

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY  
Court of General Sessions

Appellate Case No. 2023-000544

The Honorable Eugene C. Griffith Jr., Circuit Court Judge

State of South Carolina.....Respondent,

v.

Kareem Lamell Wallace .....Appellant.

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**RECORD ON APPEAL**

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**(State’s Exhibits**

- **Nos. 1-15 – X-ray photos; and**
- **No. 16 – Appellant’s recorded statement – are all on file with this Court.)**

1 STATE OF SOUTH CAROLINA )  
2 ) IN THE COURT OF  
3 COUNTY OF ORANGEBURG ) GENERAL SESSIONS  
4  
5 THE STATE, )  
6 Plaintiffs, )  
7 Vs ) CASE NO. 2018-GS-38-01986  
8 KAREEM L. WALLACE, ) 2022-GS-38-00736  
9 Defendant )

10  
11 MARCH 27, 2023

12 ORANGEBURG, SOUTH CAROLINA  
13

14 HONORABLE DIANE S. GOODSTEIN, JUDGE  
15

16 A P P E A R A N C E S:

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18 MARK A. HINDS, ESQUIRE

19 Attorneys for the Plaintiffs

20 BY: JOSHUA KOGER, JR, ESQUIRE

21 Attorney for the Defendant  
22  
23

24 KATHERINE A. SPIRES

25 REGISTERED PROFESSIONAL REPORTER

1           THE COURT: Ladies and gentlemen, good  
2 morning. First of all, I want to thank you for  
3 being here and I want to tell you that if you were  
4 not here there would be no reason for any of us to  
5 be here. Because in the United States, we are a  
6 citizen based judicial system, and we call on  
7 members of the community to come into court to help  
8 fellow citizens resolve disputes.

9           This is a week of general sessions or  
10 criminal court. We know that one side of the  
11 equation this week will be the State, who is --  
12 alleges that a citizen, a fellow citizen, has  
13 violated one or more of the criminal laws of the  
14 State of South Carolina and we call on jurors to  
15 come into court and to be the finders of fact to  
16 determine whether the State has met its burden of  
17 proof beyond a reasonable doubt. So you see,  
18 you're the heart and soul of our judicial system  
19 and if you were not here there wouldn't be a reason  
20 for us to be here. So thank you so much for being  
21 here.

22           Now, I want you to know that  
23 unfortunately there can be moments where we have to  
24 call on jurors to wait, but that is also a part of  
25 your jury service as you have already experienced.

1 But I want you to know that for every single  
2 solitary tick of the clock that you are with us, we  
3 all are so grateful to you and we try to keep it to  
4 a minimum. I've been meeting with the attorneys  
5 that have matters pending before the Court while we  
6 waited for Ms. Spires to arrive, and the reason  
7 that we do that is so that we can limit the amount  
8 of time as best we can that you will be with us.

9 This is a one week term of court. One  
10 week term of court, so let me share that with you.  
11 And, again, it's general sessions and we'll talk  
12 more about that.

13 Now, let me tell you about the jury  
14 qualification process. There is a general jury  
15 qualification process and then we take a break and  
16 then we qualify you with regards to cases. And  
17 what we're going to do this morning, is I'm going  
18 to do the general jury qualification, then take a  
19 short break, comfort break, you're going to be  
20 ready for that, comfort break, and then I'm going  
21 to qualify you on our first case for trial this  
22 week and then I'm going to qualify you for the  
23 second trial this week. So we're actually going to  
24 pick two juries this morning is my plan. And for  
25 those of you that are then our remaining jurors,

1 I'll give you some instruction about how we'll stay  
2 in contact with each other over the balance of the  
3 week. So that's how we're going to be proceeding  
4 this morning.

5 Now, normally I love to introduce folks  
6 to you so you know who's here in the courtroom with  
7 you. Because we're starting late, I'm going to  
8 dispense with that. But those of you that are  
9 lucky enough to serve on a jury this week, I'll  
10 introduce you to those folks, those of you that are  
11 on the jury that will work with me this week.  
12 Judge Griffith will be coming in on Wednesday for  
13 the second case for trial this week and I'm  
14 confident that he will do the same. All right.

15 Now, ladies and gentlemen, so that we  
16 can have your answers under oath this morning, I'm  
17 going to ask you to please stand and raise your  
18 right hand and be sworn in as the jury panel this  
19 week.

20 (WHEREUPON, the jury panel was sworn  
21 in.)

22 THE COURT: And if there's anyone who  
23 failed to take the oath, if you'd please stand for  
24 me.

25 And I find no one standing.

1                   Now, ladies and gentlemen, we receive  
2     our names for -- as jurors from three sources:  
3     From the voter registration rolls in Orangeburg  
4     County and from the highway department in the form  
5     of driver's licenses and identification cards. If  
6     you do not have a driver's license or an  
7     identification card through the highway department  
8     or if you're not a registered voter in Orangeburg  
9     County, you don't have to be all three, just got to  
10    have one, I'm going to ask you to please stand.

11                  I find no one standing.

12                  All right. Now, ladies and gentlemen,  
13    our first -- the first task to take care of in our  
14    general qualification is in a moment our clerk is  
15    going to call the roll. And y'all met -- Jennifer,  
16    you met everybody -- Winifred, you met everybody?

17                  THE CLERK: Yes.

18                  THE COURT: Now, Winifred is the Clerk  
19    of Court of Orangeburg County. I would love to be  
20    able to take your time and carry on and tell you  
21    how incredible she is, what a joy it is to be able  
22    to work with her. She is a phenomenon. She's a  
23    powerhouse. She's terrific. She's kind. She's  
24    smart. She's decent. I love working with her  
25    probably more than she likes working with me, but



1 it is one of the joys of my life.

2           She will call the roll. And when your  
3 name is called, I'm going to ask you to please  
4 stand and in a clear and audible voice because we  
5 all want to hear you and know a little bit about  
6 you. If you will tell us how you are employed and  
7 how your spouse is employed that will be terrific.  
8 If you are retired, if you can tell us just a word  
9 or two about the position from which you are  
10 retired. Or if you're self-employed, just a little  
11 bit about how you are self-employed. If your  
12 spouse -- if you're married and your spouse is  
13 self-employed or retired, just a word or two about  
14 that, that will give us some grand information.

15           Let me give an example. I am a  
16 self-employed dog groomer. I am a retired dog  
17 groomer. My spouse is a self-employed dog groomer.  
18 My spouse is a retired dog groomer. That's perfect  
19 information to have. And once the clerk's office  
20 is finished asking you those -- going through the  
21 roll call, then I have certain statutory and  
22 mandated questions that I'm going to ask of you.  
23 Once we finish that process then the general  
24 qualification will be done. Take a short break,  
25 then we'll come back and I'll introduce you to some

1 folks and ask you some more questions regarding the  
2 first case for trial and we'll get that jury and  
3 then do it again for the second case for trial.

4           Now, ladies and gentlemen, at this time  
5 -- oh, and let me mention this to you. We know  
6 who's here because you've checked in. And as the  
7 clerk's office goes through the numbers, goes  
8 through your juror numbers, you're going to notice  
9 you'll be skipping some numbers for those people  
10 who are not present. And I want to share with you  
11 that when our clerk's office, when they're  
12 finished, they're going to go back and they're  
13 going to locate the folks who are not here and  
14 they'll find them. If they're still in Orangeburg  
15 County, I'll meet with them later this week and  
16 find out why they weren't here to meet all of us  
17 this morning.

18           Oftentimes what happened is that folks  
19 have moved away from Orangeburg County and their  
20 address has simply have not caught up with them.  
21 And her folks will suggest that those people  
22 changed their addresses to catch up with where they  
23 currently live. And, again, for those who remain  
24 in Orangeburg County, I'll have a chance to meet  
25 with them later this week. So I did want you to

1 know that we do follow-up.

2 And without further ado, if you will  
3 please call our roll and good morning.

4 THE CLERK: Good morning. Good  
5 morning, everyone. My name is Laeisha Bennett and  
6 I am a general sessions clerk here in Orangeburg  
7 County. Please stand as your jury number and name  
8 is called.

9 Jury Number 6, Leslie Adgeron.

10 MS. ADGERSON: Right here.

11 THE COURT: Hi. There you are and  
12 hello. And how are you employed?

13 MS. ADGERSON: I work at Volvo cars.

14 THE COURT: Are you married?

15 MS. ADGERSON: No.

16 THE COURT: Very well. Thank you.  
17 It's always tough to be the first person to do  
18 that. Thanks so much.

19 THE CLERK: Juror Number 7, Debra  
20 Aiken.

21 MS. AIKEN: Good morning.

22 THE COURT: Good morning. How are you  
23 employed?

24 MS. AIKEN: I'm a supervisor from  
25 Claflin Diamond Services at Claflin University.

1 THE COURT: And are you married?

2 MS. AIKEN: Yes, Your Honor.

3 THE COURT: And that lucky man, what  
4 does he do?

5 MS. AIKEN: He is retired safety  
6 manager from American Koyo Bearings.

7 THE COURT: Thank you.

8 THE CLERK: Thank you. And once again,  
9 when your juror number and name is called, we ask  
10 that you state your -- the name of your employer,  
11 the type of work you do, your marital status, and  
12 your spouse's marital status.

13 Juror Number 12, Tiffany Anderson.

14 MS. ANDERSON: Good morning.

15 THE CLERK: Good morning.

16 MS. ANDERSON: I am a primary caregiver  
17 to my six month old granddaughter and I also work  
18 part-time from home for medical billing. My  
19 husband is a retired business owner at Mill Creek  
20 Marina and Campground.

21 THE CLERK: Thank you. Juror Number  
22 13, Michelle Antley.

23 MS. ANTLEY: I am Michelle Antley. I'm  
24 the owner of Tyler Restmore Home. My husband and I  
25 are the owners.

1 THE CLERK: Thank you. Juror Number  
2 16, Stanley Baker.

3 MR. BARKER: Good morning. I'm  
4 maintenance supervisor at Claflin University. No  
5 spouse.

6 THE CLERK: Thank you. Juror Number  
7 20, Christin Bartley.

8 MS. BARTLEY: Christin Bartley, I'm an  
9 instructor at OC Tech and my husband is a  
10 supervisor at UPS.

11 THE CLERK: Thank you. Juror Number  
12 26, Todd Black.

13 MR. BLACK: I'm Todd Black. I work at  
14 84 Lumber in Summerville. My wife stopped working  
15 five years ago to homeschool our kids.

16 THE CLERK: Thank you. Juror Number  
17 27, McKenzie Bonnette.

18 MS. BONNETTE: My name is McKenzie  
19 Bonnette and I was working as a vet tech, but right  
20 now I'm not working due to my seizures and I'm not  
21 married.

22 THE CLERK: Thank you. Juror Number  
23 28, Ursula Bowman.

24 MS. BOWMAN: Good morning. I'm Ursula  
25 Bowman. I'm currently employed at MUSC Orangeburg.

1 My husband is the owner and operator of JB Martial  
2 Arts.

3 THE CLERK: Thank you. Juror Number  
4 36, Stafford Brown.

5 MR. BROWN: Stafford Brown, divorced.  
6 Car salesman, Nissan of Orangeburg.

7 THE CLERK: Thank you. Juror Number  
8 34, Corbin Brown.

9 MR. BROWN: I'm Corbin Brown. I work  
10 in sales at HT Hackney and I'm not married.

11 THE CLERK: Thank you. Juror Number  
12 38, Angela Brownlee.

13 MS. BROWNLEE: I'm Angela Brownlee. I  
14 don't go by Angela, I go by Haven. I am at Edisto  
15 Habitat here in Orangeburg as a sales associate  
16 there. My husband is dead.

17 THE CLERK: Thank you. Juror Number  
18 40, James Bryant.

19 MR. BRYANT: I'm James Bryant. I'm a  
20 bartender at Saint George and I'm not married.

21 THE CLERK: Thank you. Juror Number  
22 41, John Bryant.

23 MR. BRYANT: I go my Jack Bryant,  
24 attorney. My wife is in home health sales.

25 THE CLERK: Thank you. Juror Number

1 46, Timothy Caddell.

2 MR. CADDELL: Timothy Caddell, I work  
3 at Sun Direct Cleaning. My wife is a stay-at-home  
4 mom.

5 THE CLERK: Thank you. Juror Number  
6 50, Christy Castelloe.

7 MS. CASTELLOE: Good morning. Christy  
8 Castelloe, I'm the quality supervisor on third  
9 shift at Zeus in Gaston and my husband's a lawyer.

10 THE CLERK: Thank you. Juror Number  
11 52, Matthew Chavis.

12 MR. CHAVIS: I'm Matt Chavis. I'm a  
13 pipe welder for DPU and I'm divorced.

14 THE CLERK: Thank you. Juror Number  
15 53, Michelle Cila.

16 MS. CILA: I'm Michelle Cila and I'm a  
17 retired teacher. I'm single.

18 THE CLERK: Thank you. Juror Number  
19 56, Rachel Cooper.

20 MS. COOPER: I'm Rachel Cooper. I'm  
21 the plant superintendent for the City of  
22 Orangeburg's Wastewater Treatment Plant and my  
23 husband is an operator in another division for WTP.

24 THE CLERK: Thank you. Juror Number  
25 60, Gregory Crummie.

1 MR. CRUMMIE: How you doing? I'm  
2 Gregory Crummie. I'm the supervisor at SpecChem.  
3 My wife is unemployed with health problems.

4 THE CLERK: Thank you. Juror Number  
5 61, Kenneth Cudjoe (Cu-Joe).

6 MR. CUDJOE: That's Cud-Joe.

7 THE CLERK: Kenneth Cudjoe. My  
8 apologies.

9 MR. CUDJOE: I am disabled and my wife  
10 is unemployed recovering from breast cancer.

11 THE CLERK: Juror Number 63, Shirley  
12 Dailey.

13 MS. DAILEY: Good morning. Shirley  
14 Dailey, I'm a retired special ed for disability and  
15 special needs. My husband is retired cement person  
16 from Holcim.

17 THE CLERK: Thank you. Juror Number  
18 66, Adria Darby.

19 MS. DARBY: I'm Adria Darby. I'm a tax  
20 examiner at South Carolina Department of Revenue  
21 and my husband currently works for North Carolina  
22 state government.

23 THE CLERK: Thank you. Juror Number  
24 79, Terry Edmonds.

25 MR. EDMONDS: Hi, my name is Terry



1 Edmonds. I work at Walmart third shift and my wife  
2 is disabled.

3 THE CLERK: Thank you. Juror Number  
4 80, Rosalind Edwards.

5 MS. EDWARDS: I'm a retired special  
6 care with District Five -- formally District Five  
7 and I'm a business owner. My husband is deceased.

8 THE CLERK: Thank you. Juror Number  
9 82, Jessie Farman.

10 MR. FARMAN: Good morning. I'm Jessie  
11 Farman. I'm a program manager for Rolly with a  
12 general contracting company and my wife is a  
13 school teacher.

14 THE CLERK: Thank you. Juror Number  
15 83, Courtney Faust.

16 MS. FAUST: Hello. My name is Courtney  
17 Faust and I'm a senior helper and home care  
18 provider and I'm single.

19 THE CLERK: Thank you. Juror Number  
20 84, Germaine Felder.

21 MR. FELDER: I'm Germaine Felder. I'm  
22 employed with AG South Farm Credit where I'm a loan  
23 specialist and I'm divorced.

24 THE CLERK: Thank you. Juror Number  
25 92, Phillip Ford.

1 MR. FORD: I'm Phillip Ford. I'm a  
2 self-employed consultant and lobbyist and I'm  
3 single.

4 THE CLERK: Thank you. Juror Number  
5 93, Teresa Franklin.

6 MS. FRANKLIN: Hi, I'm Teresa Franklin.  
7 I work for South Carolina Department of Social  
8 Services. I'm a program coordinator for Bamberg,  
9 Calhoun, and Orangeburg Counties and I'm divorced.

10 THE CLERK: Thank you. Juror Number  
11 94, Pilar Frazier.

12 MS. FRAZIER: Hi, I'm Pilar Frazier.  
13 I'm a student at South Carolina State University.  
14 I'm part-time at Lowe's Improvement and I'm single.

15 THE CLERK: Thank you. Juror Number  
16 97, Henry Fuller.

17 MR. FULLER: Good morning. I work at  
18 (inaudible) Reynolds and I'm single.

19 THE CLERK: Thank you. Juror Number  
20 99, Brenda Gantt.

21 MS. GANTT: Hi. I work at MUSC  
22 Orangeburg in medical records and my husband is a  
23 (inaudible) here in Orangeburg.

24 THE CLERK: Thank you. Juror Number  
25 100, Melanie Garrick.

1 MS. GARRICK: Hi, I'm Melanie Garrick  
2 and I'm a teacher at Edisto primary school. My  
3 husband works for Zeus as a manager.

4 THE CLERK: Thank you. Juror Number  
5 104, Jeremy Gleaton.

6 MR. GLEATON: Good morning. Jeremy  
7 Gleaton. I'm a machinist at Savannah River Site.  
8 My wife is an engineer at Savannah River Site.

9 THE CLERK: Thank you. Juror Number  
10 108, Lauren Gray.

11 MS. GRAY: Hi, I'm Lauren Gray. I'm  
12 work at Zeus as a project coordinator and my  
13 husband is not employed.

14 THE CLERK: Thank you. Juror Number  
15 111, Patricia Guinyard.

16 MS. GUINYARD: Good morning. My name  
17 is Patricia Guinyard. I'm secretary to a middle  
18 school principal and I am single.

19 THE CLERK: Thank you. Juror Number  
20 112, Kathleen -- sorry if I mispronounce,  
21 Gustafson.

22 MS. GUSTAFSON: Kathleen Gustafson.  
23 I'm a bank branch manager with South State and my  
24 husband is a crane operator with Savannah River  
25 Site.

1 THE CLERK: Thank you. Juror Number  
2 115, Marcus Hamilton.

3 MR. HAMILTON: Good morning. I'm  
4 Marcus Hamilton. I work at Monteferro. No spouse.

5 THE CLERK: Thank you. Juror Number  
6 121, Rachelle Hayward.

7 MS. HAYWARD: I'm Rachelle Hayward. I  
8 work in administration at family health centers and  
9 also a realtor. My husband is a truck driver.

10 THE CLERK: Thank you. Juror Number  
11 130, Lisa Hunt.

12 MS. HUNT: It's Lisa Stickley. I'm  
13 self-employed and I keep children in my home and my  
14 husband is disabled.

15 THE CLERK: Thank you. Juror Number  
16 133, Mike Hutto.

17 MR. HUTTO: Mike Hutto. Self-employed  
18 carpenter. My wife is in the fertilizer sales.

19 THE CLERK: Thank you. Juror Number  
20 137, Derrick Jamison.

21 MR. JAMISON: Good morning. My name is  
22 Derrick Jamison. I'm currently employed at Holly  
23 Hill Holcim Cement Company. Been married 30 years  
24 and my wife is a stay-at-home mom.

25 THE CLERK: Thank you. Juror Number

1 141, Obie Jamison.

2 MR. JAMISON: Good morning. I'm the  
3 owner of Joyce's Beauty Salon here in Orangeburg  
4 and I'm single.

5 THE CLERK: Thank you. Juror Number  
6 148, Deirdre Johnson.

7 MS. JOHNSON: Good morning. My name is  
8 Deirdre Johnson. I am employed as a security  
9 officer at Orangeburg-Wilkinson High School and I'm  
10 single.

11 THE CLERK: Thank you. Juror Number  
12 151, Jessica Jones.

13 MS. JONES: My name's Jessica Jones. I  
14 work at ADUSA Distribution and Transport in Elloree  
15 and I'm separated.

16 THE CLERK: Thank you. Juror Number  
17 152, Jerry Keitt.

18 MR. KEITT: My name is Jerry Keitt. I  
19 work at City of Orangeburg maintenance one  
20 coordinator and my wife works at Claflin, she  
21 cooks.

22 THE CLERK: Thank you. Juror Number  
23 156, Michael Lee.

24 MR. LEE: I work at Davis Toyota. I'm  
25 not married.

1 THE CLERK: Thank you. Juror Number  
2 157, Christian Lewers.

3 MR. LEWERS: Christian Lewers. I work  
4 for UPS in dispatch and single.

5 THE CLERK: Thank you. Juror Number  
6 163, Jeffrey Martin.

7 MR. MARTIN: Safe Step Walk-in Tubs.  
8 Not married.

9 THE CLERK: Thank you. Juror Number  
10 164, Willa Maynard.

11 MS. MAYNARD: Good morning. Willa  
12 Maynard. I work at Robert Howard Middle School as  
13 a teacher and I am divorced.

14 THE CLERK: Thank you. Juror Number  
15 166, N'yana McCreary.

16 MS. MCCREARY: My name is N'yana  
17 McCreary and I work at Walmart and I'm single.

18 THE CLERK: Thank you. Juror Number  
19 167, Kelsey McFarlane.

20 MS. MCFARLANE: Hi. Kelsey McFarlane.  
21 I'm an x-ray and CT technologist for Colonial  
22 Health and my husband works for ADUSA Distribution.

23 THE CLERK: Thank you. Juror Number  
24 168, Clyde McGinnis.

25 MR. MCGINNIS: I'm Clyde McGinnis.

1    Been married 37 years. Retired mechanist and my  
2    wife is retired business owner.

3               THE CLERK: Thank you. Juror Number  
4    171, Fatima Meriwether.

5               MS. MERIWETHER: Hi, Fatima Meriwether.  
6    I am self-employed small business owner working  
7    with holistic care products and I've never been  
8    married.

9               THE CLERK: Thank you. Juror Number  
10   177, William Minatee.

11              MR. MINATEE: Hi, William Minatee.  
12   Truck driver/owner operator. My wife is retired  
13   state worker from New Jersey.

14              THE CLERK: Thank you. Juror Number  
15   188, Sonya Nixon.

16              MS. NIXON: Good morning. My name is  
17   Sonya Nixon. I'm an Assembly Tech III at GKN  
18   Aerospace and I'm engaged and my fiancé is in South  
19   Carolina National Guard.

20              THE CLERK: Thank you. Juror Number  
21   189, Toni O'Cain.

22              MS. O'CAIN: Good morning. Toni  
23   O'Cain. I'm a registered nurse at the VA here in  
24   Orangeburg and my husband works for UPS.

25              THE CLERK: Thank you. Juror Number

1 190, Curtis Ott.

2 MR. OTT: Curtis Ott. Insurance  
3 adjustor and my wife is a retired school teacher.

4 THE CLERK: Thank you. Juror Number  
5 194, Elizabeth Parren.

6 POTENTIAL JUROR: She's having a panic  
7 attack right now.

8 THE COURT: Just send somebody,  
9 Winifred, and we'll let her go.

10 THE CLERK: Juror Number 198, Brandon  
11 Porter.

12 MR. PORTER: Yes, ma'am. Brandon  
13 Porter. Self-employed Yard Pro Lawn lawn care.

14 THE CLERK: Marital status?

15 MR. PORTER: Not yet. No, ma'am.

16 THE CLERK: Thank you. Juror Number  
17 200, John Pound.

18 MR. POUND: I'm John Pound. I'm  
19 retired. I'm single.

20 THE CLERK: Thank you.

21 THE COURT: Retired from? Sir, retired  
22 from?

23 MR. POUND: SCDOT Lexington County.

24 THE CLERK: Thank you. Juror Number  
25 207, Sierra Pryce.



1 MS. PRYCE: Sierra Pryce. Currently  
2 unemployed and single.

3 THE CLERK: Thank you.

4 THE COURT: And are you married?

5 MS. PRYCE: Single.

6 THE COURT: Single. I didn't hear  
7 that. Okay.

8 THE CLERK: Juror Number 208, Biva Rai.

9 MS. RAI: Good morning. I'm Biva Rai.  
10 I'm self-employed. I have property and my husband  
11 also works for rental property.

12 THE CLERK: Thank you. Juror 210,  
13 Trevon Randolph.

14 MR. RANDOLPH: Good morning. I'm  
15 currently at Allied Air Enterprises and I don't  
16 have a spouse.

17 THE CLERK: Thank you. Juror Number  
18 213, Rodney Rhodes.

19 MR. RHODES: Rodney Rhodes. I'm a  
20 forklift driver. Food Lion warehouse. Divorced.

21 THE CLERK: Thank you. Juror Number  
22 15, Delores Richburg.

23 MS. RICHBURG: Good afternoon. I make  
24 sure I's are dotted and T's are crossed at Butch's  
25 Auto Sales and I'm single.

1 THE CLERK: Thank you. Juror Number  
2 219, Charity Robinson.

3 MS. ROBINSON: Good morning. My name  
4 is Charity Robinson. I'm a licensed insurance  
5 agent with Liberty Mutual Insurance. Single.

6 THE CLERK: Thank you. Juror Number  
7 220, Glenn Robinson.

8 MR. ROBINSON: Good morning. I'm Glenn  
9 Robinson, III. I previously worked for Premier for  
10 two years and my wife is a real estate broker and  
11 we co-own Ground-up Homes.

12 THE CLERK: Thank you. Juror Number  
13 228, Paul Shuler.

14 MR. SHULER: My name is Paul Shuler and  
15 I'm single and I retired from Husqvarna with 31  
16 years. That's it.

17 THE CLERK: Thank you. Juror Number  
18 229, Casey Sikes.

19 MS. SIKES: Hey, I'm Casey Sikes. I'm  
20 a nurse practitioner and I work for Matrix which is  
21 a contract company and my husband works at Zeus.

22 THE CLERK: Thank you. Juror 230,  
23 Katia Simmons.

24 MS. SIMMONS: Hi, I'm Katia Simmons.  
25 I'm a business analyst at OC Tech and I'm single.

1 THE CLERK: Thank you. Juror Number  
2 236, Faith Spells.

3 MS. SPELLS: Good morning. I am Faith  
4 Renée Spells. I am employed at Denmark Technical  
5 College as the assistant vice president of  
6 Institutional Advancement and Effectiveness and my  
7 spouse is deceased.

8 THE CLERK: Thank you. Juror Number  
9 233, Michael Smith.

10 MR. SMITH: I'm Michael Smith. I'm a  
11 PTFE excursion technician in Gaston. My wife is a  
12 stay-at-home mom.

13 THE CLERK: Juror Number 242, Joseph  
14 Stephens.

15 MR. STEPHENS: Good morning. I'm  
16 Joseph Stephens. I've been at Zeus Industrial for  
17 19 years and I'm single.

18 THE CLERK: Thank you. Juror Number  
19 249, Dedra Sumpter.

20 MS. SUMPTER: I'm Dedra Sumpter. I  
21 work at Sundaram Clayton, Ridgeville, South  
22 Carolina. My husband is a truck driver.

23 THE CLERK: Thank you. Juror Number  
24 254, Randy Taylor.

25 MR. TAYLOR: Good morning. I'm Randy

1 Taylor. Work for Tri Star Builders right here in  
2 Orangeburg. Married to the lovely Mrs. Berta  
3 Taylor. Work for the County of Orangeburg in the  
4 GIS office.

5 THE CLERK: Thank you. Juror Number  
6 253, Lateka Taylor.

7 MS. TAYLOR: Good morning. I'm Lateka  
8 Taylor. I'm currently unemployed and single.

9 THE CLERK: Thank you. Juror Number  
10 255, Santana Thomas.

11 MS. THOMAS: Good morning. My name is  
12 Santana Thomas. I'm a quality supervisor at  
13 Nephron Pharmaceuticals and I'm not married.

14 THE CLERK: Thank you. Juror Number  
15 258, Ja'nya Toney.

16 MS. TONEY: I'm Ja'nya Toney. I work  
17 at Walmart and I'm not married.

18 THE CLERK: Juror Number 259, Akai  
19 Turkvant.

20 MR. TURKVANT: I'm Akai Turkvant. I'm  
21 a welder at Husqvarna and I'm single.

22 THE CLERK: Thank you. Juror Number  
23 261, Stephanie Valentine.

24 MS. VALENTINE: My name is Stephanie  
25 Valentine. Retired/disabled charge nurse for a

1 hospital. Married. My husband's a retired captain  
2 of corrections.

3 THE CLERK: Thank you. Juror Number  
4 262, Kendall Varn.

5 MR. VARN: I'm Kendall Varn. I am a  
6 machine operator at Super-Sod and my wife is a  
7 stay-at-home mom.

8 THE CLERK: Thank you. Juror Number  
9 268, Jason Warner.

10 MR. WARNER: Afternoon. My name's  
11 Jason Warner. I work for KB Tire and my wife works  
12 for MUSC hospital as a CNA.

13 THE CLERK: Thank you. Juror Number  
14 274, Valarie Waymer.

15 MS. WAYMER: I work for the City of  
16 Orangeburg. I work in customer service. I am a  
17 business owner and I'm single.

18 THE CLERK: Thank you. Juror Number  
19 275, Jon Whetstone.

20 MR. WHETSTONE: I go by Mark. I work  
21 for Dominion Energy South Carolina for 34 years of  
22 service. Wife is a stay-at-home mom. Homeschool's  
23 four kids.

24 THE CLERK: Thank you. Juror Number  
25 287, Elijah Wilson.

1 MR. WILSON: Good morning. I work for  
2 Trinity 7 Security. I've been there for about 12  
3 years now and I'm originally from Orangeburg, South  
4 Carolina, and I'm single.

5 THE CLERK: Thank you. Juror Number  
6 290, Jaekwon Wingo.

7 MR. WINGO: Good morning. I'm Jaekwon  
8 Wingo. I'm currently unemployed and I'm not  
9 married.

10 THE CLERK: Thank you. Juror Number  
11 298, Darline Zeigler.

12 MS. ZEIGLER: My name is Darlene  
13 Zeigler. I work at Belk and I am divorced.

14 THE CLERK: Thank you. If there's  
15 anyone I omitted, can you please stand at this  
16 time.

17 (No one is standing.)

18 THE COURT: Thank you so much. All  
19 right. Ladies and gentlemen, I now have certain  
20 statutorily mandated questions that I must ask of  
21 you. And when I ask the questions, I'm going to  
22 ask you to -- if you need to respond to please  
23 stand.

24 Now, if for whatever reason you do not  
25 -- or you would be embarrassed standing and

1 disclosing the information that I'm going to ask in  
2 the presence of your fellow jurors, at the end of  
3 this part of the process you will have an  
4 opportunity to come forward and disclose that  
5 information. However, if you would, this will go  
6 much quicker, if you could stand and disclose the  
7 information when I call you to stand after I've  
8 asked the question.

9           Now, please remember that I must have  
10 accurate information commensurate with the oath  
11 that you have taken. So if you need to respond,  
12 please stand and disclose that information or come  
13 up at the end of this part of the process when I  
14 ask you to do so. Here are the questions which  
15 determine your general eligibility to serve:

16           Is any member of our jury panel not a  
17 citizen of the United States? If you are not a  
18 citizen of the United States, please stand.

19           And I find no one standing.

20           Do we have any member of our jury panel  
21 who is not now a citizen and resident of Orangeburg  
22 County? If you are not now a citizen and resident  
23 of Orangeburg County, please stand.

24           I find no one standing.

25           Do we have any member of our jury panel

1 who is unable, not able, to read, write, speak or  
2 understand the English language? If you cannot  
3 read, write, speak or understand the English  
4 language, please stand.

5 And I find no one standing.

6 Do we have any member of our jury panel  
7 who has less than, less than, a sixth grade  
8 education or its equivalent? Now, equivalent, you  
9 get to make that determination, but I think that if  
10 you're working every day and paying your bills and  
11 doing all of those things that we must do in daily  
12 life, you have a lot more than a sixth grade  
13 educational equivalent. But there's the question,  
14 do you have less than a sixth grade education or  
15 its equivalent? If you need to respond, please  
16 stand.

17 I find no one standing.

18 And do we have any member of our jury  
19 panel who would be unable, not able, because of a  
20 mental or physical infirmity, a mental or physical  
21 problem, and as a result, you are concerned that  
22 you would be unable to render efficient jury  
23 service?

24 Yes, ma'am, your number?

25 MS. BONNETTE: I'm not sure what my



1 number was. I don't remember.

2 THE COURT: Your name?

3 MS. BONNETTE: McKenzie Bonnette. I  
4 have epilepsy and I'm also pregnant. It's a high  
5 risk pregnancy.

6 THE COURT: All right. And is the --  
7 is the epilepsy such that it is not controlled  
8 sufficiently well that you are comfortable serving  
9 or you think that would put you at risk?

10 MS. BONNETTE: It would put me at risk.  
11 It's not controllable.

12 THE COURT: All right. Thank you for  
13 being here this morning. You are free to go.

14 All right. Do we have any member of  
15 our jury panel who has been convicted by a guilty  
16 plea or by a trial in a state or federal court of  
17 record of a crime punishable by imprisonment for  
18 more than a year and your civil rights have not  
19 been restored by pardon or amnesty? Now,  
20 punishable by imprisonment for more than a year  
21 means that you could have received punishment of  
22 more than a year in prison, you may have received a  
23 probationary sentence or a fine. But what is  
24 relevant here is that you could have received  
25 punishment of more than a year in prison and your

1 civil rights have not been restored by pardon or  
2 amnesty. Now, you can stand and disclose that  
3 information at this time or come up at the end.

4 Yes, sir, your number?

5 MR. BROWN: 36.

6 THE COURT: Number 6 and do you  
7 remember what the offense was?

8 THE CLERK: 36.

9 THE COURT: 36, I'm so sorry. Do you  
10 remember what the offense was?

11 MR. BROWN: It was grand larceny in  
12 2008 and you sat before me at that time and I was  
13 granted probation for five years.

14 THE COURT: Well, you obviously did  
15 wonderfully. Now, that's been along time ago.

16 MR. BROWN: I'm working on my pardon  
17 now.

18 THE COURT: I was going to tell you.  
19 Good for you.

20 MR. BROWN: Yes, ma'am.

21 THE COURT: Well, I can wait for you to  
22 serve when that has come through. Thank you so  
23 much, sir. Right now you're free to go, but it  
24 will be soon, I am confident. Thank you for your  
25 candor.

1 All right. Anyone else?

2 All right. Your number?

3 MR. EDMONDS: I can't remember my  
4 number. My name is Terry Edmonds. I got in  
5 trouble for aggravated assault high in nature back  
6 in like 2003, I think.

7 THE COURT: All right. And you were  
8 over the age of 17?

9 MR. EDMONDS: Yes, ma'am.

10 THE COURT: You are so youthful  
11 looking.

12 MR. EDMONDS: I'm 37.

13 THE COURT: All right. It's a long  
14 time ago. Give it a little bit, maybe just a tiny  
15 bit longer and then you should likewise move for a  
16 pardon. Thank you for being here and for candor.

17 MR. EDMONDS: All right. Thank you.

18 MR. SHULER: I wanted to say something  
19 before you about the prison thing. But I -- when  
20 you say about the physical disability of doing  
21 things you really want to do like, you know, the  
22 other one you asked before you got to the prison  
23 stuff.

24 THE COURT: Huh?

25 (Everybody talking. Stand up during

1 the disability question.)

2 THE COURT: You are so darling. Yes,  
3 and your number?

4 MR. SHULER: Number 228.

5 THE COURT: All right. And you think  
6 it would be tough on you?

7 MR. SHULER: Right around because of  
8 the fact is I'm going to a lot of doctor procedures  
9 and stuff like that with my feet and for my legs  
10 and stuff and my hamstring. I'm going through a  
11 lot of stuff right now. I have to walk like this  
12 and particularly stand too much on that.

13 THE COURT: Sure. Thank you so much.  
14 What is your number? Do you remember? Or your  
15 name, either one.

16 MR. SHULER: 228.

17 THE COURT: You are free to go and  
18 thank you so much. All right. Miss ya.

19 And do we have any member of our jury  
20 panel who has served on a jury in a court of  
21 record, now that is not magistrate's court or  
22 municipal court, but common pleas or general  
23 sessions during 2023? If so, please stand.

24 I find no one standing.

25 Do we have any member of our jury panel

1 who has served as a member of the Orangeburg County  
2 grand jury in the last five years? If so, please  
3 stand. And if you served on the grand jury it's  
4 something that you'll know. If you did it, you'll  
5 know it. Please stand if you did.

6 I find no one standing.

7 Now we move to juror exemptions. An  
8 exemption does not mean that you are not qualified  
9 to serve, it simply means that you have the right  
10 to say that you choose not to serve. Our first  
11 exemption is a great example and here it is:

12 People who are 65 years old or older,  
13 because of your life experiences obviously  
14 represent a pool of terrific talent for jury  
15 service. We want you to service and we urge you to  
16 serve. However, state law says because you're 65  
17 years old or older that you're entitled to an  
18 exemption for your jury service.

19 So I ask, do we have any members of our  
20 jury panel who are 65 years old or older and you  
21 wish to be exempted from your jury service? If so,  
22 please stand at this time.

23 I find no one standing.

24 Now, our next exemption concerns prior  
25 jury service. You will recall a moment ago I asked

1 if there was anyone that had served previously in  
2 2023 because that does disqualify a juror from  
3 further service in the same county in a court of  
4 record, but also gives rise to an exemption because  
5 no juror is required to serve more often than once  
6 every three calendar years.

7 So I ask, do we have any members of our  
8 jury panel who served as a member of the jury in a  
9 court of record, now not magistrate's court or  
10 municipal court, but in a court of record, general  
11 sessions or common pleas, for 2022 or 2021 and you  
12 wish to be exempted from your jury service? If so,  
13 please stand at this time.

14 And I find no one standing.

15 And do we have any members of our jury  
16 panel who served as a member of the grand jury  
17 anywhere in the last five years and you wish to be  
18 exempted from your jury service for this panel? If  
19 so, please stand.

20 And I find no one standing.

21 Our next exemption deals with those of  
22 you who have small children. Please listen very  
23 carefully to this exemption, it has several parts.  
24 Each part, every part must apply to you for you to  
25 be exempted on this basis. You may be exempted

1 from your jury service if you have a small child or  
2 children who is under seven years old, that means  
3 six years old or younger, and you have the legal  
4 custody of that child or children and you are the  
5 primary caregiver of that child or children, not a  
6 babysitter, but a primary caregiver of that child  
7 or children and you have no one with whom you can  
8 leave your child or children while performing your  
9 jury duty. Now, if this exemption applies to you  
10 and you need to exercise this exemption, please  
11 stand at this time.

12 Yes, ma'am, your number?

13 MS. FAUST: I don't remember my number,  
14 but my name is Courtney Faust, and I have a six  
15 year old with sickle cell that's home schooling.

16 THE COURT: And you do home health  
17 care?

18 MS. FAUST: Yes.

19 THE COURT: Okay. Talk to me, what is  
20 your concern?

21 MS. FAUST: Well, I have someone to  
22 watch him for four hours in the morning, then I  
23 come home and pick him up at 2 and then sometimes I  
24 do overnight when my 16 year old and my mom is  
25 available.

1           THE COURT: You are who this exemption  
2 exists for, but here's the thing. You're going to  
3 blink your eyes and they're going to be 39 and 35.  
4 Thank you for being here today.

5           Yes, sir, your number?

6           MR. FULLER: I think it's 97.

7           THE COURT: And what's your name?

8           MR. FULLER: Henry Fuller.

9           THE COURT: Yes, sir.

10          MR. FULLER: I do have a nine month  
11 year old daughter.

12          THE COURT: All right. You have a nine  
13 month and I thought you worked outside your home?

14          MR. FULLER: Uh-huh. See my  
15 girlfriend, like we got to take some days off right  
16 now I don't -- because we just moved here, I don't  
17 have a primary babysitter so like I be -- I'm  
18 sorry.

19          THE COURT: No problem.

20          Yes, ma'am, your number or name?

21          MS. MERIWETHER: 171. It depends on  
22 whether this runs into after school hours.

23          THE COURT: It does.

24          MS. MERIWETHER: Yeah, I don't have  
25 nobody for after school hours.



1 THE COURT: And how old are the kiddos?

2 MS. MERIWETHER: My oldest is 11, my  
3 second child is 8, and my youngest is 6 years old.

4 THE COURT: Well, again, you will blink  
5 your eyes and they will be grown. In other words,  
6 you work in the mornings, but you're home by the  
7 time they get home from school?

8 MS. MERIWETHER: Yes, I am.

9 THE COURT: And that's what, 2 in the  
10 afternoon? 2:30?

11 MS. MERIWETHER: 2:30, 2:45.

12 THE COURT: There you go. Thank you  
13 for being here this morning.

14 MS. MERIWETHER: Thank you. Y'all have  
15 great day.

16 THE COURT: Our next exemption involves  
17 those of you who may be attending school at this  
18 time or working in some capacity with a school. If  
19 this exemption applies to you and you need to  
20 exercise this exemption, we will transfer your  
21 service to another term of court at a time which  
22 will not conflict with your school  
23 responsibilities. And this applies to full-time  
24 students, school teachers, school bus drivers,  
25 school principals, crossing guards, and any person

1 involved in any school related function who cannot  
2 serve this week as a result of that school  
3 involvement.

4 And your name or number?

5 MS. FRAZIER: Pilar Frazier and I think  
6 94.

7 THE COURT: And you are my student?

8 MS. FRAZIER: Yes, ma'am.

9 THE COURT: At SC State?

10 MS. FRAZIER: Yes, ma'am.

11 THE COURT: But you also work part-time  
12 at Lowe's because you are motivated?

13 MS. FRAZIER: Yes, ma'am.

14 THE COURT: What are you majoring in?

15 MS. FRAZIER: Nutrition and food  
16 management.

17 THE COURT: Fantastic. When are you  
18 going to finish?

19 MS. FRAZIER: May 2023.

20 THE COURT: How wonderful. Come on and  
21 pick a week when you will be able to serve. Come  
22 on to our clerk and grab a week. So you're going  
23 to help us all know how to be skinny. I need you.

24 Yes, ma'am, your number or name?

25 MS. SPELLS: I am not certain of my

1 number, but my name is Faith Renée Spells.

2 THE COURT: Yes, ma'am.

3 MS. SPELLS: I am employed at Denmark  
4 Technical College. I am in transition. I was  
5 formally the registrar, so I'm in transition of  
6 training a new registrar. And of course this is  
7 going to be -- lead into our graduation period, so  
8 we do have a lot of programs, different things for  
9 the students that I would like to be hands-on with  
10 her especially this week.

11 THE COURT: Okay. We'll transfer you  
12 to the summertime. Come on and pick a week.

13 MS. SPELLS: Thanks.

14 THE COURT: Yes, ma'am, your number?

15 MS. GARRICK: 100.

16 THE COURT: Yes, ma'am.

17 MS. GARRICK: I am a reading  
18 interventionist for struggling first and second  
19 graders and I have a big presentation on Friday.

20 THE COURT: Come on, I'm happy to  
21 transfer you.

22 Now, do we have any member of our jury  
23 panel who is employed as a guard with the  
24 Department of Corrections at a penitentiary? I  
25 don't think so. I think we got somebody's husband

1 is retired from that position, but I don't think we  
2 have anyone who is currently actively in that  
3 position, but I ask it in abundance of caution. If  
4 so, please stand. Because state law says you're  
5 going to be exempted.

6 I find no one standing.

7 Now, do we have any member of our jury  
8 panel who is the primary caregiver for a severely  
9 disabled person or someone who is 65 years old or  
10 older and those folks are unable to care for  
11 themselves and would be at risk if you were  
12 required to perform your jury duty? If this  
13 exemption applies to you and you need to exercise  
14 this exemption, please stand at this time.

15 I find no one standing.

16 Now, do we have any member of our jury  
17 panel who perform services for a business,  
18 commercial, or agricultural enterprise and whose  
19 services are so essential to the operation of the  
20 enterprise that the enterprise must close, not  
21 should close, but must close if you are required to  
22 perform your jury duty? It's my favorite one  
23 because everybody gets excited and they're like,  
24 uh, come on. Must close, not should close, but  
25 must close if you're required to perform your jury

1 duty? If this applies to you and you need to  
2 exercise this exemption, please stand at this time.

3 Yes, sir, your number? Name?

4 MR. MINATEE: 177, William Minatee.

5 THE COURT: All right. And you are  
6 employed as a --

7 MR. MINATEE: Owner/operator truck  
8 driver.

9 THE COURT: That's right, truck driver.

10 MR. MINATEE: If I don't work, I don't  
11 eat.

12 THE COURT: Well, let me just -- that  
13 happens to everybody, but the business is shut  
14 down. That's what really makes the difference.  
15 And that probably is the most frequent enterprise  
16 that has to shut down when there's a one operator  
17 of the business and it's a truck and that truck is  
18 parked. Unless you drove down to the courthouse.

19 MR. MINATEE: No.

20 THE COURT: Thank you, sir. Thanks for  
21 being here.

22 MR. MINATEE: All right. Thank you.

23 THE COURT: All right. Now, ladies and  
24 gentlemen, that does conclude our statutory list of  
25 qualifications and exemptions for your jury

1 service. It may be that you are qualified and no  
2 exemption applies to you, but jury service this  
3 particular week would constitute, and here's the  
4 term, extreme hardship upon you for a particular  
5 reason, this particular week. I cannot excuse a  
6 qualified juror from jury service, but under  
7 extreme and compelling circumstances I can transfer  
8 a juror from this term of court to another term of  
9 court at which time the extreme and compelling  
10 circumstances will not exist. Please understand  
11 that general inconvenience is not a sufficient  
12 reason to justify a transfer to another term of  
13 court. If it was, I would be transferring all of  
14 you forever because this is generally inconvenient.

15           However, if there is an extraordinary  
16 and compelling circumstance, I can transfer your  
17 service. Let me give you some examples: If you  
18 have a doctor's appointment this week that's been  
19 previously scheduled, I can transfer your service  
20 for that reason if you have not been previously  
21 transferred.

22           If you have a loved one who is  
23 undergoing some treatment or a doctor's appointment  
24 and they are counting on you being present this  
25 week, I can transfer your service for that reason.

1                   If you have inventory at your place of  
2 employment one time a year and you're in charge of  
3 it and this is the week for that kind of work  
4 oriented extraordinary compelling reason, I can  
5 transfer your service.

6                   If the tickets -- my fav, if the  
7 tickets to Tahiti are on the refrigerator at home  
8 and you're supposed to leave Thursday afternoon,  
9 not only will I transfer your service, but you  
10 better have a big suitcase because we all going  
11 with you. So I would certainly transfer your  
12 service for something joyful as well. Now, ladies  
13 and gentlemen, obviously if you need to seek a  
14 transfer, I'm going to have to chat with you very  
15 briefly and I'll ask you to come up in just a  
16 moment.

17                   Now, ladies and gentlemen, those of you  
18 that did not, that did not answer the questions  
19 that I asked earlier because you wanted to approach  
20 and disclose that information a little more  
21 privately, the time has almost come for you to come  
22 forward. Because very quickly I want to go over  
23 your qualifications for your jury service.

24                   You must be a citizen of the United  
25 States.

1           You must be a citizen and resident of  
2 Orangeburg County.

3           You must be able to read, write, speak  
4 or understand the English language -- or and  
5 understand the English language.

6           You must have a sixth grade education  
7 or its equivalent.

8           You must be able physically and  
9 mentally to render efficient jury service.

10          You must not have been convicted of a  
11 crime punishable by imprisonment for more than a  
12 year.

13          POTENTIAL JUROR: Your Honor, yes,  
14 ma'am. I checked with the deputy, but, yes, ma'am,  
15 I have been convicted of a crime. I call it  
16 disagreement, y'all call it criminal domestic  
17 violence and that happened twice. So --

18          THE COURT: All right. Hold on a  
19 minute. Because I'm not finished.

20          POTENTIAL JUROR: Oh.

21          THE COURT: That's okay. I'm going to  
22 go through all of them, so hold on just a second  
23 for me.

24          POTENTIAL JUROR: Can I sit down?

25          THE COURT: Yes. You have a member of



1 our jury panel who is a clerk, deputy clerk of  
2 court, constable, sheriff or other commissioned,  
3 commissioned law enforcement officer, county  
4 officer, probate judge, county commissioner,  
5 magistrate or other county officer or any person  
6 employed within the walls of any courthouse.  
7 Please listen to that one carefully because I  
8 skipped it earlier.

9           Let me go over it again. Do we have  
10 any member of our jury panel who is a clerk or  
11 deputy clerk of court, constable sheriff of the  
12 commissioned law enforcement officer, county  
13 officer, probation judge, county commissioner,  
14 magistrate or other county officer or any person  
15 employed within the walls of any courthouse, I'll  
16 ask you to come forward as well.

17           Do we have any member of our jury panel  
18 that -- remember, you must not have served on jury  
19 duty in a court of record during 2023.

20           You must not have been a member of the  
21 Orangeburg County grand jury in the last five  
22 years. And that concludes the qualifications for  
23 your jury service.

24           Now, if you have a question about any  
25 of the qualifications as they may apply to you in

1 your circumstance, if you have a question or  
2 concern about any of the exemptions, if you want to  
3 disclose that information a little more privately  
4 perhaps with me and our clerk pursuant to the  
5 questions that I asked earlier or if you need to  
6 seek a transfer to another term of court, please  
7 come forward at this time.

8 Yes, sir, you want to come forward  
9 because I got a question to ask of you. Yes, sir,  
10 you're name or number?

11 MR. PORTER: 198, Brandon Porter. I am  
12 so sorry for not doing it first.

13 THE COURT: That's okay, it's no  
14 problem. So was it under the old statute or the  
15 new statute?

16 MR. PORTER: I'm sorry.

17 THE COURT: We've had a pretty  
18 substantial change in the statute, so was it  
19 criminal domestic violence? Like what were you  
20 charged with, do you remember?

21 MR. PORTER: I've never been married,  
22 so it was just like CDV, yes, ma'am. It was over  
23 10 years ago.

24 THE COURT: So it's been a while ago?

25 MR. PORTER: Yes, ma'am.

1 THE COURT: Okay. And was it -- were  
2 you in magistrate court or were you up here in --

3 MR. PORTER: This was Lexington County.

4 THE COURT: Was it -- do you remember  
5 if you were in general sessions or magistrate's  
6 court? Because I know it's been a while ago.

7 MR. PORTER: Your Honor, it has been  
8 and I think being that it was the second one, it  
9 might have went to general sessions.

10 THE COURT: Well, sometimes they'll do  
11 -- you'll be charged with a first again.

12 MR. PORTER: But I went to a rehab  
13 center and got all -- I didn't pay a fine. I was,  
14 you know --

15 THE COURT: I understand.

16 MR. PORTER: Yes, ma'am.

17 THE COURT: I'm going to check on that  
18 real quick. Because very well a lot of times what  
19 will happen is that they'll -- even though it's a  
20 second, they'll still charge you as a first, but  
21 let me see. This gentleman is going to help me  
22 with some information. Hold on one second for me.

23 What happened it looks to me like what  
24 occurred -- what occurred, it looks like the first  
25 one you may have gone through what's called PTI,

1 Pretrial Intervention, because you're only showing  
2 a conviction for one domestic violence and it's  
3 domestic violence first offense. So that's 30  
4 days, that wouldn't disqualify you. And it shows  
5 that you were charged with DUI and convicted.  
6 That's not over a year.

7 And then you've got another charge that  
8 we're showing no conviction on it. Looks like it  
9 must have been dismissed. I think you're good to  
10 go. You must have done some sort of pretrial  
11 intervention which is great.

12 MR. PORTER: Okay.

13 THE COURT: Thank you for your candor.  
14 But I'm excited that I get to keep you.

15 MR. PORTER: All right.

16 THE COURT: Yes, sir, your name and  
17 number?

18 MR. FORD: Phillip Ford, I'm 92.

19 THE COURT: Yes, sir.

20 MR. FORD: I'm the only registered  
21 lobbyist at my firm and there is a hate crime's  
22 hearing this week and I'm a anti-trans healthcare  
23 ban this week, so I represent groups supporting the  
24 hate crimes legislation and against the anti-trans  
25 healthcare ban, so I was hopeful that I could get

1 transferred.

2 THE COURT: You can get transferred.  
3 Pick your week. Thank you.

4 MR. FORD: Thank you.

5 THE COURT: Thank you so much. Your  
6 number or name?

7 MR. CUDJOE: Kenneth Cudjoe.

8 THE COURT: Yes, sir.

9 MR. CUDJOE: Tomorrow my wife has an  
10 appointment at the cancer center at 9:30.

11 THE COURT: You go on with your wife  
12 and I don't need to know another thing. How old  
13 are you?

14 MR. CUDJOE: I'm 63.

15 THE COURT: Close, but no cigar. Yes,  
16 sir. My son lost his grandmother yesterday and I  
17 don't know when the funeral is going to be, but  
18 it's in Virginia, so I don't know.

19 THE COURT: Okay. Here's what I'm  
20 going to do. I'm going to transfer your service.  
21 I'm going to let you pick the week. You know,  
22 you've got a lot going on in family. Let's you put  
23 it out for a few months. We'll send you another  
24 notice. We'll transfer you, sir, to the fall. You  
25 got a lot going on, you need to take care of your

1 family.

2 MR. CUDJOE: Thank you much.

3 THE COURT: Yes, ma'am, your number or  
4 name?

5 MS. HUNT: Lisa Stickley, but I think  
6 you have me as Hunt. My daughter is having a  
7 surgical procedure later this week and she is 13.

8 THE COURT: Absolutely. Well, and  
9 you're probably going to help her get better, so  
10 we'll transfer your service. How far out? Because  
11 I don't want you stressed, I want you to be able to  
12 take care of a her. A couple of months will work,  
13 you think?

14 MS. HUNT: Yes, ma'am.

15 THE COURT: Okay. We'll do that. How  
16 about in June?

17 MS. HUNT: I have vacation a week.

18 THE COURT: Well, let's don't stress  
19 you on trying to remember the date. How about late  
20 May or July?

21 MS. HUNT: Late May will be fine.

22 THE COURT: Late May will be good. We  
23 got you.

24 Yes, sir. Your name or number?

25 MR. POUND: I don't know my number. My

1 name is John Pound.

2 THE COURT: Yes, sir. DOT retired.

3 MR. POUNDS: Yeah, I have a slight  
4 problem with reading and writing. I don't  
5 understand a lot of questions and stuff.

6 THE COURT: What did you do for DOT?

7 MR. POUND: I run a heavy equipment  
8 operator. Motivator. 33 years service there.

9 THE COURT: That's fantastic. So I'm  
10 not so worried about your reading. You read some?

11 MR. POUND: I read some, not much. I  
12 have problems words and stuff.

13 THE COURT: Okay. All right. Well,  
14 here's what I'm going to do: I think you'll be --  
15 I think that -- what I think I'm going to do is I'm  
16 going to ask you to step back for me just a second,  
17 I'm going to talk about you. But I won't do it  
18 behind your back, I'm going to do it right in front  
19 of you. Mark, let me have y'all come up a second.  
20 You and Shawn or whoever is on the other side of  
21 y'all's cases.

22 (There was a bench conference.)

23 THE COURT: Mr. Pound, come here. Mr.  
24 Pound, we don't have any documents in the second  
25 case. I'm going to ask you to be eligible as a

1 juror in our second jury we're going to pick. The  
2 first one's got a little more documents, but the  
3 second one doesn't have documents, okay?

4 MR. POUND: I still don't understand  
5 what --

6 THE COURT: In other words, I'm going  
7 to ask you to stay -- just stay with us. How about  
8 that? Just stay with us.

9 MR. POUND: Go back and sit down?

10 THE COURT: Yes. Yes, ma'am, your  
11 number or name?

12 MS. HAYWARD: 121, Rachelle Hayward.

13 THE COURT: I got you. Come here.  
14 Yes, ma'am.

15 MR. HAYWARD: I'm the primary caregiver  
16 for my 4 year old and my 18 month old, she has a  
17 doctor's appointment tomorrow. So it can just be  
18 --

19 THE COURT: Wonderful. Lucky you.  
20 Girl, you're so busy. You're a realtor, you've got  
21 another job, you have two little ones, you might  
22 want to be with us for a break. I can excuse you  
23 on that basis.

24 MS. HAYWARD: Thank you.

25 THE COURT: Thanks for being here



1 today. Yes?

2 MS. JONES: My name's Jessica Jones,  
3 151.

4 THE COURT: I'm so glad you know your  
5 number. Gotcha. Yes, ma'am.

6 MS. JONES: I'm not asking to be  
7 exempted or excused. I didn't know it would be  
8 like an after, like, school thing and they won't  
9 let my 9 year old off the bus because he is very  
10 ADHD, but if I could just move it, I'll have  
11 somebody to --

12 THE COURT: You can make arrangements?

13 MS. JONES: Yes.

14 THE COURT: Oh, thank you so much for  
15 doing that. Pick the week and then you'll know.  
16 Yes, ma'am, your number?

17 MS. ANTLEY: I don't know my number.  
18 My name is Michelle Antley.

19 THE COURT: Yes, ma'am.

20 MS. ANTLEY: My husband and I are the  
21 caregivers of 34 residents with three assisted  
22 living facilities, so we're responsible for  
23 appointments, doctor's appointments, groceries,  
24 payroll, we do it all. And I've got one that I've  
25 got to pick up today from rehab to admit her back

1 to the facility and I'm actually short staffed.

2 THE COURT: Here's -- I'm with you. I  
3 can't excuse you, but because of your position,  
4 what I can do is I can transfer you, let you pick  
5 the week, that way you'll know; right?

6 MS. ANTLEY: It will have to be late  
7 fall.

8 THE COURT: I don't care. If you will  
9 tell the clerk. We're going to transfer  
10 Ms. Antley.

11 Yes, sir?

12 MR. GLEATON: Yes, ma'am. 140, Jeremy  
13 Gleaton.

14 THE COURT: Gotcha.

15 MR. GLEATON: I have a two month old  
16 that has a sinus infection right now and my wife,  
17 so I didn't want to put myself in a place where I  
18 couldn't, if I got to go home, go home and be  
19 there. Because where I work, I can leave at any  
20 given time because I'm salary, so.

21 THE COURT: I'm with you completely.  
22 Now, you've got two choices. We can give you a  
23 number where if they have an emergent need for you,  
24 I'll have an alternate and you can go ahead and  
25 serve this or I'll let you transfer. It will be

1 your choice.

2 MR. GLEATON: Like, will I be able to  
3 go back home and stuff like that?

4 THE COURT: Uh-huh. In other words,  
5 they'll call the clerk's office, the clerk's office  
6 will let you know that there's an emergency that  
7 you need to come home and then I'll have an  
8 alternate on my jury and I can let you go. But if  
9 you think you're going to get that phone call, let  
10 me go ahead and transfer you. If you just want to  
11 be assured that should something happen they can  
12 reach you, we can accommodate you in that regard.  
13 Does that makes sense what I'm saying?

14 MR. GLEATON: Yeah. We just can't take  
15 the baby to the babysitter sick because she  
16 babysits two other children.

17 THE COURT: Why don't we transfer your  
18 service that won't be weighed on you. How about  
19 that?

20 MR. GLEATON: That sounds good.

21 THE COURT: You pick the week that way  
22 you'll know. Okay. All right. Transferring Mr.  
23 Gleaton. Got a sick baby.

24 Yes, ma'am. Hi, your number or name?

25 MS. WAYMER: Valarie Waymer.

1 THE COURT: Yes, ma'am, I got you.

2 MS. WAYMER: I would like a transfer.

3 I have an appointment on Friday. I would love to  
4 stay, but I have an appointment Friday of this  
5 week.

6 THE COURT: Okay. I will transfer your  
7 service and you pick the week. Thank you.

8 Yes, sir, your number or name?

9 MR. STEPHENS: Joseph Stephens, 242.

10 THE COURT: Gotcha.

11 MR. STEPHENS: Yes, ma'am. I just want  
12 to let the Court know I take medication for focus  
13 and I didn't want it to be a discrepancy later. I  
14 didn't know if -- I was in the Navy, so I had to  
15 let you know everything; right?

16 THE COURT: Thank you for your service  
17 and that is not a problem. And when you take this  
18 medicine, do you need to have a snack or something?

19 MR. STEPHENS: Probably eventually,  
20 but, yeah. I'm just letting you know that -- I  
21 didn't know if it would --

22 THE COURT: See this lady right here.  
23 It's not a problem. See Ms. Jamison?

24 MR. STEPHENS: Right.

25 THE COURT: If you need a snack or you

1 need something, a drink or something with that, she  
2 will take absolute wonderful care.

3 MR. STEPHENS: I was just letting you  
4 know that I do take it.

5 THE COURT: I am not worried about it.

6 MR. STEPHENS: Thank you.

7 THE COURT: All right. Yes?

8 MR. MARTIN: I'm Jeff Martin and I have  
9 to keep working so I can keep up my bills. My  
10 insurance is due.

11 THE COURT: Sir, I'm so sorry to tell  
12 you that happens with every single person on this  
13 jury. I am so, so sorry. And what -- so I'm going  
14 to ask you to stay.

15 MR. MARTIN: Thank you.

16 THE COURT: It's a one week term of  
17 court and I do need you to stay because that  
18 happens to everyone. So sorry. Please stay with  
19 us though, sir.

20 Yes, ma'am?

21 MS. BROWNLEE: I'm Angela Brownlee.

22 THE COURT: Yes, ma'am?

23 MS. BROWNLEE: I'm have a doctor's  
24 appointment tomorrow at 2 o'clock. Doctor Shuler,  
25 it's been for six months and I had blood work

1 yesterday -- I mean, last week.

2 THE COURT: That's not a problem.  
3 We'll transfer you. You pick the week and we'll  
4 transfer your service.

5 MS. BROWNLEE: I'll be glad to do  
6 another week.

7 THE COURT: Yes, sir, your number?

8 MR. TURKVANT: 259. I think you said  
9 something about do you have any family members  
10 that's -- I got two brothers that's a police  
11 officer.

12 THE COURT: That doesn't disqualify  
13 you.

14 MR. TURKVANT: That don't?

15 THE COURT: No, sir. You have to  
16 probably stand and tell me that later.

17 Yes, sir, your number?

18 MR. TAYLOR: I'm Randy Taylor.

19 THE COURT: Yes.

20 MR. TAYLOR: I have a doctor's  
21 appointment today at 5 o'clock.

22 THE COURT: If you are selected to  
23 serve, we're not going to start trial until  
24 tomorrow, you will make your doctor's appointment.

25 MR. TAYLOR: That's fine.

1 THE COURT: Thank you so much. Please  
2 stay with us.

3 Yes?

4 MR. HUTTO: Mike Hutto. I'm  
5 self-employed and I'm the only employee.

6 THE COURT: Okay. I forgot what you  
7 do.

8 MR. HUTTO: I'm a carpenter.

9 THE COURT: That's right. So the  
10 business got to shut down if you were here?

11 MR. HUTTO: Yes, ma'am.

12 THE COURT: And you are -- do you  
13 remember your name?

14 MR. HUTTO: Mike Hutto.

15 THE COURT: Oh, I got you. 133. All  
16 right. I will excuse you, Mr. Hutto.

17 MR. HUTTO: Thank you, ma'am.

18 THE COURT: Yes, ma'am, your number or  
19 name?

20 MS. O'CAIN: 189, Toni O'Cain.

21 THE COURT: Gotcha.

22 MS. O'CAIN: Two important things going  
23 on this week. My son's got a really important  
24 college visit Thursday and then my 82-year old  
25 mother with dementia has an appointment Friday with

1 the doctor. So if I could just transfer --

2 THE COURT: You got it. Pick the week.

3 Yes, sir, your name or number?

4 MR. MCGINNIS: Clyde McGinnis, 168.

5 THE COURT: Yes, sir.

6 MR. MCGINNIS: I have Multiple  
7 Sclerosis and I have two doctor appointments  
8 tomorrow. I've got one Friday, I just want to  
9 defer to another week. That's all I want to do.

10 THE COURT: You pick it. You pick the  
11 week.

12 Yes, sir, your number or name?

13 MR. BLACK: 26, Todd Black. Could I do  
14 it next week if possible?

15 THE COURT: Do we have a term next  
16 week? Why do you need to do a transfer?

17 MR. BLACK: It might work, we just  
18 hired some new people that started and they're not  
19 trained. And then we have a -- we're shorthanded  
20 and this week someone is on vacation too, they'll  
21 be back Monday. It would just be -- it's bad if I  
22 can't.

23 THE COURT: Can I ask you a question?  
24 Would you be -- if you were on a jury, would you be  
25 concerned about that? Would that be weighing on



1     you?

2                   MR. BLACK:  No, I don't care.  They  
3     would be super busy.  It would just be best if I  
4     did it the following week, but if I have to do this  
5     week, they'll live with it, but it would be really  
6     hard.

7                   THE COURT:  We'll let them live with it  
8     then.  Thank you, sir.

9                   Yes, ma'am, your number or name?

10                  MS. EDWARDS:  Rosalind Edwards.

11                  THE COURT:  Gotcha.

12                  MS. EDWARDS:  I own my own business and  
13     this morning I went by to check on it and I have a  
14     leak that I really need to get somebody to fix  
15     today.  It's a leak in the roof.  Can I get a  
16     transfer to another --

17                  THE COURT:  Yes, ma'am, you can  
18     transfer.  I'm so sorry you have a leak.  Yes,  
19     ma'am, transfer.  You pick the week.

20                  All right.  I find that our panel is  
21     now qualified.  Ladies and gentlemen, we're going  
22     to take a very short -- who needs a comfort break?  
23     All right.  We're going to take a ten minute  
24     comfort break.  When you return, I'm going to  
25     introduce you to some folks and I'm going to ask

1 you some more questions and then we're going to  
2 select our jury for our first case for trial and  
3 then our second case for trial. Enjoy your break.  
4 Ten minutes.

5 MR. LEWERS: This is my first time  
6 being in a jury, I asked my supervisor, do we still  
7 get paid for our regular jobs?

8 THE COURT: It depends on who you work  
9 for.

10 MR. LEWERS: UPS.

11 THE COURT: Hopefully, but I don't  
12 know.

13 MR. LEWERS: I work for dispatch.  
14 There's no way for me to find out?

15 THE COURT: Yeah, you can call and ask  
16 them and tell them if you're selected to serve on  
17 jury duty.

18 MR. LEWERS: Is there a way we can get  
19 exempt if they tell us that we don't get paid for  
20 something like that?

21 THE COURT: No, because most people  
22 don't.

23 MR. LEWERS: All right. Appreciate it.

24 MR. TURKVANT: I got one more question.  
25 I was kicked off of jury one time.

1 THE COURT: What number?

2 MR. TURKVANT: 259. I was kicked off a  
3 jury one time. Back in -- it was a murder trial.  
4 Like, it was a lot of years ago. And he told me to  
5 bring up this and I won't have to serve again.

6 THE COURT: Why were you kicked off?

7 MR. TURKVANT: That was with David Roe  
8 (phonetic) case. It was somebody that was on the  
9 panel that I knew from school and we were just  
10 having a conversation about it and then he kicked  
11 me off. But he told me to bring this up and I  
12 won't have to serve again.

13 THE COURT: I got you. Were you  
14 prosecuted for anything?

15 MR. TURKVANT: No. He told me I  
16 wouldn't be in no trouble or nothing. He just say  
17 that -- because I didn't know that he was on it.  
18 Yeah, so...

19 THE COURT: That happens a lot. That's  
20 not a problem.

21 MR. TURKVANT: Yeah, we was just having  
22 a buddy conversation, but I didn't know he was on  
23 the jury, but he told me to bring this up.

24 THE COURT: Now you know to be really  
25 careful, don't you --

1 MR. TURKVANT: Yeah.

2 THE COURT: -- who you talk to? All  
3 right. No, sir, we can hold on to you.

4 MR. TURKVANT: I still get to stay?

5 THE COURT: Yeah, you still get to  
6 stay.

7 (There was a short break.)

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21 THE COURT: All right. Ladies and  
22 gentlemen, is everybody back? Yes. Yes. Yes.  
23 Wonderful. Ladies and gentlemen, in just a moment  
24 I am going to call on the Solicitor to call our  
25 first case for trial and then I'm going to give you

1 some information. I've got some questions to ask  
2 of you and then we're going to get our jury for our  
3 first case for trial.

4 Ladies and gentlemen, we have with us  
5 today the Solicitor -- one of the Solicitors and --  
6 this gentleman is the deputy solicitor for the  
7 Fourteenth Judicial Circuit. You live in the First  
8 Judicial Circuit, but he has this particular case  
9 and I'm going to call on you, Solicitor, if you  
10 want to call our first case for trial.

11 (Calling the first case for trial.)

12 THE COURT: All right. Solicitor, if  
13 you'd please call your next case for trial.

14 MS. HUNTER: Thank you, Your Honor.  
15 May it please the Court. State calls Kareem  
16 Wallace. Would you like me to read the indictment  
17 numbers, Your Honor?

18 THE COURT: Yes, I would.

19 MS. HUNTER: That is for indictment  
20 2022-GS-38-0736, that is for unlawful neglect of a  
21 child, Your Honor. And the second indictment is  
22 2018-GS-38-1986 and that is to inflict great bodily  
23 jury upon a child.

24 THE COURT: Very well. Now, ladies and  
25 gentlemen, Assistant Solicitor Hunter has just

1 called the next case for trial. She is a solicitor  
2 with the First Judicial Circuit, and, again, in  
3 just a moment, I'm going to be reading to you some  
4 of the allegations, some of the allegations of the  
5 indictments. Let me hasten to tell you, to the  
6 allegations of these indictments, the Defendant has  
7 pled not guilty and that places the burden of proof  
8 on the State to prove each and every allegation in  
9 each of these indictments, must prove them beyond a  
10 reasonable doubt, beyond a reasonable doubt. It  
11 will be the jury's duty to determine whether the  
12 State has met its burden.

13 Now, ladies and gentlemen, I'm going to  
14 be reading to you some of the allegations of each  
15 of these indictments and then I'm going to  
16 introduce you to some folks and ask you a few  
17 questions just as I did just a few moments ago.

18 Now, ladies and gentlemen, indictment  
19 2018-GS-38-1986 alleges that in Orangeburg County,  
20 South Carolina on or about August 28, 2018, the  
21 Defendant, Kareem Lamell Wallace, did unlawfully  
22 inflict great bodily injury upon a child. To Wit:  
23 Kareem Wallace, and did cause his -- To Wit:  
24 Kareem Wallace did cause his infant child Cameron  
25 Wallace to sustain multiple fractures resulting in

1 great bodily injury and as a result, violated  
2 Section 16-3-95(a) of the Code of Laws, 1976 as  
3 amended.

4 And let me hasten to tell you that to  
5 each allegation, the Defendant has pled not guilty.

6 With regards to indictment  
7 2022-GS-38-0736, this indictment alleges that in  
8 Orangeburg County, South Carolina on or about  
9 August 28, 2018, the Defendant, Kareem Lamell  
10 Wallace, while having charged or custody or being  
11 the parent or guardian or being responsible for the  
12 welfare of the minor child, Cameron Wallace, who  
13 was an infant at the time of the incident, to place  
14 the child at unreasonable risk of harm affecting  
15 the child's life, physical, or mental health or  
16 safety or did unlawfully or maliciously cause or  
17 cause to be done bodily harm to the child so that  
18 the life or health of the child was endangered or  
19 was likely to be endangered. In that, the  
20 Defendant did cause his infant child to sustain  
21 multiple fractures. This offense being a violation  
22 of Section 65 -- excuse me, Section 63-5-70 of the  
23 South Carolina Code of Laws as amended.

24 Ladies and gentlemen, to each and every  
25 allegation, the Defendant has pled not guilty.

1 Now, ladies and gentlemen, do any of you know or  
2 think you may know or have you heard or think you  
3 may have heard anything about these allegations?  
4 If so, please stand at this time.

5 And I find no one standing.

6 Ladies and gentlemen, please allow me  
7 to introduce you to the solicitors who will be  
8 involved in this matter. Catherine Hunter is  
9 assistant solicitor here in the First Circuit, you  
10 may stand, please, and Mark Hinds who is also  
11 assistant solicitor in the First Judicial Circuit,  
12 and they will introduce you to the folks in their  
13 office here in Orangeburg. Of course, there is the  
14 elected Solicitor, David Pascoe.

15 MS. HUNTER: Yes, Your Honor. Our  
16 deputy solicitor is Tommy Scott. Our other  
17 assistant solicitor in general sessions court are  
18 Phillip Giese and Brad Riley. And we have a family  
19 court prosecutor named Taylor Wise.

20 THE COURT: All right. Ladies and  
21 gentlemen, are you related by blood or marriage or  
22 acquainted with or -- with any of those solicitors,  
23 assistant solicitor particularly Ms. Hunter who is  
24 present, Mr. Hinds who is present? If so, please  
25 stand.



1 MR. BRYANT: Your Honor, I'm 41. I  
2 will just restate my previous statements about  
3 not --

4 THE COURT: This is a little bit  
5 different because you were acquainted with the  
6 folks in the First Circuit Solicitor's Office. As  
7 a result of those relationships, might they, could  
8 they, Mr. Bryant, in any way interfere with your  
9 ability to be completely fair and impartial?

10 MR. BRYANT: No, Your Honor.

11 THE COURT: Can you set those  
12 relationships aside and make up your mind based  
13 upon what you hear in court while court is in  
14 session?

15 MR. BRYANT: Yes, I can, Your Honor.

16 THE COURT: Very well. Thank you.  
17 Please stay seated -- or please be seated. All  
18 right.

19 Now, ladies and gentlemen, please allow  
20 me to introduce you to Mr. Kareem Lamell Wallace.  
21 If you would please stand and face our jury panel.  
22 And this is Mr. Wallace. Thank you so much, sir,  
23 and you may be seated.

24 Ladies and gentlemen, are you related  
25 by blood or marriage or acquainted with Mr. Kareem

1 Lamell Wallace? If so, please stand at this time.

2 I find no one standing.

3 And Mr. Wallace is represented by  
4 Mr. Joshua Koger and this is Mr. Koger. Mr. Koger,  
5 if you'd stand, please, sir. And, Mr. Koger, are  
6 you still sole practitioner?

7 MR. KOGER: I'm sole practitioner in  
8 Barnwell, South Carolina. I'm also a criminal's  
9 justice instructor at South Carolina State  
10 University.

11 THE COURT: Thank you so much,  
12 Mr. Koger. Ladies and gentlemen, are you related  
13 by blood or marriage or acquainted with Mr. Joshua  
14 Koger? If so, please stand at this time.

15 I find no one standing.

16 Now, ladies and gentlemen, I'm going to  
17 be reading to you a list of potential witnesses.  
18 And just as I did before, my question as to each  
19 and every one of these individuals is:

20 Are you related by blood or marriage or  
21 acquainted with any of these individuals:

22 Angel Prince.

23 Nyette (phonetic) Prince.

24 Ladajah (phonetic) Prince.

25 Lakesha Gillard.

1 Stephanie Skylar.

2 Harriette Davis.

3 Lynette Price.

4 Related by blood or marriage or  
5 acquainted with any of those individuals? If so,  
6 please stand.

7 MR. TURKVANT: I know Angel Prince.

8 THE COURT: All right, sir. And your  
9 number is?

10 MR. TURKVANT: 259.

11 THE COURT: 259. Now, I need you  
12 tight, so I just need you to answer the question  
13 I'm going to ask. Okay. So, do you visit in each  
14 other's homes?

15 MR. TURKVANT: (Nodded.)

16 THE COURT: Can you answer with your  
17 voice?

18 MR. TURKVANT: No, ma'am.

19 THE COURT: And would that relationship  
20 interfere with your ability to be completely fair  
21 and impartial both to the State as well as to  
22 Mr. Wallace?

23 MR. TURKVANT: No.

24 THE COURT: Can you set that  
25 relationship aside and make up your mind based upon

1     what you hear in court while court is in session?

2                 MR. TURKVANT:  Yes, ma'am.

3                 THE COURT:  Thank you.

4                 Now, ladies and gentlemen, with regards  
5     to the next --

6                 MR. KOGER:  Judge, excuse me.  I think  
7     there was one more.

8                 THE COURT:  Oh, I got it.  I'm  
9     continuing.

10                MR. KOGER:  Okay.

11                THE COURT:  With regards to the  
12     following, the question is a little bit different.  
13     Are you related by blood or marriage or acquainted  
14     with or have you or any member of your immediate  
15     family to your knowledge ever been treated by the  
16     following:

17                         Dr. David Randolph.

18                         Dr. Matthew Marcus.

19                         Dr. Michael Horan, H-O-R-A-N.

20                         Dr. Daniel Reidman and Harriette Davis  
21     as well.

22                         Related by blood or marriage,  
23     acquainted with or have you or any member of your  
24     immediate family to your knowledge ever been  
25     treated by the before mentioned folks?  If so,

1 please stand at this time.

2 Yes, ma'am, your number or your name?

3 MS. MCFARLANE: 167, Kelsey McFarlane.

4 THE COURT: Tell me who you know.

5 MS. MCFARLANE: Daniel Reidman and

6 Harriette Davis.

7 THE COURT: All right. And would you

8 describe your relationship as one that is

9 professional or personal?

10 MS. MCFARLANE: Professional.

11 THE COURT: All right. And would your

12 relationship -- well, I'll ask, it's professional,

13 so you don't visit in each other's homes?

14 MS. MCFARLANE: No.

15 THE COURT: All right. And as a result

16 of the relationship just as it is, if they were to

17 testify, could you evaluate that testimony as you

18 do other witnesses, yes or no?

19 MS. MCFARLANE: Yes, ma'am.

20 THE COURT: All right. And would the

21 fact that these witnesses may be testifying in one

22 part of the case as opposed to another part of the

23 case, would that interfere with your ability to be

24 completely fair and impartial both to the State as

25 well as to Mr. Wallace?

1 MS. MCFARLANE: No, ma'am.

2 THE COURT: Can you set your  
3 relationship aside and make up your mind based upon  
4 what you hear in court while court is in session?

5 MS. MCFARLANE: Yes, ma'am.

6 THE COURT: Thank you so much, please  
7 stay with us.

8 Now, a few questions, ladies and  
9 gentlemen. All right. Ladies and gentlemen, have  
10 you -- well, I'm going to ask two questions  
11 together. Don't answer either one until I've asked  
12 both. Have you or any member of your immediate  
13 family or a close personal friend, that close  
14 personal friend, ever been accused of or the victim  
15 of child abuse? That's question number one.  
16 Victim of or accused of child abuse. That's the  
17 question number one.

18 Question number two is, do you know any  
19 reason, any reason, why you ought not, should not  
20 be a juror in this case being ready, willing, and  
21 able to listen to the evidence and make up your  
22 mind based solely on what you hear in court while  
23 court is in session, being ready, willing, and able  
24 to be completely fair and impartial both to the  
25 State as well as to Mr. Wallace?

1           Ladies and gentlemen, it could be any  
2 reason. It could be that in the seconds between  
3 case number one and case number two you realize  
4 that the tickets to Tahiti they're really on the --  
5 they're not in the refrigerator at home, they're in  
6 the drawer by the refrigerator at home and you're  
7 supposed to leave tomorrow afternoon at 2. It  
8 could be that this particular case causes you  
9 whatever reason, concern that you feel that you  
10 could not be fair and impartial to the State as  
11 well as to Mr. Wallace.

12           Ladies and gentlemen, if you need to  
13 respond to either of the two questions that I  
14 asked, please come forward at this time.

15           And I find no one coming forward.

16           Very well. All right. I find that our  
17 jury is qualified and further voir dire, I should  
18 ask from the State?

19           MS. HUNTER: None.

20           THE COURT: From the defense?

21           MR. KOGER: None.

22           THE COURT: Very well. Five strikes  
23 each. Let us have two alternates, please. Five  
24 strikes each. And two strikes, Mr. Koger, one for  
25 the State on each alternate.

1 MR. KOGER: Yes, that's fine.

2 THE COURT: Same thing, come out, come  
3 forward, and please just face our attorneys just as  
4 you just did.

5 THE CLERK: Juror Number 190, Curtis  
6 Ott. What says the State?

7 MS. HUNTER: Please present this juror.

8 THE CLERK: What says Defense?

9 MR. KOGER: Please excuse this juror.

10 THE CLERK: You may return to your  
11 seat. Juror number 290, Jaekwon Wingo. What says  
12 the State?

13 MS. HUNTER: Please present this juror.

14 THE CLERK: What says Defense?

15 MR. KOGER: Please seat this juror.

16 THE CLERK: You may have a seat in the  
17 jury box. Juror Number 82, Jessie Farman. What  
18 says the State?

19 MS. HUNTER: Please present this juror.

20 THE CLERK: What says Defense?

21 MR. KOGER: Please excuse this juror.

22 THE CLERK: You may return to your  
23 seat. Juror Number 259, Akai Turkvant. What says  
24 the State?

25 MS. HUNTER: Please excuse this juror.



1 THE CLERK: You may return to your  
2 seat. Juror Number 50, Christy Castelloe. What  
3 says the State?

4 MS. HUNTER: Please present this juror.

5 THE CLERK: What says Defense?

6 MR. KOGER: Please seat this juror.

7 THE CLERK: You may be seated in the  
8 jury box. Juror Number 111, Patricia Guinyard.  
9 What says the State?

10 MS. HUNTER: Please present this juror.

11 THE CLERK: What says Defense?

12 MR. KOGER: Please seat this juror.

13 THE CLERK: You may have a seat in the  
14 jury box, ma'am. Juror Number 46, Timothy Caddell.  
15 What says the State?

16 MS. HUNTER: Please present this juror.

17 THE CLERK: What says Defense?

18 MR. KOGER: Please seat this juror.

19 THE CLERK: You may have a seat in the  
20 jury box. Juror Number 249, Dedra Sumpster. What  
21 says the State?

22 MS. HUNTER: Please present this juror.

23 THE CLERK: What says Defense?

24 MR. KOGER: Please seat this juror.

25 THE CLERK: You may have a seat in the

1 jury box. Juror Number 213, Rodney Rhodes. What  
2 says the State?

3 MS. HUNTER: Please excuse this juror.

4 THE CLERK: You may return to your  
5 seat, sir. Juror 163, Jeffrey Martin. What says  
6 the State?

7 MS. HUNTER: Please excuse this juror.

8 THE CLERK: You may return to your  
9 seat. Juror Number 7, Debra Aiken. What says the  
10 State?

11 MS. HUNTER: Please present this juror.

12 THE CLERK: What says Defense?

13 MR. KOGER: Please excuse the juror.

14 THE CLERK: You may return to your  
15 seat, ma'am. Juror Number 268, Jason Warner. What  
16 says the State?

17 MS. HUNTER: Please present this juror.

18 THE CLERK: What says Defense?

19 MR. KOGER: Please seat this juror.

20 THE CLERK: You may have a seat in the  
21 jury box. Juror Number 97, Henry Fuller. What  
22 says the State?

23 MS. HUNTER: Please present this juror.

24 THE CLERK: What says Defense?

25 MR. KOGER: Please seat this juror.

1 THE CLERK: You may have a seat in the  
2 jury box. Juror Number 210, Trevon Randolph. What  
3 says the State?

4 MS. HUNTER: Please present this juror.

5 THE CLERK: What says Defense?

6 MR. KOGER: Please present this juror.

7 THE CLERK: You may have a seat in the  
8 jury box. Juror Number 53, Michelle Cila. What  
9 says the State?

10 MS. HUNTER: Please present this juror.

11 THE CLERK: What says Defense?

12 MR. KOGER: Please excuse this juror.

13 THE CLERK: You may return to your  
14 seat, ma'am. Juror Number 208, Biva Rai. What  
15 says the State?

16 MS. HUNTER: Please present this juror.

17 THE CLERK: What says Defense?

18 MR. KOGER: Please seat this juror.

19 THE CLERK: You may have a seat in the  
20 jury box. Juror Number 26, Todd Black. What says  
21 the State?

22 MS. HUNTER: Please present this juror.

23 THE CLERK: What says Defense?

24 MR. KOGER: Please seat this juror.

25 THE CLERK: You may have a seat in the

1 jury box. Juror Number 6, Leslie Adgerson. What  
2 says the State?

3 MS. HUNTER: Please present this juror.

4 THE CLERK: What says Defense?

5 MR. KOGER: Please seat this juror.

6 THE CLERK: You may have a seat in the  
7 jury box. Juror Number 16, Stanley Baker. What  
8 says the State?

9 MS. HUNTER: Please present this juror.

10 THE CLERK: What says Defense?

11 MR. KOGER: Please seat this juror.

12 THE CLERK: You may have a seat in the  
13 jury box. We will now begin to choose our  
14 alternates. Juror Number 137, Derrick Jamison.  
15 What says the State?

16 MS. HUNTER: Please present this juror.

17 THE CLERK: What says Defense?

18 MR. KOGER: Please seat this juror.

19 THE CLERK: You may have a seat in the  
20 jury box. Juror Number 215, Delores Richburg.  
21 What says the State?

22 MS. HUNTER: Please present this juror.

23 THE CLERK: What says Defense?

24 MR. KOGER: Please excuse this juror.

25 THE CLERK: You may return to your

1 seat. Juror Number 152, Jerry Keitt. What says  
2 the State?

3 MS. HUNTER: Please excuse this juror.

4 THE CLERK: You may return to your  
5 seat, sir. Juror Number 242, Joseph Stephens.  
6 What says the State?

7 MS. HUNTER: Please present this juror.

8 THE CLERK: What says Defense?

9 MR. KOGER: Please seat this juror.

10 THE COURT: Are there any matters  
11 regarding the qualification of the selection of the  
12 jury from the State?

13 MR. HINDS: None, Your Honor.

14 THE COURT: From the Defense?

15 MR. KOGER: None from the Defense, Your  
16 Honor.

17 THE COURT: Very well. Ladies and  
18 gentlemen, those of you who are in our audience,  
19 see this? Are now known as our remaining jurors.  
20 You are known as our remaining jurors. Ladies and  
21 gentlemen, I need to give you some instruction  
22 about how we're going to stay in contact with each  
23 other over the balance of this week.

24 In your information that you were sent,  
25 you were given a juror information number -- juror

1 information line. If you need an additional -- you  
2 already gave it to them this morning, didn't you?

3 MS. JAMISON: They got it on their  
4 card.

5 THE COURT: Got it on your card. If  
6 you don't have it, Ms. Jamison will show you where  
7 it is. Ladies and gentlemen, I need you to please  
8 call the juror information line after 6 o'clock,  
9 after 6 o'clock on Wednesday night. Wednesday  
10 evening. Wednesday. Now today is Monday, you  
11 don't have to call tonight, don't have to call  
12 tomorrow night, call Wednesday night after 6  
13 o'clock. Please do not call before 6 o'clock  
14 because that will give us time to know what our  
15 schedule is and to put the recording on the machine  
16 for you. And that is 6 o'clock Wednesday night.  
17 Anybody got any questions? 6 o'clock Wednesday  
18 night. You can call at 6:01, 7:22 Wednesday night.  
19 If you're up walking the floor at 1 a.m. on  
20 Thursday morning in the middle of the night, you  
21 can call it, but wait until 6 o'clock on Wednesday  
22 to give it a call. That will let us know what our  
23 schedule is, you know, we've got these two cases  
24 that are obviously set for trial. We have juries.  
25 And so give us until Wednesday after 6 o'clock to

1 know what our schedule is to put the recording on  
2 the machine for you.

3 Now, those of you that are dashing off  
4 to work and you need something for your employer,  
5 we'll be happy to get that for you downstairs in  
6 our clerk's office. It is directly below where we  
7 are. Just let them know you're on the jury and  
8 that you need something for your employer,  
9 something for your employer.

10 Ladies and gentlemen, please remember  
11 to call the juror information line after 6 o'clock  
12 Wednesday. Wednesday. Anybody got any questions?  
13 Wednesday. Nope. Thank you, ladies and gentlemen  
14 for every single solitary tick of the clock. Thank  
15 you so much.

16 (WHEREUPON, the remaining jurors left  
17 the courtroom.)

18 THE COURT: All right. Ladies and  
19 gentlemen, I know you're starving. Anybody that's  
20 lightheaded, see Ms. Jamison before you move out  
21 the courthouse. She will find some crackers or  
22 something for you. I don't want anybody to fall  
23 over from hunger. To include the judge.

24 Ladies and gentlemen, we are going to  
25 begin the case that you are involved with, we're

1 going to begin that trial Wednesday morning, 9:30.  
2 Wednesday morning, 9:30. Anybody going to work  
3 Tuesday night? Anybody supposed to go to work  
4 Tuesday night? No!

5 JUROR: Not nighttime, daytime.

6 THE COURT: Well, don't go -- do not go  
7 Tuesday night because you can't do both. You can't  
8 stay up all night and work and then give the  
9 correct proper attention to these matters and it's  
10 not fair to you and it's not fair to the litigants.

11 Now, if anybody gives you any grief,  
12 just get me a name and a number and I will call  
13 them. I guess for you guys Judge Griffith will  
14 call them. Judge Griffith will be trying the case  
15 that you all will be involved with on Wednesday  
16 morning. So be here, please, 9:30 Wednesday  
17 morning ready to try the case that you are involved  
18 with.

19 Now, ladies and gentlemen, in just a  
20 moment I am going to ask you to go with Ms.  
21 Jamison, she is going to be sure that we have your  
22 cell phone or a number that you can be reached  
23 should you need to be reached for any reason. I  
24 can't imagine what the reason might be, but I know  
25 that if I don't get it, it will be needed. So I'm



1 going to ask you to share that information with us  
2 since it will be a couple of days before your trial  
3 begins. So does anybody have any questions?  
4 Wednesday at 9:30, please be here in the courthouse  
5 ready to begin your trial with Judge Griffith.

6 Now, any of you that need something for  
7 your employer to give to them today or tomorrow,  
8 remember in the clerk's office we will be more than  
9 happy to get that for you. But please tell them  
10 that you will not be there beginning Wednesday  
11 because you will be involved in the trial of this  
12 case.

13 Now, ladies and gentlemen, the same  
14 admonition. Do not discuss this matter, don't  
15 allow anyone to discuss it with you. And you  
16 probably heard me explaining to the other jury  
17 panel, the reason that we give you that instruction  
18 is to support your ability to listen open mindedly  
19 to all the evidence, the arguments of counsel, to  
20 everything that is presented to you and make up  
21 your mind about nothing until you have heard  
22 everything. The reason we give you that  
23 instruction is to support your ability to do that,  
24 to support your ability to listen open mindedly to  
25 everything that is presented to you and make up

1 your mind about nothing until you have heard  
2 everything.

3 Remember, do not do any Columbo, no  
4 investigation, don't go to the internet looking for  
5 any information even looking up a statute or  
6 anything that may be in the news or even a  
7 definition of a word that you've heard spoken. You  
8 must receive all of the information from which you  
9 will make up your minds here in court while court  
10 is in session. Please be mindful of that. Please  
11 do not discuss this matter with anyone. That's  
12 your family, your friends, your coworkers and your  
13 fellow jurors. You may only discuss this case when  
14 Judge Griffith has given you a specific instruction  
15 to begin your deliberation and that will not come  
16 until you have heard all the evidence, the  
17 arguments of counsel, the judge's charge and he  
18 will specifically tell you that that time has come.

19 So when you go home or go to work if  
20 you're heading into work this afternoon, please  
21 don't discuss this matter with your coworkers or  
22 family or friends. You can say that you reported  
23 for your duty -- your jury duty. You can say you  
24 have been selected to serve on a jury. You could  
25 say it's a criminal matter as opposed to a civil

1 matter, but beyond that you must not discuss this  
2 matter or allow anyone to discuss it with you. But  
3 put it on the judge, just say the judge has ordered  
4 you not to do that and that will support your  
5 ability to listen open mindedly to everything.  
6 Make up your mind about nothing until you've heard  
7 it all. You've heard everything and you have been  
8 instructed to begin your deliberations by Judge  
9 Griffith.

10 Remember the admonition about cell  
11 phones. You must not have a cell phone with you  
12 while you're serving on the jury. Please, if your  
13 comfortable, please leave it somewhere other than  
14 the courthouse. If you bring it with you, you must  
15 relinquish it, you must give it to one of our  
16 bailiffs, that would be Ms. Jamison or Ms. Diane.  
17 You must not have it with you when you're serving  
18 on the jury. So please remember to relinquish your  
19 cell phone or other communication device. Thank  
20 you for every tick of the clock. Remember, Ms.  
21 Jamison has got some crackers back there if you  
22 need something to munch on on the way home and  
23 thank you for every tick of the clock.

24 I'm so jealous of Judge Griffith  
25 because he gets to see you on Wednesday morning and

1 I do not. I'm so jealous. Thank you for every  
2 tick of the clock. It's been a delight to be with  
3 you this morning. Have a wonderful rest of your  
4 day and thank you so much.

5 (WHEREUPON, the jurors left the  
6 courtroom.)

7 THE COURT: Thank you so much.

8 - - -END OF REQUESTED TRANSCRIPT OF RECORD- - -

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA        )

COUNTY OF ORANGEBURG         )

I, KATHERINE A. SPIRES, Registered Professional Reporter for the First Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and partial Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Orangeburg County, South Carolina, on the 27th of March, 2023.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

August 28, 2023

*s/Katherine A. Spires*

Katherine A. Spires

Registered Professional Reporter

1 State of South Carolina ) Court of General Sessions  
2 County of Orangeburg ) First Judicial Circuit

3  
4 State of South Carolina, ) Transcript of Record  
5 vs. ) 2018-GS-38-01986  
6 Kareem Lamell Wallace, ) 2020-GS-38-00736  
7 Defendant.)

8  
9 March 29th-30th, 2023  
Orangeburg, South Carolina

10 B E F O R E:

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

12  
13 A P P E A R A N C E S:

14 Catherine Mubarak Hunter, Assistant Solicitor  
15 Chris A. Hinds, Assistant Solicitor  
On behalf of the State of South Carolina

16 Joshua Koger, Jr., Esquire  
17 On behalf of the Defendant

18  
19 Reported by: Stacy S. Johnson, RPR  
Circuit Court Reporter

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| 25 |      |                                   |     |     |

1 (Whereupon, jury selection and other matters were  
2 heard on March 28, 2023, and reported by Katherine  
3 Spires.)

4 (The following proceedings were held March 29, 2023,  
5 beginning at 9:51 AM.)

6 (State's Exhibit Numbers 1 through 15 were marked  
7 for identification.)

8 BAILIFF: All rise. Court is in session. The  
9 Honorable Judge Griffith presiding.

10 Order.

11 THE COURT: All right. We've got a few pre-trial  
12 things to deal with in this case, so you-all tell me what  
13 you want to do first.

14 MR. HINDS: Your Honor, first of all, we provided  
15 Your Honor with a copy of our pre-trial motions. I think  
16 it makes sense to probably do our Denno hearing first.

17 THE COURT: Okay.

18 MR. HINDS: So with that, we'd obviously move to  
19 accept the voluntariness of the defendant's statement,  
20 so we request this hearing pursuant to Jackson v. Denno.

21 If Your Honor's ready, I'll proceed.

22 THE COURT: Yeah, I'm ready. Go ahead.

23 MR. HINDS: The State calls Sergeant Lakesha Gillard.

24 (Whereupon, Lakesha Gillard was duly sworn by the  
25 Clerk of Court.)

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LAKESHA GILLARD,

having been duly sworn, testified as follows:

DIRECT EXAMINATION (In-Camera)

BY MR. HINDS:

Q. Good morning, Sergeant.

A. Good morning.

Q. Where are you employed?

A. Orangeburg County Sheriff's Office.

Q. And what's your capacity at the sheriff's office?

A. I'm a sergeant in major crimes and investigations.

Q. Did you have any background prior to sheriff's office  
in law enforcement?

A. I do.

Q. And where is that?

A. South Carolina State University and I did ten months  
at Bowman Police Department.

Q. Okay. And you were a police officer obviously at  
those?

A. I was.

Q. Okay. In your thirteen years at the sheriff's office,  
have you been an investigator for all thirteen years?

A. Yes.

Q. Okay. And I'll just jump right into it. Were you  
assigned as the lead case agent to this case?

A. I was.

1 Q. And through the course of your investigation, did  
2 you have an opportunity to interview individuals in this  
3 case?

4 A. I did.

5 Q. And who did you interview?

6 A. Kareem Wallace and Angel Prince.

7 Q. Okay. And when did this interview with Kareem Wallace  
8 take place?

9 A. September the 5th, 2018.

10 Q. And where did this interview occur?

11 A. At our central investigations office on Chestnut here  
12 in Orangeburg.

13 Q. Was that interview audio and video recorded?

14 A. It was.

15 Q. All right. And at that time did the defendant in  
16 this case, Mr. Wallace, come in voluntarily or was he in  
17 custody?

18 A. He came in voluntarily.

19 Q. And was he free to leave during that interview at any  
20 time?

21 A. He was.

22 Q. And at that point in the investigation, was he a  
23 suspect?

24 A. No.

25 Q. Okay. And even at that point on September 5th, had

1     you even sought any arrest warrants for him?

2     A.     I had not.

3     Q.     Okay.

4           All right. And before you began that interview, did  
5     you advise the defendant of his Miranda rights despite him  
6     not being in custody?

7     A.     I did.

8     Q.     And did you ask him prior to doing so about his  
9     education, his ability to read and write?

10    A.     Yes, I did.

11    Q.     Okay. Do you remember what he told you?

12    A.     He told me he had some college he started at OC Tech.

13    Q.     Okay. And in this case, did you verbally advise him  
14    or did you use your Advisement of Rights Form?

15    A.     I used the department's Advisement of Rights Form.

16           MR. HINDS: May I approach, Judge?

17           THE COURT: You may.

18           (Court's Exhibit Number 1 was marked for  
19    identification.)

20    BY MR. HINDS:

21    Q.     I'm gonna show you what's been marked or what we'd  
22    like to be admitted as Court's Exhibit 1.

23           Do you recognize that?

24    A.     Yes.

25    Q.     What is it?

1 A. It's our Advisement of Rights Form, a form that I  
2 went over with Mr. Wallace.

3 Q. Okay. And did you read him his rights off that  
4 paper?

5 A. I did.

6 Q. Okay. And did he initial by each and every right  
7 indicating he understood?

8 A. Yes, he did.

9 Q. And he ultimately waived those rights and agreed to  
10 speak with you?

11 A. Correct.

12 Q. Okay. At any point in time during that interview,  
13 did he request to stop and have his lawyer present?

14 A. He did not.

15 Q. Okay.

16 And I know you said this earlier, but was that  
17 interview audio and video recorded?

18 A. Yes, it was.

19 MR. HINDS: May I approach, Judge?

20 THE COURT: You may.

21 (Court's Exhibit Number 2 was marked for  
22 identification.)

23 BY MR. HINDS:

24 Q. I'm gonna show you what we'd like to be admitted as  
25 Court's Exhibit 2. If you can manipulate that and open

1 it if you'd like.

2 A. (Witness complies.)

3 Q. Do you recognize that?

4 A. Yes.

5 Q. Okay. What is that?

6 A. His recorded interview recording.

7 Q. Okay. All right.

8 MR. HINDS: Your Honor, at this point I believe as  
9 to the -- as you know, Jackson versus Denno, our issue  
10 is to determine the voluntariness of the defendant's  
11 statement. We have admitted Court's Exhibits 1 and 2;  
12 2 being the actual statement or the interview. It's  
13 about seventeen minutes long. I think strictly for  
14 purposes of Jackson v. Denno, I think we've proven  
15 voluntariness through our line of questioning, but  
16 obviously I'll yield to Your Honor if you want to hear  
17 the statement at this point or allow cross-exam.

18 THE COURT: I think I'll allow cross-examination on  
19 the voluntariness, not on the statement itself because --

20 MR. HINDS: Yes, sir.

21 THE COURT: -- the statement's the statement. The  
22 voluntariness is the issue.

23 MR. HINDS: Yes, sir. Thank you, Judge.

24 Thank you. Please answer any questions.

25 MR. KOGER: Your Honor, may it please the Court?



1 THE COURT: Sure.

2 CROSS-EXAMINATION (In-Camera)

3 BY MR. KOGER:

4 Q. How long was -- how long was the statement again?

5 A. It probably exceeded fifteen minutes.

6 Q. Okay. And on that particular day, you interviewed  
7 two people; Ms. Prince and Mr. Wallace, correct?

8 A. Correct.

9 Q. Okay. All right. And before you went on the audio  
10 and before you went on the video, were there any off record  
11 conversations?

12 A. No, sir.

13 Q. Okay. And when you -- in the order of the  
14 interviewing, Mr. Wallace was second, correct?

15 A. Correct.

16 Q. Okay. All right. And so Ms. Prince was first.  
17 Where was Mr. Wallace sitting or where was he -- in the  
18 station, where was he sitting while you were interviewing  
19 Ms. Prince?

20 A. I'm not particularly sure, but if I was in the  
21 interview room with her, he would have been sitting in the  
22 lobby area up front.

23 Q. Okay. And how far is the lobby area from the -- from  
24 the interview room?

25 A. It's a good distance. From the front door, in the

1 back there is another doorway, either we had it closed or  
2 we had it open, and then you walk in through that door and  
3 then you make a right and our interview rooms are on the  
4 right-hand side.

5 Q. And what did you say to him? Did you give him the  
6 Miranda -- the Miranda waiver form immediately or did you  
7 talk to him before you gave him the Miranda waiver form?

8 A. I actually talked to him about his education.

9 Q. Okay. All right. And he -- and he signed the Miranda  
10 form, correct?

11 A. He did.

12 Q. All right. And you say that he was not a suspect at  
13 the particular time?

14 A. Correct. We were doing an investigation to determine  
15 who was the person that was responsible for the injuries.

16 Q. Did you indicate to him that he was not a suspect?

17 A. We didn't discuss that.

18 Q. Okay. You say he came in. So you contacted him?

19 A. Correct.

20 Q. All right. How many days you'd contacted him before  
21 he came in or he came in immediately after you contacted  
22 him?

23 A. I don't recall. We had -- I contacted him several  
24 times, but the initial interview, I'm not too sure if it  
25 was once or twice, but I think as soon as I contacted him

1 he agreed to come in.

2 Q. Okay. All right. So when -- so when he came in, did  
3 you indicate he was a suspect?

4 A. I did not.

5 Q. Okay. So he was still free to leave at that  
6 particular time?

7 A. Correct.

8 Q. And he signed the Miranda statement?

9 A. Correct.

10 Q. Okay. And the length of the interview is about  
11 seventeen minutes, correct?

12 A. Or something. Yes, sir.

13 Q. Okay. And also on -- on that statement was some type  
14 of demonstration with a doll, correct?

15 A. Are you talking --

16 Q. On the videotape.

17 A. Correct. Uh-huh.

18 MR. KOGER: Okay. Thank you. No further questions  
19 at this time. Reserve further questioning for the case  
20 in chief.

21 THE COURT: Can I see the exhibits so I know what  
22 we're looking at?

23 MR. HINDS: Yes, sir.

24 Do you want to play the video or do you want --

25 THE COURT: No, I don't want to see the video.

1 That's for the jury to determine. I just want to make  
2 certain that I understand the form because you-all --  
3 sometimes they go through the whole thing, so this is  
4 what I asked him and I had a conversation. I want to  
5 see it.

6 MR. HINDS: Yes, sir.

7 And, Judge, just for the record I would like to seek  
8 to admit these as Court's 1 and 2.

9 THE COURT: For purposes of this hearing, I thought  
10 they were admitted --

11 MR. HINDS: I know. I just --

12 THE COURT: -- because you can't object to a Court's  
13 exhibit.

14 MR. KOGER: No, no objection for purposes of the  
15 hearing, Your Honor.

16 THE COURT: All right.

17 EXAMINATION (In-Camera)

18 BY THE COURT:

19 Q. Ma'am, as a trained officer and investigator, did he  
20 appear to be under the influence of anything?

21 A. He did not.

22 Q. Alcohol? Drugs?

23 A. No, sir.

24 Q. Is was he lucid? Was he lucid? Was he --

25 A. Normal?

1 Q. -- acting normal?

2 A. Yes, sir.

3 Q. Did you notice any nervousness about him as you were  
4 talking to him?

5 A. No, sir.

6 Q. Did you find he gave you appropriate responses when  
7 you were just talking to him normally and they weren't off  
8 the wall or unexpected, they were traditional responses to  
9 questions you were asking?

10 A. They were normal.

11 THE COURT: Okay. I find the statement was  
12 voluntary under the parameters of Jackson v. Denno and  
13 I'd admit -- I'll allow it to be admitted should the  
14 State decide to introduce it at trial.

15 These two exhibits, the recording and the statement,  
16 will be admitted for the purposes of the Jackson v. Denno  
17 hearing.

18 (Court's Exhibit Number 1, Advisement of Rights  
19 Form, and Court's Exhibit Number 2, Defendant's recorded  
20 statement, were admitted for pretrial hearing purposes.)

21 THE COURT: If you-all want to introduce those in  
22 the case in chief, Ms. Johnson may want to re-number them  
23 as State's exhibits and that kind of thing.

24 MR. HINDS: I have an extra copy, Judge.

25 THE COURT: All right. Fair enough. That will make

1 it easier on her.

2 MR. HINDS: Thank you, Your Honor.

3 You can step down. Thank you.

4 (Witness excused.)

5 MR. HINDS: And, Judge, I believe next would be  
6 the State's motion to exclude any testimony or evidence  
7 of third-party guilt that is not inconsistent with the  
8 evidence that we would present. We provided the defense  
9 with a copy of our motion, as well as Your Honor.

10 Basically we would move that the defense not be  
11 allowed to explore any irrelevant conjecture-type motive  
12 or evidence that is not -- or evidence of third-party  
13 guilt of another person that's inconsistent with the  
14 facts presented in the case. I think that's pretty  
15 standard practice.

16 THE COURT: That's caselaw.

17 MR. HINDS: Sir?

18 THE COURT: That's caselaw.

19 MR. HINDS: Yes, sir. And I'd just put that on the  
20 record.

21 THE COURT: All right.

22 MR. KOGER: Your Honor, may it please the Court?

23 I have a response to get some clarification here.  
24 As far as the prohibition against third-party guilt,  
25 what we have here is a child support case and -- and the

1 timing of the injury may -- may become an issue once we  
2 go through the testimony of the doctors and those were  
3 reading the x-rays or the radiographs, so basically it  
4 may -- testimony may come forth or foundation for  
5 testimony may come forth that may set the time back from  
6 where Mr. Wallace is alleged to have committed the crime.

7 THE COURT: And that's dependent upon the testimony  
8 of the witnesses.

9 MR. KOGER: Right. Depends on the testimony of the  
10 witnesses.

11 THE COURT: That's okay.

12 MR. KOGER: Okay.

13 THE COURT: I mean, if you find facts that say the  
14 window of time is thus and so as opposed to thus and so,  
15 you can explore that.

16 MR. KOGER: Okay. All right.

17 THE COURT: Absolutely. That's testimony to the  
18 experts.

19 MR. KOGER: Okay.

20 THE COURT: All right. I don't see any issue there.

21 MR. HINDS: Okay. Thank you, Judge.

22 MR. KOGER: Thank you.

23 MS. HUNTER: Your Honor, the third pre-trial  
24 matter we'll need to address is the radiologist will be  
25 testifying to x-rays that were taken of this child. We

1 had -- the child -- the mother takes the child to the  
2 emergency room at the -- it's called TRMC, The Regional  
3 Medical Center, which is here in Orangeburg. The child  
4 is then transferred by ambulance to Prisma -- well, it's  
5 now called Prisma Health, Richland Memorial, in Columbia,  
6 which is the children's hospital.

7 X-rays were taken of this child at TRMC. They are  
8 not a children's hospital. They do not have a pediatric  
9 radiologist, so the -- the x-rays were transferred. The  
10 pediatric radiologist was consulted on the -- those  
11 x-rays. Follow-up x-rays were taken of this child. I  
12 believe three different sets of follow-up x-rays were  
13 taken.

14 So we have been over an entire disk of -- of x-rays  
15 from Prisma that we would mark as Court's Exhibit 3 and  
16 ask to be put in for identification purposes only so that  
17 the Court has a full copy of the -- of all of the x-rays  
18 that were taken of this child and -- but we would not  
19 intend on admitting all of those through our witness. We  
20 have narrowed it down to fifteen images, Your Honor.

21 I've been through those with Mr. Koger and Mr. Koger  
22 is objecting to a few of them for purposes of what he, I  
23 believe -- he can argue his own motion as to what he's  
24 objecting to, but we're asking that at trial the State be  
25 allowed to admit all fifteen of these.



1 I'll be happy to go through them. I have premarked  
2 them. I guess for this purpose, I need to pre-mark them  
3 as a Court's -- how would you like me to discuss these for  
4 the record? I had pre-marked them as State's exhibits.

5 THE COURT: I think they should be discussed as  
6 State's exhibits as opposed to Court's exhibits because  
7 I'm not gonna admit them for purposes of the pretrial  
8 hearing.

9 MS. HUNTER: Right.

10 THE COURT: You're gonna go ahead and introduce them  
11 in the case in chief and he's gonna object.

12 MS. HUNTER: So I can leave them premarked as State's  
13 exhibits?

14 THE COURT: Absolutely.

15 MS. HUNTER: Okay. So, Your Honor, the first image  
16 -- do you want me to go through each image one by one?

17 THE COURT: I guess since you-all are familiar with  
18 them, let's hear his -- what he's gonna object to. That  
19 way you don't have to go through all of them.

20 MS. HUNTER: Okay. That's fine. Perfect.

21 THE COURT: He's got two. Let's go to those two.

22 MS. HUNTER: Okay.

23 MR. KOGER: Your Honor, may it please the Court?

24 This trial consists of the alleging of four  
25 injuries. We have fifteen x-rays here that the State is

1 seeking to admit into evidence. I have the numbers down  
2 as far as what I think are redundant and also, too, there  
3 are -- as she's gonna testify to, there are several sets  
4 of follow-ups that occurred about a month or two months  
5 later.

6 I would object to any type of follow-ups being  
7 submitted. The injuries allegedly occurred on August 28,  
8 2018, and then there are those initial sets of x-rays at  
9 TRMC and at the pediatric center around that particular  
10 time.

11 I have no problem with one from each -- from each  
12 injury. I think in a case like this here, if you put --  
13 you know, we're dealing with a three-month child. If you  
14 put fifteen x-rays into evidence, I think that is more  
15 prejudicial than probative in this particular case.

16 Again, you know, the allegations are four different  
17 fractures. They can pick out what -- which one of those  
18 -- which radiograph or x-ray of those fractures are the  
19 ones to submit into evidence, but I just think fifteen is  
20 just excessive in a case like this.

21 Now I know they say there were follow-ups, but if  
22 you're just trying to show the jury the actual injury,  
23 then the best evidence, the best radiographs or x-rays to  
24 put in, are the ones that happened -- allegedly happened  
25 around the time of the incident.

1           THE COURT: All right. And can I consider this a  
2 motion in limine?

3           MS. HUNTER: Yes, Your Honor.

4           MR. KOGER: Yes.

5           THE COURT: That's the way I would rather do it and  
6 then when we get the flavor of the case as the testimony's  
7 coming in, I'll be in a much better position to determine  
8 the 403 analysis, probative versus prejudicial, so we'll  
9 deal with it that way.

10          So all fifteen are marked as State's exhibits. None  
11 of them are admitted and we'll go through them one at a  
12 time with the witnesses you will call.

13          MS. HUNTER: Well, Your Honor, for -- I understand  
14 your ruling. Because this witness is testifying remotely,  
15 if -- I would -- the reason I would like it addressed now,  
16 if possible, is because I want to be able to pull and tell  
17 him do not pull those up on the screen so that we're not  
18 having to unplug the TV, plug the TV back in.

19          THE COURT: Wait a minute. How am I gonna do that  
20 without the witness here?

21          MS. HUNTER: Yeah, I guess -- I guess if you want to  
22 hear our argument as to why they --

23          THE COURT: I understand both of your arguments now  
24 and I haven't seen one. You think they're probative, he  
25 thinks they're unduly prejudicial. I got it. I mean,

1     that's the rule, isn't it?

2           MS. HUNTER:  Yes, Your Honor.  That the x-rays in  
3     general are more -- okay.

4           THE COURT:  I don't see how you're gonna deal with  
5     them any other way.

6           MS. HUNTER:  Yes, sir.

7           THE COURT:  You just characterize -- I mean, you've  
8     got to let your witness know those are the fifteen you're  
9     talking about except without publishing it on the screen  
10    yet, with regard to Exhibit 2 --

11          MS. HUNTER:  Yes.

12          THE COURT:  -- and then see if he can describe it  
13    and then we'll do it that way.

14          MR. KOGER:  Well, Judge, I want to receive some -- I  
15    want to receive some clarification.  Then so basically as  
16    she's examining her witness, he's going to talk about on  
17    the screen all fifteen?

18          THE COURT:  No, no, no.  That's what I'm saying.  
19    She's gonna have to tell him or her, whichever it is, you  
20    have State's 1 through 15 in your hand.  I'm gonna ask  
21    you about Number 2 without placing it on the screen, and  
22    I think you need to say it in front of the jury because  
23    it would be like if they were on the witness stand and  
24    you hand them an exhibit.

25          MS. HUNTER:  Do you recognize this?  How?  Correct?

1           THE COURT: Right. I don't think I can do a  
2 preliminary ruling therein and out without hearing  
3 testimony and the flavor of how the doctor did the  
4 examination. I presume these are doctors.

5           MS. HUNTER: He is. It's a radiologist, that's  
6 correct. And I think their argument is that these images  
7 are duplicative and I guess our only -- I don't know if  
8 I'm wasting your time here or not. You've ruled. I  
9 understand that. It's just that they're not -- they show  
10 the same bone, but different angles of the bone. So we'll  
11 have to deal with them one by one. I understand.

12          THE COURT: I think that's the only way we can do it.

13          MS. HUNTER: Yes, sir.

14          MR. KOGER: I'm just concerned about him -- I think  
15 you might have answered it, but, again, not only that my  
16 objection is not to have all fifteen if you decided to  
17 -- decided to rule in favor of the State and include the  
18 evidence, but also my objection is if she just counts  
19 them out and goes through tell me what's on State's  
20 Exhibit 1, tell me what's on -- and go up to 15 because  
21 then that defeats the whole purpose of me objecting to  
22 -- to those radiographs coming into evidence.

23          THE COURT: I mean, you've got to live with it,  
24 dude. That's just how it works. I mean, she's got  
25 fifteen pictures and she can ask the witness and you make

1 your objection and if I find they're unduly prejudicial  
2 before they're put in front of the jury, I'll say you're  
3 right, that's prejudicial or duplicative. I mean, she's  
4 got a disk full of radio images and she's chosen fifteen.  
5 I don't see how I can rule ahead of time saying -- tell  
6 her not to -- tell how many she's got. I mean, it is  
7 what it is.

8 MR. KOGER: So I'll just renew my objection at the  
9 appropriate time.

10 THE COURT: Okay. I don't know how you get around  
11 it. She's got a thousand pictures and she cuts them down  
12 to fifteen; Judge, I don't want the jury to know there's  
13 more pictures than this that you're not letting in, I  
14 mean, it kind of makes you look good when you're right,  
15 doesn't it?

16 MR. KOGER: I will renew my objection at the  
17 appropriate time, Your Honor. Thank you.

18 THE COURT: Okay.

19 (Court's Exhibit Number 3 was marked for  
20 identification.)

21 MS. HUNTER: And I'm just gonna hand up what we  
22 marked as Court's Exhibit 3 and that would be the full  
23 disc with -- that would be a copy of all the Prisma  
24 x-rays.

25 MR. KOGER: Yeah, I received a copy, Your Honor.

1 THE COURT: Okay.

2 MR. KOGER: Just note my objection.

3 THE COURT: Okay. You're protected.

4 MS. HUNTER: Mr. Koger, any other pre-trial matters?

5 MR. KOGER: No.

6 Nothing from the defense, Your Honor.

7 THE COURT: All right. Are you ready to get started?

8 MS. HUNTER: Yes, Your Honor. The State's ready to  
9 proceed.

10 MR. KOGER: We're ready to proceed, Your Honor.

11 THE COURT: Okay. Bring in the jury.

12 BAILIFF: Yes, Your Honor.

13 MS. HUNTER: Your Honor, just as reminder, I believe  
14 Mr. Koger wanted to add one witness to the list.

15 THE COURT: Did we do that?

16 MS. HUNTER: Would just make sure that you read the  
17 name out?

18 THE COURT: That's Number 5?

19 MR. KOGER: Right. Number 5.

20 MS. HUNTER: I don't want to forget to do that and  
21 get halfway through and . . .

22 BAILIFF: Your Honor, I beg the Court's indulgence.

23 THE COURT: That's fine.

24 (Whereupon, the jury enter the courtroom at  
25 10:22 AM.)

1           THE COURT: All right. Good morning, folks.

2           Judge Goodstein helped these lawyers to select  
3 you-all to try this case. I was in Virginia yesterday  
4 with my son who just finished his -- for anybody in  
5 the military, his AIT training. He's a specialist in  
6 helicopter repair on a 864 and graduated yesterday. He  
7 was driving home right now and just got in a fender  
8 bender about ten minutes ago, so that's always good. In  
9 my little car.

10          Anyway, it's my pleasure to be here in Orangeburg.  
11 My name is Eugene Griffith. I'm from Newberry County and  
12 I get rotated around as much as any judge around. I was  
13 assigned in York County for the last twelve months and  
14 I've got another six to go, I think. They tell you six  
15 months at a time, so I've been driving from my house to  
16 York and Union County for the last eight to nine months,  
17 and it's a horrible drive. It's an hour and forty minutes  
18 to get up there, but that's where I'm assigned. Then they  
19 gave me break and sent me to Allendale last week, sent me  
20 to Orangeburg this week, and then I'm back in the salt  
21 mine next week.

22          Anyway, I get moved around and I get to meet people,  
23 and I love it. My favorite part of my job is doing jury  
24 trials. We have a trial here today. It's not a lengthy,  
25 long -- you're not gonna be -- get any book deals out



1 of this like the other jury we heard about a couple of  
2 weeks ago. This is a simple -- a shorter trial, but it's  
3 just as important as any trial. Every trial's important  
4 because you've got to wait your turn to get your day in  
5 court and this is this trial's day in court.

6 So my direction to you is everything you need to  
7 decide this case you're gonna hear in the courtroom as  
8 a collective group of thirteen now. We had fourteen  
9 yesterday. One of you, and I don't know anybody on the  
10 list, they showed me the list, but somebody had a dental  
11 emergency and is in the dental chair right now getting  
12 something fixed. And so I've got two alternates. Whoever  
13 you-all are, I don't know, one of you-all will be drawn  
14 in the trial to sit with the other twelve unless somebody  
15 else gets another dental emergency and then we'll be down  
16 to twelve and we'll deal with that.

17 So you-all sit wherever you like. Eventually I'm  
18 gonna pick a foreperson and say okay, will you do that  
19 or will you do that. I don't know who it's gonna be yet,  
20 but I just do that as a matter of practice, but you'll  
21 get everything you-all need to decide the case here in  
22 the courtroom from the lawyers, the witnesses, the  
23 evidence, and the instructions on the law from me.

24 Now it's important if you-all can't -- there's so  
25 much court on TV, one of my biggest challenges is telling

1    juries and instructing them on what the law actually is,  
2    not what it is on TV or on the Internet or in the movies  
3    or Netflix or wherever.  South Carolina law is South  
4    Carolina law and it's not the same as it is over in  
5    Georgia and it's not the same as it is in North Carolina.

6           For instance, you have a pistol in your car.  In  
7    North Carolina it's got to be on your seat in plain view.  
8    In South Carolina, it's got to be in your glove box.  So  
9    you can drive from Charlotte to York and be in the law  
10   and without the law as soon as you cross the state line.  
11   It's just that quick.  That's a misconception of some  
12   people.  In North Carolina, they're doing right.  They  
13   come to South Carolina, they're doing wrong just rolling  
14   across the state line.  That's just an example I have.

15           I will instruct you on the law, what it is, based  
16   upon the case that's presented at the very end.  You-all  
17   -- I'm the judge of the law; you-all are judges of the  
18   facts.  You-all are gonna make a judgment of what happened  
19   and so the way it's gonna happen is this.  We're gonna  
20   present the trial.  And I don't know anything about it  
21   other than what little bit I've heard about it this  
22   morning.  The lawyers have a job to present the facts  
23   to you.  The defendant, the person accused, has no  
24   responsibility to prove anything or to disprove anything.  
25   Most times they just wait and listen to see what all the

1 State has to present to the jury before they decide  
2 whether they're gonna present anything or not. I don't  
3 know whether they will or they won't and they don't have  
4 to tell us up front.

5 Now Judge Goodstein read off a list of potential  
6 witnesses to you-all as a group; do you know any of them,  
7 are you connected to anybody or related to anybody, to  
8 make certain you-all could be fair and impartial. Well,  
9 since the trial hasn't started and you-all haven't been  
10 sworn, we're still good on that, but one of the lawyers  
11 added another witness this morning and I want to ask is  
12 anybody related by blood or marriage, close personal  
13 friends to Eleanor Wallace? She's a potential witness  
14 in the case.

15 Anybody connected to her in any way whatsoever?

16 All responses being negative for the record.

17 So she may be called as a witness. I don't know.  
18 The reason we do it that way is potential witnesses -- is  
19 the State's got to call some witnesses because they have  
20 the burden of proof, so they've got to call witnesses.  
21 The defense side doesn't have to call any witnesses if  
22 they don't want to. They decide after they see what the  
23 State does. It's up to them. But potential witnesses,  
24 the State presents them to you. They may need them, they  
25 may decide they don't want them, but what's troublesome

1 is in the middle of the trial they say we've got one more  
2 witness and it turns out to be a brother-in-law of one  
3 of you-all or went through a divorce with your sister  
4 or something, you know. I don't know. Somebody got in  
5 trouble. So they've got a list of potential witnesses  
6 in every case to hopefully avoid that. So since you-all  
7 aren't connected, we're good.

8 Now if an issue comes up and one of the lawyers  
9 says Judge, I've got a matter of law; Judge, I've got an  
10 objection on 403, sometimes when that happens -- because  
11 I don't know anything about the case. It's not like in  
12 a baseball or a basketball game where they run the play  
13 and they call out of bounds and they go look at a video  
14 replay and decide whose finger it went off of. It could  
15 have been this player or that player and they go back and  
16 review and get the call right. Well, in a courtroom an  
17 objection is Judge, this is some of evidence that I don't  
18 believe is allowed under the rules. Will you please  
19 preview it and make that determination before the jury  
20 hears it? So I get a pre-replay, then you-all get the  
21 replay of whether it's allowed or disallowed and what  
22 the rules of evidence are, that's for me to determine,  
23 whether it's allowed or disallowed. You-all get to hear  
24 the testimony.

25 So if I have an issue like that that comes up and I

1 say okay, I've got a matter of law, I've got to preview  
2 some evidence, you-all step in the jury room and let me  
3 hear it and let the lawyers freely discuss whether it's  
4 allowed; no, it's not allowed, Judge, because of these  
5 reasons or because of those reasons, then I make the  
6 determination and if we go forward, then you-all get to  
7 hear what's allowed or disallowed. You-all make the  
8 decision on what you-all hear, not on what I don't rule  
9 as admissible, okay? For that reason, you're out of the  
10 courtroom so you don't know what it is. It's not like  
11 we're hiding something from you, but this case is based  
12 upon the facts in this case and not about some other thing  
13 some other time that's not relevant to what you-all have  
14 got to decide.

15 Now the same facts go this way. You-all are the  
16 judges of the facts. So once you-all have the case and  
17 you-all are making you-all's determination about what  
18 happened, you-all will be in the jury room without me.  
19 When you do your job in the jury room, I'm here in the  
20 courtroom. So I'll do my job, you-all do you-all's job  
21 and we kind of work together, but we do a little  
22 separately. That's just how it works. Judge of the law;  
23 judge of the facts, okay?

24 So as judge of the facts, you-all are gonna listen  
25 to the testimony closely, evaluate the evidence with

1 common sense and good judgment. That's you-all's job.  
2 It's as simple as that.

3 All right. The clerk's gonna swear you in and the  
4 State's gonna give you an opening statement saying this  
5 is what the case is gonna -- what we intend to prove, the  
6 defense gets to respond to that and say this is my name  
7 and this is what I think the State can't prove. Whatever.  
8 Opening statements. As soon as they finish that, we'll  
9 call witnesses.

10 Now a couple of those witnesses are gonna testify  
11 remotely out of Columbia. I think they're doctors  
12 maybe. That testimony is just as valid as a live witness.  
13 It's just more convenient because doctors can't leave  
14 their practice sometimes, it's difficult. There's just  
15 different reasons they do that. Some witnesses will be  
16 live and some witnesses won't.

17 Now once a witness is put on the witness stand, they  
18 can't talk to anybody else about their testimony until  
19 they get finished, both sides get to examine them, so I  
20 don't like to take breaks in the middle of a witness  
21 that's testifying, okay? If they're testifying and the  
22 State gets done and it's been a while, we may take a  
23 break, but that witness then can't go back to whichever  
24 side called them and say how am I doing, am I getting the  
25 questions right or whatever. They can't talk about it

1 and get any coaching. They've got to stay independent  
2 because they're here to present to you. So for that  
3 reason I try to take breaks after a witness is done and  
4 finished so that way then they can go back and say all  
5 right, can I leave, am I not under any responsibility  
6 to the State any longer, you know, as a witness for the  
7 trial or whatever, but once the State and the defense  
8 calls any witnesses we'll try to keep them in clumps of  
9 organization, but if you-all need a break, let her know  
10 and we'll take a break for any reason whatsoever; a  
11 bathroom break, a coffee break, whatever. We're in here  
12 together and we're just here to listen, okay?

13 All right. Those are my preliminary instructions.

14 Madam Clerk, if you'll swear them in, we'll begin.

15 THE CLERK: If you will stand and raise your right  
16 hand, please.

17 (Whereupon, the jury was duly sworn by the Clerk of  
18 Court.)

19 THE CLERK: You may be seated.

20 THE COURT: Mr. Hinds.

21 MR. HINDS: Judge Griffith, may it please the Court?

22 THE COURT: Yes, sir.

23 MR. HINDS: We are all in this courtroom today  
24 because a child was injured in her own home, in her own  
25 home, a place where she and every child has the right

1 to feel and be safe. We're all here today because on  
2 August 28, 2018, this man right here, Kareem Lamell  
3 Wallace, broke his three-month-old daughter's left  
4 collarbone, arm and left leg in two different spots.

5 But to really understand what happened to  
6 three-month-old [REDACTED] on August 28, 2018, you  
7 need to understand what was going on within her home in  
8 the months leading up to that date.

9 You see, on May 28th, exactly three months prior,  
10 2018, Angel Prince gave birth to a healthy baby girl  
11 named [REDACTED], and that's about how the first  
12 three months of [REDACTED] life went. Angel and [REDACTED]  
13 left the hospital and they went home and [REDACTED] was a  
14 healthy, happy, smiling baby.

15 Around that time the defendant, Kareem Wallace, was  
16 living with [REDACTED] and Angel, and he was working the  
17 third shift, the night shift, at the Bimbo Bakery right  
18 around the corner, right here in town, and that morning,  
19 August 28th, he had just gotten off work at about 5 AM,  
20 and he was tired, ladies and gentlemen, and all he wanted  
21 to do was get some sleep, and at about 7:30 AM Angel  
22 Prince woke him up because she had to take her other  
23 daughter [REDACTED] to school. And you're gonna hear Angel  
24 Prince tell you that when she gave [REDACTED] to Kareem  
25 Wallace she was fine, she was normal, but when Angel



1 Prince came back about twenty minutes later, she came  
2 to any mother's worst nightmare. Her three-month-old  
3 daughter crying and arm -- left arm limp and immobile.

4 And you're gonna hear what this man told law  
5 enforcement and you're gonna hear that he admits that  
6 when [REDACTED] was given to him she was fine, she was  
7 normal. You're gonna hear him say she was smiling and  
8 you're gonna hear his explanation of what happened that  
9 morning. You're gonna hear him tell law enforcement he  
10 just grabbed [REDACTED] by her left arm and only her left  
11 arm, got her up out of the bed and took her into the  
12 kitchen to make a bottle for her to eat. That's when  
13 he noticed something was wrong with her arm.

14 And obviously when Angel got home, concerned for her  
15 daughter, she rushed [REDACTED] to the hospital where she  
16 was taken -- where x-rays were taken and she was consulted  
17 by several doctors on how to treat [REDACTED] injuries.  
18 But, ladies and gentlemen, due to the severity and the  
19 catastrophic nature of these injuries, this man is  
20 downplaying what he did to his daughter that morning  
21 because the medical experts that take this stand are  
22 gonna tell you that it takes a twisting, sheering force,  
23 a jerking force or direct blows to the child's extremities  
24 to cause these injuries.

25 And the evidence is gonna show that during that

1 twenty-minute window there's only one person and one  
2 person alone responsible for [REDACTED] that morning during  
3 those twenty minutes. Kareem Wallace.

4 Now as Judge Griffith just told you, before you get  
5 this case to deliberate he's gonna charge you on the  
6 law of South Carolina as it relates to this case. At  
7 the outset I need to tell you that for a person to be  
8 guilty under South Carolina law of inflicting great  
9 bodily injury upon a child, which is the charge that we,  
10 the State, have brought against Mr. Wallace, a person  
11 needs to inflict injury on a child and great bodily  
12 injury; that is injury that causes protracted loss or  
13 impairment of the function of any bodily organ or member.

14 Further, to be guilty under South Carolina law of  
15 unlawful neglect of a child, the second charge the State  
16 has brought against Mr. Wallace, a parent must place the  
17 child at unreasonable risk of harm affecting the child's  
18 life, physical or mental health or safety, or, do or  
19 cause to be done unlawfully or maliciously any bodily  
20 harm to the child such that the life or health of the  
21 child is in danger or likely to be in danger.

22 Ladies and gentlemen, when you listen to people  
23 who take this stand and when you have seen the x-rays of  
24 [REDACTED] bones from August 28th and the recovery  
25 x-rays after, you'll be firmly convinced that this man

1 right here, Kareem Wallace, is guilty of inflicting great  
2 bodily injury on a child and guilty of unlawful neglect  
3 of a child.

4 Thank you.

5 MR. KOGER: May it please the Court?

6 THE COURT: Yes, sir.

7 MR. KOGER: Solicitor Hinds, Solicitor Mubarak.

8 Good afternoon -- or good morning. Excuse me. My  
9 name is Joshua Koger, Junior, and I represent the  
10 defendant in this case, Kareem Lamell Wallace. The one  
11 thing that the solicitor left out in his opening statement  
12 is that this case or any case in this courtroom or any  
13 case in any courtroom across America must be proven beyond  
14 a reasonable doubt and not just what the State says. A  
15 case must be proved beyond a reasonable doubt.

16 Right now at this time, at 10:40, Mr. Wallace sits  
17 at this table. He sits here as an innocent man cloaked  
18 with innocence and this is what you have to -- to carry  
19 through in your duty as jurors in this particular case  
20 or any case that you may sit upon. The State of South  
21 Carolina must prove beyond a reasonable doubt every  
22 element of the crime, every fact, and just because a  
23 person is arrested, just because a person is charged,  
24 just because a person is indicted, does not mean that  
25 he's guilty. They must prove it beyond a reasonable

1     doubt.

2             Now he made mention about medical experts, expert  
3     witnesses, and they're gonna be deemed, some of them --  
4     some are fact witnesses, but we're gonna have an expert  
5     witness based on that person's expertise or opinion. So  
6     whereas a regular witness we can't listen to opinion, we  
7     can -- we can at least listen to an opinion of an expert  
8     witness, but that does not mean that that opinion can't  
9     be challenged. You can decide to accept their opinion,  
10    you can decide to accept some of it, you can decide to  
11    reject the opinion and you can decide to reject some of  
12    them because in this chair right here, this chair is the  
13    great equalizer. Whether it's someone that works every  
14    day or whether it's the president that sits in this  
15    chair, this chair is the great equalizer, and the truth  
16    is supposed to come from this stand. Supposed to.

17            I want you to take into account what is said, what  
18    -- what is not said, what is introduced and what is not  
19    introduced. That is your job as jurors. To pay  
20    attention, to listen to every piece, every bit of  
21    testimony that comes from here, every piece of evidence  
22    that is set forth in evidence and what is not. I need  
23    you to listen to times, okay? I need you to listen to  
24    -- to just listen to the facts, okay, and make your  
25    decision. Just because a person is arrested, charged

1 and indicted does not make a person guilty, but you were  
2 selected for your attentiveness in the jury pool and for  
3 your anticipated attentiveness here on the jury.

4 So after you hear all the evidence in this particular  
5 case right here and you go back in that jury room, I'm  
6 certain that you will find not guilty of great bodily  
7 injury for Mr. Wallace and you will find not guilty on  
8 unlawful conduct.

9 Thank you.

10 THE COURT: Thank you, sir.

11 Call your witness.

12 MS. HUNTER: Thank you, Your Honor. The State calls  
13 Angel Prince.

14 THE CLERK: Raise your left hand and place your right  
15 hand on the Bible.

16 (Whereupon, Angel Prince was duly sworn by the Clerk  
17 of Court.)

18 THE CLERK: You may be seated in the chair.

19 ANGEL PRINCE,

20 having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. HUNTER:

23 Q. Good morning, Ms. Prince.

24 A. Morning.

25 Q. Can you please state your full name for the record?

1 A. Angel Prince.

2 Q. And, Ms. Prince, that microphone there, if you'll  
3 speak into it. They need to hear what you're saying,  
4 it's very important, and it's very important the court  
5 reporter hears what you're saying because she's taking  
6 down everything.

7 A. Okay.

8 Q. Ms. Prince, where are you from?

9 A. Orangeburg.

10 Q. From Orangeburg. From the area. Do you have any  
11 children?

12 A. Two children. Two.

13 Q. Two children?

14 A. Yes.

15 Q. Boys or girls?

16 A. Two girls.

17 Q. Two girls. And what are the names of those children?

18 A. [REDACTED] and [REDACTED].

19 Q. And how old is [REDACTED]

20 A. Four.

21 Q. And what about [REDACTED]

22 A. Sixteen.

23 Q. And your daughter [REDACTED] what's her last name?

24 A. Wallace.

25 Q. [REDACTED]. And who is [REDACTED] father?

1 A. Kareem Wallace.

2 Q. Can you point out -- is Mr. Wallace in the courtroom?

3 A. Yes.

4 Q. Can you point him out for me?

5 A. He's over there.

6 Q. And when you say over there, is he the gentleman

7 sitting in the blue suit at the defense table?

8 A. Yes.

9 Q. Okay. And is he [REDACTED] father also?

10 A. No, ma'am.

11 Q. And how do you know Kareem Wallace?

12 A. We met years ago when I was eighteen.

13 Q. When you were eighteen?

14 A. Uh-huh.

15 Q. And what kind of a relationship do you have with

16 him -- or did you have with him?

17 A. Like an on and off thing like for years.

18 Q. Were you guys in a romantic relationship? Were

19 you-all together?

20 A. A long -- yeah, before, and then we broke up, then --

21 stuff like at.

22 Q. An off and on relationship?

23 A. Yeah. Off and on, yeah.

24 Q. Okay. Did you and Kareem Wallace ever live together?

25 A. Yes.

1 Q. When was that?

2 A. Like end of 2017.

3 Q. End of 2017?

4 A. Uh-huh.

5 Q. Did it go into 2018?

6 A. Yes.

7 Q. Okay. And where were you-all living?

8 A. On Gramling Road.

9 Q. And is that in Orangeburg County?

10 A. Yes.

11 Q. Okay. And did -- shortly before moving in together  
12 or after moving in together, did you get pregnant?

13 A. Yes.

14 Q. And was that with your child --

15 A. [REDACTED].

16 Q. -- [REDACTED]? Who's now four?

17 A. Yes.

18 Q. Okay. And can you tell us a little bit about your  
19 pregnancy? I mean, when you found out you were pregnant,  
20 how did you feel?

21 A. I felt very good.

22 Q. Good?

23 A. Uh-huh.

24 Q. Did you find out what you were having? If it was  
25 gonna be a boy or a girl?



1 A. Yeah, I found out I was having a girl.

2 Q. You were having another girl?

3 A. Yes.

4 Q. Okay. Were you excited about that?

5 A. Yes.

6 Q. And when was [REDACTED] born? What's her date of birth?

7 A. May 29, 2018.

8 Q. May 29, 2018. And was she a healthy baby?

9 A. Yes.

10 Q. Any complications?

11 A. With her?

12 Q. Yeah.

13 A. No.

14 Q. No complications with her. Okay. Do you remember

15 taking her home from the hospital?

16 A. Yes.

17 Q. And did you take her back to that house on Gramling

18 Road you said you were living in?

19 A. Yes.

20 Q. Who all was living in that house in 2018 when you took

21 [REDACTED] home?

22 A. [REDACTED] -- my daughter, Kareem and me.

23 Q. So you, your daughter [REDACTED]?

24 A. Uh-huh.

25 Q. And how old was [REDACTED] at the time?

1 A. Twelve.

2 Q. She was twelve. And Kareem, you're talking about the  
3 defendant, Kareem Wallace?

4 A. Yes.

5 Q. Okay. And were you working in 2018 when you got  
6 pregnant?

7 A. Yes.

8 Q. Where were you working?

9 A. Bimbo's Bakery.

10 Q. Okay. And what shift were you working at Bimbo  
11 Bakery?

12 A. Second shift.

13 Q. And what -- what time would that be? What were those  
14 hours for second shift?

15 A. 2:00 PM to 10:00 PM.

16 Q. 2 PM to 10 PM?

17 A. Yes.

18 Q. Okay. And were you able to take maternity leave from  
19 Bimbo when you had [REDACTED]?

20 A. Yes.

21 Q. And how long was that maternity leave?

22 A. Six weeks.

23 Q. So six weeks. So when you were out on maternity  
24 leave, were you taking care of -- taking care of [REDACTED],  
25 the new baby?

1 A. Yes.

2 Q. And was she a normal -- a normal infant?

3 A. Yes.

4 Q. Waking up in the middle of the night?

5 A. Yes. Crying.

6 Q. Crying? Eating in the middle of the night?

7 A. Yes.

8 Q. So -- and were you -- was she -- were you  
9 breastfeeding her? Were you feeding her bottles? Were  
10 you doing both?

11 A. Doing both.

12 Q. Doing both. Okay. And this house on Gramling Road,  
13 can you describe the setup for the jury? How many bedrooms  
14 was it?

15 A. Three bedrooms, a living room and a kitchen and  
16 bathroom -- one bathroom.

17 Q. Three bedrooms, kitchen, living room. Okay. And  
18 would -- where would you -- would you sleep in your own  
19 room?

20 A. Yes.

21 Q. Okay. And where would [REDACTED] sleep? Did she have  
22 her own room?

23 A. She did, but she basically was sleeping with me most  
24 of the time.

25 Q. She was sleeping in your bed --

1 A. Yes.

2 Q. -- the majority of the time?

3 A. Uh-huh.

4 Q. Okay. And was Kareem Wallace working at the time?

5 A. Yes.

6 Q. And where was he working?

7 A. Bimbo's Bakery.

8 Q. And what shift was he working?

9 A. Third shift.

10 Q. And what time was that?

11 A. 6 PM -- I mean -- yeah, 6 PM to 6 AM or something.

12 No, 11 PM to 6 AM.

13 Q. Okay. So he was working the nightshift?

14 A. Yes.

15 Q. He was working overnight. You're not sure of his

16 exact hours, but you knew --

17 A. Yeah, it was --

18 Q. You got off at 10 PM?

19 A. It was 10 to 6.

20 Q. Okay. 10 to 6. So you got off at 10 and he started

21 working at 10 is what you're saying?

22 A. Yes.

23 Q. All right. And when -- so at night when Kareem was

24 working, who was taking care of the baby?

25 A. Myself.

1 Q. You were?

2 A. Uh-huh.

3 Q. And were you -- would you consider yourself the --  
4 the one who primarily took care of the baby?

5 A. Yes.

6 Q. You're the child's mother?

7 A. (Nods head.)

8 Q. And if Kareem was working from 10:00 PM to 6:00 AM or  
9 around those hours working that nightshift, when would he  
10 sleep?

11 A. When he get off. Like around -- I mean, I can't tell  
12 you the exact time when he was asleep, but whenever he goes  
13 to sleep.

14 Q. Right. So he -- you're saying he would get off work  
15 typically and come home and go to sleep?

16 A. Yes.

17 Q. Okay. And where was he sleeping at the time?

18 A. At the time when I had my baby, he was in the living  
19 room.

20 Q. So he was sleeping in the living room?

21 A. Yes.

22 Q. Okay. And you said you were out on maternity leave  
23 for about six weeks?

24 A. Uh-huh.

25 Q. And did you go back to working at Bimbo Bakery?

1 A. Yes.

2 Q. And what shift were you working then?

3 A. The second.

4 Q. Second shift still? The 2 PM to 10 PM shift, the same  
5 shift?

6 A. Yes.

7 Q. Okay. So if you took off six weeks and Kam -- you  
8 said [REDACTED] was born May 29th, right?

9 A. Uh-huh.

10 Q. So you started back at Bimbo what?

11 A. In August.

12 Q. August? Late July, early August you think?

13 A. Maybe late July. I can't remember the real date when  
14 I started back.

15 Q. But you remember it was about six weeks' maternity  
16 leave?

17 A. Yes. Yes.

18 Q. Okay. So July -- late July or August is when you went  
19 back to work. And when you went back to work, who would  
20 watch [REDACTED]?

21 A. My mother.

22 Q. Your mother would keep her?

23 A. Uh-huh.

24 Q. Okay. And your mother lived in Orangeburg?

25 A. Yes.

1 Q. Okay. So I want to talk to you about once you  
2 started back work in August. And so you're back at work.  
3 So August 2018 you had another daughter, [REDACTED], who you  
4 said was twelve at the time, right?

5 A. Yes.

6 Q. Okay. Did she start back to school in August?

7 A. Yes.

8 Q. Okay. And you were back at work at Bimbo?

9 A. Yes.

10 Q. So -- and you said that typically Mr. Wallace got off  
11 work around 6 AM; is that correct?

12 A. Yes.

13 Q. And he'd come home and he'd sleep and he was sleeping  
14 in the living room?

15 A. Yes.

16 Q. All right. So what -- [REDACTED] was back at school.  
17 What time would you -- how did she get to school?

18 A. I took her to school.

19 Q. You took her to school?

20 A. Yes.

21 Q. So what time does school start?

22 A. 8:00.

23 Q. So what time would you take --

24 A. Like 7:45, somewhere around there.

25 Q. About 7:45 you'd take her to school?

1 A. Yes.

2 Q. So you-all lived about ten, fifteen minutes from the  
3 school?

4 A. Yes.

5 Q. Okay. And when you got home, what would you do?

6 A. Basically lay back down, get back up, get ready for  
7 work.

8 Q. Get ready for work?

9 A. Yes.

10 Q. Okay. And you said that you would take -- your mother  
11 would watch [REDACTED] while you were at work? Did she come  
12 to your house? Did you take [REDACTED] to her house?

13 A. I took her to hers.

14 Q. Okay. So about what time would you take her to --

15 A. Like around 1:30.

16 Q. 1:30 or so and then you went to work you said at 2:00?

17 A. Yes.

18 Q. And then you'd get off work around 10:00 PM; is that  
19 correct?

20 A. Yes.

21 Q. Okay. And what would you do when you got off work?

22 A. I would go pick up [REDACTED] and I'd sit and play with  
23 her and then basically ask my mom what's going on and then  
24 I'd pack her back up and put her in the car seat and take  
25 her home.



1 Q. Okay. So you'd kind of get a rundown of how [REDACTED]  
2 did that day, make sure everything went well. When you  
3 guys got home, did you have a night routine kind of you'd  
4 do for her?

5 A. Yeah, like I'd wash her, brush her hair, you know, get  
6 her ready for bed.

7 Q. Get her ready for bed. And then would you go to bed?

8 A. Yes. After that, yes.

9 Q. Okay. And at that time -- so I guess what time would  
10 you get home? If you got off at 10:00 and picked up  
11 [REDACTED] from your mom's and went back home and did all  
12 this --

13 A. Yeah, it's close to 12:00, something like that.

14 Q. Yeah. And at that time would Kareem have been home or  
15 he'd be at work?

16 A. He would be at work.

17 Q. The nightshift. Okay. I want to talk to you about a  
18 specific day in August. Do you remember a day when you had  
19 to take your three-month-old child to the hospital?

20 A. Yes.

21 Q. Okay. So if I told you that was August 28th, would --  
22 would that date sound about right, 2018?

23 A. Yes.

24 Q. All right. So how old was [REDACTED] in -- on August 28,  
25 2018?

1 A. Three months.

2 Q. Three months old. And can you tell the jury what kind  
3 of a baby [REDACTED] was? Was she normal?

4 A. She was a normal baby. Just liked to blow bubbles and  
5 laugh, smile.

6 Q. Blow bubbles, laugh, smile at three months?

7 A. Yes.

8 Q. Would she -- I know it's been a while. Do you  
9 remember when she was three months? They grow -- they  
10 develop so quickly. Was she moving her arms and legs?

11 A. Yes, she was kicking her legs and arms.

12 Q. Okay. Could she roll over yet?

13 A. No.

14 Q. And she would -- so would you typically like put her  
15 on her back, is that what you're saying, when she would  
16 move her arms and legs like that?

17 A. Yeah, lay on her back.

18 Q. And kind of push them up to her face like that?

19 A. Yeah.

20 Q. Okay. Got it.

21 Okay. So August 28th was a Tuesday, so the day before  
22 would have been a Monday. Did you work on Mondays?

23 A. Yes.

24 Q. Okay. So the day before that incident, who kept  
25 [REDACTED]? That Monday, who kept [REDACTED] while you were at

1 work?

2 A. My mom.

3 Q. Your mom?

4 A. Uh-huh.

5 Q. And can you kind of say -- if you went to work, you're  
6 saying you got off work at 10:00 PM --

7 A. Yes.

8 Q. -- on Monday?

9 A. Yes.

10 Q. And if [REDACTED] was at your mother's house, did you go  
11 pick her up?

12 A. Yes.

13 Q. And you said that usually you'd sit down and talk with  
14 your mom?

15 A. Yes.

16 Q. Did you do that that night?

17 A. Yes.

18 Q. And where was [REDACTED] when you were sitting there  
19 talking to your mom?

20 A. In my lap.

21 Q. You were holding her?

22 A. Yeah, I was holding her.

23 Q. And how was [REDACTED] doing?

24 A. She was good.

25 Q. Was she normal?

1 A. Yes.

2 Q. Was she able to move her arms and legs?

3 A. Yes.

4 Q. Was she blowing bubbles like you said she typically  
5 would?

6 A. Yes. I mean -- well, she probably wasn't doing all  
7 that, but I was holding her.

8 Q. You were holding her?

9 A. Yes.

10 Q. Did you notice anything wrong with her at that time?

11 A. No. No.

12 Q. And did you -- that night did you take her home to  
13 your house?

14 A. Yes.

15 Q. And to get home, did you put her in a car seat?

16 A. Yes.

17 Q. You had to put straps over her shoulders --

18 A. Yeah, all that.

19 Q. -- and strap her legs in?

20 A. Uh-huh.

21 Q. And was she acting -- did she appear to be in pain or  
22 crying at that point in time?

23 A. No.

24 Q. Okay. And so when you got home you said you kind of  
25 had a nighttime routine. Did you --

1 A. I --

2 Q. Did she get a bath?

3 A. Yes.

4 Q. And what -- she's three months old and she's real

5 little. What did you -- did she have a baby bathtub?

6 A. Yeah, the baby bathtub.

7 Q. And you washed her arms and her legs?

8 A. Yeah.

9 Q. And washed everything?

10 A. Yeah, brushed her hair. Did the same things.

11 Q. She was fine?

12 A. Yeah, she was fine.

13 Q. Was her normal self?

14 A. Yeah, nothing was wrong.

15 Q. And so the next morning or throughout -- I guess you

16 had her all evening with you. You said she typically slept

17 in your room. Did she sleep in your room that night?

18 A. Yes.

19 Q. Was everything fine?

20 A. Yes.

21 Q. Was she crying in pain at all that evening?

22 A. No.

23 Q. Okay. About what time did you get up to start your

24 day the following morning, the Tuesday, August 28th?

25 A. I can't remember the exact time. Probably around 6:00

1 about.

2 Q. About six or so?

3 A. Yeah.

4 Q. And did -- did you have to take [REDACTED] to school that  
5 morning?

6 A. Yes.

7 Q. So it had to have been before you took her to school  
8 that you had gotten up?

9 A. Yes.

10 Q. And that morning -- you said that she was three months  
11 old and we talked about how babies typically that age  
12 you're feeding them throughout the night and they're waking  
13 go up throughout the night?

14 A. Yes.

15 Q. Do you remember feeding [REDACTED] that evening?

16 A. Yes.

17 Q. Did you feed her that morning?

18 A. Yes.

19 Q. And did she have -- did she have normal use of her  
20 arms and legs at that point?

21 A. Yes.

22 Q. Okay. And did you take [REDACTED] to school that  
23 morning?

24 A. Yes.

25 Q. About what time?

1 A. 7:00. Around 7 something. Around 7:45. It could  
2 have been later. I don't know.

3 Q. Okay. 7:45 or so. And did you take [REDACTED] with you  
4 that particular morning?

5 A. No.

6 Q. What did you do with [REDACTED]?

7 A. I gave her to Kareem.

8 Q. Gave the baby to Kareem?

9 A. Yes.

10 Q. So he was home from work by that point?

11 A. Yes.

12 Q. And when you gave her to Kareem, where was Kareem?

13 A. He was asleep on the couch.

14 Q. He was asleep on the couch?

15 A. Yes.

16 Q. So what did you have to do? Did you --

17 A. Yeah, he told me to put her in the bouncer and I guess  
18 I put her in the bouncer.

19 Q. Did you have to wake him up?

20 A. Yeah.

21 Q. He was sleeping and you had to wake him up?

22 A. Yeah.

23 Q. And did you tell him -- did you ask him to watch

24 [REDACTED]?

25 A. Yeah, wake him up to let him know that I'm leaving the

1 baby with him.

2 Q. You're leaving the baby with him?

3 A. Yeah. Yes.

4 Q. And he said -- he said to you something about --  
5 repeat that.

6 A. Put her in the bouncer.

7 Q. He wanted you to put her in the bouncer?

8 A. Yeah. Yes.

9 Q. And when you say the bouncer, where was that?

10 A. In the front -- in the living room.

11 Q. In the living room and that's where he was sleeping  
12 at the time?

13 A. Yes.

14 Q. Okay. And do you remember if you put her in the  
15 bouncer or gave her to him?

16 A. I can't remember. I remember she just smiled at him  
17 and he smiled back at her.

18 Q. Okay.

19 A. Yeah, I remember that part.

20 Q. Okay. So she was smiling when you left?

21 A. Yes.

22 Q. All right. So you go -- was anybody else in the house  
23 that day?

24 A. No. No.

25 Q. No one was at the house. So you leave to take [REDACTED]



1 to school --

2 A. Uh-huh.

3 Q. -- and you leave [REDACTED], three months old, with  
4 Kareem and she's smiling when you leave?

5 A. Uh-huh.

6 Q. Okay. And about how far away is [REDACTED] school?

7 A. About ten, fifteen minutes.

8 Q. Ten, fifteen minutes. Okay. So what time would you  
9 have gotten home that morning if it's ten, fifteen minutes  
10 away?

11 A. Like 8:00. Around 8:00.

12 Q. Around 8 AM?

13 A. Yeah.

14 Q. Okay. And tell us about that morning when you -- when  
15 you get back from taking [REDACTED] to school and you get back  
16 to your house on Gramling Road.

17 A. The baby was crying.

18 Q. The baby was crying?

19 A. Uh-huh. And he was like what's wrong with her arm and  
20 I --

21 Q. When you say "he", who are you --

22 A. Kareem.

23 Q. Kareem was saying --

24 A. He was like what's wrong with her arm.

25 Q. And was Kareem holding the baby or where was the baby?

1 A. Yeah, he was holding the baby.

2 Q. He was holding the baby and he's asking you what's

3 wrong with her arm?

4 A. Yes.

5 Q. And you said she was crying?

6 A. Yes, she was crying.

7 Q. What kind of a cry was it? Like a --

8 A. She was just crying loud.

9 Q. Loud crying?

10 A. Yes. Yes.

11 Q. Okay. And Kareem's holding her and he asked you

12 what's wrong with her arm?

13 A. Yeah.

14 Q. And what did you say?

15 A. I said there's nothing wrong with her arm.

16 Q. Okay. And what did you do?

17 A. I just got the baby from him.

18 Q. You took the baby from -- your baby?

19 A. Yeah, and I -- I laid her on the bed.

20 Q. You took her into a bedroom and you laid her on the

21 bed?

22 A. Yeah.

23 Q. Why did you do that?

24 A. To see if something was wrong with her arm.

25 Q. And was there something wrong?

1 A. Yeah, she wasn't moving it.

2 Q. She wasn't able to move it?

3 A. No.

4 Q. Can you show the jury kind of what her arm --

5 A. She was just laying on the bed and she was like this  
6 and then she was just blowing bubbles with the other hand  
7 and kicking both of her legs.

8 Q. Kicking her legs?

9 A. Yes, kicking her legs.

10 Q. Okay. And --

11 A. But she wasn't moving her arm, so I just grabbed her  
12 up and took her to the hospital.

13 Q. You took her to the hospital?

14 A. Yes.

15 Q. And which hospital did you take her to?

16 A. Orangeburg.

17 Q. The Regional Medical Center in -- in Orangeburg?

18 A. Yes. Uh-huh.

19 Q. And why did you take her?

20 A. Because she wasn't moving her arm.

21 Q. And you realized that immediately? You thought  
22 something was wrong?

23 A. Yes. Uh-huh.

24 Q. Okay. And when you got to the hospital, what did you  
25 -- did you go to the emergency room?

1 A. Yes.

2 Q. And did you leave immediately and take your child?

3 A. Yes, because I just --

4 Q. As soon as you realized something was wrong, you  
5 immediately took your child to the hospital?

6 A. Yeah, I just picked her up and took her to the  
7 hospital.

8 Q. Okay. And if you had noticed earlier that something  
9 was wrong, what would you have done?

10 A. I would have done the same thing.

11 Q. Done the same thing. Okay. And did you -- what did  
12 you tell the nurses and the doctors at the hospital?

13 A. I told them something was wrong with her arm. She  
14 wasn't moving her arm.

15 Q. Okay. And did they run tests on her?

16 A. Yes.

17 Q. And did they take x-rays?

18 A. Yes.

19 Q. Did they do a physical exam of [REDACTED]? Did they,  
20 you know, assess her body and look physically and put their  
21 eyes on her and look at her and see?

22 A. Well, at Orangeburg Hospital, no, they just checked  
23 her arm. They x-rayed her arm.

24 Q. They x-rayed her arm?

25 A. Yes.

1 Q. Okay. And how long do you think you were at the -- in  
2 the emergency room at Orangeburg?

3 A. All day.

4 Q. All day. Do you remember if the police came to  
5 Orangeburg that day to the hospital?

6 A. Yes, there was a cop outside the room.

7 Q. There was a cop. Okay. And did you -- did they talk  
8 to you?

9 A. Yes.

10 Q. And ask you questions?

11 A. Yes.

12 Q. About your baby?

13 A. Yes.

14 Q. Okay. And did [REDACTED], did she stay at The Regional  
15 Medical Center, at TRMC in Orangeburg?

16 A. No, she went to Columbia.

17 Q. She went to Columbia?

18 A. Yes.

19 Q. When you say -- do you know -- did they transfer her  
20 to another hospital in Columbia?

21 A. Yes, the Children's Hospital.

22 Q. The Children's Hospital. Would that be Prisma?  
23 Richland Memorial?

24 A. Yes.

25 Q. Okay. And she went -- did they transfer her that same

1 day later that afternoon?

2 A. Yes.

3 Q. And you said she went by -- how did she get there?

4 A. By the ambulance.

5 Q. And did you go in the ambulance with her?

6 A. Yes.

7 Q. You did. Okay. And when you guys got to Columbia,

8 did you -- were there more doctors, more nurses involved at  
9 that point?

10 A. Yes.

11 Q. And did any doctors talk to you about what could  
12 have --

13 A. There was a lady nurse talked to me, yes.

14 Q. A lady nurse?

15 A. Yes.

16 Q. And did she ask you about what -- about [REDACTED] arm?

17 A. Yes.

18 Q. And did she ask you about the day -- the morning  
19 leading up to the injury?

20 A. Yes.

21 Q. And ask you about how -- were you able to -- did she  
22 ask were you able to normally feed her? Did you tell the  
23 -- that female nurse, nurse practitioner, that you were  
24 able to feed [REDACTED]

25 A. Yes.

1 Q. Did you tell her that she was normal before you left  
2 the house that day?

3 A. Yes.

4 Q. And did you tell her about how [REDACTED] was smiling  
5 that morning when you left?

6 A. Yes.

7 Q. Okay. And did you tell her about when you got home  
8 [REDACTED] condition?

9 A. Yes.

10 Q. When you got home, that she was crying and that her  
11 arm was limp?

12 A. Yeah.

13 Q. Did you tell her -- did she ask you if anything was  
14 wrong with her arm before you left the house?

15 A. Yes.

16 Q. And what did you tell her?

17 A. I didn't see nothing was wrong.

18 Q. Nothing was wrong. Okay. And did you -- did that  
19 doctor, did they do an exam of [REDACTED]

20 A. Are you talking about the Columbia hospital?

21 Q. Uh-huh. Columbia.

22 A. Yes.

23 Q. And did they take more x-rays?

24 A. Yes, but I didn't go in the room with her at that  
25 time.

1 Q. You didn't go in the room with her when they were  
2 doing the x-rays. Okay. About how many days was -- did  
3 they admit her to the hospital?

4 A. Yes.

5 Q. And about how many days was [REDACTED] in the hospital?

6 A. Two.

7 Q. Two. And what did they do with her arm?

8 A. They put an Ace bandage on it.

9 Q. They wrapped it in an Ace bandage?

10 A. Yes.

11 Q. And did you -- you said they took these x-rays. Did  
12 you find out what her -- what her injuries were?

13 A. Yeah, she had a fracture to her arm.

14 Q. To her arm and any other issues?

15 A. Yeah, they say the legs, but I never saw what was  
16 wrong with her legs because she was always moving them.

17 Q. Okay.

18 A. So I can't say, you know, about the legs part and  
19 when they sent me a picture of her they still didn't have  
20 nothing on her legs, so I didn't know -- I still didn't  
21 know what was wrong with her legs because I never got a  
22 full story of that.

23 Q. Okay. And when you say they -- they sent you a  
24 picture, you said her arm was in an Ace bandage?

25 A. Yes.



1 Q. Okay. And were you worried about her?

2 A. Yes, all day. Every day.

3 Q. And you said you stayed with her at the hospital?

4 A. Yes.

5 Q. Okay. Did -- when you were at the hospital and  
6 you said that you had talked to law enforcement, law  
7 enforcement got involved in the case?

8 A. Yes.

9 Q. Did DSS get involved in the case?

10 A. Yes.

11 Q. And once DSS got involved, what happened with [REDACTED]?

12 A. She went in foster care.

13 Q. She got put into foster care?

14 A. Yes.

15 Q. So you weren't able to take her home with you from the  
16 hospital that day? I'm sorry. I know this is upsetting.  
17 We can find you some Kleenex. There you go.

18 And, Ms. Prince, once the police got involved were you  
19 interviewed by Sergeant Gillard?

20 A. Yes.

21 Q. With the Orangeburg County Sheriff's Department?

22 A. Yes.

23 Q. And what did you tell her? Was she questioning you  
24 about -- about [REDACTED] and these injuries?

25 A. Yes.

1 Q. And what did you tell her?

2 A. I told her basically the same story about when I took  
3 [REDACTED] -- [REDACTED] to school and came home and all that.  
4 I told her the same story I've been telling.

5 Q. The same story you just told this jury; that when you  
6 took [REDACTED] to school [REDACTED] was fine and [REDACTED] was  
7 smiling and when you came home [REDACTED] was crying hard in  
8 Kareem's arms and that she wasn't able to move her arm?

9 A. Yes.

10 Q. Okay. And how long was [REDACTED] in foster care?

11 A. Two years.

12 Q. Two years. And did you get to see her?

13 A. Yes.

14 Q. Did you see her every chance you could?

15 A. Yes.

16 Q. Good. Does [REDACTED] live with you now?

17 A. Yes.

18 Q. And how's [REDACTED] doing?

19 A. She's good.

20 Q. She's doing well?

21 A. Uh-huh.

22 Q. Do you have a lot of -- a lot of pictures and things  
23 you take of [REDACTED]?

24 A. Uh-huh.

25 Q. And you're happy to have her home?

1 A. Yes.

2 Q. And I asked you if you were interviewed by Sergeant  
3 Gillard and you said you were. Were you charged with  
4 hurting [REDACTED] or causing these injuries?

5 A. No.

6 Q. Were you arrested for injuring [REDACTED]?

7 A. No.

8 Q. Would you ever hurt your child?

9 A. No.

10 Q. And did you hurt your child, [REDACTED]?

11 A. No.

12 MS. HUNTER: Thank you. I don't have any further  
13 questions for you.

14 Oh, one moment. I beg the Court's indulgence.

15 Thank you. Please answer any questions Mr. Koger  
16 might have for you.

17 CROSS-EXAMINATION

18 BY MR. KOGER:

19 Q. Ms. Prince, on that particular -- in the early morning  
20 hours, do you recall picking Mr. Wallace up from work, from  
21 Bimbo's?

22 A. Yes. I think I remember, yes. I don't remember if I  
23 picked him up or not, but I probably did, yes.

24 Q. Okay. Do you -- well, let me ask you this. Do you  
25 recall there was a period that the car was in the shop or

1 something?

2 A. Yes.

3 Q. Okay. Was it during that period?

4 A. Yes.

5 Q. Okay. All right. And, again, how far is Bimbo Bakery  
6 from where you stayed at that particular time?

7 A. About fifteen minutes.

8 Q. Fifteen minutes?

9 A. Yes.

10 Q. Okay. On that particular morning, did you have to  
11 wait on him or what? You went and picked him up, he was  
12 ready to go, he got in the car and went back. About how  
13 many minutes do you recall being there waiting on him to  
14 get off work?

15 A. I don't remember, but it probably wasn't that long.

16 Q. Okay. What would be the usual time during the time  
17 in which you-all did not -- I guess you were down to one  
18 vehicle?

19 A. Uh-huh.

20 Q. What would be the usual time that you would have --  
21 it would take for you to pick him up from the bakery and  
22 take him back home?

23 A. About fifteen, twenty minutes maybe.

24 Q. Okay. Both ways or one way? It takes fifteen minutes  
25 to go and fifteen minutes to come back?

1 A. Could be. I don't know the exact timing.

2 Q. Okay. All right. But does that sound about right?

3 A. Yes.

4 Q. Okay. All right. And do you recall during that  
5 period how long you-all were without a car during that  
6 period if you had to go pick him up from work?

7 A. You mean how long I was --

8 Q. No, no. During that period -- usually he would drive  
9 to work, right?

10 A. Yes.

11 Q. Okay. But there was a period that you-all were down  
12 to one car?

13 A. Oh, yeah. You're saying --

14 Q. Okay. All right. So how long were you-all down to  
15 one car during that period if you can recall?

16 A. I don't know. Probably about two months maybe. I  
17 don't know. A month.

18 Q. Okay. All right. And you mentioned [REDACTED] and she  
19 is -- what's her age now?

20 A. Sixteen.

21 Q. And at the time in 2018 she would have been eleven or  
22 twelve?

23 A. Yes, twelve.

24 Q. Twelve?

25 A. Uh-huh.

1 Q. Okay. Now when you would go pick up Mr. Wallace from  
2 work, did you leave [REDACTED] and [REDACTED] behind?

3 A. Not -- no. Not a lot, no.

4 Q. No? Is it no or not a lot?

5 A. Not -- I only left her like one time with her. One  
6 time.

7 Q. Okay. Was it during this period? During this period  
8 in which Mr. Wallace -- when you-all were down to one car?

9 A. Yes.

10 Q. Okay. All right. Was it -- was it that morning of  
11 the incident?

12 A. I don't recall. I don't remember, but it could have  
13 been possible, yes.

14 Q. Okay. Could have been. All right. And I think you  
15 also testified, too, that [REDACTED] had a separate room?

16 A. Yes.

17 Q. But she never slept in it?

18 A. Yeah. And I did say that, yes.

19 Q. Okay. And there was a crib in that room?

20 A. Yes.

21 Q. Okay. And she slept in the room with you in the  
22 master bedroom?

23 A. Yes.

24 Q. Okay. And so when you say she never slept in it,  
25 since birth she had mainly slept in your room?

1 A. Yes.

2 Q. Okay. And did you breastfeed her during that time?

3 A. Yes.

4 Q. Okay. All right. And did you breastfeed -- if you  
5 can recall, did you breastfeed [REDACTED] on that day?

6 A. Yes.

7 Q. Okay. All right. On that night?

8 A. Yes.

9 Q. Okay. All right. And she would fall asleep --  
10 you-all would fall asleep in the bed together?

11 A. Yes, but I'd make sure I lay her all the way over on  
12 the other side when we'd go to bed.

13 Q. Okay. But she never slept in the crib?

14 A. Yeah. No, she didn't.

15 Q. Okay. All right. Now you also testified to that your  
16 mother kept [REDACTED] after you went back to work?

17 A. Yes.

18 Q. Okay. And I think -- did you testify going back to  
19 work, what, about the last of July or something after  
20 maternity leave, correct?

21 A. Yes.

22 Q. Okay. All right. And so at the time -- at the time  
23 of the incident your mother would have been looking after

24 [REDACTED] about a month during that time or close to a month?

25 A. Yes.

1 Q. Okay. Did your mother -- was she -- was [REDACTED] the  
2 only person over there?

3 A. No.

4 Q. Okay. Your mother, did she have her other -- your  
5 brother lived with your mother?

6 A. Uh-huh.

7 Q. Okay. All right. And your mother kept [REDACTED] -- I  
8 guess she kept her from 1:30 until you got off work?

9 A. Yes.

10 Q. Okay. All right. Who else was your mother keeping  
11 over there as far as children?

12 A. Nobody.

13 Q. Okay. As far as --

14 A. Well, my -- [REDACTED], yeah.

15 Q. What now?

16 A. [REDACTED]. My other child.

17 Q. Okay. Were any other people over there?

18 A. No. No other kids, no.

19 Q. No other kids?

20 A. No.

21 Q. Okay.

22 MR. KOGER: Your Honor, may I beg the Court's  
23 indulgence.

24 THE COURT: Sure.

25 BY MR. KOGER:



1 Q. What type of accommodations did your mother have as  
2 far as keeping [REDACTED]? Did your momma have a crib?

3 A. She had the car seat.

4 Q. Huh?

5 A. Like she just had the car seat. I'd leave the car  
6 seat for her to sit the baby in the car seat.

7 Q. Okay. Over there while she was taking care of her?

8 A. Yeah.

9 Q. Okay. All right. Did she have a playpen?

10 A. No.

11 Q. Okay. So she -- so basically she was -- at that time  
12 she was -- so she was in the car seat?

13 A. Yeah, she'd lay her in the car seat or probably on her  
14 bed.

15 Q. Okay. The bed, too?

16 A. Uh-huh.

17 Q. Okay. All right. To your knowledge, did she ever put  
18 her on the sofa?

19 A. I don't have no clue because I was not there.

20 Q. Okay. But she could have put the baby on the sofa?

21 A. She could have, yes.

22 MS. HUNTER: Just objection as speculation, Your  
23 Honor. She's testified that she's not there and she  
24 wouldn't know.

25 THE COURT: She can't -- she can't testify unless

1 she has personal knowledge.

2 MR. KOGER: Okay.

3 BY MR. KOGER:

4 Q. Now did your mother have other grandchildren that hang  
5 out over there?

6 A. Yes. They stay -- they had stayed across the road.

7 Q. They stay across the road?

8 A. Yes.

9 Q. So they're constantly back and forth?

10 A. I don't know if they was constantly back and forth.  
11 Like I said, I was at work, so I don't --

12 MS. HUNTER: I'd renew the other objection, Your  
13 Honor. She's telling the jury she wasn't there. He's  
14 asking questions that call for speculation.

15 THE COURT: Well, ask her -- if she has personal  
16 knowledge, she can answer. If she doesn't, then that's  
17 where's she's limited.

18 BY MR. KOGER:

19 Q. What are the ages of the other grandchildren?

20 A. Well, now they twenty-two, sixteen and twenty-one.

21 Q. Okay. So about five years ago, we would take away  
22 four or five years and that would be the ages?

23 A. One was twelve, one was probably like nineteen,  
24 eighteen. I don't know their ages, but I know they was up  
25 in age like teenagers.

1 Q. Okay. All right. And, again, you testified to back  
2 in 2018 maybe getting on -- getting on maternity leave  
3 until the last of July or something, correct?

4 A. Uh-huh.

5 Q. And I think you testified to -- well, of course, on  
6 August 28th you took [REDACTED] to school?

7 A. Uh-huh.

8 Q. Okay. So was school still out by the -- when you went  
9 off of maternity leave and went back to work, was school in  
10 the area still out?

11 A. Yes.

12 Q. Okay. All right.

13 A. School started back around the time I went to work.

14 Q. Did what now?

15 A. School started back in August.

16 Q. Okay.

17 A. Yes.

18 Q. Okay. All right. Now so to your knowledge, did --  
19 were other people back and forth at your mother's place?

20 A. I mean, it could be possible, yes, because it's their  
21 grandmother.

22 MS. HUNTER: Your Honor, I'm gonna object again.  
23 This is, again, more speculation. She's saying she was  
24 at work. She was not at her mother's house.

25 MR. KOGER: Okay. I --

1 THE COURT: Preface it did she have personal  
2 knowledge. That way we don't keep going down that road.

3 MR. KOGER: Okay.

4 BY MR. KOGER:

5 Q. Did she have a boyfriend that stayed there?

6 A. Yes, she did.

7 Q. Okay. All right. Is that boyfriend still saying  
8 there?

9 A. No, he's not.

10 Q. Okay. How did that boyfriend feel about your  
11 daughter?

12 A. My daughter? Oh, he --

13 MS. HUNTER: Objection, Your Honor. Relevance.  
14 It's not even relevance, Your Honor. He is now asking  
15 this witness to --

16 THE COURT: All right. I don't want -- I don't want  
17 a talking objection. I've got it. If you want to call  
18 the boyfriend as a witness, you may.

19 BY MR. KOGER:

20 Q. Now at the hospital --

21 A. Uh-huh.

22 Q. -- you took [REDACTED] to the hospital and then you  
23 stayed at Orangeburg -- TRMC for how long?

24 A. From eight something until around five or six.

25 Q. Okay. All right. And so you was there, what,

1 approximately ten hours?

2 A. Yes.

3 Q. Okay. When did they actually saw [REDACTED]?

4 A. Are you talking about the hospital?

5 Q. Did they see her immediately when you got there?

6 A. Well, they took her in the back, but they didn't  
7 immediately see her. Then they took her for x-rays.

8 Q. Okay. And then when -- when they took her in the  
9 back, they brought her back out and then took her back for  
10 x-rays or they kept her?

11 A. Are you talking about at Orangeburg Hospital?

12 Q. Yeah, at the hospital.

13 A. They had us -- you know, they sent both of us back in  
14 the room.

15 Q. Okay. All right. And during the time in between  
16 taking the x-rays you would hold her, correct?

17 A. Yes.

18 Q. Did you hold her?

19 A. Yes.

20 Q. Okay. Did you hold her --

21 A. Well, she was laying on the bed.

22 Q. She was laying on the bed?

23 A. Yes.

24 Q. Okay. Did you hold her any time during that time?

25 A. Yes.

1 Q. Okay. All right.

2 A. Well, I was holding her all day.

3 Q. You were holding her all day?

4 A. Yes.

5 Q. Okay. All right. Did you go by yourself or was  
6 someone else with you?

7 A. Are you talking about to the hospital?

8 Q. Yeah.

9 A. I went by myself.

10 Q. Okay. All right. And when did you go to Columbia?

11 A. When they sent me to Columbia, around five something.

12 Q. Okay. So you was at -- you was in Orangeburg from  
13 eight until five and then you got sent to Columbia around  
14 about five or six?

15 A. Yes.

16 Q. Okay. And how long did you stay in Columbia?

17 A. For two days.

18 Q. Okay. Two days. Did you come -- did you -- you were  
19 coming back -- you were going back and forth or you stayed?

20 A. I stayed there.

21 Q. You stayed there. Okay. And then during that time,  
22 were you continuously holding your baby?

23 A. Yes.

24 Q. Okay. All right. Did you notice any -- any bruises  
25 on your baby?

1 A. No.

2 Q. Okay. Did you note any bruising on her arm?

3 A. No.

4 Q. Did you note any bruises on her leg?

5 A. No.

6 Q. Did you note any bruises on her elbow?

7 A. No.

8 Q. Did you note -- did you note any bruising on her

9 chest?

10 A. No.

11 Q. And how would you know if there were not any bruises?

12 A. Because I always look at my baby. I always look all

13 over her body.

14 Q. Okay. Did you -- did you look at your baby that day?

15 A. Yes.

16 Q. Okay. Were you looking at your baby when you was

17 holding her -- holding her in the hospital?

18 A. Yes.

19 Q. Okay. Now there's been testimony that -- that

20 supposedly an indication that she was hurt and she was

21 crying?

22 A. Uh-huh.

23 Q. Does your -- did your baby normally cry?

24 A. Yes, she did.

25 Q. Okay. When did -- when did she normally cry?

1 A. All the time really. She was a little crybaby.

2 Q. Okay. Did she cry when she was hungry?

3 A. Yes.

4 Q. Okay. All right. Was she -- was she crying up there  
5 at the hospital?

6 A. In the hospital?

7 Q. Yes.

8 A. No, she was just -- she wasn't crying that -- no, not  
9 much. She was doing a little whining and stuff, yeah.

10 Q. But she wasn't crying at Orangeburg?

11 A. The Orangeburg hospital?

12 Q. Yeah.

13 A. When she -- when they took the x-rays, I guess it was  
14 bothering her. That's when she started crying.

15 Q. Okay. All right. Now you say you were in Orangeburg  
16 for ten hours. When did Mr. -- did Mr. Wallace join you  
17 eventually?

18 A. Yes.

19 Q. Okay. And to your -- to your knowledge, why didn't he  
20 go to the hospital at the beginning?

21 A. Because he was with his other daughter. Like I think  
22 she had like a program at school or something.

23 Q. Okay. All right. And the other daughter, where is  
24 his other daughter located?

25 A. Columbia.



1 Q. All right. And what time did he come with you and  
2 [REDACTED]?

3 A. I can't remember the exact time.

4 Q. Okay. Was it Orangeburg or Columbia?

5 A. Orangeburg.

6 Q. Okay. Orangeburg. But he did come?

7 A. Yes.

8 Q. Okay. All right. And how long did he stay?

9 A. He stayed up until we left.

10 Q. Okay. Until you left?

11 A. Uh-huh.

12 Q. Okay. All right. When you left for Columbia?

13 A. Yes.

14 Q. Okay. All right. Did you know whether he worked that  
15 evening?

16 A. Yes, he went to work.

17 Q. Okay. All right. Did he ever come to Columbia?

18 A. No.

19 Q. Okay. All right. So you stayed in Columbia for  
20 two days?

21 A. Yes.

22 Q. Okay. All right.

23 MR. KOGER: I beg the Court's indulgence, Your  
24 Honor.

25 THE COURT: Yes, sir.

1 BY MR. KOGER:

2 Q. What type of father was -- had Mr. Wallace been the  
3 first three months of [REDACTED] life?

4 A. He's a good father. He's very caring. He's very  
5 patient. He's a nice father. He's very patient.

6 Q. Okay. Now he was -- now he was sleeping on the sofa.  
7 Was your relationship kind of complicated at that point?

8 A. Yes, it always was complicated.

9 Q. Okay. All right. When you say he was a caring and  
10 nice father, what type of things he would do?

11 A. He would -- like [REDACTED] had a bunch of bumps on her  
12 face and he would make sure -- he would wash them. Like  
13 he'd just take care of the baby. He was a good father.  
14 Like he'd just make sure she's well taken care of.

15 Q. Okay. But I think you testified his time was limited  
16 because of his work scheduled?

17 A. Huh?

18 Q. You said his time was kind of limited because of his  
19 work schedule?

20 A. Yeah, work schedule. Yes.

21 MR. KOGER: Okay. I have no further questions of  
22 the witness, Your Honor.

23 THE COURT: All right. Redirect.

24 REDIRECT EXAMINATION

25 BY MS. HUNTER:

1 Q. Ms. Prince, I want to clarify a few things Mr. Koger  
2 asked you about. So at some point in time in 2018 around  
3 when you were out on maternity leave you guys were down to  
4 one car in your family?

5 A. Uh-huh.

6 Q. And so you were having to take Mr. Wallace to work and  
7 pick him up from work at that time?

8 A. Yes.

9 Q. And I know you testified you don't remember that  
10 specific morning whether or not you had to take him or pick  
11 him up?

12 A. No.

13 Q. But Mr. Koger asked you would you leave your child  
14 behind. Now I want to clarify something. Would you ever  
15 leave [REDACTED] at home when you left to go pick him up from  
16 work?

17 A. No, not -- no. Like I said, one morning [REDACTED] was  
18 sleeping real good and I just left her there and came right  
19 back.

20 Q. Was it this particular morning? Was it the morning  
21 of Tuesday, August 28th?

22 A. I can't recall if that was that day or not, but I  
23 don't believe so.

24 Q. Okay. You don't believe it was that day?

25 A. Yeah.

1 Q. Okay. But that same morning if -- I mean --

2 A. If it was that day.

3 Q. If it was that day --

4 A. Yes.

5 Q. -- when you came home, did you take [REDACTED] to school  
6 that day?

7 A. Yes.

8 Q. Okay. And when you took [REDACTED] to school, did you  
9 -- when you had gotten home would you -- did you hold  
10 [REDACTED]?

11 A. Yes, I did.

12 Q. Did you pick up [REDACTED] --

13 A. Yes.

14 Q. -- that morning before you left for school?

15 A. Yes.

16 Q. And when you picked her up that morning and you left  
17 her you said with Kareem Wallace, correct?

18 A. Uh-huh.

19 Q. You said that she was smiling?

20 A. Yes.

21 Q. And that she was normal?

22 A. Yes.

23 Q. Was she moving -- was she able to move both her arms  
24 and both her legs --

25 A. Yes.

1 Q. -- before you left the house to take [REDACTED] to  
2 school?

3 A. Yes.

4 Q. And you're positive?

5 A. Yes.

6 Q. Okay. She -- he also asked you about -- about feeding  
7 [REDACTED] that night and in the -- whether or not she was  
8 sleeping in the bed and you said that you would feed her  
9 and then you'd fall asleep with her in the bed?

10 A. Yes.

11 Q. Can you explain to the jury in the bedroom what size  
12 bed did you-all have?

13 A. A king size bed.

14 Q. Okay. And was it -- what was the position of the bed  
15 in the room?

16 A. It was to the wall.

17 Q. It was -- when you say it was to the wall, you mean it  
18 was pressed up against the wall?

19 A. Yes.

20 Q. Okay. So if you fell asleep and [REDACTED] was in the  
21 bed, which side would she would be sleeping on?

22 A. The side to the wall.

23 Q. Okay. And you also testified earlier that [REDACTED] was  
24 three months. She was not rolling over?

25 A. She was not rolling.

1 Q. She was what we would call nonmobile at that point?

2 A. Yes.

3 Q. So she could lay on her back and she could move her  
4 arms and legs, but she couldn't roll at all?

5 A. No.

6 Q. Okay. Like any normal three-month-old.

7 Okay. And -- well -- and the evening before when  
8 you picked up [REDACTED] from your mother's house, how was  
9 [REDACTED]?

10 A. She was good.

11 Q. Was she normal?

12 A. Yeah, she was normal.

13 Q. And you put her in the car seat that night?

14 A. Yes.

15 Q. And she could move both her arms and legs?

16 A. Yes.

17 Q. Was she crying and in any type of pain when you put  
18 her in the car seat?

19 A. No.

20 Q. And that evening -- you testified you gave her a bath  
21 when you got home that evening?

22 A. Yes.

23 Q. Okay. And you -- she had normal use of her arms and  
24 legs?

25 A. Yes.

1 Q. Was she crying at that point like something was wrong  
2 with her arms or legs?

3 A. No.

4 Q. Okay. And did you notice anything wrong with her?

5 A. No.

6 Q. Okay. And Mr. Koger asked you about [REDACTED] and so  
7 in August you're saying she was -- she was back in school?

8 A. Yes.

9 Q. And this incident occurred in August, August 28th?

10 A. Yeah. Uh-huh.

11 Q. So if [REDACTED] was back in school, when she would get  
12 out of school who would keep her?

13 A. My mom.

14 Q. So when you would pick up [REDACTED] -- you'd be at work  
15 from two to ten, right?

16 A. Yes.

17 Q. And when you'd go to pick up [REDACTED], would you also  
18 pick up [REDACTED]?

19 A. No. Are you talking about from --

20 Q. From your mother's house.

21 A. Yes.

22 Q. Yeah, not from school. Not pick up from school. When  
23 you'd go pick up [REDACTED] from your mother's house when you  
24 got off work, you would also pick up [REDACTED]?

25 A. Yes.

1 Q. Okay. And [REDACTED] would come home with you.

2 And Mr. Koger asked about your mother's boyfriend.

3 Did he work?

4 A. Yes.

5 Q. So was he -- was he there when -- during the day with  
6 [REDACTED] or was he at work?

7 A. No, he was at work. He still worked like, I think,  
8 second shift.

9 Q. Okay.

10 A. Yeah.

11 Q. So he worked the same shift you worked?

12 A. Yes.

13 Q. So he'd be at work also.

14 Okay. And I want to talk about the -- about [REDACTED]  
15 crying. That day when you left [REDACTED] with Kareem Wallace  
16 and you said -- well, I guess before you're unclear on  
17 whether or not you picked him up from work that morning.  
18 You don't remember?

19 A. I don't remember.

20 Q. You don't remember?

21 A. Yes.

22 Q. I know that's somewhat of a minor detail, but do you  
23 remember whether or not there was something wrong with your  
24 child that morning?

25 A. Yes.



1 Q. And was there anything wrong with your child's arm  
2 before you left the house to take [REDACTED] to school that  
3 morning?

4 A. No.

5 Q. There was nothing wrong with her?

6 A. No.

7 Q. And you said when you got home that the baby was  
8 crying and crying hard?

9 A. Yes.

10 Q. In Kareem's arms?

11 A. Yes.

12 Q. And was that cry different than a cry when they're  
13 whining when they're hungry you talked about?

14 A. Yes.

15 Q. It's a much different cry?

16 A. Yes.

17 Q. The cry when you're in pain?

18 A. Uh-huh.

19 Q. And you said that when they took x-rays, were they  
20 having to move her arm when they took the x-rays?

21 A. Yes.

22 Q. And you said she was crying then?

23 A. Yes.

24 Q. And was that cry different than a hunger cry?

25 A. Yes.

1 Q. Was it a cry in pain?

2 A. Yes.

3 MS. HUNTER: Okay. I don't have any further  
4 questions for you.

5 Thank you, Ms. Prince.

6 THE COURT: Any recross examination?

7 RECROSS EXAMINATION

8 BY MR. KOGER:

9 Q. What's the difference between a cry in pain and a  
10 hunger cry?

11 A. What's the difference?

12 Q. Yes.

13 A. She'd be screaming. Like being real loud. Like  
14 turning red.

15 Q. Okay. So getting back to -- so did you leave [REDACTED]  
16 with [REDACTED] on that morning or you don't recall or you  
17 think you did? What's the answer to that?

18 A. Either way it goes, if I did leave [REDACTED] home with  
19 her, [REDACTED] did not do anything to my baby.

20 Q. That's not -- that's not an accusation. So you could  
21 have left her home unattended?

22 A. Yes.

23 Q. Okay. Do you remember or do you recall that if you  
24 did -- had left her home waking [REDACTED] and saying [REDACTED]  
25 is here, look after her until I get back?

1 A. Yes, lay in the bed with her.

2 Q. Okay. So did you do that on that day?

3 A. If that was the day, yes. If I did, yes.

4 MR. KOGER: No further questions, Your Honor.

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

6 (Witness excused.)

7 THE COURT: I'm in need of a break. Let's take a  
8 break. You-all go in the jury room. Now remember during  
9 the break, you've only heard one witness, you-all can't  
10 discuss the case until the very end, so don't discuss the  
11 case. Enjoy your break. Discuss the weather or Easter  
12 vacation coming up, anything you'd like, but not the case.

13 (Whereupon, the jury retires to the jury room at  
14 11:28 AM.)

15 THE COURT: It's 11:30 by my watch. I'm gonna say  
16 ten minutes. Is that enough time for you-all?

17 MR. KOGER: That's fine.

18 THE COURT: Okay.

19 MS. HUNTER: Judge, we didn't know how long that  
20 would take, but he can -- if it's okay with you, we'll  
21 just take our break for lunch and we can get him back up  
22 at --

23 THE COURT: So you're calling the radiologist next?

24 MS. HUNTER: Yes, we're gonna call the radiologist  
25 next.

1 THE COURT: All right. So that's a really early  
2 break for lunch.

3 MS. HUNTER: I know. I'm sorry. We didn't -- well,  
4 when we planned this out, we were supposed to be picking  
5 a jury this morning and then -- so we had scheduled out  
6 our -- so I apologize. And then they -- you know, the  
7 issues on moving these doctors' schedules around any  
8 further. I believe we've --

9 THE COURT: So when's the radiologist supposed to be  
10 available?

11 MS. HUNTER: About 1:30, I think.

12 MR. HINDS: He said the earliest he could be  
13 available is 1:30.

14 THE COURT: You can't call anybody else this morning?  
15 You can call Mr. Koger.

16 MS. HUNTER: We have three for this afternoon, Your  
17 Honor. We have the radiologist, we have the investigator  
18 and then --

19 THE COURT: You can call somebody to testify.

20 MS. HUNTER: We have three this afternoon total.

21 THE COURT: That's basically the case.

22 MS. HUNTER: Yes, Your Honor.

23 THE COURT: Okay. Well, how about during this  
24 ten-minute break you-all see if the radiologist can go  
25 at 1:15. You said 1:30 is when he said he could go?

1 MR. HINDS: That's what he relayed to me while --  
2 during direct, Judge.

3 MS. HUNTER: I'll get him on and see if I can get  
4 him here -- get him on the screen.

5 THE COURT: But he's remote?

6 MS. HUNTER: Yes, Your Honor. He's remote. I know  
7 that his shift starts this afternoon and that's the reason  
8 why we asked him to come in early. I'm happy to call him  
9 right now and say that he needs to be on at --

10 THE COURT: I mean, if he could go at one, that would  
11 be better and we can take a break from 11:30 to 1:00 and  
12 tell the jury to go ahead and we'll just eat early.

13 MS. HUNTER: Yes, sir.

14 THE COURT: You know, I'm of the opinion you don't  
15 have to be hungry to eat, so I can eat anytime. Katie's  
16 always ready to eat. So we'll stand at ease.

17 Off the record.

18 (Recess taken at 11:31 AM.)

19 (Back on the record at 11:40 AM.)

20 THE COURT: All right. We're gonna tell you-all a  
21 couple of rules. She's trying to help you out. Being  
22 on a jury is kind of like going to church. You sit where  
23 you're comfortable and you kind of go back to where you  
24 first got called for. It's just you-all's spot for this  
25 week. If you-all figured that out, then send those folks

1     that are further in, in first when you just come and go  
2     and it will make it easier.

3             That's not why I called you in here, to tell you how  
4     to come in and out. I told you about the doctor. The  
5     doctor's gonna be available -- the State thought it was  
6     gonna take longer this morning because we were supposed  
7     to pick this jury today and then start late morning and  
8     so they told the doctor to be ready first thing after  
9     lunch. Well, you-all got picked Monday, the doctor's  
10    been told to be ready about 1:30, he's ready about 1:30,  
11    we've hurried him up to maybe 1:15, so we're gonna take  
12    an early lunch just because of his availability. He's  
13    the next witness. A few other witnesses will be live,  
14    they're coming after lunch as well, so we're gonna take  
15    an early lunch. You-all have got an hour and fifteen  
16    minutes. Be back here at 1:00.

17            They'll come to the jury room?

18            BAILIFF: Yes, I'm gonna lead them.

19            THE COURT: You-all are gonna see where you-all will  
20    come back to. Come back at 1:00 and then we'll kind of  
21    sit here and wait until the doctor gets on because he may  
22    be treating somebody and it may be 1:20, but 1:15 is when  
23    we've got our fingers crossed he'll be ready to testify  
24    via video, okay?

25            He'll be live. He's not recorded, but that's what

1 we've got to deal with. So you-all have got a break and  
2 so do I. We'll see you-all back at 1:00. Don't talk  
3 about the case.

4 (Whereupon, the jury was excused for lunch at  
5 11:42 AM.)

6 (Whereupon, a luncheon recess was taken at 11:42 AM.)

7 (Back on the record at 1:13 PM.)

8 THE COURT: All right. We had our lunch break.  
9 Just prior to coming back on the record, I discussed at  
10 sidebar at one of the counsel tables the issue of the  
11 admissibility of fifteen separate x-rays, different parts  
12 of the victim's body, depicting to show the injuries  
13 caused. Of the fifteen, the Court's initial view without  
14 identification by the radiologist is that the pictures  
15 selected by the State are not duplicative and seem to  
16 indicate, with proper testimony, so this is not -- I'm  
17 not giving any admission as to whether -- the weight of  
18 the evidence, but just admissibility, they appear to be  
19 separate different views of the left side of the child's  
20 body which shows the injuries.

21 Several of the images show the entire lower  
22 extremity or upper extremity of the child's body and the  
23 Court finds that would not be unduly prejudicial to the  
24 defense; however, it would be probative to assist the  
25 factfinder in understanding the child's body, the anatomy

1 of the injuries, provided sufficient testimony provided  
2 by the expert witness describing them.

3 Thus, the Court will preliminarily rule they're all  
4 in. And I understand that the defense wants to preserve  
5 this issue on their objection and so, Mr. Koger -- I want  
6 to call you Logan -- Mr. Koger, I'll be glad to hear from  
7 you if you need to protect the record on this issue.

8 MR. KOGER: Your Honor, may it please the Court?

9 We did have in-camera hearing on the fifteen -- I  
10 think there are fifteen x-rays that the State is moving  
11 forth to put forth in evidence in this particular case.  
12 We are talking about four fractures and I had selected  
13 several pictures that I thought was -- were appropriate.  
14 We had some other x-rays that I thought that was  
15 redundant. The Court in a preliminary ruling ruled with  
16 the exception of one that they are more probative than  
17 prejudicial.

18 Basically, Your Honor, there was -- there was some  
19 that was redundant that I felt from the defense and also  
20 I didn't want any follow-up x-rays to be placed forward  
21 because, again, you know, the best evidence of the  
22 accident on her legs, the accident on that particular  
23 day, are the ones that are were taken the day of.  
24 Nevertheless, the Court made a preliminary ruling and  
25 I would like to put that objection on the record to



1 preserve the record.

2 THE COURT: And as I understand it, part of our  
3 sidebar conversation from the State was that the  
4 follow-up x-rays show the indications of healing and not  
5 redundancy or permanency of the injury, that type of  
6 thing, which I believe also would assist the trier of  
7 fact. And my ruling is subject to the preview of the  
8 evidence --

9 MR. KOGER: Yes, sir.

10 THE COURT: -- but it must be readdressed and a  
11 foundation laid by the witness themselves to get it  
12 introduced. So, I mean --

13 MR. KOGER: Okay. All right. And at the time they  
14 attempt to do so, I will say subject to prior objection.

15 THE COURT: And we'll put that on the record. So  
16 when they come in, I'll say subject to your objection and  
17 that will protect you from this point forward --

18 MR. KOGER: Okay.

19 THE COURT: -- when we get there, so that way you  
20 will have a contemporaneous objection at the time of  
21 their admission.

22 MR. KOGER: Okay. Thank you.

23 THE COURT: All right. Also both lawyers -- all  
24 lawyers agree that we agree that this radiologist, who's  
25 a physician near Columbia, I guess, he's gonna testify

1 via a remote platform like a WebEx or a --

2 MR. HINDS: Zoom.

3 THE COURT: -- computer Zoom platform and he'll be  
4 cross-examined and examined in that fashion.

5 Does everybody agree with that?

6 MR. KOGER: Yes, Your Honor.

7 THE COURT: Okay. Now I want to get him on and  
8 Stacy wants to hear a little bit from him first before  
9 she says bring in the jury because she wants to make  
10 certain how you-all are gonna move with him.

11 MS. HUNTER: Absolutely.

12 THE COURT: All right. Now --

13 MS. HUNTER: He's on and he's saying he's waiting  
14 on us, but we'll figure it out.

15 THE COURT: Okay. Now what was the other thing I  
16 needed to put on the record?

17 THE CLERK: The bond.

18 THE COURT: Bond. Okay. We'll address the bond  
19 thing before we leave here.

20 MS. HUNTER: Was there one other thing or no?

21 MR. KOGER: Your Honor, we've got -- Your Honor,  
22 if it please the Court, we got -- he's got permission  
23 from his bondsman that his bondsman will stay on his  
24 bond throughout the proceeding.

25 THE COURT: Okay. And, Mr. Wallace, I advise you

1 if you don't come back, the trial's gonna go on and you  
2 not being here, the jury may take something from that,  
3 so I trust you'll come back. You've been here for the  
4 last five years. I don't think you're gonna run off,  
5 but if you don't, you take that risk, the trial goes on,  
6 the jury will try to deliberate and if they reach a  
7 verdict, they do what they got to do. So you understand  
8 that risk and I'm gonna leave you out on your bond.

9 THE DEFENDANT: Understood.

10 MR. KOGER: Thank you, Your Honor.

11 THE COURT: Okay. This is off the record.

12 (Discussion off the record.)

13 (Whereupon, the jury return to the courtroom at  
14 1:43 PM.)

15 THE COURT: All right. The video's live. It took  
16 us a minute for some technical difficulties, but I didn't  
17 help and it got squared away.

18 All right. Ms. Mubarak, call your witness.

19 MS. HUNTER: Thank you, Your Honor.

20 The State calls Dr. Matthew Marcus to the virtual  
21 stand.

22 THE COURT: And the parties agree that his testimony  
23 can be presented that way.

24 Madam Clerk, place him under oath, please.

25 THE CLERK: Sir, can you raise your right hand?

1 THE WITNESS: I'm sorry?

2 THE CLERK: Can you raise your right hand?

3 (Whereupon, Matthew A. Marcus was duly sworn by the  
4 Clerk of Court.)

5 THE COURT: He's your witness.

6 MATTHEW A. MARCUS,

7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. HUNTER:

10 Q. Dr. Marcus, can you state your name for the record?

11 A. Yeah, it's Matthew A. Marcus.

12 Q. Okay. And -- thank you. And can you tell the jury  
13 what your profession is, Dr. Marcus?

14 A. Yes. I'm a medical doctor and my specialty is  
15 radiology. My area of subspecialty is pediatric radiology.

16 Q. And can you tell the jury what radiology is?

17 A. Sure. Radiology is the use of x-rays or other forms  
18 of medical imaging that are utilized in the diagnosis and  
19 evaluation of disease.

20 Q. So you look at -- is it fair to say you look at x-rays  
21 to determine if there's breaks, fractures, things like  
22 that? That's what you do for a living? That's what a  
23 radiologist does?

24 A. Yeah. Yes. X-rays are one thing that I look at. I  
25 interpret x-rays, CT scans, MRIs, ultrasounds, a variety

1 of imaging modalities, but, yes, x-rays are a large number  
2 of what I review.

3 Q. Thank you. And where do you work?

4 A. I work for Prisma Health in the Midlands.

5 Q. And is it Prisma Health a local hospital in Columbia?

6 A. Yeah.

7 Q. Local hospital organization in Columbia?

8 A. Yeah. Yeah. And I work predominantly at -- since  
9 the bulk of what I do is pediatric radiology, I work  
10 predominately at Richland Hospital since the children's  
11 hospital is there.

12 Q. Thank you. And how many years have you worked as a  
13 radiologist?

14 A. Okay. So I finished a fellowship in 2005. That was  
15 the end of my formal training. That with a fellowship in  
16 pediatric radiology and I completed that in 2005, so I  
17 guess it's about eighteen years now.

18 Q. And can you tell the jury what type of education you  
19 had to go through to become a radiologist?

20 A. Sure. I graduated from high school, I went to  
21 college, I got a four-year degree in college, a bachelor's  
22 degree. I then had applied to medical school. I went  
23 to medical school for four years, got my M.D. degree in  
24 1999, and then to become a radiologist the training you  
25 have to do after medical school is you do a one-year

1 internship and then you do four years of radiology  
2 training, a radiology residency, and then after that  
3 four years of training I did an additional year devoted  
4 entirely to pediatric radiology.

5 Q. Thank you. And once you became a radiologist, is  
6 there additional training that you have to perform each  
7 year to keep your license current?

8 A. Yeah. You know, there's -- there's always tenure  
9 requirements for different governing bodies. Actually for  
10 us, for me, the strictest governing body is actually my  
11 employer, Prisma Radiology, so we mandate that individuals  
12 perform forty hours of CME per year. The American Board  
13 of Radiology requires about twenty-five per year, so,  
14 again, that's more of a greater requirement than even the  
15 American Board of Radiology.

16 Q. Thank you. And have you ever testified and been  
17 qualified as an expert in pediatric radiology?

18 A. Yes.

19 Q. Do you know approximately how many times you have?

20 A. I believe three. Definitely two, possibly three.

21 Q. Okay. Thank you.

22 MS. HUNTER: Your Honor, at this time I would ask  
23 to qualify Dr. Matthew Marcus as an expert in pediatric  
24 radiology.

25 THE COURT: All right. Any voir dire to his

1 qualifications?

2 MR. KOGER: Yes, I just have one or two questions.

3 THE COURT: All right.

4 MS. HUNTER: You'll have to walk over here.

5 THE COURT: Focus on the computer screen so you're  
6 looking at him so to speak.

7 MR. KOGER: Okay.

8 MS. HUNTER: All right. The defense attorneys wants  
9 to ask you a couple of questions.

10 THE WITNESS: Absolutely.

11 MR. KOGER: Right here?

12 THE WITNESS: I can see you.

13 VOIR DIRE EXAMINATION

14 BY MR. KOGER:

15 Q. Hey, Doctor. How are you doing this morning -- this  
16 evening?

17 A. I'm okay. How are you?

18 Q. I'm doing well. Just -- just one or two questions.

19 You stated that you have been qualified to testify two  
20 or three times as a --

21 A. Yes.

22 Q. Okay. And when was those times?

23 A. Oh, you know, I don't remember the exact dates. It  
24 was probably -- they've both been in the time that I've  
25 been in the Midlands, so I've been here since the fall of

1 -- late summer, fall of 2007. I would guess they go back  
2 probably eight or ten years ago. At least one of them was  
3 in Richland County, in Columbia, and one of them was in  
4 Bamberg County.

5 Q. Okay.

6 A. So I believe there were one or two in Columbia and one  
7 in Bamberg.

8 Q. And what particular classes during your training you  
9 had with pediatric radiology with that subset?

10 A. I'm sorry. I don't -- I'm not understanding you. You  
11 mean what is the -- the content of my training that I've  
12 had?

13 Q. In relation to -- to pediatric radiology.

14 A. Okay. So -- okay. So when you do a diagnostic  
15 radiology residency, you do four years of radiology, and  
16 the American Board of Radiology has pediatric radiology  
17 as one of the defined sub -- sort of subsets within the --  
18 the larger field of diagnostic radiology. So at a minimum  
19 you spend four months during your residency and that's  
20 almost always under a pediatric hospital and so when I  
21 was a resident at Thomas Jefferson University Hospital  
22 in Philadelphia, I spent that time at DuPont Children's  
23 Hospital, which is in Delaware, so those would be -- those  
24 were a month per year of my residency years, and then when  
25 I -- when I completed residency training I did a dedicated



1 full year of pediatric radiology. Like that's all I did.  
2 I was at Children's Hospital Philadelphia and I spent that  
3 time solely doing pediatric radiology.

4 Q. Okay.

5 MR. KOGER: Thank you. I have no further questions.

6 No objection to him being qualified.

7 THE COURT: All right. Ladies and gentlemen of the  
8 jury, what's happened so you-all understand it, Dr. Marcus  
9 has been called as an expert in the field of pediatric  
10 radiology. In addition to the things he sees and does,  
11 he can offer opinions, expert opinions, in that field of  
12 pediatric radiology.

13 He's been so qualified. Continue on.

14 MS. HUNTER: Thank you, Your Honor.

15 CONTINUED DIRECT EXAMINATION

16 BY MS. HUNTER:

17 Q. Dr. Marcus, did you have the opportunity to read and  
18 interpret x-rays and images on a three-month-old patient  
19 identified to you as [REDACTED] ?

20 A. Yes.

21 Q. I'm gonna ask you to look at what's been marked as  
22 State's 1 through 15. And we e-mailed those images to you.  
23 Do you recognize those?

24 A. I'm sorry. Do I recognize?

25 Q. The images that we e-mailed you. The State's 1

1 through 15, the images.

2 A. This series of images that you wanted me to review,  
3 yes, I have that in front of me. But, yes, I've seen them  
4 before.

5 Q. And at the top right-hand corner it states the name  
6 [REDACTED]?

7 A. The top right-hand corner. Okay. So you want me to  
8 open the images now?

9 Q. Don't open the images yet. Don't open the images yet.  
10 Don't open the images yet.

11 A. Yes.

12 Q. When you looked at those and you recognized those  
13 images and you -- I think you recognized them because the  
14 patient's name as stated in the top right-hand corner is  
15 [REDACTED]; is that correct?

16 A. Yes. That's the standard in radiology that the  
17 patient's demographics are included on the image, so that's  
18 how we know who we're looking at.

19 Q. Okay. And those images, State's 1 through 15 that  
20 were sent to you and that you have in front of you, what  
21 are those? What are those fifteen images?

22 A. They're -- they're a variety of images from different  
23 dates ranging from 8-28-18 all the way up to 11-6-18. They  
24 include a skeletal survey -- actually two skeletal surveys,  
25 which are x-ray examinations of the entire skeleton that

1 are performed on children frequently, and they include  
2 additional images of both -- around the 28th and 29th that  
3 were focussed examinations over a particular portion of  
4 the left upper and lower extremity and they -- and then  
5 the exams that are from later dates are follow-up exams,  
6 which are commonly obtained in patients with fractures and  
7 things of that nature so that everyone can see that they're  
8 healing and how they're doing.

9 MS. HUNTER: Thank you. At this point in time I'd  
10 move to admit State's 1 through 15 into evidence, Your  
11 Honor.

12 THE COURT: And, Mr. Koger, you had a -- we had an  
13 in-camera hearing regarding the admissibility of these.  
14 You submitted an objection. Do you have any additional  
15 grounds other than duplicitous and the 403 analysis,  
16 which we've conducted?

17 MR. KOGER: No other -- no additional objection  
18 other than what we've already been placed on the record,  
19 Your Honor.

20 THE COURT: Very well. Subject to your objection,  
21 they're all admitted.

22 (State's Exhibit Number 1 through 15, x-ray  
23 photographs, were admitted into evidence.)

24 BY MS. HUNTER:

25 Q. Okay. Dr. Marcus, all of these -- these fifteen

1 images have been admitted into evidence. I would like  
2 to go through each image starting with the images taken  
3 on August 28, 2018.

4 So I'd like you to look at what's been marked as  
5 State's Exhibit 1. This is the first image we're gonna  
6 refer to if you don't mind pulling that up on your screen.

7 A. Sure. Hold on one moment. X-ray -- I'm just gonna  
8 share my screen now.

9 Q. Perfect. That's -- that's correct. That image.  
10 Okay.

11 A. Can you see my mouse moving on the image?

12 Q. Yes, we can.

13 A. Okay. Perfect.

14 Q. All right. Dr. Marcus, I'm showing you what's been  
15 marked as State's 1. What was the date that this x-ray was  
16 taken?

17 A. This x-ray was taken on August 28, 2018. It looks  
18 like at 8:51 AM.

19 Q. Okay. And what is this that we're looking at?

20 A. Okay. So these -- what you're looking at when you're  
21 looking at an x-ray like this, is what we're looking at  
22 is the left upper extremity. Now what you can see on  
23 x-rays predominantly is the bones, okay? So these denser,  
24 brighter structures that we see here are the bones. So if  
25 you might imagine, the fingertips are down here. Let me

1 bring those in to make those a little clearer for you.  
2 This is the forearm over here. This is the wrist joint.  
3 This is the elbow joint. This is the shoulder joint up  
4 here. And this is part of the left chest that's -- that's  
5 partly included on this x-ray, so that's what this is an  
6 x-ray of anatomically.

7 Q. And to be clear, it's the left side of the body?

8 A. Yeah, the left upper extremity.

9 Q. The left upper extremity. Correct. And what are the  
10 -- what are the medical terms for the bones that we're  
11 looking at, particularly the one your mouse is over right  
12 now?

13 A. Okay. You mean the names of the bones?

14 Q. Just that one right there.

15 A. Okay. This is the humerus.

16 Q. Humerus. Okay.

17 A. And that's gonna be the bone of your upper arm.

18 Q. Okay. Thank you. And can you explain to the jury  
19 what, if any, injury you see in this x-ray?

20 A. Yes. Absolutely. I'm gonna -- gonna use -- so on all  
21 PACS systems that are used in America, there's all kinds  
22 of tools that are available, so I'm gonna zoom this up a  
23 little bit so I can make it a little clearer on this image  
24 what I'm looking at that's abnormal.

25 What you'll notice when you at these bones is the

1 bones have kind of smooth margins and they have kind of  
2 an architecture to them. They've got like sort of this  
3 structure that's in continuity. What we're looking at on  
4 x-rays when we're looking for abnormality, particularly  
5 fractures, is we're looking for anything that shows a  
6 discontinuity, okay, and when you look down here at this  
7 humerus you can see there's this dark line that's here,  
8 okay? It's kind of a -- it's on a straight line that's  
9 a little bit wavy, but there's a line in there. Notice  
10 when you look at the other side of that same part of this  
11 humerus there's not a line up here, so this line is  
12 abnormal.

13 In addition to this line being abnormal, what you'll  
14 note is that you can see this little crescent, this little  
15 curvilinear line of bone. Again, I'm gonna zoom this up  
16 for you a little bit so you can see it a little more  
17 clearly, over here, and this is abnormal, okay? This is  
18 -- this is part of the fracture. So what you have here is  
19 you have a fracture that extended through this area, what  
20 we call the lateral condyle, and extended through the end  
21 of the bone or at least what we can see is the end of the  
22 bone. This is the part of the bone that has actual calcium  
23 and we can see it on an x-ray. There's parts of the bone  
24 that are cartilage in here that we can't see on x-rays. So  
25 this fracture involves the very end of the -- the part of

1 the bone that's ossified or has calcium in it.

2 Q. Okay. Thank you. I'd like to show you another --  
3 another view of that, a closer up view somewhat of that,  
4 that's marked as State's 2 if you can pull this one up.

5 A. Can you hold it up a little higher for me?

6 Q. Sure.

7 A. Okay. I believe -- okay.

8 Q. So I'm going to go to -- this is now part of a  
9 different study. I believe this is the image; is that  
10 correct?

11 A. That's correct.

12 Q. And can you tell us the date that image was  
13 taken?

14 A. Yes. This study was obtained on 8-28-18 at 10:07 AM  
15 or thereabouts.

16 THE COURT: Ms. Mubarak, the first two you've shown  
17 for the record, which you've marked as a State's exhibit,  
18 he's describing very -- on his computer, but what are they  
19 for Stacy's record? Exhibit what and --

20 MS. HUNTER: I'm sorry. I thought I said it.  
21 State's 1 and then we're onto State's 2.

22 THE COURT: Okay. I didn't -- State's 1 and 2.

23 MS. HUNTER: I'm sorry. I apologize. I'll try to  
24 do that more clearly.

25 THE COURT: That's okay.

1 BY MS. HUNTER:

2 Q. All right. So the image you're talking about now is  
3 State's Exhibit 2.

4 A. Okay.

5 MS. HUNTER: Can you --

6 THE COURT: That's good. That's all I needed.

7 MS. HUNTER: Thank you, Your Honor.

8 BY MS. HUNTER:

9 Q. Okay. So I'm showing you -- we're looking at State's  
10 Exhibit 2 and you said that was taken on August 28, 2018.  
11 Can you tell the jury what this is?

12 A. Yes. Okay. So this is an AP radiograph. In other  
13 words, it's an x-ray that was taken as if you're looking  
14 from the front of the elbow through the elbow, through the  
15 arm, okay? So if you might imagine, this is the axilla or  
16 the armpit up here. The wrist would be somewhere down  
17 here, it's not on this x-ray, and this is the elbow joint  
18 as if you were looking at it from the front, and so the  
19 x-ray beam is going straight through the front of the  
20 elbow.

21 Q. Okay. And can you explain to the jury what, if any,  
22 injury you can see in this x-ray?

23 A. Sure. The last image that we looked at was --  
24 included a -- the identical portion of the anatomy. This  
25 is a more detailed x-ray. The x-ray beam is focussed over



1 the elbow, but it's the same abnormality. There is this  
2 sort of wavy dark line here and, again, we can see that  
3 there is a curvilinear piece of bone that's come off of the  
4 end of the bone here. So a fracture line going through  
5 here that extends through the end of the bone.

6 Q. From this image, Dr. Marcus, can you -- or maybe  
7 another one later, can you explain to the jury which part  
8 of -- in that image what you could see that would be muscle  
9 versus fat versus other things in the arm or does that need  
10 to be shown in a later clearer image?

11 A. Sure. Absolutely. So I'm gonna change my -- this  
12 is what I called my zoom window. I'm just changing the  
13 contrast in the image a little bit and what I'm gonna show  
14 you is that these sort of lighter areas of tissue up here,  
15 these are the muscles, okay? So there's muscles in your  
16 forearm and there's muscles in your upper arm. For those  
17 of you who might know something about muscles, around your  
18 shoulders you have deltoid muscles, so this is part of the  
19 deltoid muscle. And there are other muscles. There's  
20 your biceps muscle, your triceps muscle, which are in this  
21 picture, and there's some muscles in your forearms that  
22 are in here, and I would point out when you look at these  
23 muscles, then you see where you get to an interface here.  
24 It changes. It goes from light to dark. That darker area  
25 you see is fat underneath the skin, subcutaneous fat.

1           So why am I mentioning this? Well, in a normal  
2 individual the fat and muscle have a very sharp interface  
3 between them. In other words, I can take a pencil and draw  
4 a very distinct line where this fat and this muscle hit  
5 each other. I would direct your attention to this area  
6 over here. This is the inside part of the elbow. So, in  
7 other words, if you have your palm open facing forward,  
8 around -- and you were to kind of put your finger where  
9 your funnybone is, that's kind of around that area over  
10 there, and what you'll notice is that the line between the  
11 fat and the muscle here is not very distinct, okay? So in  
12 radiology when we see that on x-ray what that suggests to  
13 us is that there's edema. That there's swelling in that  
14 area.

15 Q.   And -- and can you explain to the jury about when  
16 there's a fracture when swelling occurs and things like  
17 that?

18 A.   Yeah, typically you're gonna see swelling within the  
19 first couple of days. So it's a -- you know, the presence  
20 of this fracture and, you know, this is a fracture that  
21 shows zero evidence of healing, it has pretty sharp edges  
22 to it. The fracture itself in the bone is -- is pretty new  
23 looking, again, within a couple of days, and the presence  
24 of that soft tissue edema supports that.

25 Q.   Okay. And when you say that that fracture is recent

1 looking, is another term you-all use for that an acute  
2 fracture?

3 A. Yes.

4 Q. And you're saying the reason for that is you can tell  
5 there's no signs of healing? That's the reason you know it  
6 had to have recently occurred? And the swelling also are  
7 signs of that.

8 A. Yeah. Yeah, generally the presence of swelling is a  
9 tip-off that it's new because as anyone knows who's banged  
10 a part of their body into something, even if you've broken  
11 it or not, you know that you get some swelling of the  
12 tissues of your skin, we've all experienced that from time  
13 to time, and that usually goes away after a couple of days.

14 Q. Thank you. I'd like to show you next what's been  
15 marked as State's 3 also.

16 A. Okay. Wait. Let me just see that one. 18 -- 4 of  
17 21. Okay.

18 Q. Yes, that's correct. That's State's 3 that we're now  
19 looking at. Can you tell the jury when this x-ray was  
20 taken and what it shows?

21 A. Sure. It looks like this x-ray was taken on May --  
22 I'm sorry. 8-28-18. It looks like it's marked around  
23 8:51 AM.

24 Q. Thank you. And what part of the body? What are we  
25 looking at?

1 A. We're looking at the left elbow again.

2 Q. Okay. And -- and in this image is there -- what else  
3 can you tell the jury about what, if any, injury you see in  
4 this?

5 A. Sure. Sure. This is what we call an oblique  
6 radiograph of the left elbow. So the elbow is kind of not  
7 -- you're not looking straight on, you're looking at a  
8 slight angle, okay? And, again, it's showing the same  
9 thing that we'd seen on the earlier radiographs. So,  
10 again, this is the distal humerus. This is the end of the  
11 bone that's part of your upper arm that goes to the elbow  
12 and, again, what you see here is this dark line. It looks  
13 a little straighter on this radiograph and, again, that's  
14 just because of the angle we're looking at it. So we see  
15 a little more -- more clean in profile. And you can see  
16 there's this dark line here. And, again, the same thing.  
17 This sort of little curvilinear or curved piece -- fragment  
18 of bone here that's coming off the end of the distal  
19 humerus. And this x-ray also shows some soft tissue  
20 swelling around the bone of the elbow joint.

21 Q. Right. Thank you.

22 All right. Next I want us to look at what's marked  
23 as State's 4. Here is that --

24 A. Okay. Hold on a second. Okay. Wait. Can I see that  
25 picture one more -- one moment more so I can make sure I'm

1 on the right image?

2 Q. This is State's 4.

3 A. I'm sorry. I'm meaning in -- I'm in the wrong image.  
4 My apologies. I just need to see -- I can't clearly see  
5 the series. No, can you show me the other corner, the  
6 oppo -- yes, that corner. Okay. Very good. I'm guessing  
7 that that's that x-ray there.

8 Q. Yes.

9 A. Okay.

10 Q. That's correct.

11 A. Okay.

12 Q. Again, if you could, was the date of this x-ray also  
13 August 28th of 2018?

14 A. Yeah, it looks like 8-28-18 around 10:07 AM.

15 Q. And can you tell the jury what we're looking at?

16 A. Yeah, we're looking at the elbow again.

17 Q. Okay.

18 A. Now this was supposed to be what's called a lateral  
19 view, which is when we're looking at the elbow sideways.  
20 It's not a perfectly positioned lateral, but it's more or  
21 less a lateral view, and one of the things it's important  
22 to note is that that line that I showed on the other two  
23 views you don't really see well in this view and that's  
24 just sort of the way fractures are. That if you show them  
25 in profile, you can see them clearly, but you can kind of

1 cover them up sometimes and that's why when we get  
2 radiographs we always try to get multiple views because we  
3 simply don't want to miss fractures when they're there, but  
4 the thing I would add is that a component of this fracture  
5 is still very clearly visible and that is this part of the  
6 fracture right here. Again, that's that same little strip  
7 of bone that got pulled off the end of the distal humerus.  
8 Again, that's the bone in the upper arm that goes to the  
9 level of the elbow.

10 Q. Okay. Thank you. And, Dr. Marcus, what causes an  
11 elbow injury like this in a nonmobile three-month-old?

12 A. Well, you know, three month olds don't do very much  
13 in general. Things can happen to them and/or things can  
14 be done to them, but in general they won't have the same  
15 mechanisms of injury that ambulatory children or adults  
16 have, people who walk around, people who are running, who  
17 are jumping on things or falling off of things. So when I  
18 look at this injury, it particularly kind of -- can I go  
19 back to the --

20 Q. Yeah, you can go back to any others. That's correct.

21 A. Okay. So this is one of the views we looked at. So  
22 when I look at this fracture, it's a bit of a -- it has two  
23 potential mechanisms of injury to it.

24 I'm sorry. Am I okay?

25 Q. Yeah. Yeah. Keep going. I'm sorry.

1 A. Okay. So, again, I told you that there is this sort  
2 of curvilinear line here and in radiology the term we use  
3 for a fracture that has that orientation is what's called  
4 an oblique fracture, okay? Oblique just means something  
5 that's sort of at an angle, it's not straight, you know,  
6 it's not straight up and down and it's not straight across.  
7 It's kind of in between there. So that's one part of this  
8 fracture.

9 The other part of this fracture involves this little  
10 strip of bone getting pulled off and so there's two -- so  
11 what would give you an injury like this in a child of this  
12 age? One of two things can do it. It could be a twisting  
13 injury. So, in other words, if the arm were to be by some  
14 means very vigorously grabbed or caught in something and  
15 -- and twisted firmly, you could -- you could create this  
16 oblique sort of fracture. Potentially you could have it  
17 extend to the end of the bone. The alternative thing is in  
18 a child of this age any fracture that involves that end of  
19 the bone is very concerning for a fracture that resulted  
20 from a shaking injury. In other words, an arm that was  
21 kind of flopping around during an episode when the child  
22 may have been very vigorously shaken. And, you know, kids  
23 this age, they can't really -- they don't have control of  
24 the tone of their muscles so it's not like they can resist  
25 the forces of the shaking. Their arms and legs just kind

1 of go -- go with it and this turns out to be the weakest  
2 part of the bone in the growing skeleton of an infant is  
3 this area right here.

4 Q. Okay. Thank you, Dr. Marcus.

5 I'd like to show you what's been marked as State's 5.

6 A. Okay. Hold on one moment. 5. Okay. Got it.

7 Q. I believe it's Series 5 of 21.

8 A. Wait. I'm sorry, can I see that again?

9 Q. I'm sorry. I'm sorry. Yes.

10 A. 5 of 21. Wait. Hold on for one second. My 5 of 21  
11 is not clearly matching up with your -- wait. Wait. Let  
12 me just see this. 4, 3, 4, 4 --

13 Q. I believe that one that says L-A-B. That would be it.

14 A. Is that it? Okay.

15 Q. Yes.

16 A. I'm sorry.

17 Q. There you go. That's it.

18 A. Yes.

19 Q. Okay. Can you tell the jury what date this x-ray --  
20 well, was it also taken on August 28, 2018?

21 A. Yes.

22 Q. Okay. And what is this we're looking at?

23 A. Okay. So this is a -- imagine if you were looking at  
24 the upper part of someone's chest and the lower part of  
25 their face and head. So, in other words, this is the left



1 shoulder over here. Somewhere over here is gonna be the  
2 right shoulder. It's not on the picture. These are your  
3 collarbones, so that's the right collarbone, that's the  
4 left collarbone. I believe this is part of the head. This  
5 is the bones in the neck, the cervical spine. This is part  
6 of upper chest here that we're seeing. There's some lung  
7 in this picture. So that's what we're looking at.

8 Q. Okay. Thank you. And can you explain to the jury  
9 what, if any, injury you see in this photo?

10 A. Yes. So -- so this is the left clavicle and, you  
11 know, just like with the other bones -- the other bone that  
12 I showed you, or any bone, you see in this x-ray the bones  
13 are supposed to be continuous, right? They're supposed to  
14 be -- they have a beginning and an end and there's not  
15 supposed to be any disruption of that contour of the bone  
16 and what you can see when you look like right here is that  
17 this bone has this dark lining. That's not supposed to be  
18 there. So that dark line is a fracture and it looks to me  
19 like there's a little bit of soft tissue swelling above  
20 that fracture, so this looks to me like an acute fracture.

21 Q. And when you say acute, I know you said this a lot,  
22 you mean a recent fracture?

23 A. A recent fracture, yes.

24 Q. Yes, sir. And when you say a fracture, is that the  
25 medical term for a break? Does that mean the same thing as

1 a break?

2 A. Yes, that's exactly what it is. That's a broken bone.

3 Q. A broken bone. Okay. And what causes a collarbone  
4 fracture in a three-month-old nonmobile infant?

5 A. Okay. So unlike an adult or an ambulatory or walking  
6 around or running around young kid that can fracture their  
7 clavicle from falling on their shoulder, there's -- that's  
8 not an option in this case for a patient this age, so  
9 there's two -- there's -- I'm sorry. Pardon me. The other  
10 thing that adults and ambulatory children can break their  
11 -- occasionally break their clavicles doing is falling down  
12 on an outstretched hand. You know, if you were to fall on  
13 something and you were to land on your arm with your arm  
14 fully extended, occasionally that can result in a clavicle  
15 fracture. Again, that's not a reasonable mechanism in a  
16 patient who's thirteen weeks old. So in this age group,  
17 these fractures are all from direct injuries, either a blow  
18 to the clavicle or some sort of compressive force applied  
19 to the clavicle causing it to break.

20 Q. Okay. Thank you. And, Dr. Marcus, you've now  
21 identified two different fractures on this child. Would  
22 a child be --

23 A. Yes.

24 Q. Would a child be moving her arm after sustaining these  
25 injuries?

1 A. Most likely not. You know, among children who -- who  
2 have fractured bones, one of the most common clinical  
3 presenting is that they come in not moving or using an  
4 extremity, their arm, their leg, whatever, and we end up  
5 searching for fractures in them to see if there's a bone  
6 that's broken because it's just your -- your natural  
7 instinct if you've ever experienced a broken bone you tend  
8 not to want to move it yourself because, you know, any sort  
9 of motion at the fracture site can be associated with pain,  
10 so we tend to splint things ourselves, we basically won't  
11 move it, and that's really an instinctive kind of function.

12 Q. And that's something that a child would do immediately  
13 after the -- or a person would immediately do?

14 A. Oh, yes. Yeah, these are -- I mean, breaking a bone  
15 like this is pretty painful --

16 Q. Okay.

17 A. -- so that splinting mechanism will occur, you know,  
18 immediately.

19 Q. Okay. And the next -- well, I guess, Your Honor --  
20 I mean, not Your Honor, Dr. Marcus, let me ask you this.  
21 You've now told the jury about the mechanisms that can  
22 cause these type of injuries in a three-month old. In your  
23 medical opinion, would -- these fractures, could they be  
24 caused by picking a child up by one arm?

25 A. Well, I guess, potentially you could if you were to

1 very forcefully pick a child up by that left arm and -- and  
2 sort of do a grab and -- and a really sharp pull and twist.  
3 I guess theoretically you could explain the distal humeral  
4 fracture that I'd shown earlier.

5 Q. And which one is the humeral fracture, I'm sorry, for  
6 the jury?

7 A. The elbow fracture. The elbow fracture that I've  
8 shown you, that potentially could result from someone  
9 really grabbing an arm and, as I said, you know, a twisting  
10 injury with a sharp pull, but that wouldn't explain the  
11 clavicle fracture.

12 Q. Okay. Thank you.

13 All right. Dr. Marcus, next I'm gonna to show you  
14 what's been marked as State's 6 and that is --

15 A. Okay. Hold on one moment. I believe that's it; is  
16 that correct?

17 Q. That is correct. Yes.

18 All right. Can you tell the jury -- this was taken  
19 -- for time purposes, it says on the top this was taken on  
20 August 28, 2018, and can you tell the jury what this is  
21 that we're looking at?

22 A. Sure. This is an x-ray of both lower extremities,  
23 okay? So this is the right leg. This is the femur.  
24 That's the bone that's in your thigh. This is what's  
25 called your -- your tibia and your ulna. These are the

1 bones that are in your lower leg, okay? Same for the other  
2 side. This would be your ankle joint around here. The  
3 feet are being held by someone so we can obtain the x-ray  
4 so the child is in, you know, proper position for the  
5 x-ray. What we see here, these are the hip joints. This  
6 is the pelvis, the bones in the pelvis. This thing that we  
7 see here is a wet diaper. This is what it looks like on an  
8 x-ray. And I'm gonna magnify this image.

9 Well, I'll -- is there -- you know, there's something  
10 I would magnify for you. Do you want me to magnify it?

11 Q. Yes. If you could explain to the jury what, if any,  
12 injury that you see on this image and go ahead and talk  
13 about it.

14 A. Yeah, I'm gonna direct your attention to the -- so  
15 this is the left knee and I want to show you these two  
16 bones that are around the left knee, okay? So, again, this  
17 is the femur. This is the bone in your thigh that ends at  
18 the knee and this your tibia. This is one of the bones in  
19 your lower leg that begins at the knee. And I know these  
20 are hard to see, but I want to point out -- notice how  
21 smooth the bone is along this corner of that end of the  
22 femur there? It's perfectly smooth. There's no line or  
23 no irregularity. There's no little piece that's separate.  
24 Nothing like that. The same thing over here. Perfectly  
25 smooth, okay?

1        Now I want to direct your attention to this part of  
2        the distal femur, the inside part of it, and you'll see  
3        there's these little pieces of bone that don't quite look  
4        right. They don't look like the other side. They're not  
5        -- they don't look really firmly attached to the bone, the  
6        underlying bone, at all. And you have a similar finding  
7        right over here. Oops. I'm sorry. I was trying to zoom  
8        that. A similar finding right over here. You see I have  
9        this little sort of crescent, this little curvilinear  
10       piece of bone here that looks like it should fit in like a  
11       puzzle piece, right, along this piece of bone, but it's not  
12       attached, it's separate, and the reason why it's separate  
13       is because it's fractured.

14      Q.    Thank you. And is there any type of specific term  
15       you guys use to refer to those fractures that are on those  
16       parts right there?

17      A.    Yeah, the term that most radiologists and most people  
18       who are in forensic pediatrics will use is what are called  
19       metaphyseal corner fractures. They're also sometimes  
20       referred to as classical metaphyseal lesions. Depending  
21       on the morphology of the fracture they can sometimes be  
22       called a bucket handle fracture. They go by different  
23       names, but they're all essentially the same thing. They're  
24       a fracture through a weak point at the end of the growing  
25       bone.

1 Q. And at the end of the growing bone, does that mean  
2 near the growth plate? Is that what you're saying?

3 A. That's exactly right.

4 Q. Okay.

5 A. That's exactly right. So when we look at this -- you  
6 know, obviously this child's bones are of a certain length  
7 now and they have to -- they will grow to the length of an  
8 adult eventually, so how do we go from having these little  
9 tiny bones to having bones that are much longer and what  
10 we have here is we have what's called a growth plate.

11 There's a big chunk of cartilage that's at the end of this  
12 bone and through a process, a normal process of growth and  
13 development, that cartilage leads to the formation of bone  
14 and that bone -- it's sort of like -- almost like if you  
15 think about the rings in a tree, that bones gets laid down  
16 on top of more bone, and that's what lengthens these bones.

17 Q. Okay. Great. And from this image can you tell if  
18 this was an acute fracture or a recent fracture?

19 A. It can be -- it can be difficult to tell with these  
20 types of fractures. They could have variable healing and  
21 sometimes that can take a little while until they're  
22 totally healed, so it's hard for me to say exactly how  
23 acute they are, but there's not any deep evidence of  
24 healing or bridging between the pieces and the donor bone.

25 Q. Okay. Thank you.

1 All right. Next, Dr. Marcus, I want to show you what  
2 is State's 7, and that is Series 3 of 2.

3 A. Okay. 3 of 2 is -- oops. I'm sorry. Is it this one?

4 Q. That's correct. That is correct.

5 A. Okay. Yeah.

6 Q. And if you could explain to the jury, this was also  
7 taken -- this one was taken the following -- this image was  
8 taken at the hospital on August 29th. Can you tell the  
9 jury what this is?

10 A. Yeah, this is an x-ray of left knee. So instead of  
11 taking like an x-ray of like the whole extremity, we  
12 wanted to get a little more detailed view of the knee so  
13 we focussed our imaging over the knee to get more detail.

14 Q. Okay. And in this one you can see both the femur and  
15 the tibia; is that correct?

16 A. Yes. So this is the distal femur. This is the  
17 proximal tibia. This is the big bone in your lower leg.  
18 This is the same bones we were looking at just a moment  
19 ago.

20 Q. And what, if any, injury can you tell us about that  
21 would add -- in addition to the last x-ray that we looked  
22 at of the knee?

23 A. Yeah. I mean, I think this x-ray just shows the same  
24 thing again. It may look a little different, but they're  
25 the same things. Again, they focus -- they can look a



1 little different just because the projection is a little  
2 different. So if I zoom in a little bit, again, you can  
3 see how smooth that corner of the bone is. This corner  
4 of the bone is not so smooth. There's little -- it looks  
5 like little chunks of bone there and, you know, are they  
6 attached, are they not attached, it's kind of hard to see.  
7 Remember, when we looked at the x-ray that was obtained  
8 the day prior and the angle of that image didn't look like  
9 they were necessarily attached and here, again, we have an  
10 extra piece of bone that's right along that corner here.  
11 I realized that's a bit difficult to see, but it is, it's  
12 right there. And, again, compare that to the side that's  
13 totally smooth. Nothing -- nothing fragmented or pulled  
14 off or anything, so this highlights what we saw on the  
15 earlier radiographs. Re-demonstrated them.

16 Q. Re-demonstrated. Okay. And I'd like to -- is there  
17 anything that you can tell as far as the muscle and the fat  
18 and things like that in this particular image that you can  
19 add?

20 A. Well, not particularly.

21 Q. Okay. That's fine.

22 A. No.

23 Q. Thank you.

24 Okay. I'm gonna show you what's marked as State's 8.  
25 That is Series 2 of 2 from August 29th.

1 A. That one?

2 Q. Yes, sir. That's it. Can you tell the jury what  
3 we're looking at and what, if any, injury you see if you  
4 can tell us?

5 A. Yeah. Sure. So this is the left knee image. This is  
6 looking at the knee sideways, okay? So this would be the  
7 front of the thigh. This would be the back of the thigh.  
8 This would be the back of your lower leg or your calf.  
9 This would be the front. The foot is gonna be somewhere  
10 down here in the image that you can't see. It's not  
11 included on here. And on this particular image what I  
12 would direct your attention to, again, we're always looking  
13 -- you know, as pediatric radiologists when we're looking  
14 at cases of potential fractures in young children, we're  
15 always looking at those corners, right, those metaphyseal  
16 corners, and what I want to show you is look at how smooth  
17 this corner is right here. Nothing missing, there no  
18 chunks of bone or calcium. It's one piece. It's totally  
19 intact. And then I draw your attention to the posterior  
20 part or the back part of it where you have a little piece  
21 of bone here that's kind of hanging off the back of the --  
22 of the metaphysis of the distal femur, so that's abnormal.

23 Q. And in your expert opinion, Dr. Marcus, what causes  
24 an injury like this, these leg injuries, in a nonmobile  
25 infant?

1 A. Yeah, these are -- these are classic metaphyseal  
2 lesions and are associated with vigorous shaking.

3 Q. And are classic metaphyseal -- I don't want to  
4 mispronounce it --

5 A. Yeah, metaphyseal corner fractures.

6 Q. Corner fractures, yes, are they red flags for  
7 anything, these corner fractures, metaphyseal corner  
8 fractures in children?

9 A. Yes. The importance of -- so metaphyseal corner  
10 fractures were first described probably back in the early  
11 1950's by John Caffey, who is probably the father of modern  
12 pediatric radiology, and he was the first one to note them  
13 and he was the first one to note that he only saw these  
14 fractures in children -- in children who had sustained --  
15 infants and toddlers who had sustained other injuries. So  
16 these have been studied now for decades and they've been  
17 studied extensively by a number of forensic pediatrics  
18 people, pediatricians, pediatric radiologists, particularly  
19 Paul Fineman from Harvard, and what was realized is that  
20 these fractures are a very specific indicator of inflicted  
21 injuries in children. In other words, can children fall  
22 and break bones? On occasion. Can children be in  
23 scenarios where they sustain traumatic skeletal injuries  
24 in a car or something of that nature? Absolutely, but  
25 those fractures tend to be fractures involving more the

1 shaft of the long bones and have different fracture  
2 patterns. They're extraordinarily rare involving the  
3 metaphyseal corners and that's because of the mechanism  
4 that leads to these metaphyseal corner fractures, it's a  
5 very distinct mechanism, and -- and this is where if you  
6 would imagine if you took -- for a very simple analogy, if  
7 you took two wooden rods and you used scotch tape to hold  
8 them together and you waved the rods in the air, where  
9 would -- you know, where would something break? It would  
10 break at the scotch tape, that's the point of weakness, and  
11 that's sort of the equivalent of what these metaphyseal  
12 corner fractures are and these -- what are called these  
13 bony collars and zones for initial calcification change.  
14 They are the weakest part of the bone.

15 Q. Thank you. And, Dr. Marcus, at this point in time,  
16 you've identified four fractures in this child; the  
17 collarbone towards the left -- you know, the left elbow,  
18 the humerus and then two corner fractures in the left knee;  
19 is that correct?

20 A. Yes.

21 Q. Okay. Thank you. And in your medical opinion, could  
22 all these fractures be caused by a drop?

23 A. No.

24 Q. And could these be caused by a fall?

25 A. I'm sorry, could these be caused by?

1 Q. A fall. By falling.

2 A. A fall, no.

3 Q. Okay. And for the reasons you've already explained  
4 about how these corner fractures are obtained and a direct  
5 blow of the clavicle and things like that? Is that why?

6 A. Yes.

7 Q. Okay. Thank you. So next, Dr. Marcus, I want to go  
8 over some of the follow-up images that were taken of  
9 [REDACTED], so I want to talk about the images that  
10 were taken on September 11th of 2018. This is State's 9  
11 and that is Series 1 of 3. Yes, sir.

12 A. That was the first image that popped up, so.

13 Q. Okay. So what is this that we're looking at, this  
14 x-ray?

15 A. Well, it's -- okay. It's an x-ray obtained roughly --  
16 I don't know how many days, almost two weeks later I would  
17 say. 9-11 from 8-28 is roughly two weeks. It's an x-ray  
18 we've already -- it's the same anatomy we've already seen  
19 before on earlier studies. This is the left upper  
20 extremity. So here is the humerus, this is the shoulder  
21 joint, this is the elbow joint, this is the wrist joint.

22 Q. And can you explain to the jury what, if any,  
23 differences in this image that you -- from the August 28th  
24 images --

25 A. Sure.

1 Q. -- and what you were looking for?

2 A. Sure. Yes. Okay. So I'm gonna blow this up a little  
3 bit. I think for those of you who saw this earlier image,  
4 you'll recall there wasn't this sort of -- this odd line  
5 of bone here. You could see that I have the bone, the  
6 underlying bone, and now I've got this other band of  
7 density here. That wasn't present on the prior x-rays.

8 Can I go back to the first x-ray? Would that be okay?

9 Q. Absolutely. They've been admitted into evidence. You  
10 can go back to whatever you need to show.

11 A. Yeah. So just -- you know, just as an analogy, this  
12 is one of the x-rays that was included and you can see I  
13 have the bone here, but I don't have that band, that line  
14 of extra density, that bright line that's on both sides of  
15 the bone. So I do have it on this x-ray, okay? And the  
16 other thing that you'll note is you'll remember there was  
17 that sort of curvilinear dark line. Well, I don't see that  
18 anymore and not only do I not see the curvilinear dark  
19 line, you could make the argument that it almost looks a  
20 little brighter in there and a little denser. So these --  
21 and the other thing is, is that that little sliver of bone  
22 that was sort of hanging out separate is now sort of  
23 looking like it's partly attached in there, okay?

24 So what are we seeing here? We're seeing healing of  
25 the subacute fracture. So this is what the fracture looks

1 like two weeks later when it starts to heal. And it's the  
2 same fracture. It's just undergoing the healing process.

3 Q. And so that's how you can sort of tell that the first  
4 ones were recent fractures, they were acute, they had to  
5 have happened within the past couple of days versus these?  
6 It's the signs of healing that you're talking about right  
7 now; is that correct?

8 A. That's correct. If I'd seen this on the first x-rays,  
9 I would have said oh, those are not new fractures, those  
10 are definitely subacute fractures, but that's not there.

11 Q. Okay. Right. And what is the timeline for healing on  
12 a fracture?

13 A. Well, you know, different kids of different ages can  
14 heal differently. Kids heal faster than adults do. I  
15 will tell you that in infants and toddlers they have an  
16 unbelievably fast rate of healing. So if you would have  
17 x-rayed this elbow a week earlier, there would have been  
18 already signs of healing that were present. Not as  
19 pronounced as this, but certainly by a week out you will  
20 have evidence of healing.

21 Q. Okay. Thank you. I want to skip now to an x-ray  
22 taken also on September 11th. This is State's 10 of the  
23 lower body. I believe it is Series 2. It's not -- the  
24 numbers aren't showing on this printout. That's correct.  
25 That would be the image.

1 A. This image. Okay.

2 Q. If you could talk about any injury or signs of healing  
3 you can see on this image and explain it to the jury.

4 A. Sure. So these are x-rays we've seen earlier. This  
5 is both lower extremities, right and left, and I'm going to  
6 focus on that right knee, okay?

7 Q. Doctor, I'm sorry. Can you back up? What knee are  
8 you focussing on?

9 A. The left knee.

10 Q. The left knee. Okay.

11 A. Yeah, my apologies. I got my right and left reversed  
12 there. This is the left knee, okay? This is the anatomic  
13 standard and plus there's a -- the technologist who shoots  
14 the x-ray puts a marker on it to denote right and left,  
15 okay? So this is the left knee, which we saw earlier, and  
16 what I would direct your attention to is note that those  
17 areas where the bone was abnormal at that corner of the  
18 metaphysis, is it perfectly normal yet? No, it's not, but  
19 it's not really a discrete separate piece anymore. It's  
20 starting to sort of blend into the underlying bone, so what  
21 we're seeing here is we're seeing some healing of these  
22 metaphyseal corner fractures in this x-ray.

23 Q. All right. Thank you. And then let's skip to what's  
24 marked as State's 11. These are from September 17, 2018,  
25 and it's Series 14 of 17.



1 A. I'm sorry. Okay. September 11th. You said  
2 Series 14? Is that --

3 Q. That's correct. Can you tell the jury what this is  
4 and if you could explain to them any signs of injury or  
5 healing.

6 A. Yeah, sure. So this is -- this is the lower legs,  
7 okay, so these are like your shin bones more or less. So  
8 that's your tibia. That's the bigger bone in your shin.  
9 There's the fibula. That's the smaller bone that makes  
10 up your lower leg. That's the ankle joint, the knee is  
11 somewhere around here, and what I would direct your  
12 attention to is, again, this proximal left tibia is --  
13 looks different than it did when I showed you those first  
14 x-rays where it showed that corner fracture. This is like  
15 a little more globular looking. It really doesn't have a  
16 clear line separating it from the -- the adjacent bone,  
17 and that's another sign of a healing fracture.

18 Q. All right. Thank you. And next, also from  
19 September 17th, also the lower extremity. It is Series 13  
20 of 17.

21 A. 13. Okay. So 13?

22 Q. And, again, these are -- that's correct -- follow-up  
23 x-rays. That's correct. That's the right one. State's  
24 12. That's correct.

25 A. Yeah. Okay. So, again, this is the same. Now we're

1 looking at the thighs and the femurs, and I showed this a  
2 little earlier, and I would direct your attention to the  
3 end of that left femur. Remember how I said everything  
4 should be perfectly smooth and attached? Well, things  
5 are looking very smooth and attached now. So that corner  
6 fracture that we'd seen previously, that sort of irregular  
7 couple of small clumps of bone now look like they've been  
8 incorporated back into or reattached to the underlying  
9 bone, so we're seeing more evidence of healing.

10 Q. More evidence of healing. All right. Great. And  
11 one more from September 17, 2018, of the upper body. Do  
12 you see the series number?

13 A. Series 7.

14 Q. Series 7. Yes.

15 A. Okay.

16 Q. That's correct. If you could tell the --

17 A. Okay. So what we're looking at here is an x-ray of  
18 the chest, okay? So this is if you're looking at someone's  
19 chest basically straight on. This being the left side,  
20 this being the right side. You can see the marker. The  
21 technologist placed the marker for the right side here,  
22 so this denotes the right side of the body. So these are  
23 all the ribs. That's what these bones are on both sides.  
24 This sort of darker stuff, that's the lungs. This is the  
25 heart in here, okay, and this is some air that's in your

1 intestines and your abdomen. All normal stuff up to this  
2 point, and what I would direct your attention to, so this  
3 is the right clavicle, the right collarbone, and we see  
4 it's nice and smooth, it doesn't have any dark lines going  
5 through it, there's no fractures.

6 Let's take a look at the other side and look at the  
7 left clavicle and what I would direct your attention to is  
8 you can see there's this extra kind of oval or egg-shaped  
9 density that's sitting on top of the clavicle on that left  
10 side. When I showed you guys the end of the -- the distal  
11 humerus around the elbow, I showed you that you get this  
12 sort of band of bone that forms around the bone itself  
13 when healing starts. It's called periosteal reaction or  
14 periosteal new bone formation and what you're seeing here  
15 is the same thing. You're seeing the periosteum is  
16 starting to heal and there is what's called callus. So  
17 that's the earliest form of bone that we see in healing.  
18 It's not very unorganized, it doesn't look like the bone  
19 underneath it, it looks a little different. It will  
20 eventually over a longer period of time get organized and  
21 look like a bone, but for now it's just more or less a  
22 patch holding things together. Again, indicative of  
23 healing of the fracture in the two week or slightly more  
24 than two week interval since the first exam.

25 Q. Okay. Thank you. And last -- the last set of images

1 I'm gonna show you, these were taken on November 6th of  
2 2018, if you can look at that one. And this is State's 14.

3 A. I think this is the right one.

4 Q. Yes, that's correct. State's 14.

5 A. Okay.

6 Q. Can you tell the jury what that is and any injury or  
7 healing you can see and how these vary from the images that  
8 were taken earlier in time?

9 A. Sure. Sure. So the jury, you guys have seen a lot  
10 of this before. So this is the left femur. Again, we have  
11 a left marker on here. This is the left knee, okay, this  
12 is the left lower leg, the shin area, that kind of thing.  
13 This is an x-ray taken as if we're looking straight on.  
14 This is a wet diaper. These are the snaps of a onesie,  
15 okay, just to point out some details on the film, but what  
16 I'm gonna direct everyone's attention to are those corners,  
17 okay? Remember those little pieces of bone that were kind  
18 of hanging off the edge here? Remember that little kind of  
19 curvilinear piece of bone or little crescent of bone that  
20 was hanging off over there? We don't see that anymore,  
21 okay? Why? Because it's healed, okay? So the corner  
22 fractures are now -- you know, now we're not quite  
23 three months out. These fractures are now completely  
24 healed.

25 Q. Thank you. And the last image also from November 6,

1 2018.

2 A. Sure.

3 Q. That one. Yes.

4 A. Okay. So, again, the jury has sort of seen this.  
5 This is the left shoulder, this is the left elbow, and  
6 what I'm gonna -- I'm gonna magnify up and bring your  
7 attention to is if you remember on the first x-ray there  
8 was this dark line going through there, okay? It's not  
9 there anymore. If you'll remember, there was this little  
10 kind of sliver of bone hanging off the edge. It's not  
11 there anymore. Is it perhaps a little more dense still  
12 here? Maybe a little bit, but that's just because of how  
13 it healed. It's a later phase of healing, but basically  
14 that whole -- that fracture that had that -- what I've  
15 described as you'll recall as an oblique plane and then  
16 went through the end metaphysis has now essentially  
17 completely healed and there's no evidence of a fracture.  
18 If I were reading this x-ray de novo, at first sight, and  
19 didn't know anything about this case, I'd say it's normal  
20 radiographs of the left elbow and there was no evidence of  
21 any acute or healing fracture. It's completely healed and  
22 re-normalized at this point.

23 Q. Okay. Thank you. So just to, you know, wrap back  
24 up, you identified for the jury four different fractures  
25 on this child. They were all on the left side of the body;

1 is that correct?

2 A. Yes.

3 Q. And would you -- how would you describe these -- you  
4 described them as metaphyseal corner fractures in the leg  
5 that were red flags for nonaccidental trauma; is that  
6 correct?

7 A. Yes.

8 Q. And nonaccidental trauma is another phrase that we use  
9 for child abuse; is that correct?

10 A. That's correct.

11 Q. Okay.

12 MS. HUNTER: I don't have any further questions for  
13 you. I believe you testified as to the causes of these  
14 injuries. Please answer any questions the defense might  
15 have.

16 THE WITNESS: Absolutely.

17 CROSS-EXAMINATION

18 BY MR. KOGER:

19 Q. So the x-rays from May 28th, those are the x-rays from  
20 TRMC, correct? August 28th. Excuse me.

21 A. They are from March 28th, yes. Those are from The  
22 Regional Medical Center, yes.

23 Q. And actually I meant August 28th. Excuse me.

24 A. Yes, we're both wrong. Yes, it was August 28th.

25 Q. All right. And along with looking at those

1 particular x-rays, you also reviewed the medical records  
2 from August 28, 2018?

3 A. Yes, as they pertain to the diagnostic imaging.

4 Q. Okay. And do you -- do you remember reading that  
5 nonaccidental trauma should be excluded? Do you remember  
6 reading that term or that sentence in the medical records?

7 A. Yes, I believe it was from the interpreting  
8 radiologist from The Regional Medical Center at that time.

9 Q. Okay. And that term "nonaccidental trauma should be  
10 excluded", what does that mean to you?

11 A. That means that if you see injuries in a -- an infant  
12 or a toddler that have a -- that would not be explainable  
13 under usual circumstances and have an unusual pattern or  
14 distribution that the -- that the clinical service should  
15 assess whether the patient has inflicted injuries as a  
16 result of nonaccidental trauma.

17 Q. But at this particular time, nonaccidental trauma  
18 should be excluded, could it be that they're thinking that  
19 these injuries were from an accident?

20 MS. HUNTER: I'm gonna stop you right there.

21 Your Honor, I'm gonna object, if I may. He's -- I  
22 believe what Mr. Koger is asking Dr. Marcus is these  
23 images were originally read by a --

24 THE COURT: And that's the radiologist. He's an  
25 expert. He can ask him to explain the terms. He's

1 allowed to do that.

2 MS. HUNTER: I guess my point is he's asking him  
3 about a report that another radiologist wrote.

4 THE COURT: And if he --

5 MS. HUNTER: Okay. I understand.

6 THE COURT: -- he used that in forming his opinion  
7 as to what caused these, he can use it.

8 MS. HUNTER: Thank you.

9 THE COURT: And your objection's noted, but  
10 overruled.

11 MS. HUNTER: Thank you.

12 THE COURT: Rephrase your question to make it a  
13 little clearer, Mr. Koger.

14 MR. KOGER: Yes, Your Honor.

15 BY MR. KOGER:

16 Q. With that term, does it mean that nonaccidental trauma  
17 should have been excluded in the x-rays from August -- at  
18 least according to this report, the x-rays from August 28,  
19 2018?

20 A. Yeah, if I may, the x-rays that were read from  
21 August 28, 2018, were read by a non-subspecialized  
22 radiologist and the -- his raising the point of ruling out  
23 non-accidental trauma, ruling out is a common -- it's a  
24 common phraseology that's used in radiology and that  
25 phraseology is used in such a way to bring to the



1 clinician's mind if they haven't already thought about it  
2 that there's a particular diagnosis that they should  
3 definitely be considering.

4 Q. But you would not dispute that that term is in the  
5 medical records from August 28, 2018?

6 A. No.

7 Q. Okay. Now you used the term when you were initially  
8 -- and you used it throughout your testimony that these  
9 injuries were acute, correct?

10 A. Certainly two of them were acute.

11 Q. Okay. All right. And what is the timeframe they are  
12 -- in your profession they are acute, recent and old? What  
13 is the timeframe between an injury being acute as far as  
14 the time in which it happened?

15 A. Several days to a week.

16 Q. Several days to a week?

17 A. Yes.

18 Q. So -- okay. So there is no way possible that you can  
19 tell whether an injury happened forty-five minutes earlier  
20 or a week earlier, correct?

21 A. Absolutely not.

22 MR. KOGER: Your Honor, I beg the -- beg the Court's  
23 indulgence.

24 THE COURT: Sure.

25 BY MR. KOGER:

1 Q. Now as far as -- you showed some full body x-rays.  
2 Did you look at other parts of the body as far as with the  
3 head and the skull? Any type of abnormalities with -- with  
4 those parts of the body?

5 A. Yes, I -- on this particular patient I don't believe  
6 it's admitted into evidence, but I did read a noncontrast  
7 head CT that was performed on this patient at the time of  
8 the initial presentation and that was negative.

9 Q. Okay. All right. And, of course, from x-rays can you  
10 tell -- can you tell about any bruising?

11 A. I'm sorry, could you repeat that?

12 Q. Can you tell about any bruising from an x-ray?

13 A. Absolutely not.

14 Q. Okay. And did you actually observe the child?

15 A. I did not.

16 MR. KOGER: Thank you. No further questions.

17 MS. HUNTER: Your Honor, redirect?

18 THE COURT: You may have redirect.

19 MS. HUNTER: Can you leave that right there? One  
20 second. Thank you. I'll hand it right back to you.

21 MR. KOGER: Thank you.

22 REDIRECT EXAMINATION

23 BY MS. HUNTER:

24 Q. Dr. Marcus, just a couple of follow-up questions.

25 Mr. Koger asked you about the report and it saying

1 nonaccidental trauma should be excluded. That is a medical  
2 report that came from TRMC, so -- and I want to tell the  
3 jury what the final report says. It says impressions and  
4 it talks about the fractures and then the next line says  
5 nonaccidental trauma be excluded. Is that saying there  
6 should be further examination to exclude nonaccidental  
7 trauma or is that saying this was not nonaccidental trauma?  
8 Am I making sense?

9 A. Yeah. No, that phraseology never means that it's  
10 not. It is -- it's, you know, again, what I would say  
11 for the interpreting radiologist, who's not a pediatric  
12 radiologist, who doesn't deal with things of this nature  
13 on a routine basis, but was certainly astute enough to note  
14 the findings that that would be an appropriate conclusion  
15 of their report. In other words, what they're saying is  
16 -- you know, they're saying I see things that I know are  
17 observed and seem to be nonaccidental trauma. I don't deal  
18 with a lot of nonaccidental trauma, but I'm gonna tell the  
19 clinicians and the people taking care of this kid that he  
20 or she needs to be worked up and closely evaluated for  
21 nonaccidental trauma.

22 Q. Thank you. And this child -- and I guess that's the  
23 reason this child was transferred to Palmetto Richland  
24 Children's Hospital in Columbia for further, more --  
25 someone with more expertise in this area to determine what

1 the actual injuries were and to determine whether or not  
2 it was nonaccidental trauma, also known as child abuse,  
3 correct?

4 A. Yes.

5 Q. Okay. Thank you.

6 The other thing he asked you about was whether or not  
7 these injuries could be acute. You looked at several of  
8 these injuries. I know that you just told him it could be  
9 up to a week out. I know you said these could be up to a  
10 week out; however, the injuries you looked at you also  
11 noted swelling in those injuries; is that correct?

12 A. That's correct.

13 Q. And based on the swelling, I believe that in this  
14 particular case, therefore, you can determine that acute  
15 means more recent and means more like one to two days out;  
16 is that correct?

17 MR. KOGER: Objection. She's testifying.

18 THE COURT: Hang on. Hang on. You are leading.  
19 That's a lengthy question. Rephrase it.

20 MS. HUNTER: Yes, sir. Let me back up and rephrase  
21 that.

22 BY MS. HUNTER:

23 Q. Did you note swelling in the x-rays?

24 A. I did.

25 Q. And what -- based on that swelling, what can you say

1 about acuteness as far as recentness goes?

2 A. It would -- it would lead me to backing down to maybe  
3 within four days, three days, something of that nature.  
4 There's no official published guidelines for the presence  
5 of swelling in terms of precisely dating things, but that's  
6 speaking from eighteen years of clinical experience as a  
7 radiologist that when I see that, the injury happened  
8 pretty recently.

9 Q. Thank you. And so would it -- could have it have  
10 happened that day?

11 A. Absolutely.

12 Q. Okay. Thank you.

13 MS. HUNTER: I don't have any further questions for  
14 you.

15 MR. KOGER: Recross?

16 THE COURT: Very quick -- very quickly.

17 RE CROSS EXAMINATION

18 BY MR. KOGER:

19 Q. And the injury could have happened three to four days  
20 prior to August 28th, correct?

21 A. That's possible as well, yes.

22 Q. Okay. And one more time about this medical record.  
23 You stated that it could mean further investigation, but  
24 could this term also mean to someone looking at it again  
25 that nonaccidental trauma should be excluded? Isn't that

1 discretionary?

2 A. That is -- again, that is -- this is just common  
3 phraseology in radiology reports and it's widely used. The  
4 report does not say correlation with history of ejection  
5 from a motor vehicle and there's a reason for that because  
6 there are patients who are ejected from motor vehicles who  
7 could have multiple fractures, but this particular patient  
8 of this age with these findings, again, that radiologist,  
9 that outside radiologist, not how I would have reported it,  
10 but that particular radiologist reported it in such a way  
11 to raise the concern for nonaccidental trauma that it  
12 needed to be investigated.

13 Q. Nonaccidental should be excluded. It doesn't say  
14 should be investigated, correct?

15 THE COURT: I think he's answered that question.

16 THE WITNESS: Right. That's correct. Again, that's  
17 just very common verbiage.

18 MR. KOGER: Thank you. No further questions.

19 MS. HUNTER: May he be excused?

20 MR. KOGER: Yes.

21 MS. HUNTER: Okay. Dr. Marcus, thank you very much.  
22 We're gonna end this. We appreciate your time.

23 THE WITNESS: Of course. Thank you.

24 (Witness excused.)

25 THE COURT: All right. I think we're entitled to a

1 break. You-all step in the jury room, stretch your legs,  
2 get a drink of water, use the restroom. We'll have you  
3 back in here in about ten or twelve minutes. Don't talk  
4 about the case.

5 (Whereupon, the jury retire to the jury room at  
6 2:57 PM.)

7 THE COURT: All right. We'll stand at ease for  
8 about twelve minutes.

9 (Recess taken at 2:57 PM.)

10 (Back on the record at 3:15 PM.)

11 THE COURT: All right. Bring them back in.

12 (Whereupon, the jury return to the courtroom at  
13 3:16 PM.)

14 THE COURT: All right. Call your next witness.

15 MR. HINDS: The State calls Investigator Lakesha  
16 Gillard.

17 THE COURT: All right. Come on up and let the clerk  
18 swear you in.

19 (Whereupon, Lakesha Gillard was duly sworn by the  
20 Clerk of Court.)

21 LAKESHA GILLARD,

22 having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. HINDS:

25 Q. Good afternoon, Sergeant. Would you state your name

1 for the record?

2 A. Lakesha Gillard, G-I-L-L-A-R-D.

3 Q. And, Ms. Gillard, where are you employed?

4 A. Orangeburg County Sheriff's Office.

5 Q. And what is your position at the sheriff's office?

6 A. Sergeant of major crimes and investigations.

7 Q. Okay. And how long have you been an investigator in  
8 major crimes?

9 A. Thirteen years.

10 Q. Okay. And did you have any involvement with law  
11 enforcement prior to the Orangeburg County Sheriff's  
12 Office?

13 A. Yes.

14 Q. Okay. And where was that?

15 A. I started out on the campus of South Carolina State  
16 University with the campus police and did ten months at  
17 Bowman Police Department.

18 Q. And what are some of the duties as a sergeant in  
19 investigations at the sheriff's office?

20 A. Assign cases, make schedules, review subordinate  
21 investigators' reports, and I also have a caseload.

22 Q. All right. And are there any specific types of cases  
23 that you yourself are usually assigned to?

24 A. Yes, child abuse and child sexual assault.

25 Q. Okay. And were you employed in this capacity in



1 August of 2018?

2 A. Yes.

3 Q. Okay. And did your duties and assignments as an  
4 investigator lead you to become involved in this case?

5 A. Yes.

6 Q. And how did you become involved in this case?

7 A. I was assigned the case.

8 Q. And once you were assigned, did you begin an  
9 investigation into this case?

10 A. I did.

11 Q. All right. And based on that investigation, what did  
12 you learn about what basically happened in this case?

13 A. That the minor child in the case had sustained major  
14 injuries.

15 Q. Okay. Do you know what those major injuries are or  
16 were?

17 A. Yes, she had multiple fractures.

18 Q. Okay. All right. And do you know just basically  
19 about the events that unfolded that led to those fractures?

20 A. Yes.

21 Q. And what happened basically?

22 A. She was in the care of her at the time father and when  
23 the mother returned home from dropping off the child they  
24 determined that their child was injured.

25 Q. All right. And did the mother -- do you know her

1 name?

2 A. Yes.

3 Q. What's her name?

4 A. Angel Prince.

5 Q. Okay. And did Ms. Prince take her child to the  
6 hospital?

7 A. She did.

8 Q. Okay. And do you know what they did at the hospital?

9 A. They ran several x-rays and also CT scans.

10 Q. Okay. All right. And based on your investigation,  
11 do you know of any specific injuries that the minor child  
12 sustained?

13 A. Yes. I had to write them down because I don't  
14 remember all of them.

15 Q. And you can just --

16 A. It was fractures to her arm, her clavicle and her  
17 leg.

18 Q. Okay. All right. And just before we really get  
19 into it, do you know the minor child's name for the record?

20 A. Yes.

21 Q. What's her name?

22 A. [REDACTED].

23 Q. Okay. All right. And over the course of your  
24 investigation, did you have the opportunity to interview  
25 any individuals in regards to this case?

1 A. I did.

2 Q. Okay. And who did you interview?

3 A. I interviewed Angel Prince and also Kareem Wallace.

4 Q. Okay. Where did this interview occur?

5 A. Central Investigations on Chestnut Street. That's our  
6 main office. Our investigation office.

7 Q. And when did this interview occur?

8 A. September the 5th of 2018.

9 Q. Okay. And was that the typical interview room where  
10 you would interview witnesses and/or suspects?

11 A. Yes.

12 Q. All right. And was that interview audio and video  
13 recorded?

14 A. It was.

15 MR. HINDS: May I approach, Judge?

16 THE COURT: You may.

17 (State's Exhibit Number 16 was marked for  
18 identification.)

19 BY MR. HINDS:

20 Q. Sergeant, I'm showing you what's been marked as  
21 State's Exhibit 16. You can open that and tell me if you  
22 recognize it.

23 A. Yes.

24 Q. What is it?

25 A. It's a flash drive that should have the recording of

1 Mr. Kareem Wallace. It has my initials on it.

2 Q. Okay. At my request did you initial it?

3 A. I did.

4 Q. After reviewing the video?

5 A. Correct.

6 Q. All right.

7 MR. HINDS: Okay. Your Honor, at this time I'd seek  
8 to admit State's Exhibit 16 into evidence.

9 MR. KOGER: Without objection, Your Honor.

10 THE COURT: Without objection State's 16 will be  
11 admitted.

12 Conducted when?

13 MR. HINDS: September 5, 2018.

14 (State's Exhibit Number 16, Defendant's recorded  
15 statement, was admitted into evidence.)

16 MR. HINDS: Your Honor, may I move to publish this  
17 and play it on the screen here?

18 THE COURT: Sure. It's been admitted. No problem.

19 Didn't you tell me pretrial it's about fifteen  
20 minutes or so?

21 MR. HINDS: It's about sixteen minutes and  
22 forty-eight seconds.

23 THE COURT: That's just exactly about.

24 MR. HINDS: I've got to be precise.

25 And, Your Honor, just for purposes of the record, I

1 have the exact same video pulled up that's on this flash  
2 drive that's on this computer.

3 BY MR. HINDS:

4 Q. All right. And, Investigator, just before we play  
5 this video, is this the interview room to which you were  
6 referring to earlier?

7 A. Yes.

8 Q. Okay. And is that at the sheriff's office?

9 A. Yes.

10 Q. All right.

11 MR. HINDS: I beg a moment, Judge. Now we've got  
12 it going.

13 BY MR. HINDS:

14 Q. All right, Investigator. Sorry about that.

15 A. No problem.

16 Q. Okay. This is the interview room at the sheriff's  
17 office?

18 A. It is.

19 Q. I'm gonna play this video and after this I'm gonna  
20 ask you some clarifications in follow-up just so we're all  
21 on the same page, okay?

22 A. Okay.

23 (Whereupon, State's Exhibit Number 16 was played.)

24 Q. All right. Investigator, let me stop -- let me stop  
25 the video right there and let me ask you a couple of

1 questions, okay?

2 A. Uh-huh.

3 Q. Did you -- first of all, as we saw, did you provide  
4 Mr. Wallace with his Miranda rights that day?

5 A. I did.

6 Q. And was he even in custody at that time?

7 A. He was not.

8 Q. Was he free to leave?

9 A. Yes.

10 Q. Did he come in voluntarily or under your instruction?

11 A. He came in voluntarily.

12 Q. Okay. And did you just verbally give him his rights  
13 or did you provide a Miranda rights form?

14 A. I read from a Miranda rights form.

15 Q. Okay. I'm gonna show you --

16 MR. HINDS: If I may approach, Judge?

17 THE COURT: Sure.

18 (State's Exhibit Number 17 was marked for  
19 identification.)

20 BY MR. HINDS:

21 Q. I'm gonna show you what's been marked as State's 17.  
22 What is that?

23 A. This is the Miranda rights form that I went over with  
24 Mr. Wallace.

25 Q. Okay. And how do you know this is -- that is

1 Mr. Wallace's form?

2 A. It's his initials, his signature and then my signature  
3 at the bottom as a witness.

4 Q. So did he ultimately sign that and initial by each  
5 waiver indicating he understood?

6 A. He did.

7 Q. And did he ultimately sign and waive his Miranda  
8 rights and agree to speak with you?

9 A. He did.

10 Q. At any point in time did he appear to give you any  
11 off the wall answers or appear to be under the influence  
12 or anything like that?

13 A. No, sir.

14 Q. All right. And after you provided him with his  
15 rights, did he tell you just generally about how that day  
16 started?

17 A. He did.

18 Q. Okay. And what did he tell you?

19 A. He said that he had got off work somewhere around  
20 5:30, 6:00, and actually Ms. Prince was preparing to take  
21 her oldest daughter, [REDACTED], to school. She woke him up,  
22 brought the baby to him and he ended up taking the baby  
23 and they -- actually when Ms. Prince left, him and the baby  
24 went in the room and laid down for a few. He said he may  
25 have fallen asleep for about fifteen minutes and then he

1 heard the baby crying.

2 Q. Okay. Did he tell you that when Angel Prince gave him  
3 [REDACTED] that morning what was her condition?

4 A. He said she was normal.

5 Q. Did he say she was smiling?

6 A. Yes, he said she was smiling. Normal.

7 Q. And did he tell you how or if he touched [REDACTED] that  
8 morning or picked her up?

9 A. Yes, he said when he woke up from her crying, he  
10 reached over, grabbed her by her arm, pulled her up and got  
11 up and walked in the kitchen to get her a bottle.

12 Q. Did he ever tell you prior to him picking her up that  
13 he noticed any signs of injury to [REDACTED] ?

14 A. He did not.

15 Q. All right. I'll finish playing the remaining portion  
16 of the video.

17 (Whereupon, State's Exhibit Number 16 continued  
18 playing.)

19 MR. HINDS: One moment, Judge.

20 MS. HUNTER: Can we have two minutes, Your Honor,  
21 to swap out -- technical difficulty.

22 We'll fast forward up to the point where it cut off.

23 (Whereupon, State's Exhibit Number 16 continued  
24 playing.)

25 BY MR. HINDS:



1 Q. All right. Sergeant Gillard, just wrapping up, I  
2 know that was a little long. We watched -- did you give  
3 him a doll to reenact how he handled [REDACTED] that morning?

4 A. I did.

5 Q. Okay. And he did that in your presence?

6 A. Yes, he did.

7 Q. Okay. All right. And just overall, that -- was that  
8 you in the black shirt on the video?

9 A. Yes.

10 Q. And who were you interviewing?

11 A. [REDACTED] -- Kareem Wallace.

12 Q. Okay. Did he ever tell you -- did he ever give you  
13 any explanation as to what he thought had happened?

14 A. Yes. He said he might have made a mistake and it  
15 might have been caused by him grabbing her by the one arm.

16 Q. Okay. And this video, it was done during the course  
17 of your investigation. What is someone in law enforcement  
18 like you, what's your job when you're notified of suspected  
19 child abuse?

20 A. We normally take the child in protective custody.

21 Q. Okay. All right. And did you do that in this case?

22 A. I did.

23 Q. Okay. And at any point during this investigation,  
24 did you have the opportunity to consult with any specific  
25 medical providers?

1 A. I did.

2 Q. Okay. And based on that consultation, did you have --  
3 did you make the decision to arrest anyone?

4 A. Yes.

5 Q. And why is that?

6 A. Because the injuries were considered nonaccidental  
7 and they diagnosed her injuries as child abuse.

8 Q. Okay. All right. And who did you decide to arrest  
9 throughout the course of your investigation?

10 A. Kareem Wallace.

11 Q. Okay. All right. Did you arrest anyone else in this  
12 case?

13 A. I did not.

14 Q. Okay. And based on this investigation, were you able  
15 to isolate a timeframe in which [REDACTED] injuries --

16 [REDACTED] could have sustained her injuries?

17 A. Yes.

18 Q. And what timeframe was that, Sergeant?

19 A. That was during the timeframe when Ms. Prince left  
20 [REDACTED] with Mr. Wallace and left the house to drop her  
21 older daughter off to school.

22 MR. HINDS: If I could have a moment, Judge.

23 No further questions. Please answer any questions  
24 Mr. Koger has.

25 THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. KOGER:

Q. So, Sergeant Gillard, Mr. Wallace demonstrated and it was on the DVD how he lifted up [REDACTED], correct?

A. Correct.

Q. All right. And isn't it true that he did it while he was lying down, correct?

A. Correct.

Q. And he did not lie down on the video. He just sat up and showed you on the video, correct?

A. Correct.

Q. Okay. And isn't it true that he say that he reached across with his right arm?

A. I think it was his left.

Q. Okay.

A. I'm trying to think. His right, yeah.

Q. If the video shows his right arm, then that would be correct?

A. Correct. His arm, yes.

Q. Okay. And from the interview with Mr. Wallace, was he -- when he -- when he talked about doing it and showing a demonstration and doing it, did he indicate that he was upset with [REDACTED]?

A. He did not.

Q. Okay. And what was he actually doing? What -- why

1 did he -- according to what he told you in the interview,  
2 why was he moving [REDACTED]?

3 A. He was about to get up to get her a bottle because she  
4 was crying.

5 Q. Okay. All right. And he didn't indicate that he was  
6 upset with [REDACTED] or anything?

7 A. No. He did not.

8 Q. Okay. And he indicated that she started crying to get  
9 something to eat, correct?

10 A. Correct.

11 Q. Well, she wanted something to eat?

12 A. Well, he just said she was crying so he figured she  
13 was hungry, so he got up to get her a bottle.

14 Q. Okay. And this interview was done on I think you said  
15 September 5th?

16 A. Correct.

17 Q. All right. And that was your first involvement -- I  
18 mean, when this allegedly happened at the hospital on  
19 August 28th, did you go to the hospital?

20 A. Not to TRMC I don't think. In my notes, I did the  
21 actual EPC with DSS, so maybe I was at the hospital in  
22 Richland, but I'm not -- I can't recall.

23 Q. Okay. So you went -- so either on the 28th or the  
24 29th you went to Richland?

25 A. Yes. Yeah, for the EPC.

1 Q. Okay. And this was the first time on September 5th  
2 you spoke with Mr. Wallace?

3 A. Correct.

4 Q. Okay. And during that time, that's a period of about  
5 a week. What type of investigation did you do during that  
6 particular week?

7 A. Say again.

8 Q. What type of investigation did you did between  
9 August 28th or 29th and September 5th in which you spoke  
10 with Mr. Wallace?

11 A. Basically getting information from the doctors and I  
12 think we had DSS hearings as well.

13 Q. Okay. Now you spoke -- according to your testimony,  
14 you spoke with Mr. Wallace second on that particular day,  
15 correct?

16 A. Correct.

17 Q. All right. And you spoke with Ms. Angel Prince  
18 initially the first time, correct?

19 A. Correct.

20 Q. All right. And did you plan to have both of them  
21 there the same day at the same -- on the same day around  
22 the same time?

23 A. On the same -- I think I did because they were living  
24 together at the time.

25 Q. Okay. And did the two of them come together?

1 A. They did not.

2 Q. Okay. All right. And when you interviewed  
3 Ms. Prince, did you notice did she have on a work uniform?

4 A. Correct.

5 Q. Okay. And what time of day did this interview occur?

6 A. Somewhere between 3 and 4:00. His Miranda form had  
7 4:03 or 4:05, something like that.

8 Q. And did he indicate or were you aware that he was  
9 going to work that day or did you discuss that?

10 A. I don't think we discussed that.

11 Q. Okay. Now at that time what information -- you just  
12 had the information from when you interviewed Mr. Wallace?  
13 You didn't have the information from the doctors at that  
14 time?

15 A. Correct.

16 Q. All right. Did you have any information as far as on  
17 the daycare arrangement for Ms. Prince -- for [REDACTED]  
18 through Ms. Angel Prince?

19 A. No daycare.

20 Q. Okay. No daycare information?

21 A. No, sir.

22 Q. Okay. So you would not have reason to investigate her  
23 daycare situation?

24 A. Correct.

25 Q. All right. And you had no reason to investigate who

1 was keeping her at that particular time?

2 A. From that -- at that particular time, meaning the time  
3 the child was injured, because the information I had was  
4 the child was in Mr. Wallace's care.

5 Q. Okay. But you did not investigate because you did  
6 not have information to investigate as far as the daycare  
7 situation of [REDACTED]?

8 A. Correct.

9 Q. Okay. And did you actually -- when you was up in  
10 Columbia, did you actually see the child?

11 A. I did not.

12 Q. Okay. Throughout the investigation, did you ever see  
13 the child?

14 A. No, sir.

15 Q. Okay. So you wouldn't have any indication of any type  
16 of visible injuries on the child, correct?

17 A. Correct.

18 Q. You could not attest to seeing any bruises on the  
19 child, correct?

20 A. Correct.

21 Q. You could not attest to seeing swelling on the child,  
22 correct?

23 A. Swelling, no, sir.

24 Q. Okay. So the information in your investigation came  
25 purely from the doctors?

1 A. Correct.

2 MR. KOGER: May I beg the Court's indulgence, Your  
3 Honor?

4 THE COURT: Yes, sir.

5 BY MR. KOGER:

6 Q. Now during your talks or consultation with the  
7 doctors, they indicated to you that these injuries were  
8 acute, correct?

9 A. Define acute, sir.

10 Q. Well, what did -- did the doctor tell you these  
11 injuries were acute? A-C-U-T-E.

12 A. Yes. I'm saying give me a definition of acute, sir.

13 Q. Well, what I'm asking you is did they -- well, from  
14 your investigation what did you find out about the  
15 timeframe as far as -- did they use the term "acute" with  
16 you?

17 A. I don't think so. What was told to me was when the  
18 child was injured she would have immediately responded.

19 Q. Okay. If you had received the information that these  
20 injuries could have occurred three or four days earlier,  
21 would you have investigated the daycare situation of  
22 Ms. Wallace?

23 A. More than likely.

24 Q. Okay. But you couldn't investigate it because you  
25 didn't have the information?



1 A. Information about the daycare?

2 Q. No, information that these injuries could have  
3 occurred three or four days earlier.

4 A. Well, the information that Nurse Practitioner Schaller  
5 gave me was that, again, when the child would have been  
6 injured she would have immediately responded, so that's  
7 where I began my investigation.

8 Q. But if you had received the information they were  
9 three or four days earlier, you would have looked into  
10 three or four days prior to the alleged -- three or four  
11 days prior to the injury, correct?

12 A. Yes, sir.

13 Q. Okay.

14 MR. KOGER: I have no further questions.

15 REDIRECT EXAMINATION

16 BY MR. HINDS:

17 Q. Sergeant, when you say immediately respond, what do  
18 you mean by that?

19 A. If the child would have been hit, pulled, whatever,  
20 she would have basically cried like right then and there.

21 Q. And based on your investigation, your interviews with  
22 these parents, the information provided by Dr. Schaller, do  
23 you have any -- any information that [REDACTED] was acting in  
24 such a way prior to her being in Kareem Wallace's care?

25 A. No, sir.

1 Q. Okay. All right. And your investigation, did it  
2 only come from the doctors' information or did you also  
3 interview the parents?

4 A. Yeah. Well, both of them, the parents and the  
5 doctors, so I could get a timeline.

6 Q. Okay. And based on your investigation, Sergeant, when  
7 could these injuries have occurred?

8 A. When the child was in the care of Kareem Wallace.

9 Q. Did anyone give you any information that [REDACTED] was  
10 acting the way that she did in his care at another point  
11 in time?

12 A. No, sir.

13 Q. Prior?

14 A. No, sir.

15 MR. HINDS: No further questions.

16 THE COURT: All right.

17 RE CROSS EXAMINATION

18 BY MR. KOGER:

19 Q. And, again, Sergeant Gillard, I know your  
20 investigation is based upon information that you received.  
21 Would it have made a difference if [REDACTED] had been left  
22 unattended that morning before she was in the care of  
23 Mr. Wallace?

24 A. If they -- would it have made a difference?

25 Q. Right, in your investigation.

1 A. If the statements remained the same, that she was not  
2 reactive until Ms. Prince returned home, it would have  
3 remained the same.

4 Q. Okay. If -- the question is if [REDACTED] had been left  
5 unattended for thirty minutes with someone else, would your  
6 investigation -- would your investigation have been  
7 different?

8 A. Would it be different?

9 Q. Yes.

10 A. No, sir.

11 MR. KOGER: No further questions, Your Honor.

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

13 (Witness excused.)

14 MS. HUNTER: The State calls Dr. Stephanie Schaller.

15 THE CLERK: Would you place your left hand on the  
16 Bible and raise your right hand.

17 (Whereupon, Stephanie Schaller was duly sworn by the  
18 Clerk of Court.)

19 THE CLERK: You may have a seat.

20 STEPHANIE SCHALLER,

21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. HUNTER:

24 Q. Good afternoon, Dr. Schaller. How are you today?

25 A. I'm doing great. Thank you.

1 Q. Great. And will you please state your name for the  
2 record?

3 A. Yes. My name is Stephanie Schaller.

4 S-T-E-P-H-A-N-I-E. S-C-H-A-L-L-E-R.

5 Q. Thank you. And what type of work do you do?

6 A. I'm a pediatric nurse practitioner. I currently  
7 have my doctorate. I am a certified pediatric nurse  
8 practitioner who works in the field of child abuse  
9 pediatrics.

10 Q. Thank you. And where do you work, Dr. Schaller?

11 A. I currently work in two places. I currently work at  
12 the School of Medicine for the Division of Child Abuse  
13 Pediatrics there. Then I also work at the College of  
14 Nursing teaching nursing there at the college.

15 Q. And your position at the School of Medicine, do you --  
16 with that are you also on call as a -- to get called out  
17 for child abuse cases?

18 A. Yes. So my role as -- I'm an assistant professor, but  
19 I'm also working in child abuse, so I see patients in the  
20 clinic and then I also -- one of us is on call 24/7 for the  
21 hospital for any time there's a child -- where there's a  
22 child that comes in for any concerns for maltreatment.

23 Q. And when you say child maltreatment, is that  
24 synonymous with child abuse? It's just two different ways  
25 of phrasing that?

1 A. Yes, and there's different types. There's, you know,  
2 neglect, physical abuse, sexual abuse, so, yes -- medical  
3 child abuse, so all those different types of maltreatment  
4 we're on call for.

5 Q. Thank you. And how long have you been working at the  
6 School of Medicine?

7 A. Since 2015.

8 Q. And you were working there in August of 2018?

9 A. Yes.

10 Q. Okay. Dr. Schaller, I want you to tell the jury about  
11 the schooling requirements it takes to become a nurse  
12 practitioner.

13 A. So I got my bachelor's in nursing at USC in '98 and  
14 then I practiced as a registered nurse in the PIC-U for a  
15 few years, then decided to go back to school and get my  
16 master's degree in nursing and sat for the certifying  
17 boards to be a pediatric nurse practitioner, and so did  
18 that. I worked as -- in orthopedics for a pediatric  
19 orthopedic surgeon for nine years, then went onto in 2015  
20 to do child abuse, and then recently got my doctorate  
21 degree in nursing at USC and I continue to still work in  
22 child abuse, but then also teach at the College of Nursing.

23 Q. And do you do any additional training each year  
24 specifically in the field of child abuse training?

25 A. So in our state in order to be considered a child

1 abuse medical provider, we have to have forty hours of  
2 didactic training in child maltreatment. We have to have  
3 our first one hundred and fifty charts or patients we see,  
4 they have to be overseen by a child abuse -- fellowship  
5 trained child abuse provider and so once you do all that  
6 -- and then you have to give lectures and then you're  
7 considered a child abuse medical response system provider  
8 for our state. So I did that back in 2015 and then every  
9 year I have to give a -- I teach DSS and law enforcement,  
10 I have to take sixteen hours of continuing education  
11 in child maltreatment, as well as attend roundtables and  
12 multidisciplinary training. So there's a lot that goes  
13 into being considered a child abuse provider for our State.

14 Q. Thank you. And have you ever been qualified as an  
15 expert in child abuse or child maltreatment before?

16 A. I have in many counties, including this one, in both  
17 criminal and civil cases.

18 Q. And approximately how many times?

19 A. Every time that I've had to come to court. I think  
20 I've testified probably a total of like fifteen or twenty  
21 times.

22 Q. Okay. Thank you.

23 MS. HUNTER: At this point I'd ask to qualify  
24 Dr. Schaller as an expert in child abuse.

25 THE COURT: All right. Now you said a different

1 term. A child abuse specialist? What did you say?  
2 Ill treatment? Maltreatment? What was the first  
3 characterization you used?

4 MS. HUNTER: Child abuse -- child maltreatment or  
5 child abuse or some synonymous --

6 THE COURT: All right. Mr. Koger, would you like  
7 voir dire first?

8 MR. KOGER: I have no objection.

9 THE COURT: All right. Ladies and gentlemen of the  
10 jury, this is similar to the physician who testified in  
11 the field of radiology.

12 Is it Doctor or Nurse Schaller?

13 THE WITNESS: It's Dr. Schaller, but I have my  
14 doctorate in nursing.

15 THE COURT: In nursing. Okay.

16 THE WITNESS: But I've been a nurse -- I consider  
17 myself a nurse.

18 THE COURT: All right. So Ms. Schaller is a nurse  
19 and she specializes in child abuse. She's so qualified  
20 in the field of child abuse and maltreatment of children.  
21 She can offer opinions in that field of expertise because  
22 of her training, education and experience.

23 MS. HUNTER: And just to clarify, she's a nurse  
24 practitioner, not just a registered nurse. She's  
25 further -- I don't know if that was -- just to clarify

1 for the record, Your Honor.

2 THE COURT: She's a Doctor Nurse.

3 BY MS. HUNTER:

4 Q. Will you please describe your role when you get a call  
5 about a suspected child abuse case.

6 A. So when we -- when we get a call to come into the  
7 hospital for a concern for child maltreatment, I usually  
8 get some history over the phone very briefly about why --  
9 you know, what the child's name is, what the concern is,  
10 where the child is located so I know where to go when I  
11 get to the hospital, and once I get there I find the  
12 patient, I grab their chart. I will go in and I will get  
13 a medical history from the caretaker, whoever brought the  
14 child in. That history will be -- generally I try to have  
15 that history be alone. Meaning, like if there's two people  
16 in the room, I'll generally separate the two people. And I  
17 get past medical history, you know, what brought the child  
18 in that day, developmental history, birth history, diet  
19 history, family history, as well as like, you know, finding  
20 out if they've had any visits to the pediatrician or the  
21 ER, and then I will do a head to toe assessment looking  
22 at all their skin, looking at all their systems, listen  
23 to their lungs, their heart, and just basically kind of  
24 figure out, you know, what their assessment is. Then I  
25 will look and order certain things if things aren't ordered



1 that I need, then I'll look at x-rays, head CT's, order  
2 ophthalmology, that's a person who looks at eyes, if I  
3 need to do that, and basically just get an overview of  
4 everything the child has done for that visit and then make  
5 a determination of a diagnosis at that time.

6 Q. Thank you. I'd like to talk to you about a specific  
7 case that you were involved in. It's a three-month old.  
8 Identification of -- identified to you as [REDACTED].  
9 She was brought to the Children's Hospital in Columbia,  
10 it's now called Prisma Richland Memorial, on August 28,  
11 2018. Can you tell the jury about your involvement in this  
12 case?

13 A. So I believe the child came in -- yes, August 28th,  
14 it was in the evening time when I got called into the  
15 emergency department to see a little three-month-old  
16 female, [REDACTED]. I was told at the time that the  
17 child has a fracture of the clavicle, which is the  
18 collarbone, as well as of the arm and a possible -- of the  
19 radius and that there was concern for nonaccidental trauma  
20 or child abuse and they're asking for me to come in and see  
21 the child.

22 Q. And, Dr. Schaller, I want to stop you right there.  
23 Did you receive -- was this child transferred from another  
24 hospital?

25 A. Yes, I believe the child came from TRMC, was

1 transferred from there to our ED and then admitted to the  
2 Children's Hospital from there.

3 Q. And did you in your -- when you were involved in this  
4 case, did you have the opportunity to look at reports that  
5 came from TRMC concerning the child?

6 A. Yeah, I believe I did look at the ED record, the  
7 physician record, what they wrote, as well as the radiology  
8 reports. Those are the two things that I mainly looked  
9 at. And I also wanted to know about times, what time the  
10 child came to the emergency department, because that was  
11 important.

12 MS. HUNTER: Your Honor, may I approach the witness?

13 THE COURT: You may.

14 BY MS. HUNTER:

15 Q. I'm gonna hand you what is one of the reports from  
16 the -- medical reports from TRMC, The Regional Medical  
17 Center, here in Orangeburg, and this is a report from the  
18 radiologist there, Dr. Reidman. And if you'll look at  
19 this, is this a report that you looked at?

20 A. I can't tell you if this is the exact report that I  
21 remember seeing, but I did look at all of the radiology  
22 reports. So if this was there, I probably did look at it.

23 Q. Okay. And further down on Dr. Reidman's report,  
24 there's a part that's circled that says nonaccidental  
25 trauma should be excluded. Can you explain to the jury

1 what that means?

2 A. What that generally means is saying that nonaccidental  
3 trauma or child abuse is really high up on the differential  
4 list. When we say differential list, that means this is  
5 high up there on the possibilities of how these injuries  
6 could have occurred and so that they're saying that  
7 nonaccidental trauma needs to be ruled out because it's  
8 really high on the list of possibilities based on the  
9 injuries that they saw on this report.

10 Q. Okay. So that -- that phrase -- that terminology  
11 used, that doesn't mean that this is not child abuse, that  
12 means it is suspected for child maltreatment and they are  
13 asking -- they are saying that now needs to be ruled out.  
14 Is that a -- is that correct?

15 A. Correct. Yes. You have two negatives, so that  
16 nonaccidental and exclusion are like you put two non --  
17 two nots together makes it a little bit confusing, yes.

18 Q. Okay. I just wanted to clarify that TRMC was not --  
19 that's what they meant by that report.

20 A. Correct.

21 Q. Thank you. So you said the child -- that the child  
22 had been transferred from The Regional Medical Center. Did  
23 you talk to -- you said you normally talk to a caregiver.  
24 Did you talk to any caregivers in this case?

25 A. Yes, I did. I got a medical history from the mother

1 and then I believe that the grandmother when I first came  
2 in was holding the child, when I first came into the ED,  
3 so I did introduce myself to them and talked to them very  
4 briefly.

5 Q. And what was that history that you received from the  
6 mom?

7 A. I got a history about how the child presented to the  
8 hospital and how the child presented after she came home  
9 from dropping off, I believe, her twelve-year-old at  
10 school, came in and noticed that the child was extremely  
11 crying, and she was very concerned that the child was not  
12 moving that left arm because she noticed that the child was  
13 just not being consoled and was crying and that because the  
14 arm wasn't being moved that she immediately felt like she  
15 needed to bring the child to TRMC because she felt like  
16 something was wrong.

17 Q. And after talking with the -- and you were talking  
18 about the child was generally presented and you said that  
19 the grandmother was holding her. Did you examine the  
20 child?

21 A. I did after I got the history, yes.

22 Q. After you got the history. And anything else in that  
23 history that you needed to -- did you ask -- did you talk  
24 to the mom about whether the child had normal activities  
25 earlier that morning?

1 A. So, yes, I do get like a -- you know, I try to get a  
2 history of when's the last time you saw the child being --  
3 acting normal, being healthy, and the mother explained that  
4 morning when she got up with the baby, fed the child a  
5 bottle, the child was happy. She recalls the child would  
6 move both its hands to hold on -- to kind of like help hold  
7 onto the bottle while mom was holding it and so was moving  
8 both of the arms. I asked about how she acted the night  
9 prior. I believe she might have been at a grandmother's  
10 home, had been bathed, hair was done, did really well. I  
11 asked about any other possible accidental histories. Had  
12 the child ever fallen? Has anything ever happened? Have  
13 you ever brought the child to the emergency department  
14 before? And there was no other history that mom could  
15 recall of any accidental injuries.

16 Q. Thank you. And can you talk about in general how the  
17 child presented when you -- when you examined her when she  
18 was being held by the grandmother?

19 A. So when I walked in the room, I did notice that the  
20 child was fussy, was crying. I did -- I asked the family  
21 to step out in the emergency room when I did an exam, so I  
22 have a nurse in there with me, but we had put the baby  
23 down, the baby was fussy. I noticed that the arm was kind  
24 of limp on that left side and was being held kind of bent.  
25 The rest of the exam, overall her skin looked good except

1 she did have a small oval bruise on the chest. I did  
2 attempt to take a photograph of that, but for some reason  
3 the camera did not want to function correctly, so I could  
4 not get a photograph that was able to be used. Otherwise,  
5 was moving all the other extremities very well, was alert.  
6 I didn't notice any swelling on physical exam. And then I  
7 had to look at all of the x-rays and different things from  
8 there.

9 Q. Okay. Thank you. So you did a physical exam. You  
10 said that you reviewed some x-rays. Is it common for you  
11 to -- for x-rays to be taken in these types of child abuse  
12 cases?

13 A. So bruising is the number one common injury in  
14 children less than one with child maltreatment, but then  
15 fractures or broken bones are the second most common  
16 injury that happens in children of this age for child  
17 maltreatment. So, yes, we do look at x-rays and head CT's  
18 and that sort very -- very commonly.

19 Q. And can you just tell the jury in general what those  
20 four -- what the injuries were that were on [REDACTED]  
21 [REDACTED], the three-month-old?

22 A. Yes. So on the left side she had a -- in the middle  
23 of the bone, so right in the middle of the bone, she had a  
24 clavicle fracture or collarbone fracture. It was through  
25 and through, so you could see the fracture all the way

1 through the bone. She also had a fracture of the left arm  
2 kind of towards the elbow, the lower part, so she had a  
3 fracture there, also a broken bone. And then on the left  
4 towards the left knee on the femur, that's our thighbone, a  
5 little bit like farther down towards to the knee she had a  
6 corner fracture there or we also call them a metaphyseal  
7 lesion, and then also on the tibia of the same leg, on the  
8 left, she had a corner fracture or metaphyseal lesion on  
9 that side as well.

10 Q. And, Dr. Schaller, were you -- did you consult with  
11 Dr. Marcus, the pediatric radiologist, on this case and go  
12 over some x-rays?

13 A. Yeah, I usually will -- since, you know, she came  
14 from TRMC and she had some x-rays taken there, and the  
15 radiologists there at TRMC they're great, but they're not  
16 pediatric radiologists, so I will consult with him just to  
17 make sure, you know, we're kind of seeing the same thing.  
18 I think they had talked about a radial fracture at TRMC,  
19 but when he looked at it he felt like it was a normal, you  
20 know, variance, something that normally children have, and  
21 so he didn't feel that was a fracture.

22 Q. And I'm gonna stop you and talk to you about that.  
23 When you say radial, what are you referring to?

24 A. Oh, I'm sorry. Like the forearm. TRMC mentioned  
25 something about a forearm fracture, too, but then when we

1 looked at the x-rays kind of decided that that wasn't a  
2 real fracture, it was just a normal variant of the child.

3 Q. That's why TRMC transfers them to Richland because  
4 that is, in fact, a children's hospital; is that correct?

5 A. Correct.

6 Q. And that's what they specialize in?

7 A. Yes.

8 Q. Okay. Thank you. And did you order any other tests  
9 or exams on [REDACTED]?

10 A. I believe I ordered -- I wanted to look at the leg and  
11 the knee area a little bit better to make sure that there  
12 wasn't any type of -- where we can see the metaphyseal  
13 fracture a little bit better if it was there. I believe I  
14 also asked for ophthalmology to come and see the patient.  
15 That's just to make sure that there's no bleeding in the  
16 eyes because that can happen from abusive head trauma.  
17 They didn't find any bleeding in the eye.

18 Q. All right. Doctor, I want to talk to you a little bit  
19 more about the injuries that you just noted. I'd like you  
20 to -- these x-rays have already been admitted into evidence  
21 through -- we had Dr. Marcus testify earlier. So I want  
22 to show you a few of them and get you to talk about those.

23 MR. KOGER: Your Honor, may we approach?

24 THE COURT: You may.

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



1 BY MS. HUNTER:

2 Q. I know you've already been qualified to testify in  
3 your opinion about child maltreatment. Can you tell the  
4 jury about any experience you have with orthopedics?

5 A. Yes. So I worked with a pediatric orthopedic surgeon  
6 for nine years. I would see patients on my own. I would  
7 do fracture care, put them in casts, decide on if it looked  
8 like they needed surgery or not, I would then call him or  
9 we would confer and I'd set them up for surgery, but for  
10 nine years I definitely was helping with any type of  
11 scoliosis management, fracture management, disorders of the  
12 bone. We saw children with cerebral palsy, spina bifida,  
13 all these things that can -- bony abnormalities and then  
14 just your normal, you know, fracture care or sports-type  
15 injuries, so definitely looked at x-rays quite a bit in the  
16 nine years that I did that.

17 Q. And in your role there did you read and interpret  
18 x-rays?

19 A. I did.

20 MS. HUNTER: Your Honor, I'd ask to move to allow  
21 her to testify -- qualify her as an expert as part of  
22 her expertise in child abuse as her ability to read  
23 x-rays and interpret them.

24 MR. KOGER: Your Honor, may I beg the Court's  
25 indulgence?

1 THE COURT: You can.

2 MR. KOGER: No objection, Your Honor.

3 THE COURT: All right. She'll be qualified in the  
4 additional field regarding interpretation of radiographs  
5 for pediatric -- it's an orthopedist is who she was a  
6 practitioner with?

7 MS. HUNTER: Yes, Your Honor.

8 THE COURT: Okay.

9 MS. HUNTER: For nine years. Yes, Your Honor.

10 Thank you.

11 BY MS. HUNTER:

12 Q. I'd like to show you what's State's 5, which has  
13 already been admitted into evidence. If you'll take a look  
14 at that, please. Can you tell the jury what this is?

15 A. Yes. So on this side, on this left side, you can see  
16 this break in the middle of the bone here and you can see  
17 that there isn't a break on this right side. So on the  
18 left side this is a midshaft clavicle fracture. It's right  
19 in the middle of the bone and you can see it's broken all  
20 the way in half.

21 Q. I just realized we should probably pull them up on the  
22 screen for you guys like we did earlier. I apologize.

23 A. No, that's okay.

24 Q. All right. That's better. Do you want to point --  
25 do you want to step down from the stand?

1 A. Can I?

2 Q. Yeah, you absolutely can step down and point to  
3 whatever you need to.

4 A. Okay. So the -- the fracture is right here and then  
5 you can kind of see on this side there's no break in the  
6 bend. You can definitely see the break here. It's in the  
7 middle of the bone. This is the clavicle or, you know,  
8 what laymen people say, the collarbone.

9 Q. Okay. And how would a clavicle fracture occur in a  
10 three-month-old that's nonmobile?

11 A. So if the child may -- somebody may have fallen.  
12 Sometimes, you know, a parent may accidentally drop the  
13 child, if they fall on a shoulder. A direct blow to the --  
14 to the clavicle or the collarbone could also cause that  
15 type of fracture or a type -- like a twisting and jerking  
16 of that arm very harshly with extensive force to that arm  
17 could also cause that clavicle bone to break.

18 Q. And can you -- can you tell whether or not these are  
19 acute injuries or healing injuries?

20 A. So there are no -- there's no new bone that's laying  
21 around the fracture. When you break a bone, the body  
22 wants to heal it, and how it heals it, it lays down new  
23 bone either above and below the fracture, all around the  
24 fracture, and on that x-ray you don't see any new bone at  
25 all, you don't see any periosteal changes showing that this

1 is an acute injury.

2 Q. And as far as timing goes, when you say acute injury  
3 could that be an injury that occurred that day?

4 A. Immediately, yeah. At the time the x-ray was taken it  
5 means it happened, you know, moments before the x-ray was  
6 taken.

7 Q. Or it could have happened --

8 A. It could have happened moments before the x-ray.

9 Q. Thank you. And what would your diagnosis be in your  
10 medical opinion as to this injury?

11 A. Based on the fact that there was no plausible  
12 accidental injury, meaning there was no explanation of,  
13 you know, an accidental history of this child, maybe the  
14 mom fell or was in a motor vehicle accident, which we  
15 don't have, and then there also was no signs of brittle  
16 bones -- some children are born with bony abnormalities.  
17 This child's bones were very healthy, they were well  
18 mineralized. So if you take away all of that, the only  
19 thing that's left is these x-rays were diagnostic of  
20 physical abuse for this injury.

21 Q. Thank you. Next I'm gonna show you what is marked as  
22 State's -- or what was admitted as State's 1. It's going  
23 back on the screen.

24 A. That's okay. It feels good to actually stand up  
25 anyway.

1           Okay. So on this one -- yes. So you can see also  
2 right here this is the -- an arm bone, so the humerus on  
3 this left side, and she has a break all the way through  
4 here. This is the metaphysis of the bone, so kind of --  
5 more towards the growth plate, but definitely an oblique,  
6 meaning it's kind of slanted, fracture that goes right  
7 through here.

8 Q. And how would a fracture of this type of occur in  
9 nonmobile three-month-old?

10 A. So the mechanism of this type of fracture would be  
11 like a hyperextended -- if the arm was hyperextended, also  
12 more of a twisting force, kind of going behind the back  
13 twisting upward, it could cause that type of a fracture.  
14 And then also, I mean, it may be something like, again,  
15 if they said like the child was unrestrained in a motor  
16 vehicle accident, then maybe a fracture like this could be  
17 explained.

18 Q. And what was your diagnosis then?

19 A. Since, again, there was no plausible accidental  
20 history, the history of the child had no bone issues, no  
21 bone history in the family of brittle bones, therefore, I  
22 was left with the diagnosis of physical abuse.

23 Q. And, lastly, I want to show you State's 7 and can you  
24 tell the jury what this is?

25 A. So these fractures are really difficult to see and

1 they're very common unfortunately in child abuse cases  
2 because they involved the growth plate, but they're small  
3 little corner fractures. She has one here, this is her  
4 tibia and so of the upper part of the knee, and then also  
5 on the femur, which is the thigh bone, up near the knee, so  
6 she has two of these. And they're called corner fractures  
7 or we also call them metaphyseal lesions.

8 Q. And what would cause this type -- or these two types  
9 of fractures in a nonmobile three-month-old?

10 A. So these fractures happen with a rotational force as  
11 well as a pulling or a jerking force. There has to be  
12 rotation and pulling and when that happens it causes a  
13 little piece of that -- of the growth plate to avulse and  
14 kind of come off the corner. I've seen sometime in --  
15 when it's not child maltreatment, we do see it in like  
16 clubfoot casting because we're trying to manipulate the  
17 foot while we're trying to cast it in the right position.  
18 If you're too strenuous in trying to pull it in the right  
19 direction, it can cause that to avulse off, but this child  
20 did not have any history of clubfoot treatment.

21 Q. And when would a child show symptoms of -- of these  
22 fractures, specifically the -- the arm fractures?

23 A. So the clavicle and the arm, they're very -- would  
24 be very symptomatic right away, so immediately would be  
25 crying, would be not wanting to move that arm, would not

1 be wanting to put the arm up. That arm probably would be  
2 hanging limp. It may be really tender because in a child  
3 that age, you know, parents have to do everything for the  
4 child, so putting them into their onesie, putting them  
5 into their clothing, putting them into the car seat. Any  
6 time you try to manipulate or any time you even try to pick  
7 them up, specifically that arm, is gonna be really tender.  
8 They're probably gonna be crying or, you know, crying out  
9 if you touch it. Those would be the type of symptoms that  
10 you would see in the arm and in the clavicle.

11 Q. And that would happen -- those symptoms would be  
12 immediately after the injury?

13 A. Yes. And any normal parent would notice that, you  
14 know, their child was in distress from this type of --  
15 these two fractures.

16 Q. It would be -- that injury, the arm limp, you're  
17 saying would be apparent to a parent, to a caregiver,  
18 whoever was taking care of the child?

19 A. Uh-huh.

20 Q. Okay. And what about the leg fracture? Would a  
21 three-month-old show symptoms on the leg fracture? And  
22 talk about where it is and why, please.

23 A. So this injury is a little bit different. It is a  
24 fracture, meaning there's like a piece of bone that's  
25 broken, but it's not right through like some of the other

1 ones are right through the thickest part of the bone.  
2 And so this child wasn't weightbearing, meaning that she  
3 wasn't, you know, crawling or standing up, so wasn't  
4 putting weight on that leg, and so may not be as  
5 symptomatic. At the time of the injury maybe had a little  
6 bit of whimpering or crying maybe if you touched it and  
7 squeezed it real hard that they might be like -- might  
8 kind of wince or move it, but otherwise this type of  
9 fracture sometimes you don't really even know that there  
10 something is wrong.

11 Q. And were there any other injuries that you noted on  
12 [REDACTED] ?

13 A. The bruise to the chest was noted. You know, a child  
14 who is not mobile, she can't cause the forces needed to  
15 make a bruise to themselves. They're not, you know,  
16 walking or crawling yet, so a bruise is very concerning in  
17 a child less than one who's not walking.

18 Q. What would be a cause for a bruise? What would cause  
19 that injury?

20 A. A direct blow to the chest. It's caused from blunt  
21 force injury to the skin of the chest and that causes those  
22 little blood vessels to burst and become damaged and that  
23 is why there's bruising is because that blood vessel bleeds  
24 out into the soft tissue and that's what causes a bruise.

25 Q. And why would that bruise be suspicious for child



1 maltreatment?

2 A. Just because the child's not old enough. You know,  
3 if this was a four-year-old who played soccer and they  
4 have a bruise, I'm not gonna be very worried, but a  
5 three-month-old with no history of any injury shouldn't  
6 have a bruise.

7 Q. And based on your exam of [REDACTED] and her injuries,  
8 what would your diagnosis -- what is your diagnosis?

9 A. Physical abuse.

10 Q. And what is the basis for that diagnosis?

11 A. Based on there wasn't a history -- accidental history  
12 given, based on she doesn't have a platelet problem,  
13 meaning low platelets and that's why she had the bruise,  
14 there was no signs of bony -- brittle, you know, bone  
15 disease, no family history of bone disease, all those  
16 things taken into consideration leaves us with a diagnosis  
17 of physical abuse.

18 Q. And could these injuries have been caused by a drop?

19 A. A single fall could not have caused all four of these  
20 fractures and the -- and the bruising to the chest.

21 Q. Could this -- could these injuries be caused by  
22 picking a child up by one arm?

23 A. Picking a child up by one arm is kind of an unusual  
24 way to pick a child up, specifically at three months, but  
25 if you did pick a child up by one arm it may have caused

1 one of the fractures. I don't -- it couldn't have caused  
2 the leg fracture, nor could it have caused the bruising to  
3 the chest.

4 Q. And I want to kind of go back to asking if this could  
5 have been caused by a fall or a drop. You said it couldn't  
6 be caused by a single drop. Could it be caused with the  
7 child -- could it be caused by multiple drops?

8 A. So, yes, multiple blunt force traumas or drops could  
9 have maybe caused the two arm fractures, but because of the  
10 mechanism for the leg, when we talked about it had to be  
11 rotational and jerking, that type of mechanism you don't  
12 see in short falls. This just doesn't have the mechanism  
13 that you need, which is the twisting and the jerking at the  
14 same time.

15 Q. And could those injuries be caused by -- you said, I  
16 think, it would take like a forceful movement, like a  
17 vigorous movement, like a vigorous shaking. Could that  
18 cause these corner fractures? Is that another likely  
19 cause?

20 A. So we did -- we talked about like in a clubfoot child,  
21 that manipulation, but when you do -- when you have a child  
22 with abusive head trauma from what we call shaken baby  
23 syndrome when they're shook like this really, really hard,  
24 their extremities are flailing and rotating and flailing,  
25 and that can cause it, but in this case this child didn't

1 have any bleeds of the brain, nor did they have any bleeds  
2 in the eye, so abusive head trauma didn't happen, but I  
3 can't say that the child wasn't shaken. I don't know if  
4 the child was shaken or not. I was not there.

5 Q. But a child can be shaken and not necessarily have the  
6 eye trauma?

7 A. Correct.

8 Q. Thank you. And after you made your finding of  
9 physical abuse for this child, did you -- what's the plan  
10 or course of action?

11 A. So I do complete a note and it goes into the chart  
12 and then I talk to social work. We are, you know, there  
13 to make sure that the child is safe, so a report was made  
14 to DSS and law enforcement. If I recall, the child was  
15 placed in emergency protective custody. That's when law  
16 enforcement decides that the child is unsafe and will have  
17 me to have DSS find a foster care placement for the child.  
18 And then I planned to see the child back in two weeks for  
19 follow-up. That two-week visit is to look at the child  
20 again and make sure that the caregivers and everyone else  
21 is doing well and then also to do x-rays again because  
22 sometimes in these cases these type of fractures,  
23 specifically the ones of the leg, they're so small that we  
24 want to get a repeat x-ray to make sure everything's okay.

25 Q. And this child was, in fact, seen -- was brought back

1 for follow-up visits?

2 A. Yeah, I believe that because of foster care placement  
3 they didn't come back in exactly two weeks, I thought it  
4 was more like three weeks or four weeks, but the child did  
5 get returned back, saw my partner and had repeat x-rays  
6 done of the skeletal survey.

7 Q. Thank you. And just one last question. So you said  
8 that if a child was shaken vigorously that the arms would  
9 be flailing. Would it be -- could the child have these  
10 breaks that are noted but not have head trauma? Could they  
11 have --

12 A. Yes, if there wasn't enough to cause -- in order  
13 to have the head trauma, there has to be an  
14 acceleration/deceleration injury. It's kind of like when  
15 you're in a car accident and your kind of brain moves in  
16 a different velocity than your skull or we see it in  
17 football players, so sometimes, you know, you'd have to  
18 have that kind of mechanism, rotational force, to have a  
19 brain injury. It could be that she was shaken not as hard  
20 that could have caused the -- the leg fractures, but it  
21 also could just be from somebody, you know, twisting and  
22 pulling on the extremity. It doesn't necessarily have to  
23 be shaking.

24 MS. HUNTER: Great. Thank you. I don't have any  
25 further questions. Please answer any questions the

1 defense might have.

2 CROSS-EXAMINATION

3 BY MR. KOGER:

4 Q. Ms. Schaller, you -- is it Schaller?

5 A. It's Schaller. Like "I shall".

6 Q. Schaller. I'm sorry.

7 All right. Ms. Schaller, you indicated that there was  
8 a bruise on the chest the size -- the size of an oval?

9 A. Not the size of an oval, it was the shape of an oval.

10 Q. The shape. Okay.

11 A. Yes, sir.

12 Q. Okay. And about what size it was?

13 A. I don't recall because unfortunately the picture did  
14 not develop.

15 Q. Okay. All right. So we don't have any photographs of  
16 that?

17 A. Correct, we do not.

18 Q. Okay. And you -- now, Ms. Schaller, you know whether  
19 this can be misleading, nonaccidental trauma should be  
20 excluded. That's not -- that's not really -- that's kind  
21 of hard to understand, isn't it? Like a double negative  
22 like you said, correct?

23 A. Correct.

24 Q. All right. So you have no way -- you gave your  
25 opinion on what you thought it meant, but you have no way

1 of knowing what it exactly means because you were not the  
2 author of that, correct?

3 A. I was not the author.

4 Q. Okay. Thank you.

5 Now you used the term "acute" and I think you  
6 testified to that acute can mean that -- that the injury  
7 can then -- I think you testified detected within minutes,  
8 but what is the -- what is the period of an acute injury?

9 A. An acute injury period would be from the moment that  
10 it happened up until we see signs of healing and on this  
11 age of a child the signs of healing could happen up to  
12 about a week in time, around a week.

13 Q. Okay. So -- so basically what you're saying is that  
14 it was -- it was detected obviously at the hospital on  
15 August 28th, but it does not mean that it happened  
16 forty-five minutes earlier, correct?

17 A. Yeah. Yeah, I don't know exact time.

18 Q. Okay. It could actually happen a week earlier,  
19 correct?

20 A. It could, but the child would be symptomatic that week  
21 earlier.

22 Q. But it could happen a week earlier or three to  
23 four days earlier?

24 A. Correct.

25 Q. Okay. And you gave some testimony in relation to the

1 shaken baby syndrome, but that's not -- that's not at play  
2 here, correct?

3 A. There was no signs of brain injury nor were there any  
4 signs of retinal damage in the eye, so it did not look like  
5 we were dealing with abusive head trauma, no.

6 Q. And the reason why you noticed is because you did  
7 those tests, correct?

8 A. Correct, we did.

9 Q. Okay. Now you testified to -- well, let me ask you  
10 this here. You noted -- not conceding this point, but you  
11 noted supposed bruising of the chest. Did you notice any  
12 other bruising on the body?

13 A. No.

14 Q. No other bruising?

15 A. Correct.

16 Q. Okay. All right. And you -- you're testifying to  
17 that there was violent jerking and twisting and there was  
18 no other bruises on the body? There was no bruises on the  
19 arm, correct?

20 A. Correct, there was no bruising.

21 Q. There was not a bruise on the shoulder, correct?

22 A. Correct.

23 Q. And there's not bruise on the leg, correct?

24 A. Correct.

25 Q. Okay. Now also, too, you testified to platelets, but

1 according to the report [REDACTED] platelets was above the  
2 normal range. Are you aware of that?

3 A. Yes.

4 Q. Okay. And isn't it true that -- that the platelets  
5 count being above the normal range that it could -- it  
6 could translate into easier bruising?

7 A. It's normally platelets being low causing bruising.

8 Q. Okay. Low?

9 A. Low, not high.

10 Q. Okay. But, again, the only bruising that you saw was  
11 on this chest and which you have no photograph of?

12 A. Correct.

13 MR. KOGER: Okay. Your Honor, may I beg the Court's  
14 indulgence?

15 THE COURT: You may have it.

16 BY MR. KOGER:

17 Q. And even though you cannot recall that bruise, isn't  
18 it true that it is also difficult to try to date a bruise?

19 A. Correct.

20 Q. Okay. All right. So even if you had a photograph  
21 of that bruise, you could not definitively say that it  
22 happened forty-five minutes to an hour earlier?

23 A. Correct. You can't date a bruise on a live person,  
24 correct.

25 Q. Now all the injuries was on the left side of the body,



1 correct?

2 A. Correct.

3 Q. All right. And you testified to at least some of  
4 them could possibly -- well, not -- not according to your  
5 opinion in this case, but in child abuse cases that some of  
6 these injuries could occur because of a fall or the parent  
7 falling, correct?

8 A. Correct.

9 Q. Okay. All right. What would be considered -- you  
10 didn't testify to it. What would be considered in child  
11 abuse circles a compression injury?

12 A. A compression injury happens sometimes when a child  
13 like falls on an outstretched arm that causes compression,  
14 axial loading would be a compression injury, but this  
15 child can't -- she can't generate the forces needed for  
16 compression.

17 Q. Okay. Could -- her injury could have occurred if  
18 someone accidentally maybe just for a couple of seconds or  
19 minutes rolling over on her on the left side?

20 A. No.

21 Q. And why not?

22 A. Not the conglomerate of four different fractures and  
23 the mechanism how those four fractures would occur would  
24 not occur from a parent rolling over on a child.

25 Q. What was her weight at the time?

1 A. I would have to look at the -- my documentation. I'm  
2 not aware of what weight. I think she was probably the  
3 average weight of a three-month-old, but I don't recall  
4 what it was.

5 Q. Okay. And what would be that just, you know, from  
6 your experience?

7 A. Probably around maybe nine or ten pounds I would  
8 guess.

9 Q. Nine or ten pounds?

10 A. Yes.

11 Q. And if an adult that may be over 180 pounds were to  
12 accidentally roll on her, that would not cause that type  
13 of damage?

14 A. No.

15 MR. KOGER: I have no further questions.

16 THE COURT: All right.

17 MS. HUNTER: One final question for you.

18 REDIRECT EXAMINATION

19 BY MS. HUNTER:

20 Q. When -- you looked at these fractures, correct? You  
21 looked at the x-rays and you identified the fractures?

22 A. (Nods head.)

23 Q. And in your opinion, when would the child have been  
24 symptomatic with these fractures?

25 A. Specifically for the arms, at the time that the

1 injuries occurred. Very close to the time that the  
2 injuries occurred because a broken -- we have a broken arm  
3 and a broken collarbone all on the same side, so that child  
4 would be immediately crying, immediately not wanting to  
5 raise the arm, would immediately -- any time you moved the  
6 child or manipulated the child you could tell that there  
7 was something wrong.

8 Q. And it was your testimony that it would be apparent to  
9 any caregiver that there was immediately an issue?

10 A. Yes. And it seemed to be because immediately when the  
11 mom noticed when she came home that the arm wasn't moving  
12 and knew that something was wrong immediately brought the  
13 child to TRMC for evaluation.

14 MS. HUNTER: Thank you. I don't have any further  
15 questions for this witness.

16 MR. KOGER: One -- one recross.

17 THE COURT: All right.

18 RE CROSS EXAMINATION

19 BY MR. KOGER:

20 Q. Since you mentioned you did the history with  
21 Ms. Prince, did she mention to you that Mr. Wallace pointed  
22 out that the arm was limp?

23 A. She did -- she did say that when she came home and  
24 said why is she crying and noticed she was crying, he did  
25 say something's wrong with her arm or something to that

1 effect, yes.

2 MR. KOGER: Okay. Thank you. No further questions.

3 THE COURT: Good deal.

4 All right. You may step down.

5 THE WITNESS: Okay. Am I dismissed?

6 THE COURT: It suits me.

7 (Witness excused.)

8 MS. HUNTER: I beg the Court's indulgence for just  
9 a minute.

10 THE COURT: Okay. Do you-all need a break?

11 All right. We'll take a couple of minutes. You-all  
12 step in the jury room. We'll try to get finished up this  
13 afternoon with what we can and that way we'll have less  
14 to do tomorrow.

15 So step in the jury room and don't talk about the  
16 case.

17 (Whereupon, the jury retires to the jury room at  
18 4:44 PM.)

19 MR. HINDS: Judge, I forgot to put 17 -- actually  
20 admit it into evidence, but I believe Mr. Koger is  
21 stipulating to its admission into the actual -- into  
22 evidence.

23 THE COURT: Are you talking about the video?

24 MR. HINDS: No, no, no. It's just the Miranda  
25 waiver form.

1 MR. KOGER: Yeah, that's fine.

2 THE COURT: It's admitted in.

3 MR. HINDS: Okay.

4 (State's Exhibit Number 17, the Advisement of Rights  
5 Form, was admitted into evidence.)

6 MS. HUNTER: Your Honor, that is the extent of our  
7 case. We're ready to rest.

8 THE COURT: All right. Mr. Koger, it's a few minutes  
9 until 5. Do you want to sleep on it and come back in the  
10 morning if you're gonna put something up or not?

11 MR. KOGER: Yeah. Yeah, I'd like to sleep on it.

12 THE COURT: Okay. I think that's a good idea.

13 Is 9:30 a good starting time for us?

14 MS. HUNTER: Is it okay with you?

15 MR. KOGER: I think it is.

16 THE COURT: Stacy, is that good for you?

17 THE COURT REPORTER: That's good.

18 THE COURT: Okay. Anybody else object to it?

19 I'm gonna ask the jurors if that's too early. If  
20 they say we can't go until 10, then we're gonna defer to  
21 them, but I don't want to start any later than 9:30, so  
22 I'm gonna tell them I'm making you-all come in.

23 MR. KOGER: Okay.

24 THE COURT: All right. Go tell them -- don't talk  
25 about the case, but we're done for the day and be back in

1 the jury room by 9:15 in the morning and we'll start at  
2 9:30. The bailiff can instruct. No need to bring them  
3 back in here to do that.

4 (Whereupon, the jury was excused for the day at  
5 4:46 PM.)

6 THE COURT: Now while we've got a couple of minutes,  
7 the State has rested?

8 MS. HUNTER: Yes, Your Honor.

9 THE COURT: Do you want to go ahead and hear the  
10 motions right now and that way be ready to start fresh  
11 in the morning?

12 MR. KOGER: Can I -- that's fine, Judge.

13 THE COURT: No, I'll tell you what. Let's do them  
14 at 9:15 in the morning.

15 MR. KOGER: At 9:15.

16 MS. HUNTER: Oh, the DV motion. Okay.

17 THE COURT: All right. Now on the bond.

18 MS. HUNTER: Oh, right. We need to clarify that.

19 MR. KOGER: Your Honor, may it please the Court?

20 This morning once we was alerted that there's a  
21 possibility -- not a possibility, but that his bond  
22 would expire, he got in touch with his bail bondsman.  
23 His name is Keith with Glover Bail Bonding and according  
24 to my client and the family he is gonna stay on the bond.  
25 And, again, he's been coming here five years.

1 THE COURT: And we had that conversation over lunch.  
2 He's been back after lunch.

3 So, Mr. Wallace, I expect you here in the morning.  
4 We'll start without you if you're not here, so see you at  
5 9:15. But you're under -- your bondman is still under a  
6 responsibility to have you here if you're not here, so  
7 he's at risk as well. I'm certain you will be here.

8 All right. See you in the morning.

9 MR. KOGER: Thank you, Your Honor.

10 (Whereupon, the proceedings for March 29, 2023,  
11 were concluded at 4:48 PM.)

12 (The following proceedings were held March 30, 2023,  
13 beginning at 9:27 PM.)

14 BAILIFF: All rise. Court's in session.

15 THE COURT: All right. Mr. Koger, have you got some  
16 motions to make at the close of the State's case? The  
17 State had rested on the record yesterday afternoon.

18 MR. HINDS: Judge, that's correct. We rest.

19 THE COURT: And we agree that the waiver form was by  
20 stipulation admitted into evidence?

21 MR. HINDS: Yes.

22 MR. KOGER: That's correct.

23 THE COURT: Okay. Now go ahead, Mr. Koger.

24 MR. KOGER: Your Honor, may it please the Court?

25 At this time I move for a directed verdict in this

1 particular case. Taking the evidence in the light most  
2 favorable to the State, the State has not submitted  
3 sufficient evidence as of this particular time for this  
4 case to warrant submission to the jury. There were  
5 several things that the State has not set forth that  
6 would not warrant submission to the jury. There's a  
7 question about whether Mr. Wallace, of course, is the  
8 correct defendant in this case, there's a question about  
9 timing, there's a question about -- there's a question of  
10 whether it should even go to the jury at this particular  
11 time. I know that a directed verdict does not go to the  
12 weight of the evidence, but, of course, the existence of  
13 the evidence, but we say at this particular time there is  
14 not enough evidence to even truly warrant submission to  
15 the jury.

16 THE COURT: All right. I listened to the facts, I  
17 made notes. The State presented evidence that there was  
18 an event, an injury. The testimony was there was an acute  
19 injury. There was testimony that Mr. Wallace was the --  
20 in control or custody of the child and close proximity at  
21 the time of the alleged incident. That he was identified  
22 by the mother, as well as the investigating officer. The  
23 doctors testified. There's a factual question on all.

24 In the light most favorable to the State, there is  
25 enough evidence to get past the directed verdict stage of



1     this case.  So, respectfully, I'll deny your motion.

2             MR. KOGER:  Thank you, Your Honor.

3             THE COURT:  All right.  Now my bailiff told me that  
4     she had a short conversation with one of the jurors.  I  
5     want that on the record.  Will you tell the lawyers your  
6     conversation with the -- the alternate juror this morning.

7             BAILIFF:  Yes, Your Honor.  Juror Number 242, second  
8     alternate, Mr. Joseph Stephens.  He recognized the first  
9     witness on yesterday and --

10            THE COURT:  By face?

11            BAILIFF:  By face.

12            THE COURT:  Didn't know his name, knew the face?

13            BAILIFF:  Didn't know the name, but know the face,  
14     and say we worked side by side.

15            THE COURT:  And the first witness was the mother,  
16     right?

17            BAILIFF:  No, it was the -- yeah, the mother of the  
18     -- the victim.

19            THE COURT:  Wasn't the first witness the mother of  
20     the child?

21            MS. HUNTER:  The mother of the child was the first  
22     witness.

23            THE COURT:  And so that's an alternate.

24            BAILIFF:  Right.

25            THE COURT:  It gives me a little concern.  Voir dire

1 -- I didn't do the voir dire, but I'm told Judge Goodstein  
2 read the list of potential witnesses but the witnesses  
3 weren't there, so there was not an opportunity for that  
4 juror to say oh, yeah, I know her face, but not her name.

5 I took from what the bailiff communicated to me was  
6 I recognize the person, I didn't know their name, and so  
7 I'm very familiar with them.

8 Now do you-all want to leave that alternate alone  
9 and go with the other alternate? That's kind of my  
10 thinking as what we should do --

11 MR. KOGER: Yes.

12 THE COURT: -- is just move towards in an abundance  
13 of caution and we just go with the other alternate.

14 MR. KOGER: Yes, Your Honor.

15 MS. HUNTER: We've already used the other alternate.  
16 We don't --

17 BAILIFF: Not yet because it wasn't names.

18 MR. HINDS: Right.

19 MS. HUNTER: Oh, I see what you're saying. I see  
20 what you're saying.

21 THE COURT: We're gonna -- we've got to use one of  
22 the alternates --

23 MS. HUNTER: We've got to already use one, correct?

24 THE COURT: And so we'll use the other one, whichever  
25 the other one is. I don't know who it is, but you can

1 see on the list it's the other person.

2 MS. HUNTER: Right.

3 MR. KOGER: Yes.

4 THE COURT: It's the other alternate, number one.

5 Whatever that name is, that will be the one submitted  
6 into the -- the eleven.

7 MR. KOGER: I will agree to use the other one.

8 THE COURT: I think that's the simplest way to manage  
9 it. That will give us the twelve --

10 MS. HUNTER: Yes, sir.

11 THE COURT: -- but not mention to the jury that  
12 we've made that decision by agreement.

13 MS. HUNTER: Are we gonna keep both of them here  
14 so that in case somebody else falls out in the next  
15 thirty minutes?

16 THE COURT: Right. We're gonna let them -- we'll  
17 keep them here, but the plan now if everybody comes --  
18 you know, moves forward, we can do that.

19 MS. HUNTER: Right. Yes, sir.

20 THE COURT: And if somebody is displaced by a health  
21 reason at that time, the Court will make an inquiry of  
22 the juror --

23 MS. HUNTER: Yes, sir.

24 THE COURT: -- in-camera of what's your relationship  
25 now that you've seen her face, can you still be fair and

1 impartial. I'll make that inquiry if we have to.

2 MR. KOGER: Okay.

3 MS. HUNTER: Yes, sir.

4 THE COURT: So we'll defer that and just proceed on  
5 without comment to the jury.

6 Are you-all okay with that?

7 MS. HUNTER: Yes, sir.

8 THE COURT: All right. Bring in the jury.

9 Are you ready? Are you ready to go forward,  
10 Mr. Koger?

11 MR. KOGER: Yes, Your Honor.

12 THE COURT: Okay. Let's go.

13 MS. HUNTER: Are you gonna ask him at this time if  
14 he's testifying or no, you don't need to?

15 MR. KOGER: I'm sorry?

16 THE COURT: Do you want me to have a colloquy about  
17 testifying now?

18 MS. HUNTER: Before the jury comes in?

19 THE COURT: Yes. Hang on.

20 MR. KOGER: He has indicated he wanted to testify,  
21 but still I wanted --

22 THE COURT: We can go through that in a minute.

23 You've got a witness lined up?

24 MR. KOGER: Yeah.

25 THE COURT: Okay.

1           (Whereupon, the jury return to the courtroom at  
2   9:32 AM.)

3           THE COURT:   How's everybody?   You-all, we -- we got  
4   reassigned yesterday.   I had another court reporter and  
5   I got reassigned another court reporter and then Tuesday  
6   night I got Ms. Johnson.   She and I live about ten miles  
7   apart up in the Chapin area, so we've worked together,  
8   and they reassigned her again today.   She wasn't supposed  
9   to come today until late last night and so Ms. Johnson's  
10   come back, so we've got her again.   And that helps having  
11   one court reporter.   The lawyers kind of get to know her  
12   and know her rhythm, so I'm glad to have her back.   It's  
13   better than me having to get another court reporter I  
14   don't know because she and I have worked together -- is  
15   it ten years you've been in South Carolina?

16          THE COURT REPORTER:   Yes.

17          THE COURT:   She moved up here from Florida.

18          All right.   The State's presented its evidence in  
19   its case in chief.   It's now the defense's opportunity  
20   to present whichever witnesses they choose to present  
21   to you for your consideration.

22          Mr. Koger.

23          MR. KOGER:   May it please the Court?

24          I call Ms. Eleanor Wallace to the stand.

25          THE COURT:   Ms. Wallace, come forward and be sworn.

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

3 (Whereupon, Eleanor Elaine Wallace was duly sworn  
4 by the Clerk of Court.)

5 THE CLERK: Thank you. You may be seated.

6 Please state your first and last name for the  
7 record.

8 THE WITNESS: It's Eleanor Elaine Wallace.

9 ELEANOR ELAINE WALLACE,  
10 having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. KOGER:

13 Q. Ms. Wallace, good morning.

14 A. Good morning, sir.

15 Q. Where do you live?

16 A. In Orangeburg. 1261 Honeysuckle Drive.

17 Q. Okay. And how long have you been a resident of  
18 Orangeburg County?

19 A. Oh, about forty years now.

20 Q. Okay. And how do you know the defendant in this  
21 particular case?

22 A. That's my youngest son.

23 Q. Okay. And do you currently work?

24 A. Yes. I'm a nurse at -- right now at Edisto Postacute  
25 Care.

1 Q. Okay. And how long have you worked at Edisto  
2 Postacute Care?

3 A. I've worked there for the last twenty years off and  
4 on, then I started working there full-time, then I retired  
5 and I'm still working there.

6 Q. You retired and came back to work?

7 A. Yes.

8 Q. Okay. And how long have you been working in the  
9 nursing field?

10 A. Thirty-six years.

11 Q. Okay. And besides Kareem, how many children do you  
12 have?

13 A. I have two others; another son and my daughter.

14 Q. Okay. And where is Mr. Wallace in the birth order?

15 A. Excuse me, sir?

16 Q. Where's he -- he's the oldest?

17 A. He's the youngest.

18 Q. Ah, he's the youngest?

19 A. Yes.

20 Q. Okay. All right. Do you recall going to the hospital  
21 on August 28, 2018?

22 A. Yes. Uh-huh.

23 Q. And which hospital was that? Was it TRMC?

24 A. It was TRMC. The Regional Medical Center.

25 Q. Okay. Did you go to Richland later on that day?

1 A. Yes, I did.

2 Q. Okay. All right. And who were you with at TRMC on  
3 August 28, 2018?

4 A. With Angel.

5 Q. Okay.

6 A. And the baby was there.

7 Q. Okay.

8 A. And he was there.

9 Q. Okay. All right. What time did you arrive at TRMC?

10 A. Oh, as soon as I -- they called me, I left.

11 Q. Okay.

12 A. Uh-huh.

13 Q. All right. From you being in the presence there, do  
14 you recall the conversation at TRMC between Ms. Price {sic}  
15 and one of the radiologists or one of the doctors or  
16 something?

17 A. Yes. Uh-huh.

18 Q. Do you recall a conversation about a question about a  
19 bruise?

20 MS. HUNTER: Objection, Your Honor. This is -- it  
21 sounds like we're getting into hearsay. Obviously I'm  
22 not gonna know until we --

23 THE COURT: Right. Is this -- rephrase your question  
24 because I was listening for that exact same issue.

25 MR. KOGER: Right.



1 THE COURT: She can testify as to what she's done.

2 MR. KOGER: Okay. All right.

3 BY MR. KOGER:

4 Q. Okay. Did you observe Ms. Price -- Ms. Prince holding  
5 the baby that day?

6 A. Oh, yes. We both had the baby.

7 Q. Okay. And between Ms. Prince testifying to -- that  
8 the baby was being taken back and forth as far as for  
9 x-rays, correct?

10 A. Yes. Uh-huh.

11 Q. All right. Okay. And when they would take the baby  
12 for medical care, they would bring the baby back?

13 A. They would bring her back.

14 MS. HUNTER: Objection, Your Honor. He's leading  
15 the witness. This is his witness.

16 THE COURT: All right. I allowed some latitude with  
17 you yesterday, so.

18 MS. HUNTER: Yes, sir.

19 BY MR. KOGER:

20 Q. Okay. Did you -- did you observe that? The baby  
21 coming back and forth?

22 A. Uh-huh. Yes, sir.

23 Q. How long did Ms. -- how long was Ms. Prince holding  
24 the baby?

25 A. She held the baby for the while, I held the baby for

1 a while, then the nurse would come and take the baby and  
2 they would examine the baby. Uh-huh.

3 Q. Okay. All right. And did Ms. Prince hold the baby  
4 tight to her?

5 A. Yes, she held the baby towards her chest. Uh-huh.

6 Q. Okay. Do you recall what Ms. Prince was wearing on  
7 that particular day?

8 A. I know she had on a necklace --

9 Q. Okay.

10 A. -- and what type of necklace I really don't know, but  
11 she did have a necklace on.

12 Q. Okay. Can you recall whether she had on her work  
13 clothes or just regular clothes?

14 A. She had on regular clothes.

15 Q. Okay. Do you recall whether she had a button-up shirt  
16 or a sweater or anything?

17 A. No, it was a blouse.

18 Q. Okay. It was a blouse?

19 A. It was a blouse. Yes, sir.

20 Q. No buttons on the blouse?

21 A. No, sir.

22 Q. Okay. All right. This necklace, had you recognized  
23 this necklace before?

24 A. No, I had not. Unh-unh.

25 Q. And from your observation of that necklace, did it

1 have a locket or a charm on it or something?

2 A. It had a piece at the end of it.

3 Q. A piece at the end?

4 A. Yes.

5 Q. Was it a smooth piece? Can you recall whether it was  
6 a smooth piece?

7 A. No, I can't recall whether it was a smooth piece or a  
8 rugged. No, sir.

9 Q. Okay. And what position, again, did she -- she held  
10 the baby?

11 A. She held the baby to her chest.

12 Q. Okay. All right.

13 A. And she would rock the baby.

14 Q. Rock the baby back and forth?

15 A. Yes. Uh-huh.

16 Q. Okay. All right. And how long did you stay with her  
17 in TRMC?

18 A. Until they transported the baby to Richland Memorial,  
19 then I drove to Richland Memorial Hospital.

20 Q. Do you recall what time that you arrived at Richland  
21 Memorial Hospital?

22 A. I want to say between seven -- between six and seven.

23 Q. Okay. And that's in the evening, of course?

24 A. Yes, sir. Uh-huh.

25 Q. And how long did you stay at Richland?

1 A. Oh, I stayed at Richland until 12:00, yeah.

2 Q. Okay. All right.

3 A. Twelve midnight.

4 Q. And was [REDACTED] taken for more, I guess, medical care  
5 and x-rays?

6 A. Yes. Uh-huh.

7 Q. All right. And would they bring the baby back and  
8 forth or did they have a different setup there?

9 A. No, they did the same thing. You know, they took her  
10 for x-rays. They -- because they had us in this little  
11 room and she was on a stretcher and either I would hold the  
12 baby or Angel was holding the baby, but they did examine  
13 her.

14 Q. Okay. And was Angel holding the baby the same way  
15 that she held the baby?

16 A. Yes, sir. Uh-huh.

17 Q. Okay. All right. And how was you holding the baby?

18 A. Me?

19 Q. Yes.

20 A. Oh, I would just cradle her.

21 Q. Okay. So was -- so was that different than how  
22 Ms. Prince was holding the baby?

23 A. Oh, yes. Uh-huh. Because she kept her close to her  
24 chest and I'd just cradle and just rock her. Uh-huh.

25 Q. All right. And you stayed and you and Ms. Prince did

1     that approximately until -- approximately until the time  
2     you left, correct?

3     A.     Yes.  Uh-huh.  Uh-huh.

4           MR. KOGER:  I beg the Court's indulgence, Your Honor.

5           THE COURT:  Yes, sir.

6     BY MR. KOGER:

7     Q.     Ms. Wallace?

8     A.     Yes, sir.

9     Q.     Since you testified that you was there approximately  
10    soon thereafter at TRMC up until you left at 12:00, what  
11    did you notice about the baby as far as crying and things  
12    of that nature?

13    A.     She would -- not a cry.  It was like a whining type  
14    of crying she did.  Nothing screaming and yelling out.

15    Q.     Okay.  All right.  And, of course, you are -- you're  
16    familiar with your grandchild, right?

17    A.     Oh, yes.

18    Q.     Okay.  Was that a different type of cry than she  
19    usually had done in the first three months?

20    A.     Well, it just depends on like if you moved her arm.  
21    It wasn't a yelling cry.  It was a whimpering type of  
22    crying.

23    Q.     Okay.

24    A.     Uh-huh.

25           MR. KOGER:  Okay.  I have no further questions,

1 Your Honor.

2 MS. HUNTER: Your Honor, we don't have any questions  
3 for this witness.

4 THE COURT: You may step down.

5 THE WITNESS: Yes, sir.

6 (Witness excused.)

7 THE COURT: All right. I've got a matter I need  
8 to take up and return a phone call. You-all step in the  
9 jury room real quick. Remember you-all can't discuss  
10 the case.

11 (Whereupon, the jury retires to the jury room at  
12 9:43 AM.)

13 THE COURT: All right, Mr. Koger. Is this an  
14 appropriate time to have that colloquy with your client?

15 MR. KOGER: Yes, Your Honor.

16 THE COURT: All right. Mr. Wallace, would you stand  
17 up, please. A couple of questions for you or a couple of  
18 statements to you.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: You're here in the middle of this trial.  
21 You've got an opportunity or a decision. You have  
22 constitutional rights. You have the right to confront  
23 those accusing you, you've got a right to have a jury  
24 trial, you've got a right to remain silent. That's an  
25 important right.

1           I inform you that under that right, and I'm certain  
2 Mr. Koger has as well, that if you choose to not testify  
3 -- obviously the State can't call you as a witness, they  
4 did not, they're not allowed to, but you can choose of  
5 your own volition, it's your decision solely, to testify  
6 or not. It's solely your decision.

7           Now if you decide not to testify, I will instruct  
8 the jury that they cannot hold your exercising that right  
9 to remain silent against you in any way. The State is  
10 not allowed to argue, suggest or hint at any negative  
11 inference from you're not testifying if that's your  
12 decision. That being, they can't go to the jury and say  
13 well, if Wallace is innocent, he would have gotten up  
14 here on the stand and told you-all that, and he didn't.  
15 So that's negative inference.

16           THE DEFENDANT: Yes, sir.

17           THE COURT: They can't argue that. They've got to  
18 base their argument based upon the evidence presented to  
19 the jury, not your decision or election to claim your  
20 right to remain silent. I will instruct the jury at the  
21 end of my instructions. One of the last things that I  
22 tell them is you're not to discuss or consider in any way  
23 Mr. Wallace exercising his right to remain silent as a  
24 negative inference against him. You're not to discuss  
25 that. There shouldn't be any impact on your jury

1 deliberations, all right?

2 Now have you had an opportunity to decide and  
3 discuss with your attorney whether you would like to  
4 testify or not in this trial?

5 THE DEFENDANT: Yes, I have.

6 THE COURT: Okay. Now do you -- having that  
7 opportunity, do you need any more time to discuss that  
8 further with your lawyer?

9 THE DEFENDANT: No, sir.

10 THE COURT: Okay. You feel comfortable with your  
11 decision. You've not been rushed into it?

12 THE DEFENDANT: No, sir.

13 THE COURT: All right. And so are you-all gonna  
14 put him on the stand?

15 MR. KOGER: Yes, Your Honor.

16 THE COURT: All right. Very well. It's your  
17 decision. You've been advised of your rights, so if you  
18 want to exercise your rights to testify and waive that  
19 right to remain silent, it's your choice.

20 Are there any impeachment questions, prior record,  
21 anything like that we've got to deal with?

22 MR. KOGER: I don't think so. He has a -- he has  
23 a remote record outside the ten-year timeframe.

24 MS. HUNTER: That's correct.

25 THE COURT: Okay. So you-all don't have anything we



1 can deal with? I mean, so that's all off limits?

2 MS. HUNTER: Yes, sir. As far as prior record, yes,  
3 Your Honor.

4 THE COURT: Very well. All right. Fair enough.  
5 That makes it easier on me.

6 THE DEFENDANT: Can I use the restroom?

7 THE COURT: We can do that. We'll take a quick break  
8 and anybody can use the restroom.

9 Is this your last witness?

10 MR. KOGER: The last witness. Yes, sir.

11 THE COURT: Okay. You-all have been efficient. I  
12 appreciate that.

13 (Recess taken at 9:46 AM.)

14 (Back on the record at 10:00 AM.)

15 BAILIFF: Order.

16 THE COURT: I got ambushed by a young judge.

17 MR. KOGER: My client decided not to testify.

18 THE COURT: That works for me.

19 MS. HUNTER: Okay. So the defense is gonna rest,  
20 I guess?

21 MR. KOGER: We rest.

22 THE COURT: Okay. And my instructions still carry  
23 even though we had a different conversation. I'm gonna  
24 instruct just like that.

25 MR. KOGER: Okay.

1           THE COURT: I think I've got to go back -- Katie,  
2   God bless her, she had to go the doctor this morning,  
3   so she's probably not gonna come. She sent you-all my  
4   instructions. Do you-all want to go over those real  
5   quick or do it afterwards?

6           MR. HINDS: Judge, we had two -- the State only had  
7   two minor changes in regard --

8           MS. HUNTER: Did you -- I'm sorry.

9           MR. HINDS: -- and I'm happy to address it now.

10          THE COURT: All right. I've read your thing and  
11   I'll address it now.

12          MS. HUNTER: Okay. You had -- that's my question.  
13   You saw the e-mail back?

14          THE COURT: Yeah. I'm not changing it.

15          MR. HINDS: Now, Judge, the only thing we would  
16   request is that, you know, great bodily -- or unlawful  
17   neglect is not a lesser included.

18          THE COURT: That's right, but the other case I had  
19   in Greenwood, they had testimony the other way and that's  
20   why I put it in. You're right on that. That's what I'm  
21   talking about.

22          MS. HUNTER: Okay.

23          MR. HINDS: And then there was really -- we have no  
24   issue.

25          THE COURT: Your circumstantial request was not

1 current. All circumstances must conclusively point --  
2 that's current law.

3 MS. HUNTER: Well, tell Judge Murphy.

4 MR. HINDS: Yeah.

5 THE COURT: Well, tell her Tim Jones yesterday,  
6 that's the charge I gave there, and that was affirmed.

7 MS. HUNTER: Okay. I'm serious. We'll make note  
8 of that.

9 THE COURT: Yeah. If she -- if she says that, I  
10 disagree with her. I don't think she's wrong, but I  
11 disagree with her.

12 MS. HUNTER: No, that's good to know. I'm happy to  
13 know that's the updated one.

14 THE COURT: It is.

15 All right. Mr. Koger, have you got any suggestions  
16 on -- other than the no lesser includeds? Up or down.

17 MR. KOGER: No, I agree with what you submitted as  
18 proposed jury instructions.

19 THE COURT: Okay. You-all -- you-all understand  
20 you're arguing, so you open in full?

21 MS. HUNTER: Yes.

22 MR. KOGER: Yes, I am.

23 THE COURT: You close in full.

24 MS. HUNTER: I'm sorry.

25 THE COURT: No. No. You go the other way around.

1 You close in full, you close in full and you've got a  
2 brief rebuttal for anything brought up by him that you  
3 didn't expect. You don't rehash it again. That's the  
4 Beatty case out of Laurens that I tried to try and I  
5 didn't. I had the co-defendant.

6 MS. HUNTER: So, Your Honor, it's my understanding  
7 now the defense has rested. Has that been officially put  
8 on the record?

9 THE COURT: Let's do it right now.

10 MR. KOGER: The defense has rested, Your Honor.

11 THE COURT: And you're renewing your motions again?

12 MR. KOGER: I'm renewing my earlier -- my previous  
13 motions.

14 THE COURT: And consistent ruling. It's a factual  
15 issue for the jury, so respectfully denied.

16 MS. HUNTER: Thank you, Your Honor.

17 I have one other motion that in reviewing and in  
18 anticipation of the defendant testifying, which I now  
19 understanding he is no longer -- he's not gonna do that,  
20 and that decision has been made and final, yesterday  
21 when Angel Prince testified, there was an inference made  
22 that as to -- that she might have or that she did the  
23 morning these injuries occurred that she left her --  
24 her two daughters at home and left her -- the child who  
25 was injured in the care of the twelve-year-old is my

1 understanding of how the testimony went. Those  
2 were questions asked related to that.

3 The defendant has previously testified, Your Honor,  
4 in a family court hearing. Mr. Koger was the defense  
5 attorney at the time and there is specific testimony  
6 relating to that that Mr. Koger knew of stating that --  
7 and this didn't come out of Angel Prince, this came out  
8 of the defendant, so obviously I was unable to cross  
9 Angel Prince on the defendant's statement, but it is in  
10 my opinion misleading to the jury and to the Court as to  
11 whether or not that child was led with the knowledge --  
12 left at the house with the knowledge that the defendant  
13 testified that Angel came and picked her up -- him up at  
14 5 AM and that the baby was in the car. The baby was in  
15 the back seat and [REDACTED] was in the back seat with her  
16 and that a leading question was asked to another witness  
17 yesterday that would imply otherwise, and I would ask  
18 that that not be allowed to be argued in closing given  
19 that that is a direct -- directly contradicts what was  
20 testified to in a family court hearing.

21 THE COURT: I was -- I'm trying to recollect the  
22 young lady's testimony, Ms. Prince. I thought she was --  
23 answered the question she had on occasion left the child  
24 with the twelve-year-old, but not that day.

25 MR. KOGER: Well --

1 MS. HUNTER: And I tried to get the court reporter  
2 to clear that up. I guess if we have different  
3 recollections, the jurors might have different  
4 recollections of it and, therefore, I think it would be  
5 improper to allow the defense to argue that that child  
6 could have been left at home that day when the defendant  
7 has testified in a family court hearing differently  
8 that --

9 THE COURT: Okay. I understand your position.  
10 What have you got, Mr. Koger?

11 MR. KOGER: Judge, my -- my remembrance or memory  
12 of the testimony is that at first she states she couldn't  
13 recall, she might have, then she did, then she said --  
14 then she said even if I did, so she wasn't clear. She  
15 gives three or four, you know, answers. If -- and we --  
16 and we do need a ruling -- a ruling on this here because  
17 if -- if you decide not to allow for that to be addressed  
18 in closing, then I may change my decision to allow  
19 Mr. Wallace to testify -- or he may change his decision  
20 to testify.

21 MS. HUNTER: The believe the defense has already  
22 rested. That would have to be a motion to reopen the  
23 case at this point, correct?

24 MR. KOGER: No, but she -- but she just brought this  
25 up.

1 THE COURT: Yeah.

2 MS. HUNTER: I mean, I guess my argument would be  
3 that Mr. Koger was the lawyer at that hearing. He was  
4 more than aware --

5 THE COURT: I understand. I understand.

6 MS. HUNTER: -- and now we're kind of --

7 MR. KOGER: Yeah, but you just brought it up after  
8 it -- it was not it brought up before. I just got notice  
9 that you were gonna make the motion.

10 THE COURT: Yeah, I -- I agree with you on that.  
11 She's -- she's correct. There's prior testimony that is  
12 not in front of this jury that she's aware of and you're  
13 aware of.

14 All right. Stacy, have you looked it up to see what  
15 that testimony was?

16 THE COURT REPORTER: Not really because I still  
17 wasn't quite clear what I was supposed to be looking for.

18 THE COURT: All right. Can you look for it real  
19 quick?

20 MS. HUNTER: She was trying this morning.

21 (Pause in proceedings.)

22 (Whereupon, a portion of the record was read back.)

23 THE COURT: That's the way I remembered it.

24 If he was on the stand and changed his story,  
25 absolutely.

1 MS. HUNTER: I understand that. I guess my argument  
2 is that if you know that from your client and it's not a  
3 true statement, it would be improper for him to argue it  
4 to the jury.

5 THE COURT: All right.

6 MR. KOGER: Your Honor, may I make a motion to  
7 reopen? I'll make a motion to reopen and put my client  
8 on the stand.

9 THE COURT: You want to do that?

10 MR. KOGER: Yes. I mean, depending upon your ruling  
11 what you do.

12 THE COURT: My ruling is her recollection is her  
13 recollection, not a false statement. She remembered I  
14 left the child there with the twelve-year-old. We only  
15 had one car then. I'm not sure it was that morning or  
16 not. That's not false. That's her memory. I mean, he  
17 knows his client remembers the child being in the car,  
18 but he doesn't have to refresh her memory with that.  
19 He's not responsible to do that.

20 MS. HUNTER: No, I understand that he's not  
21 responsible to do that. I guess my point is that if  
22 these are the statements that he knew, she had never  
23 mentioned that before and said that before, then it -- it  
24 just seems a bit misleading to the jury if you know from  
25 your client that she had not been -- that the child was



1 in the car with you and not left at home and then you  
2 were asking a question that directly contradicts that to  
3 another person to make it sound as if that child was left  
4 at home that morning with another child.

5 I guess I'll just continue my motion. I understand  
6 your ruling. My motion would be that he not be allowed  
7 to argue it to be the jury. I think it's improper. I  
8 think it was a bit of a misleading question to get -- to  
9 get an answer out that he knows is not consistent with  
10 the defendant's statement, but I understand the Court's  
11 ruling.

12 THE COURT: I mean, he didn't do that. I mean, she  
13 gave -- the answer was -- it was -- her testimony is what  
14 her testimony is, that she doesn't remember whether it was  
15 that morning or not. It was during that time period they  
16 only had the one car because one car was being repaired.

17 MS. HUNTER: I guess could we look back and see if  
18 anything else came out on recross?

19 THE COURT: All right. We'll look.

20 MS. HUNTER: Is that okay --

21 THE COURT: Sure.

22 MS. HUNTER: -- and just continue that with it?

23 THE COURT: Let her look.

24 (Pause in proceedings.)

25 (Whereupon, a portion of the record was read back.)

1 MS. HUNTER: So based on that testimony, I think it  
2 would be improper for her -- for him to argue she left  
3 [REDACTED] that day at the house on that morning.

4 THE COURT: I think that's what juries do. They  
5 hear testimony and make decisions. You-all can argue it.  
6 I can see how I might argue both sides. I think you-all  
7 have got a factual question on what happened here, the  
8 jury's got to resolve it and you-all summarize what you  
9 believe was presented.

10 MS. HUNTER: Yes, sir.

11 MR. KOGER: Judge, may I have just an additional  
12 couple of minutes? I want to consult with my client --

13 THE COURT: Sure.

14 MR. KOGER: -- and his family if we could.

15 THE COURT: Sure.

16 MR. KOGER: All right. Thank you.

17 (Recess taken at 10:20 AM.)

18 (Back on the record at 10:31 AM.)

19 MS. HUNTER: Your Honor, it's our understanding he  
20 wishes his client to testify now, so we're going --

21 MR. KOGER: Do I need to move to reopen or he can  
22 testify?

23 THE COURT: I don't think the State's gonna object  
24 to it and so your motion will be granted and I'll allow  
25 you to reopen.

1 MR. KOGER: Thank you, Your Honor.

2 THE COURT: Are you ready for the jury?

3 MR. KOGER: Yes, sir.

4 THE COURT: And the same admonishment goes,  
5 Mr. Wallace, about testifying or not. I don't need to  
6 redo that.

7 Bring in the jury, please, ma'am.

8 BAILIFF: Yes, Your Honor.

9 (Whereupon, the jury return to the courtroom at  
10 10:32 AM.)

11 THE COURT: All right, folks. Sorry for the lengthy  
12 recess, but I had a few things I had to get done and newly  
13 elected Judge Taylor from -- you-all's hometown judge came  
14 down and spoke to me and we kind of got carried away, but  
15 blame that on me.

16 Call your next witness.

17 MR. KOGER: I call Mr. Kareem Wallace, Your Honor.

18 THE COURT: Mr. Wallace, come forward and be sworn.

19 THE CLERK: Please place your left hand on the Bible  
20 and raise your right hand.

21 (Whereupon, Kareem Wallace was duly sworn by the  
22 Clerk of Court.)

23 THE CLERK: Thank you. You may be seated.

24 Please state your first and last name for the  
25 record.

1 THE WITNESS: Kareem Wallace.

2 KAREEM WALLACE,

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. KOGER:

6 Q. Good morning, Mr. Wallace.

7 A. Good morning.

8 Q. All right. Mr. Wallace, where do you currently live?

9 A. 1261 Honeysuckle Drive.

10 Q. Speak up a little bit.

11 A. I'm sorry. 12 -- 2016 Gramling Road, Orangeburg,  
12 South Carolina, 29115.

13 Q. Okay. And how long have you been a resident of  
14 Orangeburg County?

15 A. I guess the majority of my life. Since I was about  
16 nine.

17 Q. Okay. And so you went to school here in Orangeburg  
18 County?

19 A. Yes. Whitaker, Belleville, O-W.

20 Q. Okay. And what year did you graduate?

21 A. '97.

22 Q. Okay. And do you have any type of college or  
23 secondary education?

24 A. You know, I took residential wiring at Tech, but  
25 that's as far as it went.

1 Q. What was that?

2 A. I took up residential wiring at OC Tech. That was it.

3 Q. Okay. All right. And where do you currently work?

4 A. Bimbo Bakery.

5 Q. Okay. And how long have you been working at Bimbo  
6 Bakery?

7 A. A little under six years. It will be six years on the  
8 7th of April.

9 Q. And what type of job -- what is your job at Bimbo  
10 Bakery?

11 A. I started off as a mixer and now I'm a break lead.

12 Q. Okay. And before you worked for six years at Bimbo  
13 Bakery, where did you work?

14 A. I worked at DPU.

15 Q. DPU and that's -- that's locally?

16 A. Yes.

17 Q. Okay. And how long did you work at DPU?

18 A. About nine months before I started working at Bimbo.

19 Q. Okay. And prior to working at DPU, where did you  
20 work?

21 A. I worked in North Dakota in an oil field.

22 Q. In North Dakota?

23 A. Yes.

24 Q. Okay. And how long did you work in North Dakota?

25 A. About four and a half years.

1 Q. Okay. Did you like North Dakota?

2 A. Yeah. It was just cold, but other than that it was  
3 good.

4 Q. Okay. What brought you back down to Orangeburg?

5 A. Pretty much at the time the boom had died out so I  
6 came back to South Carolina.

7 Q. Okay. Mr. Wallace, of course, you are here on trial  
8 for the events of August 28th of 2018.

9 A. Yes, sir.

10 Q. Okay. What can you tell the jury about that  
11 particular day?

12 A. Pretty much I worked a 12-hour shift before that day  
13 when I came home.

14 Q. Well, Mr. Wallace, let me stop you. A 12-hour shift.  
15 What parameter? From when until when?

16 A. From 5:00 PM to 5 AM.

17 Q. Was that your initial shift?

18 A. No, I usually work from 10 to 5, but a guy on first  
19 shift, he was on vacation, so I had to cover his shift.

20 Q. Okay. So this was 5:00 PM in the evening to 5 AM in  
21 the morning, correct?

22 A. Yes.

23 Q. Okay. Continue.

24 A. Pretty much when I came home, I usually go to sleep  
25 on the couch because I don't -- at the time I didn't -- I

1 didn't like sleeping with the baby in the bed, so I just  
2 stayed on the couch --

3 Q. Okay.

4 A. -- and so maybe about --

5 Q. Mr. Wallace, at that -- at that particular time, how  
6 long had you been sleeping on the couch?

7 A. Pretty much since she was born.

8 Q. Okay. And who was sleeping in your room?

9 A. Angel was. Angel slept in the room with the baby. I  
10 didn't like to sleep with the baby. Of course, I didn't  
11 sleep at night because I was at work, but, you know,  
12 whenever I was there I didn't like sleeping with the baby,  
13 so I just slept on the couch.

14 Q. Now I think Ms. Prince testified to the configuration  
15 of the house before. For the benefit of the jury again,  
16 can you tell how the house is laid out?

17 A. Pretty much when you enter the home through the  
18 kitchen, the hallway leads to the three bedrooms. The  
19 one on the far end right before that is the master bedroom  
20 and before that on the left is the -- pretty much the  
21 children's room and then the living room was in the front.

22 Q. Now where did Angel and [REDACTED] sleep?

23 A. Angel slept in the master bedroom.

24 Q. Okay. And did [REDACTED] sleep there also?

25 A. Yes.

1 Q. Okay. And where did Angel's twelve-year-old daughter  
2 sleep?

3 A. She slept in the far room in the back.

4 Q. Okay. And that's two bedrooms and you didn't sleep in  
5 the bedroom?

6 A. No, sir.

7 Q. Okay. Who slept in this second bedroom?

8 A. [REDACTED] slept in the far bedroom, but it was supposed  
9 to have been for the kids, but, you know, she didn't put  
10 her in a crib.

11 Q. Okay. All right. And you mentioned a crib. Was the  
12 crib set up or she didn't put up the crib?

13 A. Yeah, I set it up months before she was born.

14 Q. Okay. So the second vacant room contained a crib?

15 A. Yes, and another bedroom -- or another bed.

16 Q. All right. So let's -- let's get back to August 28,  
17 2018. Okay. What time did you get off work on that  
18 particular day?

19 A. About 5, but the guy who was coming in after me, I had  
20 to wait for him, so about 5:10 or 5:15.

21 Q. Okay. At the time that you, I guess, left the  
22 building, was Ms. Prince waiting on you?

23 A. Yes.

24 Q. Okay. All right. Did you know how long she had been  
25 waiting on you at the time?



1 A. Give or take maybe like fifteen minutes.

2 Q. Okay. All right. How far is the bakery from where  
3 you-all stay, from the address you gave?

4 A. One way it's about seven to ten minutes depending on  
5 traffic. The Gramling Road is not too far from the job.

6 Q. Okay. Now at this time Ms. Prince testified you-all  
7 were down to one car?

8 A. Yes.

9 Q. Okay. Tell the jury about that. Why were you-all  
10 down to one car and for how long you-all were down to one  
11 car?

12 A. The shock on the -- the air shock on the driver's side  
13 had went out, so I had to get it replaced, so it might have  
14 been about a month and a half.

15 Q. Okay. And what type of car are we talking about?

16 A. It was a Mercedes.

17 Q. Okay. What model?

18 A. CLS 500.

19 Q. Okay. What year?

20 A. 2006.

21 Q. Okay. Why did it take so long to get it fixed?

22 A. I had to wait for the part.

23 Q. Okay. All right. And so on that particular evening  
24 what car was Ms. Prince driving?

25 A. I think she had a Malibu at the time. A Chevy Malibu.

1 It was white.

2 Q. Okay. And you said hers, so that was her car?

3 A. Yes, it was her car.

4 Q. Okay. All right. So when she -- she picked you up,  
5 were any children in the car?

6 A. No, they weren't.

7 Q. Okay. Now on cross, the State is going to refer to  
8 -- well, you had a family court hearing on July 19th of --  
9 July 8th of 2019, correct?

10 A. Yes.

11 MS. HUNTER: Objection, Your Honor. I believe that  
12 the defendant has to testify to what he's testifying to  
13 and then the transcript can be used to either -- if it's  
14 inconsistent, but otherwise he can't bolster his client  
15 with --

16 THE COURT: All right. Hang on.

17 MS. HUNTER: Do you see what I'm saying?

18 MR. KOGER: I'm only asking how he testified on  
19 July 9, 2019.

20 THE COURT: All right. My computer is not loading  
21 up the court rules and I'm trying to recollect. This is  
22 not a prior recollection refreshed. This is a prior --  
23 it's prior testimony under oath.

24 MS. HUNTER: However, Your Honor, I believe that  
25 the rule under 801(d) says that if the declarant testifies

1 at trial and is subject cross-examination --

2 THE COURT: I think he is subject to  
3 cross-examination, but I think Mr. Koger's allowed to  
4 say you've given prior sworn testimony and he can do that.  
5 I have not heard his question.

6 Is that gonna be your question, Mr. Koger?

7 MR. KOGER: My question was gonna be that he had --  
8 he re -- I asked him the question about whether -- Your  
9 Honor, can we do this outside the presence of the jury?

10 THE COURT: Yeah, let's do that.

11 All right. You-all step in the jury room real quick.  
12 Don't discuss the case.

13 (Whereupon, the jury retires to the jury room at  
14 10:43 AM.)

15 THE COURT: All right. Let's hear your question.  
16 Let's proffer it.

17 MR. KOGER: Okay. All right.

18 He answered that --

19 MS. HUNTER: Can we have her read back what the  
20 first question was? I'm sorry. Before we ask what his  
21 next question was just so we're -- I want to make sure  
22 I'm on the right page.

23 (Whereupon, a portion of the record was read back.)

24 THE COURT: All right. And your next question  
25 proffering is?

1 MR. KOGER: My next question is did you testify  
2 in a family court hearing on July 9th -- July 8th or  
3 9th of 2019?

4 THE COURT: All right. Go ahead and answer.

5 THE WITNESS: Yes, I did.

6 EXAMINATION (In-Camera)

7 BY MR. KOGER:

8 Q. Okay. And do you recall testifying in that particular  
9 hearing?

10 A. I do.

11 Q. And do you recall being asked the question by -- by a  
12 DSS attorney whether -- whether [REDACTED] and [REDACTED] was in  
13 the car?

14 A. I do.

15 Q. And do you recall your answer?

16 A. I do.

17 Q. And what was your answer?

18 A. My answer was they were there.

19 Q. Okay. Now obviously your answer is different today  
20 than what it was on July 8th or July 9th -- July, 2019.  
21 Why is your answer different?

22 A. At the time I was pretty much trying to protect  
23 [REDACTED]. I didn't want her to go in the system.

24 Q. Okay.

25 A. I didn't know whether or not they were going to pretty

1 much use that against Angel.

2 Q. And when you talk about the system, what type of  
3 system?

4 A. Foster care.

5 MR. KOGER: Judge, that's what I was gonna ask him.

6 THE COURT: All right.

7 Ms. Mubarak, what do you -- what's your argument?

8 I'm still struggling with the Internet here.

9 MS. HUNTER: I think we need a couple more minutes  
10 to look up the law on -- just on inconsistent statements  
11 versus . . .

12 I think he's allowed to testify that he testified  
13 inconsistently previously.

14 THE COURT: I think he's allowed to do that as well.  
15 You're allowed free cross-examination.

16 MS. HUNTER: Yes, Your Honor.

17 THE COURT: All right. You can ask those questions,  
18 but she gets full cross.

19 MR. KOGER: Yes, Your Honor.

20 THE COURT: All right. Bring the jury if they're  
21 ready.

22 BAILIFF: Yes, Your Honor.

23 (Whereupon, the jury return to the courtroom at  
24 10:50 AM.)

25 THE COURT: All right. Continue on, Mr. Koger.

1 CONTINUED DIRECT EXAMINATION

2 BY MR. KOGER:

3 Q. Mr. Wallace, you were involved in another court  
4 proceeding con -- concerning matters relating to this case,  
5 correct?

6 A. Yes, sir.

7 Q. Okay. And from your recollection was that July 8th or  
8 July 9th of 2019?

9 A. I believe it was July 9th.

10 Q. Okay. And was that family court?

11 A. Yes.

12 Q. Okay. And do you recall being asked the question and  
13 -- on the morning of the incident whether [REDACTED] and  
14 whether Angel Prince's other daughter was in the car when  
15 she picked you up from work?

16 A. I do.

17 Q. And do you recall the answer that you gave the  
18 attorney in that proceeding?

19 A. Yes, I testified that they were in the car.

20 Q. Okay. And is that different than what you are  
21 testifying today?

22 A. Yes.

23 Q. Okay. And which is -- which one is the truth? How  
24 you testified back in July of 2019 or before the jury here  
25 today?

1 A. Before the jury here today.

2 Q. Okay. Now why did you -- why did you testify  
3 differently on July 8th or July 9th of 2019?

4 A. I really didn't want [REDACTED] to get in the system, you  
5 know, foster care.

6 Q. Okay.

7 A. I was trying to help Angel out.

8 Q. Okay. And when you say the system or foster care,  
9 you're talking about the Department of Social Services?

10 A. Yes, sir.

11 Q. Okay. So on August 28, 2018, at the time that Angel  
12 or Ms. Prince picked you up, were [REDACTED] and/or [REDACTED] in  
13 the car?

14 A. No, sir.

15 Q. So what time did you arrive back at -- at the house?

16 A. About 5:30. Around that time. Between 5:15 and 5:30.  
17 I'm not sure the exact time.

18 Q. Okay. And after you arrived back at -- what did you  
19 do after you arrived back at the house?

20 A. As soon as I got in the house, I went -- I pretty much  
21 laid back down on the couch.

22 Q. Okay. And is this the same couch that you usually  
23 slept on?

24 A. Yes, sir.

25 Q. Okay. Did you see where Angel went after she got

1 home?

2 A. As far as I know she went to the back.

3 Q. Okay. And did you go any further than the couch --  
4 the couch is in the front room?

5 A. Yes, it's the first room in the house.

6 Q. All right. Did you go back and see [REDACTED] at that  
7 time?

8 A. No, I didn't. She was asleep.

9 Q. Okay. Did you go back to see [REDACTED] at the time?

10 A. No, sir.

11 Q. Did you go to the bathroom or anything?

12 A. No, I went straight in the living room.

13 Q. Okay. All right. And after you got on the couch, did  
14 you -- did you sit down on the couch, did you lie down on  
15 the couch?

16 A. I laid down and went to sleep.

17 Q. Okay. All right. And did you notice the clock before  
18 you went to sleep?

19 A. No, I didn't.

20 Q. Okay. All right. And what time were awakened?

21 A. It might have been around 7:30.

22 Q. 7:30?

23 A. Yeah.

24 Q. Okay. And who -- and who woke you?

25 A. Angel.



1 Q. Okay. And what was the reason for Angel awakening  
2 you?

3 A. I guess she wanted me to keep the baby while she took  
4 [REDACTED] to school.

5 Q. Okay. And I keep going back and forth. When I say  
6 Angel, it's Angel or Ms. Prince, correct?

7 A. Yes, sir.

8 Q. Okay. All right. So can you -- can you repeat the  
9 answer again?

10 A. Angel woke me up with the baby. She asked me to keep  
11 her while she took [REDACTED] to school.

12 Q. Okay. What do you mean Angel woke you up with the  
13 baby?

14 A. Pretty much she just like had her arms stretched out  
15 and was like here, take the baby.

16 Q. Okay. Can you -- can you demonstrate that?

17 A. Just like right here.

18 Q. Okay. All right. Can you take the baby, correct?

19 A. Yes.

20 Q. Okay. And what was your position? Were you -- were  
21 you still lying down or did you sit up?

22 A. No, I was laying down and then I sat up.

23 Q. Okay. All right. So did you take the baby right  
24 there at the couch?

25 A. Yes, sir.

1 Q. Okay. And after you took the baby, where did -- where  
2 did Angel go?

3 A. She left.

4 Q. Okay. And where was [REDACTED]?

5 A. She was with her.

6 Q. Okay. So they left at the same time obviously?

7 A. Yes, she took her to school.

8 Q. Okay. All right. After you received the baby, what  
9 happened next?

10 A. Pretty much I just sat there with her probably like  
11 thirty seconds and then I went up to the back room and I  
12 laid her down, watched TV. The TV was still on.

13 Q. Okay. Let me stop you. So which -- so which bedroom  
14 did you lie her down in?

15 A. The master bedroom.

16 Q. Okay. And did you leave her in there?

17 A. No, I lay beside her.

18 Q. Okay. All right. And demon -- well, try to show the  
19 jury the position of you and [REDACTED] at the time.

20 A. Pretty much the bed is on the -- the side closest to  
21 the door. The bed was facing the TV. I laid her to the  
22 side like in a T-bone. You know, I laid straight and she  
23 laid beside me.

24 Q. Okay. Is this the same position that you told  
25 Sergeant Gillard back on September 5th of 2018?

1 A. Yes.

2 Q. Okay. All right. Then what happened next?

3 A. Pretty much I just laid there, watched TV. She was  
4 just sitting there and then maybe like about ten minutes  
5 down the line she started crying and usually when she  
6 starts crying that means she wants to eat.

7 Q. Okay. All right. And you are familiar with her when  
8 she's hungry she cries?

9 A. Yes.

10 Q. Okay. All right. And what happened next?

11 A. Pretty much I reached over and I picked her up and I  
12 went in the kitchen and I fixed her a bottle and that's  
13 when I went to the living room and I turned the light on  
14 and that's when realized her arm was not normal.

15 Q. Okay. Now you demonstrated on the -- on the video  
16 that you picked her up a certain way, correct?

17 A. Yes.

18 Q. All right. And the way you demonstrated on the video  
19 is the way that you picked her up?

20 A. Yes.

21 Q. Okay. All right. What happened next?

22 A. Pretty much like I started examining her and like it  
23 was right after that Angel walked in and then I asked her  
24 did something happen to the baby? She's like no, why? I  
25 was like something had to happen because her arm was kind

1 of limp. She was like nothing happened to her. I say are  
2 you sure? She said yes. She said let me look at her and  
3 after that she took her and she went in the back room.

4 Q. Okay. So let me -- let me stop you. So it was you  
5 that alerted Angel something was wrong with the baby or did  
6 Angel notice something was wrong with the baby?

7 A. No, I told her as soon as she walked in the door.  
8 That was my first question.

9 Q. Okay. And at that particular point, how long -- how  
10 long had Angel been gone?

11 A. It might have been like twenty minutes, twenty-five  
12 minutes give or take.

13 Q. Okay. All right. So you told Angel that the arm was  
14 limp?

15 A. Yes.

16 Q. Okay. And I think you just testified to that Angel  
17 took the baby in the back room?

18 A. Yes.

19 Q. Did you go behind her in the back room?

20 A. No.

21 Q. Okay. How long was -- how long was Angel with the  
22 baby in the back room?

23 A. It might have been like five, seven minutes.

24 Q. Okay. Did Angel bring the baby back out of the room?

25 A. Yes.

1 Q. Okay.

2 A. When she brought her back out, she was like yeah,  
3 there's something wrong with her arm. I'm gonna take her  
4 to the hospital.

5 Q. Okay. And were you in agreement with Angel taking the  
6 baby to the hospital?

7 A. Yes.

8 Q. Okay. Now did you go to the hospital?

9 A. Yes. After -- I had something else to attend with my  
10 other daughter and I told her to go and I would meet her  
11 there.

12 Q. Okay. Now what where does your other daughter live?

13 A. She lives in Columbia.

14 Q. Okay. And what did you -- and what is her age?

15 A. Now she's nine.

16 Q. She's nine?

17 A. Yes.

18 Q. At the time she was?

19 A. She was about four.

20 Q. Four?

21 A. Yes.

22 Q. Okay. All right. Now what did you have to do that  
23 morning with your other daughter?

24 A. It was a screening for her to get into kindergarten.

25 Q. Okay. All right. Her mother couldn't have done that

1 -- her mother couldn't have done that that day?

2 A. She did, too. They wanted both the parents to be  
3 there.

4 Q. Okay. All right. And what school -- what  
5 kindergarten was this in Columbia?

6 A. I didn't recall.

7 Q. Okay. All right. How long did you stay at the  
8 kindergarten?

9 A. It might have been like an hour or so.

10 Q. Okay. All right. So what time did you finish the  
11 screening?

12 A. It might have been like eight something. Between  
13 eight and nine.

14 Q. Eight and nine?

15 A. Yes.

16 Q. Okay. Did you come back down to Orangeburg or did you  
17 meet Angel and [REDACTED] in Columbia?

18 A. No, I met them at TRMC.

19 Q. Okay. All right. And did you -- how long did you  
20 stay with Angel and [REDACTED]?

21 A. Until they took her to Columbia.

22 Q. Okay. All right. And do you recall what time that  
23 was?

24 A. It was about 5:00.

25 Q. 5:00. Okay. Did you -- did you go to Columbia?

1 A. No, sir.

2 Q. Okay. Where -- where did you go after that?

3 A. I went to work.

4 Q. Huh?

5 A. I went to work.

6 Q. Okay. You went to work. Now when were you first  
7 contacted that you were being questioned in this particular  
8 matter?

9 A. It might have been like a few weeks afterwards.

10 Q. Okay. Was the -- the first time you were contacted  
11 was by Sergeant Gillard?

12 A. Yes.

13 Q. Okay. All right. And she contacted you by cell or --

14 A. Yes, she called.

15 Q. Okay. All right. And how long after she contacted  
16 you did you go in?

17 A. She said a date to meet and I went that day.

18 Q. Okay. And that date was soon -- soon after the phone  
19 call, correct?

20 A. Yes.

21 Q. Okay. All right. And did -- you and Angel rode  
22 together?

23 A. Yes, we still -- we still were staying together.  
24 Still only had one car.

25 Q. Okay. All right. And Ms. Prince was interviewed on

1     that same day, correct?

2     A.    Yes.

3     Q.    Okay.  Do you recall whether she went first or --

4     A.    She went first.

5     Q.    Okay.  All right.  And how long was her interview?

6     A.    Probably about thirty minutes.

7     Q.    Okay.  And did you go second?

8     A.    Yes, sir.

9     Q.    And how long -- how long was your interview?

10    A.    About twenty minutes.

11    Q.    Okay.  And you saw the video -- the videotaped  
12    statement or the CD of your interview, correct?

13    A.    Yes, sir.

14    Q.    Okay.  Is everything you said on that statement true  
15    and correct?

16    A.    Yes, everything was true.

17    Q.    Okay.  And do you recall what you said on that  
18    statement?

19    A.    Yes, sir.

20    Q.    Okay.  And, again, you know, the jury has the video  
21    that they can take back in the jury room with them, but  
22    what -- what did you say in response to Ms. Gillard's  
23    questions -- Sergeant Gillard's questions?

24    A.    I pretty much answered everything she needed to know.

25    Q.    Okay.  All right.  Do you recall -- is it any



1 different than what you told the jury today?

2 A. No, there was nothing different.

3 Q. Okay. Nothing different. Okay. All right. Now  
4 have you had the opportunity -- your baby was three months  
5 old. You had an opportunity to drop the baby off at the  
6 daycare that was arranged for her?

7 A. Yes, which was usually her mother's.

8 Q. Okay. All right. How many times during the three  
9 months did you have the opportunity to drop her off?

10 A. I'd say give or take about five times.

11 Q. Okay. Five times?

12 A. Yes.

13 Q. Okay. And --

14 A. Most of the time Angel took her.

15 Q. Okay. And when Angel went back to work, what hours  
16 did she work again?

17 A. From 2 to 10.

18 Q. Okay. And she worked those same hours throughout  
19 after [REDACTED] was born, correct?

20 A. Yes. She always worked second and I worked third.

21 Q. Okay. All right. And where did she work again?

22 A. At the time she was working at Bimbo.

23 Q. Okay. Does she have a different job now?

24 A. Yes, she works at Zeus.

25 Q. At Zeus. Okay. All right. But at the time she

1 worked at the same place you worked?

2 A. Yes.

3 Q. Okay. Did you -- what type of -- did the place,  
4 Angel's mother's, have a crib for [REDACTED]?

5 A. No, sir.

6 Q. Okay. All right. Did she have like a playpen for  
7 [REDACTED]?

8 A. No, sir. Just a bouncer.

9 Q. A bouncer?

10 A. Yes. That was it.

11 Q. Okay. Is that -- is that different than a swing?

12 A. Yes. The swing she sits. In the bouncer, she --  
13 pretty much her legs go through like a seat and she bounces  
14 up and down.

15 Q. Okay. But she didn't have a crib?

16 A. No, sir.

17 Q. Now Ms. Prince testified to a car seat. Would you-all  
18 leave a car seat or the car seat was over there?

19 A. I don't recall leaving a car seat. The car seat  
20 stayed in the car.

21 Q. Okay. All right. But you -- you're unaware that she  
22 was in a car seat over there?

23 A. Not over there. Usually she was in a -- in a bouncer.  
24 Sometimes she would be on the couch or -- but a time or two  
25 I went there she was laying on her grandmother's bed.

1 Q. Okay. And how was she laying on the grandmother's  
2 bed?

3 A. On her stomach.

4 Q. Okay. On her stomach. Were there any pillows or  
5 anything around her?

6 A. Not that I can recall.

7 Q. Okay. Now how many people went -- well, when you went  
8 over there -- so you testified going there five times.  
9 Those five times in which you went over, how many people  
10 were over there?

11 A. It varied. You know, she had nieces and nephews that  
12 stayed down the street, so sometime they would be over  
13 there. Her mother --

14 MS. HUNTER: Your Honor, I'm gonna object to --  
15 to relevance. I think we're talking about a specific  
16 timeframe that he was present, has actual knowledge and  
17 can testify --

18 THE COURT: I agree with you on that.

19 So confine your questions to what's personal  
20 knowledge, not generalities.

21 MR. KOGER: All right.

22 BY MR. KOGER:

23 Q. When was the last time you took the baby over?

24 A. It was that Tuesday prior.

25 Q. On that Tuesday prior?

1 A. Yes.

2 Q. Okay. All right. And, again, you -- on the Tuesday  
3 prior?

4 A. Yes.

5 Q. Okay. All right.

6 MR. KOGER: I beg the Court's indulgence.

7 BY MR. KOGER:

8 Q. What is the complexion of your baby?

9 A. She would be considered light skinned.

10 Q. Light skinned?

11 A. Yes.

12 Q. Okay. What time would Ms. Prince usually take the  
13 baby over?

14 A. If I didn't take her, she would take her about 1:30.

15 Q. 1:30. Okay.

16 A. Yes. To give her enough time to drop her off and then  
17 go to work.

18 Q. Okay. And you testified, too, that during this time  
19 just for the -- you was helping the company out with  
20 someone from 5 to 5. You remember that, correct?

21 A. Yes, it's standard. Whenever someone's like on  
22 vacation, the person for the next shift has to cover for  
23 them, like at least half of it, you know, to cover for  
24 their shift, so that's when I usually worked twelve hours.

25 Q. Okay. But I think you said you usually work if not

1 for extraordinary circumstances 10 to 6?

2 A. Yes.

3 Q. Okay. So that would be 10 at night until 6 in the  
4 morning?

5 A. Yes.

6 Q. Okay. And the baby was over at Angel's mother's house  
7 from at least her shift --

8 A. Yes.

9 Q. -- 2 to 10?

10 A. Uh-huh.

11 Q. All right. So there's an overlap there. Did you --  
12 would you go over during the time -- like before you go to  
13 work, would you go over there to check on [REDACTED]?

14 A. If I was off, I would.

15 Q. Okay. All right. And would -- but Angel worked from  
16 2 to 10, so she dropped her off. Okay. And how many  
17 people resided in the house?

18 A. Three.

19 MS. HUNTER: Objection, Your Honor. Again, this  
20 goes to relevance. If he wants to tie it down to a  
21 specific timeframe --

22 THE COURT: I agree. I agree with you. Sustained.

23 MR. KOGER: Your Honor --

24 THE COURT: We're talking about the incident.

25 MR. KOGER: But the timeframe has not been narrowed

1 down.

2 THE COURT: Ask your next question.

3 MR. KOGER: Okay.

4 BY MR. KOGER:

5 Q. You are here because the State is saying that you --  
6 that you seriously harmed your child.

7 A. Correct.

8 Q. Okay. Did you harm your child?

9 A. No, sir. My job is to protect my children, not harm  
10 them.

11 Q. Did you jerk your child?

12 A. No, sir.

13 Q. Did you twist your child?

14 A. No.

15 Q. Did you hit your child in the chest?

16 A. No, I did not.

17 Q. Did you shake your child?

18 A. No.

19 Q. Okay. Well, then I'm sure the State is gonna ask you  
20 the question, what happened to your child?

21 A. To be honest, I've been trying to find that out for  
22 the last five years.

23 Q. Okay.

24 A. No one has never spoke to me about it. She doesn't  
25 talk about it. She doesn't want to talk about it.

1 Q. And she being who?

2 A. Angel.

3 Q. Okay. All right. And it's your testimony that you  
4 did not hurt your child in this manner?

5 A. No, sir. I did not harm my child.

6 Q. Okay. Do you love your child?

7 A. Both of them dearly.

8 Q. And one other question, and I think you said this on  
9 the video, but I may be wrong, how did you feel about the  
10 sleeping arrangement at the house with you and Angel and  
11 [REDACTED] sleeping in the bed?

12 A. I was against it.

13 Q. And why were you against it?

14 A. I just didn't feel like a child needed to be sleeping  
15 with their parents. That's why we bought the crib.

16 Q. Okay. All right. And how many times did she sleep  
17 in the crib?

18 A. None. Only when I put her in there. Like I say,  
19 there was a time that she went away, I think she had some  
20 business to handle, and when she went to sleep, I put her  
21 in the crib, but other than that she didn't sleep in the  
22 crib.

23 Q. Angel never put her in the crib?

24 A. No, sir.

25 Q. Okay. Why didn't you sleep in the bed with [REDACTED]

1 and Angel?

2 A. That was just the only reason. I just didn't want to  
3 sleep with [REDACTED]. Like as far as her being an infant, I  
4 didn't want to sleep in the bed because, you know, I might  
5 roll over. I sleep kind of wild.

6 MR. KOGER: Okay. Thank you. No further questions.

7 THE COURT: All right. Your witness.

8 MS. HUNTER: Thank you, Your Honor. May it please  
9 the Court?

10 THE COURT: Yes, ma'am.

11 CROSS-EXAMINATION

12 BY MS. HUNTER:

13 Q. All right. Mr. Wallace, you just told this jury that  
14 you didn't place the baby in the bed with you because you  
15 didn't want to sleep with the baby in the bed, correct?

16 A. No, ma'am.

17 Q. Okay. But that day, the day these injuries occurred,  
18 you put that baby in the bed with you, correct?

19 A. Yes, but I wasn't asleep.

20 Q. You weren't asleep?

21 A. No.

22 Q. Do you remember the interview you had with Sergeant  
23 Gillard?

24 A. No, ma'am. Well, I do, but --

25 Q. You don't remember?



1 A. Yes.

2 Q. You remember it?

3 A. Uh-huh.

4 Q. You remember we played it yesterday?

5 A. Yes.

6 Q. And do you remember telling Sergeant Gillard that you  
7 placed her in the bed and that you dozed off for fifteen  
8 minutes?

9 A. I might have dozed off.

10 Q. So did you tell her that or you didn't tell her that?

11 A. I did tell her that.

12 Q. So the baby was in the bed with you --

13 A. Yes, but I didn't --

14 Q. -- not in the crib? I'm sorry. I didn't mean to cut  
15 you off.

16 A. No, that's okay. No, but it wasn't intentional.

17 Q. But the baby was in the bed with you?

18 A. Yes, ma'am.

19 Q. Okay. I want to talk to you about a couple of other  
20 things. Your lawyer brought up the family court  
21 transcript --

22 A. Yes, ma'am.

23 Q. -- that you testified in. I want to go over a couple  
24 of things from that. Well, actually I'll stick with  
25 Investigator Gillard's transcript first -- Investigator

1 Gillard's interview that you did with her first.

2 So when you were interviewed by Investigator Gillard,  
3 you told her that the day that your child was hurt that  
4 when Angel left that the baby was awake, the baby was  
5 smiling and the baby was normal; is that correct?

6 A. As far as being normal, I know I didn't examine her  
7 like that, but as far as smiling, yes, she did.

8 Q. But that's what you told Investigator Gillard. That  
9 you used that word "normal". Awake, smiling, normal.  
10 Those were your words, correct? You watched the interview.

11 A. Yeah.

12 Q. Okay. And on -- on the day that you had the family  
13 court hearing, let's see, it looks like it was on July 8,  
14 2019, here in Orangeburg, correct?

15 A. Yes, ma'am.

16 Q. Okay. And you testified in that hearing, correct?

17 A. Yes.

18 Q. And when they asked you had the child been crying  
19 before the mother left for work -- or left -- before she  
20 left for school, you said no, she wasn't crying. I was  
21 awake then. Is that correct? Those were your words?

22 A. Yes.

23 Q. Okay. And on -- again, you told the Court on that  
24 date that before Angel left you did not hear her crying,  
25 correct?

1 A. Correct.

2 Q. Okay. And what you told the Court today and what you  
3 told the Court in the family court proceeding is that she  
4 started crying when you were laying in the bed with her,  
5 correct?

6 A. Yes, because she was hungry.

7 Q. Okay. And -- and in the family court hearing when  
8 they asked you if the child had any problems prior, you  
9 said you didn't notice any problems that morning; is that  
10 correct?

11 A. No, the lighting was dark, so I didn't look to see if  
12 there was any problem.

13 Q. But you told the Court on July 8, 2019, that that  
14 morning you didn't notice any problems. Those were your  
15 words.

16 A. Yes, that's correct.

17 Q. Is that correct?

18 A. Yes, ma'am.

19 Q. Okay. Now there's also been some testimony today and  
20 previously about whether or not Angel came and picked you  
21 up from work and when she did pick you up from work that  
22 morning whether or not [REDACTED] was in the car and whether  
23 [REDACTED] was in the car.

24 A. Yes, ma'am.

25 Q. And was [REDACTED] in the car with her?

1 A. No.

2 Q. And was [REDACTED] in the car with her?

3 A. No.

4 Q. So you were not telling the truth previously?

5 A. I was trying to protect Angel with the kids.

6 Q. So you're a liar?

7 A. That's not true.

8 Q. You took an -- were you sworn in when you had this  
9 testimony like you were sworn in today?

10 A. I might have been.

11 Q. Do you want me to go back and read through and ask if  
12 they told you whether or not you were under oath and that  
13 what you said in this hearing could be used against you in  
14 a criminal court proceeding? Is that correct?

15 A. It could have been.

16 Q. Do you want me to go back through and read it to you?

17 A. Yes, ma'am.

18 Q. Okay. Let me find it.

19 All right, Mr. Wallace. If you'll come over here for  
20 me, sir. Raise your right hand. Kareem Wallace, being  
21 first duly sworn, testifies as follows.

22 Let me look for you to make sure that we gave you  
23 your warnings.

24 All right. Here it is.

25 THE COURT: I think you ought to provide him a copy

1 of it.

2 MS. HUNTER: Oh, yes. I can.

3 THE COURT: I think that's the proper way to  
4 utilize a deposition or prior sworn testimony.

5 MS. HUNTER: All right. Specifically, Mr. Wallace,  
6 on page 68 of the family court proceeding.

7 THE COURT: Let him see it first.

8 MS. HUNTER: Look here at line 10.

9 I was trying to find it for him.

10 THE WITNESS: Here you go, ma'am.

11 MS. HUNTER: You can keep that if you'd like.

12 BY MS. HUNTER:

13 Q. All right. So the Court asked you: Do you know  
14 anything that you would testify here today could be used  
15 against you in your criminal trial?

16 Is that correct?

17 A. Yes, ma'am.

18 Q. Okay. So you remember that?

19 A. Yes.

20 Q. All right. So just to be clear, you were lying then,  
21 but you're not lying now?

22 A. No, ma'am, I'm not.

23 Q. Okay.

24 MS. HUNTER: All right. Thank you. I don't have  
25 any further questions for you.

1 MR. KOGER: No further questions, Your Honor.

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

3 (Witness excused.)

4 THE COURT: Anything else?

5 MR. KOGER: The defense rests, Your Honor.

6 THE COURT: Very well.

7 Anything in rebuttal, ma'am?

8 MS. HUNTER: No, Your Honor.

9 THE COURT: All right. Very well.

10 All right. You-all step in the jury room. I've  
11 got to ask the lawyers a couple of things. I need to  
12 step out and use the restroom and figure out how we're  
13 gonna -- because you-all have heard the testimony now and  
14 now you've got to hear the closing statements, closing  
15 arguments, summaries, and my instructions before you can  
16 deliberate. We've got to mix lunch in there somewhere,  
17 so I'm gonna try to make a plan so we can get all of that  
18 done today, all right?

19 Step into the jury room. It's not quite yet time to  
20 discuss the case, so don't discuss it.

21 (Whereupon, the jury retires to the jury room at  
22 11:17 AM.)

23 THE COURT: What's you-all's suggestion on how to  
24 manage lunch in the middle of this?

25 MS. HUNTER: I mean, I think we could -- I think we

1     could do closings before. I mean, it will take me --

2           THE COURT: You-all won't be terribly long.

3           MS. HUNTER: -- five minutes to close. I don't  
4     know how long Mr. Koger's gonna take and then I think  
5     we could be done by twelve if we've got forty minutes.

6           THE COURT: I think you-all can do that, too, but  
7     do you want --

8           MR. KOGER: I'm looking at four hours.

9           MS. HUNTER: And then let them eat lunch and then  
10    come back and then you can charge them.

11          THE COURT: That suits me.

12          MR. KOGER: That's fine.

13          THE COURT: In some counties, the clerk wants to  
14    keep them here and feed them. I don't spend the clerk's  
15    money without asking. To me, if you bring lunch in, it  
16    delays things. They'll go all right, we'll get menus and  
17    give them to them and then go to pick it up and it's two  
18    hours later.

19          THE CLERK: Yes, we normally go by your decision,  
20    Your Honor.

21          THE COURT: Okay. Well, I like doing it, but it  
22    goes so slow when you've got to wait on it and pick it  
23    up and they can't work. That's just frustrating.

24          All right. Let me think about it real quick. I  
25    need to use the restroom.

1 (Recess taken at 11:18 AM.)

2 (Back on the record at 11:25 AM.)

3 THE COURT: Are you-all ready to go? We've got  
4 pizza on order, so are you-all ready to go?

5 MS. HUNTER: Yes, sir.

6 MR. KOGER: I'm ready.

7 THE COURT: All right. Bring them in.

8 BAILIFF: I will.

9 (Whereupon, the jury return to the courtroom at  
10 11:27 AM.)

11 THE COURT: All right. Mr. Jamison, would you  
12 consider being my foreperson?

13 FOREPERSON: Yes, Your Honor.

14 THE COURT: Okay. You'll preside over the  
15 deliberations, but you don't get extra pizza. Everybody  
16 gets the same vote, okay?

17 All right. So he's gonna act as the foreperson,  
18 Mr. Jamison.

19 All right. Now is the opportunity for both parties  
20 to summarize their respective positions. So the State  
21 opens and they tell you their summary, then the defense  
22 gives their summary and then the State has a brief  
23 rebuttal option, then I give you my instructions on what  
24 the law is and how to evaluate things, then you-all begin  
25 your deliberations. Hopefully, lunch will be coinciding



1 and coming in about that same time.

2 So we're ready to begin.

3 MS. HUNTER: Thank you, Your Honor. May it please  
4 the Court?

5 THE COURT: Yes, ma'am.

6 MS. HUNTER: Ladies and gentlemen, as citizens  
7 in society we have an obligation to protect the most  
8 vulnerable members in our community, and those are our  
9 children. And while we can't always protect them and  
10 prevent injuries, we can hold those people who do abuse  
11 our children, we can hold them accountable in a court of  
12 law, and that is exactly what the State of South Carolina  
13 has done to Kareem Wallace. That is what he is on trial  
14 for today.

15 Now Judge Griffith instructed you-all at the  
16 beginning of this trial that we each had a role to play.  
17 My job as a prosecutor is to be a minister of justice.  
18 Mr. Koger's job as the defense lawyer is to be a zealous  
19 advocate for his client. Judge Griffith's job is to rule  
20 on the law and it's your job to listen to the evidence  
21 presented, to apply it to the law and to render a verdict.  
22 And you can render your verdict on two things, the  
23 evidence and the law. Not on what you think what the  
24 law should be, it's not on speculation or assertions,  
25 it's what the law is in South Carolina, and I believe

1 Judge Griffith explained that to you-all when you started  
2 this trial yesterday morning.

3 Now as you heard when this case was called, the  
4 defendant's charged with two crimes; to inflict great  
5 bodily injury on a child and unlawful neglect of a child.  
6 They're two separate and distinct crimes here in South  
7 Carolina.

8 So it is a crime for someone to inflict great bodily  
9 injury on a child; meaning that an injury that causes  
10 protracted loss or impairment of a body part. To cause  
11 that injury is a crime. If you fracture a child's leg  
12 or their arm, that is -- you're guilty of that charge.  
13 Likewise, it's a crime for a parent to place a child at  
14 an unreasonable risk of harm that would affect the child's  
15 life, health, safety or to unlawfully or maliciously do  
16 any bodily harm to that child that the life of the child  
17 or the health of the child is in danger or likely to be  
18 in danger.

19 Now those are the two laws that we're focussing on  
20 today. There are other laws in criminal court that the  
21 judge is gonna instruct you on. He's gonna talk to  
22 you-all about criminal intent. In South Carolina, in all  
23 their criminal cases, the State has the burden of proving  
24 criminal intent. And criminal intent is a mental state,  
25 it's a conscious wrongdoing, and I want to be clear, it

1 is the intent to act. That is what is required. The  
2 intent to create an action, to act. It is not an intent  
3 to cause the harm, it's that intent to act that you-all  
4 are focussing on in criminal intent.

5 Now the judge is also gonna talk to you about the  
6 credibility of the witnesses that testified from this  
7 stand. Now credibility, that is entirely in your  
8 discretion; who to believe, who not to believe. That  
9 is not up to me, that is not up to Mr. Koger. We don't  
10 determine the credibility of witnesses. That is solely  
11 in your purview during a trial. Now you can believe all  
12 of what a witness says, you can believe none of what a  
13 witness says. You can believe one witnesses over other  
14 witnesses and vise versa.

15 And there's several factors you can use in helping  
16 you to determine credibility. You know, ask yourselves  
17 did the witness have a reason to be biased or prejudiced?  
18 Did they have a reason to lie on the stand? Was the  
19 witness consistent in their testimonies? Did they  
20 previously testify to the same thing? Did they testify  
21 differently? Was a witness's testimony corroborated by  
22 other evidence? And the most important thing that  
23 you-all can use when considering the credibility is your  
24 own common sense and your every day life experiences.  
25 You-all deal with people on the street every day at

1 your work, at school, in the grocery store, here in  
2 the courthouse interacting with others. You know when  
3 someone is telling you the truth and when someone isn't.  
4 So use your common sense. You don't abandon that at  
5 the courthouse doors when you walked through that metal  
6 detector. It's here with you now. It's here with you  
7 when you deliberate back in that jury room.

8 The last thing I want to talk to you-all about is  
9 reasonable doubt. Now reasonable doubt is not doubt --  
10 it is not any and all doubt, it is a doubt that would  
11 cause a reasonable person to hesitate to act. Now at  
12 the end of arguments Judge Griffith's going to charge  
13 you that if you are firmly convinced that the defendant  
14 committed these crimes, then you must return a guilty  
15 verdict. That is reasonable doubt.

16 And, ladies and gentlemen, I think after hearing  
17 the evidence in this case you-all should be more than  
18 firmly convinced that Kareem Wallace inflicted great  
19 bodily injury on this child and committed the crime of  
20 unlawful neglect of this child.

21 Now at the beginning of this trial the judge charged  
22 you that my words are not evidence and that Mr. Koger's  
23 words are not evidence. The only evidence you-all are to  
24 consider is what was admitted through the x-rays and other  
25 -- and the interview of the defendant and the witnesses

1 who testified on that stand and remotely.

2 [REDACTED] was a three-month-old healthy baby and on  
3 August 28, 2018, the defendant had just gotten off the  
4 nightshift and he was very tired. All he wanted to do  
5 was sleep. And as many of you know, being a working  
6 parent is very hard. They're up a lot at night, they're  
7 hungry, they're wanting to eat, they're up all day and  
8 still wanting to eat every three to four hours, and you're  
9 tired and you want to sleep.

10 And when Angel left that morning to take [REDACTED] to  
11 school, [REDACTED] was fine. The defendant asked her when  
12 she handed the baby to him why don't you put her in the  
13 swing. He didn't want to watch the baby that morning  
14 and he told you he had just worked a twelve-hour shift,  
15 he was tired, he wanted to sleep. He was sleeping on the  
16 couch when she woke up. Angel testified that her child  
17 was fine that morning, that she was normal. She was  
18 normal, smiling, content. I think she told you that the  
19 baby was raising her arms up, blowing bubbles. The  
20 defendant told law enforcement the same thing. He also  
21 told -- he also testified in that DSS hearing on July 8th  
22 of 2019 to the same thing; that that morning [REDACTED] was  
23 fine, normal, wasn't crying. She was holding up her arms  
24 and kicking her legs like a normal three-month-old baby  
25 would be.

1           Now in his -- in the defendant's interview with  
2 Investigator Gillard you guys watched, you heard him say  
3 that [REDACTED] was normal and smiling when Angel left that  
4 morning, but something bad happened to [REDACTED] while he  
5 was watching her. Kareem was laying on the bed with his  
6 baby and he fell asleep. He dozed off for about fifteen  
7 minutes and she started crying because she was probably  
8 hungry. That's when Kareem Wallace lost his cool and  
9 hurt his baby. All he wanted to do was get some sleep  
10 and when Angel got home that baby was screaming. She  
11 told you that when she testified yesterday. And the  
12 defendant asked her what's wrong with her arm. The child  
13 was screaming in pain and that child's arm was limp. She  
14 wasn't able to raise it up like her other arm. It was  
15 limp.

16           You-all heard two doctors testify. They're experts.  
17 It's what they do. One of them is a child abuse expert,  
18 the other one works in radiology looking at x-rays. Very  
19 familiar with fractures that are consistent with child  
20 abuse. Those doctors told you that a child with injuries  
21 like these would have been immediately symptomatic, that  
22 the child would have immediately been in pain and would  
23 have immediately started crying. They also told you that  
24 an injury like that would be immediately apparent. The  
25 child would self-splint, not want to use its arm, and

1 that's exactly what happened. As soon as that injury  
2 happened, that child -- that's when that child's arm went  
3 limp, and that was in the custody and care of this man  
4 right here, the child's own father.

5 Angel knew something was wrong with her child when  
6 she laid that baby on the bed after the defendant told her  
7 the child's arm was limp and that's the reason she rushed  
8 that child to the hospital. That's where she found out  
9 that her child had four fractures; collarbone, this bone  
10 right here around her elbow, a corner fracture here,  
11 another corner fracture here.

12 The doctors explained to you guys these injuries  
13 could not have been caused by an accident, they couldn't  
14 be caused by dropping her, they couldn't have been caused  
15 by falling, couldn't have been caused by rolling over on  
16 her while she was laying in the bed, they couldn't be  
17 caused by the way the defendant showed he picked her up.  
18 That does not add up. There were too many injuries for  
19 this to have happened or for this to have been an accident  
20 and happened the way the defendant said it could have  
21 happened. These injuries could only be caused by a  
22 vigorous force; forceful jerking, twisting, pulling,  
23 shaking. These fractures were red flags for child abuse  
24 and that these injuries are child abuse.

25 The defendant tried to explain to Investigator

1 Gillard, and you saw it, how he said this could have been  
2 my mistake. I picked the -- I pulled the child towards  
3 me and picked her up by one arm. Do you know what he's  
4 doing? He's downplaying what he did. He's trying to  
5 minimize his culpability. That's what he was doing in  
6 that interview and that's what he did when he was on the  
7 stand today telling you guys what he said.

8 And even if he did just pick her up by one arm,  
9 that alone is unlawful neglect of a child. That's not  
10 appropriate. But his story doesn't make sense. He can't  
11 explain all the fractures. He can't explain all the  
12 injuries caused that three-month-old immobile baby. He  
13 did much more to that baby to cause those injuries.  
14 This was no accident, ladies and gentlemen. This was  
15 child abuse.

16 And going back to the credibility of a witness, the  
17 defendant took the stand in this case and he testified  
18 and he told you that he lied in a previous hearing. So  
19 how do you know that he isn't lying to you today? He's  
20 a liar. He doesn't tell the truth. He told you he was  
21 trying to protect that baby from being put in foster  
22 care. Ladies and gentlemen, that hearing was on July 8th  
23 of 2019. This child was taken into foster care before she  
24 left the hospital. She went into emergency protective  
25 custody. This child hadn't been in their care for almost



1 a year at that point, so he's lying to you about that.

2 The only person that he's lying to protect is himself.

3 Unfortunately, [REDACTED] can't tell you what happened  
4 to her that day, but after listening to all the testimony  
5 the past two days and seeing the injuries that that child  
6 suffered, you should have no doubt that Kareem Wallace  
7 broke a three-month-old's arm and her leg and no doubt  
8 that he's guilty of unlawful neglect of a child and  
9 inflicting great bodily injury on a child.

10 Ladies and gentlemen, ask yourselves who had [REDACTED]  
11 [REDACTED] the morning of August -- who had [REDACTED]  
12 the morning of August 28, 2018? Kareem Wallace. Who  
13 told you that [REDACTED] was normal, awake and smiling that  
14 morning? Kareem Wallace. Who asked Angel what's wrong  
15 with her arm? Kareem Wallace. Who was watching [REDACTED]  
16 when she suffered these injuries? Kareem Wallace. Who  
17 is downplaying what he did to [REDACTED] trying to minimize  
18 it? Kareem Wallace. Who broke [REDACTED] collarbone?  
19 Kareem Wallace. Who broke the bone in her left arm?  
20 Kareem Wallace. Who broke the bones in her left leg?  
21 Kareem Wallace. And who is guilty of inflicting great  
22 bodily injury upon a child? Kareem Wallace. And who is  
23 guilty of unlawful neglect of a child? Kareem Wallace.

24 THE COURT: Mr. Koger.

25 MR. KOGER: Could you turn that off for me?

1           May it please the Court?

2           THE COURT:   Yes, sir.

3           MR. KOGER:   Solicitors.   Beyond a reasonable doubt.  
4   That is the standard that the judge is going to instruct  
5   you in a couple of minutes.   That's the standard that's  
6   not only for Kareem Wallace, but for everyone in this  
7   courtroom as I stated in my opening.   If you're in a court  
8   of law, that's gonna be the standard.   That they have to  
9   prove their case beyond a reasonable doubt.   Not just  
10   their case beyond a reasonable doubt, but every element  
11   of the case beyond a reasonable doubt.

12           Now this particular case right here, let's get  
13   straight to the testimony of the witnesses.   This case  
14   is about timing.   It's about timing.   The State's theory  
15   is that this happened on the morning of August 28, 2018,  
16   and all these injuries happened within a thirty to  
17   forty-minute timeframe in which Angel -- well, Ms. Prince  
18   was supposedly -- well, not supposedly, was taking her  
19   daughter to school and by the time that she came back,  
20   and which Mr. Wallace knew that she could be back at any  
21   particular time, but they say they was able to, according  
22   to the State, that they could tell that these injuries  
23   occurred within one hour, that one hour cap.

24           That's their theory, but remember the testimony here.  
25   They used the term "acute".   A-C-U-T-E.   Acute.   And as

1     you recall, I asked the radiologist and he -- he prefaced  
2     it by saying I have eighteen years of experience. I  
3     cannot definitively say that these injuries occurred  
4     within one hour or two hours of the x-rays. If you can  
5     recall, and you can play back the testimony when you get  
6     back in the jury room, he said that it can go back -- as  
7     far back as one week.

8             Now, of course, when -- on the redirect he said  
9     three or four days, but basically that set the injury  
10    back three -- at least three to four days and as much  
11    as a week that these injuries supposedly happened. Now  
12    he wasn't here. He was -- he testified virtually.  
13    Ms. Schaller I think came later on in the day. She  
14    didn't hear what the doctor -- the doctor said. I asked  
15    her the same question. She used the term "acute". I  
16    asked her the same question. Well, can you definitively  
17    say that these injuries happen within one hour? Because  
18    the x-ray was done between one or two hours of the alleged  
19    -- of the injury. She said no. It can go back one -- as  
20    long as one week. That's important because -- because  
21    their whole -- because their entire case is based upon  
22    these injuries happening at this particular time and both  
23    of them said something to the effect in the absence of  
24    any other explanation.

25            So basically Mr. Wallace was charged because he was

1 the last one to have custody and control of the child  
2 even though the injury cannot be definitively said that  
3 it occurred at that particular time, okay?

4 Now you will probably see -- you may see, I don't  
5 know, when the State comes back up -- you're gonna see  
6 the x-rays. Or I'm maybe not using the proper medical  
7 term. The radiographs, what have you, of the fractures,  
8 but, again, there's not fifteen fractures, there's four  
9 fractures, okay, just to -- just to keep that in mind.

10 But let's go to the -- to the child abuse expert.  
11 She testified to this violent shaking and twisting and  
12 things -- these terrible things, and those are terrible  
13 things to do to any person, to any infant, and then she  
14 talked about the bruise on her chest and she had all  
15 these -- this testimony of shaking and twisting and not  
16 one photograph. Not one photograph. And then she  
17 testified to a bruise, a bruise, that she couldn't tell  
18 -- couldn't tell us the size, couldn't tell us the color,  
19 and then -- and then on that particular day, I guess it  
20 was August 29th when she -- when she evaluated the child,  
21 somehow she does haven't a picture. I think she stated  
22 -- I think she stated, and correct me if I'm wrong, that  
23 the camera or something -- something didn't work. We've  
24 all got cell phones. She comes -- she sat here and,  
25 again, she testified that this baby was shaken, this baby

1 was twisted, this baby was jerked, and not one picture.  
2 Not one. And she knew she was coming to testify. She  
3 knew she was coming. You-all came to your juror summons.  
4 You-all knew to be here. Not one physical -- not one  
5 photograph.

6 Even the doctor, you know, well, this violent  
7 shaking, violent shaking, violent shaking, it's caused  
8 by this here, but then when I -- well, they actually  
9 mentioned it and when I broached it further I said  
10 surely you're not saying shaken baby syndrome because  
11 they testified to no, there's no bleeding of the eyes,  
12 there was no -- the CT scan turned out okay, you know  
13 what I'm saying?

14 You know, they're experts, okay? They're experts.  
15 They study long, they study hard, I respect them, but you  
16 judge them by the same standard you judge anybody else  
17 in that witness chair, okay? Think about it. She only  
18 testified to one and it must have been an insignificant  
19 bruise, if a bruise at all, because she would have  
20 remembered if it was something significant, okay?

21 So all this, you know, like the song say, a whole  
22 lot a shaking going on, all this shaking, all this  
23 jerking, all this twisting, but no bruises. None. And  
24 guess what? I asked a curious question on the stand.  
25 Well, what complexion was the child? He said lighter

1 skin. All this shaking, all this twisting, it would  
2 have been on that baby. It would have been on that baby.  
3 These are things that you keep in your mind as you judge  
4 the believability and the credibility of the witnesses.

5 And another thing, too. This is something very  
6 simple and you can -- and, again, they were here  
7 testifying for the State and they want -- they want you  
8 to convict Mr. Wallace, but there was a very simple  
9 statement and they went all the around the world to try  
10 to explain why it said -- what it said the way it was  
11 said, but when TRMC, that's the first hospital the baby  
12 went to, that was testified to before, she stayed there  
13 about ten hours and she was transported or transferred  
14 to Richland County, it said, and I went -- I went over  
15 it, Solicitor Mubarak went over it, nonaccidental trauma  
16 should be excluded. I think that's kind of simple, ain't  
17 it? Nonaccidental trauma should be excluded. That's  
18 among the first x-rays made. Nonaccidental trauma should  
19 be excluded. I asked a separate question and we argued  
20 around the world to try to -- to try to make it say what  
21 it says, the plain and ordinary meaning. And then, again,  
22 both of them -- again, the doctor tried to -- you know,  
23 tried to make it say what it -- what it doesn't say, and  
24 Schaller, and finally in the end he said it should have  
25 said, but it's not what it should have said, it's the

1 plain and ordinary meaning. Nonaccidental trauma should  
2 be excluded. Again, they are learned people, but they  
3 are people and they -- and they can be biased. You take  
4 that into the jury room as any other witness that takes  
5 that stand.

6 Now -- and one other thing, too, before I leave the  
7 child abuse expert, Ms. Schaller, okay? They want to --  
8 they try not to, as with this right here, they try not to  
9 answer a question from the other side, okay? And, again,  
10 when you-all came here this morning most of you drove  
11 here this morning, but when you-all got out of the car  
12 to come in at 9:30, you-all didn't put your common sense  
13 in the glove compartment, you-all didn't put your common  
14 sense in the console, you brought that common sense here,  
15 that common sense in those jury chairs with you, okay?

16 She said -- and from the last question, she said it  
17 wouldn't have made a bit of difference if someone 180  
18 pounds accidentally rolled on or rolled over a ten-pound  
19 baby. That's what she said. That was the very last thing  
20 she said. You don't -- you don't leave the common sense  
21 in the glove compartment or the console of the truck,  
22 okay? This goes into the formula on whether the State  
23 proved their case beyond a reasonable doubt.

24 Now you will have the videotaped statement of  
25 Mr. Wallace and he stated back on September 5th what

1 happened and his involvement or noninvolvement in it and  
2 he basically testified to the same thing. Sergeant  
3 Gillard testified, too, that she contacted him, he came  
4 in, he cooperated. As a matter of fact, he came in  
5 voluntarily. He signed -- he signed this form saying  
6 that I don't need a lawyer. I'm gonna tell you what  
7 happened. That's a good thing. He came in. He did it.

8 Now he demonstrated how he handled the baby on that  
9 particular day, okay? He testified to the same thing.  
10 How here's the thing about Sergeant Gillard when she  
11 did the investigation. Mind you she never saw the baby  
12 during the investigation, so she didn't see whether the  
13 baby had bruises from this twisting and jerking and  
14 shaking. I mean, she didn't observe the baby in any  
15 investigation, but nevertheless -- nevertheless she said  
16 that she received her information from the doctors. Fair  
17 enough. Fair enough. But she didn't receive any other  
18 information because she said they had already narrowed  
19 down the time that it happened on that morning.

20 Regardless, but the medical personnel didn't tell them  
21 that those injuries could have, you know, existed before  
22 that time because of the category of -- of the injury.  
23 So Sergeant Gillard didn't have a chance to -- to  
24 investigate any other theory, any other opportunity.  
25 She didn't have a chance. You know, not that she knew



1 and didn't do it. She didn't know, okay? That was not  
2 -- that was not passed onto her.

3 The State is obligated to give this man a fair trial  
4 and with -- and with investigations. They're obligated  
5 to give -- to do detailed and full investigations, okay?  
6 That's their obligation, okay? Full information, okay?  
7 If this -- if the medical personnel, the experts as they  
8 say, testified to well, this could have -- basically an  
9 acute injury can -- it's not something that they can  
10 tell within one hour, then we have to look at all other  
11 -- all other things, all other opportunities, okay?  
12 Here's the thing. Ms. Prince told you I don't put my  
13 baby in a crib. I sleep with her, you know. I have --  
14 Mr. Wallace testified to putting her in the crib at  
15 times, but she -- basically she has an empty room. She  
16 sleeps in the bed with her mother.

17 Now, again, not alleging that Ms. Prince would ever  
18 do anything intentional, but the baby is placed -- she  
19 placed the bed -- the baby in the bed with her, okay?  
20 Then she testified to that I take the baby over to my  
21 mother's for daycare and that the baby's in a car seat,  
22 okay? The baby's in a car seat. Mr. Wallace testified  
23 to the times he took her the baby is sometimes placed on  
24 the sofa, okay? And here's another thing, too. Even  
25 though -- even though the experts say differently, all

1 the injuries was on the left side. On the left side.  
2 All injuries on the left side. One bruise that we don't  
3 have any type of photographic evidence of. It didn't  
4 even show up on the x-rays. No -- no photographs of  
5 bruising, of all this twisting and jerking and shaking.  
6 You have to take into consideration everything that came  
7 out in this courtroom and make a decision. They must  
8 prove their case beyond a reasonable doubt and if they  
9 do not prove their case beyond a reasonable doubt, then  
10 Mr. Wallace is not guilty. Is not guilty.

11 And I want to clear up one misstatement from the  
12 solicitor's argument. She stated that if -- either by  
13 virtue of him, he demonstrated how he pulled -- how he  
14 pulled the baby close to him, that's unlawful conduct.  
15 And listen to the judge at the end because the judge is  
16 also gonna tell you you've got to have the mental  
17 element, you've to have the intention, you've got to  
18 have the mens rea, okay? He would have to have intended  
19 that when he reached to his pull the child over to him to  
20 hurt the child. This is criminal court, not civil court.  
21 The standard is not preponderance of the evidence, it's  
22 beyond a reasonable doubt.

23 I want you to go back in that jury room and I want  
24 you to take as long as you need to take. This is a very  
25 important case. Not only it's a very important case to

1 [REDACTED], who the mother testified to is doing -- by  
2 God's grace and mercy is doing fine, okay? She testified  
3 earlier that she's doing fine. It's an important case  
4 to the State and it's an important case to Kareem Wallace.  
5 And take your time and don't -- and don't go take the  
6 easy way out.

7       You know, we've got four fractures. He was there,  
8 but didn't do -- you know, law enforcement didn't even  
9 see the baby. We didn't do any further investigation.  
10 Not because they didn't do it, didn't know, and, you  
11 know, don't take into consideration other opportunities  
12 the baby could have gotten injured, don't take into  
13 consideration that the baby sleeps in the bed with the  
14 mother most of the time, don't take into consideration  
15 you don't have a crib over at the other place where  
16 the baby's staying. Don't take none of that into  
17 consideration, but basically just take our word he's  
18 the one that did this to the child.

19       And I remind you both experts say in the absence  
20 of any other plausible or reasonable explanation, okay?  
21 In the absence of. But yet the timing of the injury is  
22 not definitive. They cannot say that it occurred between  
23 8:30 -- 8:30 or what have you on that day. They cannot  
24 say that.

25       And another thing before I go. You know, then -- I

1 want to touch on. The child support {sic} expert say  
2 that the baby was a little swollen. Again, here's what  
3 I'm saying. If you come into court and you're child  
4 support -- I said child support -- I mean, you're a  
5 child abuse expert, wouldn't you have pictures of the  
6 swelling? Wouldn't you? You come to court with all  
7 this -- again, all this -- this here and nothing to show  
8 you nothing.

9       They will probably show you the x-rays again and  
10 that's a part of it. That's a part of it. But for  
11 you-all to make your decision, you-all don't need part  
12 of the case, you-all need everything. You-all need the  
13 x-rays, you-all need the pictures of the injuries.

14       Mr. Wallace -- after you-all go back in and  
15 deliberate, and I'm sure you-all will take the time and  
16 do a thorough job, I'm confident, but once you-all go  
17 back and deliberate you will find not guilty of infliction  
18 of great bodily injury by Mr. Wallace on the minor child.  
19 And don't go and take the easy way out on unlawful  
20 conduct. The judge is gonna do the jury instructions,  
21 you know. Again, unlawful conduct, you've got to have  
22 the intent and I'm sure after you go through all of the  
23 evidence, have a discussion and whatever you need to see,  
24 that you will come back not guilty for Mr. Wallace.

25       Thank you.

1 THE COURT: Thank you, sir.

2 Ms. Mubarak.

3 MS. HUNTER: Yes, sir.

4 Ladies and gentlemen, I just want to clarify a few  
5 things Mr. Koger just talked about. First off, he talked  
6 about how the radiologist from TRMC, who you didn't hear  
7 testify and who is not a pediatric radiologist, they  
8 don't specialize in children, what his report said is that  
9 nonaccidental trauma should be excluded, and I want to  
10 make clear what both medical experts were telling you-all.  
11 A report like that, what they're saying is, is that you  
12 need to run further testing and look further into that to  
13 determine whether or not child abuse should be excluded  
14 or should be considered because they are a red flag based  
15 on these corner fractures that this is child abuse, and  
16 I believe they got on the stand and testified to you  
17 that those corner fractures -- that there's no other  
18 explanation for these injuries. This was nonaccidental  
19 trauma and what that means is this is child abuse.

20 The second thing that Mr. Koger talked about was the  
21 criminal intent and mens rea, that conscious wrongdoing.  
22 And, again, that is not the intent to cause the harm, it  
23 is -- the intent that is required is the action, the  
24 intent to act, and that is what Kareem Wallace did. He  
25 intended to act that day.

1           He also wanted to talk to you about the lack of  
2 pictures. Ladies and gentlemen, the only way I can show  
3 you a broken bone and a fracture is through an x-ray and  
4 in that x-ray the doctors pointed out where the breaks  
5 were and how those breaks could have been caused and they  
6 told you that they were in specific spots that were very  
7 highly suspicious for child abuse because those corner  
8 fractures, that they're at that growth plate, and that  
9 any shaking, twisting, jerking goes to the weakest point  
10 in the bone and that is the area most likely to break.  
11 They showed you those. They also pointed out the swelling  
12 in -- in those x-rays. And you don't need other pictures  
13 to know that this child was abused. I mean, the x-rays  
14 speak for them self.

15           He also wants to talk about and make a big deal about  
16 the baby in the bed and that could a baby have -- could  
17 have rolled over and caused these injuries and the doctors  
18 told you you can't. And he talked to you -- Mr. Koger  
19 talked to you about using your common sense. Well, ladies  
20 and gentlemen, use your common sense. If you -- I weigh  
21 130 pounds. I've got a small child. If I put my baby in  
22 the bed and rolled, I don't think that I would cause that  
23 type of injury. One, they're on a mattress that goes --  
24 there's cushion to it. It would go down. You're not on  
25 a hard surface. And even if you were on a hard surface,

1 I don't think that would be possible to break those bones  
2 and the doctors testified that it would not be possible  
3 to break those bones. That's not a -- that's not a  
4 plausible explanation for how all these injuries occurred.  
5 The only explanation is that vigorous force. And x-rays,  
6 they don't show bruises. And, furthermore, when you break  
7 a bone, there is not necessarily bruising when you break  
8 a bone. Anyone who's broken a bone in the past, they  
9 know this.

10 And as far as the timing goes as to why we know that  
11 Kareem Wallace inflicted those injuries, after Angel left  
12 to take [REDACTED] to school and before she got home is  
13 because the doctors told you they were acute injuries;  
14 meaning they had to have happened -- they could have  
15 either happened immediately or based on that swelling I  
16 believe they narrowed that timeframe down to three or  
17 four days, but what they told you is that -- and this  
18 is the important thing -- is that that child would have  
19 been immediately symptomatic. That child would have  
20 immediately been crying and both parents told you that  
21 child was not crying that morning when Angel left the  
22 house to take [REDACTED] to school and when that child was  
23 left with Kareem that child was fine that morning, that  
24 child was moving her arms and moving her legs. There  
25 was nothing wrong with that baby. A totally normal

1 three-month-old. She was in perfect health at that point,  
2 she was not crying, and when she got home -- when Angel  
3 got home that is when she walked in the door and she heard  
4 that child screaming, Kareem Wallace was holding that  
5 baby. That injury occurred during that timeframe and when  
6 she got home that is when that child's arm was limp and  
7 they told you it would be an immediate -- immediately  
8 apparent, and it was.

9 Ladies and gentlemen, you should have no doubt that  
10 Kareem Wallace inflicted great bodily injury on his child  
11 and is guilty of that charge and is guilty of unlawful  
12 neglect of a child.

13 THE COURT: All right. Thank you, lawyers.

14 All right. Mr. Jamison and Members of the Jury, I'm  
15 gonna give you my instructions and I'm gonna talk to you  
16 and read them to you when the pertinent parts come up.  
17 After we get done with instructions, then we'll put you  
18 in the jury room, check on lunch, the Clerk of Court  
19 is already monitoring that, and then the lawyers would  
20 have n opportunity to suggest any corrections to my  
21 instructions, and I hope I get them right the first  
22 time, but does anybody need a break before I do the  
23 instructions? It should take maybe less than fifteen  
24 minutes. Everybody good?

25 All right. Mr. Jamison and Members of the Jury,



1 the State of South Carolina has charged the defendant,  
2 Kareem Wallace, with one count of infliction of great  
3 bodily injury upon a child and one count of unlawful  
4 neglect of a child or a helpless person.

5 You bear in mind the defendant has pled not guilty  
6 and by that plea he denies the allegations made by the  
7 State and has requested a jury trial. So that by pleading  
8 not guilty that plea denies any of the allegations in  
9 those indictments and I instruct you Mr. Wallace comes  
10 to court clothed with a presumption of innocence. It  
11 acts like a robe covering him with a cloak of innocence  
12 and that presumption of innocence continues throughout  
13 the case and entitles him to a verdict of not guilty  
14 unless and until it is expelled by evidence satisfying  
15 you, the jury, beyond a reasonable doubt of his guilt of  
16 the offenses charged.

17 Now the State must prove each and every element of  
18 the alleged crime beyond a reasonable doubt. Now we've  
19 talked about the Constitution already yesterday and today.  
20 The Constitution makes you, the jury, the finders of fact  
21 and the evidence as I've discussed with you. It also  
22 makes me the judge, the sole and only instructor of the  
23 law. You must accept correct the law which I am  
24 instructing you today and apply it to the evidence and  
25 find the facts in the evidence and reach a unanimous

1 verdict.

2 Now I tell you if I make an error in the instruction  
3 of law to you, there's another time and there's another  
4 place that error can be considered and, if necessary,  
5 corrected. For our purposes today, you as a group must  
6 accept the law as I'm instructing it to you. If you  
7 have a different understanding of what the law is or an  
8 understanding of what you think the law should be, you  
9 must disregard that differing opinion or understanding  
10 and accept the law as I am currently instructing you.

11 Now in every criminal prosecution the State has the  
12 burden of proof. That's why they sit closer to you. The  
13 State's table is always closer to the jury box because  
14 they have the burden of proving their case. In our state  
15 and according to our Constitution, the State must prove  
16 its case to a burden of proof called beyond a reasonable  
17 doubt and that must be proven before a finding of guilt  
18 may occur. If the State fails to meet that burden, then  
19 the defendant's entitled to a verdict of not guilty or  
20 acquittal. It's the same meaning.

21 Now under that Constitution which makes me the  
22 instructor of the law, makes you, the jury, finders of  
23 the facts. I'm not allowed to suggest or to make  
24 reference to or have any comments or opinions on the  
25 facts. That's your job. You-all make findings of fact.

1 I instruct the law.

2 Now if by any of my rulings or my comments during  
3 the trial you believe I have an opinion on what the facts  
4 may be or what they could be, disregard that as that is  
5 your province to make decisions on what the facts of this  
6 case are.

7 Now as the judges of the facts of the case,  
8 necessarily you're to evaluate and measure the  
9 credibility and believability of the evidence and the  
10 witnesses. Now in passing on a person's credibility,  
11 you as a group may use in your collective common sense  
12 and good judgment things you do every day to evaluate  
13 whether someone is telling you the truth. Things the  
14 Court has observed in the past that jurors use or people  
15 use every day to determine whether or not somebody's  
16 telling the truth are: How did the witness testify?  
17 What was the manner and appearance of the witness who  
18 testified? Was the witness straightforward or was the  
19 witness hesitant in answering? How did the witness come  
20 to know the facts to which he or she testified to? What  
21 was the witness's ability to recollect or to know these  
22 facts as they testified to? Is there some reason a  
23 witness would want to give testimony which would help or  
24 hurt one side or the other? In other words, was the  
25 witness biased toward one side or the other or prejudiced

1 against one side or the other? You can consider whether  
2 the testimony of a witness was strengthened or weakened  
3 by other testimony or other evidence. You can believe  
4 as much or as little of each witness's testimony as you  
5 deem appropriate. You can believe the testimony of one  
6 witness against that of many or many against one. You  
7 can believe part of a witness's testimony and disbelieve  
8 the rest.

9 Now the fact that testimony is not controverted  
10 does not mean you must accept it as true and undisputed.  
11 You still gauge the credibility or the believability of  
12 that testimony offered regarding the truth of the facts  
13 offered through that testimony.

14 Now I use this thing of measuring -- weighing the  
15 evidence. You can think of the scales of justice and  
16 the scales are put there. As the factfinders, you have  
17 listened. I've observed you listening close to the  
18 evidence presented. Weighing evidence is entirely a  
19 mental process. You don't count the numbers of witnesses  
20 on one side or the other and who called which witness.  
21 You're to evaluate and measure, weigh the believability  
22 of all the witnesses who testified in making your decision.  
23 You weigh the evidence using your good judgment and your  
24 collective common sense.

25 Now there were two witnesses qualified as experts.

1 I gave you instructions regarding their qualifications.  
2 Normally a person who's not an expert can testify to what  
3 they smelled, what they did. They're fact witnesses as  
4 to what happened. An exception to that rule is what we  
5 call expert witnesses, so a witness who is by education  
6 and experience an expert in some art or science or  
7 profession may state an opinion as to any relevant or  
8 material matters to which the witness claims to be an  
9 expert in and they can also state the reasons for which  
10 they suggest that opinion. So you may consider any expert  
11 opinion received in evidence in this case just like the  
12 other evidence. You give it the weight you think it  
13 deserves and if you decide the opinion of the expert  
14 witness is not based on sufficient education or experience  
15 or if you conclude the reasons given in support of the  
16 opinion are not sound or if you believe the opinion is  
17 outweighed by other evidence, you measure the testimony  
18 that you've heard to determine whose credibility you like  
19 or believe in making a determination of the facts in this  
20 case. So I tell you that an expert witness's testimony  
21 is to be given no greater credibility or weight than  
22 that of other witnesses simply because that witness is  
23 an expert. You're not required to accept an expert's  
24 opinion even if it's not contradicted.

25 Now there's two types of evidence which these

1 witnesses presented to you. There's direct evidence,  
2 which I just referred to a moment ago, and circumstantial  
3 evidence. Direct evidence is testimony of a person who  
4 asserts a claim to have firsthand knowledge. I saw this,  
5 I observed that, I smelled this, I did that. That's  
6 direct evidence.

7 Now circumstantial evidence is slightly different.  
8 It is proof of a chain of facts and circumstances  
9 indicating the existence of another fact. Our law makes  
10 no distinction whatsoever between the weight or value to  
11 be given to either direct or circumstantial evidence.  
12 There's no greater degree of certainty required of  
13 circumstantial evidence and that of direct evidence. I  
14 instruct you you should weigh all the evidence in the  
15 case. I tell you that to extent the State relies upon  
16 circumstantial evidence, all of the circumstances must  
17 be consistent with one another and when taken together  
18 point conclusively to the guilt of the accused beyond a  
19 reasonable doubt. If those circumstances merely portray  
20 the defendant's behavior as suspicious, then the proof's  
21 failed.

22 Now I instruct you that after weighing all of the  
23 evidence, whether it's direct or circumstantial, I  
24 instruct you weigh all the evidence. You don't have to  
25 determine which is which, just weigh all of the evidence

1 you've heard and that you received into the trial. If  
2 you're not convinced of the guilt of the defendant beyond  
3 a reasonable doubt, you must find him not guilty.

4 And we're gonna talk about this reasonable doubt.  
5 What is a reasonable doubt? A reasonable doubt is simple.  
6 It's the kind of doubt which would cause a reasonable  
7 person to hesitate to act. A reasonable doubt may arise  
8 from evidence in the case or from a lack or absence of  
9 evidence in the case. Proof beyond a reasonable doubt  
10 is proof that leaves you firmly convinced of the  
11 defendant's guilt. It is the kind of doubt to which  
12 one can assign a reason if the assignment can be done  
13 reasonably, firmly and convincingly. A reasonable doubt  
14 is the kind of doubt that would make a reasonable person,  
15 an honest person, hesitate to act in a matter important  
16 in his own affairs.

17 Now I charge you and instruct you that a defendant's  
18 entitled to every reasonable doubt that may arise in the  
19 case and what that means is if you have a doubt about  
20 anything during the trial, you resolve it in his favor.

21 Now the very fact that you-all have a discussion in  
22 weighing the evidence that does not automatically create  
23 a reasonable doubt. You make the determination of whether  
24 or not a reasonable doubt exists as to his guilt. If you  
25 find the State's not met that burden, then he's entitled

1 to a verdict of not guilty.

2 Now criminal intent is also a necessary element of  
3 any crime charged and must be proven by the State beyond  
4 a reasonable doubt. Criminal intent is a matter that  
5 must be determined from the circumstances surrounding  
6 the situation. There's no way to prove intent to a  
7 mathematical certainty. There's no way medical science  
8 can dissect a person's brain to determine what he or she  
9 had in mind. Our law states that criminal intent may be  
10 inferred from the circumstances which were shown to have  
11 existed both before and after the fact. That's how you,  
12 the jury, make the determination of whether or not the  
13 element requiring the intent was present or did exist.  
14 I tell you that criminal intent is a state of mind that  
15 operates jointly with an act or an omission to act in the  
16 commission of a crime. Criminal intent is a mental state  
17 of conscious wrongdoing. It is up to you, the jury, to  
18 determine what the defendant intended to do based upon  
19 the circumstances shown to have existed and the State must  
20 prove criminal intent beyond a reasonable doubt just as  
21 they must prove all the other elements that I previously  
22 explained to you.

23 Now specifics from the statutes to the two charges  
24 we have here. The defendant's charged with inflicting  
25 great bodily injury upon a child. Our code of law states



1     that it is unlawful to inflict great bodily injury upon  
2     a child. For the purpose of this section, great bodily  
3     injury means bodily injury which creates a substantial  
4     risk of death or which causes a serious or permanent  
5     disfigurement or a protract loss or impairment of the  
6     function of any bodily member or organ. The State must  
7     prove beyond a reasonable doubt that Mr. Kareem Wallace  
8     inflicted great bodily injury upon the child.

9             Now he's also charge with unlawful conduct. Our  
10     code of laws state that it is unlawful for a person who  
11     has charge or custody of a child or is the parent or  
12     the guardian of a child or is responsible for the care  
13     and well-being as defined in the code section of family  
14     court to place that child in unreasonable risk of harm  
15     affecting the child's life, physical or mental health  
16     or safety. It is unlawful to do or cause to be done  
17     unlawfully or maliciously any bodily harm on the child  
18     so that the life or health of the child is in danger or  
19     likely to be in danger. The State must prove beyond a  
20     reasonable doubt that the defendant, Mr. Wallace, placed  
21     that child in unreasonable risk of harm affecting the  
22     child's life, physical health or safety and did or cause  
23     to be done unlawfully any bodily harm to the child so  
24     that the life or health of the child was in danger or was  
25     likely to be in danger.

1        Now, Mr. Jamison, as you-all as a group of your  
2        entire jury retire to begin your deliberations, I want  
3        you-all to be mindful of the importance of your  
4        responsibilities in this trial. It has been my  
5        responsibility to conduct this trial fairly and  
6        impartially, to make my rulings fairly and impartially.  
7        It is your job as I told you to begin with everything  
8        you need to decide the case is here in the courtroom as  
9        a group. It is your job to not let any outside influence,  
10       anything other than your common sense you brought in from  
11       home, but no outside information. It's what you heard  
12       here, received into evidence in making your decision,  
13       applying the instructions I've given to you today in  
14       reaching a unanimous verdict. As I told you, you're not  
15       to do any -- you were not allowed to begin with to do any  
16       independent research, rely on social media, anything on  
17       the Internet. You are to rely on what you've heard here  
18       in the courtroom in reaching your decision as to what the  
19       facts are in this case and I want you to be mindful of  
20       the importance of that responsibility, so it is your  
21       responsibility to find a fair and impartial verdict for  
22       these parties. Fair to the State, fair to Mr. Wallace.

23       Now my instructions are more or less complete, so  
24       I'm gonna put you in the jury room and I'm gonna ask the  
25       lawyers were my instructions complete, did I gloss over

1 some aspect of the law. If they're comfortable that I  
2 didn't gloss over or I need to go back and focus on one  
3 aspect or the other, I may bring you right back in here,  
4 but I'm gonna ask them and see what they say and then put  
5 you -- send you to the jury room.

6 Now lunch should either be here or will be here  
7 shortly. Once you-all begin your deliberations, that's  
8 when you receive the verdict form and the evidence, that's  
9 when you start your deliberations. Once you start your  
10 deliberations, I'll pull the alternate out.

11 Now the alternate, I can't remember his name -- the  
12 far right? Okay. You get lunch, too. We don't leave  
13 you out of the food.

14 Now once you begin your deliberations, if you want  
15 to take a break and you-all talk and eat or if you-all  
16 want to eat and not talk, it's up to you. It's you-all's  
17 time to figure out how you-all want to discuss the case  
18 and the evidence and what you-all have got to do. So if  
19 somebody wants to step outside and get some fresh air,  
20 if somebody wants to step outside, deliberations stop.  
21 Once you get all twelve back in your room, deliberations  
22 resume. Everybody's got to be in the room to talk about  
23 the case. If you need a break, you just tell the bailiff  
24 we're gonna take a quick break. You don't have to ask  
25 her. You just tell her and she'll help you make those

1 arrangements because I don't want to tell you you can't  
2 take a break. It's you-all's time and I want you-all to  
3 be comfortable and not rushed and not influenced by time  
4 or I've got to get home or whatever. If you need a break,  
5 take a break. If you want to discuss the case, discuss  
6 the case. If you want to discuss while you eat, that's  
7 fine. You-all make those decisions as to how you-all want  
8 to deliberate.

9 Mr. Jamison, it's your job to kind of manage that as  
10 you-all discuss the case.

11 So during deliberations, if you need another  
12 instruction on the law, I'm likely just to give you my  
13 entire instruction, which I've just read to you, and send  
14 that to the jury room. I'm gonna have a verdict form that  
15 shows the charge on there, okay?

16 If you have a question, something comes up, I'm not  
17 sure I understand, write that question down, give it to  
18 the bailiff, I'll bring it in here and the lawyers and I  
19 will discuss it and decide how to resolve the question.

20 Now what's not a fair question? I'll give you a  
21 couple of them I hear all the time. Why didn't so and so  
22 testify? Either one side or the other. I can't answer  
23 that because the witness wasn't here, wasn't called.  
24 You-all decide the case on what you heard, not on I  
25 wonder why they didn't call someone else. I can't answer

1     that. The parties present what they want you to hear.  
2     That's what you get. I don't direct that traffic. That's  
3     the lawyers that get to do that.

4             If you need instruction on the law, let me know that.  
5     If you need a replay of any of the testimony, write down  
6     what it is. We'd like to hear the investigator, we'd like  
7     to hear the doctor, but kind of tell me what it is. It  
8     helps Ms. Johnson find it and queue it up for you, okay?

9             Now those are my instructions. Write me a note if  
10    you need something, otherwise you communicate with the  
11    bailiff. I'm gonna put you-all in the jury room. Don't  
12    begin your deliberations until you get the verdict form  
13    and the evidence, okay?

14            All right. You-all step in the jury room.

15            BAILIFF: You-all come on, but let him stay seated  
16    until I get you-all in. He's gonna go in another  
17    direction.

18            THE COURT: And the food's here.

19            (Whereupon, the jury retires to the jury room at  
20    12:26 PM.)

21            THE COURT: All right. Have we got any exceptions  
22    or suggestions, corrections on the instructions?

23            MR. HINDS: None from the State, Judge.

24            MR. KOGER: None from the defense, Your Honor.

25            THE COURT: Excellent.

1           Okay. I'm gonna print these instructions out. It's  
2 my practice I don't give it to them unless they ask. If  
3 they ask, I give them the whole thing and they can read  
4 it.

5           Okay. Do you-all like the verdict form?

6           MS. HUNTER: I'm fine with it.

7           THE COURT: Okay. When she comes back, I'm gonna  
8 print it out because I haven't printed it up yet. Or we  
9 can send the indictments back, if you'd like?

10          I don't care. These are copies of the indictments  
11 I've got.

12          MR. HINDS: No, I think we'll just go with the  
13 verdict form.

14          THE COURT: I like the verdict form. It keeps  
15 things separate.

16          MS. HUNTER: Yes, sir.

17          (Pause in proceedings.)

18          THE COURT: All right. Stacy, put this on the  
19 record.

20          The alternate that's been excused was the one that  
21 recognized one of the witnesses, so that's the proper  
22 one to do, so that problem was resolved and nothing  
23 happened.

24          (Whereupon, jury deliberations were commenced at  
25 12:32 PM.)

1 (Recess taken at 12:32 PM.)

2 (Whereupon, a luncheon recess was taken at  
3 12:32 PM.)

4 (Back on the record at 1:25 PM.)

5 THE COURT: Here's what they wrote, so I'm not  
6 sure exactly what they're asking, but they want to hear  
7 some of the testimony. You-all help me. Can we get a  
8 transcript of the mother's testimony on the video?

9 MS. HUNTER: They want to hear -- I know what  
10 they want to hear. They want to hear -- this is my  
11 understanding. They want to hear the mom's interview  
12 with -- with Investigator Gillard, but they can't hear  
13 that.

14 MR. KOGER: That's not in evidence.

15 THE COURT: So that's not --

16 MR. KOGER: They don't want to hear her testimony  
17 again?

18 (Discussion off the record.)

19 THE COURT: All right. Here's what I've got written  
20 thus far. You-all tell me if this is sufficient or we  
21 need another sentence.

22 The recorded interview of Angel Prince by Sergeant  
23 Gillard was not presented into evidence. Now we'll add  
24 this. They both testified.

25 MR. KOGER: In court.

1 MS. HUNTER: When you say they both, I guess --  
2 would you say Investigator Gillard and Angel testified?

3 THE COURT: How about both ladies testified in  
4 court?

5 MS. HUNTER: I just don't want any confusion of what  
6 they're talking about.

7 THE COURT: Okay. Here you go.

8 Stacy, mark that as the next Court's exhibit.

9 (Court's Exhibit Number 4 was marked for  
10 identification.)

11 (Whereupon, a written response was sent back to the  
12 jury at 1:30 PM.)

13 (Recess taken at 1:30 PM.)

14 (Court's Exhibit Number 5 was marked for  
15 identification.)

16 (Back on the record at 1:41 PM.)

17 THE COURT: All right. Just so you know, the jury  
18 asked to hear the mother's testimony, so Stacy got it  
19 cued up and we did a little sound test while we were  
20 waiting on you-all with the microphone from over there,  
21 so she's got it ready to go. The jury doesn't know  
22 they've got to come in here and listen to it, so when  
23 they come in they'll find out they're not getting a copy  
24 of it back there. That's what they asked for, but we  
25 don't do that.



1 All right. Bring them in.

2 BAILIFF: Yes, Your Honor.

3 (Whereupon, the jury return to the courtroom at  
4 1:42 PM.)

5 THE COURT: All right. I want to make certain I've  
6 got your question accurate. You-all want to hear Angel  
7 Prince, the mother's, testimony?

8 FOREPERSON: Yes, sir.

9 THE COURT: It's not like on TV. Stacy can get all  
10 that stuff typed up, but that takes her several days and  
11 she's got to review it. We're gonna replay the audio of  
12 it, so this is what she testified to in court. She's  
13 gonna replay it now.

14 Many times I observe jurors want to hear a  
15 particular part of the testimony and once they've heard  
16 that okay, we can go back and go to work. If you-all  
17 get to that point -- I don't know what you-all are  
18 talking about. I'm not asking you. Don't tell me. If  
19 you-all are listening for a particular part of the  
20 conversation and once that's played, you-all have heard  
21 enough, you say Judge, we've got enough. You just let  
22 me know, okay? I'm not asking what it is. Just listen  
23 to what you need and you get what you want.

24 All right. Play it for them, please, Stacy.

25 (Whereupon, a portion of the testimony of Angel

1 Prince was played back.)

2 THE COURT: If you-all have heard enough, you can  
3 retire to the jury room and resume deliberations.

4 (Whereupon, the jury retires to the jury room at  
5 2:01 PM.)

6 THE COURT: All right. We'll stand at ease again.

7 (Recess taken at 2:02 PM.)

8 (Court's Exhibit Number 6 was marked for  
9 identification.)

10 (Back on the record at 2:11 PM.)

11 THE COURT: They want copies of stuff, so I'm gonna  
12 give it to them. I want you-all to see it before we do  
13 it. You-all gave me two copies of the indictments, right  
14 there, and there are my instructions. That's how I plan  
15 to answer it. I just wanted to let you-all know. It  
16 wasn't a tough question.

17 MR. KOGER: Okay.

18 (Court's Exhibit Number 7 was marked for  
19 identification.)

20 (Whereupon, a written response and the indictments  
21 and the jury charge were sent back by the bailiff at  
22 2:12 PM.)

23 (Recess taken at 2:12 PM.)

24 (Back on the record at 3:03 PM.)

25 BAILIFF: Order.

1           THE COURT: We got a question -- or not really a  
2 question, a statement, so I've got to bring them in and  
3 talk to them, so let's find the State.

4           (Pause in proceedings.)

5           THE COURT: All right. Here's the reason -- it's  
6 not really a question, it's a statement, and I told them  
7 to put it in writing and it's signed by the foreperson.

8           They've agreed on a verdict one way or the other  
9 on one indictment, but not the other. Didn't give me  
10 any direction as to what was what. So my intent with  
11 you-all's understanding is to bring them in and ask them  
12 the one they haven't reached a verdict on do they think  
13 further deliberation would be fruitful and suggest they  
14 go back to deliberate further and not give the Allen  
15 charge.

16           Now if they answer the question do they think  
17 further deliberation is not possible, then I'll give  
18 them the Allen charge upon that request.

19           MR. KOGER: Judge, I just want to clarify. So  
20 according to the statement, they've reached a verdict  
21 on one --

22           THE COURT: And not the other.

23           MR. KOGER: -- and they didn't indicate which one?

24           THE COURT: I'll show you the note. Because I told  
25 them don't tell me which one.

1 MR. KOGER: Right.

2 THE COURT: Because they sent a verbal message  
3 through the bailiff and I said put it in writing and I  
4 don't want to know which one is which way.

5 MS. HUNTER: I guess my only question would be then  
6 if -- if they're hung on one and the State -- would the  
7 State be able to retry the case or has jeopardy attached  
8 and we cannot if they've reached a verdict on one and not  
9 the other? How does that affect that?

10 THE COURT: It doesn't happen very often. One  
11 verdict would be binding. The other verdict, in a  
12 mistrial, you could retry it.

13 Now I think the indictment would give you guidance  
14 on which one they found which way.

15 MS. HUNTER: So you think we'd be allowed to retry  
16 it?

17 THE COURT: Uh-huh.

18 MS. HUNTER: On just one indictment?

19 THE COURT: They're separate elements, right?

20 MR. HINDS: It is.

21 MS. HUNTER: Should we follow up on that with  
22 someone?

23 THE COURT: I think we should, but we've still got  
24 to ask the same question before we make a decision.

25 MS. HUNTER: Oh, if further deliberations would be

1 fruitful or not?

2 THE COURT: Correct.

3 MS. HUNTER: And so if they say no, then we'll  
4 follow up on how to proceed? We'll make that decision  
5 then?

6 THE COURT: I think if they say no, I give them  
7 the Allen instruction as to that one verdict.

8 MS. HUNTER: That's perfect. Okay.

9 MR. KOGER: I think so, yeah.

10 THE COURT: If they say yes, then they'll go back  
11 in the jury room and try to reach a verdict. That's my  
12 intent.

13 MS. HUNTER: Okay. I see. That makes sense.

14 THE COURT: All right. Bring them in.

15 BAILIFF: Yes, Your Honor.

16 (Whereupon, the jury return to the courtroom at  
17 3:20 PM.)

18 THE COURT: All right. I got your note. I'll mark  
19 this as a Court's exhibit. We keep track of those.

20 So, Mr. Jamison, two questions -- or maybe one  
21 question and a follow-up question. It's my understanding  
22 you-all reached a unanimous verdict on one of the offenses  
23 one way or the other and the other you-all are still  
24 unable to reach a unanimous verdict one way or the other;  
25 is that correct?

1           FOREPERSON:  Yes, Your Honor.

2           THE COURT:  Would -- or do you think it would be  
3   fruitful for you to reach a unanimous verdict on the  
4   one that's undecided?  Would further deliberations be  
5   fruitful for you-all to continue to deliberate?

6           FOREPERSON:  I don't think so, Your Honor.

7           THE COURT:  All right.  Now here's what I want to  
8   explain to you.  This is an instruction when something  
9   like this comes up that we -- as the court system we do.  
10   You-all, if I remember right, I think both sides -- no,  
11   I don't know.  I didn't help pick the jury, so I'm not  
12   sure, but you-all were picked from across the county to  
13   sit as jurors in this case and you-all have heard the  
14   testimony from both sides and you-all have listened to  
15   it and you-all have been back there working, weighing  
16   the evidence and deciding how to resolve these factual  
17   questions as I suggested to you in the instructions.

18          Now congratulations on reaching one verdict because  
19   that's good.  On the other one you-all have not reached  
20   a consensus on or a unanimous verdict on, I want you to  
21   think about this.  I want you to -- I'm gonna let you go  
22   back to the jury room and discuss a little further, and  
23   I don't have a time limit on it, a minimum or a maximum,  
24   just go back and work a little harder and listen openly  
25   to whoever.  If you're on the left and somebody else is

1 on the right, listen to how they're basing that opinion  
2 and see if you can resolve those differences.

3 Now I do not want you to abandon any firmly held  
4 belief. If you believe that the State's met its burden  
5 or the State's failed to meet its burden, whichever side  
6 you fall on, and you are firmly convinced of that belief,  
7 I don't want you to abandon it just to go along. You  
8 can't do that. If you have a true belief one way or the  
9 other, you're allowed to stick with that. You're not  
10 allowed to resolve it just to break the tie. Now if you  
11 can resolve your difference and come to a unanimous  
12 verdict, then that's great.

13 Here's what would happen if we can't resolve it  
14 potentially is that you-all as twelve citizens of  
15 Orangeburg County have listened to this trial. If  
16 you-all can't reach a verdict, there's the potential  
17 there we'd have to retry this thing, basically present  
18 the same case to a different jury who would be in no  
19 better position than you-all. You-all have been in a  
20 great position because you-all have heard it. You-all  
21 have considered it, you've weighed it, you've listened,  
22 and you-all -- the lawyers and I've talked -- have worked  
23 for three hours already on this deliberating and so the  
24 other jury wouldn't hear anything much different from  
25 what you-all have heard. You-all have already gotten

1     this far. If you listen openly, see if you can resolve  
2     any differences on the questions of fact, but not give  
3     up any belief -- moral belief or if you believe a factual  
4     belief that you appreciate and enjoy, then if you-all can  
5     resolve it, I would like to hope you would.

6             Is that fair?

7             FOREPERSON: Yes, sir.

8             THE COURT: All right. So, like I said, no time  
9     limit; no minimum, no maximum. You don't have any  
10    specific thing to do other than try to resolve it. If  
11    you can't, you can't; if you can, do, all right?

12            FOREPERSON: Okay.

13            THE COURT: All right. Thank you.

14            FOREPERSON: Thank you.

15            THE COURT: You-all can resume deliberations as to  
16    the one you haven't. The one you-all have decided, it's  
17    done.

18            (Whereupon, the jury return to the jury room at  
19    3:24 PM.)

20            THE COURT: All right. It's 3:24. We'll see what  
21    they do.

22            (Recess taken at 3:24 PM.)

23            (Court's Exhibit Number 8 was marked for  
24    identification.)

25            (Back on the record at 4:09 PM.)



1           THE COURT: All right. They sent me a note.  
2 They're still deadlocked, so we're gonna let them off  
3 the hook and decide what to do.

4           MS. HUNTER: Okay.

5           THE COURT: All right. Bring them in.

6           BAILIFF: Yes, Your Honor.

7           (Whereupon, the jury return to the courtroom at  
8 4:10 PM.)

9           THE COURT: Did you bring the verdict form in?

10          Mr. Jamison, you-all have deliberated and reached a  
11 verdict on one charge and you're deadlocked on the other?

12          FOREPERSON: Yes, sir.

13          THE COURT: Is it fair to say -- or would any  
14 further deliberations be fruitful or you-all think  
15 deadlocked is an impasse?

16          FOREPERSON: Yes, sir.

17          THE COURT: Okay.

18          All right. I've got two indictments. I gave each to  
19 you to sign.

20          All right. On -- I'll hand this to the clerk. On  
21 the one that is deadlocked, are the lawyers okay if I  
22 mark deadlocked it or have the clerk mark that on this  
23 verdict form?

24          MS. HUNTER: (Nods head.)

25          MR. KOGER: That's fine.

1           THE COURT: All right. Read the one that they came  
2 to a verdict on.

3           THE CLERK: I call the Court's attention to  
4 Indictment Number 2022-GS-38-0736, the State of South  
5 Carolina versus Kareem Lamell Wallace. We, the jury,  
6 unanimously find the defendant as to the charge of legal  
7 custodian unlawful neglect of a child or helpless person  
8 guilty.

9           THE COURT: And for the record, the other indictment  
10 is deadlocked.

11           All right. Now any further issues for the jury from  
12 either side?

13           MR. KOGER: I'd like to poll the jury, Your Honor.

14           THE COURT: All right. As to the unanimous verdict?

15           MR. KOGER: That's right.

16           THE COURT: All right. We'll do that by juror number,  
17 Madam Clerk.

18           (Discussion off the record.)

19           THE COURT: If you don't remember, we'll figure it  
20 out.

21           THE CLERK: Juror Number 290, was this your verdict  
22 and is it still your verdict?

23           JUROR NUMBER 290: Yes.

24           THE CLERK: Juror Number 50, was this your verdict  
25 and is it still your verdict?

1 JUROR NUMBER 50: Yes.

2 THE CLERK: Juror Number 111, was this your verdict  
3 and is it still your verdict?

4 JUROR NUMBER 111: Yes.

5 THE CLERK: Thank you.

6 Juror Number 46.

7 JUROR NUMBER 46: I think that was my number.

8 THE CLERK: Was this your verdict and is it still  
9 your verdict?

10 JUROR NUMBER 46: Yes.

11 THE CLERK: Thank you.

12 Juror Number 249, was this your verdict and is it  
13 still your verdict?

14 JUROR NUMBER 249: Yes.

15 THE CLERK: Thank you. Juror Number 268.

16 THE COURT: Tell the name then.

17 THE COURT REPORTER: No, that was the one --

18 THE COURT: He's the one we excused because he had  
19 a dental emergency. He didn't make the fourteen. He  
20 was the first one out.

21 THE CLERK: Juror Number 97, was this your verdict  
22 and is it still your verdict?

23 JUROR NUMBER 97: Uh-huh.

24 THE CLERK: Thank you.

25 Juror Number 210, was this your verdict and is it

1 still your verdict?

2 JUROR NUMBER 210: Yes, ma'am.

3 THE CLERK: Thank you.

4 Juror Number 208, was this your verdict and is it  
5 still your verdict?

6 JUROR NUMBER 208: Yes.

7 THE CLERK: Thank you.

8 Juror Number 26, was this your verdict and is it  
9 still your verdict?

10 JUROR NUMBER 26: Yes.

11 THE CLERK: Thank you.

12 Juror Number 6, was this your verdict and is it  
13 still your verdict?

14 JUROR NUMBER 6: Yes.

15 THE CLERK: Thank you.

16 Juror Number 16, was this your verdict and is it  
17 still your verdict?

18 JUROR NUMBER 16: It is my verdict, but now it's  
19 not.

20 THE CLERK: Thank you.

21 Juror Number 137, was this your verdict and is it  
22 still your verdict?

23 JUROR NUMBER 137: Yes.

24 THE CLERK: Thank you.

25 Juror Number 242. I think that was the next

1 alternate.

2 THE COURT: That was the alternate we excused.

3 I marked down all twelve stood and responded.

4 One juror responded it was the verdict, but still  
5 not his verdict; is that correct?

6 JUROR NUMBER 16: That is correct.

7 THE COURT: All right. Do you -- I want to speak  
8 with the lawyers right here real quick.

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

10 THE COURT: All right. Mr. Jamison, I'm gonna ask  
11 you-all to retire to the jury room, discuss this a little  
12 further and see if you-all might discuss it further.

13 The same situation. Can you resolve your  
14 differences? If it's a firmly held belief, do not  
15 abandon anyone's individual decision. You're not  
16 required to do that, but see if you can resolve this  
17 nonunanimous verdict, okay?

18 So continue your deliberations on that one. The  
19 other one you may not discuss again. I've declared a  
20 mistrial on that.

21 (Whereupon, the jury retires to the jury room at  
22 4:18 PM.)

23 MR. KOGER: Judge, I'd like to protect the record  
24 with my objections.

25 THE COURT: Okay.

1 MS. HUNTER: And, Judge, I know you declared a  
2 mistrial and told them not to deliberate, but, I mean,  
3 is it fair to send them back on both again and --

4 THE COURT: No, I didn't send them back on both  
5 again.

6 MS. HUNTER: I know. I'm asking can we send them  
7 back on both again?

8 MR. KOGER: No.

9 THE COURT: I think not. I think we cannot.

10 MS. HUNTER: Okay.

11 THE COURT: All right. Do you want to -- Mr. Koger,  
12 you want to make a record of your objections to send them  
13 back?

14 MR. KOGER: Yes, Your Honor. If it please the Court?

15 The jury had initially come out with a deadlock on  
16 the first indictment dealing with great bodily injury and  
17 came out with a guilty on the unlawful conduct. We -- I  
18 think the jury had been out for over three and a half  
19 hours. They came out -- they had several questions and  
20 then after having several questions, they came out saying  
21 that they was deadlocked. I can't recall which time,  
22 but at that time you gave them an Allen charge and they  
23 have come out again and during the polling I think Juror  
24 Number 16 stated that it was his verdict and now it's not  
25 his verdict and you have decided to give another -- a

1 second Allen charge. I just want to put on the record  
2 that I objected to --

3 THE COURT: No -- okay.

4 MR. KOGER: -- to that and I felt that a mistrial  
5 should have been declared on the unlawful conduct.

6 THE COURT: All right. In my understanding of my  
7 instruction, that was a very slim Allen charge, but the  
8 Allen charge I gave was as to the other one they remained  
9 deadlocked on, not to this one which at the time the  
10 Court and the parties were informed they had reached a  
11 unanimous verdict on the one that's now not unanimous.

12 So I think it's two separate Allen charges in my  
13 mind, but I'm gonna stick to my ruling and your record  
14 is protected.

15 MR. KOGER: All right. Thank you, Your Honor.

16 MS. HUNTER: And, Your Honor, could we just add that  
17 we agree that that is our -- your ruling is our under --  
18 the State's understanding of what the jury did.

19 THE COURT: Sure.

20 This is the one they're deadlocked on, so they don't  
21 have to sign that one.

22 (Court's Exhibit Number 9 was marked for  
23 identification.)

24 (Recess taken at 4:28 PM.)

25 (Back on the record at 4:47 PM.)

1           THE COURT: All right. They've reached a verdict.  
2 Bring them back in.

3           BAILIFF: Yes, Your Honor.

4           (Whereupon, the jury return to the courtroom at  
5 4:48 PM.)

6           (Court's Exhibit Number 10 was marked for  
7 identification.)

8           THE COURT: All right.

9           All right. Mr. Jamison, I got your note and your  
10 note's been marked as Court's Exhibit 10. We keep track  
11 of all of these. It says you-all have reached a unanimous  
12 verdict for a second time and is that still your verdict  
13 as you stand there?

14          FOREPERSON: Yes.

15          THE COURT: I'd like to poll the jury again just  
16 like we did before, Madam Clerk.

17          THE CLERK: Juror Number 290, was this your verdict  
18 and is it still your verdict?

19          JUROR NUMBER 290: Yes.

20          THE CLERK: Juror Number 50, was this your verdict  
21 and is it still your verdict?

22          JUROR NUMBER 50: Yes.

23          THE CLERK: Thank you.

24          Juror Number 111, was this your verdict and is it  
25 still your verdict?



1 JUROR NUMBER 111: Yes.

2 THE CLERK: Thank you.

3 Juror Number 46, was this your verdict and is it  
4 still your verdict?

5 JUROR NUMBER 46: Yes, ma'am.

6 THE CLERK: Thank you.

7 Juror Number 249, was this your verdict and is it  
8 still your verdict?

9 JUROR NUMBER 249: Yes.

10 THE CLERK: Thank you.

11 Juror Number 97, was this your verdict and is it  
12 still your verdict?

13 JUROR NUMBER 97: Uh-huh.

14 THE CLERK: Thank you.

15 And that was a yes, correct?

16 JUROR NUMBER 97: Oh, yes.

17 THE CLERK: Juror Number 210, was this your verdict  
18 and is it still your verdict?

19 JUROR NUMBER 210: Yes.

20 THE CLERK: Thank you.

21 Juror Number 208, was this your verdict and is it  
22 still your verdict?

23 JUROR NUMBER 208: Yes.

24 THE CLERK: Thank you.

25 Juror Number 26, was this your verdict and is it

1 still your verdict?

2 JUROR NUMBER 26: Yes.

3 THE CLERK: Thank you.

4 Juror Number 6, was this your verdict and is it  
5 still your verdict?

6 JUROR NUMBER 6: Yes.

7 THE CLERK: Thank you.

8 Juror Number 16, was this your verdict and is it  
9 still your verdict?

10 JUROR NUMBER 16: Yes.

11 THE CLERK: Thank you.

12 THE COURT: All right. The jury's been polled.

13 The note, which has been marked Exhibit 10, says  
14 they reached a unanimous verdict of guilty.

15 THE CLERK: Your Honor, would you like me to ask the  
16 foreperson?

17 THE COURT: Yes, I guess you've got to get him, too.

18 THE CLERK: Juror Number 137, was this your verdict  
19 and is it still your verdict?

20 JUROR NUMBER 137: Yes.

21 THE CLERK: Thank you.

22 THE COURT: Now we've got them all polled.

23 All right. Mr. Jamison, I've got two things for  
24 you to sign and then we'll be done. If you will, I'd  
25 like to -- let me have that indictment for 736, the

1 newer indictment.

2 All right. Any other issue for the jury?

3 MR. KOGER: No other issue, Your Honor.

4 THE COURT: All right. I want to talk to the jury  
5 back in the jury room real quick and I'm gonna dismiss  
6 you-all, so come on back.

7 (Whereupon, the jury retires to the jury room at  
8 4:51 PM.)

9 (Recess taken at 4:51 PM.)

10 (Back on the record at 4:55 PM.)

11 THE COURT: All right. Do you-all have the  
12 sentencing sheet?

13 MS. HUNTER: Yes, Your Honor.

14 MR. HINDS: We do, Judge. As well as -- do you  
15 have a copy of the indictment?

16 MS. HUNTER: Your Honor, does Mr. Koger and his  
17 client need to sign the sentencing sheet or no? How  
18 does that work?

19 THE COURT: I don't think they have to. They asked  
20 for a jury trial and they got one.

21 MS. HUNTER: Yes, sir.

22 THE COURT: All right. Mr. Koger, are you ready to  
23 go forward with this?

24 MR. KOGER: Yes, Your Honor.

25 THE COURT: Okay.

1 All right. Well, I heard the case and tell me what  
2 -- tell me what mitigating stuff have we got -- or you've  
3 got? I heard the State's case. They're ready to go  
4 forward, so let me hear from you.

5 MR. KOGER: Your Honor, may it please the Court?

6 Of course, you heard the testimony in relation to  
7 -- stand up -- in relation to Kareem Wallace. We have a  
8 -- sort of a split verdict. The great bodily injury, the  
9 more -- more serious one, they were deadlocked. We've  
10 been here almost now four and a half hours and they were  
11 deadlocked on that one and came out with a guilty verdict  
12 on unlawful.

13 As you have seen throughout the course of this trial,  
14 I've been consulting and conversating with his mother,  
15 Ms. Eleanor Wallace, who took the stand, his sister who's  
16 from Atlanta, and his -- his significant other.

17 As you saw from the stand, he's been gainfully  
18 employed for most of his life. You heard testimony he  
19 works at Bimbo Bakery and has been for approximately  
20 six years. He had a remote prior record, so he has  
21 basically been out of trouble over the last fifteen to  
22 eighteen years.

23 You heard testimony from the mother herself, who is  
24 not here, who stated that he's a -- he's a good father.  
25 Of course, he has not had an opportunity to visit with

1 [REDACTED] because the General Sessions order was in place,  
2 so he has not had any actual contact with [REDACTED], but  
3 they actually FaceTime each other so he can keep that  
4 relationship.

5 I think that with -- and at the appropriate time I  
6 think someone from the family -- some family members want  
7 to address the Court, too.

8 THE COURT: Okay. I'll be glad to hear from them.

9 MR. KOGER: I think by virtue of this -- this verdict  
10 right here that because of a deadlock on the most serious  
11 great bodily injury, I think sentencing in this particular  
12 offense should not take into account -- should not take  
13 into account those facts because they had the opportunity  
14 to convict him on those facts and they didn't.

15 Again, I don't know what was in the jurors' minds.  
16 As he -- he basically stated on September 5th of 2018 he  
17 showed a demonstration and he showed again today that --  
18 how he moved the baby. I know expert witnesses said that  
19 that did not cause it, but, again, that was a question for  
20 the jury and it had some type of effect on their verdict.

21 He didn't have any intent according to the testimony  
22 from Sergeant Gillard and when he was describing -- we  
23 could actually see describing how he moved the baby. He  
24 was not -- he had indicated he wasn't angry when he moved  
25 the baby or things -- or things of that nature, so

1 basically if they used that movement as a basis for their  
2 verdict on unlawful conduct, I guess it could be construed  
3 that he was maybe reckless or negligent when he moved the  
4 baby by according to how he say he pulled the baby's arm,  
5 but nevertheless he has not been in trouble with the law  
6 for seventeen to eighteen years.

7 Prior to working at Bimbo, he worked for the City  
8 of Orangeburg DPU and prior to that he worked in North  
9 Dakota. And we heard from Ms. Prince's mouth that he's  
10 a good father. So I offer those in mitigation that you  
11 will consider a probationary sentence for Mr. Wallace on  
12 the unlawful here.

13 I don't know whether the State is going -- I would  
14 imagine the State will try to -- will go forward on the  
15 great bodily injury, so if that being the case, then we  
16 do not know if -- Mr. Wallace does not know at this time  
17 that he would be sentenced according to unlawful conduct  
18 and not on the great bodily injury.

19 THE COURT: Okay. Ms. Mubarak, do you-all want to  
20 be heard?

21 MS. HUNTER: Yes, Your Honor. May it please the  
22 Court?

23 I mean, Your Honor heard the testimony that went on  
24 in this trial the past two days. This defendant does have  
25 a prior record of a 2000 unlawful carrying of pistol, a

1 2003 possession of a stolen pistol and a 2005 breach of  
2 peace.

3 Your Honor, you heard the testimony, you heard --  
4 you've seen the x-rays, you know about this child's  
5 injuries. If a child can't be safe in their own home,  
6 I don't know where a child is safe. The State is here  
7 speaking for this child. The child sustained four very  
8 serious injuries, four inflicted injuries. He was tried  
9 on unlawful neglect and he was found guilty on unlawful  
10 neglect and that was for causing those injuries and so  
11 we would ask that he be sentenced under that statute and  
12 faces up to ten years and that he receive the maximum  
13 sentence and send him to prison.

14 MR. KOGER: And, Judge, I wanted the family to speak.

15 THE COURT: I was gonna come back to you.

16 MR. KOGER: Okay. All right.

17 THE COURT: Now -- okay. Let me hear from the family.

18 MR. KOGER: Ms. Wallace.

19 COURT DEPUTY: Ms. Wallace, you can step right here.

20 ELEANOR WALLACE: My name is Eleanor Elaine Wallace.  
21 I'm Kareem's mom and can I just say what I want to say?

22 THE COURT: I guess you can.

23 ELEANOR WALLACE: Okay. I heard her testament about  
24 this gun. That was a rusted gun that he had found and  
25 something happened at the house where the cops came in

1 and the gun was in a drawer.

2 THE COURT: Ma'am, that's twenty years ago. That's  
3 not gonna impact my decision at all.

4 ELEANOR WALLACE: Oh, okay.

5 Well, for today I think my son should not go to  
6 jail. Kareem is a good son. Kareem is a good father.  
7 Kareem has [REDACTED] and then there is Taylor. We get  
8 Taylor just about every week. He takes Taylor out to  
9 the movies, to dinner. There's no problem. And I have  
10 never known for my son to harm any child. Never in our  
11 life. We have raised foster kids in our house. Nobody  
12 -- we just don't -- that's not us. My mother raised  
13 thirteen children. No problem. I raised three children.  
14 I have no problem with Kareem. And I am a single mom. I  
15 am a nurse. I went to school while I had three children  
16 and I went to school for my kids to have a better life.  
17 Kareem, that's not him. That's not his character. Kareem  
18 is a good son. I have no problem. He's just a good  
19 person.

20 And I do not think that he should go to jail for  
21 this here because there was evidence that was not brought  
22 into it. I heard different things. The mother said, you  
23 know, he's a good father and she was saying that all the  
24 time until the end. And I can understand the mother. I  
25 want my child, so at that point that's when she decided



1 to say he's to blame, but prior to that if you go back  
2 she was always saying he didn't do it. Her mother say  
3 he didn't do it, his sister say that he did not do it.  
4 So I'm wondering who did. I know it's not him because I  
5 would not have -- if my son would have done this, I would  
6 not have spent a dime of my money to help him because that  
7 is wrong. I spent my hard earned money to keep him and to  
8 help him because of something that he did not do. I'm the  
9 type of mother if you did it, you have to be charged for  
10 it. But if you didn't do it, I'm gonna stick behind you,  
11 and that's why I'm here with my son because in my heart he  
12 did not do it.

13 THE COURT: Okay.

14 ELEANOR WALLACE: Okay.

15 THE COURT: Thank you, ma'am.

16 ELEANOR WALLACE: You're welcome, sir.

17 THE COURT: Judge, there's some other -- do you want  
18 to talk?

19 This is his sister.

20 SHERANDA WALLACE: Sheranda Wallace from Atlanta,  
21 Georgia.

22 I just want to piggybank off what my mom said. I'm  
23 sorry. My baby brother, as close as we are, I have a  
24 son. He used to take care of him. He's never harmed  
25 him. He's never even spanked him. My son is thirty-one

1 now and they are close themselves. And for Kareem to be  
2 blamed for something like this when they -- I feel that  
3 the police department, even the prosecution did not do a  
4 thorough job of checking because if you think about it  
5 and be honest, if you have a child and the mother say she  
6 picked them up from someone else, nobody went and checked  
7 that household that they came from and we know -- even  
8 when she tried to stop Mr. Koger from talking about it,  
9 we know that there is multi people in that house; her  
10 mother, her mother's boyfriend, and he be -- he's there  
11 and he be -- he was there that day because I remember the  
12 day it happened he was there when Taylor was -- I mean,  
13 I'm sorry, not Taylor, that's his other daughter, [REDACTED]  
14 was there. He was there that morning when Taylor -- when  
15 [REDACTED] was at that house because I remember because I  
16 remember Kareem had told me when he told me what happened.

17 He is a great, great person period. Brother,  
18 father, friend, boyfriend. He's never did nothing like  
19 that. Even the charge -- those -- all kids do stuff. We  
20 all know that kids do different variations of dumb stuff.  
21 We've all done dumb stuff. Nobody can sit there and say  
22 they have an innocent life from doing dumb stuff. That's  
23 just part of growing up and you get older and you mature  
24 and you know what to do better and that's why it's been  
25 years since he's never had no issue. And like you say

1     yourself, it's been over twenty something years and she  
2     wants to bring up something from twenty something years  
3     ago that had nothing to do with that, that he made a dumb  
4     mistake of finding an old gun. Even the one that he had  
5     a charge, that wasn't even him, that was a friend and he  
6     didn't want to tell on a friend that it was his gun, so he  
7     gets stuck with it because it's his car. That's not fair,  
8     but he took it. He never say -- he never said that was  
9     this guy's gun and that's whose it was.

10           I thank you for letting me come up here and talk, but  
11     I just pray and hope that probation, if that's what you  
12     want to give him, that would be great because Kareem is a  
13     good person. He really is.

14           Thank you so much.

15           THE COURT: Thank you, ma'am.

16           MR. KOGER: Thank you, Your Honor.

17           Do you want to speak?

18           Okay. Just one thing, Your Honor.

19           Additionally, Your Honor, I just want to add that  
20     he does pay child support for Taylor. Even though he was  
21     not allowed to have contact with [REDACTED], he still pays  
22     child support for her support. We just ask that when you  
23     consider sentencing, again, that you consider probation  
24     or fashion a type of sentence that he will be able to  
25     continue to work. He has a good employee record at Bimbo

1 and can continue to work and to support his daughter in  
2 Columbia and to also support [REDACTED], which he gives funds  
3 towards her support.

4 THE COURT: All right. What's the story of the  
5 mother, Ms. Prince?

6 MS. HUNTER: Okay, Your Honor. I mean, specifically  
7 what are you asking me? Has she -- has she been  
8 cooperative? What has she been --

9 THE COURT: Pretty much. I mean, she testified  
10 and she's not here now, so what's her -- what's she  
11 communicating to your victim's advocate?

12 MS. HUNTER: Well, she -- I've spoken directly to  
13 her. I'm the one that's been meeting with her. As to  
14 what she wants from this, I think that she -- I don't  
15 think she cares, which I personally as a mother find  
16 offensive. I'm sorry if that's inappropriate to day,  
17 but, I mean, we feel like as the State that this child --  
18 I mean, this child had been taken, was placed into foster  
19 care for up to two years. The foster parents have been  
20 very involved. They even -- I've spoke with the lawyer's  
21 office that is in -- it doesn't matter where they are.  
22 The foster parents are in Clinton. They actually  
23 intervened and tried to prevent his child going back to  
24 that home altogether. I know there was a termination of  
25 parental rights hearing and things like that. I'm sure

1 Mr. Koger could elaborate on any questions you have about  
2 that.

3 THE COURT: Okay.

4 MS. HUNTER: But, I mean, regardless of -- I know  
5 you want to know what her position is. You saw her on  
6 the stand, you heard what she said, that she thinks he's  
7 a good father. I think anyone who a jury convicts of  
8 hurting their own child I wouldn't categorize as a good  
9 father. That would be -- those wouldn't be my words, but  
10 we think it's appropriate for him to go to prison for --  
11 and the jury came back with a verdict that he hurt his  
12 own child, that he caused those injuries, and we think  
13 he should be sentenced appropriately under the unlawful  
14 neglect charge.

15 And clearly several of the juror, at least more  
16 than -- at least one thought that he should have been  
17 found guilty of the inflicting great bodily. I know they  
18 brought that up. They came back deadlocked on that, so  
19 somebody in that room felt that -- felt strongly about  
20 that, that he was also guilty of that charge, and that's,  
21 I believe, the reason why we declared a mistrial on it,  
22 so.

23 THE COURT: And the -- for your understanding, it  
24 was -- I don't know that I published the note, it was  
25 eleven to one not convicting him of that charge.

1 MS. HUNTER: Okay. I didn't -- I didn't know what  
2 the -- what it was. So at least one of them --

3 THE COURT: And I didn't ask him for that count, it  
4 was provided in the note, and I just kept that to myself  
5 so it wouldn't get argued to me.

6 MR. KOGER: But, Judge, I want you to keep that in  
7 consideration, too, in sentencing that not to sentence  
8 him for great bodily injury on this unlawful --

9 THE COURT: I'm well aware of the rules.

10 MS. HUNTER: Yeah, absolutely. We're not asking you  
11 to sentence him on that. We're asking you to sentence  
12 his accordingly on the unlawful neglect, which is a charge  
13 that carries up to ten years.

14 THE COURT: Didn't you-all try to work this case out  
15 by a plea beforehand?

16 MS. HUNTER: We did. I think that -- that he asked  
17 for a trial a long time ago --

18 MR. KOGER: Yes, they made an offer.

19 THE COURT: Okay.

20 MS. HUNTER: -- and I believe when he asked that  
21 today we offered him a cap of eight when we talked to  
22 Mr. Koger this morning about the trial. When he came  
23 out and asked if we would plead it to something, we  
24 offered him a cap of eight and that was on the -- we  
25 talked to him about great bodily injury and then he said

1 he didn't want that, he wanted the other charge, and so  
2 we talked to him about the unlawful neglect charge. So  
3 I think something in the eight to ten range would be  
4 appropriate.

5 MR. KOGER: And, Your Honor, we think probation  
6 would be appropriate in this particular case right here.

7 THE COURT: How much pre-trial confinement did he  
8 have?

9 MS. HUNTER: I can pull the bond form, Your Honor.

10 MR. KOGER: One day, Your Honor.

11 THE COURT: Okay.

12 All right. Considering what I've heard and the  
13 prior record and everything, I don't think this case  
14 dictates a very high sentence on the upper end of the  
15 sentencing range because it was not repetitive. In my  
16 mind, repetitive conduct would suggest to me that it  
17 needs to be a higher sentence. I didn't -- this seems  
18 to be a one-off situation just from what I was told.

19 So that being the case, and I don't want to punish  
20 anybody for exercising their constitutional rights, the  
21 sentence of the Court is he be confined to the Department  
22 of Corrections for six years and that's suspended on the  
23 service of two, plus thirty months of probation to follow,  
24 and he gets credit for the one day.

25 So good luck. I hope that brings closure for

1 everyone.

2 MS. HUNTER: Thank you, Your Honor.

3 THE COURT: All right.

4 (Whereupon, the proceedings for March 30, 2023, were  
5 concluded at 5:14 PM.)

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## C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter  
for the Eleventh Judicial Circuit of the State of  
South Carolina, do hereby certify that the foregoing is  
a true, accurate and complete transcript of record of  
all the proceedings had and the evidence introduced in  
the hearing of the captioned case in Circuit Court on  
March 29th-30th, 2023.

This transcript may contain quoted material.  
Such material is reproduced as read by the speaker.

I do further certify that I am neither of kin,  
counsel, nor have an interest to any party hereto.

July 12, 2023

/s/ Stacy S. Johnson  
STACY S. JOHNSON, RPR  
CIRCUIT COURT REPORTER

File in 2018A 3810200167

STATE OF SOUTH CAROLINA )  
COUNTY OF ORANGEBURG )

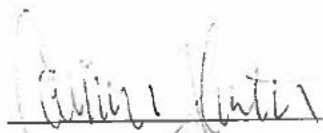
INDICTMENT  
2018GS38-1986

At a Court of General Sessions, convened on May 4, 2022 the Grand Jurors of Orangeburg County present upon their oath:

**TO INFLICT GREAT BODILY INJURY UPON A CHILD**

That in Orangeburg County, South Carolina, on or about August 28, 2018, the Defendant, Kareem Lamell Wallace, did unlawfully inflict great bodily injury upon a child, to wit: Kareem Wallace did cause his infant child, [REDACTED] to sustain multiple fractures, resulting in great bodily injury and as a result violated Section 16-3-95(A), Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
Catherine M. Hunter, Solicitor

**WITNESSES**

Lakesha M Gillard

**DOCKET NO. 2018GSS38-1986**

**The State of South Carolina  
County of ORANGEBURG**

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Orangeburg County Sheriff

20180005910

**COURT OF GENERAL SESSIONS**

**May 9, 2022 TERM**

I hereby appear in my own proper person and plead guilty to the within indictment or to

**ARREST WARRANT NUMBER**  
2018A3810200168

Arrested: October 5, 2018

**THE STATE  
vs.**

Defendant

**ACTION OF GRAND JURY**

Kareem Lamell Wallace

Witness:

**C.C.C. PLS. AND G.S.**

**TRUE BILL**

MAY 04 2022

Foreperson of Grand Jury

Date: May 4, 2022

**VERDICT**

**Indictment for**

**TO INFLICT GREAT BODILY INJURY  
UPON A CHILD**

SC Code: 16-3-95(A)

Foreperson of Petit Jury

Date:

FILED FOR RECORD  
JANITA D. CLARK  
2022 MAY -4 AM 10:32  
CLARK OF COURT  
ORANGEBURG, SC

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ORANGEBURG )

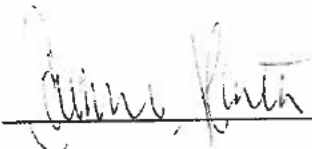
INDICTMENT  
2022GS38-0736

At a Court of General Sessions, convened on May 4, 2022 the Grand Jurors of Orangeburg County present upon their oath:

**LEGAL CUSTODIAN, UNLAWFUL NEGLECT OF CHILD OR HELPLESS  
PERSON**

That in Orangeburg County, South Carolina, on or about August 28, 2018, the Defendant, Kareem Lamell Wallace, while having charge or custody, or being the parent or guardian, or being responsible for the welfare of the minor child, [REDACTED], who was an infant at the time of the incident did place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety; or did unlawfully or maliciously cause, or cause to be done, bodily harm to the child so that the life or health of the child was endangered or was likely to be endangered; in that the defendant did cause his infant child to sustain multiple fractures. This offense being a violation of Section 63-5-70 of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
Catherine M. Hunter, Solicitor

**Lakeshia Gillard**

**Orangeburg County Sheriff**

## ARREST WARRANT NUMBER

2022ORB17

**Arrested: 10/5/2018**

## ACTION OF GRAND JURY

~~MAY 04 2022~~

## Foreperson of Grand Jury

Date: May-4,-2022

## VERDICT

Foreperson of Petit Jury

**DOCKET NO. 2022GS38-0736**

**The State of South Carolina  
County of ORANGEBURG**

## COURT OF GENERAL SESSIONS

May 9, 2022 TERM

## THE STATE

**VS.**

Kareem Lamell Wallace

## Indictment for

LEGAL CUSTODIAN, UNLAWFUL  
NEGLECT OF CHILD OR HELPLESS  
PERSON

SC Code: 63-5-70

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

heretby appear in my own proper person  
and plead guilty to the within indictment on  
to

Defendant:

**Witness:**

C.C.C. PLS. AND G.S.

ATTEST: TRUE COPY

CLERK OF COURT  
ORANGEBURG COUNTY, SC

0-10yrs

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Orangeburg

STATE

VS.

INDICTMENT/CASE#: 2022 - GS - 38 - -0736

Kareem Lamell Wallace

AW#: 2022ORB17

AKA:

Date of Offense: 8/28/2018

Race: BLACK Sex: M Age: 43

S.C. Code §: 63-5-70

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 2481

Address:

City, State, Zip:

DL#:

SID#

SENTENCE SHEET

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Legal Custodian, Unlawful Neglect of Child or Helpless Person

In violation of § 63-5-70 of the S.C. Code of Laws, bearing CDR Code # 2481

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45  
(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]

101317

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of 6 days/months/years Time Served ☐ Youthful Offender Act not to exceed        years

and/or to pay a fine of \$       ; provided that upon the service of 2 days/months/years Time Served and or payment of \$       , plus costs and assessments as applicable\*; the balance is suspended with probation for 30

30 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:       

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.

1 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

10/4/2023



STATE VS. Kareem Lamell Wallace INDICTMENT/CASE#: 2022 - GS - 38 - -0736

**SPECIAL CONDITIONS:**

☐ PTUP after \_\_\_\_\_ months/years

**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling      ☐ Completion of GED      ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp      ☐ No Contact with Victim      ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling      ☐ May serve W/E beginning: \_\_\_\_\_
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430      ☐ Public Service Employment \_\_\_\_\_ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: \_\_\_\_\_

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ \_\_\_\_\_ plus 20% fee: \_\_\_\_\_ \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_ ☐ Set by SCDPPPS

Recipient: \_\_\_\_\_

**\*Fine:**

| Fine may be pd. in equal consecutive weekly/monthly pmts. of                                                                                                            | \$ _____ | Beginning | \$ _____       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-----------|----------------|
| §14-1-206 (Assessments 107.5%)                                                                                                                                          |          |           | \$ _____       |
| §14-1-211 (A)(1)(Conv. Surcharge)                                                                                                                                       |          | \$100     | \$ <u>100</u>  |
| §14-1-211 (A)(2)(DUI Surcharge)                                                                                                                                         |          | \$100     | \$ _____       |
| §56-5-2995 (DUI Assessment)                                                                                                                                             |          | \$12      | \$ _____       |
| §56-1-286 (DUI Breath Test)                                                                                                                                             |          | \$25      | \$ _____       |
| §14-1-212 (Law Enforce. Funding)                                                                                                                                        |          | \$25      | \$ <u>25</u>   |
| §14-1-213 (Drug Court Surcharge)                                                                                                                                        |          | \$150     | \$ _____       |
| §34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)                                                                                               |          | \$41      | \$ _____       |
| §50-21-114 (BUI Breath Test Fee)                                                                                                                                        |          | \$50      | \$ _____       |
| §56-5-2942(J) (Vehicle Assessment)                                                                                                                                      |          | \$40/ea   | \$ _____       |
| 3% to County (if paid in installments)                                                                                                                                  |          | TBD       | \$ <u>3.75</u> |
| <input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees |          | \$500     | \$ _____       |
| <input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund                                                                     |          | TBD       | \$ _____       |

**TOTAL** \$ 128.75

Clerk of Court/Deputy Clerk: Stacey Johnson  
Court Reporter: \_\_\_\_\_

Presiding Judge: \_\_\_\_\_  
Judge Code: \_\_\_\_\_  
Sentence Date: 3-30-2023

RECEIVED

Apr 14 2023

SC Court of Appeals

0-10 yrs

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Orangeburg

STATE

VS.

INDICTMENT/CASE#: 2022 - GS - 38 - -0736

Kareem Lamell Wallace

AW#: 2022ORB17

AKA:

Date of Offense: 8/28/2018

Race: BLACK Sex: M Age: [REDACTED]

S.C. Code §: 63-5-70

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 2481

Address:

City, State, Zip:

DL# [REDACTED] SID# [REDACTED]

SENTENCE SHEET

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Legal Custodian, Unlawful Neglect of Child or Helpless Person

In violation of § 63-5-70 of the S.C. Code of Laws, bearing CDR Code # 2481

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45

(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 101317  
Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of 6 days/months/years Time Served ☐ Youthful Offender Act not to exceed        years

and/or to pay a fine of \$       ; provided that upon the service of 2 days/months/years Time Served and/or payment

of \$       ; plus costs and assessments as applicable\*; the balance is suspended with probation for 30

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☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:       

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.

1 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

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STATE VS. Kareem Lamell Wallace INDICTMENT/CASE#: 2022 - GS - 38 - -0736

**SPECIAL CONDITIONS:**

☐ PTUP after \_\_\_\_\_ months/years

**And Other Terms Listed Below:**

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☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program  
☐ Mental Health Counseling ☐ May serve W/E beginning: \_\_\_\_\_  
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment \_\_\_\_\_ days/hours  
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.  
☐ Other: \_\_\_\_\_

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ \_\_\_\_\_ plus 20% fee: \_\_\_\_\_ \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_ ☐ Set by SCDPPPS

Recipient: \_\_\_\_\_

**\*Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

|                                                                                                                                                                         |         |         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|---------|
| §14-1-206 (Assessments 107.5%)                                                                                                                                          |         | \$      |
| §14-1-211 (A)(1)(Conv. Surcharge)                                                                                                                                       | \$100   | \$ 100  |
| §14-1-211 (A)(2)(DUI Surcharge)                                                                                                                                         | \$100   | \$      |
| §56-5-2995 (DUI Assessment)                                                                                                                                             | \$12    | \$      |
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| §34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)                                                                                               | \$41    | \$      |
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| 3% to County (if paid in installments)                                                                                                                                  | TBD     | \$ 3.75 |
| <input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees | \$500   | \$      |
| <input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund                                                                     | TBD     | \$      |

Clerk of Court/Deputy Clerk: [Signature]  
Court Reporter: [Signature]

Presiding Judge: [Signature]  
Judge Code: 2154  
Sentence Date: 3-30-2023

**RECEIVED**  
**May 13 2024**  
**SC Court of Appeals**

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY  
Court of General Sessions

Appellate Case No. 2023-000544

The Honorable Eugene C. Griffith Jr., Circuit Court Judge

State of South Carolina.....Respondent,

v.

Kareem Lamell Wallace .....Appellant.

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CERTIFICATE OF COUNSEL

---

The undersigned certify that this Record on Appeal complies with Rule 210, SCACR.

May 13, 2024.

/s/Elizabeth Franklin-Best  
Elizabeth Franklin-Best  
3710 Landmark Drive, Suite 113  
Columbia, South Carolina 29204  
(803) 445-1333  
Attorney for Appellant