

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Newberry County

Honorable , Circuit Court Judge

THEIA DARION MCARDLE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000352

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
)
 -VS-)
)
 THEIA DARION MCARDLE,)
)
 DEFENDANT.)
 _____)

CASE NO.: 2015-GS-36-0133

TRANSCRIPT OF RECORD

APRIL 4- 8, 2016
NEWBERRY, SOUTH CAROLINA

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

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

ATTORNEY FOR PLAINTIFF:

DAVID STUMBO, SOLICITOR
TAYLOR DANIEL, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANTS:

CHARLES VERNER, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
State's 1-126	Photos		X
State's 127	Photo	X	
State's 128-134	Photos		X
State's 135	CD Redacted		X
State's 136	Phone Records		X
State's 137	CD		X
State's 138	Hospital Records		X
State's 139	Waiver of Rights		X
State's 140	CD Hospital Video		X
State's 141	ID Photo		X
State's 142	CD Cell Phone Data		X
State's 143	Poster Hospital Map		X
State's 144	Photo Google Map		X
State's 145	Poster Map		X
State's 146	Back Pages printout 1 pg		X
State's 147	CT Scan ID only	X	
State's 148	Facebook Printout redacted		X
State's 149	5 page Pathology Report		X
State's 150	SLED diagram		X
State's 151	SLED Report		X
State's 152	SLED Report		X
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<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
State's 155	Facebook Affidavit		X
State's 156	Pillowcase in brown bag	X	
State's 157	Puma Shirt in brown bag	X	
State's 158	Towel in brown bag	X	
State's 159	Coogi shirt in brown bag	X	
State's 160	T-shirt cutting		X
State's 161	Towel Cutting		X
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1 THE COURT: Solicitor, if you would kindly call the
2 next case that we are going to try, please, sir.

3 MR. STUMBO: Thank you, Judge. If it please the Court,
4 the State calls the *State of South Carolina vs. Theia Darion*
5 *McArdle*. It's an indictment for homicide by child abuse.
6 It's indictment number 2015-GS-36-133.

7 Your Honor, this indictment was true billed by the
8 Newberry County Grand Jury and the State is ready for trial,
9 if I may approach.

10 THE COURT: Please. Now, ladies and gentlemen, we're
11 about to begin jury selection in the trial of the *State of*
12 *South Carolina vs. Theia Darion McArdle*, and the Solicitor
13 has presented the Court with indictment 15-GS-36-133 which
14 charges Ms. McArdle with the offense of homicide by child
15 abuse. As a threshold matter, ladies and gentlemen, I'll
16 inform you and I'll instruct you that the fact that Ms.
17 McArdle was indicated in this case or accused of this crime
18 is in no way, of course, proof of any of the allegations
19 contained in the indictment. Ladies and gentlemen, an
20 indictment is nothing more than a piece of paper by which a
21 case is brought to this Court, and Ms. McArdle in this case
22 has pled not guilty. That plea puts the burden of proof
23 firmly on the State to prove each and every element of these
24 charges beyond a reasonable doubt. Now, in this case, the
25 State of South Carolina will be represented by Solicitor

1 David Stumbo. Mr. Stumbo, if you care to introduce yourself
2 and certainly anyone else seated at the counsel table with
3 you.

4 MR. STUMBO: Thank you, Judge. My name is David
5 Stumbo. I'm your elected Solicitor here at the Eighth
6 Judicial Circuit. That includes Newberry County and also
7 includes Laurens, Greenwood, and Abbeville, so there are
8 four counties in our circuit. If you're new to the area,
9 Solicitor is a fancy term we use for District Attorney. So
10 my office prosecutes every criminal case that are generated
11 by law enforcement agencies. This one being the Newberry
12 Police Department investigated this case and brought it to
13 us and we prosecute all the cases throughout the Eighth
14 Circuit, throughout these four counties.

15 Prosecuting this case with me is one of my Assistant
16 Solicitors, Taylor Daniel. His focus area is here in
17 Newberry. He prosecutes cases in Newberry all year long,
18 and he will be assisting me. And Walter Bentley, at the end
19 of the table, he's one of our investigators with the office.
20 He's formerly the Lauren City Police Department's
21 investigator before he came to work with us at the
22 Solicitor's Office.

23 Thank you. We look forward to being with you all this
24 week.

25 THE COURT: Now, Ms. McArdle in this case, ladies and

1 gentlemen, is being represented by Charles Verner of the
2 Newberry Bar. Mr. Verner, if you care to introduce yourself
3 and certainly your client to the jury panel, please.

4 MR. VERNER: This is Theia McArdle from Enoree, or
5 Spartanburg County. She's my client. I'm Charles Verner.
6 I'm a lawyer here in Newberry. Since about 2000 I've been
7 either the assistant or Public Defender here in Newberry
8 County. My office is across the street with my father, Jay
9 Verner, on Boyce Street.

10 THE COURT: Thank you, Mr. Verner. Ladies and
11 gentlemen, I now have a series of questions that I need to
12 ask you in order to determine whether you should serve on
13 this particular jury. We're going to use the same procedure
14 that we used earlier. If the question applies to you I want
15 you just to stand up and give me that information, unless I
16 ask you to come forward, okay, and give me the information.
17 But if any question applies to you. Just stand where you
18 are. And if I ask you to, give that information at that
19 point in time.

20 First question, ladies and gentlemen, is there any
21 member of the jury panel related by blood or marriage or
22 have any close business or social relationships with the
23 Defendant in this case, Theia McArdle? If so, please stand.

24 (Whereupon, no jury panel members stand.)

25 THE COURT: No one is standing. Is there any member of

1 the jury panel related by blood or marriage or has any close
2 business or social relationships to any of the attorneys
3 involved in this case, either Mr. Stumbo, Taylor Daniel, or
4 Charles Verner? If so, please stand.

5 JUROR: Your Honor?

6 THE COURT: Yes, ma'am.

7 JUROR: Could you please repeat the question?

8 THE COURT: Sure. Is there any -- the second question
9 I asked? The first or the second question?

10 JUROR: The first.

11 THE COURT: The first was whether any juror was related
12 by blood or marriage to the Defendant or have any close
13 business or social relationships with her.

14 JUROR: The second one.

15 THE COURT: The second question is whether any member
16 of the jury panel is related by blood or marriage, or have
17 any business or social relationships with any of the
18 attorneys involved in this case, either Solicitor Stumbo,
19 Mr. Daniel or Charles Verner.

20 JUROR: Now or previous?

21 THE COURT: Either one.

22 JUROR: I did work for Charles Verner for a period of a
23 year and a half to two years.

24 THE COURT: And what's your name, please, ma'am?

25 JUROR: My name is Theresa Halfacre.

1 THE COURT: Ms. Halfacre, how long ago was it that you
2 worked for Mr. Verner?

3 JUROR: 2005, 2006.

4 THE COURT: The fact that you were employed by Mr.
5 Verner at that period of time, would that affect your
6 ability to be fair and impartial to both sides?

7 JUROR: No. I feel I could be both fair and impartial.

8 THE COURT: Very good. Have a seat, Ms. Halfacre. And
9 yes, ma'am? Who do you know involved?

10 JUROR: Mr. Verner.

11 THE COURT: Mr. Verner. How do you know Mr. Verner?

12 JUROR: I was represented by his law firm.

13 THE COURT: How long ago was that?

14 JUROR: 2013.

15 THE COURT: 2013. His representation of you is done?

16 JUROR: Yes.

17 THE COURT: The fact that Mr. Verner did some legal
18 work for you, would that affect your ability to be fair and
19 impartial to both the State and the Defense?

20 JUROR: No.

21 THE COURT: It would not. Very good. Thank you,
22 ma'am. I touched on it. I may didn't ask this question
23 specifically. I'm going to try it one more time. Is there
24 any member of the jury panel -- and if you previously stood
25 you don't have to stand again. Is there any member of the

1 jury panel who is currently being presented or has
2 previously been represented by any of the attorneys involved
3 in this case? If so, please stand.

4 (Whereupon, jury panel members stand.)

5 JUROR: Candace Bouknight. Charles Verner handled my
6 divorce.

7 THE COURT: How long ago was that, Ms. Bouknight?

8 JUROR: 2011.

9 THE COURT: Is his representation concluded?

10 JUROR: Yes.

11 THE COURT: Would that affect your ability to be fair to
12 everybody?

13 JUROR: No, sir.

14 THE COURT: Thank you, Ms. Bouknight. You may have a
15 seat. No one else is standing.

16 Ladies and gentlemen, the State alleges that this
17 incident took place around midnight on December the 29th, in
18 the morning of -- sorry. The State alleges that this
19 incident basically took place on or about December the 29th
20 of 2014. It's alleged that this occurred on Bedenbaugh
21 Street, and the alleged victim's name in this case is
22 **Minor** a three-year-old child of the Defendant,
23 Ms. McArdle.

24 Is there any member of the jury panel who has formed or
25 expressed any opinion, thinks they may have read anything

1 about this case or seen anything about this case in the
2 newspaper or in the media or has any prior knowledge of this
3 case at any time? If so, please stand.

4 (Whereupon, jury panel members stand.)

5 THE COURT: If you all would, form a line over there
6 and one by one come forward and talk to me. Okay?

7 JUROR: Thomas Bates.

8 THE COURT: Mr. Bates, yes, sir. What do you think
9 you've heard?

10 JUROR: I just heard -- talking with people and I seen
11 something on the -- I forget what station, about it.

12 THE COURT: Okay. You thought you saw --

13 JUROR: Something about a child beaten or something like
14 that. Heard hearsay. Two or three people talking about it.
15 And I seen something on one of the news stations briefly
16 about it. I can't recall exactly what station. I was
17 flipping through and seen it.

18 THE COURT: Was this recently or some time ago when this
19 happened?

20 JUROR: About a week or so ago.

21 THE COURT: A week or so ago? Mr. Bates, can you put
22 aside anything that you've heard about this case, anything
23 that you've seen on the news about this case and judge this
24 case solely on the evidence from that witness stand?

25 JUROR: Uh-huh.

1 THE COURT: You can. Good enough. You can have a seat,
2 Mr. Bates.

3 Yes, ma'am.

4 THE COURT: What's your name, ma'am?

5 JUROR: Cindy Pitts.

6 THE COURT: Pitts? Ms. Pitts, what have you heard about
7 this?

8 JUROR: I was the news reporter here for Newberry
9 County. To be honest, I don't remember if I covered it for
10 the radio station a little bit or asked questions about it.
11 I know I have read about it. Once you cover a crime you
12 keep at it.

13 THE COURT: Keep reading, yeah.

14 JUROR: I also -- of course, I also have worked with a
15 lot of the principal players as well as police. Mr. Verner,
16 Mr. Stumbo.

17 THE COURT: Ms. Pitts, here's the 50 cent question. Can
18 you put all of that aside, put aside anything you may have
19 heard outside this courtroom, anything you may have asked
20 anybody, anything that was reported to you. Can you put
21 that aside or do you feel like you might have information
22 independent of what's going to be tried here. I mean,
23 you've got to judge this case based solely on the testimony
24 and the evidence presented here. Can you put aside anything
25 you've heard and be fair to both sides or do you feel like

1 something that you've heard about or something you have
2 reported about could taint you?

3 JUROR: I've also been a foster parent to twelve kids
4 and that may --

5 THE COURT: Yeah. This is maybe hitting a little too
6 close to home for you.

7 JUROR: Yeah.

8 THE COURT: All right, Ms. Pitts. I'm going to let you
9 sit this one out. Just have a seat back there, please.

10 197 won't serve on this case. What's your name?

11 JUROR: Valarie Matthews.

12 THE COURT: Ms. Matthews, juror number 170. What have
13 you heard about this, Ms. Matthews?

14 JUROR: My step-mom works at SLED, so I've heard -- not
15 anything intimate, obviously, but I've heard about it a few
16 times.

17 THE COURT: From your step-mom?

18 JUROR: Uh-huh.

19 THE COURT: About how many times would you say you've
20 heard something about it?

21 JUROR: I've just heard basically what you hear on the
22 news. She can't say anything else.

23 THE COURT: Can you put aside anything that you've heard
24 about this case and judge -

25 JUROR: Yeah.

1 THE COURT: -- this case based solely on the evidence?

2 JUROR: Oh, yeah. I just came up here --

3 THE COURT: I appreciate you coming up. I think you're
4 okay to serve. Thank you.

5 Yes, sir. What's your name, sir?

6 JUROR: Chris, 169.

7 THE COURT: What have you heard about this?

8 JUROR: I just heard on news 10.

9 THE COURT: What's your number again?

10 JUROR: 169.

11 THE COURT: There we are. All right. Can you put aside
12 anything that you might have seen online or in the news and
13 judge this based solely on the testimony and the evidence
14 here today or over the course of the week.

15 JUROR: (NO VERBAL RESPONSE)

16 THE COURT: I just need you to be honest.

17 JUROR: I think

18 THE COURT: That is correct. If you're feeling like,
19 though -- if you feel like your visceral reaction to this
20 could affect your ability to be fair to everybody concerned,
21 the Defendant and the State, I'd rather let you sit this one
22 out. But if you feel like you're certain you can put that
23 aside and listen to the testimony, listen to the evidence
24 and all the law then I'm okay to let you serve. What are
25 you telling me?

1 JUROR: I feel a little harsh from what I have seen.

2 THE COURT: Good enough. I appreciate your honesty.

3 You'll sit this one out. Just have a seat right back there.

4 169 will not serve. 169 will not serve.

5 THE COURT: Ladies and gentlemen, I'm going to read a
6 list of possible witnesses in this case. Not all these
7 individuals may testify. When I'm done reading these names,
8 what I will do is I'll ask you whether there's any member of
9 the jury panel who's related by blood or marriage, any of
10 these possible witness, or whether you have any close
11 business or social relationships with any of these possible
12 witnesses. Here are the witnesses who may testify in this
13 case. Lisa Frick, Dr. Duncan Holaday, who I believe works
14 in the emergency room, John Pollard, who's the Deputy
15 Coroner of Newberry, Mike Wood with the Newberry Police
16 Department, Patrick Oliphant with SLED, Alison Moore with
17 the Newberry Police Department, Kellie Williams with SLED,
18 Justin Holmes, Patrice McArdle, who's the mother, I believe,
19 of the Defendant. Is that correct?

20 THE DEFENDANT: Yes.

21 THE COURT: Richard Bowman, who is Ms. McArdle's co-
22 defendant, Chief Roy McClurkin with the Newberry Police
23 Department, Courtney Thompson with SLED, Jennifer Clayton
24 with SLED, Dr. Janice Ross who's a pathologist, Chris
25 Johnson with SLED, Justin Madore, -a-d-o-r-e, Megan Cody,

1 Janice Holliday, Ellen Riemer, R-e-I --

2 MR. VERNER: M-e-r, Your Honor, Riemer.

3 THE COURT: R-e-I--e-r?

4 MR. VERNER: Yes, Your Honor.

5 THE COURT: Sorry. Ellen Riemer, R-e-I--e-r. John

6 Keaten, or Keater? Is that John Keater?

7 MR. VERNER: Yes, Your Honor.

8 THE COURT: And Michael Brown. Again, ladies and
9 gentlemen, is there anybody in the jury panel related by
10 blood or marriage to any of those potential witnesses or who
11 has any close business or social relationships with any of
12 those witnesses? If so, please stand.

13 (Whereupon, jury panel member stand.)

14 THE COURT: Yes, ma'am. What's your name please?

15 JUROR: Kelly Ringer.

16 THE COURT: Ms. Ringer, who do you know?

17 JUROR: John Pollard.

18 THE COURT: And how do you know Mr. Pollard?

19 JUROR: He was my uncle by marriage.

20 THE COURT: Uncle by marriage. If Mr. Pollard were to
21 testify in this case would that affect your ability to be
22 fair and impartial to both sides?

23 JUROR: No.

24 THE COURT: It would not? Thank you, ma'am. You may
25 have a seat. Anyone else?

1 (Whereupon, no jury panel members stand.)

2 THE COURT: No one is standing. Ladies and gentlemen,
3 the allegations in this case involve the death of a three-
4 year-old child. Is there any member of the jury panel who
5 is concerned that the subject matter of this case is so
6 emotional or might hit too close to home in some way, shape
7 or form that you would not be able to hide those emotions or
8 those feelings and be a fair and impartial juror rendering
9 your verdict based solely on the evidence and the law
10 presented during the trial? In a nutshell, ladies and
11 gentlemen, I'm asking you whether the nature of the
12 allegations in this case would affect, or would
13 substantially affect your ability to render a fair verdict
14 under the evidence in the law as presented by the Court? If
15 so, please stand.

16 (Whereupon, no jury panel members stand.)

17 THE COURT: No one is standing. Now, there are times,
18 ladies and gentlemen, during this trial that I anticipate
19 some photographs may be displayed of you that you may find
20 somewhat disturbing. Is there any member of the jury panel
21 who feels that the display -- and I realize I might be
22 asking you to predict the future here and this is kind of a
23 hard thing for you to make a call on. But is there any
24 member of the jury panel who feels that they may have such a
25 visceral reaction or such an emotional reaction to the

1 photographs that it could affect your ability to be fair to
2 the State and to the Defendant in this particular case? If
3 so, please stand.

4 (Whereupon, no jury panel members stand.)

5 THE COURT: No one is standing. Now, ladies and
6 gentlemen, there are also allegations that some of the
7 witnesses in this case, or perhaps the Defendant in this
8 case, Ms. McArdle, worked as a escort or a prostitute. Is
9 there any member of the jury panel who would be -- or whose
10 verdict or opinion in this case who might be substantially
11 -- you might be substantially affected by the vocation of
12 those witnesses or the Defendant? Anyone who feels so
13 strongly about that particular profession that they would
14 not be able to be fair to both the State and the Defense?
15 If so, please stand.

16 (Whereupon, no jury panel members stand.)

17 THE COURT: No one is standing. Again, ladies and
18 gentlemen, this type of case often causes strong emotions
19 for anyone involved, attorneys, Defendants, witnesses, the
20 Court, and certainly jurors. Is there any member of the
21 jury panel who would be unable to base their verdict solely
22 on the evidence presented at trial and separate your
23 emotions from that evidence based on the underlying
24 allegations? Anyone who feels like the emotional nature of
25 this case or the strong emotions that might be provoked by

1 this case could substantially or could affect their verdict?

2 If so, please stand.

3 (Whereupon, no jury panel members stand.)

4 THE COURT: No one is standing. Is there any member of

5 the jury panel who has any deeply held moral or religious

6 beliefs which would prevent you from serving on the jury?

7 Any member of the jury pane, whose religious faith prohibits

8 them from serving on a jury? If so, please stand.

9 (Whereupon, no jury panel members stand.)

10 THE COURT: Is there any member of the jury panel who

11 knows of any reason whatsoever why you cannot give both the

12 State of South Carolina and the Defendant in this case a

13 fair trial? If so, please stand. Any reason whatsoever

14 that you feel like you can't be fair, please stand.

15 (Whereupon, no jury panel members stand.)

16 THE COURT: No one is standing. Any voir dire from the

17 State?

18 MR. STUMBO: None from the State, Your Honor.

19 THE COURT: Any from the Defense?

20 MR. VERNER: Your Honor, just if any members of the

21 panel are a member of an organization that promotes law

22 enforcement interests.

23 THE COURT: Is there any member of the jury panel who

24 is a member of any organization that the primary purpose of

25 which is aiding law enforcement or promoting law

1 enforcement? Such organizations are typically referred to
2 as things like Mother's Against Drunk Driving, Student's
3 Against Drunk Driving, Citizens Against Violent Crime,
4 things of that nature. If so, please stand.

5 (Whereupon, jury panel members stand.)

6 THE COURT: What's your name, please, ma'am?

7 JUROR: Tammy Hughes.

8 THE COURT: Ms. Hughes. And what kind of organization
9 do you belong to?

10 JUROR: I've worked for the South Carolina Criminal
11 Justice Academy.

12 THE COURT: Oh, okay. Yes, I think we picked up on
13 that earlier. The fact that you work at the Criminal
14 Justice -- I think you're an instructor, you said?

15 JUROR: No, I'm not an instructor. I'm an
16 administrative coordinator.

17 THE COURT: Oh, okay. The fact that you work at the
18 Criminal Justice Academy, would that affect your ability to
19 be fair to the State or the Defense in this case?

20 JUROR: Certainly, not.

21 THE COURT: Very good. Ma'am, you may have a seat.
22 Thank you. Anyone else?

23 (Whereupon, jury panel members stand.)

24 THE COURT: Yes, ma'am. What's your name, please,
25 again?

1 JUROR: Theresa Halfacre.

2 THE COURT: Yes, Ms. Halfacre.

3 JUROR: In 1992 I organized Mother's Against Drunk
4 Driving in Newberry County.

5 THE COURT: Okay, very good. The fact that you're
6 involved with MADD, or were involved with MADD, would that
7 affect your ability to be fair and impartial?

8 JUROR: No, sir.

9 THE COURT: Very good. Any other questions, or any
10 other -- anything else? Any additional voir dire from the
11 Defense?

12 MR. VERNER: No, Your Honor.

13 THE COURT: Very good. The strikes will be five of
14 five. Ladies and gentlemen, what we'll do is if your name
15 is called I'll need you to come forward. I guess that's --
16 whichever way is closest for you to get up here. It will be
17 either that way or around the other way. And just stand
18 here in front of the Clerk of Court, turn around and face
19 toward the back where the clock is and the doors are. At
20 that point in time, ladies and gentlemen, the State will be
21 given a chance to either seat you or to excuse you. The
22 Defense will be giving you -- or will be given a similar
23 opportunity.

24

25 Now, ladies and gentlemen, I'm going to tell you what I

1 tell every jury panel every time I select a jury. If for
2 some reason one of the attorneys asks that you not serve on
3 this case, don't take it personally ladies and gentlemen.
4 There are 14,000 lawyers roughly in the state of South
5 Carolina and there's 14,000 ways of picking a jury. And so,
6 if for some reason they ask that you not serve on this one,
7 again, it ain't personal. It's just them trying to do their
8 jobs. Okay?

9 Again, the strikes are five for the State, five for the
10 Defense. Madam Clerk, if you'll give me a jury, please.

11 MADAM CLERK: When I call your name just come up to the
12 front right here and we'll let you know what to do from
13 there.

14 Number 203, Kelly Ringer. What say the State?

15 THE COURT: Ms. Ringer, right over this way, if you
16 would. Sorry. That's perfect.

17 MADAM CLERK: What say the State?

18 MR. STUMBO: Please present Ms. Ringer.

19 MADAM CLERK: The Defense?

20 MR. VERNER: Please seat Ms. Pitts.

21 (Whereupon, juror takes seat in jury box)

22 MADAM CLERK: Number 38, Patsy Chapman. What say the
23 Defense. What say the State?

24 MR. STUMBO: Please present Ms. Chapman.

25 MADAM CLERK: The Defense?

1 MR. VERNER: Your Honor, for this week's case, I want
2 to excuse Ms. Chapman.

3 MADAM CLERK: Number 10, Thomas Bates. What say the
4 State?

5 MR. STUMBO: Please present Mr. Bates.

6 MADAM CLERK: The Defense?

7 MR. VERNER: From this case, I'm going to excuse this
8 Mr. Bates.

9 MADAM CLERK: Number 2, David Alexander. What say the
10 State?

11 MR. STUMBO: Please present Mr. Alexander.

12 MADAM CLERK: The Defense?

13 MR. VERNER: Please seat Mr. Alexander in the juror
14 seat.

15 (Whereupon, juror takes seat in jury box)

16 MADAM CLERK: Number 19, Candace Bouknight. What say
17 the State?

18 MR. STUMBO: Please excuse Ms. Bouknight from the trial
19 of this case.

20 MADAM CLERK: Number 182, Michelle Moseley. What say
21 the State?

22 MR. STUMBO: Please present Ms. Moseley.

23 MADAM CLERK: The Defense?

24 MR. VERNER: Please seat Ms. Moseley.

25 MADAM CLERK: Have a seat in the jury box.

1 (Whereupon, juror takes seat in jury box)

2 MADAM CLERK: Number 125, Tammy Hughes. What say the
3 State?

4 MR. STUMBO: Please present Ms. Hughes.

5 MADAM CLERK: The Defense?

6 MR. VERNER: Your Honor, because she does work for the
7 Criminal Justice Academy, I would ask for a cause strike. I
8 understand that she indicates that she can be fair and
9 impartial. Just the fact that her employer is the Academy.

10 THE COURT: I understand. Ms. Hughes, do you have
11 arrest powers?

12 JUROR: No. No.

13 THE COURT: You do not. Okay.

14 MR. VERNER: I think she said she was an administrator.

15 JUROR: Yeah.

16 MR. VERNER: I am going to excuse her from this case
17 due to cause.

18 THE COURT: I will not excuse her for cause. Ms.
19 Hughes, thank you. Have a seat back out there, please.

20 MADAM CLERK: Number 264, Elenita Young. What says the
21 State?

22 MR. STUMBO: Please present Ms. Young.

23 MADAM CLERK: The Defense?

24 MR. VERNER: Please seat Ms. Jones on the jury.

25 MADAM CLERK: Have a seat in the jury box.

1 (Whereupon, jury takes seat in the jury box)

2 MADAM CLERK: Number 259, Teresa Wise. What say the
3 State?

4 MR. STUMBO: Please present Ms. Wise.

5 MADAM CLERK: The Defense?

6 MR. VERNER: Please seat Ms. Wise.

7 MADAM CLERK: Have a seat in the jury box.

8 (Whereupon, juror takes seat in the jury box)

9 MADAM CLERK: Number 106, Crystal Hardin. What say the
10 State?

11 MR. STUMBO: Please excuse Ms. Hardin from the trial of
12 this case?

13 MADAM CLERK: Number 127, Robert Icard. What say the
14 State?

15 MR. STUMBO: Please present Mr. Icard.

16 MADAM CLERK: The Defense?

17 MR. VERNER: Please seat Mr. Icard in the jury box.

18 (Whereupon, juror takes seat in the jury box)

19 MADAM CLERK: Number 84, Robert Geiger. What say the
20 State?

21 MR. STUMBO: Please excuse Mr. Geiger from the trial of
22 this case.

23 MADAM CLERK: Number 228, Cynthia Stefanini. What say
24 the State?

25 MR. STUMBO: Please present Ms. Stefanini.

1 MADAM CLERK: The Defense?

2 MR. VERNER: Please seat Ms. Stefanini.

3 MADAM CLERK: Number 211, Mason Scott. What say the
4 State?

5 MR. STUMBO: Please present Mr. Scott.

6 MADAM CLERK: The Defense?

7 MR. VERNER: Please seat Mr. Scott in the jury box.

8 (Whereupon, juror takes a seat in the jury box)

9 MADAM CLERK: Number 170, Mallory Matthews. What say
10 the State?

11 MR. STUMBO: Please present Ms. Matthews.

12 MADAM CLERK: The Defense?

13 MR. VERNER: Please seat Ms. Matthews.

14 MADAM CLERK: Number 99, Laura Gunnells. What say the
15 State?

16 MR. STUMBO: Please present Ms. Gunnells.

17 MADAM CLERK: The Defense?

18 MR. VERNER: On this case I'm going to excuse Ms.
19 Gunnells.

20 MADAM CLERK: Number 146, Abby Kesler. What say the
21 State?

22 MR. STUMBO: Please present Ms. Kesler.

23 MADAM CLERK: The Defense?

24 MR. VERNER: Please seat Ms. Kesler.

25 MADAM CLERK: Number 179, Linda Miller. What say the

1 State?

2 MR. STUMBO: Please present Ms. Miller.

3 MADAM CLERK: The Defense?

4 MR. VERNER: Please seat Ms. Miller in the jury box.

5 (Whereupon, juror takes seat in the jury box)

6 MADAM CLERK: Number 186, Lori Mundy. What say the

7 State?

8 MR. STUMBO: Please excuse Ms. Mundy from the trial in
9 this case.

10 MADAM CLERK: Number 36, James Chaffins. What say the
11 State?

12 MR. STUMBO: Please present Mr. Chaffins.

13 MADAM CLERK: The Defense?

14 MR. VERNER: Please seat Mr. Chaffins.

15 (Whereupon, juror takes seat in the jury box)

16 THE COURT: All right. That's 12. We're going to --
17 alternate strikes are one and two.

18 MADAM CLERK: Number 163 Donnie Lominack.

19 MR. VERNER: One or two alternates, Your Honor?

20 THE COURT: One alternate but you get two strikes.

21 MADAM CLERK: What say the State?

22 THE COURT: Please present Mr. Lominack.

23 MADAM CLERK: The Defense?

24 MR. VERNER: What was his number again? I'm sorry.

25 MADAM CLERK: 163.

1 MR. VERNER: 163. Please seat Mr. Lominack.

2 (Whereupon, juror takes seat in the jury box)

3 THE COURT: All right. Any exceptions concerning jury
4 selection? None from the State?

5 MR. STUMBO: None from the State, Your Honor.

6 THE COURT: None from the Defense? With the exception
7 of the failure -- with the exception of the Court's failure
8 to excuse the juror for cause, no exceptions to the
9 selection of the jury?

10 MR. VERNER: No objections, Your Honor.

11 THE COURT: Very good. Ladies and gentlemen who were
12 selected on this jury, I need you to adjourn briefly to the
13 back there. I need to release the rest of the jury panel.
14 I'll have you back out here in about five minutes. Don't
15 discuss the case. That should be amazingly simple.

16 (Whereupon, the jury exited the courtroom at 12:46
17 p.m.)

18 THE COURT: Ladies and gentlemen who were not selected
19 on this particular case, I'm sorry. I'll be releasing you
20 for the week. Okay? I want to thank you for coming in here
21 and being willing to take part in this process and I just
22 have a few parting comments for you. A few thoughts. And,
23 you know, please take them in the for what it's worth
24 category. Where I was vacationing this weekend was actually
25 a place, it's one of the only two countries in the world

1 that has what's -- sorry, correction. There's more
2 countries than that. But it all -- the idea of the jury
3 system, ladies and gentlemen, comes from the English common
4 law and it all started about 800 years ago. Don't worry.
5 I'm not going to give you an 800 year history. But, you
6 know, last year we celebrated the 800th anniversary of the
7 Magna Carta which was the first time something resembling a
8 jury system came into existence. And it's been remarked by
9 Winston Churchill that aside from serving your country in
10 uniform during time of war there is no greater service that
11 a person can give than serving -- or a citizen can give than
12 serving on a jury. Even though you weren't picked this time
13 around, I sincerely hope that you will have an opportunity
14 at some point in your lives to serve on a jury. This is one
15 of those things that we do just because we're citizens of a
16 good country and we enjoy the benefits of a great county.
17 It's up there with paying taxes and, like I said, serving
18 our country in uniform if need be. So I want to thank you
19 for your willingness to come in here and participate in this
20 and not trying to get out of jury service as so many people
21 do. Remember that you will be getting that get out of jury
22 service free card that's good for a full three years. It's
23 not an actual card. You just need to make a mental note of
24 it. Okay? It's not like something that you can redeem or a
25 coupon. But just make a mental note that in April of 2016

1 you were summoned for General Sessions Court, and if you're
2 summoned again for either General Sessions or Common Pleas
3 Court for Newberry County you can probably just let the
4 Clerk of Court know in the next three years. She'll pull up
5 your records. You won't even need to come in here on
6 Monday. Okay. Can't help you with Federal Court. Can't
7 help you with Magistrate's Court. Can't help you with City
8 Court. So you're fair game to serve as a juror on those
9 courts.

10 With that, ladies and gentlemen, I'm going to thank you
11 for your willingness to come in here and I will be excusing
12 you for the week. You'll get a check for, I think, 20 bucks
13 plus mileage. That'll be in the mail. Cash it and blow it.
14 Please don't put it in the bank account and use it to pay
15 the utility bill or something stupid like that. Just buy
16 your something small that you feel like you want. Have a
17 great week. Enjoy the sunshine. Stay healthy, and I hope
18 to see you all again in the near future. Take care of
19 yourselves. If you need a work excuse you can come up here
20 or go downstairs.

21 (Whereupon, the remaining jury panel was released at
22 12:48 p.m.)

23 THE COURT: Let's start getting the jury back out here,
24 please.

25 (Whereupon, the jury entered the courtroom at 12:51

1 p.m.)

2 THE COURT: Ladies and gentlemen of the jury, I'm going
3 to give you some general instructions and then I'm going to
4 release you. First of all, in discussing this case with the
5 attorneys involved there are a few matters that the Court
6 needs to address -- excuse me. There are a few matters that
7 the Court needs to address that don't involve you.
8 Basically it's some issues concerning exhibits, things of
9 that nature. And by addressing those this afternoon we
10 should be in a position to speed this process along for you.
11 So I'm going to go ahead and release you for the day. I'll
12 ask that you -- if you would, be back in the jury room
13 tomorrow morning. I'm going to say at 9:30, please. And at
14 that point in time we'll begin with the actual trial of this
15 case. Before you go for the day though I do need to give
16 you some instructions and I need you to pay close attention
17 to these instructions. Okay?

18 Ladies and gentlemen, tomorrow you're going to be given
19 an oath where you swear to well and truly try this case and
20 judge it based solely on the evidence and the laws presented
21 by the Court. And I really don't know what is out there in
22 terms of news reporting about the case. I don't know what's
23 out there that might be online about the case. But what I
24 do know is that nowadays it's a lot easier for people to
25 access information than it was 20 or 30 years ago when I

1 first started practicing law. Now with a few clicks of the
2 mouse you can pull up a news story, you can Google peoples'
3 names. Understand, ladies and gentlemen, that I realize
4 that news organizations make an effort to get things right.
5 I do understand that they try to do their best to get things
6 right. But sometimes, ladies and gentlemen, what you see
7 online and what you see in the media simply is not correct.
8 Okay? And because tomorrow you're going to be taking an
9 oath to try this case based solely on the evidence and the
10 facts, I'm telling you that it would be a violation of your
11 oath if you were to go home and try and Google any of the
12 parties' names, try and do any kind of independent research
13 involved in this case. It would be a violation of your oath
14 if you were to do that. I assume you, you will get the
15 information that you need to judge this case based solely on
16 the information presented through the witness stand, as well
17 as any exhibits. And again, the rules of evidence are
18 designed, ladies and gentlemen, to give you the best most
19 reliable information possible. The same cannot be said for
20 things that people put online. All right? As you all know,
21 you can put something online that's 100 percent false and
22 there's nobody there to screen it. There's nobody there to
23 keep it out. So I'm telling you that, again, it would be a
24 violation of your oath to do any kind of independent
25 research this evening. You're going to get the information

1 that you need from the witness stand. Judges in this state
2 have regrettably been presented with situations where jurors
3 have decided to go ahead and do some independent research,
4 go ahead and Google peoples' names even though the Judge
5 said not to. I've been a Judge in this job for about six,
6 seven years now. I was a probate judge for about 12 years
7 before that. I have never been put in that kind of a
8 position where a juror has intentionally disregarded that
9 instruction, because it is a very important instruction.
10 Please don't put me in that kind of a position, because when
11 judges are confronted with that situation they don't react
12 well. I don't know how I'd react. But previous judges just
13 haven't reacted well and have been a little bit put out by
14 that juror. So again, just be nice to me and don't put me
15 in that kind of a position. Okay, folks?

16 Of course, while the case is going on don't talk to
17 anyone about the case. That includes, friends, family
18 members, husband, wife, whoever. Don't discuss the case. I
19 know that when you go home tonight there's be a question
20 from your husband, wife, whoever, did you get picked on the
21 jury. Feel free to tell them yes, I got picked on a jury.
22 What's the next question they're going to ask? Well, what
23 kind of case is it. All right? That's where you draw the
24 line. Blame that on me. When the case is over with you can
25 discuss it as long as you want to, as much as you want to

1 with anybody that you want to. But while the case is going
2 on you cannot allow your opinion or your verdict to be
3 influenced by anything anyone says to you while the case is
4 taking place. Okay?

5 So if you would, just be back in the jury room tomorrow
6 morning at 9:30. I know they'll have some coffee and maybe
7 some snacks in there, but don't expect a full breakfast.
8 And with that, I'll let the bailiff show you the most direct
9 way out. Keep those juror stickers and try to remember to
10 wear those back in the morning. It will help security
11 identify you as a juror and get you to the correct location.
12 Okay?

13 With that, have a pleasant afternoon, a lovely evening
14 and I'll see you at 9:30 tomorrow morning. Take care.

15 (Whereupon, State's Exhibits 1 through 153 were
16 premarked for identification.)

17 (Whereupon, the jury was released for the day at 12:56
18 p.m.)

19 THE COURT: The record will reflect that the jury is
20 out. Mr. Verner, is your client out on bond or is she --

21 MR. VERNER: No, Your Honor. She's in custody.

22 THE COURT: I understand. I do have a settlement
23 hearing apparently at 2:00. It should not last long. My
24 Clerk indicates it will not last long. If we could resume
25 with the *Jackson Denno* and the other stuff that we need to

1 address this afternoon around 2:15 or so, folks, and we'll
2 see where we are. I do know that some media is present.
3 Feel free to put the microphone -- if you have a microphone
4 or whatever you can put one over here on the witness stand
5 if you all need to, to the extent that that's possible.
6 Just kind of set it down there on the stand and maybe tape
7 it down there or something like that. And maybe the best
8 way to shoot photographs would be from that direction, if
9 you need to. But yeah, as I mentioned earlier, the jury is
10 off limits. Okay? And any child witnesses who might
11 testify. But I don't believe that there will be any, okay.

12 See you all around 2:15.

13 MR. STUMBO: Thank you, Judge.

14 (Whereupon, Court was in recess from 12:59 p.m. to 2:04
15 p.m.)

16 (Whereupon, Court's Exhibit No. 1 premarked for
17 identification)

18 (Whereupon, State's Exhibit Nos. 154, 155 premarked for
19 identification)

20 THE COURT: We'll go back on the record, if we may on
21 case 15-133, the *State vs. Ms. McArdle*. And Ms. McArdle is,
22 of course, present with counsel. The purpose of the hearing
23 this afternoon is to address a few issues in advance of
24 trial.

25 First of all, the Court is aware and we had a

1 discussion in chambers earlier about *Blair* issue, and I
2 think that one of the parties, or both parties wanted to go
3 ahead and make that report a part of the record in this
4 case; is that correct?

5 MR. STUMBO: We had marked as a Court's Exhibit, Judge.

6 THE COURT: The Court's been handed Court's No. 1.
7 Give me a moment just to scan this if I may, please.

8 (Whereupon, a brief pause in proceedings was held.)

9 THE COURT: The Court has had an opportunity to review
10 the report of Dr. Gaskins, G-a-s-k-I--s, and it would appear
11 that the Defendant possessed sufficient criminal
12 responsibility from that report, as well as is competent
13 under *Blair* and *M'Naghten*. No objections to report, Mr.
14 Verner, and no additional information on this issue then?

15 MR. VERNER: No, Your Honor. Originally we had just
16 requested the *M'Naghten*, whether she would have a criminal
17 capacity if guilty and they deemed yes. We don't -- we
18 would just offer that for the Court's information. And I
19 haven't had any problems. She's certainly competent to
20 understand the proceedings.

21 THE COURT: All right. So you see no need for a full
22 blown *Blair* hearing?

23 MR. VERNER: No, Your Honor, I don't think there'll be
24 a need.

25 THE COURT: All right. Very good. The next issue, I

1 believe -- and I saw you leafing through some photos over
2 there, Mr. Verner. Any issues that we need to address
3 pretrial concerning the photos, prejudicial effect
4 outweighing the probative value of those kinds of arguments?

5 MR. VERNER: Your Honor, I think the State indicated
6 they've marked 134 photographs. 131. I would note that
7 several of them seem redundant. That they're the same pose,
8 three or four in the same -- it's hard for me to distinguish
9 why there would be multiple pictures. But the only one --
10 the autopsy photographs are certainly graphic and gruesome.
11 The photo 127 is possibly the most disturbing and I'd object
12 to that one on the issue of that is the scalp refracted over
13 the child's head, which is a -- they're all disturbing.
14 That one would be the one I would object to out of the 131.

15 THE COURT: All right. May I see 127, please?

16 MR. VERNER: I put it on the back of the --

17 THE COURT: The others you don't have an objection to
18 or -- Solicitor, if you could educate me, please, on what
19 you anticipate the testimony being concerning the cause of
20 death and how the photographs, specifically 127 since --
21 since that seems to be the only one that they have issue
22 with, how that would relate to the report of the --

23 MR. STUMBO: The pathologist?

24 THE COURT: The pediatric pathologist. Yes, sir.

25 MR. STUMBO: Thank you, Judge. Dr. Ross, we have met

1 with her several times in this case. As you well know,
2 she's a pathologist based out of Newberry here that does
3 numerous autopsies, and is probably one of the foremost
4 forensic pathologists of the state. Her report, Judge,
5 which she will be testifying essentially to causation of
6 death. She will testify that there's really two causes, and
7 I don't think she distinguishes between the two. One that
8 there's subdural hematoma, which is bleeding on the brain
9 that's injuries to the head. That's what's depicted in 127.
10 The other causation of death involves severe internal
11 injuries to the torso. So talking to Dr. Ross, it's my
12 belief that she will testify, and based also on her autopsy
13 report, that both the injuries to the head and the injuries
14 to the body caused the death of this little boy.

15 Quite frankly, Judge, in the years I've worked these
16 cases, it's about as brutal as -- of any cases I've seen
17 with the multiple injuries that are there. There are a
18 bunch of injuries, Judge, to the head and to inside of the
19 body.

20 I would cite *State vs. Martucci*. I do believe that
21 case is right on point to what we're talking about here.
22 That's -- cite on that is 380 S.C. 232. That's a 2008 State
23 Supreme Court Case that talks about the admissibility of
24 autopsy photos that depict internal injuries, essentially
25 when you get inside of the body and are able to ascertain

1 better what the injuries are. And so, the 127 specifically,
2 Judge, will go to the bruising and the bleeding on the
3 inside of the skull.

4 THE COURT: Do you have another photograph aside from
5 127 depicting this? I have reviewed 127 and, again, I might
6 be used to seeing this kind of thing, we all might be used
7 to seeing this sort of thing, exposing a jury to it is quite
8 a different matter. Is there any other photograph that
9 depicts the subdural hematoma?

10 MR. STUMBO: There were some, Judge, but I don't know
11 that they're not more graphic than 127. There's a photo
12 that shows --

13 THE COURT: You may want to show it to Mr. Verner.

14 MR. STUMBO: -- the bleeding -- the actual bleeding on
15 the brain, too. I don't know that it's any less graphic
16 than the one you're looking at. But all that to say, the
17 external pictures of **Minor** here don't show the extent to
18 which he's injured inside the head, if that makes sense.
19 There are some pictures that we're offering that show a lot
20 of bruising on the torso and the body that are taken at the
21 hospital at the ER.

22 Judge, but there are a number of pictures here that
23 depict the inside of -- and I'll go ahead and just numbering
24 them for Your Honor. 121, 122 shows the internal injuries
25 to the torso, 123 is also the torso, 124 is internal

1 bruising on organs, 125 is the esophagus, 126 is also the
2 inside of the head, Judge, that shows bleeding and bruising,
3 128 is of the head from the autopsy, 129 is from the head
4 that shows the bleeding on the brain. The same with 130,
5 bleeding on the brain. And 131 is essentially internal
6 bruising to the back.

7 Judge, there again, I don't know that any one of those
8 autopsy photos is any less graphic than the one you're
9 looking at. We do think that they're all relevant. They
10 show different injuries. And because there are multiple
11 injuries internally we believe multiple -- that a multitude
12 of pictures is necessary to depict that.

13 And there again, *Martucci* seems to address that, Judge.
14 It says that it's -- in these types of cases it's more
15 probative and prejudicial for that very reason. That the
16 extent of the injuries is such that they should be
17 admissible as a case of child abuse like this one.

18 THE COURT: May I see 121 through 126 --

19 MR. STUMBO: Sure.

20 THE COURT: -- and 128 through 121 please?

21 (Whereupon, a pause in proceedings was held)

22 THE COURT: Here's how we're going to address this
23 particular issue. Again, this isn't my first rodeo with
24 this kind of a thing in having tried these kinds of cases
25 before. The Court has a genuine concern about sensibilities

1 of the jury and obviously does not want any decision in this
2 case to be the result of emotion as opposed to fact. And
3 the Court's initial reaction to 127 is that that photograph
4 -- I'm well aware of the case cited by the State. But
5 again, with regard to Exhibit 127, just the manner in which
6 it depicts the nature of the autopsy, the Court will sustain
7 the Defendant's objection to that. With that said, you can
8 allow the Doctor to refer to it during your testimony, but
9 we're not going to be publishing that to the jury. Okay?
10 So that's where we are on 127.

11 Concerning 129, 130, 131, 128 and 126, I've not really
12 heard an objection from the Defense to those photographs.
13 But 129 depicts the child's -- contents of the child's
14 cranial cavity. And because I have previous seen jurors
15 become disturbed at these kind of photographs -- again, I'm
16 not hearing an objection on the Defense on these, and
17 clearly there is probative evidence that would likely assist
18 the expert who's going to testify on these issues. What
19 I've done in the past, quite honestly, is just ask that if
20 these are going to be published they be done in black and
21 white as opposed to in color, and it usually allows the
22 physician -- the physician can refer to color photographs as
23 they testify, use a laser pointer to demonstrate the area
24 that they're talking about. But by using a black and white
25 image you're communicating the damage to the jury without

1 getting the same sort of visceral response that these photos
2 typically would provoke for a layman. So I'm going to ask,
3 if you would Solicitor, to arrange to have black and white
4 photos made of 129 -- sorry, correction. 126, 128, 129
5 through 131 and I think that's probably the best way to
6 address those concerns that the Court has as well as what
7 Mr. Verner has.

8 So the doctor can feel free to review to these, but
9 we're not going to necessarily publish those photographs to
10 the jury. The black and white ones to be published to the
11 jury.

12 MR. STUMBO: Yes, sir.

13 THE COURT: And the others I don't see a problem. You
14 just need to -- color photographs the remaining exhibits.
15 So that's kind of where we are.

16 MR. STUMBO: Thank you, Judge.

17 THE COURT: Thank you.

18 MR. STUMBO: The ones you wrote, just for clarity, we
19 will -- black and white copies?

20 THE COURT: Those are the ones black and white. These
21 are okay. And 127 is out.

22 MR. STUMBO: Okay.

23 THE COURT: I think the next issue is *Jackson vs.*
24 *Denno*. It's my understanding that both the Defendant in
25 this case and the co-defendant gave statements to law

1 enforcement. I'm assuming, Mr. Verner, at this point you're
2 merely challenging the statements given by the Defendant in
3 this case?

4 MR. VERNER: Yes, sir. But I would -- before we get
5 there, we had addressed these issues in chambers. There are
6 several prior DSS cases against Theia from North Carolina.
7 I would note, Your Honor, they are all unfounded except for
8 one incident. The 2013 incident involving some cigarettes,
9 where she slapped the child. The -- I would note that that
10 report indicates the only reason the child wasn't returned
11 to her, because her boyfriend, Richard, was living with her.
12 But I would move in limine to suppress -- I would represent
13 to the Court that in all of them but one DSS investigated
14 and found no credible evidence after looking at the child.
15 The only time they took the child from her was a refusal to
16 return the child because Richard did not move out of the
17 home. And based on his history of violence, the -- so in
18 fairness, I would move that those not be introduced, or at
19 least give me fair notice before they come up.

20 THE COURT: My understanding was, Solicitor, that the
21 State did not intend to use those in the State's case in
22 chief. If that issue were to arise it would be something to
23 address on cross for purposes of impeachment or after she
24 opened the door or something like -- or after she opened the
25 door is the way he put it in chambers.

1 MR. STUMBO: That's correct, Judge. You correctly
2 stated that. The only -- I guess we'll flush this out as
3 part of *Jackson v. Denno*. The Defendant refers to this
4 incident herself in the interview with law enforcement. Of
5 course, if we're introducing that statement in our case in
6 chief we would need to redact, I guess, that portion. We'll
7 work on that, Judge.

8 THE COURT: It is a video interview or an audio
9 interview or --

10 MR. STUMBO: It's audio.

11 THE COURT: Audio, okay. I'm assuming that your
12 investigator could probably --

13 MR. STUMBO: He's hiding back there in the jury box. I
14 think we can get that done, Judge. Obviously if we play it
15 today, I'm not sure how much -- if we'll play the entire
16 thing.

17 THE COURT: If the issue is *Jackson v. Denno* what I
18 would suggest is that -- I understand it take about three
19 hours long.

20 THE STUMBO: That's correct.

21 THE COURT: I'm more than happy to let you present your
22 case, or whatever, the way you want to. But clearly *Jackson*
23 *vs. Denno* is a very limited type of hearing and I don't know
24 that I necessarily need to be apprised of the entire
25 substance of the interview unless there are certain portions

ALLISON MOORE: DIRECT EXAMINATION (IN CAMERA)

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1 you think are particularly relevant on the issue of whether
2 she was given her rights and whether any undue threats or
3 coercion was applied.

4 So, Mr. Verner, do you want to speak to that?

5 MR. VERNER: Your Honor, I was specifically talking to
6 the interviews on December 30th, which is the date of the --

7 MR. STUMBO: Judge, we have a time stamp. Mr. Daniel
8 did a lot of this legwork. He went through the entire
9 statement and put time references as to the points this was
10 made. There's a question asked by Investigator Moore with
11 the police department. It says, "Tell us about when your
12 child was taken from you in Asheville," and there's a
13 discussion about that. Ultimately the Defendant says, "I
14 popped him on the ass for taking my cigarettes," was the
15 direct quote she answers there.

16 MR. DANIEL: And that refers to the 2013 DSS case.

17 MR. STUMBO: That's correct. And so, you know, we can
18 certainly make sure that that's not played in the case in
19 chief. But we -- as we indicated, we would reserve the
20 right to cross-examine the Defendant on it.

21 THE COURT: Sure. If that door gets opened, I'll just
22 need to hear about it between the time that the Defense --
23 if you feel like the door's been opened, just let me know
24 after the -- assuming the Defendant testifies, let me know
25 when Mr. Verner has completed his direct of Ms. McArdle, and

ALLISON MOORE: DIRECT EXAMINATION (IN CAMERA)

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1 we'll take that issue up at that point in time. Otherwise,
2 you want to call your first witness on the *Jackson v. Denno*?

3 MR. STUMBO: Sure, we can. I believe Mr. Daniel is
4 going to call Allison Moore to the stand.

5 THE COURT: All right. If you'll come on up.

6 ALLISON MOORE, having first been
7 duly sworn, testified as follows:

8 JACKSON V. DENNO

9 DIRECT EXAMINATION

10 BY MR. DANIEL:

11 Q Investigator Moore, so you work with the City of
12 Newberry Police Department?

13 A Yes, I do.

14 Q December 30th of 2014 did you respond to Newberry
15 County Memorial Hospital?

16 A Yes.

17 Q At approximately what time did you respond?

18 A It was early in the morning. It was about 12:30, 1:00
19 in the morning, I believe.

20 Q And what was that call in reference to?

21 A A deceased three-year-old child.

22 Q And you observed -- what did you observe when you
23 arrived at the hospital at that time?

24 A I observed the child in a hospital room and I observed
25 multiple bruising all over the child's body.

1 Q Who was that child?

2 A Minor

3 Q At that time were any suspects developed?

4 A Not at that time.

5 Q And what information did you learn about this child's
6 death?

7 A Just that they -- they happened to be in Newberry.

8 Q Who's they?

9 A I'm sorry. Theia McArdle, his mother and Richard
10 Bowman, her boyfriend, were in Newberry at the time. The --
11 they said that the child needed -- I'm sorry. You want me
12 to go in details about all that?

13 Q Yes. Yes.

14 A Okay. That Theia came down to Bedenbaugh Street here
15 in Newberry as a response to one of her Backpage ads for, I
16 guess, an escort service. They came down to Newberry, and
17 then the child -- she went into the home. The -- Richard
18 Bowman stated in the car with the child. It was a 30 minute
19 timeframe. When Ms. McArdle came back outside Richard
20 Bowman told her that the child may have had sleep apnea or
21 something. That they needed to take him to the hospital.

22 Q Now, at this point you just learned this information
23 from law enforcement, from the officers on the scene?

24 A No, sir. I'm sorry. I learned this later on. I'm
25 sorry.

ALLISON MOORE: DIRECT EXAMINATION (IN CAMERA)

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1 Q You may be jumping in.

2 A Yeah, I'm sorry. I was confused. I'm sorry.

3 Q My apologies. So when you arrived at the hospital what
4 do you learn and what do you observe when you first drive to
5 the hospital?

6 A Okay. When I first come to the hospital I'm advised by
7 the lieutenant on shift that there is a deceased three-year-
8 old in the child -- in the hospital room. I go in there
9 and, of course, I see multiple bruising. I've been told
10 that Ms. Theia McArdle and her boyfriend, Richard Bowman,
11 were in another room at the hospital.

12 Q So you learned Theia McArdle is the mother of this
13 deceased child?

14 A Yes.

15 Q **Minor**

16 A Yes.

17 Q And foul play was suspected?

18 A Yes.

19 Q In the death -- involved in the death of this child?

20 A Correct.

21 Q And at that point when you -- take us from that point
22 forward.

23 A From that point forward, of course, we just start the
24 investigation. They were in their room -- they were in a
25 room together. I made sure that they were separated at that

1 point. I had to call for another investigator to bring me a
2 camera so we can start taking photographs of the child and
3 of the scene.

4 Q And tell us about, did you make contact with Theia
5 McArdle at this point?

6 A Yes. I briefly spoke with her at that point.

7 Q And she was in the waiting room area?

8 A No. She was just in another room in the emergency
9 room. Another room.

10 Q All right. And tell us about your initial contact with
11 Theia McArdle.

12 A She appeared to be a little upset, but not too much.
13 We just had a brief little, you know, what's your name type
14 thing. Where are you from. And I told them I would be back
15 with them in just a minute.

16 Q And about what time was this again on December 30th?

17 A I'm trying to -- it's between 12:30 and 1:30. I'd have
18 to look it up again. I'm sorry.

19 Q And eventually do you interview --

20 A No, I'm --

21 Q -- Ms. McArdle?

22 A I'm sorry. I think it was later than that timeframe.
23 I'm sorry.

24 Q And eventually though do you interview Ms. McArdle?

25 A Eventually, yes.

ALLISON MOORE: DIRECT EXAMINATION (IN CAMERA)

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1 Q Tell us about how that came about and where do you
2 interview. Where does the interview take place?

3 A I took Ms. McArdle to my office at the police
4 department on Nance Street and we -- I waited for Special
5 Agent Kellie Williams to join me from SLED before we started
6 the interview. Brought her into my office. Sat her down.
7 When Ms. Williams arrived on scene we then Mirandized her.

8 Q I want to show you and marked for ID purposes State's
9 139. Do you recognize that?

10 A Yes, I do.

11 Q And what is that?

12 A This is the Adult Waiver of Right forms that the
13 Newberry Police Department uses.

14 Q And you said you took Ms. McArdle to your office at the
15 Newberry Police Department?

16 A Yes, sir.

17 Q So you transported Ms. McArdle to the police
18 department?

19 A That's correct.

20 Q Was she in custody at this point?

21 A No, sir.

22 Q Was she handcuffed, anything like that?

23 A No, sir.

24 Q No restraint?

25 A No restraints.

ALLISON MOORE: DIRECT EXAMINATION (IN CAMERA)

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1 Q All right. Go ahead and go through -- you take her to
2 your office and you immediately advise her of her Miranda
3 warnings?

4 A Yes, I do.

5 Q And that's State's 139 is the form you provided?

6 A That's correct.

7 Q And go through those rights that you read.

8 A The first part, of course, is her name. How old she
9 is. The address. What grade she completed in school. Can
10 she -- can or can she not read and right. And then I
11 advised her that I am Sergeant Allison Moore. That I am
12 questioning her concerning a child -- homicide by child
13 abuse. And then it says "This officer has also explained to
14 me and understand that, one, I have the right to remain
15 silent. That means I do not have to say anything or answer
16 any questions," which she initialed beside it. Number two,
17 it says, "Anything I say can be used against me." She put
18 her initials beside that as well stating she understood. "I
19 have the right to talk to a lawyer and to have a lawyer here
20 with me to help me and advise me during questioning." She
21 initialed that section. "If I want to have a lawyer with me
22 during questioning but cannot afford to pay a lawyer, one
23 will be provided to me at no cost before I'm questioned."
24 She initialed that as well. "If I decide to answer
25 questions now without a lawyer here, I still have the right

ALLISON MOORE: DIRECT EXAMINATION (IN CAMERA)

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1 to stop answering questions whenever I want to." She
2 initialed that. "I also have the right to stop answering
3 questions until I talk to an attorney," and she initialed
4 that. Then the bottom part that says that, "I understand my
5 rights as explained by Officer. I now state that I do wish
6 to answer questions at this time and that I do not wish to
7 have a lawyer here during questioning. My decision to
8 answer questions now without a lawyer is made freely and is
9 my choice. No one has threatened me in any way or promised
10 me special treatment. To show my decision I'm signing my
11 name in the space below," in which she signed dated
12 12/30/2014 at 7:47 a.m. in the morning. I signed as a
13 witness, and Ms. Kellie Williams also signed as a witness.

14 Q SLED, Kellie Williams, was present?

15 A Yes.

16 Q And this interview -- you administered these Miranda
17 warnings at approximately what time?

18 A It was 7:47 a.m.

19 Q So that's when the interview commences?

20 A Yes, sir.

21 Q And does Ms. McArdle provide a written statement to
22 you?

23 A She does, yes.

24 Q And was the interview recorded?

25 A Yeah, recorded. Yes.

1 Q And was the interview recorded?

2 A Yeah, recorded. Yes.

3 Q So that is on audio recording, and it all starts at
4 7:47?

5 A Yes, sir.

6 Q Now, Ms. McArdle just found out that her child had
7 passed away a few hours earlier, correct?

8 A Yes.

9 Q Did she appear to be distraught?

10 A No, sir. She did not.

11 Q Did Ms. McArdle appear --

12 MR. VERNER: Your Honor, I don't know how that's
13 relevant with a *Jackson v. Denno*.

14 THE COURT: Yeah, I assume that they would argue it
15 goes to her state of mind with present ability to appreciate
16 the substantive rights that she's giving up by -- am I
17 correct?

18 MR. DANIEL: Yes, sir. That's my purpose.

19 THE COURT: Overruled.

20 Q Describe her emotional state. She had just found out
21 she lost a child. Did she appear distraught?

22 A No, sir.

23 Q Did she appear to understand her Miranda rights when
24 you administered those rights to her?

25 A Yes, she did.

ALLISON MOORE: CROSS EXAMINATION (IN CAMERA)

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1 Q Did she -- did Ms. McArdle appear to be under the
2 influence of any substance?

3 A No, she did not.

4 Q And Ms. McArdle can obviously read and right, correct?

5 A Yes, and she indicated so.

6 Q And is Ms. McArdle handcuffed while in your office
7 during this interview?

8 A No, sir.

9 Q At any time did you threaten her in any way?

10 A No, sir.

11 Q Was there any undue influence?

12 A No, sir.

13 Q Any offers of leniency to her in exchange for this
14 statement?

15 A No, sir.

16 Q And did you tell Ms. McArdle she was under arrest or
17 charged with any crime at this point?

18 A Not at this point, no.

19 MR. DANIEL: We offer, of course, for trial, we would
20 offer this written statement into evidence. And we do have
21 audio recording, Your Honor.

22 Q Do you recognize what's been marked for ID purposes as
23 State's 137?

24 A I do.

25 Q What is that?

1 A This is the interview with Theia McArdle on 12/30/2014.

2 Q Are you initials on that cover?

3 A Yes. Yes, they are.

4 Q And that is the audio recording you just referred to?

5 A Yes, sir.

6 MR. DANIEL: Your Honor, we would offer that into
7 evidence at trial and for the purposes of this hearing. I
8 do have redacted portions of it, Your Honor.

9 THE COURT: Very good. The issue of the waiver or the
10 confession and things of that nature, are you done with
11 before I --

12 Q The waiver of rights form and the written statement is
13 attached, correct? It's all one attachment?

14 A Yes, it is.

15 MR. DANIEL: And we're just having that as one exhibit,
16 Your Honor.

17 THE COURT: All right. Any questions of this witness,
18 Mr. Verner?

19 CROSS-EXAMINATION

20 BY MR. VERNER:

21 Q Investigator Moore, the child was declared dead at 2:06
22 in the morning. Is that consistent with your recollection?

23 A Yes, sir. It is.

24 Q And Theia was at the hospital at that time?

25 A Yes.

ALLISON MOORE: CROSS EXAMINATION (IN CAMERA)

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1 Q And were you at the hospital at that time?

2 A I was called to the hospital.

3 Q Were you there prior to 2:06?

4 A No, sir. I'm sorry. I was confused with time a while
5 ago.

6 Q So this interview was approximately 10 hours after the
7 child was pronounced dead?

8 A Yes, sir.

9 Q Did you take into consideration that Theia may have
10 been in shock by the death of her child?

11 A No. She seemed to be fine. And she even offered up
12 that she was wanting to talk.

13 Q Where was she for the several hours before the
14 interview? Was she in custody?

15 A No, sir.

16 Q Where -- how did she arrive at the police station?

17 A I brought her.

18 Q From the hospital?

19 A From the hospital, yes.

20 Q So from arriving at the hospital at approximately 1:38
21 until 12:30 she had been either at the hospital or at the
22 police station?

23 A That's correct.

24 Q And how long was the interview?

25 A It was probably three hours.

1 Q About a three hour interview?

2 A Because we had -- yes, sir.

3 Q Is this the only time that you've interviewed her --

4 A Yes, sir.

5 Q -- was this time? Now, there was a SLED agent who

6 accompanied you?

7 A That's correct.

8 Q Are you aware of whether he did this -- was that a lady

9 agent or a male agent?

10 A It's a female agent.

11 Q Do you know whether she did her own report on the

12 interview or --

13 A No. We conducted the interview together.

14 Q So your notes, you believe, would be the best

15 recollection of the interview?

16 A Yes, sir.

17 Q And it's fair to say that she denied striking the

18 child?

19 A She did.

20 MR. VERNER: Excuse me, Your Honor, just one second.

21 THE COURT: Certainly.

22 MR. VERNER: Thank you, Investigator.

23 THE COURT: Any redirect?

24 REDIRECT EXAMINATION

25 BY MR. DANIEL:

ALLISON MOORE: REDIRECT EXAMINATION (IN CAMERA)

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1 Q Investigator, well, what time -- approximately how long
2 did this interview of Ms. McArdle last?

3 A It lasted -- I guess the interview itself lasted three
4 hours, but we were interrupted, and we allowed Ms. McArdle
5 to take a break at one point.

6 Q And if I could refer you to the written statement. At
7 what time was this interview concluded. What time was the
8 written statement --

9 A Yeah, she -- she wrote her statement and signed it at
10 12:23 p.m.

11 Q And was there any videos, reenactments done involving
12 Ms. McArdle?

13 A Correct. That was one of the interruptions.

14 Q And who conducted that?

15 A I believe State Law Enforcement Division.

16 MR. DANIEL: That's all I have, Your Honor.

17 THE COURT: May I see 139, please. Just a couple of
18 additional questions, Officer. During the course of the
19 two, three hour interview of the Defendant did -- was she
20 denied any bathroom breaks, any water, any food that she
21 requested?

22 THE WITNESS: No, sir. She was not.

23 THE COURT: And were any threats or promises made to
24 her for the statement that she gave you?

25 THE WITNESS: No, sir.

1 THE COURT: So if at any point in time did she request
2 to stop talking to you or did she basically talk to you
3 without interruption, never requesting an attorney?

4 THE WITNESS: She never requested an attorney, never
5 wanted to stop.

6 THE COURT: Follow-up based on my questions of the
7 Officer from the State?

8 MR. DANIEL: No, Your Honor.

9 MR. VERNER: No, Your Honor.

10 THE COURT: Very good. The State will -- you can step
11 down. Thanks. Just leave the CD ROM for the court
12 reporter, please.

13 (Whereupon, the witness stepped down from the witness
14 stand)

15 THE COURT: The State will go ahead and allow the
16 introduction of 139 into evidence at this point, and the CD
17 ROM, whichever exhibit that is, subject to redaction that we
18 agreed to and talked about earlier.

19 MR. STUMBO: I believe that was 137, Your Honor.

20 (Whereupon, State's Exhibit Nos. 137 and 139 were
21 admitted into evidence.)

22 THE COURT: Any additional witnesses on this issue,
23 Solicitor?

24 MR. STUMBO: Yes, sir. We call Kellie Williams.

25 KELLIE WILLIAMS, having first being

KELLIE WILLIAMS: DIRECT EXAMINATION (IN CAMERA)

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1 duly sworn, testified as follows:

2 *Jackson v. Denno*

3 DIRECT EXAMINATION

4 BY MR. STUMBO:

5 Q Good afternoon, Agent Williams.

6 A Good afternoon.

7 Q Do you work with SLED?

8 A I do.

9 Q How long have you been at SLED?

10 A I've been at SLED for two years.

11 Q And in what division are you assigned to at SLED?

12 A I work in the Special Victim's Unit and I investigate
13 child fatalities.

14 Q So that's your primary role. Are you state-wide or --

15 A I work -- I have several counties. I call it the
16 Midlands. The Midlands counties are the counties that I
17 assist with.

18 Q Which would include Newberry?

19 A Yes, it would.

20 Q And do you have any prior law enforcement experience
21 before going with SLED?

22 A I do. I have -- about five years prior to law
23 enforcement I started out my career at the City of
24 Charleston Police Department, and I also was an investigator
25 at the University of South Carolina Division of Law

1 Enforcement and Safety.

2 Q So you spent years at Charleston PD. Did you work the
3 road?

4 A I did. I worked patrol at the City of Charleston.

5 Q And then you went on to the University of South
6 Carolina to the police department there?

7 A Yes.

8 Q Public safety?

9 A Yes.

10 Q You have about seven years in law enforcement --

11 A Seven years total.

12 Q -- if my math is right.

13 A Yes.

14 Q As part of your role there at SLED were you called out
15 to investigate a case with -- in assistance with Newberry
16 Police Department involving the death of a three-year-old
17 boy?

18 A Yes, I was.

19 Q And that was Minor [REDACTED]

20 A Yes.

21 Q And when did you arrive in Newberry about this
22 approximately that night?

23 A I received the call from my Captain around 5:20 on
24 December the 30th and I arrived in Newberry, I'd say, around
25 7:15 a.m.

KELLIE WILLIAMS: DIRECT EXAMINATION (IN CAMERA)

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1 Q Did you report directly to the Newberry Police
2 Department?

3 A I did. I reported to the police department and I spoke
4 with Lieutenant Goodman.

5 Q And Lieutenant Moore as well?

6 A I did. After I was briefed by Lieutenant Goodman I was
7 introduced to Lieutenant Moore. Sergeant Moore.

8 Q I'm sorry. I just gave her a promotion. You and
9 Sergeant Moore ultimately interviewed the Defendant, Theia
10 McArdle, correct?

11 A Yes, we did.

12 Q And I believe the exhibit has already been introduced.
13 This would be State's 139 for purposes of this hearing.
14 About what time -- well, let me backup. Did you administer
15 139 with Sergeant Moore advising her of her rights?

16 A Yes, I did. I was in the room when Sergeant Moore went
17 over the advisement of rights and I observed everything.

18 Q What time was that executed?

19 A 7:47 a.m.

20 Q And your signature is on State's 139?

21 A Yes, it is.

22 Q The rights as they were read, you did -- you all did
23 advise the Defendant that she had the right to remain
24 silent?

25 A Yes, we did.

1 Q You advised her that anything she said could be used
2 against her in Court?

3 A Yes.

4 Q You advised her that she had the right to have an
5 attorney?

6 A Yes.

7 Q You advised her that if she needed a lawyer and
8 couldn't afford one that she would have one appointed to her
9 at no expense?

10 A Yes, we did.

11 Q And you advised her that if she decided to stop
12 answering questions that she had that right to stop
13 answering questions?

14 A Yes.

15 Q At any time did Theia McArdle not to appear to
16 understand the rights that you were giving to her?

17 A No, she didn't. She seemed like she understood.

18 Q She appeared to fully understand --

19 A Yes.

20 Q -- what you were talking about?

21 A Yes, she did.

22 Q Did she ever exercise the right to remain silent?

23 A No.

24 Q Did she ever exercise the right to stop answering
25 questions?

KELLIE WILLIAMS: DIRECT EXAMINATION (IN CAMERA)

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- 1 A No.
- 2 Q Did she ask for a reward?
- 3 A No.
- 4 Q Did you threaten her in any way?
- 5 A No.
- 6 Q Did you promise her anything, Agent Williams?
- 7 A No.
- 8 Q And this would be over the course of that -- not just
- 9 when you administered this, but over the course of that five
- 10 hours or so that you all were with her that day?
- 11 A Correct.
- 12 Q Did you ever deny her breaks of any sort?
- 13 A No, we didn't.
- 14 Q If she needed to use the bathroom or get a drink of
- 15 water, would you allow that?
- 16 A Yes.
- 17 Q Did you give her -- hold out any hopes of reward in
- 18 exchange for her giving you all these statements?
- 19 A No, we didn't.
- 20 Q And to your experience and observation there, her
- 21 statements to you that day appear to be free and voluntary?
- 22 A Yes, they did.
- 23 Q And that would be not only this written statement
- 24 that's in State's 139, but also 137 which was the audio
- 25 statement, correct?

1 A Correct.

2 Q And consequently 137 is a fair and accurate
3 representation?

4 A Yes.

5 Q It's a copy of that interview that you all did with her
6 that day?

7 A Yes, it is.

8 Q Now, there was -- I believe something else had happened
9 and Assistant Solicitor Daniel heard of some kind of
10 reenactment with Sergeant Moore?

11 A Correct. It was a video reenactment.

12 Q Did you conduct that?

13 A I did.

14 Q It was recorded and saved and put into evidence for
15 discovery purposes, correct?

16 A That is correct.

17 Q I'm going to show you what's been marked for this
18 hearing as State's 135. I'll hand that to you. Have you
19 reviewed the contents of State's 135?

20 A Yes, I have.

21 Q And does it fairly and accurately depict this
22 reenactment that you did with Ms. McArdle that day?

23 A Yes, it does.

24 Q And this was -- that was the same day that you all did
25 the interview, correct?

KELLIE WILLIAMS: DIRECT EXAMINATION (IN CAMERA)

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1 A That is correct.

2 Q Was it after you did the audio interview?

3 A It was actually in between. We did some of the audio
4 interview, and then in the middle we were waiting for the
5 crime scene to come back, and then we conducted the video
6 reenactment, and then we finished up the audio interview.

7 Q And describe this reenactment. What did you ask her to
8 do?

9 A A video reenactment, what we asked Ms. McArdle to do is
10 to go out to the vehicle and describe how she found **Minor**
11 McArdle after she left the house and return to the vehicle.
12 Kind of give us a better idea of what went on in the vehicle
13 and between leaving her -- the residence, and then finding
14 the way to the hospital.

15 Q The car is parked there at the police department?

16 A It was. It was in the bay. They were processing the
17 vehicle, yeah.

18 Q It's under a cover --

19 A Yes.

20 Q -- at that point?

21 A Yes.

22 Q And that's where you taped this video?

23 A That's correct.

24 MR. STUMBO: Judge, we move to put State's 135 in for
25 purposes of this hearing.

KELLIE WILLIAMS: CROSS EXAMINATION (IN CAMERA)

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1 Q And during this she was still under Miranda rights?

2 A Yes, she was.

3 MR. STUMBO: We offer 135.

4 THE COURT: Any objection to 135?

5 MR. VERNER: As a Court's Exhibit no. No, Your Honor.

6 THE COURT: Very good. Continue.

7 (Whereupon, State's Exhibit No. 135 was admitted into
8 evidence)

9 THE COURT: Continue.

10 MR. STUMBO: Thank you, Judge.

11 Q At any time during this reenactment did she ask for a
12 lawyer?

13 A No, she didn't.

14 Q Did she ever exercise her right to remain silent?

15 A No.

16 Q And just -- I don't want to beat a dead horse here, but
17 to summarize this. To your observation, at any time was she
18 under any undue pressure during this five hour interview
19 process, which would have included in the middle of it the
20 reenactment?

21 A No, she wasn't.

22 Q Never promised her anything?

23 A No.

24 Q Never promised her anything?

25 A No.

KELLIE WILLIAMS: CROSS EXAMINATION (IN CAMERA)

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1 Q Never gave her any hope for reward?

2 A No, I didn't.

3 Q At no time did she ask for a reward?

4 A No, I didn't.

5 Q At no time did she ask for a reward?

6 A No, she didn't.

7 Q If she had asked for a reward what would you do?

8 A Stop the interviews and provided a lawyer.

9 MR. STUMBO: No further questions at this time.

10 CROSS-EXAMINATION

11 BY MR. VERNER:

12 Q It's Agent Williams?

13 A Yes.

14 Q I see in my file that you prepared a memorandum of the
15 interview that you performed for Richard Bowman?

16 A No, I did not. That is Agent Cantrell.

17 Q That's a different --

18 A Yes. She was in --

19 Q Agent Cantrell is --

20 A Yes.

21 Q So you did not interview or participate in the
22 interview with Richard Bowman?

23 A No, I did not.

24 Q Do you know if he was interviewed prior or after Theia?

25 A It was actually during the same time.

1 Q Just different rooms?

2 A During the same timeframe. Different rooms and
3 different investigators and agents.

4 Q So you would have been unaware of what admissions or
5 statements Mr. Bowman would have made?

6 A Right. Up until a point. Then we would take a break
7 and some information was relayed. But that didn't happen
8 until towards the end of the interviews.

9 Q So this is a three to five hour interview?

10 A Correct.

11 Q And at some points there are breaks and the agents can
12 kind of coordinate where we are in the interrogation?

13 A Yes. I think it happened about once or twice.

14 Q Okay. The -- did you tell Theia about any of the
15 details of Mr. Bowman's interview?

16 A Not that I can recall.

17 Q And you didn't -- so all the memorandums of interviews
18 are prepared by the other SLED Agent Cantrell?

19 A His memorandum of interview would have been prepared by
20 Agent Cantrell. The other memorandums of interview that you
21 have would have been prepared by me. The only reason that
22 there isn't a memorandum of interview for Theia McArdle's
23 interview is because it was audio recorded.

24 Q Okay. So you did prepare one for Kellie -- I'm sorry.
25 For Janice Holliday?

1 A Yes, I did.

2 Q Had you indicated to Theia that Richard had admitted to
3 striking the child in the head? Did you --

4 A No. I think -- you're talking about the cigarettes.
5 At the very end that's -- that's when information was
6 relayed to us that she struck Minor in the head because of
7 cigarettes, and that was the DSS involvement.

8 Q In 2013?

9 A Yes.

10 Q I was talking about the admission that Richard made of
11 hitting the child in the head that night. That would not
12 have been conveyed to her?

13 A I don't recall.

14 Q You didn't ask her to comment on his -- Richard's
15 points of his statement or contradict anything that Richard
16 had said?

17 A I think we may have asked about -- he said something
18 about him hitting his head on a shower. I think that
19 information was relayed.

20 Q Did Theia appear to be in any fear of Richard Bowman,
21 or did you go over aspects of the relationship?

22 A We did go over aspects of the relationship and she did
23 not appear that she was afraid of him.

24 Q Now, you participated in the initial interview around
25 December 30th of Theia McArdle and you did the video of the

1 car?

2 A Yes, sir. I did.

3 Q Are there any other interviews of Theia that you
4 participated in?

5 A No, I did not.

6 Q That ended your involvement in the case?

7 A Yes, it did.

8 MR. VERNER: Thank you, Agent.

9 THE WITNESS: Thank you.

10 THE COURT: Redirect?

11 MR. STUMBO: Nothing, Your Honor.

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

13 THE WITNESS: Thank you.

14 (Whereupon, the witness stepped down from the witness
15 stand)

16 THE COURT: Any additional witnesses on *Jackson v.*
17 *Denno*?

18 MR. STUMBO: No additional witnesses. I believe all
19 the exhibits are in, 135, 137 and 139, for purposes of this
20 hearing.

21 THE COURT: For purposes of this hearing, yes.

22 MR. STUMBO: Yes, sir.

23 THE COURT: For purposes of publishing, we'll need to
24 move them into evidence again.

25 MR. STUMBO: Correct.

1 THE COURT: Mr. Verner, do you want to speak to Miranda
2 and the voluntariness?

3 MR. VERNER: Your Honor, we'll stand with the record as
4 is.

5 THE COURT: Very good. No argument, Solicitor?

6 MR. STUMBO: Just that, Your Honor, we believe the
7 witnesses are credible and have laid out the Miranda rights
8 having been read and waived by the Defendant. We believe
9 everything is admissible and free and voluntary.

10 THE COURT: The Court would intend to agree. Further,
11 the testimony is that Miranda was given and there's no
12 indication that the statements given by Ms. McArdle were the
13 result of coercion, threat, or other undue influence and
14 appropriate actions on behalf of law enforcement. So as to
15 the preliminary matter, will allow the jury to hear the
16 witnesses statements subject to the earlier ruling regarding
17 redacting. That will be my ruling. The same rule stands
18 with regard to the videotaped reenactment.

19 Anything further on this issue from either side?

20 MR. STUMBO: Nothing from the State.

21 MR. VERNER: Nothing from the Defense, Your Honor.

22 THE COURT: Anything else that we can be addressing
23 this afternoon?

24 MR. STUMBO: I believe that's it, Your Honor, based on
25 what I had written out in preparation for today.

1 THE COURT: There was --

2 MR. STUMBO: There was a *Lyle*. I know we discussed
3 that in chambers that we were not intending to obviously
4 introduce any of the potential *Lyle* evidence in our case in
5 chief --

6 THE COURT: Correct.

7 MR. STUMBO: -- involving prior incidents of abuse.
8 But we -- obviously we anticipate using that subsequent
9 Court's ruling in impeachment. For impeachment purposes.

10 THE COURT: All right. If she should testify?

11 MR. STUMBO: Correct, Judge. And then ultimately we do
12 have under subpoena two witnesses that are on our witness
13 list, Justin Madore and Megan Cody. Those two witnesses
14 would be witnesses as to this prior abuse that may be
15 relevant in reply. There again, we can cross that bridge
16 when we get to it, if she were to testify.

17 Just so Your Honor will know, those two witnesses we
18 don't intend to call on our case in chief.

19 THE COURT: Just so that I can be thinking through
20 this. What aspect of *Lyle* are you going to be pointing to
21 in order to get those prior allegations out of North
22 Carolina in?

23 MR. STUMBO: Ultimately, Judge, identity would be one.
24 The other would be lack of accident or mistake. Lack of
25 accident ultimately, I believe, are the two -- I don't know

1 that this would be a classic common scheme of plan.

2 THE COURT: I don't believe it would be either.

3 MR. STUMBO: I don't think it is. But, Judge, really
4 as to identity, really -- obviously we have another
5 individual, the co-defendant who will be testifying. He
6 will be someone who I would anticipate the Defense will try
7 to shift blame of this severe beating of **Minor** to him.
8 And ultimately the prior incidents of abuse I think would go
9 to identify who was the one actually abusing this child,
10 which would be the Defendant. So identity of perpetrator
11 here would be the primary reason. Lack of accident from the
12 State as to -- you know, I don't anticipate this Defense in
13 this particular case would see this as some child abuse
14 homicide cases of shaken baby. I don't know that after the
15 doctors testify there's going to be really any doubt as to
16 whether this was intentionally inflicted or non-accidental.
17 I don't think the Defense is going to focus on that. I
18 think it's going to be more as to who inflicted the
19 injuries. So -- But, of course, if the defense were to
20 focus in on this being possibly an accident, I think he did
21 identify potentially a pathologist to testify. If we were
22 to hear testimony that this was an accident, I think that
23 Lyle exception could be possibly.

24 MR. VERNER: Your Honor, from our medicals we don't
25 think -- we think the child was beaten to death. We think

1 the child was beat to death by Richard Bowman, that it's not
2 an accident. That it's -- we're satisfied it's a homicide.
3 The -- so that won't be our venue. It's just what we
4 entirely think the evidence shows that it was Richard
5 Bowman's responsibility.

6 THE COURT: Okay. Do you want to address the *Lyle*
7 issues at this point in time, or do you think that will be
8 better discussed at a later point in the trial if and when
9 your client elects to --

10 MR. VERNER: Your Honor, I don't see them having a very
11 good *Lyle*. In 2013, which is a considerable time prior to
12 this incident, the DSS intervened because the allegation
13 that Theia had slapped the child for tearing up cigarettes,
14 or getting into cigarettes. The North Carolina DSS
15 intervened. Theia cooperated. DSS refused to return the
16 child to Theia because they -- because Richard Bowman was
17 living with her. The -- so the child stayed out of her
18 custody for about a year before the child was returned.
19 They stayed with a family member, or family friend. She was
20 convicted or pled guilty to a traffic court type of offense.
21 A 30 day offense in North Carolina, which would be an
22 assault on the child. That really comes under more of the
23 impeachment about prior crime rule. And it's certainly not
24 a crime of dishonesty and it's not a crime that exceeds a
25 one year punishment, which is typically what the rules of

1 evidence require for impeachment by prior crimes.

2 MR. STUMBO: Judge, I do have a certified copy of the
3 conviction. That may just help clarify this, you know, for
4 purposes of this hearing, just so we can go ahead and get it
5 out there.

6 THE COURT: What is it?

7 MR. STUMBO: If I could approach, Your Honor. And this
8 would be a conviction in Buncombe County, North Carolina of
9 misdemeanor child abuse, which she was convicted of. The
10 court date was June 16th, 2014.

11 MR. VERNER: 2013 or '14?

12 MR. STUMBO: '14. Based on our research, Judge, from
13 North Carolina, that that offense carries up to 60 days.

14 THE COURT: So it would be roughly equivalent to a
15 South Carolina Magistrate's Court type of conviction?

16 MR. STUMBO: Similar.

17 THE COURT: I realize that you're not seeking its
18 introduction for purpose of impeachment in the traditional
19 sense. Impeachment based upon a prior conviction for a
20 crime.

21 MR. STUMBO: Correct. It would be, Judge, not general
22 impeachment as you say, Your Honor. The prior convictions
23 would be potentially if a door is open. She made statements
24 in her statement, which I think will be fodder for
25 questioning if she takes the stand.

1 MR. VERNER: The *Martucci* case that the Solicitor
2 referenced actually addresses that same issue where the
3 State introduced prior abuse of a child. The -- in the
4 *Martucci* case the abuse was alleged to have been occurring
5 in the days and weeks prior to the death of the child. The
6 *Martucci* case distinguishes the *Pierce* case where the
7 allegation was more than a year prior to the homicide. And
8 so, in *Pierce*, the -- most important issue for the judge in
9 the prior abuse is proximity and time to the crime. In
10 *Martucci* it was days and weeks prior to death. In -- and
11 was admitted. In *Pierce* it was a year prior to the death
12 and was excluded.

13 THE COURT: Excluded.

14 MR. STUMBO: And I believe that case dealt with common
15 scheme of plan, Judge, just to distinguish it with what I
16 think we're dealing with here.

17 And just for clarity, Judge, another issue. I know Mr.
18 Verner indicates that really the only issue is this 2013
19 abuse involving the cigarettes that she was convicted of.
20 But there are, I guess, numerous other allegations with
21 people that knew them and observed her abusing the child
22 before. There was also, Judge, an October 2014 which would
23 have been about two months before the death of Minor where
24 there's an incident where essentially, as far as we can tell
25 based on our research, Ms. McArdle and Mr. Bowman still have

1 pending CDV charges for an incident that occurred in a hotel
2 in Spartanburg where they engaged what appears in mutual
3 combat in a room, and Minor is actually kicked out of the
4 room and is wandering somewhere outside the room.
5 Ultimately the clerk of this motel sees Minor outside,
6 calls law enforcement and they come in to investigate. And
7 Minor was taken from Ms. McArdle at that point for some
8 time.

9 So that's, Judge, another incident. I know Mr. Verner
10 indicates that this one North Carolina conviction is the
11 only thing. But there's -- there are multiple allegations
12 and incidents that are in the record that have been shared
13 in discovery. So he's aware of those.

14 THE COURT: All right. Well, just so that the Court is
15 clear, obviously what we've established so far is the State
16 does not intend to introduce these prior incidents in its
17 case and chief. So it's not really *Lyle*. I'm hearing --
18 you said a few moments ago that it's only if the Defendant
19 takes the stand that she opens the door to this does the
20 State intend to discuss or question her about the North
21 Carolina incident that involved a 60 day conviction.
22 Misdemeanor conviction.

23 Am I saying this correctly? So this is not a true *Lyle*
24 identity type of a thing, but it could perhaps -

25 MR. STUMBO: Correct.

1 THE COURT: -- overlap with -- it could perhaps overlap
2 based upon how she testifies, et cetera.

3 MR. STUMBO: The reason it's not strictly *Lyle*, as Your
4 Honor points out, we're not trying to introduce it in a case
5 in chief.

6 THE COURT: Right.

7 MR. STUMBO: But whether it's admissible or not, or
8 relevant under, I think, the rules, we're going to include
9 some of that case law that involves prior incidents of --
10 prior bad acts, I guess, for lack of a better term, that we
11 have here. It's not always just prior convictions, you
12 know. We would be looking at that not necessarily for
13 purposes of impeachment on crimes of dishonesty. But there
14 again, I think we can cross that bridge when we get to it,
15 Judge. I just wanted to, so you wouldn't be in the dark,
16 know that there's more than just this North Carolina
17 conviction out there.

18 THE COURT: No. I understand. But obviously the
19 standard for impeachment based upon prior bad acts is quite
20 different from those that are subject to a conviction, which
21 is different from *Lyle* type evidence, which is different
22 from prior bad act evidence. Potentially with prior bad act
23 evidence where the door's been open. So --

24 MR. STUMBO: Correct.

25 THE COURT: Okay. I think I agree with you gentlemen

1 that the admissibility of many of these statements,
2 specifically the North Carolina statement, would hinge
3 largely on if and when and to what Ms. McArdle testifies.

4 MR. STUMBO: Correct, Your Honor.

5 THE COURT: Very good. One housekeeping matter that
6 has not been put on the record. We're going forward,
7 obviously on indictment 133, and Mr. Verner indicated to me
8 that the Defendant had also been indicted for murder. The
9 State clearly is not going forward on that. I assume that
10 they were given an understanding that double jeopardy is
11 attached, or once I swear the jury double jeopardy is
12 attached and murder would be off the table. Is that where
13 we are?

14 MR. STUMBO: Absolutely, Judge. In fact, the
15 indictments were presented with the thought that we would
16 either be going forward with one or the other, not both.

17 THE COURT: Right.

18 MR. STUMBO: So we do believe the evidence, while being
19 close to showing malice aforethought, and maybe it could be
20 proved to a jury, the more prudent course of conduct here
21 which according to the evidence would be the homicide by
22 child abuse indictment.

23 THE COURT: Okay. There were also some discussions in
24 chambers about the cell phone pings. You're comfortable
25 with that? We don't need to take up anything on those at

1 this point in time, or at least with regard to the affidavit
2 that's supplied concerning those?

3 MR. VERNER: Your Honor, as long as they can lay a
4 foundation for how they're determining the -- I don't see
5 where they're harmful. But as long as the State can assure
6 that they can lay a foundation for it. I will deal with
7 that if I felt it was being improperly referenced.

8 THE COURT: All right. Very good. Anything else we
9 need to address or discuss this afternoon?

10 MR. STUMBO: I think we're ready for opening statements
11 in the morning, Judge.

12 THE COURT: I think I told the jury 9:30. If we could,
13 I would ask that Ms. McArdle be here maybe at 9:00 by the
14 latest just so that there's no chance that she might bump
15 into one of the jurors, and that will give Mr. Verner a
16 chance to talk to her if he needs to, or talk to her a
17 little bit more before the jury does get here.

18 If there is nothing further, the Court will go off the
19 record and we'll reconvene at 9:30 tomorrow morning.

20 MR. VERNER: Thank you, Your Honor.

21 MR. STUMBO: Thank you, Judge.

22 THE COURT: Thank you.

23 TRIAL DAY 2-04/05/16

24 (Whereupon, State's Exhibit Nos. 156 through 159 marked
25 for identification.)

1 THE COURT: Gentlemen, are we in a position to proceed?

2 MR. STUMBO: We are.

3 THE COURT: We're going to go back on the record then
4 in the *State vs. Ms. McArdle*, case 15-133. I do believe
5 that the jury is present. Anything before we bring them out
6 from the State?

7 MR. STUMBO: We're ready, Judge.

8 THE COURT: Anything from the Defense? Nothing from
9 the Defense?

10 MR. VERNER: We're fine, Your Honor. We're ready.

11 THE COURT: Let's have the jury, please.

12 (Whereupon, the jury entered the courtroom at 9:56
13 a.m.)

14 THE COURT: Let the record reflect that the jury is
15 back and seated. Ladies and gentlemen of the jury, I trust
16 that you had an enjoyable evening last night, and we're
17 about to begin the trial of the case of the *State of South*
18 *Carolina vs. Ms. McArdle*. The first order of business for
19 the Court is to appoint a foreperson of the jury. Ms.
20 Ringer, I don't know if you would mind serving as
21 foreperson. I'll tell you again there's no heavy lifting
22 with this. Your primary responsibility would be to make
23 sure once the deliberations begin that everyone has a chance
24 to have their say, and you be the jury's spokesperson here
25 in Court if necessary. So obviously your vote would count

1 no more, no less. Your main job would just be to make sure
2 everyone can say their peace and say what's on their mind
3 and voice their opinion. Are you okay with that?

4 MADAME FORELADY: Yes.

5 THE COURT: I'll appoint you the foreperson then. The
6 alternate is Mr. Lominack. Who is Mr. Lominack? Okay. I
7 think you're in the correct seat, Mr. Lominak. Ms. Ringer,
8 when the -- after we take a break and we resume, if you'll
9 have a seat where the gentleman in the blue shirt right in
10 front of you is sitting. The rest of you feel free to move
11 about if you wish to. The seats on the front row sometimes
12 give the best opportunity to hear the testimony. If at any
13 point in time you have any difficulty hearing the testimony,
14 I want you to just raise your hand. Okay? That will be my
15 cue to ask the witness to speak up or the lawyer to speak
16 up. Additionally, if you need a bathroom break or a comfort
17 break, or whatever the case may be, just raise your hand or
18 get my attention somehow and we'll be more than happy to
19 take a break at that particular point in time. Okay?

20 Ladies and gentleman, again we're about to begin the
21 trial of the case of the State of South Carolina vs. Ms.
22 McArdle. And before we begin the trial I want to let you
23 know that this case is obviously going to be a bit different
24 from what you've come to expect from seeing trials depicted
25 in TV and the media or reading about them in books. From

1 what we see in popular culture we often get the impression
2 that trials are filled with riveting drama and intense
3 circumstances and that everything gets wrapped up neatly in
4 an hour or maybe two hours in movies. Sometimes that is the
5 case. But more often than not these trials take a lot
6 longer than it takes to read a book. Obviously this case is
7 very important to both the State of South Carolina and to
8 Ms. McArdle and you've been selected as 13 fair and
9 impartial individuals who have no stack in the outcome.
10 Your job will be, as I instruct you in a moment, to judge
11 this case based solely on the facts, apply the law to those
12 facts and render a verdict at the conclusion of the trial.
13 I want to thank you for your willingness to participate in
14 this process. I use the word willingness a little bit
15 loosely because I know none of you volunteered to come in
16 here. I know none of you asked to be a part of this. This
17 is an obligation that every citizen has. Jury service is no
18 different from paying your taxes which you'll have to do
19 next Friday. This is just one of those things that we have
20 to do as citizens of a very good country, a great country,
21 and I want to thank you for any inconvenience that we're
22 causing. I want to thank you especially for your service
23 here this week. And I know the attorneys feel the same way.
24 With that, I'm going to ask that you stand where you are and
25 just raise your right hands so the Clerk can administer her

1 oath to you as jurors.

2 (Whereupon, the jury was sworn.)

3 THE COURT: Ladies and gentlemen, I have just a few
4 preliminary comments to make, and what I say to you now is
5 just intended to serve as an introduction to the trial so
6 that you can better understand what's going on. These
7 remarks are not instructions on the law. They're just,
8 again, an overview of what will take place so that you can
9 anticipate what to expect.

10 Ladies and gentlemen, during the course of the trial I
11 know that many of you have asked to take notes, and taking
12 notes is perfectly fine. Just a couple of rules about note
13 taking, if you would. First of all, the notes are your
14 private property. Leave those here at the courthouse when
15 you leave on breaks. Mark -- I'm assuming you can identify
16 your own handwriting. But if you need to mark the tablet at
17 the top with your name or some sort of sign, and the
18 bailiff's will collect those and keep them secure during any
19 breaks.

20 Secondly, and most importantly, try to keep -- or do
21 everything you can to keep the note taking from distracting
22 you from the testimony. Pay attention to the testimony.
23 And again, don't let writing down stuff distract you from
24 what is being said in the testimony of the witnesses.

25 Ladies and gentlemen, the Defendant in this case, Ms.

1 McArdle, is charged by an indictment filed in this Court
2 with the offense of homicide by child abuse. I'll explain
3 the elements of this crime to you at the conclusion of the
4 trial. Again ladies and gentlemen, this indictment is
5 merely the manner by which a case is brought to the Court,
6 and the indictment is not in any sense of the word evidence
7 of any of the allegations contained in it. In this case Ms.
8 McArdle has pled not guilty to this indictment. That plea
9 puts the burden on the State to prove each and every element
10 of this charge beyond a reasonable doubt. It'll be your
11 duty as jurors to determine whether the State has met this
12 burden. As I mentioned a moment ago, your purpose as jurors
13 is to find and determine the facts in this case. You're the
14 sole judges of the facts. So if at any time I make any
15 comment about the facts you must disregard that comment
16 because the law does not permit me to have any opinion about
17 the facts of this case. You'll determine the facts from
18 testimony that you hear and the other evidence that's
19 presented throughout the course of the trial. It'll be up
20 to you to determine the inferences which you feel can
21 properly be drawn from the evidence presented.

22 Now, ladies and gentlemen, it's especially important
23 that you perform your duty of determining the facts
24 diligently and conscientiously because ordinarily there is
25 no way to correct an erroneous determination of facts by a

1 trial jury.

2 Now, ladies and gentlemen, on the other hand and with
3 equal emphasis, the same law that makes you the judge of the
4 facts makes me the judge of the law. The law that is given
5 by the Court is the only law that you can consider. You'll
6 have to accept it and apply it even though you may disagree
7 with it. Again, the law does not permit me to tell you what
8 the facts are and you're not permitted under the law to
9 disagree with me about what the law is. Your job will be to
10 take the facts as you find them to be, apply the law to
11 those facts, and after doing that you'll render your verdict
12 under the oath that you have just taken.

13 Now, ladies and gentlemen, again, until I advise you to
14 begin your deliberations please don't talk about this case
15 with anyone, not even your fellow jurors, friends, family
16 members. No one, please. After the case is submitted to
17 you, you can discuss it only in the jury room in the
18 presence of all 12 jurors. Now, this case, ladies and
19 gentlemen, and in all cases, the attorneys and the parties
20 have been advised to have nothing to do with you while the
21 case is going on. They're not to have any contact with you.
22 Okay? If anyone should attempt to contact you, bring that
23 to my attention immediately and I'll deal with it. So if
24 you happen to see one of the lawyers or one of the parties
25 coming or going from the courthouse and they don't say hello

1 to you, understand they're not being rude to you. They're
2 just following my instruction to have no contact with you
3 while the case is going on. The reason for this is
4 self-evident. Okay? If the other side were to see one of
5 the lawyers talking to a juror, even if it's innocent
6 conversation about the weather, it would be easy for the
7 other side to believe that that's an effort at jury
8 tampering, and the easiest way for me to keep that issue
9 from even coming up is just to say jurors are off limits
10 while the case is going on. All right?

11 Now, ladies and gentlemen, during the trial please
12 don't read any news reports about this case. Again, you
13 will get the information that you need from the testimony of
14 the witnesses. Don't watch any news reports. I do know
15 that there will be some news coverage of this. Okay? So if
16 you happen to see something come on the TV or if you happen
17 to get the newspaper in the morning, just turn away, turn it
18 off, switch to a different channel, watch the Wheel of
19 Fortune or something else? Okay? But simply don't watch
20 any news reports about this case.

21 Now, ladies and gentlemen, it's important that you keep
22 a very open mind and not decide any issue in this case until
23 all the evidence has been presented, you've heard the
24 argument of counsel and you've received my instruction on
25 the law. It'll be your solid responsibility to determine

1 the guilt or the innocence of the Defendant, and your
2 verdict must be based solely on the evidence as presented to
3 you during the trial on the laws I instruct you. Now, in a
4 moment, ladies and gentlemen, the Solicitor will make what's
5 known as his opening statement in which he'll explain to you
6 what the issues are, or at least what he contends the issues
7 are in this case. Mr. Verner, the attorney for the
8 Defendant, will also be given an opportunity to make an
9 opening statement, although he's not required to do so. I
10 instruct you what the lawyers say during their opening is
11 not evidence. It's simply a roadmap or an overview of what
12 they contend will be proven or won't be proven. Again, the
13 evidence will be presented through the testimony of sworn
14 witnesses and any exhibits which are introduced into
15 evidence.

16 Now, ladies and gentlemen, from time to time during the
17 trial you might hear one of the lawyers say something like,
18 Judge, we have an issue of law for the Court or, Your Honor,
19 we need to bring up an issue of law, and during those times
20 it may be necessary for me to ask you to leave the courtroom
21 while I address an issue of law with the attorneys here on
22 the record. The reason I ask you to leave, ladies and
23 gentlemen, is because sometimes in ruling on an issue of law
24 it's necessary for me to make a comment on what the facts
25 are or what facts have been presented and what testimony has

1 been presented. Okay? Since you're the sole judges of the
2 facts, I ask that you leave the courtroom so that I can have
3 that discussion on the record with the attorneys and I can
4 be certain that whatever I say about the facts has no
5 affect, has no bearing on what you ultimately find those
6 true facts to be. During those breaks obviously, please,
7 don't speculate as to what I'm saying about the facts
8 because, again, the law does not permit me to have any
9 opinion whatsoever about the facts in this particular case.
10 In determining the true facts, ladies and gentlemen, you
11 must decide whether the testimony of witnesses is believable
12 or not. It's my responsibility to rule as a matter of law
13 on whether certain testimony can be admitted. However, once
14 that testimony is admitted, whether or not you chose to
15 believe it is solely for you all to determine. Deciding
16 whether to believe a witness, you have the right to consider
17 the interest of any witness, the bias of any witness, the
18 prejudice of any witness, the opportunity for the witness to
19 have seen the matters and things about which the witness
20 testifies and the way the witness acts on the witness stand.
21 You can consider anything that's in the record in this case
22 which will help you evaluate the testimony of the witnesses.
23 That means it's your duty to pay close attention to them,
24 listen to them, observe them and pay close attention to the
25 lawyers in the Court. Try to keep your thoughts from

1 wondering. Instead give strict attention to the testimony
2 so that at the conclusion of the trial, after the argument
3 of counsel and my instruction to you on the law, you'll be
4 in as best a position possible to determine what the true
5 facts are, apply the law to those facts, and thus render a
6 true and just verdict.

7 Now, in order to preserve everyone's rights, I'll give
8 the attorneys an opportunity to object to anything that I've
9 said to you during these opening remarks and then we'll
10 proceed with opening arguments.

11 Any objections from the State, Solicitor?

12 MR. STUMBO: None from the State, Judge.

13 THE COURT: Any from the Defense?

14 MR. VERNER: None, Your Honor.

15 THE COURT: Very good. Mr. Stumbo, you're recognized
16 for your opening, sir.

17 MR. STUMBO: Judge, Assistant Solicitor Taylor Daniel
18 will give opening.

19 THE COURT: Mr. Daniel, you're recognized, sir.

20 MR. DANIEL: Thank you, Your Honor. May it please the
21 Court.

22 THE COURT: Yes, sir.

23 OPENING STATEMENTS

24 BY MR. DANIEL: Good morning, ladies and gentlemen.

25 I'm going to begin my opening remarks with a quote. And

1 this quote has been used in a lot of trials of murder cases,
2 in cases like before you today where a child's been killed
3 by a parental abuser. It's pretty appropriate in this
4 setting, and here's the quote. "To the living we owe
5 respect, but to the dead we owe only the truth." And that's
6 Voltaire. That's an eighteenth century French philosopher,
7 writer. And that's what we're here to do today. That's a
8 trial is the search for the truth. That's what you as the
9 jury are going to have to do. You're going to have to
10 determine the truth. And in this case you're going to have
11 to determine why an innocent three-year-old little boy is
12 dead. It's undisputed that **Minor** a
13 three-year-old child is dead. Born on .
14 Died . So you do the math, the dates.
15 This child died on his third birthday. He died the day he
16 turned three years old. Pronounced dead at Newberry County
17 ER at approximately 2:06 a.m. on his third birthday. It's
18 undisputed Theia McArdle, who stands before you on trial,
19 was **Minor's** mother. It's undisputed that at the
20 time of **Minor's** death that he was in Ms. McArdle's
21 care and custody. Now, they're not from Newberry. No ties
22 to Newberry really. And I'll explain that in a minute. But
23 you as the jury have to determine who is responsible for
24 this crime. And by, I mean, whether Theia McArdle is guilty
25 of this crime, or causing the death of her son in the most

1 brutal horrific fashion.

2 His Honor was explaining the allegations. Solicitor
3 Stumbo read the caption of the case when he called it to
4 trial yesterday. So you know we're dealing with the death
5 of a three-year-old. It's called homicide by child abuse
6 under our law, what Ms. McArdle is charged with. We're all
7 human beings. Some of you may have kids, been around kids.
8 It's awful. It really is. This case, I've prepared for it
9 the last couple of weeks. It's disturbing. No way around
10 it. But the images you'll see, they're haunting, but we've
11 got to show them to you, because that's our job is to prove
12 Ms. McArdle's guilt. And that's what we intend to do. It's
13 our contention that Ms. McArdle is responsible, is guilty
14 for this crime, and the evidence clearly points to that, and
15 you'll see that at the conclusion of this case.

16 Going back to the facts of this case and how they end
17 up in Newberry. As I said, they're not from Newberry. At
18 the time, December 30th, 2014, that's over 15 months ago
19 now, Theia and her son, Minor were living in Enoree,
20 which is a community in Spartanburg County. It's about 30
21 minutes from here. It's not too far from Laurens. It's the
22 Laurens/Spartanburg County line right off I-26. They were
23 living in a trailer. Theia and her son, as well as Theia
24 was living with her boyfriend, Richard Bowman, who you'll
25 hear from. And I'll get to him in a minute. So they're

1 living there the day of this incident. And how they end up
2 in Newberry is almost inconceivable these facts. I wish
3 they were. But at the time of his death Ms. McArdle was
4 working as a prostitute, advertising her services online on
5 a website called Backpages. And the man in Newberry found
6 this ad, saw Ms. McArdle advertising herself. And this is
7 December 29th when he first makes contact with Ms. McArdle,
8 because she has her contact information on there. So he
9 reaches out to her. Wants to hire her for the evening. So
10 that's how they end up in Newberry. That's why this isn't a
11 Spartanburg County case, and that's why they end up in
12 Newberry. So why do you say **Minor** ends up in Newberry?
13 Well, she took him along for the ride. **Minor** at
14 the time this child was dying, maybe even dead -- because
15 he's dead on arrival at the ER essentially. They never were
16 able to revive him when you get the detail. So she takes
17 her son along this prostitution call. They head down I-26
18 in the car. Theia is driving. Theia's boyfriend, Richard
19 Bowman, in the car. **Minor's** in the backseat. And as
20 you'll see, and it's our contention, that the evidence
21 points to this child -- his injuries are inflicted mostly --
22 most likely in that trailer, and as you'll hear testimony.
23 And I'll go ahead and address them. Richard Bowman, the
24 boyfriend, he's charged with this crime as well. But he's
25 not on trial today. Ms. McArdle is. He'll have his day in

1 court, ladies and gentlemen. Whether he's guilty of
2 something, that will be determined by another jury perhaps.
3 We're here to determine her guilt. Her role.

4 So you're going to hear from Richard Bowman. And don't
5 be under the impression that because he's a witness of the
6 State that we're condoning anything he did. There's
7 inconsistencies with what he tells law enforcement over a
8 year ago and what he says today. He minimizes certain
9 things. He might not be -- he's not candid on everything.
10 You'll see. Mr. Verner, I'm sure, will point that out. But
11 he provides useful information about 48 hours leading up to
12 **Minor's** death and about how his mother was hitting on him,
13 which would explain some of the injuries. And you'll see
14 plenty of photos of the injuries. And he provides that
15 insight that otherwise we wouldn't have. So that's why we
16 have to put him up. We're not condoning what this man did
17 at all. Anything about him. But it's important you hear
18 from him. And that's what I have to say about that one.
19 And he'll tell you how hard she hit her son. We're talking
20 about a child that's three years old, just turned three, 28
21 pounds, a little over three foot tall, being pummeled by his
22 mother in the hours and days leading up to his death, his
23 ultimate demise.

24 And you'll hear from medical personnel, the ER doctor.
25 You'll hear from the pathologist, or medical examiner. She

1 performed the autopsy. She determined cause of death. And
2 you'll hear injuries. And I'm using, obviously, the
3 technical scientific terms. You'll hear subdural
4 hemorrhaging of the cerebrum. Cerebral edema. Bruising of
5 the stomach and pancreas. Hemorrhaging around the bladder.
6 Perforation of the duodenum with hemorrhaging. These are
7 horrific internal injuries. Being hit with such blunt force
8 that your duodenum, your small intestines, is essentially
9 punctured. The cause of death, respiratory depression due
10 to subdural hemorrhaging due to blunt force trauma of the
11 head due to beating. You'll hear from Dr. Ross. That's
12 what she determined. Significant internal injuries. Blunt
13 force injuries. Being intentionally struck. Nothing
14 accidental. All contributing factors to the death. It's not
15 just one thing that killed this child, as you'll see. It's
16 a full on total beating. And when you hear the testimony
17 from the scientific medical approach, really what that means
18 to me, and I'm not orienting it to those times, it's not
19 what I do, it just means this child was beaten to death.
20 That's all you can take away from the testimony. And you'll
21 see that.

22 What's significant is the injury to the groin area of
23 this child. I'm sure none of you have ever seen injury such
24 as this, and I hope to God you'll never see another injury
25 like this in your life. And again, this is a three-year-old

1 child.

2 You'll hear testimony from, of course, law enforcement
3 that investigated this case. We got evidence that this
4 child was deathly ill, sick in his Enoree trailer. His
5 residence. They execute a search warrant in his house later
6 on. And you're obviously going to hear how it's all come
7 together. But they found bodily fluid samples that tested
8 positive for blood and this child's DNA. And you'll see the
9 condition of this trailer that this child lived in. And I'm
10 not -- we're not trying to pick on someone of limited means.
11 This is not -- this case isn't about prostitution. This
12 case is not about somebody who perhaps doesn't have the
13 means to live in a nice home. But what's significant to me
14 when you look at these photos is her priorities. Ms.
15 McArdle's priorities. You'll see a flat -- flat screen TV.
16 A 50 inch flat screen TV. And yet she's got her child
17 sleeping on a little air mattress in the livingroom. And
18 the bedroom that her child would have, stray cats are living
19 in the bedroom that should be **Minor's** That to me is
20 significant. Those are things that should resinate.

21 But you'll hear testimony from -- I'm going to call it
22 the John. The gentlemen who retained Ms. McArdle's
23 prostitution services. He establishes a timeline about when
24 they arrived. And then, of course, you'll hear the medical
25 evidence. And so, you'll see, this child -- it's a 30

1 minute service call to this Newberry man's house. And he'll
2 tell you he paid exactly 30 minutes. We've got phone
3 records that show when they arrived in Newberry. And they
4 arrived in Newberry about 12:30 a.m. And at that point it's
5 December 30th. So a 30 minute service call. Richard
6 Bowman, the boyfriend, and Minor out in the car while
7 she's inside with a client. After the 30 minutes goes by
8 there's a gap she can't really explain for. Because then
9 we've got surveillance footage from the hospital. They
10 don't arrive in the Newberry ER until about 1:35 as you'll
11 see in surveillance footage. And the gentlemen who retained
12 her services that night, he lives on Bedenbaugh Street.
13 Those of you know, the hospital as the crow flies is not
14 more than two miles away. So if they're done at 1:00 a.m.,
15 why does it take them that long to get to the hospital.
16 There's a bit of a delay. And you're going to hear
17 testimony from Lisa Frick. She was working the ER
18 registration desk that night. And she's going to tell you
19 how there wasn't much of a sense of urgency on Ms. McArdle
20 as she entered the hospital, and you'll see that. About how
21 she parked far away. She's not acting like this is an
22 emergency. This is all stuff you're going to have to
23 evaluate. And then eventually you'll hear a recorded
24 interview. Investigator Allison Moore with the city of
25 Newberry and SLED Agent Kellie Williams of the child

1 fatality unit, and they interview Ms. McArdle once they
2 suspect foul play at the hospital. The circumstances of
3 **Minor's** death. It's a lengthy interview but important.
4 It's very telling. It's very important what she says and
5 what she doesn't. And you're going to hear some pretty
6 disturbing content in that interview. She even talks about
7 -- Ms. McArdle talks about being a good actress in that
8 interview and being able to emotionally move someone if she
9 wants to. Of course, she denies -- she has no knowledge of
10 the injuries. Very important. These injuries are readily
11 apparent to anyone. It doesn't make sense. So these are
12 all things you'll have to consider.

13 You were picked to serve on a jury for a reason. First
14 and foremost, you're residents of Newberry County and that's
15 the only way you can serve. This is your community and you
16 get the last word on guilt or innocence of people charged
17 with a crime in your community. And when I say you get the
18 last word, I mean that because you get to render a verdict.
19 At the conclusion of this case you go back and deliberate
20 and the Judge will ask you to render a verdict. It has to
21 be unanimous, either guilty or not guilty. So you get the
22 last word. Not me, not His Honor, not Solicitor Stumbo.
23 You get to decide. You're the fact finder. All we want is
24 the truth. That's all we ask for. We want a verdict that's
25 consistent with the evidence. That's common sense. The

1 truth that you know in your heart, in your gut, because this
2 child didn't have to die. It's not just a tragedy it's an
3 atrocity. That's the best way to describe it. Ultimately
4 we're going to ask you for a verdict of guilty. We're going
5 to ask you to hold Ms. McArdle responsible for what she did
6 to her son. What she did and what she didn't do. Because
7 she didn't get him medical treatment on time and she
8 inflicted these injuries. And because of that **Minor**
9 McArdle is three years old forever. Thank you.

10 THE COURT: Thank you, Mr. Daniel. Mr. Verner, you're
11 recognized for your opening, sir.

12 MR. VERNER: Thank you. If it please the Court,
13 Solicitor Stumbo, Madam Forelady. I appreciate the chance
14 to speak this week for Theia McArdle. Theia was a mother at
15 17. The child died just a little over a year ago when she
16 was 21. She's 22 today. You're going to meet a man this
17 week from North Carolina named Richard Bowman, and you'll be
18 meeting a man who killed **Minor** If this trial
19 this week were about Richard Bowman, if Richard Bowman were
20 sitting next to me or someone like me instead of Theia
21 McArdle, I'm confident 12 people would find him guilty,
22 because all of the evidence -- there's not one piece of
23 evidence in this case that does not at least point to
24 Richard Bowman of guilty of killing the child **Minor** a
25 three-year-old child. Richard is just absolutely cornered

1 in a box with a lid on it. These are the facts that you're
2 going to find in the case today, or this week. I hope it
3 ends Thursday or Friday. He's complete cornered in a box.
4 One, Richard Bowman was with the child **Minor** all day. The
5 day that **Minor** died. Richard Bowman was with him from the
6 morning until the day he was dead at the emergency room.
7 Not one minute without him. You're going to see that as a
8 fact. Two, for substantial portions of the day Theia
9 McArdle was not with the child. You're going to hear from
10 different sources, and it's unfortunate, that Theia was
11 living on her own at age 17 or younger and she became a
12 prostitute. She met someone -- it's undisputed. On the
13 evening of the 29th, which is really the evening that
14 **Minor** died, she was at a service call with a man in
15 Spartanburg. She left after dinner. At that time **Minor**
16 was still alive. I submit to you there's no evidence he's
17 got any injuries at that time. Theia gets another call to
18 come to Newberry from a -- I wouldn't call him a gentleman,
19 but a man in Newberry who advertises -- sees the
20 advertisements. She's never been to Newberry. She --
21 fortunately has an older man she's living with. This man
22 named Richard Bowman who's a pimp. She does what these
23 women do in these situations. I've never been to Newberry.
24 I've got a young man calling. You're coming with me. The
25 child, we can't leave **Minor** alone. The child has to come,

1 too. Theia had only returned home, you'll hear from the
2 testimony, just a couple minutes. She came straight from
3 Spartanburg. She got gas, came back and met a man in
4 Spartanburg. A customer she's seen several times before.
5 Came back briefly, washed up and they left for Newberry
6 after 11:00 at night. The testimony is Richard put the
7 child in the car. Theia drove. The child is sitting
8 directly behind Theia. The third wall, under any theory
9 that the State's putting forward and under any story that
10 Richard Bowman is testifying, Theia could not have inflicted
11 these blows. If you look at these photographs and a
12 reasonable thinks that they occurred about the same time
13 that the bruises in the nature, and this appears to be one
14 continuous assault on that child, it is medically impossible
15 for Theia to have been the one to inflict the fatal blow.
16 You're going to hear that. It is medically impossible. And
17 I dispute it because the facts are going to show this child
18 died -- if the child had been beaten -- and he was savaged.
19 What killed the child was a blow to the head so severe that
20 you're going to hear the pathologist say that the child
21 would have blacked out at that moment and died within
22 minutes. Had he had all these other injuries that child
23 would have survived. What killed **Minor** was a blow to the
24 head which caused the blood to start swelling in his head
25 and he was unconscious immediately and dead within minutes.

1 And under any theory the State is going to put forward,
2 certainly through Richard Bowman, Theia could not have been
3 the one who did it. And how do we know this? Because she
4 was with a man who is paying her for sex. We know that she
5 didn't even arrive until about 12:30 in the morning at that
6 man's house. They engaged in some talk and then the man
7 paid for 30 minutes of service. The Solicitor says it's
8 unreasonable to take 30 minutes to find the hospital. They
9 had never been before. It's midnight. They got there
10 quickly. And I dispute -- I would ask you to listen to what
11 the witnesses say and not the Solicitor's characterizations
12 of how people are reacting. Fourth wall, it is medically
13 impossible, and you will hear from the pathologist, it is
14 medically impossible for **Minor** to have been killed like
15 this without Richard Bowman being present. He could not have
16 not been present for the child to die that quickly. And
17 five, the lid on the box for Richard Bowman. He admitted
18 within hours of **Minor's** death to law enforcement that he
19 had become so angry with **Minor** at the house in Spartanburg
20 because he was giving the child a bath and the child
21 defecated in the bathtub. Bowman admitted, and I bet he
22 rues the day he does it, but he admitted that he struck
23 **Minor** so hard that **Minor's** head went into the side of
24 the bathtub. But he says -- now he says that I didn't
25 really. But he admitted it within hours. **Minor** had made

1 me so angry I struck him so hard that the child -- a 28
2 pound child's head goes into the bathtub. The -- I won't
3 lie. If -- it could be just that he gets so angry in
4 Spartanburg at just -- and I understand that killed him.
5 But it could have been in Spartanburg or it could have been
6 a pimp sitting in the car for about an hour waiting for a
7 woman to come out of a call with a cranky child. Either way
8 it plausible. But what killed **Minor** was a hard, hard
9 knock to the head. Richard will offer explanations, and
10 he's given many stories. None of them can medically be
11 possible if you believe the pathologist. But Richard's
12 found an escape hatch. About two weeks before this trial,
13 when Richard's scheduled to go to trial, he meets with the
14 prosecutors, and he says I will cooperate. I am willing to
15 completely shift and testify completely against Theia
16 McArdle. Maybe I'm guilty of not reporting abuse, maybe I'm
17 an accessory after the fact, but I'm willing to give you a
18 story that shifts all the blame to **Minor's** mother, Theia.
19 I didn't do nothing. I didn't kill the boy. Completely
20 contradicted by the facts of this case and his prior
21 statements to the cops. The problem with it is there's
22 evidence other than Richard's changing stories that Theia
23 was present when this child was hit. That is entirely what
24 you have to hang this verdict -- a verdict on this on this
25 21-year-old girl. I'm telling you. And I'll close soon.

1 But if you all close the door on Theia McArdle today, or
2 this week, y'all are opening the door for Richard Bowman.
3 You all are opening the door for a man who beat a 28 pound
4 child to death with his fist. The evidence will completely
5 bear that out. I want you to do what the Solicitor is
6 asking you to do. I want you to stand up for the people in
7 Newberry, and I want you to stand up for **Minor** and I want
8 you all to make the Solicitor's office to deal with the man
9 who killed **Minor** while they still can. While
10 there's still a case pending on this man.

11 If you all convict Theia, there's not going to be a
12 conviction of Richard. And in this case you're going to
13 find that Richard -- that there's no question but he's the
14 culprit. The Solicitor opened with a quote from Voltaire,
15 the famous philosopher. On his deathbed Voltaire's final
16 words were, "What, the flames already", and that's Richard
17 Bowman.

18 THE COURT: Thank you, Mr. Verner. Solicitor, call
19 your first witness, please.

20 MR. DANIEL: Your Honor, the State calls Lisa Frick.

21 LISA FRICK, having first been duly
22 sworn, testified as follows:

23 MR. DANIEL: Your Honor, before I begin I offer State's
24 No. 154 is the affidavit of the Records Custodian of
25 Newberry Hospital. And I offer that evidence for the

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1 purpose of offering State's 133, the actual medical records,
2 for admission.

3 THE COURT: Any objections?

4 MR. VERNER: Can I see what he's offering, Judge?

5 THE COURT: Certainly.

6 MR. VERNER: Without objection, Your Honor. I would
7 ask the Solicitor to give us a tally of how many pages he's
8 offering into evidence.

9 MR. DANIEL: You Honor, it would be three out of these
10 records for this witness.

11 THE COURT: All right. Three out of those records.
12 What's that marked as?

13 MR. DANIEL: The medical records, all of them are
14 marked as 138.

15 THE COURT: All right. 138 will be in evidence, and
16 just elude to the pages that you are most concerned with, if
17 you would. And the affidavit is also part of 138 or is that
18 separate?

19 MR. DANIEL: It's a separate exhibit, Your Honor, 154,
20 and I offer that in evidence as well.

21 MR. VERNER: Just housekeeping, Your Honor. Is he
22 marking these as 1 and 2 or he's going to introduce them as
23 it's premarked numbers?

24 THE COURT: They're premarked, I believe, as 138 and
25 154.

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1 MR. VERNER: And just for my record keeping, that's how
2 they're coming in?

3 THE COURT: Yes, sir. That'll keep us from having to
4 remark the exhibits.

5 (Whereupon, State's Exhibit Nos. 138 and 154 were
6 admitted into evidence.)

7 DIRECT EXAMINATION

8 BY MR. DANIEL:

9 Q Ms. Frick, where are you currently employed?

10 A Newberry County Memorial Hospital.

11 Q And what's your position at the hospital?

12 A I work in the emergency room in registration.

13 Q You work at the ER registration desk?

14 A Uh-huh.

15 Q And what are your duties as an ER registration clerk?

16 A I register patients as they come in and get as much
17 information as I can, verify demographics, and get them
18 ready to be triaged, to be seen.

19 Q So if I come to the ER, I'm sick or something, you're
20 the lady I talk to, I give my insurance card information --

21 A Uh-huh.

22 Q -- things of that nature --

23 A Uh-huh.

24 Q -- initially?

25 A Yes.

LISA FRICK: DIRECT EXAMINATION

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1 Q And what hours or shift do you work typically?

2 A I work typically Sunday, Monday, Wednesday from 7:00
3 p.m. to 7:00 a.m.

4 Q Okay. 7:00 to 7:00 is your shift?

5 A Uh-huh.

6 Q December 29th of 2014, going into December 30th of
7 2014, were you on duty at the Newberry ER?

8 A Yes.

9 Q In your capacity at the ER registration desk?

10 A Uh-huh. Up front.

11 Q At that point --

12 THE COURT: It's happening again? Yes or no. Respond if
13 you could with yes or no. When you go uh-huh it's hard for
14 her write it down.

15 THE WITNESS: Okay. Sorry.

16 Q Yes or no for the court reporter's purposes.

17 A Okay.

18 Q So you were working the ER registration desk working
19 7:00 to 7:00?

20 A Yes.

21 Q December 29th and December 30th, 2014?

22 A Yes.

23 Q And on that particular shift did an unresponsive child
24 come in?

25 A Yes.

1 Q And do you recall the circumstances of that?

2 A Yes.

3 Q Go ahead and describe that for the jury, please.

4 A I estimate around 01:38 on 12/30 a black male, Mr.
5 Richard Bowman, brought Minor in, carrying him,
6 with his head up here just like this (indicating). I
7 noticed some brown, looked to be vomit, on his right
8 shoulder pocket.

9 Q I'm going to hand you what's been marked for ID
10 purposes as State's 132. Do you recognize this?

11 A Yes.

12 Q And what is that?

13 A This is Mr. Bowman carrying in Minor

14 Q And what kind of clothing, I guess, that Minor was
15 wearing?

16 A The baby only had a diaper and shorts on.

17 Q No shirt?

18 A No, no shirt.

19 MR. DANIEL: Your Honor, I'd offer State's 132 for
20 admission into evidence.

21 MR. VERNER: Without objection, Your Honor.

22 THE COURT: Without objection 132 is in evidence.

23 (Whereupon, State's Exhibit No. 132 was admitted into
24 evidence.)

25 MR. DANIEL: Permission to publish.

1 THE COURT: Please.

2 Q And going back to this picture here. What is that?

3 What is this a picture of? Where is that from?

4 A This is the ER waiting room. Mr. Bowman is walking to
5 the registration desk where I'm sitting.

6 Q And is there a time stamp on that?

7 A There is a time stamp on here of 1:35 and 28 seconds
8 a.m. on 12/30/14.

9 Q And to your knowledge is that an accurate time that
10 Richard Bowman and **Minor** entered the ER?

11 A Yes.

12 Q Initially did you see Theia McArdle enter the ER with
13 them?

14 A No.

15 Q If you could, Ms. Frick, with the Court's permission,
16 could you step down and show us here on the monitor.

17 (Whereupon, the witness stepped down from the witness
18 stand.)

19 Q And where are you in relation to --

20 A Here is the registration desk. Sitting behind here.

21 Q And I want to hand you what's been marked for ID
22 purposes as State's 133. So at that point what information
23 do you gather -- you can sit back down, Ms. Frick.

24 (Whereupon the witness returns to the witness stand.)

25 Q What information do you gather when Mr. Bowman comes in

1 there with Minor [REDACTED] in his arms?

2 A The only information that Mr. Bowman could give me was
3 the child's name and his birthday was [REDACTED]. He did
4 not know the year.

5 Q And I'm going to hand you State's 138 that's been
6 admitted into evidence. Do you recognize these documents?

7 A Uh-huh. Yes.

8 Q And what are they?

9 A This is the facesheet for when I register the patient
10 to the ER.

11 Q So you take that information and you enter that data?

12 A Uh-huh. Yes.

13 Q And then that's how medical records initially get
14 generated?

15 A Yes.

16 Q What happens next after you get that initial
17 information from Mr. Bowman?

18 A After I get the initial information, which was not
19 much, I immediately called to the nurse's desk in the back
20 and asked for someone to come get the child. He appeared to
21 be unresponsive, not breathing, and like I said, brown vomit
22 coming from his nose or mouth. And we had a tech that come
23 and got -- got him.

24 Q And those records I just provided to you, what other
25 data did you enter in those records?

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1 A Well, the information -- the address that we were given
2 was incorrect. I could not enter a picture ID. The mother
3 stated that she did not have a picture ID. She did not have
4 the child's Medicaid card.

5 Q Let me stop you a second. But at this point you didn't
6 see the mother, correct? You testified to that earlier?

7 A Right, no. No. When she came in.

8 Q I'm going to hand you State's 133. Do you recognize
9 that image?

10 A Yes.

11 Q What is that?

12 A Mr. Bowman is walking outside to look for Theia
13 McArdle.

14 Q And that's after medical staff had taken --

15 A Yes.

16 Q -- Minor to the back?

17 A Yes.

18 Q To the operation room area or to be worked on?

19 A No. To one of the emergency rooms.

20 Q Okay.

21 MR. DANIEL: Your Honor --

22 A And he kept asking if the mother here yet. Is the
23 mother here yet. And I said no, she's not in the waiting
24 room.

25 MR. DANIEL: Your Honor, I offer State's 133 for

1 admission in evidence.

2 MR. VERNER: Without objection.

3 THE COURT: Without objection, 133 is in evidence.

4 (Whereupon, State's 133 was admitted into evidence.)

5 MR. DANIEL: Permission to publish.

6 THE COURT: Please.

7 Q And if you could, tell us the time stamp on this still
8 shot.

9 A The time stamp is one minute 37 and 10 seconds.

10 Q So at that point is that Richard Bowman looking for
11 Theia McArdle?

12 A Yes. He was going looking for her.

13 Q And tell us what happens next after that?

14 A Let's see. Mr. Bowman went outside looking for her.
15 In my notes I have that they both returned at 01:44.

16 Q And that's an estimation?

17 A That's an estimation.

18 Q I'm going to hand you State's 133 -- 134. Do you
19 recognize State's 134?

20 A Yes.

21 Q What is that?

22 A That is Theia in the front and Richard in the back
23 following her to the registration desk.

24 Q Is that the first time Theia McArdle had entered the
25 ER?

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1 A Yes. This is the first time.

2 MR. DANIEL: Your Honor, I offer State's 134 for
3 admission into evidence.

4 THE COURT: Any objection?

5 MR. VERNER: Without objection, Your Honor.

6 THE COURT: 134 is in evidence.

7 Q The time stamp on that image with Theia McArdle says
8 1:37:49 a.m.

9 A Uh-huh. Yes.

10 Q So 1:37 a.m. and 49 seconds, that's the first time you
11 see Theia McArdle enter?

12 A Yes.

13 Q And going to the medical records, State's 138. And you
14 said, and I know a minute ago you referred to your notes.

15 A Yes.

16 Q Did you make that a part of the medical record?

17 A Yes, I did.

18 Q If you could, go to that portion of the records,
19 please, ma'am.

20 A Okay.

21 Q And if you could, read aloud your entry. And
22 approximately what page is that? Up on the screen, is this
23 a data entry you did as part of the medical records?

24 A Yes.

25 Q If you could, read aloud. And you typed that yourself?

- 1 A I did.
- 2 Q If you could, read that aloud.
- 3 A Okay. "This was a new patient traveling through from
4 North Carolina. Non-biological father and biological mother
5 brought patient in unresponsive. I got all info I could
6 get. Parents were frantic. Mom states patient has North
7 Carolina Medicaid. Did not have the card or her picture ID.
8 I was unable to collect signatures. Patient expired and did
9 not feel comfortable asking for this information. I left
10 the face sheet for day shift to get the North Carolina
11 Medicaid number and consent were initialed by Nicole and I
12 as verbal consent given. Patient's mother gave police their
13 new address saying they just moved to [REDACTED],
14 Enoree, South Carolina. This was never told to me at
15 registration. Patient's mother stated her purse had been
16 stolen and she had no ID or anything."
- 17 Q And did you do any more data entry as far as medical
18 records?
- 19 A I did.
- 20 Q If you could, go to that portion of the medical
21 records.
- 22 A "The following are notes in Meditech which are date and
23 time stamped for patient, Minor [REDACTED] who was brought
24 into the ER on 12/30/14. The patient arrived being held by
25 an African American male."

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1 MR. VERNER: Your Honor, respectively I object. My
2 understanding is the witness needs to testify what she can
3 recall from memory. She can use notes to refresh
4 recollection if she can't recall, but she can't just read
5 that as her testimony.

6 MR. DANIEL: This is in evidence, Your Honor.

7 THE COURT: I know it's in evidence. Ask her first if
8 you would, though, if she recalls specifically the
9 conversation.

10 MR. DANIEL: Yes, sir.

11 THE COURT: If she needs to refresh her recollection
12 with the document then that's fine.

13 Q Ms. Frick, do you have independent knowledge of the
14 conversations you had with Mr. Bowman and Ms. McArdle that
15 night?

16 A Yes.

17 Q Again, tell us what you recall. And if you need to
18 refresh your memory with the records, you can.

19 A Okay. She came in -- you know, when she finally came
20 in she was asking what are they doing to him. What is going
21 on. And I told her the doctor the was back there,
22 respiratory was back there. And I told her I needed to get
23 some information. She stated that Mr. Bowman was the
24 child's biological father. And I looked at her and I said,
25 "He said he was not the biological father." And she looked

1 at him and she said, "Why would you tell them -- why would
2 you tell them that?" He said, "Because I'm not the
3 biological father." She said, "But he's like the only
4 father you've ever had." He said, "I'm not the biological
5 father."

6 Q Did they appear to be arguing?

7 A Yes. And at that time is when she said, "Shut the F up
8 twice in the waiting room with other patients there."

9 Q And going back to your previous data entry. You had a
10 North Carolina address for Theia McArdle and her son?

11 A Uh-huh.

12 THE COURT: Yes.

13 Q Please, yes or no.

14 A Yes. I'm sorry. Yes.

15 Q And then, but you -- you testified that was incorrect?
16 You learned that was incorrect?

17 A It was incorrect.

18 Q And how did you learn that that information was
19 inaccurate?

20 A Through -- the police officer gave me the correct
21 information for my medical records.

22 Q And Ms. McArdle indicated to you that her purse was
23 stolen, I believe --

24 A Yes.

25 Q -- you read?

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1 A Yes. That's why she had no picture ID or Minor's

2 Medicaid card.

3 Q And do you typically do summaries like this when people
4 come in in emergency situations?

5 A We do take notes. You know, just short notes. Nothing
6 to this extent. I just felt like something just was not
7 right and I wanted to notate it.

8 Q And why did you -- why did you feel something wasn't --
9 what made this different than another emergency situation
10 with an unresponsive -- have you seen unresponsive children
11 come into the ER before?

12 A No.

13 Q But have you seen people come in car accidents, gunshot
14 wounds?

15 A Yes. Yes. What I found strange was the mother was not
16 there initially, and I really wasn't sure where she was.
17 Mr. Bowman kept asking where she was. Didn't know. I just
18 felt like a mother would be bringing her own child in if he
19 was unresponsive.

20 Q What were -- what were Mr. Bowman and Ms. McArdle's
21 demeanors? Were they emotional, distraught, anything like
22 that?

23 A They were very -- yeah, they were emotional. He -- he
24 came running into the ER and --

25 Q Who's he?

1 A Mr. Bowman. He came running in carrying Minor
2 stating, "He's not breathing. He's not breathing." And
3 that he had brown stuff coming from his nose.

4 Q And the entrance to the ER, is that where you can pull
5 your vehicle right up to the ER like a bay?

6 A Yes. You can for -- yeah, for emergencies, yes. Other
7 than the ambulance bay.

8 Q Typically when someone's unresponsive or seriously
9 injured do people leave their vehicles at that bay and come
10 in?

11 MR. VERNER: Your Honor, I --

12 A Typically yes. If they don't come by EMS. I mean,
13 they pull -- stop there at the bay to get in quicker.

14 Q To get in quicker?

15 A Yes.

16 Q So it wouldn't be -- in an extreme emergency situation
17 it wouldn't be common to see someone park their vehicle
18 farther away?

19 A In this case, no.

20 Q Yes, ma'am. In a case such as -- such as this.

21 A That was very strange. Very strange.

22 Q And, of course, after -- were Ms. McArdle and Mr.
23 Bowman allowed to go back --

24 A Yes.

25 Q -- to where Minor was?

1 A Yes.

2 Q And do you recall approximately what time they went
3 back? How long they had to wait to see their -- to see the
4 child?

5 A I talked with Theia McArdle. I would say, she came in
6 at -- my estimation was 1:44, which was an estimate. It
7 probably took five minutes and took them on back.

8 Q And ER staff nurses, doctor were working on Minor

9 A Uh-huh. Yes.

10 MR. DANIEL: No further questions. Please answer any
11 questions Mr. Verner has.

12 THE COURT: Mr. Verner.

13 CROSS-EXAMINATION

14 BY MR. VERNER:

15 Q Hello, Ms. Frick.

16 A Hi.

17 Q Now, we're talking about December 29th, right?

18 A Well, I work 7:00 p to 7:00 a., so December 29th runs
19 into December 30th, yes.

20 Q But typically we would say the evening of the 29th?
21 After midnight I understand. But this was late the 29th,
22 early morning the 30th?

23 A Exactly, yes.

24 Q In late December?

25 A Yes.

1 Q Do you recall what the weather was?

2 A I do not.

3 Q You think it was likely cold?

4 A I would assume being December, but --

5 Q Now, you testified that he, and I'm just asking which
6 he are you talking about, had some kind of vomit on his
7 right shoulder?

8 A Mr. --

9 Q Is that Mr. Bowman or the child?

10 A Mr. Bowman. Mr. Bowman.

11 Q And Mr. Bowman brought the child in without a shirt?

12 A No. The child had no shirt.

13 Q Right. He brought the child in without a shirt --

14 A Correct.

15 Q -- on the child?

16 A Yes.

17 Q Now, you testified twice that your -- you indicated you
18 thought Theia entered the emergent -- you section at 1:44,
19 but the video shows her coming in at 1:37.

20 A Yes. I said that was an estimation.

21 Q But you estimated twice. So it -- that is within a
22 minute or two minutes of Mr. Bowman? Would that be a fair
23 characterization? She came within a minute or two of Mr.
24 Bowman, according to the video that you introduced?

25 A I have an estimate that Mr. Bowman came in at 01:38.

1 That was my -- that was my estimate.

2 Q You agree that -- you agree that the -- and you're
3 using a watch or a clock on the wall?

4 A I'm using the clock on the computer.

5 Q Okay. But we have the videos from the entrance of the
6 hospital, don't we?

7 A Correct.

8 Q And one of them is time stamped 1:35:26, which is when
9 Mr. Bowman enters. And if we assume --

10 A That's what it --

11 Q -- that if Ms. Theia is in one that says 1:37, she came
12 in within a minute or two of Mr. Bowman.

13 A If that's what it shows.

14 Q Did you not look at it?

15 A Yes, I looked at it.

16 MR. VERNER: May I approach, Your Honor?

17 THE COURT: Please.

18 Q Ms. Frick --

19 A Yes.

20 Q -- on 1:34 that's the photograph with Theia entering.

21 A Correct.

22 Q And that's actually arriving at the desk at what time?

23 A 1:37.

24 Q And this -- when Mr. Bowman first enters the hospital
25 is time stamped at what time?

1 A 1:35.

2 Q So unless the time stamp on the video system at the
3 hospital is malfunctioning, she came within a minute or two
4 of Mr. Bowman?

5 A Correct.

6 Q Not withstanding your estimates otherwise?

7 A I'm sorry?

8 Q Do you -- now, Newberry Hospital has an emergency
9 entrance in the back?

10 A For ambulances.

11 Q For ambulances.

12 A Correct.

13 Q And that fronts on Harrington Street? Or what street
14 is in the back of the hospital?

15 A Evans Street.

16 Q Evans Street?

17 A Yes.

18 Q Well, Evans Street -- okay. Evans is on one side. But
19 that's not the emergency room entrance, right?

20 A Yes, for the back. For -- well, it can be for
21 emergency room. But typically it's for EMS.

22 Q Okay. Well, let's do it this way. When an ambulance
23 brings somebody to Newberry Memorial --

24 A Uh-huh. They'd come from Evans Street.

25 Q -- the hospital has Evans Street on one side and they

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1 have Pond Street -- well, what's on the other side opposite
2 of Evans?

3 A Kinard Street.

4 Q Kinard Street. When an ambulance brings a patient --
5 the emergency patients to the hospital do they come in
6 through Evans or do they come in through Kinard?

7 A Evans.

8 Q Evans Street. If I were coming to the hospital myself,
9 which side does the public normally come in?

10 A The public normally --

11 Q Yes, ma'am.

12 A -- comes in the front.

13 Q Which is which side, Evans or Kinard?

14 A Kinard.

15 Q Which side is your office located on? Is the
16 registration desk running on the Kinard Street side or is it
17 --

18 A It is running on the Kinard Street side.

19 Q And there's a large parking lot on the Kinard Street
20 side?

21 A Yes.

22 Q And there's no parking lot really on the Evans Street
23 side?

24 A That's mainly for --

25 Q Staff.

1 A -- hospital staff.

2 Q Right. Which -- when we're looking at these video
3 cameras, the room we're looking at, that is on the Kinard's
4 side of the hospital, right? Kinard Street side?

5 A Yes.

6 Q Okay. Are you testifying if I brought my child to
7 Newberry Hospital and I was driving the car and someone else
8 carried the child in while I parked that car that you would
9 find that bizarre, strange?

10 A I'm not sure which way they came in. I can't testify
11 as to whether they came in Evans or Kinard Street.

12 Q And this would be a dark parking lot after midnight?

13 A It's lighted.

14 Q But your testimony is that you would find it odd that
15 somebody would take a minute or two to park the car and come
16 in?

17 A It seemed like a lot longer than a minute or two for a
18 mom to come in whose child was unresponsive.

19 Q But, in fact, it wasn't. If we believe the time stamp
20 on the video camera?

21 A If we believe the time stamp.

22 Q Right. And I believe you did testify that in your
23 opinion both Richard Bowman and Theia McArdle were
24 emotional?

25 A Yes.

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1 Q And, in fact, you --

2 MR. VERNER: May I approach?

3 THE COURT: Please.

4 Q This is -- do you recognize the document?

5 A Yes.

6 Q That's the document that you prepared as part of the
7 medical records?

8 A Yes.

9 Q And, in fact, we know that because your name is on the
10 bottom of the page?

11 A Yes.

12 Q In your opinion you wrote at the time that the mother
13 seemed anxious and worried.

14 A Yes.

15 Q She kept asking what's going on. What are they doing
16 to him?

17 A Yes.

18 Q Okay. And you -- at that time you were telling her I'm
19 not sure?

20 A I was at the registration desk.

21 Q Right.

22 A So I didn't know the child was in the back.

23 Q And then when she got angry at Bowman it was because he
24 said that he was not the father of the child, right?

25 A He was not the biological father.

1 Q Which you would need to be to be -- is hospital policy
2 that the parents would not be able to come in? Would a
3 boyfriend be able to come in in this type of procedure?

4 A Yes.

5 Q Even if he wasn't the father of the child?

6 A Yes.

7 Q But when Richard Bowman said I'm not the father of that
8 child, or I'm not the biological father of the child,
9 Theia's reaction was you're the only father he knows, right?

10 A You're the only father he has ever had.

11 Q Okay. So that's -- and at that time the fate of the
12 child was unknown at that point, right? The child is in
13 what I call room 3?

14 A He's in room 3.

15 Q And room 3, I take it, is one of the emergency triage
16 rooms?

17 A It's not a triage room. It's an emergency room.

18 Q Which means that there's an emergency room physician
19 there?

20 A Correct.

21 Q And that was Dr. Holaday?

22 A Yes.

23 Q And when she said would you shut the F up, that was at
24 -- directed at Richard Bowman and not other people?

25 A Yes.

1 Q And that was because I'm not the biological -- I'm not
2 this child father?

3 A Correct.

4 Q She got angry at him for --

5 A Correct.

6 Q But that wasn't directed at anybody else other than
7 Richard Bowman?

8 A Just Richard Bowman.

9 Q And she appeared to be emotional?

10 A She did appear to be emotional.

11 Q And, in fact, wasn't Theia brought into room 3 where
12 Dr. Holaday was working on the child?

13 A Theia and Mr. Bowman were both taken back.

14 Q And, in fact, the notes of Norman Atkinson are also
15 included in the hospital records?

16 A I'd have to look through them to see.

17 MR. VERNER: May I approach, Your Honor?

18 THE COURT: Please.

19 A I don't typically see the nurses' notes, so I'm really
20 not sure.

21 Q Would that be part of your package? But according to
22 those medical records Dr. Holaday was trying to console
23 Theia?

24 A The house supervisor, Nina Wagner, is the one who was
25 talking to Theia.

1 Q Well, where it says Dr. Holaday, can you just read that
2 sentence?

3 A "Dr. Holaday attempted to console mom and explain that
4 there was nothing more staff could do. Patient had
5 expired."

6 Q Now, were you ever in room 3, too?

7 A No.

8 Q But at least the nurse -- the charge nurse, Atkinson,
9 also noted that Theia was emotional and was being consoled
10 by Dr. Holaday, if those medical records are correct?

11 A It doesn't say that she was emotional. It says he
12 consoled her.

13 Q Well, when you're consoling somebody what are you
14 doing?

15 A There's different kinds of emotion.

16 Q What does consoling mean?

17 A There's --

18 Q It doesn't mean trying to make somebody feel better?

19 A Yes.

20 MR. VERNER: Thank you, Ms. Frick, for answering my
21 questions. The prosecutor might have a few more for you.

22 MR. DANIEL: Just briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. DANIEL:

25 Q Ms. Frick, I hand you State's 132, correct?

1 A Yes.

2 Q And that has a time stamp of 1:35:28, correct?

3 A Yes.

4 Q And that depicts when Mr. Bowman first came into the ER

5 with the child?

6 A Yes.

7 Q And then I handed you State's 134, correct?

8 A Yes.

9 Q And that's got a time stamp on it of 1:37:49, correct?

10 A Yes.

11 Q Correct me if I'm wrong on my math. Would that be two

12 minutes and 21 seconds elapsed between the time Mr. Bowman

13 comes in with the child and the time you first see Theia

14 McArdle appear?

15 A Yes.

16 Q Does two minutes and 21 seconds seem like a long time

17 to you in your experience at the ER registration desk for a

18 mother to come in?

19 A It seemed like a very long time before she came in.

20 MR. DANIEL: No further questions.

21 MR. VERNER: No more questions, Your Honor.

22 THE COURT: Thank you, ma'am. You can step down. Just

23 leave those exhibits there, if you would.

24 (Whereupon, the witness stepped down from the witness

25 stand.)

1 THE COURT: Ladies and gentlemen, I don't know about
2 you but I need a break. We're going to take a brief 10
3 minute break. If -- does anyone smoke on the jury? If you
4 need a cigarette break, just let the bailiff know. They'll
5 take you downstairs probably to the basement area or
6 wherever they have that kind of a thing and we'll be at ease
7 for 10 minutes. Don't talk about the case, please. We're
8 at ease.

9 (Whereupon, the jury exited the courtroom at 11:07
10 a.m.)

11 (Whereupon, a recess was held from 11:07 a.m. to 11:24
12 a.m.)

13 THE COURT: We'll be going back on the record. The
14 record should reflect that the Defendant is present with
15 counsel. Let's have the jury, please.

16 (Whereupon, the jury entered the courtroom at 11:24
17 a.m.)

18 THE COURT: The record will reflect the jury is back
19 and seated at this point. Solicitor, call your next
20 witness, please.

21 MR. STUMBO: Thank you, Your Honor. The State calls
22 John Pollard to the stand.

23 JOHN POLLARD, having first been
24 duly sworn, testified as follows:

25 DIRECT EXAMINATION

JOHN POLLARD: DIRECT EXAMINATION

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1 BY MR. STUMBO:

2 Q Good morning, Mr. Pollard.

3 A Good morning.

4 Q Thank you for being here. You work for the Coroner's
5 office here in Newberry County?

6 A Yes, sir. I do.

7 Q Is that a -- your position there as deputy coroner, is
8 that a full-time position or a part-time position?

9 A It's part-time.

10 Q How long have you been working for the coroner's
11 office?

12 A I've been on the payroll for eight years. You might
13 say paid. But I also volunteered back when Coleman Bishop
14 was coroner, when James Smith was coroner, when Tommy
15 Hedgepath was coroner I volunteered and helped them when
16 they got tied up in cases.

17 MR. STUMBO: Your Honor, I would ask Mr. Pollard just
18 to pull the microphone a little bit closer. I'm having just
19 a little bit of trouble hearing him.

20 Q So, Mr. Pollard, including the time you've been working
21 on a paid basis part-time you've worked for multiple
22 coroners here in Newberry County for many years?

23 A I have.

24 Q Now, just as a matter of protocol. The coroner's
25 responsibility, just for the jury's education here, is to

1 take custody of dead bodies, correct --

2 A It is.

3 Q -- or the deceased? And make decisions on what to do
4 with those bodies at the time?

5 A We do.

6 Q And the other responsibility is to issue the death
7 certificate, correct?

8 A We do.

9 Q And that would reflect the cause and manner of death?

10 A Yes, it will.

11 Q Did you have occasion to work a case as part of your
12 duties at the coroner's office involving a three-year-old
13 boy named Minor

14 A I did.

15 Q And where did you respond to find this little body?
16 Where did you go to first --

17 A I was at the house whenever the call come in at 12
18 minutes after 2:00. I arrived at the hospital at 2:44,
19 whenever I arrived at the hospital. And upon entering I was
20 briefed by the ER doctor, Dr. Holaday. I was briefed by the
21 head nurse. And then I was directed to the room that he was
22 in.

23 Q And could you tell this jury -- just give us your
24 observations of this little body as it's laying on the table
25 there at the hospital in the ER.

1 A Whenever I walked in the room the body of the
2 three-year-old was laying on the examining table. And upon
3 entering I proceeded to look at the body. Whenever I seen
4 the body laying there I immediately left the room and went
5 into the room where she and her boyfriend or whoever was in
6 the room. I immediately looked down the hall and seen the
7 police officers was already at the hospital, and I asked the
8 sergeant to separate the two of them. Put one in one room
9 and one in the other. Then I proceeded back to the room
10 that **Minor** was in. I checked his back. Looked at his
11 head. I pulled down his little pants, and nobody could
12 believe what I seen when I pulled down that little boy's
13 pants.

14 Q What did you see when you pulled down his pants?

15 A Is groin, everything in his private area was swollen.
16 Was just as blue as it could be where he had been hit with a
17 fist and/or kicked or something.

18 Q I'm going to show you what's been marked for ID
19 purposes as State's Exhibits 1 through 7. I'm going to show
20 you --

21 MR. STUMBO: If I may approach, Your Honor. Approach
22 the witness.

23 THE COURT: Please.

24 Q That's State's 1 through 7 for ID. Mr. Pollard, if you
25 could just briefly flip through those.

1 A This is basically what I observed.

2 Q Yes, sir.

3 A This is basically what I observed in the room. And
4 upon looking at particularly his groin area and all I
5 immediately asked for the investigator to be called with the
6 police department. I immediately asked that SLED be
7 notified, and they were -- all that was taken care of at
8 that time by Sergeant Wood.

9 Q And just to back up a little bit, Mr. Pollard. State's
10 1 through 7, do they fairly and accurately depict Minor's
11 body as you observed it there in the ER that night?

12 A It is.

13 MR. STUMBO: Judge, we'd offer 1 through 7 in at this
14 time. Foundation having been laid.

15 MR. VERNER: Without an objection, Your Honor. I would
16 ask if I could just approach on a procedural question
17 sidebar?

18 THE COURT: Come on up.

19 (Whereupon, a sidebar was held.)

20 THE COURT: You move those into evidence. Any
21 objections aside from our comments at the bar? Mr. Verner,
22 no objection to the --

23 MR. VERNER: Does he acknowledge them as fair and
24 accurate depictions?

25 MR. STUMBO: He did.

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1 MR. VERNER: No objection, Your Honor.

2 THE COURT: Without objection, State's 1 through 7 are
3 in evidence.

4 (Whereupon, State's Exhibit Nos. 1 through 7 were
5 admitted into evidence.)

6 Q Now, you mentioned, Mr. Pollard, that you went back to
7 make sure that the Defendant, Ms. McArdle, and the man that
8 was with her, Richard Bowman, were separated?

9 A They did. They was.

10 Q Is that common to do in a case like this?

11 A If in a case where it involves the two, yes. You
12 separate them as quick as you can.

13 Q And that's so law enforcement can talk -- talk to them
14 separately?

15 A Yes.

16 Q These injuries to Minor's genitals, you described
17 them, would it be fair to say, that they were
18 extraordinarily swollen?

19 A Yes, sir. Very swollen.

20 Q Have you ever seen a child of that age with genitals
21 swollen to that degree?

22 A No.

23 Q Was there bruising around the genital area as well?

24 A Yes, sir.

25 Q Based on your observations and your conversation with

1 the ER doctor, Dr. Holaday, and the nurses, did you make any
2 determination as to whether this case needed to go for an
3 autopsy?

4 A At the time whenever I looked at his genital area, the
5 lower part, private area, I made the decision right then
6 that this would be an autopsy case.

7 Q And after that did you stay with the body? Or you took
8 custody of the body at this point?

9 A At that time we were still waiting on SLED, but the
10 body was under my jurisdiction, yes.

11 Q You stayed there at the ER?

12 A Yes.

13 Q And ultimately did you deliver little Minor's body to
14 Dr. Ross to have an autopsy done?

15 A After SLED got through with their investigation, yes,
16 sir. That was the next step. We placed the body in a body
17 bag and he was carried downstairs to the morgue.

18 Q And you say when SLED got there they took pictures and
19 that sort of thing. They did an initial investigation on
20 the body at the ER, correct?

21 A Yes, sir.

22 Q And you delivered his body to Dr. Ross for a forensic
23 autopsy?

24 A We carried it downstairs, yes, sir, for Dr. Ross to do
25 an autopsy on him.

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1 Q And the morgue there is at the hospital?

2 A Downstairs.

3 Q And you stayed in the morgue while Dr. Ross conducted
4 the autopsy on **Minor**

5 A From the time I arrived at the hospital I never left
6 that body. I mean, I was outside of a room where that body
7 was at until the autopsy was completed. And I did witness
8 the autopsy, yes.

9 Q And ultimately you gathered Dr. Ross' autopsy report,
10 when she finished that, for purposes of a death certificate
11 and that sort of thing?

12 A I did.

13 Q Who -- which family member was responsible ultimately
14 here -- who, in **Minor's** family, ultimately paid for the
15 funeral expenses? Do you know the answer to that?

16 A Her mother.

17 Q So that would be Patrice McArdle, the mother?

18 A Yes, sir.

19 Q The grandmother of the baby?

20 A Yes, sir.

21 Q And you interacted with her as well?

22 A Yes.

23 Q You had conversations with her?

24 A I did not contact her particularly until the following
25 day because I -- it took me a while to get her telephone

1 number and all this other stuff.

2 Q Yes, sir. The cause of death was ultimately determined
3 in this case to be from a beating, based on the autopsy
4 report?

5 A Yes, sir.

6 MR. STUMBO: Thank you, Mr. Pollard. Please answer any
7 questions Mr. Verner may have for you.

8 CROSS-EXAMINATION

9 BY MR. VERNER:

10 Q Mr. Pollard, you are the deputy coroner for Newberry
11 County?

12 A I am.

13 Q Now, what is your primary occupation?

14 A What is --

15 Q What is your primary job?

16 A Investigate any --

17 Q No, sir. Not as a -- not for the coroner's office.

18 But in day-to-day -- do you have a full-time job?

19 A I'm retired.

20 Q And that's my question. Where did you retire from?

21 A I retired from ISE Newberry, corner of Polk and
22 Alexandria, after 44 years of service.

23 Q And that's the egg place?

24 A Yes, sir.

25 Q Do you have any kind of a medical background in your

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1 prior work?

2 A No, sir.

3 Q So pretty much what you've learned, you've learned on
4 the job over the last eight years? Or how long have you
5 been --

6 A I have worked with EMS previous, while I was in high
7 school. I worked for EMS in high school. And basically
8 what little medical -- what medical knowledge I have was
9 learned through EMS.

10 Q And how long were you an EMS -- by EMS, that's a person
11 who rides on the ambulance?

12 A They call them emergency medical personnel.

13 Q Could be stationed at a hospital or could be on an
14 ambulance crew?

15 A It could be.

16 Q And how long were you an EMS?

17 A I worked for EMS, not here in Newberry, for four years
18 while I was in high school.

19 Q And in your opinion -- it's not a medical opinion, but
20 in your opinion from your experience -- prior experience as
21 an EMS and as a coroner, it looked like the private area had
22 been hit or kicked?

23 A It had been.

24 Q Could it have been grabbed?

25 A I do not think it could have been, no.

1 Q Are you the person who took the photographs of
2 Minor's body while it was upstairs?

3 A No, sir. Law enforcement and SLED agents.

4 Q Did you closely examine Minor's body or just enough
5 to see that it appeared that he had been beaten?

6 A No, sir. I examined his body from the top of head to
7 the bottom of his toe, front and back.

8 Q Did you notice what appeared to be fingerprints on his
9 flanks? Minor's flanks?

10 A It appeared that he had been hit with a fist or
11 something.

12 Q But if he had been grabbed or something like that, you
13 don't have an opinion on that?

14 A I don't think so. No, sir.

15 Q Now, does a coroner have arrest duties?

16 A Yes, sir.

17 Q So you've got the authority to arrest someone yourself?

18 A You asked could the coroner. You didn't ask could the
19 deputy.

20 Q Well, does the coroner's office have an arrest
21 authority?

22 A We do not make an arrest, no.

23 Q But you would refer suspicious cases to the appropriate
24 law enforcement agencies?

25 A I would request through any law enforcement agency that

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1 they be arrested and they would be.

2 Q Was it your decision to call SLED which is -- SLED is
3 the State Law Enforcement Division, right?

4 A That's right.

5 Q And was that your decision to involve SLED, or was that
6 made by --

7 A That is on a protocol on a child death.

8 Q I'm just asking whether you were the one who called
9 SLED and asked them to --

10 A No, I did not call SLED. I requested that SLED be
11 called.

12 Q Now, was -- in Newberry County did they have coroner's
13 inquests where the coroner can investigate suspicious
14 deaths?

15 A Yes, sir.

16 Q Did the coroner's office for Newberry investigate
17 Minor's death or was this referred over to SLED and the
18 city police department?

19 A We followed up on SLED and local police department.

20 Q And then you made arrangements for the burial or
21 cremation of Minor's body?

22 A Did I make arrangements for the burial?

23 Q Yes, sir. I thought you said that you contacted Ms.
24 McArdle? Ms. Patrice McArdle.

25 A I talked to her mother and she made the arrangements

1 through the local funeral home.

2 Q So that was actually -- that was done privately, not
3 through the coroner's office?

4 A No, sir.

5 Q But it was your decision to separate, after you had
6 seen Minor's body, Richard Bowman from Theia McArdle?

7 A It was.

8 Q Because something looked wrong?

9 A That is a normal procedure.

10 Q Did you interview either one? Did you interview either
11 Theia McArdle or Richard Bowman?

12 A Did I do what?

13 Q Did you speak to them yourself?

14 A Yeah, when I first walked in the room I spoke to them.
15 And then I got the police officers to separate them.

16 Q But by speaking to them I assume you just meant you
17 just introduced yourself?

18 A I told them who I was. Yes, sir.

19 MR. VERNER: Mr. Pollard, the prosecutor might
20 follow-up, but I appreciate your testimony.

21 MR. STUMBO: Just briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. STUMBO:

24 Q Mr. Pollard, you don't have a medical degree. You did
25 work in EMS though earlier in your adult life?

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1 A Yes, sir.

2 Q And again, number one, what you saw when you pulled
3 little Minor's shorts down. You don't need a medical
4 degree to see there was something wrong with this, correct?

5 A No, sir.

6 Q That struck you as horrific right off the bat?

7 A Yes, sir.

8 MR. STUMBO: No further questions.

9 MR. VERNER: Thank you.

10 THE COURT: Sir, thank you. You may step down and you
11 are free to go.

12 (Whereupon, the witness steps down from the witness
13 stand.)

14 THE COURT: Call your next witness.

15 MR. STUMBO: Thank you, Judge. The State calls Dr.
16 Duncan Holaday to the stand.

17 And, Your Honor, we would ask that Mr. Pollard be
18 released if -- he's obviously free to stay, but --

19 THE COURT: He's welcome to stay and he's free to go.

20 DR. DUNCAN HOLADAY, having first
21 been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. STUMBO:

24 Q Thank you for being here this morning, Dr. Holaday.

25 A Yes, sir.

1 Q Can you give this jury just a brief summary of your
2 education and training.

3 A I attended the Medical College of Virginia from 1988 to
4 1992. Graduated therefrom and did a year of general surgery
5 training out in California. This was through the Air Force.
6 Came back with the Air Force and did some work at Shaw Air
7 Force Base in the emergency room. And there I stayed for the
8 completion of my commitment with the Air Force, and then
9 continued working emergency rooms. And began working at
10 Newberry emergency room in 1995.

11 Q So you've been an ER doctor here in Newberry at the ER
12 since 1995?

13 A Yes. I'm almost positive I think I was just sort of
14 moonlighting at first in '95, but became full-time, I think,
15 August 1996 I was full-time.

16 Q So this August would be your 20 year anniversary here
17 in Newberry working --

18 A Yes, sir.

19 Q -- at the hospital? Are you licensed to practice
20 medicine here in South Carolina?

21 A Yes, sir.

22 Q And you've primarily work emergency room medicine
23 throughout your career?

24 A Exclusively emergency rooms.

25 Q How many patients have you seen over the years,

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1 thousands?

2 A Thousands. I think -- I tried to do the math. I think
3 it's -- I've seen usually between three to 5,000 patients a
4 year depending. But roughly 4,000 patients a year. So 20
5 years times 4,000 patient encounters.

6 Q A lot of people?

7 A Right.

8 Q A lot of people are sick coming with emergency
9 situations. Have you ever been qualified as an expert to
10 testify in the court's of this state?

11 A Yes, sir.

12 Q Was that here in this courtroom?

13 A In this courtroom.

14 Q And what was that in? Do you remember?

15 A What was the question?

16 Q What were you qualified as an expert?

17 A In emergency medicine.

18 MR. STUMBO: Your Honor, based on his testimony, we'd
19 offer Dr. Holaday as an expert in emergency medicine.

20 THE COURT: Any objection or voir dire?

21 MR. VERNER: Your Honor, I'm aware of his reputation.
22 I've got no objection.

23 THE COURT: Very good. Ladies and gentlemen of the
24 jury, normally when a witness testifies they have to testify
25 about something that they observed with their five senses.

1 Something they've smelled, heard, et cetera, and they're not
2 allowed to give opinion testimony. An exception to this
3 rule exists for individuals who by training or experience
4 are experts in some particular field. And in this case the
5 parties agree that Dr. Holaday is an expert in the field of
6 emergency room medicine. Therefore, he can give opinion
7 testimony. That testimony, ladies and gentlemen, that
8 opinion testimony, you can accept it or reject it, but it is
9 evidence that you can use as you deem appropriate.

10 You may continue, Solicitor.

11 MR. STUMBO: Thank you, Your Honor.

12 Q Now, Dr. Holaday, if you could explain to the jury as
13 the ER doctor, what does the term triage mean? If you could
14 explain that to the jury.

15 A I think of triage as being a critical phase of
16 assessment of the patient. Essentially to what degree do we
17 have an emergency. Now, with billing it's gotten more
18 complicated than what I just said. They have five levels
19 now of, you know, is this extremely urgent, is it minor, and
20 there are sort of five different definitions about it. But
21 essentially triage is the quick initial assessment, do we
22 have a life-threatening emergency or not.

23 Q And in the case involving Minor [REDACTED] who you did
24 treat back in 2014, correct?

25 A Yes, sir.

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1 Q In his case, when he gets to the emergency room there's
2 a decision made very quickly this is the highest level of
3 emergency, correct?

4 A The highest level. Yes, sir.

5 Q Your role initially as the emergency room physician, is
6 your role one of trying to investigate what happened, or is
7 it something else?

8 A In this situation, which was -- in emergency room work
9 we consider a impediment to breathing, or a problem with
10 breathing, the highest most severe significant problem a
11 human being can have, and this child had a problem. Wasn't
12 breathing at all. And when that happens my mind immediately
13 just goes into assessment of why he's not breathing and what
14 can I do to get him breathing again. And then while
15 thorough emergency care for maybe a lower level of emergency
16 investigation might help me understand the process and how
17 to maybe have it followed up and stuff. But in this
18 situation when somebody isn't breathing there is not time
19 for that. I immediately to get on the track of what do I
20 need to do, what drugs do I need, what equipment do I need,
21 where is it, let's go. That kind of thinking.

22 Q Right. So it's a mission at that point to save the
23 life?

24 A Correct.

25 MR. STUMBO: If I may approach the witness, Your Honor.

1 THE COURT: Please.

2 Q Dr. Holaday, I'm going to hand you State's Exhibit 138
3 which has been offered for ID, and I believe is in evidence.
4 And you can refer to this to refresh your memory on the
5 records. But if you could, describe to the jury your
6 initial -- your initial observations. You said the child
7 was not breathing. Were you able to ascertain why?

8 A No.

9 Q What were -- in your initial physical exam what did you
10 find there with **Minor**

11 A To go -- you know, to go back into the experience, it
12 was within, I bet you, less than a second I knew we had an
13 emergency. The -- you know, I knew he was unresponsive
14 immediately, and in less than a second I knew I had an
15 emergency. And his color was inappropriate. His body tone
16 was inappropriate. And so, going on with what I said first
17 about the breathing problem. When I realized that we had a
18 breathing problem, my job initially then at that point is to
19 handle the respiratory issue immediately. And so, my first
20 impression is that we had an emergency with a breathing
21 problem. And then very quickly we had to get him on the
22 stretcher, and very quickly also realized we had a heart
23 problem. We had no pulse. So we have no breathing and no
24 pulse. And had the nurses begin doing the compressions of
25 the chest to try to provide what's called external cardiac

1 massage. Basically chest compressions. And I started
2 working on getting his airway under control and putting him
3 -- putting a tube down his mouth into his lungs to get him
4 on -- you know, be able to breath for him with a bag valve
5 mask device to help him breath. I don't know if I've
6 answered your question.

7 Q Was there anything obstructing his airway?

8 A There was a large amounts of brown material in his
9 mouth that -- it was notable to me there was lots of it, and
10 it was notable to me that it wasn't really in a liquid form.
11 You know, like typical vomit would be. Vomit may have
12 particulate matter in it, but it's usually liquid. You
13 know, it's like stomach juice, and this was not. This was
14 kind of a congealed kind of thickened stuff.

15 Q Would that have been indicative of it being there for a
16 longer period of time?

17 A Yes. I don't think it -- I don't think he had just
18 vomited. I think that there had been some stasis, or the
19 condition of liquid sitting around for a while.

20 Q Were you able to revive Minor's body at any point
21 during this?

22 A No. No activity of any kind.

23 Q How about his body? Was it -- was his body temperature
24 warm, cold? Could you describe that for the jury?

25 A He was cold.

1 Q And explain to the jury what that means if a body is
2 cold to the touch.

3 A Thinking along the lines of the emergency medicine
4 track, which is where my brain was at the time, the worst
5 case scenario is that there's no circulation. There's no
6 blood being circulated anywhere. It continues to further
7 qualify the emergency state.

8 Q Was **Minor** at that point -- is it your opinion that at
9 that point he was deceased?

10 A There's basically three criteria for pronouncing
11 somebody dead. No breathing, no pulse, and no neurologic
12 activity, which is what I used to pronounce him dead. But I
13 did not feel comfortable making that decision upon his
14 immediate arrival to the ER. Upon his immediate arrival to
15 the ER I felt that the right thing to do was to try to
16 resuscitate him, which I did. So when you ask me if he was
17 basically dead, I heard an earlier testimony that -- or
18 opening remarks. It's not an unreasonable -- the chances of
19 reviving this child were extremely low based on the initial
20 things I saw, which was no activity of any kind. No
21 neurological activity. No pupillary activity. None. No
22 pulse, no respirations. The chances of resuscitating this
23 child to life were nearly zero. I had a very -- he had a
24 very poor prognosis. Had he had some neurologic activity,
25 had there been some electrical activity on the monitor with

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1 his heart, but it was a flat line. There was no electrical
2 activity with his heart. No breathing. No pupil area
3 activity. No neurologic activity. That's death. But I
4 tried to resuscitate him for some period of time. I think
5 my record indicates I may have even worked on him for about
6 25, 30 minutes.

7 Q Ultimately had a CAT scan ordered in this case as well?

8 A The CAT scan order was -- there was a CAT scan order
9 while he was still in the emergency room after I pronounced
10 him dead. And the answer to that, yes, there was a CAT scan
11 order. I'd have to look and see if I am actually the one
12 that ordered it, or if it was part of the forensic pursuit
13 of gathering evidence that -- I know Dr. Ross would have
14 needed a CAT scan and we may have decided to order it right
15 then and there because of her needs. That part I don't
16 recall. But there was a CAT scan ordered while the patient
17 was still in the ER, but after he was pronounced dead.

18 Q And I know you just mentioned prior to the time when
19 you try to resuscitate you don't make a firm declaration of
20 death. But being able to look back on the records now and
21 what you did on this case I'm going to ask you this
22 question. To a reasonable degree of medical certainty, is
23 it your opinion that when he arrived at the ER that he was
24 -- he was dead?

25 A Yes.

1 Q You said you've treated three to 5,000 patients a year.

2 In that range. I'm assuming a lot of those were children?

3 A Many pediatric cases.

4 Q And when you have a child, as a general rule, brought
5 in who's unresponsive, not breathing, what are your usual --
6 typical observations of how parents act in those situations?

7 A I think the way I would describe it, I don't think that
8 -- I think it's the worst thing that I've seen a family
9 member or loved one go through is the fear of a child, you
10 know, being harmed or detriment impending death. And so,
11 there is very little composure. There is -- you know,
12 senses. It's hard for them to even speak. It's -- I'd say
13 it's -- as an ER doctor, it's the worst part of -- it's the
14 part I dislike the most is perceiving that emotional
15 turmoil. I mean, it's the worst that I've seen.

16 Q And have you seen in your experience, you have family
17 members actually bring an unresponsive child in themselves
18 without having called EMS first?

19 A Yes.

20 Q And how are they usually brought in to the ER when that
21 happens? Do they appear --

22 A I would say, you know, not just usually, but probably,
23 I feel like it's nearly a hundred percent it's a frantic
24 arrival to the point of when they see emergency, they follow
25 that emergency sign and they get to the building and pull up

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1 into the ambulance bay, or wherever they can, and they rush
2 in running, screaming, and we figure out almost before
3 they're even in the ER, I mean even in the waiting room,
4 there's some mayhem going on outside.

5 Q Something really wrong?

6 A Right.

7 Q After -- and I believe earlier there was a reference
8 made in the records to you consoling the mother of the
9 child. Can you describe to the jury what -- how that --
10 when did that interaction happen?

11 A My memory, I believe I consoled her in the room where
12 the child was. And I may have talked to her again, but I
13 have a memory of talking to the mother in the room where the
14 child was. And I remember it being, in terms of time, a
15 relatively short conversation where I didn't ask a lot of
16 questions and she didn't ask a lot of questions. But I
17 remember my motivation for consoling was how it usually is
18 in that somebody has just lost a loved one, and this is --
19 it's probably not fair to -- what could be the worst type of
20 loved one to lose. But I certainly think losing a child
21 qualifies as certainly got to be up there. So I just
22 assumed that the mother would need consoling. It's not like
23 somebody came and grabbed me and said, hey, you've got to
24 talk to his mom. She's -- you know. I stepped into the
25 consoling role because I felt like surely she must need it.

1 And she was at the bedside, so I remember speaking to her at
2 the bedside with the child still present. And I may have
3 talked to her again, but I don't recall that part of it.
4 Although I do recall talking to her very briefly. I tried
5 to let her know that I felt sorry for what happened.

6 Q And you informed her that **Minor** was dead at that
7 point?

8 A Yes.

9 Q After that brief encounter with her did you have any
10 other interaction with the Defendant that night, Ms.
11 McArdle?

12 A Not that I can testify positively to. I would say that
13 I may have but I don't -- I'm not able to remember if I did
14 or not. In normal cases there would probably be more
15 interaction. I mean, normally I'm involved as much as I can
16 be with family. Visit again. Are there any questions. So
17 that would be normal for me to be involved again. But it
18 doesn't mean that I definitely was or wasn't. I do remember
19 talking to her at the beside with the child still there.

20 Q After this encounter were you able to go back and try
21 to ascertain or observe some of the injuries and try to
22 ascertain what had happened with this child?

23 A After, you know, I went through the phase of I've got
24 to resuscitate this child. I've got to go down that path.
25 Do all the -- come up with the right medications, right

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1 treatment. So I was on that pathway. And then after I
2 pronounced him dead then my mind did start to think about
3 what happened. I mean, what caused the death of a
4 three-year-old. And my mind and my vision was so narrow I
5 was really looking at just how do I resuscitate this kid.
6 Now I could kind of think about other things because I'd
7 pronounced him dead, so I could think about other stuff now.
8 And I think that there were other -- obviously other
9 attendants in the ER. I had the house supervisor, I had
10 nurses, and I -- and so, there were other minds looking at
11 things. And I got some indication -- you know, I was
12 thinking about what caused the death of this child. I got
13 some indication that I needed to look again. So I went back
14 and examined the child now that I wasn't so worried about
15 how do I get this airway, how do I resuscitate him, what are
16 we doing to do about his pulse. I wasn't really thinking
17 about those things now because I'd pronounced him dead. I
18 went back and took a look at him and it seemed that he had
19 died from a traumatic situation.

20 Q You say it seemed. Let me back up.

21 MR. STUMBO: Judge, if I may approach the witness.

22 THE COURT: Please.

23 Q I hand you what's in evidence as State's 1 through 7.
24 Just briefly flip through those. Are those a fair and
25 accurate representation --

1 A Yes.

2 Q -- of Minor that night in the ER? And did he have
3 any bruising, Doctor?

4 A Yes.

5 Q How much? Can you describe that for the jury?

6 A I remember bruising around the right abdomen, lower,
7 maybe off to the side, and I remember extensive bruising in
8 the genital area, perineal areas. Just the area around the
9 groin, inner thighs. And I didn't see any pictures of his
10 head, but I thought I remembered a bruise on his forehead.
11 I have a memory of a bruise on his forehead. And the most
12 noticeable bruising that was just the most remarkable was
13 around his midsection in his private area. That was the
14 most extensive bruising.

15 Q And extensive bruising to the torso and genital area,
16 what would that indicate to you as an ER doctor as to what
17 had happened to this child?

18 A It's -- as an ER doctor it doesn't indicate that he had
19 some unfortunate medical condition that caused his death.
20 It indicates that he has had some unfortunate traumatic
21 event that has caused his death.

22 Q And the extensive bruising, do you have an opinion to a
23 reasonable degree of medical certainty as to the type of
24 apparatus that would cause that type of bruising to a child
25 this age?

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1 A Not within a reasonable medical certainty, except that
2 I -- reasonable certainty I feel that more force was applied
3 than would happen in normal conduct of a three-year-old
4 hobbling around playing having a fall on a slide or, you
5 know, a playground incident. It appeared that more force
6 had been delivered than that.

7 Q When a child has an accidental injury and comes into
8 your ER where would you typically expect to find those
9 injuries on the body?

10 A They can be anywhere, but the limbs are most commonly
11 involved, as well as the head. In that case there is a lot.
12 But limbs are often involved.

13 Q But would you typically expect to see an accident
14 multiple bruises to the torso and groin?

15 A That's unusual. And especially the injuries to the
16 genital area. That's unusual.

17 Q So do you have an opinion, to a reasonable degree of
18 medical certainty, on whether these injuries to Minor were
19 accident or non-accidental?

20 A With reasonable certainty, they're non-accidental.

21 Q That's based on your training, experience and expertise
22 of 20 years of being an ER doctor?

23 A Yes, sir.

24 MR. STUMBO: Beg the Court's indulgence.

25 THE COURT: Yes, sir.

1 Q One more question, Dr. Holaday. What is the official
2 time of death based on your records for Minor

3 A I think what -- does 2:06 a.m. sound -- let me look at
4 my records.

5 Q Take your time.

6 A Yeah, I got 2:06 a.m.

7 Q That was after you spent 30, 35 minutes trying to
8 resuscitate him?

9 A My record indicates 35 minutes of resuscitation.

10 MR. STUMBO: Thank you, Dr. Holaday. Please answer any
11 questions Mr. Verner may have.

12 THE COURT: Mr. Verner.

13 CROSS-EXAMINATION

14 BY MR. VERNER:

15 Q Good afternoon Dr. Holaday.

16 A Good afternoon.

17 Q Does an emergency room physician -- I assume you have
18 shifts of typical times that you're on duty and then there
19 will be other doctors and it rotates? Is that --

20 A Yes, sir.

21 Q And you just happened to have the midnight shift this
22 particular day, or the late --

23 A The last half of -- from either 6:00 or 7:00 p.m. to
24 6:00 or 7:00 a.m. the next morning.

25 Q I think the question we all want to ask is do you know

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1 how long **Minor** had been dead, or beyond resuscitation? Is
2 it possible for you to know?

3 A No. There's a couple of things that are -- the fact
4 that he was flaccid and soft --

5 Q I'm going to ask you over here just so we can make sure
6 we hear you. And I apologize. You said his body was
7 flaccid?

8 A Yeah, and he was soft and not stiff. I remember his
9 mouth opened relatively easily as I was trying to manage his
10 airway, indicates that he hadn't been -- probably dead less
11 than two hours.

12 Q If you had to venture your best estimate, **Minor** would
13 have been dead less than two hours?

14 A Correct.

15 Q And part of that is because rigor mortis or stiffness
16 would have set in?

17 A That's a chemical process in the body and it,
18 therefore, usually progresses at different rates depending
19 on lots of circumstances. But the earliest it sets in is
20 usually within two hours. So I'm able with reasonable
21 certainty to say that he was probably at least in a
22 non-resuscitateable -- non-resuscible state two hours or
23 less.

24 Q Could it have been one hour or less? Is that within
25 the range, too?

1 A Yes.

2 Q And I don't want to tie you in, but could it have been
3 less than 30 minutes?

4 A It could have been.

5 Q And I'm talking about from when you first started
6 trying to revive the child.

7 A Right.

8 Q So could it have been just a matter of minutes?

9 A That would be extremely unlikely.

10 Q So if I said 10 to 15 minutes at a minimum you would --
11 what would be the --

12 A Let me qualify that first question when you ask me if
13 it could have been within minutes. That's because I have
14 knowledge of the autopsy. Because of knowledge of the
15 autopsy, that's why I say his death occurring within minutes
16 is extremely, extremely unlikely. And that is because
17 there's only a few things that cause death more than
18 anything else.

19 Q So you're saying that the opinion of the pathologist
20 that he died within minutes is unbelievable, or that he
21 could have been alive -- explain that answer again to us.

22 A It's unlikely that he was alive five minutes before he
23 came into the emergency room and then died five minutes
24 later.

25 Q Now by alive are you talking about -- what would no

1 longer be working?

2 A Still having a pulse and still breathing somewhat. It
3 would be unusual that he had lost all that just -- it would
4 be unusual that he had a traumatic injury that killed him
5 within five minutes based on that autopsy report.

6 Q You've seen the autopsy report prior. Did you refresh
7 your recollection prior to testifying today?

8 A No, I did not.

9 Q **Minor** -- the pathologist found that **Minor** died from
10 extensive head trauma; is that correct?

11 A Yes, I think that's what she -- yes, that's what she
12 put in her report.

13 Q Do you have it in front of you or can I --

14 A I'll have to ask somebody if I have it in front of me.
15 I don't know if I do or not.

16 Q Now, the pathologist noted that the child had extensive
17 bruising throughout the body, but the actual cause of death
18 was the blow to the head.

19 A I remember that, yes. And I'm agreeing with that.

20 Q And you agree with that?

21 A Yes.

22 Q And why would that kill you, in a fairly
23 straightforward --

24 A The injury to the head, in this particular case --
25 straightforward. The head is a container. The skull. The

1 skull is your container. And the container really doesn't
2 change much. It's kind of like a glass bottle. It doesn't
3 really change in size much. I mean, it's still with the
4 brain and fluid and some other stuff. When you start adding
5 stuff to that container what happens? The container doesn't
6 get bigger. But we're putting more stuff in, so something's
7 got to happen. And generally that's in -- that process of
8 what's happening is what causes the problem with head
9 injuries, is that because the brain and because the skull
10 can't expand and accommodate the injury and the bleeding and
11 stuff like that, slowly but surely the brain cells start to
12 malfunction. And it's -- I use the word slowly they start
13 to malfunction. And by slowly, I mean more than just in
14 minutes. But with time they eventually malfunction enough
15 that the part of the brain that controls our blood pressure
16 and our heart rate and our breathing, it begins to
17 malfunction as well, and that's what causes the death.

18 Q Does that slowly shut down the body or quickly shut
19 down the body when you've got that much bleeding in the
20 brain?

21 A In this case it's -- by slowly, definitely more than
22 five minutes. And probably more than 30, quite frankly.
23 Probably more than 30 minutes.

24 Q You can live more than 30 minutes?

25 A Yes.

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1 Q Would you be conscious for those 30 minutes or would
2 you be --

3 A That's undetermined. By alive I mean having a pulse
4 and being able to maintain vital functions like being able
5 to breath.

6 Q In your opinion, would a blow like that to the head
7 knock a child unconscious, or anybody?

8 A That also is undetermined. Unfortunately -- it's
9 likely that it would, but it may not have.

10 Q It was enough damage where it could have been, but
11 you've seen where --

12 A Correct.

13 Q Now, the child's mother, Theia, was in the room 3, the
14 emergency room while you were working on the child, right?

15 A Yes, sir.

16 Q And I know that you aren't responsible for things that
17 you don't write. But would you vouch for the general
18 accuracy of the Newberry County hospital medical reports?

19 A The ones I've read -- the ones I've read. Yes, sir. I
20 would vouch for them.

21 Q And you know the people who write reports, so -- I
22 understand you didn't write everything. But in general you
23 would vouch for the correctness of the records? The medical
24 records?

25 A In general, yes. From what I've seen of this record, I

1 -- it looks accurate. I would agree with it.

2 Q Now, do you recall the medical indicate that Theia was
3 screaming for you all to keep working on the child and was
4 distraught during the process? Do you recall her doing
5 that?

6 A No, I don't recall that. However, I want to say that
7 most definitely doesn't mean it didn't happen. I just don't
8 recall that.

9 Q Sometimes people come to the hospital by ambulance and
10 sometimes they're brought in directly by their family
11 members?

12 A Correct.

13 Q Is it fairly common that people bring people
14 themselves? Do you know a rough breakdown of how many
15 patients come in by their family members and how many go by
16 ambulance?

17 A No. I'll venture a guess that at least 90 percent come
18 in of their own -- by their own vehicle.

19 Q So actually calling an ambulance is substantially less
20 common than bringing the child in yourself?

21 A True. Well, I'm just in general saying that most
22 patients come to the emergency room thinking they have
23 something serious, but most of them arrive by private
24 vehicle rather than by ambulance.

25 Q Is there anything that you see that's suspicious by the

1 fact that one parent or one party will have somebody bring
2 the child in -- or the hurt person in while they go park the
3 car?

4 A In this scenario I don't -- I don't like the word
5 suspicious. I'll just say it's unusual that the mother
6 wasn't the primary person with the -- with the child.

7 Q Now, if she was driving the car when the child -- when
8 she observed or was told about the child's injuries, do you
9 think that she would switch places with the passenger?

10 A I don't know.

11 Q What about if the child and the other passenger were
12 both sitting in the backseat together?

13 A I think that's a scenario where I don't feel -- I would
14 only reflect on my own life experiences to that. So I
15 really don't know. I know that my ex-wife would not have
16 ever allowed -- she would have had that child with her and
17 it would have never happened that way.

18 Q Now, the hospital employees -- does the hospital
19 employee grief workers?

20 A Please repeat the question.

21 Q People die at the hospital. That might not happen
22 every day but that's fairly common that people --

23 A Right.

24 Q -- will for many reasons die at the hospital.

25 A Yes, sir.

1 Q Does the hospital employee social workers or grief
2 counselors?

3 A I don't think we have specifically the title of grief
4 counseling. We do have social workers that perform multiple
5 duties for the social needs that our ER patients have. But
6 I don't think we specifically have any grief counselors.

7 Q So there's nobody -- when somebody dies there's nobody
8 at the hospital who comes in and consoles the family, other
9 than the doctor?

10 A Nobody with that specific training or specific duty to
11 do so, no.

12 Q Now, you testified you remember Theia being in the
13 emergency room while you were treating the child.

14 A I don't know if she was in the emergency room while I
15 was treating the child. I remember her being in the
16 emergency room after I had pronounced him dead.

17 Q Do you remember Richard Bowman being in the emergency
18 room?

19 A Yes.

20 Q So he was also in the emergency room?

21 A Yes.

22 Q Do you recall what his --

23 A I remember an African American male with the child who
24 now I'm -- have learned his name is Richard Bowman. But I
25 remember that being the adult that was with the child. And

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1 I remember him handing the child off, I think, to our
2 nurses. And I was -- my mind was on one track at that point
3 and I wasn't taking in other data. I was just focusing on
4 what I could do to resuscitate the child.

5 Q Now, if I or somebody had been struck in the head like
6 that, like **Minor** had been, would it be unusual for
7 a person with that symptom to throw up? Would it make you
8 sick?

9 A It would be relatively common to throw up with that
10 head injury.

11 Q A substantial head injury and throwing up are often
12 hand in hand, commonly associated?

13 A Yes.

14 Q Is it possible **Minor** was throwing up for other
15 reasons?

16 A Sure. I think it's possible.

17 Q Could he have -- could have had like a flu or a cold?

18 A Yes.

19 Q Would it have been possible for the hospital to take
20 slides or samples and determine whether he had any kind of
21 aliment, other than the trauma that killed him?

22 A There's some routine testing we can do to kind of rule
23 out some basic stuff, but --

24 Q But there's no question that he was -- **Minor** was
25 killed by trauma, in your mind?

1 A Now that I have read the autopsy report there is
2 absolutely no question. At the time that it happened there
3 was merely a question. But I know that based on what I saw,
4 put things together, my suspicion was that he died by
5 trauma, not a medical ailment. Despite the fact I didn't
6 have medical testing done or any of that. Based on the exam
7 and my experience of what happened, I was extremely
8 suspicious that trauma was a causative factor.

9 Q Could someone performing CPR on the child have caused
10 bruises like that on Minor's body?

11 A No.

12 Q So that would be -- is that based on the location of
13 the bruises or just --

14 A Correct.

15 Q Now, there was a soup -- I think you testified, or in
16 your report, there was a vegetable soup or a broth that you
17 noticed in that -- you indicated was congealed or thicker.

18 A Right.

19 Q Did it appear to be soup?

20 A No. But it --

21 Q But you testified -- or in your report you indicate you
22 saw vegetable matter.

23 A Yeah, I said maybe vegetable particulate matter. And I
24 don't know that that means that I definitely saw bits of
25 carrots and peas or if I saw stuff that looked like

1 vegetable matter.

2 Q And is throw up always the same kind? Is there any
3 other -- when you throw up and discharge the contents of
4 your stomach, is there any other kind of throw up, or does
5 it always just come from the stomach area?

6 A It comes from the stomach.

7 Q There was a trach or something that was put down
8 **Minor's** throat to try to get him to breath?

9 A A tube.

10 Q How far does that tube go into **Minor's** body?

11 A It goes down the windpipe and typically the --

12 Q To the lung area?

13 A Yeah. Well, into the trachea.

14 Q I think you indicated about what all -- estimated it's
15 like your heart distance? Middle of your heart? You were
16 pointing to the middle of your chest, so I --

17 A Yeah. About right here (indicating), about how far
18 down it goes.

19 Q Now, could the trach have caused any damage to this
20 child's interiors, or the tube that we're talking about?

21 A No.

22 Q The most severe injuries that you saw on **Minor's** body
23 was in his crotch or his groin area and inner thigh?

24 A That was the most severe looking injuries. Just the
25 bruising and the color change and swelling.

1 Q If I looked at **Minor's** body while he was alive and he
2 had bruising like that, would that be readily apparent?

3 A If you saw him while he was alive would it have looked
4 that bad?

5 Q If **Minor** had those same bruises in his crotch area
6 and he were alive and he were naked and I looked at him,
7 should I have -- would you have been able to easily see
8 those bruises, or would it have been difficult to see the
9 bruises?

10 A I think it would be -- had been easily seen.

11 Q It should have been seen?

12 A Yes.

13 Q Would it have been seen if somebody had seen his naked
14 body?

15 A Yes.

16 Q What other marks on his body would have been where a
17 reasonable person, just an average person, would have been
18 able to easily identify the bruising?

19 A I'm having trouble answering that. Being shirtless --
20 do you mean shirtless?

21 Q Well, I'm assuming he's naked right now.

22 A Yeah.

23 Q Would a reasonable person have been able to appreciate
24 the bruising on the child's head that killed him?

25 A I wish I could see the pictures. Yes, I think that

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1 would be easily seen. And I think the bruising on his right
2 lower abdomen would have been easily seen.

3 Q Was there more than one bruise to his head or was there
4 just one bruise?

5 A I don't remember well enough. I remember, in my eyes,
6 having seen one bruise.

7 Q Was it one -- what would you estimate that the size of
8 the bruising area would be? Would it be larger than a
9 quarter?

10 A Yes.

11 Q Could it have been as large as like a tennis ball?

12 A I can't comment because I just don't remember it well
13 enough.

14 Q But it was larger than a quarter?

15 A That's my recollection, yes.

16 Q And if you would, point on your head where **Minor** had
17 that bruise, to the best of your memory.

18 A I think it was over on the right forehead area.

19 Q And when you use right, you're always talking about not
20 your right but the victim or the patient's right?

21 A Correct.

22 Q So looking at it, it would always be the left? The
23 opposite of what you -- if you said I broke my right arm,
24 you would be talking about -- not looking at it by my, the
25 patient's right arm?

1 A Correct.

2 Q And if you said he had a bruise on his right hip,
3 you're talking about the patient's right hip?

4 A Correct.

5 Q And that's standard through medicine?

6 A Correct.

7 Q What other bruises -- you indicate he had the bruise to
8 his head and -- I'm sorry, again, but just point out where
9 you think the center of the bruise was.

10 A On his head?

11 Q On Minor's head.

12 A I think it was -- I think it was right forehead.

13 Q Right forehead.

14 A Yeah. I just remember there being a bruise on his
15 forehead, or his head, and I think it was the right side
16 here.

17 Q Was it over the temple area at all, or --

18 A Don't know.

19 Q -- was it fully in the forehead area?

20 A I'm not clear enough on that to be exact.

21 Q Was it swelling like a bump, like a knot, or was it
22 just --

23 A Again, not clear enough on that. I may have just had
24 remembered that there was a discoloration consistent with a
25 bruise.

1 Q And where else -- if I had seen Minor's naked body
2 while he were alive, what other bruises would a reasonable
3 person have been able to immediately recognize?

4 A I mean, assuming that a naked body usually laying on
5 their back, so you're going to look at the front side?

6 Q Well, I'm assuming he's alive right now.

7 A Okay.

8 Q And you can say I'm about to give him a bath. What
9 would I have been able to see?

10 A I would think the bruise on the forehead, the bruise on
11 the abdomen, and the bruise to his groin area. Now, there's
12 another thing there. I think a normal person having seen
13 the bruise on the groin area, might have only noticed that
14 and not seen a whole lot of other things because it was
15 quite dramatic and eye catching.

16 Q So the first thing you would notice is the -- the penis
17 or the groin? What are you specifically talking about?

18 A Just that area.

19 Q The whole area?

20 A Correct.

21 Q That was what a reasonable person would notice?

22 A Right.

23 Q Were there any injuries to Minor's back or buttocks
24 that you noticed?

25 A Not that I noticed. I did not observe that part.

1 Q And when you treated him, you're trying to get him to
2 breath so you're not taking his clothes off or his -- I
3 assume he's still wearing a Pull-Up or a diaper while he's
4 on the bed?

5 A That's the way I remember it.

6 Q Do you recall him wearing any other clothing?

7 A No, I do not.

8 Q If **Minor** had been wearing -- until his diapers or
9 Pull-Ups were taken off would the groin area bruises have
10 been visible, or would they have been completely covered by
11 a diaper?

12 A Likely they would be completely covered by a diaper.
13 There was some bruising down the inner thighs that might
14 have been visible.

15 Q But if he were wearing pants, too, they would be
16 completely under the clothing area?

17 A Correct.

18 Q But the only injury to **Minor** that would be apparent
19 to an average person if he were clothed would be the head?

20 A If he was fully clothed? I think that's correct, yes.

21 Q Did you have any -- well, let me -- would it have been
22 possible to take samples of **Minor's** organs or body to
23 determine the cause of death if that was -- if slides were
24 taken, do you believe it would have been possible that --
25 because of the coagulation of the blood or the way the cells

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1 act, should a doctor have been able to more precisely
2 determine how long the child had been dead?

3 A That's a -- I'm not able to answer that question with
4 expertise.

5 Q That would be more for the pathologist?

6 A Yes, sir.

7 Q And I'm going to close up. But, Doctor, you agree that
8 it's the head injury that killed Minor

9 A Yes.

10 Q Had he had all the other injuries with the exception of
11 the head injury, do you believe that he would have survived?

12 A If all of the other injuries without --

13 Q Without the head trauma.

14 A -- the head injury do I believe he would have survived?

15 Q Or at least had a reasonable chance to survive.

16 A The other injuries were -- he had internal injuries as
17 well. He had a ruptured small intestine. Ruptured
18 duodenum. Without medical treatment he would have died from
19 those injuries, too. I feel very strongly that he would
20 have died from those injuries without medical treatment
21 eventually, and cause of death would have been a little bit
22 slower. But I think that it's reasonable that he would have
23 died from those injuries as well.

24 Q Can you give me a timeframe on eventually? Are we
25 talking that he would have survived for days or hours or --

1 A No, I really can't. He would have lived certainly
2 longer than minutes. But infection would set in. Things
3 like that take time. And some people respond to them
4 poorly. Sometimes people can respond fairly well and hold
5 up some resistance for a while. So I can't give you an
6 answer to that.

7 Q You would agree that the coroner, when you read the
8 report, attributes the cause of death within minutes to the
9 head injury?

10 A Yes.

11 Q And although the coroner identifies other injuries on
12 the body, the -- I guess it's, what, the subdural
13 hemorrhaging is what killed the child?

14 A Correct.

15 Q Which she attributes to a beating, or --

16 A I can't remember what she attributed it to. I remember
17 just the subdural finding. Subdural hemorrhage finding.

18 Q And would you agree with her finding?

19 A I would agree that -- yes.

20 MR. VERNER: Thank you, Dr. Holaday. The Solicitor
21 might follow-up.

22 THE COURT: Redirect.

23 MR. STUMBO: Thank you, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. STUMBO:

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1 Q Dr. Holaday, you did mention to Mr. Verner that you had
2 the ability afterwards to review the autopsy report,
3 correct?

4 A Yes, sir.

5 Q And that plays into your findings and your opinion
6 today?

7 A Yes, sir.

8 Q I'm going to hand you what's been marked for ID as
9 State's 149. You've seen that report before, Doctor?
10 State's 149 is for ID purposes. That's Dr. Ross' autopsy
11 report?

12 A Yes, sir.

13 Q You did have an opportunity to take that and evaluate
14 it after the fact, correct?

15 A Correct.

16 Q Blunt force injuries on Minor Are they just on the
17 head, or are they head and abdomen? What were the findings?

18 A Yeah, head and torso.

19 Q What sort of blunt force injuries were described on the
20 torso of Minor

21 A Let me take a look. The chest is unremarkable. That's
22 the torso, basically, between the neck and the pelvis. The
23 torso is -- the chest is unremarkable.

24 Q And I'm specifically referring to the front page of the
25 report. There's a listing of the type injuries to the

1 torso. What type injuries did Minor have?

2 A Okay. The internal injuries to the torso involved
3 bruising of the stomach and pancreas. Perforation, or
4 rupture hole of the duodenum which is the first part of the
5 small intestine, just after it leaves the stomach. And also
6 there's some hemorrhage around the bladder. And looking at
7 that, it looks like the bladder was unremarkable on exam
8 when Dr. Ross --

9 MR. VERNER: May I see which document -- may I walk up
10 and just see which one he's referring to?

11 THE COURT: He's referring to the autopsy report.

12 MR. STUMBO: It is.

13 THE WITNESS: 149.

14 A But there's hemorrhage around the bladder. I infer
15 that just to mean some blood collected around the bladder.
16 So to summarize, bruising of the stomach and pancreas,
17 perforation or a hole of the duodenum, and hemorrhage around
18 the bladder, as well as hemorrhage into part of the tissue
19 that helps to support the small intestines. The small
20 intestines are held in place by some tissue and it's called
21 the mesentery and there's some hemorrhaging to that area
22 indicating that that was also bruised.

23 Q So bruising and rupturing of internal organs is what
24 we're talking about here?

25 A Bruising of internal organs and the rupture of the

1 small intestine.

2 Q Which you say could ultimately cause death if left
3 unattended for a period of time?

4 A It could, yes. In fact, likely if unattended.

5 Q So it's not fair to say here, as was characterized,
6 that the only cause of death here was injury to the head,
7 correct? There's other injuries described in this autopsy?

8 A There's other serious injuries described. It gets real
9 sticky to say what was the final thing that eventually
10 killed him. And I think Dr. Ross is correct. The most
11 serious of his injuries, and what most likely accelerated or
12 precipitated his death and made it so difficult for recovery
13 was the head injury.

14 Q Could these type of blunt force injuries from head
15 basically through the genitals cause suffering in a child
16 this age?

17 A Yes.

18 Q So to a reasonable degree of medical certainty, is it
19 possible that this suffering occurred over a period of
20 hours?

21 A Yes.

22 Q And is it your opinion that **Minor** died very quickly
23 from a blunt force injury to the head or it was the cause of
24 multiple injuries over a period during that day?

25 A It's my opinion that he did not die quickly. That he

1 died over a period of time. That his -- when people say his
2 death was caused within minutes, what do they really mean by
3 within minutes. It's unusual. There's only a few things
4 that cause people to die within minutes. And from trauma
5 there's only a few things that cause people to die within
6 minutes. It has to be massive blood loss. Massive blood
7 loss, which he does not have at the time. So usually within
8 minutes we're talking -- most people with trauma scenarios,
9 when they're talking about within minutes they're talking
10 about somebody that dies within 10 minutes or less. And he
11 does not have injuries here that support dying within 10
12 minutes or less. There is no sign of massive hemorrhage.
13 There's no sign of cervical where the brain stem is, where
14 the vital function -- where respiratory function is
15 controlled. There's no injury to that are. So it's
16 unlikely for a child to die, for a person with these
17 injuries to die instantly or to die within minutes. It's
18 usually over an extended period of time as the brain
19 continues to swell and the neurons and the brain cells stop
20 functioning, they don't work as well, and it's just not able
21 to keep up, and slowly but surely respirator compression
22 sets in and the kid stops breathing and dies. It's usually
23 a process.

24 Q Do you believe this child suffered, Doctor?

25 A Yes.

1 MR. STUMBO: No further questions.

2 RECROSS-EXAMINATION

3 BY MR. VERNER:

4 Q Now, I don't want to be argumentative. I just want to
5 make sure you're clear. Are you disputing Dr. Ross' autopsy
6 that the child died within minutes of the head injury? I
7 take it that --

8 A Where does she say that? Could you show me where she
9 actually prints that or types that?

10 Q Is this the same --

11 MR. STUMBO: Your Honor, we may get into some pitting
12 of witnesses here, since Dr. Ross is --

13 MR. VERNER: He's an expert.

14 THE COURT: He's an expert. He's testified he's
15 reviewed the report. And if Mr. Verner has a portion of
16 that report that he wants to highlight he may do so with
17 this witness.

18 MR. STUMBO: I understand.

19 Q Are we able to put 129 -- what's the -- Doctor, what --
20 I don't have --

21 THE COURT: 149.

22 A This is 149.

23 Q 149. Are you able to post 149? In 149, what is that
24 document, Dr. Holaday?

25 MR. STUMBO: Judge, I don't believe it's in evidence

1 yet. We don't have any objection to it coming in.

2 MR. VERNER: Well, I'm just using it as demonstrative.

3 MR. STUMBO: Well, I mean, if it's being published I
4 think it needs --

5 THE WITNESS: It looks like an autopsy report.

6 THE COURT: Hold on one second. I'm assuming at some
7 point in time you will be moving this into evidence and you
8 will not be objecting to it coming into evidence, correct?

9 MR. VERNER: I'm sure it's coming into evidence, Your
10 Honor, if they have to establish cause of death in a death
11 case, but --

12 MR. STUMBO: It is, Judge. I just want to make sure
13 that procedurally we're okay.

14 THE COURT: We're okay.

15 MR. VERNER: But it's demonstrative anyway. I'm
16 allowed to publish demonstrative evidence.

17 MR. STUMBO: We obviously have no objection to it
18 coming in because we're going to introduce it.

19 Q This is basically a summary -- or how would you
20 characterize --

21 A It looks like an autopsy report.

22 Q Just a one page summary? Because I'm sure an autopsy
23 report is a lot more thorough than just a one page.

24 A I've got five pages stapled together here.

25 Q And this is -- the page we're talking about is just

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- 1 kind of a summary of her findings?
- 2 A Yes.
- 3 Q And Dr. Ross is a lady?
- 4 A Yes.
- 5 Q So when I say her, I'm referring to Dr. Ross.
- 6 A Oh, I say where it says minutes. Interval minutes.
- 7 Q Okay. Now, is she -- basically from the line up is
- 8 just basically the identification of the doctor and the
- 9 patient where -- just letterhead basically on the top of the
- 10 sheet?
- 11 A Right, yes.
- 12 Q And then there kind of is broken up into two portions
- 13 where it says final proxy diagnosis multiple blunt -- at
- 14 that point she's just listing the injuries that the body
- 15 has, right?
- 16 A Yes.
- 17 Q And then she makes the more specific finding on cause
- 18 of death on the bottom of the page, or manner of death,
- 19 homicide.
- 20 A Hold on a second. Manner of death, homicide. Yes,
- 21 I've got it.
- 22 Q And that is her more specific -- the middle portion is
- 23 just the injuries to the body and the bottom portion is the
- 24 actual manner of death?
- 25 A Yes.

1 Q And usually there are four lines where the doctor has
2 up to four causes?

3 A That part I don't know if it's usually four. In this
4 case it ended up being four. Dr. Ross would probably be a
5 better person to answer.

6 Q Respiratory depression just means somebody stops
7 breathing, right?

8 A Right.

9 Q It's not really a very fine medical diagnosis. You can
10 die of a lot of causes and be in respirator depression. You
11 could be shot and you will stop breathing?

12 A Right.

13 Q You can fall off a building and you'll stop breathing,
14 if you're dead. So respiratory depression is just a general
15 term he's not breathing anymore?

16 A Well, no. Actually, I think the way she means it, and
17 the way I understand and interpret respiratory depression,
18 respiratory depression is the respiratory drive is being
19 depressed. It's no longer normal. It doesn't mean it's
20 stopped completely. It's just no longer normal. And if we
21 don't breath normally we're not going to get oxygen
22 normally. We're not going to get rid of carbon dioxide
23 normally and eventually it will kill us. Certainly if we
24 stop breathing instantly, you know, that's also respiratory
25 depression. But respiratory depression is just that. That

1 the respiratory state has been depressed. It doesn't mean
2 it's been completely stopped.

3 Q But you would defer to whatever her -- if she testifies
4 in this case you would defer to her definition? But your --
5 but your inclination is that you think she's talking about
6 that there's something blocking the airways, or depressing
7 the airways?

8 A Something has depressed the respiratory drive.

9 Q And she links that to subdural hemorrhage?

10 A Correct. I agree with that.

11 Q And then she links the subdural hemorrhage to blunt
12 force trauma of the head?

13 A Right.

14 Q And then she links that trauma of the head to a
15 beating?

16 A Right.

17 Q And she -- it's a matter of minutes from the --

18 A The hard part is what do we mean by minutes? I mean,
19 hours have minutes in them also.

20 Q Well, as a doctor you generally -- 10 minutes or less
21 would be what you would --

22 A That's what we normally use in the trauma circles. But
23 now, Dr. Ross, in pathology circles and pathology and that
24 environment, she may -- it would -- it would be almost
25 impossible to put an exact number of minutes. But for the

1 purposes of what we're talking about here -- and I know what
2 you're getting at. It would have been nice if she said, you
3 know, four or five minutes, or eight or 10 minutes, or 30
4 minutes, and then we'd have something to dispute. But the
5 fact that she says minutes technically, if I just be really
6 technical, I really don't have a dispute because hours are
7 made of minutes and I don't know what she's really referring
8 to. But my minutes she probably means less than one hour.
9 But I don't know. What does she mean by that. When I write
10 this up, if it was more than an hour, I would put an hour.
11 If it was less than an hour I would use the phrase minutes,
12 and that's probably the case for her, too. But by minutes
13 does she mean less than 59, or does she mean less than 30,
14 or does she mean less than five. I imagine she probably
15 can't quantify that.

16 Q Did you see evidence that -- are these different
17 beatings on **Minor** or can you tell? This could be one
18 continuous beating of several areas, or is it possible this
19 could have been going on for some period of time? I think
20 you said it could have been hours.

21 A It's possible that it happened over a period of time
22 and it didn't all happen at once.

23 Q Is the -- my question is, is the injury to the head
24 consistent with the beating to the rest of the body or could
25 it have been just an independent act?

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1 A Are you asking me is it timed at the same time as the
2 rest of the --

3 Q Does it appear to be consistent -- the bruising on the
4 head consistent with the bruising on the body?

5 A What do you mean by consistent with?

6 Q Did the bruises appear to be the same age?

7 A I can't say for sure.

8 Q Could a pathologist take slides and determine the age
9 of bruises?

10 A Don't know.

11 Q Could you -- as a treating doctor --

12 A I don't think so.

13 Q -- do they appear to be fresh or old bruises?

14 A They do not appear to be fresh.

15 Q And are you talking about the injuries to the rest of
16 the body or the head or just --

17 A All of them did not look like they had just happened.
18 Like just happened, I'm going to say -- I'm going to use my
19 10 minute phrase. It didn't look like they'd happened
20 within 10 minutes.

21 Q Does that include the injury to the head?

22 A Yes.

23 Q And I believe you testified that in your opinion death
24 could have been two hours or more? I think you testified
25 anywhere from two hours to 30 minutes prior to arrival at

1 the ER?

2 A I testified that it was -- or what I feel like I
3 remember saying was that it was unlikely the child lost his
4 blood pressure, or lost his pulse and his ability to breath
5 more than two hours ago just because he was very soft and
6 flaccid.

7 Q And the two hours you're referring to is prior to
8 arrival to the hospital?

9 A Me seeing him, yeah.

10 MR. VERNER: Thank you again, Doctor.

11 THE WITNESS: Thank you.

12 THE COURT: Any redirect?

13 MR. STUMBO: No, Your Honor.

14 THE COURT: Doctor, thank you very much for coming.
15 You are free to go, and it's a pleasure to meet you.

16 THE WITNESS: Yes, sir. Thank you.

17 (Whereupon, the witness stepped down from the witness
18 stand.)

19 MR. STUMBO: We have a very short witness next. Can we
20 --

21 THE COURT: Less than 10 minutes?

22 MR. STUMBO: Yes.

23 THE COURT: By all means. Call your next witness.

24 MR. DANIEL: Your Honor, State calls Officer Mike Wood.

25 OFFICER MIKE WOOD, having been

MIKE WOOD: DIRECT EXAMINATION

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1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. DANIEL:

4 Q Officer Wood, you're a police officer employed by the
5 city of Newberry, correct?

6 A Yes, sir.

7 Q How long have you been there?

8 A Come May it will be 13 years.

9 Q On the night of December 29th, 2014 going into the
10 early morning hours of December 30th, 2014 were you on duty?

11 A Yes, sir. I was.

12 Q Were you dispatched out to Newberry County Memorial
13 Hospital?

14 A I went to assist another officer with another incident,
15 and while I was there I was then contacted by the assistant
16 coroner who was already -- who was also on scene at the
17 time.

18 Q And about what time -- you said you were on scene at
19 the hospital on an unrelated call to this case?

20 A Yes, sir.

21 Q And about what time were you there?

22 A It was roughly around 3:00.

23 Q 3:00 a.m.?

24 A Yes, sir.

25 Q Did you become involved in a child death investigation

1 at any point while you were there?

2 A Yes, sir. I did. The assistant coroner had stated
3 that he was there due to a child that had passed away and
4 that he had observed injuries that he wanted to make me
5 aware of.

6 Q And so, you're the first law enforcement official who
7 was made aware of circumstances of this child's death?

8 A Yes, sir. Myself, the assistant coroner and Dr.
9 Holaday went int the examining room at the time and they
10 briefly showed me the child's body and told me that they
11 felt that the injuries were suspicious. And also I was told
12 about obstruction of the airway. After I briefly saw those
13 injuries and heard about the obstruction, and they were
14 telling me they felt, you know, this was unusual, I
15 immediately contacted my supervisor.

16 Q Meaning you contacted your supervisor to get an
17 investigator out there?

18 A Yes, sir.

19 Q So you were made aware by the deputy coroner and Dr.
20 Holaday about the injuries of this child?

21 A Yes, sir.

22 Q And foul play was suspected?

23 A I can't say at the time. They just -- all I was told
24 was that the injuries were unusual.

25 Q And you contact your investigator on call at that point

1 you said?

2 A I contacted my lieutenant, and I believe he then
3 contacted the chief and the investigator. But I can't say
4 exactly who he contacted and in what order.

5 Q And the investigators respond, your superiors respond
6 to the scene?

7 A Yes, sir.

8 Q About what time do they get there?

9 A I would say my lieutenant arrived within maybe 10
10 minutes. I really can't say at what time the others
11 arrived.

12 Q And who's the lieutenant you're referring to?

13 A Jason Stir. (PHONETIC)

14 Q And then what investigators were dispatched out there?
15 Detectives.

16 A To my knowledge it was the current chief of police at
17 the time, Dennis Brown, Captain Roy McClurken at the time --

18 Q Who's now chief of police, correct?

19 A Who's now chief of police. Yes, sir. And Investigator
20 Allison Moore.

21 Q And they take over the investigation at that point?

22 A Yes, sir. They did.

23 Q Did you observe the parents of this child, or anybody
24 associated with this child at the hospital?

25 A I did observe them. I had very little interaction with

1 them. They were in -- they were not with the child when I
2 made contact with them. They were in a back, I guess,
3 examining room. And I was asked to keep them separate,
4 which I did. I had them go into two rooms separately, but
5 they were both in my view. The rooms were like in a corner
6 together. And I did not speak with them much other than
7 they would ask me brief questions like what's going on, and
8 at the time I explained that, you know, the investigators
9 were looking at this incident. I had no further knowledge,
10 and I was just asked to stand there.

11 Q So you were monitoring the two individuals who were
12 with the child?

13 A Yes, sir.

14 Q So were you standing guard in between the two rooms
15 they were in?

16 A I wouldn't say standing guard, but I was just standing
17 -- I was asked to stand by with them.

18 Q Is that the extend of your role in this case?

19 A Sir?

20 Q Was that the extent of your role in this case --

21 A Yes, sir.

22 Q -- essentially?

23 A Yes, sir.

24 MR. DANIEL: No further questions. Please answer
25 anything Mr. Verner has.

1 CROSS-EXAMINATION

2 BY MR. VERNER:

3 Q You did look at **Minor's** body, didn't you?

4 A Briefly.

5 Q And I believe in your report that you indicated that
6 you saw a circle raised bump about the size of a thumb on
7 the child's head?

8 A Correct, sir.

9 Q What size are you talking -- are you talking about like
10 a thumb print on the head or are you talking about the --

11 A I was talking maybe the general circumference of a
12 thumb. I was trying to put things in a reference that
13 anybody could read it. You know, everybody has a thumb. I
14 know some thumbs are bigger and smaller. I didn't take a
15 measurement. I was just trying to put things in a general
16 reference of a size that a normal person could relate to.

17 Q But you saw -- you saw the bump on **Minor's** body, on
18 his head?

19 A I did, sir.

20 Q And if I put my thumb on an ink pad and then put it on
21 a piece of paper, that would be an approximation of how
22 large the raised bump was?

23 A That was the approximation that I was attempting to
24 elaborate to.

25 Q And it was purple?

1 A I can't say for sure. But I'm saying purple-ish.

2 Q Do you recall was there bruising beyond the bump, or
3 was it just kind of the bump itself?

4 A The bump was discolored. I remember there was some
5 discoloration around the eye. I want to say it was one eye.
6 I can't remember what side.

7 Q You indicated that the right -- that the child's right
8 eye was darker.

9 A Okay. Yes, sir.

10 MR. VERNER: Thank you, Officer.

11 MR. DANIEL: No further questions, Your Honor.

12 THE COURT: Officer Wood, thank you very much for
13 coming. You may step down and you are free to go.

14 THE WITNESS: Thank you.

15 (Whereupon, the witness stepped down from the witness
16 stand.

17 THE COURT: Ladies and gentlemen of the jury, we've
18 probably reached a good point to have a lunch break. I'm
19 going to ask that you go ahead and take a break for lunch
20 right now. And if you would, be back in the jury room
21 around -- if you would, please be back in the jury room
22 around 2:15. At that point in time we'll resume the trial
23 of the case. As always, don't discuss the case with anyone
24 while you're on lunch break. Feel free to go to lunch with
25 a fellow juror, friend, family member, whoever. Talk about

1 the weather, not the case. See you all at 2:15. Thank you.

2 (Whereupon, the jury exited the courtroom at 12:59
3 p.m.)

4 MR. VERNER: 2:15, Your Honor?

5 THE COURT: Thereabouts. We'll go off the record.

6 (Whereupon, a lunch break was held from 12:56 p.m. to
7 2:32 p.m.)

8 THE COURT: It's my understanding, after speaking with
9 my Clerk, that you all will go over some photographs that
10 you did want to introduce into evidence at this particular
11 point in time before you proceed with the next witness.
12 And, Mr. Verner, you have an objection to one of the
13 exhibits; is that correct?

14 MR. VERNER: 146, Your Honor, which is the two or three
15 pages of Theia McArdle's Back Page ad. Not on the
16 foundation of it. Just on the relevance of whether -- and
17 I'll pass it up if the Court hasn't seen it.

18 THE COURT: I haven't.

19 MR. VERNER: But the -- it's really not an element of
20 the crime and it's really not a point of contention that
21 she's an escort, so I don't see how it's more probative than
22 prejudicial.

23 MR. STUMBO: Judge, just a comment. The primary thing
24 we're looking at, the last page, I think it's a three page
25 exhibit, has Ms. McArdle's phone number that she advertises,

1 going towards the bottom of the ad, which would be the front
2 -- I guess the most probative part of that exhibit would be,
3 you know, her -- getting into evidence -- because we're
4 going to get into phone records later and that sort of
5 thing. So her phone number being on the ad is certainly,
6 you know, very probative for us because it'll tie into other
7 evidence later.

8 THE COURT: Would there be any objection to either side
9 merely the -- on this exhibit it would be page three of
10 four, or at least that's how it's listed, if that was simply
11 the exhibit, and the other two pages -- I've got a three
12 page exhibit here, 146, and pages one and two are primarily
13 photographs. And if the primary relevant material is on the
14 final page, would there be any issue with introducing that
15 final page that has the contact information, et cetera? Is
16 that okay?

17 MR. VERNER: My argument is based on the suggestive
18 photographs. I think he's got a logical argument that it
19 connects the account to the phone number. Just --

20 THE COURT: And that's why I'm saying the final page
21 only contains one photograph. It's not provocative, or at
22 least I don't find it overly provocative.

23 MR. VERNER: I would have no problem with that, Your
24 Honor.

25 THE COURT: Is that okay with the State?

1 MR. STUMBO: That's fine, Judge. We have prepped the
2 witness. He may recognize -- I don't know if he'll
3 recognize the back page of it. It may be something we need
4 to talk to him briefly about before we -- before we put him
5 up. But, you know, we were going to get him to identify
6 that as being the -- but if it's not coming in without -- if
7 it's coming in without objection and there's not a
8 foundation issue, that's fine.

9 THE COURT: Right. I clearly see on the 403 how the
10 final page could be relevant. I don't see the first two
11 pages and the material on those pages being as relevant as
12 the final page.

13 MR. STUMBO: If need be, obviously this is an ad that's
14 been placed online. You can always, if he needs to, you can
15 show him -- if he has difficulty recalling it, you can show
16 him pages one and pages two and just refer this is a
17 publishing the jury and allow page three to become Exhibit
18 146 if that's acceptable.

19 MR. STUMBO: Understood, Judge. We don't have a
20 problem with that.

21 THE COURT: Let's handle it that way then, please. And
22 the other exhibits are which ones?

23 MR STUMBO: They would be -- let me, just for the
24 record, call the numbers out, Judge. It would be pictures
25 of the search warrant of the car which was done at the

1 police department. That would be Exhibits No. 9 through 43.
2 There are Exhibits 44 through 48 are related to [REDACTED]
3 Bedenbaugh, which is the location of the -- where Justin
4 Holmes lives. And then 49 through 84 are pictures of the
5 house in Enoree. The residence of the Defendant. The
6 Exhibit No. 150, also Judge, is a sketch of the crime scene
7 of the house in Enoree.

8 THE COURT: That was 150?

9 MR. STUMBO: 150. And I don't believe Mr. Verner had
10 any objection to that.

11 MR. VERNER: I don't. I'm not objecting to 8 through
12 84 which are, I believe, Agent Oliphant's crime scene
13 photographs. But I see 150 is the sketch. I'd still like
14 for them to move it into evidence through the witness, but I
15 don't -- I'm not objecting to them coming in at all. They
16 can move them in in batch, as far as I'm concerned, but just
17 don't -- through the proper witness, as long as he
18 testifies. Was there anything else? 146 is just the third
19 page I believe the Court ruled. And --

20 THE COURT: I thought it was 136, but I may be
21 mistaken.

22 MR. STUMBO: It's 146, the ad, Judge.

23 THE COURT: Right.

24 MR. STUMBO: And am I missing the -- they've also
25 indicated, Judge, that they are going to mark some DNA

JUSTIN HOLMES: DIRECT EXAMINATION

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1 fabrics that they took DNA, and as long as it comes in
2 through the proper foundation I'm satisfied. I don't
3 anticipate objections to them. That they came in batch as
4 long as they come in through the proper -- is there anything
5 else listed, Mr. Stumbo?

6 MR. STUMBO: I believe that's it.

7 THE COURT: Let's have the jury in, please.

8 (Whereupon, the jury entered the courtroom at 2:40
9 p.m.)

10 THE COURT: Let the record reflect the jury is back and
11 seated. Ladies and gentlemen, again, I apologize for
12 keeping you waiting. I trust you had a pleasant lunch.
13 What we were going out here was working through a number of
14 exhibits, and sometimes it's easier to work through them,
15 especially if we can do it as one big batch. And that's
16 kind of what we've done with roughly 75 to 80 exhibits is
17 work through those out here while you weren't present
18 instead of taking a break work through those -- take a
19 break, send you out, work through those, bring you back in
20 and take those breaks. So we've kind of been working
21 through all that. And we're in agreement on where we stand
22 with regard to those exhibits. So that's why I was keeping
23 you waiting. Sorry.

24 At this point, Mr. Daniel, you can call your next
25 witness, please.

JUSTIN HOLMES: DIRECT EXAMINATION

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1 MR. DANIEL: Thank you, Your Honor. The State calls
2 Justin Holmes.

3 JUSTIN HOLMES, having been first
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. DANIEL:

7 Q Mr. Holmes, where do you reside?

8 A [REDACTED] Bedenbaugh Street, Newberry, South Carolina.

9 Q How old are you?

10 A Twenty-five.

11 Q Do you work? Are you in school?

12 A I'm in school.

13 Q Where do you go to school?

14 A Piedmont Tech.

15 Q Have you lived in Newberry your whole life?

16 A No. Half my life, and then I lived in Greenville,
17 South Carolina for three years, and then I moved back to
18 Newberry.

19 Q And who do you live with at that [REDACTED] Bedenbaugh Street
20 address?

21 A My mom and my dad.

22 Q And what are you studying in school?

23 A Computer network.

24 Q I want to take you back to December 29th of 2014. You
25 were living at [REDACTED] Bedenbaugh Street then, correct?

JUSTIN HOLMES: DIRECT EXAMINATION

205

1 A Uh-huh.

2 Q Yes or no?

3 A Yes.

4 Q We just need a verbal response for the court reporter.

5 And were your parents in town then?

6 A No, sir.

7 Q Where were they?

8 A They was out of town.

9 Q Why were they out of town?

10 A My mom, she's in the military, so she had to take care
11 of some military business.

12 Q And speak up a little bit for me, too. Sit close to
13 the mic or pull it up. Say that again?

14 A I said she had to take care of some military business
15 out of town.

16 Q Your mom's in the military and was out of town?

17 A Yes.

18 Q What about your father?

19 A He took her up there.

20 Q And you had the house to yourself?

21 A Yes.

22 Q Were you looking on the Internet for an escort --

23 A Yes.

24 Q -- on that date, December 29th of 2014?

25 A Yes.

1 Q And how did you go about that? What websites did you
2 visit?

3 A I visit Backpage.com and clicked on the link of
4 Greenville and I just was scrolling and that's when I seen
5 her ad on there.

6 Q Whose ad did you see?

7 A Her name is -- well, she went by Nikki.

8 Q She went by Nikki?

9 A Yes.

10 Q And you saw this ad of hers on Backpage.com?

11 A Yes.

12 Q And ad for prostitution services?

13 A Yes.

14 Q And you clicked on prostitution in the Greenville area?

15 A Yes.

16 Q I'm going to hand you what's been marked for ID
17 purposes as State's 146. Take a look at that for me. Tell
18 me do you recognize that?

19 A Yes.

20 Q What is that?

21 A This is her ad that I seen on there when I came across
22 it and clicked on it.

23 Q And tell me what was the content of this ad. What all
24 was included?

25 A Just pictures. Different kind of pictures.

JUSTIN HOLMES: DIRECT EXAMINATION

207

- 1 Q Pictures of Nikki?
- 2 A Yes.
- 3 Q Provocative pictures?
- 4 A No.
- 5 Q Any pictures in skimpy tops and things like that?
- 6 A Just a top and her underwear. That was pretty much it.
- 7 Q She was in her underwear?
- 8 A Uh-huh.
- 9 Q Any contact information?
- 10 A Yes. At the very bottom.
- 11 Q What was at the very bottom?
- 12 A Her location, her name and her telephone number.
- 13 Q And what was that telephone number?
- 14 A It's 828-216-1341.
- 15 Q 828 area code. That's an out of state area code,
- 16 correct?
- 17 A Yes.
- 18 Q And did you make contact with this Nikki on that phone
- 19 number?
- 20 A Yes.
- 21 Q What did you do; text, talk?
- 22 A I texted her first.
- 23 Q About what time of day did you initially make contact?
- 24 A I want to say around, I think, 11:00, 10:00. 10:00
- 25 something, 11:00.

1 Q In the morning?

2 A No, at night.

3 Q On December 29th?

4 A Yes.

5 Q And what were you asking her? Her rate, things like
6 that? Telling her your address, that kind of thing?

7 A Yes. I just wanted -- I didn't give her my address
8 right off. I just asked her how much her rates was and she
9 told me.

10 Q She told you via text?

11 A Yes.

12 Q And what was the rate?

13 A I can't remember offhand right now.

14 Q Did you pay by the hour, minute? What was the
15 timeframe for services?

16 A I paid by the -- it was by the minute.

17 Q For how long?

18 A Thirty minutes.

19 Q You paid for 30 minutes of service?

20 A Yes.

21 Q And again, do you recall how much you paid?

22 A Yes, 120.

23 Q \$120 --

24 A Yes.

25 Q -- for 30 minutes?

JUSTIN HOLMES: DIRECT EXAMINATION

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1 A Yes.

2 Q For sexual intercourse?

3 A Yes.

4 Q Did you all eventually talk on the phone?

5 A Yes.

6 Q And I assume you give her your Newberry address?

7 A Yes.

8 Q Did you text that to her or tell her on the phone or
9 both? How does that work?

10 A I want to say I had text her and then I had told her,
11 too, over the phone.

12 Q What was your understanding? Where was Nikki coming
13 from?

14 A From my understanding, I want to say Greenville.

15 Q Is it your understanding she was coming alone or was
16 she -- did she have what I want to refer to as a pimp,
17 anything like that?

18 A To my understanding she was coming by herself.

19 Q She was coming by herself?

20 A Yes.

21 Q And so, at what -- when you spoke to her about what
22 time was it when she said she was leaving her location to
23 come to you?

24 A Around 11:00 something at night.

25 Q And approximately what time did Nikki arrive at your

1 house?

2 A At 12:22.

3 Q About 12:22?

4 A Uh-huh.

5 Q A.m.?

6 A Yes.

7 Q So it would have been December 30th at that point?

8 A Yes.

9 Q And you're pretty specific on that time. Do you
10 remember some phone records or how --

11 A Phone. Phone or a text.

12 Q And you were interviewed by law enforcement eventually,
13 correct?

14 A Yes.

15 Q I'm going to show you some photos. I'm going to hand
16 you --

17 MR. DANIEL: And, Your Honor, I'd offer State's 146 for
18 admission into evidence. I don't know if I did that.

19 MR. VERNER: Without objection.

20 THE COURT: Without objection.

21 MR. DANIEL: Page three.

22 (Whereupon, State's Exhibit No. 146 was admitted into
23 evidence.

24 Q I'll show you what's been marked as State's 44. Do you
25 recognize that?

JUSTIN HOLMES: DIRECT EXAMINATION

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- 1 A Yes.
- 2 Q And what is that?
- 3 A That's the front of my house.
- 4 Q That's just a picture of your house. That's [REDACTED]
- 5 Bedenbaugh Street?
- 6 A Yes.
- 7 MR. DANIEL: And I'd offer State's 44 for admission
- 8 into evidence, Your Honor.
- 9 THE COURT: Without objection, it's in evidence.
- 10 (Whereupon, State's 44 was admitted into evidence.)
- 11 MR. VERNER: That's 44?
- 12 MR. DANIEL: Yes, sir.
- 13 Q So Ms. McArdle arrived at your house at about, you
- 14 said, 12:23 a.m.?
- 15 A 12:22.
- 16 Q 12:22 a.m.?
- 17 A Yes.
- 18 Q I apologize. Did you see what kind of car she had?
- 19 A No.
- 20 Q And where did she park in relationship to that photo.
- 21 Your house?
- 22 A On the left side of the camper.
- 23 Q Left side of the camper?
- 24 A Yes.
- 25 Q I want to show you what's been marked for ID purposes

1 as State's 46. What is that?

2 A Where that Buick is at? That's where she parked. The
3 Durango wasn't -- wasn't there at the time.

4 Q So you're saying she parked where the Buick is in this
5 photo?

6 A Yes.

7 MR. DANIEL: Your Honor, I offer State's 46 for
8 admission into evidence.

9 THE COURT: Without objection.

10 (Whereupon, State's Exhibit No. 46 was admitted into
11 evidence.)

12 Q So where the Buick is in this photo is where her car
13 would have been parked?

14 A Yes.

15 Q And do you come to the side of the house, front door,
16 or where do you initially greet Ms. McArdle?

17 A I came -- it's a gate right here, and I came through
18 and met her almost past the camper.

19 Q And again, did you see her vehicle?

20 A Yes.

21 Q Did you see if there was anyone there --

22 A No.

23 Q -- inside the vehicle?

24 A No.

25 Q It's dark?

JUSTIN HOLMES: DIRECT EXAMINATION

213

1 A Yes. I just seen the headlights.

2 Q I'm going to show you State's 48. And what is that?

3 A That's the way I came out where the little patio at
4 right here, and I came through through the gate and I walked
5 past that camper. Well, behind the camper.

6 Q Is that where Ms. McArdle entered your house?

7 A Yes.

8 MR. DANIEL: I offer State's 48 in admission into
9 evidence.

10 THE COURT: Without objection, it's in evidence.

11 (Whereupon, State's Exhibit No. 48 was admitted.)

12 Q And again, you saw no one in the car?

13 A No.

14 Q I'm trying to phrase this in the right way. How long
15 does it take you and Ms. McArdle to actually engage in
16 sexual activity once she arrives at her house?

17 A Once she entered inside the house she came through --
18 we got a sunroom. She came through the sunroom and then she
19 entered inside the actual house. And then after that we
20 talked for a little while. And then after that that's when
21 -- after we finished talking we engaged in sex.

22 Q And you paid for 30 minutes?

23 A Yes.

24 Q So you chitchatted for a couple of minutes? A few
25 minutes?

1 A A couple of minutes.

2 Q And you're sure it was 30 minutes you paid for?

3 A Yes.

4 Q And did the session last any longer than 30 minutes?

5 A No.

6 Q So what time did Ms. McArdle actually leave your house,
7 that you recall?

8 A Around 1:00. 1:00 something a.m.

9 Q Did you ever hear any commotion outside your house,
10 peeping horns, screaming, anything like that?

11 A No.

12 Q Did Ms. McArdle at any point tell you that someone was
13 outside the car?

14 A No.

15 Q Did Ms. McArdle ask you where a hospital was, anything
16 like that?

17 A No.

18 Q Ms. McArdle ever ask you -- inform you that anything
19 was wrong?

20 A No.

21 Q And your house, [REDACTED] Bedenbaugh Street, that's in
22 Newberry County?

23 A Yes.

24 Q And again, the reason you had Ms. McArdle's contact
25 information was from that Backpage ad?

JUSTIN HOLMES: CROSS EXAMINATION

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1 A Yes.

2 Q If you could step down.

3 MR. DANIEL: With the Court's permission.

4 THE COURT: Please.

5 (Whereupon, the witness stepped down from the witness
6 stand.)

7 Q And tell us, is that the ad and that's how you came in
8 contact with Ms. McArdle by viewing that ad?

9 A Yes.

10 Q And a phone number is on this ad?

11 A Yes.

12 Q Would that be her phone number at the bottom?

13 A Yes.

14 Q And you called or texted that number?

15 A Uh-huh.

16 MR. DANIEL: No further questions. You can have a seat
17 and please answer any questions Mr. Verner has.

18 THE COURT: Mr. Verner.

19 CROSS-EXAMINATION

20 BY MR. VERNER:

21 Q Mr. Holmes, I'm guessing you sure didn't plan to be
22 here today, did you?

23 A No, sir.

24 Q The police came and spoke to you the same -- when did
25 the police come and speak to you?

- 1 A On December 30th.
- 2 Q Do you remember which officer came to speak to you?
- 3 A Lieutenant Goodman and Rodney Gray.
- 4 Q Did they tell you what they were investigating?
- 5 A Yes.
- 6 Q And it was just you in the home?
- 7 A Yes.
- 8 MR. VERNER: May I approach, Your Honor?
- 9 THE COURT: Please.
- 10 Q I'm not going to publish this. But if I show this to
- 11 you, is that your phone number?
- 12 A Yes.
- 13 Q It is?
- 14 A Yes.
- 15 Q Does the phone number end in 90?
- 16 A Yes.
- 17 Q Is it possible you may have called Theia as early as
- 18 8:00 p.m. that evening?
- 19 A Not that I remember.
- 20 Q This is your phone number?
- 21 A Yes.
- 22 Q At what time does this record indicate that the phone
- 23 call took place?
- 24 A 8:04.
- 25 Q At 8:04 p.m.?

JUSTIN HOLMES: CROSS EXAMINATION

217

1 A Yes, sir.

2 Q Is it possible you called her a little bit earlier than
3 you thought?

4 A Yes, sir.

5 Q And you called several -- and you texted, I guess,
6 before you even called?

7 A No, I called first and then afterwards I texted a
8 little bit.

9 Q But you may have called as early as about 8:00 p.m.
10 that evening?

11 A Yes.

12 Q Did Theia tell you where she was? At this time you
13 were speaking to a girl named Nikki, right?

14 A Yes.

15 Q Or at least someone you believed was Nikki?

16 A Yes.

17 Q And I'll go ahead and ask it. Is this the young woman
18 that you met?

19 A Yes.

20 Q Did she tell you where she was when you first called
21 her up or --

22 A I don't -- I don't think so. I don't think so.

23 Q But I would guess, and correct me, but I would guess if
24 you make a call like that you just kind of say hey, I'm
25 looking for some company tonight or, you know, are you

1 available to come by and see me?

2 A Yes.

3 Q Some kind of fairly innocuous opening conversation?

4 A Yes.

5 Q Do you recall how many times you spoke to her that

6 evening?

7 A Three times.

8 Q Were they long -- what do you think the longest

9 conversation would have been?

10 A No, it wasn't a long conversation.

11 Q None of them were long conversations?

12 A No.

13 Q And did you provide your address by text or by orally

14 telling her?

15 A By text.

16 Q Now, you indicated you received a call at 12:22 that

17 night? Is that when you said she came by?

18 A Yes.

19 Q Now, you certainly received a call just shy of 12:23;

20 is that right?

21 A Yes.

22 Q But that call was to say that she was having trouble

23 finding your house or that she was close by, right?

24 A Yes.

25 Q So she didn't call you from the driveway saying I'm

JUSTIN HOLMES: CROSS EXAMINATION

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1 walking in? She called and said I'm getting close?

2 A Yes.

3 Q So she wouldn't have arrived for several minutes after
4 that last call?

5 A She arrived when she made -- when that call was made
6 she was on the street. Yes.

7 Q And Bedenbaugh is kind of a -- it's not a very long
8 street and it turns kind of real hard to your left going
9 down?

10 A It's a curve right there in front of my house.

11 Q There's a fairly sharp bend in the road right where you
12 live?

13 A Yes, very sharp curve.

14 Q And your house just has one driveway?

15 A Yes.

16 Q Now, what vehicles were parked in your driveway when
17 Theia McArdle came to see you? Were there several cars? I
18 don't mean what make or --

19 A It was -- it was just one, I want to say. It was my
20 Dodge Durango.

21 Q It was probably just your one car was in the driveway?

22 A Yes.

23 Q Did you -- did somebody knock at your door, or did
24 somebody honk their horn, or how did you know Theia had
25 arrived?

1 A No. She -- she had called me and told me she was in
2 the driveway. So I walked outside and I met her outside.

3 Q So you -- and she parked in the driveway?

4 A Yes.

5 Q Now, is your driveway -- are there any street lights or
6 foot lights, or how well lit would it be around midnight?

7 A I have -- I have one on my garage, but it was facing --
8 it faces towards the camper. So I didn't have that much of
9 a light.

10 Q Your camper would have been in the driveway, too?

11 A Yes, it was in the driveway.

12 Q Is your driveway wide enough where you can get a car
13 beside the camper?

14 A Yes.

15 Q So the camper takes up one half of your driveway, and
16 then you park on the far side of the camper from the house
17 or closer to the house?

18 A Far from the house, because the camper was close to the
19 fence.

20 Q The camper's closer to the house than Theia's car would
21 be?

22 A Yes.

23 Q And did she pull all the way up your driveway that you
24 recall, or do you remember?

25 A She pulled halfway up.

JUSTIN HOLMES: CROSS EXAMINATION

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1 Q Completely off the road though?

2 A And there's a light on your garage but it kind of
3 blocks out what's on the backside of the camper?

4 A And on the left side of the camper.

5 Q So Theia's car would have been kind of in the shadow --

6 A Yes.

7 Q -- area?

8 A Yes.

9 Q How far did you come out to meet Theia? Did you come
10 all the way to her car or did you kind of just stay on your
11 steps of your porch or --

12 A I came all the way out past the camper. Just a little
13 -- just a little bit past the camper.

14 Q How far would the car have been -- you can just point
15 out a -- would the car -- Theia's car have been as far as
16 the Prosecutor's table from you when you walked up to it, or
17 would it be closer or further away? Or if you don't recall,
18 that's a good answer, too.

19 A The camper would be sitting right here, and I walked up
20 right past this table right here and the car was -- was
21 somewhere right up in there somewhere.

22 Q The front of her car would have facing you?

23 A Yes.

24 Q And if I was coming out of a driver's door right now,
25 was this about a fair distance from you, or it would be

1 slightly further away or slightly closer?

2 A That's -- that's about right.

3 Q How far would you just estimate that I'm standing from
4 you?

5 A About 20 some feet away from me.

6 Q Twenty feet?

7 A Yes.

8 Q When you saw Theia -- when you walked around the camper
9 to greet Nikki/Theia --

10 A Uh-huh.

11 Q -- was she still in the car getting out by the time you
12 arrived or she had already exited the vehicle, or do you
13 recall?

14 A After I had passed the camper she was -- she was just
15 getting out the car.

16 Q Ordinarily when you open the door for a car the dome
17 light usually comes on, doesn't it?

18 A No. It was already on because I had walked past it and
19 it came on.

20 Q So her car was lit on the inside?

21 A No.

22 Q There was no dome light that came on from opening the
23 door?

24 A No.

25 Q Are you sure or you just don't remember?

JUSTIN HOLMES: CROSS EXAMINATION

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- 1 A I'm sure.
- 2 Q So the car was dark?
- 3 A Yes.
- 4 Q Were you close enough to the car that if somebody were
- 5 sitting in the front seat you would see them, or at least an
- 6 outline of somebody?
- 7 A No. The headlights was in my eyes, so I couldn't.
- 8 Q I'm assuming that with an older model car that she
- 9 would have had to turn off the head -- she didn't leave the
- 10 headlamps on, did she?
- 11 A Yes, the headlights was on.
- 12 Q Did she leave them on while she was with you?
- 13 A Yes.
- 14 Q The whole time?
- 15 A Not that I know of when I was in the house.
- 16 Q When you all -- when you two walked together was she
- 17 leaving the car running?
- 18 A No, she walked towards me.
- 19 Q And you don't recall whether she turned off the
- 20 headlights when you all walked in or not?
- 21 A The head -- no. The headlights were still on when we
- 22 walked into the house.
- 23 Q But they might be like some cars where they turn off
- 24 slightly after you turn off the car. But as best you
- 25 remember, the headlights were still on?

1 A Yes.

2 Q You don't remember seeing anybody in the car?

3 A No.

4 Q But it's dark and you've got bright headlights coming
5 toward you?

6 A Yes.

7 Q Do you remember, was it a particularly cold night? Do
8 you remember what the weather at all was like on the 29th?

9 A It was -- it was kind of warm. Kind of a little
10 breeze. But it wasn't --

11 Q Warm for December 30th?

12 A Yeah, it wasn't too -- it wasn't too bad. It was a
13 little chilly, but not too -- not too bad.

14 Q It wasn't raining or anything like that?

15 A No.

16 Q If someone had been honking the horn in that car, is
17 your house close enough where you would have heard it?

18 A Yes. But where we were, not really.

19 Q Were you all playing music or --

20 A No. But where my room was and how far outside the car
21 was, plus the camper, I probably -- I probably wouldn't --
22 wouldn't have heard it. But I didn't hear no noise.

23 Q If I was your friend and you and I were going to go out
24 and play basketball and go out and I came to pick you up and
25 I pulled in your driveway and I honked on my horn to let you

JUSTIN HOLMES: CROSS EXAMINATION

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1 know I was there, would you have heard that kind of --

2 A I'd have to be sitting in my den, my livingroom to hear
3 it.

4 Q But you weren't playing loud music --

5 A No.

6 Q -- when Theia came? Do you recall, did you offer her a
7 drink or did you just go sit down or -- I'm not going to get
8 into details, but -- I mean, we understand what this is.

9 But how do you break the ice, so to speak?

10 A Yeah, I had offered her something to drink, like water.

11 Q So you asked her if she wanted a drink?

12 A Yes.

13 Q Do you remember whether you got her a drink or not?

14 A Yes, some water.

15 Q Did you all talk in the kitchen, or did you talk in the
16 livingroom, or --

17 A In the kitchen. We stood up and talked in the kitchen.

18 Q Do you remember at all anything that you were talking
19 about?

20 A No.

21 Q Was it just kind of -- was it just chitchat, you know,
22 a little bit about me type talk, or was it --

23 A Yes.

24 Q -- you know, talking about what I'm expecting from you
25 or --

1 A Just a quick, you know, trying, you know, to get to
2 know each other just real quick.

3 Q How long did you think -- and you didn't really talk
4 that long out in the driveway, just --

5 A Oh, no. We just --

6 Q -- walked to her car enough to walk out and --

7 A No. I didn't walk to her car, she walked toward me,
8 and then we walked into the house. But we didn't have no
9 conversation outside.

10 Q And then you gave her some water?

11 A Yes.

12 Q And then you talked about -- could you have talked as
13 long as five minutes?

14 A Yes.

15 Q Could you have talked maybe as long as 15 minutes?

16 A No.

17 Q Were you watching anything on TV in the background?

18 A No.

19 Q Now, I understand that you said I paid to be with her
20 for 30 minutes.

21 A Yes.

22 Q That doesn't include the time that we're just talking
23 to each other though, does it?

24 A Not that I know of, no.

25 Q Do you set a timer with her, or do you all just both

JUSTIN HOLMES: CROSS EXAMINATION

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1 kind of informally know when it's time to go -- for her to
2 go or --

3 A No, we didn't set no timer.

4 Q Well, how long do you think that you were with her? I
5 assume you took her back to your bedroom?

6 A Yes.

7 Q How long do you think you were with her?

8 A It was -- it was under 30 minutes. Yeah.

9 Q Was it roughly 30 minutes though? Was it substantially
10 under 30 minutes, substantially more than 30 minutes?

11 A It was substantially under 30 minutes.

12 Q And then did you all talk afterwards or --

13 A Yes, for a few more minutes, and then I walked her
14 outside.

15 Q So there's just a little bit of -- kind of, you know, I
16 enjoyed that, that was fun, and just small talk --

17 A Yeah, just small talk.

18 Q -- you know, you should come see me or something? That
19 kind of -- anything else that you all talked about?

20 A No.

21 Q Did you give her anything?

22 A No. Not that I remember, no.

23 Q Do you recall giving her or letting her buy at cost a
24 couple of Strawberry Ritas?

25 A Yes.

1 Q So you did -- she did ask for -- you had some
2 Strawberry Ritas, that's kind of a mixed alcoholic drink, in
3 the refrigerator?

4 A Yes. It wasn't in the refrigerator.

5 Q But you -- did she ask to buy those, or you gave them
6 to her, or what?

7 A She offered to buy those.

8 Q And I understand you just fairly cheaply gave them to
9 her basically at cost?

10 A Yes.

11 Q And she took how many?

12 A I can't recall how many she took.

13 Q A couple drinks for the road, so to speak?

14 A Yes.

15 Q Did she -- what was her disposition, mood was she in
16 when she came to see you?

17 A She was in a good mood to me.

18 Q Smiling?

19 A She wasn't smiling, but she was --

20 Q Did she appear to be distressed?

21 A No.

22 Q Was she pleasant to you?

23 A Yes.

24 Q Was she -- I don't want to make this sound dumb. But
25 did she appear to be into you as opposed to just thinking

JUSTIN HOLMES: CROSS EXAMINATION

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1 about other stuff and let's get this over with quick, or --

2 A Yeah, she --

3 Q And then how long after -- was there anything -- when

4 you gave her the Strawberry Ritas was she still in your

5 kitchen at that time, or where would -- would that be out in

6 the garage, or where would those be?

7 A That was still in the kitchen area.

8 Q But that's after you had been with her?

9 A Uh-huh. Yes.

10 Q And then did you walk her back out to the car?

11 A Yes, halfway.

12 Q Partly? Did you all chat a little bit out in the

13 driveway after she had gotten on her way out to the car?

14 A No.

15 Q Do you recall whether the car lights were still on?

16 A Yes, they were still on.

17 Q When you walked her back out the car lights were still

18 on?

19 A Yes.

20 Q Did you hear any honking or any sounds --

21 A No.

22 Q -- of anybody in the car?

23 A No.

24 Q Did you assume she was by herself?

25 A Yes.

1 Q How long after Nikki/Theia left did the police come to
2 see you?

3 A After she had left everything was fine then until the
4 next morning.

5 Q Do you recall what time the police came to you?

6 A Around 10:00 something that morning.

7 Q And you consented to let them search the house or --

8 A No.

9 Q -- come inside?

10 A No.

11 Q So they didn't search the --

12 A No. They came -- I let them come in, but they didn't
13 search the house.

14 Q And that was because you indicated there was no baby?

15 A Yes.

16 Q That Theia came here by herself --

17 A Yes.

18 Q -- and I didn't see anybody else to them? I believe
19 they asked you to write out a statement?

20 A Yes.

21 MR. VERNER: May I approach?

22 THE COURT: Please.

23 Q And so, you kind of guesstimated for the police that
24 she would have been at your house for about 30 minutes --

25 A Yes.

JUSTIN HOLMES: REDIRECT EXAMINATION

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1 Q -- give or take? And she would have arrived around
2 12:23? After you had been with her in your room she went to
3 your bathroom and kind of cleaned up a little bit too
4 though, didn't she?

5 A Yes.

6 Q So that added some time --

7 A Yes.

8 Q -- to the -- how long do you think she would have been
9 to your bathroom? Not -- she didn't take a shower?

10 A No.

11 Q But she did go in your bathroom and kind of clean up
12 for a little bit?

13 A Yes.

14 Q Did you, too?

15 A After she did. Yes.

16 Q After she left or just after she --

17 A After she left.

18 Q Can you guesstimate for me how long she would have been
19 in your bathroom?

20 A A couple of minutes.

21 MR. VERNER: Thank you, Justin, for being here.

22 THE WITNESS: All right. Thank you.

23 THE COURT: Anything on redirect?

24 MR. DANIEL: Briefly, Your Honor.

25 REDIRECT EXAMINATION

1 BY MR. DANIEL:

2 Q Justin, you told Mr. Verner that you received a call
3 from Theia or Nikki, as you know her, at 12:22 a.m.?

4 A Yes.

5 Q And shortly after you received that call she's in your
6 driveway, correct?

7 A Yes.

8 Q How soon after you get that call does she arrive in
9 your driveway?

10 A A few minutes after. After -- it was 12:22.

11 Q And she was already on Bedenbaugh Street, I believe you
12 testified to, when she called you?

13 A Yes. Yes.

14 Q And how did she find your house again?

15 A I had gave her my address.

16 Q So presumably she had a GPS?

17 A Yes.

18 Q So she gets there, is it fair to say, a little before
19 12:30 a.m.?

20 A Yes.

21 Q And you paid for 30 minutes, correct?

22 A Yes.

23 Q And you're saying that session lasted no more than 30
24 minutes?

25 A Yes.

JUSTIN HOLMES: RECROSS EXAMINATION

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1 Q So by your best estimation what time did she leave your
2 house?

3 A Around 1:00 something a.m.

4 Q 1:00 a.m. even or after 1:00 a.m.?

5 A After 1:00.

6 Q She gets there at 12:00 -- a little before 12:30. You
7 paid for 30 minutes?

8 A Yes.

9 Q 1:05 a.m.?

10 A I don't know the exact -- exact time. I just know it
11 was after -- it was after 1:00 a.m.

12 Q A little bit after? Give us a best estimation of time.

13 A I really -- I really didn't pay attention to the time.
14 I just know it was after 1:00 something. Before 1:15.

15 Q At any time did you hear any noise and commotion out in
16 the driveway, coming from the vehicle specifically?

17 A No.

18 Q Did you ever see anyone else inside that vehicle?

19 A No.

20 Q Did you see that vehicle drive off after Ms. McArdle
21 left? You no longer saw the vehicle in your driveway,
22 correct?

23 A No. But once -- once she left from me, when we was
24 outside?

25 Q Yeah. Did you watch her leave in the vehicle?

1 A No, I didn't watch her leave. No.

2 Q Did you see her get in the vehicle?

3 A No. I just seen her walk toward the car and that was
4 it and I started walking back into the house.

5 Q So you never saw anybody in the vehicle, correct?

6 A Correct.

7 Q You never heard anything coming from that vehicle?

8 A No.

9 Q And did Theia, or Nikki, tell you there was anyone else
10 with her that night?

11 A No.

12 MR. DANIEL: Thank you. Nothing further.

13 MR. VERNER: Just one brief follow-up.

14 RECROSS-EXAMINATION

15 BY MR. VERNER:

16 Q Is it possible that she was using a Smart Phone, or a
17 cell phone to get directions as opposed to a GP -- you
18 didn't see a GPS unit, did you?

19 A No.

20 Q Do you know anybody who sometimes uses their Smart
21 Phone, like their iPhone to get directions?

22 A Yes.

23 Q Do you do that sometimes, too?

24 A Yes.

25 Q Is it possible that's what she was using to get to your

1 --

2 A Yes, to get -- to my knowledge, yes.

3 Q And just briefly. Bedenbaugh is a fairly quiet street,
4 isn't it?

5 A Yes.

6 Q There wouldn't be a lot of heavy traffic or movement on
7 Bedenbaugh, particularly after midnight?

8 A No.

9 MR. VERNER: Thank you.

10 THE COURT: All right, sir. Thank you. You can step
11 down.

12 (Whereupon, the witness stepped down from the witness
13 stand.)

14 THE COURT: Ladies and gentlemen, we need to take a
15 very brief break and then we'll proceed with the trial. So
16 we'll be at ease for about 10 minutes. Adjourn back to the
17 jury room. If you want a cigarette, let the bailiff know
18 and he'll arrange that. Don't talk about the case. Thank
19 you.

20 (Whereupon, the jury exited the courtroom at 3:15 p.m.)

21 THE COURT: We'll be at ease.

22 (Whereupon, a recess was held from 3:15 p.m. to 3:27
23 p.m.)

24 THE COURT: I think all the jurors are here; is that
25 correct? Let's have them back out, please.

1 (Whereupon, the jury entered the courtroom at 3:27
2 p.m.)

3 THE COURT: The record should reflect that the jury is
4 back and seated. Solicitor, please call your next witness.

5 MR. STUMBO: Thank you, Judge. The State calls Patrick
6 Oliphant.

7 AGENT PATRICK OLIPHANT, having first been
8 duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. STUMBO:

11 Q Mr. Oliphant, how are you doing today?

12 A I'm good. How are you?

13 Q Thank you for being here. You work with SLED?

14 A Yes, sir. In the crime scene investigation unit with
15 SLED.

16 Q So you are a crime scene investigator with the State
17 Law Enforcement Division?

18 A Yes, sir.

19 Q And how long have you been with SLED?

20 A Approximately two and a half years.

21 Q Did you have any prior law enforcement experience
22 before you came to SLED?

23 A I worked as a patrolman at the City of Columbia Police
24 Department for a year and a half prior to coming to SLED.

25 Q So you worked City of Columbia PD, moved over to SLED.

1 Have been doing crime scene investigations for about two and
2 a half years?

3 A Yes.

4 Q About how many crime scenes have you invested in that
5 two and a half years?

6 A Up until now upwards of 300, I think was my last count.
7 Primarily death investigations.

8 Q Was one of those death investigations related to the
9 trial that we're here for this week involving Minor
10 McArdle?

11 A Yes, sir.

12 Q I believe he was a little boy who just turned three on
13 the day he was deceased, correct?

14 A Yes, sir.

15 Q Now, when you're called out -- you live in the Columbia
16 area?

17 A That's correct.

18 Q So when you're called out to a crime scene somewhere
19 around the state, typically if it's in the middle of the
20 night, tell the jury how quickly you get there and where you
21 go first?

22 A Generally I'll get a phone call from our dispatch and
23 they'll give a kind of short synopsis of what information
24 they're provided and give me a contact number for the local
25 investigator on the scene or a point of contact. After that

1 I usually meet up with my partner at headquarters. We'll
2 take one vehicle to go wherever it is we're going.

3 Q In this case about what time did you get called out and
4 on what day? What date and time?

5 A On December 30th, 2014 at approximately 0450 hours, so
6 4:50 a.m. was when I got the phone call from our dispatch.

7 Q And that was to go to Newberry to investigate this
8 case?

9 A Correct.

10 Q It was a Newberry City police department and not the
11 county sheriff's department, correct?

12 A Right.

13 Q Now, so if you could just tell the jury, when you get
14 there who with the police department do you make contact
15 with?

16 A I first called on the phone was Captain Roy McClurken,
17 and we responded first to the emergency room area parking
18 lot right there, and then made contact with Captain
19 McClurken in the -- I believe it was Chief Brown was the
20 chief at that time was also out there.

21 Q So the first place that you -- did you do anything at
22 the hospital, take pictures? What did you see there?

23 A My partner and I both, after we made contact, we go
24 into the emergency room. Saw the victim, the little boy
25 there in the -- on the table in the ER. And my partner used

PATRICK OLIPHANT: DIRECT EXAMINATION

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1 a camera and documented his injuries and I made a few notes
2 of injuries right there. After that we --

3 Q If you could, just -- let's stop there while we're at
4 that point. You said you took photographs. I'm going to
5 hand you State's 1 through 7 that are already in evidence.
6 Those pictures are **Minor** in the hospital; is that correct?
7 The victim?

8 A Correct.

9 Q And they depict his injuries, correct?

10 A That's right.

11 Q And you and your partner processed those as part of
12 your crime scene investigation; is that correct?

13 A That's correct.

14 Q Did you take any other pictures at the hospital?

15 A After documenting the victim we went outside to the
16 parking lot to document the location of the suspect's
17 vehicle. It was -- if you're at the ER there, it's kind of
18 two banks of parking spaces and then there's a median. Then
19 there's another two banks of parking spaces. It was a red
20 or maroon colored Chevy Malibu backed into one of the
21 spaces. So my partner took pictures there of the vehicle in
22 place. It was pretty heavy rain when we got there. We
23 couldn't really -- didn't really see much inside. But after
24 we took pictures we notified Newberry PD to call a tow truck
25 for further processing at the -- their public safety

1 building.

2 MR. STUMBO: If I may approach, Your Honor.

3 Q State's No. 8. Does this depict the car as it was
4 parked in the parking lot in the lot?

5 A Uh-huh.

6 Q And you said it was two --

7 THE COURT: Answer yes.

8 A Yes. Yes, sir.

9 MR. STUMBO: Your Honor, we move State's 8 in at this
10 time. Permission to publish.

11 THE COURT: No objection to 8, in evidence.

12 (Whereupon, State's Exhibit No. 8 was admitted into
13 evidence.)

14 Q And I don't know if you can see the screen there.

15 A Yes.

16 Q This is how it was parked, the vehicle? And it's the
17 maroon colored vehicle, correct?

18 A That's correct.

19 Q And that was how far it was parked when you took the
20 pictures of early a.m. hours?

21 A Yes, sir.

22 Q How far is this car parked from the ER bay to the
23 entrance to the hospital?

24 A It was easily several hundred feet, because the ER bay
25 is kind of set back to the side of the hospital.

PATRICK OLIPHANT: DIRECT EXAMINATION

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1 Q So it would be fair to say it was on the far end of the
2 parking lot in the second set of --

3 A I wouldn't say the furthest point away, but it was --
4 it was -- yes, at the far end of that -- of that wing of the
5 parking lot.

6 Q Was the parking lot full at that point?

7 A No. It was very early morning hours.

8 Q Sparse about of cars?

9 A Uh-huh.

10 THE COURT: You've got to say yes.

11 A Yes.

12 Q You said the car was towed to Newberry Police
13 Department. Did you do a search of the vehicle at the
14 police department?

15 A Yes, sir. After the vehicle was towed we again
16 photographed the outside of the vehicle. We then opened the
17 doors and started to document the inside. Documented
18 everything in its place before we take any other actions.
19 At one point my partner was taking pictures while I attended
20 the victim's autopsy. She didn't really take any further
21 steps until I got back on scene and cleared from the
22 autopsy.

23 Q And you've had a chance to review some of these
24 pictures before coming to court today?

25 A Yes, sir.

1 Q And the pictures fairly and accurately depict the
2 search warrant of the car that night?

3 A Yes.

4 MR. STUMBO: Judge, I believe without objection,
5 State's 9 through 43, we'd move those into evidence at this
6 time. Permission to publish.

7 THE COURT: Subject to our earlier discussion --

8 MR. VERNER: Yes, sir.

9 THE COURT: We're okay with 9 through 43, right?

10 MR. VERNER: I don't think I had any objections of 9 --

11 THE COURT: Right.

12 MR. VERNER: -- through 43.

13 THE COURT: Correct. Those were in evidence.

14 (Whereupon, State's Exhibit Nos. 9 through 43 were
15 admitted into evidence.)

16 Q Let's go through those for the jury here, Mr. Oliphant.
17 This picture -- and there again, if you need to step down
18 from the jury -- the witness can step down, Your Honor. If
19 you want to stand on the other corner.

20 (Whereupon, the witness stepped down from the witness
21 stand.)

22 Q We're going to go through these just one at a time, if
23 you could describe for the jury. This is the vehicle? The
24 same vehicle that was parked in the parking lot of the
25 hospital?

1 A Yes, sir.

2 Q And to your understanding at that point, that belonged
3 to the Defendant, right?

4 A Yes.

5 Q State's No. 10. If you could, just describe that for
6 the jury.

7 A Generally we document -- like I mentioned before, we
8 document everything as is, as we found it and before we take
9 any further actions. So I also note this in my notes that
10 this -- I believe it's the front driver door's slightly
11 cracked, or the window is slightly cracked, and the sunroof
12 was also cracked.

13 Q So the windows were cracked and the sunroof was cracked
14 when you all found the car in the parking lot of the
15 hospital; is that correct?

16 A Yes, sir.

17 Q So you all didn't roll those down before you got back
18 to the police department?

19 A Yes, sir.

20 Q State's 11.

21 A I believe that's the -- where the locking mechanism on
22 the trunk would be. But it's a closeup photo.

23 Q It doesn't appear that the locking mechanism is
24 actually there?

25 A That's correct.

1 Q So were you able to access the trunk?

2 A Eventually we were. After I went to the autopsy and
3 then came back we did open the trunk.

4 Q State's 12. What's the significance of this
5 photograph?

6 A Again, this is just another part of general
7 documentation. This is just looking in through that window
8 on the --

9 Q Front seat, back seat? I mean, what part of the car?

10 A The rear -- this would be the rear driver's side
11 window.

12 Q What was in the backseat of the car? Can you see that?

13 A I can't see very clearly. But in the -- upon opening
14 the door and searching further, there was a black and gray
15 colored -- not a booster seat but a child, you know,
16 carseat.

17 Q Child restraint. Okay. Child restraint seat?

18 A Correct. In the rear driver's side seat area.

19 Q Was the back window rolled down partially, too?

20 A I can't tell from that picture.

21 Q Fair enough. And No. 13?

22 A That's the driver's -- front driver door pocket, and
23 with various contents.

24 Q State's 14? Are those the contents that we saw --

25 A Yes, sir.

1 Q -- in the crack of the seat? What is that?

2 A It looks like some condom wrappers and Newport
3 cigarette pack, and then it appears to be a bottle of --
4 bottle of hand sanitizer and a bottle of water.

5 Q State's 15?

6 A Again, as part of -- as part of general documentation
7 we do as thorough job as we can to take pictures under car
8 seats and that sort of thing. If I'm not mistaken, this is
9 under the driver's seat.

10 Q State's 16?

11 A And that's a black colored pellet gun, or BB gun under
12 the driver's seat.

13 Q So it's a BB gun?

14 A That's correct, yes.

15 Q State's 17.

16 A This is the front passenger seat with various contents.
17 In a plastic bag there were -- I believe it was three cans
18 of Straw-Ber-Rita, or -- that's a Budweiser Straw-Ber-Rita.

19 Q Were they full, empty?

20 A I believe they were empty. Just cans.

21 Q State's 18. That may give you a better view of the
22 tops of the cans as well. This is State's 18. If you could
23 describe that for the jury.

24 A This is just the next photo in the series.

25 Q Do you see whether the tops appear to be intact? I

1 mean, are they --

2 A Yeah, they appear to be intact.

3 Q So they're full Straw-Ber-Ritas?

4 A Yes, sir.

5 Q State's 19.

6 A This is just a picture of a receipt found from inside
7 the vehicle.

8 Q And what -- if you can, just for the jury, on the top
9 of that receipt. Where did that come from?

10 A The very top is Family Dollar. Immediately under is
11 Store. The store number is number 47, at the address 102
12 Fleming Street, Laurens, South Carolina. It's got the phone
13 number for I believe it's their front desk.

14 Q Does it have a date and time on it as well?

15 A I don't see a date up there.

16 Q I believe right there in the middle. Does it say
17 12/29/14? Would that be fair to say?

18 A That's correct. 12/29 and 09:01:07 for the time.

19 Q Now, 20 and 20 -- we're going to go 20 first. This
20 appears to be back outside. This is one of the hospital
21 parking lot pictures again, if I'm not mistaken.

22 A With a gazebo, yes.

23 Q Right. There's a gazebo in the background. It's a
24 gazebo that's at the hospital?

25 A That's correct.

1 Q And this is how you find the front window?

2 A Yes, sir.

3 Q Number 21.

4 A Just another picture of the vehicle as we found it

5 backed into -- it's a parking spot near a hedge and the

6 gazebo in the back.

7 Q 22.

8 A It's a picture of a can of deterrent pepper spray or OC

9 spray that was in the glove box of the Chevy Malibu. And

10 also a folding knife that was immediately next to the can of

11 pepper spray.

12 Q So a small pocket knife, a folding knife, and a can of

13 mace?

14 A Yes, sir.

15 Q 23.

16 A This is a picture from the -- or looking into the rear

17 driver's side of the vehicle, and there's the previously

18 mentioned black and grey colored carseat. There were

19 various trash items throughout the floorboard of the

20 vehicle.

21 Q Agent Oliphant, is this how you found the carseat there

22 when you opened the door?

23 A Yes, sir.

24 Q It was in that reclined position?

25 A Yes, sir.

1 Q And I can't really tell from the picture. Maybe you
2 can elaborate on this. The seatbelt appears to be folded up
3 behind the carseat; is that right?

4 A Yes, sir.

5 Q So was the seatbelt attached or was it secured? Was
6 the seat secured with the seatbelt?

7 A Not to my recollection. No, sir.

8 Q It was just loose in the car?

9 A Yes.

10 Q 24.

11 A This is a closeup picture of the same series as the
12 picture before just showing what would be the actual seat of
13 the carseat, and then that's the -- would be the back of the
14 driver's seat.

15 Q 25. A similar picture?

16 A A similar picture just showing the top, or the back
17 part of the carseat.

18 Q Did you take the carseat or carseat cover into
19 evidence?

20 A Later took the carseat into evidence.

21 Q State's 26.

22 A This is further -- further into the backseat of the car
23 if you -- after removing the carseat. Just various clothing
24 items, plastic bags. We did end up taking this white
25 colored towel, kind of like tan, off-white colored towel,

1 had multiple brown stains that looked kind of like mucus
2 stains, on that towel.

3 Q You took that towel into evidence?

4 A Yes, sir.

5 Q And were able to secure that and you had custody of
6 that towel and took it down to the lab in Columbia?

7 A Yes, sir. When we collect something like that you
8 generally put it in a sterile brown bag. And then when we
9 get back to the laboratory have a drying chamber.
10 Especially something -- since it includes hanging up and let
11 it dry, usually overnight, is fine. After that we package
12 it up, seal it, to preserve any kind of -- prevent any kind
13 of spoiling of clues.

14 Q And that's to preserve whatever is on the item,
15 correct?

16 A Yes, sir.

17 Q That's standard protocol for crime scene
18 investigations?

19 A Yes, sir. That's in one of our policies.

20 Q 27.

21 A It appears to be one of the trash bags from the
22 backseat with just various items.

23 Q Is that a -- was that a dirty diaper, a wet diaper?

24 A I believe so. We did end up finding multiple dirt wet
25 diapers in the truck as well.

1 Q Number 28. This is the same towel that you referred to
2 before that was collected?

3 A Yes, sir. The white colored tan towel from the --
4 well, it would be the middle -- middle seat and the back
5 seat of the vehicle.

6 Q Was there anything on there that caught your eye that
7 was of any relevance?

8 A Just the reddish brown stains. I believe there's a few
9 others when the towel is turned over.

10 Q State's 29 I believe is what you're referring to. If
11 we could go to State's 29. Is that the towel turned over?

12 A Yes, sir.

13 Q 30. Is that the other end of the towel?

14 A Yes, sir.

15 Q There again, marks on there that were potential for
16 analysis at the lab?

17 A Uh-huh.

18 Q Yes?

19 A Yes.

20 Q 31.

21 A Another picture of the towel once it was -- we removed
22 it and held it up.

23 Q 32.

24 A And as I mentioned before, kind of red brown mucus
25 looking stains.

- 1 Q Is that a little yellow piece of something in there?
- 2 A Yes, sir.
- 3 Q What did that appear to be?
- 4 A Like I said before, mucus.
- 5 Q It appeared to be a piece of food of some sort?
- 6 A Yes, sir.
- 7 Q Part of vomit? 33.
- 8 A This is another picture of the backseat after we
- 9 removed the carseat, the black puffy jacket and the tan
- 10 colored towel.
- 11 Q 34?
- 12 A That's a -- the next picture in the series. It's a
- 13 balled up small -- a real small child's tee shirt.
- 14 Q Did you take that shirt into evidence?
- 15 A We did. Yes, sir.
- 16 Q State's 35.
- 17 A This is the next picture in the series.
- 18 Q And is that the same tee shirt that you just referred
- 19 to?
- 20 A Yes, sir. It's just a closer up view from the previous
- 21 two photographs.
- 22 Q 36.
- 23 A Same shirt from the previous picture, just unfolded.
- 24 And like the similar appearance of stains on the white
- 25 towel, there's stains here as being, you know, similar

1 appearance.

2 Q Vomiting fluids, potential?

3 A Yes, sir.

4 Q 37.

5 A That's a picture of the towel and the black jacket

6 before -- before we would --

7 Q Before it was removed and stretched out?

8 A Yes, sir.

9 Q 38.

10 A Another picture of the other side of the small shirt
11 that was located -- balled up under the tan colored towel.

12 Q 39.

13 A And this is just a closer up view of the same shirt.

14 Q 40.

15 A Just a picture of the bottom half, or lower half of the
16 shirt.

17 Q And the stains on there -- if you could go back to 40.
18 The stains on there, Agent Oliphant, is that the stuff that
19 you could -- it was apparent that need to be tested?

20 A Yes, sir. It certainly stood out to me knowing the
21 victim's condition when he was admitted to the hospital.

22 And, you know, we were provided he had thrown up, you know,
23 something brown, or red brown in color. So once we found
24 this in the car afterwards it was -- it seemed very
25 pertinent to the investigation.

1 Q 41. This would appear to be some kind of picture
2 identifying the paperwork involving Theia McArdle who's the
3 Defendant, right?

4 A Yes, sir.

5 Q This was taken, I'm assuming, to identify the car as
6 being hers? To confirm that?

7 A We generally do a very thorough job of documenting
8 anything we find in a car. So especially paperwork and
9 medical records and that sort of thing.

10 Q 42.

11 A This is just a picture of the inside of the -- a black
12 colored plastic bag that we found in the trunk of the
13 vehicle.

14 Q So when you came back you were able to access the
15 trunk?

16 A Yes, sir.

17 Q And you had a search warrant that the police department
18 had helped you get to search the vehicle, correct?

19 A Yes, sir. Captain McClurken provided a search warrant
20 for the vehicle.

21 Q And this was just laid out in the back of the trunk in
22 a similar fashion, or did you cut that bag open?

23 A If I remember correctly, the bag wasn't tied all the
24 way. So we just kind of opened it up without tearing
25 anything.

1 Q Finally State's 43.

2 A As I had mentioned before, the multiple dirty or soiled
3 diapers that came from another one of the trash bags located
4 in the trunk of the vehicle.

5 Q So all these dirty diapers were found in that bag in
6 the trunk?

7 A Yes, sir. There were, I believe, three or four
8 different trash bags.

9 Q You can return to the stand. Thank you, sir.

10 (Whereupon, the witness returned to the witness stand.)

11 Q I believe at some point were you able to go to the
12 Bedenbaugh Street address where the client of Ms. McArdle
13 lived?

14 A Yes, sir. After we wrapped up and collected the items
15 that we collected from the car and assisted SLED child
16 fatality unit in recording a reenactment, we cleared up
17 there and then headed over to [REDACTED] Bedenbaugh Street and
18 basically just took pictures of the outside of the
19 residence. We didn't end up going inside or taking anything
20 from that location.

21 Q The homeowner was not home at the time; is that
22 correct?

23 A I believe he was inside talking with one of the
24 officers, but we didn't -- we didn't go in or take any
25 pictures of the inside or anything like that.

1 Q After leaving Bedenbaugh Street is there anywhere else
2 that you conducted a search warrant in this case?

3 A Captain McClurken notified myself and my partner at the
4 time that he was requesting assistance for us to help
5 execute a search warrant at the mobile home located at [REDACTED],
6 I believe it's [REDACTED], in [REDACTED]. And that was the
7 suspects' residence. It's where Ms. McArdle and Mr. Bowman
8 were renting or had been staying there for a short period of
9 time. So upon completion of taking pictures of Bedenbaugh
10 Street my partner and I both headed over to the trailer in
11 Enoree. And when we got on scene we met with several
12 Spartanburg County investigators and they had -- already had
13 a search warrant for the mobile home.

14 Q And you took pictures of that residence, too, or you
15 and your partner as part of the investigation team you all
16 took pictures of the inside of the house?

17 A Yes, sir.

18 Q And the outside of the house?

19 A Yes, sir.

20 Q You've had a chance to review those before Court today?

21 A Yes, sir.

22 Q And they fairly and accurately depict the scene as you
23 saw it the day you executed the search warrant?

24 A Yes.

25 MR. STUMBO: Judge, I think after we've discussed this,

1 49 through 84 would go in without objection, I believe.

2 MR. VERNER: No objection, Your Honor.

3 THE COURT: All right. 49 through 84 are in evidence.

4 (Whereupon, State's Exhibit Nos. 49 through 84 were
5 admitted into evidence.)

6 MR. STUMBO: If I may approach the witness, Your Honor.

7 THE COURT: Please.

8 Q I'm going to show you State's 150. Do you recognize
9 that?

10 A Yes, sir.

11 Q And what is this?

12 A This is a -- my representation of the scene as we found
13 it. It's a more final version of a sketch than a hand drawn
14 sketch that I created using a Microsoft program.

15 Q It's basically a rough design of the residence in
16 Enoree, correct?

17 A Correct.

18 Q I'm going to have you step down one more time and we're
19 going to --

20 (Whereupon, the witness stepped down from the witness
21 stand.)

22 MR. STUMBO: Permission to publish these to the jury,
23 Your Honor.

24 THE COURT: You may proceed.

25 MR. STUMBO: Thank you.

1 Q All right. No. 49. If you could, just as we did
2 before, describe this for the jury.

3 A This is the side of the mobile home. If you turn
4 beyond Union Highway and take a right you go up a short dirt
5 path hill and this -- the front edge of this would be the
6 side that's facing the roadway. So this would be, I guess
7 you could say, the right side of the mobile home. And
8 that's a vehicle that we found on scene. We did a search of
9 that vehicle after completing search of the house.

10 Q Is there anything of evidentiary value in that vehicle
11 that you searched?

12 A No. We didn't -- we didn't end up taking or collecting
13 or doing any processing of that vehicle other than taking
14 photographs.

15 Q How far is this residence off of Interstate 26? How
16 far is it off the exit?

17 A If you get off at exhibit 44 from north -- if you're
18 heading north from here, and you get off that exit 44 and
19 take a left. It's probably a quarter mile down the road.
20 It would be on your right.

21 Q It's very close to the interstate exit interchange?

22 A Yes, sir.

23 Q No. 50.

24 A This is just a picture of the side of the mobile home
25 that's facing the roadway, and it's got what was the street

1 address for the mobile home.

2 Q And it says [REDACTED] Is that the address?

3 A Yes, sir.

4 Q No. 51.

5 A This is a picture of the other side of the mobile home
6 from the one that we previously saw where the Nissan was
7 parked.

8 Q 52.

9 A This is a picture from the door, that would be the
10 front door, that was right next to the Nissan that we looked
11 at before. The door opens into a kitchen -- kitchen area
12 that's also kind of an open hallway space.

13 Q 53.

14 A Immediately inside the front door that I just
15 mentioned, this is the kitchen area. You know, further to
16 the side of those cabinets is where that refrigerator would
17 have been in that previous photograph. There's a cardboard
18 box where a 50 inch television.

19 Q I'm going to stop right there and we're going to go to
20 Exhibit 150 which I believe --

21 MR. STUMBO: Your Honor, I'm not sure if I moved 150
22 into evidence yet. The sketch.

23 MR. VERNER: Without objection.

24 THE COURT: Without objection. We'll call it in
25 evidence at this point.

1 (Whereupon, State's Exhibit No. 150 was admitted into
2 evidence.)

3 Q Maybe this will help put the pictures in context here.
4 This is your sketch of the -- again, of the house?

5 A Yes, sir.

6 Q Now, if you could for the jury, just kind of go from
7 left to right. The door we just saw where you go into the
8 kitchen, if you could point that out for the jury.

9 A That door. So I didn't put the car in because the
10 car's not permanent and it didn't have a whole lot of
11 relevance. So that car would have been in this area.
12 Here's the front door that opens immediately into this
13 kitchen hallway and the place where the refrigerator would
14 have been.

15 Q And going from left to right of the house, what's on
16 the far left as we're oriented here?

17 A The far left, which would be the west bedroom, or room
18 of this mobile home, was basically an empty room with a
19 couple of cats and kittens and liter boxes there, and
20 nothing else remarkable. Further down is this little
21 hallway where the front door and kitchen are. This bathroom
22 down here, which I believe I labeled as hallway bathroom in
23 my crime scene notes. That bathroom contains a toilet with
24 a red and brown substance that was kind of -- we couldn't
25 really tell what it was.

1 Q Did it consist of vomit?

2 A I couldn't really say. I did end up taking two swabs
3 from it --

4 Q And that was a bathroom

5 A -- a sample.

6 Q I'm sorry. And there was a bathtub in that bathroom?

7 A Yes, sir. There's a bathtub right next to the toilet
8 that did have a little bit of -- still had a little bit of
9 water in the bottom of it. It wasn't full by any means.

10 Q What kind of tub is this? Could you describe it? I
11 know some of the mobile home tubs are a plastic kind of
12 consistency. Was it a tile tub or like a plastic type tub?

13 A Kind of a run of the mill trailer plastic all the way
14 to the end. Plastic all the way around the tub and shower.

15 Q So it wasn't the type of hard porcelain that you see in
16 some bathrooms?

17 A No.

18 Q It was the plastic type tub?

19 A Correct. Plastic.

20 Q Moving into the kitchen area. Beside the door what is
21 that? Is that the stove?

22 A Yes, sir. I'm not a graphic artist by any means, but
23 this is kind of the stove and sink area right there.

24 Q And I believe you marked that as a hamper containing
25 clothes with stains? That's kind of on the other side of

1 the wall from the refrigerator?

2 A Yes, sir. After we search and take pictures and kind
3 of move all the way through, going through the search
4 warrant we look through the hamper to see if there's any --
5 any kind of evidence of any blood stains or vomit or
6 anything like that. And within that hamper I believe it was
7 a grey hooded sweatshirt with some stains and the yellow
8 real small child's tee shirt with red and brown stains.

9 Q You took those items according to the same protocol as
10 you used before?

11 A Yes, sir.

12 Q Putting them in a bag and preserving the evidence?

13 A Yes, sir.

14 Q If you could, move on. What is -- you marked that as
15 an air mattress. Could you describe that for the jury?

16 A in this corner of the -- what would be the livingroom
17 area, there was a blown up air mattress and had several
18 blankets on it, and I believe about four pillows. And on
19 one of the pillows away from this exterior wall was a pillow
20 case with kind of small red brown stain.

21 Q Did you take that pillow case as evidence?

22 A Yes, sir.

23 Q The air mattress you said had bedding on it. It
24 appeared to have been slept in recently?

25 A Yes, sir.

1 Q Was there any other furniture in that room, if you can
2 remember?

3 A Not that I recall. There's, you know, various items
4 around in the livingroom. I think there were two kind of
5 gift baskets on the floor.

6 Q And then the end of the house would be sort of the
7 master bedroom?

8 A Right. In this next room was kind of a mattress on the
9 ground, and then near this, I guess what would be the north
10 exterior wall, there was a, you know, larger size flat
11 screen television on a low TV stand. Also like a laptop
12 computer that was open right there.

13 Q The laptop was open on the stand?

14 A Yes, sir. And then further down was an additional
15 bathroom and a closet.

16 Q If we could go back to pictures, State's 53. We'll try
17 to go through these quickly if we can for the jury. Is that
18 the dirty clothes hamper in your sketch?

19 A Yes, sir.

20 Q And that's where you retrieved the sweatshirt and
21 shirt?

22 A That's correct.

23 Q And the flat screen TV box, that's kind of in the
24 kitchen area there, correct?

25 A Yes, sir.

1 Q It appears to be similar to the TV that's in the
2 bedroom?

3 A Yes, sir.

4 Q And this is still in the kitchen area, State's 54.
5 What's that looking out into?

6 A This is the -- in the lower right corner of the screen
7 is the kitchen area, and further on in the photograph is
8 what would be the livingroom with kind of a dividing wall
9 similar to this, and then the -- a door opening into the
10 master bedroom.

11 Q So that air mattress in the kind of left side of the
12 livingroom?

13 A Yes, sir.

14 Q State's 55. Just an angle that's wider there?

15 A Yes, sir.

16 Q 56. Is this that substance in that hallway bathroom?

17 A The red or brown colored substance in the hallway
18 toilet.

19 Q And that's actually found when you get there? It
20 appears to be like a --

21 A Yes, sir.

22 Q 57.

23 A This is a picture looking into the bedroom. That would
24 be on the westside of the mobile home, where the -- it was
25 just cats and kittens and a few litter boxes, and really

1 nothing else to make note of.

2 Q 58.

3 A It's a picture further into that same bedroom with a
4 cat sitting there in the corner. In this lower left corner
5 is a liter box.

6 Q It still had feces in it?

7 A Yes, sir.

8 Q Anything remarkable about it's physical appearance? Go
9 to 59.

10 A I believe that's a -- it's missing its right eye.

11 Q Referring to 59.

12 A Yes, sir. A cat that's missing its right eye. Or
13 appears to be missing its right eye.

14 Q 60.

15 A Another cat and kitten and one of the boxes. That's
16 kind of right in front of the door opening to that bedroom.

17 Q 61.

18 A It's a picture of some kitchen contents right next to
19 the stove on the kitchen counter.

20 Q Is that like a drip pan of some sort underneath the
21 griddle there?

22 A Yes, sir. It appears to be a drip pan.

23 Q That's made of Styrofoam?

24 A Yes, sir.

25 Q Does this look kind of like a George Foreman style

1 grill that you pick up and press down?

2 A Yes, sir.

3 Q 62.

4 A Another picture on the other side of the stove. Just
5 the other contents on the kitchen counter.

6 Q 63.

7 A A picture of the sink. The sink that's a little
8 further to the right of the stove on the kitchen counter.

9 Q 64.

10 A This is a little shelf that's kind of in between the
11 kitchen area where the sink was, and then right next to the
12 livingroom.

13 Q 65.

14 A A picture of the air mattress in that corner. The
15 corner by the north wall in the livingroom.

16 Q 66.

17 A Another picture that's looking, you know, right at the
18 foot of the air mattress.

19 Q Do you remember if that window was closed or open?

20 A I don't remember.

21 Q 67.

22 A A picture of the air mattress and the pillows and
23 blankets that are laying there on top of the air mattress.

24 Q Take any evidence off that?

25 A This lower pillow case. I don't know if you can make

1 out the kind of dark colored stain near the bottom edge of
2 that pillow case.

3 Q 68.

4 A This is a closeup view of that general area on the
5 pillow case and the stains that were right there.

6 Q 69.

7 A This picture is inside the master bedroom, and there's
8 the little -- little coffee stand, or coffee table, with the
9 TV on top of it, and the laptop computer is on the farther
10 -- far right side of the frame. And the various clothes,
11 and you see the edge of the mattress right here. The bottom
12 right corner.

13 Q 70.

14 A Another picture of the TV and the laptop.

15 Q 71.

16 A Just a different view of that general area that also
17 shows the backside of the TV on the coffee table.

18 Q 72.

19 A It's a picture of the toilet that was on the far east
20 bathroom in the mobile home.

21 Q 73.

22 A I believe this is a picture of just some medications.
23 As a general policy we always take closeup pictures of
24 medications any time you find any kind of prescriptions.

25 Q I believe 74 and 75 are the same. Appear to be the

1 same bottle; is that correct? A different -- actually a
2 different bottle?

3 A Yeah, I believe it's a different bottle with the same
4 store.

5 Q 75. Go to 76 now.

6 A This is a picture of the grey hooded sweatshirt that we
7 located in the hamper right there in the kitchen. Kitchen
8 area. As I said before, you know, after we take pictures
9 and search, kind of do a general search, start looking
10 through some other places like this hamper.

11 Q 77.

12 A And further down in that hamper, kind of under the --
13 or in a layer under the hooded sweatshirt is the small
14 yellow tee shirt with the stains that are located near the
15 collar of the shift.

16 Q 78.

17 A Just a closeup view of that same tee shirt.

18 Q And 79.

19 A This was a blue and white colored towel that was
20 further down in the hamper with more stains that had a very
21 similar appearance to the tee shirt. The red brown colored
22 stains.

23 Q And 80.

24 A And this is an additional shirt with stains.

25 Q 81, 82, 83 and 84 -- or, excuse me, 81, 82 and 83 are

1 more medicine bottles? That's correct?

2 A Yes, sir.

3 Q All those were prescribed to Theia McArdle?

4 A Yes, sir. They all appeared to be prescribed to her.

5 Q 84.

6 A This is a small cell phone found in this pink colored
7 purse. And I believe we located that in a shelf in the
8 kitchen.

9 MR. STUMBO: You can return to the stand. Thank you,
10 sir.

11 (Whereupon, the witness returned to the witness stand.)

12 Q You mentioned collecting evidence in the car, correct?

13 A Yes, sir.

14 Q You collected evidence out of the house; is that right?

15 A Uh-huh.

16 Q I'm going to hand you what's been marked State's 156.

17 MR. STUMBO: If I may approach, Your Honor.

18 THE COURT: Please.

19 Q What's in this bag?

20 A This is a bag containing a tan colored pillow case from
21 the livingroom in the mobile home.

22 Q So this is the pillow case off of the air mattress that
23 we just saw in the pictures?

24 A Yes, sir.

25 Q And this is the bag -- you packaged it in this bag and

1 sealed it up at the lab; is that correct?

2 A Yes, sir.

3 Q After it goes to the lab it would go to an analyst to

4 -- you wouldn't be the one to analyze it, correct?

5 A Correct. Generally we go in the field and assist local

6 agencies, state agencies, in evidence collection,

7 photography, processing, that sort of thing. As far as any

8 further analysis for body fluids or DNA analysis or anything

9 like that, we just route it to different departments within

10 the SLED laboratory system. So if I package something -- in

11 this case, if I collect something, come back and dry it,

12 package it up, you know, mark -- mark its destination on its

13 packaging and take it to our evidence control where they'll

14 take it to the next department where the analysis can be

15 conducted.

16 Q And you seal it with this yellow tape; is that correct?

17 A Yes, sir.

18 Q And you put your initials and the date that you seal it

19 up on the yellow tape?

20 A Yes, sir.

21 Q And that's your writing?

22 A Yes, sir.

23 Q 157. What's in this bag?

24 A Tee shirt. A tee shirt with brown stains, white

25 colored Puma brand.

1 Q So that's the Puma tee shirt that's in the backseat of
2 the car crumbled up?

3 A Yes, sir.

4 Q The white and green one?

5 A White and green one.

6 Q You sealed this one and submitted it for analysis?

7 A Yes, sir.

8 Q 158.

9 A This is the white colored towel from the backseat of
10 the Chevy Malibu.

11 Q And you packaged that up, State's 158 and you sealed it
12 with yellow tape for analysis?

13 A Yes, sir.

14 Q 159.

15 A This is the yellow Coogi tee shirt from the hamper in
16 the mobile home.

17 Q So that's the yellow tee shirt out of the hamper --

18 A Yes.

19 Q -- that we saw on the pictures?

20 A That's correct.

21 Q And again, those are your initials on the yellow tape?

22 A Yes, sir.

23 Q And you submitted it for analysis?

24 A Yes, sir.

25 Q Other individuals that work for the SLED lab actually

1 conduct the analysis, correct?

2 A That's correct. We're fairly specialized in what we
3 do. So different departments will have kind of a very
4 specific function. So they're not taking something and
5 doing analysis. They're receiving it and doing the analysis
6 in the lab.

7 Q Those were submitted for DNA analysis, those items that
8 we just discussed?

9 A I believe the items from the car were sent straight
10 away for DNA analysis, and the other items were packaged up
11 and sent to Newberry and were later resubmitted.

12 Q Now, did you attend the autopsy? I believe you said
13 earlier you did.

14 A Yes, sir.

15 Q And did you take any kind of blood standard or fluid
16 standard from Minor that came from Dr. Ross?

17 A Yes, sir. Generally every autopsy that we attend
18 that's related to a criminal investigation we'll take a full
19 toxicology panel. So they'll take blood from I believe it's
20 three different areas of the body, and they'll take urine
21 and they'll take vitreous, or ocular fluid sample to run
22 toxicology. Then we'll also take a blood standard for a
23 none DNA standard so that you know that that's person's DNA
24 if you have to do analysis further on down the line.

25 Q So you did get, I guess, a vile of blood, or some kind

1 of bodily fluids?

2 A Yes, sir. Multiple blood vials.

3 Q And what was that SLED item, or item number that you
4 assigned to that?

5 A I'd have to -- for the blood standard or for the --

6 Q Correct. The blood standard.

7 A Blood standard was item number five.

8 Q And that was submitted by you to the lab for analysis
9 as well?

10 A Yes, sir.

11 Q All of these pieces of evidence that we discussed, the
12 four in these bags and the blood standard from the autopsy,
13 did you alter or manipulate those at any time?

14 A No, sir.

15 Q You basically collected them, you sealed them up, you
16 preserved the evidence, you took it to the lab?

17 A Yes, sir.

18 Q And you logged it in there for analysis, correct?

19 A Yes.

20 Q Any other crime scene analysis work that you did on
21 this case other than what we've talked about?

22 A While we were on scene, with the vehicle, after
23 collecting the towel and the shirt, I used an alternate
24 light source know by the abbreviation ALS. It basically
25 resembles a big flashlight and it admits light in a

1 ultraviolet wavelength. And we use this in like a blood
2 search or any kind of biological fluids. Basically you put
3 a -- it admits light at a very specific wavelength. So I
4 put on corresponding glasses and it lets you see stains or
5 patterns that you can't see with the naked eye. So I used
6 ALS to search the backseat of the car, and I ran the ALS
7 over the carseat and saw what appeared to be a few dark
8 colored stains. And generally in our training dark colored
9 stains with an ALS indicate a blood -- blood or some -- it
10 could be really any kind of fluid. That stood out to me.
11 So that's the reason we collected the carseat.

12 Q The carseat. The cover?

13 A Cover. Yes, sir.

14 Q Any other blood that you found in the car, even traces
15 that you couldn't see with the eye with the ALS light?

16 A No.

17 Q Just the little stains that you found on the carseat
18 cover?

19 A Yes, sir.

20 Q Did you analyze the house for any other -- did you find
21 any other blood stains anywhere in the Enoree residence?

22 A No, sir. Not to my recollection. Just the pillow
23 case, the hall bathroom and various clothing items in the
24 hamper.

25 Q Anywhere where you found a suspicious stain like that

1 you took that into evidence for analysis?

2 A Yes, sir.

3 MR. STUMBO: Beg the Court's indulgence, Your Honor.

4 THE COURT: Yes, sir.

5 MR. STUMBO: Thank you, Agent Oliphant. Please answer
6 any questions Mr. Verner may have for you.

7 THE COURT: How long do you think your cross is going
8 to take for this witness, Mr. Verner?

9 MR. VERNER: A little bit, Your Honor. I'm asking
10 possibly for just a quick break.

11 THE COURT: I was about to ask for the exact same
12 thing. So we'll be ease for a few moments, about 10 minutes
13 or so, and then we're going to come back on the record and
14 finish up with this witness. This will likely be the last
15 witness for the day. So let's take a brief 10 minute break.
16 Move about a little bit, get yourself something to drink.
17 Don't talk about the case. We'll be back on the record
18 shortly. Thank you. We're at ease.

19 (Whereupon, the jury exited the courtroom at 4:25 p.m.)

20 (Whereupon, a recess was held from 4:25 p.m. to 4:41
21 p.m.)

22 THE COURT: We'll go back on the record. The Defendant
23 is present with counsel. Let's have the jury, please.

24 (Whereupon, the jury entered the courtroom at 4:41
25 p.m.)

PATRICK OLIPHANT: CROSS EXAMINATION

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1 THE COURT: The record will reflect that the jury is
2 back and is seated. Mr. Oliphant, you're still under oath,
3 of course. Mr. Verner, you may concern, sir -- or proceed.

4 MR. VERNER: If it may please the Court, Your Honor.

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. VERNER:

8 Q Agent Oliphant, I believe you testified it was raining
9 on the morning that you arrived in Newberry?

10 A It was raining when I was driving there.

11 Q Do you recall whether it had been raining that whole
12 night or --

13 A I don't recall. I was asleep all night until they
14 called me.

15 Q But certainly by 4:00 in the morning it was -- was it a
16 heavy rain driving from Columbia to Newberry or --

17 A It was a heavy rain when I was driving from
18 headquarters -- our headquarters up to Newberry. Yes, sir.

19 Q Now, looking at the photographs of the Malibu, is it
20 fair to say that the windows were tinted?

21 A I don't recall whether they were a factory tint or if
22 they were, you know, something significantly darker.

23 MR. VERNER: Mr. Bentley, would you be able to put
24 Exhibit 12 or 10 -- 12 or 9 on the screen?

25 Q That's the -- I think we're looking at No. 9. That's

1 the back of the Malibu?

2 A Yes, sir.

3 Q And that would be a tinted window?

4 A Like I said, I'm not sure if it's a -- it certainly
5 appears dark. I'm not sure if it comes that way from the
6 car lot or if that was something after market.

7 Q Well, I'm not talking about extra added tinted. I'm
8 just saying it's not a clear -- there's some kind of tint --

9 A Correct.

10 Q -- on the back window?

11 A Correct. Yes, sir.

12 Q Whether it's something that has been after market or
13 put on with the car.

14 A Yes, sir.

15 MR. VERNER: And 12, please, Mr. Bentley.

16 Q Also the side windows would be considered tinted?

17 A When I was on scene they didn't appear overly dark.
18 It's -- you get a certain amount of glare with the camera in
19 a heavy rain like that. There's just certain challenges to
20 photography.

21 Q But at least from the photographs it's fair to say that
22 you wouldn't be able to clearly see through that window, at
23 least from that photograph, if that's a fair representation?

24 A You're asking if it would be hard to see --

25 Q It appears difficult for me to see through that window.

PATRICK OLIPHANT: CROSS EXAMINATION

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1 Do you recall whether it was -- would you have had to open
2 the door to see the contents of the backseat or --

3 A When we were on scene --

4 Q Yes, sir.

5 A -- it was hard because it's dark outside and it's
6 raining. When it's lit up in a carport like that you could
7 see in through it, you'd just have to get a little closer.
8 It wasn't like the tint was so dark that you can't make out
9 anything inside the vehicle.

10 Q And that appears to me like that's the fire station
11 here in Newberry/police complex?

12 A Yes, sir.

13 Q Which would be well lit on the inside?

14 A Correct.

15 MR. VERNER: May I have, Mr. Bentley, No. 17.

16 Q That is the front passenger seat?

17 A Yes, sir.

18 Q And that's a bag holding the Straw-Ber-Ritas, or
19 however you pronounce the drink?

20 A Yes, sir.

21 Q Is it reasonable to think that if there was a bag of
22 drinks on that front seat that that would be an unoccupied
23 seat? People typically wouldn't sit on cans like that,
24 would they?

25 A No, sir.

1 Q So, I mean, somebody might have been sitting in the
2 front seat, but it appears that it was being used to keep
3 the Straw-Ber-Rita cans on it?

4 A Yes, sir.

5 Q Was there anything else on the front passenger seats
6 other than that bag?

7 A I mean, just from what I can make out there, just, you
8 know, another red Solo cup.

9 MR. VERNER: Mr. Bentley, may I have 22.

10 Q You opened the glove box, right?

11 A Yes, sir.

12 Q And that is the mace or the pepper spray that's in the
13 glove box?

14 A Yes, sir.

15 Q And there's -- I call that a Buck knife, but there's a
16 lock blade knife in that --

17 A Folding knife, yes.

18 Q Is that a lock blade knife like a Buck, or do you
19 recall? Do you remember?

20 A Where you -- if the knife is folded back you've got to
21 press the little -- depress the button at the bottom to get
22 it folded. Yes, sir. I'm not sure of the particular brand.

23 Q But it's a lock blade. I call it a Buck knife. But
24 that's -- it's got the same -- you have to press the blade
25 in the back to --

1 A Yes, sir.

2 Q -- for the blade to snap back into the handle?

3 A Correct.

4 Q And that's the same glove box that had what appears to
5 be a pistol.

6 MR. VERNER: May I have No. 16, Mr. Bentley.

7 Q Now, to me that looks like a real gun. Is that a real
8 -- you're indicating that's a pellet gun?

9 A Yes, sir. I believe it's a Gamo brand, G-a-m-o.

10 Q Do you know if that was a functioning pellet gun or
11 whether it was just a --

12 A I'm not sure if it's -- if we go to a scene where there
13 was no firearms used or anything like that, we generally
14 take pictures and don't take it from the scene.

15 Q I take it that if Agent Oliphant is on patrol and you
16 see somebody holding that, that looks close enough to real
17 to not take any chances with, right? It's a fairly
18 realistic looking --

19 A Yes, sir.

20 Q -- firearm? No red tags or anything, or orange noses?

21 A Black and proportional size to a --

22 Q And that was found in the same glove box that that
23 black knife was found in?

24 A I believe that was under the driver's seat.

25 Q Oh, that's under the driver's seat?

1 A Yes, sir.

2 Q Are you sure of that? I don't want to argue with you.

3 But are you sure that was under the driver's seat?

4 A It was under one of the front two seats.

5 Q Now, I believe you found --

6 MR. VERNER: No. 37, Mr. Bentley, if I could.

7 Q A black jacket in the backseat? Do you know whose

8 black jacket that is?

9 A No, sir.

10 Q Did it appear to be a man's jacket or a woman's jacket,

11 or you didn't --

12 A I couldn't really say. I mean, it's a puffy jacket. I

13 don't remember seeing anything that would say whether it's a

14 man or marketed to a man or marketed to a woman.

15 Q Now, at the home in Enoree, in the hamper you found

16 several articles of clothing that had what appeared to be

17 vomit on it?

18 A Yes, sir. Or stains on it.

19 Q And I apologize. I'm going to back up just one second

20 on one question. You said you -- most of this stuff you had

21 a partner with you?

22 A Yes, sir.

23 Q Just -- what was his or her name?

24 A Special Agent Dawn Claycomb.

25 Q Claycomb?

1 A C-l-a-y-c-o-m-b.

2 Q Does that Agent have anything -- that's no longer your
3 partner?

4 A We were switched up in January of this year.

5 Q But to the best of your knowledge, that agent didn't do
6 any reports? You did the reports in this particular case or
7 --

8 A That's correct. Our standard business practice is one
9 agent takes the pictures. The other takes notes, collects
10 and --

11 Q But I just wanted to make sure --

12 A -- verifies the chain and that sort of thing.

13 Q But there wasn't, to your knowledge, there are no other
14 reports that the other agent would have prepared or done?

15 A That's correct. I handled all the documentation for
16 written reports.

17 Q And I was asking you --

18 MR. VERNER: If we could have No. 38, Mr. Bentley.

19 Q This is a picture of one of the tee shirts you found in
20 the car?

21 A Yes, sir.

22 Q And there appears to be a stain in the -- just under
23 the collar, which could be vomit?

24 A Yes, sir.

25 Q Was the shirt wet, or did you touch it or --

1 A I wear two pairs of gloves.

2 Q Yes, sir.

3 A Just so you have a working pair and you have a pair
4 that always stays clean. So unless something is overly,
5 overly damp I'm not really going to notice. Unless it's
6 dripping I'm not going to necessarily notice if it's wet.

7 Q Well, that's my question. Is that -- did you notice
8 whether that was damp vomit --

9 A No. It --

10 Q -- or whether it was dried vomit, crusty vomit?

11 A It was -- it was drier. Because generally if we take
12 something and it's still wet we have to package it a
13 different way. So prior to packaging anything we kind of
14 make sure that it's on the dry side before putting it in a
15 paper bag.

16 Q The same question with the articles of clothing you
17 found in the hamper in the home in Enoree.

18 A They were all fairly dry.

19 Q Were there any other articles of clothing in the hamper
20 other than -- was that entirely the child's hamper or were
21 there adult articles of clothing?

22 A It was -- it was mixed. Adult sized clothing, child
23 clothing and kind of like --

24 Q Did you find any adult sized clothing that had vomit --
25 what appeared to be at least vomit stains?

1 A The grey hood sweatshirt was a bigger --

2 MR. VERNER: 76, please, Mr. Bentley.

3 Q That's an adult size? That's not -- that would not
4 have been the child's pullover?

5 A Yes, sir.

6 Q Yes, it would not have been?

7 A Yes. It was -- it was a larger size.

8 Q You would consider that an adult article of clothing?

9 A Yes, sir.

10 Q And in your opinion it had vomit on it, too?

11 A It had -- I think it was kind of mid-chest area. Kind
12 of -- it looks kind of like a mucus stain to me.

13 THE COURT: The triangular stain?

14 THE WITNESS: Yes, sir. Yes, Your Honor.

15 Q Would it appear to be that's kind of a yellowish
16 stained --

17 A Yes, sir. It was lighter in color.

18 Q And when we look at the towels they also appear to be
19 yellowish stained vomit?

20 A I'd have to look at it again. I've got --

21 MR. VERNER: 32 please, Mr. Bentley.

22 A That's the towel from the --

23 Q Car?

24 A -- back of the car. Those had -- they did have -- they
25 did have this lighter yellow colored stains, but the other

1 stains were that kind of dark red brown color.

2 MR. VERNER: 79 please, Walter. Mr. Bentley.

3 A This is the one.

4 Q That's the blue towel in the hamper?

5 A Yes, sir.

6 Q And does it have what appears to be corn chunks in the
7 vomit? Yellowish --

8 A I didn't get that close to it. We took pictures of it
9 and collected it.

10 Q But would you agree with me that there appeared to be
11 yellow pellet sized lumps in the vomit?

12 A Yes, sir. Definitely something more solid.

13 Q And it may not be corn, but it could be corn chunks?

14 A Yes, sir.

15 Q I'm not asking your address, but you live in Columbia?

16 A Yes, sir.

17 Q Do you have a trash service that comes to your house
18 where you have a roll-away trash can and they pick it up one
19 day a week or --

20 A No, sir. No. I live further out in the country.

21 Q More of a rural area?

22 A Yes, sir.

23 Q How do you have to take your trash?

24 A Throw it in the bed of my truck.

25 Q And then you have to take it out to the dump?

1 A Yes, sir.

2 Q Is it fair to say that this mobile home in Enoree was
3 also in a rural area like that?

4 A Yes, sir.

5 Q And it's possible that the bags of trash can and dirty
6 diapers were put in the trunk to take to the -- this is the
7 kind of place that would not have had a regular trash truck
8 coming up that dirt hill, would they?

9 A Yes, sir. It's possible.

10 Q Did you see any roll-away trash cans?

11 A I don't -- I don't recall seeing any.

12 Q So, I mean, just like you, it's possible that living in
13 that trailer you're responsible for taking your own trash to
14 the dumpster every so often?

15 A Yes, sir.

16 Q And most of the stuff you found in the trunk was in
17 black trash bags?

18 A In the trunk?

19 Q In the trunk. Yes, sir.

20 A There was a few other items back there, and kind of
21 some car care related items as well.

22 Q So it's possible that the trash bags were put in the
23 trunk to be taken to a trash can at some point?

24 A It's possible. Yes, sir.

25 Q Now, we've heard that the child, Minor slept on an

1 air mattress in the livingroom; is that correct? Or that's
2 where you assumed he was sleeping?

3 A Yes, sir. Just given the nature of three people, and a
4 master bedroom with a big mattress and a little air
5 mattress.

6 Q The smaller air mattress was in the living room?

7 A That's correct.

8 Q But the master bedroom didn't have a bedframe either?
9 They were sleeping on the floor, too, weren't they?

10 A Yes, sir. I believe it was just a --

11 Q Just a mattress on the floor?

12 A -- mattress on the floor.

13 Q Were there any beds in the room where the cats were?

14 A No. I don't remember any furniture -- furniture items
15 in that room.

16 Q And from your knowledge, Theia and her boyfriend had
17 fairly recently moved into that mobile home?

18 A As far as I know. I know they'd previously lived out
19 of state and this was --

20 Q Not exactly a posh house? Not a upper class or a
21 wealthy type neighborhood or type living structure?

22 A No, sir.

23 Q And the child's air mattress is -- assuming the child
24 was in the air mattress in the livingroom, that's pretty
25 much near the door to the master bedroom?

1 A The bed was in the corner and the door is probably --
2 it's closer to the other -- closer to the exterior wall on
3 the other side. The door to the master bedroom was.

4 MR. VERNER: Would you be able to make available photo
5 No. 150, Mr. Bentley?

6 Q The air mattress would be on the same wall as the door
7 to the master bedroom?

8 A Like I was trying to explain, the door was further
9 towards this wall than it was towards the wall where the air
10 mattress was located.

11 MR. VERNER: Can we have No. 65, Mr. Bentley?

12 Q I don't know if this shows it but -- okay. That's the
13 air mattress that we're talking about?

14 A Yes, sir.

15 MR. VERNER: May we have 54, please, Mr. Bentley.

16 Q This is the photograph taken from the kitchen looking
17 into the livingroom?

18 A Yes.

19 Q And the -- if I put -- there's an open door. That
20 would be the door to the master bedroom?

21 A That's correct.

22 Q And then there's a vacuum cleaner on the wall?

23 A Yes, sir.

24 Q So that would be a fair depiction of how far the air
25 mattress was to the master bedroom?

1 A Yes, sir. It's a pretty -- single-wide, pretty compact
2 space from wall to wall.

3 Q So the -- it looks like if I had knocked that vacuum
4 cleaner on the side, the distance between the air mattress
5 and the door would be just slightly larger than the vacuum
6 cleaner?

7 A Yes, sir.

8 Q And the vacuum cleaner is typically about three feet
9 high or so? Is that a fair -- I don't know how big a vacuum
10 cleaner is, but --

11 A Somewhere thereabouts.

12 Q -- it's not much further than the length of that vacuum
13 cleaner if it was on the side?

14 A Yes, sir.

15 MR. VERNER: May I have 53, Mr. Bentley? You can step
16 down, Agent.

17 (Whereupon, the witness stepped down from the witness
18 stand.)

19 Q What is this item right there underneath the -- there's
20 kind of a curtain with a --

21 A There's something like a window air conditioning unit.

22 Q That's right. Also a heater? An air conditioner and a
23 heater, or can you tell?

24 A Yes, sir. I've never had one. I've never used one.

25 Q How many -- did this mobile home have central air?

1 A I don't remember seeing a thermostat or --

2 Q Typically when you see window air conditioning units
3 it's a sign that you don't --

4 A Yes, sir.

5 Q -- don't need window units if you have central air?

6 A Yes, sir.

7 Q How many air conditioning units or heating units did
8 you see that were in this mobile home?

9 A I don't -- I didn't make a note of it. Or normally --

10 Q Is it possible that was the only unit heating the
11 entire mobile home?

12 A That's the only one I remember.

13 MR. VERNER: And on 150, please, Mr. Bentley.

14 Q Where would that heating unit be in the mobile home?

15 A Somewhere at the -- around where this kitchen -- kind
16 of like an area where you would put a table. There wasn't a
17 table there. But there's a window right here.

18 Q It would be kind of where the line is? Because the
19 Judge can't see you mark. But there's a line kind of in the
20 middle of the unit going up from the bottom wall?

21 A Yes, sir. That line kind of --

22 Q In that area?

23 A -- next to a little low -- low wall.

24 Q And that's the partition wall between the livingroom
25 and the kitchen?

1 A Correct.

2 Q And that's in the general location where the window
3 with the air conditioner, or the heating unit was in?

4 A Yes, sir.

5 Q So it's basically in the center part of the home
6 heating the livingroom?

7 A Yes, sir.

8 Q The room on the left, that room that the cats were
9 being kept, were you aware of any heating units or air
10 conditioners in that room?

11 A I don't remember seeing one.

12 Q What about in the master bedroom? Any heating units or
13 air conditioning units?

14 A I don't remember seeing one there.

15 Q Was it on when you -- when you entered that mobile home
16 was the power on?

17 A We don't normally mess with anything or --

18 Q Well, I mean, do you recall whether it was --

19 A No, I don't remember.

20 Q Do you remember whether it was warm in the home or cold
21 in the home?

22 A I don't remember. It was December, but it wasn't
23 exceptionally cold that day.

24 Q I expect you probably -- particularly if it was raining
25 like that, you had some kind of overcoats or heavier

1 clothing on a day like that?

2 A Well, the rain cut out, you know, mid-morning or
3 thereabouts.

4 Q Is it possible that the rooms on either end of the
5 mobile home would be considerably colder in winter than the
6 center part of the house that had the heating unit in it?

7 A I couldn't say. But if that's the only -- if the only
8 working unit was in the middle then it would -- it would
9 follow that it would be colder on the sides.

10 Q And is it possible if you had a child you would want to
11 keep the child where you've got the heat? That's a
12 possibility?

13 A Yes, sir.

14 Q Now, you talked about you got the ultraviolet light and
15 the special glasses to see the frequency in the light
16 spectrum?

17 A Yes, sir.

18 Q And you found a stain. Tell me again where you found
19 that stain?

20 A Basically if you're searching something that's dark
21 colored --

22 Q Yes, sir.

23 A -- and you're looking for stains, you can't see with
24 the -- you know, it's not going to be apparent. So using an
25 ALS helps you kind of make out if there's a pattern or if

1 there's --

2 Q Oh, I understand the reason you're doing it.

3 A Yes, sir.

4 Q I'm just asking you again where you found the stain
5 that you talked to the Solicitor about?

6 A I didn't -- I didn't circle it. And there was, you
7 know, a couple different places on the carseat.

8 Q In the car?

9 A In the car. Yes, sir.

10 Q Did you use that unit in the home?

11 A No.

12 Q Did you find any blood? You found -- you certainly
13 found what you think is vomit. It looks like that's vomit
14 in the toilet. Would you agree with me that -- did it smell
15 foul?

16 A It was very pungent.

17 Q If I said that was vomit, or guessed that that was
18 vomit, that would be a fair guess?

19 A I couldn't say if it was that or if it was feces. Just
20 --

21 Q Or it could be a combination of both?

22 A -- a strong odor. Yes, sir.

23 Q And the -- you found some articles of clothing with
24 what you believe to be vomit in the hamper?

25 A Yes, sir.

1 Q And you found the stains in the car --

2 A Yes, sir.

3 Q -- that you -- the Solicitor asked you did you find any
4 other blood. I didn't hear you say you confirmed that that
5 was blood. Is that what you're testifying?

6 A I can't say whether or not something is blood.

7 Q So when the Solicitor said did you find any other
8 blood, that assumes that what you found was blood?

9 A I wouldn't --

10 Q We don't know whether it was blood or not?

11 A Exactly.

12 Q So you found what very possibly could be blood, but it
13 could be some other fluid, too?

14 A Yes, sir. That's why we take it and send it for
15 analysis.

16 Q That's why it was sent for testing?

17 A Correct.

18 Q Could it have been urine?

19 A Which stain are you asking?

20 Q Would that have caused a stain similar that would have
21 shown up on the ALS?

22 A In my experience, we -- we do a quarterly test on our
23 individual ALS unit.

24 Q Yes, sir.

25 A And when I do a quarterly -- just for quality control.

1 And when I do a test and I look at a blood sample, and I
2 look at a semen sample, it had the dark -- the dark
3 appearance of blood or something --

4 Q Darker?

5 A -- of similar consistency, because that's really all
6 it's checking.

7 Q So it's looking for darker fluids?

8 A Yes, sir.

9 Q So it's not really the type of substance it finds.
10 It's just -- it more looks at the color or the tone of the
11 fluid?

12 A Yeah. It's another search tool. It's not something
13 that can presumptively say this is definitely this fluid or
14 that fluid.

15 Q So water would be less likely to appear on that type of
16 ALS search than blood?

17 A Yes.

18 Q What about milk?

19 A I haven't ever personally used it for --

20 Q And I just want to be clear. I'm going to close up
21 soon. But you came to Newberry about 4:00 in the morning on
22 the 30th of December?

23 A They called me at 5:00. I didn't show up until --

24 Q Maybe an hour after that?

25 A -- 6:13 hours. So 6:00 a.m. in the morning.

PATRICK OLIPHANT: CROSS EXAMINATION

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1 Q You photographed the car in the hospital parking lot?

2 A Yes, sir.

3 Q Then you had the car towed to the police station?

4 A Yes, sir.

5 Q And by you, I also mean you and your partner.

6 A Correct.

7 Q You viewed the body of Minor [REDACTED] in the hospital,
8 or had it already been taken down to the morgue?

9 A The -- as far as -- the coroner stood by with the body
10 and took the body to the morgue. The morgue didn't start
11 until -- or the autopsy didn't start until 8:00 a.m. So I
12 went with the car to the police station while the body was
13 at the morgue. And then I came back on scene for the
14 autopsy.

15 Q So you took the samples from the -- the vials at the
16 autopsy?

17 A Yes, sir.

18 Q At some point either before or after you went back and
19 searched the Chevy Malibu?

20 A Yes, sir.

21 Q And then you briefly went by [REDACTED] Bedenbaugh Street when
22 there were other officers there and took a couple
23 photographs of [REDACTED] Bedenbaugh?

24 A Yes, sir.

25 Q Then you went to Union County and searched --

1 A Spartanburg.

2 Q -- or Union Highway, Spartanburg County, and you
3 searched the mobile home?

4 A Yes, sir.

5 Q I know you took some items and sent them in to SLED.

6 Did you interview any witnesses?

7 A No, sir. I didn't personally.

8 Q Did you try to interview witnesses --

9 A No.

10 Q -- or just -- so you were almost entirely on kind of
11 the forensic end of the examination?

12 A Yes, sir. Crime scene is part of the forensic lab at
13 SLED and that's our --

14 Q Did you do anything else in this case that you haven't
15 --

16 A I did my -- I briefly mentioned before my partner used
17 the camera to videotape the reenactment.

18 Q And what do you mean by reenactment?

19 A It's basically something -- in my experience something
20 we've only done with the SLED's child fatality unit, where
21 basically we just loan our camera to them and they go
22 through --

23 Q Who is they?

24 A Agents of the child fatality unit go through -- I'm not
25 sure what their procedures are.

PATRICK OLIPHANT: CROSS EXAMINATION

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1 Q The reenactment was you basically had Richard Bowman
2 physically go to the car and explain what he did when the
3 baby --

4 A Yes, sir.

5 Q -- on the way to the hospital?

6 A It's basically, as far as I know, it's where the
7 suspect, or the person in question, goes and kind of says
8 how they found the child, or how they found the baby, and
9 what actions they took.

10 Q But I'm not trying -- it's not a trick question. I'm
11 just -- so we understand what the reenactment was. You
12 asked Ms. McArdle and you asked Mr. Bowman show us what you
13 did that night and they kind of went to the car and there's
14 a video recording of them basically?

15 A It wasn't me personally running the show.

16 Q Right.

17 A We just -- that's something we generally do to assist
18 child fatality unit. It's their -- it's their reenactment.

19 Q But those videos would be in the possession of the
20 State right now?

21 A Yes, sir.

22 Q And again, as far as subpoena -- using the subpoena to
23 get items in, that was not part of what you did in this
24 case?

25 A Did I personally issue or request a subpoena?

1 Q Yes, sir.

2 A No.

3 Q And you would not do -- interview witnesses?

4 A No. I was -- I was present in the bay where the fire
5 trucks are kept.

6 Q Right.

7 A It's in the same facility.

8 Q The last question is how did you get in the mobile home
9 in Enoree?

10 A How did I get in?

11 Q Yeah. Was it unlocked or --

12 A I don't remember having forced entry. I don't recall
13 whether it was unlocked or what.

14 Q So nobody let you in the mobile home but -- I know you
15 had a search warrant.

16 A Yes, sir.

17 Q But you don't recall whether you all had to jimmy open
18 a door or go through a window or whether there was an
19 unlocked door?

20 A We went through, you know, the door that's on the right
21 side of the home. I don't remember where it was locked or
22 unlocked.

23 Q But that's the door you went in? It wasn't the
24 landlord who let you in?

25 A If the landlord was there, it wasn't when I was there.

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1 MR. VERNER: Agent, the Solicitor may have a few more
2 questions.

3 THE COURT: Redirect?

4 MR. STUMBO: Nothing on redirect, Your Honor.

5 THE COURT: Sir, thank you very much for coming today.
6 You are free to go.

7 THE WITNESS: Thank you.

8 (Whereupon, the witness stepped down from the witness
9 stand.)

10 THE COURT: Ladies and gentlemen, we're probably at a
11 good stopping point in the evening, so we're going to go
12 ahead and adjourn until 9:30 tomorrow morning. Please be
13 back at that point in time. I'm hoping we would have taken
14 care of most of the housekeeping matters and start promptly
15 at 9:30.

16 Again, the same rules for this evening go as for last
17 night. Please don't talk about the case with anyone. I
18 promise you we're moving along as quickly as we can. I
19 promise you we're moving along in this case. I'll see you
20 all tomorrow morning at 9:30. I hope you have a pleasant
21 night. Take care.

22 (Whereupon, the jury was released at 5:17 p.m. The
23 proceedings adjourned at 5:17 p.m.)

24 TRIAL DAY 3-04/06/16

25 THE COURT: Ms. McArdle, I'm thinking the jury is here.

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1 Counsel, of course, is present with Ms. McArdle. We're
2 going to resume. Let's have the jury in, please.

3 (Whereupon, the jury entered the courtroom at 9:53
4 a.m.)

5 THE COURT: Madam Forelady, ladies and gentlemen of the
6 jury, good morning. Thank you for being here, and I hope
7 you had a good night last night. We're still in the State's
8 case in chief, of course, in the case of the State vs. Ms.
9 McArdle. At this point, Solicitor, if you'll call your next
10 witness, please.

11 MR. DANIEL: Thank you, Your Honor. If it please the
12 Court.

13 THE COURT: Yes, sir.

14 MR. DANIEL: The State calls Detective Allison Moore.

15 ALLISON MOORE, having been first duly
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. DANIEL:

19 Q Ms. Moore, you are a detective of the City of Newberry
20 Police Department?

21 A Yes, I am.

22 Q How long have you been employed with that agency?

23 A Ten years.

24 Q And I want to go back to December 30th of 2014, the
25 early morning hours. Did you respond to a call at the

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1 Newberry County Memorial Hospital?

2 A Yes, I did.

3 Q And what was that call in reference to?

4 A At approximately 3:30 a.m. I received a call, I was the
5 investigator on call that week, from the road lieutenant,
6 Jason Stur. He advised me that they had a deceased
7 three-year-old at the Newberry Hospital and I needed to
8 respond. I arrived approximately about 3:50, 20 minutes
9 later, and was led into the room -- the emergency room
10 number 3 where **Minor** was in that room. I examined
11 him. I did a quick examination of his body. Saw the
12 multiple bruising throughout his body. And then left the
13 room because I needed to wait on another investigator to
14 bring a camera to start photographs.

15 Q Okay. Let me stop you there. So you respond to a call
16 at the hospital and you get there about 3:50 a.m. and it's
17 in reference to a deceased child?

18 A Correct.

19 Q And why -- why is the police responding to the fact
20 that a child is deceased?

21 A Just because of the nature of the injuries and because
22 it was suspicious in nature.

23 Q And you said that you went to room 3, I believe you
24 just testified to?

25 A Yes, sir.

1 Q And the child was pronounced dead at that time?

2 A Yes. He was pronounced dead at 2:06.

3 Q And you observed injuries to this child?

4 A I did.

5 Q And what -- describe that first appearance of the child
6 to the jury.

7 A He had a couple of bruises and marks on the forehead,
8 discoloration around the eyes. I can't remember where. He
9 had some bruising on his torso area, and a major bruising
10 area around his groin.

11 Q You said major bruising on his groin?

12 A I would say severe.

13 Q I'm going to hand you what's been admitted into
14 evidence -- it's not been published to the jury yet, but
15 State's 1 through 7. Do you recognize these images? I'll
16 give you a second to go through all of them.

17 A Yes, I do recognize these.

18 Q Okay. And they are images of what?

19 A This is **Minor** of his injuries.

20 Q And these images are a fair and accurate depiction of
21 what you observed the night of December 30th?

22 A That is correct.

23 Q Excuse me. The early morning hours of December 30th?

24 A Yes.

25 Q Okay. Tell us what happens after you initially observe

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1 the injuries on this child. Go from there.

2 A At that point, like I said, I had to wait on another
3 investigator to come with a camera. So I exited the room.
4 I believe I went to Ms. McArdle -- or where Ms. Theia
5 McArdle was and just talked with her briefly.

6 Q And where was Ms. McArdle?

7 A She was in another area of the emergency room. It's
8 another room in the emergency room. So she wasn't in room
9 number 3 at that time.

10 Q And what information had you been made aware of
11 regarding Ms. Theia McArdle at that point?

12 A Well, I was told that she was the mother, and she was
13 also advising that her boyfriend, Richard McArdle, was the
14 father at that time.

15 Q Richard McArdle?

16 A Yes. I'm sorry. Richard Bowman. I'm sorry. She was
17 actually saying he was the father at that time.

18 Q Theia McArdle was informing others that Richard Bowman
19 was the biological father?

20 A That's correct.

21 Q And I'm sorry. And tell us what else.

22 A So I just did a brief chat with her. At that point the
23 investigator was on scene with a camera. We went back into
24 room number 3. Myself, who is now Chief McClurken, Deputy
25 Coroner John Pollard. We then photographed Minor's body

1 and his injuries. At that point I went back -- we also at
2 that point -- yes, at that point, too, I also spoke more
3 with Theia McArdle and she said that she was coming to
4 Newberry to hang out with a guy named Dion at some residence
5 on Bedenbaugh Street. It was a blue in color house. I then
6 seized her vehicle keys from her. She said she was driving
7 a -- I believe it was a red -- a burgundy Chevy Malibu. I
8 then seized her keys at that point because the car at that
9 point is a crime scene.

10 Q And let me stop you. You initially approached Theia
11 McArdle and you simply asked her how did you wind up in
12 Newberry, what are the circumstances, those kind of
13 questions?

14 A That's correct.

15 Q Describe her demeanor at this point. She just found
16 out her child was deceased. But what was her demeanor?

17 A She -- I can recall that she had a little bit of
18 emotion, but not the kind of emotion that I would -- I would
19 feel like a mother should have of just knowing that her
20 child had just passed. She -- her face -- if I can recall
21 correctly, her face was not red like she had been crying
22 constantly. So she was just not what I would depict a
23 grieving mother would be at that point.

24 Q So she was coherent in her statements to you?

25 A Correct.

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1 Q She seemed composed enough to be interviewed by you at
2 this point?

3 A Correct.

4 Q So you seize her car keys?

5 A Uh-huh.

6 Q So you ask her to hand over the keys?

7 A Correct.

8 Q And she's compliant?

9 A She's compliant.

10 Q Tell us next what happens.

11 A We then -- she stays in the room. We go outside to
12 find the car to take photographs of the vehicle where it's
13 parked in the parking lot of the hospital.

14 Q Let me stop you there. I'm going to hand you what's
15 been admitted into evidence as State's No. 8. Do you
16 recognize that?

17 A Yes, I do.

18 Q And what is that?

19 A That is her car which is backed into a space at the
20 hospital.

21 Q And how close -- how close is her vehicle to the
22 entrance of the ER?

23 A It's not close at all.

24 Q Was the parking lot full?

25 A No, sir.

1 Q Okay. I'm going to hand you State's No. 21. It's in
2 evidence. Do you recognize that, State's 21?

3 A Yes, sir. It's a picture of the same car, same spot.

4 Q And on the left side of that image there, tell us what
5 that is. I see some kind of structure; is that correct?

6 A Yes, sir. That is the gazebo at the hospital near the
7 playground.

8 Q So there is a playground out in the parking lot area?

9 A Yes, sir.

10 Q So obviously this spot is not right up on the door,
11 near the playground?

12 A No, sir. It is nowhere near the front door.

13 Q So other investigators are at the vehicle with you?

14 A Correct.

15 Q And the vehicles, I guess, are being processed is what
16 you would call it at this point, or --

17 A Well, at the beginning stages, correct?

18 Q Beginning stages. Okay.

19 A Uh-huh.

20 Q All right. And tell us about your exchange with Ms.
21 McArdle at that point once you got to the vehicle?

22 A Well, at that point I go back and talk with Ms. McArdle
23 and ask her we need to make sure of where she was at in
24 Newberry. We need to make sure of the exact house. I asked
25 her if she's willing to ride with me over to that home so we

1 can know where she exactly was.

2 Q And you're under the impression at this point she was
3 visiting a guy in Newberry by the name of Dion?

4 A By the name of Dion. That's what she related to me
5 then.

6 Q So then you ask her for her assistance in finding
7 Dion's house?

8 A Correct.

9 Q All right. Continue. I'm sorry.

10 A And she's fully willing to do so. We exited the
11 hospital. She gets into my car and we ride -- she described
12 Bedenbaugh Street. We ride over to Bedenbaugh Street.

13 Q Is she in custody at this point? Is she handcuffed or
14 anything like that?

15 A No, she's not.

16 Q Okay. Continue.

17 A And she -- we go over to Bedenbaugh and ride up and
18 down the street and she points out [REDACTED] Bedenbaugh Street.

19 Q And she's able to tell you Bedenbaugh Street?

20 A Correct.

21 Q And she doesn't -- does she give you the exact [REDACTED]
22 Bedenbaugh Street?

23 A Negative. No, sir.

24 Q She just generically says a house on Bedenbaugh Street?

25 A A blue house on Bedenbaugh Street.

1 Q I hand you what's in evidence as State's 44. Do you
2 recognize that?

3 A Yes, sir. This is the picture of the house on
4 Bedenbaugh. [REDACTED] Bedenbaugh Street.

5 Q And Ms. McArdle pointed that out as the residence she
6 was --

7 A Correct.

8 Q Why did she say she was at this residence? What was
9 her reason?

10 A Just to see a guy named Dion.

11 Q And she didn't give any specifics?

12 A Not at that point.

13 Q No special occasion? Anything like that?

14 A Not at that point.

15 Q But she identified the house, and then where do you go
16 from there?

17 A I did ask her -- I believe I asked her before getting
18 in my car did she mind riding over with me to Bedenbaugh,
19 would she mind riding over there, but then also riding over
20 to the police department so we can discuss more what
21 happened to her child. And she was all willing to do so.

22 Q She was -- all right. So at that point she's willing.
23 You ask her would she be willing to go to the police
24 department to be interviewed?

25 A That's correct.

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1 Q And she wasn't resistant to that?

2 A Not at all.

3 Q She wasn't mourning --

4 A No, sir.

5 Q -- exasperated, exhausted?

6 A No, sir.

7 Q She seemed very cooperative?

8 A Very cooperative.

9 Q So you all arrive at the police department, correct?

10 A Yes.

11 Q About what time do you get to the police department
12 with Ms. McArdle?

13 A I don't believe I have that timeframe, but it was
14 before -- it was before -- way before 7:47 a.m., because I
15 was advised that the child fatality unit with SLED was also
16 responding to assist. So I was just kind of waiting on them
17 to arrive before I started the interview. So during that
18 timeframe Ms. McArdle and I was just having idle
19 conversation. Not interview type questions. Just questions
20 about her, about her family. You know, did she have
21 brothers and sisters, of that nature.

22 Q So you all were making small talk?

23 A Small talk, yes. And I do believe, if I can remember,
24 that was the point she admitted that she's a little bit
25 embarrassed about her occupation. And then that's when I

1 realized that she had put an ad on Back Page.

2 Q At that point she discloses that she -- the real reason
3 she was at the [REDACTED] Bedenbaugh Street house?

4 A Yes.

5 Q She tells you -- what does she tell you about her
6 occupation?

7 A Well, if I can recall correctly, she just said that I'm
8 -- you know, the real reason I came here is because I put an
9 ad on Back Page and he responded to my ad, and that's why
10 I'm here.

11 Q And she tells her that -- who accompanies her to [REDACTED]
12 Bedenbaugh Street?

13 A Well, we really don't -- I don't -- we don't really get
14 into that until the interview. We just idly talk about --
15 so we don't get into that until the interview.

16 Q And you're waiting to -- you're waiting on the
17 assistance of the SLED child fatality unit to arrive to
18 arrive before you begin the interview?

19 A That's correct.

20 Q Who were you waiting on?

21 A Special Agent Kellie Williams.

22 Q Okay. I'm going to hand you what's been marked for ID
23 purposes as State's 139. Do you recognize that?

24 A Yes, I do.

25 Q And what is that?

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1 A This is our adult waiver of right forms that we use
2 with the city of Newberry.

3 Q Explain what a adult waiver of rights form -- what is
4 that? What's the purpose behind that?

5 A A waiver of rights is basically the Miranda warnings.
6 It helps ones Fifth Amendment right of self-incrimination.
7 So we have to read these rights with someone in custody,
8 which she was not in custody at the time, or was just not
9 free to leave. So pretty much you have the right to remain
10 silent. Anything I say can be used against me. I have the
11 right to talk to a lawyer and have a lawyer here with me to
12 help me during questioning. If I want to have a lawyer with
13 me during questioning but cannot afford to pay a lawyer, one
14 will be provided to me at no cost before I am questioned.
15 If I decide to answer questions now without a lawyer here I
16 still have the right to stop answering questions whenever I
17 want to. I also have the right to stop answering questions
18 and talk to a lawyer. In fact, each one of those, I read
19 them one by one, and she initialed by each one of them that
20 she clearly understood what I meant. I even told her if she
21 didn't understand each one, I could explain it to her. She
22 initialed each one saying I understand. I'm willing to
23 talk. But the bottom part of this also says, "That I
24 understand my rights as explained by Officer Moore. I now
25 state that I do wish to answer questions at this time and

1 that I do not wish to have a lawyer here during questioning.
2 My decision to answer questions now without a lawyer is made
3 freely and is my choice. No one has threatened me in any
4 way or promised special treatment. To show my decision I'm
5 signing my name in the space below." She signed her name.
6 I signed as a witness, and Special Agent Kellie Williams
7 also signed it as a witness.

8 Q So that's a one page advisement of rights form under
9 Miranda --

10 A Correct.

11 Q -- Miranda rights. And what's attached to that?

12 A Her statement.

13 Q Written statement?

14 A Written statement.

15 Q Ms. McArdle handwrote a statement?

16 A Yes, sir. After we had a verbal interview, she then
17 provided the written statement.

18 Q You said verbal interview. Was that recorded?

19 A That was -- yes, it was an audio recorded interview.

20 MR. DANIEL: Your Honor, I would offer State's 139 for
21 admission into evidence.

22 THE COURT: Without objection?

23 MR. VERNER: No objection.

24 Q You said the interview was audio recorded, correct?

25 A Yes.

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1 Q I'm going to hand you State's 137. Do you recognize
2 that?

3 A I do. This is the audio recording of that interview
4 which I had initialed.

5 Q And you've had a chance to listen to that?

6 A I have.

7 Q And you've done written summaries of that and you're
8 aware of the contents of everything that's on that
9 interview?

10 A I am.

11 MR. DANIEL: Your Honor, I'd offer State's 137, the
12 audio recording disc, for admission into evidence.

13 THE COURT: Any objection?

14 MR. VERNER: No objection.

15 THE COURT: 137 and 139 are in evidence.

16 MR. VERNER: Well, this -- subject to what we raised
17 earlier, but no objection.

18 THE COURT: Fair enough. Subject to the earlier
19 pretrial motion, it is in evidence. They are both in
20 evidence.

21 (Whereupon, State's Exhibit Nos. 137 and 139 were
22 admitted into evidence.)

23 Q And Investigator Moore, was -- you said you were
24 waiting on SLED Agent Kellie Williams to arrive?

25 A Correct.

1 Q Did you administer these Miranda rights with Agent
2 Williams present?

3 A Yes, and on the audio recording.

4 Q Okay. And I'm going to go to the next page on the
5 written statement.

6 MR. DANIEL: If you could, Walter, could you go to
7 State's 139. Permission to publish, Your Honor.

8 THE COURT: You may.

9 Q What is this right here the jury's looking at again?

10 A That's the adult waive of rights form that we use.

11 Q And you just read that verbatim, correct?

12 A Yes.

13 Q And she appeared to understand everything?

14 A Clearly.

15 Q And knowing her rights, she chose to waive those rights
16 and speak to you?

17 A Correct.

18 Q And did you -- was she in custody at that point?

19 A No, sir.

20 Q Was she in restraints, handcuffs?

21 A No, sir.

22 Q Was she free to leave if she wanted to?

23 A Not at that point, no.

24 Q Did she try -- did she try to get up at any point after
25 this?

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1 A No. She was willing. She was wanting to talk. She
2 was willing to talk.

3 Q Did you threaten Ms. McArdle in any way?

4 A No, sir.

5 Q Did you exert any undue influence?

6 A No, sir.

7 Q Did you offer her anything in exchange, any offers of
8 leniency in exchange for her providing you a statement?

9 A No, sir.

10 Q Was she able to go to the restroom if she wanted to?

11 A Yes, sir.

12 Q Was she able to get something to eat or drink?

13 A Yes, sir.

14 Q And so, you said the interview is audio recorded.

15 Approximately how long is this interview?

16 A It was a very lengthy interview. It was probably about
17 three hours long.

18 Q And you and SLED Agent Williams were asking questions?

19 A Correct.

20 MR. DANIEL: Walter, if you could, go to page two.

21 Q This is the written statement on the TV?

22 A Correct.

23 Q And I see at the top -- go ahead and read from the top,
24 that information on the top of that.

25 A It says, "I, Theia McArdle, being 21-years of age, and

1 my present address is [REDACTED]. I have
2 finished the GED grade in school and I can read and write.
3 My date of birth is [REDACTED] and my Social
4 Security number --"

5 Q You don't need to read that out.

6 A "My telephone number is," and then, "I make the
7 following statement to Sergeant A.J. Moore."

8 Q Read the telephone number.

9 A It's [REDACTED]

10 Q And then again I see the Miranda rights one through
11 seven, correct?

12 A Correct.

13 Q And you've already read those allowed. And I see
14 initials.

15 A Correct.

16 Q Ms. McArdle initialed that?

17 A She did.

18 Q If you could, at what point in the interview did she
19 provide this written statement, at the beginning, end or --

20 A It was at the beginning.

21 Q Go ahead and read the written statement.

22 A "On the night of December 30, 2014, Richard Bowman and
23 myself, along with my son, **Minor** [REDACTED] drove to Newberry, South
24 Carolina for a call of mine. When I went in the call my son
25 was asleep in the backseat. Richard was also in the

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1 backseat. When I came out 30 minutes or less later, Richard
2 alerted me that he thought [Minor] may have sleep apnea and
3 that earlier in the call he had stopped breathing and was
4 snoring. I tried to pull up an address on my GPS but had no
5 signal. Richard told me [Minor] was not breathing and I
6 began to go back the way I came. As drove I saw the
7 hospital sign and followed it. He said there was brown shit
8 coming out of [Minor's] nose and I glanced back to see the
9 vomit oozing out. I asked him to shake him, tickle him,
10 something to try to get a response. He did it and was
11 calling [Minor's] name each time telling me no response. I
12 pulled in front of the ER entrance Richard took [Minor]
13 inside and I parked the car. I came in, gave some
14 information, and was moved to the back. I asked was he
15 breathing and was told no. I asked was his heart beating
16 and I was -- and was told no. I went at last into his room
17 and seconds later the doctor asked time of death. An angel
18 was both lost and gained."

19 Q And about what time did this interview begin at the
20 police department in your office?

21 A The verbal interview began at 7:47, and she signed this
22 statement at the end at 12:23 p.m.

23 Q And was her written statement -- did that conclude the
24 interview?

25 A That concluded the interview, yes.

1 Q So let's just say four hours. A little -- four hours,
2 plus or minus?

3 A Correct.

4 Q And you all took breaks throughout the course of this
5 interview?

6 A Yes, we did.

7 Q Bathroom breaks?

8 A Bathroom breaks, yes.

9 Q Water breaks, whatever?

10 A Whatever she needed.

11 Q And you've listened to the audio recording, correct?

12 A Correct.

13 Q Let's go through that. And you did summations. I'm
14 sure you took notes of that interview, correct?

15 A Correct.

16 Q And I know it's a lengthy interview. If you could just
17 begin in sequence of the questions and answers.

18 MR. VERNER: Your Honor, I object. I don't know if
19 she's selectively picking out portions she wants to do or
20 her opinion on what was said. I don't know the purpose of
21 this questioning. If they want the tape in there I have no
22 objection. But I would have some problems with the officer
23 -- or not giving it completely.

24 THE COURT: I understand. I think when we had left
25 this last night after I released the jury we were talking

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1 about maybe playing specific portions and skipping over the
2 small talk and the stuff that wasn't as -- is this the
3 interview that we were discussing?

4 MR. DANIEL: Yes, sir, Your Honor.

5 THE COURT: Is that possible to do it that way? Play
6 it and then actually have the jury hear the audio portion of
7 the more relevant portions? And then obviously anything
8 that you want to bring in --

9 MR. DANIEL: Yes, sir.

10 THE COURT: -- that isn't played. Or were you --

11 MR. STUMBO: Your Honor, I think we were content to
12 play the entire thing but it's three hours long. We were
13 trying to be efficient with the jury --

14 THE COURT: Right. Right.

15 MR. STUMBO: -- and the Court time by having Ms. Moore
16 -- I think we've all taken notes and have verbatim what's in
17 there, to have her testify to what's in the statement. That
18 was kind of our way of being efficient. I think if we're
19 going to play it starting and stopping and -- I mean, we may
20 end up being here close to three hours anyway. I guess that
21 was our intention. Maybe I misunderstood.

22 MR. VERNER: I just had a problem with a three hour
23 interview being cherry picked for one individual sentence
24 but without the context of the whole interview, Your Honor.

25 THE COURT: I'm going to let them -- I'm going to let

1 them proceed in the manner that they described, and if you
2 feel like something is being taken out of context, I assume
3 that you've got -- you've got a transcript of the interview
4 or something or --

5 MR. VERNER: I've got the audio tape. I haven't been
6 provided a transcript of it.

7 MR. DANIEL: And, Your Honor, the audio tape is in
8 evidence and Mr. Verner can certainly, on his cross, play
9 the interview if he feels anything is taken out of context.

10 THE COURT: Fair enough. That's the way we will handle
11 it. You can proceed subject to your objection.

12 MR. DANIEL: Thank you, Your Honor.

13 Q Investigator Moore, tell us the substance of this
14 interview, or tell us the questions you asked Ms. McArdle
15 and the things she told you. Because I'm assuming not
16 everything that was discussed is in that written statement,
17 correct?

18 A Correct.

19 Q And everything she said is not in that witness
20 statement?

21 A Correct.

22 Q Kind of go in sequence.

23 A Well, of course, we begin the interview by her adult
24 waive of rights form that you had saw on the screen. She
25 goes through and initials it and signs it and that's how we

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1 begin the interview. She starts out by describing her
2 relationship with Richard Bowman, how they had met around
3 March 2013 after he was discharged from the military. At
4 that time they lived in Asheville. She described Bowman as
5 being the only father figure [Minor] had ever known, and
6 [Minor] was one-years-old when Ms. McArdle and Mr. Bowman
7 first met.

8 Q And so by her own admission she's saying Mr. Bowman is
9 not the biological father, correct?

10 A Correct.

11 Q I'm sorry. Continue.

12 A I then asked how did Bowman treat [Minor] Her reply
13 was always kind. Treated him no different than his own.
14 She goes on to talk -- and then she goes on and talks --
15 degrading Bowman. How he's kind of socially impaired,
16 socially retarded. Calls him a whore, that he's unfaithful.
17 She also continues to go on about how they -- you know, they
18 had an up and down relationship and how -- she said that I'm
19 the type of insane that knows I'm insane and needs
20 medication, and pretty much Bowman didn't. Didn't
21 understand. She goes on to talk about how Mr. Bowman never
22 hit her son.

23 Q Did you ask her the question did Mr. Bowman ever hit

24 [Minor]

25 A Yes. I know -- I'm sure I've asked it at some point in

1 this interview. I don't know if was at this point. These
2 are just little notes. But yes, I'm sure that was one of
3 the questions, yes.

4 Q And Ms. McArdle's response was Richard Bowman never hit
5 my son?

6 A Never hit my son that I saw at all.

7 Q Continue.

8 A And she talked about how she still loved Bowman. She
9 goes on and talks about how she had financial problems, and
10 that was the reason why she began taking men -- Johns, as
11 she quoted.

12 Q And explain that just in case somebody doesn't get the
13 reference.

14 A Of what a John is?

15 Q Uh-huh.

16 A I guess anyone just calling a male prostitute.

17 Q Well, that's the reason she began taking Johns?

18 A Yeah, taking Johns to get money.

19 Q Men started paying her for sex?

20 A Correct.

21 Q And Bowman -- and during these sessions that she had,
22 Bowman would watch Minor

23 Q She was -- Ms. McArdle was saying that Bowman would
24 babysit Minor while she would be with the clients?

25 A Correct. Then she finally said, I guess, later on she

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1 earned enough money from working at hotels -- at this point
2 they had moved to Spartanburg. Earned enough money working
3 at hotels to secure a residence in Enoree, and they had only
4 been living in Enoree about two months.

5 Q Let me stop you there. Ms. McArdle initially meets
6 Richard Bowman in Asheville?

7 A Correct.

8 Q And then all three of them, Richard Bowman, Ms. McArdle
9 and **Minor** moved to Spartanburg together?

10 A Correct.

11 Q Okay. Keep going.

12 A I believe they were staying in hotels at that time.
13 And then they earned enough money to secure a residence in
14 Enoree.

15 Q A trailer in Enoree?

16 A Correct. She goes on and discusses that Bowman had
17 gotten a job at Lear Corporation, I think it is. That he
18 was to start it January of 2015. And, of course, this is
19 December 30th of 2014.

20 Q So at that time of this interview Richard Bowman didn't
21 have a job?

22 A She said he had secured it and was going to start after
23 the new year.

24 Q But at that point in time he was unemployed though?

25 A Correct.

1 Q So she was the only one making money?

2 A Correct.

3 Q Continue.

4 A She then discusses how Mr. Bowman kept Minor while
5 she was on her service calls. The question was asked, "What
6 do you do to punish Minor

7 Q You asked her that question?

8 A Correct. Her answer was, "Up until he was two I
9 couldn't do anything. I took away toys and privileges, put
10 him in the corner for using profanity. I took away his
11 sweets for his misbehavior, and I popped him on the butt for
12 kicking and pitching a fit, which didn't phase him." She
13 actually discussed how she had popped Minor on the butt a
14 couple weeks prior to his death when Minor was in the
15 backseat of the car pulling on her hair. She goes on to
16 discuss that no domestic violence had occurred between her
17 and Bowman since they had moved to Enoree.

18 Q So I guess at some point in the interview she did talk
19 about, I guess, domestic disturbances she's had with Mr.
20 Bowman?

21 A That's correct.

22 Q But since they had moved to Enoree they hadn't had any?

23 A Correct.

24 Q So she describes kind of a turbulent relationship at
25 times with Mr. Bowman?

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- 1 A She did.
- 2 Q All right. I'm sorry. Continue.
- 3 A And again, she repeated that Bowman was helpful because
- 4 he would watch **Minor** while she was with a client. I asked
- 5 the question, "Did Mr. Bowman enjoy being around **Minor**
- 6 and her answer was "Yes." She said that she moved the
- 7 mattress to the livingroom for **Minor** to sleep there closer
- 8 to her room. **Minor** was doing well during potty training.
- 9 Q So I guess at that point you all start talking about
- 10 the dynamics of their household in Enoree?
- 11 A Correct, yes.
- 12 Q So she's talking about the -- and her testimony
- 13 yesterday was an air mattress in the livingroom?
- 14 A Correct.
- 15 Q So is she saying that that's the mattress **Minor** slept
- 16 on?
- 17 A Correct.
- 18 Q And what was the reason for that?
- 19 A She just said closer to her room.
- 20 Q Okay. Did she mention anything about the house not
- 21 being properly heated or air conditioner or anything like
- 22 that?
- 23 A No, sir. Not that I recall.
- 24 Q Okay. Continue.
- 25 A We moved on to talk about December 29th. The events

1 that led up into the early morning hours of December 30th.
2 She said she got up around 9:00 or 10:00 that morning on the
3 29th. [Minor] was still in his bed in the mattress. The
4 blow up mattress. She said it's unusual for [Minor] to
5 sleep until 10:00. And I guess with her moving about,
6 [Minor] woke up. She said she made [Minor] something to eat
7 that day -- that morning. She did begin discussing leaving
8 for her Spartanburg call. For a client call that she
9 received going to Spartanburg. She talked about that was
10 her first prostitution call of the day. She talked about
11 that she left around dusk, which December 29th dusk, I
12 guess, you would consider would be 4:00 or 5:00 in the
13 evening. She said during that day though that her and
14 [Minor] was watching Penguins and Madagascar movie. That
15 they would play ball in the house because it was raining
16 outside. She said that the -- going to the call in
17 Spartanburg took about 28 minutes, you know, one way, 28
18 minutes another way back, but the actual call took 45
19 minutes. So my summation, she was probably gone from the
20 house maybe only an hour and a half away from [Minor] at
21 that point. She got back from the prostitution call and she
22 said that -- she described how her and [Minor] actually made
23 supper. That they normally eat supper between 6:00 and
24 8:00.

25 Q Let me stop you. Yesterday we saw pictures of cats in

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1 the house.

2 A Yes, sir.

3 Q Was that ever discussed? Because I know you -- we were
4 talking about the dynamics of the house. Did she ever
5 mention anything about cats?

6 A I recall that she said she loved cats and that she
7 would pick up stray cats, and that she did really love
8 having them in her house. She loved the companionship with
9 them.

10 Q Did she mention picking up any cats recently?

11 A Yes. She recalled coming back from her call in
12 Spartanburg. She stopped to get gas and she saw a stray cat
13 and actually asked the store clerk if she could take the cat
14 and they said yes. So she took it home.

15 Q On December 29th she picks up a stray cat?

16 A Correct.

17 Q All right. I'm sorry. Continue. I believe you left
18 off about getting back from that first prostitution call.
19 What happens then?

20 A Correct. She said that **Minor** -- her and **Minor** were
21 making dinner. That they normally eat between 6:00 and
22 8:00. That night it was about 8:30 that they were -- they
23 had steak, corn and garlic bread. She goes on and talks
24 about how she admits -- and I can't recall why this was.
25 But she admits to breaking Bowman's phone a few days prior

1 to the -- due to Bowman communicating with another woman.

2 She actually laughed and joked about throwing the phone in
3 the toilet.

4 Q So Ms. McArdle discussed -- she admitted to breaking
5 Mr. Bowman's phone?

6 A Correct.

7 Q Were you all able to pull any phone records from
8 Richard Bowman?

9 A No, sir.

10 Q All right. Continue.

11 A She did discuss his going to Newberry. She said that
12 she wasn't -- she received that call -- I'm sorry. She had
13 received a call at some point to go to a service call in
14 Newberry. She discusses that she wasn't familiar with
15 Newberry, so at this point she asked Mr. Bowman to ride
16 along with her because she was a little fearful of what may
17 happen. I believe the question was asked was **Minor** ill on
18 the way down. And she said -- she does not mention **Minor**
19 being ill in the car at all.

20 Q Did she mention **Minor** being sick on December 29th at
21 all?

22 A No, sir.

23 Q She goes on to discuss that he had -- she had to use
24 her GPS coordinates to come to Newberry. And she was with
25 the John for approximately 30 minutes or less.

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1 Q Did she have a GPS system or was it -- a lot of people
2 have GPS' on their phone. An app for that. What was --

3 A I believe it was on her phone. He just -- I believe he
4 texted her his address and she used the GPS to come -- to
5 use the GPS to come to [REDACTED] Bedenbaugh.

6 Q All right. Continue.

7 A Of course, she said that she was in the residence 30
8 minutes or less.

9 Q She was in the residence with the Newberry John for 30
10 minutes or less?

11 A Correct. She goes on to say she told the John, who was
12 Justin Holmes, it wasn't necessary to walk her to the car.
13 At this point she describes getting into the car and that
14 Mr. Bowman said he thought [REDACTED] Minor had sleep apnea and had
15 stopped breathing in his sleep. At this point she said that
16 she was trying to find a hospital on her GPS but it didn't
17 work. So --

18 Q Let me stop you. But her GPS presumably worked to find
19 the [REDACTED] Bedenbaugh Street --

20 A Correct.

21 Q -- address?

22 A Correct.

23 Q But her GPS didn't work to find the nearest hospital?

24 A Correct. The closest -- and she also goes on to
25 describe how the closest hospital that she is aware of was

1 in Laurens County. So she starts heading in that direction.
2 She knows that stuff was coming out of **Minor's** nose. It
3 looked like brown goo. So she knew something was terrible
4 at that point. She said that **Minor** was a soft sleeper and
5 he appeared to be sleeping when she got back in the car.

6 Q Let me stop you. So she -- Ms. McArdle had already
7 told you that Bowman would babysit **Minor** when she'd go on
8 these service calls, correct?

9 A Correct.

10 Q So I'm just confused why would -- why would Bowman and
11 **Minor** need to come with her then? Why couldn't they just
12 stay home and let Bowman babysit him there with **Minor**
13 coming along for the ride? Did you question her on that?

14 A Her answer was that she was just fearful of coming to
15 Newberry because she wasn't aware of the area.

16 Q All right. Continue.

17 A She said that she finally found a sign to follow to the
18 hospital. That **Minor** and Mr. Bowman got into the hospital
19 first and she parked the car because she didn't want to
20 waste any more time. She said that, "I called my mother."
21 She starts crying about seeing her baby lifeless on the
22 hospital bed.

23 Q Was that the first time Ms. McArdle was crying?
24 Because I believe earlier you testified that she was pretty
25 composed throughout the interview.

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1 A She had cried -- she had cried a little, but it didn't
2 -- again, it just was not to the amount of a grieving
3 mother, in my opinion.

4 Q All right. Continue.

5 A She said that **Minor** was asleep when she went into the
6 John's house. **Minor** pretty much was asleep the entire
7 ride to Newberry. Prior to coming to Newberry **Minor** was
8 asleep on his mattress. I asked -- I asked Ms. McArdle did
9 **Minor** have any trouble eating that night because it was
10 steak and corn on the cob. She said no, he ate most of his
11 food. Nothing would have caused him to have an allergic
12 reaction. And at this point she doesn't even mention the
13 vomit in the house. She said that **Minor** likes his
14 independence. He does well with his potty training. And at
15 this point, too, she admits to helping **Minor** pull down his
16 pants to use the bathroom on December 29th. And I do
17 believe she would have pulled down those pants she would
18 have seen that severe groin injury at that point.

19 Q And that's the injury you described earlier when you
20 reviewed those photos?

21 A Correct. And that injury would have been there.

22 Q That injury is readily apparent to the groin?

23 A Readily apparent. She talks about as of late he hadn't
24 had no poopy diapers. **Minor** was already asleep in a shirt
25 and pajamas when she received the Newberry service call.

1 Again admits to advertising her services on BackPage.com.
2 She tells the John her rate of \$120 for 30 minutes of
3 service. The John had text her the address. GPS said it
4 would take over 30 minutes to get there. She asked Bowman
5 to come with her when she suspect the client may be capable
6 of harming her. At this point I asked Ms. McArdle can she
7 tell me about the events of December 28th. She said at that
8 point her brain was too frazzled and she was too tired to
9 remember those events at all.

10 Q So you were trying to ask her about, you know, at least
11 48, 72 hours, but she could only remember December 29th?

12 A That's correct. Yes. I was trying to establish a
13 couple of days of timeframe of **Minor's** life.

14 Q Well, wasn't she talking about meeting Richard Bowman
15 in Asheville in 2013 and stuff like that? Talking about
16 stuff in her past?

17 A Correct.

18 Q But she can't remember something from December 28th?

19 A Correct.

20 Q All right. Continue, please.

21 A Again, I don't -- sometimes I don't remember the
22 questions I ask. But the notes say park -- which I guess
23 this is when we were talking about how -- more about the
24 John's house. She said she parked in front of a red SUV in
25 the carport while at the John's house. She tried to put his

1 address to get home after Bowman informed her that Minor
2 had stopped breathing.

3 Q So she was -- explain that statement. She was trying
4 to put in an address to get us home after Bowman told her
5 Minor was -- what address is she referring to?

6 A I'm assuming her home address, or Laurens Hospital.
7 I'm not -- I can't recall. I can't recall that at all.

8 Q She wasn't -- she wasn't suggesting she was trying to
9 find the Newberry Hospital?

10 A I'm sorry. I can't recall at that point what she was
11 meaning at that point.

12 Q I'm sorry. Keep on going. I was trying to clarify
13 that. Continue.

14 A Well, the next thing is she tried to look up an address
15 for the hospital and knew something was seriously wrong when
16 she saw, I'm sorry, shit coming out of his nose.

17 Q Did she elaborate on what the shit was coming out of
18 his nose?

19 A No. Just the word. She described how Mr. Bowman was
20 in the backseat with Minor and that Minor was in his
21 carseat. She then went on to say that she didn't even know
22 Newberry had a hospital. She said if you see a hospital
23 sign in the city, that usually means one is not far.

24 Q Is that -- are you from Newberry?

25 A Correct.

1 Q And there's generally -- I mean, I'm sure there's a
2 state law or something that you have to post hospital signs
3 if there's a hospital nearby or something.

4 A There's always hospital signs.

5 Q If you're coming from Spartanburg when would be the
6 first Newberry Hospital sign you would see?

7 A The first hospital sign coming into Newberry would be
8 exit 72.

9 Q Is that the first exit for Newberry?

10 A That's the first exit for Newberry.

11 Q So there's a hospital sign?

12 A Yes, sir.

13 Q I'm going to hand you -- one second. I'm going to hand
14 you what's been marked for ID purposes as State's 141. What
15 is that?

16 A This is a picture of the first exit sign of exit 72.
17 It says Newberry one mile, and right underneath it says
18 hospital in blue background.

19 MR. DANIEL: Your Honor, I offer State's 141 for
20 admission into evidence.

21 MR. VERNER: Your Honor, I object for a couple of
22 reasons. One, she wasn't at exit 72 when she was on
23 Bedenbaugh Street. There's no evidence she came down or saw
24 the sign. I don't dispute the sign's there, but that that
25 jumps to conclusion that she saw the sign or was looking for

1 the sign.

2 THE COURT: Assume facts not in evidence. Sustained.

3 Q Do you know what route she took coming to Newberry?

4 Did she take interstate, back roads?

5 A She took the interstate, but from there I don't know.

6 I would image that exit 72 would be the first exit coming

7 from the interstate that GPS would take you.

8 Q All right. Continue. I think you left off about Ms.

9 McArdle saying something if you see hospital signs in a city
10 that means it's not far or something, or didn't know

11 Newberry had a hospital.

12 A Correct.

13 Q Continue.

14 A She then goes on and makes a unusual statement. She
15 said, "If I wanted to emotionally move you, I could put on
16 any act that would knock you on your," excuse my language,
17 "fucking feet."

18 Q If I wanted to put on a -- so Ms. McArdle is saying if
19 I wanted to emotionally move you I could put on a act that
20 would knock you on your fucking feet?

21 A Correct.

22 Q Okay. Continue.

23 A And then she goes on again with another unusual
24 statement. She discusses that once she had learned the
25 death of her son, that she thought about just going off on a

1 tangent, traveling the world and doing every possible drug
2 she could, which to me seems to be an odd reaction to just
3 learning that your son had passed.

4 Q And so, she had learned -- Ms. McArdle had learned her
5 son had died, what, just a matter of eight or nine hours
6 prior to this?

7 A Correct.

8 Q All right. Continue.

9 A I did inform Ms. McArdle of the severe bruising that
10 was found all over his body. She seemed to be in, you know,
11 a little disbelief. She said, "I would never do anything
12 like that to my child."

13 Q So you had informed Ms. McArdle about the bruising you
14 observed at the hospital on **Minor**

15 A Correct.

16 Q She said that she was not at the house most of the day,
17 which she disclosed earlier she really had. She had only
18 been gone, I would say, an hour and a half to two hours. So
19 she was with **Minor** most of the day, even going to
20 Newberry. She talked about -- which is another unusual
21 statement. "No way in hell this would cover everything,"
22 which she meant injuries. She said, "No way in hell this
23 would cover every injury." So to me that implied that she
24 knew there were some injuries there. She thought maybe the
25 skates that her grandmother had given **Minor** caused these

1 injuries.

2 Q Skates for Christmas?

3 A Well, I believe a couple days prior they had met at a
4 park with her grandmother. That the grandmother had given
5 him skates. That she was saying maybe he had fallen from
6 those skates and that's what caused those injuries.

7 Q She's referring to multiple injuries, correct?

8 A That's the way I took it, yes.

9 Q All right. Continue.

10 A She goes on to say that the only time he could have
11 been injured was on that December 27th when they visited her
12 mother in Asheville at the park. She goes on to say that
13 she would not take the time to inspect her child, which I
14 find unusual because I think a parent needs to, you know,
15 inspect their child. But she said that I would not look
16 over my child's body for injuries.

17 MR. VERNER: Your Honor, that's -- my objection is,
18 again, she's giving her opinion on what she would do.

19 THE COURT: Sustained. Sustained. That is sustained.
20 The jury is instructed to disregard that last editorial. Go
21 ahead.

22 Q Continue Investigator Moore.

23 A She said that she was -- that she had never -- again
24 she talked about how she had never seen Richard hit **Minor**
25 Then she goes on to talk about how ever since my molestation

1 Ms. Bowman did not specifically observe her child's private
2 areas, which would explain why she didn't observe the
3 injuries to the groin. She talked about how maybe the
4 injuries occurred because she asked Richard to shake Minor
5 in the backseat of the car trying to wake him up when they
6 were on their way to the hospital. She thought that that
7 maybe caused those injuries. She had very disbelief to the
8 groin injury when I described that, which would have been --
9 which would have been apparent if -- when she was taking
10 down his diaper. And she said I do not mess with his
11 privates due to my molestation. And then I would ask her,
12 "If you knew what happened to this baby, would you tell us?"
13 And she said, "If I knew, I would tell you." She goes on to
14 say that, "I wish there was somebody to blame." She again
15 begins to talk about how Richard was a father figure. And
16 she said, "If there was bruising, how could someone inflict
17 that on someone so small." Again, she -- and repeatedly
18 again talks about how didn't -- she didn't witness Mr.
19 Bowman abusing her son. She goes on to say that she didn't
20 drink on the morning of the incident, but she does take
21 mental health medication. And she goes on to say that Mr.
22 Bowman doesn't abuse drugs. Again, she makes another wild
23 statement of "I'm the kind of crazy he knows I'm crazy."
24 She also goes on to say, "I am not the kind of parent, not
25 the kind of person that would injure a child." And again,

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1 at the end of the interview, she repeated that, "I don't do
2 body checks on my son. She repeatedly claims to have no
3 knowledge of the bruises throughout his life."

4 Q And after observing the injuries to this child in the
5 hospital, if, in your opinion, if someone is changing a
6 diaper, or assisting changing a diaper, would they -- would
7 it be reasonable that that person would have seen these
8 injuries?

9 MR. VERNER: Again, Your Honor, she's not testifying
10 about the statement. She's now -- he's asking her an
11 opinion question would she see the bruises on the child.
12 It's not --

13 THE COURT: Sustained.

14 Q All right. So tell us -- that's the conclusion of the
15 interview essentially?

16 A Yes, sir.

17 Q And it ends around lunch?

18 A Yes, sir. Because of breaks and because of other --
19 the reenactment scene that you'll learn later.

20 Q What happens next after the end of the interview?

21 A At that point I do believe that warrants had already
22 been obtained for her arrest.

23 Q Arrest warrants had been obtained?

24 A Yes.

25 Q So she was -- you had taken her into custody?

1 A At that point, yes.

2 Q So she's handcuffed and transported to jail at that
3 time?

4 A Correct.

5 Q And what did you charge her with?

6 A Homicide by child abuse.

7 Q Explain what else you did in this investigation.

8 A I believe my next -- I interviewed -- let's see.

9 Excuse me for a moment. I obtained search warrants on Ms.
10 McArdle's cell phone. And --

11 Q And why did you need a search warrant on the cell
12 phone? What's the purpose of that?

13 A Just to further investigate the incident, because her
14 phone was a major factor in this case. Because it was
15 utilized. So just to further investigate. To get more
16 evidence.

17 Q Do you do like an extraction of the phone, like get all
18 the digital contents and that kind of thing?

19 A I don't personally. But yes, we get the phone and give
20 it to an agent that can, after we obtain search warrants.

21 Q Does SLED assist you with that?

22 A Correct, SLED. Yes.

23 Q And they have a, what, compute crime unit, or whatever
24 they call it? Something like that.

25 A I believe it's the Fusion Center.

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1 Q Did they issue a report of the phone? Contents of the
2 phone?

3 A Correct.

4 Q I'm going to hand you what's been marked for ID
5 purposes as State's 142. Do you recognize State's 142.

6 A Yes, sir. I do.

7 Q And what is that?

8 A This is the cell data extraction.

9 Q And SLED did this?

10 A Yes, sir. Agent Chris Johnson with the Fusion Center.

11 Q Okay. And so, you just pop this disk in a computer and
12 it'll show you what's actually on that phone?

13 A Yes, sir.

14 Q In a particular format that's user friendly, or reader
15 friendly?

16 A Correct.

17 MR. DANIEL: Your Honor, I offer State's 142 for
18 admission into evidence.

19 THE COURT: Any objection?

20 MR. VERNER: If they have stuff specifically related to
21 the case, Your Honor, I don't have any objection. I'm just
22 -- just doing the massive data dump on the phone for
23 unlimited dates or are we just -- is there specific stuff
24 that they're trying to prove or they want to show the jury?
25 I don't have any problem with that.

1 MR. DANIEL: Your Honor, it will be, I guess, narrowly
2 tailored once Agent Johnson testifies.

3 THE COURT: Okay.

4 MR. VERNER: Subject to the Agent --

5 THE COURT: Let's leave it as -- let's leave it like
6 this. Subject to the agent linking it up as to relevancy
7 and specificity as to the day data that we're talking about.
8 So it's not in evidence at this point in time. She's laid a
9 foundation though for it. We'll let it come through the
10 agent when he testifies.

11 MR. DANIEL: Thank you, Your Honor.

12 Q Well, what else did you do in this investigation aside
13 from coordinating the cell phone extraction with cell?

14 A On December 31st I had an opportunity to speak with
15 Patrice McArdle, who would be Theia McArdle's mother and
16 Minor's grandmother.

17 Q You interviewed Patrice McArdle?

18 A Correct.

19 Q Okay. What else did you do?

20 A Along with the cell phone extraction I did a search
21 warrant on T-Mobile -- her account at T-Mobile itself.

22 Q So T-Mobile is the cell phone carrier for Ms. McCardle?

23 A Correct.

24 Q And you obviously had her -- did she provide her cell
25 phone number to you?

1 A Correct.

2 Q So you sent a search warrant and you asked T-Mobile for
3 all the records associated with this particular phone
4 number?

5 A Correct. With her 828 telephone number.

6 Q And so, T-Mobile typically sends back what? Incoming,
7 out coming calls and that kind of thing?

8 A That's correct.

9 Q I'm going to hand you State's 153 and 136.

10 MR. VERNER: No objection, Your Honor.

11 THE COURT: Those are State's --

12 MR. DANIEL: 153, Your Honor. I'll ask Investigator
13 Moore to identify that.

14 THE COURT: Go ahead.

15 Q What is State's 153?

16 A This is just a certificate, I guess, of authenticity
17 for the records from T-Mobile.

18 Q From their records custodian?

19 A Correct.

20 Q Saying that the records they furnished you were actual
21 authentic records?

22 A Yes, sir. Actual and correct, yes.

23 Q And I'm going to show you State's 136. What is that?

24 A Yes, sir. These are the actual records that they sent
25 to me.

1 Q From T-Mobile?

2 A From T-Mobile.

3 Q And those are the records associated with Ms. McArdle's
4 phone number?

5 A Correct.

6 Q Your Honor, 153, the affidavit, and 136, the actual
7 records into evidence.

8 THE COURT: Without objection, they're in evidence.

9 (Whereupon, State's Exhibit Nos. 153 and 136 were
10 admitted into evidence.)

11 Q Is that the extent of your role in this investigation?
12 Anything else you did?

13 A Pretty much, except I did the -- you know, since she
14 talked about going to Laurens Hospital I did some distance
15 configurations.

16 Q What is -- just out of curiosity, what -- how far is --
17 what was the listed address for Ms. Theia McArdle? Where
18 was she residing at the time of this crime?

19 A At [REDACTED].

20 Q That's in Spartanburg County?

21 A At the Laurens County line.

22 Q How far is that Enoree residence to the Newberry John's
23 house, [REDACTED]?

24 A It would have been [REDACTED].

25 Q And how did you get those distances?

1 A I was using MapQuest.

2 Q Well, how far is [REDACTED] -- and that's in
3 the city of Newberry, correct?

4 A Correct.

5 Q How far is that Bedenbaugh Street address to the
6 Newberry County Hospital? How far is that?

7 A I'm sorry. Ask me that again.

8 Q How far is the Bedenbaugh Street address, where the
9 John lives, how far is that from the Newberry Hospital?

10 A It's [REDACTED] miles.

11 Q And the hospital is in the city limits, too, correct?

12 A Correct.

13 Q [REDACTED] miles?

14 A [REDACTED] miles.

15 Q And you mentioned something about Ms. McArdle being
16 familiar with the Laurens County Hospital?

17 A Correct.

18 Q Where is the Laurens County Hospital?

19 A Laurens County Hospital is located on US 76, which is
20 right outside Clinton, in between Clinton and Laurens.

21 Q So the hospital -- Laurens County Hospital is actually
22 in Clinton, which is in Laurens County?

23 A Correct.

24 Q And from her residents to that hospital was 11.9 miles.

25 Q So I would imagine in Spartanburg -- Enoree is on the

1 Spartanburg/Laurens County line?

2 A Correct.

3 Q So that would be close -- would that be closer -- the
4 Laurens hospital is closer to Enoree than the Spartanburg
5 hospital is closer to Enoree, correct?

6 A I'm sorry. Say that one more time.

7 Q Is it quicker to get to the Laurens hospital from
8 Enoree or is it quicker to get to the Spartanburg hospital
9 from Enoree?

10 A I would say Laurens hospital.

11 Q So that was 11 -- about 11 miles, you said?

12 A Yes.

13 Q So you can get from the Laurens hospital from Enoree in
14 11 -- it's 11 miles.

15 A Correct.

16 Q Any other relative distances that you kind of
17 calculated as part of your investigation?

18 A The distance from the Newberry hospital to her address
19 is 31.1 miles.

20 Q Okay. So -- about roughly the distance it took her to
21 get to the John's -- I mean, to get to the John's house?

22 A Correct.

23 Q Newberry John's house.

24 A It would have been 31 miles, yes.

25 Q So it's obviously a lot closer to get to the Laurens

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1 hospital if you need to --

2 A Correct.

3 Q -- from Enoree. Was your -- your investigation was
4 just on Theia McArdle, correct?

5 A Correct.

6 Q Who handled -- was Richard Bowman -- I know he was with
7 her that night you testified to. Was he taken into custody?

8 A Yes. I believe he was interviewed by Chief McClurken.

9 Q He wasn't chief then though, was he?

10 A No, sir. He was Captain McClurken.

11 Q So he was investigating -- so you all divided up the
12 investigation between suspects and you took Theia McArdle
13 and Chief McClurken took Richard Bowman?

14 A That's correct.

15 Q And he was taken into custody, Mr. Bowman?

16 A That's correct.

17 Q And was he charged as well?

18 A That's correct.

19 Q With the same offense as Ms. McArdle?

20 A Homicide by child abuse, yes.

21 Q Chief McClurken can answer questions -- or he would be
22 familiar with the Richard Bowman aspect of the
23 investigation?

24 A That's correct.

25 MR. DANIEL: Thank you. Please answer any questions

1 Mr. Verner has.

2 CROSS-EXAMINATION

3 BY MR. VERNER:

4 Q Good morning, Officer. Investigator Moore. At that
5 time Captain McClurken was also an investigator was really
6 his role, too, wasn't it?

7 A That's correct.

8 Q His rank may have been captain, but he was specifically
9 trained as an investigator as well?

10 A That is correct.

11 Q And you were also an investigator at that time?

12 A Yes, sir.

13 Q The -- now, Theia had told you it had been -- the
14 interview of Theia that you conducted was the day that the
15 child died, December 30th of 2014?

16 A Yes, sir.

17 Q And she told you it had been raining that day, right?

18 A Yes, sir. I can recall that she said in the interview
19 it had been raining, so that's why they played inside.

20 Q Well, just my question is, was that correct? Because
21 if you were talking to her you would have been familiar with
22 the weather of that day, too, I assume.

23 A From what I can recall, I think it was raining.

24 Q Well, if somebody -- if you interviewed somebody and I
25 said the weather was sunny this morning and you knew that it

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1 had been raining, you would have said no, that's -- you
2 know, it was a sunny day. You would have corrected them,
3 wouldn't you?

4 A Yes, sir.

5 Q So was that probably true that it had been raining?

6 A Yes, sir.

7 Q Or it certainly would have stuck out to your memory
8 that somebody said that the weather was completely different
9 than what you would have remembered from a short time
10 before?

11 A Yes, sir.

12 Q If I went to the town of Prosperity, or a different
13 town than Newberry, how would I know whether or not that
14 town had a hospital in it unless I passed the hospital or
15 was familiar with that town? I guess I'll do it this way.
16 There are a lot of towns without hospitals in them, aren't
17 there?

18 A That's correct.

19 Q And it's fair to say that Theia had only been in South
20 Carolina for two months?

21 A That's correct.

22 Q And had never been to Newberry before, by her
23 statements?

24 A That's correct.

25 Q Is it reasonable to assume that a person might not know

1 whether there's a hospital in that town?

2 A That's correct.

3 Q And there are hospital signs throughout the town, but
4 even if you pass one you may not notice it if you're not
5 specifically looking for a hospital sign?

6 A That's correct.

7 Q And I'm sure we have streets that have just a big H on
8 them indicating you're on the route to the hospital?

9 A Yes, sir.

10 Q But again, a lot of street signs are kind of dependent
11 on you looking for that particular type sign?

12 A Correct.

13 Q There could be billboards on the interstate that say
14 big things, but if I'm not really paying attention to them I
15 might not take them into my recognition?

16 A Correct.

17 Q And on top of that, it would have been raining that
18 night as well?

19 A Yes, sir.

20 Q And presumably if she's trying to find an address she's
21 also looking at her cell phone to some extent?

22 A Correct.

23 Q Do you have any evidence that Theia was actually aware
24 that Newberry had a hospital prior to seeing the signs?

25 A No, sir. I have no evidence.

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1 Q And you went so long I took two notebooks, so I've got
2 to go back through them. You never interviewed Richard
3 Brown -- Bowman?

4 A No, sir. I never did.

5 Q Did you see him or know that there was a -- prior to
6 speaking to Theia were you even aware that there was a
7 second person?

8 A Yes. Let me go back. I didn't interview Mr. Bowman,
9 but I may have spoken briefly with him at the hospital.

10 Q Okay. Is it possible Mr. Bowman was the one who told
11 you that they had met a guy named -- what was the -- named
12 Dion?

13 A Dion.

14 Q Is it possible that you took that information from Mr.
15 Bowman?

16 A Now, sir. Because I have in my notes that I spoke with
17 McArdle who gave me that information.

18 Q But your notes are kind of written after the fact,
19 aren't they? You talk to everybody and then at some point
20 after you speak you try, to the best of your recollection,
21 put all your notes own?

22 A Correct.

23 Q So that would depend on your memory?

24 A Correct.

25 Q And Bedenbaugh is not a particularly long street, is

1 it? It's like -- it's not a Nance Street, College Street,
2 Wilson Road? It's a fairly short street, isn't it?

3 A That's correct. It's a short street.

4 Q Okay. So when she said she went to Bedenbaugh Street
5 there wouldn't be that many -- and there's a blue house on
6 it, that would be a fairly specific -- on a street that
7 small? It would be a lot easier to find a blue house on
8 Bedenbaugh than a blue house on Nance or College?

9 A Correct.

10 Q And she told you at the hospital she was an escort,
11 didn't she?

12 A I can't remember exactly at what point she told me she
13 was. It may have been at the hospital. It may have been on
14 our ride. But at some point she did.

15 Q And you indicated that she appeared to be cooperating?
16 I think you said that you characterized her as very
17 cooperative?

18 A Yes, sir. She was.

19 Q And she wanted -- she said she wanted to discuss the
20 child with you?

21 A Yes.

22 Q Now, your interview, was it conducted -- the three hour
23 interview, that was you and a SLED agent? It wasn't just
24 you, it was other officers as well?

25 A Yes, sir. It was SLED Agent Kellie Williams.

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1 Q The cat with the one eye we heard about, that's the cat
2 that she told you she found at the gas station that night,
3 right? The stray cat? She said she found an injured cat
4 and brought it home?

5 A Yes, sir. I'm assuming that's the cat, yes.

6 Q Now, she didn't say her phone didn't work when you were
7 asking her whether she could find a hospital on it. She
8 said she couldn't get a signal immediately from Bedenbaugh
9 Street, right? She didn't say her phone was broken? She
10 just said she couldn't get a signal? Or did she say her
11 phone was broken? You told the jury that she told you her
12 phone didn't work when she got back in the car with Richard
13 Bowman. Was that indicating the phone was broken or just
14 that she didn't get a signal immediately?

15 A I believe it was just that she didn't get a signal.

16 Q And when characterizing Richard she did tell you that
17 Richard Bowman was the only father that the child, Minor had
18 ever really known?

19 A Yes, sir.

20 Q But he was not the biological father?

21 A That's correct.

22 Q Now, Richard's not really -- he lives with Minor so
23 he's not really babysitting. He's not being paid to
24 babysit, is he?

25 A No, sir.

1 Q He lives with the mother and the child, so he's just
2 watching the child, I guess, would be a --

3 A Correct.

4 Q Now, when she said she -- you indicated to the jury she
5 said she didn't want to waste time at the hospital when she
6 parked her car. She said that was the reason she let
7 Richard and the baby out first and then she parked the car;
8 is that right?

9 A I believe she just said that she let Richard and
10 **Minor** out at the door and then she went and parked, and
11 that was just her comment. She said I just didn't want to
12 waste any time.

13 Q Well, I mean, could that have meant that she didn't
14 want to stop the car, get out, get the child out herself
15 when Richard already had the child in his arms and was
16 already in the backseat with the child?

17 A Say that again, sir.

18 Q Richard was already -- by her version, Richard was
19 already in the backseat with the child?

20 A Correct.

21 Q And had taken him out of the baby seat to try and
22 perform CPR on him, right?

23 A Correct.

24 Q Is it possible that's what she meant, that it was
25 quicker to drop Richard and the child off?

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1 A It's possible, sir.

2 Q And you said she did start crying when she talked about
3 seeing -- when you brought up seeing the child's body that's
4 when she started to cry?

5 A Yes, sir.

6 Q And then I think you said she -- you testified she
7 cried off and on during the interview?

8 A She did, but it wasn't like I would --

9 Q You would hope that a mother would cry more than that?

10 A Correct.

11 Q Now, we understand when the child was with Dr. Holaday
12 and they were performing all the resuscitation the child was
13 still wearing the Pull-Up, right?

14 A I believe that's correct, yes.

15 Q Even the hospital never pulled off the clothes of the
16 child other than the shirt?

17 A I believe. Yes, sir.

18 Q And those were the injuries that you were indicating
19 were readily apparent?

20 A Correct.

21 Q So if Theia had seen the child naked that night after
22 the injuries occurred, she should have been able to see the
23 injuries on the groin?

24 A Yes, sir.

25 Q And so would Richard Bowman?

1 A Correct.

2 Q Or anybody who saw that child naked?

3 A Anybody. Yes, sir.

4 Q The statement that she said -- Theia basically said to
5 the extent where she said, "Emotionally if I wanted to move
6 you, I could." She was indicating to you that she wasn't
7 lying to you? That's a statement saying if I was lying to
8 you, I could like to you, but I'm telling you the truth. Is
9 that the point of that statement?

10 A I don't know what the point of that statement was to
11 her. It was just odd to me.

12 Q You've never had anybody before you've interviewed
13 saying if I was lying to you, I could lie, but I'm telling
14 you the truth?

15 A They would say it that way. Not the way she said it.

16 Q And then when she said she found out the child had died
17 she just said, "I just felt like leaving, doing drugs and --
18 just leaving."

19 A Correct.

20 Q Would you characterize it -- fair to say that's kind of
21 an emotional response?

22 A I would say it's emotional, but also odd at the same
23 time.

24 Q It doesn't make a lot of sense, but you're dealing with
25 a -- at that time a 21-year-old girl who had just lost her

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1 child?

2 A Yes, sir.

3 Q You were aware that the child had bruises, significant
4 bruises before the interview all over it's body, right?

5 A Yes, sir.

6 Q And you had learned that from both the medical people,
7 I assume, and the other investigators?

8 A That's correct.

9 Q At the time you interviewed Theia though she hadn't
10 been shown any pictures of the child, had she?

11 A No, sir.

12 Q At the hospital she hadn't seen -- there's no evidence
13 she had seen the child without his Pull-Up on, right,
14 because they never took it off?

15 A Not to my knowledge. I mean, I wasn't there when her
16 and Dr. Holaday were in the room.

17 Q But you didn't present her any photographs of it. So
18 you're describing injuries that she may not have seen,
19 right? You're assuming that she had seen the same injuries
20 that you had seen?

21 A I would have thought she would have seen the injuries
22 at that point. And I did not show her any photographs.

23 Q But you're asking her how did the child get these
24 bruises?

25 A Right.

1 Q And she said, well, I know that the child fell on his
2 skates on -- two days beforehand and got some bruises?

3 A Correct.

4 Q And actually you met the mother who confirmed that the
5 mother had given her skates for Christmas --

6 A That's correct.

7 Q -- and that the child had fallen and had minor bruises.

8 A Correct. But these injuries do not match falling from
9 skates.

10 Q Right. But your question is, "Just explain to me how
11 the child got all these bruises."

12 A No. I had -- I had described the injuries to her. I
13 didn't show her any pictures but I did describe them.

14 Q When she said, "I wouldn't have had the time to see the
15 child's injuries," she's talking about before she left from
16 Spartanburg to Newberry, right? Or is that a possible
17 explanation?

18 A That she hadn't seen them?

19 Q You told the jury she would not have taken the time to
20 inspect the child. Could that possibly refer to from the
21 time she left Spartanburg until the time she got to
22 Newberry?

23 A She made that comment several times that she would not
24 examine her child.

25 Q And she told you that night, or that morning that she

1 had not seen any significant bruises on the child?

2 A I believe that's correct, yes.

3 Q And, in fact, she turned over her phone to you, right?

4 A Yes, sir.

5 Q Now, you obtained a search warrant for the phone
6 records. That's really more for T-Mobile. A company like
7 that just doesn't respond to somebody calling them up and
8 saying hey, send me phone records, do they?

9 A No, sir. We have to send in a search warrant.

10 Q So that was more for the benefit of getting it more
11 expeditiously from T-Mobile than Theia refusing to let you
12 all search the phone, right?

13 A That's correct.

14 Q And sometimes even when she would consent, or a
15 reasonable person would consent to you taking something, you
16 might just get a search warrant just out of an abundance of
17 caution?

18 A Correct.

19 Q Because a lawyer like me might be saying did you have
20 the right to search it?

21 A That's correct.

22 Q Okay. And she gave you her phone number?

23 A Yes, sir.

24 Q Now, I thought you also took some Facebook information.
25 Sent a subpoena to Facebook and got those records, too?

1 A I believe Special Agent Kellie Williams did that, sir.

2 MR. VERNER: May I approach, Your Honor?

3 THE COURT: Please.

4 Q Is it fair to say that you are at least part of the
5 email chain to Facebook to get the Facebook records?

6 A That's correct.

7 Q So you also subpoenaed Facebook records?

8 A I believe Kellie - I believe Special Agent Williams
9 obtained the search warrant, but we were both investigating
10 this case simultaneously.

11 Q And that was just kind of like the phone records.

12 Nowadays with social medial sometimes it's good
13 investigation to look at public records or social media?

14 A That's correct.

15 Q Because sometimes people post dumb stuff on Facebook or
16 incriminating stuff on Facebook?

17 A That's correct.

18 Q And did you receive the Facebook records?

19 A If I can recall, yes. Via the email, myself and Agent
20 Williams received them.

21 Q And we all know what Facebook is, but that's basically
22 a way for people to post pictures and send comments over the
23 Internet to other people?

24 A That's correct.

25 Q And they're usually accessible by anybody who's on that

1 program, Facebook?

2 A Yes, sir.

3 Q And usually when you post photographs they are time
4 dated?

5 A Yes, sir.

6 Q And since your interview -- really since 2:00 in the
7 morning, or since the baby died, Theia has always been in
8 police custody, to today going back to December 29th, 30th?

9 A When she left my office around 12:30 that day, yes, she
10 -- she left in police custody.

11 Q And, in fact, I think you downloaded -- or you and the
12 other agent working with you downloaded her Facebook files?

13 A The search warrant was sent to Facebook which they sent
14 us their files.

15 Q And typically when you're in jail you don't -- they
16 don't give you access to computers and Internet?

17 A Typically, but it unfortunately slips under --

18 Q Some people do?

19 A Under the door.

20 Q But even if you did, if you post something on Facebook,
21 it's time dated?

22 A Correct.

23 Q You would have to be pretty sophisticated to change a
24 date stamp on --

25 A Yes, sir. I would assume so.

1 Q Have you reviewed her Facebook account?

2 A I have not lately.

3 Q Did you -- by the way, did you do the same for Richard
4 Bowman?

5 A I did not, sir.

6 Q Are you aware of whether he had a Facebook account?

7 A I believe he did, but --

8 Q If I could just ask you the -- have you seen that
9 picture before?

10 A Yes. I do recall seeing this in the Facebook records,
11 yes.

12 MR. DANIEL: Your Honor, may I see that photo?

13 THE COURT: Go ahead, please.

14 MR. VERNER: Look at all of them.

15 Q You have Theia's Facebook password and her Facebook
16 account name, right?

17 A I have her profile name. I do not have her password,
18 no.

19 Q But you have a profile, which means that you could go
20 see everything that she's got publically posted on Facebook?

21 A Through the Facebook records.

22 Q Right.

23 A Not just going onto Facebook online. No, sir. I
24 can't.

25 Q They couldn't just up online Facebook right now and go

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1 see her? Like I couldn't -- if you had a Facebook account I
2 couldn't get on my Facebook account and see what's on yours
3 if I knew my name?

4 A You could see a profile, unless my account was open to
5 the public.

6 Q Right. And Theia's account was open to the public,
7 isn't it?

8 A I believe it was, yes. I believe. I'm not --

9 Q Is this one of her Facebook posts?

10 A I remember seeing this from the records that Facebook
11 sent us, yes.

12 Q And if I submit it to you that was posted on December
13 17th of 2014 --

14 A Well, I wouldn't know that without looking at the
15 records specifically.

16 Q But it's possible for you, or at least the prosecutors,
17 to verify that?

18 A If that's how the Facebook records sent us, yes. The
19 time dates and stamps that I was referring to a while ago
20 was on actually Facebook online, and how they came to us in
21 the records I would have to view them.

22 Q Are you familiar with this Facebook photograph?

23 A Yes. That looks like another picture I saw on that.

24 Q Are you familiar with this photograph?

25 A Yes, sir. I believe I remember that picture as well.

1 Q Are you familiar with this photograph?

2 A Yes, sir. The same.

3 Q Have you seen this photograph?

4 A I believe so. I believe they were in the records, yes.

5 Q This photograph?

6 A Yes, sir.

7 Q And finally this photograph?

8 A Yes, sir. I'm sure it was in the --

9 Q If I submitted to you that those were all photographs
10 posted within 30 days of the child's death, that would
11 certainly be verifiable by you, wouldn't it? If you had
12 access to her public --

13 A Yes, sir. I could verify that if I looked at the
14 records.

15 MR. VERNER: Your Honor, I would -- I would offer
16 these, and I would note that the State has filed an
17 affidavit of authenticity on the Facebook records as part of
18 this case.

19 THE COURT: Very good. If we could, let's just have
20 all those collectively.

21 MR. VERNER: There are seven photographs I would
22 introduce, Your Honor.

23 THE COURT: If we could, let's just have all those
24 combined as one exhibit. We'll call it Defendant's 1. Is
25 there any objection to Defendant's 1.

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1 MR. STUMBO: There's no objection, Your Honor. We do
2 have the affidavit that Mr. Verner was referring to. That's
3 State's 155. It's already been marked.

4 THE COURT: Right.

5 MR. VERNER: I'm not sure if we've put it in evidence.
6 Could I offer State's 155 as Defendant's 1?

7 MR. STUMBO: We can do that in redirect officially,
8 Judge --

9 MR. VERNER: They can do it, Your Honor, but they're
10 conceding the foundations.

11 MR. STUMBO: We planned to put this in through the next
12 witness, so I think it would be --

13 THE COURT: We're going to make -- and you may have
14 left one -- your client just took two photos.

15 MR. VERNER: I'm -- specifically just the seven in my
16 hand.

17 THE COURT: All right. We'll staple those. If we
18 don't already have a Defendant's 1, they'll be Defendant's
19 1.

20 MR. VERNER: Well, I was going to publish them first,
21 Your Honor, and then maybe paperclip them. And then when
22 they're put into evidence we can staple them.

23 THE COURT: That's fine.

24 Q If I submitted to you that these were all photographs
25 of the child within 30 days, or at least uploaded on

1 Facebook within 30 days prior to the child's death, again,
2 that is something that you can verify by just going on
3 Facebook and looking at the pictures?

4 A Yes, sir. I would have to verify that it is within 30
5 days. I'm not sure.

6 Q Assuming -- assuming my information is correct what --

7 A Assuming your information is correct, yes, that's
8 within 30 days.

9 Q What is the date of this photograph that was posted on
10 Facebook?

11 A That's December 17th, 2014.

12 Q And that's about two weeks prior to the --

13 MR. VERNER: I can mark them 1 through 7 and then you
14 can kind of --

15 THE COURT: How do you want to do it, Tara? Let it be
16 1A, 1B, 1C, 1D.

17 MR. VERNER: Your Honor, if I could, just do quickly do
18 them --

19 THE COURT: Sure.

20 MR. VERNER: -- off of A, B, C, D, E and all the way --

21 THE COURT: Perfect.

22 Q I will ask you. Her Facebook account is actually in a
23 fictional name -- fictional name; is that correct?

24 A That's correct.

25 Q What, Sally Daniels?

1 A I believe that's right.

2 Q But there's no question that is Theia's McArdle's
3 images?

4 A That is correct.

5 Q It appears to be her account under a fictional name?

6 A Correct.

7 MR. VERNER: You want to go ahead and put the mark on
8 them?

9 THE COURT: If you want to just hand them to him. We
10 don't need to clip them. We'll mark them after they get
11 done reviewing them.

12 Q And again, the dates they're uploaded, assuming they
13 are correct --

14 A Yes, sir.

15 Q -- A is December 17th?

16 A That's correct.

17 Q And that's a picture of Minor in the car -- in the
18 Chevy Malibu?

19 A Yes, sir.

20 Q And that's about -- assuming it was posted on the date
21 it was taken, that's about two weeks prior to the child's
22 death?

23 A Yes, sir. That was when it was taken. Yes, sir.

24 MR. VERNER: May I publish, Your Honor?

25 THE COURT: You may. And ladies and gentlemen of the

1 jury, understand that you will have a chance to have these
2 exhibits back in the jury room, so don't feel like you have
3 to spend too much time looking at them at this point in
4 time. Go ahead.

5 Q What's the date of B, assuming I'm correct?

6 A That is December the 2nd, 2014.

7 Q Less than a month before **Minor's** death?

8 A Yes, sir.

9 Q Same date?

10 A Correct.

11 Q And it appears really to be at the same location?

12 A Yes, sir.

13 Q November 29th?

14 A Yes, sir.

15 Q So exactly a month from the date that they went to the
16 hospital?

17 A Yes, sir.

18 THE COURT: And that's D.

19 Q. All right. E. Who is the lady with **Minor**

20 A That appears to be Ms. Patrice McArdle.

21 MR. VERNER: Would you like to handle these first,
22 Judge?

23 Q And that's Theia's mother? The child's grandmother?

24 A Correct.

25 Q And the date of this is November 18th?

ALLISON MOORE: CROSS EXAMINATION

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1 A Correct.

2 Q And this is appears to be a picture of Minor on the
3 potty?

4 A Correct.

5 Q And the date is October 30th --

6 A That's correct.

7 Q -- of '14? So just slightly more than a month prior to
8 the child's death?

9 A Correct.

10 Q And finally October 29th, 2014?

11 A That's correct.

12 Q Minor and his mother?

13 A That's correct.

14 THE COURT: And that's G.

15 MR. VERNER: Your Honor, I would offer those all as
16 Defendant's 1. As we said A and what is it? What's the
17 last, G maybe?

18 THE COURT: G.

19 MR. VERNER: G.

20 THE COURT: Correct. Very good. Without objection
21 those are in evidence as Defendant's 1.

22 (Whereupon, Defendant's Exhibit No. 1A through 1G were
23 admitted into evidence.)

24 MR. VERNER: And, Your Honor, I'm going to go ahead and
25 offer an H as well, if I may.

1 THE COURT: All right.

2 MR. VERNER: G, H. I'm sorry.

3 (Whereupon, Defendant's Exhibit No. 1G and 1H were
4 admitted into evidence.)

5 Q And what are we looking at in this photograph?

6 A That's Ms. McArdle and Richard Bowman.

7 Q And if my date is correct, that will be posted on
8 September 13th of 2014?

9 A That's correct.

10 Q And have you seen Richard Bowman? You met him? You
11 remember -- you remember what he looks like?

12 A Yes, sir. And that depicts him.

13 Q That's clearly Theia and Richard, the two people
14 charged in this case?

15 A Correct.

16 MR. VERNER: Your Honor, I would like Defendant's 1 to
17 be A through H.

18 THE COURT: It will be.

19 Q Theia indicated to you that Richard had been abusive
20 toward her?

21 A Theia, she had disclosed that they had been in some
22 domestic situations and that they were both involved in
23 those. They were both.

24 Q Did you investigate any abusiveness in that
25 relationship, or that was for somebody else, or --

ALLISON MOORE: CROSS EXAMINATION

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1 A No, sir. That was not in our jurisdiction.

2 Q Did anybody else indicate to you that Richard was an
3 abusive -- had been physically abusive of Theia?

4 A Not that I can recall, no.

5 Q And you actually -- you participated in obtaining the
6 Facebook records? If not the main one, you were at least in
7 the loop part of that process?

8 A I was just in the loop, yes.

9 Q And the same with the T-Mobile phone records, right?
10 You were probably actually the main one for the phone
11 records, right?

12 A I was the actual, yes.

13 Q Do you still have those phone records in front of you
14 that T-Mobile provided?

15 A No, sir. I do not.

16 Q These are the documents that T-Mobile provided?

17 A Yes, sir.

18 Q Now, it appears to me -- I'm referring to the State's
19 --

20 THE COURT: 136.

21 Q -- 136. At some point somebody has color coded some of
22 these entries. T-Mobile didn't do that, did they?

23 A No, sir. T-Mobile did not.

24 Q So this is somebody preparing for trial had some reason
25 color coded -- T-Mobile would not have provided --

- 1 A No, sir.
- 2 Q -- those records in that form, right?
- 3 A That's correct.
- 4 Q But that's not changing the substance of them? That's
- 5 just --
- 6 A That's just highlighting what's --
- 7 Q Highlighting --
- 8 A Uh-huh.
- 9 Q -- what people intend to --
- 10 A That's correct.
- 11 Q And when people have a Smart Phone nowadays they can
- 12 call -- they can make voice calls, right?
- 13 A Correct.
- 14 Q I can send a text message, right?
- 15 A That's correct.
- 16 Q And then it's possible maybe I can send email on a
- 17 Smart Phone?
- 18 A That's correct.
- 19 Q And then there are God knows how many apps that I can
- 20 some kind of app that would also send or receive information
- 21 on?
- 22 A That's correct.
- 23 Q But for the most part we're talking text messages and
- 24 phone calls?
- 25 A Voice mail and text message. Yes, that's correct.

1 Q And on the T-Mobile records voice calls under event
2 type are called "voice" right?

3 A Yes, sir. I believe that is an actual phone call.

4 Q Right. The traditional I call you?

5 A That's correct.

6 Q And in text messages, how are they identified in it?

7 A Let's see.

8 Q Just SMS?

9 A I believe that's correct, yes.

10 Q And SMS, do you know what that stands for or --

11 A Actually I don't.

12 Q Okay. I don't either. But SMS is the text messaging.
13 And then -- and then you can also send -- even text messages
14 is just basically typing out words, usually poorly spelled
15 --

16 A Yes, sir.

17 Q -- but quick messages to somebody else?

18 A Yes, sir.

19 Q And then you can also use the text message service to
20 send photographs?

21 A Yes, sir. You can.

22 Q And that would be classified as MMS?

23 A I'm assuming so. I don't know about that.

24 Q Can you look at the very first page of -- what is this,
25 136?

1 MR. VERNER: Do we have, Mr. Bentley, these on the
2 screen? If you need to step off, or if you can use your
3 chart.

4 (Whereupon, the witness steps down from the witness
5 stand.)

6 Q The T-Mobile records start from -- and they're in a
7 bunch of columns. But T-Mobile starts their records at
8 December 28th at 10:29 p.m., right?

9 A Yes.

10 Q And you no longer have the microphone, so make sure you
11 --

12 A Yes, sir.

13 Q And the event type, this is either voice messaging,
14 text messaging or sending media would be the event type?

15 A That is correct.

16 Q And it's using the date that it went to the cell
17 towers?

18 A That is correct.

19 Q It can also say whether the text message or call was
20 sent or received?

21 A That is correct.

22 Q A received message is classified as incoming?

23 A That's correct.

24 Q And -- or outgoing is I make the call myself?

25 A That's correct.

ALLISON MOORE: CROSS EXAMINATION

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1 Q It gives the phone numbers of the recipient or the
2 caller?

3 A Yes, sir.

4 Q To the extent that it was sent to a phone as opposed to
5 like sent to an email account?

6 A Yes, sir.

7 Q And then at some point it will give -- if it's a
8 telephone call it will actually give the latitude, longitude
9 and the identification of the tower that receives the call?

10 A Yes, sir. I'm assuming that's correct, yes.

11 Q Okay. But the text messages don't, just the phone
12 calls? You don't see any text messages that give the tower
13 location in a typically standard but non-applicable --

14 A That's correct, yes.

15 Q But with all the phone calls you can see.

16 A Right off hand I'm not seeing it.

17 Q. Is it fair to say December 29th, 2014 is the date that
18 we're concerned about? The date that Theia came to
19 Newberry, right --

20 A Yes.

21 Q -- and Richard?

22 A Yes, sir.

23 Q It appears -- and these are all -- this is the cell
24 phone number of Theia -- this is Theia McArdle's cell phone,
25 828-216-1341?

1 A Yes, sir. I believe that's correct.

2 Q And that will be the same for all the records because
3 these were specifically her phone?

4 A That's correct.

5 Q It appears Theia, or whoever was using her phone, made
6 the first outgoing text message call at 8:00 in the morning.
7 Is that at least what the records show?

8 A That's what it indicates, yes.

9 Q So assuming Theia was using her own phone, you would
10 think that she's awake at at least 8:00 that morning?

11 A Correct.

12 Q And then there is a lot of text messaging coming in and
13 coming out.

14 MR. VERNER: Can we see the second page, Mr. Bentley?

15 Q Keep going down. Go to about 12:53 p.m. 12:53. Just
16 leave that right there. 12:53 p.m. there's an incoming text
17 message from a phone number that ends in 3790.

18 A That's correct.

19 Q And we know that 3790 is Justin Holmes, the man she met
20 in Newberry's cell phone, right?

21 A I'm assuming.

22 Q And 940 is a Newberry --

23 A That is right, yes.

24 Q And you heard the -- were you hear for the witness, Mr.
25 Holmes?

ALLISON MOORE: CROSS EXAMINATION

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1 A I was.

2 Q Where he indicated 790 were his last three.

3 A I believe I recall that, yes.

4 Q And, in fact, it appears that your office has gone
5 ahead and color coded those calls blue.

6 A Yes. I'm not sure who did that.

7 Q Somebody. But all calls that came from Mr. Holmes'
8 cell phone seem to be in blue?

9 A Yes, sir.

10 Q Or text messages. So he first contacted Theia was an
11 incoming text message just short of 1:00 on December 29th.

12 A That's what the records show.

13 Q And he's texted her at 1:00 and she texted him back at
14 1:10.

15 A Yes, sir.

16 Q Now, just go down to the next screen at 1:26 at the
17 top. To the same -- it appears that Theia sent some kind of
18 picture or file to Mr. Holmes at 1:30 which is highlighted
19 in green.

20 A If that's what that MMS is. I'm not sure.

21 Q But that's different than a text message.

22 A I'm not sure what that is.

23 Q And then a second one at 1:43, but there are several
24 text messages. They're texting each other so far at least
25 about 10 texts? Well, let's count. They texted each other

1 10 times before she sent him this file?

2 A Yes, sir. It appears that way.

3 Q And about eight or nine more times on the next page.

4 MR. VERNER: Mr. Bentley, can we go to 8:04 p.m.

5 Q And again, as he's scrolling, all these blue times are
6 them corresponding by text messages.

7 A Yes, sir.

8 Q So we didn't count them, but every time we passed a
9 blue one that's a separate text message. And sometimes text
10 messages can be very short, a heart or an emoji, and
11 sometimes they can be longer, but -- we don't really know
12 what was sent, but that's at least a text message going
13 through?

14 A Yes, sir.

15 Q At 8:04 p.m. Mr. Holmes called Theia. Is that at least
16 what the records show?

17 A That's what the records show.

18 Q And just interestingly enough. We'll come to this one
19 in a second. But her location longitudely would be 34.603.

20 A Yes, sir. That's what the records indicate.

21 Q So the question is what is the location of 603.

22 34.603. She was at that location when he called.

23 MR. VERNER: And then, Mr. Bentley, if we could go to
24 12:22 in the early morning of December 30th.

25 Q There are a couple of times Theia called Mr. Holmes at

ALLISON MOORE: CROSS EXAMINATION

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1 10:58 p.m.?

2 A That's what it indicates, yes.

3 Q At 11:30 p.m.?

4 A Yes, sir.

5 Q And at 12:22 after midnight?

6 A Yes, sir.

7 Q As of the call at 10:58, Theia is no longer at the
8 34.603 address?

9 A That's correct.

10 Q But by 11:30 p.m. she is at 34.603?

11 A Yes, sir.

12 Q And, of course, we know she's in Newberry when she
13 calls him at 12:22 in the morning? According to his
14 testimony she called --

15 A Yes, sir. Correct.

16 Q So 34.28 is likely the Newberry --

17 A Newberry. I'm assuming, yes. Without looking it up.

18 Q So assuming we know what the addresses mean we can tell
19 exactly where Theia is on the day the 28th. Is that fair to
20 say?

21 A I'm assuming. I don't know how the cell phone -- how
22 this works. I'm not -- I don't -- I don't have information
23 on how this works.

24 MR. VERNER: Again, Mr. Bentley, if we could go to the
25 very top, December 28th again.

1 Q On the evening of December 28th we know that Theia
2 makes two phone calls, or her phone makes two phone calls
3 from 34.603. Is it possible that's the Spartanburg address?

4 MR. DANIEL: Your Honor, I'm going to object just
5 because we have Chris Johnson subpoenaed and he is the
6 telecommunications liaison with SLED and he will testify to
7 this material.

8 MR. VERNER: If they let me go through it with the --
9 as long as I'm provided a witness I can do this through,
10 Your Honor. I can do it through Ms. Moore, Officer Moore,
11 or --

12 THE COURT: I'm not sure she understands or knows if
13 603 references Spartanburg or Newberry. So to be fair --

14 MR. VERNER: Well, I can show that through a -- I think
15 it's logical. But if they've got a better witness they
16 would rather me do that through, Your Honor.

17 THE COURT: If you wanted to ask a question -- assuming
18 for the moment that whatever, 603 is Spartanburg, if you're
19 trying to link this up with something else that this witness
20 has independent knowledge of then we can assume for a moment
21 -- we can work off of assumptions that you're making if you
22 want to do it that way until such time as the communication
23 officer comes in and testifies.

24 MR. VERNER: Okay.

25 Q But longitudely you have no idea what the 34.603 --

ALLISON MOORE: CROSS EXAMINATION

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1 where that specific location is?

2 A No, sir. I do not. I don't know if that's -- I know
3 nothing about this section of the --

4 Q But you're not disputing that these are the records --

5 A No, sir. I'm not --

6 Q -- received from T-Mobile?

7 A No, sir. I'm not disputing that at all.

8 MR. VERNER: I'm not going to get into where she is,
9 Your Honor, but I just -- I would briefly like to just get
10 in when they differ just quickly.

11 THE COURT: Go ahead.

12 Q So on the evening of 12/28 she's at the 34.603. It's
13 the same with the latitude as the longitude.

14 A They are the same according to these records.

15 Q And that would have been on December 28th at 10:29 and
16 10:41 p.m.?

17 A That's correct.

18 Q So we're assuming she's generally in the same location?

19 A Yes, sir.

20 MR. VERNER: Mr. Bentley, if we could go down to 12:29
21 at 1:13 p.m.

22 Q At December 29th -- by the way, do we know what day of
23 the week December 29th is of 2014?

24 A It's a Monday, I believe.

25 Q So Monday at 1:13 in the afternoon Theia still appears

1 to be at the same location, 34.603?

2 A It appears to be. Again, I'm not sure what that
3 exactly means.

4 MR. VERNER: Can we go down to 1:54 p.m.?

5 Q At 1:54 p.m. on Monday Theia is no longer at that same
6 address? She's now at 34.496?

7 A That's what it appears to be. Yes, sir.

8 MR. VERNER: Mr. Bentley, 2:25 p.m.

9 Q At 2:25 on Monday Theia is still at a different
10 address, 34.545.

11 MR. DANIEL: Your Honor, again I'm going to object to
12 foundation issues. This is cumulative at this point.

13 MR. VERNER: No, it's not cumulative because --

14 MR. DANIEL: It will be once we our -- Chris Johnson
15 testify.

16 MR. VERNER: They're saying that they're going to offer
17 evidence that's going to be cumulative to what I'm offering
18 which is --

19 THE COURT: Right. I understand. Go ahead.

20 Q So she's still at a different location than 34.603?
21 Assuming the longitude and latitude -- longitude and
22 latitude are location identifications?

23 A They are. But again, I have no knowledge if that's --

24 Q How T-Mobile applies them?

25 A Yes. I'm not an expert in this.

ALLISON MOORE: CROSS EXAMINATION

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1 Q But you're aware that longitude and latitude are used
2 for maps to show locations?

3 A For locations.

4 MR. VERNER: 3:53, Mr. Bentley.

5 Q 3:53 on Monday it appears Theia's back at the 34.603
6 where she started. So by 4:00 she's back to the very first
7 location?

8 A Yes, sir.

9 MR. VERNER: 6:33, Mr. Bentley.

10 Q At 6:33 on the evening of December 29th it appears the
11 phone calls from the same location, 34.603?

12 A Yes, sir. That's what it appears.

13 Q 6:34 same location, 34.603?

14 A Yes, sir.

15 Q 7:25 same location, 34.603?

16 A That's what it represents.

17 Q 7:28, 34.603?

18 A Yes, sir.

19 Q And finally 7:39, 34.603?

20 A Yes, sir.

21 Q So all these phone calls appear to have the same
22 longitudinal and latitudinal addresses, assuming that's how
23 T-Mobile is using them?

24 A Yes, sir.

25 MR. VERNER: 8:11, Mr. Bentley.

1 Q At 8:11 a different address, 34.628?

2 A Yes, sir.

3 Q At 8:15 back to 34.603?

4 A Yes, sir.

5 MR. VERNER: 8:35.

6 Q 8:35 she's still at the 34.603 location, assuming --

7 A Yes, sir.

8 Q 8:52. At 8:52 the phone is now at 34.838, a different
9 location?

10 A Yes, sir.

11 Q And it's also at the different location as of 10:58
12 p.m.?

13 A Yes, sir.

14 Q So there are no phone calls made from the 34.603 from
15 at least 8:52 to 10:58 p.m. But she's back at 12 -- on
16 12/29 at 11:19 she's back at 34.603?

17 A Yes, sir.

18 Q And there are one, two, three, four phone calls at that
19 same location, the last one being at 11:41 p.m.

20 A Yes, sir.

21 Q At 12:22, which we're presuming she's in Newberry,
22 right?

23 A I'm assuming so. I don't know. I'm not an expert and
24 I'm sure there's a method to this.

25 Q Well, it shows where the -- assuming longitude and

KELLIE WILLIAMS: DIRECT EXAMINATION

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1 latitude stand for where the phone is, we can show whether
2 she's at the same location or not, right?

3 A Again, I don't know how this operates. I'm sure there
4 is a method. I don't know.

5 Q I'm sorry. I'm through with the phone records. So you
6 can --

7 MR. VERNER: Thank you, Investigator Moore. I know a
8 lot of that was out of your area, and the Solicitor may have
9 some more.

10 THE WITNESS: Thank you.

11 THE COURT: Anything on redirect, Solicitor?

12 MR. DANIEL: No further questions, Your Honor.

13 THE COURT: Officer, thank you. You can step down.

14 (Whereupon, the witness stepped down from the witness
15 stand.)

16 THE COURT: Ladies and gentlemen of the jury, I don't
17 know about you, I need a break, so we're taking one. We'll
18 be at ease for about 10 minutes. If you need to step
19 outside, let the bailiff know. She'll take you outside.
20 Don't discuss the case. Thanks. And somebody make a point
21 of grabbing those photos Charles put in.

22 (Whereupon, the jury exited the courtroom at 11:52
23 a.m.)

24 (Whereupon, a recess was taken from 11:52 a.m. to 12:10
25 p.m.)

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1 THE COURT: We'll go back on the record. The record
2 should reflect the Defendant is present with counsel. Let's
3 have the jury in, please.

4 (Whereupon, the jury entered the courtroom at 12:10
5 p.m.)

6 THE COURT: The record should reflect the jury is back
7 and seated. At this point, Solicitor, call your next
8 witness, please.

9 MR. STUMBO: Thank you, Judge. The State calls Agent
10 Kellie Williams to the stand.

11 AGENT KELLIE WILLIAMS, having first
12 been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. STUMBO:

15 Q I was about to say good morning, Agent Williams, but I
16 believe it's --

17 A Good afternoon.

18 Q You work with SLED?

19 A I do.

20 Q And you work at the child fatality unit, I believe,
21 with SLED?

22 A I do. I work in the special victim's unit and I
23 specifically investigate child fatalities within that unit.

24 Q Based out of the Columbia headquarters?

25 A That is correct.

KELLIE WILLIAMS: DIRECT EXAMINATION

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1 Q And what does the child fatality unit do? What's your
2 all's mission?

3 A By law the child fatality unit receives information
4 from all of the coroner's offices within every county in
5 South Carolina. Whenever a child dies that is under the age
6 of 18 and the child's death is somehow violent in manner,
7 the death is possibly suspicious, unexplained death of a
8 child under the age of 18, anything like that by law is
9 required to come into the special victim's unit and then we
10 investigate it or assist local law enforcement agencies as
11 needed.

12 Q So it's a requirement of state law that SLED is tasked
13 with assisting local law enforcement to come in and look at
14 these child death cases?

15 A That is correct.

16 Q And how many agents do you all have working in that
17 division?

18 A We have 10 agents total that specifically work child
19 death investigations. Five in the midlands and upstate and
20 then we have five in the low country. The Pee Dee region.

21 Q You all cover the whole state of South Carolina?

22 A That is correct.

23 Q And you're assigned to the midlands, upstate region, I
24 assume?

25 A That is correct. I have several counties in the

1 midlands.

2 Q How long have you been with SLED?

3 A I've been with SLED for two years.

4 Q And where did you work before then?

5 A Prior to working at SLED I started my career at a City
6 of Charleston Police Department. I worked there for about a
7 year and a half. I was specifically patrol in that area.
8 And after I left the city of Charleston I worked at the
9 University of South Carolina Division of Law Enforcement
10 Safety for about three and a half years, and for two of
11 those years I was an investigator there.

12 Q So total from the time you've been with Charleston PD
13 to South Carolina to SLED about seven years?

14 A That is correct.

15 Q Now, as part of your duties at the SLED brutality unit
16 did you have occasion to work a child death here at Newberry
17 County involving **Minor**

18 A I did.

19 Q And that was a little boy who turned three the day he
20 died; is that correct?

21 A That is correct.

22 Q And where -- that was December 30th, does that sound
23 right, 2014?

24 A That is correct.

25 Q And where did you respond to first in Newberry?

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1 A After I received a call from my Captain at about 5:20
2 on the morning of December 30th I was told to make contact
3 with then Captain McClurken, get a little bit more
4 information about the case and head down to the Newberry
5 Police Department in order to assist with the interviews of
6 Theia McArdle and Richard Bowman. So as soon as I could I
7 drove down to -- up to Newberry and I drove to the Newberry
8 police department. Once I arrived at the Newberry police
9 department it was probably about 7:15 a.m. I made contact
10 with Lieutenant Goodman and he gave me a little bit more
11 information. And then I met with Sergeant and we then went
12 ahead and interviewed Theia McArdle.

13 Q And you said you arrived about 7:15 in the morning?

14 A That's correct.

15 Q And you didn't go to the hospital first at that point?
16 You just went directly to the police department?

17 A That is correct. I went straight to the police
18 department.

19 Q And you said you met with Sergeant. Are you referring
20 to Detective Allison Moore who just testified?

21 A That is correct, yes.

22 Q And what -- did you all interview Theia McArdle in a
23 room there at the police department?

24 A We did. It was Sergeant Moore's office. An office
25 area that she uses.

1 Q Was she in custody at that time?

2 A No, she wasn't.

3 Q She was not in handcuffs?

4 A No, she wasn't.

5 Q Free to take breaks if she needed them, or if she

6 needed something to eat?

7 A That is correct.

8 Q And did you all read her -- or go over her Miranda

9 rights with her?

10 A We did. Sergeant Moore went over her Miranda rights

11 and I was sitting there and I was listening and watching as

12 she signed the document.

13 Q Did she appear to understand her rights as you read

14 them to her?

15 A That is correct?

16 Q Did you tell her she has the right to remain silent?

17 A That is correct.

18 Q Tell her she had the right to stop the interview at any

19 time?

20 A That is correct.

21 Q Did you tell her she had the right to have an attorney

22 if she so wished?

23 A That is correct.

24 Q That if she couldn't afford a lawyer, one would be

25 provided to her. Was she advised of that?

KELLIE WILLIAMS: DIRECT EXAMINATION

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1 A That is correct.

2 Q And she appeared to understand those rights?

3 A She did.

4 Q Did she waive them?

5 A She did.

6 Q And I did that -- I believe you're looking at State's
7 139. She initialed those and signed that waiver of rights
8 form in State's 139?

9 A She did.

10 Q Did you pressure her to talk to you all?

11 A No, we didn't.

12 Q Did you threaten her in any way?

13 A No, we didn't.

14 Q At any time during the interview process that morning
15 did she exercise her right to a lawyer?

16 A No, she didn't.

17 Q Now, how did this -- at the beginning this was audio
18 recorded; is that correct?

19 A That is correct. The entire interview was audio
20 recorded.

21 Q I believe the disk, State's 140, you've had a chance
22 before today before court to review State's 140, the disk?

23 A I have.

24 Q And that fairly and accurately represents the interview
25 that day that you and Detective Moore conducted with the

1 Defendant?

2 A It does.

3 Q And about how long is that audio about?

4 A Roughly I'd say right about three hours.

5 Q It's broken up into parts, correct?

6 A That is correct, in five different segments.

7 Q So when it breaks that's times when you all would break
8 from the interview and bathroom breaks and that sort of
9 thing?

10 A That is correct.

11 Q Now, also in the midst of the interview there's this
12 reenactment. Can you tell the jury about -- is a
13 reenactment something that's common in your investigations?

14 A Sure. I can explain that. During a child death
15 investigation it is common to do a video reenactment or a
16 scene reenactment. And what a video reenactment is, it is
17 an investigative tool that law enforcement uses, as well as
18 the coroner's office. It is also useful to a pathologist.
19 What it does is it brings some clarification. After, you
20 know, you might be interviewing an individual, say for an
21 unsafe sleeping child death and then a caregiver or guardian
22 is explaining how they placed the child in the crib or the
23 bed the night prior to the child's death, or how they found
24 the child. A lot of times law enforcement and the corner's
25 office will use this video reenactment. And you can use a

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1 prop. We use something like a baby doll to represent the
2 child. We will ask the parent voluntarily or the caregiver
3 voluntarily to participate in this video reenactment and
4 show us how they placed the child in the crib, bassinet, a
5 couch, whatever it may be. How they found the child. And
6 while we are doing this it brings clarification as to the
7 positioning of the child's body. But it also gives
8 investigators a chance to use techniques that trained law
9 enforcement investigators use in interviewing and
10 interrogating. We look for body language, body demeanor.
11 We look for statements of omission or excess statements
12 throughout the video reenactment. Anything that may look
13 odd to us. We pay attention to how the parent or the
14 guardian handles the prop, whether it be a pillow, whether
15 it be the doll that we use. We like to see how they are
16 handling or caring for this prop. Because in some cases
17 where you have a parent who it is completely accidental the
18 parent realizes that they, you know, fell asleep while
19 feeding the child and then found the child -- this child
20 suffocated in the bed. These parents tend to become very
21 emotional. They are caring the child as if it's an actual
22 human being. I've even seen a parent kiss the baby doll on
23 the forehead during the video reenactment. And in some
24 cases where we're doing an investigation and there's obvious
25 non-accident trauma, when you look -- when law enforcement

1 locates the child, these parents, they voluntarily agree to
2 the video reenactment. And the way that they handle the
3 child is completely different. You know, they're just --
4 you know, the child is -- a prop is a prop. They're
5 throwing it around. They throw the prop on the bed. And
6 so, investigators are looking for different -- different
7 cues, different body language, demeanor. It helps out in
8 the investigation. Not just with law enforcement. But also
9 with the -- the obtaining of possibly the cause and the
10 manner of the death, especially in unsafe sleeping cases
11 where you have this overlaying. You need to know the
12 position that the child was in. And in a nutshell that is
13 what a video reenactment is. It's also a teaching tool for
14 the parents as well. Especially in unsafe sleeping cases.

15 Q So it can be an investigative tool or a teaching tool?

16 A That is correct.

17 Q Now, you did conduct this reenactment hearing in one of
18 the breaks of the audio interview, correct?

19 A That is correct.

20 Q And were you able to record that?

21 A Yes, we were.

22 Q And what equipment, whose equipment did you use to get
23 that done?

24 A The SLED agents who are processing the crime scene, the
25 cameras that they brought when them to take photographs.

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1 They used that same camera, and it was all included in the
2 photographs. I believe Agent Claycomb videoed the
3 reenactment.

4 Q She's one of the crime scene agents?

5 A That is correct.

6 MR. STUMBO: Beg the Court's indulgence. 135, the
7 disk, Judge. Do you have that up there? Just give us just
8 a second, Judge.

9 THE COURT: I'm not sure that one is in evidence yet,
10 to tell you the truth.

11 MR. STUMBO: While we're looking for that -- Judge, I
12 can move on and finish this and maybe we could publish that
13 reenactment - there it is. I thought it was up here. I've
14 got too many papers, Judge.

15 Q Agent Williams, you had a chance to review State's 135,
16 what's been marked for ID as State's 135 before today?

17 A I did, yes.

18 Q Were you able to initial that disk?

19 A I did.

20 Q And is 135 a fair and accurate representation of this
21 reenactment you did with Ms. McArdle that day?

22 A Yes, it is.

23 MR. STUMBO: Your Honor, at this time we would offer
24 State's 135 into evidence and permission to publish to the
25 jury.

1 THE COURT: Any objection?

2 MR. VERNER: Subject to what the Court's already ruled
3 on.

4 THE COURT: Subject to the Court's earlier ruling, you
5 may proceed, Solicitor. It is in evidence.

6 (Whereupon, State's Exhibit No. 135 was admitted into
7 evidence.)

8 MR. STUMBO: Thank you, Judge.

9 (Whereupon, State's 135, video recording, was published
10 for the jury.)

11 Q That was -- the video cut off at that point. I mean,
12 is that all we were able to capture?

13 A Yes, that was all we were able to capture. If I
14 remember correctly, I think the battery or something died,
15 or the memory card was full, so they had to exchange it. So
16 that was --

17 Q That was the end though?

18 A Yes, that was the end of it.

19 Q You were asking her a question right before the end
20 though. Was there any other questions asked of Ms. McArdle
21 at that time or --

22 A No, there weren't.

23 Q -- of any evidentiary value to you?

24 A No, there weren't.

25 Q And then shortly thereafter did this reenactment

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1 process wrap up? I mean, did you all finish up shortly
2 after the video cuts off?

3 A We did, yes.

4 Q Now, as part of your investigation, you asked during
5 the reenactment about the process of getting to the hospital
6 and who brought **Minor** inside the hospital and that sort of
7 thing. Did you do any follow-up at the hospital on
8 surveillance?

9 A I did, with the assistance of Sergeant Moore. She
10 called the hospital and requested security, video footage
11 from the security office. Any video cameras that the
12 hospital would have. And later that day I went by and
13 picked up a copy of the video that they made for us.

14 Q And you all were able to capture that and take custody
15 of that at that time?

16 A Yes.

17 Q And you've been able to review what's been marked for
18 ID as State's 140 for purposes of Court?

19 A Yes, sir.

20 Q And did it fairly and accurately depict the same
21 surveillance footage that you watched as part of this
22 investigation?

23 A That's correct.

24 Q And you all collected this evidence directly from the
25 hospital?

1 A Yes, we did.

2 Q And I believe the -- there's been some still photos. I
3 want to say they weren't --

4 MR. STUMBO: Walter, if we could get 132, please.

5 Q Can you see the screen there, Agent Williams?

6 A Yes.

7 Q If you could keep your voice up for Ms. Scott, the
8 court reporter. Is this a still shot taken from State's 140
9 which is the surveillance video?

10 A Yes, it is.

11 Q And the time stamp at the bottom of State's 132 is what
12 time?

13 A The time stamp says 1:35:28 a.m.

14 Q And this depicts Mr. Bowman bringing **Minor's** what
15 appears to be unresponsive lifeless body in the hospital
16 room?

17 A That is correct.

18 MR. STUMBO: Walter, if we could go to 133.

19 Q 133 depicts a still shot from the surveillance video.
20 What's the time at the bottom of this one?

21 A The time on this one is 1:37:10 a.m.

22 Q And that -- again, Mr. Bowman, a couple minutes later
23 he's walking out to take -- I assume to take **Minor** to the
24 back. He's no longer carrying him, correct?

25 A Yes, that's correct.

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1 MR. STUMBO: 134.

2 Q Okay. State's 134.

3 MR. STUMBO: Walter, if we could scroll up a little bit
4 and see what the time stamp is.

5 Q What's the time on 134?

6 A The time on 134 is 1:37:49 a.m.

7 Q And so, this 1:34 would be over two minutes -- well
8 over two minutes after the initial shot of Mr. Bowman
9 carrying Minor into the ER, correct?

10 A That's correct.

11 Q And this in the pink top, as we just saw on the
12 reenactment video, I'm assuming that's the Defendant, Ms.
13 McArdle?

14 A That's correct.

15 Q She's dressed the same way in this jumpsuit?

16 A Yes.

17 MR. STUMBO: Your Honor, I believe we did put 140 into
18 evidence. If we could publish the relevant portions of that
19 at this time.

20 THE COURT: 140 is in evidence or --

21 MR. VERNER: That's the audio interview?

22 MR. STUMBO: No. 140 is the hospital surveillance
23 video --

24 MR. VERNER: Oh, I'm sorry.

25 MR. STUMBO: -- that these stills were taken from.

1 THE COURT: I don't think it is in evidence. But if
2 it's not, is there any objection?

3 MR. VERNER: That's the actual video itself at the
4 hospital?

5 MR. STUMBO: It's the video itself.

6 MR. VERNER: Without objection, Your Honor.

7 THE COURT: Without objection, if it's not in evidence,
8 it is now.

9 (Whereupon, State's Exhibit No. 140 was admitted into
10 evidence.)

11 MR. STUMBO: And, Judge, I believe it will take just a
12 moment for Mr. Bentley, based on the surveillance software,
13 to get it to play.

14 MR. STUMBO: Stop it there, Walter. Thank you. Thank
15 you, sir.

16 Q You have reviewed this surveillance video with Sergeant
17 Moore?

18 A That is correct.

19 Q And I believe this has already been referred to. But
20 the car was found backed into a parking place. This would
21 be State's No. 8. It's already in evidence. Have you seen
22 that before?

23 A Yes, I have.

24 Q That's backed into a parking place some distance away
25 from the hospital?

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1 A That's correct.

2 Q During the time you spent with Theia McArdle, what was
3 her demeanor like? And this is between, you said, about
4 7:00 in the morning -- 7:00 a.m. or a little thereafter
5 until just after noon when she completes her written
6 statement, correct?

7 A That is correct.

8 Q Could you describe for the jury what the Defendant's
9 demeanor was like during this time?

10 A Sure. Throughout the time that we were interviewing
11 Theia McArdle her demeanor changed several times. At some
12 point she would seem upset. She was crying. You know, we'd
13 have to give her a minute to calm down. At other points in
14 the interview she was joking around, laughing about things
15 that she was telling us. I remember she was describing one
16 of the times that she and Mr. Bowman were involved in a
17 physical altercation and she said she punched him in the
18 face and then she laughed. And then she said, "Oh, that's
19 not funny." There was another instance in the interview,
20 another time where she laughed. She was describing when she
21 moved to Spartanburg and we asked her where she was staying,
22 how she was providing for **Minor** and she was explaining
23 how she was staying in several different hotels and, hey, it
24 was a roof over his head and, hey, cable, ha. You know,
25 that cable was included. There were just some odd exchanges

1 throughout the interview. You know, she did cry at certain
2 points. There were a lot of times where she went into great
3 detail about certain instances that weren't necessary. She
4 was very concerned about his safety in the carseat. Not
5 only in the reenactment. She mentioned that about making
6 sure he was buckled in the carseat. She was also talking
7 about an incident where he was in the carseat, the time when
8 she popped him on the bottom when he was in the carseat
9 pulling on her hair. You know, she was making sure that he
10 was staying inside his carseat. Throughout the interview,
11 like I said, she did show some emotion as far as being upset
12 but she would shift gears very quickly, going from crying to
13 using very expletive language, describing Mr. Bowman or
14 describing different instances where they were arguing. It
15 was just a lot of up and down throughout the interview.

16 Q And I believe this has already been testified to. But
17 at one point in the interview with you and Detective Moore
18 she says if I wanted to put on an act I could put you on
19 your f-ing feet, or something to that effect. Was that odd
20 to you, that kind of statement?

21 A That was pretty strange to me considering the
22 circumstances and what we were talking about.

23 Q You had an opportunity with Sergeant Moore's assistance
24 to get a search warrant for Facebook records?

25 A We did.

KELLIE WILLIAMS: DIRECT EXAMINATION

403

1 Q And did Facebook ultimately comply with the search
2 warrant? Send the records for your file?

3 A They did.

4 Q How voluminous was this? I mean, was it just a few
5 pages or a lot of stuff?

6 A From what I remember it was a pretty large file.

7 Q Hundreds of pages?

8 A Yes.

9 MR. VERNER: Your Honor, I would ask to be heard on --
10 prior to introducing all the Facebook records.

11 MR. STUMBO: We're not intending to put all of them in,
12 Judge.

13 MR. VERNER: I know.

14 MR. STUMBO: Just what he has in the Exhibits.

15 MR. VERNER: I just have some -- I do have an objection
16 to them trying to offer what I would consider the
17 prosecution photographs or the seductive photographs.

18 THE COURT: I understand. Let me ask this, Mr. Verner.
19 How long do you anticipate taking with this witness on
20 cross?

21 MR. VERNER: On cross?

22 THE COURT: Yes, sir.

23 MR. VERNER: Not long, Your Honor. I think she's
24 played the video, so 10 minutes at the most.

25 THE COURT: Would you have any objection to her going

1 ahead and at least authenticating the exhibit --

2 MR. VERNER: I think --

3 THE COURT: -- then you can --

4 MR. VERNER: I'm not challenging that these are
5 Facebook posts, Judge.

6 THE COURT: Here's the reason I'm asking. If you're
7 okay with at least her authentication of that, we won't
8 publish to the jury at this point in time. I'll address
9 your objection at a later point. But if we can continue
10 with the testimony I don't have to send the jury out and
11 bring them back, because we're about a quarter -- or 15
12 minutes until -- 10, 15 minutes until lunch break usually.
13 So let's keep rolling with it. You've got a foot in the
14 door as far as your objection is concerned. We'll deal with
15 it when we return from lunch.

16 MR. VERNER: But my objection would just be a 403.

17 THE COURT: I understand where you're coming from.

18 MR. STUMBO: And if need be, Judge, we can publish them
19 through a future witness as well.

20 THE COURT: We'll deal with it later when the jury's
21 not here.

22 MR. STUMBO: We're almost done. So thank you, Judge.

23 Q Agent Williams, I'm going to hand you State's 155.

24 What is 155?

25 A It is the certificate of authenticity of domestic

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405

1 records of regularly conducted activity for Facebook.

2 Q And this -- Facebook, when they send records, they also
3 authenticate and try to say hey, these are records that they
4 keep in the regular course of business, correct?

5 A That is correct.

6 Q And that is -- 155 is from a Facebook records custodian
7 whose signature is on the page?

8 A That is correct.

9 MR. STUMBO: Judge, we'd offer 155 into evidence.

10 MR. VERNER: That's the Facebook authentication?

11 MR. STUMBO: Authentication.

12 MR. VERNER: Yes, sir. That's without objection.

13 THE COURT: Without objection, it is in evidence.

14 MR. STUMBO: Which I believe we've already put in
15 Defense exhibits, Judge, and that's what I feel confident to
16 cover that as well.

17 (Whereupon, State's Exhibit No. 155 was admitted into
18 evidence.)

19 Q I hand you State's 148, Agent Williams. 148, the pages
20 contain -- are they part of what Facebook -- part of the
21 records that Facebook sent to you in compliance with the
22 search warrant?

23 A That is correct.

24 Q And this isn't obviously all the pages. It's several
25 that were extracted out of that, correct?

1 A Correct.

2 Q And they fairly and accurately depict Facebook records?

3 A That's correct.

4 Q And you used the records in 148 as part of your
5 investigation to try to -- what's the purpose of pulling
6 Facebook records?

7 A Newberry police department requested that I type up the
8 warrant for the Facebook records. And obtaining Facebook
9 records, social medial records, and just provide any type of
10 evidence that might assist with the investigation. In
11 interviewing Ms. Patrice McArdle the day after Minor's
12 death, December 31st, during the interview she told law
13 enforcement that her daughter had been messaging her using
14 Facebook and was kind of discussing what was happening at
15 the hospital. And this was all the Facebook messaging. So
16 because of the fact that Ms. Patrice McArdle relayed that
17 information, that was even more of a reason for us to obtain
18 that information, because it would assist with our
19 investigation.

20 Q To corroborate statements that are being given to you
21 by witnesses, correct?

22 A That's correct.

23 MR. STUMBO: Beg the Court's indulgence.

24 THE COURT: Yes, sir.

25 MR. STUMBO: Thank you, Agent Williams. Please answer

KELLIE WILLIAMS: CROSS EXAMINATION

407

1 any questions Ms. McArdle may have for you.

2 THE COURT: Mr. Verner.

3 CROSS-EXAMINATION

4 BY MR. VERNER:

5 Q Were any of the -- you testified that during your three
6 hour interview of Theia that her temperament changed at
7 times? Went up and down?

8 A That's correct.

9 Q Over three hours if you were investigating me, do you
10 think that just a reasonable person -- was that un-normal
11 for somebody to say something sarcastic during a long
12 interview or to laugh at something or get down enough? Is
13 that unusual, too?

14 A No.

15 Q Are you aware that Theia takes medication for bipolar?

16 A Yes. She did relay that during the interview.

17 Q Which means she's prone to swings anyway? Bipolar, two
18 different attitudes?

19 A I assume.

20 MR. STUMBO: Judge, I just would object to that. I
21 don't --

22 THE COURT: To the extent the witness can answer, I
23 think she has made an answer. Given an answer.

24 MR. STUMBO: Thank you, Judge.

25 THE COURT: Go ahead, Mr. Vernon.

1 Q Who prepared these photographs for today?

2 A For the Facebook?

3 Q These photographs that are shown to you.

4 A The Solicitor's office.

5 Q And you indicated that some of your concerns were that
6 she -- her mother said that she had been Facebooking me from
7 -- telling me what's going on from the hospital and that was
8 part of your investigative concern?

9 A That's correct.

10 Q And, in fact, one of the pages does appear to be
11 Facebook messages between Theia and her mother?

12 A That's correct.

13 MR. VERNER: I have no objection to that one coming in,
14 Judge. May I approach, Your Honor?

15 THE COURT: Please.

16 MR. STUMBO: Does that mean they're in at this point?

17 MR. VERNER: Well, the one with the text messages I have
18 no -- if you all want to put those in.

19 THE COURT: There's a 403 objection that's got
20 standing. We'll deal with that later.

21 Q Is this a photograph of the child at all?

22 A No. I don't see him in that picture.

23 Q This is just a picture of Theia?

24 A Correct.

25 Q This is just to indicate that she appears to be a

KELLIE WILLIAMS: CROSS EXAMINATION

409

1 prostitute? She's dress seductively?

2 A I can't determine whether or not that is seductive.

3 Q Then what's the point of putting it in evidence? How
4 does it show that she murdered **Minor** It's just trying to
5 demean her character by showing that she's dressed --

6 MR. STUMBO: Judge, she can't answer that question
7 what's the purpose of it being put into evidence. That's
8 our decision. That's not in her mind.

9 THE COURT: Ask her if there's anything in that
10 photograph that appears relevant to her investigation.

11 Q Is this photograph relevant to your investigation other
12 than it appears --

13 A It identifies Theia McArdle.

14 Q As the owner of the account?

15 A Yeah.

16 Q Does this photograph further your investigation?

17 A It also varies -- it looks like this is --

18 Q Without identifying it. Just does it -- was this a
19 relevant part of your --

20 A Yes. Yes.

21 Q The page 344 she indicates does. Does this?

22 A Yes.

23 Q Is this probative --

24 A Yes.

25 Q -- to your investigation? Other than Theia on the

1 account?

2 A Yes.

3 Q Does this further --

4 A Yes.

5 Q -- does this prove murder or the homicide?

6 A It's probative to the investigation.

7 Q To you? So one of these pictures is an actual picture
8 of the child?

9 A That's correct.

10 Q Did Theia deny that she was an escort to you?

11 A No.

12 MR. VERNER: Mr. Bentley, would you put Exhibit 140
13 back up there for me.

14 Q 140 is the --

15 MR. VERNER: That's good enough right there.

16 Q Is there a reason when the video was played it was
17 played at a slower version than normal speed?

18 A I'm not sure.

19 Q Were you looking at that dial that is turned down to
20 slightly slower than normal when you played it for the jury?

21 A I didn't play it for the jury.

22 Q Well, when you were narrating it or introducing it for
23 the jury?

24 A I had no control over that.

25 Q Do you notice it seems to be played at a somewhat

KELLIE WILLIAMS: CROSS EXAMINATION

411

1 slower than -- it's not set on the middle dial, is it, for
2 speed or fastest?

3 A It doesn't look like it, no.

4 Q If you put the dial in the middle would that be closer
5 to accurate speed?

6 A I would assume.

7 Q What Theia said to you was if I wanted to be dishonest
8 with you I could fool you, but I'm being honest, or if I
9 wanted to lie I could lie, but I'm not. That's the extent
10 of her statement during a three hour interview, isn't it?

11 A No. I believe she specifically --

12 Q Is that a statement? Is that on audio?

13 A Yes, that is on audio.

14 Q Can you tell me exactly what she said, or did you right
15 down the verbatim?

16 A Sure. Hang on just a second. I found it.

17 Q Okay. What did she say?

18 A "If I wanted to emotionally move you I could put on an
19 act that would knock you on your fucking feet," and then she
20 proceeds to put on an act after that.

21 Q What do you mean then she proceeds to put on an act?

22 A She --

23 Q That's not what she said? That's your interpretation?

24 A No, no, no. What she said was, "If I wanted to
25 emotionally move you I could put on an act that would knock

1 you on your f-ing feet."

2 Q And she didn't follow it up by saying I have nothing to
3 hide, or did you not --

4 A He could have.

5 Q You're not telling me in your seven years of
6 interviewing witnesses you've never had somebody say if I
7 was going to lie, I'd lie, but I'm not? I find that hard to
8 believe that you --

9 A I may have.

10 Q I don't understand. If you're investigating her, you
11 told the jury some of the stuff that she told you was
12 unnecessary to your investigation, like that the carseat
13 could have -- should have been properly installed? I don't
14 understand why in the world that's not relevant to the
15 investigation. That's just your opinion that that's not --
16 it's not relevant to a beating death, is it?

17 A No.

18 Q But when you're asking how she took -- or how the child
19 was taking out of the car and she says that the carseat
20 needs to be secured properly, I don't understand why are you
21 saying that's irrelevant when you're asking her to reenact
22 what happened?

23 A In the portion of the interview where she went into
24 that detail, it just seemed like there was some excessive
25 information. She lingered on that portion of the interview

1 when we were discussing whether or not she ever punished
2 Minor and how she punished Minor I believe that was
3 during that portion of that interview. And so, for her to
4 go into great detail within, you know, a five or six minute
5 timeframe where she discusses how it's against the law in
6 North Carolina to have a child improperly placed in a
7 carseat -

8 Q Because you had asked her if she had ever disciplined
9 Minor before.

10 A That's correct.

11 Q And she said I popped him when he was trying to get out
12 of his car safety seat.

13 A Well, that was part of the reason. She also went into
14 detail about how he was kicking her seat and pulling her
15 hair throughout the car ride.

16 Q But that's in direct response to either you or Agent
17 --Investigator Moore saying have you ever disciplined the
18 child before. It may have been longer than you intended her
19 to answer, but that's still in reply to a direct question?

20 A Sure, correct.

21 Q Did you have anything to do with the interviews of
22 Richard Bowman?

23 A No, I did not.

24 Q Did she indicate to you that Richard Bowman had been
25 physically abusive of her?

1 A She did.

2 MR. VERNER: Thank you, Agent Williams.

3 THE WITNESS: Thank you.

4 THE COURT: Nothing on --

5 MR. STUMBO: Very briefly, Judge.

6 THE COURT: Go ahead then.

7 REDIRECT EXAMINATION

8 BY MR. STUMBO:

9 Q Agent Williams, Mr. Verner showed you 148. These
10 pictures. There's a picture of the Defendant and in a
11 mirror in the background there's another individual. Who
12 does that appear to be?

13 A It appears to be Richard Bowman.

14 Q Is he holding the camera?

15 A He is.

16 Q So he's taking the pictures here in this Facebook
17 photo, correct?

18 A That's correct.

19 Q And the relationship dynamic between Mr. Bowman and Ms.
20 McArdle were very relevant to your investigation, correct?

21 A That's correct.

22 Q This is one of the things that caught you eye in the
23 Facebook records?

24 A That's correct.

25 MR. STUMBO: Mr. Bentley, if we could go to State's

KELLIE WILLIAMS: RECROSS EXAMINATION

415

1 Exhibit 142, about the 15:20 mark. This will be the audio
2 of -- part two of the audio portion of -- Oh, I'm sorry.
3 We're on number -- I need 142. I apologize, Your Honor. Or
4 excuse me, 137. I'm getting my numbers mixed up. The 137
5 part two at about the 15:20 mark. If you could play that,
6 Mr. Bentley.

7 MR. VERNER: Has this been moved into evidence, Your
8 Honor? I'm not quite sure off the top of my head what 137
9 is.

10 THE COURT: 137 is in evidence, I do believe.

11 MR. VERNER: This is the hospital --

12 MR. STUMBO: This is the audio --

13 THE COURT: 137 is in evidence.

14 (Whereupon, State's Exhibit 137, audio recording, was
15 published for the jury.)

16 MR. STUMBO: Mr. Bentley, that's enough.

17 Q Now, the context, what prompted the statement. The
18 statement about knocking you all on your f-ing feet. What
19 prompted that?

20 A If I remember correctly, we were -- Sergeant Moore was
21 speaking with Theia in regards to if she understood how hard
22 the situation had been as far as Theia, you know, trying to
23 provide for **Minor** as a single mom. Just some of the
24 obstacles that she had overcome, but overall she was doing a
25 very good job. And that is when Theia McArdle said, you

1 know, she wasn't trying to get momma of the year award or
2 anything like that, and if she wanted to put on an act, and
3 that's when she goes into that statement.

4 Q Okay, thank you. Now, you're working as part of an
5 investigative team, correctly, with -- correct, with
6 Newberry police department, right?

7 A That is correct.

8 Q And at the end of this interview process that afternoon
9 the decision is made to charge Ms. McArdle and Mr. Bowman
10 with homicide by child abuse, correct?

11 A That's correct.

12 MR. STUMBO: No further questions of this witness.

13 MR. VERNER: Just one last question.

14 RECROSS-EXAMINATION

15 BY MR. VERNER:

16 Q Theia said when the baby died she thought of offing
17 herself. That means killing herself, right? Is that the
18 common understanding when -- if I say I'm going to off
19 myself?

20 A That's correct.

21 Q And that wasn't --

22 MR. VERNER: Thank you.

23 THE COURT: Ma'am, thank you. You may step down.

24 THE WITNESS: Thank you.

25 THE COURT: And you're free to go. You're free to

1 stay. Your choice.

2 (Whereupon, the witness stepped down from the witness
3 stand.)

4 THE COURT: Ladies and gentlemen, we're going to go
5 ahead and take our lunch break at this particular point in
6 time. I'm going to ask that you be back in the jury room,
7 if you would, please, at 2:15. That should give you about
8 an hour and five minutes to hopefully grab a bite.

9 Let me also ask you, over the lunch break, if you
10 could, maybe just touch base. Here's kind of where we are.
11 I am bound and determined -- I've never gone over with a
12 trial, even when people have told me it's going to take two
13 weeks to try something I told them no, it's going to take
14 one week because I've got to be somewhere else next week, if
15 for no other reason. I'm trying to keep us on schedule. I
16 want to go a little bit later tonight than the 5:00, 5:30
17 than we've been breaking. If anybody has any obligation
18 however this evening, firm obligation -- and we all have
19 families, we all have things that we've got to do, we've got
20 meetings, PTA, soccer games, football games, things that
21 we've got to do outside of this life in this courtroom. So
22 if you've got an obligation tonight, I'm not asking you to
23 blow that off or miss that. However, if you're inclined and
24 you're okay to go just a little bit later, maybe to 6:00 or
25 6:30 I would very much like to do that, because what I'm

1 trying to do is keep us on schedule and make sure that this
2 case is to you at a reasonable hour on Friday at the latest.
3 Okay? So if that's possible, great. If not, maybe we'll
4 just start back a little bit earlier than we have been in
5 the morning and I'll dodge logging trucks a little bit
6 faster than I typically do. Think about that, look at that,
7 and just kind of take a survey, Madam Forelady, and let me
8 know if you all are okay to go a little bit later this
9 evening or what a good quitting time for you all is. Okay?
10 You're the ones we're inconveniencing.

11 Have a great lunch. Don't talk about the case. See
12 you back at 2:15. Thank you.

13 (Whereupon, the jury exited the courtroom at 1:08 p.m.)

14 THE COURT: I'm going to address the 403 objection to
15 State's 148 at some point in time, but I want to just keep
16 rolling with the testimony and maybe we'll do that at the
17 end of the day and I can be looking at it in the meantime
18 and thinking about it. I know where you all stand probably.
19 We're at ease for an hour and five.

20 (Whereupon, a lunch recess was held from 1:08 p.m. to
21 2:52 p.m.)

22 THE COURT: We'll go back on the record. The Defendant
23 is present with counsel. Let's have the jury, please.

24 (Whereupon, the jury entered the courtroom at 2:52
25 p.m.)

RICHARD BOWMAN: DIRECT EXAMINATION

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1 THE COURT: The record should reflect that the jury is
2 back and seated. Of course, we're still in the State's case
3 in chief. At this point, Solicitor, if you'll call your
4 next witness.

5 MR. VERNER: Your Honor, with the Solicitor's
6 permission, I'm going to make a stipulation. The -- when
7 Agent Williams was testifying I asked her why they were
8 playing the video in the slow mode. Over the lunch break
9 the Solicitor was letting me watch it, and had they played
10 it in the normal speed it would have moved -- apparently the
11 surveillance camera is a time lapse camera. Not a constant
12 moving camera.

13 THE COURT: I see.

14 MR. VERNER: Had they played it actual time it would
15 have moved much faster. Even in slow mode it probably moves
16 slightly faster. I will stipulate that my question was
17 based on incorrect evidence and should be stricken, and I
18 would agree that the jury should disregard the speed that
19 they played in on.

20 THE COURT: So it's one of those cameras that takes a
21 picture and then takes a picture a few moments later, and so
22 it's kind over very stilted and --

23 MR. VERNER: It was not a -- it was not a continuous
24 video I was aware of. It was time lapse, every couple of
25 seconds. And I apologize to Mr. Bentley. He works with the

1 Solicitor, not me. He does volunteer during trials just for
2 the benefit of the jury to move things. And to the extent
3 that it could affect him, I apologize, and the Agent. But
4 they showed me the video and slow mode was actually the
5 appropriate mode to play it on.

6 MR. STUMBO: We do appreciate Mr. Verner's candor,
7 Judge. I believe the point was that the way it was played
8 actually was faster than real time, not slower. So we
9 appreciate Mr. Verner recognizing that at this point.

10 THE COURT: I was under the misimpression myself. So
11 thank you all for clearing that up. Very good. Thank you,
12 Mr. Verner. Call your next witness, Mr. Daniel.

13 MR. DANIEL: Thank you, Your Honor. The State calls
14 Richard Bowman.

15 RICHARD BOWMAN, having been first duly
16 sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. DANIEL:

18 Q Mr. Bowman, you're going to have to speak up. You're
19 soft spoken. Scoot closer to the microphone.

20 A All right.

21 Q You are Richard Bowman?

22 A Yes, sir.

23 Q And presently you are charged with the crime of
24 homicide by child abuse as it pertains to the death of

25 Minor [REDACTED] correct?

RICHARD BOWMAN: DIRECT EXAMINATION

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1 A Yes, sir.

2 Q And you are charged along with Theia McArdle for this
3 crime, correct?

4 A Yes, sir.

5 Q Are you currently in custody at the Newberry County
6 Detention Center?

7 A Yes, sir.

8 Q And you've been there ever since you were arrested,
9 correct?

10 A Yes, sir.

11 Q And you were arrested on December 30th, 2014?

12 A Yes, sir.

13 Q You're testifying today as a witness -- one of the
14 State's witnesses, correct?

15 A Yes, sir.

16 Q Have you been offered anything in exchange for your
17 testimony today, such as a plea bargain?

18 A No, sir. None whatsoever.

19 Q No offers of leniency have been extended to you?

20 A No, sir.

21 Q Who is Theia McArdle to you? What's your relationship
22 with her?

23 A She was a woman that I met once I was getting out of
24 the military back in 2013. I got out March 26th, 2013.

25 Q So you met Theia McArdle in March of 2013?

1 A Yes, sir.

2 Q Right after you were discharged from the military?

3 A Yes, sir.

4 Q Which branch?

5 A Army.

6 Q How old are you?

7 A I'm 28, sir.

8 Q Twenty-eight. And where did you meet Theia McArdle?

9 A At Fort Bragg. Well, I came up to Asheville to meet an
10 ex-girlfriend of mine and I meet Ms. McArdle. She was a
11 friend to my ex.

12 Q And did Ms. McArdle have any children?

13 A Yes, sir. At that time. Yes, sir.

14 Q And who was her child?

15 A Minor

16 Q Minor

17 A Yes, sir.

18 Q Little boy?

19 A Yes, sir.

20 Q So you all eventually start dating, correct?

21 A We started dating like roughly a week after we started
22 talking. I talked to her via Skype and online for a while.
23 And then when I went up to Asheville and we actually
24 face-to-face, that's when we actually started dating.

25 Q And did you all start living together?

1 A Not officially. I had to still get out of the
2 military. So I was working on still processing out of the
3 military at the time. And like roughly like two weeks after
4 that, after I got out and I moved myself to my apartment
5 down in Fayetteville, had to take her back up to Asheville
6 because somebody she knew had passed away.

7 Q Okay. But eventually you all moved in together while
8 in Asheville, correct?

9 A Yes, sir.

10 Q Did you all move to South Carolina eventually?

11 A Yes, sir. We moved to South Carolina around September
12 2014.

13 Q You and Theia and Minor --

14 A Yes, sir.

15 Q -- moved to South Carolina?

16 A Yes, sir.

17 Q And what was the date when you all moved to South
18 Carolina?

19 A I don't remember the exact date, but it was in
20 September, I believe.

21 Q September of what year?

22 A 2014, sir.

23 Q And what part of South Carolina did you all move to?

24 A We lived in hotels for like roughly like a month and a
25 half, and then around October -- it would either be in

1 October or November 8th that we actually got our trailer --

2 Q You said -- I'm sorry. You said hotels. But what
3 city? What county? What town?

4 A Spartanburg County.

5 Q You all -- September 2014 you move down to the
6 Spartanburg area?

7 A Yes, sir.

8 Q And you all were living in hotels?

9 A Yes, sir.

10 Q The three of you?

11 A Yes, sir.

12 Q So you were going from hotel to hotel, correct?

13 A Not hotel to hotel. We mainly stayed in one.

14 Q And were you working at the time?

15 A I was actually getting ready to have a job, sir. I got
16 hired around December 14th at Lear Corporations.

17 Q At what Corporations?

18 A Lear Corporations, L-e-a-r.

19 Q Is that in the Spartanburg area?

20 A Yes, sir. It's in Duncan.

21 Q What kind of job is that?

22 A They make the chairs for BMW.

23 Q You said you were getting hired?

24 A Yes, sir.

25 Q So really you were unemployed?

1 A Yes, sir.

2 Q Was Theia -- did she have a job?

3 A She -- no, not a legal job, I would say.

4 Q Not a legal job?

5 A Yes, sir.

6 Q What did she do to make money?

7 A She was an escort. We both had did it in Asheville for
8 a while. And when I move to -- when we moved down here I
9 had stopped doing it to get an actual job, because I --

10 Q I'm sorry. You said you and Theia were both escorts at
11 one time?

12 A Yes, sir. In Asheville, North Carolina.

13 Q So strangers would pay you all for sex?

14 A Yes, sir.

15 Q Now, at the time you all were in Spartanburg were you
16 working as an escort?

17 A I was in the process of fading out of doing it, because
18 I was trying to actually get a job. And I didn't like how
19 -- I didn't like the predicament that it was putting me, her
20 and **Minor** in, and I didn't like the fact that the things
21 that we said on the phone, **Minor** would repeat them or
22 whatnot.

23 Q So you were not working as an escort when you all first
24 moved to Spartanburg in September 2013?

25 A Roughly I did it for like two weeks and then I stopped.

1 Yes, sir.

2 Q Was Theia working as an escort in Spartanburg?

3 A Yes, sir. She was.

4 Q So would it be fair to say that she was primary bread
5 winner of the household?

6 A Yes, sir.

7 Q So she paid the paid the bills? She paid the rent at
8 these motels?

9 A Yes, sir.

10 Q I'll ask you. Were you her pimp?

11 A No, sir.

12 Q She didn't invite you to come along these prostitution
13 calls for protection?

14 A She told me to drive her because she didn't have no
15 license, sir. She didn't want to get pulled over. She'd
16 been pulled over in North Carolina numerous times.

17 Q She didn't use you as protection and let the clients
18 know that you were around in case they got out of hand?

19 A She -- I'm not sure what she told the clients. But I
20 had **Minor** I took **Minor** out of the room whenever she
21 had a client and whatnot.

22 Q So were you babysitting **Minor** while Theia would be
23 with these clients?

24 A The times I was able to get **Minor** out of the room
25 before she had a client in there. Yes, sir.

RICHARD BOWMAN: DIRECT EXAMINATION

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1 Q And that's been established. You're not the biological
2 father of Minor correct?

3 A No, sir.

4 Q How old was Minor when you first met Theia?

5 A When I first met Theia he was less than one, sir. If I
6 remember correctly.

7 Q You all eventually stayed -- or did you all eventually
8 move somewhere else?

9 A Yes, sir.

10 Q Where did you last reside, I guess?

11 A [REDACTED]
[REDACTED].

13 Q That's in Enoree. That's still in Spartanburg County?

14 A Yes, sir.

15 Q So you all went from living in a hotel to moving to
16 Enoree?

17 A Yes, sir.

18 Q And when did you make that move to Enoree?

19 A I think about November 8th, sir.

20 Q Around when? I'm sorry?

21 A November 8th, sir.

22 Q And what kind of -- was it an apartment?

23 A No, sir.

24 Q A house?

25 A No, sir. It was a single-wide trailer.

1 Q And you all were renting this trailer?

2 A Yes, sir.

3 Q And again, were you making any -- were you earning any
4 money at this time?

5 A At that time, sir, I was hired, but I did not
6 officially start working at Lear yet.

7 Q Again, were you making any money at this time?

8 A No, sir.

9 Q Theia was making money from prostituting?

10 A Yes, sir.

11 Q So all three of you moved to this trailer in Enoree
12 around -- in November of 2014?

13 A Yes, sir.

14 Q I'm going to show you some pictures. This has been
15 admitted into evidence. State's 51. What is that?

16 A That's the trailer that we lived in.

17 Q And describe -- describe for me this -- the living
18 arrangements of this trailer. The sleeping arrangements,
19 that kind of thing.

20 A We had our room. **Minor** did have a room, but she
21 ended up moving **Minor** out of his room because we had three
22 cats at the time and she would get upset because the cats
23 would run into our room, get in our faces when we're asleep.
24 So she ended up putting him in the livingroom to get the
25 cats moved into his room while he slept in the livingroom.

RICHARD BOWMAN: DIRECT EXAMINATION

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1 Like right on the other wall. On the other side of the wall
2 of us.

3 Q So there was, what -- but there's multiple bedrooms in
4 this trailer, correct?

5 A There's two bedrooms, two baths and a livingroom and a
6 kitchen, sir.

7 Q So initially Minor had a bedroom to himself?

8 A Yes, sir. He did.

9 Q But Theia was concerned about the cats being loose?

10 A Yes, sir.

11 Q So she gave that bedroom to the cats?

12 A Yes, sir.

13 Q So where would Minor sleep?

14 A He slept in the livingroom on the other side of the
15 wall from us.

16 Q Because the cats needed that bedroom?

17 A I'm guessing, sir.

18 Q Well, I'll fast forward. We had a -- you and I met a
19 few weeks ago, correct?

20 A Yes, sir.

21 Q And you met with another prosecutor, Dale Scott?

22 A Yes, sir.

23 Q And your defense attorney was present?

24 A Yes, sir.

25 Q Russell Brown, your attorney?

1 A Yes, sir.

2 Q He's here today?

3 A Yes, sir.

4 Q He brought you those street clothes to wear?

5 A Yes, sir.

6 Q And you told us some things -- this was March 10th,
7 correct? This interview a few weeks ago?

8 A Yes, sir. It was.

9 Q You told us some things that you didn't tell law
10 enforcement originally when you arrested. Is that -- is
11 that fair to say?

12 A Yes, sir.

13 Q And essentially what did you tell us that you didn't
14 tell law -- what did you tell us a few weeks ago at that
15 meeting that you didn't tell law enforcement initially?

16 MR. VERNER: Your Honor, my objection is that there's
17 been no testimony of what he told law enforcement then. So
18 I would argue that it's without a foundation for him to say
19 what I said differently when they haven't introduced the
20 evidence of what he said then.

21 MR. DANIEL: I'll rephrase, Your Honor.

22 THE COURT: Please.

23 Q Is it fair to say though that you told us information
24 that we didn't have before, correct?

25 A Yes, sir.

RICHARD BOWMAN: DIRECT EXAMINATION

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1 Q And you will agree that Minor was pronounced
2 dead on December 30th, 2014?

3 A Yes, sir.

4 Q I want to ask you some questions about 48 hours, 72
5 hours leading up to his death, about the events. Tell me,
6 was Minor -- what kind of kid was he? Was he an energetic
7 kid, hyperactive?

8 A Yes, sir.

9 Q He was energetic?

10 A Yes, sir. He was energetic. He was pretty happy. I
11 mean, he was always playing around with us.

12 Q So he was a healthy kid?

13 A Yes, sir. He was.

14 Q And I want to know what happened -- what did you all do
15 on December 27th of 2014?

16 A From the beginning of the day to the end of the day or
17 --

18 Q Well, did you all do anything special that day?

19 A We went to Asheville, North Carolina for like a late
20 exchange of gifts between her mother and her and for Minor
21 and whatnot. So we went up there. Minor -- Minor got
22 some toy skates and everything and was skating at the
23 playground up there. He ended up falling and busting his
24 head on the concrete. He had a helmet on. And I went over
25 to check on him and everything. His mother had laughed

1 about it.

2 Q Let me stop you. Did you witness on that day at any
3 time before or after you all went to this trip up to
4 Asheville Theia hit her son?

5 A Yes, sir.

6 Q Tell us about when you first witnessed Theia hitting
7 her son on December 27th.

8 A It was that morning whenever we were getting him ready
9 to get dressed and whatnot. I was getting myself dressed
10 and in the bathroom getting ready. I came in there and I
11 saw her hit him because he didn't have his shoes on the
12 right feet and he wasn't putting on his clothes correctly
13 and she got frustrated with him.

14 Q And you saw Theia hit Minor where on his body?

15 A On the back of his head several times.

16 Q Open hand or closed?

17 A Open hand.

18 Q So would you characterize it as a smack on the back of
19 the head?

20 A Yes, sir.

21 Q And what else?

22 A That day when she was -- we were putting him in the car
23 seat I did see her hit him in the chest because he wasn't
24 putting his -- buckling up the correct way and everything as
25 well.

1 Q Did you say -- when she smacked his head did you say
2 something about a coffee table?

3 A Yes, sir.

4 Q Say that again.

5 A His head had bounced off the coffee table that day.
6 She had smacked him in the back of the head and his head had
7 hit off the coffee table. The front of his head hit off the
8 coffee table.

9 Q So I presume that Minor was standing right in front
10 of the coffee table?

11 A He was sitting.

12 Q Or sitting?

13 A Yes, sir.

14 Q And the force of the slap caused his head to hit the
15 coffee table?

16 A Yes, sir.

17 Q What part of his?

18 A The front of his face hit the coffee table.

19 Q And that was in the morning as you all were getting
20 ready to go to Asheville to meet Theia's mother?

21 A Yes, sir.

22 Q And you said that you all went to the park and he was
23 skating?

24 A Yes, sir.

25 Q And you said he fell down?

1 A He fell down and hit his head on the concrete. And I
2 rushed over to check and see if he was doing all right and
3 everything and she had laughed about it. Her and her mother
4 were talking and whatnot. And then from there he skated
5 around a little bit more. He ended up taking off his
6 skates. Him and his mom -- him and her mother ended up
7 going over to the playground. Well, his mother -- her
8 mother took him to the bathroom first and then they played
9 at the playground for a while. And we stayed there, I
10 believe, for like an hour and a half or maybe two, and then
11 we ended up going to meet a friend of ours named James.

12 Q Did you witness Theia hit **Minor** any other times that
13 day on December 27th?

14 A When we got back to South Carolina. Yes, sir.

15 Q Where was it?

16 A I had saw her hit him in the chest.

17 Q Where were you all? In Enoree?

18 A In the house. Yes, sir.

19 Q You saw her hit open -- open hand or fist, closed hand?

20 A Closed hand.

21 Q So a punch?

22 A Yes, sir.

23 Q In the chest?

24 A Yes, sir.

25 Q And what prompted her to do that?

RICHARD BOWMAN: DIRECT EXAMINATION

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1 A A long story short. He ended up saying my mommy's a
2 prostitute. He had repeated some of the stuff he had heard
3 her say on the phone. And we've had that discussion before
4 about trying to quit doing the escort stuff so he wouldn't
5 say things like that. And I was trying to -- we had the
6 discussion before about me letting her know like instead of
7 getting mad at him, teach him something different. It's not
8 his fault that he sees and observes what you do and he
9 knows.

10 Q Did he cry when she hit him?

11 A Yes, sir. He did.

12 Q Does Theia hit hard?

13 A Yes, sir. She does.

14 Q How hard?

15 A She's blacked my eye before.

16 Q Is she a strong woman?

17 A Yes, she is, sir.

18 Q Is she hitting **Minor** with a lot of force as if you'd
19 hit another adult in a fight?

20 A Yes, sir. I've seen her do that before.

21 Q Any other incidents of striking **Minor** on December
22 27th?

23 A Not on the 27th.

24 Q And that's a Saturday, correct?

25 A I believe so.

1 Q Let's fast-forward to the next day, December 28th.

2 That's a Sunday.

3 A Okay.

4 Q Tell us about that day. Any incidents of abuse that
5 day?

6 A That Sunday, I mean, I woke up -- because I normally
7 wake up before all the rest. Before me, **Minor** and her. I
8 went out to start making breakfast. Well, take a bath
9 first. Start making breakfast and stuff. Cleaning dishes
10 and whatnot in the house. **Minor** woke up a little bit
11 after me and I asked if he was hungry, and I made him
12 breakfast. And then he -- me and him started to play with
13 some of his Christmas toys and whatnot. He ended up
14 proceeding to pick up his cap gun. He went in there into
15 the room and shot at his mom two to three times, and she
16 ended up hitting him in the chest like twice because she got
17 mad. She doesn't like being woken up when she's sleeping.

18 Q December 28th, that Sunday, did you all not go -- did
19 you all take a trip to Laurens?

20 A Yes, sir. We went -- we went to the McDonald's in
21 Laurens.

22 Q Did anything significant happen there?

23 A He ended up hurting a little girl there by accident and
24 she got upset with him and punishing him at the Laurens --
25 while we were in the McDonald's. And I told her we was

1 getting ready to leave because she got -- was getting a
2 little too volatile inside the McDonald's.

3 Q Get a little closer to the microphone. I'm having
4 trouble hearing you.

5 A She had got a little too volatile at the McDonald's
6 because she was punishing him for getting too rough with the
7 little girl. She was trying to download a movie there at
8 the Laurens County McDonald's.

9 THE COURT: Speak a little bit louder instead of
10 getting closer, because we're actually running two different
11 microphones here. The court reporter has one, and so just
12 --

13 THE WITNESS: Oh, okay.

14 THE COURT: -- speak a little bit more loudly instead
15 of closer, if you would, sir. Thank you.

16 THE WITNESS: Yes, sir.

17 Q Minor got a little rough with a girl at the
18 McDonald's play area in Laurens?

19 A Yes, sir.

20 Q You saw her strike him for that?

21 A Yes, sir.

22 Q Anything else that day, December 28th, while in
23 Laurens?

24 A Yes, sir. We went by a friends house of ours. His
25 name is David Moscerelli. We went by his house, and she was

1 trying to still download the movie that she was trying to
2 download. And while we were there an incident happened
3 where -- I'm not sure exactly what the conversation was, but
4 I had said to her, "Your son has more balls than you," and I
5 had grabbed my genitals and was joking with her, and he
6 proceeded to copy me and he grabbed himself and said, "More
7 balls, momma," and she ended up striking him.

8 MR. VERNER: Say that -- I'm having trouble hearing
9 you.

10 A He said, "More balls, Momma," and she ended up striking
11 him in his genitals with a closed fist. And she turned
12 around and struck me and told me not to teach her son things
13 like that.

14 Q So you made -- all right. You made the comment to
15 Theia about "Your son has more balls than you"?

16 A Yeah.

17 Q And then Minor sees you do that and he's mimicking
18 you?

19 A Yes, sir.

20 Q And he grabs his groin area?

21 A Yes, sir.

22 Q And then you witnessed Theia punch Minor --

23 A Yes.

24 Q -- in the groin?

25 A Yes, sir.

RICHARD BOWMAN: DIRECT EXAMINATION

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- 1 Q And by punching you mean closed --
- 2 A Yes, sir.
- 3 Q -- closed hand?
- 4 A Yes, sir.
- 5 Q How hard a punch was that?
- 6 A It looked like it was pretty hard, sir.
- 7 Q With one, multiple -- one hit, multiple hits?
- 8 A It was one time, sir.
- 9 Q Did she appear to hit him with a lot of force?
- 10 A It looked like a lot of force to me, sir.
- 11 Q Did he cry?
- 12 A Yes, sir.
- 13 Q And where did this happen again?
- 14 A We were at David Moscerelli's house that day.
- 15 Q Did -- who all witnessed this? Just you and --
- 16 A Just me, sir.
- 17 Q Where was -- you said you were at --
- 18 A David -- I believe David was in the kitchen at the time
- 19 and we were in his room -- his living -- or not his
- 20 livingroom but his bedroom.
- 21 Q And tell us about -- did Minor require assistance --
- 22 was he potty -- was he in the process of potty training, or
- 23 Pull-Ups, diapers? What was the status of that?
- 24 A He was still in diapers. He was kind of potty trained.
- 25 Like whenever had to go, if you let him know and he had to

1 -- or if you asked him if he had to go to the potty, he'd go
2 to the potty if he had to. But most times if you just -- if
3 he was in the moment, or if we were doing something, he
4 would either defecate or urinate on himself.

5 Q Would Theia take exception if he would poop his pants,
6 things like that?

7 A Theia did get upset about things like that. About him
8 urinating and defecating on himself due to the fact that we
9 were trying to potty train him. And I tried to explain to
10 her like instead of punishing him you need to like put --
11 try a little bit harder to potty training. Because I let
12 her know, I said, my daughter has been out of like diapers
13 since the age of one. Your son is going on three and you're
14 not really trying to help him to get out of diapers since
15 he's in your care now.

16 Q So is it fair to say Theia would use corporal
17 punishment as a form of discipline?

18 A Yes, sir. Corporal as in like punishment and whatnot?

19 Q Yes.

20 A Yes. Yes, sir.

21 Q Yes. Hitting someone for disciplinary reasons --

22 A Yes. Yes, sir.

23 Q -- Yes?

24 A Yes, sir.

25 Q Anything else on the 28th noteworthy in terms of Theia

1 hitting Minor

2 A We got into an argument that day and it was pretty much
3 along the general lines of being upset with me texting
4 somebody that she didn't want me texting. A young lady that
5 was a friend of mine in North Carolina. And she got mad
6 about that and we had a big argument. And she ended up
7 taking Minor and disappeared for like an hour or two. And
8 when she came back she brought some bags in, and then she
9 came back in and she slung Minor on his bed. He was
10 crying and whatnot, whinny. And I asked her what happened
11 and she said that he crapped - well, I don't necessarily
12 want to use the exact language she used, but she said that
13 he s-h-i-t on himself inside the store. And so, now she had
14 to waste money on getting more diapers for him and a change
15 of clothes. But it was embarrassing for her.

16 Q This is December 28th?

17 A Yes, sir.

18 Q And this argument was because you were texting another
19 woman?

20 A Yes, sir. A friend of mine.

21 Q All right. And we've heard testimony in evidence about
22 your phone being broken.

23 A Yes, sir.

24 Q Can you speak to that?

25 A Yes. That was on -- that happened at the hospital.

1 Laurens County Hospital. She had dropped my phone while we
2 were in Laurens County Hospital, and we had to take it to
3 the repair shop in Laurens.

4 Q So how were you -- so how -- why was Theia getting
5 upset with you for texting if you didn't have a phone? How
6 were you --

7 A It was her phone.

8 Q You were using Theia's phone?

9 A Yes, sir.

10 Q She had Internet on her phone?

11 A Yes, sir.

12 Q And text messaging, obviously, is what you said?

13 A Yes, sir.

14 Q December 29th, the next day. It would be a Monday.

15 A Yes, sir.

16 Q Walk us through the events of that day.

17 A December 29th was pretty much almost like any other
18 day. Wake up. I went to take a bath and everything like I
19 normally do. Started cleaning up everything. Fixed him
20 something to eat whenever he woke up.

21 Q You're going to have to talk louder.

22 A Oh, I'm sorry. I said I fixed him something to eat
23 like I normally do. Fixed myself something to eat. I was
24 cleaning and whatnot. He goes in there to try to wake her
25 up and play with her a little bit. She gets mad at him and

1 she struck him. And I bring him back in there with me.

2 Q You said she --

3 A She struck him, yes.

4 Q She struck him?

5 A Yes. Yes, sir.

6 Q And Theia -- this is Monday morning, December 29th --

7 A Yes, sir.

8 Q -- and **Minor** goes into y'all's -- to the bedroom?

9 A Yes, sir.

10 Q Wakes his mom up and she hits him for it?

11 A Yes, sir.

12 Q You got to describe the hit and where.

13 A She struck him in the chest.

14 Q Once?

15 A Yes, sir. And so, whenever I bring him back into the
16 -- back inside the livingroom with me so we can like finish
17 cleaning and he can listen to music and I can clean up and
18 fix him something to eat. She goes back to sleep. She
19 doesn't wake up until like around 11:30-ish pretty much.
20 And then she gets up mad, upset because I had her phone.
21 She saying, "I hope you're not in there texting other
22 females off my phone and whatnot." And she was mad because
23 I didn't wake her up for breakfast, or to make her breakfast
24 or something. So I ended up making her something to eat and
25 everything. I told her, I said, "It's not my job to wake

1 you up. You're an adult yourself." So he goes in there to
2 play with his momma and whatnot and he ends up biting her
3 and she ends up spanking him on his butt and ended up biting
4 him back.

5 Q So is this around lunchtime that you're describing now?

6 A Yes, sir.

7 Q You said that Minor bit Theia?

8 A Yeah, playfully. We were just playing with her and bit
9 her playfully.

10 Q And then she wacks him in return?

11 A Yes, sir. And spansks him.

12 Q And spansks him?

13 A Yes, sir.

14 Q So open hand on the buttocks?

15 A Yes, sir. And so, afterwards I'm trying to explain to
16 her like instead of, you know, hitting him for stuff like
17 that, you don't really need to bite him back. And I
18 explained to her, like we had the conversations numerous
19 times, like instead of hitting him like try something
20 different. Like put him in time out, take a seat, send him
21 to bed early or something like that instead of hitting on
22 him. Because I explained to her, I said, "Me as a kid, I'd
23 rather have my time taken than be punished and hit all the
24 time." So after that I make breakfast and I told her, I
25 said, "We need to do laundry and take some trash out and

1 whatnot." So we go back out there to Laurens to the
2 McDonald's again, and she tries to download the movie again
3 at the McDonald's. And so --

4 Q So all three of you go to -- go into Laurens?

5 A Yes, sir. We go to the McDonald's again and we're
6 sitting there and we try to download the movie again, and
7 then we end up going to the laundry mat to get the clothes
8 and everything. Then we finally get back to the house. And
9 everything --

10 Q About what time do you get back to the house?

11 A We get to the house around like 4:00 something. And
12 then we get back to the house. Everything seems okay and
13 whatnot. She's still in a bad mood because she's saying
14 that she saw me -- or seeing Facebook messages when I was
15 texting some other female. A friend of mine back in North
16 Carolina. So she ends up making dinner and whatnot. She
17 tells me she has a call in Spartanburg.

18 Q Well now, let me back up. Were there any other
19 incidents of abuse in the afternoon time that you witnessed?

20 A I'm trying to remember. Not that I can remember off
21 the top of my head.

22 Q Anything before or after Laurens? Going to Laurens?

23 A Oh, my bad. Sorry. She did strike him when we were
24 trying to get here. Well, not get there, but to Laurens.
25 When she put him in the cars eat and whatnot. When she was

1 trying to help him get dressed and everything she got
2 frustrated with that. Sorry, I forgot. But she -- whenever
3 -- he normally gets dressed and whatnot she normally would
4 get frustrated with him because, granted he was two and we
5 were trying to teach him how to dress on his own and whatnot
6 and put on his shoes the right way and everything on his
7 own. It was still -- he still didn't kind of catch on fast
8 enough for her, I guess. So she would punish him for not
9 having his shoes on the right way, or he'd put his shoes on
10 the wrong way and he'd be walking around and she's like,
11 "You know that's not the right way." She made a comment one
12 time saying, "I'm tired of my son acting like a dumb
13 African," from him spending his time with Janice.

14 Q So you all get back from Laurens and eventually you all
15 cook -- you all have dinner?

16 A Yes, sir.

17 Q You all cook at the house?

18 A Yes, sir. She does. She starts cooking dinner.

19 Q What did you all have for dinner that night?

20 A We had steak, garlic bread, and either mashed potatoes
21 or corn. And that night he did make a reference to his
22 groin. He said ouch. He grabbed himself. And I said, "Go
23 show it to you mom," and she goes and -- he goes in there to
24 tell his mom. She sends him back in there with me. She
25 says, "Go watch the movie with your dad."

1 Q Is Minor -- all right. You had supper. Was Minor
2 able to eat his food?

3 A He didn't all of his whole food. Like that whole --
4 since -- actually since like the 27th -- I'm sorry to
5 mention. Since the 27th he wasn't really seeming like he
6 was right. He seemed like he was groggy and kind of
7 sluggish. I just kind of figured it, too, he might have
8 been tired or something.

9 Q I thought that you said earlier he was an energetic
10 kind of --

11 A The 27th.

12 Q So you noticed a change in him on the 27th?

13 A Yes.

14 Q December 27th?

15 A Yeah. Like about --

16 Q Going back to December 29th. You said -- tell us about
17 supper and Minor was eating.

18 A He ate some of his food. He ended up throwing up.

19 Q Minor threw up?

20 A Yes, sir.

21 Q Was he able to hold anything down, or he threw up
22 immediately?

23 A He threw -- he ate like a little bit of it. He ate
24 like maybe five bits and he ended up throwing up.

25 Q Where did he throw up?

1 A He threw up on the bed.

2 Q He threw up on his bed, the air mattress in the
3 livingroom?

4 A On our bed. On our bed, in our room.

5 Q Did he get sick in the bathroom as well?

6 A Yes. He ended up -- he had defecated on himself in the
7 bathroom.

8 Q Did he throw up in the bathroom?

9 A No, he didn't.

10 Q There is a picture I want to show you. It's been
11 admitted into evidence as State's No. 56. Do you recognize
12 that?

13 A Yes, that's something that -- I had thrown up that
14 night, too, as well.

15 Q Look at State's 56. Do you recognize that?

16 A Yeah.

17 Q And you said **Minor** had got sick that night?

18 A Yeah. Yes, sir.

19 Q He didn't vomit in the toilet?

20 A No.

21 Q And you said he vomited in y'all's bed?

22 A On our bed.

23 Q Why would he have vomited in y'all's bed?

24 A He was on our -- he was in our room with us.

25 Q And did this alarm you all?

1 A It alarmed me. But, I mean, like I said -- like she
2 got upset with him for throwing up on the bed.

3 Q Was he punished for that?

4 A Yes, he was.

5 Q How was he punished?

6 A She spanked him.

7 Q So detail times on December 29th where you saw Theia
8 hit her son.

9 A In the morning?

10 Q Altogether. Start again so we get clarification,
11 because I know we're kind of going back and forth. Let's be
12 --

13 A From the morning from waking up it was whenever she did
14 that morning, whenever he went in there to wake her up and
15 talk to her and everything she struck him in the chest.
16 When we got to --

17 Q Punched -- you said punched him in the chest?

18 A Yes, sir.

19 Q And that was in the morning.

20 A Yes, sir.

21 Q Tell us the next time.

22 A The next time whenever she was helping him to get
23 dressed and whatnot she spanked him and punished him for not
24 having his clothes on right and putting his clothes on the
25 correct way. Then we got to Laurens County --

1 Q How did she do that?

2 A She spanked him on the butt and popped him on the back
3 of the head a couple of times.

4 Q Open hand or closed on the back of the head?

5 A On the back of the head, open hand. And then when we
6 got to Laurens County there was no striking then. We got
7 back to the house she did strike him in the chest twice for
8 repeating the stuff off that she says on the phone and
9 whatnot.

10 Q She struck him in the chest after you all got back from
11 Laurens?

12 A Yes, sir.

13 Q Describe how she struck him on the chest.

14 A With her hand. Closed hand.

15 Q Punched him in the chest?

16 A Yes, sir.

17 Q And that was before supper?

18 A Yes, sir.

19 Q And then you all have -- eventually all have supper?

20 A Yes, sir. We ate around, I believe, 5:00, 6:00.

21 Q And the meal consisted of what again?

22 A Steak, mashed potatoes or corn, and garlic bread.

23 Q It was either steak, corn, mashed potatoes, and garlic
24 bread?

25 A Yes, sir.

1 Q And you say **Minor** got sick immediately?

2 A Yes, sir.

3 Q And he vomited in y'all's bed?

4 A Yes, sir. On our bed. Yes, sir.

5 Q You said you got sick as well?

6 A Yes, sir. I did as well.

7 Q Was it bad food, food poisoning, something like that?

8 What caused you to get sick, you think?

9 A Truly I don't know.

10 Q And what's **Minor** saying at this point? What's he
11 communicating?

12 A **Minor** really didn't communicate anything at the time.
13 I asked him was he feeling okay. He say uh-huh. I took him
14 to he bathroom so he could -- so he could like wash up and
15 everything, after she had stopped hitting him. Took him to
16 the bathroom. He took off his clothes and was in the
17 bathtub for a while. And I had noticed some bruising on his
18 testicles. And so --

19 Q You noticed bruising on his privates?

20 A Yes, sir. And whenever he sat in the tub I noticed his
21 genital, his area, looked purplish blue. So whenever he was
22 sitting in the tub I went in there and talked to her. I
23 said, "Your son, his stuff is like, you know, looking kind
24 of messed up." I told her, I said, "That might be from when
25 you hit him the other day and stuff." She said, "Well, you

1 shouldn't have taught him how to say that."

2 Q And you're referring to the incident where she punched
3 him in the crouch, or in the groin area in Laurens on
4 December 28th?

5 A Yes, sir. So he's in the bathtub getting -- or washing
6 up and everything. Me and her were still talking and
7 whatnot. When I go back in there to check on him he had
8 pooped in the tub. I had to let her know and she said to
9 spank him, so I just popped his butt.

10 Q Theia told you to spank Minor for defecating or
11 pooping in the bathtub?

12 A Yes, sir. So I had popped his butt. His head hit the
13 tub. It was a plastic tub though, so that's clear.

14 Q Open hand on the buttocks?

15 A Yeah. Just open handed. It wasn't hard.

16 Q Once or twice on the butt?

17 A Just once.

18 Q And it caused him to fall forward?

19 A Yes, sir.

20 Q And he hit his head on the tub?

21 A Yes, sir.

22 Q Describe how hard he hit the tub.

23 A It wasn't hard. It's like the tub's right here and he
24 was right here (indicating). He was bent over. So it
25 really wasn't that far of a fall for him to actually hit the

1 tub.

2 Q And what part of his head hit?

3 A This part (indicating).

4 Q So Theia was at home when this occurred?

5 A Yes, sir.

6 Q Did you ever see -- so what areas of the body that day
7 did you see her hit? You said chest area, buttocks. Did
8 you see Theia hit him anywhere else/

9 A The head as well.

10 Q An open hand slap on the back of the head?

11 A Yeah. That was before we end up coming to Newberry.

12 Q Did you see Theia punch him in the stomach area?

13 A I saw her do that whenever we were getting in the
14 carseat to come here to Newberry that night.

15 Q Does Theia go anywhere else before you all come --
16 before you all come to Newberry does Theia go anywhere else?

17 A Yes, sir. She goes to Spartanburg to -- first she
18 leaves to go to Spartanburg County and she stops at a gas
19 station and brings back a cat. And I told her, I said, "We
20 don't really need another cat. We have enough cats already
21 that we can't take care of. We've got stuff -- other stuff
22 to take care of besides more cats."

23 Q And what was she doing in Spartanburg?

24 A She was going to a call in Spartanburg.

25 Q And she brings back, you said, another cat?

1 A Yes, sir.

2 So this is a stray cat?

3 A Yes, sir.

4 Q To go in that bedroom?

5 A Yes, sir.

6 Q Anything significant about this cat other than it was a
7 stray?

8 A It had one eye.

9 Q One eye?

10 A It was a grey cat with one eye.

11 Q. I'm going to show you State's 59. It's been admitted
12 into evidence. Do you recognize that?

13 A Yes, sir. That's the cat that she brought back.

14 Q And that was after she had been to the Spartanburg
15 service call?

16 A She didn't go to the service call. I'm guessing she
17 said she went to a gas station, then brought this back.
18 Then she left again to go to that call.

19 Q I got you. About what time did she -- what time period
20 was this when she leaves?

21 A To get the cat or to the call?

22 Q To go to Spartanburg?

23 A Roughly like maybe 40 minutes to 35, I believe,
24 minutes.

25 Q Well, what time of -- what time of day on December

1 29th?

2 A Oh, I think it was either around 8:30 or 9:00, I'm
3 thinking.

4 Q So how long was she gone?

5 A Roughly like 35 to 40 minutes.

6 Q And what's **Minor** doing while she's gone?

7 A **Minor** was asleep at the time. And I had dozed off
8 myself waiting for her.

9 Q **Minor** was asleep on the air mattress?

10 A Yes, sir.

11 Q Is it possible **Minor** was sick on that air mattress as
12 well? Vomiting on that air mattress?

13 A He seemed like he was okay whenever he had laid down.
14 I didn't go out there to check whenever I went back into the
15 room. I had laid back -- I had laid down myself and went to
16 sleep.

17 Q So eventually Theia gets back from Spartanburg?

18 A Yes, sir.

19 Q And what happens next?

20 A She comes in, wakes me up and **Minor** and she says --
21 tells us to get ready. And I'm like why don't she just go
22 to the call herself. And she explained because she feels
23 uneasy about it. She's never been to Newberry. She feels
24 like it was -- she feels like it might be a setup for her or
25 she feels just off about it. And I'm like, "Well, if that's

1 the case then don't go, because I'm tired myself, and
2 **Minor's** sleeping. Why would you want to wake me and him
3 up to come out to someplace that we've never been before?"

4 Q She was aware that **Minor** had gotten sick around
5 suppertime, correct?

6 A Yes, sir.

7 Q And a lot of times you would just stay at the house
8 while she would go on service calls with **Minor**

9 A Yes, sir. Or she brought -- or she told people to come
10 to the house.

11 Q Clients would come to the house?

12 A Yes, sir. Even I explained to her and asked her not to
13 do that, due to the fact of **Minor** living there and myself,
14 and her living there as well.

15 Q So, but she needed you to come to Newberry because
16 she's unfamiliar --

17 A Yes.

18 Q -- with the area?

19 A Yes, sir.

20 Q So that's the reason you went on this call?

21 A Yes, sir.

22 Q But that was not a habit --

23 A No.

24 Q -- that you would go on these service calls?

25 A No, sir.

1 Q So it was unusual for you to actually go?

2 A I mean, unless we were living in the hotel. Which most
3 times if we were living in the hotel she would go on the
4 calls herself, too, as well. Unless we were already out
5 eating somewhere. She would ask me -- she would let me know
6 that she got a call and she's like, "Well, do you mind just
7 coming along." So I would go along because I was already
8 out with her.

9 Q So Minor is asleep and you all had to wake him up?

10 A She woke him up coming in.

11 Q And was he upset?

12 A Yes, sir. He was. He was whiney and he was crying.

13 Q Did he appear ill still at this point?

14 A He sounded like he was tired and he could have been ill
15 the way he was crying, whining.

16 Q And he's verbal? He's able to communicate yes, no, and
17 use sentences and all that? He didn't have any
18 developmental delays?

19 A No, sir.

20 Q Did he say, "No, I don't want to go," or anything to
21 that effect?

22 A Well, he's not able to like sound -- like sound clear
23 like that. But he didn't really seem like he wanted to wake
24 up.

25 Q And what's Theia's reaction to his crying?

1 A Well, whenever I finally said I'd go she snatches him
2 up and takes him out to the car seat. She yanks him up by
3 his arm.

4 Q I want to show you Defense 1. Do you recognize this?

5 A Yes.

6 Q And what is that?

7 A That's **Minor** in his other car seat. This is one of
8 the car seats that she got whenever she left the house.

9 Q But is this a fair and accurate depiction of where
10 **Minor** would be positioned in the vehicle?

11 A Yes, sir.

12 Q In a car seat right behind the driver --

13 A Yes.

14 Q -- in the rear driver's side seat?

15 A Yes, sir.

16 Q And if I represent to you that's taken on December 17th
17 that would appear accurate, in terms of his appearance?

18 A Yes, sir.

19 Q 2014? So you put him in the car seat, or --

20 A She puts him in the car seat.

21 Q Does she -- is he continuing to cry?

22 A He's still whinny and whatnot, and I come out to get
23 inside the car and he's already in the carseat and she had
24 turned around and struck him in the chest twice before I got
25 in the car and I told her to stop. I said, "If it's a big

1 deal about him being upset, let us just stay and you go on
2 to Newberry because --"

3 Q She struck him in the chest? Be specific.

4 A She struck him in -- like while he was sitting down.
5 She struck him in the chest in this area (indicating) --

6 Q Closed --

7 A -- closed hand. Yes, sir. She turned around and hit
8 him twice. And I told her, I said to stop. "If it's such a
9 big deal, let us just stay here if you really want to go to
10 Newberry, or just don't go at all," because we were both
11 sleeping already.

12 Q And did Theia have an address for this Newberry service
13 call?

14 A I'm guessing it would have been in her phone.

15 Q How did she find it?

16 A GPS on her phone. And she had talked to the guy a
17 couple of times. She had called him. And we were still
18 having a bickering argument, too, as well driving to
19 Newberry.

20 Q And about what time do you all depart for Newberry?

21 A I think about 11:00. Anywhere from between 10:30 to
22 11:00. Somewhere in that area.

23 Q Best you can recollect, about 11:00 p.m.?

24 A Yes, sir. Best I can recollect.

25 Q Well, tell us what happens -- how do you -- how do you

1 get to Newberry? Do you take the interstate, highway or
2 what?

3 A Yes, sir. We take the I-26. And he was still whining
4 and everything. When we hit the Clinton exit he was
5 snoring. He was sleeping by the time we hit the Clinton
6 exit.

7 Q So he whined the whole way down I-26 up until you get
8 around the Clinton exit?

9 A Yes, sir.

10 Q Then he stopped whining?

11 A Then he goes to sleep. I hear him snoring in the back
12 while me and her were having our little disagreement and
13 talking.

14 Q You heard him snoring?

15 A Yes, sir.

16 Q Is that common for him to snore?

17 A The times that I've heard him sleep, like maybe once or
18 twice. But not really common.

19 Q Any more vomit?

20 A No. Not that I saw.

21 Q Any vomit in the vehicle --

22 A No, sir.

23 Q -- at that point?

24 A No, sir.

25 Q So he's snoring once you get to Clinton, and as you

1 continue to Newberry he's still snoring?

2 A Yes, sir.

3 Q So you all eventually pull up to the client's house in
4 Newberry, correct?

5 A Yes, sir.

6 Q And do you recall what that house looked like?

7 A No, sir. It was nighttime. I didn't really get a look
8 at it. I was covered up with the jacket.

9 Q And where are you riding in the vehicle?

10 A In the passenger seat covered by a jacket.

11 Q Front seat?

12 A Yes, sir.

13 Q So you all pull into the house of this guy? The
14 residence?

15 A Yes, sir.

16 Q And do you recall where you all parked?

17 A It was in the driveway next to an RV, I believe. Or it
18 was either an RV or a camper. I'm not sure exactly what it
19 was.

20 Q There was a camper out there?

21 A That's what -- I think it was. It was nighttime at the
22 time, so I couldn't really tell what it was.

23 Q I'm going to show you State's 46.

24 A Yeah, that's what it was right there.

25 Q There was an RV, you said, and you all parked near

- 1 that?
- 2 A Yes, sir.
- 3 Q Where would you all park in relationship to that RV?
- 4 A Do I need to stand up and show you on there?
- 5 Q You can just point or just -- yeah, you can stand up.
- 6 A In that area right there (indicating).
- 7 Q Was it lit? The --
- 8 A The area right there lit?
- 9 Q Yeah.
- 10 A No, sir. It really wasn't.
- 11 Q And about what time would you say you all arrived in
- 12 Newberry at this residence?
- 13 A If I recollect correctly, I would say -- I would say it
- 14 would be after midnight.
- 15 Q After midnight was when you arrived at this residence?
- 16 A Yes, sir.
- 17 Q Minor was still asleep at that point when you all
- 18 first pull up?
- 19 A Yes, sir.
- 20 Q And Theia gets out of the vehicle?
- 21 A Yes, sir.
- 22 Q Do you see this client come out and greet her?
- 23 A I heard the client, but I never saw him face-to-face.
- 24 I was covered up with the jacket, so I never really got to
- 25 see who the client was at all.

RICHARD BOWMAN: DIRECT EXAMINATION

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1 Q You're covered up with a jacket?

2 A Yes, sir.

3 Q What kind of jacket was it?

4 A It was a black jacket.

5 Q Heavy? Heavy jacket or light jacket or what?

6 A I'm guessing it was a heavy jacket.

7 Q So Theia gets out and greets him and then they go in
8 his house, I assume?

9 A Yes, sir.

10 Q About how long was this service call? How long was she
11 in the house?

12 A I fell asleep. So I really didn't have -- I didn't
13 time her at all.

14 Q So what's happening out in the car once Theia leaves
15 and goes inside with the client? What's **Minor** doing?

16 A I dozed off for a little bit, and I -- I'm not sure how
17 long. I ended up hearing a noise outside the car. I'm
18 thinking it was her. I wake up. And I don't hear **Minor**
19 snoring back there no more, so I turn around and I shake him
20 a little bit, "Hey, Buddy, you okay back there?" He wakes
21 up. He's like uh-huh, and he goes back to sleep. So I got
22 back to sleep myself.

23 Q So he was snoring, and then all of a sudden you don't
24 hear him snoring?

25 A Yes, sir.

1 Q You wake him up?

2 A Yes, sir.

3 Q And ask him if he's okay?

4 A Yeah.

5 Q And he says uh-huh?

6 A Yes, sir. He says uh-huh like --

7 Q Like he's okay?

8 A Yeah.

9 Q Indicating to you?

10 A And he goes back to sleep. I go back to sleep myself

11 for a while. And like a little bit after I go back to sleep

12 I hear the client and her coming out. Well, I hear her

13 laughing and talking with the client. And then she ends up

14 coming in the car and I -- we're backing out, and I ask her,

15 I said -- I started asking her about the whole snoring

16 thing. Because me, myself, I snore, but I have sleep apnea.

17 So I know when people snore sometimes they could have sleep

18 apnea. So I'm asking her. I said, "Your son didn't sound

19 like he was like breathing for a little bit. Like I didn't

20 hear him snoring." She was like, "Stop overacting. He's

21 okay. He's probably just sleeping hard." So she tells me

22 to wake him up again. So I'm trying to wake him up and

23 there's no response. So I let her know. She was like,

24 well, keep trying to wake him up. So I climb in the

25 backseat. I'm shaking him, pinching his fingers or whatnot.

1 She's telling me to pinch his fingers, continue to shake
2 him. I'm pinching his fingers. I'm patting him on his
3 cheek trying to wake him up. I'm letting her know that
4 there's no response. So I pull him out the carseat to try
5 to give CPR, because I was taught that in the military, and
6 she's still on her way trying to head back home. And I'm
7 like, "Hey, we need to get to a hospital because you're
8 son's not responding." She's like, "Oh, he'll be okay.
9 We'll go to Laurens."

10 Q How is she heading back home? She's got a GPS? How
11 does she know her way around?

12 A She had the GPS on her phone. She was trying to head
13 back by GPS. It kept -- the signal kept coming in and out.
14 But she had her -- on the GPS. So we're trying to head back
15 towards -- she's trying to head back towards home. I'm
16 still letting her know we need to get to a hospital, because
17 if your son's not responding, that's not a good thing. So
18 I'm still trying to work with him back there, trying to give
19 him CPR and everything. And then there's this brown stuff
20 that comes out of his nose. And I let her know. And she
21 turns around and looks back there and she sees the stuff
22 coming out of his nose and she says, "Oh, shit. We need to
23 get to a hospital." I'm like, "I've been telling you that
24 for the past, you know, five, 15 minutes now. Like we need
25 to get to a hospital." So she starts going toward the

1 hospital. And the GPS is still going on and off, and me and
2 her bickering. I'm like, "You need to hurry up. We need to
3 get to a hospital. Like this isn't cool. Like this stuff
4 is coming out of his nose. He's not responding. Like we
5 need to get there fast." So finally we end up getting, I
6 guess, towards the college and we see the H sign for
7 hospital. The blue sign that has H and the arrow. So we
8 get to the hospital. And I jump out with him in my arms and
9 I run inside the emergency room immediately, and she's, I
10 guess, parking the car, or whatever she's doing out there.
11 Takes her like a good 10, 15 minutes to get in. So they
12 already take him to the back and whatnot. They asked me if
13 I was the biological father and I let them know -- let them
14 know that no --

15 Q Let me stop you. So when you initially tell Theia you
16 thought he had stopped breathing while she was inside with
17 the client she didn't seem too concerned at first?

18 A Not really.

19 Q And you were saying we need to get to a hospital fast?

20 A Yeah.

21 Q And then you said something about she said he'll be
22 fine. We can just make it to Laurens.

23 A Yeah.

24 Q Was she referring to Laurens Hospital?

25 A Yes, sir.

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1 Q Then you saw a brown --

2 A I tried CPR.

3 Q -- substance coming from his nose?

4 A Yes, sir. When I had tried CPR, yes.

5 Q Is she still -- does she stop the car so you can do CPR

6 or is she still moving while -- driving?

7 A She was still moving and she had finally stopped at a

8 stop sign. That's the only time when she had actually

9 stopped.

10 Q Didn't think to call 911?

11 A Me or her? No, sir. Not at the time. I was trying to

12 attend to him and see what was going on with him.

13 Q She didn't say anything about calling 911?

14 A No, sir.

15 Q She didn't say anything about contacting that Newberry

16 client and asking him where the nearest hospital was?

17 A No, sir. She was actually trying to just get to the

18 Laurens County Hospital because she knew where that was, she

19 said.

20 Q So she just happened to see the hospital sign near the

21 college, you said?

22 A Yes, sir. When we actually start trying to find the

23 hospital.

24 Q Is she driving pretty recklessly, real fast?

25 A No, sir.

- 1 Q She's not?
- 2 A No, sir. Not at that time.
- 3 Q So you all find the hospital?
- 4 A Yes, sir.
- 5 Q You bring Minor in?
- 6 A Yes, sir.
- 7 Q You're carrying him?
- 8 A Yes, sir.
- 9 Q Is he still has brown substance coming from his nose?
- 10 A Yes, sir. That ended up on my shoulder actually.
- 11 Q Okay. Did you have to take his tee shirt off or
- 12 anything like that?
- 13 A Yes, sir. I did. I took his tee shirt off.
- 14 Q I show you State's 39. Do you recognize that?
- 15 A Yes, sir. I actually took his tee shirt off to get
- 16 some of the stuff off his face.
- 17 Q Is that the tee shirt he was wearing that night?
- 18 A Yes, sir. It was.
- 19 Q And all that discoloration is from --
- 20 A His nose.
- 21 Q His nose?
- 22 A Yes, sir.
- 23 Q Anything coming from his mouth?
- 24 A No, sir.
- 25 Q Did you have to use any towels back there, anything

RICHARD BOWMAN: DIRECT EXAMINATION

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1 like that? Was it --

2 A I believe I did use a towel back there.

3 Q State's 26.

4 A That was a jacket that I'd used to cover up as well.

5 Q That's the jacket?

6 A Yes, sir.

7 Q Puffy jacket?

8 A Yes, sir.

9 Q And that towel on top of it?

10 A Yes, sir.

11 Q You used that to wipe him down?

12 A Yes, sir.

13 Q So you pull up -- the three of you all pull up to the
14 Newberry ER. You carry him in.

15 A Yes, sir.

16 Q Why didn't she get out with you?

17 A She said she was going to go park the car.

18 Q Park the car?

19 A Yes, sir.

20 Q So you go to the ER entrance and to the registration
21 desk, correct?

22 A Yes, sir.

23 Q And did the nurses take him away immediately?

24 A Yes, sir. And they asked me was I the biological

25 father and I said no. I said the mother should be on her

1 way in now. So they told me to wait out there since I
2 wasn't the biological father. She comes in, as I said, like
3 10 or 15 minutes later and she goes to the desk. They start
4 --

5 Q You said 10 to 15 minutes later Theia comes in?

6 A Yes, sir. She starts -- she starts answering some of
7 the questions that the nurses and everything have for him --
8 for her. Sorry. She -- when it gets to the part about the
9 biological father she says I am, and the nurse said he
10 already let us know that he's not the biological father.
11 She turns around and starts cussing me out and calling me
12 all types of stuff saying, "Why the hell would you say that.
13 You're like the only father he know," and I said, "Well, I'm
14 not technically the biological father. So I wouldn't be
15 lying if I said -- told them I said no."

16 Q So you all are basically having an argument because you
17 told hospital staff that you were not the biological father,
18 correct?

19 A Yes, sir.

20 Q And then eventually you learned that **Minor** was
21 pronounced dead, correct?

22 A Yes, sir. Whenever we get brought back to the back we
23 did -- that they were trying everything they can to like
24 resuscitate him and everything. They were doing
25 compressions and everything, clearing the vomit and stuff

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1 from under his airway and whatnot. Was trying to
2 resuscitate him and get him to come back. All the while she
3 was either on the -- we were trying to get a hold of James
4 and her mother. And she finally gets a hold of her mom and
5 she lets her mom know, and her mother starts yelling and
6 screaming, "What did you do? What did you do?" And she's
7 like, "Well, mom, some people -- sometimes people die in
8 life and the only thing you can do is move on."

9 Q Is she just hysterical at this point to find out her
10 son died? Theia?

11 A No.

12 Q She's not?

13 A No, sir.

14 Q And she does contact her mother?

15 A Yes, sir. And we get a hold of James as well. James
16 Dunn.

17 Q A friend of hers?

18 A A friend of ours. He's just a friend of ours. Yes,
19 sir.

20 Q So law enforcement eventually shows up in the ER,
21 correct?

22 A Yes, sir.

23 Q And so, you agree to be interviewed by law enforcement?

24 A Yes, sir.

25 Q Do you remember at that time Captain Roy McClurken?

1 A Yes, sir. I do.

2 Q He interviewed you, correct?

3 A Yes, sir.

4 Q And it's fair to say you did not tell Captain McClurken
5 at the time everything you just discussed with us, correct?

6 A Yes, sir.

7 Q Why is that? Why aren't you telling him everything you
8 just discussed?

9 A There's numerous reasons why, sir. First and foremost,
10 I love Minor and I cared about her, too, as well. I
11 didn't really want her getting in trouble for all the stuff
12 that was going on from the escorting to the child abuse and
13 whatnot. I did call DSS one time when I was down here in
14 South Carolina from the fact that she had hit him, and I
15 told her I got tired of telling her to stop doing it. And
16 she let me know that if I ever called DSS on her again that
17 she'd be gone. So I didn't want her getting in trouble for
18 anything like that. And I never thought that it would lead
19 up to Minor dying the numerous times of the hitting and
20 abuse and whatnot.

21 Q So you were trying to protect Theia to a certain
22 extent?

23 A Yes, sir. And I didn't want to get blamed for -- I
24 didn't want to get blamed for it as well with myself.

25 Q What do you mean you didn't want to get blamed for it?

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1 By not stopping it?

2 A Yes.

3 Q So you thought you were going to get into trouble?

4 A Yes, sir.

5 Q Are you and Theia still together?

6 A Right now?

7 Q Not physically together, but emotionally are you all
8 still together?

9 A I can't even answer that one, sir. I don't know. I
10 know after this whole ordeal I just want something to be
11 done for him, in all honesty, and I would like to be able to
12 move on with things in my life. Because I have a child of
13 my own. She's five. She's going on six this year. And
14 this is like taking me away from her. This whole ordeal.
15 And I regret that I didn't let them know what happened from
16 the beginning and something could have been done for **Minor**
17 from the very start. Maybe -- I don't know. Maybe **Minor**
18 could have been taken, put into kinship or -- I don't know.
19 Something.

20 Q Why didn't you stop -- stop Theia? Like physically
21 intervene when she's hitting on **Minor** what you describe?
22 Why didn't you stop her from doing that?

23 A The times that I did try to stop I ended up with an
24 arrest for assaulting a female, and it wasn't even
25 assaulting a female. I have an arrest record in North

1 Carolina for fraudulent charges that were dropped whenever I
2 tried to stop her from doing things to **Minor** or whenever
3 I threatened to leave, or I did leave, so (pause) ---

4 Q Were you beating on that child in the car while Theia
5 was with that Newberry client?

6 A No, sir.

7 Q You didn't hit him at all inside that car?

8 A No, sir. The only time that I struck him, sir, was
9 whenever I patted his butt.

10 Q And you're saying that wasn't very hard?

11 A No, sir. It wasn't.

12 Q This is kind of a generic question. But describe
13 Theia's temperament. Is she an angry person?

14 A When she's not on her medication she goes from zero to
15 100.

16 Q So did she have a short fuse when it came to **Minor**

17 A Yes, sir. I've seen her get into arguments before.

18 Like back when I first met her I saw her get into an
19 argument with her mother outside at a Bojangles, her and her
20 mother. They were throwing food and they were literally
21 playing tug-of-war with him inside -- or outside in the
22 parking at Bojangles, with **Minor**

23 Q So Theia is kind of a volatile person?

24 A Yes, sir.

25 Q Is that an accurate description of her personality?

1 A Yes, sir.

2 Q And you realize how this looks, correct? That you're
3 telling this stuff the first time a few weeks ago at the
4 amen hour?

5 A Yes, sir.

6 Q And why are you saying this now?

7 A Because I want the truth out.

8 Q And why didn't you tell now Chief McClurken this
9 initially?

10 A I just said, I didn't know if I was going to be in
11 trouble for it as well as myself, and I was actually trying
12 to protect her.

13 MR. DANIEL: No further questions. Please answer
14 anything Mr. Verner might have.

15 THE COURT: Mr. Verner, may I assume that your cross-
16 examination of this witness is going to take a while?

17 MR. VERNER: I apologize, Your Honor, but the -- he's
18 the witness of the case.

19 THE COURT: Oh, I agree. I just -- if it is going to
20 take a while the Court will take five. We're going to take
21 five. Step outside if you need to. Adjourn to the back.
22 We will be at ease for a quick five minutes. Don't anyone
23 go too far away. Sir, you can step down or you can stay
24 there.

25 (Whereupon, the jury exited the courtroom.)

1 THE COURT: If I may I want to go on the record real
2 quick. The record should reflect that the Defendant is
3 present with counsel. The witness that we are examining at
4 this time is not present.

5 MR. VERNER: He is. He just walked in.

6 THE COURT: Okay, he is now present. The Court has
7 somewhat of a concern. Obviously, that the Court admonished
8 the witness not to use or not to communicate with anybody
9 about the substance of his testimony. I walked through the
10 hallway and I saw him using a telephone in the Solicitor's
11 Office. It seems a peculiar time to order a pizza for the
12 witness in this particular case. I know he had a brief
13 conversation with his attorney after he came off the stand.
14 I just wanted to put that on the record. I don't know if
15 the Defense was aware of it. Since he was using the phone
16 in the Solicitor's Office I assume they were aware of that.
17 Is there an issue here that the Court needs to inquire into
18 further, Mr. Verner?

19 MR. VERNER: No, Your Honor.

20 THE COURT: Are you sure?

21 MR. VERNER: I saw a brief chat with the lawyer. I took
22 it more as a non-testimonial -- just -- he's got an
23 impeccable reputation. So I did not see a problem. I did
24 see the Defendant on the phone.

25 THE COURT: Good. Not so much the conversation with Mr.

1 -- with his counsel, but I'm concerned more with the
2 telephone conversation. Let me hear you on that.

3 MR. VERNER: I took it as they afforded him the
4 opportunity to call a family member or -- but could he
5 answer who he called?

6 MR. BOWMAN: I called my mother.

7 MR. VERNER: I figured. It looked like a family call,
8 Your Honor.

9 MR. BOWMAN: My mother was curious as to what was going
10 on, and I told her I was on the stand today.

11 THE COURT: Did you discuss with her at any point in
12 time any of the testimony, the substance of the testimony
13 that you gave today?

14 MR. BOWMAN: No, Your Honor.

15 THE COURT: Or anything that you're going to testify to
16 in the future? Did you talk to her about that?

17 MR. BOWMAN: No, Your Honor. As I said, my mother was
18 just worrying about what was going on. She came up here on
19 Monday and was turned away at the courthouse or whatever
20 because she was told she couldn't be here. So she wanted to
21 be let known what was going on.

22 THE COURT: Fair enough. No other questions then of
23 this witness from anyone on that issue?

24 MR. STUMBO: Your Honor, my understanding -- I stepped
25 in and grabbed a bottle of water when I came out. It looked

1 like Mr. Brown was in there with him the entire time, so.

2 We didn't want to get in the middle of anything.

3 THE COURT: Very good. Let us have the jury please.

4 (WHEREUPON, THE JURY ENTERED THE COURTROOM TO RESUME.)

5 THE COURT: Thank you for your continued patience.

6 Here's where we are. My understanding is that we have

7 approximately an hour left to go with this witness. It is

8 6:15 at this particular point in time. I was indicating to

9 y'all 6:30 or so. I was not indicating 7:15 or 7:30. It's

10 very unusual to break in the middle of a witness, especially

11 the cross of a witness. Mr. Verner has been so kind as to

12 say that if y'all are fatigued this evening we can retire

13 for the evening. He has no problem pausing in the middle of

14 his cross-examination of this witness. I will leave it to

15 your discretion. If you want to huddle up, Madame Forelady,

16 and see if y'all are ready to call it an evening or if y'all

17 want to keep going for approximately another hour and try to

18 finish this witness. Whatever your choice is. You can

19 huddle up there and take a quick survey and see where you

20 stand.

21 MADAME FORELADY: We're ready to keep going.

22 THE COURT: You want to keep going. Everybody okay with

23 that. Anybody not okay with that raise your hand. It's

24 unanimous. Mr. Verner, you may continue, sir.

25 CROSS-EXAMINATION

1 BY MR. VERNER:

2 Q Mr. Bowman, the prosecutor's final question to you was
3 that you were testifying today because -- I don't want to
4 mischaracterize you, but you wanted to get the truth out,
5 right?

6 A Yes, sir.

7 Q You're sure that's not because you want to get Richard
8 out?

9 A Yes, sir.

10 Q How long has Richard Bowman been in custody in the jail
11 right now?

12 A Four hundred some odd days, I believe.

13 Q Since December 30th of 2014?

14 A Yes, sir.

15 Q That's a long time, isn't it?

16 A Yes, sir.

17 Q Are you doing it -- are you testifying today on the
18 hope that you will get some help from the prosecutors on
19 resolving your charges?

20 A No, sir.

21 Q Are you testifying today because if you can pin this
22 charge on Theia McArdle that there will be no charges on
23 you?

24 A No, sir.

25 Q So you're only testifying today to get the truth out?

1 A Yes, sir. In all honesty, sir, I'll tell you this. If
2 I still get a charge off this because for not stopping it,
3 or whatever the case may be, I'll accept it, but I want the
4 truth to be known for what happened to him.

5 Q And what is the punishment to you if you accept it?

6 A I don't know.

7 Q Your lawyer hasn't talked about what you're facing?

8 A Twenty to life for this charge here. I've read up on
9 it. I've read up on the law on it.

10 Q And that's not some reason to want to cooperate to
11 avoid a 20 to life -- mandatory 20 to life sentence?

12 A No, sir. I just want the truth out.

13 Q Because I believe you've told the prosecutors in the
14 past that some of this stuff has happened to you in the past
15 and it hurts you to see children --

16 A Yes, sir.

17 Q Because you yourself was a victim?

18 A Yes, sir.

19 Q And you've told several people that, right?

20 A Yes, sir.

21 Q It hurts you to see hurt children?

22 A Yes, sir.

23 Q The -- now, we've heard that Theia has a Facebook
24 account. Do you also have a Facebook account?

25 A Yes, sir. I do.

1 Q And it's got a -- what does Z3R0 stand for?

2 A Zero.

3 Q Zero?

4 A Yes, sir.

5 Q That's just a way to write a zero?

6 A Yes, sir.

7 Q I want to ask you about some photographs you published
8 within a couple of weeks of **Minor's** death, if I can.

9 A Okay.

10 MR. DANIEL: I'm going to have an objection to these
11 photos. It's a matter of law.

12 (Sidebar outside of the presence of the jury.)

13 Q You had a Facebook account?

14 A Yes, sir.

15 Q Have you seen this photograph?

16 MR. DANIEL: Your Honor, objection. This hasn't been
17 introduced yet and he's publishing it.

18 MR. VERNER: It's just his Facebook page. It's nothing
19 --

20 (Sidebar outside of the presence of the jury.)

21 Q What Mr. Bentley is showing you, is that your Facebook?

22 A Yes, sir. It is.

23 Q The jury's looking at your Facebook account?

24 A I actually do have like three Facebook accounts. The
25 main one --

1 Q You have several Facebook accounts?

2 A Yes. The main one I use is under my military email
3 address. I'm not sure if that's the right one or not. The
4 other two I barely use. I'm not sure if that's the main
5 one. But that's under Richard.Bowman380. US.Army. So
6 yeah, that's the main one.

7 Q The one that has Richard Bowman Z3RO on it?

8 A Yeah.

9 Q And it's got apparently a picture of you with some
10 buddies?

11 A I'm not sure if that's the main one. Like I said, I
12 have three.

13 Q Do you recognize this image?

14 A Yes, sir. I do. That's by a toy maker. That's a
15 company that makes baby dolls, like -- baby dolls. A friend
16 of mine in Chicago shared it to me. Showed it to me.

17 Q And you posted it on Facebook on November 14th?

18 A Yes, sir.

19 Q That's a picture you published on November 14th, about
20 a month before Minor was killed?

21 A Yes, sir.

22 Q What is that a photograph of?

23 A It's a baby doll. A friend of mine had found this
24 company that makes like scary baby dolls. It's supposed to
25 be like that. And she showed it to me and I thought it was

1 kind of cool. It was a baby doll.

2 Q So you posted it on your Facebook because it was
3 uncool?

4 A It was cool. It was a baby doll. It wasn't a real
5 human child.

6 Q It appears to be a baby beaten to death, two black
7 eyes, blood around the mouth, blood all over the body?

8 A It's a zombie baby doll, if you like zombies.

9 Q A zombie baby doll.

10 A Yeah. It's not two black eyes.

11 Q Do you recognize this photograph?

12 A Yeah, it's supposed to be like Harry Potter, --
13 Voldemort, yeah.

14 Q That's a Voldemort baby?

15 A Yes.

16 Q Do you recognize this photograph?

17 A No.

18 Q You don't remember posting this on your Facebook
19 account?

20 A I probably shared it but didn't really take a good look
21 at it.

22 Q You don't remember making this your cover page for a
23 while?

24 A No, I don't remember making that my cover page for a
25 while.

1 Q I can bring my computer in here. Are you sure this
2 wasn't your cover page?

3 A I don't remember making it my cover page. But if I did
4 --

5 Q I guess let's go to 11/24. What are we looking at
6 here?

7 A It's a scary picture of a clown and a kid.

8 Q A child and a --

9 A It's a made up --

10 Q -- kind of a monster clown?

11 A It's just a made up picture.

12 Q And that was posted on your Facebook on November 24th?

13 A Yes, sir.

14 Q Can we have the next picture? This photograph on
15 October 20th that you posted appears to be a child with his
16 face ripped open -- or her face ripped open?

17 A I don't believe it was a child, but okay. Just
18 pictures that they share on Facebook. There's a lot of
19 different stuff on Facebook.

20 Q That you've posted?

21 A Not -- I didn't actually post it. I just shared it.
22 Somebody else --

23 Q You shared it? You're sharing --

24 A -- posted it.

25 Q -- is reprinting it on your account?

1 A Yes, sir.

2 Q This is the Voldemort baby?

3 A Yes, sir.

4 Q It appears to either be a baby with snake eyes or a
5 dead baby?

6 A With snake eyes.

7 Q Then we have -- I think we already introduced the first
8 screen shot. Screen shot two. What are we looking at here?

9 A A murder spree.

10 Q It appears to be blood in eyes and you posted on
11 December 4th? I'm sorry. You didn't finish your answer.
12 What are we looking at here?

13 A It's a thing me and my friends were talking about. Me
14 and my buddies from the military, as you can clearly see.
15 We were talking about scary movies like Freddie Krueger,
16 Jason, and whatnot.

17 Q And this was on December 4th, 2014?

18 A Yes, sir.

19 Q This -- you might want to step down and tell us what
20 this one is. Can you read -- you can step down all the way,
21 for me.

22 A In 1934 families were receiving -- no one knows who
23 they were or --

24 THE COURT: Sir, speak up some more, please. She can't
25 hear you.

1 A In 1934 families were receiving. No one knows who they
2 were or that they did. At --

3 Q And you got a comment. Lol stands for what?

4 A Laugh out loud. It's my sister. Me and my sister were
5 talking about it.

6 Q This was posted apparently on November 12th of 2014.
7 Can you read the caption for me?

8 A It says, "Hey, I just met you and this is crazy. My
9 name is Slender. I take your babies."

10 Q And that's kind of a play off of a song. I don't know
11 the --

12 A It's about Slender Man.

13 Q Slender Man is a mythological --

14 A Yes.

15 Q -- man who steals babies?

16 A No, he doesn't steal babies. He --

17 Q Or kills babies.

18 A No, he doesn't kill babies either. He just hates
19 people, I guess. I don't really know the thing about it.
20 It's from Creepypasta.com.

21 Q These were all posted as humor? Attempts at humor on
22 your Facebook account?

23 A Some of them were humor. Some of them were to show
24 just pictures.

25 Q As pictures of warnings to other people of what not to

1 do or --

2 A Yeah, and show it to my sister and whatnot, and friends
3 in the military and whatnot.

4 Q Now, you've got more Facebook accounts?

5 A I've got three, due to the fact that she would hack
6 into my Facebook accounts and talk crap to people on my
7 Facebook. Friends of mine and whatnot.

8 Q So you had to keep -- one wasn't for business, was it?

9 A Nothing was for business.

10 Q Do you have them under the name Richard Bowman or --

11 A I have them under Richard Bowman, yes.

12 Q Now, just so I'll understand, how many times have you
13 been interviewed by the police, or law enforcement?

14 A For this case? Once.

15 Q Yes, sir. Well, I mean --

16 A Once.

17 Q Just once?

18 A Yes. The first day whenever we got arrested. And then
19 on the 10th when I talked to the Solicitors. That's it.

20 Q Are you sure about that?

21 A Yes, sir. Or would you be referring to a Spartanburg
22 incident that happened?

23 Q No, sir. I'm just talking about this --

24 A This incident?

25 Q -- case with the dead baby **Minor**

1 A That's only one time. And then I talked --

2 Q They've only talked to you one time?

3 A Yes, sir. They wouldn't talk to me any other time
4 without my lawyers present, with that being Joseph St.
5 Pierre or Mr. Brown.

6 Q So you have two lawyers in this case?

7 A Yes, sir. I did.

8 Q Well, I'm going to start off with just your testimony
9 today, and then let's talk about some of the stuff you said
10 earlier.

11 A Yes, sir.

12 Q The -- you don't like being called pimp, do you?

13 A I wasn't a pimp.

14 Q Well, I mean, a pimp is not just a guy who wears purple
15 suit. It's a guy who lives with a prostitute and takes her
16 to meet people and protect her from people, right?

17 A I guess, if that's what your version of a pimp is.

18 Q Who's black knife was that in the glove box of Theia's
19 car?

20 A It wasn't mine. I believe that was hers.

21 Q So that was Theia's black knife?

22 A Yes, sir.

23 Q The same with the gun?

24 A That was my first time I ever seen that pistol. But
25 that was hers.

1 Q You've been with her since 2013?

2 A Yes, sir.

3 Q First time you ever saw it?

4 A Yes, sir. She never had a pistol when we lived in
5 Asheville. She had a BB gun when we lived in Asheville. I
6 didn't even know that gun was inside the car until my lawyer
7 was going through pictures and I saw that. And I was even
8 alarmed by that and wondered what that was about.

9 Q What about the Mace?

10 A That was a friend of hers named Tiffany. Tiffany let
11 her have that.

12 Q So you knew about the pepper spray in the car but just
13 not the gun and the knife?

14 A Yes, sir.

15 Q Now, tell me, if you weren't a pimp, living off of her
16 and protecting her, but you were a prostitute or an escort
17 yourself?

18 A Yes, sir. I was an escort myself when I lived in
19 Asheville, and I had a couple clients when I lived in
20 Spartanburg, too, as well.

21 Q But you didn't enjoy that lifestyle?

22 A No, sir. I actually wanted to get an actual job. I
23 didn't want to live like that in front of Minor and
24 whatnot.

25 Q Because of Minor you didn't want to do that?

1 A Yes, sir.

2 Q Now, who is the client for a male escort? Are you
3 doing that for women or men?

4 A I had males and females, sir.

5 Q So sexually you would ambivalent, yet you would -- it's
6 all about money? You're not really interested in the man or
7 woman. It's just the bottom line of I've got to get paid?

8 A I guess you could say that. Yes, sir.

9 Q Now, the mobile home that you stayed in in Spartanburg,
10 Enoree, how many air conditioning units or heating units did
11 you have?

12 A There's one.

13 Q Just one?

14 A Yes, sir.

15 Q Where was that?

16 A That was in the kitchen/livingroom area.

17 Q The kitchen is one big open room with the livingroom?

18 A Yes, sir.

19 Q Was it colder -- considerably -- in December, the two
20 ends of the room, would it be considerably colder in the two
21 bedrooms?

22 A If the AC was on.

23 Q So that window unit would warm the entire home?

24 A Yes, sir.

25 Q Even through the doors?

1 A Yes, sir.

2 Q The reason for moving Minor to the livingroom wasn't to
3 keep him closer to the master bedroom so she could hear him
4 and that it's heated?

5 A No.

6 Q Not in your opinion?

7 A No. Actually I asked her about that. She wanted the
8 cats inside his room because they kept running in, jumping
9 on her face and being on her face and she would get mad and
10 wake up in the middle of the night. And I told her, I said,
11 "Well, you're the one that wanted all these cats, so..."

12 Q And the cats didn't stay in the room. They had the run
13 of the house, didn't they?

14 A Before they got put in Minor's room, yes.

15 Q There's feces and there's cat stuff all over the house.
16 The cats had free roam of the mobile home, didn't they?

17 A Whenever they were let out. Yes, sir.

18 Q And then when you all would leave and go out of town
19 you'd put them in that one room?

20 A Yes, sir.

21 Q And the cat with the damaged eye was the cat she found
22 the 29th? The day --

23 A Yes, sir.

24 Q Now, why did you and Theia go to Asheville on December
25 27th?

1 A For a late Christmas exchange gifts with her and her
2 mother.

3 Q But you told people before that you all had court that
4 day and that's why you all had to on the 27th?

5 A No, sir. I thought it was court, but --

6 Q But Saturday is really not a good day for court?

7 A No, sir. And I got it confused as well.

8 Q On the 27th was when you met Theia's mother, Patrice?

9 A I've been met Ms. McArdle. I've known Ms. McArdle
10 since I met her daughter.

11 Q That's right. Are you all on a good -- does she like
12 you?

13 A I'm guessing not, due to the fact the incidents that me
14 and her mother -- or me and her daughter have had.

15 Q What kind of incidents are we talking about that you
16 and her daughter have had?

17 A Me defending myself whenever she's put her hands on me
18 and us having mutual disagreements and whatnot.

19 Q You're defending yourself has gotten you arrested a lot
20 in incidents with Theia, hasn't it?

21 A There's only been two incidents where that happened.

22 As I explained to the Solicitor, that the rest of the

23 charges were fraudulent and were dropped. And I would not

24 be with her. I would go somewhere else and then she would

25 want for me to come back, or to try to mend things among our

1 --

2 Q All the charges were innocent? They were fraudulent?

3 A Yes, sir. There's no convictions of anything.

4 Q That's right.

5 A It should be in your record.

6 Q What happened on April 23rd, 2013?

7 A 2013, April 23rd? 2013. That was the first time, I
8 believe, I got arrested when it was an argument that me and
9 her had. She was drunk at the point in time and she wanted
10 to argue with me and I was telling her to stop. There was
11 also a witness that was there, too, Mitchell Gunter. Me and
12 her were bickering back and forth. I told her to leave me
13 alone. Let me go to sleep. We'll discuss it in the
14 morning. She didn't want to leave it alone and drop it. I
15 was sleeping on the bed in the livingroom. She then
16 proceeded to pick up the bed and toss me out of the bed. I
17 got up and I went to the second room, it was in her
18 apartment, to lock her out to get her to leave me alone.
19 She then proceeds to force her way in there and she gets
20 into my face and everything and is still trying to yell and
21 argue and cussing and whatnot. I put my earphones in my ear
22 so I could block her out. She snatches my phone and throws
23 my phone and breaks my phone against the wall. So I broke
24 her phone in response to that, and she punches me in the
25 eye. So after that, yes, I did proceed -- I did place hands

1 on her for punching me in the eye.

2 Q And by laying hands, you mean you choked her?

3 A Yes, sir. I did.

4 Q By my count, and tell me if I'm wrong, but since you've
5 been together in March 2013 you, or you and she, have been
6 arrested May 11th, 2013, July 6th, 2013, September 15th,
7 2013, June 16th, 2014. One of those incidents involving you
8 stabbing her -- a man she was with.

9 A That was an incident where I came into the house and
10 the man was beating on her and her face was bloody on the
11 floor. And he then proceeded to jump on me. That's
12 actually in the report that the dude had beat on her and
13 whatnot. Her nose was broken and whatnot when she went to
14 the jail. He had broken her nose and whatnot. And the dude
15 then proceeded to jump on me. So yes, I defended myself
16 from him. That was her ex-boyfriend. The guy that she had
17 broke his skull with an iron skillet.

18 Q It's not that black knife that was in the car that you
19 used that night?

20 A No. It was a cup that I used on him. I had --

21 Q It was a cup?

22 A Yes, a glass cup. I had hit him in the head with a
23 glass cup. That wasn't a knife.

24 Q The car. How long had Theia had that --

25 A Theia had a 1994 Nissan Sentra. Not a Malibu at that

1 time. The same car that's in the parking lot at the house
2 that's in the picture right there at the trailer.

3 Q Who's car was that?

4 A That first car is hers. The -- hers, yes.

5 Q In fact, when you -- how long had you been dating Theia
6 before you moved in with her?

7 A Me and Theia were dating for roughly three weeks, and
8 then I got stuck in Asheville when she wrecked my car. She
9 took my car keys and drove off with her friend, Makayla, and
10 she got into a car wreck and I got stuck in Asheville.

11 Q So you for the next three years couldn't make your way
12 back to Fayetteville?

13 A I didn't have an ID and whatnot and I didn't have
14 money. I ended up getting a job. Was working at Walmart
15 for a while, and then got arrested and lost my job at
16 Walmart.

17 Q So for these three years you were just trapped by
18 Theia?

19 A No, not trapped. I actually did stay because me and her
20 were in a relationship. I was trying to be with her and
21 whatnot.

22 Q And even though you had been arrested and she'd been
23 arrested probably half a dozen times for violence against
24 one other?

25 A Yes, sir. I mean, when you care, love makes you do

1 stupid things. You can't really be held accountable for
2 what makes you do stuff.

3 Q Now, where were you and Theia living when you first got
4 together?

5 A She was living at -- in Erskine. I forget the address
6 off the top of my head.

7 Q Erskine Street. Now, is that private housing or is
8 that public subsidized houses?

9 A Public housing.

10 Q That's run by the Housing Authority?

11 A Yes, sir.

12 Q Were you allowed to be on Housing Authority property?

13 A At first. Yes, sir, I was. And then after the
14 incident that happened, no, I wasn't. Whenever I did inform
15 her that I wasn't supposed to be there she said, "You can
16 stay as long as nobody knows that you're here. Go ahead and
17 stay." I actually did try to leave numerous times, but she
18 kept saying, "Stay, because as long as nobody knows it'll be
19 okay." She had other folks that were living there, as well
20 as drug dealers and other folks that had felonies as well,
21 living in her house as well. And Jody Banks and April
22 Banks, Junior and -- I think it was Danny and Junior as
23 well.

24 Q You didn't get arrested twice for crawling in her
25 windows and breaking back into her apartment?

1 A No. I only got arrested once for that, and I didn't
2 crawl into the window. I was trying to get my stuff to
3 leave. We had gotten into an argument that day. We were
4 walking to the bus station. She put her hands on me and
5 jacked me up and ripped my shirt, and I told her, I said,
6 "You need to get your hands off me. You're not going to
7 beat on me like you do your son." So I ran back to her
8 house to get my stuff. Junior was there at the time, too.
9 He could actually attest to that if he was here.

10 Q Who's Junior?

11 A Junior that's inside the motion. I don't know his full
12 first name. But Junior was there, and I had knocked on the
13 window to try to get in, and I knocked too hard and I broke
14 the window. And I told him, I said, "I need to get my stuff
15 because I'm trying to leave. I'm not trying to deal with
16 this stuff. You're not going to keep putting your hands on
17 me and beating me like you do with your son."

18 Q What about you taking a bath in her apartment and her
19 catching you?

20 A She knew I was in the house because she had let me into
21 the house that day. We got into an argument that day
22 because she wanted to try to go on my phone and take my
23 phone. And I told her, I said, "Get off my phone. You're
24 not going to unlock my phone." Because she wanted to try to
25 see who I was texting, this or that. Some female she was

1 mad over.

2 Q Not really good when you're -- for you to have other
3 girlfriends while you're living with another woman, is it?

4 A Well, when you're dealing with craziness from one and
5 you're trying to, you know, get out of that.

6 Q Trying to get out of it. Did you ever move to Georgia?

7 A Whenever I got out of the military, no, I didn't. I
8 lived in Georgia before I joined the military. I was living
9 in Winston-Salem after that time I got arrested. I came
10 back to handle my court case in Winston-Salem. I was living
11 with a young lady, that I had left her for at the time, by
12 the name of Morgan. And I was gone for two months. And at
13 that point in time I was not talking with Ms. McArdle,
14 wasn't dealing with Ms. McArdle or anything. Out of nowhere
15 I get a text message on a brand new phone. I don't know how
16 she got my phone number or where I worked but she did.

17 Q And since you brought up your military career so
18 extensively, how did your military career end?

19 A An other than honorable discharge.

20 Q An other than honorable discharge?

21 A I have two discharges. I have an honorable and other
22 than honorable. Yes, sir.

23 Q How do you get two discharges, one honorable and one
24 not honorable?

25 A Because whenever I finished my first tour in Iraq for

1 my 15 month tour I re-enlisted. And then whenever I came
2 back I re-enlisted and I got in trouble.

3 Q So you are an Iraq veteran?

4 A Iraq, Afghanistan, and Kosovo.

5 Q Were you in combat?

6 A Yes, sir. I did patrols and whatnot. I did convoys as
7 well.

8 Q Did you ever talk sometimes about seeing children
9 killed?

10 A I did tell people about a lot of numerous things that I
11 saw over there, from losing friends, to seeing children get
12 stabbed, or an LT of mine as well, and killed an LT of mine.

13 Q Was that a traumatic thing to see?

14 A Yes, sir. Losing friends, seeing things like that,
15 that is a traumatic thing to see.

16 Q You were aware that Patrice McArdle was trying to get
17 Theia to leave you, weren't you?

18 A No, sir. I wasn't at the time. At one time she was
19 but then she dropped it whenever her daughter said she was
20 staying and whatnot. I wasn't --

21 Q Didn't Patrice at one time pick up Theia from your home
22 and pay herself for her to move into a motel even though you
23 had the hotel -- the mobile home in Spartanburg?

24 A The reason for that is because I called DSS and I
25 called the police on her for striking **Minor** and also

1 called me racist terms. And I called DSS in Spartanburg.
2 Actually, then I called DSS -- or Janice, which was the
3 person that **Minor** was in kinship with in North Carolina
4 from DSS stuff there. But I called her and told her to call
5 DSS if she got back to North Carolina because of her
6 striking **Minor**

7 Q That's right. You called DSS, didn't you?

8 A Yes, sir. I did.

9 Q Do you know why DSS hasn't made any kind of notes or
10 doesn't have any kind of record? Have you seen any notes or
11 records from DSS?

12 A No, sir. But my mom did let me know that DSS was
13 trying to get a hold of me from Georgia.

14 Q So you made a DSS call about an abused child, and DSS
15 said we'll get back to you about without actually ever
16 coming --

17 A They told me to call the police department. And the
18 sheriff's department did come out there that day.

19 Q So you actually didn't call DSS? You called the
20 sheriff's department?

21 A I called both that day. That's why the sheriff's
22 department came out. DSS said they don't -- said that they
23 didn't take children in this state. I need to contact the
24 police department. So that's why I called the sheriff's
25 department. And then the sheriff came out there and I