

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

Certiorari to Richland County

Honorable Donald B. Hocker, Circuit Court Judge

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COURTNEY SHANTE THOMPSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001994

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APPENDIX

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1     **CHILD**?

2     A     Oh, we was sitting on the back porch one day and  
3     me and Antonio, we were drinking a cold beer, but  
4     Courtney get so mad. We took the beer and put it in  
5     a soda can. I said, "**CHILD**, go take the soda can and  
6     take the bag and put them in the trash can." He done  
7     smelled the soda can. He said, "Grandma, you all  
8     drinking beer." I said, "Oh, Lord, I'm going to get  
9     put out again."

10    Q     Gladys, I'm going to change the subject a little  
11    bit more. Who are your daughters?

12    A     Natalie, Maria, Crystal and Courtney.

13    Q     Would you say that you know Crystal Thompson  
14    fairly well?

15    A     All my life. I raised her.

16    Q     What can you tell us about Crystal Thompson's  
17    reputation for telling the truth?

18    A     She is a compulsive liar.

19           MR. LI: Thank you. No further questions.

20           THE COURT: Cross?

21           MS. McDUFFIE: No questions, Your Honor.

22           THE COURT: Cross?

23           MS. PINNOCK: Very briefly, Your Honor.

24                    CROSS-EXAMINATION:

25    BY MS. PINNOCK:

1 Q Ms. Thompson, some of the things you testified  
2 about, you said that you had to sneak food upstairs?

3 A Yes, ma'am.

4 Q That's when you lived at Allen Benedict Court?

5 A That's when I lived at Allen Benedict Court with  
6 Courtney.

7 Q That was not over on Beaverbrook?

8 A I never stayed at Beaverbrook with a Courtney. I  
9 keep saying that. I keep telling that to everybody  
10 that I never stayed at Beaverbrook.

11 Q So what timeframe are we talking about that you  
12 are sneaking food upstairs?

13 A When I'm staying with Courtney at [REDACTED] Allen  
14 Benedict Court, Apartment [REDACTED].

15 Q Ma'am?

16 A When.

17 Q When?

18 A During the time he first came home. He came home  
19 April.

20 Q So April 2012?

21 A Yes, ma'am.

22 Q The cable cord incident you talked about, again  
23 something happened upstairs. That was at Allen  
24 Benedict Court?

25 A That was at Allen Benedict Court. Everything I

1 witnessed was at Allen Benedict Court. I never  
2 stayed --- I went to Courtney's house one time at  
3 Beaverbrook when I went there to pick them up for  
4 church.

5 Q Okay. And you were present when everybody was  
6 hanging out at, I believe, your house on Easter?

7 A Yes, ma'am, it was my house.

8 Q Everybody was there?

9 A Yes, ma'am.

10 Q And you testified that Antonio treated CHILD like  
11 a father should?

12 A Yes, I did.

13 Q He loved him?

14 A Yes, he did.

15 Q He left him laying in a puddle of urine in his  
16 room, you are aware of that, right?

17 A In urine? No, no, have not --- no, I'm not aware  
18 of that.

19 MS. PINNOCK: Thank you.

20 THE WITNESS: You're welcome.

21 THE COURT: Redirect.

22 MR. LI: Nothing further.

23 THE COURT: Thank you, ma'am. Have a nice day.

24 THE WITNESS: Thank you, sir.

25 THE COURT: All right. Call your next witness.

1 MR. LI: Your Honor, may we approach?

2 THE COURT: Yes. Stand up, stretch, talk amongst  
3 yourselves.

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

6 THE COURT: All right. Ladies and gentlemen,  
7 we're going to go ahead and take a lunch break. It's  
8 12:45 time. If you'll be back in your jury room and  
9 ready to go at 2:00. Keep an open mind. Don't  
10 discuss the case. We'll see you back at 2:00.  
11 Everyone remain seated until my jury is dismissed.  
12 Thank you very much.

13 (WHEREUPON, the jury left the courtroom at  
14 12:43 p.m.)

15 THE COURT: Anything further from the State?

16 MS. McDUFFIE: Not at this time.

17 THE COURT: Mr. Li?

18 MR. LI: No, sir.

19 THE COURT: Ms. Pinnock?

20 MS. PINNOCK: Other than just renewing all of our  
21 objections to all this testimony coming on the record,  
22 Judge.

23 THE COURT: Understood.

24 All right. If you in the audience can't keep  
25 from the commentary and the noises that are being

1 made, I'm going to start kicking people out of the  
2 courtroom permanently. So if you're going to stay in  
3 here, I'm not going to hear any comments. I'm not  
4 going to hear any murmuring. I'm not going to hear  
5 any --- whatever it is you're doing. I'm just going  
6 to start summarily kicking people out of the  
7 courtroom.

8 If you cannot control yourself, you cannot be in  
9 my courtroom, period.

10 All right. 2:00.

11 (WHEREUPON, a lunch break was taken.)

12 THE COURT: State ready?

13 MS. McDUFFIE: Yes, sir.

14 THE COURT: Mr. Li, are you ready?

15 MR. LI: Just a couple more minutes. I was  
16 trying to listen to this phone call they just gave us.

17 MS. PINNOCK: We just received these phone calls.

18 THE COURT: Do they have to do with this witness?

19 MR. LI: One of them, yes. They just gave it to  
20 us after lunch.

21 THE COURT: All right. Go listen to it. We'll  
22 wait.

23 MS. McDUFFIE: Just, just for the record, we  
24 listened to them and they were the calls their clients  
25 made in the last two days. We listened to them at

1 lunch and then turned them over.

2 (Pause.)

3 THE COURT: All right, ready?

4 MR. LI: Yes, Your Honor.

5 THE COURT: Do you want to put him up there?

6 MR. LI: I may ask him to come off the stand.

7 Can we unshackle him for his testimony?

8 THE COURT: Are you okay with that?

9 THE DEPUTY: That's fine.

10 THE COURT: Okay. Bring them in.

11 (WHEREUPON, the jury entered the courtroom at  
12 2:18 p.m.)

13 THE BAILIFF: All jurors are accounted for, Your  
14 Honor.

15 THE COURT: Thank you very much, Mr. Burgess.  
16 Mr. Li, you may continue.

17 MR. LI: Thank you, Your Honor. The defense  
18 calls Mr. Antonio Guinyard.

19 THE COURT: All right. Mr. Guinyard, please come  
20 forward and be sworn.

21 ANTONIO GUINYARD,  
22 after being duly sworn, testified as follows:

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

25 THE WITNESS: Robert Antonio Guinyard, Sr.



1 THE COURT: I can't figure out what the popping  
2 noise is either.

3 Hold on just a second. We're going to try to  
4 stop that loud noise.

5 THE BAILIFF: I'll go get Jim.

6 (Pause.)

7 THE COURT: All right. Let's see if that works.

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

10 THE COURT: Yes, sir.

11 DIRECT EXAMINATION:

12 BY MR. LI:

13 Q Antonio, where did you grow up?

14 A Atlanta, Georgia.

15 Q And who raised you?

16 A My grand daddy.

17 Q Was your mother around?

18 A Yes, she was around.

19 Q But mainly your grandfather raised you?

20 A Yes, sir.

21 Q Did you have a good childhood?

22 A Yes, sir.

23 Q How did you do in school?

24 A I made it to the tenth grade.

25 THE COURT: All right. Somebody is near a mic.

1 Back up a little bit, please.

2 They went to get Mr. Truitt. Turn down the big  
3 mic. Did you go get Mr. Truitt?

4 THE BAILIFF: I called him. He should be on the  
5 way.

6 THE COURT: Okay. Let's make it as far as we  
7 can.

8 BY MR. LI:

9 Q And you said --- what grade did you finish?

10 A Tenth grade.

11 Q Why did you only make it to the tenth grade?

12 A Because I done caught with some drugs.

13 THE COURT: Turn it up. Okay. You can answer  
14 again.

15 BY MR. LI:

16 Q Try again.

17 A Because I got caught with some drugs in Atlanta,  
18 Georgia, high school.

19 Q How many kids do you have?

20 A Five.

21 Q What are their names?

22 A CHILD 2, CHILD 2, CHILD

23 , CHILD3, CHILD4 and

24 CHILD 5.

25 Q Who was your firstborn?

1 A [REDACTED] CHILD .

2 Q Do you remember the first time you laid eyes on  
3 him?

4 A Yes, sir.

5 Q How did it make you feel?

6 A It made me feel good because he was my firstborn.  
7 I didn't know I could have kids, so it was a good  
8 experience.

9 Q Can you describe the first time, where were you  
10 and what happened?

11 A I was at the house. When I seen him come out, I  
12 almost fainted because I never seen nothing like that  
13 before.

14 Q Who is the mother of all your children?

15 A Courtney Thompson.

16 Q When did you first meet her?

17 A Like 2008.

18 Q When --- I mean, where?

19 A The Colony Apartments.

20 Q Tell us more about the first time you met her.

21 A I had like come from a party. My homeboy had a  
22 party. I seen her and her sister on the porch. She  
23 didn't call me, but her sister done called me over to  
24 the porch.

25 Q Right.

1 A So I stayed there for a minute. Then I left, and  
2 I seen her again in about like two weeks more. Then I  
3 guess they had betted on me or something that I would  
4 end up being with her.

5 Q Do you love Courtney Thompson?

6 A Yes, I love her.

7 Q Where did you first --- where did the two of you  
8 first live together?

9 A In the Colony Apartments.

10 Q Where?

11 A She was staying in the Colony, but I was staying  
12 in my mother's with her. I stayed with her.

13 Q At some point did you guys move in with your  
14 mother?

15 A Yeah, right after my son was born.

16 Q Okay, so when Courtney was pregnant with CHILD,  
17 did you guys stay together?

18 A When she was pregnant with CHILD?

19 Q Yes. Where did you stay?

20 A My mother's house.

21 Q How were things between you and Courtney at that  
22 time?

23 A Things were going all right. Things were going  
24 good.

25 Q At some point, did you and Courtney have to leave

1 your mother's house?

2 A No. Courtney had --- me and Courtney had been  
3 like arguing some. Then Courtney had called my  
4 mother, and my mother said she wanted us out of her  
5 house. My mother asked me to escort Courtney back to  
6 the clubhouse at Allen Benedict Court.

7 Q And this was before [CHILD] was taken away to DSS?

8 A Before?

9 Q That's what I'm asking; was it before that she  
10 left?

11 A Uh-huh.

12 Q Where were you the night before [CHILD] was taken  
13 away to DSS?

14 A I was at Shannon Hammond's house because me and  
15 Courtney's family member had had a party or something,  
16 and me and Courtney ---

17 Q You're talking about the night before?

18 A Uh-huh and Courtney family had a party or  
19 something and Courtney had to go to court the next day  
20 for something and I was at Shannon Hammond's house,  
21 but I was supposed to get my son back. I didn't get  
22 him because I got in a fight.

23 Q So you were living with Shannon Hammond. Briefly  
24 tell us who Shannon Hammond is; who is that?

25 A She was like my Godmother.

1 Q Okay. Do you remember when you found out little  
2 CHILD was taken away to DSS?

3 A Yes.

4 Q How did that make you feel?

5 A It made me feel bad, I was really hurt. I didn't  
6 even want to talk on the phone.

7 Q Okay. Where did you live after that, after  
8 Shannon Hammond?

9 A Back to my mother's house.

10 Q Okay. At some point, did you and Courtney move  
11 into her relative's house?

12 A Yes, we moved into her Aunt Tina's house on  
13 Schoolhouse Road, or something like that.

14 Q Was it more than one auntie?

15 A It was like a cousin, an auntie and another  
16 auntie stayed in three apartments on one road.

17 Q Three apartments on one road. What was that  
18 road?

19 A Schoolhouse Road.

20 Q Schoolhouse Road. Then after that, where did  
21 y'all live?

22 A An accident happened over there with Courtney so  
23 she couldn't be over there no more, so we went to  
24 Shannon Hammond's house. She went to come pick us up.

25 Q Did you at some point have to be in the hospital?

1 A Yes, sir.

2 Q After staying in the hospital, Shannon Hammond  
3 let you guys?

4 A She let us come stay with her.

5 Q Can you tell us about how you --- from Shannon's  
6 house, how you then got to your first apartment and  
7 when?

8 A Shannon had --- had dropped us off at the  
9 hospital, and she came back to pick us up, because I  
10 guess her conscious bothered her. She said she  
11 couldn't leave us out like that.

12 Q Okay.

13 A Then her family, her dad and her mother found out  
14 we was staying with Shannon.

15 Q Right.

16 A Her mama and daddy help her pay the bills, so she  
17 got to do what they say.

18 Q Okay.

19 A So Shannon took her back to the house. Her mom  
20 had asked if had we ever went to a church to try to  
21 get help. I said, "No." She said, "I'm sure our  
22 church would help you," and she prayed and said she  
23 was sure you all could get help.

24 Q Did you go to that church?

25 A Yes, sir.

1 Q Do you remember what church that was?

2 A St. John Baptist.

3 Q Tell us about what happened when you went in that  
4 church?

5 A I went in the church and talked to the pastor,  
6 Pastor Graham, and we told him I was struggling, how I  
7 didn't have nowhere to go. She didn't have nowhere to  
8 go. She got evicted out of Colony Apartments and we  
9 was homeless and he said he knew someone that worked  
10 for housing authority. He thought he could help us  
11 out.

12 Q Did he help you out?

13 A Yes, sir.

14 Q Was he nice to you?

15 A Yes, sir.

16 Q Tell us about the application process. Did they  
17 ask you questions or did you have to fill it out  
18 yourself?

19 A I didn't fill it out. The lady asked me the  
20 questions, and then she would fill it out while she  
21 was asking me questions, something like that.

22 Q Do you remember something about the head of  
23 household at that point?

24 A Yeah. They had me head of household.

25 Q Right.



1 A But she was saying I don't need to be head of  
2 household.

3 Q Who was saying that?

4 A Courtney. She said she need to be head of  
5 household, but my name was on it as head of household.

6 Q So at that point, your name was listed as head of  
7 household?

8 A Yes, sir.

9 Q Okay. And which apartment did you get because of  
10 that application?

11 A That was a one bedroom apartment at Allen  
12 Benedict Court, apartment [REDACTED].

13 Q That was when you lived at [REDACTED]?

14 A Yes, sir.

15 Q And at some point, did your name --- did your  
16 name change on the application?

17 A They had to take my name off because it was  
18 housing authority and I had a simple possession  
19 charge. They told me that my name had to come off the  
20 application.

21 Q Did you have any other charges?

22 A In and out of Georgia, but they was saying just  
23 the one I had in South Carolina.

24 Q Okay, but you had other drug charges?

25 A Yeah.

1 Q But because of that your name had to get off the  
2 list, the lease?

3 Q At that point?

4 A Yes, sir.

5 Q Who was listed as head of household then?

6 A Courtney Thompson

7 Q In fact, was your name even on the lease?

8 A No, after they took my name off, they said it was  
9 okay for me to stay there because that's my kid's  
10 mother. As long as there's no confusion or anything  
11 like that, I could stay there as long as there was no  
12 problems.

13 Q They were being nice to you?

14 A Yes, sir.

15 Q Now, during the time that you lived in ■■■, was  
16 ■■■ CHILD with foster care during that time?

17 A Yeah, he was in foster care.

18 Q Did you get a chance to see ■■■ CHILD during the  
19 that time?

20 A Yeah, the foster care parent she would bring him  
21 over there, even though she didn't supposed to, but  
22 she would bring him over on the weekends. When she  
23 had to do something, she would let him stay like two  
24 or three hours with me and Courtney.

25 Q Was the foster parent nice?

1 A Yeah, she was nice.

2 Q How did CHILD seem to you at that point?

3 A He was a loving child. He loved to eat and he  
4 loved to play.

5 Q He loved to eat?

6 A Yeah, and he loved to play.

7 Q Now, during ■■■, while you were living in  
8 apartment ■■■, were some of your other children born?

9 A I guess CHILD2 was born. She had gone in labor  
10 that same day that ---

11 Q But when ---

12 A Her water done busted in the bed.

13 Q I understand. Okay, but what was the  
14 relationship like with you and Courtney in ■■■?

15 A It was all right, but it still wasn't peaches and  
16 cream because she still had all authority.

17 Q Were you ever kicked out of ■■■?

18 A Yeah, I was kicked out.

19 Q Can you count the number of times you were kicked  
20 out?

21 A I was kicked out so many times I can't count.

22 Q At some point did you get put on trespass notice  
23 for ■■■?

24 A Yeah.

25 Q Tell us about that.

1 A Me and Courtney had got into it. She wouldn't  
2 let me in the house. I guess I was knocking on the  
3 door and stuff like that.

4 Q But you ended up being on trespass notice?

5 A Yeah, I ended up being on trespass notice because  
6 the police came.

7 Q And when you would get kicked out of the house,  
8 where would you go?

9 A I might stay outside until like seven o'clock,  
10 eight o'clock in the morning. She probably would let  
11 me in until like twelve or one in the afternoon.

12 Q Did you ever go to your friend's house?

13 A Yeah, I used to walk up the street to my cousin's  
14 house.

15 Q Did you ever go to your mama's house?

16 A I really couldn't go to my mama's house back then  
17 like that.

18 Q Okay. Now while you were at [REDACTED] did --- at some  
19 point, did Ms. Gladys move in with y'all?

20 A Yeah, she moved in right after she had --- she  
21 had got out of Alvin Glenn or wherever she was at.  
22 She moved in then.

23 Q Okay. And before [REDACTED] arrived, did y'all have  
24 to move out of --- did --- not have to move out, but  
25 did you move out of the [REDACTED]?

1 A No, we moved out of [REDACTED] because they said if I  
2 have another baby, they're going to give us a bigger  
3 bedroom space.

4 Q What apartment number was that?

5 A [REDACTED].

6 Q And when you moved into [REDACTED], where was [CHILD] at  
7 this time?

8 A He still was in foster care.

9 Q In the beginning?

10 A Yes.

11 Q Do you remember the first day that [CHILD] came back  
12 to live with y'all for good?

13 A I remember, but I don't remember exactly the day.  
14 I know it was in April some time.

15 Q How did you feel at that time?

16 A I felt great. He had been gone since he was two  
17 months so I felt good.

18 Q Were you happy?

19 A Yeah, I was super happy.

20 Q And at that point, how are things between you and  
21 Courtney?

22 A Things was --- like I'm saying, it was off and  
23 on, we're always off be off and on.

24 Q Did [CHILD] have bathroom problems in the  
25 beginning?

1 A No, when he first came from foster care, he used  
2 to go to the bathroom. We didn't even have to ask him  
3 did he have to go pee or did he have to do a number  
4 two, because he would just go.

5 Q Would he sometimes still have accidents?

6 A Yeah, he still had accidents, but when he first  
7 came back, he would just go.

8 Q Why would he have those accidents in the  
9 beginning?

10 A Because before he would go to the bathroom, he  
11 would rather play with his sisters instead of going to  
12 the bathroom.

13 Q So he did have a few accidents?

14 A He had a few.

15 Q Did he seem healthy?

16 A Yeah, he was very healthy.

17 Q Did he seem happy?

18 A Yeah, he was happy.

19 Q How did --- from what you witnessed and the times  
20 that you were there, how was Courtney treating CHLD  
21 during the first couple of weeks he came back?

22 A She would treat him right, treat him good until  
23 he started having accidents.

24 Q And at some point in May of 2012, were you asked  
25 to leave your house for an extended period of time?

1 A I had --- we had --- whatever had happened, I  
2 just know that she had done put me out, called the  
3 police on me. I was so scared to come back over like  
4 that. I just didn't want to come back.

5 Q Okay.

6 A She said if I came back, she might have me locked  
7 up, so I stayed away.

8 Q And do you remember how long a period of that was  
9 roughly when you left in May?

10 A Probably like three, three months.

11 Q But during those three months, would you  
12 sometimes sneak back into the house in [REDACTED]?

13 A Well, I mean, Gladys would let me in when  
14 Courtney was not there.

15 Q During those three months, where did you go?

16 A I was like on the street. I lived house to  
17 house, from one person's house to another person's  
18 house.

19 Q Did you get a chance to see your kids sometimes  
20 during those three months?

21 A Uh-huh.

22 Q Were there at times when Courtney wasn't at home?

23 A Yeah, they was at times Courtney wasn't there.

24 Q How was [REDACTED] CHILD?

25 A I would take him and my little girl to the park.

1 Q You would take all your kids to the park?

2 A I would take all of them.

3 Q How did they act when you had to leave?

4 A They were crying when I would bring them back to  
5 the house. They didn't want to leave.

6 Q Did you notice anything different about CHILD at  
7 that point?

8 A No, that he was very accurate and he ---

9 Q Very what?

10 A Very accurate --- I mean, accurate like very  
11 aggressive like in playing and stuff.

12 Q Okay. What were some of the things that you  
13 would like to do with CHILD during that time?

14 A I liked to --- he had a little basketball goal.  
15 I would play basketball with him. Take him to my  
16 mama's house and let him play basketball. He liked to  
17 do that. My little girl, she liked to do whatever he  
18 liked to do.

19 Q Did he like to watch TV?

20 A He liked the Dell movies.

21 Q Did he like anybody else?

22 A He liked Kevin Hart and ---

23 THE COURT: Repeat your answer, please.

24 THE WITNESS: He liked Kevin Hart and he liked to  
25 learn that, he liked that.



1 BY MR. LI:

2 Q Kevin Hart, the comedian?

3 A Uh-huh.

4 Q And one of Kevin Hart's lines was, "You're going  
5 learn today."?

6 A Uh-huh.

7 Q At some point did you move back into [REDACTED]?

8 A Yes.

9 Q Do you remember what month that was?

10 A It had to have been like September some time,  
11 September, I really don't remember the day, but it was  
12 like in September some time.

13 Q But when you got back, do you ever remember a  
14 time when you saw Courtney beating [REDACTED] CHILD [REDACTED]? When it  
15 was more than just a spanking?

16 A I remember two times, but I really didn't see it  
17 until it was like over with. I remember it two times  
18 when it was upstairs.

19 Q You didn't really go anything at that point,  
20 right?

21 A No, because I didn't know how overboard it was  
22 headed or where it was going.

23 Q Tell me about the first time.

24 A First time, I was like downstairs, me and Gladys  
25 and Crystal, and we was watching Madea, and I think my

1 son was upstairs in the bed. I think Courtney went  
2 upstairs to use the restroom, but she checked on him.  
3 I guess he had to use the restroom or something and I  
4 guess she seen the bed was wet.

5 Q Okay.

6 MS. PINNOCK: Objection, Your Honor. May we  
7 approach?

8 THE COURT: Sure.

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

11 THE COURT: Your objection as to speculation is  
12 sustained.

13 BY MR. LI:

14 Q What could you hear that was happening upstairs?

15 A I heard a whipping like she was whipping him with  
16 a belt or something like that.

17 MS. PINNOCK: Objection, Your Honor. Again,  
18 speculation. Move to strike.

19 (Cross-talk.)

20 THE COURT: Sustained. Do not talk over each  
21 other. Move to strike is granted. You will disregard  
22 that testimony. Witnesses will not be allowed to  
23 speculate as to what --- to speculate period.

24 BY MR. LI:

25 Q What did you hear? Not what you saw, because you

1 weren't upstairs?

2 A I heard my son crying.

3 Q And then what happened?

4 A I was like I wanted to go upstairs, but I didn't  
5 go upstairs. My sister Crystal went upstairs.

6 Q And what was the other time that you remembered?

7 A I was downstairs --- I believe I was upstairs  
8 asleep, and I could hear my son crying or something  
9 like help, help. I was asleep.

10 Q Okay.

11 A I walked downstairs, and I seen her with a black  
12 cord in her hand.

13 Q This is when you're downstairs?

14 A Yeah, I'm downstairs.

15 Q What did you see?

16 A I seen him running and she was whipping him, so I  
17 got my hand over my son. It hit me and it hurt me.

18 Q Did your son run to you?

19 A Yeah, he ran to me and I was like, "Hold on," and  
20 I grabbed it. I said, "What he did? I mean, I want  
21 to know why you're whipping him for this. What he  
22 did? Tell me what he did."

23 Q Okay. And Ms. Gladys was in the home at that  
24 time?

25 A Yes.

1 Q After those times, did you ever see when you were  
2 at the home, did you ever see Courtney get mad at  
3 CHILD for going to the bathroom?

4 A I believe --- I'm not sure, but I know she will  
5 get mad, but I'm thinking that ---

6 MS. PINNOCK: Objection, Your Honor. He is  
7 speculating.

8 THE COURT: Sustained. You cannot speculate. If  
9 you're getting ready to say, "I think" or "I might" or  
10 "I guess," that will be sustained as to speculation.

11 BY MR. LI:

12 Q Have you seen times, from yourself, have you seen  
13 times where Courtney would get mad at CHILD for  
14 peeing?

15 A Yes, yes.

16 Q How would she act when she was cleaning up the  
17 pee, or the accident?

18 A She was like he just like having a dog the way he  
19 be pooping and peeing all over my house.

20 Q Did you ever try to stand up for CHILD?

21 A I tried to stand up for him a lot of times.

22 Q What would Courtney say?

23 A She would tell me, she would say if I stand up  
24 for CHILD, I need to stand up to my son.

25 Q What would she say to you?

1 A I need to do something. I need to chastise him  
2 or something like that. I need to whoop him or  
3 something like that, but I never would whoop him like  
4 that.

5 Q Has she ever asked --- have you ever witnessed  
6 her asking Ms. Gladys to help beat [REDACTED] CHILD?

7 A Yeah, and at that same time she told me to help  
8 her hold him, too.

9 Q What would she say to you?

10 A She said, "You need to help me do something. You  
11 need to chastise him, need to do something. He keeps  
12 pissing and shitting and you ain't doing nothing.  
13 That why he keep doing that." She say the only reason  
14 he keep pooping and doing something on himself because  
15 I'm not doing anything about it.

16 Q Have you ever helped her?

17 A No, I never helped her.

18 Q Did she ever yell at you for that, for not  
19 helping?

20 A Yeah, she done yelled at me.

21 Q What was your reaction towards [REDACTED] CHILD when you  
22 didn't help?

23 A She would just try to grab him and grab him. She  
24 couldn't handle him by herself. She needed someone  
25 else to help her grab him and hold him.

1 Q Okay, now, near the end of 2012, was there an  
2 extent --- was there a period of time when Courtney  
3 was not in the home?

4 A Yes.

5 Q And did you get a chance to go over to [REDACTED]? Did  
6 you get a chance to go over to [REDACTED]?

7 A Yes, I believe when she was not in the home, when  
8 there was nobody there but me, Gladys and my kids, and  
9 when she had left and went somewhere else.

10 Q And how did CHILD appear to you when it was just  
11 you and Gladys?

12 A He just do what he wants to do, you know. He  
13 just was aggressive and asking for stuff.

14 Q So he would ask you for ---

15 A Yeah, he would ask me for anything.

16 Q Did you feed him?

17 A Yeah, I always feed him.

18 Q Did you give him water?

19 A Every time he asked.

20 Q And did you notice a difference when his mama was  
21 around?

22 A Yeah, a big difference.

23 Q Okay. Can you describe that?

24 A It would be like his mother would be sitting  
25 right there. I would be sitting right there. Ms.

1 Gladys would be sitting right there. He would wait  
2 until his mother would go to the bathroom. I used to  
3 get mad. You don't need to start something your  
4 mother. Don't wait until she leaves. You ask me or  
5 your grandma. You need to start asking while she is  
6 here. Sometimes she can say yes or no.

7 Q Have you been frustrated with CHILD before?

8 A Yeah, I've been frustrated with him.

9 Q Have you ever laid a hand on him?

10 A No, I've never laid a hand on him.

11 Q Tell us how you got from [REDACTED] to Beaverbrook.

12 A I guess Courtney had --- her voucher was coming  
13 up. They had a voucher. I don't really know about  
14 that because I was incarcerated.

15 Q Okay.

16 A I mean, I had found out and was arrested, then I  
17 got out of jail.

18 Q Okay. Do you know if your name was on the lease  
19 for Beaverbrook?

20 A No.

21 Q Was your name on the lease for Beaverbrook?

22 A No, it wasn't.

23 Q Whose names were listed?

24 A I believe Courtney and all of my kids.

25 Q Okay. Describe your house on Beaverbrook.

1 A It was a nice house. Probably the best looking  
2 house on the block, big back yard, big front yard and  
3 three bedrooms.

4 Q How did the kids seem to like it?

5 A They used to like it because I would take them  
6 outside all the time. I took them in the front. I  
7 couldn't take them in the back cause the neighbors had  
8 a dog that ran at my little girl to the fence.

9 Q Did you like dogs?

10 A No, I don't like dogs.

11 Q And while you were there, how were you and  
12 Courtney getting along?

13 A Yeah, we were getting along just on and off.  
14 We've always just been on and off.

15 Q Were there still times at Beaverbrook when you  
16 would get kicked out?

17 A Yeah, I get kicked out numerous times.

18 Q What's the longest you were kicked out of  
19 Beaverbrook?

20 A Like 21 days, two or three weeks.

21 Q That's while you were at Beaverbrook?

22 A Uh-huh.

23 Q Have you ever been kicked out for feeding CHILD  
24 at Beaverbrook?

25 A I've never been kicked out for feeding him. I've



1 been kicked out for feeding him more than what he  
2 needs.

3 Q I see. Was there an incident with the  
4 hamburgers?

5 A Uh-huh.

6 Q Tell us about that?

7 A I had cooked hamburgers. I didn't the girls  
8 hamburgers, I had cooked girls hot dogs and French  
9 Fries. I had to make Courtney two hamburgers. I had  
10 two hamburgers and give my girl hot dogs and French  
11 Fries. I gave CHILD a hamburger and some French  
12 Fries. There was only one hamburger left, so when he  
13 finished that, I gave him another hamburger. Courtney  
14 snatched it right out of his hand, knocked his plate  
15 over and then she didn't want to eat no more because  
16 she said I'm feeding him like a dog.

17 Q She said that you were feeding him like a dog?

18 A Yeah, like a dog and he ain't going to do nothing  
19 but shit and piss in the house.

20 Q And what happened to you and CHILD that day?

21 A Courtney put both of us out that night.

22 Q What did you all do?

23 A I stayed right this on the porch because he  
24 didn't have no shoes on. I had to walk all the way to  
25 Two Notch Road and I didn't know who to call, you

1 know, because ---

2 Q I'm sorry to cut you off. Have you made long  
3 walks before when you were kicked out of Beaverbrook?

4 A I made plenty of long walks before.

5 Q Where did you go?

6 A Over on the other side like by Benedict, where my  
7 mama's boyfriend stayed at and to my cousin Toya's  
8 house.

9 Q Is Toya in the courtroom today?

10 A Yes, sir.

11 Q Where was your mama's boyfriend's house?

12 A It was right around the corner. I forgot the  
13 name of the school right there with the gate on it,  
14 but right there by the corner from Courtney.

15 Q And how long was the walk from Beaverbrook to,  
16 you said, Allen Benedict Court?

17 A Probably an hour and 30 minutes, maybe two hours.

18 Q Have you made that walk before?

19 A I made that walk numerous times.

20 Q While you were at Beaverbrook, would Courtney  
21 still get mad at CHILD sometimes for peeing and  
22 pooping?

23 A Yes.

24 Q Did you try to stand it up to her?

25 A Every time I stood up to her, me and Courtney

1 would get into a physical fight and she would ---

2 MS. PINNOCK: Objection, Your Honor. We have a  
3 matter.

4 THE COURT: Sustained. Ladies and gentlemen,  
5 you'll return to your jury room. Do not discuss the  
6 case. Keep an open mind.

7 (WHEREUPON, the jury left the courtroom at  
8 2:48 p.m.)

9 MS. PINNOCK: Your Honor, respectfully, at this  
10 point I'm going to move for a mistrial. You have been  
11 very very clear what about Mr. Li can question his  
12 witness about as far as prior bad acts. Any physical  
13 altercation between Ms. Thompson and Mr. Guinyard,  
14 Your Honor has already ruled he cannot go into. I  
15 don't think there is anything that can be done at this  
16 point to take that back from the jury having heard it.  
17 It's out there.

18 Again, you were very clear about what he could  
19 and could to not go into with all of his witnesses  
20 when he proffered their testimony and when you made  
21 your rulings this morning.

22 I'm asking for a mistrial. I think it's gone far  
23 enough with the character assignation on Ms. Thompson.  
24 Every single witness we've had testify to this point  
25 is just talking about bad about her. I still am

1 failing to see whatever mental state Mr. Li is trying  
2 to establish through his witnesses. It's just been  
3 straight character testimony against Ms. Thompson. I  
4 think because we now we have testimony on the record  
5 about physical altercations, I don't think there is  
6 any fixing it, Judge. I'd ask you to grant us a  
7 mistrial based on his testimony.

8 MR. LI: Your Honor, we weren't going into it, we  
9 were going into his physical --- we're not going into  
10 the stabbing. I've tried very hard to not going into  
11 any of the stuff that you ruled on. We are not going  
12 into sort of violence on Ms. Courtney's part.

13 THE COURT: He just said they got into a physical  
14 altercation, a fight.

15 MR. LI: Where he was the aggressor. Where he  
16 put his hands on her. We are not going to into  
17 Courtney putting his --- putting her hands on him.

18 THE COURT: That's not what he said.

19 MR. LI: I can ask him to clarify it. We are not  
20 going in that direction, Your Honor.

21 THE COURT: Why would you be going anywhere near  
22 it?

23 MR. LI: Because I wanted to show that he did try  
24 to stand up for **CHILD** that time.

25 THE COURT: Proffer the testimony.

1 MR. LI: Okay.

2 BY MR. LI:

3 Q Were there times that you put your hands --- that  
4 you put your hands on Ms. Thompson to try to stop her  
5 from getting mad at CHILD?

6 A Uh-huh.

7 THE COURT: Is that a yes?

8 THE WITNESS: Yes, sir.

9 MR. LI: I'll move on. I'll move on from there.  
10 That's where we were headed to that. We're not going  
11 to go ---

12 THE COURT: You're motion for a mistrial is  
13 denied. We have not reached the level of manifest  
14 necessity. But, Mr. Li ---

15 MR. LI: Yes, sir.

16 THE COURT: You're on a tightrope.

17 MR. LI: Yes, sir.

18 THE COURT: Do you understand me?

19 MR. LI: Yes, sir.

20 THE COURT: There is no more guessing, no more  
21 speculation, no more thinking. No more maybe. I'm  
22 going to give you the latitude to lead him a little  
23 bit to avoid any of these issues.

24 MR. LI: Yes, sir.

25 THE COURT: Do you understand me?

1 MR. LI: Yes, sir.

2 THE COURT: Okay. Bring the jury back.

3 DEFENDANT GUINYARD: Judge?

4 THE COURT: Hold on. Deputy, tell him to stop.

5 Okay, yes, Mr. Guinyard.

6 DEFENDANT GUINYARD: I thought you said anytime I  
7 was stepping up and I got put out for my son, I could  
8 speak on that, you know, when I was taking up for my  
9 son.

10 THE COURT: I understand. Here's what I need you  
11 to do. I need to answer questions directly, okay.  
12 Just answer the question directly, okay.

13 MR. LI: I'll skip that question all together.

14 MS. PINNOCK: Well, Judge, now we have a  
15 different issue.

16 MR. LI: Well, I can go with that and ---

17 THE COURT: You can go back to where you were.

18 MR. LI: Okay.

19 (WHEREUPON, the jury entered the courtroom at  
20 2:53 p.m.)

21 THE BAILIFF: All jurors are present, Your Honor.

22 THE COURT: All right. Thank you very much.  
23 Welcome back.

24 You may continue, Mr. Li.

25 MR. LI: Thank you.

1 BY MR. LI:

2 Q And you've had a chance to stand up for CHILD  
3 while you were at Beaverbrook?

4 A Yes, sir.

5 Q And you've actually put your hands on  
6 Ms. Thompson before to try to stop her, correct?

7 A Yes, sir.

8 Q And can you count the number of times where  
9 you've been put out for trying to stand up for CHILD?

10 A A bunch of them.

11 Q Now, I want to move away from that towards ---  
12 closer towards the day of the incident, okay.

13 A (Nods in the affirmative.)

14 Q On Saturday --- when did Courtney go into the  
15 hospital to give birth?

16 A Saturday the 29<sup>th</sup> at like five, six o'clock in  
17 the morning.

18 Q It was early in the morning?

19 A (Nods in the affirmative.)

20 Q Okay. And that day you were at home with CHILD  
21 by yourself?

22 A Uh-huh.

23 Q Because somebody else had come and picked up  
24 CHILD 2?

25 A Uh-huh.

1 THE COURT: Please say yes or no.

2 THE WITNESS: Yes.

3 BY MR. LI:

4 Q Okay. And do you remember what you cooked for  
5 dinner on Saturday night?

6 A I cooked rice and pork chop.

7 Q Did you give some to CHILD ?

8 A Yes.

9 Q What kind of plate did you fix him?

10 A Like a 12-year-old plate.

11 Q A big boy plate?

12 A Yeah, a big boy plate.

13 Q And that night, what time did you go to sleep on  
14 Saturday night?

15 A Saturday night he went to sleep at like --- maybe  
16 like 11 or 10.

17 Q Okay. Did you notice anything wrong with him at  
18 that time?

19 A No, I didn't notice anything but the cut on his  
20 arm. That's all I know.

21 Q Did you notice that he was having problems  
22 raising his hands?

23 A No.

24 Q Did you notice that he was having problems  
25 sitting down?



1 A No.

2 Q And on Sunday, do you remember what time you woke  
3 up on Sunday?

4 A Sunday, I woke up early on Sunday.

5 Q What time did CHILD wake up?

6 A He woke up early, too.

7 Q On Sunday?

8 A Uh-huh.

9 Q Did CHILD ask for something to eat that morning?

10 A Yeah. He asked me for something to eat. I asked  
11 him what do he want some (unintelligible) or some  
12 cereal, and he said he want some cereal.

13 Q He wanted cereal?

14 A Uh-huh.

15 Q Okay. And did you give him cereal?

16 A So I gave him a big bowl of cereal.

17 Q And how were you feeling on Sunday?

18 A I was just ready for Courtney to come home so I  
19 could see my newborn baby.

20 Q Were you feeling happy?

21 A Yeah, I was feeling happy that she was going to  
22 have the baby.

23 Q She already had the baby at that time, right?

24 A Uh-huh.

25 Q Now, on Sunday night, what did y'all eat for

1 dinner?

2 A We ate leftovers because it was still stuff left  
3 over from when we had pork chops and rice, so I cooked  
4 the same thing.

5 Q What were you and CHILD doing during Sunday?

6 A We watched TV. I was like when does it come on,  
7 so I can watch the BET awards. I wanted to watch the  
8 BET awards.

9 Q The BET awards?

10 A Uh-huh.

11 Q So after you ate dinner, you and CHILD just  
12 watched TV?

13 Q How long did you watch TV?

14 A We watched TV from till it came on to about when  
15 we winded back, so every time I was winding it back,  
16 it prolonged the show.

17 Q So this was on the D.V.R.?

18 A Yeah.

19 Q So on the awards shows, they have music acts?

20 A Uh-huh.

21 Q And you're watching --- it started at what, about  
22 8:00?

23 A Uh-huh.

24 Q And you watched --- what time, did you go to  
25 sleep?

1 A We went to sleep like three or four o'clock in  
2 the morning.

3 Q Three or four in the morning?

4 A Uh-huh.

5 Q And CHILD just went off to bed?

6 A He was on the floor watching TV. I was like go  
7 on and use the restroom. Lay down. He went to use  
8 the restroom, and then he went and laid down.

9 Q And on Monday, Monday morning, what time did you  
10 wake up on Monday?

11 A Monday morning, I woke up early like 7:00, 7:15,  
12 7:30 something like that.

13 Q Did you call --- did you have a chance to talk to  
14 Courtney?

15 A I had talked to Courtney to try to get money off  
16 the card.

17 Q You were asking her to let you to get money off  
18 the card?

19 A Yeah.

20 Q What did she say to that, the first time?

21 A The first time she said no. I was mad because  
22 she wouldn't let me get the money off the card.

23 Q What did you do after that?

24 A I went in to my son to where he was at and said,  
25 "Son, did you use the restroom?" He looked at me and

1 said, "No."

2 Q Then he fell back asleep?

3 A And then he fell back asleep, yeah.

4 Q Did you notice a puddle of pee at that point?

5 A No, he was lying on his stomach. If he had peed,  
6 I couldn't see it.

7 Q And he was sleeping on the floor?

8 A Yeah, he was sleeping on the floor.

9 Q Why was he sleeping on the floor?

10 A Because him, **CHILD 2** and my little girl, they  
11 share a bed, but he kept peeing in the bed so we  
12 wouldn't let him sleep in the bed with my little girls  
13 no more.

14 Q Okay. Now, there's been some talk about why that  
15 room was so empty. Why was that back room so empty?

16 A Because that was the play room. That's where all  
17 the toys and stuff was and where they would go and  
18 play.

19 Q Was that the place you were going to put your new  
20 baby?

21 A Yeah, we was.

22 Q Okay. And so you checked on **CHILD** ?

23 A Uh-huh.

24 Q Then what happened? Did you make another phone  
25 call?

1 A Yeah, I went back in, sat on the bed, watched TV.  
2 I called Courtney again.

3 Q Why did you call Courtney again?

4 A Because I was trying to go down there and pull  
5 the money off her card.

6 Q Why was that?

7 A Because before she comes, I want to already have  
8 the money so I could pay the cab.

9 Q Was there something else you wanted to get?

10 A Yeah, I had wanted to go and get some cigarettes  
11 and beer.

12 Q Okay. So after the second phone call, were you  
13 then allowed to get some money?

14 A Yeah, she told me to go ahead and get it.

15 Q Okay. And what did you do after that?

16 A I ran to the store, got the beer, got the  
17 cigarettes, and pulled \$200 off the card from the ATM  
18 machine. I ran back to the house --- I went back to  
19 the house to see if my son had woke up, but he was  
20 still asleep.

21 Q Has CHILD ever peed in his sleep before?

22 A Yeah, he done peed in his sleep numerous of  
23 times, numerous of times.

24 Q Numerous times?

25 A Uh-huh.

1 Q Okay. At that point when you went back and  
2 checked on him, did he have pee?

3 A No, I didn't see no pee.

4 Q From then, did you go back --- what did you do  
5 after you smoked your cigarettes and you had a beer?  
6 What did you do after that?

7 A I had went back in the room. I had fell asleep.

8 Q When was the next time --- when do you remember  
9 waking up?

10 A My mother had called me and asked me how Courtney  
11 and my newborn baby was. She asked me when Courtney  
12 was coming home. I said, "Let me call her and find  
13 out what time she is going to get discharged or what's  
14 taking so long."

15 Q And after you woke up, do you remember when  
16 Courtney came home?

17 A She came home by Blue Ribbon cab.

18 Q Okay. Do you remember what time it was?

19 A It could have been like 1:30. I know it was  
20 going on like two o'clock.

21 Q Okay. Describe what happened when she first got  
22 to the door?

23 A Well, when she knocked at the door, I had came to  
24 the door. She had my baby in her hand, and she  
25 knocked on the door, so I opened the door. So when I

1 went out there, I had went out and got the bags and  
2 stuff. I paid the cab and then I went back in the  
3 house.

4 Q When you went back in the house, tell me exactly  
5 what you did.

6 A When I went back in the house, we went to the  
7 back room and we was walking back. By me having her  
8 bag, I took the bag --- I went and put them in the  
9 room.

10 Q The play room?

11 A I went and put it in the play room. I heard  
12 Courtney say, "Oh, this motherfucker done peed in my  
13 house again."

14 Q So you saw that she was mad?

15 A She was pissed, yeah.

16 Q Did she lay her hands on **CHILD**?

17 A I didn't see her lay her hands on him.

18 Q But would you say she was mad but not too mad?

19 A She was pissed, but she wasn't too mad. She  
20 couldn't have prevented that.

21 Q Okay. Then what did you do after that, after you  
22 put the bags down?

23 A I put the bags down. I went in the room with  
24 Courtney. We was talking about her birth, and she  
25 said she wanted to take a shower. She said she didn't

1 want to have no more kids because that hurt, the pain,  
2 she had to go through that pain by herself and I  
3 didn't know how that feels.

4 Q Okay. And what did --- what was **CHILD** doing at  
5 this point?

6 A **CHILD** was sitting right there --- he was  
7 standing right there while me and Courtney was  
8 talking.

9 Q How did he react to the new baby?

10 A He said, "That's the kid. That's the baby."  
11 Courtney was like, "Yeah, but don't worry about it.  
12 You're going to help me clean this piss up off this  
13 floor."

14 Q Okay. So how much time would you say, just an  
15 estimate, how much would you say that you spent in  
16 that room playing with the new baby?

17 A Probably an hour-and-a-half, two hours.

18 Q Did you do anything in between time? Did you go  
19 smoke a cigarette?

20 A Yeah, me and Courtney went outside to smoke a  
21 cigarette. I just told my son to stand there --- to  
22 go stand there while we went outside to smoke a  
23 cigarette.

24 Q So you and Courtney both went outside to smoke?

25 A Yeah, we both went outside.



1 Q When you went back in the home, what did you do  
2 then?

3 A Courtney went back in before me, because you  
4 know, with a newborn baby, after you been smoking, you  
5 got to go wash and get that smoke off of you.

6 Q Right.

7 A So she went back in before me.

8 Q Okay. And --- but when you got back in there,  
9 what did you do?

10 A I went and did the same thing, I went and washed  
11 that stuff off me and changed my shirt.

12 Q At some point did you begin to cook?

13 A Yeah, I started cooking.

14 Q What were you making that night?

15 A I had some steaks. There were three steaks and  
16 some bell peppers, rice and I had bought us some eggs.

17 Q And was there also --- there was also rice?

18 A Yeah, there was rice.

19 Q And the three steaks, who were they supposed to  
20 be for?

21 A Me, Courtney, and my son.

22 Q So when you're in the kitchen and you're cooking,  
23 did you ever see CHILD again at this point?

24 A Yeah, he came around. He probably had been  
25 around there and said, "Dad, can I have some water,"

1 so I gave him some water.

2 Q Did you hear Courtney yelling anything to CHILD  
3 while he was getting water?

4 A No, she would tell him to come back around, but  
5 he was trying to prolong and stay in the kitchen with  
6 me so he didn't have to go and clean up.

7 Q Did you try to punish CHILD at some point in the  
8 kitchen?

9 A Yeah, I told him to go stand there and hold his  
10 hands up right here, so I could see him. I had him in  
11 my eyesight so I could see him while I was cooking and  
12 see what was going on.

13 Q So you actually made him hold his hands up like  
14 this? (indicating)

15 A Yeah.

16 Q Why did you do that?

17 A I tried keep him from going to Courtney, cause,  
18 you know, he didn't want to go back there.

19 Q Did it make it look like --- were you trying to  
20 make it look like ---

21 A Like I was punishing him, disciplining him.

22 Q Okay. And where did CHILD eventually go?

23 A She calls him and tells him to bring his ass back  
24 to help her get the pee up off the floor that he had  
25 did.

1 Q Okay. And was that the last time you saw [REDACTED] CHILD  
2 alive?

3 A That's the last time I seen him, yeah.

4 Q So you went back there --- [REDACTED] CHILD went back there  
5 and you stayed in the kitchen and kept cooking.

6 A Yeah.

7 Q All right. Take us through exactly what you saw  
8 next or what you heard.

9 A I heard the shower come on, but I heard the  
10 shower come on and I got my phone. I got the phone  
11 and I had the fan on, and the four eyes was on, and  
12 the back door was open ---

13 Q Why is the back door open?

14 A Because we got a newborn baby and got the four  
15 eyes on the stove and ---

16 Q Smoke detector?

17 A Yeah, and I ended up cooking on the electrical  
18 outlet and anytime the outlet get heated up, it's so  
19 sensitive that it would go off and if it would go off  
20 it would scare my baby.

21 Q Okay. So that's what was going on while you're  
22 cooking?

23 A Uh-huh.

24 Q What's the next thing you remember hearing?

25 A I heard a little --- I heard a boom.

1 Q Okay. What did you do after that?

2 A It took me like four or five minutes, but I cut  
3 stuff off, the stuff I was cooking, cut the fan off.  
4 I had Kool-aid, too, so I sat it down, upside down ---

5 Q And as you're walking?

6 A I hear Courtney saying, "Baby, look. Baby, look.  
7 Baby, look." It was coming from the back room. I  
8 never got a chance to make it to that room. I'm  
9 leaving my kitchen and she got my son like when you're  
10 going to ---

11 Q So she was coming down the hallway?

12 A She was coming down the hallway, yeah.

13 Q Just when you were getting ---

14 A Yes.

15 Q And what was she saying to you?

16 A "Baby, look. Baby look."

17 Q What did she have in her hands?

18 A She had my son in her hands like a newborn baby.

19 Q Okay. And how are you feeling at that point?

20 A I didn't know what to do because I was shocked.  
21 I didn't know what to do.

22 Q Okay.

23 A I was in shock.

24 Q And did you see --- what did Courtney do after  
25 that?

1 A Courtney got ahold of him, took him to the front  
2 room, laid him down and sat down with him and she  
3 called 911.

4 Q And you heard her call 911?

5 A I heard 911. I was right there while she was  
6 going the CPR and everything.

7 Q Was this on speaker?

8 A It was on speakerphone.

9 Q She had laid the phone down?

10 A She had laid the phone down and talked to them on  
11 the loud speaker.

12 Q And 911 was giving her instructions on how to  
13 save CHILD's life?

14 A Yes, sir.

15 Q Okay. And was she doing it?

16 A Yeah, she was doing everything they said.

17 Q She was doing everything they said?

18 A Uh-huh.

19 Q Did they ever tell you that two people should be  
20 doing CPR?

21 A No, they never said nothing about two people.

22 Q So you stayed there?

23 A I stayed right there until I heard an ambulance.

24 Q Okay. Now what happened when you heard the  
25 sirens?

1 A I was scared and shocked and panicked and I was  
2 walking around and didn't know what to do.

3 Q So what did you do?

4 A I walked to the back of the room, I got my  
5 newborn baby, and got the bottle and went and hid in  
6 the closet.

7 Q You took him and you hid in the closet?

8 A Yeah, I hid.

9 Q What did you hear when you were in the closet?

10 A I heard the ambulance and sirens and stuff like  
11 that. I heard doors opening and stuff like that.

12 Q What did you hear them say about **CHILD**?

13 A As soon as they came in, Courtney said, "Help me,  
14 help me." They put the thing on him, and said that he  
15 gone.

16 Q How did you feel?

17 A I was shocked. I didn't know what to do. I'm  
18 just in a cloud shaking, you know.

19 Q Have you ever lost --- has any of your children  
20 ever died before.

21 A No, that was my firstborn. That's the only time  
22 experiencing that.

23 Q Have any of your children been brought to you in  
24 their mother's arms before?

25 A No, sir.

1 Q Did you know how to feel?

2 A No.

3 Q Now, you heard some testimony here about ---  
4 you've seen a pipe, a shower rod?

5 A Uh-huh.

6 Q Have you seen that shower rod before?

7 A That's my second time seeing it today or when  
8 they put it out, it was my second time seeing it.

9 Q I'm just asking you, have you seen that shower  
10 rod before, before here in court?

11 A Uh-huh.

12 Q How did your blood get on that shower rod?

13 A I was in there playing a game and my little girl,  
14 my girl and ---

15 Q Do you remember how long ago this was?

16 A It was like, probably like two weeks before the  
17 incident with my son.

18 Q And what happened?

19 A I was in there playing a game.

20 Q Where?

21 A In their room playing a game.

22 Q On what?

23 A Playstation 3. I was playing a game and I hear  
24 my son telling my little girl, "Stop, CHILD 2, stop.

25 CHILD 2 hit me with a stick." That's what he was

1 saying.

2 Q How are you feeling at this time?

3 A I was just really playing the game. I wasn't  
4 thinking anything of it. I just playing the game, so  
5 I said, "She won't do nothing." She grabbed that and  
6 was mad and ---

7 Q This is what you're thinking in your head?

8 A Yeah. I heard him say, "Daddy, Daddy, CHILD 2  
9 hit me with a stick."

10 Q Okay, so then what did you do?

11 A I walked back there and she said, "Didn't I tell  
12 you about pissing in the house."

13 MS. PINNOCK: Your Honor.

14 BY MR. LI:

15 Q Then what did you do?

16 A That's when she ---

17 THE COURT: Stop. Stop.

18 MS. PINNOCK: Objection. That whole answer was  
19 hearsay.

20 THE COURT: Sustained. Disregard that  
21 testimony. Move on.

22 BY MR. LI:

23 Q What did you do next?

24 A What did I do next?

25 Q Yes.



1 A When I walked back there?

2 Q Yes.

3 A I snatched the stick and the stick cut my hand  
4 and I throwed the stick in the play room on that  
5 shelf. That's the last time I seen it till they  
6 brought it out.

7 Q Okay. And the last place you put that pole was  
8 where?

9 A In the play room closet up there on the shelf.

10 Q Now, there's some talk of when you were at the  
11 police station?

12 A Huh huh.

13 Q Did you ever tell Courtney, "Free me, free me"?

14 A I never tell her to free me. I said, "Courtney,  
15 tell the truth." I never said to free me. I said to  
16 tell the truth.

17 Q Were you anxious to get back to your kids?

18 A Yeah, I was very anxious to get back to my kids.

19 Q When you rode with Ms. Metze to --- when you rode  
20 with Ms. Metze to drop off Courtney at the  
21 reenactment, do you remember this?

22 A Uh-huh.

23 Q Did she dropped you off at the store?

24 A She dropped me off at the store at the bottom of  
25 the hill.

1 Q Did you at any point go back to Beaverbrook?

2 A No, I never did go back to Beaverbrook.

3 Q When was the last time you were at Beaverbrook?

4 A That day, that day that the police escorted me to  
5 headquarters.

6 Q Were you there --- you were there when you  
7 dropped off Courtney? You were with Ms. Metze?

8 A Yeah, I was with Ms. Metze when she dropped off  
9 Courtney.

10 Q But you didn't go inside?

11 A No, I didn't go inside.

12 Q On that day, when Courtney was supposed to come  
13 home on Monday, had you fed CHILD that day?

14 A No, I hadn't fed him because he didn't get up  
15 until Courtney had walked in the room and said he done  
16 pissed on the floor again.

17 Q You didn't feed him that day?

18 A No, I didn't feed him that day.

19 Q Antonio, have you ever beaten CHILD or any of  
20 your other children?

21 A I would pop my kids, but I never really put my  
22 hands on them physically to hurt them, but I done  
23 popped them.

24 Q Have you ever hit them with a closed fist or any  
25 sort of slapping?

1 A I wouldn't never hit them with my hands or no  
2 object or nothing like that.

3 Q Have you ever helped Courtney --- have you ever  
4 helped Courtney beat your son?

5 A No, sir.

6 Q And she asked you?

7 A Yeah, she asked me to hold him down, but I never  
8 listened to her what she said.

9 Q About that?

10 A About that.

11 Q Did you love CHILD ?

12 A Loved him to death.

13 Q You still love CHILD ?

14 A Yes, sir.

15 Q You miss him?

16 A Like a motherfucker.

17 Q What's the one thing you remember most about  
18 CHILD ?

19 A That he liked fire trucks.

20 MR. LI: No further questions.

21 THE COURT: Mr. Guinyard, there will be no  
22 profound language in this courtroom unless you're  
23 quoting somebody. Do you understand me?

24 THE WITNESS: I'm sorry, sir.

25 THE COURT: Okay. Cross-examination?

1 MS. WALKER: Thank you, Your Honor.

2 CROSS-EXAMINATION:

3 BY MS. WALKER:

4 Q Mr. Guinyard, Ms. Thompson treated CHILD pretty  
5 poorly?

6 A She didn't treat him bad.

7 Q She beat him with a cable cord, yes?

8 A (Nods in the affirmative.)

9 Q So that's treating him poorly.

10 A Yes.

11 Q She did that more than once?

12 A I only seen it like one time.

13 Q You only saw that one time?

14 A Uh-huh.

15 Q She would get mad at him for eating.

16 A She wouldn't get mad at him for eating, I  
17 wouldn't know that. She never would get mad at him  
18 when I was there for eating.

19 Q She treated him so badly that you had to stand up  
20 for him and protect him, right?

21 A Yes, ma'am.

22 Q And how many times now did you see her physically  
23 abuse your son?

24 A I only seen like two times, you know, like the  
25 two accidents that I didn't do nothing about, but I

1 didn't now, how overboard it was going or how  
2 overboard it was.

3 Q When you say you didn't know how overboard it was  
4 going, what do you mean?

5 A I didn't know it was that bad.

6 Q You lived there?

7 A Like off and on.

8 Q Were you there in late June?

9 A Late June?

10 Q Uh-huh.

11 A No, I wasn't there.

12 Q You weren't there?

13 A You mean at Beaverbrook?

14 Q Yes.

15 A June? Yeah, but I was like in and out. I was  
16 getting put out, and I was out and then back and  
17 forth.

18 Q Well, why did you keep going back?

19 A Because I had nowhere else to go.

20 Q You didn't think to get an apartment of your own?

21 A I can't get no apartment. I got a marijuana  
22 charge that ---

23 Q No, no. I'm not talking about an apartment that  
24 the government pays for. I'm talking about your own  
25 apartment?

1 A No, I can't get no apartment because first you  
2 have to get a job.

3 Q Did you ever think about getting a job?

4 A I only got like five interviews. They wouldn't  
5 hire me because I had tattoos on my face.

6 Q Where did you interview?

7 A I interviewed at like Church's Chicken, Lizard's  
8 Thicket ---

9 Q Your testimony is that Lizard's Thicket doesn't  
10 hire people with tattoos on their face?

11 A They don't hire people with tattoos on their  
12 face, period. That's not professional.

13 Q That's not --- tattoos on your face aren't  
14 professional?

15 A I'm saying they're not going to hire you with  
16 tattoos on your face.

17 Q Your testimony is that Lizard's Thicket doesn't  
18 do that?

19 A No.

20 Q Where else?

21 A Church's Chicken, Wendy's, Captain D's and I even  
22 went to the chicken farm.

23 Q To the one in West Columbia?

24 A Yes, ma'am.

25 Q So your testimony is you didn't have any money to

1 get your own place?

2 A Yes.

3 Q So in January you didn't have any money?

4 A No, ma'am.

5 Q In February you didn't have any money?

6 A No, ma'am.

7 Q March?

8 A No, ma'am.

9 Q April?

10 A No, ma'am.

11 Q In May you didn't have any money?

12 A No, ma'am. I didn't have no income because I was  
13 working with my cousin and it was under the table  
14 moving furniture and stuff like that. It wasn't  
15 enough money to pay no rent or nothing like that.  
16 Pays \$300 or \$400 a month.

17 Q That's all the money you had at any one given  
18 time?

19 A All what money?

20 Q You would only get \$300 or \$400 a time?

21 A I was saying, not with how much it costs every  
22 month to pay rent, \$400 or \$500 a month.

23 Q I'm sorry. I'm not trying to put words in your  
24 mouth. I just have a hard time understanding what  
25 you're saying. You're saying \$400 or \$500 a month is

1 what you needed?

2 A Uh-huh.

3 Q And when you got put out, where would you go?

4 A I would walk from Beaverbrook over to where I  
5 know people was at in the area, Benedict.

6 Q So you would have places to go when you were put  
7 out?

8 A Not really. I just would go to people's house.  
9 Sometimes I would sleep in the park.

10 Q And at no point in time did you ever know that  
11 your son was being abused or, as you put it, that it  
12 went as far as it went?

13 A Well, I know I was standing up for him and would  
14 get put out.

15 Q Did you ever bathe your son?

16 A Huh?

17 Q Did you ever bathe your son?

18 A Bathe my son? He bathe his self. I had bathe  
19 him before in the past like ---

20 Q Did you help him change and put on clothes, help  
21 him get dressed?

22 A No, he put on his own clothes.

23 Q So you're saying you never saw ---

24 A I seen CHILD one time --- I seen him with  
25 bruising on his back when we came to my mother's



1 house.

2 Q Okay. So you did see bruises on him?

3 A I saw whip --- I didn't see no bruising on him.

4 Q You saw whip marks on the boy?

5 A Uh-huh, I seen two of them.

6 Q When did you call the police and say someone has  
7 whipped my son. He has welts. He's been bruised?

8 A I would call my mother and my mother would call.

9 Q I'm not asking when you would call your mother.

10 A My mother would call.

11 Q I'm asking when did you call the police.

12 A I would call my mother and my mother would call.

13 Q So is the answer that you did not call the  
14 police?

15 A I called my mother. My mother could call.  
16 Courtney toll me if I called DSS, they would take all  
17 my kids.

18 Q And you didn't want all your kids to be taken?

19 A No.

20 Q So your testimony before this jury is that your  
21 son went from this, this smiling happy child playing  
22 with toys to this child with cuts on his ear, with a  
23 behind that's swollen, with a back that looks like  
24 this and you knew nothing about it?

25 A No, not at that point.

1 Q Not ---

2 A Not at that point.

3 Q You didn't know this?

4 A No.

5 Q Your son couldn't raise his arm.

6 A My son could raise his arm. If he couldn't raise  
7 his arm, I would have called the ambulance. I would  
8 have called the police.

9 Q He had a fractured arm. You heard the testimony,  
10 right?

11 A If he had a fractured arm, it had to be right  
12 then. It couldn't be when I was there with him.

13 Q I'm sorry. I couldn't understand you.

14 A It couldn't be when I was there with him that he  
15 had a fractured arm.

16 Q Well, he did. He had a fractured arm. You're  
17 saying he was holding his arms up like this?  
18 (indicating)

19 A Yeah, he was holding his arm up like this.  
20 (indicating)

21 Q Despite the fact that it's medically impossible?

22 A The only thing that I saw was that his arm was  
23 cut.

24 Q I want to show you a picture from Facebook,  
25 State's Exhibit 259. From May 10<sup>th</sup> of 2013 was when

1 you didn't have any money, right?

2 A No, I didn't have any money.

3 Q What is this?

4 A Oh, that's Quinton's money.

5 Q You had this money?

6 A That was Quinton's money. That wasn't my money.

7 MS. WALKER: Your Honor, at this point the State  
8 seeks to admit 259 into evidence.

9 MR. LI: No objection, Your Honor.

10 MS. PINNOCK: No objection.

11 THE COURT: State's 259 without objection.

12 (WHEREUPON, State's Exhibit Number 259 was  
13 admitted into evidence.)

14 BY MS. WALKER:

15 Q So in May you didn't have any money?

16 A That was Quinton's money. That was my kid's  
17 money.

18 Q That you flashed on Facebook?

19 A Yeah.

20 Q You said that you told Courtney to tell the  
21 truth?

22 A Uh-huh.

23 Q What truth was that? What was it that you were  
24 trying to get her to say?

25 A I tried to get her to tell the truth that I

1 didn't beat my child and to let me go home.

2 Q When did you first notice your son in a puddle of  
3 urine on July 1<sup>st</sup>?

4 A I did not know until Courtney came in the room  
5 and she had came back. I did not know that.

6 Q So you were mistaken when you told police  
7 officers that he was lying in a puddle of urine before  
8 he left to go get a beer?

9 A I never told the police officer that.

10 Q That's your testimony?

11 A I never told them that he was laying in --- I  
12 never told him that. They asked me what happened that  
13 day. I told them what happened. I gave them the  
14 truth.

15 Q And you fed him pork chops on, I guess, that was  
16 Saturday night?

17 A Yeah, we had pork chops on Saturday night.

18 Q I can't hear you.

19 A Pork chops and rice on Saturday night.

20 Q Was he able to hold that down?

21 A Yeah.

22 Q And he wasn't lethargic?

23 A No, there wasn't nothing wrong with him but the  
24 cut on his hands --- on his arm.

25 Q He didn't complain of being sore?

1 A No.

2 Q And he was sitting down normally despite his  
3 behind looking like this?

4 A He was sitting down.

5 Q What time did he finally wake up on the 1<sup>st</sup>?

6 A On the 1<sup>st</sup>?

7 Q Uh-huh.

8 A I had woke him up early that morning.

9 Q When he finally got up?

10 A When he finally got up --- well, he didn't get up  
11 until Courtney came home and she started yelling about  
12 the piss. I didn't see the piss.

13 Q My question is what time was that?

14 A Probably like, Courtney got home about 2:00.

15 Q What time did you wake up?

16 A What time I woke up? I woke up early because I  
17 was trying to get the money so when Courtney came home  
18 she wouldn't have to spend no money going back to the  
19 store because that was extra money.

20 Q Okay, well, my question is what time did you wake  
21 up?

22 A What time I woke up? It was like 7:15, 7:30,  
23 maybe 6:00.

24 Q So you were about seven hours that day before he  
25 got up?

1 A No. I had just woke up. You asked me what time  
2 I woke up. I told you I woke up Monday morning at  
3 like about 7:00.

4 Q But he didn't get up until about 2:00 p.m.

5 A Uh-huh. He didn't get up until his mama came  
6 home.

7 Q Right, so you were up for about seven or eight  
8 hours before he got up?

9 A No, I was asleep, but I had woke up so I could  
10 call Courtney.

11 Q You were asleep and awake at the same time?

12 A No, I was asleep. I had woke up like 7:15. I  
13 called Courtney and went and asked my son did he have  
14 to go the restroom. He said no, he was sleeping,  
15 so I just went along and left him sleeping. I didn't  
16 see no pee then.

17 Q Right. That was at 7:00 in the morning?

18 A Yeah, that was like 7:00. I got off the phone  
19 with Courtney the first time.

20 Q And CHILD didn't get up until 2:00 in the  
21 morning --- 2:00 in the afternoon?

22 A He got up after Courtney had got home.

23 Q And you didn't think it was odd that he was  
24 sleeping all day?

25 A No, cause we stayed up all night watching the BET

1 awards and didn't go to sleep for ---

2 Q You watched the BET awards for seven hours,  
3 right?

4 A Till 3:00 or 4:00.

5 Q You watched it from --- what time did you start  
6 watching it?

7 A Probably like 8:00.

8 Q So you watched the BET awards for seven or eight  
9 hours that night?

10 A No, I kept rewinding the show back, the  
11 performances back.

12 Q So yes, you did or no, you didn't?

13 A I watched it like a good bit, but I don't think  
14 it was no seven hours. I watched it a good bit  
15 though.

16 Q Okay. And despite your son bleeding out  
17 internally at that point, he was still the same happy  
18 kid he was whenever he was with you?

19 A He wasn't hurting.

20 Q Oh, he was hurting.

21 A I didn't know he was hurting. He didn't say he  
22 was hurting. The only thing I noticed was his arm  
23 with a cut on it.

24 Q How did he get that cut?

25 A I don't know. After I had got put out and I came

1 back like Saturday --- I came back, like I got put out  
2 on Saturday, I came back --- I got put out that  
3 Saturday, Sunday, Monday. When I come back on Tuesday  
4 that's when I saw that cut on his arm.

5 Q Did you ask him what happened?

6 A No, I asked what had happened and Courtney said  
7 CHILD 2 had done scratched him with nail or something  
8 like that.

9 Q Is CHILD 2 the one that beat him so hard he got  
10 blood on the pole, right?

11 A No, CHILD 2 didn't beat him with the pole. I  
12 said I snatched the pole.

13 Q I'm not talking about your blood.

14 A Oh.

15 Q I'm talking about your son's blood.

16 A Well, when I took the pole, I didn't see no cut  
17 on him, on his arm. It poked at my hand. It's from  
18 when I snatched it from CHILD 2.

19 Q But she must have beaten him pretty hard with it.  
20 You agree with me, right?

21 A No. She would hit with it. That made me snatch  
22 it.

23 Q And how old was with she at the time she was  
24 executing this pole beating?

25 A Like three.



1 Q And you were aware that your son was holding his  
2 arm awkwardly though, weren't you?

3 A No, he was just holding his hand up like this.

4 Q May 16<sup>th</sup> you didn't get a text message from  
5 Courtney that said, "Come look how this boy is holding  
6 his hands. He looks like a RERE."?

7 A May 16<sup>th</sup>.

8 Q Here you go.

9 A I don't remember that.

10 Q You don't remember that text message?

11 A No, I don't remember that.

12 Q I want to talk to you about November 16<sup>th</sup>  
13 of 2012. Do you remember law enforcement coming to  
14 your house and asking you about your son?

15 A November 2012? I can't ---

16 Q November 16<sup>th</sup>, 2012?

17 A Where was I staying? Was it at Allen Benedict  
18 Court?

19 Q You tell me.

20 A They done came so many times. I don't know what  
21 you're talking about, what one you're talking about.

22 Q Do you remember a time when --- do you remember a  
23 time when the police came and it was just you then,  
24 and they came to check on your son? Let's talk about  
25 the time in April of 2013?

1 A I remember --- I remember the police coming.

2 Q And do you remember them --- at that point in  
3 time you knew he had been beaten with the cord, right?

4 A That was like old. This was like 2012 with the  
5 cord.

6 Q But you knew he had been beaten with the cord at  
7 that point?

8 A Yeah, I knew. I knew.

9 Q And you knew that his mother would get mad at him  
10 for using the bathroom in the house?

11 A Uh-huh.

12 Q And that she would physically punish him for  
13 that?

14 A Yes.

15 Q You knew that she was not feeding him as much as  
16 you would like her to feed him, right?

17 A Yes.

18 Q April, when you were alone with your son and the  
19 police came and talked to you about how he was doing,  
20 you said that he was fine, right?

21 A Like April when they came, yeah, he was fine.

22 Q So it sounds like Courtney, I guess, was the head  
23 of the household, right?

24 A Yes.

25 Q Things went the way she said they went?

1 A It was our house. She was on the lease. I  
2 wasn't on the lease. I could get kicked out, put out  
3 any given time, so she was the head of the household.

4 Q And you never --- you didn't have your own place  
5 to go because you didn't get a job or an apartment or  
6 anything like that?

7 A No. I didn't have my own place to go.

8 Q And your testimony is that your son --- you heard  
9 a thump?

10 A I heard a boom.

11 Q You heard a boom?

12 A Yeah.

13 Q And you talk about how much you loved your son.

14 A Uh-huh.

15 Q You miss him?

16 A Uh-huh.

17 Q You have to say yes or no.

18 A Yes.

19 Q That you stood up for him when his mother's  
20 punishments would go too far?

21 A Yes.

22 Q But when he was in her arms, in and out of  
23 consciousness and dying, when he needed you the most,  
24 you went and hid in a closet?

25 A If that accident didn't happen, if you was in my

1 situation at the time ---

2 Q I'm not talking about me being in your situation.  
3 I'm talking about what you did.

4 A You would you ever know what to do legally if you  
5 seen your kid like I seen my kid. You would probably  
6 know what to do legally.

7 Q Because certainly you don't want to help him.  
8 You want to go hide in the closet, right?

9 A I sat right there while Courtney was on the phone  
10 with the paramedics while she performed the CPR.

11 Q What were you saying to Courtney?

12 A I didn't know what to do. I was in shock. I was  
13 pacing. I didn't know what to do.

14 Q So you did what any good father would do, you  
15 went and hid in the closet?

16 A No. I went and got my baby and I hid in the  
17 closet.

18 Q Okay, you went and got your baby and the two of  
19 you hid in the closet?

20 A I walked back there and got my baby when I heard  
21 the door start to open.

22 Q Because according to the statement that you gave  
23 law enforcement, when accidents like this happen, they  
24 take your children, right?

25 A Yes.

1 Q So when children fall down, law enforcement  
2 swoops in and takes the rest of the kids in the house?

3 A No, they investigate first and see what it was  
4 before they take the kids. They not just going to  
5 take them.

6 Q So there is an investigation and then the  
7 children get taken?

8 A If they find out what the investigation come  
9 from.

10 Q So you knew that something had happened to your  
11 son at that point, right, you knew something more than  
12 a fall had happened to him.

13 A No, I didn't know nothing more than a fall  
14 happened to him. I heard a boom. I went back to see  
15 where it came from.

16 Q Mr. Guinyard, you said if everything is okay,  
17 they don't take your kids, right?

18 A Yeah.

19 Q But when things are bad, they take your kids?

20 A Right.

21 Q You were concerned about them taking your kids?

22 A Uh-huh.

23 Q What happened that made you so concerned they  
24 were going to take your kids if he just fell off the  
25 dresser?

1 A I never said he fell off the dresser, I said I  
2 heard a boom. You didn't never hear me say he fell  
3 off a dresser.

4 Q So what happened that they were going to take  
5 your kids, what happened?

6 A Because I didn't really know. I know you never  
7 heard me say he fell off the dresser. I said I heard  
8 a boom.

9 Q No, no, no, my question is, what happened that  
10 was going to make the police take your kids?

11 A Because, I guess, they was going to investigate  
12 and see he had been beaten and they were going to take  
13 my kids.

14 Q And you knew that he had been beaten even at that  
15 point in time?

16 A No, I did not.

17 Q You just said that once they investigated they  
18 were going to know he had been beaten.

19 A Yes, after they investigated it.

20 Q So you knew that he had been beaten. If you  
21 didn't know that he had been beaten, how would an  
22 investigation definitely lead to them finding out that  
23 he had been beaten?

24 A You got to break that down for me because I don't  
25 understand what you ---

1 Q You're right. That's my fault.

2 A --- what you getting at.

3 Q Let me break it down for you.

4 A Uh-huh.

5 Q You get in the closet because once they  
6 investigate, they're going to take your kids?

7 A I get in the closet to protect my baby. That's  
8 what I got in the closet for.

9 Q Protect him from who?

10 A From the law, from the police or anybody else.  
11 That's why I got in the closet with my newborn son, to  
12 protect him.

13 Q Okay. And you said though to law enforcement  
14 that because when things like this happen, they take  
15 your kids?

16 A Yeah, when they do the investigating to see what  
17 the reason for the death is.

18 Q Right. So at that point in time you had concerns  
19 about what the investigation would show so you hid in  
20 the closet?

21 A I really didn't know what the investigation would  
22 be, what the cause would be, if it was suspicious  
23 death or what it was. I just know is my son is gone.

24 Q It was suspicion to you?

25 A No, it wasn't suspicious to me.

1 Q Then why did you --- you have to explain to me  
2 why you hid in the closet.

3 A Because I was scared and I was shocked and I had  
4 to protect my son, so I hid in the closet. That's why  
5 I hid in the closet.

6 Q What were you afraid of?

7 A What was I afraid of?

8 Q You say you were scared?

9 A I was just protecting my son and I was in shock.

10 Q Protecting him from what?

11 A The law, the police.

12 Q What were the police going to do to him?

13 A Take him. They took him out of my hands when I  
14 came outside, when I came out from the closet and when  
15 I sat on the front porch.

16 Q So you didn't want them to hold your son?

17 A I didn't want nobody to hold my son.

18 Q Okay. Were you in here when you --- you were  
19 here and heard the pathologist testify?

20 A Yes.

21 Q The lady who did the autopsy?

22 A Yes.

23 Q You heard about all of your son's injuries?

24 A A lot of words they be using I didn't understand.  
25 I don't know.



1 Q Me, too, but you heard about your son's injuries?

2 A Yes.

3 Q About all the bleeding that he had going on?

4 A That's what they say. That's what she said. If  
5 that's what she said, that's what she said.

6 Q You heard that?

7 A Yeah, I heard it.

8 Q And that he would have been lethargic, like  
9 tired?

10 A Yeah, I heard that.

11 Q But your testimony to this jury is that despite  
12 the fact that he was bleeding out, you had on the  
13 29<sup>th</sup>, 30<sup>th</sup> and 1<sup>st</sup> of July, a perfectly healthy child  
14 who could raise his arms above his head and had no  
15 other pain that he was complaining of?

16 A No, he didn't have no pain and he didn't show no  
17 pain or tell me he was hurting. The only thing I seen  
18 was the scar on his arm.

19 MS. WALKER: I don't have any further questions.

20 MS. PINNOCK: May it please the Court.

21 THE COURT: Yes, ma'am.

22 CROSS-EXAMINATION:

23 BY MS. PINNOCK:

24 Q Mr. Guinyard, what was [CHILD]'s birthday?

25 A [REDACTED] [REDACTED].

1 Q 2009?

2 A Yes, ma'am.

3 Q He is named after you, right?

4 A Yes, ma'am.

5 Q He is a [REDACTED]. You're a senior, right?

6 A Yes, ma'am.

7 Q Now, I don't think I --- you mentioned something  
8 a second ago. I don't think I'm clear on it. Did you  
9 just tell Ms. Walker that you did not live on  
10 Beaverbrook in June?

11 A In June, it was back and forth like I stayed  
12 there, then I get put out. I stayed there and then I  
13 get put out.

14 Q Did you live there or didn't you?

15 A Yeah, I lived there for like off and on. When  
16 you stay somewhere and you don't get put out, that's  
17 your own home. Being that it was off and on, it was  
18 temporary. If I just stayed there, I never would have  
19 gotten put out.

20 Q Your belongings wasn't there?

21 A The clothes that Courtney had got me.

22 Q Your mom went and got your clothes the day after,  
23 so your clothes were there?

24 A She went and got my clothes. That's what the  
25 investigator or somebody said. I'm not sure.

1 Q Okay. Now, you kept mentioning over and over  
2 again that your relationship with Courtney was all  
3 right?

4 A It was.

5 Q It was good, but then it kind of got all right?

6 A Yes.

7 Q How many children did y'all have together?

8 A Five.

9 Q Other than the new baby that we know was born  
10 June 29<sup>th</sup>, 2013, when were their birthdays, the other  
11 four?

12 A CHILD 2 's was [REDACTED] and CHILD 3 's was  
13 [REDACTED], CHILD 4 was [REDACTED].

14 Q What years?

15 A I mean, CHILD 4 --- CHILD 3 's birthday, [REDACTED]  
16 [REDACTED], CHILD 4 's birthday was [REDACTED] and CHILD 2  
17 birthday was on [REDACTED].

18 Q What years?

19 A CHILD 2 's birthday was 2010 ---2010, 2011, 2012.  
20 You asked me the year?

21 Q Yep.

22 A Oh, what you mean by that?

23 Q Their years. So CHILD was born in 2009?

24 A Uh-huh.

25 Q You had another child born in 2010?

1 A Uh-huh.

2 Q Another one born 2011?

3 A Uh-huh.

4 THE COURT: Say yes or no.

5 BY MS. PINNOCK:

6 Q 2012?

7 A Yes.

8 Q And 2013?

9 A Yes.

10 Q Okay. Now, you've been sitting in here all last  
11 week and sitting in here all day today?

12 A Uh-huh.

13 Q Are you telling the jury that the investigators  
14 made up the fact that you told them that you left  
15 **CHILD** laying in a puddle of piss in his room while  
16 you went to the store?

17 A Yeah, they can't show it on record that I told  
18 them that.

19 Q So they made it up?

20 A They had to.

21 Q Okay. And they questioned you July 1<sup>st</sup> and  
22 July 2<sup>nd</sup> at their headquarters, right?

23 A Yes, ma'am.

24 Q You decided you were not going to go to the house  
25 with Courtney the afternoon of July 2<sup>nd</sup>?

1 A For what?

2 Q For the reenactment.

3 A They never called me to go. They called Courtney  
4 to go. It was Courtney's house. They never called me  
5 to go.

6 Q But you were ---

7 A I was with Courtney when she went.

8 Q You were in the car, but you didn't get out of  
9 the car?

10 A No, I didn't get out of the car.

11 Q So you opted not to go?

12 A They didn't never call me. They said they wanted  
13 Courtney to come.

14 Q They gave you a call after that?

15 A Yeah.

16 Q You met at headquarters?

17 A Yeah, they told me met them at headquarters.

18 Q Who called you, Courtney or the investigator?

19 A I mean, the investigator called my phone, and  
20 told me to meet them at headquarters and Angie Metze  
21 took me to headquarters. I was in the car with her  
22 and she took me to headquarters.

23 Q When they were questioning you on the 2<sup>nd</sup>, you  
24 told them, "You're wasting your time. I'm not going  
25 to change my story."?

1 A When they questioned me and asked me what had  
2 happened, I gave them the truth. I told them what I  
3 did that day and what all had happened and went on  
4 that day. They never did ask me what happened in the  
5 past. They asked me what happened that day, and I  
6 told them exactly what happened that day.

7 Q You told them on the 2<sup>nd</sup> that you woke up what  
8 time?

9 A When I woke up on the 2<sup>nd</sup>?

10 Q I'm sorry, when you were there on the 2<sup>nd</sup>, you  
11 told them you woke up what time?

12 A I didn't talk to them on the 2<sup>nd</sup> because my story  
13 stayed the same. I never changed my story. I talked  
14 to them on the 1<sup>st</sup> that night.

15 Q You didn't talk to any investigator on July 2<sup>nd</sup>?

16 A No. They came to the jail --- no, I didn't talk  
17 to the investigator. They came in, but I didn't talk  
18 to them or let them know cause I told them the truth.  
19 There was nothing else to tell.

20 Q I'm not asking if you gave a statement. I'm  
21 asking if you talked to them.

22 A No, you asked me a question. I told them  
23 everything that happened that day and that's what I  
24 told them.

25 Q Okay. And that's what you told them on the 1<sup>st</sup>?

1 A Uh-huh.

2 Q So what time did your get up on the 1<sup>st</sup>?

3 A On the 1<sup>st</sup>, I got up early on the 1<sup>st</sup>.

4 Q What time was early?

5 A Like 7:00 or something.

6 Q So you get up at 7:00?

7 A Uh-huh.

8 Q You're now saying that you checked on **CHILD**?

9 A I had called Quinton first. Then I went and  
10 checked on **CHILD**.

11 Q You didn't tell them that, did you?

12 A No, because --- no.

13 Q So now you're saying you checked on him. You  
14 asked him if he had to use the restroom?

15 A Uh-huh.

16 Q Now, you're saying that he told you no and went  
17 back to sleep?

18 A No, he told me no and went back to sleep.

19 Q And he's sleeping on the floor?

20 A Yeah, he is sleeping on the floor.

21 Q Your testimony now is that you did not see any  
22 urine on the floor?

23 A No, I didn't see any urine on the floor, because  
24 he was laying on his stomach and I couldn't see no  
25 urine.

1 Q You told them that you --- after Courtney got  
2 home at some point, you started cooking dinner?

3 A I didn't just start cooking dinner after Courtney  
4 got home.

5 Q At some point, you started cooking dinner?

6 A Yes, ma'am.

7 Q And while you're cooking dinner, you said you  
8 heard a boom?

9 A I heard a boom.

10 Q You waited four or five minutes before going to  
11 see what happened?

12 A I really didn't get a chance to see what happened  
13 because after I finished cleaning everything off, and  
14 shutting the fan off, like by the time I stepped right  
15 there to go back there, Courtney was walking back with  
16 my son.

17 Q What size oven do you have?

18 A Probably normal size.

19 Q A normal size, four eyes?

20 A Yes.

21 Q Four controls?

22 A Yes.

23 Q Four to five minutes to turn it off?

24 A Yes.

25 Q Four to five minutes to turn the fan off?



1 A No, I was just four or five minutes --- that's  
2 what they put on paper, but it's four or five minutes  
3 to --- I had to shut the door, cut the eyes off, put  
4 the Kool-aid down upside down right there by the sink.  
5 By the time I was fixing to go back there, Courtney  
6 was walking down the hallway to meet me. When I took  
7 one step, Courtney was already there meeting me and  
8 saying "Look, baby. Look, baby, he is not breathing.  
9 Look, baby. Look, baby."

10 Q So you turned the eyes off?

11 A Uh-huh.

12 Q Shut the door?

13 A Uh-huh.

14 Q You shook up some Kool-aid?

15 A I already had the Kool-aid in my hands ---

16 Q So you put it down?

17 A Upside down on the sink.

18 Q Okay. And four to five minutes passed. Were or  
19 they making that up, too?

20 A It was written four or five minutes, but that's  
21 what was on the paper.

22 Q That's not true either?

23 A Well, I told them four or five minutes for it.

24 Q And you told them that you left **CHILD** at home  
25 while you went up the street to the store, first thing

1 that morning?

2 A Yes, I left CHILD on the floor at the sleep.

3 Q And you went and purchased the beer. You came  
4 back and drank the beer at what time?

5 A It wouldn't be no more than about 8:00, right  
6 about 8:00.

7 Q And then you decided to go back to sleep?

8 A Yeah, I had fallen asleep.

9 Q CHILD was four, right?

10 A Uh-huh.

11 Q Is your testimony now that he didn't get up until  
12 Courtney came home?

13 A Yeah, he didn't get up. Courtney woke him up  
14 with all that yelling and telling me he done pissed on  
15 the floor. All that loud stuff done woke him up.

16 Q And he is four?

17 A Yeah, he is four.

18 Q So he did not wake up at all that day until  
19 Courtney got home?

20 A Yeah.

21 Q Right?

22 A Uh-huh.

23 Q And you just testified that when she got home,  
24 what happened? You played with the new baby, right?

25 A Yeah, I played with the new baby.

1 Q She is in there trying to clean up the mess?

2 A Yeah.

3 Q She is making [CHILD] help her clean up the mess?

4 A Uh-huh.

5 Q That's what you testified to today?

6 Q So when you told the investigator on  
7 July 1<sup>st</sup>, 2013, that you had played with [CHILD] in his  
8 room, that wasn't true either?

9 A Played with him --- yeah, I had played with him  
10 for a minute but then he had went back to sleep. He  
11 was happy that his brother was going to come home.

12 Q So now he woke up and you were playing with him?

13 A No, he woke up for a little bit and then he was  
14 going back to sleep.

15 Q Okay. Let me ask you this, Mr. Guinyard. When  
16 did you --- you said that you were standing there  
17 watching Courtney perform 911 --- not --- perform CPR?

18 A Yes.

19 Q Did you go outside and wait for the ambulance?

20 A No.

21 Q Did you ask her if she heard him breathing?

22 A No, I was sitting right there, and I was seeing  
23 how he would breathe.

24 Q Okay. But you didn't render any aid?

25 A Huh?

1 Q You didn't help?

2 A I was in shock.

3 Q You were in shock. Did you help her?

4 A I was in shock. I didn't know ---

5 Q Did you help her?

6 A I was in shock. I didn't know what to do.

7 Q So that's a no?

8 A I was in shock.

9 THE COURT: Sir, you need to answer the question  
10 directly and then you'll be given an opportunity to  
11 explain yourself.

12 THE WITNESS: No, I did not help her because I  
13 was in shock.

14 BY MS. PINNOCK:

15 Q You did not help her?

16 A No.

17 Q When you heard EMS knock on the door --- whoever  
18 it was, you didn't know if it was EMS, the fire  
19 department, sheriff's department, you didn't know who  
20 it was. Did you open the door?

21 A No, I did not open the door.

22 Q You ran away?

23 A I had walked to the back room, picked my newborn  
24 baby up.

25 Q Between the time that EMS went like this

1 (knocking) you had walked back to the room, picked up  
2 your baby, and then hid in the closet?

3 A Yes.

4 Q From the second they knocked on the door?

5 A Yes.

6 Q When you heard them come in and tell Courtney  
7 that her son was gone, you didn't come out of the  
8 closet?

9 A No, ma'am.

10 Q Somebody had to catch you coming out the back  
11 door, trying to leave out the back door of your house  
12 before anybody knew you were inside, right?

13 A Yes, ma'am.

14 Q Where were you going?

15 A I didn't know, ma'am, I didn't know, ma'am.

16 Q You were going to take the child that you wanted  
17 and leave out the back door, weren't you?

18 A I didn't hear what you said.

19 Q You were going to take the child that your  
20 wanted, your new baby, and leave out the back door?

21 A I didn't get a chance to leave out the back door.

22 MS. PINNOCK: Beg the Court's indulgence.

23 (Pause.)

24 BY MS. PINNOCK:

25 Q Okay. A couple more things. You said that you

1 didn't tell anybody what happened in the days leading  
2 up to [CHILD]'s death because nobody asked you?

3 A No, they never asked me. They asked me what  
4 happened that day.

5 Q You didn't think it was important to tell me them  
6 everything I saw was fine?

7 A Only thing they asked me was they said tell me  
8 everything that happened that day when you first got  
9 up. I gave them everything I did on a piece of paper.  
10 They were typing it.

11 Q Okay, and again you didn't call 911?

12 A No.

13 Q You didn't try to do CPR?

14 A No.

15 Q You didn't even ask anybody on the scene if your  
16 son was okay, did you?

17 A I didn't know what to do because I still was in  
18 shock.

19 Q Okay. So that's a no?

20 A Yes.

21 MS. PINNOCK: Thank you.

22 THE COURT: Redirect?

23 MR. LI: No, Your Honor.

24 THE COURT: Thank you very much, sir. You may  
25 step down.

1       Everybody approach real quick.

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

4       THE COURT: All right. We're going to take a  
5       little bit of a break. It's ten till four. We've  
6       been going since a little bit after 2:00. If you will  
7       return to your jury room. Do not discuss the case.  
8       Keep an open mind. We'll see you back in just a few  
9       minutes. Thank you.

10       (WHEREUPON, the jury left the courtroom at  
11       3:49 p.m.)

12       THE COURT: Okay. Do you have any further  
13       witnesses?

14       MR. LI: No, sir.

15       THE COURT: Okay. Where are you on witnesses  
16       this afternoon?

17       MS. PINNOCK: Your Honor, we have one witness  
18       that will take a matter of minutes and then  
19       Ms. Thompson.

20       THE COURT: Okay. Do you want to try to do her  
21       this afternoon?

22       MS. PINNOCK: (Nods in the affirmative.)

23       THE COURT: All right. Let's take ten minute  
24       break. Everybody be ready to go at 4:00. Okay.

25       (WHEREUPON, a short break was taken.)

1 THE COURT: State ready?

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

3 THE COURT: Mr. Li?

4 MR. LI: Yes, Your Honor.

5 THE COURT: When they can come back in, you can  
6 officially rest on the record.

7 MR. LI: Yes, sir.

8 THE COURT: For the record, you are renewing your  
9 previous motions that you have previously made?

10 MR. LI: Yes, sir.

11 THE COURT: Okay. I'll deny those motions.

12 MS. CAMPBELL: Your Honor, for the record I'm  
13 renewing my mistrial motion.

14 THE COURT: All right. Very well. That motion  
15 is denied. Thank you.

16 THE BAILIFF: All jurors are present, Your Honor.

17 THE COURT: Thank you very much. Welcome back,  
18 ladies and gentlemen.

19 Mr. Li, you may call your next witness.

20 MR. LI: Your Honor, Defendant Guinyard rests.

21 THE COURT: All right. Thank you, Mr. Li.

22 Ladies and gentlemen, as I told you before,  
23 Ms. Thompson does not have to present any defense if  
24 she does not want to. However, she has the  
25 opportunity to do so if she chooses.



1 Ms. Pinnock, do you have any witnesses to call?

2 MS. PINNOCK: Yes, Your Honor. May it please the  
3 Court. The defense calls Ms. Jacqueline Richburg.

4 THE COURT: Please come forward, ma'am.

5 JACQUELINE RICHBURG,  
6 after being duly sworn, testified as follows:

7 THE CLERK: Have a seat and state your name for  
8 the record.

9 THE WITNESS: Jacqueline Richburg.

10 DIRECT EXAMINATION:

11 BY MS. PINNOCK:

12 Q Ms. Richburg, where are you employed?

13 A City of Columbia.

14 Q And do you also have dealings with 911  
15 Communications?

16 A Yes.

17 Q How long have you worked with 911 Communications?

18 A Thirty-two years.

19 Q What are some of the duties that your job  
20 requires in the communications?

21 A I am responsible for --- well, one of my duties  
22 is that I'm responsible for maintaining and pulling  
23 recordings for the police, fire department, EMS, and  
24 citizens.

25 Q Okay. I am going to hand you what's been marked

1 as Defense Exhibit one. Did you have a chance to  
2 review that?

3 A Yes.

4 Q And what is that?

5 A It's a CD recording of a phone call.

6 Q Is it a 911 phone call?

7 A Yes.

8 Q Do you recall the date?

9 A It was in July.

10 Q July 1<sup>st</sup>, 2013?

11 A Okay. I remember July.

12 Q Okay. And you said that is something that your  
13 job requires you to do as part of the regular practice  
14 of your business?

15 A Yes.

16 Q And from your review of that recording, did it  
17 seem as though it had been changed or altered in any  
18 way from the original?

19 A No.

20 MS. PINNOCK: Your Honor, at this time I would  
21 offer Defense Exhibit 1 into evidence.

22 MS. CAMPBELL: Your Honor, it's already been  
23 marked as State's Number 223 if she wanted to use that  
24 copy. Either way, we have no objection.

25 MR. LI: No objection, Your Honor.

1 THE COURT: All right. Defendant's 1, admitted  
2 without objection.

3 (WHEREUPON, Defense Exhibit Number 1 was admitted  
4 into evidence.)

5 MS. PINNOCK: Thank you, Your Honor.

6 Thank you, Ms. Richburg.

7 That's all I have, Judge.

8 THE COURT: Cross?

9 MS. McDUFFIE: None from the State, Your Honor.

10 THE COURT: Mr. Li?

11 MR. LI: No.

12 THE COURT: Have a nice day.

13 THE WITNESS: Thank you.

14 THE COURT: Thank you.

15 All right. You may call your next witness.

16 MS. PINNOCK: Thank you, Your Honor. I'd call  
17 Courtney Thompson.

18 THE COURT: All right. Ms. Thompson, please come  
19 forward and be sworn.

20 COURTNEY THOMPSON,  
21 after being duly sworn, testified as follows:

22 THE CLERK: Please have a seat. State your name.

23 THE WITNESS: Courtney Thompson.

24 DIRECT EXAMINATION:

25 BY MS. PINNOCK:

1 Q How are you doing?

2 A (There was no response.)

3 Q Hanging in there?

4 A Yes, ma'am.

5 Q Now, Courtney, let's be straightforward, you know  
6 exactly why you're here, right?

7 A Yes, ma'am.

8 Q You've heard everything that was presented last  
9 week?

10 A Yes, ma'am.

11 Q You've heard the testimony of witnesses today?

12 A Yes, ma'am.

13 Q I'm going to ask you what every person in this  
14 room is wondering, Courtney, did you kill your son,  
15 CHILD?

16 A I did not.

17 Q Did you kill your son?

18 A No, ma'am, I did not.

19 Q Did you beat your son on July 1<sup>st</sup>, 2013?

20 A No, ma'am, I did not.

21 Q Did you beat your son on July 29<sup>th</sup>, 2013? I'm  
22 sorry, on June 29<sup>th</sup>, 2013?

23 A No, ma'am, I was not there. I was in the  
24 hospital.

25 Q You were still in the hospital?

1 A Yes, ma'am.

2 Q And actually you were in the hospital from the  
3 29<sup>th</sup>, the 30<sup>th</sup>, and into the 1<sup>st</sup>, right?

4 A Yes, ma'am, I was.

5 Q Courtney, I'm going to have to ask you some  
6 questions that are very sensitive. When CHILD came  
7 back to live with you, after you went through  
8 everything that they asked you to do to get your son  
9 back, did you lay your hands on him in the past?

10 A In the past?

11 Q Yes.

12 A I did.

13 Q Can you tell the jury a little bit about that?

14 A Yes, ma'am. I beat him with a cable cord.

15 Q You beat him with a cable cord?

16 A Yes, ma'am.

17 Q Do you remember when that was?

18 A A little bit after I had got him back.

19 Q Within a couple of months?

20 A Yes, ma'am.

21 Q Let me back up again, Courtney. Do you know  
22 Antonio Guinyard?

23 A I do, yes, ma'am.

24 Q He is the father of your five children, isn't he?

25 A Yes, ma'am, father of my last five.

1 Q Your last five?

2 Q How many children do you have total?

3 A Seven.

4 Q But only five are with Mr. Guinyard?

5 A Yes, ma'am.

6 Q Now, you said that you had hit CHILD --- you had  
7 beat CHILD with a cable cord shortly after him coming  
8 home?

9 A Yes, ma'am.

10 Q When he first got home, how was it? How was it  
11 having him with you?

12 A I loved to have my baby back, and I was excited.  
13 I was proud of myself because I went through a lot to  
14 get him back. Everything was okay at first.

15 Q Now, when you say at first, what do you mean?  
16 Things started changing?

17 A Yes, ma'am, he started going to the bathroom.

18 Q He stopped going to the bathroom in the toilet?

19 A Yes, he started going on himself, using the  
20 bathroom on his self, yes, ma'am.

21 Q Now, Courtney, when that started happening, how  
22 did you deal wit?

23 A I called his foster parent first, and I asked her  
24 was he having those kind of accidents at her house.  
25 She told me no.

1 Q She told you no?

2 A Yes, ma'am.

3 Q What did you do after you called his foster  
4 mother and she told you that she wasn't having those  
5 problems?

6 A Well, him peeing and pooping on himself got  
7 worse, so I start making him put his hands up.

8 Q Uh-huh.

9 A Before I beat him, before I beat him with that  
10 cable cord, I started making him put his hands up and  
11 I started putting him in time out and making him sit  
12 on the toilet for two hours a day.

13 Q And you said that was before you had hit him with  
14 a cable cord?

15 A That was before.

16 Q But at some point you do acknowledge that you hit  
17 him?

18 A I did.

19 Q Can you tell us about that day? How did you feel  
20 when that happened?

21 A That day he just kept going on himself. He kept  
22 going and he would sit in front of me just peeing and  
23 pooping on himself. I just got overwhelmed. You  
24 know, I was trying to make him put his hands up, put  
25 him in the corner, putting him on the toilet. I got a

1 little angry at him, and I beat him with the cable  
2 cord. When I saw the marks on his back I felt bad. I  
3 felt bad as a mother. I knew that I had to come up  
4 with some way else to punish him because I couldn't  
5 put my hands on him no more.

6 Q So you left marks on him?

7 A I left marks on his back, yes, ma'am.

8 Q And you said at that point you decided you needed  
9 to figure something else out?

10 A Yes, ma'am.

11 Q What else did you figure out? Who did you do?

12 A Didn't give him no food.

13 Q Okay.

14 A I didn't give him no food.

15 Q You didn't give him any food?

16 A Yes, ma'am.

17 Q Now, when you're saying you didn't give him any  
18 food, Courtney, are you talking about one day or  
19 multiple days?

20 A Multiple.

21 Q How long did you make **CHILD** go without food?

22 A Four days with nothing but water and four more  
23 days with just water and bread.

24 Q So eight days you deprived your son of food?

25 A I did, yes, ma'am.



1 Q And you admit that you did that?

2 A Yes, ma'am.

3 Q Are you proud that you did that?

4 A No, ma'am.

5 Q Now, Courtney, when did you say you first started  
6 having problems, it was shortly after he came back?

7 A Shortly after I got him back, yes.

8 Q And when you hit him with the cable cord, where  
9 were you living at that point?

10 A Allen Benedict Court.

11 Q And when did you move over to Beaverbrook?

12 A February 5<sup>th</sup>.

13 Q Now, after you moved in February, I want to fast  
14 forward to the day that CHILD died. You were pregnant,  
15 right?

16 A Yes, ma'am, I was.

17 Q Do you remember what day you went to the  
18 hospital?

19 A I was having pains June 28<sup>th</sup>, and I called the  
20 ambulance I think and went June 29<sup>th</sup> at four --- three  
21 or four o'clock in the morning.

22 Q Okay. And you called the ambulance. Did you  
23 have a car?

24 A I did not, no, ma'am.

25 Q That's why you had to call for them to come get

1 you?

2 A Uh-huh.

3 Q And they took you from your house on June 29<sup>th</sup> to  
4 Richland Memorial Hospital, right?

5 A Yes, ma'am.

6 Q Now, while you were there, Courtney, let me ask,  
7 did you at talk to --- who was at your house the day  
8 you left?

9 A When I first left, it was just Antonio Sr.,  
10 CHILD, and our other kids, CHILD2 and  
11 CHILD3 and CHILD4.

12 Q So you, Mr. Guinyard and four of your children?

13 A Yes, ma'am.

14 Q Now, when you left, did you make arrangements for  
15 people to come pick up some of your children?

16 A Yes, ma'am, because Antonio was supposed to come  
17 to the hospital, him and CHILD, him and my baby CHILD.  
18 So yes, ma'am, I called their Godmothers to come pick  
19 them up.

20 Q Okay. And that was on the 29<sup>th</sup>?

21 A Yes, ma'am, before I went into labor.

22 Q Now, while you were in the hospital, did you talk  
23 to Antonio?

24 A The first --- yes, ma'am, I talked to him a good  
25 bit of times when I was in the hospital.

1 Q There were a lot of phone calls, a lot of stuff  
2 going on at that point, right?

3 A Yes, ma'am.

4 Q Do you remember if you talked to **CHILD** while you  
5 were in the hospital?

6 A I did, yes, ma'am, I did.

7 Q Now, before we get to that, I want to ask you,  
8 when you were giving birth, did you have to have a  
9 C-section or was it a vaginal delivery?

10 A Vagina delivery.

11 Q Did you have any medication?

12 A Before they popped my water, they gave me an  
13 epidural in my back.

14 Q Okay. Now, you said you did talk to **CHILD** while  
15 you were in the hospital?

16 A I did, yes, ma'am.

17 Q Do you remember what day that was? And if you  
18 don't, that's fine.

19 A I don't remember what day it was, no, ma'am.

20 Q But you do remember having a conversation on the  
21 phone with him?

22 A I do.

23 Q Tell me about that.

24 A Antonio called me and he said, "Baby, this  
25 fucking boy wants to talk to you," and I told him that

1 I was in pain. Can he call me back later. He said,  
2 "No, no, just talk to this fucking boy." I got on the  
3 phone with my baby then. He asked where I was at. I  
4 told him I was in the hospital, and he said, "Mama,  
5 can you come and get me." I said, "No son. I just  
6 had a baby. I can't come right now." I asked him  
7 why. I asked him why, what's wrong. He said my daddy  
8 won't stop hitting me with the stick.

9 Q When he told you that, what did you do, Courtney?

10 A I told put him Antonio on the phone. Let me ---  
11 you know, I asked him was he okay. He said, "Mama, I  
12 just want to lay down," but he wasn't talking in his  
13 regular voice. He said, "I'm real weak and real  
14 tired." He was like, "Mama, I just want to lay down."  
15 I told him to put Antonio on the phone, and I talked  
16 to Antonio.

17 Q What did Antonio tell you when you got off the  
18 phone with him?

19 A I asked Antonio why was he beating my baby with a  
20 stick. He said, "Courtney, this boy is telling a  
21 fucking lie. I'm not beating him with no stick."  
22 Then he said, "I can't wait for you to come home and  
23 get this fucking boy."

24 Q Was there something else going on in the house  
25 that Antonio told you about?

1 A He said, he said, "This fucking boy can piss on  
2 everything in this motherfucking house. He done  
3 pissed up all his clothes and I ain't washing shit."

4 Q That's what he told you when you talked to him on  
5 the phone that day?

6 A Yes, ma'am.

7 Q Now, did you talk to him again a number of times  
8 before you ended up going home?

9 A I did.

10 Q And let me ask you this, how did you eventually  
11 end up getting home to your house?

12 A I took a cab, a Blue Ribbon cab.

13 Q You took a cab?

14 A Yes, ma'am.

15 Q Do you remember exactly what time they came and  
16 picked you up?

17 A I don't know.

18 Q Do you know exactly what time you got home in the  
19 afternoon?

20 A No, ma'am, I just know I got home sometime in the  
21 afternoon.

22 Q Tell me what happened when the cab pulled up  
23 outside of your house.

24 A When the cab pulled up outside of my house, he  
25 honked the horn three times. Nobody came to the door,

1 so I asked him, can he get out and knock on the door.  
2 He did. He got out and knocked on the door and hopped  
3 back in his cab. Nobody came to the door, and he  
4 honked the horn again. Antonio came out. And when he  
5 came out, he grabbed the baby. I grabbed a little  
6 small bag with pads in it.

7 Q Uh-huh.

8 A He grabbed the baby first, put the baby in the  
9 house, came back and got the rest of the stuff.

10 Q Now, Courtney, let me ask you this, what's the  
11 first thing you noticed --- what's the first thing you  
12 did when you got into your house?

13 A When we got to the house, I asked Antonio where  
14 was my baby. He said, "He wants to sleep. Let him  
15 sleep."

16 Q And did he tell you where he was sleeping?

17 A No, ma'am.

18 Q What did you do next?

19 A I went --- well, I passed the girls' room. He  
20 was not there, so I went and opened the door to the  
21 back room and he was there.

22 Q What's the first thing you noticed when had you  
23 opened the door, Courtney?

24 A The smell. The smell from the room. It was  
25 really really stinking. It was really stinking.

1 Q And after you noticed the smell, what's the next  
2 thing you noticed?

3 A I noticed my baby was on the floor, butt naked in  
4 a puddle of pee from his feet to his shoulder.

5 Q He was lying in it?

6 A Yes, ma'am.

7 Q You said he was lying there with no clothes on?

8 A No clothes, butt naked.

9 Q What did you see happen next?

10 A I went --- I called his name. He did not  
11 respond, and I touched him and he still did not  
12 respond, and I got down. I shook him. I shook him a  
13 little bit to wake him up, and I said, "Son," I said,  
14 "I'm home." He looked up and he said, "Mama."

15 Q After that happened, Courtney, after CHILD woke  
16 up, what did you do?

17 A When he woke up, I asked him to come on, the baby  
18 is in the other room because my kid's, other babies,  
19 always asked about me being pregnant. They knew there  
20 was a baby in my belly. They was always talking about  
21 when he was coming out of my belly.

22 Q Okay.

23 A So I told him, I said, "Hey, the baby is in the  
24 other room, come on, get up."

25 Q What happened at that point?

1 A He tried to get up, but he fell back on the  
2 floor. He fell back into the floor.

3 Q After **CHILD** fell back to the floor, what  
4 happened next?

5 A I look at Antonio. I looked at Antonio, and I  
6 just knew something wasn't right the way his body  
7 looked, the way he was swollen, the way he looked, I  
8 just knew something wasn't right. I picked my baby up  
9 --- I didn't pick him up, I pulled his arm so he  
10 could, you know, it would help him up and he stood to  
11 his feet a little bit. He stood to his feet, and I  
12 asked Antonio why was he laying there like that in the  
13 puddle of piss.

14 Q Tell the jury what happened next.

15 A (There was no response.)

16 Q Courtney, tell the jury what happened next.

17 A He turned on the light, and he said, "This boy  
18 done pissed." That's not him, he don't do that. He  
19 don't keep peeing in the same spot like that. I know  
20 my baby. He wouldn't just keep on peeing in the same  
21 spot.

22 Q What happened after you got **CHILD** on his feet,  
23 Courtney?

24 A Antonio turned on the light, and Antonio yanked  
25 him up by his neck and took him in the room that me



1 and him shared, me and Antonio Sr. shared and balled  
2 him up between his legs.

3 He balled him up between his legs. He was like  
4 this. His butt and his back was --- he was between  
5 Antonio's legs, like this folded up, and Antonio  
6 grabbed that white pole and beat my baby with it.

7 Q What did you do when you saw him hit him with a  
8 pole?

9 A I told him to stop that. I was going to call the  
10 police on him. So he dropped him to the ground. He  
11 dropped him to the ground and he told me, "Well, you  
12 fucking deal with him. You handle him." He was going  
13 on and on about where his baby was going to sleep at.  
14 His baby cannot sleep in that piss, in that pissy  
15 room.

16 Q What did you do?

17 A I grabbed the baby carrier --- not the carrier,  
18 but his bassinet and put it in my room, the room that  
19 me and Antonio shared. Antonio he was still going on  
20 about that pee. I told him that I would clean it up,  
21 and he said, "No, baby, you just got home from the  
22 hospital. You in pain. Let that fucking boy clean it  
23 up. Let him clean it up." I said something about  
24 that no, I would help him. I went and grabbed the  
25 Pine Sol bottle and a rag. I gave him a bar of soap

1 and I gave him a rag. We was trying to clean it up  
2 for 10 or 15 minutes. It was just too much. It just  
3 wouldn't come up. The whole time we was cleaning it  
4 up, he would lay his head down, he would just lay his  
5 head on the rug and doing this. He said, "Mama, can I  
6 lay down, can I lay down?"

7 Q Let me stop you there, Courtney. After you tried  
8 to clean up the spot in the room and **CHILD** was trying  
9 to help you, when you realized you couldn't get it up  
10 because there was so much, what happened? What did  
11 you do?

12 A I told Antonio that it was not coming up; that it  
13 was not going to come up. He said, "That fucking boy  
14 going to clean that pee up." He was just going on and  
15 on about that pee. I told him that the housing  
16 authority --- I was up under the housing authority.  
17 Anything that goes wrong with the house or apartment,  
18 it's their job to come and fix it. I told him that  
19 the housing authority will clean it up. They'll send  
20 somebody out here to clean it up.

21 Q Was that the end of the conversation or did it  
22 continue?

23 A No. It didn't, and that's it. That was the end  
24 of that conversation.

25 Q Okay. after you told Antonio that you were going

1 to just call the housing authority to get everything  
2 taken care of, what did you try to do next?

3 A My baby wanted to lay down, too. He wanted to  
4 lay down. The whole time that I was there, he just  
5 didn't wanted to be bothered. He just want to lay  
6 down. He just said, "Mama, can I just lay down." He  
7 wasn't acting right. He was not acting like himself,  
8 because he just keep wanting to lay down.

9 Q Did you tell him to go lay down?

10 A I did.

11 Q Did he actually go lay down?

12 A He took out to lay down, but Antonio said, "No,  
13 hell the fuck no, he is not going to lay down. He is  
14 going to piss over that room." He made him stand up  
15 in the kitchen with his --- he had one arm in the air  
16 and one arm was barely in the air.

17 Q After Antonio made CHILD stand up in the  
18 kitchen, where were you? Where were you when that was  
19 happening?

20 A In the home. I was there.

21 Q Right. What were you doing, I'm sorry?

22 A Well, when he got him in the kitchen, I was  
23 getting my stuff prepared for the shower.

24 Q Why did you have to take a shower? Why did you  
25 decide to take a shower?

1 A Because the whole time --- well, the epidural  
2 that was in my back, it wasn't placed right. I was in  
3 so much pain that when I was in the hospital, I never  
4 took a shower and I had just given birth so when I got  
5 home, I just wanted to take a shower. I just want to  
6 get in the shower.

7 Q Now, Courtney, let me ask you this. Did you ever  
8 actually get in the shower?

9 A I did not.

10 Q Why not?

11 A When I was going to the shower, Antonio called  
12 me. He was in the kitchen, and my baby was in the  
13 kitchen, **CHILD**. Me and Antonio Sr. was having some  
14 conversation. I can't remember what we was talking  
15 about, but I remember my baby looked at me. He looked  
16 at me, and he said, "Mama, can I please just lay  
17 down," and --- no, wait, he asked can he sit down at  
18 this time, because his dad had already told him that  
19 he can't lay down. He said, "Mama, can I please sit  
20 down." I told him to go in my room and told him I was  
21 going to put on cartoons.

22 Q Courtney, did **CHILD** ever make it to your room?

23 A No, no, ma'am, he never made it.

24 Q What happened?

25 A He passed out and hit his head on the corner of

1 the door.

2 Q You say he passed out?

3 A Yes, ma'am, he just --- I don't know if he passed  
4 out or he fainted, I don't know. I just know he  
5 dropped.

6 Q And what did you do?

7 A He hit his head on the corner of my door and the  
8 upper part of his body was twisting this way and the  
9 lower part of his body was twisting this way. He was  
10 in a very awkward position. I called for Antonio. I  
11 said, "Baby, come look." He stepped out of the  
12 kitchen, and he said, "He's faking." I said, "No,  
13 he's not faking." When I picked my baby up, he just  
14 went limp in my arms.

15 Q You said when you picked him up, he went limp in  
16 your arms?

17 A Yes, ma'am.

18 Q What did you do after that.

19 A I rushed into the front room. I sat down with  
20 him in my lap. I was on the phone with 911 and the  
21 lady, finally, she answered.

22 Q So you called 911?

23 A I did.

24 Q Where was Antonio when you were calling 911?

25 A He was nowhere in sight. I never saw him. I

1 never saw him from the time I went and picked my baby  
2 up and the time I got in the front room. I didn't see  
3 him no more. When I said, "Look," I didn't see him no  
4 more.

5 MS. PINNOCK: Can I borrow that?

6 MS. WALKER: Sure.

7 MS. PINNOCK: Does it just turn on?

8 MS. WALKER: I'll do that.

9 (Pause.)

10 BY MS. PINNOCK:

11 Q Courtney, you said while you were in the living  
12 room calling 911 that you did not see Antonio?

13 A I did not, no, ma'am.

14 Q Did you have any idea where he went?

15 A No, ma'am.

16 Q But he was not in there with you?

17 A He was not in there with me, no, ma'am.

18 MS. PINNOCK: Beg the Court's indulgence.

19 (Pause.)

20 Q Courtney, while that's loading, when EMS got  
21 there --- do you remember when they got there?

22 A I do.

23 Q Was Antonio there with you?

24 A No, ma'am, he was not.

25 Q And when you were talking with the 911

1 dispatcher, were you trying to do everything they told  
2 you to do?

3 A I tried, but it was just too late. I tried.

4 Q But he explained to you how to do CPR, right?

5 A He did.

6 (WHEREUPON, the 911 phone call was played for the  
7 jury.)

8 (The witness covered her ears and cried.)

9 (The witness sobbed uncontrollably.)

10 BY MS. PINNOCK:

11 Q Courtney, do you need a minute?

12 A (There was no response.)

13 MS. PINNOCK: Your Honor, if we could just have  
14 one minute.

15 THE COURT: All right. Ladies and gentlemen,  
16 step back to your jury room. Do not discuss the case.  
17 Keep an open mind. We'll be back with you in just a  
18 few minutes.

19 (WHEREUPON, the jury left the courtroom at  
20 4:39 p.m.)

21 (Pause.)

22 DEFENDANT THOMPSON: I want to go. I want to go.

23 MS. PINNOCK: Huh?

24 DEFENDANT THOMPSON: I want to go.

25 MS. PINNOCK: You want to go?

1       Your Honor, I actually can move on. I don't have  
2 to play the tape, once she calms down.

3       (Pause.)

4       MS. PINNOCK: Are you okay?

5       DEFENDANT THOMPSON: (Nods in the affirmative.)

6       MS. PINNOCK: Are you okay? Take a sip of your  
7 water.

8       DEFENDANT THOMPSON: I don't want any.

9       MS. PINNOCK: I think we're ready, Judge.

10      THE COURT: Okay.

11      (WHEREUPON, the jury entered the courtroom at  
12 4:43 p.m.)

13      THE BAILIFF: The jurors are all accounted for.

14      THE COURT: Yes, sir.

15      Yes, ma'am, continue.

16      MS. PINNOCK: May it please the court.

17      THE COURT: Yes, ma'am.

18 BY MS. PINNOCK:

19 Q     Courtney, I'm not going to play the rest of the  
20 tape, okay? We're going to move on. I want to talk  
21 to you about when --- you remember going to  
22 headquarters that night, right?

23 A     Yes, ma'am.

24 Q     And you remember that you gave a statement to  
25 Investigator Holdorf?



1 A Yes, ma'am.

2 Q And you met with them again the following day on  
3 the 2<sup>nd</sup>, right?

4 A Yes, ma'am.

5 Q You met them first at your house and then later  
6 on you went to headquarters?

7 A Yes, ma'am.

8 Q And you were answering questions? They were  
9 asking your questions?

10 A Yes, ma'am.

11 Q And you gave them the statement?

12 A Yes, ma'am.

13 Q Both nights you gave them a statement?

14 A Yes, ma'am.

15 Q Were you truthful with the investigators on those  
16 night?

17 A I was not, no, ma'am.

18 Q Why not, Courtney?

19 A Because I tried to protect my kid's father,  
20 Antonio Guinyard, Sr.

21 Q You tried to protect him?

22 A I did.

23 Q Tried to protect him from what you saw?

24 A Yes, ma'am.

25 Q And that's why you told them those things?

1 A Yes, ma'am.

2 Q Courtney, on July 1<sup>st</sup>, 2013, did you hit CHILD

3 [REDACTED]?

4 A I did not. No, ma'am, no.

5 Q You didn't hit him?

6 A No, ma'am, I did not.

7 Q On the 29<sup>th</sup> before you left your house, did you  
8 hit CHILD [REDACTED]?

9 A I did not. My baby was up and he was fine. He  
10 was okay.

11 Q And when you saw Antonio Guinyard hit him, what  
12 did you say?

13 A I told him to stop. I told him that I was going  
14 to call the police.

15 MS. PINNOCK: Thank you, Courtney. Answer any  
16 questions they have for you, okay.

17 CROSS-EXAMINATION:

18 BY MS. CAMPBELL:

19 Q Ms. Thompson, you testified that you didn't hit  
20 your child on the 29<sup>th</sup>?

21 A No, ma'am, I did not.

22 Q The 30<sup>th</sup>?

23 A No, ma'am.

24 Q Or the 1<sup>st</sup>?

25 A No, ma'am, I did not.

1 Q When was the last time you beat your child?

2 A When he first came back, a little after he came  
3 back.

4 Q So a little after he came back, over a year prior  
5 to this is the last time, according to you, that you  
6 beat your child?

7 A Yes, ma'am.

8 Q Well, on February the 21<sup>st</sup>, your sister  
9 surreptitiously took photographs of his back?

10 A Yes, ma'am, she did.

11 Q And there just happened to be cord marks like you  
12 admitted to hitting him on his back on February 21<sup>st</sup>?

13 A Uh-huh.

14 Q Almost a year later?

15 A Yes, ma'am.

16 Q Were those from when you had beaten him back in  
17 May or June?

18 A They was --- yes, ma'am. They never healed. The  
19 marks healed, but the black spots stayed there.

20 Q And the black spots we're talking about was what  
21 was there when he died?

22 A Yes, ma'am.

23 Q But then the pictures on February 21<sup>st</sup>, you could  
24 see the outline from the cord that you supposedly had  
25 used some eight, nine, ten months earlier. Is that

1 what you're telling this jury?

2 A Yes, ma'am, I am.

3 Q Because after doing that to him, you realized you  
4 had gone too far.

5 A I did.

6 Q And you never touched your child again?

7 A No, ma'am, I did not.

8 Q You would starve him, but you didn't touch him?

9 A I starved him, yes, ma'am, but I did not touch  
10 him.

11 Q Who named him CHILD?

12 A Me.

13 Q CHILD?

14 A No, ma'am, CHILD, CHILD.

15 Q CHILD?

16 A CHILD, yes, ma'am.

17 Q And everybody has been saying CHILD?

18 A Yes, ma'am.

19 Q And when did you name him that, before he was  
20 taken away from you or after you got him back?

21 A When he was born. When he was in N.I.C.U.

22 Q You just broke down because you heard the 911  
23 call?

24 A Yes, ma'am.

25 Q It was that much for you?

1 A Yes, ma'am.

2 Q Why were you Googling about seizures prior to  
3 making that 911 call?

4 A That didn't happen.

5 Q That didn't happen?

6 A No, ma'am, I had Googled that after Holdorf had  
7 dropped me and Antonio Sr. off at my mother's house.

8 Q So the phone records are wrong?

9 A Yes. They're not actual records.

10 Q Did you ever use your phone to make text  
11 messages, to send text messages?

12 A Several times, yes, ma'am, I did.

13 Q And you ---

14 A Not that day, no, ma'am.

15 Q Not that day. Do you remember getting text  
16 messages from Antonio on occasion?

17 A I do, yes, ma'am.

18 Q And I want to show you --- do you remember what  
19 his number was?

20 A I don't, no, ma'am.

21 Q Was it 297-2240?

22 A I can't remember.

23 Q Do you ever remember getting this text message on  
24 June 20<sup>th</sup>, 2013, that I have highlighted from him?

25 A June 16<sup>th</sup>?

1 Q The one that's highlighted.

2 A I do.

3 Q On 5/20, actually it's May 20<sup>th</sup>, 2013.

4 A I got that from him, yes, ma'am.

5 Q What did he say to you in that one?

6 A He said, "I'm so --- " let me see, he said, "I'm  
7 so tired of dis fucking boy."

8 Q And that's what he sent you about y'all's  
9 firstborn on May 20<sup>th</sup>?

10 A Yes, ma'am.

11 Q And then you would send him text messages about  
12 your child?

13 A I did, yes, ma'am.

14 Q I'll show you this one from May 25<sup>th</sup> some five  
15 days later that you sent to him. If you could read  
16 the highlighted part?

17 A It says, "I love my kids just not that boy.  
18 That's the only one that I wish I can take back. I'm  
19 not sorry for having my daughters and this baby."  
20 I'm...that's it.

21 Q Okay. And which son were your referring to  
22 because at that point CHILD wasn't born?

23 A I had another son, John Lee (phonetic).

24 Q That's not the son you were referring to. He  
25 wasn't with you.

1 A He wasn't with me, no, ma'am, but I had another  
2 son.

3 Q So you didn't like him either?

4 A I loved him, but you asked me.

5 Q That so that wasn't about CHILD ?

6 A No.

7 Q It just happened to be five days after he texted  
8 you about how tired he was ---

9 A No, I'm sorry. I'm confused. That wasn't about  
10 John Lee, that was about CHILD .

11 Q Okay, and then than same day when you got the  
12 text from Antonio about how he was tired of that F'ing  
13 boy, what did you write him back?

14 A This whole --- read the whole thing?

15 Q Read the whole thing; read whatever you want.

16 A It says, "I know, right. They're going to think  
17 that we keep him away and from around people because  
18 we beat him."

19 Q So you were writing him that they think we keep  
20 him away from people because we beat him?

21 A Yes, ma'am, but we wasn't referring to us beating  
22 him. We was talking about him hurting himself and he  
23 had injuries that --- not injuries, but he was hurting  
24 himself and we didn't want people to think that we  
25 was doing it.

1 Q So all these injuries ---

2 A Not the injuries --- I'm not talking about the  
3 injuries that the lady testified to, no, ma'am, not  
4 them.

5 Q Which injuries are you talking about that he did  
6 to himself?

7 A He had a bloodshot eye one time that he had poked  
8 himself in the eye, and he had a really bad --- I  
9 think bite mark, somewhere on his arm that he bit  
10 himself.

11 Q Well, he didn't bite himself on the back, did he?

12 A No, ma'am, he did not.

13 Q He didn't cut his arm open, did he?

14 A No, ma'am, he did not.

15 Q Did he break his own arm?

16 A No, ma'am, he caused other injuries to himself.

17 Q Did he break his one rib on this side, the left  
18 side?

19 A He did not.

20 Q Did he break his rib in the back?

21 A He did not.

22 Q Did he beat himself to the point where he bled  
23 out and went into hemorrhagic shock?

24 A No, ma'am, he did not.

25 Q Then on the 26<sup>th</sup> of May, about a little over a



1 month prior to, did you send another text about your  
2 son that you loved so much to Antonio?

3 A You got it.

4 Q Do you remember writing him, "Baby," and this is  
5 what your saying to Antonio, "you should hear this  
6 boy's stomach. It sounds like demons inside him is  
7 hungry. It doesn't sound like how me and your stomach  
8 will growl or a normal person's stomach. You can tell  
9 it's something else inside him. That's what he was  
10 feeding. It sounds like it's mad because it's not  
11 eating. Man, this shit is scary."?

12 A (There was no response.)

13 Q Do you remember that one?

14 A I do, yes, ma'am.

15 Q Do you remember since you've been arrested on  
16 this charge making phone calls to relatives?

17 A Uh-huh.

18 Q To friends?

19 A Yes, ma'am.

20 Q And you know that those are recorded?

21 A I --- I know that they was recorded, but I didn't  
22 know that y'all could pull them.

23 Q Well, just yesterday at 4:00 p.m. ---

24 A Uh-huh.

25 Q Do you remember talking to --- was it a family

1 member? Do you remember who you were talking to about  
2 4:00 p.m.?

3 A I can't remember.

4 Q Telling them, "I want the jury to find me guilty  
5 of unlawful conduct and let me go on the homicide by  
6 child abuse."

7 A Okay. From what --- that's what I did. All I am  
8 accounted for with my child is --- I did not kill my  
9 baby. I wasn't there. I did not kill him.

10 Q We'll get back to that. Then on February 10<sup>th</sup> of  
11 this year, we have another phone call where you talked  
12 about how you were going to take the rap and free  
13 Antonio so he could get the kids?

14 A I remember that, yes, ma'am, because his mother  
15 told me that --- Patricia Guinyard told me that if I  
16 was to free her son, that she would make sure she get  
17 my kids and that they will come and visit me every  
18 week, and I love my kids.

19 I just don't want to be without my kids so when  
20 somebody tells me that they would bring kids to see me  
21 every week, yes, I said that.

22 Q Because it's important to you that somebody get  
23 your kids back?

24 A Yes, ma'am.

25 Q Because you had multiple conversations with Betty

1 Corbett or other family members?

2 A I did, yes, ma'am.

3 Q About how you wanted to get your kids back  
4 because you wanted to be able to sue DSS for  
5 \$3 million?

6 A I didn't say million. I'm not suing DSS.

7 Q And it was important for your kids to get back to  
8 some family member to get the money?

9 A It's wasn't about the money. I didn't know  
10 nothing about the money until ---

11 Q Do you remember why you were suing DSS?

12 A I'm not suing DSS, ma'am. I'm in jail. I'm not  
13 suing DSS.

14 Q Do you remember why y'all were talking about  
15 y'all suing DSS?

16 A I remember me talking about to my grandmother  
17 about why they was trying to sue DSS.

18 Q Because you said that DSS never should have given  
19 him back to us anyway?

20 A I didn't say that. I don't remember saying that.

21 Q Do you remember the phone call, the one that's  
22 even been placed into evidence?

23 A (No response.)

24 Q It's played here in court last week. Do you  
25 remember that one? That was your voice. That was on

1 April 20<sup>th</sup> of this year.

2 A Who was I talking to?

3 Q You tell me. I wasn't on the phone.

4 A I think I do remember y'all playing that in  
5 court. Yes, ma'am.

6 Q And you said that you want Antonio to be with the  
7 children?

8 A I did say that, yes, ma'am.

9 Q And you said, "Yes, because ---" and you were  
10 talking to Nicole, "--- because Antonio's balls were  
11 not that big to take this charge so I could get out  
12 and take care of our children."

13 A Yes, ma'am.

14 Q "His balls are not that big, but I would just do  
15 it so he can get our kids."

16 A That's what I said, yes, ma'am.

17 Q And then you talked about the shower rod?

18 A Uh-huh.

19 Q And how, "Antonio beat that boy until --- "  
20 excuse me --- "the motherfucker went flat."?

21 A The pole. I called it a pole --- I said that  
22 about the pole, yes, ma'am.

23 Q You said that the shower rod. Do you want to  
24 look at it?

25 A I was the motherfucker went flat. I was talking

1 about the pole.

2 Q And then you and Nicole had a conversation about  
3 why you flipped out one day in court?

4 A Yes, ma'am.

5 Q Because she talked to you about he was eventually  
6 going to pass because of all the injuries and pass  
7 means die?

8 A That's what she said --- the lady --- when she  
9 said --- when we was at the other court that the lady  
10 who did his autopsy, she said that's what she had said  
11 in court.

12 Q And then you reapplied, "He was already gonna die  
13 before that day."

14 A He was already going to die before that day?

15 Q That's what you said.

16 A Because ---

17 Q Nicole said, "Yeah. She is saying he was  
18 hemorrhaging from the inside," and you said, "Yep."

19 A That's what I was talking about, the injuries,  
20 that the autopsy lady was referring to.

21 Q And then at some point, Nicole said y'all  
22 shouldn't talk about this anymore, right?

23 A If that's what you heard, yes, ma'am.

24 Q Your testimony here today is that while you were  
25 in the hospital, you got a phone call from Antonio,

1 right?

2 A I did, yes, ma'am.

3 Q Now, you lied in all those prior statements.

4 We'll just throw those out. Those are all lies?

5 A Most of them.

6 Q Most of them. But your testimony here today,  
7 after you've reviewed all the evidence in this case is  
8 that you were in the hospital. You had an epidural.

9 You got a phone call from Antonio and he put little

10 CHILD on?

11 A Yes, ma'am.

12 Q And CHILD didn't sound right?

13 A He did not, no, ma'am.

14 Q And he begged you to come get him. That's your  
15 testimony?

16 A He did, yes, ma'am.

17 Q And you knew something was wrong because he did  
18 not sound like himself?

19 A He did not sound like himself, no, ma'am.

20 Q What did he tell you Antonio had been doing to  
21 him?

22 A Beating him with a stick.

23 Q And at that point, who did you call? Did you  
24 call the police?

25 A No, ma'am, I did not.

1 Q Did you call DSS?

2 A I did not.

3 Q Why not? If your child was being beaten, why  
4 wouldn't you do anything to help him?

5 A Because I already asked Antonio, the father.

6 Q Antonio is the one hitting him.

7 A I asked Antonio the father was he hitting him.  
8 He said, no that he was not hitting him.

9 Q Had you ever seen Antonio hit him before?

10 A Yes, ma'am, I have.

11 Q Tell us about those times when you witnessed  
12 Antonio hitting him in the weeks leading up to his  
13 death?

14 A Antonio punches him in the chest really really  
15 hard and just one time he just punched him in the  
16 chest and he fell to the floor.

17 Q Is that the only thing you remember about how  
18 Antonio beat your child prior to his death in those  
19 weeks leading up to it?

20 A Well, for the last three days I wasn't there ---

21 Q I got that.

22 A --- so I can't tell you about that.

23 Q Got it. You left on the 29<sup>th</sup> in the early  
24 morning hours and you didn't come back until some time  
25 in the afternoon on the 1<sup>st</sup>, right?

1 A Yes, ma'am.

2 Q Okay. Taking those days out ---

3 A Okay.

4 Q --- what did you notice about your child's  
5 condition after you had starved him over the last five  
6 months? Did you notice anything about his ribs being  
7 sore?

8 A Sore?

9 Q Sore, painful, did he cry out? Did you notice  
10 anything about him that was unusual?

11 A Not until after I got home, no, ma'am.

12 Q Okay. What about his arm? Was he able to just  
13 use it, put it up in the air, grab things, catch a  
14 ball?

15 A After I got home. I didn't notice how bad his  
16 body was until after I got home on the 1<sup>st</sup>.

17 Q You didn't notice anything up until the 29<sup>th</sup>?

18 A No, ma'am.

19 Q What about his mental faculties in that week  
20 before? Did you notice he was lethargic, tired,  
21 throwing up, nauseated?

22 A He did not throw up when I was home and like I  
23 keep telling you, ma'am, that I didn't know that my  
24 baby was in that bad of a condition, that bad off,  
25 until I got home.



1 Q Did you think the bite mark --- how did that get  
2 there? You blamed CHILD 2 in your statement, but you  
3 said that's a lie. Do you know?

4 A I don't know how that got there.

5 Q What about the black eyes that would have been  
6 there with the subdural?

7 A I didn't notice no black eyes.

8 Q You didn't notice those black eyes for the week  
9 before this happened?

10 A No, he didn't have no black eyes the week before  
11 this happened. My baby was in good condition. He was  
12 in good health before I left and went to the hospital.  
13 He was active, he was running around, he was playing.  
14 He was a normal baby, a normal four-year-old.

15 Q No problems?

16 A No problems.

17 Q Well, let me ask you about this shirt. It wasn't  
18 on him when he died.

19 A No, ma'am.

20 Q I'm showing you State's Exhibit 249. When did  
21 that happen before y'all buried it in the master  
22 bedroom closet?

23 A I didn't see that shirt until the day I took it  
24 off him. After his sister's party, after CHILD 4's  
25 party, I didn't see that shirt anymore.

1 Q When was [REDACTED] CHILD 4 's party?

2 A March 7<sup>th</sup>.

3 Q Would you agree with me that this shirt is  
4 covered with blood?

5 A Yes, it is, yes, ma'am.

6 Q So at some point did you see all the bleeding  
7 your child did while wearing that shirt?

8 A I didn't see that shirt no more since March 7<sup>th</sup>.  
9 It was not on there.

10 Q Did you ever see the cuts and the abrasions that  
11 are all over his neck, his back, his torso that would  
12 have caused that kind of bleeding?

13 A He ---

14 Q In the weeks and months leading up to his death?

15 A He did not have marks and cuts all over his body  
16 that bled out. He had scratches and scrapes that they  
17 testified to.

18 Q When you got home from the hospital --- you said  
19 Antonio said he didn't hit him, so you just took him  
20 at his word?

21 A He didn't say that when I came home from the  
22 hospital, ma'am. He said that when I was in the  
23 hospital.

24 Q Let me back up. I'm sorry.

25 A Okay.

1 Q While you were in the hospital, you said Antonio  
2 told you he hadn't hit him?

3 A He told me he was not beating him, no, ma'am.

4 Q But you knew he had beaten him before, didn't  
5 you?

6 A Yes, ma'am.

7 Q So you took Antonio's word over your child?

8 A I did.

9 Q So when you got home, your testimony is --- and  
10 approximately what time was it when you got home?

11 A I'm not sure.

12 Q Would 2:00 be about, right?

13 A I'm not sure. It was afternoon.

14 Q Was it --- did the cab come when you called them  
15 at 1:00?

16 A They did not come right away. I had to call them  
17 twice. They eventually came, but they were taking too  
18 long. I don't know the time, ma'am.

19 Q Well, was it --- okay. You don't want to say  
20 what time it was, that's fine. When you got home in  
21 the cab, right?

22 A Yes, ma'am.

23 Q You walked in. I believe your testimony was a  
24 minute ago now, this time, that you noticed some ---  
25 that you found him where?

1 A In the back room.

2 Q And what was he doing?

3 A Lying down like in a fetus (sic) position, with  
4 urine from his feet to his shoulders.

5 Q Lying in, I think you called it, a pile of piss?

6 A Yes, pee.

7 Q I'm sorry. Pee. Is that the right word?

8 A Yes, pee.

9 Q Lying there. He obviously had something wrong at  
10 that point?

11 A There was something definitely wrong, yes, ma'am.

12 Q At that point did you notice his black eyes?

13 A No, ma'am, I did not.

14 Q Did you notice the cut to his lip?

15 A No, ma'am.

16 Q Did you notice the cuts to his ears?

17 A I did not.

18 Q But something was obviously wrong. You, as a  
19 mother, now confirmed what you heard over the phone in  
20 this new story. So seeing his condition, what did you  
21 do?

22 A I didn't call the police or nothing. I didn't do  
23 nothing.

24 Q Because this is before your testimony here today  
25 where you said he picked him up and put him in a ball

1 between his legs and beat him with a pole?

2 A Yes, ma'am.

3 Q And when he beat him with the pole, did he ---  
4 what area of his body was he beating him with?

5 A The butt and the back.

6 Q Did you see any bleeding at that point?

7 A I didn't see no bleeding from his butt or his  
8 back. I just noticed when he dropped him that his  
9 butt was --- his butt was really swollen.

10 Q At this point you still haven't called 911,  
11 right?

12 A No, ma'am I did not.

13 Q When you saw Antonio snatch him, and I believe  
14 you said you snatched him up around the neck?

15 A Yes, ma'am.

16 Q So he could put him between his legs and beat  
17 him?

18 A Yes, ma'am.

19 Q At that point, did you run and try to grab him  
20 from him?

21 A I did not, but I told him if he didn't stop, I  
22 was going to call the police, so he dropped him.

23 Q So at this point your son has complained. He is  
24 not acting right. There are obvious problems with  
25 him. You've witnessed this brutal --- it was a brutal

1 beating, wasn't it?

2 A It had to be, yes, ma'am.

3 Q Well, you saw it.

4 A I didn't --- he didn't beat him that bad that  
5 day. He beat him with a pole, but not that bad. He  
6 hit him probably about three times.

7 Q So at that point you called the police?

8 A I did not.

9 Q In fact, you watched as Antonio told him to clean  
10 up the mess?

11 A Did I watch that?

12 Q Did you help him?

13 A Yes, we tried to get it up. It wouldn't come up.

14 Q And what was his condition at this point as he is  
15 bleeding out?

16 A When we was cleaning up the pee, he was weak. He  
17 looked tired. He could barely lift his head and he  
18 was just complaining that he was sleepy, and I recall  
19 him saying that his head was hurting.

20 Q Oh, you did listen to the testimony. At that  
21 point you called the police or not?

22 A I did not call the police that day, ma'am, until  
23 my baby was breathing funny.

24 Q And just so I'm sure, at that point you go and  
25 your get in the shower?

1 A I did not get in the shower. I was ---

2 Q Excuse me, let back up.

3 A I went to get in the shower.

4 Q Oh, you went to get in the shower, but before you  
5 can get in the shower, what draws your attention?

6 A Antonio Sr. called my name.

7 Q And where was CHILD?

8 A In the kitchen with one arm up and one halfway  
9 down.

10 Q And one halfway down. Do you remember which was  
11 which?

12 A I don't. No, ma'am, I don't.

13 Q And then what happened?

14 A Me and Antonio Sr. was having ---

15 Q A conversation?

16 A --- a conversation and my baby asked me could  
17 he --- he just kept saying, "Mama, I just want to sit  
18 down." I told him to go in my room to sit down, and I  
19 was going to put on some cartoons, but he never made  
20 it to the room.

21 Q In fact, I think you said he passed out or  
22 fainted, whatever, but he dropped?

23 A He fell, just fell.

24 Q Where was he?

25 A He was headed to my room.

1 Q And at that point he went limp?

2 A No, he did not go limp. He went into like a  
3 seizure. Like his body started twisting. I called  
4 Antonio Sr. to come and look. I went to pick him up.  
5 When I picked him up, he went limp.

6 Q At that point, was he breathing?

7 A Funny. He was breathing, but funny.

8 Q And then you took him into the front room?

9 A I took him to the front room, yes, ma'am.

10 Q At that point you called 911?

11 A Yes, ma'am.

12 Q And where was your phone?

13 A Where was my phone?

14 Q Uh-huh.

15 A On the floor beside --- no, when I was on the  
16 phone with 911, I was on it, but when they told me to  
17 do CPR, I put it on speaker on the floor.

18 Q I got that part. Where did you get it from?

19 A Where did I get my phone from?

20 Q (Nods in the affirmative.)

21 A It was ---

22 Q It certainly wasn't there on CHILD when he fell?

23 A No, it wasn't.

24 Q You picked him up and put him in the front room?

25 A Yes.



1 Q Where was your phone?

2 A I can't remember.

3 Q Because you had on a hospital gown, so it wasn't  
4 on you.

5 A I normally keep my phone between my breasts so  
6 Antonio Sr. couldn't go in it.

7 Q Do you remember when the police got there, after  
8 EMS got there?

9 A I remember when the ambulance came, yes, ma'am.

10 Q And they're asking you what had happened?

11 A I don't remember them asking me what had  
12 happened.

13 Q And you didn't tell him that Antonio had beat  
14 your child that day?

15 A No, ma'am, like I said before, I told a lot of  
16 lies to cover up for my kid's father.

17 Q In fact, when they caught Antonio trying to sneak  
18 out the back and slip around to the front, you were  
19 even yelling to Antonio what the story was supposed to  
20 be?

21 A No, ma'am, I was not.

22 Q Why did you repeat the same story four times  
23 while you were there together?

24 A Ma'am, I didn't repeat same story four times.

25 Q So the police are wrong about that, too?

1 A Yes, the police is wrong about a lot of things.  
2 They not right all the time, they wrong about a lot of  
3 things. They wrong in this case, yes, ma'am, that's  
4 wrong.

5 Q And as time has passed, you've realized that  
6 Antonio --- he is just not a good father. I mean, he  
7 was bad. He beat your child and your testimony here  
8 to this jury is he caused the death and you were a  
9 good mother that day?

10 A No, I'm not --- I'm saying, yes, he caused my  
11 child's death, but I'm not saying I'm a good mother  
12 because clearly I made a lot of mistakes that prove  
13 I'm not a good mother.

14 Q Was Antonio in the home prior to all this?

15 A Ma'am?

16 Q Was Antonio living you prior to **CHILD** dying?

17 A Yes, ma'am, he was staying with me. He never  
18 moved out.

19 Q In fact, I think there were --- on your Facebook  
20 accounts some photographs that you posted on the 14<sup>th</sup>  
21 of June, you Antonio doing selfies?

22 A Selfie, what's that?

23 Q When you take a picture of yourself?

24 A Yes, ma'am.

25 Q But your testimony to this jury today, although

1 it's never been heard before, is that Antonio did it  
2 and he was a bad father?

3 A Ma'am?

4 Q What you explained to them today is what  
5 happened?

6 A Yes, ma'am.

7 Q Do you remember back when you went in for a  
8 hearing on February 18<sup>th</sup>, 2014?

9 A A hearing for ---

10 Q A hearing here in this courthouse about your  
11 children?

12 A Yes, ma'am.

13 Q And do you remember taking the stand and  
14 testifying?

15 A Yes, ma'am.

16 Q Okay. And that would have been just like three  
17 or four months ago, right, in February?

18 A Yes, ma'am.

19 Q And do you remember taking an oath to tell the  
20 truth, just like you did here today. Do you remember  
21 that?

22 A I do, yes, ma'am.

23 Q At that point the lawyers asked you some  
24 questions, right?

25 A Yes, ma'am, they did.

1 Q And they couldn't ask you about what happened  
2 today. But they asked you, "Do you believe, ma'am,  
3 it's in your best interest to your minor children for  
4 Mr. Guinyard's rights to be terminated?"

5 A And I said no.

6 Q And you said, "No, ma'am." They asked you, "Why  
7 is that?"

8 MS. PINNOCK: Objection, Your Honor. May we  
9 approach.

10 THE COURT: Okay.

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

13 MS. CAMPBELL: I'm sorry, ma'am. I apologize.

14 THE COURT: Objection overruled.

15 BY MS. CAMPBELL:

16 Q They asked you, "Why is that?" Do you remember  
17 what you said?

18 A Why his rights shouldn't be terminated? I said  
19 because he's a good father, yes, ma'am.

20 Q And then they asked you, "So I would assume  
21 you're still under the opinion that his rights should  
22 not be terminated." You answered, "I mean, I don't  
23 think mine should either." Then they answered,  
24 "Because he is a good father?" And you said, "Yes,  
25 I'm a good mother."

1 A The reason why I said he is a good father is  
2 because he is a good father to his kids, our younger  
3 kids, the younger four kids, but he was not a good  
4 father to [CHILD] and his rights --- yeah, his  
5 rights should not be terminated to his four kids  
6 because he loved them, he treated them like angels.  
7 It was just [CHILD] that he did not treat well.

8 Q Do you remember them also asking you about your  
9 memory of what happened on July 1<sup>st</sup> involving your  
10 son?

11 A I don't. I don't remember that.

12 Q Do you remember telling them, "I just had a baby  
13 a couple of days and I was on a lot of pain medication  
14 because my pelvic bones were broke when I had my sixth  
15 child. I was under a lot of medication. I had just  
16 lost a deceased son. I just lost a son. My baby  
17 passed in my arms ---"

18 A I remember. I remember.

19 Q "So I was up under a lot. I don't remember much  
20 of nothing that day."

21 A I remember.

22 Q "I don't remember what I said. I don't remember  
23 much of nothing that day."

24 A Yes, ma'am, I do remember.

25 Q "The only thing I remember is I lost a child and

1 I was grieving over my baby?"

2 A Yes, ma'am, I remember that.

3 Q So nothing you said should be considered?

4 A I just didn't want to talk about it, keep talking  
5 about the same thing over and over. That hurts me the  
6 most.

7 Q You testified that your children went to their  
8 Godparents?

9 A They did.

10 Q And Ms. Metze came and she got CHILD 3 ?

11 A Yes, ma'am. Ms. Metze came and got Ms. ---  
12 Ms. Metze came and got CHILD 3 and CHILD 2 .

13 Q And then Ms. Gooden had CHILD 4 ?

14 A She came and got CHILD 4 .

15 Q Why didn't you get them to take CHILD ?

16 A Because nobody wanted to deal with him because  
17 his bathroom problems and they said he was just to  
18 wild for them. It's --- my sister testified that he  
19 was too wild for her. A lot of people said he was too  
20 wild. He was to hyper and he had bathroom problems.

21 Q Ms. Metze would have been happy to take CHILD .

22 A No, ma'am. She did not. No, that's what she is  
23 telling you, but no. No one wanted to take him  
24 because if that was it, he would have went. No one  
25 was willing to take him and deal with him.

1 Q It wasn't because y'all needed to make sure that  
2 one saw him so they could see his condition?

3 A Ma'am?

4 Q You couldn't let CHILD go anywhere because if  
5 anyone saw him, they would know what his condition  
6 was?

7 A Like I say, my baby was all right. He was  
8 perfect before I left and went to the hospital, so  
9 yes, anybody could have come and got him who wanted  
10 to, but they did not want to.

11 Q Do you know why CHILD --- I mean, Antonio, was  
12 on the front porch waiting for them to make sure they  
13 didn't go inside?

14 A I was in the hospital then. I don't know.  
15 Something probably could have happened when I first  
16 went in the hospital. I don't know. I was in the  
17 hospital. I can't said what happened at Beaverbrook  
18 when I went there.

19 Q Finally, Antonio's mother, is she here in the  
20 courtroom?

21 A Patricia Guinyard, yes, ma'am.

22 Q Is she back there on the ---

23 A She is there, yes, ma'am.

24 Q Do you remember a period of time when was it  
25 Natalie or Nicole that had CHILD t?

1 A Neither one of them had CHILD That's just what  
2 they're telling you. You just can't believe that.

3 No, neither one of them had CHILD .

4 Q So you're the only one telling the truth?

5 A Ma'am?

6 Q Never mind.

7 THE COURT: Mr. Li.

8 MR. LI: Ms. Eisenhower.

9 THE COURT: I'm sorry, Ms. Eisenhower. No  
10 disrespect intended. I'll be happy to hear from you.

11 MS. EISENHOWER: Thank you, Your Honor.

12 CROSS-EXAMINATION:

13 BY MS. EISENHOWER:

14 Q Ms. Thompson, on July 1<sup>st</sup> you gave a written  
15 statement to law enforcement, correct?

16 A Yes, ma'am, I did.

17 Q And on July 2<sup>nd</sup> you gave another statement?

18 A Yes, ma'am, I did.

19 Q You gave a different written statement?

20 A Yes, ma'am, I did.

21 Q Again, on July 2<sup>nd</sup> you gave a verbal statement?

22 A Yes, ma'am, the reason why I gave a verbal  
23 statement is because when I talked to Antonio Sr. in  
24 that break room, he was telling me that he couldn't go  
25 to prison because they was going to rape him in prison



1 and everything that they was going to do to him.

2 Q And just the other day, we heard a phone call  
3 that you made while you were in jail to your cousin  
4 Latoya Thompson where you gave yet another version of  
5 events that occurred on July 1<sup>st</sup>?

6 A If she said I had a conversation, yes, I  
7 understand.

8 Q That wasn't you on the phone call with Latoya?

9 A I was not on any phone call with Latoya, no.

10 Q On the 911 call, didn't you tell the 911  
11 dispatcher that CHILD had jumped off a dresser?

12 A The 911 dispatch?

13 Q Yes.

14 A No, ma'am, I don't believe I did.

15 Q That's not what we just heard?

16 A I didn't hear it.

17 Q Okay. And today you have yet another version of  
18 events that occurred on that day?

19 A Yes, ma'am, the truth, yes, ma'am.

20 Q And today your testimony is that Antonio beat ---  
21 has beaten CHILD before in the past?

22 A He know it, yes, ma'am. It's true.

23 Q Didn't you yourself yell at Antonio because he  
24 wouldn't beat CHILD?

25 A No, ma'am, that never happened. He is just

1 trying to cover for himself.

2 Q So you're saying that all of your family members  
3 that have sat up here and testified that you have, at  
4 times ---

5 MS. PINNOCK: Objection. Pitting.

6 THE COURT: It's pitting. Sustained.

7 BY MS. EISENHOWER:

8 Q So on July 1<sup>st</sup>, you were bringing your newborn  
9 baby home, who was supposed to sleep in the play room,  
10 correct?

11 A It was not a play room. We just had toys in it  
12 because it was children in the home.

13 Q Was that where he was supposed to sleep?

14 A He was supposed to sleep in the room with CHILD  
15 and CHILD 5, yes.

16 Q And you were tired from being in the hospital and  
17 giving birth?

18 A I had just had a baby. I was very tired, yes,  
19 ma'am.

20 Q And you testified today that you would get ---  
21 you used to get really frustrated when CHILD would  
22 use the bathroom in the house and on himself?

23 A Yes, ma'am, but not on Beaverbrook because it  
24 changed.

25 Q But you had been upset with him before for using

1 the restroom ---

2 A Yes, ma'am. Yes, ma'am.

3 Q And when you came home the day of [CHILD]'s death,  
4 you walked in, you smelled that awful stench?

5 A I did.

6 Q You walked into the room to see that [CHILD] had  
7 the nerve to pee in that room where your baby was  
8 going to sleep?

9 A Yes. I saw pee, but I knew something was wrong.  
10 He wouldn't have just done it. It was not only just a  
11 pee spot. It was a pee spot from his feet to his  
12 shoulder. Any parent would have knew that something  
13 was wrong, something was wrong with they child. I  
14 could tell my baby was beaten or something happened to  
15 my child when I was in the hospital caused by his  
16 father.

17 MS. EISENHOWER: Nothing further.

18 THE COURT: Redirect?

19 MS. PINNOCK: No, Your Honor.

20 THE COURT: Thank you, ma'am. You may step down.  
21 Lawyers approach.

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

24 You can stand up, stretch, talk. Give me just  
25 one minute.

1 (Pause.)

2 THE COURT: Okay. Ladies and gentlemen. It is  
3 pushing 5:30. I am going to let you go home for the  
4 evening. Do not discuss the case. Keep an open mind  
5 about it. Do not look at any news media, radio,  
6 television, internet. Do not talk about the case, do  
7 not discuss it with anybody. Do not do any  
8 independent research. Do not Facebook about it, tweet  
9 about it, blog about it, anything else that I don't  
10 even understand really what it is. You're not allowed  
11 to do it. We'll see you back here tomorrow morning at  
12 9:30 ready to go. Everybody, please be on time and  
13 we'll see you at 9:30. Do not discuss the case. Keep  
14 an open mind. Thank you very much for your service.  
15 Everyone remain seated while the jury is dismissed.

16 (WHEREUPON, the jury left the courtroom at  
17 5:22 p.m.)

18 THE COURT: Okay. Do you think you're going to  
19 have a reply?

20 MS. McDUFFIE: Yes, Your Honor.

21 THE COURT: Okay, how long do you think it's  
22 going to be?

23 MS. McDUFFIE: An hour maybe.

24 THE COURT: Okay.

25 All right. Anything else before we break for the

1 night?

2 MS. WALKER: Not from the State.

3 MR. LI: No.

4 MS. PINNOCK: Nothing.

5 THE COURT: It 9:30. Be ready to go with your  
6 reply.

7 MAY 28, 2014

8 (WHEREUPON, State's Exhibit Number 260 was  
9 marked for identification only.)

10 (WHEREUPON, Court was called to order.)

11 THE COURT: All right. The alternate juror,  
12 female alternate juror, who is juror number 98, is  
13 that right?

14 THE CLERK: Yes, sir.

15 THE COURT: Okay. She is not here. The court  
16 has contacted her, and, Ms. Pendergrass, please put on  
17 the record what she said.

18 THE CLERK: Her babysitter is sick and she has no  
19 one else to watch her child, and the child is  
20 screaming in the background as I'm talking to her.

21 THE COURT: And she has been late how many days,  
22 Mr. Burgess?

23 THE BAILIFF: Three days, four days, almost every  
24 day, Judge.

25 THE COURT: Is there any objection to me just

1 excusing her from the case since we still have one  
2 alternate left?

3 MS. McDUFFIE: No objection.

4 MR. LI: No objection.

5 MS. PINNOCK: No objection.

6 THE COURT: Okay, we are going to excuse juror  
7 number 98, who is an alternate anyway. That still  
8 leaves us with one alternate. I expect this trial to  
9 be over today, so we are still fine if something else  
10 happens in the unlikely event that something does  
11 happen today.

12 All right. Is the State ready to proceed?

13 MS. McDUFFIE: Yes, Judge. I e-mailed the ---  
14 what we intend to offer today, just so we don't have  
15 to break between witnesses, I haven't heard that there  
16 was any objection.

17 THE COURT: Okay.

18 MR. LI: Your Honor, we would just renew our  
19 objection to the hearsay in Ms. Thompson's second  
20 statement.

21 THE COURT: All right. That's the hearsay about  
22 what the victim allegedly said?

23 MR. LI: That's right.

24 MS. McDUFFIE: And did ---

25 THE COURT: I understand that objection and that

1 objection is overruled.

2 MS. PINNOCK: Your Honor, as far as the video,  
3 there was a pretrial motion to exclude that that I  
4 withdrew because I understood that they were not going  
5 to introduce it. We would object to it being  
6 introduced. I think at this point it's irrelevant to  
7 anything. Ms. Thompson's statement is already in  
8 evidence and they will be introducing her written  
9 statement.

10 The video is just another --- it's pretty much  
11 the same as her first statement they're going to  
12 introduce, Judge, so I think it's irrelevant. It's  
13 overly prejudicial because it is showing Ms. Thompson  
14 in potentially embarrassing positions when she is on  
15 the floor trying to explain certain things throughout.  
16 Even that aside, Judge, it's cumulative also with her  
17 first statement, the testimony that's already been  
18 presented. They have the written statement. I don't  
19 think the video is, at this point, necessary.

20 THE COURT: All right. What else?

21 MS. PINNOCK: So I think that --- and, Your  
22 Honor, the use of the baby doll, the baby doll is  
23 shown in the video. They hand it to Ms. Thompson. We  
24 objected to that previously, so I just think it's  
25 irrelevant and it's overly prejudicial under 403 and

1 also it's cumulative, Judge.

2 THE COURT: The video is completely and totally  
3 relevant. It's not too prejudicial. Ms. Thompson got  
4 on the witness stand yesterday and told a story that  
5 had never been told before that was almost 100 percent  
6 completely inconsistent with any of the previous  
7 versions of the facts with law enforcement.

8 Therefore, the video that was not previously  
9 admissible due mainly to the fact, not because it was  
10 prejudicial or anything else, due mainly to the fact  
11 that it would have created a Bruton issue in the  
12 information she provided about Mr. Guinyard. That  
13 issue no longer exists because the defendants have  
14 both decided to testify.

15 Therefore, the video is admissible and not too  
16 prejudicial. For the record, I have watched the video  
17 in its entirety from beginning to end and Ms. Thompson  
18 appeared to be clear, calm, coherent and speaking at a  
19 very normal tone of voice and no one was threatening  
20 her, coercing her, forcing her, pressuring her, doing  
21 anything to her in that video at all other than asking  
22 questions about what happened or what didn't happen  
23 and at the appropriate times asking a little bit more  
24 of what I would call challenging questions to  
25 challenge her on certain information she has provided.



1       The video is clearly relevant and based upon her  
2 testimony in this courtroom yesterday and the lack of  
3 Bruton issue, which does not exist anymore, and I do  
4 not believe --- it's probative value, based upon her  
5 testimony in this courtroom yesterday under oath,  
6 clearly outweighs any prejudicial effect, which I  
7 can't imagine what the prejudicial effect may be, but  
8 it clearly outweighs any prejudicial effect that may  
9 exist.

10       Anything else?

11       MS. McDUFFIE: Yes, Judge, we also ask that you  
12 give the jury an instruction because we had to redact  
13 the statements and now we intend to introduce them in  
14 their entirety, I don't want --- number one, I think  
15 it's confusing for the jury why it was done in the  
16 first place. I don't want them to draw prejudicial  
17 inference from either side, Your Honor, because of  
18 that.

19       THE COURT: And do you want the same thing with  
20 the video as to why the video was not ---

21       MS. McDUFFIE: Yes, Your Honor.

22       THE COURT: All right. Mr. Li, what's your  
23 position on that?

24       MR. LI: No objection to that.

25       THE COURT: Ms. Pinnock?

1 MS. PINNOCK: I have no objection to that.

2 THE COURT: All right. Does anybody want to  
3 suggest how I say it, or do you want me to just free  
4 hand it?

5 MS. McDUFFIE: We trust you.

6 MR. LI: Free style.

7 THE COURT: Free style. I'll probably say  
8 something along the lines of --- do you want me to say  
9 it before you present this?

10 MS. McDUFFIE: Please.

11 THE COURT: Okay. That you are going to --- I  
12 anticipate that you're going to see statements made by  
13 Ms. Thompson today that look different than what you  
14 were previously shown. You are going to hear about  
15 the reenactment, which was videotaped, which was not  
16 previously shown to you. This wasn't done by either  
17 side to keep anything from you. This was a Court's  
18 decision to protect legal issues within the case that  
19 have now resolved themselves due to the fact that both  
20 defendants testified or something along those lines,  
21 but what I will stress is that it's not about the fact  
22 that the State or the defense was trying to keep  
23 anything or hide anything or do anything  
24 inappropriate.

25 MS. McDUFFIE: Judge, we have one other matter if

1 I could approach.

2 THE COURT: Okay.

3 (WHEREUPON, there was a bench conference.)

4 THE COURT: All right. Anything further?

5 MS. PINNOCK: Your Honor, I don't believe --- oh,  
6 I'm sorry.

7 THE COURT: Go ahead.

8 MS. PINNOCK: Ms. McDuffie, are you all done?

9 MS. MCDUFFIE: Yes, I am.

10 MS. PINNOCK: I don't believe we rested  
11 yesterday.

12 THE COURT: You'll need to rest when they come  
13 in.

14 MS. PINNOCK: Okay. Instead of --- I'm just  
15 going to ask Your Honor how you want to handle it ---  
16 renewing objections and motions?

17 THE COURT: Do it right now.

18 MS. PINNOCK: Okay.

19 THE COURT: Go ahead.

20 MS. PINNOCK: Your Honor, at this time we would  
21 renew our motion for a directed verdict. Because  
22 Ms. Thompson decided to testify because we did decide  
23 to put up a defense for her, it's my opinion that Your  
24 Honor is now required to look at all the evidence that  
25 has been presented by the State and by Ms. Thompson

1 when considering whether or not the State has produced  
2 substantial circumstantial evidence for the homicide  
3 by child abuse for Ms. Thompson's actions.

4 I think considering it as a whole, I would ask  
5 Your Honor to look at it again because I don't think,  
6 based on everything that we heard yesterday, that  
7 there is any more than a suspicion that Ms. Thompson  
8 was the person that was responsible for causing the  
9 injury or that she failed to act when the injury  
10 occurred.

11 I think that --- because those are two essential  
12 elements of the charge, Judge, I think based on  
13 everything that you've heard from the State from  
14 Ms. Thompson's defense, I don't think that it rises to  
15 more than a suspicion of Ms. Thompson's guilt and I  
16 don't think it should be given to the jury.

17 THE COURT: All right. You're motions are  
18 denied. Even based upon her testimony yesterday, she  
19 essentially confessed to the unlawful conduct towards  
20 the child. The legal argument could be made that she  
21 confessed to the homicide by child abuse on the  
22 witness stand yesterday, so the evidence as it sits  
23 before me, and all I'm required to look at is the  
24 existence of the evidence, not the weight of the  
25 evidence, that's supposed to be taken in the light

1 most favorable to the State, the case is sufficient to  
2 go forward to the jury. You can rest when they come  
3 in.

4 MS. PINNOCK: Yes, sir.

5 THE COURT: Okay.

6 MS. PINNOCK: One last renewal, I'm sorry, our  
7 motion for a mistrial based on the defense that was  
8 put up by Mr. Li and Mr. Guinyard, Your Honor, I do  
9 think it violated Ms. Thompson's right to get a fair  
10 trial. She is guaranteed that right under the due  
11 process clause of the Constitution. I think it has  
12 turned into a character case with nothing but an  
13 assassination on Ms. Thompson, based on prior bad acts  
14 that were not relevant to this case whatsoever.

15 So I think with recognizing his constitutional  
16 right and Ms. Thompson's constitutional right to a  
17 fair trial has been violated, and I'd ask you to grant  
18 a mistrial as to Ms. Thompson.

19 THE COURT: All right. Your motion is denied  
20 based upon my previous reasoning.

21 THE COURT: All right. Anything further?

22 (There was no response.)

23 THE COURT: Okay. Let's bring them in.

24 (WHEREUPON, the jury entered the courtroom at  
25 9:48 a.m.)

1 THE BAILIFF: All jurors are present, Your Honor.

2 THE COURT: All right. Ladies and gentlemen,  
3 welcome back. Thank you for being on time.

4 Let me go over one thing. First of all, Ms.  
5 Thompson --- excuse me, Ms. Pinnock, do you have any  
6 further witnesses?

7 MS. PINNOCK: No, Your Honor, the defense rests.

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

9 Ladies and gentlemen, Defendant Thompson has  
10 rested her case. Whenever --- in any case, where a  
11 defendant or both defendants decide to put on a case,  
12 the State is allowed to offer reply testimony. At  
13 this point in time, they do intend on offering some  
14 reply testimony. Now, I do need to tell you about  
15 this reply testimony that you're going to hear.

16 It is going to be similar to some evidence that  
17 you have heard before, but it's going to look  
18 different, okay. The reason it's going to look  
19 different is because when the case was originally  
20 presented to you, I would not allow the sides to show  
21 this evidence to you in its complete entirety. I did  
22 that based upon a legal decision. As I told in the  
23 beginning, you are in control of the facts. I am in  
24 control of the law, and I made a legal decision to not  
25 show you these documents and items in their entirety

1 based upon that I did not know whether or not the  
2 defendants were going to testify and they were not  
3 required to tell me, okay.

4 Now that they have both testified, I am going to  
5 deem that this evidence is admissible and so you will  
6 see things that look contradictory to what you saw  
7 before. This is not the fault of either side and  
8 neither side has done anything --- none of the sides  
9 have done anything to keep anything from you. These  
10 were legal decisions that I made, so this should not  
11 be prejudicial as far as you saying I haven't seen  
12 this before or this looked different or you didn't  
13 tell me about this to either the State or Defendant  
14 Guinyard or Defendant Thompson, okay. All right.

15 Yes, ma'am.

16 MS. McDUFFIE: If it pleases the Court, Your  
17 Honor, the State would recall Jane Powell.

18 THE COURT: All right. Ms. Powell, please come  
19 forward.

20 JANE POWELL,  
21 after being duly sworn, testified as follows:

22 THE CLERK: Please have a seat. State your full  
23 name for the record.

24 THE WITNESS: Jane Williams Powell.

25 DIRECT EXAMINATION:

1 BY MS. McDUFFIE:

2 Q Deputy Coroner Powell, we have discussed a  
3 reenactment that you did with Courtney Thompson that  
4 occurred on July 2, 2013?

5 A Correct.

6 Q That reenactment in and of itself was video  
7 taped, correct?

8 A Correct.

9 Q From the moment you started until the reenactment  
10 ended, the entire thing was captured on video?

11 A Yes, ma'am.

12 Q Have you had an opportunity to view State's  
13 Exhibit 258?

14 A Yes, ma'am.

15 Q Is that a complete and accurate copy of the video  
16 reenactment that was done with Courtney Thompson on  
17 July 2<sup>nd</sup>, 2013?

18 A Yes, it is.

19 THE COURT: Your Honor, at this time, we'd offer  
20 State's 258.

21 THE COURT: Over Defendant Thompson's objection.  
22 (WHEREUPON, State's Exhibit Number 258 was  
23 admitted into evidence.)

24 MS. McDUFFIE: Your Honor, permission to publish  
25 to the jury?



1 THE COURT: Yes, ma'am.

2 All right. Ladies and gentlemen, while they're  
3 setting this up, once the video comes on, I will  
4 tinker with the lights a little bit. Just kind of  
5 give me a sign on what helps or what doesn't help. I  
6 can't see it from your point of view, so if --- I'll  
7 turn down or turn up the lights. If it helps or  
8 doesn't help, just let me know. Tell me when you're  
9 ready.

10 BY MS. McDUFFIE:

11 Q Once again, Investigator Powell, this is the  
12 entirety of the reenactment and the statements  
13 Courtney Thompson made to you on July 2<sup>nd</sup>, 2013?

14 A Correct.

15 Q And this occurred sometime shortly after  
16 3:00 p.m.?

17 A Yes.

18 THE COURT: Is it on, Ms. McDuffie.

19 MS. McDUFFIE: Yes, Your Honor.

20 THE COURT: Does that help?

21 MS. McDUFFIE: Yes, Your Honor.

22 THE COURT: Okay. Can everybody see?

23 THE JURORS: Yes.

24 (WHEREUPON, the videotape was played for the  
25 jury.)

1 BY MS. McDUFFIE:

2 Q Deputy Coroner Powell, that was a complete  
3 reenactment that was done with Courtney Thompson on  
4 July 2, 2013?

5 A Correct.

6 MS. McDUFFIE: No further questions.

7 MR. LI: Nothing, Your Honor.

8 MS. PINNOCK: Thank you, Your Honor.

9 THE COURT: Call your next witness.

10 MS. McDUFFIE: The State would call Investigator  
11 Travis Holdorf.

12 THE COURT: Please come forward and be sworn.

13 TRAVIS HOLDORF,  
14 after being duly sworn, testified as follows:

15 THE CLERK: Please have a seat. State your full  
16 name for the record.

17 THE WITNESS: Travis Holdorf.

18 DIRECT EXAMINATION:

19 BY MS. McDUFFIE:

20 Q Investigator Holdorf, we previously discussed at  
21 length two written statements that were taken from  
22 Courtney Thompson by you at the sheriff's department.  
23 The first one on July 1<sup>st</sup> and then followed by  
24 July 2<sup>nd</sup>?

25 A Yes, ma'am.

1 Q And prior to the Court's previous rulings, we  
2 couldn't get into the entirety of those statements; is  
3 that correct?

4 A Yes, ma'am.

5 Q The statement that Courtney Thompson made on  
6 July 1<sup>st</sup>, 2013, at 21:45 hours. I show you what's  
7 been marked as State's Exhibit 260?

8 A Yes, ma'am.

9 Q Is that the original first statement that --- a  
10 copy of the original first statement that Courtney  
11 Thompson made at the sheriff's department?

12 A Yes, ma'am, it is.

13 MS. McDUFFIE: Your Honor, at this time we'd  
14 offer State's 260.

15 THE COURT: Over defense objection.

16 (WHEREUPON, State's Exhibit Number 260 was  
17 admitted into evidence.)

18 BY MS. McDUFFIE:

19 Q Can you tell the jury what the only difference is  
20 in the first statement and what's previously been told  
21 to the jury?

22 A Yes, ma'am, on page three, and this is the first  
23 statement we took on the 1<sup>st</sup>, the question was, "Did  
24 Antonio do anything to harm **CHILD** today?" The  
25 response was, "No, Antonio was not inside the house.

1 He could have been on the porch, but he was not in the  
2 house."

3 Q Was that consistent with what law enforcement had  
4 learned up to that point?

5 A Yes, ma'am.

6 Q You also did an investigation in this case and  
7 got phone records, other information, things of that  
8 nature; is that correct?

9 A Yes, ma'am.

10 Q And there were some text messages that were  
11 talked about yesterday?

12 A Yes, ma'am.

13 Q Mr. Guinyard's phone number in March, April, and  
14 May of 2013 --- what was that phone number?

15 A March, April and May it would have been 297-2240  
16 and in May, it was changed to 563-3109.

17 Q So that 297 number on those text messages, that  
18 was Mr. Guinyard's phone number at the time those text  
19 messages were done?

20 A Yes, ma'am.

21 Q And then when you --- I believe it was just  
22 talked about on the video, as well, you actually got  
23 Courtney's permission and looked through her phone  
24 that evening?

25 A Yes, ma'am.

1 Q Do the phone records that are in evidence, do  
2 those accurately reflect what the call logs were in  
3 her phone?

4 A Yes, ma'am.

5 Q However, the time is four hours ahead in these  
6 records?

7 A Yes, ma'am.

8 Q Did the 911 call show up on her records?

9 A It does not show up on her records.

10 Q Do we know why that is?

11 A It's not uncommon. It happens more often than  
12 not where a 911 call does not show up.

13 Q However, dispatch does have a record of it and  
14 that call came in at 6:12 p.m.?

15 A It does.

16 Q On July 1<sup>st</sup>?

17 A Yes, ma'am.

18 Q From her cell phone?

19 A Yes, ma'am.

20 Q Investigator Holdorf, the call that's also been  
21 discussed at length to Nicole --- I'm sorry, to  
22 Crystal Thompson, that also shows up on her phone  
23 records at approximately 5:11 p.m.?

24 A Yes, ma'am.

25 Q Finally, you also took a written statement from

1 Courtney Thompson on July 2, 2013?

2 A Yes, ma'am.

3 Q I'm showing you State's Exhibit 6?

4 A Yes, ma'am.

5 Q I believe 6-A was already in evidence. That  
6 would be the redacted version and this is the complete  
7 second statement you took from her?

8 A Yes, ma'am.

9 MS. McDUFFIE: Your Honor, at this time we'd  
10 offer State's Exhibit 6 into evidence.

11 THE COURT: Over defense objections.

12 (WHEREUPON, State's Exhibit Number 6 was admitted  
13 into evidence.)

14 MS. McDUFFIE: Your Honor, permission to publish.

15 THE COURT: Yes, ma'am.

16 MS. McDUFFIE: Investigator Holdorf, Ms. Thompson  
17 was advised of her rights prior to giving the second  
18 statement?

19 A Yes, ma'am.

20 Q On a written sheriff's department form?

21 A Yes, ma'am.

22 Q And again at the top of this statement?

23 A Yes, ma'am.

24 Q This statement is done in question and response  
25 form?

1 A Yes, ma'am.

2 Q And the responses are whose?

3 A Courtney Thompson's.

4 Q Investigator Holdorf, if you could please publish  
5 the statement to the jury.

6 A Yes, ma'am.

7 The first question is:

8 Question: "Courtney, are there any changes you  
9 would like to make to your previous statement?"

10 Response: "Yes. The first one was not true."

11 Question: "Why did you not tell the truth?"

12 Response: "I was scared that you were going to  
13 put my kids into foster homes and split them up."

14 Question: "What happened yesterday with your  
15 son, CHILD?"

16 Response: "When I came home from the hospital, I  
17 walked in his room. I saw my son lying on the  
18 floor naked in a pile of piss. I called his  
19 name. He was very weak. His eyes were barely  
20 open. I asked him what was wrong. Antonio was  
21 mad because CHILD had peed on the floor and he  
22 accused me of taking up for CHILD. I asked  
23 him --- excuse me, he asked for some water.  
24 I looking at Antonio and asked him why my child  
25 was asking for water and if he gave him something

1 to eat and drink. He said, 'I fed the fucking  
2 boy. The boy just doing that shit because you're  
3 here.' I got him a cup of water from the green  
4 cup in the kitchen. CHILD was drinking water  
5 like he had not had water in days. I put the cup  
6 back in the kitchen, went in the living room and  
7 got him some clothes to put on. I got him some  
8 light gray jeans and a green shirt. CHILD was  
9 so weak that his feet, legs, knees, butt, and  
10 arms were swollen and kind of blue. I asked  
11 Antonio what happened to my fucking child.  
12 Antonio was just out of it --- excuse me, CHILD  
13 was just out of it. Antonio said there was  
14 nothing wrong with him. He was just putting on a  
15 show because I was here. He said I was always  
16 taking up for that motherfucking child.  
17 Antonio came in the room and jacked CHILD up by  
18 the neck, picked him up. He said he was going to  
19 clean that piss up off the floor. Antonio threw  
20 CHILD a bar of pink soap. I got the bottle of  
21 Pine Sol, put some water and soap and poured it  
22 on the pee. Antonio was yelling to clean the  
23 fucking floor up. CHILD was on the floor and  
24 his head was down. I said that I would help him,  
25 and I got on the floor to help. Antonio was



1 cussing him out like a dog. I was telling  
2 Antonio that I was tired and my back hurt.  
3 Antonio was mad because CHILD had pissed and it  
4 stunk like an old man. Antonio went back in the  
5 kitchen and was cooking. I went to take a  
6 shower. I heard CHILD crying like he was in  
7 pain and getting hit. I jumped out of the  
8 shower. CHILD was stretched out on the floor in  
9 my room. I told Antonio that if he touched my  
10 kid again, I would call the police. He was in  
11 the room standing next to CHILD. Antonio said  
12 that no one did nothing to that boy, and he was  
13 just doing it because I was home.  
14 Antonio went back in the kitchen. I stood CHILD  
15 up. He dropped to his knees. CHILD was  
16 breathing funny. CHILD fell to the floor. I  
17 asked him if he could get up and he said yeah.  
18 He stood up and I told him to sit down. He sat  
19 down. Antonio was asking if I was going to let  
20 him get away with it like he was a dog. Antonio  
21 wanted him to stand up. CHILD was walking down  
22 the hall and he collapsed after taking about  
23 three steps. CHILD balled up. It looked like  
24 he was having a seizure. I called Antonio and  
25 asked him what he did. I picked my baby up and

1       pried the lip out of his mouth. I carried him to  
2       the front room. I went to get my phone. Antonio  
3       told me not to call the police. I told Antonio  
4       that he was not breathing.

5       Antonio said that he was going to get the baby  
6       and was going to go. Antonio was saying that  
7       CHILD did something, the same thing yesterday,  
8       when he put him in the shower and woke him up. I  
9       called 911 and told them that my son was not  
10      breathing. Antonio was running around getting  
11      dressed to leave.

12      I talked to CHILD that morning around 11:00 a.m.  
13      My son told me that Antonio had beat him with a  
14      pole."

15   Q     Let me stop you right there. The phone calls  
16   where she talks about talking to or calling Antonio's  
17   phone multiple times, those are also reflected on  
18   these records?

19   A     They are.

20   Q     And those records are --- the timing is accurate  
21   with the exception of the four hour difference?

22   A     Yes, ma'am.

23   Q     It's four hours ahead. On those phone records,  
24   as well, the Google searches that Ms. Thompson is  
25   doing about what to do if your child has a seizure,

1 were those from before or after 911 was called?

2 A This would have been before.

3 Q It's also possible to scroll through that phone  
4 log while calls are being placed?

5 A It is.

6 Q Please proceed.

7 A Response: (continued) "I talked to CHILD that  
8 morning around 11:00 a.m. My son told me that  
9 Antonio beat him with a pole. Antonio called and  
10 said that I better talk to the boy before he  
11 killed him. I asked him what he was doing. He  
12 said the boy was pissing in the motherfucking  
13 house. Antonio hid in the closet and the police  
14 came and they caught him trying to sneak out."

15 Question: "Have you seen Antonio hit CHILD  
16 before?"

17 Response: "Yes. He would push him and make him  
18 head his head on shit all the time. Antonio beat  
19 him while I was in the hospital."

20 Question: "Has Antonio said anything to you  
21 about what happened?"

22 Response: "Last night he told me he pulled  
23 CHILD's ear. He did not say why. When I  
24 talked --- excuse me, when I asked him to have  
25 five minutes with him and I will tell you

1 everything you wanted me to know, he wanted me to  
2 take his charges. He wanted me to take his  
3 charges so he could go home and get the kids. I  
4 asked him why. He said y'all already thought I  
5 did it."

6 Question: "Why did you get in the shower?"

7 Response: "I was bleeding from having a baby."

8 Question: "Have you hit your children before?"

9 Response: "No, I don't hit them."

10 Question: "Do you know what white stick CHILD  
11 was talking about getting hit with?"

12 Response: "No, the broom was already broken.  
13 The only white pole was an extra shower curtain  
14 rod in the hall closet."

15 Question: "How would you discipline your  
16 children?"

17 Response: "I would turn the TV off."

18 Question: "Have you seen Antonio hit your  
19 children?"

20 Response: "No."

21 Question: "What do you know about the cigarette  
22 burns to CHILD's body?"

23 Response: "I don't know about that."

24 Question: "Did Antonio love CHILD?"

25 Response: "No. He would tell him all the time

1 and Antonio would say that he did and would say  
2 --- excuse me, let me start that over again.

3 Question: "Did Antonio love CHILD?"

4 Response: "No. He would tell him all the time  
5 and Antonio would say that all he did was cause  
6 problems. We asked our family several times to  
7 get custody of CHILD. They would not because  
8 CHILD would hurt himself and would shit and piss  
9 in the house."

10 Question: "Is there anything that you have not  
11 told us about CHILD's death?"

12 Response: "No, I have told you everything. When  
13 I got home, I saw blood flecks on the walls in  
14 the bedroom, on the wall in the hallway and my  
15 door. There was blood on the closet door in my  
16 room and the door had a hole in the middle.  
17 There was blood on the carpet."

18 Question: "Is there anything that you want to  
19 add or change about your statement?"

20 Response: "No."

21 And it's signed by myself and Captain Melton.

22 It's also signed by Ms. Courtney Thompson and a copy  
23 is given to her.

24 Q Investigator Holdorf, that statement was made  
25 when?

1 A July 2<sup>nd</sup>.

2 Q Of 2013?

3 A Yes, ma'am.

4 Q And the phone call that was played for the jury  
5 the other day in the court, that phone call was made  
6 on April 20<sup>th</sup>, 2014?

7 A Yes, ma'am.

8 Q Are you aware that the DNA report in this case  
9 was issued and was published and came out on  
10 April 21<sup>st</sup> of 2014?

11 A Yes, ma'am, it was --- she talks about the pole  
12 the day before we had the official results.

13 Q And she also talked about the pole on July 2,  
14 2013.

15 A Yes, ma'am.

16 Q And the DNA report came out when?

17 A On the 21<sup>st</sup>.

18 Q Of April?

19 A April 21<sup>st</sup>, 2014.

20 MS. McDUFFIE: Nothing further, Your Honor.

21 THE COURT: Yes, sir.

22 MR. LI: May it please the Court.

23 CROSS-EXAMINATION:

24 BY MR. LI:

25 Q Investigator Holdorf, Courtney Thompson was made

1 aware that the autopsy didn't match the reenactment  
2 prior to making that statement, correct?

3 A Yes, sir, she was and also Antonio was.

4 Q And it was only after that that she gave this  
5 second statement?

6 A It was --- we had talked to her, tried to talk to  
7 actually both parties for several hours before she  
8 said, "If you put us together, I'll tell you what  
9 happened."

10 Q Thank you.

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

12 THE COURT: Yes, ma'am.

13 MS. PINNOCK: No questions, Your Honor.

14 THE COURT: Redirect?

15 MS. McDUFFIE: No, Your Honor.

16 THE COURT: Thank you, sir. You may step down.  
17 You may call your next witness.

18 MS. McDUFFIE: Your Honor, that's the extent of  
19 the rebuttal testimony the State will offer.

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

21 All right, ladies and gentlemen. That's the  
22 extent of the reply testimony that you will have from  
23 the State at this time. If you will now retire to  
24 your jury room. We are going to order some lunch, so  
25 they will bring you your menus. I have a matter of

1 law that I have to take up with the lawyers. I'll be  
2 back with you in just a few moments. Do not discuss  
3 the case. Keep an open mind. We'll see you back in  
4 just a few minutes. Thank you.

5 (WHEREUPON, the jury left the courtroom at  
6 10:44 a.m.)

7 THE COURT: All right. Anything, Mr. Li?

8 MR. LI: Your Honor, just to renew all prior  
9 motions and objections.

10 THE COURT: All right. Ms. Pinnock?

11 MS. PINNOCK: Your Honor, at this time, I would  
12 also renew all of our pretrial motions and all of our  
13 objections throughout the testimony.

14 THE COURT: All right. My ruling on those is the  
15 same as before based on the reasoning that I  
16 previously provided. All right.

17 Okay. Let's talk about this jury charge. The  
18 State's request to charge, Number 1, that's in  
19 already. The State's request to charge Number 2 --- I  
20 mean, sorry. I'm sorry, I'm reading it wrong.  
21 Defense --- Defendant Thompson's request to charge  
22 Number 1 on multiple counts is in already. Defendant  
23 Thompson's request to charge on co-defendants, that's  
24 in already. Defendant's request to charge Number 3 on  
25 extreme indifference, it's already in the charge.



1 It's already in the --- a charge on that.

2 All right. It's --- the State on extreme  
3 indifference, the State's request to charge on extreme  
4 indifference is going to be made a part of the charge.  
5 All of that is accurate statements of the law. It's  
6 going to be incorporated in the part of the charge  
7 concerning homicide by child abuse.

8 The State's request to charge on the mother and  
9 father are the joint and natural guardians of their  
10 minor children, that's the law, and I think it's  
11 directly relevant to this case, so that's going to be  
12 charged.

13 What's up with the voluntary intoxication charge?

14 MS. McDUFFIE: Your Honor, there's been testimony  
15 from Mr. Guinyard that he drank a beer that morning,  
16 and then testimony from Ms. Thompson, you know, that  
17 she was on pain meds and didn't know what she was  
18 saying at some point, Your Honor. I think the  
19 voluntary intoxication is appropriate.

20 THE COURT: And are you requesting that part of  
21 the voluntary intoxication charge that talks about  
22 insanity?

23 MS. McDUFFIE: No, Your Honor, just the voluntary  
24 intoxication charge.

25 THE COURT: The one in the charge book is

1 permanent insanity and things like that.

2 MS. McDUFFIE: Your Honor, we can get a proposed  
3 --- we're just requesting that standard voluntary  
4 intoxication is not a defense to any crime.

5 THE COURT: And what's your position on that,  
6 Mr. Li? Do you oppose that charge?

7 MR. LI: No, Your Honor.

8 THE COURT: Ms. Pinnock?

9 MS. PINNOCK: Your Honor, I would object to that  
10 charge. I think it confuses the issues. I don't  
11 recall Ms. Thompson saying anything about being  
12 on pain medication and not knowing what she was  
13 saying. We're not arguing that she was intoxicated.  
14 I don't recall that testimony. I think that would  
15 confuse the issues. I don't think we're trying to use  
16 it as a defense.

17 THE COURT: If neither of them aren't going to  
18 use it, do you still want to do it?

19 MS. McDUFFIE: Yes, Your Honor.

20 THE COURT: She clearly gave testimony. In her  
21 video reenactment and on the stand yesterday, she  
22 talked about how she had been on --- how she had had  
23 an epidural and they had done something wrong and her  
24 pelvic bones were broken and she was on medicine and  
25 she didn't remember what happened. I'm not going into

1 the whole insanity part of it.

2 MS. McDUFFIE: We're not asking for that.

3 THE COURT: Okay. If you can find --- I'm just  
4 going to say voluntary intoxication is not a defense  
5 to a crime. I'm going to say something that simple.  
6 I'm not going into anything long or drawn out.

7 MS. McDUFFIE: Can I address one of the ones that  
8 you've already ---

9 THE COURT: Yes, ma'am.

10 MS. McDUFFIE: Ms. Thompson's request to charge  
11 Number 2.

12 THE COURT: Okay.

13 MS. McDUFFIE: It talks about evidence that has  
14 been received solely against one defendant and not the  
15 other defendant. I don't know that that's applicable  
16 anymore in this case, Your Honor.

17 THE COURT: I am --- hold on hold on.

18 All right. Here is what my charge is going to  
19 say: I charge you that there are two defendants in  
20 this case, each of whom is charged with homicide by  
21 child abuse and unlawful conduct towards a child. The  
22 case of each defendant and the evidence and the law  
23 concerning that defendant should be considered  
24 separately and individually. Your verdict does not  
25 have to be the same for both defendants. The fact

1 that you may find one defendant guilty or not guilty  
2 should not control your verdict as to the other  
3 defendant.

4 Where more than one person is charged with a  
5 crime, if the evidence warrants it --- if the evidence  
6 warrants it, you may convict one and acquit the other  
7 or you may acquit both or you may convict both. It  
8 will depend on your view of the testimony and the  
9 evidence. You must take each defendant and consider  
10 the evidence as to that defendant and my instructions  
11 to you on the law.

12 You will then write a separate verdict of guilty  
13 or not guilty for each individual defendant.

14 MS. McDUFFIE: We have no objection to that.

15 THE COURT: Okay. I'm not re-giving them the  
16 limiting instruction on the statements. I've taken  
17 that out.

18 Okay. Now ---

19 MR. LI: Your Honor.

20 THE COURT: Yes, sir.

21 MR. LI: We do have an issue with the State's  
22 request to charge for extreme indifference. It's  
23 generally the same as Defendant Thompson's request to  
24 charge Number 3. In it, it says there's a definition  
25 of indifference, not extreme indifference. It has

1 language in there that is, it's almost negligence for  
2 failure to exercise ordinary due care.

3 That is the definition for indifference, Your  
4 Honor. The standard for homicide by child abuse is  
5 extreme indifference. I believe that's stated fairly  
6 well in Jarrell and then the proposed charge by  
7 Defendant Thompson. We think it may confuse the jury.  
8 Why would you even put just indifference in there  
9 because then it's got negligence, just like basic  
10 negligence.

11 THE COURT: And that's the law from Jarrell. It  
12 says, "In this state, indifference in the context of  
13 criminal statutes has been compared to the conscious  
14 act of disregarding a risk which a person's conduct  
15 has created or a failure to exercise ordinary due  
16 care. Extreme indifference is in the nature of a  
17 culpable mental state and therefore is akin to  
18 intent."

19 MR. LI: That's fine.

20 THE COURT: I mean, I'm not making that --- all  
21 that stuff comes directly from the case. So I  
22 understand, and your objection is noted on the record.

23 MS. PINNOCK: Your Honor.

24 THE COURT: I believe that's the law.

25 MS. PINNOCK: I would join in that.

1 THE COURT: Okay. Very well.

2 Now --- okay. All right, Mr. Li, anything on any  
3 other charges from you?

4 MR. LI: Your Honor, just the --- we'd ask for a  
5 general intent charge.

6 THE COURT: I'll do the general intent charge  
7 from the charge book.

8 MR. LI: Yes, sir.

9 THE COURT: And that's the one that says the  
10 State has to prove criminal intent, can't be proved to  
11 a mathematical certainty.

12 MR. LI: This is the one from Judge Anderson's  
13 book?

14 THE COURT: It's the one directly from the  
15 circuit court charge book. I don't know which book  
16 that's based on.

17 MR. LI: And there is a charge on good character.

18 THE COURT: Yes, the good character charge is in.  
19 You placed your client's conduct, character in issue,  
20 so --- did you pull that directly ---

21 THE CLERK: That's from the charge book.

22 THE COURT: Okay. So the good character charge  
23 comes directly out of the charge book.

24 MR. LI: Okay.

25 THE COURT: And let's talk about mere presence.

1 MS. McDUFFIE: Your Honor, we object to a mere  
2 presence charge. I don't know that mere presence is  
3 applicable under unlawful conduct towards a child or  
4 homicide by child abuse. I think mere presence is  
5 specifically excluded, and I don't know that there is  
6 any case law because mere presence alone, Your Honor,  
7 I think can qualify as homicide by child abuse. If  
8 you're present in the home, you know what's going on.  
9 You observe the injuries to the child and you don't do  
10 anything about it, Your Honor. I think that mere  
11 presence will confuse the jury and I don't think it's  
12 a proper charge.

13 THE COURT: Okay. Ms. Pinnock.

14 MS. PINNOCK: Thank you, Your Honor. I'd ask you  
15 to look at State v. Hepburn that's 406 SC 416. It's  
16 a 2013 Supreme Court case. There were two defendants  
17 on trial for homicide by child abuse. The court went  
18 through a very lengthy analysis about what the State  
19 did and did not present in prosecuting that case. The  
20 Supreme Court ultimately held that the conviction  
21 should be reversed because there was no evidence that  
22 the appellant in that case committed any sort of act  
23 and the fact that she was there at the time the injury  
24 occurred was not enough to convict her of the homicide  
25 by child abuse because there was no evidence saying

1 that she was the person that inflicted the injuries.

2 So I think it is applicable to homicide by child  
3 abuse cases. I think there is a question that could  
4 be presented to the jury about the identity of the  
5 perpetrator in this case, so I think that based on  
6 this case, Judge, again it's a 2013 Supreme Court  
7 case, I think it's an appropriate issue to be added to  
8 your charge.

9 MS. McDUFFIE: Your Honor, I think that case is  
10 distinguishable. Your Honor, I don't think that that  
11 case is on point with this case. I think that mere  
12 presence is not an appropriate charge and is not the  
13 proper law to be applied to homicide by child abuse  
14 and to unlawful conduct. Your Honor, the parents  
15 specifically had a duty to act, and the fact of mere  
16 presence is never ---

17 THE COURT: Go ahead, I'm just pulling something.

18 MS. PINNOCK: I was just going to say, yes, there  
19 is a duty to act with parents with homicide by child  
20 abuse or anybody in the care of the child. However,  
21 the State still has to prove that either a person  
22 acted or intentionally failed to act during the  
23 commission of the crime. That is a question for the  
24 jury. It can be argued.

25 I think there is evidence that has been presented



1 on the record that there is a possibility that one of  
2 these two people was just there, not necessarily  
3 knowing what happened, but was just present. I think  
4 it is appropriate. The case is distinguishable by  
5 some of the facts, but the analysis shows that mere  
6 presence can be applicable to homicide by child abuse  
7 cases, and I think there is evidence on the record  
8 that warrants this being included.

9 (Pause.)

10 THE COURT: State v. Hepburn doesn't say that  
11 mere presence is an appropriate charge.

12 MS. PINNOCK: Not directly saying it's an  
13 appropriate charge, it ---

14 THE COURT: It doesn't indirectly say it's  
15 appropriate. I does not have anything to do with a  
16 mere presence charge.

17 MS. PINNOCK: The analysis that the court did,  
18 Your Honor, my understanding of the --- my reading of  
19 the case, they go through the analysis and they  
20 discuss the fact that there was no evidence presented  
21 against this appellant that she was the one that  
22 caused the injury. They discuss the fact that she was  
23 merely there was not enough to support that  
24 conviction.

25 THE COURT: Right.

1 MS. PINNOCK: So I would say ---

2 THE COURT: That has nothing to do with mere  
3 presence and whether or not it is an appropriate  
4 charge in a homicide by child abuse case.

5 MS. PINNOCK: Your Honor, I would ask that based  
6 on the facts of this record, I think it would be an  
7 appropriate charge because the State has, again,  
8 alleged no --- has made no factual --- offered no  
9 evidence that Ms. Thompson was the one who inflicted  
10 the injuries on that particular day.

11 THE COURT: Well, I mean, that's not an accurate  
12 statement of what's transpired in front of this jury,  
13 Ms. Pinnock.

14 The State has offered evidence, direct evidence,  
15 by a sister of Ms. Thompson that she basically heard  
16 her kill the child on the phone. I mean, so are you  
17 just ignoring that fact that came in in front of the  
18 jury when you made that argument?

19 MS. PINNOCK: No, Your Honor, I'm not ignoring  
20 it.

21 THE COURT: I'm not saying it's true or not true,  
22 and I not saying that's what happened or that's what  
23 didn't happen, but that evidence is before this jury  
24 and you just said the State has offered no evidence  
25 that Ms. Thompson committed a homicide by child abuse.

1 I mean, that's just not an accurate statement. I'm  
2 not saying --- I'm not making a comment on the facts  
3 in front of the jury, but, I mean, that's just not an  
4 accurate statement of what's happened over the past  
5 seven days.

6 MS. PINNOCK: I was not ignoring that fact, Your  
7 Honor. I do apologize for the record, also it does  
8 reflect --- there is evidence that has been presented  
9 through testimony that Ms. Thompson did not do it;  
10 that she was at the house merely there when something  
11 happened. It has been presented and it's in the  
12 record that she did not do anything, so I think  
13 because there is evidence on the record that we're  
14 entitled to have that.

15 THE COURT: And what evidence is that? Is that  
16 her statement that she gave in court?

17 MS. PINNOCK: Yes, sir.

18 THE COURT: Okay. So her statement that she gave  
19 in court was that she saw Mr. Guinyard beating the  
20 child with a rod, correct?

21 MS. PINNOCK: Yes, sir.

22 THE COURT: And did nothing, correct?

23 MS. PINNOCK: No, sir.

24 THE COURT: That's what she said.

25 MS. PINNOCK: Your Honor, I believe the testimony

1 from yesterday was that she saw it happen and told him  
2 to stop.

3 THE COURT: Okay. I mean, how is that being  
4 merely present?

5 MS. PINNOCK: Because the elements of homicide by  
6 child abuse are you either intentionally inflict  
7 injury on a child or you failed to act, by act or  
8 omission.

9 THE COURT: Right.

10 MS. PINNOCK: I think it's a question for the  
11 jury what Ms. Thompson's actions that day raise to the  
12 level of. It's not --- my position is that it's not  
13 the weight of the evidence, it's the existence of it  
14 in the record. I think it does exist. I think it  
15 does present the question to the jury. I think  
16 because it is on the record, they could reasonably  
17 infer that she, you know, did not violate --- was not  
18 in violation of that statute. The evidence is on the  
19 record, Judge, I really --- I believe that we are  
20 entitled to have that presented because the evidence  
21 is on the record, it doesn't matter what weight they  
22 are going to give it. What matters is the existence.

23 MS. McDUFFIE: Your Honor, the difference is that  
24 the failure to act and the failure to get him medical  
25 help and the failure to protect her child resulted ---

1 even taking the evidence in the light most favorable  
2 to her, resulted in the death of her child and it's  
3 homicide by child abuse, Your Honor. Mere presence  
4 isn't appropriate in any sense of the word --- in any  
5 sense of the facts in this case and, Your Honor, I  
6 think it directly contradicts what the actual law is.

7 THE COURT: I'm not sure the mere presence charge  
8 isn't more appropriate to Mr. Guinyard.

9 MR. LI: Well, I was going to wait for my turn,  
10 Your Honor, but we also join in the request to ask  
11 that mere presence be charged, Your Honor. We  
12 understand --- I understand that ---

13 THE COURT: Of course, there's a failure to act  
14 converse argument to that, too.

15 MR. LI: But the failure to act would still be  
16 subject to knowledge of it, so merely being present  
17 without the knowledge of it would negate somebody's  
18 duty to act when they didn't know about it.

19 MS. McDUFFIE: Your Honor, our issue is that  
20 under the law the parents have a duty and  
21 responsibility to act and are not allowed to be merely  
22 present. That's what the legislature has created, and  
23 they have created a penalty, a specific penalty, and a  
24 specific statute that does not allow criminal  
25 ambivalence, and mere presence is saying that it is

1 allowed, Your Honor.

2 THE COURT: But under Mr. Guinyard's version of  
3 the facts, he was in the kitchen cooking. He heard a  
4 loud boom and he waited four or five minutes.

5 MR. LI: That's right.

6 THE COURT: And then did nothing but hide in the  
7 closet, but that's a different ---

8 MS. McDUFFIE: Your Honor ---

9 THE COURT: So how is that --- and I'm not saying  
10 that's true or that's not true, but, I mean, that  
11 evidence is before the jury and how does that in and  
12 of itself not give rise to a mere presence charge.

13 MS. McDUFFIE: Because his testimony also was  
14 that in the three days when he was alone with this  
15 child, leading up to the child's death, that he did  
16 nothing to help protect this child. He did nothing to  
17 save this child and the only testimony and the only  
18 evidence in the record is that the child would have  
19 been severely and extremely symptomatic and had the  
20 child gotten medical care would not have died.

21 THE COURT: That's not the only evidence. His  
22 evidence is there was absolutely nothing wrong with  
23 the kid, and I'm not saying that's true or that's not  
24 true, but I can't disregard the fact that that  
25 evidence is now before the jury and that his opinion

1 or that his view of the child while the mom was in the  
2 hospital was that there was nothing wrong with him.

3 MS. McDUFFIE: Your Honor ---

4 THE COURT: I mean, I can't judge the credibility  
5 of the evidence that's before the jury, but I have to  
6 make an assessment as to what evidence is before the  
7 jury. It's the jury's job to judge the credibility of  
8 it, but if something is before the jury, how can I  
9 just ignore it in a jury charge? That's my question.

10 MS. McDUFFIE: Because, Your Honor, I don't think  
11 it's a correct statement of the law. I'm not asking  
12 to ignore it. I think that under the elements of  
13 homicide by child abuse, we still have to show that he  
14 committed the death of the child under circumstances  
15 manifesting in extreme indifference and I think this  
16 is all stuff they can argue, but I don't think that  
17 mere presence is the proper law to be charged in these  
18 cases.

19 THE COURT: All right. I'm going to charge mere  
20 presence out of an abundance of caution.

21 MS. PINNOCK: Thank you, Your Honor.

22 THE COURT: All right. Anything else on the jury  
23 charge?

24 MS. CAMPBELL: Your Honor, could I just look at  
25 the mere presence charge, if you don't mind.

1 THE COURT: Sure. Where is the mere presence  
2 charge?

3 MR. LI: Your Honor, is it possible to take a  
4 quick break?

5 THE COURT: We're going to take a break. Yes,  
6 just a second. Let's make sure there are no other  
7 issues. Give me one second, Mr. Li.

8 MS. CAMPBELL: The only thing we would object to  
9 is the part that says if you do not prove beyond a  
10 reasonable doubt the participation in the crime ---  
11 because of the unique nature of this offense and how  
12 it's worded, we don't have to prove participation.  
13 That would be the only part we would object to is just  
14 that sentence in there.

15 THE COURT: Hold on one second, Ms. Campbell.

16 Okay. You're reading mere presence at the scene  
17 is not sufficient to prove someone guilty of a crime.  
18 A defendant is present where a crime is being  
19 committed or mere association with a person who  
20 commits the crime does not make a defendant an  
21 accomplice or aider or abettor of a person committing  
22 the crime.

23 MS. CAMPBELL: We're good with that.

24 THE COURT: The burden is on the State to prove  
25 every element of the crime charged. If you find after



1 reviewing all the evidence that the State has proved  
2 that the defendant was only present at the scene of  
3 the crime and that they have not proved beyond a  
4 reasonable doubt any other participation in the crime,  
5 then you must find the defendant not guilty.

6 The law is that proof --- the law is that proof  
7 at the scene of the crime is not sufficient to find  
8 someone guilty. What are you asking me to take out?

9 MS. CAMPBELL: Any other participation in the  
10 crime, because it doesn't have to be participation in  
11 the crime itself. It has to be participation and ---

12 MS. McDUFFIE: Failure to act.

13 MR. LI: You could rephrase it to not only  
14 participate but participate in the neglect to  
15 actively --- I understand what she is saying.

16 THE COURT: Here is what I'm going to do. I'm  
17 going to read: mere presence at the scene is not  
18 sufficient to prove someone guilty of a crime. The  
19 defendant's presence where a crime is being committed  
20 or mere association with a person who commits a crime  
21 does not make an accomplice or an aider or abettor of  
22 the person committing the crime. The burden is on the  
23 State to prove every element of the crime charged,  
24 period.

25 MS. CAMPBELL: Good.

1 THE COURT: You got that? All right. How long  
2 do you want to get things put together for closing?

3 MS. CAMPBELL: Five minutes.

4 MR. LI: How long did she say?

5 THE COURT: She said five minutes.

6 MR. LI: Ten minutes, give me ten minutes.

7 MS. PINNOCK: Ten or fifteen.

8 THE COURT: Let's plan on --- let's start at  
9 11:30. That will give me time to fix the things I  
10 need to fix in the charges, put it in proper written  
11 form. Everybody be ready to go at 11:30. Who is  
12 arguing which side first from here?

13 MR. LI: (indicating)

14 THE COURT: You're going first?

15 MR. LI: Yes, sir.

16 THE COURT: Who is opening on the law?

17 MS. CAMPBELL: I'm opening on the law and  
18 closing.

19 THE COURT: All right. 11:30.

20 (WHEREUPON, Court's Exhibit Number 10 was marked  
21 for identification only.)

22 (WHEREUPON, a short break was taken.)

23 THE COURT: One thing I forgot to mention earlier  
24 is the verdict form. I have separate verdict forms  
25 for each defendant. It says, We the jury by unanimous

1 consent find that defendant and then homicide by child  
2 abuse, unlawful conduct towards a child, not guilty  
3 and guilty are listed on each in a separate place.

4 There is a separate place for the foreperson to date  
5 and sign off on each. Is that okay with the State?

6 MS. CAMPBELL: Yes, sir.

7 THE COURT: Mr. Li, Ms. Pinnock?

8 MR. LI: Yes, sir.

9 THE COURT: Ms. Campbell, are you standing up  
10 because you want to ---

11 MS. CAMPBELL: No.

12 THE COURT: All right. Anything further before I  
13 bring in the jury?

14 MS. PINNOCK: Very briefly, Judge. I do  
15 apologize. I forgot to mention this before we broke.  
16 I would just ask as far as State's opening on the law.  
17 I know it is not a civil, but criminal rule, but there  
18 is a civil rule that requires when the party opens ---  
19 when the party is closing that they close fully on the  
20 law and the facts so that we have an opportunity to  
21 respond.

22 Then if there is any rebuttal closing that it  
23 only be directed at issues brought up by the  
24 defendant, so that we are aware and we have the  
25 opportunity to challenge what the state is telling the

1 jury, because we won't get another opportunity to  
2 stand up and do that after the State is done.

3 THE COURT: All right. That motion is denied. I  
4 believe the law is well settled in this state in  
5 criminal cases. The State is allowed to open on the  
6 law and then give the final closing argument.

7 Okay. Anything further?

8 MS. PINNOCK: No, sir.

9 THE COURT: Okay. Is everybody ready?

10 MS. CAMPBELL: Ready.

11 THE COURT: Already. Now, listen to me if you're  
12 in the audience. This is probably going to take ---  
13 I'm not saying this because I'm going to give the  
14 lawyers time constraints, because I'm not, but you can  
15 figure on being in here for at least two hours, okay?  
16 So if you think you can't make it that long or you  
17 think you can't make it through graphic presentations  
18 or whatever may be happening, you need to leave now as  
19 opposed to getting up and leaving during the middle of  
20 these presentations.

21 These lawyers have spent months preparing for  
22 these cases. They have been in trial now for seven  
23 days and it is not fair to them nor to their clients,  
24 nor to the side that they represent for them to be  
25 disturbed during their closing arguments.

1        Now, once I start the jury charge, the back door  
2 is going to be locked and no one will be allowed to  
3 leave or enter, period, but if you think you may need  
4 to get up or you may need to heave or you may not be  
5 able to handle it during closing arguments, you're  
6 opportunity to leave is now, and that is out of  
7 fairness to the lawyers, every lawyer in this room who  
8 has worked very hard in this case and to the parties  
9 whether it's the State or either defendant.

10        This is their final opportunity to address the  
11 jury, and they deserve the jury's undivided attention.  
12 They have earned the jury's undivided attention and  
13 we're not going to have issues with participants in  
14 the courtroom making noise, phones going off,  
15 distractions or anything else, so you need to double  
16 check your phone right now if it's on your person and  
17 make sure it is not going to go off. If it is, it's  
18 going to be taken, and I will deal with that once this  
19 is over. Okay. That's --- and I say that out of my  
20 --- out of the Court's respect for the lawyers and all  
21 the hard work that they have put into being prepared  
22 for this. All right. Let's bring them in,  
23 Mr. Burgess.

24        (WHEREUPON, the jury entered the courtroom at  
25        11:34 a.m.)

1 THE BAILIFF: They are back, Your Honor.

2 THE COURT: Thank you. Welcome back, ladies and  
3 gentlemen. You have now heard all the testimony and  
4 seen all the exhibits that are going to be introduced  
5 before you. We have reached the point of the trial,  
6 which are commonly known as closing arguments or  
7 closing statements. These are the lawyer's  
8 opportunities to give you their version and their  
9 argument on behalf of the sides that they represent.

10 Because the State has the burden of proof in this  
11 case as I have explained to you since the beginning of  
12 the case and I will explain to you in a few moments,  
13 the State will be allowed to go first, and the State  
14 will also be allowed to go last. Once the closing  
15 arguments are finished, depending upon how long those  
16 take, I may take a short break after that if we're in  
17 here for an extended period of time.

18 If we are in here for a shorter period of time, I  
19 may go directly into my charge or my telling you what  
20 the law is as it applies to this case, but that's the  
21 general plan for what we're going to do over the next  
22 little bit. If you will please give the attorneys  
23 your undivided attention as you all have done  
24 throughout this trial. We've been in here now for  
25 seven days. I would ask that you give them and the

1 Court, when I charge you on the law, your undivided  
2 attention. Thank you very much.

3 Ms. Campbell.

4 MS. CAMPBELL: May it please the Court.

5 THE COURT: Yes, ma'am.

6 MS. CAMPBELL: Good morning.

7 THE JUROR: Good morning.

8 CLOSING STATEMENT:

9 MS. CAMPBELL: The first thing I would like to do  
10 on behalf of the State of South Carolina and on behalf  
11 of [CHILD] is to thank you for your  
12 service in this case.

13 Over the last seven days, each and every one of  
14 you has paid close attention to lengthy and at times  
15 horrible evidence that has come before you, and I want  
16 to go ahead and apologize profusely for the types of  
17 things we have exposed you to. You have had to listen  
18 to this heart wrenching account of child abuse.

19 You have been exposed to images and to  
20 photographs that no one should have to see, but as  
21 hard as it has been for each of you to hear and to see  
22 this evidence, remember [CHILD], four-year-old [CHILD]  
23 because he had to live it. He had to live the horror,  
24 endure the pain that never stopped until he literally  
25 breathed his last breath. The paper inflicted by the

1 very people who should have been there to protect him,  
2 the ultimate betrayal.

3 He was tortured by his own parents, beaten by mom  
4 and dad, a slow, agonizing painful death. So on  
5 behalf of the State, we apologize for exposing you to  
6 that, but I think as you have seen over the past week,  
7 it was necessary for you to get the full picture of  
8 what this child went through at the hands of not one  
9 person, but both of the people who had the absolute  
10 duty to protect him.

11 Now, as the judge just told you, you're going to  
12 hear from me, and I'm going to talk to you a little  
13 bit on the front end about the law in this case and  
14 how it applies. Then you're going to hear from both  
15 defense, and then I'll have an opportunity to get back  
16 up in front of you and talk to you a little bit more  
17 about the facts in this case.

18 As you listen to me talk about the law or anyone,  
19 remember, ultimately once you hear from all of us, the  
20 judge is going to charge you. Judge Hood is going to  
21 charge you what the law is and what the law is that  
22 you should apply in this case. If I say anything  
23 different or anything that contradicts what he says,  
24 it's not intentional. Take the law as he gives it.  
25 In that same light, in that same vein, if either side



1 mischaracterizes the facts, you remember because the  
2 evidence and the testimony is what you got from this  
3 stand and what can you consider, as the judge will  
4 instruct you.

5 The evidence is the testimony, the sworn  
6 testimony and the physical evidence that is entered.  
7 Some of them records, some of them photos. That's  
8 evidence. What is not evidence? Questions by the  
9 lawyers, fishing expeditions, innuendo, conjecture,  
10 speculation or just plain wishful thinking. That is  
11 not evidence, and the roles in this courtroom as the  
12 judge has told you are very specific.

13 The State's role is to bring forward all the  
14 relevant admissible evidence as to what happened in  
15 the time period that **CHILD** was alive and what led to  
16 his death. The defense's role is to defend the  
17 client.

18 The judge's role is very important. He has to  
19 decide what is admissible, according to the rules as  
20 he just explained to you. Something may not be  
21 admissible one time, come in later.

22 Then he must charge you on what the law is.  
23 Ladies and gentlemen, the most important role in this  
24 courtroom by far is yours. Each of you individually  
25 and then once the judge charges you on the law

1 collectively. When you get back in that jury room,  
2 you have to determine what happened leading up to this  
3 child's death. It is up to you to determine that and  
4 to judge the credibility of the witnesses, and I'll  
5 get back to that.

6 Now, in a criminal case, it's somewhat unique  
7 because in criminal court, the State must bring forth  
8 live testimony. A defendant has a right to confront  
9 each and every witness against him.

10 You have not heard anything about depositions  
11 being taken. You have heard references to reports.  
12 They are not necessarily admissible. There are  
13 exceptions. You haven't seen any audiotaped  
14 depositions that were brought before you.

15 The reason for that is that he has a right or she  
16 has a right to confront each and every witness so that  
17 you the jury can then judge their credibility.

18 You can make that determination. That's the  
19 reason for that. That's why you haven't heard from  
20 any of those --- seen those reports and things of that  
21 nature. You have the right, even with doctors for  
22 them to come in here and tell you what their findings  
23 are.

24 Now, the burden of proof in criminal cases, as it  
25 should be, is on the State of South Carolina to prove

1 these defendants' guilt beyond a reasonable doubt. I  
2 submit, ladies and gentlemen, in this courtroom with  
3 these two defendants, that is a burden the State  
4 welcomes.

5 With this case and this evidence, the burden of  
6 proof is beyond a reasonable doubt. I submit the  
7 evidence is overwhelming, but what is reasonable  
8 doubt? The judge will instruct you on that. It's  
9 been defined by our case law. Reasonable doubt can be  
10 considered, and it's a simple explanation, reasonable  
11 doubt is the kind of doubt that would make a  
12 reasonable man hesitate to act.

13 As you listen to the judge, notice the  
14 terminology he uses, things like reasonable, language  
15 such as that. The judge will also instruct you that  
16 there's been a further definition by the courts that  
17 may aid you in determining whether or not the State  
18 has met their burden of proof. Proof beyond a  
19 reasonable doubt is proof that leaves you firmly  
20 convinced of the defendant's guilt. There are very  
21 few things in this world that we know with absolute  
22 certainty. In criminal cases, the law does not  
23 require proof that overcomes every possible doubt. If  
24 based on your consideration of the evidence, you are  
25 firmly convinced that the defendant is guilty of the

1 crime charged, you must find him or her guilty. If on  
2 the other hand, you think there is a real possibility  
3 that he or she is not guilty, then you give him the  
4 benefit of the doubt and find him not guilty. The law  
5 even recognizes that we don't have to overcome every  
6 possible doubt.

7 Proof beyond a reasonable doubt is proof that  
8 leaves you've firmly convinced. Ladies and gentlemen,  
9 I submit in this courtroom in this case, the proof is  
10 overwhelming. Now, the judge will tell you that you  
11 will have on each one of these defendants two verdicts  
12 that you must reach. There are two separate charges.  
13 He will send back verdict forms on each those.

14 You must consider each charge separately. You  
15 must consider the guilt or innocence of each defendant  
16 separately. Those are going to be his instructions to  
17 you, and the first indictment I want to talk to you  
18 about, and as he said, the indictment is a charging  
19 paper in order to get the case to court. It's not  
20 evidence that's before you, but the indictments  
21 against each of these individuals are homicide by  
22 child abuse and nobody is going to get up here and  
23 dispute that there was a child under the age of eleven  
24 or that he died.

25 What are the elements of homicide by child abuse?

1 In our South Carolina code of laws, the definition is  
2 a person is guilty of homicide by child abuse if the  
3 person causes the death of a child under the age of 11  
4 while committing child abuse or neglect. I'll get  
5 back to some of these terms in a minute. While  
6 committing child abuse or neglect. Because it's very  
7 specific when I go to the definitions in this statute.  
8 It doesn't --- because of the nature when involving  
9 children under the age of 11, the law, the legislature  
10 even recognizes that it can be an act or omission, a  
11 failure to act is considered an overt act because the  
12 law protects our children as it should.

13 While committing child abuse or neglect and the  
14 death occurs under circumstances manifesting an  
15 extreme indifference to human life and, ladies and  
16 gentlemen, this case reeks at the very least of  
17 extreme indifference to human life. He was their  
18 punching bag.

19 The judge will also define some of these terms  
20 for you in order to help you reach a verdict that  
21 speaks the truth. Child abuse or neglect, as the  
22 judge will charge you, means an act or omission by any  
23 person which causes harm to the child's physical  
24 health or welfare, just causes harm, an act or  
25 omission, a failure to act or an act, and I submit

1 ladies and gentlemen, the evidence in this case is  
2 overwhelming that both of these did overt acts, but  
3 the law doesn't even require that.

4 We don't even have to prove that, an act or  
5 omission which causes harm, and I submit subdural  
6 hematomas, subarachnoid, terms I don't even want to  
7 know, broken bones, broken ribs. Beaten so badly he  
8 bled out and went into hemorrhagic shock, that's acts.  
9 Harm to a child's health and welfare occurs when a  
10 person inflicts or allows to be inflicted upon the  
11 child physical injury, including injuries sustained as  
12 a result of excessive corporal punishment. Excessive  
13 corporal punishment alone meets the definition. We  
14 are way beyond excessive corporal punishment.

15 As you listen to the judge when he talks about  
16 time periods, basically all we have to prove, because  
17 the testimony from the experts is in the last few  
18 weeks and we even narrowed it down to just the last  
19 two weeks, those acts alone caused or contributed to  
20 this child's death. It does not matter which one  
21 struck the final blow as the other one held him down.  
22 It doesn't matter which one was in the home the day  
23 before.

24 If in that two week period any acts occurred  
25 contributing or causing this child's death --- and

1 I'll get back to the expert testimony.

2 If he fails to supply with adequate food,  
3 clothing, shelter, or healthcare and the failure to do  
4 so causes a physical injury or condition resulting in  
5 death. His and her --- admitted intentionally, not  
6 feeding this child. Remember how they laughed about  
7 how his stomach growled? Did it contribute to his  
8 death? Did it weaken him so that he bled out faster?  
9 That alone, not even coupled with all the other  
10 injuries, or abandoning the child resulting in the  
11 child's death. If only they had been.

12 What is manifesting itself in extreme  
13 indifference? The judge will charge you, and I  
14 submit, ladies and gentlemen, in this case with this  
15 type of child abuse, for anyone to get up here and  
16 argue that these two didn't act with extreme  
17 indifference to human life is absurd. Extreme  
18 inference is in the nature of a culpable mental state  
19 and therefore is akin to intent. In this state,  
20 indifference in the context of criminal statutes has  
21 been compared to the conscious act of disregarding a  
22 risk. Again, it can be the causative or the lack of  
23 doing anything which a person's conduct has created or  
24 a failure to exercise ordinary or due care.

25 For purposes of the homicide by child abuse

1 statute, extreme indifference has been defined as a  
2 mental state akin to intent, characterized by a  
3 deliberate act culminating in death. That deliberate  
4 act can be an action, such as beating, hitting him in  
5 the head, breaking his arm, breaking one rib, breaking  
6 another rib or the failure to do anything about it.  
7 Listen carefully as the judge instructs you on the  
8 law.

9 The judge will also instruct you that not only an  
10 act or omission, but the parents by law have a special  
11 duty. The mother and father are the joint natural  
12 guardians of their minor children and are equally  
13 charged with the welfare and education of their minor  
14 children and the care and management of the estates of  
15 their minor children and the mother and father have  
16 equal power, rights, and duties.

17 Just because he is the father doesn't mean that  
18 he doesn't get held to the same standard that she does  
19 and just because she is the mother doesn't excuse her.  
20 They are equal in the eyes of the law. Neither parent  
21 has the right, paramount to the right of the other to  
22 turn the custody of the minor or the control of the  
23 services or earnings of the minor. Each parent,  
24 whether the custodial or non-custodial parent of the  
25 child, has equal access and the same right to obtain



1 all educational records, medical records. In other  
2 words, under the law, they are both responsible.

3 Now, the second charge that's before you in a  
4 time period that spans his entire life because there  
5 was abuse towards this child, be it not like he got  
6 later, from the time he was two months old, and then  
7 he was placed out of her care and his care for three  
8 years where he thrived, and then he is put back and  
9 the abuse starts again and accelerates and accelerates  
10 and accelerates. That is the evidence before you.

11 There is another charge. Because of that time  
12 period leading up to his death, and it's unlawful  
13 conduct towards a child.

14 The judge will instruct you this is the second  
15 verdict you shall have to reach. It is unlawful for a  
16 person who has charge or custody of a child or who is  
17 the parent or guardian of a child or who is  
18 responsible for the welfare of a child to, number 1,  
19 place the child at unreasonable risk of harm affecting  
20 the child's life, physical or mental health, or  
21 safety; do or cause to be done unlawfully or  
22 maliciously any bodily harm to the child so that the  
23 life or health of the child is endangered or likely to  
24 be endangered or willfully abandon the child; to do  
25 anything to place him at unreasonable risk. That

1 again is either an action or a failure to act that  
2 places this child at unreasonable risk.

3 Unlawful conduct towards a child. Courtney  
4 Thompson said, oh, yeah, I'm guilty of that. That's  
5 what I want you to find me guilty of. Mr. Guinyard  
6 said, oh, yeah, she was a bad mother. I'll get back  
7 to the defenses in this case.

8 I submit --- I could be wrong --- no one is going  
9 to argue that they aren't guilty of those. That's  
10 what they want you to focus on, not the actions, not  
11 the horrible beatings that caused this child's death.

12 The judge will tell you there are different ways  
13 in which the State can prove its case through what we  
14 call direct evidence or circumstantial evidence. What  
15 is direct evidence? Direct evidence is merely the  
16 kind of evidence that one perceives through their  
17 senses. Typically it's eyewitness testimony. In this  
18 case you heard about a lot of direct evidence, direct  
19 evidence from the sisters, from the mother, although  
20 every time --- never mind.

21 Direct evidence of repeated abuse towards this  
22 child by either one and or both parents. That's  
23 direct evidence, what they perceived.

24 Direct evidence, Crystal Thompson talking about  
25 what she heard on the phone that day when she thought

1 she hung up that was then corroborated by  
2 circumstantial evidence, the phone records. So what  
3 is circumstantial evidence? Direct evidence is the  
4 testimony of a person who asserts or claims to have  
5 actual knowledge of a fact, such as an eyewitness.

6 Circumstantial evidence is proof of a chain of  
7 facts and circumstances indicating the existence of a  
8 fact. The law makes absolutely no distinction between  
9 the weight or value to be given either direct or  
10 circumstantial evidence. Nor is a greater degree of  
11 certainty required of circumstantial evidence than of  
12 direct evidence.

13 You should weigh all of the evidence in the case  
14 and after weighing all the evidence, if you are not  
15 convinced of the guilt of the defendant beyond a  
16 reasonable doubt, you must find the defendant not  
17 guilty. If on the other hand, you are convinced,  
18 firmly convinced of the defendant's guilt beyond a  
19 reasonable doubt, you must find him guilty.

20 So it's not that one type of evidence is better  
21 than another, but in this case what you do have is you  
22 have both, you have direct evidence and you have  
23 circumstantial evidence. DNA evidence is  
24 circumstantial. Phone records are circumstantial  
25 evidence. Does it corroborate the direct evidence in

1 this case? Those are the types of things you can  
2 consider. The judge will also instruct you that in  
3 our state you have heard evidence of whether one or  
4 both of these defendants either took drugs and/or  
5 drank alcohol on the final day of CHILD's life.

6 The judge will instruct you that voluntary  
7 intoxication is not a defense to any crime in this  
8 state. If a person chooses to goes out and  
9 voluntarily take drugs or voluntarily drink alcohol,  
10 its doesn't mean that they can then go out and beat  
11 their child to death. It doesn't excuse them. They  
12 are held to the same standard as if they were sober,  
13 and I submit that by the time CHILD's life, the final  
14 beating took place around five something that  
15 afternoon, everybody was sober. They were angry, but  
16 they were sober, but it wouldn't even matter if they  
17 weren't.

18 Now, the Judge is also going to instruct you that  
19 in certain instances, you heard from expert witnesses.  
20 A person such as I --- I can't come into a courtroom  
21 and get on the stand and give opinion testimony on  
22 what something indicates or what it means. In order  
23 for a person to do that, they have to have certain  
24 training and certain education. That's why you heard  
25 us go through people's backgrounds, what their

1 training was, what their education was, where they  
2 went to medical school, things of that nature. The  
3 reason for that is very simple. Before they can give  
4 an opinion about any testing they did, such as with  
5 the DNA, they must be qualified as an expert.

6 Expert testimony can be considered the same way  
7 you do any other testimony in this case, but in  
8 considering expert testimony, you have to see if they,  
9 in fact, have the education and everything to give an  
10 opinion. You can also with expert testimony see if  
11 their testimony is corroborated by other testimony the  
12 same way you do any other evidence.

13 Now, the judge will also instruct you that in  
14 every case in criminal law, we must prove criminal  
15 intent. What is criminal intent? Very simply, ladies  
16 and gentlemen, criminal intent it's a conscious  
17 wrongdoing, a knowing act of not doing the right  
18 thing. In this case, because of this unique homicide  
19 by child abuse statute, it can be an act or omission  
20 to act, a failure to act. Conscious wrongdoing when  
21 somebody should have done something.

22 I submit, ladies and gentlemen, when a  
23 four-year-old is walking around with a broken arm for  
24 six weeks, that alone is an act or failure to act and  
25 I can go through a litany of others, which I will at a

1 later time.

2 The judge will instruct you in determining  
3 criminal intent, we can't take a person and  
4 determine exactly what was in their mind in and around  
5 the time of the events, but what you can do --- we  
6 can't dissect a person's brain and prove with  
7 certainty that they had criminal intent in mind, but  
8 what you can do is look at their acts leading up to  
9 and around the time of the events we're talking about.  
10 In this case on the unlawful conduct, it's a four year  
11 period. Three years, of course, he was in foster  
12 care, but the entire rest of it, that 15, 16, 17  
13 months, you can look at all that. You can look at  
14 that actions around the time of the event, what they  
15 were saying, what they were doing when they beat him  
16 to death. You can look at their actions afterwards.  
17 Were they forthright? Did they tell the truth? Was  
18 their story consistent or did it change every time  
19 they opened their mouth?

20 You can look at their actions as whether or not,  
21 when police arrived, they were hiding in the closet.  
22 Criminal intent, a conscious wrongdoing. The final  
23 thing I want to talk to you a little bit is  
24 credibility, because with this case, as in every  
25 criminal case, credibility is important.

1       The judge will instruct you in determining  
2       credibility, you can believe one against many, you can  
3       believe many against one; you can believe some of  
4       what a witness says, none of what a witness says, or  
5       all of it. When looking at their bias, their  
6       prejudice, what do they have to gain or to lose? Do  
7       they have some kind of dog in the fight? Do they have  
8       a reason to testify a certain way? Do they have a  
9       reason to keep changing their testimony? Those are  
10      all things about credibility.

11       I beg you, judge the State's witnesses. Judge  
12      each and every one of their credibility. Judge the  
13      experts, the DNA, the child abuse pediatrician, the  
14      pathologist. What do they have to gain or to lose?  
15      And the judge will also instruct you that the  
16      defendants had absolutely no obligation to put up a  
17      case, and that's true, as it should be. They do not  
18      have to prove themselves innocent, but once they  
19      choose to put up evidence, you judge it the same way  
20      that you judge every other witness in this case.

21       Is their testimony corroborated by other  
22      testimony? Is their testimony corroborated by any of  
23      the evidence? There is testimony from both of them  
24      that there was absolutely nothing wrong with this  
25      child prior to two or three days, according to her,

1 according to him, up until then. You judge them.

2 All we ask is that once you consider all the  
3 evidence, and again I apologize for the nature of this  
4 evidence, is that you hold them responsible.

5 They made choices. CHILD didn't have any  
6 choices.

7 Thank you.

8 THE COURT: Mr. Li?

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

11 THE COURT: Yes, sir.

12 CLOSING STATEMENT

13 MR. LI: When we go home, we're going to get us  
14 some pizza. We're going to get three slices a piece.  
15 Three slices? That boy don't need three slices. All  
16 right, son. We're going to get two. Everything is  
17 going to be fine. We're going to get two. Two, he  
18 don't need two. All he is going to do is shit on my  
19 floor. All right, son, we're going to have one, but  
20 we're going to be okay. All right. We're going to be  
21 fine.

22 Ladies and gentlemen, that is a snapshot of  
23 Antonio Guinyard's life. It doesn't make it right.  
24 It doesn't make it wrong. That is what he lived with.  
25 Antonio Guinyard is never going to win Father of the



1 Year. He is poor, didn't have a steady job, never had  
2 a place to call his home. He had to depend on other  
3 people for transportation. He depended on other  
4 people to fill out the food stamp application and job  
5 applications, but, you know what, there's a lot of  
6 good dads out there that are poor and uneducated that  
7 would have done more, but to say that Antonio Guinyard  
8 did nothing with an extreme indifference to human life  
9 is simply false. He loved his children. His children  
10 loved him. He loved his family. Every person that  
11 knew them well that got up on this stand told you  
12 that. And most of them were the State's witnesses.

13 Would someone with an extreme indifference to  
14 human life feed their child? Would someone with an  
15 extreme indifference to human life give them water and  
16 drink when they're thirsty? Would someone with an  
17 extreme indifference to human life try to sneak them  
18 food when he wasn't supposed to have it? Would  
19 someone with an extreme indifference to human life sit  
20 out on the porch with their son waiting to be let back  
21 in? Does someone with an extreme indifference to  
22 human life go with a grandmother of the child and  
23 secretly cut the cable cord before the mother gets  
24 back so she wouldn't get mad, so she wouldn't know?

25 Let's talk about the State's case. They have a

1 pole. They have a shower rod, and it's got his blood  
2 on it. He came and told you, Antonio Guinyard got on  
3 the stand and told you where that blood came from.

4 What you think of that, what you think of that,  
5 that's in your discretion, but how absurd is it to  
6 think that a man goes from never beating his child,  
7 never laying a hand on him, never using a weapon,  
8 never using a closed fist, never slapping across the  
9 face, never punching him in the back, goes from never  
10 doing that to all of the sudden beating him with a  
11 pole? How does that make any sense? What was it  
12 about Beaverbrook? What was the difference between  
13 Allen Benedict Court and Beaverbrook that just made  
14 him completely flip?

15 That just doesn't make any sense.

16 Next, the State is going to try to tell you that  
17 Courtney tried to cover up for Antonio. She was  
18 shouting something only the front porch that she loved  
19 Antonio and she wanted to cover up for him.

20 At first, when we heard that jail phone call, I  
21 was like that's not good. Listen to that phone call,  
22 listen to that jail phone call. Listen how she talks  
23 about the man she is suppose to be covering up for.  
24 His balls ain't that big. His balls too small to take  
25 that charge. Listen to it. Listen to what she says.

1 She threw him under the bus the first instant they  
2 told her, you know what, this autopsy doesn't make  
3 sense. This autopsy doesn't --- your story doesn't  
4 make sense. Oh, you know what happened, well, yeah,  
5 Antonio did the whole thing. Antonio --- just read  
6 her second statement when you get in there. It is  
7 basically a self-confession other than the fact that  
8 she used Antonio's name. Listen to the way she  
9 describes CHILD listen to the way she describes how  
10 Antonio got mad at CHILD and the things that he  
11 supposedly did to CHILD. That is basically a  
12 self-confession with somebody else's name written over  
13 hers.

14 She has changed her story so many times we can't  
15 even count. Antonio has done nothing but tell the  
16 truth. He gave one statement because that statement  
17 is the only one he knew. He can't tell you what  
18 happened in that back room because he can't tell you  
19 what he doesn't know, what he didn't see.

20 Now, you've heard some talk about a possible  
21 camera, okay. They're going to insinuate that Antonio  
22 had something to do with the disappearance of this  
23 camera even though they have no proof of it. They're  
24 going to insinuate that and I can't stop them, okay.  
25 What if those cameras were there? What if the cameras

1 were there on July 1<sup>st</sup>, what would you see? What you  
2 would see is Courtney Thompson coming home from the  
3 hospital. She is mad. She is mad because she sees  
4 the pee on the floor. She is tired and she is  
5 exhausted.

6 When she first gets back, she is not that mad.  
7 She is a little bit angry, but everything is okay.  
8 She is on her knees. She has Pine Sol. She is  
9 cleaning up the pee then all of a sudden, here comes  
10 **CHILD** after just drinking another glass of water.  
11 Drinking a glass of water after he had just peed in  
12 the new baby's room. That's when she loses it. She  
13 grabs a pole. She beats him like she has done so many  
14 times before. She turns him over. She breaks his  
15 rib. She punches him in the butt causing the final  
16 hemorrhages and, you know what, at that point, you  
17 probably would see that **CHILD** is still alive. He is  
18 bleeding slowly from the inside. He is losing the  
19 final amounts of blood, I guess.

20 Courtney goes to shower. I don't know if she  
21 gets in. I don't know if she doesn't, but then all of  
22 the sudden you hear a collapse (indicating) and that  
23 was **CHILD** falling, falling into his seizure.

24 She runs back into the room. She doesn't know  
25 what to do. She is panicked. At this point, it's

1 probably around 6:00, 6:02 and she Googles what am I  
2 supposed to do, what to do when a boy has a seizure,  
3 what to do when a child has a seizure. She finally  
4 realizes that she can't help this boy. She takes  
5 **CHILD**, walks him out and says, "Look,  
6 baby, look," and from there, Antonio told you what he  
7 remembered, what he saw. She did call 911 and the boy  
8 probably was taking his last breath.

9 After that the State wants to tell you, the State  
10 wants to tell you that he was hiding in a closet; that  
11 he was hiding in a closet like he had done something  
12 wrong.

13 Antonio Guinyard doesn't have the play by play of  
14 what to do when your firstborn son is brought to you  
15 from taking his last breath of air in his mother's  
16 arms. He doesn't have the right answer. He doesn't  
17 know what to do, what to say. He is in shock. It has  
18 been engrained in his mind that authorities get  
19 involved in cases like and his kids would get taken  
20 away. He goes in the back room, grabs his kid and  
21 hides.

22 Now, the State also wants to tell you that the  
23 hemorrhaging in the buttocks and the broken rib would  
24 have caused noticeable pain. The child would have had  
25 trouble raising his hands and he would have had

1 trouble sitting down.

2 We agree. They just want to tell you that  
3 Antonio is lying. They want to tell you that Antonio  
4 did witness these things, but didn't do anything about  
5 it. They failed --- they want you to forget that Dr.  
6 Durso got up on the stand and she told you that the  
7 rib fracture was within twenty-four hours. The  
8 hemorrhaging in the buttocks, she could only date it  
9 to 18 hours, but they were likely caused during the  
10 final impacts. They were likely caused during the  
11 final blows.

12 What happened in that room with Robert Guinyard  
13 and Courtney Thompson caused those injuries. Both  
14 sides are going to tell you that he didn't do CPR. He  
15 didn't. He didn't do CPR. Courtney was on the phone.  
16 The people at 911 were telling her this is what you do  
17 for --- this is what you do for CPR. They didn't say  
18 it involved two people. It wasn't like he was going  
19 to try. Somebody was already doing it. CPR doesn't  
20 require two people.

21 Then you're going to hear about Antonio letting  
22 them sleep in a pile of pee. Antonio checked on him  
23 in the morning. [CHILD] was known to pee in his ---  
24 during his sleep. When he leaves to go to the store,  
25 comes back, at some point [CHILD] peed during his

1 sleep. Yes, he let him sleep in a pile of pee.

2 Finally, the State wants you to listen to the  
3 phone call of Crystal Thompson, a woman whose own  
4 mother got up here and said that she was a compulsive  
5 liar. She claims that she heard Antonio help Courtney  
6 beat CHILD to death.

7 Courtney has asked CHILD in front of other  
8 people before --- Courtney has asked Antonio in front  
9 of other people before to help hold the legs of  
10 CHILD. She has asked other people to help hold the  
11 legs of CHILD. What she said when that phone call  
12 rang, what she said in that back room, CHILD can't  
13 tell you --- I mean, Antonio can't tell you. He  
14 wasn't there. I can tell you this, he never held him  
15 down so that Courtney could beat him, and he has never  
16 done that before. What is it about Beaverbrook that  
17 changes a man's fundamental nature? A person who has  
18 never beat his children before all of the sudden moves  
19 into a nicer home in a nicer neighborhood and all of a  
20 sudden now he starts beating his children? It doesn't  
21 make any sense.

22 The State wants you to believe that there is a  
23 man in the kitchen cooking three steaks. I want you  
24 to pay attention to State's Exhibit 30. Three steaks.  
25 He is sitting there cooking dinner, cooking eggs,

1 steaks and rice over here and then takes a trip to the  
2 back room, beats his child to death and then what,  
3 comes back and finish cooking? That does not scream  
4 of or reek of a person who had an extreme indifference  
5 to human life.

6 I don't even think the State believes --- I don't  
7 think the State even believes their own case. I don't  
8 think they believe that Antonio ever laid a hand on  
9 CHILD I think what they're going to say is that he  
10 could have done more, that Antonio could have done  
11 more. You know what, maybe he could have, but if  
12 that's the case, Gladys could have done more. Natalie  
13 could have done more, Charles could have done more,  
14 DSS could have done more. It's not about not doing  
15 more. It's about not doing more with an extreme  
16 indifference to human life.

17 They want to paint a picture of Antonio sitting  
18 on the couch drinking a beer while Courtney is over  
19 there beating up CHILD and he just doesn't care. He  
20 is just sitting there laughing. They want to paint a  
21 picture of Antonio not calling DSS, not caring what  
22 happened to CHILD

23 Antonio had it in his mind, rightly or wrongly,  
24 he had it in his mind that if you call DSS, you were  
25 going to lose all your kids. That was all he had. He



1 is not a rich man. He is not a smart man. What he  
2 had was his family. He loved his family and rightly  
3 or wrongly, if he called DSS, in his mind, he was  
4 going to lose everything. The only things he had. He  
5 was going to lose Courtney. He loved Courtney. Yes,  
6 he should have called DSS. Yes, he should have called  
7 the cops, but he didn't do it with an extreme  
8 indifference to human life.

9 He thought he could save **CHILD** and keep his  
10 family. He tried his best to stop her when he was  
11 there. If this case were about a mother --- if this  
12 case were about a mother who loved her child, who was  
13 poor, who was uneducated, and was kicked out countless  
14 numbers of times who had nowhere else to go, but loved  
15 the man she was with, and this case was about a father  
16 a father who used to starve his children, starve his  
17 child, would abuse one of their children until one day  
18 he went too far, there is no way the State would come  
19 up here ask you to find her guilty of killing her son.  
20 There is no way the State would come up here and tell  
21 you that she cared more about her life than she did  
22 for the family she tried to protect. But, that's not  
23 the case here.

24 Antonio Guinyard is not a perfect father by any  
25 means. He could have done better, but he didn't do so

1 with an extreme indifference to human life. He loved  
2 his family. He was stuck in a situation where he  
3 couldn't even stand up and ask for more pizza for his  
4 child. I can't relate to that, but I haven't walked a  
5 mile in his shoes. I haven't made that walk from  
6 Beaverbrook to Allen Benedict. I haven't been stuck  
7 out in the cold. I haven't been stuck out homeless  
8 and having to sleep in the park, having to go to  
9 friend's houses. I can't tell you. I can't relate to  
10 that pizza story, but I haven't walked a mile in his  
11 shoes. I can tell you this, though, Antonio Guinyard  
12 does not deserve the same fate as the person who beat  
13 her child and starved her child to death.

14 Thank you.

15 THE COURT: Thank you, Mr. Li.

16 MS. PINNOCK: May it please the Court.

17 THE COURT: Yes, ma'am.

18 CLOSING STATEMENT:

19 MS. PINNOCK: Good morning. I have absolutely no  
20 idea how to explain to you how hard it is to stand up  
21 here, and I have absolutely no idea how to explain to  
22 you how hard it must be to be in Courtney's shoes.  
23 Mr. Staggs told you on Monday of last week --- Tuesday  
24 of last week, whenever we started, that y'all have the  
25 hardest job in this case. It is the absolute hardest

1 job for any case that I've seen because we're dealing  
2 with two separate charges. We're dealing with two  
3 separate defendants and y'all have to make the  
4 decision about what the State has proved and what the  
5 State has not proved, and that is a hard, hard job.

6 The facts of this case are bad. They are bad.

7 CHILD had a very, very bad life.

8 Saying bad is probably an understatement, but because  
9 there are two different charges that y'all have been  
10 asked to decide on, two different charges, you have to  
11 apply the evidence that has been given to you to the  
12 law for each of those charges to make your decisions.

13 You have to be able to separate them. It's not  
14 one big --- we can't wrap it all together. They are  
15 separate. That's what makes your job so hard.

16 I don't think I ever envisioned myself sitting in  
17 a position where I'm telling you, as a jury in this  
18 case, to convict my client of what she did. Convict  
19 her of what she did. She is guilty of being a bad  
20 mom. She is guilty of beating CHILD with a cable  
21 cord. She is guilty of not giving him food when he  
22 was hungry. Convict her of it. It's okay. That's  
23 what you are required to do. What she did not do, and  
24 what you cannot convict her of, is homicide. She did  
25 not kill her son and they have told you nothing,

1 nothing that happened in the days leading up to  
2 **CHILD** 's death that Courtney did.

3 And they haven't told you anything about her not  
4 helping because she told Antonio to stop. If you  
5 don't stop, I'm going to call the police. That's what  
6 she did, and then she called 911 for help.

7 Now, Courtney took the stand. She took the stand  
8 yesterday. Y'all saw her testify. She didn't have  
9 to. She did not have to get up there. She did not  
10 have to testify, but when she sat up there, she did  
11 something that was not easy. She admitted to you to  
12 everybody who has been watching, everybody in this  
13 courtroom, I was a bad mother.

14 When Ms. Campbell asked her about it she said,  
15 I'm not saying I was a good mother. I was a terrible  
16 mother to my child, and she admitted to what she did,  
17 and she had to.

18 She had to tell you what she did. We're not  
19 denying it happened. There is no excuse for it. You  
20 can dislike her because of it. We are not trying to  
21 win any sort of popularity contest. It's okay to  
22 dislike her for what she did. It's okay. We're not  
23 asking you to like her. That's not what a court of  
24 law is about.

25 A court of law is about facts, it's about

1 evidence, and it's about the law. It's not about who  
2 you like more, and a bunch of testimony that you heard  
3 this past week, a bunch of it was presented to you in  
4 an effort to make you hate her.

5 People getting kicked out of the house has  
6 nothing to do with this. Everything she has ever done  
7 in her life that was unfair to somebody has nothing to  
8 do with why we all sat here for seven days, nothing to  
9 do with it.

10 Trying to paint her as bad of a person as they  
11 possibly can to make you hate her. You cannot convict  
12 Courtney for murdering her son because you don't like  
13 her. She did not kill her son, and she told you what  
14 she saw that day.

15 She told you what she did, and she told you what  
16 he did. She told him to stop. She called for help.  
17 When she realized her son needed help, she called for  
18 help.

19 Homicide by child abuse, that's what everybody  
20 has been talking about. That's been the focus of  
21 every single person who got up there to testify, and  
22 you've been exposed to some terrible graphic pictures.  
23 We've seen pictures --- I've seen pictures like that  
24 before. They bother me, and I to do it on a regular  
25 basis, unfortunately.

1 I highly doubt that y'all have ever experienced  
2 anything like that, and I know it had an affect on  
3 you, and it was hard, but your emotions cannot get in  
4 the way of what you said you would do when you took  
5 your oath. You can't make your decision based on your  
6 emotion. You can't.

7 You apply the evidence to the law when you're  
8 deliberating in this case, emotions aside. It's easy  
9 for me to say, but I know it's hard to do. It's human  
10 nature. We are human beings. We act with emotion.  
11 We act on impulse, but that's not what a jury's job  
12 is, so you have to leave your emotions in here when  
13 you go back to the jury room. You can't take them  
14 with you. You take what you've been presented. You  
15 take the law as the judge tells you about, and you  
16 make your decision based on those two things and those  
17 two things alone.

18 Now, the unlawful conduct, I don't even need to  
19 talk about that. When Courtney --- when **CHILD** was  
20 born, he was put into DSS custody when he was two  
21 months old. She wasn't beating him. She wasn't  
22 starving him.

23 You heard the testimony. The car seat hit a door  
24 and they thought he was going to fall out. That is  
25 why they took him. That is why he was placed in DSS

1 custody. Don't let anybody try to convince you it was  
2 something else. It wasn't.

3 The car seat hit the door and they thought he was  
4 going to fall out. Now, the State is up here talking  
5 about four years of abuse, four years of abuse, which  
6 again makes you try to see something that's not there.

7 He wasn't even with Courtney, and he was not  
8 being --- as far as I know, not being abused while he  
9 was living with his foster parent, so there's two  
10 months at the beginning of his life where the car seat  
11 hit the door and they decided they were going to take  
12 him.

13 He comes back in April of 2012, so from June of  
14 2009 to April of 2012, he is not there. In April  
15 of 2012, he comes home and Courtney told you herself  
16 things were good and then things started getting bad.  
17 She was excited to have her son home. She had worked  
18 hard to get him home and then she started making some  
19 of poorest decisions she could have made. She treated  
20 him terribly. She hit him and she left marks and she  
21 told you she did that.

22 That's unlawful conduct by itself. She told you  
23 she would not feed him. That's unlawful conduct. But  
24 that's not murder.

25 [REDACTED] CHILD was not starved to death. He was

1 beaten to death by the hands of his father on July  
2 1<sup>st</sup>. The medical testimony from Dr. Durso and  
3 Dr. Rosa both said that if CHILD had gotten medical  
4 care, he could have lived, but there was something  
5 that happened. There is an act that happened that  
6 pushed his poor body over the edge, that pushed him  
7 over the edge and Courtney told you what happened.  
8 She told you what she saw. Now, at first, I'm going  
9 to tell you again, she lied. She lied. She told you  
10 she did. She was trying to cover up what happened.  
11 It didn't make sense. Y'all are going to have her  
12 statements. It didn't make sense.

13 You're going to have the video. It didn't make  
14 sense, but do not think for one second that when they  
15 told her about the autopsy that she automatically  
16 started pointing the finger at somebody else. She  
17 continued to try to cover for him. She did.

18 She admittedly lied to law enforcement and she  
19 was wrong for that. Then she said let me sit down  
20 with him. Let me talk to him and I will come back and  
21 I will tell you what I saw. She came back and she  
22 told you what she saw. Let me sit down with him and I  
23 will come back and tell you what I saw, and that's  
24 what she did.

25 She also told you that while she was talking to



1 him, Antonio told her to take the charge. They think  
2 you did it anyway. You might as well go ahead and  
3 take it. Let me get out of here. He loves his family  
4 and he loves Courtney. They think you did it. Go  
5 ahead and take it off me so I can go home.

6 The only concern from Antonio Guinyard since  
7 July 1<sup>st</sup>, 2013, has been getting out of jail. Get me  
8 out, free me is not the same thing as I didn't do it.  
9 Free me is not the same thing as I didn't do it.  
10 Courtney went to the hospital to have her seventh  
11 child. There's been a lot of talk about how many kids  
12 she has. The coroner went to extreme lengths in that  
13 video to ask her, well, do you work, does he work?  
14 Let's talk about what you don't have. Let's talk  
15 about the furniture that's missing out of your house.  
16 Let's talk about all these things that don't matter.  
17 Fact: Courtney is uneducated. Fact: She was  
18 unemployed. Fact: She was poor. She didn't own  
19 anything, but that doesn't make --- that doesn't  
20 change anything. None of that stuff matters. It  
21 doesn't matter where the children slept. Oh, you have  
22 three kids in a bed. It doesn't matter. Are you  
23 moving in or moving out? It doesn't matter.

24 What we know is on June 29<sup>th</sup> Courtney went to the  
25 hospital. She left early that morning and the only

1 people at the house when she left was Antonio  
2 Guinyard, Sr. and four of her children, CHILD  
3 CHILD4, CHILD2, and CHILD3. They are the only  
4 people left at the house.

5 What we know is that Courtney called people to  
6 come pick up the girls, leaving Antonio and CHILD in  
7 the house alone. That was on June 29<sup>th</sup>, early morning  
8 of June 29<sup>th</sup>. We know that she was in the hospital  
9 until July 1<sup>st</sup>. We know that she was. Nobody is  
10 saying that she wasn't. She gets home in the  
11 afternoon, and she says --- she finds her son laying  
12 in a puddle of urine, naked, with the door shut.

13 We know that Antonio Guinyard said he's been  
14 sleeping all day. He wasn't sleeping. Four years old  
15 don't sleep until 2:00 in the afternoon. He was  
16 laying in his room with the door shut in a puddle of  
17 his own urine.

18 Antonio Guinyard gets up, leaves the house,  
19 leaves him there to go take care of some other things  
20 that were a little bit more important, leaves him  
21 there by himself with the door shut. He never told  
22 anybody that he checked on him. He never told anybody  
23 that he had asked him if he had to go to the bathroom.  
24 He said, "No, I'm sleeping," so he left him alone. He  
25 left him there by himself with the door shut.

1       He was not sleeping. Courtney gets home later  
2 that afternoon. She finds him laying there. She gets  
3 him up. "Baby, wake up." She helps him stand. He is  
4 acting tired. "Mama, I just want to lay down."

5       "He is not going to lay down. He is going to  
6 clean up that piss in his room. Are you going to let  
7 him off? Are you going to let him keep doing it?  
8 He's going to clean it up."

9       Courtney gets on the floor after just getting  
10 home to help him clean up the mess. The mess was so  
11 big, she could not get it up. That's how much there  
12 was, and it soaked through the carpet into the  
13 padding.

14       When they cut the carpet out, they brought the  
15 padding, too. It had soaked all the way through. It  
16 was not one accident that happened at 2:00 when  
17 Courtney got home. It had been laying there and it  
18 soaked all the way through.

19       They can't get it up. Something is wrong with  
20 **CHILD** When Courtney got home, she didn't know how  
21 serious it was. She did not know how bad her son was  
22 hurt.

23       When she witnesses Antonio hitting him with the  
24 pole, she tells him to stop. "Stop or I'm going to  
25 call the cops." So he drops him only the floor and

1 leaves him there. Courtney stands him up, tells him  
2 to go to her room. Shortly after that, CHILD hits  
3 the floor, and he hits the floor for the final time.

4 Courtney scoops him up and yells for Antonio. He  
5 is running around. I guess, as he said, to go get his  
6 baby to go hide in the closet. He went and got the  
7 baby that he wanted and hid in the closet.

8 As Courtney is carrying her son in her arms, he  
9 goes limp. She calls 911. When she realized how bad  
10 it was, she called 911 for help. She didn't run away.  
11 She didn't try to hide it. She called for help.

12 On July 1, 2013, she tried to help, but by then  
13 it was too late.

14 (WHEREUPON, the 911 phone call was played for the  
15 jury.)

16 MS. PINNOCK: The woman who just held her son  
17 down and told somebody else to beat him, that didn't  
18 happen. That is not a mother who just held her son  
19 down and told somebody to beat him. That did not  
20 happen.

21 Now, the law requires the State to show that it's  
22 an act that Courtney did or something she did not do  
23 that caused his death. Listen closely to what the  
24 judge says.

25 Everything she did in the past did not cause his

1 death. There is an insane amount of injuries to this  
2 poor child, but the healing rib fracture, the healing  
3 arm fracture did not cause his death.

4 They are there. They exist, and it's terrible,  
5 but they did not cause his death. What caused  
6 CHILD's death was the hemorrhaging, the bleeding in  
7 his back, his butt and down into his legs. That's  
8 what did it, and the pathologist testified that the  
9 only timeframe that she could put on those bruises is  
10 either they were more than 18 hours or less than 18  
11 hours because some of the blood that she saw had  
12 evidence of healing and because of what was there that  
13 was old, the new injury pushed him over the edge.

14 All the other stuff did not cause his death and  
15 that's what they have to prove to you, but that is  
16 just not true. The rib and the arm that were healing  
17 did not cause his death. That means they did not  
18 happen on that day. They were healing.

19 Some of the other injuries that you heard  
20 testimony about are also old. I'm not a doctor, and I  
21 mess up words all the time so I'm not going to pretend  
22 to say them, but some of the injuries on his scalp, on  
23 his brain were old. They were healing. They did not  
24 cause his death. That's why your job is so hard  
25 because all this information that you have, will have

1 with you --- it's --- they're putting it on you to  
2 separate what applies to one charge and what applies  
3 to the other. It's extremely difficult. We had a  
4 hard time with it preparing the case.

5 What applies to which one that you've been given  
6 so much and now, you have, you have to separate it,  
7 and you have to judge what they have told you about  
8 Courtney Thompson, and I will tell you the law  
9 requires that you convict her of the unlawful conduct  
10 towards a child.

11 As a parent standing here, it hurts me to hear  
12 about what she did because it was wrong. It was  
13 wrong. There is no excusing it. There is no  
14 justifying it. It was wrong. It was wrong and it was  
15 criminal and that's what she did, but she did not kill  
16 her son. That woman on that tape did not kill her  
17 son.

18 If you don't stop on the call to police and when  
19 she realized how bad he was hurt, she called for help.  
20 That is not an omission to act. It is an act to stop  
21 what she said happened.

22 Don't dislike her so much that you convict her of  
23 homicide. Everybody has tried to do a good job at  
24 making you not like her, but you cannot convict her  
25 because you don't like her. You can't.

1       She did not kill her son. Convict her of what  
2 she is guilty of.

3       Thank you.

4       THE COURT: Ms. Campbell.

5       MS. CAMPBELL: May it please the Court.

6                   CLOSING STATEMENT:

7       MS. CAMPBELL: As we prepare for trial, you try  
8 to anticipate what the defense is going to be.  
9 Typically in a homicide by child abuse case it's not a  
10 one or two. First of all the injuries that are going  
11 to be testified to didn't really cause the death. It  
12 was a natural cause. Maybe the child had a blood  
13 disease or some other condition that actually caused  
14 the death. It wasn't the injury inflicted by another  
15 person.

16       The most typical defense is very simply, I didn't  
17 do it. I didn't do that injury, and in listening to  
18 the defenses as they have gotten up here in opening  
19 arguments, both Mr. Li and Mr. Staggs sat there and  
20 talked to you and told you flat out about what a  
21 miserable life this child had, how much pain he was  
22 in, but don't blame their client because they have the  
23 perfect out. If they just keep the finger at each  
24 other, how are you supposed to decide?

25       But in order for that defense to work for them,

1 you have to ignore the law as the Judge is going to  
2 instruct you. I submit the State has presented  
3 overwhelming evidence. For Ms. Pinnock to get up here  
4 and say that the only thing that caused this child's  
5 death totally contradicts what all the expert  
6 testimony you heard was. It wasn't the final beating  
7 alone. It was the repeated beatings, the healing.  
8 Remember they objected to these pictures. On the back  
9 of the arms. On the back of the legs, on the back,  
10 the buttocks, so much bleeding that it literally bled  
11 into his scrotum so it was enlarged.

12 Nobody got up here and testified that this was a  
13 single event alone. Did this single event push him  
14 over? The brain had blood on it. There was blood  
15 everywhere. Remember that it was consistent with what  
16 could have been a seizure or very simply you see it in  
17 children who chew their lip because it's so painful,  
18 the beating their getting.

19 Ms. Pinnock got up here, the art of confessing  
20 error. Admit to this jury, oh, yeah, she is guilty of  
21 the minor offense, just don't convict her on the major  
22 offense, the homicide.

23 To get up here and for either of these defendants  
24 to say to you that they wouldn't have noticed these  
25 injuries, that this child was fine with his hands up



1 in the air? That he seemed fine until she got home.

2 For Ms. Pinnock to get up here and argue that  
3 Courtney Thompson did everything she could, oh, yeah,  
4 she was a bad mother and I'll get back to the bad  
5 mother part, did everything she could to protect her  
6 child. By her own admission on the latest story she  
7 came up with, because she keeps changing it as she  
8 hears the evidence, she knew that day at the hospital  
9 that her child was being beaten and she did nothing.

10 That alone makes her guilty, and Mr. Guinyard  
11 gets up here and says this child was fine; that no one  
12 would have noticed the injuries to this child. He was  
13 fine. He never saw anything. He doesn't know  
14 anything, and his defense is to get up here and insult  
15 human nature. His defense is he is too poor. He is  
16 too dumb to be decent? That's insulting to people  
17 everywhere who may not be the most affluent, but who  
18 work hard, get jobs, people who take care of their  
19 children. That's insulting, and they got up here and  
20 talked about how these people didn't have much and  
21 they were being ridiculed by Jane Powell because they  
22 didn't have furniture.

23 Yeah, they only had two beds. They had three  
24 TVs. That was a priority. They had a Time Warner  
25 security system. That was a priority, not a bed for

1     **CHILD**     Not any of the therapy he needed, not any of  
2     the schooling that was important. Not any of the  
3     medical attention that was necessary.

4             Their priority was cable TV, and they're too  
5     poor? The defense has gotten up here and said, oh,  
6     oh, they may be guilty of unlawful neglect towards  
7     this child and this child may have had a horrible  
8     existence, but just ignore all the evidence.

9             Mr. Guinyard got up here with his lawyer, didn't  
10    mention the pole that had **CHILD** 's blood, had his  
11    blood, too. He says **CHILD 2** --- blame everybody.  
12    The common theme here is he didn't do anything wrong.  
13    She may have done something wrong a long time before,  
14    remember that year before when she might have beaten  
15    him with a cord and she might not have not given him  
16    some food on occasion, but neither one is responsible  
17    for the massive overwhelming injuries that caused this  
18    child's death in the weeks leading up to his death.

19            Ladies and gentlemen, that is simply ridiculous.  
20    To say that no one would have seen this. To say that  
21    these two did everything they could. They hid the  
22    child from the other people who were coming to pick up  
23    their other children. They couldn't give **CHILD** to  
24    anybody because he was in such bad shape. That's the  
25    defense in this case?

1        Now, I want to take a little bit of time to talk  
2 about --- and nobody is up here trying to --- the  
3 State is not up here trying to paint a picture. We  
4 aren't up here trying to ask you to speculate or use  
5 conjecture. We are only asking you to judge the  
6 evidence, the cold hard evidence. Facts are a hard  
7 thing to get around. In doing that, yes, we ask you  
8 to judge them, their credibility. Why does their  
9 story change?

10        Why does Antonio Guinyard suddenly need to  
11 distance himself. I was never in the house. I don't  
12 know what you're talking about. There are photos of  
13 them doing selfies two weeks before, and suddenly here  
14 we are ten months later and I was never there.

15        They hid the child because he was so injured.  
16 Who did you hear from the State? First responders on  
17 the scene, and I'll get back to the EMTs. It's  
18 important. You heard this 911 call and nobody is  
19 going to get up here and argue that Courtney Thompson  
20 when she wants to can scream, but even when she was on  
21 that stand yesterday, I ask you, did you see tears?

22        She is able to scream, manipulate. She can do  
23 that, and she did that on that 911 call, but did you  
24 notice something when we saw that reenactment that was  
25 video taped when she said she was having to do CPR to

1 "try to bring him back to life" that's because by the  
2 time she calls 911 at 6:12 that evening, he has been  
3 dead for over an hour. She has Googled seizures.  
4 It's all in the phone records. Nobody talked about  
5 them to make sure that she has the symptoms right, so  
6 she can explain this and, oh, how she did CPR and did  
7 everything to save this child.

8 Even in the reenactment, she is talking about how  
9 the child was bleeding profusely from the mouth, that  
10 she got it all over her hands. Well, if she is doing  
11 CPR and breathing in this child's mouth, when the EMTs  
12 get there, when the fire department gets there, where  
13 is the blood? Shouldn't her mouth be covered in it?  
14 Distraught? Shouldn't it at least be seen somewhere?  
15 It's not there because she never did it, because once  
16 he's dead, they have that, oh my God moment. What do  
17 we do now? Well, let's look up about seizures. We'll  
18 say he had a seizure. Maybe he did. It would be  
19 consistent with someone who died the horrible death  
20 this child did. Let's get it, right.

21 For an hour they figure it out, and amazingly  
22 enough, the other defense in this case is, oh, just  
23 randomly call everyone liars. Gladys said Crystal is  
24 a liar. That makes it so. Isn't it amazing that  
25 Crystal got those details right about the beating and

1 hold him if she just magically didn't hear this?  
2 Because when she went to the police distraught about  
3 what happened to her nephew as they had all been to  
4 the police over and over, not about just one of them,  
5 isn't it amazing that she was that clairvoyant if she  
6 didn't hear it herself. She didn't say they strangled  
7 him. She didn't say they hit him in the face. Hold  
8 him down while I beat him, which magically is what  
9 happened, and oh, by the way, which is totally  
10 corroborated by the phone records. They didn't  
11 address that.

12 So let's talk about the witnesses you did hear  
13 from. The credible evidence that proves both of these  
14 defendants guilty. All we're asking is that you hold  
15 them responsible. They made their choices and by the  
16 way, it's not a defense that they may want you to  
17 think that he just does what he's told.

18 It doesn't fly. Listen carefully to the judge's  
19 charge. It's not okay if I walk up to Ms. Walker and  
20 say beat her to death. That doesn't excuse her from  
21 that.

22 Listen carefully to the Judge. He won't instruct  
23 you that, oh, if Courtney told him to do it, it makes  
24 it okay. Oh, if Antonio told her to do it, it makes  
25 it okay. The law recognizes this exact situation.

1 That's why it's written the way it is. Because when  
2 two people are together participating in a crime such  
3 as this, it doesn't matter by whose hands the overt  
4 final act happens.

5 If one is even allowing the other to do it, and  
6 this child did not receive all those injuries, despite  
7 what they just said, on July 1<sup>st</sup>. Remember the  
8 doctor's testimony, both of them, it was a  
9 culmination, all the blood under the skin, in the  
10 arms, in the legs, in the back, in the buttocks, in  
11 the brain contributed, homicide by child abuse. And  
12 she kept referring to this as murder. This is  
13 homicide by child abuse. It's the killing by means of  
14 child abuse. That's the charge before you.

15 Who did you hear from? Peter Biviano who is with  
16 Columbia Fire Department. What did he tell you when  
17 he got there? She was hysterical, then her demeanor  
18 changed and she is on the phone. When they got there,  
19 they looked around the house. They couldn't find  
20 Antonio. Nobody checked deep in the closet back where  
21 they buried the bloody shirt to see if he was back  
22 there.

23 Trobathian Johnson, Jimmy Wilder both got there,  
24 basically did the same thing the fire department did,  
25 checked to see if anyone was around. At this point

1 until Eric Shaw gets there, nobody has seen Antonio  
2 Guinyard, and I submit, ladies and gentlemen, why is  
3 he hiding in the closet? His explanation on the stand  
4 yesterday, well, when accidents happen --- and then it  
5 changed, remember, oh, well the investigator was going  
6 to reveal abuse, yet he says he didn't know about  
7 abuse, but oh, once again, clairvoyant, he is able to  
8 know that there will be findings of abuse. I submit  
9 that's a confession under the law.

10 Eric Shaw, when he first walks in, the first  
11 thing out of her mouth is SIDS. SIDS? But then he  
12 notices --- remember, the gate open, you have the  
13 photographs. He sees a trampled area in the back. He  
14 goes back there to look to see what's going on. Then  
15 he sees Antonio Guinyard with his newborn baby trying  
16 to sneak out the back, not distraught, demeanor calm,  
17 not crying, not upset, not trying to help his son.

18 It doesn't take someone who has graduated from  
19 college to know that when your child quits breathing,  
20 you should try to help him. Why is he fleeing?  
21 Because he knows the gig is up.

22 Oops, went too far this time. Guilt, that he  
23 brings him out onto the front porch. Courtney is  
24 already out there. Remember, she is on the phone by  
25 this time. Look at the phone records. You'll see.

1 She is making phone calls. Go to the bottom of page  
2 four on those phone records and you'll see the phone  
3 calls --- remember you have to subtract four hours ---  
4 to Crystal Thompson, and then what happens after that.  
5 Look at the time before 6:12 who she calls before  
6 6:12. Crystal's two minute phone call at 5:05. At  
7 5:07, a 20 second call. She is trying to call Nicole.  
8 She is panicked, panicked at that moment.

9 And remember, do you remember how the call even  
10 references why she is calling that day in that phone  
11 call, that jail phone call that we put in. That's the  
12 phone call they're referring to. Five web search  
13 about seizures from 6:03 to 6:05 and then at  
14 6:12 there is the 911 call. It doesn't show up on the  
15 log because they don't. There is no dispute she made  
16 the call. She even explains in the video why it  
17 didn't show up. And then the next call is at 6:48  
18 when she's out on the front porch.

19 Do you remember her demeanor, it goes from every  
20 single witness, yes, she was crying. Yes, she was  
21 loud, she was upset, never saw tear. That's her MO.  
22 He comes out on the front porch and while they're  
23 together, remember what Shaw told you. She starts  
24 repeating, he jumped off the dresser and hit his head  
25 --- or you remember. If I misquote anything, please



1 remember it as you remember it, okay. Something to  
2 that effect. She says it four times. Wants to make  
3 sure he hears it so he knows what the going story is.  
4 Evidence of guilt, Albert McLendon is there. You  
5 heard from Jane Powell the next day. She gets in  
6 touch. She asks both Antonio and Courtney to go.  
7 Courtney tells him not to go.

8 She is the one that's going to handle the story  
9 part. You just saw the reenactment, the details.  
10 That's what her story is, not that Antonio did it.  
11 Not that she did it, but that is just a fall or she  
12 heard a bump, a boom, I think is how she describes it.  
13 I don't mean to misquote.

14 At that point, she reacts and calls 911 almost  
15 immediately. Remember something else about that day,  
16 too. She described --- where she has told all these  
17 different stories about what happened when she got  
18 home, she did that, she did this. Then she started  
19 claiming up about the pee and had to get in the  
20 shower. She even changed her story yesterday that she  
21 hadn't gotten in the shower yet. She had already  
22 heard everybody testify that she wasn't wet, so now it  
23 changed so she wasn't in the shower yet, and it  
24 changed about where the phone was, so that's all  
25 different.

1       She is home for four hours before 911 is called.  
2       She gets home --- or even three-and-a-half. Somewhere  
3       around 2:00, by her own admission, in one of her  
4       versions. So what's going on in that four hours?  
5       Because to hear her tell it, it's not even an hour.

6       You heard from Investigator Chris Lindler and  
7       what did he tell you? Basically that he was involved  
8       in the investigation in a very limit fashion, but he  
9       heard, along with Holly Wagner and Investigator  
10      Holdorf, as they're in that room that second night  
11      together, that break room. What does he hear Antonio  
12      say to her? Free me. Get me off, whatever. Not, I  
13      didn't do this, tell them the truth.

14      It goes on. Investigator Michael Laurita, and  
15      you're going to have this statement back there. He  
16      takes the statement from Antonio Guinyard about what  
17      he knows, and at this point, they don't have all the  
18      details down because Courtney has been saying he was  
19      out of the house. Then she says he was in the house.  
20      Now, his thing is he is cooking and the defense just  
21      got up here and argued that he couldn't be cooking and  
22      have done this or known about it. We don't know when  
23      he was cooking. The fact that he cooks three steaks  
24      not two, makes him not guilty? That's the defense?  
25      Maybe she needed an extra one. Maybe he did.

1        You can look at the pictures of CHILD        He  
2 didn't really get steak. Captain Lancy Melton who  
3 participated, Sergeant Robert Walters was at Alvin S.  
4 Glenn. He was the one that got the jail phone call  
5 for us. Remember, the one where she said she knew  
6 they were recorded, but she didn't know we could get  
7 them? We'll get back to those. Investigator Holly  
8 Wagner, Lieutenant Brian Metz, Travis Holdorf took  
9 statements.

10       The defense is that she was just covering for  
11 Antonio. That's one of the defenses. She is just  
12 covering for Antonio. She gives a second statement on  
13 July 2<sup>nd</sup> after their alone together in a room  
14 together and they have a private conversation which no  
15 one is privy to but the two of them.

16       Can you imagine what was going on? You take it.  
17 No, you take it. They're going to get us. They know  
18 what happened. They've done the autopsy. They know  
19 how bad the injuries are. At that point, she has got  
20 to come up with a new story, so she is not protecting  
21 her loved one for very long because by the time she  
22 gives her second statement, he is all over it. He did  
23 it. He did it, he did it.

24       Miraculously, at this point, the defense wants  
25 you to think that yeah, she was horrible to this child

1 for the entire time after she got him back from foster  
2 care. By the way, we aren't the ones that said he  
3 tortured for four years. No, luckily for this child,  
4 he was in foster care for three years. We brought  
5 that evidence before you. It was only when he was  
6 returned back to not one or the other, but both of  
7 them that his life became a living hell.

8 She immediately points the blame to him that  
9 night. Now, that story is different and I'm not going  
10 to belabor this, but you go back there and look at her  
11 different stories if you want to, the first one, the  
12 boom, what happened, then when confronted with the  
13 autopsy, oops better make something better. It's not  
14 looking good for me. Okay. It was Antonio and then  
15 here today ten months later after listening to all the  
16 evidence in the case, she comes back before you, I may  
17 have beaten him on one occasion right after I got him,  
18 but then I learned that I shouldn't do that. Then  
19 some other vague time, she starved him for eight days,  
20 gave him water for four and bread and water for four  
21 and then, oh, but I learned.

22 In order to try to seduce you into just finding  
23 her guilty of the lesser charge and exonerating her of  
24 the greater because according to them, and this is  
25 their defense for Courtney Thompson that she was a

1 horrible mother. They said that in their opening.  
2 One event right after he comes and then you learn the  
3 error of your ways does not mistake you a horrible  
4 mother.

5 But then miraculously on July 1<sup>st</sup> and they said  
6 this in opening, she did everything right. She was a  
7 great mother. That is their defense, but let's look  
8 at the forensics in this case. You heard from  
9 Investigator Oates. What does he find? He finds that  
10 when he gets into that house that day that they're  
11 collecting certain items. Most significant is that he  
12 and Sergeant Richards together find spots of blood not  
13 in one room, not just in this play room --- and you  
14 have the things and you have the diagram that shows  
15 where all this blood was located and pretty much all  
16 this blood, other than that on the light switch in  
17 their bedroom, is CHILD

18 What's the explanation for that if he wasn't  
19 beaten repeatedly? You heard from investigator Scott  
20 Schroder. He took photographs of the victims --- of  
21 the defendants, excuse me, that night, as far as  
22 they're physical appearance and you'll have these back  
23 there with you. Photographs showing how they  
24 appeared, what their appearance was. Did they have  
25 any injuries, anything.

1        Showing their hands. Is that consistent with  
2        somebody having used a pipe? You heard from  
3        Investigator Tim Lee who went back to the scene  
4        reenactment. He also later collected the bloody  
5        shirt. The bloody shirt size five that belonged to  
6        this child. It was covered in blood, his blood, and  
7        buried in the closet. Do you think they should  
8        probably hide that before the police got there that  
9        day? It was found by his own mother who went to the  
10       scene who actually took CHILD 5 Antonio Guinyard's  
11       own mother. And all this about how he was put out all  
12       those times and he had nowhere to go.

13       Okay, if she didn't like Courtney, why didn't his  
14       mother take him? That doesn't even make sense that he  
15       had nowhere to go, but that doesn't work for the  
16       story.

17       Investigator Kristen Polis went out to the scene  
18       that day. That's when they found significant evidence  
19       in this case. They knew more at that point. They  
20       were looking for things. There had been a mention of  
21       a pole. When they looked in the closet, they found a  
22       broken broom, they found a curtain rod, but then  
23       hidden behind the bed in the master bedroom was the  
24       pole, the pole that according to Courtney Thompson in  
25       her April 20<sup>th</sup> phone call, which was the day before

1 the DNA results came back that Antonio had used and  
2 beat it flat on one end, hitting the child, and she  
3 says he didn't have any knowledge?

4 It doesn't matter whether she beat him or he beat  
5 him with it. This is what they beat him with, and  
6 there's no dispute that day the beating took place by  
7 one or the other because there is no dispute in this  
8 case that these were the only two with access, and  
9 when they took this pole, Courtney Thompson knew that  
10 it would have blood on it; that this was the pole used  
11 to beat him and low and behold, not only does it have  
12 the child's blood, but it has Antonio Guinyard's  
13 blood. Now his thing is to point to CHILD 2 She's  
14 three, there are photographs of her. Look at her.  
15 Did he on some prior occasion cut himself, beating the  
16 child with this pole as he grips it because of the  
17 sharp edges before he grabbed him by the left arm to  
18 beat him? This was their tool. This was their potty  
19 training enforcement.

20 You also heard from a number of witnesses in the  
21 case, and I want to talk a little bit about what they  
22 said. Depending on which defendant is questioning, at  
23 different times they will say, "Oh, they just aren't  
24 telling the truth." The testimony in this case is  
25 overwhelming; DSS was called repeatedly. People tried

1 to intervene on behalf of CHILD that even the  
2 sisters that didn't live there, even doctors that  
3 didn't know him, even people who took care of her  
4 other children, Ms. Metze repeatedly called DSS to try  
5 and help CHILD but their defense is that neither one  
6 of them thought that was necessary so they aren't  
7 guilty. That's their defense, that they didn't see  
8 any of the bruises?

9 So what did you hear from some of the witnesses  
10 in this case? Mostly family members.

11 You heard from Crystal Thompson. She is a  
12 sister. On prior occasions she has seen Courtney hit  
13 him and these are from our notes, but you remember the  
14 testimony, okay. Hit CHILD with a clothes hanger, a  
15 coat hanger, drop cord, cable cords and her knees.  
16 She saw Antonio hit CHILD twice and punch him.

17 Antonio made CHILD sit on the toilet for three  
18 hours. That was another one of their potty training  
19 tools. Heard Courtney tell Antonio he was not hitting  
20 CHILD hard enough and when CHILD grew up, he would  
21 beat Antonio up. CHILD had gone into her bag and got  
22 a cracker and tried to eat it. Do you remember that  
23 same phone call where supposedly she didn't have any  
24 information.

25 Do you remember what corroborates that? Remember



1 when the pathologist testified, she testified about  
2 the stomach contents. She had a small amount of a  
3 tannish substance, I don't know if she said liquid or  
4 substance, consistent with having eaten that cracker.  
5 He didn't have any steak in his stomach. He didn't  
6 have any other food in his stomach. Does that  
7 corroborate what she heard?

8 And then heard the baby getting beaten. Heard  
9 **CHILD** cry for help, "Help me, Lord," knew it was his  
10 voice because of his stutter. Do you remember when we  
11 heard from other people talking about how **CHILD** would  
12 talk? Supposedly character people for Antonio  
13 Guinyard, Charles Robinson, his good friend. They all  
14 imitated his stutter. His voice was distinctive. How  
15 did you know it was him; I heard the stutter. Told  
16 him to spread his hands out. Told Antonio to put the  
17 baby down and hold **CHILD**'s legs, heard Antonio and  
18 Courtney talking, the two voices on the phone, and  
19 heard Antonio say, "He is not moving." That's at  
20 5:07.

21 One didn't know what the other was doing. They  
22 had a conversation about how to beat him. Courtney  
23 said she didn't care if the retarded bastard died.  
24 Those are her words, not mine. Do you remember the  
25 text message, he is such a RERE.

1        If DSS did not take him, she was going to kill  
2 him, and bury him so DSS would not take her other  
3 babies. There are other people that would take  
4 **CHILD** You hear from his foster mother. This wasn't  
5 a child, by the way, that had autism. This wasn't a  
6 child that had anything more than a stutter. This was  
7 a child that reacted badly to an environment that was  
8 hostile and had a few accidents. The more they beat  
9 him, the worse it got.

10       The night after **CHILD** 's death, Antonio and  
11 Courtney again together go over to Gladys' house. The  
12 sisters are there. Courtney got an evil look on her  
13 face and she said, "No, don't do nothing for him."  
14 She didn't even want him to have a funeral. Then  
15 later on that night, she is laughing. Do you  
16 remember, she is laughing about **CHILD2** and said  
17 **CHILD2** bit **CHILD** and left a mark on his back, as  
18 she laughed about that because there is a bite mark on  
19 his back. It's healing, but it's not a three-year-  
20 old's bite mark. It's consistent with an older  
21 teenager or an adult. That made her laugh? She just  
22 bit him for the fun of it?

23       Antonio was in the house when the cable cord  
24 incident took place and the clothes hanger and it was  
25 rare for Antonio to be kicked out.

1        You heard from another sister, Natalie Thompson.  
2        Remember all these people are pretty much tied into  
3        their statements because when [CHILD] first died, they  
4        all went to the police and corroborated. "Saw Antonio  
5        hit him but not hurt him but hit him because he  
6        couldn't control his bowel movements. Sometimes he  
7        couldn't control his urine. Antonio would get mad at  
8        him sometimes. Courtney used a belt, a shoe, a  
9        hanger." Again, these are only excerpts of our notes.  
10       You remember the testimony.

11       Antonio present when Courtney beat him. She had  
12       gone to DSS so often that they asked her to get proof  
13       and she tried. She took photographs on February 21<sup>st</sup>  
14       of his back, and she begged DSS to help. She even in  
15       April took them to her own pediatrician and said look  
16       at these. She didn't take them, actually she gave  
17       them to Ms. Metze who took them, excuse me.

18       Even the sisters tried to protect [CHILD], they  
19       took body shots, the face to show who he was, [CHILD]  
20       was hungry, thirsty being denied food. Then she told  
21       a story about how Courtney went in the cell phone  
22       place, Antonio was supposed to stay in the van because  
23       they never left him around Natalie because they knew  
24       Natalie had reported them. She didn't even know he  
25       was in the back of the van, but the next thing she

1 heard was the sounds of him as he finished the whole  
2 can of soda so quickly, and remember his lips were  
3 cracked and bloody. The top lip was puss filled. She  
4 crushed up a bag of chips and tried to feed it to him  
5 before they got back. Not obvious, the child ate out  
6 of the trash can. Courtney wanted him to go back to  
7 DSS, so they could give him a beating and a killing  
8 and a raping. She repeatedly called DSS, not just on  
9 Courtney but on Courtney and Antonio.

10 Who else did we hear from? Nicole or Maria  
11 Nicole Thompson. Courtney and Antonio had CHILD once  
12 he was released from foster care, around Easter  
13 of 2013, he peed on the floor. She heard Courtney  
14 beating him. The last time Nicole saw him was on  
15 Easter. He was limping and had bruises on his back.  
16 Two weeks before Courtney was getting ready to have  
17 the baby, the new baby CHILD 5, Nicole went over to  
18 Beaverbrook. She didn't want to go to the house. She  
19 didn't see him because she was scared they would put  
20 two and two together and figure out she had called  
21 DSS. She called DSS to report CHILD  
22 Antonio and Courtney Thompson. And then you heard  
23 from her mother who was kind of all over the place.  
24 She considered Antonio a son and obviously has some  
25 allegiance to him. Is there some kind of money

1 motivation there? We'll get back to that.

2 Animals shouldn't have been treated the way  
3 CHILD was treated. If he spilled something, he would  
4 be slapped hard with an open hand by his mother.  
5 Courtney hit him with a cable cord once. Courtney  
6 punched him with her fist once. Courtney's mother  
7 tried to stand up for CHILD and she was put out. She  
8 tried to stand up for CHILD and was put out. She  
9 didn't have anywhere to go either. She knew what was  
10 going on, but the defense is Antonio Guinyard didn't?  
11 Courtney said that CHILD would drink out of the  
12 toilet he was so thirsty.

13 Then you heard from Latoya Anderson who spoke to  
14 Courtney who Courtney, months later bragged about how  
15 she starved him for eight days, said CHILD was  
16 possessed, that Antonio said he was tired of him and  
17 that Courtney was relieved when he died. I guess he  
18 couldn't mess up her carpet any more.

19 You heard from Angela Metze and what was  
20 Ms. Metze's role in this family? Remember there was a  
21 child CHILD 3 that she took into her home. She kept  
22 CHILD 3 most of the time, who was the younger sister  
23 of CHILD. She tried her best to help this family.  
24 She told you that she would take CHILD. She had  
25 already taken CHILD 3, but he was a sweet happy boy at

1 first; that things started to change. She went to DSS  
2 over and over to try and protect [CHILD] from his  
3 parents, but on the date in question, she gets a phone  
4 call --- and it's in there. She actually goes and  
5 picks them up. No, excuse me, let me back up. She  
6 gets a phone call that morning around 2:30. She had  
7 actually talked, I think, to Nicole or Natalie, one of  
8 the sisters around midnight on her phone, on  
9 Courtney's phone. Then she actually talks to Courtney  
10 about 2:30 or 3:00 that morning. What is Courtney  
11 saying? "I got to get out of here. These people are  
12 all crying. Come get me and Antonio."

13 So she shows up the next morning. You can even  
14 see in the phone calls where Courtney is calling her  
15 constantly around 8:00, 9:00 the next morning probably  
16 trying to find out where she is. She goes and picks  
17 her up and takes her places. She actually listens to  
18 the reenactment because Courtney has her phone on  
19 speakerphone.

20 She tried to protect [CHILD]. You heard from  
21 Kimberly Gooden. She and Ms. Metze are the two people  
22 Courtney called when she went into the hospital. By  
23 the way, she could call an ambulance for herself when  
24 she was in labor, but not while [CHILD] was being  
25 beaten. She calls them on the 29<sup>th</sup> and says, "I'm in

1 labor. I'm at the hospital. I need you to go get ---"  
2 with Ms. Metze, she said that wanted her to take  
3 CHILD 2 and CHILD 3. I can't remember whether she  
4 said she already had CHILD 3 and that just picked up  
5 CHILD 2 and that Ms. Gooden went and picked up the  
6 one they call CHILD 4, the youngest.

7 But what was significant, because remember when  
8 Ms. Metze went there, she didn't even tell Antonio  
9 what time she was getting there. Antonio was on the  
10 front porch with CHILD 2, has all her stuff out  
11 there, doesn't allow her in the house. She never lays  
12 eyes on CHILD. The same is true with Ms. Gooden.  
13 This goes back to some of the text messages. "We need  
14 to hide him. People think we are beating him."

15 You heard from Princess Hodges who talked about  
16 just her first experience with Courtney Thompson here  
17 at the courthouse, how she saw an incident and at that  
18 point is when CHILD was initially taken when he was  
19 two months old in June of that year, in 2009, and kept  
20 in foster care until April of 2012.

21 You heard from Ms. Jones. Ms. Jones was the  
22 person who had CHILD in her foster care from 2010  
23 until he was returned to his parents in 2012.

24 You heard what she did with him. How she was  
25 worried because he wasn't speaking enough. He did

1 have a stutter. How she took him to speech therapy.  
2 She took him to physical therapy. They did testing.  
3 He saw the doctor on a regular basis. You even heard  
4 from Monica McCutcheon his own --- excuse me, before  
5 Monica McCutcheon, you heard from her how he was doing  
6 well. You heard from Dr. Rosa, how she reviewed all  
7 his records and he was in good shape; that when he was  
8 released to this family, he was on track, three years  
9 old, doing well, almost heavy and happy, played well  
10 with others, was evaluated, was not autistic. All he  
11 needed was a little speech therapy.

12 But right after [CHILD] was returned to Courtney  
13 and those, she gets a phone call, do you remember she  
14 said within a day or two from Courtney. He is messing  
15 up. He is going all over. Told her at that point  
16 gave her advice on what to do because [CHILD] was  
17 completely potty trained when he left a safe wholesome  
18 environment, told her if you need any help, I'll be  
19 glad to help you.

20 Then you also heard from Karen Davis Tucker, who  
21 overheard a conversation on July 11<sup>th</sup> after they were  
22 arrested between Antonio Guinyard and Courtney  
23 Thompson. Do you remember she is the lady that works  
24 here in the courthouse? Antonio told Courtney, "Do  
25 what I tell you and everything will be all right," yet



1 he is the one being manipulated? Courtney, "I'm not  
2 sure I can do that." "Do you remember what happened  
3 that day?" Not, "I don't know what happened that  
4 day." "Do you remember what happened that day?" Both  
5 were there, "Other women in jail have killed their  
6 children and their lawyers have gotten them off."  
7 That's what she is concerned about.

8 Now, I want to talk a little bit about the  
9 medical evidence in this case. You have heard from  
10 various doctors. EMS is the first on the scene. When  
11 they get there and you even heard it on the end of the  
12 911 tape. They put the line on him, nothing, but  
13 what's significant? He is cold to the touch. Now,  
14 remember, this is July. it's sweating weather inside  
15 that house.

16 The palms of his hands, the soles of his feet  
17 have that gray ashey color because, according to ---  
18 if you believe Courtney Thompson, he had just finished  
19 breathing right before she calls 911, according to  
20 her. Not according to the phone records. So why is  
21 he cold to the touch? Is it more consistent with them  
22 having to do their research and come up with a story  
23 for an hour before the 911 dramatic call is made?

24 You also heard from Dr. Olga Rosa. The injuries  
25 to this child. The defense talked about it in closing

1 argument. This is what was testified to. Again, you  
2 remember it.

3 If you take his body and just split it up into  
4 different areas, we can talk about the injuries to his  
5 face and his head. He had two black eyes, two black  
6 eyes. Lacerations in the mouth, lip, subdural  
7 hematomas to the side and the back of the head.  
8 Subarachnoid hemorrhage, multiple impact points.  
9 Remember from the one side to the back, at least four  
10 or more impact points. That means blunt trauma to  
11 different areas, different planes, I think is how they  
12 described it, of the head.

13 With his brain injuries, he would have been  
14 symptomatic prior to that time of his death for at  
15 least 72 hours to seven days prior. That is the state  
16 of healing that the various injuries were in. So for  
17 at least three days prior to this, that would include  
18 actually the day before she goes to the hospital,  
19 until up to a week before, he would have been  
20 nauseated, lethargic, vomiting, obvious pain, maybe  
21 having seizures, and they missed that? And by the  
22 way, this is something that contributed. The blood on  
23 the brain. Remember, it was the total blood loss that  
24 caused this child's death. Ribs, the left side,  
25 chronic, had been broken ten days to six weeks prior

1 to his death. That's what she can say.

2 I'll get back to the text messages which talk  
3 about how he is holding things funny, such as his arm.  
4 Right back tenth rib, acute, happened within eighteen  
5 to twenty-four hours, that final beating. Extremely  
6 painful. This child was in pain from just his ribs  
7 from anywhere from six weeks up until the moment he  
8 died.

9 Arm, left humerus, both chronic and acute  
10 consistent with when they would grab him by the left  
11 arm to hold him to beat him. It would be rebroken.  
12 Couldn't say how many times. How painful is that?  
13 Chronic in stages of healing. He wouldn't be able to  
14 use it, and he would have been guarded because it  
15 would have been so painful. Let's move on to the back  
16 the hip, the buttocks, deep soft tissue hemorrhage.  
17 Deeper on the left buttocks. It was swollen, and how  
18 did she put it? So that it was distended. Blood had  
19 nowhere else to go was leaking into his scrotum so the  
20 scrotum was swollen. He had a pale thyroid consistent  
21 with having bled out, in the manner in which he did,  
22 not from a gunshot wound, not from being stabbed, but  
23 from being beaten to death by his parents.

24 Scars, bite marks, healing abrasions to the neck,  
25 the torso, the arms. The last weeks of his life

1 possible malnutrition. Remember, they couldn't  
2 calculate his weight exactly because the last time he  
3 went to a doctor, which was Dr. McCutcheon back in  
4 September of 2012, which was one time they did take  
5 him to the doctor, his weight was, I believe, 44,  
6 45 pounds. You remember. At the time of his death  
7 his weight was 46 pounds, which was also the same  
8 weight he was at 45 pounds in January before he was  
9 released back to the parents, so in that 18-month  
10 period she calculated --- his weight couldn't be  
11 calculated, but she said 46 pounds, but a lot of that  
12 would have been the swollen tissue, the blood and the  
13 tissue. She estimated that his weight, he might have  
14 lost up to six pounds, so in that 18 months period, he  
15 lost five to six pounds, possible malnutrition, blood  
16 loss, excruciating pain in the weeks --- last weeks of  
17 his life would have been excruciating. Serious  
18 injuries in the days leading up to the death that he  
19 died from chronic child abuse.

20       You also heard from Dr. Kiersten Lofton, who  
21 testified how she tried, when she saw the pictures, to  
22 get this child help. She called DSS, they sent it  
23 back, said no. They said it was a skin --- some type  
24 of rash. That didn't happen.

25       Finally, we heard about some jail phone calls,

1 one of which is in evidence and others which we asked  
2 her about yesterday. "Did not offer me a plea. I  
3 don't want to plead guilty Antonio's balls is not that  
4 big to take this charge, so I can get out and take  
5 care of our children. His balls not that big, but I  
6 would do it just so we can get our kids."

7 You know about the shower rod. The shower rod,  
8 Antonio beat that boy until the motherfucker went  
9 flat. Excuse my language. This was the day before  
10 anybody had published the report saying there was  
11 blood on that and it came back to little CHILD

12 The lady was saying he was hemorrhaging because  
13 of the bruises so I guess that day when everything  
14 happened and Courtney answered, he was already going  
15 to die before that day and you got the phone call. He  
16 was going to die. He was dying slowly, then this  
17 whole different story; I'm not going to go through it  
18 again. Just one more.

19 Ladies and gentlemen, why does she keep having to  
20 change her story? Because none of them work. None of  
21 them do anything but implicate them in the death of  
22 this child. Why did Antonio Guinyard get up here and  
23 start saying, "I was kicked out of house. I was  
24 kicked out of the house. I was kicked out of the  
25 house." Because his story didn't work.

1        "Antonio's mama told me if I would take the  
2 charge, I would get visits every weekend and she would  
3 put money in my canteen."

4        Other calls, from January, multiple calls through  
5 the spring. "We need to get the kids so we can get the  
6 money. I'm going to sue DSS for \$3 million because  
7 DSS never should have returned [REDACTED CHILD] ."

8        February, "Going to free Antonio so he can get  
9 the kids, get the money." Monday May 26<sup>th</sup>, "I want  
10 the jury to find me guilty of unlawful conduct and let  
11 me go on the homicide charge." She didn't know we  
12 could get those.

13        Timeline, [REDACTED] [REDACTED] of 2009, [REDACTED CHILD] was born. By  
14 June 19<sup>th</sup> almost exactly two months later, he is taken  
15 into DSS custody after the incident which Princess  
16 Hodges saw.

17        He then stays in DSS custody in foster care and  
18 by March of 2012, he is potty trained. He is in  
19 therapy. He has social adaptive skills. There is no  
20 autism. He is ruled out for special needs programs  
21 and he is big for his age. By April 6<sup>th</sup> that next  
22 month, he is returned to Courtney and Antonio.

23        On September 11<sup>th</sup>, 2012, Dr. McCutcheon sees that  
24 the child is regressing. This is the first time she  
25 even sees him and knows that. She recommends follow

1 up appointments. He is not enrolled in Head Start.  
2 He is not enrolled in any of the therapies that have  
3 been recommended for him. Remember he had a special  
4 condition as a child and needed to see, I believe, a  
5 neurologist --- I don't remember what type of doctor  
6 it was. None of the was done. She calls DSS.

7 February 21<sup>st</sup> photos of [CHILD]'s back were taken  
8 because at that point both Gladys, Crystal, whoever,  
9 the sisters, Natalie at least, had all reported her to  
10 DSS and DSS said get me proof. She gets proof.  
11 Nobody believes her. Then remember the significant  
12 time period of Easter, because remember pretty much  
13 after Easter nobody really sees this child. There may  
14 have been one or two occasions, but by Easter of 2013,  
15 which is March 31<sup>st</sup> of 2013, [CHILD] is pretty much in  
16 isolation.

17 On April 5<sup>th</sup>, 2013, Ms. Metze takes the pictures  
18 that Natalie has given her and goes to see Dr. Lofton.  
19 She calls DSS. Richland County becomes involved.  
20 They're told it's just a skin rash. She calls DSS  
21 back and says, "No, it's still neglect, do something."  
22 Within two months, [CHILD] died of blunt force trauma.

23 Finally, text messages. May 16<sup>th</sup> of 2013, almost  
24 exactly six weeks before. Do you remember that time  
25 period about chronic abuse, sent to Antonio from

1 Courtney, "Come look at how this boy holding his hand.  
2 Look, he's a RERE." That's what she calls him, a  
3 RERE, a retard. And Antonio didn't know anything?

4 The next one, from her to Antonio, "I know,  
5 right. They going to think that we keeping --- " and  
6 this is on May 20<sup>th</sup>, okay. "I know, right. They  
7 going to think that we keeping him away from around  
8 other people because we beat him."

9 Neither one knew anything? Moving on, on the  
10 same day a few minutes later back from Antonio to her,  
11 "I'm so tired of dis fucking boy."

12 May 25<sup>th</sup> to Antonio from Courtney, "I love my  
13 kids, just not that boy. That's the only one I wish I  
14 could take back. I'm not sorry for having my  
15 daughters and this baby. I'm pregnant."

16 On July 1<sup>st</sup> of 2013, CHILD peed on the  
17 floor, and that infuriated them, they had a newborn, a  
18 good baby, they were bringing back.

19 When she walked in, did she start going  
20 ballistic? Or when she walked in, is that when CHILD  
21 peed on the floor? How dare he. You saw the evidence  
22 of how they tried to clean it up and it wouldn't come  
23 up. The little RERE had done it again. Both of them  
24 are there. Both of them are participating.

25 We don't have to show which one, show the final



1 blow. We don't even have to show that both of them  
2 participated, although I submit we have.

3 At that point, they decided to teach him what  
4 ended up being his final lesson. He didn't do it  
5 anymore. And this, they blamed the sisters, called  
6 them liars. They blamed CHILD 2. They blamed pretty  
7 much anybody. because that's what they do.

8 Even when confronted by the photographs, he  
9 didn't have any money to go anywhere and his  
10 explanation was, oh, this was Courtney's tax money.  
11 What tax money? She didn't work. She didn't pay  
12 taxes.

13 How did the shirt get bloody? I don't know.  
14 Blame CHILD 2 They counted on the fact it was their  
15 child, so who cared. Even if they did beat him to  
16 death, who would investigate. Even if there was an  
17 investigation, no one would ever really see the full  
18 extent of how they mistreated CHILD They counted  
19 on the fact that even if law enforcement did their job  
20 and found out about what happened that no one would  
21 care enough about CHILD. He was just a retard, for  
22 them to charge them with it. They counted on the fact  
23 that even if they got charged, they just told a story,  
24 just stuck to it. If they didn't just tell a story  
25 and just kept changing it as the information evolved,

1 they counted on the fact that nobody would care about  
2 this child.

3 They even had a tattoo. It was pretty much game  
4 over for **CHILD** They counted on the fact that even  
5 if her family members --- and he wouldn't beat them in  
6 front of her family members. he reserved that for the  
7 luxury of their own home, if they saw some of the  
8 beatings, they wouldn't come to court and testify, and  
9 they counted on the fact that even if they did  
10 testify, as long as they just called everybody a liar,  
11 who is going to believe them anyway? And they counted  
12 on the fact that the records wouldn't show that much,  
13 but they did. They counted on the fact that they just  
14 said that you can't believe Crystal and pointed the  
15 finger at each other. What's the jury going to do.  
16 They counted on the fact that the jury wouldn't care.  
17 He was just a little autistic retard.

18 Ladies and gentlemen, I submit they  
19 miscalculated.

20 Crystal testified that in his last moments he  
21 cried out, said, "Help me, Lord." You know, earlier  
22 you heard the testimony how he would always cry out  
23 for his dad, and the reason a four-year-old who is  
24 being beaten doesn't cry out for their mother or for  
25 their father is because those are the very demons that

1 are beating them. It won't do him any good. The only  
2 person left available for him to cry out to is the  
3 Lord to help him and maybe they did put him out of his  
4 misery. Tell them it's not okay. Hold both of them  
5 responsible for their choices, their acts, their  
6 inhumane treatment of a little boy who went from this  
7 to this. (indicating)

8 The system failed **CHILD** All we ask for is  
9 justice.

10 THE COURT: Thank you. Ms. Campbell.

11 All right. Ladies and gentlemen, you have two  
12 options at this point. Option number one is we're  
13 going to take a break because my court reporter has  
14 been going for over two hours nonstop. You can have a  
15 short ten minute break, and I can come back and charge  
16 you on the law and then you may begin deliberating at  
17 the appropriate time when I tell you or we can take a  
18 30 minutes break and you can eat lunch and then come  
19 back and charge on the law. I'll leave it up to your  
20 decision. Mr. Foreman, if you want to talk among  
21 yourselves. How ever you want to do it, I want to do  
22 what's most convenient for you.

23 THE FOREMAN: Take the 30 minutes, Judge.

24 THE COURT: Okay. So what we're going to do is  
25 take a 30 minute break. I assume their food is here;

1 can you check on that?

2 THE CLERK: It's here, yes.

3 THE COURT: It's here, okay. We're going to take  
4 a 30 minute break. Let you eat your lunch. Stretch  
5 your legs. Use the facilities whatever you need to.  
6 When we come back in, I'll charge you on the law.  
7 Keep an open mind, do not discuss the case. We'll see  
8 you back at about 2:30. Everyone remain seated while  
9 the jury is excused.

10 (WHEREUPON, the jury left the courtroom at  
11 2:01 p.m.)

12 THE COURT: All right. Now listen, we're going  
13 to start this jury charge at 2:30. During the jury  
14 charge the door is locked. If you want to be in here  
15 and hear it, you need to be in here before 2:30.  
16 Otherwise, you will not be able to get in. Okay.  
17 Thank you very much.

18 (WHEREUPON, a lunch break was taken.)

19 THE COURT: All right. Let's bring them in.  
20 Please lock the back door.

21 THE BAILIFF: All jurors are present, Your Honor.

22 THE COURT: All right. Thank you very much,  
23 Mr. Burgess.

24 JURY CHARGE

25 All right, ladies and gentlemen, we have reached

1 the point of the trial where it is my responsibility  
2 to tell you what the law is in this state as it  
3 pertains to this case. Let me give you this  
4 admonition up front. These charges, we call them jury  
5 charges, are written for one defendant, so if I do not  
6 use the plural form, I'm not separating in between  
7 defendants, but everything that applies to all the  
8 parties in this case and both defendants, so if I have  
9 missed a spot where I say defendant singularly, I mean  
10 both defendants by that. That's just my warning to  
11 you up front. There is nothing that especially  
12 applies to one over the other, okay.

13 The indictments charged the defendants with  
14 homicide by child abuse and unlawful conduct towards a  
15 child. I remind you that the fact that these  
16 defendants were arrested, charged, and indicted is not  
17 evidence in this case and cannot be considered by you  
18 as evidence of guilt in this case, nor does it create  
19 any presumption or inference of guilt. These  
20 documents are simply the formal written instruments  
21 which contain the charges made against the defendants.  
22 They are the formal documents by which these cases are  
23 brought into this court.

24 Now, these indictments in this case allege  
25 several different offenses against the defendants.

1 The charges are homicide by child abuse and unlawful  
2 conduct towards a child. Each indictment charges a  
3 separate and distinct offense. You must decide each  
4 indictment separately on the evidence and the law  
5 applicable to it uninfluenced by your decision on any  
6 other indictment.

7 The defendants may be convicted or acquitted on  
8 any or all of the offenses charged. You will be asked  
9 to write a separate verdict of guilty or not guilty  
10 for each indictment and for each defendant.

11 I charge you that there are two defendants in  
12 this case, each of whom is charged with homicide by  
13 child abuse and unlawful conduct towards a child. The  
14 case of each defendant and the evidence and the law  
15 concerning that defendant should be considered  
16 separately and individually. Your verdict does not  
17 have to be the same for both defendants. The fact  
18 that you may find one defendant guilty or not guilty  
19 should not control your verdict as to the other  
20 defendant.

21 Where more than one person is charged with a  
22 crime, if the evidence warrants it, you may convict  
23 one and acquit the other or you may acquit both or you  
24 may convict both. It will be depend on your view of  
25 the testimony and the evidence. You must take each

1 defendant and consider the evidence as to that  
2 defendant and my instructions on the law that I'm  
3 giving you now. You will then write a separate  
4 verdict of guilty or not guilty for each defendant and  
5 for each charge.

6 Now, to these charges, both defendants have pled  
7 not guilty to the indictments and that plea puts the  
8 burden on the State to prove the defendants' guilt.

9 A person charged with committing a criminal  
10 offense in South Carolina is never required to prove  
11 himself or herself innocent. I charge you that it is  
12 an important rule of law that the defendant in a  
13 criminal trial no matter what the seriousness of the  
14 charge may be will always be presumed to be innocent  
15 of the crime for which the indictment was issued  
16 unless guilt has been proven by evidence satisfying  
17 you of that guilt beyond a reasonable doubt.

18 This presumption of innocence does not end when  
19 you begin deliberations, but it accompanies the  
20 defendants throughout the trial until you reach a  
21 verdict of guilt based upon evidence satisfying you of  
22 that guilt beyond a reasonable doubt.

23 The presumption of innocence is like a robe of  
24 righteousness placed about the shoulders of the  
25 defendants, which remains with the defendants until it

1 has been stripped from the defendants by evidence  
2 satisfying you of the defendants' guilt beyond a  
3 reasonable doubt.

4 The presumption of innocence is not a mere legal  
5 theory. It is not just a legal phrase. It is a  
6 substantial right to which every defendant is entitled  
7 unless you the jury are satisfied from the evidence of  
8 the defendants' guilt beyond a reasonable doubt. The  
9 State has the burden of proving the defendants guilty  
10 beyond a reasonable doubt.

11 Some of you may have served as jurors in civil  
12 cases where you were told that it is only necessary to  
13 prove that a fact is more likely true than not true,  
14 such as by the greater weight or the preponderance of  
15 the evidence.

16 In criminal cases, the State's proof must be more  
17 powerful than that. It must be beyond a reasonable  
18 doubt.

19 Proof beyond a reasonable doubt is proof that  
20 leaves you firmly convinced of the defendants' guilt.  
21 There are very few things in this world that we know  
22 with absolutely certainty and in criminal cases, the  
23 law does not require proof that overcomes every  
24 possible doubt.

25 If based upon your consideration of the evidence,



1 you are firmly convinced that the defendant is guilty  
2 of the crime charged, you must find the defendant  
3 guilty. If on the other hand, you think there is a  
4 real possibility that the defendant is not guilty, you  
5 must give the benefit of the doubt and find him or her  
6 not guilty --- him and/or her not guilty.

7 Now, I remind you that during this trial you and  
8 I have many and certain duties to perform. As the  
9 trial Judge, it was my responsibility to preside over  
10 the trial of this case, and I also have the duty to  
11 rule on the admissibility of the evidence offered  
12 during this trial.

13 You are to consider only the competent evidence  
14 before you. There was testimony that was ordered  
15 stricken from the record in this case during this  
16 trial. You must disregard that testimony. You are to  
17 consider only the testimony which has been presented  
18 from the witness stand, any exhibits which have been  
19 made a part of the record, and any stipulations of the  
20 lawyers.

21 I have the additional duty to tell you what the  
22 law is as it is applicable to this case. As the  
23 presiding judge, I am the sole judge of the law on  
24 this case. It is your duty as jurors to accept and to  
25 apply this law as I give it to you.

1        If you already have an idea as to what the law is  
2        or what the law should be and it does not agree with  
3        what I now tell you the law is, you must abandon your  
4        own idea because you are sworn to accept the law and  
5        apply the law exactly as I give it to you.

6        In every case tried in this court before a jury,  
7        the jury becomes the sole and exclusive judge of the  
8        facts in any case. A trial judge cannot state,  
9        comment on, or make my statement to a trial jury  
10       about the facts of a case. Since you the jury are the  
11       sole judge of the facts in of this case, you are not  
12       to infer from what I have said during the progress of  
13       this trial in ruling upon the admissibility of  
14       evidence or otherwise or anything that I say now  
15       during the course of this instruction to you, that I  
16       have any opinion about the facts in this case.

17       The law does not allow me to have an opinion  
18       about the facts. This is a matter solely for you to  
19       determine. As jurors, it is your duty to determine  
20       the effect, the value, the weight and the truth of the  
21       evidence presented during this trial.

22       Now, the evidence from which you are to decide  
23       what the facts are consist of the sworn testimony of  
24       the witnesses, both on direct and cross-examination,  
25       regardless of who called the witness, the exhibits

1 that have been received into evidence, and any facts  
2 in which the lawyers have all agreed or stipulated or  
3 that I have instructed you to find.

4 Certain things are not evidence and you may not  
5 consider them in deciding what the facts are. The  
6 arguments and the statements of the lawyers are not  
7 evidence. The lawyers are not witnesses. What they  
8 have said in their opening statements or closing  
9 arguments and at other times is intended to help you  
10 interpret the evidence, but it is not evidence. If  
11 the facts as you remember them differ from what the  
12 lawyers have said, your memory controls. The  
13 questions and the objections by the lawyers are not  
14 evidence. Attorneys have a duty to their clients to  
15 object when they believe a question is improper under  
16 the Rules of Evidence. You should not be influenced  
17 by the objection or by my ruling on the objection.

18 Any testimony that has been excluded or stricken  
19 or that you have been instructed to disregard is not  
20 evidence and must not be considered.

21 Anything that you may have seen or heard when the  
22 court was not in session is not evidence. You are to  
23 decide the case solely on the evidence that came in in  
24 this courtroom.

25 There are two types of evidence which are

1 generally presented: direct and circumstantial.

2 Direct evidence is the testimony of a person who  
3 claims to have actual knowledge of a fact, such as an  
4 eyewitness. It is evidence which immediately  
5 establishes the fact to be proved.

6 Circumstantial evidence is proof of a chain of  
7 facts and circumstances indicating the existence of a  
8 fact. It is evidence which immediately establishes  
9 collateral facts from which the main fact may be  
10 inferred.

11 Circumstantial evidence is based on inference and  
12 not on personal knowledge or observation. The best  
13 example I can give you of circumstantial evidence is  
14 this. Remember back a few months ago to January when  
15 it was cold. You went to bed at night. Say you went  
16 to bed at 10:00 o'clock and you looked out across your  
17 front lawn. There was no rain, there was no snow, and  
18 your front yard was brown because we were in the  
19 middle of winter. You woke up the next morning and  
20 your front yard was covered in snow. Okay. Now, did  
21 you see it snow? No, it snowed while you were asleep.  
22 Did you hear it snow? No. But when you looked  
23 outside in the front yard the next morning, your front  
24 yard was covered with snow, you could infer it snowed  
25 during the night. That's the best example I have to

1 give you of circumstantial evidence. Now, the law  
2 makes no distinction between the weight or the value  
3 to be given to either direct or circumstantial  
4 evidence. Nor is a greater degree of certainty  
5 required of circumstantial evidence than of direct  
6 evidence.

7       You should weigh all of the evidence in the case.  
8 After weighing all the evidence, if you are not  
9 convinced of the guilt of the defendant beyond a  
10 reasonable doubt, you must find the defendant not  
11 guilty.

12       Necessarily, you must determine the credibility  
13 of the witnesses who have testified in this case.  
14 Credibility is just a big word for believability. It  
15 becomes your duty as jurors to analyze and to evaluate  
16 the evidence and determine which evidence convinces  
17 you of its truth.

18       In determining the believability of the witnesses  
19 who is have testified in this case, you may believe  
20 one witness over several or several over one. You may  
21 believe a part of what a witness says, some of what a  
22 witness says, all of what a witness says, or none of  
23 what a witness says. You may consider whether any  
24 witness has exhibited to you any interest, bias,  
25 prejudice or other motive in this case. You may also

1 consider the appearance and the manner or the demeanor  
2 of a witness while on the witness stand.

3 Now, the Rules of Evidence do not ordinarily  
4 permit witnesses to testify to opinions or  
5 conclusions. An exception to this rule exists for  
6 someone that we call an expert witness, a witness who  
7 by their education and experience has become an expert  
8 in some art, science, profession or some calling, and  
9 that witness is allowed to state an opinion as to  
10 relevant and material matters in which the witness  
11 claims to be an expert and may also state the reasons  
12 for their opinions. You should consider any expert  
13 opinion received in evidence in this case and like any  
14 other evidence give it the weight you believe it  
15 deserves.

16 If you decide that the opinion of an expert  
17 witness is not based on sufficient education or  
18 experience or if you conclude that the reasons given  
19 in support of the opinion are not sound or that the  
20 opinion is outweighed by other evidence, you may  
21 disregard the opinion entirely.

22 An expert witness's testimony is to be given no  
23 greater weight than that of other witnesses simply  
24 because the witness is an expert.

25 Further, you are not required to accept an

1 expert's opinion even though it is not contradicted.  
2 Now, in order to establish criminal liability,  
3 criminal intent is required. For example, the mental  
4 state required to be proven by the State for a  
5 particular crime might be purpose, intent, knowledge,  
6 recklessness or criminal negligence. These are  
7 examples. Criminal intent must be proven by the State  
8 beyond a reasonable doubt.

9 Criminal intent is always a matter that must be  
10 determined by the jury from the circumstances  
11 surrounding the situation. There is no way to prove  
12 intent to a mathematical certainty.

13 There is no way medical science can dissect a  
14 person's brain and determine what that person had in  
15 mind, so the law says that criminal intent may be  
16 inferred from the circumstances that existed.

17 This is how you make a determination of whether  
18 or not the element that requires intent was present.  
19 It is not necessary to establish intent by direct and  
20 positive evidence. but intent may be established by  
21 inference in the same way as any other fact by taking  
22 into consideration the acts of the parties and all the  
23 facts and circumstances of the case.

24 Criminal intent is a mental state, a conscious  
25 wrongdoing. It is up to you to determine what the

1 defendant intended to do based on the circumstances  
2 that existed.

3 Criminal intent can arise from action or a  
4 failure to act. It may arise from negligence,  
5 recklessness or indifference to duty or consequences  
6 that are considered by the law to be the equivalent of  
7 criminal intent.

8 Now, the defendants have presented evidence of  
9 his and/or her good reputation and character to show  
10 that it would be inconsistent with the defendant  
11 committing the crime. The weight you give that  
12 testimony, like all other testimony in this case, is  
13 for you to decide in your good judgment.

14 You may consider testimony of the defendant's  
15 good character along with all the other evidence in  
16 deciding whether or not the defendant committed the  
17 crime.

18 Mere presence at the scene is not sufficient to  
19 prove someone guilty of a crime. A defendant's  
20 presence where a crime is being committed or mere  
21 association with a person who commits a crime does not  
22 make a defendant an accomplice or aider and abettor of  
23 the person committing the crime.

24 The burden is on the State to prove every element  
25 of the crime charged.



1        Voluntary intoxication is not a defense to a  
2 crime. A person who voluntarily becomes intoxicated  
3 is just as responsible for the acts committed while  
4 intoxicated as when the person is not intoxicated.

5        A statement alleged to have been made by the  
6 defendant has been admitted into evidence in this  
7 case. While the court has determined that the  
8 statement is admissible, I instruct you that you make  
9 the ultimate addition of whether or not the defendant  
10 made the statement.

11        If the defendant did make the statement, you must  
12 determine whether the statement was made by the  
13 defendant voluntarily and of his or her own free will.

14        This means that the statement was not caused by  
15 pressure, force, fear, threats, coercion, or  
16 intimidation or by a hope or a promise of leniency or  
17 a reward of any kind.

18        In determining whether the statement was  
19 voluntary, you should consider both the  
20 characteristics of the defendant and the details of  
21 the questioning. Some of the factors that you may  
22 consider or you must consider, excuse me, are the age  
23 of defendant, the education or lack of education, the  
24 mental ability or capacity of the defendant, the  
25 defendant's IQ or intelligence, the defendants'

1 background and environment, the place and the length  
2 of the detention, the nature of the questioning and  
3 the advice or lack thereof to the defendant of his or  
4 her constitutional rights, including but not limited  
5 to the right to remain silent; that any statement  
6 could be used against him or her in a court of law,  
7 the right to have the lawyer present; that if he or  
8 she could not afford a lawyer, a lawyer would be  
9 appointed to represent him or her without any cost and  
10 that he or she could stop making a statement at any  
11 time.

12       You must carefully consider all the surrounding  
13 circumstances before you give any weight to an alleged  
14 statement. The State has the burden of proving beyond  
15 a reasonable doubt that the alleged statement was  
16 voluntarily. If you determine it was, you may give  
17 the statement any further consideration you deem  
18 proper. You must decide what weight, if any, should  
19 be given to the alleged statement.

20       If you determine the alleged statement was not  
21 the free and voluntary statement of the defendant, you  
22 should not consider it at all.

23       The mother and the father, according to the law  
24 of South Carolina, are the joint natural guardians of  
25 their minor children and are equally charged with the

1 welfare and education of their minor children and the  
2 care and management of the estates of their minor  
3 children, and the mother and father have equal power,  
4 rights, and duties and neither parent has any right  
5 paramount to the right of the other concerning the  
6 custody of the minor or the control of the services or  
7 the earnings of the minor or any other matter  
8 affecting the minor.

9       Each parent, whether the custodial or non-  
10 custodial parent of the child, has equal access and  
11 the same right obtain all educational records, medical  
12 records, and the right to participate in their  
13 children's school activities unless prohibited by a  
14 court order.

15       The defendants are charged with homicide by child  
16 abuse. The elements of --- I'm now going to go into  
17 the elements of homicide by child abuse. The State  
18 must prove beyond a reasonable doubt that the  
19 defendants caused the death of a child under the age  
20 of 11 while committing child abuse or neglect and that  
21 death occurred under circumstances manifesting an  
22 extreme indifference to human life. Child abuse or  
23 neglect is a knowing act or knowing failure to act  
24 that causes harm to the child's physical health or  
25 welfare.

1 Harm to the child's physical health or welfare  
2 means that the defendant either, Number 1: Inflicted  
3 or allowed to be inflicted on the child physical  
4 injury; Number 2: Failed to supply the child with  
5 adequate food, clothing, shelter, or healthcare and  
6 this failure caused a physical injury or condition  
7 which caused death, or Number 3: Abandoned the child  
8 causing the child's death.

9 The State must also prove criminal intent beyond  
10 a reasonable doubt. Criminal intent is always a  
11 matter that must be determined by the jury from the  
12 circumstances surrounding the situation. Again, there  
13 is no way to prove intent to a mathematical certainty.  
14 The law says that criminal intent may be inferred from  
15 the circumstances shown to have existed. It is not  
16 necessary to establish intent by direct and positive  
17 evidence, but intent may be established by inference  
18 in the same way as any other fact by taking into  
19 consideration the acts of the parties and all the  
20 facts and circumstances of the case.

21 It is up to you to determine what the defendant  
22 intended to do based on the circumstances shown to  
23 have existed. Criminal intent can arise from an  
24 action or a failure to act. The State must also prove  
25 beyond a reasonable doubt that the death occurred

1 under circumstances showing an extreme indifference to  
2 human life.

3 Extreme indifference is in the nature of a  
4 culpable mental state and therefore is akin to intent.  
5 In this state, indifference in the context of criminal  
6 statutes has been compared to the conscious act of  
7 disregarding a risk which a person's conduct has  
8 created or a failure to exercise ordinary or due care.  
9 Extreme indifference has been defined as a mental  
10 state akin to intent characterized by a deliberate act  
11 culminating in death.

12 The second charge before you is unlawful conduct  
13 towards a child. I am now going to go over the  
14 elements of this charge.

15 The defendants are charged with unlawful conduct  
16 towards a child. The State must prove beyond a  
17 reasonable doubt that the defendants had charge or  
18 custody of a child or the parents or guardians of a  
19 child or were responsible for the welfare of a child  
20 and placed the child at an unreasonable risk of harm,  
21 affecting the child's life, physical or mental health  
22 or safety, did cause or cause to be done unlawfully or  
23 maliciously any bodily harm to the child so that the  
24 life or the health of the child was in danger or  
25 likely to be in danger or willfully abandon the child.

1       The final part of my instruction to you is going  
2 to cover some rules for your deliberations. Let me go  
3 over just a few of them with you. You do not serve as  
4 jurors to be partisans or advocates for either side.  
5 You were chosen because both sides, or in this case,  
6 all three sides believe that you could be fair and  
7 impartial and decide the case solely on the evidence  
8 without any bias or prejudice. That means that you  
9 are to use your experiences in life, your good common  
10 sense, and your sense of logic and reason. You bring  
11 those things to bear on what you have heard in the  
12 courtroom and once you do that, you will be able to  
13 determine the truth of this case. Once you have  
14 decided the truth, you take the truth and you apply it  
15 to the law that I have given you. When you have done  
16 that, you will be able to reach a verdict that will  
17 speak the truth of this case.

18       Let say something to you about your  
19 deliberations. Deliberation is defined as careful  
20 consideration weighing up with a view to decision.

21       The genius of our jury system is that it allows  
22 12 good men and women from 12 different backgrounds,  
23 life experiences, and perspectives to consider the  
24 evidence, talk about it, and reach a verdict. We call  
25 them deliberations for a reason. You are to consider

1 the evidence in this case carefully and deliberately,  
2 and discuss it in a calm, thorough and courteous  
3 manner. Remember, you are not a partisan or an  
4 advocate for either side, favoring one side or the  
5 other. You are a judge, you are the judge of the  
6 facts. Your sole interest is to find the truth from  
7 the evidence that you have heard in this courtroom.

8 Listen to the views of all of your fellow jurors.  
9 Consider other people's points and points of view and  
10 talk through and discuss the evidence. Remember if  
11 you are doing something deliberately, you are not a  
12 big hurry, and you should not be in a hurry here.

13 This case is very important to all sides and this is  
14 their only day in court. When you retire to your jury  
15 room, you should discuss the case with your fellow  
16 jurors to reach an agreement if you can. Your verdict  
17 must be unanimous.

18 Each of you must decide the case for yourself,  
19 but you should do so only after you have impartially  
20 considered all the evidence, discussed it fully with  
21 each other, and listened to the views of your fellow  
22 jurors. Do not be afraid to change your opinion if  
23 the discussion persuades you to, but do not come to a  
24 decision simply because the other jurors think that it  
25 is right.

1       It is important that you attempt to reach a  
2 unanimous verdict, but, of course, only if each of you  
3 can do so after having made your own decision. Do not  
4 change an honest belief about the weight and effect of  
5 the evidence simply to reach a verdict. In other  
6 words, do not change your opinion solely for the sake  
7 of reaching a unanimous verdict.

8       Now, there are eight possible verdicts in this  
9 case. Mr. Foreman, I'm going to give you these  
10 verdict forms and explain them to you. As I've told  
11 you before, you must consider each defendant  
12 separately and individually. You also must consider  
13 each charge for each defendant separately and  
14 individually.

15       So I have a verdict form for Mr. Guinyard, and I  
16 a verdict form for Ms. Thompson. They have each  
17 charge listed on them, and then it has Not Guilty and  
18 Guilty as to each charge. Now, there is absolutely no  
19 significance in the order that I put Not Guilty and  
20 Guilty. I have to put it some way, so that's just the  
21 way that I always do it.

22       You are to consider each defendant. This is many  
23 Guinyard's with his name on the top. This is  
24 Ms. Thompson's with her name on the top, separately  
25 and individually and each charge separately and



1 individually. Your verdict must be unanimous. Then,  
2 Mr. Foreman, you will be required to sign and date it.

3 Okay. Now, just a few other housekeeping  
4 matters. Number one, I do not ever need to know the  
5 count, okay. So if you need to communicate with me,  
6 Mr. Foreman, you need to do so in writing, but at no  
7 point during that do you ever need to tell me what the  
8 count is, okay. Your count is for you to keep amongst  
9 yourselves and the court does not need to be aware of  
10 that, okay.

11 Second thing, there have been audio recordings  
12 played and videos played. If you want a computer to  
13 play these things or to watch the video, all you have  
14 to do is let me know and I'll get you a device that  
15 you can play that on. That's completely and totally  
16 up to you. If you need it or you want it, send me a  
17 note, and I'll send in a computer that will allow you  
18 to either play anything that you have heard or watch  
19 the video that was played for you this morning, either  
20 one, okay.

21 Now, let me make sure I got everything. Okay.  
22 Next rule, all twelve of you must be in the room to  
23 deliberate. Okay. So if somebody needs to smoke or  
24 somebody needs to make a phone call or somebody needs  
25 to step out and get a breath of fresh air, the

1 deliberations must stop. So for deliberation to  
2 occur, all twelve of you must be in the room together.

3 So, the last thing, your sign that you are  
4 allowed to deliberate is when all of these exhibits  
5 come back to you, okay. In just a moment I'm about to  
6 release you. You're going to go back to your jury  
7 room, and Mr. Foreman, you're going to take these with  
8 you. You're still not going to be allowed to  
9 deliberate, okay? When my alternate comes out and my  
10 exhibits go in, that will all happen at the same time,  
11 that will be your sign that you may begin  
12 deliberations. If you need to communicate with me, do  
13 so in writing and Mr. Tolbert, Mr. Burgess, they can  
14 show you how to do that and explain to you.

15 Now, I have one more matter of law that I must  
16 take up with the attorneys. Sometimes I forget to  
17 tell you things that I'm supposed to, so they're going  
18 to remind me if I do. If I need to tell you something  
19 else, I will going to bring you back in. If not,  
20 otherwise, do not discuss the case. Once my alternate  
21 comes out and the exhibits go in, you can begin your  
22 deliberations. Thank you very much. I appreciate  
23 your attention.

24 (WHEREUPON, the jury left the courtroom at  
25 3:05 p.m.)

1 THE COURT: All right. Any exceptions to the  
2 charge?

3 MS. McDUFFIE: None from the State.

4 MR. LI: None, Your Honor.

5 MS. PINNOCK: No, Your Honor.

6 THE COURT: All right. Now, two things before we  
7 break. Number one, you all need to get up here and  
8 look at these exhibits and go through the list with  
9 the law clerk and the court reporter so we know what's  
10 in, what's not in and what's going back and what's not  
11 going back. That is attorneys, and the court  
12 reporter, and the law clerk's responsibilities. Do  
13 not --- when I release you in just a second, do not  
14 get up and leave. Come up here and make sure  
15 everybody knows exactly what's going back and what's  
16 not.

17 Okay, the second thing is that you need to make  
18 sure that we have phone numbers, whatever phone number  
19 you want us to call if something happens. That's it.  
20 All right.

21 MS. McDUFFIE: Your Honor.

22 THE COURT: Yes.

23 MS. McDUFFIE: While we're on the record, Exhibit  
24 199, we're not sure that it was ever marked and put  
25 in, Your Honor. If it was, it would be around Kristen

1 Polis's testimony about the search on July 4<sup>th</sup>, it's  
2 not up there. We haven't been able to find it so we  
3 would withdraw that. I don't know ...

4 THE COURT: What is it?

5 MS. McDUFFIE: It's marked --- it would be  
6 something that was done on July 4<sup>th</sup>, a picture of the  
7 home --- of the search that was done on July 4<sup>th</sup>. If  
8 it was marked at all, Your Honor. We're not sure that  
9 it --- we would withdraw State's 199.

10 THE COURT REPORTER: According to my notes, it  
11 was marked and it was entered, but it's not up here.

12 MR. LI: It was just a picture?

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

14 MS. PINNOCK: No objection.

15 MR. LI: No objection.

16 (WHEREUPON, State's Exhibit Number 199 was  
17 withdrawn.)

18 MS. PINNOCK: Your Honor, for the record for Ms.  
19 Thompson, I would again, since all the evidence is in,  
20 I would renew all of previous motions and objections,  
21 especially our motion for a mistrial based on the  
22 defense presented by Mr. Li that violated  
23 Ms. Thompson's right to a fair trial and due process,  
24 and I would renew all our motions and objections at  
25 this point.

1 THE COURT: All right. Very well.

2 MR. LI: Your Honor, we do the same.

3 THE COURT: All those motions and objections and  
4 my rulings are the same based upon my previous  
5 explanations.

6 THE COURT: All right.

7 MS. PINNOCK: And one more thing Judge, I'm  
8 sorry, the phone records. We didn't think those were  
9 going back because they were substituted.

10 MS. McDUFFIE: Your Honor, the large stack is  
11 not.

12 THE COURT: All right. Make sure the exhibits  
13 are right.

14 MS. PINNOCK: All right. Thank you.

15 THE COURT: Make sure my alternate gets pulled  
16 when the exhibits go in.

17 THE BAILIFF: Yes, sir.

18 (WHEREUPON, the jury began deliberations at  
19 3:13 p.m.)

20 (WHEREUPON, the jury sent out at a note at  
21 3:31 p.m.)

22 (WHEREUPON, Court's Exhibit Number 11 was marked  
23 for identification only.)

24 THE COURT: All right. We're on the record.  
25 Everybody is present. We have received a note, which

1 is marked as Court's Exhibit number 11. They either  
2 want a transcript of the April 20<sup>th</sup> call from the  
3 jail. They want a transcript of that, a transcript of  
4 the 911 call or a court reporter transcript, none of  
5 which are available, or it says a CD player to listen  
6 to the call and the 911 call, so do we have some  
7 device we can provide for them to listen to that on?  
8 Okay.

9 Any objection to that, Mr. Li?

10 MR. LI: No, Your Honor.

11 THE COURT: Ms. Pinnock?

12 MS. CAMPBELL: No, sir.

13 THE COURT: Okay. Very well. Give it to one of  
14 the bailiffs. We'll let you know.

15 MR. LI: Your Honor, it's the family court  
16 transcript --- is that on there?

17 THE COURT: No, that's not on there.

18 MR. LI: They didn't ask for that?

19 THE COURT: No. It says, "Can we have a  
20 transcript of the April 20<sup>th</sup> call?"

21 MR. LI: Right.

22 THE COURT: Of course, there isn't one, number  
23 one. "Number two, can we have a transcript of the 911  
24 call," which there isn't one that's been admitted into  
25 evidence.

1 MR. LI: Yes, sir.

2 THE COURT: "Number three, a transcript from the  
3 court reporter or a CD player to listen to the 911  
4 call on the April 20<sup>th</sup> call."

5 MR. LI: I got it.

6 THE COURT: We'll give them that. If they want  
7 more, we can give it to them, but there wasn't  
8 anything on here about a family court transcript, Mr.  
9 Li.

10 MR. LI: My apologies.

11 THE COURT: All right. Thank you very much, and  
12 that's marked as Court's Exhibit Number 11.

13 (WHEREUPON, a short break was taken.)

14 THE COURT: All right. It's my understanding,  
15 Mr. Burgess, that there is a verdict; is that correct?

16 THE BAILIFF: Yes, sir.

17 THE COURT: All right. Here is the deal. We're  
18 going to bring this jury in in just a minute. We're  
19 going to take this verdict.

20 If you cannot control yourself or your emotions  
21 or your response or anything else, you need to get up  
22 and leave now, okay.

23 I understand that this is a very emotionally  
24 trying case regardless of what side you are on, but if  
25 you cannot control your emotions beyond crying, then

1 you will need to exit the courtroom now.

2 If there is any type of outburst or any other  
3 issues that I deem to be inappropriate, more than  
4 likely, you're going to be taken into custody. So  
5 this is a courtroom. This is a very important case  
6 for everybody involved.

7 If you're going to stay in here, you need to  
8 behave. If you can't, you will not offend anybody to  
9 go wait in the hall, and somebody can let you know  
10 what happened.

11 Okay. All right. Bring in the jury.

12 (WHEREUPON, the jury returned to open court with  
13 a verdict at 4:37 p.m.)

14 THE BAILIFF: All jurors are accounted for, Your  
15 Honor.

16 THE COURT: Thank you, Mr. Burgess.

17 VERDICT

18 THE COURT: Mr. Foreman, it was my understanding  
19 you have a verdict; is that correct?

20 THE CLERK: Yes, sir, we do.

21 THE COURT: Is it unanimous?

22 THE FOREMAN: Yes, sir.

23 THE COURT: If you will hand the forms to Mr.  
24 Burgess, and he will pass then to the clerk.

25 Mr. Burgess, thank you. Ms. Pendergrass, you may



1 publish.

2 THE CLERK: Indictment numbers 2013-GS-40-6520  
3 and 6521, the State of South Carolina vs. Robert  
4 Antonio Guinyard, we the jury by unanimous consent  
5 find for the defendant, Robert Antonio Guinyard, as to  
6 the charge of homicide by child abuse on indictment  
7 2013-GS-40-6520, guilty. As to the charge of unlawful  
8 conduct towards a child on indictment 2013-GS-40-6521,  
9 guilty. This is signed foreperson, juror number 133,  
10 May 28<sup>th</sup>, 2014.

11 Indictment numbers 2013-GS-40-6515 and 6522, the  
12 State of South Carolina vs. Courtney Shante Thompson,  
13 we the jury find for the defendant, Courtney Shante  
14 Thompson, as to the charge of homicide by child abuse  
15 on indictment 2013-GS-6515, guilty. As to the charge  
16 of unlawful conduct towards a child on indictment  
17 2013-GS-40-6522, guilty. This is signed foreperson,  
18 juror number 133, May 28<sup>th</sup>, 2014. Mr. Foreman, are  
19 these your verdicts and the verdicts of the entire  
20 jury?

21 THE FOREMAN: They are.

22 THE COURT: Anybody request that the jury be  
23 polled?

24 MR. LI: Yes, sir.

25 MS. PINNOCK: Yes, sir.

1 THE COURT: Okay, ladies and gentlemen, you're  
2 going to be asked two questions. Your juror number is  
3 going to be called out. The questions are: Are these  
4 your verdicts and are these still your verdicts. You  
5 need to respond out loud when your juror number is  
6 called to Ms. Pendergrass's questions.

7 THE CLERK: Juror number 133, are these your  
8 verdicts?

9 THE JUROR: Yes, they are.

10 THE CLERK: Are these still your verdicts?

11 THE JUROR: Yes, they are.

12 THE CLERK: Juror number 143, are these your  
13 verdicts?

14 THE JUROR: Yes.

15 THE CLERK: Are these still your verdicts?

16 THE JUROR: Yes.

17 THE CLERK: Juror number 24, are these your  
18 verdicts?

19 THE JUROR: Yes, they are.

20 THE CLERK: Are these still your verdicts?

21 THE JUROR: Yes, they are.

22 THE CLERK: Juror number 212, were these your  
23 verdicts?

24 THE JUROR: Yes, they are.

25 THE CLERK: Are they still your verdicts?

1 THE JUROR: Yes, they are.

2 THE CLERK: Juror number 3, were these your  
3 verdicts?

4 THE JUROR: Yes.

5 THE CLERK: Are these still your verdicts?

6 THE JUROR: Yes.

7 THE CLERK: Juror number 280, were these your  
8 verdicts?

9 THE JUROR: Yes.

10 THE CLERK: Are these still your verdicts?

11 THE JUROR: Yes.

12 THE CLERK: Juror number 139, were these your  
13 verdicts?

14 THE JUROR: Yes.

15 THE CLERK: Are these still your verdicts?

16 THE JUROR: Yes.

17 THE CLERK: Juror number 289, were these your  
18 verdicts?

19 THE JUROR: Yes.

20 THE CLERK: Are these still your verdicts?

21 THE JUROR: Yes.

22 THE CLERK: Juror number 234, were these your  
23 verdicts?

24 THE JUROR: Yes.

25 THE CLERK: Are they still your verdicts?

1 THE JUROR: Yes.

2 THE CLERK: Juror number 302, were these your  
3 verdicts?

4 THE JUROR: Yes, they are.

5 THE CLERK: Are these still your verdicts?

6 THE JUROR: Yes.

7 THE CLERK: Juror number 295, were these your  
8 verdicts?

9 THE JUROR: Yes.

10 THE CLERK: Are they still your verdicts?

11 THE JUROR: Yes.

12 THE CLERK: Juror number 279, were these your  
13 verdicts?

14 THE JUROR: Yes.

15 THE CLERK: Are they still your verdicts?

16 THE JUROR: Yes.

17 THE CLERK: The jury has been polled, Your Honor.

18 THE COURT: Thank you, ma'am. Anything further  
19 from the State before I release the jury?

20 MS. McDUFFIE: No, Your Honor.

21 THE COURT: Mr. Li?

22 MR. LI: No, Your Honor.

23 MS. PINNOCK: No, Your Honor.

24 THE COURT: All right. Ladies and gentlemen, I'm  
25 going to give you one final instruction and then I'm

1 going to send you back to your jury room. The clerk's  
2 office will give you further instructions from there.

3 Let me say this to you. I know that I said this  
4 to you at the beginning and I said this to you  
5 throughout this week and last week. I want to thank  
6 you sincerely for your service. Your service is  
7 concluded and you have an exemption for the next three  
8 years where you will not be required to serve in  
9 circuit court if you do not wish to.

10 Now, sometimes after trials, lawyers want to  
11 contact jurors about what they did right, what they  
12 did wrong, what worked, what didn't work, things like  
13 that. If you are contacted by a lawyer and you wish  
14 to speak with the lawyer, you may. That is your  
15 decision. If you are contacted by a lawyer or by a  
16 party and you do not wish to speak with them about the  
17 case just calmly say to them, I do not want to talk to  
18 you about this. If anyone continues to harass you or  
19 bother you in any way, shape or form, you pick up the  
20 phone and you call Ms. McBride's office, the Clerk of  
21 Court's office, and a circuit court judge will deal  
22 with that very fast, immediately, and we will resolve  
23 that issue quickly. You have a right not to be  
24 harassed concerning this matter. However, you are now  
25 free to discuss the matter with anybody that you want

1 to. Thank you very much. You may retire to your jury  
2 room. We'll be right back with you.

3 Everyone remain seated why the jury is excused.

4 (WHEREUPON, the jury left the courtroom at  
5 4:42 p.m.)

6 THE COURT: I'm going to go excuse the jurors,  
7 and then we'll come back in for sentencing. Court is  
8 in recess. You don't need to take the defendants out.

9 (WHEREUPON, a short break was taken.)

10 THE COURT: All right. Is the State ready for  
11 sentencing?

12 MS. CAMPBELL: The State is ready.

13 MR. LI: Your Honor, we would request to have  
14 sentencing deferred to give him time to get things  
15 together before ---

16 THE COURT: We're going forward today. Anything,  
17 Ms. Pinnock?

18 MS. PINNOCK: I'm ready to go forward, but I need  
19 to put some things on the record, Your Honor.

20 THE COURT: Okay. You can make your post-trial  
21 motions.

22 MS. PINNOCK: Thank you, Your Honor. If it  
23 please the Court, Your Honor.

24 At this point, I would renew all our previous  
25 motions and objections. Specifically, Judge, I keep

1 coming back to my motion for a mistrial based on the  
2 constitutional violation that Ms. Thompson suffered  
3 from Mr. Guinyard presenting his defense. She has the  
4 right to a fair trial; it's guaranteed to her under  
5 the due process clause of the Constitution. Mr.  
6 Guinyard also had the right to put up a defense, and I  
7 think in weighing the constitutional issues, one was  
8 weighed more than the another. I do think her right  
9 to a fair trial was violated based on the testimony,  
10 the character testimony that was presented against  
11 her, when we never made her character an issue.

12 I understand Your Honor's ruling. I respectfully  
13 disagree with your ruling. I would renew my motion  
14 for a mistrial based on that fact.

15 Your Honor, I would also ask for a mistrial based  
16 on the brevity of deliberations. I think for seven  
17 days of testimony, the jury was out for a little over  
18 an hour, so I would ask for you to grant a mistrial  
19 because of the brevity of the deliberations.

20 THE COURT: All right. Thank you very much.  
21 Your motions are denied. Do you join in those  
22 motions, Mr. Li?

23 MR. LI: We join in those motions, Your Honor.  
24 Additionally we make a motion for a mistrial based on  
25 the fact that we were not allowed to present a full

1 and complete defense. In the closing, Ms. Luck made a  
2 reference to --- Ms. Campbell made reference to  
3 Mr. Guinyard not being able to go to his mother's ---  
4 to his own mother's house who would take him in.

5 Your Honor, I believe we had some evidence which  
6 would have explained those kind of questions, but due  
7 to the fact that we couldn't get into false police  
8 reports, threats of police and prior violence between  
9 them, Your Honor. We just make that motion and also  
10 renew all other motions and objections previously made  
11 during the trial.

12 THE COURT: Okay. That motion is denied. All  
13 previous motions are the same and my rulings and  
14 explanation are the same.

15 All right. Mr. Guinyard, please come forward for  
16 sentencing.

17 All right. Anything from the State?

18 MS. CAMPBELL: Your Honor, as far as his prior  
19 record, starting back in 2006, he was convicted of  
20 unlawful carrying of a weapon, two counts of  
21 disorderly conduct; 2010, disorderly conduct, simple  
22 possession of marijuana; 2012, giving false  
23 information to police, public drunkenness, littering,  
24 disorderly conduct; 2013, trespassing two counts,  
25 disorderly conduct, public drunkenness, trespass, and



1 public drunkenness.

2 That was the extent of his record, Your Honor.

3 THE COURT: All right. Any other testimony you  
4 want me to hear from or consider in sentencing?

5 MS. CAMPBELL: Your Honor, the only other thing,  
6 pursuant to the statute, I believe is any prior  
7 allegations of abuse. I would just note, and this was  
8 excluded from going in front of the jury. However,  
9 there are two --- this would be an applicable offense  
10 against Ms. Thompson, not him, sorry.

11 THE COURT: All right. Mr. Li.

12 MR. LI: Thank you, Your Honor.

13 THE COURT: I need a sentencing sheet, please,  
14 whoever has that.

15 Thank you. Mr. Li, I'll be happy to hear from  
16 you.

17 MR. LI: Thank you, Your Honor. Mr. Guinyard is  
18 28-year-old. He has a tenth grade education. He is  
19 from Atlanta, Georgia. I believe you heard as much of  
20 his character as I could tell you from the testimony  
21 of the witnesses, Your Honor. I know there's some  
22 people here in the courtroom that would like to speak  
23 on Mr. Guinyard's behalf.

24 Your Honor, in terms of sentencing we understand  
25 that this is a serious charge and it's a serious case,

1 but we'd ask that you look at the disparity between  
2 the two defendants, Your Honor.

3 My client had no history of beating [REDACTED] CHILD

4 [REDACTED] We respectfully disagree with the  
5 jury's verdict. We understand it. I know his  
6 mother --- his mother is in the courtroom, Your Honor,  
7 and I know that Ms. Maria --- Ms. Maria Thompson would  
8 like to say a few words.

9 THE COURT: All right. Ms. Guinyard, would you  
10 like to speak?

11 THE MOTHER: Yes.

12 THE COURT: Would you stand up for me, please.  
13 Your name is Patricia Guinyard; is that correct?

14 THE MOTHER: Yes, sir.

15 THE COURT: All right. I'll be more than happy  
16 to hear from you, Ms. Guinyard.

17 THE MOTHER: I'm sorry that this happened to my  
18 grandson, but my son is a good child. Your heart  
19 can't tell you who to trust. He made some mistakes in  
20 getting mixed up with the wrong woman, but he hadn't  
21 done this and he loved his kids and he would never,  
22 never do anything to harm his kids like anyone in this  
23 matter, and I would appreciate it if you would take it  
24 in your heart and in your mind to please give him, you  
25 know --- he would not do this, please. He would not

1 do this. He would not do this.

2 (crying.)

3 THE COURT: Thank you, Ms. Guinyard.

4 MR. LI: And, Your Honor, I think his ---

5 THE COURT: Anybody else? I don't want anybody  
6 to say they haven't been given the opportunity to  
7 speak on Mr. Guinyard's behalf.

8 MR. LI: There are a few people here, Your Honor,  
9 and I believe you heard from them on the witness stand  
10 when they telling you ---

11 THE COURT: Ms. Guinyard, I know that you were  
12 here throughout the majority of the trial, as much of  
13 the trial as you could be and you have continued to  
14 support your son and your grandson in this matter and  
15 in a very difficult situation, and I understand that  
16 and appreciate that. I thank you for being here. I'm  
17 sure that your son does also. I taken note of that  
18 and note of you participation and note of the things  
19 that you did after the July 1<sup>st</sup> incident to continue  
20 to care for the children, so thank you very much.

21 Is there anything you'd like to tell me,  
22 Mr. Guinyard? You do not have to. You are not  
23 required to, but you are welcome to if you would like  
24 to?

25 DEFENDANT GUINYARD: Yes, yes, sir.

1 THE COURT: Okay. I'll be happy to hear from  
2 you.

3 DEFENDANT GUINYARD: I'd like to first apologize  
4 to my kids for not being there for the last ten  
5 months. I'd also like to apologize to my mother and  
6 my other --- my baby mother's family. I'm an innocent  
7 man, and I'm sorry that this happened. I tried my  
8 best to do what I could do. I just can't do nothing  
9 about it, and I just ask you to have mercy on me, have  
10 mercy on me in my sentence.

11 THE COURT: Okay. Anything further, Mr. Li?

12 MR. LI: No, Your Honor.

13 THE COURT: All right. You all have a seat for  
14 just a second. Bring up Ms. Thompson, please.

15 All right. Ms. Campbell.

16 MS. CAMPBELL: May it please the Court, Your  
17 Honor. As far as this defendant's prior record, she  
18 does have a conviction for assault and battery of a  
19 school employee back in 2002.

20 Your Honor, as far as any prior allegations of  
21 abuse pursuant to the statute, she did have two older  
22 children that were mentioned in this case, but not  
23 what happened to them. I believe at least one of them  
24 was placed in foster care. I know that she did not  
25 have rights to either one of them. She gave up her

1 rights to the second oldest, the older girl, at the  
2 same time that CHILD was put back in her care. She  
3 had been in foster care, as well or in the care of  
4 another person at that point.

5 THE COURT: All right. Thank you. Ms. Pinnock?

6 MS. CAMPBELL: Thank you, Your Honor. If it  
7 please the court. Your Honor, since it was brought  
8 up, her older two children were removed from her house  
9 because her house got shot at. Those were the  
10 circumstances leading up to those children being  
11 removed. It was nothing that they had accused Ms. ---  
12 that they accused Courtney of doing.

13 Your Honor, Courtney is 25. You know, she  
14 maintains her innocence to the homicide charge. She  
15 understands the jury convicted her. She understands  
16 what that means and she understands what steps we're  
17 going to take after this, but she maintains her  
18 innocence on the homicide charge. You know, she is a  
19 mother of seven. To say she made mistakes when  
20 dealing with CHILD is an understatement.

21 Judge, I don't believe that she killed her son.  
22 She knows that she didn't kill her son, so all we can  
23 say as far as sentencing is we are asking you to  
24 have --- show some mercy. She understands what the  
25 what the ranges are. She understands what Your Honor

1 does have the ability to do. We're just asking that  
2 you show some mercy.

3 THE COURT: Does anybody want to speak on her  
4 behalf? I know some of her sisters are here. If you  
5 want to speak, just stand up and you'll be given an  
6 tunnel to address the court.

7 Yes, ma'am, tell me --- remind me of your name,  
8 please.

9 THE SISTER: Maria Thompson.

10 THE COURT: Yes, ma'am, Ms. Thompson, I'll be  
11 more than happy to hear from you.

12 THE SISTER: I just want everybody to know that  
13 regardless of what was going on, it was wrong, but  
14 Courtney is my baby sister, and I know --- I don't  
15 need to look at that person. I remember the little  
16 girl with the long pony tail, and I just know that  
17 it's going to be different. She is a good person. I  
18 just want to tell her that I love her.

19 (crying.)

20 THE COURT: Thank you, ma'am. Ms. Thompson, I  
21 know that you and your sisters have --- and your  
22 mother has been here throughout as much of the trial,  
23 when the sequestration order wasn't in effect, as  
24 possible, and I appreciate and understand the  
25 difficult position that you and your family was in

1 during this trial. You lost a nephew, you referred to  
2 Mr. Guinyard almost as a brother-in-law, to which you  
3 all obviously cared about and had feelings for and  
4 your sister also in this case, so I do understand that  
5 and understand the difficult predicament of the  
6 family.

7 The one request that I would make of both  
8 families is that between these two individuals, there  
9 are four remaining living children, and Ms. Thompson  
10 has two other children besides that; is that correct,  
11 Ms. Thompson?

12 DEFENDANT THOMPSON: Yes, sir.

13 THE COURT: Okay. And I ask that those children  
14 not be left out there untaken care of. That's very  
15 important.

16 All right, is there anything you'd like to tell  
17 me, Ms. Thompson? You do not have to, but you're  
18 perfectly welcome to if you would like to.

19 DEFENDANT THOMPSON: I just want to tell you,  
20 Your Honor, that I did not kill my baby. I did not  
21 take my baby's life. I didn't.

22 SENTENCING:

23 THE COURT: Thank you, ma'am.

24 All right. The sentences on Mr. Guinyard are  
25 that he be committed to the State Department of

1 Corrections for a determinate term of life without  
2 parole and ten years on the unlawful conduct of a  
3 child. His sentences are to be run concurrent.

4 Ms. Thompson, she is sentenced to the State  
5 Department of Corrections for life without parole and  
6 ten years on the unlawful conduct towards a child.  
7 They are to be run consecutive. Credit for time  
8 served for time served, central registry of child  
9 abuse and neglect.

10 Thank you very much.

11 (WHEREUPON, Court was adjourned.)  
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## CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA       )  
                                                  )  
COUNTY OF RICHLAND            )

I, Vicki Everhart, Transcriptionist for Karen Ambroziak, Official Court Reporter for the 5<sup>th</sup> Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 19<sup>th</sup> through 28<sup>th</sup> days of May, 2014.

July 25, 2014

/s/ Vicki Everhart

Vicki Everhart,  
Transcriptionist for

Karen Ambroziak,  
Circuit Court Reporter

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal From Richland County  
Court of General Sessions

The Honorable Robert E. Hood., Circuit Court Judge

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APPELLATE CASE NO. 2014-001198  
General Sessions Case Nos.: 2013GS4006515, 2013GS4006522

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THE STATE OF SOUTH CAROLINA,  
RESPONDENT,  
  
V.  
  
COURTNEY SHANTE THOMPSON,  
APPELLANT.

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**FINAL BRIEF OF APPELLANT**

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**Other Authorities**

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**STATEMENT OF THE ISSUES ON APPEAL**

- I. DID THE TRIAL COURT ERR IN DENYING COURTNEY'S MOTION FOR A DIRECTED VERDICT IN VERDICT IN THAT THE STATE FAILED TO PRESENT SUBSTANTIAL CIRCUMSTANTIAL EVIDENCE?
- II. DID THE TRIAL COURT ERR IN DENYING COURTNEY'S MOTION TO EXCLUDE GRAPHIC PHOTOGRAPHS OF THE CHILD WHICH WERE CALCULATED TO AROUSE THE SYMPATHIES AND PREJUDICES OF THE JURY?

**STATEMENT OF THE CASE**

On July 2, 2013, the Appellant, Courtney Shante Thompson, and the co-defendant, Robert Antonio Guinyard, Sr. (Antonio), were arrested and charged with Unlawful Conduct Towards a Child and Homicide by Child Abuse in the death of their four year old child (Child) (R. 1327). Several months later, on October 16, 2013, the Richland County Grand Jury issued two true-billed indictments against Courtney: 1-Homicide by Child Abuse, 2013GS4006515 (R. 1335) and 2-Unlawful Conduct Towards a Child, 2013GS4006522 (R. 1336). Courtney and Antonio, with their separate Counsel, were jointly tried May 19-28, 2014 before a jury and the Honorable Robert E. Hood, in the Richland County Court of General Sessions (R. 4:25-5:11). The jurors returned a verdict of guilty on both counts contained in the indictment for both Courtney and Antonio (R. 1267). And on May 28, 2014, the Honorable Robert E. Hood sentenced Courtney to the State Department of Corrections for life without parole on the charge of Homicide by Child Abuse, and ten years on the charge of Unlawful Conduct Towards a Child, to run consecutively. (R. 1283). Antonio was sentenced accordingly; however, his sentence is to run concurrently (R. 1282).

Courtney filed a timely appeal to the South Carolina Court of Appeals.

### STATEMENT OF THE FACTS

It was in the very early morning hours of June 29, 2013, when Courtney Shante' Thompson (Courtney) was taken by ambulance to Richland Memorial Hospital (R. 1096.) to give birth to the newest addition to her family. Baby A was born 4:17 a.m. to Courtney and Robert Antonio Guinyard, Sr. (Antonio) (R. 822). While Courtney was in the hospital for several days, she left the children, Girl M, Girl Mi, Girl Z and the Victim (Child) in the care of their father, Antonio (R. 1097). Prior to Courtney's departure to the hospital, she made arrangements for family and friends to pick up the girls from the house. On June 29, 2013, Angela Metze picked up the last child , Girl Mi. Though Angela did not tell Antonio what time she would come by the house to pick up Girl Mi, when she arrived Antonio was already outside with Girl Mi and all Angela did was to open the [*car* ] door for Girl Mi. Angela did not see the Child that day. The Child was then home alone with his father until Courtney was discharged from the hospital (R. 593:10-596:13; 1097:14-21).

While Courtney was in the hospital though, she said Antonio called her and allowed her to speak to the Child. This is Courtney's testimony: "Antonio called me and he said, "Baby, this [f\*\*\*\*\*] boy wants to talk to you," and I told him that I was in pain. Can he call me back later. He said, "No, no, just talk to this [f\*\*\*\*\*] boy." I got on the phone with my baby then. He asked where I was at. I told him I was in the hospital, and he said, "Mama, can you come and get me." I said, "No son. I just had a baby. I can't come right now." I asked him why. I asked him why, what's wrong. He said my daddy won't stop hitting me with the stick." (R. 1098:14- 1099:8). Courtney said she then spoke with Antonio and asked him why was he hitting the

Child, and Antonio responded that the Child was lying, and the Child was urinating all over the house and in his clothes. (R. 1097:19-23; 1098:1-3). Courtney is discharged from the hospital the same day and goes home to the Child (R. 1098:7-14).

While Courtney is preparing to leave the hospital, Antonio leaves four-year-old Child home alone and walks to the store to, “pull some money off of the card.” He purchased some beer and cigarettes and walked back to the house. He drank the beer and fell asleep in the bed (R. 1037:3- 1038:7).

Courtney arrived home (104 Beaver Brook Road, Columbia, SC) from Richland Memorial Hospital (Palmetto Health- Richland) in a Blue Ribbon Taxi on July 1, 2013 (R. 782:17-783:8; 878:20-22). The taxi cab driver honked the horn, but Antonio did not immediately come out of the house. Courtney either got out of the cab with the baby and knocked on the door (7-1-2013, Courtney’s Statement, R 1100:10-1101:12) or the taxi cab driver blew the horn again and Antonio came out of the house, got the baby and then returned to the cab to get Courtney’s other belongings (Tr. 1100:24-1101:6).

Something had happened or was happening in the home. Courtney’s recall of the events leading up to her 911 call for Child differs in her original statements to law enforcement (7-1, 2-2013, Courtney’s Statement, R. 1285) and her in-court testimony (R. 1090:20-1113:16). She explains that she made the differing statements to protect the kids’ father, Antonio; she tried to protect him from what she saw. (R. 1111:19-1113:1). She went on to give the account of what happened when she entered her home. Antonio took the baby and she asked him the whereabouts of the Child.



Antonio only responded that he was asleep. Courtney walked through the house and found the Child in the back room lying on the floor, where he sleeps because his father said he cannot sleep in a bed because he wets the bed (R. 1035:24-1036:13). When Courtney opened the door to the room the stench of urine engulfed her. Her eyes turned to the floor, and to her horror, she saw the Child lying on the floor in a puddle of urine, naked (R. 1101:10- 1102:8). Courtney went over to the Child and gently shook him, but he did not respond. She shook him again, and he looked up at her and said, "Mama." Courtney then tried to get him to stand up, but he fell back down to the floor, and she asked Antonio why was he lying in a puddle of piss. Courtney then said Antonio turned on the light to the room that she and the Child were in and said, "This boy done pissed," yanked the Child up by his arms, took him into the bedroom she and Antonio shared, and grabbed a white pole and beat the Child with it (R. 1103:17-1104:6). Courtney told Antonio to stop or she was going to call the police (R. 1104:7-15). She then said she and the Child were trying to clean up the urine from the floor, but it would not come out. Courtney then said the Child said he wanted to lie down and he was not, "acting right," but Antonio then made the Child go in the kitchen and hold his hands up. Courtney then went to take a shower. (R. 1104:17-1106:23). As she was going to the shower, Antonio called her. The Child asked her if he could lie down. Courtney told him to go to her bedroom and lie down, but the Child "passed out" and hit his head on the corner of the door. (R. 1107:11- 1108:7) She picked him up and he went limp in her arms. She rushed the Child to the front room, sat down with him in her lap and called 911. Antonio was nowhere in sight. (R. 1108:10-1109:4). While Courtney was on the phone with the 911 Operator, the

Operator was instructing her on how to perform CPR on the Child, but Antonio was not there to help her.

The Emergency Medical Services paramedics arrived at the house about 6:15 in the evening. Courtney opened the door for them. The paramedic saw a small male child lying on the floor in the living room. The Child was unresponsive. He did not have a pulse. He was not breathing. (R. 41:13- 44:6). Based upon his own testimony, during this traumatic event, the Child's father hid in the closet with the newborn baby. (R. 1045:24- 1046:8). Though the Child had been pronounced dead, his father remained hidden in the closet (R. 200:17- 201:1; 1085:6-21). The child's cause of death was determined to be extensive soft tissue hemorrhage due to multiple acute and healing blunt force injuries due to non-accidental trauma (R. 746:1-2)

Courtney and Antonio were transported to the Richland County Sheriff's Department for questioning (R. 804:21-24) where Courtney gave her initial statement to law enforcement (R. 820:21-24; R 1285). She was released to return home and on July 2, 2013, she was instructed to return to the Richland County Sheriff's Department Headquarters for more questioning. She complied. She and Antonio were arrested on charges of Unlawful Conduct Towards a Child, and Homicide by Child Abuse (R 1327- 1328). Several months later, on October 16, 2013, the Richland County Grand Jury issued two true-billed indictments against Courtney: 1-Homicide by Child Abuse, 2013GS4006515 (R. 1335) and 2-Unlawful Conduct Towards a Child, 2013GS4006522 (R. 1336).

## ARGUMENT

### I. DID THE TRIAL COURT ERR IN DENYING COURTNEY'S MOTION FOR A DIRECTED VERDICT IN THAT THE STATE FAILED TO PRESENT SUBSTANTIAL CIRCUMSTANTIAL EVIDENCE?

Courtney argues that The Trial Court erred in denying her motion for a directed verdict at the close of the State's case-in-chief and again at the close of all of the evidence in that the State failed to present any direct or substantial circumstantial evidence to prove that she harmed the Child.

There is a well-settled standard for directed verdicts when the State's case is based not on direct, but on circumstantial evidence. If the State relies exclusively on circumstantial evidence to prove guilt, that evidence must be "substantial" to justify denying the motion. State v. Odems, 395 S.C. at 586, 720 S.E.2d at 50 (2011). (See also State v. Cherry, 361 S.C. 588, 593, 606 S.E.2 475, 478(2000), the Court ruled that, "A defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged."; and in State v. Rogers, 405 S.C. 554, 563, 748 S.E.2d 265, 270 (Ct. App 2013), the court defines, "direct" evidence, "Direct evidence is based on personal knowledge or observation and if true, proves a fact without inference or presumption"). And in one of the supreme court's more recent decisions, the Court ruled, "While undoubtedly present at the scene, the only inference that can be drawn from the State's case is that one of the two co-defendants inflicted the victim's injuries, but not that *Appellant* harmed the victim. Thus, we reverse the trial court's refusal to direct a verdict of acquittal because the State did not put forward

sufficient direct or substantial circumstantial evidence of Appellant's guilt." State v. Hepburn, 406 S.C. 416, 440, 763 S.E.2d, 402, 424 (2013).

On July 2, 2013, the Appellant, Courtney Shante Thompson, and the co-defendant, Robert Antonio Guinyard, Sr. (Antonio), were arrested and charged with Unlawful Conduct Towards a Child and Homicide by Child Abuse in the death of their four year old child, RG (Child) (R. 1327). Several months later, on October 16, 2013, the Richland County Grand Jury issued two true-billed indictments against Courtney: 1-Homicide by Child Abuse, 2013GS4006515 and 2-Unlawful Conduct Towards a Child, 2013GS4006522 (R.1336-1337).

The relevant statutes are:

**Homicide by Child Abuse-** S.C. Code Ann § 16-3-85(B)(1)

(A) A person is guilty of homicide by child abuse if the person:

(1) causes the death of a child under the age of eleven while committing child abuse or neglect, and the death occurs under circumstances manifesting an extreme indifference to human life; or

(2) knowingly aids and abets another person to commit child abuse or neglect, and the child abuse or neglect results in the death of a child under the age of eleven.

(B) For purposes of this section, the following definitions apply:

(1) "child abuse or neglect" means an act or omission by any person which causes harm to the child's physical health or welfare;

(2) "harm" to a child's health or welfare occurs when a person:

(a) inflicts or allows to be inflicted upon the child physical injury, including injuries sustained as a result of excessive corporal punishment;

(b) fails to supply the child with adequate food, clothing, shelter, or health care, and the failure to do so causes a physical injury or condition resulting in death; or

(c) abandons the child resulting in the child's death.

and

**Unlawful Conduct Towards a Child-** S.C. Code Ann § 63-5-70(A)

A) It is unlawful for a person who has charge or custody of a child, or who is the parent or guardian of a child, or who is responsible for the welfare of a child as defined in Section 63-7-20 to:

(1) place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety;

(2) do or cause to be done unlawfully or maliciously any bodily harm to the child so that the life or health of the child is endangered or likely to be endangered; or

(3) wilfully abandon the child.

Courtney and Antonio, with their separate Counsel, were jointly tried May 19-28, 2014 before a jury and the Honorable Robert E. Hood, in the Richland County Court of General Sessions (R. 4:25-5:11). The jurors returned a verdict of guilty on both counts contained in the indictment for both Courtney and Antonio (R. 1267:18-1271:17).

This case bears striking similarities to the State v. Hepburn, Id., case in that the codefendants were tried jointly; they were both charged with unlawful conduct towards a child and homicide by child abuse; both codefendants had the opportunity to be alone with the Child victim; Appellant Hepburn, as did Courtney, put up a defense to refute the testimony of the codefendant; and Appellant Hepburn's contention was, as is Courtney's, the State has failed to prove that **she** inflicted the harm that caused the Child's death. (see also State v. Bostick, 392 S.C. 134, 708 S.E.2d 774(2011) The evidence presented by the State raised, at most, a mere suspicion that Bostick committed this crime. Under settled principles, the trial court should grant a directed verdict motion when the evidence presented merely raises a suspicion of guilt. *State v. Cherry*, 361 S.C. 588, 594, 606 S.E.2d 475, 478 (2004). Therefore, we find the circuit court erred in failing to direct a verdict in favor of Bostick; State v.

Odems, Id at 141, The circumstantial evidence presented by the State does not reasonably tend to prove Petitioner's guilt, and fails this Court's well-settled directive that circumstantial evidence that is not substantial is insufficient to go to a jury. Thus, we reverse the court of appeals' decision affirming Petitioner's 2005 convictions.; State v. Lane, 406 S.C. 118, 122 (2013), 749 S.E.2d 165, 169 (2013)- The State's case against Lane consisted solely of circumstantial evidence...Viewing the foregoing evidence in the light most favorable to the State, we find the State did not present substantial circumstantial evidence to reasonably prove Lane was the person who committed the burglary. At most, the evidence the State presented raises only a mere suspicion that Lane committed the crime. Accordingly, we find the trial court erred by failing to grant Lane's directed verdict motion;

In this case, Courtney argues that the State relies primarily upon the following evidence: (1) Courtney's initial statement that places she and the codefendant, Antonio, as the only persons with the child when the Child died (R 1313); (2) Codefendant Antonio's statement that places he and Courtney as the only persons at their home when the Child dies (R.1288); (3) Courtney's revised statement to law enforcement that implicates Antonio in the death of their child (R 1313); (4) a video reenactment of Courtney explaining how the Child may have fallen and injured himself, and placing she and Antonio as the only persons at the home when the Child died (R. 380:10-389:10); Testimony from Courtney's sister, Crystal, that approximately *a year* prior to the Child's death, she saw Courtney hit the Child with a belt, cord or her hand. Though certainly excessive, a single act of spanking a child with a belt does not rise to the level of extreme indifference to human life (R. 119:13-

120:15; 112:1-24); (6) Testimony from Dr. Olga Rosa, a child abuse pediatrician with the University of South Carolina School of Medicine revealed that the Child had been abused over a period of time, but in her opinion, could not confirm how the injuries occurred or by whom (R. 448:16-499:11); (7) Dr. Amy Durso, a forensic pathologist with Professional Pathology Services determined the Child's cause of death, but not how he died or who may have caused his death. (R 704:10-754:25); and (8) There is testimony by the lead investigator, Travis Holdorf, and others that there was blood strewn about the house and even on a white stick or pole. But there is no direct evidence or substantial circumstantial evidence from the State of the length of time that blood had been on the wall and door, what were the facts and circumstances surrounding the stains or whether or not the stains were a result of accident or incident. (R. 71:8-72:2; 362:20-365:15; 522:14-523:18).

In light of the foregoing facts and case law comparisons, Courtney contends that the Trial Court erred in denying her motion for a directed verdict at the close of the State's case-in-chief and again at the close of all of the evidence in that the State failed to present any direct or substantial circumstantial evidence to prove that *she* harmed the Child and *her* actions led to the death of the Child. She asks that this Honorable Court reverse her conviction.

II. DID THE TRIAL COURT ERR IN DENYING COURTNEY'S MOTION TO EXCLUDE GRAPHIC PHOTOGRAPHS OF THE CHILD WHICH WERE CALCULATED TO AROUSE THE SYMPATHIES AND PREJUDICES OF THE JURY?

Courtney argues that the Trial Court erred in denying her motion to exclude graphic and shocking photographs which were calculated to arouse the sympathies and prejudices of the jury in violation of precedential law and Rule 403 of the South Carolina Rules of Evidence.

Courtney contends that the case of State v. Middleton, 288 S.C. 21, 339 S.E.2d 692 (1986) is on point in comparison to the facts of her case. In Middleton, Id., the court analyzes Middleton's argument on appeal and rules:

Next, appellant argues the lower court erred in admitting color autopsy photographs of one of the victims. Three depicted the victim's scalp pulled away from her skull. One showed her surgically opened vaginal cavity exposing a large amount of seminal fluid. Before the photographs were introduced, appellant offered to stipulate to any facts shown by the photographs; however, the solicitor refused to accept any stipulations.

The State argues the photographs were properly admitted to (a) corroborate forensic testimony; (b) show the violence of the murders; and (c) corroborate statements made by appellant. Middleton, on the other hand, contends the photos contained no disputed information, and could have been proved by other testimony. The State candidly admits the photographs were not essential to the prosecution... Although photographs may be used to corroborate other evidence, *See State v. Robinson*, 201 S.C. 230, 22 S.E.2d 587 (1942), it is well-established that photographs calculated to arouse the sympathies and prejudices of the jury are to be excluded if they are irrelevant or unnecessary to the issues at trial. *State v. Edwards*, 194 S.C. 410, 10 S.E.2d 587 (1940). Appellant's counsel offered to stipulate to any relevant information contained in the photographs, and it is clear the information was not really at issue. Furthermore, the testimony of the forensic pathologist negated any arguable evidentiary value of the photographs. The prejudice created by the photographs clearly outweighed *any* evidentiary value. *See State v. Waitus*, 224 S.C. 12, 77 S.E.2d 256 (1953); *See also State v. Edwards*.... Reversed and remanded.



Courtney's facts are similar. When the State sought to introduce photographs of the Child in his home, unclothed, lifeless, and with his genitals exposed, and the gruesome autopsy photographs depicting the Child's body sliced into parts, Counsel objected to their admission on the grounds that any probative value of the crime scene and gory autopsy photos was far outweighed by the danger of unfair prejudice and needless presentation of cumulative evidence. However, the Court overruled Counsel's objection and the photographs were shown to the jurors. (R. 293:21-300:10; 353:9-354:1; 684:20--685:19; 687:14-688:2; 695:24-696:16; 713:24-714:6; 715:23-716:4; 717:1-10, 23-25; 723:3-11). Additionally, when the State published some of the autopsy photographs to the jurors, one of the jurors was so overcome with emotion that the juror ducked down below the barrier in the courtroom and covered her eyes. Counsel moved the court for a mistrial on the grounds that the juror's actions had a high probability of having a negative effect on the other jurors and the entire jury was tainted. The court added,

*...I actually moved, for the record, to the back of the jury box specifically to watch that juror and see what she was doing or what she was not doing...Her head was down at times, but I mean, the jurors are not required to stare at every single thing that either side picks up or puts up in front of them."* (R. 752:12-753:8)

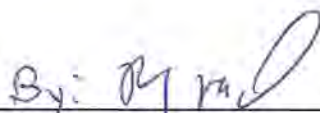
The Court denied Counsel's motion for a mistrial (R. 751:7-754:1). Finally, when the State introduced photographs to the Court and Counsel for a ruling from the Court on admissibility, the Court made this comment on the general nature of the photographs,

*THE COURT: Okay. All right. Everybody stop talking. 232, 233, 237, 238, 239, 234, 246, 235, 236, 243, and 244 are all out. Those are the most disgusting photos I've ever seen in my entire life. I mean no disrespect to Dr. Durso. She was doing her job by documenting that and taking that, and understanding what the body has, but when I saw those photos for the first time, I was in complete and total shock, and I mean, I remember the very first case I ever worked on was a small child who had been beaten with a drop cord. I mean, I've seen enough disgusting crime scene photos in my life where most of them do not have much affect on me, and those photos are all just --- they're overwhelming,... (R. 697:22- 699:12)*

Based upon the foregoing and Rule 403 of the South Carolina Rules of Evidence which states, “Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence,” Courtney contends that any probative value of the graphic crime scene and autopsy photographs was far outweighed by the danger of unfair prejudice and needless presentation of cumulative evidence, and should have been excluded by the trial court. Courtney requests that this Court reverse her conviction.

## CONCLUSION

For the reasons set forth above, the trial court erred when it denied Courtney's motion for a directed at the close of the State's case and at the close of all of the evidence. The trial court also erred when it denied Courtney's motion to exclude graphic photographs which had no probative value and their only purpose was to inflame the emotions of the jury. Therefore, this Honorable Court should reverse Courtney's conviction on each charge.



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STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal From Richland County  
The Honorable Robert E. Hood., Circuit Court Judge

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APPELLATE CASE NO. 2014-001198

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THE STATE OF SOUTH CAROLINA,  
  
RESPONDENT,  
  
V.  
  
COURTNEY SHANTE THOMPSON,  
  
APPELLANT.

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**CERTIFICATE OF COUNSEL**

---

Counsel for appellant certifies that this Final Brief of Appellant contains no material which is irrelevant to this appeal, and complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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December 8, 2015  
Lexington, South Carolina

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Richland County  
Robert E. Hood, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

COURTNEY SHANTE THOMPSON,

APPELLANT

APPELLATE CASE NO. 2014-001198

Consolidated Case For Record On Appeal:  
State v. Robert Guinyard, Sr.,  
Appellate Case No.: 2012-001203

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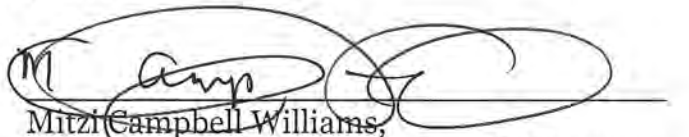
**FINAL BRIEF OF APPELLANT  
CERTIFICATE OF SERVICE**

---

I certify that a true copy of the Final Brief of Appellant in the above-referenced case has been served upon

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SUBSCRIBED AND SWORN TO before me  
This 8<sup>th</sup> day of December, 2015

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: October 30, 2022

ORIGINAL

## THE STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED

APPEAL FROM RICHLAND COUNTY

DEC 21 2015

Court of General Sessions  
Robert E. Hood, Circuit Court Judge

SC Court of Appeals

Court of Appeals Case No. 2014-001198

The State of South Carolina,

Respondent,

v.

Courtney Shante Thompson,

Appellant.

Final Brief of Respondent

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## THE STATE OF SOUTH CAROLINA

In The Court of Appeals

## APPEAL FROM RICHLAND COUNTY

Court of General Sessions  
Robert E. Hood, Circuit Court Judge

Court of Appeals Case No. 2014-001198

The State of South Carolina,

Respondent,

v.

Courtney Shante Thompson,

Appellant.

Final Brief of Respondent

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## STATEMENT OF ISSUES

### I.

Inasmuch as the State presented substantial circumstantial evidence of Appellant's guilt on both homicide by child abuse and unlawful conduct toward a child, did the trial court err in denying Co-Defendant's motion for directed verdict

### II.

Inasmuch as the photographs offered by the State were highly probative to the issues of whether Victim was abused or neglected, whether the abuse or neglect was the caused his death, and whether his condition would have been apparent, and their probative value substantially outweighed the danger of unfair prejudice, did the trial court err in admitting them?

## STATEMENT OF THE CASE

Appellant was indicted for the offenses of homicide by child abuse (Indictment 2013-GS-40-06520) and unlawful conduct toward a child (Indictment 2013-GS-40-06521). She pled not guilty and was tried with his Appellant, Robert Antonio Guinyard, before a jury in Richland County on May 19 – 28, 2014. At the conclusion of her trial, the jury found her guilty as charged. The trial court thereafter sentenced her to a sentence of life imprisonment without parole on the homicide by child abuse conviction and a concurrent ten-year term of incarceration of the conviction for unlawful conduct toward a child. The trial court also ordered her to be placed on the Central Registry of Child Abuse and Neglect.

This appeal follows.

## STATEMENT OF FACTS

Victim was born on April 18, 2009 to Appellant and her Co-Defendant<sup>1</sup>. His premature birth, as well as the very limited prenatal care Appellant obtained, led to health issues<sup>2</sup> which resulted in his stay in the intensive care unit after his birth. When he was stable, he was released. He was eight days old. (ROA p. 110, line 20 – p. 111, line 13; p. 129, line 15 – p. 130, line 11; p. 456, line 16 – p. 458, line 8.) While he was in the hospital, he was diagnosed with congenital hydronephrosis, which can sometimes result in obstruction in the urethra. An appointment with a pediatric urologist was made for after he was discharged; the appointment was not kept. Later efforts by the hospital to reach his parents about other tests results were unsuccessful. (ROA p. 458, line 9 – p. 459, line 16.) Three days after Victim was discharged from the hospital – when he was 11 days old – he was brought into the emergency room for follow up on a condition with his hands; at that time, he was spitting up a lot because he was being overfed. (ROA p. 460, line 19 – p. 461, line 3.) Victim was not seen again until he was brought in for his first well child check-up in June 2009; such check-ups should be done two weeks after birth.

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<sup>1</sup> Describing their relationship, Appellant's sisters, Crystal and Natalie, testified that Co-Defendant would do whatever Appellant said. (ROA p. 135, lines 15-20; p. 290, lines 1-3.) Crystal said that, while it was rare, Appellant had kicked Co-Defendant out of the home a couple of times. (ROA p. 143, lines 14-21.) Crystal also testified that Appellant not only complained that Co-Defendant did not punish Victim, but she would also get angry about it. Appellant also told Crystal that Co-Defendant acted like he was afraid of Victim. (ROA p. 145, line 18 – p. 147, line 4.) Natalie also said that Co-Defendant saw the things that Appellant did. (ROA p. 290, lines 4-5.)

<sup>2</sup> At trial, the State presented the testimony of Dr. Olga Rosa, the Chief of the Division of Forensic Pediatrics for the U.S.C. School of Medicine and Medical Director of the South Carolina Child Abuse medical Response System. She was qualified as an expert in the field of child abuse pediatrics. (ROA p. 449, lines 4-23; p. 452, lines 13-22.) Dr. Rosa testified that she had received Victim's medical records from birth through September 2012, as well as photographs taken around the time of his death and the pathology report. She reviewed all of these documents in order to have a complete history of Victim up to that point. (ROA p. 453, line 8 – p. 455, line 16.) She testified as to Victim's physical, medical, and developmental history.

(ROA p. 459, line 16 – p. 460, line 2.)

On June 18, 2009, Victim was placed in foster care. (ROA p. 461, lines 6-14; p. 585, lines 9-19.) From that point, Victim had regular pediatric check-ups and, at his 15-month well child check-up, Victim was where he should have chronologically been in his development. (ROA p. 562, line 15 – p. 563, line 6.) When he was 18 months old, a brain M.R.I. was done because his foster mother was concerned with his speech and because he had a large head circumference. The M.R.I. showed that the structure and the anatomy of his brain were fine. He was “big, chunky, and healthy” – he was above the 97% percentile for everything on all of the growth charts. As a result of recommended speech therapy<sup>3</sup> and a little bit of occupational or physical therapy, by March 26, 2012, Victim was talking in two or three word sentences, was socialized, and he was toilet trained. He was on par with his peers and had reached his potential for his age.<sup>4</sup> (ROA p. p. 174, lines 16-23; p. 462, line 6 – 833, lines 7-11; p. 466, line 1 – p. 467, line 15.) A genetic consult reveal no metabolic or medical cause that would affect his development. Victim was not autistic. (ROA p. 465, lines 2-25.) Victim was set up to be enrolled in a three-year-old program at Richland I. (ROA p. 468, lines 11-17.)

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<sup>3</sup> Dr. Rosa testified that speech is the first thing that goes in children in foster care. Children in foster care have trouble developing speech. Victim was in different foster care settings initially, but from sometime in late 2010 until he was returned to his parents in 2012, Victim was with a solid foster family and he flourished. (ROA p. 464, lines 6-24.)

Denise Jones, Victim’s foster mother from August 2009 through April 6, 2012, testified that, when he came to her at 15 months, he was not doing much crawling or moving around, but once she started working with him, he began to crawl and walk and became more active. She also said that, by the time he left her, his speech was improving well and he was completely toilet trained. (ROA p. 570, line 13 – p. 573, line 7.) A couple of days after Victim was returned home, Ms. Jones talked to Appellant who reported that Victim was not using the bathroom. Ms. Jones told her she did not understand that and told her to let her know if she needed any help. Ms. Jones never heard from Appellant again. (ROA p. 573, line 8 – p. 5744, line 4.)

<sup>4</sup> Medical and therapeutic services were provided for Victim at no cost to his parents or foster parents. (ROA p. 467, line 16 – p. 468, line 10.)

On April 6, 2012, Victim was returned to his parents, Appellant and Co-Defendant. (ROA p. 111, line 9 – p. 112, line 6; p. 150, lines 4-7; p. 243, lines 8-13; p. 468, lines 22-25; p. 585, lines 9-19.) At that time, he was a happy, healthy little boy, who just wanted to play and talk. He looked to be well nourished. (ROA p. 589, line 19 – p. 590, line 6.)

After Victim had been returned,<sup>5</sup> one of Appellant's sisters, Crystal Thompson, moved in with her and Co-Defendant. While living with them, Crystal saw or witnessed Appellant beat Victim with clothes hanger, coat hanger, drop cord, cable cord,<sup>6</sup> her hand, and her knees. (ROA p. 111, line 24 – p. 114, line 9; p. 134, line 16 – p. 135, line 1; p. 140, line 25 – p. 141, line 3; p. 148, line 9 – p. 150, line 3; p. 244, lines 3-5.)

The coat hanger beating occurred sometime before the summer of 2012. Crystal was present when Appellant and Victim visited the home of their other sister, Natalie. Once there, Victim began to cry when he could not go out the door after Natalie's husband. Appellant told him to stop crying. When he would not, she "popped him in the mouth, and jacked him around in the house and went to grab a clothes hanger." (ROA p. 137, lines 5-7; see also p. 136, line 9 – p. 137, line 3.)

On September 11, 2012, Victim was taken for his first doctor's visit since he was returned to his parents. Dr. Monica McCutcheon, a board certified pediatrician, saw

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<sup>5</sup> After victim was returned to Appellant and Co-Defendant in April 2012, he stayed with them except for a couple of weeks when one of her sisters, Natalie, took care of him. The other children of Appellant lived with them on a less regular basis. (ROA p. 243, line 11 – p. 245, line 2; p. 273, line 19 – p. 274, line 4.)

When Victim stayed with Natalie and her fiancé, he had his own room and was fed regularly. (ROA p. 274, lines 5-10.)

<sup>6</sup> Crystal testified that the cable cord incident was a single incident. Appellant beat Victim with the cord while upstairs and others were downstairs and heard. Victim was crying for his father for help, but no one helped him. Crystal testified that while she did not call the police or DSS, she did tell her other sister to report it to DSS. (ROA p. 138, lines 21-23; p. 141, line 4 – p. 144, line 13.)

Victim for his three-year-old well child visit (Victim was three years and almost five months old at the time). He had not been seen by the practice since he was two months old. (ROA p. 169, lines 4-8; p. 170, line 18 – p. 171, line 13; p. 172, lines 8-15; p. 469, lines 3-21.)

Dr. McCutcheon found Victim to be a well nourished child. Although his speech was a little difficult to understand, he was able to answer questions and seemed developmentally appropriate. Dr. McCutcheon did not see that Victim demonstrated any of the signs of autism. (ROA p. 173, line 15 – p. 174, line 2; p. 178, line 25 – p. 179, line 2; p. 180, lines 8-17.) Appellant expressed concern over Victim's development, and mentioned that he had issues with urinating and defecating on himself, as well as with his speech. (ROA p. 174, line 3 – p. 175, line 25.) Dr. McCutcheon determined that Victim had regressed – *i.e.*, he had lost things that he had accomplished such as his speech, ability to engage in symbolic play, and recall of his name, age, sex or gender<sup>7</sup> – and she referred Victim for a hearing evaluation, speech therapy, and, out of respect for the parents' concerns, to a developmental pediatrician. (ROA p. 176, lines 1-10; p. 470, line 2 – p. 471, line 16.) After Victim left her office, Dr. McCutcheon placed a call to the DSS case worker because of her concern over his parents' lack of knowledge and follow up on medical care. (ROA p. 176, line 1 – p. 178, line 9; p. 472, lines 4-7.) Victim was never seen by any of the referrals and not seen again by Dr. McCutcheon's practice or any other doctor prior to his death. (ROA p. 176, lines 11-23; p. 177, lines 13-18; p. 472, lines 10-

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<sup>7</sup> Dr. Rosa, testifying as an expert at trial, testified that this regression by Victim was significant "[b]ecause, you know, a child that has acquired mile stones to this point and then suddenly in a period of time is regressing those mile stones, then you have to ask what's going on in the environment or the child that is causing this regressions. When we have already a history --- I mean, a diagnostic work up, that his brain M.R.I. is normal, that his genetic consult was normal, then what else is going on." (ROA p. 471, line 20 – p. 472, line 3; see also p. 452, lines 13-22; p. 471, lines 4-18.)

21.)

One day in the fall of 2012, Victim was supposed to go to the bathroom, but he defecated and began playing with his feces. Appellant asked Crystal to hold his legs so she could “whoop” him. Instead of holding his legs, Crystal left. (ROA p. 138, lines 7-20.) On another occasion that fall, Crystal walked in on Appellant beating Victim. He was on his back on the floor, and she was on her knees straddling him and punching him in the face. (ROA p. 138, line 24 – p. 139, line 8.)

Sometime after Crystal moved into her own apartment – in the same complex where Co-Defendant and Appellant were living – in October 2012, Crystal gave Victim some juice to drink when he came over. Appellant came in and slapped the juice out of his mouth knocking him back a little. (ROA p. 139, line 9 – 140, line 12.)

By the spring of 2013, Angela Metze, the grandmother of one of Victim’s sisters,<sup>8</sup> noticed that Victim had changed. He had lost a significant amount of weight, he was not active, he would not talk when told to do so, and he was withdrawn. (ROA p. 586, line 16 – p. 587, line 10; p. 580, lines 7-25.) Sometime in February 2013, Ms. Metze received some photographs of Victim showing bruises, scars, 590, line 5.) Ms. Metze offered to help with Victim, but they never let her do so and, to her knowledge, Victim never went with anyone else. He always stayed with them. (ROA p. 603, lines 17-25.)

Maria Thompson, another sister of Appellant, heard Appellant “spanking, you know, beat[ing]” Victim sometime around Easter in 2013<sup>9</sup> because he had urinated on the floor at Maria’s house. She also heard Victim crying. (ROA p. 245, line 9 – p. 246, line

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<sup>8</sup> Ms. Metze’s granddaughter was the daughter of her son and Appellant. She primarily lived with Ms. Metze. (ROA p. 586, line 12 – p. 587, line 24.)

<sup>9</sup> In 2013, Easter Sunday was observed on Sunday, March 31, 2013. (<http://www.timeanddate.com/holidays/us/easter-sunday>.)

9.) He was limping that day and he had bruises on his back. (ROA p. 247, line 19 – p. 248, line 13.) Maria called DSS several times about Victim's condition. (ROA p. 249, line 25 – p. 251, line 21.) After Victim was returned to his parents, Natalie Thompson, another of Appellant's sisters, saw Appellant hit Victim with a belt, a shoe, and a hanger. (ROA p. 258, lines 12-13; p. 259, line 1 – p. 261, line 12; p. 262, lines 14-16.) Natalie also called the police and DSS several times on both Appellant and Co-Defendant. When DSS told her that she needed proof of his condition, Natalie took photographs<sup>10</sup> of Victim once when Appellant and Co-Defendant were not present – the photographs were of his face to show who he was and his body to show bruises. (ROA p. 261, line 16 – p. 263, line 23; p. 264, lines 20-22; p. 281, line 24 – p. 282, line 5.)

Crystal also witnessed Co-Defendant hit Victim twice, punch him, and make him sit on the toilet for three hours. (ROA p. 115, line 19 – 116, line 24; p. 135, line 21 – p. 136, line 8.) Natalie never saw Co-Defendant beat Victim; but she did see him get angry with and spank him.<sup>11</sup> She also saw Co-Defendant present on some of the occasions when Appellant beat Victim. (ROA p. 261, line 24 – p. 262, line 18; p. 263, line 24 – p. 264, line 12; p. 278, lines 1-17.)

Victim would sometimes eat of trashcans. On occasion, Natalie or her fiancé, Charles Robinson, would sneak or try to sneak him something; if Appellant caught them, she would become angry. Natalie never saw Co-Defendant try to give food or water to

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<sup>10</sup> The photographs were admitted into evidence without objection as States Exhibits 215 through 222.

<sup>11</sup> Natalie testified she had “seen [Co-Defendant] hit [Victim], but in the way of a father should, he smacked in the back of the head, but not to hurt him.... And spanked him” (ROA p. 289, lines 2-6.). She did, however, also testify that she remembered telling law enforcement both that Co-Defendant would beat Victim and that she actually saw Co-Defendant knock Victim in the head once. (ROA p. 289, lines 20-25.)



Victim when he was hungry or thirsty.<sup>12</sup> (ROA p. 273, lines 2-18.)

Gladys Thompson, Appellant's mother, observed that Victim was not treated as nicely as his sisters were treated.<sup>13</sup> (ROA p. 326, line 16 – p. 327, line 11.) She saw Appellant hit Victim with a cable cord once, and she saw her punch him with her fist once. (ROA p. 329, lines 2-9.) Ms. Thompson felt that, when Appellant beat Victim, she was get angry with him. (ROA p. 333, lines 13-15.) Ms. Thompson observed that Victim was not fed and given water or something to drink on a regular basis. (ROA p. 332, lines 13-16.) She was told by Appellant once that Victim had drunk out of a toilet. (ROA p. 333, lines 5-7.) When Ms. Thompson tried to stand up for Victim, Appellant kicked her out of the house. (ROA p. 328, line 25 – p. 329, line 1; p. 337, lines 19-21.) After her church helped her find a place to stay, Ms. Thompson stood up for Victim. (ROA p. 338, lines 1-7; p. 337, line 19 – p. 338, line 2.)

On April 5, 2013, Ms. Metze went to the Five Points Pediatric Group and talked to Dr. Kiersten Lofton, who had seen Victim's sisters, but had never seen Victim. Ms. Metze told Dr. Lofton that she was concerned that Victim was being abused and she showed Dr. Lofton photos on her phone, which showed Victim's back, which had been taken approximately one month earlier. Ms. Metze wanted Dr. Lofton's help in reporting to police or DSS that Victim was being abused. (ROA p. 307, lines 14-18; p. 309, line 19)

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<sup>12</sup> Natalie testified about one occasion when Co-Defendant and Appellant argued over how many pieces of pizza Victim could eat, with Co-Defendant finally agreeing with Appellant that Victim would only have one slice while the other children had three. (ROA p. 279, line 4 – p. 650, line 5.)

<sup>13</sup> At trial, Ms. Thompson testified she remembered telling Investigator Wagner that animals should not have been treated the way Victim was treated, and that if Victim spilled anything, he would be slapped hard with an open hand by Appellant. (ROA p. 328, lines 17-24.)

Appellant's sister testified that, while Victim's siblings had parties on their birthdays, Victim "never had a proper birthday party or anything done especially for him." (ROA p. 276, lines 1-7.)

– p. 312, line 20; p. 590, lines 5-10.) Dr. Lofton was concerned by the photographs of Victim’s lower to mid back area. She observed what appeared to be patterned markings on Victim’s back, indicating to her that the markings were caused by Victim having been struck with so31683, line 10.) Dr. Lofton reported her observations and opinion to DSS on that same day and asked them to follow up. (ROA p. 313, line 11 – p. 314, line 7.) Later that same day, Dr. Lofton was contacted by the police department and told that Victim had a skin condition. (ROA p. 314, lines 8-23.) Dr. Lofton, who had considered and rejected the possibility that the markings were the result of a skin condition, followed up with DSS. She told them that she had reviewed Victim’s records from her clinic and the clinic that had previously seen Victim, and she had found no documentation of a skin condition. She also told DSS that they needed to look into possible medical neglect because her clinic’s records indicated that there had been no follow up on the earlier referral’s made for Victim’s possible urology and developmental issues. (ROA p. 314, line 24 – p. 316, line 15.)

Sometime around the end of May or first of June 2013, Natalie went with Co-Defendant and Appellant to the grocery store in a van driven by someone else. After shopping at the grocery store, they stopped at a cell phone business so that Appellant could obtain a government assistance telephone. When Co-Defendant left the van to check on Appellant, Natalie heard a “drinking noise” and, for the first time, realized that Victim was sitting in the cargo area of the mini-van. He was drinking a soda that Natalie had bought at the grocery store. He then asked her if she had anything to eat. She only had frozen food and chips, and gave him some of the chips.<sup>14</sup> (ROA p. 270, line 6 – p.

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<sup>14</sup> Natalie testified at trial that, on this day, Victim’s mouth was really messed up – “his mouth was real, real dry as if he was dehydrated. His lips were cracked up. They were bloody. The top

272, line 20; p. 276, lines 14-24.) Victim was only able to eat about half of the bag before Co-Defendant and Appellant returned to the van. He threw the bag to Natalie, who wrapped it up and put it under the seat to hide it from Appellant and Co-Defendant. Appellant found it, however, and became angry with Natalie. (ROA p. 272, line 20 – p. 273, line 1; p. 278, line 18 – p. 279, line 3.)

Also in May or June, Appellant spoke to Ms. Metze over the telephone. She had just moved into the house and was overwhelmed with bills; she said life was not treating her fairly and she complained about Victim defecating on himself. Ms. Metze suggested she take Victim to counseling or, if things got bad, to take him back to DSS. (ROA p. 590, line 20 – p. 591, line 11.) Appellant told Ms. Metze that she was going to get Co-Defendant's mother to take him and that she had already taken Victim to get help, a representation that Ms. Metze determined later to be false. (ROA p. 592, lines 16-24.)

On occasions prior to July 1, 2013, Appellant made statements about killing Victim. When confronted by Crystal, Appellant said that she did not care and did not care “if the retarded bastard died,” and that “if DSS did not take him, that she was going to kill him and bury him so DSS would not take her other baby.” (ROA p. 126, line 10 – p. 127, line 6.) Appellant also told Natalie – not in Co-Defendant's presence – that she wanted Victim to go back to DSS and that she wanted him to be beaten, raped and killed once in DSS custody. (ROA p. 274, lines 11-15; p. 275, lines 8-14.)

Appellant went into labor at approximately 7:00 a.m. on Saturday, June 29, 2013. She called Kimberly Gooden, with whom her one year old daughter normally lived, and

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lip was all pussie [sic]. I had asked about it, but [Appellant] told me that it was something he picked up and ate and it was something wrong. The doctor said it was because of something he ate off the ground or something that she had cream for it.” (ROA p. 272, lines 5-11.) Natalie never saw the cream and never saw Appellant apply any cream. (ROA p. 272, lines 12-15.)

asked if she would pick the girl up from Appellant's home and take her back home with her. Ms. Gooden did so. She did not see Victim. (ROA p. 555, line 5 – p. 557, line 4.)

On that same day, Saturday, June 29, from the hospital, Appellant called Ms. Metze and asked her to come get her three year old daughter because Co-Defendant wanted to come see her. Ms. Metze, who already had Appellant's two year old daughter, agreed. When she drove up to their home, Co-Defendant was outside with the three year old. Ms. Metze did not see Victim that day and, in fact, had not seen him since around Easter. (ROA p. 593, line 10 – p. 595, line 23; p. 609, line 22 – p. 610, line 3.)

Appellant's seventh child was born in the early morning hours of Sunday, June 30. At 1:06 p.m. on July 1, Appellant and her new baby were discharged from the hospital and, using her cellphone, she called Blue Ribbon Taxi at 1:12 p.m. for a taxi to take her home. (ROA p. 780, line 22 – p. 783, line 8; p. 784, lines 11-19; p. 878, line 20 – p. 879, line 24; State's Exhibits 2A and 250-A.)

Approximately nine minutes after the call to Blue Ribbon Taxi, Appellant received a call from Crystal lasting 40 seconds. An hour later, at 2:17 p.m., Appellant called her voice mail; six minutes later, she missed a call from Nicole. Fifty-three minutes later, at 3:14 p.m. and she missed a call from her mother's home. She called Nicole at 3:17 and talked to her for 34 seconds. Upon ending that call, she called her mother's house and spoke to someone. She thereafter missed two calls in a row from Nicole, at 3:24 p.m. and 4:03 p.m. At 5:05 p.m., she received a call from Crystal and talked to her for a little over two minutes. (ROA p. 878, line 20 – p. 880, line 15; State's Exhibit 2A.)

During their telephone conversation, Appellant told Crystal that Victim had gotten a cracker out of the bag she had brought home from the hospital and was trying to

eat it. Crystal heard Appellant tell Co-Defendant to go see what Victim was doing. (ROA p. 117, line 1 – p. 119, line 17.) Appellant said she going to take a shower and they hung up. The phone then “dialed back” or “butt dialed” Crystal. When Crystal answered, she could hear Victim getting beat and screaming for help. She heard him say, “Lord, help me.” She also heard Appellant tell him to “hush,” and then heard Co-Defendant and Appellant talking, with Appellant telling Co-Defendant to hold his legs and Co-Defendant later saying that Victim was not moving. The phone then went dead. (ROA p. 119, line 21 – p. 122, line 8; p. 125, lines 23-25; p. 153, lines 7-10.)

At 5:07 p.m., almost as soon as the call with Crystal ended, Appellant called Nicole and spoke for 20 seconds. After that call, Appellant conducted five Google searches on her cellphone on what to do if a child has a seizure. The next call after the searches is the first of seven calls in a row, each between 17 and 26 seconds long, to Kimberly Gooden; the first call was made at 6:40 p.m. and the last at 6:48 p.m. (ROA p. 878, line 20 – p. 883, line 3; State’s Exhibit 2A.)

At 6:12 p.m., Appellant called 911 and reported that Victim had fallen and was having problems breathing. (ROA p. 882, lines 16-20.) Esther Curran, an EMT with Richland County EMS, and her partner were dispatched at approximately 6:14 or 6:15 p.m. to the home of Co-Defendant and Appellant in response to a cardiac arrest call. They arrived at the house in less than five minutes. (ROA p. 40, line 2 – p. 42, line 6; p. 51, lines 14-19.) Upon their arrival, they retrieved their equipment and went to the front door. The screen door was locked and the house was silent. They knocked a few times and a woman came and opened the door. (ROA p. 42, lines 7-19; p. 51, lines 20-22.)

When the door opened, EMT Curran saw Victim, a four-year-old boy<sup>15</sup>, laying face up on the floor just inside the living room. He was not wearing a shirt or socks – just jeans, which had a stain like children have when they have wet themselves. (ROA p. 42, lines 20-24; p. 46, line 22 – p. 47, line 2.) She was not told anyone had performed CPR on the boy and she saw no one doing so. Without turning him over, EMT Currant saw a small cut to the Victim's lip and "Raccoon like" bruising around both eyes, which indicated to her the injuries had happened at some earlier time. He was still, cold to the touch, and he was not breathing and had no pulse. (ROA p. 42, line 25 – p. 44, line 8; p. 47, lines 3-21.) Prior to anyone else arriving at the house, EMT Curran only saw Victim's mother, Appellant, in the house. The EMTs questioned her about the Victim's health history, and about what had happened. Appellant, who was very agitated, said that, while she was in the shower, Victim was playing and had jumped off the dresser, hit his head, and had a seizure. She said he was autistic, and that, when she got out of the shower, she found him unresponsive. Appellant, who did not appear to EMT Curran to be wet, did not indicate when this had happened. (ROA p. 48, line 1 – p. 49, line 25; p. 50, lines 10-24.)

In order to determine if there was any activity in Victim's heart, the EMTs hooked their monitor up to him using three leads that they attached to his chest area using stickers. The monitor indicated there was no activity in the heart, and that Victim was dead. (ROA p. 44, line 9 – p. 45, line 9.) EMT Curran noticed that, in addition to the Victim's body being cold, his hands and soles and his feet were "gray, like a dusky color" indicating that he had been dead for some period of time. (ROA p. 45, line 18 – p. 46, line 21.)

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<sup>15</sup> EMT Curran did not know the name of the child. She just testified to seeing a small male child. Other testimony established the child to be four-year-old Victim, the child of Co-Defendant and Appellant. (ROA p. 65, lines 4-5; p. 110, line 20 – p. 111, line 13; p. 171, lines 4-9).

The EMTs notified law enforcement that a child was dead. (ROA p. 48, lines 1-12.) Apparently at about that same time – sometime between 6:15 and 6:30 p.m. – Fire Department personnel arrived. Three firefighters entered the home where the EMTs were still located, saw Victim laying on the floor, and were told that he was dead. (ROA p. 48, lines 1-12; p. 54, line 14 – p. 55, line 4; p. 59, lines 7-10.) Firefighter Peter Biviano saw Appellant, who did not appear to be wet; she was visibly upset, screaming, and asking them to save her child. (ROA p. 55, lines 5-10; p. 58, lines 21-25; p. 59, lines 14-19.) Because neighbors had indicated to a firefighter who remained outside with the truck that a boyfriend and newborn child should be in the house and they did not see them, the firefighters conducted a “hasty search” for them, going through quickly, opening doors to each room and scanning the rooms. Because they were unable to locate boyfriend or newborn in the house, Firefighter Biviano called his dispatcher and requested that the Richland County Sheriff’s Office upgrade their response, *i.e.*, respond quicker. (ROA p. 55, line 11 – p. 56, line 14; p. 57, line 18 – p. 58, line 3.)

At that point, Firefighter Biviano noticed a change in Appellant’s demeanor. (ROA p. 57, lines 1-6.) “She immediately just went blank. It was like nothing had happened. She wasn’t upset anymore. There was no crying, no screaming. She was out front on the front steps and she got on the phone and was having a conversation with somebody on the phone, just a normal conversation.” (ROA p. 56, lines 18-25.) Appellant’s telephone records would later establish that she continued making telephone calls on July 1. (State’ Exhibit 250A.)

Corporal Wilder, Master Deputy Shaw, Deputy Williams, Deputy Diaz, and Deputy Johnson responded to the firefighters’ call. (ROA p. 186, lines 3-14; p. 198, line 19 – p. 199, line 4.) The only non-emergency personnel they saw were Appellant and

Victim<sup>16</sup>, whose body was laying face up on the floor of the living room. (ROA p. 187, lines 1-9.) As soon as he walked into the house, Master Deputy Shaw heard Appellant yell out, “SIDS.” (ROA p. 229, lines 17-25.) Appellant yelled at both Corporal Wilder and Deputy Shaw, as they came in to the house, that the others would not help her son and that he was not dead.<sup>17</sup> (ROA p. 199, lines 15-17; p. 221, lines 13-23.)

Although they were not aware that a crime had been committed, Victim’s death was considered suspicious and Master Deputy Wilder asked everyone – the firefighters, the EMS crew, some of the deputies, and Appellant –to step outside the front of the house. Appellant, who had not said whether anyone else was in the house, would not leave at first, but eventually went outside and sat on the front step. (ROA p. 187, line 14 – p. 188, line 11; p. 200, lines 4-16; p. 222, line 13 – p. 223, line 25.)

Sergeant McLendon remained in the driveway area to ensure that the scene was secured. From his position he could both see and hear Appellant, who was on the front porch. He did not notice if she was wet. (ROA p. 240, lines 8-10.) He heard her cry out loudly that no one had helped her child<sup>18</sup> and was there anything anyone could do. She said she was in the shower when she heard a noise; she came out and found Victim laying on the floor biting his lip. She said she dialed 911 and tried to follow directions to administer CPR. She was talking loudly to anyone who would listen. (ROA p. 235, line 18 – p. 237, line 8; p. 240, lines 4-7; p. 240, line 18 – p. 241, line 2.)

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<sup>16</sup> Deputy Johnson noticed the bruising to Victim’s face. (ROA p. 193, lines 15-25.)

<sup>17</sup> Corporal Wilder observed that Appellant was making crying noises, but there were no tears. (ROA p. 199, lines 13-23.) Deputy Shaw said that Appellant was not crying, but she was yelling about getting help for Victim. (ROA p. 221, lines 13-23.)

<sup>18</sup> Sergeant McLendon said that Appellant was sobbing, but explained later that “it was no tears or nothing. It was like she was trying to, you know, make it look like something that wasn’t there.” (ROA p. 237, lines 6-8; p. 236, lines 8-10.)



When walking onto the driveway after exiting the house as it was being cleared, Master Deputy Shaw noticed the gate to the backyard was open and that, because the tall (18 – 24 inches tall) grass had been flattened, it appeared as if someone had recently gone through the backyard. He brought it to the attention of Sergeant McLendon. While Sergeant McLendon stood in the driveway, Master Deputy Shaw went back inside the house, through the front door, to clear it room-by-room. (ROA p. 224, line 1 – p. 225, line 25; p. 232, line 18 – p. 233, line 5; p. 237, lines 19-22. ) In the kitchen, he noticed that the door to the outside – described as a non-transparent screen door – looked like it had been opened. He opened it and discovered Co-Defendant holding a small child on the step in the backyard. (ROA p. 200, line 19 – p. 201, line 1; p. 225, line 23 – p. 226, lines 19; p. 232, line 18 – p. 233, line 5. )

Co-Defendant said nothing to Master Deputy Shaw – he did not ask about Victim and he did not respond to Master Deputy Shaw’s question of what was he doing. He was escorted through the house and out the front door. Deputy Johnson, Sergeant McLendon, and Firefighter Biviano saw Co-Defendant walk out of the front door of the house holding the baby. Sergeant McLendon asked Co-Defendant what he was doing, but Co-Defendant did not respond. He also did not appear upset and did not ask for help. Co-Defendant walked to the sidewalk in front of the house near the steps on which Appellant was sitting. (ROA p. 57, line 7 – p. 58, line 14; p. 191, lines 1-8; p. 193, lines 20-22; p. 200, line 19 – p. 201, line 1; p. 226, line 20 – 227, line 17; p. 233, lines 2-16; p. 237, lines 22 – p. 238, line 12; p. 241, lines 3-6.)

While he was in front of the house, Master Deputy Shaw heard Appellant say, about four times, that she was in the shower and heard a loud bang. (ROA p. 228, line 13 – 16.)

A crowd gathered outside the home, and people appeared to be upset about what had happened. Although they were not under arrest, Co-Defendant and Appellant were placed inside separate patrol cars for their safety. (ROA p. 192, lines 6-22; p. 201, line 12 – p. 202, line 5; p. 227, line 17 – p. 228, line 9; p. 238, line 18 – p. 239, line 3.)

Investigator Holdorf responded to the scene and took over as the designated lead investigator. (ROA p. 97, lines 7-13; p. 239, lines 3-12.) He asked Sergeant Lindler to obtain a search warrant before officers made further entrance into the home was made. (ROA p. 98, line 8 – p. 99, line 15.) Once the search warrant was received, the scene was turned over to responding members of the crime scene unit. (ROA p. 99, lines 12-15.)

Upon their separate arrivals, Sergeant Richards and Investigator Oates, crime scene investigators, saw Victim laying on his back on the floor in the living room. (ROA p. 60, lines 13-24; p. 61, lines 3-9; p. 64, line 9 – p. 65, line 12; p. 66, lines 5-10; p. 347, lines 3-8; p. 350, lines 6-24; p. 352, line 25 – p. 353, line 8; p. 354, line 21 – p. 355, line 2.) After the coroner arrived, he and Sergeant Richards looked at Victim, including his back (by rolling him over), while Investigator Robert Oates took photographs. (ROA p. 66, line 11 – p. 67, line 12.) The visible injuries on Victim's body were photographed at the scene. (ROA p. 354, line 21 – p. 355, line 16; see also State's Exhibits 13, 75 through 81, 83 through 85, 130, 131 through 147.) Other than blood coming from a cut in Victim's mouth, Sergeant Richards did not notice any fresh blood coming from any wound on Victim's body. (ROA p. 93, line 13 – p. 94, line 3.) After the setting of and injuries to Victim were photographed, Victim was taken from the home for an autopsy and Sergeant Richards and Investigator Oates processed the house. (ROA p. 67, lines 13-23; p. 360, lines 4-11.)

The investigators walked from the living room down a hall to the far bedroom

(identified as bedroom two on the diagram) where they had been told a large stain had been found.<sup>19</sup> While walking through the hallway, Sergeant Richards noticed some reddish brown stains on the wall and informed Investigator Oates. (ROA p. 67, line 23 – p. 68, line 12; p. 360, lines 12-19; p. 361, lines 19-21.) In the far bedroom, they saw two pieces of furniture, a bed and a dresser. They found the stain on the carpet and other items of potential value, including a washcloth with reddish brown stains they believed to be blood. They photographed the room, to include the rug, the dresser and items on the dresser. They also performed two tests that could be conducted on the carpet in the house to see if it had any blood in it. One of those tests revealed the presence of blood in the carpet and the presence of a cleaning fluid. Moving some bags in the room, a portion of the carpet was cut and collected for further processing. (ROA p. 69, line 6 – p. 70, line 21; p. 360, line 15 – p. 365, line 15; p. 366, line 18 – p. 367, line 17; State's Exhibits 46 through 59, and 224.)

Investigator Oates also photographed a green shirt in the hall by the bedroom door and a broom in the hall, both of which were collected on a later day. (ROA p. 358, line 4 – p. 369, line 15; State's Exhibits 17 through 19). They proceeded to another bedroom (identified as bedroom three on the diagram), in which they saw a bed, a bassinette, and a television on a table (the television was on). (ROA p. 369, line 16 – p. 370, line 21; State's Exhibits 36 through 40.) In the last bedroom (bedroom one on the diagram), they saw a bed, a crib, and a television that was off. (ROA p. 31, lines 1-21; State's Exhibits 41 through 44.)

The investigators also examined and photographed the kitchen, including the

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<sup>19</sup> State's Exhibit 211, a not-to-scale drawing of the residence, provides a general layout of the home. (ROA p. 87, line 14 – p. 91, line 21.)

stove top, the counters, inside the cabinets, and inside the refrigerator and freezer. The photographs showed the kitchen as it was at approximately 7:00 p.m. on July 1, 2013 – there was some food on the stove and counter near the stove. Also found in the kitchen, in a plastic bag hanging from the door handle, investigators found, documented, and collected a burgundy colored washcloth that was damp. (ROA p. 373, line 2 – p. 376, line 11; State’s Exhibits 20 through 35, 62, 63, and 74.)

The investigators also marked, photographed, and swabbed reddish brown stains observed throughout the house:

- on a wall in bedroom two (where the stained carpet was located): subsequent testing established that the DNA matched that of Victim;
- on the hallway wall: subsequent testing established that there was a mixture of at least two persons, one of whom was Victim (Co-Defendant was excluded as the second person, but Appellant could not be excluded);
- on the hallway carpet: subsequent testing established that the DNA matched that of Victim
- on and around the light switch and light switch cover in bedroom one: subsequent testing established that it was blood, but the DNA did not match either Victim, Co-Defendant, or Appellant; and
- on the living room wall: subsequent testing established that the DNA matched that of Victim.

(ROA p. 70, line 22 – p. 72, line 7; p. 74, line 4 – p. 77, line 15; p. 76, line 15 – p. 78, line 1; p. 376, lines 12-23; p. 649, line 8 – p. 651, line 19; p. 651, line 20 – p. 656, line 17; p. 659, line 1 – p. 660, line 13; p. 661, line 10 – p. 663, line 6; State’s Exhibits 18, 19, 64, 65, 67, 68, 69, 71, and 72.) The stains on the hallway wall and living room wall were of a linear pattern, indicating that they were castoff from some object that was swung, while the others were round or elliptical, indicating spatter. (ROA p. 71, line 15 – p. 73, line 6; p. 75, lines 3-15; p. 76, line 24 – p. 77, line 1.) The age of or how long the blood had been present was not able to be determined. (ROA p. 92, line 21 – p. 93, line 12.)

When the investigators left the home on the night of July 1, the house was secured and locked and a deputy was posted outside. On later days, other crime scene investigators returned to the house and processed it further. (ROA p. 377, line 19 – p. 378, line 15.)

Later on the night of July 1, Crystal talked to Appellant and asked her what had happened. Appellant said that Victim was jumping off the dresser or jumped from the dresser to the bed, fell, hit his head, and had a seizure. (ROA p. 122, line 13 – p. 123, line 22.) When she asked her a second time what had happened, Appellant told her that she had been in the shower, heard a big boom, and when she went into the bedroom she found Victim in the corner having a seizure. She picked him up and he passed out in her arms. (ROA p. 124, lines 2-11.) The third time Crystal asked her what had happened, Appellant said she was about to get in the shower when she heard the boom, and that Victim had jumped off the dresser and onto his bed and she found him on the floor, foaming at the mouth. (ROA p. 124, line 12 – p. 125, line 14.) Crystal told Appellant she could talk to her. Appellant was too upset, and kept repeating that she did not kill him. She and Co-Defendant then walked out. (ROA p. 126, lines 1-9.)

On the night of July 1, Appellant's sister and other family gathered and talked about doing something for Victim. Appellant responded by saying that he was in a room and would be walking out any minute. She kept saying he was in the room like she did not believe he was dead. (ROA p. 127, lines 7-24.) At one point, Appellant started laughing and said that another of her children had bitten Victim on his back, leaving a bite mark. (ROA p. 128, lines 1-8.)

Both Co-Defendant and Appellant were taken to the Sheriff's Department. They were not under arrest, but investigators wanted to see what they could tell them about

Victim's death. (ROA p. 540, line 18 – p. 543, line 17.) Co-Defendant, after being advised and of and waiving his rights, told Investigator Laurita that, leaving Victim asleep in the house, he went to the store that day and pulled some money off the card, bought some beer and cigarettes, and walked back to the house where he drank a 24-ounce beer at approximately 8:00 or 9:00 a.m.. He then fell asleep. Appellant called to let him know that she was on the way home from the hospital and his mother called to check. At some point, Victim woke up and watched television and played with Co-Defendant for a while. At some point, Victim apparently went to the back bedroom where he stayed by himself. When Appellant arrived in a taxi, Co-Defendant gave her the money and went out to the taxi and got her bags. (ROA p. 541, lines 13-24; p. 543, lines 18-21; p. 544, line 22 – p. 545, line 12; p. 548, line 18 – p. 549, line 8.) Appellant told Co-Defendant she was in pain, and talked to him about having the baby. She then walked around, straightening things up. She became angry at Victim for urinating on the floor in the back bedroom and went back to clean it. She then went into the bathroom to take a shower. Co-Defendant stayed with and loved on the new baby until he began cooking dinner by cutting up onions and cooking steaks. The water was running and he had music on his telephone when he heard a boom. (ROA p. 545, lines 13-17; p. 547, lines 10-24; p. 549, line 9 – p. 550, line 12.) Because he was not sure what he had heard and he had to turn things off, it took him four or five minutes to go see what the noise was; as he did so, Appellant came down the hall with four-year-old Victim and went into the front room. Appellant was saying, "look baby, look baby." Victim's eyes were open and he was breathing, but he "was in and out." (ROA p. 546, lines 4-11; p. 547, lines 20-25.) Appellant called the ambulance and they told her to breathe into his mouth and press on his stomach. (ROA p. 546, lines 11-13.) Before the police and the ambulance arrived, Co-

Defendant grabbed the baby and hid in the closet so that they would not take him away as he said they usually do when "accidents like this" happen. (ROA p. 548, lines 1-17; p. 549, lines 19-25.)

After their interviews were finished, they wanted to see each other. Officers let them sit together in the break room. In the presence of the officers, Co-Defendant handed Appellant some of the money from his pocket and told her "to take the charges so he could go home and take care of the kids." (ROA p. 104, lines 20-21; see also p. 102, line 17 – p. 105, line 17.) When they left the Sheriff's Office, Co-Defendant and Appellant went to Appellant's mother's home. At about 3:00 in the morning, she called Ms. Metze and asked her to come pick them up. She told Ms. Metze that she could not "deal with" all of the crying and everybody being so upset. (ROA p. 598, lines 6-16.) Ms. Metze picked them up from Appellant's sister house at approximately 8:00 a.m. and took them to get something to eat. When the investigator called, she drove Appellant to her house where the deputies were waiting for her. Appellant told Co-Defendant to go to the store down the street, and Ms. Metze drove him there. Ms. Metze then drove back to their house to wait on Appellant. A short time later, Appellant got into one of the investigators' car and called Ms. Metze. She told her she was going with them to discuss the autopsy results and asked Ms. Metze to pick her up in a couple of hours. Ms. Metze agreed. (ROA p. 598, line 17 – p. 601, line 19.) Ms. Metze then went and picked up Co-Defendant from the store; Appellant called and said that Co-Defendant need to go to the Sheriff's Department to sign some papers so Ms. Metze took him there. (ROA p. 602, lines 9-24.)

On July 2, Investigators Holdorf and Wagner and Investigator Lee went to the house to meet Appellant and Deputy Coroners Powell and Burns. Once the officers

arrived, they released the deputy who had been securing the scene. Once Appellant arrived, complete custody and control of the house was released to her. Then, Deputy Coroner Powell explained to Appellant<sup>20</sup> that she wanted her, using a doll, to show them exactly where Victim was when she discovered him and what she did. (ROA p. 380, lines 19-20; p. 381, line 9 – p. 382, line 2; p. 382, line 23 – p. 383, line 6; p. 397, line 1 – p. 398, line 2; p. 413, lines 9-13; p. 503, line 14 – p. 504, line 18.)

Appellant told Deputy Coroner Powell that she arrived home at approximately 2:00 p.m. from the hospital, having delivered her fourth child on June 29. While she was in the hospital, Co-Defendant took care of Victim; she had talked to Victim on the telephone from the hospital and he told her that they had played ball. After unpacking the new baby's things – and putting some papers and prefilled bottles on the dresser in the bedroom at the right end of the hall – Appellant started to cook some food. Then, wanting to take a shower, she told Victim to play in his bedroom and she went and got into the shower. (ROA p. 384, lines 15-20; p. 387, line 22 – p. 388, line 3; p. 391, line 14 – p. 392, line 3.) She got out of the shower when she heard a loud boom. She immediately went to the kitchen because she had been kitchen and she thought maybe something had come off the stove. When she realized things in the kitchen were fine, she went to look in the bedroom at the right end of the hallway and that is when she saw Victim on the floor. She also saw some things from the dresser on the floor, including some of the bottles and papers she had just put there. (ROA p. 385, lines 9-18; p. 388, lines 3-7.) Because the doll was not the right size and was not flexible, Appellant demonstrated the position she

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<sup>20</sup> During this meeting at the house, Appellant told Deputy Coroner Powell that Victim had been diagnosed with Autism. She also said that Victim's siblings did not interact with him very much because he was different, but that when they rough-housed sometimes, the younger children would climb all over Victim. Appellant also told Deputy Coroner Powell that Victim would bite at himself and poke at his eyes. (ROA p. 383, line 16 – p. 384, line 7.)



found Victim in<sup>21</sup> – he was on his stomach, with his knees tucked up under him and his butt up in the air, and his head was turned to the side. Appellant said he was making a funny noise and shaking. She tried to get him up and called his name; she put her finger in his mouth because he had his lip in his mouth and she wanted to get it out, but she could not. (ROA p. 385, line 19 – p. 386, line 21; p. 398, lines 1-5.) She then picked him up and ran into the den, where he went limp and she laid him on the floor. She then ran back to find a phone to call 911. (ROA p. 386, lines 21-24; p. 391, lines 2-4.) Appellant told Deputy Coroner Powell that she told the 911 operator she did not know if Victim was breathing and she administered CPR as directed after wiping out Victim's mouth with a rag she found on the floor. She stopped when EMS arrived. (ROA p. 387, line 25 – p. 388, line 19.) During the reenactment, Appellant was calm; she was not upset. She kept telling Deputy Coroner Powell that she was tired because she had just had a baby, and Deputy Powell told her she could take her time, but that that was a very important part of the investigation into how Victim died. (ROA p. 388, line 25 – p. 389, line 7; 1148, line 2 – p. 1149, line 17; State's Exhibit 258.)

After the reenactment, Investigator Lee photographed certain items, including the doll on the floor where Appellant placed it to show where Victim had been, and collected some measurements. (ROA p. 399, lines 6-25; State's Exhibits 106, 110, and 111.<sup>22</sup>) Investigator Lee determined that the distance from the dresser to where Appellant placed the doll (to the top of the doll's head) was 44 inches. The dresser was measured and

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<sup>21</sup> Appellant did not want to get in the exact spot on the floor where Victim had been because she said she did not want to lay on the urine that was on the floor. So Deputy Coroner Powell told her just to get next to it. (ROA p. 386, lines 9-14.)

<sup>22</sup> Neither party objected to the admission of the photographs admitted as State's Exhibits 110 and 111, but Appellant objected to the admission of State's Exhibit 106 (a photograph of the bedroom at the right end of the hall, showing where Appellant had placed the doll on the floor to indicate where she found Victim). (ROA p. 399, lines 1-10.)

determined to be 30 inches tall. (ROA p. 400, lines 1-23.)

After the reenactment concluded, Appellant was asked to meet the officers back at the Sheriff's Office so that the Coroner could review the Coroner's report with her and discuss arrangements for Victim. Appellant arrived shortly after the officers did, and Investigator Holdorf advised her of her rights. Appellant acknowledged receipt and waiver of her rights. (ROA p. 505, line 2 – p. 506, line 9; Thompson AOR). After Deputy Coroner Powell explained to Appellant that Victim's death was consistent with abuse, Appellant said she did not understand and that she did not and could not have killed Victim. (ROA p. 506, line 13 – p. 507, line 1.) At about that time, Co-Defendant showed up at the station, and Investigator Holdorf left the room to go talk to him. (ROA p. 507, lines 2-10.)

After Investigator Holdorf left the room, Appellant said that she had been in the shower when she heard a thud. She ran, got the child from the back room, carried him to the front room, and called 911. (ROA p. 507, lines 16-18.) When told that the injuries to Victim were so extensive they could not have been caused by a single event or fall, she kept saying that she did not do "this" to her child, she could not have done it, and she was in the shower when she heard a thud. (ROA p. 508, lines 3-6.) She said that she would discipline Victim by putting him in time out and making him sit with his hands up, or by giving him a little spank on the bottom. She said she never hit Victim hard. (ROA p. 508, lines 9-18.) At some point, Captain Melton came into the room and joined them. (ROA p. 339, line 17 – p. 341, line 23.) She introduced herself to Appellant and explained again how the autopsy established that the injuries to Victim were not a singular event, Appellant asked if it was possible that Victim could already have been dying prior to her getting home from the hospital. When Captain Melton responded that she did not know

and why did she ask that, Appellant said that Victim was not acting right. (ROA p. 340, line 19 – p. 341, line 6; p. 508, line 22 – p. 509, line 2; p. 509, line 17 – p. 510, line 22.) Appellant then asked to speak to Co-Defendant and told them she would tell them what happened if she could speak to him. (ROA p. 341, lines 6-8; p. 509, lines 3-5.)

Investigator Wagner left to speaker with Investigator Holdorf, who was talking to Co-Defendant. (ROA p. 509, lines 8-13.) They decided to allow Co-Defendant and Appellant to meet by themselves for about 15 minutes in a conference room. (ROA p. 341, lines 8-21; p. 511, lines 5-10.)

After Co-Defendant and Appellant talked, Investigator Wagner talked to Co-Defendant. He said that the day before Appellant came home, he and Victim had stayed up to 4:00 a.m. watching television. When he got up around 10:00 a.m., he realized that she was coming home that day, and he walked to the store to get some money. He did not take Victim with him, but left him asleep in his room lying in his urine. Co-Defendant did not clean up the urine before Appellant got home. He said that he had been in the kitchen cooking and did not know anything about what happened to Victim. When confronted by the fact that Appellant said that she had gone into the kitchen after she heard a thud and had not seen anyone in there, he maintained that he had been in the kitchen, he was not going to change his story, and he did not have anything else to say. (ROA p. 512, line 16 – p. 514, line 18; p. 529, lines 17-21.)

While Co-Defendant was talking to Investigator Wagner, Appellant was giving an oral statement, which was reduced to written form by Investigator Holdorf who typed it on his computer. Appellant was then allowed to review the statement and signed it indicating that it was her version of what had happened. Captain Melton witnessed the taking of the statement and the signing of it by Appellant. (ROA p. 341, line 22 – p. 343,

line 4; p. 344, lines 12-14; Thompson Statement at pp. 1285-1287 and 1292-1295.)

Afterward, Co-Defendant and Appellant sat in the break room waiting for the transport van; several investigators were present. Investigator Wagner walked in and saw money on the table. Investigator Lindler heard Co-Defendant, who did not appear upset, tell Appellant to take the charges so he could go home and take care of the kids. As they stood up to leave, Investigator Wagner saw them hug each other and heard Co-Defendant repeating to Appellant, "Free me, free me." (ROA p. 103, line 5 – p. 105, line 17; 514, line 19 – p. 515, line 10.)

On July 4, Investigators Holdorf and Wagner obtained and executed a search warrant for the house; they were looking for a Time Warner Cable system that may have recorded from security cameras, poles, rods, and brooms. Investigator Polis assisted them. (ROA p. 413, line 2 – p. 415, line 11; p. 515, lines 16 – p. 517, line 1; p. 521, line 13 – p. 522, line 8.) Investigator Polis photographed the bathroom, some pictures on the outside of the door to the bedroom at the right end of the hall, a broken white wooden rod found in the hallway closet, a broom in the hallway, a hole in the closet door and some reddish brown stains, and a white metal pole or dowel with red stains on it found on the floor between the bed and the floor in the bedroom at the right end of the hall. She also collected the physical evidence that was discovered, including the rods or dowels, a hospital gown, and a green shirt. (ROA p. 415, line 19 – p. 420, line 4; p. 420, line 23 – p. 423, line 16; p. 522, line 12 – p. 524, line 1; State's Exhibits 172 through 198 and 200.) No fingerprints were recovered from either the broom or the wood rod or dowel, but swabs were taken from them for DNA testing. (ROA p. 424, lines 2-11; p. 426, lines 17-21.) The white metal rod appeared to have some ridge detail on it, and Investigator Polis secured it for her supervisor, Sergeant Richards to process further. (ROA p. 424, line 12 –

p. 426, line 16; p. 427, line 24 – p. 428, line 9.)

On July 5, Investigators Holdorf and Wagner accompanied Co-Defendant's mother to the house at her request so that she could retrieve some of Co-Defendant's and the newborn's clothes. (ROA p. 524, lines 2-12.) She entered the home and allowed the investigators to enter. Mrs. Guinyard went to the back bedroom and was pulling things out of the closet when she was overcome with emotion. She turned around and handed Investigator Holdorf a little gray and white or blue and white striped child's shirt, with reddish brown stains all over it, that she had found going through the pile of clothes in the closet. She began to cry and left the room for a minute. After a few minutes she regained her composure, and finished getting the clothes she needed and they left. (ROA p. 524, line 16 – p. 525, line 25; p. 526, lines 17 – p. 527, line 4.) Investigator Holdorf delivered the shirt and a pair of red shoes, from the house to Investigator Lee. That evidence, which had to be placed in a drying cabinet because it was wet – were two red shoes and a gray striped shirt, both of which had reddish brown stains on them. Investigator Lee photographed them. Subsequent testing on the shoes and shirt established that the stains were blood and that the DNA matched that of Victim (ROA p. 401, line 10 – p. 407, line 4; p. 527, lines 5-10; p. 661, line 10 – 663, line 19; State's Exhibits 112 through 129.)

On July 9, 2013, Sergeant Richards took possession of a white pipe collected from Co-Defendant's by Investigator Polis. (ROA p. 77, line 25 – p. 78, line 19.) The next day, Sergeant Richards and Investigator Oates examined the pipe. Sergeant Richards used markers to indicate four different areas of brown reddish stains on the pipe, Investigator Oates then photographed the pipe and the stains, and Sergeant Richards swabbed the stains in order to submit them for DNA testing. While two of the stains appeared to have ridge detail of the type seen in fingerprints and palmprints, there was

insufficient ridge detail to match. (ROA p. 79, lines 3-24; p. 80, line 15 – p. 82, line 14; State's Exhibits 86, 87, 88, 93, 94, 95, 98 and 100.) On July 28, 2013, Sergeant Richards took more swabs from the stains on the pipe to submit for DNA testing. (ROA p. 83, line 15 – p. 84, line 16.) Later Sergeant Richards used leuco-crystal violet (LCV) to determine if more blood was present on the pipe; no addition blood was revealed and the use of LCV prevented any other type of testing of the pipe. (ROA p. 85, line 7 – p. 87, line 10.) Sergeant Richards testified at trial that he was unable to determine when the blood was transferred to the pole because blood in droplets of the size noted can dry fairly quickly. (ROA p. 92, line 21 – p. 93, line 12.)

Testing on the swab from white dowel rod revealed that there was blood on it, and the blood was a mixture of two persons. The major contributor was Victim; the minor contributor could not be determined. (ROA p. 664, lines 6-17.) Testing on the broom handle swab revealed it was a mixture of the blood of at least two individuals. Neither Victim, Co-Defendant, nor Appellant could be excluded as contributors. (ROA p. 664, line 25 – p. 665, line 15.) Testing on the three swabs of the white pipe revealed that it was blood belonging to Co-Defendant, Victim, and one that was a mixture of at least two persons, Co-Defendant and either Victim or C-Defendant. (ROA p. 666, line 3 – p. 6.)

Sometime after Victim died and the police identified Co-Defendant's blood on the curtain rod found in their home, Appellant spoke to her cousin, Latoya Anderson, and told her that Victim had been possessed, that they had been tired of him, and that she had starved him for eight days by not giving him either food or water. Appellant told her they were relieved when Victim died. (ROA p. 673, line 7 – p. 674, line 25.)

Co-Defendant, who changed her statement to police twice, was also recorded on a call from the jail in which she gave a third version of events leading up to Victim's death.

(State's Exhibits 2A, 6A, and 254.) She and Co-Defendant were also overhead in the Courthouse talking one day. Co-Defendant told her to do what he said and everything would be okay. She said that there were other women at the jail who had killed their children and their attorneys had gotten them off. (ROA p. 691, line 9 – p. 693, line 13.)

Dr. Amy Durso, a forensic pathologist, performed the autopsy of Victim. (ROA p. 704, lines 17-21; p. 709, lines 10-18.) She first x-rayed his body. The x-rays indicated possible rib fractures, as well as a possible fracture to the upper right arm. (ROA p. 725, lines 5-25.) Dr. Durso then conducted an external examination of Victim, during which she observed the following:

- on his head: a scar on his nose, a scar on his forehead, both eyes had orbital contusions (black eyes), a small abrasion under his left eye, lacerations to his lips, and quite a few injuries to the inside of his lip;
- to his torso: a small crusted abrasion (state of healing), scarring over the right hip, and dark discoloration over his right hip;
- on his arms: five scars, two small superficial abrasions around his elbow, a small abrasion on the back of his shoulder that appeared to be healing, a deep puncture wound, and a sharp force injury (which was starting to heal even though it did not appear to have had any medical intervention);
- on his back and buttocks: a lot of discoloration, superficial abrasions along the buttocks, scars, a healing bite mark (the measurements of which match up with a teenager or adult), abrasion on the right hip, discoloration of the right hip and lower buttock; and
- on his legs: few little abrasions on back of upper legs, and one knee was “really, really” swollen.

(ROA p. 712, line 22 – p. 725, line 2; State's Exhibits 31, 130, 144, 225, 227-231, 255, and 256.)

During Dr. Durso's internal examination of Victim, she discovered the following injuries:

- his thyroid was really pale indicating significant blood loss;
- two fractured ribs: the left lateral ninth rib fracture was dated between 10 days

and six weeks and was healing but would have been “pretty painful” when coughing, sneezing or taking a deep breath, and the right posterior tenth rib fracture was dated to have been suffered within 24 hours of death;

- injuries of this type are the result of blunt force injury – either the body striking a hard flat surface or a hard flat surface striking the body – that do not generally break or puncture the skin;
- a fracture to his left humerus, the left upper arm bone, which was actually a healing fracture under an acute hemorrhage indicating a site of repeated injury;
  - the healing fracture was dated to be one to two weeks old, the acute hemorrhage overlying the fracture was dated to have occurred within 24 hours of death;
  - this injury could have been caused by any hard impact to the bone or by someone yanking the arm;
  - this injury would have been extremely painful and Victim would not have been able to use the arm in any meaningful way;
- injuries to his head and brain, including
  - four areas of impact of bruising to the head, which were not consistent with just one impact or a fall from any height and were indicative of abuse;
  - subdural hemorrhage over the left side of the brain, which was dated to be between five and seven days prior to death;
    - not consistent with a fall from any height or any natural cause, but is caused by blunt force trauma;
    - this injury would have resulted in obvious symptoms, including lethargy, vomiting, and maybe loss of consciousness after the blow; and
  - injuries to the back of his body, including
    - extensive bleeding and hemorrhage of different ages;
      - the majority of blood loss was in the lower back and buttocks, with hemorrhage two and half inches deep in the left buttocks that could not have been caused by spanking, but by a hard object hitting the child;
      - hemorrhage to the back of the legs and arms;
    - some the bruising was dark and bright red indicating they were probably less than 18-24 hours old, but there was just as much bruising that was older;
    - Dr. Durso testified that she had never seen a child with this many areas of bruising this severe; and
    - the blood loss from all of the bruising – old and new – contributed to the blood loss so that he was no longer able to circulate enough blood to provide oxygen to his brain to maintain his body’s vital functions.

(ROA p. 726, lines 1-17; p. 728, line 1 – p. 744, line 1; State’s Exhibits 240-242.) Dr.



Durso concluded that Victim was repeatedly and consistently beaten, and those beating caused him to lose so much blood from his circulatory system into his soft tissue that his body ceased being able to function. (ROA p. 744, lines 2-21.) She stated that Victim would have been in excruciating pain from the time he woke up until he went to sleep; even just trying to sit down would have been painful. His pain would have been noticeable. (ROA p. 744, line 22 – p. 745, line 13.)

Dr. Durso concluded the injuries suffered by Victim were not the result of spanking or falling, but were all intentionally inflicted injuries. Victim did not die from disease or any natural cause. (ROA p. 727, lines 18-25; p. 745, lines 14-23.) In her opinion, the last incident alone would not have killed him, but it was the cumulative effect of all the injuries he sustained. (ROA p. 745, line 23 – p. 746, line 19.) Had Victim received medical treatment, he would have survived. He might have needed a transfusion, but he would have survived. (ROA p. 746, lines 20-25.) She determined the cause of his death to be extensive soft tissue hemorrhage and bleeding due to multiple acute and healing blunt force injuries due to non-accidental trauma, *i.e.*, persistent and repeated abuse. (ROA p. 747, lines 1-8.)

Dr. Rosa, a child abuse pediatrician, reviewed the pathology report and photographs of Victim taken after his death. (ROA p. 448, line 16 – p. 449, line 14; p. 453, line 8 – p. 455, line 16.) She found injuries on his different organ systems. Starting with his skin, Victim had injuries to his face, trunk (the neck, chest, back, and buttocks), upper legs, and arms. The injuries were bruises, abrasions, scrapes, scars, an open wound, and a healing bite mark on his back. (ROA p. 472, line 22 – p. 474, line 4; p. 487, line 10 – p. 489, lines 16.) She also found Victim had suffered injuries to his brain – there were multiple contusions to the front and back of the scalp that were not visible on the outside,

blood had accumulated underneath the dura covering all of the left side and on the back of the brain, and blood had accumulated underneath the arachnoid. (ROA p. 474, line 5 – p. 475, line 12.) The injuries to the brain were found by Dr. Rosa to be inconsistent with a fall from a dresser. Instead, she found them to be consistent with multiple blunt impact trauma inflicted by either hitting Victim with an object multiple times or by hitting Victim up against something multiple times. Dr. Rosa testified that, in her opinion, the injuries to Victim's brain had been inflicted 72 hours to a week before his death. (ROA p. 490, line 21 – p. 492, line 14.) While Victim would have been exhibiting signs of brain injury, including lethargy, nausea, drowsiness, pin, seizures and abnormal movements of a limb, he would have still been able to move if motivated enough by hunger or something else. (ROA p. 492, line 15 – p. 493, line 3; p. 496, lines 14-20.)

Dr. Rosa also testified Victim also had two refractures, one to the ninth rib on the left side, which was the older of the two (10 days to six weeks) and showed evidence of healing, and one to the tenth rib on the right on the back posterior, which was very acute (within 24 hours of death). The rib fractures were consistent with blunt trauma to two different places, and were caused by something hitting Victim, rather than a fall. These injuries would have caused pain when Victim coughed, sneezed or took a deep breath. He also had a fracture on the left humerus that had evidence of healing (dating the original injury seven to 14 days before death) and acute trauma meaning that the bone was rebroken around the time of death. The injuries to the humerus were caused by trauma of some sort, blunt trauma or someone grabbing Victim's arm forcibly. Before it was rebroken at the time of death, the older fracture would have been painful and would have prevented Victim from using his arm in an appropriate manner. (ROA p. 475, lines 13 – p. 481, line 23; p. 493, lines 4 – p. 494, line 11.)

Dr. Rosa also testified that there was significant discoloration of the skin in the area of the right hip, lower back, buttocks extending to the upper thigh, and the area around the back of both elbows indicating moderate to severe injuries. During the autopsy, Dr. Durso made cuts across those areas to expose the soft tissue and revealed a “substantial, substantial” amount of blood had collected in those areas. Some areas were worst than others, with “almost a cavity of blood, like a balloon of blood, in between the layers of muscles of the right buttocks.” The bright and dark red color of the blood indicated that it was newly released from the blood vessels. (ROA p. 481, line 24 – p. 484, line 19; p. 488, line 9 – p. 489, line 16.) The amount of blood that had collected under the bruised skin of Victim’s buttocks would have made the area hard and painful, especially when sitting. Victim would have been in excruciating pain. (ROA p. 488, line 18 – p. 489, line 22; p. 494, lines 12-18.) Victim also had lacerations to his lower and right upper lips, which could have been caused either by falling and hitting his lips, impact to the face, or the Victim biting his face because he was in pain while being beaten or because he had a seizure. (ROA p. 484, lines 20-25; p. 496, line 21 – p. 497, line 11.)

Dr. Rosa testified that Victim did not appear to be in the same physical condition at the time of his death as when he left his foster home – he had no soft tissue on this chest and his rib cage was clearly visible; his arms were also thin. His condition could have been consistent with a lack of proper nutrition. (ROA p. 495, line 2 – p. 496, line 13.) She opined that the injuries sustained by Victim were the result of child abuse. (ROA p. 485, lines 3-8; p. 497, lines 22-24.) She also gave her opinion that Victim died from massive blood loss caused by blunt impact trauma resulting from having been beaten with an object multiple times, which was compounded by the fact that he was already

compromised by the previous injuries he had sustained from multiple instances of abuse over the two month period prior to his death. (ROA p. 485, line 9 – p. 487, line 9; p. 494, lines 19-21; p. 497, line 22 – p. 498, line 5.) Dr. Rosa testified that, even without seeing all of the bruising, scars, and injuries, it would have been obvious in the days leading up to Victim's death that something was wrong and he needed treatment. (ROA p. 498, line 13 – p. 499, line 6.) Had Victim been taken to a doctor in the several days before his death, he could have been saved. (ROA p. 501, lines 5-10.)

## ARGUMENT

### I.

**Inasmuch as the State presented substantial circumstantial evidence of Appellant's guilt on both homicide by child abuse and unlawful conduct toward a child, the trial court properly denied her motion for directed verdict.** (Issue I)

#### Background

At the close of the State's case, Appellant moved for a directed verdict on the charges against her, arguing that on the ground that the State presented no evidence that Appellant committed the crime of unlawful conduct toward a child. (ROA p. 936, lines 6-14.) She also argued the State had failed to produce any evidence that she personally inflicted injuries to Victim or caused his death. (ROA p. 936, line 15 – p. 939, line 13; p. 939, line 22 – p. 940, line 17.) The State opposed the motion, contending that it had presented sufficient evidence of Appellant's guilt of both charges – direct and substantial circumstantial evidence that not only she was present, knew about the injuries to Victim, and knew about his impairment, but that she caused the injuries and impairment. (ROA p. 939, lines 14-20.)

Finding the existence of sufficient evidence to survive a directed verdict motion,

the trial court denied the motions. (ROA p. 940, lines 18-22.)

The motion for a directed verdict was renewed at the end of the defense, and it was again denied. (Supplemental ROA p. 1, line 20 – p. 3, line 3.) The motion was not renewed at the end of the State's case in rebuttal.

### Argument

On appeal, Appellant argues the trial erred in not granting her motions for directed verdict because the State had presented no direct evidence of her guilt and the circumstantial evidence presented was not substantial.

Respondent strongly disagrees. Inasmuch as the State presented substantial circumstantial evidence of Appellant's guilt, the trial court properly denied the motion for directed verdict.

In a criminal case, a trial court ruling on a motion for directed verdict must view the evidence in the light most favorable to the State. *State v. Hepburn*, 466 S.C. 416, 753 S.E.2d 402 (2013); *State v. Buckmon*, 347 S.C. 316, 321, 555 S.E.2d 402, 404 (2001); *State v. Smith*, 359 S.C. 481, 597 S.E.2d 888 (Ct. App. 2004). The trial court is concerned with the existence or nonexistence of evidence, not its weight. *Id.*; *State v. Jarrell*, 350 S.C. 90, 564 S.E.2d 362 (Ct. App. 2002). A defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged, *State v. McHoney*, 344 S.C. 85, 97, 544 S.E.2d 30, 36 (2001), and the court should not refuse to grant the directed verdict motion when the evidence merely raises a suspicion that the defendant is guilty. *State v. Mitchell*, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000).

When reviewing a denial of a directed verdict, the appellate court must view the evidence and all reasonable inferences in the light most favorable to the State. *State v. Hepburn*, 406 S.C. 416, 429, 753 S.E.2d 402, 409 (2014); *State v. Phillips*, 411 S.C. 124,

132, 767 S.E.2d 444, 448 (Ct. App. 2014); *State v. Smith*, 359 S.C. 481, 597 S.E.2d 888 (Ct. App. 2004); *State v. Jarrell*, *supra*. If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the defendant, the appellate court must find the case was properly submitted to the jury. *State v. Hepburn*, *supra*; *State v. Pinckney*, 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000); *State v. Phillips*, *supra*; *State v. Smith*, *supra*.

Appellant was indicted and tried on two charges: homicide by child abuse, under S.C. Code Section 16-3-85(A)(1), and unlawful conduct toward a child, under Section 63-5-70(A). Looking first to the homicide charge, it is defined as follows.

A person is guilty of homicide by child abuse if the person:

(A) (1) causes the death of a child under the age of eleven while committing child abuse or neglect, and the death occurs under circumstances manifesting an extreme indifference to human life....

(B) For purposes of this section, the following definitions apply:

- (1) "child abuse or neglect" means an act or omission by any person which causes harm to the child's physical health or welfare;
- (2) "harm" to a child's health or welfare occurs when a person:
  - (a) inflicts or allows to be inflicted upon the child physical injury, including injuries sustained as a result of excessive corporal punishment;
  - (b) fails to supply the child with adequate food, clothing, shelter, or health care, and the failure to do so causes a physical injury or condition resulting in death; or
  - (c) abandons the child resulting in the child's death.

Section 16-3-85(A). This Court has addressed the element of "extreme indifference."

Extreme indifference is in the nature of "a culpable mental state ... and therefore is akin to intent." *State v. Vowell*, 276 Ark. 258, 634 S.W.2d 118, 119 (1982) (citation omitted).

In this state, indifference in the context of criminal statutes has been compared to the conscious act of disregarding a risk which a person's conduct has created, or a failure to exercise ordinary or due care. *See State v. Rowell*, 326 S.C. 313, 315, 487 S.E.2d 185, 186 (1997) (discussing the requisite mental state for recklessness); *see generally Hooper v. Rockwell*, 334 S.C. 281, 297, 513 S.E.2d 358, 367 (1999) (“Conduct of the parent which evinces a settled purpose to forego parental duties may fairly be characterized as wilful because it manifests a conscious indifference to the rights of the child to receive support and consortium from the parent.”). At least one other jurisdiction with a similar statute has found that “[a] person acts ‘under circumstances manifesting extreme indifference to the value of human life’ when he engages in deliberate conduct which culminates in the death of some person.” *Davis v. State*, 325 Ark. 96, 925 S.W.2d 768, 773 (1996). Therefore, we ...hold that in the context of homicide by abuse statutes, extreme indifference is a mental state akin to intent characterized by a deliberate act culminating in death.

*State v. Jarrell*, 350 S.C. at 98, 564 S.E.2d at 367.

The evidence presented during the State’s case, as set out in the Record on Appeal and summarized in the Statement of the Facts herein, established that Victim suffered repeated and persistent child abuse, with injuries dating from 24 hours to two months before his death. No single injury he suffered would have killed him, but his death was the result of the *cumulative effect* of all the injuries he sustained. Even without seeing all of the bruising, scars, and injuries, it would have been obvious to Appellant in the days and weeks leading up to Victim’s death – before she went into the hospital and after she returned home – that something was wrong and he needed treatment. Had Victim received medical treatment in the several days before his death, he would have survived. There was circumstantial evidence that Appellant was angry and frustrated with Victim for not being toilet trained, that Victim was beaten in the home, that both Appellant and Co-Defendant had hit Victim prior to July 1, and that on July 1 one or both of them hit

him. As the State's evidence established, the cumulative impact of the abuse over the two month period would have been readily apparent, yet Appellant took no steps to obtain medical treatment for him when such would have prevented his death. In fact, the evidence shows that Appellant actively delayed getting help for Victim on July 1. The statute makes clear that child abuse may be committed by either an act or an omission which results in harm to a child's physical health, and harm occurs when a person either personally inflicts or allows someone else to inflict physical injury upon a child. The State presented substantial circumstantial evidence<sup>23</sup> that Appellant engaged in deliberate conduct evincing extreme indifference to Victim's life – through either action or inaction – that culminated in Victim's death and the trial court properly denied the motion for directed verdict on the homicide by child abuse indictment. *State v. Smith, supra*; *State v. Jarrell, supra*.

Appellant was also tried on an indictment for unlawful conduct toward a child, which is defined as

(A) It is unlawful for a person who has charge or custody of a child, or who is the parent or guardian of a child, or who is responsible for the welfare of a child as defined in Section 63-7-20 to:

- (1) place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety;
- (2) do or cause to be done unlawfully or maliciously any bodily harm to the child so that the life or health of the child is endangered or likely to be endangered; or
- (3) wilfully abandon the child.

Section 63-5-70. Section 63-7-20 (16) defines "Person responsible for a child's welfare"

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<sup>23</sup> The State maintains that direct evidence of Appellant's guilt was also presented. See Testimony of Crystal Chapman at ROA p. 119, line 21 – p. 123, line 8; p. 125, lines 23-25 (Crystal said she heard, over the telephone, Victim being beat and Appellant tell Co-Defendant to hold Victim's legs followed by Co-Defendant saying the Victim was not moving).



to include the child's parent or an adult who has assumed the role or responsibility of a parent or guardian for the child, but who does not necessarily have legal custody of the child.

Here, Appellant was Victim's mother and had assumed that role and responsibility. As set out in the Record on Appeal and summarized in the Statement of Facts herein, the evidence presented by the State supports two scenarios that reasonably tend to prove Co-Defendant's guilt of this charge. First, the evidence supports that Co-Defendant injured the child, but, if so, the injuries were such that they would have been readily apparent to Appellant. Second, the evidence also supports that Appellant could have inflicted at least one of Victim's injuries herself. Under either of these scenarios – supported by substantial evidence presented by the State – the trial court properly denied the motions for directed verdict. *See State v. Palmer*, 408 S.C. 218, 758 S.E.2d 195 (Ct. App. 2014), *cert. granted*, (S.C.S. Ct. September 24, 2014); *State v. Williams*, 405 S.C. 263, 747 S.E.2d 194 (Ct. App. 2013).

## II.

**The trial court properly admitted photographs offered by the State because they were highly probative to the issues of whether Victim was abused or neglected, whether the abuse or neglect was the caused his death, and whether his condition would have been apparent, and their probative value substantially outweighed the danger of unfair prejudice.** (Issue II)

### Background

During an in camera hearing, Appellant objected to the admission of the following photographs: 75 through 85, 106 through 109, 12, 13, 14, and 130 through 150. (ROA p. 293, line 19 – p. 294, line 2.) Noting the defense was objecting to every

photograph of Victim at the scene, the State contended that the photographs were neither overly bloody nor gory, nor were they being used to arouse the passions or sympathy of the jurors. (ROA p. 294, lines 5-11.) The State argued that – as an element of the crime of homicide by child abuse, it was required to show Appellant and Co-Defendant manifested an extreme indifference to human life – the challenged photographs<sup>24</sup> were relevant to not only establish a pattern of continuous abuse and neglect (which made it more probable that Victim’s injuries were the result of child abuse than an accident such as a fall from a dresser), but to also establish Victim’s physical condition would have been readily apparent to anyone such that Appellant and Co-Defendant would have been aware of the ongoing abuse and neglect. (ROA p. 294, line 5 – p. 296, line 15.) The State, providing citations of authority to the trial court, also noted that South Carolina law did not require the exclusion of probative and relevant evidence merely because it is unpleasant or offensive. (ROA p. 298, lines 5-11.)

Appellant thereafter argued that the photographs of Victim at the crime scene were inadmissible because

- the photographs had no probative value because “[a]ll they show is a dead child on the floor,” and how Victim appeared at the crime scene was not relevant inasmuch as the defense was not disputing the fact that he was dead and the

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<sup>24</sup> An examination of the challenged exhibits themselves reveals that State’s Exhibits 13. State’s Exhibit 15 is a photograph of the room in which Victim was found, but his body is not visible. State’s Exhibits 75 through 85 are photographs of Victim taken as he lay on the floor of the home some show his entire body, while others are focused on specific parts of his body. State’s Exhibits 130 through 147 are photographs of Victim taken as he lay either on the carpet of the home or on some sort of fabric; some show his entire body, while others are focused on specific parts of his body. The only photographs in which blood is readily visible are in those showing Victim’s mouth, where blood appears on his lower lip. Some of the other photos show bruising and wounds, of which one is a deep, gaping wound to his right arm but no blood is present.

State’s Exhibits 106 through 109 are photographs of various views of the rear bedroom where the wet spot on the carpet was located.

defense had not asked anyone about what injuries they did or did not see on Victim at that time;

- the photographs did not corroborate “any sort of testimony,” including that of the pathologist who would be testifying about injuries she observed on Victim and his cause of death; and
- the photographs would do nothing but inflame the passions of the jury leading them to make an improper decision.

(ROA p. 296, line 21 – p. 298, line 3.)

The trial court thereafter admitted some of the photographs, while excluding others.

I find that that the photographs are highly probative to the issues of whether or not the victim was abused and whether or not the abuse was the cause of his death. These are integral elements of the charge of homicide by child abuse and the charge of unlawful conduct towards a child. Thus, I find that the nature of any potential unfair prejudice does not outweigh the photograph’s probative value. I find that these photographs are directly relevant under the South Carolina Rules of Evidence, that the proper analysis is a 403 analysis, which I just conducted.

(ROA p. 298, line 16 – p. 299, line 2.) The court ruled that State’s Exhibits 121, 14, 76, 77, 82, and 142 were not admissible because they were repetitious of other photographs. State’s Exhibits 13, 15 through 19, 75, 80, 81, 83 through 85, 130, 136 through 139, 144, 146, and 147 were determined to be admissible subject to a proper foundation being laid.

(ROA p. 299, lines 3-14.)

At that point, Appellant asked the trial court to rule on the admissibility of State’s Exhibits 106 through 109. (ROA p. 299, lines 15-17.) Those photos were of the rear bedroom, where the wet spot was located; they were taken during a reenactment by Appellant of what she maintained happened and one included a ruler for measurements. Appellant argued that the photographs showed an infant-sized doll on the floor – used

during the reenactment to show where Victim was found by Appellant – which, being much smaller and an infant, would affect the jury “in an overly prejudicial way.” (ROA p. 300, line 12 – p. 306, line 3.) The trial court ruled that State’s Exhibit 106 was admissible because it relevant to the defense presented by Appellant. The court found the presence of the baby doll in the photograph was not prejudicial unless the State failed to establish that it was for demonstrative purposes. The court determined State’s Exhibits 107 through 109 were inadmissible. (ROA p. 306, lines 4-24.)

When the State later offered State’s Exhibits 13, 15 through 19, 75, 80, 81, 83 through 85, 130, 136 through 139, 144, 146, and 147 into evidence during Investigator Oates’ testimony,<sup>25</sup> the trial court admitted them over Appellant’s and Co-Defendant’s renewed objections. (ROA p. 353, line 9 – p. 354, line 15.)

On May 20, 2014, the trial sent the jury home at 5:05 p.m. After briefly discussing the schedule for the next day, the trial court asked if anyone had anything else. Co-Defendant asked when their witness list for their proffer should be ready. After that was addressed, the court asked if anyone had anything else before they stopped for the night. Counsel for all parties responded negatively and court adjourned for the day. (ROA p. 430, lines 1 – p. 432, line 6.) When court resumed at 9:30 the next morning, the trial court questioned the State about lesser-included offenses and Appellant’s counsel moved for a mistrial based upon on an alleged discovery violation; the motion was denied. (ROA p. 432, line 7 – p. 440, line 6.) Appellant then moved for a mistrial based upon comments made by Co-Defendant’s counsel during his opening statement, the emotional outburst by Ms. Thompson when called to the witness stand the day before, and the

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<sup>25</sup> Investigator Oates testified that the photographs were taken by him on July 1 and that they depicted Victim as he found him in the living room and the injuries that he observed on Victim’s body. (ROA p. 353, lines 9-21.)

admission of the crime scene photos the day before. Defense counsel reported that one juror could not even look at the photos at one point, which she alleged reinforced her argument that the photographs would inflame the jury and their probative value was substantially outweighed by the prejudicial value of the photographs. (ROA p. 440; line 8 – p. 442, line 9.) The motion was denied, with the trial court noting that even with the reaction of the jurors, the photographs that had been admitted were directly probative, and that it had used its discretion in admitting some photographs while excluding some. The court also stated that, while Ms. Thompson did have an emotional outburst, the jury was removed from the courtroom at that time and, when they returned, Ms. Thompson was already on the stand. The trial court also noted that the emotional response was because Ms. Thompson did not want to testify against her daughter, Appellant but was under subpoena. (ROA p. 442, line 10 – p. 443, line 16.)

#### Argument

On appeal, Co-Defendant claims the trial court erred in admitting the State's proffered photographs because any probative value they had was substantially outweighed by the danger of unfair prejudice. He asserts that the challenged crime scene photographs showed "a cold, lifeless four-year-old child" and the autopsy photographs showed Victim's body being cut into pieces. (Initial Brief of Co-Defendant at p. 12.)

Respondent strongly disagrees with Co-Defendant's assertion of error. The photographs were not gruesome or unduly prejudicial, and were relevant to the jury's understanding of the evidence and issues in the case. Moreover, none of the autopsy photographs showed victim's body being cut or having been cut.

It is well settled that the relevance, materiality, and admissibility of photographs are left to the sound discretion of the trial court. *State v. Collins*, 409 S.C. 524, 534, 763

S.E.2d 22, 27 (2014). “If the offered photograph serves to corroborate testimony, it is not an abuse of discretion to admit it.” *State v. Nance*, 320 S.C. 501, 508, 466 S.E.2d 349, 353 (1996).

Even though relevant, evidence is to be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. Rule 403, SCRE. The balance of the danger of unfair prejudice against the probative value must be based on the entire record, and will turn on the facts of each case. *State v. Collins*, 409 S.C. at 534, 763 S.E.2d at 27-28 ; *State v. Lyles*, 379 S.C. 328, 338, 665 S.E.2d 201, 206 (Ct.App.2008).

As noted by our Supreme Court in *State v. Collins*, *supra*,

Courts must often grapple with disturbing and unpleasant cases, but that does not justify preventing essential evidence from being considered by the jury, which is charged with the solemn duty of acting as the fact-finder. As one court has astutely observed, it is the duty of courts and juries to examine the evidence in even the most unpleasant of circumstance[.]

*Id.*, 409 S.C. at 535, 763 S.E.2d at 28 . Just because photographs are gruesome – especially where they mirror the “unfortunate reality” of the case – they are not inadmissible. *Id.*

“A trial judge's decision regarding the comparative probative value and prejudicial effect of evidence should be reversed only in exceptional circumstances.” *State v. Collins*, 409 S.C. at 534, 763 S.E.2d at 28, quoting *State v. Adams*, 354 S.C. 361, 378, 580 S.E.2d 785, 794 (Ct. App. 2003). “We review a trial court's decision regarding Rule 403 pursuant to the abuse of discretion standard and are obligated to give great deference to the trial court's judgment.” *Id.*

Here none of the photographs were gory or gruesome. The only blood seen on the body is on the lips. They depict how he appeared at the time of his death. The

photographs were probative because they established it would have been impossible for Co-Defendant not to have been aware of the injuries. The challenged photographs were also probative because they corroborated the testimony of State's witnesses, including the forensic pathologist and child abuse pediatrician, as well as some of the family members and first responders, regarding Victim's appearance and visible injuries.<sup>26</sup> It was important for the jury to see the condition of Victim's body at the time of his death and the nature and location of Victim's injuries in order to understand the witnesses' testimony as to his condition and the intentional nature of the infliction of the injuries, and to make a decision whether a parent, even if not inflicting the injuries him or herself, could have been ignorant of them. As in *State v. Gray*, 408 S.C. 601, 609, 759 S.E.2d 160, 164 (Ct. App. 2014), the photographs here contain no blood or gory anatomical details, and thus pose little, if any, danger of unfair prejudice. Because the challenged photographs had high probative value and little danger of unfair prejudice, it was clearly within the trial court's discretion to admit them.<sup>27</sup> See also *State v. Salley*, 398 S.C. 160, 727 S.E.2d 740 (2012) (professional photograph of victim taken when she was alive because it substantiated pathologist's testimony that her sickle cell trait was not outwardly apparent) *State v. Dial*, 405 S.C. 247, 746 S.E.2d 495 (Ct. App. 2013) (no error in admission of autopsy photographs which corroborated pathologist's testimony that victim's injuries were inconsistent with accidental injury).

### CONCLUSION

For the foregoing reasons and any other appearing in the Record on Appeal (as provided for in Rule 220, SCACR), the judgment and conviction of the lower court

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<sup>26</sup> See Statement of Facts, *supra*.

<sup>27</sup> The fact that two of the photographs showed Victim's genitals does not change this conclusion. The discoloration and swelling of them was discussed by Dr. Rosa.

should be affirmed.

Respectfully submitted,

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BY:   
ATTORNEYS FOR RESPONDENT

December 21, 2015

Columbia, South Carolina



STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
The Honorable Robert E. Hood, Circuit Court Judge

**RECEIVED**

DEC 21 2015

**SC Court of Appeals**

THE STATE,

Respondent,

vs.

COURTNEY SHANTE THOMPSON,

Appellant.

**Appellate Case No. 2014-001198**

**CERTIFICATE OF COUNSEL**

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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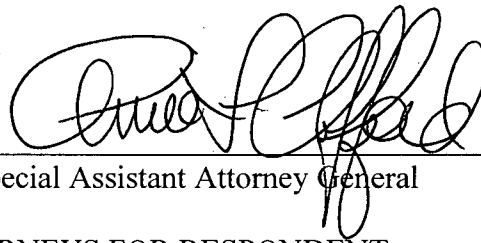
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A handwritten signature in black ink, appearing to be "Andrew P. [unclear]", written over a horizontal line.

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December 21, 2015

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

The State, Respondent,

v.

Courtney Shante Thompson, Appellant,

and

The State, Respondent,

v.

Robert Antonio Guinyard, Appellant.

Appellate Case No. 2014-001198

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Appeal from Richland County  
Robert E. Hood, Circuit Court Judge

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Opinion No. 5485  
Heard March 8, 2017 – Filed May 11, 2017

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**AFFIRMED**

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Mitzi Campbell Williams, of Lexington; and Chief  
Appellate Defender Robert Michael Dudek, of Columbia,  
for Appellant Courtney Shante Thompson.

Matthew G. Gerrald, of Barnes, Alford, Stork & Johnson,  
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Dudek, both of Columbia, for Appellant Robert Antonio Guinyard.

Attorney General Alan McCrory Wilson, Special Assistant Attorney General Amie L. Clifford; and Solicitor Daniel E. Johnson, all of Columbia, for Respondent.

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**GEATHERS, J.:** Appellants, Courtney Shante Thompson (Mother) and Robert Antonio Guinyard (Father), were tried jointly and convicted of homicide by child abuse (HCA) and unlawful conduct toward a child. They now seek review of their convictions, arguing the trial court erred in denying their respective motions for a directed verdict on each charge because the State failed to present substantial circumstantial evidence of guilt. Appellants also challenge the admission of photographs of their son (Victim) pursuant to Rule 403, SCRE, arguing any probative value the photographs may have had was substantially outweighed by the danger of unfair prejudice.<sup>1</sup> We affirm.

### **FACTS/PROCEDURAL HISTORY**

At approximately 6:15 p.m. on July 1, 2013, Richland County Emergency Medical Services received a call to respond to a cardiac arrest at Appellants' home. When first responders arrived at the home, they found Victim, a four-year-old boy, lying on the floor in the living room. He was wearing jeans, but no shirt. Victim was not moving or breathing, he had no pulse, and he was cold to the touch. A paramedic checked Victim's heart for electrical activity, but tragically, she found none. Subsequently, investigators from the Richland County Sheriff's Department found Victim's blood on the walls of the living room, hallway, and rear bedroom as well as on a white metal pipe that also had Father's blood on it.<sup>2</sup>

Mother gave her first statement to police at 9:45 p.m. on July 1, 2013. In her statement, she indicated that she went to Richland Memorial Hospital on June 29, 2013 to give birth to another child and was discharged from the hospital on July 1, 2013 in the early afternoon. She further indicated that after she arrived home, she discovered Victim had wet the floor in the play room. She alleged Victim was autistic and would soil and wet his surroundings. She also alleged she got in the

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<sup>1</sup> We consolidate Mother's and Father's appeals pursuant to Rule 214, SCACR.

<sup>2</sup> It could not be determined when the blood was transferred to the walls or the pipe.

shower and started washing off when she "heard a loud noise like a tumbling fall." She stated she got out of the shower and found Victim on the floor in the play room with his feet toward the dresser. She further stated,

He was crunched up and his body was stiff. His butt was up in the air[,] and he was [kind of] on his head. . . . He was biting his lip hard. . . . When I popped his lip out from his teeth to keep him from biting it off[,] he went flat on me. He just dropped. . . . He was not responding. . . . I picked [Victim] up like he was a baby and took him to the front room (living room). Blood was coming from his lip. I had blood on my hand and went to my room to get my phone off the floor. I called 911. They told me how to do CPR. I did what he told me. . . . When [the ambulance] got there[,] they put something on his chest[,] and they did not do nothing. They just said that he was gone.

Father also gave a statement to police on July 1, 2013. He alleged he was cooking dinner earlier that evening when he heard a "boom." Mother allegedly came down the hallway with Victim in her arms and Victim "was in and out." Father further alleged that after Mother called 911, he hid in a closet with the new baby because he was afraid the baby would be taken away.

On July 2, 2013, Dr. Amy Durso, a forensic pathologist, performed Victim's autopsy and reported the cause of death as "[e]xtensive soft tissue hemorrhage and bleeding . . . due to multiple acute and healing blunt force injuries due to non-accidental trauma." Later that day, police investigators went over the autopsy results with Mother, who then gave a second statement, explaining to investigators that her first statement "was not the truth." Mother alleged that when she came home from the hospital, she found Victim naked, lying in a puddle of urine, and "very weak." Victim allegedly was drinking water "like he had not had water in days. . . . His feet, legs, knee, butt, and arms were swollen and kind of blue. [Victim] was just out of it." Mother further alleged that after she went to take a shower, she heard Victim

crying like he was in pain and getting hit. I jumped out of the shower. [Victim] was stretched out on the floor in my room. I stood [Victim] up and he dropped to his knees. [Victim] was breathing funny. [Victim] fell to the floor. . . . [Victim] was walking down the hall[,] and he collapsed after taking about three steps. [Victim] balled

up[,] and it looked like he was having a seizure. . . . I talked [to Victim] that morning at around 11 [a.m.] and my son told me that he was beaten with a pole. . . . When I got home[,] I saw blood flecks on the walls in the play room[,] [o]n the walls in the [hallway,] and on my room door. There was blood on the closet door in my room[,] and the door had a hole in the middle. There was blood in the carpet.

Later that evening, Appellants were arrested and charged with HCA and unlawful conduct toward a child.

On July 5, 2013, Victim's paternal grandmother, Patricia Guinyard, asked police to accompany her to Appellants' home to collect some clothes for Father and Appellants' newborn child. According to the police investigators accompanying Mrs. Guinyard, she was going through a large pile of clothing in Appellants' master bedroom closet when she found a child's size 5 shirt, still wet with blood, buried in the pile. DNA testing indicated the blood on the child's shirt was Victim's blood.

Appellants were tried together on May 19–28, 2014. At trial, the State presented the testimony of Dr. Olga Rosa, a forensic pediatrician who was qualified as an expert in child abuse pediatrics. Dr. Rosa reviewed Victim's medical records from his birth on April 18, 2009 through September 11, 2012, his last known doctor visit. Dr. Rosa also reviewed Victim's developmental records and genetic counseling records, photographs relating to Victim's death, and Dr. Durso's autopsy report. Dr. Rosa testified that the Department of Social Services (DSS) placed Victim in foster care on June 19, 2009, when he was only two months old, and DSS returned Victim to Appellants' care on April 6, 2012. According to Mother, DSS placed Victim in foster care because of an incident in which Victim almost fell out of the vehicle she was driving.

With the exception of some initial instability, Victim thrived during his time in foster care. Dr. Rosa stated that Victim was not autistic. She explained that Victim failed an autism screening test at his eighteen-month well-child checkup merely because he was having speech difficulties at the time, which is common for children in foster care. Dr. Rosa also stated that by March 2012, Victim was "growing well." Dr. Rosa reported,

His growth parameters [were] great. . . . He [was] toilet trained, and he [was] speaking . . . in two to three word

sentences, complete sentences. He [was] interacting. He [was] socialized . . . he [had] what we call social [adaptive] skills, so he [could] interact with same age peers, with adults, with his teachers at the level of almost a three-year-old.

However, soon after DSS returned Victim to Appellants in April 2012, he began regressing. Denise Jones, Victim's last foster mother, testified she spoke to Mother over the telephone a couple of days after DSS returned Victim to Appellants. Mother told Jones that Victim would not use the bathroom. Jones told Mother that Victim was using the bathroom when he was living with her and asked Mother to let her know if she needed any help. However, Jones never heard from Mother again. Similarly, Dr. Monica McCutcheon, who saw Victim for his three-year-old well-child checkup in September 2012, testified Mother reported Victim "was having some issues with wetting and soiling himself" and complained that his speech "was not as good as his two-year-old sibling."

Family members gave several eyewitness accounts of Appellants' abuse of Victim. Two of Mother's sisters, Natalie and Maria, testified and indicated that except for "a couple of weeks" when Victim lived with Natalie,<sup>3</sup> Victim lived with Appellants from April 2012 until his death. Natalie explained that she took Victim into her own home for a while because Mother was frustrated with Victim soiling and wetting the floors in the house. Natalie and Maria also witnessed Mother beating Victim. Natalie took photographs of the resulting bruises to show to DSS.

Natalie also testified that Mother told her she wanted Victim "to go back to DSS so they could give him a beating and a killing and a raping." Natalie stated she had seen Father hit Victim, but "in the way [] a father should, he smacked him in the back of the head, but not to hurt him." However, she admitted she told police that Father "would beat [Victim]." Natalie also stated Appellants would hit Victim because he had problems with wetting and soiling himself and his surroundings.

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<sup>3</sup> The testimony indicates this time period did not line up with the period set forth in the HCA indictments ("on or between June 15, 2013 and July 1, 2013"), which would have been the last two weeks of Victim's life—Natalie testified, "Shortly after we got him, took him to get the stuff he needed, they wanted him back." Similarly, Maria testified that after Victim stayed with Natalie for a couple of weeks, Mother took him back.

Additionally, Natalie recounted stories of Appellants depriving Victim of food and Victim having to be careful not to get caught eating anything.

Angela Metze, the grandmother of Victim's half-sister, testified she observed Victim shortly after DSS returned him to Appellants in April 2012, and he appeared to be a happy, healthy, well-nourished child. However, she noticed that over the course of the following year, Victim lost a significant amount of weight and became withdrawn. In February 2013, Metze received photographs showing bruises and scars on Victim's back. She contacted DSS several times, and she shared the photographs with a pediatrician, who also contacted DSS.

Mother's other sister, Crystal, lived with Appellants from April 2012 to October 2012. According to Crystal, during this period, Mother once asked her to hold Victim's legs so Mother could "whoop him" for soiling his surroundings and "playing in it." Crystal refused to do so and left. Additionally, Crystal witnessed Father punch Victim and make Victim sit on the toilet for three hours. Crystal also recounted an occasion when Mother stated that she did not care "if the retarded bastard died" and if DSS did not take Victim, "she was going to kill him and bury him so DSS would not take her other baby."

Crystal spoke to Mother over the telephone on the afternoon of July 1, 2013 after Mother returned from the hospital with her newborn, and Mother told her she was going to take a shower. According to data retrieved from Mother's cell phone, this call occurred at 5:05 p.m., a little over an hour before Mother made the 911 call. After Mother and Crystal ended their call, Mother's cell phone inadvertently dialed Crystal's phone number, and Crystal overheard Victim "getting beat" and crying out "Lord, help me," along with Mother telling Victim, "Hush." Crystal then heard Mother and Father talking to each other. Crystal subsequently ended the call.

Dr. Durso testified that during Victim's autopsy, her external examination revealed several scars over Victim's head; orbital contusions (a/k/a black eyes); lacerations to his lips; deep injuries on the inside of his lower lip; several scars on his arms; several abrasions on his torso, buttocks, and lower legs; a healing bite mark on his back, which, based on the size of the mark, was inflicted by a teen or adult; and a swollen knee. Dr. Durso's internal examination revealed a pale thyroid gland, which indicated heavy blood loss; two rib fractures, one occurring between ten days and six weeks prior to Victim's death and the other occurring within twenty-four hours prior to death; and a healing fracture to his upper left arm, one to two weeks old, overlaid with an acute hemorrhage, indicating a site of repeated injury.



Additional injuries revealed in the internal examination were multiple bruises to Victim's head, an indicator of abuse;<sup>4</sup> a subdural hemorrhage,<sup>5</sup> indicating a significant blunt force impact and dating from five to seven days prior to death; and profuse "bleeding and hemorrhage" in the soft tissues of Victim's lower back, his buttocks, the backs of his legs, and the backs of his arms, which confirmed suspected multiple bruises Dr. Durso noticed in these areas during the external examination. The soft tissue injuries with bright red or dark red hemorrhaging were "probably less than eighteen to twenty-four hours old" and the injuries with yellow hemorrhaging were older and could not be dated. Dr. Durso explained that the combined new and old soft tissue hemorrhaging "contributed to the blood loss of [Victim] so . . . he [was] no longer able to circulate enough blood to give [whatever oxygen] he need[ed] to his brain to maintain his vital functions in his body."

Dr. Durso stated that in the one to two weeks prior to his death, Victim would not have been able to use his left arm due to it being fractured and he would have been guarding that arm because it would have been extremely painful.<sup>6</sup> Dr. Durso also stated any caregiver would have noticed that (1) Victim was not using that arm, (2) he was in pain, and (3) he was not acting "like a normal four-year-old." Additionally, the subdural hemorrhage that occurred five to seven days before Victim's death would have placed enough pressure on Victim's brain to cause lethargy, possible vomiting, and possible temporary unconsciousness "after the blow." According to Dr. Durso, a parent would notice these symptoms and recognize that his or her child "was not acting right."

Dr. Durso concluded that Victim's injuries had been intentionally inflicted; Victim had been chronically abused; anyone coming in contact with Victim would have noticed the excruciating pain Victim experienced as a result of the multiple soft tissue injuries; and if he had received medical attention before his final beating, his life could have been saved. She further explained, "You have a limit on how much blood you can lose. When you go over that limit and your brain is no longer getting that blood supply, that's when he would have died, that last bit of blood that came out into his soft tissues after that beating."

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<sup>4</sup> Dr. Durso explained that her internal examination confirmed suspected multiple bruises she noticed during the external examination.

<sup>5</sup> The dura is a layer surrounding the brain.

<sup>6</sup> This two-week period lines up with the period set forth in the HCA indictments ("on or between June 15, 2013 and July 1, 2013").

Dr. Rosa largely corroborated Dr. Durso's findings. Dr. Rosa stated that from seventy-two hours to a week before Victim's death, he would have shown symptoms of the subdural hemorrhage and a subarachnoid hemorrhage,<sup>7</sup> including nausea, vomiting, lethargy, drowsiness, headaches, possible seizures, and abnormal limb movements. Dr. Rosa also stated Victim would have vocalized his pain from his two rib fractures, one of which was ten days to six weeks old and the other occurring within twenty-four hours before his death. Further, Victim's arm fracture would have prevented him from appropriately using his arm.

Dr. Rosa opined that the physical abuse inflicted on Victim during the last two months of his life caused his death. She also explained that in the days leading up to his death, it would have been obvious to anyone that something was wrong with Victim and he needed medical treatment, even if his bruising and scars were not easily visible. If Victim had been taken to a doctor during the several days before his death, ultimately, Dr. Rosa would have been consulted and Victim could have been saved.

At the conclusion of the State's case-in-chief, Appellants made their respective directed verdict motions, and they renewed these motions at the appropriate times. However, the trial court denied the motions, and the jury ultimately returned guilty verdicts against Appellants on the charged offenses. Both were sentenced to life imprisonment without parole for HCA and ten years for unlawful conduct toward a child. The trial court ordered Mother's ten-year sentence to run consecutively to her life sentence and Father's ten-year sentence to run concurrently to his life sentence. These appeals followed.

### ISSUES ON APPEAL

1. Was there substantial circumstantial evidence of Mother's guilt to justify the trial court's denial of her directed verdict motion?
2. Was there substantial circumstantial evidence of Father's guilt to justify the trial court's denial of his directed verdict motion?
3. Did the admission of photographs of Victim's body taken at the crime scene and during his autopsy violate Rule 403, SCRE, due to their probative value being substantially outweighed by the danger of unfair prejudice?

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<sup>7</sup> "Arachnoid" refers to another layer surrounding the brain.

## STANDARD OF REVIEW

### Directed Verdict

"On appeal from the denial of a directed verdict, this [c]ourt views the evidence and all reasonable inferences in the light most favorable to the State." *State v. Pearson*, 415 S.C. 463, 470, 783 S.E.2d 802, 806 (2016) (quoting *State v. Butler*, 407 S.C. 376, 381, 755 S.E.2d 457, 460 (2014)). "If the [S]tate has presented 'any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused,' this [c]ourt must affirm the trial court's decision to submit the case to the jury." *State v. Hepburn*, 406 S.C. 416, 429, 753 S.E.2d 402, 409 (2013) (quoting *State v. Cherry*, 361 S.C. 588, 593–94, 606 S.E.2d 475, 478 (2004)).

### Admission of Evidence

"The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion. An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." *State v. Goodwin*, 384 S.C. 588, 601, 683 S.E.2d 500, 507 (Ct. App. 2009) (quoting *State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006)).

A trial [court's] decision regarding the comparative probative value and prejudicial effect of evidence should be reversed only in exceptional circumstances. [This court] review[s] a trial court's decision regarding Rule 403[, SCRE,] pursuant to the abuse of discretion standard and [is] obligated to give great deference to the trial court's judgment.

*State v. Collins*, 409 S.C. 524, 534, 763 S.E.2d 22, 28 (2014) (citation omitted) (quoting *State v. Adams*, 354 S.C. 361, 378, 580 S.E.2d 785, 794 (Ct. App. 2003)).

## LAW/ANALYSIS

### **I. Directed Verdict Motions**

Appellants argue the trial court erred in denying their respective motions for a directed verdict on each charge because the State failed to present substantial circumstantial evidence of guilt. We disagree.

When considering circumstantial evidence in evaluating a directed verdict motion, the trial court "must submit the case to the jury if there is 'any substantial evidence [that] reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced.'" *Pearson*, 415 S.C. at 473, 783 S.E.2d at 807 (quoting *State v. Bennett*, 415 S.C. 232, 236–37, 781 S.E.2d 352, 354 (2016)). "[W]hen the State fails to produce substantial circumstantial evidence that the defendant committed a particular crime, the defendant is entitled to a directed verdict." *Id.* at 469, 783 S.E.2d at 805 (alteration in original) (quoting *State v. Odems*, 395 S.C. 582, 586, 720 S.E.2d 48, 50 (2011)). "The trial [court] 'should not refuse to grant the directed verdict motion when the evidence merely raises a suspicion that the accused is guilty.'" *Id.* (quoting *Cherry*, 361 S.C. at 594, 606 S.E.2d at 478). "'Suspicion' implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof." *Id.* at 469–70, 783 S.E.2d at 805 (quoting *Cherry*, 361 S.C. at 594, 606 S.E.2d at 478).

Nonetheless, "when the State relies exclusively on circumstantial evidence and a motion for a directed verdict is made, the trial [court] is concerned with the existence or non-existence of evidence, not with its weight." *Id.* at 469, 783 S.E.2d at 805. "[A] trial [court] is not required to find that the evidence infers guilt to the exclusion of *any other reasonable hypothesis*." *Id.* at 470, 783 S.E.2d at 805 (quoting *State v. Ballenger*, 322 S.C. 196, 199, 470 S.E.2d 851, 853 (1996)).

[A]lthough the *jury* must consider alternative hypotheses, the *court* must concern itself solely with the existence or non-existence of evidence from which a jury could reasonably infer guilt. This objective test is founded upon reasonableness. Accordingly, in ruling on a directed verdict motion where the State relies on circumstantial evidence, the court must determine whether the evidence presented is *sufficient to allow a reasonable juror to find the defendant guilty beyond a reasonable doubt*.

*Id.* at 473, 783 S.E.2d at 807 (alteration in original) (third emphasis added) (quoting *Bennett*, 415 S.C. at 237, 781 S.E.2d at 354).

#### **A. Homicide by Child Abuse**

Section 16-3-85(A)(1) of the South Carolina Code (2015) provides, "A person is guilty of [HCA] if the person causes the death of a child under the age of eleven

while committing child abuse or neglect, and the death occurs under circumstances manifesting an extreme indifference to human life . . . ." "Child abuse or neglect" is defined in section 16-3-85 as "an act *or omission* by any person which causes harm to the child's physical health or welfare." S.C. Code Ann. § 16-3-85(B)(1) (2015) (emphasis added). Further,

"harm" to a child's health or welfare occurs when a person:

(a) inflicts *or allows to be inflicted* upon the child physical injury, including injuries sustained as a result of excessive corporal punishment;

(b) fails to supply the child with adequate food, clothing, shelter, or *health care*, and *the failure to do so causes a physical injury or condition resulting in death*; or

(c) abandons the child resulting in the child's death.

S.C. Code Ann. § 16-3-85(B)(2) (2015) (emphases added). Moreover, "[f]or purposes of the HCA statute, 'extreme indifference' has been defined as 'a mental state akin to intent characterized by a deliberate act culminating in death.'" *McKnight v. State*, 378 S.C. 33, 48, 661 S.E.2d 354, 361 (2008) (quoting *State v. Jarrell*, 350 S.C. 90, 98, 564 S.E.2d 362, 367 (Ct. App. 2002)).

Here, the evidence and all reasonable inferences, viewed in the light most favorable to the State, show (1) Appellants' custody of Victim and their failure to seek medical treatment for him during the last two weeks of his life, when it was obvious he needed treatment, caused Victim's death and (2) his death occurred under "circumstances manifesting [Appellants'] extreme indifference to human life." See § 16-3-85(A)(1) ("A person is guilty of [HCA] if the person causes the death of a child under the age of eleven while committing child abuse or neglect, and the death occurs under circumstances manifesting an extreme indifference to human life . . . ."); § 16-3-85(B)(1) (defining "child abuse or neglect" as "an act *or omission* by any person which causes harm to the child's physical health or welfare" (emphasis added)); *Pearson*, 415 S.C. at 470, 783 S.E.2d at 806 ("On appeal from the denial of a directed verdict, this [c]ourt views the evidence and all reasonable inferences in the light most favorable to the State." (quoting *Butler*, 407 S.C. at 381, 755 S.E.2d at 460)).

Specifically, the testimony of Dr. Durso and Dr. Rosa established that one to two weeks prior to Victim's death, he was exhibiting pain and other obvious symptoms of repeated physical abuse and he could have been saved had he received medical treatment. Further, given the severity of Victim's symptoms and the history of Appellants' animosity toward Victim, a juror could reasonably infer that Appellants' failure to seek medical treatment for Victim was more than mere neglect but rather a deliberate choice, i.e., "a deliberate act." *McKnight*, 378 S.C. at 48, 661 S.E.2d at 361 ("For purposes of the HCA statute, 'extreme indifference' has been defined as 'a mental state akin to intent characterized by a deliberate act culminating in death.'" (quoting *Jarrell*, 350 S.C. at 98, 564 S.E.2d at 367)); cf. *Jarrell*, 350 S.C. at 99, 564 S.E.2d at 367 (stating a parent has a duty to serve his or her child's best interests); *Hill v. State*, 415 S.C. 421, 435, 782 S.E.2d 414, 421 (Ct. App. 2016) ("Generally, motive is not an element of a crime that the prosecution must prove to establish the crime charged, but frequently motive is circumstantial evidence . . . of the intent to commit the crime . . . ." (quoting *State v. Sweat*, 362 S.C. 117, 124, 606 S.E.2d 508, 512 (Ct. App. 2004))). Moreover, Mother's stay at the hospital during this two-week period was merely two and one-half days, from June 29 through the early afternoon of July 1, 2013. Therefore, Mother had enough time at home with Victim to be aware of his symptoms.

The record also includes evidence of Appellants inflicting, or allowing the infliction of, physical harm on Victim resulting in his death as well as additional evidence of Appellants' extreme indifference. Dr. Rosa stated that the cause of Victim's death was the cumulative effect of the chronic physical abuse inflicted on Victim during the last two months of his life. In the light most favorable to the State, Appellants' custody of Victim during these two months and the previous history of Appellants' abuse of Victim implicate both Mother and Father; a juror could reasonably infer that either parent inflicted the fatal abuse while the other parent was aware of the abuse and acquiesced in it. See § 16-3-85(B)(1) & (2)(a) (defining "child abuse or neglect" as "an act *or omission* by any person which causes harm to the child's physical health or welfare" and "'harm' to a child's health or welfare" as "inflict[ing] *or allow[ing]* to be inflicted upon the child physical injury, including injuries sustained as a result of excessive corporal punishment" (emphases added)).

Even more compelling was the evidence concerning Victim's last beating. First, the records from Mother's cell phone and Crystal's testimony regarding Mother's inadvertent call, or "pocket dial," show both parents were present when Victim was beaten for the last time, near the time of his death. Crystal overheard Victim "getting beat" and "scream[ing] for help," along with Mother telling Victim, "Hush." Crystal then heard Mother and Father talking to each other before Crystal

ended the call. A juror could reasonably infer that either parent beat Victim while the other parent was present and acquiesced in the abuse. Further, when first responders arrived at Appellants' home in response to Mother's 911 call, they noticed Victim was wearing jeans but no shirt. Four days later, Victim's paternal grandmother found a child's size 5 shirt, still wet with blood, buried in a large pile of clothing in the master bedroom closet. DNA testing indicated the blood on the child's shirt was Victim's blood.

Because the shirt was still wet with Victim's blood four days after his death, a reasonable juror could infer Victim was wearing it during his final beating, when both parents were present, and the appearance of blood made both parents aware of the grave trauma being inflicted on Victim. Perhaps when a disinterested bystander fails to help a victim of brutal violence, it can be characterized as mere neglect; but when a parent fails to save his or her own son from such brutality, it is "a deliberate act." *McKnight*, 378 S.C. at 48, 661 S.E.2d at 361 ("For purposes of the HCA statute, 'extreme indifference' has been defined as 'a mental state akin to intent characterized by a deliberate act culminating in death.'" (quoting *Jarrell*, 350 S.C. at 98, 564 S.E.2d at 367)); *cf. Jarrell*, 350 S.C. at 99, 564 S.E.2d at 367 ("A parent has a specific and [non]delegable duty to serve the best interests of her child and should make every effort not to knowingly place her child in harm's way."); *id.* ("[The appellant] could have prevented the murder of her son merely by choosing to stay home. Her failure to protect her child is concrete evidence of her indifference towards his life.").

We note Appellants rely heavily on the circumstantial evidence analysis in *Hepburn*, in which our supreme court reviewed a mother's HCA conviction and held there was insufficient evidence that she, rather than her boyfriend, inflicted the abuse resulting in her child's death. 406 S.C. at 438–40, 753 S.E.2d at 414–15. The appellant and her boyfriend were at home with the child when she sustained her fatal injuries,<sup>8</sup> and they were tried jointly. *Id.* at 418, 753 S.E.2d at 403. The court recognized the incongruity in the State's attempt to defend the denial of the appellant's directed verdict motion by relying on the testimony given by her codefendant, Brandon Lewis, during his own defense:

[T]he State contends it presented substantial circumstantial evidence warranting the trial court's denial of the Appellant's directed verdict motion, focusing on

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<sup>8</sup> The maternal grandmother and her boyfriend were also in the home, but they were asleep on the opposite side of the house. *Id.* at 418, 419 n.2, 753 S.E.2d at 403, 403 n.2.

Appellant's circumstances at the time of the victim's death, namely scant evidence that she was frustrated by her failure to secure employment, living situation, and parental responsibilities; the medical testimony concerning the severity of the victim's injuries; but most predominantly *Lewis's testimony* that he heard Appellant shake the victim prior to finding her unresponsive in her crib.

*Id.* at 440, 753 S.E.2d at 414–15.

The court refused to consider the codefendant's testimony in assessing the sufficiency of the evidence, recognizing an exception to the "waiver rule" when a codefendant testifies and implicates the appellant in the charged crime.<sup>9</sup> *Id.* at 436, 753 S.E.2d at 412. The court also refused to consider the appellant's testimony presented in her defense because her testimony did not serve to fill gaps in the State's evidence but "merely rebutted [her codefendant's] testimony." *Id.* at 436–38, 753 S.E.2d at 412–13. Without the benefit of the codefendant's testimony, the State was unable to convince the court that the directed verdict motion was properly denied. *Id.* at 438–42, 753 S.E.2d at 413–16. The court explained,

Barring Lewis's testimony, . . . we find the State did not present substantial evidence that Appellant killed the victim. Every State witness placed Appellant asleep at the time the victim sustained the fatal injuries. While undoubtedly present at the scene, the only inference that can be drawn from the State's case is that one of the two [codefendants] inflicted the victim's injuries, but not that *Appellant* harmed the victim.

*Id.* at 440, 753 S.E.2d at 415.

Unlike the State's predominant focus on the codefendant's testimony in *Hepburn*, the State's predominant focus in the present appeal has been on the medical

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<sup>9</sup> When a defendant presents evidence in his behalf following the denial of his directed verdict motion, the waiver rule "requires the reviewing court to examine *all* the evidence rather than to restrict its examination to the evidence presented in the Government's case-in-chief." *Id.* at 430 n.15, 753 S.E.2d at 409 n.15 (emphasis added) (quoting *United States v. White*, 611 F.2d 531, 536 (5th Cir. 1980)).



testimony and the testimony of family members who witnessed Appellants' abuse of Victim. The State presented this testimony during its case-in-chief.

Further, in *Hepburn*, the evidence indicated the victim's fatal injuries occurred within mere hours before she was taken to a hospital and diagnosed with a subdural hematoma and retinal hemorrhaging, and "[e]very State witness placed Appellant asleep at the time the victim sustained the fatal injuries." *Id.* at 419–21, 440, 753 S.E.2d at 403–04, 415.<sup>10</sup> In stark contrast, the medical testimony in the present case indicates Victim's death resulted from the cumulative effect of repeated physical abuse over the last two months of his life. Both Dr. Durso and Dr. Rosa clearly explained that no one isolated incident, by itself, killed Victim.

Moreover, the *Hepburn* court stressed, "the victim appeared to be acting normally until after Appellant put the victim to sleep and went to sleep herself" and there was "no evidence that Appellant herself was aware of the victim's injuries." 406 S.C. at 442, 753 S.E.2d at 415–16. But here, the evidence indicates Victim's deteriorating condition should have been obvious to both Mother and Father during the last two weeks of his life. In sum, we conclude Appellants' reliance on *Hepburn* is misplaced.

Based on the foregoing, we find the State's evidence "sufficient to allow a reasonable juror to find [Appellants] guilty [of HCA] beyond a reasonable doubt." *Pearson*, 415 S.C. at 473, 783 S.E.2d at 807 (quoting *Bennett*, 415 S.C. at 237, 781 S.E.2d at 354). Therefore, we affirm the denial of Appellants' respective directed verdict motions on the HCA charge.

## **B. Unlawful Conduct**

The respective unlawful conduct indictments allege, "on or between April 18, 2009 to July 1, 2013," Appellants placed Victim "at unreasonable risk of harm affecting [Victim's] life, physical or mental health, or safety; or did unlawfully or maliciously cause or cause to be done bodily harm to [Victim] so that the life or health of [Victim] was endangered or was likely to be endangered." In other words, the State charged Appellants with neglecting or abusing Victim on at least one occasion during the entire span of his short life.

Section 63-5-70(A) of the South Carolina Code (2010) defines unlawful conduct toward a child in the following manner:

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<sup>10</sup> The victim died a few days later. 406 S.C. at 418, 753 S.E.2d at 403.

It is unlawful for a person who has charge or custody of a child, or who is the parent or guardian of a child, or who is responsible for the welfare of a child as defined in Section 63-7-20 to:

- (1) *place the child at unreasonable risk of harm* affecting the child's life, physical or mental health, or safety;
- (2) do or cause to be done unlawfully or maliciously any bodily harm to the child so that the life or health of the child is endangered or likely to be endangered; or
- (3) wil[l]fully abandon the child.

(emphasis added).

The evidence supporting the HCA indictments also supports the indictments for unlawful conduct. Appellants' complicity in Victim's beatings during the last two months of his life and their failure to seek medical treatment for him during the last two weeks of his life placed him "at unreasonable risk of harm" affecting not only his physical and mental health but also his life. § 63-5-70(A)(1).

Additionally, the State presented abundant evidence showing Appellants' neglect and abuse of Victim prior to the last two months of his life. The testimony of Dr. Rosa and Dr. McCutcheon indicated that Appellants failed to follow up with medical professionals' recommendations for Victim's care while he was in their custody. Further, Mother's sisters recounted numerous instances of Appellants' abuse of Victim. While Crystal lived with Appellants from April 2012 to October 2012, she witnessed several occasions of Mother or Father hitting Victim. Around Easter 2013, Maria heard Mother beating Victim and Victim crying. Maria later saw Victim limping. Natalie also witnessed Mother beating Victim, and on some of these occasions, Father was present. Natalie took photographs of the resulting bruises to show to DSS. Moreover, Natalie witnessed both parents depriving Victim of food, which was consistent with Angela Metze's observation that Victim had lost a significant amount of weight from the spring of 2012 to the spring of 2013. The food and liquid deprivation continued through at least the end of May 2013.

These eyewitness accounts constitute compelling direct evidence of Appellants' neglect and abuse of Victim. The DNA evidence found in Appellants' home was also compelling. Victim's blood was found on the walls of the living room, hallway, and rear bedroom as well as on a white metal pipe that also had Father's blood on it.

We find the foregoing evidence more than sufficient to show Appellants neglected Victim's needs, placing him "at unreasonable risk of harm" affecting his health, and maliciously inflicted "bodily harm" on Victim so that his health and life were "endangered." § 63-5-70(A)(1) & (2). Therefore, we affirm the denial of Appellants' directed verdict motions on the unlawful conduct charges.

## II. Photographs

Appellants argue that certain photographs of Victim should have been excluded from evidence pursuant to Rule 403, SCRE, because any probative value the photographs may have had was substantially outweighed by the danger of unfair prejudice. We disagree.

Rule 403 states, in pertinent part, "Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice . . . ." "'Relevant evidence' means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Rule 401, SCRE. "Unfair prejudice means an undue tendency to suggest a decision on an improper basis." *State v. Lyles*, 379 S.C. 328, 338, 665 S.E.2d 201, 206 (Ct. App. 2008) (quoting *State v. Gilchrist*, 329 S.C. 621, 627, 496 S.E.2d 424, 427 (Ct. App. 1998)). "Unfair prejudice does not mean the damage to a defendant's case that results from the legitimate probative force of the evidence . . . ." *State v. Gray*, 408 S.C. 601, 616, 759 S.E.2d 160, 168 (Ct. App. 2014) (quoting *Gilchrist*, 329 S.C. at 630, 496 S.E.2d at 429).

"When juxtaposing the prejudicial effect against the probative value, the determination must be based on the entire record and will turn on the facts of each case." *Lyles*, 379 S.C. at 338, 665 S.E.2d at 206.

A trial [court's] decision regarding the comparative probative value and prejudicial effect of evidence should be reversed only in exceptional circumstances. [This court] review[s] a trial court's decision regarding Rule

403[, SCRE,] pursuant to the abuse of discretion standard and [is] obligated to give great deference to the trial court's judgment.

*Collins*, 409 S.C. at 534, 763 S.E.2d at 28 (citation omitted) (quoting *Adams*, 354 S.C. at 378, 580 S.E.2d at 794).

In *Collins*, our supreme court held that this court "should not have invaded the trial court's discretion in admitting" pre-autopsy photographs of a dog-mauling victim "based on its emotional reaction to the subject matter presented." *Id.* at 528, 535, 763 S.E.2d at 24, 28. The court noted this evidence was "highly probative" and "material in establishing the elements of the offenses charged." *Id.* at 535, 763 S.E.2d at 28. The court explained,

Courts must often grapple with disturbing and unpleasant cases, but that does not justify preventing essential evidence from being considered by the jury, which is charged with the solemn duty of acting as the fact-finder. As one court has astutely observed, it is the duty of courts and juries to examine the evidence in even the most unpleasant of circumstances:

Courts and juries cannot be too squeamish about looking at unpleasant things, objects, or circumstances in proceedings to enforce the law and especially if truth is on trial. *The mere fact that an item of evidence is gruesome or revolting, if it sheds light on, strengthens or gives character to other evidence sustaining the issues in the case, should not exclude it.*

*Id.* (emphasis added) (quoting *Nichols v. State*, 100 So.2d 750, 756 (Ala. 1958)).

In the present case, the challenged photographs show Victim (1) as he was found at the crime scene on the day of his death and (2) during Dr. Durso's autopsy. However, the truly shocking autopsy photographs challenged by Appellants were recognized as such by the trial court and excluded from evidence. Most of these photographs were cited by Mother as "depicting [Victim's] body sliced into parts"

and cited by Father as "depict[ing] Victim's body being cut into pieces."<sup>11</sup> Again, these photographs were excluded from evidence.

Those autopsy photographs admitted into evidence over the objections of defense counsel showed deep lacerations on the inside of Victim's lower lip and bruising on Victim's shoulder, torso, back, buttocks, and legs.<sup>12</sup> These photographs, while graphic, were necessary to help the jury fully understand Dr. Durso's testimony regarding the nature of Victim's injuries resulting in his death. *See Gray*, 408 S.C. at 610, 759 S.E.2d at 165 ("The evaluation of probative value cannot be made in the abstract, but should be made in the practical context of the issues at stake in the trial of each case."); *cf. State v. Holder*, 382 S.C. 278, 290, 676 S.E.2d 690, 697 (2009) ("We find the photographs clearly demonstrate the extent and nature of the injuries in a way that would not be as easily understood based on the testimony alone.").<sup>13</sup> Further, Dr. Durso explained during her proffered testimony that State's Exhibit 230 was necessary to illustrate the soft tissue swelling in one of Victim's knees when contrasted with his other knee. Likewise, the photographs of Victim as he was found at the crime scene helped the jury to understand the nature and extent of Victim's injuries as well as his condition near death. Moreover, the photographs were highly probative of Appellants' awareness of Victim's injuries.

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<sup>11</sup> Neither Mother's nor Father's characterization of these photographs is accurate. The photographs actually show several long incisions made by Dr. Durso down Victim's back and the backs of his legs to allow her to determine the extent of soft tissue hemorrhaging. The exposed hemorrhaging is what makes these photographs shocking.

<sup>12</sup> Mother complains about two photographs in which Victim's genitals were exposed. However, one of these photographs, State's Exhibit 226, was not admitted into evidence—during Dr. Durso's proffered testimony, she confirmed the trial court's recollection that there was another photograph of the same injuries, without a view of Victim's genitals, already in evidence. The other photograph, State's Exhibit 230, was cropped so that the copy presented to the jury did not show Victim's genitals.

<sup>13</sup> *See also Holder*, 382 S.C. at 291, 676 S.E.2d at 697 ("Although the photographs were graphic, the facts in this case were graphic, and there is no suggestion that their admission had an undue tendency to suggest a decision on an improper basis."); *Jarrell*, 350 S.C. at 106–07, 564 S.E.2d at 371 ("[W]hile some of 'the photograph[s]' are graphic, the facts of the case are very graphic' and the photos helped the jury understand the pathologist's testimony." (second alteration in original)).

In sum, the probative value of the admitted photographs was high. Further, the photographs did not tend "to suggest a decision on an improper basis." *Lyles*, 379 S.C. at 338, 665 S.E.2d at 206. Therefore, the photographs cannot be characterized as unfairly prejudicial for purposes of Rule 403. *See Gray*, 408 S.C. at 616, 759 S.E.2d at 168 ("Unfair prejudice does not mean the damage to a defendant's case that results from the legitimate probative force of the evidence . . . ." (quoting *Gilchrist*, 329 S.C. at 630, 496 S.E.2d at 429)).<sup>14</sup>

Based on the foregoing, we affirm the trial court's admission of the challenged photographs pursuant to Rule 403. *See Collins*, 409 S.C. at 534, 763 S.E.2d at 28 ("A trial [court's] decision regarding the comparative probative value and prejudicial effect of evidence should be reversed only in exceptional circumstances. [This court] review[s] a trial court's decision regarding Rule 403[, SCRE,] pursuant to the abuse of discretion standard and [is] obligated to give great deference to the trial court's judgment." (citation omitted) (quoting *Adams*, 354 S.C. at 378, 580 S.E.2d at 794)).

## CONCLUSION

Accordingly, we affirm Appellants' respective convictions for HCA and unlawful conduct toward a child.

**AFFIRMED.**

**MCDONALD and HILL, JJ., concur.**

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<sup>14</sup> For these same reasons, the photographs do not violate the prohibition set forth in *State v. Middleton*, 288 S.C. 21, 24, 339 S.E.2d 692, 693 (1986), which Mother cites in her brief. In *Middleton*, our supreme court held, "[P]hotographs calculated to arouse the sympathies and prejudices of the jury are to be excluded *if they are irrelevant or unnecessary* to the issues at trial." *Id.* (emphasis added); *see also Gray*, 408 S.C. at 610, 759 S.E.2d at 165 ("[P]hotographs calculated to arouse the sympathy or prejudice of the jury should be excluded if they are . . . not *necessary* to substantiate *material* facts or conditions." (quoting *State v. Torres*, 390 S.C. 618, 623, 703 S.E.2d 226, 228 (2010))). Here, the photographs were relevant and necessary.

# The Supreme Court of South Carolina

The State, Respondent,

v.

Courtney Shante Thompson, Petitioner.

Appellate Case No. 2017-001893

Lower Court Case Nos. 2013-GS-40-06515, 2013-GS-40-06522

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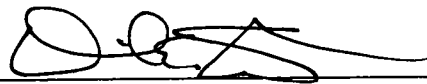
## ORDER

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Based on the vote of the Court, the petition for a writ of certiorari is denied.

FOR THE COURT

BY



CLERK

Columbia, South Carolina

March 28, 2018

cc:

Alan McCrory Wilson, Esquire

David A. Spencer, Esquire

Amie L. Clifford, Esquire

Daniel Edward Johnson, Esquire

Robert Michael Dudek, Esquire

Mitzi Campbell Williams, Esquire

The Honorable Jenny Abbott Kitchings

The Honorable Jeanette W. McBride

1922

FORM 5

STATE OF SOUTH CAROLINA )

County of Richland )Courtney Shante Thompson #360154 )

Full name and prison number (if any) of Applicant )

v. )

State of South Carolina )

IN THE COURT OF COMMON PLEAS

**2019CP400 1813**

APPLICATION FOR

POST-CONVICTION RELIEF

FILED  
2019 MAR 29 AM 9:37  
CLERK OF COURT  
RICHLAND COUNTY

**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Alvin S Green detention Center  
Richland County, SC
2. Name and location of Court which imposed sentence Richland County  
Robert E Hood Circuit Court Judge
3. Name(s) of co-defendant(s) (if any) Robert Antonio Guinyard SR.
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2013 GS 4006515
  - (b) 2013 GS 4006522



(c)

1923

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) 5-28-14 Life w/o Parole
- (b) 5-28-14 10 years Consecutive
- (c) \_\_\_\_\_

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty \_\_\_\_\_
- (b) after a plea of not guilty Life w/o Parole; 10 years consecutive
- (c) after a plea of nolo contendere \_\_\_\_\_

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

- i. The South Carolina Court of Appeals
- ii. The Supreme Court of South Carolina
- iii. \_\_\_\_\_

(b) the result in each such Court to which you appealed:

- i. Denied
- ii. Denied
- iii. \_\_\_\_\_

(c) the date of each such result:

- i. August 16, 2017
- ii. March 28, 2018
- iii. \_\_\_\_\_

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. Unable to discover any fact that the law has been over looked or disregarded
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_

(c) \_\_\_\_\_

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Trial Court erred in denying their respective motions for a directed verdict.  
 (b) The admission of photographs violated Rule 403, SCRE, due to their  
 (c) probative value being substantially outweighed by the danger of prejudice.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) State failed to present substantial circumstantial evidence of guilt.  
 (b) \_\_\_\_\_  
 (c) \_\_\_\_\_

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? YES  
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO  
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO  
 (d) any other petitions, motions or applications in this or any other Court? YES

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:

- i. Petition for rehearing  
 ii. Petition for a writ of certiorari  
 iii. \_\_\_\_\_  
 iv. \_\_\_\_\_

- (b) the name and location of the Court in which each was filed:

- i. The State of South Carolina Court of Appeals  
 ii. The Supreme Court of S.C.  
 iii. \_\_\_\_\_  
 iv. \_\_\_\_\_

(c) the disposition thereof:

- i. Denied
- ii. Denied
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. Aug 10, 2017
- ii. March 28, 2018
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. The court is unable to discover any material fact or principle of law that has been overlooked
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

yes

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. Trial court erred in denying motions for a directed verdict.
- ii. The admission of photographs violated Rule 403.
- iii. \_\_\_\_\_

(b) the proceedings in which each ground was raised:

- i. During Trial court.
- ii. During Trial court.
- iii. \_\_\_\_\_

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) \_\_\_\_\_  
 (b) \_\_\_\_\_  
 (c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes  
 (b) your trial, if any? yes  
 (c) your sentencing? yes  
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes  
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?  
NO

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Tracy Pennicns  
1701 Main St. Ste # Columbia SC 29201.  
 ii. " " "

iii. Mitzi Campbell Williams  
Post off Box 84171 Lexington SC 29073

(b) the proceedings at which each such attorney represented you:

i. Trial Court  
 ii. Sentencing court  
 iii. Appeal Court

19. State clearly the relief you seek in filing this application:

- Homicide by Child Abuse Charge dismissed.  
- New trial

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA )

County of Richland )

VERIFICATION

I, Courtney Shante Thompson, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Courtney Thompson

SWORN to and subscribed before me this 15th  
day of March, 2019.

Manuel Park (L.S.)  
Notary Public

My Commission Expires: 2-13-2029

**APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF**

I, Courtney Shante Thompson, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Courtney Thompson  
Applicant

SWORN or affirmed to and subscribed before me this  
15th day of March, 2019

Maury H. Lamb  
Notary Public

My Commission Expires: 2-13-2029

HILL AND COUNTY  
 FILED  
 2019 MAR 29 AM 9:37  
 JENNIFER W. MCBRIDE  
 C.C.P. & G.S.

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
) IN THE COURT OF COMMON PLEAS  
) FOR THE FIFTH JUDICIAL CIRCUIT  
)

Courtney S. Thompson, #360154, )  
) 2019-CP-40-1813  
)

Applicant, )  
) **RETURN, PARTIAL MOTION TO DISMISS, &**  
) **MOTION FOR MORE DEFINITE**  
) **STATEMENT**  
) **(COUNSEL APPOINTED)**  
)

v. )

State of South Carolina, )

Respondent, )  
)

RICHLAND COUNTY  
FILED  
2019 AUG 29 AM 11:04  
JULIE W. McBRIDE  
Clerk, C.S., & F.C.

In response to Courtney Thompson's (Applicant) action for post-conviction relief (PCR) commenced on March 29, 2019, the State makes this return:

#### **I. Procedural History**

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted at the October 2013 term of the Richland County Grand Jury for homicide by child abuse (2013-GS-40-6520) and unlawful conduct toward a child (2013-GS-40-6521). Applicant was represented by Assistant Public Defenders Adam Ruffin, Tracy Pinnock, and Eric Staggs, all of the Fifth Circuit Public Defender's Office. Assistant Solicitors Luck Campbell, Joanna McDuffie, and Meghan Walker, of the Fifth Circuit Solicitor's Office prosecuted the case.

Applicant's case proceeded to a jury trial May 19–28, 2014, before the Honorable Robert E. Hood. Applicant was tried simultaneously with her co-defendant, Antonio Guinyard (Father). The jury convicted Applicant as indicted on both charges. Judge Hood sentenced Applicant to serve ten years' imprisonment for unlawful conduct toward a child consecutive to serving life without parole (LWOP) for homicide by child abuse. Applicant appealed.

Mitzi Campbell Williams, Esquire, and Chief Appellate Defender Robert M. Dudek, represented Applicant on appeal. After briefing and oral argument, the court of appeals affirmed Applicant's conviction in *State v. Thompson*, 420 S.C. 192, 802 S.E.2d 623 (Ct. App. 2017). Thereafter, Applicant petitioned our Supreme Court for a writ of certiorari of the court of appeals' decision. Our Supreme Court denied Applicant's petition on March 28, 2018, and the case was remitted back to the circuit court on April 4, 2018.

Applicant timely commenced this PCR action on March 29, 2019.

## II. Facts

The following facts are taken from the court of appeals' opinion in *State v. Thompson*:

At approximately 6:15 p.m. on July 1, 2013, Richland County Emergency Medical Services received a call to respond to a cardiac arrest at [Applicant's] home. When first responders arrived at the home, they found Victim, a four-year-old boy, lying on the floor in the living room. He was wearing jeans, but no shirt. Victim was not moving or breathing, he had no pulse, and he was cold to the touch. . . . Subsequently, investigators from the Richland County Sheriff's Department found Victim's blood on the walls of the living room, hallway, and rear bedroom as well as on a white metal pipe that also had Father's blood on it.

[Applicant] gave her first statement to police at 9:45 p.m. on July 1, 2013. In her statement, she indicated that she went to Richland Memorial Hospital on June 29, 2013 to give birth to another child and was discharged from the hospital on July 1, 2013 in the early afternoon. She further indicated that after she arrived home, she discovered Victim had wet the floor in the play room. She alleged Victim was autistic and would soil and wet his surroundings. She also alleged she got in the shower and started washing off when she "heard a loud noise like a tumbling fall." She stated she got out of the shower and found Victim on the floor in the play room with his feet toward the dresser. She further stated,

He was crunched up and his body was stiff. His butt was up in the air[,] and he was [kind of] on his head. . . . He was biting his lip hard. . . . When I popped his lip out from his teeth to keep him from biting it off[,] he went flat on me. He just dropped. . . . He was not responding. . . . I picked [Victim] up like he was a baby and took him to the front room (living room). Blood was coming from his lip. I had blood on my hand and went to my room to get my phone off the floor. I called 911. They told me how to do CPR. I did what he told me. . . . When [the ambulance] got there[,] they put



something on his chest[,] and they did not do nothing. They just said that he was gone.

Father also gave a statement to police on July 1, 2013. He alleged he was cooking dinner earlier that evening when he heard a "boom." [Applicant] allegedly came down the hallway with Victim in her arms and Victim "was in and out." Father further alleged that after [Applicant] called 911, he hid in a closet with the new baby because he was afraid the baby would be taken away.

On July 2, 2013, Dr. Amy Durso, a forensic pathologist, performed Victim's autopsy and reported the cause of death as "[e]xtensive soft tissue hemorrhage and bleeding . . . due to multiple acute and healing blunt force injuries due to non-accidental trauma." Later that day, police investigators went over the autopsy results with [Applicant], who then gave a second statement, explaining to investigators that her first statement "was not the truth." [Applicant] alleged that when she came home from the hospital, she found Victim naked, lying in a puddle of urine, and "very weak." Victim allegedly was drinking water "like he had not had water in days. . . . His feet, legs, knee, butt, and arms were swollen and kind of blue. [Victim] was just out of it." [Applicant] further alleged that after she went to take a shower, she heard Victim[:]

[C]rying like he was in pain and getting hit. I jumped out of the shower. [Victim] was stretched out on the floor in my room. I stood [Victim] up and he dropped to his knees. [Victim] was breathing funny. [Victim] fell to the floor. . . . [Victim] was walking down the hall[,] and he collapsed after taking about three steps. [Victim] balled up[,] and it looked like he was having a seizure. . . . I talked [to Victim] that morning at around 11 [a.m.] and my son told me that he was beaten with a pole. . . . When I got home[,] I saw blood flecks on the walls in the play room[,] [o]n the walls in the [hallway,] and on my room door. There was blood on the closet door in my room[,] and the door had a hole in the middle. There was blood in the carpet.

Later that evening, [Applicant and Father] were arrested and charged with [homicide by child abuse] and unlawful conduct toward a child.

420 S.C. at 197–98, 802 S.E.2d at 625–26.

### **III. Current Application**

Applicant alleges she is being held in custody unlawfully, alleging:

1. Trial court error:
  - a. Trial Court erred in denying their respective motion for a directed verdict.

- b. The admission of photographs violated Rule 403, SCRE, due to their probative value being substantially outweighed by the danger of prejudice.
- c. State failed to present substantial circumstantial evidence of guilt.

Applicant requests her homicide by child abuse charge be dismissed and a new trial.

Attached to this return and incorporated herein are the Richland County Clerk of Court records, Applicant's records from the South Carolina Department of Corrections, Applicant's appellate records, the trial transcript, and the records of this PCR action.

#### IV. Partial Motion to Dismiss Direct Appeal Allegations

Applicant's current allegations are exactly the same issues raised in her direct appeal. Therefore, the State moves to dismiss the allegations as they are not proper issues for a PCR action. *See* S.C. Code Ann. § 17-27-20(A) (enumerating the cognizable claims proper in PCR actions).

Because an application for PCR is not a substitute for a direct appeal of trial court error, and because of the modern simplification of criminal jurisdiction jurisprudence in South Carolina, the *overwhelming* majority of cognizable claims fall under the broad umbrella of "ineffective assistance of counsel," a contention under the Sixth Amendment to the Constitution of the United States. *See Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) ("Allegations of trial court error are not cognizable on PCR."); *State v. Gentry*, 363 S.C. 93, 101, 610 S.E.2d 494 499 (2005) ("Circuit courts obviously have subject matter jurisdiction to try criminal matters."). PCR is only proper when the application collaterally attacks the validity of the conviction or sentence. *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000).

Because Applicant's claims are issues for direct appellate review, and are not collateral attacks on her conviction or sentence, the allegations should be summarily dismissed. Therefore, the State moves for summary dismissal of Applicant's allegations.

### V. Motion for More Definite Statement

The State moves for Applicant, through appointed counsel, to amend her current PCR application if she wishes to set forth cognizable claims under the Post-Conviction Procedure Act.<sup>1</sup>

“The application shall . . . specifically set forth the grounds upon which the application is based, and clearly state the relief desired.” S.C. Code Ann. § 17-27-50. “[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the [applicant] that he was deprived of adequate and effective assistance of counsel is insufficient.” *Coardes v. State*, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974). “At any time prior to entry of judgment the court may, when appropriate, issue orders for amendment of the application . . . . In considering the application, the court shall take account of substance, regardless of defects of form.” S.C. Code Ann. § 17-27-70(a); *see also* Rule 71.1, SCRPC (“Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary.”).

Wherefore, the State moves for Applicant to amend her PCR application, through appointed counsel, if she wishes to allege any cognizable claims under the Post-Conviction Procedure Act.

### VI. Response to Allegation of Ineffective Assistance of Counsel

In as much as Applicant’s allegations can be construed as allegations of ineffective assistance of counsel. Applicant’s allegations of ineffective assistance of trial counsel are without merit. To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel’s deficient performance. *Strickland v. Washington*, 466 U.S. 668,

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<sup>1</sup> S.C. Code Ann. §17-27-10 to -160.

687–88 (1984); *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). “The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases.” *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). To establish prejudice, the applicant must prove “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625.

Counsel must, at a minimum, make some effort to interview potential witnesses identified by the defendant, and make an independent investigation of the facts and circumstances of the case. *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011); *Walker v. State*, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). However, counsel is presumed to have adequately assisted and exercised reasonable professional judgment in making decisions in the case. *Edwards*, 392 S.C. at 456, 710 S.E.2d at 64. “[W]here counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel.” *Whitehead v. State*, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

Applicant cannot satisfy either requirement of *Strickland*. However, the record likely does not refute or disprove Applicant’s allegations of ineffective assistance of trial counsel; therefore, the State requests an evidentiary hearing to fully resolve the issues once, as requested above, Applicant amends her PCR application to include a cognizable claim for PCR. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court”).

**VII. Any Future Amendments**

Applicant must specify any claims she intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to the Post-Conviction Procedure Act and Rule 71.1 of the South Carolina Rules of Civil Procedure. *See also* Rules 15(a)–(b), SCRPC. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRPC. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State. *See* Rule 15(a), SCRPC.

**VIII. Any and All other Allegations**

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

**IX. Conclusion**

WHEREFORE, the State requests an evidentiary hearing be held once, as requested above, Applicant amends her PCR application to allege cognizable grounds for PCR.

Respectfully submitted,

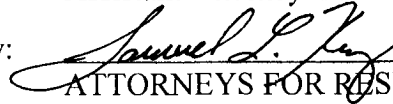
ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

SAMUEL L. KEY  
Assistant Attorney General

By:



ATTORNEYS FOR RESPONDENT  
Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211

~~July~~ 8/28, 2019

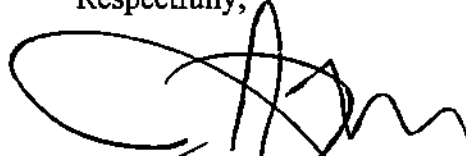
|                                   |   |                                 |
|-----------------------------------|---|---------------------------------|
| STATE OF SOUTH CAROLINA           | ) | IN THE COURT OF COMMON PLEAS    |
| COUNTY OF RICHLAND                | ) | FIFTH JUDICIAL CIRCUIT          |
|                                   | ) |                                 |
| Courtney Shante Thompson, #362454 | ) |                                 |
| Applicant,                        | ) | C/A No.: 2019-CP-40-1813        |
|                                   | ) |                                 |
| vs.                               | ) | MOTION TO BE RELIVED AS COUNSEL |
|                                   | ) |                                 |
| State of South Carolina,          | ) |                                 |
| Respondent.                       | ) |                                 |

Counsel for the Applicant requests the Court relieve him as counsel of the above-named Applicant, based upon:

1. The Applicant filed a Post Conviction Relief Application on March 29, 2019 in Richland County following her conviction for Unlawful Conduct Towards a Child and Homicide by Child Abuse.
2. Applicant was appointed counsel in this matter pursuant to Rule 608 CACR of Jonathan D. Waller, with offices located at 1116 Blanding Street, Suite B, Columbia, SC 29201, by this Court.
3. It has come to the attention of Applicant's counsel that a conflict of interest has arisen and that further representation cannot be continued. Counsel was previously appointed and also currently representing Applicant's co-defendant on his own PCR, stemming from the same original criminal charges, and believes that the relationship of the parties renders his representation compromised as a non-waivable conflict of interest has arisen between the two applicants.
4. Counsel for the Applicant requests the Court to relieve him of the Court's earlier order appointing him as counsel in this case and appoint substitute counsel.

**[SIGNATURE PAGE TO FOLLOW]**

Respectfully,

A handwritten signature in black ink, appearing to read 'Jonathan D. Waller', is written over a horizontal line.

Jonathan D. Waller  
Waller Law Group  
1116 Blanding Street  
Suite 2B  
Columbia, SC 29201  
(803) 520-7278  
Attorney for Applicant

November 23, 2020



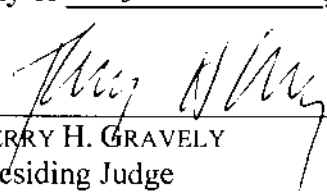
|                                    |   |                                |
|------------------------------------|---|--------------------------------|
| STATE OF SOUTH CAROLINA            | ) | IN THE COURT OF COMMON PLEAS   |
| COUNTY OF RICHLAND                 | ) | FOR THE FIFTH JUDICIAL CIRCUIT |
|                                    | ) |                                |
| Courtney Shante Thompson, #360154, | ) | Case No.: 2019-CP-40-1813      |
|                                    | ) |                                |
| Applicant,                         | ) |                                |
|                                    | ) |                                |
| v.                                 | ) | <b>ORDER RELIEVING COUNSEL</b> |
|                                    | ) |                                |
| State of South Carolina,           | ) |                                |
|                                    | ) |                                |
| Respondent.                        | ) |                                |
| _____                              | ) |                                |

This matter comes before the Court by way of Courtney Shante Thompson's (Applicant) application for post-conviction relief (PCR) filed March 29, 2020. A motions hearing convened via Cisco Webex Virtual Platform on November 30, 2020, at which time Applicant was present in court and represented by Jonathan Waller, Esquire. Assistant Attorney General Michael D. Davidson represented the State. At the hearing, Applicant's PCR counsel moved to be relieved because he was first appointed to represent Applicant's co-defendant, and through his representation of co-defendant, a conflict had arisen. PCR counsel stated that because of the conflict of interest, that further representation of Applicant could not be continued. Applicant agreed PCR counsel should be relieved and another attorney be appointed to represent him in this matter. The State also agreed.

Therefore, this Court finds Jonathan Waller shall be relieved of representing Applicant in this case. The Court orders the Clerk's office to appoint Applicant a new attorney in this case.

**AND IT IS SO ORDERED** this 22nd day of December, 2020.

Picheau, South Carolina

  
 PERRY H. GRAVELY  
 Presiding Judge  
 Fifth Judicial Circuit

STATE OF SOUTH CAROLINA )  
 ) IN THE COURT OF COMMON PLEAS  
 COUNTY OF RICHLAND ) FIFTH JUDICIAL CIRCUIT

Courtney Shante Thompson, ) **CASE NO.: 2019-CP-40-01813**

Applicant, )

v. )

NOTICE OF MOTION AND MOTION TO  
BE RELIEVED

STATE OF SOUTH CAROLINA, )

Respondent. )

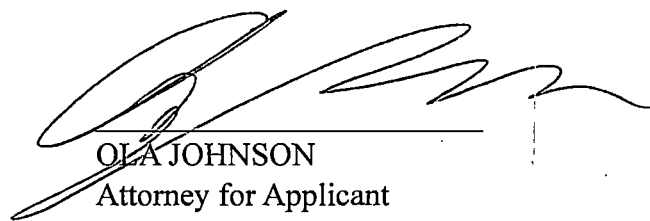
2022 NOV 9 AM 10:48  
 RICHLAND COUNTY  
 CLERK OF COURT  
 FILED

NOW COMES the Applicant's appointed counsel Ola Johnson in the above-captioned action, acting who hereby moves to be relieved as counsel for Applicant. In support of this motion, counsel for Applicant would show unto this Honorable Court the following.

Counsel was appointed to represent Applicant by the order signed by the Richland County clerk of court dated May 7, 2021. Upon reviewing their records, the Attorney Generals office has recently notified counsel that he had been appointed. Counsel did not receive notice of this from the clerk of courts office when appointed and therefore did not take any action on this case before this. Upon contacting the office of indigent defense counsel was advised that the

current 608 contract attorney should be appointed. As a result counsel has filed this motion.

WHEREFORE, having set forth his grounds, the Applicant moves this Honorable Court to issue such order as is just and proper.



OLA JOHNSON

Attorney for Applicant

803-360-8692

[olajohnsonlaw@gmail.com](mailto:olajohnsonlaw@gmail.com)

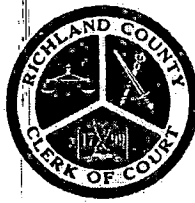
Columbia, South Carolina

This 6 day of November, 2022

1942

**JEANETTE W. McBRIDE**  
Clerk of Court

**VIRGINIA BELCHER**  
Chief Deputy Clerk of Court



**RICHLAND COUNTY CLERK OF COURT**

Richland County Judicial Center  
1701 Main Street, Room 205  
Columbia, S. C. 29201

April 3, 2023

Michael H Lifsey  
PO Box 548  
Chester SC 29706

MAILING ADDRESS:  
POST OFFICE BOX 2766  
COLUMBIA, S.C. 29202-2766

TELEPHONE:  
Phone: (803) 576-1950  
Fax: (803) 576-1785  
TDD (803) 748-4999

RICHLAND COUNTY  
FILED  
2023 APR -3 AM 10:40  
JEANETTE W. McBRIDE  
Clerk of Court

RE: Courtney Thompson #360154 v. State of South Carolina, 2019CP4001813

Dear Mr. Lifsey:

Pursuant to Rule 608 of the South Carolina Appellate Court Rules, you are hereby appointed to represent the above named Applicant in connection with an Application for Post Conviction Relief filed pursuant to S.C. Code (1976) §§ 17-27-10, et seq.

The Attorney General's office will be filing responsive pleadings to the Application for Post Conviction Relief. Their office will provide you with a copy of the pleadings, transcripts and other relevant documents at that time.

If you believe that you should be removed from this appointment, please refer to Rule 608 for exemptions.

Sincerely,

A handwritten signature in black ink, appearing to be "VB" followed by a long horizontal stroke.

Virginia Belcher  
Chief Deputy Clerk of Court

Enclosures

cc: Assistant Attorney General  
Plaintiff  
File

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

Courtney S. Thompson, #360154,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO. 2019-CP-40-01813

**ORDER GRANTING MOTION TO  
RELIEVE COUNSEL AND  
APPOINT NEW COUNSEL**

2024 MAY 28 PM 12:54  
JANETTE W. MCGEE  
CLERK  
RICHLAND COUNTY

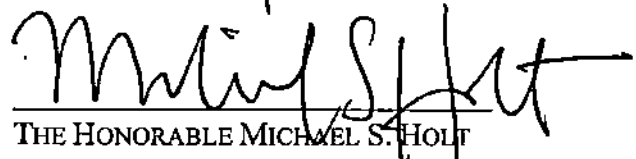
This matter comes before the Court by way of a post-conviction relief application filed by Courtney S. Thompson (Applicant). On May 28, 2024, a hearing convened before the Honorable Michael S. Holt at the Richland County Courthouse. Assistant Attorney General Russ Barlow represented Respondent. PCR Counsel Michael H. Lifsey represented Applicant. PCR Counsel moved to be relieved as counsel for Applicant to avoid a conflict of interest as he has been appointed to a Magistrate Judge position.

This Court finds good cause to relieve PCR Counsel, and PCR Counsel's motion to relieve counsel is GRANTED.

THEREFORE, IT IS SO ORDERED:

1. Michael H. Lifsey is relieved as counsel of record for Applicant's PCR;
2. The Richland County Clerk of Court is ordered to appoint new counsel for Applicant; and
3. Applicant's PCR shall be set for an evidentiary hearing at the next available PCR term in the Fifth Circuit.

AND IT IS SO ORDERED this 28 day of MAY, 2024.

  
THE HONORABLE MICHAEL S. HOLT  
Presiding Judge  
Fifth Judicial Circuit

COLUMBIA, South Carolina

1944

**JEANETTE W. McBRIDE**  
Clerk of Court

**VIRGINIA BELCHER**  
Chief Deputy Clerk of Court



MAILING ADDRESS:  
POST OFFICE BOX 2766  
COLUMBIA, S.C. 29202-2766

TELEPHONE:  
Phone: (803) 576-1950  
Fax: (803) 576-1785  
TDD (803) 748-4999

**RICHLAND COUNTY CLERK OF COURT**

Richland County Judicial Center  
1701 Main Street, Room 205  
Columbia, S. C. 29201

June 4, 2024

Timothy L. Griffith  
2338 Mount Vernon Drive  
Sumter, SC 29154

RE: Courtney S. Thompson, #360154 v. State of South Carolina, 2019CP400181

Dear Mr. Griffith:

Pursuant to Rule 608 of the South Carolina Appellate Court Rules, you are hereby appointed to represent the above-named Applicant in connection with an Application for Post-Conviction Relief filed pursuant to S.C. Code (1976) §§ 17-27-10, et seq.

The Attorney General's office will be filing responsive pleadings to the Application for Post-Conviction Relief. Their office will provide you with a copy of the pleadings, transcripts and other relevant documents at that time.

If you believe that you should be removed from this appointment, please refer to Rule 608 for exemptions.

Sincerely,

A handwritten signature in black ink, appearing to be "VB", with a horizontal line extending to the right.

Virginia Belcher  
Chief Deputy Clerk of Court

Enclosures

cc: Assistant Attorney General  
Plaintiff  
File

RICHLAND COUNTY  
FILED  
2024 JUN -4 PM 2:29  
JEANETTE W. McBRIDE  
C.C.P., G.S., & F.C.

1 STATE OF SOUTH CAROLINA )  
2 ) IN THE COURT OF  
3 COUNTY OF RICHLAND ) COMMON PLEAS  
4  
5 COURTNEY S. THOMPSON, )  
6 Plaintiff, )  
7 Vs. ) CASE NO. 2019-CP-40-1813  
8 THE STATE, )  
9 Defendants. )

10  
11 APRIL 10, 2025

12 RICHLAND, SOUTH CAROLINA  
13

14 HONORABLE DONALD B. HOCKER, JUDGE

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

16 BY: TIMOTHY L. GRIFFITH, ESQUIRE

17 Attorney for the Plaintiff

18 BY: TALIDA BALAJ, ESQUIRE

19 Attorney for the Defendants  
20  
21  
22

23 KATHERINE A. SPIRES

24 REGISTERED PROFESSIONAL REPORTER  
25

|    |                          |               |                  |                                |
|----|--------------------------|---------------|------------------|--------------------------------|
| 1  |                          |               | <u>I N D E X</u> |                                |
| 2  | <u>WITNESS</u>           | <u>DIRECT</u> | <u>CROSS</u>     | <u>REDIRECT</u> <u>RECROSS</u> |
| 3  | <b>COURTNEY THOMPSON</b> |               |                  |                                |
| 4  | Mr. Griffith             | 8             |                  | 24                             |
| 5  | Ms. Balaj                |               | 16               |                                |
| 6  | <b>TRACY PINNOCK</b>     |               |                  |                                |
| 7  | Ms. Balaj                | 26            |                  | 35                             |
| 8  | Mr. Griffith             |               | 32               |                                |
| 9  | <b>MITZI CAMPBELL</b>    |               |                  |                                |
| 10 | Ms. Balaj                | 38            |                  |                                |
| 11 | Mr. Griffith             |               | 43               |                                |
| 12 | <b>JOANNA MCDUFFIE</b>   |               |                  |                                |
| 13 | Ms. Balaj                | 45            |                  |                                |
| 14 | Mr. Griffith             |               | 48               |                                |
| 15 | Certificate of Reporter  |               | 50               |                                |
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| 25 |                          |               |                  |                                |



## E X H I B I T S

NO.DESCRIPTIONIDEX

(There were no exhibits introduced.)

1 THE COURT: Ms. Balaj, you want to call  
2 the next case, please?

3 MS. BALAJ: Thank you, Your Honor. May  
4 it please the Court?

5 THE COURT: Yes.

6 MS. BALAJ: Talida Balaj on behalf of  
7 the State of South Carolina. This is the  
8 post-conviction relief matter of Courtney S.  
9 Thompson verses the State, case number:  
10 2019-CP-40-1813 out of Richland County.

11 Applicant was indicted at the October  
12 2013 term by the Richland County Grand Jury for  
13 homicide by child abuse. Indictment number  
14 2013-GS-40-6520 and unlawful conduct toward a  
15 child, 2013-GS-40-6521. Applicant was represented  
16 by Assistant Public Defenders, Tracy Pinnock, Adam  
17 Ruffin, and Eric Staggs, of the Fifth Circuit  
18 Public Defender's Office. Assistant Solicitors  
19 Luck Campbell, Joanna McDuffie, and Meghan Walker,  
20 of the Fifth Circuit Solicitor's Office prosecuted  
21 the case.

22 Applicant's case was proceeded to a  
23 jury trial May 19-28, 2014, before the Honorable  
24 Robert E. Hood. Applicant was tried simultaneously  
25 with her co-defendant, Antonio Guinyard. The jury

1 convicted Applicant as indicted on both charges and  
2 Judge Hood sentenced Applicant to serve ten years'  
3 imprisonment for unlawful conduct towards a child  
4 consecutive to serving life without parole for  
5 homicide by child abuse. Applicant appealed.

6 Mitzi Campbell Williams and Chief  
7 Appellate Defender, Robert M. Dudek, represented  
8 Applicant on appeal, raising two issues.

9 Did the trial court err in denying  
10 Courtney's motion for a directed verdict in that  
11 the State failed to present substantial  
12 circumstantial evidence? And,

13 Did the court err in denying Courtney's  
14 motion to exclude graphic photographs of the child  
15 which were calculated to arouse the sympathies and  
16 prejudices of the jury?

17 After briefing oral argument, the Court  
18 of Appeals affirmed Applicant's conviction in *State*  
19 *verses Thompson*, decided by the Court of Appeals in  
20 2017. Thereafter, Applicant petitioned the Supreme  
21 Court for writ of certiorari of the Court of  
22 Appeals' decision. The South Carolina Supreme  
23 Court denied Applicant's petition on March 28,  
24 2018, and the case was remitted back to the Circuit  
25 Court on April 4, 2018.

1           Applicant then timely commenced this  
2     PCR action on March 29, 2019 asserting she's being  
3     held in custody unlawfully, alleging:

4           Trial court error;

5           And that the trial court erred in  
6     denying their respective motion for directed  
7     verdict. And,

8           Erred in stating that the admission of  
9     the photographs did not violate Rule 403.

10          The State failed to present substantial  
11     circumstantial evidence of guilt.

12          Respondent file its return and partial  
13     motion to dismiss and the motion for a more  
14     definite statement on August 29, 2019.

15          And on April 8, 2025, Applicant through  
16     counsel, provided the State with an amended  
17     application, with the following allegations:

18          Her lawyer told her that she has to go  
19     to trial because her co-defendant was going to  
20     trial and did not give her an opportunity to accept  
21     a plea offer. Applicant informed her attorneys  
22     that she did not want to be tried with the  
23     co-defendant and -- she did not want to be tried  
24     with the co-defendant.

25          Her lawyer should have allowed her -

1 and motioned for bifurcation from her co-defendant.

2 Applicant wanted a plea deal - but  
3 lawyer told her she had to go to trial.

4 Failure to investigate properly. The  
5 attorney only saw Applicant three or four times  
6 before trial.

7 At one point, two of her attorneys said  
8 they didn't want to be a part of something and  
9 left. And the other attorney changed the defense  
10 two or three times,

11 And, lastly, on the date of the  
12 incident, Applicant had returned from the hospital  
13 after giving birth to another child, therefore, her  
14 statement was not cognizant at the time she gave it  
15 as she was on a lot of pain pills.

16 At this time, we would ask that Mr.  
17 Griffith clarify for the record which allegations  
18 he wishes to proceed forward on.

19 THE COURT: All right. Mr. Griffith,  
20 glad to hear from you, sir.

21 MR. GRIFFITH: Yes, Your Honor. I  
22 would call Courtney Thompson.

23 THE COURT: Sir?

24 MR. GRIFFITH: I would call Courtney  
25 Thompson as a witness.

*COURTNEY THOMPSON - DIRECT EXAMINATION BY MR. GRIFFITH*

1                   THE COURT: I just thought you maybe  
2 wanted to say something, but that's fine. Call  
3 your first witness. Yes, sir.

4                   COURTNEY THOMPSON,  
5 being first duly sworn, was examined and testified  
6 as follows:

7                   THE COURT: Thank you. You can have a  
8 seat.

9                   MR. GRIFFITH: Thank you, Your Honor.  
10 And, actually, since the Attorney General --  
11 Assistant Attorney General had read our amended  
12 complaint, I didn't think it necessary to go over  
13 it again.

14                  THE COURT: That's fine and I do have a  
15 copy of it as well.

16                  MR. GRIFFITH: Thank you, Your Honor.  
17 I hope you read the whole thing and maybe you can  
18 add some assistance in trying to get these things  
19 done a little better. But, Your Honor, I'm going  
20 to begin by asking,

21                                 DIRECT EXAMINATION

22 BY MR. GRIFFITH:

23                 Q. Ms. Tompson, please tell us your name.

24                 A. Courtney Thompson.

25                 Q. And where are you currently

1 | incarcerated?

2 |           A.    Leath Correctional Institution.

3 |           Q.    Okay.  And how long have you been  
4 | incarcerated altogether?

5 |           A.    I think, 12 years, I believe.

6 |           Q.    Okay.  Since 2013; right?

7 |           A.    Yes, sir.

8 |           Q.    And you're here today because you're  
9 | asking the Court to get you a new trial -- to allow  
10 | you to have a new trial; is that correct?

11 |           A.    Yes, sir.

12 |           Q.    All right.  Now I'm going to go over  
13 | these grounds with you and I want you to explain to  
14 | the Court, in your own words, what some of these --  
15 | why you have these grounds.

16 |                    You're claiming ineffective assistance  
17 | of counsel.  And, first of all, you were tried with  
18 | your co-defendant; is that correct?

19 |           A.    Yes, sir.

20 |           Q.    Okay.  And you didn't want to be tried  
21 | with him; is that correct?

22 |           A.    No, sir, I didn't.

23 |           Q.    Okay.  Tell us about what you did to  
24 | try to get that accomplished.

25 |           A.    Well, my lawyer, Tracy Pinnock, she

*COURTNEY THOMPSON - DIRECT EXAMINATION BY MR. GRIFFITH*

1 | told me that my co-defendant, which was Robert  
2 | Guinyard, asked for a speedy trial. And I had to  
3 | go to trial as well. And I told her that, my  
4 | lawyer, that I did not want to go to trial. And  
5 | she said, well, Courtney -- I asked her can she get  
6 | me a plea and she said, no, because my co-defendant  
7 | has forced me to trial and the solicitor was making  
8 | me go to trial. And so she said that it was out of  
9 | her hands that they was forcing us into trial.

10 |         Q.     And so you told her you did not want to  
11 | go to trial with him; is that correct?

12 |         A.     I did tell her I did not want to go to  
13 | trial with my co-defendant, but I didn't want a  
14 | trial period, but I definitely didn't want to go  
15 | with my co-defendant.

16 |         Q.     Okay. And did she ever at anytime  
17 | offer you an offer of plea -- offer to plea or  
18 | anything?

19 |         A.     No, sir. Nothing was offered to me. I  
20 | had to go to trial. I was told I had to go to  
21 | trial because my co-defendant asked for a speedy  
22 | trial, so nothing was ever offered, no, sir.

23 |         Q.     Okay. And so, did your attorney before  
24 | the trial, as far as you know, attempt to have your  
25 | case separated from his?



1           A.     Well, she said that she didn't like the  
2 fact that we was -- they was making us go. She  
3 said that she didn't like the fact that I was going  
4 with my co-defendant, but it was out of her hands  
5 because the State was making us -- me go to trial  
6 with him and the State was making us have a joint  
7 trial.

8           Q.     Okay. So you wanted to take a plea; is  
9 that correct? Or you wanted some kind of offer of  
10 a deal?

11          A.     Yes, I wanted an offer, but I couldn't  
12 get it because my co-defendant, like I say, he put  
13 in for a speedy trial and I was told that I had to  
14 go to trial. And my lawyer said that she couldn't  
15 get me a plea at that point because I had to go to  
16 trial.

17          Q.     Okay. Now, let me ask you, how many  
18 times do you think you saw your attorney before the  
19 trial?

20          A.     Like, altogether she probably came,  
21 like, three or four times.

22          Q.     Okay. And how long did you have to  
23 talk to her when she come?

24          A.     We talked between 45 minutes and an  
25 hour each time.

*COURTNEY THOMPSON - DIRECT EXAMINATION BY MR. GRIFFITH*

1           Q.     Okay. But do you feel like she really  
2 got your full attention and your full story?

3           A.     No. It was a big story and it was --  
4 we only spent like 10 months -- 11 months in the  
5 county, it wasn't nearly enough time to get the  
6 full story or get, you know, proper evidence. And  
7 I -- she mentioned one time that she was going to  
8 send me for a psychological evaluation, but she  
9 never could because my trial date came up and it  
10 was time to go to trial, so we never got that done.

11          Q.     Okay. And so you never got the  
12 psychological evaluation; is that correct?

13          A.     No, sir.

14          Q.     And did she hire an investigator that  
15 you know of?

16          A.     I never spoke to an investigator. So I  
17 don't know, but I never spoke to one.

18          Q.     Okay. So did she tell you anything  
19 about doing some investigating or anything like  
20 that?

21          A.     I never knew we was suppose to have an  
22 investigator on my case. So, you know, I never --  
23 an investigator was never mentioned because -- it  
24 was never mentioned, so, no.

25          Q.     So as far as you know she did not have

1 an investigation done?

2 A. As far as I know, I didn't know it was  
3 suppose to been an investigation done because an  
4 investigator was never mentioned and nothing about  
5 investigating the case was never mentioned. Like I  
6 said, it was a big case and it was a lot of facts.  
7 We went to court in 10, 11 months, it was not even  
8 enough time to even be investigated.

9 Q. Okay. And so you said something about  
10 your attorney changed her defense two or three  
11 times. Tell me about that.

12 A. Well, I don't know exactly what it was.  
13 But like I say, I was young and don't know nothing  
14 about this system and I was so young and I don't  
15 know what it was she changed, but I know that she  
16 did ask my other two lawyers who was present in the  
17 -- at Alvin S. Glenn in the multi-purpose room do  
18 they want a part of this. I don't know what it was  
19 and they said, no, and got up and left. And said,  
20 you know, they got up and left. And I believe  
21 that's what was going on maybe she changed the  
22 defense, I just know my other two lawyers didn't  
23 want nothing to do with it.

24 Q. Okay. But you don't know what it was;  
25 is that correct?

*COURTNEY THOMPSON - DIRECT EXAMINATION BY MR. GRIFFITH*

1           A.     I don't.

2           Q.     All right. But on the day of the  
3 incident, what had happened that day as far as you  
4 being in the hospital? Just tell us that. Don't  
5 go into any other detail.

6           A.     I just had another baby. I came home  
7 and --

8           Q.     So you just had a baby and you just  
9 come home from the hospital; is that correct?

10          A.     Yes, sir.

11          Q.     Were you still on pain medicine, et  
12 cetera, from the hospital?

13          A.     They had just given me OxyContin and  
14 oxycodone which is a narcotics right before I got  
15 in the car and come home, yes, sir.

16          Q.     Okay. And so were you still in a lot  
17 of pain?

18          A.     I was in pain, but I was so heavy  
19 medicated from all that medicine they had just give  
20 me right before I came home. Like, I was in pain,  
21 but I was kind of, like, out of it, you know.

22          Q.     Okay. So when you gave your statement  
23 to the police, you were still kind of out of it; is  
24 that what you're saying?

25          A.     Yes, sir. I really don't --

1           Q.     That's all I wanted you to talk about.  
2     I don't want you to go into any case details.

3           A.     Right. I really don't remember giving  
4     my statement to the cop -- to the police. I really  
5     don't remember giving my statement to them. I was,  
6     like, falling asleep. And I remember one time  
7     they, whoever he was, kept having to wake me up,  
8     you know, I was out of it, so I really don't  
9     remember giving no statement.

10          Q.     Okay. And so, to sum things up, you  
11     didn't want to go to trial with your co-defendant;  
12     you didn't want to go to trial at all; you were  
13     never given a plea offer; and as far as you know,  
14     there wasn't any investigation done by your  
15     attorney there just wasn't time; you went to trial  
16     10 months you said after you were arrested; is that  
17     correct?

18          A.     Ten or 11 months, yes, sir.

19          Q.     Okay. And on the day of the incident,  
20     you were heavily medicated, didn't really know what  
21     was going on; is that correct?

22          A.     Yes, sir.

23          Q.     Okay. Thank you. Just answer any  
24     questions that the Assistant Attorney General might  
25     have.

*COURTNEY THOMPSON - CROSS-EXAMINATION BY MS. BALAJ*

1 THE COURT: Ms. Balaj, any  
2 cross-examination?

3 MR. BARLOW: Yes, Your Honor. May it  
4 please the Court?

5 THE COURT: Certainly.

6 CROSS-EXAMINATION

7 BY MS. BALAJ:

8 Q. Ms. Thompson, I just have a couple of  
9 questions on the allegations. So starting off with  
10 your first allegation that you didn't want to go to  
11 trial and you had no pleas. So no plea offer was  
12 communicated to you by your attorney; correct?

13 A. No, ma'am, it wasn't.

14 Q. But do you understand that your  
15 attorney is not in control of getting you a plea  
16 offer that that's something the State has to do?

17 A. I don't know.

18 Q. You don't know?

19 A. No.

20 Q. Okay. And you stated that you wanted  
21 your trial to be severed. But do you recall that  
22 your attorney did move for your trial to be  
23 severed?

24 A. Well, I didn't want a trial. I wanted  
25 to plea, but since she was telling me I had to go

1 to trial and I had no other options, so if I didn't  
2 have no other options, I wanted a separate trial.

3 Q. But you understand that your attorney  
4 did move for -- to sever your trial from your  
5 co-defendant?

6 A. I don't know what she did because we  
7 never talked about that. She just say she would  
8 try, but she wasn't successful at it that the State  
9 made us go together.

10 MS. BALAJ: And, Your Honor, that's on  
11 pages 172 to 177 of the trial transcript.

12 THE COURT: Okay.

13 Q. And concerning the failure to  
14 investigate, what exactly would your attorney have  
15 investigated?

16 A. Just the whole situation. Just, you  
17 know, the case, you know. It's a lot that should  
18 have come up that didn't come up, you know, and it  
19 just wasn't properly investigated, you know.

20 Q. But what specifically would have had to  
21 come up?

22 MR. GRIFFITH: Your Honor, I'd like to  
23 object. She -- we wouldn't want her to testify as  
24 to anything that may be held against her or  
25 anything like that. I think that the Assistant

*COURTNEY THOMPSON - CROSS-EXAMINATION BY MS. BALAJ*

1 Attorney General need to be careful in her  
2 questioning as to specifics of it.

3 THE COURT: She's the one that's filed  
4 this PCR application, the door is wide open.

5 MS. BALAJ: Thank you, Your Honor.

6 THE COURT: Proceed.

7 Q. And so you're saying she should have  
8 investigated more. Do you know how many pages  
9 there are in your trial transcript?

10 A. No, didn't have it.

11 Q. There's over 1800 pages. And the facts  
12 were heavily litigated. Do you recall that?

13 A. And all those pages were from, you  
14 know, about my son, hearsay. A lot of my family  
15 testified and it wasn't -- my mother testified for  
16 an hour and 30 minutes and that was like 200 and  
17 something pages alone, you know. So a lot of that  
18 wasn't facts of my case. It was just, you know, it  
19 was just like a lot of testimony was, you know,  
20 caused all that transcript.

21 Q. So I'm just going to ask one more time,  
22 is there anything specific that you believe that an  
23 investigator should have been hired to investigate?

24 A. Yes, ma'am, I do. My sister made a  
25 statement -- I mean, she testified and said that I



1 | called her. I butt-dialed her. And you can see on  
2 | the cameras from me leaving the hospital that I  
3 | didn't have -- my pockets was in the front, I  
4 | didn't have pocket in the back and the cameras  
5 | should have been pulled from the hospital and my  
6 | phone records was never subpoenaed. They just went  
7 | off the phone tower and say that I called her. I  
8 | did call her that morning in the hospital before I  
9 | left. But she said I butt-dialed her when I was  
10 | home. So they just went off the phone tower. They  
11 | never subpoenaed Verizon wireless to get my actual  
12 | phone records. Yeah, that was definitely a fact.

13 | Q. But your sister testified against you  
14 | at trial; correct, concerning this phone call?

15 | A. Yes, ma'am.

16 | Q. And you're saying that your sister  
17 | lied?

18 | A. Yes, she did lie. And that would have  
19 | been proven if it would have been properly  
20 | investigated and my records from Verizon wireless  
21 | would have got pulled, but they was never pulled,  
22 | they just went off the tower. They didn't go off  
23 | my phone records.

24 | Q. Well, do you have any records here  
25 | today to show that the call didn't happen?

1 A. Ma'am?

2 Q. Do you have those records, those phone  
3 records here today to show that call didn't happen?

4 A. If it was proper investigated and I  
5 would have had a good investigator and they would  
6 have pulled the records from Verizon wireless, they  
7 would have saw it. With all due respect, ma'am, it  
8 wasn't my job to pull the phone records, that was  
9 my investigator, my attorney job to pull my phone  
10 records from Verizon wireless.

11 Q. But today you don't have those records  
12 here?

13 A. No, ma'am.

14 Q. Okay. And you also testified that you  
15 had no knowledge of the system, but hadn't you had  
16 several dealings with DSS concerning CHILD your  
17 son, and your other children?

18 A. Not my other children, no. Well, two  
19 of my other kids, yes, ma'am, but that was, like,  
20 Family Court, that had nothing to do with legal  
21 court. I didn't know anything about legal court.  
22 Family Court, yes, but legal court and pleas and  
23 all that, I never had to answer a plea or offer a  
24 plea at Family Court that was about my children, it  
25 wasn't legal.

1           Q.    And going to your last allegation that  
2   you had been on pain pills and weren't cognizant  
3   during your statement. Do you recall that there  
4   was a hearing to determine the admissibility of  
5   your statement?

6           A.    I don't know what you're saying.

7           Q.    Do you remember that there was a  
8   hearing and your attorney argued that your  
9   statement should have been suppressed because it  
10   wasn't voluntary?

11          A.    I don't recall none of that, no, ma'am.

12          Q.    You don't recall?

13          A.    No, ma'am.

14          Q.    And you don't recall the investigator  
15   testifying that he asked you whether or not you had  
16   been impaired or there was anything in your system  
17   that would have made your statement voluntary?

18          A.    I don't remember that neither. I don't  
19   recall that either. But like I said, I was  
20   definitely -- and another thing, if my records from  
21   the hospital was proven, if my investigator would  
22   have pulled my records from the hospital, they  
23   would have saw when a nurse came and gave me my  
24   pain pills right when me and my baby was packing up  
25   to leave. Because they give you pain pills before

1 | you leave -- right before you leave. And if they  
2 | would have investigated, they would have seen that  
3 | I was definitely heavily medicated. So when we  
4 | talked, I don't remember that. I was definitely  
5 | out of it, I don't remember that conversation.

6 | Q. So that statement happened on July 1st  
7 | after you came out of the hospital; correct?

8 | A. (No response.)

9 | Q. The statement that you gave to the  
10 | investigator, you gave it on July 1st after you  
11 | came out of the hospital; correct?

12 | A. I guess, yes, ma'am. I guess.

13 | Q. Okay. And didn't you testify at trial  
14 | concerning your statement that you had a  
15 | conversation with your husband over the phone that  
16 | day in the hospital?

17 | A. I don't have a husband, but --

18 | Q. Your boyfriend? Sorry.

19 | A. My kids' father, did I have a  
20 | conversation with him over the phone?

21 | Q. Do you recall testifying to that on  
22 | page 1605 of the trial transcript?

23 | A. Yeah. The only thing I told him over  
24 | the phone was that me and the baby is coming home  
25 | in a cab. And he asked me what took so long for us

1 to come home and I said my son had to be  
2 circumcised and we was coming home in a cab. And  
3 that's...

4 Q. But you don't recall testifying at  
5 trial to the specific statements your husband,  
6 several specific statements your husband made on  
7 that phone call testifying against him at trial?

8 A. Did I testify against him at trial?  
9 Yes. But are you saying the same day I came home?

10 Q. Yes.

11 A. Did I make phone calls to him?

12 Q. Yes. You testified to this at trial.

13 A. I don't understand what you're saying  
14 here. I called him, yes, let him know that our son  
15 was being circumcised and, you know, about me and  
16 the baby and what was going on with me and the  
17 baby. But, I mean, my medicine didn't stop me from  
18 calling home to let him know what was going on with  
19 me and his son. You know, the medicine didn't stop  
20 me from doing all that. But, you know, like I say,  
21 I didn't get my medicine until me and my baby was  
22 getting ready to walk out the door. That's when  
23 the nurse came with the white cup and gave me the  
24 pills and I took the water and I said, thank you,  
25 and I got my baby and we walked out the door. I

1 | didn't call -- and the next time I called him, I  
2 | was in the cab and I said, hey, we fixing to pull  
3 | up, come and get the baby.

4 |           Q.     So the medicine didn't stop you from  
5 | remembering the conversation with your husband  
6 | while you're in the hospital after giving birth,  
7 | but it stopped you from recalling all the statement  
8 | you gave to the investigator that same day?

9 |           A.     Yes, because I didn't talk to the  
10 | investigator -- I had just called [CHILD] that --  
11 | just called [CHILD]. When I talked to the  
12 | investigators, that medicine was fully in my system  
13 | at that point. Yes. Yes.

14 |           MS. BALAJ: Your Honor, I have no  
15 | further questions.

16 |           THE COURT: Any redirect, Mr. Griffith?

17 |           MR. GRIFFITH: Yes, Your Honor, if it  
18 | please the Court?

19 |           THE COURT: Sure.

20 |           REDIRECT EXAMINATION

21 | BY MR. GRIFFITH:

22 |           Q.     Ms. Tompson, you called your husband to  
23 | tell him that you were coming home with the baby;  
24 | correct?

25 |           A.     Yes, sir.

1           Q.     And then they gave you medicine; isn't  
2     that correct?

3           A.     Yes, sir. They gave me medicine when  
4     me and the baby was leaving out the door. Yes,  
5     sir.

6           MR. GRIFFITH: All right. I have no  
7     other questions.

8           THE COURT: Okay. Any recross?

9           MS. BALAJ: No further questions.

10          THE COURT: You can step down, ma'am.  
11     Thank you. Next witness, Mr. Griffith.

12          MR. GRIFFITH: I have no further  
13     witnesses.

14          THE COURT: All right. State ready to  
15     proceed?

16          MS. BALAJ: Yes, Your Honor.

17          THE COURT: Okay.

18          MS. BALAJ: The State calls Tracy  
19     Pinnock.

20                         TRACY PINNOCK,  
21     being first duly sworn, was examined and testified  
22     as follows:

23          THE COURT: Thank you.

24          MS. BALAJ: May it please the Court?

25          THE COURT: Yes, ma'am.

## TRACY PINNOCK - DIRECT EXAMINATION BY MS. BALAJ

1 DIRECT EXAMINATION

2 BY MS. BALAJ:

3 Q. Good morning, Ms. Pinnock?

4 A. Good morning.

5 Q. I just have some general questions for  
6 you and then we'll get into the allegations.

7 How long have you been practicing law?

8 A. I think it will be 17 years in  
9 November.

10 Q. And how much of that has been in  
11 criminal law?

12 A. All 17 years.

13 Q. And you were appointed to this case?

14 A. I was.

15 Q. And how long prior to trial were you  
16 appointed to Ms. Thompson's case?

17 A. I received her case July 9th of 2013.  
18 So about 10 months.

19 Q. About 10 months. And can you give a  
20 brief overview of the State's evidence in this case  
21 against Ms. Thompson?

22 A. I don't remember all the details  
23 because it's been 11 years. But, basically, the  
24 deceased was Ms. Thompson's four-year old son. He  
25 suffered a lot of internal injuries. She had just



1 returned home from the hospital from having a baby.  
2 Something happened inside the home. 9-1-1 was  
3 called. The child was determined to be deceased on  
4 scene when EMS got there.

5 There was family testimony about  
6 ongoing, you know, abuse allegations. All those  
7 family members testified at the trial as best I can  
8 remember. And that's basically it. There was an  
9 allegation of -- about a year's worth of physical  
10 abuse that ultimately led to the child dying.

11 Q. And how many times did you meet with  
12 Ms. Thompson prior to trial?

13 A. According to my notes, at least 14  
14 times I have documented. I don't know if I wrote  
15 down every date, but I have 14 dates.

16 Q. And what did you discuss during those  
17 meetings?

18 A. I'm sorry, say it again?

19 Q. What did you discuss during those  
20 meetings?

21 A. Everything from my initial meeting with  
22 her. We reviewed the discovery. We talked trial  
23 strategy. When the trial was coming up. I tried  
24 to answer all the questions that she had. I would  
25 update her on, you know, any new information that I

## TRACY PINNOCK - DIRECT EXAMINATION BY MS. BALAJ

1 | got from the solicitor's office regarding her case.  
2 | We discussed the Family Court case that was also  
3 | happening at the same time, the DSS case that was  
4 | going on with her other children. So just  
5 | everything. Just general meetings, reviewing  
6 | discovery to trial preparation.

7 | Q. And what was your trial strategy in  
8 | Ms. Thompson's case?

9 | A. Going off of what I have in my notes,  
10 | it seems as though we were trying to distance her  
11 | from the homicide charge and take on the unlawful  
12 | conduct and try to get away from the homicide.  
13 | That's the best I can recall just what I have in my  
14 | notes. I don't remember exactly what we did during  
15 | this trial because it was so long ago.

16 | Q. And Ms. Thompson testified that there  
17 | were some issues with some of the attorneys on the  
18 | team and that the defense strategy had changed. Do  
19 | you recall any of that?

20 | A. I have a note about a meeting that we  
21 | had where I had actually dismissed the other two  
22 | attorneys from the meeting. I don't know why. I  
23 | don't know what happened. I don't know if I said  
24 | something, if Ms. Thompson said something, but my  
25 | note says that I dismissed them from the meeting

1 and then continued to meet with Ms. Thompson  
2 myself.

3 Q. Did that in anyway affect your  
4 preparation for trial?

5 A. I don't remember the details of that  
6 conversation. I did not write that down.

7 Q. And going to Ms. Thompson's allegation  
8 that she was forced to go to trial, didn't get any  
9 plea offers, were there any offers in this case?

10 A. Not that I recall getting. I believe I  
11 did have a conversation with the solicitors about  
12 one thing to try to work something out, but I don't  
13 have anything documented she ever got an offer.

14 Q. And did she tell you that she wanted to  
15 go to trial or to plea?

16 A. She indicated that she did want to try  
17 to work it out which is why I had these  
18 conversations with the prosecutors. I do agree  
19 with Ms. Thompson that we kind of were forced into  
20 a trial situation. I recall getting a phone call,  
21 I'm not sure which one of the prosecutors called  
22 me, I wasn't even in the courthouse on the day that  
23 this happened, but the co-defendant, I believe he  
24 was for bond. And then his bond motion turned into  
25 a trial date getting set. And then I was called at

1 my house to say that I had been speedy trial in my  
2 absence, ultimately. So I do agree with her when  
3 she says we were kind of forced into a trial  
4 situation.

5 Q. And that brings me to the next  
6 allegation. She said that her trial should have  
7 been severed. But didn't you move for the trial --  
8 her case to be severed from her co-defendant's?

9 A. I do not have any notes indicating that  
10 I did that. If it's in a transcript somewhere, I'm  
11 happy to look at it, but I do not have any memory  
12 of making that specific motion, no.

13 Q. Okay. And concerning her statement,  
14 did you move to have the statement suppressed;  
15 correct?

16 A. The State did -- I looked through the  
17 transcript briefly last night, there was a *Jackson*  
18 *v. Denno* hearing. I did make arguments to keep the  
19 statements suppressed. So, yeah, I did, but the  
20 motion was denied.

21 Q. And it was brought up multiple times at  
22 trial that Ms. Thompson had just given birth  
23 through various testimony, wasn't it?

24 A. Yeah, that was not disputed that she  
25 had just given birth.

1 MS. BALAJ: Beg the Court's indulgence.

2 THE COURT: Sure. Take your time.

3 Q. Just a couple more questions. Ms.  
4 Thompson testified about getting a psych  
5 evaluation, was that ever a discussion you had?

6 A. I don't have anything in my notes  
7 saying that I talked to her about that, so I can't  
8 say if I did or didn't.

9 Q. And did you hire an investigator in  
10 this case?

11 A. I did.

12 Q. And what resulted from that?

13 A. The investigator conducted a number of  
14 witness interviews. A number of subpoenas were  
15 served and releases were served for certain  
16 records. We had the help of the investigator for  
17 that. But, basically, it was trying to interview  
18 potential witnesses that would -- that Ms.  
19 Thompson's family is what we were mainly focused  
20 on.

21 Q. And last question, were you prepared  
22 for this trial?

23 A. I mean, yeah, we were.

24 MS. BALAJ: No further questions, Your  
25 Honor.

## TRACY PINNOCK - CROSS-EXAMINATION BY MR. GRIFFITH

1 THE COURT: All right. Mr. Griffith,  
2 any cross-examination?

3 MR. GRIFFITH: Thank you, Your Honor.  
4 Please the Court.

5 CROSS-EXAMINATION

6 BY MR. GRIFFITH:

7 Q. Nice to see you again, Ms. Pinnock.

8 A. You too. How are you?

9 Q. So, did you request the speedy trial?  
10 I understand you did not; is that correct?

11 A. No.

12 Q. And so you didn't request the speedy  
13 trial, so you probably weren't expecting a trial to  
14 happen that quickly, were you?

15 A. I was not. Ten months from arrest to  
16 trial for Richland County is very fast. On average  
17 it was taking, you know, on the fastest side 12 to  
18 18 months for somebody to go to trial, but this one  
19 went in 10 -- 10 months.

20 Q. And it's not unusual for trial in a  
21 murder case to take two years or three, isn't it --

22 A. That's correct.

23 Q. -- before trial?

24 A. Correct.

25 Q. And so what attempts did you make to

1 bifurcate?

2           A.    I don't have any memory and there's  
3 nothing in my notes in what I was able to review in  
4 the transcript last night after I received it, I  
5 did not see that I actually made a motion to  
6 separate Ms. Thompson's case from Mr. Guinyard's.  
7 If it's in the transcript somewhere, please show it  
8 to me, but I don't have any record of ever making a  
9 motion to separate their trials.

10           Q.    But given the choice, don't you think  
11 that it would have been an advantage for her to  
12 have a separate trial?

13           A.    I -- looking back at what -- some of  
14 the issues that came up during the trial being  
15 there with the co-defendant and the competing  
16 rights to present a defense, I think we probably  
17 would be better off by ourself.

18           Q.    Okay. So perhaps given more time you  
19 may have and more time to study the case, et  
20 cetera, you may have asked for a separate trial;  
21 isn't that correct?

22           A.    I probably should have, but I did not  
23 make that request.

24           Q.    Okay. Now as far as the plea offer,  
25 did the State never come to you with any kind of

## TRACY PINNOCK - CROSS-EXAMINATION BY MR. GRIFFITH

1 | offer at all?

2 |           A.    No, they never approached me.  I  
3 | remember bringing up the conversation, but if an  
4 | offer -- I don't recall there ever being an offer.  
5 | If I'm wrong, they can correct me, but I do not  
6 | believe an offer was ever made.  If it was, I would  
7 | have discussed it with Ms. Thompson for her to  
8 | consider.

9 |           Q.    I believe that you were never made an  
10 | offer which is unusual given a case of this  
11 | magnitude, wouldn't you say so?

12 |           A.    I don't know if I can answer if it's  
13 | unusual or not.

14 |           Q.    Wouldn't you expect to have a plea  
15 | offer in a case this -- this type of case, I mean,  
16 | murder case, in any murder case?

17 |           A.    Honestly, no.  No, I can't say that I  
18 | expect to get an offer especially when it's the  
19 | more serious allegations with the facts and, you  
20 | know, circumstances surrounding this one, I cannot  
21 | honestly sit here and say that I would have  
22 | expected to get an offer.

23 |           Q.    Okay.  Fair enough.  And -- so to sum  
24 | up then, you didn't ask for the speedy trial,  
25 | normally this would have taken a good bit longer to



1 go to trial for this type of a case, and given time  
2 you may have asked for a separate trial, are those  
3 things correct?

4 A. Yes, I think that's fair.

5 MR. GRIFFITH: I have no further  
6 questions, Your Honor.

7 THE COURT: Any redirect?

8 MS. BALAJ: Very briefly, Your Honor.

9 RECROSS-EXAMINATION

10 BY MS. BALAJ:

11 Q. Just on the allegation of requesting a  
12 separate trial, you tried this case with Adam  
13 Ruffin and Eric Staggs; correct?

14 A. Yes.

15 Q. And do you recall that Eric Staggs made  
16 the motion to sever trial?

17 A. I don't. If it's in there, yeah, show  
18 me. I don't remember.

19 MS. BALAJ: Your Honor, may I approach?

20 THE COURT: Go ahead and show her the  
21 transcript.

22 A. I don't have a copy.

23 Q. So if you want to look over that and  
24 just let me know whenever you're done.

25 THE COURT: Just take your time and

1 review that.

2 A. Yes, sir. He's making a request to  
3 sever the charges, not sever the trial. Because  
4 the question was about severing Ms. Thompson and  
5 and Mr. Guinyard's trials. I never made that  
6 request.

7 Q. So there was no motion to sever the  
8 trial whatsoever?

9 A. No. This motion that Mr. Staggs is  
10 making, is to sever Ms. Thompson's charges to have  
11 a separate charge on the neglect and the separate  
12 charge -- I mean, a separate trial for the  
13 homicide.

14 Q. Okay. Let me ask you this, if she had  
15 gone and had a separate trial, how would have that  
16 affected her?

17 A. Our hope -- wait, trial or charge?

18 Q. If you had moved to have a separate  
19 trial, would she have been successful on that?

20 A. I don't know. I think things would be  
21 different because we had a lot of issues come up  
22 that dealt with prior bad act allegations with Ms.  
23 Thompson, prior allegations of abuse, things that  
24 the co-defendant's lawyer went to go into that  
25 would not necessarily be admissible against Ms.

1 Thompson in our opinion. There was a lot of  
2 objecting and back and forth during the trial about  
3 that, with the competing right to present a defense  
4 and then our right to not have our client's  
5 character put into evidence.

6 So if we had been by ourselves, we  
7 would not have had those issues. But because we  
8 were in there together, those competing rights I  
9 think did have an effect on the trial.

10 Q. Okay. Thank you, Ms. Pinnock.

11 MS. BALAJ: I have no further  
12 questions, Your Honor.

13 THE COURT: Mr. Griffith, anything in  
14 recross?

15 MR. GRIFFITH: I have no further  
16 questions, Your Honor.

17 THE COURT: Okay. You can step down,  
18 ma'am. Thank you. Any other witnesses for the  
19 State?

20 MS. BALAJ: Yes, Your Honor. The State  
21 would call Luck Campbell.

22 MS. CAMPBELL: Beg the Court's  
23 indulgence, can I review one thing?

24 THE COURT: Sure.

25 MS. CAMPBELL: I'm sorry, Your Honor.

## MITZI CAMPBELL - DIRECT EXAMINATION BY MS. BALAJ

1 Thank you.

2 MITZI CAMPBELL,  
3 being first duly sworn, was examined and testified  
4 as follows:

5 THE COURT: You may proceed.

6 MS. BALAJ: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MS. BALAJ:

9 Q. Good afternoon, Ms. Campbell. I have  
10 some general questions and then I'll get into some  
11 of the allegations that we're here today on.

12 How long have you been practicing law?

13 A. A really long time. Like, 30 plus  
14 years.

15 Q. And how much of that has been criminal  
16 law?

17 A. Other than clerking for a judge, all of  
18 it.

19 Q. And how did you come to be involved in  
20 Ms. Thompson's case?

21 A. I don't think I was the person actually  
22 assigned to the case, but it wasn't unusual for --  
23 in major cases for multiple prosecutors to become  
24 involved. This case, I believe, was assigned to  
25 Joanna McDuffie and then she and I along with

1 | Meghan Walker tried a lot of cases together, so we  
2 | -- and the allegations and facts in this case were  
3 | particularly heinous, so it was a case where we all  
4 | collaborated.

5 | Q. And can you give a summary of all the  
6 | evidence against Ms. Thompson at trial?

7 | A. I was just hoping you would call Joanna  
8 | first because I was trying to go through that in my  
9 | mind. I know that I testified in the  
10 | co-defendant's PCR hearing and I know that the  
11 | facts were summed up in that pretty succinctly.  
12 | But, basically, the facts were is that this  
13 | defendant and the co-defendant, I believe, his name  
14 | was Guinyard, had been living together and they've  
15 | had multiple children together, I believe a total  
16 | of six or seven children.

17 | Over the years, DSS had been involved  
18 | in the case. At one point, three or four of the  
19 | children had been removed and then this young man,  
20 | the little four year old had been returned to her  
21 | while they've been -- took other children away from  
22 | her.

23 | On the events leading up to this, the  
24 | child had been back in her care -- he had  
25 | flourished in foster care as I recall. He was

## MITZI CAMPBELL - DIRECT EXAMINATION BY MS. BALAJ

1 returned to her and I want to say my time periods  
2 may be off, about a year prior to this. During  
3 that time period, the allegations were is that she  
4 and Mr. --

5 MR. GRIFFITH: Your Honor, I'm going to  
6 object. They're basically trying to retry the case  
7 here. I think we're trying to find out if she  
8 deserves a new trial.

9 THE COURT: Right. I think the  
10 question was, what sort of evidence was there at  
11 trial against Ms. Thompson. And I don't think you  
12 objected then. So -- and I don't necessarily think  
13 we need to spend a whole lot of time on this, but I  
14 guess by way of background information, I'll let it  
15 go for a little while, but let's not spend a whole  
16 lot of time on it. Objection overruled. You may  
17 pick back up where you left off.

18 MS. CAMPBELL: And I'll try to be  
19 succinct, Judge.

20 A. Basically, during the year period,  
21 there were multiple witnesses including  
22 Ms. Thompson's mother and her sisters, I believe,  
23 had witnessed various acts of abuse towards the  
24 child. And, ultimately, she was in the hospital  
25 for a period of three days just prior to this

1 child's demise. She returned home and then within  
2 a few hours or a day or so, the child ended up  
3 dead.

4           The most compelling evidence was, of  
5 course, the pathologist's testimony which was very  
6 detailed about the repeated abuse this child had  
7 incurred over the years. I just remember this  
8 vividly, cutdowns on his whole body and it was  
9 bruises everywhere. It was a telephone call that  
10 she referred to in her testimony and we did have, I  
11 believe, the phone dumb. Maybe not the phone  
12 records, I'm not sure which one we had, but we  
13 substantiated there was a phone call in which one,  
14 I believe, sister testified to hearing them beating  
15 -- she and Mr. Guinyard beating the child and him  
16 screaming out, lord, help me! and gasping and kind  
17 of his last breaths. This was all substantiated by  
18 the pathologist's findings of the bruising all over  
19 his body. The injuries were significant as well as  
20 the starvation that had been going on for a  
21 significant amount of time.

22           And so we had eyewitness testimony. We  
23 had the pathologist was the most compelling  
24 testimony we had that I recall. And that's pretty  
25 much it.

1 Q. Thank you.

2 THE COURT: Let me state this, Mr.  
3 Griffith, rest assured that any evidence that was  
4 brought out at trial pointing towards the guilt of  
5 Ms. Thompson will not be factored in at all, will  
6 not be considered by me whether or not she received  
7 ineffective assistance of counsel. So please be  
8 rest assured that -- I'm taking this as just  
9 background information.

10 MR. GRIFFITH: Thank you, Your Honor.  
11 Save me a lot of objection.

12 THE COURT: Okay. You may proceed,  
13 Ms. Balaj.

14 MS. BALAJ: Thank you, Your Honor.

15 Q. And concerning the plea negotiations in  
16 this case, can you give some insight as to how  
17 those went?

18 A. There were none.

19 Q. So there were never any plea offers  
20 made?

21 A. Not in this case.

22 Q. Thank you. And for the allegation  
23 concerning the severance, I guess there was no  
24 motion for a severance made, but do you believe  
25 there was a legal basis for a severance in this



1 case?

2 A. No. If there had been a legal basis, I  
3 would assume one of the other would have made it.  
4 Of course, they did make a severance for the  
5 charges, so they made that one as well. But in  
6 this case, of course, it was totally proper that we  
7 tried them together which is what we did.

8 Q. Thank you, Ms. Campbell.

9 MS. BALAJ: No further questions.

10 THE COURT: Okay. Any  
11 cross-examination?

12 MR. GRIFFITH: Please the Court, Your  
13 Honor.

14 CROSS-EXAMINATION

15 BY MR. GRIFFITH:

16 Q. Ms. Campbell, you say that had there  
17 been a basis, they would have made the motion to  
18 bifurcate. But that's why we're here because they  
19 didn't make the motion and they should have; isn't  
20 that correct?

21 A. I'm saying in my opinion was not a  
22 basis. But if they thought it would have been in  
23 their best interest, they would have made that  
24 motion. I've worked with Ms. Pinnock and those  
25 public defenders for years and they're very capable

## MITZI CAMPBELL - CROSS-EXAMINATION BY MR. GRIFFITH

1 and very good at what they do.

2 Q. I'm sure.

3 A. Yes, sir.

4 Q. However, that's why we're here.

5 MR. GRIFFITH: No further questions,  
6 Your Honor.

7 THE COURT: Okay. Solicitor, you can  
8 step down.

9 MS. CAMPBELL: Thank you, sir.

10 THE COURT: Ms. Balaj, any further  
11 witnesses for the State?

12 MS. BALAJ: Yes, Your Honor. The State  
13 would call Joanna McDuffie.

14 MR. GRIFFITH: Your Honor, I would  
15 object to this witness because this is a witness  
16 that was brought at trial to testify against this  
17 defendant.

18 MS. BALAJ: She's a solicitor.

19 MR. GRIFFITH: Oh, I thought you said  
20 she was her sister. I'm sorry.

21 THE COURT: Okay. All right.

22 JOANNA MCDUFFIE,  
23 being first duly sworn, was examined and testified  
24 as follows:

25 THE COURT: Thank you. Have a seat.

1 MS. BALAJ: May it please the Court?

2 THE COURT: Yes, ma'am. You may  
3 proceed.

4 DIRECT EXAMINATION

5 BY MS. BALAJ:

6 Q. Good afternoon. Just like with  
7 Ms. Campbell, I'm going to ask some general  
8 questions.

9 How long have you been practicing law?

10 A. Eighteen years approximately.

11 Q. And how much of that has been in  
12 criminal law?

13 A. In prosecution, 13 years and now I'm  
14 general counsel for the Richland County sheriff.

15 Q. And you're one of the solicitors on  
16 this case?

17 A. I was.

18 Q. And testifying, can you go into the  
19 evidence in this case based on what was testified  
20 here today?

21 MR. GRIFFITH: Objection, Your Honor.  
22 We're not here to retry the case.

23 THE COURT: Okay. Of course, I allowed  
24 Solicitor Campbell to just by way of background  
25 information allowed her to testify as to any

1 | evidence that was brought out in trial. If there's  
2 | any other evidence by way of background, I'll allow  
3 | it. But if she's just going to rehash what  
4 | Solicitor Campbell testified to, then I'll sustain  
5 | the objection.

6 | MS. BALAJ: Thank you, Your Honor.

7 | Q. And I believe I asked Ms. Campbell  
8 | this, but maybe you can have more insight into it.  
9 | Was there any legal basis for a severance in this  
10 | case?

11 | A. No. And, again, I don't have the  
12 | transcript --

13 | MR. GRIFFITH: Objection, Your Honor.  
14 | She did not represent the defendant.

15 | THE COURT: I guess it really goes to  
16 | the weight, but she can give the State's  
17 | prospective on this issue of motion to sever the  
18 | defendant. So, again, I think it goes to the  
19 | weight. I'll allow the question to be answered.

20 | Q. I guess I'll ask it in a different way.  
21 | Were there any discussions between you and defense  
22 | about any severance in this trial?

23 | A. I don't recall who the discussions were  
24 | between prior to trial. I believe -- I'm sorry, I  
25 | don't have -- I was trying to pull the transcript

1 up on my iPad and I couldn't get it. I believe  
2 that while the attorneys for Ms. Thompson moved to  
3 sever the charges, the attorneys for Mr. Guinyard  
4 moved to sever the charges and to sever the  
5 defendants. And Judge Hood heard their motion to  
6 sever the trial for the defendants and I believe  
7 that that motion was made by Victor Lee and that  
8 was denied.

9 In fact, I believe that the attorneys  
10 for Ms. Thompson specifically wanted to go to trial  
11 with Mr. Guinyard because part of their strategy or  
12 their defense was to blame him for killing the  
13 child because that -- she was not in direct contact  
14 with the child for the three days leading up to her  
15 (verbatim) death. They were pointing the finger at  
16 him.

17 Q. Thank you. And just one more question  
18 about the allegation your standby a speedy trial.  
19 Do you recall that motion being made?

20 A. Yes. It was made by Mr. Guinyard's  
21 attorneys and it was granted. We had informed them  
22 that we intended to go to trial on both defendants  
23 and so we informed Ms. Pinnock of the trial date  
24 that the judge had set for Mr. Guinyard. It's my  
25 recollection, I don't believe that any continuance

*JOANNA MCDUFFIE - CROSS-EXAMINATION BY MR. GRIFFITH*

1 | motions were made on either -- or motions for  
2 | continuance were made on either side.

3 | MS. BALAJ: No further questions, Your  
4 | Honor.

5 | THE COURT: Mr. Griffith, any  
6 | cross-examination of Ms. McDuffie?

7 | MR. GRIFFITH: Yes, Your Honor. Please  
8 | the Court.

9 | CROSS-EXAMINATION

10 | BY MR. GRIFFITH:

11 | Q. I'm sorry, I asked -- I had asked her I  
12 | said, well, who is this and she said, the  
13 | solicitor, but I thought she said, sister.

14 | Ms. McDuffie, it's true that  
15 | Ms. Pinnock or any of the attorneys representing  
16 | Ms. Thompson never asked for a speedy trial;  
17 | correct?

18 | A. It's my recollection that the motion  
19 | was made by Victor Lee who represented  
20 | Mr. Guinyard.

21 | Q. So it's true that it was not made by  
22 | this defendant nor her attorneys; is that correct?

23 | A. No, I don't recall that.

24 | Q. Okay.

25 | MR. GRIFFITH: I have no further

1 questions.

2 THE COURT: All right. You can step  
3 down, ma'am. Thank you. Any further witnesses for  
4 the State?

5 MS. BALAJ: No further witnesses, Your  
6 Honor.

7 THE COURT: And, Mr. Griffith, do you  
8 have any reply case?

9 MR. GRIFFITH: Nothing to reply, Your  
10 Honor.

11 THE COURT: All right. Thank you very  
12 much. All right. I've got a large box of material  
13 that's been provided to me by the State. I will  
14 review that and make a decision as soon as I can,  
15 so I'll take it under advisement. Thank you very  
16 much. This hearing is adjourned.

17 MR. GRIFFITH: Thank you, Your Honor.

18 MS. BALAJ: Thank you, Your Honor.

19 - - -END OF REQUESTED TRANSCRIPT OF RECORD- - -

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25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA       )

COUNTY OF RICHLAND           )

I, KATHERINE A. SPIRES, Registered Professional Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 10th of April, 2025.

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

May 28, 2025

s/Katherine A. Spires

Katherine A. Spires

Registered Professional Reporter



STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

Courtney S. Thompson, #360154,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

CASE No. 2019-CP-40-01813

**ORDER OF DISMISSAL  
WITH PREJUDICE**

Presiding Judge:  
PCR Counsel:  
Respondent's Attorney:  
Trial Counsel:  
Date of Hearing:  
Court Reporter:

Hon. Donald B. Hocker  
Timothy L. Griffith Esq.  
Talida Balaj, Esq.  
Tracy Pinnock, Esq.  
April 10, 2025  
Katherine A. Spires

RICHLAND COUNTY  
FILED  
2025 SEP 16 AM 10:59  
JEANETTE W. MOORE  
CLERK, S.C. JUD. BR.

This matter comes before this Court by way of Courtney S. Thompson's (Applicant) post-conviction relief application filed on March 29, 2019. Respondent, the State of South Carolina, made its Return, Partial Motion to Dismiss, and Motion for a More Definite Statement on August 29, 2019, requesting an evidentiary hearing to resolve the claims as outlined in the application.

On April 10, 2025, an evidentiary hearing was convened before the Honorable Donald B. Hocker at the Richland County Courthouse. Timothy L. Griffith, Esquire, represented Applicant. Assistant Attorney General Talida Balaj represented Respondent. In support of these claims, Applicant testified on his own behalf, and Respondent presented testimony from Tracy Pinnock, Esquire (Trial Counsel). Respondent also presented testimony from Joanna A. McDuffie and K. Luck Campbell, Esquires.

Following a thorough review of the record in its entirety, along with the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish

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any constitutional violations or deprivations entitling him to relief and, accordingly, denies and dismisses this action with prejudice.

### PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted at the October 2013 term by the Richland County Grand Jury for homicide by child abuse (2013-GS-40-6520) and unlawful conduct toward a child (2013-GS-40-6521). Applicant was represented by Assistant Public Defenders Adam Ruffin, Tracy Pinnock, and Eric Staggs, all of the Fifth Circuit Public Defender's Office. Assistant Solicitors Luck Campbell, Joanna McDuffie, and Meghan Walker, of the Fifth Circuit Solicitor's Office, prosecuted the case.

Applicant's case proceeded to a jury trial May 19-28, 2014, before the Honorable Robert E. Hood. Applicant was tried simultaneously with her co-defendant, Antonio Guinyard (Guinyard). The jury convicted Applicant as indicted on both charges. Judge Hood sentenced Applicant to serve ten years' imprisonment for unlawful conduct toward a child, consecutive to serving life without parole (LWOP) for homicide by child abuse.

Applicant filed a timely Notice of Appeal. Mitzi Campbell Williams, Esquire, and Chief Appellate Defender Robert M. Dudek, represented Applicant on appeal, raising two issues:

- I. Did the trial court err in denying Courtney's motion for a directed verdict in that the state failed to present substantial circumstantial evidence?
- II. Did the trial court err in denying Courtney's motion to exclude graphic photographs of the child, which were calculated to arouse the sympathies and prejudices of the jury?

After briefing and oral argument, the court of appeals affirmed Applicant's conviction in State v. Thompson, 420 S.C. 192, 802 S.E.2d 623 (Ct. App. 2017). Thereafter, Applicant petitioned the Supreme Court for a writ of certiorari of the Court of Appeals' decision. The South

Carolina Supreme Court denied Applicant's petition on March 28, 2018, and the case was remitted back to the circuit court on April 4, 2018.

SUMMARY OF FACTS ADDUCED AT TRIAL

Victim was born on April 18, 2009, to Applicant and Guinyard<sup>1</sup>. His premature birth, as well as the very limited prenatal care Applicant obtained, led to health issues<sup>2</sup> that resulted in his stay in the intensive care unit after his birth. When he was stable, he was released. He was eight days old. (ROA p. 110, l. 20 – p. 111, l. 13; p. 129, l. 15 – p. 130, l. 11; p. 456, l. 16 – p. 458, l. 8). While he was in the hospital, he was diagnosed with congenital hydronephrosis, which can sometimes result in obstruction in the urethra. An appointment with a pediatric urologist was made for after he was discharged; the appointment was not kept. Later efforts by the hospital to reach his parents about other test results were unsuccessful. (ROA p. 458, l. 9 – p. 459, l. 16). Three days after Victim was discharged from the hospital – when he was 11 days old – he was brought into the emergency room for follow-up on a condition with his hands; at that time, he was spitting up a lot because he was being overfed. (ROA p. 460, l. 19 – p. 461, l. 3). Victim was not seen again until he was brought in for his first well-child check-up in June 2009; such check-ups should

<sup>1</sup> Describing their relationship, Applicant's sisters, Crystal and Natalie, testified that Guinyard would do whatever Applicant said. (ROA p. 135, ll. 15-20; p. 290, ll. 1-3). Crystal said that, while it was rare, Applicant had kicked Guinyard out of the home a couple of times. (ROA p. 143, ll. 14-21). Crystal also testified that Applicant not only complained that Guinyard did not punish Victim, but she would also get angry about it. Applicant also told Crystal that Guinyard acted like he was afraid of Victim. (ROA p. 145, l. 18 – p. 147, l. 4). Natalie also said that Guinyard saw the things that Applicant did. (ROA p. 290, ll. 4-5).

<sup>2</sup> At trial, the State presented the testimony of Dr. Olga Rosa, the Chief of the Division of Forensic Pediatrics for the U.S.C. School of Medicine and Medical Director of the South Carolina Child Abuse medical Response System. She was qualified as an expert in the field of child abuse pediatrics. (ROA p. 449, ll. 4-23; p. 452, ll. 13-22). Dr. Rosa testified that she had received Victim's medical records from birth through September 2012, as well as photographs taken around the time of his death and the pathology report. She reviewed all of these documents in order to have a complete history of Victim up to that point. (ROA p. 453, l. 8 – p. 455, l. 16). She testified as to Victim's physical, medical, and developmental history.

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be done two weeks after birth. (ROA p. 459, l. 16 – p. 460, l. 2).

On June 18, 2009, Victim was placed in foster care. (ROA p. 461, ll. 6-14; p. 585, ll. 9-19). From that point, Victim had regular pediatric check-ups and, at his 15-month well-child check-up, Victim was where he should have chronologically been in his development. (ROA p. 562, l. 15 – p. 563, l. 6). When he was 18 months old, a brain MRI was done because his foster mother was concerned about his speech and because he had a large head circumference. The MRI showed that the structure and anatomy of his brain were normal. He was "big, chunky, and healthy" – he was above the 97th percentile for everything on all of the growth charts. As a result of recommended speech therapy<sup>3</sup> and a little bit of occupational or physical therapy, by March 26, 2012, Victim was talking in two- or three-word sentences, was socialized, and was toilet-trained. He was on par with his peers and had reached his potential for his age.<sup>4</sup> (ROA p. 174, ll. 16-23; p. 462, l. 6 – 463, ll. 7-11; p. 466, l. 1 – p. 467, l. 15). A genetic consult revealed no metabolic or medical cause that would affect his development. Victim was not autistic. (ROA p. 465, ll. 2-25). Victim was set up to be enrolled in a three-year-old program at Richland I. (ROA p. 468, ll. 11-17).

<sup>3</sup> Dr. Rosa testified that speech is the first thing that goes in children in foster care. Children in foster care have trouble developing speech. Victim was in different foster care settings initially, but from sometime in late 2010 until he was returned to his parents in 2012, Victim was with a solid foster family and he flourished. (ROA p. 464, ll. 6-24).

Denise Jones, Victim's foster mother from August 2009 through April 6, 2012, testified that, when he came to her at 15 months, he was not doing much crawling or moving around, but once she started working with him, he began to crawl and walk and became more active. She also said that, by the time he left her, his speech was improving well and he was completely toilet trained. (ROA p. 570, l. 13 – p. 573, l. 7). A couple of days after Victim was returned home, Ms. Jones talked to Applicant who reported that Victim was not using the bathroom. Ms. Jones told her she did not understand that and told her to let her know if she needed any help. Ms. Jones never heard from Applicant again. (ROA p. 573, l. 8 – p. 5744, l. 4).

<sup>4</sup> Medical and therapeutic services were provided for Victim at no cost to his parents or foster parents. (ROA p. 467, l. 16 – p. 468, l. 10).

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On April 6, 2012, Victim was returned to his parents, Applicant and Guinyard. (ROA p. 111, l. 9 – p. 112, l. 6; p. 150, ll. 4-7; p. 243, ll. 8-13; p. 468, ll. 22-25; p. 585, ll. 9-19). At that time, he was a happy, healthy little boy who just wanted to play and talk. He looked to be well-nourished. (ROA p. 589, l. 19 – p. 590, l. 6).

After Victim had been returned,<sup>5</sup> one of Applicant's sisters, Crystal Thompson, moved in with her and Guinyard. While living with them, Crystal saw or witnessed Applicant beat Victim with a clothes hanger, a coat hanger, a drop cord, a cable cord,<sup>6</sup> her hand, and her knees. (ROA p. 111, l. 24 – p. 114, l. 9; p. 134, l. 16 – p. 135, l. 1; p. 140, l. 25 – p. 141, l. 3; p. 148, l. 9 – p. 150, l. 3; p. 244, ll. 3-5).

The coat hanger beating occurred sometime before the summer of 2012. Crystal was present when Applicant and Victim visited the home of their other sister, Natalie. Once there, Victim began to cry when he could not go out the door after Natalie's husband. Applicant told him to stop crying. When he would not, she "popped him in the mouth, and jacked him around in the house and went to grab a clothes hanger." (ROA p. 137, ll. 5-7; see also p. 136, l. 9 – p. 137, l. 3).

On September 11, 2012, Victim was taken for his first doctor's visit since he was returned to his parents. Dr. Monica McCutcheon, a board-certified pediatrician, saw Victim for his three-year-old well child visit (Victim was three years and almost five months old at the time). He had

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<sup>5</sup> After victim was returned to Applicant and Guinyard in April 2012, he stayed with them except for a couple of weeks when one of her sisters, Natalie, took care of him. The other children of Applicant lived with them on a less regular basis. (ROA p. 243, l. 11 – p. 245, l. 2; p. 273, l. 19 – p. 274, l. 4).

When Victim stayed with Natalie and her fiancé, he had his own room and was fed regularly. (ROA p. 274, ll. 5-10).

<sup>6</sup> Crystal testified that the cable cord incident was a single incident. Applicant beat Victim with the cord while upstairs and others were downstairs and heard. Victim was crying for his father for help, but no one helped him. Crystal testified that while she did not call the police or DSS, she did tell her other sister to report it to DSS. (ROA p. 138, ll. 21-23; p. 141, l. 4 – p. 144, l. 13).

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not been seen by the practice since he was two months old. (ROA p. 169, ll. 4-8; p. 170, l. 18 – p. 171, l. 13; p. 172, ll. 8-15; p. 469, ll. 3-21).

Dr. McCutcheon found Victim to be a well-nourished child. Although his speech was a little difficult to understand, he was able to answer questions and seemed developmentally appropriate. Dr. McCutcheon did not see that Victim demonstrated any of the signs of autism. (ROA p. 173, l. 15 – p. 174, l. 2; p. 178, l. 25 – p. 179, l. 2; p. 180, ll. 8-17). Applicant expressed concern over Victim's development and mentioned that he had issues with urinating and defecating on himself, as well as with his speech. (ROA p. 174, l. 3 – p. 175, l. 25). Dr. McCutcheon determined that Victim had regressed – *i.e.*, he had lost things that he had accomplished such as his speech, ability to engage in symbolic play, and recall of his name, age, sex or gender<sup>7</sup> – and she referred Victim for a hearing evaluation, speech therapy, and, out of respect for the parents' concerns, to a developmental pediatrician. (ROA p. 176, ll. 1-10; p. 470, l. 2 – p. 471, l. 16). After Victim left her office, Dr. McCutcheon placed a call to the DSS case worker because she was concerned about his parents' lack of knowledge and follow-up on medical care. (ROA p. 176, l. 1 – p. 178, l. 9; p. 472, ll. 4-7). Victim was never seen by any of the referrals and was not seen again by Dr. McCutcheon's practice or any other doctor prior to his death. (ROA p. 176, ll. 11-23; p. 177, ll. 13-18; p. 472, ll. 10-21).

One day in the fall of 2012, Victim was supposed to go to the bathroom, but he defecated and began playing with his feces. Applicant asked Crystal to hold his legs so she could "whoop"

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<sup>7</sup> Dr. Rosa, testifying as an expert at trial, testified that this regression by Victim was significant "[b]ecause, you know, a child that has acquired mile stones to this point and then suddenly in a period of time is regressing those mile stones, then you have to ask what's going on in the environment or the child that is causing this regressions. When we have already a history --- I mean, a diagnostic work up, that his brain M.R.I. is normal, that his genetic consult was normal, then what else is going on." (ROA p. 471, l. 20 – p. 472, l. 3; see also p. 452, ll. 13-22; p. 471, ll. 4-18).

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