

STATE OF SOUTH CAROLINA
IN THE 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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VOLUME III OF V

PAGES 1001-1500

RECEIVED

Mar 05 2026

S.C. SUPREME COURT

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1 A "Hey, this is Angel. My phone was off. Did you
2 call me yesterday."

3 Q Read the next one. Sequentially for the next
4 one.

5 A The next one is, "No."

6 Q Okay. Keep going. And these are --- these are
7 incoming text messages, right?

8 A I believe so, yes.

9 Q Okay. There is an incoming message from this
10 Angel person and it says, "No."?

11 A That's right.

12 Q And the timestamp on the first line that you read
13 is what?

14 A It's 3/29/2013, at 11:05.

15 Q 11:05. Okay. The next one that comes in is what
16 time?

17 A at 1:12.

18 Q 1:12 and it's still an incoming message, correct?

19 A That's correct.

20 Q What does it say?

21 A "No."

22 Q The next one is an incoming message?

23 A That's correct.

24 Q Okay.

25 A That's at 1:15. "Not busy, what's good."

1 Q That's all incoming from the same person,
2 correct?

3 A From Angel, yes.

4 Q Keep going?

5 A At 2:37 on the 29th, "No response. I would
6 assume you straight then. I hate to be ignored, ugh."

7 Q Keep going.

8 A At 4:44 on the 29th.

9 Q Incoming or outgoing?

10 A That is outgoing.

11 Q Okay.

12 A "No, but are you busy today?"

13 Q All right. Next line. Which line are you on?

14 A 2954. Actually, that one is not from the same
15 number.

16 Q Okay.

17 A The next one from the same number is 2953 and,
18 "It's my fault."

19 Q Okay. All right. The line before that is an
20 incoming?

21 A "The one on North Main by Piggly Wiggly."

22 Q The one above that is an incoming call ---
23 incoming text.

24 A "I will, but they don't deliver."

25 Q The next one above that is incoming, 2950?

1 A "On my way. They don't deliver out here either.
2 Is ten a fair price?"

3 Q The one before that 2949?

4 A 2949 is, "On my way."

5 Q That's an incoming, correct, from the same
6 person?

7 A That's correct.

8 Q 2948 says?

9 A "It's okay."

10 Q So --- I want to ends this torture here. There
11 is a serious --- it's listed chronologically, correct?

12 A According to the times on there, yes.

13 Q According to the times on there, this is listed
14 chronologically?

15 A That's right.

16 Q Okay. And just from the few lines that you've
17 read, you've read --- you've read seven --- seven
18 incoming text message and one outgoing text message,
19 correct?.

20 A That's correct.

21 Q The times are listed, and granted they're listed
22 in UTC time, but they are listed chronologically,
23 correct?

24 A That's correct.

25 Q So this report purports that the text messages

1 that come in are in chronological order, correct?

2 That's what the report says?

3 A It's shows the time that the phone received it in
4 that order.

5 Q Right. So the printed out version is putting it
6 n that order, correct?

7 A Correct.

8 Q Okay. So as far as the time stamps go, are you
9 confident that the time stamps are accurate?

10 A I wasn't going by the device time stamps and
11 network time stamps that you are talking about, I was
12 going by the time stamp on the phone, or the text
13 message itself. Now, I'm confident those are correct.
14 Are there may always be things where either the phone
15 or the network didn't read. That's where you get
16 those things like the 1978.

17 Q Correct. But the sequence in which text messages
18 come in are not in order, correct?

19 A There may be a --- no, they're in order. You may
20 have to go and look at each time on each one and put
21 them in order.

22 Q But the times are listed chronologically on the
23 report?

24 A That's correct.

25 Q Correct, so you really don't have to go back and

1 put them in order. You just read them, right?

2 A Well, I would check them to be sure. Yes.

3 MR. LI: No further questions.

4 THE COURT: Cross?

5 MR. STAGGS: Thank you, Your Honor.

6 CROSS-EXAMINATION:

7 BY MR. STAGGS:

8 Q Investigator Metz, I just have very few things.
9 First, the first time you attempted to dump the phone,
10 that was unsuccessful?

11 A It was unsuccessful in the attempt to connect the
12 phone to the device.

13 Q Can you explain that? Is it as simple as a
14 cable?

15 A This phone, like many phones, it's just a cable.
16 You have --- on some phones, you can actually do it
17 through blue tooth, but on this phone it's the cable
18 is the same cable that you --- it's the same location
19 plug in where you charge the phone, but on most
20 Android phones that acts also as the data connection.

21 With different phones, because of the way the
22 system is on them and that type of stuff, sometimes
23 they just will not connect and then there are some
24 phones where the technology from Cellebrite and other
25 companies have just not caught up to the newer phones

1 as being able to connect to them.

2 Q Okay. So the first one was in July of 2013?

3 A That's correct.

4 Q And then April of this year?

5 A That's correct.

6 Q And the basis for that was that the sheriff's
7 department got new software?

8 A That's correct.

9 Q Okay.

10 A Actually, we got a new device. The software, you
11 know, I'd update periodically. Cellebrite puts out
12 new versions of software and we update.

13 Q Okay.

14 A You do the same with the software that's built
15 into the device, but after the first of the year we
16 got an actual new device.

17 Q Okay. When was the software updated before?

18 A That would have been updated when we first got
19 it.

20 Q And the new device was, in fact, able to connect
21 to the phone?

22 A It was.

23 Q How did you confirm that?

24 A How did I confirm that ---

25 Q That it would connect.

1 A The device itself, when you start connecting, has
2 a screen on it. It is basically a Windows 95 computer
3 that has its own built in screen. It's a smaller
4 device. When you connect it, if you're making a good
5 connection on the terminal itself, it will show you
6 that it is connecting. Then it will basically run
7 until it connects and you will see the acknowledgment
8 on the device that it connected.

9 Q Okay. You did that before you got a search
10 warrant, right?

11 A I may have.

12 Q Okay.

13 A I don't know.

14 Q Ms. McDuffie showed you the printout. We're just
15 going to work with paper, if you don't mind. Could
16 you look at page 9 of the exhibit?

17 A The total page nine?

18 Q Yes, sir.

19 A What part am I looking for?

20 Q I'm looking online to the outgoing phone calls.
21 Can you confirm for me, sir, that there is a 55 minute
22 phone call registered on line 2?

23 A It shows the duration is 55.

24 Q Minutes?

25 A And twenty-eight seconds.

1 Q Twenty-eight seconds, right?

2 A That's right.

3 Q Okay. Investigator Metz, you were not asked by
4 Investigator Holdorf or anyone else to analyze these
5 records, right?

6 A That's correct.

7 Q You simply printed them off. You pulled them off
8 the phone, printed them off or somehow delivered them
9 to Investigator Holdorf?

10 A That's correct.

11 Q Without looking at anything, correct?

12 A I did not.

13 MR. STAGGS: Beg the Court's indulgence for a
14 moment.

15 (Pause.)

16 I have nothing further.

17 MS. McDUFFIE: No further questions, Your Honor.

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

19 Ladies and gentlemen, we're going to take an
20 afternoon break it's about 3:36. We've been going for
21 about an hour-and-a-half. Retire to your jury room.
22 We'll start back in about ten minutes. Everyone
23 remain seated while the jury is dismissed. Do not
24 discuss the case. Keep an open mind. Thank you very
25 much.

1 (WHEREUPON, the jury left the courtroom at
2 3:37 p.m.)

3 THE COURT: You all approach.

4 (WHEREUPON, there was a bench conference.)

5 THE COURT: All right. Court is in recess for
6 about ten minutes.

7 (WHEREUPON, a short break was taken.)

8 (WHEREUPON, State's Exhibit Number 254 was marked
9 for identification only.)

10 (WHEREUPON, Court was called to order.)

11 THE COURT: Thank you very much, please take your
12 seats.

13 All right, you have something, Mr. Staggs?

14 MR. STAGGS: I do, Your Honor.

15 At this time we'd like for the record to note our
16 objection to State's Exhibit --- I don't know what the
17 number was.

18 THE COURT: 250.

19 MR. STAGGS: Your Honor, it's our position that
20 first of all, this is a report generated by a law
21 enforcement officer and should not be entered into
22 evidence. We also have several other concerns with
23 it.

24 There is a huge amount of hearsay contained in
25 these records. As Your Honor saw, it's 1200 pages of

1 text messages back and forth, internet searches, phone
2 calls between Ms. Thompson and several other people,
3 which are not at all relevant.

4 They also --- some of them, you know, detail past
5 fights between Courtney and Mr. Guinyard, text
6 exchanges back and forth that would not --- that go
7 towards our prior bad acts issue in the first place,
8 and we would ask that if --- because the court has
9 admitted, we would ask that it be admitted as a
10 redacted version to try to take some of that out, if
11 that's not the case.

12 It's also our position that some of the text
13 messages contain character evidence, which throughout
14 the course of this trial we have not opened the door
15 to and allowing the jury to review that will result in
16 that.

17 MS. McDUFFIE: Judge, I believe the original
18 objection was that it was a law enforcement report and
19 the authenticity. I don't believe this was raised at
20 the time we sought to introduce it.

21 Your Honor, further, prior to calling Mr. Metz as
22 a witness, we agreed that we would limit it to, you
23 know, right around the incident and to prior
24 testimony, which we heard Mr. Guinyard, not a party,
25 requested that we do that, so we would offer that in

1 its entirety. We still would have no problem doing
2 that. I don't know how since it's been admitted.

3 THE COURT: I mean, how --- I mean, here is what
4 I don't understand. You can't just stand up and say
5 things need to be redacted; there is hearsay. I mean,
6 there's 1200 pages.

7 MR. STAGGS: There are.

8 THE COURT: Right, so if you want --- if you
9 think something is hearsay or you think something
10 should be redacted, I would need to know specifically
11 what every single one of those things is.

12 MR. STAGGS: Okay. I mean, I --- we do not have
13 a list at this time.

14 THE COURT: I know and that's part of --- I mean,
15 how I am supposed to know how to rule or what to
16 redact or what is hearsay if you don't tell me?

17 MR. STAGGS: That's a fair question.

18 THE COURT: Okay. All right. So you make a
19 list. I mean, I think --- I'm happy to look at a list
20 and review it and take it one by one. I think the
21 better --- well, I think a simpler solution would be
22 for the State to show you exactly what they want to
23 introduce out of 250 --- show those, show whatever it
24 is in State's Exhibit 250 that you want into evidence,
25 show it to both defense counsels. We may be able to

1 eliminate a lot of the stuff that's out there, and
2 then we can have a discussion about the specific
3 issues that are in there.

4 MR. LI: That's agreeable.

5 MR. STAGGS: That's agreeable.

6 THE COURT: Why don't we come at it that way
7 before you all spend five or six hours going through
8 that. See if you can live with it or not.

9 MS. McDUFFIE: The portions that we were seeking
10 to introduce and discuss through another witness, Your
11 Honor, are the calls, text messages, the chronology
12 that happened on the 1st and 2nd, Your Honor, of July
13 and also about five or six other text messages from
14 Ms. Thompson to Mr. Guinyard about the condition of
15 the child from --- I'm sorry, from I believe, April
16 forward. I'll be happy to provide those specific text
17 messages.

18 THE COURT: Fair enough. I mean, because you
19 don't care about --- the State doesn't care about all
20 1200 pages being in?

21 MS. McDUFFIE: No. I was fine offering the
22 redacted.

23 THE COURT: Why don't you show them specifically
24 what that is so they can narrow it down and we can
25 have a conversation about those things.

1 THE COURT: As to whether or not, it's a law
2 enforcement document like an incident report and
3 therefore it's hearsay. I'm overruling that
4 objection. That is document that's been testified to.
5 The foundation has been laid. The person who took it
6 off the phone --- I don't understand the terminology,
7 but the person who took it off the phone stated his
8 qualifications and training and everything else.
9 Let's see. I don't want to bunch of extraneous
10 information in there either.

11 MR. STAGGS: Right.

12 THE COURT: Because I don't want to confuse the
13 issue. I don't want the confuse the jury and they
14 don't need to know about things they don't need to
15 know about. Let's look at them individually and
16 specifically and see if we can't --- maybe your issue,
17 Mr. Li, is that the time stamps are out of order and
18 they can't pick stuff out of midair.

19 MR. LI: That's right.

20 THE COURT: He's what you said to me at sidebar a
21 couple of times.

22 MR. LI: That's right.

23 THE COURT: I'm saying they are doing this, but
24 I'm saying your argument is that they're kind of
25 picking stuff. You can't just go find one phone

1 message on the phone and put it in context.

2 MR. LI: That's correct.

3 THE COURT: Once you learn what it is they want
4 to introduce, then maybe the compromise is, I'll let
5 you add some context in before we condense this down
6 into a summary. Do you see what I'm saying?

7 MR. LI: Yes, sir.

8 THE COURT: All right. You all work on that
9 tonight, and we'll go at it from there.

10 MR. STAGGS: Thank you, Your Honor.

11 THE COURT: Okay. Anything else?

12 MS. McDUFFIE: Nothing from the State.

13 THE COURT: Okay. Are you good, Mr. Li?

14 MR. LI: Yes, sir.

15 THE COURT: Ms. Pinnock?

16 MS. PINNOCK: Yes, Your Honor.

17 THE COURT: Okay. Bring in the jury.

18 (WHEREUPON, the jury entered the courtroom at
19 4:08 p.m.)

20 THE BAILIFF: All jurors are accounted for, Your
21 Honor.

22 THE COURT: Ladies and gentlemen, welcome back.
23 Call your next witness.

24 MS. McDUFFIE: May it please the Court. The
25 State would call Sergeant Robert Waters.

1 THE COURT: Please come forward, sir.

2 ROBERT WATERS,

3 after being duly sworn, testified as follows:

4 THE CLERK: Please have a seat. State your full
5 name for the record.

6 THE WITNESS: Robert Lee Waters.

7 DIRECT EXAMINATION:

8 BY MS. McDUFFIE:

9 Q Let me get you to back up just a little bit?

10 A Robert Lee Waters.

11 Q Sergeant Waters, where are you employed?

12 A Alvin S. Glenn Detention Center.

13 Q What are your duties at Alvin S. Glenn Detention
14 Center?

15 A I'm in internal affairs, more or less for
16 professional standards. I do internal investigations
17 and supply different agencies with telephone calls,
18 video, the various paperwork to law enforcement.

19 Q As parts of your duties, are you the custodian of
20 records for the telephone system at Alvin S. Glenn?

21 A I am.

22 Q And at the Alvin S. Glenn or at Richland County
23 Detention Center, are all calls made by inmates there
24 recorded?

25 A They are.

1 Q And they are recorded in the normal and ordinary
2 course of business?

3 A Yes.

4 Q I show you what's been marked for ID at this
5 appointment as State's 254. Is this a call made from
6 the Alvin S. Glenn Detention Center?

7 A It is.

8 Q And have you had the opportunity to review that
9 call?

10 A Have I?

11 Q Yes.

12 A No.

13 Q Okay. Not the contents of the call, but that is
14 a call placed from the Alvin S. Glenn Detention
15 Center?

16 A It is.

17 Q And that call, when a call is made and then
18 stored on your system, is it altered with, tampered
19 with or changed in any way?

20 A It isn't.

21 MS. McDUFFIE: Thank you, Your Honor. No further
22 questions from this witness.

23 THE COURT: All right. Cross?

24 MR. LI: No questions.

25 MR. STAGGS: No questions, Your Honor.

1 THE COURT: Thank you, sir. Have a nice day.
2 Call your next witness.

3 MS. CAMPBELL: May it please the Court. The
4 State calls Rachael Grant.

5 RACHEL GRANT,
6 after being duly sworn, testified as follows:

7 THE CLERK: Please have a seat. State your full
8 name for the record.

9 THE WITNESS: Rachael Grant.

10 DIRECT EXAMINATION:

11 BY MS. CAMPBELL:

12 Q Ma'am, where are you employed?

13 A At the Richland County Sheriff's Department.

14 Q And what do you do there?

15 A I am a DNA analyst.

16 Q As a DNA analyst, what do your duties include?

17 A I basically work in the laboratory, and our job
18 is to obtain evidence and attempt to develop DNA
19 profiles from any biological evidence left at the
20 scene.

21 Q Can you tell this jury a little bit about your
22 education and your training in the field of DNA
23 analysis?

24 A I have a bachelor of science degree in biology
25 from Duluth University. I have a master's degree in

1 forensic serology and DNA from the University of
2 Florida. I undergone extensive DNA and serology
3 training. I continue --- I attend continuing
4 education and training every year, and I have
5 successfully completed competency set forth by the DNA
6 Advisory Board and the FBI.

7 Q Is your laboratory actually accredited?

8 A It is accredited, yes.

9 Q What agency accredits your laboratory?

10 A It's a the American Society of Crime Lab
11 Directors Laboratory Accreditation Board
12 International.

13 Q So is your laboratory actually held to higher
14 standards than most laboratories here in the country?

15 A It is.

16 Q And the protocols and policies in order to remain
17 accredited, those are all followed by y'all?

18 A Yes, they are.

19 Q Have you testified before as an expert in the
20 field of DNA analysis?

21 A I have.

22 Q Have you been qualified before as an expert?

23 A I have.

24 Q Approximately how many times have you been
25 qualified?

1 A I believe about nine.

2 MS. CAMPBELL: Your Honor, at this time we'd
3 offer her as an expert in DNA analysis.

4 MR. LI: No objection, Your Honor.

5 MS. PINNOCK: No objection.

6 THE COURT: Ladies and gentlemen, this witness
7 will be allowed to testify to give her opinion in the
8 area of DNA analysis. To give opinion testimony in
9 that area does not mean that you must accept her
10 opinion, but it is evidence for you to use in any way
11 you see fit and give it the weight or credibility you
12 deem, or believe is appropriate.

13 MS. CAMPBELL: Thank you.

14 BY MS. CAMPBELL:

15 Q In order to do DNA analysis from evidence from a
16 crime scene, tell this jury generally how the evidence
17 is submitted or how you extract it from say a piece of
18 clothing versus a piece of metal or things of that
19 nature?

20 A Yes, typically the evidence we receive are swabs
21 and those are sterile swabs from that particular item
22 that has been swabbed, and the goal there is to
23 retrieve any nucleic cells because DNA is contained in
24 the nucleic cell. So the swab, you will take a cutting
25 from that swab --- if it's an item of clothing, you

1 may take a cutting of that clothing. If it's a hair
2 that has bulb attached that has tissue, we will take a
3 portion of that hair Bailer basically a cutting from
4 that swab. If it's an item of clothing we may take
5 an item of that clothing. If it's a hair that has a
6 root attached with tissue on the end, we may take a
7 portion of that hair and attempt to extract the DNA.

8 Q In a crime scene, typically how is DNA evidence
9 left there? What is the manner that it can be left
10 there?

11 A Several ways. Body fluids are an excellent
12 source of DNA, so if there is body fluid that's left
13 at the scene, either from somebody bleeding or saliva
14 from a cigarette butt or a Coke can. Also,
15 technologies are so sensitive right now that touch DNA
16 --- so if I were to touch this and somebody were to
17 come behind me and swab that area, chances are you are
18 going to get my DNA profile.

19 Q It can be left like that?

20 A Yes.

21 Q But like with fingerprints, with touch DNA, more
22 so than blood evidence or saliva evidence, can it be
23 more difficult to retrieve that?

24 A Yes, just because I touched that particular area
25 doesn't mean I will get something. That depends on

1 several factors, whether how often that person has
2 touched that area, how aggressive, if that person is a
3 shedder, which is just a type of individual that will
4 shed their epithelial cells or their skin cells more
5 regularly than other people.

6 Q So touch DNA is simply left by skin cells or some
7 type of brushing of the skin?

8 A Yes.

9 Q And so, it is a much more fragile way of
10 transferring DNA to an item?

11 A Yes.

12 Q Even if I go up here and I grab this like this,
13 am I necessarily going to leave DNA there?

14 A Not necessarily, no.

15 Q Same way as a fingerprint, it just depends on how
16 it's touched, weather conditions --- different things
17 can play a factor, correct?

18 A Yes, yes.

19 Q How does a person --- when you're comparing DNA,
20 what are you looking at in the cell itself, as far as
21 different alleles and things of that nature, can you
22 explain that to the jury, how a person comes to get
23 their DNA that you look at?

24 A Yes, basically everyone's DNA is unique to
25 themselves with the exception of identical twins. You

1 get half DNA from your mom and half from your dad.
2 So, our job, basically looking at different locations
3 on the chromosomes, if you remember from biology class
4 chromosomes are contained in the nucleus, inside the
5 nucleus, so what we're looking at is the locations.
6 Those locations are unique to every individual with
7 the exception of identical twins.

8 Q So with the exception of identical twins,
9 everyone's DNA is different?

10 A Correct.

11 Q Does that include siblings?

12 A Correct.

13 Q Does the that include say a mother and son?

14 A Correct.

15 Q A mother and daughter?

16 A Yes.

17 Q And half after your DNA comes from whom?

18 A Your mother.

19 Q And the other half comes from?

20 A Your father.

21 Q So if there's a child and there's similar DNA can
22 it be more difficult to interpret that DNA analysis?

23 A It's can because their sharing those common
24 characteristics.

25 Q Are there certain alleles in the cell itself that

1 y'all look at as far as markers --- or explain that to
2 the jury?

3 A Basically the locations. An allele is a
4 different form of a particular, I guess, genotype type
5 at a location, so --- it basically --- with our
6 analysis it's based on Short Tandem Repeats, but
7 basically every characteristic --- there's several
8 different forms within a particular location, and
9 depending on what you have is what's going to show up
10 in that location.

11 Q In this case specifically and in every case, do
12 you take precautions to make sure the integrity of the
13 evidence that's being tested is protected?

14 A Yes.

15 Q Was that done in this case?

16 A Yes.

17 Q Was there any cross contamination or any
18 degradation of any of the evidence while it was in
19 your possession?

20 A No.

21 Q In the evidence in this case when you received
22 it, was all it all properly packaged when it was
23 submitted to you?

24 A Yes.

25 Q Do you check for that to make sure that no one

1 has tampered with anything or altered it in anyway?

2 A Yes.

3 Q In this case, was there any evidence of any
4 tampering or any alteration of any evidence that was
5 submitted to you?

6 A No.

7 Q Specifically, when doing DNA analysis, do you
8 also have to have what's known as a known standard in
9 order to do comparisons typically?

10 A Yes.

11 Q How do you get a known standard from a person?

12 A A known standard is basically an attempt to
13 develop their profile, their individual profile and
14 how it's taken now is you take a sterile --- it's
15 called a buccal swab, it's basically just a swab. It's
16 sterile. You just run it on the inside of your mouth.
17 It's going to collect your epithelial cells that have
18 sloughed off and also your saliva.

19 Q In this case, did you receive certain known
20 samples from people that were potentially involved in
21 this case?

22 A I did.

23 Q Who did you receive known samples from?

24 A I received a buccal swab from [REDACTED] CHILD
25 [REDACTED], a buccal swab from Robert Antonio Guinyard, Sr.

1 and a buccal swab from Courtney Thompson.

2 Q And prior to doing your testing, is it necessary
3 for you to know exactly what role anybody plays in
4 this case or is your testing kind of --- you just do
5 the testing, you don't have a dog in the fight as to
6 how it comes out?

7 A No, everything that is done is independent.

8 Q You mentioned that you got a swab from the victim
9 in the case, [REDACTED] CHILD [REDACTED] ?

10 A Yes.

11 Q In addition to that, I want to show you State's
12 Exhibit No. 205. Did you also get a swab from
13 Courtney Thompson?

14 A Actually, I did not receive this particular one.
15 Our technician actually did this one.

16 Q Okay.

17 A Her initials are here.

18 Q Once it was processed, it was forwarded to you
19 for you to do the analysis?

20 A Yes.

21 Q And when that was --- as far as the notes that
22 are reflected in your report, it was submitted
23 properly?

24 A Yes.

25 Q In addition to that, was State's Exhibit 206,

1 which was a swab from Robert Antonio Guinyard, Sr.
2 also admitted to you?

3 A Yes, yes.

4 Q And you also used that for analysis?

5 A Uh-huh.

6 MS. CAMPBELL: Your Honor, at this time I'd offer
7 205 and 206 into evidence.

8 MR. LI: No objection.

9 MS. PINNOCK: No objection.

10 THE COURT: 205 and 206 without objection.

11 (WHEREUPON, State's Exhibit Numbers 205 and 206
12 were admitted into evidence.)

13 BY MS. CAMPBELL:

14 Q And what, if any, actual evidence from the crime
15 scene or swabs that were collected from the crime
16 scene, were submitted to you in this case?

17 A Would you like me just to read through?

18 Q Uh-huh.

19 A Okay. I received a swab from the right rear
20 bedroom wall, a swab from the left-side hallway wall,
21 a swab from the hallway carpet, a swab from the first
22 bedroom right light switch, a swab from living room
23 wall number six. I also received left and right-hand
24 fingernail scrapings from Courtney Thompson, right and
25 left-hand nail scrapings from Robert Guinyard, Sr., a

1 buccal swab from [REDACTED] CHILD a swab from the
2 stain on a closet door, a washcloth that was from the
3 right bedroom dresser. A burgundy colored washcloth,
4 a section of brown carpet from the right rear bedroom
5 floor, red shoes, a gray striped shirt, a swab from a
6 white dowel rod, a swab from a white broom handle,
7 swab from stain marked (A), swab from stain marked
8 (B), swab from stain marked (C), swab from stain
9 marked (D), a buccal swab from Robert Antonio
10 Guinyard, Sr. and a buccal swab from Courtney
11 Thompson.

12 Q And in this case, did you do testing on certain
13 items for the presence of blood?

14 A I did.

15 Q What kinds of tests do you do for the presence of
16 blood in your laboratory?

17 A In our laboratory, we do --- the first screening
18 test we do is what's called a presumptive test called
19 phenolphthalein. It basically tests for the presence
20 of blood. We run a confirmatory test meaning that it's
21 not necessarily human at that point, but we do some
22 preliminary screening. If it's positive, we go ahead
23 and run it through DNA.

24 Q And in that case, you do that on several of the
25 items in this case?

1 A Yes.

2 Q Did you prepare a report in this case?

3 A I did.

4 Q I'm going to show you what's been marked as a
5 blow up of the summary of those two reports on State's
6 Exhibits 252 and 253. Did you actually participate in
7 the making of this summary?

8 A Yes, I reviewed it.

9 Q Does it fairly and accurately reflect your
10 findings and your testing in this case?

11 A Yes.

12 MS. CAMPBELL: Your Honor, at this time I'd offer
13 State's Exhibit 252 and 253.

14 MR. LI: No objection, Your Honor.

15 MS. PINNOCK: No objection. Your Honor.

16 THE COURT: 252 and 253?

17 MS. CAMPBELL: Yes, sir.

18 THE COURT: 252 and 253 admitted without
19 objection.

20 (WHEREUPON, State's Exhibit Numbers 252 and 253
21 were admitted into evidence.)

22 MS. CAMPBELL: Your Honor, may the witness step
23 down so she can come in front of the jury? It will
24 expedite matters.

25 THE COURT: Oh, yes. Yes, ma'am. You may step

1 down. Just keep your voice up, okay.

2 MS. CAMPBELL: Come around on this side so the
3 court reporter can hear you.

4 THE COURT: The jurors on the back row have to be
5 able to hear you, okay, ma'am?

6 THE WITNESS: Okay.

7 BY MS. CAMPBELL:

8 Q I want to start out --- basically the columns or
9 the items submitted are here in the first column?

10 A Yes, yes.

11 Q And then you tested for the presence of blood on
12 certain items?

13 A Uh-huh.

14 Q And whether or not DNA was actually extracted?

15 A Yes.

16 Q And then finally, under results --- and when you
17 are doing your results, I notice some wording here
18 that it may match someone or may be a mixture, tell
19 the jury how that can happen.

20 A Yes, if a DNA profile is a mixture, basically
21 that means that more than one contributor has
22 contributed to that mixture. We can tell that by
23 different peaks, so it's not uncommon especially on
24 touch samples that several people have touched that
25 you are going to see more than one person, so a

1 discernable mixture is also if we have a major
2 contributor and a minor contributor.

3 This means that a major --- that there's a
4 particular person is contributing more of their DNA.
5 It's coming across the as the intense profile, and
6 then possibly the minor contributor may be underneath
7 and we also see as well. So basically a mixture is
8 just a sample that there's more than one person
9 present.

10 Q Once you're able to actually come up --- if
11 you're able to extract DNA and come up with a result,
12 are you able then to put a quantitative figure in some
13 cases on that result and what it means?

14 A Yes. Basically any association that we make, we
15 can put a statistic to it. The FBI has generated
16 population frequencies for the population and
17 basically depending on the type of profile we have, we
18 can put a statistic to it to give that match some
19 weight.

20 Q Okay. In this case, if we can just take them
21 chronologically as far as the items that you tested.
22 The numbers that are assigned over here, are those
23 numbers that you assigned or were those assigned in
24 the evidence room?

25 A Those are assigned in the evidence room.

1 Q That's just to be able to have a reference number
2 later to refer to certain items?

3 A Yes.

4 Q Taking the first item that's listed here, and
5 they aren't done in any particular order, right? It's
6 just the order they may have been submitted?

7 A Yes.

8 Q Okay. Swab from the right rear bedroom wall ---
9 again, you weren't the person that actually collected
10 these?

11 A No. I work strictly in the laboratory.

12 Q Okay. But these were all properly submitted?

13 A Yes, they were.

14 Q Were you able to test for the presence of blood?

15 A Yes.

16 Q And what did your test show?

17 A That item (2) indicated the presence of blood.

18 Q And then at that point would the next step be to
19 do an actual DNA extraction?

20 A Yes, we ran that sample through the system and
21 attempted to get a profile.

22 Q In this case once you get a profile, are you able
23 to --- prior to this, you've already testified the
24 buccal swab were being tested also?

25 A Yes.

1 Q And so you're trying to compare it to the three
2 known standards that you have, the buccal swabs from
3 those three people, and the testing done on that
4 compares to the unknown item from the crime scene?

5 A Correct.

6 Q When you compared it to those three profiles,
7 what, if anything, were you able to determine as far
8 as the swab from the right rear bedroom wall?

9 A That swab, the DNA result, matches [REDACTED]

10 [REDACTED]
CHILD

11 Q And were you able to put a number on that as far
12 as the probability of it being an unrelated person?

13 A Yes. Basically that was a same source statistic.
14 It's called the random match probability. The stat on
15 this one is 5.69 million. Basically that means what
16 the chances are of me walking down the street and
17 finding someone at random to have that profile or
18 someone else randomly matching that profile, it's one
19 in 5.69 million.

20 Q Nine million?

21 A Nine million.

22 Q I've never heard of 9 million. How many zeros
23 does nine million have?

24 A Thirty.

25 Q How many people on earth?

1 A Approximately 7 billion.

2 Q How many zeros does 7 billion have?

3 A Nine.

4 Q So it's exponentially ---

5 A More.

6 Q A lot. So in your opinion with your number that
7 you're able to assign to it, would it match anyone
8 other than **CHILD**?

9 A No.

10 Q No one else on earth?

11 A Correct.

12 Q Whenever it says a match, are you also saying
13 that it would exclude either Courtney Thompson or his
14 father Robert Guinyard, Sr.?

15 A Well, in this particular one, because it matches
16 one person, that means there is nobody else there to
17 compare it to.

18 Q So that would eliminate the parents?

19 A Correct.

20 Q Even though we don't have that language on there.
21 Taking the next swab was collected from inside the
22 home from the left side of the hallway wall, first did
23 you test for the presence of blood?

24 A Yes.

25 Q What was the result there?

1 A Blood was indicated on item (3).

2 Q Were you able to extract DNA?

3 A Yes.

4 Q Even though you have blood, are you always able
5 to extract DNA?

6 A Not necessarily.

7 Q Once you ran that and compared it to your three
8 known standards, what were the results when you ran
9 the swab from the hallway?

10 A Which is item (3) --- it's a mixture of at least
11 two individuals. The major matches **CHILD**
12 **██████████**, and has that same statistic.

13 Q Uh-huh.

14 A And then, I'm sorry. Robert Guinyard, Sr. is
15 excluded.

16 Q So you were able to exclude him based on the
17 information available to you when you ran this swab
18 from the hallway?

19 A Yes. But there is also a minor contributor
20 there, but it's too weak for match purposes.

21 Q What does that mean when you say there is a minor
22 contributor but it's just too weak to match to anyone
23 else?

24 A Basically in our analysis, if the intensity of a
25 minor contributor is too low, we can't confidently say

1 that --- or match that to somebody. It has to have a
2 certain threshold to use it for statistical purposes.
3 In a way, it's being very conservative, because we
4 don't just want to assign numbers against something
5 that is too weak.

6 Q But you were able to exclude Robert Guinyard, Sr.
7 as a contributor, as that minor contributor?

8 A Yes.

9 Q But you weren't able to make that same
10 determination as to Courtney Thompson?

11 A Correct.

12 Q However it's too weak, you don't want to call it
13 one way or the other?

14 A If it's too weak for matching purposes, there is
15 nothing I can do.

16 Q And that's fair enough.

17 Number (4) the swab from the hallway closet, were
18 you able to test for the presence of blood?

19 A Yes.

20 Q Were your able to extract DNA on that?

21 A Yes.

22 Q From the hallway carpet, were you able to come up
23 with a result?

24 A Yes, it matches [REDACTED] CHILD [REDACTED] as well, one
25 in 5.69 million.

1 Q Still at that same number?

2 A Yes.

3 Q In your opinion, would that blood sample be
4 anyone other than [CHILD]s?

5 A No.

6 Q It couldn't be someone else?

7 A No.

8 Q Number (5), the swab from the first bedroom on
9 the right light switch. Were you able to test for the
10 presence of blood?

11 A I was.

12 Q Were you also able to extract DNA?

13 A Yes.

14 Q What were your results?

15 A It was a mixture of at least two individuals,
16 [CHILD] and Robert Guinyard, Sr. and
17 Courtney Thompson are all excluded as contributors to
18 this mixture.

19 Q So it tested positive for blood, but it's not any
20 of the three people whose known standards you have?

21 A Correct.

22 Q And you weren't provided any additional standards
23 to compare it to.

24 A Correct.

25 Q And you never received any of the other

1 children's samples to compare it to?

2 A Correct.

3 Q Number (6), the swab from the living room wall
4 labeled number (6), actually on the swab itself, were
5 you able to test for the presence of blood?

6 A Yes.

7 Q And was DNA extracted?

8 A It was.

9 Q And who did it match?

10 A CHILD

11 Q But I notice at this point you come up with a
12 different number?

13 A Yes, it's one in 170 octillion, and basically
14 that just means that we look at the profile as a whole
15 to put a statistic to every location. This profile
16 may have been a little bit bigger so the statistic is
17 going to change. This one is not quite 5.69 million,
18 it's 170 octillion.

19 Q How many zeros, not to ---

20 A Twenty-seven.

21 Q Okay. In your opinion then, could it be anyone
22 else on earth?

23 A No.

24 Q However, it just didn't --- sometimes --- explain
25 the reason it may not match up or one may drop off?

1 A At that particular location, if the peak
2 intensities aren't above a certain threshold, we're
3 not going to use them for statistics, so something
4 that might be a little --- like a blood sample or
5 might be a little bit degraded, you may have some peak
6 and balance or it may drop below that threshold that
7 we're not going to use that certain location for
8 statistics. It's not uncommon to see that variation
9 throughout the analysis.

10 Q However, with that match to CHILD
11 does that eliminate Courtney Thompson?

12 A Yes.

13 Q And it eliminated Sr.?

14 A Yes.

15 Q In your opinion that's CHILD's
16 blood?

17 A Yes.

18 Q Looking at the nail scrapings from the left and
19 right hands of Courtney Thompson, of both the left and
20 the right hands, were you able to extract DNA?

21 A I was.

22 Q Did you do any of the testing for blood on any of
23 the fingernail scrapings?

24 A No.

25 Q That wasn't appropriate?

1 A No. Actually I can pull my evidence sheet. If I
2 can just do that real quick, I can give you the
3 visual.

4 Q Okay.

5 A Yes, the left and right hand scrapings for both
6 of them, I just had that there was a little bit of
7 dirt.

8 Q Dirt is what you ---

9 A Yeah, so at that point, it's not typical for us
10 to screen for blood.

11 Q There is no indication for blood?

12 A Right.

13 Q At that point you tested on Courtney Thompson,
14 both left and right, and came up with a mixture?

15 A Yes.

16 Q Of two or more individuals?

17 A Yes.

18 Q You didn't do any further interpretation as far
19 as the fingernail scrapings, why is that?

20 A Because, like I mentioned earlier, you get half
21 your DNA from your mother and half from your father.
22 In this case, you have a child involved that they're
23 sharing the same DNA alleles as the parents. In these
24 particular samples, it's not very clear who is who
25 because they are all sharing the same DNA. At that

1 point no further interpretation was required given
2 that the parents and the child are all sharing the
3 same alleles.

4 Q At this point, too, you can get DNA of
5 fingerprints from just touching --- excuse me, under
6 the fingernails from just touching another person or
7 holding them?

8 A I mean, you can.

9 Q But it may not be significant?

10 A Correct.

11 Q The same is true for the fingernail scrapings for
12 Robert Guinyard, Sr.?

13 A Yes, with the exception of 8.1, the left-hand
14 scrapings did come back to him, which is not
15 surprising because ---

16 Q To Senior?

17 A Yes, I'm sorry, Robert Sr., these are his nail
18 scrapings, come back to him. Nail scrapings are also
19 referred to an intimate sample. It's taken off a
20 person. It's not surprising that you're going get the
21 person's DNA from the item that was collected from
22 them.

23 Q In fact, it might be surprising not to get their
24 DNA?

25 A Correct.

1 Q Moving on to number (9). It's just a buccal swab
2 from [REDACTED CHILD], which was used for
3 comparison?

4 A Yes.

5 Q Then moving onto item (17)?

6 A Yes.

7 Q Which is a swab of a stain on the closet door.

8 A Yes, it was a mixture of at least two
9 individuals.

10 Q And it tested positive for blood?

11 A Yes, it did and DNA was extracted. It was a
12 mixture of at least two individuals. The major
13 contributor of this mixture matches [REDACTED CHILD]
14 [REDACTED], and the statistic on that is one in
15 829 septillion.

16 Q How many zeros?

17 A Twenty-four.

18 Q Okay. Then, the minor contributor is too weak
19 for match purposes. There is a mixture, but there is
20 a minor that we couldn't put a statistic to.

21 Q On that one, were you able to eliminate any of
22 the others or was it too weak for you to do anything
23 with?

24 A Too weak for us to do anything.

25 Q But the major contributor was [REDACTED CHILD]

1 ■■■■, and in your opinion would it be anyone else's
2 blood?

3 A No.

4 Q And when you have blood samples and you have a
5 mixture of a major contributor, is that typically
6 their blood?

7 A Yes.

8 Q Or does it depend?

9 A Body fluids are an excellent source of DNA, so
10 even if there was somebody's epithelial cells
11 underneath that blood, so yes, in my opinion, if it
12 was blood, then the it's the major contributor's
13 blood.

14 Q I notice on items (21) and (22), no analysis was
15 done.

16 A Yes.

17 Q Were you given the information that those were
18 used to clean up a urine area? In your laboratory,
19 you don't test for urine or do anything there?

20 A No, no.

21 Q Okay. Moving on to section --- item (23), which
22 is a section of brown carpet from the right rear
23 bedroom floor?

24 A Yes. I need my other sheet.

25 Q You need your other sheet?

1 A Yes.

2 Q Sorry.

3 A Yes, the section of brown carpet, I did screen
4 that for blood. There were no apparent reddish brown
5 stains, but I did screen areas that had stains and
6 everything came up negative, so from there on it
7 doesn't go through the analysis section.

8 Q So you didn't do any further analysis on that?

9 A Correct.

10 Q I move on to State's Exhibit number 253. Does
11 this continue with your findings?

12 A Yes.

13 Q Did you actually do a cutting from some --- DNA
14 from a cutting from some red shoes?

15 A I did.

16 Q What is the difference between spotting and
17 cutting? Does it affect your results?

18 A It's doesn't. If we receive an item versus a
19 swab and if it has a body fluid on it, for us, we will
20 just go ahead and take a cutting, if we are able to,
21 if it is something that can be cut. These shoes were
22 a cloth type material, so we just took a cutting.

23 Q Versus swabbing?

24 A Yes.

25 Q It doesn't affect any of your results?

1 A No.

2 Q Did you test for the presence of blood?

3 A I did.

4 Q Was DNA extracted?

5 A Yes, it was.

6 Q Again, was this --- what was your result?

7 A Yes, it was a mixture of at least three
8 individuals. The major contributor of this mixture
9 matches **CHILD**, and the statistic on
10 that is one in 2.2 quintillion.

11 Q That's less or more than septillion?

12 A That's less, there's 18 zeros in that one.

13 Q Okay.

14 A But also Robert Guinyard, Sr. and Courtney
15 Thompson cannot be excluded. The statistic I have
16 here is it's greater than 99.97 percent of the
17 population would be excluded. Basically what that
18 means is if we have a profile that's several people,
19 if we can't eliminate somebody and they're included,
20 we will do a couple of exclusions, so it basically
21 means 99.97 percent of the population would be
22 completely eliminated, so they're in the remaining
23 percentage included in this mixture.

24 Q Which is a fairly rare occurrence?

25 A Yes. It's just whatever the ---

1 Q .03?

2 A .03 percent.

3 Q And everyone else there?

4 A Correct.

5 Q Which is a significant finding?

6 A They can't be excluded.

7 Q Okay. On number (25), which was the gray striped
8 child's shirt, you did a cutting from that, as well?

9 A I did.

10 Q Did you test for the presence of blood?

11 A I did and --- .

12 Q And DNA was extracted?

13 A Yes, and it matched CHILD one in
14 5.69 million.

15 Q Again, in your opinion, could the blood that was
16 found on that shirt belong to anyone else on earth?

17 A No.

18 Q And that was CHILD

19 A Correct.

20 Q Moving on to item number (26), which was the swab
21 from a white dowel rod in the closet, did you test for
22 blood in that case?

23 A No.

24 Q And was that because there was visible signs of
25 it?

1 A Correct, the swab that I received had a black
2 powder like stain, so I didn't see anything that
3 indicated blood, so I didn't screen it for blood.

4 Q But did you extract DNA?

5 A I did.

6 Q And what were your results from the white dowel
7 rod?

8 A It was a mixture of at least two individuals.

9 The major contributor of this mix matches CHILD
10 ██████████, and the statistic on that is one in
11 10 sextillion.

12 Q And again with that kind of number, is it CHILD
13 ██████████'s DNA?

14 A Yes.

15 Q And the minor contributor, were you able to do
16 anything on that?

17 A No. It was too weak for match purposes.

18 Q And, again, you didn't see any presence of blood
19 on that so you checked for touch DNA?

20 A We checked for touch DNA.

21 Q When you talk about touch DNA versus like DNA
22 found on biologicals, it's not a different kind of
23 DNA, it's just the manner that it's ---

24 A Correct.

25 Q Okay. Swab from the broom handle on item number

1 (27), again, did you test for the presence of blood?

2 A No.

3 Q Why was that?

4 A The swab had a black power take stain.

5 Q Were you able to extract DNA?

6 A Yes.

7 Q And that result was what?

8 A That is item --- which one on here?

9 Q Twenty-seven.

10 A Robert --- it was a mixture of at least two
11 individuals. CHILD, Robert Guinyard,
12 Sr., and Courtney Thompson cannot be excluded as
13 contributors. Basically, I have a mixture that I can
14 see all three of them. Remember, they are sharing
15 alleles, because you have the parents of the child.

16 Q However, are you able to excludes a certain
17 percentage of the population?

18 A Well, 99.99 percent of the population would be
19 excluded. They could not be excluded.

20 Q But almost everybody else can?

21 A Yeah.

22 Q Before I get to 29, 30, 31, 32, 33 and 37, those
23 are just the known standards?

24 A Yes.

25 Q That were used for --- you extracted DNA from

1 them for comparison purposes, correct?

2 A Yes.

3 Q Finally, swabs from the stain marked (A) on the
4 white pipe, the marker --- the stain at marker (A) was
5 swabbed and the swab was submitted to you?

6 A Yes.

7 Q Item (29)?

8 A Yes. That ---

9 Q Presence of blood?

10 A Yes.

11 Q It tested positive for blood?

12 A Uh-huh.

13 Q Were you able to extract DNA?

14 A I was.

15 Q And who did it match?

16 A The result from item (29) matched Robert
17 Guinyard, Sr., and the statistic on that is one in
18 1.9 million.

19 Q The next swab for the stain marked (B) on the
20 white pipe, did it test positive for the presence of
21 blood?

22 A It did.

23 Q Were you able to extract DNA?

24 A I was.

25 Q On that one, what were your results?

1 A That matches [CHILD], and the
2 statistic on that is one in 5.69 million.

3 Q So in your opinion, whose blood is that?

4 A [CHILD].

5 Q And let me back up. On marker (A), whose blood
6 is that?

7 A Robert Guinyard, Sr.

8 Q Item number (31), the swab marked (C) on the
9 white pipe, were you able to test for the presence of
10 blood?

11 A I was.

12 Q And it was positive?

13 A It was.

14 Q And were you able to extract DNA?

15 A Yes.

16 Q And what were the results?

17 A The major --- it was mixture of at least two
18 individuals. The major contributor matches Robert
19 Guinyard, Sr., and the statistic on that is one in
20 1.2 sextillion. [CHILD] and Courtney
21 Thompson also cannot be excluded as contributors to
22 this mixture and 99.36 percent of African Americans
23 would be excluded.

24 Q So on that you could positively say that [CHILD]
25 [] and Robert Guinyard, Sr.'s DNA was on

1 that white pipe?

2 A Yes. And Courtney Thompson cannot be excluded
3 either.

4 Q And is that the extent of your testing in this
5 case?

6 A It was.

7 Q You can take the stand.

8 (Pause.)

9 As part of your protocol in the laboratory, are
10 your results reviewed by anyone else?

11 A Yes, all laboratory reports are reviewed by
12 another qualified DNA analyst.

13 Q In this case, I think at least two other analysts
14 reviewed your results?

15 A Yes.

16 Q And concurred with your opinions?

17 A Yes.

18 Q Or agreed with your opinions.

19 A Yes.

20 Q In some cases when items are submitted to you for
21 testing and sometimes you can't get any DNA?

22 A Yes, that's correct.

23 Q But in this case, you were able to get DNA and
24 then tested for blood as you testified to?

25 A Yes.

1 Q Thank you.

2 MS. CAMPBELL: I have nothing further, Your
3 Honor.

4 THE COURT: Cross?

5 CROSS-EXAMINATION:

6 BY MR. LI:

7 Q Are you able to date any of the data you
8 presented?

9 A Date any of it?

10 Q Yes.

11 A No.

12 MR. LI: No further questions.

13 MS. PINNOCK: May it please the Court.

14 THE COURT: Yes, ma'am.

15 MS. CAMPBELL: Your Honor, may we approach?

16 THE COURT: Yes. Ladies and gentlemen, stand up.
17 Talk among yourselves.

18 (WHEREUPON, a bench conference was held in the
19 presence, but not within hearing of the jury.)

20 THE COURT: All right. All right, Ms. Pinnock.

21 MS. PINNOCK: Thank you, Your Honor.

22 CROSS-EXAMINATION:

23 BY MS. PINNOCK:

24 Q Just a couple of quick questions. You said item
25 (29) on your list?

1 A Yes.

2 Q That's marked --- that was a swab from marker
3 (A)?

4 A Uh-huh.

5 Q And that was taken off the white pole as far as
6 you ---

7 A That's what I've been told, but --- yes.

8 Q It just came to you as a swab?

9 A Yes.

10 Q And you said that was Robert Guinyard, Sr.?

11 A Correct.

12 Q And that's --- there is nobody else that could
13 have been?

14 A Correct.

15 Q And marker (B) that's CHILD ?

16 A Yes.

17 Q And as far as your understanding of the evidence,
18 that also came off the white pole?

19 A Yes.

20 Q And that was CHILD

21 A Correct.

22 Q Could not be anybody else?

23 A Correct.

24 Q Okay. And the comparison you took for Antonio
25 Sr. was off of his swab from his mouth?

1 A Correct.

2 Q That's how you showed it was him?

3 A Uh-huh.

4 MS. PINNOCK: Thank you.

5 THE COURT: Okay. Thank you. Have ---

6 MS. CAMPBELL: Just one question.

7 THE COURT: Okay.

8 REDIRECT EXAMINATION:

9 BY MS. CAMPBELL:

10 Q He asked you about dating DNA. Can you tell how
11 long the blood has been there?

12 A No.

13 Q It just depends on how it's stored and used?

14 A Yes.

15 MS. CAMPBELL: Thank you, Your Honor.

16 MR. LI: Your Honor, one question.

17 THE COURT: Sure.

18 RECROSS-EXAMINATION:

19 BY MR. LI:

20 Q So you can't tell when samples (B), (C), and (A)
21 --- when they got on the pole?

22 A Correct, I can't tell.

23 MR. LI: No further questions.

24 MS. PINNOCK: Nothing.

25 THE COURT: You can step down. Have a nice day.

1 All right. How long is your next witness?

2 MS. WALKER: Your Honor, her direct would be
3 pretty brief.

4 THE COURT: Okay. Let's keep going.

5 MS. WALKER: Your Honor, the State calls Latoya
6 Anderson.

7 THE COURT: All right. Ms. Anderson, raise your
8 right hand, stand right there.

9 LATOYA ANDERSON,
10 after being duly sworn, testified as follows:

11 THE CLERK: Please have a seat. State your full
12 name for the record.

13 THE WITNESS: Latoya May Anderson.

14 THE COURT: Deputy Pitts, will you pull that
15 microphone a little bit closer to her, please. Thank
16 you.

17 DIRECT EXAMINATION:

18 BY MS. WALKER:

19 Q Ms. Anderson, where are you currently living
20 right now?

21 A [REDACTED].

22 Q I know that's your address, but when you leave
23 here where are you going?

24 A To Kershaw County.

25 Q The detention center there?

1 A Uh-huh.

2 Q And before become there were you at the Alvin S.
3 Glenn Detention Center Detention Center?

4 A Yes, ma'am.

5 Q And that's here in Richland County?

6 A Uh-huh.

7 Q Do you know Courtney Thompson?

8 A Yeah, that's my cousin.

9 Q Y'all are first cousins, second cousins, what?

10 A First.

11 Q Did you grow up together?

12 A Huh?

13 Q Did you grow up together?

14 A Yeah.

15 Q And do you know Antonio Guinyard?

16 A Uh-huh.

17 Q Did you know CHILD ?

18 A Uh-huh.

19 Q And did you become aware, in fact, that CHILD
20 had died?

21 A Uh-huh.

22 Q I'm going to ask you to say yes or no because
23 this lady right here is going to type down everything
24 you say. If you say uh-huh or huh-uh. She is not
25 going to understand if that means, yes or no.

1 A Okay.

2 Q Did you become aware that [CHILD] had passed away?

3 A Yes.

4 Q At some point did you have a conversation with
5 Courtney about how that child died?

6 A No. I haven't had a conversation about how he
7 died. She just --- we just had a conversation about
8 some stuff that she had told me.

9 Q Well, what was that conversation?

10 A She told --- well, she told me that she had
11 starved him for eight days without food or water. She
12 told me that he was possessed, and she said that they
13 was tired of him. Well, she said Antonio told her
14 that she was tired of him, and she told me that they
15 had --- his --- he was --- they found Antonio's blood
16 on a rod, a curtain rod or something.

17 Q Did she tell you anything else about that rod?
18 Did she tell you what was done with that rod?

19 A She just told me they found his blood on it.

20 Q But that she and Antonio were tired of the child?

21 A Uh-huh.

22 Q Did she tell you how they felt when he died?

23 A She told me that --- that she was relieved.

24 Q Did she mention Antonio in that, as well?

25 A No.

1 MS. WALKER: Beg the Court's indulgence, Your
2 Honor.

3 (Pause.)

4 Q Thank you.

5 MS. WALKER: I don't have any further questions,
6 Your Honor.

7 THE COURT: Yes, ma'am.

8 MS. EISENHOWER: May it please the Court, just
9 briefly.

10 CROSS-EXAMINATION:

11 BY MS. EISENHOWER:

12 Q Ms. Anderson, you stated that Courtney stated
13 that she starved CHILD for eight days?

14 A Yes, ma'am.

15 Q And she also stated that she was relieved when he
16 died?

17 A Uh-huh.

18 MS. EISENHOWER: Thank you. No further
19 questions.

20 THE COURT: Cross?

21 MR. STAGGS: May it please the Court.

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION:

24 BY MR. STAGGS:

25 Q I have just a couple of questions, Ms. Anderson.

1 Courtney is your cousin, right?

2 A Yeah.

3 Q She also told you that she didn't kill her son,
4 didn't she?

5 A Yeah.

6 Q And you weren't on Beaverbrook Road on June 29th,
7 were you?

8 A No.

9 Q Or the 30th?

10 A No.

11 Q Or July 1st?

12 A No.

13 MR. STAGGS: That's all I have. Thank you,
14 ma'am.

15 THE COURT: Redirect?

16 MS. WALKER: Beg the Court's indulgence, Your
17 Honor.

18 REDIRECT EXAMINATION:

19 BY MS. WALKER:

20 Q Did she tell you who she said killed her son?
21 You said she told you she didn't kill her son. Did
22 she ever tell you who did?

23 A No.

24 MS. WALKER: No further questions.

25 THE COURT: Ms. Eisenhower?

1 MS. EISENHOWER: No.

2 MR. STAGGS: No.

3 THE COURT: All right. Thank you, ma'am. Have a
4 nice day.

5 How long is the next one?

6 MS. McDUFFIE: Your Honor, may we approach?

7 THE COURT: Sure.

8 (WHEREUPON, a bench conference was held in the
9 presence, but not within hearing of the jury.)

10 THE COURT: All right. Ladies and gentlemen,
11 it's about the five o'clock hour. I'm going to go
12 ahead and release you for the evening. Keep in mind
13 that you are not to discuss the case with anybody in
14 any way, shape, or form. You are not to use any
15 electric devices, TVs smart phones, iPads, iPods,
16 anything else that you can imagine to look up anything
17 about the case, do any research, communicate with
18 anybody about the case. Don't watch the news. Don't
19 go on news websites. Don't go on blogs that
20 frequently talk about news issues, anything like that.
21 You're going to make your decision in this case based
22 on what happens in this courtroom and the evidence
23 that is presented to you through witness testimony and
24 through exhibits that are introduced.

25 Now before I release you for the evening, let me

1 tell you the schedule for tomorrow morning. Does
2 anybody --- just be honest with me, if you do, that's
3 fine, and if not, that's fine it doesn't matter. Does
4 anybody have an issue with starting at nine o'clock in
5 the morning as opposed to 9:30

6 (Jurors indicated in the negative.)

7 THE COURT: If you do, you're not going to upset
8 me, you're not going to bother me.

9 Okay, now, let's me tell you why we normally
10 start at 9:30, because I know in the business world
11 doesn't start then. All the courthouse staff doesn't
12 get to work until 8:30, so everybody is doing
13 everything they can to get ready so that when we come
14 in here, we're ready to go and people are not moving
15 around. That's why we normally start at 9:30 and not
16 9:00, because there is another matter that I have to
17 hear at 10:00.

18 Now, I do not expect that matter to take more
19 than a normal morning break that you're going to be on
20 anyway. It's a very short matter, has nothing to do
21 with this case in any way, shape, or form. It's not
22 even from this county, but it's been scheduled for two
23 or three months. So I have to do tomorrow morning at
24 10:00. We'll take our morning break at that time.
25 I'll take care of that matter, and then we'll bring

1 you back in and keep right ongoing.

2 If you'll be back here at 9:00 in the morning and
3 we'll be ready to go. Thank you for your undivided
4 attention today. You have all done a good job of
5 staying awake and paying attention and staying with
6 us. I know that all the parties and I sincerely
7 appreciate that. Do not discuss the case. Keep an
8 open mind. We'll see you tomorrow morning. Thank you
9 very much.

10 (WHEREUPON, the jury left the courtroom at
11 5:00 p.m.)

12 Anything from the State?

13 MS. McDUFFIE: Yes, Your Honor. We have narrowed
14 down the autopsy pictures with Dr. Durso.

15 Your Honor, her testimony will be and we'll have
16 it proffered in the morning, but these are the
17 pictures that she believes are necessary to adequately
18 be able to explain what the injuries are to the child,
19 what happened to the child. She had more pictures
20 pulled, Your Honor, however, those are duplicative of
21 the ones already in evidence, so we're not going to
22 offer these, but these are the pictures that we want
23 to offer up.

24 THE COURT: Have you all seen these?

25 MR. STAGGS: I briefly reviewed them. I think

1 Ms. Pinnock has probably ---

2 MR. LI: My objection follows theirs.

3 THE COURT: Okay.

4 THE COURT: What else, Mr. Li?

5 MR. LI: Your Honor, we mentioned earlier that we
6 would block off some time to proffer witnesses. I've
7 got them coming tomorrow about ten o'clock. I think
8 one of them just left.

9 THE COURT: How long do you think that's going to
10 take? How many people is it?

11 MR. LI: Five maximum.

12 THE COURT: How long do you think --- I don't
13 need their full blown testimony, I just need the
14 relevant part ---

15 MR. LI: Right.

16 THE COURT: --- to the issues. How long do you
17 think that's going to take?

18 MR. LI: To be on the safe side 45 minutes, but
19 more likely 30.

20 THE COURT: Okay.

21 MR. LI: That includes Mr. Guinyard's, as well.

22 THE COURT: Okay.

23 MR. LI: So with Mr. Guinyard's, maybe an hour.

24 THE COURT: Do you plan on resting tomorrow?

25 MS. McDUFFIE: Yes, Your Honor.

1 THE COURT: I'm not holding you to this, but do
2 you think that's before lunch?

3 MS. CAMPBELL: (Nods in the affirmative.)

4 MS. McDUFFIE: (Nods in the affirmative.)

5 THE COURT: Is that a fair statement with Durso
6 testifying tomorrow morning?

7 MS. McDUFFIE: I mean, obviously it depends on
8 cross.

9 THE COURT: Right. I understand that.

10 MS. McDUFFIE: I don't think that we should be
11 past lunch, Your Honor.

12 THE COURT: Okay. All right. Why don't you have
13 all those people come about 12:00. Maybe we'll be
14 through with the State's case. We can break, take a
15 long lunch, take up all the things we need to take up
16 at the end of the State's case, proffer that and go
17 from there?

18 MR. LI: Yes, Your Honor.

19 THE COURT: Okay, Ms. Pinnock, other than looking
20 through those photos, anything else?

21 MS. PINNOCK: Just one quick thing. There was a
22 jail call that was marked. Are you going to introduce
23 that?

24 MS. McDUFFIE: Uh-huh.

25 THE COURT: Can you tell me which call that is?

1 MS. WALKER: Hold on. It's saved on my computer.
2 I can email the exact call.

3 THE COURT: Can you email both of the defense ---

4 MS. WALKER: I'll email both of them, yes.

5 THE COURT: All right, thank you.

6 MS. WALKER: Thank you.

7 MS. McDUFFIE: Your Honor.

8 THE COURT: Yes, ma'am.

9 MS. McDUFFIE: They had moved earlier about
10 redacting diagrams of Dr. Durso.

11 THE COURT: Say that again.

12 MS. McDUFFIE: They --- on Monday, they had moved
13 to require us to redact her diagrams. We intend on
14 offering them in their --- the way Dr. Durso created
15 them, tomorrow morning, just so there's no hold up in
16 the morning.

17 THE COURT: Okay.

18 MS. PINNOCK: I'll --- I guess I'll white one out
19 and send it to you. That would be what we'll asking
20 for.

21 MS. McDUFFIE: What is it that you ---

22 MS. PINNOCK: Well, I mean, I think the issue is
23 that there's a number of injuries that are listed that
24 are not necessarily caused by something other than an
25 accident or something other than normal child's play,

1 so we haven't had any evidence, any testimony saying,
2 you know, all these things that are shown on this
3 child's body on this diagram were intentionally
4 inflicted on him, so I was going to ask that the
5 diagram be redacted based on what has been testified
6 about.

7 THE COURT: All right. Is Durso the first
8 witness?

9 MS. McDUFFIE: Yes, Your Honor.

10 THE COURT: Okay. Let's start at 8:45 and we'll
11 go through that stuff. We'll be ready to roll at
12 9:00.

13 Are you through those pictures?

14 MS. PINNOCK: Just about.

15 (Pause.)

16 THE COURT: Are you objecting to all these
17 pictures or specific ones?

18 MS. PINNOCK: Pretty much all of them, Judge, but
19 there's some that I think are --- just cross over the
20 line to gruesome that aren't necessary at all.

21 THE COURT: Okay.

22 MS. PINNOCK: If you are to rule that they are
23 allowed to be used, I would still move to keep some of
24 those out.

25 THE COURT: All right. What else?

1 MS. McDUFFIE: I don't think I have anything,
2 Your Honor.

3 THE COURT: Mr. Li?

4 MR. LI: Nothing, Your Honor.

5 THE COURT: Ms. Pinnock.

6 MS. PINNOCK: Nothing.

7 THE COURT: Okay.

8 (WHEREUPON, the proceedings were adjourned.)

9 May 23, 2014

10 (WHEREUPON, Court was called to order.)

11 THE COURT: All right. Everybody here?

12 MR. LI: Yes, sir.

13 MS. PINNOCK: Yes, sir.

14 THE COURT: Okay. Let's talk about these photos.

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

16 (Pause.)

17 THE COURT: Okay. All right. Let's talk about
18 them by their numbers. Whatever one you want to start
19 with.

20 MS. PINNOCK: Your Honor, I didn't get all the
21 numbers written down, but the ones --- one that I was
22 able to get written down was 226. It's like a lower
23 abdomen view that shows the child's genitals.

24 THE COURT: Okay.

25 MS. PINNOCK: 227, 228 and 229, I believe, are

1 kind of duplicative of each other.

2 230 is another shot of the child's genitals,
3 which I don't see that it's necessary. 232, 233, I'd
4 have to look at them. I didn't get to go through all
5 of them and write all the numbers down.

6 It's my same argument. It's going to have such
7 an emotional effect on the jurors. We know that based
8 on the pictures just from the crime scene
9 investigator, that it's going to significantly affect
10 them emotionally. I don't think it's probative. I
11 don't think there is any probative value to having
12 those pictures in, and I think the doctor's testimony
13 would be sufficient.

14 I think showing them pictures of this kind, you
15 know, the prejudicial value skyrockets. I really
16 don't think that, based on the testimony of the
17 doctors, these pictures will corroborate the testimony
18 in any way. I think if she can explain it to the
19 jury, that would be sufficient.

20 THE COURT: All right. Do you join in that
21 objection?

22 MR. LI: Yes, Your Honor.

23 THE COURT: Ms. McDuffie?

24 MS. McDUFFIE: Judge, the external pictures that
25 are presently in are pictures that were observed at

1 the house at the time of autopsy.

2 Your Honor, the majority of these injuries are on
3 the lower back buttocks and upper thighs, which were
4 not observed and are not included in the pictures that
5 are presently in, Your Honor. Those are the pictures
6 that we're requesting, in terms of the external
7 portions of the private area and are pictures that
8 aren't in evidence at this point, Your Honor.

9 In terms --- I think the pictures that she was
10 objecting to, her motion, were of the pictures of the
11 cuts into the body, Your Honor. Dr. Durso is present
12 and she can explain why these are necessary to help
13 illustrate her testimony, Your Honor, but this child
14 died from a massive loss of blood into the soft
15 tissues. This isn't a gunshot wound, which is more
16 easily understandable and being able to explain to the
17 jury.

18 It's hard to understand what this child actually
19 died from without seeing these pictures, which show
20 the massive injury to the soft tissue, the swelling
21 and different ages of the injuries that are depicted
22 in those photographs. Dr. Durso can show more
23 eloquently than I just did. We can proffer that
24 testimony if you'd like to hear it.

25 THE COURT: Yes, come on up, Dr. Durso.

1 DR. AMY DURSO,

2 after being duly sworn, testified as follows:

3 THE CLERK: Please have a seat. State your full
4 name.

5 THE WITNESS: Dr. Amy Durso.

6 THE COURT: Okay, let's ease this, let's start
7 with the pictures I do not have an issue with. I do
8 not have an issue with 225.

9 MS. PINNOCK: Okay.

10 THE COURT: I do not have an issue with 231.
11 That's the one with the lip. I do not have an issue
12 with 227. I do not have an issue with 228, and I do
13 not have an issue with 229.

14 All right. So those are admitted over the
15 defendant's objection. Even without Dr. Doro's
16 testimony, they go directly to injuries, injuries that
17 were present, and they're all of a different angle, of
18 a different substance, each contain something
19 different and further, none of them were part of the
20 photos that I already admitted over defense objection.

21 So those --- do you want me to go over that list
22 one more time?

23 THE COURT REPORTER: Yes, please.

24 THE COURT: Pursuant to the proper foundation
25 that I'm sure Dr. Durso will give, okay, 229, 228,

1 227, 231, and 225 will all be admitted pursuant to the
2 proper foundation being laid over defense objections.

3 MS. McDUFFIE: May I have those?

4 THE COURT: Yes, and that's the other stack.

5 DIRECT EXAMINATION: (Proffered)

6 BY MS. McDUFFIE:

7 Q Dr. Durso, showing you State's 230 and 226, can
8 you please tell the judge why these photographs are
9 two that you indicated are necessary to illustrate
10 your testimony to the jury?

11 A So this one here, I know it has genitals. I
12 don't know if that can be blocked out, but the part I
13 wanted to show was some of the scarring and the
14 bruising over this right hip.

15 THE COURT: Have you looked at the photos that
16 are already in evidence, Dr. Durso?

17 THE WITNESS: I'm not sure which ones you're
18 referring to.

19 THE COURT: And what number are you specifically
20 referring to right there?

21 THE WITNESS: This is 226.

22 THE COURT: Okay. I think there's a photo that's
23 already in evidence that shows that corner of the
24 body.

25 THE WITNESS: Yes, there is.

1 THE COURT: Okay.

2 THE WITNESS: And this one specifically shows
3 some of the soft tissue swelling. You can really see
4 the difference between these two knees and the soft
5 tissue swelling in this knee in particular.

6 THE COURT: Okay. What number are you referring
7 to?

8 THE WITNESS: This is 230.

9 THE COURT: Okay. Is there a way to block out
10 the scrotum?

11 THE WITNESS: Yes, there's a way to even cut the
12 picture.

13 THE COURT: Maybe you can cut the top of it off?

14 Okay, so that's 230. What you would need to be
15 able to describe, or what you're trying to show there
16 are the knees and the difference in the swelling?

17 THE WITNESS: Yes.

18 THE COURT: Is that correct?

19 THE WITNESS: Yes.

20 THE COURT: Okay.

21 BY MS. McDUFFIE:

22 Q Dr. Durso, showing you State's 232, 233, 237, 238
23 and 239, can you please describe for the judge why
24 these pictures are necessary to illustrate your
25 testimony and the difficulty of presenting your

1 findings on these injuries to the jury without them?

2 THE COURT: And start with the numbers.

3 THE WITNESS: 232, this does show after --- at
4 the end of the autopsy, we made these incisions, which
5 I can explain, but at until the end of the autopsy
6 when we made these incisions, we were not aware of how
7 severe the bruising was in his body and how deep the
8 bruising, as well as the different ages of the bruises
9 showing dark red hemorrhage, areas of yellow
10 hemorrhage, as well as all the swelling that went
11 around it.

12 This is really what his cause of death was,
13 primarily all of this bleeding and hemorrhage into the
14 soft tissues of his back. Because he is a dark
15 skinned child, the pictures of the back on the
16 external exam, you really can't see the depth, degree
17 and different ages of these bruises.

18 THE COURT: Okay.

19 THE WITNESS: For me to explain to the jury how
20 extensive this hemorrhage was, it would be helpful to
21 have at least one of these pictures admitted.

22 THE COURT: Okay. The next one that you're ---

23 THE WITNESS: It's just the --- the next one is
24 233. It's just from the other side.

25 THE COURT: Okay.

1 THE WITNESS: And then this 237, the most --- the
2 deepest bruise was here within the buttocks, the left
3 buttocks. You can see the hemorrhage here. We kind
4 of opened it up to show how the hemorrhage wasn't just
5 in the tissues and skin, but it goes into the muscle
6 and showing how much force that would take to show
7 hemorrhage deep into the muscle that's beyond just
8 spanking. That's a blunt force with a hard object.

9 THE COURT: Okay.

10 THE WITNESS: And 238, again, is just showing
11 more of that hemorrhage within the buttocks.

12 THE COURT: Okay.

13 THE WITNESS: And then 239 specifically just
14 looks at the legs. The legs in particular show
15 different timing of the bruises. You can really see
16 how yellow it is here, which means an older bruise and
17 darker hemorrhage here. You can see older, kind of
18 yellowish tint here, just showing the different ages
19 of the bruises.

20 THE COURT: Okay. Keep going on the next set of
21 photos.

22 THE WITNESS: I think that's it ---

23 THE COURT: Okay.

24 THE WITNESS: --- for that group.

25 BY MS. McDUFFIE:

1 Q And, Dr. Durso, can you please explain to the
2 judge why you indicated State's 234 and 246 are
3 necessary to explain your testimony?

4 A So again, we've been explaining a subdural
5 hemorrhage. This is a picture of the child's brain.

6 THE COURT: What's the number?

7 THE WITNESS: Oh, I'm sorry, 234.

8 THE COURT: Okay.

9 THE WITNESS: This is showing the actual subdural
10 hemorrhage overlying the brain, the bleeding that's
11 overlying the brain here, just to show this wasn't ---
12 this was a thin subdural, so this is just showing us
13 as we peel it off. This picture makes it look like
14 it's a big spot looking hemorrhage, but just to point
15 out that this was actually a very thin layer of blood
16 overlying his brain. That would have been from one of
17 the blows to his head.

18 THE COURT: Okay.

19 THE WITNESS: That was 246 and was the one being
20 peeled back.

21 THE COURT: Okay.

22 BY MS. McDUFFIE:

23 Q 235 and 236?

24 A So again, because of his darker skin --- oh, yes,
25 235 and 236 are just different views of when we peeled

1 the scalp back in order to look for the bruises there.
2 So this shows along the back of the scalp the bruises
3 that you cannot see from the external area to his
4 head, and this shows the ones along the front, the
5 bruises here and here.

6 THE COURT: Okay.

7 BY MS. McDUFFIE:

8 Q And does that show multiple places of impact?

9 A It shows multiple areas of impact, that this was
10 not consistent with a fall. This was intentional
11 injury.

12 THE COURT: Okay.

13 THE WITNESS: Because there were so many
14 different areas of impact.

15 BY MS. McDUFFIE:

16 Q 243 and 244?

17 A So 243 is a picture after we fixed the brain. We
18 cut the brain. This is just showing the areas of
19 subarachnoid hemorrhage, so a hemorrhage underlying
20 that arachnoid layer around the cerebellum. And 244
21 just shows another area of subarachnoid hemorrhage.
22 This is over the brain here. You can see the dark
23 discoloration here. That's blood.

24 THE COURT: Okay.

25 MS. McDUFFIE: And then, I think the only three

1 remaining are 240, 241, and 242, and I don't think the
2 defense is objecting to these. These are the broken
3 ribs and the broken arm.

4 THE COURT: What are the numbers?

5 MS. McDUFFIE: 240, 241 and 242.

6 THE COURT: Is that right?

7 MS. PINNOCK: Yes, Your Honor.

8 THE COURT: Now, here is my question. As to the
9 cross-examination of Dr. Durso that you anticipate
10 doing, do you expect the cross-examination to be along
11 the lines of: these kind of injuries could have been
12 from a normal spanking?

13 MS. PINNOCK: No, Your Honor.

14 THE COURT: Or that any of these were of natural
15 cause?

16 MR. LI: No, sir.

17 THE COURT: I mean, is there any anticipation
18 that the cross-examination is going to be this could
19 have happened from falling off a dresser ---

20 MR. LI: No, sir.

21 THE COURT: --- or this could have happened from
22 a spanking, or this could be some disease caused
23 naturally in the body?

24 MS. PINNOCK: No, sir.

25 MR. LI: No, sir.

1 THE COURT: Okay. All right. Anything else,
2 Ms. McDuffie?

3 MS. McDUFFIE: Judge, we --- even if their line
4 of questioning isn't going that way, their clients'
5 statements do say that this is from a fall from a
6 dresser and that he then had seizure-like activity,
7 Your Honor.

8 We have to show regardless of whether they're
9 going to stipulate to the cause of death or not, that
10 he died from extreme indifference to human life, Your
11 Honor. We still have to meet those elements and the
12 burden of proof on each defendant.

13 Your Honor, these pictures show the massive
14 extent of these injuries, the chronic nature of them
15 and the fact these are not an accident. These are ---
16 these would have been readily apparent to any care
17 giver who was taking care of this child, Your Honor,
18 that this child had serious substantial chronic and
19 persistent injuries.

20 Your Honor, I believe that we should be able to
21 show that to the jury in order to meet our burden of
22 proof.

23 THE COURT: Mr. Li.

24 MR. LI: Your Honor, if that's the case then we
25 need any play backs, we don't need any open skulls.

1 If they're using it to show what a reasonable parent
2 would be able to observe with the naked eye, we don't
3 need any of these obscene pictures, Your Honor.

4 MS. McDUFFIE: Your Honor ---

5 MR. LI: She can testify to --- the expert can
6 testify to whatever she wants to, but ---

7 MS. PINNOCK: Your Honor, that's very similar to
8 what I was going to say. She just said you wouldn't
9 be able to see the extent of the injuries. Nobody in
10 here is saying it's an accident or from natural
11 causes. We have had testimony --- Dr. Rosa testified
12 about the same injuries. Dr. Durso can testify about
13 the injuries. The pictures are unnecessary to show
14 the filleted back of a four-year-old. I think it's
15 unnecessary. Nobody is saying that her opinion about
16 what she saw was wrong.

17 MR. LI: We agree, Your Honor. In her previous
18 testimony, the bruises --- the extent of the bruises
19 were such that you couldn't see with the naked eye.
20 So we leave with that.

21 MS. McDUFFIE: Your Honor ---

22 MR. LI: If their purpose is to show that a
23 reasonable parent would have seen it, then the
24 unplayed version would be sufficient.

25 MS. McDUFFIE: Your Honor, their client's own

1 statements say that this was an accidental fall from a
2 dresser and a natural death. Further, in their
3 questioning, the timing of these injuries is very
4 important and I think it's important to show to the
5 jury the timing of these injuries.

6 Further, Your Honor, I think it's absolutely
7 disingenuous to say it's not an accident or cause of
8 death or that --- you know, why haven't they pled
9 guilty at this point then, Your Honor? I mean,
10 they're saying that it wasn't extreme indifference, I
11 guess, is what they're representing to the court and
12 it was child abuse and neglect. I mean, I think
13 that's absolutely disingenuous, Your Honor, and that
14 is contrary to what they've been arguing this entire
15 time.

16 I don't think that we --- even if they were going
17 to stipulate that it's extreme indifference, we still
18 have the right to be able to show this to a jury that
19 this child was chronically abused by his parents, Your
20 Honor. I think that these pictures are necessary to
21 describe how this child died.

22 THE COURT: Okay. All right. Everybody stop
23 talking. 232, 233, 237, 238, 239, 234, 246, 235, 236,
24 243, and 244 are all out. Those are the most
25 disgusting photos I've ever seen in my entire life. I

1 mean no disrespect to Dr. Durso. She was doing her
2 job by documenting that and taking that, and
3 understanding what the body has, but when I saw those
4 photos for the first time, I was in complete and total
5 shock, and I mean, I remember the very first case I
6 ever worked on was a small child who had been beaten
7 with a drop cord. I mean, I've seen enough disgusting
8 crime scene photos in my life where most of them do
9 not have much affect on me, and those photos are all
10 just --- they're overwhelming, the --- I'm going to
11 let Dr. Durso explain it.

12 I'm going to let her go into it. She can --- you
13 can spend as much time with her as you necessary to
14 get her to explain what she did, how she did it, what
15 she found, why she couldn't find it until she started
16 doing the different things that she did, but those
17 pictures are just shocking to say the least, and I
18 don't know how else to say it. I don't know how else
19 to put it.

20 I believe that the testimony of Dr. Durso into
21 those issues is clearly relevant and it's clearly
22 crucial to the State's case, and the State should be
23 allowed to prove that. It clearly falls under
24 relevant evidence, and what she did and how she did it
25 and her testimony to it is completely and totally

1 relevant and completely and totally admissible, but if
2 I ever in my life have seen crime scene photos --- I
3 mean, autopsy photos that fall under 403, the exhibits
4 that I just listed are the definition of 403, so I'm
5 not going to allow any of that in, but I am going to
6 allow her to explain every single thing she did.

7 So 230 is in, 240, 241, 242, and the previous
8 list that I went through are all out. The prejudicial
9 effect is greatly outweighed by the probative value,
10 and the ones that I stated earlier 229, 228, 227, 231,
11 225, all of those are in evidence over defense
12 objection.

13 All right. Anything else?

14 MS. PINNOCK: Thank you, Your Honor.

15 MS. McDUFFIE: Judge, I would ask to be allowed
16 to revisit this issue should they cross-examine Dr.
17 Durso on that.

18 THE COURT: That's why I asked that question, so
19 that's specifically why I asked that question
20 Ms. McDuffie, so if I hear something on
21 cross-examination --- you can cross-examine her
22 however you want to within the rules. I'm not telling
23 you that you can do something or not do something, but
24 do you need to be very careful of door opening issues.

25 I mean, the State being able to come back in and

1 those pictures potentially could be admissible.

2 MR. LI: Thank you, Your Honor.

3 MS. CAMPBELL: Your Honor, if I could address one
4 other thing, in closing arguments for them to be able
5 to argue that this was accidental, I mean, because
6 that's what we anticipate because that's what in their
7 statement.

8 THE COURT: Well, and my question wasn't was it
9 accidental. My question was: are you going to
10 cross-examine on a basis of could these injuries have
11 occurred from a normal ---

12 MS. CAMPBELL: Fall or ---

13 THE COURT: --- child spanking, or could this,
14 you know, are these injuries something that could
15 occur naturally within the body? I mean, they give
16 the statements that the State has introduced that said
17 what I would call the loud --- the loud thump
18 statements is what I call them, but, I mean, my issue
19 is going to be are they --- in Dr. Durso's
20 cross-examination, are they going to try to imply that
21 there was some natural cause of all these types of
22 injuries.

23 MS. CAMPBELL: And just to make sure I'm clear,
24 Judge, so they can't argue it in closing arguments,
25 then are they going to argue that their clients'

1 statements are correct and that the --- because they
2 say and they have said to other people that's come in
3 that he fell from the dresser, he jumped from the
4 dresser. He fell from the dresser. These injuries
5 are not consistent with him having ---

6 THE COURT: I understand.

7 MS. CAMPBELL: If they're not going to argue
8 that, I agree, but if they're going to route, then I
9 think we do have a right to show the extent of the
10 injuries, and that's my only concern.

11 THE COURT: For the record, I mean, the injuries,
12 the external injuries that can be seen from the naked
13 eye, I mean, there are --- based upon Dr. --- I don't
14 remember which witness it was that came in, but I let
15 a ton of photos in that show external injuries that
16 are clearly advisable to the naked eye by any
17 untrained person.

18 I mean, my eight-year-old could see the injuries
19 to this child. The photos that I have specifically
20 excluded are photos of the child's body, and I'm sure
21 I'm not using the right word, Dr. Durso, but the
22 child's body split wide open.

23 MS. CAMPBELL: Yes, sir.

24 THE COURT: But they are graphic and they are
25 horrific. There's no other way to put them into words

1 other than that. I'm going to let her --- she is
2 going to be able to explain everything that she needs
3 to be able to explain, but absent some extreme
4 cross-examination of the likes of, you know, --- those
5 photos are not coming in.

6 Now, as to whether or not they can argue in
7 closing arguments that the child fell off the dresser,
8 they can argue that if they want to. My issue is are
9 they going to cross-examine her on: is this some
10 natural cause of death or something that could have
11 occurred from a normal spanking or, you know, you fell
12 down at the baseball field.

13 MS. McDUFFIE: Judge, I mean, an issue, too, is
14 the timing of these injuries.

15 THE COURT: She is going to be able to explain
16 all that, Ms. McDuffie. These photos are exactly what
17 the South Carolina Supreme Court has said should not
18 be admissible. I mean, I'm going to let her explain
19 it. She can explain she cut open the body and she did
20 this and she saw this, but she didn't understand it
21 until she peeled it away and looked at it and this is
22 what she saw, but, I mean, for me to become bothered
23 when I see a crime scene --- an autopsy photo, it has
24 to be pretty bad, and I mean, those photos are that
25 bad, period, in my opinion, and it's in my discretion.

1 None of those photos are coming in unless something
2 happens on cross-examination.

3 MR. STAGGS: We did have one other matter, Your
4 Honor.

5 THE COURT: What's that, Mr. Staggs?

6 MR. STAGGS: This morning we were provided with
7 the State's summary of the cell phone records. I
8 would just ask that anything that is on here would
9 reflect --- the time codes have been chained. It
10 looks like the State has put that time, the four hour
11 difference. I would just ask that it appear as it
12 does in the original record that you admitted into
13 evidence.

14 THE COURT: Say that again.

15 MR. STAGGS: It might be easier if I show you,
16 Your Honor. The State prepared this summary, and they
17 have put their own time codes on there, and they are
18 different than they appear in the records, and I would
19 ask that they reflect exactly what the record says.

20 MS. McDUFFIE: Judge, the records reflect --- and
21 just so there's no confusion, Mr. Li in his cross
22 yesterday about text messages, the network time and
23 the device time. The records that we intend to
24 introduce are incoming and outgoing calls and web
25 history. There is no difference in network time and

1 device time. The only difference is in network time
2 that's done in UTC --- UTC

3 THE COURT: Uniform time code.

4 MS. McDUFFIE: Yes, Your Honor, which is four
5 hours ahead, and we have simply converted uniform time
6 to Eastern time.

7 I think Mr. Li is the one who actually elicited
8 the testimony yesterday that it's four hours
9 difference.

10 THE COURT: It's four or five depending on
11 Daylight Savings Time.

12 MS. LI: Your Honor, I also wanted to show that
13 the UTC time stamps were inaccurate. I didn't want to
14 testify to two hours. I just used text messages as an
15 example, Your Honor. There's been no --- I think that
16 leaving them in UTC time allows the jury to interpret
17 it how they want to, whether or not they believe it's
18 a four hour time difference, only for phone calls,
19 only for text messages, or only for web searches or
20 dates of pictures or when emails are sent.

21 They have not provided an expert to testify
22 that these are an accurate reflection of UTC time
23 translated into Eastern Standard Time.

24 I believe if they put it into UTC time, they can
25 argue well that, well, Mr. Li only argued for a

1 timestamp difference for text messages, but for some
2 reason believe us that UTC is always --- they can
3 argue it if they want to.

4 THE COURT: Who are these coming in through? Are
5 you going to put Holdorf on the stand to go through
6 this stuff? Is that ---

7 MS. McDUFFIE: Yes.

8 THE COURT: Is that the plan?

9 MS. McDUFFIE: (Nods in the affirmative.)

10 THE COURT: Okay.

11 MR. STAGGS: It would be our position, Your
12 Honor, that it just needs to accurately reflect what's
13 in ---

14 THE COURT: Yeah, yeah, I think it's got to
15 reflect what's in the records for it to be an accurate
16 summary. I don't think that we can make the
17 assumption that --- I don't think there is sufficient
18 evidence in the record to say that you can just
19 subtract four. I mean, Metz said yesterday that he
20 didn't know. He was guessing four or five, depending
21 on Daylight Savings Time. He wasn't sure.

22 MR. LI: In addition, Your Honor, there is no
23 such description on the ---

24 MR. STAGGS: On the summary.

25 MR. LI: There's a description on the summary

1 that baby daddy is Robert Guinyard, Sr. Courtney
2 Thompson has two baby's daddies. They need to
3 authenticate that.

4 MS. McDUFFIE: Your Honor, his phone number is
5 already in the record in a statement.

6 THE COURT: Is it his --- is his phone number
7 already in the record?

8 MS. McDUFFIE: Yes.

9 THE COURT: And that's the same phone number
10 that's in here?

11 MS. McDUFFIE: Yes, Your Honor.

12 MR. LI: Then to the other ones, they need to
13 authenticate who is the taxi, Chase Bank, all of those
14 are not authenticated. I believe they're going to try
15 to tell a story, paint a picture with the sequential
16 call order. They're going to try to paint a picture
17 by using the call log and they need to authenticate
18 each and every one.

19 THE COURT: And how is Investigator Holdorf going
20 to be able to testify to how he figured out what the
21 numbers are?

22 MS. McDUFFIE: Your Honor, her relatives' numbers
23 are the relatives' numbers that they gave at the time
24 they were interviewed. Blue Ribbon, the taxi, and his
25 own numbers he called --- didn't know were called. I

1 mean, Your Honor, they called Blue Ribbon Taxi. It's a
2 self-authenticating under 901.

3 MR. LI: Will there be testimony that
4 Investigator Holdorf called those numbers?

5 THE COURT: He is going to have to lay some
6 foundation to say how he figured out who they were,
7 yeah, I'm sure.

8 MR. LI: If he does that, that's fine.

9 MR. STAGGS: Yes.

10 THE COURT: Okay.

11 MR. STAGGS: I asked the State before for the
12 summaries and ---

13 THE COURT: Yes, that needs to be the way it
14 appears ---

15 MR. STAGGS: --- on the record.

16 THE COURT: Right. Okay. I got a question from
17 a juror about court next Friday and a conflict she
18 has. Does everybody have a problem with me telling
19 her I think she is fine?

20 MR. LI: I think she is fine.

21 MR. STAGGS: I don't have a problem with that.

22 THE COURT: Okay.

23 MR. LI: I have one additional issue.

24 THE COURT: Okay. I'm on my next Friday issue.

25 MS. McDUFFIE: I don't think we're going to be

1 here.

2 THE COURT: I'm going to respond to her that I
3 don't think that will be a problem. Does anybody have
4 an objection to that?

5 MR. LI: No, sir.

6 MS. McDUFFIE: No, sir.

7 THE COURT: All right. Yes, sir Mr. Li.

8 MR. LI: I have been informed that a possible
9 jail phone call might be introduced from Courtney
10 Thompson speaking with --- talking to her sister. We
11 believe that is just hearsay, Your Honor. We do not
12 believe that --- it falls under 801(d)(2), Your Honor.
13 It is --- statements which are not hearsay, a
14 statement is not hearsay if an admission by a party
15 opponent, the statement is offered against a party and
16 is the party's own statement in either an individual
17 or in a represented capacity.

18 This phone call is completely self-serving. The
19 entire phone call is Courtney Thompson telling her
20 sister Maria that Antonio did the whole thing, and is
21 completely self --- in a normal case, if that was the
22 case, but this is a case just between the State and
23 Courtney Thompson, they would never allow this to ---
24 I believe they're back dooring.

25 MS. McDUFFIE: Your Honor, it's not hearsay.

1 It's an admission, Your Honor. It goes to show that
2 she knew what was going on. She knew that it was
3 occurring. Secondly, Your Honor, I don't know --- it
4 is offered against a party and it is an admission,
5 Your Honor. Therefore it's not hearsay under the
6 rules because it is the defendant's own statement
7 that's being used and I --- unless it's ---

8 THE COURT: Okay. Someone has to tell me what it
9 is. I mean, we're all just ---

10 MR. LI: It is a jail phone call.

11 THE COURT: Yeah, I know it's a jail phone call,
12 but I have to know the substance of the statement to
13 be able to make a ruling on it.

14 MR. LI: Can we proffer it, Your Honor, so that
15 you can hear it?

16 THE COURT: Is there a recording of it?

17 MS. PINNOCK: Yes, Your Honor, there is a
18 recording of it up there. I think the computer is
19 almost ready to play it.

20 THE COURT: All right.

21 MS. McDUFFIE: Your Honor, can Dr. Durso step
22 down?

23 THE COURT: Yes.

24 MS. PINNOCK: Your Honor, while they're getting
25 that set up, I have a different issue if you are ---

1 THE COURT: Okay.

2 MS. PINNOCK: During the conversation,
3 Ms. Thompson mentions to her sister about if the jury
4 convicts me, I'm going to get a maximum sentence.
5 There is mention about a polygraph exam, her being
6 willing to take a polygraph exam and also an episode
7 in family court. I could just ask that, if you are
8 inclined to allow them to introduce it, it could be
9 redacted so that information is taken out.

10 MR. LI: And, Your Honor, there is a part at the
11 very end where Courtney says, "Antonio has a paid
12 lawyer and he ain't doing shit." I'd like that to be
13 redacted as well.

14 MS. WALKER: They both said those things to me
15 last night. Mr. Li didn't bring up any of these other
16 arguments that he's made this morning. About the
17 redactions, they said that to me last night. We can
18 have our office working on that if you like.

19 MS. WALKER: Your Honor, is that loud enough?
20 (WHEREUPON, the phone call was played for His
21 Honor.)

22 THE COURT: All right. Is there any further
23 argument on that other than what I've already heard?

24 MR. LI: Your Honor, not only is this a hearsay
25 statement, Your Honor, I'd also ask ---

1 THE COURT: Hold on. How is any --- I mean,
2 what's hearsay?

3 MR. LI: Hearsay is an out-of-court statement for
4 the truth of the matter asserted.

5 (indicating.)

6 I'm sorry. I'm sorry.

7 THE COURT: How is a recorded telephone call by a
8 person who knowingly makes a recorded telephone call
9 after being warned by their counsel not to discuss
10 their case hearsay? This a statement by the
11 defendant in the case.

12 MR. LI: There is no --- are you referring to 801
13 (d)(2), Your Honor?

14 THE COURT: Go ahead with your argument, Mr. Li.

15 MR. LI: Yes, sir. Statements which are not
16 hearsay: Statement is not hearsay if admission by
17 party opponent, the statement is offered against a
18 party and is the party's own statement.

19 They are using this statement against this party.
20 It is not that party's own statement. I believe it's
21 one of the most disingenuous arguments I've heard the
22 entire trial. They're using it to show that she had
23 knowledge of the beatings. Most of the knowledge
24 requirement has been satisfied with every lay witness
25 that she had knowledge of it. So in addition to the

1 (d)(2) argument, Your Honor, we make a 403 argument.

2 What probative value does it have if they are
3 standing up here arguing that the reason they are
4 using it against Ms. Thompson is to show that she has
5 some sort of knowledge, what's the additional
6 probative value of this evidence. How is that greater
7 than the prejudicial value towards my client?

8 THE COURT: Ms. Pinnock.

9 MS. PINNOCK: Your Honor, I don't have anything
10 to put on the record other than what I added before.

11 THE COURT: Ms. McDuffie or whoever is talking.

12 MS. McDUFFIE: Judge, I think --- I don't know
13 that I understand Mr. Li's argument, but I think what
14 he's trying to argue is ---

15 THE COURT: His argument ---

16 MS. McDUFFIE: Is proffered or some sort of...

17 MR. LI: No.

18 THE COURT: His argument is that you're only
19 using this tape recording to show his client did
20 something.

21 MS. McDUFFIE: No, sir, Your Honor. We're using
22 this tape recording to show what happened that day and
23 her conscious knowledge of the beatings and the
24 condition the child was in.

25 I don't think this is a violation of the

1 confrontation clause of Crawford or Bruton, Your
2 Honor. I'm relying on US v. Jones 716 F3d 851 and US
3 v. Darden 738 F3d 643, both Fourth Circuit cases,
4 which clearly state that these are not violations of
5 Bruton or Crawford, Your Honor, and we would ask that
6 the protocols be admitted.

7 THE COURT: And what's the theory behind why
8 they're not violations of Crawford?

9 MS. McDUFFIE: Your Honor, these statements are
10 not testimonial. In United States vs. Darden the
11 Fourth Circuit clearly says ---

12 THE COURT: And by non-testimonial, you mean
13 they're not given to a law enforcement officer or that
14 kind of situation?

15 MS. McDUFFIE: Yes, Your Honor, and Darden is
16 about a codefendant statement to another cellmate, and
17 then the cellmate testifies as a third party straw,
18 Your Honor. That court says, "More significantly,
19 Bruton is simply relevant in the context of
20 non-testimonial statements."

21 Your Honor, statements in --- the Fourth Circuit
22 found in that case that statements by a codefendant to
23 a cellmate, which implicated the defendant on trial
24 were non-testimonial and that Bruton did not apply or
25 Crawford, Your Honor.

1 MR. LI: Your Honor, we're not making a Bruton
2 argument at all.

3 THE COURT: Okay. So the defense is not raising
4 Bruton. Okay, so your argument is it's hearsay.

5 MR. LI: It does not fall under (d)(2).

6 THE COURT: Under (d)(2) ---

7 MR. LI: They're not using it against her.

8 THE COURT: Of course --- I mean, are you
9 serious?

10 MR. LI: If this case was not a jury trial, would
11 they ever have allowed that tape to be played?

12 THE COURT: Absolutely.

13 MS. McDUFFIE: We'd offer that one and 15 others.

14 THE COURT: I mean, there are multiple
15 inculpatory statements made by Courtney Thompson on
16 that recording. Yeah, I mean, they're --- it's clearly
17 offered against her. I'm not saying it's not offered
18 for something else, too, but, I mean, it's clearly a
19 statement made by her, offered against her. I mean,
20 there are multiple statements in there that goes
21 directly to her knowledge and directly to her intent
22 and her version of what happened.

23 MR. LI: Your Honor, I guess my client ---

24 THE COURT: So your argument is that it's hearsay
25 under 801 (d)(2)?

1 MR. LI: Yes. In addition, Your Honor, I'd like
2 to make a fundamental argument that when --- the
3 reason that statement --- the reason that exception to
4 hearsay, which applies --- those statements are not
5 hearsay, is that somebody who's making those
6 statements against their own interest is less likely
7 to be lying, Your Honor. She knew the phone calls
8 were recorded. She knew that she had talked to her
9 attorney. She had reviewed the discovery. She was
10 talking to Nicole, who was a potential witness in the
11 case. The trial was coming up in a matter of weeks,
12 and she was trying to get information of whether or
13 not Nicole was going to testify. This entire phone
14 call was to sway Nicole into believing her. She knows
15 the purpose of the phone call.

16 This is --- this is a self-serving statement.

17 THE COURT: All right. Anything further?

18 MR. LI: No, Your Honor.

19 MS. McDUFFIE: No, Your Honor.

20 THE COURT: Ms. McDuffie?

21 MS. McDUFFIE: No, Your Honor.

22 THE COURT: All right. I'm going to allow it. I
23 mean, I think it's clearly admissible. It's not
24 hearsay, and even if there was a confrontation
25 argument, I think it survives the confrontation

1 argument. I'm familiar with the Darden case and the
2 testimonial versus non-testimonial rules in regard to
3 hearsay. I'm going to allow the tape recording to be
4 played.

5 Anything further?

6 And the foundation for that is already in, is
7 that right?

8 MS. McDUFFIE: Yes, Your Honor.

9 THE COURT: Is that the guy yesterday from the
10 jail?

11 MS. McDUFFIE: Yes, Your Honor.

12 THE COURT: Ms. Pinnock?

13 MS. PINNOCK: That was subject to the redactions,
14 correct?

15 THE COURT: Yeah, I'm not going to redact
16 anything. I think all of that is admissible. She
17 made the phone call. She knew it was recorded. Her
18 lawyer had, according to her on the phone, her lawyer
19 had told her not to talk about the case on the phone.
20 It's all the coming in.

21 All right. Anything further?

22 MS. McDUFFIE: Judge, we intend to offer the
23 autopsy diagrams. They made an objection on Monday.
24 I don't know where we stand on that.

25 MS. PINNOCK: I'll withdraw that objection,

1 Judge.

2 THE COURT: Okay. All right.

3 (Pause.)

4 THE COURT: Anything further from the State
5 before we bring in the jury?

6 MS. McDUFFIE: Judge, are we still going to break
7 at 10:00?

8 THE COURT: No. We're going to go --- you're
9 calling Dr. Durso first?

10 MS. McDUFFIE: Yes, Dr. Durso, Your Honor.

11 THE COURT: Is there a logical place you can
12 break in probably 30, 45 minutes?

13 MS. McDUFFIE: I would hope to be done with
14 direct by then, Your Honor.

15 THE COURT: That's fine. We'll try to get
16 through her direct, then break. I'll deal with my
17 sentencing, and then we'll come back.

18 Okay. Are you ready, Mr. Li?

19 MR. LI: Yes, sir.

20 THE COURT: Are you ready, Ms. Pinnock?

21 MS. PINNOCK: Yes, sir.

22 THE COURT: Okay. Bring them in.

23 (WHEREUPON, the jury entered the courtroom at
24 9:49 a.m.)

25 THE BAILIFF: The jurors are accounted for, Your

1 Honor.

2 THE COURT: Thank you very much. Welcome back,
3 ladies and gentlemen. Good morning, thank you for
4 being on time, and we're ready to go. You may call
5 your next witness.

6 MS. McDUFFIE: May it please the Court. The
7 State calls Dr. Amy Durso.

8 THE COURT: All right, Doctor. Please come
9 forward and be sworn.

10 DR. AMY DURSO,
11 after being duly sworn, testified as follows:

12 THE CLERK: Please have a seat. State your full
13 name for the record.

14 THE WITNESS: Amy Durso, D-U-R-S-O.

15 DIRECT EXAMINATION:

16 BY MS. McDUFFIE:

17 Q Dr. Durso, where are you employed?

18 A I'm employed by Professional Pathology Services
19 as a forensic pathologist.

20 Q And as a forensic pathologist with Professional
21 Pathology Services, do you also perform autopsies?

22 A Yes, my primary job is to perform autopsies,
23 which are examinations of bodies after death, and I do
24 them primarily at the request of the Richland County
25 coroner's office and also at the request of Palmetto

1 Health Hospital.

2 Q And as a pathologist, please describe for the
3 jury what a pathologist does?

4 A Well, specifically a forensic pathologist, which
5 is what I primarily do, we perform autopsies. So an
6 autopsy is where we examine the body after death,
7 which includes a complete external examination of the
8 body, so we look at anything from scars, tattoos, hair
9 color, length, weight, any identifying marks, and then
10 we also document any injuries that we see on the
11 outside of the body, and after that, we go to the
12 internal examination.

13 We do make some large cuts that go from the
14 shoulders down to the mid line of the chest and then
15 downwards along the abdomen where we can reflect back
16 the skin. We remove the front part of the rib cage,
17 and then we are able to see all of the major organs.
18 We look at them documenting anything that is abnormal,
19 any abnormal collections of blood, fluid. We remove
20 them one by one, weigh them and examine them.

21 We also examine the brain. We do that by doing
22 an incision on the back of the scalp, we reflect it
23 and then we are able to use a saw to remove the top
24 part of the skull, and then again we look at the
25 brain, remove it, weigh it, take sections through it.

1 Then even after that, we do additional testing.
2 We do collect samples of blood, urine, that sort of
3 thing for toxicology testing. We also take small
4 samples of the major organs to look at under the
5 microscope.

6 Q Dr. Durso, you said that you're a forensic
7 pathologist?

8 A Yes.

9 Q That's what you just described for the jury?

10 A Yes.

11 Q Are you board certified?

12 A I'm board certified, actually also in the general
13 areas of pathology, which include anatomical pathology
14 and clinical pathology. Anatomic pathology includes
15 forensic pathology, doing autopsies, as well as
16 surgical pathology, so if you've ever even had your
17 gallbladder removed or you have a biopsy to see if you
18 have cancer or you have a little piece of skin taken
19 off, pathologists look at that under the microscope
20 and give a diagnosis.

21 In clinical pathology, we learn how to run the
22 blood bank, the chemistry lab, the microbiology lab,
23 so it's a very broad area of pathology, but I do focus
24 mainly on forensic pathology at this point in my
25 career.

1 Q Please tell the ladies and gentlemen of the jury
2 your educational background and training and in the
3 field of forensic pathology?

4 A Sure. First, I went to college. I received a
5 bachelor's degree in psychology from Emory University.
6 After that, I went to the University of North Carolina
7 in Chapel Hill where I got my four year medical
8 degree.

9 After that I went to Wake Forest University where
10 I did my four year residency training. That was in
11 both anatomic and clinical pathology. Then I stayed
12 an additional year to do a fellowship specifically in
13 the field of forensic pathology and then I sat for
14 board examinations in anatomic pathology, clinical
15 pathology and forensic pathology. I'm board certified
16 in all three areas.

17 Q And approximately how many autopsies have you
18 performed over your career?

19 A Over 1200.

20 MS. McDUFFIE: Your Honor, at this time we'd
21 offer Dr. Durso as an expert in the field of forensic
22 pathology.

23 MR. LI: No objection, Your Honor.

24 MS. PINNOCK: No objection.

25 THE COURT: Ladies and gentlemen, this expert ---

1 this witness will be an expert qualified in the area
2 of forensic pathology. She will be allowed to give
3 opinion testimony in that area. That does not mean
4 that you must accept her opinion, however, it is
5 evidence for you to use in any way that you see fit
6 and give it the weight and credibility that you
7 believe is appropriate as you are to do with every
8 single witness. Thank you.

9 Ms. McDuffie, please continue.

10 BY MS. McDUFFIE:

11 Q Dr. Durso, is there a difference between
12 performing an autopsy on an adult and on a child?

13 A There are a few differences. In any child, we do
14 what we call a radiological survey as part before we
15 even cut into the body so we have the radiology
16 department come down. They do full x-rays over the
17 entire body, the skull, the extremities, the chest,
18 the torso, just to look for any evidence of acute or
19 healing fractures.

20 Q Is that the major difference between a child and
21 adult autopsy?

22 A As far as the procedure goes, yes.

23 Q So please describe for the ladies and gentlemen
24 of the jury, when a person is brought to you for
25 autopsy, what is the first thing you do?

1 A Usually I have a brief report from whoever is
2 requesting the autopsy. In this case, it was the
3 Richland County Coroner's office. I'm just given a
4 little bit of background information, including the
5 age, that kind of thing, the circumstances surrounding
6 the death, how the person was found.

7 Then, you know, we identify the body, make sure
8 we're autopsying the correct person. We go from there
9 with the external examination.

10 Q So in this case you were performing an autopsy on
11 whom?

12 A On CHILD

13 Q Date of birth?

14 A Date of birth was , 2009.

15 Q And when was his date of death?

16 A His date of death was July 1, 2013, and we
17 performed the autopsy the next day, the next morning
18 on July 2nd, 2013.

19 Q What information was given to you by the
20 coroner's office prior to preparing --- prior to
21 performing the autopsy?

22 A That it was a four-year-old boy who was
23 pronounced by EMS at his home, that he was possibly a
24 special needs child, and that the mother stated she
25 was showering when she heard a loud thump and found

1 him on the floor in the bedroom across the hall in a
2 fetal type position, and that he was biting his lip
3 and shaking.

4 Q That was all the information you had?

5 A Yes, that was all the information I had.

6 Q And when a body is brought to you to perform an
7 autopsy, are you told that there may be possible abuse
8 or he may have died of a natural death? Are you given
9 any background in terms of that?

10 A Just given the history that I had, I was
11 suspicious of abuse in this case just because four
12 year olds don't just die for no reason for no reason.
13 The fact that there was just a thump, I think somebody
14 mentioned a fall from a dresser, chest of drawers, and
15 that did not sound consistent with something that
16 could have caused death, so I was suspicious, yes.

17 Q When you perform an autopsy, what is your goal?
18 What are you trying to do? What information are you
19 trying to get?

20 A On top of determining the actual cause of death,
21 we also just want to document any abnormalities,
22 whether it's natural disease, any kind of injury, just
23 anything that's not a normal variant in the body, we
24 want to document and be very thorough.

25 Q Ultimately you're trying to determine the cause

1 of death?

2 A Yes.

3 Q And in this case, you performed an autopsy on
4 CHILD on July 2nd, 2013?

5 A Yes.

6 Q What was --- I think you said --- the first thing
7 you did was an external physical exam?

8 A Yes.

9 Q Please describe for the ladies and gentlemen of
10 the jury how you proceed with that exam and what you
11 do?

12 A Along with me are representatives from the
13 sheriff's department and from the coroner's office
14 that take the pictures, and I usually --- I have a
15 diagram and kind of a blank diagram on this case of,
16 you know, like an infant or a child. Then I just go
17 from head to toe. You know, I document the child's
18 length, weight, eye color. I start documenting any
19 scars, any injuries, anything that is not supposed ---
20 not a normal, you know, very...

21 Q Typically how long does that take do you do?

22 A In a normal case, five minutes.

23 Q In this case, how long did it take you to perform
24 the external examination of CHILD?

25 A About an hour.

1 Q And you said that you prepared diagrams of the
2 external injuries?

3 A I did.

4 Q I'm showing you State's 255 and 256, are these
5 the diagrams you prepared at the time of autopsy?

6 A Yes.

7 MS. McDUFFIE: Your Honor, at this time we'd
8 offer 255 and 256.

9 MS. PINNOCK: No objection.

10 MR. LI: No objection.

11 THE COURT: All right. Very well. State's 255
12 and 256 without objection.

13 (WHEREUPON, State's Exhibit Numbers 255 and 256
14 were admitted into evidence.)

15 MS. McDUFFIE: Your Honor, may the witness step
16 down?

17 THE COURT: All right. Dr. Durso, may sure you
18 keep your voice up so that even the jurors on the last
19 row can hear you.

20 THE WITNESS: Okay.

21 BY MS. McDUFFIE:

22 Q State's 255, if you could please start at the
23 head of the child and describe the injuries that you
24 observed.

25 A Sure. So starting with the head, let me see. So

1 there were several scars over the head. There's a
2 little scar here on his nose, a scar here on his
3 forehead. Both eyes had what we call orbital
4 contusions, which in laymen's terms is a black eye.
5 He had black eyes on both sides. There was a little
6 patch of discolored skin. It was just kind of
7 darkened. I wasn't quite sure if that was just he had
8 darker skin in that area or it was representative of
9 some kind of underlying injury.

10 He add a small linear abrasion just below his
11 left eye. Then on his lips, I noticed quite a few
12 lacerations. When we pulled down his lower lip, there
13 were quite a few deep injuries to the inside of his
14 lip, as well as to his lower lip.

15 Q And Dr. Durso, State's 130, which is already in
16 evidence, can you please point out to the jury the
17 injuries you just described?

18 A Sure. You can see here the scar I was talking
19 about on his nose here, and then here you can see the
20 bite marks to his lip there, and you can also see that
21 both of his eyes have this kind of purplish
22 discoloration around them. Again, those are basically
23 black eyes, bruises to the tissues around his eyes.

24 Q And showing you State's 31, is that the injury to
25 the lip that you observed?

1 A Yes.

2 MS. McDUFFIE: Your Honor, at this time we'd
3 offer state's the 231?

4 THE COURT: Over defense objection.

5 (WHEREUPON, State's Exhibit Number 231 was
6 admitted into evidence.)

7 BY MS. McDUFFIE:

8 Q Dr. Durso, if you could please show the ladies
9 and gentlemen of the jury, on State's 231, show the
10 injury that you observed to CHILD

11 A Right, when we peeled back his lip, you see the
12 extensive soft tissue injury to his lip in this area.
13 It's quite deep. There are several areas where you
14 have these lacerations to his lower lip.

15 Q Is that --- if someone was biting their lip, is
16 that consistent with that injury?

17 A Well, I mean, if he was biting it very hard, yes,
18 he could have bitten it.

19 Q And Dr. Durso, did you see any other injuries to
20 his head as you depicted on your diagram, externally?

21 A Not on the external exam, no, I did not.

22 Q If you could move to his torso, please?

23 A Sure. So there was a small crusted abrasion
24 right here, which means it was kind of in a state of
25 healing. You know, as you have abrasions that heal,

1 when they're older you have that scab that heals over
2 it. There also was some scarring over his right hip,
3 as well as areas of dark discoloration over his right
4 hip. Again, he was a dark skinned child. I wasn't
5 sure if that was bruising or just some old scarring,
6 but there were definitely some areas that were scar
7 like and some that were concerning for bruising that
8 we did not know for sure until we did the full
9 autopsy.

10 Q If you'll move to his arms.

11 A Arms, sure. There were several scars on his
12 arms, a scar here on his left upper arm, two scars
13 right here in this area on his arm, and another small
14 scar down here on his arm, and then flipping him over,
15 there was a scar on the back of this arm, two small
16 superficial abrasions around his elbow.

17 Q Doctor, let me stop you right there. When you
18 say abrasions, what do you mean?

19 A Scrapes to the skin. You know, something scrapes
20 your skin and you have a little scratch there, so
21 abrasions or scrapes. There was also another little
22 abrasion right here on the back of his shoulder.

23 Q Dr. Durso is that depicted in State's 225?

24 A Yes.

25 MS. McDUFFIE: Your Honor, at this time we would

1 offer 225 into evidence.

2 THE COURT: 225 admitted over defense objections.

3 (WHEREUPON, State's Exhibit Number 225 was
4 admitted into evidence.)

5 THE WITNESS: So this is the ---

6 THE COURT: Hold on just a second. Okay, thank
7 you.

8 BY MS. McDUFFIE:

9 Q Go ahead, Dr. Durso.

10 A So this is on his left shoulder, and you can see
11 the abrasion that I'm talking about, the scrape to the
12 skin. It's not a very deep one, but it does look like
13 it's healing some. There is some crusting of it kind
14 of forming a scab.

15 Q And then, Dr. Durso, if you could move to the
16 lower back and buttocks area.

17 A The lower back and buttocks area had a lot of
18 discoloration that I did not describe because I wanted
19 to figure out if that was hemorrhage or just kind of
20 birth mark. I wasn't really sure until really the end
21 of the autopsy, because at the end of the autopsy, we
22 were able to make incisions into the skin to see
23 exactly whether it was hemorrhage or just a birth
24 mark. We wanted to make sure we were correct in
25 calling it.

1 Q State's 228, 229 and 227, are these photographs
2 that you took of CHILD 's lower back,
3 buttocks, and upper thighs?

4 A Yes.

5 MS. McDUFFIE: Your Honor, at this time we would
6 227, 228, 229 into evidence.

7 THE COURT: Okay, 227, 228, and 229 are admitted
8 over defense objection.

9 (WHEREUPON, State's Exhibit Numbers 227, 228, and
10 229 were admitted into evidence.)

11 THE WITNESS: On most of his back injuries, I
12 kind of ran out of writing room so I had to get
13 another diagram, so a lot of those are on the
14 additional diagram to mark everything.

15 BY MS. McDUFFIE:

16 Q Using State's 256 and Exhibit 227, please
17 describe the injuries to his buttocks that were noted?

18 MS. PINNOCK: Your Honor, I'm sorry. May we
19 approach?

20 THE COURT: Yes.

21 (WHEREUPON, a bench conference was held in the
22 presence, but not within hearing of the jury.)

23 MS. PINNOCK: Your Honor, I would object to the
24 photos.

25 THE COURT: Okay. Understood.

1 You may continue, Dr. Durso.

2 THE WITNESS: Okay.

3 BY MS. McDUFFIE:

4 Q Again, using State's Exhibit 227?

5 A Yes, this is his buttock area. Again, you can
6 kind of see these superficial abrasions along his
7 buttocks. You can see how darkly discolored this
8 whole area was. Again, we were concerned that that
9 whole area represented bruising, and let's see. There
10 are also a few little abrasions as you can see here
11 along the backs of his legs, as well as right here.

12 Q State's 228, Dr. Durso, if you could please
13 explain to the jury the injury.

14 A So this is a little bit higher than the last
15 picture. You can see some scars, and we can also see
16 here what's considered to be a healing bite mark.

17 You can see the curvature of the mouth and the
18 teeth marks, but this is a healing wound, so it
19 happened some time in the past.

20 Q Can you tell if that bite mark was made by an
21 adult or a child?

22 A I went back and looked at the measurements
23 because I did measure it at the time. It matches up
24 with more with either a teenager or an adult.

25 Q Dr. Durso, finally State's 229, can you please

1 describe to the jury the injuries on this photograph
2 and on your diagram?

3 A Right. So you can see there is an abrasion here
4 on his right hip. There are also these dark areas of
5 discoloration that are very concerning to be bruises.
6 Again, there's this very dark area here on the lower
7 buttock that, again, is very concerning to being a
8 bruise.

9 Q Dr. Durso, when you say bruises describe what
10 exactly is going on in the body with that?

11 A So a bruise is when you have a blunt injury to
12 the body. I think we've all had bruises in our life
13 where you have any kind of impact that's a blunt
14 impact. So instead of cutting the skin, you kind of
15 crush the tissues underneath the skin, which forms a
16 bruise so the bleeding is actually underneath the
17 skin. You have broken blood vessels under there, you
18 just haven't broken the skin. That's why underneath
19 that skin you get that bluish color and it eventually
20 turns yellow and kind of gets broken down, so that's
21 what a bruise is. It's from a blunt force impact.

22 Q So the blood actually leaves your circulatory
23 system?

24 A Right, it's now in the soft tissues. Instead of
25 having blood circulating through the capillaries,

1 veins, arteries, which is where blood should be, it's
2 now in the soft tissues where it's no longer
3 circulating and providing oxygen, blood, nutrients to
4 your organs and your tissues.

5 Q When you bump into something or get a bruise, the
6 fact that that blood is no longer in your circulatory
7 system, does that usually cause any immediate, you
8 know, health condition to an individual?

9 A Well, it certainly hurts, but if it's just a
10 small bruise, your body can compensate for small
11 bruises, a little blood loss. Unless you've already
12 lost a lot of blood for some reason, it wouldn't
13 affect you, no.

14 Q When that blood, with a normal bruise, goes into
15 the soft tissue, does it stay there forever?

16 A No, the body has a way of braking down, so it
17 breaks down the components of the blood. One of the
18 components is from the iron in your blood and it turns
19 into hemosiderin, which has that yellow color. I
20 don't know if you ever watched your bruises go from a
21 kind of a purplish color to a blue color, and
22 eventually it's yellow. Yellow just means that the
23 hemosiderin has broken down those red blood cells.

24 Hemosiderin has scavenger cells that can go in
25 and get rid of the old blood products. It kind of

1 breaks it all down, and that's why eventually your
2 bruise will go away.

3 Q What if an individual is constantly and
4 repeatedly injured over and over again in the same
5 area?

6 A That bruise would not heal. You would have
7 continued blood oozing into that area. Your body
8 could not keep up with trying to scavenge and get rid
9 of all the old blood cells that it's trying to break
10 down, but the more blood and the more that's gathered,
11 the longer it's going to take for your body to get rid
12 of the blood in the soft tissues and repair itself.

13 Q When the blood leaves the circulatory system and
14 goes into the soft issues, does it --- is the body
15 able to make more blood or just how does that process
16 work?

17 A Right. So if your body --- if you actually get
18 low on blood, and if you bleed for any reason into
19 your soft tissues or you have a wound where you have
20 actually bled out, if you lose enough blood there are
21 actually signals that go to your body and go to your
22 bone marrow where your blood is made. Your body will
23 rev up its red blood cell production and actually
24 starts sending out younger blood cells just to get
25 blood out there so your body can compensate for the

1 blood loss.

2 Q How quickly can you body remake blood?

3 A It depends on how much it needs. It really is
4 kind of a process. You can lose probably up to
5 40 percent of your blood rapidly and with some
6 transfusions recover, but it just really depends on
7 how quickly you are losing your blood and whether or
8 not you're getting treatment for it to stop the
9 bleeding. About 40 percent is where if you don't have
10 any kind of medical intervention you would probably
11 die from that.

12 Q Dr. Durso, in this case when you examined the
13 external injuries, could your tell how deep they were,
14 how much blood was lost as a result of each of those
15 injuries?

16 A On the external examination before we did the
17 autopsy, no.

18 Q What could you tell from the numerous external
19 injuries that you told the jury about thus far?

20 A Well, based on the scars, the multiple scars on
21 this child including a healing bite mark, all the
22 abrasions, the potential bruising, the dark
23 discoloration on his buttocks, I had great concerns
24 that this was a chronically abused child.

25 Q And that was evident from looking at it

1 externally?

2 A Yes.

3 Q Moving to his legs, State's 230, is that a
4 photograph of his legs?

5 A It is.

6 MS. McDUFFIE: Your Honor, at this we'd offer
7 230.

8 THE COURT: 230 is admitted over defense
9 objections.

10 (WHEREUPON, State's Exhibit Number 230 was
11 admitted into evidence.)

12 BY MS. McDUFFIE:

13 Q Dr. Durso, please describe for the jury in
14 State's 230, the condition of [REDACTED] CHILD 's
15 legs.

16 A You could just see looking at his legs that this
17 knee looks somewhat normal, but this knee is really,
18 really swollen. Again, this is just on external
19 examination that I noted that his knee was swollen,
20 but I planned to go back and revisit that at the end
21 of the autopsy and cut into the tissue there to see
22 what was going on.

23 Q Looking at the front of his legs or where
24 clothing may not cover, does he have as many bruises
25 and abrasions as he does in other parts of his body

1 that clothing does cover?

2 A Nowhere near as many on the front. It's really
3 on the back of him that I saw the most injuries.

4 Q So lower back, buttocks and upper thighs?

5 A Yes.

6 Q Dr. Durso, can you please tell the jury if you
7 had any other findings on the external exam?

8 A There was actually. Can I flip this?

9 Q Yes.

10 A There was this injury. There was a little
11 abrasion above his right elbow. Just below it, we
12 talked about blunt force injuries and scrapes and
13 bruises. Well, opposite of blunt force injury is a
14 sharp force injury that actually cuts the skin. There
15 was actually a small sharp force injury on this arm
16 here.

17 Q Is that depicted in State's 144?

18 A Yes.

19 Q Describe for the jury what, if any, significance
20 that had to you?

21 A Just that you could tell that the skin here had
22 been cut and here is a deeper puncture mark. So this
23 is something more like with a nail or something that
24 slid across and impacted him deeper. It was starting
25 to heal, but it didn't look like it received any kind

1 of medical intervention, sutures, or anything like
2 that, but it was a sharp force injury.

3 Q Dr. Durso, if you could retake the stand.
4 (complies.)

5 Q Dr. Durso, after you performed the external
6 examination to CHILD --- I'm sorry,
7 prior to performing that you said you did x-rays of
8 the body?

9 A Yes.

10 Q And then you did the external examination?

11 A Yes.

12 Q And then after the external examination, please
13 describe for the jury what, if anything, you did?

14 A So after the x-rays --- the x-rays had a few
15 significant --- can I talk about the x-rays?

16 Q Sure.

17 A So the x-rays did have a few significant
18 findings, a possible rib fracture, as well as possible
19 fracture to the left upper arm. I did contact the
20 pediatric radiologist to review these with me. She
21 agreed that there were some abnormalities that were
22 concerning for fractures.

23 Q And that was done prior to any internal
24 examination?

25 A Right.

1 Q And then when you began an external examination
2 of the body of the [REDACTED] CHILD please tell
3 the ladies and gentlemen how you started that or what
4 you did first?

5 A For the internal examination, yes, like I said,
6 we then made that V shaped incision over the chest and
7 down the abdomen, removed the rib cage and then
8 proceeded with the internal examination. Overall, the
9 main part of that part of the internal examination,
10 the body organs, there were no congenital
11 abnormalities. There were no major findings within
12 the major organs.

13 We did note that the thyroid gland, the gland up
14 around your neck, was really pale, which we usually
15 see in anyone that has basically bled out that has had
16 a lot of significant blood loss, so that was a major
17 finding that we had there.

18 Q Doctor, let me stop you for a minute.

19 A Sure.

20 Q The pale thyroid gland, is that something that
21 occurs with slow blood loss over time or rapid blood
22 loss or is it consistent with both types of blood
23 loss?

24 A It's consistent in both, but we see it more often
25 with rapid blood loss. It's kind of like you don't

1 have enough blood flow. It's one of the organs that's
2 not quite as vital, so when you're in hemorrhagic
3 shock with lot of blood loss, you kind of cut off the
4 flow to things like your thyroid gland that aren't
5 quite as essential as say your brain.

6 Q When you say hemorrhagic shock, what does that
7 mean?

8 A Hemorrhagic shock is when you don't have enough
9 blood in your circulatory system to get blood flow to
10 your major organs. So you've lost enough blood either
11 internally or externally that you no longer have
12 enough blood pressure, you no longer have enough red
13 blood cells carrying oxygen to your major organs. The
14 two most major organs being your brain, which really
15 needs high blood flow all the time. It's a very
16 active organ. And the heart, which you need to
17 continue circulating what blood you do have.

18 Q So when you began your external examination, you
19 looked at all his major organs and you looked for any
20 signs of disease or natural cause of death of [REDACTED]
21 CHILD [REDACTED]?

22 A In the internal examination, yes.

23 Q Were your able to find any disease or natural
24 cause of death during the internal examination?

25 A No.

1 Q Please tell the ladies and gentlemen of the jury
2 how your proceeded after that?

3 A So after removing the organs, weighing them, we
4 took sections of them to look at under the microscope.
5 We did notice some rib fractures, so ---

6 Q Let me stop you there for a second, Dr. Durso.
7 When you say you noticed rib fractures, you first
8 noticed them on the x-rays that were done, correct?

9 A Right. Then we --- once we have the organs out,
10 we can see the entire rib cage. We can actually
11 palpate fractures, we can visualize them directly, by
12 using the x-rays. We did notice two rib fractures,
13 which involved --- let me make sure I get my numbers
14 right.

15 Q Dr. Durso, can I show you 240 and 241?

16 A Yes.

17 Q Are those photographs of the ribs that you took?

18 MS. McDUFFIE: Your Honor, at this time we would
19 offer 240 and 241.

20 THE COURT: 240 and 241 without objection.

21 (WHEREUPON, State's Exhibit Number 240 and 241
22 were admitted into evidence.)

23 BY MS. McDUFFIE:

24 Q So Dr. Durso, which ribs did you notice the
25 injury to?

1 A The left lateral ninth rib, which was also noted
2 on x-ray, it was starting to form a little callus, so
3 as the rib heals it has this little reaction. You can
4 see this bulbous thing on the x-ray, so that was
5 actually a healing rib fracture.

6 Q Let me stop you for one second. The left lateral
7 ninth rib, where is that on the body?

8 A Lateral means on the side, so you start counting
9 from the top, one, two, three, four, five, six, seven,
10 eight, nine --- you only have 12 ribs so it's fairly
11 towards the bottom of the rib cage, so over here on
12 the side.

13 Q On the side? Okay. And this photograph, can you
14 please show the ladies and gentlemen of the jury where
15 the fracture is in his left lateral ninth rib?

16 A Sure. So this is a rib that we've removed from
17 the body. We fixed and formed to kind of make it
18 easier to study, and so, I don't know how close you
19 can get, but there is actually a little fracture line
20 right here and right here. We split the rib in half.
21 We cut it down the middle so you could really see the
22 fracture line. You can see there is this kind of
23 formation of what we call a callus around it, a
24 healing rib fracture, where there is actually evidence
25 of healing. So what we do with these fractures is we

1 actually --- we decalcify them and then we are able to
2 actually cut them, put them in cassettes so that we
3 can look at them under the microscope on a slide, so I
4 was able to look at this rib under the microscope to
5 do more specific dating to confirm that it was a
6 healing rib fracture.

7 Q When you say a healing rib fracture, how long had
8 CHILD been suffering with this injury
9 prior to his death?

10 A That rib fracture we dated between ten days and
11 six weeks.

12 Q Can you get any more accurate or precise than
13 that in your dating of fractures?

14 A No.

15 Q So for at least ten days, but up to six weeks, he
16 was suffering with this injury?

17 A Yes.

18 Q Would this have been a painful injury?

19 A Yes, rib fractures were always going to be
20 pretty painful. Anytime you take a deep breath, you
21 cough, you sneeze, that would have caused considerable
22 pain.

23 Q So for at least ten days prior to his death, but
24 up to six weeks, he was in considerable pain from this
25 injury, the left ninth rib fracture alone?

1 A Yes.

2 Q If we could move to the tenth --- the right tenth
3 rib?

4 A I think it's the --- yes, the right tenth rib,
5 yes.

6 Q In State's 240, please describe the fracture you
7 located in the right posterior tenth rib?

8 A Right posterior is along the back counting nine
9 down.

10 So we did the same thing for this one as we did
11 with the other. You know, we cut the bone in half.
12 You can see that's the bone marrow inside. Here is
13 the bony part, the shaft of the rib. You can see this
14 little fracture line right here and right here. So
15 you split it open. Here is the fracture line. Here
16 there is no evidence of healing. There is a tiny bit
17 of hemorrhage, but there is no fracture callus, none
18 of that bulbous looking like it's trying to heal
19 itself. This is an acute fracture. This happened
20 near the time of death.

21 Q The can you give a time range at all on that?

22 A Within twenty-four hours prior to his death.

23 Q So any time within twenty-four hours. It could
24 have been two minutes before or twenty-four hours
25 before his death he suffered this injury?

1 A Yes.

2 Q That was the right back tenth rib?

3 A Yes.

4 Q So he had the left ninth and the right back tenth
5 rib?

6 A Right. Please are two separate complete injures,
7 both in time and in space.

8 Q Dr. Durso, how does one break ribs? How do those
9 injuries typically occur?

10 A That's from blunt force injury, being struck
11 hard. It could be a child being thrown into the wall
12 and also some posterior rib fractures can be from
13 extreme squeezing of the child.

14 Q When you say blunt force injury, what are you
15 talking about?

16 A Anytime the body strikes a hard flat surface,
17 whether it's the body moving into the surface or it's
18 somebody taking a hard flat surface and striking
19 someone, that would be a blunt injury.

20 Q And, Dr. Durso, do blunt force injuries, do they
21 commonly break the skin or puncture the skin in
22 anyway?

23 A Not usually, no. They are commonly for injuries
24 under the skin, for bruises and fractures and that
25 sort of thing.

1 Q Did you notice or were there any other fractures
2 in [CHILD] at the time of his death?

3 A Yes, there was a fracture to his left humerus, so
4 the left upper arm bone.

5 Q Is that depicted in State's 242?

6 A Yes.

7 MS. McDUFFIE: Your Honor, we'd offer 242.

8 THE COURT: Admitted without objection, 242.

9 (WHEREUPON, State's Exhibit Number 242 was
10 admitted into evidence.)

11 BY MS. McDUFFIE:

12 Q Dr. Durso, if you will, please describe for the
13 jury the fracture you saw in [CHILD]'s
14 left arm.

15 A This fracture was a little bit different. There
16 was no actual fracture line through the middle of the
17 bone. What we have instead is, we have the outside of
18 the bone has what we call a periosteal reaction, so
19 it's trying to heal itself, but in addition to that,
20 there's also acute hemorrhage overlying the fracture,
21 which indicates it was very likely a site of repeated
22 injury. So a periosteal reaction, a healing fracture,
23 and this is one to two weeks old on top of acute
24 hemorrhage, so this might have been a place where he
25 was being forcefully grabbed by that --- I'm sorry, it

1 was this arm.

2 Q So if, hypothetically Doctor, if he was being
3 grabbed by his left arm and he was trying to get away,
4 would that cause re-injury to that fracture?

5 A Yes.

6 Q Can you date that fracture in any way?

7 A It was very difficult to date because it had a
8 slightly abnormal pattern of healing, I think, because
9 it was being reinjured.

10 Q Can your tell how many times it was reinjured?

11 A Obviously at least twice, but I can't tell you
12 how many more than that.

13 Q It could be more, but it was least two times?

14 A Yes.

15 Q Dr. Durso, the fracture to the left arm, is there
16 any way to say possibly how long he could have been
17 suffering with that fracture?

18 A At least --- like I said at least one to two
19 weeks, probably longer, but it's really hard to date
20 it because it does have some abnormal healing because
21 it was reinjured.

22 Q The injury to the humerus, that's what you call
23 long bone?

24 A Yes.

25 Q Describe how that injury can occur or did occur

1 if you can?

2 A So any hard impact to the bone itself, but also
3 yanking of the arm by someone could also cause that
4 injury.

5 Q And, Dr. Durso, would that injury have been
6 painful?

7 A Extremely.

8 Q Would he have been able to use that arm in a
9 meaningful way?

10 A No. He probably would have been guarding it
11 trying not to let anyone touch it. I don't know if
12 anyone has ever broken a bone, but it's very painful.

13 Q And, Dr. Durso, that fracture is at least one to
14 two weeks old?

15 A Yes.

16 Q And that injury would have been readily apparent
17 to any parent or care giver?

18 A He would have been guarding that arm, and I think
19 any care giver would have noticed that their child was
20 not using their arm.

21 Q So in addition to the fracture of the left arm,
22 which would have been very painful, he also had a
23 fracture to the left rib?

24 A Yes.

25 Q And he had those injuries for how long, I'm

1 sorry?

2 A The rib fracture dated from ten days to six
3 weeks. Like I said, I had difficultly dating the left
4 arm fracture, but I would say about at least one to
5 two weeks.

6 Q That was for the first injury?

7 A Yes.

8 Q And you also said that there was acute injury to
9 the arm?

10 A Right. There was acute hemorrhage overlying
11 that, so that means it was also reinjured probably
12 within twenty-four hours prior to his death.

13 Q So again when you say twenty-four hours prior to
14 his death, it could have been twenty-four hours and it
15 could have been 30 seconds?

16 A Right.

17 Q Dr. Durso, after you made your radiological
18 findings, please tell the ladies and gentlemen of the
19 jury what you then did?

20 A Next we turn to the head and again the first
21 thing we do is make incisions along the back of the
22 scalp. We actually reflect the scalp forward so we
23 can get to where we need to cut the skull. Before we
24 cut the skull, we did notice multiple areas of impact
25 or bruising to his head that were not evident on the

1 external examination. Again, you start with the skin,
2 he had hair, and we did notice that he had these, I
3 believe, it was four areas of impact, here, here, the
4 back of his head, and also the back side of his head.
5 So, he had these four different impacts. Those are
6 different planes. That's not consistent with just
7 least one impact.

8 Q And, Dr. Durso. please tell the ladies and
9 gentlemen of the jury if those injuries are
10 significant and why?

11 A Well, any bruising to a child's held is very
12 significant. The fact that there were multiple ones,
13 that doesn't mean, you know, if you have a kid that
14 falls, your might see one impact. They fall, they hit
15 their head, and that's going to be it. Having
16 multiple impacts, again, is a sign of an abused child.

17 Q Dr. Durso, are these injuries to the head
18 consistent with a singular fall?

19 A No.

20 Q A fall from any height?

21 A No.

22 Q After you reflected the scalp and you noticed the
23 multiple points of impact or bruising on his head,
24 please tell the ladies and gentlemen of the jury what
25 you then did.

1 A So we removed the top of the skull. Underlying
2 the skull there's several layers before you get to the
3 brain. The first layer is called the dura. If you
4 can picture, it's like this white fibrous sheet, like
5 a white sheet, that overlies your brain just
6 underneath your skull. Between that sheet and your
7 brain are these tiny little veins.

8 So in varying children and older adults, that
9 white sheet, the dura is almost attached to your
10 skull. Any big impact to your head will cause your
11 brain in there to move enough away from the dura. It
12 will tear these veins and cause bleeding between the
13 dura, that sheet that I described, and the brain
14 itself. That is called a subdural hemorrhage.

15 This would require significant force, more than a
16 simple fall. This would be a significant impact that
17 would break those veins and cause bleeding, so he did
18 have a subdural hemorrhage on the --- what was it ---

19 (Pause.)

20 --- on the left side, primarily over the left side of
21 the brain.

22 Q And again, that's not consistent with a fall from
23 any height?

24 A No.

25 Q Is that caused by anything natural?

1 A No.

2 Q What was the cause or can you state the cause
3 of --- how does the subdural occur?

4 A So it comes from a blunt force injury that again,
5 would give enough of a jolt to the head that the brain
6 would move and the dura that's kind of attached to the
7 skull, and it would just rip those veins.

8 Q Dr. Durso, did CHILD have any
9 skull fractures?

10 A He did not have any skull fractures, no.

11 Q Is that finding consistent with the subdural you
12 saw in his brain?

13 A It is consistent.

14 Q Explain to the jury how that works.

15 A So you can have a blow that's hard enough to jolt
16 the brain and tear those veins, but not hard enough to
17 actually break the skull. I mean, the bone is pretty
18 thick, but when you are four years old, the skull is
19 really starting to thicken. It's harder to break than
20 in a younger child.

21 Q In a four-year-old it would be much more
22 difficult to break the skull than in a two-month-old?

23 A Right.

24 Q Dr. Durso, the subdural that you just described
25 for the ladies and gentlemen of the jury, can you date

1 that in any way?

2 A Yes. If it's kind of fresh, it kind of looks red
3 and it just kind of falls out, but this was actually
4 like a red membrane that we could easily peel from the
5 brain in one piece, which made me think it was a
6 little bit older. It did not look yellow in color,
7 which would mean it was even older, because like I
8 said before, when blood breaks down, it starts to turn
9 yellow.

10 I took sections of it and I was able to look at
11 it under the microscope to look for signs of healing.
12 There have been many studies about what you look for
13 and how many days, and it dated between five and seven
14 days.

15 Q That injury occurred from five to seven days
16 prior to his death?

17 A Prior to his death. After death all healing
18 stops. It doesn't matter how long after the autopsy
19 was. This was at his death.

20 Q Dr. Durso, would that injury have had any impact
21 on his day-to-day life, cognitive functions?

22 A Right, there was enough bleeding in there that it
23 was not enough to cause his actual death, because
24 you'd have to have enough bleeding to put pressure on
25 the brain for the brain to actually herniate

1 downwards, but it was enough that it would have put
2 some pressure on his brain. He was probably acting
3 kind of tired, lethargic; it's very likely he could
4 have vomited, even temporarily lost consciousness
5 after the blow.

6 Q Dr. Durso, would symptoms of this injury be
7 readily apparent to any person caring for this child?

8 A Yeah, I think someone would notice that their
9 child was not acting right.

10 Q And, Dr. Durso, you said that the subdural alone
11 was not enough to cause his death, correct?

12 A Correct.

13 Q It was just one injury that you noted in your
14 autopsy?

15 A Yes.

16 Q Please tell the ladies and gentlemen of the jury
17 what you did further?

18 A So after the completion of the internal exam and
19 that portion, we were very concerned about all the
20 findings on his back, the dark discoloration, so we
21 flipped the child over on his stomach so we could see
22 his back. We actually ourselves make incisions into
23 the skin, the soft tissue, and even the muscle on the
24 back.

25 So we made multiple incisions along the back, you

1 know, extending all the way down his back along his
2 buttocks, all the way along the back of his legs and
3 on the back of his arms. I think we were all pretty
4 horrified to see just how much bleeding and hemorrhage
5 there was pretty much in every cut that we made. He
6 had bleeding of different ages. There was a lot of
7 yellow swollen areas that show an older injury, as
8 well as dark red, bright red hemorrhage.

9 Q And, Dr. Durso, when you had to make these cuts
10 down the back of CHILD, describe for
11 the jury the amount of blood loss that you observed,
12 where it was, and the significance of that.

13 A So the majority of the blood loss was in his
14 lower back and buttocks. When we cut into the
15 buttocks on the left side, there was hemorrhage. It
16 was four centimeters deep. That's about, you know,
17 two-and-a-half inches deep into a small child's
18 buttocks, so it's deep into the muscle at that point.
19 That's beyond anything that could be caused by
20 spanking. This is a hard object hitting this child in
21 order to cause hemorrhage that deep, and that was a
22 lot of dark red hemorrhage.

23 Again, there were areas of more yellow hemorrhage
24 mostly on the backs of his legs. There was hemorrhage
25 on the backs of his arms. Like I said, I've never

1 seen a child with this many areas of bruising this
2 severe.

3 Q And, Dr. Durso, the areas of hemorrhage that you
4 noted, could you tell when these injuries were
5 inflicted on the child?

6 A Well, again, we can't date bruising. Subdurals
7 have a way of healing that we can date by the way the
8 body heals, but unfortunately bruising either has
9 hemosiderin that break down product that makes it
10 yellow or it's dark red without that. So you can't
11 really date the yellow areas and there were quite a
12 few yellow areas with a lot of edema, which is
13 swelling, which is the body's reaction when you have
14 such severe injury in the soft tissue, and like I
15 said, even extending into the muscle itself.

16 So we can't date a bruise other than to say that
17 there were some areas that were dark red, bright red
18 that were probably less than eighteen to twenty-four
19 hours old, so very recent as well as significant
20 injury that was much older, and I mean, there was just
21 as much old injury as there was new injury, so it was
22 all of this together that contributed to the blood
23 loss of this child so the blood that was in his soft
24 tissue is --- he no longer able to circulate enough
25 blood to give oxygen whatever he needs to his brain to

1 maintain his vital functions in his body.

2 Q So if I understand it, Dr. Durso, [REDACTED]

3 [CHILD] was repeatedly and consistently beaten?

4 A Yes.

5 Q And those repeated and consistent beatings caused
6 him to lose so much blood from his circulatory system
7 and go into his soft tissues that his body couldn't
8 function anymore?

9 A Correct, this was a small child so based on his
10 weight, the total amount of blood within his
11 vasculature, his blood vessels that he should have
12 had, was only about 1600 milliliters, so that's less
13 than two liters. When you look at a two liter bottle
14 of soda, he had less than that as his normal blood
15 volume.

16 All of that soft tissue hemorrhage is easily
17 enough to put him over the point of losing more than
18 40 percent, because it was chronic. He might have
19 compensated some, but there is no way he could have
20 compensated for that amount of blood loss into his
21 soft tissues.

22 Q Dr. Durso, the amount of blood loss into the soft
23 tissue and the repeated injuries, would those have
24 caused him pain?

25 A Extreme pain. I mean, I don't know if any of you

1 have ever had a bruise to your body and you actually
2 bump into it again; it's excruciating. For these deep
3 bruises, especially even into the muscles, if you
4 would just try to use those muscles, it would have
5 hurt. For this child to even try to sit down would
6 have been excruciating.

7 Q What would day to day life been like for him?

8 A He would have been in pain from the moment he
9 woke up until the moment he went to bed.

10 Q Would this have been readily apparent to any
11 person who came into contact with the child?

12 A I would think they would notice the child acting
13 like children act when they're in severe pain.

14 Q Dr. Durso, are the injuries from CHILD
15 in any way caused by natural causes or an
16 accident?

17 A No.

18 Q Are they all inflicted injuries?

19 A These are inflicted, intentionally inflicted,
20 injuries to this child.

21 Q Dr. Durso, are these injuries the result of one
22 incident of spanking or falling?

23 A No, this is cumulative. Like I said, the older
24 and the newer bruises and hemorrhages into his
25 tissues, as well as the older and newer fractures that

1 we noted indicate that he had been chronically abused.

2 Like I said, it's the blood loss, not just from
3 the last incident, that put him over the edge. This
4 last incident alone wouldn't have killed him. It was
5 all of the hemorrhaging, along with all of this time,
6 that finally led to him losing enough blood that he
7 died.

8 Q Prior to him --- let me rephrase the question.
9 Dr. Durso, the final time that he was hit or struck
10 that caused the blood loss, that in itself was not
11 enough to kill him?

12 A No.

13 Q It was everything together and then that just
14 happened to be the final thing that ---

15 A Right. You have a limit on how much blood you
16 can lose. When you go over that limit and your brain
17 is no longer getting that blood supply, that's when he
18 would have died, that last bit of blood that came out
19 into his soft tissues after that beating.

20 Q If someone had done anything to get him any sort
21 of medical treatment, could he have recovered from
22 these injuries potentially prior to this final ---

23 A Yes. If no one had kept on beating him, he might
24 have needed a transfusion, but he could have been
25 treated and survived.

1 Q Dr. Durso, in your autopsy, your cause of death
2 is what?

3 A Extensive soft tissue hemorrhage and bleeding
4 that I described as due to multiple acute and healing
5 blunt force injuries due to non-accidental trauma.

6 Q So he, CHILD died from constant
7 and persistent and repeated abuse?

8 A Yes.

9 Q And, Dr. Durso, you also --- when you were
10 performing your internal examination, you examined all
11 the systems of the body?

12 A Yes.

13 Q You also had toxicology run?

14 A Yes.

15 Q And that came back negative?

16 A I'm sure it did.

17 (Pause.)

18 Yes, it came back negative.

19 Q Did you also look at the contents of his stomach?

20 A Yes.

21 Q Did CHILD have anything in his
22 stomach?

23 A He had a little bit. Let me go back and read it
24 so I know exactly.

25 Less than 50 milliliters, which isn't all that

1 much of yellow material, that he had started to
2 digest.

3 Q Can you tell what that was, if anything?

4 A Not specifically, something that was kind of
5 yellowish probably to begin with, but I can't tell you
6 anything further.

7 Q And, Dr. Durso, the weight of the child at death
8 would that be --- or the weight at autopsy, would that
9 be indicative of his weight when he was alive?

10 A Well, I mean, he weighed 46 pounds, but again
11 when you have a lot of swelling, especially with
12 swelling on soft tissues, it might skew the weight.
13 He looked quite thin. We could see his ribs pretty
14 prominently.

15 I was concerned about malnourishment, but given
16 the weight I had to use was the 46 pounds, he didn't
17 fall into the malnourished category, although I
18 expected he might have been malnourished because I
19 don't really have a formula to subtract whatever the
20 weight was from the soft tissue swelling that he had
21 in his knee and back and that sort of thing.

22 Q Dr. Durso, can you pinpoint the exact time that
23 he died?

24 A No.

25 Q When EMS arrived, they reported that he was cold

1 to the touch. Is that significant to you in any way?

2 A It probably depends on the temperature of the
3 room, so, you know, there's no scientific rule to say
4 this is the temperature, so he must have been dead,
5 you know, exactly two hours, because there's so many
6 variables, how warm was the person to begin with, how
7 warm was the environment around them would affect how
8 quickly he would cool off. If he was in a very cold
9 room it won't take but less than an hour for him to be
10 cold to the touch. If he was in a warm room, it would
11 probably take a few hours.

12 Q If the mother reported that he was still alive
13 when she was on the phone with 911 call and when EMS
14 arrived four minutes later he was cold to the touch,
15 would that be consistent, assuming that the room is a
16 normal 72 degrees?

17 A I likely think it would have been likely that he
18 had been dead a little bit longer than that, but
19 there's no real way for me to know exactly.

20 Q And, Dr. Durso, again your cause of death was
21 what?

22 A Extensive soft tissue hemorrhage due to multiple
23 acute and healing blunt force injuries due to non-
24 accidental trauma.

25 Q And, Dr. Durso, you testified earlier that you

1 have performed approximately 1200 autopsies?

2 A Over 1200 autopsies, yes.

3 Q Have you ever seen any injuries that were like
4 this before?

5 A Not this severe in my career to this point, and I
6 really hope I never do again.

7 MS. McDUFFIE: Thank you, Judge. No further
8 questions.

9 THE COURT: All right. We're going to take a
10 break ladies and gentlemen. If you'll retire to your
11 jury room. Do not discuss the case. Keep an open
12 mind. Thank you very much. Everyone remain seated
13 while the jurors are excused.

14 (WHEREUPON, the jury left the courtroom at
15 10:46 a.m.)

16 THE COURT: Okay. Dr. Durso, you are allowed to
17 step down. You are not allowed to discuss your
18 testimony with anybody. When we come back, if you'll
19 just be seated in the witness stand. Thank you very
20 much.

21 THE WITNESS: Sure.

22 THE COURT: Thank you very much. Okay. We'll
23 take up other issues after I do this plea.

24 THE COURT: All right. Ms. Pinnock.

25 MS. PINNOCK: Yes, Your Honor. We're missing

1 will Mr. Li.

2 THE COURT: We're missing who?

3 MS. PINNOCK: Mr. Li. Okay.

4 (Pause.)

5 MR. LI: Sorry, Your Honor.

6 THE COURT: That's all right. Ms. Pinnock?

7 MS. PINNOCK: Thank you, Your Honor. May it
8 please the Court. Your Honor, I'm respectfully asking
9 for a mistrial at this point. Juror number 143
10 yesterday and today when they were --- when the jury
11 was shown the pictures that have been introduced into
12 evidence, that particular juror has been covering her
13 eyes and a number of times today was ducking down
14 below the barrier so she could not view the pictures.
15 I understand that there is evidence in this case
16 that's hard to deal with, but I think her reaction
17 is --- there is a high possibility it's having a very
18 negative effect on everybody else in the jury.

19 Again, she is covering her eyes, refusing to look
20 at stuff, burying her face in her hands and ducking
21 her head. I think at this point the appropriate thing
22 to do declare a mistrial. At this point, I think the
23 entire jury is tainted.

24 MR. LI: I join in the objection.

25 MS. McDUFFIE: Judge, I don't believe that there

1 is any manifest necessity for a mistrial. The images
2 are hard to look at, and I understand that, Your
3 Honor. However, they were only shown to the jury to
4 illustrate the doctor's testimony. They were not put
5 up there for prolonged periods or extended periods of
6 time or repeatedly shown for, you know, any purpose or
7 to make the jury cry. Your Honor, she was paying
8 attention. She did look down and cover her eyes at
9 some points, but she was paying attention during the
10 testimony. I don't think there is any evidence that
11 she would not be a fair and impartial juror.

12 THE COURT: Are you referring to the young
13 African American female that is today seated on the
14 second row to the far left?

15 MS. PINNOCK: Yes, sir.

16 THE COURT: Okay. I actually moved when --- for
17 the record, Ms. Pinnock approached during Dr. Durso's
18 testimony and brought this issue up, so she did object
19 when it happened. I'm just stating that to cover that
20 on the record. I told her we weren't going to stop
21 where we were now, but I would let her put her
22 reasoning on the record later. She did bring this up
23 during the middle of Dr. Durso's testimony. At that
24 time, I actually moved, for the record, to the back of
25 the jury box specifically to watch that juror and see

1 what she was doing or what she was not doing.

2 While there were times when her head was down,
3 most of the time --- I did not see an issue where her
4 eyes were closed, where she was ignoring anything that
5 was in front of her. Her head was down at times, but
6 I mean, the jurors are not required to stare at every
7 single thing that either side picks up or puts up in
8 front of them.

9 It was not a case of her sleeping or her ignoring
10 something or anything else. Further, all this
11 evidence will go back in the jury room with her, so
12 she would have an opportunity to be provided it and
13 look at it. I akin to her --- to any juror staring
14 off in the audience while a witness is testifying or
15 while an exhibit is up there.

16 I believe there is no manifest necessity. The
17 defense has shown no evidence --- no cases on point
18 that deal with this issue directly in any way, shape,
19 or form and I'm going to deny your motion for a
20 mistrial. It doesn't matter --- I mean, jurors are
21 going to have reactions to evidence, and I don't
22 believe that we can stop that. We can't stop people
23 from their natural reactions. That's why I --- that's
24 part of the reason why I took a break and allowed any
25 form of composure that may be necessary, so your

1 motion for a mistake trial is denied.

2 Okay. Bring the jury back in.

3 MS. WALKER: Your Honor, if I may, I have one
4 more thing before we bring the jury in. Our next
5 witness is a clerk who overheard a conversation
6 between the two of them. This defendant appears to
7 have said that --- she heard her say that she can't go
8 back to jail. We told her to stay away from that.

9 THE COURT: Okay.

10 (WHEREUPON, the jury entered the courtroom at
11 11:24 a.m.)

12 THE BAILIFF: All jurors are present.

13 THE COURT: All right. Thank you very much.
14 Thank you very much for allowing me to have that
15 break. I was actually able to handle a matter,
16 completely unrelated to this case, from another county
17 that had been scheduled for a significant amount of
18 time. Normally I would have moved something, but I
19 had people traveling in from other counties just to do
20 that. I do apologize and take full responsibility.

21 THE COURT: Cross-examination of Dr. Durso, Mr.
22 Li.

23 MR. LI: Thank you, Your Honor. May it please
24 the court.

25 THE COURT: Yes, sir.

CROSS-EXAMINATION:

BY MR. LI:

Q Good morning, Dr. Durso.

A Good morning.

Q Dr. Durso, you mentioned that there was a significant loss of blood; is that correct?

A Correct.

Q And that there was approximately two liters of blood left in CHILD?

A Well, his original blood volume in a healthy child that weighs 46 pounds would be a little under two liters, that would be his normal blood volume in an uninjured child.

Q A normal child that weighed only 46 pounds, correct?

A Yes, that would have a less than two liters of blood to begin with.

Q To begin with, correct, but you also tested --- CHILD didn't originally weigh --- his blood loss contributed to his weight, correct?

A Yes.

Q So because after a certain amount of blood loss, his weight was already reduced?

A Right.

Q And blood loss from prior, prior injuries or

1 blood loss from the final injury?

2 A Just, I guess --- I'm sorry?

3 Q Was the blood loss due to the final injury or
4 blood loss due to previous injuries that caused him to
5 only weigh 46 pounds?

6 A Well, he weighed more --- in a healthy child ---

7 Q Yes.

8 A He probably, without all that soft tissue
9 hemorrhage and edema, he probably would have weighed
10 less, but he actually weighed more because he had all
11 that soft tissue swelling in his body, which, you
12 know, he probably might have only weighed about
13 40 pounds. He could have had as much as, you know,
14 six pounds of soft tissue swelling and blood loss into
15 his back.

16 Q I got you, and the acute injuries that you
17 mentioned, there were two acute injuries, correct?

18 A There was the acute rib fracture, as well as some
19 of the blunt force injuries, the bleeding that I noted
20 when I cut down his back, were acute injuries, yes.

21 Q Let's talk about the rib injury first. What was
22 the acute one?

23 A Yes.

24 Q What was your estimated timeframe on the ---

25 A Within twenty-four hours. Within twenty-four

1 hours you do start to see evidence of healing. Again,
2 I looked at this one under the microphone for evidence
3 of healing and there was none, so I don't know if it
4 happened in the seconds before he died or if it
5 happened up to twenty-four hours. I cannot give you a
6 specific time for that.

7 Q It could have been the actual final blow?

8 A It could have been, yes.

9 Q And the acute injuries, the acute hemorrhages in
10 the buttocks?

11 A Yes.

12 Q What was your estimated timeframe on that?

13 A Probably within eighteen to twenty-four hours,
14 and again I think that whatever the final blow was,
15 probably was, you know, within minutes before his
16 death to cause that last bit of blood loss that caused
17 him to die.

18 Q And that could have been also part of the final
19 blow, correct?

20 A Yes.

21 Q I'm not saying the whole cause of death?

22 A Right, part of the final blow.

23 Q Part of the final blow. And that's because of
24 the presence or lack of hemosiderin?

25 A The lack of hemosiderin. Hemosiderin is

1 something you see when you are starting to break down
2 the blood and it gives it that yellow color.

3 Q As far as the bruises on baby [CHILD] 's body,
4 as far as the bruises on [CHILD] 's body, he was a dark
5 skinned child?

6 A He was, yes.

7 Q And his bruises were difficult to see?

8 A Yes.

9 Q To the naked eye?

10 A Right. On the external examination I mentioned a
11 lot of areas of dark discoloration. Like I said, I
12 didn't want to call them bruises until I could cut
13 into them and confirm that that was actually blood and
14 not just his skin pigmentation.

15 Q And that's actually why you had to cut into him,
16 correct?

17 A It is.

18 Q Were those on the front or the back, if you can
19 recall?

20 A Primary on the back, yes.

21 Q Primarily on the back, and you said those were
22 difficult to see with the naked eye?

23 A Right, the actual bruises.

24 Q And the other injuries that you saw, the ones
25 that you --- the bruises that couldn't date within

1 eighteen to twenty-four hours, the older hemorrhages?

2 A Yes.

3 Q Any way to get a more specific date on those?

4 A There is really no scientific way of dating
5 bruises. People try and try, but there is really no
6 tried and true scientific way to do it, so I cannot
7 date them, no.

8 Q In fact, the reason that it's difficult is
9 because that if you're reinjured on the same bruise,
10 then you can't tell the healing pattern, or I guess
11 the progression of the healing ---

12 A Right.

13 Q --- or an estimated time?

14 A Right. The acute on top of the chronic.

15 Q That's right. And does that go the same for the
16 arm injury, as well?

17 A Yes, again, there was an acute injury on top of
18 one that appeared to be healing, so again it makes it
19 very difficult to date.

20 Q The --- you wrote a preliminary report for this
21 case, correct?

22 A Yes.

23 Q And then you wrote a final report, correct?

24 A Yes.

25 Q And in the preliminary report on the date of

1 death you just put July 1st, 2013, correct?

2 A I should have put July 2nd.

3 Q As the date of death?

4 A Oh, date of death, yes, July 1st and the autopsy
5 was July 2nd.

6 Q That's right and in your final report, for the
7 date of death, you put down July 1st, 2013 at
8 6:15 p.m., correct?

9 A Yes.

10 Q Let's talk --- I think that Ms. McDuffie talked a
11 little bit about being able to place the time of
12 death,

13 A Right.

14 Q That's basically based on temperature, correct?

15 A Right. The way I do the time of death, I base
16 that entirely on the coroner's reports ---

17 Q Uh-huh.

18 A --- since they're the ones that respond to the
19 crime scene and look at rigor, livor, temperature, and
20 they're in the actual environment, so how warm or cold
21 the room is, so I depend on them to come up with their
22 estimation of the time of death. I simply, whatever
23 they have on the coroner's report, I put that on my
24 report. This is not something I came up with. This
25 is something the coroner's office came up with.

1 Q So you actually get the report from the coroner's
2 office?

3 A Yes.

4 Q Do you remember --- you said you worked with many
5 of these coroner's reports before?

6 A Yes.

7 Q And you're aware that on the box --- there is box
8 on it that says "estimated"?

9 A Yes.

10 Q You're aware that for this case the time of death
11 was not checked as estimated?

12 A I do not remember that, but if you say so I
13 believe you.

14 Q And that's what you were working off of?

15 A Yes.

16 Q Correct? You weren't at the scene and you didn't
17 take the temperature?

18 A Yes. My primary reason for doing the autopsy
19 wasn't to determine the time of death, I was looking
20 more at documenting the injuries and determining the
21 actual cause of death.

22 Q Now, in terms of --- in terms of just, I guess,
23 scientifically, to determine the time of death,
24 temperature is a big factor, correct?

25 A It's a factor, but it's not a very scientific

1 factor as far as --- like I said, there are so many
2 variables as to how warm the body is before death.
3 You know, if someone has a fever, obviously they're
4 going to cool off slower than not, and the temperature
5 of the room has a lot to do with it, as well.

6 Q That's correct. So if his temperature --- if
7 somebody's temperature was low to begin with, they may
8 appear, to the touch it may appear cooler than a
9 person who had a higher starting temperature before
10 they died, correct?

11 A Correct.

12 Q And blood --- the amount of blood that's in a
13 person's system is a factor in temperature, correct?

14 A I would say more as temperature warming --- it
15 has a lot to do with body fat and how insulated the
16 person is.

17 Q And so if --- and additionally, the temperature
18 of the room?

19 A Right.

20 Q Is a ---

21 A Yes it's a big factor. If someone is sitting in
22 front of a gas fireplace, they're obviously not going
23 to cool off very quickly. If they're outside in the
24 winter, they're going to cool off very quickly.

25 Q Because theoretically, the lowest the temperature

1 the body could get would be the ambient temperature
2 around them?

3 A Yes, exactly.

4 Q So their temperature would just drop to whatever
5 temperature that the room was in, right?

6 A Yes.

7 Q You didn't have any information as to how hot it
8 was that day?

9 A No.

10 Q You didn't have any information as to what the
11 temperature was inside the home?

12 A No.

13 Q Okay. And you testified earlier that the cause
14 of death was from a prolonged period of chronic abuse,
15 correct?

16 A Yes.

17 Q And it wasn't just one single incident?

18 A No.

19 Q Couldn't have been just one single incident?

20 A No.

21 Q And that the injuries to the two --- and I'm
22 sorry for being repetitive, the two major acute
23 injuries that you saw were the rib fracture and the
24 bruising in the buttocks?

25 A Right, the dark red hemorrhage that I saw in the

1 buttocks and the back.

2 Q And the ---

3 A And the arm.

4 Q And it's possible that those two injuries ---
5 that those two injuries were the final blow?

6 A It's very possible, yes.

7 Q Because the time periods match.

8 A Yes.

9 Q The others overlap. And the final blow --- the
10 hemorrhaging in the buttocks would have caused extreme
11 pain?

12 A Correct.

13 Q To where this child would not even be able to sit
14 down?

15 A Yes.

16 Q And a reasonable person would notice this?

17 A Yes.

18 Q And also with the rib fracture?

19 A Yes.

20 Q A reasonable person would have noticed that this
21 child was not even raising their hand and they were
22 hurting, correct?

23 A Right, that they couldn't move their arm.

24 Q Right. And it was just --- it would be apparent
25 to the average person?

1 A I think anyone taking care of the child would
2 have noticed that ---

3 Q Okay.

4 A --- that the child was in pain and wasn't acting
5 like a normal four-year-old.

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

7 THE COURT: Yes, sir.

8 (Pause.)

9 BY MR. LI:

10 Q And when you made your earlier --- bruises ---
11 some of the bruises on **CHILD**'s back you couldn't tell
12 right away with your naked eye?

13 A Right. I was very suspicious because they had
14 that dark discoloration.

15 Q Right. There was why you made the cuts?

16 A To conform they were bruises, I had to cut into
17 it, yes.

18 Q And tell me what is lividity?

19 A Lividity?

20 Q Yes.

21 A So lividity is a post mortem phenomenon where
22 after death blood settles into the vessels based on
23 gravity, so if you die and you lay on your back, the
24 blood that are in your vessels settle towards whatever
25 gravity --- dependent on --- if you are leaning up

1 against something, it will settle there, so you can
2 actually see a pattern in the lividity.

3 Now, this is different than hemorrhage into the
4 soft tissues. This is --- lividity is still within
5 the blood vessels and you could actually, within
6 twenty-four hours, you could press your finger on it
7 and it will actually glance, you could get it to move
8 out of the blood vessels and then it will, you know,
9 come back in.

10 Q It's because of gravity that the blood settles?

11 A Right, the blood is settling.

12 Q So, if a person was laying one way, say
13 horizontally, the blood would settle to the bottom
14 with gravity?

15 A Yes.

16 Q Making the skin on the top side of it, actually
17 making bruises appear more visible, correct?

18 A Yes.

19 Q So the bruises that are in some of these pictures
20 are postmortem, correct?

21 A Yes. Wait, what do you mean? I'm sorry, I ---

22 Q These, obviously, these are post mortem pictures,
23 correct?

24 A Yes.

25 Q Because of lividity, some of the bruises are

1 actually enhanced or more visible in the pictures than
2 they would be closer to the time of death or closer
3 before lividity set in, correct?

4 A Sometimes in the areas of the --- where you don't
5 have lividity, yes. They can become more apparent as
6 the blood leaves the blood vessels surrounding it
7 because that's in the soft tissues and that doesn't
8 really change. If it was on the back, it might make
9 it more difficult to see.

10 Q Right. Only if we're assuming that he's laying
11 on his back?

12 A On his back ---

13 Q And if he is laying stomach down, then by the
14 same --- it's ---

15 A Then that makes it opposite, yes.

16 Q Again, the cause of death was not malnutrition,
17 correct?

18 A No.

19 Q And **CHILD** only weighed 46 pounds?

20 A Yes.

21 Q Which you testified earlier that the weight of a
22 person affects the temperature of the person, the
23 amount of fat?

24 A Right.

25 Q And Dr. Durso, you're fully competent to testify

1 to everything in your report, correct?

2 A Yes.

3 Q And you're fully competent to testify that this
4 child died from a period --- from chronic abuse over a
5 prolonged period of time, correct?

6 A Yes.

7 Q Do you need somebody to review your notes?

8 A No. I'm confident.

9 Q Do you need somebody to tell you what --- to give
10 another opinion?

11 A Not in this case, no.

12 MR. LI: Thank you so much. No further
13 questions.

14 THE COURT: Cross?

15 MS. PINNOCK: May it please the Court.

16 CROSS-EXAMINATION:

17 BY MS. PINNOCK:

18 Q Good morning, Doctor.

19 A Good morning.

20 Q Hemorrhagic shock?

21 A Yes.

22 Q You said that's when the body pretty much just
23 shuts down because the blood is not circulating?

24 A Correct.

25 Q It's an extreme blood loss and one of the

1 symptoms of that is you could seize?

2 A Yes, you may have seizures, yes.

3 Q Now, you testified about a laceration on the lip?

4 A Yes.

5 Q Would somebody seizing and biting their lip be
6 consistent with that injury?

7 A Yes.

8 Q And again, that would be a possible symptom of
9 the hemorrhagic shock?

10 A Yes.

11 Q Now, with the bruising and all the hemorrhages
12 acute is anything under eighteen hours?

13 A Yes, within eighteen to twenty-four hours, within
14 that timeframe, less than eighteen to twenty-four
15 hours.

16 Q So chronic would be anything over eighteen to
17 twenty-four hours?

18 A Yes.

19 Q And you can't do any better --- get any closer
20 than that?

21 A That's the best I can do, yes.

22 Q You testified that the diagrams you did, the
23 external injuries that you documented, the majority of
24 those injuries were superficial?

25 A Yes.

1 Q The abrasions and stuff like that?

2 A Yes.

3 Q So they did not contribute to the death?

4 A No.

5 Q Now, you did some slides?

6 A I did.

7 Q You did some slides on the back and buttock area?

8 A Yes.

9 Q That's when you found that hemosiderin was
10 present?

11 A Yes.

12 Q And hemosiderin shows up at what point?

13 A Around eighteen hours you can start to see some
14 hemosiderin.

15 Q Those would be acute injuries?

16 A That did not ---

17 Q I'm sorry, chronic injuries, if there's
18 hemosiderin?

19 A Yes, it's an older injury that's healing at that
20 point.

21 Q And the slides you did of that same area, if
22 there's no hemosiderin, it's anywhere from eighteen
23 to twenty-four hours or less.

24 A Yes.

25 Q You can't say it's twenty minutes, can't say it's

1 five minutes, can't say it's two hours?

2 A I could not.

3 Q Twenty-four hours or less?

4 A No.

5 Q Did you testify before, I might have missed it,
6 with the healing rib fracture? That's dated anywhere
7 from ten days to six weeks?

8 A Yes.

9 Q So with the acute rib fracture, is it safe to
10 assume --- if I'm wrong, please tell me --- that it's
11 anywhere up to ten days?

12 A No, actually there are some changes you see
13 within twenty-four hours up to ten days.

14 Q Okay.

15 A But I did not see those. I really didn't see any
16 healing, so this is, you know, less than twenty-four
17 hours.

18 Q And is it your testimony that there was evidence
19 of chronic injury to this child?

20 A Yes.

21 Q And the cause of death that you came to was
22 because of the blunt injuries it was massive blood
23 loss?

24 A Yes.

25 Q He was --- he did not pass because of starvation?

1 A No.

2 Q It was the major blood loss?

3 A Yes.

4 Q And one of these symptoms, again, can be a
5 seizure?

6 A Right.

7 Q When your body is shutting down ---

8 A You no longer having oxygen to your brain. A lot
9 of events can cause seizures. People have seizures
10 just from having a heart attack. Sometimes people
11 have seizure like activity at the end, yes.

12 Q Okay. And you were not provided any information
13 from the coroner's office about what happened at [REDACTED]
14 Beaverbrook on June 29th, 2013, were you?

15 A June 29th, no.

16 Q Were you provided anything about what happened
17 June 30th?

18 A No.

19 Q Okay. They told you --- when they got there,
20 when they responded to the house?

21 A Right, the coroner's office responded first after
22 the death was reported and that was the only
23 information I was provided, yes.

24 Q And Mr. Li brought up a question about the time
25 of death you put on your report. You went off what

1 information the coroner's office told you because they
2 were there?

3 A Yes.

4 MS. PINNOCK: Beg the Court's indulgence.

5 (Pause.)

6 BY MS. PINNOCK:

7 Q And, Dr. Durso, you testified that there was a
8 bite mark was on CHILD's back?

9 A Yes.

10 Q It was a healing bite mark, right?

11 A Yes.

12 Q And you can't say if it was an adult or a child,
13 can you?

14

15 A Like I said, I went back and looked at the
16 measurements. I did measure the bite mark, and when I
17 looked back at the chart it looked to be more like on
18 older, like a teenager or adult. It was most
19 consistent with that, based on the size of the bite
20 mark.

21 Q Do you know the date that you went back and
22 looked?

23 A I looked recently just this past week.

24 Q Okay.

25 Q But that was healing?

1 A That was healing, yes.

2 MS. PINNOCK: Thank you.

3 THE COURT: Redirect.

4 MS. McDUFFIE: Briefly, Your Honor.

5 REDIRECT EXAMINATION:

6 BY MS. McDUFFIE:

7 Q Dr. Durso, Mr. Li talked to you a little about
8 when you first saw the massive skin discoloration on
9 the back buttocks and thigh of this child you didn't
10 want to call it a bruise did you?

11 A No.

12 Q You base your information on scientific facts
13 that can be proven?

14 A Yes.

15 Q When something appears, or looks like something,
16 you don't automatically call it that, do you?

17 A No, we want to confirm that we're calling it the
18 correct thing. We don't want to be wrong in these
19 cases.

20 Q That's why you take the additional step of
21 cutting into it to confirm that this is a bruise,
22 correct?

23 A Yes.

24 Q You never saw this child when the child was
25 alive, did you?

1 A I never did, no.

2 Q So if the child had a skin condition, you would
3 not know that?

4 A No.

5 Q But a parent would know that, wouldn't they?

6 A I would think, yes.

7 Q If the child's skin looked normal and didn't have
8 this on it and then it was as you saw it at the time
9 of death, was that noticeable?

10 A I would be very concerned if it was my child and
11 their skin was changing can colors, yes, I would seek
12 medical attention.

13 Q Dr. Durso, he also talked to you a little bit
14 about lividity, and again, if someone is laying flat
15 on their back, the blood goes where?

16 A It goes towards their back, it's just gravity.

17 Q Is there any way because of the way the person is
18 laying at the time of death for blood to get into the
19 soft tissues from lividity?

20 A Not unless they are starting to decompose.

21 Q In this case, was this body starting to
22 decompose?

23 A No.

24 Q So the bruising on back, it would actually be
25 hidden from the lividity?

1 A Right, lividity also causes kind of a darker,
2 kind of purplish discoloration, so obviously if you
3 have purplish bruises, it can be hard to distinguish
4 until you cut into it.

5 Q So the bruises would have actually appeared more
6 prominent prior to death than at autopsy because of
7 the way the body was laying?

8 A Yes.

9 MS. McDUFFIE: No further questions.

10 MR. LI: Nothing, Your Honor.

11 MS. PINNOCK: Nothing, Your Honor.

12 THE COURT: Thank you very much.

13 THE WITNESS: Thank you.

14 THE COURT: Have a nice day.

15 THE WITNESS: You, too.

16 THE COURT: Call your next witness.

17 MS. WALKER: Your Honor, the State calls Karen
18 Davis Tucker.

19 THE COURT: Okay. Did you say Karen tucker?

20 MS. WALKER: Yes. Yes, Your Honor.

21 KAREN TUCKER,
22 after being duly sworn, testified as follows:

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

25 THE WITNESS: Karen Davis Tucker.

1 THE COURT: Back up just a little bit. There you
2 go. We'll gauge it as we need to.

3 THE WITNESS: Okay.

4 MS. WALKER: May it please the Court Your Honor?

5 THE COURT: Yes, ma'am.

6

7

DIRECT EXAMINATION:

8

BY MS. WALKER:

9

Q Ms. Tucker, do you work here in the courthouse?

10

A I do.

11

Q And have you, I guess, been in the same area as
12 either Ms. Thompson or Ms. Guinyard before?

13

A I have.

14

Q And when you were with or near them, were you
15 able to observe a conversation they had?

16

A I did.

17

Q Can you tell these jurors, I guess, the content
18 of that conversation?

19

A Between the parties, there was a lot of crying
20 from Courtney, and Antonio, he was pretty calm. We
21 have holding areas behind the family court for ---

22

Q If you just --- you don't have to tell me where
23 you were. Just tell me what you heard.

24

A Well, he had --- they were talking and he told
25 her if --- if she would do what he said to do,

1 everything would be all right.

2 Q And that was him telling her, "Do what I tell you
3 to do and everything will be okay."?

4 A Yes.

5 Q Did you know what --- at that point in time, did
6 you know what they were talking about?

7 A Not exactly.

8 Q Did she respond to that?

9 A Yes.

10 Q And did she say --- I'm not sure if I can do
11 that, in kind of a summation of what she actually
12 said?

13 A Yes.

14 Q What other comments, if any, did you hear
15 Ms. Thompson make?

16 A She had asked him whether or not he had prayed,
17 did he remember that night or that day. She also said
18 that she loved him and she didn't know what to do.

19 Q Did she make any statements regarding other
20 people who had been in similar situations that they
21 were in?

22 A She did.

23 Q And what were those comments?

24 A She said that there were other ladies at the jail
25 that had killed their child, and their attorney had

1 gotten them off and that they don't have a whole lot
2 on them at this point in time.

3 Q And to whom was she speaking at that point?

4 A To Antonio.

5 Q And the people that had that conversation, do you
6 see them here in the courtroom?

7 A Yes, I do.

8 Q Can you point out to the jury the female that was
9 talking?

10 A She is sitting at the table over there.

11 Q At the far end?

12 A At the end, with the black on.

13 Q And the man?

14 A He is sitting at that table with the gray on.

15 Q Thank you.

16 MS. WALKER: I don't have any further questions,
17 Your Honor.

18 THE COURT: Cross?

19 MR. LI: No questions, Your Honor.

20 THE COURT: Cross.

21 MR. RUFFIN: May it please the Court, just
22 briefly.

23 THE COURT: Yes, sir, Mr. Ruffin.

24 CROSS-EXAMINATION:

25 BY MR. RUFFIN:

1 Q When you heard them, Courtney was crying?

2 A Yes.

3 Q And Antonio was telling her what to do?

4 A Yes.

5 MR. RUFFIN: That's all. Thank you.

6 THE COURT: Redirect.

7 MS. WALKER: None, Your Honor.

8 THE COURT: Thank you, ma'am. Have a nice day.

9 Call your next witness.

10 MS. CAMPBELL: State calls Steve English.

11 STEPHEN ENGLISH,

12 after being duly sworn, testified as follows:

13 THE CLERK: Please have a seat. State your full
14 name for the record.

15 THE WITNESS: Stephen Arthur English.

16 DIRECT EXAMINATION:

17 BY MS. CAMPBELL:

18 Q Mr. English where do you work?

19 A I work at the original Blue Ribbon Taxi
20 Corporation.

21 Q You work in the what?

22 A I work at the original Blue Ribbon Taxi
23 Corporation.

24 Q Where is that located?

25 A 6400 North Main.

1 Q How long have you been working for the Blue
2 Ribbon Cab Company?

3 A Thirty-eight-and-a-half years.

4 Q And there --- what's the phone number for Blue
5 Ribbon Cab Company?

6 A The main number is (803)754-8163.

7 Q And the Blue Ribbon Cab Company, do you all keep
8 certain records?

9 A Yes. We do.

10 Q I want to show you what's been marked as State's
11 Exhibit No. 257. Do you recognize that?

12 A Yes, ma'am.

13 Q Is that a record from your company that you all
14 keep in the normal course of business?

15 A Yes, ma'am. That's what we keep in the normal
16 course of business, yes.

17 MS. CAMPBELL: Your Honor, at this time I would
18 offer State's Exhibit 257 into evidence.

19 MR. LI: No objection, Your Honor.

20 MS. PINNOCK: No objection.

21 THE COURT: 257 admitted without objection.

22 (WHEREUPON, State's Exhibit Number 257 was
23 admitted into evidence.)

24 BY MS. CAMPBELL:

25 Q What date is indicated as booking --- what is

1 this document, first of all?

2 A This document is when you call in for a taxi, we
3 take your telephone number and --- we take the
4 telephone number and if you have called before, we
5 scroll in here and it goes into the computer system.

6 Q Okay. Was that entered into the computer system?

7 A Yes.

8 Q Does that indicate the telephone number that
9 called you that day?

10 A Yeah, the telephone --- whatever the telephone
11 number is here, that's what we took in. That's was
12 what the customer ---

13 Q That document also has the date and the time the
14 phone call came in, approximately?

15 A Yes, ma'am, it tells you when it was received and
16 when it was dispatched.

17 Q Does it also say the general area where the cab
18 is going to go pick up the person?

19 A Yes, it does.

20 Q What does that reflect on there?

21 A It says Richland Memorial.

22 Q Richland Memorial?

23 A Yeah, at the front? It was a cash payment.

24 Q It was a cash payment at Richland Memorial at the
25 front.

1 A Yes.

2 Q And what time does it indicate that call came in?

3 A I don't have my glasses, but ---

4 Q I'm sorry.

5 A --- it looks like we received it at, it says
6 13:06 which looks like about one o'clock.

7 Q 1:06 in the afternoon?

8 A Yes, sir.

9 MS. CAMPBELL: Thank you, sir. I don't have
10 anything further.

11 THE COURT: Mr. Li.

12 MR. LI: Nothing, Your Honor.

13 MR. STAGGS: Just a couple questions.

14 Cross-Examination:

15 BY MR. STAGGS:

16 Q Now, this says that the call was received at
17 13:06 and it was accepted. What does that mean?

18 A Accept that when the driver --- it shows up on
19 the computer screen. It will go to a driver in that
20 area.

21 Q Right.

22 A When they hit accept, the computer says what time
23 they received it. Dispatch received it at 13:06.
24 The driver received it at whatever other time.

25 Q That's not necessarily the time that the cab

1 arrives, right?

2 A Right, just when he accepts it.

3 Q Usually within a little bit of time after that,
4 right?

5 A Right.

6 MR. STAGGS: That's all I have. Thanks.

7 MS. CAMPBELL: I just have one question, Your
8 Honor.

9 REDIRECT EXAMINATION:

10 BY MS. CAMPBELL:

11 Q Sir, if someone calls your company but they don't
12 request a cab, like if they say it's a wrong number or
13 sorry, I don't want to talk to you. Do you make any
14 documentation of that?

15 A No, if it's never entered into the system, we
16 don't have any documentation of that.

17 Q To be entered into the system, you have to
18 dispatch a cab somewhere?

19 A Right.

20 MS. CAMPBELL: Thank you, sir.

21 MR. LI: Nothing, Your Honor.

22 MR. STAGGS: Nothing.

23 THE COURT: Have a nice day, sir.

24 Call your next witness.

25 MS. CAMPBELL: Your Honor, may I approach?

1 THE COURT: You may.

2 (WHEREUPON, a bench conference was held in the
3 presence, but not within hearing of the jury.)

4 THE COURT: All right. Ladies and gentlemen,
5 it's noon. We're going to break for lunch. Let's
6 start back at 1:15. It's 12:00. That will give you
7 time to get out, eat lunch, stretch your legs. Do not
8 discuss the case. Keep an open mind. We'll see you
9 back at 1:15. Thank you very much.

10 THE COURT: Everyone remain seated while the
11 jurors exit.

12 (WHEREUPON, the jury left the courtroom at
13 12:00 p.m.)

14 THE COURT: All right. Anything before we break
15 for lunch?

16 MS. PINNOCK: No.

17 MR. LI: No, Your Honor.

18 MS. WALKER: No, Your Honor.

19 THE COURT: Okay. Very well. 1:15.

20 (WHEREUPON, a lunch break was taken.)

21 (WHEREUPON, State's Exhibits Numbers 2-A and 6-A
22 were marked for identification only.)

23 THE COURT: All right. Anything before we bring
24 the jury in?

25 MR. LI: If the next witness the State is

1 proposing to introduce the jail phone call, we'd ask
2 for a limiting instruction that could only be used
3 against Ms. Thompson.

4 THE COURT: You want a what?

5 MR. LI: We would ask for a limiting instruction
6 for the jury that they can only use it to show the
7 knowledge of the offense from Ms. Thompson and not
8 used against Ms. Thompson.

9 THE COURT: All right. What's the State's
10 position on that?

11 MS. McDUFFIE: Your Honor, under what basis?

12 MR. LI: On the basis that the State said that
13 they were being offered to show the knowledge of
14 Ms. Thompson and not being used against Ms. Thompson,
15 they can go back to Rule 801 (d)(2) because they're
16 not being used against the accused --- not used
17 against the party and it's the party's own statement.

18 MS. McDUFFIE: It's not either or, I mean...

19 THE COURT: What would you want the limiting
20 instruction to say?

21 MR. LI: That the jail phone call --- that the
22 entirety of the jail phone call could only be used
23 against --- it could be used as to the knowledge of
24 Ms. Thompson. That is the reason the State has
25 proposed to offer this jail phone call because it's

1 for that reason, because if it's not for that reason,
2 then it being used against the party who made the
3 statement to them.

4 THE COURT: Ms. McDuffie.

5 MS. McDUFFIE: I don't understand the logic of if
6 the limiting instruction isn't given then it's not
7 being used against her. I guess that's ---

8 MR. LI: It's coming in under --- I'm sorry.

9 THE COURT: What would you want the limiting
10 instruction to say? Be specific.

11 MR. LI: The jail phone call can only go as far
12 as the solicitor said, the knowledge of the offense
13 and not towards --- not towards ---

14 THE COURT: I'm not going to do that.

15 MR. LI: All right.

16 THE COURT: That motion is denied. Bring in the
17 jury.

18 (WHEREUPON, the jury entered the courtroom at
19 1:22 p.m.)

20 THE BAILIFF: All jurors are here, Your Honor.

21 THE COURT: Thank you very much. Call your next
22 witness.

23 MS. McDUFFIE: May it please the Court. The
24 State calls Coroner Gary Watts.

25 THE COURT: All right. Please come forward.

1 GARY WATTS,

2 after being duly sworn, testified as follows:

3 THE CLERK: Please have a seat. State your full
4 name for the record.

5 THE WITNESS: Gary Miller Watts.

6 DIRECT EXAMINATION:

7 BY MS. McDUFFIE:

8 Q Coroner, please tell the ladies and gentlemen of
9 the jury where you are employed and what your duties
10 are.

11 A I'm the Coroner for Richland County. My office
12 is in charge of determining cause and manner of death,
13 especially related to unattended deaths, cases that
14 occur outside of a medical facility, cases that occur
15 within twenty-four hours of admission to a medical
16 facility if there is any suspicion or the results
17 could have been from some type of accident that
18 occurred. Our office works with the law enforcement
19 agencies, medical staff things like that to determine
20 the cause and manner of death.

21 Q And specifically in the case that we're here
22 about today in the death of four-year-old [REDACTED]
23 [REDACTED] CHILD [REDACTED], did your office --- was your office
24 involved in his death?

25 A Yes.

1 Q The investigation of his death, rather. As part
2 of the, please tell the ladies and gentlemen of the
3 jury what the role of the coroner is when you respond
4 to a death scene?

5 A Well, if the death occurs outside of a medical
6 facility like in this case where the individual died
7 at the residence, we have a deputy coroner or several
8 deputy coroners respond to that scene to work with law
9 enforcement on that scene to collect evidence, speak
10 to witnesses, gather information that would help us in
11 the determination. Also, information that we may
12 receive so that we can investigate more from a medical
13 aspect of it, whether it's medical records or things
14 that will help the pathologist in her determination or
15 his determination of the autopsy.

16 Q Do you also do things like help the family with
17 the burial process or things of that nature or assist
18 in that process?

19 A We try to help the family or family members in
20 any aspect of it from helping them get through this.
21 Sometimes it does go all way to helping with burial
22 processes.

23 Q When you arrive on a death scene, do you try ---
24 you said earlier that you try to determine the cause
25 and manner of death. Do you also try and determine

1 the time of death, or can you determine the time of
2 death?

3 A Well, the time of death is generally a
4 guesstimate. Unless we are in a controlled
5 environment, such as an emergency room or surgery ward
6 or something like that where we actually know the time
7 of death. Anything other than that is a guesstimate.

8 Q What do you base the time of death on or when you
9 put that on a death certificate?

10 A It can be several factors. If we have
11 information from witnesses, if we have information
12 from EMS or someone who was there with the victim,
13 then we can sort of get a better idea of what it is.
14 Sometimes we have to rely on information, if it's an
15 extended period of time, it may be something as simple
16 as looking in the mailbox to see how long the mail has
17 been stacking up to give us some general idea. It's
18 not a precise science unless you actually witness the
19 death.

20 Q So you're not basing it on anything scientific?
21 It's whenever the information is as close as you can
22 get it?

23 A Well, there are some cases where it ---
24 especially the longer the person has been dead, there
25 are some changes that take place in the body. There

1 are some things that occur that we can bring in
2 scientific basis to try to figure out a time close to
3 death, but even all of that, anything you pull
4 together, it's not like you see on CSI on TV. We
5 cannot look at somebody and say they died at 6:02 p.m.
6 this afternoon. Like I said, it's not an exact
7 science.

8 Q In this case specifically, the death certificate
9 lists the date and actual time of death. It says
10 actual or presumed time of death, it says 18:15 or
11 6:15 p.m.

12 A 6:15 p.m.

13 Q What was that based on?

14 A In that particular case, I believe that was based
15 on a lot from EMS had from their times, when they were
16 arrived --- when they were dispatched and when they
17 arrived.

18 Q In this case specifically, it's not based on
19 temperature or anything like that, but it's merely
20 when EMS arrived and ---

21 A No, we don't do anything to try to disturb the
22 body at the scene. The temperature is the only way
23 you can do that, and it's actually called a liver
24 stick, which then is something we just don't do. It's
25 not completely accurate and it's just something that

1 we don't do.

2 MS. McDUFFIE: Thank you. No further questions
3 of this witness.

4 THE COURT: Mr. Li.

5 MR. LI: Thank you, Your Honor. May it please
6 the Court.

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION:

9 BY MR. LI:

10 Q Coroner Watts?

11 A Yes, sir.

12 Q You're familiar with the Richland County
13 coroner's case report?

14 A Yes.

15 Q And you're aware that there is a box that says
16 estimate?

17 A Yes.

18 Q That box is there for a reason?

19 A It can be, yes.

20 Q In this case, it was not checked?

21 A I would have to look at it to see.

22 Q Would you like to see it?

23 A I would be glad to.

24 (Pause.)

25 Okay. It's not checked on that.

1 Q Okay. The information that you're getting is the
2 information from first responders, correct, EMS in
3 this case?

4 A EMS, I believe in this particular case, if you
5 look at the times from EMS when they first received
6 the call to when they arrived, it's a timeframe
7 somewhere between that.

8 Q Got you.

9 MR. LI: No further questions.

10 THE COURT: Cross?

11 MR. STAGGS: We have nothing.

12 THE COURT: Thank you.

13 Redirect?

14 MS. McDUFFIE: Nothing, Your Honor.

15 THE COURT: Have a nice day, Coroner.

16 THE WITNESS: Thank you.

17 THE COURT: Call your next witness, please.

18 MS. CAMPBELL: May it please the Court. The
19 State calls Travis Holdorf.

20 THE COURT: Please come forward Investigator
21 Holdorf.

22 TRAVIS HOLDORF,
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: Travis Holdorf, H-O-L-D-O-R-F.

2 THE COURT: Okay. Yes, ma'am.

3 MS. CAMPBELL: Thank you.

4 DIRECT EXAMINATION:

5 BY MS. CAMPBELL:

6 Q Where are you employed?

7 A I'm employed with the Richland County Sheriff's
8 Department.

9 Q What do you do there, sir?

10 A I'm a Special Victim's Unit investigator.
11 Primarily I handle child abuse cases, rape cases, also
12 homicide. We typically go on-call once every seven
13 weeks, and then I'll be responsible for that.

14 Q So you have experience in the area of child
15 abuse, child neglect, as well as homicide cases?

16 A Yes, ma'am.

17 Q How long have you been in law enforcement?

18 A It will be 20 years this October.

19 Q And as an investigator with the Richland County
20 Sheriff's Department, how do you typically become
21 involved in a case?

22 A Typically I'm notified by the line unit. Line
23 units will be the first responders that will get to
24 the scene first and then notify us, sometimes through
25 DSS, Department of Social Services, sometimes through

1 medical, mostly through the line.

2 Q I want to turn your attention back to July 1st,
3 2013, were you working that evening?

4 A Yes, ma'am.

5 Q And, in fact, what did your duties include ---
6 what was your duty that evening?

7 A I was an on-call investigator, so we were working
8 nights or into the evening shift.

9 Q As an on-call investigator, what are your
10 responsibilities?

11 A If anyone in the county asked for an
12 investigator, we respond. Sometimes people ask
13 questions about what they need to do on the scene, or
14 they need help with statements. We basically handle
15 the situation there until someone else comes in the
16 next morning.

17 Q That evening, did you receive a call asking you
18 to respond to [REDACTED] Beaverbrook Drive in Columbia?

19 A Yes, we did.

20 Q What type of call did that come in as? What type
21 of information was relayed to you?

22 A It was suspicious death of a four year old child.
23 Sergeant Lindler was contacted. He was the supervisor
24 working with our shift. He asked me to go out to the
25 scene.

1 Q Once he asked you to go out to the scene, what
2 did you do?

3 A I went out to the scene.

4 Q Approximately what time was it that you got out
5 there, do you recall?

6 A I checked into the crime scene log at 7:12 p.m. I
7 would have gotten there several minutes before then.
8 I would have talked to the deputies, talked to some of
9 the other people on the scene, but actually go into
10 the crime scene itself at 7:12.

11 Q So you would have been there a few minutes before
12 that?

13 A Yes.

14 Q When you got to the scene, what did you observe?

15 A There was a lot of people. There was a heavy
16 police presence, which is not normal. There were also
17 a lot of people in and around the street. It was not
18 easy to get closer to the location. There was a lot
19 of things going on. It was a very busy scene.

20 Q At some point once you got to the scene, did you
21 make contact with either Antonio Guinyard or Courtney
22 Thompson?

23 A I did. Both were in the back of police cars.
24 First I went to talk to my deputies to see what they
25 know or what they been told. Then I'd make contact

1 with the homeowner, the parents, to try to figure out
2 what their version is to see what's going on.

3 Q At this point, do you have any evidence that a
4 homicide had actually taken place, as in this case?

5 A No, ma'am. I don't know what this is. It's
6 titled a suspicious death at first.

7 Q But whenever there is the death of a child, y'all
8 investigate?

9 A We do.

10 Q But just because you're investigating doesn't
11 necessarily mean it's going to be a homicide?

12 A That's correct. Most of the child deaths that we
13 investigate are noncriminal.

14 Q Did you make contact with Ms. Thompson that
15 evening?

16 A Yes, ma'am.

17 Q Can you describe her demeanor and then
18 subsequently what happened with her when you first
19 came in contact with her?

20 A When I made contact with her, like I said, she
21 was in the back of the police car. I explained who I
22 was and that I was trying to figure out what was going
23 on, asking pretty vague open ended questions, what's
24 happening, can you tell me about what's going on,
25 asked about if we could go in the house, just things

1 like that.

2 Q Let me back up a minute. I skipped something.
3 Prior to talking to her, did you do a walk through of
4 the scene?

5 A I believe I talked to her, did a walk through and
6 then talked to her again.

7 Q Okay. You can continue. We'll get back to the
8 walk through.

9 A That's just to kind of get an understanding.
10 Once you get on the scene, you're getting a lot of
11 information. You're trying to get that information
12 out to other people, so they can start working on what
13 else may have been going on, but I got the basics from
14 her. I got a basic from Antonio, go in the house,
15 kind of look around, see what you see. Deemed that we
16 needed a search warrant and we ended up getting a
17 search warrant for the house.

18 Q At some point there at the scene, did you
19 actually ask Ms. Thompson for consent to search the
20 house?

21 A That was done, yes, ma'am.

22 Q Initially, did she give you consent?

23 A She verbally gave me consent. We have a form for
24 that and when it came --- when another investigator
25 went for her to sign it, or to have her sign the form,

1 she refused.

2 Q So at that point, you made a decision to make
3 sure that you did everything correctly so you got a
4 search warrant?

5 A Yes, ma'am.

6 Q Prior to anyone collecting any evidence or doing
7 any testing in the house, that search warrant was
8 signed by a magistrate?

9 A It was.

10 Q When you walked through the house, did you ever
11 see the victim, CHILD, in the house?

12 A As soon as you walked into the living room door,
13 he was immediately off to your left in the living
14 room.

15 Q And he was still there when you arrived?

16 A Yes, ma'am.

17 Q And later that night, was his body transported to
18 the morgue at Richland Memorial?

19 A Yes, ma'am.

20 Q While you were there, did you also observe some
21 injuries to his body?

22 A I did. No one really touches the body until the
23 coroner gets there. Once he's there we'll roll him
24 over so we can see more once that person is there.
25 Everyone --- we've all been working together long

1 enough that we know each other's roles, try to help
2 each so I'm not going to do something to defeat our
3 crime scene or something else. You don't touch
4 anything until it's been photographed. That was done
5 in this case.

6 Q Okay. Significant as far as your investigation
7 as it developed later, did you go into a back bedroom
8 in the house?

9 A I did.

10 Q Do you recall what furniture was in that back
11 bedroom?

12 A There was a dresser along the wall. There was
13 also a child's play kitchenette, if you will, like a
14 little play sink.

15 Q And did you notice anything about the flooring or
16 the carpeting in that room that became significant
17 later?

18 A Yes, ma'am, there was a large wet spot in the
19 carpet. You could still see foam on the carpet
20 itself. That was concerning.

21 Q I'll get back to that. I'm going to show you
22 what's been marked as State's Exhibit 45 and 49. Do
23 those show part of that room, the dresser area?

24 A Yes, ma'am, that is it.

25 Q What is that on top of the dresser?

1 A There was a paper bag and some bottles.

2 Q What was in those bottles?

3 A Formula.

4 Q Formula? And were those located on the dresser
5 as shown in this photograph?

6 A Yes, ma'am.

7 Q Not on the floor?

8 A No, ma'am.

9 Q In fact, in State's Exhibit 49, you can see what
10 items are actually on the floor; is that correct?

11 A Yes, ma'am.

12 Q And that's how it appeared?

13 A Yes, ma'am.

14 Q You mentioned the spot in the room. In State's
15 Exhibit No. 52, is that what you're referring to?

16 A Yes, ma'am.

17 Q And how did that spot appear, what is shown here
18 in the photograph?

19 A It was very clear that something had been cleaned
20 up. Like I said, you could visibly see it was wet. I
21 didn't even have to touch it. You could also see foam
22 in that area.

23 Q In fact, was there a washcloth on the dresser ---

24 A There was.

25 Q --- that was wet.

1 A It was.

2 Q Later, did you determine whose room that was?

3 A That was [CHILD]'s room.

4 Q Did he have a bed in there?

5 A There was no bed.

6 Q Tell the jury what you did next.

7 A My next task was to talk to the parents to try to
8 get down what had happened. The easiest way to do
9 that is to get someone to come back to our
10 headquarters. They were not under arrest. I asked
11 both of them independently if they would come back to
12 our headquarters so we could obtain a statement. By
13 that time we also had a news crew coming up towards
14 that area. There were a lot of people there. It was
15 very ---

16 Q Were there safety issues that night?

17 A It would have been very difficult to do any type
18 of interview on the side of the street. I don't like
19 to do an interview, anything that might be long and
20 extensive where you're in a police car and I'm not in
21 a police car. My end goal is to take a written
22 statement so that it's typed out. I can read it.
23 You can read it. If something needs to be changed, we
24 can do that. The easiest way to do that is at
25 headquarters.

1 Q In fact, did you --- did you talk to her briefly
2 at the scene prior to her leaving or being moved or
3 going to headquarters?

4 A Yes, ma'am.

5 Q And what, if anything, did she tell you, briefly
6 when you talked to her at the scene, about what she
7 said happened that night when you initially talked to
8 her?

9 A That she was in the shower and she heard a loud
10 boom. She gets out of the shower. She goes into the
11 kitchen. She doesn't see anyone. She goes in the
12 back room. She sees CHILD laying in the floor.
13 Looks like he's having a seizure. He is biting his
14 lip, and she pops his lip out of his mouth, brings him
15 up into the living room, she calls 911. They tell her
16 how to do CPR, and then shortly afterwards EMS
17 arrived.

18 Q There at the scene prior to going to
19 headquarters, did you ask her if she was mad at her
20 son that night?

21 A Yes, ma'am, we asked a range of questions, health
22 problems. You're looking to try to piece together
23 what happened. This was an obvious unnatural event.
24 I mean, it's not common for children to die. When
25 they do, you need to make sure you rule out that there

1 is no criminal activity. That's basically what we
2 were doing. Was she mad, was Antonio mad, just trying
3 to find out what was going on.

4 Q Did she tell you specifically about a medical
5 condition she said her son suffered from?

6 A Yes, ma'am. She said she was autistic, he was a
7 little slow. He had gone over it several times, and
8 several different angles, if you will, about getting
9 mad at him. She constantly said no, that she would
10 not get mad at him. You can't get mad at him because
11 he is autistic.

12 Q Did you also speak to Antonio there at the scene
13 briefly before you transported him?

14 A I did, and then more extensively at headquarters.

15 Q Did he briefly tell you about what he knew about
16 what had happened there at the scene?

17 A Yes, ma'am. That he was in the kitchen cooking
18 listening to music. He heard a loud boom.

19 Approximately five minutes later Courtney comes up and
20 was holding **CHILD** He was not breathing.

21 Q That evening, did both Mr. Guinyard and
22 Ms. Thompson, were they both transported to
23 headquarters?

24 A They were.

25 Q Do you know how they got down to headquarters?

1 A They were taken by the sheriff's department
2 deputies, but again, they were not under arrest. They
3 were not handcuffed.

4 Q Did both of them agree to go there voluntarily?

5 A They did.

6 Q Once you were at headquarters, what happened?

7 A I'm calling additional people into headquarters
8 so that one person --- I have two people I need to
9 talk to. I don't want to talk to them together. I
10 want to get what she knows. I want to get what he
11 knows, and I don't want either person being influenced
12 by what the other is saying, so that I can get as much
13 of an accurate picture as I can of what happened. So
14 I had another investigator, Investigator Laurita come
15 in. I talked to Antonio for a bit before Courtney
16 gets there. He goes over what's in his statement with
17 me.

18 Q Prior to talking to Antonio, did you advise him
19 of anything?

20 A Yes, ma'am.

21 Q Why did you do that, sir?

22 A Just because, I don't know where this is going to
23 go. I don't know if someone is going to make an
24 admission that they killed him or what's going to be
25 said. With constitutional right issues against

1 self-incrimination, I just advised him of his Miranda
2 warnings. We had a standardized written form and just
3 because I read that to someone and I tell them I'm
4 advising you of your rights, this does not mean that
5 you're under arrest. I want to make sure you
6 understand what's going on. You have a lot going on
7 right now.

8 Q It's to protect that person's rights?

9 A Yes, ma'am.

10 Q You did that in this case?

11 A With both parties, yes, ma'am.

12 Q I show you State's Exhibit No. 3. Do you
13 recognize that?

14 A Yes, ma'am.

15 Q And is that the Advice of Rights you used that
16 evening with Mr. Guinyard?

17 A It is.

18 Q And can you tell the jury exactly how you went
19 about advising him of his rights that evening?

20 A Yes, ma'am. You want to establish how high they
21 have gone in education, can they read and write,
22 articulate that they can read and understand. On this
23 one he told me he went up to the tenth grade. Asked
24 about alcohol or drug use. He said that he had one
25 beer around eight or nine that morning. I did not

1 feel him to be impaired. I put the person I'm talking
2 to, put his name, which is the same as the victim,
3 Robert Antonio Guinyard.

4 When we talk about the investigation, we're
5 talking about him Antonio, the place we're at which
6 was 5623 Two Notch Road. That's our headquarters. I
7 was there with Investigator Weed.

8 Q Okay.

9 A The date, which is 7/1/13 and the time, which is
10 20:30, which is 8:30 p.m.

11 Q Is that the actual form you used that night?

12 A It is.

13 Q Are those the rights you went over with him?

14 A They are.

15 Q Your Honor, at this time I'd often State's
16 Exhibit 3 into evidence.

17 MR. MOORE: No objection.

18 MS. PINNOCK: No objection.

19 THE COURT: State's 3 admitted without objection.
20 (WHEREUPON, State's Exhibit Number 3 was admitted
21 into evidence.)

22 BY MS. CAMPBELL:

23 Q Explain to the jury exactly how you advised him
24 of his rights to make sure his rights were protected?

25 A Since we're in an office, I'll put the form on

1 the desk. As I'm reading them off, I will check them
2 off. Before we ask you any questions, you must
3 understand your rights. You have the right to remain
4 silent. Anything you say can be used against you in
5 court. If you --- you have the right to talk to a
6 lawyer for advice before I ask you any questions and
7 have a lawyer with you during any questioning.

8 If you cannot afford a lawyer, one will be
9 appointed to you for any questioning if you wish. If
10 you decide to answer questions now without a lawyer
11 present, you still have the right to stop answering
12 questions at any time. You also have a right to stop
13 answering questions at any time until you talk to a
14 lawyer.

15 There is a signature for this. If they
16 understand their rights, I have them sign here. Down
17 here is a waiver. It states, "I have read the
18 statement of my rights. I understand what my rights
19 are. I'm willing to talk and answer questions. I
20 understand and know what I'm doing. No promises have
21 been made to me and no pressure or coercion of any
22 kind has been used against me." I'll ask them if they
23 understand what pressure and coercion is. If they
24 don't then I'll underline it. He did not, so I
25 underlined it.

1 Q So you then explained what pressure and coercion
2 is?

3 A Yes, ma'am. I explained no one is making you
4 talk. No one is promising you anything. You're not
5 being threatened. No one is causing you any physical
6 discomfort or harm. I'm giving you no motivation to
7 talk to me other than you want to tell the truth and
8 get your side out.

9 Q That evening, did he seem to understand what you
10 were saying to him?

11 A Yes, ma'am.

12 Q Did he appear to be under the influence of any
13 alcohol or drugs that would impair his understanding?

14 A No, ma'am.

15 Q Did you promise him anything to make him talk to
16 you?

17 A No, ma'am.

18 Q Did you threaten him in any way?

19 A No, ma'am.

20 Q At any point, did he tell you he didn't want to
21 talk anymore or tell you he wanted a lawyer?

22 A No, ma'am.

23 Q In your opinion, was he talking about to you
24 voluntarily that evening?

25 A He was.

1 Q And, in fact, after you advised him of his
2 rights, did he acknowledge his rights by signing off
3 on that form?

4 A Yes, ma'am, we both signed this form.

5 Q Once he was advised of his rights at
6 headquarters, did you ask him --- starting at the
7 beginning of the day, to kind of outline what his
8 knowledge of what happened that day was?

9 A When I got to headquarters, Antonio was already
10 there. I went over the Advice of Rights. Just asked
11 him an open ended question, what happened today. He
12 said that --- I wanted him to explain this day from
13 the time he got up to the time we got there.

14 When you're starting, you just don't know what's
15 going to be important. He said he got up around 8:00,
16 went to the store to get a beer and got some
17 cigarettes. He knew that Courtney was coming home.
18 She had got home by a Blue Ribbon Taxi Cab. She
19 needed cab fare and that cost \$14. He estimated that
20 she got home around 1:00 or 2:00 p.m.

21 He started cooking in the kitchen and was
22 listening to music. Courtney went to get in the
23 shower. He acknowledged that he heard the bang, but
24 he didn't go see what it was. He said it was about
25 five minutes later that Courtney comes in with CHILD

1 and that **CHILD** was not breathing.

2 We went over that. Was that five minutes just a
3 figure of speech or a legitimate five minutes. He
4 said no, that it was several minutes. I wasn't just
5 the figure of speech, five minutes, that people
6 sometimes do.

7 I asked him why he didn't go back to check when
8 he hears a loud boom. He doesn't really have an
9 answer for that. I asked him about --- by this time
10 after having talked with the deputies and everyone
11 else, it came out that he was in the closet when
12 deputies first responded to the house, and I asked
13 them about that. He didn't really have an answer for
14 that other than he didn't want us to take his newborn
15 child away from him. He felt that's what they would
16 do in situations like this.

17 I asked him about how he disciplined the kids.
18 He wouldn't admit to any type of physical abuse. He
19 would have them do other things other than physical
20 abuse.

21 Q And once he had given you that information, did
22 Investigation Laurita assist you in actually putting
23 that into a written form?

24 A He did. When Laurita gets to the scene, I give
25 him a very brief synopsis of what's going on. I

1 explained to him that I need to take a statement from
2 Antonio, and told Antonio to tell Investigator Laurita
3 what he had just told me. They then go off and put
4 that in writing while I started talking to Courtney.

5 Q And specifically, in State's Exhibit 4, is that
6 the written form of basically summing up what he told
7 you?

8 A Yes, ma'am, it is.

9 Q In that first page, there is one question about
10 was there anything wrong with [CHILD] today that you
11 noticed, or something to that effect.

12 A (Pause.)

13 Q There on the first page.

14 A "Did [CHILD] have any medical conditions?"

15 Q Uh-huh.

16 A He said, "He is kind of autistic. Nothing else
17 that I know of."

18 Q And then the question before that, "Did it seem
19 like..."

20 A The question is, "Did it seem like something was
21 wrong with [CHILD] earlier in the day." He said, "No,
22 sir."

23 Q At any point when you were talking to him, did he
24 talk about anything having been wrong with [CHILD] the
25 day before?

1 A No.

2 Q Or the day before that?

3 A Nothing.

4 Q Or the week before that?

5 A Nothing.

6 Q Or the month before that?

7 A Based upon his statement, this was a normal
8 healthy child.

9 Q After you left Investigate Laurita with Mr.
10 Guinyard to take his statement, where did you go?

11 A At that time as Courtney was at headquarters, I
12 went and talked to her since I already had a good
13 understanding, or felt like I had a good
14 understanding, about what one parent was saying so I
15 could ask the other parent other questions based on
16 what the other parent said.

17 Q Prior to talking to her, did you also advise her
18 of her rights?

19 A I did.

20 Q And I want to show you what's been marked as
21 State's Exhibit No. 1. Do you recognize this?

22 A Yes, ma'am. It's our Advice of Rights form and
23 it's gone through the same way. She had completed the
24 eleventh grade and no drug use or alcohol use, and
25 that was noted at the top of that Advice of Rights

1 form. And the was 8:55 or 20:55 as stated on the
2 form.

3 Q That's when you actually started advising her of
4 her rights?

5 A It is.

6 MS. CAMPBELL: Your Honor, at this time we'd
7 offer State's Exhibit No. 1 into evidence.

8 MR. LI: No objection, Your Honor.

9 MS. PINNOCK: No objection, Your Honor.

10 THE COURT: State's 1 without objection.

11 (WHEREUPON, State's Exhibit Number 1 was admitted
12 into evidence.)

13 BY MS. CAMPBELL:

14 Q Can you go through for the jury how you're
15 advised of her rights?

16 A Filled out her name, the location, who all was
17 there, myself and the investigator. We used the same
18 office. Anthony went --- excuse me, Antonio went with
19 Investigate Laurita to his cube. The date and the
20 time, and it's just the same advice: Before we ask
21 you any questions, you must understand your rights.
22 You have the right to remain silent. Anything you say
23 could be used against you in court. You have the
24 right to talk to a lawyer for advice before answering
25 any questions and to have a lawyer with you during any

1 questioning. If you cannot afford a lawyer, one will
2 be appointed for you before any questioning if you
3 wish. To you decide to answer questions now without a
4 lawyer present, you still have the right to stop
5 answering questions at any time. You also have the
6 right to stop answering questions at any time until
7 you talk to a lawyer.

8 I then go into the waiver, and I explain that
9 they're not really waiving anything, but it states: I
10 have read the statement of my rights. I understand
11 what my rights are. I'll ask them if they understand
12 what your rights are. She acknowledged that she did.
13 The next part says I'm willing to talk and answer
14 questions. I understand and know what I'm doing. No
15 promises have been made to me, no pressure or coercion
16 of any kind can be used against me.

17 I again asked her if she understood what pressure
18 or coercion is. She said she did not, so I underlined
19 it. I explained it the same way, nobody is promising
20 you anything, no one is taking anything from you or
21 threatening you with anything. I'm giving you no
22 reason to talk to me other than just to tell me the
23 truth and that you want to get your side out.

24 Q Did she agree to talk to you?

25 A She did.

1 Q Did she appear to be coherent that evening?

2 A She was.

3 Q Did she appear to be under the influence of any
4 alcohol or drugs or anything that could impair her
5 judgment?

6 A She did not.

7 Q Did you threaten her in any way?

8 A I did not.

9 Q Did you promise her anything to make her talk?

10 A I did not.

11 Q Did you deprive her of any creature comforts?

12 A I did not.

13 Q Did you do anything to make her talk to you?

14 A Other than ask her questions, no, ma'am.

15 Q Did she appear to voluntarily want to talk to you
16 that evening?

17 A Yes, ma'am.

18 Q In fact, did she sign off on that form?

19 A She did.

20 Q Is that acknowledging what she knew her rights
21 were and she was waiving them?

22 A Yes, ma'am.

23 Q Once she had been advised of her rights, did
24 you --- prior to taking a written statement talk to
25 her more in a kind of one-on-one situation? Was

1 anybody else there?

2 A Investigator Weed was there. She was a newer
3 investigator, not any disrespect to her, but she just
4 wasn't very experienced. I don't think she had been
5 in a situation like this before.

6 Q Was she giving you information again in the same
7 manner that you asked Mr. Guinyard?

8 A Yes, ma'am.

9 Q Briefly, prior to taking the written statement,
10 what information was she able to provide you?

11 A She said that **CHILD** was autistic. Sometimes he
12 would use the bathroom; that he couldn't control it
13 and he used the bathroom in the house. I asked her if
14 this would cause her to get mad. She said no. It was
15 a bit odd.

16 Q Explain that, please.

17 A That's a typical --- I have two dogs that are
18 house broken. If they go to the bathroom in the
19 house, I'll get irritated. That's just a normal ---
20 you know better. So that was a red flag that
21 something just might not be right.

22 Q Is there anything about her demeanor as she was
23 talking about **CHILD**?

24 A When she was talking about **CHILD**, her voice
25 would change a bit. She would often smile when she

1 would say what he was saying portraying that he was a
2 happy child. It was kind of eerie, based on the
3 situation.

4 Q What was her demeanor when she was talking with
5 you that evening?

6 A It was very normal. She would go through periods
7 where it seemed like she was upset, but didn't see any
8 tears, and it looked like she could also turn it off
9 pretty quick.

10 Q As far as Mr. Guinyard's demeanor that evening
11 when you were talking to him, what was his demeanor
12 like?

13 A There really wasn't much of a demeanor to him.
14 He is just very flat.

15 Q Did she say anything about **CHILD** being excited
16 and the clean up? Did she refer to what happened in
17 that room where the wet spot was?

18 A She said when she came home, it smelled like
19 piss. She said she was not mad at **CHILD** and smiled
20 at him. When she did that, she said she smiled to
21 show **CHILD** so he would know that she wasn't mad at
22 him and asked him if he had done this and that they
23 were going to clean it up. She said that he would
24 always get excited if they were going to do something
25 with him and that he was excited to clean up the pee.

1 At one point he would rub in the pee spot with his
2 hand.

3 Q At some point, did she indicate that she had
4 gotten into the shower?

5 A Yes, ma'am. She said she had just had a baby.
6 She was dirty and she needed to take a shower, so she
7 gets in the shower. While she is in the shower, she
8 hears the loud boom.

9 Q What did she say she did when she heard the loud
10 boom?

11 A She said that she immediately gets out. She puts
12 on the clothes that she just had on, she goes into the
13 kitchen, doesn't see anyone there, she goes to the
14 back room and she finds **CHILD** at what she describes
15 as having a seizure.

16 Q Where did she say he was having that seizure,
17 which room?

18 A It was in the room where the urine was, where the
19 clean up spot was.

20 Q And the next day --- I'm skipping ahead, but did
21 she demonstrate where he would have been in relation
22 to the wet spot, the pee?

23 A It would have been right there.

24 Q In the area where it was?

25 A Yes, ma'am.

1 Q What did she say she did next?

2 A She went to get a Pine Sol bottle. That was
3 empty, but they had some other soap and her and CHILD
4 proceeded to clean up the wet spot --- excuse me.
5 After she finds him, she realized that he was biting
6 his lip. She pries his lip out of his mouth. She
7 brings him up to the front room and calls 911 and they
8 tell her how to do CPR and that she performed CPR on
9 him.

10 Q And that was essentially her statement to you?

11 A Yes, ma'am.

12 Q Once --- she also provided some additional
13 information, which was put into the written statement,
14 as well?

15 A Yes, ma'am.

16 Q Once she verbally indicated all that to you, did
17 you then take a written statement from her?

18 A Yes, ma'am.

19 MS. CAMPBELL: Beg the Court's indulgence.

20 BY MS. CAMPBELL:

21 Q Here it is. I want to show you what's been
22 marked as State's Exhibit 2-A. Do you recognize this?

23 A Yes, ma'am. This is the statement that Courtney
24 Thompson gave us on July 1st.

25 Q And again, during the time period that you're

1 talking to her and when you are getting the written
2 statement and everything, at any point did she ever
3 invoke any of her rights or tell you she didn't want
4 to talk anymore?

5 A No, ma'am.

6 MS. CAMPBELL: Your Honor, at this time we'd
7 offer State's Exhibit 2-A into evidence.

8 MR. LI: No objection.

9 MS. PINNOCK: Subject to our previous objection.

10 THE COURT: All right. Admitted over defense
11 objection.

12 (WHEREUPON, State's Exhibit Number 2-A was
13 admitted into evidence.)

14 MS. CAMPBELL: Your Honor, permission for him to
15 publish to the jury?

16 THE COURT: Yes, ma'am.

17 BY MS. CAMPBELL:

18 Q If you could, just go through the questions and
19 answers that were provided to you and just so ---
20 there's signatures on each of these pages?

21 A Yes, ma'am.

22 Q Just leek with Mr. Guinyard's first statement?

23 A Yes, ma'am.

24 Q Did she have an opportunity to review that
25 statement prior to signing it?

1 A Yes, ma'am.

2 Q Was she able to have the opportunity to change
3 anything so that she could get her final word or
4 whatever she wanted down on paper?

5 A Yes, ma'am.

6 Q Okay.

7 A Do you want me to start with the narrative or
8 just the second page where it goes to Q and A?

9 Q The narrative is fine.

10 THE COURT: Don't read too fast.

11 THE WITNESS: Yes, sir.

12 The date is July 1st, 2013, at 21:45 hours, which
13 is 9:45 p.m. I put her information at the top, where
14 she is living, a number for her. Just asked her an
15 open ended question, what happened. That's not typed
16 on the statement, but that's how we started. It's the
17 same format, I asked her if she could explain her day
18 from the beginning to where we are now.

19 "I went to Richland Memorial Hospital on
20 6/29/13 because I was having a baby. I went there by
21 ambulance. Achilles Guinyard was born at 4:17 a.m. I
22 got out of the hospital this afternoon at around 1:30,
23 2:00 p.m. I took a Blue Ribbon cab. When I got to the
24 house, the cab driver was honking the horn. I got out
25 of the cab with my baby and knocked on the door. I

1 walked in the house, opened the door to the play room
2 where the incident happened and put my baby in the
3 bed. The room smelled like piss. CHILD is autistic
4 and he would pee and poop wherever. I asked CHILD if
5 he had peed in the room. I had a smile on my face so
6 he would know that I was not mad at him. He said,
7 yes, ma'am.

8 "I asked him what he was --- I asked him what was
9 he doing, and he said he was bending down and was
10 looking at the thing on the floor, which were cameras.
11 He could not be --- he could not hold it in and went.
12 I asked him if he was going to help me clean up. He
13 said, yes, ma'am.

14 "I put my baby in the bed and rolled the bed into
15 my room. CHILD was asking questions about the baby
16 and wanted to know if that was the baby that was in my
17 belly. I told him yes. I called cigarettes medicine
18 so that my kids will not know that I smoked
19 cigarettes. I went on the porch and smoked a
20 cigarette. I asked where CHILD was.

21 MR. LI: Your Honor.

22 MR. LI: Previous objection.

23 THE COURT: Overruled. Go ahead.

24 THE WITNESS: "I finished and came back in.

25 CHILD asked me if we were going to clean up the pee

1 pee. I got a bottle of Pine Sol, but there was no
2 Pine Sol in it. I put some soap in it and hot water
3 and shook it up. I grabbed a rag and the bottle and
4 went into the room. Report grabbed the pink soap,
5 which was Dove. I poured the water around the piss
6 stain. CHILD started wiping the floor with his hand.
7 I had a grayish faded rag, which was a washcloth that
8 I was scrubbing the floor with that still smelled like
9 pee.

10 "I told CHILD that it was not coming up. I left
11 the rag on the floor. I had to pee and there was
12 blood that was running down my leg from just having a
13 baby. I told my son that I was going to get in the
14 shower. He said he wants something to eat. I told
15 him to give me a second and let me take a shower. He
16 said yes, ma'am.

17 "He was in the room watching TV. I don't
18 remember what he was watching. I was going to make a
19 salad when I got out of the shower.

20 "I was in the shower washing off, and I heard a
21 loud noise like a tumbling fall. I jumped out of the
22 shower immediately. I put my underwear back on that I
23 had just taken off and put the robe on from the
24 hospital. I checked my kitchen and no one was in the
25 kitchen. I looked downtown hall and walked into my

1 room. I looked in the room --- I looked in my room
2 and when I looked in the play room, he was on the
3 floor, the spot where we had been cleaning up.

4 "His feet were towards the dresser. He was
5 crunched up and his body was stiff. His butt was up
6 in the air and he was kind of on his head. It was an
7 awkward position. He was biting his lip hard. It was
8 bleeding really bad. I put my finger in his jaw and
9 pried his mouth open a little bit.

10 "I pried his mouth open a little and pried his
11 lip from his teeth. I did not know what was going on.
12 When I popped his lip out from his teeth to keep from
13 biting it off, he went flat on me. He just dropped.
14 I screamed and I screamed again. I wiggled his jaw
15 and was calling him. He was not responding. I picked
16 **CHILD** up like he was a baby and took him to the front
17 room, which is the living room.

18 "Blood was coming from his lip. I had blood on
19 my hand. I went to my room to get my phone off the
20 floor. I called 911. They told me how do CPR. I did
21 what they told me. I did it several times where I was
22 pushing on his chest and breathing into his mouth. I
23 did everything he told me to do until the ambulance
24 got there. When they got there, they put something on
25 his chest and they did not do nothing. They just said

1 he was gone."

2 Question: The question was asked, "Did you have
3 anything to do with [CHILD]'s death?"

4 Answer: The response was, "No."

5 Question: The question was asked, "Were you mad
6 with your son today?"

7 Answer: The response was, "No, he is autistic.
8 You cannot get mad with an autistic child."

9 Question: "Were you mad because he peed in the
10 room?"

11 Answer: The response was, "No."

12 Question: "Have you abused your son [CHILD]?"

13 Answer: The response was, "No."

14 Question: "Have you not fed [CHILD] because of
15 his going to the bathroom problems?"

16 Answer: The response was, "No, it was not an
17 every day thing."

18 Question: "What can you tell me about the injury
19 to [CHILD]'s right arm?"

20 Answer: The response was, "His sister [CHILD 1]

21 [REDACTED] is three years old. Had cut into
22 something when I was in the hospital. He said
23 one time his sister did. Another time he said
24 Jamil did."

25 Question: "What can you tell me about the

1 fingernail marks on your son [CHILD]?"

2 Answer: The response was, "That's from his
3 sister. She scratches him."

4 Question: "What do you know about the bite mark
5 on his back?

6 Answer: Response, "That is from his sister. He
7 bit her and she bit him back. This was probably
8 about two weeks ago."

9 Question: "What involvement has DSS had with
10 your family and why?"

11 Answer: Response, "A lady named Angie would not
12 bring [CHILD 3], who was two-years-old
13 back. I had to do a police report. The police
14 came to my house several times. I have several
15 case numbers. The police came and took photos of
16 my kids from head to toe. Angie and her family
17 would call because they wanted [CHILD 3]. Angie is
18 mother of a guy I had slept with. Another time I
19 had [CHILD] in the car seat and he was strapped
20 in. I got mad at something with my oldest
21 daughter."

22 Then it kind of goes into why they were there.

23 MS. PINNOCK: I think we need to approach.

24 THE COURT: Okay.

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,
3 step back to your jury room for just a moment. Do not
4 discuss the case. Keep an open mind.

5 (WHEREUPON, the jury left the courtroom at
6 2:09 p.m.)

7 THE COURT: Can somebody show me the original
8 statement?

9 I don't know that this has anything to do with
10 your client.

11 MR. LI: I thought the ruling was the original
12 first statement went in, not the redacted.

13 MS. CAMPBELL: Except the one line you requested
14 that they take out.

15 THE COURT: "Did Antonio do anything to harm
16 CHILD today?" I ordered that out. So yeah.

17 MS. CAMPBELL: And that's what ---

18 MR. LI: Your Honor, there's --- let me see. In
19 the original, Antonio answered, "I got my stuff out of
20 the cab and paid the cab driver." Do you remember
21 that I made a Bruton objection to that earlier?

22 MS. CAMPBELL: You withdrew it.

23 THE COURT: Yeah. I thought the thing about the
24 cab driver was in.

25 MR. LI: We had basically said that the original

1 first statement be left the way it is because we had
2 the cab driver and this one we had Investigator
3 Holdorf read it. She went on the porch and asked a
4 ghost where [CHILD] was, since nobody else was around.
5 I thought we made this decision. I thought they
6 introduced the original, the one that we agreed to. I
7 could be wrong if that's the ruling, but that's what
8 the ruling was.

9 THE COURT: I thought the ruling was State's
10 Exhibit No. 2 is in over --- and the only objection
11 that Mr. Li had as to its admission was, "I checked my
12 kitchen and no one was in the kitchen," and he
13 objected to, "Did Antonio do anything to harm [CHILD]?"

14 I ruled that, "Did Antonio do anything to harm
15 [CHILD] today?" and the answer is out. I ruled that, "
16 I checked my kitchen and no one was in the kitchen,"
17 was in and the rest of the statement was the same.

18 MR. LI: Right.

19 THE COURT: So we need to amend State's Exhibit
20 2-A to add back in about Mr. Guinyard answering the
21 door.

22 MR. LI: And everything in the original, correct,
23 other than the agreed --- we'll just stick with that.

24 THE COURT: I think the only thing that's missing
25 is, "Antonio would not come out, and then Antonio

1 answered and got my stuff out of the cab and paid the
2 cab driver."

3 MR. LI: That's fine, Your Honor.

4 THE COURT: Yeah, so we need to fix that.

5 Now, do you have a different objection?

6 MS. PINNOCK: Judge, for some reason, the State
7 made the DSS reference for the other two children in
8 the shooting.

9 THE COURT: Yeah.

10 MS. PINNOCK: I don't know if we can amend it to
11 keep the testimony out since that was another ruling.
12 I don't know why I looked right over it. That's
13 completely my fault, Judge, I looked directly over it.

14 THE COURT: So what part of that paragraph do you
15 want out?

16 MS. PINNOCK: From, "I signed my parental rights
17 over to Missouri [REDACTED]," and down to the, "He almost
18 fell out." That was a stipulation from yesterday;
19 just that he was taken and he was given back on this
20 date and that date. I think that about the shooting
21 at the house, which caused the other children to be
22 taken.

23 THE COURT: Do you see the paragraph I'm talking
24 about?

25 MS. McDUFFIE: Yes, Your Honor.

1 THE COURT: Okay. It needs to read, "Another
2 time I had CHILD in a car seat and he was strapped
3 in," period. "I got mad at something with my oldest
4 daughter," period.

5 MS. McDUFFIE: "We were in court and I slammed
6 the doors."

7 THE COURT: Next sentence, "We were in court and
8 I slammed the doors and they took CHILD because they
9 said he almost fell out. I did everything they asked
10 me to do, and I did so that I could get CHILD back,"
11 period.

12 We need to take out the part about signing
13 parental rights over and shootings in the Colony.

14 MS. McDUFFIE: Judge, can we just scratch it out
15 on that copy and we'll prepare the one that actually
16 goes to the jury?

17 THE COURT: Here is what I would suggest, I would
18 suggest somebody make sure Investigator Holdorf knows
19 what to read, number one.

20 MS. CAMPBELL: Yes.

21 THE COURT: And then we'll create a whole brand
22 new 2-A that everybody can look at to submit to the
23 jury.

24 MS. CAMPBELL: Can everybody review 6-A, too, to
25 make sure we don't run into the same problem?

1 MS. McDUFFIE: Judge, for the record, we did
2 email these statements two or three night ago.

3 THE COURT: All right. Okay. So what copy do
4 you have with you, Investigator Holdorf? Let's start
5 with that.

6 THE WITNESS: I have no copy; it was given to me.

7 THE COURT: You have no copy.

8 MS. CAMPBELL: I can give him the original and
9 just mark through the things he's supposed to skip.

10 THE COURT: Or make whatever.

11 MS. McDUFFIE: I ---

12 MS. CAMPBELL: Just mark through it.

13 THE WITNESS: When the jury comes in, can I just
14 explain that Antonio ---

15 THE COURT: We're going to talk about that in
16 just one second. So just hold on.

17 MS. CAMPBELL: Can I show him what we're marking
18 through?

19 THE COURT: Sure.

20 (Pause.)

21 MS. CAMPBELL: Okay. Judge, I reviewed it with
22 him, and I can show the court, too.

23 THE COURT: Okay.

24 MS. CAMPBELL: I want to make sure that's right.

25 (Pause.)

1 THE COURT: Okay, that's correct and that's
2 correct. How are we going to put back in the thing at
3 the door with the cab driver?

4 MS. CAMPBELL: I'll just say did you skip over
5 two sentences when you were reading it?

6 THE COURT: Do you have an objection to that?

7 MS. PINNOCK: No, sir.

8 THE COURT: Mr. Li?

9 MR. LI: Sir?

10 THE COURT: If she just says to Investigator
11 Holdorf did you skip over ---

12 MS. CAMPBELL: Or can I add it in this part?

13 THE WITNESS: Part of the question who answered
14 the door?

15 MS. CAMPBELL: Can I just ask the question who
16 answered the door and just let him add it back in?

17 THE COURT: Yes. When she got to the house, can
18 you tell us what she says happened then, and then he
19 can go back into that.

20 MS. CAMPBELL: I'll just do that at the end.

21 THE COURT: Is that okay with you, Mr. Li? Did
22 you hear what we said?

23 MR. LI: No, sir. I'm sorry.

24 THE COURT: Okay. When he gets through reading
25 her statement, Ms. Campbell wants to say, "Can you go

1 back to the part where she talks about answering the
2 door and can you tell us what was said?" That way, he
3 does not have to say that he made a mistake or
4 something like that because it was a typing mistake
5 more than --- it's not his fault. Okay. That's what
6 we'll do.

7 MR. LI: I'm sorry, Your Honor. I'm fine with
8 that.

9 THE COURT: Okay. Let's bring the jury back in.

10 MS. CAMPBELL: Did they review the other one?

11 THE COURT: Okay.

12 (WHEREUPON, the jury entered the courtroom at
13 2:21 p.m.)

14 THE BAILIFF: All jurors are here, Your Honor.

15 THE COURT: Okay. Thank you very much. Ladies
16 and gentlemen, I apologize for that unexpected break.
17 I take full responsibility for it, and we will
18 continue now with testimony.

19 BY MS. CAMPBELL:

20 Q I'm sorry. You can continue.

21 A All right.

22 Answer: (continued) "Another time I had CHILD in
23 a car seat, and he was strapped in. I got mad at
24 something with my oldest daughter. We were in
25 court, and I slammed the doors open and they took

1 CHILD because they said that he almost fell out.
2 I did everything they asked me to do, and I did
3 it so I could get CHILD back.

4 Question: "What are the names and ages of all
5 your kids?"

6 Answer: "Missouri [REDACTED], it's a girl, seven
7 years old; Jamil [REDACTED], a boy, a six-year-old;
8 CHILD [REDACTED], a boy, four years old; CHILD 2
9 [REDACTED], three-year-old girl; CHILD 3 [REDACTED],
10 two-year-old girl; CHILD 4 [REDACTED], one year
11 old; and my newborn, CHILD 5 [REDACTED]."

12 Question: "Is there anything about CHILD's
13 death that you have not told me about?"

14 Answer: The response was, "No."

15 Q And I want to direct your attention back, did she
16 indicate how she got home that day?

17 A Yes, ma'am. She said, "I took the Blue Ribbon
18 cab. When I got to the house, the cab driver was
19 honking the horn. Antonio would not come out. I got
20 out of the cab with my baby and knocked on the door.
21 Antonio answered. I got my stuff out of the cab and
22 paid the cab driver."

23 Q So she indicated she got home by Blue Ribbon Cab?

24 A Yes, ma'am.

25 Q I'm going to show you State's Exhibit 257. Have

1 you seen that document?

2 A Yes, ma'am, I have.

3 Q Does it reflect what time it was that she
4 actually called for that cab that day?

5 A Yes, ma'am.

6 Q We'll get back to the phone records, but what
7 time is reflected in that July 1st?

8 A It was 1:03 --- 1:06.

9 Q 1:06?

10 A Yes, ma'am.

11 Q She also mentioned in her statement to you that
12 when you asked her about the bite mark on the back
13 that I believe she said CHILD 2 did it?

14 A Yes, ma'am. That would be the three-year-old.

15 Q That was the three-year-old child?

16 A According to her statement, yes, ma'am.

17 Q That evening, while they were still at
18 headquarters, did you have photographs taken of both
19 Mr. Guinyard and Ms. Thompson?

20 A Yes, ma'am I did, as well as nail scrapings.

21 Again, you could see some injuries on CHILD I don't
22 know what caused it. There is nothing clear at that
23 point in time that I can say caused his death. I
24 still, even with these injuries, don't have a crime.
25 I have a concerning situation, but I also want to be

1 fair to all parties and document anything they may
2 have, so we took pictures of their bodies and their
3 hands. I also took fingernail scrapings from
4 underneath their nails.

5 Q Why would you want to take fingernail scrapings
6 from underneath their nails?

7 A If there's a fight. If there's something else
8 going on, a lot of times it's just a good source to
9 get DNA.

10 Q Can be?

11 A It can be.

12 Q At that point, did you know anything about a pole
13 being used in this case?

14 A There was never any mention of a pole that night.

15 Q If someone had used a pole, would you expect to
16 find anything on fingernail scrapings?

17 A No, ma'am.

18 Q I want to show you what's been marked as State's
19 Exhibits 152 through 158. Do you recognize those?

20 A Yes, ma'am. This is Antonio Guinyard as he
21 appeared that night.

22 Q As far as you can tell, do there appear to be any
23 injuries or any bruising of any type, any cuts on his
24 hands?

25 A No, ma'am. I didn't witness anything that looked

1 swollen or anything like that.

2 Q And as far as Courtney Thompson, on 161 through
3 169? Were those photographs that you had taken that
4 night?

5 A Yes, ma'am, they are.

6 Q And do there appear to be any injuries to her
7 hands?

8 A There were none and neither party complained
9 about any injuries.

10 Q That night after giving the nail scrapings, did
11 you get further information from both Ms. Thompson and
12 Mr. Guinyard about who was around **CHILD** at the time
13 of his death?

14 A Both parties acknowledge that they were the only
15 parties at the house at the time. That whole day they
16 placed no one else going into the house with **CHILD**.

17 Q And did both parties --- independently of each
18 other indicate what they thought had caused his death?

19 A They alluded to the fact that they believe he got
20 on the dresser, which measured 30 inches, and that it
21 was a tumbling fall.

22 Q And both of them said that?

23 A Yes, ma'am.

24 Q That evening, as far as who was still at the
25 house, were there any other children at the house

1 other than the newborn and the victim?

2 A There were not.

3 Q And what happened to the newborn that night?

4 A It was given to Antonio's mother.

5 Q To Antonio's mother?

6 A Yes, ma'am.

7 Q So she actually came to the scene at some point
8 or came to the sheriff's department?

9 A At the scene.

10 Q And the child was given to her to take care of?

11 A Yes, ma'am.

12 Q And why was the child taken from Ms. Thompson or
13 Mr. Guinyard that night?

14 A We just don't know what's going on. It's much
15 seizure to err on the side of caution like a
16 gentlemen's agreement, that the mother would watch the
17 baby. We needed to talk to Courtney. When I start
18 talking to someone, I don't know how long it's going
19 to take.

20 Q And that evening I noticed in the photographs we
21 reviewed earlier there were some bottles with formula
22 on top of the dresser?

23 A Yes, ma'am.

24 Q Were those provided to Ms. Guinyard so she could
25 take care of the baby?

1 A Yes, ma'am.

2 Q Because the next day, in State's 106, those
3 bottles are gone.

4 A Correct. She had a reasonable need to have the
5 bottles more than what we thought was any type of
6 probative value to keep them on the scene, so the
7 bottles were given to her for the newborn.

8 Q And were both Antonio and Courtney advised of
9 what was going on with CHILD 5?

10 A Yes, ma'am.

11 Q Okay. So they were aware of it?

12 A Yes, ma'am.

13 Q In reviewing the statements, did you note
14 anything about Antonio's written statement that
15 contradicted Courtney as far as whether or not she was
16 angry with the child?

17 A Yes, ma'am. In the statement that he already
18 gave, in the statement, he said Courtney was angry
19 with CHILD

20 Q That night Antonio Guinyard said that he was in
21 the kitchen cooking when he heard the loud noise?

22 A Yes, ma'am.

23 Q And then five minutes later Courtney came in is
24 what his statement says?

25 A Correct.

1 Q And in Courtney's statement when she gets out of
2 the shower and goes and looks in the kitchen, does she
3 see anyone there, according to her statement?

4 A No, ma'am. In her statement she doesn't see
5 anyone.

6 Q That evening was a statement taken from a Maria
7 Nicole Thompson?

8 A Yes, ma'am.

9 Q Was that the only one in the family whose
10 statement was taken that night on the 1st?

11 A Yes, ma'am. Without knowing what's going on
12 instead of having a bunch of family members coming in
13 or other witnesses coming in, I want to try to control
14 that and stage that until I have a little bit more
15 knowledge of what's going on. I don't want 20
16 different people taking 20 different statements and
17 trying to get through what everyone said as far as
18 statements and talking to witnesses and stuff, I want
19 to try to control that and only have a limited number
20 of people taking statements so that I can make sure I
21 know what's going on with the case.

22 Q You can't say what she said to you, but after
23 talking to you, did it become apparent to her --- did
24 it become apparent to you, that you needed to talk to
25 other people involved with this family, family

1 members, friends, family taking care of these
2 children?

3 A Yes, ma'am. We needed to talk to the rest of the
4 family and that was done.

5 Q During the course of talking to both of these
6 defendants that night, were either one of them
7 employed anywhere that they had to be the next morning
8 or anything of that nature?

9 A No, ma'am. Both parties were unemployed.

10 Q I want to turn your attention to July 2nd ---
11 about what time was it when you actually finished up
12 with this that evening?

13 A I would put it pretty close to midnight.

14 Q The next morning, what did you do?

15 A The next morning, the autopsy was scheduled for
16 **CHILD** I attended that just because up until the
17 autopsy, we had no known cause of death. I also knew
18 what both parents had said, so if there's any
19 questions that the pathologist or anyone needed, I
20 could answer.

21 Q And when you attended the autopsy, was that
22 performed by Dr. Durso?

23 A It was.

24 Q Did you ask her any specific questions about the
25 types of injuries that were observed in this case at

1 the autopsy?

2 A Yes, ma'am, I asked if this could have been an
3 accidental injury. Absolutely not.

4 Q That day, did you also speak to the coroner's
5 office about a possible reenactment?

6 A I did.

7 Q Is that unusual for a reenactment to take place
8 to take someone back to a scene to see what happened?
9 I'm talking about with the coroner's office, at least?

10 A Not with children. With children's deaths we
11 typically do a reenactment, have an anatomical doll, a
12 doll they use so we can understand placement,
13 understand what they did. They can demonstrate to us
14 what they did. We can see it firsthand.

15 Q And who actually was to meet you at the house
16 that afternoon?

17 A We asked for both, but Courtney is the only one
18 that met us.

19 Q And approximately what time was it when you went
20 to the house at ■■■ Beaverbrook on July 2nd?

21 A It was 2:37 in the afternoon.

22 Q Who was with you?

23 A Investigator Wagner.

24 Q And who were you supposed to meet there?

25 A Jane Powell with the coroner's office. She

1 brought someone with her also from her office, and
2 Courtney and Antonio.

3 Q When you got there, was the crime scene still
4 secured?

5 A It was.

6 Q Was that unusual?

7 A No, because we did not know the manner of death.
8 We held the crime scene until we knew what the cause
9 of death was. Spoke with my supervisors, explained
10 what we have, and after Courtney got to the scene,
11 arrived at the scene, we terminated the securing of
12 the crime scene and turned the house over to her. So
13 there is no longer a deputy staying physically in the
14 front yard or where they can view the house.

15 Q Okay. While you were there back at [REDACTED]
16 Beaverbrook, did Antonio Guinyard ever show up?

17 A I never saw him that day, no, ma'am.

18 Q Were you present that day when Jane Powell
19 conducted an interview with Courtney Thompson in
20 getting her to show what happened?

21 A I was present, but I did not participate.

22 Q Okay. I want to show you State's Exhibit
23 Number 106. What does that show, sir?

24 A That's the doll that we used, and it shows --- we
25 asked Courtney to place the doll where [REDACTED] was.

CHILD

1 Q And when Courtney showed you this, she actually
2 placed the doll's head in the area where she had
3 referenced as where the piss would have been?

4 A That's correct, yes, ma'am.

5 Q And at that point, you don't have to go over
6 everything she said there, was she still sticking to
7 her original story?

8 A Yes, ma'am, what she told Ms. Powell of the
9 coroner's office was very consistent with her
10 statement to us.

11 Q Once the enactment was done, did y'all --- do you
12 know how she got there that day or did you know until
13 this trial?

14 A I knew she had gotten a ride there. It wasn't
15 until this trial that I found out Ms. Metze, Angela
16 Metze took her.

17 Q Once you all had finished --- or the coroner's
18 office finished the reenactment, did you ask her to
19 come back to headquarters?

20 A I did.

21 Q And what was the purpose of that, that was
22 explained to her?

23 A It was explained to her that we wanted to go over
24 the autopsy. At that point I knew this was not an
25 accidental death. Again, I did not want to do an

1 interview at her house. I wanted to have it at our
2 headquarters where if additional statements were made,
3 they could be preserved.

4 Q Backing up a second, as far as their original
5 given to you the night before and then there at the
6 scene, had anyone other than these two people had any
7 contact with [CHILD] over the two weeks prior to this?

8 A No one else was mentioned.

9 Q Do you know how Courtney Thompson got back to
10 headquarters?

11 A I believe Investigator Wagner and myself brought
12 her back in our vehicle. Again, she was not under
13 arrest. She was not handcuffed. We both drive
14 unmarked pick up trucks that unless we turn on our
15 lights to identify it, you would not know it's a law
16 enforcement vehicle.

17 Q And once you got back to headquarters, had you
18 also requested from Ms. Thompson that she contact
19 Antonio?

20 A Yes, ma'am, I did.

21 Q Do you know whether or not she did that?

22 A She did.

23 Q And what were you requesting Antonio to do since
24 he hadn't shown up when he was supposed to before?

25 A It was for the same reason, so we could go over

1 the autopsy.

2 Q Once you got back to headquarters, what, if
3 anything, did you do?

4 A I again advised both parties of their rights.

5 Q And who did you make contact with first?

6 A Courtney was with us, so she was advised first.

7 Q I want to show you what's been marked as State's
8 Exhibit 5. Do you recognize that?

9 A Yes, ma'am, this is the Advice of Rights that was
10 given to her on the 2nd and the time was 16:45.

11 Q At this point why did you advise her of her
12 rights again if you had done it the night before?

13 A Out of an abundance of caution, because there had
14 been a break and since she had not been with us the
15 whole time, I just wanted to make sure I did things
16 the proper way.

17 At this point in time, we weren't just talking
18 about a suspicious death. This was going to be ---
19 there was going to be some confrontation. There was
20 also a very likelihood that someone was going to be
21 arrested. I wanted whatever was said to be used.

22 Q That was largely based on the fact that at this
23 point you had been to the autopsy and gotten the
24 information from Dr. Durso ---

25 A Yes, ma'am.

1 Q --- about the nature of these injuries?

2 A Multiple injuries.

3 Q State's Exhibit Number 5, is that the actual
4 document you used?

5 A Yes, ma'am, it is.

6 MS. CAMPBELL: Your Honor, at this time we'd
7 offer State's Exhibit 5 into evidence.

8 MS. PINNOCK: No objection.

9 MR. LI: No objection.

10 THE COURT: State's 5 without objection.

11 (WHEREUPON, State's Exhibit Number 5 was admitted
12 into evidence.)

13 BY MS. CAMPBELL:

14 Q Can you briefly explain to the jury again how you
15 went through her rights the second time?

16 A Unlike the first time, I did not ask for
17 education, alcohol or drug use. It's the same as the
18 last time. You have the right to remain silent.

19 Before we ask you any questions, you must understand
20 your rights. You have the right to remain silent.

21 Anything you say could be used against you in court.

22 You have the right to talk to a lawyer before you
23 answer any questions and to have a lawyer present
24 during any questioning. If you cannot afford a
25 lawyer, one will be appointed for you before you

1 answer any questions if you ask.

2 If you decide to answer questions now without a
3 lawyer present, you still have the right to stop
4 answering questions at any time. You also have the
5 right to stop answering questions at any time until
6 you talk to a lawyer. Then she signs that she
7 understands her rights. I also read off the waiver
8 and she signs the waiver.

9 Q Again, does she appear to understand what's going
10 on?

11 A She appears to, yes, ma'am.

12 Q Was she under the influence of alcohol or drugs?

13 A No, ma'am, her answers make --- they're relevant
14 to what we're talking about. There was nothing to
15 indicate that she was under the influence of anything.

16 Q Did you or anyone else threaten her or promise
17 her anything, promise her leniency, deprive of her of
18 creature comforts or do anything to make her talk to
19 you?

20 A No, ma'am.

21 Q Did she indicate she wanted to talk to you?

22 A Yes, ma'am.

23 Q Did she also sign off on two places on State's
24 Exhibit 5 waiving her rights?

25 A They were signed in two places and witnessed by

1 myself and Investigator Wagner.

2 Q At that point, do you start talking to her again
3 about what had happened surrounding [REDACTED] CHILD 's death?

4 A We did briefly. It wasn't very long before
5 Antonio showed up at headquarters, so I left Courtney
6 with Investigator Wagner and Investigator Powell from
7 the coroner's office. I went to talk to Antonio.

8 Q Where was Antonio when you made contact with him?

9 A He was downstairs in our lobby area.

10 Q At some point did you then escort him upstairs?

11 A Yes, ma'am.

12 Q And advise him of his rights?

13 A Yes, ma'am.

14 Q I want to show you've what's been marked as
15 State's Exhibit Number 7. Do you recognize that?

16 A Yes, ma'am.

17 Q Is that the Advice of Rights you used with
18 Robert --- excuse me, Antonio Guinyard, Sr. on
19 July 2nd?

20 A The form said Robert. When we were talking to
21 him, I tried to call him Antonio just to cut down on
22 any confusion.

23 Q Okay.

24 MS. CAMPBELL: Your Honor, at this time we'd
25 offer State's Exhibit 7 into evidence.

1 MR. LI: No objection, Your Honor.

2 MS. PINNOCK: No objection.

3 THE COURT: State's Exhibit 7 without objection.

4 (WHEREUPON, State's Exhibit Number 7 was admitted
5 into evidence.)

6 BY MS. CAMPBELL:

7 Q Can you explain to the jury again the rights you
8 went through with this defendant?

9 A Again, I did not note his education or alcohol
10 consumption because we went over that yesterday. I
11 didn't feel that he was impaired or --- that just
12 didn't seem like it was an issue at all. His name,
13 where we're at, my name. I'm with Sergeant Faust when
14 I'm talking with Antonio. The date and the time. The
15 time is actually incorrect. On here it says it's
16 16:35. It was after I had talked with Courtney, so it
17 would have been 55. Sometimes you can look. I don't
18 know if it was the office I was in or just looking at
19 the clock wrong or just jotting things down. It was
20 an administrative error, but again I go through the
21 rights.

22 Before we ask you any questions you must
23 understand your rights. You have the right to remain
24 silent. Anything your say can be used against you in
25 court. You have the right to talk to a lawyer for

1 advice before I ask you any questions and have a
2 lawyer with you during questioning. If you cannot
3 afford a lawyer, one will be appointed to you before
4 any questioning if you wish. If you decide to answer
5 questions now without a lawyer present, you still have
6 the right to stop answering questions at any time.
7 You also have the right to stop answering questions at
8 any time until you talk to a lawyer.

9 Then you read off the waiver. It says, "I have
10 read the statements of my rights. I understand what
11 my rights are. I'm willing to talk and answer
12 questions. I understand what I'm doing. No promises
13 have been made to me and no pressure or coercion of
14 any kind has been used against me."

15 If they understand their rights, I have them sign
16 the top. If they want to talk to me, consent to talk
17 to me, I'll have him sign here.

18 Q He did that?

19 A In both places and it's witnessed by myself.

20 Q Again did you promise him anything?

21 A No, ma'am.

22 Q Threaten him in anyway?

23 A No, ma'am.

24 Q Deprive him of any creature comforts, coerce him?

25 A No, ma'am.

1 Q Or do anything to make him talk to you?

2 A There was nothing like that.

3 Q Did he appear to be coherent and understand what
4 you were saying?

5 A His answers were responsive to our questions,
6 yes, ma'am.

7 Q In your opinion, was he answering you
8 voluntarily?

9 A Yes, ma'am.

10 Q Did he actually sign off on this form
11 acknowledging his Advice of Rights and his waiver of
12 those rights in talking to you?

13 A Yes, ma'am.

14 Q And that's his signature?

15 A It is.

16 Q Who had you left Courtney Thompson with when you
17 went and made contact with Antonio?

18 A With Investigator Wagner, who also works at the
19 special victim's unit and Investigator Powell with the
20 coroner's office.

21 Q After he had been advised of his rights and he
22 indicated he wanted to talk to you, what, if anything,
23 did he say?

24 A He sat down in the chair. We were in one of the
25 front supervisor's office that now belongs to Sergeant

1 Strange and explained to him that there had been a
2 number of developments since we talked yesterday and
3 that we needed to find out what happened. We told him
4 that we knew that **CHILD**'s death was not an accident,
5 and that he had died from multiple acts of blunt force
6 trauma. This was not just something that was an
7 accident or something like that.

8 Then we started talking with him, you know, could
9 this have happened or --- we were trying to get what
10 may have happened. Sometimes some people just come
11 out and tell you a bunch. Antonio didn't say
12 anything. He just --- he stuck with his original
13 story.

14 Q So he didn't say anything differently?

15 A He did not.

16 Q Did you ask him specifically whether he had ever
17 hit his kids and what did he indicate to you?

18 A He maintained that he had never hit his kids. He
19 had punished them. He would make them hold their arms
20 out or do push ups.

21 Q Did you also ask him if he heard anything while
22 he was in the kitchen area that night?

23 A He said no and then we started pointing out
24 inconsistencies, confronting him.

25 Q Such as ---

1 A Investigator Wagner got a little more out of him
2 when she went back over what happened the day before,
3 but as far as the incident itself, if he was asked the
4 question why was he hiding in the closet, why wasn't
5 he there when his son was dying, or why didn't he help
6 the first aid, he just didn't have an answer for that.
7 That was very bothersome.

8 Q At that point, did you go and check with
9 Investigator Wagner about Ms. Thompson?

10 A I did.

11 Q And once you went and made contact with Courtney
12 Thompson again, who actually was in there with
13 Investigator Wagner at that point?

14 A Captain Melton. She is my supervisor, two
15 supervisors up from me.

16 Q Did she also --- did you then talk to Courtney a
17 little bit more?

18 A I did. Courtney had modified her statement a
19 little bit. She was saying that --- she would tell us
20 everything if she could meet with Antonio. We were
21 getting nowhere with Antonio. I asked if anyone had
22 any objection or think of any reason why you shouldn't
23 put these two together to try to look at what
24 happened?

25 No one disagreed, so we have a larger conference

1 room there and they were allowed in that conference
2 room with the door closed maybe about 10, 15 minutes.
3 We knocked on the door and told them it was time to do
4 statements.

5 Q Was anyone from the sheriff's department able to
6 overhear what they were talking about while they were
7 in the conference room?

8 A No, ma'am, and in dealing with a child death, I
9 mean, it's --- you want to be sympathetic to the
10 parents. If your child dies, I would want someone to
11 treat me the way --- if one of my kids died --- I
12 treat others the way you want to be treated kind of
13 thing. You're trying to be respectful to that moment.
14 There's been a lot going on.

15 You still don't know everything, but one party is
16 telling you --- they're telling you what happened with
17 the truth and that's what you wanted to get.

18 Q After they had been in there for ten or fifteen
19 minutes, did both of them come out of the conference
20 room where they were having a private conversation?

21 A They did.

22 Q And what happened next?

23 A I went to start putting things in writing. Asked
24 them, well, what is it that you want to change. What
25 is it that's different? What do you want to tell us

1 now? I'm looking for what matches with what we know
2 at that time.

3 Q And did you take an additional statement from
4 Antonio Guinyard?

5 A No additional statement was taken from Antonio
6 Guinyard because he never changed his story. It was
7 that he hears the bump, the bang, five minutes later
8 he sees Courtney. Courtney says she doesn't see
9 anyone, and then when EMS and the first responders are
10 getting there, they don't see anyone either except for
11 Courtney and **CHILD** in the house.

12 Q Was there a second statement, however, taken from
13 Courtney Thompson on that date?

14 A There was.

15 Q I'm going to show you what's been marked as
16 State's Exhibit 6-A. Do you recognize that?

17 A Yes, ma'am.

18 MS. CAMPBELL: Your Honor, at this time we'd
19 offer 6-A into evidence.

20 MR. LI: No objection.

21 MS. PINNOCK: Subject to previous objections.

22 MR. LI: Subject to previous objections.

23 THE COURT: Overruled. State's 6-A admitted.

24 (WHEREUPON, State's Exhibit Number 6-A was
25 admitted into evidence.)

1 MS. CAMPBELL: Your Honor, permission to publish.

2 THE COURT: Yes, ma'am.

3 BY MS. CAMPBELL:

4 Q Go ahead.

5 A Okay. This is the statement --- there are two
6 statement forms. You have a witness statement form
7 and then there's your suspect statement form.
8 Technically by advising him of the Advice of Rights on
9 the written form, I've covered the Miranda warnings.
10 I could have used a regular statement form, but just
11 because of the issues that we're talking about, she's
12 already waived, I did it on the suspect statement
13 form. It's her name, her address, city, Columbia,
14 South Carolina.

15 This is the 7/2/13 at 19:27 hours, which is
16 7:27 p.m. it's myself and Captain Melton at the
17 Richland County Sheriff's Department. The top part is
18 a type of form that's just going over the Advice of
19 Rights that he has been read four times now and then
20 the statement starts:

21 Question: "Courtney, are there any changes you'd
22 like to make about your previous statement?"

23 Response: "Yes, the first one was not the truth."

24 Question: "Why did you not tell the truth?"

25 Response: "I was scared you were going to put my

1 kids into foster homes and split them up."

2 Question: "What happened yesterday with your
3 son, CHILD?"

4 Response: "When I came home from the hospital, I
5 walked in the bedroom and I saw my son lying on
6 the floor naked in a pile of piss. I called his
7 name and he was very weak. His eyes were barely
8 opened. I asked him what was wrong. He
9 requested for some water. I got him a cup of
10 water from a green cup in the kitchen. CHILD
11 was drinking the water like he had not had water
12 in days. I put the cup back in the kitchen and
13 went in the living room and got some clothes to
14 put on him. I gave him light gray jeans and a
15 green shirt. CHILD was so weak, his feet, legs,
16 knees, butt and arms were kind of swollen and
17 blue. CHILD was just out of it. I got the
18 bottle of Pine Sol and water and soap and poured
19 it on the pee. CHILD was on the floor and his
20 head was down. I said that I would help him. I
21 got on the floor to help. I was tired. My back
22 hurt. I went to take a shower. I heard CHILD
23 crying like he was in pain, getting hit.
24 I jumped out of the shower. CHILD was stretched
25 out in the floor in my room. I stood CHILD up,

1 and he dropped to his knees. CHILD was
2 breathing funny. CHILD fell on the floor.
3 I asked him if he could get up. He said, yes.
4 He have stood up. I told him to sit down.
5 CHILD was walking down the hall and he collapsed
6 after taking about three steps. CHILD balled
7 up. It looked like he was having a seizure.
8 I picked my baby up and pried the lip out of his
9 mouth. I carried him to the front room. I went
10 to get my phone. He was not breathing. I called
11 911 and told him that my son was not breathing.
12 I talked to CHILD that morning around 11:00 a.m.
13 My son told me that he had been beaten with a
14 pole.
15 MR. LI: Objection, Your Honor, hearsay.
16 THE WITNESS: I asked the question. Sorry.
17 THE COURT: Hold on.
18 (Pause.)
19 THE COURT: All right. If you all will step back
20 to your jury room. We'll take an afternoon break.
21 We'll be back with you in just a few minutes. Do not
22 discuss the case, and keep an open mind.
23 (WHEREUPON, the jury left the courtroom at
24 2:52 p.m.)
25 THE COURT: Why are we making objections in the

1 middle of documents that we have already discussed?

2 MR. LI: Your Honor, you asked me to do it
3 contemporaneously.

4 THE COURT: I have never heard you object to that
5 line in the entire trial.

6 MR. LI: I'll play the transcript back, Your
7 Honor. I could be wrong. After the Bruton issues,
8 after we did the redactions, this is not precluded
9 from making my hearsay objections. I thought ---

10 THE COURT: All right. So what's your hearsay
11 objection to this line?

12 MR. LI: It is used for the truth of the matter
13 asserted as an out-of-court statement.

14 THE COURT: Okay. Who is arguing this?

15 MS. McDUFFIE: Your Honor, I believe that there
16 is an exception to the hearsay rules. It's Present
17 Sense Impressions. It's also a statement of the then
18 existing physical, emotional or mental condition and
19 further, Your Honor, I would submit to the court that
20 this evidence can be viewed as a dying declaration.

21 THE COURT: Okay. It's not a Present Sense
22 Impression, because Present Sense Impression is
23 something that happens almost contemporaneously
24 therewith, so what was your next one?

25 MS. McDUFFIE: Your Honor, it's also a statement

1 about then existing physical, mental, or emotional
2 condition.

3 THE COURT: All right. So under 803.3 the
4 declarant's availability is immaterial. Therefore, I
5 think it goes directly to the declarant. In this case
6 the declarant would be the deceased child's physical
7 condition. Therefore I'm going to admit the
8 statement.

9 All right. Let's take about a ten minute break.

10 MS. McDUFFIE: Judge, we fixed the ---

11 THE COURT: You fixed the other one. Let's
12 everybody look at it. Be right back.

13 THE WITNESS: Can I step down?

14 THE COURT: Yes. Don't discuss your testimony.
15 (WHEREUPON, a short break was taken.)

16 THE COURT: All right. Bring the jury back in.
17 (WHEREUPON, the jury entered the courtroom at
18 3:14 p.m.)

19 THE BAILIFF: All the jurors are here, Your
20 Honor.

21 THE COURT: Thank you very much. You may
22 continue, Ms. Campbell.

23 MS. CAMPBELL: Thank you, Your Honor.

24 BY MS. CAMPBELL:

25 Q You can continue publishing it.

1 A Okay.

2 Question: "Why did you get in the shower?"

3 Response: "I was bleeding from having a baby."

4 Question: "Have you hit your children before?"

5 Response: "No, I don't hit them."

6 Question: "Do you know what white stick CHILD
7 was talking about getting hit with?"

8 Response: "No. The broom was already broken.
9 The only white pole was an extra shower curtain
10 rod in the hall closet."

11 Question: "How would you discipline your
12 children?"

13 Response: "I would turn the TV off."

14 Question: "What do you know about the cigarette
15 burn on CHILD's body?"

16 Response: "I don't know about that."

17 Question: "Is there anything that you have not
18 told me about CHILD's death?"

19 Response: "No, I've told you everything. When I
20 got home, I saw blood flecks on the wall in the
21 playroom, on the walls in the hall, and on my
22 room door. There was blood on the closet door in
23 my room, and the door had a hole in the middle.
24 There was blood in the carpet."

25 Question: "Is there anything that you want to

1 add or change about your statement?"

2 Response: "No."

3 Q And once that statement was taken from
4 Ms. Thompson, was she given an opportunity to review
5 it?

6 A Yes, ma'am.

7 Q Make any changes?

8 A Yes, ma'am.

9 Q And then did she indicate that she wanted to
10 adopt it as her own by signing it?

11 A Yes, ma'am.

12 Q And that was her second version of events?

13 A Yes, ma'am, and then she was given a copy and we
14 keep the original.

15 Q After taking that statement, were decisions made
16 as far as any arrests that were going to be made in
17 this case?

18 A Yes, ma'am. We reviewed the facts with the
19 solicitor's office, who agreed with us that there was
20 probable cause for this arrest and both parties were
21 charged with what they're charged with here today.

22 Q After completing the statements, were Courtney
23 and Antonio put in a break room there near the
24 investigative unit?

25 A They were. We have warrants out, complete arrest

1 reports. It's a bit of paperwork that still has to be
2 done. Both Courtney and Robert were in the break room
3 sitting together. It's a large table. You have a
4 drink machine, snack machine, coffee, water.

5 Q Were they seated across from each other?

6 A They were.

7 Q And what happened next?

8 A Courtney told Antonio to give her the money. He
9 reached not in just one pocket, but both pockets and
10 pulled out all the money he had in both pockets and
11 gave it to Courtney who then split the money, kind of
12 divvied it up. I didn't count how much. She gave
13 some back to Antonio. I asked if they wanted to give
14 the money to who was watching their kids to help defer
15 the cost and pointed out that, you know, you're going
16 to jail. You won't be charged for your meals, they're
17 covered. She said, "Don't do me like that."

18 Q In fact, did Courtney say something further that
19 about who needed the money?

20 A That they needed the money for their canteen
21 money.

22 Q And that would be she and Antonio?

23 A Yes, ma'am.

24 Q Was Antonio saying anything to Courtney during
25 the confrontation and when they were together in the

1 room?

2 A Yes, ma'am. He kept repeating the phrase, "Free
3 me," and then towards the end, once the paddy wagon
4 driver came to transport him down to the detention
5 center, she stated, "I did it. I did it all," and
6 that was without any type of foundation or anything
7 else. It seemed very much in direct response to
8 Antonio saying, "Free me."

9 Q Did she indicate what should happen to Antonio,
10 where he should go?

11 A That he should go home to the kids.

12 Q The next day, did you make contact with
13 additional family members at Allen Benedict Court?

14 A I did.

15 Q Specifically, did you make contact with Gladys
16 Thompson and Natalie Thompson?

17 A I did. I went along with Investigator Wagner.

18 Q You can't talk about what they said to you, but
19 did you collect some pictures from Natalie Thompson on
20 that day?

21 A I did. At first, she did not want to turn them
22 over. She felt that no one had listened before when
23 she tried to bring them up. I explained to her I
24 couldn't control the past. I didn't know anything
25 about the past, but they are relevant to my

1 investigation now and I needed them.

2 Q I'm going to show you what's been marked as
3 State's 218. Is this one of the photographs --- and
4 how did you get the photographs from her? Were they
5 on paper, on the telephone or what?

6 A They were on the telephone. Investigator Wagner
7 was able to take them straight off the phone. It's
8 very easy to do, print them out. They were printed
9 out as you see on the phone except it's obviously
10 bigger.

11 Q I show you 218, and this actually makes the whole
12 situation blurrier, does that show part of the
13 photograph that you got?

14 A Yes, ma'am.

15 Q Does that show some pattern marks on the back of
16 the child?

17 A Yes, ma'am, there was a looping, which could be
18 consistent with a cord.

19 Q And did they both come down to the sheriff's
20 department on the lower side on Pineview to give
21 statements that day?

22 A Yes, ma'am, again, in talking with people, you
23 realize they have a lot of information. I wanted to
24 get them to where we talked with one person at a time
25 and put it in writing.

1 Q Did you also make contact with Crystal Thompson?

2 A I did.

3 Q Was this a somewhat tricky situation being that
4 everyone you were talking to was related to Courtney?

5 A Yes, ma'am.

6 Q And the father, Antonio?

7 A Yes, ma'am.

8 Q And was Crystal, on that day, forthcoming with
9 you about things she had witnessed and overheard while
10 on the phone?

11 A Very. It was chilling.

12 Q Once you had taken statements, additional
13 statements, at this point, you had statements from
14 Nicole, Natalie, Gladys and Crystal, the next day did
15 you execute a search warrant back at [REDACTED] Beaverbrook?

16 A Yes, ma'am.

17 Q Was that based on some additional information you
18 had gotten from those statements, as well as
19 information about a pole being used in this situation?

20 A Yes, ma'am. The first search warrant we had no
21 information about a pole. It's not until the night of
22 the 2nd that we get information about a pole and in
23 talking with the family members, we realized that we
24 needed to do another search of the scene.

25 Q Did you also come up with information about a

1 security box that may have some type of recording
2 device?

3 A Yes, ma'am.

4 Q In fact, did that security box, was it even
5 capable of recording information or was it just a live
6 feed?

7 A According to Courtney, it was just a live feed
8 that you could see on her phone. She didn't indicate
9 it was anything to make a record, it was just a home
10 security system.

11 Q In your investigation, were you able to get any
12 information from Time Warner or her that indicated it
13 was set up to do anything other than a live feed?

14 A No, ma'am, like I said, it was just a live feed.

15 Q When you went back into the home with a search
16 warrant ---

17 A Yes, ma'am.

18 Q --- did you look for the video, the recording
19 machine or whatever it was, the video?

20 A Yes, ma'am, we did not find it.

21 Q It was gone when you went back on the 4th?

22 A It was not where it was when we were there on the
23 2nd.

24 Q On the 2nd, you didn't know the significance of
25 it at that point?

1 A Did not.

2 Q During the search of the house, were you also
3 searching for other items, such as a pole that may
4 have been used in this case?

5 A Yes, ma'am.

6 Q And what, if any, items were found when you went
7 back?

8 A We collected two poles in going through the house
9 in the back bedroom, which was identified as
10 Courtney's bedroom and Antonio's bedroom. Two
11 mattresses were sitting on the floor. They weren't,
12 you know --- it's not like a regular frame, they were
13 just sitting on the floor. I moved the bed away from
14 the wall, and between the wall where the mattress was,
15 there was a pole that we thought was significant to
16 this investigation.

17 Q State's Exhibit 151, is this the pole that you
18 actually recovered that day that's been taped back
19 together? It's the same pole that's been testified
20 to, correct?

21 A Yes, ma'am.

22 Q And photographs of where it was found?

23 A Yes.

24 Q You actually found that that day?

25 A I did.

1 Q Did you touch it or do anything to it prior to
2 Investigator Polis collecting it?

3 A In discovering it, I ran my hand along the edge
4 and that's when I touched it. I didn't move it any
5 further. When I touched it, I moved the mattress away
6 further so that a picture could be taken and it could
7 be documented where it was.

8 Q During the course of your investigation that day
9 there at the house an [REDACTED] Beaverbrook on July 4th, did
10 you observe some photographs of some children in the
11 house?

12 A There were pictures of several of the girls,
13 Courtney's girls, but there was no pictures or art
14 work or anything from [REDACTED] CHILD

15 Q And again, in the room where he was supposed to
16 be sleeping, was there a bed?

17 A There was no bed.

18 Q The next day on July 5th, were you requested to
19 go back to [REDACTED] Beaverbrook by a family member of
20 Antonio Guinyard?

21 A Yes, ma'am, his mother wanted us to meet her back
22 at the house so that she could retrieve some of his
23 clothing. Myself and Investigator Wagner went back
24 there. This was not something where we were looking
25 for anything, had no intention of anything being

1 found, but something --- Ms. Guinyard, as she is going
2 through the closet, comes across a shirt with blood on
3 it.

4 Q What closet was that?

5 A It was Courtney's and Antonio's closet.

6 Q In the master bedroom where they slept?

7 A Yes, ma'am.

8 Q You mentioned she was going through the closet.
9 What all was in the closet area?

10 A There were a lot of clothes, just a pile of it.
11 She wanted to get Antonio's clothing out.

12 Q And were you actually there when she retrieved
13 it, the shirt?

14 A I was in the room when she came across it. You
15 could tell she found something that was unpleasant.

16 Q I'm going to show you State's 247; is that the
17 interior of the closet?

18 A It is.

19 Q And State's 249, is that the shirt that was
20 retrieved.

21 Q Do you recall what size that shirt was?

22 A It was a child's shirt.

23 Q And it was buried in their closet?

24 A It was.

25 Q On July 8th, did you take a statement from

1 Ms. Guinyard?

2 A Yes, ma'am.

3 Q The defendant's mother?

4 A I did.

5 Q And Patricia Guinyard, does she live here in the
6 Columbia area?

7 A She does.

8 Q And that would be Antonio Guinyard's mother?

9 A Yes, ma'am.

10 Q At that point, did you also get a search warrant
11 for --- were there any cell phones that were obtained
12 in this case?

13 A We had Courtney's cell phone. We're not sure
14 what happened the Antonio's cell phone.

15 Q Were you ever able to find Antonio's phone?

16 A I have no idea where it went.

17 Q But you were able to retrieve Courtney's cell
18 phone?

19 A Yes, ma'am.

20 Q I believe Investigator Wagner actually got that
21 from her?

22 A Yes, ma'am.

23 Q Initially you got a search warrant to download
24 it?

25 A Yes, ma'am.

1 Q Or do what we call a dump?

2 A Yes, ma'am.

3 Q At that point, was an attempt made to try to get
4 the information from the phone?

5 A Yes, ma'am.

6 Q Was it successful?

7 A It was not.

8 Q As Investigator Metz has testified to. Later on
9 did you get another search warrant for that phone?

10 A Yes, ma'am.

11 Q And at that point were documents downloaded?

12 A Yes, ma'am. I learned --- we obtained some new
13 software, Investigator Metz works in a different area
14 than where my building is. He works right where the
15 main sheriff's department is located. I work at 1931
16 Pineview. He mentioned they had some new software.
17 We asked if he thought this might work. He said it
18 appears to work.

19 Q The phone we're referring to, is that State's
20 Exhibit 210?

21 A If you can flip it over. Yes, ma'am.

22 Q And the information that was gotten from that
23 phone was initially entered as State's Exhibit 250.
24 This is it?

25 A It's a huge document.

1 MS. CAMPBELL: Your Honor, at this time, based on
2 the defense request, we would substitute the redacted
3 portions for 250 at their request.

4 MS. PINNOCK: No objection.

5 MR. LI: No objection.

6 THE COURT: Okay.

7 MS. CAMPBELL: So this would be substituted as to
8 the relevant dates.

9 (WHEREUPON, State's Exhibit Number 250-A was
10 marked for identification and admitted into
11 evidence.)

12 BY MS. CAMPBELL:

13 Q I want to now show you the new Exhibit 250 and
14 see if you recognize that.

15 A Yes, ma'am.

16 Q Do you have a copy of those before you?

17 A I do.

18 Q Are those incoming, outgoing calls, and Google
19 internet searches from July 1st into July 2nd?

20 A Yes, ma'am.

21 Q Do you work with telephone records in your job?

22 A Yes, ma'am. They're very helpful to us.

23 Q Once you were able to get this information, did
24 you have an opportunity to review it?

25 A Yes, ma'am.

1 Q And this started just at a point on 7/1/2013 ---
2 and how were these records listed? The first column
3 is the type, which is ---

4 A It's either outgoing or incoming call.

5 Q And the second column is a time stamp?

6 A Correct.

7 Q And that timestamp, is it accurate as far as
8 Eastern daylight time?

9 A It's in the --- what they call the UTC time,
10 which is the coordinated universal time code. Eastern
11 Standard Time is typically five hours behind it.
12 However, during Daylight Savings Time, which July 1st
13 would be during Daylight Savings Time, it's only four.

14 Q It would be a four hour difference?

15 A Correct.

16 Q When you're looking at the times that are
17 actually listed on State's Exhibit 250, in order to
18 get the correct Eastern Standard Time that would have
19 been here, how many hours do you subtract or add?

20 A You subtract four.

21 Q As far as the times being accurate in these
22 columns, as far as ingoing and outgoing calls, as well
23 as the Google searches, the stuff that Mr. Li was
24 asking about yesterday, is that concerning text
25 messages?

1 A Yes, ma'am.

2 Q But not these calls?

3 A That's correct.

4 Q And these are the calls that you relied on as
5 part of your investigation?

6 A They were. That was further corroborated on with
7 the Blue Ribbon Taxi Cab.

8 Q And we can start there.

9 A I'm sorry.

10 Q If you go to the fourth page. There is an
11 outgoing call?

12 A Yes, ma'am.

13 Q And I believe that's at what time? Oh, let me
14 put a basis in for it. The numbers that are reflected
15 on these and the names and the description of who the
16 party is?

17 A Yes, ma'am.

18 Q Is that information you collected during the
19 course of your investigation?

20 A Yes, ma'am. Most of these are family members, so
21 their phone numbers are listed on their statement
22 forms or within their contact information they gave
23 us. The ones that are not family members, I call the
24 number, find out, or Google it, but it's confirmed
25 that what is listed here is what it says, Chase Bank

1 is Chase Bank, Time Warner Cable is Time Warner Cable.
2 Blue Ribbon is Blue Ribbon. The hospital has several
3 different numbers, kind of like the sheriff's
4 department, but the numbers listed in this report
5 belong to the hospital.

6 Q So after the time stamp is the party. That's how
7 it's listed actually in her phone?

8 A That's correct.

9 Q With the phone number, as well as if there's any
10 other kind of name next to it, such as this one, "Kids
11 grandmother," "Sister Chrystal"?

12 A Yes.

13 Q And then next to that is the description and
14 that's who you were able to match these up to?

15 A Correct.

16 Q Based on the information from your investigation.
17 And then finally the duration of these calls is the
18 final column; is that correct?

19 A Correct.

20 Q On the one starting with Blue Ribbon Taxi,
21 there's a date indicated on there on page four?

22 A Blue Ribbon Taxi, the date is 7/1/2013.

23 Q And I want to turn your attention to one at
24 5:06 p.m.?

25 A Yes, ma'am.

1 Q And you see that one?

2 A Yes, ma'am.

3 Q And is that that universal time you were talking
4 about?

5 A Yes, ma'am.

6 Q What's the abbreviation for that?

7 A UTC

8 Q But in order to put it into our time, what would
9 you have to do?

10 A You'd have to subtract four hours.

11 Q So that would actually be at 1:06 p.m.?

12 A Yes, ma'am.

13 Q Eastern Daylight Time, which would be accurate
14 for summer?

15 A Yes, ma'am.

16 Q And in reviewing the Blue Ribbon Cab Company log,
17 is that corroborated?

18 A It is.

19 Q Going on down to the bottom of that page on
20 7/1/2013?

21 A Yes, ma'am.

22 Q This is the Blue Ribbon call, right? Was that
23 ingoing or outgoing?

24 A That was an outgoing call.

25 Q At the bottom of the page, the last one on that

1 one is what date?

2 A The last one on that page is 7/1/2013. That's
3 9:05 UTC time.

4 Q Which would translate to what on Eastern Daylight
5 time?

6 A 5:05.

7 Q And that's?

8 A That's the sister, Crystal.

9 Q Crystal?

10 A Yes, ma'am.

11 Q What's the duration of the call?

12 A Two minutes, 11 seconds. I don't know if you
13 need to know, but that's an incoming call with
14 Crystal. The next one on the next page is an outgoing
15 call. That's also on 7/1/2013 and that's at 9:07 p.m.
16 UTC time --- UTC time, which would be 5:07.

17 Last two, Nicole Thompson is in her phone as
18 Mikayla. That's a 20 second call. Then you have
19 several web searches and those were significant to us.

20 Q And the web searches, what times were those and
21 how many of them are there?

22 A Five.

23 Q There are five web searches?

24 A Yes, ma'am.

25 Q And what time period are those in?

1 A Do you want just what time here or what time it
2 says on the report?

3 Q On the report first.

4 A All right. On the report is 10:03 p.m. which
5 would be --- the last one because they're all ---

6 A Yes, ma'am.

7 Q The last one is what?

8 A 10:05.

9 Q And that would translate into?

10 A 6:03 and 6:05 respectively, P.M. On the web
11 searches there is no duration.

12 Q No duration?

13 A No, ma'am.

14 Q And what was being Googled on Courtney Thompson's
15 phone?

16 A "A child have seizures what to do."

17 Q At 5:05 to 5:07?

18 A "What to do if your child has a seizure, what to
19 do if your child has seizure." It's all what to do if
20 your child has a seizure.

21 Q And then after that is there a lapse in time?

22 A There is.

23 Q And then the next call, calls, are actually
24 outgoing calls, I believe, to Kim Gooden?

25 A Yes, ma'am.

1 Q And those are from 10:40 to 10:48.

2 A Yes, sir. Those are all less than a minute, less
3 than 30 seconds.

4 Q And those are to Kim Gooden?

5 A Yes, ma'am, there are seven to Ms. Gooden.

6 Q That would translate into 6:40 to 6:48?

7 A Yes, ma'am. Excuse me, it would be to 43. The
8 48 is Robert Guinyard, Sr.

9 Q Oh, I'm sorry. Based on your investigation, were
10 you aware that after Ms. Thompson left the house that
11 she started making phone calls?

12 A I didn't ---

13 Q There at the scene, sheriff's deputies observed
14 her doing that?

15 A Yes.

16 Q What time was the 911 call placed in this case?

17 A 911 is called in to the EMS side at six --- hold
18 on one second. I have a lot of paperwork here. I
19 believe it was 6:13. Let me double check before I
20 tell you. It was at 6:12, which is to 911.

21 Q So the call to Crystal was at 5:05?

22 A Yes.

23 Q And immediately a 20 second call to Nicole?

24 A Yes, ma'am.

25 Q Then five web searches between 6:03 and 6:05?

1 A Yes, ma'am.

2 Q And then seven minutes later the 911 call?

3 A Yes, ma'am.

4 Q Did Ms. Thompson ever mention to you that she was
5 calling her sister after she hung up the phone with
6 Crystal?

7 A Yes, ma'am.

8 Q She did mention that to you?

9 A I'm sorry. No, ma'am.

10 Q Did she ever mention to you how she was Googling
11 on how a seizure would appear prior to calling 911?

12 A No, ma'am, never said that.

13 Q The house in this case at Beaverbrook, there's
14 been mention of a --- of a store where Mr. Guinyard
15 went that morning?

16 A Yes, ma'am.

17 Q And another mention of a store where he was
18 dropped off by Ms. Metze later?

19 A Yes, ma'am.

20 Q I want to show you State's Exhibit No. 213. Does
21 this show both the store and the proximity to REDACTED
22 Beaverbrook?

23 A Yes, ma'am.

24 MS. CAMPBLELL: Your Honor, at this time we would
25 offer 213 into evidence.

1 MS. PINNOCK: No objection.

2 MR. LI: No objection, Your Honor.

3 THE COURT: 213 without objection.

4 (WHEREUPON, State's Exhibit Number 213 was
5 admitted into evidence.)

6 BY MS. CAMPBELL:

7 Q Is this approximately where the house is on
8 Beaverbrook?

9 A Yes, ma'am.

10 Q What road is this down here?

11 A This is Fairfield Road. The bottom part here
12 would be where I-20 would be.

13 Q I-20 would be down here? Is it on the map?

14 A Not on the map, no.

15 Q The store, is it shown on this map?

16 A It's the larger building here with the cars in
17 the parking lot.

18 Q Is that the building that Antonio was referring
19 to going to that morning ---

20 A Yes, ma'am.

21 Q --- to buy his beer?

22 A Yes, it's within easy walking distance from the
23 house.

24 Q When you were there at the house that day, you
25 actually went inside?

1 A Yes, ma'am.

2 Q You were there while the coroner was there and
3 everyone else?

4 A Yes, ma'am.

5 Q This was what month?

6 A July 1st.

7 Q What was the temperature inside the house when
8 you were there?

9 A The temperature inside the house was warm. It
10 was hot outside, it was hot inside. It was just a warm
11 day.

12 Q In fact, when you were there inside, how did it
13 affect you?

14 A I was sweating when I was inside. There was not
15 a breeze. There was no air movement.

16 Q Let me go back to one thing. In these phone
17 calls, and we haven't gone through all the rest of
18 them, that evening there are also a number of phone
19 calls to Time Warner?

20 A Yes, ma'am.

21 Q And ---

22 A That's what started on the 2nd, U.T.C time would
23 be the 4:43 real-time would be --- excuse me, east
24 coast time would be right at midnight.

25 Q That would be on the 2nd, between the 1st and 2nd?

1 A Yes, ma'am.

2 Q About midnight, she is worried about the Time
3 Warner Cable box?

4 A Yes, ma'am, there is a lot of activity calling,
5 looking up, searching Time Warner Cable.

6 Q In fact, it's on the home security that she is
7 looking?

8 A Yes, ma'am.

9 Q And then later that morning there's also been
10 testimony that there was a phone call to Ms. Angie
11 Metze in the early morning hours because she needed to
12 leave?

13 A Yes, ma'am. That time shows up on the phone at
14 this 6:39. Again, that would be the UTC time, which
15 four hours from that would be 2:39 in the morning.

16 Q So about twenty till three in the morning?

17 A Yes, ma'am.

18 Q There are a number of additional searches that
19 next morning around 9:00 a.m.?

20 A Yes, ma'am.

21 Q For what information?

22 A It was Time Warner Cable. You see where she
23 tried to sign in.

24 For the next several bit, it's "Time Warner
25 Cable."

1 Q Then ultimately does she start Googling into news
2 web sites?

3 A Yes, ma'am.

4 Q And specifically what is she searching?

5 A She does a search on **CHILD** --- excuse me,
6 "Columbia news." She goes to "WLTX, ABC news."

7 Q And finally line 12 at 11:00 a.m.?

8 A "Four-year-old boy on Beaverbrook," Google
9 search. I apologize. A lot of times when you're
10 going through this, it's got a lot of what I call
11 filler, and you're trying to look for the words that
12 would make sense, so as I'm going through, I'm just
13 trying to make sure I didn't miss anything, but yes,
14 ma'am.

15 Q Did you also collect buccal swabs from these two
16 defendants at a later date pursuant to court orders?

17 A Antonio was a consent search and Ms. Courtney was
18 a Schmerber.

19 Q And that's State's 206 and 205?

20 A Yes. Antonio was 7/19/13 and Courtney was
21 3/12/14.

22 Q Did you also collect a 911 call in this case?

23 A Yes, ma'am.

24 Q Who made the 911 call?

25 A Ms. Courtney did.

1 Q I show you what's been marked as State's Exhibit
2 223. Did you have a chance to review that?

3 A Yes, ma'am.

4 Q I'm going to mark it for ID at this point.
5 (WHEREUPON, State's Exhibit Number 223 was marked
6 for identification only.)

7 BY MS. CAMPBELL:

8 Q Finally, did you also during the course of this
9 investigation, did you get some --- a jail phone call?

10 A Yes, ma'am.

11 Q And I show you what's been marked as State's
12 Exhibit 254. Have you had an opportunity to review
13 this?

14 A Yes, ma'am.

15 Q And I believe Sergeant Waters testified to how
16 it's collected?

17 A Yes, ma'am.

18 Q And is this a phone call made by Courtney
19 Thompson?

20 A Yes, ma'am.

21 Q Do you know what date that was?

22 A The jail call was 7/20/14 (sic) to her sister
23 Nicole.

24 Q July 20th?

25 A 4/20.

1 Q Oh, April 20th?

2 A Yes, ma'am.

3 Q Of this year?

4 A Yes.

5 Q To her sister ---

6 A Nicole, yes.

7 MS. CAMPBELL: Your Honor, at this time we would
8 offer State's 254 into evidence.

9 THE COURT: Over defense's objection.

10 (WHEREUPON, State's Exhibit Number 254 was
11 admitted into evidence.)

12 MS. CAMPBELL: Thank you. Your Honor,
13 permission to publish?

14 THE COURT: You may.

15 Ms. Smith, do those speakers move?

16 UNIDENTIFIED WOMAN: They move.

17 THE COURT: You may want to set them up on the
18 jury. If anybody on the jury can't hear, raise your
19 hand. We'll do our best to get them where you can
20 hear.

21 (WHEREUPON, the call was played for the jury.)

22 BY MS. CAMPBELL:

23 Q In that phone call, was there yet another version
24 of events given by Ms. Thompson?

25 A Yes, ma'am.

1 Q And finally, she mentions, and she is talking to
2 her sister --- was it Nicole or Natalie?

3 A She is talking to Nicole Thompson.

4 Q And when she is talking to her, she references a
5 phone call she made trying to let her know the baby
6 had died?

7 A Yes, ma'am.

8 Q In the records, the first phone call after the
9 hang up with Crystal is a 20 second phone call at
10 5:07, two minutes after Crystal had heard that?

11 A That's correct.

12 Q And an hour before 911?

13 A Yes, ma'am.

14 Q The people that were arrested in this case, both
15 of them, for homicide by child abuse and unlawful
16 neglect of a child, the people who gave you these
17 stories. Do you see them in the courtroom?

18 A I do, the mother, Courtney Thompson and the
19 father, Antonio Guinyard.

20 Q They're seated at the table with their lawyers?

21 A They are.

22 MS. CAMPBELL: Let the record reflect he has
23 identified the defendants.

24 THE COURT: Cross-examination?

25 MR. LI: Thank you, Your Honor. May it please

1 the Court.

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION:

4 BY MR. LI:

5 Q Investigator Holdorf.

6 A Good afternoon, sir.

7 Q Good afternoon. Let's talk about this phone call
8 first. When people make phone calls at the jail, they
9 know they're recorded, right?

10 A Yes, sir.

11 Q They're informed right away?

12 A Yes, sir.

13 Q Courtney Thompson is calling her sister?

14 A Yes, sir.

15 Q Nicole?

16 A Yes, sir.

17 Q Who has given a statement?

18 A Yes, sir.

19 Q Whose going to be a --- was a witness?

20 A Yes, sir.

21 Q Known witness, correct. She is --- her statement
22 is in discovery, correct?

23 A Yes, sir.

24 Q Because you've given that to the solicitor's
25 office?

1 A Yes, sir.

2 Q Who has given it to the lawyer?

3 A Yes, sir.

4 Q And the --- what was the date on the phone call?

5 A The date on the phone call was 4/20/14.

6 Q And what's today 's date? What day did this
7 trial start?

8 A It started Monday. Today is Friday.

9 Q The 19th?

10 A Yes, sir.

11 Q And has Nicole --- you were in this courtroom the
12 entire time?

13 A Yes, sir.

14 Q And Nicole has testified already?

15 A Yes, sir.

16 Q Has she testified consistent with what she said?

17 MS. PINNOCK: Objection, Your Honor.

18 THE COURT: Sustained.

19 BY MR. LI:

20 Q Earlier you said that you had a 911 call?

21 A Yes, sir.

22 Q And has that been played yet?

23 A It has not been.

24 Q And you said in Antonio's statement that he went
25 along with it being an accident?

1 A That was the jest of it, based on both of their
2 statements if you're talking about the first night.
3 The statements on the 1st.

4 Q On the 1st, right. He actually never says that
5 it's an accident?

6 A All he will acknowledge is that there was a boom.

7 Q That's right.

8 A And the rest of it, there is nothing else that he
9 knows.

10 Q That's right.

11 A And also that his son was fine that day.

12 Q Yes, sir.

13 A He didn't notice any injuries. He doesn't hit
14 his son.

15 Q Uh-huh.

16 A He didn't see any type of abuse. He is just
17 clearly not being forthcoming in his statement.

18 Q That's what --- at that point, at that point on
19 the 1st, there is no autopsy, correct?

20 A There is not.

21 Q And you're investigating it as a suspicious
22 death?

23 A Yes, sir.

24 Q And you mentioned earlier when Ms. Campbell was
25 asking you questions, you mentioned that he never came

1 forward and told you the condition of CHILD two days
2 ago or three days ago, correct?

3 A On his statement, his son was fine.

4 Q Earlier when Ms. Campbell asked you, and he
5 never --- he didn't tell you the condition of CHILD
6 two days ago, a week ago, previously. You said ---

7 A He was asked about any medical problems. There
8 were a bunch of open ended questions. That's done so
9 that I'm not narrowing it down to scope. Any medical
10 problems that he might have --- before you write down
11 a statement, you're talking with this person for
12 awhile. I'm not trying to broadcast my questions too
13 much. I'm wanting to see when I ask you a question
14 how do you respond, how do you react, do you seem like
15 you are forthright and forthcoming or does it seem
16 like there might be a little bit more that you're not
17 telling me.

18 Q Okay. And I don't know which State's exhibit it
19 is, but I just want to show you the --- do you have it
20 up there?

21 A I think I have it.

22 Q Antonio's statement? I'll show you.
23 Just read the questions.

24 A What? I'm sorry?

25 Q I'm sorry?

1 A I see it's highlighted. It distracted me.

2 Q The first question you asked him was, "Tell me
3 what happened on July 1, 2013, at Beaverbrook Road,"
4 right?

5 A Right. That's the question that the investigator
6 wrote.

7 Q I got you; I got you.

8 A But I'm talking with him, and we're talking a
9 little before and this goes on --- it's hard to take a
10 statement from someone. You want to make sure
11 everyone has an understanding of what's going on.

12 Q I understand.

13 A So you try to get all the information out there,
14 that's what I want. I want all the information out
15 there.

16 Q The second question was?

17 MS. CAMPBELL: Objection, Your Honor. I think he
18 has a right to finish his answer.

19 THE COURT: He does.

20 BY MR. LI:

21 Q I'm sorry. I didn't mean to stop you.

22 A The questions that I would have asked were not
23 specifically to read out of habit, but the meeting is
24 the same.

25 Q I got you. Okay, but ---

1 A Go ahead, sir. He was asked specifically about
2 it the first time. I asked about any type of medical
3 problems, any type of conditions. There was no
4 indication whatsoever that there was any problem with
5 this son until there's a boom. Five minutes later he
6 says that Courtney is calling for help.

7 Q Right. You asked him about the medical
8 conditions, correct?

9 A Yes, sir.

10 Q Open ended questions?

11 A Yes, sir.

12 Q Then at that point, you yourself did not know
13 that the cause of death was a prolonged period of
14 abuse, correct?

15 A That's correct.

16 Q Right. You were investigating it as a death on
17 that day?

18 A That's correct.

19 Q In fact, the day that you talked to Antonio was
20 the same day that his firstborn child had died,
21 correct?

22 A No, sir, not his --- I don't know if that's the
23 firstborn. Courtney has seven kids. I don't know.

24 Q But his child had died.

25 A One of his children had died, yes, sir.

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

2 (Pause.)

3 No further questions.

4 THE COURT: Cross-examination?

5 MS. PINNOCK: May it please the Court.

6 CROSS-EXAMINATION:

7 BY MS. PINNOCK:

8 Q Investigator Holdorf, do you know what time ---

9 what time did you say you got to the house on ---

10 A On the 1st. I was signed into the crime scene at
11 7:12 p.m. I had been to the house a little bit before
12 I actually go into the house. They don't log --- when
13 we get on the scene, we go into the patrol area.

14 Q You go into the patrol area?

15 A Yes, ma'am.

16 Q When you got there, you said you spoke to
17 Courtney before you went into the house and came back
18 out and talked to her again?

19 A Yes, ma'am.

20 Q Who were the first people to the house that you
21 were aware of?

22 A EMS.

23 Q EMS. Do you know what time they got there?

24 A I know the call was made at 6:12. I want to say
25 a pretty quick response time. You can hear it on the

1 911 tape. It doesn't take that long to get there. It
2 was pretty quick.

3 Q Okay.

4 A A few minutes.

5 Q And when you're in the house, you said you walked
6 through the entire house?

7 A I went back to the back room where the clean up
8 was. I was in every room, but I wasn't fully going
9 into each room.

10 Q Right.

11 A I was just kind of looking around and getting a
12 feel, like the officers said, is anyone else here, do
13 a search and the third one finds Mr. Antonio, just to
14 make sure what I'm telling my supervisor, I say hey,
15 this is what I saw. This is what I know.

16 Q Right, so when you got there, you weren't looking
17 for anything. You just walked and looked in every
18 room?

19 A Yes.

20 Q You noticed the wet spot on the carpet?

21 A Yes, ma'am.

22 Q When you went and talked to Courtney in the car,
23 she told you it was urine that she was trying to clean
24 up?

25 A She told me I could smell it, yes, ma'am.

1 Q And when you were talking to Courtney while she
2 was sitting outside her house, she was upset there in
3 the back of the car?

4 A It was an emotional situation.

5 Q Was she crying?

6 A She was emotional; I don't remember seeing any
7 tears. I know there were times when she would seem
8 more emotional and then it would automatically turn
9 off. She was going through a range of emotions.

10 Q Do you have your report with you?

11 A Yes, ma'am.

12 Q Can you look on the first page, third paragraph
13 where you wrote, "I spoke with Courtney and asked what
14 was going on. She was upset and crying."?

15 A Yes, ma'am.

16 Q That was when she was still in the car?

17 A Yes, ma'am.

18 Q And the first time you talked to Antonio
19 Guinyard, he was also sitting in the back of the
20 police car?

21 A Yes, ma'am.

22 Q What was his demeanor?

23 A He really doesn't have a whole lot of response.
24 He doesn't --- he's never overly excitable, never ---
25 just kind of flat in the middle, if you will.

1 Q Okay. At some point, you know there's a whole
2 bunch going on. You want to get statements from both
3 of them. Both of them were transported down to
4 headquarters to get statements, right?

5 A Yes, ma'am.

6 Q And you speak with Courtney or Antonio first?

7 A I spoke with Antonio first.

8 Q And that's when he told you just verbally what
9 happened on July 1st?

10 A Yes, ma'am, which is consistent with his written
11 statement.

12 Q Okay. He didn't provide you any detailed
13 information about what happened June 29th?

14 A That Courtney goes to the hospital to have a
15 baby.

16 Q He didn't mention anything about CHILD ?

17 A I don't have any --- there is nothing I recall
18 about June 29th and CHILD .

19 Q Okay. Did he mention anything about CHILD on
20 June 30th?

21 A It's an open ended question. I'm not trying to
22 ask a parent what happened on this day, what happened
23 on this day, what happened on this day. I would
24 expect some sort of forthcomingness from a parent in
25 this type of situation, especially if this is

1 noncriminal. As far as specifically asking about each
2 and every day of the week leading up to the death, no
3 that was not done. Open ended questions were done
4 asking about any medical problems, how do you
5 discipline ---

6 Q Okay.

7 A --- anyone mad, trying to find the trigger
8 mechanisms that would cause something like that.

9 Q Let me ask you this way: does the statement refer
10 to any --- tell you any information about what
11 happened June 29th, June 30th or what happened July 1st?

12 A I know that he talked about Courtney going to the
13 hospital on the 29th. I don't recall --- there's a
14 lot of information, and I can't say whether or not
15 that's in his statement or not. Things at this point
16 in time start blurring a little bit together.

17 Q Okay. But you do remember him telling you that
18 on the morning of July 1st he left **CHILD** at the
19 house?

20 A He went to the store to get some cigarettes and
21 beer.

22 Q And **CHILD** as at the house lying in a puddle of
23 urine.

24 A Yes, ma'am.

25 Q And **CHILD** was at the house by himself.

1 A Yes, ma'am.

2 Q Laying in a puddle of urine.

3 A Yes, ma'am, on the floor.

4 Q Then he came back and he drank a beer.

5 A Yes, ma'am.

6 Q And then he went back to sleep, according to what
7 he said in his statement?

8 A Yes, ma'am, watching TV, went back to sleep.

9 Q Then when you talked with Courtney, she told you
10 that she went to the hospital on June 29th?

11 A Yes, ma'am.

12 Q And she got home July 1st.

13 A Yes, ma'am.

14 Q And you took both of her written statements,
15 correct?

16 A I did, yes, ma'am.

17 Q And you already said you reviewed the 911 call?

18 A Yes, ma'am.

19 Q What date did you get that? Do you remember?

20 A No, ma'am. I didn't document it. They would
21 have it with dispatch what time it was created or
22 something.

23 Q Okay. Now, July 2nd, you said you did meet with
24 Courtney over at the house?

25 A Yes, ma'am.

1 Q What time did you say you got there?

2 A On the 2nd, I signed into the crime scene log at
3 14:37, which was 2:37 p.m.

4 Q And Courtney got there shortly after?

5 A Yes, ma'am.

6 Q And you were involved with Courtney going over
7 things with Investigator --- with Deputy Coroner
8 Powell?

9 A I was present. I wasn't involved. I wasn't
10 asking questions. I wasn't directing anything. We
11 were there just observing, myself and Investigator
12 Wagner and Timothy Lee from our lab to just witness
13 what was going on.

14 Q And what that's for, and you already testified to
15 this, is they wanted to ask Courtney some more
16 questions trying to figure out what was going on in
17 the house, right?

18 A Yes, ma'am. The placement, how she actually
19 finds CHILD

20 Q Uh-huh.

21 A Where he was. Neither party --- neither parent's
22 statement makes a whole lot of sense, especially after
23 the autopsy, other than they're just not telling the
24 truth. So I wanted to get additional information.

25 You can say, well the white board is over there

1 and we can have a difference of opinion. It helps a
2 lot of times if you can go over there and put it right
3 where you can see it.

4 Q And Courtney was there?

5 A Yes, ma'am.

6 Q Antonio Guinyard is not there?

7 A He did not show up.

8 Q Do you recall how long you were at the house?

9 A I would say probably close to an hour.

10 Q And then after you were done at the house,
11 everybody went back to headquarters?

12 A Yes, ma'am.

13 Q You said you drove Courtney there?

14 A I think Investigator Wagner drove.

15 Q Okay.

16 A But yes, ma'am. I'm not trying to play word
17 games. We were in the same car together and went back
18 to headquarters together.

19 Q And how long is that trip, 15 to 20 minutes?

20 A Yes, 15 to 20 minutes.

21 Q So you got there at 2:37, you're there about an
22 hour, then 15 to 20 minutes later you're back at
23 headquarters and you take Courtney directly upstairs?

24 A Yes, ma'am, we would have come in through the
25 back door. The back door comes in to the second level

1 of the sheriff's department.

2 Q At that point, you said that you, Investigator
3 Wagner and Courtney and Jane Powell all end up sitting
4 together going over the autopsy and just going through
5 some more questions?

6 A Yes, ma'am.

7 Q At some point after talking to Courtney, you were
8 informed that Mr. Guinyard had showed up?

9 A Yes, ma'am.

10 Q So you leave them there and you go get
11 Mr. Guinyard?

12 A Yes, ma'am.

13 Q How long had you been talking to Courtney at that
14 point?

15 A It wasn't very long, maybe five, ten minutes.

16 Q At that point, you start going over things again
17 with Mr. Guinyard. You inform him of the autopsy
18 findings and Courtney is still with Investigator
19 Wagner and Jane Powell and I think, it's Investigator
20 Weeks?

21 A It's Melton now, but yes.

22 Q Melton, I'm sorry.

23 A I'm sorry.

24 Q And she showed up then?

25 A She showed up sometime while I was talking to

1 Antonio. I didn't know she was there until I walked
2 into the room.

3 Q At some point, you and Investigator Wagner have a
4 conversation about letting Courtney speak to Antonio
5 alone?

6 A Yes, ma'am. I wasn't getting anywhere with
7 Antonio. There was no changes. There was nothing
8 that --- it just wasn't progressing. It wasn't
9 moving, so Investigator Wagner had asked about ---
10 that Courtney wanted to talk to Antonio.

11 Q And you put them in the room --- you let them do
12 that? They sat there by themselves in private for 10
13 to 15 minutes?

14 A They were in a room. They were standing or
15 sitting, I don't know.

16 Q Okay.

17 A There is no video monitoring, there is no audio
18 monitoring. They had 10, 15 minutes alone. No one
19 made any loud noises. No one called for help.

20 Q Okay. So after that was done, you then joined
21 Courtney again to continue her statement?

22 A Yes, ma'am.

23 Q All right. How long had Courtney been at
24 headquarters at this point?

25 A I don't know. I can go off the time on her

1 statement when we started writing it down versus the
2 time of the Advice of Rights. We were there for a
3 little bit of time.

4 Q Okay.

5 A More than hour, I would say.

6 Q And what time did you start her written
7 statement?

8 A The written statement was started at 19:27.

9 Q Can you translate that for me?

10 A I'm sorry. That would be 7:27 p.m.

11 Q 7:27 p.m. that's when you start writing it?

12 A Yes, ma'am.

13 Q Okay. Do you know how long it took to complete
14 it?

15 A It took a very long time.

16 Q A long time?

17 A The statement doesn't --- in talking with her, it
18 was coming out in bits and pieces. It wasn't like
19 where she is telling you everything at once. You're
20 having to pretty much draw it out of her, what her
21 statement is, and it just gets to the point where you
22 have to start writing this down. You start putting
23 this down so it's preserved.

24 Q Okay. So some time went by before you started
25 writing it?

1 A Yes, ma'am.

2 Q Okay. Then you started the writing process. You
3 were typing. She was answering questions?

4 A Yes, ma'am.

5 Q At the end, she read over it. She signed it?

6 A Yes, ma'am.

7 Q Did they ask you this already, about what time it
8 was when you finished?

9 A I believe it was closer to midnight.

10 Q Midnight?

11 A I'm not sure. I didn't document the time we
12 finished. It had been a long day for everyone.

13 Q And then from --- I'm assuming you took breaks?

14 A Yes, ma'am.

15 Q And you would give 10, 15 minutes just for
16 everybody to sit down, be quiet just a second before
17 you continue questioning?

18 A Get water, something to drink. I believe that
19 Captain Melton bought Sprite and a Diet Coke and
20 regular Coke. Offered whatever she wanted, but I
21 don't think she ate anything. It was offered to go
22 get dinner, which wasn't uncommon. Again, you treat
23 people the way you want to be treated. It had been a
24 long day. If we ate, she would have eaten. I didn't
25 document in my notes that anyone did eat, but I can't

1 imagine that we didn't.

2 Q Okay. Shortly after completing her written
3 statement, she was in place in the break room; is that
4 right?

5 A Yes, ma'am. You can put them there. You can
6 keep them in the office with you or you can put them
7 in the D cell. We just put them in the break room.

8 Q Okay.

9 A It was late at night. There wasn't a lot of
10 other people at the sheriff's department.

11 Q Was she sitting there with other investigators,
12 other deputies or by herself?

13 A People were coming in and out of the room.
14 Again, at that time someone was typing up warrants.
15 Someone was working on the arrest report, contacting
16 the paddy wagon trying to get finalization so we could
17 get them transported down to the detention center.
18 There were several people in and out and then standing
19 in the doorway.

20 Q Let me just back up a second. When you were
21 taking her written statement, she told you that she
22 heard CHILD crying like he was getting hit?

23 A Yes, ma'am.

24 Q Okay. She told you she came around the corner
25 and saw him laying on the floor?

1 A Yes, ma'am.

2 Q She told you she picked him up. He was seizing
3 and then he went limp?

4 A Yes, ma'am.

5 Q She told you she called 911.

6 Q Yes, ma'am you pulled the 911 call, so you know
7 she called 911?

8 A Yes, ma'am.

9 Q You know she tried CPR?

10 A I know she was instructed on doing CPR, how to do
11 CPR. I wasn't present, so I don't ---

12 Q Well, she told you she did CPR?

13 A Yes, ma'am, but it also appeared that there's a
14 very real possibility that **CHILD** was dead approximately
15 an hour before she called 911.

16 Q She told ---

17 A It's ---

18 Q It's very easy question ---

19 THE COURT: Whoa, whoa, whoa. One person talks
20 at a time. Investigator Holdorf is in the middle
21 answering a question.

22 THE WITNESS: If he's been dead an hour, basing
23 that off the phone records where Crystal said she
24 talked to Courtney, and then where Courtney on her
25 jail call says she tried to call Natalie, I don't see

1 her doing CPR on somebody that's been dead an hour.
2 I'm not trying to be cold or callous, but, I mean,
3 it's just too late then.

4 BY MS. PINNOCK:

5 Q She told you she did CPR?

6 A She told me that, yes, ma'am.

7 Q On July 2nd she even demonstrated to you how she
8 tried to do CPR?

9 A She demonstrated several different things that
10 also are not true.

11 Q Okay, but she demonstrated to you how she did
12 CPR?

13 A Yes, ma'am, she did.

14 Q Now, you mentioned the phone records. What time
15 did Courtney leave headquarters?

16 A What day?

17 Q On the 2nd, I'm sorry.

18 A On the 2nd, I think we wrapped up closer to
19 midnight. I think both days were probably wrapped up
20 closer to midnight.

21 Q She was taken directly from the sheriff's
22 department down to the county --- when you placed her
23 under arrest?

24 A On the 1st, her and Antonio left. They were not
25 under arrest. They left, they went home. On the 2nd,

1 they were both placed under arrest and they were taken
2 down to the detention center, yes, ma'am.

3 Q Before I get to the phone records, you mentioned
4 --- Ms. Campbell asked you about the cable box?

5 A Yes, ma'am.

6 Q That was present on the house on the 2nd?

7 A Yes, ma'am.

8 Q Courtney never went back to that house on that
9 day?

10 A She did not.

11 Q And you saw it when you were there?

12 A I did see it.

13 Q Just about done. Let me get my marker. Beg the
14 Court's indulgence.

15 (Pause.)

16 You said on the 2nd you got to the house at
17 2:37 thereabouts, correct? That's when you signed in,
18 but you got there a few minutes earlier?

19 A Yes, ma'am. And I'm basing that off the crime
20 scene log. I didn't write it down off my own
21 independent recollection or notes of what time I got
22 there.

23 Q You said the UTC time is four hours off?

24 A It's four hours ahead of us during the summer
25 months.

1 Q So if there is a call on 7/2/13 at 6:58 p.m.,
2 what time is that call?

3 A 6:58 would be two.

4 Q 2:00 p.m.?

5 A Yes, ma'am.

6 A I'm sorry, 2:58 p.m.

7 Q 2:58 p.m. Can you locate that? It's on the last
8 page of the summary.

9 One, two, three, six up from the bottom? What's
10 the duration of that call?

11 A Which person is it that was contacted?

12 Q Angela Metze, six up from the bottom on that last
13 page.

14 A It was a 55 minute and 28 second call.

15 Q All right. Beg the Court's indulgence.

16 (Pause.)

17 MS. PINNOCK: Thank you, Your Honor. That's all
18 I have.

19 MS. CAMPBELL: just one question.

20 REDIRECT EXAMINATION:

21 BY MS. CAMPBELL:

22 Q That last one, that she is talking about the
23 duration was 6:58, that would be right at 3:00 p.m. on
24 the 2nd?

25 A Yes, ma'am.

1 Q The duration of that was 55 minutes.

2 A Yes, ma'am.

3 Q And during the course of your investigation in
4 talking with Ms. Metze, you were aware that Courtney
5 had dialed the phone and left it on the entire time
6 the reenactment was going on?

7 MS. PINNOCK: Objection, Your Honor. That answer
8 is based on hearsay.

9 MS. CAMPBELL: She asked about the phone call and
10 there is an explanation. We don't want to ---

11 MS. PINNOCK: That's not in evidence.

12 THE COURT: Rephrase the question.

13 BY MS. CAMPBELL:

14 Q You were there for the reenactment?

15 A Yes, ma'am.

16 Q And you are aware of Ms. Metze in this case,
17 Ms. Angie Metze?

18 A Yes, ma'am.

19 Q And that's who that phone call was to?

20 A Yes, ma'am.

21 Q During the course of your investigation, did you
22 become aware that Ms. Metze ---

23 MS. PINNOCK: Objection, leading.

24 BY MS. CAMPBELL:

25 Q What did you become aware of as far as Ms. Metze,

1 this phone call?

2 A It was dialed while we were at the scene. She
3 was not in custody at that point in time. She was not
4 in custody. If she wants to make a phone call, she
5 can make a phone call.

6 Q And you've talked to Ms. Metze?

7 A Yes, ma'am.

8 Q You can't say what she told you, but is that
9 corroborated?

10 A Yes, ma'am.

11 MS. CAMPBELL: Thank you.

12 THE COURT: Mr. Li?

13 MR. LI: No further questions.

14 THE COURT: Ms. Pinnock?

15 MS. PINNOCK: Briefly, Judge.

16 RECROSS-EXAMINATION:

17 BY MS. PINNOCK:

18 Q Investigator Holdorf, when you were at the scene
19 doing the reenactment, didn't Jane Powell look into
20 Courtney's phone and she scrolled through the phone
21 calls?

22 A I know I looked at them. I believe Jane may
23 have. Again, as I said, I wasn't directly involved,
24 so I'm not --- you're trying to stay back so that
25 you're not interfering with any of the things that are

1 going on.

2 Q Right.

3 A I do believe that was correct.

4 Q Okay, so she looked through Courtney's phone when
5 you were on the scene?

6 A I believe so, yes.

7 Q And you were there for one hour?

8 A I'm saying we were there for approximately one
9 hour. I didn't know the time we got there or the time
10 we left. They take a little bit of time, and you want
11 to explain to the parties involved what we're doing,
12 why we're doing it. Make sure nobody has any
13 questions, and then you go through it.

14 A Fair enough.

15 Q But you looked through the phone?

16 A I did.

17 MS. PINNOCK: Thank you.

18 THE COURT: Okay. Thank you very much. You may
19 step down.

20 THE WITNESS: Thank you.

21 THE COURT: Can you approach?

22 (WHEREUPON, a bench conference was held in the
23 presence, but not within hearing of the jury.)

24 THE COURT: All right. Here is what we're going
25 to do, ladies and gentlemen. It's 4:30 now. I need

1 less than ten minutes with the lawyers outside of your
2 presence on some scheduling issues. If you'll go back
3 to your jury room, and then I'll be right back with
4 you just as soon as possible. Do not discuss the
5 case. Keep an open mind. We're going to discuss
6 scheduling.

7 (WHEREUPON, the jury left the courtroom at
8 4:31 p.m.)

9 THE COURT: All right. Tell me where you think
10 you are.

11 MS. McDUFFIE: I think we are prepared to rest.
12 We would just like a few minutes to make sure that all
13 the exhibits we needed to get in are in before we
14 rest.

15 THE COURT: Okay. Are all your people here on
16 your issue?

17 MR. LI: I need to check one person outside.

18 THE COURT: Okay. Let's assume he has some
19 people here. We take some testimony. Let's assume
20 you don't have any more witnesses, and I'm not holding
21 you to that, and then he has got his --- Mr. Li has
22 his issue that we need to proffer a little bit on ---
23 I still have to go through directed verdict motions.
24 I still have to advise both defendants of their
25 rights. I have to bring them back anyway to give them

1 this limiting instruction, and I just thought about
2 that.

3 What time do you think we need tell them to be
4 back on Tuesday morning? That's my real question.

5 MS. McDUFFIE: Assuming we do all of this
6 tonight?

7 THE COURT: I don't know. How many witnesses do
8 you have? You said it's going to take an hour?

9 MR. LI: I have six.

10 THE COURT: Are they all here?

11 MR. LI: They're all here.

12 THE COURT: Okay.

13 MR. LI: We could do it next week if it's okay
14 with you. It doesn't matter to us.

15 THE COURT: Are any of them police officers?

16 MR. LI: One of them is, and that's the question
17 I was going to address the court.

18 THE COURT: Go ahead and ask that question.

19 MR. LI: That is Deputy Wilder. He was proffered
20 the other day. I don't think I need to proffer him
21 again.

22 THE COURT: Is he going to say anything more than
23 what he proffered the other day?

24 MR. LI: No.

25 THE COURT: Yes, he doesn't need to proffer

1 again; I remember that testimony very well
2 (indicating).

3 (Deputy Wilder left the courtroom.)

4 MR. LI: Okay.

5 THE COURT: Do you want to do that tonight or
6 Tuesday morning?

7 MR. LI: Tuesday morning.

8 MS. McDUFFIE: Judge, we prefer to do it tonight.

9 MS. PINNOCK: Judge, I don't care.

10 THE COURT: So --- I'm listening.

11 MR. LI: Your Honor, I would respectfully ask we
12 do it Tuesday. It would give me time to prepare and
13 talk to my client. It's give me time to prepare and
14 proffer him as well. It's been a busy week, and I
15 haven't had much time to talk the other witnesses.

16 THE COURT: I mean, we were supposed to do this
17 at noon today, so what were you going to do if it
18 happened at noon?

19 MR. LI: Go with it.

20 THE COURT: All right. Let's bring the jury back
21 in.

22 (WHEREUPON, the jury entered the courtroom at
23 4:34 p.m.)

24 THE BAILIFF: All the jurors are here, Your
25 Honor.

1 THE COURT: All right. Thank you, Mr. Burgess.

2 Ladies and gentlemen, I actually forgot to tell
3 you something, so I'm going to tell you this
4 information and then I'm going to release you for the
5 three day weekend. So listen to me on these two
6 instructions that I'm going to give you.

7 Number one, ladies and gentlemen of the jury, you
8 have just heard testimony about an alleged statement
9 made by the Defendant Courtney Thompson to the
10 witness, that being Investigator Holdorf.

11 This evidence is admitted solely against
12 Defendant Thompson. It is not to be considered by you
13 in anyway to indicate the guilt of the co-defendant.
14 And indeed, you cannot consider that evidence against
15 the co-defendant. It may be considered only by you in
16 connection with your determination of whether or not
17 the Defendant Thompson is guilty or not guilty of the
18 offenses. It is limited solely to her and is
19 admissible only against her at this trial.

20 Now, ladies and gentlemen, you also just heard in
21 a statement, testimony about an alleged statement made
22 by the defendant, Robert Guinyard, to this witness.
23 This evidence is admitted solely against Defendant
24 Guinyard. It is not to be considered by you in any
25 way to indicate the guilt of the co-defendant, and

1 indeed you cannot consider that evidence against the
2 co-defendant. It may be considered only by you in
3 connection with your determination of whether or not
4 Defendant Guinyard is guilty or not guilty of these
5 offenses. It is limited solely to him and it is
6 admissible only against him at this trial.

7 Now, at the conclusion of the case when I give
8 you my full charge on the law, I will give you those
9 charges again, and I'll give you another full charge
10 about statements of defendants and the things that you
11 have to consider in considering whether or not those
12 statements were actually made.

13 Now, I'm about to release you over a three day
14 weekend, okay. Now, the last time I released a jury
15 over a three day weekend we had a polar vortex and
16 court was shut down for the rest of the entire week.
17 I doubt that that in this happen this time, but I am
18 going to release you over the weekend. We are not
19 going to work on Saturday, Sunday, or Monday. This is
20 a holiday weekend. You all need to be with your
21 families and your friends and catch up on any work
22 that you need to do. You've made a great sacrifice to
23 be here this week. We are imposing upon you during a
24 second week. I understand your sacrifice and have a
25 great appreciation for it. We will not be holding

1 court on Monday. However, we will be back here
2 Tuesday morning. You need to be here at 10:30 on
3 Tuesday morning ready to go.

4 You will recall that I previously instructed you
5 in great detail that you have to decide this case
6 based solely on what happens in this courtroom, the
7 evidence that comes from the witness stand and the
8 exhibits that are introduced.

9 Because we're about to take an extended break,
10 that being a three day weekend, I'm now reminding you
11 of that warning and urging you again to commit to each
12 other, the parties, the lawyers and to the court that
13 you're not going to do any independent research on
14 this case in any way, shape, or form, electronically,
15 digitally, Blackberry, iPhone, smart phone, telephone,
16 Google, blogs, anything that I can't imagine.

17 I won't to give you actually an example of that,
18 a very simple example to show you the length of which
19 I mean that. You heard medical testimony this week.
20 So if you heard a word that you do not know the
21 meaning of, okay, you cannot go look it up. Okay.
22 Now, that's contrary to how you normally behave in
23 life because you would be inquisitive and you would
24 say, I heard this witness say a word and I don't know
25 what it means. You may, on your own, want to go look

1 it up. You can't do that. I mean that. You can't go
2 look up news accounts of the case. You can't read the
3 newspaper, the internet, the radio, anything like
4 that. I mean that all the way down to you can't go
5 pull out Webster's Dictionary and look up the word ---
6 I'm just going to pick out a word that was said today:
7 acute. Okay. You can't go look up the definition of
8 that word.

9 You will make your decision in this case based on
10 what happened in this courtroom, the testimony that
11 was presented by the witnesses, and the exhibits that
12 were introduced. Now, I know some exhibits this week
13 you have seen. Some exhibits you have kind of not
14 seen. When you actually go back to deliberate on the
15 case at the very conclusion, all of the exhibits that
16 were introduced into evidence will come back in the
17 jury room with you. So anything that you want to look
18 at or spend more time with or whatever you want to do,
19 you will have that opportunity to do so. So those are
20 my instructions to say you for the weekend. Do not
21 discuss the case with anyone, including your family
22 members.

23 You are allowed to tell people that you're on a
24 jury, but you are not allowed to discuss the case or
25 anything about it. Now, we've been going and you've

1 been going. You've been working hard and diligently
2 since Monday morning, and so we do not need anything
3 to happen over the weekend because this may be
4 something that you want to talk about at a Memorial
5 Day party or a cookout or something like that.
6 Complete and total silence about the case. That is
7 the only thing that is fair to all the parties. Were
8 you one of the parties in this case, you would want
9 that same fairness and that same respect to this case.

10 This is everybody's day in court on this matter.
11 That's why it's so important and crucial that you base
12 your decision solely off what happens in this
13 courtroom, and nothing --- you're not affected by
14 anything outside of what happens in the courtroom.

15 Thank you very much for your service this week.
16 I know I've said that to you multiple times. I mean
17 that sincerely. You all have done an excellent job of
18 staying awake, staying with us and being patient with
19 us. I sincerely appreciate that. I know it means a
20 lots to the parties, too, for your undivided attention
21 that you have given us this week. They can't address
22 you, but I know if they could, the first thing they
23 all want to tell you is thank you very much for your
24 attentiveness and your willingness to serve.

25 We will see you back on Tuesday morning at 10:30.

1 Your pads will be locked up in my office over the
2 entire break and no one will read them. Thank you
3 very much.

4 (WHEREUPON, the jury left the courtroom at
5 4:42 p.m.)

6 THE COURT: All right. Let's take about a five,
7 ten minute break. Then we'll start proffering this
8 testimony. We'll make it as far as I can take it and
9 then I --- y'all can have time to look at the
10 exhibits, make sure, you know, so if you need to call
11 somebody Tuesday morning you can. If you need to come
12 in and rest Tuesday morning, that's fine, too.

13 MS. WALKER: Thank you, Your Honor.

14 THE COURT: All right. Let's take a little
15 break.

16 (WHEREUPON, a short break was taken.)

17 THE COURT: All right. Ready?

18 MR. LI: Yes, sir.

19 THE COURT: Okay.

20 MR. LI: Patricia Guinyard.

21 THE COURT: Please come forward, Ms. Guinyard.

22 You can just stand right there and raise your
23 right hand.

24 PATRICIA GUINYARD,
25 after being duly sworn, testified as follows:

1 THE COURT: Okay. Have a seat right there.

2 THE WITNESS: Yes, sir.

3 MR. LI: May it please the Court.

4 DIRECT EXAMINATION: (Proffered)

5 BY MR. LI:

6 Q Ms. Guinyard, do you know Courtney Thompson?

7 A Yes, sir.

8 Q Do you know Antonio Guinyard?

9 A Yes, sir.

10 Q How do you know each one?

11 A Robert Antonio Guinyard is my son, and Courtney
12 is his kid's mother.

13 Q Can you scoot a little closer for me? All right.

14 Thank you. I appreciate that.

15 Q Was there a period of time when both of them
16 lived in your home?

17 A Yes, sir.

18 Q When was that time period?

19 A It was during the time [CHILD], little [CHILD], was
20 first born.

21 Q Okay. And then what happened after that?

22 A Courtney went to court and he was no longer
23 there.

24 Q No. Only in terms of ---

25 MR. LI: Your Honor, I have a question.

1 THE COURT: Go ahead.

2 MR. LI: Are we proffering only the character,
3 supposed character, evidence?

4 THE COURT: Yes.

5 BY MR. LI:

6 Q Keep your testimony focused on ---

7 THE COURT: And this is --- we're outside of the
8 jury's presence.

9 MR. LI: Okay.

10 THE COURT: You can maneuver around a little bit
11 as you need to in order to get to the relevant part.

12 MR. LI: Okay.

13 BY MR. LI:

14 Q Courtney and Antonio used to live with you?

15 A Yes, sir.

16 Q Was there a time you kicked them out?

17 A Yes, sir.

18 Q Have you banned Antonio from coming back to your
19 home?

20 A Yes, sir.

21 Q Why?

22 A Because Courtney always threatened to call the
23 police and because I stay in housing, and I didn't
24 want any problems, and I don't need any problems
25 because that's where I live and I was being nice.

1 Q Explain housing.

2 A It's section 8.

3 Q I don't need go into all that.

4 MR. LI: That's the extent of what she is going
5 to go into.

6 THE COURT: Okay. So at one point in time ---
7 I'm making sure I understand this for myself, okay.

8 THE WITNESS: Yes, sir.

9 THE COURT: At one point in time your son and
10 Ms. Thompson lived with you?

11 THE WITNESS: Yes, sir.

12 THE COURT: Is that correct?

13 THE WITNESS: Yes, sir.

14 THE COURT: Okay. And this was after little
15 CHILD was born?

16 THE WITNESS: Yes, sir.

17 THE COURT: Can you give me --- he was born in
18 [REDACTED] of 2009? Did I say that --- no, February?

19 MS. CAMPBELL: [REDACTED] [REDACTED]^h.

20 THE COURT: [REDACTED] 2009, and I'm not asking for a
21 specific date, but can you help me with was it before
22 he goes into DSS custody or after he comes back from
23 DSS custody?

24 THE WITNESS: Before.

25 THE COURT: So he is a little baby.

1 THE WITNESS: Yes, sir.

2 THE COURT: Like a --- I would call it a newborn.

3 THE WITNESS: Yes, sir.

4 THE COURT: Is that what you would call it?

5 THE WITNESS: Yes, sir.

6 THE COURT: Okay. And then when approximately,
7 and again, I don't need a hard date. It can be a time
8 of year. When do you, your words "kick them out?"

9 THE WITNESS: I would say when he was about a
10 month.

11 THE COURT: Okay. Who is he, little CHILD?

12 THE WITNESS: Little CHILD, yes, sir.

13 THE COURT: So when he is about a month old?

14 THE WITNESS: Or before then, yes, sir.

15 THE COURT: Okay.

16 THE WITNESS: I'm not sure.

17 THE COURT: Okay. And your reason for kicking
18 them out was what?

19 THE WITNESS: It was just too much drama. Too
20 much drama.

21 THE COURT: Tell me what you mean by that.

22 THE WITNESS: Arguments, fights. If I'm not
23 there, I'm getting phone calls saying something is
24 going on in my house.

25 THE COURT: All right. And you said something

1 about the police earlier.

2 THE WITNESS: Well, she would always call me.

3 THE COURT: Who is she?

4 THE WITNESS: Courtney. Courtney would always
5 call my phone and threaten to send the police to my
6 house.

7 THE COURT: Okay. And then am I --- I'm assuming
8 you were worried about that because of the status of
9 your housing?

10 THE WITNESS: Yes, sir.

11 THE COURT: If things like that happened, you
12 could get kicked out.

13 THE WITNESS: Yes, sir.

14 THE COURT: Is that a fair statement?

15 THE WITNESS: Yes, sir.

16 THE COURT: Don't say yes just because I'm asking
17 you. Would that be the essence of your testimony?

18 THE WITNESS: That would be the essence of my
19 testimony, yes, sir.

20 THE COURT: Okay. You didn't want to be kicked
21 out?

22 THE WITNESS: No, sir.

23 THE COURT: Okay. You can ask her anything else
24 you want to. I just want to make sure.

25 MR. LI: I appreciate that. In terms of are we

1 considering Courtney kicking Antonio out as a bad act,
2 just the act of kicking him out of the house?

3 THE COURT: If you want to proffer that testimony
4 we can come back to the legal issue later. If she has
5 information about that, go ahead and get it from her
6 now.

7 MR. LI: Okay. Thank you, Your Honor.

8 BY MR. LI:

9 Q Are you aware of any time where Courtney would
10 kick Antonio out of the house?

11 A Yes, sir.

12 Q Tell me about that.

13 A It would be certain days or certain nights when I
14 would get a phone call or he would show up at my house
15 saying he was getting kicked out.

16 Q What would happen next?

17 THE COURT: At your house?

18 THE WITNESS: At my house?

19 THE COURT: He's been kicked out from your house?

20 THE WITNESS: No, sir.

21 THE COURT: Okay.

22 BY MR. LI:

23 Q Are you aware of any time where Courtney has
24 kicked out Antonio from their house?

25 A Yes, sir.

1 Q How do you know about that?

2 A He would show up at my house or call me on the
3 phone and tell me that he was gone out.

4 Q Okay. So he would show up at your house, right?

5 A Yes, sir.

6 Q That was in the beginning?

7 A Yes, sir.

8 Q Did you eventually not let him come to your
9 house?

10 A Eventually he might have showed up there, but
11 like I said, once I got the phone call from her, I
12 would tell him he could not stay.

13 Q I got you.

14 MR. LI: That's the extent of that.

15 THE COURT: Okay. Would you like to ask her any
16 questions, Ms. Pinnock? I'm not saying do your full
17 cross-examination, but just as to these issues or to
18 develop your legal argument.

19 MS. PINNOCK: Briefly, thank you, Your Honor.

20 CROSS-EXAMINATION: (Proffered)

21 BY MS. PINNOCK:

22 Q Ms. Guinyard, when you told Courtney and Antonio
23 that they couldn't stay at your house anymore, that
24 Courtney was going to call the cops, why was that?
25 Why was she going to call the cops?

1 A She was going to call them on Antonio?

2 Q For doing what?

3 A Whatever they was going on and arguing about or
4 whatever they was fighting about.

5 Q Okay. Did you witness physical fights where
6 Antonio jumped on Courtney?

7 A I had witnessed a fight between both of them
8 fighting each other.

9 Q Okay. But she wasn't saying she was going to
10 call the cops to get you in trouble, just something
11 they were going through?

12 A Yes, ma'am.

13 Q And you said that Antonio would call you or show
14 up at your house ---

15 A Yes, ma'am.

16 Q --- saying that Courtney had put him out? You
17 say it was at the beginning. What do you mean about
18 that? Like right after **CHILD** was born or at the
19 beginning of what?

20 A After **CHILD** was born.

21 Q After?

22 A Yes, ma'am.

23 Q Was he living with Courtney or was he in DSS
24 custody?

25 A At that time, it was after he was in DSS custody.

1 Q So when he would show up at your house for being
2 put out, [REDACTED] was in DSS custody?

3 A Yes, he was in DSS custody at that time.

4 MS. PINNOCK: Thank you.

5 THE WITNESS: Thank you.

6 THE COURT: So the timeframe is when your son
7 shows up at your house and says essentially Courtney
8 kicked me out. That's after you have already kicked
9 them out of your house?

10 THE WITNESS: Yes, sir.

11 THE COURT: Okay. You can follow up on that if
12 you need to.

13 MR. LI: That's the extent of it, Your Honor.

14 THE COURT: Okay. Do you want to ask anything?

15 MS. WALKER: No, we don't have any questions,
16 Judge.

17 THE COURT: All right. Thank you, Ms. Guinyard.
18 You may step down.

19 All right. Who is next?

20 THE COURT: All right. What's your name, ma'am?

21 THE WITNESS: Natalie Thompson.

22 THE COURT: All right. Come forward. Stand
23 right here. Raise your right hand.

24 NATALIE THOMPSON,
25 after being duly sworn, testified as follows:

1 THE COURT: Okay. Grab a seat right there.

2 THE BAILIFF: Have a seat right there, ma'am.

3 DIRECT EXAMINATION: (Proffered)

4 BY MR. LI:

5 Q Natalie, did you ever live with Courtney and
6 Antonio?

7 A Yes, sir, for a couple of weeks.

8 Q And you all lived in Allen Benedict Court?

9 A Yes, sir.

10 Q And your current apartment is also in Allen
11 Benedict Court?

12 A Yes, sir.

13 Q It's a close knit neighborhood?

14 A Yes, sir.

15 Q And have you had an opportunity to witness
16 Antonio get kicked out of his house?

17 A Yes, sir.

18 Q How many times?

19 A (No response.)

20 Q Just roughly.

21 A Two that I can remember.

22 Q But is it more than two?

23 A Yes, sir.

24 Q And ---

25 A Two that I was there for.

1 Q Two that you were there for?

2 A Yeah.

3 Q Have you heard of other ones?

4 A Yes, sir.

5 Q Would you be aware of it?

6 A Yes, sir.

7 Q Why?

8 A Because Courtney was --- would call and tell us
9 about it.

10 Q And when you say us, who is us?

11 A Me, my older sister, Maria, and my mama.

12 Q I got you. Have you ever witnessed Antonio out
13 in the cold weather before?

14 A Yes, sir.

15 Q Tell us about that day?

16 A Me, my sister Crystal Thompson, Charles Robinson,
17 and my sister's, Crystal's baby father was on the way
18 to Wal-mart and it was like really cold. Antonio was
19 standing on the corner, but he only had on like shorts
20 and a T-shirt. I asked him what was wrong. He was
21 telling me that Courtney put him out. He was cold. I
22 asked him if hi needed a jacket, and I gave him the
23 jacket that I had on since I was getting in the car.

24 Q I got you. Do you know about what time this was?
25 What time of year or month?

1 A I want to say in the middle of 2012 --- towards
2 the end of 2012.

3 Q Towards the end of 2012?

4 A Yes, sir.

5 Q All right. Have you ever witnessed any sort of
6 physical violence between Courtney and Antonio?

7 A Yes, sir.

8 Q Tell the court about that.

9 A One night we were at my mom's house and she was
10 kind of like already mad at Antonio for drinking a
11 beer, and Antonio ---

12 Q Who is?

13 A Courtney.

14 Q Okay.

15 A Antonio sat on the chair and started getting on
16 Facebook. I don't know what he was doing, but he was
17 doing something on Facebook. Him and Courtney got
18 into it over a female, which I believe it was his
19 sister that he was talking to and she got to like
20 jigging around him with a knife.

21 Q Uh-huh.

22 A He was like moving his hand around like different
23 spots to keep her from stabbing him.

24 Q Right.

25 A We didn't think she was going to do it, but then

1 she took it and she poked him in his leg with it.

2 Q Okay. Then what happened?

3 A He start bleeding and he left.

4 Q Did he put the hand over it first?

5 A Yeah, like when it started bleeding.

6 Q And then when he removed his hand what happened?

7 A She stabbed him when he moved his hand.

8 Q Okay, so she stabbed him twice?

9 A Just once. When he moved his hand. He was just
10 kind of like moving around to keep her from stabbing
11 him, because at first she was like wolfig it and then
12 she took it and stabbed him.

13 Q I got you. Have you ever seen --- do you know or
14 have you ever personally witnessed Courtney Thompson
15 call the police on Antonio Guinyard?

16 A Yes, sir.

17 Q Do you know an approximately number of times?

18 A That I was there for, only two.

19 Q Okay, and have you heard of more?

20 A Yes, sir.

21 Q Do you know of more?

22 A Yes, sir.

23 Q Tell me about the incidents that you were there
24 for.

25 A On one occasion she ended up getting mad at him

1 for drinking a beer. She put him out of the house.
2 When she put him out of the house, he went to Tina's,
3 which is a neighbor that we knew in the back of
4 Courtney, went to her house to be with her husband.
5 While there with her husband, Courtney got mad at Tina
6 because she let him in her house. She kind of like
7 got to cussing him and Tina and Tina's husband,
8 cussing them out.

9 Q What did she say?

10 A She told Tina that it's wrong for her to have
11 that little motherfucker in her house considering that
12 she had just put him out. That she was getting
13 involved in some shit that she just don't know nothing
14 about.

15 Q Okay, right.

16 A Tina got scared and told Antonio that he couldn't
17 be there, so her husband, her brother-in-law, and
18 Antonio then started walking towards the store.

19 Q Okay.

20 A That's when Courtney was like, "Oh, motherfucker,
21 you act like you don't want to be here with your
22 kids." She was like, "Oh, I got you," and she ripped
23 her shirt in half and called the police and say that
24 he had jumped on her, that Antonio and Tina's husband
25 had jumped on her.

1 Q Who is Tina's husband?

2 A We call him Smurf.

3 Q Okay. What happened to Antonio that day?

4 A I believe the police questioned him.

5 Q Uh-huh.

6 A And then they let him go.

7 Q Okay, but they did come?

8 A Yeah, they came.

9 Q How about have you ever witnessed a time where
10 Courtney cut her own arm?

11 A Yes, sir.

12 Q Tell me about that one.

13 A I was at the hospital and she called and was like
14 Antonio had jumped on her, could somebody come there.
15 So, me being her sister, I left for the hospital,
16 rushed up there to where she was. When I got there,
17 the police actually took my kids because I didn't have
18 a license at the time.

19 Q Okay.

20 A She was telling us that he had stabbed her.

21 Q Okay.

22 A A month later she told us, she says, "Well, I was
23 just lying because I wanted to get him in trouble. I
24 really cut myself and ---"

25 Q So you didn't witness it yourself?

1 A No, sir.

2 Q But your did see it?

3 A Yes, sir.

4 Q Do you know --- during the span of 2012 and I
5 guess the early part of 2000 --- up until July
6 of 2013, from April of 2012 to July of 2013, do you
7 know if Courtney had other boyfriends other than
8 Antonio?

9 A She had other male friends, yes, sir.

10 Q What do you mean by that?

11 A She had other male friends that she was intimate
12 with.

13 Q Okay. And would they come over to the house
14 sometimes?

15 A Yeah.

16 Q What would happen to Antonio during that time?

17 A Either she would pick an argument or just, you
18 know, put him out.

19 Q She put him out as often as she puts him out?

20 A Yes, sir.

21 Q What's the shortest amount of time that you have
22 seen her put him out?

23 A Like a day.

24 Q What's the longest time?

25 A The longest, like three to five days at the

1 longest.

2 Q That you know of?

3 A Yes, sir.

4 MR. LI: That's the general gist of it, Your
5 Honor.

6 THE COURT: Ms. Pinnock, do you want to ask her
7 any questions about those issues?

8 CROSS-EXAMINATION: (Proffered)

9 BY MS. PINNOCK:

10 Q Ms. Thompson, you said that you had seen Courtney
11 kick Antonio out of the house a number of times?

12 A I can't hear you.

13 Q You said you've seen Courtney kick Antonio out of
14 the house a number of times?

15 A Yes, ma'am.

16 Q What are the reasons for that? Start with the
17 two when you were living at Allen Benedict Court when
18 you all were living together? Was it because he was
19 drinking?

20 A She done kicked him out for drinking a beer. She
21 done kicked him out for being on Facebook. She done
22 kicked him out for just simple things like not doing
23 what she said.

24 She done kicked him out if they had been
25 discussing something and she feels she is right and he

1 is arguing about it, then he done been kicked out for
2 that also.

3 Q How many times did you see this?

4 A Two of them I seen on my own.

5 Q Were you present at Tina's house this time?

6 A I was at Courtney's house. I was actually
7 following her. She went over there first, and that's
8 when I went to Tina's house because I knew he was
9 upstairs in the room because he was scared she was
10 going to call the police then.

11 Q When did y'all live together at Allen Benedict?

12 A I'm not sure of the date.

13 THE COURT: Approximately.

14 THE WITNESS: It was some time in 2012, 2013, the
15 end of 2012, beginning of 2013.

16 MS. PINNOCK: I don't have anything further,
17 Judge.

18 MS. WALKER: We don't have any questions, Judge.

19 THE COURT: Anything else?

20 MR. LI: No, sir.

21 THE COURT: Okay. Thank you very much.

22 All right. Who's next?

23 MR. LI: Let's do Charles Robinson.

24 THE COURT: Okay.

25 MR. LI: Your Honor, I have Gladys Thompson out

1 there. She said she cannot stay any longer. She
2 hadn't had anything to eat all day. Charles might be
3 a little bit long. If we do Charles, it may be ---

4 THE COURT: Why don't you just do Gladys now,
5 Ms. Thompson now?

6 MR. LI: I'll go talk with her.

7 THE COURT: Okay. Hold on just a minute, sir.
8 We may split you up. Thank you, I appreciate your
9 patience.

10 (Pause.)

11 All right. Mr. Robinson, hang out outside. We
12 will be right with you. It won't take too long.

13 THE COURT: All right. Come on up, Ms. Thompson.
14 This won't be long. Raise your right hand.

15 GLADYS THOMPSON,
16 after being duly sworn, testified as follows:

17 THE COURT: Okay. Come on up. Do you want some
18 water? Do you want a pack of crackers? I can get you
19 a pack of crackers or a soda or something if you want.
20 Do you need that?

21 (There was no response.)

22 THE COURT: Okay.

23 DIRECT EXAMINATION: (Proffered)

24 BY MR. LI:

25 Q Ms. Thompson, Ms. Gladys, you done want to be

1 here today, do you?

2 A No, I don't.

3 Q You were subpoenaed?

4 A Yes, I was.

5 Q I subpoenaed you?

6 A Yes, sir.

7 Q And have you had a chance to live with Antonio
8 and Courtney?

9 A Three almost four years.

10 Q Have you ever witnessed a time where Courtney
11 would kick Antonio out of the apartment?

12 A Yes, sir, several times.

13 Q When you say several, give me an estimate?

14 A I'd say maybe four, five.

15 Q Okay. And what was the longest period of time
16 that Antonio has been gone?

17 A Three months at the most.

18 Q Okay. That was between the time of --- that was
19 between the time of April, late April of 2012 and
20 July 1st, of 2013?

21 A Yes, sir.

22 Q He's been gone for a period of how long?

23 A Three months.

24 Q Three months?

25 THE COURT: You said April 2012 until July

1 of 2013.

2 MR. LI: That's the time.

3 THE COURT: That would be a year and three
4 months.

5 MR. LI: Correct.

6 THE COURT: He was gone for a year and three
7 months?

8 MR. LI: No. She said three months.

9 THE WITNESS: Three months.

10 MR. LI: I said between the time span of April
11 2012 and July 2013?

12 THE COURT: What's when it occurred?

13 MR. LI: Yes.

14 THE COURT: Okay, got it.

15 BY MR. LI:

16 Q The longest period of time he's been gone for is
17 about three months?

18 A Yes, sir.

19 Q And have you witnessed --- have you ever
20 witnessed Courtney Thompson call the police on Antonio
21 Guinyard?

22 A Yes, sir.

23 Q Tell me about one of those times.

24 A Two of them times was false.

25 Q Tell me about those.

1 A One time is where --- I'm not going to say he ---
2 he were locked up because she called the police. I
3 tried to tell him Antonio to let me walk with you,
4 walk him off the property. I was on trespassing, he
5 on trespassing, too. He wouldn't leave and he got
6 called for trespassing.

7 Q Who called the cops for trespassing?

8 A Well, Courtney called the police. When they got
9 there, you know, everything was a lie that she was
10 telling but due to the fact, you know, he was upset.

11 Q Right.

12 A Like I say, I tried to say Antonio, come on,
13 let's walk. I was on trespassing before I got my
14 apartment out there, too.

15 Q Okay. I got you.

16 A He wouldn't walk off the premises, and they just
17 got him on the premises and locked him up for
18 trespassing.

19 Q Has Courtney ever called the police on you?

20 A Yes, sir.

21 Q Why?

22 A Me and Courtney had gotten into it, some --- me
23 and her got into it one night because me and my nieces
24 go into it on the phone and one of my nieces said that
25 I said I was going to call DSS on her. Okay, I did

1 say that. At this time I was homeless because
2 Courtney kicked me out about two months after she
3 kicked Robert out.

4 Q Right.

5 A I had nowhere to go, so I went to the Richland
6 Springs Center.

7 Q Okay.

8 A When I first got there, everything was all right.

9 Q All right.

10 A So like the next day, the lady was walking. She
11 kept coming to me back and forth. She was like,
12 "Ms. Thompson, you do have a warrant," which I knew I
13 had a probation warrant.

14 Q Right.

15 A I knew this, and I was like, "No, ma'am," because
16 at the time I was depressed. I went to the hospital.
17 I didn't know you weren't supposed to go to the
18 hospital and tell if you're feeling suicidal, so they
19 put me in Richland Springs. Two days after putting me
20 in Richland Springs, the City of Columbia Police
21 Department came and locked me up. I asked them what
22 had happened and the man said that you got a probation
23 warrant. The way I was crying and shaking when the
24 city came to remove me from Richland Springs, the
25 nurse came to me and she told me, she said,

1 "Ms. Thompson, I'm not supposed to tell you this, but
2 one of your family members called, took the time to
3 call, dig up the information and had you locked up."

4 Q Right.

5 A So once I got to the Alvin S. Glenn Detention
6 Center about four days later, I was finally able to
7 get in touch with my older daughter Nicole and me and
8 Nicole was talking and Nicole said --- and I told her
9 --- and I was crying, and she said, "Mama, why you
10 crying?" I said, "Nicole, I'm facing seven years.
11 Who would want to do this to me? What family member,
12 I mean, I'm not a bad person." From the time I was
13 down there, I was scared because I was facing seven
14 years.

15 Q Right.

16 A I never knew who did it.

17 Q Right.

18 A So once again, one day I was sitting in
19 Courtney's kitchen, at Courtney's kitchen table, and
20 her and Robert had had a little argument.

21 Q Right.

22 A So once again, she told him to get out. He got
23 out. He got out, but he stopped right by the kitchen
24 door. He looked at me and he said to me, he said,
25 "Ms. Gladys, Courtney had you locked up." I started

1 crying, and I said well, okay, because that's my child
2 you know what I'm saying. God say love my children
3 and I love you.

4 Q Let me stop you. I'll stop you right there.
5 Have you ever --- have you ever witnessed Courtney
6 kick Antonio out because Antonio was trying to stand
7 up for CHILD?

8 A Yes, sir.

9 Q Tell me about that time.

10 A He was sitting there. She went upstairs lay the
11 children down. He was sitting there. He would
12 never --- honestly, he was like put into a hard place
13 and a hard rock.

14 Q Okay.

15 A You know, he knew anything he did was going to
16 get him put out. But, when she went upstairs, just
17 between me and him, you know, he says, "If she hit my
18 son again I'm going to call the police."

19 Q Okay.

20 A Like I said, me and Antonio, this was --- he is
21 like a son to me.

22 Q Okay.

23 A You know what I'm saying, because we've had up
24 and downs, but I got to tell the truth. That's what
25 it is. Antonio, he is very well mannered when it

1 comes to me.

2 Q Okay.

3 A He speaks highly of me, and I speaks highly of
4 him. I told him, I said, "Antonio, get you a job.
5 Get your own place. You know, you can go on to DSS
6 and get visitation." He said, "I know it, Ms. Gladys,
7 but that's my baby mama. You don't understand." So
8 about three weeks after that, it would pass and she
9 would let him in again. Courtney starting argument
10 with me about clothes that she put on layaway that if
11 I had the money to help her get them kids clothes at
12 that particular time, I would have. She went from
13 arguing with me about the clothes to arguing with Mr.
14 Robert about the clothes. I left and went into a
15 shelter.

16 Q That day?

17 A That day. I had called the county and the county
18 put me in a shelter up on North Main. I stayed there
19 for two weeks.

20 Q That's right. That was in May of ---

21 A This was March, March the 7th --- it was March 8th
22 the day after she had CHILD3, so I said, okay, and I
23 took a chance on coming back. Okay, so when I came
24 back, once again, like I told him, I'm not there for
25 y'all, you know what I'm saying, I'm here for my grand

1 kids. She --- Courtney got mad with me. She got mad
2 about those clothes. She put me out.

3 Q I'm going to stop you there. Next question.
4 Have you ever --- there was a period of time when it
5 was just you, Courtney and Antonio living in Allen
6 Benedict Court, correct?

7 A Yes, sir.

8 Q And during that time, have you known Courtney to
9 date other men?

10 A Yes, sir.

11 Q Okay. And during those times, would Antonio be
12 kicked out of the house?

13 A She kicked him out, but when --- and I got to
14 tell the truth?

15 Q Yeah.

16 A She kicked him out.

17 Q Right.

18 A I snuck him back in.

19 Q Okay.

20 A I wanted that, too.

21 Q Okay.

22 A Because like she said, Antonio --- I've been
23 around him. He's like a son to me.

24 Q Okay.

25 A You know what I'm saying, we all got our up and

1 downs, but he done made me mad, too, but to know his
2 situation, I couldn't leave him out the door, so if I
3 got kicked out because I let him out, then I let him
4 in.

5 Q Has Courtney ever kicked you out because you
6 helped out **CHILD**?

7 A Yes, sir.

8 Q Tell me about that time.

9 A I asked Courtney one time, I said, "Courtney, why
10 are you doing him like that?" "Mama, this is my
11 house. These my children." I'm so emotional. She
12 hurt my feelings so bad. I was so sad that night that
13 I walked in a rain with a 10-pound trash bag with my
14 clothes. I walked in the rain. I had no idea where I
15 was going to sleep or where I was going to go, but I
16 told myself, I said, you know what, I'm going to my
17 church.

18 Q How did you stand up for **CHILD** that day?

19 A I asked them not to hit him no more around me. I
20 went to my pastor, and I told my pastor --- and I
21 never told Courtney this, but I went to Reverend
22 Graham and I told him, I said, "Reverend Graham, I
23 don't want to be around there. I don't want to be a
24 part of this. I don't want to be a witness to none of
25 this, none of it."

1 Q Right.

2 A For me to, you know, just sit there, and just
3 watch it go on and continue to watch it day after day
4 and you can't do nothing as a grandmother, you know,
5 it's just ---

6 Q Got you.

7 A --- I just couldn't do that.

8 Q And you were kicked out for approximately how
9 long?

10 A For about three months.

11 Q Three months, okay.

12 A I went --- I had --- the only place I had was my
13 niece's house.

14 Q I got you.

15 A And my niece had bed bugs. I was ate up so bad
16 by bed bugs. Every time I went to sleep, I was on the
17 porch and ---

18 THE COURT: Whoa, whoa, whoa. Okay.

19 MR. LI: I'm just --- do you want every incident,
20 the entire expected testimony, or just the broad
21 subject matter?

22 THE COURT: Is there more?

23 MR. LI: She was a witness to the stabbing, as
24 well, Your Honor.

25 THE COURT: Please talk about the stabbing.

1 BY MR. LI:

2 Q Have you ever witnessed Antonio being stabbed by
3 Courtney?

4 A Yes, sir.

5 THE COURT: Is this the same one as the other
6 sister saw?

7 MR. LI: Yes.

8 THE COURT: Okay.

9 BY MR. LI:

10 Q Where did it happen?

11 A In my house.

12 Q Who was present?

13 A Me, Courtney, Antonio, my daughter Natalie.

14 Q Right.

15 A And my son-in-law, Charles Robinson.

16 Q Okay. Tell me what you remember.

17 A I was in the room watching TV and Natalie, she
18 came in my room, and she said, "Mama, Courtney trying
19 to stab that boy. They done got into it." I don't
20 have to fuss or argue with Antonio about nothing. All
21 I got to do is just mention the police and he will
22 calm down and walk off, but when she --- I went out
23 and she wouldn't let him walk off. She just kept
24 constantly arguing with him. She took the knife and
25 just kept stabbing him. She stabbed my chair before

1 she stabbed him in the leg.

2 Q I got you.

3 A I had his cell phone number. I tried calling him
4 to make sure he was all right, but he came back the
5 next day. I said, "Antonio, are you all right?" He
6 said, "Yes, Ms. Gladys." I said, "Okay."

7 Q Okay. How often would Antonio and Courtney break
8 up?

9 A I couldn't count them.

10 Q How often was Antonio put out of the house?

11 A Several times, several times.

12 Q The shortest being how long? Shortest time, one
13 night?

14 A Huh-uh, no. When she put him out, he would stay
15 gone for about a month or two. It was a time where
16 he --- like I say, he would call.

17 MR. LI: Your Honor ---

18 THE WITNESS: Like I say, he would call the cell
19 phone and ---

20 MR. LI: Your Honor, I'm going to stop the
21 testimony.

22 THE COURT: Okay.

23 THE WITNESS: Melissa would call me and she would
24 tell me ---

25 MR. LI: I'm done.

1 THE COURT: Okay. All right.

2 THE WITNESS: I can't ---

3 THE COURT: Do you want to ask her anything?

4 MS. WALKER: No, Your Honor.

5 THE COURT: Okay. Ms. Pinnock?

6 MS. PINNOCK: No, sir.

7 THE COURT: Okay. Here is what I want to know.

8 THE WITNESS: Okay.

9 THE COURT: Okay? And I want you to listen to my
10 question, okay? I want you to stay focused on my
11 question, okay?

12 You've told me that Courtney has kicked you out.

13 THE WITNESS: Uh-huh.

14 THE COURT: Is that right?

15 THE WITNESS: (Nods in the affirmative.)

16 THE COURT: You have to say yes or no.

17 THE WITNESS: Yes, sir.

18 THE COURT: And you told me that Courtney has
19 kicked Antonio, Mr. Guinyard, out.

20 THE WITNESS: Yes, sir.

21 THE COURT: Is that --- both of those statements
22 are correct, right?

23 THE WITNESS: Yes, sir.

24 THE COURT: Okay. And you said that this has
25 happened several times for both of you?

1 THE WITNESS: Yes, sir.

2 THE COURT: Okay. Now, what I want to know is
3 besides --- you told me about one time where Courtney
4 was beating little CHILD --- and is that how you
5 referred to him?

6 THE WITNESS: I referred to ---

7 THE COURT: Or just CHILD?

8 THE WITNESS: The baby?

9 THE COURT: Yes, the baby.

10 THE WITNESS: No, sir. I refer to him as CHILD.

11 THE COURT: CHILD.

12 THE WITNESS: Yes, sir.

13 THE COURT: CHILD, okay. You say Courtney --- I
14 want to make sure I heard you --- Courtney was beating
15 CHILD and you told her, my words not yours, but you
16 told her to stop?

17 THE WITNESS: I asked her don't do that in front
18 of me, but I had ---

19 THE COURT: And she kicked you out?

20 THE WITNESS: Yes, sir, but I had no control.

21 THE COURT: Okay, and how many times did that
22 happen?

23 THE WITNESS: Twice.

24 THE COURT: Okay. And when did that happen?

25 THE WITNESS: I would say ---

1 THE COURT: Just approximately, I don't need a
2 specific date, just a ballpark.

3 THE WITNESS: I would say two --- I got out of
4 the penitentiary in February. I would say, March was
5 one and if I'm not mistaken, I want to say --- I want
6 to say around June or July.

7 THE COURT: All right. How many times did you
8 witness --- and when I say witness, I mean, see with
9 your own eyes, her kick Antonio out for trying to stop
10 her from beating, spanking, whatever to **CHILD**?

11 THE WITNESS: Several times. The whole time I
12 stayed with them. I stayed with her three
13 years-and-a-half.

14 THE COURT: Okay. When did you move in with
15 them?

16 THE WITNESS: I first moved in with Courtney ---
17 when I first started staying with Courtney, it was in
18 2009. I got locked up in 2011. I only did three
19 months at the corrections center. I came back to
20 Courtney's house in February 2012, February 1st, 2012.

21 THE COURT: How long did you live there from
22 February 1st, 2012?

23 THE WITNESS: I stayed there from February 12th
24 until December 15th when my deacon, Mr. Bobby, got my
25 apartment up in housing.

1 THE COURT: Of 2012?

2 THE WITNESS: Yes, sir.

3 THE COURT: Okay. And you saw your daughter ---
4 and I'm just going to use the word 'beating' for lack
5 of a better term, beating **CHILD** and then you saw
6 Mr. Guinyard do what that caused Ms. --- your daughter
7 to kick him out of the house?

8 THE WITNESS: I --- all right. He --- he --- he
9 went in the refrigerator.

10 THE COURT: Who is he?

11 THE WITNESS: The baby, **CHILD**.

12 THE COURT: Okay.

13 THE WITNESS: **CHILD** went in the refrigerator. He
14 wouldn't wait on me. I was always like, "**CHILD**, just
15 wait on me." He want some Kool-aid. He went in the
16 refrigerator and got some Kool-aid, but as he was
17 getting the Kool-aid, he spilled the Kool-aid.
18 Courtney came downstairs mad. She beat him. Antonio
19 was upstairs asleep. She went and woke him up,
20 starting arguing with him. She said, "That's why your
21 son is like he is, because you won't change that.
22 Antonio says, "Courtney, you already beat the boy.
23 I'm not going to --- no."

24 THE COURT: Then what happened.

25 THE WITNESS: I got put out again.

1 THE COURT: Okay. Did Mr. Guinyard get put out?

2 THE WITNESS: Yeah. We've been put out together
3 at least about two, three times, maybe more.

4 THE COURT: Okay. Do you want to ask her
5 anything else?

6 MR. LI: No, Your Honor.

7 THE COURT: Do you want to ask her anything?

8 MS. WALKER: No, Your Honor.

9 THE COURT: Ms. Pinnock, anything?

10 THE WITNESS: Can I go now?

11 MS. PINNOCK: No, sir.

12 THE COURT: Ma'am? All right. Okay, thank you,
13 ma'am.

14 THE WITNESS: Okay. Thank you.

15 THE COURT: All right. Get Mr. Robinson.

16 Now let's not rehash anything that somebody's
17 already testified to.

18 MR. LI: They all live in the same area. A lot
19 of these stories are common knowledge.

20 THE COURT: I don't want anything that's common
21 knowledge. I want something that somebody has
22 actually witnessed that's different from what I've
23 already heard.

24 All right. Come on up. Raise your right hand.

25 CHARLES ROBINSON,

1 after being duly sworn, testified as follows:

2 THE COURT: All right. Thank you. Grab a seat
3 right there.

4 DIRECT EXAMINATION: (Proffered)

5 BY MR. LI:

6 Q Charles, do you remember the clothes hanger
7 incident?

8 A Yes, I do.

9 Q Do you remember where you were?

10 A I lived in Dixiana at the time.

11 Q And do you remember why Courtney attempted to hit
12 little **CHILD** with a clothes hanger?

13 A Yeah. Well, basically it was because he would
14 always be under me. He was so used to me taking him
15 places with me and doing stuff with him. This
16 particular day, we were going --- we had something
17 over at our house. I was going to Dollar General.

18 Q Uh-huh.

19 A He wanted to go with me. When he wanted to go
20 with me, at first I sent him back in the house to get
21 his shoes.

22 Q Right.

23 A When I sent him back in the house to get his
24 shoes, he start crying because he thought I was
25 getting reading to leave him. When he start crying,

1 Courtney got upset because he was crying. She was
2 like, "You ain't going no fucking where," if I can say
3 that in here, Judge.

4 THE COURT: If you're quoting somebody.

5 THE WITNESS: Okay. Well, she said, "You're not
6 going no fucking where." Then he started crying more.
7 Courtney was like, "Huh-uh." I was walking out to the
8 car. I could hear him scream, so I ran back in the
9 house.

10 BY MR. LI:

11 Q Right.

12 A When I ran back in the house, I ran back in the
13 room where **CHILD** would usually stay at when he stayed
14 at our house. He was there in that room and when I
15 came in, she was like hitting him with the hanger.

16 Q Uh-huh.

17 A And when she was hitting him with the hanger,
18 like I jumped over the top of him so she would stop
19 hitting him. When I jumped on top of him, I told her
20 that if I see her do that again --- I got the hanger
21 from her and I told her if I saw her do that again
22 that I was calling the cops.

23 Q And what did she say to you?

24 Q She was like --- she was getting upset and then
25 she was ready to go. She was like, "Just get me the

1 fuck out of here. Just let's go back to the house.

2 Just get me the fuck out of here."

3 Q Did she threaten to call the cops on you?

4 A No, she didn't threaten to call the cops on me.

5 We got her in the car. We was driving, and she was

6 like ---

7 Q Let me take you to another.

8 A Okay.

9 Q Have you ever witnessed

10 BY MR. LI:

11 Q Have you ever witnessed Courtney call the cops on

12 Antonio?

13 A Yes, I have.

14 Q How many times?

15 A Well... One time in particular --- it's been a

16 couple of times.

17 Q Okay.

18 A One time in particular, we were staying with

19 Courtney and I had went to work and Melissa came and

20 picked me up from work. They had came and picked me

21 up from work. Antonio had went with one of his

22 friends. His friend --- I really don't want to call

23 his name, but he was his friend and ---

24 Q Smurf?

25 A Yeah, Smurf.

1 Q Okay. We've heard about this incident already, I
2 believe.

3 MR. LI: Your Honor, I believe the bad, the
4 character evidence that's in question may be the
5 extent of that. I don't think there is anything else
6 at this point.

7 THE COURT: Okay. Do you want to ask him
8 anything?

9 MS. WALKER: No, Judge.

10 THE COURT: Ms. Pinnock?

11 MS. PINNOCK: No.

12 THE COURT: Thank you very much, sir. Dixiana,
13 huh?

14 THE WITNESS: Yes, sir.

15 THE COURT: Off 119?

16 THE WITNESS: Yes, sir.

17 THE COURT: All right. There you go.

18 You all think I haven't been to Dixiana?

19 Who's next?

20 MR. LI: Antonio Guinyard.

21 THE COURT: All right. Okay, Mr. Guinyard come
22 on up.

23 All right. Raise your right hand.

24 ANTONIO GUINYARD,
25 after being duly sworn, testified as follows:

1 THE COURT: Now, do you understand that --- you
2 can put your hand down. Just because you testify in
3 this hearing doesn't mean that you're giving up your
4 right to not testify in your trial; do you understand
5 that.

6 THE WITNESS: Yes, sir.

7 THE COURT: This is a proffered hearing outside
8 the presence of the jury. When we come back on
9 Tuesday, I will explain to you your constitutional
10 right to either testify in front of the jury or your
11 constitutional right not to testify. That's a long
12 procedure that I'll go through, but you, in no way,
13 waive any of your ability to testify or not testify by
14 testifying here this afternoon. Do you understand
15 that?

16 THE WITNESS: Yes, sir.

17 THE COURT: Okay. All right. Grab a seat.

18 DIRECT EXAMINATION: (Proffered)

19 BY MR. LI:

20 Q Antonio, has Courtney ever called the cops on you
21 before for you protecting CHILD?

22 A Yes, sir.

23 Q Do you remember a time in particular that we can
24 start with?

25 A Yes, sir.

1 Q Tell me about it. When was that time?

2 A I think he had done did something, drunk out of
3 the toilet or something. She start beating him. I
4 had grabbed Courtney and had she had said ---

5 THE COURT: Okay. Wait, wait. You have to slow
6 down, okay. All right. I need for you to slow down
7 so I can make sure I understand what your saying.
8 Okay?

9 THE WITNESS: Yes, sir.

10 THE COURT: Okay. So start over. You said
11 something about drinking out of a toilet.

12 THE WITNESS: My son had done drunk out of the
13 toilet and Courtney had done got mad.

14 BY MR. LI:

15 Q Okay.

16 A She started beating him.

17 Q And what did you do?

18 A I bucked up at her.

19 Q Well, did your son come --- describe what
20 happened? Did your son comes upstairs, or was he
21 downstairs or what?

22 A Upstairs. He had been in the restroom. I guess
23 when he came back downstairs his head was wet.

24 Q Okay.

25 A So she knew that he had done stuck his head in

1 the toilet.

2 Q All right. And then what did **CHILD** do?

3 A He just walked down the stairs.

4 Q Okay. And then what did you witness between
5 Courtney and **CHILD**?

6 A I seen her coming after him with a closed hand,
7 closed fist. Hit him off and knocked him to the
8 ground.

9 DEFENDANT THOMPSON: Oh. (indicating)

10 MS. PINNOCK: Stop it.

11 (Pause.)

12 BY MR. LI:

13 Q What did you do?

14 A I had done grabbed Courtney, put my hands on her
15 and pushed her up against the wall. She was trying to
16 get her phone, so she could call the police.

17 Q Okay.

18 A After that...

19 Q Are you on food stamps?

20 A Yes, sir. Yes, sir.

21 THE COURT: Whoa, whoa, you said she grabbed the
22 phone and called the police?

23 THE WITNESS: Yes, sir.

24 BY MR. LI:

25 Q And did the police come?

1 A Okay, well, I can't even tell you that because I
2 had done left the premises.

3 THE COURT: You left?

4 THE WITNESS: Yes, sir.

5 MR. LI: And I'm just going to move on to some
6 different incidents, Your Honor. There's a lot of
7 them that are similar in terms of the character that's
8 been previously testified to.

9 THE COURT: Okay.

10 BY MR. LI:

11 Q You are on food stamps, Antonio?

12 A Yes, sir.

13 Q And to get your food stamps you use an EBT card?

14 A Yes, sir.

15 Q And have you --- has Courtney ever canceled your
16 EBT card before?

17 A Yes, sir.

18 Q And is that --- how does she do that?

19 A I would get put out. I would get put out of her
20 house and wherever I go, I might try to use my card
21 get something to drink, some chips, score something
22 and it tells me it's been canceled.

23 Q How do you know it's Courtney?

24 A Because she is the only one that got my pass
25 code.

1 Q Okay. Are there any other times that she has
2 called the cops on you when she needed you to leave
3 the house?

4 A Yes, sir.

5 Q Okay.

6 Q Tell me about one of those times.

7 A She had called the cops on me, I guess, because
8 my son, she didn't want him to drink no juice and I
9 had gave him juice.

10 Q Okay.

11 A And it was like eight o'clock.

12 Q What did she do?

13 A She told me she wanted me out of her mother
14 fucking house.

15 Q Okay.

16 A This house for her kids.

17 Q Okay.

18 A That motherfucker not supposed to be drinking no
19 juice. He's supposed to drink water.

20 Q And you've been stabbed by her before?

21 A Yes, sir.

22 Q How many times?

23 A About four, five times.

24 Q Okay.

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

1 (Pause.)

2 BY MR. LI:

3 Q Has he ever called the police on you and accused
4 you of burglary?

5 A Yes, sir.

6 Q Okay. Tell me about that.

7 A I was in the house, but I had ran outside, but we
8 was already having a little altercation, so when I
9 came back in, I just hear somebody knocking on the
10 door, so that's the City of Columbia.

11 Q Okay.

12 A She tells me she got an intruder.

13 Q Okay.

14 MR. LI: Your Honor, that's all.

15 THE COURT: (indicating)

16 CROSS-EXAMINATION: (Proffered)

17 BY MS. McDUFFIE:

18 Q Mr. Guinyard, you said she stabbed you four or
19 five times?

20 A Yes, ma'am.

21 Q And when was this?

22 A It was like in 2012 some time.

23 Q All of them?

24 A No. Some had happened in like 2013.

25 Q Approximately what months?

1 A I really don't remember months, but I know it was
2 2013 and 2012.

3 Q Did you get medical attention?

4 A No, ma'am.

5 Q For none of them?

6 A No, ma'am.

7 Q You never went to the hospital?

8 A No, ma'am.

9 Q Do you have any scars?

10 A Yes, ma'am.

11 Q Where are they?

12 A On my leg and on my arm.

13 Q One scar, two scars, how many?

14 A I got two scars like on my arm and like two scars
15 on my leg.

16 Q How deep were they or how long was the cut that
17 cut you?

18 A It was like --- it had needed stitches, but I
19 still didn't go to the hospital.

20 Q They all needed stitches, but you didn't go to
21 the hospital?

22 A No, the one on my leg was cut.

23 Q And when was the one on your leg?

24 A Like at her mother's house that night.

25 Q Do you remember what year it was?

1 A Like 2000 --- like 2013.

2 Q Do you remember what month it was?

3 A Probably April. I really don't remember. I know
4 April some time, like in April some time.

5 MS. McDUFFIE: No further questions.

6 THE COURT: Ms. Pinnock?

7 CROSS-EXAMINATION:

8 BY MS. PINNOCK:

9 Q Mr. Guinyard, where did this incident of CHILD
10 sticking his head in the toilet, where did that
11 happen?

12 A Allen Benedict Court.

13 Q What month?

14 A I would say like March some time.

15 Q What year?

16 A Like in 2012.

17 Q And the EBT card cancellation, when was that?

18 A She'll do that at any given time.

19 Q How many times has she done it?

20 A She done it like six or seven times.

21 Q When was that?

22 A Like right before, like sometime before this
23 accident happened like in June she did it. She
24 probably did it again in like May sometime.

25 Q So May and June of 2013?

1 A Yes, ma'am.

2 Q Now, with going back to you throwing her up
3 against the wall because **CHILD** had stuck his head in
4 the toilet, you said you didn't even know if the cops
5 came because you weren't there?

6 A No, because all I got to do is hear the operator
7 say, "What's your emergency." I'm gone. I ran.

8 Q You run away when the cops show up?

9 A I run away before the cops show up.

10 MS. PINNOCK: That's all.

11 THE COURT: All right. Thank you. Okay.
12 Anybody else? Anybody else, Mr. Li?

13 MR. LI: No, sir.

14 THE COURT: All right. What is her criminal
15 history, and my next question is, what is his?

16 MS. McDUFFIE: Your Honor, she doesn't have an
17 adult prior record.

18 His prior record is a 2006 unlawful weapon,
19 public drunk, disorderly; February 2010, public drunk,
20 simple possession; August of '12, giving false
21 information, public drunk, littering, possession of
22 alcohol on public property; September 2012, disorderly
23 conduct; October of '12 public drunk; February of '13,
24 trespass; March of '13 trespass; May of '13 public
25 drunk.

1 THE COURT: Okay. Was the giving of false
2 information to police a magistrate level charge?

3 MS. McDUFFIE: Yes, sir.

4 THE COURT: All right. Anything further before
5 we break for three days?

6 MR. LI: No, sir, Your Honor.

7 MS. PINNOCK: No, sir, Your Honor.

8 THE COURT: Where are you on --- do you think
9 you're going to be able to rest or do you think you
10 have another witness?

11 MS. McDUFFIE: Your Honor, we're 90 percent sure
12 we're going to rest.

13 THE COURT: Okay. What's your anticipating of
14 the number of witnesses? I mean, depending on my
15 ruling, obviously?

16 MR. LI: Zero to six.

17 THE COURT: All right. And Ms. Pinnock?

18 MS. PINNOCK: Two or three tops. Are we going to
19 put arguments on the record next week?

20 THE COURT: Yeah. I don't know that my mind can
21 handle legal arguments right now.

22 MS. McDUFFIE: My co-counsel informs me one on
23 Monday --- on Tuesday.

24 THE COURT: A short witness or a long witness?

25 MS. McDUFFIE: A very short witness.

1 THE COURT: All right, sir.

2 So here is your homework over the weekend.
3 Number one, you need to start putting jury charges
4 together. I'll need both jury charges on Tuesday
5 morning.

6 I will probably go ahead and --- well, let's plan
7 on starting at 9:30 Tuesday morning. Even though the
8 State has one more witness I'll probably go ahead and
9 go through the Advice of Rights and all that kind of
10 stuff while we're outside the jury's presence. Of
11 course, I won't make them answer until they have heard
12 that last witness. I'll explain all that just to go
13 ahead and speed that process up after that last
14 witness, and so you need to be ready to argue directed
15 verdict motions on Tuesday morning and the defense
16 needs to have whatever witnesses you're going to have
17 ready to go and lined up for first thing 10:30 Tuesday
18 morning. Okay.

19 And Mr. Li and Ms. Pinnock, you all need to
20 research this issue over this weekend. I know I have
21 been doing an exhaustive search across the country for
22 this argument that we put the people on the record for
23 tonight. The record has been created, but I mean, I
24 need --- I mean, somebody needs to find something to
25 show me something that says it's either admissible or

1 it's not admissible based upon --- not speculation as
2 to what the people are going to testify to but what we
3 now know they are going to testify to.

4 MR. LI: Yes, sir.

5 THE COURT: Okay. So --- yes, ma'am.

6 MS. McDUFFIE: I'm sorry, Judge. If defense
7 counsel does not put up anything on Tuesday morning, I
8 assume we would go straight into closings or be given
9 a little bit of time?

10 THE COURT: Yes. I mean, if we get to 10:30
11 Tuesday morning and the State calls a witness and
12 rests, and they decide not to put up anything, more
13 than likely what I'll do is probably give everybody,
14 you know, somewhere in the 30 minutes to an hour range
15 to get themselves together and composed and organize
16 everything for closing arguments. I'll probably go
17 ahead and order in lunch and do it that way and go
18 from there, but I mean, we'll have to have a charge
19 conference, all kinds of stuff.

20 I may even just do the witness, rest. They say
21 they're not putting up anything else, I may just let
22 them go for a long long lunch while we do a charge
23 conference and everybody puts they're minds together.

24 I don't want to force anybody right into them
25 because we're --- at this point we're up in the air on

1 how much defense case or recall is potentially
2 necessary. If we get to that point and everything
3 kind of breaks down Tuesday morning and it's time to
4 argue and charge, I'll give everybody plenty of time
5 to put their thoughts together before we have to do
6 closing arguments.

7 MS. McDUFFIE: You want the jury charges by 9:30
8 Tuesday morning?

9 THE COURT: Yeah, I need the jury charges Tuesday
10 morning. I mean, we've already started a charge, but
11 any proposed or things you want outside of the normal
12 charge, I charge firmly convinced so I don't need that
13 one, and anything you want outside of the normal
14 charge you need to give to me Tuesday morning.

15 MS. McDUFFIE: Thank you, Judge.

16 THE COURT: Okay. All right. See you Tuesday
17 morning 9:30. Thank you very much. Appreciate
18 everybody's hard work this week.

19 (WHEREUPON, the proceedings were adjourned.)

20 May 27, 2014

21 (WHEREUPON, Court was called to order.)

22 (WHEREUPON, Defense Exhibit Number 1 was marked
23 for identification only.)

24 THE COURT: Where is the State on whether or not
25 you were going to have another witness?

1 MS. McDUFFIE: (indicating.)

2 THE COURT: You are?

3 MS. McDUFFIE: (indicating.)

4 THE COURT: That's fine. That's perfectly fine.

5 Okay. Let's go to this issue that we proffered
6 all the testimony about on Friday night.

7 All right. Tell me what you found, Mr. Li.

8 MR. LI: Your Honor, I couldn't find much. One
9 case I found was State v. Cope, a South Carolina
10 Supreme Court case. In that case, they --- it
11 looked at --- they didn't really address the issue.
12 They mentioned the issue, but it wasn't probably
13 brought up for appeal, Your Honor. They did say that
14 prior bad acts cannot be used to raise an inference of
15 the defendant's guilt or to corroborate the
16 prosecution's theory for the crime charged.

17 We still don't believe that these fall under
18 404(a) or (b); it's not to show conformity therewith.
19 It's simply to answer the question, inevitably the
20 State is going to ask Mr. Guinyard, why didn't he do
21 something about it? If our answer is merely that he
22 got kicked out, the natural inference is how can you
23 get kicked out. These are the reasons why he got
24 kicked out. We believe that these were two separate
25 trials. It's a no-brainer and we could talk about

1 these issues and as part of the defense, and we
2 believe that it's not going towards --- it's not going
3 toward Ms. Thompson's, you know, guilt as to the
4 current crime charged. We would ask for a limiting
5 instruction. It is our response to the natural
6 question of, Mr. Guinyard, why didn't you do anything,
7 so it's ---

8 THE COURT: Well, I don't --- but I don't
9 understand how it's a defense. That's what I don't
10 understand.

11 MR. LI: It goes to mental state, Your Honor.

12 THE COURT: Okay, but he didn't testify to any of
13 that. He didn't testify to that. The only thing he
14 did was testify that --- his testimony is basically, I
15 was scared of her.

16 MR. LI: That's right.

17 THE COURT: Okay. That's not a defense.

18 MR. LI: That's right, Your Honor. It goes to
19 the mental state of why he wasn't there at the home to
20 not be there. If he wasn't there, that is a part of
21 his --- that is a part of our defense, Your Honor.
22 When a lot of these beatings happened, he wasn't
23 there. He wasn't there because he was kicked out of
24 his home. Well, he was afraid of these prior things
25 that happened to him, and, Your Honor, I think it just

1 goes to our overall defense of the case.

2 We just don't believe it's --- it's not being
3 used to bad mouth Ms. Thompson. It's not used to show
4 its propensity evidence as to her guilt, because she
5 acted that way then she must be guilty of this crime.
6 It's merely the way that these actions caused
7 Mr. Guinyard to feel and to his state of mind, Your
8 Honor.

9 We believe that if this was a separate trial, he
10 would clearly put up these --- we would clearly be
11 able to put those up, to testify to them, other people
12 who could testify to them. In terms of what happened
13 on Friday, Your Honor, we thought that you just wanted
14 to know the bad acts that we were going to talk about.
15 It wasn't a full explanation of his mental state or an
16 explanation as to why he was kicked out. We just
17 thought we were just going to bring up the actual acts
18 that Your Honor planned on getting into, so Your Honor
19 could hear about it.

20 THE COURT: So his defense is, I was scared and
21 that's why I didn't do anything.

22 MR. LI: That's why I was kicked out. That's why
23 I left. I wasn't home ---

24 THE COURT: What does leaving have to do with the
25 elements of the crime?

1 MR. LI: It goes to extreme indifference. It
2 goes to the fact that he wasn't there. And they can
3 argue that, Your Honor, I mean, they're welcome to
4 argue that.

5 THE COURT: But there's no correlation that he
6 wasn't there. There is no evidence that he wasn't
7 there during the time when a crime occurred.

8 MR. LI: He can't be extremely indifferent if
9 he's not there.

10 THE COURT: Sure he can.

11 MR. LI: We would like to show that he was not
12 there multiple times. A lot of the times he wasn't
13 there, Your Honor. That I think is --- it's relevant
14 to his mental state. It's relative to extreme
15 indifference. It's relative to whether or not he
16 could have done anything.

17 THE COURT: Whether or not he could have done
18 anything is partly based on why he's there, but not
19 entirely based on the fact that he's there or not. I
20 mean, what does the fact that he is not there have to
21 do with whether or not he could have called DSS or the
22 sheriff's department?

23 MR. LI: And whether or not he knew about it.

24 THE COURT: No, she just said two different
25 things. Your arguments are crossing in midair.

1 MR. LI: I'm sorry.

2 THE COURT: I mean, you just --- I mean ---

3 MR. LI: In addition, Your Honor, we don't really
4 think --- we would argue just being kicked out is not
5 a bad act. If stabbing is too much, we can just not
6 talk about the stabbing, Your Honor.

7 THE COURT: But, just because he gets kicked out
8 because he is on Facebook doesn't have anything to do
9 with this charge. Just because he gets kicked out
10 because he is drinking a beer when she doesn't want
11 him to, what does that have to do with this case?
12 Just because of the fact that he gets kicked out
13 because he is allegedly talking to some other woman, I
14 mean, that's the essence of the testimony. I mean,
15 what does that have to do with --- I only heard one
16 other incident where he said --- and, I mean, I'm not
17 making a direct quote, I'm paraphrasing, but I only
18 heard one incident on Friday where he told her to stop
19 doing something with the child and she either kicked
20 him out or threatened to call the police.

21 MR. LI: Your Honor, for the record, we would
22 still ask that those be allowed to be admitted, but we
23 are willing to --- we are willing to just talk about
24 him being kicked out. That is completely part of this
25 case, and not just for Facebook or for other things,

1 but just that there is a natural tendency for him to
2 be kicked out all the time. It's a habit. It happens
3 all the time. I'll try not to talk to any of the
4 other witnesses about Facebook or getting into the
5 other stuff. It just goes to the fact that he is
6 kicked out all the time. Maybe there are times that
7 he's been kicked out for trying to stand up for **CHILD**
8 when they get into fights. We didn't go into that in
9 detail on Friday, because there are so many of these
10 occasions. If you want me to tailor it to limit to
11 mostly that, Your Honor, we can do that. That in and
12 of itself is not even a bad act. That's not even ---
13 an act that ---

14 THE COURT: I'm not sure kicking somebody out is
15 a bad act. I mean, from a 404(b) analysis, I'm not
16 analyzing kicking out as being a prior bad act. I
17 mean, if she lived at the home and she controlled the
18 home and it was her home, she can kick out whoever she
19 wants to.

20 MR. LI: Yes, sir.

21 THE COURT: I don't know that kicking somebody
22 out is a bad act. I think it's something you have to
23 right to do in your own home. I'm not sure --- well,
24 the kicking out --- my issue with the kicking out
25 isn't so much that it's a prior bad act. My issue

1 with the kicking out is, you know, what I don't want
2 the jury to hear is, you know, is the whole --- I'm
3 trying to figure out how to phrase this.

4 I don't have a --- I'm going to listen to
5 Ms. Pinnock's argument, but I don't need --- I'm not
6 working through 404(b) as a kicking out as anything to
7 do with 404(b).

8 MR. LI: Fair enough.

9 THE COURT: I am concerned about the stabbing. I
10 mean, the majority of Ms. Thompson's, mama Thompson,
11 Gladys Thompson's, testimony, I mean, that is a
12 minefield. To say it is a minefield is an under
13 statement. I mean, everything from her being in
14 prison to --- I mean, there's enough mine fields in
15 there to cause us serious issues.

16 I mean, Charles Robinson's testimony, I didn't
17 hear anything --- I mean, he says that she called the
18 cops on him, but everything else dealt with
19 Ms. Thompson's --- what he saw or what he heard
20 Ms. Thompson do. So tell me if I let you get into all
21 the kicking out stuff how you would intend on putting
22 that up.

23 MR. LI: I would get that through witnesses that
24 were there, and I can avoid --- I can --- if your
25 ruling is that we can't talk about the false police

1 calls or hurting herself to call the police, we will
2 object for the record, but I can move past that.

3 THE COURT: I think there's a difference in her
4 threatening to call the police and her actually
5 calling the police and making a false report.

6 MR. LI: Yes, sir.

7 THE COURT: All right. Ms. Pinnock, what's your
8 argument on all this stuff?

9 MR. RUFFIN: I'll hand up this, Your Honor.

10 THE COURT: Okay.

11 MR. RUFFIN: I went through and made a list
12 actually of the facts that we have a problem with.

13 THE COURT: Good, good.

14 MR. RUFFIN: So I'll start with --- the first one
15 was, there was some testimony that Courtney, for lack
16 of a better word, cheated on Antonio, that she had
17 relationships with other men. I think that's totally
18 irrelevant. I has nothing to do with the victim in
19 this case.

20 I don't remember --- I think the timeframe was
21 very broad, and I just don't see how her --- I mean,
22 even assuming that it's true that she had
23 relationships with other men while she was, you know,
24 dating or living with Antonio, I don't see the
25 relevance of that, so we'd ask that there be no

1 testimony about that issue.

2 THE COURT: Okay.

3 MR. RUFFIN: From number one. The stabbing
4 incident ---

5 THE COURT: I'm letting the stabbing incident in.

6 MR. RUFFIN: I'll move on.

7 THE COURT: You can go on past that.

8 MR. RUFFIN: I think there was testimony from the
9 mother, from Gladys Thompson, that Courtney had called
10 the cops on her and gotten her thrown in jail on what
11 sounds like on a probation violation because Ms. ---

12 THE COURT: Yeah, there was this whole drawn out
13 story about Ms. Gladys Thompson had some warrant out
14 for her ---

15 MR. RUFFIN: Right.

16 THE COURT: And eventually she gets locked up for
17 it and later on Antonio tells her Courtney did it. Is
18 that what you're talking about?

19 MR. RUFFIN: Yes, Your Honor.

20 THE COURT: Okay.

21 MR. RUFFIN: So we would submit that that's
22 irrelevant and also that it's knowledge based on
23 hearsay, I think. I don't remember her saying if
24 Antonio told her or if that just some family ---

25 THE COURT: Antonio told her that Courtney was

1 the one that turned you in. That was her testimony.

2 MR. RUFFIN: We would submit that that issue is
3 irrelevant and should be excluded.

4 THE COURT: What else?

5 MR. RUFFIN: The next one, there's several --- I
6 think I can group all these together. I think there
7 was testimony that Courtney called the cops on Antonio
8 for drinking and for not following her rules.

9 There was testimony that Courtney cut herself and
10 called the cops and said someone attacked her. There
11 was also testimony that Courtney ripped her shirt and
12 called the cops saying that Antonio had attacked her
13 because she was mad that he was drinking.

14 None of these incidents have anything to do with
15 **CHILD** You know, all I think it
16 demonstrates is that there may be some animosity
17 between the two defendants. Because of that, we don't
18 think it's relevant to anything. I would also say
19 that these improperly call her character for
20 truthfulness into question. She is not taking the
21 witness stand at this point, so her character, her
22 truthfulness is not an essential element to any claim
23 or defense that's being made, so her character and
24 truthfulness is not an issue. I think that it's
25 insinuating that she is a liar by saying she makes all

1 these false police reports.

2 I can't remember if it was Natalie or who exactly
3 said that, but there's one witness that said, "Oh, I
4 know of two incidents where she called the cops that
5 were false." I mean that was the testimony. I think
6 that's entirely improper to put her character at
7 issue.

8 I'd also say that some of the times, at least
9 some of the times that these incidents are alleged to
10 have occurred was while CHILD was in the custody
11 of DSS, so again, I think anything that's happened in
12 that time period between these two parties is also
13 irrelevant to --- I mean, the jury is here to decide
14 did these two defendants act unlawfully towards CHILD
15 and whether or not they caused the death of CHILD
16

17 You know, anything that's going on while he is in
18 DSS custody, I think is totally irrelevant to this
19 case. That's why we're just grouping those together.

20 I think there was testimony from Antonio that
21 Courtney canceled his EBT card at one point. I don't
22 see that that has anything to do with this case, that
23 she called the cops and accused him of committing a
24 burglary on her house, I don't see how that's
25 relevant.

1 There was testimony from Antonio's mother that
2 Courtney would call her and threaten to call the cops
3 on Antonio for all kinds of different reasons, and
4 none of which pertain to CHILD

5 So again, I don't think any of that is relevant.
6 I've already mentioned about the victim being in DSS
7 custody. So again, we'd ask that all of that
8 testimony be totally prohibited.

9 THE COURT: So you don't have a problem with all
10 the kicking out testimony?

11 MR. RUFFIN: Well, yes, we do have a problem with
12 the kicking out, as well. I think that if Antonio
13 wants to take the stand and testify that he stood up
14 for CHILD, I think he can do that. I think he is
15 allowed to present --- I think that is a pertinent
16 character trait. If he wants to introduce evidence of
17 hi good character as to that, he's permitted to do
18 that.

19 I think the response of kicking out is
20 irrelevant. I think it's State v. Jarrell which said
21 that leaving the scene, not being present at the
22 scene, you know, was evidence of extreme indifference.

23 So I don't think that --- I don't think it could
24 be relevant to his defense. Mr. Li keeps saying that
25 well it goes to his mental state, his mental state.

1 You know, his mental state is whether or not he
2 intentionally acted or omitted to act. I guess in
3 this case, Mr. Li, I think, is trying to present
4 evidence that shows that he omitted to act, but it was
5 not intentional.

6 Huh-uh. Well, if he was kicked out of the house,
7 but still neglected to report any abuse that he knew
8 was going on, I don't see how her kicking him out is
9 irrelevant to that defense.

10 So yes, we would object and especially we would
11 object to any testimony about Courtney kicking Antonio
12 out over things that did not involve CHILD I
13 mean, like Your Honor has already stated, there was
14 one incident where Antonio said, "I stood up for the
15 victim. Courtney kicked me out because I stood up for
16 him." That was it.

17 All the other incidents is where she kicked him
18 out because he was drinking, Facebook messaging, not
19 following her rules. That is nothing do with CHILD
20 , Your Honor, so we would ask that all of that be
21 excluded.

22 THE COURT: You were standing up earlier. Do you
23 want to jump in on this argument, Ms. McDuffie?

24 MS. McDUFFIE: Not on that issue necessarily,
25 Judge. I think what Mr. Li was kind of insinuating at

1 first was some weird alibi that his client wasn't
2 there during pertinent and relevant times, Your Honor.
3 I just want to put on the record that we served them
4 with reciprocals and we asked for any notice of alibi.
5 Further, if he is going to claim that his client
6 wasn't there and couldn't have known what was going
7 on, we would ask for the specific dates in which he is
8 alleging that he wasn't present, Your Honor.

9 MR. LI: Your Honor, this isn't an alibi --- we
10 are not saying that he was at a specific place at a
11 specific time. We have witnesses to say that he was
12 there. This happened to Mr. Guinyard. I understand
13 about the stabbing. I understand about the false
14 police reports, but getting kicked out is our
15 essential --- it goes to intent of whether or not ---
16 of why he didn't call the cops. It's because he
17 wasn't there. This is the crux of our defense. We
18 understand if you want to limit it to no Facebook. No
19 drinking beer. That's --- we can work around that,
20 Your Honor, but to say that Antonio wasn't there the
21 whole time, that is simply not true.

22 THE COURT: Say that again.

23 MR. LI: It's just simply to say --- to imply
24 that Antonio was there all the time, is simply not
25 true. All witnesses will tell you that. He was

1 kicked out all the time. He was kicked out multiple
2 times. People like Charles Robinson will be able to
3 testify that the beatings to [CHILD] happened a lot
4 when Antonio wasn't there.

5 The prior bad acts, I can understand. I
6 understand about the stabbing. I understand about the
7 false police reports, but saying that he can't talk
8 about being kicked out, we just don't understand how
9 that --- we just don't see how that is going to be
10 fair, Your Honor.

11 THE COURT: How about the --- I'll call it
12 cheating, because I don't have another word for it.

13 MR. LI: The reason we want to talk about that,
14 Your Honor is --- and we can gloss over it, but the
15 reason we want to talk about that is that we want to
16 show the difference in the way [CHILD] acted when
17 Courtney was around and when Courtney wasn't around
18 and when Antonio was around and when Courtney --- I'm
19 sorry, when Courtney was in the home and Antonio
20 wasn't and the difference the way that [CHILD] acted
21 when it was opposite.

22 THE COURT: Okay. There is no evidence of that
23 anywhere.

24 MR. LI: Excuse me?

25 THE COURT: What's the evidence of that at all?

1 MR. LI: The evidence of some sort of act that he
2 acted differently? It's going to be through my
3 witnesses.

4 THE COURT: Through what witnesses?

5 MR. LI: Gladys Thompson and Charles Robinson,
6 through those two.

7 THE COURT: So what does her cheating on him have
8 to do with that?

9 MR. LI: We're not going to say it was cheating
10 on him, Your Honor. They broke up. There were
11 periods of time they were broken up and they weren't
12 together. We won't use the word cheating. She had
13 other --- they break up all the time. I can just not
14 use the word cheating. They were broken up at certain
15 times.

16 MR. RUFFIN: Your Honor ---

17 THE COURT: Ms. McDuffie, go ahead.

18 MS. McDUFFIE: Your Honor, our question, again,
19 is when?

20 THE COURT: Yeah. I mean, there is no evidence
21 of when any of this occurred.

22 MR. LI: Well, we'll put it in.

23 THE COURT: Why didn't we put it in Friday night?

24 MR. LI: I mean, there's ---

25 THE COURT: Here's what it seems like to me. It

1 seems to me like over the weekend the legal argument
2 morphed into something new ---

3 MR. LI: Your Honor ---

4 THE COURT: --- into this new quasi alibi, I-
5 wasn't-there defense.

6 MR. LI: No, Your Honor, that's not ---

7 THE COURT: That wasn't said at all last week to
8 the court.

9 MR. LI: During the proffer, during the proffer,
10 we were just mainly concerned about --- I thought the
11 court was mainly concerned about the stabbing and the
12 false police reports. Those are the two --- those are
13 the prior bad acts that involved past crimes, so ---
14 and we did want to divulge our whole defense. We
15 never thought prior bad acts --- we never thought that
16 getting kicked out fit in the category of 404 anyway,
17 so that's why we --- we weren't --- we knew the State
18 hadn't rested yet. You know, we were proffering our
19 defense.

20 The State hadn't rested yet. I thought we were
21 just addressing the generic topics of the stabbing,
22 and the false information to police and cutting
23 herself. All of those could be interpreted as other
24 crimes.

25 THE COURT: What do other men in Ms. Thompson's

1 life have to do with anything?

2 MR. LI: It just goes to show --- I want to show
3 that when Ms. Thompson is not there that **CHILD** acts
4 differently.

5 THE COURT: When what?

6 MR. LI: When Ms. Thompson is not present, which
7 there was a period of time when she was gone in
8 late 2012, and I'll have testimony showing the
9 difference in **CHILD**, what the difference in **CHILD**
10 was. He was happy. He got along. He was active and
11 when Antonio would come over to the house when
12 Ms. Thompson was not there, he was --- he was loving
13 on his dad and he played with him; it's that, Your
14 Honor.

15 MR. RUFFIN: Your Honor, I think if he wanted to
16 elicit testimony that the victim acts differently in
17 the presence of his mom and outside the presence of
18 his mom, they can easily do that without insinuating
19 that she is cheating on the dad.

20 THE COURT: Yeah, I'm not going to allow anything
21 about cheating in.

22 MR. LI: Okay.

23 THE COURT: We don't need --- I mean, whether or
24 not, and I'm just using that word because I don't know
25 what else to call it, but, I mean, whether or not

1 there was some form of outside of this relationship
2 type of relationship between Ms. Thompson and some
3 other man is completely irrelevant to the case.

4 Now, the victim acting differently when she is
5 not around is and Mr. Guinyard is around is directly
6 relevant, but I don't want any insinuation as to she
7 was cheating on him or anything like that. Whether or
8 not that is true ---

9 MR. LI: Yes, sir.

10 THE COURT: --- is not a concern to me because it
11 is not relevant. Now, the victim's behavior when she
12 is not around is a different story, and I will allow
13 testimony as to that, but I don't want any insinuation
14 as to they are in some relationship that would cause
15 her not to be with somebody else or something like
16 that or --- none of that is relevant to anything.

17 Okay. So do you understand that limitation?

18 MR. LI: Yes, sir.

19 THE COURT: Okay. Now, let's move on to the
20 calling the cops on her mama.

21 MR. LI: I object for the record, but we can work
22 around that.

23 THE COURT: All right. We're not going to talk
24 about her calling the cops on her mama.

25 MR. LI: Yes, sir.

1 I think Mr. Ruffin's argument is correct. The
2 element of filing --- the idea of filing false police
3 reports would be to prove an essential character
4 element of truthfulness of which that issue is not an
5 issue in this trial and his legal argument around that
6 is correct, so I'm not going to allow any testimony as
7 to she calls the cops on him falsely.

8 MR. LI: Okay.

9 THE COURT: I am going to allow testimony that
10 she kicks him out. And you're going to need to --- I
11 mean, the biggest concern I have, Mr. Li, very frankly
12 is I've heard all of these witnesses --- most of these
13 witnesses testified at least once before.

14 MR. LI: I'll narrow it down.

15 THE COURT: Getting them through testimony can be
16 very complicated ---

17 MR. LI: Yes, sir.

18 THE COURT: --- to say the least are.

19 MR. LI: Yes, sir.

20 THE COURT: I mean, you're going to have to
21 tailor it with these people. They're not going into
22 all of these extraneous areas that I'm calling off
23 limits.

24 MR. LI: Yes, sir.

25 THE COURT: The fact that she kicks him out and

1 he is out of the house for a time period, I will allow
2 that testimony.

3 MR. LI: Thank you.

4 THE COURT: Over Ms. Thompson's objection.

5 MR. LI: Your Honor, if somebody asked --- if
6 they get --- if either side gets into how do you get
7 kicked out --- I mean, why do you get kicked out, I
8 mean, what method does Ms. Thompson use to kick you
9 out; it is to threaten to call the cops. We're not
10 going to imply any sort of false information, previous
11 times where she has falsely called the cops. Is that
12 a prior bad act?

13 THE COURT: No, I think that's fine.

14 MR. RUFFIN: We would object to that.

15 THE COURT: I know you would. I got ---

16 MR. RUFFIN: But you'll allow that in?

17 THE COURT: Right. I'll allow that in over
18 Defendant Thompson's objection.

19 Now, the EBT card. What does that have to do
20 with anything?

21 MR. LI: The EBT has to show that when Antonio
22 would be out on the streets when he got kicked out,
23 that he would try to use his EBT card and he couldn't
24 do it because somebody cancelled it. He can ---
25 nobody else knows, I mean, nobody else can testify

1 other than Mr. Guinyard that he believes the only
2 person who knows his Social Security number and pin
3 number is Ms. Courtney Thompson and she uses that to
4 bring him back into the home.

5 THE COURT: Okay, the EBT card is out.

6 MR. LI: Okay.

7 THE COURT: I mean, his speculation as to why his
8 card is cancelled isn't going to be allowed.

9 MR. LI: All right.

10 THE COURT: The burglary is out. I see our
11 witness in the back for that, so ...

12 MR. LI: I'm going to release him.

13 THE COURT: All right. Mr. Ruffin, anything else
14 you want to put on the record?

15 MR. RUFFIN: Just for clarification, on the
16 kicking out, I think there was testimony that Antonio
17 was kicked out of the house while CHILD was in
18 DSS custody. You will allow testimony --- I think we
19 would object to any testimony about that, that going
20 on while the victim is in DSS custody, because it
21 doesn't pertain to the case.

22 THE COURT: I'm going to allow that, because I
23 think that goes to a pattern of what I will call a
24 pattern of control by Ms. Thompson over Mr. Guinyard
25 even though --- it doesn't so much have to do with the

1 child as it does her ability to control him.

2 MR. LI: Yes, sir.

3 THE COURT: I'm going to allow that in.

4 What else, Mr. Ruffin? Go ahead.

5 MR. RUFFIN: One more thing just for
6 clarification. The testimony from Antonio's mother
7 that she would get calls from Courtney threatening to
8 kick him out, are you allowing that, as well?

9 THE COURT: I am allowing that, yes.

10 MR. RUFFIN: I think that's all I have.

11 THE COURT: Okay. Anything else, Ms. McDuffie?

12 MS. McDUFFIE: Your Honor, if he is trying to
13 argue some sort of alibi; we requested to be provided
14 those with notice, and we weren't provided notice on
15 that. Again, we would ask to be put on notice of when
16 that is.

17 MR. LI: It's not an alibi, Your Honor. We don't
18 have a specific date. It happened so frequently.

19 THE COURT: I mean, what's the end game that
20 you're going to argue with him being out of the house?
21 That's what I don't understand.

22 MR. LI: It goes to show whether or not he was
23 extremely indifferent. If he wasn't there all the
24 time, he didn't know all the time.

25 We don't have a specific date, Your Honor. We

1 don't have a witness to call who will say that he was
2 definitely here on that day. There may have been some
3 testimony that he was here, but that's not our ---
4 that's not our alibi defense.

5 Without saying --- and this is a pattern over a
6 long period of time, so unless we're going to say he
7 was in Kuwait that entire period, that would be an
8 alibi defense. This is --- he was in and out all the
9 time, and we don't have a specific date. It's not an
10 alibi defense. I just goes towards his mental state
11 of whether or not he had reckless indifference --- not
12 reckless indifference, extreme indifference. He just
13 didn't know about it. That's what we were going to
14 argue.

15 MS. McDUFFIE: If he didn't know because he
16 wasn't there, how is that not alibi?

17 MR. LI: Because we're not saying that he was
18 specifically somewhere at a certain place. That's not
19 part of --- this happened over a period of time ---
20 they haven't specified exactly the period of time. I
21 know in their indictment they specified from June two
22 weeks prior to that, but obviously, this is a course
23 of conduct over a long period of time. The unlawful
24 neglect charge, the charge was from 2009 all the way
25 to July 1st, 2013. You can't expect to be given dates

1 every day of when he wasn't there. We just don't have
2 it. We just don't have it.

3 MS. McDUFFIE: Your Honor, then if he's not
4 arguing that he wasn't there from June 15th to July
5 the 1st, how is this relevant because that's when the
6 extreme indifference ---

7 MR. LI: Then this goes to the other charge.

8 THE COURT: Extreme indifference only applies to
9 the homicide charge.

10 MR. LI: This may go towards the other charge,
11 Your Honor, but in terms of the extreme indifference,
12 they brought in, under all these prior beatings, you
13 know, to show res gestae, however, they got all the
14 prior bad acts against Courtney, Ms. Thompson, in
15 they extended the period to all the way up until
16 to 2012.

17 THE COURT: All right. The homicide by child
18 abuse is alleged between June 15th and July 1st.

19 Is there going to be testimony that he wasn't
20 there during those dates?

21 MR. LI: No, doesn't have to be.

22 THE COURT: Okay. So this doesn't have anything
23 to do with extreme indifference.

24 MR. LI: Your Honor, but they brought in evidence
25 as to all these prior --- the coroner and pathologist

1 testified that the cause of death, the cause of death
2 was from a prolonged period of chronic abuse, not just
3 from those two dates. They brought in evidence of
4 incidents that happened back in 2012, incidents that
5 happened early 2012, early 2013, dates like Easter,
6 incidents that happened at Easter.

7 Your Honor, they're saying the cause of death is
8 from a prolonged period of chronic abuse. I know
9 their indictment only limits those two weeks, then
10 they're using --- they're going to use those incidents
11 to show the cause of death and to prove that charge.

12 We should be allowed an opportunity to --- we
13 should be allowed an opportunity to explain that
14 Mr. Guinyard wasn't extremely indifferent to human
15 life because most of those occasions, some of the
16 those occasions, he wasn't there. That's...

17 THE COURT: But I mean, there's no specific
18 dates. Is he going to be able to say, "I wasn't there
19 on Easter."?

20 MR. LI: Yes. There will be long periods of time
21 when he wasn't there, as well.

22 THE COURT: And how is that not an alibi? That's
23 what I don't understand. How is it not an alibi to
24 say, I wasn't there when it happened.

25 MR. LI: Because he was there for some of them,

1 and he was there for some of them, but this whole ---
2 the entire --- I didn't know all the incidents they
3 were going to go into --- they just extend the ---
4 when they brought in the evidence of --- they brought
5 in the testimony of all the prior beatings, Your
6 Honor. Some of them we can remember being there.
7 Some of them we can't remember being there.

8 They brought in a whole range of activities
9 because the pathologist said that it was a chronic, a
10 prolonged period of chronic abuse, Your Honor. It's
11 not an alibi defense when --- we're not making it an
12 alibi defense, Your Honor. It's going towards ---
13 it's not saying he wasn't there for some of it,
14 because they can still argue that he was there for the
15 majority of it if they want to.

16 There were times when he wasn't there, Your
17 Honor, and they're --- I just don't think --- I just
18 don't think it's an alibi. We're not saying there was
19 a specific location. I don't have an answer for you,
20 Your Honor, better than that. We don't intend it to
21 be an alibi. We're just trying to tell his story,
22 Your Honor, as a part of our defense.

23 THE COURT: What did the State put in its
24 Reciprocal Rule 5 as to the date and time of the
25 offense?

1 MS. McDUFFIE: Your Honor, we filed two
2 Reciprocal Rule 5's. I would have to pull the first
3 one; I don't remember what it says. The second one
4 says June 15th to July 1st. I don't recall off the top
5 of my head what the first one says, but we can go
6 through those.

7 THE COURT: I'm looking at one filed in October
8 that says July 1st.

9 MS. McDUFFIE: That would be the first one, Your
10 Honor.

11 THE COURT: Then I'm looking at one filed in May
12 that says from birth to death.

13 MR. LI: I can't provide an alibi from birth to
14 death.

15 THE COURT: How is he supposed to know what to
16 respond to when the majority of the State's witnesses
17 can provide no dates as to --- no specific dates as to
18 when these beatings occurred? I mean, let's take out
19 June 15th to July 1st, okay. I'm not considering that
20 timeframe, but prior to that very very few of the
21 State's witnesses have been able to give us more than
22 a general timeframe on when --- I'm just going to call
23 them the beatings, for lack of a better term,
24 occurred. How is he supposed to know what those
25 people's specific dates are?

1 MS. McDUFFIE: Your Honor, I agree that they
2 cannot give them, you know, this happened on this date
3 or this date. I mean, I completely ---

4 THE COURT: I understand that. I mean, in the
5 real world of alibi, and the normal world of alibi, we
6 know that something occurred on these three dates.
7 And then the State tells the defendant these three
8 dates and then the defendant says, well, "You know, I
9 was at the hunt club. I signed in and signed out and
10 five people saw me, so I couldn't have been there at
11 that time."

12 In this case, the witnesses --- there is no ---
13 and I don't want to say knowing, but they give general
14 timeframes, but very rarely do they give --- we heard
15 Easter weekend. Is that Good Friday, or Saturday, or
16 Sunday. No one knows. I mean, how is he supposed to
17 --- how is anybody supposed to reply to the alibi
18 defense when in the Reciprocal Rule 5, we have from
19 the day the child was born to the day the child died.

20 MS. McDUFFIE: Your Honor, I completely agree
21 with you that the dates the witnesses have given have
22 been somewhat ambiguous as to --- I think in some
23 cases its been limited to that this occurred in late
24 May or in ---

25 THE COURT: Right, right.

1 MS. McDUFFIE: --- general terms such as those,
2 Your Honor. I don't think that we are demanding from
3 him when the exact dates you were out. We haven't
4 even be provided that he was out of the home the
5 winter. We haven't been provided with any information
6 whatsoever as to when he was allegedly out of the
7 home, Your Honor. So, I don't think we can sit here
8 and demand, you know, you tell us you were gone from
9 April 20th to May 1st, but a general time of when he
10 was out of the home, I think we are entitled to that,
11 Your Honor.

12 MR. LI: Your Honor, we read the discovery. The
13 pathologist said it's a prolonged period. If we could
14 limit it to, I guess, April 2012 to July 1st, I can
15 talk about those times that he wasn't at the home.
16 Your Honor, to provide an alibi defense for a person's
17 entire lifetime ---

18 THE COURT: No, no, no. But here is the thing.
19 You know that the witnesses say there is an incident
20 that occurred at Easter. You're now telling us he
21 wasn't there in Easter.

22 MR. LI: They're own --- they're own --- they're
23 own witness said that. There was --- there were two
24 times --- I think one other --- I think one other
25 witness said he was not --- it was Natalie who said he

1 was not there for that time. Other people have
2 already testified to that.

3 THE COURT: But why are you not required to
4 respond to the dates that you know about?

5 MR. LI: They have to provide us what dates
6 they're accusing him of.

7 THE COURT: In the witness statements, I assume
8 these people testified to and give a general
9 timeframe. Why are you not required to respond that?

10 MR. LI: I believe they were not specific enough.
11 I don't know if that was ever a question. I think in
12 the statement --- I think they mentioned that Antonio
13 wasn't there, so I don't --- it was in their own
14 statement that he wasn't there for Easter and the
15 times we're going to talk about --- we have a couple
16 of specific dates, but I don't think there were any
17 allegations during those specific times, or any
18 specific allegations in the discovery. It was all
19 just a general, you know, this child was beaten for a
20 prolonged period of time. It was chronic abuse that
21 happened for an extended period.

22 It's not like a murder case where they tell you
23 this weekend or this date, so that we could tell them,
24 well, on this date we plan on saying he wasn't there.
25 We're not planning on saying he was --- we're not

1 saying he was never there, Your Honor. That's not the
2 purpose of our defense. That's why we don't consider
3 it an alibi defense when the timeframe was for the
4 extended dates unless we had an excuse that said he
5 was out of the country or something, but he was there
6 for some of it, and he wasn't there for some of it.
7 It doesn't --- the dates weren't --- there weren't
8 specific allegations. We weren't going to say he
9 wasn't there ---

10 THE COURT: Why didn't you provide them with
11 dates he wasn't there? That's the question. You were
12 told the incident date is from birth until death. Why
13 didn't you provide them with specific dates he wasn't
14 there?

15 MR. LI: Because there were so many.

16 THE COURT: That's not what the rule says.
17 That's not what the rule says. There is a rule of
18 criminal procedure that says upon written request of
19 the State stating the date and time at which time the
20 alleged offense occurred, you shall serve them within
21 ten days your opportunity to present an alibi.

22 MR. LI: We didn't consider it an alibi, Your
23 Honor.

24 THE COURT: Because you --- I mean, you just
25 can't say, "Well, I didn't think it was an alibi." If

1 you're going to say the defendant wasn't there --- if
2 you're going to say my client wasn't there when
3 something happened and that something that happened
4 is a crime, you have to provide notice of an alibi
5 defense.

6 MR. LI: When he wasn't there when there was an
7 allegation of a crime, we don't know there is an
8 allegation of a crime at the time that he wasn't ---
9 the times that he is going to testify that he wasn't
10 there. There is no specific dates saying that he
11 wasn't beat. If you look at the specific statements,
12 I think the statement itself said he wasn't there.

13 We don't know if there was --- the timeframe that
14 he is going to be gone for, okay, that's going to be
15 testified to by Ms. Gladys Thompson and Antonio and
16 Charles somewhere between May and September. He was
17 put out of the house in 2012. There was never a
18 specific allegation of a beating within that timeframe
19 and so we --- we can't respond to something that
20 happened all the time that happened over and over
21 again, and Mr. Guinyard doesn't know about those
22 times.

23 MS. McDUFFIE: Your Honor, my question is how is
24 it relevant if there is no allegation that abuse
25 occurred? I mean, how is that relevant?

1 THE COURT: He is going to say it's relevant
2 because apparently these witnesses are going to say
3 that the child was continued to be beaten during the
4 time he wasn't there.

5 MS. LI: Yes, and there was a difference in
6 attitude, a difference in mood, a difference in
7 behavior, noticeable difference.

8 THE COURT: So your timeframe that you say he
9 wasn't there was May to September of 2012?

10 MR. LI: May to September 2012 he was kicked out
11 of the home. These was a period of time --- and these
12 are for the long stretches. These aren't just for the
13 one nights or one week periods between --- towards the
14 end of 2012, there is a three week period where he was
15 gone from the home and everything else was just a week
16 here and a week there. No specific allegations were
17 ever made during those times.

18 And the other times that they brought up, my
19 client is going to testify that he was there. So it
20 wasn't that he was never there for the beatings. He
21 was there for some of it. It's going to show that the
22 child acted differently.

23 THE COURT: So did any of the State's witnesses
24 testify that beatings occurred between May and
25 September of 2012?

1 MS. McDUFFIE: Your Honor, not that I recall.

2 (Pause.)

3 Your Honor, if the testimony is, as I understand
4 it, is going to be that he was gone continually from
5 May to September, or May through September ---

6 MR. LI: Roughly, Your Honor.

7 MS. McDUFFIE: May through September of 2012 and
8 a three week period at the end of 2012, and was not
9 gone ---

10 MR. LI: Those are the longest periods of
11 continuous time that he was not allowed to sleep at
12 the home. That's all we're saying. He did come in
13 and out. Those were two major times for the longest
14 continuous periods of time.

15 THE COURT: Where he was not allowed to sleep at
16 night.

17 MR. LI: That's right. We're not saying he was
18 completely gone or he didn't know the difference. He
19 didn't go to Atlanta or anything like that.

20 MS. McDUFFIE: If that's the extent of testimony,
21 Your Honor, then we're fine.

22 THE COURT: Okay. All right. Anything else
23 before I go over the rights?

24 Yes, Mr. Ruffin?

25 MR. RUFFIN: Just briefly, Your Honor. I just

1 want to go over --- the threats to call the cops ---
2 to talk about, okay, that she kicked him out of the
3 house, how would she do that, because by threatening
4 to call the cops --- the underlying reasons for
5 calling the cops, did she do that, how would she do
6 that, it would be admissible under your rulings; is
7 that right?

8 THE COURT: Yes.

9 MR. RUFFIN: And, last, I neglected --- I missed
10 this one earlier, Gladys Thompson, Courtney's mother
11 testified that she was kicked out of the house also
12 for standing up for the victim. We would ask that
13 that be --- that that testimony not be allowed because
14 it is irrelevant. Again, it is not relevant to
15 Antonio, whether he was kicked out or not. I don't
16 think it has anything to do with Courtney or Antonio,
17 you know, acted unlawfully towards CHILD or caused
18 CHILD's death. We would ask that not come in
19 either. I didn't say anything about that earlier.

20 THE COURT: Mr. Li?

21 MR. LI: Your Honor, I think that goes --- I
22 think the State has already insinuated that there has
23 been some pattern of covering up for CHILD. This
24 just goes to show that this has been a pattern of when
25 somebody would stand up for CHILD. When somebody

1 would stand up for [CHILD], not only has she kicked out
2 Antonio, she has kicked out other people, as well, for
3 standing up for [CHILD].

4 THE COURT: Yes, I think that's admissible.

5 MR. RUFFIN: We would argue that she has already
6 testified in the State's case in chief and nothing she
7 is saying is adding anything. We think it's improper
8 because of that.

9 THE COURT: I understand. Thank you, Mr. Ruffin.
10 I'm going to allow that testimony. I think it goes
11 directly to the issue that Defendant Guinyard is
12 trying to make and introduce. I think it further goes
13 directly to the elements of the crime that she is
14 charged with and that it's prejudicial effect would
15 not outweigh its probative value.

16 All right. Let's start with Mr. Guinyard.
17 Mr. Guinyard, stand up for me. Raise your right hand.

18 ANTONIO GUINYARD,
19 after being duly sworn, testified as follows:

20 THE COURT: Okay. I need to have a conversation
21 with you, okay?.

22 DEFENDANT GUINYARD: Yes, sir.

23 THE COURT: You need to speak up for me so I can
24 hear you loud and clear, all right?

25 DEFENDANT GUINYARD: Yes, sir.

1 THE COURT: At this time, I'm going to explain to
2 you your constitutional rights. If you do not
3 understand anything that I say, just tell me. If you
4 want me to explain anything in more detail, please let
5 me know that. Do you understand what I've said so
6 far?

7 DEFENDANT GUINYARD: Yes, sir.

8 THE COURT: All right. Now, we have reached the
9 stage of the trial, or we are about to reach the stage
10 of the trial where you may present your defense if you
11 want to. You have the right to claim the protections
12 given to you by the Fifth Amendment to the
13 Constitution of the United States of America. This
14 amendment states in part that no person shall be
15 compelled in any criminal case to be a witness against
16 himself.

17 This simply means that you cannot be required to
18 testify in this case. You have the right to testify
19 on your own behalf. However, nobody in this courtroom
20 or outside of this courtroom can make you testify.
21 This right is a personal right. It belongs to you and
22 you alone and nobody can waive or give up this right
23 except you. Do you understand what I've said so far?

24 DEFENDANT GUINYARD: Yes, sir.

25 THE COURT: Okay. If you decide to testify, you

1 will be subject to the same rules that govern other
2 witnesses, and you may be examined and cross-examined
3 on any relevant issue in this case.

4 Now, do we have any convictions that you would
5 attempt to introduce if he testified?

6 MS. McDUFFIE: Your Honor, there's a false
7 information from July of 2012.

8 THE COURT: Okay. Now, if you were to testify
9 and you had a conviction involving dishonestly or
10 false statement, which apparently you do, and they are
11 able to convince me that you do or for crimes
12 punishable by imprisonment for more than one year and
13 I determine that the probative value of admitting this
14 evidence outweighs its prejudicial effect, the
15 solicitor may be able to introduce your record to
16 attack your credibility. At this point in time the
17 only thing they would intend on offering would be your
18 false information to the police. Do you understand
19 that?

20 DEFENDANT GUINYARD: Yes, sir.

21 THE COURT: Okay. Now, if you decide to testify,
22 this decision on your part must be made freely,
23 voluntarily, and intelligently with the knowledge of
24 the protections given to you by the Fifth Amendment
25 and the consequences of your decision to testify.

1 If you decide not to testify, I'll instruct the
2 jurors that they cannot give the fact that you did not
3 testify any consideration whatsoever and that there is
4 to be absolutely no prejudice to you because you did
5 not testify. It is left entirely up to you whether or
6 not you testify. You may talk with your attorney,
7 your family or anyone else, but the final decision
8 will be yours and yours alone. Do you understand
9 that?

10 DEFENDANT GUINYARD: Yes, sir.

11 THE COURT: Do you understand everything that
12 I've explained to you so far?

13 DEFENDANT GUINYARD: Yes, sir.

14 THE COURT: Have you and Mr. Li discussed whether
15 or not you should testify in this case? Have you
16 talked about it?

17 DEFENDANT GUINYARD: Yes.

18 THE COURT: Okay. You and him have had a
19 conversation about the pros and the cons of
20 testifying?

21 DEFENDANT GUINYARD: Yes, sir.

22 THE COURT: Okay. Now, do you have any questions
23 about what I've just explained to you?

24 DEFENDANT GUINYARD: No, sir.

25 THE COURT: Okay. All right. Now, I'm not going

1 to ask you right now if you want to testify or not
2 because you haven't heard all the State's case. I'm
3 just doing this now to save some time a little bit
4 later. Once the State's case is over and directed
5 verdict motions are made, I'll come back to you and
6 ask whether or not you want to testify. Do you
7 understand that?

8 DEFENDANT GUINYARD: Yes, sir.

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

10 All right. Ms. Thompson, please stand.

11 COURTNEY THOMPSON,
12 after being duly sworn, testified as follows:

13 THE COURT: Okay. At this time, I'm going to
14 explain to you some of your rights, the same rights I
15 just explained to Mr. Guinyard. If you do not
16 understand anything that I say, just let me know.
17 You're not going to bother me or offend me. I want to
18 make sure you understand what you're doing. Okay?

19 DEFENDANT THOMPSON: Yes, sir.

20 THE COURT: If you want me to explain anything in
21 more detail, just let me know. I'll be happy to do
22 that, too. Do you understand that?

23 DEFENDANT THOMPSON: Yes, sir.

24 THE COURT: We have now reached or are about to
25 reach the stage of the trial where you may present

1 your defense. You have the right to claim the
2 protections given to you by the Fifth Amendment to the
3 Constitution of the United States of America. This
4 amendment states in part that no person shall be
5 compelled in any criminal case to be a witness against
6 himself. This means that you cannot be required to
7 testify in this case.

8 You have the right to testify on your own behalf.
9 However, nobody can make you testify. This is a
10 personal right, and no one can waive or give up that
11 right except you.

12 If you decide to testify, you will be subject to
13 the same rules that govern other witnesses and you may
14 be examined or cross-examined on any relevant issue in
15 this case.

16 Does she have any prior convictions that you
17 would use?

18 MS. McDUFFIE: No, Your Honor.

19 THE COURT: Okay. So they have no prior
20 convictions that they would bring up against you as to
21 your truthfulness. Do you understand that?

22 DEFENDANT THOMPSON: Yes, sir.

23 THE COURT: If you decide to testify, this
24 decision on your part must be made freely, voluntarily
25 and intelligently with the knowledge of the

1 protections given to you by the Fifth Amendment and
2 the consequences of your decision to testify. If you
3 decide not to testify, I will tell the jurors that
4 they cannot give the fact that you did not testify any
5 consideration whatsoever and that there is to be
6 absolutely no prejudice to you because you did not
7 testify. It is left entirely up to you whether or not
8 you testify.

9 You may talk with your attorney, your family or
10 anyone else, but the final decision is entirely yours.
11 Do you understand everything that I've explained to
12 you so far?

13 DEFENDANT THOMPSON: Yes, sir.

14 THE COURT: Do you have any questions about what
15 I've explained to you so far?

16 DEFENDANT THOMPSON: No, sir.

17 THE COURT: Have you and your lawyers talked
18 about whether or not you should testify?

19 DEFENDANT THOMPSON: Yes, sir.

20 THE COURT: Okay. Now, I'm not going to ask you
21 right now if you want to testify or not because you
22 haven't heard all the State's evidence, okay, but it
23 takes a while to explain all that. That's why I'm
24 explaining it now. Once the State rests their case
25 and we make directed verdict motions I'll then come

1 back to you and ask if you want to testify, okay?

2 DEFENDANT THOMPSON: Yes, sir.

3 THE COURT: Thank you, Ms. Thompson, you may be
4 seated.

5 Anything further from the State before we begin?

6 MS. McDUFFIE: Judge, can we just have two
7 minutes to make sure our witnesses are here?

8 THE COURT: Yes.

9 (Pause.)

10 THE COURT: How long do you think this witness
11 will take?

12 MS. McDUFFIE: We have two witnessed and I think
13 direct will take no more than ten minutes.

14 THE COURT: Okay. All right. Anything further
15 before we start, Mr. Li?

16 MR. LI: No, Your Honor.

17 THE COURT: Ms. Pinnock?

18 MS. PINNOCK: No, Your Honor.

19 THE COURT: And let me, just to make sure the
20 record is clear, on the issue that Mr. Li has brought
21 up about putting in this additional testimony, I have
22 done a 403 analysis. I believe that the probative
23 value of it outweighs its prejudicial effect.

24 Further, Mr. Guinyard has a constitutional right
25 to present a defense in this case, and that is a

1 serious consideration that I am giving and taking into
2 consideration in my ruling, and I believe that that
3 constitutional right to present its defense outweighs
4 any rule of evidence that may come into play in
5 regards to Ms. Thompson. That is the issue that I am
6 considering in making the decision that I made on
7 allowing --- on limiting, but allowing this
8 information in, both as to the issues that we raised
9 and what we --- I don't know what --- I don't know
10 what we call it now, but the issues that are going to
11 be the main thrust of Mr. Guinyard's defense and me
12 balancing his constitutional right to present that
13 defense.

14 Okay. All right. Let's bring the jury in.

15 (Pause.)

16 (The jurors were not all present.)

17 (There was a brief recess.)

18 (WHEREUPON, the jury entered the courtroom at
19 10:45 a.m.)

20 THE BAILIFF: All jurors are present, Your Honor.

21 THE COURT: Thank you very much. Welcome back,
22 ladies and gentlemen. I hope you had a nice three day
23 weekend. There was no snow, so we're all back
24 together again.

25 You may call your next witness.

1 MS. WALKER: Thank you, Your Honor. The State
2 recalls Angela Metze.

3 MS. PINNOCK: Your Honor, we would object under
4 611.

5 MS. WALKER: I didn't understand what she said.

6 MS. PINNOCK: Objection, 611.

7 MS. WALKER: Can we call another witness, and
8 then readdress that momentarily?

9 THE COURT: Yes.

10 MS. WALKER: Your Honor, the State calls Scott
11 McDonald.

12 SCOTT McDONALD,
13 after being duly sworn, testified as follows:

14 THE CLERK: Please have a seat. State your full
15 name for the record.

16 THE WITNESS: Scott McDonald.

17 DIRECT EXAMINATION:

18 BY MS. WALKER:

19 Q Good morning, Captain McDonald.

20 A Good morning.

21 Q Where are you currently employed?

22 A Richland County Sheriff's Department.

23 Q How long have you been with the sheriff's
24 department?

25 A Twenty-six years.

1 Q And what are your duties with the sheriff's
2 department?

3 A I'm a captain at the Major Crimes Unit, also over
4 at the Technical Services Unit and the Intelligence
5 Unit, as well.

6 Q As part of your duties, do you analyze phone
7 records?

8 A I do, yes.

9 Q And, I guess, what's called a cell phone dump?

10 A Yes.

11 Q Do you have training in this field?

12 A Yes, I do. I've been through several seminars
13 over the years, and also in conducting these type of
14 investigations and doing actual cell phone dumps.

15 Q The seminars that you've been to, are they
16 training on analyzing cell phone records and data?

17 A They are, they are actually hands-on, doing the
18 actual download and then analyzing the data that you
19 recover from the phone.

20 Q Roughly how many seminars have you been to in
21 this field?

22 A Probably five to six.

23 Q And have you --- do you sometimes do this for the
24 city of Columbia Police Department, as well?

25 A Yes, I do.

1 Q Have you testified as an expert in cell phone
2 data analyzation before?

3 A Yes, I've been certified eight times in the state
4 of South Carolina.

5 MS. WALKER: Your Honor, at this time we'd offer
6 Captain McDonald as an expert in the field of cell
7 phone data analysis.

8 THE COURT: Voir dire?

9 MR. LI: Yes, Your Honor, I have a couple of
10 questions.

11 THE COURT: Okay.

12 MR. LI: Investigator McDonalds, have you been
13 trained in using the Cellebrite, the Cellebrite ---

14 THE WITNESS: The Cellebrite system, sir? Yes, I
15 have.

16 MR. LI: Have you been updated with all the
17 versions?

18 THE WITNESS: Yes.

19 MR. LI: No further questions.

20 MS. PINNOCK: Your Honor, I don't have any
21 questions, but I would have an objection that I'd like
22 to approach Your Honor about.

23 THE COURT: Okay. Approach.

24 (WHEREUPON, a bench conference was held in the
25 presence, but not within hearing of the jury.)

1 THE COURT: All right. Ladies and gentlemen,
2 please step back to your jury room. We will be back
3 with you in just a minute. Keep an open mind, don't
4 discuss the case.

5 (WHEREUPON, the jury left the courtroom at
6 10:51 a.m.)

7 THE COURT: Okay.

8 MS. PINNOCK: I'm sorry, Your Honor, he doesn't
9 have a follow-up in this case. His name wasn't on our
10 witness list.

11 MR. LI: We have no information as to what this
12 witness is going to testify to or whatever information
13 the State has.

14 (attorneys cross-talking)

15 THE COURT REPORTER: I'm sorry, I did not hear
16 what ---

17 MR. LI: Your Honor, we have no idea what this
18 witness is going to testify to, and we been provided
19 no additional information about the witness.

20 MS. PINNOCK: And, Judge, unless I'm missing it,
21 he's not on the witness list.

22 MS. WALKER: May I see a copy of the witness
23 list?

24 MS. McDUFFIE: Judge, the substance of --- his
25 testimony is based on the phone records which they

1 have been provided, and it's limited to the portion of
2 the phone records which we have agreed on the
3 redaction, Your Honor, and he is simply addressing
4 those phone records. There is no information that
5 he's addressing that's not contained in the phone
6 records.

7 THE COURT: I don't even see his name on the
8 witness list.

9 MS. McDUFFIE: Your Honor, I think that was
10 inadvertently left off.

11 THE COURT: I'm not going to allow this witness
12 to testify. You may step down, sir. Thank you.

13 Okay, let's talk about Angela Metze. Why are you
14 recalling Angela Metze?

15 MS. McDUFFIE: Your Honor, on cross-examination
16 --- or I think on recross by the defense, we had
17 specifically not gone into Angela Metze about how when
18 she dropped Courtney off at the house for the
19 coroner's office's reenactment and that Courtney had
20 called her and left the phone on so that she could
21 hear what was going on. We specifically did not do
22 that because of ---

23 THE COURT: Whoa, whoa, whoa. I'm sorry. Say
24 that one more time. Refresh my --- Angela Metze is
25 the one who drove Ms. Thompson to the reenactment.

1 MS. McDUFFIE: Yes, sir.

2 THE COURT: Is that right?

3 MS. McDUFFIE: Yes, sir.

4 THE COURT: She was also the foster parent of the
5 child?

6 MS. McDUFFIE: She is the current foster parent
7 of a child.

8 THE COURT: Current foster parent. Okay.

9 MS. McDUFFIE: Yes.

10 THE COURT: But she wasn't the foster parent that
11 kept the victim for that extended period, right.

12 MS. McDUFFIE: No, Your Honor.

13 THE COURT: So she drops Ms. Thompson off at the
14 reenactment on the 2nd.

15 MS. McDUFFIE: Yes, and Ms. Thompson calls her,
16 and leaves the phone on, and she can hear what's being
17 said between Jane Powell during this ---

18 THE COURT: I'm following you now, okay.

19 MS. McDUFFIE: Your Honor, we specifically didn't
20 bring that up because we didn't want to elicit the
21 testimony --- there were so many Bruton issues with
22 Jane Powell ---

23 THE COURT: Right.

24 MS. McDUFFIE.: --- and the video and how to
25 redact that.

1 THE COURT: Right.

2 MS. McDUFFIE: That's why we did not approach
3 that subject. Then it wasn't brought up with her
4 until recross when Mr. Staggs asked her about a 55
5 minute phone call, Your Honor. We are recalling her
6 for the sole purpose of her being able to say
7 "Courtney called me, and I heard what was going on
8 while she was speaking with Jane Powell." That would
9 be the extent of testimony that we would intend to
10 elicit.

11 THE COURT: All right, Mr. Li.

12 MR. LI: I'll defer to Ms. Pinnock, Your Honor.

13 THE COURT: Okay, Ms. Pinnock.

14 MS. PINNOCK: Thank you, Your Honor. May it
15 please the Court. The State has had the opportunity
16 to question this witness. The fact there is a phone
17 call, it's on the records. Investigator Holdorf
18 testified about the phone call. Ms. Metze already
19 testified about the phone call. This witness has been
20 questioned by all parties and has been released. I
21 don't think there is anything that recalling her is
22 going to add. Everybody is acknowledging there is a
23 phone call. I don't think this is a substance ---

24 THE COURT: Yeah, but does the substance of the
25 cross-examination, was that that Investigator Powell

1 was somehow misleading somebody because during the
2 timeframe that she was at the reenactment,
3 Ms. Thompson was on the phone with Ms. Metze?

4 MS. PINNOCK: I don't think that --- that's not
5 what we were implying. All we did was ask about the
6 phone call. The phone call is in the records. We're
7 not saying it doesn't exist. It's in the records at
8 that specific time. I know that's what I asked
9 Investigator Holdorf about was the time, the length of
10 the phone call.

11 What the substance of it was, we never discussed.
12 We didn't bring up. The fact there is a phone call
13 was already in evidence. There was nothing that's
14 necessary at this point. The State has already had a
15 chance to question this witness. They are choosing to
16 not to ask her certain questions --- it's up to them
17 on how they're prosecuting their case, but at this
18 point it's not rebuttal. There is no necessity for
19 them to recall her to add anything more than what's
20 already in the record.

21 THE COURT: All right. I'll allow it. I mean,
22 the question on cross-examination was directly to
23 imply that there was some --- I'm going to use the
24 word 'error' in the State's handling of the case
25 because she was on the phone the entire time that she

1 was allegedly at the video reenactment and how could
2 all of that have been the same, so I am going to allow
3 it.

4 I'll tell them about Captain McDonald. Bring the
5 jury back in.

6 MS. McDUFFIE: Judge, could we get her back in
7 the courtroom before?

8 THE COURT: Yes. Sure.

9 (Pause.)

10 (WHEREUPON, the jury entered the courtroom at
11 10:57 a.m.)

12 THE COURT: Ladies and gentlemen, sorry about
13 that. You will disregard any testimony from Captain
14 McDonald.

15 The State may call its next witness.

16 MS. WALKER: The State calls Angela Metze.

17 THE COURT: All right. You may come forward and
18 be sworn, Ms. Metze.

19 ANGELA METZE,
20 after being duly sworn, testified as follows:

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

23 THE BAILIFF: State your full name for the
24 record.

25 THE WITNESS: Okay. Angela Elaine Metze.

DIRECT EXAMINATION:

BY MS. WALKER:

Q Ms. Metze, you have previously testified in this case?

A Yes, ma'am.

Q And you --- in that testimony, you talked about giving Courtney Thompson and Antonio Guinyard a ride to their house for a meeting with the coroner's office?

A Yes, ma'am.

Q There was a phone call in question that happened on July 2, 2013, during that meeting. Do you recall that phone call to you?

A Yes, ma'am.

Q What was the purpose of that phone call?

A Courtney just called me when they were doing the reenactment and she didn't really talk to me. She just called and said hold on. We heard what was going on with the reenactment.

Q Okay. You could hear that from Courtney's phone?

A Yes, ma'am.

Q And you could hear the reenactment going on?

A Somewhat, yes, ma'am.

Q And you were aware that for a period of time the family was at Allen Benedict Court?

1 A Yes, ma'am.

2 Q And are you aware of which county is that located
3 in?

4 A Richland County.

5 MS. WALKER: Thank you, ma'am. I don't have any
6 further questions.

7 THE COURT: Cross-examination?

8 MR. LI: No questions, Your Honor.

9 THE COURT: Ms. Pinnock.

10 MS. PINNOCK: No questions, Your Honor.

11 THE COURT: Thank you, ma'am. You may step down.
12 Have a nice day.

13 Call your next witness.

14 MS. WALKER: Your Honor, at this time the State
15 rests.

16 THE COURT: All right, ladies and gentlemen, at
17 this point in time the State has rested their case in
18 chief. I have a matter of law which I must discuss
19 with the attorneys. I'll ask that you retire to your
20 jury room. Do not discuss the case. I will be back
21 with you in just a few minutes. Thank you very much
22 for your patience.

23 (WHEREUPON, the jury left the courtroom at
24 11:01 a.m.)

25 THE COURT: All right. Directed verdict motions.

1 MS. EISENHOWER: At this time, the defense for
2 Mr. Guinyard would like to make a motion for a
3 directed verdict.

4 THE COURT: All right.

5 MS. EISENHOWER: Thank you, Your Honor. May it
6 please the Court.

7 THE COURT: Yes, ma'am.

8 MS. EISENHOWER: Case law states that in order to
9 overcome a motion for a directed verdict, the State
10 must show either direct or substantial circumstantial
11 evidence.

12 Your Honor, in this case, the State was provided
13 a very specific timeframe in their indictment for
14 homicide by child abuse. It was June 15th to July 1st,
15 a period of about two weeks.

16 Within that two week time period, the State has
17 not presented any direct evidence as to Mr. Guinyard's
18 guilt as it concerns physically abusing the child. As
19 far as neglect, there was no direct evidence of
20 neglect that actually resulted in the child's death.

21 The only direct evidence of neglect, Your Honor,
22 is that Mr. Guinyard left **CHILD** lying in a puddle of
23 urine and did not feed him for that day. The State's
24 own witness, Dr. Durso, testified that that kind of
25 neglect is not what led to **CHILD**'s death.

1 As far as circumstantial evidence goes,
2 circumstantial evidence that was admitted as to
3 Mr. Guinyard beating [CHILD], we would --- we would
4 submit that it was not substantial circumstantial
5 evidence. First of all, the shower rod with Antonio's
6 blood on it, the State cannot prove when that blood
7 appeared on the shower rod and therefore, they cannot
8 show that Antonio's blood appeared on the shower rod
9 in that two week timeframe provided for in the
10 indictment.

11 Further, Mr. Guinyard's blood on the shower rod
12 is more indicative actually that he himself was hit
13 with the rod than he injured his son with the rod.
14 There is testimony from Ms. Thompson's mother and
15 sisters in their statements to law enforcement that
16 they had seen Antonio possibly hit [CHILD] on the side
17 with a closed fist.

18 On the stand, however, they were impeached to
19 change their statements, under oath, on the stand to
20 state that they had never seen Mr. Guinyard hit his
21 son. They only said they would spank him the way a
22 father would.

23 And, Your Honor, finally for circumstantial
24 evidence, Ms. Thompson's testimony regarding the phone
25 call, I would submit is not substantial. She was

1 impeached three separate times on the stand, once by
2 Ms. Campbell, once by Mr. Li, and once by Ms. Pinnock.
3 She only states that she heard Courtney tell Antonio
4 to hold [CHILD]'s legs. She never says that she heard
5 Antonio say okay or that he actually held [CHILD]'s
6 legs.

7 Finally, the phone call was a total of two
8 minutes and eleven seconds. I've taken a look at the
9 phone log and there were no back-to-back phone calls
10 as Crystal testified there were. I believe she said
11 there was a butt dial and the phone called back
12 Ms. Thompson's phone and she heard the beating taking
13 place, but on the phone log there is only one phone
14 call and that is the one that is two minutes, eleven
15 seconds.

16 I submit that's not nearly long enough for her to
17 have heard everything that she claims to have heard
18 between her speaking to Ms. Thompson about that her
19 giving birth, add to that beating, and the
20 conversation that she claims was going on between
21 Mr. Guinyard and Ms. Thompson.

22 And, Your Honor, I would say that any of the
23 circumstantial evidence that was submitted does not
24 amount to proof in this case.

25 The State vs. Hepburn, the South Carolina Supreme

1 Court stated that the trial court should grant the
2 directed verdict motion when the evidence merely
3 raises the suspicion that the accused is guilty, as
4 suspicion applied to belief or opinion as to guilt
5 based upon fact or circumstances, which do not amount
6 to proof.

7 Finally, Your Honor, causation is an element
8 under the statute of homicide by child abuse and I'd
9 argue that the State has not proven that
10 Mr. Guinyard --- but for Mr. Guinyard's actions or
11 inactions that CHILD's death would not have occurred.

12 THE COURT: Thank you, Ms. Eisenhower.

13 MS. McDUFFIE: Your Honor, I think that the
14 standard is that if there is any direct evidence or
15 circumstantial evidence, a person is guilty of
16 homicide by child abuse if they cause the death of a
17 child under 11 while committing child abuse or neglect
18 and the death occurs under circumstances manifesting
19 extreme indifference.

20 Child abuse or neglect is an act or omission
21 which causes harm to the child's physical welfare and
22 harm a person inflicts or allows to be inflicted upon
23 a child --- physical injury, including physical injury
24 from excessive corporal punishment.

25 Your Honor, this case is remarkably similar to

1 State v. Smith 359 S.C. 481. In that case, the court
2 deemed it proper to submit the case to the jury when
3 two people could have been responsible for the
4 injuries. In Smith, the court found that where the
5 evidence indicated that the defendants were the only
6 people who could have caused the injuries, which is
7 what is shown here, Your Honor, one of the two adults
8 clearly caused the injury and the evidence of the
9 victim's impairment should have been obvious to one or
10 both of the defendants, Your Honor. I think that we
11 have sufficiently proven that.

12 In respect to Mr. Guinyard with the elements of
13 unlawful conduct and homicide by child abuse, there is
14 substantial circumstantial evidence that Mr. Guinyard
15 inflicted at least one of the victim's injuries.
16 Further, the defendant was alone with the victim on
17 the 29th, 30th, and a good portion of the 1st. The
18 condition of the victim would have been rapidly
19 deteriorating on these days preceding the child's
20 death.

21 Further, the doctors testified that had he
22 received medical attention, he could have been saved
23 or lived, Your Honor, and it's very clear that this
24 defendant did nothing to help his son who was dying
25 before his eyes.

1 Further, Your Honor, there is the victim's own
2 statement, [REDACTED CHILD], that he had been
3 beaten with a pole, Your Honor. In State v. Palmer
4 and Gorman the court said that the court may properly
5 consider in deciding a directed verdict motion the
6 impossibility that these defendants in initial
7 statements are true in determining whether there is
8 substantial circumstantial evidence of each
9 defendant's guilt.

10 Judge, the homicide by child abuse statute, the
11 legislature enacted a criminal offense that recognizes
12 omissions. Both acts and the omissions that typify
13 the situation in which a helpless child perishes is
14 the result of an action --- is the result of an adult
15 action or criminal ambivalence, Your Honor. That's
16 exactly what we've shown here, Your Honor, and we're
17 asking that you deny the directed verdict motion as to
18 both charges for this defendant.

19 Your Honor, the cite for State v. Palmer and
20 Gorman, the South Carolina cite hadn't been published
21 yet, but it's 2014 Westlaw 551581.

22 THE COURT: All right. Do you have anything
23 further, Ms. Eisenhower?

24 MS. EISENHOWER: Yes, Your Honor, just briefly.
25 Ms. McDuffie cited, I believe it was State v. Smith.

1 I'd like to cite State v. Hepburn. In that case there
2 were also two defendants, one of which obviously had
3 inflicted the injuries on the victim and the State ---
4 or rather the Supreme Court stated that while
5 undoubtedly present at the scene, the only inference
6 that can be drawn from the State's case is that one of
7 the two co-defendants inflicted the victim's injuries,
8 but not that the appellant harmed the victim.
9 Therefore, they reversed the trial court's refusal to
10 direct a verdict of acquittal.

11 That's all I have for the homicide by child
12 abuse, Your Honor.

13 THE COURT: What about on the unlawful conduct
14 towards a child?

15 MS. EISENHOWER: We are just going to make a
16 motion for the record that there is no direct or
17 circumstantial evidence.

18 THE COURT: All right. Both your motions made
19 under Rule 19 of the South Carolina Rules of Criminal
20 Procedure as to both charges are denied. The court is
21 only concerned with the existence or nonexistence of
22 the evidence and not its weight. I find that there is
23 sufficient evidence that has been presented throughout
24 the trial to meet the elements of the crime by the
25 State and the standard that is before me now. All

1 right.

2 Who is arguing over here?

3 MS. PINNOCK: May it please the Court, Your
4 Honor.

5 THE COURT: Ms. Pinnock.

6 MS. PINNOCK: Your Honor, at this time I would
7 like to make a directed verdict motion for the
8 defendant, Courtney Thompson. For the record, I would
9 make the motion based on the State has lacked to
10 provide any --- to submit any direct or circumstantial
11 evidence that Ms. Thompson is guilty of the unlawful
12 neglect. I'll make that for the record, Your Honor.
13 For the homicide by child --- for the unlawful neglect
14 charge.

15 For the homicide by child abuse, Judge, I am
16 moving for a directed verdict because the State has
17 failed to introduce any direct or substantial
18 circumstantial evidence that Courtney Thompson
19 inflicted the injuries that caused [CHILD] 's death.
20 Your Honor, I will also cite State v. Hepburn 406 SC
21 416. South Carolina Supreme Court reversed the
22 defendant's conviction because the court held that the
23 State --- even though they were able to raise to a
24 suspicion that one of the two defendants were the ones
25 that inflicted the injury that ultimately killed the

1 child, they said that suspicion did not reach the
2 level of --- did not cross over the threshold of a
3 case that should have been presented to the jury.

4 Your Honor, I would direct your attention to some
5 of the testimony that we have heard last week. We
6 have to keep in mind that there are two charges. The
7 State's main case and most of the testimony that we
8 have heard many from Ms. Thompson's family and other
9 witnesses that were called have been about incidents
10 that happened in the past. The indictment for the
11 homicide by child abuse was extended to cover
12 June 15th to July 1st. Even extended it to that time
13 period, it does not --- we have not heard any
14 testimony or any sort of evidence presented that
15 Courtney Thompson inflicted any injury or any abuse on
16 CHILD [REDACTED] throughout those dates.

17 The bulk of their case has been focused on the
18 unlawful conduct charge with what she has done
19 allegedly in the past, so I think we have to keep
20 these separate in looking at what evidence has been
21 presented when we're trying to figure out if this case
22 should be presented to the jury. They have not
23 presented any evidence, direct or circumstantial, that
24 Courtney Thompson caused any of these injuries, much
25 less the final injury that led to CHILD [REDACTED]'s death.

1 Your Honor, the doctor's testimony, also, I'd
2 draw your attention to Dr. Durso and Dr. Rosa, neither
3 one of the medical experts that the State called to
4 testify was able to say when an injury actually
5 occurred. We got more than 18 hours or less than 18
6 hours. We have, well there's some sort of injury that
7 happened that pushed his body over the edge that he
8 couldn't handle anymore. There is nothing specific
9 that's been alleged by the State within those two
10 weeks that they chose to extend the indictments to
11 that says that Courtney Thompson did anything to cause
12 those injuries.

13 We do know from the record, and Ms. McDuffie just
14 cited it, that Ms. Thompson was out of the house from
15 the 29th through most of the 1st. There has been no
16 evidence that there was anything wrong with CHILD
17 before she was admitted to the hospital. The only
18 evidence we have is what they're taking from her own
19 statement saying that there was something wrong with
20 him when she got home.

21 So, even with what happened --- with how they
22 have presented their evidence, Judge, and relying on
23 Ms. Thompson's testimony about where she was and what
24 she observed when she came home, it still does not say
25 that she was personally the one who inflicted these

1 injuries. I think the evidence that has been
2 presented by the State, viewing the evidence in the
3 light most favorable to them, Judge, that is the
4 standard and I understand that, but I don't think they
5 rise to the level of substantial circumstantial
6 evidence. It's circumstantial, but it's not
7 substantial circumstantial evidence, and I think it
8 just raises to a suspicion, a mere suspicion, that
9 Ms. Thompson was the one responsible for causing the
10 injuries. I don't think it's appropriate for the case
11 to make it to be presented to the jury for
12 Ms. Thompson so I'd ask you to grant the directed
13 verdict motion.

14 MS. McDUFFIE: Your Honor, we rely on our same
15 arguments previously stated. We believe that we've
16 shown both direct and very substantial circumstantial
17 evidence that not only was she present and knew about
18 the injury, knew about the impairment to her son, but
19 she caused the injury and impairment of her son for
20 both charges, Your Honor.

21 THE COURT: Anything further?

22 MS. PINNOCK: Yes, just for the record, Judge,
23 State v. Smith that was cited, that case is
24 distinguishable from this case because Mr. Smith was
25 convicted of the aiding and abetting in the homicide

1 by child abuse and that conviction actually was over
2 turned because it was an improper conviction in that
3 case.

4 I'd just like to make that distinction between
5 those two cases and Palmer, it was --- it's a 2014
6 case. It has not been given a cite, Judge. The
7 testimony in that case is distinguishable from this
8 one also because the medical testimony in State v.
9 Palmer was that the injuries --- all the doctors said
10 the injuries happened within a certain amount of time
11 with the two people --- Palmer and Gorman were the
12 only two people with the child at that time. That is
13 not the same situation we have here. There is
14 testimony, again, that Ms. Thompson was not even in
15 the house and we can't say when the injury occurred.
16 We can't say when any of this happened. I just want
17 to make a distinction between those two cases.

18 THE COURT: Thank you very much. You're motions
19 for a directed verdict are denied under Rule 19 and
20 the case law is present to look at the existence of
21 the evidence and not the weight and take it in the
22 light most favorable to the State.

23 All right. Mr. Guinyard, we've reached that
24 point in the trial --- stand up for me, please ---
25 where based upon our previous conversation you need to

1 let the court know whether or not, understanding all
2 of your constitutional rights that I explained to you
3 earlier, whether or not you want to testify in your
4 case or not?

5 DEFENDANT GUINYARD: Yes.

6 THE COURT: You do choose to testify?

7 DEFENDANT GUINYARD: Yes, sir.

8 THE COURT: Okay. Thank you very much. You may
9 be seated.

10 Ms. Thompson, please stand up. Understanding all
11 of your constitutional rights as I've explained them
12 to you earlier, your discussions with your attorney,
13 do you choose to testify in your case?

14 DEFENDANT THOMPSON: Yes, sir, I do.

15 THE COURT: Okay. Thank you very much.

16 All right.

17 MS. McDUFFIE: Judge, just procedurally, I'd
18 assume that Mr. Li calls a witness and then he is
19 crossed by the defense and then the State?

20 MS. PINNOCK: I thought it was the other way. I
21 thought they went first and then we went.

22 THE COURT: I would say --- Mr. Li calls a
23 witness, the State is going to cross them first and
24 the other side will cross them second.

25 MS. PINNOCK: Thank you.

1 THE COURT: Okay. All right. Are you going
2 first?

3 MR. LI: Yes, sir.

4 THE COURT: All right. Do you have all your
5 witnesses?

6 MR. LI: I'm going to get my witnesses.

7 THE COURT: All right.

8 MS. PINNOCK: I'm sorry, Judge, for the record,
9 we have an addition to our witness list.
10 Ms. Jacqueline Rickburn, we realized that we were
11 going to need to add her to our list.

12 THE COURT: What's her name?

13 MS. PINNOCK: I'm sorry?

14 THE COURT: What's her name?

15 MS. PINNOCK: Oh, sorry, Your Honor, it's
16 Jacqueline Rickburn, R-I-C-H-B-U-R-G, oh, Richburg,
17 I'm sorry.

18 THE COURT: Why was this not done earlier?

19 MS. PINNOCK: I'm sorry?

20 THE COURT: Why was this not done earlier?

21 MS. PINNOCK: She is an employee of 911
22 communications. The State rested their case without
23 introducing some stuff, so now we're going to be
24 forced to call her as a witness.

25 MS. CAMPBELL: We have no problems. We've

1 already marked the 911 call for ID.

2 THE COURT: Okay.

3 MS. WALKER: It's already been marked for ID.

4 THE COURT: All right. Bring in the jury.

5 (WHEREUPON, the jury entered the courtroom at
6 11:18 a.m.)

7 THE BAILIFF: All jurors are accounted for, Your
8 Honor.

9 THE COURT: Thank you very much. Thank you for
10 your patience, ladies and gentlemen. As you know, the
11 State has rested their case in chief. The defendants
12 now have an opportunity if they wish to put on a case.
13 As I have told you before, and I will continue to tell
14 you, they do not have to put on a case. They do not
15 have to present a defense. The burden of proof is
16 upon the State.

17 Mr. Li, do you care to present any witnesses?

18 MR. LI: Yes, Your Honor.

19 THE COURT: Okay. You may do so.

20 MR. LI: The defense calls Charles Robinson.

21 THE COURT: All right. Please come forward,
22 Mr. Robinson.

23 CHARLES ROBINSON,
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: Charles Eugene Robinson, Jr.

3 MR. LI: May it please the Court, Your Honor.

4 THE COURT: Yes, sir.

5 DIRECT EXAMINATION:

6 BY MR. LI:

7 Q Charles, where do you work?

8 A CSL Plasma.

9 Q And where did you work before that?

10 A Sam's Club on Forest Drive.

11 Q Where are you currently living?

12 A [REDACTED] Allen Benedict.

13 Q Allen Benedict Court?

14 A Yeah.

15 Q Can you describe, just kind of describe Allen
16 Benedict Court?

17 A It's like --- it's a neighborhood. A lot of
18 people are friendly. It's like the projects, you
19 know.

20 Q Okay. And how long have you lived there?

21 A Several months.

22 THE COURT: Could you scoot up just a little bit?
23 Thank you.

24 BY MR. LI:

25 Q How long have you lived there?

1 A Several months, close to a year.

2 Q And prior to that where did you live?

3 A Dixiana and Forest Avenue.

4 Q And do you know Courtney Thompson and Mr. Antonio
5 Guinyard?

6 A Yes, I do.

7 Q How do you know them?

8 A That's my fiancée's sister and brother.

9 Q And who is your fiancée?

10 A Natalie Thompson.

11 Q And she is one of the sisters?

12 A Sister of Courtney Thompson.

13 Q Have you had an opportunity to spend some time
14 together?

15 A Yeah, we do that quite frequently.

16 Q And what kind of situations have you had a chance
17 to get to know them?

18 A We would have family events like cook outs and
19 stuff like that at our house.

20 Q Were there times when you would drop off your
21 fiancée at their home in Allen Benedict Court when you
22 went to work?

23 A Yes, when I worked at Sam's Club and also when I
24 worked at CSL Plasma where I'm currently working at.

25 Q I'm sorry. Go ahead.

1 A We would be over at their house like every day.

2 Q So you would see them for a period of time and
3 see them every day?

4 A Yes.

5 Q Okay. Do you know their children?

6 A Yes.

7 Q Have you had a chance to hang out with them?

8 A Yeah.

9 Q Who are their children?

10 A It was CHILD , CHILD2 , CHILD 4 , and CHILD 3 .

11 Q And have you had a chance to be around when both
12 parents were around and interacting with the children?

13 A Yes. I have.

14 Q Okay. Just from what you observed and what you
15 witnessed, how would you describe Antonio and the way
16 he interacted with all his children?

17 A Antonio, from what I witnessed, he loved his
18 kids. They would take advantage of him because he
19 would threaten them all day and say he was going to
20 spank them, but he never did.

21 Q You never seen him beat any of his children?

22 A Not that I physically seen, no.

23 Q Now, let me ask you specifically, how did he
24 treat CHILD ?

25 A To me, he loved him. He didn't treat him no

1 different from how he treated any of his other kids.
2 I mean, there's been times that I've seen him and CHILD
3 together. Like there was one situation where CHILD hit
4 him.

5 Q Right.

6 A He hit him in the face because he wanted to go
7 outside, hit him in the face with his shoe because
8 Antonio was lying down. CHILD wanted to go outside and
9 Antonio was taking too long and I guess he wanted to
10 finish up his little nap or whatever and CHILD wasn't
11 playing that so he hit him. Antonio jumped up and was
12 like man somebody get this boy.

13 Q Right. And did you ever see him lay a hand on
14 that boy?

15 A No.

16 Q Have you ever witnessed a time when Antonio
17 wouldn't give food or water to CHILD?

18 A I've never physically seen it, no. Any time any
19 of those kids asked him for something, he would give
20 it to them. I know while we was there he did.

21 Q Have you ever seen him get mad at CHILD when CHILD
22 would ask him for water or food?

23 A I never have.

24 Q And you've been around them a lot?

25 A Yes.

1 Q Have you ever seen Courtney get mad at CHILD when
2 he would ask for something to drinking or eat?

3 A Yes, I have. There was one incident in
4 particular.

5 Q Go ahead and tell us about that.

6 A It was an incident where he was hungry or
7 whatever, and he had been sitting in the corner before
8 I went to work.

9 When I got off work, he was still sitting in the
10 same corner. They were saying that they were going to
11 order some pizza and so Antonio, he was excited. He
12 was telling them to get their shoes because they was
13 going to order pizza and he was like telling CHILD to
14 get your shoes boy, because we're getting ready to go
15 so we can get some pizza. He was telling all the kids
16 to get their stuff so they could go and get the pizza,
17 you know.

18 Q And what was CHILD at that point? What was his
19 reaction?

20 A Oh, he was like --- his face got lit up because
21 he was happy he was going to get the pizza. So CHILD,
22 he went to go get his shoes. Antonio was like, like
23 babe, --- you know, we be going to get home and get
24 the kids ---

25 Q Why are you shuttering like that?

1 A Cause that's how he would talk like and the way
2 he would talk to his kids.

3 Q Right.

4 A He's like, we be going to the house and we going
5 to be getting some pizza. Babe, we give the kids
6 three slices of pizza a piece. Courtney was like
7 three slices. So Antonio was like well, well, well,
8 we'll give them two then. She was like two slices,
9 you sure that's going to be enough --- that's going to
10 be too much. He is not going to eat that, and so
11 Antonio was like, he was dropping his head and was
12 like I guess we're going to have to give you one slice
13 of pizza. That same night they wound up not leaving,
14 so I had like a Debbie cake in my bag and ---

15 Q Slow down. Before you get to that, now I believe
16 that might --- has Courtney ever been mad at you for
17 giving CHILD food?

18 A Yes, she was.

19 Q Can you remember a particular time when she got
20 mad at you personally?

21 A Yes, the same incident with the pizza. When she
22 walked outside, I had the Debbie cake in my bag, and I
23 took the Debbie cake. I sat it on the chair. While
24 she was outside, I told him to go ahead and eat the
25 cake.

1 Q You're thinking this was the same incident, the
2 same night?

3 A It was the same night.

4 Q Okay.

5 A I told him to go ahead and eat the cake. When
6 she came back in, she caught him eating the cake. She
7 was like --- and I'm going to say it exactly how she
8 said it, okay?

9 Q Say it.

10 A She was like, "Man, who the fuck gave you a cake?
11 How you --- what you doing eating that?" So then I
12 came in. She was like, "You know you ain't supposed
13 to have that shit." So when I came in and she was
14 like fussing at him, so I was like, "I gave him the
15 cake. It was my bad. It was my fault. I gave him
16 the cake." She was like, "Well, you know he ain't
17 supposed to have fucking shit like that. I'm just
18 saying he ain't supposed to have stuff like that."

19 Q Has Antonio ever gotten mad for giving you
20 something like that to CHILD?

21 A No, me and Antonio has never had any verbal
22 altercations or anything.

23 Q Okay. Just in general, can you describe the
24 relationship between Antonio and CHILD?

25 A It was a loving relationship. Like I said, he

1 would threaten him and tell him he was going to do
2 something to him. Everybody knew he wasn't going to
3 do it. Even CHILD knew it because he would take
4 advantage of him.

5 Q Did the other children take advantage of him?

6 A Yes.

7 Q Did CHILD 2 take advantage of him?

8 A Yes.

9 Q Is there anything she would do in particular?

10 A CHILD 2, well, CHILD 2 is a tough cookie. Like
11 she is a boy trapped in a girl's body because anything
12 a little boy could do, she could do ten times better.

13 Q Right.

14 A And CHILD 2 would do stuff like she would mess
15 with him, hit him, run from him, just stuff like that
16 and she would kind of rough house with him.

17 Q Have you ever seen Antonio put his hand on
18 CHILD 2?

19 A No.

20 Q Do you remember a time in April of 2012 and
21 December of 2012 when Antonio wasn't at home for an
22 extended period of time without saying why he wasn't
23 there? Do you remember why he wasn't at the home for
24 an extended period of time?

25 A Yes, I do remember.

1 Q Did you still go around their apartment at that
2 point?

3 A Yes, we still did.

4 Q Did you know --- did you witness or know of any
5 beatings of CHILD2 during those times?

6 A Yes, I have.

7 Q And during those times, did you see a difference
8 in the way CHILD acted when it was --- when Antonio
9 wasn't around?

10 A Yes.

11 Q How would he act?

12 A He acted nervous like he was real jumpy and on
13 edge all the time.

14 Q Did it appear to you he was afraid of his mom?

15 MS. PINNOCK: Objection.

16 BY MR. LI:

17 Q From what you witnessed?

18 A From what I witnessed.

19 THE COURT: Rephrase the question.

20 BY MR. LI:

21 Q From what you witnessed and what you observed,
22 did it appear to you that CHILD2 was afraid of his
23 mother?

24 MS. PINNOCK: Objection, Your Honor.

25 THE COURT: Overruled.

1 BY MR. LI:

2 Q Go ahead.

3 A Yes, it did, because like you could tell a
4 difference when he wasn't around her versus when he
5 was around her. Like when he would be around her, he
6 would be nervous or he would be like ---

7 Q He would be asking for things?

8 A Yeah, he would ask for things, but not really.
9 He would like ask her and if she said no or whatever,
10 she would make him go stand back in the corner.

11 Q From what you observed, from what you witnessed,
12 was he afraid of his dad?

13 A No.

14 Q Have you ever personally witnessed Antonio stand
15 up to Courtney to get her to stop beating CHILD?

16 A In one incident in particular, yes, I have.

17 Q Yes, sir. Go ahead and tell us about that.

18 A It was an incident where ---

19 Q Right first of all, where were you at?

20 A We were at Allen Benedict Court. She was staying
21 in Apartment ■■■.

22 Q Okay.

23 A She had came and my fiancée had came in the
24 house.

25 Q Okay.

1 A When he came in the house like he was on
2 punishment for something.

3 Q Who was ---

4 A **CHILD** .

5 Q **CHILD** was going to punch you?

6 A No. He was on punishment for something.

7 Q Oh, he was on punishment?

8 A He was on punishment for something and when we
9 came in the house, he saw Natalie come in. First
10 thing he said --- like when he seen her come in the
11 house, he was asking where I was at because they
12 called me Black. And he's asking like, "Where Black.
13 Where Black at?" When I came in the house, he was
14 just like, you know, his face lit up. He went to run
15 over there to come grab me because I would like play
16 with him all the time, so when he went to run over
17 there, Courtney started fussing at him. She was
18 getting ready to punish him again and Antonio was
19 like --- she told Antonio to say something to him.
20 And Antonio really didn't say anything. He was like,
21 "Boy, didn't I --- didn't I tell you --- come on, boy,
22 let's go outside," like he was trying to divert the
23 situation from **CHILD** getting in trouble. He was like,
24 "He already on punishment, just come on boy. Let's go
25 outside."

1 Q I got you. You've had a chance to be around when
2 Courtney and Antonio were both at the home, correct?

3 A Yes.

4 Q Have you ever seen Courtney get mad at Antonio
5 for not hitting CHILD?

6 A Yes, I have.

7 Q What were some of the things that she would say?

8 A Well, she ---

9 Q What would she say to Antonio?

10 A She told Antonio that --- well, she wanted
11 Antonio to punish him because he had used the bathroom
12 on the floor, and Antonio wouldn't do it. He was like
13 he just went upstairs and he was upstairs. I don't
14 know what he was telling CHILD, but when they was
15 coming back downstairs and Courtney told Antonio, she
16 was like, "Oh, you ain't going to spank him? You
17 ain't no man. You ain't no man. He going to be a
18 punk just like you. You ain't no man."

19 Q What does the word punk mean in your ..

20 A Like to me it means like he is less than a man
21 like he is going to be a cry baby or a little girl.

22 Q Okay. Have you ever witnessed a time when CHILD
23 was beat with a cable cord and Antonio wasn't home?

24 A Yes, I have. I didn't physically see the
25 beating.

1 Q Okay.

2 A But I heard the beating.

3 Q Because where was it?

4 A It was upstairs and me and Natalie was
5 downstairs.

6 Q Was this in Dixiana?

7 A No, this was Allen Benedict Court with the cable
8 cord.

9 Q Okay.

10 A And Dixiana was the hanger.

11 Q Okay, and so you heard **CHILD** getting beaten ---

12 A Yeah.

13 Q --- with the cord?

14 A Yes.

15 Q And Antonio wasn't at home?

16 A He wasn't at home.

17 Q Okay. Have you ever witnessed **CHILD** trying to run
18 away from Courtney when she was trying to hit him?

19 A Yes.

20 Q Describe that.

21 A She would be fussing at him. When she was
22 fussing at him, she would tell him to go upstairs,
23 that she was going to cut his butt. When she sent him
24 upstairs like you could hear him like running and
25 scuffling and she was fussing saying, "Huh-uh. Come

1 here. Bring your ass here." He would like come ---
2 like you could tell he was going to her, but when she
3 would spank him or whatever, you could hear him
4 crying.

5 Q Have you ever seen --- have you ever witnessed
6 Courtney ask Antonio to hold him down to help her?

7 A I never physically seen him.

8 Q Okay. That's fine. Now, I want to take you to,
9 I guess, a different subject. What was the
10 relationship like between --- from what you could
11 observe, what was the relationship like between
12 Courtney and Antonio from the time that you've known
13 them?

14 A From the time I've known him, it was a strained
15 and it was ---

16 MS. PINNOCK: Objection, Your Honor. Relevance.

17 THE COURT: Approach.

18 (WHEREUPON, a bench conference was held in the
19 presence, but not within hearing of the jury.)

20 THE COURT: The objection is overruled.

21 BY MR. LI:

22 Q In terms of what you have witnessed and what you
23 could observe from Antonio and Courtney, was
24 Courtney --- would you describe Courtney as the man of
25 the household?

1 A Yes.

2 Q And Antonio as more of the ---

3 A He was more like the mom or she treated him more
4 like he was her child.

5 Q Okay. And that's --- can you go into a little
6 bit more detail as to --- well, can you count the
7 number of times that you just personally witnessed
8 Antonio being kicked out of the home?

9 A It happened so frequently that it was like
10 countless times. I can't count them on my hands how
11 many times because it happened so many times.

12 Q And between April of 2012 and December of 2012,
13 what was the longest period of time that you can
14 remember Antonio being kicked out of the house for?

15 A That I can remember, it was like a couple of
16 weeks.

17 Q Okay. Did it matter what time of year it was?

18 A No, it didn't.

19 Q Can you tell us about the time with the coat?

20 A She had --- I don't know what the reason was that
21 she had put him out, but it was cold outside, and he
22 was saying that he was cold. We had saw him and he
23 was coming up.

24 Q This was at Allen Benedict Court?

25 A Yes, this was Allen Benedict Court and he said

1 that he was cold, so I had a hoodie in the back of the
2 car and Natalie gave him a hoodie.

3 Q And what was the weather like outside?

4 A It was cold and also because it was nighttime.

5 Q As far as you know, from what you know and what
6 you've seen and observed, has Antonio ever kicked
7 Courtney out?

8 A Oh, no.

9 Q Who would you say wore the pants in the family?

10 A Courtney.

11 Q And what was Antonio's job in the home when he
12 was there?

13 A When he was there, he mostly did a lot of the
14 cooking and like different stuff with the kids.

15 Q Has Antonio ever talked to you about moving out?

16 A Yes, he had. We were over at Ms. Gladys' house
17 one day. It was just me and him sitting down talking.
18 Antonio, he would come and talk to me about stuff like
19 guys do when they get together, and one day he kind of
20 like pulled me to the side. He was asking me if I
21 could help him get a job where I worked at or
22 whatever.

23 Q Right.

24 A But I knew that with his education level, you
25 know, he probably wouldn't have been able to get a job

1 there, so I told him about a few other places that
2 might ---

3 Q I want to stop you there.

4 A Okay.

5 MS. WALKER: I'd like the witness will be able to
6 finish his answer, Judge.

7 BY MR. LI:

8 Q Okay.

9 A I know of a few other places that might hire him
10 because he's done that type of stuff before and I was
11 telling him. He asked me if he would get the
12 applications if I would fill it out for him or help
13 him fill it out. And he was also asking me about
14 apartments and stuff like that. I was explaining to
15 him like a lot of places if he didn't have a job, that
16 he wouldn't be able to get an apartment there.

17 Q And let me ask you this. Was there something in
18 Antonio's background that might have prevented him
19 from getting a job at the place you work at now?

20 A His level of education.

21 Q And why did he ask you for help with his
22 application?

23 A Because he couldn't really read it, couldn't read
24 the application and stuff that well.

25 Q And you said that you've had a chance to hang

1 around all the kids?

2 A Yes.

3 Q How would you describe CHILD 2 ?

4 A Like I said, she is a tough cookie. Anything a
5 little boy could do, she could do ten times better.

6 Q I guess I don't have that many more questions for
7 you, but, Charles, from what you've seen, what you
8 know about Antonio, what would you say matters most
9 just from you observed?

10 A Just from what I observed, it was his kids and
11 Courtney. You know, he loved Courtney like no matter
12 what Courtney would act like --- like if Courtney
13 would do whatever, X, Y, Z, like put him out,
14 whatever, he always came back. He always said, "I
15 love my baby mama."

16 Q Have you ever seen Antonio hit any of his kids
17 before?

18 A I've never seen him hit any.

19 Q Have you ever seen Antonio hit his kids with a
20 weapon?

21 A No, like I said, Antonio was like threatening him
22 telling him he was going to spank him, but you know he
23 never --- I never seen him do it.

24 Q Have you ever seen Antonio hold down any of his
25 kids while somebody else hit his kids?

1 A No, I have never seen that.

2 Q And you've been around him a lot?

3 A Yes.

4 Q Have you ever seen Antonio just sit there and do
5 nothing while Courtney was beating up on **CHILD**?

6 A I've never physically seen that either.

7 Q Did you love **CHILD**?

8 A Yes, I did.

9 Q Would you spend time with him?

10 A Yes, I would. Any free time that I got I would.

11 Q Was there a period of time when **CHILD** lived with
12 you?

13 A Yes, there was.

14 Q How was that?

15 A It was fun. Because **CHILD**, he was a real loving
16 child, but anything he wanted or anything that he
17 asked me for, I would give it to him because its like
18 with him, he just like from the first day I met him,
19 like I just --- you just --- there's just something
20 about him that draws you to him.

21 Q Right. What kind of clothing did he like?

22 A Anything that his daddy had. Like, he liked the
23 baggy shorts and liked the hip hop clothes. He didn't
24 like --- if you dressed him like you put like I wear,
25 alternative clothes is what they call it, like skinny

1 leg jeans or stuff like that, CHILD didn't like that.
2 When he went and picked out his clothes, like he
3 picked out the baggy jeans, and the t-shirts and stuff
4 like that.

5 Q He didn't like hats?

6 A Oh, he loved hats. One time in particular, we
7 were in Wal-Mart and he was like --- he had picked out
8 his clothes. While he was picking out his clothes, he
9 looked at me and he goes, "I need a hat to match my
10 outfit. I need a hat. I need a hat." I told him, I
11 said, "You go over there, whatever matches that you
12 see, you just bring it back to me. He just grabbed a
13 whole handful of hats. He brought them back. We put
14 them in the buggy and I paid for them.

15 Q What was your fondest memory of Antonio and CHILD?

16 A One day he was going to meet his mom. Me and
17 Natalie, I was getting off work. Me and Natalie was
18 pulling up on Allen Benedict Court and we saw him and
19 Antonio walking out of the house and they were dressed
20 alike. Antonio had on like these baggy jeans and CHILD
21 had on his --- Antonio had on some baggie jean shorts
22 and CHILD had like the same type of shorts on that was
23 baggy. He had them sagging. Antonio had on like a
24 black shirt with red writing. CHILD had on the same
25 type of shirt, but it was --- the colors were

1 reversed. His shirt was red with black writing and
2 CHILD had on a hat and Antonio didn't. They looked
3 like they were dressed like twins. I told Natalie, I
4 said, "Look there at those twins walking out of the
5 house."

6 Q And you've had a chance to spend time with not
7 just Courtney and Antonio. You've had a chance to
8 spend time with all the other relatives, as well?

9 A Yes, I have.

10 Q And others, Courtney's other sisters?

11 A Yes.

12 Q And you've had a chance to spend time with
13 Crystal Thompson?

14 A Yes, I have.

15 Q Would you say that you know them fairly well?

16 A Yes.

17 Q What is Crystal Thompson's reputation for telling
18 the truth?

19 A It's not very good.

20 MR. LI: No further questions.

21 THE COURT: Cross?

22 MS. WALKER: Thank you, Judge.

23 CROSS-EXAMINATION:

24 BY MS. WALKER:

25 Q You saw CHILD get abused a lot; is that correct?

1 A Yes.

2 Q When did you call DSS?

3 A We called DSS.

4 Q No, when did you call DSS?

5 A Physically call DSS?

6 Q Or unphysically call them, however you want?

7 A Well, ma'am, my wife called DSS. I'm not on
8 trial here.

9 Q I'm just asking.

10 A Yes.

11 Q You talked about a lot of abuse that you
12 witnessed of this child, right?

13 A Yes.

14 Q The child at that you loved?

15 A Yes.

16 Q When did you call DSS?

17 A I didn't call DSS.

18 Q When did you call the sheriff's department?

19 A My wife called the sheriff's department. We were
20 together.

21 Q I'm just going to ask you about what you did.
22 We're going to talk about the things that you did,
23 okay?

24 A Yes.

25 Q When did you call the sheriff's department?

1 A I didn't.

2 Q When was the last time you spoke with Antonio?

3 A When was the last --- I hadn't spoken to Antonio
4 in a while.

5 Q I'm just asking you when the last time was, do
6 you recall?

7 A Easter.

8 Q And he talked about moving out, right?

9 A Yes, he did.

10 Q And you were going to help him get a job?

11 A Yes.

12 Q And you were going to help him fill out those job
13 applications?

14 A Yes.

15 Q And when did you all fill out those job
16 application?

17 A Well, we didn't. I worked all the time, so I was
18 waiting on him to get the applications.

19 Q So he didn't show the initiative to get the
20 applications?

21 A That's not what I'm saying.

22 Q I'm sorry. I don't want to put words in your
23 mouth. Just tell me what your saying.

24 A What I'm saying is he would have to be able to
25 get there to get the job applications. Somebody would

1 have had to physically take him there so he could get
2 the job applications. He didn't have a car. He
3 didn't have a driver's license.

4 Q Would you have taken him if he asked?

5 A If I wasn't at work, yes, I would have.

6 Q Y'all are pretty close?

7 A Yes.

8 Q So the job application thing never happened?

9 A It didn't, no.

10 Q And the apartment that he was going to move into,
11 did you ever try to help him get some sort of
12 assistance in moving into an apartment if he didn't
13 have a job? Or did he ever ask for that kind of help?

14 A He didn't ask me for that kind of help.

15 Q How often were you at the home on Beaverbrook,
16 the last home that they all shared together?

17 A I was never at the home on Beaverbrook. Every
18 time that we would see Antonio, we would be at
19 Ms. Gladys' house or at Antonio's house when they were
20 living at Allen Benedict Court.

21 Q So you didn't visit the Beaverbrook residence?

22 A No, I had not.

23 Q And you said that you've never witnessed Antonio
24 do anything in anyway to harm **CHILD**?

25 A No, I have never seen him do that.

1 Q And you said he loved his son?

2 A Yes.

3 Q And I think you testified that he wouldn't do
4 anything to harm [REDACTED], right?

5 A No, he always threatened his kids, but he never
6 would do nothing and they knew that.

7 Q My question is, you said he would never do
8 anything to harm his kids, right?

9 A No, he wouldn't.

10 Q Let me ask you, were you aware of [REDACTED]'s last
11 days?

12 A Was I aware of his last days?

13 Q Did you know this he was alone with his father?

14 A Yes, I did.

15 Q Did you know that he was dying at the time and
16 could have been saved?

17 MR. LI: Your Honor, I have an objection.

18 MS. WALKER: He ---

19 THE COURT: Say the rule.

20 MR. LI: Asking him to speculate, Your Honor.

21 THE COURT: Overruled.

22 BY MS. WALKER:

23 Q Did you know that he was dying in those last days
24 and could have been saved if anyone had taken him to
25 the hospital?

1 A I wasn't there, so I ---

2 Q I'm just asking if you knew that. Did you know
3 that?

4 A No.

5 Q If his father was the one with him and didn't do
6 that, would it change your opinion of whether or not
7 the child had been harmed?

8 A I can't say that because I wasn't there. I don't
9 know. I'm not a doctor, so I don't know.

10 Q You've witnessed Courtney actually beat **CHILD** with
11 a hanger, didn't you?

12 A Yes, I did.

13 Q Tell me about that.

14 A We were at my home on --- in Dixiana, and I was
15 going to the Dollar General and he wanted to come with
16 me. I sent him in the house to get his shoes. When I
17 sent him in the house to get his shoes, he was crying
18 because he thought I was going to leave. Then when he
19 went in the house --- he was crying because he thought
20 I was going to leave him. Courtney was like fussing
21 at him, cursing at him, telling him that he wasn't
22 going no fucking where. When she told him that, he
23 start crying even harder. When I was coming back in
24 the house, I heard him crying. I came back in the
25 house. She was hitting him with a hanger. I laid

1 across him so she wouldn't hit him. I told her if I
2 ever seen her hitting him like that again that I was
3 going to call the cops and she was going to jail.

4 Q But you didn't call the cops for that incident.

5 A I didn't call the cops, no.

6 Q CHILD wasn't even your son, but you laid your body
7 across him to absorb those blows, right?

8 A Yeah.

9 Q You said his father wouldn't have been around
10 when she would be abusing, verbally or physically,
11 abusing CHILD?

12 A That's not what I said. That wasn't what you
13 asked you asked.

14 Q I'm not trying to cross you up or put words in
15 your mouth. What did you say?

16 A I said there's times that he was there. Times
17 that he wasn't there.

18 Q Did he lay his body across CHILD, as well, like
19 you did?

20 A No, but he would say something to her. There's
21 been times I have physically witnessed him saying
22 something to her or take him outside to divert the
23 situation.

24 Q I'm talking about the physical intervention like
25 you did. Did you ever see his father do that?

1 A I see him stop her, like basically to divert the
2 situation by taking him outside or telling her that
3 that wasn't right.

4 Q Did you ever see or know of him to call and ask
5 for the police or DSS to come stop the mother from
6 doing these things to his son?

7 A Well, no. It was common knowledge that she would
8 always say that if he took --- if he had called DSS,
9 that they would take all their kids, not just one.

10 Q So sacrifice one kid to keep the others?

11 A I didn't say that either.

12 Q I'm just trying to understand what you're saying.

13 A What I'm saying is, you asked me if I physically
14 seen him do anything. I have never physically seen
15 him.

16 Q Right. You said because if they --- they were
17 going to take all the kids as opposed to just taking
18 one?

19 A Yeah, he loved his kids so she would use that as
20 a way to say that.

21 Q So sacrifice the one child to keep the others in
22 the house?

23 A That's not what I said either. That's not what I
24 said. He was --- from my observation --- from my
25 observation and what I seen, it was like he was scared

1 of losing his kids period or losing Courtney.

2 Q He was scared of losing of Courtney so he was
3 willing to put up with the abuse?

4 A That's not what I said either.

5 Q Okay. You and Antonio are pretty close, right?

6 A We --- I mean, we're like --- that's my wife's
7 sister's husband, boyfriend, whatever, so we would
8 always be around each other.

9 Q So that's a yes or a no, or ---

10 A That's a yes.

11 Q Okay. And you have three charges pending in the
12 solicitor's office?

13 A Yes, I do.

14 Q And they're all for financial transaction card
15 theft, financial transaction card fraud, and criminal
16 conspiracy, right?

17 A Yes.

18 Q And those are still pending?

19 A Yes, they are, but what does that have to do with
20 this trial?

21 THE COURT: Mr. Robinson, you don't get to ask
22 the questions.

23 THE WITNESS: Okay. I'm sorry.

24 BY MS. WALKER:

25 Q But we haven't promised you anything in exchange

1 for your testimony?

2 A No, they haven't.

3 Q And they haven't promised you anything either,
4 right?

5 A No, they haven't.

6 Q So your charges aren't going away with this
7 testimony?

8 A No.

9 Q That's what this has to do with this trial.

10 A Oh, okay.

11 THE COURT: Cross?

12 MS. PINNOCK: May it please the Court, Your
13 Honor.

14 CROSS-EXAMINATION:

15 BY MS. PINNOCK:

16 Q Mr. Robinson, you kept repeating over and over
17 that for Antonio, his kids was his number one
18 priority, right?

19 A Right.

20 Q That's what matters most?

21 A Yes.

22 Q At one point you even said you saw him and CHILD
23 [REDACTED] looking like twins?

24 A Yes.

25 Q And that stood out to you?

1 A Yes.

2 Q Now, did you live with them on Beaverbrook?

3 A No, I haven't.

4 Q You never even went there?

5 A No.

6 Q You weren't there on June 29th?

7 A No, I was not.

8 Q You weren't there on June 30th?

9 A No, I was not.

10 Q You weren't there on July 1st?

11 A No, I was not.

12 Q You were not there when he left his son lying in
13 a puddle of pee in the house by himself, were you?

14 A No, I was not.

15 Q And you said the last time you saw --- or that
16 you talked to Mr. Guinyard was Easter?

17 A Yes.

18 Q This past Easter or the one before?

19 A The Easter before they had gotten --- well, not
20 Easter that just passed because they weren't around.

21 Q Okay, and that was the last time you saw him,
22 when everybody was over at Natalie's house?

23 A We were at Ms. Gladys' house.

24 Q Everybody was at Ms. Gladys' house?

25 A Yes.

1 Q Okay, but again, you were not at the house in the
2 days leading up to [CHILD]'s death?

3 A No, I was not.

4 Q You were not there since February when they moved
5 into that house?

6 A No, I was not.

7 MS. PINNOCK: Beg the Court's indulgence.

8 (Pause.)

9 MS. PINNOCK: That's all I have. Thank you.

10 THE COURT: Redirect?

11 MR. LI: Very briefly, Your Honor.

12 REDIRECT EXAMINATION:

13 BY MR. LI:

14 Q Were you aware that there was a pipe in this
15 case?

16 A No, I was not.

17 THE COURT: A what?

18 MR. LI: A pipe. A shower rod in this case.

19 THE WITNESS: No, I was not.

20 BY MR. LI:

21 Q Were you aware that Antonio's blood was found on
22 the pipe?

23 A No, I was not.

24 Q Do you think Antonio would ever use that pipe to
25 beat his son?

1 MS. WALKER: Objection, Your Honor.

2 MS. PINNOCK: Objection.

3 MR. LI: I'll withdraw it.

4 THE COURT: Disregard the last question.

5 All right. Any recross?

6 MS. WALKER: None, Your Honor.

7 THE COURT: Recross, Ms. Pinnock?

8 MS. PINNOCK: No, sir.

9 THE COURT: Thank you very much. Have a nice
10 day.

11 Call your next witness.

12 MR. LI: I believe it's ---

13 (Pause.)

14 MR. LI: Could we have five minutes, Your Honor?

15 THE COURT: All right. Ladies and gentlemen,
16 we'll take a break. Retire to your jury room. We'll
17 be back with you in just a few minutes. Do not
18 discuss the case. Keep an open mind.

19 (WHEREUPON, the jury left the courtroom at
20 11:58 a.m.)

21 THE COURT: All right. We'll take a ten minute
22 break. Whoever you're going to have up here, needs to
23 be up here.

24 (WHEREUPON, a short break was taken.)

25 MR. LI: She is on the way in. I'm sorry.

1 MS. WALKER: Your Honor, can we take up a quick
2 matter before the jury comes in?

3 THE COURT: Yes.

4 MS. WALKER: Defense counsel for Ms. Thompson
5 made a motion for sequestration at the beginning of
6 the trial, that Mr. Li joined in. However, Mr. Li's
7 witnesses that he plans on calling today have been in
8 the courtroom. So I don't know if now would be the
9 appropriate time for you to ask them to leave, or if
10 they --- or what is done when a sequestration ruling
11 is not followed?

12 MR. LI: I think they have been sequestered.
13 Ms. Guinyard was in here. We don't plan on calling
14 her, and I believe Charles and Ms. Gladys, those are
15 the only two witnesses we were calling. Those were
16 sequestered.

17 MS. WALKER: Those are the only two?

18 MR. LI: Yes.

19 THE COURT: Who are you calling now?

20 MR. LI: Ms. Guinyard --- not Ms. Guinyard,
21 Gladys Thompson.

22 THE COURT: Okay. She needs to come on. We will
23 swear her when the jury comes in.

24 In fact, why don't you just swear her once the
25 jury is seated.

1 THE CLERK: Okay.

2 THE COURT: Okay. You can bring them in.

3 (WHEREUPON, the jury entered the courtroom at
4 12:17 p.m.)

5 THE BAILIFF: The jury is present, Your Honor.

6 MR. LI: The defense calls Gladys Thompson.

7 THE COURT: Yes, sir.

8 THE CLERK: Raise your right hand.

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

11 THE COURT: Okay. Yes, sir.

12 GLADYS THOMPSON,
13 after being duly sworn, testified as follows:

14 DIRECT EXAMINATION:

15 BY MR. LI:

16 Q Ms. Thompson, for the record, you were subpoenaed
17 to be here today?

18 A Yes, sir.

19 Q I subpoenaed you?

20 A Yes, sir, I don't want to be here. None of that.

21 Q Gladys, can you please state your full name for
22 the record?

23 A I'm Gladys Dean Thompson.

24 Q Gladys what?

25 A Gladys Dean Thompson.

1 Q And where do you live?

2 A I live at [REDACTED] Allen Benedict Court Apartment
3 [REDACTED].

4 Q Okay, at some point in your life did you use to
5 live with Courtney and Antonio?

6 A Yes, sir, three years-and-a-half.

7 Q Do you remember what apartment numbers they were?

8 A [REDACTED].

9 Q And did you ever live with them in [REDACTED]?

10 A Yes, in [REDACTED].

11 Q And what kind of apartments are they, Allen
12 Benedict Court Apartments?

13 A They are an apartment complexes.

14 Q Pretty close together?

15 A Side by side.

16 Q People know other people's business?

17 A Uh-huh.

18 Q Okay. Were you there when --- were you there the
19 first day [REDACTED] came back from DSS?

20 A Yes, I were.

21 Q Do you remember that day?

22 A I remember him coming home, yes, sir.

23 Q Do you remember trying to do something special
24 for him that day?

25 A Yes, sir, they had him a little party. I went

1 and bought him some cupcakes. I couldn't put frosting
2 on them, but I put little stickers on them and I just
3 remember him being so happy.

4 Q Do you remember what he did with those stickers?

5 A Eat them.

6 Q He tried to do what with them?

7 A He tried to eat them.

8 Q And during the past couple of years, have you had
9 a chance to get to know Antonio Guinyard well?

10 A Senior?

11 Q Senior, yes.

12 A Yes, I have.

13 Q You've lived with him?

14 A Three years-and-a-half.

15 Q You've had a chance to see and interact with his
16 children?

17 A Yes, I have.

18 Q And you've had a chance to see both parents
19 interact?

20 A Yes, I have.

21 Q How would you describe the way Antonio interacted
22 with his children?

23 A He treated his son real --- he treated all his
24 kids --- he loved all his kids. He treated all his
25 kids fairly. He loved his son and he would play with

1 him and he would take him to get his hair cut.

2 Q Did he ever play basketball?

3 A Yes, yes.

4 Q Can you tell us about that time?

5 A He was sitting in the front room. Courtney
6 wasn't there, it was me and Antonio at the time. We
7 was sitting there playing, and his grandmother had
8 brought him a basketball hoop.

9 (WHEREUPON, a cell phone rang.)

10 THE WITNESS: Excuse me.

11 THE COURT: Is it off?

12 THE WITNESS: No, sir.

13 THE BAILIFF: Make sure it's off.

14 MR. LI: Turn it off. Turn it off.

15 THE WITNESS: Excuse me. Oh.

16 BY MR. LI:

17 Q Ms. Gladys, will you tell us about that time with
18 the basketball?

19 A Him and CHILD was --- we was all downstairs in the
20 front room. I was in the front room. His
21 grandmother, Ms. Patricia Guinyard, had brought him a
22 basketball hoop. He and his father was playing
23 basketball. You know, CHILD he was a sweet little boy.
24 He was like --- Antonio was like, "Okay, CHILD. I got
25 one and you got one." CHILD said, "I got two, but you

1 lost one," and he was, you know, laughing. He took
2 the basketball goal and he put it over to himself and
3 then he said, "No, dad, I got two."

4 Q Did he ever cook for his children?

5 A Yes, he did. That was his job.

6 Q That was his job?

7 A To cook for them kids.

8 Q Do you remember Courtney cooking for the family?

9 A Yes, I have.

10 Q Have you ever witnessed Antonio not give CHILD
11 food or water?

12 A No, I haven't.

13 Q Have you ever seen him get mad when CHILD would
14 ask somebody else for water or food?

15 A No, I haven't. He would --- I mean, he would ask
16 me or he would go ask his daddy.

17 Q Okay. So you've never seen Antonio get mad at
18 anybody else or get mad at CHILD for him asking for
19 food or water?

20 A No, sir.

21 Q Have you seen Courtney get mad at other people?

22 A Yes, I have.

23 Q Have you seen Courtney get mad at other people
24 for giving CHILD water?

25 A Yes.

1 Q Have you seen her get mad at CHILD himself?

2 A Yes.

3 Q Have you ever seen Courtney get mad at Antonio
4 for giving CHILD something to eat?

5 A Yes, I have.

6 Q Was there a time during Halloween?

7 A Yes, sir, all the kids had candy and they had
8 came --- he wanted to go --- he wanted to go out for
9 Halloween. All the other kids went and Antonio asked
10 why she wouldn't let CHILD go. She got mad. We got a
11 community service out there in our apartment
12 complexes.

13 Q Yes, ma'am.

14 A My daughter, Natalie, had brought him a little
15 Halloween bag of candy. She got mad. I used to get
16 him stuff, and she would get mad, but he was my
17 grandson.

18 Q Do you remember a time about Oodles of Noodles?

19 A Do I remember the time?

20 Q When you gave him Oodles of Noodles?

21 A Yes, sir, I had to take him upstairs.

22 Q Tell us about that, take us through that
23 incident.

24 A Courtney would get mad when, you know, when I
25 tried to fed him. She was like --- I just tried to

1 explain to her, he's a baby. Oh, he knows what he is
2 doing. I was sneaking food upstairs. It got me
3 kicked out once or twice, but, I mean, that's my
4 grandson.

5 Q Right.

6 A If I had ---

7 Q And where did you have to take the food?

8 A Upstairs in the room I was sleeping in.

9 Q How did you make the excuse to go upstairs?

10 A I made it seem like it was mine.

11 Q Who did you have to make that to?

12 A I had to make it seem like it was mine so
13 Courtney that was --- at the time, I had no other
14 place, you know, so I had to put up with it.

15 Q I understand. Have you ever seen Antonio try to
16 sneak food to **CHILD**?

17 A No, sir.

18 Q Was there an incident where you actually got mad,
19 kind of in a joking way, with Antonio about a Subway
20 sandwich?

21 A Oh, yes, sir.

22 Q Tell me about that?

23 A It was --- Courtney, she got mad and like lots of
24 times, she got mad at cuss me out. I would just walk
25 out. I wouldn't stand there and argue and see if it

1 came to an end or a finish because I knew sooner or
2 later that I was going to be part of their argument
3 and, you know ---

4 Q Wait, wait, we don't need to get into that. Tell
5 us when Antonio went to the store and --- did he buy
6 sandwich items for yourself, but did he do something
7 for **CHILD**?

8 A Oh, yeah, he would buy food for the children and
9 for me.

10 Q Did you notice a difference between the way
11 Antonio and Courtney treated **CHILD**?

12 A Yes, I did.

13 Q How would you describe that?

14 A Antonio treated him like his father. Courtney,
15 she was hard on him and you could tell because he
16 would be scared to go ask Courtney for anything. When
17 she wasn't there, he would come to me or he would go
18 his father. He felt comfortable asking me or his
19 father. I mean, that's my daughter, but I'm going to
20 tell the truth. He was scared of her.

21 Q And I know I'm jumping ahead of myself a little
22 bit, but have you seen a difference in **CHILD** when his
23 mother is there and when his mother is not there?

24 A Yes, I have.

25 Q And we'll get back to that in a second. I just

1 wanted to remind you of that.

2 Have you seen Antonio interact with some of his
3 other kids before, as well?

4 A Yes, I have, some of my other grandkids.

5 Q Who are some of your grandkids?

6 A Mikayla, Kinari. Oh, y'all got to excuse me. I
7 got so many grandchildren. I got like 18.

8 Q [REDACTED] CHILD 2 ?

9 A [REDACTED] CHILD 2 .

10 Q [REDACTED] CHILD3 ?

11 A [REDACTED] CHILD3 .

12 Q [REDACTED] CHILD4 .

13 A And [REDACTED] CHILD4 .

14 Q Were any of the kids scared of Antonio?

15 MS. PINNOCK: Objection, Your Honor.

16 THE COURT: Stop. What's the question?

17 MR. LI: I'm going to ask her from what you've
18 witnessed, did it appear that any of the other
19 children were afraid of Antonio.

20 THE COURT: Sustained.

21 MS. PINNOCK: Thank you, Your Honor.

22 THE COURT: Were afraid of Antonio?

23 MR. LI: Antonio, yes.

24 THE COURT: Based on her observations, she can
25 answer that. Your objection is overruled. I'm sorry,

1 I misunderstood you.

2 BY MR. LI:

3 Q Based on what you've seen and your observations
4 and what you witnessed, did the other children appear
5 to be scared of Antonio?

6 A No, sir.

7 Q Have you seen them do things to Antonio before?

8 A They --- I used to tell him Antonio, you need to
9 stop them --- they used to wear him out. He would
10 just sit there. They would tie him up. CHILD 2 be
11 trying to feed them. They takes his food. I never
12 saw him get mad. I used to say stop your children
13 from playing with you. Sometimes he would be so tired
14 there at night and just want to lay down and CHILD 2
15 just wakes him up.

16 Q Do you remember a time when CHILD 2 got lotion?

17 A Yes. Put lotion in his ---

18 Q Tell us about that.

19 A Antonio was there to eat one day. He was like
20 Ms. Gladys is there some kept catsup in the
21 refrigerator, and I say that yes there was. When he
22 went to get the catsup, CHILD2 put lotion on his
23 French Fries. He couldn't eat it. He just started
24 laughing.

25 Q Do you remember a time when he woke up and he was

1 missing hair?

2 A Yes, sir, CHILD 2, she cut like two or three of
3 his dreads.

4 Q Did he get mad?

5 A No. He didn't get mad. She cut mine, too.

6 Q Do you remember a time when someone tried to put
7 Pampers on his feet?

8 A CHILD 2, yes.

9 Q So you remember many of those times, right, and
10 you've seen CHILD take advantage of Antonio, as well?

11 A Yeah, he felt comfortable around his father. He
12 was more lively and more happy around his father.

13 Q Have you ever seen Antonio get mad to a point
14 where he would hit his children?

15 A No, sir.

16 Q Now, between the time of April 2012 and
17 December 2012, do you remember a period of time where
18 Antonio wasn't in the home?

19 A Yes, sir. The most he left, was three months.

20 Q And during that time --- so he was not allowed to
21 stay at the house for three months?

22 A No, he wasn't allowed to stay there, but I used
23 to open the back door for him so he could come eat and
24 change his clothes. He is like a son of mine.

25 Q Right.

1 A He's been around me almost as long as my kids
2 have.

3 Q And you would just kind of sneak him in?

4 A Oh, yeah, I let him come in and change his
5 clothes, give him a cigarette, let him eat, let him
6 spend time with the children.

7 Q Did you notice --- during that time, just to talk
8 about it now, did you notice a difference between the
9 way **CHILD** would act when his mother was around and when
10 his father was around?

11 A Yes, sir.

12 Q How would you describe --- from what you
13 witnessed, how would you describe **CHILD**'s behavior?

14 A When he was with his mother, he would just sit in
15 one spot and hold his head down, play with his nails.
16 He would look up at Courtney to wait until Courtney
17 walk off, and he would go to his daddy and tell his
18 daddy that he want this, he want that. Courtney,
19 that's my daughter, but he's my grandson and I'm just
20 here to tell the truth. I say to Courtney, he is
21 scared of you, but he is my grandson. She would argue
22 with me and fussing with me. She would like ignore
23 me.

24 Q And the times when you would sneak Antonio in the
25 home, Courtney wouldn't be at home, right?

1 A No.

2 Q That's how you would sneak him?

3 A Yeah.

4 Q How was **CHILD**'s behavior when it was just you and
5 Antonio around?

6 A He laughed. He will talk to me. He will talk to
7 his father. He was like --- he was a happy little
8 boy. He ran up and down the steps. He played. He did
9 everything and it was a difference.

10 Q Was there a difference of where he wanted to
11 sleep?

12 A Yeah.

13 Q Tell us about that.

14 A If Courtney at home, he wants to sleep with me.
15 But if Courtney not at home, he was going to sleep
16 with his daddy.

17 Q From what you --- just from what you've seen and
18 what you observed, would you say that he was happier?

19 A Yes.

20 Q Have you ever seen Antonio get mad at Courtney
21 for the way she treated **CHILD**?

22 A Yes, I have.

23 Q Do you remember a time downstairs with the cable
24 cord?

25 A Yes, sir.

1 Q Will you tell us about that?

2 A She would --- Courtney like hit him once or twice
3 with a cable cord and he ran to his daddy. I don't
4 feel that it was an incident, but Antonio took his
5 hand and put his hand on like CHILD's back and the
6 cable caught Antonio's hand.

7 Q And what was his reaction?

8 A Antonio?

9 Q Yes, Antonio, what was his reaction?

10 A He told her, he said, "Courtney stop beating him
11 like that. Why are you beating him like that?" He
12 was put out again.

13 Q Okay. And you said he was what?

14 A He was put out.

15 Q Okay. Do you remember CHILD being chased by
16 Courtney?

17 A Uh-huh.

18 Q Would she ever ask you to help hold CHILD down?

19 A One time she asked me to --- excuse me, but one
20 time she asked me would I help her hold him. I told
21 her, "Hell no, not me."

22 Q Have you ever witnessed her asking Antonio to
23 help hold CHILD while she hit him?

24 A Yes, sir.

25 Q Did he do it?

1 A No. He would tell her he wasn't going to do it
2 because she had already beat him.

3 Q What would she say to Antonio?

4 A Just that it was her children and her house and
5 that he can just get the hell out.

6 Q What would he say --- would she get mad at him
7 for not beating his kids?

8 A Yeah, but just CHILD.

9 Q Just CHILD?

10 A Yeah.

11 Q What would she say about that? How would she
12 describe what CHILD would be when he grew up?

13 A He was going to be gay. He was going to be a
14 punk and that's maybe what she used, and she would
15 say, "See Antonio, I told you. He's going to be a
16 little punk. You need to chastise your son."

17 Q You need to what?

18 A Chastise his son.

19 Q Chastise his son. Okay. I know we talked
20 about --- was there more than one --- was there just
21 one cable cord incident or was it multiple incidents?

22 A I can recall two.

23 Q Two. Do you ever remember a time when you and
24 Antonio did something about the cable cords?

25 A Courtney wasn't there. Antonio cut them upstairs

1 and I cut them downstairs. We was like in the living
2 room and Antonio said that she is going to get mad we
3 cleaned them and I said that I don't care. I'm getting
4 them up out of here.

5 Q So what do you mean by cleaning the cable cords?

6 A We cut them all the way to the end. When the
7 cable come in and the part that was where they drill
8 holes in the floor, and we cut them all the way to the
9 end and then we pushed them all back in the holes.

10 Q And Antonio helped you?

11 A Uh-huh.

12 Q But he asked you what you thought?

13 A He asked me did I think Courtney was going to get
14 mad. I told him that I don't care. I just got tired
15 of sitting feeling helpless.

16 Q Has Courtney ever talked to you about what would
17 happen if you or anyone else called DSS?

18 A She threatened to jump on me one time and ---

19 MS. PINNOCK: Objection, Your Honor.

20 THE COURT: Sustained.

21 MS. PINNOCK: Move to strike.

22 THE COURT: Disregard the testimony.

23 MR. LI: Oh, I'm sorry.

24 BY MR. LI:

25 Q What was the relationship between, from what you

1 have witnessed and from you being around them, what
2 was the relationship between Courtney and Antonio
3 like? What was their relationship?

4 A I felt like Courtney was more in control of
5 Antonio than him being a man to be in control, and you
6 got to --- I mean, like I said, I can relate to it
7 because it's like --- I had sources to move out
8 because I'm a woman. He didn't have them sources, so
9 it was like she was mostly in control. It was like,
10 you know, she knew his situation, so, you know, when
11 he get ready to put out, take my shoes off, take my
12 shirt off. He was in a messed up situation.

13 Q Did it appear to you that Antonio loved his kids?

14 A Yes, sir, all of his kids.

15 Q Did he love Courtney?

16 A Yes, he did, a lot.

17 Q Can you tell us about the time where --- Antonio
18 was put on a bus to Atlanta?

19 A His mom and them had put him on a bus to Atlanta,
20 and about --- he didn't stay that long. It probably
21 was about a week or a couple of days. I came
22 downstairs. He was sitting on the chair. I said,
23 "Antonio you came back down here?" He said, "Ms.
24 Gladys, I love my baby mama and my children."

25 Q Can you count the number of times Antonio was put

1 out of the house, without going in any detail? Can
2 you count the number of times?

3 A No, sir, but it's been numerous times.

4 Q And were any of those times when you were at the
5 house?

6 A Yes, I were.

7 Q Any of those times that you witnessed Courtney
8 beat CHILD while Antonio was gone?

9 A Yes.

10 Q Would it be fair to say that Courtney wore the
11 pants in it family?

12 A Yes.

13 Q Did it seem like Antonio depended on Courtney?

14 A Yes, he did, and I do think a little too much.

15 Q What was Antonio's job in the home?

16 A He would cook, clean the children, help me with
17 the children. When it was me and him, Antonio took
18 the baby to WIC.

19 Q To where?

20 A To WIC, the program to get milk and stuff for the
21 kids. Me and him done that together.

22 Q And do you personally know if Antonio --- from
23 any of your interactions with him, do you know if he
24 has trouble reading or writing?

25 A Yes, I do.

1 Q Can you tell us about a time when he asked you to
2 help him fill out an application?

3 A His food stamp application. Courtney, she used
4 to help him, but when somebody says they're going to
5 help you, but at the same time they throwing it up in
6 your face you know what I'm saying, and I don't agree
7 with that so I helped him. She was like, "You always
8 need my help. You can't read. You just --- "

9 THE COURT: Whoa.

10 MR. LI: I'm going to stop you there.

11 THE COURT: Just answer the question directly.

12 BY MR. LI:

13 Q Have you ever helped Antonio fill out things?

14 A Once.

15 Q Once?

16 A One time, yes, sir.

17 Q Have you ever witnessed --- well, that's --- now
18 I'm going to take you to the night of July 1st, 2013,
19 okay. Do you remember when Courtney and Antonio came
20 back to your house after the police station?

21 A Yes, I do.

22 Q Can you describe the way Antonio was acting at
23 your home at Allen Benedict Court?

24 A Him and Courtney was tore up together. Courtney
25 was crying. He was crying. Well, he looked at my

1 fiancée and Natalie and Charles, but he just came
2 straight to me. He laid his head on my shoulder. He
3 said, "Ms. Gladys, I didn't do nothing." I told him,
4 I said, "Antonio, don't worry about it. Everybody
5 knows you wouldn't beat them children like that." He
6 just kept crying and my fiancée and Charles took him
7 to the store to, you know, calm him down. He walked
8 with them.

9 Q Did Antonio stay with y'all the whole night or
10 did he walk off somewhere else?

11 A They stayed with me that whole night until the
12 next morning.

13 Q And what was --- Antonio's demeanor, the whole
14 time, how would you describe his demeanor? Was he
15 sad?

16 A He was sad; he was beyond sad. He was tore up.
17 He was nervous.

18 Q And how about --- what was the reaction from
19 Courtney?

20 A She was crying. She fell down on my lap, and she
21 just kept saying, "Mama, I know my baby is back there
22 in your room," Like I told Courtney, "Courtney, don't
23 worry, just wait until the autopsy comes back. That's
24 going to really tell what happened." They left that
25 morning. They left right after Investigate Holdorf

1 had called me, I believe.

2 Q Okay.

3 A They left.

4 Q Just the last couple of questions. Do you love
5 CHILD?

6 A Yes, I do, dearly.

7 Q Do you miss CHILD?

8 A I miss him every day, all day, all night.

9 Q What is your fondest memory of CHILD?

10 A CHILD 2, Courtney's daughter, we were --- I
11 would take them downstairs, I would feed them
12 breakfast. I did everything for my grandkids. I do
13 it all. He would tell --- I would tell CHILD 2,
14 "Don't you do that." He would be like, "Grandma, you
15 better tell CHILD 2 to listen to you because she is
16 got to learn today." I said, "Yeah, she is going to
17 learn today."

18 Q Why is she --- where did he get that phrase from?
19 You got to learn today? Do you remember that?

20 A I think he got it from a comedy show because that
21 was --- he would tell CHILD 2 that, you know, you
22 better listen to my grandma. You going to learn
23 today, CHILD 2. I was like, "Yes, you going to learn
24 today, too."

25 Q What's the fondest memory you have of Antonio and