

25 A My signature.

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1 Q So you wrote that check?

2 A Yes, sir.

3 Q Does that check appear to be altered or in
4 any way since you wrote it?

5 A No, sir.

6 Mr. Galmore: Your Honor, at this time we would
7 move for Defense Exhibit Number 5 to be entered as Defense
8 next ---

9 The Court: Ms. Lively?

10 Ms. Lively: No objection.

11 Ms. Grabert-Lowenstein: No objection.

12 The Court: Marked without objection.

13 (Whereupon, Defendant Gorman's Exhibit Number 5
14 entered into evidence.)

15 Mr. Galmore: (Continuing)

16 Q Okay, so you went to IGA after coming home,
17 how long did it take you to get to the IGA?

18 A It takes me probably about five minutes.

19 Q It's not that far from your house?

20 A No.

21 Q So then you, you said you get home maybe,
22 was it 4:45 you said you think you got home?

23 A Could be.

24 Q And how long were you at home when Victim
25 was asleep?

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1 A About ten minutes.

2 Q Ten minutes, okay, and thereafter you left
3 the house to go to the IGA?

4 A Yes.

5 Q And it took five minutes in your estimation
6 to get there?

7 A Yes.

8 Q So at this point we're talking maybe 5
9 p.m.?

10 A Okay.

11 Q Is that accurate?

12 A You could, yeah.

13 Q What did you do when you were at the IGA?

14 A I went and bought groceries for dinner.

15 Q You walked up and down the aisles of the
16 grocery store?

17 A Yes.

18 Q Did Robert go with you?

19 A No, he stayed home.

20 Q Did Victim go with you?

21 A No, Victim was asleep.

22 Q You were at the IGA by yourself?

23 A Yes.

24 Q How long do you think it took you to get
25 dinner from the grocery store?

1 A Could be about fifteen, twenty minutes I
2 think I was there.

3 Q And I think we heard that ya'll had tacos
4 for dinner that night?

5 A Yes, that's what he said.

6 Q So you were in the grocery store for maybe
7 fifteen minutes?

8 A Yeah, could be, fifteen, twenty minutes.

9 Q And you wrote this check?

10 A Yes, I wrote this check.

11 Q Have you had occasion to look at that check
12 prior to coming to court?

13 A Yeah, I've seen the check before.

14 Q Does the check have any markings on the
15 back?

16 A Yes, it does.

17 Q Does it have a date stamped on the back?

18 A Yes, it has a few check stamps on the back.

19 Q Okay, because usually when you pay for
20 something by check the cashier has to run it through the
21 cash register?

22 A Yes.

23 Q Was that done in this case?

24 A Yes.

25 Q Does the check have a time on it when it

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1 was run through the cash register?

2 A Yes.

3 Q What is that time?

4 A Well it says 15:52.

5 Q What does that translate to for us non
6 military?

7 A 3:52.

8 Q Okay, now were you at the IGA at 3:52 p.m.?

9 A No.

10 Q Why do you feel that you weren't at the IGA
11 at 3:52 p.m.?

12 A Because I clocked out at work at 3:45 and
13 there's no way that I can be at IGA at 3:52 cause I work
14 thirty five miles just away from my house.

15 Q Okay, so the check says 3:52, would it be
16 fair to say that maybe you cashed that check at 4:52?

17 A Yes, that's possible.

18 Q So you're cashing out at IGA at 4:52, where
19 did you go from there?

20 A Then I went to the video store.

21 Q And what video store would this be?

22 A It's called Island something.

23 Q Okay, let me ask it like this, is it the
24 video store that's in Aynor?

25 A Yes, it's probably the only video store in

1 Aynor on Main Street.

2 Q Are there several video stores in Aynor?

3 A No, I believe it's the only one.

4 Q Okay, so you left the IGA and you went to
5 Aynor's local video store?

6 A Yes.

7 Q How long would it have taken you to get
8 from the IGA to the, to the video store?

9 A Just a couple of minutes, it's just around
10 the corner.

11 Q Aynor is not that big?

12 A No.

13 Q Okay, how long were you in the video store?

14 A Maybe five, ten minutes.

15 Q So we're talking maybe five after five?

16 A Yes.

17 Q From the video store where did you go?

18 A I went home.

19 Q How long would it have taken you to get
20 back home from the video store?

21 A Probably about five minutes.

22 Q Okay, and what did you do when you got
23 home?

24 A I walked in the house, put the stuff down
25 and started cooking dinner.

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1 Q Was anybody in the house when you got home?

2 A Just Robert and Victim

3 Q When you got home from the video store and
4 the IGA did you go in and check on Victim

5 A No.

6 Q Why not?

7 A I started cooking dinner.

8 Q Okay, tacos?

9 A I guess I didn't feel I needed to. I just
10 started prepping for dinner because I knew I needed to wake
11 him soon so he can eat cause it was getting dinner time.

12 Q Is it fair to said that you wanted to sort
13 of get dinner out the way before getting him up?

14 A Yes.

15 Q Did you make dinner?

16 A Yes, I did.

17 Q How long did it take you to make dinner?

18 A Twenty minutes.

19 Q Okay?

20 A Half hour.

21 Q Did Robert assist you in making dinner?

22 A No.

23 Q Does he generally assist you in making
24 dinner?

25 A Sometimes.

1 Q Okay, so you made dinner and you said it
2 took, how long did you say?

3 A Twenty, thirty minutes.

4 Q Okay, so we're talking maybe 5:30 at this
5 point?

6 A Yes.

7 Q All right, what did you do after that?

8 A We talked about if we wanted to wake Victim
9 up right then and there and sit down and eat with us or if
10 we would just sit down and eat together and then we'd wake
11 him after, you know, and just be able to tend to him by
12 himself; and so we agreed that we would just sit down and
13 have that moment and just eat two adults eat together. So
14 we did that, so we sat down and we ate together and as an
15 adult you would just have that adult conversation for a
16 while, and then after we finished eating I cleaned up and I
17 started making Victim plate, prepping his plate before I
18 go wake him up.

19 Q So you and Robert started eating at
20 approximately 5:30?

21 A Give or take, yeah.

22 Q Do you recall how long it took you to eat?

23 A No.

24 Q Okay, and after you ate you said that you
25 started prepping his plate?

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1 A Yes.

2 Q All right, what did you do after you had
3 Victim plate prepared?

4 A After I had Victim plate prepared I went
5 down the hallway to go get Victim

6 Q And what did you observe?

7 A When I walked into the bedroom to get
8 Victim he was laying on his side and he was breathing
9 really funny. He was heavy, he had like saliva hanging out
10 of his mouth, and I didn't know what was wrong. I didn't
11 know if he was choking, so I picked him up real quick,
12 flipped him over my arm, and all of a sudden he was just
13 seizing. I called Robert, I said something was wrong, you
14 need to call 911. He took him from me; I grabbed the first
15 phone I can find to call 911.

16 Q Just a minute. When you said flipped him
17 over your arm, he had saliva in his mouth, and you called
18 Robert, how long did it take for Robert to get to the room
19 that you were in?

20 A Seconds.

21 Q So when you were walking down the hall
22 going to get Victim up for dinner where was Robert?

23 A Well at one point he took the dog outside
24 to use the bathroom so he could have been already back
25 inside the house, I mean our house isn't big.

1 Q By the time you called for Robert he was
2 right there?

3 A Yes.

4 Q Did you see if Robert took the dog out?

5 A He had taken the dog out while I was
6 prepping the food.

7 Q Okay, by the time you got down the hall to
8 Victim Robert was close enough to respond within seconds?

9 A Yes.

10 Q I think you said that once Robert came in
11 you called 911?

12 A Yes.

13 Q And why did you do that?

14 A There was something wrong with him, I
15 didn't know what was wrong.

16 Q It was readily apparent to you that
17 something was wrong?

18 A Yes.

19 Q Because you said he was, had saliva in the
20 mouth and he was seizing?

21 A He was, he was seizing.

22 Q How long after you called 911 did the first
23 responders get to your house?

24 A Oh, my gosh, it was about like forever, it
25 went I guess any time there's an emergency time you expect

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1 for somebody to come it feels like it takes forever, but
2 they got there and the one man took Victim from him and
3 they put him on the floor and then another lady said his
4 body was hot, she needed wet rags, so I went into the
5 kitchen and I was throwing, we were throwing the rags back
6 and forth from the living room to the kitchen making them
7 wet, cold, to put on his body to bring his temperature
8 down, and then the next truck came and, and they put him on
9 a --

10 Q Stretcher?

11 A Thank you, a stretcher and they put him in
12 the ambulance and I rode with the ambulance to Conway.

13 Q Well let me ask you this, did you strike
14 and injure Victim

15 A No.

16 Q Any time during that day on the 14th did
17 you strike Victim

18 A No.

19 Q Any time in the three days prior to the
20 14th did you strike Victim

21 A No.

22 Q And when you saw him in the crib and you
23 called 911 did you attempt any resuscitation efforts, CPR
24 or anything like that?

25 A No. I just flipped him over my arm cause I

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1 thought he was maybe choking so I didn't want him to choke.

2 Q So you called 911?

3 A I called 911.

4 Q And waited on help?

5 A Yes.

6 Q Okay, now they took Victim to the hospital,
7 my understanding that you rode in the ambulance as well?

8 A Yes.

9 Q There was a comment made that you had
10 several kids and this was, well a bad one, I think that was
11 the comment?

12 A That's what she said.

13 Q Do you recall making the comment?

14 A Don't recall making the comment, if it was
15 a comment surely wasn't saying that he was bad, this is bad
16 this seizure, this incident is bad.

17 Q Was Victim a bad child while he was with
18 you?

19 A Victim wasn't a bad child.

20 Q Did you have any reason to punish or
21 discipline Victim while he was with you?

22 A Not that kind of discipline. We, I'd put
23 him in his room because he, if he whined a lot we would put
24 him in there to help him sit down for a moment, didn't get
25 spanked or anything like that and then I'd go back in there

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1 and we'd start again bring him back out, sit him back on
2 the floor. We'd play again and start all over.

3 Q Did you use corporal punishment on Victim

4 A No.

5 Q Ever?

6 A No.

7 Q All right, so you rode in the ambulance to
8 Conway Medical Center?

9 A Yes.

10 Q And what happened after that?

11 A Arrived at the hospital, they were, they
12 brought him in, got him into the unit there. They asking
13 all kinds of questions, I didn't know what was going on. I
14 was asking all kinds of questions, what's wrong with him,
15 they wouldn't answer my questions. I didn't know what was
16 wrong. They had, they had like, like a tong you put in
17 your mouth like you were going to check someone's throat.
18 They had it liked taped to his arm because they couldn't
19 put like --

20 Q I.V.?

21 A I.V. in his arm because they said they
22 couldn't keep him straight and, and you couldn't touch him
23 at first cause they kept telling you to stay away for a
24 minute, and then finally they let you get close to him and
25 you would talk to him and he would, he would, you know,

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1 move and you would just talk to him trying to get him to
2 listen to you and then they'd go take x-rays and we went
3 back and we took x-rays with him if you can stand close to
4 him while we did the CAT scans, so we did all the x-rays.
5 I never missed anything that dealt with Victim I was with
6 everything and then we went back.

7 Q So you were there when they did the cat
8 scans?

9 A Yes.

10 Q And you literally standing right next to
11 the machine?

12 A Yes.

13 Q And you were there when they did the x-
14 rays?

15 A Yes.

16 Q Was Victim conscious for any of this?

17 A I don't know if he was conscious or not, I
18 just know I was there. I had that thing you had to put on
19 you when you ---

20 Q The apron?

21 A Yes.

22 Q Well I guess what I'm saying is was he
23 talking to you?

24 A No.

25 Q When you found him in the crib was he

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1 talking with you?

2 A No, he was just making that noise and I
3 thought he was choking.

4 Q Did you talk with Victim any time this day
5 on July 14th?

6 A I talked to him when I left, flipped him
7 over my arm I said, baby, come on, what's wrong with you.

8 Q Okay, yes, ma'am, I guess I didn't ask the
9 question correctly, did Victim talk to you, did he interact
10 with you at any time on July 14th?

11 A No.

12 Q All the time you saw him he was, according
13 to you, asleep until you found him having a seizure?

14 A Yes.

15 Q Once you got to the hospital I guess things
16 got a little hectic?

17 A Yes.

18 Q Were doctors and nurses talking to you and
19 asking you what happened?

20 A Yes.

21 Q Did there come a time where any police
22 officers came and talked to you and asked you what
23 happened?

24 A Yes.

25 Q Tell us about that?

1 A One police officer came, I was told a 911
2 call was made by Richard, the father. I talked to that
3 police officer and he ---

4 Q Was that Troxell or Weaver?

5 A No, no, it was another police officer.

6 Q It wasn't Weaver either?

7 A No, it was just a Conway police officer.

8 Q A uniform police officer?

9 A A uniform police officer, talked to that
10 police officer, and he had told me that a detective would
11 be coming and I said, okay. He said that was just
12 protocol, I said okay, and he let us go back, you know,
13 into the room and we stayed with **Victim** and then Detective
14 Weaver came and took me into a room, talked to him
15 privately; and then I went out and then Robert went in
16 there and spoke to Detective Weaver and he says, I know you
17 guys want to get to Charleston as fast as you can, so we,
18 you know, I didn't get to say goodbye to **Victim** before he
19 went to Charleston.

20 Q They were already --

21 A Cause they were already gone.

22 Q Oh, so while you were talking to Weaver
23 they were shipping him out?

24 A Right.

25 Q Okay, and how long would you say you talked

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1 to Detective Weaver at the hospital?

2 A I don't know, twenty minutes, thirty
3 minutes, I don't know.

4 Q Do you know if Detective Weaver talked with
5 any of the doctors or nursing staff at the hospital?

6 A If he did it was not to my knowledge.

7 Q Did Detective Weaver accuse you of striking
8 Victim and causing these injuries?

9 A At Conway Hospital?

10 Q Yes, ma'am?

11 A No, sir.

12 Q So Victim was then taken down to MUSC,
13 right?

14 A Yes.

15 Q And how did you get to MUSC?

16 A We drove.

17 Q You and Robert?

18 A Yes.

19 Q How long did it take you to get down to
20 Charleston?

21 A Less than two hours.

22 Q And what did you do once you got to MUSC?

23 A Went straight to the hospital, went up
24 straight to ICU.

25 Q Did you contact any family members to let

1 them know what was going on?

2 A I called my mom and I called Richard.

3 Q When did you call your mother in this whole
4 sequence of events?

5 A I called my mom when I was at Conway
6 Hospital.

7 Q Okay, and when did you call Richard?

8 A When I was at Conway Hospital.

9 Q Did you call Cesalee?

10 A No.

11 Q Why didn't you call Cesalee?

12 A I was angry. I really truly thought she
13 had something to do with it cause when she left my house
14 she had the opportunity of taking her son numerous times
15 and she didn't want to take him; and what I mean by that is
16 when she left to go to Arizona every time when I was taking
17 them to the airport I asked her numerous times we can go
18 back and pick him up and you can take him, she said, no, so
19 I just felt like you just wiped your hands clean of him, I
20 was like what did you do.

21 Q You immediate thoughts was that Cesalee had
22 something to do with this injury?

23 A Yes, I immediately thought my child did
24 something wrong to her own child.

25 Q Once you let your mother know were there

Ms. Gorman - Direct Examination by Mr. Galmore

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1 any decisions about whether or not she was going to come to
2 South Carolina?

3 A Oh, I didn't know if my mom was coming or
4 not, I just know I'd keep my mom informed of what was going
5 on.

6 Q What about Richard, was there any decisions
7 made about whether he was going to come?

8 A I didn't know anything what they were going
9 to do. As I told him I said, you know, if I knew something
10 I would tell him, you know.

11 Q Would it be fair to say that you weren't
12 having that discussion about if they're going to come or
13 not?

14 A It wasn't the discussion I was having. I
15 mean it's not, it's not that I didn't want them there it's
16 their son, you know, I would expect them to be there, but
17 right now in the position I was in was, was **Victim** I
18 needed to make sure he was okay.

19 Q Well do you recall what time you got down
20 to Charleston?

21 A It could have been about midnight, 1:00 in
22 the morning, I don't know.

23 Q And how, how long were you down there
24 before you got a chance to leave and come back home?

25 A I left Charleston Wednesday briefly to come

1 home to get my car and go back.

2 Q And when you went to Charleston what
3 vehicle were you in?

4 A We were in Robert's truck.

5 Q Okay, so you got down to Charleston maybe
6 around midnight Tuesday morning and you stayed down there
7 until Wednesday when you left to go get your car in Conway
8 and come back?

9 A Yes.

10 Q While you were in Charleston did you have
11 an opportunity to visit with Victim

12 A Yes.

13 Q And what was his condition?

14 A Very critical, he had tubes everywhere,
15 monitors everywhere; he just laid in that bed.

16 Q Was there anything you could do for him?

17 A Just hold him and tell him how much I loved
18 him.

19 Q Did there come a time while you were in
20 Charleston when DSS came and talked to you?

21 A Yes.

22 Q That would have been Ms. Brown that
23 testified earlier?

24 A Yes.

25 Q Did anyone else come and talk with you?

Ms. Gorman - Direct Examination by Mr. Galmore

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1 A Detective Troxell came and talked to me;
2 Dr. Abel she came and talked to me.

3 Q Did anybody tell you what was going on with
4 **Victim**

5 A I don't know.

6 Q Okay, okay, so you spoke with Ms. Brown?

7 A Yes.

8 Q And you spoke with Detective Troxell?

9 A Yes.

10 Q Who's sitting right here, and you spoke
11 with who else?

12 A Dr. Abel.

13 Q Dr. Abel?

14 A Yes.

15 Q What type of discussions were you having
16 with these people?

17 A They were just asking me questions about
18 the day, asking me what I did that day, I think what I did
19 the day before.

20 Q Was this at midnight on Tuesday morning or
21 did they wait till 8, 9 a.m. on Tuesday morning?

22 A It would have been some time Tuesday, some
23 of it was Tuesday afternoon. I know I had been up since
24 Monday morning before, you know, before I went to work so I
25 had had no sleep for at least over forty hours.

1 Q Now any of these three people did they come
2 at you at one time?

3 A I think, I think Dr. Abel and Troxell could
4 have been at the same time, I don't know if they were at
5 same time or if they were separately. Ms. Brown was at a
6 different time. It just, they were just, it just felt like
7 it was just like here, here, here, and here. I don't know
8 if it was just in increments quickly or if it was a five
9 minute break or just --

10 Q Would it be fair to say that throughout the
11 day people were coming and asking you questions?

12 A Yes.

13 Q And did you answer their questions?

14 A Yes.

15 Q Did you refuse to answer anyone's
16 questions?

17 A No.

18 Q Did you have any idea what happened to

19 **Victim**

20 A No, I just knew he had fractures, that's
21 all I knew.

22 Q Okay, so somewhere along the line somebody
23 told you he had fractures?

24 A I knew that from Conway.

25 Q Okay?.

Ms. Gorman - Direct Examination by Mr. Galmore

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1 A The doctors in Conway that's all I knew.

2 Q Okay, do you have an explanation for how he
3 received these fractures?

4 A No, I do not.

5 Q Okay, so we've heard testimony about a
6 stroller, did you tell any of these people that the
7 stroller may have been responsible for it?

8 A Yes, I did.

9 Q And why did you make that claim?

10 A Because of the fact he was in it and he
11 fell backwards in the stroller down the stairs and he was
12 in it and he hit his head going to down the stairs.

13 Q So you observed what you thought could be a
14 head injury when he was in the stroller?

15 A Yes.

16 Q And you relayed that information to these
17 law enforcement officials?

18 A Yes.

19 Q There's also a claim about the dog?

20 A Yes.

21 Q Did you tell these people that the dog may
22 have done it?

23 A Yes.

24 Q And why did you tell them that the dog did
25 it?

1 A Well my dog weighs like sixty-five pounds.
2 Victim only weighs like maybe twenty, so if my dog knocks
3 you over it's pretty impactful. I'm not trying to blame my
4 dog but I mean he has knocked him over and knocked him into
5 the kennel or, you know, I mean I don't know if, you know,
6 you don't have the dog or Victim in your sight twenty-four/
7 seven. If the dog knocked him over without us sighting him
8 you don't always know, you know.

9 Q Now when you told them the dog may have
10 done it, had anybody previously talked to you about the
11 extent of Victim injuries?

12 A No, all I knew was just the head fractures.

13 Q So you didn't know how severe these
14 fractures were?

15 A No.

16 Q Now it's my understanding that you were
17 with Victim the day before at the pool?

18 A Yes.

19 Q Did you observe Victim injure himself at
20 the pool?

21 A No.

22 Q What did you observe about Victim
23 behavior at the pool, his demeanor?

24 A That he was lethargic. He just didn't act
25 like a normal seventeen, sixteen month old little boy, just

Ms. Gorman - Direct Examination by Mr. Galmore

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1 thought maybe there was just something, could have been
2 something more mentally wrong with him, like he just didn't
3 have the right growth as a, as a, as an infant, as a
4 toddler. So I was calling his doctor on Monday and I did
5 and scheduled an appointment for him so he can be checked
6 cause if there was something wrong with him I wanted him to
7 be treated so that way he could, you know, he could have
8 the right care to where if there was anything physically
9 wrong with him or mentally wrong with him, you know, if he
10 had any special things he needed to be treated for we could
11 take care of that and learn about it now than later..

12 Q You said you called the doctor on Monday?

13 A I did, I talked to the doctor, doctor's
14 office on Monday and had an appointment for him on Tuesday.

15 Q That would have been Monday the 14th?

16 A Yes. . .

17 Q Why were you calling the doctor on Monday
18 the 14th?

19 A Because I felt there was something wrong
20 with him on Sunday, he just wasn't acting right, so I was
21 making an appointment for him to go. They could have seen
22 him on Monday but I was at work so I couldn't get him there
23 so they said they was, you didn't feel it was extreme,
24 Monday it just felt he just wasn't acting right so they
25 said I can bring him in on Tuesday. I had Tuesday off so I

1 could bring him Tuesday.

2 Q Would it be fair to say that you felt like
3 Victim really wasn't acting right the majority of the time
4 that he was here with you?

5 A Yes, just seemed like after his mom left he
6 kind of went to like a depression.

7 Q And this would have been for how long, well
8 how long did you observe these not acting like symptoms?

9 A Well you knew, well it just kind got worse
10 after his mom left, you know, he wasn't acting right when
11 she was there and he was sick. He didn't talk; he head
12 butted things, he bit, he hit, he pinched, he just, you'd
13 have to put your hands to cover things so he wouldn't do
14 it, put his, you put your hand over your leg so he
15 wouldn't, you know, pinch himself or anything tell him, no,
16 we don't do those things.

17 Q Did you relay this information to the
18 people that were coming to ask you questions?

19 A I believe so.

20 Q Now when you told them that he wasn't
21 acting right, lethargic, pinching himself, again were you
22 aware of the extent of Victim injuries?

23 A No, I just knew he just had to have
24 fractures.

25 Q You knew they were asking questions and you

Ms. Gorman - Direct Examination by Mr. Galmore

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1 were trying to provide answers?

2 A Yes.

3 Q And that would have been on Tuesday?

4 A Yes.

5 Q Okay, I think you testified Wednesday you
6 left the hospital long enough to come back to Horry County
7 to get your car and drive back down?

8 A Yes, on Wednesday I was coming home to get
9 my car and Detective Weaver and Troxell came to my house
10 and took pictures.

11 Q Well did they know when you were coming
12 home?

13 A I called them and told them I was going
14 home to get my car.

15 Q Okay, so you made them aware of your
16 whereabouts?

17 A Yes, I did.

18 Q So all these pictures we have of the house
19 and measurements and things like that that was done on
20 Wednesday when you were home long enough to pick up your
21 car and go back to Charleston?

22 A Yes.

23 Q Now they took pictures of your dog?

24 A Yes.

25 Q Why did they take pictures of your dog?

1 A Because I made mention, you know, because
2 my dog had knocked down Victim before.

3 Q They took pictures of the stroller?

4 A Yes.

5 Q Why did they take pictures of the stroller?

6 A Because we made mention that Victim had
7 been knocked down in the stroller before down them steps.

8 Q How long was Troxell and Weaver at your
9 house on Wednesday?

10 A I don't know but I felt it was long because
11 I was trying to get back to Charleston.

12 Q Yes, ma'am, did they talk with you or
13 interview you while you were at the house on Wednesday?

14 A They probably asked some questions, I don't
15 really know. I was packing and trying to leave.

16 Q Did you answer their questions?

17 A Yes.

18 Q Were you truthful in your answers to their
19 questions?

20 A Yes.

21 Q After you spoke with them you came back to
22 Charleston again?

23 A Yes.

24 Q Okay, had any other family members come to
25 Charleston by then?

Ms. Gorman - Direct Examination by Mr. Galmore

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1 A Richard was in Charleston.

2 Q When did Richard get to town?

3 A He got there Tuesday.

4 Q Okay, did Cesalee eventually come to
5 Charleston?

6 A She got there Thursday.

7 Q Did your mother come to Charleston?

8 A She got there Thursday.

9 Q Would it be fair to say that the whole
10 family came down?

11 A Yes.

12 Q Wednesday when you got back to the hospital
13 Richard was there?

14 A Yes.

15 Q Did you have an opportunity to visit with
16 Victim after you got back to the hospital on Wednesday?

17 A Yes, I went back and I called Richard and
18 told him I was back and we went back up and I went and saw
19 Victim and everything and I asked Richard if he'd like a
20 break and, you know, I took him out and we went and had
21 dinner, I just, you know, kind of give him a break and
22 everything.

23 Q So when did you finally leave Charleston?

24 A I left Thursday evening after, after
25 Cesalee arrived and talked to her for a little bit and then

1 after my mom, after I went and picked up my mom, and talked
2 to her and told her everything that I knew and everything
3 and got them all situated and then I went back home
4 Thursday evening; and I said if you needed me I was only
5 just, you know, a half away I could be right back.

6 Q And I think we saw on that interview that
7 you went out to Fatz and, and Beef O'Bradys, would that
8 have been Wednesday night?

9 A No, that would have been Thursday evening.

10 Q Thursday?

11 A Yes.

12 Q Okay, Thursday is when you left Charleston
13 and come back up here?

14 A Yes, just didn't want to be home; I didn't
15 want to be in the house.

16 Q So Robert was with you the entire time?

17 A Yes.

18 Q Thursday night you went out and shot some
19 pool and --

20 A Yes.

21 Q Tried to get this out of your mind for a
22 little while?

23 A Yes.

24 Q Now the detective came and interviewed you
25 on Friday; is that correct?

Ms. Gorman - Direct Examination by Mr. Galmore

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1 A Yes.

2 Q Do you know what time they came to your
3 house that day?

4 A It could have been 8, 9:00 in the morning
5 they came to my house.

6 Q And they said we need you to come down to
7 the station with us?

8 A Yes, it was my understanding it was to, I
9 was supposed to give them some other information. During
10 the week while I was in Charleston I was talking back and
11 forth with Detective Weaver, you know, just whatever
12 information I was giving, like if Richard and I were
13 talking then I would tell Detective Weaver whatever he was
14 telling me or, you know, vice versa, and so I was, my
15 understanding is I was supposed to be coming to give a
16 statement on all that stuff. I didn't know I was coming in
17 to redo another interview.

18 Q Okay, and you took that book down there
19 with you?

20 A Yes.

21 Q What was in that book?

22 A Just some personal stuff of Cesalee's that
23 she, when she was in school it was to because of the fact
24 that I really thought she had something to do with the
25 infliction it had that some medical history.

1 Q Cesalee's medical history?

2 A Cesalee's medical history.

3 Q Okay, you went down there on Friday at
4 their request?

5 A Their request.

6 Q And you gave a statement?

7 A Yes..

8 Q And they asked you if you did it?

9 A Yes.

10 Q Did you say, yes, I did it?

11 A No.

12 Q Well what was that all about on the tape
13 when they were asking you is it possible that you did it?

14 A I think you were just so tired and drawn
15 out and, and just messed with your head, messed with my
16 head for so long and I was just tired.

17 Q Let me be very specific, did you strike
18 Victim and cause these injuries?

19 A No.

20 Q Did you tell the detectives that you struck

21 Victim

22 A No.

23 Q Why did you give this demonstration with
24 the leprechaun?

25 A I don't know. I think they said show me

Ms. Gorman - Direct Examination by Mr. Galmore

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1 how you did this and I just reacted to it.

2 Q But by saying that are you saying that you
3 shook Victim

4 A No.

5 Q Did you shake Victim at any time?

6 A No.

7 Q Now I noticed on that tape that you asked
8 to take your medicine?

9 A Yes.

10 Q What medicine were you taking?

11 A Xanax.

12 Q Is that a prescribed medication for you?

13 A Yes.

14 Q And what is Xanax for?

15 A I have anxiety, just kind of --

16 Q It's anti-anxiety?

17 A Yes.

18 Q Do you know if it is a controlled
19 substance?

20 A Yes.

21 Q You got to sign for it when you go to the
22 pharmacy?

23 A Yes.

24 Q You got to show your I.D. to get it?

25 A Yes.

Ms. Gorman - Direct Examination by Mr. Galmore

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1 Q Detective Troxell knew that, right?

2 A Yes.

3 Q Did he have an opportunity to look at your
4 pill bottle?

5 A Yes, he did.

6 Q Did your pill bottle clearly say Xanax on
7 the front of it?

8 A Yes, it does.

9 Q Do you know whether Victim in fact got up
10 and ate breakfast on the morning of the 14th and then got
11 up and ate lunch on the afternoon of the 14th?

12 A No, I was just told it over the phone.

13 Q And you were told that by whom?

14 A Robert.

15 Q Did you independently verify whether Victim
16 got up and had breakfast that morning?

17 A No, I was at work.

18 Q Did you independently verify whether Victim
19 got up and had lunch that day?

20 A No, I was at work.

21 Q We've heard some discussion about the state
22 of the finances in your household; can you tell this jury
23 who was paying the bills of the household?

24 A The majority of the time I was.

25 Q Now Robert wasn't unemployed the entire

Ms. Gorman - Direct Examination by Mr. Galmore

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1 time that you knew him?

2 A No.

3 Q When you first met him he was still in the
4 Navy?

5 A Yes.

6 Q When you met him you were in Virginia at
7 the time?

8 A Yes.

9 Q So you and Robert met in Virginia?

10 A Yes.

11 Q After his discharge from the Navy what did
12 you do?

13 A After his discharge in the Navy he asked me
14 to move here, so myself and my two children we moved here.
15 We got a house, I got a job within two weeks, and I was
16 working.

17 Q That would be Kyle and Kayla?

18 A That would be Kyle and Kayla, yes.

19 Q So they were living with you in Virginia
20 also?

21 A Yes, they were living with me in Virginia
22 as well.

23 Q Now you said you got a job within two
24 weeks; how long was it before Robert got a job?

25 A I don't know.

1 Q Did Robert have a job after discharge from
2 the Navy?

3 A No.

4 Q So you're saying he never worked?

5 A He did work but he didn't have a job right
6 after he got out of the Navy.

7 Q Okay, but at some point after the discharge
8 from the Navy he found employment?

9 A Yes.

10 Q So he was contributing to the household as
11 well?

12 A Yes.

13 Q When did Robert loose his job?

14 A I don't know the exact dates. His last job
15 was Market Commons and he was working there before it
16 opened. He was working for an electrical company.

17 Q Do you recall how long before these
18 injuries to Victim when the last time was Robert was
19 working?

20 A I don't understand the question?

21 Q Okay, well we have a time frame, we know
22 when Victim was injured and that was July 14th. --

23 A Okay.

24 Q When was the last time prior to that that
25 Robert had a job?

Ms. Gorman - Direct Examination by Mr. Galmore

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1 A Robert hadn't had a job probably for, he
2 didn't have a job when Cesalee got here so that was a month
3 and he probably didn't have a job prior to that, it was
4 probably not for a couple of months.

5 Q Okay, for a couple of months, so what was
6 Robert doing all day when you were at work?

7 A When Victim was there he was attending to
8 him.

9 Q Right, before Victim got here?

10 A Looking for a job.

11 Q Once Victim got there it was decided that
12 you all would take care of the situation by you working and
13 him taking care of Victim

14 A Yes.

15 Q Had you had any concerns about Robert being
16 around your grandson?

17 A No.

18 Q Now we've heard mention that you were
19 driving his truck?

20 A Yes.

21 Q Explain those circumstances to the jury?

22 A The reason why I was driving his truck was
23 my car got hit by a deer and my car was in the shop being
24 fixed.

25 Q And when was this in relation to when

1 Cesalee came and all of that?

2 A It happened while Cesalee was here so my
3 car was just in the shop for a couple of weeks getting
4 fixed.

5 Q Okay, so during that time you were driving
6 his car or his truck because your car was in the shop?

7 A Yes.

8 Q That's the car you're referring to when you
9 said you had to come back home on Wednesday and pick up
10 your car?

11 A Yes, it was getting out of the shop so I
12 can go pick it up and go back to Charleston.

13 Q Okay, so while Robert was watching Victim
14 what typically would they do on an average day?

15 A I don't know. I'm not home, just I would
16 assume play with the toys in the house. They can go
17 outside and walk the dog. They can play on the trampoline.
18 I don't know, we had a four wheeler, they could ride it
19 around, I don't know.

20 Q They were out on Highway 129 in the mobile
21 home while you were at work?

22 A Yes.

23 Q How far would you say is the nearest
24 convenience store to this house on Highway 129?

25 A The closest store is IGA, so walking

Ms. Gorman - Direct Examination by Mr. Galmore

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1 distance, but that's going to be a minute.

2 Q And again Robert had no blood relationship
3 to this child?

4 A No.

5 Q Do you know when Victim was taken off life
6 support?

7 A I really don't because I think I was
8 already incarcerated by then. I know that Wednesday they,
9 I believe they said Wednesday they had to do a test to see
10 if he can breath on his own and he couldn't pass that test
11 but they kept him on the machine after the fact.

12 Q We heard testimony that Victim was
13 baptized?

14 A Yes, he was baptized that Thursday.

15 Q Were you there for that?

16 A No, I was not.

17 Q Why weren't you?

18 A I felt that Wednesday night or Thursday
19 morning I went upstairs and I spent my time with Victim my
20 time, and I helped the nurse clean him, bath him, put
21 lotion on him, talked to him, and that was my time with
22 him, so I felt the time that Cesalee and Richard and my mom
23 could spend time with him that could be their time and
24 that's what I chose.

25 Q Did you love Victim?

Ms. Gorman - Cross Examination by Ms. Lively

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1 A Love him with all my heart, there's never a
2 day that goes by I don't think about him.

3 Q Did you abuse Victim

4 A No.

5 Q Did you allow Robert to abuse Victim

6 A No.

7 Q Did you allow anyone to?

8 A No.

9 Q Would you have allowed anyone to?

10 A No.

11 Q All these bruises that they had did you
12 inflict them?

13 A No.

14 Q Did you allow Robert to?

15 A No.

16 Q Did you see those bruises?

17 A No.

18 Q Did you answer all the questions that
19 various officials asked you?

20 A Yes.

21 Q Have you given them the best possible
22 explanation that you had for what could have happened to

23 Victim

24 A Yes.

25 Q And again did you cause these injuries to

Ms. Gorman - Cross Examination by Ms. Lively

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1 Victim

2 A No.

3 Q Did you allow anyone else to injure Victim

4 A No.

5 Mr. Galmore: Thank you, Ms. Gorman, please
6 answer any questions counsel may have for you.

7 The Court: What order would you like to do it,
8 ladies?

9 Ms. Lively: It doesn't matter to me, Your
10 Honor.

11 Ms. Grabert-Lowenstein: Ms. Lively can go, that
12 will be fine.

13 **Cross Examination**

14 **By Ms. Lively:**

15 Q Ms. Gorman, you would agree that this is an
16 extremely important case both for the decedent Victim as
17 well as yourself, right?

18 A Yes, ma'am.

19 Q Okay, so and this has been three and a half
20 years pending, correct?

21 A Yes, ma'am.

22 Q All right, so would you also agree that the
23 first time that you had told anyone other than maybe your
24 attorney that you spent time at the IGA and the video store
25 on the date of July the 14th, 2008, is on the record here

Ms. Gorman - Cross Examination by Ms. Lively

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1 today in front of this jury?

2 A Yes, sir, ma'am, I'm sorry.

3 Q I'm sorry, I can't hear you, you're going
4 to have speak up?

5 A I gave them that information at his ---

6 Q You gave who?

7 A My attorney.

8 Q I'm not, I'm talking about the detectives,
9 Dr. Abel, people who were treating your grandson, I'm
10 talking about DSS who's investigating possible child abuse,
11 did you ever tell anyone of those individuals three and a
12 half years ago that you went to the IGA, you went to the
13 video store on the day when everyone is telling you he had
14 to be injured?

15 A I don't know did or didn't, ma'am, I could
16 have, I don't know.

17 Q Okay, you could have, well would you agree
18 that from, you've been sitting in this courtroom every
19 single one of those officials for the State of South
20 Carolina who were looking into the death of your grandson
21 sat in that stand and not one of them brought up the fact
22 that you were at the IGA and the video store; would you
23 agree with that?

24 A I agree.

25 Q Okay, and wouldn't you agree that in this

Ms. Gorman - Cross Examination by Ms. Lively

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1 particular case when they're investigating the death of a
2 child, your grandson, and the time line was so crucial that
3 something like that had been brought up that someone out of
4 those five, six, seven, eight, ten people would have
5 written that down? I'm just asking common sense, do you
6 think it would have happened?

7 A It could have or it couldn't have, I mean
8 if they wrote it down or not I don't know.

9 Q Well let me ask you this let's talk about
10 your own memory, we have seen an hour and forty minute
11 interview that you gave on July the 18th, 2008, correct?

12 A Yes, ma'am.

13 Q And that was you in that interview?

14 A Yes, ma'am.

15 Q No question, correct?

16 A Yes.

17 Q All right, this is four days after Victim
18 had been admitted to the E.R. at Conway Medical Center,
19 correct?

20 A Yes.

21 Q You have heard over and over by this time
22 multiple skull fractures, bleeding on the brain, severe
23 head injury, correct?

24 A Yes.

25 Q Okay, so there's no doubt this wasn't just

1 a little small bump on the head; would you agree with that?

2 A Yes, ma'am.

3 Q All right, so we have all this information
4 and you talk to the detectives, you see Weaver one time,
5 correct?

6 A Yes.

7 Q All right, then Troxell and Weaver come to
8 MUSC and they talk to you again, right?

9 A Yes.

10 Q Okay, now at this point in time do you
11 recall if you had told them that you ever left and went to
12 the IGA and the video store?

13 A I can't recall if I did or didn't.

14 Q Okay, all right, that's fair, now so then
15 because you said you don't know whether they would have
16 written it down or not and that they might have missed it,
17 we get you on video talking four days later after you've
18 had several times to give your story about every minute you
19 spent with that child and even then you didn't mention
20 going to the IGA and the video store; isn't that true?

21 A Yes, ma'am.

22 Q Okay, so we can agree on that, right?

23 A Yes, ma'am.

24 Q Now so today we have, where's the check?

25 A It's right here.

Ms. Gorman - Cross Examination by Ms. Lively

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1 Q Thank you, all right, now we have Defense
2 Exhibit 5 which is, it appears to be an official canceled
3 check; would you agree?

4 A Yes, ma'am.

5 Q You said documented, that's your signature
6 without a doubt, you wrote this when you went to the IGA?

7 A Yes, ma'am.

8 Q Well I guess you must have just forgot to
9 tell all those officials cause now we know for a fact you
10 went to the IGA; isn't that right?

11 A Yes, ma'am.

12 Q Okay, but now this still doesn't fit with
13 your time frame so you have to say that the time stamp on
14 the back is wrong so you've got to make that fit your time
15 frame, don't you?

16 A Yes, ma'am.

17 Q That's right, you do, because if you don't
18 then this time frame saying that you were there at 3:52 and
19 it only takes you five minutes to get home that would put
20 your right with every single one of your statements saying
21 you were home between 4 and 4:30 that day; isn't that
22 right?

23 A That would.

24 Q That's exactly right, thank you for
25 agreeing. So you were home between 4 and 4:30 on that day;

Ms. Gorman - Cross Examination by Ms. Lively

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1 is that correct?

2 A I got, I got off work at 3:45, it does take
3 me about forty minutes, fifty minutes to get home, and I
4 was home for a few minutes and I left and went to the
5 store.

6 Q So you're saying that date stamp is wrong?

7 A Yes, ma'am, I am.

8 Q Okay, all right, but it's right that you
9 went to the IGA?

10 A That is correct, I did go to the IGA.

11 Q Okay, so isn't what you're doing at this
12 point in time, Ms. Gorman, picking and choosing what's
13 fitting your story that you have put up in your mind over
14 the past three and a half years to make it fit?

15 A No, ma'am, it's not.

16 Q It's not, okay?

17 A No, ma'am.

18 Q You're just completely coming clean for
19 this jury here today; is that right?

20 A No, ma'am, I'm telling you the truth.

21 Q Okay, so that means you were lying on July
22 18th whenever you were investigated and spoken to about the
23 death of grandchild to Troxell and Weaver then; is that
24 right?

25 A No, ma'am, I was tired and exhausted for

Ms. Gorman - Cross Examination by Ms. Lively

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1 being up for days so I had skipped a very important
2 information, yes, ma'am, in not telling them that I went to
3 a grocery store.

4 Q Okay, you were tired and exhausted because
5 you had spent forty hours at the hospital or because the
6 night before you and your boyfriend who are finally free of
7 the aggravation of a toddler had gone out to Beef O'Bradys
8 and Fatz to drink beer and shoot pool; isn't that correct.

9 A No, ma'am.

10 Q Okay, but you did go out that night, didn't
11 you?

12 A Yes, ma'am, we did.

13 Q That's exactly right and you went out that
14 night and that was the night that your grandson's organs
15 had been donated; isn't that right?

16 A I don't know if they were or not, ma'am, I
17 was not notified about it.

18 Q Okay, as a matter of fact you were notified
19 about the date that he was going to be baptized and you
20 didn't stay for that, did you?

21 A Yes, ma'am, I was there and notified about
22 it.

23 Q You were there but you didn't stay for it,
24 did you?

25 A No, ma'am, I did not.

1 Q But you took the time to go out to Fatz?

2 A I went out to stay away from my house, I
3 just did not want to be there.

4 Q You know, Julie, would you agree that it's
5 somewhat concerning that the sixteen-month-old child had
6 pretty much been for all reports fine and then after being
7 in your care for two weeks he's dead; isn't that a little
8 odd?

9 A Ma'am, he wasn't well when he got to my
10 house.

11 Q Okay, cause once again it was Cesalee's
12 fault, right?

13 A I don't know whose fault it is but I will
14 tell you he's not, he wasn't well.

15 Q He wasn't well, okay, that's the reason why
16 you took him to Dr. Hutson, the pediatrician in Aynor; is
17 that right?

18 A Yes, ma'am.

19 Q Okay, and you said that on July the 1st
20 when you took him there it was just for ant bites and
21 nothing else?

22 A No, ma'am, I then talked about his head
23 being squishy.

24 Q Okay, his head being squishy, and that's
25 right, will you please, demonstrate to the jury again

Ms. Gorman - Cross Examination by Ms. Lively

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1 where, where you're talking about his head was squishy?

2 A His head was squishy all over; it wasn't
3 just one spot but all over.

4 Q So, so, right, let me get this, so right
5 through here?

6 A Yes, ma'am, all over.

7 Q All over?

8 A It was soft and squishy.

9 Q And you're aware that the massive skull
10 fractures to Victim that have been documented and has been
11 seen by this jury are right in here?

12 A Yes, ma'am.

13 Q Is it surprising that the pediatrician who
14 came and testified and you saw him never documented a child
15 with a squishy head on him?

16 A I can't explain why but I did tell him.

17 Q Okay, and, and then were you given a
18 prescription for Victim

19 A Yes, I was, I was given two prescriptions.

20 Q Two prescriptions, one of them was a
21 steroid cream, and one of them was Xyzal which was the
22 antihistamine; is that correct?

23 A Yes, ma'am.

24 Q And what was the dosage for that
25 antihistamine that you were supposed to give to this twenty

1 pound child?

2 A A small amount.

3 Q What's the exact amount?

4 A Probably half a teaspoon, maybe.

5 Q Half a teaspoon?

6 A Yes.

7 Q Okay, and isn't it true in your statement
8 from July the 18th when you were talking to the detectives
9 that you would give him this, this medicine, it was kind of
10 like Benadryl?

11 A It is like a Benadryl, yes.

12 Q Exactly, and the reason why you know this
13 is because when you would give it to Victim he would become
14 very drowsy and lethargic; isn't that true?

15 A No, that's what the side effects can be.

16 Q Okay, all right, well how about the fact
17 that in the records whenever all of these medical
18 professionals who their lives are dedicated to saving
19 people actually document in their records that you told
20 them or some care giver told them he was being given twice
21 that amount and in one of the records two and a half times
22 that amount?

23 A I never gave him that.

24 Q You never gave him that information?

25 A No, ma'am.

Ms. Gorman - Cross Examination by Ms. Lively

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1 Q Were you around, did Robert give it to
2 them?

3 A Robert never gave him that much medicine.

4 Q And did you see the pictures of the Tylenol
5 and the medicated cream that Detective Troxell took and
6 actually put, that we put into evidence?

7 A No, ma'am, but I mean I know what, I know
8 what medicines were at my house.

9 Q Where was the Xyzal?

10 A In his diaper bag cause I took that to
11 Charleston.

12 Q So you didn't see that was important to, to
13 give to the detective?

14 A It was, when I went to Conway to E.R. when
15 we left the house it was one of the medicines I took with
16 me so they had it in the EMT truck so they knew what he had
17 and how much.

18 Q Well, you know, you had mentioned that
19 whenever that you were concerned that the child was not
20 right or something was wrong with him whenever Cesalee
21 brought him to you in June of 2008, correct?

22 A Yes.

23 Q You mentioned he had a squishy head and,
24 and you were concerned that maybe developmentally he had
25 some type of problems; is that right?

1 A Yes.

2 Q Okay, did you have, do you have for this
3 jury with all this medical information that, that they've
4 seen and gone through do you have any documentation
5 whatsoever to back up your position regarding him being
6 developmentally delayed or having a squishy head?

7 A No, ma'am, I do not.

8 Q Now we had a lot of talk about finances and
9 I'm not going to get into it a whole lot, but is it true
10 that the Palmer's, Gail and Jimmy had to pay ya'll's rent
11 the last month?

12 A I believe they did.

13 Q Okay, and ya'll bought a \$1600 bulldog?

14 A At that time we had the money, I could.

15 Q Okay, and but there were some bills that
16 were being paid and weren't getting paid?

17 A All my bills were paid.

18 Q All your bills were paid?

19 A I could pay my bills and I paid some of his
20 bills.

21 Q Okay

22 A But there were bills at times probably
23 didn't get paid but, you know, I did pay my bills.

24

25 Q Okay, that's fine, well let me ask you this

Ms. Gorman - Cross Examination by Ms. Lively

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1 because you, you were the only one working, correct?

2 A Yes.

3 Q All right, and Cesalee comes into town and
4 obviously you even said in your statement you and Cesalee
5 didn't get along, you were even concerned that she might
6 hit you on a day whenever you were at MUSC and you saw her?

7 A Yes.

8 Q Fair enough.

9 A Yes.

10 Q Okay, you didn't even call your own
11 daughter to tell her her son was being life flighted to
12 MUSC, right?

13 A Yes.

14 Q Okay, so that's bad of a relationship the
15 two of you had?

16 A Yes.

17 Q Okay, all right, and then you said that you
18 and your family didn't like Richard, the father of the
19 child, correct?

20 A Yes.

21 Q All right, so here we are you're having to
22 take care of the toddler the product of the two people that
23 you dislike so much who was dumped off at your house; is
24 that right?

25 A Yes.

1 Q Okay, and like you said in your statement
2 Cesalee just wiped her hands of him, I kept telling her on
3 the way to the airport are you sure, are you sure you want
4 to leave him; is that right?

5 A I just wanted to make sure that's what she
6 wanted to do. I wasn't, I mean I'd keep him no matter
7 what, that wasn't the problem.

8 Q Okay.

9 A I just wanted to make sure that's what she
10 wanted to do, you know.

11 Q Okay, and, and you felt that maybe by
12 keeping him there you could even fix him and make him a
13 fresh little boy for her, didn't you?

14 A Just wanted to make sure that, you know,
15 that way we could, you know, the habits that he had, you
16 know, the hitting and everything, you know, just where he
17 wasn't doing that anymore and that way when he goes back or
18 when she comes back to get him that he wasn't doing that
19 stuff anymore.

20 Q You wanted to fix him?

21 A He wasn't a bad child.

22 Q Okay, he was whiny?

23 A He was just whiny but he wasn't a bad
24 child.

25 Q He was fussy?

Ms. Gorman - Cross Examination by Ms. Lively

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1 A He was fussy but he wasn't a bad child.

2 Q He'd try to crawl up your leg while you
3 were busy trying to cook dinner?

4 A So he would try to crawl up my leg and I
5 would just move him away, I mean, he wasn't a bad child.

6 Q But you would get frustrated with him?

7 A I get frustrated I'd walk away.

8 Q And he was very clingy, correct?

9 A Yes, he was.

10 Q This was the first time he had ever met
11 you, right?

12 A Yes, ma'am.

13 Q First time that he had been away from his
14 mother that long; isn't that right?

15 A Yes, ma'am.

16 Q And the way that you dealt with what you
17 referred to as depression because this child was not around
18 his mother was to immediately try to fix him; is that what
19 you're telling us?

20 A Yes, ma'am, I was getting it from both
21 sides. I was being told by one to let him cry, don't pick
22 him up, and let him do this, and so I was doing it as well.

23 Q So, okay, instead of comforting a child who
24 was out of sorts, not where he's normally used to being, he
25 misses his mother?

1 A I still loved on him, I just didn't pick
2 him up.

3 Q You didn't pick him up, okay?

4 A I still loved on him, though, we just
5 didn't pick him up.

6 Q All right, Julia, let's, let's get to the
7 point of where you showed this, where the jury saw you
8 shaking that leprechaun doll, you're saying that you never
9 did that?

10 A I never shook my grandson.

11 Q Okay, and at the time that you were in this
12 interview you had signed a Miranda form, correct?

13 A Yes, ma'am.

14 Q At this point in time did you know how
15 serious it was, anything and everything that you said to
16 Troxell and Weaver regarding what you had done with your
17 grandson?

18 A I probably really didn't know, I mean I
19 knew my grandson was sick. I knew he was severe but I
20 didn't do anything wrong to my grandson, never hurt him. I
21 never did any of this stuff.

22 Q Hadn't they just screamed in your face and
23 told you that you were going to jail?

24 A They, they had done everything, scared me
25 to death, I didn't do anything. I still haven't done

Ms. Gorman - Cross Examination by Ms. Lively

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1 anything.

2 Q Okay, Ms. Gorman, and I, and I appreciate
3 that that you say that but this is my question, if, if you
4 didn't do anything, didn't hurt your grandson then why did
5 you consistently lie in that interview about what you had
6 done on that Monday and specifically about shaking your own
7 grandson?

8 A I didn't shake my grandson.

9 Q I'm asking why you lied?

10 A I don't know why I said it. They asked me
11 how I shook that thing and I shook it, I never said I shook
12 him.

13 Q No, they didn't ask you how you shook that
14 thing, they asked you how you shook your grandson.

15 A And I shook that doll but I never shook my
16 grandson.

17 Q Do you wish you could take that back now?

18 A Absolutely, every day, but I never shook my
19 grandson.

20 Q You just made that up to make them happy?

21 A I don't know but I never shook my grandson.
22 I never hurt my grandson.

23 Q Do you need tissue?

24 A Yes.

25 Q Whenever you and Robert were driving back

1 and forth from Conway to MUSC being the concerned
2 grandmother that you were, why didn't you ever look at him
3 and say what did you do to my grandson?

4 A I never asked, I never thought he would do
5 anything to him.

6 Q Okay, cause you never thought he would do
7 anything to him, and as a matter of fact that's exactly
8 what you told the detectives; isn't that right?

9 A Yes

10 Q And, Julie, would you agree that the one
11 person that actually puts Robert outside of the home
12 walking the dog that day on the 14th wasn't Robert in his
13 interview, but it was you?

14 A Yes.

15 Q Okay, so you're the one that actually said
16 it, and you're the one that talks about, and it's eerily
17 similar in this way, the two of you both decide that let's
18 don't get him up, let him lay in his playpen so we can have
19 a peaceful dinner so he doesn't act up; isn't that true?

20 A That's not how, how it's supposed to mean.

21 Q Okay, well you've given us a lot of
22 different meanings of a lot of different things so will
23 you, please, explain to me what type of meaning that could
24 have?

25 A It's just meaning we'll just have an adult

Ms. Gorman - Cross Examination by Ms. Lively

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1 dinner before we wake him up so that way we can just, I can
2 just tend to him, you know, so I can just give him my
3 hundred percent attention to feed him instead of me taking
4 a bite and attending to him, that's all it was. It wasn't
5 the fact that he was going to act up or anything; it's just
6 so I can give him my hundred percent quality time.

7 Q And, Julie, by this time in your, in having
8 **Victim** in your house you and Robert's day to day lifestyles
9 have changed dramatically; wouldn't you agree?

10 A I just worked and came home and took care
11 of him after I was home.

12 Q Exactly, and before then you had no toddler
13 to take care of; isn't that right?

14 A No, that didn't matter.

15 Q Okay, all right, and at what point in time
16 did Robert tell you that he was done with this situation
17 and that he was going to leave you and go back home to his
18 parents?

19 A I don't recall him ever telling me that.

20 Q Okay, so you're saying that your
21 relationship with him was not on the rocks. you never cried
22 calling friends just losing it because the two of you were
23 breaking up?

24 A I'm not saying that we, that we didn't have
25 arguments. I'm not saying I never cried and talked to

1 friends, but he's never told me that he was, we were
2 breaking up and he was going to move home, he never told me
3 that.

4 Q But the possibility that he wouldn't leave
5 you was probably better if Victim was out of the picture;
6 wouldn't you agree?

7 A No, I wouldn't care if he left or not.

8 Q Okay.

9 A Victim was my responsibility not his.

10 Q But, but he was the one that was the
11 caretaker during the day every day; wasn't he, Julie?

12 A That doesn't matter, I could take care of
13 Victim with or without him.

14 Q So you've mentioned again that Victim had a
15 habit of head butting, biting, pinching himself?

16 A Yes, he did.

17 Q Really, and well then I'm curious, you
18 know, when he was in the hospital and we've got all these
19 pictures of these bruises all over his body, if he had a
20 habit of pinching himself then why wasn't he completely
21 bruised free before he ended up in the E.R.?

22 A I would just my hand down if he'd start I
23 would just stop him.

24 Q But you're saying he was doing that all
25 along?

Ms. Gorman - Cross Examination by Ms. Lively

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1 A He was doing it, he was doing it when he
2 arrived.

3 Q Okay.

4 A And he was head butting; he was biting.

5 Q But the bruises didn't appear until he
6 actually ended up in the E.R.?

7 A Yes, ma'am, he didn't have those bruises.

8 Q All right, and, Ms. Gorman, you stated that
9 in your direct testimony that you never hit your
10 grandchild, never smacked him or anything like that, but
11 didn't you actually disclose in your July 18th interview
12 that you did smack him and pop him on the butt?

13 A I have popped him on the butt, I have
14 tapped him on his hand, yes, I have said that.

15 Q And, and let me just go through this with
16 you because I want to make sure that I'm very clear, even
17 though you told everybody else that you were home between 4
18 and 4:30 you're saying that that's incorrect, am I, is that
19 where we're at right now?

20 A I came home, I left, I went to the IGA
21 store.

22 Q I know and I'm sorry, I'm just trying to
23 get a clear picture of where your time line is different.

24 A Okay.

25 Q Would you agree that when you talked to the

Ms. Gorman - Cross Examination by Ms. Lively

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1 detectives and probably every other official in this,
2 investigating this case you said that you were home between
3 4 and 4:30?

4 A Yes, it could be, yeah.

5 Q Okay, thank you, and when you got home you
6 went and checked in on Victim and he was sleeping and
7 breathing fine; is that correct?

8 A Yes, yes, ma'am.

9 Q Then you walk out of his room and a little
10 bit later you said that you would check on him periodically
11 with Robert; is that right?

12 A I didn't check on him again until I was
13 time to get him for dinner.

14 Q Okay, so that's different, too, and then
15 you stated that you cooked dinner and at that time either
16 you say this to Robert or he says it to you, what do you
17 want to do, let's have a peaceful dinner, don't get him up,
18 etcetera, etcetera, we've just talked about that, correct?

19 A Yes, ma'am.

20 Q Okay, so you sit down to eat dinner in
21 peace and then this is in your July 18th interview you said
22 that's whenever Palmer gets up and leaves and walks outside
23 to walk the dog?

24 A He just stepped outside and took the dog
25 right there by the steps, yeah.

Ms. Gorman - Cross Examination by Ms. Lively

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1 Q All right, and then you go to wake up
2 Victim and that's whenever you see that he's got the saliva
3 and he's making these noises and seizing?

4 A Yes, ma'am.

5 Q Okay, all right, and you agree because it's
6 in, I'm assuming it's in the record and this time is right,
7 that 911 was called around 6:00 p.m. that day?

8 A Yes, ma'am.

9 Q All right, so you do agree as to the time
10 when 911 was called?

11 A Yes, ma'am.

12 Q All right, now, but everything else that,
13 that I've said to you other than let's eat dinner and all
14 that stuff you're saying all of that in that time line is
15 completely incorrect from three and a half years ago what
16 you were telling the people?

17 A The only thing that I didn't tell them or
18 they may not have wrote down was the fact that I went to
19 the store and to the video store before I came home. I
20 mean I came home and I left and I came back.

21 Q Well you didn't tell them about the bad
22 check and the fact that it was post dated a whole hour
23 later than it should have been?

24 A Well I didn't know, I didn't know the check
25 was posted an hour later.

1 Q Okay.

2 A I mean that's not my error.

3 Q Okay, you just figured that out before you
4 testified today?

5 A Well, yes, ma'am, I didn't know that.

6 Q I got you, any time whenever Logan --

7 A The dog.

8 Q Thank you, the big-\$1600 bulldog knocked
9 Victim over did he ever get knocked out or lose
10 consciousness?

11 A No, ma'am.

12 Q Whenever he was in that stroller when
13 Cesalee was still in town about two or three weeks before
14 he ended up in the E.R. with skull fractures did he ever
15 loose consciousness?

16 A No, ma'am.

17 Q When was the last time you gave him that
18 antihistamine?

19 A I could have gave it to him that Saturday,
20 I'm not really for sure if I gave it to, it had to been
21 Saturday cause I did, or it could have been Sunday, I'm
22 sorry, cause Monday I was at work.

23 Q Okay, and, and let me ask you one more
24 thing?

25 A Okay.

Ms. Gorman - Cross Ex. by Ms. Grabert-Lowenstein

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1 Q Isn't it true that while Cesalee was here,
2 and you've already said ya'll had problems, that you called
3 her husband and said get your wife and your young'en and
4 take them home?

5 A I did, on my way home from work because she
6 pulled a stunt about being out till 6:00 in the morning
7 cause she text me and she text me about three, or three, so
8 in the morning, said she was out. I said don't you think
9 you need to come home? You got your child to tend to, and
10 she said he won't wake up till 6:00, and that kind of upset
11 me, you know, because you have your child to take care of
12 and then she went out again and the next morning on my way
13 home from work I called Richard and I said you need to get
14 your wife and your child and take them home if they're
15 going, you know, if she's going to act like this and he,
16 you know, when I got home I had calmed down; and I, you
17 know, talked to Robert and he says, you know, Victim can
18 stay and I took Cesalee outside and I talked to her. I
19 didn't yell or scream at her and talked to her and
20 explained to her, you know, we're not going to have kind of
21 stuff at my house. She said, okay, and then we decided
22 that Cesalee could stay, too, and but Richard had already
23 bought the plane ticket and so she decided she wanted to,
24 you know, she would go and leave the baby. You know we had
25 already decided that she could still stay. It wasn't the

Ms. Gorman - Cross Ex. by Ms. Grabert-Lowenstein

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1 fact that you know, when I called him I was upset but I
2 still offered her to still stay even though the
3 disagreement was there she was offered to still stay at my
4 house. She's still my child, you know, we have our
5 differences but she was still welcome to stay.

6 Q Well after all the different stories,
7 Julie, I just want to ask, is today the truth or were the
8 other stories three and a half years ago the truth?

9 A Today is the truth, ma'am, I didn't hurt my
10 grandson.

11 Q Cause today's story is the one that counts,
12 right?

13 A They were all the truth, I never hurt my
14 grandson.

15 The Court: Ms. Grabert-Lowenstein?

16 Ms. Grabert-Lowenstein: Thank you.

17 Cross Examination

18 By Ms. Grabert-Lowenstein:

19 Q Good evening, ma'am. You were asked about
20 the Bass Pro Shop time card?

21 A Yes, ma'am.

22 Q And you can actually have someone check out
23 for you, can't you?

24 A No, ma'am, I don't believe so, I mean, well
25 the h.r. can do it for you.

Ms. Gorman - Cross Ex. by Ms. Grabert-Lowenstein

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1 Q And that means you have control over what
2 time it's checked out even if you're not there?

3 A The H.R. is the only one that can go into
4 the system cause they have to have a password to get into
5 it.

6 Q Okay, so you can ask them to do it and it's
7 done and you have control over that?

8 A Yes, ma'am, but it will show that it was
9 manually keyed in. It will have a code next to it if you
10 manually key in.

11 Q Somebody else could check out for you
12 besides the H.R.?

13 A No, they cannot.

14 Q You would agree with me that the time card
15 which you would have control over and the date stamp on the
16 back on the check can't be correct?

17 A Correct.

18 Q You have no knowledge that there's anything
19 in error in the back of the check?

20 A I didn't know there was an error on the
21 back of the check.

22 Q And you, you have no knowledge that there,
23 there really is an error?

24 A I didn't know there was an error on the
25 back of the check.

1 Q As far as we know we've heard no evidence
2 that the machine made an error on the date; is that
3 correct?

4 A On what date?

5 Q On the, on the check, we haven't heard any
6 testimony that there actually is an error other than yours;
7 that would be correct?

8 A Yes, ma'am.

9 Q Okay, now you were with Robert when he was
10 honorably discharged from the service?

11 A Yes, ma'am.

12 Q And during the time that you were in North
13 Carolina he got to know Kayla and Kyle?

14 A In Virginia.

15 Q I'm sorry, in Virginia?

16 A Yes, ma'am.

17 Q Excuse me, and he was around them, enjoyed
18 them, there was no problems with him being around them?

19 A No.

20 Q Okay, and after the two of you moved to
21 South Carolina again Kyle and Kayla come to, came to visit
22 and they interacted with Robert and there were no problems?

23 A Kyle and Kayla moved here, they didn't come
24 to visit, they resided here.

25 Q Okay, and during the time that you say they

Ms. Gorman - Cross Ex. by Ms. Grabert-Lowenstein 991

1 moved here there were no problems between them and Robert?

2 A Just your normal childrens just acting out.

3 Q Okay, no hitting?

4 A No, no hitting.

5 Q Okay?

6 A No.

7 Q And you just simply got a phone call that
8 they weren't going to come back from being with their
9 father?

10 A Yes.

11 Q It is true that Robert went outside during
12 the period of time that you were cooking dinner on the 14th
13 of July?

14 A Robert took out the dog at some point to
15 let the dog out to go to the bathroom.

16 Q Okay, and he walked the dog actually,
17 didn't he?

18 A No, he took the dog out to go to the
19 bathroom; he didn't walk the dog.

20 Q Okay, you said that he had gone out; you
21 told Detective Troxell that?

22 A He took the dog out, doesn't mean he took
23 him for a walk, just means he took the dog out.

24 Q Now the area that the two of you lived in
25 is country?

1 A Yes, ma'am.

2 Q And you lived on about two acres?

3 A Give or take, I don't know.

4 Q Okay, and showing what's been entered as
5 Palmer Defense 1, do you recognize what's in that photo?

6 A Yes, it's a trampoline.

7 Q And it also shows the distance, does it
8 not, from the, basically the edge of the trailer to where
9 there's a pine tree?

10 A It doesn't give a distance, it just shows
11 just the date.

12 Q So is that about a quarter of an acre?

13 A I guess, I don't know, I mean --

14 Q Okay, it's quite a distance?

15 A It is a distance, it's a walk.

16 Q And that's actually the area where Robert
17 walks the dog?

18 A Not necessarily, we walk him in the front
19 yard. We walk him right by the, the steps. We walk him in
20 the front. We walk him in the side, we walk him
21 everywhere.

22 Q Okay.

23 A So you can't necessarily say where he
24 walked him that day.

25 Q Now whenever the time line is that you got

Ms. Gorman - Cross Ex. by Ms. Grabert-Lowenstein

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1 home you and Robert both checked on Victim

2 A When I came home from work when I asked
3 where Victim was, he said he was taking a nap. We walked
4 to the room and I saw that he was asleep. He and I walked
5 away from the room, we talked for a minute, few minutes,
6 and then I left, went to the grocery store to go get us
7 something for eat for dinner, and I stopped at the video
8 store.

9 Q Let me stop you because my question was,
10 did you both went in to check on him?

11 A We stopped at the door. We didn't, we
12 didn't physically go in the room.

13 Q And you didn't see any seizures, correct?

14 A I stopped at the door and I saw that he was
15 asleep; I didn't physically go in and put my hands on him.

16 Q My question, Ms. Gorman, is you're saying
17 if you knew he was asleep you had to look in far enough, at
18 least, to check on Victim that much, correct?

19 A You don't have to go that far in the room
20 because the port a crib is netted so you can see, and I can
21 see him and you can see over it.

22 Q And you, you would be able to hear?

23 A I can hear.

24 Q And you didn't hear any gurgling, weird
25 sounds?

1 A I didn't hear anything strange or anything.

2 Q Okay, did you hear breathing?

3 A I heard him, he was asleep, I mean --

4 Q Okay, normal breathing?

5 A That's what, uh-huh.

6 Q Okay, you had a discussion with Cesalee in
7 the car about the fact she wasn't taking Victim

8 A Yes.

9 Q Now after you received the call from
10 Richard you initially wanted her to take Victim with her?

11 A Well I figured if she's going home she take
12 her baby with her, that's generally what a parent does is
13 they go home their children go home with them.

14 Q But she decided not to do that?

15 A Yes.

16 Q And yet you wanted her to?

17 A If she wanted to take him, yes.

18 Q And Robert was agreeable to allowing him to
19 stay?

20 A And I said that was fine.

21 Q Okay, and didn't have any angst about it,
22 didn't say I don't want to have to take care of this child?

23 A No.

24 Q The truth he was very loving and caring and
25 patient with Victim wasn't he?

Ms. Gorman - Cross Ex. by Ms. Grabert-Lowenstein

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1 A Absolutely.

2 Q And you even said he had more patience than
3 you did?

4 A Yes.

5 Q Okay, now you also made a statement in your
6 interview about being around somebody that would have hit
7 and that was, had been a part of your past, correct?

8 A Yes.

9 Q You wouldn't have stayed with Robert if he
10 had hit you?

11 A No, I wouldn't have.

12 Q Or hit Kyle or Kayla?

13 A No, I wouldn't have.

14 Ms. Grabert-Lowenstein: May I have just a
15 moment, Your Honor?

16 Q (Continuing) Robert wasn't at home on
17 Friday the 11th, was he?

18 A That afternoon or that evening, no, he
19 wasn't, he went out with a neighbor.

20 Q He had called you and said Cody, a
21 neighbor, wanted him to go out with him?

22 A When I came home from work, cause I had to
23 get home, you know, when I got home from work he left with
24 the neighbor.

25 Q Okay, and you had initially said it was

1 okay that he was leaving?

2 A Yeah, Cody's girlfriend came over and hung
3 out with me and Victim

4 Q Okay, and but wasn't there some issue about
5 Robert being gone a lot and you didn't like that?

6 A We had a discussion earlier that week that
7 he was out a lot, he was out late a lot, you know, he
8 needed to spend time at home.

9 Q You didn't just walk away from Victim when
10 you got frustrated with him, you went clear outside?

11 A I'd go out to the front porch.

12 Q And what would happen when, when you came
13 back in?

14 A He'd whine.

15 Q Started all over again, didn't he?

16 A Yeah.

17 Q Same pitch?

18 A Same pitch.

19 Q Just the same stuff?

20 A Yes, but that's what he did.

21 Q And that's what frustrated you?

22 A But that's what he did, it didn't mean I
23 did anything different.

24 Q The way you bought the dog was a tax refund
25 and that purchase was your decision, correct?

Ms. Gorman - Cross Ex. by Ms. Grabert-Lowenstein

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1 A Yes, ma'am, it was.

2 Q Okay, now you made the comment that your
3 bills were paid. Wasn't your car repossessed and you
4 borrowed money to get it back out?

5 A Yes, ma'am, and the money was returned that
6 week.

7 Q But that meant that at least for some point
8 the bills were not paid?

9 A No, all bills were paid but my car.

10 Q Okay, and Robert was contributing his
11 unemployment?

12 A When he was getting unemployment, yes,
13 ma'am.

14 Q He was getting unemployment at the time
15 that Victim and ---

16 A No, ma'am, he was not, well, no, I take
17 that back, he may have a couple of times.

18 Q Okay --

19 Ms. Grabert-Lowenstein: Your Honor, may we
20 approach, just very briefly?

21 (Whereupon, a bench conference was held off the
22 record in the presence of the jury, but out of the hearing
23 of the jury and the court reporter.)

24 Ms. Grabert-Lowenstein: (Continuing)

25 Q You recall your interview with Detective

Ms. Gorman - Cross Ex. by Ms. Grabert-Lowenstein 998

1 Stroschal, Troxell -- it's getting late -- do you recall
2 that interview?

3 A Yes, ma'am.

4 Q You recall saying I would never hurt one of
5 my children?

6 A Yes, ma'am.

7 Q When your son Kyle was eight you got into
8 an argument with him over Cesalee and split his lip, didn't
9 you?

10 A I didn't get over an argument with him over
11 Cesalee.

12 Q You split his lip, though, didn't you?

13 A I didn't split his lip. He was talking
14 back and everything and I went to go talk to him and I pat
15 his mouth and what happened was his lip caught his tooth
16 and it cut it. It wasn't like I had punched him or beat
17 him or nothing, his lip caught his tooth.

18 Q So it would be your testimony that a simple
19 pat ---

20 A Yes, ma'am.

21 Q --- caused the cut?

22 A It was truly an accident. It wasn't
23 malicious or vicious.

24 Q How long has it been since you've seen Kyle
25 and Kayla?

Ms. Gorman - Redirect Examination by Mr. Galmore 999

1 A Have not seen Kyle or Kayla since they left
2 and went to Hawaii in 2007 when he graduated the fifth
3 grade.

4 Q Thank you -- If I could have just one
5 moment, Your Honor. I think that's it.

6 Your Honor, the defense on behalf of Mr. Palmer
7 has no further questions.

8 Mr. Galmore: Very briefly, Your Honor.

9 The Court: Do you promise, Mr. Galmore?

10 Mr. Galmore: That's a promise.

11 **Redirect Examination**

12 By Mr. Galmore:

13 Q I think it came out on cross examination
14 that Kyle and Kayla moved here; is that correct?

15 A Yes, they did.

16 Q How long did they stay with you here in
17 Aynor?

18 A They stayed with me until they grad --
19 until they finished school in 2007. We moved here in
20 October of 2006 and they finished school. I would, June I
21 guess is when they finished school here in 2007, and then
22 they left to go to North Carolina with Lisa Cortizon, their
23 grandmother. They met me in North, we had a halfway point
24 we'd meet in North Carolina, and we met there and they went
25 to North Carolina and visited with them and then they flew

1 to Hawaii.

2 Q Now you said they were in school down here;
3 what school did they go to?

4 A They went to Midland Elementary.

5 Q And this would have been when you and
6 Robert were living together?

7 A Yes.

8 Q So and you said that was from 2006 until
9 June of 2007?

10 A Yes.

11 Q So when Victim comes to town in 2008 is it
12 a major disruption in your lifestyle?

13 A No.

14 Q Just briefly, how much do you weigh?

15 A Now or then?

16 Ms. Lively: Objection, Your Honor, outside the
17 scope of any of the re -- I mean the cross.

18 The Court: That has nothing to do with the
19 cross examination or the --

20 Mr. Galmore: I'll leave it alone, thank you,
21 Ms. Gorman.

22 The Court: Ms. Lively?

23 Ms. Lively: I have no questions, Your Honor,
24 thank you.

25 Ms. Grabert-Lowenstein: Nothing further, Your

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1 Honor, thank you.

2 The Court: Thank you very much. Mr. Galmore?

3 Mr. Galmore: Your Honor, the defense rests.

4 The Court: All right, ladies and gentlemen of
5 the jury, that concludes the testimony. I want to thank
6 you for being so patient with us. I did want to complete
7 this testimony today. I'm going to bring you back in the
8 morning, going to ask you not to come back until 10.
9 Bobby, you will have something for them, won't you?

10 Mr. Ropp: Yes, sir.

11 The Court: If you would come back at 10:00.

12 I'm going to be meeting with these attorneys tonight
13 further into the evening. I'll have them come in early in
14 the morning. I want to make sure that when I get you back
15 at 10:00 we can proceed with final arguments and a charge
16 on the law, okay, and let this, and turn this case over to
17 you.

18 Now again I admonish you not to look at any news
19 reports, internet information, don't go on Facebook,
20 Google, whatever you have, just as you have been instructed
21 throughout the week. You must deliberate based on just the
22 evidence that you've heard, I ask you to do that. Bobby,
23 if you would.

24 (Whereupon, the jury was excused for the evening
25 at 7:58 p.m.)

1 The Court: Ms. Gorman, you may step down.

2 All right, ladies and gentlemen, you know my
3 policy on providing the jury with copies of the, of my
4 charge. I have prepared my charge in transcript form as I
5 always do. I have copies for the prosecution, copies for
6 each defense team. These are general charges addressing
7 the points of law that I see. I would ask that if you have
8 any additions, deletions, objections to my charge that we
9 will address that at 9:15 in the morning, I ask you to be
10 here. There's one other issue that I want to address
11 tonight; it is not addressed in my charge, and that is the
12 issue of the, or had you rather address this in the
13 morning, the issue of whether or not there may be two
14 convictions?

15 Ms. Lively: I'm ready.

16 The Court: All right, let me hear you on that?
17 Each defendant is charged with homicide by child abuse as
18 well as aiding and abetting homicide by child abuse which
19 both, both charges fall under one statute.

20 Ms. Lively: Yes, sir.

21 The Court: Now my question is what's the
22 defense's position on those two charges? Now I understand
23 there's a third charge unlawful act, unlawful conduct
24 towards a child which is a different charge. Now tell me,
25 Mr. Galmore, what is the defense's position? Ms. Grabert-

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1 Lowenstein, what is the defense's position?

2 Mr. Galmore: Our position is can we take this
3 up in the morning?

4 The Court: Okay, I'm going to let them do that,
5 Ms. Lively. You're going to have a better evening, you're
6 prepared to go forward now, okay?

7 Ms. Lively: Yes, sir.

8 The Court: I am tired, we will do this at 9:15
9 and we will address it. As far as the charge is concerned
10 if you have a proposed charge it would be appropriate that
11 that issue please provide it for us, okay? Thank you,
12 court's at ease; I'll see you at 9:15.

13 Ms. Lively: Thank you, Your Honor.

14 (Whereupon, court was adjourned for the evening
15 at 8:30 p.m. and resumes on November 18, 2011 at 9:00 a.m.)

16 The Court: We've completed the testimony in
17 this case at this time other than one matter that I believe
18 Ms. Grabert-Lowenstein has as she has some documentary
19 evidence in the form ---

20 Ms. Grabert-Lowenstein: Yes, Your Honor, if I
21 could approach and have this marked, I believe as Defendant
22 2 for Mr. Palmer, and I, for the record I've shown this to
23 both counsel. This is the restraining order and I just ask
24 that it be admitted to refute the paper work that you took
25 judicial notice of.

1 The Court: All right, now we have had a pre-
2 hearing conference in chambers concerning this. It is my
3 understanding that neither Ms. Lively nor Mr. Galtmore have
4 any objections to the introduction of this document; is
5 that correct, Ms. Lively?

6 Ms. Lively: That's correct, Your Honor.

7 The Court: Mr. Galtmore?

8 Mr. Galtmore: Yes, sir.

9 The Court: All right, very well.

10 (Whereupon, Defendant Palmer Exhibit Number 2
11 marked and entered into evidence.)

12 The Court: All right, I would also note for the
13 record that there has been a substantial amount of pre-
14 trial activity in this case in the form of motions
15 primarily an extended hearing, I think about a three-day
16 hearing on the issue, of the admissibility of polygraph
17 results.

18 There was also a hearing held before Judge
19 Culbertson regarding the enforcement of a proffer
20 agreement. The parties have agreed that without further
21 motion that those proceedings will be made a part and
22 parcel of the record in this case; is that correct, Ms.
23 Lively?

24 Ms. Lively: That is correct, Your Honor.

25 The Court: Is that correct, Mr. Galtmore?

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1 Mr. Galmore: Your Honor, I understand that
2 there were also pre-trial matters, I think that was October
3 31st?

4 The Court: That was, that was my hearing; was
5 it not, October 31st?

6 Mr. Galmore: Yes, sir.

7 The Court: Well all of those matters are
8 included in the record.

9 Mr. Galmore: Yes, sir, thank you.

10 The Court: Okay, Ms. Grabert-Lowenstein, is
11 that your understanding as well and do you consent?

12 Ms. Grabert-Lowenstein: Yes, it is that all the
13 proceedings in this case will be a matter of record for any
14 potential appeal.

15 The Court: All right, and I have prepared
16 orders to that, to that extent.

17 Ms. Grabert-Lowenstein, I have here an order that
18 I have signed that says all hearings prior to and up to
19 trial, so forth and so on, but you also have here a consent
20 order where you and Ms. Lively have signed it relating to
21 the same thing ---

22 Ms. Grabert-Lowenstein: They are, Your Honor.

23 The Court: There's no place for me to sign it
24 and Mr. Galmore has not signed it.

25 Ms. Grabert-Lowenstein: Your Honor, the reason

1 that I didn't ask Mr. Galtore to sign the consent order is
2 the proceedings that were particular concern with me that
3 involving the withdrawal of the proxy and the polygraph
4 issue did not involve Mr. Galtore's client.

5 The Court: Okay.

6 Ms. Grabert-Lowenstein: So I guess had asked --
7 -

8 The Court: You want me to sign this second
9 order as well, there's no place for me to sign it, it says
10 consent order?

11 Ms. Grabert-Lowenstein: Well, Your Honor, that
12 was, the other order was ---

13 The Court: Okay.

14 Ms. Grabert-Lowenstein: --- supposed to be
15 attached to it so that's what it's referring to, if we need
16 to make an adjustment we can but that's what it's referring
17 to.

18 The Court: All right, thank you very much,
19 Madam Clerk, if you would mark that, please? All right ---

20 Madam Court Reporter: Will this be Court's,
21 Your Honor?

22 The Court: Court's, please, will not go to the
23 jury.

24 Madam Court Reporter: That would be Court's 2.
25 (Whereupon, Court's Exhibit Number 2 marked for

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1 identification.)

2 The Court: All right, and that brings us to
3 standard motions, Mr. Galmore?

4 Mr. Galmore: Yes, sir, Your Honor, at this time
5 we would renew our motion for a directed verdict. We made
6 that motion at the end of the State's case, we make it
7 again at the end of all evidence presented in the case. We
8 submit that the State has not produced any direct evidence
9 of Ms. Gorman's involvement either as the person that
10 inflicted the injuries or the person that aiding and
11 abetting and failed to act in Mr. Palmer's infliction of
12 these injuries.

13 There is another charge for unlawful conduct
14 towards a child, we submit that the State has not produced
15 any direct evidence that Ms. Gorman was the person
16 responsible for any unlawful conduct towards **Victim**

17 With that said the State has to present
18 substantial circumstances evidence, they have failed to do
19 so. The evidence that they have, even circumstantial
20 evidence, it does not point conclusively to the guilt of
21 Ms. Gorman. At best it raises a mere suspicion of her
22 guilt and, therefore, we ask the Court to reconsider the
23 directed verdict motions that we filed previously.

24 The Court: All right, and based upon the
25 reasons that I gave earlier I would respectfully deny your

1 motion, okay.

2 Mr. Galmore: Yes, sir.

3 The Court: I think there's ample evidence to
4 take this to the jury. Ms. Grabert-Lowenstein?

5 Ms. Grabert-Lowenstein: Yes, Your Honor, our
6 position would be we're in a different position than Ms.
7 Gorman. The State took great pains to basically narrow the
8 time frame here and one thing that's different at this
9 juncture than from before is that we have based on the
10 medical testimony he wouldn't have been breathing if he had
11 been in a coma. Ms. Gorman's testimony is walked into a
12 small room and she heard normal breathing which was
13 significantly different than later when she and my client
14 walked in to check on Victim Based on that and based on
15 our written memorandum we would respectfully request to
16 grant Mr. Palmer a directed verdict at this juncture.

17 The Court: And again I would respectfully
18 decline your motion. I think that there is substantial
19 evidence by which a jury could return verdicts of guilty as
20 to these charges and I'm going to deny your motion.

21 Ms. Grabert-Lowenstein: Thank you, Your Honor.

22 The Court: All right, now, ladies and
23 gentlemen, I have provided you already, I did so on
24 yesterday, provided you with copies of my proposed charge.
25 As is my practice I will be providing that charge with, to

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1 The Court: Are you ready?

2 Mr. Galmore: Yes, sir.

3 The Court: Ms. Grabert-Lowenstein, are you
4 ready?

5 Ms. Grabert-Lowenstein: Yes, I'm ready, we have
6 determined that Mr. Galmore is going to go first.

7 The Court: All right, then, Mr. Galmore?

8 **Closing Argument**

9 **By Mr. Galmore:**

10 When I came up here and we started talking on
11 Tuesday morning in the opening statements the first thing
12 that I said to you was we don't know. Now we've had four
13 years from 2008 to 2011 and we still do not know.

14 We've had three indictments against Ms. Gorman,
15 we still don't know. We've had a week of testimony. We've
16 had parents; we've had his parents. We even had a witness
17 that they tried to sneak behind enemy lines and introduce
18 as a State's witness who was really a friend of Mr.
19 Palmer's, even with all of that we don't know.

20 We've had four doctors testify and they gave us
21 five different time lines for when these injuries could
22 have been inflicted; they don't know. They don't agree,
23 and the State has known from day one that they don't know
24 what happened in this case.

25 In the Solicitor's opening statements not one

1 time, not one did she say you did it, we're going to prove
2 to you that he did it, we're going to prove to you that she
3 did it. They didn't even try to say that. What they've
4 said was we know something happened, it was traumatic, you
5 two are the primary care givers for this young boy,
6 therefore, one of you probably did it, well maybe both of
7 you did it, but that is not the standard in the law.

8 This happened when Victim was in you all's
9 primary care and custody and that's not even true. If we
10 go back to the four doctors with the five time frames they
11 can't say that these injuries happened when he was in Ms.
12 Gorman's custody because they don't know when the injuries
13 happened.

14 Each of the doctors gave you a different opinion.
15 Dr. Cacace testified, they said thirty six hours. Dr.
16 Roberts testified, she said one hour, and if I'm giving you
17 any of the evidence that's incorrect you can come back and
18 you can ask Madam Court Reporter to play that testimony
19 again, you'll hear it for yourself, and you can decide for
20 yourself if what I'm telling you is accurate.

21 Dr. Schandl testified three to seven days, but
22 taking into account that Victim was in the hospital for a
23 period of this time we did some math took out the period of
24 time that he was in the hospital it comes up to seventy two
25 hours.

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1 Dr. Abel testified and Dr. Abel said if you look
2 at the cat scans the injuries seem to be three days old,
3 but if you look at the entire file the injuries seem to be
4 three hours old, so what's really going on.

5 These doctors have these injuries on a
6 probability curve and that means it's very likely, most
7 likely that these injuries happened within that zero to
8 three hour period. It could have been twelve hours,
9 twenty-four hours, thirty-six, seventy-two, but the further
10 back we go in days the lesser the chance that that is when
11 the injuries were inflicted. So when we take into account
12 all of these various times, and we're all trying to get to
13 the truth here, you know, nobody is trying to hide the
14 ball, we're all just trying to figure out what happened,
15 when we get to these various times it is very probable,
16 highly probable that Aydian was injured in that zero to
17 three hours prior to when 911 was called on the 14th at
18 6:06 p.m.

19 This is important because in the three hours
20 prior to 911 being called Victim was in Robert Palmer's
21 custody and care. He was in Robert Palmer's exclusive
22 custody and care. We have shown Ms. Gorman was at work;
23 Mr. Palmer was at home alone with Victim We brought the
24 time card, that's the best we can do to show that she was
25 actually at work.

1 We brought you the bounced check from the IGA,
2 and thank God for once that somebody bounced a check, It's
3 the only time I'm ever happy to see a bounced check showed
4 you she was at the IGA.

5 Here's the problem for the State, well first
6 here's the problem for Mr. Palmer. You see how Carla got
7 up here and tried to say, you could have punched out and
8 had somebody to, you know, punch your time card for you.
9 You could have called in and had H.R., you know, adjust the
10 time for when you actually left the building. What Carla
11 is attempting to do is challenge the time frame because her
12 client's at home alone with the kid.

13 On the flip side Candice has to challenge the
14 check, and I think we went in this whole deal where this
15 check says 15:52, that's 3:52 and are you saying that, you
16 know, you cashed this check. Is she really trying to say
17 that you can get from the Bass Pro Shops on Highway 17,
18 down Highway 22 to Aynor in a matter of six minutes, I
19 don't think so. The truth is we're not responsible for the
20 time stamp on the back. I don't work at IGA, my client
21 don't work at IGA, they ran the check, this is the time
22 they put on it. We used a little bit of common sense to
23 figure out that maybe they didn't change the clock from
24 daylight savings time, it's an hour off.

25 Now common sense is a big thing, you all have it,

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1 every last one of you came to this courtroom with your
2 common sense. You did not leave it when you became jurors.
3 You did not forget it when you took your oath.

4 When you are in the back you can argue and
5 dispute that this woman drove down Highway 22 in six
6 minutes or less and wrote a check in Aynor or you can use
7 your common sense and say, well it's more likely that this
8 check just has the wrong time on it because stores don't
9 set back the clock all the time, but this is all we can do
10 is bring you the most information that we have because we
11 are looking for the truth just as you are looking for the
12 truth.

13 All right, so the State of South Carolina knows
14 that they have a problem. When this case first comes up
15 they know they have a problem. We have ample evidence of
16 an injury; we have no evidence of who inflicted this injury
17 so what do they do? They put these two people on trial
18 together. Why are they on trial together, very simple?
19 He's going to say it wasn't me; she's going to say it
20 wasn't me.

21 You heard the testimony from, she says I don't
22 think he would do anything like that. He says the same
23 thing. The police try to get them to turn on each other.
24 When you have two people and only one of them could have
25 done it and both of them are saying it wasn't me inevitably

1 they have no choice but to turn on each other and that's
2 what you saw yesterday. All of that, didn't you know he
3 had a restraining order against him, well didn't you know
4 that she couldn't pay her bills, has nothing to do with
5 this case at all, but it has become the bottom of the
6 barrel as far as the law is concerned, put them on there
7 together and let them tear each other apart. That is where
8 we are in this case.

9 You think we wanted to be on trial with Mr.
10 Palmer? We believe, and the Judge will tell you, her case
11 needs to be judged on its own merits. Her future, her
12 life, whether she committed this crime or not needs to be
13 judged on its own, not with him. I'm sorry for him, I'm
14 sorry whatever he's in to, but she needs to stand or fall
15 on her own, and if you look at this case and you look at
16 her and you consider that she was at work and you consider
17 that she was at the IGA she's clear of these charges, but
18 that's not good enough. Then the State of South Carolina
19 says, okay, we don't have any evidence that she hit Victim
20 so what do we do, we charge her with aiding and abetting
21 him hitting Victim.

22 The State took us in a whole different direction,
23 somewhere where we didn't even need to be. They want a
24 conviction, they want one bad, but instead of basing that
25 conviction on evidence they want to base it on rumor. They

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1 want to base it on assumptions; they want to base it on
2 sympathy. They want to base it on statistical probability
3 of who would have been around him so if that's the game
4 we're playing, that's fine, let's play it.

5 Let's talk about the evidence, let's talk about
6 the lack of evidence. You've heard several witnesses.
7 First you heard from Richard, Richard Grimes. What did he
8 tell us? Quite frankly, not very much, and that makes
9 sense. He wasn't here. He never came to South Carolina.
10 He doesn't know much about the case. The only time he came
11 was when he got to Charleston and it was already too late.
12 He did tell us that Ms. Gorman called him after Victim went
13 to the hospital, and I asked him, well, sir, if you're
14 hosting a slumber party with some kids and one of them fell
15 and busted a arm or leg or something what do you do? Get
16 them some medical attention and contact the parents.

17 If you consider for one second the possibility
18 that Julia Gorman is actually innocent of these charges and
19 you look at what she did it is perfectly consistent with
20 what he said. Okay, you got a child that's injured, you
21 just got home, you cook, went in the room and found him
22 having a seizure, what do you do when you find a child
23 having a seizure? You call 911 and because it's not your
24 child you call the kid's parents, that's what she did.
25 That's what an innocent person would do, get some medical

1 attention, let the parents know.

2 Now there's something else that Mr. Grimes
3 discussed, I'll just throw it out now and we'll go back to
4 it later, but he talked about there was this day when we
5 called and called and me and Cesalee called and we couldn't
6 get through, some mysterious missing day. Okay, we're
7 going to talk about that later but I just want you to keep
8 it in mind now.

9 What did Cesalee tell us? What did she give us
10 to advance the ball? Again not much, Cesalee was not here,
11 but Cesalee helped us tremendously because Cesalee laid a
12 foundation for why Ms. Gorman would say I thought my
13 daughter had something to do with it. That was Ms.
14 Gorman's instant assumption as soon as the ambulance was
15 called, as soon as they got to the hospital, as soon as
16 they said there's skull fractures here, the first thing she
17 thought, oh, my God, what did my daughter do. Why did she
18 come to that conclusion?

19 Cesalee conceded that she wasn't an easy child to
20 handle. We had testimony that there was a runaway incident
21 at the age of thirteen. We had testimony that Ms. Gorman
22 sent her out to live with her mother, that didn't work out
23 so well. They sent her out to live with another
24 grandmother, that didn't work out so well, put her in
25 foster care, didn't work out so well, She ends up knocked

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1 up by the age of sixteen.

2 Now what is a parent supposed to do, you got a
3 child, you try to raise them, having problems raising them,
4 maybe my mama can do a better job, maybe his mama can do a
5 better job. The results it's okay, she's twenty-two now,
6 so that's all we can do as parents is raise them the best
7 we can, but that's not all.

8 Once they got down here, well before they even
9 got down here, they're living in a hotel room in Florida
10 and get down here the child is undernourished. Witness
11 after witness says he was small, his shots four months
12 behind. We had testimony about that. The medical records
13 fell off after nine months and did not pick back up until
14 Ms. Gorman took her grandson to Dr. Hutson, so from nine
15 months to sixteen months no medical care.

16 Now we've all had kids, well let me back that up,
17 I suspect that many of you have had children before, when
18 you were raising your kids did you have a nine month gap in
19 your medical records, I doubt it.

20 And then there was the incident with the
21 stroller, taking him down the steps, Victim fell in the
22 stroller. They didn't think it was that serious; they
23 didn't think anything of it. Again take into account for
24 just a second that Ms. Gorman may actually be innocent of
25 this charge, so when the police come around and say what.

1 happened the doctor just told us there's some head
2 injuries, she's thinking back, oh, my God, maybe it was
3 when she fell, when he fell in the stroller. I'm trying to
4 figure out what caused these injuries. I didn't see
5 anything. I don't think Robert is that kind of guy, must
6 have been when he fell and hit his head on the stroller or
7 maybe it was that time the dog knocked him over. If you
8 didn't do anything and you actually don't know what
9 happened and they're asking you you're going to try to give
10 them some kind of explanation. I'm trying to figure it
11 out, too. Maybe it was the stroller, maybe it was the dog,
12 maybe it was the pool, we don't know. All Julia Gorman did
13 was try to assist in figuring out what happened to her
14 grandson.

15 With all this going on there's no wonder that her
16 first thought what has Cesalee done now? Brought the baby
17 down here, dropped him, got him into some kind of trouble,
18 dropped him off and left. That's why you heard testimony
19 that he was, didn't seem like he had much energy, he was
20 lethargic. Ms. Gorman's thinking the whole time that
21 something is wrong with him from when he first got here in
22 June to when his mother left in July to when he has this
23 seizure on July 14th. In her mind all of this is
24 connected. She's not a doctor; she doesn't know what
25 happened, so when the doctor say it's skull fractures the

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1 instant she, she instantly assumed that it was something
2 that happened before he was brought down here or it was
3 something that happened in the house when he fell in the
4 stroller.

5 If you asked her today what do you think
6 happened, you've got all this medical evidence and
7 testimony that it couldn't have been the dog, it couldn't
8 have been the stroller, Ms. Gorman, what do you think
9 happened, she'll still tell you I think Cesalee must have
10 had something to do with it even though we say here's the
11 plane ticket, Cesalee was not here. Her instant thought is
12 that she was the responsible party.

13 You heard from Dr. Hutson. He did a couple of
14 exams, got Victim shot record up to speed, and he did not
15 see any injuries or bruises. This is important because
16 they have Ms. Gorman charged with unlawful conduct towards
17 a child, the theory being that she beat him and caused
18 these bruises on him.

19 You heard from Lieutenant Rainbow, Horry County's
20 Fire Department, the first responder on the scene, and the
21 only government official to visit that house that day. I
22 asked him, did you see anything out of the ordinary when
23 you went in the house, blood on the walls, anything like
24 that? No. That's all the official report that we have
25 about what was going on in the household, a single person,

1 but he told us something else. He told us that these
2 injuries were so significant that he didn't want to wait
3 for the ambulance. He got there first, the ambulance was
4 on another call, so they had to call a different ambulance
5 out to the scene. Medic 8, I'm going to meet you on the
6 side of the road, no need for you to pull into the
7 driveway. He grabs the little baby from Palmer, runs him
8 out the door, runs him to the head of the road, that is how
9 serious what was going on. At the time Ms. Gorman doesn't
10 know that.

11 Now why do I bring this up? Because the
12 testimony is when he's at Conway Hospital he's got bruises
13 on him. Nurse notes it, Dr. Cacace says, yeah, I reviewed
14 his notes and he kind of changed his, his testimony after a
15 few minutes, yes, I remember having that conversation he
16 did have some bruises on him. I think the bruises got on
17 him in the effort to take him to the hospital. This was
18 not a case where a person just lays there and waits for the
19 stretcher. This is a case where they pick him out and run
20 him out the door to meet the stretcher.

21 As you heard Ms. Gorman said while I was talking
22 to the doctors or the detectives at Conway Hospital they
23 had already airlifted Victim down to Charleston. They
24 weren't waiting on nothing, this was just that significant.
25 Now if it's that important that you got to run him out to

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1 the door, out the door and down the street they're probably
2 not all worried about how he's being handled. He's
3 literally picked up and carried out the door.

4 You had testimony from Ms. Carmichael, the 911
5 dispatcher. Ms. Carmichael got us the tape and we played
6 the tape. Now again keep in mind for just a second that
7 Ms. Gorman is innocent. The Judge will tell you that she
8 is presumed innocent but I'm not talking about that, the
9 presumption of innocence means right now she's presumed
10 innocent. She is innocent unless and until you all say
11 otherwise, but think for a second. If you call 911 and you
12 don't actually know what's going on what do you do? You
13 tell them you need help; they say describe the symptoms and
14 you describe them. You do what the, what the dispatcher on
15 the phone tells you to do, she said let him breathe, fine,
16 let it go. Ms. Gorman describes how he's breathing. The
17 grunting noise that he's making and a doctor has testified
18 that he would have made these grunting noises if he was
19 already in the throws of this injury.

20 If you're guilty you don't call 911. If you're
21 guilty you don't jump in the ambulance with them and ride
22 down to Conway Hospital. Flight is evidence of guilt.
23 While they're going to the hospital she's going to the
24 airport, but that's not the case. If you're actually
25 innocent and your grandbaby for some unknown reason is

1 being rushed to the hospital what do you do? You jump in
2 the ambulance and you ride along with them and you find out
3 what's going on and that is what she did. That is the
4 responsible thing to do; that is the adult thing to do.
5 That is what an innocent person would do.

6 Like I said once they got to the hospital they
7 got Dr. Cacace who told us thirty-six hours, got Dr.
8 Roberts who told us one hour. We got Dr. Schandl who says
9 three days maximum, and we got Dr. Abel who gave us two
10 answers. On the one hand it's three days if you look at it
11 this way, the other hand it's three hours if you look at it
12 that day, and that's their evidence. That's all the
13 evidence we have in this case.

14 They had more witnesses. They had Marsha
15 Bessant, not real sure why we had Marsha Bessant cause she
16 did not advance the ball.

17 They had DSS workers, I understand they have a
18 difficult job. They did not really have a role in this
19 case except to pass it off to the detectives but they
20 didn't give us any new information.

21 At this point with all the evidence that we have,
22 all of the medical records, the State is in a pretty tight
23 pickle because they have evidence of injury, they don't
24 have evidence of a person inflicting those injuries. We
25 know what happened, we don't know when it happened. We

1 don't know who did it, so that's where the rumors come in.
2 That's where Marsha Bessant comes in.

3 Let's talk about these different theories. Now
4 the first theory, and I want to give Candice credit, she
5 kind of backed up off of this theory because it don't make
6 any sense. The first theory is that Ms. Gorman struck and
7 killed her grandson on the Friday night, three days before
8 911 was called. Why? Because that Friday night is the
9 only time that she was alone with him. We had testimony
10 that Robert went out with a neighbor that Friday night and
11 then the neighbor's girlfriend came over. That's the only,
12 that's the only time that she's alone with the child.

13 To that end we have these indictments, and you'll
14 have these indictments in the back, let's see, theory
15 number one. This one is theory number one, that Ms. Gorman
16 inflicted this blow on Friday the 11th. It's even
17 scratched out on the back because it doesn't make any
18 sense. The 11th is changed to the 14th cause the time line
19 doesn't fit and that's why like I said I'd give Ms. Lively
20 credit she didn't go there.

21 Who went there, Mr. Palmer, his lawyer. Why did
22 she go with this theory that doesn't fit because it's the
23 only time that he's not around the child. She has to go
24 back to that theory even though it's been scratched out off
25 of this indictment.

1 They then went with, well she's having some
2 stress in her life, all these financial problems, things
3 are tight. Into this comes these two people making things
4 even more difficult financially and she took it out on her
5 grandbaby, a moment of stress. Well finances were tight,
6 but they weren't tight for Ms. Gorman, she had a job. They
7 were tight for Mr. Palmer cause he didn't have a job. He
8 wanted to go out with his friends, kind of have to have
9 money to do that.

10 Now the official theory at this point is
11 indictment number two. This one is she did it on the 14th,
12 excuse me, on the 11th, scratched out to the 14th. This
13 one is the new theory it says that Ms. Gorman aided and
14 abetting him doing it. This indictment also scratched out
15 to the 14th. Now what's the difference to these things?

16 This first indictment the three day theory,
17 September 25t, 2008, grand jury indicted. The second
18 theory that he did it and she failed to act or cooperated
19 in some way May 27, 2010. Two years later, a year and a
20 half later the State of South Carolina has said we have a
21 new theory in the case, we don't think she beat this baby
22 three days earlier, we now think he did it on the 14th and
23 she helped to cover it up. Two horses, either she did it
24 or she didn't do it, that's how I grew up, but either she
25 did it or she helped him to do it. They don't know which,

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1 they've indicted her for both. How can they ask you to
2 convict her when they don't know which one she did, if she
3 did either of them at all?

4 Now throughout the trial the mysterious fourth
5 theory came up, the fourth theory the Xyzal had something
6 to do with it, and you heard the testimony, the questioning
7 was we got a picture of the children's Tylenol, let me get
8 you that picture so there won't be any question about it.
9 We got the children's medicine right here, children's
10 Tylenol and his other medications. Where's the Xyzal, it's
11 in the diaper bag, I took it to the hospital when he went
12 to the hospital. That's a reasonable thing to do, if you
13 don't know what's happened and all you know is this kid is
14 in an ambulance headed down to Conway emergency room it is
15 a reasonably prudent thing to take his medications, drop
16 them in a bag and take them to hospital with you.

17 For those of you who have had children, and I'm
18 sorry I assumed earlier that all of you did, is it
19 reasonable to have some children's Tylenol in your house?
20 Yes, everybody who's ever had a child I'm sure you have
21 children's Tylenol in your house. If you don't have
22 children's Tylenol in your house you're probably being
23 neglectful to your children cause every kid is going to
24 need that, so there is no harm, there is no foul in having
25 these medications. There is no harm in giving him Xyzal.

1 They tried to make a big issue, did you give him too much,
2 gave him double, triple the quantity of dosage or whatever,
3 I don't know what that's all about, but that is the
4 official fourth theory of this case.

5 Now let's talk about assumptions because we've
6 had a handful of those, too, and to be honest with you the
7 assumptions are the problem here. From the start of this
8 case they assumed they knew who did it. They assumed that
9 they knew what happened. They assumed that they knew when
10 it happened and the police acted on those assumptions which
11 turned out to be wrong and that's why we're here unsure of
12 who did what.

13 The first assumption was that it happened on
14 Friday night. We're now pretty sure that it didn't. We're
15 now pretty sure from the testimony from all of these
16 doctors that while it's possible that this injury could
17 have happened on Friday it is substantially more likely
18 that this injury happened three hours before 911 was
19 called.

20 The second assumption they knew who did it. We
21 see that video the policemen assume that this is a case of
22 shaken baby syndrome. That's a big phenomenon in the news,
23 I'm sure you've all heard about it, so they give her the
24 leprechaun and have her shake for a little while. The
25 problem with that is at the time that Detective Troxell

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1 hands her the leprechaun and asks her how did you shake the
2 baby he knew that was not the cause of these injuries. It
3 is undisputed, I asked those doctors one by one any injury
4 to the neck, no. Why is that important, respectfully shake
5 him all day that's not going to cause the injuries to this
6 head. This head was hit by something or hit into
7 something, we don't know which, but shaking a baby is not
8 going to cause the injuries that you saw. They have not
9 alleged that shaking the baby caused those injuries. They
10 just threw that out there because the police felt that's
11 what happened.

12 Well that's why I asked Detective Troxell, did
13 you do a walk through? You felt that's what happened and
14 you felt like you had her on the ropes, she's shaking this
15 little leprechaun around and you feel like we've got our
16 girl right now, okay, you got her, ask her to write out in
17 detail what she did. Was it done? No. Ask her let's go
18 on back out here to the, to the, to the house and you can
19 walk us through where you were at and what you were doing,
20 was that done? No. When I try to tell you, and he asked
21 the question, show me how you shook the baby on Monday and
22 the answer was I didn't shake the baby on Monday. He knew
23 the time line didn't fit but it sounded too good to be
24 true, that's why he's asking about Monday. Our assumptions
25 are it happened on Friday. Our assumptions are it was

1 shaken baby. The evidence is that it happened on Monday
2 and that it wasn't shaken baby.

3 Now the last assumption that they made is that
4 she's the person that did it and that is for you to decide.

5 This case is based on probability. What is the
6 chance that she was around when the injury was inflicted
7 or, theory two, that she was around and failed to act to
8 stop him or cover up him inflicting these injuries. That's
9 why the time line is important.

10 At the time that the injuries were inflicted,
11 zero to three hours, we can't give you any more information
12 than what we have. If she had a low jack or a tom tom in
13 her car we could have brought that in here and plugged it
14 up and you could have saw her driving down Highway 22 and
15 when. We just didn't have that much information. We gave
16 you what we had, time card, check, the testimony. I went
17 to the video store, walked around the IGA, that's all we
18 can tell you. We are trying to fill in the gaps.

19 Three hours before 6:06 p.m. Mr. Palmer is with
20 **Victim** one hundred percent of the time for the three hours
21 before 6 p.m. They try to put out there that he was
22 walking the dog and then they kept waving around this
23 trampoline, well isn't that, you know, eight hundred and
24 seventy-nine yards from the house, isn't that where he was
25 walking the dog, a quarter mile down the road, and on the,

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1 on the property two, two houses away? That's how far he
2 walked the dog. Well that's not how far he walked the dog.
3 Ms. Gorman told you when she said, hey, there's a problem,
4 call 911 he was right there, he wasn't that far away.

5 They acted on their assumptions and they went
6 into that interview, and you all saw the tape and I'm going
7 to ask you to pay close attention to that tape, the police
8 knew when it happened. The police knew that the story that
9 they were getting Ms. Gorman to tell them could not
10 possibly fit what actually happened but they did it anyway.
11 Why did they do it? Because it was easy to do. You got
12 somebody on the ropes, the temptation to wrap it all up in
13 a big bow they couldn't help it.

14 You heard the tape and you'll have that in the
15 back and if you want it played again you ask the Judge can
16 you play it again. The tape says, Ms. Gorman says on the
17 tape "Can I take my medicine?" She asked Detective Weaver,
18 he didn't look at the medicine, no second thought about it,
19 no. Why is that? Because we're conducting an interview.
20 This is a police interrogation, please tell me one of you
21 has actually watched first forty eight, they don't stop the
22 interview and let you take some pills.

23 Asked Detective Troxell, I don't know how much
24 more disingenuous you can get, he says let me see that,
25 looks at it, oh, I don't remember what it said, I remember

1 it had her name on it, I'm pretty sure it wasn't a poison
2 but, yeah, you can go ahead and take that. That's because
3 it says Zanax and he's over there thinking, okay, she's
4 about to take this Zanax, we give her about five more
5 minutes of stern talking to and she's going to fold like a
6 wet blanket. Well and that's exactly what happened, you
7 take an anti-anxiety drug, police are on you asking you
8 repeatedly could it have an accident, could it have been,
9 that didn't work, no, it's not an accident. We're going to
10 go cut your baby open and look at the skull, we're going to
11 show you these pictures. You can show me the pictures I
12 didn't do anything. Well what could you have done? You've
13 got to give me some answers, you've got to help me, Julie,
14 you've got to help me, I can't help you, and then here's
15 where the false confession, for the record I'm making air
16 quotes, here's where the false confession comes in.

17 They suggested could you have shaken the baby.
18 They pull out the leprechaun they say show us how you shook
19 him on Monday and she said I didn't shake him on Monday.
20 Show us what you did, so the next thing you know you got
21 that. Watch that tape as much as you want. Did they say,
22 Ms. Gorman, did you shake your baby to death? Yes, I did.
23 That would have been real clear, but they said could you
24 have shaken him, show us how you did it. I didn't do it on
25 Monday, well show us what you did anyway, and then once

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1 that started happening things turned a hundred and eighty
2 degrees on the tape. All of a sudden you heard the words,
3 play the tape all you want, but your memory coming back to
4 you now. That's cause they were hearing what they wanted
5 to hear. You doing good, Julie, oh, I can help you now. I
6 don't need a father figure, my daddy was in my home. Do I
7 need reassurance from Detective Weaver? you're doing good,
8 Julie, keep going, Julie, we can help you. That's how they
9 got that tape and you can look at it all day long but what
10 you see on the tape is not what happened to Victim. The
11 doctors have told you that.

12 The Judge will tell you what the law is. If I
13 say anything about the law and the Judge says something
14 different about the law go with what the Judge says, that's
15 why he's the Judge. I told you his job, he's the judge of
16 the law, you were the judge of the facts.

17 I want to talk to you about reasonable doubt.

18 The Court: Mr. Galmore, if you're going into
19 that, we've been at this for about an hour, and I don't
20 want to interrupt your, your, your argument, we need to
21 take a real quick break, okay, and we'll follow right back
22 up on that, okay.

23 Mr. Galmore: Yes, sir, Your Honor.

24 The Court: We'll be at ease for just a moment.

25 (Whereupon, the jury retired to the jury room at

1 come back in now, please bring them back in.

2 (Whereupon, the jury returns to the courtroom at
3 10:59 a.m.)

4 The Court: All right, Mr. Galmore, you may
5 proceed.

6 Mr. Galmore: Yes, sir.

7 Mr. Galmore: (continuing)

8 Before the break we were talking about reasonable
9 doubt, and I wanted to talk about that with you because I
10 want you to have a clear understanding of what your duties
11 are as a juror. We selected you not as a group but as a
12 individual. You remember Monday when you came up, had to
13 go past the first attorney, had to go past the second
14 attorney, had to go past the third attorney before you got
15 to sit on the jury. We picked each of you and we picked
16 each of you because we felt that you, you, you, and you
17 could help us to understand what happened in this case.

18 Your job as jurors is not really to say if she's
19 guilty or not guilty; your job as jurors is to say has the
20 State of South Carolina met its burden of proof in this
21 case. Your job is not to be drawn in by sympathy, by
22 passions, by biases, by prejudices.

23 Your job is to examine the evidence and see if
24 the evidence meets the law beyond a reasonable doubt, so
25 when Ms. Lively gets up and shows you all these pictures of

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1 Victim at the pool, and Victim at the beach, and Victim on
2 the carousel, that's sympathy. We're not here to look for
3 a verdict based on sympathy.

4 When she shows you all these tubes in Victim and
5 all these scratches, bumps, and bruises, which they even
6 concede well that's an ant bite or that's an I.V. trying to
7 go in, or well some of this could be natural that toddlers
8 bump into things, I don't know what that, what that bruise
9 is. When we get into all that we're here looking at
10 evidence; we're not here looking at sympathy.

11 They're going to show these pictures from the
12 autopsy and they're going to want you to say, oh, poor
13 baby, and you should say that, but that does not translate
14 into a conviction for either person and I'm not here to
15 defend Robert Palmer at all, but it still does not
16 translate into a conviction for him.

17 The law says the State must prove each element of
18 each crime to your satisfaction, to your individual
19 satisfaction beyond a reasonable doubt and I explained
20 beyond a reasonable doubt to you on Tuesday as the whole
21 football field, greater weight or preponderance of the
22 evidence, clear and convincing evidence, beyond a
23 reasonable doubt, you're up here a hundred yards down the
24 field.

25 So I put to you two questions, very simple, this

1 is the heart of the issue, the whole week is about to get
2 narrowed down into two simple questions. Question number
3 one, and I want you to answer these questions before you
4 even get in that jury room. In a minute you're going to
5 hear from everybody else, the Judge is going to ask you to
6 go in your jury room but wait do not start your
7 deliberations, your deliberations cannot begin until we
8 send in all the exhibits . Once the exhibits get in the
9 back then you may begin, start the clock, that's when you
10 start talking to each other about what happened, but before
11 you talk to each other about what happened right now when
12 you're sitting in that chair you're talking to yourself,
13 close your eyes, close your ears, close off everything, and
14 answer within your own heart and within your own mind these
15 two questions.

16 Question number one, did she do it, very simple,
17 that is what this case comes down to, and the answer is
18 simple, say, yes, she did it, no, she didn't, or I don't
19 know. If you say, no, she didn't do this we think he did
20 it vote not guilty.

21 If you say well they just haven't shown us who
22 did it, we just simply do not know vote not guilty. Right
23 now you can answer that question in your head. I'm sure
24 all of you have already decided did she do it, yeah, I
25 think she did it, no, I didn't, no, I don't think she did,

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1 or I don't know, and whatever your answer is stick to it.

2 When you get in the back they're going to be nay
3 sayers, you're not looking at this right, I'm tired, it's
4 Friday, I haven't seen my kids all week, I'm sorry, I
5 hadn't seen my either, but that's not the point today. The
6 point is we can't send an innocent person to prison, so
7 when you answer that first question did she do it if you
8 say the answer is, no, stick to that conviction.

9 Now if you say the answer is, yes, I would
10 respectfully disagree with you, but you're the juror and
11 that is your job. I told you about roles and
12 responsibilities and the Judge is a judge of the law so if
13 I tell you something wrong about the law don't listen to
14 me, listen to him, that's his job, and if you look at this
15 case and you answer that question did she do it, yes,
16 you're the jury, you're the person that figures that out, I
17 respect your opinion.

18 If you think the answer is, yes, then you must go
19 to question number two. Question number one, did she do
20 it. Question number two, did the State of South Carolina
21 prove to you beyond a reasonable doubt that she did it,
22 again, yes or no. You can say, yeah, I think she did it
23 but they just didn't prove it, vote not guilty. That is
24 what your obligation is a juror. If you say they haven't
25 met this law that the judge gave me even though I think she

1 did it and she should burn in hell then you still can't
2 find her guilty if they did not meet the standard of the
3 law.

4 Now that standard is not some whimsical thing.
5 What the State has done is said we have evidence of injury,
6 we can narrow it down to one of these two people, it might
7 even say both of these people, I don't know, the theory
8 changes on a regular basis, but the bottom line is have
9 they proven it to you beyond a reasonable doubt.

10 What that means and the Judge will tell you this
11 and you will have this in your charge in the back, beyond a
12 reasonable doubt means are you firmly convinced of the
13 guilt of the accused. Question number one did she do it,
14 are you firmly convinced that she did it, that she struck

15 **Victim** Let's switch theories because the State has two
16 theories here, I have to argue against both, did she do it,
17 did she allow, abet, conspire, aid in Mr. Palmer striking

18 **Victim**

19 The testimony we've given you is that she went to
20 work, she came home, she looked in on him, he appeared to
21 be asleep, went and made dinner, came back, went to get him
22 up and he started having a seizure. Does that sound like
23 she's conspired with Mr. Palmer to allow him to abuse her
24 grandson? Are you firmly convinced that she did it? Are
25 you firmly convinced that she conspired with him to let him

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1 do it and not call 911 about it?

2 Unlawful conduct towards a child, the abuse, the
3 bruises, are you firmly convinced that this kid had a
4 history of abuse in Ms. Gorman's care, no. We had
5 testimony from James Palmer and Gail Palmer we just saw him
6 yesterday at the pool, in swimming trunks, he didn't have
7 bruises all over his body. Now the next day by the time he
8 gets to the hospital he does.

9 Funny thing about bruises, they can pop up any
10 time, anywhere, you don't have to do anything to get one.
11 Ms. Lively has got bruises on the back of her legs right
12 now. When she's up here doing that closing argument and
13 walk over to that table look at her shins, they got bruises
14 on them right now. Where did they come from, this is
15 important, what did they come from, they came from sitting
16 in a chair, real simple, sitting in a chair, got a bruise.
17 Is anybody calling 911 about that, yet and still they're
18 asking to put my client in prison over it.

19 Ms. Gorman has lived with this case for several
20 years now. She's offered every possible explanation for
21 how **Victim** could have been injured. She's told them
22 consistently I don't think Mr. Palmer is that kind of guy
23 but at the same time it wasn't me and if it's down to one
24 of the two of us then it had to be him. She doesn't want
25 to accuse him of it, still doesn't want to accuse him of

1 it, but it wasn't her.

2 She loved this child; she was responsible for
3 this child. You heard it on the tape, she fed him, she
4 clothed him, gave him his shot record, took him to the
5 doctor, took him to the hospital, probably took him to the
6 hospital too much if you, well if you ask me she took him
7 too much. If a child has ant bites I give them some
8 Benadryl and send them to sleep. It's the appropriate
9 thing to take your child to the hospital for, I mean to the
10 doctor's office for. If the child has a vomiting problem
11 give them some water and send them to sleep but it is
12 appropriate, you haven't been with this child that long,
13 you don't know this child's medical history, take him to
14 the hospital. She cared for Victim she loved Victim She
15 has not yet had a chance to mourn, why, because the first
16 thing they did was accuse her of it, and she's been on the
17 defensive ever since.

18 You didn't leave your common sense when you
19 signed up for jury duty. Use it today, ask yourself those
20 two simple questions, do you think she did it, are you
21 firmly convinced that she did it, are you firmly convinced
22 that she aided and abetted him doing it, and the fact that
23 they have two different theories tells you right there they
24 don't know. You can't be firmly convinced of anything.
25 Has the State proven it to you beyond a reasonable doubt;

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1 we submit to you that they have not. We ask you stay with
2 your convictions, even if you're in the back by yourself
3 and every other juror is jumping on you if you feel like
4 she didn't do it say so and mean it. I thank you for your
5 consideration, thank you.

6 The Court: Ms. Grabert-Lowenstein?

7 Ms. Grabert-Lowenstein: Thank you.

8 **Closing Argument**

9 **By Ms. Grabert-Lowenstein:**

10 Ladies and gentlemen of the jury, it's once again
11 my distinct honor to speak on behalf of Robert. You will
12 hear that Robert doesn't have to testify. We have a great
13 judicial system and one of the things is that the State has
14 to prove their case and we've done a lot to defend Robert
15 but he doesn't have to testify and you will be instructed
16 not to consider that. He has a right and has chosen to
17 rest on the state of the evidence.

18 There's been a lot of medical evidence presented
19 and as I said in my opening that's the what. We know what
20 happened and now we know that the who is not Robert.

21 Two people stand before you on the same charges.
22 You will have to examine the evidence as to both of them
23 and then find if they're guilty beyond a reasonable doubt.
24 I submit to you that Robert is innocent beyond a reasonable
25 doubt. We have proven he could not have committed the

1 injuries.

2 Let's take a look at the two individuals and what
3 the totality of the evidence shows and that totality of
4 evidence is going to show Robert to be not guilty of all
5 the charges. The testimony before you is that Robert is a
6 honorably discharged veteran, moved back to his home town
7 and county and to the close family that are here.

8 The testimony from him in terms of his interview
9 and from Ms. Gorman is he's the patient one. He didn't get
10 frustrated; he's the patient one.

11 How did he interact with Victim After his
12 family welcomed Cesalee and Victim when they visited he
13 took care of, he participated in the medical appointments.
14 He was part of the concern about getting care for Victim
15 He was concerned about the fussiness, cranky situation, you
16 know, you've got a toddler who has allergies and ant bites,
17 had been taken out of his element, all of this is, is
18 really pretty natural. Robert was just concerned about it,
19 concerned about it as a father, a father of a five year old
20 at the time.

21 What else does the evidence tell us? The
22 evidence is that Robert when Cesalee was going to leave
23 wanted Victim to stay. He didn't have any resentment, any
24 frustration. He could have said, no, just please take him,
25 but he didn't. He said, no, I want him to stay.

1 Now you heard some testimony about a restraining
2 order, the last piece of evidence that was put in will show
3 that in 2007 despite a ex-wife who hadn't gone through with
4 divorce at that time despite, you know, her allegations
5 Robert was given liberal visitation with his, his minor
6 son. That's a non issue.

7 What do we know about what other people think of
8 Robert and children? You heard Adrian Robertson tell you
9 that Robert has interacted with all three of her children,
10 Caroline who's eleven, and Kylie and Karlie and I don't
11 remember which one is which age, but they're five and nine
12 months. She sees his reaction to them. She sees him
13 interact with them because they're at work and the most
14 important thing is she would trust, trust her eleven year
15 old, special needs, and most importantly non verbal child
16 with Robert. It speaks volumes. She had a chance to see
17 him. She has a chance to see him interact at work. If
18 there was any anger, any temper there, do you think that
19 she would say, it's fine if you're around my non verbal
20 child, no, tells you a lot about the substance of my
21 client.

22 I'm going to discuss some other things that are
23 going to show that when you show the contrast between these
24 two individuals it shows Robert to not be guilty of all the
25 charges.

1 Now let's start with the last three days, last
2 four days, last three days before the, the injuries of
3 Victim's life. What do we know about Friday? We know that
4 Robert went out with a friend, a neighbor: We know that
5 Ms. Gorman had a, we had a discussion about that, and we
6 also know out of her own mouth to other witnesses that she
7 gave a dose of an antihistamine that was like four times
8 what should have been given. Why would she do that? This
9 caring person, would it be to keep Victim still? Would it
10 be to shut out the frustration he was becoming to her, yes.

11 On Sunday there was an invitation by the Palmer's
12 for everyone to come over to their house, have Sunday
13 dinner, go to the pool, and Robert got Victim ready, and,
14 you know, with a seventeen-month-old I don't think that's
15 probably an easy task, but he got him ready. He got him
16 dressed up really cute, and where was he because his,
17 Robert's father James had to pick them up, they were down
18 to one vehicle, where was he when they came to pick them
19 up, little bag in tow, and Victim holding his hand, little
20 bit of difficulty as often happens with getting him into
21 the car seat, any issues. Now I want you to remember Mr.
22 Palmer's reaction when I asked him if he would lie, no way
23 that this man would lie to protect his son, the truth is
24 the truth, if you'll remember what he said. Robert didn't
25 have any angst.

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1 They go over to the Palmer's and Victim is taken
2 to the pool. Now we have some lethargy, you know they're
3 still, they're concerned and, you know, we might have an
4 answer for part of that and that is that Ms. Gorman in her
5 interview said she had given the allergy medicine on the
6 12th also. It was given to him when they came back in from
7 being outside and what does he do, he immediately gets
8 drowsy, so the lethargy you see on Sunday, Friday,
9 Saturday, it all makes sense.

10 Important about Sunday is they had this little
11 boy, as little as I refer to him little shaver, light
12 skinned, had no bruises on him. The end, the, what
13 hopefully was a really pleasant day for everybody.

14 Now let's talk about Monday, Julie goes to work.
15 She had worked Saturday and Sunday. Mr. Palmer talks to
16 her and, you know, indicates that the lethargy is kind of
17 continuing and but, you know, Victim is okay. Both of them
18 indicated in their initial interview she got home at 4:30,
19 makes sense from the time card, excuse me, makes sense from
20 the check that that's exactly when she got home by the time
21 you add all that in because she was at the grocery store
22 about 4:00.

23 She never mentioned it to Detective Weaver or
24 Troxell, never, ever mentions that she had been there. She
25 comes in now and tries to say well I didn't get home until

1 much later, that's after she's heard all the medical
2 testimony. She wants to try to keep herself from that
3 house and she can't do it, she lied.

4 Further we know that when 911 is called when, you
5 know, Robert had been outside and, and now according to the
6 testimony and I guess Ms. Gorman is saying he came back in
7 when, when she called, you know, discovered Victim even
8 though they both said before that they were together.

9 Ladies and gentlemen, that time on Monday night
10 is important. Mr. Palmer was out of the house. He was out
11 of the house, didn't have to be out of the house long.
12 You'll remember Dr. Abel said could have happened in a
13 minute, the injuries could have happened in a minute.

14 Detectives never, ever measured this but had to
15 admit it was a long distance, approximately a quarter of a
16 mile, takes away from the State's theory that he could have
17 heard something.

18 Let's talk about what else happened that Monday.
19 Ms. Gorman instead of keeping a hold of Victim trying to
20 help him immediately hands him off to Robert and who's the
21 one that says call 911, Robert. You heard the 911 call,
22 the evidence is there were two people at that time in the
23 trailer, one who was stoically calm and had removed herself
24 from her grandchild, and the other who's saying where are
25 they, where are they, and basically indicates they took a

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1 long time to get there, and I believe in his interview he
2 said they took the scenic route to the hospital, that
3 indicating concern. Ms. Gorman handed [Victim] off much like
4 she handed him off when he was visiting when he would get
5 fussy, had never met him, is a grandmother and she handed
6 him off at the first little fuss.

7 What else do we know about Ms. Gorman and how she
8 deals with stress? We know from a lot of different sources
9 she doesn't deal with it. We know from probably somebody
10 who knows it the best, Cesalee, that she deals with it by
11 bottling it up until she explodes and what does she do, she
12 explodes behind closed doors like a trailer, a toddler's
13 bedroom when the other occupant of that house, her
14 boyfriend, is not there.

15 She's compulsive about wanting to keep the place
16 neat, you'll see the place is neat, and from her own
17 statements, which we'll talk about in a moment, she didn't
18 like interference with cooking, cleaning, you know, things
19 that anybody when they've got a child around is going to
20 know there's going to be some issues. You got to have some
21 patience and she has zero.

22 I have invoked some pleasant memories and not
23 just painful ones when Cesalee described [Victim] sort of
24 personality. He was a mama's boy, just wanted love and
25 attention and affection. She confirmed that he would hold

1 his arms out want to be picked up and I asked her how loud
2 he was and she said sometimes his lungs were too good, just
3 exactly the type of thing that would set Ms. Gorman off.

4 You heard the interviews, you'll have an
5 opportunity to hear them again, but there's some excerpts
6 that I would like to talk to you about. When asked about
7 Saturday, when I walked, of course, when I walked in the
8 door, of course, **Victim** making his whine, whine, whine,
9 you know. It gets louder when I get home but that's just
10 the way he is, you know, if I walk in the door he starts.
11 I mean he just makes noises but it just seems like when a
12 woman walks in it just gets more loud and comes over and
13 starts trying to climb up my leg and, and cause he wants to
14 be carried and we can't carry him because we're trying to
15 break a habit. Right after that then she says sounds mean,
16 sounds ugly, but, you know, I can't clean or cook or do
17 anything if I've got a baby hooked to me, you know, so, you
18 know, I grab his finger and, you know, he takes my finger,
19 we walk around and, you know, I went over to the toys and
20 you know, sit down and, you know, talk to him and
21 everything and I cooked dinner.

22 She describes going to TBonz at Barefoot Landing.
23 He was tired and cranky because he kept itching and I gave
24 him some of the allergy medicine thinking maybe that would
25 help relieve the itching. She can't do anything when he's

1 around.

2 One of the most poignant parts of her interview
3 is when she's asked to describe shaking and you saw that.
4 There's a lot beforehand about well I don't know if I
5 picked him up hard, I can't remember. She makes it real
6 clear that she didn't tell Robert about shaking. There's
7 one part I want you to remember and I want you to think
8 about it, and if you need to look at it again you can, when
9 to Detective Troxell she is describing shaking the baby
10 she, she first of all gets, you know, she's I held him out
11 like this. She also describes that, you know, well, you
12 know, as she, she starts to say she shook him and then she
13 kind of stops herself, her hands go up like this. Those
14 hands were fists to Victim poor skull, remember the
15 doctors talked about two impacts.

16 Concerning that Monday night and she's, she's
17 talking about they had checked on him, he was, he was fine.
18 In fact she confirmed he was breathing normally, so I went,
19 you know, and cooked dinner and Robert says to me, what do
20 you want to do with Victim I said let's eat dinner first,
21 you know, kind of peaceful instead of trying to feed him
22 and eat mine at the same time, so we ate, Robert took the
23 dog out and I went in the bedroom to wake him up. That's
24 when everything happened. That's what I'm saying, that
25 isn't, that isn't in the transcript.

1 The other thing the transcript is going to tell
2 you it's kind of an interesting paragraph and we haven't
3 really talked about it, but Detective Troxell and in
4 talking about how Ms. Gorman had taken up the
5 responsibility for him and was **Victim** a burden, she says
6 he's not a burden, you know, he's just not a burden.
7 Troxell says well I didn't mean it in a bad way, but it
8 changed your lifestyle a little bit; you're used to doing,
9 you and Robert doing what you wanted to do and when you
10 want to but now you've got to take care of a baby he, what
11 does Ms. Gorman say, that was a choice I made. I was
12 willing to change, sacrifice, you know, um, um, and you
13 did, you, you made, that's what Troxell says to her and
14 it's a sacrifice and you made those sacrifices, you know,
15 to change, and Weaver says because, then Weaver says
16 because of him, Julie, and she says, you know.

17 Now think about that, we've heard, she hasn't
18 seen her own two children since 2007, her, her younger
19 ones, we've heard about the tumultuous relationship she had
20 with Cesalee. She want to change that, did she attempt to
21 change that? Is that kind of what it was about? Was
22 **Victim** supposed to be a second chance and that failed, have
23 to really examine what that could mean.

24 The other important part of the transcript to
25 where she was caught in a lie, she says on three different

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1 occasions I would never hurt my children. Seven years ago
2 she split the lip of Kyle.

3 Ladies and gentlemen, when you examine from the
4 11th on you see that the frustration of a person who
5 couldn't handle it already, built up, situation on Friday
6 with Robert, the work. She was already angry that Cesalee
7 hadn't taken Victim with her; she's the one that didn't
8 want Victim to stay. You heard her testimony and I ask you
9 to remember the tone of voice that she talked about that
10 in.

11 She comes home on Monday and doesn't ask Robert
12 where's Victim now refer to him by some nickname, she says
13 where is Victim I don't even ask about my pets like that,
14 and that's where, you know, that tension just is builds and
15 builds and builds leading to her just losing it. We're not
16 saying that she didn't care at all about Victim What we
17 are saying is it was her frustration, her inability to cope
18 that caused the injuries.

19 Now we have the evidence, we've already talked
20 about that she handed him off at the time when 911 was
21 called. We also have evidence that Robert, not she, was
22 the first one at the bedside at Conway Medical. You also
23 have the evidence, and our detectives are smart, they,
24 they sized these two up right away. They realized that
25 Robert had cared for Victim that he was the one who had

1 been the caregiver and they couldn't fault it at all and
2 they knew, you know, that Julie was the one who got
3 frustrated and lost it.

4 Now Mr. Galmore has talked about her interview
5 and I think the interesting thing about the interview is
6 she protests about being tired, etcetera, and they both
7 probably were exhausted, but despite being too exhausted to
8 do the interview what does she do, she brings information
9 to blame it on her eighteen year old daughter that she's
10 had a tumultuous relationship with. She had the
11 forethought, and what does that tell you, and she talks
12 about everything else until penned down but **Victim** and what
13 happened.

14 I also believe that the evidence shows that
15 neither of these two individuals would lie to cover for the
16 other one. Certainly it shows that in terms of Robert. I
17 mean he's questioned, hey, anybody, and he says nobody,
18 nobody is worth going to jail for, and I think when you
19 look at Ms. Gorman's testimony she wouldn't have either.
20 She wasn't willing to do anything to leave the relationship
21 but she wouldn't lie for him.

22 When you combine the medical evidence that we've
23 already talked about that, you know, minutes in that short,
24 really, really short time span and the fact that the only,
25 the first evidence of bruising is at, at Conway Medical

1 Center. There's nothing, nothing that points to my client
2 for any of the three charges; he's not guilty.

3 Now we've already talked about the frustration
4 that was building up in Julie. I want you to remember that
5 and I want you to in particular remember how she is
6 demonstrating shaking him.

7 You've already heard some discussion and you will
8 get an instruction on reasonable doubt and it's another one
9 of those things that is a lynch pin in our legal system and
10 why our legal system is, is so great. As Mr. Galmore's
11 already said, and I'll just emphasize it a little bit
12 different way, that burden is high. It's, it's not fifty-
13 fifty like in a civil case and it's not even clear and
14 convincing. It's high and the law here says have to be
15 firmly convinced and those words can mean things to
16 different people, so you may be asking yourself, okay, Ms.
17 Grabert-Lowenstein, how do I, how do I sort of equate that,
18 how do I figure out if I'm firmly convinced?

19 You figure it out when you are so firmly
20 convinced that you could look yourself in the mirror the
21 next morning and say I did the right thing. It's okay in
22 my head, my stomach, my heart, my soul, I made the right
23 decision.

24 Please realize what such a high burden it is and
25 the State respectfully has failed to show my client beyond

1 a reasonable doubt in any fashion committed the injuries to
2 **Victim** in any way helped to cover them up, in any way
3 assisted Ms. Gorman in committing the injuries. There's no
4 aiding and abetting here and the evidence is he did nothing
5 but nurture this child.

6 Now you can't give information that you don't
7 have and frankly Mr. Palmer is sitting there simply because
8 he couldn't because he didn't know give the information to
9 Detectives Weaver and Troxell that they wanted, sadly he
10 couldn't. You will hear, you heard his tape, he would
11 have, he wanted to, he was living with this and has been
12 living with it, he would have given that information if he
13 had it.

14 Mr. Palmer's odyssey to this case began in 2004
15 when he met Ms. Gorman. His odyssey in the case began when
16 he couldn't tell the detectives what they wanted to know.
17 Ladies and gentlemen, you have the power to stop that
18 odyssey. You have the power to say, Robert, it's over.
19 They have not proven beyond a reasonable doubt that you
20 committed those skull fractures or in any way knew about
21 them, that had information about them, or in any way
22 assisted.

23 Ladies and gentlemen, when you examine all the
24 evidence we are confident that you're going to find that
25 Robert was in no way involved or had any knowledge of any

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1 of the injuries, wasn't present, didn't hear anything, Ms.
2 Gorman didn't divulge anything to him, certainly in her
3 tape she makes it clear she didn't, and that he is not
4 guilty on all the charges.

5 On behalf of myself and my client I want to thank
6 you for your kind attention. It's now your hard work
7 begins and thank you. Please don't just react
8 instantaneously, these are ugly cases, these are tragic. I
9 know it's tragic for everybody, **Victim** and everybody who
10 loved him, and that includes my client, please examine all
11 the evidence, don't just react and say, oh, this is so
12 horrible, but look at the evidence and you'll find my
13 client not guilty, thank you.

14 The Court: Ms. Lively?

15 Ms. Lively: Thank you, Your Honor.

16 Closing Argument

17 By Ms. Lively:

18 When I started this case and I told you that a
19 homicide by child abuse case we have to look at the silent
20 witness, obviously the child who can't tell us what
21 happened to him, and we looked at that body as the body of
22 evidence, and that's where we're at, exactly where I told
23 you we would be on Tuesday.

24 When you look at that body of evidence neither
25 one of the defense attorneys can dispute the fact that

1 Victim was killed, okay. Let that sink in because you have
2 to start from that position and then we'll work our way
3 out. Victim died because he was killed, not an
4 accident, then we work our way out.

5 A lot of times that's what the detectives have to
6 do, that's what the doctors have to do, that's the reason
7 why you have all this information. You were provided every
8 piece of evidence and admissible relevant evidence to help
9 you come to your decision, and let me just address
10 something that I know, cause even myself as a prosecutor
11 when I deal with these type of cases I would love to be
12 able to tell you, I have the video tape, I have the
13 confession, we have got the DNA, the smoking gun, you know,
14 I would love to be able to bring that to you, but because
15 child abuse happens in private I don't have it. I told you
16 that when we started. That's the reason why homicide by
17 child abuse is such a unique statute. Our legislature has
18 noticed that and they know children are such vulnerable
19 victims they specifically put in the statute that the death
20 of a child under the age of eleven, very specific.

21 We're looking at tender age children who cannot
22 protect themselves, who suffer from an inflicted injury by
23 another and that injury is done with an extreme
24 indifference to human life, meaning that if you grab a
25 child and slam their head into the ground it would be

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1 obvious that this is dangerous to the child's health. If
2 you shook a child and threw him on the ground it would be
3 obvious that that's going to be dangerous to the child's
4 health. If you shook the child and he hit his head on the
5 side of a desk, pack and play, obvious this would be
6 dangerous to the child, so we have two people, but let's
7 back up.

8 We had three people in that house and a dog,
9 we'll throw the dog in there. We have three people and a
10 dog and we know the dog didn't do it, so we're going to
11 take Logan out of the picture. Victim is dead, we have
12 Gorman and Palmer.

13 Now I know, and I might be presuming this, I'm
14 going to go ahead and make this presumption, what might be
15 your concern right now, and I will tell you, the Judge has
16 the law for the State of South Carolina in exactly these
17 type of situations where you have to wrap your mind around
18 the fact that some people don't necessarily understand
19 beyond a reasonable doubt doesn't mean beyond all doubt.
20 It's a reasonable doubt.

21 What's reasonable here? We know he was killed,
22 somebody did it. He didn't it to himself; the dog didn't
23 do it. He couldn't have done it from climbing out of the
24 pack and play and falling or falling out of the bed. It
25 was inflicted. Okay, so we're over that, that's beyond a

1 reasonable doubt. Every doctor, even the defendants have
2 conceded that, okay, so here's where we go.

3 The Judge is going to give you the law on the
4 hand of one is the hand of all and there's a reason why
5 this law is firmly embedded in the State of South Carolina
6 and that is because of situations like this, and I'm just
7 going to tell you, a principal in a crime, the Judge is
8 going to read this to you, is one who either actually
9 commits the crime or who is present aiding, abetting, or
10 assisting in committing the crime. It does not matter who
11 actually commits the crime all are guilty, the hand of one
12 is the hand of all, and the Judge is going to tell you
13 that, so unless you think Victim did it to himself, the dog
14 gets free and goes on a Cujo rampage, then it is those two.
15 That's it, that's it, so I don't see where there's any
16 confusion, and I'll tell you, I'll give you an example, and
17 this example is actually going to be provided to you.

18 For example, two people can be guilty of killing
19 another person when only one of the two had a gun, there
20 was only bullet and only one of the two fired the shot that
21 caused the death, there you go. Now do you see why they're
22 both charged and why they both have the same type of
23 offenses.

24 Those indictments that Mr. Galmore laid out for
25 you, those aren't evidence. That's a legal document for

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1 charging purposes; they're not evidence. The Judge said
2 that when we started the case, so if he's trying to make
3 you think that there's some type of, you know, conspiracy
4 or something out there because I feel like I have to put
5 somebody in jail for killing this child, I think you have
6 more than enough evidence to see exactly what's going on
7 here.

8 They have pitted themselves against each other
9 because now their original plan to play dumb, I don't know
10 what happened, it had to be Cesalee didn't work, and this
11 is how we know it was a plan, ladies and gentlemen. We
12 have a child sixteen months old, never had an overnight
13 visit in the hospital, perfectly fine child, yeah, he
14 missed a few appointments maybe here and there. Even Dr.
15 Hutson who I mean he's just a local pediatrician, you know,
16 he's somebody who deals with kids on a daily basis, he said
17 I have people come in here with late shot records, it's not
18 a big deal, when I saw him he was normal. I checked him
19 for a stuffy nose, gave him Xyzal, I checked him for ant
20 bites, gave him a steroid cream. He was a normal child
21 perfectly fine.

22 Where's the squishy head? I mean if a kid walks
23 in and you've got a pediatrician who looks in their ears
24 and they look in the mouth and, you know, a toddler is not
25 very cooperative. Usually they're pulling away or doing

1 like this, you know, the doctor is like hold on, let me
2 see, hold on for a second, and he touches the back, she's
3 saying it's squishy all the way back here, it's kind of
4 weird that that would be where his skull fractures were
5 based on the autopsy, so consider that. It's pretty
6 convenient timing to say that's, that's where he was
7 squishy. She never said that before either, and you think
8 that a pediatrician who is a mandated reporter for abuse
9 and who is caring for a child is not going to notice
10 something like that, and he didn't see the child just once,
11 he saw him twice, and he saw him on July the 8th and he
12 said he didn't have any more skin rashes, that he was
13 pretty much better so he knew about the July 7th visit to
14 the E.R. but he was like, you know, he didn't have a fever
15 so I gave him his vaccinations. He was fine. Again
16 checked his ears, checked his throat and everything like
17 that, so everything we have up until this time is normal
18 toddler, normal toddler, normal toddler.

19 He's little, there's his parents, use your common
20 sense. I mean some kids are big, some kids are little. He
21 was saying mama, he was saying words. Even in the nine
22 months records that Dr. Abel says she reviewed said the
23 what Gorman told you didn't make sense because in his child
24 development records he was developing fine, said there was
25 nothing wrong with Victim What was wrong was what

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1 happened because he got dropped off in a volatile
2 situation.

3 Why do I bring you information regarding what
4 their circumstances were? I don't have to prove a motive,
5 ladies and gentlemen, that's not something I'm required to
6 do beyond a reasonable doubt, but I know you want to ask
7 yourself why. Why would someone kill a seventeen-month-old
8 child, and I probably still will not be able to tell you
9 that, but I can tell you that that child was put in a
10 volatile situation with a volatile grandmother who was only
11 thirty-seven at the time, so a little young for a
12 grandmother, and her thirty-year-old boyfriend who wasn't
13 even taking care of his own kid.

14 His own parents admission were that we feel good
15 whenever Dylan is with us. His own dad said if I had known
16 how it was over there I'd have gone and gotten **Victim**
17 tells you a lot.

18 They had to pay the last months rent for Julia
19 and Robert. You know that's a lot of stress and think
20 about it, he's young, he wants to go out with his friends,
21 which he did, and Julie even told you we fought about that.
22 I didn't like it, I told him he needed to be home. Well
23 not only was he home when she said but now he's home all
24 day long while she's working taking care of a kid he'd
25 never met before, a kid that he knew Julia didn't even like

1 because she didn't like her own daughter, didn't like the
2 daddy, and so here we have Victim mama's boy, whiney,
3 missed his poor mom, hadn't ever been away from her more
4 than maybe a day or two, and but it's his fault. He's
5 whiney, he's cranky, he's crawling on me, I can't cook, I
6 can't clean, I can't do this, I can't do that. Robert, I
7 had to stay home and take care of a kid now; I used to able
8 to, I don't know let's just say this, lay on the couch,
9 take a nap, watch I don't know, the outdoor channel, and
10 now I'm changing diapers, I'm feeding a toddler, and
11 whenever Julia gets home, remember his interview whenever
12 Detective Troxell, asked him well how was she whenever she
13 got home and he said, well she would ask about Victim but
14 then whenever he got a little bit further into it he said,
15 yes, she was very frustrated with her job, agitation was
16 every day, every day, so Victim after sixteen months with a
17 healthy life walks into this situation.

18 Cesalee was eighteen. If you want to blame her
19 for whatever decision she made in leaving that child there
20 I'm going to tell you now you heard her, you heard Marsha
21 Bessant who has nothing to gain in this case say she was an
22 attentive and loving mother, a little naive, yep, regrets
23 this more than anything in her life, yeah, but you can't
24 change it.

25 So let's talk about the aiding and abetting and

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1 how these two decided how they were going to handle Victim
2 First they were giving him too much Xyzal and, no, I'm not
3 saying Xyzal killed the child. Obviously if I did I'd have
4 a toxicologist her and we would be talking about his
5 toxicology report from the autopsy, none of that was ever
6 brought up, that's not what I'm saying. What I am saying
7 is that whenever people are tired of dealing with the
8 child, and I know that every single one of you has either
9 heard of this or you've seen it on the news, they will over
10 medicate a child with something like Benedryl or some type
11 of antihistamine because what does it do, makes them drowsy
12 and when they're drowsy, guess what, they're not whining,
13 they're not clinging to you. They're hopefully going to
14 bed. She admits to doing this to him on several different
15 occasions.

16 Dr. Hutson said he was only twenty pounds, he was
17 supposed to have half a teaspoon. One time she told the
18 E.R. he was taking a teaspoon and a half. Another time he
19 was taking two and a half teaspoons. She was shoving
20 whatever she could get into his mouth to get him to be
21 quiet. That's all I'm saying. She said it herself, so
22 we're already seeing a pattern here, ladies and gentlemen,
23 and the other thing is that Palmer is right there with her.
24 They're both doing it and on Saturday night when they went
25 out to dinner with the gift certificate to TBonzs they give

1 him a dose of that Xyzal. Let's get him asleep, we need to
2 have a dinner for ourselves. I know you went out last
3 night with your friend Cody, this is going to be our time,
4 but guess what, you got Victim he's not cooperating.
5 That, I mean telling you it's just building, this
6 frustration.

7 Julie goes to work on Sunday. Robert takes the
8 child to the pool. His parents even notice he's lethargic
9 and tired, probably from all of the Xyzal that he's been
10 on. Later that night but he eats, does all these things
11 that a doctor, all of our experts have said with those
12 massive skull fractures there's no way he could function,
13 eat, move, talk, nothing. He's moving, talking, or
14 babbling, drinking, in the pool, goes home, goes to sleep.

15 Now here's where we know for a fact that we've
16 got the two of them locked in in regards to this child.
17 They signed a temporary guardianship, and you're going to
18 get to see that as part of the evidence, that says we are
19 the sole caretakers of Victim We are responsible
20 for his care. We are responsible for anything and
21 everything that happens to this child and he's dead.

22 Now let's talk about Julie's statements. She's
23 had three and a half years to think about how she was going
24 to fix that mess she made on July the 18th when she
25 admitted to abusing that child, when she admitted to every

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1 single person that what time she was home that day and that
2 she was home with that child. Remember it only takes a
3 minute to inflict these injuries to [Victim] and they were
4 inflicted injuries, don't let that get out of your mind.

5 She starts talking about the head squishy all
6 over, no medical evidence of that, no developmental issues,
7 whiny, fussy, very clingy, would climb up my leg but he's
8 not a bad child. Then they talk about the Xanax, you know,
9 Xanax calms you down, so if you're anxious and upset you're
10 more likely to freak out and start saying just anything to
11 get out of there. You take the Xanax you're calm, that's
12 when she admits to shaking [Victim] and remember, ladies and
13 gentlemen, we're looking for the perpetrator to give us the
14 truth here.

15 What do you think you saw in regards to what she
16 was telling you that day? She was minimizing. She gave us
17 just a taste of the rage that she had with that poor child,
18 that's it, and I think what's really interesting, too, is
19 that whenever you look at it she's the one along with
20 Robert who both said let's not wake him up tonight, let's
21 have dinner together, and I'm going to tell you right now
22 that was the moment when they both knew we don't want him
23 up, take care of it.

24 I can't tell you which one made the decision to
25 go into that room but I'm telling you that's when it

1 happened and it's interesting because that is exactly how
2 their statements, how they worked together with the police
3 to try and play dumb and say we're not going to tell
4 anybody exactly what happened, we're just going to claim we
5 don't know. That's where they come together right there
6 and I'm going to show you, because this is the important
7 thing is to not forget when you're dealing with the fact
8 that this child, based on every piece of medical evidence
9 was killed violently, inflicted blunt head trauma, that's
10 what did it. There is no other reasonable explanation, so
11 let's look at it.

12 What I've done to try and just help and also
13 because I know these things can get really convoluted with
14 all the evidence and the information you have, I tried to
15 break it down for you, and I'm going to pull this up for
16 you now. This might even kind of wake you up a little bit.

17 Ms. Heather, do you mind providing me with the
18 screen and I'm sorry ---

19 Ms. Grabert-Lowenstein: If we can have just a
20 moment, Your Honor?

21 Ms. Lively: I apologize, I should have warned
22 ya'll. Thank you.

23 Okay, so what I did was I've got a calendar and
24 wanted to show how short of a time cause sometimes whenever
25 you think two weeks, three weeks, a week, and then when you

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1 see it on like this it's amazing because you're like, well
2 Cesalee leaves on the 2nd, so we know she didn't hurt her
3 son, okay, so then we have, and he's already been seen by
4 Dr. Hutson, normal toddler, treated him for ant bites,
5 treat him for head cold, okay. The only one that says
6 something different is Julia.

7 Then we have nothing. Cesalee is gone, he goes
8 to the E.R. at Conway Medical Center, and that's what CMC.
9 is, for vomiting. He's looked at, again examined by
10 medical professionals who are there to make sure that this
11 kid doesn't have anything else going on. He's released;
12 he's fine.

13 The next day he goes to see Dr. Hutson for
14 vaccinations. Dr. Hutson looks at him; he's fine. He lets
15 him get the vaccinations because he doesn't have a fever.
16 He's completely resolved the head cold so he gets his
17 vaccinations. Now what we have from other information,
18 some of this I had to pull it and actually depend on what
19 the perpetrators are telling us what happened, and on
20 Friday night we have the first step of Palmer goes out in
21 the p.m. and Gorman is alone with Victim and as you heard
22 Julia this was a problem and they had talked about it
23 earlier that week. She wasn't happy about it.

24 Then on Saturday Victim with Gorman and Palmer at
25 TBonz, once again she medicates him to keep him from

1 bothering the two of them.

2 Then on the 13th **Victim** at the pool with Gorman
3 and Palmer. He's there, he's a little lethargic, but he's
4 active. He's in the pool; he's eating. There's no
5 indication other than him being a little lethargic that
6 there's a problem.

7 And then, boom, Monday the 14th he's got to go to
8 the E.R., 911 called at 6:06 p.m. because that's really the
9 only time that through law enforcement I can give you as an
10 exact time because everything else I'm depending on the
11 perpetrators to tell me what happened.

12 We know he was hurt on that day and, yes, some of
13 it I'm having to use the perpetrators telling me what that
14 is just like Dr. Abel had to cause you look at the whole
15 picture, ladies and gentlemen, you don't pick it apart. If
16 you pick it apart you don't have a whole story. You put it
17 together it's clear.

18 So then what we have **Victim** is at MUSC on Tuesday
19 the 15th, inflicted head trauma, Horry County P.D. and DSS
20 involved. Now let me tell you something, you remember how
21 o.c.d. Ms. Gorman is cleaning up her house and things like
22 that, do you remember her saying that I left MUSC cause I
23 had to go get my car, but then I came back, let me tell you
24 what she did, her and Palmer.

25 At this time they realize how serious the

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1 injuries are, okay, because whenever they had the plan that
2 they were going to make sure Victim doesn't get out of that
3 bed so that they can have their dinner they didn't know how
4 bad it was, okay. They've been questioned, skull
5 fractures, skull fractures, immediate, symptomatic, no way
6 this could have been Cesalee, no way it could have been the
7 dog. They have to haul their butts back here to Horry
8 County and make sure they didn't leave anything in that
9 crime scene because Horry County P.D. did their job. They
10 got assigned the case; they go to MUSC; they see the baby;
11 they talk to the doctors; Julie and Robert right back here,
12 going through the house.

13 Isn't that reasonable? Why does she have to come
14 back here to get her car, her grandson is on life support
15 but they drive all the way back here and when the police
16 get there on the 16th that house is immaculate. There's
17 nothing. That's not a coincidence, ladies and gentlemen,
18 that's reasonable. That's a part of their plan to cover it
19 up.

20 Then Victim is baptized on the 16th; Julie
21 doesn't stay there for that. That's her choice, her only
22 grandson, that's fine, they pull the plug at 3:25.

23 On Thursday the 17th they're prepping Victim
24 giving him the medicines to keep his organs good and to
25 make sure that they can use them and give them to children

1 who need them and what is Julie and Robert doing, they're
2 going back home. They're getting their stories straight or
3 lack thereof, and they're exhausted, ladies and gentlemen,
4 so tired, her child, her grandchild is dead, oh, my gosh, I
5 can't take it, we need a break, let's shower and go out to
6 Beef-O-Bradys and to Fats Bar which is right here down the
7 street in Horry County, and let's have some drinks and
8 shoot some pool, we need a break. Their, her grandson is
9 dead but she needs a break.

10 On the 18th is whenever we get the interviews and
11 on the 19th autopsy, cause of death, inflicted head trauma,
12 not accidental, mode of death, homicide, and she's required
13 by law to make that determination, there we go.

14 Now on the date of his fatal injury, once again
15 this is information that we're getting from the
16 perpetrators here, and the interesting thing from yesterday
17 and I think ya'll might have seen how excited I got, but
18 the check is introduced by the defense and it says that,
19 oh, my gosh, for once I write a bad check and it's a good
20 thing, okay, and it says 15:52, which I went to law school
21 so I wouldn't have to do math so I always get confused with
22 that, but it's so that's 3:52, and so, you know, whenever,
23 or is it 3:57? I'll let ya'll decide that because I'm not
24 wearing my glasses, anyway I put it on there when I did
25 have my glasses on, and 3:57 p.m. she makes a purchase and

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1 is checking out so we know she's actually leaving at the
2 time whenever this is run through the register, cause
3 that's how it's done, but to make it fit her story that
4 she's been thinking about for three and a half years she
5 says, wow, in July of 2008 they must have forgot to change
6 to daylight savings time.

7 I think if you have to use your common sense more
8 likely than not the time that might be a little bit off is
9 her own check out of her own time clocking out, cause we
10 all know how that can sometimes be manipulated, than the
11 IGA who is documenting when they get financial records in
12 their place of business and when is it that we change the
13 time, April, end of March, this was July. It's not
14 reasonable, ladies and gentlemen, and not only that if you,
15 when you watched her interview she's telling you I was home
16 between 4 and 4:15. How many people did she tell that to,
17 every single medical professional who questioned her, the
18 DSS social workers who questioned her, people who were
19 doing their job, and do you think she'd remember two or
20 three days from then or do you think she'd remember better
21 three and a half years after the fact when she's had a
22 chance to sit here and listen to everybody else's
23 testimony, when she's had a chance to sit here and decide
24 how am I going to get myself out of that house because when
25 we first said we didn't know what happened that didn't

1 work. All right, so that's what we got.

2 And then, of course, he goes to Conway Medical
3 Center and has severe skull fractures and blood on the
4 brain, very small chance of any type of meaningful recovery
5 and, of course, we know how that ended up.

6 Now, ladies and gentlemen, this is what I'm
7 talking about the meeting of the minds of these two people.
8 This is where, and I know it's kind of hard to see, but
9 this is where their statements mirror one another and shows
10 that they talked about it because at first they said, no,
11 we didn't talk about anything, we were just tired, we just
12 would kind of take that time and rest driving back and
13 forth from MUSC. Your grandson and the boy that you've
14 been watching for the past two weeks is about to be, have
15 the plug pulled and you don't look at each other and say
16 what in the heck did you do to him, how in the world did he
17 get these skull fractures, no, instead they decided Cesalee
18 had to do it. I know what I'll do before we go out to
19 Beef-O-Bradys and go get some beers I'm going to go to the,
20 to the storage place and I'm going to go and get Cesalee's
21 notebook from about four or five years ago where it shows
22 how troubled she was whenever I kicked her out and sent her
23 to foster care and we're going to show that she had to do
24 it, good idea, so here we go.

25 They both said what do you want to do about

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1 Victim Palmer, she said, do you want to wake him now or do
2 you want to eat first. Gosh, I mean decisions, decisions,
3 not again, I've been working all day. Palmer is like I've
4 been dealing with him all day.

5 Maybe he had already woken up and that's why they
6 said, gah, what are we going to do with Victim He's
7 whining, he's in his pack and play, we've got to do
8 something with him, take care of it. Does it matter which
9 one actually did if they both had the same intent, and they
10 were his caregivers and he was killed?

11 Gorman, interesting she starts giving excuses for
12 herself through what she's supposedly talked to Richard and
13 Cesalee about at MUSC where she's saying is punishment
14 enough what I'm going through and then Richard comes to me
15 in front of Cesalee and said, you know, we've talked. They
16 didn't want anybody to go to jail. They said whoever did
17 this it's punishment enough, jail is a luxury. She's
18 already setting it up to where she's going to get away with
19 it. She's suffered enough, ladies and gentlemen. She had
20 to watch him for two weeks. She had to feed him for two
21 weeks.

22 Then she goes off on a completely different
23 tangent. I tried to comfort everybody cause that's what I
24 do; that's the kind of person I am. I tried to make fun of
25 it, you know, kind of get a little giggle. He's up there

1 playing with the dead dog that we cremated and we put
2 flowers on it, which is nice, I mean that's fine. He's up
3 with the turtle, you know, cause you had to find some sense
4 of humor, you had to find some things to laugh about, and I
5 know people deal with grief in different ways, ladies and
6 gentlemen, but I don't know where that's ever appropriate.

7 And whenever she was having all these problems
8 and before Cesalee even left she called Richard, the man
9 she told you she disliked, families didn't like each other,
10 didn't want anything to do with each other, I called him
11 and said, you need to get your wife and your young'un, not
12 and **Victim** and your young'un, you need to take them home.
13 She never bonded with them, ladies and gentlemen, never.

14 Then the shaking, like I said she was minimizing.
15 First she lies, she says, no, I never shook him, never
16 shook him, shake a baby, no, well, of course, because, you
17 know, the shaking baby syndrome thing. No one here said he
18 died from shaking baby syndrome and I'm not trying to tell
19 you he did but every bit of abuse this child had to suffer
20 is absolutely relevant to what happened to him. He cries
21 every day, he's cranky every day. Were you frustrated, it
22 just happened, you shook him, is that possible, yes, that's
23 possible.

24 Then she talks about him, I was like, damn, every
25 time I walk in the house I'm going outside and as soon as I

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1 walk outside he stops crying, so what does she do about it?
2 She's going to try and make him a fresh little boy. She is
3 going to fix him.

4 Now the bruises, you know, I appreciate Mr.
5 Galmore looking at my legs and noticing that I have bruises
6 on them. I do, I have a tendency to jump up real quickly
7 and the back of my legs will hit the back of the chair.
8 What day is today, Friday, so I've been doing that all
9 week, but, ladies and gentlemen, I'm an adult. [Victim] was
10 not pinching himself, giving himself bruises. Are you
11 kidding me? If he was don't you think it wouldn't have
12 just started right before he needed up in the E.R. and, you
13 know, yeah, he was at the pool on Sunday, you know, but a
14 lot of those bruises were in the thigh, in the trunk area.
15 It's kind of weird. There was one here and so it's one of
16 those type of things that maybe if you're not looking for
17 it you don't see it. Even Dr. Cacace had to be reminded of
18 it but I'm telling you those medical professionals they
19 don't miss a thing. That's their job and that's what they
20 did, they documented.

21 Just like if Dr. Hutson had seen it he said he
22 would have documented. He's a mandated reporter. Not
23 noted on July 7th by Conway Medical Center when he went
24 there for vomiting and not noted again for Dr. Hutson on
25 July the 8th. It's just another piece of the puzzle and

1 it's another thing that the medical professionals have to
2 document and consider, he was being abused.

3 And then Palmer's statement to the police, he
4 doesn't offer us a whole lot. He admits that he had
5 alcohol the night before, then he talks about describing
6 Victim It seemed like it wasn't going to stop, the
7 whining, and then Weaver asked her what about Julie, how
8 was she, does she come home agitated or upset. Yeah, it's
9 like an every day thing, you know, I mean that's not a good
10 relationship or good situation for Victim to be in, and he
11 said I didn't know all this stuff about Cesalee and once
12 again there goes the decision to throw Cesalee under the
13 bus.

14 They've talked about it, ladies and gentlemen.
15 He says himself I didn't know all this stuff about Cesalee.
16 I didn't want her to come in the first place, her and Julie
17 couldn't get along. I didn't know this stuff about
18 Cesalee. Well when do you think he knew about it, when
19 they were driving back and forth from MUSC decided they
20 were going to find that notebook of hers, decided they were
21 going to say Cesalee did it, and how do we know that's what
22 they decided, right here. Page 31, the last couple of days
23 ya'll didn't talk about what ya'll felt happened to Victim
24 yeah. What we said was I guarantee it was Cesalee and then
25 whenever they kept beating on him and beating on him about

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1 it saying it's not possible, it's not possible, wasn't the
2 dog, wasn't the stroller, wasn't Cesalee, he says I'm not
3 going to change my story, I did nothing to this child,
4 never calls him Victim I did nothing to this child, take
5 me to jail, I don't care, I won't see Dylan for however
6 long, take me to jail because I'm sticking to my story.

7 Julie thinks she can manipulate it a little bit
8 better so she gets into a little bit more information, but
9 Palmer he sticks with it.

10 Now here we go. Gorman goes and gets the
11 notebook on Cesalee. Palmer said the story is going to
12 stay the same, forty hours later I'm not going to change
13 it, Cesalee did it. She has problems, she's impatient even
14 though we know from Marsha Bessant that she observed them,
15 she has nothing to gain in this case, she said Cesalee was
16 attentive, claims that Cesalee hates child. Do you
17 remember Julie kept saying I was driving her to the airport
18 and she just, I kept giving her the chance to take Victim
19 with her, she just wanted to wipe her hands of him. She
20 convinced herself that he was a throw away child. That's
21 how she got tasked what happened to him.

22 Victim was already messed up, had a squishy head,
23 blame Cesalee, she's an easy target. She's not here, we'll
24 blame her.

25 Then Gorman stories from the week of the 14th to

1 yesterday I mean are we talking about the same person. You
2 mean to tell me that you're getting ready to be charged
3 with a crime and you're not going to sit there and tell law
4 enforcement that you went to the IGA, which we know she
5 did, so that's fine but she did leave that out, but it's
6 maybe because she stopped by there on the way home so she
7 started talking about when did you get home, around 4 or
8 4:15, around 4 or 4:15.

9 Then she says she leaves again, goes to the video
10 store. She doesn't get home to around 5:30, cooks dinner
11 and eats, Palmer walks out with the dog, checked on Victim
12 and he was seizing. She has to remove herself, don't let
13 her fool you, ladies and gentlemen. She admitted on that
14 stand she lied.

15 They did it. Gorman financially strapped, tired
16 and frustrated, working those long hours, losing Robert.
17 Remember Marsha said she would call, she could barely
18 breathe she was so upset, I'm going to loose him, I'm going
19 to loose him. She hated Cesalee, hated Richard, hated job.
20 Victim was depressed, now had sad is that, she actually
21 described the child as being a depressed child. Well,
22 yeah, he was left with somebody who didn't want him. He
23 was a throw away child.

24 Palmer unemployed, caring for a toddler that
25 wasn't even his blood relative, wanted to be free. He

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1 resented Victim ladies and gentlemen. He probably put up
2 with it but he was taking handouts from his own parents.
3 He was dependent on Gorman financially. She was his meal
4 ticket. That's why he didn't turn on her. That's why they
5 made the decision to do what they did. He had marital and
6 custody problems. He didn't have custody of his child
7 then, his parents were the one's caring for him, his own
8 child, and then Marsha Bessant, like I said, Gorman after
9 all this had happened and she goes and visits her she says
10 still the dog did it, so we've moved from Cesalee to back
11 to the dog and then she asked Bessant will you send me
12 pictures of Robert and Victim is dead in the ground.

13 Okay, so here we go, there's Logan, the dog did
14 it. When Cesalee's scenario is absolutely completely
15 medically impossible there's the killer dog, not possible.

16 The next scenario, the stroller and the stairs
17 did it, but guess what, ladies and gentlemen, that happened
18 when Cesalee was here. The child was never hurt, never
19 taken to the hospital, never lost consciousness, nothing.
20 According to Cesalee he said, do again, do again.

21 I've talked to you about Dr. Hutson, reasons for
22 the visit. I'm not going to go into that again because
23 I've gone through that.

24 First responder, first responders are great
25 because they, they're not going in there looking for blood.

1 I mean if it's all over the walls I guarantee you're going
2 to see it in their report, but they're going in there
3 because there is a little tiny child seizing. What do you
4 think their focus is, they went in there grabbed the child,
5 and hauled out of there. That's what they were doing. He
6 said all he asked was is there any history, is there
7 anything I need to know, falls, sickness, anything like
8 that, no, no, no, he was just napping.

9 Erica Rosenthal same thing, she's working on the
10 child, any history of falls, sickness, anything like that,
11 Gorman, no, no, no, no, no, but she's sitting in the front
12 seat and just, I've raised several children and never one
13 this bad. How does that help? What does that mean? It
14 means exactly what it says, she didn't want him.

15 He was given oxygen and Valium for the seizures
16 to make it stop before they got to the E.R. There's
17 absolutely no evidence he was given any cpr, no intubation
18 at the time. As a matter of fact you heard from Tina
19 Millan, she was the one that actually gave him or they put
20 the tube in at Conway Medical Center. Victim arrives at
21 6:58 p.m.; his Glasgow Coma Score is a five, a five. Tina
22 said in order for you to think you're going to get some
23 type of meaningful recovery if you're under a nine it is
24 bad. He was a five.

25 So Tina is in there, what do we do? Gorman tells

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1 her mama is a drug addict and just dropped him off, what
2 does that have to do with anything, already starting to
3 plot the Cesálee idea.

4 She notes several bruises to the child. She was
5 told the child never fell. She was told that Xyzal was
6 given to him two days before or three days before, two and
7 a half teaspoons. Dr. Cacace he hasn't seen the kid in
8 three and a half years and he seemed a little apologetic
9 when he couldn't remember some stuff but his records are in
10 the evidence and you can look at them yourself, he was in
11 great condition, severe force resulting in skull fractures,
12 and this is where we're starting to get an idea how violent
13 the act had to be to kill Victim okay. This is what
14 really puts it in perspective.

15 He said if it's not a motor vehicle accident, not
16 a two story fall on the head, both sides, then, of course,
17 you've got major antennas raising here, what happened to
18 this poor child? He's doing his job; he's trying to treat
19 the child so what do they do, they have to ask, what
20 happened, has he got any history, is there anything we need
21 to know, I mean what is going on with this kid, nothing.

22 He says he's never had a patient with these type
23 of injuries able to eat and function, reviewed the C.T.
24 scans. You heard a lot about the lack of gray white
25 differentiation in the brain which just means that the

1 brain has suffered such a traumatic injury it's already
2 started to die. Do you remember what Dr. Roberts said,
3 she's the neuro-radiologist, that's all she deals with are
4 brains, okay, so what she says is when she sees that she,
5 there's not much of a chance. The brain has already
6 started to die; the swelling is too bad. There's no oxygen
7 flowing to the brain anymore; the blood is swelling.
8 That's what happens. It's all reactive; it works together,
9 the fractures, the force, the brain injury, it's all one
10 thing.

11 Transferred to MUSC, Dr. Abel, Director of
12 Violence Prevention, that's what she does, she gave you her
13 opinions within a reasonable degree of medical certainty
14 intentional blunt force trauma, head had to impact a
15 surface, violent and forceful act to result in multiple
16 fractures and brain bleeding, an act so violent the force
17 would be obvious to an observer that the child is in
18 danger, not an accident, ladies and gentlemen.

19 You wouldn't get these injuries from a fall
20 unless from a three story building and her opinion was
21 based on everything because that's what she does, the
22 history. She looks at all of the medical records. She
23 talks to everybody who's the caretaker for the child, who
24 laid hands on the child. She has to make a decision and
25 she says based on everything she had in front of her, based

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1 on the fact the child was eating that day, able to move and
2 function that day, there would be no more than three hours
3 before he was presented at the E.R. and he actually got to
4 the E.R. at 6:58 p.m, so the only two people who had care
5 and custody of him was Julie and Robert, that's it.

6 But, no, we have more, because she said that the
7 maternal grandmother didn't give me anything, Palmer didn't
8 give me anything. We're still in the dark here. They
9 wouldn't be able to eat breakfast or lunch with these
10 fractures, foaming at the mouth, playing or eating, loss of
11 breathing, all these horrible things that unfortunately
12 Victim suffered, and once again this is what I'm telling
13 you they both told them, same history, 6:00, they went to
14 get him, he's having a seizure, oh, my god, how did this
15 happen, denied injury the day he went to the E.R., both
16 said he had fallen out of a stroller and a puppy had pushed
17 him over about two weeks before, neither incident required
18 medical attention. Then she goes on to add, you know
19 what's, he's really clingy, whiney, and only says one word.
20 That's her description of Victim

21 Dr. Schandl, she's required to come up with the
22 manner of death, homicide, clearly, complex fractures,
23 okay, not a linear. If, if a toddler has a bad fall
24 usually they'll have just one side of their head and like
25 she said one of those straight fractures, his head was

1 crushed and I didn't want to have to show the autopsy
2 photos even though, you know, they say, oh, we want to
3 throw gore and everything, trust me, that is the worst part
4 other than having to deal with the fact that I have a dead
5 child that I have to deal with is having to look at those
6 photos, but if I don't show them to you do you think you
7 could picture what I'm talking about, the severity of the
8 force, what was done to this child. They had fractures
9 everywhere, looks like a ceramic pot that was just dropped
10 and just cracked everywhere.

11 She gives a time line but she says the problem is
12 is that when you have a patient who is on life support it's
13 difficult to date so she goes three days to a week from the
14 time he donated his organs, so that would be from July 11th
15 on. Once again we still only have two caregivers for
16 Victim so the time line is not that problematic. The time
17 line isn't when you look at there are only two people
18 caring for the child and he was killed, don't forget that,
19 don't get caught up in that.

20 And there's no reasonable explanation for the
21 injuries, not from a simple fall, no lacerations on the
22 skull and I had to ask this myself, I'm like, my gosh, if
23 he had such a terrible blow to his head why wouldn't you
24 see it on the outside. It's because their skulls are
25 pliable and also if you think about it the more pliable

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1 something is the harder it is to actually break it, adding
2 to that force that he suffered.

3 Neurologist knows the brain and what to look for,
4 multiple skull fractures, traumatic force resulting in the
5 brain bleed. All occurred at the same time, no old
6 injuries, and that's really important because if there was
7 anything old she would have told us then maybe we'd have
8 some concerns about a time line and other people who had
9 access to the child but everything was acute, meaning it
10 happened at the same time, no healing, and the child
11 couldn't injure himself, so once again there were three
12 people there, he's dead.

13 He would not be able to function normally for any
14 period of time once that was inflicted on him and
15 immediately symptomatic.

16 Ladies and gentlemen, within the defendants lies
17 are the seeds of the truth and the reason why I always find
18 interest in that is because just like what Ms. Gorman was
19 telling ya'll about what happened shaking **Victim** and about
20 the whining, the frustration that they both had with this
21 child, they both got right up to the plate to tell what
22 happened when they knew Cesalee and that idea was thrown
23 out the window but they just wouldn't do it. They didn't
24 confess; they didn't have to because my silent witness
25 **Victim** has told you what the truth is.

1 Confession of the abuse, I'm not going to go
2 through that, shaking, shaking, shaking, extending my arms
3 out, my, oh, this is one thing I thought was interesting,
4 at the bottom it says I never extended my arms out. It
5 always, oops, I said always so that would insinuate more
6 than one. I mean my arms are here; he's here. I don't
7 know how hard or anything and that's it.

8 I found this picture in a, in some of my
9 materials because sometimes I don't think people can
10 visually see that someone would do this to a child, and I
11 don't know that this happened here either because once
12 again I don't have to prove the mechanism of what killed
13 the child. I just have to prove beyond a reasonable doubt
14 that he was killed, he was in the care of these two
15 individuals and they either helped cover it up, knew about
16 it, failed to protect him, or inflicted the injury, the
17 hand of one is the hand of all, and I believe you have more
18 than enough evidence to make that conclusion beyond a
19 reasonable doubt.

20 Here's another one, shaking plus impact blunt
21 force trauma to the head, flopping him back and forth this
22 way, maybe crushing him into a pack and play. Pack and
23 play's are not very, they're not actually intended for a
24 long term use by a child to be sleeping in. They don't
25 have a lot of padding in them.

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1 These are just possibilities because I want to
2 make sure that I can give you the information to where you
3 can wrap your mind around the idea that this happens and
4 this is hard to see. I had to show an extreme indifference
5 to human life so I put some other examples up here because
6 I, I want you to understand. For instance a caretaker for
7 a child when you see the child fall into a pool and you
8 walk away obviously that's indifference. Beating a child's
9 head against the floor and then putting the child back into
10 the bed so he won't bother you, interrupt your dinner.
11 Shaking and throwing a child against a surface and the
12 child loses consciousness. Covering a child's nose and
13 mouth to stop the crying ending in suffocation. Those
14 things happen, ladies and gentlemen.

15 Now here's what we've got, the defense makes all
16 these claims, but really there's no evidence that can pull
17 you away from the simple fact that he was killed and it was
18 in their care. They had a plan to blame it on Cesalee and
19 then if the Cesalee thing didn't work they were just going
20 to say we don't know and they were going to hope that one
21 day being in front of twelve individuals that they were
22 going to try and muddy the waters enough to where you'd let
23 them get away with murder, and that's where we're at right
24 now.

25 They've put themselves alone with **Victim** on July

1 14th, non accidental injuries, no credible explanation for
2 his skull fractures, medical evidence confirmed he'd be
3 immediately symptomatic, and I'm not going to go through
4 these cause I've talked about them a lot, but it just goes
5 back through the details.

6 We can get away with murder just deny, deny,
7 deny, blame it on Ceaslee and we can get away with murder,
8 and I know you don't want to think people think that,
9 ladies and gentlemen, but when they realized that they're
10 on the line for what happened to that child that's when
11 desperation kicks in and that's exactly what happened.
12 That's why they drove home and cleaned up that house before
13 they drove back to MUSC. That's why they blamed it Cesalee
14 and pulled that notebook out to point the finger at her to
15 divert the attention away from what happened to that child
16 in that small little trailer, thirteen feet and nine
17 inches, hollow doors. I'm telling you when that happened
18 it was obvious what happened, let him sleep while we eat
19 some dinner.

20 Now he's a silent witness, ladies and gentlemen,
21 and you know I don't know how you don't address the fact
22 that we have to back up and remember that a child is dead
23 here and I'm not saying it for the sympathy. I'm saying it
24 because it's the truth and I don't know why it's a bad
25 thing that as a prosecutor I have to bring everybody back

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1 down to the reality that a child was killed and that these
2 two individuals did it, no one else. No one else was there
3 that could have done it; they knew it happened. Just like
4 if I were to give you DNA and they said one in eight
5 hundred quadrillion, you know, they have this crazy numbers
6 and you see that on evidence and CSI. I have better odds
7 than that because they themselves put themselves in there
8 with Victim no one else.

9 Now beyond a reasonable doubt isn't beyond all
10 doubt and you can be reasonable if I tell you that behind
11 that door is a big gray animal with floppy ears, a trunk,
12 that lives in Africa, likes peanuts and you might see it at
13 the zoo. Do I have to walk that elephant through those
14 doors and put it right here in front of you for you to know
15 that's what I'm talking about. Like I said I don't have
16 the video, I'm sorry, but I've got his body, I've got his
17 crushed skull, and I've got his two caretakers, and that's
18 all you need and they lied.

19 So, ladies and gentlemen, when you look at all
20 the evidence, and take your time cause it's a lot, you're
21 going to be firmly convinced that they were involved,
22 caused the death of Victim They neglected him; he
23 was bruised. We don't know why they didn't just send him
24 home to his mom, I don't know, but that's why we're here
25 cause they made the decision to get him out of the way so

1 they could go back to their lifestyle and the first thing
2 they did when he was gone was get right back into the swing
3 of things. They went out with their friends, shot pool,
4 life is good, back to normal, and Victim is dead.

5 Find them guilty, ladies and gentlemen, don't let
6 their lies and their selfishness let them walk out of this
7 courtroom, thank you.

8 The Court: Ladies and gentlemen, I have taken
9 liberty of getting you some lunch. We'll wait until after
10 you've had a chance to take a break and have a little lunch
11 before I charge. If you would take them into the jury
12 room, Bobby. Again I ask you not to begin any
13 deliberations at all until I've charged you on the law.
14 We're at ease.

15 (Whereupon, the jury retired to the jury room at
16 12:15 p.m.)

17 (Whereupon, court was recessed for lunch.)

18 The Court: All right, as to the charge there
19 are no additions; is that correct?

20 Ms. Lively: That's correct, Your Honor.

21 The Court: Mr. Galmore, you've had a chance to
22 review it as well?

23 Mr. Galmore: Yes, sir.

24 The Court: No additions or deletions or
25 corrections?

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1 Mr. Galmore: No, sir.

2 The Court: And Ms. Grabert-Lowenstein, you as
3 well?

4 Ms. Grabert-Lowenstein: Absolutely, Your Honor.

5 The Court: All right.

6 (Whereupon, Court's Exhibit Number 3 marked for
7 identification.)

8 (Whereupon, the jury returns to the courtroom at
9 1:20 p.m.)

10 The Court: All right, we have all of our jurors
11 and our alternate back in the courtroom.

12 **Jury Charge**

13 Ladies and gentlemen, let me remind you that
14 during this trial you and I have certain duties to perform
15 and as trial judge it's my responsibility to reside over
16 the trial of this case and I also have the duty to rule on
17 the admissibility of the evidence ordered during this
18 trial.

19 You are to consider only the competent evidence
20 before you. If there was any testimony ordered stricken
21 from the record in this case during this trial you must
22 disregard that testimony. You are to consider only the
23 testimony which has been presented from this witness stand,
24 any exhibits which have been made a part of the record in
25 this case and any stipulations or agreements of counsel.

1 I have the additional duty to charge you the law
2 applicable to this case. As the presiding judge, I am the
3 sole judge of the law of this case, and it's your duty as
4 jurors to accept and apply the law as I now state it to
5 you. If you already have an idea as to what the law is or
6 what the law ought to be and it does not agree with what I
7 now tell you the law is, you must abandon that idea because
8 you are sworn to accept the law and apply the law exactly
9 as I state it to you.

10 In every case tried in this court before a jury,
11 the jury becomes the sole and exclusive judge of the facts
12 in a case. A trial judge cannot intimate, state, comment,
13 on, or make any statement to a trial jury about the facts
14 in a case. Since you, the jury, are the sole judge of the
15 facts in this case, you are not to infer from what I have
16 said during the progress of this trial in ruling on the
17 admissibility of evidence, or otherwise, or anything that I
18 say now during the course of this instruction to you, that
19 I have any opinion about the facts in this case. The law
20 does not allow me to have an opinion about the facts in
21 this case. This is a matter solely for you, the jury, to
22 determine. As jurors, it is your duty to determine the
23 effect, value, weight, and truth of the evidence presented
24 during this trial.

25 The indictments in this case charge the

1 defendants with homicide by child abuse, aiding, and/or
2 abetting homicide by child abuse, and unlawful conduct
3 towards a child. I remind you that the fact that the
4 defendants were arrested, charged, and indicted in this
5 case, is not evidence in this case and cannot be considered
6 by you as evidence of guilt in this case, nor does it
7 create any presumption or inference of guilt. These
8 documents simply are the formal written instruments which
9 contain the charges made against the defendants. They are
10 the formal documents by which this case is brought into
11 this court.

12 The indictments in this case allege several
13 different offenses against the defendants. The charges are
14 under:

15 Indictment No. 2008-GS-26-3656, Defendant Julia
16 Shawnette Gorman is charged with the, with homicide by
17 child abuse under SC Code Section 16-3-85(a)(1);

18 Indictment No. 2010-GS-26-02194, states the
19 Defendant Julia Shawnette Gorman is charged with aiding
20 and/or abetting homicide by child abuse under SC Code
21 Section 16-3-85(a)(2);

22 Indictment No. 2010-GS-26-841, states the
23 Defendant Julia Shawnette Gorman is charged with unlawful
24 conduct towards a child under SC Code Section 63-5-0070;

25 Indictment No. 2010-GS-26-2196, states that the

1 Defendant Robert Andrew Palmer is charged with homicide by
2 child abuse under SC Code Section 16-3-85(a)(1);

3 Indictment No. 2010-GS-26-02195, states Defendant
4 Robert Andrew Palmer is charged with aiding and/or abetting
5 homicide by child abuse under SC Code Section 16-3-
6 85(a)(2);

7 And finally, Indictment Number 2008-GS-26-4120,
8 alleges Defendant Robert Andrew Palmer is charged with
9 unlawful conduct towards a child under SC Code Section 63-
10 5-0070.

11 Each indictment contains a separate and distinct
12 offense. You must decide each indictment separately on the
13 evidence and the law applicable to it uninfluenced by your
14 decision as to any other indictment. The defendants may be
15 convicted or acquitted on any or all of the offenses
16 charged. You'll be asked to write a separate verdict of
17 guilty or not guilty for each indictment for each
18 defendant.

19 I charge you that there are two defendants in
20 this case, each of whom is charged with homicide by child
21 abuse, aiding and abetting, and/or abetting homicide by
22 child abuse, and unlawful conduct towards a child. The
23 case of each defendant and the evidence and the law
24 concerning that defendant should be considered separately
25 and individually. Your verdict does not have to be the

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1 same for both defendants. The fact that you may find one
2 defendant guilty or not guilty should not control your
3 verdict as to the other defendant. Where more than one
4 person is charged with a crime, if the evidence warrants
5 it, you may convict one and acquit the other, or you may
6 acquit both, or you may convict both. It will depend upon
7 your view of the testimony and the evidence. You must take
8 each defendant and consider the evidence as to that
9 defendant and my instructions to you on the law. You will
10 then write a separate verdict of guilty or not guilty for
11 each individual defendant.

12 The defendants have pled not guilty to these
13 indictments, and that plea puts the burden on the State to
14 prove the defendants guilty. A person charged with
15 committing a criminal offense in South Carolina is never
16 required to prove themselves innocent.

17 I charge you that it is an important rule of the
18 law that the defendant in a criminal matter, no matter what
19 the seriousness of that charge may be, will always be
20 presumed to be innocent of the crime for which the
21 indictment was issued unless guilt has been proven by
22 evidence satisfying you of that guilt beyond a reasonable
23 doubt. This presumption of innocence does not end when you
24 begin your deliberation, but it accompanies the defendant
25 throughout the trial until you reach a verdict of guilt

1 based on evidence satisfying you of that guilt beyond a
2 reasonable doubt.

3 The presumption of innocence is like a robe of
4 righteousness placed about the shoulders of the defendant
5 which remains with the defendant until it has been stripped
6 from the defendant by evidence satisfying you of the
7 defendant's guilt beyond a reasonable doubt.

8 The presumption of innocence is not a mere legal
9 theory. It is not just a legal phrase. It is a
10 substantial right to which every defendant is entitled
11 unless you, the jury, are satisfied from the evidence of
12 the defendant's guilt beyond a reasonable doubt.

13 What is reasonable doubt in the law? A
14 reasonable doubt is the kind of doubt that would cause a
15 reasonable person to hesitate to act. The State has the
16 burden of proving the defendant's guilty beyond a
17 reasonable doubt. Some of you may have served as jurors in
18 civil cases where you were told that it is only necessary
19 to prove that a fact is more likely true than not true,
20 such as by the greater weight or preponderance of the
21 evidence. In criminal cases the State's proof must be more
22 powerful than that. It must be beyond a reasonable doubt.

23 Proof beyond a reasonable doubt is proof that
24 leaves you firmly convinced of the defendant's guilt.
25 There are very few things in this world that we know with

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1 absolute certainty, and in criminal cases the law does not
2 require proof that overcomes every possible doubt. If,
3 based on your consideration of the evidence, you are firmly
4 convinced that the defendants are guilty of the crimes
5 charged you must find the defendants guilty. If on the
6 other hand, you think that there is a real possibility that
7 the defendants are not guilty, you must give the defendants
8 the benefit of the doubt and find them or him or her not
9 guilty.

10 Now there are two types of evidence which are
11 generally presented during a trial, direct evidence and
12 circumstantial evidence.

13 Direct evidence is the testimony of a person who
14 claims to have a actual knowledge of a fact, such as a
15 eyewitness. It is evidence which immediately establishes
16 or proves the main fact to be proven.

17 Circumstantial evidence is proof of a chain of
18 facts and circumstances indicating the existence of a fact.
19 It is evidence which immediately establishes collateral
20 facts from which the main fact may be inferred.
21 Circumstantial evidence is based on inferences, or
22 inference and not on personal knowledge or observation.

23 The law makes absolutely no distinction between
24 the weight or value to be given to either direct or
25 circumstantial evidence. Nor is a greater degree of

1 certainty required of circumstantial evidence than of
2 direct evidence. You should weigh all of the evidence in
3 the case. After weighing all of the evidence if you are
4 not convinced of the defendant's guilt beyond a reasonable
5 doubt you must find the defendants not guilty.

6 Necessarily, you must determine the credibility
7 of witnesses who have testified in this case. Credibility
8 simply means believability. It becomes your duty as jurors
9 to analyze and to evaluate the evidence and determine which
10 evidence convinces you of its truth.

11 In determining the believability of witnesses who
12 have testified in this case, you may believe one witness
13 over several witnesses or several witnesses over one
14 witness. You may believe a part of the testimony of a
15 witness and reject the remaining part of the testimony of
16 that same witness. You may believe the testimony of a
17 witness in its entirety. You may consider, or reject the
18 testimony of a witness in its entirety. You may consider
19 whether any witness has exhibited to you any interest,
20 prejudice, bias, or other motive in this case. You may
21 also consider the appearance and manner of a witness while
22 on the witness stand, sometimes we refer to that as a
23 person's demeanor.

24 The defendant has presented evidence of his or
25 her good reputation and character to show that it would be

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1 inconsistent with the defendant committing the crime. The
2 weight you give that testimony, like all other testimony in
3 the case, is for you to decide in your good judgment. You
4 may consider testimony of the defendant's good character
5 along with all the other evidence in deciding whether or
6 not the defendant committed the crime.

7 The rules of evidence ordinarily do not permit
8 witnesses to testify to opinions or conclusions. An
9 exception to this rule exists for witnesses we call expert
10 witnesses. A witness who, by education and experience, has
11 become expert in some art, science, profession, or calling
12 may state an opinion as to relevant and material matters in
13 which the witness claims to be an expert, and may also
14 state the reasons for the opinion.

15 You should consider any expert opinion received
16 in evidence in this case and, like any other evidence, give
17 it the weight you think it deserves. If you decide that
18 the opinion of an expert witness is not based on sufficient
19 education and experience, or if you conclude that the
20 reasons given in support of the opinion are not sound, or
21 that the opinion is outweighed by other evidence, you may
22 disregard the opinion entirely.

23 An expert witness' testimony is to be given no
24 greater weight than that of other witnesses simply because
25 the witness is an expert. Further, you are not required to

1 accept an expert's opinion, even though it's not
2 contradicted.

3 I instruct you and emphasize that the fact the
4 defendant did not testify is not a factor to be considered
5 by you in any way in your deliberation and in your
6 consideration on the question of the guilt or innocence of
7 that defendant. It must not be considered by you in any
8 manner whatsoever. A defendant has a constitutional right
9 to remain silent, and the assertion of this right must not
10 be considered by you in your deliberations. I repeat,
11 under your oath, you are to draw no conclusion whatsoever
12 from the fact that the defendant in this case did not
13 testify. The fact that the defendant did not testify
14 should not even be discussed in the jury room. The burden
15 of proof, as I have stated to you, is on the State. The
16 defendant is not required to prove his or her innocence.
17 The burden of proof remains on the State to prove guilt
18 beyond a reasonable doubt.

19 Now the defendants are charged with homicide by
20 child abuse. The child [sic] must prove beyond a
21 reasonable doubt that the defendants caused the death of a
22 child under the age of eleven while committing child abuse
23 or neglect.

24 Child abuse or neglect is an act or failure to
25 act which causes harm to the child, child's physical health

1 or welfare.

2 Harm to the child's physical health or welfare
3 means that the defendants either: (1) inflicted, or allowed
4 to be inflicted, on the child physical injury; (2) failed
5 to supply the child with adequate food, clothing, shelter,
6 or health care and this failure caused a physical injury or
7 condition which caused death; or (3) abandoned the child
8 causing the child's death.

9 The State must also prove beyond a reasonable
10 doubt that death occurred under circumstances showing an
11 extreme indifference to human life.

12 The State may also prove homicide by child
13 neglect by proving beyond a reasonable doubt that the
14 defendant knowingly aided and abetted another person to
15 commit child abuse or neglect which resulted in the death
16 of a child under the age of eleven.

17 Aid means to help, to promote the course or
18 accomplishment of, to give support to, or give assistance
19 to.

20 Abet means to encourage or appear to favor
21 support.

22 A person who was present at the scene of the
23 crime and intentionally, or through common plan aided,
24 abetted, or assisted in the commission of that crime
25 through some overt act, is guilty as an accomplice. To be

1 liable as an accomplice, the defendant must have knowledge
2 of the principal's criminal conduct. Mere presence at the
3 scene of the crime is not sufficient to establish guilt as
4 an accomplice.

5 Intentionally means willfully, intending the
6 result which actually occurs, not accidentally or
7 involuntary.

8 If a crime is committed by two or more people who
9 are acting together in committing a crime, the act of one
10 is the act of all. A person who joins with another to
11 commit an unlawful is criminally responsible for everything
12 done by the other person which happens as a probable or
13 natural consequence of the acts done in carrying out the
14 common plan and purpose. For example, two people can be
15 guilty of killing another person when only one of the two
16 had a gun, there was only one bullet, and only one of the
17 two fired the shot that caused the death. If two or more
18 people are together, acting together, assisting each other
19 in committing the offense, the act of one is the act of
20 all, or, as it is sometimes said, the hand of one is the
21 hand of all.

22 Prior knowledge that a crime is going to be
23 committed, without more, is not sufficient to make a person
24 guilty of that crime. Mere knowledge that another person
25 is going to commit a crime, even if the defendant is

1 present when the crime is committed, is not sufficient to
2 convict the defendant as a principal. Guilt as a principal
3 is shown by actual or constructive presence at the scene as
4 a result of prior arrangement. Therefore, a finding of a
5 prior arranged plan or common scheme is necessary for a
6 finding of guilt as a principal. The State must prove
7 beyond a reasonable doubt by competent evidence the theory
8 of the hand of one is the hand of all.

9 A principal in a crime is one who either actually
10 commits a crime or who is present aiding, abetting, or
11 assisting in committing the crime. When a person does an
12 act in the presence of and with the assistance of another,
13 the act is done by both. Where two or more, acting with a
14 common plan or intent, are present at the commission of a
15 crime, it does not matter who actually commits the crime.
16 All are guilty. The hand of one is the hand of all.
17 Presently, present at the commission of a crime means to be
18 sufficiently near to aid and abet and assist in the
19 commission of the crime. However, again mere presence at
20 the scene of a crime is not sufficient to convict one as a
21 principal on the theory of aiding and abetting. Intent is
22 also a necessary element, for there must have been a common
23 design or intent to commit the crime and the crime must
24 have been committed pursuant thereto with the person aiding
25 and abetting by some overt act. Intent means intending the

1 result which actually occurs, not accidentally or
2 involuntarily. Intent may be shown by acts and conduct of
3 the defendant and other circumstances which you may
4 naturally and reasonably infer intent, from which you may
5 naturally and reasonably infer intent. The State must
6 prove these elements beyond a reasonable doubt.

7 The defendants are charged with unlawful conduct
8 towards a child. The defendant must, the State must first
9 prove, beyond a reasonable doubt that the defendants had
10 charge or custody of the child, were the parents or
11 guardians of the child, or are, or responsible for the care
12 and support of the child.

13 A person responsible for a child's welfare
14 include the child's parents, guardian, or foster parent, an
15 operator, employee, or care giver of a public or private
16 residential home, institution, agency, or child day care
17 center facility, or an adult who has assumed the role or
18 responsibility of a parent or guardian for a child, but
19 does not necessarily have legal custody of the child. This
20 does not include a person whose only role is as a care
21 giver and whose conduct, or contact, is only incidental
22 with the child, such as a babysitter.

23 The State must also prove beyond a reasonable
24 doubt that the defendants placed the child; (1) placed the
25 child at unreasonable risk of harm affecting the child's

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1 life, physical or mental health, or safety; (2) unlawfully
2 or maliciously did, or caused to be done, any bodily harm
3 to the child so that the life or health of the child is
4 endangered or likely to be endangered; and (3) willfully
5 abandoned the child.

6 Abandon means that the defendant willfully
7 deserted the child or willfully surrendered physical
8 possession of the child without making adequate
9 arrangements for the child's need or continuing care of the
10 child. Child means a person under the age of eighteen for
11 that statute.

12 Now, ladies and gentlemen, I intend to provide
13 you, as I said, a copy of these instructions in written
14 form. During your deliberations you may refer to the
15 instructions to guide your decision making. You must
16 consider the instructions as a whole, as I have said, and
17 not follow some and ignore the others. Please, return the
18 instructions to the Court at the time your verdict is
19 rendered.

20 Now there are six possible verdicts which you may
21 find in this case as to each defendant. Guilty or not
22 guilty of homicide by child abuse as to the Defendant Julia
23 Shawnette Gorman; guilty or not guilty of homicide by child
24 abuse as to Defendant Robert Andrew Palmer; guilty or not
25 guilty of aiding and/or abetting homicide by child abuse as

1 to the Defendant Julia Shawnette Gorman; guilty or not
2 guilty aiding and abetting homicide by child abuse as to
3 the Defendant Robert Andrew Parker, Palmer; guilty or not
4 guilty of unlawful conduct towards a child as to the
5 Defendant Julia Shawnette Gorman; and guilty or not guilty
6 of unlawful conduct towards a child as to the Defendant
7 Robert Andrew Palmer.

8 Now there is no significance whatsoever in the
9 order in which I state these possible verdicts, it just
10 simply means that one has to be stated before the other.

11 Now, ladies and gentlemen, your verdict must be a
12 unanimous verdict. Mr. Foreperson, when the jury agrees on
13 the verdict, I want you to enter the verdict on the verdict
14 forms which I have provided for you. Then you will knock
15 on the jury room door and inform the bailiff that you have
16 reached a verdict and at that time we will receive you back
17 into the jury room, now, or the court room.

18 I'm going to ask you not to begin your
19 deliberations. When you return to your jury room do not
20 begin your deliberations until I signal you to do so. The
21 way that I will signal you to do so is I will have
22 delivered to you the exhibits in this case and a copy of my
23 charge and the verdict forms. When you receive those
24 materials you may begin or proceed with your deliberations;
25 do you understand that, Mr. Kidd?

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1 The Court: All right, would you, please,
2 receive the verdict, Madam Clerk?

3 (Whereupon, the verdict was received by the Clerk
4 and reviewed by the Court.)

5 The Court: Publish the verdicts.

6 Madam Clerk: Indictment Number 2008-GS-26-4120,
7 State of South Carolina County of Horry v. Robert Andrew
8 Palmer, as to the charge of unlawful conduct towards a
9 child we the jury unanimously find the defendant guilty.

10 Indictment Number 2010-GS-26-2195, The State of
11 South Carolina v. Robert Andrew Palmer, as to the charge of
12 aiding and abetting homicide by child abuse we the jury
13 unanimously find the defendant guilty.

14 Indictment Number 2010-GS-26-2196 State of South
15 Carolina v. Robert Andrew Palmer, as to the charge of
16 homicide by child abuse we the jury unanimously find the
17 defendant guilty.

18 Indictment Number 2010-GS-26-841 State of South
19 Carolina v. Julia Shawnette Gorman, as to the charge of
20 unlawful conduct towards a child we the jury unanimously
21 find the defendant guilty.

22 Indictment Number 2010-GS-26-2194 State of South
23 Carolina v. Julia Shawnette Gorman, as to the charge of
24 aiding and abetting homicide by child abuse we the jury
25 unanimously find the defendant guilty.

1 Indictment Number 2008-GS-26-3756 State of South
2 Carolina v. Julia Shawnette Gorman, as to the charge of
3 homicide by child abuse we the jury unanimously find the
4 defendant guilty.

5 Dated by Foreperson Robert E. Kidd, dated
6 November 18, 2011.

7 Ladies and gentlemen of the jury, if this is your
8 verdict so signify by raising your right hand.

9 (Whereupon, all jurors responded affirmatively.)

10 Madam Clerk: Thank you. If this is, if this is
11 your verdict so signify by raising your right hand and this
12 would be your verdict as to each count?

13 (Whereupon, all jurors responded affirmatively.)

14 Madam Clerk: Thank you.

15 The Court: Any request for individual voir
16 dire, Mr. Galmore?

17 Mr. Galmore: Yes, sir.

18 The Court: All right, Ms Grabert-Lowenstein?

19 Ms. Grabert-Lowenstein: Yes, Your Honor, as to
20 each count.

21 The Court: All right, very well.

22 Madam Clerk: When I call your juror number if
23 you will, please, stand.

24 As to Robert Andrew Palmer on the charge of
25 unlawful conduct towards a child, juror number 168; is this

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1 Ms. Grabert-Lowenstein: Have that noted, Your
2 Honor, thank you.

3 The Court: All right, I am. I see no reason why
4 we could not go forward with the sentencing. This case is
5 four years old, I think both of you have been representing
6 your clients for at least two years. I see many people here
7 from the defendant's families. I see no reason why we could
8 not go forward with a sentencing. Does the State have any
9 issues?

10 Ms. Lively: No, Your Honor, what I would like to
11 do if I may approach and just confirm the indictment numbers
12 that I have on the sentence sheet. I just get the print, and
13 I just need to make sure, if you don't mind, Your Honor, just
14 very quickly, that I have the right numbers.

15 The Court: I have the original indictments.

16 Ms. Lively: If I may approach?

17 The Court: Yes.

18 Ms. Lively: Thank you. 8-3756, Your Honor, is
19 that the correct number on Ms. Gorman?

20 The Court: Which one, unlawful conduct, homicide
21 by child abuse?

22 Ms. Lively: I think it's the homicide.

23 The Court: Or the aiding and abetting?

24 Ms. Lively: I think it was the homicide by child
25 abuse.

1 The Court: Homicide by child abuse is 3756.

2 Ms. Lively: Okay, 2008-3756, thank you.

3 The Court: All right, Ms. Lively, I'll hear from
4 the State and I'd like the State to address the issue set
5 forth in 16-3-85 Section(d), the aggravating circumstances
6 that I must take into consideration.

7 Ms. Lively: I'm sorry, Your Honor, whenever I
8 went downstairs I must have taken my folder with my homicide
9 by child abuse statute section.

10 The Court: Well the statute says "that in
11 sentencing a person under this section the judge must
12 consider any aggravating circumstances including but limited
13 to a defendant's past pattern of child abuse or neglect."
14 Has there been any past child abuse or neglect of a child
15 under the age of eleven by either of these defendants?

16 Ms. Lively: No, sir, no, sir, there's no, in
17 regards to what we have any type of evidence in their past
18 histories, both Palmer as well as Gorman, we do not have any
19 evidence as to aggravating circumstances in that regard, I
20 mean in that particular section of the statute.

21 The Court: All right, well the section says that
22 it must be, I must consider it or any aggravating
23 circumstances, has the State put forth any aggravating
24 circumstances?

25 Ms. Lively: Your Honor, other than the obvious

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1 brutality of the act on the actual victim in this case, I, I
2 believe that speaks for itself, Your Honor.

3 The Court: All right, Mr. Galmore, let me hear
4 from you in mitigation.

5 Mr. Galmore: Yes, sir, Your Honor, you've heard
6 the personal details of Ms. Gorman. She is forty years old,
7 she was thirty-seven at the time of all of this. Your Honor,
8 she is in court today surrounded by family and friends,
9 members of her church community have come throughout the week
10 to support her. Ms. Gorman is working, Ms. Gorman is in
11 school at Horry Georgetown Tech. Even in spite of this with
12 all of these charges pending for these many years she still
13 tried to put her nose to the grindstone and think positive
14 and keep on moving ahead with her life.

15 Your Honor, Ms. Gorman does not have a prior
16 record. Ms. Gorman has been at the detention center for
17 about fifteen months. She made bond in this case and she was
18 on home detention for several months as well. She complied
19 with the home detention. There were no home detention write
20 ups or anything, there were no J. Reuben Long write ups, and
21 in that regard we submit that that is mitigating
22 circumstances.

23 After a period of time she was removed from the
24 home detention program. Ms. Gorman was allowed to live and
25 work in the community. She did not have any subsequent

1 arrests while any of this was going on. She did not attempt
2 to flee the jurisdiction. Contrary to that every time that
3 she went out of town for a family reunion or family get
4 together she was under court order to get court permission to
5 leave town each of those occasions and she did so. She came
6 back every time.

7 Your Honor, Ms. Gorman took great pains to try to
8 care of Victim You heard the testimony he was without
9 insurance; she was the person that called to the Marines to
10 get them insurance. That was a simple matter, Tri-Care is
11 free for armed forces, it was just a matter of filling out
12 paper work. She was the person that made sure that was done
13 for him. As far as taking him to the emergency room, taking
14 him to Dr. Hutson, getting his shot record updated, you heard
15 the testimony that there was a nine-month gap, that his shot
16 records were four months behind and then she was the person
17 that was responsible for making sure all of these things were
18 done. We submit that that is mitigating evidence in this
19 case.

20 Also, Your Honor, just given that the jury has
21 convicted both people under both theories we still don't know
22 what exactly took place in the house. We would ask the Court
23 to give Ms. Gorman the benefit of the doubt, that we
24 understand the jury's verdict, we respectfully disagree with
25 it but we accept it, but it does leave open the possibility

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1 that they don't know as the finder of fact what happened in
2 that house on July 14th. We ask the Court to take that into
3 consideration, give Ms. Gorman the benefit of the doubt that
4 she was not the person that struck this blow. She has
5 testified that she was not the person that struck this blow.

6 With all of that said, Your Honor, I understand
7 what the penalties are. We would ask the Court to consider
8 the current sentence in this case. We ask the Court to
9 consider a minimum possible sentence in this case.

10 The Court: She understands that this carries up
11 to life?

12 Mr. Galmore: Yes, sir, and that's why we had
13 asked the Court to consider a minimum sentence just given
14 that she does not have a prior record, there is no prior
15 record of abuse, there's no prior record of criminal
16 activity, there's no subsequent record of criminal activity.
17 There is no problem with her adaptability to a prison
18 environment. She did not have any disciplinary problems at
19 the detention center. We ask you to take all these things
20 into account. I would ask you for, well the only thing I can
21 ask for is the minimum possible sentence in this case. We
22 ask you to consider the current sentence, we ask you to
23 consider minimum sentence.

24 The Court: Would your client choose to address
25 the Court?

1 Mr. Galmore: Your Honor, the only thing she
2 wanted me to convey to the Judge is that she didn't do it.

3 The Court: Is there anyone here who will speak
4 for her, that would like to address the Court?

5 Audience Member: I would like to speak.

6 The Court: Your name?

7 Audience Member: Alice Delaney. I've known Julie
8 since she first incarcerated and then released to us. I
9 spent much of the days with her, talked with her about the
10 incident. She could not do this.

11 The Court: Thank you.

12 Ms. Delaney: I just wanted to speak for her.

13 Mr. Galmore: That would be our showing.

14 The Court: I think I see someone, yes, ma'am?

15 Audience Member: My name is Sharon Bush and I'm
16 from New York, we stay at the hotel where Julie worked. Last
17 year when we were down here we my husband had a stroke. I
18 called the office and told them to call the rescue squad that
19 my husband was having a stroke and I couldn't call. Julie
20 called me right back and she said, Ms. Bush, what is going
21 on. I said, Julie, Freddie is having a stroke. She said
22 I'll be right over, so she came over. She followed the
23 rescue squad to the hospital. She never left my side and
24 then she took me home while I packed the bag for my husband.
25 She said now you have to eat, she said, she took me to a

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1 restaurant, which eating was the furthestest thing from my
2 mind, made sure that I had something to eat, went back to the
3 hospital, stayed with me, called my children up in New York
4 because I was, couldn't even talk, called my children to let
5 them know what was going on. She, she was so good for us and
6 us, being over a thousand miles from our home and she didn't
7 have to do that. I think that talks to Julia's character.

8 The Court: Thank you, ma'am. Yes, ma'am?

9 Audience Member: I know Julia from church.

10 The Court: Who are you?

11 Audience Member: I'm Rebecca Rivers, and she's in
12 my life group, small group that meets weekly for prayer. We
13 just love her and can't even believe she would do this.

14 The Court: Thank you, ma'am. All right, yes,
15 ma'am?

16 Family Member: Your Honor, I'm Judy Morris and
17 I'm Julie's mother and I know without a doubt that she would
18 never harm my great grandson. She has been there for her
19 children, she had taken care of them by herself while her
20 husband went out at sea. She didn't do this.

21 The Court: Thank you, ma'am. All right, anything
22 further, Mr. Galmore?

23 Mr. Galmore: No, sir, Your Honor.

24 The Court: Ms. Grabert-Lowenstein?

25 Ms. Grabert-Lowenstein: Your Honor, likewise we

1 would ask you to consider the minimum sentence and concurrent
2 sentence. Mr. Palmer attempted to assist law enforcement in
3 the initial investigation. He cooperated, as the Court's
4 well aware with a proffer, and then subjected himself to a
5 polygraph and, Your Honor, the evidence about him and
6 children is that he's a good father and a caretaker. There's
7 nothing in his background that would be an aggravating factor
8 or that would indicate the need for anything more than a
9 minimum sentence with the other charges going concurrent and
10 we'd ask for that.

11 He's an honorable discharged veteran who served
12 this country. He's come back, he has been working, you know,
13 trying to support himself, and I think all of that, all of
14 those factors in total indicate that he is respectfully
15 entitled to the minimum sentence and concurrent sentences on
16 the other two charges.

17 The Court: Would your client like to address the
18 Court?

19 Defendant Palmer: Your Honor, I had nothing to do
20 with this, this is a travesty. I cannot believe that I was
21 found guilty of these charges. I did nothing wrong to that
22 child. I tried to give it more than anything that ---

23 The Court: We understand that, Mr. Palmer, but
24 you have to understand that I am bound by the findings of
25 this jury.

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1 Defendant Palmer: I understand that, sir. I have
2 cooperated time and time again and I have not said, I can't
3 believe that you're not going to step in and help me with
4 this cause this is, this is a travesty. You're going to take
5 away my life for something I had no, nothing to do with,
6 nothing.

7 The Court: Thank you, Mr. Palmer.

8 Ms. Grabert-Lowenstein: Your Honor, I believe --

9 Family Member: Yes, I'm Gail Palmer, Robert
10 Palmer is my son, he's an honorable person. He was a
11 blessing from the day he was brought into our lives. He's a
12 man of integrity, a strong character. He's truthful, has
13 been truthful, has been cooperative throughout the duration
14 of this tragedy. If anything, there has been a misjustice of
15 my son's civil rights due to the proffer being pulled on him
16 and due to two polygraphs being passed.

17 I made a promise to Julie and to Ms. Morris on the
18 day of the bond hearing when they were arrested, I promised
19 her I would see to her daughter to the best of my ability and
20 knowledge and what the courts would allow; and I asked Ms.
21 Morris at that time, I said, I make a promise to you, I will
22 take care of her to the best my ability because in return I
23 would hope that if the shoe were on the other foot and my son
24 was out of his home state, that he had somebody who would see
25 to him and care for him and, Ms. Gorman, I wish you would

1 look at me because you know I upheld my promise to you and
2 your mother. Yes, you did, but you didn't uphold your
3 promise to me, your promise to me was if anybody goes down
4 for this it will be me, it will not be your son.

5 Family Member: Your Honor, I'm Jim Palmer,
6 Robert's father. The only thing Robert is guilty of that he
7 could never pick a female companion, that's all he's guilty
8 of.

9 Family Member: I'm Adrian Robertson. I've known
10 Robert since, for about eight years, never seen him act out.
11 He's always been the kind of person, he works for me in the
12 office. He's always there on time; he works hard; he works
13 with people. He does not lose his temper and I'm sorry about
14 Victim death. I'm a mother of three and if that happened
15 to my babies I would want somebody to go down for it, too,
16 but I know it weren't Robert.

17 The Court: Anything further, Ms. Grabert-
18 Lowenstein?

19 Ms. Grabert-Lowenstein: Your Honor, I would just
20 ask you to take into account the testimony that you've heard
21 and that Robert was caring for the child and that in terms of
22 the child abuse it was Ms. Gorman who was administering
23 overdoses of the medication. As I said before, given
24 everything in totality, and I understand the minimums but I
25 think that respectfully Robert Palmer is entitled to the

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1 minimum sentencing with concurrent sentence on the other two
2 charges.

3 The Court: How old is your client?

4 Ms. Grabert-Lowenstein: I'm sorry?

5 The Court: How old is your client?

6 Ms. Grabert-Lowenstein: Thirty-three, Your Honor,
7 sorry.

8 The Court: How far did your client go in school?

9 Ms. Grabert-Lowenstein: High school.

10 The Court: How about yours, Mr. Galmore, I
11 believe she's testified she was forty now?

12 Mr. Galmore: Yes, sir, and she's currently
13 enrolled in Horry Georgetown Tech.

14 The Court: She has how many children, three?

15 Mr. Galmore: Three, yes, sir.

16 The Court: Mr. Palmer has one; is that correct?

17 Ms. Grabert-Lowenstein: Yes, sir.

18 The Court: Is Ms. Gorman still married?

19 Mr. Galmore: No, sir.

20 The Court: Is Mr. Palmer still married, that was
21 never clear to me?

22 Ms. Grabert-Lowenstein: No, Your Honor, no.

23 Gail Palmer: May I say something in regards to
24 that?

25 The Court: No, ma'am, you've already spoken.

1 All right, Mr. Palmer, Ms. Gorman -- yes, ma'am?

2 Ms. Lively: I do want to have a moment to address
3 the Court, Your Honor.

4 This is really hard for Mr. Grimes and for Cesalee
5 and I would just tell you that through everything that they
6 have been through with us putting together the case for
7 **Victim** for his horrific murder, there's no doubt that child
8 suffered a severe inflicting injury. They are separated.
9 They've lost their only child, so this has been devastating
10 for them, and they first weren't going to say anything
11 because it's been hard to sit here and go through and watch
12 the autopsy and everything else you're having to do ---

13 The Court: They, of course, have a right to speak
14 under the Victims Rights Act.

15 Ms. Lively: Yes, sir, so I'm going to just
16 briefly, I think Mr. Grimes, Richard Grimes would like to
17 make a brief statement, Your Honor.

18 Mr. Grimes: Your Honor, I buried my son three and
19 a half years ago and I was under the impression things were
20 going to move a lot faster than they did. Now three and a
21 half years later after not being able to mourn for my son
22 things have finally been taken care of. My son hasn't been
23 able to rest at peace, nor me be able to mourn over him for
24 three and a half years because of this. I wasn't around a
25 lot for my son when he was alive because I enlisted in the

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1 military to try to make a better life for my whole family and
2 in two weeks time he was taken from me when I was about to be
3 there and for the rest of my life I have to live with that
4 and accept that all I ever get to see again is my son's
5 gravestone. I can't have the privilege of holding him again.
6 I can't, I can't bring him back and I can't undo what's been
7 done, but to be fair, Your Honor, I have to live with this
8 for the rest of my life as my wife does. I know I'm not the
9 only one hurting but I can't bring him back.

10 The Court: Have your clients stand, please. Ms.
11 Grooms, excuse me, Mr. Palmer and Ms. Gorman, first of all
12 let me say this, I am not the judge of the facts in this
13 case, I'm the judge of the law. It's my job to instruct the
14 jury as to the law that they apply. This jury has made a
15 determination that both of you are responsible directly for
16 the death of this child. On review it is my job to determine
17 whether or not essentially if there's any evidence to support
18 the jury's verdict. In this case there is no doubt, no doubt
19 that this child died and that this child died violently at
20 the hands of one or both of you, no question about that.
21 This jury has determined that this was the act of both of
22 you. There's evidence certainly to support conviction of
23 either of you. You've essentially both pointed the finger at
24 each other, directly or indirectly you have done so. This
25 jury has obviously struggled with this case and it has handed

1 it to me with verdicts of guilty on all charges and that is
2 what I am left with. It's not my decision to go back and
3 review the evidence and say what I would have done. That
4 would not be appropriate. The question on your attorneys'
5 motions is whether or not there was evidence, direct
6 evidence, circumstantial evidence, a combination of the two,
7 that would support the verdict of the jury. This jury found
8 that beyond a reasonable doubt this was the correct verdict,
9 the verdict that I'm holding.

10 This case is as egregious as any I've seen. This
11 was a precious seventeen-month-old toddler. This was a baby
12 as precious as defenseless. No one who could defend him, no
13 way he could defend himself, and this is not a situation
14 where the child had a minor injury where things just went
15 wrong and unfortunately death ensued. This child received
16 crushing blows to both sides of his head leaving his head, or
17 his skull, like a fractured egg shell, and I am sure that he
18 experienced a painful death. Hopefully he, at least I hope
19 that he was as the doctor said rendered unconscious so that
20 he did not have to bear that pain. When I look at his, his
21 cat scans and his x-rays this was a terrible injury. It was
22 not one that happened by accident. It was not one that went
23 unnoticed. Whoever did it, struck the blow, knew very well
24 what you were doing or just did not care what you were doing,
25 and you callously caused the life, cost the life of this

1 young child.

2 It gives me absolutely no pleasure to try these
3 cases. There's some forty-six judges around this state and
4 this is the case we all hate. This is the one we want no
5 involvement in. This is the one we always hope somebody else
6 has got to try, and I can tell you from having practiced law
7 for many many years your attorneys probably feel the same
8 way, and wish someone else had the case cause these are
9 terrible cases. They're not only rough cases for the defense
10 teams but they are for the prosecutors as well and the
11 jurors. They all take their toll on these people.

12 I have considered your ages, particularly your lack
13 of any criminal history, in trying to reach a sentence that
14 I believe would be fair. The statute says life on the
15 homicide by child abuse, says a minimum of twenty years up to
16 life. I try to think of a more egregious case, you know,
17 what would be a life sentence case, what would be a case that
18 would call for less. This is a case in which the object of
19 the prosecution is as severe as any could be, the killing of
20 a small defenseless child, the brutal killing of a small and
21 defenseless child; and on the other hand you don't have any
22 records of a pattern of child abuse, either one of you and
23 both of you have been around children. There's nothing that
24 suggests that this is a reoccurring thing and you're both
25 fairly young and you have no other criminal record and you've

1 had people from the community speak for you, so there are
2 some redeeming qualities that I see there, but on the other
3 hand this is an aggravated case that cries, cries for
4 justice.

5 Ms. Gorman, under Indictment 2010-GS-26-00841, an
6 indictment for unlawful conduct towards a child, the sentence
7 of the Court is that you be confined to the State Department
8 of Corrections for a period of ten years.

9 On the charge, or Indictment 2010-GS-26-2194,
10 aiding and abetting homicide by child abuse, the sentence of
11 the Court is that you be confined in the State Department of
12 Corrections for a period of twenty years.

13 On Indictment Number 2008-GS-26-3756, homicide by
14 child abuse, the sentence of the Court is you be confined to
15 the State Department of Corrections for a period of thirty-
16 five years, all of these sentences to run concurrent.

17 As to Mr. Palmer, Indictment Number 2008-GS-26-
18 4120, an indictment for unlawful conduct towards a child, the
19 sentence of the Court is that you be confined to the State
20 Department of Corrections for a period of ten years.

21 On Indictment Number 2010-GS-26-2195, an indictment
22 for aiding and abetting homicide by child abuse, the sentence
23 of the Court is you be confined to the State Department of
24 Corrections for a period of twenty years.

25 On Indictment Number 21, excuse me, 2010-GS-26-

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1 2196, an indictment for homicide by child abuse, the sentence
2 of the Court is you be confined to the State Department of
3 Corrections for a period of thirty-five years. These
4 sentences are all to run concurrent with each other.

5 Good luck to you both.

6 End of requested transcript....

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**State of South Carolina
Office of the Solicitor
Fifteenth Judicial Circuit**



Francis A. Humphries, Jr.
Deputy Solicitor

REPLY TO ☒

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REPLY TO ☐

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J. GREGORY HEMBREE
Solicitor

April 22, 2009.

Carla Grabert-Lowenstein
P O Box 50097
Myrtle Beach, SC 29579

RE: State v. Robert Andrew Palmer
Warrant Number(s): J612054
Charge(s): Children/Neglect of child

Dear Ms Grabert-Lowenstein:

By this letter, the State extends to your client the opportunity of a Proffer in this matter subject to the following material terms:

1. Robert Andrew Palmer shall submit himself to agent(s) of the State for the purpose of debriefing regarding this matter and all other matters materially bearing on this matter. He shall be completely truthful concerning his involvement in this matter, and completely truthful concerning the involvement of all other individuals in this matter. He shall truthfully and completely answer all questions posed by agent(s) of the State bearing materially on this matter, and shall provide without prompting all information concerning this matter in a complete and truthful manner even if such information is not elicited by agent(s) of the State by direct question. Any and all information provided by Robert Andrew Palmer under the terms of this Proffer may be recorded in any fashion at the election of the State;

2. Robert Andrew Palmer shall submit himself to polygraph examination(s) to verify all information provided to the State at the election of the State. The polygraph examiner(s) shall be selected by the State and, for the purpose of this Proffer, are designated agent(s) of the State; upon examination(s) by polygraph, if Robert Andrew Palmer responses show deception, the terms of this Proffer are null and void at the

The mission of the Fifteenth Circuit Solicitor's Office is to uphold the
public's trust in the pursuit of justice and enforcement of the law.

EXHIBIT A

election of the State. Any statements made by Robert Andrew Palmer may be used against him by the State for any purpose;

3. Robert Andrew Palmer shall appear as a witness in the trial(s) of all individuals in this matter who are designated as defendants by the State through indictment; and Robert Andrew Palmer shall testify truthfully, completely, and consistently with prior statements made to the State upon being called upon to do so; failure to testify in the manner specified above will render the terms of this Proffer null and void. Use of statement(s), should Robert Andrew Palmer violate this term of the Proffer, are the same as are provided in paragraph 2 of this Proffer;

4. The State shall consider the extent and degree of cooperation of Robert Andrew Palmer in the election of charges and at the sentencing of Robert Andrew Palmer, and shall advise the Court of Robert Andrew Palmer's extent and degree of cooperation in connection with this matter;

5. Violation of any term of this Proffer renders all terms null and void; and

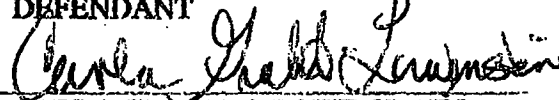
6. This Proffer is the entire agreement between the parties; any agreement reached between the parties prior to the date of acceptance of this Proffer is made null and void by this Proffer; the terms of this Proffer may be amended only in writing and only by agreement of the parties.

Should your client wish to accept the terms of this Proffer, please indicate by affixing your signatures on the signature lines provided below.

Sincerely,


Candice Lively
Assistant Solicitor


ROBERT ANDREW PALMER
DEFENDANT


CARLA GEIBERT-LOWENSTEIN
ATTORNEY FOR DEFENDANT

May 4, 2009
DATE

May 4, 2009
DATE

STATE OF SOUTH CAROLINA
HORRY COUNTY

STATE OF SOUTH CAROLINA,

PLAINTIFF,

VS.

ROBERT ANDREW PALMER,

DEFENDANT.

IN THE GENERAL SESSIONS COURT
FIFTEENTH JUDICIAL CIRCUIT
CASE #08H03111
WARRANT #J-612054

**MOTION FOR HEARING
TO ENFORCE
PROFFER AGREEMENT**

STATEMENT OF CASE

The Defendant, ROBERT A. PALMER is charged in Warrant No. 12054 which alleges that the offense, "Children/Legal custodian, unlawful neglect of child or helpless person". He has no prior criminal record. The Defendant has now been direct indicted on the charge of "Homicide by Child Abuse".

STATEMENT OF FACTS

The alleged victim in this case is the 18 month old grandson of Mr. Palmer's girlfriend, Julia Gorman. The child came to visit with his mother, Cesalee Grimes, in June of 2008. Both Mr. Palmer and Ms. Gorman questioned the health of the child and urged his mother to take him to the doctor. Ms. Grimes left the child, Victim in the care of Ms. Gorman and Mr. Palmer, giving them permission to obtain medical care for him on July 1, 2008. Victim was seen on June 30, 2008 at Aynor Family Practice and was treated for bug bites. On July 7, 2008 Victim was seen at the Conway Medical Center for vomiting and by Aynor Family Practice again on July 8, 2008 for immunizations. Victim was taken to Conway Medical Center on Sunday July 13, after suffering a seizure. He was flown to MUSC on July 14, 2008.

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HORRY COUNTY
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MELANIE HUGGINS
CLERK OF COURT

Initial interviews of Ms. Gorman and Mr. Palmer confirmed statements by both Mr. Palmer and Ms. Gorman saying Mr. Palmer had nothing to do with the injuries sustained by Victim Victim Ms. Gorman initially denied injuring the child, or doing anything which would have caused the injury to him, then she admitted to having shaken him.

On April 22, 2009, the Defendant, Robert A. Palmer and the State of South Carolina, represented by Assistant Solicitor Candice Lively, entered into a Proffer. (Please see Exhibit "A").

In an effort to meet the Proffer, on May 4, 2009, the Defendant was interviewed by investigator, Carmen Burke-Moradu and on a separate occasion by Assistant Solicitor, Candice Lively. At no time has Mr. Palmer refused to be interviewed, and has in fact, offered to be interviewed again.

Mr. Palmer remains ready to testify in a trial against Ms. Julia Gorman, as required by the Proffer. This is the only portion of the Proffer left to be fulfilled.

On September 24, 2009, Mr. Palmer took and passed a polygraph examination administered by Richard Charles of SLED. (Please see Exhibit "B").

Recently, new evidence was discussed between Ms. Lively and attorney Carla Grabert-Lowenstein, counsel for the Defendant. This new evidence affected the timeframe of when the injuries occurred. Mr. Palmer met with Ms. Grabert-Lowenstein, and a brief summary of additional details concerning the new timeline was given to Assistant Solicitor Lively and an invitation to re-interview Mr. Palmer was made.

On May 11, 2010, Assistant Solicitor Candice Lively informed Mr. Palmer's counsel that it was her intent to revoke the Proffer. (Please see Exhibit "C").

**POINTS AND AUTHORITIES IN SUPPORT
OF ENFORCING THE PROFFER**

A Proffer made and accepted between the State of South Carolina and a defendant is a contract, and as such, is governed by contract law *Reed v Becka* (99) 511 SC 2d 396; *U.S. v Irvine* 756 F 2d 708, 710-711 (1985).

Therefore, the record must be examined to see if one or both of the parties has breached their part of the contract.

Appellant contends on this appeal that the government failed to prove adequately that he breached the non-prosecution agreement. An immunity agreement invokes the same constitutional due process concerns as a plea agreement, and therefore, in this Circuit, the breach of such an agreement must be proved by a preponderance of the evidence. See *United States v Conner*, 930 F.2d 1073, 1076 (4th Cir.), cert. denied 502 U.S. 958, 112 S.Ct. 420, 116 L.Ed.2d 440 (1991); *Young v United States*, 747 F.Supp. 305, 308 (E.D.N.C. 1990). The district court found that Appellant materially breached the non-prosecution agreement first by a preponderance of the evidence and, on reconsideration, beyond a reasonable doubt. We review the district court's factual findings on a clearly erroneous standard. *United States v. Arnoldt*, 949 F.2d 1120 (4th Cir. 1991), cert. denied 503 U.S. 983, 112 S.Ct. 1666, 118 L.Ed.2d 387 (1992).

In the instant case, Mr. Palmer has passed the polygraph test and has been interviewed twice (willingly) with an offer of a third interview. He has answered every question put to him by all investigators and the Solicitor's office. The only part of the Proffer that is left to be completed by Mr. Palmer is testifying against the co-defendant, Julia Gorman, which he remains willing and able to do.

THE GOVERNMENT CANNOT UNILATERALLY WITHDRAW THE PROFFER

It is well established that the government may not unilaterally determine whether a defendant in a criminal case has breached a material provision of a plea or cooperation agreement. See *Santobello v. New York*, 404 U.S. 257, 92 S.Ct. 495, 30 L.Ed.2d 427 (1971); *United States v. Simmons*, 537 F.2d 1260, 1261 (4th Cir. 1976). It is for the trial court to determine from adequate evidence whether there has been a substantial breach of the agreement reached. *Simmons*, *supra* at 1261, 1262. A cooperation-immunity agreement is contractual in nature and subject to the application of contract law standards. *United States v. Irvine*, 756 F.2d 708, 710-11 (9th Cir. 1985).

Mr. Robert Palmer asserts the Government is attempting to do what it cannot -- unilaterally withdraw the Proffer.

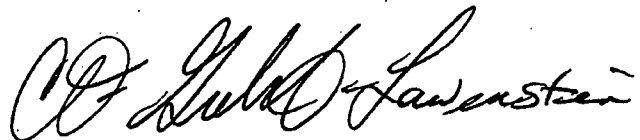
The Defendant would expect the Solicitor's office to argue that he is withholding information concerning the new timeline. Mr. Palmer answered every question put to him by the State. When new evidence came about that the government determined indicated a new timeline for the crime, the government demonstrated no interest in interviewing Mr. Palmer, though the opportunity was offered through counsel. The State of South Carolina, represented by the Solicitor's Office of the 15th Judicial Circuit has unilaterally decided it wants to try Mr. Palmer and his co-defendant together because they have decided it is more expedient for the case from their perspective. The State has no legal authority to do so.

The Defendant further asserts that as the Proffer contract is a property right the Government unilaterally withdrew the Proffer there is a violation of due process of Article 1, Section 1 of the South Carolina Constitution and Sec. 1 of the 14th Amendment of the United States Constitution.

Mr. Palmer is respectfully requesting that this Court to determine who is in breach of the Proffer agreement by holding a Hearing. The Defendant is confident that this Court will find by a preponderance of the evidence, that Mr. Palmer has not breached the Proffer agreement, and that in fact, the State has breached its duty to honor the terms of the Proffer.

CONCLUSION

Mr. Robert Palmer entered into the Proffer agreement in good faith, passed a polygraph examination given by a representative of the State, and has cooperated with the State. Mr. Palmer has met all the terms and conditions of the Proffer. Inasmuch as he has not breached the Proffer, Mr. Palmer prays this Court to hold the State of South Carolina to its agreement and enforce the Proffer, after findings by a preponderance of the evidence, he has not breached the Proffer.



CARLA F. GRABERT-LOWENSTEIN
Attorney for Defendant
P.O. Box 50097
Myrtle Beach, SC 29579
(843) 488-0912

June 4, 2010

Conway, South Carolina