

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Richland County

Honorable Donald B. Hocker, Circuit Court Judge

COURTNEY SHANTE THOMPSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001994

APPENDIX

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1 Q Yes.

2 A Natalie Thompson, Maria Thompson, and Courtney
3 Thompson.

4 Q Do you have any brothers?

5 A He is deceased.

6 Q And did y'all grow up in the same house?

7 A Yes, sir.

8 Q And what are your feelings towards your sister?

9 A I mean, I don't have feelings towards her. I
10 mean, I love her. She is my sister. I can't change
11 that.

12 Q Right.

13 A People make mistakes.

14 Q Right. And did you get a chance to know **CHILD**?

15 A A little bit, yes, sir.

16 Q What were some of your interactions with him?

17 A Taking him out the door and stuff like that. I
18 couldn't really go too far with him because he was too
19 to active for me to handle.

20 Q What do you mean by that?

21 A If I was to take him out the door, he would run
22 in the street and with me and the other kids, I wasn't
23 able to watch him.

24 Q Right.

25 A Give him the attention that he needed, so

1 basically, we would just go out the door, watch
2 cartoons. I used to talk to him.

3 Q I understand. Have you had a chance to interact
4 with --- how long have you known Antonio Guinyard?

5 A For about five years now, about four or five
6 years.

7 Q Okay. And what are your feelings towards
8 Mr. Guinyard?

9 A I don't have any. I mean, I still love him like
10 a brother. Like I said, everybody makes mistakes.

11 Q And when you're answering these questions and
12 you're being asked about **CHILD**'s death, you're just
13 trying your best, right?

14 A Yes, sir.

15 Q This thing happened a long time ago?

16 A Yes, sir.

17 Q It was traumatic, right?

18 A Yes, sir.

19 Q Your family went through a lots of devastation?

20 A Yes, sir.

21 Q You lost somebody that you loved?

22 A Yes, sir.

23 Q So the answers you give, you're just trying to
24 give them to the best of your ability?

25 A Yes, sir.

1 Q You're not trying to hide anything. You're just
2 giving it --- just what you remember?

3 A Yes, sir.

4 Q Even if it's damaging towards the people that you
5 love?

6 A Yes, sir.

7 Q Because you owe it to **CHILD**, right?

8 A Yes, sir.

9 Q Now, when you made this statement, okay, and you
10 were with Investigator Holdorf, right?

11 A Yes, sir.

12 Q He asked you do you have any information on
13 **CHILD**?

14 A Yes, sir.

15 Q Concerning the **CHILD** investigation?

16 A Yes, sir.

17 Q Something like that?

18 A Yes, sir.

19 Q And you just went on the narrative. You just
20 told them what ---

21 A Basically what happened.

22 Q Basically what happened?

23 A Yes, sir.

24 Q For the majority of it, you talked about
25 Courtney, right?

1 A Yes, sir.

2 Q And for the majority of it, you're telling them
3 stories of what you remember about Courtney beating
4 **CHILD**?

5 A Yes, sir.

6 Q Investigator Holdorf didn't direct you to talk
7 about Courtney?

8 A No, sir.

9 Q All right. He didn't say, tell me about Courtney
10 first, right?

11 A No, sir.

12 Q This is just what --- these are the things that
13 popped in your mind as he was --- as you were telling
14 your narrative, right?

15 A Yes, sir.

16 Q And the things that you remembered most that you
17 remember when you lived with Courtney and Antonio?

18 A Yes, sir.

19 Q And you remembered that --- you remember that you
20 saw her beat him with --- at that time, you were just
21 naming the list, but you remember her beating him with
22 a broom, cable cord?

23 A Yes, sir.

24 Q Her fist and her knees, the same stuff that
25 Ms. Campbell was talking about?

1 A Yes, sir.

2 Q And you remember her making nasty statements
3 about **CHILD** before?

4 A Yes, sir.

5 Q Do you remember describing Antonio?

6 A The baby or the father?

7 Q Excuse me?

8 A The baby or the father?

9 Q Oh, the father. Do you remember making any
10 statements about him, Antonio Guinyard, about his
11 interaction with your sister?

12 A Yes, sir.

13 Q What do you remember? Tell us about that.

14 A (There was no response.)

15 Q Do you remember saying that Robert Antonio was
16 the father?

17 A Yes, sir.

18 Q And that he would basically do whatever Courtney
19 said?

20 A Yes, sir.

21 Q And then the whole statement you wrote that
22 **CHILD** --- that you witnessed Antonio punching him
23 twice?

24 A Yes, sir.

25 Q Right. And that you've seen Antonio punch

1 **CHILD** ?

2 A Yes, sir.

3 Q Two sentences, right? In those two statements
4 about Antonio?

5 A I don't understand what you just said.

6 Q I'll ask you. Was it just the two sentences
7 about witnessing Antonio hitting **CHILD** ?

8 A Yes, sir.

9 Q Okay. Now, do you remember where you were living
10 before you lived with Courtney and Antonio in the
11 spring of 2012?

12 A I believe I was staying with a friend.

13 Q Were you ever living with your sister Natalie?

14 A Yes, sir.

15 Q Okay. And do you remember one time when Courtney
16 brought **CHILD** over to Courtney's house --- over to
17 Natalie's house and there was an incident?

18 A Yes, sir.

19 Q Do you remember that --- did you see Courtney
20 attack **CHILD** on that day?

21 A Yes, sir.

22 Q Tell me about that.

23 A He was crying behind Natalie's husband.

24 Q She what?

25 A He got to crying, trying to go out the door

1 behind Natalie's husband.

2 Q Who was that?

3 A Charles Robinson.

4 Q Tell us about that. Keep going.

5 A She told him to stop crying, and he wouldn't.
6 She popped him in the mouth, and jacked him around in
7 the house and went to grab a clothes hanger.

8 Q So that was the clothes hanger incident?

9 A (Nods in the affirmative.)

10 Q Do you remember telling --- do you remember
11 sitting down and talking to one of my investigators,
12 Cal Taylor, tall white guy?

13 A I don't know. I talked to so many.

14 Q I understand. Do you remember ever describing
15 the situation as, I saw Courtney punching, slapping,
16 and cursing CHILD as if you were fighting someone on
17 the street?

18 A Not that situation, no.

19 Q Was that a different situation?

20 A Probably was.

21 Q There's so many?

22 A Not really. I mean, I ===

23 MS. PINNOCK: Objection.

24 THE COURT: Sustained.

25 THE WITNESS: I talked to so many people. This

1 happened in a year.

2 MS. PINNOCK: Whoa.

3 THE COURT: Stop, ma'am. I said "sustained" so
4 that means you can't keep answering the question.

5 Disregard the testimony. Disregard the question.

6 BY MR. LI:

7 Q Do you remember in the fall of 2012 --- do you
8 remember Courtney ever asking you to hold [CHILD]'s
9 legs, to hold [CHILD]'s legs?

10 A Yes, sir.

11 Q Tell me about that incident.

12 A He was supposed to go to the bathroom and he
13 pooped and was playing in it. She asked me to hold
14 his legs.

15 Q To do what? What was she asking for?

16 A To whoop him.

17 Q To whoop him. Did you do it?

18 A No, sir.

19 Q What did you do?

20 A I left.

21 Q Do you remember [CHILD], [CHILD], do you remember
22 him calling for his dad for help?

23 A Yes, sir.

24 Q Do you remember walking in on Courtney beating up
25 [CHILD]?

1 A Yes, sir.

2 Q Tell me about that.

3 A I walked in and grabbed my bags and she was
4 beating him.

5 Q Do you remember describing it as her having one
6 knee on one side of him and the other knee on the
7 other side of him and punching him in the face?

8 A On his back on the floor, yes, sir.

9 Q And in November of 2012, did you get an apartment
10 at that time?

11 A I got an apartment October 2012.

12 Q In October 2012?

13 A Yes, sir.

14 Q Where was that apartment?

15 A At Allen Benedict Court.

16 Q Was that the same apartment complex that Courtney
17 and Antonio were living in?

18 A Yes, sir.

19 Q Do you remember [CHILD], [CHILD], do you remember him
20 coming over to your house?

21 A Yes, sir.

22 Q Do you remember --- do you have a friend named
23 Siwon Seaback?

24 A Yes, sir.

25 Q Do you remember what happened with [CHILD] that

1 day?

2 A Yes, sir.

3 Q Tell me what happened?

4 A My mom dropped him off, and it was --- they was
5 drinking a juice and Courtney --- I don't --- Courtney
6 came in and slapped the juice out of his mouth and
7 said he wasn't supposed to have it.

8 Q What was that like? What kind of slap was it?

9 A It was like --- I mean, she slapped the juice out
10 of his mouth.

11 Q Did it knock him back?

12 A A little bit, yes, sir.

13 Q So Courtney has asked you to hold CHILD

14 before?

15 A Yes, sir.

16 Q Were you in the house? Were you ever living with
17 them when your mom Gladys was living there?

18 A Yes, sir.

19 Q Do you remember Courtney ever beating CHILD in
20 front of your mom?

21 A Yes, sir.

22 Q And do you remember her beating him in front of
23 you?

24 A Yes, sir.

25 Q In fact, I'm a little confused. The cable cord

1 incident, was that more than one incident or was it
2 just one incident?

3 A Just that time upstairs.

4 Q Just that time upstairs. Who was in the house
5 that day?

6 A It was me, my mom, Antonio and the other kids.

7 Q And the other kids were there, too?

8 A Yes, sir.

9 Q And this was happening upstairs or downstairs?

10 A Upstairs.

11 Q Upstairs. Where was everybody else?

12 A Downstairs.

13 Q You were downstairs?

14 A Yes, sir.

15 Q Your mama was downstairs?

16 A Yes, sir.

17 Q Antonio was downstairs?

18 A Yes, sir.

19 Q You said --- was this the incident --- there's so
20 many incidents. I apologize, but was this the
21 incident that you could hear CHILD yell for help,
22 yell for help from his dad?

23 A Yes, sir.

24 Q Did anyone call the police that day?

25 A No, sir, not that I know of.

1 Q Did anyone try to stop Courtney?

2 A No, sir, I don't remember.

3 Q Did anybody call DSS that day?

4 A No, sir.

5 Q Why didn't you do anything?

6 A Sir?

7 Q Why didn't you do anything?

8 A I mean, I reported my sister to DSS.

9 Q Excuse me?

10 A I mean, I reported it to my sister and she went
11 to DSS.

12 Q Which sister?

13 A Natalie Thompson.

14 Q Why didn't you do it yourself?

15 A Because I --- I don't know.

16 Q Did you live with her at that time?

17 A I had moved out that night.

18 Q You moved out that night?

19 A Yes, sir.

20 Q But prior to that, you were living in Courtney's
21 house?

22 A Yes, sir.

23 Q And whose house --- it was her house, right?

24 A Yes, sir.

25 Q It was not Antonio's house?

1 A No, sir.

2 Q Not your house?

3 A No, sir.

4 Q Not Gladys's house?

5 A No, sir.

6 Q Had she ever kicked you out before?

7 A No, sir.

8 MS. PINNOCK: Objection, Your Honor. We
9 addressed with openings.

10 THE COURT: Overruled.

11 BY MR. LI:

12 Q Had she kicked your mom out before?

13 A No, sir.

14 Q Have you ever witnessed him --- have you ever
15 witnessed your sister kick out Antonio?

16 A Yes, sir.

17 Q How many times?

18 A A couple of times.

19 Q A couple of times. Was it often, not often,
20 rare?

21 A It was rare, yes, sir.

22 Q Do you remember telling my investigator that
23 **CHILD** was scared of Courtney?

24 A Yes, sir.

25 Q Is that still true?

1 A Well, I mean ---

2 Q Is that still true, that same statement today?

3 A Oh yes, sir.

4 Q And he would want his dad?

5 A Yes, sir.

6 Q But then you added something. You said that if
7 one of y'all were around, he would want y'all?

8 A Yes, sir.

9 Q Do you think he had a good relationship with his
10 aunts?

11 A Yes, sir.

12 Q Do you remember telling my investigator that you
13 would see --- that you used to see Antonio pop

14 CHILD2 and CHILD before?

15 A Yes, sir.

16 Q You told them that he would pop them in the head
17 or the butt?

18 A The hand.

19 Q The hand or the butt?

20 A Yes, sir.

21 Q If they did something wrong?

22 A Yes, sir.

23 Q What would their reaction be?

24 A Laughing.

25 Q They would just laugh?

1 A Yes, sir.

2 Q And then the very last sentence you told them you
3 said --- do you remember telling them, "I've never
4 seen Antonio punch or hit CHILD ."?

5 A Not like physical, no.

6 Q Because sometimes there's a difference between
7 the word hit and beat; is that right?

8 A Well, I done seen him pop him, but pop him to
9 make his cry. Basically, it was funny to him.

10 Q Uh-huh.

11 A So I mean, I felt like it wasn't hurting him.

12 Q Funny to Antonio?

13 A To the baby.

14 Q Funny to CHILD?

15 A Yes, sir.

16 Q You seen him play the same way with CHILD2 ?

17 A Yes, sir.

18 Q Now, this phone call, we have to talk about this
19 phone call. You remember hearing Courtney tell
20 Antonio, "You're not hitting him hard enough."?

21 A Yes, sir.

22 Q Do you remember --- had she ever complained of
23 Antonio not hitting CHILD hard enough before?

24 A She basically complained about he don't punish
25 him. He just act like he is scared of him.

1 Q Right. Can you go into any --- can you remember
2 any instances like that?

3 A One incident was when he wanted to come to the
4 festival that we was having at the office and he
5 couldn't come. He got mad and threw something and hit
6 Antonio in the eye.

7 Q Right.

8 A But he didn't --- I don't think he hit him like
9 really hard or nothing.

10 Q Were you there?

11 A Huh?

12 Q Were you there?

13 A No. She came. She was telling me about it. She
14 said that he didn't know how to discipline him or
15 nothing.

16 Q So she was actually mad at Antonio for not
17 hitting **CHILD** hard enough. She would get mad about
18 that?

19 A Yes, sir.

20 Q So you --- basically on the phone, you heard ---
21 you heard your sister say something to the effect of
22 put down that baby, because you're not hitting him
23 hard enough; is that right?

24 A No, sir.

25 Q Okay. But you did remember her saying something

1 about him putting down the baby?

2 A I remember him saying something about not hitting
3 him hard enough.

4 Q Okay.

5 MR. LI: Beg the Court's indulgence.

6 (Pause.)

7 BY MR. LI:

8 Q I just want to clarify one thing. That incident
9 that you mentioned earlier with the clothes hanger, do
10 you remember telling us about that? Who was around
11 during that incident?

12 A Me, my sister Natalie, my sister Nicole, my
13 cousin Demetrius, and I want to say my cousin TJ. I'm
14 not sure.

15 Q Was Antonio around at that point?

16 A He was --- I think he was in the house or out the
17 door. I can't remember.

18 Q Okay. All right.

19 MR. LI: No further questions, Your Honor.

20 THE COURT: Cross?

21 MS. PINNOCK: May it please the Court.

22 CROSS-EXAMINATION:

23 BY MS. PINNOCK:

24 Q Ms. Thompson, you did not call 911 on July 1st,
25 right?

1 A No, sir --- I mean, no, ma'am. I wasn't there.

2 Q You weren't there?

3 A No, ma'am. I was at home.

4 Q But you didn't call 911?

5 A No, ma'am.

6 Q Even after your saying that you witnessed a phone
7 call, hearing **CHILD** getting beat, you didn't call 911?

8 A No, ma'am.

9 Q When did you live with Ms. Thompson, with
10 Courtney? When did you live with Courtney?

11 A It was 2012.

12 Q 2012. Do you remember what months you lived with
13 her?

14 A I don't remember.

15 Q Did you stay at her house every night or were you
16 staying with a number of people at that time?

17 A Basically like on and off.

18 Q How often were you at her house?

19 A Mostly throughout the week.

20 Q Every night of the week?

21 A Mostly.

22 Q Of the five days of the week, how often would you
23 stay there?

24 A Probably two, three.

25 Q Two or three times out of one week?

1 A Yes, ma'am.

2 Q Okay. I want to ask you about some of the things
3 you just testified about. You said there was an
4 incident at your sister's house with a wire hanger?

5 A Yes, ma'am.

6 Q When was that?

7 A It was --- I know it was after Easter of 2012, I
8 believe.

9 Q Sometime after Easter in 2012?

10 A I believe so.

11 Q Okay. You mentioned an incident with a cable
12 cord. When was that?

13 A I don't know when that exact date was. I don't
14 even know the month, but it was like right before the
15 night, the night before I left. I know it was in
16 September.

17 Q Of?

18 A Of 2012.

19 Q And you have to tell me, is the cable cord the
20 same thing as a drop cord?

21 A No, ma'am.

22 Q When was that? When was the incident with the
23 drop cord?

24 A I never said the drop cord. Basically, it was a
25 cable cord.

1 Q Cable cord, okay. So that cable cord incident
2 was in September of 2012?

3 A Yes, ma'am.

4 Q When did CHILD come home? When was he ---

5 A I don't know.

6 Q Would you agree with me that it was April 2012?

7 A I guess so.

8 Q When is the last time you were over at Courtney's
9 house? Did you ever go to her house on Beaverbrook?

10 A Yes, ma'am, the last time I was there was like, I
11 think --- I want to say that it was March or April
12 of 2013.

13 Q March or April of 2013? And do you recall when
14 CHILD2's birthday is?

15 A No, ma'am.

16 Q How often did you baby-sit for Courtney?

17 A Every blue moon.

18 Q Huh?

19 A Every blue moon.

20 Q Do you remember babysitting for her sometime
21 around CHILD2's birthday over at her house?

22 A Yes, ma'am.

23 Q And that was approximately --- around a month or
24 so before his death, right?

25 A I guess. I don't know when it's CHILD2's

1 birthday. I guess it was something like that.

2 Q But the time that you babysat, around a month or
3 so before his death, you told my investigator that
4 everything seemed fine right, that **CHILD** seemed fine,
5 right?

6 A He did. We was playing, he was running down the
7 halls.

8 Q Okay, and you mentioned --- you mentioned an
9 incident --- Mr. Li asked you about something with a
10 guy named Charles, an incident where **CHILD** went to stay
11 with Charles?

12 A That's what we was talking about basically, that
13 he was crying to go behind my sister's husband,
14 Charles Robinson.

15 Q Okay. But do you remember telling my
16 investigator when you met with her on April 28th, 2014
17 that Antonio Guinyard grabbed him and told him he
18 couldn't go with Charles?

19 A Yes, ma'am.

20 MS. PINNOCK: Beg the Court's indulgence for one
21 second.

22 (Pause.)

23 BY MS. PINNOCK:

24 Q Do you recall what time --- or how long you were
25 talking to Courtney on July 1st?

1 A A couple minutes.

2 Q How long is a couple of minutes, two minutes,
3 three minutes?

4 A Maybe about five. I'm not sure.

5 Q Okay. She said that she had to go --- she was
6 going to take a shower?

7 A Yes, ma'am.

8 Q Do you remember you told the investigators on ---
9 when you gave your statement to Richland County
10 investigators, you didn't hear any crying or anything,
11 right?

12 A I don't remember.

13 Q You don't remember saying, "I did not hear any
14 crying or screaming."? Do you remember telling
15 Investigator Holdorf that on July 3rd?

16 A After a certain amount of time, I didn't.

17 Q After a certain amount of time?

18 A Yeah.

19 Q So now you're saying you did?

20 A Yeah, after a certain amount of time, the crying
21 just stopped.

22 Q Okay. So now you're saying you did hear crying
23 and that it then just stopped?

24 A Yeah.

25 Q You didn't tell anybody that before, right?

1 A (Nods in the affirmative.)

2 Q Who did you tell?

3 A I don't know their names. I talked to so many.

4 Q So many investigators?

5 A Yes, ma'am.

6 Q After you gave this statement?

7 A I remember hearing him cry out, "Lord, help me,"
8 then after that I didn't hear nothing else.

9 Q So you didn't hear any crying, not speaking,
10 crying. That was my question.

11 A I mean, I heard him cry out.

12 Q How many times did you talk to investigators
13 after you gave your statement from the Richland County
14 Sheriff's Department?

15 A I talked to so many I don't know.

16 Q When you talked to them, how close was it to
17 giving the statement?

18 A I didn't talk to the second investigator until
19 like months, months to this year right here.

20 Q Okay. And they're from the sheriff's department?

21 A I don't know when he --- I don't know.

22 Q Okay. Again, about approximately one month
23 before **CHILD** passed, you were at Courtney's house?

24 A Yeah. Probably so. I can't remember.

25 Q Okay. You told my investigator that you were

1 babysitting at her house?

2 A Yes, ma'am.

3 Q And **CHILD** seemed fine?

4 A Yes, ma'am.

5 MS. PINNOCK: Thank you, Your Honor.

6 THE COURT: Ms. Campbell?

7 MS. CAMPBELL: Nothing further.

8 THE COURT: All right. Thank you, ma'am. You
9 may step down.

10 All right. Ladies and gentlemen --- come on down
11 Ms. Thompson. Thank you very much, ma'am. I
12 appreciate it.

13 Is she okay to be excused or does anybody?

14 MS. PINNOCK: No objection.

15 MR. LI: No objection, Your Honor.

16 THE COURT: Okay. All right. Ms. Thompson,
17 you're excused from your subpoena. You're welcome to
18 day if you like to. You do not have to. Thank you,
19 ma'am.

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. Ladies and gentlemen,
22 we're going to break for the evening. It's five
23 minutes early. I'm sure I'll take that five minutes
24 back from you some time in the future, but don't hold
25 that against me.

1 You'll recall previously that I instructed in
2 great detail that you must decide this case solely on
3 the evidence presented in this courtroom. We're about
4 to take a break for the evening, and I'm now reminding
5 you again that warning.

6 I want you to once again fully commit to each
7 other, to the parties in this case and to the court
8 that you're not going to use any type of electronic
9 device to make any form of communication or do any
10 kind of research or send or receive messages, watch
11 the news, listen to the news, anything on the
12 internet, social media, phone, computer, any other
13 kind of device, iPad, tablet, I don't even understand
14 what most of it is, you're just going to stay away
15 from all of it and base your decision solely on what
16 happens in this courtroom, the evidence that comes
17 from this witness stand, the exhibits that are
18 introduced and the law that I give to you.

19 I'm going to release you for the evening.
20 Tomorrow morning we're going to start at 9:30, so if
21 you'll be in your jury room a few minutes prior to
22 that and we'll be ready to go. Thank you very much
23 for your attention today and for your service this
24 week. We will see you tomorrow morning. Everyone
25 remain seated while the jury is dismissed.

1 (WHEREUPON, the jury left the courtroom at
2 5:12 p.m.)

3 THE COURT: All right. Anything further before
4 we break?

5 MS. CAMPBELL: Nothing from the State, Your
6 Honor.

7 MR. LI: No, Your Honor.

8 MS. PINNOCK: No, Your Honor.

9 THE COURT: All right. Everybody listen to me.
10 When you're having these fact witnesses, I mean, you
11 all need to go read the rules on impeachment, and you
12 need to read the rules on refreshing recollection.
13 You can't just get up there and say you told my
14 investigator this, didn't you. That's not permissible
15 under the rules. That's not in the Rules of Evidence,
16 okay.

17 Everybody that wants to use prior statements,
18 whether they're consistent or inconsistent or anything
19 else, needs to go read the Rules of Evidence. Rule
20 611 is very clear that I control the mode, the order
21 and the interrogation of cross-examination and of
22 direct examination of witnesses and this blanket being
23 able to ask somebody --- I mean, the only person that
24 did it right today was Ms. Campbell.

25 She said, do you remember this statement. She

1 attempted to refresh her memory with the statement.
2 When she still didn't bite on that or didn't respond
3 to that, she then laid forth this statement, this
4 date, this time, this person and at that point, that's
5 when you --- you can't just say you told my
6 investigator something different, didn't you.

7 You have to ask them a question. They have to
8 answer that question in a manner that's not conducted
9 --- if it's inconsistent with what they told you, then
10 you can get into, on this date, at this time, with
11 this person. You met this person. Does this
12 refresh --- whatever course you're going to go down to
13 do it, but everybody needs to start following the
14 Rules of Evidence if you're going to be dealing with
15 these --- whether their fact witness or a police
16 officer as to prior consistent or inconsistent
17 statements. Does everybody understand?

18 MR. LI: Yes, sir.

19 MS. PINNOCK: Yes, sir.

20 THE COURT: Okay. See you tomorrow morning at
21 9:30.

22 (WHEREUPON, court was adjourned for the day.)

23 May 21, 2014

24 (WHEREUPON, court was called to order.)

25 THE COURT: All right. We're on the record.

1 What juror is it that everybody is seeing sleeping?

2 MS. WALKER: If you'll give me a second, Your
3 Honor, I can try to find her number.

4 THE COURT: I know it's the white female that
5 usually sits in the back left corner that's kind of
6 older.

7 MR. LI: She is in the middle row.

8 MS. WALKER: Second row, kind of at this end,
9 Your Honor. She has a bowl, kind of a blond bowl
10 haircut.

11 THE COURT: She is the older white female, not
12 the younger one, right?

13 MS. PINNOCK: I think she is actually --- there
14 is an older white female, but I think she is actually
15 younger than her. She was sitting in the second row,
16 second chair.

17 THE COURT: You're talking about the one where
18 her hair kind of goes (indicating)?

19 MR. LI: It's a bowl cut.

20 MR. RUFFIN: It's like a bowl on her head.

21 MS. CAMPBELL: If you'll give me two minutes,
22 Judge, I can get my jury list.

23 THE COURT: I think I can figure it out.

24 MS. WALKER: She worked for DNR which would be on
25 our list. Can I go get it?

1 THE COURT: Go ahead.

2 MS. CAMPBELL: Thank you.

3 (Pause.)

4 THE COURT: Is it Frances Taylor, 261, the
5 Forestry Association?

6 MS. McDUFFIE: Yes, Your Honor, Ms. Melton took
7 good notes.

8 THE COURT: Is your name Melton now?

9 THE WITNESS: Yes, sir.

10 THE COURT: Okay. I was wondering who Lancy
11 Melton was.

12 THE COURT: Okay. Is that who you all think it
13 is? Mr. Li?

14 MR. LI: Yes, Your Honor.

15 THE COURT: Does everybody agree that she should
16 be removed due to not paying attention and sleeping?

17 MS. PINNOCK: Ms. Thompson does.

18 MS. McDUFFIE: The State does, yes, Your Honor.

19 MR. LI: Mr. Guinyard does, too.

20 THE COURT: Okay, and did you figure out what
21 your position is on replacement.

22 MS. McDUFFIE: Your Honor, the State's position
23 is that's it's a random draw.

24 THE COURT: Mr. Li.

25 MR. LI: No objection to that.

1 THE COURT: Ms. Pinnock.

2 MS. PINNOCK: That's what we think, as well.

3 THE COURT: All right. Jackie, here's what
4 you're going to do. While I go to release this woman,
5 you're put the three alternates names --- well, tell
6 me how you have usually done it before.

7 THE CLERK: The first one usually moves up, but I
8 can put it on a piece of paper and just draw it.

9 THE COURT: Put their names on slips of paper and
10 then draw one of the three alternates.

11 Okay. Is everybody okay with me getting rid of
12 Ms. Taylor?

13 MS. PINNOCK: Yes, sir.

14 MR. LI: Yes, sir.

15 THE COURT: You hesitated.

16 MS. WALKER: My only hesitation --- go ahead,
17 Your Honor, that's fine with us.

18 THE COURT: We think it is Ms. Taylor.

19 MS. CAMPBELL: It is.

20 THE COURT: Do you have an objection to me going
21 and getting rid of her ---

22 MS. CAMPBELL: Whatever is fine.

23 THE COURT: --- releasing her? All right, and
24 then Jackie is going to put the three names in a list
25 and draw.

1 (Pause.)

2 THE CLERK: Mr. Williams, Keith Williams, juror
3 number 289.

4 MS. CAMPBELL: What's the first name?

5 THE CLERK: Keith, Keith Williams.

6 THE COURT: Is that it? Okay. All right. The
7 juror that's going to replace Ms. Taylor, which was
8 randomly selected by the clerk's office from the three
9 alternate jurors that we have, is Keith Williams,
10 juror number 289.

11 Okay. The next issue for this morning is I have
12 received a note requesting permission for them to take
13 notes. Anybody want to take a position on that?

14 MR. LI: Guinyard is fine with it, Your Honor.

15 MS. PINNOCK: The only problem I have, Your
16 Honor, is people write things down and remember things
17 differently.

18 THE COURT: Okay. Well, I mean, I have a very
19 long instruction that I would give them about whether
20 their notes control or their memory controls or the
21 record controls. We would control the pads. I mean,
22 we would provide the pads. We would provide the pens.
23 We would control when they get taken up, when they're
24 allowed to have them, all that stuff. There's a very
25 long --- I normally don't do it because normally

1 trials aren't this long, but there is a long
2 instruction that I give them about taking notes, about
3 what controls, what doesn't. You still have to pay
4 attention. You can't lose focus because your writing
5 things down. Ralph King Anderson wrote the charge so
6 I'll give them that charge.

7 Ms. Campbell?

8 MS. CAMPBELL: We're good. Whatever you think,
9 Your Honor.

10 THE COURT: What do you think? Do you want to
11 see the charge?

12 MS. PINNOCK: No, sir.

13 THE COURT: I've got --- it's unusual, I mean,
14 it's not unusual throughout the State and the third
15 circuit, they do it in every single trial. It's just
16 not --- do you have the Ralph King Anderson charge?
17 I go through, we're going to take notes --- you can
18 take notes if you want to, they will be for your own
19 personal use. If you can't take them home with you.
20 We're going to take them up during the breaks.

21 The only issue that most people --- when I say
22 most people, most judges, they discuss whether or not
23 they can have their notes with them during
24 deliberations. Some let them and some do not.
25 However, they all tell them they do not take any

1 precedence over independent memory and facts for the
2 record.

3 MS. PINNOCK: I think our concern would be having
4 the notes during deliberations, so if you would
5 consider not allowing them to do that, we would ask
6 you to do that.

7 THE COURT: All right.

8 Mr. Li?

9 MR. LI: We're fine with that, Your Honor.

10 THE COURT: Ms. Campbell?

11 MS. CAMPBELL: Judge, whatever you think is
12 appropriate is good with us.

13 THE COURT: Okay. All right. So Jackie, we need
14 to get 14 pads.

15 THE CLERK: Yes, Your Honor.

16 THE COURT: And 14 pens. Now, Mr. Whittle ---
17 you can go ahead, Jackie. With these pads we're going
18 to provide them, on the front of then, I want --- the
19 first page of each, I want you to write their juror
20 number, okay, or they can write it or you can write
21 it, okay. We're only going to give --- we're going to
22 give them to them as they come into the courtroom, and
23 we're going to take them from them every time they go
24 out of the courtroom.

25 No court staff is allowed to read their notes,

1 and the notes are going to be kept, I guess I'll lock
2 them up in my office at night.

3 THE COURT: To make sure that nobody is looking
4 at them or reading them.

5 THE BAILIFF: Yes, sir. Okay.

6 THE COURT: Do you understand? Can you tell
7 Mr. --- I see Mr. Burgess has got it and you let
8 Mr. Tolbert know. Okay.

9 All right. Anything else further?

10 THE COURT: Let me read this charge one time to
11 myself.

12 (Pause.)

13 (WHEREUPON, Court's Exhibit Number 8 was marked
14 for identification only.)

15 THE COURT: Okay. Are they ready to go?

16 THE CLERK: Uh-huh.

17 THE COURT: All right.

18 (WHEREUPON, the jury entered the courtroom at
19 9:57 a.m.)

20 THE COURT: All right. Good morning, ladies and
21 gentlemen. Where is Mr. Keith Williams, juror number
22 289? Are you Mr. Williams?

23 THE JUROR: Uh-huh.

24 THE COURT: All right. You come on up and sit in
25 this third row for me. You're going to be moved up to

1 a normal juror instead an alternate juror.

2 Okay. Now, ladies and gentlemen, I have received
3 your note asking about your ability to take notes.
4 This is how this works. I normally do not allow note
5 taking because most of the trials that we do don't
6 last as long as this one will.

7 In this case, I'm going to allow you to take
8 notes if you want to, okay, based upon your request
9 and based upon the consent of the parties, so you're
10 going to get a notepad. Do you have that now and do
11 you have a pen?

12 THE JURORS: Yes.

13 THE COURT: On the front of your pad, if you'll
14 write your juror number. Don't write anything else on
15 the front page, then you can take your notes on the
16 following pages. Now, every time you go out of the
17 courtroom, they're going to be taken up. Every time
18 you come back in the courtroom, they're going to be
19 given to you. At night, they're going to be locked
20 up. No one is going to read your notes. At the
21 conclusion of the trial, your notes will be destroyed.
22 Okay.

23 Now, I have to tell you about taking notes though
24 because it's very important. The reason I'm doing
25 that in this case is people learn differently and

1 people listen differently. Sometimes it helps some
2 people to write things down to help them remember what
3 happened or what didn't happen, so that's why I'm
4 allowing you to do it.

5 I'm going to allow you to take notes during this
6 trial if you want to. Pads and pens have been made
7 available to you. Any notes that you take will be for
8 your own personal use. You should not take these
9 notes from the courtroom. I've instructed the
10 bailiffs to take them up from you. That's why I want
11 your numbers on the front so we can give them back at
12 the appropriate time.

13 I'm not --- you are not going to be allowed to
14 have these notes with you during your deliberations.
15 The reason is because the only record that controls is
16 what the record that Ms. Ambroziak is taking down.
17 Okay. So you end up in this deliberation sense where
18 your notepad says one thing. Her notepad says
19 something else and somebody who didn't take notes
20 remembers something else, okay.

21 To avoid all that, that's why we have a court
22 reporter. The only true transcript and only true
23 record of what happens in here is with the court
24 reporter, so if you take notes, do not get so involved
25 in note taking that you become distracted from the

1 proceedings. Please be cautious because it is
2 possible that you may miss some of the testimony if
3 you are taking notes during that time.

4 Be sure that listen to the evidence and observe
5 the demeanor of the witnesses on the stand. The
6 witness's demeanor is something you may consider in
7 determining the credibility of that witness.

8 Now, your notes should be used only as an aid to
9 your own memory and should not be allowed to take
10 precedence over your independent memory of the facts.
11 The notes are only for your own personal use in
12 refreshing recollection of the evidence.

13 As I said, I am not going to allow the notes to
14 go back during your deliberations. These are to aid
15 you throughout the trial. We will take them up prior
16 to your deliberations.

17 You should not be unduly influenced by the notes
18 of any other jurors, which that shouldn't be an issue
19 with because I'm going to take them up before
20 deliberations. As we all know, notes can be wrong.
21 Notes are not entitled to any greater weight than each
22 juror's individual memory of the evidence.

23 Those jurors who do not take notes should rely on
24 your own independent recollection of the evidence and
25 not be influenced by the fact that another juror has

1 taken notes.

2 Keep in mind that every word spoken in this
3 courtroom is recorded verbatim. It can be replayed
4 for your during deliberations, if necessary. If there
5 is a discrepancy between a juror's recollection of the
6 evidence and notes, you should request a read back of
7 the record during deliberations.

8 The Court's transcript, that is the official
9 transcript that our court reporter is creating,
10 prevails over any notes that a juror takes. Your
11 notes are not a substitute for the official record or
12 for the governing principles of law which I will tell
13 you about later.

14 When the trial is over, your notes will be
15 destroyed and no one will read them. They are your
16 own personal and private notes for yourself. Okay.
17 Thank you very much.

18 You may call your next witness.

19 MS. McDUFFIE: Your Honor, if it pleases the
20 court, the State calls Dr. Monica McCutcheon.

21 THE COURT: Okay. Please come forward.

22 THE BAILIFF: Please place your left hand on the
23 Bible, raise your right.

24 DR. MONICA MCCUTCHEON,
25 after being duly sworn, testified as follows:

1 THE WITNESS: My name is Dr. Monica McCutcheon.

2 DIRECT EXAMINATION:

3 BY MS. McDUFFIE:

4 Q Dr. McCutcheon, where are you currently employed?

5 A I work at Five Points Pediatrics.

6 Q What is your job or duties at Five Points
7 Pediatrics?

8 A I'm a board certified pediatrician.

9 Q Can you please tell the jury a little about your
10 education, background, and training in the field of
11 pediatrics?

12 A Yes, I received my medical degree in 2008 from
13 the University of South Carolina School of Medicine.
14 I completed the residency training at the Palmetto
15 Health Richland pediatric residency training program,
16 and I have one year of hematology fellowship from Wake
17 Forest University.

18 Q And being a pediatrician, please describe for the
19 jury what your daily duties include?

20 A I see patients from birth to age 19 in our
21 office. I conduct well child visits, as well as acute
22 sick visits.

23 MS. McDUFFIE: Your Honor, at this time we'd
24 offer Dr. McCutcheon as an expert in the field of
25 pediatrics.

1 MR. LI: No objection, Your Honor.

2 MS. PINNOCK: No objection.

3 THE COURT: All right. Very well. Ladies and
4 gentlemen, as I told you yesterday, this witness will
5 be qualified as an expert in the area of pediatrics.
6 As with any witness, you should judge the credibility
7 of this witness. Just because I deem her an expert in
8 pediatrics does not mean that you must accept her
9 opinion. You should give her the due weight and
10 credibility that you believe necessary as you are
11 required to do with every witness that appears in
12 front of you.

13 Ms. McDuffie, please continue.

14 BY MS. McDUFFIE:

15 Q Dr. McCutcheon, how long have you been a
16 pediatrician at Five Points Pediatrics?

17 A I've worked there since June of 2012.

18 Q When did you meet the victim in this case, CHILD

19 CHILD ?

20 A I met him one time on September 11, 2012, for his
21 three-year-old well visit.

22 Q And prior to that, had the victim, CHILD ,
23 been seen in your practice?

24 A He had been seen one time by another
25 pediatrician.

1 Q When was that?

2 A That was when, I believe, he was two months old.
3 It was in June of 2009 --- I'm sorry, 2010.

4 Q And in preparation for this trial, did you review
5 the records that your practice has on CHILD
6 [REDACTED]?

7 A I did.

8 Q He was born on [REDACTED] [REDACTED] of 2009?

9 A Yes.

10 Q And when was the first time your practice saw
11 him, again?

12 A I'm sorry, it was June of 2009, so he was about
13 two months old.

14 Q And what was that in reference to?

15 A He had not been seen as a recently discharged
16 newborn, as is standard practice, had not come for a
17 two week well visit. The practice made multiple
18 attempts to get in touch with the family to repeat his
19 newborn screening that had been partial and
20 insufficient. As required by DHEC law, we needed him
21 back in the office to repeat that screening.

22 Q And what attempts did your office make to get in
23 touch with the family to give CHILD proper
24 medical care at that young age?

25 A There were multiple phone attempts reported in

1 the chart. Then eventually we had to make contact
2 with DHEC's office of newborn screening, Linda Baker,
3 to actually try to send a letter to the home to get
4 them to bring him in.

5 Q And then he was seen in your office when?

6 A Yes, he was. I'd have to look for sure, June of
7 2009.

8 Q And after June of 2009, when was the next time
9 your office saw CHILD?

10 A On September 11th, 2012.

11 Q And that was for what reason?

12 A For his three-year-old well child visit.

13 Q And you were actually the physician that saw him
14 in September of 2012?

15 A I was.

16 Q And when you saw him in September of 2012, who
17 brought him into your office?

18 A His parents did.

19 Q Courtney Thompson and Robert Guinyard, Sr.?

20 A Yes.

21 Q Please describe for the jury what you observed
22 when they first entered the practice?

23 A I had never met the family before, and two of my
24 nurses, who had been with the practice for several
25 years before and everyone in the room said we're

1 familiar with this family. We've seen two of these
2 three children. We've never seen this little boy,
3 don't know who he is or where he's been. Going into
4 the room that's kind of what I had in mind. It was a
5 little bit of an odd situation. He was there that day
6 with two of his younger siblings, both there also for
7 their well visits.

8 The mom, Ms. Thompson, gave me most of the
9 information, and I remember Mr. Guinyard, you know,
10 having his head down and not really interacting very
11 much with me.

12 Q And meaning Mr. Guinyard the father or [REDACTED]
13 [REDACTED] CHILD the child?

14 A I'm sorry, the father.

15 Q In September of 2011 when you saw them, please
16 describe for the jury [REDACTED] CHILD [REDACTED] and his
17 general physical appearance, developmental and things
18 of that nature?

19 A He was a well nourished child. Despite the
20 parent's reports when the nurse had asked some
21 developmental questions about some abnormal behaviors,
22 I really didn't get that sense from him. He was able
23 to answer my questions, he was able to tell me his
24 name, his siblings' names. Although his speech was a
25 little bit difficult to understand, he overall seemed

1 developmentally appropriate and well nourished for a
2 child his age.

3 Q So the information that was provided to you by
4 the parents regarding any medical conditions, what was
5 that information?

6 A Most of the information that I had regarding his
7 past medical history was taken from the record that we
8 had from his neonatal discharge. They really did not
9 have much of the information about his history over
10 the previous two years that he had been in foster
11 care. They were only able to tell me he had been in
12 speech therapy and had been seeing a counselor.

13 Q Was he currently in speech therapy or seeing a
14 counselor when you saw him in September of 2012?

15 A He was not.

16 Q So when he was in foster care, he was receiving
17 medical care, speech therapy and seeing a counselor,
18 but once he was returned to Ms. Thompson,

19 CHILD, he was no longer doing any of those
20 things?

21 A Right. They reported they knew he had been in
22 therapy during his years in foster care. Later, when
23 I received records from a previous pediatrician, I did
24 see reference to referrals they made for that.

25 Q When you saw him in September, did Ms. Thompson

1 and Ms. Guinyard relay that [CHILD] had
2 any medical conditions?

3 A No specific medical conditions.

4 Q Did they say that he had autism?

5 A They expressed concerns about his overall
6 development. I don't remember if she used the word
7 autism with me.

8 Q When you assessed [CHILD] please
9 tell the jury what you looked for and what the
10 responses were and what you found to his overall
11 development?

12 A When we see a child, we just watch how they're
13 interacting with others in the room. From my memory,
14 he made good eye contact. He seemed to interact with
15 his siblings. He was able to sit quietly on the exam
16 table for me to complete my physical exam, and as I
17 said before, he did answer my questions appropriately
18 for a child his age.

19 Q Did Ms. Thompson relay to you some behavioral
20 concerns she had about [CHILD]?

21 A She did. She mentioned that he was having some
22 issues with wetting and soiling himself and that she
23 also had concerns about his speech and said that his
24 speech was not as good as his two-year-old sibling who
25 I was also seeing that day.

1 Q As a result of what Ms. Thompson relayed to you,
2 did you refer [REDACTED] CHILD [REDACTED] for follow-up
3 medical appointment?

4 A I did. I referred him for both a repeat hearing
5 evaluation, for speech therapy and to our
6 developmental pediatrician mostly out of respect for
7 the parent's concerns. We get a very small snapshot
8 in the office of what a child can do, but they more
9 serious concerns, so we referred him to these three
10 agencies.

11 Q Are you aware of whether or not [REDACTED] CHILD [REDACTED]
12 [REDACTED] ever followed up with any of those physicians or
13 was taken to any of those appointments that your
14 office referred them to?

15 A I followed up and he was never seen by the ENT
16 where we referred him for a hearing evaluation. He
17 was never scheduled for an appointment or seen with
18 the developmental pediatrician. I was unable to get
19 in touch with where we referred him for speech, but I
20 never received any records that he went there.

21 Q Typically if someone does go and do that, you do
22 receive the records and you did not in this case?

23 A Correct.

24 Q So the information that you received indicated
25 that none of those follow-up appointments were ever

1 attended?

2 A That's true.

3 Q And in your medical records, your office also
4 makes some entries later in 2013?

5 A Uh-huh.

6 Q Please tell the jury what that was.

7 A We received records from children's hospital
8 outpatient clinic where CHILD had been seen by
9 another pediatrician or a set of pediatricians. We
10 received his vaccination records, as well as the
11 records of him being referred to the ENT for speech
12 therapy evaluation and also to urology.

13 Q So after September of 2012, CHILD was never seen
14 in your practice again?

15 A That's correct.

16 Q And to your knowledge, he wasn't seen in any
17 other practice that you referred him to?

18 A Correct.

19 Q The records that you received later in 2013,
20 those were from doctors that he saw when he was placed
21 where?

22 A In foster care.

23 Q And how did you get those records or who
24 facilitated getting those records for you?

25 A After CHILD left my office, I had concerns that

1 the parents had very little knowledge of his follow
2 ups and what he was receiving when he was in foster
3 care, so I did call DSS. The mom had reported to me
4 that he had been back with them about a year, but it
5 seemed strange to me that he had not been to medical
6 care or they were not sure of where he had been
7 attending these various appointments. I made DSS
8 contact and spoke to the DSS caseworker who was in
9 charge of the open case.

10 Q And so DSS was able to help you prepare medical
11 records not Ms. Thompson and Mr. Guinyard?

12 A Correct.

13 Q And again, when you saw CHILD
14 in 2012, were there any medical issues that you
15 observed on him or to him?

16 A No, nothing that I observed. I saw in the NICU
17 discharge summary that he had a history of
18 hydronephrosis, which is extra fluid on one of his
19 kidneys. I made a referral to back to the urologist
20 just to follow up on that, but there was nothing
21 specifically on his exam that was concerning to me.

22 Q Any bruising, scarring, skin discoloration, or
23 skin conditions that you observed?

24 A No.

25 Q His general appearance was that of a healthy

1 three-and-a-half year old?

2 A Uh-huh. He was well nourished.

3 MS. McDUFFIE: Beg the Court's indulgence.

4 (Pause.)

5 MS. McDUFFIE: No further questions for this
6 witness, Your Honor.

7 THE COURT: Mr. Li.

8 MR. LI: Thank you, Your Honor. May it please
9 the Court.

10 CROSS-EXAMINATION:

11 BY MR. LI:

12 Q Very briefly, Dr. McCutcheon, let me ask you
13 first, where did you go to high school?

14 A I went to the South Carolina Governor's School
15 for Science and Math.

16 Q That's what I thought. You said that you
17 remembered in September, Courtney Thompson and Antonio
18 Guinyard brought in CHILD .

19 A Yes.

20 Q You said earlier that Mr. Guinyard didn't ---
21 that Antonio Guinyard didn't interact much with you?

22 A That's correct.

23 Q It seemed like Courtney was answering most of the
24 questions?

25 A Uh-huh.

1 Q Talking to you?

2 A Correct.

3 Q It seemed like she was in charge?

4 A Yes, she had most of the knowledge as far as what
5 had gone on with him.

6 Q And he seemed healthy?

7 A Yes.

8 Q You mentioned eye contact. Is eye contact one of
9 the signs for autism?

10 A It can be, yes.

11 Q And it didn't appear he had any sort of pre-
12 autistic behavior?

13 A Usually --- if I note that or if I see that in a
14 visit, I'm usually very on top of referring them to
15 developmental pediatrician. Specifically in my note,
16 I mentioned I was going that referral more for the
17 parents' concerns than my own.

18 Q He seemed happy and healthy?

19 A He did.

20 MR. LI: No further questions.

21 MS. PINNOCK: May it please the Court.

22 THE COURT: Yes, ma'am.

23 CROSS-EXAMINATION:

24 BY MS. PINNOCK:

25 Q Good morning, Dr. McCutcheon.

1 A Good morning.

2 Q Do you have your report that you filled out after
3 CHILD came for his visit?

4 A Yes.

5 Q When you saw him in September, how much did he
6 weigh?

7 A He weighed 44.38 pounds.

8 Q Okay. You considered him healthy?

9 A Yes.

10 Q How tall is he?

11 A He was 43".

12 Q That was September of 2012?

13 A Yes.

14 Q You said that Courtney was the one trying to
15 provide you with medical information that she was
16 aware of?

17 A Uh-huh.

18 Q Do you have any idea how much information she was
19 told by DSS or anybody else?

20 A No, I do not know.

21 Q But when you asked her questions, she did her
22 best to answer?

23 A Yes.

24 Q She was trying to tell you everything that she
25 knew about CHILD's medical history?

1 A Yes.

2 Q And you had to contact DSS to get those records?

3 A I'm sorry?

4 Q So you had to contact DSS to get his prior
5 records?

6 A Yes.

7 Q Do you have any information in those medical
8 records --- they don't say if somebody told Courtney
9 Thompson that **CHILD** was autistic?

10 A No.

11 Q Okay. So you don't know if anybody had told her
12 that?

13 A No.

14 Q And the referral you made for the hearing
15 evaluation, the developmental counseling, because she
16 said that she had concerns?

17 A Yes.

18 Q It was not a concern that you had?

19 A I knew that his speech was not all that
20 understandable, and I think the referral for hearing
21 and speech was something I would have done on my own
22 accord. I did not have concerns for pervasive
23 developmental disorder.

24 Q You made the referrals out of respect for her
25 concerns?

1 A Yes, when parents are concerned at that age, it's
2 usually a good idea to let them go ahead and get
3 evaluated.

4 MS. PINNOCK: Thank you.

5 THE COURT: Anything further?

6 MS. McDUFFIE: Briefly, Your Honor.

7 REDIRECT EXAMINATION:

8 BY MS. McDUFFIE:

9 Q Dr. McCutcheon, in your report, you note that DSS
10 called you and said that in order to get the records,
11 they would have to get the mother to do a consent for
12 Palmetto Pediatrics' records?

13 A Yes. We were --- yes, we were told that we
14 needed the mom to fill out the release of information
15 for Palmetto Pediatrics, but in the end I did not get
16 the records from Palmetto Pediatrics. I got them from
17 another clinic.

18 Q So the mom never filled out that consent. You
19 obtained those records from another source?

20 A Yes.

21 Q Or at any point in time?

22 A Correct.

23 MS. McDUFFIE: No further questions.

24 RECROSS-EXAMINATION:

25 BY MR. LI:

1 Q Dr. McCutcheon, the mother had to consent,
2 correct?

3 A Correct.

4 Q Not the father?

5 A Correct. Yes, that's what I had noted.

6 MR. LI: That's all I have.

7 THE COURT: Anything else, Ms. Pinnock?

8 MS. PINNOCK: Just briefly, Your Honor.

9 RECROSS-EXAMINATION:

10 BY MS. PINNOCK:

11 Q And you said you got the records from somebody
12 else. You didn't go through the people who needed
13 consent?

14 A That's correct.

15 MS. PINNOCK: That's all, Your Honor.

16 THE COURT: Thank you very much. You may step
17 down. You are excused.

18 Call your next witness.

19 MS. McDUFFIE: The State calls Trobathian
20 Johnson.

21 TROBATHIAN JOHNSON,
22 after duly affirming, testified as follows:

23 THE CLERK: Please have a seat and state your
24 full name for the record.

25 THE WITNESS: Trobathian Johnson.

DIRECT EXAMINATION:

BY MS. McDUFFIE:

Q Deputy Johnson, where are you currently employed?

A Richland County Sheriff's Department.

Q And please tell the ladies and gentlemen of the jury what your duties are with the Richland County Sheriff's Department.

A I'm a deputy at the Richland County Sheriff's Department and my primary duties are to respond to 911 calls, emergency calls, and to traffic stops, and basically perform duties as a law enforcement officer.

Q And in July --- on July 1st of 2013, were those your duties, as well?

A Yes.

Q At the sheriff's department, do they have the different parts of the county broken up geographically?

A Yes.

Q And in July of 2013, what region or what area of the county were you assigned to?

A I was working in Region 3, which would be the Monticello, Fairfield Road, Farrow Road area.

Q And now, you're currently working where?

A In Region 1, which is the lower Richland area.

Q But back in July of 2013, you were working

1 Monticello, Fairfield Road, that area?

2 A Yes.

3 Q Specifically on July 1st of 2013, did you respond
4 to [REDACTED] Beaverbrook Road?

5 A Yes.

6 Q And is that in Richland County?

7 A It is.

8 Q And what was that in reference to?

9 A It was in reference to a call from Columbia fire
10 department requesting law enforcement assistance for a
11 suspicious death.

12 Q And when you arrived at [REDACTED] Beaverbrook, were any
13 other officers present?

14 A Yes. Master Deputy Wilder was there.

15 Q And when you arrived, please describe for the
16 ladies and gentlemen of the jury what you observed?

17 A When I arrived at Beaverbrook, I observed walking
18 through the door --- well, initially walking up
19 through the yard, I observed the fire department
20 personnel there, and then walking into the door, I
21 observed Master Deputy Wilder along with EMS
22 personnel, and I also observed the body of the victim
23 lying on the floor inside of the door to the immediate
24 left and also the subject, Courtney, sitting on the
25 floor to his left.

1 Q And besides emergency personnel or law
2 enforcement personnel, who were the only people that
3 you observed in the home?

4 A That would be the subject, Ms. Courtney Thompson
5 and also CHILD lying face up on the
6 floor.

7 Q And can you please tell the jury who you observed
8 the victim, CHILD., wearing?

9 A He was shirtless, and he was wearing a gray pair
10 of jeans which were unzipped and no shoes or socks.

11 Q Did you notice any visible injury to him?

12 A Nothing that stood out to me at the time other
13 than, you know, his face looking a little bruised.

14 Q And after you observed Ms. Thompson and the
15 victim in the living room, what did you then do?

16 A After I observed them, I then went into the rest
17 of the house to make sure that no one else was there
18 for safety purposes, make sure no one else was there
19 that was injured or anything like that, and just
20 basically cleared the house.

21 Q Describe for the jury how your clear a house,
22 what did you do that day?

23 A This day --- usually when we clear a house, we go
24 through for safety purposes to make sure no one else
25 is there that could hurt us or hurt anyone else that's

1 on the scene.

2 On that day, it was basically a check to make
3 sure no one else was there, no other children, no
4 other adults. Went from room to room to search for
5 persons that might have been there on the scene.

6 Q During your search of the home, did you locate
7 any other individuals?

8 A No.

9 Q After you searched the house, what did you then
10 do?

11 A After I searched the house, I walked back out
12 into the living room and Master Deputy Wilder advised
13 me to go ahead and set up crime scene tape, so I went
14 outside and secured the crime scene, set up the crime
15 scene tape.

16 Q At this point in time, are you aware that any
17 crime has been committed or any potential crime has
18 been committed?

19 A At this time, no.

20 Q What is the purpose of securing a crime scene or
21 a death scene?

22 A It's for investigative purposes to secure the
23 integrity of the area.

24 Q And when you say secure a crime scene, please
25 describe for the ladies and gentlemen of the jury what

1 you did.

2 A Well, what we do is we set up a perimeter on the
3 outside of the home by putting up black and yellow
4 crime scene tape where you can make --- connect it
5 from point to point to basically set up a perimeter so
6 that no one else crosses that perimeter other than
7 people who need to be there.

8 Q And when you set up the perimeter, you control
9 access to who comes in and out of the area that you
10 roped off?

11 A Absolutely, and we also start a crime scene log.

12 Q And that was done in this case?

13 A Yes.

14 Q I'm going to show you what's been marked as
15 State's 8, 9, 10, and 11 and ask if you recognize
16 that?

17 A Yes, ma'am.

18 Q Is this the house at [REDACTED] Beaverbrook and the
19 crime scene tape that you put up that day?

20 A Yes, ma'am.

21 MS. McDUFFIE: Your Honor, at this time we'd
22 offer State's 8 through 11.

23 MR. LI: No objection.

24 MR. RUFFIN: No objection, Your Honor.

25 THE COURT: All right. State's 8 through 11

1 admitted without objection.

2 (WHEREUPON, State's Exhibit Numbers 8-11 were
3 admitted into evidence.)

4 BY MS. McDUFFIE:

5 Q Deputy Johnson, please describe for the jury
6 what's depicted in State's Exhibit 8?

7 A In this photo, there are patrol cars situated in
8 front of [REDACTED] Beaverbrook and there is also crime scene
9 tape set up on the perimeter, which stops anyone from
10 accessing the front yard.

11 Q Is that what's also depicted in State's 9?

12 A Yes.

13 Q When you set the crime scene tape up, how do you
14 secure access, or control access?

15 A We control access by positioning an officer right
16 outside of the perimeter and anyone entering the
17 perimeter would have to sign in on the log.

18 Q And you actually started that log?

19 A Yes.

20 Q When you're talking about a crime scene log,
21 people basically sign in and out of the crime scene?

22 A Yes.

23 Q After you set up the crime scene and begin the
24 crime scene log, did you observe any other adults in
25 the crime scene that you hadn't scene before?

1 A After I started the log, yes, I then observed
2 Antonio Guinyard coming out of the house.

3 Q And did that appear normal to you?

4 A No, it didn't appear normal, because after I had
5 already cleared the house, I then wonder, you know,
6 how did he get past the perimeter after it had already
7 been set up. He came from inside the house holding a
8 baby.

9 Q And when you cleared the house, did you notice
10 anything out of the place or out of the ordinary in
11 the home?

12 A Yes, I cleared it room to room and then the last
13 room to the right, there was a --- I mentally noted
14 that there was a wet spot in the last room just inside
15 of the door.

16 Q On the wall, carpet or where?

17 A No, it was on the carpet.

18 Q Once you set up the crime scene and secure the
19 scene and control access, do you investigate the case
20 or do other officers come out to do that?

21 A No, typically crime scene would arrive or in this
22 case the coroner would arrive.

23 Q And was that done in this case?

24 A Yes.

25 Q So investigators from the sheriff's department

1 came out, the coroner, and crime scene units?

2 A Yes.

3 Q And they continued to investigate and process the
4 crime scene?

5 A Yes.

6 Q Were there any issues outside of the home or
7 anything unusual that occurred outside of the home
8 after you had secured the scene?

9 A Well, a large crowd had started to gather outside
10 and once the crowd started to gather, it seemed that
11 they were kind of upset as to what was going on, so
12 for the safety of Ms. Thompson and Mr. Guinyard, we
13 then secured them in the patrol vehicle so that, you
14 know, it was for their safety.

15 Q So the crowd of people couldn't get to them, you
16 put them each in a patrol car?

17 A Yes.

18 Q When they were placed in the patrol cars, were
19 they under arrest?

20 A No.

21 Q Again, why was that done?

22 A Just for their safety.

23 MS. McDUFFIE: No further questions for this
24 witness, Your Honor.

25 THE COURT: Cross?

1 MS. EISENHOWER: May it please the Court.

2 THE COURT: Yes, ma'am.

3 CROSS-EXAMINATION:

4 BY MS. EISENHOWER:

5 Q Deputy Johnson, when you arrived on the scene,
6 the nature of the incident was still a suspicious
7 death, correct?

8 A Yes.

9 Q At no time when you were there were you aware of
10 anyone informing Mr. Guinyard that it was being
11 processed as a homicide by child abuse case?

12 A No.

13 Q Did you observe the victim when you arrived?

14 A I did.

15 Q And upon your observation, did you notice any ---
16 other the cut on the victim's lip, did you notice any
17 blood or fresh wounds on his body?

18 A I didn't notice a cut on his lip, just the
19 bruising to the face.

20 Q And you stated that you observed Mr. Guinyard
21 walk out the front door of the residence?

22 A Yes.

23 Q When you observed him, you didn't --- you didn't
24 see any blood on his clothing, correct?

25 A No, I didn't observe any blood on his clothing.

1 Q And you didn't observe any blood on his person?

2 A No.

3 Q As he was walking out of the residence, he
4 appeared to be cooperative, correct? There was no one
5 physically escorting him out?

6 A No. He just walked out with the baby in his
7 arms.

8 Q And he was holding this child almost
9 protectively, cradling the baby in his arms as he was
10 walking out?

11 A I mean, in the way you would hold maybe a two day
12 old baby. I can't say, you know, if he was protecting
13 the baby or not.

14 MS. EISENHOWER: Nothing further.

15 THE COURT: Cross?

16 MR. RUFFIN: Yes, sir, may it please the court.

17 CROSS-EXAMINATION:

18 BY MR. RUFFIN:

19 Q Deputy Johnson, what time did you arrive at
20 Courtney Thompson's house?

21 A Approximately 6:41, I believe my report says.

22 Q And when you got there EMS was already there?

23 A Yes.

24 Q And fire was already there, right?

25 A Yes.

1 Q I want to fast forward for a second. The crime
2 scene log that you created, that's very important,
3 right?

4 A Absolutely.

5 Q Everyone who comes in, signs it, right?

6 A Uh-huh.

7 Q With their name and the time and when they leave
8 they sign out, right?

9 A That's correct.

10 Q And you said that Courtney was placed in the back
11 of the patrol car for her safety, right?

12 A Yes.

13 Q You didn't put that in your report though, did
14 you?

15 A No, that's not in my report.

16 Q When you first got to the scene, Courtney was in
17 the living room, right?

18 A Yes.

19 Q And she was sitting next to her son, right?

20 A Correct.

21 Q And she was asking you for help, wasn't she?

22 A She did say, "Help him. They're not helping him,
23 please help him."

24 Q And you cleared the house and you didn't find
25 Antonio, right?

1 A No, I did not.

2 Q And later on you found out that he was actually
3 hiding in a closet?

4 A I actually found out he was somewhere there in
5 the house.

6 Q Do you have your report in front of you?

7 A I do.

8 Q Would you read over it for a minute?

9 (witness complies.)

10 Q This would be the report that you wrote on the
11 1st of July?

12 A Correct.

13 Q About four lines from the bottom there.

14 A From the official report or the supplementary?

15 Q I believe the initial one. The one that was
16 written on July 1st.

17 A One, two, three, four.

18 Q Maybe five lines?

19 A Okay.

20 Q You found out that Antonio was hiding in the
21 closet, right?

22 A I think I may have overheard someone say that he
23 may have been, but I didn't find out that he was
24 hiding in the closet. I didn't find him.

25 Q You didn't see him in the closet?

1 A Right. Right.

2 Q You never heard him asking for help, right?

3 A No.

4 Q When he was walking out, he seemed calm?

5 A Yes, he was calm.

6 Q He wasn't upset?

7 A He just walked out with the baby in his arms.

8 Q Courtney seemed upset, right, when you first saw
9 her?

10 A She was just kind of --- I don't know whether to
11 say she was in shock, I don't know, but there were no
12 tears. It was just kind of like, you know, she was
13 kind of looking like she is now and saying ---

14 Q She was asking for help?

15 A Yeah.

16 MR. RUFFIN: Thank you. No further questions.

17 MS. McDUFFIE: Nothing further, Your Honor.

18 THE COURT: All right. Thank you, sir. You may
19 step down. You are excused.

20 Call your next witness.

21 MS. WALKER: Your Honor, the State calls Jimmy
22 Wilder.

23 JIMMY WILDER,

24 after being duly sworn, testified as follows:

25 THE CLERK: Please have a seat. State your full

1 name for the record.

2 THE WITNESS: Corporal Jimmy Wilder, Richland
3 County Sheriff's Department.

4 DIRECT EXAMINATION:

5 BY MS. WALKER:

6 Q Corporal Wilder, how long have you been with the
7 sheriff's department?

8 A 12 years.

9 Q Are you assigned to --- what are your duties with
10 the sheriff's department?

11 A It's involving patrolling. I'm the supervisor
12 for the Region 3 area, which is Monticello, Fairfield
13 Road, and Farrow Road. We involve working with the
14 community, community policing, we're patrolling the
15 area, we go to calls for service, do incident calls,
16 working with the community, like I said, getting
17 crimes involved, getting the community involved and
18 enforcing state and local laws.

19 Q And on July 1, 2013, did you respond to a call at
20 ■■■ Beaverbrook Road?

21 A Yes, I did.

22 Q Can you tell us what took you to that location
23 that day?

24 A Me, myself and at that time it was Deputy
25 Williams, we responded because Richland County EMS,

1 they received a medical call at the location and they
2 wanted us to respond to the scene.

3 Q And did you, in fact, respond to the scene?

4 A Yes, I did.

5 Q Can you tell us what, if anything, you observed
6 when you got to that scene?

7 A When I arrived at the incident location, I
8 observed a little boy, who I later identified as
9 CHILD, a little child. He was laying
10 on his back. He was unresponsive. EMT told me that
11 they attempted to resuscitate him. He had on gray in
12 color jeans. His pants was unzipped. I didn't see a
13 shirt. He didn't have any shoes on. I also observed
14 Ms. Courtney Thompson. She was kneeling beside him.
15 She was crying, but I didn't see tears, but she was
16 crying, and she was telling me that they won't help
17 her son, that he wasn't dead.

18 Q Well, let me ask you this. You said she was
19 crying, but there were no tears?

20 A No tears. You could hear like crying noises, but
21 I didn't see tears.

22 Q Okay, but crying noises.

23 A Crying noises, but I didn't see any tears.

24 Q At that point, did you see anyone else in the
25 home other than, I guess, law enforcement, the child

1 and Ms. Thompson?

2 A EMT was also at the residence, but after that,
3 there was nobody but us and Courtney Thompson.

4 Q What was the next thing that y'all did?

5 A The next thing that we did was Deputy Johnson had
6 arrived on the scene. Him and Deputy Diaz, they
7 conducted a sweep of the residence just to see if
8 anyone else was in the residence.

9 Q Did that sweep provide another individual in the
10 residence?

11 A They didn't find anything. They came back and
12 told me no one was in the residence, because I stayed
13 in the living room the whole time.

14 Q Did Ms. Thompson ever tell you there was anyone
15 else in the residence?

16 A No, she didn't.

17 Q At that point, did you call for more deputies to
18 come?

19 A More deputies were arriving on the scene. That's
20 when Master Deputy Shaw, he arrived on the scene. He
21 conducted a second search.

22 He went through the area. Like I said, I was in
23 the living room, and I saw him coming out the kitchen
24 area, he was coming out of the kitchen area with the
25 individual that was later identified as Antonio

1 Guinyard and he was holding a baby.

2 Q At that point, what did you do?

3 A What we did was, I informed Deputy Johnson to go
4 on and maintain the start-up. We set up the crime
5 scene tape. We set up the crime scene log. I called
6 my supervision, Sergeant McLendon, so he could respond
7 to the incident. Like I said, previously, I asked EMT
8 about --- because they had told me they had checked
9 the rooms and stuff like that prior to that. Another
10 thing that we did was --- once Mr. Guinyard was out of
11 the --- we found that he was in the room and they were
12 sitting on the steps, a crowd started to gather, so
13 Sergeant McLendon made the decision let's go on and
14 separate them because ---

15 Q When you said a crowd started gathering, can you
16 describe the atmosphere that was going on outside that
17 crowd?

18 A It was some family members. Some people were
19 saying stuff like, "They killed him," and stuff.

20 MS. PINNOCK: Objection.

21 THE COURT: Don't say that.

22 THE WITNESS: I'm sorry.

23 BY MS. WALKER:

24 Q Don't say that, just describe the ---

25 A It was more of a hostile type crowd.

1 Q At that point, what did you all do with these
2 defendants?

3 A We --- I made sure I told them the last minute
4 thing about what happened. We put them in the patrol
5 cars, in separate patrol cars. I went and talked to
6 Ms. Courtney Thompson and Mr. Guinyard and told them
7 that the investigator would be coming and would be
8 talking to them about the incident.

9 Q Did investigators arrive on the scene when you
10 were there?

11 A Yes, they did.

12 Q And, as well as other members of law enforcement?

13 A Yes.

14 MS. WALKER: Beg the Court's indulgence.

15 (Pause.)

16 No further questions.

17 THE COURT: All right. Ladies and gentlemen, we
18 need to disregard any statement from the witness about
19 anything that the crowd may have said. All right.

20 MR. LI: Your Honor, we have an issue of law.

21 THE COURT: Okay. All right. Ladies and
22 gentlemen, if you will step to your jury room, we'll
23 be back with you in just a moment. Do not discuss the
24 case and keep an open mind.

25 (WHEREUPON, the jury left the courtroom at

1 10:40 a.m.)

2 THE COURT: All right.

3 MR. LI: Thank you, Your Honor. I guess now is
4 as good a time as ever to bring this issue up.

5 Your Honor, part of the testimony that I would
6 like to proffer from this --- or get from this witness
7 is whether or not he has met Antonio Guinyard, whether
8 he had prior contact with him and whether he has drawn
9 a gun on him before because of a reported burglary
10 incident, Your Honor, so I'd rather bring it up now
11 than later because, Your Honor, I know this is going
12 to be an issue later. I think it's an appropriate
13 time to just resolve it now.

14 Our defense strategy, Your Honor, is going to be
15 to introduce evidence as to prior stabbings, prior
16 attempted abuse of police to prevent Mr. Guinyard from
17 calling the police and kicking Mr. Guinyard out of the
18 house. We understand that these are prior --- these
19 may be considered prior bad acts, Your Honor. We
20 would like to argue the 404(b), for the character
21 evidence part of it now, since this witness is on the
22 stand. We think this is --- I'd rather get it done as
23 soon as possible. If there is a possible way not to
24 have to ---

25 THE COURT: So you want to ask the witness these

1 questions?

2 MR. LI: Yes. And the purpose of that is to show
3 that Ms. Thompson has called the police before on
4 Mr. Guinyard, and I understand the defense here is
5 going to --- that Ms. Pinnock, Ms. Thompson, is going
6 to argue that it's prohibited as prior bad acts. Your
7 Honor, we'd ask for it to be admitted, because it's
8 not being asked to show a propensity or conforming
9 therewith. It's not being asked --- it's not being
10 introduced to show, any of this evidence is not being
11 introduced to show that the accused committed a crime
12 that they're currently charged with that.

13 It directly goes to the mental state of
14 Mr. Guinyard. It is our defense. The element of
15 neglect manifesting extreme indifference to human
16 life. We believe the State is going to ask them why
17 didn't you do something more? Why didn't you do this?
18 This is part of our defense, Your Honor. We believe
19 we're entitled to present this for a proper defense.

20 THE COURT: All right. Proffer the testimony.

21 CROSS-EXAMINATION: (Proffered)

22 BY MR. LI:

23 Q Can you repeat your name?

24 A Corporal Jimmy Wilder.

25 Q Officer Wilder, have you ever met Antonio

1 Guinyard before?

2 A Yes, I have.

3 Q Can you tell us about that, prior to this
4 incident?

5 A Prior to this one, just recollecting, looking at
6 this date, it was on the 16th of February of 2013.

7 Q Okay. And what was that incident about?

8 A It was in reference to that we received a Signal
9 11, that was a home invasion in progress.

10 Q Okay.

11 A It said that someone was in the rear of the house
12 tampering with the windows going and trying to get in
13 through the back door. Myself and Deputy Waddell
14 arrived on the scene. When we arrived on the scene
15 Mr. Guinyard was at the back door.

16 Q Okay.

17 A We pointed our weapons on him, told him to get on
18 the ground. We did proper protocol, for our safety
19 and his safety and we handcuffed him. When we
20 handcuffed him, then that's when Ms. Courtney Thompson
21 she came out the door as if she was agitated with us
22 and asking us why we was handcuffing him. I explained
23 to her that, well, you called us saying someone was
24 attempting to break into your house. That's why we
25 handcuffed him, for our safety and yours and that's

1 why we handcuffed him. We later found out that he
2 lived there. When we found out that he lived there,
3 that's when we documented what had happened.

4 Q And the only reason you went out there, and the
5 only reason you pulled your gun for officer's safety
6 was because someone had reported a home invasion?

7 A Home invasion, yes, sir.

8 Q But when you got there, it turned out not to be
9 true?

10 A It turned out not to be a home invasion.

11 THE COURT: Do you want to ask him any questions?

12 MS. PINNOCK: No, Your Honor. I don't have any
13 questions to ask him, but I would like to ---

14 THE COURT: I'm happy to hear from you.

15 MS. PINNOCK: Your Honor, rule 404 is clear. We
16 have not placed Ms. Thompson's character at issue in
17 this case. It is not appropriate for Mr. Li to
18 present bad character traits of her, you know,
19 alleging that she filed false police reports. I mean,
20 he is attempting, I'm assuming, to go into a stabbing
21 incident. Your Honor, has already ruled on this
22 stuff. Her character is not at issue. The only
23 person talking about character is Mr. Li. We have not
24 said anything about Ms. Thompson's character. It is
25 inappropriate for him to give that to the jury when we

1 have not brought it up.

2 I don't --- I don't know how Your Honor is going
3 to --- it's a conflicting interest. Ms. Thompson has
4 rights that the rules protect. I understand, you
5 know, that Mr. Li is arguing his right to present a
6 complete defense for his client, but Ms. Thompson's
7 rights and her right under Rule 404 to not have her
8 character brought up unless he make it an issue, I
9 think, is also a strong consideration. Again, Your
10 Honor, you have already ruled on this issue a number
11 of times.

12 THE COURT: Does the State have an opinion?

13 MS. WALKER: No, Your Honor, we have no
14 objection.

15 MR. LI: Your Honor, if I may, Rule 404 states
16 that evidence of a person's character or trait is not
17 admissible for the purpose of proving action or
18 conforming therewith on a particular occasion. We are
19 not using it for that purpose. It says except for
20 these three exceptions listed you can use those to
21 introduce character evidence to prove the purpose of
22 proving action and conformity therewith. Section (b),
23 404(b), says the same thing, evidence of other crimes
24 or wrongful acts cannot be used --- are not admissible
25 to prove the character of a person in order to show

1 conformity therewith.

2 We are not using it for that. We are using it to
3 present a full defense. It is our defense. That
4 testimony, Your Honor, is part of our defense. It
5 goes towards the --- it doesn't go towards
6 Ms. Thompson's guilt of the current charge, to the
7 charge that she is currently charged with. We're not
8 saying that she is a bad person, or using it as bad
9 character evidence. We're not excusing it for
10 character evidence, propensity evidence. We're using
11 it to establish the state of mind for Mr. Guinyard
12 when eventually the element of neglect comes up of why
13 didn't you do anything.

14 This is part of our defense so, Your Honor, I
15 believe under 404 and 404(a) this is actually 404(b),
16 404(b) does not prohibit this evidence from coming it
17 in. It's not being used to prove the character of a
18 person to in order to show action or conformity
19 therewith.

20 In fact, the only way that you can introduce
21 evidence to prove conformity therewith is to allow the
22 issues listed in Lyle.

23 In addition, Your Honor, we're not the State ---
24 we're not bringing in evidence to show that she
25 committed this crime, I mean, the crime that she is

1 accused of now.

2 MS. PINNOCK: Your Honor, I have to disagree with
3 Mr. Li. From the moment he started talking, he was
4 blaming Courtney Thompson for this crime, so he is
5 trying to present evidence to suggest to the jury that
6 she is the one that's guilty of this crime.

7 I think that the introduction of evidence would
8 apply to him if it's applying to the State. 404(a)
9 says character evidence of the accused cannot be
10 introduced except when there is evidence of a
11 pertinent trait or character offered by an accused or
12 by the prosecution to rebut the same.

13 Again, we have not made Ms. Thompson's character
14 an issue in this trial. There is nothing other than
15 trying to paint her in a bad light. There is no
16 relevance to this testimony. It has nothing to do
17 with why we're here.

18 We have not made her character an issue. Again,
19 I'm going to keep going back to it. You already ruled
20 on this a few times. Bringing it back up over and
21 over again doesn't change the argument. You have
22 already ruled on it. Her character is not an issue,
23 and we have not made her character an issue.

24 MR. LI: Your Honor, we're not trying to bring
25 her character into issue. We are bringing her

1 character in for the purpose of this particular
2 occasion. The rule that Ms. Pinnock cited about the
3 defense has not put their character into evidence,
4 that doesn't even apply to us, Your Honor. The only
5 way --- what that rule stands for is that the
6 prosecution cannot talk about the defendants' ---
7 cannot bring in the defendants', the accused's
8 character to show conformity therewith except for if
9 they bring in their character.

10 That's the same analysis that goes for subsection
11 one, two and three. This is the entirety of our
12 defense is neglect, and as to the elements of neglect
13 and extreme indifference to human life.

14 MS. PINNOCK: Your Honor, it has nothing to do
15 with the elements of neglect and extreme indifference.

16 (Pause.)

17 THE COURT: So the purpose of the evidence that
18 you want to introduce, Mr. Li, is to prove what?

19 MR. LI: To show what --- to show the --- to go
20 towards the mental state of Mr. Guinyard in terms of
21 the neglect aspect.

22 THE COURT: Absent your client testifying, how is
23 any of that coming in?

24 MR. LI: Excuse me?

25 THE COURT: Absent your client testifying, how is

1 any of that coming in?

2 MR. LI: How is any of it what, Your Honor?

3 THE COURT: Okay. You're saying I want to use
4 this to prove my client's mental state at the time of
5 the incident, so you want to use an incident from five
6 months prior to the alleged homicide to prove that on
7 July 1st --- I guess that it would be the unlawful
8 conduct towards a child, but you want to use this
9 incident to prove your client's mental state in this
10 relationship?

11 MR. LI: Absolutely, absolutely. Part of the
12 homicide by child abuse is neglect.

13 THE COURT: I understand that.

14 MR. LI: Failure to report it, failure to do
15 anything about it shows ---

16 THE COURT: And you're saying because he was
17 scared of her, he didn't do anything?

18 MR. LI: And that part is---

19 THE COURT: My question is, how does that come
20 into evidence if he doesn't take the witness stand?

21 MR. LI: He is going to take the witness stand.
22 You're forcing me ---

23 THE COURT: No, no, no, no, no. I'm not forcing
24 you ---

25 MR. LI: Right.

1 THE COURT: --- or him to do anything.

2 MR. LI: Right.

3 THE COURT: But, I mean, what you're trying to do
4 is back door all this into evidence through the
5 State's witnesses to avoid having to call any
6 witnesses.

7 MR. LI: I see what your saying. Is the ruling
8 hypothetically that if we were to put on a case, then
9 we would call Deputy Wilder back to put it in, because
10 that is the entirety of our defense.

11 That goes towards the extreme indifference part,
12 because they're going to ask --- the State is going to
13 ask him, why didn't you do anything. You said you
14 witnessed all these beatings that Ms. Thompson, you
15 know, how she beat your son. You didn't do anything
16 to call the police. You didn't call DSS. You didn't
17 do this, you didn't do that. You didn't take him
18 away.

19 None of the prior bad acts would be used to show
20 a propensity that she is a bad person or that she did
21 the crime that she committed now --- for the crime
22 that she is accused of doing now.

23 THE COURT: And do you have a proposed limiting
24 instruction?

25 MR. LI: I can look in Judge Anderson's book,

1 Your Honor, but even without a proposed limiting
2 instruction these 404 --- 404(a) and 404(b) do not
3 exclude that evidence.

4 These exclude them only for the purposes of
5 showing conformity therewith.

6 THE COURT: That she was likely to commit it.

7 MR. LI: That's right.

8 THE COURT: Homicide by child abuse or unlawful
9 conduct towards a child.

10 MR. LI: That's right. And also it cannot be
11 used to show that she is a bad person so she did this
12 crime, the crime that she's accused of. Those
13 exceptions listed in (a) those are the three
14 exceptions that says you can use it to show conformity
15 therewith, it's one of those exceptions, and for (b)
16 it's okay to show conformity therewith, only if it
17 falls under the enumerated ones with Lyle. South
18 Carolina rules say that. The federal rules don't have
19 the Lyle stuff.

20 (Pause.)

21 THE COURT: Anything else you want to say, Ms.
22 Pinnock?

23 MS. PINNOCK: Your Honor, all I can say is that
24 this is nothing but a character assassination. There
25 is a long history with the police being called on both

1 Mr. Guinyard for threats and other sorts of assaults
2 on Ms. Thompson, that under the rules we're barred
3 from going into.

4 We're not trying to assassinate him by his
5 character. This is a character assassination. I
6 mean, I don't --- I hear what Mr. Li is saying, but I
7 do not see how Ms. Thompson's character is an
8 essential element of his defense. Her character has
9 --- what he is trying to get into with this witness
10 and throughout this trial so far has had nothing to do
11 with what we are in here for. It's nothing but trying
12 to make her sound like a bad person in front of these
13 jurors and that's not allowed. The rules apply to
14 everybody.

15 MR. LI: Your Honor, we are using it to show, to
16 answer the question that the State would eventually
17 ask Mr. Guinyard, you know, why didn't he do
18 something, why didn't he call the cops. You say you
19 were around. Why didn't you call DSS?

20 MS. PINNOCK: And what happens on cross, what
21 would happen on cross. There is no guarantee that
22 Mr. Guinyard is going to take the stand.

23 MR. LI: That's right. We understand your
24 argument with the back door. We can make a limiting
25 instruction to say that she is not a bad person

1 because of these acts. We're not using it's for the
2 purposes of this.

3 THE COURT: I mean, the rule says evidence of
4 other crimes.

5 MR. LI: Right.

6 THE COURT: So potentially this is a crime. It
7 would be a false report to the police. It is not
8 admissible to prove the character of a person, that
9 would be Ms. Thompson's person, in order to show
10 action and conformity therewith. Because she filed a
11 false police report, she harmed, neglected or did
12 something to the alleged victim in the case.

13 MR. LI: Yes.

14 THE COURT: Unless it goes to one of the other
15 things and you're trying to prove some kind of pattern
16 or motive or identity.

17 MR. LI: Right.

18 THE COURT: Your argument is 404(b) doesn't even
19 apply.

20 MR. LI: That's right, Your Honor. The first
21 part is we're not trying to admit the evidence to
22 prove the character of a person in order to show
23 action and conformity therewith. Her actions affected
24 the mental state of Mr. Guinyard.

25 (Pause.)

1 THE COURT: And how many of these instances are
2 there?

3 MR. LI: We don't know how the court is going to
4 rule on --- if you're going to declare --- what they
5 will object to, kicking people out to try to stand up
6 for CHILD as a bad act, but we intend on bringing
7 that up with Ms. Gladys and maybe one of her other
8 sisters, stabbing incidents witnessed by other people
9 and qualifying, using the police as a weapon, Your
10 Honor.

11 THE COURT: All right. All the lawyers in
12 chambers.

13 (WHEREUPON, a short break was taken.)

14 (WHEREUPON, State's Exhibit Numbers 46-59, 105,
15 152-171, 215-222, 224, were marked for
16 identification only.)

17 THE COURT: All right. Anything further, Mr. Li?

18 MR. LI: No, Your Honor.

19 THE COURT: Ms. Pinnock?

20 MS. PINNOCK: No, Your Honor.

21 THE COURT: Mr. Li, are you intending on calling
22 witnesses regardless of my ruling in this matter?

23 MR. LI: Yes, Your Honor.

24 THE COURT: Okay.

25 THE BAILIFF: Ready for the jury, Your Honor?

1 THE COURT: Not yet.

2 My issue with doing it at this point in time is
3 that I don't have a written limiting instruction to
4 give the jury. Does that make sense?

5 MR. LI: Yes, sir.

6 THE COURT: I mean, I need some type of limiting
7 instruction that says if I --- by allowing this in,
8 I'm not allowing this evidence in, number one, for the
9 truth of it or if the truth of that incident occurred
10 or didn't occur that it goes to any element of the
11 crime that the State is trying to prove, but it would
12 be going directly to defendant Guinyard's intent and
13 intent is an element, criminal intent is an element
14 that the jury has to decide for itself. I don't know
15 that I want to off hand that in the middle of this
16 witness.

17 MR. LI: We'll subpoena Deputy Wilder and do our
18 questions to something else.

19 THE COURT: All right. Very well. Okay. Bring
20 the jury back in.

21 (WHEREUPON, the jury entered the courtroom at
22 11:27 a.m.)

23 THE BAILIFF: Your Honor, the jury is present.

24 THE COURT: Thank you very much, ladies and
25 gentlemen. I apologize for the extended break. I

1 take full responsibility for it. Please do not hold
2 it against either side or any of the parties. I take
3 full responsibility for it.

4 Mr. Li, would you like to cross-examine this
5 deputy?

6 MR. LI: No questions, Your Honor.

7 THE COURT: Ms. Pinnock or from the defense?

8 MS. PINNOCK: Yes, sir.

9 CROSS-EXAMINATION:

10 BY MS. PINNOCK:

11 Q Deputy Wilder, what time did you get on the
12 scene?

13 A It was around 18:31, 32; 6:31, 6:32.

14 Q Thank you. So there were other people already
15 there?

16 A EMT was there and Ms. Courtney Thompson was
17 there.

18 Q And when you saw her, she was inside the house?

19 A Yes, she was.

20 Q She was on the floor besides CHILD ?

21 A Yes, she was.

22 Q She was upset?

23 A She was.

24 Q She was asking for help?

25 A She was asking for help and said that the EMTs

1 wouldn't help her.

2 Q And you didn't see Antonio Guinyard anywhere in
3 the house, did you?

4 A No, I didn't.

5 Q You didn't even know he was in there?

6 A I didn't know he was in there.

7 Q And you didn't personally question Courtney about
8 anything?

9 A I didn't say a word to her --- well, the only
10 thing I told her was that the investigators would be
11 there to talk to her.

12 Q Thank you.

13 A Yes.

14 MS. PINNOCK: That's all the questions I have,
15 Your Honor.

16 THE COURT: All right.

17 Thank you, sir. You may step down.

18 All right. Call your next witness.

19 MS. CAMPBELL: The State calls Deputy Eric Shaw.

20 THE COURT: All right. Please come forward,
21 Deputy Shaw.

22 ERIC SHAW,

23 after being duly sworn, testified as follows:

24 THE CLERK: Please have a seat. State your full
25 name for the record.

1 THE WITNESS: Eric Michael Shaw.

2 DIRECT EXAMINATION:

3 BY MS. CAMPBELL:

4 Q Deputy Shaw, where are you employed?

5 A Richland County Sheriff's Department.

6 Q How long have you been in law enforcement?

7 A Seven-and-a-half years.

8 Q What are your duties with the Richland County
9 Sheriff's Department?

10 A I am a mid-level supervision, certified field
11 training officer.

12 Q And what region do you work in?

13 A Region 3.

14 Q What area of the town does Region 3 encompass?

15 A Fair Road, North Main, Fairfield Road, and
16 Monticello Road.

17 Q ■■■ Beaverbrook, is that in Region 3?

18 A Yes, ma'am.

19 Q I want to turn your attention back to July 1st of
20 last year, did you respond to that location?

21 A Yes, ma'am.

22 Q And what type of call were you responding to that
23 day?

24 A Originally I think it was a call for assistance
25 from EMS and the fire department.

1 Q Uh-huh.

2 A And it was either a suspicion death or a death of
3 some kind.

4 Q When you got there that day, what did you
5 initially observe as you got on the scene?

6 A When I got on the scene, I saw the fire
7 department, members from them standing out in the
8 driveway.

9 Q Okay.

10 A Went inside. I saw the victim, a small child, on
11 the floor to the left, and then straight ahead and
12 still in the living room before you enter the kitchen,
13 I saw Ms. Thompson.

14 Q And what was Ms. Thompson' demeanor like when you
15 initially saw her?

16 A She was sitting on the floor. She was yelling
17 about getting help for her kid, for the child.

18 Q And did you observe whether she was crying or
19 anything like that?

20 A She was not crying.

21 Q And when you say she was not crying, what did you
22 not observe?

23 A Tears.

24 Q How was she dressed that day?

25 A When I saw her, she was in a hospital gown only.

1 Q Was any other law enforcement officers there when
2 you got inside?

3 A There were some there. I'm not 100 percent on
4 who was still in there ---

5 Q Okay.

6 A --- when I went in. I believe Wilder was,
7 possibly Johnson.

8 Q When you went inside the residence and observed
9 the victim, did you make contact with the EMS as far
10 as any prognosis with the victim?

11 A We asked, you know, what they had. You could see
12 he was deceased.

13 Q At that point did you try to remove anybody from
14 the house?

15 A Yes.

16 Q Who did you ask to leave the house at that point?

17 A The EMS crew, the other deputies and
18 Ms. Thompson.

19 Q Did Ms. Thompson comply with your request?

20 A No.

21 Q In fact, how many times did you have to request
22 that she leave before she did?

23 A Several.

24 Q Once she exited the house, where did she go?

25 A To the front step.

1 Q Did you also make contact with Deputies Diaz and
2 Johnson there at the scene that day?

3 A I did.

4 Q Customarily when you go into a crime scene or
5 what's a potential --- at that point, did you even
6 know if a crime had been committed?

7 A No, we didn't know if a crime had been committed.
8 We knew it was a death of a child, so from the
9 beginning of it, we'll treat it, and, you know, secure
10 the scene to preserve evidence in case there was a
11 crime.

12 Q At that point, did you try to take any steps to
13 ensure that the house had been swept?

14 A Yes, I asked Deputies Diaz and Johnson if they
15 had cleared the house. They went to clear the house.
16 They said EMS or fire had already cleared the house.
17 I think they said the fire department had cleared the
18 house, and they said went and cleared it.

19 Q When you talk about clearing a house, what does
20 that mean to you?

21 A To make sure there's nobody else in there,
22 whether it's another person that's hurt or really
23 anyone in there, period. We don't know if it's a
24 crime scene yet, so we don't want anything tampered
25 with.

1 Q At that point, when you initially got in there as
2 Ms. Thompson was leaving the house after you requested
3 it several times, had you observed any other adults
4 other than fire, EMS or law enforcement?

5 A No, we were all in the living room. We all left
6 at the same time.

7 Q Once Ms. Thompson exited the house, did you also
8 exit the house?

9 A Yes, ma'am.

10 Q As you were standing in the driveway, what did
11 you observe next?

12 A The side gate to the left of the house was open.

13 Q The side gate to the left of the house?

14 A Yeah, it was the backyard gate and the grass was
15 overgrown, but the grass had been like walked in
16 recently like someone had been in the backyard, but
17 the grass hasn't been kept up with.

18 Q Okay.

19 A I didn't know why someone would go back there if
20 they weren't keeping it cut or cleaned.

21 Q I show you State's Exhibit 9. Do you see that
22 gate?

23 A Yes, ma'am.

24 Q Is my finger pointing to right where that gate
25 is?

1 A Yes, ma'am.

2 Q You mentioned that you noticed it was opened as
3 you were standing in the driveway?

4 A Yes, ma'am.

5 Q What made you --- what caught your attention at
6 that point?

7 A The grass probably was maybe 18 inches to twenty-
8 four inches high. It had been trampled, like somebody
9 had walked on it. It was just high grass.

10 Q At that point, did you investigate that?

11 A Yes.

12 Q What did you do?

13 A I thought it was odd. I was talking to Sergeant
14 McLendon, so he stood in the driveway while I went
15 back and really went through and cleared the house
16 room by room myself.

17 Q I'm sorry. You walked into the backyard?

18 A No. I walked into the house from the front door.
19 Sergeant McLendon stood there in the driveway. I went
20 into the front of the house.

21 Q He stayed there where the gate was open?

22 A Yes, ma'am.

23 Q And then you went back through the house?

24 A Went back through the house, looked in each room,
25 no one was in the rooms, no one was in the closets.

1 When I went back in to go through the kitchen ---

2 Q To the kitchen?

3 A Yes, I noticed the kitchen door, it was like a
4 screen door but you couldn't see out of it, if that
5 makes sense. It was like a thick ---

6 Q Screen?

7 A --- screen. I noticed there was no --- like the
8 storm door was opened, so I opened up the screen door
9 and found Mr. Guinyard holding a small child in the
10 backyard on the step.

11 Q In the backyard?

12 A Yes, ma'am.

13 Q And that would be out the kitchen door?

14 A Yes, ma'am.

15 Q Was that the first time to your knowledge you or
16 anyone else had come into contact with Mr. Guinyard?

17 A Yes, ma'am.

18 Q You say he had a small child?

19 A Yes, ma'am.

20 Q At that point what did you ask him?

21 A What he was doing.

22 Q Did he respond?

23 A No, ma'am.

24 Q What happened next?

25 A I had him come into the kitchen and we walked out

1 the front door.

2 Q Did you actually accompany him out the front door
3 to make sure?

4 A Yes, ma'am, we walked out the front door
5 together.

6 Q At that point, where did he go?

7 A He walked down the steps and stood out in the ---
8 just below, I think there's maybe four steps in the
9 front. He stood on like maybe a little sidewalk in
10 front of the steps.

11 Q Once Ms. Thompson and Ms. Guinyard were sitting
12 there on the front steps, did you take measures as far
13 as placing them somewhere else?

14 A We let them stand there. Ms. Guinyard --- I'm
15 sorry, Ms. Thompson, was sitting on the steps.
16 Mr. Guinyard was standing there holding the children
17 or the child. A large crowd started to gather.

18 Q At that point, did y'all radio for additional ---

19 A Yes.

20 Q --- back up?

21 A Yes.

22 Q And why was that?

23 A It was ---

24 Q You can't say what anybody said.

25 A It was hostile, a very angry crowd.

1 Q And ultimately, did you move Ms. Thompson and
2 Mr. Guinyard into another area of the house?

3 A Yes.

4 Q Where was that?

5 A We had the crime scene tape up around the
6 residence. We had patrol cars parked in front of it.
7 The crowd --- we couldn't keep the crowd back, so for
8 their safety, we placed Mr. Guinyard and Ms. Thompson
9 in two separate patrol cars.

10 Q In two separate patrol cars?

11 A Yes, they're not married, so we had to keep them
12 in separate patrol cars.

13 Q Once --- well, let me back up for a minute. Once
14 Mr. Guinyard came out the front and joined
15 Ms. Guinyard (sic) in the front of the house ---

16 A Yeah.

17 Q --- do you recall her saying anything?

18 A Ms. Guinyard --- I'm sorry.

19 Q Thompson.

20 A Ms. Thompson stated that, she said, "I was in the
21 shower and heard a loud bang." She said that about
22 four times.

23 Q And who was she saying that to?

24 A I guess us. She was just saying it out loud.

25 Q And she kept repeating it?

1 A Yes.

2 Q Would Mr. Guinyard have been able to hear what
3 she was saying?

4 A Yes.

5 Q And at that point, you said you also separated
6 them?

7 A Yes.

8 Q Was anybody asking her any questions that made
9 her say this?

10 A No, ma'am.

11 Q It was the only new thing that had been added in
12 to her sitting on the front steps was the presence of
13 Mr. Guinyard at that point?

14 A Yes.

15 Q And she repeated it four times?

16 A At least four times, yes.

17 Q While you were there, when you first got into the
18 house that day, when you entered and Ms. Thompson was
19 inside, do you recall her yelling out anything?

20 A Yes.

21 Q And as you entered the house, what did she yell
22 out?

23 A SIDS.

24 Q SIDS?

25 A SIDS.

1 Q S-I-D-S?

2 A Yes.

3 Q Did Mr. Guinyard ever say anything to you while
4 you were there?

5 A No.

6 MS. CAMPBELL: I don't have anything further.

7 MR. LI: Thank you, Your Honor. May it please
8 the Court.

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION:

11 BY MR. LI:

12 Q Deputy Shaw, very briefly. Aside from the
13 exclamation of SIDS from Ms. Thompson, she didn't make
14 any other statements other than to say she was in the
15 shower and heard a loud bang, correct?

16 A That was it.

17 Q And she didn't start saying that to you when it
18 was just --- before Antonio got there, correct?

19 A I wasn't sitting out and wasn't out there with
20 her.

21 Q Uh-huh.

22 A The other deputies --- I'm not 100 percent sure
23 who was out there. I went and found him. When I
24 brought him back out and opened the front door and
25 walked down the steps and followed him, that's when

1 she just blurted out that she was in the shower and
2 heard a loud bang and she kept repeating that.

3 Q So as far as your recollection is concerned, she
4 started saying that when Antonio Guinyard appeared?

5 A Yes.

6 Q Okay.

7 THE COURT: Cross?

8 MS. PINNOCK: May it please the Court.

9 CROSS-EXAMINATION:

10 BY MS. PINNOCK:

11 Q Master Deputy Shaw, do you have your report with
12 you?

13 A Yes, ma'am.

14 Q What's the date on that?

15 A July 1, 2013.

16 Q You wrote it on July 1st?

17 A I wrote this on July 6th, 2013.

18 Q Okay.

19 A The incident day was from the 1st.

20 Q You wrote your report on the 6th?

21 A Yes, ma'am.

22 Q Who requested that you write the report?

23 A Investigator Holdorf.

24 Q And when you arrived on scene, you said fire and
25 EMS were already there?

1 A Yes.

2 Q Ms. Thompson was in the house?

3 A Yes.

4 Q [REDACTED] CHILD was on the floor?

5 A Yes.

6 Q Courtney was on the floor?

7 A Yes.

8 Q She was still dressed in the hospital gown?

9 A Yes.

10 Q And you said that you had to ask her multiple
11 times to leave?

12 A Yes.

13 Q She was refusing to leave the floor beside her
14 son?

15 A Yes.

16 Q And she was upset as she was doing that?

17 A Yes.

18 Q And when you first got there, you said you did
19 not see Antonio Guinyard?

20 A No, ma'am.

21 Q As far as you were aware, people had already been
22 through the house to make sure nobody was there?

23 A I asked, yes, but I was told there was no one
24 else in the house.

25 Q Okay. Then you happened to find him --- did you

1 find him outside or was he inside?

2 A He was outside the back kitchen door. There's
3 just a kitchen door that leads out into the backyard.

4 Q Uh-huh.

5 A He was standing outside of that door.

6 Q And he didn't say anything?

7 A No, ma'am.

8 Q He didn't ask how his son was?

9 A Excuse me?

10 Q He didn't ask how his son was, how **CHILD** was?

11 A No, ma'am.

12 Q He didn't ask was he alive or dead?

13 A No, ma'am.

14 Q He just walked out of the house?

15 A I asked him what he was doing. He never
16 responded to me.

17 Q Okay. Ms. Campbell just asked you about SIDS?

18 A Yes.

19 Q Do you have your report?

20 A Yes, I do.

21 Q SIDS is not mentioned in there, is it?

22 A No, ma'am.

23 Q And this --- you wrote this almost a year ago,
24 July 6, 2013?

25 A Yes.

1 Q When you wrote this, your memory was better,
2 right?

3 A Yeah, except there's also --- there is another
4 mistake in here, as well, from typing.

5 Q Okay. SIDS is nowhere in your report?

6 A No.

7 Q Thank you.

8 A You're welcome.

9 THE COURT: All right. Thank you very much.

10 THE WITNESS: Thank you, Your Honor.

11 THE COURT: You may step down.

12 Call your next witness.

13 MS. McDUFFIE: State calls Deputy Albert
14 McLendon.

15 ALBERT MCLENDON,
16 after being duly sworn, testified as follows:

17 THE CLERK: Please have a seat. State your full
18 name for the record.

19 THE WITNESS: My name is Albert McLendon.

20 DIRECT EXAMINATION:

21 BY MS. McDUFFIE:

22 Q Deputy McLendon, where are you employed?

23 A Richland County Sheriff's Department.

24 Q Which region are you assigned to?

25 A Region 3.

1 Q On July 1, 2013, did you respond to [REDACTED]
2 Beaverbrook?

3 A Yes, I did.

4 Q And what was that in reference to?

5 A I'm a supervisor of those shifts. Right after
6 briefing we got a call, as you've heard, from fire and
7 EMS who were requesting assistance with crowd control,
8 completed the briefing for evening shift. I went
9 straight over to [REDACTED] Beaverbrook where the rest of my
10 people were.

11 Q When you got to [REDACTED] Beaverbrook, who was already
12 present?

13 A Master Deputy Wilder was there, Master Deputy
14 Shaw, a couple other deputies, Deputy Diaz, some other
15 deputies, fire, EMS, a lot of them were on the scene.

16 Q Did you enter the home at [REDACTED] Beaverbrook?

17 A No, I did not.

18 Q When you got to the residence, where were you
19 primarily located?

20 A I stayed out in the driveway to ensure that we
21 had done everything proper to secure the scene. I
22 stayed primarily out in the yard, in the driveway
23 area.

24 Q And it was your understanding that the home had
25 been secured and checked by other deputies?

1 A Yes. I spoke to Wilder and he told me what they
2 had done prior to my arrival.

3 Q And did you encounter Courtney Thompson?

4 A Yes, I did.

5 Q And where was that?

6 A She had already been brought out and was sitting
7 on the front porch.

8 Q Please tell the ladies and gentlemen of the jury
9 what her demeanor was when you saw her.

10 A She was sobbing. She was speaking out loudly,
11 crying that no one had helped her child, was there
12 anything we could do. She was just speaking out
13 loudly for anyone that would listen to her.

14 Q Did she make any other statements about what had
15 happened earlier that day in the home?

16 A She did. She was speaking out loudly. She said
17 that she was in the shower, she had heard a noise, a
18 thud, I think she said, and she came out and found, I
19 would call him **CHILD**, laying in --- laying on the
20 floor.

21 Q Did she say when she saw him laying in the floor
22 what he was doing?

23 A She said that he was --- I don't know that the
24 word was convulsing, but she said he was biting his
25 lip or tongue. She dialed 911. She was speaking out

1 loudly to anyone that would listen, that she had
2 dialed out 911 and that someone was trying to give her
3 instructions on how to do CPR. She was just talking
4 loudly to whoever was there.

5 Q You said that she was upset, sobbing?

6 A It was no tears or nothing. It was like she was
7 trying to, you know, make it look like something that
8 wasn't there.

9 Q Did you also encounter Robert Antonio Guinyard,
10 Sr.?

11 A Yes, I did.

12 Q And where was that?

13 A Well, I had gotten with Master Deputy Shaw to
14 ensure --- to reassure me that we had completely
15 cleared that house. I started instructing deputies
16 Johnson and Diaz to set up a crime scene, make sure to
17 --- I want everybody out of the house, because of
18 what I had been informed of. When I got everyone out
19 of the house, I told Shaw or I instructed him to go
20 back in that house, check for --- check one more time
21 to make sure --- I don't want anyone in that house at
22 all. Bring her out, bring everybody out. That's when
23 I looked up and Shaw came out the front door with
24 Mr. Guinyard, who was cradling a baby in his arm.

25 Q When you said you wanted everybody out, you meant

1 fire, EMS, other law enforcement officers, everyone,
2 right?

3 A Right. And they came out. I said I wanted
4 everybody out of the house now except the crime scene
5 tape, get her out, get everyone out. Shaw made one
6 more --- I guess, well, he came out with Mr. Guinyard.

7 Q And did you or Mr. Shaw ask Mr. Guinyard any
8 questions?

9 A I spoke out directly towards him and Master
10 Deputy Shaw and said, "Where were you in the house?".

11 Q Did Mr. Guinyard respond to you?

12 A No, he didn't. He didn't respond.

13 Q And after you ensured that the scene was secured
14 and that the crime scene tape was up and the log had
15 been started and all the proper procedures, what did
16 you then do with the crime scene, with the residence?

17 A I ensured the security of it. I made sure that I
18 had people posted up on each corner. The crowd had
19 started to gather. Neighbors, onlookers, the traffic
20 driving up and down the road had increased. I made
21 sure that everything was still secure. I told them at
22 some point, I said, "Let's go ahead and put the two of
23 them in separate cars," because I wanted to keep up
24 with Mr. Guinyard and Ms. Thompson. I said, "Let's go
25 ahead and put --- " he had taken the child he was

1 cradling and sat in the car with the baby. I said,
2 "Let's go ahead and put them in separate cars and wait
3 for the investigators." Then I got started making
4 notifications as far as calling the investigators and
5 people like that.

6 Q So the investigators, crime scene, coroner's
7 office?

8 A Right.

9 Q Those personnel arrived?

10 A Right.

11 Q And the scene was turned over to them?

12 A Exactly, yes, ma'am.

13 Q After that point, did you have any further
14 involvement that evening with this case?

15 A No, ma'am.

16 MS. McDUFFIE: Nothing further, Your Honor.

17 THE COURT: Cross?

18 MR. LI: Thank you, Your Honor. May it please
19 the Court.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION:

22 BY MR. LI:

23 Q Deputy McLendon, do you remember what time you
24 arrived on the scene?

25 A I was there approximately 6:40, about 6:40. I

1 had gotten there a little bit after most of my people
2 were there. I got there after them. They called me,
3 said you need to come over there.

4 Q And she told you that she was in the shower?

5 A Yes, she did. She spoke not directly to me, but
6 she was speaking out loudly to the crowd or anyone
7 that was out there.

8 Q Did you notice anything? Did you notice if she
9 was wet?

10 A No, I did not.

11 MR. LI: Thank you.

12 THE WITNESS: Yes, sir.

13 THE COURT: Cross?

14 MR. RUFFIN: Thank you, Your Honor. May it
15 please the Court.

16 CROSS-EXAMINATION:

17 BY MR. RUFFIN:

18 Q You got there at first. Courtney was on the
19 porch?

20 A Yes, sir.

21 Q She was asking for help?

22 A Yes, sir.

23 Q She was saying that no one will help?

24 A She was --- I don't remember her exact words, but
25 she was like somebody please help. Somebody help me.

1 It was kind of like --- but, I think we --- we all had
2 been --- we had done all that could be.

3 Q Did you ever hear Antonio ask for help?

4 A No, I didn't.

5 Q Did he look upset to you?

6 A He did not look upset; he had no emotions.

7 MR. RUFFIN: Thank you. No further questions.

8 THE COURT: State?

9 MS. McDUFFIE: No, Your Honor.

10 THE COURT: Thank you, sir. You may step down.

11 THE WITNESS: Thank you, sir.

12 THE COURT: Have a good day.

13 THE WITNESS: Yes, sir.

14 THE COURT: Call your next witness.

15 MS. CAMPBELL: The State calls Maria Nicole
16 Thompson. Your Honor, we're getting her. She is
17 sequestered.

18 MARIE NICOLE THOMPSON,
19 after being duly sworn, testified as follows:

20 THE CLERK: Please have a seat. State your full
21 name.

22 THE WITNESS: Maria Thompson.

23 DIRECT EXAMINATION:

24 BY MS. CAMPBELL:

25 Q Ms. Thompson, how old are you?

1 A Thirty-one.

2 Q And do you live here in the Columbia area?

3 A Uh-huh.

4 Q And have you lived here all your life?

5 A Uh-huh.

6 THE COURT: You need to say yes or no, please.

7 THE WITNESS: Yes, ma'am.

8 THE COURT: Thank you.

9 BY MS. CAMPBELL:

10 Q Do you have any brothers or sisters?

11 A I do.

12 Q And is Courtney Thompson one of your sisters?

13 A She is.

14 Q And who are your other sisters?

15 A Natalie Thompson, Crystal Thompson, and Jasmine
16 Thompson.

17 Q What's your mother's name?

18 A Gladys Thompson.

19 Q And do you currently live with any of your
20 relatives?

21 A No.

22 Q But you still live here in Columbia?

23 A Uh-huh.

24 Q Did you have a nephew named CHILD ?

25 A Yeah.

1 Q What did y'all call him?

2 A CHILD.

3 Q CHILD. Why did you call him CHILD? Was that just
4 a nickname?

5 A That was the name that Courtney gave him.

6 Q Courtney gave him that name, CHILD?

7 A Uh-huh.

8 Q At some point were you aware that CHILD was
9 actually put in foster care?

10 A Yes, ma'am.

11 Q But in April of 2012, did you become aware that
12 he was returned to his mother and father?

13 A Yeah.

14 Q And who was CHILD's father?

15 A Antonio.

16 Q Antonio, who is in the courtroom?

17 A Yes, ma'am.

18 Q And, in fact, CHILD was --- little CHILD was a
19 , right, CHILD?

20 A Yes.

21 Q Once CHILD came back and started living with
22 Courtney and Antonio, where were they first living?

23 A Allen Benedict Court.

24 Q Allen Benedict Court.

25 Q Did you have other family members that lived in

1 that area, too?

2 A Not at that time.

3 Q At some point, did Crystal live with them for a
4 period of time?

5 A She did.

6 Q Did you have the occasion to see CHILD?

7 A Yes.

8 Q Were there also other children living in the
9 home?

10 A Yes, ma'am.

11 Q And who else was living in the home on and off?

12 A CHILD2, CHILD3, and I think
13 Courtney was pregnant with CHILD4 at the time.

14 Q And CHILD4 was the youngest daughter, I believe?

15 A Yes.

16 Q And those children would live with her on and off
17 and with other people as well, right?

18 A Yeah.

19 Q But CHILD, pretty much once he was returned to
20 Courtney and Antonio, he stayed with her for the most
21 part?

22 A Uh-huh.

23 Q At some point, did CHILD go to live with one of
24 your sisters?

25 A For like a couple of weeks.

1 Q But did Courtney take him back?

2 A She did.

3 Q I want to turn your attention to the time period
4 after he was returned to her. Did you ever see
5 Courtney mistreat CHILD ?

6 A Well, like I --- when I gave my statement that
7 night at Richland County ---

8 Q At the sheriff's ---

9 A --- you know, I told them --- it was a situation
10 where Courtney was at my house, and he peed on the
11 floor and, you know, she took him in the bathroom.
12 She washed him up, and she took him --- she washed him
13 up. Once she took him to a room, she spanked him.
14 She was at my house, but at the time, I didn't feel
15 like it was enough to call law enforcement.

16 Q That was early on when he had been returned to
17 her or earlier?

18 A This was around Easter of 2013, Easter of 2013,
19 yeah.

20 Q And you saw her hitting him?

21 A I never. She was in a room. She took him in a
22 room.

23 Q In a room?

24 A Uh-huh, and I was in my room.

25 Q And what did you see or hear?

1 A I just heard her spanking, you know, beat him.

2 Q Okay.

3 A I heard him crying.

4 Q And that was around Easter before he died?

5 A This was like --- around Easter, yes, ma'am,
6 because it was kind of hot.

7 Q And was that after she had him back for a year or
8 when she first got him back?

9 A This was like after she had him for awhile.

10 Q Okay. Do you remember seeing his back after
11 that?

12 A I never wanted to see it.

13 Q Do you remember ---

14 A I always --- I'm sorry, I didn't mean to
15 interrupt.

16 Q Go ahead.

17 A I would hear what other people would tell me.

18 Q Okay. You can't say what other people told you
19 in here, okay?

20 A Okay.

21 Q Do you remember giving a statement to the police?

22 A I do.

23 Q That was on July 1st, the day he died?

24 A I do.

25 Q You gave your statement to them at the sheriff's

1 department?

2 A I did.

3 Q And I believe you gave it to, was it Investigator
4 Holdorf or was it somebody else in the sheriff's
5 department? One of the investigators?

6 A It was another guy.

7 Q Maybe a woman named Investigator Reese?

8 A Yeah.

9 Q Does that sound right?

10 A Uh-huh.

11 Q And when you talked to them that day, do you
12 remember telling her that you had witnessed Courtney
13 beat him?

14 A That was the day at my house in the room.

15 Q Okay. So you actually saw that?

16 A Like I said, she was in the other room.

17 Q Okay.

18 A I didn't see it.

19 Q And then that you saw the bruises on his back?

20 A The bruises on his back, well, I did see it in
21 that this --- I didn't want Courtney to see me, you
22 know, looking on him and her to get mad at me, so I
23 didn't, you know, pull his clothes up in front of her
24 or nothing.

25 Q Okay, but you remember giving a statement to the

1 police?

2 A I do.

3 Q And that's what you told them?

4 A Yes.

5 Q Do you remember telling them the last time you
6 saw him was on Easter?

7 A Yeah.

8 Q And that he was limping and had bruises on his
9 back?

10 A He had --- I know that he was limping and my
11 sister --- when Courtney had walked to Dollar General,
12 her and my mom, my sister Melissa asked him what was
13 wrong.

14 MS. PINNOCK: Objection, Your Honor.

15 THE WITNESS: You know, about why he was limping
16 and ---

17 MS. PINNOCK: It calls for hearsay.

18 MS. CAMPBELL: I'll instruct her not to say what
19 somebody else said.

20 THE COURT: Don't say what somebody else said.

21 THE WITNESS: Okay. I am sorry. I was just
22 asking him.

23 MS. PINNOCK: Objection, Your Honor.

24 THE WITNESS: Okay.

25 BY MS. CAMPBELL:

1 Q Did you see Natalie looking at him? How about
2 that?

3 A I did.

4 Q Okay. And did you know that she took some
5 photographs?

6 A That wasn't that day.

7 Q Okay. That was another day. And do you remember
8 when you gave the statement to the police on July 1st
9 at the sheriff's department that you told them
10 Courtney would beat him on his back with her hands?

11 A That's what I heard. A lot --- like I say, I put
12 on there a lot of it was what my mom had told me
13 because she had lived with Courtney.

14 Q Okay. At some point did you actually call DSS
15 about her treatment of CHILD?

16 A I did.

17 Q In addition to the beatings, did you also have
18 concerns about his feeding?

19 A I did.

20 Q Can you explain that to the jury?

21 A It was in June. I had got a call from my
22 grandmother.

23 Q You can't say what she said.

24 A Okay.

25 Q But as a result of that call, did you call DSS?

1 A I did.

2 Q And specifically what would Courtney do about
3 feeding this child, specifically?

4 A Well, like I said again, I never witnessed her
5 not feeding him, because whenever they was at my
6 house, I would feed all the kids. So, you know, in my
7 house, things was different. I can't say what went on
8 in Courtney's house, because I've never been to --- I
9 have been to Courtney's house only twice when she
10 lived on Beaverbrook. That was the night of the
11 murder and the day that me and my friends took her the
12 baby clothes.

13 Q Two weeks before that?

14 A Uh-huh.

15 Q And two weeks before that when you took the
16 babies clothes over to her house, she was getting
17 ready to have the little baby, **CHILD 5**?

18 A Yes.

19 Q Did you go inside the house?

20 A I didn't because I knew that I had called DSS. I
21 didn't want to see him and didn't want her to put
22 things together.

23 Q On you?

24 A Yeah.

25 Q You didn't want her to put it together?

1 A I didn't want her to put two and two together
2 because I know Courtney is very smart.

3 MS. PINNOCK: Objection. Withdrawn.

4 THE COURT: You can repeat your answer.

5 BY MS. CAMPBELL:

6 Q Go ahead.

7 A I didn't want to go in the house to look at him
8 and put two and two --- for Courtney to put things
9 together and know that, you know, by her knowing that
10 I came over there, she would automatically know that I
11 had called DSS.

12 Q And you saw CHILD ?

13 A Yeah, because Courtney is smart.

14 Q Because of CHILD 's condition?

15 A Yes, ma'am.

16 Q And finally, when you gave a statement to the
17 police, you told them you called DSS?

18 A I did.

19 Q And you told them you called so many times you
20 couldn't remember how many times?

21 A I did.

22 Q So you tried to protect CHILD ?

23 A Yes, ma'am.

24 Q CHILD ?

25 A Yes, ma'am.

1 MS. CAMPBELL: Thank you, ma'am.

2 Nothing further. You'll have to answer any
3 questions they have.

4 THE WITNESS: Okay.

5 THE COURT: Cross?

6 MR. LI: Thank you, Your Honor. May it please
7 the Court.

8 CROSS-EXAMINATION:

9 BY MR. LI:

10 Q Good afternoon, Maria?

11 A Hey, how are you doing?

12 Q Good. Maria, I know it's tough for you to be in
13 here today.

14 A Uh-huh.

15 Q That's your sister, Courtney Thompson.

16 A Yeah.

17 Q And you know Antonio?

18 A Yeah.

19 Q All right. And you know the reason why we're
20 here?

21 A Yeah. Yes.

22 Q It's because of your --- your nephew, your late
23 nephew?

24 A Yes.

25 Q And you love your nephew?

1 A I do.

2 Q And it's tough to answer some of these questions,
3 I know.

4 A It is.

5 Q If you need a break, let me know.

6 A Okay.

7 Q Now, I'm not going to go over all the things that
8 Ms. Campbell just went over with you, okay?

9 A Okay.

10 Q But you gave your statement on July 1st?

11 A I did.

12 Q Correct. Which was the day that you found out
13 **CHILD** had passed?

14 A Uh-huh, uh-huh.

15 Q Did you voluntarily go down there, or did
16 Investigator Reese force you to go down there? How
17 did you come about giving the statement?

18 A When I got the call that he passed, of course, I
19 was --- I was upset.

20 Q Uh-huh.

21 A So one of my friends took me to Courtney's house.

22 Q Right.

23 A You know, and I talked to one of the detectives.
24 I told them that, you know, I would go back to the
25 police department with them to give a statement.

1 Q So you voluntarily went there?

2 A I did.

3 Q And the first question that they asked you was
4 what happened to bring you here today?

5 A Yes.

6 Q Because you wanted to help out?

7 A Yes.

8 Q And you wanted to tell them anything that you
9 knew ---

10 A Yes.

11 Q --- about **CHILD** 's death, right?

12 A Yes, yes, yes.

13 Q You didn't know anything about what happened
14 exactly that day, right?

15 A I just knew Courtney was calling. I talked to
16 Courtney that day, and I remember Courtney calling me.
17 I told Courtney I was going to lay down.

18 Q Uh-huh.

19 A When she was calling, I didn't answer.

20 Q I got you, so other than that, you didn't know
21 any of the details of what happened other than he had
22 died, correct?

23 A Yes, sir, from what I --- other than --- what I
24 heard.

25 Q I understand.

1 A Okay.

2 Q So when you went down there, you tried to tell
3 them anything that you know?

4 A I did.

5 Q Anything that could possibly help the
6 investigation?

7 A I did.

8 Q And you gave --- your statement was --- I know
9 it's tough to put somebody's whole life on to paper,
10 right?

11 A Yeah.

12 Q And to limit it down to a couple of minutes
13 talking to an investigator?

14 A Yes, sir.

15 Q But you did the best you could?

16 A I did.

17 Q And you never put anything down about Antonio
18 Guinyard.

19 A Because I wanted to tell the truth.

20 Q That's right. That's right. And you said that
21 you had called DSS a bunch of times, right?

22 A I did. I did.

23 Q Did you ever call DSS to report Antonio Guinyard?

24 A I didn't.

25 Q And if you thought something was wrong, you would

1 have?

2 A I would have.

3 Q Right, because you loved CHILD?

4 A I did.

5 Q Nobody can say you didn't do anything to try to
6 help CHILD?

7 A Right.

8 Q Let me ask you this: Did you ever at any point
9 live with Courtney?

10 A I haven't.

11 Q You ---

12 A No.

13 Q Well, your sister Natalie has. They call --- I
14 mean, Natalie has, right?

15 A Yes, Natalie has, not for a long time.

16 Q Uh-huh.

17 A But my mom is the one who lived with Courtney.

18 Q For the longest time?

19 A Yes, sir.

20 Q And even on the stand today, if you knew anything
21 about CHILD --- I mean, about CHILD 's death with
22 regards to Antonio Guinyard, you would tell these
23 people?

24 A I would.

25 Q You would tell them?

1 A Yes, I would.

2 MR. LI: Beg the Court's indulgence.

3 (Pause.)

4 No further questions, Your Honor.

5 THE WITNESS: Okay.

6 MR. LI: Please answer any questions they have.

7 THE COURT: Cross?

8 MS. PINNOCK: Beg the Court's indulgence.

9 (Pause.)

10 No questions, Your Honor.

11 THE COURT: All right. Any redirect?

12 MS. CAMPBELL: No, sir.

13 THE COURT: Okay. Thank you, ma'am. You may
14 step down.

15 Call your next witness.

16 MS. WALKER: Your Honor, the State calls Natalie
17 Thompson.

18 THE COURT: All right. Natalie Thompson, please.

19 NATALIE THOMPSON,
20 after being duly sworn, testified as follows:

21 THE CLERK: Please have a seat. State your full
22 name for the record.

23 THE WITNESS: Natalie Thompson.

24 MS. WALKER: May it please the Court, Your Honor.

25 THE COURT: Yes, ma'am.

DIRECT EXAMINATION:

BY MS. WALKER:

Q Ms. Thompson, where do you live?

A [REDACTED] Columbia, South Carolina.

Q Have you lived in Columbia all your life?

A Yes, ma'am.

Q Do you have family here?

A Yes, ma'am.

Q How many sisters do you have?

A Four.

Q Is Courtney Thompson one of your sisters?

A Yes, ma'am.

Q And do you know --- is her longtime boyfriend Antonio?

A Yes, ma'am.

Q You had a nephew named CHILD?

A Yes, ma'am.

Q Do you remember when CHILD was born?

A Yes, ma'am.

Q And were you aware that at some point, he was taken out of his parents' home?

A Yes, ma'am.

Q But he was returned?

A Yes, ma'am.

1 Q I want to talk to you about some of the
2 interactions you saw between **CHILD** and his parents
3 when he was returned, okay?

4 A Yes, ma'am.

5 Q Did you ever see his parents mistreat him?

6 A Yes, ma'am.

7 Q Would you describe that for me, the mistreatment,
8 the things you observed.

9 (Pause.)

10 A (There was no response.)

11 Q Are you nervous?

12 A (There was no response.)

13 Q You have to speak so she can take it down, okay?

14 A Yes.

15 Q Do you want to be here today?

16 A Yes, ma'am. I seen both parents mistreat him by
17 hitting him.

18 Q And when you say they hit him, both parents,
19 you're talking about Courtney Thompson and Antonio
20 Guinyard?

21 A (There was no response.)

22 Q Do you want some water?

23 THE COURT: Ms. Thompson, would you like some
24 water?

25 THE WITNESS: No. No, sir.

1 THE COURT: Okay. If you need some, just let me
2 know. I'll get some for you, okay?

3 THE WITNESS: Okay.

4 BY MS. WALKER:

5 Q Take a deep breath.

6 A I seen Antonio, you know, hit him, but not hit
7 him to hurt him, as like a spanking or something.

8 Q Do you know why they would hit him?

9 A He had problems where he couldn't control his
10 bowel movements. Sometimes he couldn't control his
11 urine.

12 Q And how many times did you --- well, let me ask
13 you this, your sister Courtney, what type of things
14 would she hit CHILD with?

15 A (There was no response.)

16 Q Is it difficult for you to talk about this in
17 public?

18 A Yes.

19 Q Why is it difficult?

20 A (There was no response.)

21 Q That's your sister?

22 A Yeah.

23 Q You love her?

24 A Yes, ma'am.

25 Q You love CHILD, too?

1 A Yes, ma'am.

2 Q The things that you saw done to **CHILD**, the
3 hitting, what type of things was the child hit with?

4 A I seen him --- Courtney hit him with a couple of
5 different objects.

6 Q Like what?

7 A (There was no response.)

8 Q Do you remember?

9 A I seen him being hit with a belt, a shoe and a
10 hanger.

11 Q You said a belt, a shoe and a hanger?

12 A Uh-huh.

13 Q When you say these things --- do you need some
14 tissues, Ms. Thompson?

15 A No, ma'am.

16 Q When you saw these things, did you try to report
17 it to anybody?

18 A Yes, ma'am.

19 Q You did report it?

20 A Yes, ma'am.

21 Q Who did you report it to?

22 A Columbia Police Department and the Department of
23 Social Services.

24 Q You said you saw his father hit him, as well?

25 A I seen Antonio hit him.

1 Q And you ---

2 A But not the way ---

3 Q --- you became concerned ---

4 A I mean, in the way of a spanking or something.

5 Q You saw him spank him?

6 A (Nods in the affirmative.)

7 Q Did you --- when you called DSS, did they tell
8 you that there were further actions that you needed to
9 take in order to help protect **CHILD**?

10 A Yes, ma'am, I told them I didn't have any proof,
11 but I keep reporting it. Then Courtney and Antonio
12 was like very protective of him because of the
13 bruises. They slipped out, so I took pictures.

14 Q When you saw the beatings of this child by
15 Courtney, was Antonio Guinyard present?

16 A Yes, ma'am.

17 Q He was?

18 A Yes, ma'am.

19 Q Once they told you that you needed to get some
20 proof, did you try to do that?

21 A Yes, ma'am.

22 Q I want to show you what's been marked as State's
23 Exhibit's 215 through 222, I want you to just take a
24 look real quick, okay.

25 A It's hard.

1 Q I know. I'm sorry. Are these photographs that
2 you took?

3 A Yes, ma'am.

4 Q Do you remember when you took them?

5 A I can't remember the exact date.

6 Q Okay.

7 MR. LI: No objection, Your Honor.

8 MR. STAGGS: No objection.

9 MS. WALKER: Your Honor, at this point the State
10 seeks to move exhibits 215 through 222.

11 THE COURT: Admitted without objection. Wait
12 just one second, Ms. Walker.

13 (WHEREUPON, State's Exhibit Numbers 215 through
14 222 were admitted into evidence.)

15 BY MS. WALKER:

16 Q After DSS asked you to get some proof, did you
17 attempt to do that?

18 A Yes, ma'am.

19 Q Did you take pictures of your nephew?

20 A Yes, ma'am.

21 Q That is the ---

22 A I took the body shots and also the face shot to
23 show who he was.

24 Q You said both of his parents were present during
25 the beatings that you observed?

1 A Antonio wasn't there for all of them.

2 Q What did you say?

3 A Antonio wasn't there during all of them.

4 Q Was he there during some of them?

5 (There was no response.)

6 THE COURT: I need you to respond out loud
7 please, ma'am.

8 THE WITNESS: Antonio wasn't there during all of
9 them.

10 BY MS. WALKER:

11 Q Was he there during some of them?

12 A Yes, ma'am.

13 THE COURT: The reason I tell you that, ma'am, is
14 so we don't want to misinterpret what you're trying to
15 answer. That's all. We just want to make sure we get
16 it, correct. Does that make sense?

17 THE WITNESS: Yes, sir.

18 THE COURT: Okay. Thank you.

19 BY MS. WALKER:

20 Q Did you try to get these pictures to someone that
21 could help CHILD?

22 A Yes, ma'am.

23 Q Did you ever observe CHILD being hungry, thirsty
24 or being denied food or anything to drink?

25 A Yes, ma'am.

1 Q Can you tell me about that?

2 A There was one occasion where he --- I needed to
3 go to the grocery store, and Courtney and Antonio knew
4 a guy in a van that would take people places for a
5 couple dollars.

6 MR. STAGGS: Objection, Your Honor. This is
7 outside --- we have a matter of law. Can we approach?

8 THE COURT: Yes. Approach.

9 (WHEREUPON, a bench conference was held in the
10 presence, but not within hearing of the jury.)

11 BY MS. WALKER:

12 Q I'm sorry, Ms. Thompson.

13 A Courtney came to my house. I needed to go to the
14 grocery store, and I went to the market before, but I
15 didn't have my ID. They agreed to let me ride with
16 them. I rode --- I didn't notice CHILD --- I didn't
17 notice baby CHILD in the car at first. I had been to
18 the grocery store for about 30, 45 minutes inside. I
19 came out. We went to the pawnshop on Two Notch. We
20 left Beltline and went to Two Notch pawnshop. I asked
21 Courtney if she would pawn my game for me, so she went
22 to pawn it, but before she went there, she went inside
23 the cell phone place. Antonio then walked off and went
24 behind her. Maybe two minutes later and ---

25 THE COURT: All right. All right. Just stop

1 right there. All right. Hold on. Jackie, come up
2 here, please. Hold on just a minute. Okay.

3 (Pause.)

4 All right. Ladies and gentlemen, if you'll step
5 back to your jury room for just a moment. We'll be
6 back with you in just a few minutes. Do not discuss
7 the case. Keep an open mind. Thank you.

8 (WHEREUPON, the jury left the courtroom at
9 12:21 p.m.)

10 (WHEREUPON, the following was heard outside the
11 presence of the jury.)

12 THE COURT: Thank you. All right. So you're in
13 the middle of telling this story about going to the
14 grocery store and the pawnshop. Just tell us the
15 story, so I can hear what it is.

16 THE WITNESS: Once we got to the pawnshop,
17 Courtney went next door to see about government
18 assistance. Antonio walked behind her. That's when I
19 noticed that baby CHILD was in the back seat, wasn't
20 in --- it was a van, so he was in the back where you
21 would put groceries and stuff at.

22 I just heard somebody drinking something. When I
23 turned around, he had my soda that I only took a sip
24 out of, and you could tell that he was hungry because
25 he --- you could tell that he was hungry and

1 dehydrated because his lips had done cracked up. It
2 was bloody and pussie, and he asked if I had anything
3 that he could eat, but I didn't have nothing but
4 chips.

5 I was scared to give it to him because his lips
6 were cracked up real bad. I knew if he eat them, it
7 would burn, so I smooshed them up in the bag and
8 Courtney came out, and I asked if I could give him
9 something to drink.

10 BY MS. WALKER:

11 Q Were there other instances that you saw where he
12 was denied food?

13 A We were at my mom's house one day, and they had
14 stayed the night over there. Courtney and Antonio had
15 gotten into it, and when Antonio came back that
16 afternoon, I believe, it was that afternoon, that
17 night when they were getting ready to leave, Courtney
18 mentioned they were going to order some pizza. Antonio
19 told CHILD2 and CHILD to go get their stuff because
20 they were getting ready to go home.

21 Then Antonio mentioned to CHILD --- I'm sorry,
22 told CHILD2 and CHILD to get their stuff. Antonio
23 mentioned to CHILD that he was getting some pizza and
24 for him to get his stuff. CHILD kind of got excited.
25 He was like okay, we'll take them home, get them three

1 pieces of pizza and put them to bed.

2 Courtney was like, three? He was like yeah, we
3 can give him three. She was like, he is not getting
4 no three pieces of pizza. Antonio was like, okay you
5 give him two. She was like, you heard what the doctor
6 said about over feeding him. He is not getting no two
7 pieces of pizza. Antonio was like okay, we'll just
8 give him one.

9 Q But the other kids were allowed to eat as much as
10 they wanted?

11 A He was barely allowed food and it wasn't hard to
12 tell. He came to my mom's house and took food out of
13 the trash and in his pocket, and Charles would sneak
14 him Debbie cakes and stuff, but Courtney caught him
15 one time sneaking it to him, and he told Courtney that
16 he didn't mean to, that he had left it on the chair.

17 MS. WALKER: That would be it on that line of
18 questioning, Your Honor.

19 THE COURT: Okay.

20 MR. STAGGS: Your Honor, we object to any
21 testimony about the grocery store trip. I don't know
22 when that happened. I don't believe this witness has
23 cited a time when it happened. It sounds --- I mean,
24 there's specific details, but ---

25 THE WITNESS: It happened sometime in the end of

1 May, beginning of June 2013. I still have the
2 pawnshop receipt.

3 MR. STAGGS: That's all I have.

4 THE COURT: Mr. Li?

5 MR. LI: No objection.

6 THE COURT: All right.

7 MS. WALKER: Can we approach really quickly, Your
8 Honor?

9 THE COURT: Sure.

10 (WHEREUPON, there was a bench conference.)

11 THE COURT: Okay. Do you need some water,
12 Ms. Thompson?

13 THE WITNESS: (Indicating in the negative.)

14 THE COURT: Are you sure?

15 (Nods in the affirmative.)

16 MS. WALKER: Thank you, Your Honor.

17 THE COURT: Okay. Bring them back in.

18 (WHEREUPON, the jury entered the courtroom at
19 12:27 p.m.)

20 MR. STAGGS: Your Honor, do we have a ruling on
21 the record about the testimony?

22 THE BAILIFF: Your Honor, the jury is present.

23 THE COURT: Are you objecting?

24 MR. STAGGS: Yes, we object to the testimony
25 being admitted. I realize it's coming in, but ---

1 THE COURT: Okay. Your objection is overruled.

2 MR. STAGGS: Thank you, Your Honor.

3 THE COURT: Okay.

4 MS. WALKER: Thank you, Your Honor.

5 BY MS. WALKER:

6 Q Ms. Thompson, I think you were telling a story
7 about being in a van with Courtney, Antonio, and
8 CHILD ?

9 A Yes, ma'am.

10 Q And at some point that van stopped and the
11 parents got out of the car?

12 A Yes, ma'am.

13 Q Tell me what happened then?

14 A Courtney went into the cell phone place to get a
15 government assistance phone. Antonio was supposed to
16 stay in the van because they never leave him around me
17 because they knew I was telling.

18 Antonio went to check on Courtney. I'm assuming
19 that CHILD knew he walked off or something. Like I
20 said, I didn't know he was in the back.

21 Q At that point in time, you had no idea the child
22 was in the car?

23 A No, ma'am.

24 Q Okay.

25 A When Antonio went in the building, I heard a

1 drinking noise.

2 Q Let me ask you --- excuse me, but when you say he
3 was in the back of the van, where was he?

4 A It's like a minivan and you have the --- the
5 driver and passenger's seat, there behind the other
6 seat. Behind it is usually another seat, but it
7 wasn't another set. It was just a space in the back
8 in like a trunk area.

9 Q It's like a cargo area where you put groceries
10 and luggage?

11 A Yes, ma'am.

12 Q What was he in back there?

13 A He was just sitting, laying in the floor.

14 Q I'm sorry. Go ahead.

15 A And you could hear him drinking a soda out of the
16 bottle. It wasn't only a couple of seconds that I
17 turned around, and he had done and finished the whole
18 soda.

19 Q Do you know where the soda came from?

20 A I had it. I purchased it out of Piggly Wiggly
21 when they took me to the grocery store. After he
22 drank the soda, he asked me for something to eat, but
23 I didn't --- I didn't have nothing but frozen food and
24 a couple bags of chips, but his mouth --- his mouth
25 was messed, like really messed up, so I didn't want to

1 give it to him because I knew it was going to burn his
2 lips.

3 Q When you say his mouth was really messed up, can
4 you tell us what you mean by that?

5 A His mouth was real, real dry as if he was
6 dehydrated. His lips were cracked up. They were
7 bloody. The top lip was all pussie. I had asked
8 about it, but Courtney told me that it was something
9 he picked up and ate and it was something wrong. The
10 doctor said it was because of something he ate off the
11 ground or something and that she had cream for it.

12 Q Did she apply the cream?

13 A No, ma'am.

14 Q Did you see the cream?

15 A No, ma'am.

16 Q After he finished that soda, did you give him
17 anything to eat?

18 A Yes, ma'am. I crushed up a bag of chips to fine
19 little pieces where it wouldn't touch his lip too bad.
20 He maybe finished like half a bag of it. When they
21 came and took him, he threw it back to me. I took it,
22 wrapped it up and like threw it underneath the chair,
23 the seat. I knew if she saw it open, she would know I
24 wasn't the one that ate it. I wrapped it up, threw it
25 under the chair. Somehow Courtney found out I gave it

1 to him and got angry at me about it.

2 Q Did his father try to give him any food or water
3 when he was hungry or thirsty?

4 A No, ma'am.

5 Q Have you ever seen **CHILD** resort to other things
6 to try to get something to eat?

7 A The trash can.

8 Q You saw the child eat out of the trash can?

9 A Yes, ma'am.

10 Q Were there other times when you would try to
11 sneak **CHILD** food?

12 A Me and Charles would like sneak him like cakes
13 and stuff whenever we seen that neither Courtney or
14 Antonio was around or maybe when they went to the
15 bathroom or something. It was hard for him to eat it
16 that quick.

17 Q And who is Charles?

18 A Charles Robinson is my fiancée.

19 At any point in time did **CHILD** live with you?

20 A Yes, ma'am.

21 Q How did that come to be?

22 A I went over there one day, and Courtney and them
23 got --- Courtney was saying that she couldn't deal
24 with him pooping all over the floor and urinating on
25 the floor so...

1 Q Was Antonio there?

2 A Yeah, they both agreed to let us get him.
3 Shortly after we got him, took him to get the stuff he
4 needed, they wanted him back.

5 Q Was [CHILD] welcome to stay with you as long as
6 they needed him to?

7 A Yes, ma'am. He had his own room, his own
8 bathroom.

9 Q You fed him regularly?

10 A Yes, ma'am. He did what he wanted to do.

11 Q Did your sister ever talk about [CHILD] going back
12 to DSS or back to foster care?

13 A Yes, ma'am.

14 Q Did she want that to happen?

15 A Yes, ma'am.

16 Q Why did she want that to happen?

17 A I'm not sure. From what she told me, she was
18 just feeling like she got mad with me.

19 MR. STAGGS: Objection, Your Honor. This calls
20 for speculation.

21 THE COURT: Don't speculate as to what happened,
22 but you can answer a direct a question about
23 something. Don't guess or speculate. Does that make
24 sense, Ms. Thompson?

25 THE WITNESS: I didn't understand.

1 THE COURT: Okay. Don't speculate or guess what
2 something means, but you can answer a direct question.
3 Go ahead.

4 MS. WALKER: I'll rephrase the question, Your
5 Honor.

6 THE COURT: Okay.

7 BY MS. WALKER:

8 Q Did she ever tell you'll what she wanted to
9 happen to CHILD when he went to DSS?

10 A She said in the car that she wanted him to go
11 back to DSS so they could give him a beating and a
12 killing and a raping.

13 Q Was Antonio present when she said that?

14 A No, ma'am.

15 Q How did you find out that your nephew had passed
16 away?

17 A I was at a friend's house, and the neighbor's
18 daughter told her. She came and got us.

19 Q Did you talk to your sister and Antonio after
20 that?

21 A When they came to the house after being
22 interviewed.

23 Q Did you try to raise money or do anything to help
24 start some sort of fund or remembrance of CHILD?

25 A Yes, ma'am. I was trying to raise money to

1 have --- he never had a proper birthday party or
2 anything done especially for him.

3 Q Did the other kids have proper birthday parties
4 and things of that nature?

5 A Yes, ma'am.

6 Q It was just CHILD ?

7 A Yes, ma'am.

8 Q Go ahead.

9 A And I wanted to try to at least give him a
10 birthday party, and Courtney got mad and asked me why
11 would I do anything for him. Let him go, just let him
12 go, so I just didn't say nothing about it in front of
13 them.

14 Q The people who were present in the car, in the
15 van when CHILD was sitting, I guess, in the cargo
16 area thirsty and hungry, do you see them in the
17 courtroom today?

18 A No one but the parents.

19 Q The parents. Can you point them out? Can you
20 point them out for the jury so they know who you're
21 talking about?

22 A Antonio Guinyard and Courtney Thompson.

23 Q Antonio Guinyard and Courtney Thompson?

24 A Yes, ma'am.

25 MS. WALKER: Thank you. I don't have any further

1 questions.

2 THE COURT: Cross?

3 MR. LI: Yes, Your Honor.

4 Thank you, Your Honor. May it please the Court?

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION:

7 BY MR. LI:

8 Q Good afternoon, ma'am.

9 A Good afternoon.

10 Q I'm sorry for your loss. Thank you for being
11 here.

12 A Yes, sir.

13 Q I know it's tough, right?

14 A Yes, sir.

15 Q You have your sister on one side?

16 A Yes, sir.

17 Q You loved **CHILD**?

18 A Yes, sir.

19 Q You still love **CHILD**?

20 A Yes, sir.

21 Q And you know Antonio?

22 A Yes, sir.

23 Q But you're not related to him?

24 A No, sir.

25 Q I'm not going to go over most of the details, but

1 when you said --- earlier you said that you've seen
2 Antonio smack or spank CHILD before. That was true,
3 right?

4 A Yes, sir.

5 Q But you've never seen him beat him?

6 A No, sir.

7 Q Never anywhere close to beating him?

8 A No, sir.

9 Q Never used a weapon?

10 A No, sir.

11 Q Never cussed him out?

12 A Yes, sir.

13 Q He would get mad at him. He would get mad at him
14 sometimes?

15 A Yes, sir.

16 Q But he would never beat him with a cord either?

17 A No, sir.

18 Q Okay. Now, earlier you mentioned this van, and
19 you said that CHILD had tossed you back the bag of
20 chips?

21 A Yes, sir.

22 Q And that you had to hide them?

23 A Yes, sir.

24 Q And you had to hide them because you didn't want
25 Courtney to see you?

1 A Yes, sir.

2 Q Were you hiding them from Antonio?

3 A Yes, sir.

4 Q With regards to --- do you remember telling ---
5 do you remember a pizza incident?

6 A Yes, sir.

7 Q Tell us about that.

8 A Start from?

9 Q Start from wherever you'd like.

10 A We were at my mom's house. They had done stayed
11 a couple of nights over there. The night before they
12 left, Antonio left because him and Courtney got into
13 it. Antonio returned that next day. They stayed
14 there all that day. That night they got ready to go
15 home. Courtney mentioned something about ordering
16 pizza, and they were going to order it and call a cab
17 and order it so they can meet them there.

18 Antonio then told little CHILD and CHILD2 and
19 them to go get their shoes. When they went to go get
20 their shoes, Antonio was telling CHILD, baby CHILD
21 that they're ordering pizza, come on, hurry up, come
22 on. He told Courtney that the babies will get three
23 pieces of pizza and then put them to bed. Courtney
24 was like, three? Antonio was like, right, you give
25 him two. We will give him two. Courtney was like you

1 heard what the doctor said, don't over feed him. He
2 was like, okay, then we'll give him one. We'll give
3 him one.

4 Q He wanted to give him three at first?

5 A Yeah, but then he agreed to one.

6 Q He agreed to one. And do you remember on
7 July 3rd giving a statement to Investigator Holdorf?

8 A Yes, ma'am --- I mean, yes, sir.

9 Q And you also mentioned the pizza incident and you
10 agreed to tell the truth?

11 A Yes, sir.

12 Q You wanted to tell everything that you could,
13 right?

14 A Yes, sir.

15 Q But at the you also mentioned a pizza incident?

16 A Yes, sir.

17 Q Correct. When you mentioned that one, you didn't
18 give the full details of what you just told everybody
19 today, right?

20 A No, sir.

21 Q You just said that you would see the other
22 children get three slices and **CHILD** would only get one?

23 A Well, I didn't say --- I didn't actually see it.

24 Q Right.

25 A They were there talking about it.

1 Q I see, I see. And when you're giving these
2 statements, it's difficult to get your whole life
3 story on to a couple of pages of paper, correct?

4 A (There was no response.)

5 Q It's difficult to tell the relationships and how
6 people interact to boil it down to three pieces of
7 paper, right?

8 A (There was no response.)

9 THE COURT: You have to answer out loud.

10 THE WITNESS: Yes, sir, sorry.

11 BY MR. LI:

12 Q And you gave a statement voluntarily?

13 A Yes, sir.

14 Q You swore to tell the truth?

15 A Yes, sir.

16 Q Because you loved little **CHILD**?

17 A Yes, sir.

18 Q And in your statement, you mentioned Robert hit
19 him once?

20 A Yes, sir.

21 Q Okay. If you had seen it more, you would have
22 said so, right?

23 A Yes, sir.

24 Q Have you called DSS on your sister before?

25 A Yes, sir.

1 Q Have you called them on Antonio before?

2 A Yes, sir.

3 Q And the pictures that you sent that time, were
4 you making them on Antonio or Courtney?

5 A On them both.

6 MR. LI: Okay. Thank you.

7 THE COURT: Cross?

8 MR. STAGGS: Thank you, Your Honor. May it
9 please the Court?

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION:

12 BY MR. STAGGS:

13 Q Ms. Thompson, you go by Natalie, but you also go
14 by Melissa; is that correct?

15 A Yes, sir.

16 Q And you went over the photos you took with
17 Ms. Walker, and I believe you told the jury that you
18 can't remember when you took them, but you had a
19 guess?

20 A I don't remember the exact day, but I had the
21 smart phone and it showed the date and time ---

22 Q Okay.

23 A --- that the picture was taken. I showed it to
24 the investigator, I think, Travis Holdorf.

25 Q And you remember giving a statement to

1 Investigator Holdorf, right?

2 A Yes, sir.

3 Q And at time, you told him when you took it.

4 Would it help if you looked at it?

5 A Yes, sir.

6 MR. STAGGS: Permission to approach, Your Honor.

7 THE COURT: Yes, sir.

8 BY MR. STAGGS:

9 Q It's the top line, right there?

10 A Yes, sir.

11 Q And what date was that, ma'am?

12 A February 21st.

13 Q February 21st, 2013, right?

14 A (There was no response.)

15 Q Now, you also told Investigator Holdorf that you
16 sent those pictures off to DSS?

17 A Yes, sir.

18 Q You sent them to law enforcement, as well?

19 A Yes, sir.

20 Q But that wasn't --- and you've told us already,
21 that wasn't the only time that you called law
22 enforcement or DSS?

23 A No, sir.

24 Q About **CHILD** right, and actually, you called
25 towards the end of March, didn't you?

1 A I called sometime in March, yes, sir.

2 Q And requested from the sheriff's department a
3 wellness check?

4 A Yes, sir.

5 Q What name did you use when you called?

6 A Natalie Robinson.

7 Q Natalie Robinson?

8 A Yes, sir.

9 Q Who is Latoya Moore?

10 A It's part of our email that I used.

11 Q Latoya Moore is part of your email?

12 A Yes, sir.

13 Q Okay.

14 A And I didn't want to give my real name.

15 Q Okay.

16 Q And so the Richland County Sheriff's Department
17 sent someone out to Beaverbrook, didn't they?

18 A Yes, sir.

19 Q At some point in time, someone from the sheriff's
20 department gets back in contact with you, right?

21 A No, sir.

22 Q They get back in contact with Latoya Moore?

23 A No, sir.

24 Q You didn't speak with anyone from the Richland
25 County Sheriff's Department?

1 A I spoke with them, but they never got back in
2 contact with me.

3 Q Okay. Following that report, no one ever spoke
4 to you again?

5 A I called up there and they talked to me then.

6 Q Okay. All right. Thank you. You didn't live
7 with Courtney and Mr. Guinyard on Beaverbrook Road,
8 did you?

9 A No, sir.

10 Q Did you ever live with them?

11 A Yes, sir.

12 Q On Allen Benedict?

13 A Yes, sir.

14 Q Do you remember about what time? What sort of
15 day range it was?

16 A No, sir.

17 Q You don't really know?

18 A No, sir.

19 Q It was just sometime before they moved to
20 Beaverbrook Road, right?

21 A It was like in 2012.

22 Q Sometime in 2012.

23 A Yes, sir.

24 Q You gave this statement from the first of July,
25 that evening, right, when you went with Investigator

1 Holdorf ---

2 A Yes, sir.

3 Q --- down to headquarters, that was July 1st?

4 A Yes, sir.

5 Q And you told the jury just a few minutes ago that
6 this incident in the van happened about when?

7 A Between May --- between May and June.

8 Q Between May and June?

9 A Yes, sir.

10 Q You didn't mention that when you spoke with
11 Investigator Holdorf on the first of July, did you?

12 A Sir?

13 Q Beg your pardon?

14 A I didn't hear you.

15 Q You didn't mention anything about this trip in a
16 van to the grocery store to Investigator Holdorf?

17 A No, sir.

18 Q When you met with him on the first of July?

19 A No, sir.

20 Q Okay.

21 A He was asking me questions, and I only answered
22 what was asked to me.

23 Q Okay. Ma'am, again, you remember your statement,
24 right?

25 A Yes, sir, part of it.

1 MR. STAGGS: Your Honor, may I approach the
2 witness?

3 THE COURT: Yes.

4 BY MR. STAGGS:

5 Q Can you read that last question, ma'am?

6 A Out loud?

7 Q Yes, please.

8 A "Is there anything that you want to add or change
9 about your statement?"

10 Q Okay.

11 A Response?

12 Q Okay. You can read the response.

13 A "CHILD was a good kid. He had problems that was
14 not being taken care of. He did not deserve what
15 happened to him."

16 Q Right. So you were given the opportunity to add
17 anything you wanted to this statement, weren't you?

18 A I was given an opportunity to, but I wasn't --- I
19 mean, I didn't feel like talking. I had just lost my
20 nephew.

21 Q Okay.

22 A So I wasn't going to sit there and remember
23 everything that I knew or saw ---

24 Q Okay.

25 MS. WALKER: Your Honor, if she could be just

1 allowed to finish her answers before she is
2 interrupted.

3 MR. STAGGS: I apologize.

4 THE COURT: It's okay.

5 BY MR. STAGGS:

6 Q Are you finished?

7 A Yeah.

8 MR. STAGGS: Okay. Beg the Court's indulgence
9 for a moment please, Your Honor.

10 THE COURT: Yes, sir.

11 (Pause.)

12 MR. STAGGS: That's all I have, Your Honor.

13 THE COURT: Anything else?

14 MS. WALKER: Briefly, Your Honor.

15 REDIRECT EXAMINATION:

16 BY MS. WALKER:

17 Q The statement that was actually given on July 3rd,
18 do you remember making that statement to law
19 enforcement?

20 A Yes, yes, ma'am.

21 Q Mr. Li asked you several questions about whether
22 or not you saw Antonio Guinyard beat CHILD, right?

23 A Yes, ma'am.

24 Q Do you remember what you told law enforcement
25 when you gave the statement on July 3rd at the

1 sheriff's department?

2 A That I have seen Antonio hit him, but in the way
3 of a father should, he smacked him in the back of the
4 head, but not to hurt him.

5 Q Okay, well let me ---

6 A And spanked him.

7 Q Well, let me ---

8 MS. WALKER: Your Honor, may I approach the
9 witness?

10 THE COURT: Yes.

11 BY MS. WALKER:

12 Q If I gave you your statement, would that refresh
13 your memory as to what you said then?

14 A Yes, ma'am.

15 Q It's this last line on here.

16 What did you tell law enforcement then?

17 A Read it?

18 Q You can't read it. Let me take it back. Does
19 that refresh you're memory?

20 Q Do you remember telling law enforcement that
21 Antonio would beat **CHILD**?

22 A Yes, I do.

23 Q And you said you actually saw him knock him on
24 the head once?

25 A Yes, ma'am.

1 Q Do you remember telling law enforcement that
2 Antonio would do whatever Courtney said?

3 A Yes, ma'am.

4 Q And that he saw the things that Courtney did?

5 A Yes, ma'am.

6 MS. WALKER: I don't have any further questions.

7 MR. LI: Briefly, Your Honor.

8 RECROSS-EXAMINATION:

9 BY MR. LI:

10 Q The only example you gave them was a smack on the
11 head, right?

12 A (Nods in the affirmative.)

13 Q That's all you remember, correct?

14 A Yes, sir.

15 Q Whether you used the word beat or hit, that's up
16 in the area, correct?

17 MR. LI: I'll rephrase, Your Honor.

18 BY MR. LI:

19 Q You know that Antonio did not beat **CHILD** the way
20 Courtney beat **CHILD**, correct?

21 A Yes, sir.

22 MR. LI: No further questions.

23 MR. STAGGS: I have nothing further.

24 THE COURT: All right. Thank you, ma'am. You
25 may step down.

1 Okay. Ladies and gentlemen, we're going to take
2 a break for lunch. It's about ten minutes until one.
3 We will plan on starting back at 1:45. If you will
4 retire to your jury room. Do not discuss the case and
5 keep an open mind. Thank you very much.

6 (WHEREUPON, the jury left the courtroom at
7 12:53 p.m.)

8 THE COURT: Anything before we break?

9 MS. WALKER: Nothing from the State. Oh, I'm
10 sorry.

11 MS. McDUFFIE: Your Honor, I think with --- I
12 don't know if it's going to be the first witness up
13 after lunch, but in one of the first few witnesses
14 after lunch, we are going to introduce --- we intend
15 to introduce pictures of the victim's body at the
16 scene, not autopsy photographs, but as he presented
17 that day.

18 THE COURT: Okay.

19 MS. McDUFFIE: And the ---

20 MS. PINNOCK: That was one of our pretrial
21 motions that was kind of put off until...

22 THE COURT: All right. Why don't you give me the
23 pictures that you want to introduce so I can look at
24 them.

25 MS. PINNOCK: And, Your Honor, I provided a copy

1 of a written memo that I had done.

2 THE COURT: All right.

3 MS. PINNOCK: And that covers crime scene and
4 autopsy.

5 THE COURT: All right.

6 MS. McDUFFIE: Can I have a moment, please?

7 THE COURT: Sure.

8 (Pause.)

9 MR. LI: Can we go to lunch?

10 THE COURT: Yes. Have you seen the pictures
11 they're about to show me?

12 MS. McDUFFIE: Your Honor, we have shown them all
13 the photographs that we intend to introduce of all the
14 crime scene.

15 THE COURT: Okay.

16 (WHEREUPON, State's Exhibit Numbers 75-85, 106-
17 109, 12-19 and 130-150 were marked for
18 identification only.)

19 THE COURT: All right. Okay, before we talk
20 about photos, on these issues of prior incidents,
21 Mr. Li, ---

22 MR. LI: Yes, sir.

23 THE COURT: Here is what we have to do. To
24 protect the record, we're going to have to block out
25 some time where you can proffer all that testimony.

1 That's the only way, number one, for me to hear it all
2 and understand it all, and know what all it is.

3 That's also the only way for the record to be
4 protected for both Mr. Guinyard and Ms. Thompson on
5 what that is and what it's not instead of us just kind
6 of speculating about what it is and what it's not.

7 MR. LI: Yes, sir.

8 THE COURT: We'll figure out when we're going to
9 do that. That's how I'm going to do that.

10 The next item we need to think about tonight who
11 all you would need to show all the different things
12 that you would need so that we can proffer that
13 testimony and we can build a record on that issue for
14 both sides.

15 MR. LI: Yes, sir.

16 THE COURT: Okay. All right. Let's talk about
17 pictures. Of course, all these rulings are assuming
18 some foundation.

19 All right. Which ones are you specifically
20 objecting to?

21 MS. PINNOCK: Your Honor, I looked through all of
22 them the other day. I made a list. The ones that are
23 marked 75 through 85.

24 THE COURT: Okay.

25 MS. PINNOCK: 106 through 109, 12, 13, 14 and

1 then 130 through 150, are the ones I have an objection
2 to.

3 THE COURT: And what's your position, whoever is
4 doing the pictures?

5 MS. McDUFFIE: Judge, I believe that she is
6 objecting to every single photograph with any image of
7 this child in it. Your Honor, first of all, these are
8 not autopsy pictures. These are photos of the child
9 at the scene. They are not overly bloody, overly
10 gory. They are not introduced to, you know, arouse
11 the passions or sympathy of the jurors.

12 As part of the elements of homicide by child
13 abuse, we are required to show that the defendants
14 manifested an extreme indifference to human life and
15 these photos establish that the defendants were aware
16 of the ongoing abuse to the victim, which is directly
17 relevant to whether the acts that are mentioned
18 resulted in the victim's death.

19 Further, Your Honor, the photos establish a
20 pattern of continuous abuse and neglect, which made it
21 more probable that the victim's injuries are from
22 child abuse rather than accident, Your Honor, or a
23 fall from a dresser or whatever other ridiculous
24 theory that they have thrown out there.

25 Further, Your Honor, South Carolina --- in the

1 South Carolina Court of Appeals in State v. Jarrell
2 said the photos are essential to the State's ability
3 to prove homicide by child abuse and unlawful conduct,
4 because, Your Honor, they corroborate the testimony
5 about the condition of the child.

6 Your Honor, I also rely on State v. Holder, South
7 Carolina Supreme Court, 382 SC 287. I'd also like the
8 court to take note that in the memorandum that the
9 defense, or that Ms. Thompson and her counsel handed
10 up, Your Honor, they mention photos of the body at the
11 scene, but they have no case law to support the
12 exclusion of those.

13 They then go in and rely heavily on State v.
14 Collins, Your Honor, for the exclusion of autopsy
15 photos. However, there's a very clear distinction in
16 this case and State v. Collins. In Collins, that was
17 a case of a pit bull that mauled a child to death,
18 Your Honor. While they said those photos were not
19 admissible in that context, they clearly cite in that
20 case State v. Jarrell where they said that was a
21 homicide by child abuse.

22 This is why these photographs are relevant. Here
23 this is a dog had attacked a child and those
24 photographs are not --- those images were not relevant
25 to prove any element of the crime here.

1 Your Honor, it is necessary for us to have the
2 photos to establish the physical condition that the
3 child was in; that the injuries would be readily
4 apparent to any person that this child had visible
5 injuries, and to show the extreme indifference and to
6 establish abuse and neglect that was continuous and
7 ongoing in this home, Your Honor.

8 Further, the defense throughout multiple
9 witnesses that we have put up has specifically
10 cross-examined the witnesses about whether they
11 observed bleeding cuts, not bleeding cuts, bruising on
12 different parts of the body. I think that it's
13 important for the jury to be able to see how these
14 injuries manifested on that day when this child was
15 seen by law enforcement, Your Honor.

16 THE COURT: Are you objecting to the photos?

17 MR. LI: Yes, Your Honor, just following
18 Ms. Pinnock.

19 THE COURT: Are you joining the objection?

20 MR. LI: Joining, yes.

21 THE COURT: Ms. Pinnock, anything else?

22 MS. PINNOCK: Yes, Your Honor, as far as the
23 crime scene photos, not even the autopsy photos, the
24 objection to that would be the fact that the child is
25 deceased is not an issue. I can't see anything that a

1 picture of a deceased four-year-old laying in the
2 middle of somebody's living room floor, how that's
3 relevant. It doesn't go to prove anything. We're not
4 disputing the fact the child is deceased.

5 Those photographs can do nothing but inflame the
6 passions of the jury. It's going to have a severe
7 emotional response to see those types of images, and
8 that would lead the jury to make an improper decision
9 if they were to see that.

10 As far as the injuries go, Your Honor, the
11 pathologist is going to testify. She is going to
12 testify to every injury she documented. She is going
13 to testify to what the cause of death was. The
14 pictures do not in any way, shape, or form corroborate
15 her testimony. She is a trained medical professional.
16 She will come in here and testify to the injuries that
17 she observed on the child when she started doing the
18 autopsy.

19 I don't think the crime scene photos showing the
20 child's body laying in the house corroborates any sort
21 of testimony. It fails the balancing test under 403
22 because it is --- the prejudicial value of it is
23 extremely high. I don't think the solicitors have
24 said anything about what they're probative of. All
25 they show is a dead child on the floor. We have not

1 introduced any --- we have not asked anybody or
2 questioned any witness about what injuries they did
3 and did not see on the child.

4 THE COURT: Anything further?

5 MS. McDUFFIE: Your Honor, I'd just like to
6 direct the Court's attention to State v. Rosemond 335
7 SC 597 says that it is not an abuse of discretion and
8 the judge is not required to exclude relevant evidence
9 merely because it is unpleasant or offensive. Your
10 Honor, these photographs are absolutely probative in
11 this case and we are seeking to admit them.

12 THE COURT: Anything else you want to add?

13 MR. LI: No, Your Honor.

14 THE COURT: Anything else, Ms. Pinnock?

15 MS. PINNOCK: No, Your Honor.

16 THE COURT: Okay. I find that the photographs
17 are highly probative to the issues of whether or not
18 the victim was abused and whether or not the abuse was
19 the cause of his death. These are integral elements
20 of the charge of homicide by child abuse and the
21 charge of unlawful conduct towards a child. Thus, I
22 find that the nature of any potential unfair prejudice
23 does not outweigh the photograph's probative value. I
24 find that these photographs are directly relevant
25 under the South Carolina Rules of Evidence, that the

1 proper analysis is a 403 analysis, which I just
2 conducted.

3 That being said, photographs State's Exhibit 12,
4 14, 76, 77, 82 and 148 are out because I believe their
5 repetitious of what's being shown. I don't know that
6 we need three pictures of the child on the floor. So
7 I have pulled out the photos that I believe to be
8 cumulative or duplicative and so 12, 14, 76, 77, 82
9 and 148 are out. And 13, 147, 146, 130, 75, 84, 81,
10 85, 83, 80, 144, 137, 136, 19, 18, 17, 16, 15, 139,
11 138 are in. I apologize for them being out of order,
12 but that's how I categorized them based on what was
13 shown in the photos, and all this is, of course,
14 subject to somebody laying the proper foundation.

15 MS. PINNOCK: Your Honor, may I address 106, 107,
16 108 and 109. I do apologize. That was a separate
17 argument.

18 THE COURT: I don't even have those photos.

19 MS. McDUFFIE: These don't contain the victim's
20 body.

21 THE COURT: All right. I'm now looking at 106,
22 107, 108, and 109. Are you attempting to introduce
23 these today?

24 MS. McDUFFIE: We'll probably get to that later,
25 Your Honor.

1 THE COURT: Okay. What's your argument about
2 these?

3 MS. PINNOCK: Your Honor, they do not accurately
4 depict the deceased child. That picture includes a
5 baby doll laying in the middle of the floor where they
6 are taking samples of the carpet. I think that is
7 prejudicial. That's not an accurate or appropriate
8 depiction of what CHILD looked like.
9 It's much smaller. It's inflammatory. I don't think
10 it's an accurate depiction of what was recorded.

11 THE COURT: What do you know about this?

12 MS. McDUFFIE: Judge, those photos were taken
13 during the reenactment. Ms. Thompson was asked to
14 place the doll as a tool for demonstration,
15 approximately where she found the victim, where he was
16 lying. She placed that doll --- she also, Your Honor,
17 in the video gets on the floor and demonstrates how he
18 was laying with his legs up under him, how she says,
19 Your Honor --- I think it's relevant to the case
20 because it's shows the approximately position that Ms.
21 Thompson says that the victim was in.

22 We will tell the jury this is obviously not the
23 victim's body, that it's not an accurate size of the
24 victim's body, but rather it was a representation
25 that was made and then measurements were taken from

1 that, Your Honor.

2 I think her issue about it not being, you know,
3 obviously the victim's body laying there, I think that
4 would go more towards weight that the jury would give
5 it rather than admissibility, Your Honor.

6 THE COURT: All right. So who is going to put
7 these in?

8 MS. McDUFFIE: Your Honor, investigator Tim Lee
9 was present at the reenactment that Jane Powell and
10 Ms. Thompson did. Investigator Lee is actually the
11 one who measured it and took the photographs of where
12 Ms. Thompson laid the baby doll and the approximate
13 position, so he's the one that took those
14 measurements. He would be the one testifying to that,
15 Your Honor.

16 MS. PINNOCK: Your Honor, if I recall correctly,
17 there's other pictures of that same carpet area, not
18 as easy for somebody to point and say that's where she
19 said the body was than putting a picture of a small
20 baby doll.

21 THE COURT: I don't have any of those photos, so
22 I can't...

23 MS. McDUFFIE: She doesn't object to that.

24 MS. PINNOCK: No, Your Honor, I'm not objecting
25 to that. Just the carpet area.

1 MS. McDUFFIE: Your Honor, those are the only
2 photos from the reenactment that we intend to
3 introduce. The rest are of the top of the dresser and
4 of ---

5 THE COURT: Are there other photos of this room?

6 MS. McDUFFIE: We have 500 pictures I can search
7 through.

8 MS. PINNOCK: There are other pictures. I can
9 find them.

10 THE COURT: Are there other pictures of the room
11 without the baby doll?

12 MS. PINNOCK: Yes, sir.

13 MS. McDUFFIE: I don't know.

14 MS. PINNOCK: And I think Investigator Richards
15 may have introduced one yesterday.

16 (Pause.)

17 MS. McDUFFIE: The only other pictures I have
18 that show the area, show ---

19 MS. CAMPBELL: That wasn't the reenactment. The
20 room changes just so you know.

21 THE COURT: I understand that.

22 MS. CAMPBELL: Between --- at the time of the
23 reenactment they moved some things and some things
24 changed, as well. This is a photo, Your Honor, which
25 I can hand up, which is State's Exhibit 45, which is

1 in that shows part of the room on July 1st. The
2 reenactment is not ---

3 THE COURT: That's before the carpet is cut.

4 MS. CAMPBELL: Yes, sir.

5 THE COURT: Okay.

6 MS. PINNOCK: Your Honor, I have one before the
7 carpet was cut.

8 MS. McDUFFIE: Your Honor, the issue with those
9 photographs is that they don't show the measurements.
10 The only pictures we have that show the measurements
11 are the ones ---

12 THE COURT: Are these the only three with the
13 carpet cut?

14 MS. PINNOCK: Those were the three that --- with
15 the carpet cut.

16 And --- Investigator Lee took the measurements?

17 MS. McDUFFIE: Yes, Your Honor.

18 THE COURT: Okay. Tell me what his testimony
19 would probably be.

20 MS. McDUFFIE: Your Honor, that ---

21 THE COURT: That he was present at the
22 reenactment? That he saw where she placed the baby or
23 placed the baby doll, and then where she got down and
24 kind of demonstrated the position that the alleged
25 victim was in, and then he went and measured it all?

1 MS. McDUFFIE: Measured from different angles
2 where she placed the baby doll on the carpet.

3 THE COURT: What does the measurement matter?
4 That's what I'm trying to --- that's the disconnect
5 that I'm not following.

6 MS. McDUFFIE: Your Honor, I think it's --- first
7 of all, it's probative to show that law enforcement
8 tried to substantiate her story. Where she places the
9 baby doll is approximately 44 inches, which would be
10 the height of the victim, which would be our position
11 that he couldn't --- if he jumped off the dresser, he
12 would be further than his height from the dresser,
13 Your Honor.

14 THE COURT: That's a little bit of a stretch,
15 Ms. McDuffie. Call me crazy.

16 The one with the measuring stick in it doesn't
17 show the dresser completely.

18 State's 109 shows the baby doll and the cut out
19 and the tape measure, but it doesn't show the top of
20 the dresser. He is prepared, when he testifies, that
21 the baby doll is not accurate. It's not the size it
22 was ---

23 MS. McDUFFIE: Yes, Your Honor.

24 THE COURT: It was just for whatever reason?

25 MS. McDUFFIE: It was all the coroner's office

1 had to use for demonstrative purposes.

2 THE COURT: What's the issue with the baby doll,
3 Ms. Pinnock?

4 MS. PINNOCK: Your Honor, it's just prejudicial.
5 It's a prejudicial photograph.

6 THE COURT: Being prejudicial --- everything in a
7 trial is prejudicial.

8 MS. PINNOCK: Yes, sir.

9 THE COURT: It has to be unfairly prejudicial and
10 you have to be able to delineate exactly what that
11 means.

12 MS. PINNOCK: I do think it is unfairly
13 prejudicial because it shows an infant sized baby
14 being pictured when they're investigating a possible
15 homicide. The victim in this case is not an infant.
16 He was a four-year-old child. The picture shows an
17 infant, and I think that would have an emotional
18 effect on the jury that would cause them to --- I'm
19 not sure, I don't know if it would make them
20 100 percent, but I think it would affect them in an
21 overly prejudicial way, seeing a photograph of an
22 infant sized baby doll. They can have the same
23 testimony with a picture that does not show that doll.
24 The measurements are not an issue. I'm not sure what
25 the relevance is in that with him taking measurements,

1 but he can testify looking at the picture this is
2 where Ms. Thompson told me that he was found and I did
3 measurements and the measurements were this amount.

4 THE COURT: Okay. I'm going to admit State's
5 Exhibit No. 106. I find that it is relevant to the
6 issue at hand. It actually goes directly to the
7 statements of Ms. Thompson that's made to multiple
8 sources throughout the case of her theory of what
9 happened. The fact that there is a baby doll in the
10 picture, unless the State fails to establish something
11 that this is for demonstrative purposes and nothing
12 else and nothing more, I do not find the prejudicial
13 effect of that outweighs the probative value purely
14 for demonstrative purposes and the State has an
15 opportunity to, or has the right to, attempt to show
16 to the jury how one of the defendant's stories of what
17 happened isn't plausible. I find that's why this is
18 admissible. 107, 108, and 109 are out. 106 is in
19 pursuant to the proper foundation and they can testify
20 to the measurement, but the picture with the tape
21 measure in, I don't think its accurately shows the
22 whole picture because part of something is cut off in
23 there. No disrespect to whoever took it, but I think
24 106 is the more accurate picture.

25 THE COURT: Anything else?

1 MR. LI: Not for the record. We join in.

2 THE COURT: Okay. Ready?

3 THE BAILIFF: Yes, sir.

4 THE COURT: Okay.

5 (WHEREUPON, the jury entered the courtroom at
6 2:12 p.m.)

7 THE BAILIFF: Your Honor, the jury is present.

8 THE COURT: Thank you, sir. I hope you enjoyed
9 your lunch. Welcome back.

10 Call your next witness.

11 MS. CAMPBELL: Thank you, Your Honor. The State
12 calls Dr. Kiersten Lofton.

13 THE COURT: All right. Please come forward.

14 DR. KIERSTEN LOFTON,

15 after being duly sworn, testified as follows:

16 THE CLERK: Please have a seat. State your full
17 name for the record.

18 THE WITNESS: Dr. Kiersten Lofton.

19 DIRECT EXAMINATION:

20 BY MS. CAMPBELL:

21 Q Dr. Lofton, where are you employed?

22 A Palmetto Pediatrics.

23 Q Let me move that microphone a little closer.
24 It's hard to hear in here sometimes.

25 A Is that better?

1 Q Yes. Thank you. I'm sorry. Where did you say
2 you are employed?

3 A Palmetto Pediatrics.

4 Q How long have you been with the Palmetto
5 Pediatrics group?

6 A Two months.

7 Q Prior to that where were you working?

8 A Five Points Pediatrics.

9 Q What did you do at both of these places?

10 A Pediatrician.

11 Q Can you tell the jury about your education and
12 training as a pediatrician?

13 A I attended medical school in Charleston at MUSC
14 and then I did my pediatric residency at Palmetto
15 Health Richland.

16 Q Have you actually received your medical degree
17 then at MUSC?

18 A Yes.

19 Q Subsequent to that you did your residency here in
20 Columbia?

21 A Correct.

22 Q At Richland Memorial?

23 A Uh-huh.

24 Q And your specialty is actually pediatrics; is
25 that correct?

1 A Yes.

2 MS. CAMPBELL: Your Honor, at this time we offer
3 her as an expert in pediatrics.

4 MR. LI: No objection.

5 MS. PINNOCK: No objection.

6 THE COURT: All right. Ladies and gentlemen,
7 Dr. Lofton will be an expert in the area of
8 pediatrics. As I have I told you before, normally
9 witnesses cannot give opinion testimony, but expert
10 witnesses can. However, this does not mean that you
11 have to accept her opinion. This is evidence for you
12 to use in any way that you see fit and give it the
13 weight and credibility that you believe is appropriate
14 as you have to do with every single witness in the
15 trial.

16 Ms. Campbell.

17 MS. CAMPBELL: Thank you, Your Honor.

18 BY MS. CAMPBELL:

19 Q Doctor, back when you were at the Five Points
20 Pediatric Group what did your duties include? What
21 typically did you do in a day?

22 A General pediatrics, well child, and sick
23 childcare.

24 Q Well child and sick child care?

25 A Yes.

1 Q So if they made an appointment for say, their
2 three-year-old well check, you could see them?

3 A Correct.

4 Q Or for whatever milestones, it would be
5 appropriate?

6 A Yes.

7 Q During the course of your practice on some
8 occasions do you also get referred for your opinion as
9 far as abuse or neglect?

10 A Yes.

11 Q Are you actually mandated when you see signs of
12 abuse or neglect to report it to DSS?

13 A Absolutely.

14 Q I want to turn your attention back to April the
15 5th of 2013. For the record, you never actually saw,
16 physically saw, the child [CHILD], did
17 you?

18 A No.

19 Q Can you tell the jury actually how you became
20 aware of possible abuse with this child on April 5th
21 of 2013?

22 A I can with my note to refer to.

23 Q All right. Good.

24 A The grandmother of [CHILD], came to my
25 office without the child and siblings and reported to

1 me that they had concerns about the child being
2 abused.

3 Q And the child you're referring to that they were
4 concerned about being abused was CHILD ,
5 correct?

6 A Correct.

7 Q They didn't have any children with them when they
8 came and met with you?

9 A No.

10 Q Had you ever seen any of the children they
11 actually had in their care on other prior occasions?

12 A Yes.

13 Q And those were female children?

14 A Correct.

15 Q Siblings of CHILD ?

16 A Correct.

17 Q So that's how they knew you?

18 A Correct.

19 Q When they came and reported to you, tell the jury
20 what you observed and what your observations were?

21 A CHILD 's grandmother, Ms. Metze,
22 reported to me that ---

23 Q Ms. Metze?

24 A Yes.

25 Q Okay.

1 A Reported to me that she had pictures on her phone
2 from about the month prior to that date, April 5th,
3 that she had taken of the child that she thought
4 proved injuries or abuse and that's what she wanted to
5 show me in the hopes of me helping her.

6 Q And when you say she was hoping that you would
7 help her, who was she trying to get help as far as
8 reporting this?

9 A DSS or the police.

10 Q And when she showed you a series of photographs,
11 was she actually showing you those photographs on her
12 phone?

13 A On a phone, yes.

14 Q On a phone, okay. And I want to show you a
15 series of photographs, which are State's 222, 221, 219
16 and 218. I would just ask you to review those.

17 A Uh-huh.

18 (Pause.)

19 Q Were those some of photographs she showed you?

20 A These are --- yes.

21 Q And specifically, when you review those
22 photographs, was there a certain area of the back that
23 caused concern for you?

24 A From what I could see in the photos, the lower
25 back to mid back to me was concerning.

1 Q And in what way was it concerning to you, ma'am,
2 as a doctor?

3 A That there appeared to be patterned markings on
4 the back.

5 Q When you say patterned markings on the back, what
6 does that mean?

7 A Meaning markings that were unlikely to arise from
8 anything other than being struck with an object that
9 would create a pattern. It's not likely to be a
10 natural rash or infectious rash.

11 Q At that point when you observed these things,
12 what, if anything, did you do?

13 A I reported them to DSS.

14 Q So you actually made a report to DSS?

15 A Yes.

16 Q Do you recall who you spoke with?

17 A It was the intake person on the phone. I tried
18 to get in touch with the caseworker from CHILD
19 [REDACTED]'s chart, but she was sick.

20 Q The caseworker from his chart?

21 A Uh-huh.

22 Q Again you never actually physically saw this
23 child yourself?

24 A No.

25 Q So you spoke to the intake person?

1 A I did.

2 Q What did you report to the intake person on
3 April 5th, 2013?

4 A That family members of the child had shown me
5 these photographs and that I found them concerning.

6 Q Did you ask them to follow up on that?

7 A Yes.

8 Q Did you later get back in touch with DSS about
9 following --- or did they get in touch with you? I
10 don't know which way that happened.

11 A They got back in touch with me, yes.

12 Q At some point, did you become aware of
13 allegations that this was just a skin condition?

14 A That day, yes.

15 Q That same day?

16 A Uh-huh.

17 Q Who did you get that information from?

18 A That was from the police.

19 Q From the police department?

20 A Correct.

21 Q That there was an allegation that this was just a
22 skin condition?

23 A Correct.

24 Q Did you consider that in assessing what you
25 thought was abuse?

1 A Did I consider that it was a skin condition, yes.

2 Q And was --- the observations you made of those
3 photographs consistent with any skin condition that
4 you knew of?

5 A No.

6 Q Did you further follow up with DSS and report
7 back to them that at the very least what needed to
8 happen?

9 A I did.

10 Q And what did you tell DSS when you called them
11 back and said they needed to follow up on it?

12 A Based on my being told that this was described as
13 a skin condition, I reported back to DSS that I had no
14 record either in the records of Five Points Pediatrics
15 or in the records of a clinic he had attended prior
16 whose records were part of Five Points records.

17 Q Uh-huh.

18 A I found zero documentation of any skin condition.

19 Q In reviewing that file, did you also become aware
20 of some referrals that had been made with this child?

21 A Yes.

22 Q Was there any documentation in the file that the
23 referrals for urology or developmental issues had been
24 followed up on?

25 A No, they had not been.

1 Q Did that also cause concern for you?

2 A Yes.

3 Q As such, did you then initiate another report
4 with DSS about possible medical neglect at the very
5 least?

6 A Correct.

7 Q So that day you actually referred additionally to
8 possible physical abuse, and then ultimately at the
9 very least medical?

10 A Correct.

11 Q You reported all of that to DSS?

12 A Yes.

13 Q And that was based on your observations of some
14 photographs?

15 A Yes.

16 MS. CAMPBELL: Beg the Court's indulgence.

17 Thank you, ma'am. I don't have anything further.

18 THE COURT: Cross?

19 MR. LI: No questions, Your Honor.

20 THE COURT: Ms. Pinnock?

21 CROSS-EXAMINATION:

22 BY MS. PINNOCK:

23 Q Doctor, just one quick question. Do you know the
24 exact date those photos were taken?

25 A No.

1 MS. PINNOCK: Thank you.

2 THE COURT: Redirect?

3 MS. CAMPBELL: No. None, sir.

4 THE COURT: All right. Doctor, thank you very
5 much. You are excused. Have a nice day.

6 MS. CAMPBELL: State would call Investigator
7 Schroder.

8 SHAWN SCHRODER,
9 after being duly sworn, testified as follows:

10 THE CLERK: Please have a seat. State your full
11 name.

12 THE WITNESS: Shawn Schroder.

13 DIRECT EXAMINATION:

14 BY MS. CAMPBELL:

15 Q Investigator Schroder, where are you employed?

16 A Richland County Sheriff's Department.

17 Q What do you do there, sir?

18 A I'm a crime scene investigator.

19 Q As a crimes investigator, what do your duties
20 include?

21 A Duties include documentation, photography, note
22 taking, bench notes, sketches.

23 Q I want to turn your attention to July 1st of last
24 year. Were you at headquarters, I believe, that
25 evening?

1 A That's correct, I was.

2 Q And were you requested to do certain things
3 involving this case, involving the death of the
4 four-year-old?

5 A I was.

6 Q And what were you requested to do that evening,
7 sir?

8 A At that time I took fingernail scrapings.

9 Q And who were you taking fingernail scrapings
10 from?

11 A From Robert Guinyard and Courtney Thompson.

12 Q Where were you when this was happening?

13 A I was at headquarters.

14 Q Were they also at headquarters that evening?

15 A Yes, they were.

16 Q Where did you make contact with them, do you
17 recall?

18 A It was at headquarters in the CID section.

19 Q In the investigative unit?

20 A Correct.

21 Q While you were there, did you also take some
22 photographs?

23 A I did.

24 Q Of the general appearance and condition of both
25 Mr. Guinyard and Courtney Thompson?

1 A That's correct, yes.

2 Q I'm going to show you what's been marked as
3 State's Exhibit No. 170 and 171. Do you recognize
4 those?

5 A I do. These are the fingernail scraping kits.

6 Q Can you tell the jury how you take those?

7 A Sure. Fingernail scrapings are pretty easy
8 really. All you would take is like a --- a wooden ---
9 a sharp wooden stick basically where you can get under
10 the fingernail, with a pharmaceutical fold, and a
11 piece of paper. What you're trying to do essentially
12 is get anything out from underneath the fingernails
13 for DNA evidence. Then you fold that piece of paper
14 and submit all that for DNA evidence.

15 Q And did you do that in this case?

16 A I did.

17 Q When you collected the fingernail scrapings from
18 each of them, did you keep them separate?

19 A I did, yes.

20 Q And did you package them separate?

21 A I did.

22 Q During the time period that the fingernail
23 scrapings were in your possession, did anyone alter
24 with them or tamper with them in any way?

25 A No.

1 MS. CAMPBELL: Your Honor, at this time we'd
2 offer State's 170 and 171 into evidence

3 MR. LI: No objection, Your Honor.

4 MS. PINNOCK: No objection, Your Honor.

5 THE COURT: Okay. State's 170 and 171 admitted
6 without objection.

7 (WHEREUPON, State's Exhibits 170 and 171 were
8 admitted into evidence.)

9 BY MS. CAMPBELL:

10 Q You mentioned that you also took some photographs
11 of these two individuals while they were at
12 headquarters that evening?

13 A I did.

14 Q I'm going to show you what's been marked as
15 State's Exhibit 152 through 160 and 161 through 169.
16 Are these the actual photographs that you took that
17 night?

18 A Yes, these are from Ms. Thompson.

19 Q And for the record, that's 161 through 169.

20 A And these are from Mr. Guinyard.

21 MS. CAMPBELL: Your Honor, at this time we would
22 offer 152 through 169 into evidence.

23 MR. LI: No objection, Your Honor.

24 MS. PINNOCK: I don't have any objection, Your
25 Honor.

1 THE COURT: All right. State's 152 through 169
2 admitted without objection.

3 (WHEREUPON, State's Exhibits 152 through 169 were
4 admitted into evidence.)

5 BY MS. CAMPBELL:

6 Q First, State's Exhibits No. 152 and 153, who is
7 this and what are you trying to document there?

8 A That's --- I'm sorry, that's Mr. Guinyard.
9 Basically I'm trying to document the individual who
10 I'm taking the photographs from and kind of working my
11 way down to the hands.

12 Q What time was it when you took these photographs
13 that night?

14 A This was approximately 11:15 at night, 11:15 p.m.

15 Q And you mentioned that you also were trying to
16 document his hands, and I show you State's Exhibits
17 154, 155 and 156. Do those show the back sides of his
18 hands and his fingers?

19 A That's correct.

20 Q And specifically are you trying to document how
21 his hands appeared?

22 A That's correct.

23 Q And additionally, with 157 and 158, do those show
24 both his palms?

25 A That's correct.

1 Q Did you do the same with Ms. Thompson?

2 A I did.

3 Q Let me show you State's Exhibits 161 and 162. Do
4 you recognize those?

5 A Yes.

6 Q And are those the photographs you took of
7 Ms. Thompson that night?

8 A They are.

9 Q Does that show her general appearance including
10 her arms and hands?

11 A Yes.

12 Q And as you had done before with Mr. Guinyard, did
13 you also photograph both the front and backs of her
14 hands?

15 A I did.

16 Q I show you 164 and 165. Are those Ms. Thompson's
17 hands?

18 A Yes, they are.

19 Q And finally also the palm area?

20 A Yes.

21 Q And 166 and 167?

22 A That's correct.

23 Q What's the purpose of taking fingernail
24 scrapings?

25 A The purpose is if there's some type of

1 altercation where we need to get DNA evidence,
2 potential DNA evidence. This is just one way to
3 possibly do it. Sometimes people wash their hands, so
4 there could be other circumstances, but that's
5 generally it.

6 Q And specifically if there's some scratching going
7 on?

8 A Correct.

9 Q And when you did this that night, this is before
10 any autopsy had been done on this child; is that
11 correct?

12 A That is correct, yes.

13 Q But you wanted to preserve any evidence if there
14 is any potential that might be there?

15 A Absolutely.

16 Q Thank you, sir.

17 MS. CAMPBELL: Your Honor, I don't have anything
18 further.

19 CROSS-EXAMINATION:

20 BY MR. LI:

21 Q Investigator, my client, Antonio Guinyard, gave
22 you permission voluntarily?

23 A Yes, he did.

24 Q No further questions.

25 THE COURT: Cross?

1 MR. RUFFIN: No questions, Your Honor.

2 THE COURT: Okay. Have a nice day. Thank you
3 very much.

4 Call your next witness.

5 MS. WALKER: Your Honor, the State calls Gladys
6 Thompson.

7 THE WITNESS: Oh, oh. I can't do this. I can't
8 do this. Oh, no.

9 (crying.)

10 THE BAILIFF: Stand right beside me.

11 THE WITNESS: That's my baby girl. Oh,
12 Ms. Brown, I can't do this. I can't do it.

13 (crying.)

14 THE COURT: All right. Let's take a little
15 break. If the jurors will retire to their jury room.
16 We'll get you back in just a few moments. Please
17 don't discuss the case. Keep an open mind.

18 THE WITNESS: Oh, no, Lord.

19 (WHEREUPON, the jury left the courtroom at
20 2:35 p.m.)

21 THE WITNESS: Oh, no.

22 (crying.)

23 THE WITNESS: Oh, Lord, oh, Lord. Oh, Lord.
24 Please don't do this. Oh, Lord Jesus Christ.

25 THE COURT: You all approach, please.

1 (WHEREUPON, there was a bench conference.)

2 MS. WALKER: Your Honor, may we approach? Thank
3 you.

4 (WHEREUPON, State's Exhibit Numbers 20-44, 60-63
5 74, 104, 110, 111 were marked for identification
6 only.)

7 (WHEREUPON, there was a bench conference.)

8 (The witness was brought to the jury box.)

9 (WHEREUPON, State's Exhibit Numbers 112-129, 172-
10 210 and 212-214 were marked for identification
11 only.)

12 THE COURT: That's fine. She can get up there.
13 We need to swear her in, but she can go ahead and go
14 up there and get seated.

15 All right. Let's swear her in.

16 MS. WALKER: Your Honor, do we have to swear her
17 in front of the jury?

18 THE COURT: No. Do we?

19 THE BAILIFF: Bring them, Your Honor?

20 THE COURT: Yes, sir.

21 (WHEREUPON, the jury entered the courtroom at
22 2:39 p.m.)

23 THE BAILIFF: Your Honor, the jury is present.

24 THE COURT: All right. Ms. Thompson, look over
25 at me, okay. Raise your right hand.

1 GLADYS THOMPSON,
2 after being duly sworn, testified as follows:

3 THE COURT: Okay. Does she have water? Does she
4 have tissues?

5 MS. WALKER: I'll get her some.

6 THE COURT: Very well. Okay. Go ahead.

7 MS. WALKER: Thank you, Your Honor.

8 DIRECT EXAMINATION:

9 BY MS. WALKER:

10 Q Gladys Thompson is it?

11 A Yes.

12 Q Every time you answer one of my questions, please
13 speak up, because she is going to type down what you
14 say, okay.

15 A (Nods in the affirmative.)

16 Q You're Courtney Thompson's mother?

17 A Yes, ma'am.

18 Q And you are **CHILD** 's grandmother?

19 A Yes, ma'am.

20 Q And did you --- did you know Antonio Guinyard?

21 A Yes, ma'am.

22 Q **CHILD** 's father?

23 A Yes, ma'am.

24 Q **CHILD** had several brothers and sisters, or
25 several sisters, I'm sorry?

1 A Yes, ma'am.

2 Q Did you notice a difference in the way that
3 CHILD was treated compared to the way his sisters
4 were treated?

5 A Yes, ma'am.

6 Q Can you tell me what that difference was?

7 A Not right offhand, I can't. I mean, I don't ---
8 I can't.

9 Q Well, let me ask you, was he treated as nicely as
10 his sisters were treated?

11 A No, ma'am. (crying)

12 Q It's hard for you to be here today, isn't it?

13 A Yes, it is. I don't want to be here.

14 Q You're here because you've been subpoenaed,
15 right?

16 A Yes, ma'am. I didn't want to be here because I
17 mean, that's my grandson. I miss him, every day. I
18 love him. I love him. This is my ---

19 Q Your daughter?

20 A This is my baby girl. I don't get to see her no
21 more. So this is hard for me. I didn't ask to be
22 here. I don't want to be here. I was subpoenaed to
23 be here. I just hope that she understands that I got
24 to do what I got to do. I don't want to go to jail.

25 Q To be clear, no one has threatened you or

1 anything?

2 A No.

3 Q Okay. Can you describe for me some of the ways
4 you saw CHILD being treated by his parents?

5 A I mean, which parent? Who are you talking
6 about?

7 Q Either one of them.

8 A (crying.) I can't.

9 Q You can't describe it?

10 A (Indicating in the negative.)

11 Q Do you remember describing it for the sheriff's
12 department?

13 A Yes, I do.

14 Q Do you remember on July 3rd giving the statement
15 to Investigator Wagner about what you saw?

16 A Yes, ma'am.

17 Q Do you remember telling her that animals
18 shouldn't have been treated the way CHILD was
19 treated?

20 A Yes, ma'am.

21 Q Do you remember telling her that if CHILD
22 spilled something, he would be slapped hard with an
23 open hand by his mother?

24 A Yes, ma'am.

25 Q Do you remember trying to stand up for CHILD?

1 A Yes, ma'am.

2 Q Do you remember his mother hitting him with a
3 cable cord?

4 A I only saw it once.

5 Q You saw that once?

6 A (Nods in the affirmative.)

7 Q Do you remember saying that his mother would
8 punch him with a fist?

9 A I only saw that once.

10 Q Do you remember telling investigators that when
11 you tried to stand up for **CHILD**, you got put out of
12 the house?

13 A Yes, ma'am.

14 Q Do you remember saying that one time you saw both
15 of his parents punch him for the same incident?

16 A Ma'am, like I told them, I don't want to be here,
17 but I got to tell the truth, I...

18 Q My question is, do you remember telling
19 investigators?

20 A Actually, I only seen Antonio might spank him
21 like spank him on his hand.

22 Q So you didn't tell investigator that Antonio
23 punched **CHILD** in the side two times with a closed
24 fist?

25 A I can't remember. I mean, from that day, ma'am

1 all the way back, I can't remember. I mean, I was up
2 under the influence of alcohol.

3 Q On July 3rd?

4 A Yes, ma'am. One of the investigators --- I don't
5 see him here.

6 Q I'm not talking about July 1st, the night this
7 happened. I'm talking about two days later.

8 A No.

9 Q When you gave the statement?

10 A I thought I gave my statement the same night on
11 the 2nd, the 3rd.

12 Q The 3rd. This was two days later.

13 A Okay.

14 Q I'm going to show you your statement and see if
15 that will refresh your memory, okay?

16 MS. WALKER: Your Honor, may I approach the
17 witness?

18 THE COURT: Yes.

19 (Pause.)

20 BY MS. WALKER:

21 Q Is this your statement?

22 A Yes, ma'am.

23 Q That's what you told sheriff's investigators that
24 night, right?

25 A Yes, ma'am.

1 Q On the 3rd, two days later. What did you tell
2 them?

3 A Not --- I mean, like I said, I was up under the
4 influence of alcohol, but it's not like is not
5 statement. Like I said, I saw Antonio maybe spank
6 him.

7 Q But on that night you said ---

8 MR. LI: Your Honor, I think that was asked and
9 answered. Objection.

10 THE WITNESS: Ma'am, I just ---

11 THE COURT: Overruled.

12 BY MS. WALKER:

13 Q That you saw Robert punch him two times in the
14 side with a closed fist?

15 A No, ma'am.

16 Q You didn't say that?

17 A No, ma'am. And I'll tell you if I did I was
18 under the influence of alcohol and also I take five
19 different medications, so I don't remember some of
20 that.

21 Q But you did make that statement?

22 A I made the statement. Like I said, I'm telling
23 you, I was up under the influence. I'm being honest.
24 As a matter of fact the investigator, I am telling
25 you, he even ---

1 Q No, I'm asking you this. Not on July 1st. I'm
2 very sorry, not on July 1st, but two days later?

3 A I don't remember. I can't remember right
4 offhand. It's been so long. I've been through so
5 much. I can't remember.

6 Q Are you saying you don't remember making the
7 statement or you don't remember the ---

8 A I remember making the statement. I don't
9 remember half of the stuff in the statement, ma'am.
10 I've been through two surgeries since all this
11 happened. I remember some of the stuff in the
12 statement, but not everything.

13 Q Okay. Do you remember whether or not **CHILD** was
14 fed and given water or something to drink on a regular
15 basis?

16 A No, he wasn't.

17 Q What kinds of things would **CHILD** do so that he
18 could eat or drink?

19 A Ma'am?

20 Q What kind of things would **CHILD** do in order to
21 get himself something to eat or drink?

22 A Well, see, I don't --- when he was not with me, a
23 lot of stuff I don't know. I mean, I can't --- I
24 can't.

25 Q I'm talking about the incident that you

1 witnessed, ma'am.

2 A I mean, what are you saying?

3 Q Do you remember seeing him ever drink out of a
4 toilet?

5 A I never saw him drink out of the toilet. I heard
6 --- Courtney came and told me he drank out of a
7 toilet. Just like I told them in the statement, I
8 never saw that.

9 Q Do you remember saying that once one of them had
10 beaten **CHILD** and the other one began to beat him, as
11 well, and you would try to stand up for him and try to
12 say that he had already been disciplined once?

13 A No, ma'am. I just read the statement to you. I
14 just felt like when Courtney had beat him, she would
15 get mad at **CHILD**, but I don't know. It's whatever is
16 in that statement.

17 MS. WALKER: Thank you, Ms. Thompson, I don't
18 have any further questions.

19 MR. LI: Thank you, Your Honor. May it please
20 the Court.

21 CROSS-EXAMINATION:

22 BY MR. LI:

23 Q Ms. Thompson, I'm going to try to make this as
24 quick as possible.

25 A Yes, sir.

1 (crying.)

2 Q I'm sorry you have to be here today. You lived
3 with --- you moved in with Courtney in February
4 of 2012?

5 A Yes, sir.

6 Q You had to move in with her because you had
7 nowhere else to go?

8 A Yes, sir.

9 Q Whose house was that?

10 A Courtney's.

11 Q Was that at Allen Benedict?

12 A Allen Benedict Court, yes, sir.

13 Q Is that section eight housing?

14 A I don't understand.

15 Q Is your name on the lease?

16 A No, my name wasn't on Courtney's lease. Being
17 her mother, she wouldn't send me out the door. She
18 wouldn't kick me out until I got my own apartment.

19 Q I understand that, but earlier you said that she
20 would put you out if you stood up?

21 A She got mad at me one time. Yes, she did. I
22 went to my church. That's how I got out of there.

23 (crying.)

24 Q And your name wasn't on that lease, right?

25 A No, my name wasn't on Courtney's lease.

1 Q So if she asked you to leave, you had to leave?

2 A Yeah, that's --- I mean, she knew my name wasn't
3 on the lease, but as her mother, she gave me a place
4 to stay. She went to the office and saw her landlord,
5 all right, told her that's my mama, and I need my
6 mama's help. They didn't harass me because I was no
7 trouble. She let me stay with her until I got my
8 own...

9 Q That's right. And --- I promise you I'm going to
10 make this quick.

11 A Okay.

12 (crying.)

13 Q I promise. I'm just a slow talker. And you
14 witnessed Courtney beat CHILD before, correct?

15 A Yes, sir.

16 Q And you didn't call the cops?

17 A Sir?

18 Q You didn't call the cops at that time?

19 A No, sir.

20 Q You didn't take CHILD away?

21 A I couldn't. If I was going to take him. I had
22 no way to take him. If I could have, I would have.

23 Q You didn't call one of your sisters to take him,
24 did you?

25 A No, sir.

1 Q In the beginning, before you found your own
2 apartment, you never called DSS?

3 A Well ---

4 Q Not until you found your own apartment?

5 A Yeah.

6 Q In December sometime?

7 A Correct.

8 MR. LI: No further questions.

9 THE COURT: Okay. Cross?

10 MS. PINNOCK: May it please the Court.

11 CROSS-EXAMINATION:

12 BY MS. PINNOCK:

13 Q Ms. Thompson, I just have a couple questions for
14 you. Were you --- did you ever live with Courtney on
15 Beaverbrook?

16 A No, ma'am. I had my own apartment. I stay in
17 W-2. When I stayed in Courtney's apartment we stayed
18 in Q-7.

19 Q But when she moved in her new house?

20 A I wasn't there, I didn't live there.

21 Q You weren't there. Were you in her house on
22 June 29th when she was in the hospital?

23 A No, ma'am.

24 Q Were you there on June 30th when she was in the
25 hospital?

1 A No. I was only at Courtney's house --- I was
2 home. I got a call that somebody stayed with my new
3 grandbaby she had, they thought it was him. When I
4 got there, I found out it was my grandson.

5 (crying.)

6 Q Yes, ma'am.

7 A And I never stayed there. Not after that.

8 Q You weren't there before she ever got home with
9 that baby?

10 A No, ma'am.

11 MS. PINNOCK: Thank you.

12 MS. WALKER: Briefly, Your Honor.

13 REDIRECT EXAMINATION:

14 BY MS. WALKER:

15 Q Mr. Li asked you a question about when you
16 reported the abuse of [CHILD] to DSS. Do you remember
17 that?

18 A Yes, ma'am.

19 Q You tried to stand up for [CHILD], and you got
20 kicked out of that house?

21 A Yes, ma'am. I told you that.

22 Q And then you went out and got a place to live?

23 A I went to my church, and they helped me.

24 Q Someone helped you get a place to live?

25 A My church.

1 Q At that point, you stood up for your grandson?

2 A Yes, ma'am.

3 Q Thank you. I don't have any further questions?

4 MR. LI: Nothing further, Your Honor.

5 MS. PINNOCK: Nothing further.

6 THE WITNESS: I can go now?

7 THE COURT: Yes, ma'am. Thank you, Ms. Thompson.

8 Okay. Call your next witness.

9 (WHEREUPON, State's Exhibit Number 138, 151, 241
10 were marked for identification only.)

11 MS. CAMPBELL: May it please the Court. The
12 State calls Captain Melton.

13 THE COURT: All right. Captain, please come
14 forward.

15 LANCY MELTON,
16 after being duly sworn, testified as follows:

17 THE CLERK: Please have a seat. State your full
18 name, please.

19 MS. CAMPBELL: Your Honor, we're taking her out
20 of order, too.

21 THE WITNESS: Lancy Melton.

22 DIRECT EXAMINATION:

23 BY MS. CAMPBELL:

24 Q Captain Melton, where are you employed?

25 A I'm employed with the Richland County Sheriff's

1 Department.

2 Q What do you do there?

3 A I'm a captain.

4 Q And captain over what?

5 A Captain over our special victim's unit to include
6 the missing person's unit, the sex offender registry,
7 the victim's services division and Project Hope.

8 Q I want to turn your attention back to July of
9 last year. Did you become involved in this
10 investigation at some point?

11 A Yes, I did.

12 Q And when did you actually become involved?

13 A On July 2nd.

14 Q Who were the primary investigators in this case?

15 A Senior Investigator Travis Holdorf and
16 Investigator Holly Wagner.

17 Q When you became involved --- tell the jury how
18 you became involved?

19 A On July 2nd, my supervision, Major Stan Smith,
20 called me and asked me to come to headquarters on Two
21 Notch Road where Investigator Holdorf and Investigator
22 Wagner were there interviewing the parents of [REDACTED]

23 [REDACTED] CHILD

24 Q This would have been on the evening of July 2nd,
25 so this would have been the day after the child had

1 been found dead?

2 A That's correct.

3 Q Were you briefed, given some background
4 information on what was going on, what the autopsy
5 showed, things of that nature? What did you know?

6 A I was told that Investigator Holdorf was re-
7 interviewing the father, and that Investigator Holly
8 Wagner and Deputy Coroner Jane Powell were in another
9 room interviewing Courtney Thompson. My major asked
10 me to assist in that interview with Courtney.

11 Q Approximately what time was it when you got to
12 headquarters on Two Notch?

13 A It was in the evening after five o'clock.

14 Q When you got there, who did you make contact
15 with?

16 A I was told that they were in Major Smith's
17 office, Courtney and Investigator Wagner and Jane
18 Powell, so I went directly to his office. I walked
19 in. They were in the middle of interviewing
20 Ms. Thompson.

21 I introduced myself to Courtney, told her who I
22 was, where I worked, and that I worked in the special
23 victim's unit.

24 Q Once you had introduced yourself to Courtney, did
25 you then sit in on part of the interview that was

1 going on?

2 A Yes, Courtney asked me --- she asked me if her
3 child had been dying prior to her getting home from
4 the hospital, and I told her that I did not know. I
5 asked her why would she ask me that, and she said that
6 her child was not acting right. She then asked to
7 speak with Antonio; that she would tell us what
8 happened if she could speak with him.

9 Q Okay. Without --- don't go into anything further
10 than that ---

11 A Okay.

12 Q --- other than, was she allowed the opportunity
13 to meet with Antonio that evening while you were
14 there?

15 A Yes.

16 Q Were they allowed to meet alone without your
17 presence or any other officer's presence?

18 A Yes.

19 Q Approximately how long were they in the room
20 alone together?

21 A About 15 minutes.

22 Q Once they came out of the room, did you continue
23 talking to Ms. Thompson?

24 A Yes.

25 Q I don't want you to necessarily go into what was

1 said on that evening, but did you take notes?

2 A I did.

3 Q And you were present for the time that she was
4 giving her oral statement first?

5 A That's correct.

6 Q And then ultimately while you were there, was it
7 reduced into a written form?

8 A Yes, it was.

9 Q How did that process work?

10 A Investigator Holdorf sat at his computer and took
11 a typed statement from her, asking her questions, and
12 I took notes. I sat quietly and took notes.

13 Q And once the typewritten statement was produced,
14 was Ms. Thompson allowed the opportunity to review
15 that statement?

16 A Yes.

17 Q And once she had been able to review the
18 statement, were any changes, or if there had been any
19 changes, would those have been made?

20 A Yes.

21 Q And then ultimately did she sign off on the
22 statement acknowledging that that's the story she
23 wanted to tell on that evening?

24 A Yes.

25 Q And that was the statement that was taken

1 actually by Investigator Holdorf?

2 A That's correct.

3 Q And you actually witnessed her signing it?

4 A Yes.

5 Q Were you actually there that evening when she was
6 advised of her rights or did you come in after that
7 occurred?

8 A I came in afterwards. She had already been
9 advised.

10 Q But during the time period that you were with
11 Ms. Thompson in the interview, from the time you got
12 there until she signed her statement, was she ever
13 promised anything to make her talk?

14 A No.

15 Q Was she ever threatened in any way?

16 A No.

17 Q Did anyone try to beat her or coerce her or make
18 her talk to y'all?

19 A No.

20 Q Was she promised any type of leniency to make her
21 talk?

22 A No.

23 Q In your opinion, was she talking to you
24 voluntarily?

25 A Yes.

1 Q At any point did she ever invoke any of her
2 rights?

3 A No.

4 Q Did she ever tell you she wanted to talk to
5 anyone?

6 A No.

7 Q Did she ever ask for an attorney?

8 A No.

9 Q In your opinion, was she talking to you
10 voluntarily?

11 A Yes.

12 Q And y'all recorded the information that she chose
13 to give you?

14 A Right.

15 Q And that was pretty much the extent of your
16 involvement?

17 A That's correct.

18 MS. CAMPBELL: Thank you.

19 MR. LI: No questions, Your Honor.

20 MR. STAGGS: I just have a couple, Your Honor.

21 THE COURT: Yes, sir.

22 CROSS-EXAMINATION:

23 BY MR. STAGGS:

24 Q Captain Melton, you told us your involvement was
25 on the evening of 2nd?

1 A That's correct.

2 Q You told us that you got in a little bit after
3 five?

4 A It was after five, yes.

5 Q Okay. You went directly into Major Smith's
6 office where Courtney was already speaking with
7 Investigator Wagner?

8 A That is correct.

9 Q Okay. You told Ms. Campbell just a minute ago,
10 that there were approximately 15 minutes for Courtney
11 and Mr. Guinyard where they were allowed to talk?

12 A Yes, sir.

13 Q Was there any other time where Courtney was not
14 accompanied by a member of the Richland County
15 Sheriff's Department while she was there on the 2nd?

16 A I don't know.

17 Q You don't know. What time did your involvement
18 end on the 2nd?

19 A The written statement was taken from her around
20 7:30, so I may have left the sheriff's department
21 later in the evening. I'm not sure what time.

22 Q But you started the written statement at around
23 7:30?

24 A That is correct.

25 Q You don't know how long that took?

1 A No.

2 MR. STAGGS: Okay. That's all I have. Thank
3 you.

4 THE COURT: All right. Thank you, Captain. You
5 may step down.

6 THE WITNESS: Thank you very much.

7 THE COURT: Have a nice day.

8 Call your next witness.

9 MS. McDUFFIE: Judge, may we approach?

10 THE COURT: Sure.

11 (WHEREUPON, a bench conference was held in the
12 presence, but not within hearing of the jury.)

13 THE COURT: Do you want a take a break before or
14 after? The next witness will be about 45 minutes to
15 an hour.

16 THE JUROR: After, after.

17 THE COURT: Okay. Fair enough. Sometimes I let
18 you make some decisions.

19 MS. McDUFFIE: The State calls Investigator
20 Robert Oates.

21 ROBERT OATES,
22 after being duly sworn, testified as follows:

23 THE CLERK: Please have a seat. State your full
24 name for the record.

25 THE WITNESS: Roberts Oates.

DIRECT EXAMINATION:

BY MS. McDUFFIE:

Q Investigator Oates, where are you employed?

A The Richland County Sheriff's Department.

Q What are your duties with the Richland County Sheriff's Department?

A I'm presently a crime scene investigator, a senior investigator. My duties include responding to any crime scene that's established in Richland County. Upon arrival, I document the crime scene, take photographs, collect evidence, preserve that evidence and also analyze evidence using different chemicals, and if called upon, also some specialized analysis like blood spatter analysis, reconstruction, things of that nature.

Q Please tell the jury how long you've been employed as a crime scene with the sheriff's department.

A Currently ten years.

Q I'm sorry, how long?

A Ten years.

Q Please tell the jury a little bit about your background, education and training in the fields of crime scene investigation.

A Okay. I'll start with education. Received

1 associate degree in public service 1990 from Florence
2 Darlington Technical College, in 1994 received
3 bachelor of science from the University of South
4 Carolina in Spartanburg, in 1996 I entered the police
5 academy, South Carolina Police Academy and was
6 certified as an officer and had worked 17 total years
7 as a law enforcement officer, and ten of those as a
8 crime scene investigator.

9 Q Please tell the jury a little bit about what
10 training you go through to become a crime scene
11 investigator at the sheriff's department, and what
12 training you've gone through.

13 A Okay. I've had training in crime scene
14 investigators, of course, evidence collection, DNA
15 collection, fingerprint development, fingerprint
16 analysis, photography, advanced photography, blood
17 pattern analysis, advanced blood pattern analysis and
18 crime scene reconstruction. We also have an in-house
19 program, also.

20 Q That's a rigorous in-house training program that
21 you also go through?

22 A Yes.

23 Q The lab that you work for at the sheriff's
24 department, is it internationally accredited?

25 A It is.

1 Q Were you part of the team that helped get the lab
2 accredited, participated in that?

3 A Yes.

4 Q As part of that accreditation, do you have to
5 follow certain policies, procedures, and protocol when
6 investigating and processing a crime scene and
7 collecting evidence?

8 A Yes, I we do.

9 MS. McDUFFIE: Your Honor, at this time we'd
10 offer Investigator Oates as an expert in crime scene
11 investigation.

12 MR. LI: No objection.

13 MS. PINNOCK: No objection.

14 THE COURT: Ladies and gentlemen, this witness is
15 going to be deemed as an expert by the court in the
16 area of crime scene investigation. He will be allowed
17 to give opinion testimony in that area. That does not
18 mean you must accept his opinion, but this is evidence
19 for you to use in any way you see fit, and give it the
20 weight and credibility that you believe is
21 appropriate, which are required to do with every
22 witness.

23 Ms. McDuffie.

24 MS. McDUFFIE: Thank you, Your Honor.

25 BY MS. McDUFFIE:

1 Q Investigator Oates, on July 1, 2013, did you
2 respond to [REDACTED] Beaverbrook Road?

3 A Yes, I did.

4 Q What was that in reference to?

5 A It was in reference to unresponsive child.

6 Q And approximately what time did you respond to
7 [REDACTED] Beaverbrook Road?

8 A That was 19:19 hours in military time, so that
9 would be 7:19 p.m.

10 Q When you arrived at 7:19 p.m. was the scene
11 secure?

12 A Yes, it was.

13 Q And tell the ladies and gentlemen of the jury
14 what you look for when you first go to a scene.

15 A When I first arrive on a scene, especially in
16 this magnitude with a deceased individual, I want to
17 make sure that the scene is actually barricaded by
18 crime scene tape and that there is an officer that is
19 in charge of that crime scene when I get there.

20 When I arrived on the scene at [REDACTED] Beaverbrook
21 Road, I did observe that.

22 Q And did you actually enter the home at [REDACTED]
23 Beaverbrook Road?

24 A Yes, I did.

25 Q And when you arrive on a crime scene and in this

1 case in particular, do you necessarily know that it's
2 a homicide or how the individual died?

3 A No, not right offhand.

4 Q And do you know what evidence you're looking for
5 when you walk in the door?

6 A No.

7 Q So please tell the ladies and gentlemen of the
8 jury what you do as a crime scene investigator to try
9 to collect evidence that may be probative?

10 A Okay. The first is initial documentation as far
11 as with the deputies who are securing the scene with a
12 crime scene log to make sure that everything on that
13 log is appropriate as far as individuals who have
14 entered the crime scene prior to me getting there.

15 Once I do that, I pretty much sign myself in
16 also, the time and the date and why I'm there. Then,
17 what I'm going to do is walk in to the entrance of the
18 crime scene. What I'm doing first is I'm looking, I'm
19 doing a visual search for the deceased, for evidence
20 that could be lying nearby, walls, ceilings,
21 structures, furniture, anything of that sort, any kind
22 of evidence as a first initial walk through. That
23 would be, if it's a residence like this one, it will
24 be from the front all the way through the kitchen and
25 into the back bedrooms, initially.

1 Q And in this case when you entered the home, did
2 you do a walk through of the home, or did you start
3 and go room to room?

4 A At first, I did a walk through from the beginning
5 in the living room all the way through all the
6 bedrooms.

7 Q As part of your job as a crime scene
8 investigator, did you also make a sketch or a crime
9 scene diagram?

10 A Yes.

11 Q What's already in evidence as State's 211?

12 A Yes.

13 Q And this is not to scale in any way, is it?

14 A No, it's not.

15 MS. McDUFFIE: Your Honor, if I may have the
16 witness step down.

17 THE COURT: If you're going to step down keep
18 your voice up to make sure even the jurors on the back
19 row can hear you.

20 THE WITNESS: Yes, sir.

21 THE COURT: You can move if you need to. There's
22 a pointer somewhere, Investigators Oates. You may
23 want to grab that.

24 BY MS. McDUFFIE:

25 Q Investigator, please tell the ladies and

1 gentlemen of the jury what you observed when you
2 entered the home at [REDACTED] Beaverbrook Road?

3 A When I first entered the residence, the first
4 thing I noticed was a deceased body, which was lying
5 on his back in the front living with basically no ---
6 no shirt, and he had on blue jean long pants on which
7 were unbuttoned, and no socks and no shoes. He was
8 lying in the front living unresponsive.

9 Q And investigator you already had the opportunity
10 to look at State's Exhibits 13, 15, 16, 17, 18, 19,
11 75, 80, 81, 83, 84, 85, 130, 136, 137, 138, 139, 144,
12 146 and 147?

13 A Yes.

14 Q And Investigator Oates, do these photographs
15 depict the victim in this case, [REDACTED] CHILD [REDACTED],
16 as you found him in the living room, and the injuries
17 that you documented on his body?

18 A Yes, they do.

19 Q Are these photographs that you took and the
20 injuries you observed on that day?

21 A Yes, they are.

22 MS. McDUFFIE: Your Honor, at this time, we'd
23 offer these photographs into evidence 13, 15 ---

24 THE COURT: Oh, I got the numbers.

25 Are you renewing your previous objection?

1 MS. PINNOCK: Yes, Your Honor. Can we approach?

2 THE COURT: Sure.

3 (WHEREUPON, a bench conference was held in the
4 presence, but not within hearing of the jury.)

5 THE COURT: Are you renewing your previous
6 objection?

7 MR. LI: Yes, sir.

8 THE COURT: Okay.

9 MS. McDUFFIE: Your Honor, can we approach?

10 THE COURT: Yes.

11 (WHEREUPON, a bench conference was held in the
12 presence, but not within hearing of the jury.)

13 (WHEREUPON, State's Exhibits 13, 15-19, 75, 80,
14 81, 83-85, 130, 136-139, 144, 146 and 147 were
15 admitted into evidence.)

16 THE COURT: Okay. These are admitted over both
17 defense counsel's objections. I understand what their
18 objections are. I overruled them for the record and
19 these documents are admitted. Okay.

20 BY MS. McDUFFIE:

21 Q Investigator, when you entered the living, please
22 tell the ladies and gentlemen of the jury what you
23 observed.

24 A Okay. Upon entering the front living room area,
25 I observed the victim's body lying on his back in the

1 front living room area. The condition of the victim
2 was --- he was lying on his back with no shirt. He
3 had long blue jean pants on, they were unbuttoned, and
4 he was wearing no socks or shoes at the time.

5 Q Was there any other furniture in the living room?

6 A Yes, there was. There was a TV table with the TV
7 on top, and then there was a corner table in the front
8 left corner of the living room.

9 Q And State's Exhibit 15, is that a view from when
10 you walk in the front door?

11 A Yes.

12 Q Please show the jury on the diagram what area of
13 the room that is.

14 A Right here. (Indicating.)

15 Q So that's looking at that wall?

16 A Yes.

17 Q And then State's Exhibit 13, can you please tell
18 the ladies and gentlemen of the jury what this photo
19 depicts?

20 A This is the actual --- this is the corner where
21 the victim is lying on his back, as soon as you walk
22 into the living room on the left.

23 Q And that's how he was when you arrived on the
24 scene?

25 A Yes.

1 Q And he has white and blue markers on his chest.
2 Can you please tell the ladies and gentlemen of the
3 jury what those are?

4 A Prior to our arrival, EMS is going to arrive to
5 assess the victim, and what those are, those are leads
6 basically trying to detect any heart rate, life in the
7 victim.

8 Q Did you also, with the assistance of the
9 coroner's office, document the injuries to CHILD
10 's body prior to him being taken to
11 Palmetto Health Richland?

12 A Yes.

13 Q State's Exhibit 130. Can you please tell the
14 ladies and gentlemen of the jury what's depicted in
15 this photo?

16 A This is a close up picture of the victim's face
17 showing an injury to his lip and to the face.

18 Q Does he also have multiple bruises on his face?

19 A Yes.

20 Q And these were there and apparent when you were
21 at the scene?

22 A Yes.

23 Q And State's 136?

24 A This is a close up picture of the victim's right
25 ear.

1 Q Does this also document a bruise inside the ear?

2 A Yes.

3 Q State's 137?

4 A This is another picture, a close up picture of
5 the victim's left ear, and there's an injury behind
6 the ear itself.

7 Q State's 138 and 139. Please tell the jury what's
8 depicted in 138 and 139.

9 A Okay. 138 is going to be a close up photograph
10 of the victim's neck. There is some injury here and
11 to the clavicle or the bottom of the neck, chest of
12 the victim.

13 Q And that's depicted in State's 138 and 139?

14 A Yes.

15 Q What about State's 144?

16 A Okay. This is an injury to the victim's right
17 arm, near the elbow.

18 Q This is the way the victim was when you entered
19 the home at approximately 7:19 on July 1st of 2013?

20 A Yes.

21 Q State's 146 and 147?

22 A Yes. The top photograph --- the photograph is
23 going to be a close up. This one here, 147 is going
24 to be a close up photograph of the victim's back, top
25 and bottom, with injuries here on the top and the

1 bottom of the back, and the next --- 146 exhibit is
2 basically another photograph, different angle
3 depicting those injuries on the back without any kind
4 of scale.

5 Q And to take these photographs, his body was
6 rolled to take these photographs or turned?

7 A Yes, with the coroner's office present.

8 Q And this was all done prior to moving the victim?

9 A Yes, it was. This was a general analysis of the
10 victim.

11 Q State's 85.

12 A Okay. This is a close up photograph of the
13 victim's left arm stretched out with injuries near the
14 inner elbow area.

15 Q State's 83?

16 A Okay. This is a second photograph, 83, is the
17 second photograph of the injury on his right arm or
18 elbow.

19 Q State's 81?

20 A That is a close up photograph to the right lower
21 pelvic area of the victim.

22 Q Did you remove his clothing in order to take this
23 photograph?

24 A Yes, they were pulled down with the coroner there
25 present also.

1 Q Were they taken all the way off or just pulled
2 slightly down?

3 A Just pulled slightly down at that point.

4 Q And finally, State's Exhibit 75?

5 A That's a close up. That's actually a midrange
6 photograph of the position the victim was in when I
7 entered the living room prior to him being
8 transported.

9 Q And all of the injuries in these photographs were
10 readily apparent to your naked eye?

11 A Yes.

12 Q There was no enhancement done, no special
13 photographic techniques?

14 A No.

15 Q You could see them clear as day?

16 A Yes.

17 Q Can you tell the ladies and gentlemen of the jury
18 approximately, if you can, how many injuries you
19 observed on the body of CHILD?

20 A I would have to say multiple. It's hard. The
21 numbers are hard. There were so many. It was
22 multiple.

23 Q You couldn't document how many injuries
24 adequately with the numbers that you had to take
25 photographs of all the injuries?

1 A Yes, I mean, you had injury upon injury, so I
2 just documented all the injuries at that point at the
3 scene at that time of the body.

4 Q And after you documented the visible injuries on
5 July 1st of 2013, was his body then taken to Palmetto
6 Health Richland?

7 A Yes, it was.

8 Q Did you continue to process the rest of the home
9 that day?

10 A Yes, I did with the assistance of Sergeant
11 Richards.

12 Q After you processed --- or after the body was
13 removed from the living room area, please tell the
14 jury how you proceeded in your processing.

15 A Okay. The next area of processing involved
16 bedroom number two, myself and Sergeant Stan Richards
17 entered this room, because there was evidence ---
18 there was evidence of multiple types of evidence in
19 this room.

20 Q I'm showing you or what you've already seen as
21 State's 46 through 59, are those photographs of
22 bedroom number two?

23 A Yes.

24 Q You can have a seat.

25 MS. McDUFFIE: Judge, at this time we would

1 offer State's 46 through 59.

2 MS. PINNOCK: Renew our previous objection,
3 Judge.

4 THE COURT: You all approach.

5 (WHEREUPON, a bench conference was held in the
6 presence, but not within hearing of the jury.)

7 THE COURT: All right.

8 MS. PINNOCK: Without objection.

9 THE COURT: Mr. Li?

10 MR. LI: What was...

11 THE COURT: Is there an objection to those
12 photos?

13 MR. LI: No.

14 THE COURT: Okay. State's 46 through 59 without
15 objection.

16 (WHEREUPON, State's Exhibit Numbers 46-59 were
17 admitted into evidence.)

18 BY MS. McDUFFIE:

19 Q So Investigator Oates, you next processed what
20 you called the second bedroom?

21 A Yes.

22 Q State's 46 and 47, can you please describe for
23 the jury what these photos depict?

24 A That's a midrange photograph of that bedroom
25 number two, the wall area and showing a dresser inside

1 the actual room.

2 Q Was there a bed in this room?

3 A No.

4 Q What was the only piece of furniture in this
5 room?

6 A There was a dresser.

7 Q State's 46?

8 A Yes.

9 Q I'm sorry, State's 47 and then a play kitchen in
10 State's 46?

11 A Yes.

12 Q State's 49 and 50?

13 A It's another --- Exhibit 50 is going to be a
14 midrange photograph depicting the entrance to the
15 bedroom with the closet, and the second --- the second
16 photograph is going to be from the actual entrance
17 door, a midrange photograph from the entrance door,
18 showing the dresser and the toys and the items on the
19 other part of the floor.

20 Q On top of the dresser did you find any items that
21 you thought might be of potential evidentiary value?

22 A Yes, I did.

23 Q State's 53, can you please tell the jury what you
24 located on top of the dresser?

25 A On top of the left-hand top corner of the

1 dresser, there's a washcloth with reddish brown stains
2 on them believed to be blood.

3 Q And did you mark that item of evidence?

4 A Yes.

5 Q Is that depicted in State's 59?

6 A Yes, it is. marker (AB), yes.

7 Q Why do you mark evidence at a crime scene?

8 A It puts evidence in a general order, and also
9 sometimes the evidence markers can actually depict the
10 size of the actual evidence.

11 Q And once you photograph and mark items of
12 evidence, do you then collect that evidence?

13 A Yes.

14 Q And was this washrag collected as part of your
15 processing of this crime scene?

16 A It was.

17 Q On the carpet on that second bedroom, did you
18 also notice a wet spot depicted in State's 51 and 52?

19 A Yes, there was a disturbance in the carpet. It
20 appeared like it was wet.

21 Q And when you observed this, what, if anything,
22 did you do to process this spot on the carpet?

23 A Okay. The first thing that we did was we used a
24 chemical called hemodent. If's a blood --- it's a
25 presumptive test for blood and basically what we do is

1 use a cotton swab with distilled water, and sample an
2 area of that wet area and then place it into a vial.
3 Hemodent has two different chemicals in it. You put
4 the ampules in there. They merge together and this
5 kit itself depicts any kind of hemoglobin or any kind
6 of blood, hemoglobin. It could be animal or it could
7 be human.

8 What the manufacturers place into this chemical
9 is a color code. If it returns positive for blood,
10 it's will be a dark blue type of a color. That let's
11 us know that there's blood present. That's what we
12 did first with that stain.

13 Q And did you get a reaction or any indication on
14 the --- from the Hemodent on the carpet?

15 A We did not. It was negative.

16 Q Did you do any further processing on the carpet
17 with Sergeant Richards?

18 A Yes, we did. For large areas, large areas are
19 possible, of blood, we use another chemical which is
20 called Blue Star. I know a lot of people have heard
21 of luminol, which that's still being manufactured
22 today, but there are a lot of new presumptive tests
23 out there, too, and Blue Star is one of them.

24 We used that in this particular case for large
25 areas that need to be tested for blood. It does about

1 the same thing as Hemodent does but for a larger area.
2 We did --- you basically have to have low light when
3 you spray this chemical, it comes in a liquid form.
4 We spray it across the actual affected areas and if
5 there is a reaction, then we would --- it would turn
6 blue. It would have a blue color coat on that also,
7 but it would illuminate if there's blood. That's what
8 we had happen.

9 Q So it reacted positive when you put the Blue Star
10 on the carpet?

11 A Yes, it did.

12 Q And after you tested the carpet with both
13 Hemodent and Blue Star, did you then cut out a section
14 of the carpet and collect that for further processing?

15 A Yes, we did.

16 Q Investigator, I'm going to show you what's been
17 marked as 105. Are these the washcloths you collected
18 that day and the cutting from the carpet?

19 A Yes.

20 MS. McDUFFIE: Your Honor, at this time we'd
21 offer State's 105.

22 THE COURT: Any objection?

23 MR. STAGGS: No objection.

24 MS. PINNOCK: No objection.

25 THE COURT: State's 105 without objection.

1 (WHEREUPON, State's Exhibit Number 105 was
2 admitted into evidence.)

3 Q When you collect evidence, you're not the one who
4 ultimately processes it for things like DNA and
5 fingerprints, are you?

6 A That's correct.

7 Q When you collect it, how do you ensure that it's
8 packaged properly for processing?

9 A It basically --- every bit of evidence, say from
10 this piece of carpet down to cotton swabs that are
11 collected, we keep in separate containers, separate
12 envelopes so that it will not touch, it will not
13 contaminate, so when we are going to transport say a
14 piece of carpet or the cotton swabs, we have brown
15 bags, different types of containers that we can
16 transfer this evidence into, transfer it back to the
17 sheriff's department properly.

18 Q State's 224, is that a picture of the carpet that
19 you have cut out and marked with letters (AA)?

20 A Yes.

21 MS. McDUFFIE: Your Honor, at this time we'd
22 offer State's 224.

23 MR. LI: No objection, Your Honor.

24 MS. PINNOCK: No objection, Your Honor.

25 (WHEREUPON, State's Exhibit Number 224 was

1 admitted into evidence.

2 BY MS. McDUFFIE:

3 Q That is the piece of carpet that you cut out and
4 marked with the letters (AA)?

5 A Yes.

6 Q And in order to cut the carpet, did you have to
7 move the bags that were next to the area that you cut
8 out to the side?

9 A Yes, yes.

10 Q But when you arrived, the only items that were on
11 the floor in that room were as depicted in State's 51?

12 A Yes.

13 Q And you just moved them to the side after you
14 photographed, documented, and cut the carpet out?

15 A Yes, the first thing we do is make sure we
16 photograph the crime scene prior to any removal of
17 evidence.

18 Q And when you are processing a house or processing
19 a crime scene, do you always know what to look for and
20 where to look or, you know, pull up carpet in every
21 room, do things of that nature?

22 A No, normally during the search, of course, any
23 type of item or area that appears to have disturbances
24 in them or maybe a questionable stain, things of that
25 sort, it goes from like a piece of the puzzle. You

1 start with your first piece, and then we'll connect
2 the dots and let the evidence lead to where you need
3 to go in your search.

4 Q The first time you search a house, do you
5 necessarily find every piece of evidence --- every
6 item that may be of evidentiary value?

7 A No, we don't. Unfortunately, a lot of times the
8 scene is so fresh, we basically sometimes only get to
9 document evidence and collect that evidence that is
10 right there that we see at that moment without having
11 any further communications, say with CID or criminal
12 investigations, so sometimes we'll collect the
13 evidence that we see at that moment, you know, and
14 then we'll secure the scene and hold it if we need to
15 go back.

16 Q Moving --- and that was done in this case?

17 A Yes.

18 Q Moving from bedroom number two into the hallway,
19 please tell the jury what's that State's 17 and 18?

20 A Okay. The bottom photograph is a rear hallway
21 right outside the entrance to bedroom number two.
22 There's a green looking shirt that's laying on the
23 carpet. The next photograph is a photograph of the
24 rear hallway pointing back in the direction of the
25 actual bedroom number two, and it's showing a return

1 for the hallway.

2 Q And that shirt was collected at a later date by a
3 different investigator?

4 A Yes, it was, yes.

5 Q And State's 19?

6 A Okay. This is another midrange photograph of the
7 rear hallway. This is from the actual entrance of
8 bedroom number two facing back towards the living room
9 area.

10 Q And this broom was also collected by a different
11 investigator at a later a date?

12 A I'm sorry?

13 Q The broom, you didn't collect it that night, it
14 was collected at a later date?

15 A Yes, collected later on. I'm sorry.

16 Q State's 36 to 40. Do you recognize those
17 photographs?

18 A Yes.

19 Q What are those photographs of?

20 A This is of the adjacent bedroom behind bedroom
21 number two.

22 MS. McDUFFIE: Your Honor, at this time we'd
23 offer State's 36 to 40.

24 MR. LI: No objection.

25 MS. PINNOCK: No objection.

1 THE COURT: State's 36 through 40 without
2 objection.

3 (WHEREUPON, State's Exhibit Numbers 36-40 were
4 admitted into evidence.)

5 BY MS. McDUFFIE:

6 Q Investigator Oates, State's Exhibit 36, can you
7 please tell the ladies and gentlemen of the jury what
8 bedroom that is?

9 A It's bedroom --- I'm sorry. My apologies. It's
10 bedroom number three.

11 Q And that would be depicted here on your diagram?

12 A Yes, uh-huh.

13 Q In State's Exhibit 36 and 37, what furniture is
14 there in the bedroom?

15 A There is a bed in the far corner. There is a TV
16 table in the front left corner with a TV on top.

17 Q And that TV was on or off?

18 A It was on. It was on. There was also a bassinet
19 in that room also.

20 Q And that's depicted in State's 40?

21 A Yes.

22 Q And when you were there on 7/1 of 2013, did you
23 find any items reflecting evidentiary value from
24 bedroom number three?

25 A No, I did not.

1 Q State's 41 through 44, bedroom two. Do you
2 recognize those photos?

3 A Yes.

4 MS. McDUFFIE: Your Honor, at this time we'd
5 offer State's Exhibit 41 through 44.

6 MR. LI: No objection, Your Honor.

7 MS. PINNOCK: No objection.

8 THE COURT: State's 41 through 44 without
9 objection.

10 (WHEREUPON, State's Exhibit Numbers 41-44 were
11 admitted into evidence.)

12 BY MS. McDUFFIE:

13 Q State's 41 and 42, please tell the jury what you
14 observed in this bedroom?

15 A That is another bedroom depicted as bedroom
16 number one by the diagram. There is a bed and there
17 is a crib in that bedroom.

18 Q That's also in State's 44?

19 A Yes.

20 Q Was the TV in that bedroom on or off?

21 A It was off at the time.

22 Q And did you collect or find any items of
23 evidentiary value in this bedroom?

24 A Yes.

25 Q Can you please tell the ladies and gentlemen of

1 the jury what you found in bedroom number one?

2 A It was a reddish brown stain believed to be blood
3 on the light switch, the light switch and light switch
4 cover.

5 Q That is depicted as number 5 on your crime scene
6 diagram?

7 A Yes.

8 Q Sergeant Richards was with you when these items
9 were marked and you collected them?

10 A Yes.

11 Q He has testified previously, but please tell the
12 jury --- you are the one who actually collected these
13 items?

14 A Yes.

15 Q Tell the jury how you did that.

16 A It's actually very simple. You would think it is
17 a very complicated procedure, but it's not. All we
18 use are sterile cotton swabs and we use distilled
19 water. We would wet the cotton tip of the sterile
20 swab. Then we would collect the reddish brown stains.
21 We would then place them into a cardboard carton, and
22 we would describe on that carton the swab number,
23 maybe a marker number and, of course, the date that we
24 collected it. We would initial that. Then we would
25 have a detailed explanation of where we actually found

1 it.

2 Q State's 20 through 35, 32 --- I'm sorry, 23, 35,
3 62, 63, 74 are these photographs you've took of the
4 kitchen area of the house?

5 A Yes, Your Honor.

6 MS. McDUFFIE: Your Honor, at this time we would
7 offer 20 through 35, 62, 63, 74.

8 MR. LI: No objection, Your Honor.

9 MS. PINNOCK: No objection.

10 THE COURT: All right. So State's 20 through 35,
11 62, 63, 74 are admitted without objection.

12 (WHEREUPON, State's Exhibit Numbers 20-35, 62,
13 63, and 74 were admitted into evidence.)

14 BY MS. McDUFFIE:

15 Q And finally, State's 60 and 61, are those the
16 laundry room of the house?

17 A Yes.

18 MS. McDUFFIE: Your Honor, we'd offer 60 and 62.

19 MR. LI: No objection.

20 MS. PINNOCK: No objection.

21 THE COURT: State's 60 and 61 admitted without
22 objection.

23 (WHEREUPON, State's Exhibit Numbers 60 & 61 were
24 admitted into evidence.)

25 BY MS. McDUFFIE:

1 Q Were you able to locate any items of evidentiary
2 value in the laundry room?

3 A No, ma'am, not at that time.

4 Q And then finally moving to the kitchen, State's
5 Exhibit 20?

6 A This is a midrange of the interior of the kitchen
7 toward the back door, the cabinetry as it appeared at
8 that time.

9 Q Did you also open the cabinets up and look for
10 food and other items in the cabinets?

11 A Yes, I did.

12 Q Is that depicted in State's 23?

13 A Yes, it is.

14 Q State's 21?

15 A Yes.

16 Q State's 24?

17 A Yes.

18 Q State's 28?

19 A Yes.

20 Q And State's 30, would you tell the jury what that
21 depicts?

22 A That depicts the stove on the kitchen. It had
23 food on it during the time that I was there.

24 Q And this is as you found it?

25 A Yes, as I found it, yes.

1 Q On July 1st, of 2013, at approximately 7:00 p.m.?

2 A Yes.

3 Q State's 31?

4 A That's the counter beside the stove with food on
5 top.

6 Q State's 33 and 34, is that a picture of the
7 inside of the refrigerator?

8 A Yes, the door shelves of the refrigerator and the
9 actual interior shelves of the refrigerator.

10 Q And this was as you found it on July 1st?

11 A Yes, as I found it, yes.

12 Q State's 35?

13 A That is the interior of the top freezer, the
14 interior compartment of the freezer, as I found it.

15 Q Was there also a trash bag on the doorknob in the
16 kitchen?

17 A Yes, during the search, I did find there was a
18 yellow colored plastic bag attached to the doorknob,
19 kitchen door.

20 Q Were any items of potential evidentiary value
21 found that bag?

22 A Yes, there was.

23 Q Did you mark that as item 7 as depicted in
24 State's 63 and 74?

25 A Yes, yes.

1 Q Please tell the jury what you observed in that
2 trash bag?

3 A Interestingly enough, during the search, I found
4 a burgundy color washcloth that was damp.

5 Q So you collected the damp washcloth?

6 A Yes, I did.

7 Q That is contained in State's Exhibit 105 that's
8 already in evidence?

9 A Yes.

10 Q And you collected that?

11 A Yes.

12 Q In addition, the jury has already heard testimony
13 about the various items of reddish brown stains or
14 possible blood on the walls that you and Sergeant
15 Richards documented as (1), (3), (4), (5) and (6)?

16 A Yes.

17 Q You swabbed each of those areas?

18 A Yes, I did.

19 Q And did you collect --- you collected samples for
20 future testing from each of those areas?

21 A Yes, I did.

22 Q Is that contained in State's 104?

23 A Yes.

24 MS. McDUFFIE: Your Honor, at this time we'd
25 offer 104.

1 MS. EISENHOWER: No objection, Your Honor.

2 MS. PINNOCK: No objection.

3 THE COURT: State's 104 without objection.

4 (WHEREUPON, State's Exhibit No. 104 was admitted
5 into evidence.)

6 BY MS. McDUFFIE:

7 Q Once you collect these swabs, these are all
8 individually packaged in here?

9 A Yes, they are.

10 Q And then you turn that over to a different
11 department for further processing?

12 A Yes. It's sealed and secured and placed into the
13 evidence room with a request for DNA analysis.

14 Q And the entire time all the physical evidence you
15 collected was in your custody, did you ever tamper
16 with it or did anyone tamper with it or manipulate it
17 in any way?

18 A No.

19 Q After you gathered the evidence that we have
20 discussed that evening in the home, was the scene
21 still being secured?

22 A Yes. One procedure --- I would say it's a
23 procedure that we normally do, since the scene is so
24 fresh, we don't really know if we've got all the
25 evidence that we need to have in this case. We will

1 secure the scene, make sure all the doors are locked,
2 windows are closed, on the front door after we all
3 leave, we'll lock it up and we will put a section of
4 evidence tape across the doorway. We will sign it,
5 initial it, make sure that the scene is being guarded
6 and also a deputy will start a rotation as far as a
7 crime scene rotation, twenty-four hour surveillance
8 until we deem it necessary to release it.

9 Q So once you left the residence that night, it was
10 secured and there was a deputy posted outside of that
11 residence?

12 A Yes.

13 Q And then other crime scene investigators
14 processed it in later days?

15 A Yes.

16 Q But in terms of being at the home, that was the
17 extent of your involvement?

18 A It was, yes.

19 MS. McDUFFIE: Thank you, Judge. No further
20 questions at this time.

21 THE COURT: Do you want to take a break now?

22 Okay. Let's take a break. We've been going at
23 it for awhile now. We'll take a break. Take a ten
24 minute break. We'll start back at four o'clock. That
25 will be a 13-minute break. Keep an open mind. Do not

1 discuss the case. We'll see you back in just a few
2 moments. Everyone remain seated while the jury is
3 excused.

4 (WHEREUPON, the jury left the courtroom at
5 3:48 p.m.)

6 THE COURT: Anything before we take a break?

7 MR. LI: No, Your Honor.

8 MS. PINNOCK: No, Your Honor.

9 MS. McDUFFIE: No. Okay. See you in a couple of
10 minutes.

11 (WHEREUPON, a short break was taken.)

12 THE COURT: All right. Everybody ready?

13 MS. McDUFFIE: State's ready.

14 THE COURT: Okay.

15 MS. PINNOCK: Yes, sir a.

16 THE COURT: Bring them in.

17 (WHEREUPON, the jury entered the courtroom at
18 4:04 p.m.)

19 THE BAILIFF: Your Honor, the are jury is
20 present.

21 THE COURT: Thank you, Mr. Whittle. Welcome back
22 ladies and gentlemen. Mr. Li or Ms. Eisenhower.

23 MR. LI: No questions.

24 MS. PINNOCK: No questions.

25 THE COURT: Okay. If I had known that, we would

1 have been done that earlier. I apologize,
2 Investigator Oates. You're excused. Thank you very
3 much.

4 THE WITNESS: Thank you.

5 THE COURT: My bad. Call your next witness.

6 MS. WALKER: Your Honor, the State calls Jane
7 Powell.

8 THE COURT: All right. Ms. Powell, please come
9 forward.

10 JANE POWELL,

11 After being duly sworn, testified as follows:

12 THE CLERK: Please have a seat. State your full
13 name.

14 THE WITNESS: Jane Williams Powell.

15 DIRECT EXAMINATION:

16 BY MS. WALKER:

17 Q Ma'am, where are you currently employed?

18 A Richland County Coroner's office.

19 Q What do you do for the coroner's office?

20 A I'm a deputy coroner. I investigate deaths.

21 Q Let me get this out of the way.

22 When you say you do death investigations ---

23 A Yes, ma'am.

24 Q --- what all does that entail?

25 A It involves us responding to the scene, if a

1 death is natural or suspicious in nature at a home not
2 medically attended, we respond to the scene. We
3 investigate as to the cause and manner of death.

4 Q And did you become involved in the investigation
5 of the cause and manner of death of CHILD

6 CHILD ?

7 A I did.

8 Q Can you tell us how you became involved?

9 A I was notified by the coroner and Ted Powell, the
10 senior deputy coroner, who was the lead investigator
11 on the case, to go to the home on July 2nd and do a
12 reenactment with the mother of the decedent of the
13 events leading up to the decedent's death.

14 Q And when you say the decedent, you're talking
15 about the deceased, CHILD ?

16 A Yes, CHILD .

17 Q Did you, in fact, go to the home?

18 A I did.

19 Q Who was there when you arrived on the scene?

20 A When I arrived on the scene, Travis Holdorf, an
21 investigator with the Richland County Sheriff's
22 Department and Investigator Holly Wagner with the
23 sheriff's department were on the scene. The mother of
24 the decedent was on the scene, I'm sorry, the mother
25 of CHILD was present, as well.

1 Q Is that Courtney Thompson?

2 A Yes.

3 Q And was this at that point in time, was the scene
4 still secure? Was there --- did you still have to
5 sign in and out?

6 A I did not have to sign in.

7 Q But law enforcement was with you when you went
8 this?

9 A They were present, yes, ma'am.

10 Q At that point in time to your knowledge was
11 Ms. Thompson under arrest?

12 A Not to my knowledge.

13 Q And do you have the power or ability to place
14 anyone under arrest?

15 A Only the sheriff.

16 Q The sheriff has --- you can't place the sheriff
17 under arrest?

18 A The coroner can arrest the sheriff. That's the
19 only arresting authority that we have is to arrest the
20 sheriff if there's been misconduct.

21 Q Will you take us through how that reenactment, I
22 guess, began?

23 A Certainly. When I got on the scene, there was
24 also another deputy coroner with our office, David
25 Burns, who assisted in just guiding, and we --- I

1 explained to Ms. Thompson what would be taking place.
2 We have a doll that's provided by SLED that we use as
3 an instrument as type of placement to take the place
4 of the child and explained to her that I wanted her to
5 show me exactly where [CHILD] was when she discovered
6 him, what she then did after that and throughout the
7 process I would be asking her questions based on what
8 she told me.

9 Q Did you get some background on [CHILD] before she
10 actually began telling you what happened that day?

11 A I had read the initial, the lead investigator,
12 Ted Powell, I had read his report.

13 Q Did you get any information, like a health
14 background, from his mother, in terms of any illnesses
15 he may have had or anything?

16 A When I started the reenactment with her, she told
17 me that he had been diagnosed with autism.

18 Q Did you talk with her about how he interacted
19 with other members of the family, with either his
20 parents or siblings?

21 A She stated at one point that they really didn't
22 have --- the other children didn't interact with him
23 very much because he was different and then she said
24 that they would rough-house sometimes and the other
25 children would climb all over him. She would just

1 tell him just stand up, just stand up, so they will
2 fall off you, because they were younger than he was.

3 Q Did she give you any stories about how CHILD
4 would cause harm to himself?

5 A She did demonstrate by taking my arm to show me
6 how he would bite at himself and poke at himself and
7 poke at his eyes and would bite himself.

8 Q As she began to --- I guess tell me what she said
9 happened that day on July 1st?

10 MS. PINNOCK: Your Honor, I'd renew my previous
11 objection.

12 THE COURT: Overruled.

13 BY MS. WALKER:

14 Q You can answer, I'm sorry.

15 A Okay. She stated that she had just gotten home
16 from the hospital around two o'clock from having
17 delivered her fourth child on June 29th and that they
18 had gotten home. She wanted to take a shower. She
19 had told CHILD to play in his bedroom and she went
20 and had gotten in the shower.

21 Q What happened after that, according to
22 Ms. Thompson?

23 A According to Ms. Thompson, she said that she
24 heard a loud boom, she got out of the shower and she
25 immediately went into the kitchen.

1 MR. LI: Objection, Your Honor. Previous
2 objection.

3 THE COURT: Overruled. Go ahead, ma'am.

4 BY MS. WALKER:

5 Q You can go ahead.

6 A She heard a loud boom. She went immediately into
7 the kitchen because she and --- she had been cooking
8 and thought maybe something had come off the stove.
9 She left pots with food on them on the stove. She
10 realized that all that was fine. She went to look in
11 the bedroom. That's when she saw CHILD in the
12 bedroom on the floor.

13 Q And did she tell you which bedroom she was in or
14 which bedroom she went to go look in?

15 A She showed me that it was --- I call it --- it
16 was the bedroom at the end of the hallway on the front
17 of the house, so was the end right bedroom if you were
18 going down the hallway.

19 Q And did she describe to you or show you how she
20 claims this child was laying on the floor?

21 A I had requested that she use the doll to show me
22 how the child was positioned on the floor. She stated
23 that the doll wasn't flexible enough and wasn't the
24 right size. Could she show me. I told her she could.
25 She got down on the floor and positioned herself in a

1 manner demonstrating how the child was positioned,
2 which was with her --- I call it the kind of infant
3 cradle tuck, where they're down --- they're on their
4 stomach, but their knees are tucked up under them
5 where they're butt is literally up in the air. She
6 said CHILD was like that with his head turned to the
7 side and was making a funny noise and that he was
8 shaking.

9 Q Did she put herself in the exact same spot where
10 she found CHILD?

11 A She didn't want to get in the same spot because
12 she said she didn't want to lay on the pee that was on
13 the floor. I told her to just get on the floor next
14 to it then.

15 Q What did she say she did once she found her son
16 laying on the floor?

17 A She said that she tried to get him up. She
18 called his name. She tried to put her finger in his
19 mouth because he was --- he had his lip in his mouth
20 and she was trying to get that out. She said she
21 couldn't get it out. So she then picked him up and
22 ran into the den with him and laid him on the floor
23 and was trying to get him to --- then ran back to find
24 a phone to try and call 911.

25 Q And was she able to successfully call 911?

1 A According her, she was.

2 Q And everything that you're telling us is what
3 there is Thompson told you?

4 A Correct.

5 Q What did he say happened once she got 911 on the
6 phone?

7 A She instructed them that she didn't know if he
8 was breathing or not. The 911 operator had asked her
9 to do CPR and she said --- she demonstrated then what
10 the 911 operator told her to do to perform CPR on
11 **CHILD** .

12 Q And at that point in time when she was in the
13 room telling you where everything happened, did you
14 ask her if the furniture was in the same place that it
15 was on July 1st?

16 A Back in the bedroom, yes.

17 Q And she indicated it was?

18 A She said it was.

19 Q Did she indicate whether or not anything was out
20 of place in the room after the child, according to
21 her, had fallen off the dresser?

22 A She had stated back when we first went back to
23 the bedroom that when she had gotten home from the
24 hospital, she had unpacked the newborn's things on the
25 dresser, which she stated there were some papers and

1 then the bottles that the hospital had given them with
2 the premixed formula in them. Those items were what
3 was on the dresser. She said that when she came in
4 and discovered CHILD on the floor that the stuff that
5 was on the dresser, some of it was on the floor, as
6 well, to include some of the bottles and some of the
7 papers, but not all of it.

8 Q And before she heard the loud thud, where did
9 Courtney indicate she had been?

10 A In the shower.

11 Q Did she indicate how long she had been in the
12 shower?

13 A She could not tell me how long she had been in
14 the shower.

15 Q After she administered CPR to her son, did she
16 tell you what she did next?

17 A She had wiped his mouth with a rag that she found
18 on the floor, and she stopped CPR because EMS and fire
19 had gotten there and began doing their emergency
20 protocol.

21 MS. WALKER: Beg the Court's indulgence, Your
22 Honor.

23 (Pause.)

24 BY MS. WALKER:

25 Q Can you tell me what Ms. Thompson's demeanor when

1 she was telling you this story?

2 A She was calm. She was not frantic. She was not
3 upset. She just went through the motions. She kept
4 talking about how she was tired because she just had a
5 baby and I told her we could take our time. There was
6 no rush in doing it. It was a very important part of
7 our investigation in determining how he died. She just
8 --- that was it.

9 MS. WALKER: Thank you. I don't have any further
10 questions.

11 MR. LI: No questions, Your Honor.

12 MS. PINNOCK: May it please the Court.

13 THE COURT: Yes, ma'am.

14 CROSS-EXAMINATION:

15 BY MS. PINNOCK:

16 Q Investigator Powell, what time did you get to the
17 house. Do you know?

18 A To do the reenactment?

19 Q Yes.

20 A At about three o'clock.

21 Q Do you know what time you started going through
22 things with Courtney?

23 A Shortly after that, so it was probably about
24 3:10, 3:15.

25 Q Okay. And how long were you in the house talking

1 to Courtney?

2 A About 40 minutes to an hour.

3 Q Okay. Do you know how Courtney got there?

4 A I do not.

5 Q Now, after you're in the house and you've started
6 to talk to Courtney, after you --- after she goes
7 through, you know, she says she was either about to
8 get in the shower or in the shower, she hears the
9 boom?

10 A Uh-huh.

11 Q She tells you that she calls 911, right?

12 A She did not call 911 immediately after she got
13 out of the shower.

14 Q She said she finds her son, she picks him up, and
15 then she eventually calls 911?

16 A Yes, she does eventually call 911.

17 Q And she told you that he was shaking, seizure
18 like shakes?

19 A She just said that he was shaking and making a
20 funny like, I would equate it to a gagging noise, the
21 noise that she imitating him to be making.

22 Q Okay. She demonstrated to you what kind of
23 shaking she was talking about?

24 A Yes.

25 Q Would you classify that as a possible seizure?

1 A Could have possibly been.

2 Q Then she says that when she took him to the front
3 room, she told you at the house that he went limp?

4 A Yes.

5 Q At that point she called 911?

6 A Yes.

7 Q Did you ever review that call?

8 A I did not.

9 Q She demonstrated to you how she performed CPR?

10 A She did.

11 Q She said she did that until EMS knocked on the
12 door and she let him in?

13 A Correct.

14 Q Now, you said that Courtney told you she went to
15 the hospital June 29th?

16 A Correct.

17 Q So she couldn't give you any information about
18 what was happening in her house on June 29th, right?

19 A Not on June 29th.

20 Q On June 30th?

21 A The only information that she gave me as to what
22 was going on at her house while she was at the
23 hospital was that CHILD was being taken care of by
24 his father and that they played ball. She talked with
25 CHILD on the phone and they had played ball. She

1 told me that during the reenactment.

2 Q But Courtney was at the hospital?

3 A Yes.

4 Q Now, after you finished talking to her at the
5 house, were you done at that point, or did you go back
6 to headquarters?

7 A I was requested by the investigators to go back
8 to headquarters to tell Ms. Thompson the autopsy
9 results.

10 Q Okay. Were you aware of those results when you
11 talked to her?

12 A Not at the time of the reenactment, no.

13 Q So what time did you leave the house?

14 A Left the house probably around four o'clock,
15 4:15.

16 Q And you went directly to headquarters on Two
17 Notch?

18 A Yes, ma'am.

19 Q Okay, about how long did it take you to get
20 there?

21 A Probably about ten minutes or so.

22 Q Okay. Was Courtney already there when you got
23 there?

24 A She was.

25 Q Okay. She was already up in the interview room

1 or office?

2 A She was in Major Stan Smith's office.

3 Q Okay.

4 Q Who was she in there with?

5 A Holly Wagner. Investigator Holly Wagner and
6 Investigator Travis Holdorf.

7 Q Okay. Do you know exactly what time they got
8 back or was it just a few minutes before you did?

9 A I have no idea.

10 Q But when you got there, she was already in the
11 room with two investigators?

12 A That is correct.

13 Q So you joined them. You explained the cause of
14 death to Courtney?

15 A Yes.

16 Q At what time did you leave from talking to
17 Courtney?

18 A Probably about five o'clock. It was shortly
19 after Captain Weeks got there. I mean, I'm sorry,
20 Captain Melton got there.

21 Q Can you give me an approximate timeframe?

22 A She got there. She stated she got there around
23 five. It was probably about five o'clock or a little
24 after five, ten after five. I have on my report that
25 I left the sheriff's department at 5:10 and I usually

1 jot down my departure time from the scene once I get
2 in my vehicle.

3 Q Do you have your report with you?

4 A No, I do not.

5 MS. PINNOCK: Beg the Court's indulgence.

6 (Pause.)

7 BY MS. PINNOCK:

8 Q And Investigator Powell, when did you prepare
9 your report, on that same day?

10 A Yes, I believe so, yeah.

11 Q Did you give that to --- thank you.

12 MS. WALKER: Nothing, Your Honor.

13 THE COURT: Thank you, ma'am. You may step down.

14 Call your next witness.

15 MS. CAMPBELL: May it please the Court.

16 THE COURT: Yes, ma'am.

17 MS. CAMPBELL: State calls Investigator Timothy
18 Lee.

19 MS. PINNOCK: Your Honor, may the State and I
20 approach briefly?

21 THE COURT: Yes.

22 (WHEREUPON, a bench conference was held in the
23 presence, but not within hearing of the jury.)

24 THE COURT: Can you stand up and stretch and talk
25 if you want to.

1 (Pause.)

2 THE COURT: Come on forward, Investigator Lee.

3 All right. The party is over.

4 TIMOTHY LEE,

5 after being duly sworn, testified as follows:

6 THE CLERK: Please have a seat. State your full
7 name for the record.

8 THE WITNESS: Timothy Lee. L-E-E.

9 DIRECT EXAMINATION:

10 BY MS. CAMPBELL:

11 Q Investigator Lee, where are you employed?

12 A Richland County Sheriff's Department, crime scene
13 unit.

14 Q As part of the crime scene unit, what do your
15 duties include?

16 A Responding to scenes of a crime, collecting
17 evidence, preserving evidence and presenting it to a
18 court.

19 Q Can you tell this jury a little bit about your
20 education and your training in the field of crime
21 scene investigating?

22 A I started in --- I've been with the sheriff's
23 department for 19 years. I started in the crime scene
24 unit in 2007. I've attended over 400 hours worth of
25 courses ranging from basic crime scene processing,

1 photography, fingerprint, blood pattern analysis,
2 reconstruction, forensics, DNA and I've also completed
3 the in-house training program in 2010 while working
4 along the way responding to scenes and in 2012, I
5 passed my crime scene investigator certification
6 through IAI.

7 Q Have you testified before as expert in crime
8 scene investigation?

9 A I have, seven times from between 2010 and 2012.

10 MS. CAMPBELL: Your Honor, at this time I'd offer
11 him as an expert in crime scene investigation.

12 MR. LI: No objection.

13 MR. STAGGS: No objection.

14 THE COURT: All right. Ladies and gentlemen,
15 this witness will be an expert in the area of crime
16 scene investigation, he will be allowed to give
17 opinion testimony in that area. That does not mean
18 that you must accept his opinion, but it is evidence
19 for your to use in any way that you see fit and give
20 it the weight and credibility that you believe is
21 appropriate as you are required to do with every
22 single witness.

23 Ms. Campbell.

24 MS. CAMPBELL: Thank you, Your Honor.

25 BY MS. CAMPBELL:

1 Q Investigator Lee, when did you first been
2 involved in this case?

3 A It was on, I think it's here real quick ---
4 March 6, 2002 --- I'm sorry.

5 (Pause.)

6 On July 2, 2013, I responded to the scene to
7 assist both CID and the coroner's office with a
8 reenactment.

9 Q And when you got there, were there other members
10 of the Richland County Sheriff's Department that also
11 went to that scene on July 2nd?

12 A There was a road unit, Deputy Moreno, who was
13 guarding the scene and the crime scene log,
14 Investigator Holdorf and Investigator Wagner were on
15 the scene, and the coroner's office arrived shortly
16 thereafter.

17 Q Two members of the coroner's office, I believe?

18 A That's correct.

19 Q And did the sheriff's department or was it the
20 coroner's office that had conducted the reenactment?

21 A The coroner's office actually did the reenactment
22 with the mother and we were there to assist.

23 Q Okay. At any time that afternoon, did you ever
24 see the father, Antonio Guinyard, show up?

25 A I did not, no.

1 Q But Ms. Courtney Thompson was there?

2 A Yes, ma'am.

3 Q She was the one providing information to Deputy
4 Coroner Powell?

5 A Yes, ma'am.

6 Q At certain times did you, actually after that
7 reenactment, photograph certain items and take certain
8 measurements?

9 A I did. I photographed medication for the
10 coroner's office throughout the home and in the right
11 rear bedroom as described by Investigator Oates, there
12 was a dresser in there that I collected some
13 measurements and then during the reenactment with the
14 doll, I collected some measurements using a tape
15 measure from the dresser to the doll, and I
16 photographed those measurements, as well.

17 Q I'm going to show you what's been marked as
18 State's Exhibits 106 and 110 and 111 and ask if you
19 recognize these photographs?

20 A I do. That's a midrange shot.

21 Q Head on; you can't talk about those yet. They're
22 not in evidence.

23 A Yes.

24 Q Are those photographs you took that day?

25 A Yes, ma'am.

1 MS. CAMPBELL: Your Honor, at this time we'd
2 offer them into evidence.

3 MR. LI: No objection.

4 MR. RUFFIN: Your Honor, we'd renew our objection
5 to 106.

6 THE COURT: All right. Those are all admitted
7 over --- 106 is admitted over defense objection, and
8 the rest are admitted without objection.

9 (WHEREUPON, State's Exhibits 106, 110 and 111
10 were admitted into evidence.)

11 MS. CAMPBELL: Thank you, Your Honor.

12 BY MS. CAMPBELL:

13 Q State's Exhibit 106, what does that show?

14 A That is a midrange shot of the right rear bedroom
15 with a doll placed there by the mother describing
16 where she found the child.

17 Q I notice that a part of the carpet was cut out
18 where the child, the doll, was placed, was that done
19 by you or had that already been done?

20 A Previously done by investigators.

21 Q You were there observing that that day?

22 A I was.

23 Q Who actually placed the doll right here?

24 A I believe the mother placed the doll there for
25 Investigator Powell.

1 Q Once she placed the doll there and you
2 photographed it, did you also take measurements as far
3 as the distance from the dresser to the doll?

4 A Yes, ma'am.

5 Q And what were the results of your measurements?

6 A I believe, approximately 44 inches from the
7 dresser. My photos are small so I believe it's 44
8 inches.

9 Q From the dresser to what part of the doll?

10 A I believe to the top of the head.

11 Q To the top of the head?

12 A Yes.

13 Q And also did you take certain measurements of the
14 dresser itself?

15 A Yes.

16 Q And I show you State's Exhibit No. 110, does that
17 show the top of the dresser?

18 A Yes.

19 Q And number 111, does that show the height of the
20 dresser?

21 A Yes.

22 Q And what's the height of the dresser as shown
23 here?

24 A 30 inches.

25 Q 30 inches. Although that piece of carpet was

1 missing when you got there, the rest of the room was
2 carpeted; is that correct?

3 A Yes, that's correct.

4 Q Once you documented those measurements at that
5 scene that day, I believe prior to the reenactment,
6 the scene was actually turned over back to
7 Ms. Thompson?

8 A That's right. The scene was released at the time
9 I collect the crime scene log from Deputy Moreno.

10 Q I want to turn your attention to three days
11 later, July 5th, 2013. Did you have some further
12 involvement in this case?

13 A I did.

14 Q Were certain items of evidence turned over to you
15 from Investigator Holdorf?

16 A Yes, at two o'clock in the afternoon, I met with
17 Investigator Holdorf at headquarters. He had items
18 that were wet that had reddish brown stains on them.
19 I collected the items through chain of custody, placed
20 them in a drying cabinet in our forensics garage to
21 dry before they were submitted to evidence.

22 Q I'm going to show you what's been marked as 204.
23 Do you recognize this box?

24 A Yes, that's my signature.

25 Q And what's contained in this box?

1 A There are two red shoes with reddish brown stains
2 and a gray striped shirt with reddish brown stains.

3 MS. CAMPBELL: Your Honor, at this time we would
4 offer State's Exhibit 204 into evidence.

5 MR. LI: No objection, Your Honor.

6 MR. RUFFIN: No objection.

7 THE COURT: 204 admitted without objection.

8 (WHEREUPON, State's Exhibit Number 204 was
9 admitted into evidence.)

10 BY MS. CAMPBELL:

11 Q You mentioned that these items were damp or wet?

12 A Yes, that's correct.

13 Q And you mentioned that you had placed them in a
14 drying locker?

15 A A drying cabinet.

16 Q I'm sorry. I get that mixed up. In a drying
17 cabinet.

18 A Yes, ma'am.

19 Q What's the purpose of that? Why didn't you just
20 go ahead and package it?

21 A If you package wet items, they will most likely
22 mildew or mold and it would then ruin any DNA evidence
23 that's on them.

24 Q How long were these items actually placed into
25 the --- is it a cabinet or a locker; I can't ---

1 A Cabinet.

2 Q Cabinet?

3 A Yes, ma'am. I submitted them to evidence on
4 7/7 at 10:00 a.m.

5 Q At some point prior to you submitting them into
6 evidence, did you actually photograph these items?

7 A I did.

8 Q I'm going to show you what's been marked as
9 State's Exhibits 112 through 115. First I ask do you
10 recognize those?

11 A Yes.

12 Q And what are those items photographs of?

13 A Photographs of the red shoes and the close up of
14 reddish brown stains.

15 Q Okay. And 116 through 129, do you recognize
16 those?

17 A Yes. This is the grey striped shirt with reddish
18 brown stains.

19 Q And are those photographs you also took of that
20 shirt?

21 A Yes, they are.

22 MS. CAMPBELL: Your Honor, at this time I'd offer
23 State's Exhibits 112 through 129 into evidence.

24 MR. RUFFIN: No objection, Your Honor.

25 MR. LI: No objection.

1 THE COURT: All right. 112 through 129 admitted
2 without objection.

3 (WHEREUPON, State's Exhibit Numbers 112-129 were
4 admitted into evidence.)

5 BY MS. CAMPBELL:

6 Q You mentioned one of the two items that were
7 turned over to you were some red shoes?

8 A Yes.

9 Q I'm going to show you 112 and 113. Are these the
10 red shoes that were turned over to you by Investigator
11 Holdorf?

12 A Yes, they were.

13 Q And where were these photographs taken?

14 A These were taken in our forensics office there
15 prior to packaging.

16 Q Prior to packaging?

17 A Yes.

18 Q Would this have been after they had been dried?

19 A Yes.

20 Q Specifically you mentioned earlier in your
21 testimony, and I kind of cut you off about a reddish
22 brown stains. I show you State's Exhibit 115 and 114.
23 The stickers are on upside down. Do you see the stain
24 you're referring to?

25 A Yes.

1 Q Is my finger and then the corner of this marker
2 kind of showing where that is?

3 A That's correct.

4 Q And could you tell if these were women's shoes or
5 men's shoes or did you note that?

6 A I don't recall that.

7 Q We have the shoes.

8 A Yes, I don't recall.

9 Q The shirt that was turned over to you by
10 Investigator Holdorf, I show you State's Exhibit 116
11 and 117, what part of the shirt does that show?

12 A It's going to be the front and then lower picture
13 is going to be a close up of the left-front.

14 Q As far as the shirt and the size, could you
15 determine whether or not if it was an adult shirt or a
16 child's shirt or something in between?

17 A I believe that it was a XX or larger. I don't
18 recall right offhand. I took a photograph, I believe,
19 of it.

20 Q I'll get to that photograph in a second.

21 A On.

22 Q State's Exhibits number 119 and 118, do those
23 show other stains?

24 A They do.

25 Q And that's how they were on the shirt?

1 A That's correct.

2 Q And the appearance of these stains, what did the
3 appearance look like?

4 A They are reddish brown stains believed to be
5 blood. It's usually what we see in stains like that.

6 Q State's Exhibit 120 and then 121, I believe, is
7 the photograph that you were talking about, what size
8 is that shirt?

9 A It says a size 5.

10 Q And this is another stain over here on the
11 sleeve?

12 A That's correct.

13 Q Did you also photograph the back of the shirt?

14 A I did.

15 Q I show you State's Exhibit 122 and 123.

16 A At least going to be the right rear and the
17 left-rear.

18 Q State's 124 just shows an area with a tear?

19 A That's correct.

20 Q And then after photographing them separately, did
21 you go back to State's Exhibits 125, 126, 127, 128,
22 and 129 and put a scale to these?

23 A I did.

24 Q Instruments to these, but again, that's the same
25 shirt, just to scale, correct?

1 A That's correct.

2 Q And the shirt itself is contained here in State's
3 204, which is in evidence?

4 A That's correct.

5 Q Do you mind getting it out for me. Do you have
6 gloves?

7 Q And for the record, Investigator Lee, this would
8 be the shirt after it's gone through testing at the
9 DNA department and things like that?

10 A No. It's only photographed and then submitted to
11 go to the property lab.

12 Q But it's been tested now and returned to this box
13 after the testing?

14 A Yes.

15 Q If there was testing done?

16 A If there was testing, yes. There's additional
17 signatures on the seal, so that would mean that other
18 testing was done.

19 Q And you're familiar with Rachel Grant in your DNA
20 department?

21 A I am.

22 Q So if the shirt had any additional holes in it or
23 anything of that nature, it may be where they cut it
24 out to do testing?

25 A Yes.

1 Q Okay, and that's the shirt?

2 A It is.

3 Q Can you show them the back, too? Thank you.

4 A Put it back, too?

5 Q Yes. Again the testing for the presence of blood
6 and any DNA testing, that wouldn't have been done by
7 you?

8 A I could have done it, but no, I sent it onto the
9 lab to be tested. Ours is just a presumptive test as
10 Investigator Oates described earlier.

11 Q Was that the extent of your involvement in this
12 case, I believe?

13 A It is.

14 MS. CAMPBELL: Thank you, sir.

15 MR. LI: No questions, Your Honor.

16 MR. RUFFIN: Just one thing.

17 CROSS-EXAMINATION:

18 BY MR. RUFFIN:

19 Q You didn't actually test any of the items for
20 DNA, did you?

21 A No, I did not.

22 THE COURT: Thank you very much.

23 You may step down, sir.

24 You all approach.

25 (WHEREUPON, a bench conference was held in the

1 presence, but not within hearing of the jury.)

2 THE COURT: All right. Ladies and gentlemen, it
3 is 4:45. The next witness, and I don't ever hold
4 attorneys to times, okay, because things can happen in
5 trial. I was just trying to get a gauge, but you're
6 probably looking, do not hold the attorneys to this.
7 I'm trying to give you an estimate of probably around
8 30 to 45 minutes worth of the testimony total. It's
9 4:45. If you want to push through and get through
10 this witness today, we can. If it goes real late, I
11 can stop it, because people have other things to do,
12 but if you're willing to push through and start her,
13 we can get as far as we can, if you want to go ahead
14 and stop, we'll stop.

15 (Pause.)

16 THE COURT: Okay. Fair enough. Let's try to get
17 this one done. I'm not holding any attorney to
18 anything they told me. I understand how things work
19 in a trial. If we need to stop and come back tomorrow
20 morning, we can. No one is going to be held to any
21 time constraints or anything at all. Call your next
22 witness.

23 MS. McDUFFIE: The State calls Investigator
24 Kristen Polis.

25 KRISTEN POLIS,

1 after being duly sworn, testified as follows:

2 THE CLERK: Please have a seat. State your name
3 for the record.

4 THE WITNESS: My name is Kristen Polis, spelled
5 P-O-L-I-S.

6 DIRECT EXAMINATION:

7 BY MS. McDUFFIE:

8 Q Investigator Polis, where are you employed?

9 A Richland County Sheriff's Department in the crime
10 scene unit.

11 Q What are your duties with the sheriff's
12 department in the crime scene unit?

13 A Just like Investigator Lee and Investigator
14 Oates, we respond to any type of crime scene that
15 occurs in the county at the request of deputies,
16 investigators and the coroner's office.

17 Our primary duties are to document evidence,
18 document scenes so that we can recreate or explain or
19 show exactly how those things looked when we arrived
20 somewhere. We search for evidence. Sometimes that
21 means processing for fingerprints, collecting for DNA
22 and then we also have some additional training in
23 things like blood stain analysis, trajectory analysis,
24 reconstruction and some other different topics along
25 those lines.

1 Q Please tell the jury a little bit about your
2 education, background and training in the field of
3 crime scene investigation.

4 A I have a bachelor's degree in criminal justice, a
5 bachelor's degree in psychology, and a master's degree
6 in social work. I've been with the crime scene unit
7 since 2006, so it's been almost eight years this year.

8 I have completed our in-house training program,
9 which you've already heard about. That took me a
10 total of 20 months to complete beginning to end. It's
11 a very extensive program that covers all the areas of
12 processing and we're tested, both with written tests
13 and practical tests in each area where is we will
14 perform work. I've also completed a number of
15 external training courses provided by different
16 professionals in our field, things like photography,
17 fingerprint collection and analysis, DNA collection,
18 basic and advanced photography, basic and advanced
19 blood stain courses and I'm also certified through the
20 IAI as a crime scene investigator.

21 Q And the IAI is...

22 A The International Association for Identification.
23 It's basically the professional body for our
24 discipline and they set standards for different levels
25 of certification, so once you have been in the

1 position in the field working for a set amount of
2 time, you can apply to take these tests and it's an
3 extensive body of text books and other things that
4 we're responsible for studying and learning. We go in
5 and take a written test to gain certifications and
6 then every five years, we have to recertify by taking
7 another test.

8 Q Have you ever been offered and qualified as an
9 expert in courts of this state before?

10 A I have 13 times previously.

11 MS. McDUFFIE: Your Honor, at this time we'd
12 offer Investigator Polis as an expert in crime scene
13 investigation.

14 MR. LI: No objection.

15 MS. PINNOCK: No objection.

16 THE COURT: All right, sir. Ladies and
17 gentlemen, Investigator Polis be qualified as an
18 expert in the area of crime scene investigations. She
19 will be allowed to give opinion testimony in that
20 area. That doesn't mean that you have to accept her
21 opinion, but to use as evidence in any way that you
22 see fit and give what credibility you believe is due
23 just as you are to every single witness.

24 Ms. McDuffie.

25 MS. McDUFFIE: Thank you, Judge.

1 BY MS. McDUFFIE:

2 Q Investigator Polis, you responded to [REDACTED]
3 Beaverbrook Road?

4 A I did.

5 Q Approximate what day was that?

6 A On July 4th.

7 Q Approximately what time?

8 A I arrived at 12:20.

9 Q And are you aware that the scene had been turned
10 back over to Ms. Thompson and Mr. Guinyard on the 2nd
11 of July?

12 A I was aware that it was released. I did not know
13 to whom.

14 Q And so when you arrived, the scene wasn't being
15 secured by law enforcement at that point?

16 A That's correct. Investigator Holdorf and
17 Investigator Wagner had gotten there just prior to my
18 arrival. They were there, but there was not a deputy
19 maintaining the security at that time.

20 Q What was the purpose or why did you go there on
21 July 4th?

22 A Investigator Holdorf contacted me and advised
23 that they were doing a follow up search warrant, that
24 during their investigation, there were some additional
25 items that they wanted to try to locate, so they

1 secured another search warrant to go back to the house
2 and take another look for these additional items.

3 Q So pursuant to a lawful search warrant, you,
4 Investigator Holdorf and Investigator Wagner entered
5 the home at [REDACTED] Beaverbrook Road?

6 A That's correct.

7 Q When you entered the home that afternoon,
8 approximately what time did you go in?

9 A I arrived about 12:20.

10 Q Was there anyone present in the home when you
11 arrived?

12 A Just Investigator Holdorf and Investigator
13 Wagner.

14 Q And when you arrived in the home pursuant to the
15 search warrant, were there certain items of potential
16 evidentiary value that you were looking for?

17 A Yes, that they were looking for, yes.

18 Q And those items as listed in the search warrant
19 were a Time Warner cable box?

20 A Video type system that was in the home.

21 Q And poles, rods and brooms?

22 A Yes.

23 Q Things of that nature?

24 A Yes.

25 Q And when you arrived and went into the house, you

1 were accompanied by investigators Wagner and Holdorf?

2 A That's correct.

3 Q Did they assist you in looking for items of
4 evidence?

5 A They basically began a search and pointed out to
6 me different items that were relevant. This was my
7 first involvement with the case and obviously for
8 several days they had been working on it. They knew
9 the relevant items that they were looking for on that
10 date. They basically searched and collected things
11 which I then documented and collected.

12 Q Typically, is it common, as the investigation
13 progresses, items that may have been of evidentiary
14 value become known to the investigators and you then
15 began searching for those?

16 A Yes.

17 Q Is that what was done in this case?

18 A Yes.

19 Q When you went into the home at ■■■ Beaverbrook,
20 did you go into the restroom or the bathroom area of
21 the home?

22 A I did. I took some photographs in that area.

23 Q Did you, in fact, go in every room of the house
24 that day?

25 A Yes.

1 Q Did you take photographs that you previously
2 viewed, which are marked as State's Exhibit 172
3 through 200?

4 A Yes, ma'am.

5 MS. McDUFFIE: Your Honor, at this time we'd
6 offer 172 through 200.

7 MS. PINNOCK: No objection, Your Honor.

8 MR. LI: No objection.

9 THE COURT: All right. State's 172 through 200
10 are admitted without objection.

11 (WHEREUPON, State's Exhibit Numbers 172-200 were
12 admitted into evidence.)

13 BY MS. McDUFFIE:

14 Q All right. Investigator Polis, let's start in
15 the restroom area of the home, State's 172, 173.
16 Please describe what's depicted in these photographs.

17 A The first one is the vanity area, with a sink.
18 There's an item, a cloth item, inside the sink and a
19 bottle of cleaner that's there on the counter.

20 Q This is as you observed it on July 4th of 2013?

21 A That's correct.

22 Q And did you find anything of potential
23 evidentiary value or collect any items from the
24 restroom on July 4th?

25 A Nothing was collected. We just took photographs

1 to document how it looked.

2 Q State's 176, 177, 178, will you tell the jury
3 what's depicted in these photographs?

4 A This was the --- these are some photographs that
5 were displayed on the outside of the bedroom door. So
6 if you closed the door and were looking at it from the
7 hallway, this is what you would see. If you're
8 walking down the hall from the living room, this is
9 the bedroom that would be on your left, so on the back
10 of the house on the left.

11 Q And you searched the entire home that day?

12 A I went into every room and looked in all the
13 rooms, yes. It wasn't a thorough search on my part.
14 It was more documentation and collection as directed
15 by the other investigators.

16 Q Did you observe any photographs of the victim in
17 this case, CHILD, or a male child in
18 this case?

19 A I don't recall. I don't know that I had seen a
20 photograph of him prior to arriving prior at the
21 residence on that day, but I do not recall seeing any.

22 Q You did photograph and document what you saw that
23 day?

24 A Yes, ma'am.

25 Q Did you and Investigator Wagner or Investigator

1 Holdorf also search a hallway closet?

2 A Yes, ma'am.

3 Q And that's depicted in State's Exhibit 180?

4 A Yes.

5 Q And what, if anything, of evidentiary value did
6 you locate in State's 180?

7 A On one of the shelves inside the closet there was
8 a wooden type dowel rod that was painted white and the
9 center portion of it was broken, split.

10 Q And is that what's depicted in State's 182 and
11 183?

12 A Yes.

13 Q And that dowel rod was broken?

14 A Yes.

15 Q And after you photographed this in the closet,
16 did you collect this item of evidence?

17 A I did.

18 Q In the hallway leading to the bedrooms, did you
19 also locate a broom as depicted in State's 185 and
20 186?

21 A Yes, this was propped up on the wall, a broom
22 with the blue bristles.

23 Q And a white handle?

24 A Yes.

25 Q Was this item collected, as well?

1 A It was.

2 Q I'm showing you State's 151, is this the broom
3 and the dowel rod you collect from the home on
4 July 4th?

5 A Yes.

6 MS. McDUFFIE: Your Honor, at this time we'd
7 offer State's 151.

8 MR. STAGGS: No objection.

9 MR. LI: No objection.

10 THE COURT: State's 151 admitted without
11 objection.

12 (WHEREUPON, State's Exhibit Number 151 was
13 admitted into evidence.)

14 BY MS. McDUFFIE:

15 Q After you collected these items from the home,
16 did you maintain them in your custody?

17 A I did.

18 Q Did you and Investigator Wagner and Investigator
19 Holdorf also search a back bedroom?

20 A Yes.

21 Q And did you notice anything of evidentiary value
22 in the bedroom or the closet?

23 A On the closet there was a hole that --- a hole in
24 the closet door itself and there were some stains,
25 reddish brown stains, that we believed to be blood.

1 They were on the wall that were documented. I
2 collected swabs from the reddish brown stains.

3 Q Is that depicted in State's 175 and 179?

4 A Yes, ma'am.

5 Q And again, you collected this potentially blood
6 evidence?

7 A Yes, with a swab.

8 Q And you packaged it and sealed it?

9 A That's correct.

10 Q And are these the swabs contained in State's
11 Exhibit 202?

12 A Yes, this is the swab from the reddish brown
13 stain on the closet door.

14 MS. McDUFFIE: Your Honor, at this time we'd
15 offer 202 into evidence.

16 MR. STAGGS: No objection.

17 MR. LI: No objection.

18 THE COURT: All right. State's 202 is admitted
19 without objection.

20 (WHEREUPON, State's Exhibit Number 202 was
21 admitted into evidence.)

22 BY MS. McDUFFIE:

23 Q Investigator Polis, in the back bedroom, did you
24 and Investigator Holdorf and Investigator Wagner also
25 locate what's already in evidence, a white metal dowel

1 or pole?

2 A Yes.

3 Q And where was that pole located?

4 A In that room in the corner. If you're standing
5 at the bedroom door, it would be the back corner.

6 There was a box springs and mattress that were just on
7 the floor pushed up against the wall. So when the bed
8 was pulled slightly away from the wall, this was right
9 there along the edge of the wall at the floor, so it
10 would have been between the bed and the wall.

11 Q State's 187, is this in the process of the bed
12 being moved?

13 A Yes.

14 Q State's 188, does that show the white metal rod?

15 A Yes.

16 Q Beside the mattress and box springs?

17 A Yes.

18 Q This is how it was found on July 4, 2013?

19 A Yes, ma'am.

20 Q Once this item was located, did you do any
21 further examination of it at the scene?

22 A I observed that the pole itself had some stains
23 on it, red in color stains, so I just photographed
24 those and placed a scale and a piece of scale onto the
25 item and took a photograph of that. That was all that

1 was done at that time. It was packaged and kept in my
2 custody from that point.

3 Q And 190, is that an example of the stains ---

4 A Yes.

5 Q --- that you were referring to?

6 A Yes.

7 Q And once you picked the object up and noticed
8 more reddish brown stains, you then placed a scale on
9 it as depicted in 191?

10 A Yes.

11 Q And photographed that other area?

12 A That's correct.

13 Q And State's 194, that is a photograph you took at
14 the scene that day?

15 A That's correct.

16 Q After you located this pole, you then collected
17 it and packaged it?

18 A That's correct.

19 Q And did you retain custody of that?

20 A I did.

21 Q On July 6th at the Richland County Sheriff's
22 Department crime lab, did you further process the
23 broom, the dowel rod, and the white pole?

24 A I did. I removed all the items that had been
25 secured from the time that I arrived back at

1 headquarters until July 6th and had been secured in my
2 evidence locker.

3 Each of our investigators have a personal locker,
4 not a personal locker, but a locker assigned to us for
5 casework, so any evidence that we collect, that is a
6 place we secure it that nobody else is going to go
7 into. That's where the item had been from the time I
8 got to headquarters that day until I got it back out
9 on July 7th --- I'm sorry, July 6th to process it, and
10 I was going to process the items and try to see if I
11 could get any fingerprints off of them before trying
12 to swab them for DNA.

13 Q Let me back up for one second. On July 4th you
14 also collected a hospital gown and a green shirt from
15 the residence?

16 A Yes, ma'am.

17 Q State's 203?

18 A Yes.

19 MS. McDUFFIE: Your Honor, at this time we'd
20 offer 203.

21 MR. LI: No objection, Your Honor.

22 MS. PINNOCK: No objection.

23 THE COURT: State's 203 without objection.

24 (WHEREUPON, State's Exhibit Number 203 was
25 admitted into evidence.)

1 BY MS. McDUFFIE:

2 Q So Investigator Polis, on July the 6th, you
3 processed the broom and dowel rods to try to lift
4 fingerprints?

5 A That's correct.

6 Q Did you also try to obtain DNA samples,
7 potentially, from those items?

8 A I did. The broom and the dowel rod I did not get
9 any fingerprints from either one of those items. I
10 collected a swab from each of those, which was
11 packaged and submitted into evidence.

12 The white metal rod, I began to process that for
13 fingerprints, and I used one of our processes, which
14 is called cyanoacrylate fuming. That's a superglue
15 fuming technique that basically what we have is a
16 chamber that we can put items of evidence in where
17 everything is contained, so I placed the rod in there.
18 You fill a small cup with --- it's actually superglue,
19 and it goes on a warmer. Then within the chamber
20 there is also a humidifier.

21 Basically what this process does is we can
22 control the humidity level in that chamber, so we
23 raise it to the level that we set, and then that
24 superglue is warmed, and the combination of the
25 humidity and the superglue being warmed will create

1 fumes. Those fumes settle on whatever item is in the
2 chamber. When that hardens, that serves to protect
3 anything that might be on the surface of it.

4 Fingerprints are very fragile evidence. A lot of
5 times people think they're on everything and they're
6 easy to get, but they're actually mostly made of
7 water. They have to be preserved. If you think about
8 how easy it is to wipe a fingerprint off the screen or
9 phone or the window of your car.

10 You know, these are not things that get placed
11 there that --- these are very fragile, so this is one
12 of techniques that we use to help preserve any prints
13 that might be on there. That's what I started doing
14 with the metal rod, and it ran through the full cycle
15 in the fuming chamber.

16 When I removed that item from the chamber, I
17 observed that in addition to the reddish brown stains
18 that I had already seen and photographed on the scene,
19 there were some others that were more faint, but they
20 were there more towards the center portion of that
21 rod, and they had ridge detail in them, which is
22 created by either the skin on the fingerprints or the
23 palms and that's the skin that has the unique
24 characteristics that we can use to try to create an
25 identification to see who they may belong to.

1 So when I saw those, there's some additional
2 things that we can do to develop stains that may have
3 been left behind in blood, and that's what I wanted to
4 attempt to do to this item when I saw that they may be
5 present.

6 So at that point I just secured everything back
7 in my locker. I wanted to have the assistance of a
8 supervisor, we do these chemical processes frequently,
9 but it's not something that I do daily. At that point
10 I just resecured the item and did not do anything
11 further with that metal rod at that time.

12 Q And that metal rod was later processed by your
13 supervisor, Sergeant Stan Richards?

14 A That's correct. I turned it over to him on a
15 chain of custody form and he processed it to try to
16 develop additional ridge detail.

17 Q You yourself processed the white handle broom and
18 the dowel rod, and you took swabs for DNA?

19 A That's correct.

20 Q Your took State's 201?

21 A Yes.

22 MS. McDUFFIE: Your Honor, at this time we'd
23 offer State's 201.

24 MR. LI: No objection.

25 MR. STAGGS: No objection.

1 THE COURT: State's 201 without objection.
2 (WHEREUPON, State's Exhibit Number 201 was
3 admitted into evidence.)

4 BY MS. McDUFFIE:

5 Q Investigator Polis, once you --- or whenever you
6 are processing these items of evidence, are they in
7 next to each other, touching each other, how is that
8 done?

9 A They're kept separately. Each item would have
10 been kept separate. A lot of times we use paper bags.
11 We'll have multiple items in paper bags. They may be
12 packaged together in a box, but they're kept
13 separated. We may fume them together; it's a large
14 fuming chamber, so if you have multiple items from the
15 same case, you can fume them together, but it's large
16 enough that we can separate them so they're not
17 touching when they're in there.

18 Q That's to prevent contamination or cross-
19 contamination?

20 A Right.

21 Q Was there any contamination or cross
22 contamination of items in this case?

23 A No, ma'am.

24 Q After you were able to identify what you thought
25 may be a fingerprint or ridge detail in possible

1 blood, you then turned that white pole over to
2 Sergeant Richards?

3 A At that time, it was secured in a locker. At
4 that later time it was turned over to him.

5 Q And Sergeant Richards actually further processed
6 it for DNA and fingerprints?

7 A Yes.

8 Q At a later date?

9 A Yes.

10 Q And after you turned that white pipe over to Stan
11 Richards, you didn't have any further involvement in
12 this case?

13 A That's correct.

14 MS. McDUFFIE: Beg the Court's indulgence.

15 (Pause.)

16 No further questions, Your Honor.

17 THE COURT: Who wants to go first?

18 MR. LI: I'll go, Your Honor.

19 THE COURT: Okay.

20 MR. LI: One question.

21 CROSS-EXAMINATION:

22 BY MR. LI:

23 Q When you went back and secured the scene on
24 July 4th, it had previously been turned over to
25 somebody else, correct?

1 A That was my understanding, yes, sir. That was my
2 very first involvement in the case, but that was my
3 understanding.

4 Q I got you. You don't know who they turned it
5 over to?

6 A No, sir, I don't.

7 MR. LI: Thank you very much.

8 MR. STAGGS: I don't have anything further.

9 THE COURT: Okay. All right. Look at that,
10 faster than expected. Okay.

11 Thank you, Investigator Polis.

12 THE WITNESS: Thank you.

13 THE COURT: You may be excused.

14 Ladies and gentlemen, we're going to stop for the
15 evening. It's a few minutes after five o'clock. We
16 got through that faster than normal. Don't ever tell
17 anybody that I finished before I said I would.

18 Okay. Now, listen, I'm going to excuse you for
19 the night. We are going to start tomorrow morning at
20 9:30. You will recall that I previously instructed
21 you in great detail that you must decide this case
22 solely on what happens in this courtroom, the evidence
23 that comes in, the documents that are presented, the
24 testimony of the witnesses and because we're about to
25 break for the evening, I'm now reminding you of my

1 warning to you that I want you again to fully commit
2 to each other, to the lawyers in the case, to the
3 parties in the case and to the court that you're not
4 going to use any type of electronic device, TV, cell
5 phone, smart phone, Blackberry, iPhone, Facebook, text
6 messaging, Google, iPad, tablet, Kindle or anything
7 else that I can't even imagine what it is, not even
8 the car radio to get information about this case, to
9 communicate with anybody about this case, to receive
10 messages about the case or to send out messages about
11 the case, even with your close family or friends, and
12 I trust that each one of you are doing that.

13 We thank you for your service and everybody has
14 done a great job of paying attention today and staying
15 with us. I know it's been a long day. We will start
16 tomorrow morning at 9:30. We will collect your pads.
17 They will be locked in my office. Nobody will view
18 them, and they will be given back to you first thing
19 in the morning once you come back to hear testimony.

20 Thank you very much and good evening.

21 (WHEREUPON, the jury left the courtroom at
22 5:05 p.m.)

23 THE COURT: All right. Tomorrow I have something
24 with the State Grand Jury on the record at 1:30, so we
25 will try to break for lunch during the middle of that.

1 I will try to take the lunch break around that time
2 where I can do that and it not interrupt us here too
3 much.

4 Anything else before we break for the night?

5 MR. LI: Yes. Your Honor, I'd like to get a
6 rough time line of when I should give my witness list.

7 THE COURT: Okay, well, let's do this. And
8 you're referring to your --- and I'm going to call
9 your attention to this sheet.

10 MR. LI: Yes.

11 THE COURT: For my own understanding and my only
12 mind, here's what I want you to do. I want you to
13 make me a list of who you think you would need to
14 testify so I can gauge how many people that is, and
15 then we'll figure out when we can block out some time,
16 probably in the next couple of days, probably on
17 Friday. I'll block out some time to listen to that.

18 You can give me an estimate. Of course, give the
19 State a copy of it and Ms. Thompson a copy of it, the
20 approximate amount of time that you think the
21 testimony side of it will take.

22 MR. LI: Yes, sir.

23 THE COURT: Okay. All right. What else?
24 Anything else from anybody before we stop for the
25 night?

1 MR. LI: Nothing else.

2 MR. STAGGS: Nothing, Your Honor.

3 MS. McDUFFIE: No, Your Honor.

4 THE COURT: Okay, we will see everybody in the
5 morning at 9:30. Have a good evening.

6 (WHEREUPON, Court was adjourned for the day.)

7 May 22, 2014

8 (WHEREUPON, Court was called to order.)

9 (WHEREUPON, State's Exhibit Numbers 225-250, 251-
10 253, 255-259 were marked for identification
11 only.)

12 THE COURT: At this point in time, does the State
13 plan for asking for a lesser included of 16385 (B)(1)?

14 MS. McDUFFIE: Your Honor, that wasn't clear.
15 That doesn't affect the initial.

16 THE COURT: Okay.

17 MS. McDUFFIE: I'm sorry.

18 THE COURT: I'm talking about the one that
19 carries the lesser punishment.

20 MS. McDUFFIE: (A)(2) ---

21 THE COURT: Whichever one, (A)(2), I'm sorry.

22 MS. McDUFFIE: Your Honor, I think there's case
23 law that says it's not.

24 THE COURT: That it's not a lesser included?

25 MS. McDUFFIE: Correct, Your Honor.

1 THE COURT: Okay.

2 MS. McDUFFIE: Your Honor, just to clarify, we
3 will be asking that you charge (B)(1) and (B)(2)
4 because those are the defintial sections of the
5 statute.

6 THE COURT: I said the wrong --- I meant --- I
7 was trying to say --- I said the wrong code number.
8 What I was trying to say is the charge that carries 10
9 to 20 and that's the one that you're telling me that
10 there's law on that says that's not a lesser included.

11 MS. McDUFFIE: Yes, Your Honor.

12 THE COURT: I just said the wrong number. I'm
13 sorry. The (B) sections are definitional sections on
14 the statute.

15 Thank you.

16 THE COURT: All right. Everybody ready?

17 MS. PINNOCK: Your Honor, I have a few matters
18 before we begin.

19 THE COURT: Okay.

20 MS. PINNOCK: Yesterday an issue came up. We
21 renewed our Rule 5 and Brady motion at the beginning
22 of the trial on Monday, and it was claimed on the
23 record that all the discovery had been provided.
24 During that testimony of Investigator Powell from the
25 coroner's office, we are found out at that point that

1 she had a report that was not turned over to us during
2 discovery.

3 She said she made that report on the day that she
4 was involved with this case. That would be July 2,
5 2013. We never received anything from her, so, Your
6 Honor, we're going to be --- I'm asking for a mistrial
7 for discovery violations. It was certified again that
8 discovery was complete, and we're finding out during
9 testimony that's it's not.

10 Along with that, Judge, when we renewed it, there
11 are other witnesses that are listed that the State is
12 intending on calling that we still have been given no
13 information on.

14 Specifically, Dr. Rosa, we were told in chambers
15 last week that she would be testifying to the nature
16 and extent of the injuries. That's not disclosing to
17 us what her testimony is. We have no report, we have
18 no information except for a chart that was made from
19 this witness and they're going to be attempting to
20 qualify her as an expert. We have no information
21 about what her testimony is supposed to be.

22 So, again, we would just ask for a mistrial based
23 on that. We are renewing our request for discovery
24 because we have not been provided everything in this
25 case.

1 THE COURT: Let's do them one at a time.

2 MS. McDUFFIE: Your Honor, I think there's ten
3 boxes of discovery in this. This is a very voluminous
4 case and there are tons of records in this case to say
5 the least, Your Honor.

6 We have done everything we can to comply with
7 discovery. As late as, I think last Wednesday, Your
8 Honor, and I'm happy to go upstairs to get the emails,
9 but I emailed Ms. Pinnock and Mr. Li and asked them to
10 please come look through our stuff to make sure they
11 had everything and that I would make it available to
12 them at any time.

13 I spoke with Ms. Pinnock and Mr. Staggs on the
14 phone. Ms. Pinnock said she had childcare issues that
15 night, but could we get together the next day. I
16 said, absolutely, come find me, I'm here.

17 I had told Mr. Staggs, I said, I want to make
18 sure you have everything, so can we at least go
19 through everything on the phone. I ran through a list
20 of everything on the phone.

21 They represented to me on the phone that they had
22 everything, including the coroner's report, which was
23 one of those items that we had ran through on the
24 phone.

25 I also talked to Mr. Li. Neither of them came up

1 to look through everything. I have attempted to make
2 our entire file available to them. Your Honor,
3 there's over 10,000 pieces of paper in this report.
4 Further, Your Honor, what Ms. Powell was referring to,
5 I'll be happy to hand it up to Your Honor. There's
6 nothing in it that is anything that wasn't in any
7 other report, Your Honor. It just says that she did a
8 video and then she went to the sheriff's department.

9 All of the information has been provided to them
10 in discovery through documents, by other witnesses.
11 Your Honor, further, had we known that they didn't
12 have the report, we could have provided it to them in
13 time for them to cross-examine.

14 THE COURT: Is this the report?

15 MS. McDUFFIE: Yeah. Yes.

16 THE COURT: Okay. Let's mark this as a Court's
17 Exhibit.

18 MS. McDUFFIE: Your Honor, and Ms. Powell also
19 testified pretrial, and we could have given them a
20 copy had we known at that point. Your Honor, I think
21 they've had every opportunity.

22 (WHEREUPON, Court's Exhibit Number 9 was marked
23 for identification only.)

24 THE COURT: And Dr. Rosa's testimony.

25 MS. McDUFFIE: Your Honor, there ---

1 THE COURT: Does she have a report?

2 MS. McDUFFIE: She has a diagram. She did the
3 injuries, which we provided to them, Your Honor.
4 Dr. Rosa was not a treating physician. Our office
5 contacted her because of the voluminous medical
6 records in this case, and she went through them and is
7 going to explain to the jury the medical conditions
8 and how they presented and that's what we related to
9 the defense.

10 As soon as we contacted Dr. Rosa and sent her the
11 documents, I emailed them ---

12 THE COURT: Hold on.

13 (Pause.)

14 MS. McDUFFIE: I emailed ---

15 THE COURT: So as soon as you contacted Dr. Rosa
16 and sent her the documents --- go ahead.

17 MS. McDUFFIE: I emailed both defense attorneys
18 and informed them on that day we had sent her the
19 documents. She obviously hadn't had time to review
20 them, but if there was anything that was discoverable
21 information, we would turn that over to them. After
22 we met with Dr. Rosa, I contacted both of them and
23 informed them that Dr. Rosa was going to outline the
24 nature and extent of the injuries and how they
25 present. Then in chambers, I believe that

1 Ms. Campbell addressed that, as well.

2 She has no report in this case, Your Honor, and
3 she has been available to be interviewed just like,
4 you know, Ms. Thompson and Mr. Staggs came and
5 interviewed Dr. Durso, Dr. Rosa --- I'm sorry, like
6 Ms. Pinnock and Mr. Staggs came and interviewed
7 Dr. Durso, Dr. Rosa has been likewise available, Your
8 Honor. You know, I don't know how to turn over a
9 document that doesn't exist.

10 THE COURT: Anything further?

11 MS. PINNOCK: Yes, Your Honor. Just for the
12 record, I was actually still in the office when we
13 were on the phone about going through the file making
14 sure we had everything. We did acknowledge that he
15 had the coroner's file, but that was not part of the
16 file so if that's not in there, I wouldn't know it
17 existed. We had nothing indicating that Ms. Powell
18 had done a report, so we can't ask for something what
19 we don't know exists.

20 With the email, yes, we were informed on
21 April 29th that Dr. Rosa was provided the file for
22 review. We were emailed the diagram. I believe after
23 we got the diagram I made a phone call to Ms. McDuffie
24 to ask what is she going to be talking about. If she
25 is going to be talking about the nature of the

1 injuries, that's what the pathologist is going to talk
2 about, I was just --- I think it's going to be futile
3 testimony at that point because we are going to have
4 the pathologist coming in to testify about the
5 injuries and the extent of the injuries. To have
6 somebody else come in and talk about the same thing is
7 futile.

8 With that information, that's the only conclusion
9 I could come to is they're going to be presenting
10 cumulative evidence through experts to try to bolster
11 the case any way they can.

12 THE COURT: Okay. Your motions are denied. The
13 information that was --- this email, which is Court's
14 Exhibit 9, there is nothing new in this information.
15 There is nothing different in this information that
16 wouldn't lead anybody to do anything differently than
17 the way you all have handled it. She testified
18 pretrial.

19 Essentially the entire thing is on video, the
20 video reenactment which the defense has a copy of.
21 There has been no prejudice to defendant Thompson in
22 regards to this document. Therefore that motion for a
23 mistrial is denied.

24 As to --- there is no manifest necessity as to
25 Dr. Rosa's testimony. She has been available to be

1 interviewed by the defense as need be. As to whether
2 or not it's cumulative, it would fall under a 403
3 issue, and that will be an issue once she starts
4 testifying, assuming she testifies after Dr. Durso or
5 whatever order they call them. If it's cumulative,
6 we'll deal with it contemporaneously.

7 Anything else?

8 MS. PINNOCK: Yes, Your Honor. I'm also making
9 another mistrial motion based on pretty much the
10 combination of everything that has happened, starting
11 with opening statements. Comments were made by Mr.
12 Li, and I know that Your Honor gave the jury an
13 instruction to disregard but I don't think it can by
14 any means be taken away. They heard it. I don't
15 think the curative instruction --- I don't think the
16 instruction cured the statements made by Mr. Li.

17 Also, Your Honor, the outbursts by Ms. Thompson
18 yesterday. That happened directly in front of the
19 jury, heading down toward the witness box. She was
20 extremely emotional about being forced into the
21 courtroom. She had an emotional outburst, and she was
22 calling for the victim's advocate to come help her
23 because she could not get on the stand to testify. I
24 think that has prejudiced the jury extremely, Your
25 Honor.

1 The crime scene photos, I understand Your Honor
2 ruled on that yesterday. My position on that was that
3 the photos pose a very high probability of having an
4 extreme emotional effect on the jurors. It came to my
5 attention --- I was sitting over behind the jury box,
6 but people, my co-counsel at the table and other
7 people watching the trial from the gallery, all said
8 they witnessed an immediate emotional response to
9 viewing those pictures.

10 There is one juror, it was my understanding, that
11 could not even look at the pictures at one point.
12 Your Honor, I think at this point because they have
13 been exposed to those, their decision on this case is
14 going to be affected by that emotional effect.

15 So, Your Honor, I'm asking for you to grant a
16 mistrial on that. I would put on the record, Judge,
17 the written memo that I handed up and also made a part
18 of the record, cites the State v Torres case, where
19 the Court is cautioning the solicitor's office from
20 introducing photos of this nature.

21 When there is other evidence that could be
22 presented that could likely lead to a conviction, the
23 Court cautioned them from pushing the limits of what
24 the rules of evidence allowed by introducing photos of
25 this nature to the jury.

1 So, I would again ask, based on all the things
2 that have happened leading up to this point that you
3 grant a mistrial. I don't think we're going to be
4 able to go forward with the jury with the information
5 that they have seen. I think it's an extreme --- the
6 prejudicial value of everything combined is
7 substantially outweighed by any probative value those
8 photographs would have had. That's my motion for a
9 mistrial, Judge.

10 THE COURT: All right. Your motion is denied.
11 The photograph issue is very well and clearly defined
12 in case after case after case in South Carolina in
13 child abuse cases, homicide by child abuse cases that
14 pictures evidencing injuries to the child are directly
15 probative to the case and to the nature of the case.

16 Further, I did exercise my discretion in
17 admitting those photos. As sits here before me are a
18 number of photos, probably more than ten, that I did
19 not introduce even though the State wanted them to be
20 introduced.

21 As to the reaction of the jurors when they saw
22 the photos, the case law is very clear that the
23 probative value of those photos, the State is required
24 to prove and has the burden of proving the injuries,
25 the nature of the injuries, the history of the

1 injuries. It's very clearly defined in the homicide
2 by child abuse and the unlawful conduct towards a
3 child standard.

4 Now, as to the emotional outburst of the mother
5 yesterday, that would be Gladys Thompson, when she had
6 her emotional outburst, I did remove the jury from the
7 room and when they came back in the room, I had
8 Ms. Thompson on the witness stand, and she was
9 prepared to go forward at that time.

10 Ms. Thompson did testify under subpoena and the
11 majority of her emotional outburst had to do with the
12 fact that --- out of her love and her care for the
13 defendant on trial, not for some extreme care or
14 concern for the alleged victim in the case.

15 The emotional outbursts were directly related to
16 and in favor of defendant Thompson in the matter.

17 Okay. Bring in the jury.

18 (WHEREUPON, the jury entered the courtroom at
19 9:49 a.m.)

20 THE BAILIFF: All jurors are accounted for, Your
21 Honor.

22 THE COURT: Good morning. Welcome back. All
23 right. Thank you for coming back on time. We
24 appreciate that. We will now continue with the
25 testimony in the case. Call your next witness,

1 please.

2 MS. WALKER: The State calls Investigator Yvonne
3 Woods.

4 YVONNE WOODS,
5 after being duly sworn, testified as follows:

6 THE CLERK: Please have a seat. State your full
7 name for the record.

8 THE WITNESS: Yvonne Woods.

9 DIRECT EXAMINATION:

10 BY MS. WALKER:

11 Q Investigator Woods, where are you currently
12 employed?

13 A Richland County Sheriff's Department.

14 Q And how long have you been with the Richland
15 County Sheriff's Department?

16 A Going on 15 years.

17 Q And what is it that you do at the sheriff's
18 department?

19 A I'm in crime scene.

20 Q How long have you been in crime scene?

21 A Six years.

22 Q What are some of the responsibilities of an
23 investigator within the crime scene unit?

24 A I respond to all scenes in Richland County.

25 Q And did you become involved in the investigation

1 of this case?

2 A Yes, I did.

3 Q Will you tell the jury how you became involved?

4 A I was asked to attend the autopsy.

5 Q Is that standard protocol for the sheriff's
6 department?

7 A Yes, it is.

8 Q And what is the purpose of you attending the
9 autopsy?

10 A To collect further evidence and to photograph.

11 Q I'm sorry. Will you say that again?

12 A To collect ---

13 THE COURT: Would you repeat that? Would you
14 repeat that answer for me, I'm sorry.

15 THE WITNESS: Which answer? The one she just
16 asked?

17 BY MS. WALKER:

18 Q Yes.

19 A To collect further evidence and photograph.

20 Q The autopsy of CHILD do you
21 remember the date of that?

22 A Yes, I do. July 2nd of 2013.

23 Q July 2nd?

24 A Yes, ma'am.

25 Q Where was that autopsy performed?

1 A At --- the address is going to be at Harden.
2 3301 Harden Street at the morgue.

3 Q And when you got there, what was the --- what did
4 you do?

5 A I observed the victim on the gurney.

6 Q And did you take evidence or collect evidence?

7 A Yes, I did, a buccal swab, I collected and his
8 pants, and I collected prints from his hands.

9 Q I want to show you what's been marked as State's
10 Exhibit 209 and 207 and ask you if you recognize
11 those?

12 A Yes, ma'am. That's the latent print from the
13 right hand and that's the buccal swab.

14 Q And once you collected these items, what did you
15 do with them?

16 A I packaged them and sent them into evidence.

17 MS. WALKER: Your Honor, at this time the State
18 seeks to admit exhibits 209 and 207 into evidence.

19 MR. LI: No objection, Your Honor.

20 MS. PINNOCK: No objection.

21 THE COURT: 207 and 209 admitted without
22 objection.

23 (WHEREUPON, State's Exhibit Numbers 207 and 209
24 were admitted into evidence.)

25 BY MS. WALKER:

1 Q Did you collect other items from the victim that
2 day?

3 A His blue jeans.

4 Q I want to show you what's been marked as State's
5 Exhibit 208 and ask you if you recognize those?

6 A Yes, ma'am. This is my package. It's blue
7 jeans.

8 Q And once you collected those --- this item, what
9 did you do with them?

10 A Submitted them. I repackaged them and submitted
11 them into evidence.

12 MS. WALKER: Your Honor, the State seeks to admit
13 Exhibit 208 into evidence.

14 MR. LI: No objection, Your Honor.

15 MR. STAGGS: No objection.

16 THE COURT: State's 208 without objection.

17 (WHEREUPON, State's Exhibit Numbers 208 was into
18 evidence.)

19 BY MS. WALKER:

20 Q Investigator Woods, could you please remove them
21 from the package?

22 A These are his blue jeans that I collected.

23 Q Thank you. And after collecting these items, did
24 you take a number of photographs?

25 A Yes, I did.

1 Q And is that standard protocol?

2 A Yes, ma'am.

3 MS. WALKER: Beg the Court's indulgence, Your
4 Honor.

5 THE COURT: Yes, ma'am.

6 MS. WALKER: I don't have any further questions.

7 THE COURT: Mr. Li.

8 MR. LI: No questions, Your Honor.

9 MR. RUFFIN: No questions, Your Honor.

10 THE COURT: All right. Thank you very much,
11 ma'am. Have a nice day.

12 THE COURT: Call your next witness.

13 MS. CAMPBELL: May it please the Court.

14 THE COURT: Yes, ma'am.

15 MS. CAMPBELL: The State calls Dr. Olga Rosa.

16 DR. OLGA ROSA,

17 after being duly sworn, testified as follows:

18 THE CLERK: Please have a seat. State your full
19 name for the record.

20 THE WITNESS: My name is Olga Rosa, O-L-G-A,
21 R-O-S-A.

22 THE COURT: Back up from the mic just a little
23 bit. Everybody is different. There you go.

24 THE WITNESS: Okay.

25 DIRECT EXAMINATION:

1 BY MS. CAMPBELL:

2 Q Good?

3 A I'm good.

4 Q Dr. Rosa, where are you employed?

5 A I'm employed with the University of South
6 Carolina School of Medicine department of pediatrics.

7 Q What do you do there?

8 A I am the chief of the division of forensics
9 pediatrics for the School of Medicine. I'm also the
10 medical director for the South Carolina Child Abuse
11 Medical Response system, the State wide medical
12 response system.

13 Q And as a forensics pediatrician, I believe?

14 A Child abuse pediatrician, yes, ma'am.

15 Q As a child abuse pediatrician, what is your area
16 of expertise, what do you assess?

17 A My area of expertise is the medical evaluations
18 of children that present for service with injuries
19 where a question or a possibility of abuse may have
20 been raised by physicians or Department of Social
21 Services or law enforcement. We do their evaluations
22 and assessment for the possibility of child abuse on
23 those cases.

24 Q And typically, how do you become involved in a
25 case?

1 A Typically I become involved in a case through
2 referrals from my own colleagues, physician
3 colleagues, or healthcare providers. Usually my calls
4 come directly from the children's hospital, Palmetto
5 Children Hospital, either the general pediatrician,
6 the hospital service, pediatrics trauma, orthopedics
7 pediatrics, emergency room. That's how I get my
8 calls. Sometimes I also get calls directly from the
9 Department of Social Services that are bringing a kid
10 to the emergency room or usually it's the Department
11 of Social Services.

12 Q And maybe law enforcement?

13 A Yes, and law enforcement.

14 Q And you talk even faster than I do.

15 A Yes, ma'am, so sorry.

16 THE COURT: Okay. You got to ---

17 THE WITNESS: Slow down, I know.

18 THE COURT: She is really good, my court
19 reporter, but between you and Ms. Campbell ---

20 THE WITNESS: I know.

21 THE COURT: --- she may quit.

22 THE WITNESS: It comes with the ethnicity,
23 though.

24 BY MS. CAMPBELL:

25 Q Can you tell this jury a little bit about your

1 education and training?

2 A Yes, I will. I am a graduate of the University
3 of Puerto Rico School of Medicine. I completed my
4 four years of medical school there. Then I went to
5 the University Children's Hospital system. I did my
6 three years of pediatric residency. After completion
7 of that, two months later, I became a board certified
8 general pediatrician. I practiced general pediatrics
9 for a number of years. Then in 2000, I was accepted
10 at Bryant University School of Medicine in Providence,
11 Rhode Island, to complete a fellowship, which is a
12 specialty, in child abuse pediatrics, and I returned
13 back there to Florida and practiced in child abuse
14 pediatrics for --- until 2004 when I was hired by the
15 university here. I've been a full-time child abuse
16 pediatrician since 2000, for almost 15 years now.

17 Q You mentioned board certification. There are
18 different areas within the pediatric --- pediatrician,
19 there are different areas that you can get board
20 certified, correct?

21 A That is correct. So I hold two board
22 certifications. I'm a board certified general
23 pediatrics and I'm also a board certified child abuse
24 pediatrician.

25 Q And have you testified before as an expert in the

1 area of child abuse pediatrics?

2 A Yes, I have.

3 Q And have you before qualified as an expert in
4 those cases?

5 A Yes, ma'am.

6 Q And approximately how about times have you been
7 qualified as an expert, do you know?

8 A Well, I would say that I do about two to four
9 cases per year so ---

10 Q The last ten years?

11 A --- in the last ten years it's about 20 to 40
12 times.

13 MS. CAMPBELL: Your Honor, at this time we would
14 offer Dr. Rosa as an expert as a child abuse
15 pediatrician.

16 MR. LI: No objection, Your Honor.

17 MS. PINNOCK: No objection.

18 THE COURT: All right. Ladies and gentlemen,
19 Dr. Rosa is going to be an expert qualified as an
20 expert in the area of child abuse pediatrics. Did I
21 say that right?

22 THE WITNESS: That's correct, sir.

23 THE COURT: She will be allowed to give opinion
24 testimony in that area. That does not mean that you
25 have to accept her opinion, but it is evidence for you

1 to use in any way that you see fit and give the weight
2 and credibility you believe is appropriate as you are
3 required to do with every single witness that comes
4 before you.

5 Ms. Campbell.

6 MS. CAMPBELL: Thank you, Your Honor.

7 BY MS. CAMPBELL:

8 Q Doctor, in this case, did you ever actually see
9 the child that was involved in this case?

10 A No, I did not.

11 Q And, in fact, he never actually presented at the
12 hospital around the time of his death?

13 A Unfortunately no.

14 Q And did we contact you and ask you to consult on
15 this case?

16 A That would be correct.

17 Q In doing that, were there certain records that
18 were provided to you?

19 A Yes, ma'am.

20 Q Can your explain to the jury what records you
21 got?

22 A I got his records from his birth all the way to
23 September 2012.

24 Q Through September of 2012?

25 A Yes.

1 Q And when you say the records you're referring to,
2 what kind of records are those?

3 A Okay. Those records are first his newborn
4 records, the records that he spent a week in intensive
5 care --- in the neonatal intensive care unit at
6 Palmetto Baptist. The records from his first basic
7 pediatric care, all pediatric care through, first Eau
8 Claire pediatrics, then through the children's
9 hospital outpatient center and then through Palmetto
10 Pediatrics and then back again to Eau Claire. That's
11 basically all his history and then four visits ---
12 three visits to the emergency room at the children's
13 hospital.

14 Q And in addition to that, were you also provided
15 with certain information that was collected around the
16 time of his death including photographs and pathology
17 report?

18 A That would be correct.

19 Q Were there any other records that you reviewed in
20 coming to any conclusions as you have in this case?

21 A I also take a look at a number of consultations
22 and I did a --- the genetic counseling. He had a
23 genetic consult. He had also the records of Baby Net
24 , which is Easter Seals, which is on his records for
25 evaluation for developmental delays, for ---

1 Q Wait a minute, for evaluation?

2 A --- for social, physical therapy and speech
3 therapy and occupational therapy.

4 Q These were additional records that were provided
5 to you?

6 A Yes, that's correct.

7 Q What's the purpose of you --- in looking at the
8 history with this child as far as medical,
9 developmental, any kind of history you can get?

10 A I wanted to have a complete picture of the child,
11 is what we do as physicians. It's what, you know, any
12 physician should do when a child comes for the first
13 time to visit you and you have never seen them before.
14 You want a complete history of that child to know,
15 okay, what brought this child all the way to the
16 moment in time that you're being consulted for.

17 Q As part of your duties as a child abuse
18 pediatrician, do you also want to make sure that you
19 exclude any possible natural cause other than abuse?

20 A Yes, ma'am.

21 Q And that's very important to you?

22 A That is extremely important. We don't want to
23 miss an accident. We don't want to miss a medical
24 cause. People always ask me, so you're a child abuse
25 pediatrician, you see abuse on every coroner, but that

1 is incorrect because even the children that are
2 referred to us for an evaluation with a suspicion of
3 abuse, we only find abuse in only 55 percent of those.
4 The other ones we don't.

5 Q Okay. So you're there basically to challenge and
6 make sure that abuse is actually abuse?

7 A Exactly.

8 Q Before I forget, in this case, you were consulted
9 and do you actually make --- do we pay you to come to
10 court? Do you make money off of this?

11 A I wish. No, I don't --- the solicitor's office
12 does pay the consultation fee to my employer for the
13 time that I spend here.

14 Q But you don't actually make any money?

15 A I don't see a penny. I'm a State employee.

16 Q Starting with this child's birth and what you
17 reviewed, can you explain to the jury kind of like
18 this child's development between the ages of one and
19 three? Starting with birth.

20 A Okay. So basically when **CHILD** was born, he was
21 what we call a 37-weeker, which means that he was not
22 40 weeks of gestation, so he was not at term. He was
23 a little bit before term. He was 37 weeks.

24 The records indicate that he had --- the
25 pregnancy had late to very limited prenatal care

1 unfortunately, so therefore, you know, the usually
2 prenatal care that are starts very early was not
3 provided in this pregnancy for this child. So he was
4 born and he had spent one week in the intensive care
5 unit because he developed --- after he was born
6 through the first minutes, he needed some oxygen, so
7 he was provided that oxygen.

8 He was put in the intensive care unit for
9 observation. He developed respiratory problems
10 associated with what we call a wet lung. When babies
11 are born, all the fluid that is in the lung when
12 they're in the womb should go completely out. In this
13 case, he was still having wet lung, so he had
14 difficulty. He have needed to be intubated and he was
15 on a ventilator for about 36 hours. He was taken out
16 off the ventilator, but then a day after developed
17 what we call apnea, which is basically problems, you
18 know, he ceased breathing for a period of time, so
19 basically, you know, he needed to be put again on a
20 special machine to help him breathe for about twenty-
21 four hours more.

22 In the meantime they discovered that he developed
23 pneumonia secondary to a bacteria that is usually in
24 the birth canal that would have been treated if there
25 was proper prenatal care unfortunately. So he

1 received seven days of antibiotics for that, and at
2 the end, he was discharged home to the parents eight
3 days after being born.

4 Q So eight days after being born, he was discharged
5 from the hospital?

6 A Yes.

7 Q At that point, what was his condition?

8 A He was stable. He was also born with extra
9 digits.

10 Q You say extra digits, what do you mean?

11 A So he had a little extra finger on each hand.
12 It's genetic because his mother also has them, so
13 before he was discharged those are basically ligated,
14 so they fall off. So at the time he was stable. He
15 was feeding well and his respiratory condition was
16 stable. The other thing that was discovered during
17 his birth was that his kidneys were bigger than
18 expected. It's a condition that we call congenital
19 hydronephrosis. Big name, but basically the kidney is
20 bigger. In boys, it is concerning because sometimes
21 they get bigger because there's obstruction in the
22 urethra, which is where the boys pee, you know.

23 So basically a special study was done, and a
24 recommendation for follow up with a pediatric
25 urologist was done when he was discharged.

1 Q You say a recommendation for a follow up?

2 A Yeah, that he needed to follow up with pediatrics
3 urology.

4 Q Were appointments actually made or was that up to
5 the parents?

6 A The appointment was made, but the appointment was
7 not kept.

8 Q In fact, when was the next time this child had
9 any intervention with the medical field?

10 A The next --- there was one more thing. The poor
11 kid had --- the newborn screening, there was that, you
12 know, they do the heel, they do the little dots to
13 check for some congenital diseases. It was abnormal
14 for the thyroid. You know, multiple contacts were
15 made unsuccessfully to try to reach the parents to
16 come. It's not until June 2009 that finally that
17 contact is made when the child is bring in for his
18 first, you know, well check up.

19 Q What was this child's date of birth?

20 A [REDACTED] [REDACTED] 2009, so basically, you know, almost
21 two months.

22 Q Before the first ---

23 A The first appointment for a well child check.
24 Usually a well child check up should be done two weeks
25 after birth.

1 Q And the first time they showed up was in June?

2 A 2009.

3 Q And who was this child's parents?

4 A The child's parents --- I mean, the name of the
5 child's parents?

6 Q Uh-huh.

7 A Oh, --- Ms. Thompson and Mr. Guinyard, Sr.

8 Q And the child was actually named after his
9 father?

10 A That would be correct.

11 Q At the two months --- when they showed up at the
12 two month check up, what happened?

13 A At the two months old checkup, basically, you
14 know, they check his weight, his length, his head
15 circumference and see how he's growing. The
16 parameters were good. You know, the growth parameters
17 were good at the time. They discussed with the
18 parents, you know, feeding. There was a little bit of
19 --- there was a visit in between then at the
20 emergency with --- there was some redness on the
21 digits, on the area where they had been ligated. That
22 was the first emergency room visit between discharge
23 and the first well child check up.

24 There was also an issue of over feeding because
25 he was, you know, spitting quite a bit, but he was ---

1 at 11 days old, he was being fed, you know, four or
2 five ounces of formula per feeding. A kid cannot
3 handle that at that age.

4 Q So those issues were addressed?

5 A Yes, they were addressed.

6 Q Shortly after that, according to your records,
7 was **CHILD** placed into foster care?

8 A Yes, ma'am.

9 Q What date was that?

10 A He was placed in foster care 6/19/2009, you know,
11 according to the records I have.

12 Q So June 19th, 2009, almost exactly at the two
13 month mark?

14 A Yes. A day after the two months old.

15 Q At that point, describe to the jury how his
16 treatment went and how his development was?

17 A From that point on, his pediatric care gets moved
18 to the children's hospital outpatient center at
19 Palmetto Health Children's Hospital with basically my
20 colleagues, and he has regular pediatric check ups at
21 the mark, you know, the four months old, the six
22 months old, the nine months old, twelve months old, 15
23 months old, 18 months old, two years of age, so he
24 gets seen, you know, through the chalk, that's what we
25 call it on, you know, regularly. You know, he's

1 brought by their foster parents, the foster mom.

2 He was doing well, growing and then at the 15
3 months old well child checkup, he was at,
4 chronologically what we call in his development, his
5 age development, he was okay with same kids of his
6 age. However, when he hits the 18 months old mark,
7 the foster mom indicates that she is concerned with
8 his speech because he is only --- he is 18 months old
9 by this time, and he is only knows two words, so that
10 was concerning.

11 The other thing that was concerning was that all
12 the growth parameters, he is, you know, we measure at
13 that age. We not only measure the height and the
14 weight of the child, but we also check their head to
15 see the brain development. So his head circumference
16 was large.

17 So they were concerned about that developmental
18 delay about the speech, plus the head, so he got a
19 brain M.R.I. and he got a referral for assessment
20 through Baby Net .

21 So the brain M.R.I. shows a normal area, so his
22 brain is fine. Structure and anatomy of the brain is
23 fine, he just had to big head, but when you also look
24 at his growth parameters, this is a big kid. You
25 know, by the time he is 18 months of age, he is above

1 all the growth charts, above the 97 percentile for
2 everything. He was big, chunky, healthy, so at that
3 time, you know, they do all these things, and then
4 they --- Baby Net evaluated him and recommended
5 primarily speech therapy plus individualized
6 assessment through the home.

7 So he started speech therapy, then as he goes
8 through the time, there's improvement. They also have
9 a little bit of occupational therapy, physical therapy
10 and he is, by the time he reaches March 26th, 2012, he
11 is at par with his peers.

12 He is talking in two to three word sentences, he
13 interacts very well at daycare with his little, you
14 know, toddler friends, with the teachers. He is about
15 to have the three-year-old evaluation to be enrolled
16 in Richland I, the evaluation that he needed to be
17 enrolled in the special needs program, so he is
18 basically by March 26th, 2012, he has reached the
19 potential for his age.

20 Q Okay. So basically when he is 18 months old or
21 so, they do some testing. There's some concerns
22 especially about his speech?

23 A Exactly.

24 Q Then he goes through therapy over the next year,
25 year-and-a-half?

1 A Yes. From 18 months of age, from February 2011
2 to March 2012.

3 Q And during that time period, does the therapy
4 work?

5 A Yes, it does.

6 Q Is it unusual for a child to have to get speech
7 therapy?

8 A It is unusual. Yes, in the sense that, you know,
9 sometimes some kids, they have gone --- remember, the
10 kid has been moved --- was moved into different foster
11 care until the final stable foster care. That affects
12 their speech. That's the first thing that goes with
13 kids that are in foster care. They have trouble
14 developing speech.

15 Q I believe sometime late 2010 until he was
16 returned to his parents in 2012, he was with solid
17 foster family?

18 A Finally he got, you know, he got a solid, that
19 same foster mom for that time.

20 Q But during that time period even though he was in
21 different foster cares at first, and then once he is
22 got a stable one, once he got the therapy, he
23 flourished?

24 A Yes.

25 Q As far as his growth rate and everything else,

1 was he doing well?

2 A Yes, he was doing well. Also, he had a genetic
3 consult just to cover all the bases. The geneticist
4 did his consult and didn't find any cause, metabolic
5 cause or medical cause, you know, that will affect his
6 development. He was not autistic.

7 Q And that's what I was getting at. There were
8 some reports later on that the child was autistic.
9 Was specific testing done for that?

10 A Yes, what happened was, at the 18 months well
11 child check up when all these things about the speech
12 and the head, the big head was found, he failed what
13 we call an M-CHAT, which is a modified checklist for
14 autism in toddlers. That's a screening tool. Okay,
15 you have to understand what screening tools are. A
16 screening tool is basically you've got to apply to a
17 community, and then you try to capture what is
18 possibly, could have statistics, does not necessarily
19 have those statistics, but could have it, but it's
20 just a screening, so then you apply more confirmatory
21 tests and then the reason why he failed the M-CHAT is
22 because of the speech. M-CHAT depends a lot on the
23 kid being able to communicate, and that's one of the
24 things that happens with autistic children, but his
25 other spheres of developments were okay.

1 Q So by the time, and you mentioned March of 2012,
2 at that point, was that the last medical visit he had
3 while in foster care?

4 A That was the last visit he has when he was in
5 foster care, yes.

6 Q At that point, what is his medical condition?

7 A His medical condition is fine. You know, he is
8 stable. He is growing well. His growth parameters
9 are great. By that time, he has --- the foster mom
10 has --- he is toilet trained. He is toilet trained,
11 and he is speaking as I said in two to three word
12 sentences, complete sentences. He is interacting. He
13 is socialized, you know, he has what we call social
14 adoptive skills, so he can interact with same age
15 peers, with adults, with his teachers at the level of
16 almost a three-year-old.

17 Q That was March --- what again?

18 A March 2012, March 26th, 2012.

19 Q March 26th of 2012. At that point, you mentioned
20 he is potty trained?

21 A Yes, by that time, by the time of reunification,
22 which occurs on April 6, 2012, we have on the records
23 that at that time he was --- he was toilet trained.
24 He was --- his speech was in two to three words
25 sentences, scribble on pad of paper, vocabulary has

1 increased, interacting well with peers and teachers at
2 daycare. To be enrolled in the three-year-old program
3 at Richland I, and no need for a special needs
4 program.

5 Q So there was no need for a special needs program?

6 A That's correct.

7 Q And at that point, was he still in any type of
8 speech therapy or any other type of therapy?

9 A He has completed --- if my memory serves me
10 right, by that time he has completed it and was
11 weaning off from that.

12 Q So that wasn't even necessary anymore?

13 A Huh-uh.

14 Q Based on his development from March 26th of 2012?

15 A That would be correct.

16 Q You mentioned earlier that he was supposed to
17 be --- Baby Net, you mentioned that term. What is
18 Baby Net ?

19 A Baby Net is a South Carolina early prevention
20 system. You know, we have a statewide system. It's
21 particularly used for kids that are graduates from the
22 neonatal intensive care unit, very preemie, you know,
23 26-weekers, 27-weekers that we know are going to have
24 developmental problems. It's also for kids that
25 suffer some type of head trauma that we know are going

1 to have problems. And any other child that gets
2 identified through the well child check up that may
3 have developmental problems. We refer them to them,
4 so they can do the whole evaluation of all the spheres
5 of development.

6 Q That's a service that's provided by the State?

7 A Yes, it is.

8 Q So that is not a cost to the foster parent or the
9 parents?

10 A No, it's covered by Medicaid also.

11 Q You mentioned that he is also supposed graduating
12 into a program in Richland I?

13 A He was to be enrolled in a three-year-old program
14 at Richland I.

15 Q That's what was recommended for him on March 26th
16 of 2012?

17 A That would be correct.

18 Q And that was information that the foster mother
19 had and she had done everything that she was supposed
20 to do with him?

21 A That would be correct.

22 Q You mentioned that he was returned to his
23 parents, Mr. Guinyard and Ms. Thompson, on April 6,
24 2012?

25 A Yes, that's what I have here on the records.

1 Q Okay.

2 A Or what I can glean from the records.

3 Q As far as any medical records or any Baby Net or
4 Richland I records or anything else, can you tell the
5 jury, once he was returned to his parents, what little
6 information you have?

7 A Okay. So we have --- we have --- he returns back
8 to his original pediatrician at Five Points, which is
9 Eau Claire Pediatrics.

10 Q What was her name?

11 A I'm sorry?

12 Q What was her name?

13 A Five Points Pediatrics.

14 Q The pediatrician, what was her name?

15 A Oh, I'm sorry, the pediatrician, McCutcheon.

16 Q McCutcheon, okay.

17 A Yes, so that was his --- he has a visit there on
18 September 11th, 2012, for his three-year-old well
19 child checkup.

20 Q And at that point, how old is he?

21 A He is three years and almost five months.

22 Q And when he went in for that checkup with
23 Dr. McCutcheon, did you review those records?

24 A Yes, ma'am.

25 Q What was his condition at that point when he goes

1 back with them?

2 A At the time, the child presents --- just give me
3 one second. There's so much in here. Okay. So at
4 the time, she does you know --- her, the expected plan
5 for the well child checkup, Dr. McCutcheon and her
6 history of present illness indicates that the mom, the
7 biological mom, is concerned that the child often
8 urinates and defecates on himself.

9 MS. PINNOCK: Objection, Your Honor. This is
10 cumulative. At this point it's cumulative testimony.

11 THE COURT: Overruled.

12 MS. CAMPBELL: Thank you.

13 BY MS. CAMPBELL:

14 Q Go ahead. I'm sorry.

15 A Often urinates and defecates on himself. The mom
16 is concerned about the speech delay and that her
17 two-year-old has better speech and social skills.
18 That is, you know, one of the concerns of the
19 biological mother, Ms. Thompson, to the pediatrician,
20 Dr. McCutcheon, at that visit.

21 Q And Dr. McCutcheon, does she recommend any type
22 of treatment or do any kind of reporting?

23 A Dr. McCutcheon finds it interesting that the
24 child has not been enrolled in preschool. He was not
25 in the Head Start program and she, you know, she did

1 screening for development, growth and development, and
2 then she finds out at this time that the child was not
3 knowing his name or his age or his sex, gender. Was
4 not engaging in symbolic play. He was basically
5 regressed, what we call regressing.

6 Q When you say the word regressing from where he
7 presented in March 26th of 2012, from when he's seen
8 in September when you say regressing, what do you
9 mean?

10 A That means that compared to the records and the
11 documentation provided by the Baby Net and the
12 pediatrician, his last visit, things that he has
13 accomplished were kind of --- had been lost in that
14 period of time. That's what we call about regressing.
15 You know, based on what he has accomplished, they were
16 not there. You know, he was going back.

17 Q Was that significant to you?

18 A Yes, it was.

19 Q Why was that, Doctor?

20 A Because, you know, a child that has acquired mile
21 stones to this point and then suddenly in a period of
22 time is regressing those mile stones, then you have to
23 ask what's going on in the environment or the child
24 that is causing this regression.

25 When we have already a history --- I mean, a

1 diagnostic work up, that his brain M.R.I. is normal,
2 that his genetic consult was normal, then what else is
3 going on.

4 Q At that point did Dr. McCutcheon do anything or
5 recommend anything to this family?

6 A Dr. McCutcheon placed a call to the case worker
7 with the Department of Social Services.

8 Q And would that be appropriate in this case?

9 A Yes.

10 Q And at that point, is that the last time as far
11 as your records, that this child was seen prior to his
12 death by any pediatrician or any doctor?

13 A Yes. From the records provided, that's correct.

14 Q During the time period from --- what was that
15 date again, September --- when he was seen by
16 Dr. McCutcheon?

17 A September 11, 2012.

18 Q Until his death July 1st, 2013, you don't have
19 any other records from any pediatricians seeing him or
20 anything of that nature?

21 A That would be correct.

22 Q Did you also review records that were collected
23 after this child died?

24 A Yes.

25 Q Can you tell the jury, in your review of those

1 records, what your findings were?

2 A I reviewed the autopsy report for the child.

3 Q Okay. Did you also review or have any
4 information on how the parents said the child had
5 received any injury that may have caused his death?

6 A Yes, I had the brief summary of the history
7 provided by the biological mother at the time of the
8 death of what she was doing and what she heard.

9 Q Okay. And were you aware that there may have
10 been allegations that he might have fallen from a
11 30-inch tall dresser onto a carpeted floor?

12 A That is correct.

13 Q What were your findings, doctor, in reviewing
14 this child's injury at the time of his death?

15 A When I reviewed the post mortem of this child,
16 there are injuries on different organ systems of the
17 child. We can start with the skin. I did a diagram
18 to try to, you know, picture the injuries that the
19 child had that are visible injuries on the skin.

20 His injuries, he had injuries to the face. He
21 has injuries to the --- what we call the trunk, which
22 will be some of the chest and the back and the
23 buttocks. He had some injuries also to his right arm,
24 an open wound that was visible.

25 He had --- the injuries were bruises, abrasions,

1 which are scrapes and scars. He has very few to
2 hardly any on the lower legs, and those were the ones
3 that were visible. He also had a healing bite mark on
4 the back.

5 Then when the autopsy, the post mortem is
6 conducted, he had injuries to the brain. First of
7 all, the pathologist will discuss this further, but
8 when the --- during the autopsy when the scalp of the
9 held is pulled back, what we call reflected, there was
10 evidence of contusions to the scalp, to the scalp,
11 that were not visible, you know, on the outside, but
12 you can see once you peel up basically the scalp.

13 Multiple, you know, areas of contusions on the
14 front and the back. They were also, when the skull is
15 removed, there was blood, what we call subdural,
16 subdural blood. You have to look --- you have to
17 think about the brain, and then the brain has layers
18 that wrap the brain. There are three layers. The
19 outer most, the one that is the outer most, one is
20 called the dura.

21 So basically, there was blood accumulated
22 underneath the dura on the left --- covering all of
23 the left side and on the back of the head. There was
24 also subarachnoid blood, which is another type of
25 blood that ---

1 MS. PINNOCK: Objection, Your Honor. Can we
2 approach?

3 THE COURT: Sure.

4 (WHEREUPON, a bench conference was held in the
5 presence, but not within hearing of the jury.)

6 BY MS. CAMPBELL:

7 Q I am so sorry. Go ahead.

8 A There is also --- there was also subarachnoid
9 blood, and again, this is another layer surrounding
10 the brain, so you have the dura and you have the
11 arachnoid, and underneath the arachnoid, you also have
12 blood. So that's the brain.

13 Then there was refractures. There were two
14 refractures. One refracture was older than the other
15 one. That was the ninth rib on the left side. Then
16 one was very acute. That was the tenth rib on the
17 right.

18 Then there was a fracture of the --- what we call
19 the humerus, which was the upper arm bulb, on the
20 left, the left humerus, there was a fracture there
21 with evidence of healing but also evidence of acute
22 trauma.

23 Q Let me just stop you there. When you're saying
24 acute trauma, what do you mean as far as ---
25 especially when we're talking about bones being broken

1 in this case?

2 A Acute trauma we call it basically around the time
3 of --- in this case with this child around the time of
4 death.

5 Q And you mentioned there were two rib fractures?

6 A Yes, ma'am.

7 Q One was acute and one was older, I believe you
8 said?

9 A Yes, ma'am.

10 Q How can you tell that?

11 A The --- that we can tell by the evidence when,
12 you know, these fractures are not only removed, but
13 they also look under the microscope and give us a
14 better idea of how old the fracture is because it
15 won't show evidence of healing. It will show new
16 bone. You know, what we call --- in the x-ray when we
17 look, is callus, which is, you know, kind of a massive
18 new bone that's very bright white on the x-ray. So
19 it's removed on autopsy, you can also sometimes even
20 palpate a callus even before you remove it. When you
21 remove it, you put it under the microscope and you see
22 the evidence of the new bone forming on there ---

23 Q And in this case ---

24 A --- on the fracture line.

25 Q When we're talking about the fractures, and I

1 want to take about the rib fractures first, where was
2 one of the rib fractures, the older one?

3 A That was the left rib fracture.

4 Q Front or back?

5 A Oh, I'm sorry. That would be --- that was --- if
6 memory serves me right, that was the lateral one, yes,
7 ma'am, the lateral. It was on the side.

8 Q On the side?

9 A On the side.

10 Q Which rib was it?

11 A That was the left ninth rib fracture.

12 Q So do you count the top or bottom?

13 A I'm sorry?

14 Q Do you count the ribs from the top or the bottom?

15 A You can count it either way, but, you know,
16 basically go down, yeah. One starts over here, yes.

17 Q And it was the ninth one down?

18 A Yes.

19 Q That one you said was older?

20 A Yes, ma'am.

21 Q And far as dating fractures such as these, can
22 you say specifically how like to the moment it was
23 fractured?

24 A Not moment. I cannot tell you that, okay, it
25 happened on July --- or, you know, on May 25th at 2:00

1 p.m., no, we cannot do that.

2 Q Okay. But it would have been older than you
3 said, the acute fracture?

4 A Yes, we can say --- we can give you ranges of
5 age, but not in a specific date and time.

6 Q Okay. And as far as a range without looking
7 under the microscope, which Dr. Durso can address
8 that, can you generally date the rib fracture you saw
9 on the left side?

10 A Yes.

11 Q The range?

12 A The range.

13 Q How old was that?

14 A It was around --- it was showing already evidence
15 of evidence of healing.

16 Q Evidence of healing?

17 A About ten days to six weeks.

18 Q And the other rib fracture, where was it on the
19 child?

20 A The other rib fracture was the tenth rib on the
21 right side.

22 Q The right side?

23 A On the back posterior.

24 Q On the back?

25 A Yes, ma'am.

1 Q You mentioned it was acute?

2 A Yes, ma'am.

3 Q When you say acute what kind of time period are
4 we talking about as far as in relation to death in
5 this case?

6 A Around the time of death. Basically acute we
7 define anything within twenty-four hours. That's what
8 we call acute.

9 Q The rib fractures that you observed, were those
10 consistent --- what are those consistent with as far
11 as trauma?

12 A That's blunt trauma.

13 Q And when you say blunt trauma, what do you mean
14 by that?

15 A Something has hit the child.

16 Q And that would have been in two different places?

17 A Oh, definitely, it's not --- this is not from a
18 fall.

19 Q Okay. You also mentioned the humerus, the arm
20 was fractured?

21 A The upper arm, yes.

22 Q And was it a little different from the rib
23 fractures as far as being able to date it?

24 A The humerus fracture has new bone getting in
25 there, so it was also in the healing stage.

1 Q That was the right or the left?

2 A That was the left.

3 Q The left towards the elbow.

4 Q This way?

5 A It's distal. It's what we call a left distal
6 humeral fracture, which is the upper arm. Distal
7 means away from the center of the body, so right in
8 here.

9 Q Right in here?

10 A Right in here.

11 Q That would be right in here?

12 A Yes.

13 Q Okay. On that one you mentioned there was both
14 evidence of an acute and an older injury; is that
15 correct?

16 A What we mean is that it was healing. There was
17 healing in the area, so that tells me that that bone
18 was injured and it's healing right now, but also at
19 the same time there was new bleeding around the area
20 on the soft tissues that surround the bone telling me
21 that there has been already disruption again of that
22 fracture that was healing.

23 Q So in terms that I can understand?

24 A Acute.

25 Q And that means it was rebroken?

1 A Yes, ma'am.

2 Q And what kind of injury or --- could have caused
3 that?

4 A Well, it's trauma. You know, it's --- it can
5 be --- it can be blunt trauma, you know, grabbing the
6 arm of the child and playing, you know, force. It's
7 basically --- tells me that it's trauma.

8 Q Okay. As far as dating the original of the
9 chronic part of that injury, the acute would have been
10 around the time of death?

11 A The acute ---

12 Q The ---

13 A There is new blood and the tissue swelling and
14 all that, it's, you know, it was acute so it's within
15 around the time of death, yes.

16 Q But then as far as dating the original fracture
17 to that arm that was then rebroken around the time of
18 death, can you date that in a range?

19 A That one usually when we see periosteal reaction,
20 which is that first sign of new bone that is not yet
21 callused, which is the harder bone, usually we can put
22 that between one week --- the first evidence comes
23 between one week to two weeks, seven to 14 days.

24 Q Okay. As far as other injuries that you
25 observed, you can continue however you want.

1 A Oh, okay. So let's see. He had --- so now we
2 come to the bleeding on the soft tissues, okay. This
3 was --- these were, you know, the child had a
4 significant discoloration on the area of the right
5 bottom. Discoloration means, for us, when you look
6 at --- when you look at the child, you have to
7 remember he is an African American child, so his
8 pigmentation is darker. Therefore it's a little bit
9 more difficult to see bruises, but there was --- when
10 you look visually, you know, you look at the child at
11 the time of death there was a darker color compared to
12 the rest of his regular normal pigmentation, you know,
13 on the area of the right hip, buttocks, extending to
14 the upper thigh, so as part of the postmortem, you
15 know, Dr. Durso did cuts across those areas.

16 Also did cuts across the back of the arms and the
17 back of the legs and the back itself and the buttocks
18 and when she did that, a substantial --- and I mean a
19 substantial amount of blood was found, you know,
20 collecting on the --- on the soft tissue. The soft
21 tissue is basically what gives you the padding, the
22 fat, all that is the soft tissue.

23 So collecting there and there were some areas
24 particularly in the right buttock that was even worse
25 than the other areas. There was almost a cavity of

1 blood, like a balloon of blood, basically in between
2 the layers of the muscles of the buttocks, so there
3 was a substantial, substantial amount of blood on
4 those --- collecting on those areas.

5 Q You mentioned that she did cuttings into the
6 skin. The purpose of that is to visualize what?

7 A To visualize better any bruising and also, you
8 know, in children that are dark skinned, but also to
9 visualize if there's any bleeding, you know, in the
10 layers of the soft tissue between the muscle. Soft
11 tissues are, you know, the fat, the muscle, all that
12 is what we call --- we call it soft because it's not
13 bone.

14 Q Okay. And as far as the aging or --- can you
15 tell from when you cut into the muscle or the tissue,
16 can you tell if some of it is older injury versus
17 newer injury?

18 A Well, you know, you can see the color, you know,
19 of the blood, red, bright red, dark red, you know, a
20 little bit more younger. It's newer.

21 Q Newer?

22 A Versus already yellowish discoloration which
23 would tell you that the blood that has been --- that
24 has gotten outside of the blood vessels, you know, is
25 degrading, is basically metabolizing. It gives

1 coloration because it releases pigments that are in
2 the hemoglobin of the red blood cells.

3 Q And as far as this injury that caused the
4 bleeding into the soft tissue, what areas of the body
5 was it evident?

6 A Where the bleeding was?

7 Q Yes.

8 A So there were --- there was bleeding on the back
9 of the arms on the area surrounding the elbows, so
10 above and below the elbows there was blood there on
11 both arms. There was blood on the lower back, the
12 buttocks and worse on the right buttocks than the left
13 buttocks. There was blood on the back of the upper
14 thighs also, all the way, you know.

15 Q And in your experience, would you describe this
16 as minimal injury --- or how would you injury describe
17 this?

18 A No. This is a moderate to severe injury. Oh,
19 yeah, definitely.

20 Q What other injuries did you note on this child?

21 A Let's see. Trying to --- there were lacerations
22 to his lips, lower lip. There was a laceration and
23 also on the right upper lip, you know, on the inside
24 of the right upper lip what we call the mucosa. There
25 were those injuries there. I think I have covered the

1 skin injuries, the brain injuries, the fractures and
2 the bleeding on the soft tissues.

3 Q Looking at the injuries on this child, before I
4 get to his condition as far as developmental, what
5 kind of --- in your opinion, is this child abuse?

6 A I'm sorry, repeat that.

7 Q In your opinion is this child abuse?

8 A Yes, ma'am.

9 Q Do you have an opinion as to what caused this
10 child's death?

11 A The child died, you know, from a blunt impact
12 trauma. On already a child that has suffered prior
13 abuse, it compounded the massive loss of blood that he
14 has at the end, compounded by what was already
15 happening to him.

16 Q Can you explain that?

17 A Compounded is like --- it's like if you have a
18 jar and you keep putting money in, sooner or later
19 that jar is going to be full of money. You're going
20 to have to get a new jar or the jar is going to
21 explode. You can look at it as a balloon. You can
22 put water in a balloon until it explodes because there
23 is no more space.

24 Q So this child actually died of what?

25 A This child died of a compounding of --- he has

1 been already a --- he was --- we have evidence from
2 the medical records that within the last two months of
3 his life ---

4 Q In the last two months of his life?

5 A Yes, in the last two months of his life, he has
6 suffered different incidents of inflicted trauma abuse
7 and the last --- at the time of his death, this last
8 episode that caused this also massive blood was put on
9 top of already a compromised child.

10 Q So basically in the last two months of his life
11 from --- you would say repeated trauma or beatings?

12 A Yea, repeated trauma.

13 Q That basically escalated until the last one
14 caused his death?

15 A That's correct.

16 Q So literally did he bleed out or how did that
17 work?

18 A Oh, yeah. He had massive blood loss. Acute ---
19 you know, acute massive blood loss and already blood
20 that he has already lost because when you look, and
21 Dr. Durso will talk about that more, the forensics
22 pathologist, when you look at the record, the
23 discoloration tells you that there was blood already
24 before, before the new red blood came in.

25 Q And the trauma that you saw, is it consistent

1 with having been beaten with just a hand or would it
2 have been something more substantial than that or can
3 you say?

4 A The only thing I say is that the massive --- the
5 substantial blood loss that was found on this child,
6 you know, he was beaten with an object, and multiple,
7 multiple blows.

8 Q On multiple occasions?

9 A Yes.

10 Q And I want to go back through some of your
11 findings, too. You started out with the skin. You
12 mentioned that there are many scars on this child?

13 A Yes, ma'am.

14 Q Can you actually date scars?

15 A No, not once they are completely healed, we
16 cannot, no.

17 Q Then in addition to that, on his back area he
18 had, I believe, what you called a bite mark?

19 A Yes, ma'am.

20 Q You would refer to Dr. Durso as far as the size
21 of that?

22 A Yes, ma'am.

23 Q The cut on his arm, was that recent or can you
24 say?

25 A It was healing because he was not --- it was not

1 bleeding at the time. You can see that the edges
2 are, you know, showing some healing.

3 Q And the scars on his neck, are you able to date
4 those?

5 A No.

6 Q And the scars on his back, are you able to date
7 those?

8 A No, ma'am.

9 Q The discoloration that we're talking about, can
10 you see that on this picture?

11 A Yeah, you can see it right there. You can see it
12 better if you have a picture of the buttocks on the
13 right hip.

14 Q We don't have those in yet.

15 A Okay.

16 Q But that was significant?

17 A Yes.

18 Q Specifically --- and you've talked again and
19 again about the actual blood that made a balloon in
20 his right buttock?

21 A Yes, ma'am.

22 Q Would that have been noticeable?

23 A You have to think first about bruises and about
24 then --- there are different types of bruises and
25 there's bruises that have also accompanied --- what we

1 call a hematoma underneath the bruise, okay. You will
2 have experienced that. You can hit something. You
3 get a little bruise, and it gets a little tender, but
4 it's flat. Nothing major, but then you get a really
5 good whopping of a bruise, you know, hitting
6 something, you're not only going to notice the bruise
7 but then as the hours progress, you're going to notice
8 a swelling and boy that swelling gets hard.

9 It's pretty, pretty painful and tender, so those
10 are --- that's the one I'm talking about because in
11 his case, it was not just the bruising of the skin.
12 There was --- as I said, a substantial amount of blood
13 collected underneath that bruise. That gets, what we
14 call in medicine, integrated, which means hard. You
15 can't palpate that. It's hard and it's painful and
16 it's tender.

17 Q Would this child have been able to sit down
18 without pain?

19 A It would have been painful.

20 Q When we're talking about pain, what kind of pain
21 was this child in at the time of his death?

22 A I will call it excruciating pain.

23 Q The head injuries that you noted, as far as, I
24 believe you said a subdural and subarachnoid?

25 A Yes, ma'am.

1 Q First, there's the dura and then there's the ---

2 A Arachnoid.

3 Q Arachnoid?

4 A Arachnoid.

5 Q So there was actually injury to this child's
6 brain?

7 A Yes, there was injury. There was blood.

8 Q And what would that be consistent with in your
9 experience, the injuries that you observed and what
10 parts of the head did he have injury to?

11 A He had --- the blood was collected on the left
12 side of his brain all around it.

13 Q All around here?

14 A Exactly, the blood --- what we call the blood
15 inside the brain, inside the skull, so all on his left
16 cerebral hemisphere, all the way on the left and going
17 all the way from the back, there was a substantial
18 amount of blood collected right here in the back.

19 Then his scalp showed bruising contusions, you know,
20 on the front and also on the back.

21 Q And what would that be consistent with in your
22 experience?

23 A That is all blunt impact trauma.

24 Q When you say blunt impact trauma, again, could
25 that have been caused would you say from a fall from a

1 dresser?

2 A Well, the problem is that when you fall, you hit
3 one time, but this kid has more than one episode of
4 impact. The contusions are in more than two planes,
5 body planes, so from a single fall, okay, if you fall,
6 you are going to get one side, but explain to me how
7 you hit the back, if you fall and just stay there.

8 Q In fact, would this have to have been multiple
9 blunt force trauma to the head?

10 A Yes.

11 Q And basically all along the side and the front
12 and the back lobes?

13 A The front and the back.

14 Q Is that consistent with having been beaten with
15 an object?

16 A Yes, or hit against something. Remember, you can
17 also grab a child and throw him against something and
18 hit a wall or hit the floor.

19 Q But it would be multiple hits?

20 A Yes.

21 Q As far as his head injuries alone, let's just
22 focus on those, would he have exhibited from the
23 injury to his brain?

24 A Yes, ma'am.

25 Q Can you date how long those injuries have been

1 there?

2 A Again, this --- the brain, as well as the blood
3 is seen under a microscope and there was some evidence
4 of, you know, starting to heal, which tells me that
5 the presence of this tells me that it is somewhere
6 within 72 hours to a week.

7 Q At least 72 hours ---

8 A To a week.

9 Q So not in the last three days?

10 A Exactly.

11 Q Prior to ---

12 A Exactly. Exactly. Seventy-two hours to a week.

13 Q To a week?

14 A Exactly.

15 Q Would he have been symptomatic?

16 A Yes.

17 Q Describe to the jury what symptoms he would have
18 exhibited?

19 A He will exhibit symptoms of a brain injury.
20 Basically, you have a range of an injury of symptoms,
21 but at a minimum, he should have had nausea, vomiting,
22 lethargy, drowsiness. You know, you suffer a
23 concussion. Lethargy, headache, he's already almost
24 four, so he can hold his head and complain versus a
25 baby that can only cry because it cannot say, you

1 know, my head is hurting. Vomiting and sometimes
2 seizures, focal seizures, abnormal movements of
3 extremity of a limb.

4 Q The rib fractures, again, you already explained
5 the time period those would have been with the acute
6 one versus the older one. Would those have been
7 painful or symptomatic?

8 A Yes.

9 Q Explain that to the jury.

10 A Yes, you have --- on these cases, you know, blunt
11 trauma, the fractures caused by blunt trauma, he would
12 have chest pain associated with coughing, sneezing,
13 taking a deep breath.

14 Q Would the child have been able to vocalize, the
15 four-year-old, the kind of pain he was feeling from at
16 least the older rib fracture?

17 A Yes, and crying, too.

18 Q Okay.

19 A Remember crying is a way of expression for
20 children when they're in pain.

21 Q And that would have been painful?

22 A Yes.

23 Q The arm fracture, the old versus the new fracture
24 or the refracture, can you explain how that arm could
25 have been refractured in such a manner, in your

1 experience?

2 A You know, the arm could have been used as the
3 lever to hold the child while the application of the
4 blunt trauma was occurring, the blows were occurring.

5 Q The older fracture on the arm, before it was
6 rebroken at the time of death, would that have been
7 painful?

8 A Yes, ma'am.

9 Q Would he have been able to use the arm in an
10 appropriate manner?

11 A No, ma'am.

12 Q Bruising or blood in the soft tissue on the back
13 of his arms, on the back of his legs, on his back and
14 especially in his buttocks, would that have been
15 painful and would he have been symptomatic?

16 A Yes, that would have been painful, tender,
17 definitely. He will have been uncomfortable, you
18 know, sitting and using those areas.

19 Q And, in fact, it was this massive blood loss that
20 actually caused his death underneath the skin?

21 A Part, yes, in an already compromised child.

22 Q As far as this child being compromised, I want to
23 talk a little bit about his physical state, his
24 nourishment at the time of death. You've reviewed the
25 photographs of this child?

1 A Yes, ma'am.

2 Q How did he present at death, as far as being
3 malnourished or nourished or --- you use the term.

4 A Well, you know, I can only describe physically
5 how he looked because we cannot really have an
6 accurate weight measure because you have to remember
7 that their blood, the blood that was supposed to be in
8 the blood vessels is no longer there. It's like you
9 have all that blood outside. That adds to your
10 weight, so it's not an accurate weight.

11 Q So his weight at the time of death would not have
12 been his accurate weight?

13 A No.

14 Q And that's because of the massive blood loss
15 under his skin?

16 A Exactly. It's like adding water to your body.
17 It's supposed not to be there. It's supposed to be
18 inside these blood vessels.

19 Q So his actual weight was less than what he would
20 have weighed at death?

21 A That's correct.

22 Q If he hadn't been beaten?

23 A That's correct.

24 Q Did he appear to have the same appearance as was
25 documented by doctors prior to his being returned to

1 his natural mother and father?

2 A No. Basically, you know, he --- he has hardly
3 any soft tissue on his chest. You know, you can see
4 clearly the ribs. You can see the thinness of his
5 arms. We measure nutrition by the thickness of the
6 skin folds here, and you know as you can see from the
7 photos, you know, you can see that his --- you can
8 clearly see his rib cage. You can really see a
9 decrease on the fat issue that they usually have.

10 Q And your observations of this child, would that
11 be consistent with a child that had not been provided
12 the proper nutrition?

13 A It could be possible, yes.

14 Q You mentioned this child would have been
15 symptomatic as far as the brain injury, all the other
16 injuries, would he still have been able to move if he
17 was motivated enough?

18 A It's possible, yes.

19 Q If he was hungry enough?

20 A If he was hungry enough, if he was starving.

21 Q You also mentioned the lacerations on the lips?

22 A Yes, ma'am.

23 Q What is that consistent with in your experience
24 on how that child may have suffered these injuries?

25 A Lacerations, you know, on his case, it shows more

1 that it's a biting injury, but it can also be from
2 blows to the face because remember, you got the bone,
3 you know, these are hard tissues. The teeth are hard
4 tissues, so you're going to remember if you've ever
5 been like you had a fall and hit your lips and you get
6 caught on the inside, so this is --- these lacerations
7 can be, you know, from either impact to the face or
8 biting. He is biting because either he is having a
9 seizure, secondary to the whole trauma or he is biting
10 himself because he is in pain while he is being, you
11 know, receiving multiple blows.

12 Q There are also indications in your review of this
13 case that there was some extreme swelling to his
14 scrotum area?

15 A Yes, that's correct.

16 Q What could have caused that, doctor?

17 A That is fluid that is, you know, freed by
18 gravity. It just kind of goes down to the sack, the
19 scrotal sack.

20 Q It didn't have anywhere else to go?

21 A Exactly.

22 Q Doctor, in your opinion, if we just limit it to
23 the last two months of his life, was he abused?

24 A Yes, ma'am.

25 Q And ultimately the abuse in the last two months,

1 did that cause his death?

2 A Yes, ma'am.

3 Q Is there any natural cause that could have caused
4 that child's death?

5 A No, ma'am. This is trauma.

6 Q The EMS workers, when they got there that day, he
7 was cold to the touch. Is there any way to say how
8 long that child had been dead at that point?

9 A Not without a frame of reference. I can't. That
10 would be ---

11 Beg the Court's indulgence.

12 (Pause.)

13 Q Any person or parent in the days leading up to
14 his death with the fractures, the injuries, would it
15 have been obvious that he needed treatment?

16 A A parent, a lay person?

17 Q Anyone?

18 A Yes, someone would say something is wrong with my
19 child. Let's take it to the doctor. Something is
20 wrong.

21 Q It would have been obvious?

22 A Yes.

23 Q In the days leading up to his death?

24 A Yes.

25 Q That he needed treatment?

1 A Yes.

2 Q No doubt about that?

3 A No doubt.

4 Q Even if you don't see all the bruising and the
5 scars and all that?

6 A That would be, correct.

7 MS. CAMPBELL: Thank you.

8 THE COURT: Cross?

9 MS. EISENHOWER: Thank you, Your Honor. May it
10 please the Court.

11 THE COURT: Yes, ma'am.

12 CROSS-EXAMINATION:

13 BY MS. EISENHOWER:

14 Q Dr. Rosa, you testified that you reviewed photos,
15 reports, records of other physicians, correct?

16 A That would be correct.

17 Q Okay. So while the child was alive, you never
18 had any personal interaction with him, correct?

19 A That would be correct.

20 Q You never treated him?

21 A That would be correct.

22 Q Okay. And you did not participate in the
23 autopsy, correct?

24 A That would be correct.

25 Q And you didn't independently physically inspect

1 the child's body postmortem?

2 A That would be correct.

3 Q So basically, it was just a review of other
4 physician's records?

5 A Yes, ma'am.

6 Q And you made a diagram of the victim's injuries
7 based on those records?

8 A Yes, ma'am.

9 MS. EISENHOWER: One moment.

10 (Pause.)

11 BY MS. EISENHOWER:

12 Q I have one last question.

13 A Yes, ma'am.

14 Q You said that injuries to the victim's brain were
15 not caused within the last three days, correct?

16 A Seventy-two hours to one week.

17 Q Okay.

18 A At the time of death --- by the time we saw it,
19 be the time of death, the healing shows that it's
20 around 72 hours to one week.

21 MS. EISENHOWER: Thank you. Nothing further.

22 THE COURT: Cross?

23 MS. PINNOCK: No questions, Judge.

24 THE COURT: Thank you, Doctor.

25 Did you have a follow up on those questions? I'm

1 sorry, I didn't mean to cut you off if I did.

2 MS. CAMPBELL: Just one question.

3 REDIRECT EXAMINATION:

4 BY MS. CAMPBELL:

5 Q Doctor, if the child had been taken to the doctor
6 in the several days before his death, you would have
7 been consulted on it?

8 A Definitely.

9 Q Could he have been saved?

10 A Yes, ma'am.

11 MS. CAMPBELL: Thank you?

12 THE COURT: Recross?

13 MS. EISENHOWER: No.

14 THE COURT: Okay. Thank you, Doctor. You may
15 step down.

16 Call your next witness. Who is next?

17 MS. McDUFFIE: Judge, may we approach?

18 THE COURT: Sure.

19 (WHEREUPON, a bench conference was held in the
20 presence, but not within hearing of the jury.)

21 MS. McDUFFIE: May it please the Court. The
22 State calls Investigator Holly Wagner.

23 HOLLY WAGNER,

24 after being duly sworn, testified as follows:

25 THE CLERK: Please have a seat. State your full

1 name for the record.

2 THE WITNESS: Holly Wagner.

3 DIRECT EXAMINATION:

4 BY MS. McDUFFIE:

5 Q Investigator Wagner, where are you currently
6 employed?

7 A Richland County Sheriff's Department.

8 Q And what are your duties with the sheriff's
9 department?

10 A I'm a special units investigator.

11 Q Please describe for the jury what you do as a
12 special victim's or special units investigator?

13 A We --- I'm part of the unit, and we typically get
14 all of the cases that deal with child abuse, sex
15 abuse, elder abuse, those kind of cases.

16 Q And as a major crimes investigator, please
17 describe for the jury a little bit about your
18 background, training and experience in law
19 enforcement?

20 A I've been employed with the Richland County
21 Sheriff's Department since May of 2003 and we go to
22 routine --- we go to routine training every year.
23 I've also had a couple of classes in sexual assault,
24 aggravated assault, many different things we get
25 trained in.

1 Q How long have you been an investigator with the
2 sheriff's department?

3 A For eight years.

4 Q And on --- this incident occurred on July 1st of
5 2013?

6 A Correct.

7 Q But you actually didn't get involved in it until
8 when?

9 A July 2nd, the next day.

10 Q And your role in this investigation was to act as
11 a co-investigator with the Investigator Holdorf and
12 assist him in the investigation?

13 A Yes, it was.

14 Q And on July 2nd of 2013, please tell the jury
15 what you did?

16 A I got a call sometime in the middle of the day
17 from Investigator Holdorf to meet him at headquarters,
18 and I went to headquarters and met him. He gave me a
19 short briefing on where we were with the case, and
20 then him and I went out to ■■■ Beaverbrook and waited
21 on Ms. Thompson to get there, just were there watching
22 while the coroner did the reenactment.

23 Q So you observed while Ms. Thompson did the
24 reenactment with Jane Powell?

25 A I did.

1 Q And after --- well, let me back up a little bit.
2 When you got there, was the crime scene secured?

3 A It was.

4 Q A deputy was there monitoring it?

5 A It was and Investigator Holdorf and I both signed
6 into the crime scene, and then Investigator Holdorf
7 released that deputy.

8 When Courtney got there, the house was released
9 to her.

10 Q To her?

11 A To her, yes.

12 Q Okay. Once the house was released to her, did
13 law enforcement have any control or custody over that
14 house?

15 A No, ma'am.

16 Q And Ms. Thompson had complete control and custody
17 over the house?

18 A She did.

19 Q After Ms. Thompson did the reenactment with Jane
20 Powell, what happened after that?

21 A We had asked her to meet us at headquarters so
22 that the coroner could review the coroner's report
23 with her and discuss some arrangements for [REDACTED],
24 so I went with Investigator Holdorf. We went to
25 Richland County headquarters. Shortly after we got

1 there Ms. Thompson got there, and we were in Major
2 Stan Smith's office and Investigator Holdorf advised
3 her of her rights while we were waiting on Jane Powell
4 to get there.

5 Once Jane Powell got there, she started going
6 over the autopsy with her.

7 Q You said Investigator Holdorf advised her of her
8 rights?

9 A Yes.

10 Q And you were present for that?

11 A I was.

12 Q Did Investigator Holdorf --- the rights you're
13 talking about, those are the Miranda warnings?

14 A They are and we have a standardized form. He
15 asked her all the questions on the form. She said she
16 understood them. Him and I both signed the form.

17 Q Those questions, you have the right to remain
18 silent?

19 A Yes.

20 Q Anything you say can and will be used against
21 you?

22 A Yes.

23 Q And she was advised of her rights?

24 A She was.

25 Q Did she appear to understand her rights as they

1 were being read to her?

2 A She did.

3 Q Did she ask any questions or say she didn't
4 understand anything or give you any indication she
5 didn't understand anything?

6 A She did not.

7 Q Did she agree to waive those rights and speak
8 with you on July 2nd?

9 A She did.

10 Q You said that Jane Powell, the deputy coroner
11 then arrived at headquarters?

12 A Yes.

13 Q Please tell the ladies and gentlemen of the jury
14 what happened once Ms. Powell explained the results of
15 autopsy to Ms. Thompson?

16 A She kind of looked like she didn't understand
17 what had just been said, and she immediately went
18 into, "I didn't kill my child. I could not have
19 killed my child."

20 She kind of acted like she wanted to cry, but
21 there were no tears coming out. She just said, "I
22 don't understand. I didn't kill my child."

23 Q After Deputy Coroner Powell explained the autopsy
24 findings and that it was basically consistent for
25 abuse that called the death of this child ---

1 A Yes.

2 Q --- did Mr. Antonio Guinyard show up at the
3 sheriff's department?

4 A He did. Right after we started talking to
5 Courtney, Mr. Guinyard showed up downstairs, so
6 Investigator Holdorf went and spoke with him and Jane
7 Powell and I continue to talk to Courtney.

8 Q Do you know how Mr. Guinyard got to the sheriff's
9 department that day?

10 A I do not.

11 Q And so you and Ms. Powell, Deputy Coroner Powell
12 kept talking with Courtney?

13 A Yes.

14 Q Please tell the ladies and gentlemen of the jury
15 what Ms. Thompson told you on July 2nd?

16 A She said she was in the shower. She heard a
17 thud. She ran and got the child in the back room.
18 Brought him into the front room and called 911.

19 Q And after she gave you that version of events,
20 again, what, if anything, did you or Investigator
21 Powell say?

22 A Explained to her that --- well, she did say
23 something about it could have been --- that she had
24 heard a thud. So we explained to her that the trauma
25 from the autopsy was so extensive that there was

1 multiple blunt force trauma to this child. It could
2 not have been caused by a singular event or fall.

3 She just kept repeating the same thing over and
4 over again. "I did not do this to my child. I could
5 not have done to this my child. I was in the shower
6 and I heard a thud." She continued to repeat that.

7 Q Did Courtney tell you'll how they would
8 discipline CHILD.?

9 A She did. She said that --- she actually
10 described it. She said, "Well, I maybe would pop him
11 on the butt like that." And then she would hit her
12 hand with her palm, but not hard or she would just
13 make him sit in a chair. I'll refer to my notes. I'm
14 pretty sure that's what she said.

15 (Pause.)

16 "Put him in time out. Make him sit with his
17 hands up or put a little spank on the bottom," but she
18 said she would never hit him hard.

19 Q And as you continued to talk with Courtney, did
20 she eventually tell you that she would tell you the
21 truth?

22 A She did. Captain Melton showed up, and right
23 after Captain Melton got there and was speaking with
24 her, Jane Powell left and Captain Melton was there.

25 Captain Melton again explained to her from the

1 autopsy findings this is not a singular event and that
2 we need to find out what happened to CHILD . She
3 started to get a little emotional. She said, "I will
4 tell you the truth if you will let me talk to
5 Antonio." I told her that was not my decision, I was
6 not the lead on this and that, you know, we tried to
7 talk to her a little bit longer.

8 Then I went and spoke to Investigator Holdorf to
9 let him know that she has continued to say she was in
10 the shower, that she heard a thud. Now, she was
11 saying she would tell us the truth about what
12 happened, but that she needed to talk to Antonio
13 first.

14 Q And prior to her speaking to Antonio, did she
15 make any other statements to you?

16 (Pause.)

17 A Oh, yes, she wanted to know if it was possible
18 that Antonio could have --- I mean, if CHILD
19 could have already been dying when she got home from
20 the hospital with the other child.

21 She says, "Is it possible he could have already
22 been dying when I came home from the hospital."
23 Captain Melton said that anything is possible. It
24 could be possible, and I think at that point, she
25 said --- I'm not sure if she said, if it was at that

1 point, but she said he was acting funny when she got
2 home or whether it was after she spoke to Antonio. I
3 think it was after she spoke to Antonio. She just
4 asked, "Could he have already been dying when I came
5 home from the hospital."

6 Q If I could get you to --- would it help you
7 refresh your memory to refer to your notes --- when
8 did she tell you that he started acting funny?

9 (Pause.)

10 A I don't have that in my notes.

11 Q Investigator Wagner ---

12 A Unless you point it out to me.

13 Q Did you prepare a written report or investigative
14 notes?

15 A I did.

16 Q You made those notes contemporaneous to, or back
17 in, July of 2013?

18 A Yes.

19 Q Do you recall saying that Courtney started
20 talking about how CHILD was not acting right when she
21 got home?

22 A Yes.

23 Q She didn't want to give you anymore detail after
24 that?

25 A Right, exactly.

1 Q She kept saying she wanted to talk to Antonio?

2 A Yes, correct, I'm sorry.

3 Q Antonio would be Robert Antonio Guinyard, Sr.?

4 A Yes.

5 Q Ultimately, was the that done and she was allowed
6 to speak with him?

7 A Yes, she was.

8 Q They were put in a conference room alone at the
9 sheriff's department?

10 A They were.

11 Q When you are talking with Courtney and
12 questioning her, where is this taking place?

13 A We were in Major Smith's office.

14 Q Does --- we've all seen TV and crime shows. Does
15 the Richland County Sheriff's Department have, you
16 know, interrogation rooms?

17 A We do not.

18 Q Where do you interview suspects or victims or
19 anyone who has information about a crime at the
20 sheriff's department?

21 A We interview a lot of people just in our personal
22 cubical space, but when we're dealing with these kind
23 of cases, a lot of times we'll go to one of the
24 supervisor's office because they have an office that's
25 more private. We were in our Major's office.

1 Q When you're talking about your Major's office, is
2 this a normal office, filing cabinet, desk, computer.
3 I mean, this is where he works every day?

4 A Yes.

5 Q At any point in time was Courtney --- did she
6 ever tell you she wanted to leave?

7 A No.

8 Q Did she ever tell you she didn't want to speak to
9 you anymore?

10 A No.

11 Q Was she denied food, drink, bathroom, creature
12 comforts, anything?

13 A No.

14 Q Were any promises made to her or any threats?

15 A No.

16 Q After Courtney and Antonio were allowed to speak
17 with each other for awhile, did you then do speak with
18 Antonio?

19 A I did.

20 Q And you were --- were you aware of whether or not
21 his rights had --- he had been advised of his rights?

22 A He had been.

23 Q And how did you become aware of that?

24 A Investigator Holdorf told me.

25 Q And were you aware of whether or not he wished to

1 speak with you and waive those rights?

2 A Yes.

3 Q And Antonio, what did he tell you that evening on
4 July 2nd, 2013.

5 A When I went and spoke with him, he said that he
6 was in the kitchen cooking and he didn't know anything
7 about what happened.

8 Q And did you confront him about statements
9 Courtney had made that she had not seen anyone in the
10 kitchen when she heard the thud?

11 A I did.

12 MR. LI: Objection, Your Honor. I renew my
13 objection.

14 THE COURT: Understood, overruled.

15 BY MS. McDUFFIE:

16 Q Go ahead.

17 A I explained to him what Courtney's story was
18 about she was in the shower. She heard a thud. She
19 went in the kitchen. Nobody was there. She went and
20 called, asked him to explain that. How come his story
21 was different than hers. He said, "I was in the
22 kitchen cooking. I'm not going to change my story,
23 and I don't have anything else to say."

24 Q Prior to that, did he tell you about the day
25 while Courtney was in the hospital, the day before the

1 child's death?

2 A He did. I asked him initially to just kind of
3 tell me how the day was before, you know, while he was
4 babysitting, what did you all do the day before.

5 He told me that the day before Courtney came home
6 that him and [CHILD] stayed up until 4:00 a.m.
7 watching TV. Then he got up around ten o'clock. He
8 realized Courtney was coming home, and he needed to
9 have some money, so he walked to the store to get some
10 money.

11 I asked him did you take [CHILD] with you. He
12 told me no, that the boy was asleep in his room; that
13 he had peed on himself, and he was asleep in the room
14 lying in his pee. He just left him there and went to
15 the store.

16 I asked him did he ever clean up that urine
17 before Courtney came home. He said no, that he had
18 not.

19 Q After you've spoke with Antonio and after other
20 investigators spoke with Courtney, were they then
21 waiting for the transport van or waiting in the break
22 room?

23 A They were.

24 Q There at the sheriff's department?

25 A They were allowed to sit together in the break

1 room and wait on the transport van.

2 Q And please tell the ladies and gentlemen of the
3 jury what you observed.

4 A I came in. There was some money on the table. I
5 think they had already taken it out and counted it
6 back and forth. I didn't hear a lot of that. The
7 part I heard was right when they stood up and they
8 were getting ready to leave. Antonio --- they hugged
9 each other, and Antonio just kept repeating to
10 Courtney, "Free me, free me."

11 Q After July 2nd, or in the days following that,
12 did you continue to investigate the case and continue
13 to talk to witnesses who may have information
14 involving the case?

15 A I did.

16 Q And on July 4th of 2013, did you and Investigator
17 Holdorf obtain a search warrant again for the
18 residence at [REDACTED] Beaverbrook?

19 A We did.

20 Q And specifically, what were you're going to the
21 home to search for? What had your investigation
22 developed as possible evidence in this case?

23 A We went there --- we were going to look for a
24 Time Warner Cable box and some sort of white pole or
25 object, maybe a broom handle or something, a pole type

1 object, a white stick type object.

2 Q And when you arrived at the home on Beaverbrook,
3 you had obtained a lawful search warrant?

4 A We had.

5 Q And Investigator Kristen Polis with the sheriff's
6 department crime scene unit accompanied you?

7 A She did.

8 Q Were your able to locate the Time Warner Cable
9 recorder video cable box on July 4th?

10 A We were not.

11 Q Why was that relevant in your investigation?
12 What were your searching for?

13 A The Time Warner box, we just wanted to see if
14 there was any evidence on it. We had, through
15 investigation, heard that --- or felt that it may have
16 recorded something.

17 We had been told that the box was a live feed,
18 like a security live feed, but felt like there may be
19 something else besides a live feed. It would be worth
20 trying to get that.

21 Q Okay. These because you learned there were
22 cameras in the home?

23 A We learned there may be cameras in the home.

24 Q So you were trying to see if there were any
25 recording that may exist in the investigation?

1 A Yes.

2 Q But again, that cable box or that box ---

3 (There was an equipment failure.)

4 THE COURT: All right. Let's take a little break.

5 I think that's the easiest thing to do. It's 11:21
6 and we will start back up about 11:30. Do not discuss
7 the case, keep an open mind.

8 Please remain seated while the jury leaves the
9 courtroom.

10 Investigator Wagner, you are free to move from
11 that area, but you are not allowed to discuss your
12 testimony with anybody.

13 THE WITNESS: I'm good.

14 (WHEREUPON, the jury left the courtroom at
15 11:24 a.m.)

16 THE COURT: All right. Bring the jury back in.
17 Before --- oh, we need Mr. Guinyard. What about
18 Ms. Thompson? I can't see her.

19 MR. STAGGS: She is here.

20 (Pause.)

21 THE COURT: Investigator Wagner, you can come on
22 back up now.

23 THE WITNESS: I'm here.

24 THE COURT: I'm sorry. My bad. Thank you.

25 MS. WALKER: Judge, there is one issue we can

1 take up while we are waiting --- or about another
2 witness that we have. There is a witness, Your Honor,
3 that we have that has one of the other children. Her
4 concern is that with the cameras in the courtroom, if
5 she is on the news, people will be able to see her and
6 then associate that child with this situation.

7 She, out of an abundance of caution in protecting
8 the child that she has, would ask that she not be
9 televised.

10 MR. LI: No objection.

11 MR. STAGGS: We don't have any objection to that.

12 THE COURT: What is her name?

13 MS. WALKER: Kimberly Gooden.

14 THE COURT: Spell it.

15 (Pause.)

16 MS. McDUFFIE: G-O-O ---

17 MS. WALKER: Oh, I'm sorry, I didn't hear you,
18 Your Honor, G-O-O-D-E-N.

19 THE COURT: Is she the next witness?

20 MS. WALKER: Yes, Your Honor.

21 THE COURT: Okay. Do you want to take a position
22 on that? What's your position, Clark?

23 TV NEWS: My understanding is they're identified
24 through the child has being in foster care and could
25 identify the mother at that time.

1 THE COURT: Are you okay with not videotaping
2 that one witness?

3 TV NEWS: Yes, sir. I can take the cameras down
4 and turn them off.

5 THE COURT: Are you okay with that, Mr. Kuenzie?

6 TV NEWS: Yes. Can I stay in the courtroom for
7 that?

8 THE COURT: Yes, you can stay in the courtroom
9 and take notes and all that stuff. We don't want her
10 --- I believe she just doesn't want her face on the
11 news.

12 MR. LI: Your Honor, this is the first time I've
13 heard any information on Ms. Gooden. They have no
14 statements. We haven't ---

15 THE COURT: That's a different issue.

16 MR. LI: I'm sorry, on this issue I have nothing,
17 Your Honor.

18 THE COURT: We'll just take this one at a time.

19 WLTX is okay with that?

20 TV NEWS: Okay.

21 THE COURT: WIS is okay with that?

22 TV NEWS: Yes, we are fine with that.

23 THE COURT: I appreciate that, gentlemen. Thank
24 you very much.

25 MS. WALKER: Thank you, Your Honor.

1 On the legal argument, let's wait until your
2 client gets in here.

3 (Pause.)

4 THE COURT: Welcome back, Mr. Guinyard.

5 Okay. Now, what's the issue with Ms. Gooden?

6 MR. LI: Your Honor, we have no statement, no
7 prior written statement from her, no information,
8 nothing was turned over from the State about anything
9 Ms. Gooden is going to testify to.

10 THE COURT: Do you agree with what he just said?

11 MR. STAGGS: I do agree with it. We move to
12 exclude her testimony based on that.

13 THE COURT: Okay.

14 MS. McDUFFIE: Your Honor, the information that
15 Ms. Kimberly Gooden will be testifying about, she has
16 already testified to. They have already
17 cross-examined her on family court matters. It's all
18 in the records in family court. Mr. Li and I came in
19 chambers and talked about the transcripts. I believe
20 you approved funding for him to get the transcripts.
21 Ms. Pinnock and I discussed that. It's also in the
22 guardian ad litem's reports, which are all on file in
23 the clerk's office which we informed them that the
24 clerk's office said they had to go get it themselves.
25 I don't know how else I can turn anything else over to

1 them.

2 MR. LI: If it's in the transcript, we have it.

3 MR. STAGGS: I agree.

4 THE COURT: Okay. All right. Bring in the jury.

5 (WHEREUPON, the jury entered the courtroom at
6 11:41 a.m.)

7 THE BAILIFF: All jurors have been accounted for,
8 Your Honor.

9 THE COURT: All right. Thank you very much,
10 ladies and gentlemen.

11 Ms. McDuffie, please continue.

12 BY MS. McDUFFIE:

13 Q Investigator Wagner, I want to make sure we back
14 up a little. You went to the home pursuant to a
15 search warrant on July 4th, 2013?

16 A Correct.

17 Q That was to look for specifically a Time Warner
18 Cable or a video recording box and also white poles or
19 sticks?

20 A Yes.

21 Q And the information you had about why the Time
22 Warner Cable video box was relevant, was what?

23 A Was that there were some cameras in the house.
24 We thought there might be some recording or some sort
25 of record of evidence, video evidence, to show us what

1 had gone on in the house. We went to retrieve that
2 box.

3 Q When you went to retrieve it, was the box in the
4 house any longer?

5 A It was not.

6 Q You also said you were looking for white poles or
7 sticks or rods?

8 A Yes.

9 Q Did you and Investigator Holdorf yourself
10 actually participate in the search for these items?

11 A We did.

12 Q Please tell the ladies and gentlemen of the jury
13 what you observed or what you found?

14 A I was right outside of the kitchen. There was a
15 closet, and I opened that closet door. On the middle
16 shelf, there was a white pole, just like a wooden
17 dowel pole that had been broken that was laying there.
18 I found that, called Investigator Polis over and she
19 photographed it. There was also a white broom, wooden
20 broom that was leaning kind of against the frame.

21 Q And she photographed and collected these items of
22 evidence?

23 A She did.

24 Q Did you touch them, tamper with them, change
25 their condition prior to collection?

1 A I did not.

2 Q Those are the items contained in State's
3 Exhibit 150?

4 A Yes.

5 Q After you found those items, did you and
6 Investigator Holdorf search any other rooms in the
7 home?

8 A Yes, I was in the back right bedroom where the
9 carpet had been pulled up and Investigator Holdorf was
10 in the other room. He called me in there. When he
11 did, he had picked up the --- kind of moved the
12 mattress and box springs and pointed down and told me
13 to look. Laying there between the wall and the
14 mattress was a white rod that had bent places on it
15 that had been struck against --- just dents in it. It
16 was jagged on one end, and there were reddish brown
17 stains on it. We called Investigator Polis in to
18 photograph and collect that stick.

19 Q And prior to Investigator Polis collecting it,
20 did you or Investigator Holdorf move it, touch it,
21 tamper with it in anyway?

22 A We did not.

23 Q Investigator Wagner, after these items of
24 evidence were found and properly collected, did you
25 then leave the residence?

1 A We did.

2 Q The next day on July 5th, did you and
3 Investigator Holdorf, were you requested to return to
4 the home?

5 A We were. We had been asked by Antonio's mother,
6 Mrs. Guinyard, to go back to the house with her. She
7 wanted to get some of Antonio's clothes and she also
8 wanted to get some of the clothes that were there for
9 the newborn, so we assisted her going back to the
10 house.

11 Q She just didn't want to go in the house alone?

12 A She didn't want to be in the house by herself.

13 Q When you accompanied her to the home on that day,
14 that was at her request?

15 A It was.

16 Q She entered the home and allowed you access to
17 the home?

18 A She did.

19 Q And Antonio's mother, when she was in the home,
20 where did she go?

21 A She was in that same room where the bed was and
22 the white rod was found. There was a closet, and she
23 was pulling things out of that closet.

24 Q And were you and Investigator Holdorf
25 participating or helping or doing anything in anyway?

1 A We were not. We were just there.

2 Q And where were you?

3 A I think I was just kind of standing in the door
4 and Investigator Holdorf was standing in the room and
5 her --- she was getting stuff out of the closet.

6 Q While she was getting things out of the closet,
7 please describe for the jury what you observed or what
8 happened?

9 A I wasn't really watching her too close. All of
10 the sudden I just kind of noticed something was amiss.
11 I looked, and she had like become overcome with
12 emotion. I looked and she turned around and handed a
13 shirt to Investigator Holdorf, and it was a little
14 gray and white or blue and white striped shirt that
15 had reddish brown stains all over it. She had found
16 it as she was going through those clothes. It had
17 been down inside of all those clothes.

18 Q And she began to cry?

19 A She began to cry.

20 Q Where did she go after that?

21 A She left the room for a minute and, you know, we
22 took the shirt. Investigator Holdorf took the shirt.
23 She handed it to him, and he took it. She regained
24 her composure after a few minutes and got the clothing
25 that she wanted and left.

1 Q I'm going to show you what's been marked as
2 State's 247, 248 and 249 and ask if you recognize
3 these pictures and the fact they are pictures you took
4 on July 5th?

5 A I do.

6 MS. McDUFFIE: Your Honor, at this time we'd
7 offer State's 247, 248 and 249 into evidence.

8 MR.LI: No objection.

9 MR. STAGGS: No objection.

10 THE COURT: State's 247, 248, and 249 admitted
11 without objection.

12 (WHEREUPON, State's Exhibit Numbers 247, 248 and
13 249 were admitted into evidence.)

14 BY MS. McDUFFIE:

15 Q State's Exhibit 247, can you tell the ladies and
16 gentlemen of the jury what that is a picture of?

17 A That is a picture of the closet. Like I was
18 standing back looking at the closet. I took a picture
19 of that to kind of show all the pile of clothing that
20 was in the floor of that closet where she had taken
21 the shirt out of.

22 Q And this is where Antonio's mother found the
23 shirt that she gave to Investigator Holdorf?

24 A Yes.

25 Q State's 248 and 249, can you please tell the jury

1 what is depicted in these photos?

2 A That is a shirt.

3 Q Is that a child's shirt or an adult's shirt?

4 A That's a child's shirt.

5 Q That was collected by Investigator Holdorf that
6 day?

7 A Yes.

8 Q And then turned over to crime scene investigators
9 at the sheriff's department?

10 A Yes.

11 Q And after you accompanied Mrs. Guinyard,
12 Antonio's mother, to the residence on that day, did
13 she then --- after she finished collecting the items,
14 she then secured the residence and you left?

15 A Yes.

16 Q Pursuant to your investigation, did you also get
17 a search warrant for Courtney Thompson's cell phone,
18 the actual cell phone?

19 A I did.

20 Q Did you collect that phone pursuant to your
21 investigation?

22 A I did.

23 Q I'm showing you what's marked as State's 210. Is
24 this Courtney Thompson's cell phone that you
25 collected?

1 A Yes, it is.

2 MS. McDUFFIE: Your Honor, at this time we'd
3 offer State's 210?

4 MR. STAGGS: No objection.

5 MR. LI: No objection.

6 THE COURT: 210 without objection.

7 (WHEREUPON, State's Exhibit Number 210 was
8 admitted into evidence.)

9 BY MS. McDUFFIE:

10 Q Did you or your office, the sheriff's department,
11 try to --- or did you get a search warrant to download
12 the contents of that phone?

13 A We did.

14 Q In July of 2013, was the sheriff's department or
15 the equipment, were you able to retrieve anything from
16 that phone?

17 A We were not. The equipment we had --- I don't do
18 that stuff, so I don't know. I don't know if there
19 was a password on or something, but any way, the
20 equipment that we had could not get anything out of
21 that phone in July.

22 Q Recently did the sheriff's department acquire new
23 equipment?

24 A They did.

25 Q Did you obtain a new search warrant to download

1 the contents of that phone?

2 A I did.

3 Q Were investigators with the sheriff's department
4 able to download the contents of that phone at a later
5 date?

6 A They were.

7 Q And that was pursuant to a second search warrant?

8 A It was.

9 Q Investigator Wagner, the individual that you
10 spoke to on the evening of July 2, 2013, who told you
11 that CHILD wasn't acting right and she would tell you
12 the truth after she talked to Antonio, who was that?

13 A That was Courtney Thompson.

14 Q Do you see her in the courtroom today?

15 A I do. She is the defendant sitting there in
16 black.

17 Q And the individual who told you that he left
18 CHILD lying in a pool of urine while he
19 left to go to the store to get money and beer, who was
20 that?

21 A Antonio Guinyard, there in the blue shirt.

22 MS. McDUFFIE: Your Honor, let the record reflect
23 she has identified the defendants. We have no further
24 questions of this witness.

25 THE COURT: Cross?

1 MR. LI: Yes, sir, may it please the court.

2 CROSS-EXAMINATION:

3 BY MR. LI:

4 Q Good morning.

5 A Good morning.

6 Q You started on this case on July 2nd?

7 A Correct.

8 Q And at that point were you aware that Courtney
9 Thompson had already made a statement on July 1st?

10 A I was not.

11 Q And on July 2nd --- let's take you back. Let's
12 go chronologically here. You said that you spoke with
13 Courtney at headquarters?

14 A Yes.

15 Q After the reenactment?

16 A Yes.

17 Q All right. And you informed her that --- you
18 informed her that the autopsy that had been previously
19 done that morning didn't a match with her story?

20 A Correct.

21 Q Implying there was already a story, there was
22 already a version, correct?

23 A Right, what she had said during the reenactment.

24 Q What she had said during the reenactment?

25 A Yes.

1 Q During the reenactment, she didn't know anything
2 about the results of the autopsy?

3 A No.

4 Q So after you informed her of the results of the
5 autopsy, she makes another statement?

6 A Yes.

7 Q That's the one where it says that he was acting
8 weak?

9 A Yes.

10 Q And weary. In this second statement, you asked
11 her the question, "Have you ever hit CHILD before,"
12 correct?

13 A Yes.

14 Q And her response was?

15 A "Smacked him like that, yeah."

16 Q Do you remember taking a statement from
17 Ms. Thompson on July 2nd?

18 A I spoke with her, but I was not there during
19 the --- when Investigator Holdorf took her written
20 statement.

21 Q Because you had left the room?

22 A I had left the room, yes.

23 Q I got you, I got you. And you were there when
24 Antonio and Courtney got a chance to speak to each
25 other?

1 A Yes.

2 Q And you were there when you heard Antonio say,
3 from what you remember is, "Free me, free me,"
4 correct?

5 A Yes.

6 Q And you remember Courtney saying, "He didn't do
7 nothing. I did it. He didn't have nothing to do with
8 it."?

9 A Yes, she said that after he was saying, "Free me,
10 free me," as they were walking out.

11 Q That's right. So she said that?

12 A She did say that.

13 Q And on September --- I mean, July 3rd, 2013, you
14 went and talked to some family members, correct?

15 A Yes.

16 Q You talked to Gladys?

17 A Yes.

18 Q You talked with --- you spoke with Natalie?

19 A Yes.

20 Q And that was on the 3rd?

21 A Correct.

22 Q And the following --- I guess, later on in the
23 afternoon, you interviewed Ms. Gladys?

24 A Yes.

25 Q When did you talk Ms. Guinyard, Patricia

1 Guinyard?

2 A Me, when did I talk to Patricia Guinyard?

3 Q Right. Antonio's mother.

4 (Pause.)

5 A I spoke to Ms. Guinyard on the 5th.

6 Q Okay. Did you take a statement from her?

7 (Pause.)

8 A It was on the 8th.

9 Q It's okay. It doesn't matter.

10 A Okay.

11 Q On July 8th. On July 8th, that's when you spoke
12 with Crystal Thompson, correct?

13 A Yes.

14 Q On July 8th, you said she provided you with a
15 statement?

16 A Yes.

17 Q And she said that she thought she ---

18 MR. STAGGS: Objection, Your Honor. This is
19 hearsay.

20 MR. LI: It's used to impeach, impeach Crystal's
21 testimony.

22 THE COURT: Approach.

23 (WHEREUPON, a bench conference was held in the
24 presence, but not within hearing of the jury.)

25 THE COURT: Sustained.

1 MR. STAGGS: Thank you, Your Honor.

2 BY MR. LI:

3 Q And the last words you remembered coming from
4 Courtney were that she did it?

5 A Yes.

6 Q He didn't do nothing?

7 A Correct.

8 Q He didn't have anything to do with it?

9 A Correct.

10 MR. LI: Beg the Court's indulgence.

11 (Pause.)

12 MR. LI: No further questions.

13 THE COURT: Cross?

14 MR. STAGGS: Thank you, Your Honor. May it
15 please the Court.

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION:

18 BY MR. STAGGS:

19 Q I just have a very few questions for you,
20 Investigator Wagner.

21 You've told the jury a little bit about your
22 involvement in this case. You weren't on the scene?

23 A I was not.

24 Q On July 1st, right?

25 A I was not, no.

1 Q So your first involvement was on the 2nd?

2 A Yes.

3 Q You got a briefing from Investigator Holdorf?

4 A Correct.

5 Q And he told you at that time at that first
6 briefing --- you were aware of the cause of death,
7 right? You were aware of the findings of the autopsy?

8 A I didn't know the exact findings, but I knew
9 there was some question that, yes, there were multiple
10 blunt force trauma to the child according to the
11 autopsy.

12 Q And you knew that was inconsistent with what
13 investigators had learned the night before?

14 A Yes.

15 Q Do you remember about what time you met with
16 Investigator Holdorf?

17 A Somewhere around noon.

18 Q Around noon?

19 A Uh-huh.

20 Q All right. Now, after you met with Investigator
21 Holdorf, you went to ■■■ Beaverbrook?

22 A We did.

23 Q And you met Ms. Thompson there?

24 A Yes.

25 Q When you met with Ms. Thompson at that time, did

1 you advise her of her rights?

2 A I didn't speak to her at all.

3 Q You didn't speak to her at all?

4 A No. We were there --- the coroner's office was
5 there conducting --- we were just there.

6 Q And then after that you traveled back to
7 headquarters, right?

8 A Yes.

9 Q Do you know how Ms. Thompson got there?

10 A I do not.

11 Q You don't? Okay. When you got there, was
12 Ms. Thompson already there?

13 A I don't believe so.

14 Q Courtney hadn't arrived yet?

15 A No.

16 Q All right. Eventually she does arrive?

17 A Yes.

18 Q Okay. And you told us earlier you were present
19 when Investigator Holdorf advised Courtney of her
20 rights ---

21 A Yes.

22 Q --- on the 2nd. And you told us also at some
23 point in time Mr. Guinyard arrived at some point
24 subsequent to that?

25 A Yes.

1 Q And at that time, Investigator Holdorf left?

2 A He did.

3 Q And you continued talking with Courtney, with
4 Jane Powell from the coroner's office?

5 A Yes.

6 Q And Captain Melton, right?

7 A Yes.

8 Q And at time Courtney told you that she didn't do
9 anything to her son. I believe you told the jury a
10 minute ago she looked confused when she was told the
11 cause of death?

12 A She did.

13 Q And then at some point she asked to speak to
14 Mr. Guinyard?

15 A She did.

16 Q And you and Investigator Holdorf talked about it
17 and you made arrangements for that to happen?

18 A Yes.

19 Q After that, Investigator Wagner, you didn't talk
20 to Courtney anymore?

21 A I did not.

22 Q All right. You, in fact, went to talk to
23 Mr. Guinyard, right?

24 A I did.

25 Q I'd like to talk to you about that a little bit

1 more in a second, but you also told us that on the 4th
2 you went out and executed the search warrant, right?

3 A Yes.

4 Q And you found the dowel rod ---

5 A Yes.

6 Q --- in the closet, and Investigator Holdorf found
7 the pole stuck behind the mattress?

8 A Yes.

9 Q Okay. There was something I wanted to ask you
10 about. Did you ever look for Mr. Guinyard's phone?

11 A I did.

12 Q You did. Did you ever find it?

13 A No.

14 Q So you don't know where it is?

15 A I don't know where it is, no, sir.

16 Q All right. The last couple things, you went and
17 spoke with Mr. Guinyard on the 2nd, right?

18 A I did.

19 Q All right. And he told you that he hadn't fed
20 his son all day on the 1st, right?

21 A He did.

22 Q And that was because his son was sleeping?

23 A Yes.

24 Q In a puddle of urine?

25 A Yes.

1 Q And he had left at some point in time in that
2 morning to go buy beer and cigarettes?

3 A Yes, well, he told me went to go get money.

4 Q Get money?

5 A Yeah.

6 Q Okay.

7 Q Did he ever tell you he called 911?

8 A No.

9 Q Did he ever tell you that he did CPR?

10 A No.

11 Q Did he ever tell you he did anything to help his
12 son when he learned he was in trouble?

13 A No.

14 MR. STAGGS: Thank you, Investigator Wagner.
15 That's all I have.

16 THE COURT: Redirect?

17 MS. McDUFFIE: No, Your Honor.

18 THE COURT: All right. Thank you, ma'am. You
19 may step down. Call your next witness.

20 MS. McDUFFIE: If it pleases the court. The
21 State calls Investigator Laurita.

22 MICHAEL LAURITA,
23 after being duly sworn, testified as follows:

24 THE CLERK: Please have a seat. State your full
25 name for the record.

1 THE WITNESS: Michael Laurita.

2 DIRECT EXAMINATION:

3 BY MS. McDUFFIE:

4 Q Investigator Laurita, where are you employed?

5 A Richland County Sheriff's Department.

6 Q And what are your duties with the Richland County
7 Sheriff's Department?

8 A Currently I'm in the narcotics unit. During this
9 incident, I was part of the property crimes unit
10 working on burglaries.

11 Q So you're typically --- at this time, you're
12 typically a burglary investigator and now, you're a
13 narcotics investigator?

14 A Yes.

15 Q How long have you been in law enforcement and at
16 the sheriff's department?

17 A Seven years.

18 Q In reference to this case that happened on
19 July 1st of 2013, were you an investigator assigned to
20 or working this case at all that day?

21 A I was on call that night. We rotate on calls
22 every seven weeks, so I was at the sheriff's
23 department when they brought --- or when Mr. Guinyard
24 and Ms. Thompson came to the sheriff's department, and
25 I was asked to take a statement from Mr. Guinyard.

1 Q Prior to taking a statement from Mr. Guinyard,
2 had you been out to the scene or did you have a
3 background about the allegations or the information
4 that was involved in this case?

5 A I just was told that it involved a suspicious
6 death.

7 Q And so what was your primary purpose that evening
8 on July 1st of 2013?

9 A Just to find the facts about what happened as far
10 as it concerns Mr. Guinyard.

11 Q Whatever he was willing to tell you, you were
12 willing to write down?

13 A Yes.

14 Q And prior to you speaking with him, was he
15 advised of his rights?

16 A Yes.

17 Q By whom?

18 A Investigator Holdorf.

19 Q And was that done pursuant to a sheriff's
20 department advice and Miranda rights form?

21 A Yes.

22 Q Did Mr. Guinyard waive his rights and agree to
23 talk to you that evening?

24 A Yes, ma'am.

25 Q Prior to talking to you, he had spoken with

1 Investigator Holdorf?

2 A I'm not sure what the extent of their
3 conversation was.

4 Q The only part you were present for, you and he
5 were alone taking a statement?

6 A Yes.

7 Q At the sheriff's department, how do you take a
8 statement from an individual?

9 A The way we do it, it's question and answer form.
10 We do it on the computer. What I would do is I would
11 ask him a question. He would tell me his answer. I
12 write down his answer word for word, the way he told
13 me. Once we're done, I take a statement. I print it
14 out, let him look over it, make sure everything is the
15 way he said and if he didn't add anything, then they
16 sign it.

17 Q After you had completed typing the statement,
18 when you give it to him, could he make changes, or
19 corrections, additions, deletions?

20 A Yes.

21 Q Whose words are those on the statement, on the
22 piece of paper, that you obtained?

23 A Mr. Guinyard's.

24 Q I show you what's been marked as State's
25 Exhibit 4. Do you recognize this?

1 A Yes, that's the statement I took that night.

2 Q And whose signature appears on this statement
3 that it is their statement?

4 A Mr. Guinyard.

5 MS. McDUFFIE: Your Honor, at this time we'd
6 offer State's Exhibit 4 into evidence.

7 MR. LI: No objection, Your Honor.

8 MS. PINNOCK: No objection.

9 THE COURT: All right. Admitted without
10 objection.

11 (WHEREUPON, State's Exhibit Number 4 was admitted
12 into evidence.)

13 BY MS. McDUFFIE:

14 Q So on July 1, 2013, you met with Mr. Guinyard?

15 A Yes.

16 Q Was he under arrest?

17 A No.

18 Q But he had been read his rights, out of an
19 abundance of caution and he waived those rights and
20 agreed to speak with you?

21 A Yes.

22 Q Where did you --- or where did this statement,
23 where did you take this statement itself?

24 A In my cubicle.

25 Q At the sheriff's department?

1 A At the sheriff's department, yes.

2 Q Is your cubicle in the criminal investigative
3 division of the sheriff's department?

4 A Yes.

5 Q Describe the layout of that for the ladies and
6 gentlemen of the jury?

7 A Essentially it's a big open room with three rows
8 of cubicles going all the way back. They're all open
9 so there's nothing that's closed off or anything like
10 that.

11 Q So you would be sitting in your cubicle?

12 A Yes.

13 Q And you were actually typing what he told you?

14 A Yes.

15 MS. McDUFFIE: Your Honor, permission for the
16 witness to publish this statement.

17 THE COURT: Granted.

18 BY MS. McDUFFIE:

19 Q Investigator Laurita, can you please tell the
20 ladies and gentlemen of the jury how the statement
21 started or what happened first?

22 A First, I asked him the question:

23 Question: "Tell me what happened July 1st, 2013
24 at [REDACTED] Beaverbrook Road."

25 Q And what was his response?

1 A Answer: "I went to the store and pulled some
2 money off the card. I got some beer and
3 cigarettes and walked back to my house. I drank
4 the beer and fell asleep in the bed. My baby
5 mama," who is Ms. Thompson, "told me she was on
6 her way home from the hospital. My mom called
7 and asked is my baby mama home yet. I told her
8 no. She was at the hospital waiting on a cab.
9 When my baby mama came home, I gave her the
10 money. She brought the baby in, and I went to
11 the car and got the bags." Should be bags out of
12 the car.

13 "I went and laid down with my baby, played with
14 him, kissed him and hugged him. I started to
15 cook dinner, cut up onions and cooking the
16 steaks. I had music on my phone, and I think the
17 water was running when I heard a boom."

18 Q Let me stop you right there. So his statement to
19 you is that that day he woke up in the morning, went
20 to the store, got money and beer and cigarettes and
21 came home, and then Ms. Thompson arrived home, and he
22 played with the new baby and then started to cook
23 dinner?

24 A Yes.

25 Q Does he make any mention of his son CHILD

1 [CHILD] at this point to you?

2 A No.

3 Q Please proceed.

4 A Question: "It took me about four to five minutes
5 to go back to see what the boom was. My baby
6 mama came from the hallway into the front room
7 with my four-year-old son [CHILD] She was
8 saying, 'look baby, look baby.' I was in shock.
9 It took me a minute to realize what was
10 happening. He was breathing, but he was in and
11 out. His eyes were open. She called the
12 ambulance, and they told he to breathe into his
13 mouth and press on his stomach. Ambulance came
14 and tried to revive [CHILD]."

15 Q He doesn't, again, tell you anything that
16 happened at all with his son [CHILD] that day, just
17 that he heard a boom?

18 A Not at that time, no.

19 Q Does he tell you he did anything to assist his
20 child?

21 A No.

22 Q Please proceed.

23 A Question: "I then asked him where was [CHILD]
24 when you heard the boom?"

25 Answer: He said, "In the back room playing."

1 Q And the next question?

2 A Question: "Did you see --- " I'm sorry. "Did it
3 seem like something was wrong with CHILD earlier
4 in the day?"

5 Answer: He said, "No, sir."

6 Question: "Does CHILD have any medical
7 conditions?"

8 Answer: He says, "He is kind of autistic,
9 nothing else that I know of."

10 Question: "Where was Courtney when you heard the
11 boom?"

12 Answer: He said, "I believe in the bathroom.
13 She was getting ready to take a shower."

14 Question, "Did you see what caused the boom?"

15 Answer: "No."

16 Question: "What did it sound like?"

17 Answer: "It sounded like something hitting the
18 ground."

19 Then I asked him,

20 Question: "Why did it --- why did you wait four
21 to five minutes before you went to see what the
22 boom was?"

23 Answer: His answer was, "I was not sure what was
24 wrong. I had to turn the stove and radio off.

25 By that time --- by the time I did, Courtney was

1 coming out of the hallway with CHILD .

2 Question: "What did you do when the police
3 showed up at the house?

4 Answer: "I did not know what to do, so I got my
5 newborn baby and went into the closet to protect
6 him, because I did not want them to take him ---
7 take her away," sorry.

8 Q And so he tells you that in his version of events
9 that while his son is going in and out of
10 conscientious and barely breathing, he goes and hides
11 in the closet?

12 A Yes.

13 Q Please proceed.

14 A Question: "Why did you think that they were
15 going to take your baby away?"

16 Answer: "Because when there are accidents like
17 this, they usually take babies away."

18 Question: "How many beers did you have earlier
19 in the day?"

20 Answer: "Just one 24 ounce beer around eight or
21 nine in the morning."

22 Question: "Was anybody in the room with CHILD?"

23 Answer: "I don't know."

24 Question: "What was CHILD doing earlier in the
25 day?"

1 Answer: "He got up, and we watched TV. He was
2 in his room playing, and I went and played with
3 him, too. About an hour before the boom, he came
4 out and asked for a glass of water, and I gave it
5 to him."

6 Question: "Where was CHILD when you went to the
7 store?"

8 Answer: "He was asleep at the house."

9 Question: "What did Courtney do when she came
10 home?"

11 Answer: "She came in the house, said she was
12 hurting. She sat down, and we talked about her
13 giving birth. She was walking around,
14 straightening up, and cleaning up a mess CHILD
15 made in the back room where he peed on the floor,
16 while I played with the baby. I went into the
17 kitchen, and she told me she was going to take a
18 shower."

19 Question: "When the ambulance came, was CHILD
20 still breathing?"

21 Answer: "I don't know because I was in the
22 closet with my baby by then."

23 Q So he tells you he was in the closet prior to the
24 ambulance getting there?

25 A Yes.

1 Q Please proceed.

2 A Question: "Did you and Courtney get into any
3 arguments today?"

4 Answer: "Earlier around nine o'clock she got mad
5 at me over the phone about buying beer, but when
6 she came home everything was cool."

7 Question: "Did CHILD do anything to make you or
8 Courtney mad?"

9 Answer: "His mom got mad at him for peeing on
10 the floor, but she was not too mad. She did not
11 want to put the new baby in the room with it
12 smelling like that."

13 Question: "Did CHILD and the new baby get
14 along?"

15 Answer: "Yes, he liked the new baby."

16 Q And that's the end of the statement that he gave
17 you on July 1st of 2013?

18 A Yes, ma'am.

19 Q And then after that, it says, "I make this
20 statement of my own free will and accord without
21 reward or intimidation. I do swear and affirm that
22 the above statements are the truth, the whole truth
23 and nothing but the truth," and then he signed his
24 name?

25 A Yes, ma'am.

1 Q Did you force him, promise him anything to force
2 him to make this statement?

3 A No.

4 Q Did you withhold creature comforts in any way?

5 A No.

6 Q Food, restroom, bathroom?

7 A No.

8 Q The individual that told you that he heard a
9 boom, wait three or four minutes and then hid in a
10 closet, do you see him in the courtroom?

11 A Yes, he is sitting over there in a blue shirt.

12 MS. McDUFFIE: Your Honor, let the record reflect
13 he has identified the defendant.

14 THE COURT: Yes, ma'am.

15 BY MS. McDUFFIE:

16 Q After you obtained this statement from Robert
17 Antonio Guinyard, did you have any further involvement
18 in the investigation of this case?

19 A No.

20 MS. McDUFFIE: Thank you. Nothing further for
21 this witness at this time.

22 THE COURT: Cross?

23 MR. LI: Briefly, Your Honor.

24 CROSS-EXAMINATION:

25 BY MR. LI:

1 Q Investigator Laurita, when was this statement
2 given?

3 A It was given on the 1st of July around
4 20:50 hours, which is 8:50.

5 Q About after two hours after his child has just
6 been pronounced dead?

7 A I'm not sure when the child was pronounced dead.

8 Q And you said --- in one of the statements, he
9 said he was in shock, correct?

10 A Yes.

11 Q "I was in shock, and it took me a minute to
12 realize what was happening."

13 A Yes.

14 Q Do you remember his demeanor while he was giving
15 this statement?

16 A He was upset at times. I saw him. Looked like
17 he was crying. I never saw any tears though.

18 MR. LI: Thank you. No further questions.

19 THE COURT: Cross?

20 MS. PINNOCK: May it please the Court?

21 THE COURT: Yes, ma'am.

22 CROSS-EXAMINATION:

23 BY MS. PINNOCK:

24 Q I just have a couple of questions for you,
25 Investigator. You asked Mr. Guinyard why did he wait

1 four or five minutes before going to see what the
2 noise was?

3 A Yes.

4 Q His answer was that he was not sure what was
5 going on, that he had to turn off the stove and the
6 radio?

7 A Yes.

8 Q He said he waited four or five minutes to do
9 that?

10 A That's what his statement says.

11 Q Okay. And then when EMS showed up, he was
12 already in the closet, according to him?

13 A According to him, yes.

14 Q And he couldn't tell you if CHILD was still
15 breathing?

16 A Not at that time.

17 Q Because he was hiding in the closet?

18 A Yes.

19 MS. PINNOCK: Thank you.

20 THE COURT: Redirect?

21 MS. McDUFFIE: No, Your Honor.

22 THE COURT: Thank you, Investigator, you may step
23 down.

24 THE COURT: How long is your next witness?

25 MS. WALKER: Should be very brief, Your Honor.

1 THE COURT: Call your next witness.

2 MS. WALKER: Your Honor, the State calls
3 Ms. Kimberly Gooden.

4 KIMBERLY GOODEN,
5 after being duly sworn, testified as follows:

6 THE CLERK: Please have a seat. State your full
7 name.

8 THE WITNESS: My name is Kimberly Kennedy Gooden.

9 MS. WALKER: May it please the Court, Your Honor?

10 THE COURT: Yes, ma'am.

11 DIRECT EXAMINATION:

12 BY MS. WALKER:

13 Q Good afternoon, Ms. Gooden.

14 A Good afternoon.

15 Q Where do you currently live?

16 A (There was no response.)

17 Q You don't have to tell me the address.

18 A Oh, okay.

19 Q Just ---

20 A Columbia, South Carolina.

21 Q How long have you been living here in Columbia?

22 A All my life, 34 years.

23 Q Do you work?

24 A I'm retired.

25 Q What did you do before you retired?

1 A I'm a former child and family psychologist,
2 social worker for the State of South Carolina.

3 Q And do you know the defendants in this case?

4 A I do.

5 Q And do you know especially well one of their
6 children?

7 A I do.

8 Q Which child is that?

9 A CHILD4 .

10 Q Does she go by CHILD4 ?

11 A She goes by CHILD4 .

12 Q How old is CHILD4 ?

13 A She is two years old.

14 Q And did you know about the birth of their last
15 child, CHILD 5 ?

16 A I did.

17 Q And when CHILD 5 was born, was there anything
18 that his parents asked you to do? While Ms. Thompson
19 was in labor, was there anything his parents asked you
20 to do?

21 A Watch after CHILD4 .

22 Q And when you say watch after CHILD4 , what did
23 that entail?

24 A Her staying with me.

25 Q And how did you come to have CHILD4 in your

1 custody at that time?

2 A [CHILD4] had been with me --- she has been with me
3 in the past, and on that weekend before Ms. Thompson
4 went into labor, that Friday she asked to visit with
5 [CHILD4]. She said she might be --- she was having some
6 contractions so I took [CHILD4] to see them late Friday.

7 Q And when did you, I guess, receive a phone call
8 that Ms. Thompson was actually going into labor?

9 A Maybe about seven o'clock that Saturday morning.

10 Q And where was [CHILD4] at that point?

11 A She was with her parents.

12 Q Okay. What did you do once you found out that
13 she was going into labor?

14 A Well, later on that day, Ms. Thompson called me
15 and asked me if I could go and pick [CHILD4] back up so
16 that Mr. Guinyard could come to the hospital.

17 Q Did you go pick up [CHILD4] ?

18 A I did.

19 Q And where did you pick him up her --- her up, I'm
20 sorry.

21 A From their home.

22 Q Okay. And do you know --- did you know where
23 Ms. Thompson was when she was calling you?

24 A She was at the hospital.

25 Q And when you got to their home to pick up [CHILD4] ,

1 did you see Mr. Guinyard?

2 A I saw him.

3 Q Did you see [CHILD] that day?

4 A I didn't see [CHILD].

5 MS. WALKER: I don't have any further questions.

6 THE COURT: Mr. Li?

7 MR. LI: Briefly.

8 CROSS-EXAMINATION:

9 BY MR. LI:

10 Q Hey, Ms. Gooden.

11 A Yes, sir.

12 Q You went and picked up [CHILD4] the Friday before
13 Ms. Thompson gave birth?

14 A I dropped her off that Friday. She was with me
15 prior to that week with --- she was with me, and
16 Ms. Thompson asked to spend time with her because she
17 thought she might have been going into labor, so I
18 took her to see her parents that Friday.

19 Q Just to see them? But did she come back with
20 you?

21 A She came back with me that next day, on Saturday.

22 Q But it was the Friday right before Ms. Thompson
23 gave birth?

24 A It was.

25 Q You drove by, stopped by to let [CHILD4] visit with

1 her mom?

2 A I did, yes.

3 MR. LI: That's it.

4 THE COURT: Anything?

5 MS. PINNOCK: No, Your Honor.

6 THE COURT: Okay.

7 MS. WALKER: Your Honor.

8 THE COURT: Did you want to ask a follow up to
9 that in.

10 MS. WALKER: Yes, Your Honor, briefly, I'm sorry.

11 THE COURT: Okay.

12 REDIRECT EXAMINATION:

13 BY MS. WALKER:

14 Q That Friday night, going into Saturday morning,
15 where was [REDACTED] ?
CHILD4

16 A Friday night going into Saturday morning, she was
17 with her parents.

18 MS. WALKER: All right. Thank you.

19 THE COURT: Recross?

20 MR. LI: No, Your Honor.

21 THE COURT: All right. Thank you, ma'am. You
22 may step down.

23 Is the next one short? Okay. All right.

24 Here is what we're going to do, ladies and
25 gentlemen. We're going to go ahead and break for

1 lunch. It is about 12:20.

2 I have a --- as I told you at the beginning of
3 the trial, I have duties and responsibilities as the
4 Chief Administrative Judge. One of those duties and
5 responsibilities are at 1:30 today actually in this
6 courtroom, completely and totally, has nothing to do
7 with this case in any way, shape, or form, so why
8 don't we --- we are going to start back at
9 two o'clock. I should be done with my 1:30 hearing
10 then. We'll be ready to go, ready to work all
11 afternoon. Do not discuss the case. Keep an open
12 mind. Make sure you turn in your pads. Enjoy your
13 lunch. We'll see you back at two o'clock ready to go.
14 Thank you very much.

15 Everyone remain seated while the jury is excused.
16 (WHEREUPON, the jury left the courtroom at
17 12:22 p.m.)

18 THE COURT: Anything further before we break?

19 MS. McDUFFIE: Judge, we have one witness this
20 afternoon who is Judge Hill's court reporter, so we
21 just may need a few minutes to coordinate with her.

22 THE COURT: Oh, Ms. Helms?

23 MS. McDUFFIE: Yes, sir.

24 THE COURT: Okay.

25 MS. McDUFFIE: And then we also intend to

1 introduce the records from the phone, and I believe
2 Mr. Li has said that he has a motion to --- I still
3 haven't been informed of what it is, but...

4 MR. LI: Authentication issue is what they're
5 calling them for. They plan on going into the context
6 of the texts, the context of the text messages. I'm
7 not sure what they're going to use it for. That's why
8 I have an objection. There's a possible
9 authentication issue. I know they have a motion, as
10 well.

11 MR. STAGGS: We would object to them being
12 admitted into evidence. It is our position that is a
13 report --- it's a police or law enforcement generated
14 report. It's not the original records from the phone.
15 This was done on proprietary, to my understanding, law
16 enforcement software. It's not the original record.
17 We attempted to get an understandable --- or even
18 decipherable original record from Clear Talk from the
19 solicitor's office. They weren't able to open one.
20 We weren't able to open one. We don't have an issue
21 with the investigator talking about the contents of
22 these findings, but admitting it into evidence, it's a
23 law enforcement report, and it's hearsay.

24 THE COURT: I don't even know what it is, so
25 somebody tell me what it is.

1 MS. McDUFFIE: Your Honor, Ms. Thompson's phone
2 was already in evidence --- is already in evidence
3 without objection. This is the information that is
4 stored on the internal memory of that phone.

5 THE COURT: Okay. And how did it come off the
6 phone?

7 MS. McDUFFIE: Law enforcement has a machine,
8 Your Honor, that ---

9 THE COURT: Did they have a search warrant?

10 MS. McDUFFIE: Two search warrants.

11 THE COURT: That's the search warrant that
12 Investigator Wagner was talking about where they did
13 one and they couldn't find anything. Then they got
14 some new equipment, did a second one and found
15 something.

16 MS. McDUFFIE: They attempted the first time, but
17 their machine wasn't compatible with the phone. They
18 got a new machine, which was compatible with the
19 phone. We figured out that it may work, so we got a
20 second search warrant and then this is the contents of
21 the internal memory of the phone, Your Honor.

22 THE COURT: Okay. And who took the contents off
23 the phone?

24 MS. McDUFFIE: Brian Metz.

25 THE COURT: Who?

1 MS. McDUFFIE: Brian Metz, Your Honor.

2 THE COURT: Investigator Metz. Okay. So what do
3 you want to introduce besides his testimony?

4 MS. McDUFFIE: Your Honor, his testimony would be
5 that his job at the sheriff's department is to do this
6 type of analysis and retrieval of data from phones.
7 He can tell us about how many courses and the
8 background and whatever is necessary, Your Honor, but
9 basically, he hooks the phone up to the machine. The
10 machine's internal software is designed to access the
11 information stored in the phone but not tamper, change
12 it or delete it in anyway and extract it into a
13 printable version, Your Honor.

14 THE COURT: Okay. I'm sorry. Tell me what you
15 want to introduce besides the testimony.

16 MS. McDUFFIE: Your Honor, we intend not through
17 Investigator Metz, but through Investigator Holdorf
18 who actually examined and went through the records,
19 certain text messages, timing of phone calls, things
20 of that nature, Your Honor, so I don't --- I was
21 trying to be complete and thorough. We are happy just
22 introducing --- it's probably 15 pages of actual stuff
23 that we would want rather than the 1200 page internal
24 contents of the phone.

25 Your Honor, we can limit to it those 15 pages

1 that we intended to use. We have no issue with that.

2 THE COURT: Okay. So what you're telling me is
3 Investigator Metz, and I'm using my own words, took it
4 off the phone and that's over 1,000 pages worth of
5 information. Then Investigator Holdorf went through
6 it and pulled out what he thought was relevant.

7 MS. McDUFFIE: Yes, Your Honor.

8 THE COURT: Okay, and you want --- you are
9 intending to introduce some form of report that states
10 what Investigator Holdorf --- I'm sorry, sir, came up
11 with?

12 MS. McDUFFIE: We intend to introduce a summary,
13 Your Honor, and I think that's permissible under
14 Rule ---

15 THE COURT: There's some 1,000 and something
16 rule.

17 MS. McDUFFIE: 1006, so we intend to introduce a
18 summary of the voluminous contents of these phone
19 records. And the summary will contain incoming and
20 outgoing calls, text messages and web searches.

21 THE COURT: Okay.

22 MS. McDUFFIE: The summary is all dated from that
23 1,200 page document.

24 THE COURT: Now, explain to me what the objection
25 is.

1 MR. STAGGS: Your Honor ---

2 MR. LI: You go first.

3 THE COURT: Whoever wants to talk.

4 MR. STAGGS: All right, I will.

5 Your Honor, as I was saying, Your Honor, it's
6 Ms. Thompson's position and our position that this is
7 a law enforcement generated report. We understand
8 that we cannot stop Investigator Holdorf from talking
9 about what he reviewed and his work on the case or
10 Investigator Metz from talking about what he did in
11 relation to the search warrant.

12 However, we do object to these things being
13 admitted into evidence, and we would ask the court to
14 not allow that.

15 THE COURT: All right. Mr. Li?

16 MR. LI: Your Honor, my objection is to specific
17 text messages. They cannot authenticate the number.
18 We think there is an authentication issue. Not from
19 the phone, from outgoing messages. I believe Metz, or
20 whoever extracted the data can authenticate, but the
21 receiving party, we'd ask that they properly
22 authenticate it.

23 THE COURT: They're going to have to authenticate
24 and lay a foundation and all that stuff before I let
25 anything into evidence.

1 Okay. All right. You all object when it comes
2 up.

3 Okay. Two o'clock.

4 MR. STAGGS: And, Your Honor, we'd like to see
5 any summary that the State has prepared.

6 THE COURT: Whatever summary you plan on
7 introducing.

8 MS. McDUFFIE: We haven't made it yet, Your
9 Honor, but as soon as we get it in complete form,
10 we'll be sure ---

11 THE COURT: Very good.

12 MR. STAGGS: Thank you, Your Honor.

13 (WHEREUPON, a lunch break was taken.)

14 THE COURT: Okay, anything before we bring in the
15 jury?

16 MS. CAMPBELL: May it please the Court, Your
17 Honor?

18 One of our upcoming witnesses is Ms. Angela
19 Metze. She gave a statement to police and testified
20 in some hearings and things of that nature. Your
21 Honor, there are parts of her testimony that I have
22 advised her that might be put on the record there are
23 --- that should not come in to be in compliance with
24 your rulings.

25 Basically in her statement she talks about how

1 she --- well, first of all she, CHILD3, one of the
2 younger siblings, is the child she had the most
3 contact with. Her son was supposed to be the father
4 of CHILD3. She kept CHILD3 off and on during this
5 period of time we're talking about. CHILD3 would go
6 visit her parents, but she would stay the majority of
7 the time with Ms. Metze.

8 During that period of time, however, Your Honor,
9 there was a falling out. I have advised her not get
10 into that with Ms. Thompson. At that point,
11 Ms. Thompson became mad at her because her son had
12 claimed his child on his tax return and they usually
13 would use their children and let other people claim
14 them claim them so they could get a kickback on tax
15 returns. I told her not to mention anything about
16 that.

17 In addition to that, she also refers to the time
18 period where she first came in contact with CHILD3.
19 There was a time period when Courtney went to jail. I
20 made sure that she does not mention the word jail or
21 mention Courtney being in jail.

22 In addition to that, also, Your Honor, when she
23 would get CHILD3 back from the extended stay at her
24 parent's house, that CHILD3 would exhibit extremely
25 bad behavior and upon return on one occasion, that

1 CHILD3 actually would take her doll and beat it with
2 a shoe and yell something to the effect of don't pee
3 on yourself. I told her not to go into any of that.

4 THE COURT: Okay.

5 MS. CAMPBELL: Also, CHILD2 came into her care
6 when Ms. Thompson went into the hospital to have the
7 final child CHILD5. She stayed with her for a
8 period of time. Then at some point CHILD2 tried to
9 suffocate CHILD3. I told her not to mention that
10 either.

11 THE COURT: Okay.

12 MS. PINNOCK: Your Honor, I just need to put my
13 objection to Dr. Rosa's testimony on the record.

14 THE COURT: Okay.

15 MS. PINNOCK: I had objected during the testimony
16 that Dr. Rosa was going into areas where I didn't
17 think her qualification as a child abuse pediatrician
18 allowed her to. Specifically, the findings of the
19 autopsy, the radiology report, and ultimately it went
20 to cause of death. Your Honor had already overruled
21 my objection by then. My objection was that she was
22 testifying outside the scope of her qualifications.

23 THE COURT: Okay. All right. Your objection is
24 overruled based upon the rules concerning expert
25 witnesses and the information they're allowed to

1 review and base their opinion off of, and Dr. Rosa's
2 extensive experience, that being 14 years plus as a
3 board certified child abuse pediatrician specialty, I
4 deemed that was appropriate within her scope of
5 expertise.

6 THE COURT: You have them all now?

7 THE BAILIFF: Have them all, sir.

8 THE COURT: Is it the first witness that doesn't
9 want to be on?

10 MS. WALKER: Your Honor, that witness has already
11 testified. Oh, there's another one, oh, I'm sorry,
12 Your Honor.

13 MS. McDUFFIE: Yes, Your Honor, it's the first
14 one.

15 THE COURT: The first lady that's going to
16 testify is another foster parent to current --- to
17 other children? Do you all have an objection to not
18 filming her? I think --- is this the last one?

19 MS. McDUFFIE: Your Honor, this one and
20 Ms. Metze, as well.

21 THE COURT: Okay. All right. Do you have a
22 problem with not filming this first witness who is a
23 foster parent of current children?

24 TV NEWS: No.

25 TV NEWS: No.

1 THE COURT: All right. Great. Thank you very
2 much. Appreciate that. Okay. Everybody ready?

3 MR. LI: Yes, Your Honor.

4 MR. STAGGS: Yes, Your Honor.

5 MR. LI: Yes.

6 THE COURT: Okay. Let's bring them in.

7 (WHEREUPON, the jury entered the courtroom at
8 2:07 p.m.)

9 THE COURT: All right, ladies and gentlemen,
10 welcome back. Thank you very much. I hope you
11 enjoyed your lunch.

12 You may call your next witness.

13 MS. WALKER: Thank you, Your Honor. The State
14 calls Ms. Denise Jones.

15 THE COURT: Ms. Jones, please come forward and be
16 sworn.

17 DENISE JONES,
18 after being duly sworn, testified as follows:

19 THE CLERK: Please have a seat. State your full
20 name for the record.

21 THE WITNESS: My name is Denise Lucille Jones.

22 DIRECT EXAMINATION:

23 BY MS. WALKER:

24 Q Good afternoon, Ms. Jones. Can you tell me where
25 you live, what city you live in?

1 A I live in Hopkins, South Carolina.

2 Q How long have you lived in Hopkins?

3 A A little over twenty years.

4 Q What is it that you do for a living?

5 A Right now I'm a foster parent.

6 Q How long have you been a foster parent?

7 A Oh, boy. Probably close to maybe 25 years.

8 Q Can you recall roughly how many children you've
9 had in your care over those 25 years?

10 A Probably 100, maybe a little over.

11 Q Was CHILD one of those children?

12 A Yes, ma'am.

13 Q Do you remember when you came to care for CHILD?

14 A I believe it was in August of 2008, maybe '08 or
15 '09, but I believe it was 2008.

16 Q It was August, though?

17 A Yes, ma'am.

18 Q Do you remember how old he was?

19 A About 15 months.

20 Q And can you describe how he was when he was
21 around you? Was he an active child?

22 A Well, in the beginning when he came to me, he
23 wasn't --- he wasn't doing much crawling or moving
24 around, but once I started working with him, he
25 started crawling, he start walking, so he got more

1 active, yes, ma'am.

2 Q And did you take him to doctor's appointments and
3 things of that nature?

4 A Yes, ma'am.

5 Q Was there a treatment plan for CHILD to help him
6 become more mobile?

7 A Yes, ma'am, he was doing physical therapy. He
8 was going to Richland One Medical Park for speech
9 therapy, as well.

10 Q Can y'all hear in?

11 THE JUROR: No.

12 BY MS. WALKER:

13 Q If you can speak up louder. Pull up that
14 microphone just a little.

15 THE COURT: Pull it a little bit closer to you,
16 Ms. Jones.

17 THE WITNESS: Okay.

18 BY MS. WALKER:

19 Q Thank you. So he was going through physical
20 therapy?

21 A Yes, ma'am. He was doing both at the Richland
22 One Medical Park.

23 Q What about his speech? How was that?

24 A That was going very well, and his speech was
25 improving real well.

1 Q Was he seeing a speech therapist?

2 A Yes, ma'am.

3 Q Do you remember whether or not while he was in
4 your care, if his parents would visit with him?

5 A Yes, they had visits. Well, I know his mother
6 did. I wasn't sure about the father. They had visits
7 at DSS.

8 Q I want to show you what's been marked as State's
9 Exhibit 251, and ask you if you recognize this?

10 A Can yes, ma'am. This is a picture I gave them
11 that I had of him.

12 Q And this is how he looked when he was with you?

13 A Yes, ma'am.

14 MS. WALKER: Your Honor, at this point the State
15 seeks to admit 251 into evidence.

16 MR. LI: No objection, Your Honor.

17 MR. STAGGS: No objection.

18 THE COURT: 251 without objection.

19 (WHEREUPON, State's Exhibit Number 251 was
20 admitted into evidence.)

21 BY MS. WALKER:

22 Q And he --- was CHILD potty trained when you got
23 him?

24 A No, ma'am.

25 Q Did he become potty trained when you were caring

1 for him?

2 A Yes, ma'am, he was potty trained before he left.

3 Q You said he left. At some point, he left your
4 home?

5 A Yes.

6 Q Where did he go?

7 A At that point he went with his mother.

8 Q And did you have later contact with his mother
9 after he left your home?

10 A After he left, it might have been a couple days
11 after that, I talked with her on the phone pertaining
12 to him.

13 Q What did she say to you?

14 A She basically asked me about the fact of his
15 potty training, because he wasn't using the bathroom
16 when he got home. I told her that, you know, he was
17 potty trained. He was going when he was there. I
18 didn't understand why he was not going.

19 Q Not going at all?

20 A She just said that he won't use the bathroom.

21 Q When he was with you, though, he was using the
22 bathroom on a regular basis?

23 A Yes, ma'am.

24 Q And he was potty trained?

25 A Yes, ma'am.

1 Q Did you counsel her as to what to do about that?

2 A That's when I asked her if there was anything
3 that I could help her with just to let me know, but I
4 haven't heard from her any more after that.

5 MS. WALKER: Thank you, ma'am. I don't have any
6 further questions.

7 THE COURT: Cross?

8 MR. LI: Very briefly.

9 CROSS-EXAMINATION:

10 BY MR. LI:

11 Q And when you gave CHILD back, were you ordered
12 to?

13 A His caseworker came and picked him up, yes, sir.

14 Q And you gave him back to his mom, right?

15 A Yes, sir.

16 Q His mother?

17 A Yes, sir.

18 MR. LI: No further questions.

19 MR. STAGGS: We have no questions, Judge.

20 THE COURT: Thank you, ma'am. You may step down.
21 Have a nice day.

22 THE WITNESS: Thank you.

23 Call your next witness.

24 MS. WALKER: Your Honor, the State calls Princess
25 Hodges.

1 PRINCESS HODGES,
2 after being duly sworn, testified as follows:

3 THE WITNESS: My name is Princess Faith Henryhand
4 Hodges.

5 DIRECT EXAMINATION:

6 BY MS. WALKER:

7 Q Ms. Hodges, where do you live?

8 A I live here in Columbia.

9 Q Okay. What is it that you do for a living?

10 A I'm an attorney for the State.

11 Q At some point, were you working specifically with
12 DSS?

13 A Yes.

14 Q And when was that?

15 A A total of ten years. The last time was
16 from 2002 until 2012 --- 2004 to 2012.

17 Q 2004 to 2012?

18 A Yes.

19 Q And as --- in your role as an attorney, did you
20 ever come into contact with either Ms. Thompson or
21 Mr. Guinyard?

22 A Yes.

23 Q And Princess, at one point, did you see them in a
24 courthouse with little CHILD?

25 A Yes.

1 Q Do you remember how old he would have been at
2 that point in time?

3 A An infant, someone who would have the weight to
4 be in one of those car carriers that you have in the
5 crutch of your arms.

6 Q Did you observe either of one of his parents have
7 him in one of those car carriers?

8 A Yes.

9 Q Which parent was that?

10 A His mother.

11 Q Describe what you saw happen with CHILD and that
12 car carrier?

13 A His mother was upset.

14 MS. PINNOCK: Your Honor, may we approach?

15 THE COURT: Sure.

16 (WHEREUPON, there was a bench conference in the
17 presence, but not within hearing of the jury.)

18 BY MS. WALKER:

19 Q Tell us what you saw that day.

20 A His mother was upset when she began to exit the
21 room she was in. The baby was in the crutch of her
22 arm inside of that infant car seat. When she pushed
23 open the door with force to leave the room and she was
24 upset, the carrier toggled a little, it toggled. When
25 it did that, the baby also rose up on the inside of

1 the carrier, as if the straps were not tight enough or
2 they were not buckled at all.

3 MS. WALKER: Beg the Court's indulgence, Your
4 Honor.

5 (Pause.)

6 MS. WALKER: Your Honor, we have a matter of law.

7 THE COURT: Okay. Ladies and gentlemen, if
8 you'll return to your jury room, do not discuss the
9 case. Keep an open mind. I'll be back with you in
10 just a few moments.

11 (WHEREUPON, the jury left the courtroom at
12 2:20 p.m.)

13 MS. WALKER: I'm sorry, Your Honor. Out of an
14 abundance of caution, I want to make sure the
15 testimony that was about to be elicited was going to
16 be proper.

17 (There was a disturbance.)

18 MR. STAGGS: I apologize.

19 THE COURT: Are you okay, Mr. Staggs?

20 MR. STAGGS: I'm doing fine.

21 MS. WALKER: I wasn't going to violate anything.

22 (The following was heard outside the presence of
23 the jury.)

24 BY MS. WALKER:

25 Q At the point in time when you saw the baby, I

1 guess, toggle up, what did you do?

2 A If I recall correctly, it was the shock of, oh
3 my, is the baby going to come out of the carrier.
4 Then there was some other communication with the
5 people that I was with.

6 Q At that point, was the baby taken into DSS
7 custody?

8 A Yes.

9 MS. WALKER: And I'll limit it to that, Your
10 Honor. Is that a violation of your ruling?

11 THE COURT: Why was the baby taken into DSS
12 custody then, because as a result of the hearing or
13 the result of the car carrier, which one?

14 THE WITNESS: As a result of the car carrier.

15 THE COURT: So, whatever --- and I don't want you
16 to say that there was a hearing in front of the jury.

17 THE WITNESS: We were not in a hearing.

18 THE COURT: So what were you up here for? And
19 this is just for me, not for the jury, but what were
20 you up here for?

21 THE WITNESS: We were here for a hearing, but at
22 that time we were using one of the courtrooms as a
23 negotiation room and that's where we were.

24 THE COURT: So you were in a --- in another room
25 trying to resolve some kind of issue and this is when

1 she gets upset and leaves the door and you see the
2 issue with the baby?

3 THE WITNESS: Yes.

4 THE COURT: Now, what caused the baby to go into
5 DSS custody? Tell me technically how that happens or
6 what exactly happened.

7 THE WITNESS: It would have been law enforcement
8 in the hallway, so a discussion would have been had
9 with law enforcement, and as a result of that
10 conversation, the child was taken into custody.

11 THE COURT: Okay. Not as a result of any family
12 court hearing or family court judge's order or was
13 there a judge's order?

14 MS. McDUFFIE: Judge ---

15 THE COURT: Or Ms. McDuffie.

16 THE WITNESS: I mean, if I recall correctly now,
17 let me --- because this has been a long time ago, we
18 could not --- DSS could not --- at the time DSS could
19 not just take a child into custody. It has to be by
20 an order or law enforcement. I said law enforcement.
21 But if I'm not mistaken, there had to have been an ex
22 parte complaint filed and then the child was taken
23 into custody as a result of that ex parte complaint---

24 MS. McDUFFIE: Judge ---

25 THE WITNESS: --- signed by a judge's order.

1 MS. McDUFFIE: They were there for a hearing on
2 the other two children. It's my understanding from
3 the records, that the judge witnessed some of this, as
4 well, and law enforcement was instructed to E P.C. the
5 child, and the next day the judge signed the order for
6 removal, Your Honor, as a result of what was observed
7 with the way he was carried in the carrier and
8 treated.

9 THE COURT: And when was this?

10 MS. McDUFFIE: On June 19th. The incident
11 happened June 18th and the judge signed the order for
12 removal on June 19th.

13 THE COURT: Okay, well, let's back this up. The
14 jury already knows, without objection from anybody,
15 that the child was born in [REDACTED] of 2009, and that the
16 child went into custody on June 19th --- June something
17 of 2011.

18 MS. McDUFFIE: He was taken into custody on the
19 18th and the official order was signed on the 19th.

20 THE COURT: Why do we need to elicit this from
21 this witness is my question?

22 MS. McDUFFIE: Your Honor, it --- I think the
23 purpose of this witness is that she observed that, and
24 then the child was taken into custody and the child
25 was later --- the plan for the court was reunification

1 with both parents per the court order, Your Honor, and
2 that was done --- the order was signed in February
3 of '12 and reunification was completed, April 6, 2012.
4 That's the extent of the testimony.

5 THE COURT: What's your opinion on that, Mr. Li?

6 MR. LI: Your Honor, I don't really see the
7 purpose of it. This --- I'm not trying to make their
8 argument for them, but I don't see the purpose of this
9 witness, this witness.

10 THE COURT: And Ms. Hodges testified to the
11 reunification plan?

12 MS. McDUFFIE: Your Honor, I think she was the
13 attorney. I think her name is on the court order, as
14 well. We were trying to cut down on witnesses. We're
15 happy to call, Judge Allen if we need to, but...

16 THE COURT: What's your position on that,
17 Ms. Pinnock, or whoever is talking.

18 MS. PINNOCK: Your Honor, I don't think that
19 testimony is necessary. There's been testimony that,
20 you know, **CHILD** was removed from the house. He was
21 obviously put back in the house at some point.

22 THE COURT: Why don't we all just stipulate to
23 that, is my question.

24 MS. McDUFFIE: Your Honor, I don't think we can
25 stipulate to that because Mr. Li, in every single

1 thing he has said, has said that Courtney had custody,
2 Courtney had custody, Courtney had custody and the
3 order said reunification said was to both parents.

4 THE COURT: Well, that's what I'm saying, if it's
5 a court order, why can't we just stipulate that in
6 June 2009, the child was taken into DSS custody. The
7 child was returned to the parents on whatever date it
8 was in April of 2000 and whatever and there was a
9 reunification plan with both parents. I mean, if
10 that's what happened, that's what happened --- I don't
11 know how anybody is prejudiced by that.

12 MS. McDUFFIE: We're fine with that.

13 THE COURT: I mean, the jury basically --- any
14 juror paying attention essentially knows everything I
15 just said except for the word reunification plan.

16 MS. McDUFFIE: We're fine with that, Your Honor.

17 MR. LI: What was your suggestion, Your Honor?

18 THE COURT: My suggestion is --- why don't we
19 just let's stipulate that --- I don't know the
20 specific dates. Someone would have to help me that,
21 but June of 2009 the child goes into DSS custody. In
22 April of 2012, the child is returned to whoever the
23 order says the order is returned to and there was a
24 DSS reunification plan complied with or whatever they
25 did to get him back.

1 MR. LI: I think --- can we get the order?

2 MS. WALKER: Sure.

3 MS. McDUFFIE: Your Honor, the order said in
4 February that reunification is with both parents and
5 he is supposed to be reunited with both parents
6 gradually over the next two months and at the end of
7 the two months, there is an order that the
8 reunification was fine and that he is --- DSS no
9 longer has an open case.

10 MS. PINNOCK: I have no problem with that.

11 (Pause.)

12 MS. CAMPBELL: If I may approach with the dates,
13 Your Honor.

14 THE COURT: Oh, yes, ma'am, that's fine.

15 MR. STAGGS: Your Honor.

16 MR. LI: Your Honor, I'll stipulate to the
17 reunification plan.

18 THE COURT: So, I'm going to say that the parties
19 have stipulated that CHILD was
20 taken into custody June 18th, 2009. He was returned
21 to both parents on April 6th, 2012, pursuant to a DSS
22 reunification plan.

23 MS. McDUFFIE: Yes, Your Honor.

24 THE COURT: Okay.

25 MS. PINNOCK: Yes, sir.

1 THE COURT: Did you hear what I said?

2 MS. PINNOCK: Yes, yes, sir.

3 THE COURT: And you're okay with that?

4 MS. PINNOCK: Yes.

5 THE COURT: I'm just going to say pursuant to a
6 reunification plan.

7 MR. LI: We have no problem that.

8 MS. WALKER: When the jury comes back in, should
9 I just say no further questions?

10 THE COURT: That's fine. Okay.

11 THE COURT: If we just start using words like
12 EPC, we start creating all these issues, I think. I'm
13 not saying they didn't happen. I'm just saying we
14 create issues that we can potentially avoid. Okay.
15 Let's bring them back in here.

16 (WHEREUPON, the jury entered the courtroom at
17 2:30 p.m.)

18 THE BAILIFF: The jurors are present.

19 THE COURT: Thank you very much, sir.
20 Ms. Walker.

21 MS. WALKER: Thank you, Your Honor.

22 DIRECT EXAMINATION: (Continued)

23 BY MS. WALKER:

24 Q The incident you just described was June 18th,
25 2009?

1 A Yes.

2 MS. WALKER: No further questions.

3 THE COURT: Mr. Li.

4 MR. LI: No questions.

5 THE COURT: Ms. Pinnock.

6 MS. PINNOCK: No questions, Your Honor.

7 THE COURT: Thank you, Ms. Hodges. You may step
8 down.

9 Okay. Ladies and gentlemen, one thing I need to
10 tell you as we continue on, the parties, and that is
11 all three parties, have entered into a stipulation. A
12 stipulation is nothing more than a fact that is agreed
13 to in this case by all three sides and no other proof
14 is necessary for these facts. I'm giving this to you
15 as a stipulation of fact agreed upon by all parties.

16 On June 18th, 2009, CHILD [REDACTED]
17 was taken into DSS custody. He remained in DSS
18 custody until he was returned to both parents on
19 April 6, 2012, pursuant to a DSS reunification plan.

20 You may call your next witness.

21 MS. CAMPBELL: Thank you, Your Honor. The State
22 would call Angela Metze. I'm sorry, Your Honor, she's
23 sequestered.

24 (Pause.)

25 ANGELA METZE,

1 after being duly sworn, testified as follows:

2 THE WITNESS: Angela Rae Metze.

3 DIRECT EXAMINATION:

4 BY MS. CAMPBELL:

5 Q Ms. Metze, do you live here in the Columbia area?

6 A Yes, I do.

7 Q How long have you been living in the Columbia
8 area?

9 A All my life just about.

10 Q Do you have a son?

11 A Yes, I do.

12 Q What's your son's name?

13 A His name is Tyrone Strothers.

14 Q Tyrone Strothers?

15 A Uh-huh.

16 Q Do you know Courtney Thompson?

17 A Yes, I do.

18 Q How do you know Courtney Thompson?

19 A She is the mother of CHILD3 .

20 Q And at some point after CHILD3 was born --- and
21 what is CHILD3 's relationship of her? How is she
22 related to CHILD , (sic) the baby?

23 A That's --- that's his sister.

24 Q Is she older or younger than little CHILD ,
25 excuse me, not Richard?

1 A She is younger.

2 Q When did you actually come into CHILD3's life?

3 A She was about six months old.

4 Q And what information was given to you that
5 brought you into CHILD3's life?

6 A That she was my first grandchild.

7 Q And that would be through your son?

8 A Yes.

9 Q And that was also Ms. Thompson's child, as well?

10 A Yes.

11 Q Once you found out that information over the next
12 couple of years, did you have a lot of contact with
13 CHILD3?

14 A Oh, yes.

15 Q At times would CHILD3 stay with you?

16 A Yes, she did.

17 Q Did she also stay with her other parents,
18 Courtney and Antonio?

19 A Occasionally she would go spend the night or
20 weekend.

21 Q With them?

22 A Yes.

23 Q But most of the time she stayed with you?

24 A Yes.

25 Q Did you have a good relationship with

1 Ms. Thompson?

2 A Yes, I did.

3 Q Did you have a good relationship with
4 Mr. Guinyard?

5 A Yes, I did.

6 Q And during the period of time when CHILD3 was in
7 your care, did you pretty much take her for her
8 pediatric appointments, things of that nature?

9 A Yes, ma'am.

10 Q Did you provide clothes for her?

11 A Yes, ma'am.

12 Q And food?

13 A Yes, ma'am.

14 Q On occasion would you see the children?

15 A Yes, ma'am.

16 Q Were you aware that during a period of time in
17 little CHILD's life that he was in foster care?

18 A Yes, ma'am.

19 Q Were you also aware in April of 2012 that he was
20 returned to Mr. Guinyard and Ms. Thompson?

21 A Yes, ma'am.

22 Q And at that time when he first came back into
23 their home, do you remember what he looked like?

24 A Yes, ma'am.

25 Q Describe to this jury how he appeared.

1 A To me, he appeared to be a happy, healthy young
2 boy. He was just --- whatever, he was just a happy
3 little kid, just wanted to play and talk and he wanted
4 to drive a truck. He was just a happy child.

5 Q Did he appear to be well nourished?

6 A Oh, yeah.

7 Q Did you continue to observe little [CHILD] over
8 the next several months as he stayed in his parents'
9 care?

10 A Yes, ma'am.

11 Q I want to turn your attention specifically to the
12 Spring of 2013. Did [CHILD]'s appearance change?

13 A Yes, ma'am.

14 Q How did it change?

15 A He had lost a significant amount of weight. He
16 was like not active. He wasn't --- he wouldn't talk
17 to you as he was told to. He was just withdrawn.

18 Q At some point did you become aware of some
19 photographs that were provided to you that caused you
20 concern?

21 A Yes, ma'am.

22 Q And what photographs were those?

23 A Photographs that I received in February of 2013
24 showing bruises, beatings, bruises and stuff, scars on
25 his back.

1 Q Did you do anything to try to help little CHILD?

2 A Yes, I did.

3 Q And what did you do?

4 A I went to DSS several times. I went to Richland
5 County numerous times. I even took the pictures to a
6 pediatrician and she also --- after she saw the
7 pictures, she also called DSS while in my presence.

8 Q And what pediatrician was that, do you remember
9 her name?

10 A Dr. Lofton.

11 Q Did you ever observe CHILD eating food?

12 A There's been times when we dropped CHILD3 off or
13 picked CHILD3 up that we brought food, you know, to
14 the other kids, and other than that I haven't.

15 Q Did you ever see whether or not CHILD was going
16 to eat when he was around Courtney?

17 A I'm sorry, I didn't hear your question.

18 Q Would he eat food when Courtney was around?

19 A I never seen him.

20 Q I want to turn your attention to May or June on a
21 phone call you had with Courtney. Do you remember
22 that phone call?

23 A Yes, ma'am.

24 Q What was she upset about, about her life?

25 A She was overwhelmed with --- she had moved into

1 her house. She was overwhelmed about the bills and
2 life wasn't treating her fair and [CHILD] defecating on
3 himself.

4 You know, I talked with her and tried to get her
5 to take --- if it was --- if dealing with [CHILD] was
6 too much on her to try to get him some counseling or
7 if push came to shove and it got that bad, take him
8 back to DSS.

9 Q In fact, what did you advise her to do? Where
10 did you advise her to take him?

11 A I told her to call, like I said, to call DSS.

12 Q And did she indicate to you what she was going to
13 do with [CHILD] at that time in May or June?

14 A Well, in later conversation, she told me that she
15 did take him to the doctor.

16 Q She told you she took him to the doctor?

17 A Uh-huh.

18 Q Did she ever say she was going to take him back
19 to DSS because she couldn't handle him anymore?

20 A No.

21 Q Do you remember giving a statement to police
22 officers when this happened?

23 A Yes, ma'am.

24 Q And I believe you gave it to Investigator
25 Holdorf, I believe, with the sheriff's department

1 maybe?

2 A Yeah, the one off of Pineview Road.

3 Q The one on the lower side?

4 A Yes, ma'am.

5 Q And you gave that back on July 15th of 2013?

6 A Yes, ma'am.

7 Q Were things a little clearer in your mind at that
8 point?

9 A Yes, ma'am.

10 Q Okay. I just want to show you one line in your
11 statement about what she said to you when you had the
12 conversation about DSS.

13 Does that refresh you're memory?

14 (Pause.)

15 A Yes, ma'am.

16 Q What did she tell you she was going to do with
17 **CHILD** when she was complaining about how life didn't
18 treat her fairly?

19 A She said that she was going to get Antonio's
20 mother to take him and that Antonio's mother had took
21 him to get help.

22 Q To get help? And did you later find out if that
23 was true or not?

24 A It wasn't.

25 Q Were you aware that summer that she was pregnant?

1 A Yes, ma'am.

2 Q With what ended up being little CHILD 5 ?

3 A Yes, ma'am.

4 Q In fact, even though you made reports to DSS, did
5 you continue to remain, or try to remain friends with
6 her?

7 A Yes, ma'am.

8 Q Did you continue to try to help CHILD ?

9 A Yes, ma'am.

10 Q That summer at some point, did she contact you
11 about one of her other children, CHILD2 ?

12 A She did.

13 Q When was that?

14 A When she was in the hospital having CHILD 5 .

15 Q What was she asking you to do that day when she
16 contacted you about CHILD2 ?

17 A She asked me could I come get her because Antonio
18 wanted to come to the hospital, and I told her, yes, I
19 would.

20 Q Did she ask you to get CHILD ?

21 A No.

22 Q Did you have CHILD3 at that point?

23 A Yes.

24 Q Did you know where CHILD4 was at that point?

25 A Yes, ma'am.

1 Q Who had CHILD4?

2 A Ms. Kimberly Gooden.

3 Q Ms. Gooden?

4 A Uh-huh.

5 Q But she just asked you to take CHILD2?

6 A Yes, ma'am.

7 Q At that point, did you agree?

8 A Yes, ma'am.

9 Q Do you remember what day of the week this was?

10 A It was the 29th when she called me and I went to
11 pick CHILD2 up.

12 Q And where did you go to pick up CHILD2?

13 A To her house, to Courtney's house, on
14 Beaverbrook.

15 Q On Beaverbrook. Had you been there before?

16 A Uh-huh.

17 Q And once you got to Beaverbrook, tell the jury
18 what you observed?

19 A Antonio was waiting on me.

20 Q When you say Antonio, I'm sorry, is this Antonio?
21 (indicating)

22 A Yes, ma'am.

23 Q Please continue, I'm sorry. I didn't mean to
24 interrupt.

25 A He was waiting on me to pick her up. I didn't

1 even have --- all I did was just open the door for her
2 because he had already had her outside.

3 Q Did he know exactly what time you were coming?

4 A Uh, unless ---

5 Q Had you spoken to him?

6 A No, I hadn't spoken to him.

7 Q But he was outside with CHILD2 ?

8 A Yes, ma'am.

9 Q Did you see CHILD that day?

10 A No, I didn't.

11 Q When was the last time you had ever laid eyes on
12 CHILD, you yourself?

13 A It was towards the end of maybe --- in 2012.

14 Q Before Easter?

15 A Before Easter, yes.

16 Q Before Easter of that same year?

17 A Yes, ma'am.

18 Q So it's would have been at least a couple months
19 before that?

20 A Yes, ma'am.

21 Q That's the last time you ever laid eyes on

22 CHILD ?

23 A Yes.

24 Q That day when you went over there, did you even
25 know CHILD was still in the house?

1 A Oh, no.

2 Q But she never asked you or Antonio never asked
3 you to take him, too?

4 A No.

5 Q How long were you planning on keeping CHILD2,
6 as well as CHILD3 at your house?

7 A Well, just until Courtney came home with the
8 baby, and the plan was to take her back when she came
9 home.

10 Q And you were going to keep CHILD3?

11 A Uh-huh.

12 Q Over the course of the next couple of days ---

13 A Yes, ma'am.

14 Q --- did you become aware that she had given birth
15 to CHILD 5?

16 A Yes, I did.

17 Q Did you actually have contact with her over the
18 next couple of days?

19 A Yes, I had spoken with her.

20 Q Did you know exactly when she was coming home
21 from the hospital?

22 A Yes, ma'am. It was on --- on the 1st --- it was
23 a Monday.

24 Q On the first?

25 A Uh-huh.

1 Q And you were going to keep CHILD2 at least
2 until the next day?

3 A Yes.

4 Q And why was that?

5 A So she could slowly get settled in with the new
6 baby. I told her I would just keep CHILD2 with me
7 for another night so she could get settled in, you
8 know, with her just coming home from the hospital with
9 the new baby.

10 Q When was the next time you remember finding out
11 anything about Courtney, Antonio, or little CHILD?

12 A My nephew called me one night, that night, and
13 said that little CHILD was dead. I didn't really
14 believe him. I just thought he was just acting silly
15 or playing. I didn't believe it. I start calling
16 Courtney's phone. I texted Courtney's phone, and I
17 never got a response back from Courtney.

18 Q Did you talk to any other family members?

19 A Yes, ma'am, her sister, Melissa, called me and
20 she said ---

21 MR. LI: Objection, hearsay.

22 MS. CAMPBELL: Not offered for the truth of the
23 matter asserted.

24 THE COURT: I'll allow it.

25 MS. CAMPBELL: Thank you.

1 BY MS. CAMPBELL:

2 Q You can say what she said.

3 A She said, "Ms. Angela, he's gone, he's gone."

4 Q And that was on the evening of the 1st?

5 A Yes, ma'am.

6 Q The next day, did you have contact with either
7 Courtney or Antonio?

8 A Courtney called me early that morning and asked
9 me could I come pick her and Antonio up because they
10 were at her mother's house.

11 Q Where did her mother live?

12 A Allen Benedict Court.

13 Q Did Courtney tell you why she wanted you to come
14 pick her up that morning?

15 A She said that she couldn't deal with all the
16 crying and everybody was so upset.

17 Q What did you agree to do?

18 A I told her that I would be there --- when she
19 called, it was early morning like three something was
20 early morning. I told her I would come about eight
21 and I went to go get her.

22 Q Where did you pick her up?

23 A I picked it up from her sister Melissa's house,
24 which was Allen Benedict Court, as well.

25 Q Which sister was that?

1 A Crystal.

2 Q When you got there when you picked her up, was
3 she alone?

4 A No.

5 Q Who was with her?

6 A Her and Antonio was the other one.

7 Q And at that point did she indicate where she
8 wanted to go?

9 A She just got in the car. When she got in the
10 car, we just drove and we parked because she was so
11 flustered, and I took her to get something to eat, and
12 the investigator called and told me that she needed to
13 come back to Beaverbrook.

14 Q That was that afternoon?

15 A Yes.

16 Q But that was later that afternoon?

17 A Uh-huh.

18 Q So that morning you just went and took them to
19 get something to eat?

20 A Uh-huh.

21 Q And then you all just stayed in the car?

22 A Uh-huh, yes, ma'am.

23 Q Was anybody else with you?

24 A It was me, my mother, and my daughter-in-law.

25 Q During the time period, did you ever ask her what

1 had happened?

2 A Yes, ma'am.

3 Q Did she respond?

4 A No, ma'am.

5 Q Did either of them respond?

6 A No, ma'am.

7 Q Once she got the phone call from the sheriff's
8 deputy, did she ask you to take her somewhere else?

9 A She asked me to take her to Beaverbrook.

10 Q Beaverbrook?

11 A Yes, ma'am.

12 Q And that's where she lived?

13 A That's where she lived, yes, ma'am.

14 Q What did you do?

15 A We went to Beaverbrook and once we got there, the
16 officers and the investigators was already there at
17 the house, and we parked and she got out.

18 Q What did Antonio do?

19 A Went to the --- she told him to go to the store
20 down the street. That's where I took him to, the
21 store down the street.

22 Q That's the store right there on Fairfield Road?

23 A Yes, ma'am.

24 Q Once he got to the store down the street, did he
25 get out?

1 A Yes, ma'am.

2 Q As far as you know, where did you see him go?

3 A He was just going towards the store like he was
4 going to any store.

5 Q Where did you go at that point?

6 A I went back to Beaverbrook.

7 Q What were you waiting on there?

8 A Waiting on Courtney to finish with the
9 investigators.

10 Q Okay, and after a little bit of time, did she
11 come out?

12 A After a little bit of time, she came out. She
13 got in the car in one of the vehicles of one of the
14 investigators. She called me and told me that they
15 were taking her to the sheriff's department to discuss
16 the autopsy report to her --- with her, and could I
17 come pick her up in about two hours or so.

18 Q Did you agree to do that?

19 A Yes, ma'am.

20 Q At this point, you're helping her?

21 A Yes, ma'am.

22 Q And where were the children? They weren't with
23 you, were they?

24 A No.

25 Q They were back at the house?

1 A Yes, ma'am.

2 Q And someone else was taking care of them?

3 A Yes, ma'am.

4 Q Did she then leave this scene with one of the
5 investigators or did you take her to the sheriff's
6 department?

7 A No, ma'am, she left the scene with one of the
8 investigators.

9 Q Once she left the scene where did you go?

10 A I went back to the store where I had dropped
11 Antonio off to. He got back in the car, and we left
12 from over --- from the store.

13 Q Uh-huh.

14 A And in the process of doing that, Courtney called
15 and asked me was he still with me, and I told her yes.
16 She asked me could I bring him to the sheriff's
17 department because they needed him to come sign some
18 papers, as well, so I took him to the sheriff's
19 department.

20 Q Once you took him to the sheriff's department ---
21 and is that the one on Two Notch?

22 A Yes, ma'am.

23 Q Did he get out?

24 A Yes, ma'am.

25 Q Where did you go?

1 A I left and went back home.

2 Q And was the plan for you to pick up anybody later
3 or were you just allowed to go home?

4 A Well, Courtney had asked me to pick her up when
5 she left Beaverbrook with the officer, the
6 investigator. She asked me could I come in about two
7 hours or so because it shouldn't take that long to
8 pick them up. I picked her up. I was like yes, I
9 would, just call me.

10 Q But they never called?

11 A But they never called.

12 Q Is that the last time you had any direct contact
13 with Courtney?

14 A Yes, ma'am.

15 Q Or Antonio?

16 A Yes, ma'am.

17 Q At any point when CHILD was alive, did you offer
18 to help out with him?

19 A Yes, ma'am.

20 Q Would she let you? Would either of them let you?

21 A No. And he never went --- as far as my
22 knowledge, with anyone. He was always with Courtney.

23 Q And were you aware that Antonio lived with
24 Courtney, too?

25 A Uh-huh.

1 MS. CAMPBELL: Thank you, Your Honor. I don't
2 have anything further.

3 MR. LI: Thank you, Your Honor. May it please
4 the Court.

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION:

7 BY MR. LI:

8 Q Good afternoon, Ms. Metze.

9 A Good afternoon.

10 Q Thank you for being here.

11 A You're welcome.

12 Q I guess that I'm going to start off with the
13 statement that was referenced earlier. You gave a
14 statement to Investigator Holdorf back on July 15th
15 of 2013, correct?

16 A Uh-huh.

17 Q And when you spoke with them, you were calm?
18 Were you pretty calm, in the right state of mind?

19 A Yes, sir.

20 Q And you swore to tell the truth?

21 A Yes, sir.

22 Q And you would answer questions as best you could,
23 right?

24 A Yes, sir.

25 Q And you do know Courtney Thompson, correct?

1 A Yes, sir.

2 Q You know her well?

3 A Uh-huh.

4 Q And you know Antonio?

5 A Yes, ma'am --- yes, sir.

6 Q That's okay. When Investigator Holdorf asked you
7 the question, most of the stuff that you testified to
8 on direct earlier, it made it seem like you were
9 referring to both parents, right?

10 A Yes, sir.

11 Q But when Investigator Holdorf asked you the
12 question, and he said, "Have you seen Courtney or
13 Antonio mistreat any of the kids?" do you remember him
14 asking you that?

15 A Uh-huh.

16 Q And you responded that she would cuss them out,
17 especially CHILD, correct?

18 A Uh-huh.

19 Q In fact, your entire statement referenced
20 Courtney, correct? Would looking at your statement
21 help refresh you're memory?

22 A Yes, sir.

23 (Pause.)

24 Q And so the answer to the question --- do you
25 remember your answers now?

1 A Yes, sir.

2 Q Were they in reference to Courtney?

3 A Yes, sir.

4 Q And you never mentioned Antonio?

5 A No, sir. He asked me about when I would go to
6 the residence, would I see him. I told him yes, that
7 he would be there. He would speak.

8 Q He would speak?

9 A Yeah.

10 Q You've never seen Antonio beat CHILD before,
11 right?

12 A No, sir.

13 Q In fact, you actually never seen Courtney beat
14 CHILD before?

15 A No, sir.

16 Q But you have heard Courtney cuss at Antonio
17 before?

18 A Yes, sir.

19 Q You've seen her verbally abuse him?

20 A Yes, sir.

21 Q You've never heard Antonio?

22 A No, sir.

23 Q And through your relationship with them, you
24 would know when --- you would talk to Courtney quite
25 often?

1 A Yes, sir.

2 Q And you would know what's going on in her
3 personal life?

4 A To a certain degree.

5 Q To a certain degree. You would know that her and
6 Antonio aren't always together?

7 A Yes, sir.

8 Q That they would have breakups?

9 A Right.

10 Q A lot of breakups?

11 A I wouldn't say a lot of breakups, but they would
12 have breakups.

13 Q Breakups, okay. And there were times --- were
14 there times when you would know when Courtney was
15 seeing other people?

16 A When ---

17 MS. PINNOCK: Objection, Judge. Relevance.

18 MR. LI: It's going to go towards whether or not
19 Antonio was in the house continuously in 2012.

20 MS. PINNOCK: Your Honor, if we could approach
21 instead of speaking?

22 THE COURT: Okay.

23 (WHEREUPON, a bench conference held in the
24 presence, but not within hearing of the jury.)

25 THE COURT: Objection overruled.

1 BY MR. LI:

2 Q Have you known Courtney to be dating other
3 people?

4 A As far as ---

5 Q After Antonio? If you don't, it's okay.

6 A I don't know; I can't really say for sure.

7 Q Sure. I want to talk to you about this text
8 message on the day of July 1st. It was nighttime when
9 you got that text message?

10 A When ---

11 Q When you sent the text message?

12 A When I sent the text message.

13 Q It was dark?

14 A It was dark.

15 MR. LI: No further questions.

16 THE COURT: Cross?

17 MS. PINNOCK: Very briefly, Your Honor.

18 CROSS-EXAMINATION:

19 BY MS. PINNOCK:

20 Q Ms. Metze, when you met with Investigator
21 Holdorf, you provided him your contact information so
22 he could get back with you, right?

23 A Yes, ma'am.

24 Q Just in case he had any other questions that you
25 could help him out with?

1 A Yes, ma'am.

2 Q And when you went to you pick up --- who did you
3 go to pick up, CHILD3 or --- you picked up CHILD2?

4 A Yes, ma'am.

5 Q On June 29th?

6 A Yes, ma'am.

7 Q Courtney was already in the hospital?

8 A She was already in the hospital, yes.

9 Q Robert Guinyard met you outside?

10 A Yes, ma'am.

11 Q So you never went inside the house?

12 A No, ma'am.

13 Q You didn't go inside on June 30th?

14 A No, ma'am.

15 Q And you weren't there July 1st?

16 A No, ma'am.

17 MS. PINNOCK: Thank you.

18 THE COURT: Ms. Campbell?

19 MS. CAMPBELL: Just briefly, Your Honor.

20 REDIRECT EXAMINATION:

21 BY MS. CAMPBELL:

22 Q Just to be clear, Antonio was at the house when
23 you went and picked up CHILD2?

24 A He was at the house, yes, ma'am.

25 Q And that's the house on Beaverbrook?

1 A Yes, on Beaverbrook.

2 Q And that's where you picked up CHILD2 ?

3 A That's correct.

4 Q And defense counsel for Mr. Guinyard asked if you
5 had any information or had told the police about
6 Antonio beating the child or anything about him?

7 A Uh-huh.

8 Q In fact, you did give them information that you
9 had that was not admissible before about Antonio and
10 the child; is that correct?

11 A Yes, ma'am.

12 Q And specifically --- you can't go into specifics,
13 but is that about how Antonio beat the child?

14 A Yes.

15 Q Thank you.

16 THE COURT: Recross?

17 RECROSS-EXAMINATION:

18 BY MR. LI:

19 Q Have you ever seen Antonio beat this child?

20 A Have I ever seen it?

21 Q Yes.

22 A No.

23 MR. LI: No.

24 THE COURT: Ms. Pinnock.

25 MS. PINNOCK: Nothing further, Your Honor.

1 THE COURT: All right. Thank you, ma'am. You
2 may step down.

3 Call your next witness.

4 MS. McDUFFIE: If it pleases the court, the State
5 calls Investigator Brian Metz.

6 THE COURT: All right, sir. Please come forward
7 and be sworn.

8 BRIAN METZ,
9 after being duly sworn, testified as follows:

10 THE WITNESS: Brian Metz, M-E-T-Z.

11 DIRECT EXAMINATION:

12 BY MS. McDUFFIE:

13 Q Investigator Metz, where are you employed?

14 A I'm employed with the Richland County Sheriff's
15 Department.

16 Q What are your duties with the Richland County
17 Sheriff's Department?

18 A I'm currently assigned to the technical services
19 unit of the criminal investigative division.

20 Q How long have you been with the sheriff's
21 department?

22 A Next months will be 32 years.

23 Q As an investigator with the technical services
24 unit, please tell the ladies and gentlemen of the jury
25 what you do every day.

1 There are several different things that we do.
2 Most of these are done at the request of either
3 investigators or a uniform officer that's having a
4 problem at some type of crime scene. We'll install
5 security systems, cameras. We'll go to incident
6 location occasions and pull video from a store,
7 convenience stores, or location. We also will make
8 the media release clips that you see on WIS or
9 anywhere, those usually come from our division.

10 In addition to that, we do both computer
11 forensics and cell phone forensics.

12 Q And specifically in this case, were your asked to
13 do cell phone forensics pursuant to a search warrant
14 back in July of 2013?

15 A I was.

16 Q And please describe for the jury, when you
17 receive a phone or a computer, but specifically in
18 this case a phone, what do you do to it or with it in
19 order to gain information?

20 A In both incidents, we use a device by a company
21 called Cellebrite. The device is called a UFED. It's
22 a forensic extraction device. There's two ways of
23 extracting phone data. The simple method is that the
24 device extraction inputs it into a report itself.
25 When you do that, you're usually getting the basic

1 data and all off the phone.

2 You can also use the UFED to do a full physical
3 download of every bit of information on the phone.
4 What you're doing there is basically acquiring all
5 that. Once you have all that, you would put it into a
6 computer system that's Windows based, using software
7 by Cellebrite, which is called Physical Analyzer. It
8 would then take that data file off and create a
9 report.

10 Q So when you say you extract the data, do you do
11 anything to manipulate it, change it, delete, add,
12 doctor it in any way?

13 A We do nothing to the data.

14 Q The information or the data you get is contained
15 from what source?

16 A From the phone itself. There is either a memory
17 chip and sometimes there's also a removable SD card,
18 the small chip that you will see that will be in the
19 phone and with the Cellebrite, some phones can get
20 both information.

21 Q So depending upon what type of phone it is and
22 whether or not your software is compatible is whether
23 or not you can extract the information or get the
24 data?

25 A That's correct.

1 Q When you extract the data, does it modify the
2 data or change it in anyway?

3 A It does not change the data.

4 Q All you're able to extract is what's actually
5 stored in the phone itself?

6 A That's correct.

7 Q In this case, in July of 2013, were you given a
8 phone by Investigator Holly Wagner pursuant to a
9 search warrant and asked to see if you could retrieve
10 any information from it?

11 A I was. This is the phone.

12 Q And what type of phone is that?

13 A It is a Motorola. I don't recall the model
14 number, but a Motorola Verizon phone.

15 Q In July of 2013 could you --- or the software at
16 the sheriff's department, could that data be
17 extracted?

18 A I was not able to get the phone to connect with
19 the Cellebrite UFED machine, so I was not able to
20 download it at that time.

21 Q After that date, did Richland County acquire new
22 information --- or, rather, new software or hardware?

23 A Basically at the beginning of the year, we had
24 ordered and purchased the newer model of the UFED
25 device, which I have found to be a lot more meaningful

1 to connecting to some of the phones.

2 Q So it has newer software, newer updates?

3 A It does.

4 Q And is it compatible with newer phones?

5 A It does, correct.

6 Q After the sheriff's department acquired that
7 device, were you requested to see if the phone would
8 work with that device?

9 A I was.

10 Q And did you attempt or plug the phone in to see
11 if it would even potentially possibly work?

12 A I did, at the request of Investigator Holdorf and
13 saw that the phone would connect to the new device.

14 Q After you connected the phone to the new device,
15 did you extract or view or look at the data in anyway?

16 A I did not.

17 Q Then was a search warrant obtained for that
18 phone?

19 A It was.

20 Q Pursuant to that search warrant, did you then
21 extract the information available from that phone?

22 A I did. I went through the two step process of
23 doing a physical analyzer dump. The first process was
24 using the machine to actually create the digital file
25 of the memory and then load it into the Windows

1 computer which then created the report.

2 Q I'm going to show you what's been marked as
3 State's Exhibit 250.

4 A Yes, ma'am.

5 Q Is that the report of the information you were
6 able to obtain from that cell phone?

7 A This is a print out of the digital report of this
8 phone.

9 Q Everything that's contained in that report is
10 what is stored on the hard drive or on the SD card in
11 that phone?

12 A That's correct.

13 Q Has it been modified, altered, changed, deleted,
14 or tampered with in any way?

15 A In no way.

16 Q It is an exact hard copy of what's in that phone?

17 A It's a digital print out of what's in that phone,
18 that's correct.

19 MS. McDUFFIE: Your Honor, at this time we'd
20 offer State's 250.

21 MR. STAGGS: Your Honor, we have a matter of law
22 regarding this.

23 THE COURT: Regarding this?

24 MR. STAGGS: Yes, sir.

25 THE COURT: All right. Approach.

1 Ladies and gentlemen, stand up, stretch, talk
2 amongst yourselves.

3 (WHEREUPON, there was a bench conference in the
4 presence, but not within hearing of the jury.)

5 THE COURT: All right. Thank you, ladies and
6 gentlemen.

7 I overrule your objection. You can put the
8 reasoning on the record in a little bit.

9 Go ahead. So State's 250 admitted over defense
10 objection.

11 (WHEREUPON, State's Exhibit Number 250 was
12 admitted into evidence.)

13 BY MS. McDUFFIE:

14 Q After you create that report, you don't do
15 anything to analyze it or interpret it in anyway?

16 A I can, but in this case, it was all turned over
17 to Investigator Holdorf. He then reviewed the report.
18 We communicated later and said he needed nothing else
19 from me. That was the end of my involvement.

20 MS. McDUFFIE: Thank you, Your Honor. No further
21 questions.

22 THE COURT: Cross?

23 MR. LI: Thank you, Your Honor.

24 CROSS-EXAMINATION:

25 BY MR. LI:

1 Q Investigator Metz, what was the name of the
2 software that you use to extract the data?

3 A The software itself?

4 Q Yes, sir.

5 A For the Windows computer?

6 Q To extract --- to get the phone dump?

7 A Like I said, there are two pieces. One is a
8 piece of hardware.

9 Q Okay.

10 A That's the Cellebrite UFED.

11 Q Right.

12 A Once you get the data file from there, then you
13 put it into software that's called Physical Analyzer,
14 which is also by Cellebrite.

15 Q Right. And this software, which version were you
16 using?

17 A It's 3.95.192.

18 Q That is for the hardware or software?

19 A That is for the software.

20 Q Okay. How about the hardware?

21 A The hardware, I can tell you was 3.0.5.14.

22 Q Okay. Have you had training with Cellebrite
23 before?

24 A I have.

25 Q How many times previously have you used this

1 technology to download phones --- to do phone dumps?

2 A I would estimate in excess of 800 times.

3 Q To use this same program?

4 A To use the same program? That was a new program
5 so I couldn't say. It's very similar to the previous
6 program. It's just an updated model, and the updated
7 model, like I said, was 800 plus.

8 Q With this model. Not this version of the
9 software, how many times have you extracted phones?

10 A I couldn't say. It was fairly new, so maybe 100
11 to 200.

12 Q Have you had training with this new version?

13 A No, sir.

14 Q Are you qualified to interpret the data that's
15 extracted from the cell phone?

16 A It depends on the data. Most of the data is
17 self-explanatory as far as how it's printed out. It's
18 printed out into a PDF, and it's self-explanatory.
19 There's data on the phone that, because of some of the
20 forensics schools I've been to, I'm able to withdraw
21 it off of there into a report and interpret it.

22 Q So you basically just --- you take whatever the
23 software prints out, you take what it says at face
24 value?

25 A Correct.

1 Q You take the timestamp at face value?

2 A Correct.

3 Q You take the order that it is printed at face
4 value?

5 A Correct.

6 Q Okay. I'm going to show you the same 1200 pages
7 and I'm going to show it to you on my iPad. Okay.

8 If you scroll through that, tell the court if
9 that looks familiar. It should be 1200 some odd
10 pages.

11 A You want me to scroll through all 1200?

12 Q Well, just until you're satisfied that's the
13 same?

14 (Pause.)

15 A Well, I mean, it looks like it's a UFED report,
16 an analyzer report, yes, sir.

17 Q And it's your testimony that the time stamps are
18 accurate?

19 A The time stamps would be accurate based on what
20 the phone is and what the report did, yes, sir. The
21 report only knows what the phone tells it.

22 Q Okay. So you're saying the time stamps on the
23 report are exactly what the phone has? The data
24 that's on the phone is on the report?

25 A I'm not sure of the confusion here.

1 Q My ---

2 A Yes, sir, they're the same --- they may look
3 different because the report is going to be reported
4 as uniform time code.

5 Q That's right.

6 A So the phone may actually show it as Eastern
7 Standard Time and then you can calculate backward from
8 uniform time code.

9 Q How do you do that?

10 A By subtracting, depending on the time zone and
11 Daylight Savings Time.

12 Q For eastern time?

13 A That's right.

14 Q How many hours do you subtract?

15 A I didn't go back to look, but it would be either
16 four or five hours.

17 Q Right, and the order in which things appear, you
18 believe that they appear in order?

19 A I'm not sure what you ---

20 Q Sequentially. You believe that the way the data
21 is printed, it is organized by time stamps?

22 A In --- it depends on the section of the report.

23 A Correct. And there is a section --- there's
24 there is one section that breaks it down to incoming
25 phone calls.

1 A That's right.

2 Q Outgoing phone calls?

3 A Well, there again, I didn't go through this
4 report in detail, but on some phones it will put it in
5 chronological order so you will have the incoming call
6 and then the outgoing call. On some phones, the
7 report will show all the incoming and then show all
8 the outgoing.

9 Q If you will take a scroll through the iPad, you
10 will notice there is a section for 800 phone calls,
11 correct?

12 A On the call logs, this one is separated by
13 incoming and outgoing.

14 Q Correct. Then, if you scroll further down, I
15 believe, it's probably around page 312 ---

16 A What am I looking for, sir?

17 Q Just letting you know that there is a section
18 that breaks it down from incoming text messages and
19 then outgoing text messages, correct?

20 A I haven't seen that, but...

21 MS. McDUFFIE: Your Honor, I believe the witness
22 testified that he prepared the report and gave it to
23 Investigator Holdorf, and that he hasn't analyzed it
24 or done anything with it. I don't know what testimony
25 Mr. Li is trying to ---

1 BY MR. LI:

2 Q Is Investigator Holdorf qualified to interpret
3 this report?

4 THE COURT: Your Honor, objection to the
5 question.

6 THE COURT: Sustained.

7 THE WITNESS: I'm not sure what section you want
8 me to look at.

9 BY MR. LI:

10 Q I'm going to show you page 312. This is the
11 section. That section is a break down of incoming
12 text messages, correct?

13 A I would have to see the header, but those do
14 appear to be incoming text messages.

15 Q And on a portion of it, it says --- on one of the
16 columns it says network time and device time, correct?

17 A That's correct.

18 Q Those times don't add up? Those times aren't the
19 same, correct?

20 A That's correct.

21 Q And on some of them, it looks like there is four
22 hour's difference in time, correct, between network
23 time and device time? I'll focus you to line 867.

24 A I see that all the others are that way, yes, sir.

25 Q Excuse me?

1 A I see that most of them are that way.

2 Q Most of them are off, correct?

3 A It shows a network time and device time, that's
4 correct.

5 Q There is a network time and a device time. Let's
6 look at 867. I want to draw your attention to line
7 867.

8 A That's correct.

9 Q What's the time differential between network time
10 and device time?

11 A Network time is shown as 2:43 p.m. UTC and device
12 is showing 6:42.

13 Q Say that one more time.

14 A 2:43 and 6:42.

15 Q Give us the date?

16 A What entry was that again?

17 Q 867.

18 A Both showing as 3:31 on 2013.

19 Q 3:31, 2014. Give me the network time?

20 A The network time is 2:42:23. Device time is
21 6:42:46.

22 Q All right. 2:42 p.m. or a.m.?

23 A P.M. on both.

24 Q P.M. All right. The other one was what six ---
25 the device time?

1 A 6:42.

2 Q Yes.

3 A 6:42:46.

4 Q What about the second, p.m. right?

5 A That's right.

6 Q So approximately four hours. Take a look at line
7 748.

8 A It shows both on 4/9/2013 network at
9 12:30:19 p.m., device at 4:32:07 p.m.

10 Q Okay. So now it's off by about four hours and
11 two minutes, right?

12 A Those two times are.

13 Q Okay. Now I want to focus you on line 872?

14 A That's on 3/30/2013, with network at 8:30:08 and
15 device at 1:15:48.

16 Q I'm sorry. Read it to me one more time.

17 A 1:15:48.

18 Q 1:15 ---

19 A And that's a.m.

20 Q That's a.m. What's the date on that?

21 A 3/31. The network was 3/30 at 8:30 p.m.

22 Q The network time was --- the date of the network
23 time was 3/31?

24 A The network time is --- we're talk about 872?

25 Q Yes.

1 A The network time was 3/30/13 at 8:30:08 p.m.

2 Q 8:30 p.m. okay.

3 A And the device time was at 8:31 at 1:15:48 a.m.

4 Q 1:31 a.m. on the next day, right? 3/31?

5 A 3/31, 1:15:48.

6 Q The 1:15 --- just --- you don't need to read the
7 seconds. 1:15. So that's approximately a difference
8 of four hours and 45 minutes, correct?

9 A That's correct.

10 Q Okay. Take a quick scroll to line 19 while
11 you're here.

12 You can use the hard copy if it's easier for you.

13 A On line 19.

14 Q 919?

15 A Let me look at it.

16 (Pause.)

17 Okay, so 919.

18 Q 919.

19 A It just shows a network time.

20 Q So there is a time when there is no device time?

21 A That's correct.

22 Q And look at line 920?

23 A There is just a device time.

24 Q No network time on that?

25 A That's right.

1 Q And on line 635, tell me the network time for
2 635?

3 A The network time is 4/20 of 2013 at 7:18 p.m. the
4 device time is shown as 9/6/70 at 1:15 p.m.

5 Q So the device time is showing September 6, 1970,
6 yeah, 1970?

7 A That's correct.

8 Q And what's the device time on that one?

9 A 1:15 p.m.

10 Q 1:15 p.m. and the last one, I promise. Look at
11 line 13.

12 A 913?

13 Q No, I'm sorry. Line 13. Just line 13. It
14 starts at 3/12. Tell me the incoming time, the
15 network time for that?

16 A The network time is 7/1/2013 at 9:08 p.m.

17 Q 9:08 p.m.?

18 A Yes, and the device time is 7/2.

19 Q Oh, it's 7/1/13. All right?

20 A And the device time is 7/2/2013 at 3:01 a.m.

21 Q 3:01 a.m. okay. That's a difference of how many
22 hours?

23 A I have to calculate it. That was six.

24 Q Seven.

25 A Seven. Well.

1 Q Oh, that's fine. Ten, eleven, twelve, one, two,
2 three, six, six hours, so there is six hours
3 difference on that one?

4 A That's correct.

5 Q What's the explanation for the varying times
6 between the network and the device?

7 A You would have to ask somebody that deals with
8 the network.

9 Q You don't know that?

10 A I do not know that.

11 Q You don't know that?

12 A No, I have not looked at it or checked on it, so
13 I don't know.

14 Q I promise you this part is going to be quick,
15 okay. Scroll to the outgoing text messages. That's
16 right at page 354.

17 (Pause.)

18 Just let me know when you're there. I'm sorry
19 this is slow.

20 A 354?

21 Q Yes, sir.

22 A Okay.

23 Q Just start with the outgoing text messages.

24 A Okay.

25 Q Just take a look at all of them. Not all of

1 them?

2 THE JUROR: Please.

3 BY MR. LI:

4 Q Take a quick look at a times between the network
5 and the device for the outgoing text messages?

6 A Yes, sir.

7 Q What's the approximate difference between network
8 and device time?

9 A They appear to be the same.

10 Q They appear to be the same?

11 A Correct.

12 Q Correct, and their listed this as UTC time,
13 correct?

14 A That's correct.

15 Q Scroll down so you can take a few more samples.
16 The outgoing looks the same, correct?

17 A They do.

18 Q What's the explanation for that?

19 A I would not want to guess. That would be
20 something that a network administrator for the cell
21 phones would need to answer.

22 Q So when you testified earlier that the --- if ---
23 there is a section of the report that's not printed
24 out by incoming and outgoing. There is actually a
25 chronological order one, correct?

1 A That's correct.

2 Q So when you have the chronological order one, you
3 believe that that sequence of events is accurate?

4 A Correct.

5 Q That's your belief?

6 A Yes, sir.

7 Q I want to draw your attention to page 715 and
8 page 716, okay. When they're printed out, they print
9 out in backwards numbers, okay.

10 A Uh-huh.

11 Q Without reading the name or the number of who it
12 is, okay, I'm going to ask you to read the text
13 messages all from the same person, okay, starting from
14 this line and start. Go to finish only from her ---
15 from this number. It doesn't matter who it is.

16 THE JUROR: Oh.

17 MS. McDUFFIE: Your Honor, I think we need to lay
18 a foundation before we do this and also to the
19 relevance.

20 THE COURT: Approach.

21 (WHEREUPON, a bench conference was held in the
22 presence, but not within hearing of the jury.)

23 BY MR. LI:

24 Q Starting on line --- starting on line 295, if you
25 would read --- What does that line say?