

Volume I of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Florence County

William H. Seals, Jr., Circuit Court Judge

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S.C. Supreme Court

CHRISTOPHER MCLEOD,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000930

APPENDIX

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Pages 1-500

INDEX

INDEX	i
TRIAL TRANSCRIPT	1
ORDER DISMISSING APPEAL	506
APPLICATION FOR POST-CONVICTION RELIEF	507
RETURN	515
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED FEBRUARY 26, 2013	521
ORDER OF DISMISSAL	577
INDICTMENT	583
MENTAL EVALUATION	586

ORIGINAL

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

GENERAL SESSIONS

STATE OF SOUTH CAROLINA)

STATE,)

v.)

CHRISTOPHER MCLEOD, JR.)

DEFENDANT.)

TRANSCRIPT OF RECORD

07-GS-21-230

March 8, 2010

Florence, South Carolina

BEFORE:

THE HONORABLE THOMAS A. RUSSO, JUDGE;
AND JURY

APPEARANCES:

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Assistant Solicitor

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Circuit Court Reporter

INDEX

Page

Qualify jury	7
Striking of the jury	26
Pretrial motions	41
Preliminary remarks	55
Opening remarks by Mr. Wells	63
Opening remarks by Ms. Parrott	69
Kathy Saunders:	
Direct by Mr. Wells	71
Cross by Ms. Parrott	94
Redirect by Mr. Wells	101
Recross Ms. Parrott	103
Shante Kent Clarke:	
Direct by Mr. Wells	105
Cross by Ms. Parrott	110
Niosha Renee Williams:	
Direct by Mr. Wells	113
Cross by Ms. Parrott	125
Redirect by Mr. Wells	133
James C. Gregg, III:	
Direct by Mr. Wells	135
Cross by Ms. Parrott	
Teresa Robinson:	
Direct by Mr. Wells	140
Cross by Ms. Parrott	149
Redirect by Mr. Wells	157
Dale Hamilton:	
Direct by Mr. Wells	158
Cross by Ms. Parrott	165
Kerstin Robinson:	
Direct by Mr. Wells	173
Cross by Ms. Parrott	179
Matter of Law	
William Robinson:	
Direct by Mr. Wells	190
Cross by Ms. Parrott	195
Chansolar Warren:	
Direct by Mr. Wells	201
Cross by Ms. Parrott	203
Kenneth L. Bogan:	
Direct by Mr. Wells	218
Cross by Ms. Parrott	225
Michael Thomas Robinson:	
Proffer examination	230
Direct by Mr. Wells	271
Cross by Ms. Parrott	286

Redirect by Mr. Wells	301
Recross by Ms. Parrott	304
Further Direct by Mr. Wells	305
Further Cross by Ms. Parrott	306
Timothy Wade Compton:	
Proffer examination	251
Direct by Mr. Wells	306
Cross by Ms. Parrott	310
Julia Elizabeth Duff:	
Proffer examination	257
Direct by Mr. Wells	312
Cross by Ms. Parrott	316
Redirect by Mr. Wells	331
Directed verdict motion	453
Defendant right to testify	320
Charlena Kennedy:	
Direct by Ms. Parrott	333
Cross by Mr. Wells	335
Rikeshia Kennedy:	
Direct by Ms. Parrott	336
Cross by Mr. Wells	338
Cynthia Starr:	
Direct by Ms. Parrott	340
Cross by Mr. Wells	342
Redirect by Ms. Parrott	344
Recross by Mr. Wells	344
Mary Dargan:	
Direct by Ms. Parrott	345
Cross by Mr. Wells	348
Christopher McLeod, Jr.:	
Direct by Ms. Parrott	349
Cross by Mr. Wells	392
Closing argument by Mr. Wells	443
Closing argument by Ms. Parrott	447
Reply argument by Mr. Wells	458
Charge to the jury	471
Verdict	492
Sentencing	494

EXHIBITS**STATE'S:**

No.	Description	I.D./EVD
1-A, B	2 photos	51/76
2-A, B	2 photos	51/76
3-A, B	2 photos	51/76
4-A, B	2 photos	51/76
5-A, B	2 photos	51/76
6-A, B	2 photos	51/76
7-A, B	2 photos	51/76
8-A, B	2 photos	51/76
9-A, B	2 photos	51/76
10-A, B	2 photos	51/76
11-A, B	2 photos	51/76
12-A, B	2 photos	51/76
13-A, B	2 photos	51/76
14-A, B	2 photos	51/76
15-A, B	2 photos	51/76
16-A, B	2 photos	51/76
17-A, B	2 photos	51/76
18-A, B	2 photos	51/76
19-A, B	2 photos	51/76
20-A, B	2 photos	51/76
21	Photo of door	119/211
22	Consent to search form	123/123
23	Photo	124/208
24	Photo	124/208
25	Photo	124/208
26	Photo	124/208
27	Photo	124/208
28	Photo	124/208
29	Photo	208/208
30	Consent form	212
31	SLED report	212/224
32	Waiver of rights 7/25/06	
33	Waiver of rights 7/26/06	257/257

COURT'S:

1	DMH report	53

1 MR. WELLS: May it please the Court, at this time the
2 State calls indictment 2007-230, State versus Christopher
3 McLeod, charged with criminal sexual conduct with a minor
4 first degree, lewd act on a minor, assault and battery of
5 high and aggravated nature, unlawful conduct towards a
6 child. We're ready to proceed at this time.

7 THE COURT: Thank you very much, Mr. Wells.
8 (WHEREUPON, counsel approached the Bench for an
9 off-the-record discussion.)

10 THE COURT: I'm going to go ahead and get started while
11 they go and get – send word down to Mr. McLeod. Ladies
12 and gentlemen, what I want to tell you first is this, and
13 that is, that the State has called the case of State of
14 South Carolina versus Christopher McLeod, Jr. You heard
15 Mr. Wells call the indictment number which is
16 2007-GS-21-230. On this indictment it's a multiple count
17 indictment that Mr. McLeod is facing under count one of
18 that indictment, criminal sexual conduct with a minor in
19 the first degree; count two, lewd act on a minor; count
20 three, assault and battery of a high and aggravated
21 nature; and count four, unlawful conduct towards a child.
22 To those charges Mr. McLeod has pled not guilty and that
23 places the burden of proof on the State to prove guilt in
24 this case beyond a reasonable doubt. The charges that are
25 before the Court are on this document called an

1 indictment, and an indictment is simply a piece of paper
2 that is the formal document that brings these charges into
3 court. It is not in any way evidence of the allegations
4 that are contained in the indictment. It is simply the
5 charging papers. Mr. McLeod has pled not guilty to these
6 charges and that plea of not guilty places the burden of
7 proof on the State. Mr. McLeod is presumed innocent of
8 these charges and that innocence, that presumption of
9 innocence, will remain with him throughout the course of
10 the trial and I'll talk to you more about that when the
11 time comes. But I'm going to indicate to you what each
12 charge, the charge of each case, and want you to
13 understand, know what I told you earlier is that these are
14 simply the allegations. These are — this is not proof of
15 anything. This is not evidence; it is merely the
16 allegations.

17 Under count one, criminal sexual conduct with a
18 minor first degree, that charge states that Christopher
19 McLeod, Jr., did in Florence County during a time period
20 from July 17th through the July 24th of 2006 violate
21 Section 16-3-655 (a)(1) of the South Carolina Code of Laws
22 1976, as amended and that he did willfully and unlawfully
23 commit or attempt to commit a sexual assault battery in
24 and upon one ^{child} child under the age of 11
25 years of age by penetrating the child's vagina and/or anal

1 openings with his fingers or and/or penis. Count two on
2 the indictment is an allegation of lewd act on a minor.
3 That charge alleges that Christopher McLeod, Jr., did in
4 Florence County during a time period from July -- excuse
5 me, July 17th through July 24th of 2006 violate section
6 16-15-140 of the South Carolina Code of Laws 1976, as
7 amended, in that he who is a person over the age of 14
8 years did willful and lewdly commit or attempt to commit a
9 lewd or lascivious act upon or with the body or any part,
10 or a member thereof, of a child under the age of 16 years,
11 to wit, ^{child} with the intent of arousing,
12 appealing to, or gratifying the lust, passions, or sexual
13 assault desires of himself.

14 Count three of this indictment alleges that
15 Christopher McLeod, Jr., did in North Carolina during the
16 time period from July 17th through the 24th of 2006 commit
17 -- excuse me, violate common law and section 17-25-30 of
18 the Code of Laws of South Carolina as amended in that he
19 did commit an assault and battery upon one ^{child}
20 ^{child} his two year old child constituting an unlawful
21 act of violent injury to the person of the said ^{child}
22 ^{child} accompanied by circumstances of aggravation, to
23 wit, in that he did strike her numerous times causing
24 significant bruising about her face and body. And then
25 count four of this indictment alleges that Christopher

1 McLeod, Jr., did in Florence County during the time period
2 from July 17th through the 24th of 2006 violate section
3 20-7-50 of the Code of Laws of South Carolina as amended
4 and that he did unlawfully and maliciously do or cause to
5 be done any bodily harm to his two year old child^{child}
6 child so that said child was placed at unreasonable risk
7 of harm affecting the child's life, physical or mental
8 health or safety, or did or cause to be done any bodily
9 harm to the child so that the life or health of the child
10 is endangered or likely to be endangered, or did willfully
11 abandon the child by sexual assault abusing and/or
12 physically abuse her while the said Christopher McLeod,
13 Jr., had charge or custody or is the parent or guardian or
14 was responsible for the welfare of said child all against
15 the peace and dignity of the State and contrary to the
16 statutes in this case.

17 Now those are charges that Mr. McLeod has been
18 charged with, and as I indicated to you, they are clearly
19 the allegations that the State had made. They are not
20 evidence in this case. What I need, ladies and gentlemen
21 of the jury to understand is I'm going to ask you
22 questions. The first question is this, is there any
23 member of the jury panel who knows anything about this
24 case other than what you've heard here in this courtroom
25 today? If so, please stand.

1 (There was no response.)

2 THE COURT: Thank you. There are none.

3 Mr. Wells, I'm gonna get you to introduce yourself,
4 if you would, sir, to the members of the jury.

5 MR. WELLS: Thank you. My name is Robert Wells. I'm
6 deputy solicitor for Florence County and we will be trying
7 this case on behalf of the State of South Carolina. Thank
8 you.

9 THE COURT: Thank you, sir. Ladies and gentlemen, is
10 there any member of the jury panel who is connected by
11 blood, related by marriage, or who has any close either
12 business or personal relationship or who has been
13 represented by Mr. Bob Wells? If so, please stand.

14 (There was no response.)

15 THE COURT: Thank you. There are none.

16 Ms. Parrott, I would ask you to please introduce
17 yourself.

18 MS. PARROTT: Thank you, Your Honor. Ladies and
19 gentlemen, my name is Karen Parrott. I'm a assistant
20 public defender here in Florence County with the Public
21 Defender's Office; and I'll be defending my client, which
22 is Christopher McLeod in this case.

23 THE COURT: All right. Thank you, ma'am.

24 Ladies and gentlemen, is there any member of the
25 jury panel related by blood, connected by marriage, or who

1 has any close business or personal relationship or who has
2 been represented by Ms. Parrott? If so, please stand.

3 (There was no response.)

4 THE COURT: Thank you. There are none.

5 Mr. McLeod, if you would, sir, if you would mind
6 just standing facing the members of the jury. Ms.
7 Parrott, if you would again introduce Mr. McLeod.

8 MS. PARROTT: Certainly, Your Honor. Ladies and
9 gentlemen, this is Christopher McLeod, Jr. He is a
10 resident here of Florence County and is my client in this
11 case.

12 THE COURT: All right. Thank you, Mr. McLeod.

13 Ladies and gentlemen, is there any member of the
14 jury panel who is related by blood, connected by marriage,
15 or who has any close business or personal relationship
16 with the defendant in this case, Mr. McLeod? If so,
17 please stand.

18 (There was no response.)

19 THE COURT: Thank you. There are none.

20 Now ladies and gentlemen, during the course of the
21 trial there are going to be witnesses who are gonna be
22 called to testify. There are a number of names that I am
23 going to call out, and these names are potential
24 witnesses. They may or may not testify during the course
25 of the trial. I don't know at this time who will or who

1 won't, but I'm gonna call out these names. The question
2 that I just asked you with regards to Mr. McLeod, that is,
3 are you related by blood, connected by marriage, or have
4 any close business or personal relationship with any of
5 these witnesses, if that question applies I'm gonna ask --
6 let me tell you what I'm gonna do. I'm gonna call the
7 names out. I'm gonna call all of them out. Please
8 listen. If you hear a name and that question would apply,
9 go ahead and stand when you hear that name called. But
10 there are several names here so please do me a favor,
11 continue to listen because it may be that that question
12 applies to more than one witness for you. So keep --

13 MR. WELLS: You want the witnesses to stand as you call
14 them? Some are in the courtroom; some are not.

15 THE COURT: If those witnesses are present in the
16 courtroom, when I call your name please stand and face the
17 jury for about four or five seconds or so, then have a
18 seat, okay? These are the possible or potential witnesses
19 which may testify during the course of this trial. I
20 haven't looked over the entire list. If I mess anybody's
21 name up please excuse me; it's not intentional. Kathy
22 Saunders, Shante Clarke, Niosha Williams; Jay Gregg,
23 Charlene Kennedy, Keshia Kennedy, Robert Jordan, Dale
24 Hamilton, also known as Shamar, Cynthia Starr, Mary
25 Dargan, William Robinson, also known as Nate, Chief

1 Cannon, Kirston Robinson, also known as Nacey — I'm
2 sorry, Teresa Hamilton, Chensolar Warren also known as
3 Charles; Chris Moreau, Michael Brandt, Leslie Collins, Ken
4 Bogan, Tim Compton, Julie Duff, Scott Hardee, Eric Jacobs,
5 Maurine Nagy, Carlos Raines, Michael Robinson.

6 All right. And Ma'am, can I get your name please.

7 THE POTENTIAL JUROR: Donna Weinsett.

8 THE COURT: All right. Give me one second,
9 Ms. Winesett.

10 MR CLEMENTS: Number 159, Your Honor.

11 THE COURT: All right. And Ms. Winesett, if you can
12 recall on that list, who was it that you knew or had some
13 relationship?

14 POTENTIAL JUROR: Kathy Saunders.

15 THE COURT: Now, the fact that are you related to Ms.
16 Saunders or know her —

17 THE POTENTIAL JUROR: Good.

18 THE COURT: The fact that you have that relationship
19 with Ms. Saunders, Ms. Winesett, would that in any way
20 affect your ability to be fair and impartial if she were
21 to appear as a witness in this case?

22 THE POTENTIAL JUROR: No.

23 THE COURT: Thank you, Ma'am, you may have a seat.

24 And your name?

25 POTENTIAL JUROR: Betty Humphrey.

1 THE COURT: Ms. Humphrey, give me just a moment if you
2 would please.

3 CLERK OF COURT: 74, Judge.

4 THE COURT: All right, juror number 74. And
5 Ms. Humphrey, who on that list does that apply to?

6 POTENTIAL JUROR: Mr. Gregg.

7 THE COURT: All right. Are you related to Mr. Gregg?

8 POTENTIAL JUROR: No, sir.

9 THE COURT: The fact that you know Mr. Gregg or have
10 that relationship, would that in any way affect your
11 ability to be fair and impartial were he to appear as a
12 witness in this case?

13 POTENTIAL JUROR: (Shakes head.)

14 THE COURT: Thank you very much. You may have a seat.
15 Yes, sir, your name.

16 POTENTIAL JUROR: Michael Smith.

17 THE COURT: Mr. Smith, that's juror number 137. Who on
18 that list, Mr. Smith?

19 POTENTIAL JUROR: Jay Gregg and then Michael as well.

20 THE COURT: All right. The fact that you know these
21 individuals who are potential witnesses in this case,
22 would that in any way affect your ability to be fair and
23 impartial, sir?

24 POTENTIAL JUROR: No, sir.

25 THE COURT: Thank you very much, Mr. Smith.

1 Yes, ma'am, your name.

2 THE POTENTIAL JUROR: Laura Mathers.

3 THE COURT: Ms. Mathers, give me one minute. All
4 right, juror 98. Who on that list?

5 THE POTENTIAL JUROR: Kathy Saunders.

6 THE COURT: All right. The fact that you know Kathy or
7 related —

8 THE POTENTIAL JUROR: No, not related.

9 THE COURT: All right. The fact that you have that
10 relationship with her, would that in any way affect your
11 ability to be fair and impartial?

12 POTENTIAL JUROR: (Shakes head.)

13 THE COURT: Thank you, Ma'am. You may have a seat.

14 Yes, sir, your name.

15 POTENTIAL JUROR: Travis Oddo.

16 THE COURT: Mr. Oddo, this is juror 114. Who on that
17 list, Mr. Oddo, do you know?

18 POTENTIAL JUROR: Carlos Raines.

19 THE COURT: All right. You related to Mr. Raines?

20 POTENTIAL JUROR: No, sir.

21 THE COURT: The fact that you have that relationship or
22 know Mr. Raines, would that in any way affect your ability
23 to be fair and impartial were he to appear as a witness in
24 this case?

25 POTENTIAL JUROR: No, sir.

1 THE COURT: Thank you, Mr. Oddo, you may have a seat.

2 And sir, your name?

3 THE POTENTIAL JUROR: Scottie Lee.

4 THE COURT: Mr. Lee, juror number 91.

5 POTENTIAL JUROR: Jay Gregg.

6 THE COURT: All right, sir. And the fact that you have
7 that relationship with Mr. Gregg, would that in any way
8 affect your ability to be fair and impartial, sir?

9 THE POTENTIAL JUROR: No, sir.

10 THE COURT: Thank you, Mr. Lee. You may have a seat,
11 sir. Thank you very much.

12 Ladies and gentlemen, as you can tell, as I go
13 through these questions the whole purpose behind asking
14 these questions is because our attempt here is to impanel
15 a jury that can be fair and impartial, fair to the State
16 and fair to the Defense, and that's the purpose in these
17 questions being asked. Ladies and gentlemen, is there any
18 member of the jury panel -- and I'm gonna try to phrase
19 this and not confuse you. There are certain professions
20 or certain positions where people are under an obligation
21 that if they are -- if they're under an obligation from
22 their place of employment that if they have information
23 involving sexual abuse, child abuse, or any type of abuse
24 that they're required to report that abuse or that
25 information to the Department of Social Services. Is

1 there any member of the jury panel who is employed in any
2 such position and has been in the past required to report
3 instances of abuse to the Department of Social Services?

4 If so, please stand.

5 Yes, ma'am, your name.

6 POTENTIAL JUROR: Faye Munn.

7 THE COURT: All right. Ms. Munn, give me one second
8 please. Let me get your name here.

9 THE DEPUTY CLERK OF COURT: 111, Judge.

10 THE COURT: All right, juror 111. And Ms. Munn, is
11 that in regard to your employment, home?

12 POTENTIAL JUROR: Florence School District One.

13 THE COURT: The fact that you've been in that position
14 and had had to operate in that way, would that in any way
15 affect your ability to be fair and impartial if you were
16 selected as a member of this jury?

17 POTENTIAL JUROR: No, sir.

18 THE COURT: Thank you, Ms. Munn. You may have a seat.

19 Sir, your name.

20 POTENTIAL JUROR: Ken Hyman.

21 THE COURT: Mr. Hyman, give me one moment please.

22 THE DEPUTY CLERK OF COURT: 77.

23 THE COURT: All right, juror number 77. And Mr. Hyman,
24 again, and your relationship with the school district,
25 would that in any way have any bearing or any affect on

1 your ability to be fair and impartial if you were selected
2 as a juror in this case, sir?

3 POTENTIAL JUROR: No.

4 THE COURT: Thank you, sir. You may have a seat.

5 POTENTIAL JUROR: Donna Poston.

6 THE COURT: Ms. Poston, in your real day care center
7 would that in any way, Ms. Poston, have any affect on your
8 ability to be fair and impartial to give both the State
9 and the Defense a fair trial?

10 POTENTIAL JUROR: No, sir.

11 THE COURT: Thank you, ma'am, you may have a seat.

12 Ladies and gentlemen, is there any member of the
13 jury panel who knows of any reason why if you were
14 selected as a juror to sit on this panel, do you know of
15 any reason that you would not be able to be fair and
16 impartial to listen to the evidence and to weigh it fairly
17 giving both the State and the Defense a fair and impartial
18 trial? If so, please stand.

19 (There was no response.)

20 THE COURT: Thank you, there are none. Any additional
21 questions from the State?

22 MR. WELLS: None from the State, Your Honor.

23 THE COURT: Any additional questions from Defense?

24 MS. PARROTT: Yes, Your Honor. May we approach?

25 THE COURT: Yeah.

1 (WHEREUPON, counsel approached the Bench for an
2 off-the-record discussion.)

3 THE COURT: Ladies and gentlemen, is there any member
4 of the jury panel — and when I ask you this question I'm
5 not asking for anything other than for you to stand. If
6 this applies to you I'm certainly not gonna ask any
7 details about anything. The question is this: Is there
8 any member of the jury panel or member of your immediate
9 family who has ever been a victim of a violent crime? If
10 so, please stand. All right, we'll start here.

11 Sir, your name?

12 POTENTIAL JUROR: Timothy Wise.

13 THE COURT: All right, Mr. Wise.

14 VICTIM ADVOCATE: 161.

15 THE COURT: Juror 161. Mr. Wise, the fact that you
16 have had that experience, would that in any way affect
17 your ability to be fair and impartial if you were selected
18 as a member of this panel?

19 POTENTIAL JUROR: No, sir.

20 THE COURT: Thank you, sir, you may have a seat.

21 Yes, ma'am, your name.

22 POTENTIAL JUROR: Debbie Alster.

23 THE COURT: Juror number 1, Ms. Alster. The fact that
24 you've had that experience in your life, or your family,
25 would that in any way affect your ability to be fair and

1 impartial if you were selected as a member of this panel?

2 POTENTIAL JUROR: No, sir.

3 THE COURT: Thank you very much, ma'am. You may have a
4 seat.

5 Yes, ma'am, your name.

6 THE POTENTIAL JUROR: Etochia Freeman.

7 THE COURT: Ms. Freeman, give me one second. Juror
8 Number 53. Ms. Freeman, would that experience in any way
9 have any affect on your ability to be fair and impartial
10 if you were selected on this jury panel?

11 POTENTIAL JUROR: No, sir.

12 THE COURT: Ms. Freeman, you may have a seat.

13 POTENTIAL JUROR: Ball Graham.

14 THE COURT: Juror number 6. Mr. Graham, the fact
15 you've had that experience, would that in any way affect
16 your ability, sir, to be fair and impartial if you were
17 selected on this panel?

18 POTENTIAL JUROR: No, sir.

19 THE COURT: You may have a seat.

20 60, I believe, Mr. Lee; is that correct, sir?

21 POTENTIAL JUROR: Yes.

22 THE COURT: That's juror number 91. Mr. Lee, would
23 that experience in any way affect your ability to be fair
24 and impartial if you were selected as a member of this
25 jury?

1 POTENTIAL JUROR: No, sir.

2 THE COURT: Thank you very much, sir. You may have a
3 seat.

4 Anything further from the State?

5 MR. WELLS: The only thing, Mr. Clements called to my
6 attention if we'd ask if there are any jurors or any
7 family members have been charged with a crime, violent
8 crime.

9 THE COURT: The other side of the coin would be -- I
10 just asked you a question about any, you or any member of
11 your family being a victim of a violent crime. Is there
12 any member of the jury panel or your member of the your
13 immediate family who has been charged with a violent
14 crime? If so, please stand.

15 All right, and Mr. Wise.

16 POTENTIAL JUROR: Wise, 161.

17 THE COURT: Mr. Wise, would that experience in any way
18 have any affect over your ability to be fair and
19 impartial, sir?

20 POTENTIAL JUROR: No, sir.

21 THE COURT: Thank you, sir, you may have a seat.

22 Yes, ma'am, your name.

23 POTENTIAL JUROR: Tereiney Pettigrew.

24 THE COURT: Ms. Pettigrew, let me find your name real
25 quick. Juror 120. Ms. Pettigrew, would that experience

1 in any way have any affect on your ability to be fair and
2 impartial if you were selected on this jury?

3 POTENTIAL JUROR: No, sir.

4 THE COURT: Thank you very much, ma'am. You may have a
5 seat.

6 And this is Mr. Oddo; is that right?

7 POTENTIAL JUROR: Yes, sir.

8 THE COURT: Mr. Oddo, would that in any way affect your
9 ability to be fair and impartial? Juror 114.

10 POTENTIAL JUROR: No, sir.

11 THE COURT: Thank you, sir, you may have a seat.

12 And, sir, your name?

13 POTENTIAL JUROR: Loris Hannah.

14 THE COURT: All right, give me one second, sir. All
15 right, juror number 65. Mr. Hannah, would that in any way
16 have any affect over your ability to be fair and impartial
17 if you were selected on this panel?

18 POTENTIAL JUROR: No, sir.

19 THE COURT: Thank you, Mr. Hannah. You may have a
20 seat.

21 Ladies and gentlemen, is there any member of the
22 jury who is a supporter or has given financially to these
23 causes such as: MADD, Mothers Against Drunk Driving;
24 SADD, Students Against Drunk Driving; CAVE, that's
25 Citizens Against Violence in Any Way. CAVE is one of

1 those organizations and it's Citizens Against Crimes but I
2 don't know that you -- they call it CAVE. But in other
3 words, any person, member, or contributor to any of those
4 organizations or any operation designed in support of law
5 enforcement such as the South Carolina Troopers
6 Association, the Fraternal Order of Police, any of those
7 organizations? If so, please stand. Let me do this, if I
8 can, what I'm gonna do is go across and get everybody's
9 name first.

10 And I may remember. Humphreys; is that correct?

11 POTENTIAL JUROR: Yes, sir.

12 THE COURT: That's juror number 74.

13 Ma'am, your name?

14 POTENTIAL JUROR: Jolene Osorio, 115.

15 THE COURT: All right. Number 115.

16 POTENTIAL JUROR: Donna Winesett.

17 THE COURT: Ms. Winesett.

18 POTENTIAL JUROR: Donna Poston.

19 THE COURT: Ms. Poston.

20 Yes, ma'am.

21 POTENTIAL JUROR: Marsha Bryant, number 20.

22 THE COURT: Ms. Bryant, number 20.

23 Yes, ma'am.

24 POTENTIAL JUROR: Debbie Alster, number 1.

25 THE COURT: Ms. Alster, number 1.

1 POTENTIAL JUROR: Barbara Green, 61.

2 THE COURT: Juror number 61, Ms. Green.

3 Right here, sir.

4 POTENTIAL JUROR: Daniel Anderson, juror Number 3.

5 THE COURT: Mr. Anderson, number 3.

6 Yes, ma'am.

7 POTENTIAL JUROR: Debra Truluck, number 72.

8 THE COURT: All right, number 72.

9 POTENTIAL JUROR: And Kirby Bellinger, number 96.

10 THE COURT: All right, thank you, sir.

11 In the back there. Right here, ma'am.

12 POTENTIAL JUROR: Bernice Vann, number 50.

13 THE COURT: Actually you're number 167 now. 164, 164.

14 Yes, sir.

15 POTENTIAL JUROR: Michael Smith.

16 THE COURT: All right, Mr. Smith. All of you have
17 stood in relation to that question. Let me get you to do
18 this for me. If the fact that you have been a contributor
19 or a member of any of those organizations, if that fact
20 would not affect your ability to be fair and impartial
21 have a seat.

22 (All jurors sat down.)

23 THE COURT: All right. Might be a little quicker going
24 one at a time. Anything further from the State?

25 MR. WELLS: No, Your Honor.

1 **THE COURT:** Anything further from the Defense?

2 **MS. PARROTT:** No, Your Honor.

3 **THE COURT:** All right. Ladies and gentlemen, we're
4 going to go about selecting a jury in this case.

5 Y'all ready, right, Doris?

6 Let me just explain to you real quickly how the
7 process works. It used to be that we'd have all your
8 names on a slip of paper and stick it inside this drum
9 right here. We'd spin it around and madam clerk would
10 reach in and pull the names out one at a time and just
11 random pull the name out. If your name was called you
12 would come forward and you come up to where this
13 microphone stand is and just stand to the side of it and
14 you would face the back of the courtroom. At that point
15 the solicitor would be asked something along these lines,
16 what say you for the State; and the Solicitor would either
17 excuse you, and if he or she excused you you'd go have a
18 seat. Or they would say something along the lines of,
19 please present the juror. And if they said something
20 along those lines you'd remain standing. Then she would
21 recognize the Defense and say something along these lines,
22 what say you for the Defense. The Defense would either
23 excuse you -- and if they did you'd go have a seat -- or
24 they would say something along the lines of, please seat
25 the juror. And if that was what was said then you'd come

1 have a seat in the jury box and we would go through that
2 process.

3 Each side has what we call peremptory strikes. They
4 are strikes that where they can excuse a certain number of
5 jurors for any reason that they choose to. But we would
6 go through the process until we have seated all twelve
7 jurors, and we're gonna have two alternates. We're still
8 gonna do that process just like I explained it to you. As
9 far as your role, the only difference is we've now moved
10 into the new computer age here, and we're all high tech.
11 And what happens now is, Madam Clerk, your names which are
12 here alphabetically, she hits a button on the computer and
13 it takes this list of names and it just completely and
14 randomly reorders them in a random order so it's no longer
15 alphabetical order, just jumbles your names up and it
16 spits it back out. We print out this list and this is the
17 reordered list of names. It's still all your names, but
18 it's completely random order. And she'll start at the
19 very top and she'll call out the first number and she'll
20 be using the numbers one through however many. So for
21 example, on here juror number 1 is Ms. Alster. She's the
22 juror number one. That's her juror number. I can tell
23 you she's not juror number one on this sheet. I don't
24 know where she is on this sheet to be with honest you, but
25 in other words, when you hear Madam Clerk I don't know.

1 DEPUTY CLERK OF COURT: Judge, I will use actual
2 numbers in civil but there's -- I'm going to use actual --
3 it's confusing, it has both on here.

4 THE COURT: Well, it's not going to matter. You don't
5 have or she's gonna start at the top of the list, the very
6 first juror, she's going to call that name out. When she
7 calls your name you'll come for a forward just like I went
8 over with you. The only difference in the process now we
9 have a computer that jumbles your names in the wooden
10 drum. So if you would, ladies and gentlemen, if your name
11 is called, to come forward. Please bring with you
12 anything that you brought to court, and the reason is
13 this. If you get selected you're gonna have a seat in the
14 jury box. You won't be going back to your seat. If you
15 don't get selected you just need to tote it back to your
16 seat if you don't get selected. But it's better to do
17 that than it is to leave it back there and then have to go
18 get it and come back up. So just if you would, if your
19 name is called please bring with you everything that you
20 brought to court with you today. All right. State ready
21 to proceed with jury strike?

22 MR. WELLS: We are, Your Honor.

23 THE COURT: Defense ready?

24 MS. PARROTT: Yes, Your Honor.

25 THE COURT: All right. Got ten and five.

1 DEPUTY CLERK OF COURT: 9, Relonna Bartelle, (black
2 female). What say the State?
3 MR. WELLS: Please present Ms. Bartell.
4 DEPUTY CLERK OF COURT: What say the Defense?
5 MS. PARROTT: Please swear the the juror.
6 DEPUTY CLERK OF COURT: Please have a seat in the jury
7 box.
8 113, Christie Nowlin (black female). What say the
9 State?
10 MR. WELLS: Please present Ms. Nowlin.
11 DEPUTY CLERK OF COURT: What say Defendant?
12 MS. PARROTT: Please swear the the juror.
13 DEPUTY CLERK OF COURT: Please have a seat in the jury
14 box.
15 72, Deborah Hubby Truluck (white female). What say
16 the State?
17 MR. WELLS: Present Ms. Truluck.
18 DEPUTY CLERK OF COURT: What say Defendant?
19 MS. PARROTT: Please excuse the juror.
20 DEPUTY CLERK OF COURT: You've been excused for this
21 trial only. You may return to your seat.
22 122, Christopher Pierce (white male). What say the
23 State?
24 MR. WELLS: Please present Mr. Pierce.
25 DEPUTY CLERK OF COURT: What say Defendant?

1 MS. PARROTT: Please swear the juror.

2 DEPUTY CLERK OF COURT: Please have a seat in the jury
3 box.

4 40, Charles Edgington (white male). What say the
5 State?

6 MR. WELLS: Please present the juror.

7 DEPUTY CLERK OF COURT: What say Defendant?

8 MS. PARROTT: Please swear the juror.

9 DEPUTY CLERK OF COURT: Please have a seat in the jury
10 box.

11 45, Steve Fagan (white male). What say the State?

12 MR. WELLS: Please present Mr. Fagan.

13 DEPUTY CLERK OF COURT: What say Defendant?

14 MS. PARROTT: Your Honor, may I inquire, I believe he
15 told us he was laid off Saint Judge Medical at the time.
16 They have, you were doing voir dire, if we could be more
17 specific what exactly his job was there at Saint Jude.

18 THE COURT: What do you do with Saint Judge Medical?

19 THE POTENTIAL JUROR: I was cardiac device specialist
20 assisting implants, pacemakers, and defibrillators.

21 THE COURT: Okay, great, thank you, sir.

22 MS. PARROTT: Thank you. Please excuse the juror.

23 DEPUTY CLERK OF COURT: You've been excused for this
24 trial only.

25 120, Tereiney Pettigrew (black female). What say

1 the State?

2 MR. WELLS: Please excuse Ms. Pettigrew for this trial.

3 DEPUTY CLERK OF COURT: You've been excused for this
4 trial only. You may return to your seat.

5 159, Donna Winesett (white female). What say the
6 State?

7 MR. WELLS: Please present Ms. Winesett.

8 DEPUTY CLERK OF COURT: What say Defendant?

9 MS. PARROTT: Please excuse the juror.

10 DEPUTY CLERK OF COURT: You've been excused for this
11 trial only.

12 23, Naomi Franks (black female). What say the
13 State?

14 MR. WELLS: Please excuse Ms. Franks for this trial.

15 DEPUTY CLERK OF COURT: You've been excused for this
16 trial only.

17 78, Paul Hysong (white male). What say the State?

18 MR. WELLS: Please excuse Mr. Hysong from this trial.

19 DEPUTY CLERK OF COURT: You've been excused for this
20 trial only.

21 161, Timothy Wise (white male). What say the State?

22 MR. WELLS: Please excuse Mr. Wise from this trial.

23 DEPUTY CLERK OF COURT: You're excused from this trial
24 only.

25 117, Clarence Owens (white male). What say the

1 State?

2 MR. WELLS: Please present Mr. Owens.

3 DEPUTY CLERK OF COURT: What say Defendant?

4 THE DEFENDANT: Please swear the juror.

5 DEPUTY CLERK OF COURT: Please have a seat in the jury
6 box.

7 48, Thomarol Fitts (black female). What say the
8 State?

9 MR. WELLS: Please present Ms. Fitts this time.

10 DEPUTY CLERK OF COURT: What say Defendant?

11 MS. PARROTT: Please swear the juror.

12 DEPUTY CLERK OF COURT: Please have a seat in the jury
13 box.

14 87, Allen Kelly (white male). What say the State?

15 MR. WELLS: Please present Mr. Kelly.

16 DEPUTY CLERK OF COURT: What say Defendant?

17 MS. PARROTT: Please swear the the juror.

18 DEPUTY CLERK OF COURT: Please have a seat in the jury
19 box.

20 96, Kirby Male (white male). What say the State?

21 MR. WELLS: Please present Mr. Male.

22 DEPUTY CLERK OF COURT: What say Defendant?

23 MS. PARROTT: Please excuse the juror.

24 DEPUTY CLERK OF COURT: You've been excused for this
25 trial only.

1 7, Cassie Balcom (white female.) What say the
2 State?

3 MR. WELLS: Please present Ms. Balcom.

4 DEPUTY CLERK OF COURT: What say Defendant?

5 MS. PARROTT: Please excuse the juror.

6 DEPUTY CLERK OF COURT: You've been excused for this
7 trial only.

8 75, Krishna Hunter (black female). What say the
9 State?

10 MR. WELLS: Please present Ms. Hunter.

11 DEPUTY CLERK OF COURT: What say Defendant?

12 MS. PARROTT: Please swear the juror.

13 DEPUTY CLERK OF COURT: Please have a seat in the jury
14 box.

15 137, Michael Smith (white male). What say the State?

16 MR. WELLS: Please present Mr. Smith.

17 DEPUTY CLERK OF COURT: What say Defendant?

18 MS. PARROTT: Please excuse the juror.

19 DEPUTY CLERK OF COURT: You've been excused for this
20 trial only.

21 25, Alex Banister-Carter (black male). What say the
22 State?

23 MR. WELLS: Please present Mr. Banister-Carter.

24 DEPUTY CLERK OF COURT: What say Defendant?

25 MS. PARROTT: Please seat the juror.

1 DEPUTY CLERK OF COURT: Please have a seat in the jury
2 box.

3 22, Lora Cannon (black female). What say the State?

4 MR. WELLS: Please excuse Ms. Cannon for this trial.

5 DEPUTY CLERK OF COURT: You've been excused for this
6 trial only.

7 That's five, Judge.

8 102, Steven McDougal (white male). Does the State
9 wish to challenge juror for cause?

10 MR. WELLS: Present Mr. McDougal.

11 DEPUTY CLERK OF COURT: What say Defendant?

12 MS. PARROTT: Please swear the juror.

13 DEPUTY CLERK OF COURT: Please have a seat in the jury
14 box.

15 20, Marsha Bryant (white female). Does the State
16 wish to challenge this juror for cause?

17 MR. WELLS: Please present Ms. Bryant.

18 DEPUTY CLERK OF COURT: What say Defendant?

19 MS. PARROTT: Please excuse the juror.

20 DEPUTY CLERK OF COURT: You've been excused for this
21 trial only.

22 150, David Welsh (white male). Does the State wish
23 to challenge this juror for cause?

24 MR. WELLS: Please present Mr. Welsh.

25 DEPUTY CLERK OF COURT: What say Defendant?

1 MS. PARROTT: Please excuse the juror.

2 DEPUTY CLERK OF COURT: You've been excused for this
3 trial only.

4 92, Michael Lewis (white male). Does the State wish
5 to challenge this juror for cause?

6 MR. WELLS: Please present Mr. Lewis.

7 DEPUTY CLERK OF COURT: What say Defendant?

8 MS. PARROTT: Please swear the juror.

9 DEPUTY CLERK OF COURT: Please have a seat in the jury
10 box.

11 8, Richard Barlet (white male). Does the State wish
12 to challenge this juror for cause?

13 MR. WELLS: Please present Mr. Barlet.

14 DEPUTY CLERK OF COURT: What say the Defendant?

15 MS. PARROTT: Please excuse the juror.

16 DEPUTY CLERK OF COURT: You've been excused for this
17 trial only.

18 111, Faye Munn (white male). Does the State wish to
19 challenge the juror for cause?

20 MR. WELLS: Please present Ms. Munn.

21 DEPUTY CLERK OF COURT: What say Defendant?

22 MS. PARROTT: Please excuse the juror.

23 DEPUTY CLERK OF COURT: You've been excused for this
24 trial only.

25 144, Shannon Robinson (white female). Does the

1 State wish to challenge this juror for cause?

2 MR. WELLS: Please present Ms. Robinson.

3 DEPUTY CLERK OF COURT: Does Defendant wish to
4 challenge this juror for cause?

5 MS. PARROTT: No, ma'am.

6 DEPUTY CLERK OF COURT: Please have a seat in the jury
7 box.

8 THE COURT: Two alternates.

9 DEPUTY CLERK OF COURT: One and two?

10 THE COURT: One and two on each, yeah.

11 DEPUTY CLERK OF COURT: 80, Lisa Jackson (white
12 female). What say the State?

13 MR. WELLS: Please present Ms. Jackson.

14 DEPUTY CLERK OF COURT: What say Defendant?

15 MS. PARROTT: Please excuse the juror.

16 DEPUTY CLERK OF COURT: You've been excused for this
17 trial only.

18 35, Jon Dellinger (white male). What say the State?

19 MR. WELLS: Please present Mr. Dellinger.

20 DEPUTY CLERK OF COURT: What say Defendant?

21 MS. PARROTT: Please swear the juror.

22 DEPUTY CLERK OF COURT: Please have a seat in the jury
23 box.

24 14, Wadrekus Brailey (black male). What say the
25 State?

1 MR. WELLS: Please excuse Mr. Brailey.

2 DEPUTY CLERK OF COURT: You've been excused for this
3 trial only.

4 116, Burton Owens (white male). Does the State wish
5 to challenge this juror for cause?

6 MR. WELLS: Please present Mr. Owens.

7 DEPUTY CLERK OF COURT: What say Defendant?

8 MS. PARROTT: Please excuse the juror.

9 DEPUTY CLERK OF COURT: You've been excused for this
10 trial only.

11 11, Calhoun Benton (white male). Does the State
12 wish to challenge this juror for cause?

13 MR. WELLS: Please present Mr. Benton.

14 THE COURT: What say Defendant?

15 MS. PARROTT: Please swear the juror.

16 DEPUTY CLERK OF COURT: Please have a seat in the jury
17 box.

18 THE COURT: All right. Any motions regarding jury
19 selection from the State?

20 MR. WELLS: None from the State, Your Honor.

21 THE COURT: Anything from the Defense regarding
22 selection?

23 MS. PARROTT: None, Your Honor.

24 THE COURT: All right. While they're filing out let me
25 address the jury here. Ladies and gentlemen, it's 12:30

1 so we're going to break for lunch in just a moment. But
2 before we do that I need to give you some instructions so
3 that when you leave and come back you'll know what I need
4 you to do. You'll hear me throughout the course of this
5 trial tell you these things and here's the purpose of what
6 I'm about to tell you. As you sit here right now all you
7 know about this trial is what I've told you in this
8 courtroom. Based on my questions to you as we qualified
9 you for the purposes of this trial, you, none of you know
10 anything more than what you've heard here in the
11 courtroom. What's important is that when you go to lunch
12 and you return, when you come back this afternoon it's
13 gonna be important that you don't know any more than you
14 know right now. In other words, I need you not to have
15 any conversation with anybody about this case. When you
16 leave they're gonna give you a badge or a stick or
17 something. If you would, when you're around the
18 courthouse have that on. What it does is let's people
19 know that you're a juror sitting on a pending case and
20 that should signal to them not to have conversation with
21 you. If someone does try to talk with you about the case,
22 let them know that you're a juror and you're not allowed
23 to talk about it, but that should be enough. If it's not,
24 if they insist on talking to you, then do what you can to
25 let me know who it was and I'll make sure that that

1 doesn't occur again.

2 It's very important, ladies and gentlemen, that your
3 decision in this case, your view of the facts, are based
4 solely on the testimony and the evidence that is presented
5 during this trial and not on anything outside this
6 courtroom. Now I'm gonna in just a minute excuse you to
7 go to lunch and I'm gonna ask you if you would be back in
8 your jury room at 2:30, okay? So if you will please be
9 ready to go. 2:30, be back in your jury room at 2:30.
10 And when you come back just come straight up, come on
11 through the door. There will be a bailiff, someone out
12 here to direct you. We'll bring you right back into the
13 jury room, okay?

14 Now when you come back you're not allowed to have
15 any cell phones in the jury room. If you have your cell
16 phone what we'll do is we'll just collect it and put it in
17 that box, and we'll have it right here so that when you're
18 in your jury room you won't have it. But when you leave
19 we'll give it back to you on your way out or you can just
20 leave it in your car. It's up to you. If you're
21 concerned that someone may need to reach you, loved one or
22 someone, you can let them know that while you're on jury
23 duty here for this trial, if they'll call the clerk's
24 office and all they need to let us know is that it's a
25 message for a juror and it's important that you get it,

1 we'll make sure that we get it right to you and get you
2 that message, okay? So you won't be completely out of
3 touch with the outside world, but you're not allowed to
4 have any cell phones in the jury room.

5 Also, I would caution you — and I don't know that
6 anyone would ever do this, but we're instructed to give
7 you this instruction. You're not to do any independent
8 evidence or investigation, evidence gathering, or
9 investigation on your own. We live in a world now where
10 there's just all kind of information out there. What you
11 need to do is just not give anything any attention and the
12 lawyers and the witnesses that present the case to you
13 here in this courtroom, okay? The whole purpose of our
14 criminal justice system is that your decision is based on
15 the evidence that is presented during the course of this
16 trial and on nothing else.

17 So when you return, when you leave as well as when
18 you return, and this is the last thing I'm gonna tell you.

19 It may seem a little odd to you because most people
20 think, well, we're on the jury together, we're supposed to
21 deliberate. You're not to even talk to each other about
22 the case, okay? The only time you are to deliberate is
23 once all of the evidence is in and I've charged you on the
24 law. So until that time comes, even when you're back in
25 the jury room wait on us to get started. Talk about

1 anything else. Introduce yourself to each other, get to
2 know each other, but do not talk about or mention this
3 trial, okay? And that's very important. So having said
4 that, I'm going to -- Wayne, I ask you help all of them to
5 get on a elevator and get going.

6 THE DEPUTY: Yes, sir.

7 THE COURT: I want everyone to remain in the courtroom
8 except the members of the jury. You're excused. And ask
9 you if you would please be back at 2:30, okay.

10 (WHEREUPON, the jury was removed from the
11 courtroom at 12:39 p.m, and the following proceedings
12 commenced in open court.)

13 THE COURT: All right, now anything we need to take up
14 before we break?

15 MR. WELLS: I guess the only question -- no, 'cause the
16 jury hadn't been sworn so, no, I don't have anything.

17 THE COURT: Anything from Defense?

18 MS. PARROTT: Not -- not for right now, Your Honor.

19 THE COURT: Let me go ahead, though, so that there's no
20 confusion, Mr. McLeod, you're out on bond; is that
21 correct, sir? All right. Well, and this isn't particular
22 to your case, it's particular with every case. Once --
23 and the jury's not sworn yet. Once the jury is sworn then
24 the bond is no longer valid and you will no longer be on
25 that bond, but you are on bond during the lunch hour.

1 What I want you to understand, and I'm sure you've talked
2 with your attorney and investigator and everybody you know
3 this -- is that your bond requires you to be here in court
4 when court is in session. When we come back from the
5 lunch break we'll take up any matters that we need to take
6 up, then we'll begin the trial of the case. The trial
7 will start this afternoon.

8 And I tell this to all defendants. It will start
9 with or without you so that if you're not here the case
10 will be tried in your absence. The law provides that you
11 have every right to be present, but you also you don't
12 have to be. That's up to you. So but what I would
13 caution you, just let you know so there's no question
14 about it, is that when we start this afternoon we're going
15 to proceed with your case whether you're here or not. And
16 again, I tell all defendants this and I don't even know
17 you so I don't have any reason to believe you won't be
18 here; but I'm just letting you know, as I do with all
19 defendants, that we will start this afternoon with or
20 without you.

21 You understand that, sir?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Well, having said that then we
24 will reconvene at 2:30.

25 MS. PARROTT: Your Honor, there would be some pretrial

1 motions that I don't know if you want to do that at 2:30

2 if —

3 THE COURT: Is it in great detail? How much time do
4 you think it will take us?

5 MS. PARROTT: Not too long.

6 THE COURT: Twenty minutes, half hour?

7 MS. PARROTT: Probably, yeah, I would think at most.

8 THE COURT: Why don't we start back at 2, those of us
9 involved in the case. You can tell your witness you have
10 whatever you want to tell them as far as when they need to
11 be back. Why don't we come back at 2:00. We can address
12 any pretrial matters, okay?

13 MS. PARROTT: Thank you, Your Honor.

14 THE COURT: Thank you very much, Ms. Parrott. We will
15 start back at two.

16 (WHEREUPON, a lunch break was taken.)

17 THE COURT: Are we ready to take up whatever pretrial
18 matters we need to deal with?

19 MR. WELLS: Yes, we are, Your Honor.

20 MS. PARROTT: Yes, sir, Your Honor.

21 THE COURT: Just so, Karen and Bob, Mr. Propps is going
22 to, as jurors return, if we're not done he's gonna hold
23 them out in the hallway until he gets two or three of them
24 and then he'll let us know we got some, and then we'll
25 interrupt, let him bring them through, and then when we'll

1 get back to whatever we're doing, okay?

2 MS. PARROTT: I'm sorry, Your Honor, Mr. Wells just
3 gave me a piece of information. I'm trying to find it in
4 my book as well.

5 THE COURT: Okay, all right. If you need a few minutes
6 go ahead and take it.

7 MS. PARROTT: Your Honor, Mr. Wells gave me something
8 earlier on this. Now he's just given me something again
9 just a few minutes ago. I understand that Rule 5 is
10 continuing on during discovery process and rule -- I'm
11 just trying to make sure that at this point I have every
12 single thing I need in order to go forward with this case.
13 I'm just trying to make sure, Mr. Wells, is there
14 anything?

15 THE COURT: Are you aware of anything that you have
16 that hadn't been --

17 MR. WELLS: I gave her additional waiver of rights form
18 I was just given this morning by Julia Duff and also
19 another letter that defendant wrote to Officer Robinson
20 she gave me this morning. The only thing, and I've shown
21 this, I know, the pictures of the -- concerning the victim
22 injuries. Defense -- and I think I have provided copies
23 of these pictures of the dwelling in the past but I'll let
24 her look at these again, see if there's any question.
25 That would not be till later in the trial anyway. I'm not

1 aware of anything else.

2 MS. PARROTT: Your Honor, I would also ask for NCICs on
3 anybody that he is asking to testify that's in law
4 enforcement. He's mentioned quite a few people within I
5 believe that would be at least, at least five different.

6 MR. WELLS: Actually I was going to do -- this
7 witness's came. She's provided me this this morning.

8 MS. PARROTT: Those are the NCICs I was asking about.

9 MR. WELLS: Uh-huh.

10 (Documents tendered to defense counsel by Mr. Wells.)

11 MS. PARROTT: That's for anybody who is not law
12 enforcement, Bob?

13 MR. WELLS: Yes, to my knowledge, except Kathy
14 Saunders. She does not have a record.

15 MS. PARROTT: Okay. Then further, Your Honor, in
16 regards to my client he does have some entries that are
17 actually on his NCIC and should he choose to testify I --
18 there are no dispositions on anything it looks like, no
19 convictions that I would like to make sure from the
20 State's perspective should he choose to testify what could
21 or could not?

22 THE COURT: This is Mr. McLeod's record?

23 MS. PARROTT: Yes, Your Honor.

24 THE COURT: Bob, are you aware of anything that
25 Mr. McLeod may would have that would be --

1 MR. WELLS: I don't think there was anything that I was
2 planning to.

3 THE COURT: Anything that would be admissible for cross
4 purposes?

5 MR. WELLS: Right.

6 MS. PARROTT: As I state there's no disposition
7 whatsoever on any of the —

8 MR. WELLS: 'S the be the same on some of my witnesses,
9 things they said weren't them. That's —

10 MS. PARROTT: Okay, very good.

11 MR. WELLS: Similar expert testimony, assault and
12 battery, even if it were would not be admissible. Petit
13 larceny, there's no disposition. I guess you could say
14 that technically; but I'll leave that, I'll let that go.

15 MS. PARROTT: So nothing from his record?

16 THE COURT: So there would be nothing in Mr. McLeod's
17 history that the State would be able to raise, any prior
18 record.

19 MS. PARROTT: Thank you, Your Honor.

20 THE COURT: All right.

21 MS. PARROTT: Your Honor, in this case the way that
22 some of the evidence was or the way this case is brought
23 to light is because we have a phone call from Niosha
24 McLeod. She actually called law enforcement to her house;
25 and then upon further, a few other things happening, Your

1 Honor, they were then asking her if they could search her
2 house and it's an important — I don't want to say that,
3 I'm sorry. And she consented to search. Your Honor, I
4 would ask that this, the results of that search which
5 would include some panties or some children's pants,
6 child's pants, be suppressed because I believe that this
7 was not something that was any need evidence or any risk
8 of being disposed of or being harmed in any way or its
9 losing its extrinsic — it's value. It might have been
10 and they should have gone and got an search warrant in
11 that regard so I would ask that the results of that search
12 be suppressed.

13 THE COURT: Mr. Wells.

14 MR. WELLS: So I'm a little bit confused. So is she
15 saying that basically that, as I understand, that anything
16 found in the house should be suppressed? Is that what —

17 THE COURT: That's her position based on the fact that
18 they could have gotten a warrant but they got permission
19 instead of a warrant.

20 MS. PARROTT: And that is correct, Your Honor, but
21 given that Ms. McLeod — and I know this is kind of a
22 twisted argument, Your Honor, but she did call them but
23 what she was calling them for was a vandalism call. It
24 wasn't for anything that went beyond that. It then turns
25 into something more than that. She is asked for consent

1 to search and she does give it, but given that this was
2 something they certainly could have just secured the scene
3 and gone and gotten a search warrant and then properly
4 made sure that everything was in line, change was taken
5 care of. I would ask that anything that flowed from the
6 results or the results that flow from that search be
7 suppressed.

8 MR. WELLS: Your Honor, so what you're saying that
9 everything found in the apartment, any evidence connected
10 with anything found in the apartment, should be
11 suppressed?

12 MS. PARROTT: I ask that, yes.

13 MR. WELLS: That's what you're asking for?

14 MS. PARROTT: Yes.

15 MR. WELLS: Of course, a lot of this stuff I don't know
16 what we are -- I'm not sure what the relevance is, thing
17 is, on apartment. I got sister owned the apartment. She
18 was, say, allowing them there so I think she can give
19 consent.

20 THE COURT: That's the issue that I see here is 'cause
21 I want to make sure it's who is the -- who gave consent?

22 MS. PARROTT: It's Mr. McLeod's sister and she is the
23 --

24 THE COURT: And she owns the apartment?

25 MS. PARROTT: Or lessor, is the, yes -- she's the one

1 who is in charge of the apartment.

2 THE COURT: Well, he certainly has the right to give --
3 I'm going to respectfully deny that motion. She, as the
4 either the person on the lease or the owner of the
5 apartment, I guess essentially the way I'm gonna phrase as
6 the primary person in that apartment she certainly has the
7 right to give permission. I respectfully deny that.

8 MS. PARROTT: Thank you, Your Honor. Regards to that
9 further, what was -- what would be my main question is
10 that there were some pubic hairs or a pubic hair that was
11 supposedly found on this child's underwear and given that
12 they did not send it off for testing. It has not part of
13 any of the SLED lab results or such I believe that the
14 image of that would be so that it would be too prejudicial
15 in regards to suggesting that there was something there
16 between those parents, some sort of pubic hair meaning
17 there would be somebody old enough to have it and you
18 can't tie anyone because it wasn't tested.

19 THE COURT: Seems like that would be prejudicial to the
20 State.

21 MS. PARROTT: And it could be, Your Honor, but since
22 --

23 THE COURT: Since they failed to test it.

24 MS. PARROTT: But it -- it's actually in Mr. McLeod's
25 and that's the fear for the defense would be they would

1 be -- that the jury would jump to conclusion that it's
2 that child in his room therefore, again, that --

3 THE COURT: I think the -- of course, that I don't know
4 what will come into evidence obviously at this point. But
5 if that's an issue I would think that's certainly subject
6 to cross-examination and attack. This attack which
7 depending on how it's done can ultimately benefit the
8 defense as opposed to so I'm gonna respectfully deny for
9 suppression of those items.

10 MS. PARROTT: Thank you, Your Honor. Your Honor, my
11 client is also supposed to have given an oral statement
12 they have transcribed, they have recorded to my knowledge,
13 and I want to make sure ultimately asked Mr. Wells about
14 that prior to today's hearing but to the best of his
15 knowledge nothing was ever transcribed, taken down in any
16 recorded fashion.

17 MR. WELLS: That's my understanding. She -- the
18 officer, which she has a copy of this, put in her report
19 all the other statements he made but she did not actually
20 record the statement or it's not a written statement.

21 THE COURT: I think it's report --

22 MR. WELLS: It's in written -- you're right; it's in
23 the officer's narrative, but it wasn't written statement
24 by the defendant. That's right.

25 THE COURT: Nor was it a recorded statement?

1 MR. WELLS: That's correct.

2 THE COURT: Okay.

3 MS. PARROTT: And Your Honor, of course we will then
4 question exactly what were the circumstances in which that
5 statement was gathered and if you —

6 THE COURT: Do we need to have a hearing regarding
7 those statements?

8 MR. WELLS: Your Honor, that will probably be one of
9 the latter witnesses in the trial. I think it would be —
10 I don't see the reason to do it now.

11 THE COURT: Not those to right now.

12 MR. WELLS: But we would, I'll put it this way, before
13 I ask anything you know ask for anything about a statement
14 I would —

15 THE COURT: Okay, all right. We will take that up at
16 that time, Ms. Parrott.

17 MS. PARROTT: Thank you, Your Honor. Lastly, Your
18 Honor, as far as I know this will be the complete witness
19 list. There are some concerns to the Defense about the
20 non-law enforcement, nonmedical personnel, being present
21 in the courtroom during this testimony, and I would ask
22 that they be sequestered. And "they," specifically I'm
23 looking at Dale Hamilton, William Robinson, Kirston
24 Robinson, Terry Hamilton, and Chansolar Warren, Your
25 Honor.

1 MR. WELLS: I don't have any problem with that as long
2 as the defense witnesses are out of the courtroom too.

3 THE COURT: Sure. I mean, in fact, right now are the
4 in the conference room anyway I suspect that might be.
5 We'll have those non-law enforcement witnesses sequestered
6 where they're at I guess is —

7 MR. WELLS: Yeah, that's fine.

8 THE COURT: And then as far as the —

9 MR. WELLS: Well, defense witnesses clearly what we
10 told —

11 THE COURT: Also, as far Ms. Dargan and Cannon will
12 also then and you got a place to take them.

13 MS. PARROTT: Your Honor, we can just — I believe we
14 can have them at on-call cause they certainly wouldn't be
15 necessary until.

16 THE COURT: Absolutely, whatever you want to do.
17 That's fine, okay.

18 MS. PARROTT: That will be it.

19 THE COURT: All right. Is that all?

20 MS. PARROTT: I believe so, Your Honor.

21 THE COURT: Anything from the State, Bob?

22 MR. WELLS: No, Your Honor, that's it.

23 THE COURT: All right. What we'll do is just remain at
24 ease. We've got a few more minutes before all the jurors
25 need to be here. We're still missing some, right? Okay.

1 We'll just be at ease and we'll get started once we have
2 all our jurors in place.

3 MS. PARROTT: Thank you, Your Honor.

4 THE COURT: Are there any objections to some of these
5 things that he's ---

6 MR. WELLS: The pictures are going to be in the disk at
7 the same time I'm going to put actual pictures in so
8 State's 1 through 20-A and -B.

9 (WHEREUPON, State Exhibits Nos. 1 through 20-A and 20-B
10 were marked for identification only.)

11 THE COURT: If you're ready and, Karen, if you're
12 ready, Frances is done marking, let's go ahead and put
13 this on the record.

14 MR. WELLS: Your Honor, I do want to put one other
15 thing into evidence just as court exhibit. Basically this
16 defendant was sent to South Carolina State Hospital for
17 evaluation and was found competent to stand trial. I have
18 the report. In any case, Your Honor, there was an attempt
19 to plead guilty to some lesser charges, charges back in
20 2007. Prior to that the plea did not go through, however,
21 prior to that the judge did do a competency hearing which
22 was on August 15th, 2007, which it was actually marked as
23 a court exhibit. But then when the plea did not go
24 through he gave me back these documents. I would move to
25 have these reintroduced as exhibit and ask that he be

1 found competent to stand trial.

2 THE COURT: All right. Ms. Parrott, you have a copy of
3 this report?

4 MS. PARROTT: I do, Your Honor.

5 THE COURT: And were you representing Mr. McLeod during
6 that last -- the last hearing where this report was
7 considered by the Court?

8 MS. PARROTT: I was, Your Honor.

9 THE COURT: All right. Are you aware of any changes
10 that have occurred from that time to the present?

11 MS. PARROTT: None, Your Honor.

12 THE COURT: So you've had thorough opportunity to
13 review this report and the report -- the report that I'm
14 referring to is the report dated July 10th, 2007. That
15 was the date of the evaluation.

16 MS. PARROTT: I believe so, the one by Doctor Melikian
17 with Laura Hancock with forensic psychiatry fellow.

18 THE COURT: Yes, ma'am.

19 MS. PARROTT: Yes, sir.

20 THE COURT: And you have any issues with that report or
21 anything contrary to the findings in that report?

22 MS. PARROTT: None, Your Honor.

23 THE COURT: All right. I'm gonna make this a court
24 exhibit, a report from the South Carolina Department of
25 Mental Health. Doctor Melikian and Doctor Laura Hancock.

1 Mr. McLeod was examined as to his competency to stand
2 trial. The conclusion of the report were that Mr. McLeod
3 understands factual -- has a factual understanding of the
4 legal system and sufficient presentability to consult with
5 his attorney of record, is of the opinion that he is
6 competent to stand trial. It is my understanding there's
7 been no changes from the time this report was prepared to
8 the present. I find that Mr. McLeod is competent to stand
9 trial and accepts -- the Court accepts the findings of the
10 earlier court as well as the findings contained in the
11 report by the doctors from the South Carolina Department
12 of Mental Health. We'll make that a court exhibit.

13 (Court's Exhibit Number 1 was marked
14 and made a part of the record.)

15 THE COURT: Anything else from the State before we
16 bring the jury out?

17 MR. WELLS: No, Your Honor, I think that will be it.

18 THE COURT: Anything from the Defense before we bring
19 the jury out and swear the jury?

20 MS. PARROTT: Nothing, Your Honor.

21 THE COURT: All right. Ms. Joe, if you would ask the
22 members of the jury to join us please.

23 THE BAILIFF: Yes, sir.

24 (WHEREUPON, the jury was returned to the courtroom at
25 approximately 2:38 p.m., and the following proceedings

1 commenced in open court.)

2 THE COURT: All right. Ladies and gentlemen, I hope
3 everyone had a good lunch time and are ready to go to
4 work. Before we begin let me mention one thing to you.
5 You know as humans we're creatures of habit. We get into
6 habits and it's easy to fall into those. One of the
7 habits that we tend to fall into, and I'll just give you
8 an example. My wife and I attend church over at Lamb's
9 Chapel here in Florence. We've been going there for 11
10 years, and we've just gotten where we sit in the same
11 seats every time. And when we go into church on Sunday
12 morning, if a visitor comes in or somebody's sitting in
13 our seat we kind of look around like we're lost, like oh,
14 no, what are we gonna do. And we don't have assigned
15 seats in church, just we become used to sitting there.
16 The jury box is kind of like church in the fact that
17 there's no assigned seating except for three seats. And
18 those two back seats where you two gentlemen are as
19 alternates and then this front seat right here where this
20 young lady sits, which will be the seat for the foreperson
21 when we get to that point. Other than that you're welcome
22 to sit in any chair you want to sit in and it may be that
23 as we go through the trial and you leave the jury box and
24 come back in, it may be that the seat you're sitting in
25 right now is not the seat you'll be sitting in the next

1 time you come in. I just find it easier for juries to --
2 it flows easier if you don't -- you know, take a
3 particular hankering to one seat and one always sit there
4 and people have to climb over you or whatever. So if you
5 would, as you come and go just once you have -- once you
6 have our foreperson in place I would ask that the
7 foreperson and the two alternates be the last three out
8 and then everyone else just come and file in and have a
9 seat. So don't feel like you have to get to the seat that
10 you're in right now, okay?

11 Before I begin with some opening remarks I'm gonna
12 ask you to give Ms. O'Hara your attention and she is gonna
13 place you under your oath for your purposes of as jurors
14 in this trial please.

15 DEPUTY CLERK OF COURT: If you will stand and raise
16 your right hand to be sworn.
17 (WHEREUPON, the jury was sworn at 2:44 p.m.)

18 DEPUTY CLERK OF COURT: You may be seated.

19 THE COURT: Ladies and gentlemen of the jury, this case
20 we're about to try is, as you are aware, is the State of
21 South Carolina versus Christopher McLeod, Jr. Before we
22 begin I want to tell you that this trial is probably gonna
23 be very different from what you may expect. Most people
24 don't have an opportunity to sit in on an actual jury
25 trial such as you're doing here this week. And most

1 people's experience regarding jury trials is simply what
2 they have seen on television or what they have seen in the
3 movies or what they have read in books. And of course,
4 those trials are always full of high drama, intense action
5 and rivetting circumstances. But those trials that --
6 that's Hollywood. Those trials are for people's
7 entertainment. While all of those things may occur during
8 the course of this trial or may not occur during the
9 course of this trial, what I want you to understand and be
10 clear about, and that is this, that this trial is not for
11 your entertainment. This trial is a fundamental part of
12 our democracy. It is a search for the truth and in an
13 effort to make sure that justice is done between the
14 parties that are before the court. Search for the truth
15 and making sure that justice is done is oftentimes slow,
16 deliberate, sometimes repetitive. In other words, very
17 much the opposite of what you've seen on television or
18 read in the books or seen in the movies. This courtroom
19 and this courthouse is a place of honor that's dedicated
20 to the protection and the preservation of citizens' rights
21 through what many people have called the greatest justice
22 system ever created. The attorneys that appear before you
23 are advocates for the parties or the sides that they
24 represent. But first and foremost, they are officers of
25 the court sworn to uphold the integrity and the fairness

1 of our judicial system and to help you in your search for
2 the truth. You should expect them to be competent and
3 ethical and professional in the performance of their duty
4 here during this trial this week. Now remember that you
5 have just taken an oath to try this case and to reach a
6 fair and a just verdict. And so you are also expected to
7 be professional, reasonable, and ethical in the
8 performance of your duties, which I have absolutely no
9 question that you'll do exactly that. And I want to take
10 this opportunity to thank you again for your service to
11 your community in this trial.

12 Now what I'm gonna tell you at this time is intended
13 to serve as an introduction to the trial of this case.
14 These remarks are not a charge on the law. I will
15 instruct you on the law that is applicable to this case at
16 the end of the trial before you retire to consider your
17 verdict. These comments that I'm gonna make to you at
18 this time are – they're merely an explanation of the
19 procedures that we're going to follow during the course of
20 this trial so that you may better follow and understand
21 what's happening. Now the defendant Mr. McLeod is charged
22 by an indictment which is filed with this Court. I've
23 discussed with you earlier about the indictment. This
24 indictment charges Mr. McLeod with four charges: Criminal
25 sexual conduct with a minor in the first degree, lewd act

1 on a minor, assault and battery of a high and aggravated
2 nature, and the unlawful conduct towards a child. The
3 elements of all of these crimes I will explain to you
4 later when I charge you on the law.

5 The indictment, ladies and gentlemen, as I told
6 earlier is the charge by which this case is brought into
7 court and the indictment and the allegations contained in
8 this indictment are in no way evidence of the allegations
9 contained there. The — they're simply the charging
10 document. To these charges Mr. McLeod has pled not
11 guilty. The State therefore, has the burden of proving
12 each of the elements of this indictment beyond a
13 reasonable doubt. It will be your duty, ladies and
14 gentlemen, to decide whether or not the State has met that
15 burden. Your purpose as jurors is to find and to
16 determine the facts of this case. You are the sole judges
17 of the facts of this case. If at any time I make any
18 comment regarding the facts, you must disregard those
19 comments. You are to determine facts from the testimony
20 that you hear and any other evidence that may be
21 introduced during the course of this case. It is up to
22 you to determine the inferences which you feel may
23 properly be drawn from the evidence. It is especially
24 important that you perform your duty of determining the
25 facts diligently and conscientiously because ordinarily

1 there's no way to correct an erroneous determination of
2 facts by a jury.

3 Now on the other hand but with equal emphasis, the
4 same law that makes you the judges of the facts makes me
5 the judge of the law. The law as given by the Court is
6 the only law that you may consider. You must accept and
7 follow it even though you may disagree with it. I'm not
8 allowed to tell you what the facts are in this case; and
9 you, on the other hand, are not allowed to disagree with
10 me about what the law is or what you think it should be.
11 Your job is to take the law as I give it to you and apply
12 it to the facts as you find the facts in this case, which
13 you'll determine from the testimony of witnesses who take
14 the stand and any other evidence that may be introduced
15 during the course of the trial. After doing that you will
16 render your verdict in this case, a true and a just
17 verdict, for the solemn oath that you've just taken as
18 jurors. Now until I advise you to begin your
19 deliberations, you are — you are not to discuss this case
20 with anyone, and that includes among your fellow jurors.
21 You are not to have any conversation about the case until
22 all of the evidence has been presented and both sides have
23 had the opportunity to address you with their closing
24 remarks and that I have charged you on the law. During
25 the course of trial you will be coming in the courtroom

1 and you will be leaving the courtroom. Most all the time
2 what I attempt to do is to make everyone remain in the
3 courtroom until the jury has an opportunity to leave and
4 to return. It may be that during the course of the trial
5 that you may see one of the attorneys or someone involved
6 in the case in the hallway. If they don't speak to you
7 please understand that they're not being rude. These are
8 very nice people and I know all of them. It's just that
9 they're doing what they're supposed to do. They are not
10 making any effort or attempt to interact with the jury and
11 that's what they're supposed to do. So please, if you see
12 any of them and they don't speak or recognize you, just
13 take that as they're doing their work.

14 It is very important, ladies and gentlemen, that you
15 keep an open mind and that you not decide any issue in
16 this case until all of the evidence has been presented,
17 both sides have had an opportunity to address you with
18 their closing arguments, and that I have instructed you on
19 the law in this case. It is your solemn responsibility to
20 determine the guilt or innocence of the defendant and your
21 verdict must be based solely on the evidence that is
22 presented to you in this trial and on the law as I
23 instruct it to you during the course of this trial.

24 Now in just a moment Mr. Wells will have an
25 opportunity to address you with what we call a opening

1 statement in which he will explain to you the issues that
2 are in this case, or at least what he believes the issues
3 are in this case. Once he has completed his opening and
4 Ms. Parrott will have an opportunity to also make an
5 opening statement, although she is not required to do so.
6 What I need you to understand, ladies and gentlemen of the
7 jury, is that what the attorneys tell you in their opening
8 statements is not evidence. It is merely their contention
9 as to what they believe the issues are in this case. The
10 evidence in this case will be presented to you by
11 testimony of sworn witnesses from this witness stand
12 and/or any other exhibits which may come in during the
13 course of this trial.

14 Now from time to time during the course of the trial
15 you may hear one of the attorneys say something along
16 these lines, judge, we've got a matter of law we need to
17 take up with the Court, or Your Honor, may we approach the
18 Bench. I might find it necessary during those times to
19 ask you, the jury, to step back into your jury room while
20 I take up a matter of law. The reason that I would ask
21 you to do that is simply this, as I told you earlier, I'm
22 not to have any influence over you about what the facts
23 are in this case. Sometimes when I'm dealing with the
24 attorneys regarding issue of law it's sometimes necessary
25 for me to make a comment regarding the facts in

1 conjunction with a ruling that I have to make. So to
2 prevent me from influencing you with those comments I may
3 ask you to step into your jury room so that I can take up
4 a matter of law with the attorneys and not cross over into
5 your area of the facts.

6 In determining what the true facts are in this case
7 you must decide whether or not the testimony of a witness
8 is believable. It's going to be my responsibility to rule
9 as a matter of law whether certain testimony is admissible
10 at all or not. But once testimony is admitted into this
11 trial, whether or not you believe it is solely up for you
12 to decide. In deciding whether to believe a witness you
13 have the right to consider any witness, the interest a
14 witness may have in the case, the bias of any witness, the
15 opportunity for the witness to have seen the matters and
16 the things about which that witness testifies, the way a
17 witness acts on the witness stand. You have the right,
18 ladies and gentlemen, to consider anything that is in this
19 record that will help you in evaluating the testimony of a
20 witness. That means that it is your duty to pay close
21 attention to each witness, to observe the witnesses,
22 listen to them, pay close attention to the attorneys and
23 to the Court. Try not to let your thoughts wander but
24 give strict attention to all of the testimony given so
25 that at the end of this trial you will be able to go into

1 the jury room after you've heard from the attorneys with
2 their closing remarks and after I've charged you on the
3 law and you will be then in a position to deliberate to
4 talk about this case and to decide what the true facts are
5 in this case, what did the evidence show, apply the law to
6 that evidence and reach your verdict.

7 Now before I recognize the attorneys for their
8 opening remarks, let me ask of Mr. Wells, are there any
9 objections or exceptions to the Court's opening remarks
10 from the State?

11 MR. WELLS: None, Your Honor.

12 THE COURT: Any objections or exceptions from the
13 Defense?

14 MS. PARROTT: None, Your Honor.

15 THE COURT: Thank you. Ladies and gentlemen, as I
16 indicated to you the attorneys are gonna have an
17 opportunity to address you at this time. Please, even
18 though what they tell you is not evidence it is important
19 that you give them your strict and undivided attention.

20 Mr. Wells.

21 MR. WELLS: Thank you, Your Honor. May it please the
22 Court, ladies and gentlemen of the jury, my name is Robert
23 Wells. I'm deputy solicitor for Florence County and will
24 be trying this case on behalf of the State of South
25 Carolina. As you heard, the defendant in this case

1 Christopher McLeod, who is represented by Ms. Karen
2 Parrott. In this case there are four charges which the
3 State has the burden of proving the defendant's guilt to
4 your satisfaction beyond a reasonable doubt. That's the
5 burden the State has to any criminal case throughout this
6 United States and certainly we are glad to have this
7 opportunity to prove the defendant guilty to your
8 satisfaction beyond a reasonable doubt.

9 Now as I said, there are four different charges.
10 You will consider each of them individually. Your verdict
11 does not have to be the same on each, but we would hope
12 that it would be based on the proof that you would find
13 him guilty based on the proof that we intend to present to
14 you. In any case, you'll consider each case, each count
15 separately, as to whether the State proved his guilt to
16 your satisfaction beyond a reasonable doubt or not and
17 then go on to the next count until you've completed
18 considering all four counts. This is a very serious
19 charge. These are very serious charges.

20 Just to give you a brief outline of the case the
21 defendant in this case is the father of the victim. The
22 victim is ^{child} At the time this occurred she
23 was two years old. This occurred during the period about
24 four years ago from July 24th, 2006. During that
25 particular time the child normally lived with her mother

1 Shante Kent, but they -- the mother and the defendant not
2 lived together, although he was the biological father but
3 for a period of a week there was arrangement made where
4 the defendant was going to keep the child. He was gonna
5 keep the child at his sister's house. Shante McLeod, she
6 had a three room apartment so they will be testifying
7 about that week. Obviously Niosha McLeod, sister of the
8 defendant, and certainly does not want to be here, but we
9 have subpoenaed her to appear as a witness in this
10 particular case. And we'll be presenting evidence
11 concerning the fact that Niosha and the defendant on
12 Monday morning, basically they had -- he had the child for
13 about a week, Monday or Tuesday, to the following Monday.
14 Things kind of came to a head-on that second Monday when
15 Niosha was concerned about the way the defendant was
16 treating the child. Basically they got into it; she
17 called the law. Then she took the child over to the
18 mother where the mother examined the child where they
19 started noticing some very serious bruises, some things in
20 places that certainly should not be. And as a result, law
21 enforcement of course got involved. They, in turn, had
22 the child taken into DSS custody and then Kathy Saunders,
23 this lady right here, examined the child on that
24 particular day back in 2006. And so what we intend to do
25 is we intend to call her first so you will observe the

1 injuries that the child received. Some of these may not
2 be the most pleasant things to look at, but we do ask you
3 to give your close attention. Then we'll be calling the
4 mother of the child and sister of the child -- excuse me,
5 the mother, the sister of the defendant. Then the
6 investigation progresses.

7 We've only found really a family of four, plus one
8 other person staying there, that had any contact with the
9 child other than the defendant's sister that we could find
10 and we plan to put them up as witnesses as basically the
11 weekend before the defendant brought the child over to
12 their residence. As best we can tell the child was not
13 left alone with any of them except briefly on the Sunday
14 morning when the child was then taken over to church
15 service next door. But anyway, they will be testifying
16 about what they remember about the weekend in question.
17 Then in turn we'll be of course calling law enforcement to
18 explain how the investigation of -- went in that regard.

19 Now let me get to the actual charges. What must the
20 State prove beyond a reasonable doubt? We've got four
21 charges really. The first two counts would be alleging
22 sexual abuse of some kind. Count three would be alleging
23 physical abuse. Count four would be either physical or
24 sexual assault abuse. Now each count is a little bit
25 different in what the State's alleging, what the State

1 must prove. Count one is criminal sexual conduct with a
2 minor first degree. That would mean that the defendant
3 has committed a sexual battery against a child under the
4 age of 11 years. In this case the child was two so
5 there's no question she was under the age of 11. A sexual
6 assault and battery would mean actual penetration of a
7 child's vaginal or anal openings of some improper purpose.
8 It does not have to be, for example, with a penis. It
9 could be with a finger, for example, if the person did
10 digital penetration of that particular child's vaginal
11 area. But that is what we're attempting to prove in count
12 one.

13 Count two, lewd act on a minor would -- did not rise
14 up to the actual -- where it has actual penetration of a
15 child it would be a lewd act such as fondling or, you
16 know, messing with a child's vaginal/anal areas, may or
17 may not be any penetration (inaudible) be for lewd act.
18 And the child has to be under the age of 16 for that to be
19 considered for it to be lewd act on a minor on a child.

20 Count three, as I said, would be assault and battery high
21 and aggravated nature, which this would be actual physical
22 abuse of the child. This would be physical as opposed to
23 sexual assault abuse, for example, just going beyond the
24 call as far as striking the child, corporal punishment
25 that went too far or things of that type leaving bruises

1 about the child. That would be an assault and battery of
2 high and aggravated nature in this case. And count four
3 would be unlawful conduct towards a child, which again, it
4 would have to be a child, I believe, under the age of 18
5 and any case where basically the defendant who had custody
6 over the child at the time or in their physical care
7 actually did actions to endanger either the safety either
8 mental or physical safety of the child by his acts or what
9 he did or caused to be done. That person would actually
10 have had to do these things, but certainly if they did
11 them or cause to be done and it's a child in their care
12 then they would be guilty of that particular crime of
13 unlawful conduct towards a child.

14 Again, ladies and gentlemen, I don't imagine of any
15 greater responsibility you can do for your community than
16 sitting on a jury. Seeing justice is done, reaching a
17 verdict that speaks the truth. In short, surely what we
18 can ask you to do in this case is acknowledge all the
19 evidence that comes out such that at the end of the trial
20 you can reach a verdict which speaks the truth. Thank
21 you.

22 THE COURT: Thank you, Mr. Wells. Ms. Parrott.

23 MS. PARROTT: Thank you, Your Honor. May it please the
24 Court.

25 THE COURT: Yes, ma'am.

1 MS. PARROTT: Counsel, ladies and gentlemen, my name is
2 Karen Parrott. I'm an attorney here in Florence and I
3 represent my client Christopher McLeod. This will
4 probably be about the third time you've heard these words,
5 fourth time you've heard this, understand that between
6 when you were told -- whenever we were swearing the jury
7 or picking a jury as well as now, but the State has to
8 prove each and every single element of a crime for it to
9 be a guilty verdict in the end. In this case I represent
10 Christopher who is charged with four such crimes, four
11 different ones as the Solicitor, just told you. At the
12 end of this you'll be asked to deliberate. What I'm
13 asking you to do is to keep in mind that until that time
14 he is innocent. There is no greater burden and privilege
15 in this country, and even at this point a right, than to
16 be innocent until proven guilty and only if they prove him
17 guilty. While he stands here today at the moment he was
18 arrested while this trial is going on, every single night
19 until it's done he will still be innocent until proven
20 guilty if they prove him guilty. It is only once this
21 case has been handed to you at the end that it may be your
22 deliberation as to what that means. Did the State meet
23 their burden? It is not at all his responsibility to
24 prove himself innocent. He is innocent. And here's the
25 reason why you hear those words beyond a reasonable doubt

1 at least four different times, five different times now.
2 The State has to leave you firmly convinced of every
3 single element that my client did it for you to find him
4 guilty of every crime on of each crime. It's not his
5 burden, one, or for one moment. It will always be first
6 and it will always be first we also ask that you listen.
7 That's the reason you heard maybe three or four times now
8 too because if you come in in the middle of a movie
9 sometimes you really just know once again you might be
10 able to piece it together, might be able to ask somebody
11 what happened so far and get it and understand it, but the
12 simple fact is that you may not either. So we're asking
13 you, because the State's gonna be saying so much things
14 and they're gonna be trying to prove to you that's
15 happened, my job is to make sure that you understand that
16 may not be it. So it is important, it's extremely
17 important for you to listen to every single bit of what
18 happens here today and until this matter is disposed of.
19 We thank you for your attention in all of this and I thank
20 you on behalf of my client. Thank you, Your Honor.

21 THE COURT: Thank you, Ms. Parrott.

22 Mr. Wells, you may call your first witness.

23 MR. WELLS: I call Kathy Saunders to the stand.

24 THE COURT: Ms. Saunders, if you would please come
25 around to be sworn.

Sw - K. Saunders - Direct

1 WHEREUPON,

2 **KATHY SAUNDERS,**

3 having been duly sworn by the deputy clerk of court,
4 testified as follows:

5 **DEPUTY CLERK OF COURT:** Please be seated. State your
6 full name for the record.

7 **THE WITNESS:** Kathy Saunders.

8 **DIRECT EXAMINATION**

9 **BY MR. WELLS:**

10 **Q** Kathy, what is your occupation?

11 **A** I am a pediatric nurse practitioner and I am employed
12 at the Care House for the purpose of providing medical
13 evaluations for children who have either reported or there
14 has been a concern that they have been sexually or
15 physically abused.

16 **Q** All right. And in that regard what is your training
17 and experience in this field as a pediatric nurse
18 practitioner?

19 **A** I hold a associate degree in nursing, also hold a
20 baccalaureate degree in nursing, graduated 1987. Hold a
21 master's degree in — dual degree as a pediatric nurse
22 practitioner completed in 1993 and also hold a doctorate
23 of nursing practice degree with a dual degree as a family
24 nurse practitioner.

25 **Q** All right. And in that regard, what can you tell where

Sw - K. Saunders - Direct

1 some of your, for example, are you certified and you
2 continue your training on an annual basis?
3 A I do. When I graduated as a pediatric nurse
4 practitioner in 1993 I actually went into primary care
5 practice which would be like a pediatrician's office and
6 worked for two years and was given the opportunity to have
7 some additional training in the field of child abuse or
8 child maltreatment, which included sexual assault and
9 physical abuse of children. So I did a fellowship
10 training in San Diego, California where I trained with
11 physicians who are nationally recognized as expert in the
12 field of child abuse and continued that mentorship for one
13 year. In 1995, October of 1995, I began actually
14 practicing in the field of child abuse and have continued
15 in that field since that period of time as a requirement
16 by our state.

17 As a nurse practitioner we have to complete 40 hours
18 of training each year in our area of specialty. And as
19 again, a nurse practitioner to be able to prescribe
20 medications we have to have 20 hours every two years in
21 the field of pharmacology. In addition we have a Board
22 that regulates our practice in the field of child abuse.
23 It's regulated out of the University of South Carolina
24 division of pediatrics for just people who do child abuse
25 medical exams. We're required to have 20 hours a year and

Sw - K. Saunders - Direct

1 continued education in the field of clinical evaluation
2 diagnosis and treatment for children that have been
3 sexually and physically abused as well as other
4 engagements such as providing continuing education
5 seminars, participating in those seminars, and doing peer
6 reviews.

7 Q And in that regard approximately how many children
8 would you estimate you had examined over the years to
9 determine whether or not they may have been physically or
10 sexually abused?

11 A Since my practice in 1995 over 7,000 children.

12 Q All right.

13 MR. WELLS: In that regard, Your Honor, I would move
14 that she be declared an expert as a nurse practitioner in
15 the field of child abuse.

16 THE COURT: Any -- wish to do voir dire on that,
17 Ms. Parrott, or any objection?

18 MS. PARROTT: None, Your Honor.

19 THE COURT: All right. Ladies and gentlemen, let me
20 explain something briefly before Mr. Wells continues.
21 Typically the law of evidence does not allow a witness, a
22 lay witness to give opinion testimony. There's an
23 exception to that rule for witnesses that we consider
24 expert witnesses. A person is considered an expert
25 witness in a particular field which they have exhibited

Sw - K. Saunders - Direct

1 and demonstrated that they have had certain training and
2 experiences that would qualify them to be an expert in
3 that particular field. Once a person is qualified as an
4 expert witness, the difference in expert witness and lay
5 witness is simply this. A lay witness is not allowed to
6 give their opinions. A expert witness is allowed to give
7 their opinion as to certain testimony. They are qualified
8 as an expert. Now the law also says that you are to give
9 no greater weight to the testimony of an expert witness as
10 you do a lay witness simply because they're an expert.
11 You give all the witnesses and their testimony whatever
12 weight you think is appropriate. But I just want to
13 charge to you before we go any further that the difference
14 of a expert witness and a lay witness is that the expert
15 witness because of their expertise is allowed to give
16 their opinion testimony.

17 All right, Mr. Wells.

18 MR. WELLS: Thank you.

19 BY MR. WELLS:

20 Q Kathy, on July 24th, 2006, did you have occasion to
21 perform a physical exam on the victim in this case,
22 child

23 A I did.

24 Q And about how old was ^{child} at that time?

25 A She was two years and just over two months.

Sw - K. Saunders - Direct

1 Q So just over two years, two years two months?

2 A That's correct.

3 Q All right. Now in your examination of^{child} did you
4 have occasion to observe any evidence of possible physical
5 or sexual assault abuse such as from bruises or abrasions?

6 A Yes, sir, I did.

7 Q All right. In that regard as part of your examination
8 did you have occasion to take pictures of the child and as
9 far as possible injuries?

10 A I did.

11 Q I would ask you to look at these pictures and ask if
12 you would look through them, see if you took these
13 pictures of the child on that particular day.

14 A Yes, sir.

15 Q And do these pictures accurately reflect injuries that
16 you observed on the child on that particular day on
17 July 24th, 2006?

18 A Yes, sir, they do.

19 MR. WELLS: All right. I would move to admit these
20 pictures into evidence at this time.

21 THE COURT: Ms. Parrott, you've had opportunity to
22 review these; is that correct?

23 MS. PARROTT: I have, Your Honor.

24 THE COURT: All right. Any objection to these photos?

25 MS. PARROTT: Your Honor, I would object on the grounds

Sw - K. Saunders - Direct

1 of prejudice as well as cumulative. The cumulative nature
2 about the photographs as well as the, I guess,
3 inflammatory nature of them, Your Honor.

4 THE COURT: All right. I've had an opportunity to
5 review those myself and I'm going to respectfully deny,
6 overrule your objection, and I'm going to allow those
7 photographs in. Those would be State's Exhibits 1 through
8 20-A and -B.

9 (WHEREUPON, State Exhibits Nos. 1 through 20-A and 20-B
10 were admitted into evidence.)

11 MR. WELLS: Your Honor, at this time I'm going to
12 have — ask Keith Godbolt of our office to take just a
13 minute just to set up where we can play a disk showing
14 these same pictures in front of the jury, and she can
15 explain each one so they can all see them more better.

16 MS. PARROTT: Your Honor, if you could please note my
17 objection as continuing as we proceed through this.

18 THE COURT: And thank you, Ms. Parrott, I simply will
19 note that you have objected to these photographs and so
20 that any continuing use of the photographs for
21 demonstrative nature that your objection will continue to
22 run throughout the course of the trial.

23 MS. PARROTT: Thank you, Your Honor.

24 THE COURT: And if Ms. Parrott, if you or Frank, if
25 anybody needs to move to get in a better position to see

Sw - K. Saunders - Direct

1 these please feel free to do so.

2 MS. PARROTT: Thank you, Your Honor.

3 BY MR. WELLS:

4 Q All right. Make sure that this would be picture number
5 1(b). If you would relate to the jury what this picture
6 shows.

7 A This is a picture of ^{child} This is the right side
8 of her face kind of the ear area. You can see the
9 bruising along the top portion of the ear bruising behind
10 the ear and down around the base of the ear itself.

11 Q What would be some possible causes of bruising of that
12 type?

13 MS. PARROTT: Your Honor, objection, speculation.

14 THE COURT: I'm sorry, I apologize, I didn't hear the
15 question.

16 MR. WELLS: I just said based on your experience what
17 would be some possible causes of this type of injury.

18 THE COURT: All right, overruled. She's an expert.
19 I'll allow her to testify.

20 THE WITNESS: Usually when we see bruising about this
21 portion of the ear and extending behind the ear area and
22 you'll see as the pictures kind of move along. There are
23 other injuries to her face. It's usually we're related to
24 an object going up against the side of the head causing
25 rupture of those vessels in front of and behind the ear so

Sw - K. Saunders - Direct

1 simply an impact injury to the side of the head.

2 Q Next picture. This would be —

3 A Next is —

4 Q —1(a)?

5 A That's correct. And this kind of shows you the, again,
6 the right side of her face. You can see the bruising at
7 the top of the ear and this area a little bit of the
8 bruising just below the ear, and then you're beginning to
9 recognize some patterns of injury on the side of her face,
10 which as I spend more time with her it'd be more apparent
11 that they're linear prints like there be that of a
12 handprint.

13 MS. PARROTT: Your Honor, objection again because of
14 the speculative nature of what she's stating. What she
15 stated, Your Honor, was that it was linear in nature of
16 what she found to be that after spending much time with
17 her, and again, it's just speculation.

18 MR. WELLS: I think as an expert she has the right to
19 testify to that. She's examined over 7,000 children.

20 THE COURT: Yeah, I'm gonna note your objection and
21 overrule.

22 MS. PARROTT: Okay, thank you.

23 BY MR. WELLS:

24 Q Next picture, this would be — what is the number on
25 that picture?

Sw - K. Saunders - Direct

1 A State's Exhibit 2(b). And again, with a little
2 different angulation of the face, and again, the linear
3 prints, the interim in between the bruising here and here
4 is consistent with that of a handprint type injury. As
5 the areas that are spared and are, what I would say, is
6 normal skin would surround the bruise, lesion area here.
7 This is a linear fashion, again, does more confirm a
8 handprint type pattern injury. Again, you can see a fair
9 amount of bruising here around the face of exact — that
10 you can see the right side of the head, excuse me, right
11 side of the ear with the bruising at the top of the ear
12 lobe.

13 Q Next picture? This would be 2(a).

14 A State's Exhibit 2(a). And again, just another picture
15 of the bruising behind the right ear, just to look at that
16 and the bruising behind the ear and spreading to the
17 front, kind of temple area of the face. Little easier to
18 see that injury.

19 Q Next picture?

20 A Again, State's Exhibit 3(b), you can see the right side
21 of the face bruise together here, and what you notice here
22 is bruising inside the ear canal in this area and down
23 into the little cup structure of the ear. It's some faint
24 bruising, little particular pinpoint bruising, to the
25 inside of the ear again behind the back of the ear. You

Sw - K. Saunders - Direct

1 can see the bruising there as well.

2 Q Next picture?

3 A State's Exhibit 3(a). Again, you can see the bruising
4 to the right side of the ear to the side of the face with
5 the linear sparing in between the fingers where the
6 pressure is unevenly distributed as the pressure goes
7 against her face.

8 Q All right. Next picture?

9 A State's Exhibit 4(b). Again, the right ear, just
10 again, the bruising, bruising to the side of her face, the
11 temple area or side of the head and behind the ear.

12 Q Okay. Next picture?

13 A State's Exhibit 4(a), this is actually the left side of
14 her face. You can see the linear pattern of sparing here
15 with the imposed bruising here and along the side of her
16 face. This again consistent with that of what you would
17 see with a handprint type injury or impact injury with a
18 hand to the side of her face.

19 Q Now did these appear to you to be relatively recent
20 injuries or --

21 A Because of the color of the bruise we can't say
22 specifically how many hours and days old, but what we know
23 is the red purple patterns of injury are usually within
24 the first 24, 48 hours after the injury has occurred.
25 What happens when you have a bruise is that means that a

Sw - K. Saunders - Direct

1 blood vessel under the skin had ruptured and the blood
2 components begin to separate. As the blood components
3 separate and they're re-absorbed through the skin and
4 other properties of the body that helps eliminate the
5 bruise, those properties break down and it causes the skin
6 to actually change colors. And we know depending on the
7 area of the body, the amount of fat to the body, the blood
8 supply to that area of the body where there has been
9 injury, the colors may change faster or slower. But what
10 we do know is that red/purple is the first color we see
11 with injuries in that the colors begin to change in about
12 24/48 hours.

13 Q All right. Next picture?

14 A And this again is State's Exhibit 5(b), the left side
15 of her face. And you can see the linear pattern of
16 sparing with the bruises superimposed on the left side of
17 the face.

18 Q Next?

19 A 5(a), again, just another profile picture of the area
20 of sparing with the superimposed areas of bruising.

21 Q Okay. Next picture?

22 A This is State's Exhibit 6(b). She has an injury here
23 that is healing, a little scarred kind of raised area of
24 injury here with a nonspecific kind of pattern to that
25 injury.

Sw - K. Saunders - Direct

1 Q Next?

2 A This is State's Exhibit 6(a), and what you see here is
3 right in the middle of the thigh area is kind of a red
4 purply pattern of bruise with a linear presentation. And
5 usually when we see linear patterns of presentation it's
6 with objects like belts or rulers or something that has
7 kind of a two-ended side to it that causes a line above it
8 and below it to inflict the pattern of injury.

9 Q Next.

10 A State's Exhibit 7(b). And it just -- here's a little
11 different profile of the linear pattern of injury that's
12 present in this area.

13 Q Next?

14 A This is State's Exhibit 7(a). And you can see under
15 her armpit right there the axilla area, an area of
16 abrasion, and kind of has like a crescent moon shaped
17 pattern and we see that when maybe a fingernail or
18 something of that nature was used. And certainly as
19 children are often picked up under their armpits it can
20 cause abrasions with that similar pattern of presentation
21 so that's...

22 Q Next?

23 A That would be State's Exhibit 8(b), again, the more
24 crescentic pattern moon shaped pattern of injury under the
25 right armpit.

Sw - K. Saunders - Direct

1 Q Next?

2 A State's Exhibit 8(a), again, the right armpit showing
3 the pattern of injury that's present.

4 Q Next.

5 A State's Exhibit 9(b). Actually, it's the right side of
6 her face. You can see the sparing of the skin here with
7 the bruise kind of in the middle of the area against
8 sparing to this other side or to the more lateral side of
9 her face and a little paint area of bruising that's moved
10 up under a portion of the right eye.

11 Q Next?

12 A State's Exhibit 9(a), again, the sparing, the bruising
13 and the sparing with bruising there and just a little area
14 of bruising up under the right eye. And then again, the
15 ear, you can appreciate the bruising above and below the
16 bottom parts of the ear.

17 Q Next?

18 A State's Exhibit 10(b). A loop pattern injury kind of a
19 red/purple color injury here kind of looped shape. You
20 can see it has like a C-like pattern of injury there. See
21 again with the end of a bell or some type of cord object
22 that may be folded that is consistent with that inflicted
23 type pattern of injury. State's Exhibit 10(a), just
24 another angle, another picture of the loop pattern injury
25 that's there on the inner part of the lower leg.

Sw - K. Saunders - Direct

1 This is -- this is actually part of the genital
2 evaluation, State's Exhibit 11(b). Just looking kind of
3 external to the body or more superficial to the body that
4 is the anal opening. You can see that the yellow stuff in
5 there is fecal soiling of the child to the left and right
6 lateral walls are the lateral folds of skin. Still
7 external to the genital or the rectal area is marked
8 bruising and redness probably one to two sonometers
9 outside of the rectal muscle or the rectal tissue actually
10 which would be in this area.
11 Q All right. What would be some of the likely causes of
12 this?
13 A Just looking at this there could be multiple causes per
14 anal irritation. Just pressure against the walls, the
15 external walls or folds of skin. And I think as we move
16 on it will become more definitive to the concern.
17 Q All right.
18 A State's Exhibit 10(a), again, just another picture
19 looking at the bruising kind of on the external folds of
20 skin around the perianal tissue. State's Exhibit 12(b)
21 you can see on the right butt cheek, if you will, kind of
22 to the hip area, even extends a little to the hip. And an
23 area of erythema, which is just redness, which represents
24 a bruised area of skin that was warm to touch when you
25 would put your hand against it just from the swelling and

Sw - K. Saunders - Direct

1 the bruising and the reaction to the skin, kind of a
2 generalized pattern of redness but then you see more
3 specifically going down the leg part linear patterns of
4 red, kind of purple bruises, just numerous or several
5 going along the side of the leg which would represent
6 inflicted injury.

7 Q All right. Next?

8 A State's Exhibit 12(a), again, pictures of the linear
9 pattern bruises on the side of the leg. Looks like there
10 could be a loop pattern injury present in there as well,
11 but with the linear pattern kind of going up the leg.

12 That is State's Exhibit 13(b), again, the right leg,
13 pattern of injury around the buttocks area extended into
14 the hip and then down on the leg, the linear pattern and
15 the loop pattern right in that area down almost to the
16 complete knee.

17 Q Next?

18 A State's Exhibit 13(a), again, the redness around the
19 perianal – or around the buttocks area, and you kind of
20 see a different pattern of injury right in here that lends
21 itself more to a linear pattern. And then as you go down
22 the leg, the loop pattern injury and then the linear
23 pattern and that kind of follows suit beside that.

24 Q All right.

25 A State's Exhibit 14(b), again, the linear patterns of

Sw - K. Saunders - Direct

1 injury that you see here on the side of the leg. And then
2 the buttocks would be at the other end.

3 Q Next?

4 A The linear pattern of injuries and redness, again, to
5 the right leg. I think you just see this as a repeat
6 picture kind of, again, looking at all of the linear
7 patterns of injury with several loop patterns that may be
8 also present.

9 Q Just go on to the next picture.

10 A State's Exhibit 14(a), you can see the patterns of
11 injury on the top of the right thigh area, the linear
12 pattern injuries present. Looks like there's at least two
13 lines there, possibly a third line, representing that of
14 what you would see with a belt or a linear type object
15 being struck against the leg.

16 Q Okay. Next?

17 A State's Exhibit 15(b), kind of a standing picture of
18 her and you can see again the right leg, the linear
19 pattern, linear pattern of bruising that's there in the
20 middle of the thigh area.

21 Q Okay. Next?

22 A State's Exhibit 15(a), you can see over each of the
23 ankles little braised areas present. Certainly in the big
24 picture of things those could be concerning for some type
25 of burn injury; however, there was in the history that the

Sw - K. Saunders - Direct

1 child had been wearing some ill-fitting shoes and so that
2 could be a possibility that the shoes may have rubbed
3 against the bones of the ankles causing those injuries.

4 Q Next?

5 A This is in State's Exhibit 16(b). And when we're
6 looking at the perianal area before and looking at the
7 bruising, what you actually saw was the bruises that were
8 more on the outer part of the gluteal fold, and what
9 you'll begin to see is now is how more internally the
10 bruising is and how it runs up through this area called
11 the perineum which extends into the vaginal tissue of the
12 vulva of the little girl here. So what we see is bruising
13 that we saw on the butt cheeks, on the outer folds of the
14 butt cheeks, and now bruising that is extended beyond just
15 the inner folds of the gluteal area.

16 Q Next?

17 A There again you can see the kind of terror in her face
18 and discomfort that she —

19 MS. PARROTT: Objection.

20 THE COURT: Sustained.

21 THE WITNESS: Anyway, the genital area as we move on
22 looking at that, this with your legs open you can see more
23 generously the area of bruising that extends into the
24 vaginal tissue. Again, you can see the bruising not only
25 in the perianal area, the perineum, extending into the

Sw - K. Saunders - Direct

1 vulva but also that showing on the gluteal area or on the
2 buttocks.

3 BY MR. WELLS:

4 Q And that was which picture?

5 A State's Exhibit 17(b).

6 Q Next?

7 A State's Exhibit 17(a) is further inspection of the
8 perianal or the buttocks or the rectal opening, and you
9 can see a little bit of laxity around the opening, the
10 wrinkles or puckers in the muscle of the peritoneum where
11 there had also been some fecal soiling and then the deep
12 bruising. And when we see that with a little bit of
13 rectal laxity where the muscle is not tight and deeply
14 closed, what this most often resembles is that there has
15 been an attempted penetration causing the muscle to relax
16 or to spread open and then from the blood vessels that lie
17 just inside this rugae, or the fold of muscle, you begin
18 to see bruising kind of that separates or disseminates out
19 distally.

20 The other thing that you can see, this profusion or
21 kind of spread diffused bruising is when the pressure
22 placed against the fold of that skin so that once they try
23 to attempt the insertion of an object into the rectum and
24 they're not successful they may go against the fold of
25 skin applying pressure causing bruising external to the

Sw - K. Saunders - Direct

1 skin in this diffused fashion. That's probably several
2 sonometers away from the perianal opening.

3 Q When you say perianal opening, that would be the rectal
4 area?

5 A That's right, her buttocks or the rectum.

6 Q Next picture?

7 A Then you have the diffusion or the widespread bruising.
8 This is again the rectum, the laxity, the little laxity at
9 the top and some at the bottom and then as —

10 Q Let me stop you. When you say laxity what exactly do
11 you mean?

12 A Kind of an opening or relaxation of the rectum muscle.

13 Q All right. Go ahead. This is which picture?

14 A It is 18(a).

15 Q Go ahead.

16 A And then if you could zoom it back out where it's a
17 smaller picture you can see the bruising. This is at the
18 tip of the vaginal opening right at the base of the
19 vaginal area opening, the area called the perineum that
20 divides the vagina from the rectum. You can see the
21 diffused bruising that is also — or the widespread
22 bruising that's also present in that area.

23 Q Next picture?

24 A This is State's Exhibit 18(b). This is actually taking
25 a look inside the vagina of ^{child} And what

Sw - K. Saunders - Direct

1 you see here, just for landmark purposes, is where the
2 purple glove is at it is holding the external folds of
3 skin, that if you just look at her body you would see the
4 external folds. In separation so that we can see this
5 area inside, what you see is the labia minora in this area
6 and then here is the clitoral hood right up in here.
7 Tucked under is a tiny pinpoint opening called the urethra
8 where she voids or excretes urine through. This tissue in
9 here is called the hymen, that tissue that some people
10 refer to as the cherry, the virginal ring. This is a very
11 protected structure. I don't know if you can appreciate
12 the three -- or the lack of the three dimensional view
13 that the photograph is not able to give you. But this is
14 a cup-like shelf and it acts as a protector to this skin
15 that's inside the -- behind the folds and flaps of skin.
16 And if you think about this area as your tonsils or the
17 thing that hangs down in the back of your throat, you go
18 through your lips, down your tongue, beside your cheeks,s
19 before you hit your tonsils. And you kind of do that with
20 the skin. There's flaps of skin on the outside, folds of
21 skin, vestibule walls on the inside, then you go through
22 the labia minora and then the lateral walls of the hymenal
23 tissue and then that area is recessed back inside the body
24 several sonometers.

25 Now what we see here is a very significant injury.

Sw - K. Saunders - Direct

1 It's bruised; it's red. It almost looks like it wants to
2 bleed. It's so raw, if you will. When we see these
3 injuries it is related to some type of penetrating injury
4 because we know it doesn't sit on the outside of our body
5 like our nose or our lips do. It's a very protected
6 structure so something has to go inside the body to cause
7 injury to this area.

8 Q Next?

9 A This is State's Exhibit 19(a), again, just looking at
10 this injury to the hymenal tissue which extends from the
11 base at like 6:00 around to about the 9:00 position. What
12 you also see here is this area called the fossa. There is
13 significant bruising, kind of petechial bruising, which
14 just means pinpoint bruising that has also -- or injury
15 that has also resulted in bruising, kind of a red purple
16 bruising to this little cup structured area. This is just
17 looking at the area under different types of lighting, and
18 you still can appreciate the bruising that is present in
19 this area and down in the little cup-like structure area.

20 And this is State's Exhibit 20(b). Again, looking
21 at it the hymenal tissue, the bruising that is present
22 here, the avascularity which says to me there was a little
23 more significant injury right here at this point of impact
24 that has already started healing. Appears to be some type
25 of degranulation of tissue so this was a little deeper

Sw - K. Saunders - Direct

1 bruise or abrasion or a rip in the skin at this point as
2 opposed to this area right in here and still see the
3 little pinpoint hemorrhages that are present in the little
4 cup-like structure.

5 Q Next one?

6 A State's Exhibit 20(a), and what I was looking at here
7 was just the external characteristics of the outside of
8 the body for any injuries or bruising to this area.

9 Q Okay. Now so far as this vaginal area did it appear
10 that these had been relatively recent injuries or at the
11 time you examined?

12 A Yes, sir, just because of the coloring that was present
13 in the re-granulation of the tissue. In young girls,
14 girls that have not started their periods but still under
15 the age of like three or four, the hypothalamic pituitary
16 system, which is a big word to say a part of the brain, is
17 still kicking in from the transfer of maternal hormones at
18 birth. So they have a little bit of estrogen still on
19 board, progestogen still on board, from the influence of
20 their mother's system from birth. And that causes rapid
21 healing of tissue when there is injury; and when I say
22 rapid, most of the time when you see significant injuries
23 in little girls of this age or under the age of three or
24 four, injuries heal within about a week to ten days.
25 Given the color and consistency of the injuries that were

Sw - K. Saunders - Direct

1 present both in her vaginal and then perianal or butt
2 area, those certainly would be recent injuries of just a
3 few days and certainly less than a week.

4 Q And based on your observations of the vaginal and anal
5 areas do you have an opinion as to whether or not there
6 appeared to be actual penetration of the child's vaginal
7 area?

8 A The findings are consistent and diagnostic of
9 penetrating injuries.

10 Q All right. Of course there's no way to determine what
11 could have penetrated the child; is that correct?

12 A That is true.

13 Q So Kathy, I think just one final question. So based on
14 your examination of the child what would be your opinion
15 as to whether or not the child had been sexual assaulted
16 and/or physically abused or both?

17 A That the findings of this exam are consistent with and
18 diagnostic of acute inflicted non-accidental physical and
19 sexual assault abuse injuries.

20 Q Thank you. If you would answer any questions
21 Ms. Parrott has.

22 MS. PARROTT: Thank you.

23 **CROSS-EXAMINATION**

24 BY MS. PARROTT:

25 Q Ms. Saunders, how long have you been working at the

Sw. - K. Saunders - Cross

1 Care House now?

2 A The Care House opened in December of 2005 so almost
3 soon to be five years.

4 Q And before that you were with the Durant Center, right?

5 A Actually I was an employee of McLeod Regional Medical
6 Center and was stationed at the Durant Center.

7 Q Okay. And how long ago were you there doing that?

8 A From October of '95 until the Care House opened.

9 Q So it's safe to say basically the last 15 years of your
10 life there is dealing with children and doing assault
11 cases is what you've been doing, correct?

12 A That is correct.

13 Q And whenever you do this you basically are preparing
14 for court if you see there is a case that could possibly
15 go to court, correct?

16 A Well, actually we're doing a medical evaluation to
17 insure the safety and wellbeing of the child first and
18 foremost.

19 Q But you do all of these forms as part of this workup
20 and take all those pictures to help support whatever
21 conclusion you draw, correct?

22 A Well, I think it's just to validate just as if any time
23 you go to a medical practice for any illness there's gonna
24 be documentation of your medical findings, whether it be
25 through labs, through photographs or x-rays, so really my

Sw. - K. Saunders - Cross

1 different -- my work is really no different in that it's
2 just substantiating my medical findings and documenting
3 any injury, if any, are present.

4 Q But the difference is not -- is whenever you go to a
5 doctor or I go to a doctor I'm not necessarily looking at
6 whether or not there was anybody's intent or criminal act
7 or possibly criminal act behind it like you are possibly
8 looking at for your cases, correct?

9 A Well, I think as a medical provider we all stand to the
10 point of litigation whether it be medical malpractice or
11 documentation of child abuse findings.

12 Q But again, you're helping law enforcement. In fact,
13 you ask that they be present during these evaluations;
14 don't you?

15 A They're actually not present during the medical exams,
16 only myself and my medical assistant. And if the child
17 requests a parent or guardian present they can be present.

18 Q Okay, but your forms as well as if they do an interview
19 reflect law enforcement presence; do they not?

20 MS. PARROTT: Your Honor, permission to approach.

21 THE COURT: Yes, ma'am.

22 THE WITNESS: It just -- on this form, if you will, it
23 is a sexual assault examination protocol that's issued by
24 the State Law Enforcement Division SLED, and it asks a lot
25 of demographic information. And one of the pieces of

Sw. - K. Saunders - Cross

1 information that she is asking me about, it says who is
2 the law enforcement agency and who is the law enforcement
3 officer, along with the child's date of birth, who the
4 guardian of the child is so it's just so that the proper
5 law enforcement agency receives the evidence kit is why
6 that documentation is there. It does not necessarily mean
7 that she is present or the investigator is present for the
8 evaluation.

9 Q But it is law enforcement that's being referenced
10 because law enforcement is on this case, particularly
11 Michael Robinson, correct?

12 A That is correct.

13 Q And there would be an evidence kit because of a
14 criminal case, correct, or possible criminal case?

15 A Well, there is an evidence kit to collect any evidence
16 that may be present and those are only initiated if it is
17 believed or can be documented that the assault has
18 occurred within 27 hours of the exam. If it's been beyond
19 the 72 hour period there is no evidence kit that we use
20 like that was used in the case of ^{child}

21 Q But you hope to get any child within your care and into
22 your office of into the Care House within 72 hours of what
23 you would consider to be abuse, correct?

24 A Certainly that is helpful; but we know in the field of
25 child abuse and for those of us that have worked in child

Sw. - K. Saunders - Cross

1 abuse and know the child abuse literature, that most often
2 children wait weeks, months, and sometimes even years
3 later to disclose that the abuse has occurred. So in the
4 big scheme of things we do very few evidence collection
5 kits on a day-to-day basis because most children do not
6 readily disclose the abuse.

7 Q Did you not interview or have this child interviewed
8 because she was two years old?

9 A She was not interviewed because under the age of about
10 three or four the cognitive development or the brain
11 development of a child is not in tact to have the language
12 skills to describe exactly what has happened to them.

13 Q So this is all solely your observations by doing your
14 medical examination as part of your protocol here,
15 correct?

16 A No. Actually, I obtained a history from the mother
17 prior to seeing the child; and as with any health care
18 provider that's what we do, is we obtain a history of the
19 illness or while you're coming to the office and then
20 render the medical exam with diagnostic tests and an
21 opinion so it was not based solely on the medical
22 findings.

23 Q But you're doing a pelvic examination not based on what
24 mom is saying has happened but what based upon what you
25 see, correct?

Sw. - K. Saunders - Cross

1 A In the history by the mother she did report that the
2 child had began to walk funny a few days prior and again
3 on Sunday, and that there was an admission to hitting the
4 child to the legs and also was noted about the facial
5 bruising. So it did warrant a full medical evaluation of
6 this child.

7 Q Which included at least 40 pictures that you presented
8 here today?

9 A It did.

10 Q Okay. You stated that you found the bruises and
11 described them as red and purple and that the bruises can
12 age differently based on the child, correct?

13 A That is correct.

14 Q Red and purple you say though also was something you
15 believe to have happened within 24 to 48 hours?

16 A That is correct.

17 Q You can't be more specific than that?

18 A No, I cannot.

19 Q And in fact, if the child — the child may heal
20 differently it could have been even longer than that 48
21 hours?

22 A Typically most of the research accentuates that the
23 inflammatory reaction that causes the redness and then the
24 breakdown of the red blood cell, that usually that will
25 occur within the 24/48 hour period. Are there either any

Sw. - K. Saunders - Cross

1 variables that may effect that? Certainly there could be
2 extraneous to this case, but that is the more typical time
3 frame that you see the patterns of injury or the color of
4 injury.

5 Q Okay. You're -- you mentioned also the injuries were
6 consistent with what you would describe as different forms
7 or what you believe to have caused those things. You
8 can't say to a reasonable degree of certainty that that is
9 what caused that act or what caused that bruise, can you?

10 A The specific object we know just through research and
11 through my own general practice of seeing thousands and
12 thousands of children with inflicted injuries, that when
13 you see specific patterns to the injury, more likely than
14 not that is the object that caused the injury.

15 Q But to a reasonable degree of certainty -- I'm sorry.
16 To a reasonable degree of certainty you can't say
17 specifically this is what caused it?

18 A I cannot.

19 Q Thank you. You also mentioned there's one that was up
20 under the armpit. You mentioned something about that
21 that's fairly common for children to get or could possibly
22 get that from just being picked up under their armpit; is
23 that correct?

24 A That is correct.

25 Q So that could be just something where they picked the

Sw. - K. Saunders - Cross

1 child up maybe a little bit too quickly, something like
2 that, that doesn't necessarily mean abuse, does it?

3 A Not necessarily, absolutely.

4 Q And there were places around her ears or something like
5 that. Did you absolutely rule out the possibility of the
6 child falling and hitting her head?

7 A Certainly you can see that, but when you see the other
8 patterns of injury that are present on her body with the
9 patterns to the injury that were there of that of a
10 handprint, taking into consideration the hand span and the
11 patterns to the injury, the more likely cause is that it's
12 part of the inflicted injury to the sides of her face.

13 Had it been one side of her face that was injured you may
14 could support an accident; but when it's both sides of her
15 face it's not as likely, especially with the presence of
16 all the other injuries on her body.

17 Q But you can't say exactly, can you?

18 A I can say that the patterns to the injury were
19 consistent with that of a handprint.

20 MS. PARROTT: Nothing further, Your Honor.

21 THE COURT: Anything on redirect?

22 MR. WELLS: Just a couple of -- three things really.

23 **REDIRECT EXAMINATION**

24 BY MR. WELLS:

25 Q One thing she asked you, in a child like this is

Sw - K. Saunders - Redirect

1 anything actually collected like blood sample or anything?

2 A In the evidence kit?

3 Q Right?

4 A Yes, sir, there are.

5 Q So you did collect blood sample and turn it over to law
6 enforcement?

7 A Just one moment. Yes, the two tubes of blood that are
8 requested, one is for the DNA comparison and the other is
9 for toxicology which means any drugs that may be present
10 in her body. Those were collected. As well as I also did
11 HIV testing and a metabolic panel just to screen for any
12 possibility of any internal injury that may have resulted
13 from the physical abuse.

14 Q And when you examine so many children over the years,
15 of course are there a number of times you examine a child
16 and not find evidence of sexual injury?

17 A Absolutely, and that is more common the case that
18 probably 90 to 95 percent of the children that I see for
19 sexual abuse allegations their exam are completely normal.
20 And part of that is believed because of the delayed
21 disclosure of the child; they wait so long to tell about
22 the abuse. The other is, that the body can heal and heal
23 itself to completely normal so that leaves no evidence of
24 injury. And the other part is, is that often when
25 children are abused, people who are sexually abusing these

Sw - K. Saunders - Redirect

1 children know that if something goes into the body and
2 causes injury I will be called immediately. So instead of
3 going into or intrusive into the body they may go against
4 the body or ever so slightly into the body cavity,
5 therefore, not rendering significant injury or injury that
6 heals very quickly. So all of those elements kind of
7 coupled together; and if you have the opportunity to read
8 any of the research literature, it supports that, that
9 most often sexual abuse cases are within normal findings
10 and lack substantial physical evidence to confirm the
11 abuse.

12 Q All right. And so what you did collect was then turned
13 over to law enforcement to, I believe, Officer Robinson;
14 is that correct?

15 A Actually I believe one of the crime scene techs picked
16 it up. I've got that documentation in our records. It
17 was actually released to Scott Hardy.

18 Q All right. And finally, Kathy, so as I understand
19 where you cannot say exactly what caused the injuries,
20 what you can say is you found there was a penetration; is
21 that correct?

22 A Right, and physical abuse inflicted injuries to the
23 child.

24 Q All right. That's all.

25 MS. PARROTT: Your Honor, I'm sorry, very briefly.

Sw - K. Saunders - Recross

RE - CROSS EXAMINATION

1

2 BY MS. PARROTT:

2

3 Q You were just asked about some tests that you collected
4 blood for, those sort of things. What were the results of
5 those?

3

4

5

6 A The two tubes that go in the evidence kit, the
7 toxicology and DNA, I do not receive those results. Those
8 go straight back to law enforcement, the investigative
9 party through law enforcement. The HIV test that I
10 collected, those tests results were negative. And the
11 metabolic panel, those labs were all within normal ranges.

6

7

8

9

10

11

12 Q Thank you.

12

13 THE COURT: All right.

13

14 MR. WELLS: Nothing further.

14

15 THE COURT: Thank you very much, ma'am. You may step
16 down.

15

16

17 MR. WELLS: Any objections that she be excused?

17

18 MS. PARROTT: None, Your Honor.

18

19 THE COURT: Thank you very much, Ms. Saunders.
20 You may be excused, Ma'am.

19

20

21 THE COURT: You may call your next witness.

21

22 MR. WELLS: I'll have to -- since the witnesses have
23 been sequestered, take a ten minute recess.

22

23

24 THE COURT: Let me just take a short break because
25 we've been going since earlier. Ladies and gentlemen, I'm

24

25

1 gonna ask if you would step into your jury room. Please
2 have no conversation about the case. We're gonna take
3 just a short little recess and start back in a few
4 minutes.

5 (WHEREUPON, the jury was removed from the
6 courtroom at 4:00 p.m., and the following proceedings
7 commenced in open court.)

8 THE COURT: All right. We'll take just a few minutes.

9 (WHEREUPON, a recess was taken from the proceedings.)

10 THE COURT: Ready to proceed then?

11 MR. WELLS: Yes.

12 THE COURT: Defense ready?

13 MS. PARROTT: Yes, Your Honor.

14 THE COURT: Ask the jury to come back out, Ms. Joe.

15 (WHEREUPON, the jury was returned to the courtroom at
16 approximately 4:20 p.m., and the following proceedings
17 commenced in open court.)

18 THE COURT: All right, ladies and gentlemen, if you
19 recall, when we took the break we were on the State's case
20 and we recognize Mr. Wells for his next witness.

21 MR. WELLS: All right. I call to the stand Shante Kent
22 Clarke.

23 DEPUTY CLERK OF COURT: If you would come to the
24 witness stand, ma'am. Place your left hand on the Bible,
25 raise your right hand.

Sw - S. Clarke - Direct

1 WHEREUPON,

2 **SHANTE KENT CLARKE,**

3 having been duly sworn by the Deputy Clerk of Court,

4 testified as follows:

5 THE DEPUTY CLERK OF COURT: Please be seated in the
6 witness chair. State your full name for the record.

7 THE WITNESS: Shante Kent Clarke.

8 **DIRECT EXAMINATION**

9 BY MR. WELLS:

10 Q Thank you, Ms. Clarke. Ms. Clarke, first, what is your
11 relationship to the victim in this case, ^{child}

12 A Her mother.

13 Q And back in July of 2006 how old was ^{child} at that
14 time?

15 A Two.

16 Q And who is the father of ^{child}

17 A Christopher.

18 Q All right, the defendant in this case?

19 A Yes.

20 Q Now since that time in 2006 have you gotten married to
21 another person?

22 A Yes.

23 Q And who is your present husband?

24 A Monte Clarke.

25 Q All right. In fact, is that this man seated back here?

Sw - S. Clarke - Direct

1 A Correct.

2 Q And where do you live now with him?

3 A In Durham, North Carolina.

4 Q Are you going to school there?

5 A Yes, sir.

6 Q And where are you going school, what are you studying?

7 A I'm going to Durham Tech for medical assistant.

8 Q And going back, is it correct you did get in trouble on
9 one occasion 2007 where you had a conviction of forgery
10 and put on probation?

11 A Yes.

12 Q All right. Now going back to July 2006 did you and --
13 did you and the defendant Christopher McLeod actually ever
14 live together?

15 A No.

16 Q Now who were you living with back at that time period?

17 A Me and my kids.

18 Q And how many children did you have?

19 A Three.

20 Q All right. ^{child} was one of them; is that correct?

21 A Correct.

22 Q All right. Now did you let the defendant Chris McLeod
23 see or keep ^{child} whenever he wanted to?

24 A Yes.

25 Q And was that also the case with his sister Niosha

Sw - S. Clarke - Direct

1 McLeod?

2 A Yes.

3 Q Now was it very often that usually that he would keep
4 child

5 A No.

6 Q All right. Now how was it that it was arranged for him
7 to keep^{child} during this time period back in July of
8 2006?

9 A 'Cause he came in town for work and he wanted to keep
10 her.

11 Q All right. So he was kind of between jobs at the time?

12 A Yes.

13 Q And where was he going to keep her, at whose residence?

14 A At Niosha.

15 Q At Niosha's residence?

16 A Yes.

17 Q And about -- did you -- about how long was he to keep
18 her, what arrangements was made as far as what period of
19 time?

20 A The weekend.

21 Q I'm sorry?

22 A The weekend.

23 Q All right. About how long did he actually end up
24 keeping her?

25 A Three days. I think three days.

Sw - S. Clarke - Direct

1 Q All right. You're not sure exactly how long it was?

2 A I'm not sure.

3 THE COURT: Ms. Clarke, if you could, I need you to
4 speak up a little bit louder. Ms. Ray is having to take
5 down everything and you're soft spoken. It's kind of hard
6 to hear, okay? Thank you.

7 BY MR. WELLS:

8 Q Okay. And this may sound like a dumb question but for
9 juris dictum purposes of this statute, back in July of
10 2006 was the defendant Christopher McLeod a person over
11 the age of 14 years?

12 A Yes.

13 Q About how old was he at that time?

14 A 20.

15 Q About 20? Okay. Now at that time when ^{child} was
16 only two years old was she able to say very much?

17 A No.

18 Q What were the main words she could say?

19 A Momma, daddy, love, eat.

20 Q Things like that?

21 A Yes.

22 Q All right. Had you ever heard her say a bad word?

23 A No.

24 Q Now after the defendant had kept ^{child} tell us the
25 circumstances in which you first saw ^{child} again on

Sw - S. Clarke - Direct

1 July 24th, 2006.

2 A She was walking slowly so I ---

3 Q First, how did you come back in contact with her? Did
4 anybody bring her to you?

5 A Yes.

6 Q Who did? Who brought her to you?

7 A Niosha.

8 Q Niosha, his sister?

9 A Yes.

10 Q And did she bring her to you at your residence?

11 A Yes.

12 Q And what was the first thing you noted about her that
13 didn't seem quite right?

14 A She was walking slowly.

15 Q Different from normal?

16 A Yes.

17 Q As a result of that and after talking to Niosha did you
18 do any kind of examination of her?

19 A Yes.

20 Q What did you do?

21 A I checked her.

22 Q All right. And what, if anything, did you notice
23 immediately?

24 A She had bruises on her vagina area and her butt area.

25 Q All right. Now did either of you talk -- call law

Sw - S. Clarke - Direct

1 enforcement?

2 A Yes.

3 Q And who was that, you or Niosha?

4 A Niosha.

5 Q All right. And were y'all to meet law enforcement at a
6 certain place?

7 A Yes.

8 Q And where was that?

9 A At Niosha's house.

10 Q Okay. And so back there did y'all talk to law
11 enforcement about the child?

12 A Yes.

13 Q And was a representative from Social Services brought
14 in too?

15 A Yes.

16 Q As a result of that was there an arrangement made for
17 the child to be examined by Kathy Saunders at I believe
18 First Choice at that time?

19 A Yes.

20 Q All right. And then was the child taken into custody
21 by DSS?

22 A Yes.

23 Q All right. Answer any questions that defense counsel
24 may have.

25 THE COURT: Ms. Parrott.

Sw - S. Clarke - Cross

CROSS-EXAMINATION

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BY MS. PARROTT:

Q Do you recall when the last time you saw Niosha was
before July the 24th?

A Ma'am?

Q Do you know what date it was that you last saw Ni-- no
Niosha, I'm sorry, ^{child} before July 24th?

A No, ma'am.

Q Okay. And you're not sure exactly how long Christopher
had ^{child} that time?

A No, ma'am.

Q But you're the one who made arrangements about him
getting the child, correct?

A Yes.

Q This was something that you would do a lot with Niosha
or Christopher's sister is to let her have ^{child} for a
little while and take care of her?

A Yes.

Q And in fact, Niosha would even help you buy pampers and
stuff for little ^{child} right?

A Yes.

Q And maybe even food if you needed some help or
something like that?

A Yes.

Q So you and she had a pretty good relationship as far as

Sw - S. Clarke - Cross

1 taking care of^{child}

2 A Yes.

3 Q And you didn't have a problem with Christopher seeing
4 the child, did you?

5 A No.

6 Q No concerns about her safety?

7 A No.

8 MS. PARROTT: Nothing further, Your Honor.

9 THE COURT: Anything further?

10 MR. WELLS: That's all. She can come down.

11 THE COURT: Thank you, Ms. Clarke, you may step down.
12 Thank you.

13 THE WITNESS: You're welcome.

14 MS. PARROTT: Can we have her on stand by?

15 MR. WELLS: Yeah, she can stay in the courtroom.

16 Get Niosha McLeod, will you?

17 (Attorneys confer.)

18 THE COURT: Ms. Parrott, did you need me for something?

19 MS. PARROTT: No, sir, I just -- I actually related to
20 Mr. Wells I had no problem releasing Ms. Clarke from the
21 subpoena.

22 THE COURT: All right.

23 DEPUTY CLERK OF COURT: If you would, ma'am, go to the
24 witness stand. Place your left hand on the Bible, raise
25 your right hand.

Sw - N. Williams - Direct

1 WHEREUPON,

2 **NIOSHA RENEE WILLIAMS,**

3 having been duly sworn by the Deputy Clerk of Court,

4 testified as follows:

5 **DEPUTY CLERK OF COURT:** Please be seated in the witness
6 chair and state your full name for the record

7 **THE WITNESS:** Niosha Renee Williams.

8 **THE COURT:** All right, sir.

9 **DIRECT EXAMINATION**

10 **BY MR. WELLS:**

11 **Q** Ms. Williams, what is your relationship to the
12 defendant Christopher McLeod?

13 **A** I'm his sister.

14 **Q** All right. And you were subpoenaed here to court by
15 the State; is that correct?

16 **A** Yes.

17 **Q** Now looking back in July of 2006 at that time were you
18 still single?

19 **A** Yes.

20 **Q** And when did you get married? It's been since that
21 time?

22 **A** Yes, it was September of '06.

23 **Q** Now at that time where were you living back in
24 July 2006?

25 **A** In Memorial Gardens.

Sw - N. Williams - Direct

1 Q Is that on Coker Street?

2 A Yes.

3 Q And was this an apartment that originally your mother
4 had stayed in?

5 A Yes.

6 Q And then after she died you continued to live there; is
7 that correct?

8 A Right.

9 Q And at the time were you the only person normally
10 living there?

11 A Yeah.

12 Q Now how was it that back in during that time July of
13 2006 that your brother Christopher McLeod came to stay
14 with you for a while?

15 A He had been at the beach, and I think he had got laid
16 off or something and he had came to stay with me for a
17 couple of weeks until he got his job back.

18 Q Okay. Now was there some type of arrangement made as
19 far as him keeping ^{child} Well, let me ask you first,
20 did he have a daughter?

21 A Yeah.

22 Q And what was her name?

23 A ^{child}

24 Q All right. And how old was she at that time about?

25 A Two.

Sw - N. Williams - Direct

1 Q Okay. Now was there arrangement made for him to keep
2 child for a while over at your residence?

3 A While I worked he kept her.

4 Q Okay.

5 A And whenever I was out he kept her.

6 Q And when were you working at that time during that
7 week?

8 A When?

9 Q Yeah, I mean, how -- when were you going to work during
10 that week? Weren't you going to work five in the morning?

11 A I think so. I can't remember. I believe so.

12 Q And you had worked for what, eight hours or so?

13 A Yeah.

14 Q All right. So basically the child would stay with him
15 while you were gone?

16 A Right.

17 Q Now about how long did y'all keep the child during that
18 time period?

19 A I think maybe a week or a little over a week maybe.

20 Q So it was about a week?

21 A Uh-huh.

22 Q Okay. Now how many bedrooms were in that apartment at
23 Royal Gardens?

24 A Three.

25 Q Now did you give Crystal one of the bedrooms to stay

Sw - N. Williams - Direct

1 in?

2 A Uh-huh.

3 Q And that was one of the -- there were what -- were all
4 of them upstairs?

5 A Yes.

6 Q There was one upstairs. Now where was ^{child}
7 staying?

8 A She slept with Chris.

9 Q She slept with Christopher in that bedroom?

10 A There were times where either way she would sleep with
11 me or sleep with him so.

12 Q But normally she slept with him?

13 A Whichever one she wanted to.

14 Q Okay. But some of the nights she stayed with him; is
15 that right?

16 A Right.

17 Q Now so you gave Christopher one of the bedrooms to stay
18 in; is that right?

19 A That's right.

20 Q Okay. One thing I was gonna ask you, was there a
21 blanket in the bedroom that was provided -- that you
22 provided your brother Christopher that had been in there?

23 A Right.

24 Q Now had you had roommates in the past that also used
25 that bedroom and blanket?

Sw - N. Williams - Direct

1 A Uh-huh.

2 Q All right. And it's certainly possible that some of
3 them may have engaged in sexual activities while in there?

4 A Yes.

5 Q With the blanket in the room?

6 A Uh-huh.

7 Q All right. Now during that week were you ever aware of
8 anyone else other than Christopher and ^{child} coming
9 over to your residence?

10 A No.

11 Q Not coming over to your residence?

12 A No.

13 Q Now I believe on that Friday, did you and he have some
14 conversation about his punishment of ^{child} Did you
15 notice anything Friday about thinking that he had punished
16 her too hard?

17 A Oh, yeah, yes, yes.

18 Q What, if anything, happened in that regard on that
19 Friday?

20 A Excuse me?

21 Q What happened that Friday? What had you discussed with
22 him that you had noticed?

23 A She was walking kind of funny, and I asked him, you
24 know, what was wrong and he said that he had spanked her.
25 And I said, you know, I asked him don't you think it might

Sw - N. Williams - Direct

1 have been a bit too hard if she's walking like that, but I
2 can't remember exactly what he said but that was what it
3 was about.

4 Q All right. So he had just admitted to you to spanking
5 her; is that right?

6 A Right.

7 Q Now in particular, on that last Monday, the day -- the
8 last day the child was there --

9 A Uh-huh.

10 Q ---did you and Christopher get into argument that day
11 over^{child}

12 A Yeah.

13 Q Tell us what happened on that occasion.

14 A Well, when I came in from work -- I can't remember
15 exactly; I'm gonna try to give you as much as I remember.
16 But I think they were upstairs or something. She reached
17 for me, and I think he said she had just waken up or
18 something. And he told me not to pick her up, and I asked
19 why, and we just got into a argument so I walked off. And
20 I went downstairs and I think they had come downstairs
21 behind me or I had took her downstairs; I don't exactly
22 remember. But we got into an argument about me getting
23 her, about me picking her up, and he didn't want me to.
24 And that's when he got upset and hit my wall and that's
25 when I called 9-1-1.

Sw - N. Williams - Direct

1 Q All right. So he got particularly angry at that point?

2 A Uh-huh.

3 Q Let me ask you to look at this picture and ask was this
4 the -- where he punched a hole into your wall or door?

5 A Yeah.

6 Q All right.

7 MR. WELLS: I'll go ahead and mark into evidence at
8 this time. Any objection?

9 THE COURT: Any objection to 21?

10 MR. WELLS: We'll mark it for identification at this
11 time.

12 THE COURT: All right. Is this 21?

13 THE COURT REPORTER: 21.

14 (WHEREUPON, State Exhibit No. 21 was marked for
15 identification only.)

16 BY MR. WELLS:

17 Q So anyway, after -- so on that date after he got mad
18 with you over ^{child} that's when he knocked, hit,
19 knocked a hole in the door there?

20 A Right.

21 Q As a result of that did you call law enforcement?

22 A I did.

23 Q All right. Did anyone come immediately?

24 A No.

25 Q So as a result of that what did you then do? Did he

Sw - N. Williams - Direct

1 stay at your residence or did he leave?

2 A He left. At the time I was packing 'cause I was
3 getting ready to go out of town for a couple of days, and
4 he left and I called Shante to let her know I was bringing
5 child home.

6 Q And did you then meet — meet Shante at her residence?

7 A Yes.

8 Q And what happened then at her residence? Did she
9 examine the child?

10 A She did. I told her that I was bringing^{child} home
11 because the way she was acting. And I checked her bottom,
12 you know, and I didn't check her thoroughly 'cause I
13 didn't think there was a need to. And then that's when
14 Shante did and that's when we seen the bruising.

15 Q Where did you see the bruising?

16 A It was in her anal area on up.

17 Q So anal area on up?

18 A Yeah.

19 Q Now after observing that did you call the law
20 enforcement again?

21 A Well, at that time they had called me 'cause they was
22 at my residence and —

23 Q You — I guess you — so you were at your residence
24 then?

25 A Well, I left and they called me before I got back.

Sw - N. Williams - Direct

1 Q Oh, I got you.

2 A And —

3 Q Was that a cell phone you had?

4 A Yeah. And I went back and I told the officer that, you
5 know, I had called for one reason but looking at the
6 situation at with ^{child} it had turned into something
7 different.

8 Q All right. And did y'all then talk — the officers
9 come to the scene, and y'all talked to them and showed
10 them ^{child}

11 A Uh-huh.

12 Q And is it correct then, I believe, the next day then
13 you gave a statement to Investigator Robinson; is that
14 right?

15 A Uh-huh, yeah.

16 Q And told basically what you remembered about it?

17 A Right.

18 Q Let me ask you, what do you remember him saying when he
19 punched the wall? Did he call you or her or child any
20 names?

21 A After he did that and we were — me and ^{child} was up
22 in my room and he did called her out a name.

23 Q What did he call her?

24 A He called her a bitch.

25 Q He called her a bitch. Did he say anything whether he

Sw - N. Williams - Direct

1 wanted to see her?

2 A He said he didn't.

3 Q He said he didn't? Let me ask you, do you remember
4 during that week, was there ever an incident you had
5 problems with him and the child at McDonalds?

6 A Yeah.

7 Q What happened there?

8 A We was at the table eating, and I cannot remember
9 exactly what happened but I was trying to feed her and he
10 was like, he wanted to feed her. And then I don't
11 remember exactly what happened but we did get into a
12 little disagreement at the table.

13 Q Did he call her any name on that occasion?

14 A I can't remember.

15 Q Let me ask you this, after you talked to law
16 enforcement did you sign this form allowing them to make a
17 search of your apartment?

18 A Yeah.

19 MS. PARROTT: Objection, just as previously argued,
20 Your Honor.

21 THE COURT: All right, overruled. Objection is noted.

22 BY MR. WELLS:

23 Q Does this appear to be the form that you signed?

24 A Uh-huh.

25 Q All right. So that would be your signature here?

Sw - N. Williams - Direct

1 A Right.

2 Q Okay.

3 MR. WELLS: Introduce this into evidence.

4 THE COURT: That's 22 in over Defense's objection which
5 is noted.

6 (WHEREUPON, State Exhibit No. 22 was marked for
7 identification and admitted into evidence.)

8 BY MR. WELLS:

9 Q And did you subsequently then allow them to search the
10 residence and take the items they wanted to from your
11 residence?

12 A Yes.

13 Q And did you indicate to them which bedroom that
14 Christopher had been sleeping and which bedroom you slept
15 in and which bedroom nobody slept in?

16 A Right.

17 Q So I believe it was — he was in one bedroom, then the
18 next bedroom is vacant, then you were kind of around the
19 corner; is that right?

20 A Right.

21 Q Just for identification purposes only, you can just
22 mark this for identification. Just look at these. Do
23 these appear to be pictures that law enforcement took from
24 your apartment that appear to reflect —

25 MS. PARROTT: Your Honor, she can't say whether or not

Sw - N. Williams - Direct

1 law enforcement took them but she can say ---

2 BY MR. WELLS:

3 Q Well, let me just say, do they accurately reflect the
4 way your apartment looked at that time back when this
5 occurred July 2006?

6 A Yeah.

7 MR. WELLS: All right. I would just mark these into --
8 marked for identification at this time.

9 (WHEREUPON, State's Exhibits Nos. 23 through 28 were
10 marked for identification only.)

11 BY MR. WELLS:

12 Q Just a couple of more things. On that Friday when you
13 and he had discussed ^{child} or when he got mad, let me
14 ask you, did you ever -- did you ever notice any marks on
15 her back at that time?

16 A I want to say, yeah, I think that's why -- I think
17 that's how the subject came up.

18 Q Because you did see marks when you changed her diaper?

19 A Yeah.

20 Q And that's when he said about spanking her?

21 A Yeah.

22 Q Did he say why he was repeatedly spanking the child?

23 A I don't remember.

24 Q Was the child very verbal at that time? Could she say
25 very much or just a few words?

Sw - N. Williams - Cross

1 A No, just a few words, if that.

2 Q So she was hard to understand?

3 A Yeah.

4 Q Answer any questions Mr. Parrott may have.

5 **CROSS-EXAMINATION**

6 BY MS. PARROTT:

7 Q Ms. Williams, do you go by Niosha?

8 A Yeah.

9 Q Is that what you prefer to be called?

10 A That's fine.

11 Q You had a pretty good -- is it fair to say you had a
12 pretty good relationship with Ms. Kent or the mother of

13 —

14 A Yeah.

15 Q —child

16 A Uh-huh.

17 Q And you were actually helping maybe with the child to
18 buy pampers and maybe even buy food every once in a while
19 if she needed it?

20 A Yeah.

21 Q So you actually had a pretty good interest in being a
22 aunt for this child?

23 A Of course.

24 Q And cared for this child?

25 A Uh-huh.

Sw - N. Williams - Cross

1 Q And did so even when Christopher wasn't staying in the
2 same apartment there with you?

3 A Uh-huh. Yeah.

4 Q All right. I was gonna say -- I'm sorry, but this lady
5 is taking things down so if we could get --

6 A Yeah.

7 Q --the uh-huhs and uh-huhs. And I do it too so don't
8 misunderstand but so you would take care of her even when
9 Christopher wasn't even in the house with you?

10 A Yes.

11 Q And you have been doing that ever-- for how long?

12 A Since she was born basically when I started keeping
13 her.

14 Q And how long would you keep her at a time?

15 A It'd depend on my work schedule, couple of days
16 throughout the week.

17 Q And you said that this time you think you had her a
18 week to maybe a little more than a week?

19 A Probably a little more than a week, yeah, I think so.

20 Q And during that time you were helping take care of her
21 Christopher was taking care of her, but one or the other
22 of you was there with her?

23 A Right.

24 Q Do you remember the child being with Shamar or Nate
25 that week?

Sw - N. Williams - Cross

1 A I remember her being at their house. I don't know who
2 she was with at the time she was there, but I remember her
3 being there at their house.

4 Q And did Christopher come back to your house while
5 child was still over at Shamar's house?

6 A Yeah, he did go.

7 Q Was he with somebody at the time?

8 A He was. I think, if I'm not mistaken, I think it was
9 Nate that he was with.

10 Q That child was with or —

11 A No, that Chris was with when he came to his house.

12 Q But he had left child at the Hamilton's house.

13 A Right.

14 Q While he walked back to his house with you?

15 A Right.

16 Q And so he's not sure exactly what happened to her
17 during that time, right?

18 A Right.

19 Q Okay. And do you remember what night that was on?

20 A I think it was that Sunday night, the night before all
21 of it was found out. I think it was that Sunday night I
22 think.

23 Q Okay. If Monday is the 24th and that's the date on
24 which you're taking her back.

25 A Right, then —

Sw - N. Williams - Cross

1 Q You're saying --

2 A ---it was the 23rd.

3 Q It would have been the 23rd?

4 A Yeah.

5 Q Very good. Had you been working a lot that week?

6 A Yeah, I had been. I think at the time I was working
7 about every day all during the week.

8 Q Did you have any concerns leaving the child there with
9 Christopher while you went to work?

10 A No.

11 Q You knew that he could take care of the child?

12 A Yeah.

13 Q Did you have any concerns for the child's safety --

14 A No.

15 Q --at all? Did you notice any bruising on that child
16 during the week there at any point during the week?

17 A I did, but it might have been -- I think it was -- I
18 don't know exactly when it was, but I did notice it and I
19 brought it to his attention, yeah.

20 Q If Niosha -- back that up. Given that you were buying
21 pampers for this child, that you were feeding this child,
22 you had a relationship with her since birth so for over
23 two years ago now if she needed to go to the doctor you
24 would have taken her; wouldn't you?

25 A Yeah.

Sw - N. Williams - Cross

1 Q And if you would have seen anything that you thought
2 required medical attention you would have taken her;
3 wouldn't you?

4 A Yeah.

5 Q Wouldn't have hesitated?

6 A No.

7 Q Did you see anything at all that week that made you
8 think she needed medical attention?

9 A At the time, no.

10 Q It was enough for you to lecture your brother maybe on
11 how to be a better parent maybe —

12 A Right.

13 Q —right? Is that safe to say?

14 A Yeah.

15 Q You whenever all this occurred, you're the one who
16 actually calls the cops because of you and your brother
17 having some words, right?

18 A Yeah.

19 Q How close in age are you two?

20 A Two years apart.

21 Q So for you two to have some words it's not really that
22 unusual, is it?

23 A No, it's not.

24 Q Whenever y'all had words that day he punched a hole in
25 the wall, or that door?

Sw - N. Williams - Cross

1 A Yeah.

2 Q And you called the police; is that correct?

3 A Yeah.

4 Q They responded and you came back with the child and
5 with Shante, correct?

6 A Yeah.

7 Q Did Christopher come back while the police were there?

8 A He did.

9 Q He returned to the scene without police having to hunt
10 him down?

11 A Uh-huh.

12 Q And that's a yes, correct?

13 A That's yes.

14 Q And do you recall if he was arrested and what was that
15 for?

16 A I don't remember what it was for but he was arrested.

17 Q But there was the charge of vandalism or breach of
18 peace. Does that make —

19 A I think so. Something like that, yeah.

20 Q And you cooperated with law enforcement, correct?

21 A I did.

22 Q And in fact, the next day were you not even taken to
23 police headquarters and questioned about this case?

24 A I was. I did go.

25 Q And that was by one investigator or other officers as

Sw - N. Williams - Cross

1 well?

2 A Just one.

3 Q Okay. Other officers had responded to your house,
4 though, correct?

5 A Yeah.

6 Q Do you know how many?

7 A Well, when the call was made only two came, but when
8 the situation changed I don't remember how many it was
9 that came out there.

10 Q More than four?

11 A Maybe. I can't exactly — I can't say but it was a
12 good bit. It was a few.

13 Q Okay. Less than ten?

14 A It was less than ten.

15 Q Okay. You said this is a three bedroom house?

16 A Uh-huh.

17 Q And were there beds in all three?

18 A Yeah. One of them, one of the rooms it — after
19 roommate had moved out nobody bothered to sleep in there
20 but there were beds in all three.

21 Q And you said that she would — ^{child} would sleep
22 with either you or with Christopher?

23 A Yeah, she always did, never slept by herself when she
24 stayed with me.

25 MS. PARROTT: Beg the Court's indulgence one moment.

Sw - N. Williams - Cross

1 THE COURT: Sure.

2 BY MS. PARROTT:

3 Q How old are you now?

4 A 25.

5 Q Do you have any children?

6 A No.

7 Q So this has basically been a child to you?

8 A Yes.

9 Q And somebody that you love?

10 A Yes.

11 Q As if she were your own, correct?

12 A Yes.

13 Q Would never want anything to happen to her, would you?

14 A Huh-uh.

15 Q And wouldn't allow it if you saw anything during that
16 whole week, correct?

17 A Right.

18 MS. PARROTT: Nothing further, Your Honor.

19 THE COURT: Mr. Wells.

20 MR. WELLS: Just a couple more things.

21 **REDIRECT EXAMINATION**

22 BY MR. WELLS:

23 Q Now on the Sunday night when you said about him taking
24 child over to, I believe you said Shamar's residence,
25 Hamilton family, now did you actually go over in the

Sw - N. Williams - Redirect

1 residence, that residence yourself?

2 A No, he came to -- he came to the house where I was.

3 Q And who came to the house?

4 A Chris came to the house.

5 Q And who came with him?

6 A I think Nate was with him. I can't exactly remember,
7 but I think that's who that was that was with him.

8 Q This would be Shamar's son?

9 A Yes.

10 Q Or actually stepson?

11 A Yeah.

12 Q And you know -- do you know how long that he was away
13 from Shamar's house?

14 A I don't.

15 Q All right. So you went on about other things; is that
16 right?

17 A Yeah, well, it was -- I don't remember what time it was
18 but it was night, and he said that she was there and she
19 was sleeping so I told him to just go ahead and let her
20 stay. Since she was sleeping I didn't want her to --

21 Q So he said that she was sleeping over at Shamar's
22 house? And then after that you don't know when he and
23 Nate went back?

24 A No.

25 Q Now on the final day on the Monday, about what time of

Sw - J. Gregg - Direct

1 day was -- was it early afternoon, 1:30 or so, at the time
2 when he hit your walls and y'all got into it?

3 A I think so. I don't quite remember. I know it was
4 before 3:00.

5 Q All right. Sometime maybe early afternoon?

6 A Yeah.

7 Q All right. That's all.

8 THE COURT: Thank you very much, ma'am, you may step
9 down.

10 MR. WELLS: Your Honor, I've got one real brief
11 witness. It's a officer that's in a private job I'd
12 really like to put up if I could.

13 THE COURT: Sure.

14 MR. WELLS: I call Jay Gregg to the stand.

15 DEPUTY CLERK OF COURT: If you will, sir, place your
16 left hand on the Bible, raise your right hand.

17 WHEREUPON,

18 **JAMES C. GREGG, III,**

19 having been duly sworn by the Deputy Clerk of Court,
20 testified as follows:

21 THE DEPUTY CLERK OF COURT: Please be seated and state
22 your full name for the record.

23 THE WITNESS: James C. Gregg, the third.

24 **DIRECT EXAMINATION**

25 BY MR. WELLS:

Sw - J. Gregg - Direct

1 Q And Jay, back on July 24th, 2006, at that time were you
2 working with the Florence Police Department?

3 A Yes, sir.

4 Q Now subsequently have you left the police department
5 and gone into private business with a private concern with
6 a private company?

7 A Yes, sir.

8 Q Now on that particular day on July 24th, 2006, were you
9 dispatched to [REDACTED] Coker Street Apartment [REDACTED] on a vandalism
10 call originally?

11 A Yes, sir, I was.

12 Q What time do you have -- what time did the call come
13 in?

14 A Call came in at 1:42.

15 Q 1:42 p.m.?

16 A Yes, sir.

17 Q All right. And as a result of that subsequently did
18 you go to the residence?

19 A Yes, sir, I did.

20 Q All right. And one other officer go with you?

21 A Yes, sir, I had a training person with me.

22 Q And what did you find when you got to the residence?
23 Who did you talk to there?

24 A I talked to Ms. Niosha.

25 Q The lady that just testified?

Sw - J. Gregg - Direct

1 A Yes, sir.

2 Q And what did she report at that time?

3 A She reported that her brother had punched a hole in the
4 den closet door.

5 Q All right. And in addition, subsequently, did they
6 show you a child?

7 A Yes, sir.

8 Q What was the discussion as far as the child? Did you
9 observe any injuries on the child?

10 A Actually, we finished up the report. Ms. Niosha asked
11 me if I minded taking a look at the child for a moment and
12 I said I would, and she showed us the -- pulled her diaper
13 off and showed us the baby's rear.

14 Q Did you observe bruises there?

15 A Yes, sir, I did.

16 Q As a result of that what did y'all do?

17 A We called crime scene Investigator Robinson.

18 Q And she subsequently came to the scene and took over?

19 A Yes, sir.

20 Q Did you go ahead at that time and arrest the defendant
21 on the original charge?

22 A Yes, sir, I did.

23 Q Had he left and came back or?

24 A He left and came back, yes, sir.

25 Q All right. And then after that you were not involved

Sw - J. Gregg - Direct

1 in the case any further; is that right?

2 A No, sir, I was not.

3 Q All right. Answer any questions defense counsel has.

4 MS. PARROTT: No questions for officer -- sorry, Jay
5 Gregg.

6 THE COURT: Thank you, sir, you may step down.

7 MR. WELLS: Any objection to his being excused?

8 MS. PARROTT: None.

9 MR. WELLS: Since it's 5:00 now this would probably be
10 a good time to stop.

11 THE COURT: All right, ladies and gentlemen, it's a few
12 minutes to five. We're going to recess for the afternoon.
13 If you recall earlier when I was talking to you I told you
14 that you're not to have any conversation about the case
15 with anyone, and that's not terribly hard to do when
16 you're in and around the courthouse but now you're about
17 to go home and you're gonna be with loved ones and family
18 members and spouses and significant others. And obviously
19 it's expected that they're gonna be curious as to how your
20 day has gone and they're gonna want to know if you've been
21 selected on a case. And you can tell them that you are,
22 in fact, a juror on a case but you really need to let it
23 end there. They're gonna obviously want to know more.
24 But if you would, tell them that you're not allowed to
25 discuss the case, that you can and you will tell them all

Sw - J. Gregg - Direct

1 they want to know, probably more than they want to know
2 when it's all over. But right now they just need to
3 respect the fact that you can't answer any questions. A
4 question as simple as, well what's it about, or what's the
5 person's name, something as innocent as that, if you
6 answer that question -- for example if you say it involves
7 a child abuse or sexual abuse, that very well could
8 illicit a response from somebody. That could very well
9 compromise your ability to be fair and impartial. It's
10 very important that you just -- you can tell them you are
11 a juror on the case, you are not allowed to talk about it,
12 but you will fill them in on everything when the case is
13 concluded and ask them to respect that and then take your
14 evening and enjoy your evening with your family or
15 whatever you intend to do tonight. Put this case out of
16 your mind and just focus on having a nice evening.

17 I would suggest, and you probably have seen from
18 your time here today, jury service is not physically
19 taxing from a muscular standpoint but it is physically
20 taxing from a mental standpoint so to the extent you can
21 get a good night's rest and come in well rested tomorrow.
22 Please do so. When you come in tomorrow I'm gonna ask --
23 I'm gonna ask if you would to be in your jury room at 9:30
24 in the morning. If you come and be ready to -- keep in
25 mind we don't have great parking so please try to get here

Sw - J. Gregg - Direct

1 and so you can be in your jury room at 9:30, and we'll get
2 started as soon as we can get everybody gathered.
3 Okay? So if everybody would please remain in the
4 courtroom. Ladies and gentlemen of the jury, you're free
5 to go.

6 (WHEREUPON, the jury was removed from the
7 courtroom at 5:03 p.m., and the following proceedings
8 commenced in open court.)

9 THE COURT: All right, anything we need to take up
10 before we recess for the evening?

11 MR. WELLS: I assume he would now have to be in custody
12 that he -- the bond has been --

13 THE COURT: Bond has been extinguished.

14 Ms. Parrott, anything from the Defense?

15 MS. PARROTT: Nothing further, Your Honor.

16 THE COURT: All right.

17 (Court adjourned at 5:05 p.m. to be resumed on
18 2010.)

19 THE COURT: Bob, is the State ready?

20 MR. WELLS: We are, Your Honor.

21 THE COURT: Defense ready?

22 MS. PARROTT: Yes, Your Honor.

23 THE COURT: Ms. Joe, if you would ask the jury to join
24 us.

25 ///

Sw - J. Gregg - Direct

1 (WHEREUPON, the jury was returned to the courtroom at
2 approximately 9:50 a.m., and the following proceedings
3 commenced in open court.)

4 THE COURT: All right. Good morning, ladies and
5 gentlemen, I hope everyone had a good evening and are well
6 rested and I appreciate everyone getting here in a timely
7 fashion. I had to take up a matter before we got started
8 with another case so we're a little bit delayed getting
9 started. I appreciate your patience. If you recall
10 yesterday Mr. Wells was continuing in presenting the
11 State's case and so I would recognize Mr. Wells for his
12 next witness.

13 MR. WELLS: All right. We call to the stand Teresa
14 Hamilton, also known as Teresa Robinson.

15 THE COURT: All right, Ma'am, if you will come forward
16 to be sworn.

17 THE DEPUTY CLERK OF COURT: Please place your left hand
18 on the Bible, raise your right.

19 WHEREUPON,

20 **TERESA ROBINSON,**
21 having been duly sworn by the Deputy Clerk of Court,
22 testified as follows:

23 THE DEPUTY CLERK OF COURT: Please be seated. State
24 your name for the record.

25 THE WITNESS: Teresa Robinson.

Sw - T. Robinson - Direct

1 THE COURT: All right.

2 DIRECT EXAMINATION

3 BY MR. WELLS:

4 Q Ms. Robinson, back in July of 2006 at that time were
5 you married to Dale Hamilton?

6 A Yes.

7 Q At that time you went by Teresa Hamilton?

8 A Yes, sir.

9 Q Since that time have you and he divorced?

10 A Yes, sir.

11 Q You've taken back your old name which is the name of
12 your children?

13 A Yes.

14 Q Now back going back to July of 2006 now where were you
15 living at that time?

16 A Defendant's address?

17 Q Yes.

18 A [REDACTED] Oakland Avenue.

19 Q And is that in a apartment complex?

20 A Yes, sir.

21 Q And what is that called?

22 A Oakland complex.

23 Q Now who were you living with at the time?

24 A My husband, myself, and my son and my daughter.

25 Q All right. And what is your -- was your husband's at

Sw - T. Robinson - Direct

1 the time nickname?

2 A Dale Hamilton.

3 Q And was he also called Shamar?

4 A Shamar, yes.

5 Q Okay. And now were your two children, were they
6 probably in their late teens at the time?

7 A Yes, sir.

8 Q All right. They're in their early 20s now?

9 A Yes.

10 Q Now let me call your attention back to the weekend in
11 which would be July 22nd and 23rd of 2006. It would be
12 the weekend before you subsequently talked to law
13 enforcement the next week about the defendant Christopher
14 McLeod. Now prior to that Saturday did you personally
15 know the defendant Christopher McLeod?

16 A No, sir.

17 Q Or did you know personally his daughter^{child}

18 A I know of her but I didn't -- haven't met her.

19 Q All right. Now who in the family would have known the
20 defendant Christopher McLeod prior to that time?

21 A Shamar.

22 Q Did he have some relationship through the mother of
23 child

24 A Yes, sir.

25 Q All right. And so he was related through her; is that

Sw - T. Robinson - Direct

1 right?

2 A Yes, sir.

3 Q And that's how you knew the defendant?

4 A Yes, sir.

5 Q On that particular Saturday did the defendant
6 Christopher McLeod and ^{child} come to your residence?

7 A Yes, sir, they did.

8 Q All right. And did they basically stay there all that
9 day and that evening?

10 A Yes, sir. They did hung around and they stayed that
11 evening and later on.

12 Q All right. Now on that particular day were there other
13 people around your house?

14 A They had -- they were outside. They had some people
15 outside.

16 Q And were those mostly men?

17 A Yes, sir.

18 Q And now who all was mainly in the house during that
19 day?

20 A My daughter and myself mainly and ^{child} would come
21 in and out.

22 Q All right. Now at that time did you allow any of the
23 men to drink alcoholic beverages or smoke cigarettes
24 inside your house?

25 A No, sir.

Sw - T. Robinson - Direct

1 Q So they had to be outside?

2 A Yes, sir.

3 Q Now did you see during that day or evening did you see
4 any problem with ^{child}

5 A No, sir.

6 Q Now did you ever ask the defendant about changing her
7 diaper?

8 A I did when she came in from outside and her -- she
9 looked like her little diaper was heavy so I told her -- I
10 offered to change her diaper and he said that he had
11 changed her diaper. He asked me where was the restroom
12 and I told him, you know, how to get to the restroom
13 upstairs.

14 Q All right. So did you ever see ^{child} alone with
15 anyone that day other than when he took the child up to
16 change her diaper?

17 A No, sir.

18 Q All right. Now did y'all allow him and ^{child} to
19 spend the night at your residence?

20 A Yes, sir, they did.

21 Q And where did they sleep?

22 A They slept downstairs in the living room.

23 Q All right. Did you have a bed for them or did they fix
24 some place on the floor?

25 A I gave them some cover and he fixed a pallet on the

Sw - T. Robinson - Direct

1 floor and they stayed downstairs.

2 Q All right. Now on that day during the day did -- was
3 there any times that ^{child} was in just in the residence
4 asleep?

5 A Yes, sir, it was. At one point during the day it was
6 getting late 'cause we asked could they, could they stay.
7 My husband came and told me that they asked could they
8 stay. And I told him, well, if they stayed, you know, I
9 asked everyone to come to church with me that Sunday
10 morning. So it was at that time when she had fell asleep
11 and he asked my son to walk with him and they went to his
12 sister house and got -- to get her diaper bag and some
13 change in clothes for church that Sunday.

14 Q So when you say "he" you're talking about Christopher
15 McLeod --

16 A Christopher McLeod.

17 Q --and your son?

18 A Yes, sir.

19 Q And what was your son called, his name?

20 A His nickname is Nate.

21 Q Nate?

22 A Yes, sir.

23 Q And your daughter's nickname is what?

24 A Nacey.

25 Q Nacey. So Nate and Nacey is what they're called, all

Sw - T. Robinson - Direct

1 right. So during the time that he left the child was
2 asleep in the house where you and your daughter were?

3 A Yes, sir.

4 Q Now on that particular Sunday the next day, did you go
5 to church before anyone else?

6 A Yes, sir, I did.

7 Q Did you in fact go to Sunday school prior to?

8 A Yes, sir.

9 Q Now were the others supposed to come to church service
10 later that date?

11 A Yes, sir, they were supposed to.

12 Q All right. Well who actually later appeared at the
13 church service?

14 A Later it was my daughter came in with ^{child} and my
15 son came in behind her.

16 Q All right. Now did you ever -- did you have the child
17 -- who all had the child during the church service?

18 A During church service in the choir stand I had her, and
19 after the choir came down and sat in the congregation my
20 daughter and my son had her as well.

21 Q Now did anything happen to cause your son to leave the
22 service?

23 A Well, while after we came down, for some reason
24 ^{child} spit up and it mess up his shirt so he gave her
25 back to my daughter, and he went home and changed his

Sw - T. Robinson - Direct

1 shirt and came back.

2 Q Now let me ask you, did your husband ever come to the
3 church service?

4 A No, sir.

5 Q Or did the defendant come to church service?

6 A No, sir.

7 Q I believe there was another fellow called Charles. Did
8 he ever come to church service?

9 A No, sir.

10 Q Now after the church service did you have -- once the
11 church service is over did you then have ^{child}

12 A Yes, sir.

13 Q Did you take -- how did you get the child back to the
14 defendant Christopher McLeod?

15 A Well, we walked over to my apartment which was right
16 beside the church and they were there when we got out of
17 church.

18 Q So how close is the church to where you were living to
19 the time?

20 A Basically out in the yard, maybe about, I'd say, about
21 ten feet if I had to say in feet.

22 Q So literally it's right next door?

23 A Yes, sir.

24 Q What's the name of the church?

25 A It's the House of Prayer Holiness Church.

Sw - T. Robinson - Direct

1 Q So did you then turn the child back over to the
2 defendant when you got back to the apartment?

3 A Yes, sir.

4 Q All right. And do you remember how long he stayed
5 there that day on the Sunday, or what happened?

6 A We end up cooking out on the grill so that he — they
7 were there for a good while. Before night fall they left.

8 Q You know that they left before night fall?

9 A Yes, sir, because the service for that evening start at
10 7, and I was still there so they left before it was dark.
11 I don't remember exactly the time.

12 Q So they had left before you left for church service?

13 A Yes, sir.

14 Q And while the child was over at your residence did you
15 ever notice the child being very upset or anything or out
16 of sorts?

17 A No, sir.

18 Q Could the child say very much that was understandable
19 at that time?

20 A Well, she really, you know, she would speak and say a
21 thing but she didn't get — use complete sentences or
22 anything like that, no, sir.

23

24 Q Was she easy or hard to understand?

25 A Well, she was easy to understand but she was kept to

Sw - T. Robinson - Cross

1 herself.

2 Q Now while the child was over at your residence did you
3 see anyone harm or strike the child in any way?

4 A Oh, no, sir.

5 Q Just a couple more questions. Do you still live at the
6 same address that you were?

7 A Yes, sir, I do.

8 Q And to your knowledge did the defendant allow anyone
9 else to change the child's diaper while you were there
10 that weekend?

11 A No, sir.

12 Q All right, that's all.

13 THE COURT: Ms. Parrott.

14 MS. PARROTT: Thank you, Your Honor.

15 **CROSS-EXAMINATION**

16 BY MS. PARROTT:

17 Q Good morning, Ms. Hamilton, how are you?

18 A Good morning. I'm fine.

19 Q Was there a cookout or something else going on with
20 everybody on that Saturday too so that's why they were all
21 at your house?

22 A We cooked out on that Sunday. That Saturday he -- my
23 husband went to the store that morning. When he came back
24 him and Charles, when he came back Mr. McLeod was with
25 them.

Sw - T. Robinson - Cross

1 Q Okay. So you just kind of had a bunch of people
2 gathering at your house but you weren't necessarily having
3 a cookout on Saturday?

4 A Well, they was out there socializing with my husband.
5 They kind of like hang around on weekend.

6 Q Okay. So that's kind of a normal event for people to
7 kind of come and go right beside your house or —

8 A Well, I live beside a path so it's — it's always busy
9 and I — pretty much everyone knows each other in that
10 area. But like I said, that was my husband and his
11 friends was hanging out.

12 Q All right. But the people that you actually had that
13 were at the house that pretty much stayed there all day —
14 and correct me if I'm wrong 'cause I'm not trying to trip
15 you up or anything — but people that were there were your
16 husband, you, your daughter Nacey, your son Nate?

17 A Yes.

18 Q And how old is Nate?

19 A Nate is now 20.

20 Q He's now 20?

21 A Uh-huh.

22 Q So this would have been, he would have been about 17?

23 A 17.

24 Q Okay, Christopher —

25 A Yes.

Sw - T. Robinson - Cross

1 Q —correct? Charles?

2 A Yes.

3 Q And how old is Charles?

4 A I don't know Charles' age.

5 Q Can you even guess? Maybe 30s or 40s?

6 A I really don't know. He's older. I think he's along
7 with my husband at that time. I would say he's probably
8 in his 30s.

9 Q And how old is your husband then? Or was your husband,
10 I'm sorry.

11 A I'm thinking. There's a three years difference. I'd
12 say about probably 43.

13 Q Very good. And those people came in and out of the
14 house as the day, as they needed to during the whole day,
15 correct?

16 A Yes, ma'am, meeting them outside but if they needed to,
17 yes, ma'am.

18 Q If they needed to go to the bathroom they could come in
19 the house and I think you said the bathroom was upstairs?

20 A Yes, ma'am.

21 Q But nobody else that you know besides that group of
22 people came into the house?

23 A Yes, ma'am.

24 Q And I want to make sure. You said that ^{child} falls
25 asleep. Did ^{child} take a nap that afternoon?

Sw - T. Robinson - Cross

1 A Well, she was outside and I guess between the
2 activities of going back and forth she went to sleep, yes,
3 ma'am.

4 Q So she did take a little nap?

5 A Yes, ma'am.

6 Q And she's a two year old but she's a pretty active
7 little two year old and going in and out kind of going in
8 between, I guess, the group with her dad and then whoever
9 was outside and coming back in with y'all too?

10 A Well, yeah, she, I mean, she's active but it was my
11 first time meeting her so I, you know, I don't know if
12 that was her normal routine or just being...

13 Q Okay, but you're a mom of two. I mean, did she act
14 like kind of what your two did when they were around two
15 years of age?

16 A Yes, pretty much.

17 Q Okay, all right. Very good. When she took her nap do
18 you -- where did she take that?

19 A She was laying on the sofa chair and I was sitting on
20 the sofa watching TV and she was on the other end.

21 Q And so everything was fine with her laying down there
22 and just taking her nap for a little while that afternoon,
23 right?

24 A Yes, ma'am.

25 Q All right. And then she woke up after a while, you

Sw - T. Robinson - Cross

1 continued having people over but Christopher and she
2 decided to spend the night, I think, is what you said,
3 right?

4 A Well they -- among him speaking with Shamar he did stay
5 the night, but it wasn't like having people over. It was
6 just Mr. Christopher, Christopher, Charles, and my husband
7 and my kids. So it wasn't like people back and forth or
8 having people over.

9 Q Okay, all right. But still that would have been seven
10 people, I guess, between Charles and your family --

11 A Pretty much.

12 Q --and Mr. McLeod and ^{child}

13 A Pretty much.

14 Q All right. You helped them fix a pallet for
15 Christopher and ^{child} that night?

16 A Well, I gave Christopher the covers, yes, ma'am.

17 Q And so he fixed where he and she were gonna sleep that
18 night?

19 A Yes, ma'am. It was just one area, yes, ma'am.

20 Q Okay. You didn't stay in one place during this whole
21 day that all this is occurring, did you?

22 A I mean, I was in the house pretty much, yes, ma'am.

23 Q But going up probably upstairs, downstairs, doing
24 whatever you needed to do for your house?

25 A Well, no, usually I was downstairs basically, you know.

Sw - T. Robinson - Cross

- 1 Q Okay, all right. But you weren't watching ^{child} at
2 all times, were you?
- 3 A Well, she was in my presence back and forth in and out.
- 4 Q Right. But you didn't make sure that she was right
5 beside you all day?
- 6 A Oh, most of the time 'cause she was around, you know,
7 her father.
- 8 Q Okay. And she was acting okay?
- 9 A She was — when she was around.
- 10 Q All right. And then you said once you get up Sunday
11 morning you went on to church, right?
- 12 A Yes, I did.
- 13 Q Expecting the others to join you?
- 14 A Yes.
- 15 Q And again, ^{child} is acting fine going back and forth
16 between—
- 17 A They were still asleep at that time when I left.
- 18 Q Okay, all right. But once you get to church —
- 19 A Uh-huh.
- 20 Q —you said whenever you had her whenever you were
21 sitting with the choir, —
- 22 A Yes.
- 23 Q —right?
- 24 A Uh-huh.
- 25 Q And whenever you went back to sit down with the

Sw - T. Robinson - Cross

1 congregation you and between you and Nacey and Nate she
2 was switched around?

3 A Yes.

4 Q But she throws up or gets sick on Nate, right?

5 A Yes.

6 Q Okay. Was she still feeling okay at that point?

7 A Well, she just threw up what looked like she had for
8 breakfast, but after she threw up she was fine, yes,
9 ma'am.

10 Q She just had a nervous tummy?

11 A I have no idea.

12 Q Well again, I'm just — you've been a mom of two, you
13 know, she was acting okay but she threw up, maybe just had
14 an upset tummy or something like that?

15 A I guess I.

16 Q Okay. But everything else was okay?

17 A Yes.

18 Q All right. And again, they stayed the rest of the
19 afternoon, y'all had another cookout, right?

20 A Well, we cooked out that Sunday, yes.

21 Q And do you know who all was at your house for that?

22 A It was the same people, no one else extra, like they
23 hung outside.

24 Q But no one else came into the house?

25 A No, ma'am.

Sw - T. Robinson - Cross

1 Q So it still would have been Nate and Shamar, your
2 ex-husband?

3 A Yes.

4 Q And Nacey, you, and Christopher, and Charles?

5 A Yes.

6 Q Okay. Is there somebody that your daughter was dating
7 that was also present during the day?

8 A He wasn't out there during the day. He -- my daughter
9 went and met him that morning on their way to church.

10 Q He never came to the house?

11 A I don't recall him being at the house. He could have
12 been over. I don't recall.

13 Q He could have been over but you're not sure?

14 A I'm saying -- I didn't see -- Sunday he wasn't there.

15 Q What about Saturday evening?

16 A Saturday he could have been outside with them. Like I
17 say, I was mainly in the house so I can't either deny or
18 confirm that; I don't know.

19 Q And then so Sunday he came over. He may not have;
20 you're just not sure?

21 A Sunday he came over. Sunday she met him.

22 Q Okay.

23

24 A And they went to church together.

25 Q Okay.

Sw - T. Robinson - Redirect

1 A Those are my -- him, my son, and her, they came to
2 church.

3 Q Okay.

4 A The other three, Charles, Chris, and Shamar did not
5 show up.

6 Q Okay. Thank you.

7 A You're welcome.

8 **REDIRECT EXAMINATION**

9 BY MR. WELLS:

10 Q Just a couple of things to make sure we're clear. So
11 in your apartment how many rooms are actually downstairs?
12 What is downstairs?

13 A Downstairs is the living room. It's a den, and it's a
14 kitchen. It's an open floor plan. There's little doors
15 downstairs. You can just see from one room through to the
16 next.

17 Q So you basically just have the three rooms that just
18 together really?

19 A Yes, sir.

20 Q And then the bedrooms are all upstairs and bathrooms?

21 A Yes, sir.

22 Q All right. That's all. Thank you, Ms...

23 THE COURT: Thank you, Ma'am, you may step down.

24 MR. WELLS: Can she just stay in the courtroom now?

25 THE COURT: Yes.

Sw - D. Hamilton - Direct

1 THE DEPUTY CLERK OF COURT: Place your left hand on the
2 Bible and raise your right hand.

3 WHEREUPON,

4 DALE HAMILTON,
5 having been duly sworn by the Deputy Clerk of Court,
6 testified as follows:

7 THE DEPUTY CLERK OF COURT: Please be seated, then
8 state your name for the record.

9 THE WITNESS: Dale Hamilton, a/k/a Shamar.

10 BY MR. WELLS:

11 Q All right, so Shamar is your nickname that you're
12 called?

13 A Yeah.

14 Q Mr. Hamilton, back in July of 2006, now at that time
15 were you married to this lady Teresa?

16 A Yes, sir.

17 Q And since that time have you and she divorced?

18 A Yes, sir.

19 Q And now at that time did she have two children by prior
20 marriage that lived with y'all?

21 A Yes, sir.

22 Q And what were their names?

23 A Nathaniel R [REDACTED] and Kirston Robinson.

24 Q And what nicknames do they go by?

25 A Nate and Nacey.

Sw - D. Hamilton - Direct

1 Q Nate and Nacey, all right. Now since the time of your
2 divorce do you live now in Johnsonville?

3 A Yes, sir.

4 Q And what line of your work are you in now?

5 A I do engineer — I work at a hotel so I do maintenance
6 work, also security work for them.

7 Q All right. Is that down at the Beach?

8 A Yes, sir.

9 Q Now, and is it correct that you do have one prior
10 conviction in 1999 aggravated assault?

11 A Yes, sir.

12 Q And did that involve another adult?

13 A Yes, sir.

14 Q Now let's go back to the weekend which would be
15 probably July 22nd, 23rd, 2006, the weekend before y'all
16 subsequently talked to law enforcement the next week.

17 Now, did you — at that time did you know Christopher
18 McLeod?

19 A Yes, sir.

20 Q And tell us how it was that you knew him.

21 A I knew him through my niece.

22 Q All right. And is that ^{child} mother —

23 A Yes, sir.

24 Q —Shantay Kent?

25 A Yes, sir.

Sw - D. Hamilton - Direct

1 Q So that was how you'd gotten to know him through her

2 —

3 A Yes, sir.

4 Q —and the child?

5 A Yes, sir.

6 Q All right. Now on that particular Saturday did you —
7 tell us what happened. Did you have occasion to run into
8 the defendant and the child or —

9 A Yes, sir.

10 Q —just the defendant? Tell us what happened, how it
11 was y'all got up — you got up with him?

12 A Me and another friend of mine was walking to the store.

13 On the way coming back from the store we seen him coming
14 through the path so we stopped each other, you know what I
15 mean. We waved at each other. We stopped. We started
16 talking. He told me that, you know, my — which is my
17 great niece was with him, so you know, he was happy. He
18 asked was she there. I was like, okay, can I see her, I
19 haven't seen her.

20 Q He was saying, in other words, ^{child} was there with
21 him?

22 A Right, at the house. So you know, I was just like, I
23 was happy, you know, she was there 'cause I haven't seen
24 her pretty much ever since she was born. So you know, we
25 walked back to the house. You know, we had, you know, we

Sw - D. Hamilton - Direct

1 was just talking, seeing her.

2 Q At his sister's house?

3 A Yeah. And on the way going back to the house, you
4 know, that's when he was like explaining how he and his
5 sister had a few words, you know, earlier that day. So I
6 was like, you're welcome to come on over to the house and
7 let the situation cool off. So we went, you know, back.

8 Q He was saying he had a problem with his sister?

9 A Right. So he brought her downstairs. We brought --
10 walked back. Me, Christopher and Charles walked back to
11 the house so then, you know, I explained to her at the
12 time which was my wife, you know, what the situation was
13 going on, you know. At that time, you know, we -- she
14 wasn't gonna spend the night at that time, but you know,
15 once we finished talking and everything that's when I was
16 like, let me speak to her and, you know, let her know
17 what's going on, it was okay then for them to spend the
18 night.

19 Q So did she know him prior to that time?

20 A No. No.

21 Q So did he bring the child over to your house?

22 A Yes, sir.

23 Q All right. Was that in -- when? Late morning, early
24 afternoon?

25 A It was, I would say, right before 12, maybe 11.

Sw - D. Hamilton - Direct

1 Q Okay, all right. And so during that day was the child
2 just -- was the child and him there the rest of the day?

3 A Yes, sir.

4 Q All right. Now were you there with friends a lot of
5 times on the outside?

6 A Yeah, I mean, it's like pretty much way back of the
7 building.

8 Q All right. Did you notice anything out of the ordinary
9 about the child on that day?

10 A No, sir.

11 Q Now were you yourself ever alone with the child to your
12 knowledge?

13 A No, sir.

14 Q Did you see the child alone with anybody other than the
15 defendant?

16 A Besides being with my wife and her daughter that was
17 it. You know, no other strangers was allowed in the
18 house.

19 Q All right. Now on that particular Sunday what do you
20 remember as far as who went to church or who didn't, what
21 you did that particular morning?

22 A Well, that morning I supposed to went to church but,
23 you know.

24 Q You didn't go?

25 A I decided to play hooky. So after that, after the

Sw - D. Hamilton - Direct

- 1 child was like going to the church, me, Christopher, and
2 Charles walked to the store 'cause we knew we was going to
3 cook dinner so we was going to the store to get the
4 products that we needed for the dinner. So after we went
5 to the store and came back, you know, there was no one in
6 the house. child was at the church with everybody.
- 7 Q So child had gone with -- who had taken child to
8 the church when you went to the store?
- 9 A Well, Nathaniel took her to the fence. From the fence
10 his sister took her into the church and we walked on down
11 the block to the store.
- 12 Q That was the last you saw her till after the church
13 service?
- 14 A Yeah, till church, you know, till the church service
15 was over with.
- 16 Q All right. Now was your wife happy with you when the
17 church service was over?
- 18 A No.
- 19 Q All right. Now did you go ahead and y'all -- you cook
20 out that particular afternoon?
- 21 A Yeah. I mean, I usually cook like if we're gonna cook
22 anything like cookout anything I cook the meat, and she
23 always, you know, cooked like the macaroni and cheese and
24 different dishes.
- 25 Q Right. Now did the defendant and child stay and eat

Sw - D. Hamilton - Direct

1 with you sometime that afternoon?

2 A Yes. Yes.

3 Q Now did they leave prior to night?

4 A It was like pretty much around right before it was
5 getting dark 'cause, you know, it was getting late. He
6 didn't want to have her out there. It was like it's
7 getting late, we don't need to be out too late.

8 Q All right. You know where ^{child} and the child --
9 ^{child} and the defendant slept on the Saturday night?

10 A It was me, Charles, Christopher, and ^{child} like in
11 the living room area and my wife had took -- made a pallet
12 for Christopher and the baby, and Charles was in the
13 rocking chair. And I was -- it was like kind of like a
14 pull-out chair type of thing and I was laying on that.

15 Q Now at that time being two years old could ^{child} say
16 very much?

17 A No, not really. I mean, normal two year old. You
18 know, she would like laugh or something, you know. You
19 know, like normal two year old, you know, play, running
20 out the house, normal two year old.

21 Q All right. While the child and the defendant were
22 there that weekend did you ever notice anybody around the
23 child in any way?

24 A No, sir.

25 Q All right. Answer any questions that defense counsel

Sw - D. Hamilton - Cross

1 has.

2 THE COURT: Ms. Parrott.

3 CROSS-EXAMINATION

4 BY MS. PARROTT:

5 Q Good morning, Mr. Hamilton.

6 A Good morning.

7 Q Very quickly, the charges you have from the past is not
8 just a battery upon somebody, it's a battery upon someone
9 who was pregnant, correct?

10 A It was a young lady I was talking to at the time. She
11 hit me; I hit her back. The parents called the police.

12 Well, her stepdad called the police and they told me to
13 cop out, take it to trial, and we'd both get in trouble so
14 I just copped out to it.

15 Q Okay, but it's still a battery upon a pregnant person,
16 right?

17 A She hit me; I hit her back.

18 Q You were charged with battery —

19 A It was just — I was already in a violent relationship
20 and just off of reflex —

21 Q All I need is yes or no.

22 A Yes, sir — I mean, yes, ma'am.

23 Q Thank you. Now to this occasion here you're actually,
24 is it cousins with Shante, or is Monique is what you call
25 her?

Sw - D. Hamilton - Cross

1 A No, Shante is actually — me and her mother like close
2 cousins. We call each other sister and brother.

3 Q Okay, but the actual —

4 A She's my —

5 Q —relationship is cousin?

6 A Right.

7 Q So whenever the police came and interviewed you they
8 interviewed you in your home, right?

9 A Yes, ma'am.

10 Q Were you ever taken up to police headquarters and
11 interviewed?

12 A No, ma'am.

13 Q Were you interviewed in your living room?

14 A Yes, ma'am.

15 Q Who all was present for that interview?

16 A Everybody that lived in the house.

17 Q Everybody was interviewed at once?

18 A Everybody that lives in the house.

19 Q Nobody was ever interviewed one on one?

20 A No, ma'am.

21 Q Were you ever asked to give a blood sample in this
22 matter?

23 A No, ma'am.

24 Q Were you ever asked to do a swab on the inside of your
25 cheek?

Sw - D. Hamilton - Cross

- 1 A No, ma'am.
- 2 Q Were you ever asked to collect any of your hair?
- 3 A No, ma'am, it wasn't any reason for it.
- 4 Q Or any kind of fingernail clippings?
- 5 A No, ma'am.
- 6 Q To your knowledge was anyone else in your family asked
- 7 for any such?
- 8 A No.
- 9 Q Again, everybody was all interviewed at one time all in
- 10 the same place?
- 11 A Yes, ma'am.
- 12 Q All in your home?
- 13 A Yes, ma'am.
- 14 Q Okay. ^{child} stayed the night at your house on that
- 15 Saturday night to Sunday; is that what—
- 16 A Yes, ma'am.
- 17 Q —I'm meant to understand? And you're saying that
- 18 your wife is the one who made the pallet for him?
- 19 A She gave him the covers.
- 20 Q Gave him the stuff for him to fix it?
- 21 A They lay, you know, showed him where to lay it out at.
- 22 Q So then he fixed it once she gave her the —
- 23 A 'Cause she went back upstairs and we all was
- 24 downstairs.
- 25 Q All right. Was there not a time that night that

Sw - D. Hamilton - Cross

1 child was left in your care for Christopher to go back
2 to his house?

3 A No, no.

4 Q You don't recall that?

5 A She was never left in my care because I wasn't in the
6 house. When Christopher left, he left it was still
7 daytime.

8 Q I'm talking about on Saturday night, not —

9 A No.

10 Q On Sunday?

11 A No, he was there with her. He barely — he barely left
12 her alone.

13 Q She didn't run in and out between your wife and him out
14 in the yard?

15 A No, that was early in the daytime.

16 Q Okay.

17 A And she was never left under my care. She was left
18 with her and she was asleep.

19 Q She was left with your wife?

20 A That's right.

21 Q You pointed to — you pointed and said her so let me
22 just make sure.

23 A To Ms. Robinson, yes.

24 Q Ms. Robinson, okay.

25 A She was never left in my care because I was outside.

Sw - D. Hamilton - Cross

1 Q So you were —

2 A I was outside really until late that evening till it
3 was like actually getting dark. Then we asked -- we all
4 went in the house 'cause I was entertaining a few friends
5 that was that where we live at it's like a little path.
6 We all were standing out there entertaining each other so
7 she was never left with me period.

8 Q Never left alone with you at all?

9 A At all, period.

10 Q Or never left with you and your wife in the house?

11 A No, I was outside.

12 Q Not even that night?

13 A That night he was in the house.

14 Q And he never left that night —

15 A No.

16 Q ---according to what you remember?

17 A That's as far as I know not unless he got out a window
18 or something.

19 Q And the only people that went in the house that day
20 would have been you and Christopher, ^{child} your wife,
21 Nacey, Nate, and Charles?

22 A That's right.

23 Q Nobody else that you were out there congregating with,

24 —

25 A No.

Sw - D. Hamilton - Cross

1 Q —talking with?

2 A No.

3 Q You never let them in?

4 A No, she don't — she don't allow people to come in the
5 house like that, strangers or anybody, 'cause she don't
6 really get along. She's in the church and she don't play
7 people coming in and out the house, you know.

8 Q Nacey's boyfriend, Bubba, was he around?

9 A No.

10 Q Never?

11 A No, if he — she met him it was like at the beginning
12 where you come in at the projects. But that wasn't even
13 her boyfriend, that was just like a friend of hers. So
14 during that time he didn't come to the house 'cause he —
15 when he left he went home, back home, on that Sunday after
16 he left church.

17 Q You mean when you're saying "he," you mean Bubba?

18 A Yeah. Bubba went back home 'cause he still had had his
19 church clothes.

20 Q Okay.

21 A He — so you know, he was never in the house that
22 evening.

23 Q Okay.

24 A And when he did come back he, you know, we was in the
25 back and that's when he came out, you know, right there to

Sw - D. Hamilton - Cross

1 the back. And he was like, well, he got a plate and left
2 and back went back to his house.

3 Q So he did come to your house or come to your yard?

4 A I mean, it's not really a yard. It's a apartment
5 building so it's like anybody can walk up and speak to us,
6 say, let me get a plate. You know, that's how --

7 Q Who all did you feed that weekend then? Let's put it
8 that way.

9 A Just who was in the house besides Bubba.

10 Q Nobody else?

11 A No.

12 Q Okay. Who else -- who all went to church on Sunday?

13 A Ms. Robinson, Nacey, Nate, and ^{child}

14 Q Okay. And you said that Nate handed ^{child} to Nacey?

15 A It's like a open way -- the church is like right next
16 door. I mean, you can go there it's like at the church
17 from here to that wall.

18 Q Okay.

19 A And we was leaving out. That's when he walked over,
20 you know, 'cause he was like, well, I got to get ready for
21 church too as well. And he had put on the rest of his
22 clothes and stuff and she was already at the church. And
23 we -- I could hear when the door shut, you know, with him
24 leaving out locking the door. We was like right -- you
25 can walk down the street and you can look over, you know,

Sw - D. Hamilton - Cross

1 see if anybody is coming in and out the house.

2 Q So did you -- did you actually see him hand the child
3 to Nacey?

4 A Yes, because it's right at the corner. He's walking
5 down the block.

6 Q I'm sorry, did you say yes?

7 A Yes.

8 Q And who else was -- if Nacey was there, your wife has
9 already gone, Nate's handing ^{child} to him, that just
10 left you and Charles?

11 A And Chris.

12 Q And Christopher?

13 A Yes.

14 Q No one else was in the house?

15 A No, ma'am.

16 Q At that time y'all locked the house as you left?

17 A Well, Nate locked the house.

18 Q Okay. Did you ever see the child acting weird or
19 acting funny?

20 A No, ma'am.

21 Q She was acting fine?

22 A Yeah, like a normal two year old would.

23 Q The whole time?

24 A Yes, ma'am.

25 Q And that's it.

Sw - K. Robinson - Direct

1 MS. PARROTT: Nothing further, Your Honor.

2 THE COURT: Mr. Wells, anything further?

3 MR. WELLS: That's all.

4 THE COURT: Thank you very much, sir. You may step
5 down.

6 DEPUTY CLERK OF COURT: Please come up to the witness
7 stand. Place your left hand on the Bible and raise your
8 right hand.

9 WHEREUPON,

10 **KIRSTON ROBINSON,**
11 having been duly sworn by the Deputy Clerk of Court,
12 testified as follows:

13 THE DEPUTY CLERK OF COURT: Please be seated, then
14 state your name for the record.

15 THE WITNESS: My name is Kirston Robinson, a/k/a Nacey.

16 **DIRECT EXAMINATION**

17 BY MR. WELLS:

18 Q All right, so Nacey is your nickname?

19 A Yes, sir.

20 Q And Nacey, how old are you now?

21 A I'm 23.

22 Q So back in July of 2006 you'd have been 19?

23 A Yes, sir.

24 Q All right. Now going back to that time period, July of
25 2006, who were you living with at that time?

Sw - K. Robinson - Direct

- 1 A My mother.
- 2 Q All right. And who else was living there with you?
- 3 A Shamar and my brother.
- 4 Q Was Shamar your mother's husband at the time?
- 5 A Yes, sir.
- 6 Q So he would have been your stepfather?
- 7 A Yes, sir.
- 8 Q All right. Now is your brother younger, older than
- 9 you?
- 10 A He's younger.
- 11 Q About how much difference in age?
- 12 A He's 21.
- 13 Q He's 21 now? He'd have been 17 at the time?
- 14 A Yes, sir.
- 15 Q All right. And where were y'all living?
- 16 A Oakland Place.
- 17 Q All right. Now where are you working presently?
- 18 A Carolinas at the gift shop.
- 19 Q You mean Carolinas Hospital?
- 20 A Yes, sir.
- 21 Q Now let me call your attention back to the Saturday
- 22 which had been July the 22nd or 23rd, 2006, weekend prior
- 23 to y'all talking to law enforcement about the defendant
- 24 Christopher McLeod. Now did you yourself know him prior
- 25 to that weekend?

Sw - K. Robinson - Direct

- 1 A No, sir.
- 2 Q All right. Had you ever seen him come to your
3 residence before?
- 4 A No, sir.
- 5 Q All right. How about the child he had, ^{child} had
6 you seen her prior to that time?
- 7 A No, sir.
- 8 Q All right. What do you remember about that Saturday as
9 far as him or his child? Did they come there and spend
10 that day or that afternoon evening?
- 11 A Yes, sir.
- 12 Q All right. Did you notice anything out of the ordinary
13 that occurred that particular Saturday as far as they were
14 concerned?
- 15 A No, sir.
- 16 Q All right. Was the child basically in and out of the
17 house?
- 18 A Yes, sir.
- 19 Q All right. And who was inside of the house most of the
20 time that day?
- 21 A Me and my mother.
- 22 Q All right. You and your mother?
- 23 A Yes, sir.
- 24 Q Most of the men on the outside?
- 25 A Yes, sir.

Sw - K. Robinson - Direct

- 1 Q Did you ever see anybody other than the father, the
2 defendant, alone with the child that day?
- 3 A No, sir.
- 4 Q Now did they -- did the child and the father spend the
5 night there with y'all?
- 6 A Yes, sir.
- 7 Q Now on the next day on that Sunday what do you remember
8 on that day as far as going to church? Did you -- who
9 went to church first on that day?
- 10 A My mother did.
- 11 Q All right. And then who else went to church then later
12 on?
- 13 A Me and my friend and child
- 14 Q All right. What about your brother?
- 15 A He went back to the house to get the diaper bag and
16 then he came to church after that.
- 17 Q All right. Now who had child
- 18 A What you mean?
- 19 Q I mean, how did child get to church.
- 20 A Well, I went to go meet my friend and on the way
21 walking up I met my brother at the gate and he gave me
22 child and we went to church.
- 23 Q All right. And then who had child during the church
24 service?
- 25 A During -- she was on the choir stand just going back

Sw - K. Robinson - Direct

1 and forth between me and my brother and my mom.

2 Q All right. Did the child ever have a problem during
3 the service that caused your brother to leave?

4 A Yes, sir.

5 Q What was that?

6 A She spit up on his shirt.

7 Q And as a result of that did he leave?

8 A Yes, sir.

9 Q Now did the defendant Christopher McLeod or your
10 stepfather ever come to church service?

11 A No, sir.

12 Q All right. How did y'all get the child -- who took the
13 child from the service? Was that your mother or you or
14 your brother?

15 A My mother had her during the time the preacher was
16 preaching.

17 Q So your mother took the child back to the apartment?

18 A Well, all of us went back to the apartment.

19 Q Y'all all went back to the apartment together?

20 A Yeah.

21 Q Okay, and was the defendant back over there at that
22 time?

23 A Yes, sir.

24 Q All right. On that Sunday afternoon was there some
25 type of cookout?

Sw - K. Robinson - Direct

- 1 A Yes, sir.
- 2 Q Who all was cooking?
- 3 A Well, Shamar, he was cooking on the grill and my mother
- 4 was cooking inside; but all the guys, they was outside.
- 5 Q Okay, all right. Was the child basically just, again,
- 6 like the day before, just in or out?
- 7 A Yes, sir.
- 8 Q Okay. While the child was there those two days did you
- 9 see anybody harm the child in any way that you could see?
- 10 A No, sir.
- 11 Q Let me ask you one question to make sure that it's
- 12 clear. Where is the gate where you picked up ^{child}
- 13 from your brother?
- 14 A In the front of our apartments but on the side to the
- 15 right.
- 16 Q So is that a gate to the apartments or the church?
- 17 A It's split in the apartments and the church. There's
- 18 mainly the gate -- the church gate but --
- 19 Q Church gate?
- 20 A But it's separating the apartments.
- 21 Q So it's very close to the apartments?
- 22 A Yes, sir.
- 23 Q All right, okay. Can you see the gate from your
- 24 apartment?
- 25 A The which -- the gate that we go through or?

Sw - K. Robinson - Cross

1 Q Well, the gate that you're referring to.

2 A Yes, sir.

3 Q All right. Now who was your friend's name that you
4 met?

5 A He's Bubba.

6 Q Bubba. Did he hold ^{child} any?

7 A No, sir.

8 Q Now did he go to church with you?

9 A Yes, sir.

10 Q All right, so he was there. Does he go to church with
11 you a lot?

12 A No, sir, he just went that Sunday.

13 Q All right. Answer any questions defense counsel has.

14 **CROSS-EXAMINATION**

15 BY MS. PARROTT:

16 Q Good morning. You're saying that you and your mom
17 basically stayed inside that whole – on that Saturday?

18 A Yes, ma'am.

19 Q Okay. And your brother and Shamar, your stepdad, just
20 kind of came in and out as needed?

21 A Yes, ma'am, but they was mainly outside that whole day.

22 Q All right. And Charles also, is he just a friend of
23 the family?

24 A Yes, ma'am.

25 Q And he did the same thing. He just kind of came in and

Sw - K. Robinson - Cross

1 out as needed but basically stayed outside?

2 A Yes, ma'am.

3 Q Do you recall anybody else coming inside the house?

4 A No, ma'am.

5 Q child and -- child was going in and out?

6 A Yes, ma'am.

7 Q Running in and out just running around like a two year
8 old normally does?

9 A Yes, ma'am.

10 Q Y'all would watch her when she was outside, kind of
11 left it to whoever was outside to watch her whenever she
12 was -- she went outside?

13 A Yes, ma'am.

14 Q Never saw her acting weird or anything like that?

15 A No, ma'am.

16 Q Did you see any kind of bruising or anything on her
17 that made you want to alert authorities?

18 A No, ma'am.

19 Q Okay. Or take her to a doctor?

20 A No, ma'am.

21 Q Did she cry a lot?

22 A No, ma'am.

23 Q Was her tummy upset at all?

24 A No, ma'am.

25 Q Her tummy just got upset that one time on Sunday

Sw - K. Robinson - Cross

- 1 morning?
- 2 A Yes, ma'am.
- 3 Q You never changed her diaper, right?
- 4 A No, ma'am.
- 5 Q Christopher was taking care of his daughter that day
- 6 then?
- 7 A Yes, ma'am.
- 8 Q And when it came time to put her to sleep that night
- 9 she end up staying with y'all that night, right?
- 10 A Yes, ma'am.
- 11 Q You went upstairs to sleep?
- 12 A Yes, ma'am.
- 13 Q Was that before or after they had gone to sleep
- 14 downstairs?
- 15 A We, as a matter of fact, we went -- everybody that
- 16 slept upstairs we went to bed before they did.
- 17 Q Okay. But you left ^{child} downstairs?
- 18 A She was -- at the time her father was in the house.
- 19 Q Okay. Do you know if he ever left?
- 20 A He left one time while she was sleep, but he went to go
- 21 get her some clothes to wear to church.
- 22 Q So he went back to his house that he shared with
- 23 Niosha?
- 24 A Yes, ma'am.
- 25 Q To get some clothes for the baby?

Sw - K. Robinson - Cross

1 A Yes, ma'am.

2 Q Who is she -- whose care was she left in during that
3 time?

4 A At the time it was just me and my mother downstairs and
5 she was asleep on the chair.

6 Q Okay. And was this when they were still coming in and
7 out?

8 A Not -- as a matter of fact they was outside.

9 Q Okay, all right. Whenever you get to Sunday morning
10 your mom was already gone to church, right?

11 A Yes, ma'am.

12 Q You went to go meet up with Bubba or -- I'm sorry, was
13 it Bubba?

14 A Yes, ma'am, meet him halfway.

15 Q All right. And then y'all come back and you're meeting
16 Nate at the gate that's in between your apartment and the
17 church?

18 A Yes, ma'am.

19 Q Nate hands you ^{child}

20 A Yes, ma'am.

21 Q What does he do then?

22 A He goes in the house and go get his -- get her diaper
23 bag 'cause he forgot it.

24 Q He was dressed for church already?

25 A Yes, ma'am.

Sw - K. Robinson - Cross

- 1 Q He came to church?
- 2 A Yes, ma'am.
- 3 Q And then ^{child} got sick and threw up on him; is that
- 4 right?
- 5 A Yes, ma'am.
- 6 Q Was she acting all right otherwise?
- 7 A Yes, ma'am.
- 8 Q Wasn't crying?
- 9 A No, ma'am.
- 10 Q Wasn't squirming with anybody holding her?
- 11 A No, ma'am.
- 12 Q Whenever you were getting her at the gate did you see
- 13 Shamar?
- 14 A They was already had left walking, went to the store.
- 15 Q They already left?
- 16 A Yes, they was walking down the street.
- 17 Q They been gone?
- 18 A No, well -- when I went to go meet my friend on the way
- 19 back coming we were walking together, they was like
- 20 crossing street walking to go down the sidewalk. And then
- 21 that's when my brother see me and he brought ^{child} to
- 22 the gate and I took her to church.
- 23 Q You were interviewed by Investigator Robinson on this
- 24 case?
- 25 A Yes, ma'am.

Sw - K. Robinson - Cross

1 Q And you were interviewed all together with everyone
2 else?

3 A Yes, ma'am.

4 Q In your home?

5 A Yes, ma'am.

6 Q Never came up here to police headquarters to do
7 anything like some sort of questioning with anyone, right?

8 A I don't remember.

9 Q Did you come up to do this —

10 A I did come up.

11 Q —to meet the police?

12 A Not to meet — came up to meet Ms. Robinson; that's
13 about it.

14 Q When was — to be interviewed on this case —

15 A For this case.

16 Q —or for this trial?

17 A Well, for — to ask — to what happened, that's all.

18 Q When was that?

19 A I don't remember.

20 Q Was it tape recorded?

21 A No, ma'am.

22 Q Who was present in the room?

23 A Ms. Robinson. And about the tape recorder I believe it
24 was taped.

25 MS. PARROTT: Your Honor, I'd like to take up a matter

Sw - K. Robinson - Cross

1 outside of...

2 THE COURT: All right. Ladies and gentlemen, I'm gonna
3 get you to go back into your jury room. Please have no
4 conversation about the case. As a matter of fact, let me
5 get you to do -- I'm gonna get you to do me a favor while
6 you're back there. While I take up this matter and you're
7 in your jury room I'm gonna ask, if you would, to elect
8 amongst you a foreperson to serve in that role on this
9 jury. Let me just kind of fill you in a little bit on the
10 role of a foreperson. The foreperson is someone who is
11 basically the communicator between the jury panel and the
12 Court. Should the jury have any questions or anything,
13 the foreperson will then write that question out on a
14 piece of paper, send it out to me. And depending on what
15 the question is I may -- I may just communicate back to
16 the foreperson my answer or I may have you come out as a
17 whole panel and give you the answer. It just depends on
18 the question. So that's one role of the foreperson, to be
19 the person who communicates between the jury and the
20 Court.

21 The other role is that of when you do get to the end
22 of the trial and you've heard all the evidence and you
23 heard the closing arguments and I've given you the charge,
24 that will be your time to deliberate. The foreperson will
25 then start the deliberations. And I'll tell you this now

Sw - K. Robinson - Cross

1 and will tell you later, all of you must be present during
2 the deliberations so that if someone has to excuse
3 themselves to use the restroom or something, then the
4 foreperson would say, okay, we need to stop talking about
5 the case until that person returns and then when that
6 person returns then the foreman would start the
7 deliberations back over. The thing you need to understand
8 is that your verdict in this case must be unanimous. You
9 must all agree on the verdict. So therefore, what that
10 means is you are all equal as far as your votes. No one
11 person's vote carries any more weight than the others.
12 The foreperson's opinion carries no more weight than any
13 other person on the jury. The foreperson is just a member
14 of the panel just like any of you are.

15 So keeping those things in mind, I need for someone
16 to serve as the foreperson and I'm gonna ask you to elect
17 that person among yourselves. The only restriction
18 regarding that is that neither one of the alternates are
19 eligible to be the foreperson. The foreperson must come
20 from the first 12 that were chosen, okay? So if you'd
21 please retire to your jury room and take care of that
22 matter. When you have elected a foreperson, whoever that
23 person is, please do me a favor. Write your name on a
24 piece of paper and pass it out to me so that I'll have
25 that information. And then when you return after we take

Sw - K. Robinson - Cross

1 this break I would ask the foreperson to occupy this first
2 chair here. Then of course everyone else sit wherever you
3 like, all right? So if you would go take care of that
4 I'll deal with this matter of law.

5 (WHEREUPON, the jury was removed from the
6 courtroom at 10:40 a.m., and the following proceedings
7 commenced in open court.)

8 THE COURT: All right, Ms. Parrott.

9 MS. PARROTT: Thank you, Your Honor. Your Honor, if
10 you recall at the start of this trial I made a motion to
11 renew Rule 5 trying to make sure that I had everything I
12 was supposed to have as part of this case and in fact had
13 been given one piece of information that morning and
14 another piece of information that afternoon. I was told
15 that that was all that there is. Now upon questioning
16 this lady here, Ms. Hamilton — I'm sorry, this lady here,
17 Ms. Robinson, I'm being told that there is something that
18 she's probably interviewed she does recall, or at least
19 she believes there was some sort of tape recording. I am
20 at this time again renewing Rule 5 motion asking for any
21 and all discovery that there is.

22 MR. WELLS: Your Honor, Investigator Robinson has
23 assured me there was any never any taped statement taken
24 from this witness or any of the other witnesses who have
25 testified today. She did interview them and made notes,

Sw - K. Robinson - Cross

1 but she in her report she didn't — there's not a taped
2 statement. The witness is just a statement she thinks
3 there was.

4 MS. PARROTT: And that's fine. I can impeach later if
5 necessary with something like that, but it's simply that
6 with that piece of information I absolutely feel that I
7 needed to find out make sure there's nothing else before I
8 went forward with this witness.

9 THE COURT: All right, and that's fine. I agree. But
10 the case is there was none.

11 MS. PARROTT: Thank you, Your Honor.

12 THE COURT: So we'll go on with that. They need to do
13 that foreperson thing so why don't we just take a few
14 minutes here, and if you need to use the restroom or
15 whatever and we'll start back in about five or ten
16 minutes.

17 MS. PARROTT: Thank you, Your Honor.

18 (WHEREUPON, a recess was taken from the proceedings.)

19 THE COURT: All right. If y'all are interested the
20 foreperson is juror number 25, Alex Carter. And are we
21 ready to proceed from the State?

22 MR. WELLS: We are.

23 THE COURT: The Defense?

24 MS. PARROTT: Yes, Your Honor.

25 THE COURT: All right, Ms. Joe, ask the jury to join us

Sw - K. Robinson - Cross

1 please.

2 (WHEREUPON, the jury was returned to the courtroom at
3 approximately 11:00 a.m., and the following proceedings
4 commenced in open court.)

5 THE COURT: All right, Mr. Carter, I guess they felt
6 you looked good in that seat and there you go. Thank you
7 for your willingness to serve in that capacity. I
8 appreciate that. And if I recall, Ms. Parrott was in her
9 cross-examination of the witness and so that's where we'll
10 pick up.

11 Ms. Parrott.

12 MS. PARROTT: And Your Honor, I have nothing further
13 for this witness.

14 THE COURT: Okay. Mr. Wells.

15 MR. WELLS: He can come down.

16 THE COURT: Thank you very much, ma'am. You may have a
17 seat.

18 DEPUTY CLERK OF COURT: Please step up to the witness
19 stand and place your left hand on the Bible and raise your
20 right hand.

21 WHEREUPON,

22 **WILLIAM ROBINSON,**
23 having been duly sworn by the Deputy Clerk of Court,
24 testified as follows:

25 THE DEPUTY CLERK OF COURT: Please be seated and state

Sw - W. Robinson - Direct

1 your name for the record.

2 THE WITNESS: William Robinson.

3 **DIRECT EXAMINATION**

4 BY MR. WELLS:

5 Q And what is your nickname that people call you?

6 A Nate.

7 Q All right, Nate. Nate, how old are you now?

8 A 21.

9 Q All right. So back on July of 2006 you would have been
10 17; is that right?

11 A Yes, sir.

12 Q And what have you been going to school to take to
13 study?

14 A I went first as medical laboratory technician and then
15 I went back as a phlebotomist and study phlebotomy.

16 Q Now back in July of 2006 who were you living with at
17 that time?

18 A My mother. My mother and my sister and my stepfather
19 at the time.

20 Q All right. Now and where was that y'all were living?

21 A Oakland Avenue, Oakland Plantation.

22 Q All right. Now going back to the weekend of July 22nd
23 and 23rd, 2006, the weekend before y'all talked to law
24 enforcement about the defendant Christopher McLeod, now
25 did you know him prior to that time?

Sw - W. Robinson - Direct

1 A I knew of him. I met him a couple of times before
2 that.

3 Q Okay. He was not somebody that was a friend or you
4 knew very well?

5 A No.

6 Q Now what do you remember about how you met up with him
7 on that particular Saturday, or were you with your
8 stepfather when you met up with him?

9 A No, sir, I was at the house.

10 Q All right. Was it at the house that you first saw the
11 defendant and his daughter^{child} on that day?

12 A Yes, sir.

13 Q And what do you remember about that day as far as him
14 and^{child} Were -- was he outside, inside most of the
15 time with the child, inside, outside?

16 A Mostly he was outside and^{child} was back and forth
17 inside.

18 Q Okay. And she was about two years old at the time?

19 A Yes, sir.

20 Q Had you seen^{child} prior to that day?

21 A I seen her a couple of times but that was it.

22 Q It had been some time back?

23 A Yeah.

24 Q All right. Now was any time on that Saturday that you
25 left with the defendant while^{child} was there at your

Sw - W. Robinson - Direct

1 house?

2 A Yes, I walked with them back to Royal Gardens. He said
3 he had get her some changing clothes from her sister's
4 house at the time she was staying.

5 Q About how long did you take to walk from your apartment
6 to his sister's apartment?

7 A If you're walking it's probably 10, 15 minutes there
8 and probably the same back so...

9 Q All right. And was the child left inside or you
10 really -- do you really know?

11 A I really didn't know.

12 Q Okay. Now did you ever see anything out of the
13 ordinary as far as the child that Saturday?

14 A No, sir.

15 Q Did you see anybody harm the child?

16 A No, sir.

17 Q Now on that Sunday what -- can you tell us about going
18 to church, who went to church and who didn't?

19 A On that Sunday my sister left early to meet her friend;
20 and Charles, Chris, and Shamar went to the store and they
21 left the baby with me. By the time I got out the door it
22 was just about three or four minutes after them my sister
23 was at the gate. And I hand her^{child} They went in
24 the church, and I had to run back and get the diaper bag,
25 hand her the bag and went to the choir stand. It was our

Sw - W. Robinson - Direct

1 youth Sunday so we had to sing and everything.

2 Q Okay. So was the child between you, your mother, and
3 sister then during the service?

4 A Yes, sir.

5 Q All right. Did the child ever have a problem during
6 the service which caused you to leave?

7 A Yeah, she spit up on my shirt. Once we -- once we got,
8 like, my mother had her on the choir stand once we got
9 there. And then after we came down after we sung and
10 everything before our service began before the pastor
11 started preaching we came down and sat in the -- with the
12 rest of the people, and I had got ^{child} back and I was
13 holding her and she spit up on me so I gave her to my
14 sister. I guess my sister gave her to my mother and I
15 went back home to, you know, --

16 Q Change shirt?

17 A --change my shirt, yes, sir.

18 Q Now when was the next time you saw ^{child} After the
19 service?

20 A Yes, sir, we had a cookout at our house.

21 Q And -- also on that Sunday afternoon, again, were
22 people just kind of in and out or was --

23 A No. Mostly everybody was outside. Only people that
24 was in the house was his mother and sister. Like I said,
25 ^{child} was back and forth.

Sw - W. Robinson - Direct

1 Q Okay. And do you remember how long that he, the
2 defendant, and ^{child} stayed that Sunday?

3 A They left about six something. I know it wasn't dark
4 then. It wasn't really dark. It was getting dark, but it
5 was getting dark.

6 Q And on Sunday did you see anybody ever harm the child
7 in any way?

8 A No.

9 Q Let me ask you this, was the child -- could the child
10 say very much?

11 A No. She barely talked.

12 Q Did you ever hear her say any bad language?

13 A No, she barely talked.

14 Q That weekend did you ever see anybody change her diaper
15 other than her father?

16 A No. My mother offered to change the diaper, but he was
17 like, he had it, so she told him where the bathroom was
18 and he went upstairs and changed the diaper at the time.

19 Q All right. That's all.

20 THE COURT: Ms. Parrott.

21 MS. PARROTT: Thank you, Your Honor.

22 **CROSS-EXAMINATION**

23 BY MS. PARROTT:

24 Q Good morning, sir.

25 A Good morning.

Sw - W. Robinson - Cross

- 1 Q This was the first time you ever — you said you knew
2 child You'd seen her two times; is that right?
- 3 A No. Honestly, I thought he was talking about Chris but
4 I knew of child
- 5 Q Okay.
- 6 A I knew of child but I haven't seen her. That was my
7 first time seeing her. When he asked me that I thought he
8 was talking about Christopher.
- 9 Q Let's clear it up. You knew Christopher?
- 10 A Yeah, I seen him a couple of times on Bryan Street.
- 11 Q Ever had any problems with him?
- 12 A No.
- 13 Q So an acquaintance, not necessarily a friend but
14 somebody you at least were acquainted with?
- 15 A Yeah.
- 16 Q So this would have been the first time you ever really
17 spent any time around him?
- 18 A Yes.
- 19 Q Did you stay there the whole day on Saturday?
- 20 A Saturday? No. Like I said, I walked with him to his
21 sister house to get some clothes for child
- 22 Q And who was child left, in whose care at that time?
- 23 A My mother.
- 24 Q Stayed with your dad?
- 25 A My mother.

Sw - W. Robinson - Cross

1 Q I mean, your stepdad?

2 A My mother.

3 Q Okay, your mother and your sister or just your mother?

4 A Just my mother.

5 Q You said you were gone for approximately maybe 20 to 30
6 minutes or so —

7 A Uh-huh.

8 Q —round trip? And no problems with Christopher at
9 that time?

10 A No.

11 Q He was acting fine?

12 A Straight, yeah.

13 Q Did y'all go anywhere besides his sister's house?

14 A No.

15 Q And ^{child} was fine being left there at the house,
16 right?

17 A Yeah.

18 Q Was she taking a nap at the time?

19 A Yeah, she was asleep on the couch.

20 Q And when you got back was she still asleep?

21 A I don't recall. I don't remember. I can't confirm or
22 deny that.

23 Q She had a pretty big day running in and out with going
24 in between y'all standing outside and whoever was inside

25 --

Sw - W. Robinson - Cross

- 1 A Yeah.
- 2 Q —the house, right?
- 3 A Yeah.
- 4 Q Do you recall who all was around the house that day?
- 5 A No. I know it was Charles, it was me, it was Chris, a
6 couple of other neighborhood dudes. That was about it.
- 7 Q Charles, you, Chris, Shamar?
- 8 A Yeah, Shamar, my stepdad at the time.
- 9 Q Your mom?
- 10 A My mother was in the house.
- 11 Q Nacey?
- 12 A She was in the house.
- 13 Q And you're saying a couple of other dudes from around
14 the neighborhood?
- 15 A From around there. There's a path where we live so,
16 yeah.
- 17 Q That path that's right outside kind of near where
18 everybody would have been standing?
- 19 A Uh-huh, yeah.
- 20 Q So whoever walks by can just kind of stand around and
21 talk, at least a couple of people did?
- 22 A Yeah.
- 23 Q Who all went in the house?
- 24 A Nobody. My mother doesn't allow nobody in the house.
- 25 Q Except for family, right?

Sw - W. Robinson - Cross

- 1 A Yeah.
- 2 Q Okay. Do you remember Bubba or Bubby coming over?
- 3 A Bubba.
- 4 Q Your sister's friend?
- 5 A Yeah, he was outside with everybody else, yeah.
- 6 Q What day was that? Was that on Saturday or Sunday or
- 7 both?
- 8 A Can't confirm or deny it.
- 9 Q Okay, all right. Whenever — switch over to Sunday
- 10 morning. You said that you were getting ready for church,
- 11 is that right, and you saw your sister. Were you already
- 12 dressed for church?
- 13 A No — yeah, I was already dressed.
- 14 Q And you gave her — gave her ^{child} —
- 15 A Uh-huh.
- 16 Q —is that right? Your mom was already in the church?
- 17 A Uh-huh.
- 18 Q And your dad had already — your stepdad had already
- 19 left?
- 20 A Uh-huh.
- 21 Q Is that — I need yes, sirs, or no.
- 22 A Yeah, he left, but when I came out the door I could see
- 23 him still walking down the sidewalk. He just really got
- 24 across the street walking down the sidewalk in front of
- 25 the other projects, yes.

Sw - W. Robinson - Cross

- 1 Q Been gone a few minutes maybe?
- 2 A No, not even a few minutes. It was like right there.
- 3 Q Okay. You had to go back and get the diaper bag; is
- 4 that right?
- 5 A Yeah, that -- yeah.
- 6 Q And by the time you get there they're already situated
- 7 in the church. You went ahead and sat down whenever you
- 8 got there, correct?
- 9 A No, I had to go to the choir stand with the rest of
- 10 them, yes.
- 11 Q When you got back down in the congregation that's when
- 12 y'all started having —
- 13 A Yes.
- 14 Q —^{child} kind of got between you and your mom and
- 15 your sister?
- 16 A Yes.
- 17 Q Was she acting okay?
- 18 A She was good.
- 19 Q Happy little girl?
- 20 A Same^{child}
- 21 Q Okay. She just got a nervous tummy or something
- 22 whenever she threw up maybe?
- 23 A I guess.
- 24 Q Didn't see — hadn't been acting weird or anything to
- 25 make her—

Sw - W. Robinson - Cross

- 1 A No.
- 2 Q Had she been squirming a lot whenever you were passing
- 3 her back and forth?
- 4 A No.
- 5 Q Did she cry?
- 6 A No.
- 7 Q Wasn't saying ow, or oy, or anything like that?
- 8 A Nope.
- 9 Q Whenever you were interviewed by the police in this
- 10 matter it was at your own home; wasn't it?
- 11 A Yes.
- 12 Q Was everyone present?
- 13 A Yes.
- 14 Q All at one time —
- 15 A Well, no, it was me, Charles, Shamar and my sister, and
- 16 then my mother just came in from school.
- 17 Q Okay, but all of y'all were together whenever the
- 18 interview was going on?
- 19 A Yes.
- 20 MS. PARROTT: Nothing further, Your Honor.
- 21 MR. WELLS: That's all. You can come down.
- 22 THE DEPUTY CLERK OF COURT: Please step up to the
- 23 witness stand and place your left hand on the Bible, raise
- 24 your right hand.
- 25 ///

Sw - C. Warren - Direct

1 WHEREUPON,

2 **CHENSOLAR WARREN,**

3 having been duly sworn by the Deputy Clerk of Court,
4 testified as follows:

5 THE DEPUTY CLERK OF COURT: Please be seated, then
6 state your name for the record.

7 THE WITNESS: My name is Chensolar Warren.

8 **DIRECT EXAMINATION**

9 BY MR. WELLS:

10 Q And what name are you called by?

11 A Charles.

12 Q Charles. All right, Charles, let me call your
13 attention back to the weekend of July 22nd and 23rd or
14 2006, the weekend before you talked to the police with the
15 Hamilton family. On that particular weekend were you
16 staying over with the Hamiltons that week?

17 A Not the whole week, no. I stayed two days out the
18 weekend.

19 Q So you stayed over there two days?

20 A Yes, sir.

21 Q Is that during that weekend mainly?

22 A Yes, sir.

23 Q And how did you know them?

24 A Well, I know Shamar, the oldest one, about a year with
25 (inaudible). We used to hang out every now and then.

Sw - C. Warren - Direct

1 Q Now at that time did you know the defendant Christopher
2 McLeod prior to that time?

3 A No, I didn't.

4 Q All right. Do you remember him coming over that
5 weekend with his daughter^{child}

6 A Yes, sir, I do.

7 Q All right. And you remember him spending the night?

8 A Yes, sir.

9 Q Now did you notice anything out of the ordinary as far
10 as him or the child that weekend?

11 A Not that weekend, no, sir.

12 Q And now on that Saturday did you -- were you mostly
13 inside or outside the house?

14 A Outside.

15 Q All right. Were others out there socializing?

16 A Yes, sir.

17 Q Now what about that Sunday, did you go to church or did
18 you go with anybody else that morning anywhere?

19 A No, I didn't go to church. Me, Shamar, and Chris, we
20 had walked to the store.

21 Q Okay. And did y'all buy some things for cookout later
22 that day?

23 A Yes, sir.

24 Q And did you stay there through the cookout that
25 afternoon?

Sw - C. Warren - Cross

1 A Yes, sir.

2 Q Did you stay another night or did you leave after that?

3 A After that I left.

4 Q And where do you actually live? Or where were you
5 living at the time?

6 A Now, I mean, then I was staying with my sister.

7 Q And where was she living?

8 A On Oakland Street.

9 Q Okay. And during that weekend did you ever observe
10 anybody harm that child in any way?

11 A No, sir, I didn't.

12 Q When the three of y'all went to store that Sunday
13 morning do you know who had ^{child} then when y'all left?

14 A Honestly I can't remember.

15 Q All right. That's all.

16 THE COURT: Ms. Parrott.

17 **CROSS-EXAMINATION**

18 BY MS. PARROTT:

19 Q You stayed the whole weekend with them?

20 A Two days.

21 Q Yeah, that weekend. Saturday and -- you said Friday
22 night and Saturday night and left on Sunday?

23 A No, I stayed Saturday. Yeah, Friday and Saturday. I
24 left Sunday morning, Sunday afternoon after everything was
25 over, after the cookout and everything was over.

Sw - C. Warren - Cross

1 Q But you stayed both Friday night and Saturday night?

2 A (There was no response.)

3 Q And do you have any children?

4 A Yes, I do.

5 Q All right. So this two year old running around, did
6 she act like a normal two year old?

7 A Well, yes, to me she did 'cause she really didn't do
8 much talk, you know, at a young age like that. She wasn't
9 — ain't too much know nobody to too much talk to nobody.

10 Q But as far as it goes she was a happy little girl just
11 king of around her dad she was fine?

12 A She was fine then as far as I could see.

13 Q Okay. And going back and forth between y'all outside
14 in the yard and inside?

15 A She was walk back and forth, yeah.

16 Q Okay. And you could walk in and out of the house as
17 you needed to as well?

18 A Yes, I could have, yes, ma'am.

19 Q Okay. I mean, you stayed there, your stuff was on the
20 inside of house; wasn't it?

21 A I didn't bring any clothes.

22 Q You stayed in the same clothes all weekend?

23 A My sister stayed around the corner so I didn't have to
24 bring clothes 'cause —

25 Q So you left at least in a few points during the time

Sw - C. Warren - Cross

1 you were there?

2 A I left — I stayed there and I left. I went and
3 changed clothes. I come back. But as far as me, no, I
4 didn't bring no clothes with me.

5 Q And who all do you know to have been there during the
6 time you were there since you apparently were leaving and
7 coming?

8 A Me — me, Shamar, and Nate. We — all of us were in
9 the back yard side of the house 'cause we were cooking.

10 Q Is this on Sunday?

11 A Yeah, it was on Sunday, yeah.

12 Q Okay.

13 A And that was — that was average people that was out
14 there, just us three, until he came up.

15 Q Until Christopher came up?

16 A Afterwards and said something about him and his sister
17 had got into it, and that was it.

18 Q That was on Sunday?

19 A I think so. I don't remember exact dates but that's
20 all I can remember.

21 Q Remember somebody named Bubba?

22 A Who?

23 Q Bubba?

24 A Yeah. That Sunday he was supposed to have been going
25 to church. He went to church with Nacey.

Sw - C. Moreau - Direct

1 Q Okay. So that's somebody else you remember. Anybody
2 else?

3 A No.

4 MS. PARROTT: Nothing further, Your Honor.

5 THE COURT: Mr. Wells, anything further?

6 MR. WELLS: That's all. He can come down.

7 THE COURT: Thank you, sir, you may step down.

8 MR. WELLS: I call Investigator Chris Moreau to the
9 stand.

10 DEPUTY CLERK OF COURT: Please place your left hand on
11 the Bible, raise your right hand.

12 WHEREUPON,

13 CHRISTOPHER MOREAU,

14 having been duly sworn by the Deputy Clerk of Court,
15 testified as follows:

16 THE DEPUTY CLERK OF COURT: Please be seated, then
17 state your name for the record.

18 THE WITNESS: Christopher Moreau.

19 DIRECT EXAMINATION

20 BY MR. WELLS:

21 Q And Investigator Moreau, back on July 24th, 2006, were
22 you advised by supervisor to respond to 510-B Coker Street
23 in reference to a criminal sexual conduct case?

24 A Yes, sir, I was.

25 Q Who did you meet with there?

Sw - C. Moreau - Direct

1 A Investigator Robinson.

2 Q Is she -- was she the lead investigator on the case?

3 A Yes, sir.

4 Q And did she advise you of what allegedly had occurred?

5 A Yes, sir.

6 Q All right. Based on your conversation with her what
7 action did you then take?

8 A Basically photographed the interior and exterior of the
9 apartment, collected items that she had requested that she
10 believed may have been involved in this incident.

11 Q All right. Let me ask you first to look at these
12 photos that have been marked for identification and ask
13 whether or not you are the one that took all of those
14 pictures on this day.

15 A Yes, sir, these are my photos.

16 Q All right. In addition, did you take also this picture
17 as well which has not been marked yet?

18 A Yes, sir, I did.

19 Q All right. Do all of these pictures accurately reflect
20 what you observed at the apartment on that particular day?

21 A Yes, sir, I did.

22 Q All right.

23 MR. WELLS: Your Honor, at this time I would move to
24 introduce all these pictures into evidence.

25 THE COURT: Ms. Parrott, any objection?

Sw - C. Moreau - Direct

1 MS. PARROTT: I'm sorry, let me just make sure these
2 are the same ones.

3 THE COURT: These are the ones you looked at yesterday,
4 Exhibits 23 to 28.

5 MS. PARROTT: Yeah. No objection.

6 THE COURT: 23 through 28 without objection.

7 (WHEREUPON, State Exhibit Nos. 23 through 28 were admitted
8 into evidence and State Exhibit No. 29 was marked for
9 identification and admitted into evidence.)

10 BY MR. WELLS:

11 Q Let me ask you to come around. We're not going to do
12 things formerly and fancy as we did yesterday to save some
13 time. The jurors will have these back in the jury room.
14 I just want you to hold those pictures up, just kind of
15 briefly explain to the jury what each of these pictures
16 are when I start these pictures which would be number 21.

17 A Okay. This is the living room when you first come in
18 the apartment on the bottom floor. I observed the door
19 that had a hole knocked through it by something, but this
20 is that living room. This is a closer-up on the door.

21 Q And this would be the sister's apartment; is that
22 correct?

23 A Yes, on Coker Street.

24 THE COURT: Mr. Wells, if I could let me get the
25 officer to stand on the other side of you so she's facing

Sw - C. Moreau - Direct

1 Frances so she can hear everything.

2 MR. WELLS: All right, very good.

3 THE COURT: And please speak up loud while you're away
4 from the witness stand please, sir.

5 BY MR. WELLS:

6 Q All right. State's Exhibit Number 22?

7 A This is one of three bedrooms upstairs. It went
8 upstairs. There were two bedrooms on one side and one on
9 the other. I believe that is the bedroom that was nobody
10 was staying in at the time.

11 Q Now this would be State's Exhibit Number 24?

12 A This is gonna be the bedroom that I was advised the
13 defendant in this case and the victim were sleeping in.

14 Q State's Exhibit Number 22?

15 MS. PARROTT: Your Honor, excuse me. No, no, just if
16 we could approach real quick about the numbers.

17 (WHEREUPON, counsel approached the Bench for an
18 off-the-record discussion.)

19 MR. WELLS: I'm sorry, this is 25. I read it wrong. I
20 should have put on my glasses to read. I'm getting old.

21 MS. PARROTT: Sorry.

22 BY MR. WELLS:

23 Q All right. This is State's Exhibit Number 25?

24 A This is gonna be the upstairs bathroom and another
25 photograph of the unoccupied bedroom on the second floor.

Sw - C. Moreau - Direct

1 Q State's Exhibit Number 26?

2 A Both of these photos are gonna be from the unoccupied
3 bedroom.

4 Q And State's Exhibit Number 27?

5 A This top picture is gonna be looking down the hallway
6 on the second floor of the apartment. I believe this is
7 gonna be looking into the bedroom that the defendant and
8 victim were staying in.

9 Q And State's Exhibit Number 28?

10 A These are gonna be closeup photographs of the door that
11 was damaged on the bottom floor in the apartment.

12 Q And State's Exhibit Number 29?

13 A This is a photograph of training pants or a cloth
14 diaper that was found. I believe it was on top of the
15 ironing board in the bedroom that was unoccupied.

16 Q Now can you just kind of point out -- it's hard to see;
17 they'll have it in the jury room -- but was there a hair
18 you observed in the --

19 A Yes, sir, right in the center of the photograph on the
20 edge of where it goes around the leg area.

21 Q And was that -- did you package that up and send it
22 along with the diaper?

23 A Yes, I did. I packaged the -- as they were in paper
24 and secured it with tape in a box and sent them to SLED.

25 Q All right.

Sw - C. Moreau - Direct

1 MR. WELLS: I would also move to admit into evidence
2 picture 21 as well which I think we're about to overlook.

3 THE COURT: That's the one we did yesterday.

4 MR. WELLS: It was ID'd by the victim.

5 MS. PARROTT: Has he been questioned about 21 as well?

6 BY MR. WELLS:

7 Q Let me ask you, did you take this picture also, 21?

8 A Yes, sir, I did.

9 MS. PARROTT: Then entered without objection, Your
10 Honor.

11 THE COURT: All right, without objection, 21.

12 (WHEREUPON, State Exhibit No. 21 was admitted into
13 evidence.)

14 BY MR. WELLS:

15 Q All right. This particular -- on this bottom picture,
16 21, was this the place in the wall or in the door when you
17 then later got a closeup?

18 A Yes, sir, same door.

19 Q All right. You can come have a seat. Now did the
20 items you collected including two pairs of boxer shirts,
21 two pairs of child's pants, two child shirts, one cloth
22 diaper, two pillows, one wash cloth, one blanket, two
23 couch cushions from the victim's bedroom, and the mattress
24 from the victim's bedroom; is that correct?

25 A Yes, sir.

Sw - C. Moreau - Direct

1 Q Now did y'all take those to the first of Florence
2 Police Department crime scene office?

3 A Yes, sir, in the basement at the City-County Complex.

4 Q All right. Now subsequently did you have occasion, I
5 believe, on July 26th of 2006 to meet with the defendant
6 and with phlebotomist Renee Nagy at the Florence Detention
7 Center?

8 A Yes, sir, I did.

9 Q And what was the purpose of your meeting with the
10 defendant and the phlebotomist at that time?

11 A The purpose of that visit was to obtain a blood sample
12 and also hair samples if he consented, which he did.

13 Q All right. Now first, is this the form that you had
14 the defendant sign as far as consenting to having blood
15 taken?

16 A I had the wrong one with me so I had to make one. Yes,
17 sir, that's it.

18 MR. WELLS: All right. I move to admit this into
19 evidence. Any objection.?

20 MS. PARROTT: No objection, Your Honor.

21 THE COURT: That will be State's 30. Is that correct?

22 THE COURT REPORTER: Yes, sir.

23 THE COURT: Without objection, State's 30.

24 (WHEREUPON, State Exhibit No. 30 was marked for
25 identification and received into evidence.)

Sw - C. Moreau - Direct

1 BY MR. WELLS:

2 Q All right. Now after he consented to that did the
3 phlebotomist in this case in your presence take a sample
4 of his blood?

5 A Yes, sir.

6 Q Now were you there also to collect other samples of,
7 for example, hair?

8 A Yes, sir.

9 Q Was there a reason that it became — it was difficult
10 for you to try —

11 MS. PARROTT: Your Honor, leading, objection.

12 THE COURT: All right, sustained.

13 BY MR. WELLS:

14 Q Tell us whether or not you were able to collect any
15 pubic hair and why or why not?

16 A Unable to collect any pubic hair because he had very
17 recently shaven clean in that area. No hair, nothing
18 visible at all to collect.

19 Q And did you collect anything else?

20 A Collected head hair.

21 Q But you were unable to collect the pubic hair?

22 A No pubic hair; that's correct.

23 Q All right. And now did you also bring these items you
24 collected, the blood samples, back to the crime scene
25 office and put it in the refrigerator?

Sw - C. Moreau - Direct

1 A Yes, sir.

2 Q And subsequently, were all the evidence seized as well
3 as the blood samples taken to SLED by Captain -- excuse
4 me, Corporal Michael Brown, August 8th, 2006, received
5 there by SLED technician Amy Stevens based on your
6 records?

7 A I can list the items if you like that were taken to
8 SLED.

9 Q But basically was it all the items you had mentioned I
10 asked you about?

11 A Yes, sir, yes, sir. Some of the items that were
12 collected from the scene initially such as --

13 Q Go ahead and just say then what was taken to SLED?

14 A Okay. The -- let's see, it would have been one
15 blanket, the cloth diaper or training pants, one of the
16 child's shirts, one pair of the child's pants, 21
17 different cutouts from a mattress, and the kit collected
18 from the defendant at the jail were all sent to SLED.

19 Q All right. And was the sexual kit from the victim also
20 taken?

21 A Yes, sir, it was.

22 Q All right. Answer any questions defense counsel may
23 have.

24 A Yes, sir.

25 **CROSS-EXAMINATION**

Sw - C. Moreau - Cross

1 BY MS. PARROTT:

2 Q Officer Moreau, was the -- the only place you went on
3 this case as far as the crime scene or possible crime
4 scene the Coker Street address?

5 A Yes, ma'am.

6 Q You never were directed to go over to the Oakland
7 Street --

8 A No, ma'am.

9 Q --apartment, which was the Hamilton's?

10 A No, ma'am.

11 Q You know anything about where they lived?

12 A No, ma'am, I wasn't privy to any of that information on
13 the case.

14 Q You go wherever you're asked to go by the investigator
15 on the case to collect evidence, right?

16 A Yes, ma'am.

17 Q You're not doing any kind of independent investigation
18 on your own?

19 A As far as what we see at a crime scene that's pretty
20 much on our own. If we -- we look for anything we can
21 find; but as far as where we go, we go where we're asked
22 to go by the investigators.

23 Q Fair enough. And then you get asked to collect DNA
24 samples as well, correct?

25 A Yes, ma'am.

Sw - C. Moreau - Cross

1 Q And that's, in fact, what you were doing down at the
2 jail whenever you were meeting with Mr. McLeod?

3 A Yes, ma'am.

4 Q And he consented to that, correct?

5 A Yes, ma'am.

6 Q You didn't even have the form so you wrote out what it
7 takes for him to sign that and he absolutely signed that
8 for you; did he not?

9 A Yes, ma'am, he did.

10 Q You did write it out for him, correct?

11 A Yes, ma'am.

12 Q And then it was witnessed by you as well as some other
13 individual, correct?

14 A Yes, ma'am.

15 Q Do you need me to show you the form?

16 A No, ma'am, I've got a copy of it right here, or the
17 original.

18 Q And but whenever you wrote this out you wrote then, I,
19 Christopher McLeod voluntarily consent to having my blood
20 drawn from the Florence — for the Florence Police
21 Department as well as a full SLED evidence collection kit,
22 in parenthesis suspect, collected from my person, again
23 open parenthesis, including hair, closed parentheses. I
24 understand that this is completely voluntary and I can
25 withdraw this consent at any time prior to and during the

Sw - C. Moreau - Cross

1 collection. And that's been signed by Mr. McLeod as well
2 as dated; is it not?

3 A Yes, ma'am.

4 Q That's exactly what you wrote; is it not?

5 A Yes, ma'am.

6 Q And then it's also noted the blood was collected by the
7 phlebotomist at a certain time but the suspect kit was
8 collected by you and that was at 11:55 in the morning?

9 A Yes, ma'am, right after she collected the blood.

10 Q So there was absolutely no problem getting his
11 cooperation in this matter, was there?

12 A No, ma'am.

13 Q And in fact, there is such a thing called a Schmerber
14 order that sometimes that investigators have to get in
15 order to get somebody to comply with collection of
16 evidence. Have you —

17 A Yes, ma'am.

18 Q —been involved in that?

19 A Yes, ma'am.

20 Q So you didn't — weren't even made to get such an order
21 because he consented, correct?

22 A Yes, ma'am.

23 Q Did you ever collect any evidence from any other person
24 besides Mr. McLeod —

25 A No, ma'am.

Sw - K. Bogan - Direct

1 Q —as far as a suspect kit?

2 A No, ma'am.

3 Q Were you ever asked to?

4 A No, ma'am.

5 MS. PARROTT: Nothing further, Your Honor.

6 THE COURT: Anything further?

7 MR. WELLS: That's all. You can come down.

8 THE COURT: Thank you, sir.

9 THE CLERK OF COURT: Please come to the witness stand.

10 Place your left hand on the Bible, raise your right hand.

11 WHEREUPON,

12 **KENNETH L. BOGAN,**

13 having been duly sworn by the Deputy Clerk of Court,

14 testified as follows:

15 THE DEPUTY CLERK OF COURT: Please be seated and state
16 your name for the record.

17 THE WITNESS: My name is Kenneth L. Bogan. Last name
18 is spelled B-O-G-A-N.

19 **DIRECT EXAMINATION**

20 BY MR. WELLS:

21 Q And Agent Bogan, with whom are you employed?

22 A I'm employed with the South Carolina Law Enforcement
23 Division commonly known as SLED.

24 Q And how long have you worked with them?

25 A A little over 26 years.

Sw - K. Bogan - Direct

1 Q All right. And in particular what is your specialty at
2 this time at SLED? What areas do you work in?

3 A Currently assigned to the DNA analysis section, which
4 includes the analysis of samples, evidence samples for
5 DNA. I also perform serological analyses.

6 Q All right. And what would be your training and
7 experience in that particular field?

8 A Well, I have a bachelor of science degree from
9 University of Central Florida. My degree was in medical
10 technology. I performed approximately six years working
11 in a clinical laboratory, the hospital laboratory. I
12 specialized in the diagnostic testing of blood samples and
13 reporting those results. In 1984 I was hired at SLED and
14 underwent training as a basic forensic serology for a
15 court qualified analyst at SLED. Also attended the
16 Federal Bureau of Investigations class in basic forensic
17 serology. And in about 1990 I began my training as a DNA
18 analyst. I attended the Federal Bureau of Investigations
19 DNA analysis typing methods. Since then I've continued my
20 education by attending a professional meeting and
21 continuing education courses since about 1995.

22 Q All right.

23 MS. PARROTT: Your Honor, we'll stipulate.

24 THE COURT: All right.

25 MR. WELLS: We move that he -- she stipulate that he is

Sw - K. Bogan - Direct

1 an expert.

2 THE COURT: Ladies and gentlemen, a stipulation is
3 simply an agreement. In other words, Ms. Parrott by
4 stipulating has agreed that Mr. Bogan is qualified as an
5 expert witness in his field so...

6 BY MR. WELLS:

7 Q Now Agent Bogan, the first thing I was gonna ask you in
8 this particular case was there a blanket that was sent to
9 you, or at least cuttings from a blanket, to examine for
10 possible DNA where you found -- apparently semen was
11 found?

12 A Yes, that's correct.

13 Q All right. Now first was any semen found connected
14 with the defendant or the victim as far as the blanket?

15 A No.

16 Q All right. In that regard how many cuttings or how
17 many places on the blanket were submitted where semen had
18 been found?

19 A I examined approximately 15 cuttings from the blanket,
20 identified a semen stain on 13 of them. One stain there
21 was semen indicated; I could not confirm that it was
22 semen. And one of the stains ended up being a blood
23 stain.

24 Q Now is there any way for you to tell whether the semen
25 is formed -- was placed there two days before, two months

Sw - K. Bogan - Direct

1 before, or two years before?

2 A No.

3 Q So there'd be no way to tell if this came from somebody
4 having sex a year before this happened; is that correct?

5 A That's correct.

6 Q Now also was there an indication based on your findings
7 that there was at least -- you got elements of at least
8 two people that you found semen from?

9 A That's correct.

10 Q Also, what do you mean when I notice in one place you
11 say that the semen was a mixture.

12 A If you can tell me which item.

13 Q Let me see which one that was. Going down about midway
14 where it says DNA obtained non-sperm fraction of item 1.6
15 is a mixture of at least two individuals. What -- how can
16 you have a mixture of at least two individuals when you
17 say non-sperm fraction?

18 A Basically, any time I'm examining a semen stain I make
19 an attempt to separate any contribution from the male
20 contributor and any female contributor or might be
21 present. It's called a differential extraction. So I
22 basically take one cutting and extract the DNA. Basically
23 I soak it in some extraction fluid, and then I actually
24 separate that into two different sections into two
25 different samples, and I treat those two different samples

Sw - K. Bogan - Direct

1 differently using different chemicals. The attempt is to
2 remove any female portion or any female contribution from
3 epithelial cells from sperm cells that might come from a
4 male individual. In what I call the non-sperm fraction,
5 the area in which I would expect there not to be sperm
6 because I treated it, I ended up in this particular sample
7 having a mixture. It's not uncommon. The differential
8 extraction, although it's successful, a good deal of the
9 time it's not totally successful every time so in some
10 instances there will still be mixture. And so I was able
11 to tell in non-sperm fraction of item 1.6 that there was a
12 contribution of DNA from at least two individuals.

13 Q Now would that be two males or a male and a female, or
14 you cannot say?

15 A I know that there was at least a male present. I
16 cannot tell if there was any female. It could have been a
17 mixture of two males.

18 Q All right.

19 A Or it could have been a mixture of male and female.

20 Q And there was also nothing found connected with the
21 female victim in this case; is that correct?

22 A That's correct. I did develop a partial DNA profile,
23 compared it to the victim, and the DNA could not come from
24 her.

25 Q All right. Now also did you find a small amount of

Sw - K. Bogan - Direct

1 semen on the, I believe, the back of a pair of child's
2 shorts?

3 A Yes.

4 Q Where in particular on the shorts were they?

5 A The shorts were labeled as front and back based on, I
6 guess, label in the back of the shorts and the stain was
7 actually found in the left buttocks area.

8 Q All right. Now was it only a very small amount of DNA
9 you were able to find?

10 A Yes.

11 Q All right. Now if that had been put directly on there,
12 say directly from ejaculation to something, would you
13 expect to find more DNA than you found?

14 A Of course, it would depend on the volume, but certainly
15 a very small stain, a very small amount of DNA will carry
16 a lot of DNA and I would generally expect to find more DNA
17 and get a more complete profile.

18 Q Now what would be other ways that this could be
19 transposed from, say, if there was a stain on some other
20 object to the shorts?

21 A Well, if there was a —

22 Q For example, if there was a blanket the child sat on,
23 what would be ways it could be transposed to the shorts
24 from some other item like that?

25 A Well, if the shorts came in contact with a wet semen

Sw - K. Bogan - Direct

1 stain it could be transferred to the shorts; or if the
2 shorts were wet and came in contact with a dried stain
3 there could be transfer.

4 Q All right. And in this case, again, you did not find
5 any connection with the defendant or the child, is that
6 right, as far as the DNA?

7 A That's correct.

8 Q But you're only able to do just a very small amount of
9 DNA, is that right, on that thing, the amount?

10 A Yes, it was a -- it was what I call a very partial
11 profile.

12 Q All right.

13 A And basically I could use it to exclude those two
14 individuals as possible contributors.

15 Q All right. So if the child had wet shorts, for example
16 from, you know, from a wet diaper that transposed to
17 shorts and sat on the semen, a semen stain certainly
18 possibly transpose to shorts; is that correct?

19 A Yes.

20 Q All right. Now is this a report that you prepared?

21 A Yes, it is. That's my signature on it.

22 MR. WELLS: I'll just move to introduce this into
23 evidence then.

24 THE COURT: Any objection?

25 MS. PARROTT: None, Your Honor.

Sw - K. Bogan - Cross

1 THE COURT: All right, State's 31.

2 (WHEREUPON, State Exhibit No. 31 was admitted into
3 evidence.)

4 MR. WELLS: That will be all I have of this witness.

5 Hold on, let me ask one more thing that's been called to
6 my attention.

7 BY MR. WELLS:

8 Q Also I notice there were several places where it was
9 mentioned hair. Do y'all do DNA on hair at SLED?

10 A I have a copy. The DNA that we perform on hair comes
11 from if a hair has a root on it. Oftentimes when hairs
12 naturally fall out there is no root material or
13 insufficient root material present because if hair is
14 forcibly removed there may be sufficient root material
15 present to do DNA analysis.

16 Q All right. In this case was there any sufficient root
17 analysis to do DNA on the hair?

18 A No.

19 Q All right. That's all now.

20 CROSS-EXAMINATION

21 BY MS. PARROTT:

22 Q So then you don't have any clue where that hair came
23 from, do you?

24 A No, I don't.

25 Q All right, just, you know, to boil it down to plain

Sw - K. Bogan - Cross

1 language, you have any idea, can't link it to anybody male
2 or female?

3 A No.

4 Q Okay. Agent Bogan, I'm looking at your report. It
5 looks like you tested to me at least what, 46 different
6 items that were submitted to you as part of this, or at
7 least 46 different cuttings or such as that. Does that
8 look right to you?

9 A It's approximate, but I haven't counted them up. But I
10 know I did about 15 cuttings off of the blanket, 21 off of
11 a mattress, and then there were some other samples that
12 were also collected. So it probably adds up to around 40.

13 Q And I'm not being exact either so, yeah, at least that
14 much -- at least 36 and a few more.

15 A Right. I could count them if you like.

16 Q No, no, no. But none of what you tested came back to
17 Mr. McLeod. Did it?

18 A I did not develop his profile on any of the evidence
19 that I examined.

20 Q And that is kind of science speak for, no, nothing came
21 back for him, right?

22 A Other than his known sample that I did.

23 Q And that what you mean by the known sample is what they
24 sent from where they collected for comparison --

25 A Yes.

Sw - K. Bogan - Cross

1 Q —to whatever was also being submitted?

2 A That's correct.

3 Q And I'm not trying to be kind of — not trying to
4 confuse anybody; but just they, whenever they go out to
5 collect a sample from the person at the jail or wherever
6 they're being housed that's then sent to you separately to
7 be also compared with whatever they also submit, right?

8 A That's correct.

9 Q And that's what we're talking about is that's the only
10 thing that you had in all of what was submitted to you
11 that actually was him?

12 A That's correct.

13 Q Okay. And that includes that little — that pair of
14 shorts that belonged to ^{child} that had a semen stain on
15 it?

16 A Yes.

17 Q And again, you've got no idea whose semen that was, do
18 you?

19 A No, I don't.

20 MS. PARROTT: Nothing further, Your Honor.

21 THE COURT: Anything further of this witness?

22 MR. WELLS: No. Any objection if he's excused to go
23 back to Columbia?

24 THE COURT: Any objection?

25 MS. PARROTT: No.

1 **THE COURT:** Thank you, Agent Bogan. You're free to go,
2 sir.

3 **THE WITNESS:** Thank you.

4 **MR. WELLS:** Your Honor, at this time probably
5 considering the next witness that I'm going to be calling
6 there are going to be some matters that need to be taken
7 out of the presence of the jury, then probably would be a
8 good time probably to let them break for lunch early.
9 Then we can continue on with the things we need to do out
10 of their presence.

11 **THE COURT:** All right. Ladies and gentlemen, we do
12 have some matters of law that we need to take up, and
13 rather than -- it's 8 minutes to 12. Rather than you sit
14 back there I'm gonna send you to lunch early today and
15 give you a little bit of a extended lunch because we have
16 to continue to work and then I've got to give court
17 personnel time for lunch. So I'm gonna ask you if you
18 will be back in your jury room at 2:30. So that gives you
19 a little over two-and-a-half hours for lunch and ask you,
20 if you would, please to continue to honor my request that
21 you have no conversation with anybody about the case, that
22 you know nothing more about this case than you know right
23 now when you return. Enjoy your lunch and we'll see you
24 back here at 2:30. Okay, everyone else remain in the
25 courtroom while the members of the jury are excused.

1 (WHEREUPON, the jury was removed from the
2 courtroom at 11:52 a.m., and the following proceedings
3 commenced in open court.)

4 THE COURT: All right. Do we need to take a little bit
5 of a break before we get into these matters? Are you
6 ready to go?

7 MR. WELLS: I think we can go right ahead. Basically I
8 thought we should — we wanted to go ahead into the out of
9 the presence of the jury hearing concerning the statements
10 —

11 THE COURT: All right.

12 MR. WELLS: —which will be all the oral statements.

13 THE COURT: Let me do this before you get started. The
14 remainder of you that are here, you're certainly welcome
15 to stay. But the jury is clear; is that correct? If
16 y'all would like, anyone who would like to go you're also
17 free to go so please feel free to come and go as you wish.

18 All right, Mr. Wells.

19 MR. WELLS: I call Investigator Michael Robinson to the
20 stand.

21 THE COURT: All right, Investigator Robinson, if you
22 would come around please to be sworn.

23 WHEREUPON,

24 MICHAEL THOMAS ROBINSON,
25 having been duly sworn by the Deputy Clerk of Court,

Sw - M. Robinson - Proffer

1 testified as follows:

2 DEPUTY CLERK OF COURT: Please be seated and state your
3 name for the record.

4 THE WITNESS: Michael Thomas Robinson.

5 **PROFFER EXAMINATION**

6 BY MR. WELLS:

7 Q And Investigator Robinson, with whom are you employed?

8 A I'm employed by the Florence Police Department.

9 Q All right. And did you have occasion back in July of
10 2006 to be lead investigator on this case in which the
11 defendant is charged with these sexual offenses and pistol
12 abuse offenses?

13 A Yes, sir, I did.

14 Q In that regard did you have occasion on July 25th,
15 2006, to meet with him in the Florence County Detention
16 Center to see if he wanted to talk with you about the
17 case?

18 A Yes, sir, I did.

19 Q All right. In that regard, did you go over this
20 particular form with him and have him to sign it?

21 A Yes, sir. This is the standard form that we use, and
22 this is the actual original copy made that's a copy that
23 we used.

24 Q All right. And if you would, well first let me — you
25 want to do it — either we can admit this or mark it for

Sw - M. Robinson - Proffer

1 identification.

2 MS. PARROTT: No, we can admit it.

3 MR. WELLS: All right, let's go ahead and admit it.

4 THE COURT: This will be State's 23 without objection.

5 BY MR. WELLS:

6 Q And for the record, if you would read out in the form
7 what you advised him as far as his rights to talk with you
8 or not to talk with you.

9 A On the first thing on the form I wrote the two case
10 numbers in reference to these -- the two incidences, the
11 sexual assault and the vandalism. That's case numbers
12 2006-007336 and 2006-007335 and then the printed form is
13 the waiver of rights form, division of the police,
14 Florence South Carolina. And then there's a slot for the
15 date and I originally put the 24th and went back and put
16 the 25th and initialed over it. This was when I was with
17 Mr. McLeod. That's when I was filling out this form.
18 Place was the Florence County Detention Center. And do
19 you want me to read the form?

20 Q Yes, if you would just for the record read --

21 THE COURT: And let me ask 'cause we all do this, when
22 we read we actually read faster than we talk so if you
23 would just try to keep it slow, okay?

24 THE WITNESS: Okay.

25 THE COURT: Not terribly slow, but you know.

Sw - M. Robinson - Proffer

1 THE WITNESS: It says, "I, Christopher McLeod,
2 voluntarily without threats, duress, force, promises of
3 immunity or reward agree to be questioned by the Florence
4 Police Department. I fully realize I have the right to
5 remain silent the entire time I am here. Anything I may
6 say can be used against me in any court of law. I have
7 the right to have an attorney present, and if I cannot
8 afford an attorney and desire to be represented one will
9 be appointed for me prior to any questioning without cost
10 to me. Even after signing this form I realize that I have
11 the opportunity to exercise these rights at any time I
12 wish to while I'm here. I also realize I have the right
13 first to consult with an attorney or anyone else I wish to
14 before signing this form or answering any questions.
15 Nevertheless, I voluntarily request and authorize the
16 Florence, South Carolina Police Department to proceed with
17 the questioning. In addition, I represent that I feel all
18 right both mentally and physically, and I know of no
19 mental or physical ailment which might be impaired by any
20 questioning. This is the important notice." It says
21 important notice. "If you do not understand any part of
22 this form do not sign it until you do." And it's signed
23 Christopher McLeod and dated July 25th, 2006, and then I
24 have signed on the line below.
25 Q As a witness?

Sw - M. Robinson - Proffer

1 A Yes.

2 Q All right, very good. Now Investigator Robinson, after
3 you advised the defendant as far as those rights, first,
4 was he -- did you make any other promise of hope or reward
5 if he gave you a statement?

6 A No, sir.

7 Q Did you threaten him in anyway?

8 A No, sir.

9 Q Was there any coercion in that regard?

10 A No, sir.

11 Q All right. Now did he then agree to talk with you
12 after you advised him of his rights?

13 A He did.

14 Q And was that basically an oral statement he gave?

15 A It was an oral statement.

16 Q All right. And was there any -- was any taping at all
17 of this?

18 A No, sir, no taping.

19 Q All right. If you would, relate to the ladies and
20 gentlemen of the jury on that occasion the conversation
21 you had with him and what he said? Do you need your
22 notes?

23 A I do need my notes please.

24 Q I'm not sure which things.

25 A I just need this right here. That will do it. Thank

Sw - M. Robinson - Proffer

1 you. I had -- the first time I had occasion to meet with
2 Mr. McLeod I met with him at the Florence County Detention
3 Center. We were in the room beside the library where all
4 the computers are. And it was at that time -- and I'll go
5 to the first interview -- that he vehemently denied any
6 type of injury or harm to his daughter sexual or physical.
7 He later then admitted to striking her for various
8 reasons. He stated that he struck her twice in the face,
9 on the buttocks the first time because she called him a
10 bitch. And the second time -- hold on, I'll find it in my
11 notes here. The second time he spanked her because she
12 had used the restroom, had a bowel movement in the floor
13 while changing her diaper. And though he admitted hitting
14 her that's where he said the injuries that she sustained
15 were. After interviewing Mr. McLeod for quite some time I
16 stepped out of the interview room to take a break, and I
17 met Sergeant Compton in the hallway. Very common when
18 several investigators are down at the jail we ask each
19 other to assist, and so I asked Sergeant Compton to step
20 in and maybe a male perspective would make more sense.
21 And so Sergeant Compton went in and was in the interview
22 room with Mr. McLeod for about 15 minutes, and I was not
23 present. I then came back into the interview room and
24 asked Mr. McLeod to describe to me again what he had told
25 me before about a scenario of a pubic hair. I asked Mr.

Sw - M. Robinson - Proffer

1 McLeod when it was he and I how in the -- how, you know,
2 there was any way that his fingers or anything could have
3 been inside^{child} at the time.

4 Q Let me ask you, just stop, I want to make sure I'm
5 clear on this 'cause you had not -- you mentioned about
6 him hitting her but you'd not mentioned anything about a
7 pubic hair. If you could go back to what you have as far
8 as original conversation.

9 A When Mr. McLeod and I -- when Mr. McLeod and I were
10 talking just the two of us, he said that there was a pubic
11 hair. He said he was sitting on the toilet and she was
12 standing in front of him and that --

13 MS. PARROTT: Objection. I understand this is Jackson
14 v. Denno, but I would at least like to preserve the
15 objection about the pubic hair and where this is going
16 because I think it is so prejudicial to my client.

17 THE COURT: Well, what are you objecting to?

18 MS. PARROTT: Because what she's gonna say is that the
19 pubic hair was something he removed to a wash cloth, and
20 it's not the one that was about the diaper, Your Honor, so
21 this is a second one. And that whether or not this is,
22 again, it will become more of that but just...

23 THE COURT: This is allegedly the statement he gave to
24 her.

25 MS. PARROTT: Yes, Your Honor, so --

Sw - M. Robinson - Proffer

1 THE COURT: I note your objection. It's overruled.

2 BY MR. WELLS:

3 Q If you would, go ahead and relate what he said about
4 that pubic hair?

5 A We were talking about the daily routine and what
6 happens in their daily routine, and he said that they get
7 up in the mornings and they wash up. And one morning
8 while he was washing^{child} up that he was sitting on
9 the toilet and that he noticed a pubic hair inside her
10 vagina. She's two; she does not have pubic hair. But he
11 noticed a pubic hair sticking out of her vagina so he
12 stated that he removed it with a wash cloth. And I asked
13 him, you know, where the — where he thought the pubic
14 hair came from and he said that he thought that the pubic
15 hair came from the wash cloth originally because that was
16 the same wash cloth he had washed himself up with. And so
17 that was the first information that he gave, that he was
18 sitting on the toilet. She was standing on floor in front
19 of him, and that he observed a pubic hair in his two year
20 old daughter's vagina and removed it with a wash cloth.
21 It was then that I stepped out of the room and then had
22 the conversation with Sergeant Tim Compton.

23 Q And then did you come back in the room and then ask him
24 to repeat what he had said in front of Officer Compton?

25 A Yes, sir. I was out of the room approximately 15

Sw - M. Robinson - Proffer

1 minutes when Sergeant Compton was in the room with Mr.
2 McLeod. When I reentered the room I asked Mr. McLeod to
3 please describe to Sergeant Compton what he had told me
4 prior in reference to the the pubic hair incident and
5 which he did.

6 Q Now did he subsequently say anything further, give a
7 different reason for checking her vagina concerning I
8 believe a smell?

9 A He did. Later on in the interview with Sergeant
10 Compton and myself, Mr. McLeod indicated that there was a
11 foul odor emanating from his two year old daughter's
12 vaginal area and that he could not identify the smell. I
13 asked him if he asked any of the women. There was another
14 woman in the home with him. I said, did you ask your
15 sister for assistance for help for to identify what the
16 problem was, and he stated that he did not, that he would
17 forget to ask his sister. As we were leaving the
18 interview with Mr. McLeod we were standing up to walk out
19 of the room and Mr. McLeod stated that he thought there
20 was one more thing that we should know. And we asked
21 Mr. McLeod what that was and he stated that he had in fact
22 had his finger inside of ^{child} vagina because he had
23 not told the truth the first disclosure of the wash cloth
24 being removed but that he had actually used his finger to
25 remove the pubic hair from her vagina and not the wash

Sw - M. Robinson - Proffer

1 cloth.

2 Q Now subsequently on July 26th, 2006, did you have
3 occasion to meet again with the defendant along with
4 Investigator Julia Duff?

5 A Yes, sir, I did.

6 Q We'll -- I'll call her subsequently to confirm this,
7 but was she the one on that particular occasion to advise
8 him of Miranda rights?

9 A Yes, sir, she was.

10 Q Now again, after she had advised for Miranda rights and
11 other things were done, subsequently did he make some
12 additional statements on that occasion?

13 A He did. There was -- he said that he had -- we asked
14 him if there was any reason for his DNA to be in the
15 residence and he said that he had been masturbating while
16 child was in his care but that he had done it in the
17 bedroom, not in the bedroom that he and child shared
18 but in the second bedroom on the left-hand side. I guess
19 it would be the spare bedroom, empty bedroom, and that
20 there should have been a white T-shirt and a black T-shirt
21 with his semen on those articles. He then reiterated to
22 Sergeant Duff the removal of the pubic hair from the
23 victim's vagina and also the foul odor where he had --
24 that he had noticed.

25 Q All right. So on this occasion, again, I'll make sure

Sw - M. Robinson - Proffer

1 I'm clear, what did he say about the pubic hair from
2 child vagina?

3 A He informed us at that time that he had removed a pubic
4 hair from child vagina. I have to look at my notes,
5 excuse me. It was at that time he stated that he had
6 placed his fingers inside child vagina to determine
7 the smell.

8 Q Okay, all right. And after that did you have any
9 further conversations with him after that to your
10 knowledge?

11 A No direct conversations.

12 Q All right.

13 MR. WELLS: Your Honor, we can put in through Officer
14 Duff, but I don't know if you want me to ask her or just
15 wait and call Officer Duff. This would be the form where
16 Officer Duff advised the defendant his rights.

17 THE COURT: Well, I guess it would be better to do it
18 from Officer Duff then.

19 MR. WELLS: I just want to know if -- all right, answer
20 any questions that Ms. Parrott has.

21 **CROSS-EXAMINATION**

22 BY MS. PARROTT:

23 Q Investigator Robinson, whenever you met with him at the
24 detention center on the 25th I believe it was; is that
25 correct?

Sw - M. Robinson - Proffer

1 A Yes, ma'am.

2 Q Did you go and get him from his cell or was he brought
3 to you?

4 A I think he was brought to me. Usually I don't make it
5 a habit of getting people from their cells. Usually I ask
6 at booking.

7 Q So you'd ask somebody at the jail to bring him to you?

8 A Yes, standard procedure that's what I usually do.

9 Q Okay. Did he — and did you tell him why you were
10 meeting with him as soon as you saw him?

11 A As soon as I saw him, yes. Most of the time the first
12 thing they do is the waiver of rights.

13 Q Okay.

14 A I had actually — if I can help clarify — the day
15 prior at his residence where he was arrested for the
16 breach of peace, he was sitting at the table when I came
17 in. I walked up to him and introduced myself as
18 Investigator Robinson and said that I would be — not be
19 discussing anything with him today, but that I would meet
20 with him the next day.

21 Q Okay. So you didn't — whenever you saw him then on
22 the 24th at the house itself you didn't go over any
23 Miranda rights or any such thing with him then?

24 A No, ma'am, I didn't ask him anything. I just informed
25 him of who I was.

Sw - M. Robinson - Proffer

1 Q Didn't try to get anything, just said I'll talk with
2 you tomorrow?

3 A Yes, ma'am.

4 Q So then when you meet with him on the 25th you have him
5 brought to you, you introduced yourself again to him?

6 A Yes, ma'am.

7 Q At this point it was just you with him; is that
8 correct?

9 A Originally it was just me.

10 Q Did you not have a tape recorder?

11 A I didn't. And it wasn't a habit. Now in the, I guess,
12 with the technology now we have the small digital
13 recorders and everything is recorded now whenever we go
14 out, especially in the field. But back then they were big
15 and bulky, just didn't, you know, can't find batteries. I
16 did not have it with me.

17 Q But you were at the detention center —

18 A Absolutely I should —

19 Q —did you ask anybody else about getting one?

20 A And I — I didn't do it.

21 Q Okay. So I'm just — I want to make sure. You didn't
22 ask, you didn't even look for one there?

23 A Did not.

24 Q Okay. And the room that — they have rooms available
25 for interviews down there at the Sheriff's Office use.

Sw - M. Robinson - Proffer

- 1 Did you check to see if one of those was -- an interview
2 was room was available?
- 3 A We didn't use those rooms. Actually lineup room where
4 I usually go was full. We actually were around the corner
5 on the other side of the library.
- 6 Q I mean, so did you ever try and use --
- 7 A It's a training facility.
- 8 Q Right?
- 9 A It's a training room.
- 10 Q A training room?
- 11 A Uh-huh.
- 12 Q Did you even try and use one of the interview rooms
13 where the Sheriff's Office has?
- 14 A That's where they kind of put us. Whenever we came
15 they said, you know, we're full but we do have this one
16 spot.
- 17 Q 'Cause the interview -- at least one of those interview
18 rooms has what, video tape capability, correct?
- 19 A With the Sheriff's Department in the back?
- 20 Q Right.
- 21 A No video tape that I'm aware. I think that's just
22 audio.
- 23 Q Okay. How long do you estimate that you spent with
24 Christopher on the 25th?
- 25 A Wow. Just the two of us to begin with I'm not real

Sw - M. Robinson - Proffer

1 sure. Couldn't have been more than 30 or 40 minutes. It
2 was, you know, it wasn't -- I don't remember it being an
3 exorbitantly long period of time.

4 Q You weren't -- you didn't note the time anywhere as to
5 what time you started interviewing him?

6 A I did not, no. I know I had a lot to do that day. I
7 think it was in the morning and I got, you know, a lot
8 accomplished so I don't think I was down there, you know,
9 hours and hours and hours. I would say I was there two or
10 three hours at the most, you know.

11 Q Two or three hours with him?

12 A From the time I left Florence to the time I got back
13 into Florence. Probably two or three hours it was that
14 morning.

15 Q All right. So you could have spent as much as two to
16 two-and-a-half hours with Mr. McLeod?

17 A Once you get people -- well, you understand that wait
18 time and things like that I've had with people transfer
19 back and transfer. You know, probably no more than two
20 hours.

21 Q Okay. One point though, you took a break, he was left
22 alone in the room?

23 A I stepped out of the room just a minute. You know,
24 there's glass that you can see. I actually had seen
25 Sergeant Compton in the glass. He's 11 year -- at that

Sw - M. Robinson - Proffer

1 time he was an 11 year detective senior to me, and he was
2 actually my supervisor at that time and knew that I was
3 down there. I think that he was probably -- he knew that
4 I was there and probably was looking for me as much as I
5 was, you know, looking for him.

6 Q Okay. So you stopped the interview with Mr. McLeod and
7 you could still see him, but he is in the room alone,
8 correct?

9 A Yes, ma'am.

10 Q And watching you talk to another investigator?

11 A Yes, ma'am. I stepped out and asked Sergeant Compton
12 to step in.

13 Q Okay. And you said you were outside of the room for
14 maybe 15 to 30 minutes if I'm correct?

15 A He was not alone for that amount of time. We stepped
16 out. Sergeant Compton went into the interview room and I
17 stayed out.

18 Q Okay. So what time do you estimate then that
19 Mr. McLeod was actually by himself then?

20 A A few seconds. It was just, hey, I'm glad you're here,
21 can you come help me interview this guy, I really need a
22 break.

23 Q Okay, all right. Did you offer him a break?

24 A If he had wanted one I think I -- I can't remember if
25 he -- standard with me, if I go longer than 35, 40 minutes

Sw - M. Robinson - Proffer

1 I need a break. I keep change with me nine times out of
2 ten and I'll go get us both something to drink, both
3 something to eat. So if that didn't happen then we
4 weren't in there long enough for either of us to need it.

5 Q Do you recall specifically then if he got a break or
6 not?

7 A I do not.

8 Q Do you recall specifically whether or not you got him
9 something to eat or something to drink?

10 A If he asked for it he got it.

11 Q Again, you -- you don't know?

12 A I don't remember it. And that's, I don't usually --

13 Q Do you remember him taking a bathroom break?

14 A I don't think he did. I don't think we were in there
15 two hours. You know, it's not that extensive of a period
16 of time to need a restroom --

17 Q Did you stand --

18 A --and lunch.

19 Q I'm so sorry, what?

20 A I didn't think that was a long enough time for him to
21 need, you know, anything like that. Certainly didn't
22 indicate. If he did he would have had it.

23 Q Did you take a restroom break at any time?

24 A I don't think I did. I think I stepped out maybe to
25 give Sergeant Compton an opportunity to make a connection

Sw - M. Robinson - Proffer

1 with Mr. McLeod maybe as, you know, two men together.

2 That was the whole purpose. It wasn't because I was
3 physically tired.

4 Q But did you, I mean, did you offer any of that to
5 Mr. McLeod for him to be able to do that as well?

6 A If he had indicated that he needed it he would have got
7 it.

8 Q And every question you're asking along those lines
9 you're saying if he had indicated. So my question to you
10 is —

11 A It's not in my narrative so obviously he didn't
12 indicate it.

13 Q Okay. But did you offer it to him even on the front
14 end before you ever even started?

15 A No, ma'am, I wouldn't offer bathroom break before we
16 begin interviews.

17 Q Okay. Whenever Compton was in the interview room did
18 you join them again at one point?

19 A I did after approximately 15 minutes.

20 Q Okay. And then how long did y'all stay in there with
21 Mr. McLeod?

22 A Maybe 30, 40 minutes 'cause I'm thinking that was in
23 the middle period of the time. Maybe 30, 40 minutes at
24 the top.

25 Q And that concluded that interview?

Sw - M. Robinson - Proffer

1 A For the day?

2 Q Uh-huh, after you and Mr. Compton there was -- or
3 Investigator Compton, there wasn't anybody else that did
4 that with you later --

5 A Not that day.

6 Q --on that day?

7 A Not that day.

8 Q Did you tell Mr. McLeod that you were gonna speak to
9 him again the next day?

10 A Yes, he knew I was gonna meet with him the next day.
11 He knew he had an appointment.

12 Q Okay. And we need to leave --

13 A Uh-huh.

14 Q Yeah. Whenever you met with him even on the 25th
15 you're doing the Miranda form, did you go over Miranda
16 cards as well, your Miranda card or do you even carry one?

17 A I have one in my purse for emergencies but this is the
18 Miranda.

19 Q I understand. But I just wondered did you read off the
20 card as well as do that form, or just do that form?

21 A No, ma'am, this is it.

22 Q Okay, all right. And he appeared to understand what it
23 was?

24 A Yes, ma'am, he did.

25 Q Did you ask him any questions about what his

Sw - M. Robinson - Proffer

1 educational level was before you did that form?

2 A He signed his name. I didn't. Usually I don't ask,
3 you know, the number of years of high school or college
4 that people have. That's not a standard question.

5 Q You didn't ask what kind of classes he took when he was
6 in school?

7 A No, ma'am. His name, actually the signatures, you
8 know, he knows how to obviously read and write. But you
9 understand whenever I do these forms, I don't hold it like
10 I held it and read it to you. I turn it to the side. I
11 always have a pen. It's the standard way I've done it in
12 the years I've been a detective, and they read along with
13 me. So even if they can't -- even if they can't read they
14 -- I'm reading and they're looking at the page. It's
15 never either/or; it's always both.

16 Q Okay. But you're -- that statement you're assuming
17 they're reading or, you know.

18 A If they can't read they have it orally.

19 Q Right. So you're telling it to them and you're
20 assuming they're reading it as you're going along but
21 really don't know if they can read or not?

22 A I'm not asking about that. They read well enough to
23 sign their name and they indicate they understand what
24 this form means.

25 Q You didn't have anybody else in the room with you when

Sw - M. Robinson - Proffer

1 you did that form, did you?

2 A No, ma'am.

3 Q The next day you met with him, again, you said you

4 didn't do that form but you were present while it was

5 being done?

6 A No, ma'am, I was not present.

7 Q You were not?

8 A No, ma'am.

9 Q Okay. But were you present at any point at that time

10 on the next day?

11 A During the interview?

12 Q Yes. You met with him again with -- was it Julie Duff

13 specifically or did Compton be part of that one as well?

14 A No, ma'am, Sergeant Compton was not part of that

15 interview.

16 Q Okay. He met with Julie Duff first and then you joined

17 in after that one?

18 A Yes, ma'am.

19 Q Thank you. I had that backwards in my mind, excuse me.

20 You then -- the interview was concluded with -- was

21 conducted with you and then Major Raines also came in,

22 correct?

23 A Correct.

24 Q How long was Major Raines in there?

25 A Just a few minutes. He couldn't have been more than

Sw - M. Robinson - Proffer

1 ten minutes or so.

2 Q Okay.

3 A Now again, this is approximate times. I don't have —

4 Q And you didn't write any times down on that either?

5 A I didn't. I was, no -- I didn't write times.

6 Q How long were you with Christopher on that second time
7 then on that second day?

8 A Whenever I entered the room?

9 Q Uh-huh.

10 A It couldn't have been more than maybe an hour,
11 hour-and-a-half.

12 Q And you were there for the whole interview then
13 conducted on that second day?

14 A At the point that I entered?

15 Q Right?

16 A Yes, I was there.

17 Q You never leave?

18 A No.

19 Q Okay. And again, was he offered any opportunity to go
20 to the bathroom, get something to drink, or get something
21 to eat?

22 A If he asked for it I feel sure that he got it.

23 There's a canteen right down the hall and there's a
24 restroom right down the hall.

25 Q But for the time, the hour-and-a-half that you were

Sw - T. Compton - Direct

1 there, was he offered any time?

2 A If he needed he would have got it. I don't know that
3 he -- I don't think I offered it to him, nor in an
4 hour-and-a-half, not in an hour-and-a-half time span.

5 Q Okay. I don't have anything further.

6 MR. WELLS: You can ^{come} down Investigator Robinson. I call
7 Investigator Tim Compton to the stand.

8 WHEREUPON,

9 **TIMOTHY WADE COMPTON,**

10 having been duly sworn by the Deputy Clerk of Court,
11 testified as follows:

12 THE DEPUTY CLERK OF COURT: Please be seated. State
13 your name for the record.

14 THE WITNESS: Timothy Wade Compton.

15 **DIRECT EXAMINATION**

16 BY MR. WELLS:

17 Q And Officer Compton, going back to the interview
18 July 25th, 2006, of the defendant Christopher McLeod by
19 Investigator Robinson, if you would relay how you got
20 involved in the interview.

21 A Myself and Detective Robinson, she had told me that she
22 was going down to the jail for this case since I was her
23 supervisor, and I advised her I was going down to jail for
24 some interviews on some cases I was working and if she
25 needed me I'd be glad to help her out with an interview.

Sw - T. Compton - Direct

1 So basically we drove our separate cars but if she needed
2 me I'd be there to help her.

3 Q All right. So at some point did she ask you to become
4 involved?

5 A Yes, she did.

6 Q How did that come about? What do you remember
7 happening?

8 A Basically she come out of the room there, and she
9 basically just brought me up to speed of their interview
10 and asked me to come in and see if I could, you know, get
11 him to say anything else, you know, to help out with the
12 investigation. And I told her I'd see what I can do so I
13 went in there and started to talk to him.

14 Q All right. Did subsequently then she come back and
15 join you again?

16 A Yes, sir.

17 Q All right. And what do you remember the defendant
18 saying in your presence as far as the offenses?

19 A Well, first when I went in there, even though Detective
20 Robinson did tell me she did read him his rights with the
21 waiver of rights form, I made sure, you know, he did get
22 his rights read to him. I asked him; he said yes. You
23 understand them, yes. You mind talking to me? He said,
24 no, I don't mind. And so I started asking - tell me
25 about this incident, and he basically reiterated what

Sw - T. Compton - Direct

1 Detective Robinson had already told me during a little
2 briefing that we had before I walked in. And then
3 Detective Robinson came into the room, and I reasked the
4 same question she had asked him earlier.

5 Q All right. And what did he state at that point?

6 A Basically, I mean, he admitted that he did
7 physically - I think he said he spanked ^{child} due to
8 her calling him a bitch and then a second time about her
9 having a bowel movement upstairs. And he used a switch
10 one time. And then talking about the pubic hair, he again
11 said that she had must have got the pubic hair in her
12 vagina because of the wash cloth and he used the wash
13 cloth to get it out of her. And he did talk about the
14 smell coming from her. He didn't check to see, you know,
15 why there was an odor. Detective Robinson did ask her -
16 ask him, you know, did you get anybody to help you or ask
17 your sister or anything about, you know, finding out
18 what's wrong. And he said, no, I just keep forgetting.
19 Then we asked - we told him that we would like for him to
20 take a CSC kit, you know, have one performed on him. He
21 said he would. Detective Robinson said that she would be
22 talking to him again tomorrow, and we would have crime
23 scene do the kit. We would not do it but crime scene tech
24 would. And basically, we was getting ready to leave when
25 he said he would like to tell us something else. So we

Sw - T. Compton - Direct

1 stopped, and he said basically that he had lied about the
2 wash cloth, how wiping the pubic hair out of her vagina
3 and then he said that he removed it with his finger.

4 Q And was that the main thing that you remember?

5 A Yes, sir.

6 Q All right. And you were not involved in the interview
7 the next day; is that right?

8 A No, I was not.

9 Q All right. Answer any questions Ms. Parrott has.

10 **CROSS-EXAMINATION**

11 **BY MS. PARROTT:**

12 Q Investigator Compton, at any point did you note what
13 time it was that you were doing any of this?

14 A The time that I went in there?

15 Q Right?

16 A No, I didn't notice the time, no.

17 Q Or did you note it whenever you were done?

18 A No, but I mean, I'd say about 30 minutes I was in
19 there, and that's about the extent of my interview with
20 him.

21 Q And whenever you were being briefed by Michael Robinson
22 about what was going on how long do you estimate that
23 took?

24 A Couple of minutes.

25 Q You stayed with Investigator Robinson once she came

Sw - T. Compton - Direct

1 back in the room though; is that correct?

2 A Yes, ma'am, I did.

3 Q And you're saying total the time that you were in there
4 was —

5 A The total time I was in there was about 30 minutes.

6 Q Okay, just by yourself or even with Investigator
7 Robinson?

8 A I — I'd say probably about the total time because she
9 had already previously interviewed him and what I've
10 already, you know, testified to. I basically I told her
11 we would find out more tomorrow, and I don't think he'll
12 give anymore information up at this time. And that's when
13 we stood up and she agreed that we would do more stuff —
14 well, not me, but she would have more stuff done and we
15 was getting ready to leave when he made that other
16 statement.

17 Q Okay. So then how much time do you think you spent
18 with him, just you, the two of you?

19 A 15, 15, 20 minutes maybe, if that.

20 Q Did you offer him anything to drink or offer him a
21 break from what was going on?

22 A No, I did not.

23 Q Offer him an opportunity to go to the bathroom?

24 A No. And the way I work it is if they ask I stop, get
25 them a nab, Pepsi, or take them to the restroom. But if I

Sw - T. Compton - Direct

1 was in extensive interview I would offer them, you know, a
2 break; but being in there that short a period of time I
3 did not offer him a break or anything and he did not ask
4 for one.

5 Q And when you first went in you didn't tell him that you
6 would if you wanted to either?

7 A No, I did not. I introduced myself. I made sure his
8 rights had been read and he understood them and told him
9 I'd like to talk to him about this incident and we —

10 Q Did you —

11 A I'm sorry.

12 Q I'm sorry?

13 A We just continued with the conversation after that.

14 Q Did you promise him anything in exchange for his
15 statement?

16 A Absolutely not.

17 Q Did you threaten him in any way?

18 A Absolutely not.

19 Q Did you tell him that you would see him the next day?

20 A No. Detective Robinson said she would and she set up
21 everything.

22 Q Set up the equipment for the next day?

23 A Yes.

24 Q That's it. Nothing further, Your Honor.

25 MR. WELLS: That's all. You can come down,

Sw - J. Duff - Proffer

1 Mr. Compton. I call Julia Duff to the stand.

2 WHEREUPON,

3 **JULIA ELIZABETH DUFF,**

4 having been duly sworn by the Deputy Clerk of Court,

5 testified as follows:

6 THE CLERK OF COURT: Please be seated. State your name
7 for the record.

8 THE WITNESS: Julia Elizabeth Duff.

9 **DIRECT EXAMINATION**

10 BY MR. WELLS:

11 Q Now Investigator Duff, back on July 26th, 2006, did you
12 have occasion to have an interview with the defendant?

13 A Yes, I did.

14 Q All right. Now let me show you this form and ask if
15 this was a waiver of rights form you had him -- advised
16 him of and then had him to sign and you witnessed?

17 A Yes, I did.

18 Q All right.

19 MR. WELLS: I would move to admit this into evidence,
20 Your Honor.

21 MS. PARROTT: Without objection.

22 THE COURT: Without objection that's State's 33.
23 (WHEREUPON, State Exhibit No. 33 was marked for
24 identification and admitted into evidence.)
25

Sw - J. Duff - Proffer

1 BY MR. WELLS:

2 Q Now Investigator Duff, if you would just read out what
3 you advised him so far as his rights to give the statement
4 or not?

5 A Well, before I read him his rights I asked him if he
6 could read and write. He said he could. I asked him how
7 far he completed school. He said he completed the tenth
8 grade. So the top of the form says Florence Police
9 Department, Your Rights. It has the date of 7/26 of '06.
10 The time was 1:58 p.m. And it said: "Before we ask you
11 any questions you must understand your rights. You have
12 the right to remain silent. Anything you say can and will
13 be uses against you in a court of law. You have the right
14 to talk to a lawyer for advice before we ask you any
15 questions, to have him or her present with you during
16 questioning. If you have no money for lawyers fees the
17 Court will appoint one to represent you without cost to
18 you if you wish. If you decide to answer questions now
19 without a lawyer present you will still have the right to
20 stop answering questions at any time until you talk with a
21 lawyer. I have read this statement of my rights and I
22 understand what my rights are." And it's signed by
23 Christopher McLeod. I read this to him. It's also where
24 he can read it along with me. The bottom it says, Waiver
25 of rights. It says: "I'm willing to make a statement and

Sw - J. Duff - Proffer

1 answer questions. I do not want a lawyer at this time. I
2 understand and know what I am doing. Neither promises nor
3 threats have been made to me and neither pressure nor
4 coercion of any kind has been used to obtain my consent."
5 Again, it's signed by Christopher McLeod and I am the
6 witness.

7 Q Investigator Duff, were there any then promises of hope
8 of reward made to him to give any kind of statement?

9 A No.

10 Q Were any threats or coercion made?

11 A No.

12 Q Now this would be -- this would not be something I
13 would bring out in front of the jury. Just for purposes
14 of this hearing the first thing you actually did when you
15 had him with him was give him a polygraph exam?

16 A That's correct.

17 Q And of course you know you're not to mention that in
18 front of the jury?

19 A I'm aware of that.

20 Q Now subsequently, after that was completed was that --
21 did Investigator Robinson join you at that point?

22 A Yes. I called her and asked her to join me in the
23 conference room where I was present with Mr. McLeod.

24 Q All right. Now subsequently what do you remember as
25 far as any type of oral statements he made in front of the

Sw - J. Duff - Proffer

1 two of you?

2 A Well, once Investigator Robinson came into the room we
3 talked briefly about what occurred with my interview, and
4 he denied sexually assaulting^{child} But at that point
5 in time Investigator Robinson reminded him of a -- the
6 statement from the previous day involving the wash cloth
7 and then subsequently, you know, that he had removed a
8 pubic hair from her vagina with his finger. There were
9 several moments of discussion with that. And then he
10 said, well, I did masturbate. And we said, well, where
11 did you masturbate? He said, well, it wasn't in the room
12 that I slept with^{child} in, not my bedroom. It was in
13 the room next door. I had not been to the house so I
14 wasn't aware what the house looked like. But he said
15 nobody used that room. He said he'd go into that room
16 when he felt the need he would masturbate. He said -- we
17 said, well, is there any possibility that any of your
18 semen got on anything. And he said, well, I had several
19 shirts in there and it might be on a black shirt and a
20 white shirt. So we talked about that for a few minutes.
21 He then said, well -- we started bringing up the
22 conversation of the smell of the vagina, the odor from the
23 vagina, what could possibly cause the smell of the odor of
24 the vagina and that he put his finger inside of her vagina
25 to get a better sample of what this odor and this smell

Sw - J. Duff - Proffer

1 was. He also told me that he said that while he had her
2 for this week that he never let her be in anybody else's
3 care; that he had constant supervision of her. And I
4 asked him, well, did you work that week? And he said, no,
5 you know, she's in my care, it's my week that I had her,
6 I'm staying with my sister and she was with me.

7 Q Is that pretty much everything that you know of?

8 A That's as far as I can recall.

9 Q Answer any questions that Ms. Parrott has.

10 MS. PARROTT: Thank you.

11 **CROSS-EXAMINATION**

12 BY MS. PARROTT:

13 Q Investigator Duff, I notice you write, start 1:58.

14 A Yes.

15 Q P.m.?

16 A Yes.

17 Q Do you have any idea what time this was concluded?

18 A By myself it concluded at 3:30. He actually arrived
19 somewhere between 1:30 and 1:40 by a transport officer
20 from the jail. His arm shackles are removed because I am
21 a female and he was a male I don't escort men to the
22 bathroom. So the transport officer, he's offered to go to
23 the bathroom because once I start my interview, you know,
24 we can stop at any point in time he wants to stop it, but,
25 you know, I don't want -- I have to go look for somebody.

Sw - J. Duff - Proffer

1 I have to call somebody. So I always ask the transport
2 officer, I ask him, does he want to go to the bathroom,
3 does he need water, I have cups in my room. Now I don't
4 have any notes where he went to the bathroom, but it is
5 offered. So once we actually started the interview,
6 before I actually started any certain portions of it he's
7 offered again because once I place things in certain
8 places I don't want to have to remove them. And that's
9 the components, but I won't say that during. So I'm very
10 conscious that we are in there for an hour-and-a-half to
11 an hour 45 minutes. You know, sometimes I stop my
12 interview because I have to use the facilities. I'm very
13 aware that I get thirsty, I have something to drink in
14 there, so forth. But once we actually went to the
15 conference room the only thing I can tell you is he did
16 say he got five hours of sleep that night. He ate
17 breakfast; he ate lunch. He said he had no health
18 problems. He felt great that day. He had had no
19 medication. He had not used any illegal drugs or
20 prescription drugs and no alcohol, has no problems, no
21 seizures, nothing of that. So —

22 Q And that's — I'm sorry. That's all part of your
23 protocol questions that you ask before you —

24 A Yes.

25 Q —start any interview —

Sw - J. Duff - Proffer

1 A Yes.

2 Q —you do?

3 A And that is documented so...

4 Q Do you have — those are just in your notes? You don't
5 have them actually signing something that they're doing
6 that, right?

7 A No.

8 Q And I know that your —

9 A If you'd like to see that form you can see it, but I
10 don't think you want to introduce it.

11 Q No, I just want to make sure that's what it is.

12 A Right.

13 Q Part of your notes?

14 A Yes, it is.

15 Q It's not a separate form 'cause your Miranda form here
16 is little bit different from the regular form; is it not?

17 A Yes, it's all part of my case file.

18 Q Okay.

19 A From my interview.

20 Q Okay. And you ask those questions before you ever do
21 this waiver form?

22 A No, actually it's the waiver form. There's a form
23 called a consent form where he consents to be in the room
24 with me. He's also advised during that he can stop at any
25 time; he can ask to leave at any time. And of course, he

Sw - J. Duff - Proffer

1 can't leave — if he was not incarcerated he could
2 actually physically get up and open the door and leave and
3 I have had people do that so. But he can say at any point
4 in time I wish to terminate this interview, or I wish to
5 stop this interview and I'll stop it.

6 Q Okay. For the interview portion is it recorded in any
7 way?

8 A No.

9 Q Okay. You have a tape recorder to do so?

10 A I've been advised that it should not be recorded.

11 Q Okay.

12 A So I do have a tape recorder, I do have the means to
13 video tape it. I've just been advised not, no.

14 Q Okay.

15 A Because how can you introduce that?

16 Q So the total time he would have been there that day
17 from the start to even after when Investigator Robinson
18 comes in —

19 A Yes.

20 Q —how much time do you believe that it was?

21 A I would say everything was finished probably by 4:15
22 because I served the warrant on him, and at that point in
23 time I called the transport officer and he was
24 transported back.

25 Q You went ahead and served the warrant?

1 A Yeah. Yeah, I think --

2 Q So it was already prepared?

3 A I guess it was.

4 Q Nothing further.

5 THE COURT: Anything further?

6 MR. WELLS: That's all, Your Honor.

7 THE COURT: Thank you, Ma'am, you may step down.

8 MR. WELLS: That would be all the State has as far as
9 this hearing.

10 THE COURT: All right. Ms. Parrott.

11 MS. PARROTT: Your Honor, I just make a motion at this
12 time regarding this matter.

13 THE COURT: All right.

14 MS. PARROTT: In listening to the officers, this would
15 be a interview that he was warned about on one day
16 conducted between to two different time periods with at
17 least four different investigators of ascending ranks with
18 the Investigator Robinson being, one, her supervisor with
19 Investigator Compton. Going up the next level I believe
20 Julie Duff is probably at the same level than Investigator
21 Compton and then Major Raines going up at another level.
22 the time periods would have been multiple.

23 THE COURT: What relevance is their rank?

24 MS. PARROTT: It's the shield, Your Honor. I mean,
25 they -- some of them wear them where you can see it, but I

1 think it would be something where they would come in and
2 he'd be introduced as Major Raines as opposed to.
3 Investigator knowing there's somebody else who comes in of
4 a higher rank would be even more intimidating to a person.

5 THE COURT: None of that was testified to.

6 MS. PARROTT: Whenever I -- I'm sorry, Your Honor, I'm
7 assuming whenever they're talking about that they're an
8 investigator as opposed to lieutenant as opposed to Major
9 Raines coming in, that would be the testimony of it 'cause
10 I did ask if it was Major Raines that came in.

11 THE COURT: Right, but there was no testimony he
12 introduced himself has a major.

13 MS. PARROTT: But they do come in and introduce
14 themselves, Your Honor. They haven't called Carlos
15 Raines.

16 THE COURT: My name is Carlos Raines, I want to talk to
17 you. I don't know, my point being that wasn't the
18 testimony. You're speculating that's what they did.

19 MS. PARROTT: Your Honor, I do believe that they would
20 come in and say what -- and he does wear a shield on his
21 side so I can't imagine it would be any different than
22 what his normal course of business would be to wear his
23 shield where you can see exactly what his rank is on it.
24 So I would ask that you still take into consideration that
25 there are different ranks that were done. Even if you

1 don't there are certainly four different investigators
2 that have been present for his interviews. They have
3 lasted for multiple hours on end. It is -- it's in two
4 different places at least that they have been interview
5 offed. None of it was taped. There was the possibility
6 of doing so at least down at the Sheriff's Office it
7 wasn't even looked into as to whether or not they had the
8 opportunity to do so. And then up here it appears they
9 have the opportunity or the ability to do so but choose
10 not to for multiple reasons I believe. But based of all
11 the information that he wasn't allowed the opportunity to
12 take a break at any time --

13 THE COURT: No, no, no, that was not the testimony.

14 MS. PARROTT: Your Honor, they don't even offer it.

15 THE COURT: That was not the testimony.

16 MS. PARROTT: But Your Honor, they stated they don't
17 even offer it.

18 THE COURT: And he didn't ask.

19 MS. PARROTT: Yes, Your Honor, and I will concede that
20 but they don't even offer it to him. Any person who's --

21

22 THE COURT: Well, it's not accurate to say he wasn't
23 allowed a break.

24 MS. PARROTT: Well, I believe, Your Honor, he's in
25 custody at the time so I don't know that they would feel

1 comfortable asserting right to try and get a break. I
2 think what has to be taking into consideration is they are
3 in custody.

4 THE COURT: You understand what I'm saying though?

5 MS. PARROTT: I do.

6 THE COURT: I don't think so. You said he wasn't
7 allowed a break. That was not the testimony.

8 MS. PARROTT: Then Your Honor —

9 THE COURT: He wasn't offered a break; he didn't ask
10 for a break.

11 MS. PARROTT: And he wasn't advised that he would have
12 the opportunity should he choose to exercise it. My
13 question though, also, is that they're not comfortable
14 necessarily making that assertion to even try.

15 THE COURT: That's purely speculative.

16 MS. PARROTT: Okay. But Your Honor, the question is
17 whether or not a person is under duress, whether or not
18 they've been threatened —

19 THE COURT: Correct.

20 MS. PARROTT: —and all these things.

21 THE COURT: Correct.

22 MS. PARROTT: And all of these are factors that would
23 go into that so I would ask that you not allow his
24 statement to be presented in court.

25 THE COURT: All right. I'm gonna respectfully deny

1 your motion. I didn't get any impression that there was
2 any coercion, any threats. I agree with you that no one
3 gratuitously offered him, would you like to take a break
4 now or whatever. But there was no indication that he
5 needed a break or asked for a break or, and I would tend
6 to disagree. I think most people, if they had to use the
7 restroom would say, I've got to use the restroom. Or, if
8 they were thirsty, listen, could I get something to drink,
9 my throat is very dry. I don't — again, I'm speculating
10 as well but it doesn't appear to be anything in testimony
11 that would indicate that he was coerced or under any
12 duress at this time or at that time.

13 Also, with regards to the varying ranks of the
14 officers, again, there's no testimony that he was even
15 away that he was dealing with officers of different ranks.
16 And I just — it does — it appears that he was clearly in
17 every instance advised of his rights, and I think
18 appropriately based on the use of the forms and the forms
19 appear to be in contact and appropriate so I'm gonna
20 respectfully deny your motion to suppress the statements.

21 MS. PARROTT: And objection is noted for —

22 THE COURT: Sure.

23 MS. PARROTT: Thank you, Your Honor.

24 THE COURT: Anything else?

25 MR. WELLS: That's all, Your Honor, before lunch. You

1 told the jury to be back what —

2 THE COURT: 2:30. So we'll -- unless there's anything
3 y'all are aware of that we need take up before we start
4 back we'll be in recess till 2:30.

5 (WHEREUPON, a lunch break was taken.)

6 THE COURT: Is the State ready to proceed?

7 MR. WELLS: We are, Your Honor.

8 THE COURT: Defense ready?

9 MS. PARROTT: Yes, Your Honor.

10 THE COURT: All right. Would you ask the jury to join
11 us please.

12 (WHEREUPON, the jury was returned to the courtroom at
13 approximately 2:48 p.m., and the following proceedings
14 commenced in open court.)

15 THE COURT: All right, ladies and gentlemen, hope
16 everyone is ready to go back to work this afternoon.
17 We'll recognize Mr. Wells, or still on the State's case.

18 Mr. Wells.

19 MR. WELLS: Thank you, Your Honor. I call Investigator
20 Michael Robinson to the stand.

21 DEPUTY CLERK OF COURT: If you would place your left
22 hand on the Bible and raise your right hand.

23 WHEREUPON,
24

25 MICHAEL THOMAS ROBINSON,

Sw - M. Robinson - Direct

1 having been duly sworn by the Deputy Clerk of Court,
2 testified as follows:

3 DEPUTY CLERK OF COURT: Please be seated and state your
4 full name for the record.

5 THE WITNESS: My names is Michael Thomas Robinson.

6 **DIRECT EXAMINATION**

7 BY MR. WELLS:

8 Q And Investigator Robinson, with whom are you employed?

9 A I'm employed by the Florence City Police Department.

10 Q And how long have you been employed with them?

11 A I was hired by the Florence Police Department in 1999.

12 Q All right. And what is your specialty as far as
13 investigations?

14 A I specialize in investigating crimes against children,
15 predominantly sexual, physical abuse, and neglect.

16 Q And what type of training have you had for that type of
17 case?

18 A Well, I became a child abuse detective or a detective
19 in 19-- or 2004, and at that time I was -- attended
20 several specific training seminars in Austin, Texas and
21 Alabama in reference to investigating sexual abuse,
22 physical abuse, head trauma, sex offender typologies, meth
23 in children, effects of methamphetamines in children,
24 along those lines.

25 Q All right. So now, so were you an investigator in that

Sw - M. Robinson - Direct

1 line back on July 24th, 2006 as well?

2 A Yes, I was.

3 Q All right. And on that date were you notified to
4 respond to [REDACTED] Coker Street Apartment [REDACTED] which would be in
5 the city and county of Florence concerning a possible
6 child sexual abuse incident?

7 A I was.

8 Q What did you find when you arrived on that scene?

9 A When I arrived on Coker Street I first met with the
10 responding officer which was officer Jay Gregg at the
11 time. And Officer Gregg briefed me on the situation.

12 Q What was the situation at that time?

13 A There was a gentleman in at the residence who was
14 sitting in the kitchen by the name Christopher McLeod.
15 Christopher McLeod was the biological father of two year

16 old child

Also in the resident were

17 child

mother, Shante Kent and her aunt, Christopher's
18 sister, Niosha McLeod?

19 Q All right. And did you find out that there been some
20 trouble between the defendant and his sister, which was
21 the initial call to police?

22 A The initial call was because of there had been an
23 argument between Niosha and Christopher, and Christopher
24 had punched a hole in the bedroom wall in a scuffle. She
25 had actually taken child upstairs and locked the door,

Sw - M. Robinson - Direct

1 and he had tried to kicked the door to her bedroom but
2 didn't leave any damage. And then fled out the back door
3 after she had excused him of the physical abuse, and he
4 said that -- she accused him of the physical abuse and ran
5 upstairs and locked herself in the bedroom door and then
6 he fled but later returned prior to my arrival.

7 Q All right. So now did Officer Gregg arrest him on the
8 original charge for the breach of peace vandalism-type
9 incident?

10 A That's correct. Officer Gregg arrested Mr. McLeod for
11 breach of peace and when I was there he was not under
12 arrest. He was just sitting at the table. I approached
13 Mr. McLeod and informed him that I was Investigator
14 Robinson with the police department and that I would be
15 speaking with him today, that day, but that I would come
16 out and meet with him the following day.

17 Q Now did you talk with the mother of the child and the
18 sister and also observe bruises on the child?

19 A I first met with the mother Shante Kent and the sister
20 Niosha McLeod in the living room. child was -- was
21 also in the living room and I could observe just by
22 looking at her face the injuries to the side of her face
23 and her ears. And the mother Shante was very upset and
24 wanted me to see the trauma to the victim in her vaginal
25 and rectal area. At that time I told her that I had a

Sw - M. Robinson - Direct

1 medical forensic specialist that would examine her and
2 make sure that her baby was okay.

3 Q Was the Department of Social Services called in too at
4 that time?

5 A Yes, sir. I then contacted the Department of Social
6 Services and they responded as well. They're always
7 called if it's an abusive situation.

8 Q So was the child taken to emergency protected custody
9 at that time?

10 A The child later on that evening, the mother and after
11 -- while I was at the house I contacted the crime scene
12 unit squad, asked them to meet me at the house for scene
13 collection and processing and things like that of any
14 potential evidence of any crime; that we did didn't know
15 exactly what we had but we knew that we needed crime scene
16 there. And then met with Ms. McLeod, Niosha McLeod,
17 upstairs and she showed me the bedroom that ^{child} and
18 her father had shared for the week and I spoke with her.
19 Do you want me to...

20 Q Go ahead.

21 A Well, I was asking Ms. McLeod what had happened and
22 what had prompted her to call the police and she stated
23 that that Friday before -- this was a Monday. She stated
24 that that Friday before she had started noticing these
25 bruises coming up on ^{child} body that were

Sw - M. Robinson - Direct

- 1 concerning. She confronted her brother. She said that
2 over the weekend he got more and more aggressive, wouldn't
3 let her change ^{child} diaper, wouldn't let her be the
4 aunt and for her entire life Ms. McLeod had been very
5 involved in ^{child} life. There was a McDonalds
6 incident where they went to McDonalds to have dinner and
7 Ms. McLeod was trying to feed ^{child} and her father
8 refused to allow Ms. McLeod to even help her eat and
9 called her a -- excuse my language, but called his
10 daughter a bitch and said, you know, don't help her,
11 wouldn't let her eat, didn't want assistance in eating.
- 12 Q All right. So as a result of that did you take steps
13 to have the child examined by Kathy Saunders, who's an
14 expert in examining children of sexual and physical abuse?
- 15 A Yes, sir, I did. I called DSS and asked them to meet
16 me at the First Choice Health Care which was where the
17 Care House was based out of. And Doctor Saunders met me
18 at the First Choice Health Care. She was already there
19 actually. That myself and ^{child} mother and ^{child}
20 they rode with me and we went immediately to First Choice
21 Health Care.
- 22 Q And after the examination of the child were you
23 informed by the findings of indication of sexual and
24 physical abuse?
- 25 A Yes, sir, the doctor indicated that there was sexual

Sw - M. Robinson - Direct

1 and physical abuse and by that time DSS had arrived.

2 Q All right. Now also on that day did you have, I
3 believe, Officer Moreau, go to the scene to get anything
4 that might or might not be relevant in the case?

5 A Yes, sir. Before I left the actual scene Investigator
6 Moreau was already, crime scene tech Moreau was already
7 present on scene and I had debriefed him on everything
8 that I had spoken to Ms. McLeod, Mr. McLeod's sister, to
9 describe the bedroom which, you know, they were staying
10 and things like that for any possible evidence collection.

11 Q All right. Now the next day on July 25th, 2006, did
12 you have occasion as you promised the defendant to meet
13 him at the Florence Detention Center to talk with him?

14 A Yes, sir, I did. The next day I went down to the
15 Detention Center. Mr. McLeod had been arrested for the
16 breach of peace and he was in custody at the law
17 enforcement center; and so I went down to the law
18 enforcement center and met with him that afternoon, that
19 day, I think it was morning.

20 Q Now let me ask you, prior to interviewing him did you
21 advise him of his rights, either talk with you or not, and
22 basically have him exercise what we call waiver of rights
23 form?

24 A Yes, sir, that's the waiver rights form Mr. McLeod and
25 me completed together.

Sw - M. Robinson - Direct

1 Q If you just would relate to the jury what you read to
2 him as far as from that form as to his rights to talk with
3 you or not.

4 A Okay. There are two numbers on the top of the form,
5 2006-007336 and 2006-007335. Those are the case numbers.
6 One report was for possible criminal sexual conduct with a
7 minor. The other one was for the vandalism to the
8 residence. So I put both case numbers on the form. The
9 next thing is the waiver of rights form, division of
10 police, Florence, South Carolina, and it's dated July the
11 15th, 2006, and the police is Florence County Detention
12 Center. Would you like me to read where --

13 Q Yes, if you will just read what's in the form.

14 A The form says: "I, Christopher McLeod, voluntarily
15 without threats, duress, force, promises of immunity or
16 reward, agree to be questioned by the Florence Police
17 Department. I fully realize I have the right to remain
18 silent the entire time I am here. Anything I may say can
19 be used against me in any court of law. I have the right
20 to have an attorney present, and if I cannot afford an
21 attorney and desire to be represented one would be
22 appointed for me prior to any questioning without cost to
23 me. Even after signing this form I realize that I have
24 the opportunity to exercise these rights at any time I
25 wish to while I'm here. I also realize I have the right,

Sw - M. Robinson - Direct

- 1 first, to consult with an attorney or anyone else I wish
2 to before signing this form or answering any questions.
3 Nevertheless, I voluntarily request and authorize the
4 Florence, South, Carolina Police Department to proceed
5 with the questioning. In addition, I represent that I
6 feel all right both mentally and physically and I know of
7 no mental or physical ailment which might be impaired by
8 any questioning. Important notice: If you do not
9 understand any part of this form do not sign it until you
10 do." And it's signed Christopher McLeod, and he dated it
11 as well 7/25, 2006, and then I signed below his signature.
12 Q So he signed it in your presence and you witnessed it?
13 A Yes, sir, he did.
14 Q And this would be State's Exhibit Number 32. Now was
15 there any promise of hope, reward, given to him to talk
16 with you?
17 A No, sir, none at all.
18 Q Was there any threats or duress, coercion made to him
19 —
20 A No, sir.
21 Q —to talk to you? All right, if you would relate, did
22 you then take an oral statement from him?
23 A I did obtain an oral statement from Mr. McLeod.
24 Q All right. Now as I understand, this was not recorded
25 but then you wrote it up after the fact; is that right?

Sw - M. Robinson - Direct

1 A That's correct. I did, that's correct.

2 Q All right. If you would relay the question you had
3 Mr. McLeod at that time.

4 A Well, after I Mirandized Mr. McLeod I just began to
5 talk to him about his -- knew that he was -- had been out
6 and working in different area. He was back in Florence
7 and so he had been -- spent the week with his daughter,
8 basically the two of them, that week while his sister
9 worked. He stated some of his -- curious about their
10 daily routines and how they operated. He immediately said
11 that he had not done anything to his daughter sexually,
12 but he did admit to the physical abuse and said that he
13 had spanked her twice. He said the first time that he
14 spanked her he spanked her on her bottom with a switch.
15 And the reason why he spanked her on her bottom with a
16 switch is because she at the age of two called him --
17 excuse my language, she called him a bitch, and so he
18 spanked her with a switch on the bottom.

19 The second time he stated he spanked her was later
20 on in the week whenever they were upstairs because she had
21 a bowel movement on the floor, and so he spanked her again
22 for having a bowel movement on the floor. He readily
23 admitted to seeing the marks on her legs but denied
24 sexually abusing her. And so then we started talking
25 about their daily routines, what they did every day for

Sw - M. Robinson - Direct

1 that week. They were together from Monday through the
2 following Monday. He stated they would get up in the
3 morning and wash up and get dressed. And then he began to
4 tell me of an incident where he was washing her up one
5 morning. He said that he was sitting on the toilet in the
6 bathroom upstairs and that he was -- began to wash her up
7 and he saw a pubic hair inside her vagina.

8 MS. PARROTT: Objection, just as noted previously.

9 THE COURT: All right. Overruled.

10 BY MR. WELLS:

11 Q Go ahead?

12 A He states he saw a pubic hair inside her vagina. And I
13 asked Mr. McLeod how this pubic hair could have gotten
14 inside her vagina. He said that they had shared the same
15 wash cloth so that he assumed that transference come from
16 his wash cloth so he said he removed the hair inside her
17 vagina with the actual wash cloth itself to take it -- to
18 take it out. He also indicated during the interview that
19 he had noticed a foul odor coming from ^{child} vagina
20 from her vaginal area. And I asked him at that point, you
21 know, I haven't heard this so wasn't aware of this, can
22 you tell me what you did about it as her father. And he
23 said that he wanted to ask his sister but he kept
24 forgetting to ask her through the week. At that point the
25 room that we were in, Detective Compton, I saw him in the

Sw - M. Robinson - Direct

1 hall and so I had -- I stepped out to take a break from
2 the interview. And I asked Sergeant Compton -- I briefed
3 him on the situation at that time; he was my direct
4 supervisor. He too was at the law enforcement center
5 interviewing people on unrelated matters. And I asked him
6 for his assistance. And so I brought Investigator Compton
7 in and Investigator Compton interviewed him without me
8 being present for a few minutes, maybe 15 minutes at the
9 most. And then I stepped back into the interview room,
10 and I was quiet just a few minutes just to listen to the
11 two of them chatting and talking. And then I asked
12 Mr. McLeod to please describe to Investigator Compton
13 exactly what he had told me about this pubic hair having
14 removed it from ^{child} vagina and at that point he
15 reiterated the same story; that he had seen pubic hair and
16 that he had removed it from the wash cloth.

17 Q You said he was sitting on the toilet when he observed
18 it?

19 A He said he was sitting on the toilet in the bathroom.
20 She was standing up in front of him and whenever he was
21 washing her up for the day, and that's whenever he, your
22 know, saw the pubic hair.

23 Q All right. Go ahead, continue. What else? Were there
24 any changes in his -- what he said on that particular day?

25 A Well, we spoke for -- we discussed this a few more

Sw - M. Robinson - Direct

1 minutes, and then we asked him if he would mind completing
2 a suspect sexual assault evidence collection kit. And he
3 said that he did not mind. And we informed him that a
4 crime scene technician would be down to the jail to see
5 him to complete this sexual assault evidence collection
6 kit, suspect kit, and he agreed. We stood up to leave,
7 and Mr. McLeod stated that there was one more thing that
8 he needed to tell us. And that at that time he stated
9 that it was possible that his finger could have gone
10 inside ^{child} vagina because he did not remove the
11 pubic hair with the wash cloth but removed the pubic hair
12 with his fingers. And so he recanted the wash cloth
13 statement and stated he had used his fingers to remove the
14 pubic hair from her vagina.

15 Q Okay. And was that the end of the interview on that
16 particular day?

17 A Yes, sir, that was the end of the interview.

18 Q Now subsequently did you talk with the defendant's
19 sister again, Niosha McLeod, to get a more detailed
20 statement?

21 A That same day I contacted Ms. McLeod and asked her to
22 meet with me in the office. I wanted to get a taped
23 statement from her with everything that she had disclosed
24 earlier about the spankings and the questions and the
25 concerns that she had.

Sw - M. Robinson - Direct

1 Q Now also, since the names have come up from the
2 defendant, I believe on the next day on July 26th, 2006,
3 did you have occasion to go talk with the Hamilton family,
4 I believe, Dale Hamilton, Shamar, his wife Teresa
5 Hamilton, their children Nate and Nacey as well as
6 Clarence Warren, who is known as Charles?

7 A I did. While I was interviewing Mr. McLeod he said,
8 and I were in the process of getting information that
9 daily routine. He stated that he had been at this home at
10 Nacey and Nate and Shamar and Teresa and stated that
11 maybe, you know, he didn't know. That he thought that
12 they had been — that child had been left alone there a
13 few minutes and that something must have happened there.
14 And so the following morning I went on to that residence
15 to try to identify the people that he was referring to.

16 Q All right. After talking with them about what had
17 occurred that week did you ever feel that they were
18 suspects?

19 A They were — when I met with them in the home they were
20 very forthcoming and very cooperative, and there was
21 nothing at any point ever gave rise or attention to any,
22 or any alarm, anything that they said that, you know,
23 there was never really a period of time — all roads, you
24 know, at that point did not lead toward them.

25 Q Now subsequently on that day on the 26th did you go

Sw - M. Robinson - Direct

1 ahead to the magistrate and get a -- sign a warrant for
2 criminal sexual conduct with a minor against the
3 defendant?

4 A After I met with the Teresa and the Hamiltons I did
5 because there was --

6 Q At that time all roads led to him?

7 A All roads led to him.

8 Q Now subsequently on this day later in the afternoon did
9 you have occasion along with Investigator Julia Duff to
10 interview the defendant again?

11 A He was interviewed a second time.

12 Q And now on this occasion was Investigator Duff who had
13 advised him of his rights and had him sign formerly which
14 is what's State's Exhibit Number 33, this form?

15 MS. PARROTT: Objection, speculative.

16 MR. WELLS: Well, I think she can say what it is. I'll

17 --

18 THE COURT: She can look at it and tell if she knows.

19 THE WITNESS: This is a waiver of rights form witnessed
20 by Investigator Duff and signed by Mr. McLeod.

21 BY MR. WELLS:

22 Q All right. Now, if you would relate anything
23 additional the defendant said on this occasion when y'all
24 interviewed him earlier?

25 A He was interviewed again the subsequent day after the

Sw - M. Robinson - Direct

- 1 first interview. And we asked him was it -- is there any
2 way possible that any semen, any DNA, may be in this
3 apartment that would really link anything, you know, is
4 there -- is it possible that there's DNA of you? And he
5 said, yes, I did masturbate while I had ^{child} in my
6 custody. He stated that he masturbated in the vacant room
7 beside his bedroom when he and ^{child} shared a room, and
8 that there was possibly DNA that could be found on a white
9 T-shirt and a black T-shirt in that other room.
- 10 Q By that time had the house been cleared?
- 11 A By that time this was two days after, and so but he did
12 say that there, you know, his semen could be found there
13 on those items.
- 14 Q But those items were never located by y'all; is that
15 correct?
- 16 A They were never located and we couldn't really find
17 those in the photographs either.
- 18 Q Now was there any further conversation about the pubic
19 hair?
- 20 A Yes, sir, there was. At that point Mr. McLeod then
21 recanted and said that he didn't stick his finger inside
22 ^{child} vagina to remove the pubic hair. He stated
23 that he stuck his finger inside her vagina because of the
24 foul odor, and he was trying to identify the foul odor.
25 And so that was a third variation of the pubic hair inside

Sw - M. Robinson - Cross

1 her vagina.

2 Q All right. Now when the interview was completed, the
3 warrant that you had signed in front of the magistrate for
4 his arrest on the criminal sexual conduct charge was that
5 served on him by Officer Duff?

6 A Yes, sir, he was served the warrant at that time.

7 Q If you would answer any questions Ms. Parrott has.

8 **CROSS-EXAMINATION**

9 BY MS. PARROTT:

10 Q Investigator Robinson, you were called by Officer
11 Gregg, correct, to the scene?

12 A Normally the protocol is to be called by the
13 supervisor, so —

14 Q Okay.

15 A —Officer Gregg, supervisor would have been the one to
16 make the decision to call an investigator.

17 Q They called you to the scene to come and then you met
18 with Niosha but just had a brief word with my client, with
19 Mr. McLeod, right?

20 A That's correct.

21 Q Okay. You told him at the time you were going to be
22 coming to see him the next day; is that right?

23 A Yes, ma'am.

24 Q Did you go ahead and advise him of his Miranda rights
25 at that time or do that form with him at that time?

Sw - M. Robinson - Cross

1 A No, ma'am, I didn't ask him anything. I just advised
2 him that I would come see him the next day.

3 Q Okay. And you knew that he was being arrested and
4 taken out to Effingham, and you were planning on his still
5 being in Effingham to see him the next day; is that right?

6 A Yes, ma'am.

7 Q Okay. You then went ahead and talked with Niosha, his
8 sister?

9 A I did speak with Niosha.

10 Q Okay. And went ahead then and had the crime scene
11 called in as well?

12 A Yes, ma'am, I contact crime scene.

13 Q All right. Took the child on to to the Care House to
14 see Kathy Saunders, right?

15 A Contacted DSS and asked them to meet me at the Care
16 House and then I took the child^{child} and her mother.

17 Q And that's because that's protocol also, to take the
18 child to the Care House for CSC cases?

19 A Absolutely, need to establish the child's safety.

20 Q And you always meet with Ms. Saunders on cases like
21 this, correct?

22 A To -- if the child needs medical examination, yes, we
23 do.

24 Q So Kathy Saunders, that is your contact person?

25 A The Care House actually is, and then she's the

Sw - M. Robinson - Cross

1 physician. She's the doctor there. She's not always the
2 one that answered the call but she's the medical physician
3 for emergency.

4 Q All right. Is ^{child} acting okay during the time
5 that you saw her?

6 A She was.

7 Q Okay. So it wasn't until she got to the Care House and
8 they started examining her that she started maybe getting
9 a little bit upset as seen in those pictures?

10 A She was uncomfortable and her, you know, she was
11 uncomfortable.

12 Q And it's not necessarily comfortable for a child to go
13 to this place which is why they have teddy bears and all
14 this to kind of try and make them comfortable, correct?

15 A That's correct. The Care house is a child friendly --
16 it's child centered and child friendly. You know, it's
17 for children to put them at ease. It's their comfort.

18 Q Okay. At the same time this is going on crime scene is
19 still processing the Coker Street address which is where
20 Niosha and Christopher lived, correct?

21 A Yes, ma'am.

22 Q And you had directed Officer Moreau as to some things
23 you saw, but you left it open for him to also see what is
24 maybe worthy of collection for evidence as well?

25 A I did. I first met with Ms. Niosha McLeod to identify

Sw - M. Robinson - Cross

1 the locations and possible areas, and she and I went
2 upstairs and she showed me Mr. McLeod's bedroom.

3 Q It's not until you interview him the next day that you
4 learned about the weekend's events over at the Oakland
5 Street address?

6 A To the best of my knowledge I knew nothing about that.
7 The only thing I knew about was what Shante, the victim's
8 mother, and Ms. McLeod had told me and that was the
9 concerns of Mr. McLeod.

10 Q Okay. But whenever you then meet with him the next day
11 he's the one -- and he signed that sheet because you asked
12 him to, correct?

13 A Yes, ma'am.

14 Q How long had you been interviewing him before he signed
15 that sheet?

16 A Just a few minutes. Introductions, I'm Investigator
17 Robinson, we met yesterday, I'm here to talk to you and I
18 want to advise you of your rights.

19 Q Do you know how long that interview lasted?

20 A I did not write the time from beginning or to end. It
21 was not long, you know, it was not prolonged period of
22 time.

23 Q Okay. And just because, you know, what may be long for
24 one person may be short time to another.

25 A Sure.

Sw - M. Robinson - Cross

1 Q And certainly if you're being questioned by an officer
2 that might be a little bit different kind of thinking as
3 well. Can you give me an idea, was it two hours, three
4 hours, four hours?

5 A It was no more than two hours. It was -- it was, you
6 know, -- it was no more than two hours.

7 Q And this was just you and he alone in this one room?

8 A It was me and him along in this room for maybe the
9 first 45 minutes or so, fifty minutes probably. And these
10 are really approximate times. I don't remember specific
11 times. I don't remember specific times. It was -- I
12 would say it was less than an hour with Mr. McLeod and I.
13 Once we go through, you know, you can imagine you tell
14 somebody, you know, what you do for a week and, you know,
15 things like that, I mean, by the time we chatted and got
16 the paperwork done it's probably an hour.

17 Q Okay. But you never recorded this statement?

18 A Did not. It's an oral statement.

19 Q Didn't have any kind of tape recorder whatsoever at
20 your disposal?

21 A Back then in 2006 and since then we've been issued
22 digital recorders which are really small handheld. You
23 can put one in your pocket and record hours and hours on
24 end. But back then we didn't have those. Usually when we
25 do a statement it's a complete full statement. If someone

Sw - M. Robinson - Cross

1 is changing their stories within minutes I just — I did
2 not obtain a statement from him, a recorded statement.

3 Q But you were down there at the detention center which
4 even has the Sheriff's Office right there attached to it.
5 You don't even have to cross the hallway basically and get
6 —

7 A Okay, there's — I was not in that — that's a good
8 point. I was not in the Sheriff's Office. I was actually
9 in the jail during the interview so I was not in the
10 Sheriff's Office. There's, you know, a — there's a
11 defined space, very defined distinguishing space between
12 the two, between the office complex and actual jail and I
13 was in the training center of the jail. The other spaces,
14 usually I go to one room and that space was full, and so
15 they allowed me to use their training room.

16 Q But this is all in one building, correct?

17 A Very large building, yes, ma'am.

18 Q Right. So I mean, there's a door that someone has —
19 has in charge of the control room to open but you could
20 have gone through that door and gone to investigations?

21 A Sure, once I get permission, absolutely.

22 Q So investigations would have had certainly a recording
23 device around there; wouldn't they?

24 A If there was a room open I could have done that.

25 Q And they have interview rooms on that side of the

Sw - M. Robinson - Cross

1 sheriff's office too, correct?

2 A On which side?

3 Q On with the -- where near investigations?

4 A Yes. There are two interview rooms there. I don't

5 know that, you know, their status. I rarely use them

6 usually. I stayed in the lineup room, the jail side.

7 It's more a controlled setting.

8 Q So did you even check to see if they were available

9 that day?

10 A No, I didn't.

11 Q You were interviewing him you said you, then

12 Investigator Compton, who is your superior at the time?

13 A At the time, uh-huh.

14 Q Came to talk to you for a few minutes you stepped out

15 of the room, is that correct?

16 A I stepped out of the room. The room, it's an open

17 concept of the -- in the training room there. I can see

18 Mr. McLeod the whole time. He could see me the whole

19 time. I just stepped out the hallway when I saw

20 Investigator Compton go by.

21 Q But he was left alone in that room, right?

22 A Sure, with me standing at the door.

23 Q And the next thing that he knows and that you

24 understand is that Investigator Compton comes in the room?

25 A Yes, ma'am.

Sw - M. Robinson - Cross

1 Q Is that right? And how long would you estimate that
2 Investigator Compton was in the room and you were out of
3 it?

4 A What my notes say is about 15 minutes. I documented
5 about 15 minutes.

6 Q Okay. And you decided to return to the room?

7 A I did, and I didn't decide. I had every intention on
8 coming back. I had just stepped away for a few minutes.

9 Q Okay. How long would you estimate that you were back
10 in the room with Mr. McLeod?

11 A We couldn't have been back into the room more than 30
12 minutes. I think it was -- once I came back into the room
13 I couldn't have been longer than 30 minutes. It was not a
14 prolonged period of time. The entire interview with him
15 the time was not prolonged.

16 Q And again, that's from your perspective of doing this
17 kind of work not being the suspect though, correct?

18 A Correct.

19 Q Okay. Even at the end of all of that you had asked him
20 about his doing suspect kit and he consented; did he not?

21 A Yes, ma'am, he did.

22 Q So he was volunteering to help you with your
23 investigation in whatever way necessary to help arrest the
24 guilty party for this crime, correct?

25 A Yes, he consented to a suspect criminal sexual assault

Sw - M. Robinson - Cross

1 kit.

2 Q But you don't have to consent to this. You have gotten
3 a Schmerber order, what's called a Schmerber order, before
4 to make someone comply, correct?

5 A Absolutely.

6 Q It's fairly simple of making sure there's an affidavit
7 with a petition going to a judge and getting a signature
8 and then having it served, correct?

9 A I complete the affidavits on a Schmerber order.

10 Q Right. And it doesn't take long for that whole process
11 to happen; does it not?

12 A No, ma'am, a couple of days.

13 Q But in this case you didn't even have to go through any
14 of that.

15 A No, ma'am. Mr. McLeod consented. It was not able to
16 be completed but he did consent.

17 Q Okay. You left that day, and you weren't present when
18 that -- when the suspect kit was carried out, were you?

19 A No, ma'am, a male crime scene technician who testified
20 earlier completed that kit.

21 Q That was Officer Moreau, correct?

22 A That's correct.

23 Q Okay, all right. At one point though when you're
24 discussing things with Investigator Compton even in the
25 room, you're saying something about a pubic hair having

Sw - M. Robinson - Cross

1 possibly been removed from the child?

2 A No, ma'am, I didn't say that. Mr. McLeod said that.

3 Q Okay. Excuse me, I'm sorry, didn't mean to put the
4 words in your mouth. But that was being discussed; was it
5 not?

6 A Yes, ma'am.

7 Q Is he the one who called it that or was that you?

8 A He's one that called it a pubic hair.

9 Q You didn't have to give him the terminology?

10 A No, ma'am.

11 Q And then you asked him further questions, again, with
12 Investigator Compton in the room about that?

13 A I asked him to relay the information. Again, the first
14 time that he disclosed the pubic hair inside her vagina we
15 were merely talking about her, the daily routine, and what
16 they had been doing that week. And it was when he said he
17 would wash her up in the mornings that that incident
18 occurred. Now the second time I did ask Mr. McLeod to
19 please explain to Investigator Compton what he had told me
20 earlier about that, about the pubic hair and which he did.

21 Q You said that he had discussed with you about what he
22 was doing that week with the child. Did he take the child
23 to the park?

24 A He said he took her to the park. He took her to the
25 church. And I have to look at my notes. There was two

Sw - M. Robinson - Cross

1 nights that he indicated that he took her to church.

2 Q If I said Wednesday and Friday night would that seem
3 correct?

4 A I can look through my notes but that's probably it.

5 Q Okay. And he was helping take care of the child as
6 well as his sister, right?

7 A I was under the impression from Ms. McLeod that she had
8 not been allowed to take much care of her by the end of
9 the week, only Mr. McLeod. He would become angry when she
10 would actually try to care for her.

11 Q So after that, that's the end of your information for
12 this day. The next day you then went to go meet with the
13 Hamiltons; is that correct?

14 A The next, the following day I did.

15 Q You met with them at their house; did you not?

16 A Yes, ma'am, I did.

17 Q And that would have been all together in the -- in the
18 living room?

19 A Yes, ma'am, I did.

20 Q Did not interview them separately, one by one?

21 A No, ma'am, they were not suspects but merely providing
22 information as to events to corroborate what Mr. McLeod
23 had been saying.

24 Q But isn't the point of an investigation to determine
25 who is a suspect as opposed to the rest and how would you

Sw - M. Robinson - Cross

1 have already determined that at that point?

2 A I had determined that there was a problem, but I had
3 not determined any specific indication of anybody at the
4 Hamilton home to harming this child.

5 Q But you were at this time you're looking at three
6 teenage or adult men who would have had equal access to
7 this child, and at some points by the information that was
8 relayed to you at least two of them were even alone
9 possibly with the child at differing times. Why did you
10 not treat them as suspects?

11 A There's no indication that anyone was left alone,
12 directly alone with ^{child} other than her biological
13 father.

14 Q Again, though, you have three other men who have equal
15 access to this child and have had equal access in that
16 24/48 hour crucial time period, Ms. Saunders referred to
17 those red and purple bruises, why did you not treat them
18 as suspects?

19 A There was no indication they were left alone with this
20 child. They — there was a mother and a sister and a
21 daughter in the home almost the entire time. ^{child} was
22 not left alone. You were —

23 Q But if you were — I'm sorry, go ahead.

24 A She just wasn't — she wasn't left alone.

25 Q But if you're interviewing suspects you isolate them

Sw - M. Robinson - Cross

1 from others so that you can have a one on one conversation
2 with them, correct?

3 A At any point in time had anyone else been identified as
4 a suspect I would have — I would have immediately taken
5 those steps to do that, but no one else was even
6 identified as a suspect. There was a family in the
7 investigation of asking Mr. McLeod, the routine of the
8 day, where they had been and what they had been doing,
9 these names came up and that's why I was at their
10 residence to identify if that is so true and what happened
11 while they were there and visiting.

12 Q But you're treating them as witnesses, you're already
13 excluding them as suspects from what you're saying.

14 A There was —

15 MR. WELLS: I have to object. I think she's been over
16 this line again and again and again.

17 THE COURT: You're plowing this field to death.

18 MS. PARROTT: Thank you, Your Honor.

19 THE COURT: Sustained.

20 MS. PARROTT: Thank you.

21 BY MS. PARROTT:

22 Q From there you went on and continued your
23 investigation, correct?

24 A Yes, ma'am.

25 Q And at that point you ended up meeting with Mr. McLeod

Sw - M. Robinson - Cross

1 again up at the complex, right?

2 A Yes, ma'am, that afternoon.

3 Q And that's with Investigator Duff in the room as well?

4 A That's correct.

5 Q And you stated that he gave another statement regarding
6 the pubic hair?

7 A He did.

8 Q And you asked him about why he didn't do something
9 about it as far as like talking to his sister or
10 something?

11 A Are you talking about the pubic hair or the fowl odor?

12 Q I'm sorry, the foul odor too. The foul odor is what I
13 was referring to, I'm sorry.

14 A I don't know what your question is.

15 Q You asked him about his, why didn't you talk to his
16 sister about such a thing.

17 A I did.

18 Q Okay. And why didn't you ask him, especially if you
19 were looking at all those bruises why didn't he take her
20 to a doctor?

21 A I don't know how to answer that because I don't want
22 to -- can you ask me the question again.

23 Q If there was -- my question is, you were asking him
24 about why he didn't at least ask his sister about that.

25 If you're really worried about his concern for the child,

Sw - M. Robinson - Cross

1 then why aren't you asking him why didn't you take the
2 child to the doctor?

3 A Why he didn't take her to the doctor?

4 Q Right.

5 A He had admitted to inflicting all the injuries on her
6 body. You know, that he had already established that he
7 had beat her and caused the trama. It's not likely
8 that...

9 Q Okay. Did anyone else enter the room whenever you were
10 doing the interview with Investigator Duff?

11 A Yes, ma'am.

12 Q Who was that?

13 A Major Carlos Raines and Lieutenant James Rogers.

14 Q And Lieutenant Rogers at that point would have been
15 over both you as well as Investigator Compton, correct?

16 A Yes, ma'am.

17 Q And Major Raines is over the whole investigative
18 division as well, correct?

19 A Yes, ma'am.

20 Q And no one of them either saw fit to bring in a tape
21 recorder at any point during that interview either?

22 A We were discussing information that we'd already
23 discussed and the information was being recanted. The
24 story changed again at that point as well too, the foul
25 odor being the reason why Mr. McLeod placed his fingers

Sw - M. Robinson - Redirect

1 inside^{child} vagina so there was another version of
2 events at that point.

3 Q If you have somebody who is giving you multiple
4 versions of different events don't you find it to be
5 helpful if you have it recorded so that you can then use
6 it?

7 A It was verbally. It was an orally recorded with among
8 several law enforcement officers so.

9 MS. PARROTT: Nothing further, Your Honor.

10 THE COURT: Mr. Wells.

11 MR. WELLS: Just a couple of more things.

12 **REDIRECT EXAMINATION**

13 BY MR. WELLS:

14 Q So now when you interviewed him on the 25th then that's
15 when he consented to criminal suspect kit?

16 A Yes, sir.

17 Q And that was done the next day, is that right, the
18 26th?

19 A I'd have to look in my notes. I think it was during
20 the next day. It was done by -- not by me.

21 Q Right.

22 A But I requested that crime scene tech Moreau, Chris
23 Moreau, complete that suspect kit.

24 Q And why was it that test could not be completed? You
25 made that statement.

Sw - M. Robinson - Redirect

1 A The test could not be completed because Mr. McLeod had
2 shaved his pubic area.

3 Q Now if you had ever thought that based on your — what
4 you had learned about the case and based on what the
5 people told you, if you had got any indication that any of
6 these other people or Hamiltons were suspects would you
7 have investigated them accordingly?

8 A Absolutely I would have.

9 Q Did you find any evidence at all of any of them being
10 involved in any harm to this child?

11 A Absolutely they would have been investigated as well.

12 Q Yes, but you did not find any such evidence; is that
13 correct?

14 A No, sir, there was no indication that they were
15 withholding any information or not being forthcoming in
16 cooperating with the investigation at all.

17 Q All right, thank you. At the time she mentioned — one
18 other thing. At the time she mentioned a couple of other
19 officers coming in the room were, they involved in the
20 questioning or really it was just you and the other
21 officer, Officer Duff?

22 A The two officers that primarily did the investigation
23 and questioning were myself and Investigator Duff.

24 Q All right. That's all.

25 **RE CROSS - EXAMINATION**

Sw - M. Robinson - Recross

1 BY MS. PARROTT:

2 Q Investigator Robinson, to your knowledge the hair that
3 they're looking for, while you may want the pubic hair you
4 can certainly pluck a hair off the person's top of their
5 head and use that for the follicle that would be necessary
6 for DNA; would you not?

7 A If the suspect kit requested that. I'm not sure.

8 Q Do you advise them of that?

9 A I don't complete the suspect kits, especially on a
10 male —

11 MR. WELLS: I have to object to that. I don't think
12 it's proper reply.

13 MS. PARROTT: Your Honor, he's the one who actually
14 raised the pubic hair issues and all.

15 THE COURT: Overruled.

16 MS. PARROTT: Thank you.

17 BY MS. PARROTT:

18 Q Again, I'm sorry. If the suspect requested it was your
19 answer I believe?

20 A No, ma'am, that was what you asked me.

21 Q Okay, I understand.

22 A I said that I don't complete those kits especially on a
23 male when we have a male crime scene tech do that. I
24 can't answer that I wasn't present.

25 Q Okay. But you do know that hair can be used as well as

Sw - M. Robinson - F. Redirect

1 the saliva and blood for this testing?

2 A You mean the hair follicle, the root.

3 Q Uh-huh, correct.

4 A Yes, you can obtain DNA through the root. That's what
5 actually the —

6 Q Did you ever go back and try to get a sample from him?

7 A From where?

8 Q From either/or while he was incarcerated?

9 A Sample from where?

10 Q The hair with the hair follicle. Did you ever try to
11 go back and —

12 A Of his head or his pubic hair?

13 Q Either?

14 A Not that I'm aware of.

15 Q Thank you.

16 **FURTHER DIRECT EXAMINATION**

17 BY MR. WELLS:

18 Q Just one other thing. Based on that, of course based
19 on the fact that the hair that was sent to SLED could not
20 be tested 'cause there was no root, there really would be
21 no reason to get anything else, would there?

22 A That's correct.

23 MR. WELLS: All right, that's all.

24 THE COURT: Anything further?

25 **FURTHER RECROSS-EXAMINATION**

Sw- M. Robinson - F. Recross

1 BY MS. PARROTT:

2 Q When were those tests done, Investigator Robinson?

3 A Which tests?

4 Q Those SLED tests, do you know?

5 A I have no idea. I'm sure it's in the labs, but I don't
6 know specifically when. I know that there's a date of
7 when they mail them.

8 Q Do you not receive those as part of your investigation?

9 A Sure, I do. Would you like for me to find that date?

10 Q You look at it and see if it doesn't say December the
11 1st, 2008.

12 A Yes, ma'am, that's pretty standard. It takes quite
13 some time for evidence to be processed and collected.
14 Throughout the state every law enforcement agency in the
15 state sends evidence to SLED for processing. So I can
16 check for you, but that's pretty much the standard answer.

17 Q And this happened in July of 2006, correct?

18 A Yes, ma'am.

19 Q Okay. And today of course is March of 2010, right?

20 A Yes, ma'am, and again, that's standard.

21 Q Thank you.

22 **FURTHER REDIRECT EXAMINATION**

23 BY MR. WELLS:

24 Q Do you have any control how quickly it takes SLED to
25 process your case?

Sw - T. Compton - Direct

1 A No, sir, I wish that I did but I do not.

2 Q Thank you. That's all.

3 THE COURT: All right. Thank you, ma'am, you may step
4 down.

5 You may call your next witness.

6 MR. WELLS: We call Investigator Tim Compton to the
7 stand.

8 DEPUTY CLERK OF COURT: Please place your left hand on
9 the Bible and raise your right hand.

10 WHEREUPON,

11 **TIMOTHY WADE COMPTON,**

12 having been duly sworn by the Deputy Clerk of Court,
13 testified as follows:

14 THE DEPUTY CLERK OF COURT: Please be seated and state
15 your name for the record.

16 THE WITNESS: I'm Timothy Wade Compton.

17 **DIRECT EXAMINATION**

18 BY MR. WELLS:

19 Q And Officer Compton, with whom are you employed?

20 A City of Florence Police Department.

21 Q How many years have you been in law enforcement?

22 A 25-and-a-half years.

23 Q All right. Calling your attention back to July, I
24 believe July 25th, 2006, did you have occasion on that day
25 to get involved in the interview that Officer Robinson was

Sw - T. Compton - Direct

1 having with the defendant in this case, Christopher
2 McLeod?

3 A Yes, I did.

4 Q If you would just explain the circumstances how you
5 came to be involved in the matter?

6 A I'm the supervisor, or I was the supervisor, of
7 Detective Robinson and she advised me the incident that
8 she was investigating in that she was going to go to the
9 detention center to interview the defendant. And I
10 advised her that I was on my way down to the detention
11 center to interview some people in some of my cases I
12 have, and she asked me - she may need me to help with an
13 interview and I told her if she need me that I would be
14 there and all she had to do was get me to come in, and I
15 would come in and help with the interview.

16 Q So what then actually occurred while you were down
17 there? How did you go about seeing her?

18 A Detective Robinson come out. I was checking on what
19 her status was. She come out. She took a few minutes and
20 told me what she had learned in our interview 'cause I was
21 already up to speed of what transpired, you know, of the
22 incident. She just briefed me on the interview that she
23 had with the defendant and asked if I could go in there
24 and talk to him and see if there's anything else he could
25 say to me. So I went in there and introduced myself to

Sw - T. Compton - Direct

1 him.

2 Q And what do you remember then occurring as far as
3 conversation that went on?

4 A Well, first of all, even though Detective Robinson did
5 explain to me that she had done the waiver of rights form
6 I asked him had he had his rights read. He said, yes. I
7 said, do you understand. He said, yes. So I told him, I
8 said, I'd like to talk to you. And I tried to build
9 rapport with him for a few minutes and then asked him,
10 tell me what's going on. And he basically reiterated what
11 he had told Detective Robinson. And then been there about
12 15 minutes just talking to him when Detective Robinson
13 came back into the room and then we both started asking
14 him some questions.

15 Q All right. So what happened at that point? What can
16 you tell us about the interview at that point?

17 A I mean, he -- just like Detective Robinson testified he
18 did admit that he had what he said spanked ^{child} with a
19 switch on the bottom because supposedly ^{child} called
20 him a bitch. And then another time she supposedly had
21 bowel movement upstairs, and he had spanked her on the
22 legs and stuff at that time with his hands. She asked him
23 to repeat what he had told her about the pubic hair so he
24 did. He talked about how he was on -- sitting on the
25 toilet, and he was washing her and he noticed a pubic hair

Sw - T. Compton - Direct

1 sticking out of^{child} vagina and that he took a wash
2 cloth and got it out of the vagina. Then she asked him
3 how would a pubic hair of his -- 'cause he did admit that
4 that was his pubic hair -- how would it even got there in
5 the first place. And he said they both wash with the same
6 wash cloth, and that's how the pubic hair must have gotten
7 there. Then he made a statement about the foul odor
8 coming from^{child} and Detective Robinson did ask,
9 well, did you ask anybody or did you check, did you, you
10 know, have your sister check, and he said he was gonna ask
11 his sister a couple of times but he just kept forgetting.

12 Then, you know, at that point I felt that the
13 information we was gonna get was what we had already had
14 gotten at that point in time, and he agreed to talk to
15 Detective Robinson again the next day. So I told
16 Detective Robinson, you know, at this point let's just
17 stop the interview and you can talk to him again tomorrow.
18 And we asked him if he would consent to a criminal sexual
19 conduct kit, and he said he would. And we told him it
20 would not be us giving it; it would be a crime scene tech.
21 And at that point we got up; we started to leave. He
22 said, I got something to tell you. So we turned around,
23 said what is that, and he said, well, I actually removed
24 the pubic hair from^{child} vagina with my finger. And
25 basically that's the last thing that he made to us. And

Sw - T. Compton - Cross

1 Detective Robinson said, I'll see you tomorrow, and we
2 ended the interview at that time.

3 Q All right. Now were you yourself further involved in
4 the investigation or in talking with him further?

5 A No, that was the involvement I had with the case.

6 Q All right. If you would answer any questions
7 Mr. Parrott has.

8 **CROSS-EXAMINATION**

9 BY MS. PARROTT:

10 Q Investigator Compton, did you have any kind of
11 recording device that you could use with the interview?

12 A No, ma'am.

13 Q And you chose or didn't see fit to go to the
14 investigations area and ask if you could borrow one
15 either?

16 A No. I didn't see a point at that time. It wasn't my
17 investigation, and the only part I had in it was that
18 small interview and at that time I'm -- I wasn't sure what
19 all Detective Robinson was gonna do afterwards. I knew
20 they would be talking again the next day so I didn't
21 question her about her, you know, you need to do this or
22 you need to do that. At that point I saw no need in it,
23 and I didn't bring it up to her.

24 Q And I'm sorry, but how much time do you think that you
25 spent? Did you note any time?

Sw - T. Compton - Cross

1 A You know, I'm purely guessing, but I mean, it was a
2 short interview compared to a lot of them I do. But I
3 mean, I'd say probably a total of 30 minutes tops from the
4 time I went in there to the time Michael Robinson came
5 back and we both left together. I'd say approximately 30
6 minutes, could be a little bit longer, but somewhere
7 around 30 minutes.

8 Q But you didn't note the time that you were alone with
9 him as opposed to the time y'all were together or any
10 total amount of time, any of it?

11 A No. And to be honest with you we, I mean, we don't
12 have a form to do a set —, you know, we don't write down
13 a set time. So I've actually — I don't recall ever doing
14 that.

15 Q The form that you use doesn't have a time on it; is
16 that what you're saying?

17 A We don't have any forms that put down the times, just
18 that we did read rights, Miranda rights, and such like
19 that, but no time that we write down.

20 MS. PARROTT: Nothing further, Your, Honor.

21 MR. WELLS: That's all. Nothing further.

22 THE COURT: Thank you, sir, you may step down.

23 MR. WELLS: Any objection to him being excused?

24 MS. PARROTT: No.

25 MR. WELLS: We call investigator Julie Duff to the

Sw - J. Duff - Direct

1 stand.

2 THE DEPUTY CLERK OF COURT: Please place your left hand
3 on the Bible, raise your right hand.

4 WHEREUPON,

5 JULIA ELIZABETH DUFF,

6 having been duly sworn by the Deputy Clerk of Court,
7 testified as follows:

8 THE DEPUTY CLERK OF COURT: Please be seated, then
9 state your name for the record.

10 THE WITNESS: Julia Elizabeth Duff.

11 DIRECT EXAMINATION

12 BY MR. WELLS:

13 Q And Investigator Duff, with whom are you employed?

14 A Florence Police Department.

15 Q And how long have you been employed in law enforcement?

16 A 23 years next week.

17 Q In that regard are you an investigator with the
18 Florence Police Department?

19 A Yes, I am.

20 Q All right. In that regard did you have occasion on
21 July 26th, 2006, to be involved in an interview with the
22 defendant Christopher McLeod?

23 A Yes, I did.

24 Q And in that regard did you have a form in which you
25 advised him of his Miranda rights?

Sw - J. Duff - Direct

1 A Yes, I did.

2 Q If you would just relate to the jury, read out what it
3 is he advised on this particular form.

4 A At the top it says, Florence Police Department. It
5 says, your rights. Dated July 26th, 2006. The time that
6 the rights were advised was 1:58 p.m. And it states:
7 "Before we ask you any questions you must understand your
8 rights. You have the right to remain silent. Anything
9 you say can and will be used against you in a court of
10 law. You have the right to talk to a lawyer for advice
11 before we ask you any questions and to have him or her
12 present with you during questioning. You have no money
13 for lawyer's fees the court will appoint one to represent
14 you without cost to you if you wish. If you decide to
15 answer questions now without a lawyer present you will
16 still have the right to stop answering questions at any
17 time until you talk with a lawyer. I have read this
18 statement of my rights and I understand what my rights
19 are." It's signed by Christopher McLeod.

20 And there's a line that says waiver of rights. "I'm
21 willing to make a statement and answer questions. I do
22 not want a lawyer at this time. I understand and know
23 what I'm doing. Neither promises nor threats have been
24 made to me. Neither pressure, nor coercion of any kind,
25 has been used to obtain my consent." Signed by

Sw - J. Duff - Direct

1 Christopher McLeod and myself as a witness.

2 Q All right. And so were there any promises as to hope
3 or reward made for him to give a statement to you or
4 Officer Robinson?

5 A No.

6 Q And were there any threats, coercion, duress made
7 towards him?

8 A No.

9 Q And in that regard, at some point did Officer Robinson
10 come and join you in the interview?

11 A Yes, she did.

12 Q And if you would relay what, if anything, you remember
13 about that interview.

14 A I had closed myself and Mr. McLeod in our conference
15 room. It's a large room with about 12, 14 chairs. I
16 called Investigator Robinson and asked her to come to the
17 interview. Once she came into the interview room he was
18 still on Miranda, and we started talking about some of the
19 statements that he made. I was aware of the statements he
20 made from the day before. The statement of the wash cloth
21 removing the hair and then him recanting that statement
22 and statements of him removing the pubic hair with his
23 fingers. But specifically in front of me he had made
24 statements that we asked him on occasion while he had, you
25 know, custody of his child that week, visitation with his

Sw - J. Duff - Direct

1 child that week, had there been any occasion where there
2 might be some DNA from him anywhere in the house. And he
3 said that on occasion he would go into the spare bedroom,
4 which he indicated it was beside his bedroom, not the
5 bedroom that he and ^{child} had slept in, and that he
6 would go there and he would masturbate. He said that we
7 could find possibly some of his DNA on a black and white
8 shirt.

9 He also stated that — that he wanted to recant the
10 statement that he never tried to remove a pubic hair but
11 that he had put his finger inside of her vagina because he
12 wanted to identify this foul, smelly odor that was coming
13 from her vagina area. There was, you know, statements
14 that were going back and forth and being recanted and so
15 forth.

16 Q All right. But those would be the main things you —

17 A Those would be the main things, —

18 Q — would remember?

19 A —yes, sir.

20 Q Now after that were you involved in any further
21 investigation?

22 A At the conclusion of the interview, which I think it
23 was somewhere about 4:15, I was given the warrant for
24 Mr. McLeod's arrest and I served the warrant on him.

25 Q That was the warrant signed by Investigator Robinson;

Sw - T. Compton - Cross

1 is that correct?

2 A Yes.

3 Q And then you served it on him?

4 A I served him.

5 Q Very good, thank you. Answer any questions Ms. Parrott
6 has.

7 **CROSS-EXAMINATION**

8 BY MS. PARROTT:

9 Q You were questioning Christopher, correct, for a little
10 while?

11 A Yes, that's correct.

12 Q Investigator Robinson came back in the room and was
13 present while the questioning was going on?

14 A Yes.

15 Q She participated in some of the questioning that day
16 with you as well?

17 A That's correct.

18 Q And then you have lieutenant —

19 A Rogers.

20 Q —Rogers, thank you, come in as well. Did he question
21 Mr. McLeod?

22 A Not that I remember him saying anything. I think he
23 was just sitting to the back. I don't remember him asking
24 anything of Mr. McLeod.

25 Q And Major Raines also came in—

Sw - T. Compton - Cross

1 A That's correct.

2 Q —during this interview? And was he standing over
3 this whole process?

4 A It is not uncommon that our supervisors come in while
5 we have a case of this magnitude. They come in to see
6 where we're at and what's being said, see if they can
7 offer any assistance. But again, I don't recall him
8 making any long statements or anything.

9 Q And can you tell me — your form actually does have the
10 time noted on it; does it not?

11 A Yes, it does.

12 Q So your forms do record time?

13 A Yes.

14 Q Or at least you don't?

15 A Yes, I made my own forms.

16 Q And can you estimate for me, or do you know how much
17 time you spent with Christopher that day?

18 A I believe that he was transported somewhere about 1:40
19 in the afternoon of July 26th to the 7th floor, room 210,
20 and he was left in my presence. They all brought up in
21 shackles so his arm shackles were removed. The leg irons
22 are kept on him for safety purposes.

23 Q Okay. But as — and do you know when this would have
24 ended on that afternoon, two or three hours later?

25 A Well, we got there at 1:40 and he left at 4:15. That's

Sw - T. Compton - Redirect

1 approximately two-and-a-half hours if my time is correct.

2 MS. PARROTT: Nothing further, Your Honor.

3 THE COURT: Anything further, Mr. Wells?

4 **REDIRECT EXAMINATION**

5 BY MR. WELLS:

6 Q Now that period of time, about how long would she have
7 been there just the last hour or so?

8 A Less than 45 minutes.

9 Q Okay, all right. That's all. Thank you. You can come
10 down.

11 MR. WELLS: Any objection if she's excused?

12 MS. PARROTT: None.

13 THE COURT: All right.

14 MR. WELLS: That would be the State's case, Your,
15 Honor.

16 THE COURT: All right. Ladies and gentlemen, I need to
17 take up a matter of law with the attorneys at the close of
18 the State's case. I would ask you to step back into the
19 jury room. Please have no conversation about the case and
20 I'll have you back out here shortly, okay?

21 (WHEREUPON, the jury was removed from the
22 courtroom at 3:49 p.m., and the following proceedings
23 commenced in open court.)

24 THE COURT: All right. At this time I will take up
25 any motions at the close of the State's case.

1 **MS. PARROTT:** Thank you, Your Honor. Your Honor, I
2 would make a motion for a directed verdict with the
3 understanding that, of course, it doesn't go to the weight
4 of the evidence, just whether or not there is an existence
5 of any evidence. I would still argue that the directed
6 verdict should be granted on the basis of the State not
7 having met their burden of proof.

8 **THE COURT:** All right. I'm gonna respectfully deny
9 that motion, Ms. Parrott. I think the jury needs to give
10 whatever weight they choose to give to this evidence. And
11 there is the existence of evidence, whereby, if they were
12 to believe it I think they could find. So I'm gonna
13 respectfully deny that motion. Anything further, ma'am?

14 **MS. PARROTT:** Your Honor, no. I would like some time
15 to talk with Mr. McLeod about what his wish is regarding
16 defense case.

17 **THE COURT:** Well, let's take a few minutes let you do
18 that, then you can let the Court know what you intend to
19 do.

20 **MS. PARROTT:** Okay, thank you, Your Honor.

21 **(WHEREUPON, a recess was taken from the proceedings.)**

22 **MS. PARROTT:** Your Honor, my client has informed me he
23 wishes to testify.

24 **THE COURT:** All right. I'll address you with that in a
25 minute. Let me tell you what I was about to do, I'm gonna

1 do it anyway just so y'all -- I've put together a proposed
2 charge, and I'm not putting out there that it's by any
3 means final or complete 'cause it more than likely may not
4 be. But it's something that I want to put in your hands
5 and let you look at it overnight so that in the morning
6 I'd like to have any issues regarding the charge if you'd
7 let me know, okay?

8 MS. PARROTT: Certainly, Your Honor.

9 THE COURT: All right. Let me address Mr. McLeod.

10 If I may, sir, let me speak with you real quick
11 about your decision to testify. First of all, and let me
12 say, obviously and clearly you do have every right to
13 testify and I'm certainly gonna honor whatever decision
14 you make. But I just want to go over your options so
15 you'll be aware of everything. In this country no one
16 who's charged with a criminal offense is ever required to
17 prove themselves innocent. The burden of proof is always
18 on the State, and so therefore, what that means is, is
19 that as a person who is charged with a crime you can
20 exercise your constitutional right to remain silent. And
21 if you chose to do that I would -- just so you'll
22 understand -- I would instruct the jury that the State has
23 the burden of proof. You do not have to prove anything in
24 this case. The State has to prove each element of the
25 crimes charged beyond a reasonable doubt, and you do not

1 have to prove anything. And I would instruct them, if you
2 decided not to testify, I would instruct them that the
3 fact that you've chosen not to testify cannot in any way
4 be used against you. I would tell them that you have the
5 constitutional right to remain silent and that no one can
6 ever be punished for exercising their constitutional
7 rights.

8 I would further instruct them that the fact that you
9 chose not to testify, that they could not even discuss it
10 in the jury room, it could not be raised as an issue at
11 all. And I would give them that instruction. Now do you
12 understand you have the right to remain silent? You
13 understand that, sir?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Now you have indicated to the Court that
16 you intend to testify. All right. Now the fact that if
17 you do decide to testify and take the stand, now am I
18 correct if I recall from yesterday that there are no —
19 there is no criminal history that would be a subject of
20 cross-examination.

21 MR. WELLS: Right. Nothing that would be our
22 considering impeachment, just minor things.

23 THE COURT: So if you have any criminal history at all
24 that would not come out. But however, when you decide to
25 take the stand, then obviously Ms. Parrott will ask you

1 questions and then Mr. Wells will have the opportunity to
2 ask you questions, which is what we call cross-examination
3 and you would be subject to cross-examination and you
4 would be required to answer any questions. You understand
5 that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. And obviously, and I've known both
8 Ms. Parrott and Mr. Wells for many years. They're good
9 lawyers. Neither one of them would ever ask an improper
10 question intentionally; but should Mr. Wells ask a
11 question that's objectionable, of course Ms. Parrott would
12 object to that and protect your rights regarding that.
13 But as long as he's asking admissible-type questions you
14 would be required to answer his questions just as you
15 would answer Ms. Parrott's questions. You understand
16 that, sir?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right, sir. Now understanding that you
19 have these options do you still wish to take the stand and
20 testify in your defense?

21 (Pause.)

22 THE COURT: I can give you a few more minutes if you
23 want to talk to your attorney, but if you need a few more
24 minutes I'll be happy to do that. And do me a favor, and
25 if y'all want to go in this back room right here you can

1 do that. But Mr. McLeod, I would encourage you that any
2 questions you have regarding that, make sure you ask those
3 questions so that you can get all the answers you need to
4 make your decision okay.

5 THE DEFENDANT: Okay.

6 THE COURT: We'll take a few more minutes.

7 (WHEREUPON, a recess was taken from the proceedings.)

8 MS. PARROTT: Your Honor, he has informed me he has
9 changed his mind. He does not wish to testify now.

10 THE COURT: All right. Well, Mr. McLeod, and that's
11 fine. Again, you have — you absolutely have the right to
12 do either one; to either testify or not testify. And now
13 you indicated now that you do not wish to testify so you
14 understand that, and guys, that charge that I gave y'all
15 does not have the charge about the defendant not
16 testifying but it will. If you decide not to testify I
17 will charge the jury like I told you that they cannot hold
18 that against you and that the burden of proof is on the
19 State. You understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. What — do we still need, I
22 mean...

23 MS. PARROTT: Your Honor, I don't have any — I don't
24 have that ready yet so I would ask possibly if you would
25 consider going ahead recessing for the day and let us

1 get -- if there is to be anything for the defense to
2 present their case early tomorrow morning and have it then
3 ready for closings and charge right after that.

4 THE COURT: All right. What -- we'll do that. We'll
5 recess 'cause your other witnesses weren't here for this
6 afternoon anyway; is that correct?

7 MS. PARROTT: That's correct, and I want to make sure
8 that he understands exactly what that means as well about
9 that.

10 THE COURT: Well, we'll do that. We'll recess at this
11 time and start back -- I'm gonna -- that sounds good. Let
12 me bring them out. We'll do that.

13 Ms. Joe, bring them out if you would.

14 (WHEREUPON, the jury was returned to the courtroom at
15 approximately 4:25 p.m., and the following proceedings
16 commenced in open court.)

17 THE COURT: All right, ladies and gentlemen, I have
18 covered those matters of law that I need to cover with the
19 attorneys, and then I've discussed with them what -- what
20 we have left and looking at our time frame and seeing what
21 we have. And it's probably gonna be in our best interest
22 to recess for the afternoon a little bit early. It's
23 about 27 minutes after 4, so about 30 minutes early.
24 We'll go ahead and break at this time. And then we'll
25 resume at 9:30 in the morning. So if you would, continue

1 to adhere to that instruction about not discussing this
2 case with anyone. Let your loved ones or your family or
3 whoever might be curious, let them know that I would
4 anticipate that you will — more than likely you'll get
5 this case for your consideration tomorrow and so that, you
6 know, possibly, possibly by this time tomorrow night you
7 can talk to them about it or depending however long it
8 takes to resolve the case but. But I do believe that
9 you're gonna get the case for your consideration tomorrow
10 so just tell them to be patient. You cannot discuss it,
11 you cannot talk about it, but that as soon as you're done
12 you will be able to share with them whatever that is they
13 want to know.

14 Again, try if you can, to get a good night's rest
15 tonight and if you would be back in the jury room at 9:30
16 in the morning. And as soon as we have everybody
17 assembled we'll get started first thing in the morning,
18 okay? So everyone remain in the courtroom. Ladies and
19 gentlemen of the jury, you are free to go for the
20 afternoon.

21 (WHEREUPON, the jury was removed from the
22 courtroom at 4:27 p.m., and the following proceedings
23 commenced in open court.)

24 THE COURT: Okay, here's what I'd like to do right now.
25 For purposes of this trial, ladies and gentlemen, we're

1 adjourned for the afternoon. You're welcome to hang
2 around if you want to, but I'm just gonna speak to the
3 lawyers briefly. And I'm still gonna give you an
4 opportunity to look at the charge overnight and make a
5 decision, but just, I'm also working on a verdict form.
6 And is there anything that you're aware of other than just
7 the four counts that he's facing?

8 MR. WELLS: Yes, I believe that would be all. I mean,
9 I don't see there's a lesser offense on any of these.

10 THE COURT: I don't --

11 MR. WELLS: There's a question the child under age of
12 11 is not either guilty or not guilty.

13 THE COURT: I was looking at it and I don't believe
14 there is a lesser included offense.

15 MR. WELLS: There isn't. Child would have to be older
16 for it to be a lesser and there's no question the child is
17 under the age of 11.

18 THE COURT: Okay. Well, I'm gonna work on that again
19 this evening, but just let me know if there's anything to
20 that that we need to. And of course, the language about a
21 defendant not testifying, I have that and I will add that
22 and I'll give you a copy of that to look at so you can see
23 what I've got on that as well. All right. I'd like for
24 us to reconvene at 9:00 for the purposes of going over the
25 charge and that stuff, okay? And we'll have that

1 little -- as a matter of fact, we can do that initial
2 charge conference just back in the office and talk about
3 it, and then anything we need to put on the record we will
4 at 9:30. Okay? So we'll start back then. We'll be in
5 recess until tomorrow at 9:30.
6 (WHEREUPON, the proceedings were concluded at 4:30 p.m.
7 and reconvened on March 10th, 2010 at 9:38 a.m.)

8 THE COURT: All right. Ms. Parrott, have you and
9 Mr. McLeod had the opportunity to talk and discuss what,
10 if anything, the Defense intends to do?

11 MS. PARROTT: Yes, Your Honor, and after overnight
12 Mr. McLeod discussed it even further with his family and I
13 believe has changed his mind and does wish to testify so
14 the Defense will be presenting a case, Your Honor.

15 THE COURT: All right, Mr. McLeod, let me just ask you,
16 sir. You seemed a little uncertain yesterday and that's
17 why I wanted to give you an opportunity, you know, over
18 the evening to think about it and to talk and discuss it.
19 Is it true that you do, in fact, intend to testify then?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: I'm sorry?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. And you recall our conversation
24 from yesterday where I explained to you that if you chose
25 not to testify that I would instruct the jury that they

1 could not hold that against you. You understand that?

2 (Defendant shakes head.)

3 THE COURT: And you also, you recall that I informed
4 you that if you chose to take the stand that you would be
5 subject to being questioned by Mr. Wells as well as your
6 lawyer, Ms. Parrott, you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you have any question about any of those
9 options that I discussed with you, sir?

10 THE DEFENDANT: No, sir, but I — if you'd allow me to
11 say a couple of things before you start.

12 THE COURT: Well, I'll be happy to hear from you.

13 THE DEFENDANT: Okay. 'Cause I've been trying to get
14 help since day one when I got charged with this. My
15 lawyer Karen Parrott, I mean, we haven't been seeing eye
16 to eye the whole time until we got to trial. And I'm a
17 strong believer in God 'cause I know God can work
18 miracles. And when I tell her that I put my trust in God
19 she tells me and my father that God don't work in court.
20 I mean, why do me like that with my faith when I'm in a
21 big situation like this because my life is on the line.

22 THE COURT: Well, I understand where you're coming from
23 but here's what you need to understand, and that is,
24 sometimes things can be taken out of context. But let me
25 just say this, and, you know, this from being a man of

1 faith.

2 THE DEFENDANT: Uh-huh.

3 THE COURT: Not everybody is. Even those that are have
4 differences of opinions. And what's important for you is
5 to maintain your faith obviously and to understand that
6 regardless of Ms. Parrott's situation, whether she
7 believes as you do regarding God or whether she doesn't,
8 the thing that you need to understand is that what she's
9 doing is she's representing you as your attorney. And I
10 think what her reference -- and I don't know 'cause I
11 wasn't there obviously -- but I think, you know, even
12 though we all -- shouldn't say we all. Even though many
13 of us have faith in the Lord and that faith sustains us in
14 many ways you still have to do the work of law in the
15 courtroom. In other words, I'm as you are. I'm a man of
16 faith. And as much I lean on the Lord and everything that
17 I do and decisions that I have to make I pray a lot, and I
18 pray a lot before I do a lot of things from the Bench here
19 but I still have to operate in this role that the Lord put
20 me in as judge.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And Ms. Parrott is required to operate in
23 the role that the Lord put her in and that is as attorney.
24 And so you got to understand her focus is probably a
25 little different from yours. It doesn't mean she's not a

1 woman of faith. It just means that she's operating as
2 your lawyer right now, and it's just — I know y'all see
3 things differently; that's not unusual. Trust me, it's
4 probably more times than not defendants and their
5 attorneys don't always see things the same way because you
6 got to understand she's operating at a different level
7 it's because of her role as your lawyer and because she's
8 trained as an attorney and has worked in the system for
9 many years. You and most defendants are not trained in
10 the law, and so where you may see things differently than
11 she does, that's where trust has to come in where you
12 trust that your attorney is competent in what he or she is
13 doing and helping you as you go through these areas that
14 you're not as familiar with as she would be.

15 So anyway, you know, I — I'd be — just be cautious
16 that when she or anyone says something to you that you
17 take it, take it, you know, try not to take it out of
18 context I guess is what I'm saying. But what I — and
19 what I'm — I want to make sure, though, that you
20 understand that as much as she can help you, as much as
21 she can give you her counsel, you know, tell you what she
22 thinks, this decision, because this is an exercise of your
23 constitutional right. This decision to testify or not to
24 testify is really a decision that has to come from you,
25 and her job in this process is to just let you see both

1 sides and help you as you weigh both sides. Okay?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And I think you've had that opportunity, or
4 at least I've tried to give you that opportunity to weigh
5 both sides, look at the whole picture. And you've
6 indicated that you do wish to testify, which is certainly
7 your right to do it and that's fine. Anything else, sir?
8 I'm sorry, I don't mean to...

9 THE DEFENDANT: No, sir.

10 THE COURT: Okay. Well, and that's fine. What we'll
11 do is we'll bring the jury out and I'll instruct the jury
12 that the State has rested its case and then we recognize
13 the Defense for your case.

14 Just for scheduling purposes, Ms. Parrott, other
15 than Mr. McLeod as a witness do you have any other
16 witnesses that you'd be calling?

17 MS. PARROTT: Your Honor, he has informed me that he
18 would like four of the witnesses that I presented on that
19 potential defense witness list previously to testify. As
20 far as scheduling goes I would not believe they would take
21 any great amount of time because they are not -- they
22 weren't part of the case obviously.

23 THE COURT: And I always tell people this, you know
24 this, I'm gonna give you all the time you want.

25 MS. PARROTT: Certainly.

1 **THE COURT:** So I don't -- I'm not gonna handcuff
2 anybody, you know, as far as their direct or
3 cross-examination. I'm just getting a feel for what we
4 have remaining, okay.

5 Thank you, you can have a seat.

6 We'll go ahead and bring the jury out then and get
7 started. Or excuse me, is the State ready to proceed?

8 **MR. WELLS:** Yes, we're ready, Your Honor.

9 **THE COURT:** Defense ready?

10 **MS. PARROTT:** Defense is ready, Your Honor.

11 (WHEREUPON, the jury was returned to the courtroom at
12 approximately 9:48 a.m., and the following proceedings
13 commenced in open court.)

14 **THE COURT:** Good morning, ladies and gentlemen, hope
15 everyone's doing better than me. I have had one of these
16 early spring colds jumping on me but I hope everyone is
17 doing well. We, if you recall yesterday, we ended a
18 little early. The State had rested their case and I had
19 to take up some matters of law with the attorneys outside
20 your presence. And we ended a little early because it was
21 the timing just accommodated that, but we're back this
22 morning and so at this time I would recognize Ms. Parrott
23 on behalf of Mr. McLeod for the Defense.

24 **MS. PARROTT:** Thank you, Your Honor, may it please the
25 Court.

Dw - C. Kennedy - Direct

1 THE COURT: Yes, ma'am.

2 MS. PARROTT: Your Honor, I would call Ms. Charlena
3 Kennedy to the stand.

4 THE COURT: Ms. Kennedy, if you will come around
5 please.

6 THE DEPUTY CLERK OF COURT: Please place your left hand
7 on the Bible and raise your right hand.

8 WHEREUPON,

9 CHARLENA KENNEDY,
10 having been duly sworn by the Deputy Clerk of Court,
11 testified as follows:

12 THE DEPUTY CLERK OF COURT: Please be seated, then
13 state your name for the record.

14 THE WITNESS: Charlena Kennedy.

15 DIRECT EXAMINATION

16 BY MS. PARROTT:

17 Q Thank you, Ma'am. Ms. Kennedy, do you know
18 Christopher?

19 A Yes, that's my grandson.

20 Q That's your grandson. How is he related to you, your
21 grandson? From your son or daughter?

22 A My son's.

23 Q So is it fair to say you've known him all your life?

24 A Yes.

25 Q All right. How close are you to him?

Dw - C. Kennedy - Direct

- 1 A We're real close.
- 2 Q So you see him how often?
- 3 A Well, even when I don't see him he'll call me, you
- 4 know.
- 5 Q How often would you say that is?
- 6 A Maybe once a week or so.
- 7 Q Depending on what's going on maybe even more frequently
- 8 than that?
- 9 A Yeah, yeah.
- 10 Q And what -- how would you describe Christopher?
- 11 A Well, he's a nice young man. He smart. He likes to
- 12 mimic me in the yard whenever, you know, he cuts my grass.
- 13 At least he used to cut my grass and stuff for me, help me
- 14 out in the yard, and real smart and he was obedient to me.
- 15 Q Okay. And did you ever see him around his child?
- 16 A Once or twice.
- 17 Q Okay. How was that?
- 18 A He loved that child very much.
- 19 Q So if you had to describe Christopher you would
- 20 describe him as a loving person?
- 21 A Yes, I would.
- 22 Q Okay. Is there anything else that you want the Court
- 23 to know about Christopher?
- 24 A Basically. The situation that he's in --
- 25 Q No, ma'am, you can't comment on that.

Dw - C. Kennedy - Cross

1 A Okay. Well...

2 Q Is there anything else you want the Court to know about
3 Christopher?

4 A That's it.

5 Q That would be all I have for this witness, Your Honor.

6 THE COURT: Mr. Wells.

7 **CROSS-EXAMINATION**

8 BY MR. WELLS:

9 Q Just briefly. So you're his grandmother, is that
10 right?

11 A I'm sorry, yes, sir.

12 Q And -- all right. And you don't have any personal
13 knowledge of what occurred do you?

14 A About the situation here?

15 Q Right. You weren't present were you?

16 A I was not.

17 Q All right. That's all.

18 THE COURT: Thank you very much, ma'am. You may step
19 down.

20 Next witness.

21 MS. PARROTT: Yes. It's gonna be Rikesha (ph) Kennedy
22 and Mr. White has gone to get her, Your Honor.

23 DEPUTY CLERK OF COURT: Please place your left hand on
24 the Bible and raise your right hand.

25 WHEREUPON,

Dw - R. Kennedy - Direct

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RIKESHA KENNEDY,

having been duly sworn by the Deputy Clerk of Court,
testified as follows:

THE DEPUTY CLERK OF COURT: Please be seated, then
state your name for the record.

THE WITNESS: My name is Rikeshha Kennedy.

MS. PARROTT: Could you spell that for us?

THE WITNESS: R-I-K-E-S-H-A.

MS. PARROTT: Thank you.

DIRECT EXAMINATION

BY MS. PARROTT:

Q And do you know Christopher?

A Yes, ma'am, that's my first cousin.

Q How is he your first cousin?

A Through by uncle. My mother and my father are brother
and sister.

Q Very good. How long have you known Christopher?

A All my life.

Q Okay, and how old are you?

A 29.

Q Okay. So and since he's a little bit younger than you
that would be also more all of his life, right?

A Yeah. Yes, ma'am.

Q Okay. How often do you speak with Christopher and how
often do you see him?

Dw - R. Kennedy - Direct

1 A I speak with him every day and I would see him every
2 day just basically, yeah.

3 Q Okay. And how would you describe Christopher?

4 A He's a nice, intelligent person. He's calm and he a
5 loving person.

6 Q Okay. Have you ever seen him with^{child}

7 A Yes, ma'am.

8 Q Okay. And how would you describe his relationship with
9 child from what you saw?

10 A He loved his daughter. He loved her with all his
11 heart.

12 Q Did he care for her? I mean, like take care of her?

13 A Yeah, he took care of her. He kept her, everything.

14 Q Okay. Is there anything else that you want the Court
15 to know about Christopher?

16 A He —

17 Q Just his character?

18 A He — he wasn't hurt nobody. He kept my kids.

19 Q He has kept your children?

20 A He kept my kids a lot.

21 Q How old would they be at the time they were being kept?

22 A He kept my son when he on up until he was like 6, 7.

23 He kept my daughter. My daughter is two; he kept her.

24 And I had no problems with him keeping her.

25

Dw - R. Kennedy - Cross

1 Q Never saw any problems once you got back home?

2 A No problems or nothing; they love him.

3 Q Any other — anything else to say about Christopher?

4 A He just —

5 MR. WELLS: Your Honor, I have to object.

6 THE WITNESS: He just a loving person.

7 MR. WELLS: I mean, that's just —

8 THE COURT: Yeah.

9 BY MS. PARROTT:

10 Q Okay, is there anything else about his character that
11 you wish for the Court to know?

12 A Just to believe that he's innocent.

13 Q No, ma'am, we can't comment on that, okay?

14 A Well, he just — he's just someone who is loved a lot
15 by his family.

16 Q Very good. Thank you.

17 **CROSS-EXAMINATION**

18 BY MR. WELLS:

19 Q Just a couple of questions. Ms. Kennedy, you've seen
20 him with a temper, though, haven't you?

21 A If you make him upset. But other than that he's — he
22 has no temper at all.

23 Q But you have seen him get upset; haven't you?

24 A If you make him upset, yes, sir.

25 Q And he didn't keep that child often, did he?

Dw - R. Kennedy - Cross

1 A He kept her a lot.

2 Q A lot?

3 A Uh-huh.

4 Q How often do you say he kept the child?

5 A He -- she was at his sister house all the time. He was
6 there; he lived there.

7 Q Wasn't he down at the beach a good while before that?

8 A Before that? No, that was -- no, not before that.

9 Q He hadn't been working out of town at the beach?

10 A Yeah, he was, but before that he wasn't -- didn't get
11 down there till after that, after all this came up.

12 Q So you're saying -- you're saying he kept his child
13 often?

14 A He kept her a lot when he was home.

15 Q And wasn't he only there for about three weeks with his
16 sister?

17 A At the house?

18 Q Right?

19 A No, he was being there every day.

20 Q So he lived there when he worked at Myrtle Beach?

21 A He wasn't down -- he didn't go to Myrtle Beach until
22 after that. Before then he was living with his sister.

23 Q So he hadn't already worked at Myrtle Beach before?

24 A I don't know that about before that; but I know after
25 that, yes.

Dw - C. Starr - Direct

1 Q All right, that's it.

2 THE COURT: All right, thank you very much, ma'am. You
3 may step down.

4 MS. PARROTT: Your Honor, the Defense would call
5 Ms. Cynthia Starr.

6 THE DEPUTY CLERK OF COURT: Please place your left hand
7 on the Bible and raise your right hand.

8 WHEREUPON,

9 CYNTHIA TOWNSEND STARR,
10 having been duly sworn by the Deputy Clerk of Court,
11 testified as follows:

12 THE DEPUTY CLERK OF COURT: Please be seated, then
13 state your name for the record.

14 THE WITNESS: All right. My name is Cynthia Townsend
15 Starr.

16 DIRECT EXAMINATION

17 BY MS. PARROTT:

18 Q Thank you, Ma'am. Ms. Starr, do you know Christopher
19 McLeod?

20 A Yes, ma'am, I do.

21 Q And how well do you know him?

22 A I know him very well. He's my nephew by -- that's my
23 sister's child.

24 Q Okay. And how often did you communicate with
25 Christopher?

Dw - C. Starr - Direct

- 1 A Well, I haven't communicated with him for a while, but
2 I've seen him in -- you know, it's been a while since I've
3 seen him.
- 4 Q Okay. If you had to kind of average or gauge how often
5 you talked with him or that, could you do so?
- 6 A Oh, yes, ma'am.
- 7 Q Okay. And how often do you think so?
- 8 A I talk to him kind of periodically, kind of regular.
- 9 Q Okay. Does that mean like once a month, once every two
10 weeks, once every two months?
- 11 A About once every two months or so.
- 12 Q All right. But you would still consider him close?
- 13 A Oh, yes, ma'am, close most definitely. Yes.
- 14 Q How would you describe Christopher?
- 15 A He's a loving person, and he'll do anything he can to
16 help you or anybody. He's very dependable. And I can say
17 he loves the Lord.
- 18 Q Very good. Did you ever see him whenever he was around
19 child
- 20 A Oh, yes, ma'am.
- 21 Q And how would you describe how he acted with
22 child
- 23 A Father figure, he loved her. He kept her close with
24 him.
- 25 Q Okay. When you say he kept her close with him, do you

Dw - C. Starr - Cross

1 mean -- how do you mean that?

2 A Like a father take a child. They take them with them,
3 walk with them, play with them, carry them out to
4 activities, you know, to the park and stuff like that.

5 Q So you would say he was an involved father whenever he
6 would take his child --

7 A Oh, yes, ma'am, most definitely, most definitely, yes,
8 ma'am.

9 Q When he -- all right. And whenever he would take care
10 of that child he would make sure that she was fed and
11 pampered and all the rest?

12 A Yes, ma'am. Yes, ma'am.

13 MS. PARROTT: Nothing further, Your Honor.

14 THE COURT: Mr. Wells.

15 **CROSS-EXAMINATION**

16 BY MR. WELLS:

17 Q Just a couple of things. Ms. Starr, how long has it
18 been since you have communicated with him?

19 A I talked with him this week. I talked to him while he
20 was out of town.

21 Q All right. So how long ago was that?

22 A This week till he come up to court.

23 Q And before that how long had it been since you talked
24 to him?

25 A Couple of months.

Dw - C. Starr - Cross

- 1 Q Okay. Now how often did he keep^{child}
- 2 A Well, when he had her he kept her periodically. He had
- 3 her every day that he was here.
- 4 Q So when was that?
- 5 A Up until the time he got locked up or whatever that,
- 6 the answer to that whatever.
- 7 Q You said he kept her every day?
- 8 A Yes, sir.
- 9 Q For during her first two years?
- 10 A Not these two years that's gone by because he's not
- 11 here.
- 12 Q I'm saying her first two years of her life, did he kept
- 13 her pretty much every day?
- 14 A Pretty much, as much I've seen he had her.
- 15 Q Did she live with him?
- 16 A She lived with him and his sister --
- 17 Q All right.
- 18 A --at times.
- 19 Q So she never lived with the mother?
- 20 A I don't know.
- 21 Q You don't know.
- 22 A No, sir. I can't answer that.
- 23 Q What about when he worked at Myrtle Beach was he living
- 24 with her then? The child living with him then?
- 25 A No, not that I know of.

Dw - C. Starr - Redirect, Recross

1 Q All right.

2 A Not that I know. Not that I know. I can't say. I
3 know...

4 Q That's all.

5 MS. PARROTT: Just very quickly.

6 **REDIRECT EXAMINATION**

7 BY MR. PARROTT:

8 Q Don't let me put the words in your mouth. I'm not
9 trying to. When you say that he kept her, are you saying
10 he would just -- he would have interaction with her during
11 the day, or she was actually staying with them?

12 A He would actually -- like when he come to church he'd
13 bring her. Now I didn't go to his house or nothing like
14 that.

15 Q Okay.

16 A 'Cause I work myself.

17 Q But he would bring her with him to church?

18 A Yes, ma'am.

19 Q Okay, thank you.

20 THE COURT: Anything further, Mr. Wells?

21 **RECROSS - EXAMINATION**

22 BY MR. WELLS:

23 Q So are you saying that he lived -- so basically you're
24 saying he lived with the child for the first couple of
25 years of her life?

Dw - M. Dargan - Direct

1 MS. PARROTT: Asked and answered.

2 THE WITNESS: Yes, I mean, you know.

3 THE COURT: Overruled.

4 BY MR. WELLS:

5 Q And not with the mother, lived with her with him?

6 A I don't know about the mother part, I don't know about
7 that. I know he had been with her.

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

10 MS. PARROTT: Your Honor, the Defense will call Mary
11 Dargan.

12 THE DEPUTY CLERK OF COURT: Please place your left hand
13 on the Bible and raise your right hand.

14 WHEREUPON,

15 **MARY DARGAN,**

16 having been duly sworn by the Deputy Clerk of Court,
17 testified as follows:

18 THE DEPUTY CLERK OF COURT: Please be seated, then
19 state your name for the record.

20 THE WITNESS: My name is Mary Dargan.

21 BY MS. PARROTT:

22 Q Thank you, ma'am. Good morning.

23 A Good morning.

24 Q Could you tell me if you know Christopher?

25 A Yes, I do.

Dw - M. Dargan - Direct

- 1 Q How do you know Christopher?
- 2 A He's my nephew.
- 3 Q How is he your nephew? With whom is he related?
- 4 A My brother, he's my brother's son.
- 5 Q Very good. So have you known him all his life then?
- 6 A Yes, ma'am.
- 7 Q How close would you say you are with Christopher?
- 8 A We always real close.
- 9 Q A real close family all together?
- 10 A Yes, we're a real close family, yes, ma'am.
- 11 Q How often would you say that you either see or talk
- 12 with Christopher?
- 13 A On a regular basis.
- 14 Q And could you tell -- and that can be a little bit
- 15 indefinable so if you can tell me what you mean by a
- 16 regular basis?
- 17 A A regular basis is many times he'll call me, and we'll
- 18 talk on the phone. I see him, you know, I have seen him
- 19 many times and he conversate with me on the phone. We
- 20 communicate.
- 21 Q Okay. So even if he's out of town --
- 22 A He's out of town he calls me, yes, he does.
- 23 Q All right. And y'all talk about -- y'all are very
- 24 close in what your conversations are too?
- 25 A Yes. He lets me know how he's doing, how well he's

Dw - M. Dargan - Direct

1 doing. You know, he get a job, whatever, he'll call me
2 and let me know about his job and how things are going for
3 him and stuff like that.

4 Q Very good. Did you ever see him whenever he was with
5 child

6 A Yes. He brought her to see me one time, couple of
7 times. I seen him holding the baby whatever, you know,
8 just being a daddy.

9 Q And that's what I want you to talk about too is what
10 did you see him doing while he had ^{child} in his care?

11 A He loved her. I see that, you know. I know that he
12 love his child. And really, he was really good to her,
13 you know. I know that part about it.

14 Q Did he make sure she was fed?

15 A Yes.

16 Q Make sure that a pamper was clean?

17 A Yes, I know about that.

18 Q And just that she was — she was okay whenever she was
19 around him?

20 A Yeah, uh-huh.

21 Q Okay.

22 MS. PARROTT: Nothing further Your Honor.

23 **CROSS-EXAMINATION**

24 BY MR. WELLS:

25 Q Just a couple of things. During those first two years

Dw - M. Dargan - Cross

1 how often did ^{child} — how often was she around the
2 defendant?

3 A I really can't say how often that she been around him
4 because I wasn't with him every day so I can't say that.

5 Q But she didn't live with him, did she?

6 A No.

7 Q All right. She lived with the mother; didn't she?

8 A As far as I know.

9 Q But just at times she would come and visit him; is that
10 right?

11 A The times — yeah, I know about that. She come and
12 visit him; but I can't speak on the other, I don't know.

13 Q All right. That's all.

14 THE COURT: Thank you, Ma'am. You may step down.

15 MS. PARROTT: Your Honor, the Defense will call
16 Christopher McLeod.

17 THE COURT: Mr. McLeod, please come around.

18 DEPUTY CLERK OF COURT: Please place your left hand on
19 the Bible, raise your right hand.

20 WHEREUPON,

21 **CHRISTOPHER MCLEOD, JR.,**

22 having been duly sworn by the Deputy Clerk of Court,
23 testified as follows:

24 THE DEPUTY CLERK OF COURT: Please be seated, then.

25

Dw - C. McLeod - Direct

1 state your name for the record.

2 THE WITNESS: Christopher McLeod, Jr.

3 **DIRECT EXAMINATION**

4 BY MS. PARROTT:

5 Q Okay, Christopher, you go by Christopher; don't you?

6 A Yes, ma'am.

7 Q Okay. And could you tell us how old you are,
8 Christopher?

9 A 24.

10 Q When is your birthday?

11 A [REDACTED]

12 Q Of?

13 A [REDACTED].

14 Q [REDACTED]?

15 A [REDACTED].

16 Q Have you lived in Florence your whole life?

17 A I was in Timmonsville.

18 Q Okay.

19 A I been moving on.

20 Q What do you mean by that?

21 A Moving with different family members.

22 Q Okay. Living at different family members houses?

23 A Yes, ma'am.

24 Q Speak up for me a little bit 'cause I'm having a little
25 bit of a problem hearing you. I want everybody else to

Dw - C. McLeod - Direct

1 hear you too. Okay. What kind of jobs have you held?

2 A First job was fast food, construction. Right now I
3 been doing like -- I'm cooking for, like, it's like a --
4 it's like a restaurant, a chef business.

5 Q You're being a chef at a restaurant?

6 A I'm trying to go to school.

7 Q Trying to go to college to be a chef?

8 A Yes, ma'am.

9 Q Okay. Are you enrolled in any classes at this time?

10 A No, ma'am, 'cause I had to put it on hold until I get
11 this situated.

12 Q All right. And do you have any children?

13 A I have one daughter.

14 Q And that would be ^{child} correct?

15 A Yes, ma'am.

16 Q Tell me what your relationship with ^{child} has been
17 like since she was born.

18 A Well, at the time that she was born I was staying with
19 my cousin Keshia, her mom and them, and Shante was staying
20 in Florence. Yeah, she was staying in Florence. And --
21 everybody was moving like back and forth between me and
22 her. We was moving like back and forth so I stayed -- I
23 was with her until like we was together while she was
24 pregnant with Shan-- I mean, ^{child} like 8 months, no,
25 like 7-and-a-half months and then we had split up. And I

Dw - C. McLeod - Direct

1 wasn't, I -- I wasn't there when she was born. I wasn't
2 because they called me later on. I got -- something
3 happened and I got lied to so I came over there after my
4 daughter was born, and me and my cousin then went up
5 there. It was on mother's day. And I seen her and she
6 come home like two days later, and I cared for her, love
7 her like a father should, you know.

8 Q So you weren't there whenever she was born, but you got
9 to go to the hospital before she ever got released?

10 A Yes, they had another dude that was there.

11 Q And even though you and her mother weren't married or
12 together as a couple any longer you still assumed the role
13 as father; is that correct?

14 MR. WELLS: I would object to the leading question
15 she's asking.

16 THE COURT: Sustained.

17 BY MS. PARROTT:

18 Q Would you say -- did you become the father that you
19 wanted to be?

20 A You know, I wasn't -- I can't say that I -- I actually
21 trained my -- tried to train myself to be a father because
22 I was like, at the time when she was born I was still out
23 there, I was working and all, but I was still out there by
24 being a teenager, being a teenager, you know, and I wasn't
25 like fully focused yet but I did the best that I could.

Dw - C. McLeod - Direct

1 Q Okay. You tell us and you mentioned that you babysat
2 before. Did you do that?

3 A Yes, ma'am.

4 Q So this wasn't the first child you'd been around?

5 A No, ma'am.

6 Q You knew how to change -- did you know how to change
7 pampers?

8 A I learned. I watched a couple of people change
9 pampers, you know, and I, you know, because I sometimes I
10 used to have her where one side be fastened and the other
11 side wasn't but I got the hang of it.

12 Q Took you a few times but you figured it out?

13 A Yes, ma'am.

14 Q All right. And you learned about feeding the baby?

15 A Yes, ma'am.

16 Q Did you ever bathe ^{child}

17 A Yes, ma'am, when she was staying with me and my sister.

18 Well, not really staying but when she was there caught
19 several times where -- when she was there several times,
20 normally, if it wasn't my sister that took care of her
21 then it was me. Before this incident when I -- during the
22 week this incident happened, yes, I did, I bathe my
23 daughter.

24 Q Because she needed bathing?

25 A Yeah, she was -- she was dirty.

Dw - C. McLeod - Direct

1 Q What would -- as she got older were you able to become
2 more involved or less involved?

3 A Okay. It was a time that when I moved to Hartsville,
4 South Carolina I think ^{child} still -- I think they
5 moved back to Marion, South Carolina, and I didn't see her
6 in a while but I was still babysitting. I was babysitting
7 over there in Hartsville. That's where I was staying too
8 'cause I had moved away from there for a while 'cause I
9 was trying to get myself situated because I had a job at
10 Hartsville. I was working at Sonics. And I probably been
11 over there probably like, probably like six months or so.
12 But I was still contacting my daughter on the phone. I
13 was talking to them through by phone 'cause I had no ride
14 over there to Marion County. And when I did move back to
15 Florence that's when I started back seeing her.

16 Q Okay. Do you know about when that would be?

17 A When I moved back to Florence I know it been probably
18 like -- I started seeing her probably like a couple weeks
19 before I got a job with my brother in Myrtle Beach.

20 Q Okay, can you give me a time as to when that was? Was
21 it 2007?

22 A It been so long. I know it was in -- let me see, I was
23 in 2006. It was in 2006. I'm not gonna -- I ain't gonna
24 say I know exactly the time.

25 Q I'm not asking you to give me exact date or anything.

Dw - C. McLeod - Direct

1 If you can just kind of ballpark it for us that will be
2 fine. So 2006?

3 A Yeah, it was in 2006.

4 Q And at that point you got the job in Myrtle Beach?

5 A Uh-huh.

6 Q How long did you have that job?

7 A I had the job probably for like four or five months,
8 something like that. Got laid off, and I came back to
9 stay with my sister until I get rehired again.

10 Q Okay. And when you say you came back to stay with your
11 sister to whom are you referring?

12 A Niosha McLeod, Niosha Williams.

13 Q How long did you stay there with Niosha?

14 A Probably I would say four weeks to a month I guess.

15 Q Was there at any point any time that you got ^{child}
16 either while you were at the beach or then staying with
17 your sister?

18 A I never got her where I was at the beach 'cause I never
19 had time; but when I was with my sister, yeah, me and my
20 sister made agreement to go get my daughter from her
21 mother's house which was in Mount Zion and I —

22 Q Month Zion Apartment here on Church Street?

23 A Uh-huh.

24 Q Where were y'all living at the time?

25 A My sister was staying in Royal Gardens.

Dw - C. McLeod - Direct

1 Q And where was that?

2 A That's in north Florence.

3 Q Is that the Coker Street address?

4 A Yeah, Coker Street, yes, ma'am.

5 Q Did you have friends in that area?

6 A Yes.

7 Q And the Hamiltons, would those be some of your friends?

8 A Well, they were but -- I had a good bit of friends out
9 there.

10 Q You and your sister and Shante, ^{child} mom, agreed
11 for ^{child} to come with you?

12 A Yeah. And the agreement that me and my sister made was
13 that she was working at the time and she worked long
14 hours. And we made agreement that I would be full
15 responsible, take full responsibility of my daughter
16 during that period.

17 Q What do you mean by taking full responsibility?

18 A That mean from feeding to bathing to making sure that
19 she ate and I take her out to the playground and
20 everything like -- I tried to get -- I knew that I wasn't
21 in her life like I was supposed to, and I tried during
22 that time to make up for that. I tried to get it back
23 into her life.

24 Q So then describe a normal day for me while you have
25 ^{child}

Dw - C. McLeod - Direct

1 A A normal day for me and ^{child} was I get her up in
2 the morning. Well, if she wasn't up before me, I take my
3 shower while she sleep. I go downstairs. If she wasn't
4 by the time I got out the shower I go downstairs and I
5 cook breakfast. I go get her up, wake her up, let her
6 eat, then I wash her up, get her dressed, take her to the
7 little pantry store right across the street from my
8 apartments, go through the little path. I buy her little
9 chips, candy, or juice and we take her -- walk to the
10 park. And I let her sit on the swings and push her on the
11 swings and let her go down the slides and everything. I
12 mean, I just -- I know that I haven't been never been
13 doing that, but I mean, I was just trying to be the best
14 father that I could.

15 Q All right. Would you prepare dinner?

16 A Sometimes -- well, half the time my sister, my sister
17 would bring food home from her job.

18 Q So your sister was helping out a little bit --

19 A Yeah.

20 Q --as far as taking care of her too?

21 A Yeah.

22 Q Were there ever any problems that week as far as
23 between you and your sister?

24 A Yes, there was.

25 Q Tell me about those problems.

Dw - C. McLeod - Direct

- 1 A Because I had a problem of care, was like, when she did
2 come in working and ^{child} be asleep, I didn't want her
3 to bother ^{child} because ^{child} asleep. And I knew
4 that my sister been in my daughter life for more than I
5 did, and I did -- like when my daughter was woke and like,
6 she never -- when my sister was home she didn't want to
7 come to my, she want to come to my sister. And I felt
8 like, you know, my sister had more pull than I did and I
9 was the biological father. Even though she been there
10 more than I did I got jealous about that. It hurt me
11 because I felt like my daughter, I mean, didn't really --
12 she knew who I were, but it was like her heart was like
13 more to my sister 'cause my sister did more for her than I
14 could because she always worked. I had jobs but I did
15 lots of crazy stuff with my money so like, it wasn't like,
16 I was trying to be there for her like I should. It was,
17 like I say, I was in the street, us being a teenager.
- 18 Q Okay. Did you ever loose your temper with your sister?
- 19 A Yes, ma'am.
- 20 Q What did you do?
- 21 A We got in argument and I punched a hole in the door.
- 22 Q Was that the extent of what you punched?
- 23 A I never -- I never punched my sister, no.
- 24 Q Did you ever lose your temper with your child?
- 25 A Well, what it was, the anger that I took from what was

Dw - C. McLeod - Direct

1 the problem with me and my sister by I admitting to this
2 because I know I was wrong for that, you know. By me
3 being a man trying to go be a father, like, I was hurt
4 because, like I told you just now, I felt like she was
5 tak— in a way I felt like my daughter was being taken
6 away from me, you know, and I tried to be there and I
7 tried to do the best that I could. And when my daughter
8 had cursed at me and I understood her words, I mean, I
9 hear a lot of people that yesterday saying that you can't
10 really understand. I understood what my daughter said
11 because it's words that, not cuss words but words that I
12 taught her that since she been at the house. Like I said,
13 I say, I, she be like I. She hold her words real long and
14 I would like say love. She was like, love. I say daddy.
15 She like, daddy. And she go and I clap my hands, you
16 know, she clap her hands. I mean, but yeah she had bad
17 words, but it didn't come from our house, it came from her
18 mother house, you know. And I got upset about it. And
19 during the time I was already upset with my sister, and
20 you know, you got people that saying, I mean, they punish
21 our child but don't intend to punish them like that. I
22 mean, I — I had lost my temper.

23 Q What did you do?

24 A I did apologize though.

25 Q Excuse me, I'm sorry, what?

Dw - C. McLeod - Direct

1 A I said but I do apologize.

2 Q Okay. What did you do as a result of losing your
3 temper?

4 A I spanked my daughter.

5 Q Did you use anything when you spanked her?

6 A At first it was my hand at first.

7 Q Did you ever use a switch?

8 A Yes, ma'am.

9 Q How many times did you spank your daughter that you
10 know of?

11 A Since she been at our house? Okay, once was for the
12 curse word; the second was for the bowel movement.

13 Q Okay. Did you ever hit her in anger again?

14 A Outside of that?

15 Q Yes.

16 A No. I mean, it was like, okay, when about the bowel
17 movement, when she was upstairs. I told ^{child} to sit
18 there till I get back. I was going to find a pamper. I
19 thought the pamper was in my sister room, but it wasn't.
20 I went downstairs. I came back. She made a bowel
21 movement on the floor, and I told her, didn't I tell you
22 to sit still and I popped her for it.

23 Q Where did you pop her?

24 A On her rear end.

25 Q Did you ever slap your daughter in the face?

Dw - C. McLeod - Direct

- 1 A Not that I recall, remember because, like I say, I
2 remember for the two times which was for the drinking — I
3 mean, the cursing and bowel movement.
- 4 Q Okay. Was there anything else that happened that week
5 that made you upset?
- 6 A Let me see 'cause it's been a while.
- 7 Q Let me put it this way. Whenever you changed her
8 diaper at one point did you smell a foul odor?
- 9 A Yes, I did, because this happened several times, not
10 the smell. But my sister went to get my daughter from
11 Shante's house; and several times she told me, Chris, you
12 need to get on Shante. I was like, for what. She like,
13 look at this. And you know, to take the pamper off of one
14 year old, she probably wasn't one year old at the time.
15 It happened. I mean, you take a pamper off a little baby
16 like that and all you see between the creases of her
17 private area you see dirt. I mean, a child shouldn't have
18 to walk around like that. I mean, she have a mother that
19 supposed to be taking care of her. I mean, and when she
20 came to my house and I had — I stench that smell
21 because I thought at first I thought it was urine because
22 she had at the time I was taking the pamper off she was
23 just finishing up urine and, you know. And that smell, I
24 was like, this smell shouldn't be coming from her, I mean,
25 what is this smell. But like I told the detective I never

Dw - C. McLeod - Direct

1 thought to say anything to my sister about it because I
2 forgot about it. I thought it was nothing serious. I
3 thought it was just because — because, see, she slept in
4 the pamper from that night and I was thinking it was
5 'cause, you know, the urine, like, that been on the pamper
6 all night. It do have a rank smell to it.

7 Q Okay. So you forgot to ask your sister about what was
8 going on?

9 A Yes, ma'am. Like I said, I thought it was just the
10 urine. You know, a baby can sleep in a diaper all night
11 long and you don't change it till the next morning or
12 whatever till y'all wake up, yeah, it's gonna smell. But
13 see, like I said, I haven't been around my daughter like
14 that to, like say, well, I let her sleep in. Some — I
15 don't wake up all time of the night to change my daughter,
16 I mean, if she need her pamper changed. If she been
17 crying I know I — 'cause she stay with my sister in the
18 room also so, like, I knew that we don't allow pampers to
19 stay on her if it's wet like that and starting to smell.

20 We don't want to let her walk around our house like that.

21 Q Did you do anything because of the smell?

22 A Yes, but my words got twisted around on them. Yeah.

23 Q Tell me what you did.

24 A Okay. The detectives — I told the detectives good,
25 that when that — I smelled that smell they try to make it

Dw - C. McLeod - Direct

1 say that I -- this what I told them. I took my -- huh?

2 Q I -- just -- you're confusing me for a second there so
3 don't tell me about what that is. Tell me what happened.
4 Tell me what you did.

5 A What I did, when I said I took her pamper off she was
6 just now finishing urine. I was like, what is that smell.

7 I smelt the stench just hit my nose. And I took my
8 finger and did like this, like on a little bit of her
9 urine to smell -- it was still on her private but it was
10 on -- it never went on the inside of her, no. And I smelt
11 my hand to see was it her urine; and after that that's
12 when I took her and washed her up, you know, and put her
13 on clean clothes and --

14 Q Okay. So then let me make sure I got this right.

15 A Uh-huh.

16 Q You're saying you never put your finger inside your
17 daughter?

18 A No.

19 Q What you did was touched outside where she was wet?

20 A Yes, 'cause like I -- okay, when I told the detective
21 this, I told them, I say, well, I say was the stench that
22 came from my daughter. I said I put my hand -- well, at
23 first I said I put my hand but it wasn't like in. When
24 they heard me say in they was like, they took my words and
25 twist them around on me. I was like, no, I didn't say

Dw - C. McLeod - Direct

- 1 that. I said it's on the outside, the layers. I never
2 went inside to penetrate; nothing like that. All I did
3 was try, as far as being a father I wanted to see what the
4 smell was.
- 5 Q Okay.
- 6 A You know, and I never put my hand in her no kind of
7 sexual way or nothing like that.
- 8 Q Okay. There was also some talk about when you bathed
9 here. Did you bathe her?
- 10 A Yes, I did.
- 11 Q Was there ever an incident that occurred when you
12 bathed her?
- 13 A Yes, 'cause the same rag I wash with I washed her with
14 because that week my sister did not have any -- she didn't
15 wash laundry none that week so.
- 16 Q Your sister didn't wash laundry?
- 17 A Yes.
- 18 Q So there weren't any clean towels to wash with?
- 19 A There was a towel that I -- I mean, a wash cloth that I
20 have, I mean, I used the same one to wash her with.
- 21 Q All right. What happened because of that wash cloth?
- 22 A By me happen to shave a couple of days before -- as a
23 matter of fact, when ^{child} came to the house that was
24 on either a Monday, I think it was a Monday, and I shaved
25 before we even left to pick her up. Because like I say,

Dw - C. McLeod - Direct

1 when I moved from Hartsville I was staying in Hartsville
2 with somebody, well, with a friend, and I was involved in
3 a girl over there.

4 Q Okay.

5 A And like I told the detectives, she gave me crabs and I
6 didn't know nothing about it until when I found out one
7 day at my sister house and I shaved because I never had
8 caught STD a day in my life so I didn't know what to do.
9 All I know is I shaved. And like I told the detective I
10 put my pubic hair in the trash can in the bathroom.

11 That's where I shaved to. And when the incident came up
12 they was like, well, we found pubic hair in her diaper.
13 I'm like, it's impossible because her diaper was already
14 in the trash can, and I just took my pubic hair and put it
15 on top of it so there's no way that you found in the
16 diaper that she had on, it was impossible.

17 Q Okay. So there could have been some loose pubic hairs?

18 A It was -- it was -- yes, like when I say I was sitting
19 on the toilet and I washed her, when I was washing her
20 with my same rag that I used it had pubic hair, she had
21 pubic hair on her, and they said it was sticking out her
22 vagina. I never said it was on it. Because if it was
23 sticking out I couldn't see it. My pubic hair wasn't so
24 long, I mean.

25 Q Okay. Where was -- you just said it was on the vagina?

Dw - C. McLeod - Direct

1 A Yes, ma'am.

2 Q Or — because I want to make sure. Terminology means a
3 lot here.

4 A Yes, it does.

5 Q Vagina being that the pathway. Do you mean it was
6 inside her —

7 A Okay, it was like this right here. You have a piece of
8 hair that was in, and the rest the hair was laying on the
9 outside. The one on the outside I took the rag. When I
10 told — I took the rag and moved it. I couldn't remove it
11 with the rag I took my hand and removed it. Now they try
12 to say that I took and put my hand inside her and moved
13 the hair. No, I didn't.

14 Q Okay. So it was a more on the outside of the child?

15 A Yes.

16 Q Was there ever any other touching of this child's
17 private area besides changing pampers by you?

18 A Not — okay. Not in the way that — the way they said
19 it? Naw. Only when I moved the pubic hair when I
20 stenchd the little smell, yeah.

21 Q That's it?

22 A That was it.

23 Q Okay. Otherwise, you just cared for your daughter —

24 A Yes, I mean —

25 Q —for that weekend?

Dw - C. McLeod - Direct

1 A —I did the best that I could. And like I was saying
2 as far as about with my sister, you know, I mean, I tried
3 to do — take the place of what she already had done, you
4 know, and I already said that I felt like my daughter
5 being taken from me because I knew I wasn't the father
6 that she needed me to be but at least I tried. You have
7 some fathers that don't even try at all. At least I
8 tried.

9 Q So then you went — you also went to a cookout that
10 week; didn't you?

11 A I sure did. I went Saturday.

12 Q Where was that?

13 A At Dale Hamilton house.

14 Q What happened there?

15 A Okay. Before we got there my sister had just got off
16 work. Dale Hamilton was at my house. My daughter was
17 upstairs in my sister room on her bed asleep. We was
18 downstairs. My sister say she had to go run some errands.
19 And I told her, I said, well, we about to go back to Dale
20 Hamilton house, which is Shamar. I said, well, what I
21 need for you to do to take ^{child} to their house and
22 we'll walk over there, and she said okay. It took us a
23 little bit longer to get there because Shamar had just had
24 surgery on his foot. So he walked, you know, he was
25 walking with his cane. He walked a little slower than

Dw - C. McLeod - Direct

- 1 what I did so I had to slow up and wait on him. And we
2 stopped at the park for a minute so he can sit down and
3 rest on his feet, on his -- rest his leg right quick for a
4 little while. And when we got up and while we was on our
5 way walking to Shamar house that when we met Nate walking
6 across the park and all three of us walked back to the
7 house where Shamar's wife was, and stepdaughter, and his
8 daughter boyfriend was. And that where ^{child} my
9 sister had done dropped her off and left.
- 10 Q Okay. What happens next?
- 11 A Okay.
- 12 Q This is Saturday?
- 13 A Saturday, yeah.
- 14 Q Then what happens next?
- 15 A We got in the house. I introduced myself to Mr. Reese
16 (ph) 'cause I never seen him before. I always heard about
17 him, but I never seen him before. He never seen me
18 before. I walk in, ^{child} was eating ice cream. Nancy,
19 I think her name Nancy, the daughter, her and her
20 boyfriend Bubba, they were sitting playing cards on a
21 cooler, a little blue cooler with a light top on it.
22 Shamar was in the kitchen. When I came Shamar came, went
23 in the kitchen, and he started getting stuff prepared for
24 the cookout. He brought out the beers and whatever, and
25 we just sitting there just talking. I was just sitting

Dw - C. McLeod - Direct

1 there talking to Bubba because I knew Bubba. I knew Nate
2 also but I never actually conversated with Nate like that,
3 but I also spoke to him when I see him. And we were just
4 sitting around. So they asked me did I want a beer; I
5 say, yeah. So I let ^{child} be with his wife because she
6 just kept playing with ^{child} so I let her play with
7 ^{child} while I stood outside. And we was getting the
8 grill prepared in the front, then Charles came over. And
9 I always knew Charles. He say yesterday that he ain't
10 never know me. He knew me ever since I moved in the
11 apartments. We were staying out there for at least eight
12 years so I knew him for a long time. And he got mad — I
13 went up there and I talked to him. He asked me, they
14 ain't seen me such a long time. That been the first time
15 they seen me in probably like ever since me and my baby
16 momma split up 'cause we were staying together. At the
17 time all of us used to hang out. When I came back from
18 Myrtle Beach they — we all, we hung out and all, we was
19 talking. And ^{child} was still in the house and then
20 she'll come outside and she'll go back in, she'll come
21 back outside, she'll go back in. So Shamar had more
22 friends that came over, some more male friends, which I
23 didn't know them, and they was out there talking so I came
24 in the house. And like Miss Nate and them — I mean Nate
25 mom and them, they were selling. Well, Shamar was selling

Dw - C. McLeod - Direct

- 1 cigarettes and little lucies and stuff out the house so
2 they needed more cigarettes. So me and Nate went to the
3 pantry by the park off Oakland Avenue. I left^{child} at
4 the house. And we went to the store and got the
5 cigarettes and he came right back. At the time I came
6 back Shamar needed to go to the store and we walked back
7 to the store but this time it was kind of longer because,
8 like I say, his leg.
- 9 Q So you left^{child} in that house two different times
10 —
- 11 A With the —
- 12 Q —going to the store?
- 13 A Two different times within 30 minutes, yes, 'cause —
- 14 Q Was the total time you would have been gone was 30
15 minutes; is that what you're saying?
- 16 A Yeah. Well, it didn't took that long between me and
17 Nate because, see, Shamar like I say, with his leg, and
18 then Shamar like, when he see people he like to stop and
19 talk, you know, conversating so I had no problem with that
20 because I felt like I could trust these people. I mean, I
21 knew Shamar for a long time. I mean —
- 22 Q I'm sorry, I didn't mean to interrupt. So then you
23 went to the store the second time?
- 24 A Yes, went to the store the second time and we got the
25 cigarettes. He stopped and talked and we came on back.

Dw - C. McLeod - Direct

1 At that time I was on the cell phone with the girl I was
2 telling you about from Hartsville. And I was trying -- we
3 prolong by coming to the house. We slowed up and we
4 walked real slow because I was trying to hook him up with
5 her mom. And they was talking on the phone, and I allowed
6 them to talk on my phone while they were just taking their
7 time walking. And when we got -- he got off the phone; we
8 got back to the house. And ^{child} come run up to me. I
9 hold her, whatever, you know, and I was talking to her and
10 I sat her back down and Bubba, which is Nancy's boyfriend,
11 she didn't -- he kept picking her up and I told him just
12 leave her alone, let her run around. I just let her run
13 around and enjoy herself 'cause I want her to be real
14 tired. I want her to tire -- you know, kids tire
15 theirself out. They won't aggravate you at night. They
16 can just go right on to sleep. So I -- I say let her run
17 around, and he just kept picking her up and picking her
18 up. And I was like, Nancy, just tell him to listen, leave
19 her alone, let her just run around. So later on that
20 night, it was about a little after nine, Nancy's mother
21 told me that she said, Chris, it's okay that y'all can
22 stay the night. She said, you're more than welcome to
23 stay the night, go to church with me in the morning. I
24 say, okay. I told her okay, but I didn't want to stay the
25 night there. I grabbed -- I talked to her. She went

Dw - C. McLeod - Direct

1 upstairs to go to bed and her daughter followed her. I
2 went upstairs behind her, behind Nancy, and I knocked on
3 the door. I said, can I use your phone. I remember this
4 like it was yesterday. She had a pink razor cell phone.
5 I tried to call my sister twice. She never answered the
6 phone. I got worried. I was like, I mean, where is my
7 sister? I mean, I know she stay right down the street but
8 she's not answering the phone. So Nate, I told Nate to
9 ask his mom, I asked him, can you come walk with me to the
10 house so I can check on my sister. And he was like, okay.
11 And she -- he asked her. She told him yeah. So Shamar
12 gave him the house keys, gave him the house keys and he
13 say y'all can be out but don't be out too late. Okay, we
14 still ain't left the house yet. I didn't leave the house,
15 Nate and them house, till after 10:00. After I done got
16 the pallet for^{child} laid that pallet down beside
17 Shamar while he was on the chair drinking a Budweiser. I
18 put her -- I know how I lay my daughter, just like this.
19 This was the pallet. I laid her just like that, and I
20 laid her straight but I put two blankets on her with a
21 pillow. Now I'm not -- I'm not stupid, and I know what a
22 two year old cannot, like, not in their sleep -- they
23 can't do this in their sleep but I'll tell you about that
24 part when I get to it. But when we left, I done put her,
25 got her situated in the bed and we left. So we walked and

Dw - C. McLeod - Direct

1 got to my sister house, me and Nate, and I knocked on the
2 door and she came to the door. I said, Nate, can you come
3 pick up ^{child} She was like, where she at? I say, she
4 at Shamar house. She was like, I'm in my night clothes
5 already, I don't feel like getting back out there. I was
6 like -- she was like, why you ain't brought her over here.
7 I don't want to walk with ^{child} this time of night in
8 this neighborhood because I don't -- this my first time
9 being back in north Florence like that ever since I moved.
10 I was gone for a while so, like, I didn't really trust
11 nobody out there like that, not with my daughter at
12 nighttime. She was like, well -- I say, well, I'm gonna
13 go up. I went upstairs, and I was going to get some
14 changing clothes for her which I did, but I didn't get the
15 ones to take to church with her because I didn't intend
16 for her to go to church. I said, well, tell you what, you
17 come pick us up in the morning, we'll go to church with
18 you. And she said, okay, but -- and the next -- well, I
19 ain't gonna say the next morning. She never -- she never
20 came that next morning. But that night when I got back to
21 Shamar house me and Nate walked back over there. When
22 I -- Nate unlocked the door, but he never went in the
23 house first, I went in the house first because he had his
24 cousin he was outside talking to that had -- was staying
25 out there in the apartments also. And when I walk in the

Dw - C. McLeod - Direct

1 house, this is exactly what I saw, like I told you, I left
2 my daughter sleep like this. My daughter was sleep laying
3 beside Shamar. He was on the long chair beside her. When
4 I came back in the house my daughter had been turned
5 around, cover pulled off her, and her rear-end was like --
6 it was like, it was facing him, and he was turned over
7 towards her with his arm behind her like he had been
8 bothering her but with the door opened. He play like he
9 was sleep. And I didn't think -- I didn't think of that
10 he would try anything like that so I took my daughter and
11 I turned her back around in the bed like I left her and
12 put the cover over her. And I was thinking to myself, I
13 was like having second guess, what if Shamar try anything
14 like this. I was like, no, he wouldn't, because this is
15 supposed to be his family. They're not close family but
16 this is his family. And I laid down beside ^{child} but
17 at that time when I laid down I didn't put her beside him.
18 I laid beside him and put her behind me, and we slept
19 there. And we went to sleep and woke up the next morning;
20 and we woke up, the wife was already gone to church.
21 Nancy was already -- she was getting ready to go. Nate
22 hadn't even got dressed yet. Me and Shamar sat downstairs
23 and he offered me a beer. I drunk a beer, but before I
24 drunk the beer I went in the kitchen 'cause I -- ^{child}
25 was hungry. And gave her some pops, which pops is yellow.

Dw - C. McLeod - Direct

1 She didn't want any milk on them. I gave her a bowl of
2 pops and sat her in front of the TV and let her eat.
3 While Nate come downstairs then that when Charles knocked
4 on the door. And Charles say, you still here, Chris? I
5 was like, yeah. He like, well, when you leaving out? I
6 say I'm leaving out, which was — it was that Sunday. I
7 'posed to be leaving now Monday to go back to work to
8 Myrtle Beach 'cause that's when the boss man told me I was
9 gonna get my job back. And he was like, let's have a
10 cookout before you leave then. I was like, okay. While
11 my sister was at church I called her and told her we was
12 having cookout. I told her if she wanted a plate I would
13 fix a plate for her. She had supposed to come, but she
14 didn't come — I don't think — no, she didn't come that
15 afternoon. She waited till after church. But we went —
16 while we was about to go to the grocery store, now this is
17 a long way from where Shamar and them stay at. It's a
18 long way to north side grocery store beside where there's
19 — it's behind North Side Seafood, if anybody know where
20 that at. But we took the back street through the cut. I
21 told Nate specifically, don't touch her, don't move my
22 daughter until I get back. He was like, man, y'all need
23 to hurry up 'cause I got to go to church. I said okay.
24 He never took a shower or anything while we was there. He
25 had on his T-shirt with his little night pajamas and

Dw - C. McLeod - Direct

1 child was still eating her cereal. I told – kissed
2 child and I told her I'd be back. When we started
3 walking Nancy walked out the house also, and she was
4 supposed to be going to meet her boyfriend. She was
5 walking and she had to walk all the way across the park
6 down Bryan Street. So while we started walking me and
7 Charles had to slow up because of Shamar foot. Like I
8 say, he had surgery on his foot. He had surgery on his
9 foot twice he told me. So when we was walking it took us
10 a while to get there and it started raining. It rained on
11 us. It was drizzling but we still got rained on. So by
12 the time – I can say by the time we got there, when we
13 got there and back the time it was probably at least 30 to
14 40 minutes because we had to wait on Shamar. We couldn't
15 leave him; he had the money. He knew he was going to the
16 store to get. But when I got to the store I met my
17 classmate that worked in the grocery store. He was
18 working in the back. His name is Christopher Scott and I
19 introduced him to Shamar. And I told him, he was like,
20 man, I haven't seen you in a while and we haven't seen
21 each other since school. And I told him that I had a
22 daughter now, and he was like he wanted to meet my
23 daughter. And I told him when I get back to Shamar house
24 I promise to bring my daughter back up there to him. And
25 he said okay. And that's when I got on the subject about

Dw - C. McLeod - Direct

1 talking about some -- even though this ain't got -- it has
2 something to do with the case. I was talking about rabbit
3 stew 'cause I seen some meat that I was going to get.

4 But we walked back to the apartments. And when we
5 got back to the apartments Nate had done took a shower and
6 had done changed clothes. I wasn't worrying about that.
7 I was worrying about my child. He said he took the baby
8 to the church. I wasn't trying to hear that because I
9 specifically told him don't take my daughter anywhere till
10 I get back. I knew he had to go to church; but I say
11 don't take my daughter anywhere, that's my child. So he
12 did it anyway. And I'm trying to figure out Shamar was
13 like, Chris, don't even worry about it, she's okay, she's
14 in good hands. I say, okay. So we walked out back and
15 started cooking out on the grill like they said yesterday.

16 We was on the back cooking on the grill. And Shamar and
17 Charles, they started rolling up marijuana which I wasn't.
18 I walked in the house at the time they was doing that, and
19 came back outside. And they was like Chris, you want to
20 hit this? I was like, well, I don't care. And when I did
21 it, like, it was -- you know what I mean, I'm being honest
22 'cause I'm being honest with the Court, I feel like I have
23 to and I want to. I smoked marijuana for a while. I know
24 how it effect take on me. This right here was not no
25 regular marijuana. It was -- just wasn't. And like, I

Dw - C. McLeod - Direct

1 started feeling funny light-headed like I was gonna pass
2 out. I went in the house and I laid down. And that when
3 I laid down like 20 minutes later Nate was still in the
4 house. His mom come busting in the back door upset.
5 Nate, why did you brought ^{child} in the church and sat
6 on the back of the pews by herself. And he specifically
7 told her that she spit up on his shirt. She say, where is
8 the stain. He had on a black T-shirt, black jeans, and
9 black air force one. This is a brand new black T-shirt so
10 where is the stain that she spit up on you. The corn pops
11 is yellow. If she spit up on it the stain should be on
12 his shirt. There was no stain in his shirt. She asked
13 him, why didn't he come to church. He said, momma, 'cause
14 it's raining. The church is right there. He couldn't
15 have got soak and wet; it was drizzling. There was no
16 excuse for that for him not coming to church.

17 So I asked, where's my baby. She said that Nancy
18 had her, which is the daughter. She came over there later
19 on a couple, like probably like 20, 30 minutes later with
20 my daughter and her boyfriend, gave my daughter to me.
21 And what I was upset because my daughter ain't had changed
22 clothes. She still done had —she still had on night
23 clothes, which is the dirty clothes she had on from
24 playing all day the day before. They took her to church
25 like that and sat her on back of the pews and she was

Dw - C. McLeod - Direct

1 crying and stuff. Why would he do something like that,
2 you know. And I let that go 'cause I went to sleep --

3 Q Why didn't you call the cops at any point during any of
4 this?

5 A Because I didn't suspect anything to be wrong like
6 that. You know --

7 Q Well, you thought something was wrong whenever you
8 walked back in the house the night before and saw her
9 changed in position on the bed?

10 A Because like I said, I didn't -- I had second guess. I
11 didn't suspect Shamar would do something like this.

12 Q You didn't --

13 A It had to take me to get locked up for me to actually
14 see, put two and two together, the pictures, to figure out
15 what happened even though I wasn't in the house when I
16 left Nate at the house and I wasn't in the house when I
17 left Shamar in the house with my daughter but put two and
18 two together I know exactly what happened, I know what
19 happened.

20 Q You didn't change her diaper and see any kind of
21 bruising or abrasions or --

22 A No.

23 Q --marks?

24 A I tell you, after when I -- when they brought her in
25 when I came in the house I laid down and when his mom come

Dw - C. McLeod - Direct

1 busting in the house and she said what she said, after
2 that was conversation was over with I went to sleep. I
3 didn't even feel good. I was so weak I couldn't even walk
4 so I laid there and went to sleep until it wore off. When
5 it wore off I got up, I say, I'm taking my daughter home.
6 They was like, you want something to eat? I took a plate.
7 I took the plate with me. But as we walking down the
8 street I throw the plate down because I didn't want it. I
9 took ^{child} home. We went to bed. My sister came in.
10 That's when we went to McDonalds.
11 Q This is Sunday night, right?
12 A Yes.
13 Q Okay. And what happens at McDonalds?
14 A And at McDonalds we was there ordering, and my sister
15 was like -- she's trying to feed my daughter and I was
16 like, no, I'm gonna feed her because I already had started
17 out feeding her but she wanted to feed her and I got upset
18 about it because I got -- like I was saying before from
19 the beginning, I already see that I felt like that she was
20 already like, she wasn't trying to take my daughter from
21 me. She was just trying to help but that's the impression
22 I had got. I was jealous about it, and I wanted to do
23 everything for my daughter myself because I know I haven't
24 been there before. And about the situation when I left my
25 daughter there with Shamar and with Nate, the situation

Dw - C. McLeod - Direct

1 was with Nate -- I mean, I could be wrong about this but I
2 know I'm not wrong because somebody had to do this; I
3 didn't do it.

4 Q Okay.

5 A What happened was --

6 Q I'm sorry, let me -- the next -- then that ends things
7 for Sunday night, right?

8 A Yes.

9 Q And then --

10 A Monday.

11 Q You go Monday, you're at your sister's house; is that
12 right?

13 A Uh-huh.

14 Q What happens on Monday?

15 A Monday was me and my sister got in our argument that
16 Monday.

17 Q And the police were called to the house, correct?

18 A Uh-huh.

19 Q What charges were you actually booked in on?

20 A I was booked on breach of peace. I ain't find out to
21 this sexual charge till like I think it was that day --
22 was it -- I think it was a day after or two days after.

23 But when they told me I'm -- when Michael Robinson came
24 and told me I was like bust out crying and I'm asking her
25 is my daughter all right, if she's alive. And she was

Dw - C. McLeod - Direct

1 like, why are you crying and you did this. And that's
2 when I grabbed that chair because I -- I was pissed off.
3 How can you accuse me of something I didn't know anything
4 about. All I know is I was coming to jail for a breach of
5 peace.

6 Q So when's the first time you knew that your daughter
7 was hurt?

8 A With Michael -- talking about when Michael Robinson
9 came and told me?

10 Q I'm just asking you. I can't answer that. You have to
11 answer me. When is the first time that you knew --

12 A Okay, the first time I knew that she was hurt when my
13 sister mentioned to me that I had spanked my daughter too
14 hard 'cause she said that ^{child} was walking kind of
15 slow. And I was like, and I did had scared. No honest,
16 no lie, I did. I got scared. I was like, you know, I
17 could get in trouble for this. I didn't mean to beat her
18 that hard. And I told Nate, I told my sister -- well, I
19 call her nickname is Nate. I told her I said, well, I
20 didn't mean to hit her that hard. She say, well no, you
21 didn't. She like, well, you shouldn't have beat her hard
22 when you was upset, you should have wait till you calmed
23 down, which I should have. I should have.

24 Q So what happens next because of that? Did your sister
25 call the cops on you?

Dw - C. McLeod - Direct

1 A No, not right then. Well, you talking about that
2 morning after we had argue?

3 Q That Monday, uh-huh?

4 A We argued and that when I think I punched a hole in her
5 door, or it was the door downstairs.

6 Q Right.

7 A But I never knew she was calling the cops. She just
8 grabbed my daughter and she left after they went in the
9 room, whatever. They —

10 Q What was the agreement about that, or did you know why
11 she was taking your daughter?

12 A She said she was taking her — she said she was taking
13 child back to Shante.

14 Q So you expected and knew that that was going to happen.

15 A What was gonna happen?

16 Q That she was going to take the child back to Shante on
17 that Monday?

18 A Yeah, but I didn't know she was calling the police or
19 nothing. I mean, 'cause I heard her say I fled. I never
20 fled because I didn't know the police was coming.

21 Q All right. And I don't want to confuse you. So you
22 knew that child was going back to her mom on Monday?

23 A Uh-huh.

24 Q And you knew that your sister was taking her back to
25 her —

Dw - C. McLeod - Direct

1 A Yes, ma'am.

2 Q —mother. And then when you got mad you walked out of
3 the house at one point?

4 A No, she left before me.

5 Q Okay.

6 A When she left —

7 Q But you did leave the house —

8 A She left out the front door. I left out of the back
9 door. I went to Shamar and them's house because they was
10 selling lucies, and I went and bought three lucies from
11 them. And I sat outside. And when I was sitting outside
12 talking to Shamar 'cause — yeah, that's when my sister
13 had came in. She was telling me about — about when I had
14 beat my daughter. She was like — it was like accuse of
15 abuse and I got upset about that, yes, I did. I got upset
16 about it.

17 Q Accusing you of physical abuse or sexual abuse?

18 A Physical. And I was like, you know, why would she say
19 that? I mean, but like, I didn't understand that I had
20 put the bruise on my daughter like that. I didn't
21 understand — I didn't really notice that I had did that,
22 you know what I mean. And that's when I talked to Shamar
23 about it; and when I was talking to him he was like, naw,
24 man, you didn't do anything like that. We was talking and
25 that's when I seen four or five cops just pass by and I

Dw - C. McLeod - Direct

1 seen my sister. I was like, who is that in the car with
2 her. Man, I was like, that must be my baby momma so and I
3 started walking back home. And I stopped across the park
4 'cause I talking to Nancy boyfriend, which is Bubba. I
5 stopped to talk to him. And he was, well, he like, man,
6 you want me to walk you to your house. Man, I don't need
7 nobody to walk me to my house, man, I'm okay. So I walked
8 on through the back gate, and by the time I got to the
9 back gate I seen all the unmarked cars. I'm like, what is
10 going on? Like, I don't know. And everybody was like,
11 Chris, them people is at your house. I'm like, who? That
12 girl name Sweet. And when I told that -- well, in my
13 statement I said the girl name was Sweet, that I -- that
14 me and her was friends. I said bring my daughter over
15 there to play with her little son. She was telling me
16 that all these unmarked cars is at your house. So she was
17 like, you better not go over there. I'm like, I'm going
18 over there 'cause I don't even know what's going on. And
19 I went over there, came back in through the back door, and
20 the officer was like, is this him? I was like, yes. I
21 mean, she was like, yes, it's him. And I was like --
22 he's -- are you Christopher McLeod? I was like, yes, sir.
23 He's like, can you tell me what happened. And I told
24 him, I was like, we got in argument and I punched a hole
25 in the door and he looked at my fist -- my fist was

Dw - C. McLeod - Direct

1 like — it was up from the door. And he sit me down, he
2 was like do you know that you had — you beat your
3 daughter. I was like, yes, sir, I didn't mean to beat her
4 like that, sir. I said I didn't mean to — I didn't
5 intentionally do this. He was like, sir, I know you
6 didn't. And he, say but I'm gonna have to arrest you for
7 breach of peace.

8 I say, yes, sir. So when they put the cuffs on me,
9 that's when Detective Michael Robinson was walking in.
10 When I was walking out the door I heard she say she was
11 gonna talk to me. I said okay. Well, when I was walking
12 out the door I heard somebody say something about sexual,
13 and I stopped when he was pulling me. He was walking me
14 out the door. I stopped. I was like, what'd you say?
15 She like, I'll talk to you tomorrow. I was like, no,
16 someone is gonna tell me what's going on now. But nobody
17 told me nothing. So they put me in the car and brought me
18 to Effingham.

19 Q Once you got to Effingham were you interviewed that
20 same day by Investigator Robinson or was it the next day?

21 A It had to have been the next day.

22 Q What — do you know what pod you were being kept in in
23 Effingham at the time?

24 A No. When she came to see me they still had me in the
25 holding cell.

Dw - C. McLeod - Direct

1 Q Okay. Did they walk you from the holding cell to the
2 training room where you were interviewed?

3 A We went to two different rooms.

4 Q Okay.

5 A 'Cause the first room was me and her interviewed, and
6 she stepped out the room and the CO that work at Effingham
7 name is Officer Barr.

8 Q COB correctional officer?

9 A Yes, ma'am. He came in and I was crying. I told him
10 these people is trying to charge me with something that I
11 didn't even do and they trying to make me say things that
12 I didn't even say. He was like, man, you need to get you
13 a lawyer, you need to contact your family. She had him
14 watching me while she went out on -- when she went to
15 making the phone call. But I promise that she made me
16 trying to get me to talk. She was like -- if -- I kept
17 telling her I wanted to see my sister, I wanted to talk to
18 my sister. She like, just tell me what happened and I'll
19 get your sister on the phone. I was like, no, I need to
20 talk to my sister. She was like, well I'm not going to
21 get in contact with your sister until you tell me what
22 happened. So I start to tell her and she put my sister on
23 the phone. And I was saying I wanted my sister to come in
24 there and see me. I think that was the next day when her
25 and my sister had the meeting as far as the taped, the

Dw - C. McLeod - Direct

- 1 taped statement, you know. And the whole time I kept
2 telling her that I didn't do this to my daughter, she kept
3 saying, I know you didn't mean to hurt your daughter
4 'cause she -- she had tears coming in her eyes too. She
5 was like, I know you didn't mean to hurt your daughter. I
6 was like, but what you mean by I didn't mean to hurt my
7 daughter, what, I mean, what are you saying by this. But
8 she was saying as far as the sexual way which I didn't
9 know nothing about that. I thought she was talking about
10 when I spanked my daughter. That's why I'm saying I
11 didn't mean to hurt her that way, but she was trying to
12 put words in my mouth that I never did say it.
- 13 Q Okay. So you talked with her, and you also talked with
14 Investigator Compton on that day?
- 15 A In that other room, yes, ma'am.
- 16 Q And that was the end of, as far as your police
17 involvement that day, correct?
- 18 A Uh-huh.
- 19 Q Did you at that point whenever you were discussing
20 things with Investigator Robinson did she ask you about
21 submitting to what's called a suspect kit or a criminal
22 sexual conduct kit?
- 23 A You know something, 'cause I knew that I was innocent I
24 vol-- I the one that volunteered. I brought that
25 conversation up. I told them I willing to take -- I was

Dw - C. McLeod - Direct

1 willing to do anything to prove that I didn't do this.

2 Q Okay. And the next day did they then take ---

3 A Uh-huh.

4 Q ---samples from you?

5 A And when they say they didn't receive the pubic hair,
6 they did because I remember what -- I know what I gave
7 them. I gave that to them, which they say -- he said I
8 was purely clean, that I had shaved. I shaved a
9 week-and-a-half ago so evidently I still had hair growing
10 back within that time so I pulled what I could. He told
11 me to do the best that I could and that's what I did. I
12 gave them the hair I could give them. I gave them the
13 hair off my head, and I think they took the swab. I think
14 they took the swab. They took blood ---

15 Q They took swab inside your mouth?

16 A I think they took the swab if I remember that but ---

17 Q Did they take any blood sample from you?

18 A Yeah. Yeah.

19 Q And that was all stuff that you said I'll do?

20 A Yeah.

21 Q Okay. Did you meet again with Investigator Duff?

22 A Uh-huh.

23 Q And then Investigator Robinson?

24 A Well, yes, when I got to up here to the complex.

25 Q Okay. And they interviewed you, and again, what was

Dw - C. McLeod - Direct

1 that interview about?

2 A It was about the same thing. They started — all of
3 them was in the office. And I forgot her name; she was
4 here yesterday. I think she was the last one that got up
5 on the stand.

6 Q Lady with brown hair?

7 A Yeah, she was talking to Investigator Michael Robinson

8 —

9 Q Investigator Duff.

10 A —about their —

11 Q Investigator Duff? Does that sound right?

12 A Huh?

13 Q Investigator Duff?

14 A I don't know the woman. It was a good bit of them in
15 there so I don't even — all I know it was her. So when I
16 went in there and just start talking about the
17 conversation came up about my daughter and all, and they
18 was like, it's okay, we can help you, do you want us to
19 help you. And I was steady crying. I was like, yeah, I
20 want help but like, I didn't do this. You know what I
21 mean, what kind of help you want me — what you want me to
22 say, I didn't do this. They was like, yes, you did. They
23 were like, well we have plenty of cases. We had a case
24 where this man smashed his baby head, and he killed his
25 baby but we helped him, we got him out. I'm like, well, I

Dw - C. McLeod - Direct

- 1 didn't do nothing like this. I don't care what nobody
2 else did. I didn't do nothing like this. And that what
3 she told me. She was like, Ms. Michael Robinson, sitting
4 right there, told me if you didn't admit to doing this
5 we're gonna throw the charges on you. I say, I don't
6 care, throw the charge on me anyway and take me back to
7 Effingham.
- 8 Q And at that point they did serve the warrant on you;
9 didn't they?
- 10 A Yeah, 'cause they say if I didn't admit to it they was
11 gonna throw the charges on me so either way I was losing.
- 12 Q Okay.
- 13 A And about the masturbation part, they try to make it
14 seem like my daughter was in the room with me. No, she
15 wasn't. She wasn't even in that room. I mean, and they
16 talking about I said that I be -- I masturbate
17 occasionally. That's a lie because I don't -- I don't
18 have problems like that.
- 19 Q Okay. So you didn't do that in front of your child?
- 20 A No.
- 21 Q Didn't do it in the room next door?
- 22 A It was next door but it was -- it was next door but it
23 was -- I was in my room next door.
- 24 Q Okay.
- 25 A But they try to make it seem like I was doing this in

Dw - C. McLeod - Direct

1 front of my daughter. No I, don't do stuff like that
2 because, first of all, like, I have respect for my
3 daughter.

4 Q But you talked with law enforcement no less than at
5 least three different members and multiple times about
6 this case?

7 A Yeah. But at the time when I did talk to them about it
8 it was all about you did it, you did it, and yelling at me
9 threats and stuff. I mean, they said they'd get on the
10 stand and lie, say they never threatened me. And that's
11 why I wanted to get on the stand today because I know I
12 been threatened.

13 Q So you admit that you hit your child in a way that you
14 shouldn't have?

15 A I do admit to that. That's why I -- I was saying since
16 day one when I got charged. I did admit to that. And I
17 was like trying to see like, I say I did -- I do want to
18 go to trial just for the sexual charges, but why would you
19 take me to trial on the charges that I already admit to
20 for each way trying to get me to pull out the max time I
21 went. But I wasn't trying to take them unlawful conduct
22 and assault and battery, I was not trying to go -- take
23 that to trial 'cause I knew that I admit to doing it.
24 Like, I still admitting right now but these sexual
25 charges, I have nothing to do with that 'cause I didn't do

Dw - C. McLeod - Cross

1 it.

2 MS. PARROTT: Nothing further, Your Honor.

3 THE COURT: Mr. Wells.

4 MR. WELLS: It's been a long time. Does the jury need
5 five minutes?

6 THE COURT: Y'all need a break. We've been going
7 without a break for a while. Anybody?

8 THE FOREPERSON: Everybody's okay, Your Honor.

9 THE COURT: All right. We'll just continue on.

10 **CROSS-EXAMINATION**

11 BY MR. WELLS:

12 Q So Mr. McLeod, then what you were saying by your last
13 statements is that you felt you were guilty of assault and
14 battery of a high and aggravated nature and unlawful
15 conduct towards a child, but not guilty of the first two
16 counts, is that what you're saying?

17 A That's exactly what I'm saying.

18 Q All right. Now how many times did you hit your child?

19 A When I spanked her I can't say I count how many times.
20 I didn't spank her more than the times that from the bowel
21 movement and from when she cussed at me. I can't say how
22 many times I hit her during that time when I was spanking
23 her because I wasn't counting.

24 Q All right. Did you hit her in the face?

25 A Like I say, when she asked me that question, not that I

Dw - C. McLeod - Cross

1 know of, that I remember.

2 Q But you did get angry?

3 A I said that, like I told her, like I say, I don't

4 remember that part because I lost my temper so, you know,

5 I did admit to them charges but, like I say, I don't

6 remember that because my temper -- I lost my temper. Like

7 I say, like I told my sister, I should have calmed down

8 when I spanked her. I should have waited to spank her but

9 I didn't.

10 Q And you say that your child at age two called you a

11 bitch?

12 A Yes, sir. I understand my child clearly.

13 Q Now where -- she called you a bitch at age two?

14 A Yes, sir. Just like when -- now I know -- my sister

15 heard it. My sister heard her say this one time before.

16 She had drop something on the floor and she -- excuse my

17 language. But she had dropped something on the floor she

18 was like, oh, shit. Yeah, my child get that. Yeah, she

19 talk 'cause she get it from the people who she be around

20 at her mother's house.

21 Q All right. Now was this the first time that you had

22 really kept the child for any length of time?

23 A No. I mean, it been a while because I been at the

24 beach but it was never the first time, no.

25 Q But you hadn't kept her by yourself very often?

Dw - C. McLeod - Cross

1 A Yes, I have, at my sister house.

2 Q At your sister's house?

3 A And at my aunt Cheryl house when she was -- when she
4 was -- when she wasn't walking then yet, but she was at my
5 aunt Cheryl house and, yes, I used to keep her.

6 Q But you had not kept her in some time; is that right?

7 A Yes.

8 Q All right. Now was the child sleeping with you at
9 night?

10 A Not all night.

11 Q But some of the night she was?

12 A Yeah, she slept with who she wanted to sleep with.

13 Q Now wasn't it on Friday that you -- the first time that
14 your sister got upset with you about the child about
15 noticing marks and you were punishing the child too much?

16 A Friday. Friday, Friday, yeah, it was Friday.

17 Q It was Friday. And didn't she notice the bruising on
18 the child then and confront you about it?

19 A Yeah. That's when I told her about I had spanked her,
20 and she was like I spanked her too hard, yeah.

21 Q And she got mad with you; didn't she?

22 A My sister?

23 Q Yeah.

24 A She have a right to; that's her niece. I mean, I was
25 upset also too 'cause I had told her -- I was upset that I

Dw - C. McLeod - Cross

1 had spanked her too hard. I mean, I couldn't take it
2 back. All I could do was tell her I'm sorry. I hugged
3 her and told her I was sorry. I mean, I couldn't take the
4 bruises back after they was already there.

5 Q And isn't that why on Saturday that you went over to
6 Shamar's house to get away from your sister?

7 A My sister is done gone so I wasn't trying to get away
8 from her. She done left the house before I left so I was
9 at the house by myself, then I left.

10 Q In fact, you left when Shamar -- didn't you leave, see
11 Shamar, then come over and get the child and take him back
12 to his house?

13 A Could you repeat that again?

14 Q I said, didn't you see Shamar walking, didn't Shamar
15 and I believe Nate come over to your house, and then
16 didn't you take the child over to his house?

17 A Saturday?

18 Q On Saturday?

19 A Yeah, Saturday. Nate -- I met Shamar at the store. He
20 came back to my house. We had my sister to drop^{child}
21 off and --

22 Q Wasn't it y'all that took^{child} over there, not your
23 sister?

24 A No, you can't cross me up 'cause I didn't even take her
25 over there. My sister took her over.

Dw - C. McLeod - Cross

1 Q I thought I remember your sister saying something that
2 you had said that you had left the child over at his -- at
3 Shamar's?

4 A I like that. That was Saturday night. Saturday
5 morning my sister took her over there. Saturday night I
6 left her over there.

7 Q I don't remember your sister saying about taking the
8 child over there. You say -- so you say she took her over
9 there?

10 A Yeah, my sister took her over there. Me and Shamar
11 walked back across the park, sat on the bench right at the
12 -- what the name of it? -- Jones Park, I think that what
13 it is. Sat on the bench over right there by the tree by
14 the road so he rest and then we got and start walking,
15 that when we see Nate coming across the park and we turn
16 around and we walked on back to the house.

17 Q So what's -- wasn't it correct the reason you went over
18 there was to get away from your sister 'cause she was mad
19 with you?

20 A No, sir.

21 Q That wasn't it at all?

22 A No, sir.

23 Q Now the child over there that day was -- she was in and
24 out. Wasn't Ms. Hamilton inside all the time?

25 A She would be laying on the chair.

Dw - C. McLeod - Cross

1 Q She was what?

2 A She was laying on the long hair, yeah.

3 Q All right, in the house, right?

4 A Yeah.

5 Q And the child was there going in and out; isn't that
6 right?

7 A Yes.

8 Q All right. Now when do you say that this happened that
9 you're trying to now blame Shamar? Of course, you've got
10 to blame someone else; don't you?

11 MS. PARROTT: Your Honor, objection.

12 THE WITNESS: No, I don't because I know where I left
13 my child at. Any father that leaves their child --
14 regardless of what happened, if I left my child at this
15 house whoever was up at the house is responsible for what
16 happened at the house if I wasn't there. So yes, I blame
17 them because if it didn't happen at my house, this sexual
18 thing what happened with her, didn't happen there because
19 she wasn't with me when it happened.

20 BY MR. WELLS:

21 Q Now tell me again what you say you found as far as the
22 baby and Shamar.

23 A Naw, you got to come like -- you got to like put it
24 in -- what you asking, trying to ask me?

25 Q Well, you're trying to say you left the child there

Dw - C. McLeod - Cross

1 sleeping fine and then you came back you said the child's
2 rear was messed up and the diaper was on—

3 A Naw, you trying to twist me up on that 'cause I ain't
4 never said that. I ain't said —

5 Q Tell me what you said.

6 A I ain't said her rear messed up.

7 Q Whoa, whoa.

8 THE COURT REPORTER: One at a time please and slow
9 down.

10 THE COURT: You got to slow down. She's taking down
11 everything, sir.

12 THE WITNESS: I said —

13 THE COURT REPORTER: Tell me what you — okay.

14 THE WITNESS: I said this, when I left my daughter
15 laying on the mattress, which is right this right here,
16 the long chair is right here what Shamar was laying on.
17 He was drinking a Budweiser when I left there. When we
18 left it was after 10:00. Got to my sister's house, came
19 back, me and Nate. He unlocked the door. I stepped in
20 the house first because he want to talk to his cousin. I
21 came in the house. My baby was turned around rear inner
22 facing Shamar, the cover pulled off her. He turned over
23 facing her like he had been messing with her, but when I
24 walked in the house he played asleep. I took my daughter,
25 turned her back around, put the cover over her and I put

Dw - C. McLeod - Cross

1 her on the backside and I slept on the front side.

2 Q Well, tell how are you saying him lying in a chair was
3 showing he was messing with her?

4 A You want me to tell you how? 'Cause if I was walking
5 in the house and see how my baby rear end was turned
6 towards him. His arm was throwed over like he had been
7 messing -- his arm was by her rear end. That's where it
8 was. A two year old is not gonna turn herself around in
9 the bed. My -- let me tell you, my daughter, she didn't
10 sleep in bed with me every night. I know one thing about
11 my child. She doesn't sleep wild; she doesn't.

12 Q Well, was she hollering and screaming?

13 A My daughter was still sleep when I came back.

14 Q She was still asleep?

15 A Yes.

16 Q So she didn't appear to be in any pain?

17 A I -- she was still asleep.

18 Q All right. And you say that he was in the chair and
19 your daughter was on the pallet on the floor?

20 A The pallet was right there beside the chair. It was
21 right there.

22 Q And who else was in the room?

23 A It was nobody but them two 'cause Nancy and her mother
24 was upstairs in the bed 'cause they had to go to church in
25 the morning.

Dw - C. McLeod - Cross

1 Q And where was Charles?

2 A Charles never stayed the night there. When he got —
3 as I understand, say he stay the night, that was a lie. I
4 been there Saturday and Sunday. He never stayed the night
5 there. Must have stayed there Friday because I wasn't
6 over there Friday. I came Saturday morning.

7 Q So you're trying to say Charles wasn't there?

8 A Of course he wasn't.

9 Q What about Nate?

10 A Nate was with me. He left with me and came back with
11 me.

12 Q And it wasn't earlier in the day? It wasn't that
13 night?

14 A Now you're trying to cross me up. He left with me
15 during the daytime and he left with me during the
16 nighttime. Nate — I mean, Charles never stayed the night
17 there when I was there.

18 Q Let me ask you, did you ever tell any of these officers
19 that you found Nate there what appeared to be messing with
20 your child? Not Nate, excuse me, Shamar.

21 A You say officers?

22 Q Yeah. Did you tell the officers when they questioned
23 you?

24 A At the time when I told Michael Robinson, when I was
25 trying to tell her what was going on about my daughter,

Dw - C. McLeod - Cross

1 she was still accusing me, no, people say they saw you did
2 it. She even got to the point and say, your daughter say
3 you did it, and I knew that she was lying because my
4 daughter ain't gonna say I did this when I didn't do this.

5 Q You're saying that Officer Robinson —

6 A Yeah.

7 Q — said that your two year old daughter —

8 A I'm saying this right here to her face, yes, sir, she
9 did told me that.

10 Q That Officer Robinson told you that your two year old
11 daughter —

12 A Yes.

13 Q —said you messed with her?

14 A Yes, she sure did. She was saying my sister said I did
15 it.

16 Q And the truth is, you never the first time told Officer
17 Robinson anything about Shamar messing with the child?

18 A Listen, when I got to the point to tell her that I put
19 my daughter beside her — beside him on the pallet, when I
20 got to the point to tell her she kept telling me that I
21 was the one who did this. I was — me and her was the
22 only two in the room so I know what been told to me.

23 Q But you never told her that, did you?

24 A Because she never give me a chance to. I told my
25 lawyer this.

Dw - C. McLeod - Cross

1 Q Well, how did she never give you a chance to tell you?

2 A Because I'm -- okay. Like I just said, I was being
3 accused and she was threatening me by, you did this, and
4 you such and such time, and you're gonna catch this and
5 you're gonna catch that. And I'm like, for what? I'm
6 hard down crying and she -- yeah, she, she was crying.
7 She was, I mean, she was crying herself 'cause she had
8 tears come in her eyes 'cause she -- I actually believe in
9 my heart knowing that she know I didn't even do that, but
10 she had to do her job.

11 Q So she was crying on your behalf; is that what you're
12 saying?

13 A She look at me dead in the eyes when I was sitting
14 there bawling out crying because I was being accused of
15 this. I was trembling. My nerves had me got shocked down
16 and everything. I was facing -- the time that she said I
17 was facing, never been in a situation like this before,
18 how would you like it if you was in my shoes.

19 Q And I thought it interesting you said that in one of
20 those interviews that she -- at the jail that she gave you
21 a cell phone to use to call your sister?

22 A No, she didn't give me a cell phone. She called my
23 sister.

24 Q She calls? Well, how was she able to use a cell phone
25 in the jail when cell phones don't work in the jail?

Dw - C. McLeod - Cross

1 A She had a cell phone. It's just the same way it
2 happened yesterday. She said she went out to make a call.
3 Same way she made the call she made a call on that cell
4 phone.

5 Q And you don't know how it is that she was able to use a
6 cell phone at the jail —

7 A She wasn't — you want me to tell you how I knew she
8 made a call? Because she walked right on through the
9 little training room right on through by where the family
10 members coming through, what you call the visitation, so
11 the front door is right there. So she didn't use the cell
12 phone the front door is right there not far from where I
13 was at.

14 Q All right. Let's go over now what you said you were
15 able to tell her and what you weren't able to tell her.
16 All right, you say that the first time on July 20 it was
17 the day, wasn't it, after you got arrested?

18 A It had to be the next — like I told Ms. Karen Parrott
19 when she asked me, it had to have been the day or two when
20 she came with the interview.

21 Q All right. And at that time you told her about the
22 spanking of the child, the first time with a switch 'cause
23 she had called you a bitch; is that right?

24 A Uh-huh.

25 Q All right. And then you said the second time you

Dw - C. McLeod - Cross

1 spanked the child with the hand because she had a bowel
2 movement; is that right?

3 A Uh-huh.

4 Q You admitted you saw marks on the child's legs where
5 you spanked her; is that right?

6 A Uh-huh.

7 Q Okay. Then is it correct that you said you were
8 sitting on the toilet one morning washing^{child} when
9 you observed one of these pubic hairs stinking out from
10 inside her vagina?

11 A Yeah, it was sticking out and laying on the side, yes,
12 sir, and I was washing her.

13 Q All right. And you said you at that time you used a
14 wash cloth to remove it; is that right?

15 A I used a washcloth.

16 Q All right.

17 A And it didn't work so I moved it with my finger and
18 when I told them that they switch it around. That's when
19 I said about the whole thing. I said, no, I never did it
20 at all because they trying to make it seem like that I was
21 actually messing with my daughter. That's why I told them
22 no. That's exactly why.

23 Q You don't have any unusual attraction towards children,
24 do you?

25 MS. PARROTT: Your Honor, objection.

Dw - C. McLeod - Cross

1 THE COURT: Overruled.

2 MS. PARROTT: Withdrawn.

3 THE COURT: Overruled.

4 THE WITNESS: Excuse me, what do you -- what do you
5 mean by that?

6 BY MR. WELLS:

7 Q Are you attracted by children?

8 A What do you mean? What do you mean?

9 Q I mean are you sexually attracted to children?

10 A No. No, sir, at all. I mean, the thing about this was
11 when I told them no because they made it seem like that I
12 was actually playing inside of my daughter. So the best
13 way for me to just dissolve all that just tell them no
14 because I knew that one day I was going to come to trial,
15 I was going to have my chance to tell the story, the
16 truth, because I know everything that happened. I was
17 there; they wasn't.

18 Q Now then I believe you said at that interview that then
19 you noticed some type of smell about ^{child} vagina; is
20 that right?

21 A Yes, sir, and I thought it was her urine.

22 Q But you never went to ask your sister about it; is that
23 right?

24 A No, I sure didn't, 'cause I didn't think it was -- I
25 thought it was the urine because it being, by the pampers

Dw - C. McLeod - Cross

1 being on her all night long, I thought it was just the
2 smell. I mean, and I being a father but I should have
3 went to her about it; but no, by me trying to be a father
4 I tried to handle it myself.

5 Q And then it was I believe in that interview then she
6 left, came back, then there was another male officer that
7 joined her, Officer Compton who testified yesterday; is
8 that right?

9 A She left. We end up going into another room where that
10 other officer, he was already in there when I went in
11 there.

12 Q All right. And I believe then at the end you told them
13 that you did -- you placed your finger inside your
14 daughter's vagina to remove the pubic hair; is that right?

15 A I didn't place my finger inside of that they put that
16 like that. I didn't.

17 Q So what did you say you told them?

18 A I told them that I removed the pubic hair from my
19 daughter's private, which I did, but they trying to make
20 it seem like I put my hand inside. I never did because if
21 it was inside I wouldn't have never seen it. It had to
22 have been sticking out some kind of way for me to see it.

23 Q Well, so how did you remove this pubic hair with your
24 finger?

25 A Easily. I just lay her to the side. I took my hand

Dw - C. McLeod - Cross

1 just like that and like that right there so took it right
2 on off.

3 Q And you never -- you never did any other thing to cause
4 bruising of that child's vaginal area?

5 A Sir, no, sir.

6 Q Never did that, okay. And at that time you did consent
7 to the test, the kit that was going to be done the next
8 day as far as collecting blood and pubic hair; is that
9 right?

10 A Uh-huh.

11 Q And it is true that you were shaven when the officer
12 came the next day; isn't that right?

13 A Uh-huh. Listen, at that time I was shaved but I wasn't
14 bald like he said I were. A week and-a-half, if you shave
15 a week and-a-half ago, you mean to tell me you still don't
16 have any down there something is wrong because if your
17 hair ain't growing there got to be something wrong down
18 there so. I'm not trying to be funny but I'm saying,
19 like, I mean, something is wrong. If I shave a
20 week-and-a-half ago which I been honest and told the
21 officer, he was like, just do the best you can. So I did
22 the best I can and gave him as much hair that I could.
23 And he took the hair off my head, you know, and you know,
24 they did the blood whatever.

25 Q How come the officer wasn't able to get pubic hair from

Dw - C. McLeod - Cross

1 you?

2 A I don't know what he did with that pubic hair but I
3 know, God as my witness right now today, and I know he
4 stand by me today, I gave the man my pubic hair, and he
5 know I did.

6 Q All right. So you didn't shave that night so that they
7 couldn't get pubic hair the next day?

8 A How was I going to shave when I was in max? I mean, I
9 was in lockup when I did that. I couldn't shave. I
10 didn't have no razor. I mean, I shave -- I was shaven
11 when I came to jail 'cause as a matter of fact, I know the
12 officer that spray me down when I came to max, Officer
13 Ingram, he sprayed me down. When I told him that -- when
14 I went in -- when I was in room I came downstairs to take
15 a shower 'cause they had me in shackles and stuff he had
16 to spray me down because they had crabs in the room when I
17 moved in there and I told him I just had got rid of some.
18 And he sprayed me down, I mean, so yeah, he knew that I
19 was already shaved but I still had hair but I didn't have
20 a hair bush.

21 Q Okay. So then the next day you were interviewed by
22 that other officer, Officer Duff and Officer Robinson; is
23 that right? The next day.

24 A Hold on now. The day that me and her talked I had
25 interview with both of them the same day.

Dw - C. McLeod - Cross

1 Q All right. Well, that's what I'm saying. There was
2 another interview then at a later time. This was the
3 first day. Then the next day you interviewed with her
4 again with the other officer?

5 A Uh-huh.

6 Q All right. And I believe on that occasion you said you
7 masturbated while ^{child} was in your care by not in
8 front of her but it was while she was sleeping. It was in
9 the next bedroom; is that right?

10 A In the next room. Like I said, I have respect for my
11 daughter and I'm a human being and I know that human being
12 have needs. But I know how far to take it and I know that
13 he trying to use this against me; but I didn't do this as
14 far as I -- how you trying to look at it, no, I didn't.

15 Q All right. You didn't try to do nothing to her and try
16 to get pleasure?

17 A Your Honor, no, sir. Sorry about saying Your Honor,
18 but no, sir.

19 Q And isn't it correct then on this occasion you told
20 them that you put the finger in the child to, not to
21 remove the pubic hair but because of the smell to try to
22 identify the smell?

23 A That's when they was crossing me up to try to make me
24 say that you play with your daughter. I know -- I didn't
25 never knew how to take this work until now. I know how

Dw - C. McLeod - Cross

- 1 they work. I know how they work. I mean, if you don't
2 say you did it you might as well say you did it 'cause
3 you're gonna get it on you anyway so, you know, I try to
4 go at it another way, which I didn't know anything about
5 my rights or the law. I -- yeah, I sign that paper about
6 the rights, but I didn't know anything about my rights
7 till after I got locked up.
- 8 Q And so in those different interviews two days, not once
9 did you say anything to them about finding the child moved
10 around on the pallet, Shamar right by him?
- 11 A Because they would not listen to me.
- 12 Q They wouldn't listen to you?
- 13 A No, they wouldn't.
- 14 Q How would they not listen to you?
- 15 A Because it's like I said from the first time, they was
16 threatening me and telling me a different story that
17 happened with them about other cases and that they can
18 help me. I wanted help but I didn't want the help they
19 was trying to give me. I'm not trying to do time for
20 something I didn't do. So no, I wasn't trying to agree
21 with them on that. All I was trying is trying to tell
22 them that I didn't do this. That's my only thing that I
23 was saying, I didn't do this. And they say, you just say
24 -- they say, you don't admit to doing it, like Michael
25 Robinson told me, we're going to throw the charge on you

Dw - C. McLeod - Cross

1 anyway. And I say, well you know what, just throw the
2 charge on me and take me back to Effingham. Well, I can't
3 beat these people, I mean, I'm by myself. I don't --
4 ain't no need to beat investigators when, I mean, they've
5 got several years experience of this so I'm -- this
6 something knew that happen to me. I didn't know anything
7 about this.

8 Q All right. But you had told Officer Robinson in the
9 interviews that you had been over at this other residence;
10 hadn't you?

11 A To Shamar house --

12 Q Shamar?

13 A Yeah, that's how she knew they was involved because I
14 brought their names up.

15 Q You brought their names up, but not once did you tell
16 them about this child being moved on the pallet and Shamar
17 nearby, did you?

18 A Because she tell me they didn't have anything to do
19 with it. I told her I -- like I tell you right now and
20 she's right here right now, I know where I left my child
21 at. Like I told her, I know where I left my child at.

22 And if anything happened they was responsible for it.

23 Then she kept telling me I did it, I know you didn't mean
24 to hurt your daughter and all, you know. And what else
25 could I do?

Dw - C. McLeod - Cross

1 Q But you didn't once tell her that about what you're
2 saying today, did you?

3 A She didn't give me a chance to. Just like when I had
4 the other interviews, you know, all the interviews that I
5 had was you did this, you did this, you did this. You
6 know, I was -- everything was getting pointed at me. I
7 was getting threatened so why should I tell them this when
8 I can just wait to trial like right now and let everybody
9 hear the truth. That's just -- I'm sorry.

10 Q How would she not --

11 MS. PARROTT: Objection. Asked and answered.

12 THE COURT: He hadn't asked it yet. Let him -- that
13 was Mr. McLeod talking.

14 Go ahead, Mr. Wells.

15 BY MR. WELLS:

16 Q All right. I want to know how did she not let you tell
17 her this?

18 MS. PARROTT: Objection. This is --

19 THE COURT: Overruled. That's a different question.

20 THE WITNESS: How did she -- how did she not let me
21 tell her this? Because when I was telling her and I was
22 crying, I was trying to tell her, I was trying to get my
23 nerves together and she like, well, you know, I know you
24 didn't mean to hurt your daughter. I'm like, I didn't
25 mean to hurt her. She like, but you did, I mean. And she

Dw - C. McLeod - Cross

1 started going on telling me what happened to ^{child} and,
2 you know, I started crying even more. She like, why you
3 crying when you did this, you know, she started naming
4 people that said I did this, my sister, my baby. She was
5 like, we even got eyewitnesses saying that you did this.
6 And I was like all of them are lying because I didn't do
7 this, I didn't do this. And I knew that time was gonna
8 come that I could tell everybody the truth because I knew
9 right then and there that they were switching my
10 statements around so why would I tell them what happened
11 if they was gonna switch it around anyway. There was no
12 need.

13 Q And anyway, so you're saying that when you got back
14 that night your child was asleep; is that right?

15 A I got back she was sleep, but she was turned — she was
16 laying just like this. She was turned around — she had
17 been turned around straight in a way a two year old gonna
18 turn their body around straight in the bed like that and
19 then fold the cover back, there's no way. There's no way.
20 I know how my child sleep. I don't know how other two
21 year olds do it, but my — I know how my daughter sleep.

22 Q Well tell me, if you were so concerned about Shamar why
23 did you stay over and spend the night?

24 A Because my sister never came to the house that night to
25 get my daughter. I didn't have anyone to catch a cab and

Dw - C. McLeod - Cross

1 I wasn't taking a chance to walk with my daughter out
2 there. It was after 10:00 that night. That's why I
3 stayed over.

4 Q But you stayed there the next day ---

5 A Yeah, and my -- okay, go ahead.

6 Q Go ahead, finish your answer.

7 A I stayed over that night, yeah, and I make sure I was
8 the one that slept beside Shamar and my daughter slept
9 behind him.

10 Q And you stayed there the next day until about 6:00,
11 didn't you, on Sunday?

12 A I got up the next morning and we went to the grocery
13 store. My sister had supposed to come pick my daughter
14 up. She never came. She was running late for church so
15 she had to go on straight on to church so that's why I did
16 stay over there, yeah, I did.

17 Q All right. Did you change the child's diaper any --

18 A Once.

19 Q --that night?

20 A Well, at Shamar house I changed it once at Shamar
21 house.

22 Q All right. Did you see anything different? When was
23 that you changed her diaper, was it after that night?

24 A No, this was Saturday.

25 Q On Saturday. But after on Sunday did you ever change

Dw - C. McLeod - Cross

1 the child's diaper?

2 A Probably after we got -- when we got home.

3 Q Well, did you notice any --

4 A Because --

5 Q Did you notice anything different about the child, the
6 child's rectum?

7 A Sir, I don't look at my child like that, sir.

8 Q You don't look at your child like that?

9 A No, I don't.

10 Q All right.

11 A That's a girl. I respect her highly. I don't even
12 look at her like that.

13 Q Well, tell me, while you were at the Hamiltons did Ms.
14 Hamilton ask you about could she -- would it be all right
15 for her to change the child's diaper?

16 A That was Sunday, and she did change her diaper. I
17 changed my -- I changed my daughter Saturday. She and her
18 daughter had my child that day, Sunday, so yeah, they
19 changed her diaper Sunday, I didn't change it.

20 Q So it wasn't true that she asked you could she change
21 her diaper and you said no?

22 A Of course not. I mean, I wouldn't have a problem with
23 that.

24 Q You wouldn't have a problem with that?

25 A No.

Dw - C. McLeod - Cross

1 Q And you weren't trying to hide anything?

2 A For what?

3 Q For what you had done?

4 A (There was no response.)

5 Q Let me ask —

6 A I didn't do anything, sir.

7 Q Let me ask you this. On the — so you said on that
8 Sunday you had obviously you drank some beer; is that
9 right?

10 A One or two beers,

11 Q And you smoked some marijuana?

12 A I took like two pulls and laid down, which was Sunday,
13 went to sleep till it wore off.

14 Q All right. Well, had it wore off when you got home
15 with your daughter?

16 A It was worn off — I wasn't even gonna leave the house
17 till it wear off 'cause I told you I was too weak to even
18 walk so I waited till after it worn off. Got up, got my
19 baby stuff together, they gave me a plate. As we was
20 walking down the street I throwed the plate away because I
21 didn't want it and went home. And by the time I got home
22 like five minutes later my sister came walking in the
23 house and we went to McDonald's.

24 Q And tell me what happened at McDonalds.

25 A My sister tried to feed me daughter, and I didn't allow

Dw - C. McLeod - Cross

1 her to feed her because I wanted to feed her because, like
2 I said earlier, I felt like she was trying to be — I
3 already knew that she could do more for my daughter than I
4 could so, you know, I was just trying to do every little
5 thing that I could do to be a father. I was trying to do
6 that.

7 Q Well, tell me, if you were so concerned as a father why
8 did you on that occasion call the child a bitch and tell
9 her you never wanted to see her again?

10 A You know, because I was upset and I — that's something
11 I never did mean to call her. I wasn't meaning to aim
12 that at her; I wasn't. To be honest I wasn't really
13 aiming that at her; but the way it came out as it did.
14 But I never mean to say that to her, no, I didn't.

15 Q But you did.

16 A Like I just said, I never intend to say that to her.
17 It wasn't aimed at her, but it came out. 'Cause like I —
18 when I — this is, well, one thing about my temper. When
19 I — when somebody makes me mad, you know, I get upset, I
20 say things that I don't intend to say, you know, because I
21 lose control of my temper. And I mean, that's
22 something — but I got — my temper is in control now,
23 it's under control; but you know, back then when I was
24 that bad attitude person, you know, I just say whatever
25 came out my mouth. Now at the end I regret saying that.

Dw - C. McLeod - Cross

1 Q But anyway, when you said you didn't want to see the
2 child get it wasn't guilty feelings because of what you
3 had done to the child?

4 A No, it wasn't.

5 Q All right. And it wasn't — wasn't it true that the
6 child wanted to come to your sister and not you?

7 A When was this?

8 Q Later on when you got back to the house?

9 A No, I don't remember that.

10 Q You don't remember that?

11 A No, sir.

12 Q Well, tell me, how did it occur with, you know, with
13 the arguing between on that Monday with you and your
14 sister where you ended up knocking a hole in the door?

15 A Now that right there, I remember us arguing.

16 Q And what you're arguing about —

17 A I know it was about —

18 Q — the —

19 A I know it was about —

20 Q —treatment of the child?

21 A I know it was about my daughter. I'm thinking — I
22 don't want to lie. I don't want to lie and I want to say
23 nothing that didn't happen. I'm guessing that — well,
24 not guessing. I'm thinking that I know the argument was
25 over my daughter; I know that much.

Dw - C. McLeod - Cross

- 1 Q Right. And it was -- the arguing was over your
2 daughter because some more bruises and stuff she was
3 observing; wasn't it?
- 4 A I'm not gonna answer that because I don't know.
- 5 Q So what you think the argument was over?
- 6 A Like I said, it was over my daughter but I'm not gonna
7 say no more because -- I'm not gonna say nothing, say
8 something that I'm not fully sure of. This has been going
9 on, what, this was like over four-and-a-half years ago so
10 I'm not gonna say I remember everything to the tee but I
11 remember the main parts of this case to the tee.
- 12 Q Wasn't one of the main reasons that you didn't want the
13 child to go to your sister, in fact, didn't she have to
14 pick up the child and go run into another room and lock
15 the door from you?
- 16 A This was downstairs. She can't -- she didn't run up.
17 She didn't run away from me. She went upstairs and went
18 in the room and shut the door and locked it.
- 19 Q Locked it?
- 20 A And I came (sic) upstairs because I wanted -- 'cause I
21 wanted to come in the room. She didn't open the door so I
22 kicked the door. And I left it -- I hit the door and I
23 kicked the door. She never opened it so I left the door.
- 24 Q In fact, she locked the door to get the child away from
25 you; didn't she?

Dw - C. McLeod - Cross

1 A I ain't saying that was the reason why she locked the
2 door. Now I'm not gonna say that.

3 Q And it was so strong that she called the law on you;
4 didn't she?

5 A Police didn't come there while she was there so I don't
6 know if she called the police on me. Like I say, when she
7 left the house she left before me, said she was taking my
8 baby back to my baby's mom. So police never came when I
9 was there. I sit there a while for my sister — I mean,
10 while my sister was gone. No police ever came there. I
11 didn't suspect the police to come. I took my time and
12 walked out the back door and walked back to Shamar's house
13 to get some cigarettes and lucies.

14 Q But you left the house; didn't you?

15 A Yeah, I did.

16 Q And then later you came back?

17 A It wasn't very long. I mean, by the time I see the
18 police's cars, passed back through and I seen my sister, I
19 got right up and I came — I was on my way back to the
20 house.

21 Q All right. Now was there ever anybody that came over
22 to your sister's apartment that week that you left the
23 child with?

24 A During that week?

25 Q That week. In other words, there was never anybody

Dw - C. McLeod - Cross

1 else that came over to take care of the child, was there?

2 At your sister's apartment?

3 A No, 'cause half the time I wasn't even there. I mean,
4 during the day when she was at work I was at my friend
5 house where her -- we were -- playing with her little boy.

6 My little girl played with her little boy. I mean, why
7 would I sit in the house all day long when I had a friend
8 that I could go chill at their house with them.

9 Q Well, I'm saying nobody else came over that you left
10 the child with, did you?

11 A Huh-uh.

12 Q Okay. So the only times you said that the child was
13 away from you was that night on Saturday night when you
14 left and then that Sunday morning briefly before the
15 church service?

16 A It wasn't briefly. Briefly is like five or ten
17 minutes. I know that something -- like I never got to the
18 part to explain to my lawyer, but that Sunday, now this
19 how I put--

20 Q Now -- go ahead.

21 A I put two and two together, okay. Now if I tell
22 somebody not to touch my daughter they do it anyway.
23 Okay. Knowing Nate, okay, I know Nate. I don't know him
24 fully like that, but I know him. Okay. He didn't take a
25 shower or anything, okay. If you took a shower, you got a

Dw - C. McLeod - Cross

1 two year old in the house, nobody else is there, what are
2 you gonna do? You gonna leave the baby downstairs or you
3 gonna go upstairs, take the baby upstairs in the bathroom
4 with you while you take a shower and get dressed for
5 church. You're not gonna leave the baby unattended. So
6 this what I put two and two together to picture. He took
7 my baby in the bathroom. He did whatever he did. He
8 tried to call -- 'cause he knew I was coming back to the
9 house. He knowed that he had to answer to me if anything
10 was wrong. Whatever he did, he did -- couldn't stop my
11 daughter from crying. Took my daughter and put her on the
12 back of the pews by herself while she was crying 'cause
13 his mom come in the house and told me this. Put her in
14 the back of the pews by herself and then he left and came
15 back home.

16 Q So you're saying Ms. Hamilton said that your child was
17 upset, crying during the church service?

18 A Yeah, she was crying sitting on the back of the pews
19 'cause nobody ain't even knew who my daughter was. Nobody
20 knew who she was until she looked back there and they was
21 talking about the baby and she looked back and seen my
22 baby back there and she went and got my baby and put on
23 the choir with her. She did that to cover up for what he
24 did at home 'cause all he was -- all he could say was,
25 well, I did took ad-- I took -- your baby was at church, I

Dw - C. McLeod - Cross

1 mean, ain't nothing happen here. But I'm not a stupid
2 person; I know who I left my child with and I know I put
3 two and two together. I -- it took me, what? I been
4 locked up for -- well, I was locked up for over 30 -- I
5 was locked up for 32 months by this charge. 32 months. I
6 sit and I thought and I put two and two together and I
7 know that's what happened. And his mom covering up for
8 him because he was, well I might say, young at that time.

9 Q Because of what?

10 A He was young at the time. She know him and Shamar did
11 something they didn't have no business doing. That's why
12 their story is about the same because all of them got
13 questioned during the same time. If it supposed to have
14 been a real investigation they supposed to have been
15 questioned separately. They supposed -- if they was
16 involved in my case they supposed to be having DNA taken
17 from them. They supposed to been brought down for
18 questioning and all, the same as they did me. But none of
19 them did happen. I felt like I been -- I got cheated. I
20 mean, I actually got done wrong in this case. Everything
21 got turned around on me.

22 Q Did you ever tell Officer Robinson anything about Nate,
23 your suspicions about Nate, that was left along with the
24 child all this time?

25 A I told her where I left Nate at the church. I mean,

Dw - C. McLeod - Cross

1 when she went and talked to Nate and she came back up to
2 the jail house to talk to me she told me Nate said that he
3 was only five minutes. It's impossible. It's impossible.
4 There was no way.

5 Q No way—

6 A And by the time we left the house it had done started
7 raining so I know he ain't took my child out in that rain
8 just that quick. We were as, like I say, we was gone for
9 at least 30, 40 minutes because of Shamar foot. I mean,
10 so I know that — and then he say he took the baby and
11 took the baby to the back gate and gave her to her — his
12 sister, no. 'Cause by the time we got back and after I
13 try to figure out where my child was, Shamar said don't
14 even worry about her, she's in good care. His sister
15 still wasn't even at the church yet. She didn't come
16 walking across — walking across the park till after 10,
17 15 minutes later with her friend Bubba and they was
18 walking to the church and nobody had my daughter.

19 Q Well, how are you seeing all this?

20 A Because the way we was cooking out the park — you
21 could see — you could see straight across the park from
22 where they said, that where we was cooking at. You could
23 see that.

24 Q You're saying — you're saying she didn't go for the —
25 to the service?

Dw - C. McLeod - Cross

1 A She went to the service but it wasn't — she didn't
2 have my child like she said she did yesterday.

3 Q So who had your child?

4 A Who had my child? My child was left at church, like I
5 said. He took her and put her in the back of the pews by
6 herself. So who had her in that church? I don't know
7 until she — his mom told me that when she looked and
8 realized that that was my daughter she went and got her
9 and put her on the choir with her. And my daughter was
10 all messy and dirty, still had on dirty clothes and stuff.
11 And she got my baby to stop crying, and I was trying to
12 figure out what was so bad done that my daughter couldn't
13 stop crying.

14 Q So you're trying to have us believe that Nate would
15 have gone and abused your child right before he's gonna
16 take him to church and then leave the child by herself on
17 the back pew? Is that what you're saying?

18 A That's — I'm not trying to say. That's what happened.

19 Q That's what happened?

20 A That's what happened. I know that what happened.
21 Because why would his mom come and tell me that he dropped
22 her on the back of the pew? What was so — what did you
23 do to her to just drop her off back there when you know
24 the mom is on the choir. Nobody else in the church know
25 my daughter. Why would he just drop her off back there

Dw - C. McLeod - Cross

1 and then you gonna turn around and come back home like you
2 ain't do anything .

3 Q Now of course you weren't there inside the church, were
4 you?

5 A No, I wasn't, I never did step to the church.

6 Q All right. And so you deny too that your child spit up
7 on Nate; is that right?

8 A He said she spit up on his shirt, but that was a lie
9 because which his mom asked him, where is the spit up
10 stain, where's the stain. There was no stain on that
11 black T-shirt. Now corn pops is yellow; I know this.
12 It's yellow. She had no milk. If that shirt -- that
13 shirt was black. If I -- if she spit up on that shirt it
14 should have had a stain there. He said he had to come
15 home and change clothes. Why he still have on the same
16 clothes when I got there? Why did -- and when she first
17 tell him about not coming to church, she got up yesterday
18 and say that he came to church, which she got on the
19 statements right here that saying that he never been to
20 church. That's why she came arguing at him. Got on the
21 stand yesterday and lied just like --

22 Q So you're saying --

23 A Yeah.

24 Q So you're saying Ms. Hamilton got on the stand and
25 lied?

Dw - C. McLeod - Cross

1 A Yes, sir. I got everything everybody saying right
2 here, and I got the true facts right here. I know exactly
3 what everybody said. And Shamar got up and lied, said I
4 never left my daughter alone with anybody time I — okay,
5 if I didn't leave my daughter alone with anybody why did
6 he have my daughter. He told me that he would watch my
7 daughter till I get back. He told me this. I trust him;
8 I left my daughter with him. She said on the statements
9 that —

10 Q Wait a minute. Whoa, whoa, whoa, you're saying that
11 who? That Nate told you he watched your daughter?

12 A No, Shamar.

13 Q Shamar told you he watched your daughter?

14 A He said he will watch, I'm sorry. He will watch my
15 daughter for me till I get back, yeah. And my sister,
16 when I got home she said where is ^{child} that same
17 night, Saturday night. It was after 10:00. She said
18 where is ^{child} I say Shamar's watching her at
19 Shamar's house. And I had Nate right there with me. I
20 left Nate downstairs and went upstairs to get ^{child}
21 stuff and came back down because I see that my sister was
22 gonna come out and get ^{child} 'cause she was on the
23 phone with her fiance at the time. And she already had
24 her nightclothes on and she — I told her to come pick
25 ^{child} up in the morning; both of us would go to church

Dw - C. McLeod - Cross

1 with her. But she never came till after church.

2 Q Wasn't it true that Ms. Hamilton wouldn't let people
3 drink or smoke in her house?

4 A We drank in her house.

5 Q You did drink in the house?

6 A There wasn't no smoking allowed in the house because
7 only person that really smoked cigarettes was me. Shamar
8 didn't smoke cigarettes. He smoked black milds but, you
9 know, we drank in the house.

10 Q All right. So you're saying that what she said about
11 not allowing people to drink in the house that wasn't true
12 either?

13 A No, that wasn't true. And about this, well, according
14 to her statement she say the only people that was there
15 was all her family that was in the kitchen, they was in
16 there playing cards. No, that -- how was you playing
17 cards that night if you was in your bed asleep? Y'all
18 played cards early Saturday. It wasn't her playing cards.
19 It was her daughter and boyfriend. I even joined in
20 playing cards, I mean, so how they playing cards and
21 saying that nobody was left unattended with my daughter.
22 Yes, it were. She was up in the bed asleep. How she know
23 what was going on downstairs?

24 Q Well did you ever tell Officer Robinson this about Nate
25 having -- how that he had the child for so long and must

Dw - C. McLeod - Cross

1 have watched your child and abused her before he took her
2 to church?

3 A When I was trying to tell her that he had my child and
4 told her about Shamar, when I seen that she was already
5 switching my story up, it was no need for me to tell her.
6 I was waiting till this day right here to let it come out.
7 I told my lawyer about it, but I was waiting till this day
8 to let it come out because I knew that if I said anymore
9 to her it was gonna be used against me because I knew -- I
10 knew right then how investigators work 'cause I see how
11 they was already doing so why I either tell what -- if
12 nobody ain't gonna believe if you tell the truth why would
13 you waste your time to tell them.

14 Q Bear with me one minute. Just a couple of more
15 questions.

16 A Okay.

17 Q It's been a good while obviously. So on that last --
18 let me see. You called your daughter a bitch twice, once
19 at the McDonalds and then once back at the house; is that
20 right? And that's when you said you --

21 A I don't recall the one at the house. I remember the
22 McDonalds though. I remember what I said at McDonalds,
23 and like I say, it wasn't directly aimed at her, I mean.

24 Q But you call her a bitch and said you didn't want to
25 see her again?

Dw - C. McLeod - Cross

1 A Like I said, yeah, okay, yes, I did. Like I said, it
2 wasn't directly to her. I mean, when — I ain't say about
3 never seeing her again. But the part about you say like
4 the cuss word, yeah, I did say that because I got upset.
5 And like I say, when I get — at that time when I get
6 upset, yeah, I say whatever come to my mind but I regret
7 it in the end, I mean. But I'm not that type of person
8 anymore so.

9 Q Why were you jealous of your sister's relationship with
10 the victim?

11 A Because my sister could do for her and I couldn't. You
12 know, yeah — if any real father was in the shoes that I
13 was in and trying to be the father that you know that your
14 daughter deserve and need when you see that the mother
15 wasn't doing right, okay, I had a right to get jealous; I
16 did. My sister had her own place. She had her own car,
17 had a good job. She can care for my daughter. I was
18 staying with this person and that person still trying to
19 do get my life together. And then on top of that lost my
20 job so I had a lot of stress on top of me, and then on top
21 of that about my mom, my mom being passed, you know, I had
22 a lot on me and I was trying to get things situated but it
23 wasn't working out for me like I want it to.

24 Q One thing I was curious. How were you able to cook
25 food when there wasn't any food there to cook?

Dw - C. McLeod - Cross

1 A It wasn't no food where?

2 Q In the apartment? Was any food there—

3 A Yeah.

4 Q —when the officers came?

5 A I don't know when the officers came. The officers
6 came, they was already there before I got there. My
7 sister, like I said, I got up in the morning, I cooked my
8 daughter breakfast. And even if I didn't cook her
9 breakfast I still had money to buy my daughter food from
10 the store, so you know, my daughter did eat, you know what
11 I mean. I told her our daily routine was to go to the
12 store every morning after I washed her and feed her and
13 get her dressed.

14 Q So basically in a nutshell, so your testimony is you
15 only physically abused the child but didn't sexually abuse
16 the child; is that right?

17 A I admitted to the bruising that I spanked her. I admit
18 that from the beginning. And that's why I didn't
19 understand why that right there is charged me, I'm charged
20 with that and come to trial, because I didn't admit to it.
21 I told them I would plead to that, but they didn't want to
22 do that so, like, I ain't had no choice but to fight this
23 whole thing. I'm fighting the sexual charges because I'm
24 innocent on that. And I got DNA testing and everything
25 else to prove that I'm innocent on that.

Dw - C. McLeod - Cross

1 Q And of course you had a long time to come up with a
2 story. This is the first time you've told all this stuff
3 in public about —

4 A Yeah, it is, 'cause I waited for — I couldn't — I
5 couldn't really tell you because I knew people, everybody
6 was working together so why, I wait and say I get in front
7 of the jury and the judge and God himself and let God
8 judge it, I mean, because God know the truth just as well
9 I know it.

10 Q One final thing I'm curious about based on this story.
11 So which is it? You're saying abused your child, Shamar,
12 Nate or both?

13 A The way I look at it both of them did it because both
14 of them had opportunity to do it.

15 Q So you're saying both of them had some predilection
16 towards children?

17 A You know, first of all, for number one, what I know
18 about Shamar and his wife, they never did have any sexual
19 intercourse because she never mess around with Shamar like
20 that because he was so busy messing with this woman and
21 that woman, and you know, like she didn't take the chance.
22 She's a church going person; he's not. Nate, what I know
23 about him, never had a girlfriend, couldn't get a
24 girlfriend so, you know, and then the way they did the
25 situation, it made me thought back on all — I had enough

Dw - C. McLeod - Cross

1 time to think about all this. I had enough time. I
2 wouldn't pinpoint these mens for nothing. If I knew that
3 they wouldn't do nothing like this I wouldn't pinpoint
4 them, but it's the way they did the situation. It's the
5 way the investigation went. These boys never had any kind
6 of testing done to them, none whatsoever. And all them
7 were questioned together. Why question me by myself? Why
8 they ain't question all us together? I mean, why me get
9 locked up and not them? And I felt like, you know, if
10 they do it to my child who say they ain't gonna do it to
11 nobody else child.

12 Q So you're saying Mr. and Mrs. Hamilton, you know never
13 had sex?

14 A I done been there and had a conversation with Shamar
15 himself. Yes. He was going with somebody named --
16 another woman named Teresa down the street stay on the
17 other end by -- on the other end of Oakland Plantation.
18 She was staying in another set of apartments.

19 Q I assume this lady you're talking about is an adult?

20 A Yeah, she's an adult.

21 Q He didn't have any interest in children, did he?

22 MS. PARROTT: Objection, speculation.

23 THE WITNESS: You know what, I don't even know that.

24 THE COURT: Sustained.

25 THE WITNESS: From the way I look at it, yes, he did.

Dw - C. McLeod - Cross

1 THE COURT: You don't have to answer that. I sustain
2 the objection.

3 THE WITNESS: Okay, sorry about that.

4 BY MR. WELLS:

5 Q And so you're saying what -- you're saying Nate also
6 was had some great interest in children?

7 MS. PARROTT: Objection.

8 BY MR. WELLS:

9 Q I mean, is that what you're trying to tell us?

10 THE COURT: What's the objection?

11 MS. PARROTT: Just I think he's putting words in his
12 mouth that he hasn't said.

13 THE COURT: Well, he can answer the question.

14 THE WITNESS: All I'm saying is this right here. This
15 is all I'm saying. I know I left my child with him. If I
16 said -- that just I said if I left my daughter with you,
17 Mr. Wells, don't move. I know you got to go to church but
18 don't move my daughter until I get back. Okay, and if you
19 did it the way -- okay, well how would you take a shower
20 if a two year old was downstairs? Would you take her in
21 the bathroom with you? You had nobody else to watch them,
22 who was gonna watch them?

23 Q Let me ask you one final thing since we been -- since
24 you started we're talking about sex you brought it up.

25 Well, I mean, did you have a girlfriend then that you were

Dw - C. McLeod - Cross

1 having to go masturbate in the other bedroom?

2 A My girlfriend was staying in Hartsville, South
3 Carolina. That's like I told you I was trying to hook
4 Shamar up with her mother, yeah.

5 Q But it was such you were having to masturbate in the
6 other room?

7 A That was only one time. I mean, it ain't like -- I
8 didn't have a problem with this. I hear y'all say several
9 times. There never was a several times. If you can find
10 where I said several times --

11 Q So it was one time?

12 A If you can find it -- sir?

13 Q So it was one time is what you're saying?

14 A This is only one time. I didn't have a problem with
15 masturbating. I'm not a sexaholic.

16 Q I think that's all.

17 THE COURT: Ms. Parrott.

18 MS. PARROTT: Nothing further, Your Honor.

19 THE COURT: Thank you very much. Mr. McLeod, you may
20 step down, sir.

21 Anything further from the Defense?

22 MS. PARROTT: Nothing further. The Defense rests, Your
23 Honor.

24 THE COURT: All right. Ladies and gentlemen, the
25 Defense has rested their case, and I need to take up some

1 matters with regards to that so if you would retire to
2 your jury room. Please have no conversation about the
3 case and I'll get you back out here shortly okay.

4 (WHEREUPON, the jury was removed from the
5 courtroom at 11:46 a.m., and the following proceedings
6 commenced in open court.)

7 THE BAILIFF: Judge.

8 THE COURT: Yes, ma'am.

9 THE BAILIFF: Ms. Doris, come here a minute. We have
10 one of the jurors that's not in the jury room yet.

11 THE COURT: Okay, we'll wait.

12 (Pause.)

13 THE COURT: Let's just be in recess just a few minutes.

14 (WHEREUPON, a recess was taken from the proceedings.)

15 THE COURT: I have already spoken to the attorneys to
16 let them know we have one of the jurors, a Miss Shannon
17 Robinson — and I want to be cautious and discrete because
18 I don't want to embarrass Ms. Robinson, but I do need to
19 make a record. She — when we offered the jury to take a
20 break they indicated they didn't want a break, and she has
21 indicated at the time she didn't feel like she needed one.
22 Ms. Robinson has recently had a miscarriage, and during
23 the examination of Mr. McLeod — and I don't know why, I
24 guess maybe she was embarrassed or maybe it came on too
25 quickly — but she ended up having an accident and she has

1 just soiled herself greatly. And she — the bottom line
2 is she just has to get cleaned up. She has to go get
3 cleaned up and she doesn't live anywhere — she lives out
4 in Coward. And in a moment I'm gonna take up motions at
5 the end of the Defense's case and then we're gonna proceed
6 to closing arguments, and so I have decided that we have
7 two alternates and I have decided that — and she's in the
8 back and Ms. Joe has shared with me she's crying and she's
9 terribly embarrassed. I'm going to excuse Ms. Robinson,
10 and I'm going to place one of the — the first alternate
11 into her slot. It's just necessary and she's very
12 apologetic but it's just because of the surgery she just
13 has this problem with incontinence and it came upon her
14 faster than she could let the court know. So any
15 objection from the State?

16 MR. WELLS: No, Your Honor.

17 THE COURT: Ms. Parrott?

18 (Attorney confers with defendant.)

19 MS. PARROTT: Your Honor, Defense — I understand. I
20 just want to make sure my client understands.

21 THE COURT: Sure, absolutely.

22 (Attorney confers with defendant.)

23 MS. PARROTT: Your Honor, I've confirmed as with my
24 client and he tells me that he understands and we agree.

25 THE COURT: Now and I want to do something else just so

1 that to save Ms. Robinson any further embarrassment. I
2 want to take a short break in just a minute and would ask
3 even if, even though we've just had a break and most of
4 y'all have already gone out, whatever, I just ask that
5 people go out and kind of clear the courtroom and so she
6 can leave without any further embarrassment.

7 MS. PARROTT: Certainly, Your Honor.

8 THE COURT: But before we do that I need to say
9 something. I'm not pointing any one individual out, but I
10 need to say this as in general. Obviously this is a very,
11 very serious trial. It's very important to Mr. McLeod.
12 The one person whose life and liberty are at stake here is
13 Mr. McLeod. I don't know those of you who are sitting in
14 the audience whether you're here to support Mr. McLeod or
15 not; but I can tell you this, comments being made,
16 gestures being made, sounds being made based on testimony
17 and other things, questions being asked and stuff, is
18 absolutely and completely inappropriate. And you never
19 know how that -- those little comments or those little
20 sounds that are being made how they effect a jury. So the
21 bottom line is this, if I hear or see one more sound out
22 of you people back there, I can promise you you are going
23 to jail and I will hold you in jail as long as the law
24 allows me to. Am I clear? One more sound, one more
25 comment or one more facial expression toward that jury and

1 I'm going to lock you up as long as the law will allow me
2 to. I'm gonna hold you in contempt and I'm gonna put you
3 out in jail until the law tells me I have to release you.
4 I'm not gonna allow the State's case or Mr. McLeod's case
5 to be prejudiced by somebody who can't act like an adult
6 and control themselves.

7 So if you don't think you can comply with that I
8 suggest you leave because if you stay here, and I'm gonna
9 tell you now, first of all, I'm not kind of guy that
10 overreacts before I have all the facts. If I hear it, see
11 it, and I know who did it, when I tell the deputy take you
12 to jail don't argue with me. Don't tell me it wasn't you
13 'cause I'm not gonna pull the trigger unless I know who it
14 was. Now if you can't live with that, you need to excuse
15 yourself from the courtroom and don't come back in here
16 after the break. If you can act like an adult and if
17 you're here in support of Mr. McLeod, then help him, help
18 him by being an adult.

19 (Court was in recess while Juror Robinson exits
20 courtroom.)

21 THE COURT: All right. At this time I'll be happy to
22 take up any motions at the close of all the evidence.

23 MS. PARROTT: Defense would renew all motions made here
24 thereof including motion for directed verdicts, Your
25 Honor.

1 **THE COURT:** All right. And I'm gonna respectfully deny
2 those motions. As I indicated earlier I clearly think
3 this is an issue for the jury to decide.

4 **MR. WELLS:** The only thing I would add is that I think
5 mention — anyway, the State would just open on the law
6 briefly and then it will be closing for her, final
7 argument from me.

8 **THE COURT:** Correct. Correct. So and I know I don't
9 need to tell you, Mr. Wells, 'cause you're a very
10 experienced and excellent trial lawyer but I'm just gonna
11 say it 'cause I had a very experienced and excellent trial
12 lawyer last week in a civil case — or excuse me, in a
13 criminal case. It wasn't last week. When was it? Last
14 time I was in criminal court; it was in Edgefield, I'm
15 sorry. And he was supposed to open on the law and he
16 proceeded to argue for 20 minutes and he went way beyond
17 the law. So if you would, keep — confine your initial
18 arguments to the law and then Ms. Parrott will have the
19 opportunity to address the jury and then you'll have your
20 final opportunity.

21 All right, is the State ready to proceed?

22 **MR. WELLS:** We are, Your Honor.

23 **THE COURT:** Defense ready to proceed?

24 **MS. PARROTT:** Yes, Your Honor.

25 **THE COURT:** Now that charge that I gave you I made the

1 corrections, Ms. Parrott, that you requested.

2 MS. PARROTT: Yes, sir.

3 THE COURT: And I've added the language regarding this
4 statement so that's the only change to the charge that
5 I'll be giving the jury, okay?

6 All right, Ms. Joe, if you would ask the jury to
7 join us.

8 THE BAILIFF: Yes, sir.

9 (WHEREUPON, the jury was returned to the courtroom at
10 approximately 12:12 p.m., and the following proceedings
11 commenced in open court.)

12 THE COURT: All right, ladies and gentlemen, you're
13 obviously aware that you're one short here. It was
14 necessary for me to excuse Ms. Robinson for personal
15 reasons so, Mr. Dillinger, you can remain where you are
16 but that places you on the main panel. You will be taking
17 Ms. Robinson's place on the main panel. Ladies and
18 gentlemen, we have reached the portion of the trial where
19 you're gonna have an opportunity to hear from the
20 attorneys with what we call closing arguments or final
21 summation. And let me stress this to you, the evidence in
22 this case that you're gonna have to deliberate and talk
23 about and arrive at a verdict, it is all in. The evidence
24 is closed. All of the exhibits which came in during the
25 course of the trial, as well as the testimony that you

1 listened to, is the evidence that you will have to
2 consider the case and these exhibits will be in the back
3 with you when you do deliberate.

4 But what you're gonna hear now from the attorneys,
5 it's their opportunity to give you what they believe the
6 evidence has shown or not shown. It's their opportunity
7 to argue that on behalf of their side. And just as I told
8 you with opening statements, the closing arguments of the
9 lawyers are not evidence. The evidence is closed, as I
10 indicated, but it is important that you listen to them and
11 give them your undivided attention as they have the
12 opportunity to discuss with you what they believe the
13 evidence has shown in this case. Once they've concluded
14 their remarks I will then have the opportunity to charge
15 you on the law that is applicable in this case. And then
16 once you have all that, then you'll be in a position to
17 deliberate and make your decision so. And just so you'll
18 understand the order, because the State has the burden of
19 proof Mr. Wells will have the opportunity to address you
20 initially with what we call opening on the law. And he'll
21 take a moment to talk to you about the law. And then
22 he'll sit down and Ms. Parrott will then have the
23 opportunity to address you with her argument; and then at
24 the conclusion of her argument Mr. Wells will have an
25 opportunity to then address you with his closing argument,

1 okay? So having said that, Mr. Wells, I recognize you for
2 your closing.

3 MR. WELLS: Thank you, Your Honor. May it please the
4 Court, ladies and gentlemen of the jury, first let me
5 thank you for your time and attention in this case. It
6 certainly is a serious case. And that's all that we can
7 ask of you is to listen to the evidence as it comes out
8 the witness stand such at the end of this trial after you
9 go back and deliberate you can reach a verdict which
10 speaks the truth in this particular case. Now the State,
11 as I said, any criminal case throughout the United States
12 does have the burden of proof. We must prove the
13 defendant guilty beyond a reasonable doubt. That simply
14 means that based on the evidence you must be firmly
15 convinced of the defendant's guilt from the evidence
16 before you can find him guilty of the crimes charged. As
17 far as determining his guilt you can also consider
18 credibility of witnesses. You can believe all of what a
19 witness says; you can believe part of what a witness says.
20 You can believe none of what a witness says; you consider
21 whether a witness has been corroborated or not. In other
22 words, you can consider anything which in your good old
23 fashioned common sense helps you determine where the truth
24 lies in this case.

25 Now let's look at the four different charges which

1 you would consider each of these one by one and decide the
2 defendant's guilt or innocence on each charge. The first
3 charge is criminal sexual conduct with a minor first
4 degree. For the State to prove that first the child must
5 be under 11 years of age, which I don't think there's any
6 question the child in this case was two years old. In
7 that regard then, in order to find the person guilty you
8 must first find that there was a sexual battery committed
9 against the child. And what is a sexual battery? Well,
10 that definition could be several things. It can mean
11 actually full sexual intercourse, fellatio, cunnilingus,
12 things of full sexual intercourse type things; but it can
13 also be this. It can be any intrusion, however slight, of
14 any part of a person's body or of any object into the
15 genital or opening -- or anal openings of another person's
16 body who's under age except for some medical reason, in
17 other words, such as a doctor for example could examine
18 the child. But obviously a person cannot -- in other
19 words, the genital or anal openings are considered
20 basically safer to the child where nobody else has the
21 right to put their finger or penis, anything else into
22 that child's vaginal or anal openings no matter how
23 slight. There's any penetration then the person would be
24 guilty of that particular crime.

25 Count two would be lewd act of a child. Lewd act is

1 the person must be -- this sounds strange. The child must
2 be under 16. The way the statute reads the person has to
3 be 14 years of age or greater, in other words, the
4 defendant. But of course he was 20 at the time this
5 occurred. But in any case in this regard the person must
6 have committed some lewd, lascivious act, an act we might
7 find, I mean, indecent. Usually you think something
8 around the child's genital/anal areas, in other words
9 their private parts. It doesn't have to be actual
10 penetration, but that it be the lewd act. But there has
11 to be some indecent act which would not be proper for a
12 person to engage in towards a child. That would be a lewd
13 act on a minor. And based on the defendant's testimony
14 that would seem to be the two that he is challenging.

15 Count three would be assault and battery of a high
16 and aggravated nature. That would be, for example, just
17 quickly, if I take a swing at you that would be an
18 assault. If I hit you in the face that would be the
19 battery. So that would be assault/swinging,
20 battery/hitting. What would make this aggravated there
21 are many different things that can make it an aggravated
22 situation, but in this case it would be a great disparity
23 in the ages or the physical condition of the parties. In
24 other words, you can't, you know, hit wrongfully a child,
25 small child, when you're an adult. That's what makes it

1 aggravated in this situation, and in fact, I believe the
2 defendant testimony agreed that he was guilty of that.
3 But that's what assault and battery of a high and
4 aggravated nature would be in this case. You know, in
5 other cases it could involve a weapon. There's no weapon
6 alleged here, but just the fact that he improperly
7 committed a battery against that child and the child is a
8 small individual, the two year old child, and he's an
9 adult.

10 Unlawful conduct towards a child, the defendant must
11 be either the parent or guardian of the child, which in
12 case he's the biological father. And of course the person
13 has a duty to the child; and when the person does any
14 bodily harm or cause any bodily harm to the child such
15 that the child's life or health is in danger in any way,
16 then the person is guilty of that particular offense. And
17 again, as I recognize what the defendant said on the stand
18 he doesn't deny he would be guilty of that charge as well.
19 So really, it would be seems to counts one and two which
20 would be the ones you would have to consider more
21 thoroughly than counts three and four, which he said he
22 was guilty of.

23 As I said at the beginning, you must be satisfied of
24 his guilt beyond a reasonable doubt and you consider all
25 the evidence in that regard. Now at this time I'm gonna

1 sit down. Ms. Parrott is going to come and talk to you
2 about the law and the evidence from her point of view.
3 Then I will come back and talk to you about the evidence
4 from the State's point of view. Again, thank you very
5 much.

6 THE COURT: Thank you, Mr. Wells.

7 Ms. Parrott.

8 MS. PARROTT: Thank you, Your Honor, may it please the
9 Court.

10 THE COURT: Yes, ma'am.

11 MS. PARROTT: Counsel, good afternoon, ladies and
12 gentlemen. This has been basically a couple of hard days
13 of listening to a bunch of testimony that is not
14 necessarily the easiest thing to hear, and so therefore, I
15 thank you greatly for your attention, for the attention to
16 the detail and the information that has been presented to
17 you. That is certainly not -- not easy to present in any
18 way. The child is certainly a ^{child} child. Her name
19 fits her. There is no denying that this child was hurt in
20 ways that you would never want a child to be hurt; that
21 she has suffered some great indignity to her body. And of
22 course, now we know that she is not in any danger any
23 longer from what we understand. She unfortunately
24 suffered some grievous harm, some great harm, that with
25 her being two years of age hopefully she will have no

1 memory of and no recollection of. But it still does not
2 in any way lessen the harm that was done to her. The only
3 question really at this point is who is guilty of having
4 committed those crimes and who is guilty of having
5 inflicted such pain and such harm to that child.

6 You've heard Christopher talk about being a dad to
7 his child and how much he loved his child. You heard this
8 from many people who took this stand. You've heard it
9 from the people we presented today. You've heard it from
10 even his sister yesterday. You've heard it from the
11 mother of the child, that she had no concerns with letting
12 Christopher have the child for a period of time. She was
13 never worried about safety of the child in that care.
14 Christopher has, and has admitted to, having a problem
15 with his temper. It's nothing that you want to have
16 happen certainly; but there are times, of course, that
17 unfortunately maybe we let our emotions get the better of
18 us that we act more on our emotion than we do on logic or
19 on our thinking or on our better thinking. And as you get
20 older maybe and as you get more experienced with life you
21 get more of the ability to kind of stop and take a step
22 back instead of immediately reacting and immediately
23 taking action. There's merit to taking ten breaths, ten
24 slow breaths, and taking a few moments. There's certainly
25 a lot of merit to not punishing a child while you're

1 angry. And unfortunately, I think those are some lessons
2 that you learn just by living and just by experience.
3 Christopher, unfortunately, didn't have that knowledge at
4 the time that he punished his child. And there's a lot of
5 controversy even now. I've got a 12 year old that, you
6 know, it certainly was there whenever I was raising him
7 when he was certainly younger about how do you correct a
8 child. Do you put him in timeout? Do you do corporal
9 punishment? If you do corporal punishment do you use your
10 hand, do you use a switch, do you use a paddle. I'm
11 actually, unfortunately, old enough to remember paddles in
12 schools and being sent to the principal's office. It's
13 more on how you were raised as to what you believe. And
14 the question becomes the line between when you're
15 punishing a child, when you're inflicting the correction
16 or making sure they understand what they did was wrong and
17 trying to help them then from then out to when did it
18 become excessive, when did it become too much. And
19 Christopher admits that he probably inflicted too much;
20 that he let his temper get the best of him; that he should
21 not have corrected or harmed his child in the way that he
22 did whenever he was trying to correct her from doing the
23 things she had done.
24 Ladies and gentlemen though, I submit to you that
25 just because someone tries to correct their child and is

1 excessive in the harm that they do or they inflict
2 whenever they were punishing the child does not make them
3 also guilty of sexually abusing their child. There is a
4 huge disparity between physical abuse and sexual abuse.
5 In fact, I would go so far as to say that I think most
6 parents in some way at some point, if they're being a good
7 parent, have corrected their child. Now how do they do
8 it? Time out, corporal punishment, then what it was, I'm
9 not real sure. But you can't let a child run rampant and
10 we all know that. You do have to pull them back and love
11 them while you're doing that. But if you let them go that
12 would have been neglect too. If you let them continue to
13 do harm or to possibly put themselves in harms way that's
14 a problem too. So you do this. You love your child. You
15 bring them back. You try and correct their ways and
16 correct their errors. That's what a parent does. That's
17 loving your child. If you do it too much obviously
18 there's a problem but that still doesn't lead to sexual
19 abuse.

20 Unfortunately, what I think has been presented here
21 has been a case where he was the first person they looked
22 to. He was also the last person they looked to. They saw
23 Christopher. They were given his name. He was there
24 present with the vandalism, with the breach of peace by
25 punching his fist through the wall. That's his temper

1 again. She tells him first, I'll see you tomorrow. He's
2 being handcuffed and placed into a car, driven to
3 Effingham, placed into a holding cell and then being
4 talked to. Sometime the next day he's got all that time
5 to think about what that means. At the time though all he
6 knows about is the vandalism charge. Whenever they first
7 come in and start asking him about this other, he didn't
8 know what they were talking about at first. And then he
9 is shocked and stunned and hurt because this is his child.
10 He's been caring for her for the past week. They want to
11 make a lot about the fact he didn't want somebody else to
12 touch the child; that he was possessive of her; somebody
13 else couldn't see or do this, you know, trying to imply
14 motives to things that have no more motive than I want to
15 do what I'm supposed to do for my child. She's mine. Let
16 me do what I'm supposed to do. Let me be the father I'm
17 supposed to have been for all this time now. I finally
18 have a chance; let me be that dad. It's not about, let me
19 hold her and make sure nobody else touches her because
20 then they might see what my evil self is doing. It's not
21 that. It's that he's a dad given the chance to be a dad.

22 When they interviewed him, though, he says — and I
23 would urge you greatly. You listened to it for at least
24 an hour or so this morning. You heard his side finally.
25 Think about what his version of things was. Think about

1 it from his perspective. They wouldn't listen to him.
2 They'd only hear what they wanted to hear because that was
3 only what went with what they'd already seen. They saw
4 him. They interviewed him alone. Not one time, they
5 interviewed him alone multiple times. They left him in
6 the room alone at one point while they're talking to
7 somebody else, and then that person is coming in and then
8 we're joined by the other one the first time. You've got
9 so many interviews here by so many people he's scared. He
10 doesn't want to talk anymore, but I'm innocent, I'm
11 screaming I'm innocent, I'll even help you try and track
12 down who did this to my child, I'll give you my blood,
13 I'll give you my saliva, I will give you the hair off of
14 my head and even from my pubic area. As denigrating as
15 that is to him, I will help you 'cause I don't have a
16 problem with you coming after my information; I'm
17 innocent. He did all that. He didn't make them jump the
18 hoops of getting an order signed by a judge after an
19 affidavit's been done with a petition being done by
20 somebody else that may take as much as two days. That's
21 two days that child would have been left hold somewhere,
22 not real sure. The investigation might have been stalled.
23 He didn't do that; he cooperated. Each time they came to
24 talk to him they Mirandized him. He could have told them
25 at any time, I don't want to talk to you, I want my

1 lawyer. He didn't do that. He talked. They didn't
2 record it. Now and the fact that they've got recorders
3 now, that's wonderful, that's great. It's 2006. We're
4 not all walking around with cell phones that were, you
5 know, two feet tall, and all the rest of them. In 2006
6 you certainly could have had a recorder; they're not that
7 expensive. It certainly would have helped as far as this
8 is what his statement was one day, this is what it is
9 another day, this is what it is a third day. And instead,
10 you get to trust the one investigator who prepared the
11 report in this matter and her word as to what he said.
12 But she wouldn't listen. She went to interview the
13 Hamiltons which is where the child was in this 24/48 hour
14 period, which is so crucial, even by their own
15 professional witness. And please don't be -- don't be
16 upset about this; it's just one of those things. Don't be
17 fooled by it. Kathy Saunders that was the first witness
18 regarding the medical injuries to this child, she is a
19 professional witness. She has handled all of these cases,
20 these thousands of cases. They go to trial. She does
21 that protocol of those multiple forms. She's got the
22 contacts with law enforcement. You've heard them talk
23 about the fact, yes, that's our contact, she does that for
24 us. That's the State's professional witness. That's a
25 government witness for you. She went, though,

1 Investigator Robinson talked with her about it. She also
2 went to the Hamilton house. But she went to the house;
3 they're in their living room. They're where they're
4 comfortable. Didn't take them and put him in a room on
5 their own under surveillance of another investigator,
6 possibly with a third investigator to join in or a major
7 to join in. They're at home. They've got their clothes
8 and their house, not in any shackles or any kind of
9 handcuffs and they're -- everything is theirs. And their
10 food if they want it; their water if they want it. They
11 can excuse themselves from the room and go get it. When
12 he was questioned he was in Effingham or he was here. He
13 was shackled to come here. He's walking with his feet
14 with cuffs on them. He's walking with his hands with
15 cuffs on them. He had to ask permission and get somebody
16 to escort him to go to the bathroom, to get a cup of
17 water, to get something to eat. It was never offered to
18 him. He's their suspect; he is their only suspect.
19 Didn't even bother to send crime scene to where the child
20 had been within the last 24/36 hours where this very
21 likely could have occurred. If you are the investigator
22 why don't you want to go and see, this is where this child
23 has been, this is who she's been around. Even if you
24 didn't do that, if you go and see it, why aren't you
25 treating it as a possible sight? You didn't treat it as a

1 crime scene; you just treated it as a vacation. Nobody
2 else had a suspect kit taken from them. There are
3 multiple men of puberty or greater age. They're either
4 adolescents or higher. There's one teenager and two men
5 who are over 30. They certainly have the equipment and
6 the ability at that point. No one's testified otherwise
7 to do the acts that were alleged here. Did they have
8 opportunity? They say there was at least a couple of
9 minutes that they were alone with what child even by their
10 own stories. Christopher, of course, says that there's
11 certainly more opportunity than even what they said. And
12 they want to tell you it's a good Christian house, that
13 it's a great Christian house, it's right beside a church
14 and they're going to be there on this night and that night
15 and we're even going to the 7:00 service on Sunday night.
16 Well, they're also drinking beer, possibly smoking pot,
17 having multiple people come right outside the door. She
18 doesn't even know what he's doing outside and that's her
19 own husband. Well, he was. Do you really think she knows
20 everything that's going on? The child was going in and
21 out. Christopher is watching her whenever she's around.
22 And you can even here him say, Christopher tended to keep
23 her right at him. Well, most parents do, you know.
24 You're running around you might -- if you're at a friend's
25 house you might let them go a little while. Then kind of

1 every once in a while check, make sure where did my child
2 go, where did my child go. So this is how this child is
3 being cared for which means, unfortunately, there may have
4 been an opportunity that somebody thought the child was
5 inside, somebody thought the child was outside, and the
6 child may have been where somebody else didn't know,
7 wasn't watching, didn't see.

8 They brought in their DNA expert. Absolutely not a
9 single thing came back to Christopher McLeod except what
10 he voluntarily submitted, that suspect kit, which you want
11 it. That's him. There's absolutely no denial. That's
12 him. You sent that off saying compare it with what
13 they've got. At least 46 different items off of a blanket
14 that had obviously been kept and probably should have been
15 thrown out a long time ago with all of the things that
16 were on it belonging to people that they can't even
17 identify. Cuttings from the mattress where he and the
18 child had been sleeping. Again, can't even identify. Not
19 a single bit comes back to him. And maybe most
20 importantly, not just the pubic hairs that they want to
21 point to in panties that they can't even say who's it is.
22 It is even male. It might even be female. The semen on
23 the child's shorts, it's not his. It's not his. So
24 really, I'm asking you, use your common sense. Where did
25 that semen come from, okay? It came from some man. It's

1 not him. If you see a stain on your clothes you tend to
2 wash them. You certainly don't like body fluids being on
3 your clothes, and you wouldn't want them on your child's
4 clothes so that's something you would have gotten rid of
5 as evidence, wouldn't you, unless you never knew it was
6 there if you're not the one who put it there.

7 There's no doubt from what's been presented that
8 Christopher did have this child for this week and was with
9 his sister. She was helping him. There are bruises to
10 this child. There was harm done to this child. What I
11 submit to you, though, is that it is so much more than
12 reasonable doubt that it was Christopher that committed
13 these acts against this child. The burden that you have
14 been charged with is to consider all of the evidence on
15 each count and not just on each count but on every single
16 aspect of that count. And if you then believe that
17 Christopher is guilty of that crime beyond a reasonable
18 doubt on every single bit, then you find him guilty. If
19 there is, in fact, a doubt, a reasonable doubt, he is
20 entitled to maintain the presumption of innocence that has
21 been with him throughout this whole trial. You must be
22 firmly convinced. Not just convinced, not I guess so,
23 because if it's, I think, I guess, I'm thinking maybe,
24 every single one of those he is then not guilty. He gets
25 that presumption towards him. You must be firmly

1 convinced of his guilt in order to vote guilty.

2 I would ask that you find him not guilty because the
3 State has left you with a puzzle to solve. The State has
4 given you multiple stories. They have given you semen
5 that is unknown as to where any source. They have given
6 you people who will tell you one thing but in fact their
7 life was quite another when it's at their house and they
8 weren't even suspects. The State has asked you to do its
9 job. I'm telling you that's not your job. It's not your
10 job to fill in their holes of their story and that you
11 find my client not guilty. Thank you.

12 THE COURT: Thank you, Ms. Parrott.

13 Mr. Wells.

14 MR. WELLS: Thank you. May it please the Court, ladies
15 and gentlemen of the jury, I want to just respond to
16 Ms. Parrott. Ms. Parrott does a good job. Of course,
17 that's what her job is to do the best job she can with
18 what she's given. One thing I did know she argued the
19 things I would expect her to argue that the statement
20 wasn't taped, that the child was some other place or maybe
21 somebody else could have done something to the child, the
22 DNA didn't come back to him, things like that. But one
23 thing I noticed she did not do was to argue anything about
24 what the defendant testified to 'cause frankly his
25 testimony was totally unbelievable. And I think you can

1 pretty much see what happened just when we go back and
2 look at the statements he made to law enforcement.
3 Certainly Officer Robinson, Officer Compton, Officer Duff
4 were not trying to put words in his mouth. They were not
5 not giving him the opportunity to say things. But really,
6 in what the defendant said on the stand he pretty much
7 admitted what Officer Robinson said he told her except the
8 only thing is he had to change it a little bit he'd be
9 admitting to the crime particularly on count one and two.
10 He said after she advised him of his right the first
11 interview was on July 25th. She said he admitted to
12 causing visible injuries to ^{child} which she said on the
13 stand. He said he spanked her the first time with a
14 switch because she called him a bitch, and the defendant
15 said that on the stand. Frankly, I find it rather hard to
16 believe that a two year old is going to call a child --
17 call his father a bitch. It just -- typically from what
18 everybody said she saying very few words in the first
19 place. It doesn't seem the most believable thing I've
20 ever heard; but that's what he told law enforcement, he
21 agreed. Then he said he spanked her with his hand the
22 second time because she had a bowel movement on the floor
23 which again the officer had testified he said that; he
24 admitted that. And he admitted he saw marks on his -- on
25 ^{child} leg where he spanked her. He admitted all that

1 on the stand that he told the officer those things that
2 she said he did.

3 Then Officer Robinson said he was asked to describe
4 the daily routine with his daughter as far as during that
5 week, and that's when at some point he said about while
6 sitting on the toilet one morning washing ^{child} he
7 observed one of his pubic hairs sticking out from inside
8 his vagina, which I find rather amazing. And then he said
9 he used a wash cloth to remove the pubic hair, and he
10 didn't deny that. She said he, you know, said about the
11 pubic hair and anyway getting off with the wash cloth
12 'cause said for the first time he never told this officer
13 that, said that, oh, well, he had already shaved before
14 that time, shaved his pubic area. Then he said to the
15 officer he noticed a smell coming from ^{child} vagina.
16 And but again, he admitted that on the stand that there
17 was a smell. But you know, you would think particularly a
18 male, the first thing he'd want to do is ask some female,
19 his sister about it, but he said, well, he just forgot to
20 do that. He never did ask his sister about that. Then
21 Officer Compton joined the interview and they said at the
22 end that he said he had placed his finger inside his
23 daughter's vagina to remove the pubic hair. Well,
24 basically he didn't deny anything that they said he said
25 that day except he had to change that to say, well, no, I

1 didn't really say I put my finger inside her vagina, I
2 just put it down there to remove the pubic hair. Of
3 course, you wonder what's a pubic hair doing down there in
4 the first place.

5 I mean, ladies and gentlemen, you of course saw the
6 injuries to the child. It frankly kind of bothers me when
7 she refers to Kathy Saunders, a professional witness. She
8 is helping thousands of children who get abused or not
9 abused to try to see where the truth is. You saw those
10 pictures in this case. I mean, those were significant
11 injuries that child had, both in the vaginal and anal
12 areas, and that she said clearly there was -- there was
13 penetration based on those injuries. I mean, those would
14 have been painful injuries. You can say what you want.
15 Those would have been painful. Same thing as far as the
16 marks on the face where she said the child had apparently
17 been slapped or did a handprint on both sides of the face.
18 You saw the injuries on the ear and the leg. I noticed
19 the defendant said he admitted, you know, quote, maybe
20 over-spanking the child with a switch and so forth but he
21 said he couldn't remember if he hit the child or not. He
22 admitted he lost his temper. Now who do you think put
23 those hand marks there except for him. Clearly he's the
24 one who did it.

25 Now obviously he's looked at the statute by this

1 time and I'm sure realizes that what he admitted to, I
2 mean, he's guilty of the offense because nobody has a
3 right to put their finger inside the child of a two year
4 old's vagina. And that's why the statute says any
5 penetration of any part of the body into that child's
6 vagina would be guilty of this particular offense. So
7 obviously he had to change that and say, well, no, I
8 didn't really say I put it inside, I just put it down in
9 the area. But he did a lot more than that. That child
10 would never have had these injuries like that. I mean,
11 you could see. Those are painful injuries. Now also
12 looking for, he said, I believe the next day or also that
13 day he consented to giving the blood, saliva, hair samples
14 the next day. And one thing I noted and I always wonder
15 about witnesses when they do this, it's like, you know,
16 everybody apparently against them. You know, the officer
17 the next day indicated that he was unable to get any pubic
18 hair samples because the defendant was shaved. The
19 defendant apparently never told the officer that. You
20 know, says now that, oh, he had shaved before that time
21 and the officer was able to get some pubic hair. Well,
22 the officer didn't indicate he could get anything.
23 Certainly, you know, if he knows that he's gonna be tested
24 and he realize — doesn't know that the pubic hair
25 apparently found in the diaper didn't have a root so they

1 couldn't be compared. If he thinks they can compare it
2 you can see why he well may have shaved on that particular
3 night. That's of course whatever you think in that
4 regard, but I think it quite interesting.

5 There was the next day on the 26th that he had
6 another interview with them. One thing I noted – you
7 know, they tried to say, well Officer, you know, Robinson,
8 like she didn't properly do her job to check other people.
9 In fact, she most definitely did. You know, he had
10 mentioned that he had taken the child over to this
11 location, the Hamiltons. So before the defendant, she
12 charged the defendant, she went over to check them out and
13 checked out their situation, their stories, to see what
14 had happened. She found out after talking with them she
15 felt they were not suspects. Their stories were totally
16 believable. The child was never alone with anybody for
17 any significant period of time except for a couple of
18 minutes. There were people around all the time. So she
19 – she realized that they were not suspects. She came
20 back after that, charged the defendant.

21 Because ladies and gentlemen, you look back at this
22 week, I mean, who was the person that was alone with that
23 child just about most of the time. The defendant. 'Cause
24 the sister was working most of the time or a lot of the
25 type. He was the one alone with the child. The child

1 slept in the bedroom with him a lot of the time. Some
2 nights apparently she slept with the sister, but a lot of
3 the time she slept in the bed with the defendant. He was
4 the one that was there with that child all the time.
5 Nobody else came over there to the house where the child
6 was there as far as we know. And then so the next day --
7 this is interesting. He talked to Investigator Duff, the
8 first time, and Investigator Robinson. And on this
9 occasion he admits to masturbating while ^{child} was in
10 his care, but they said this. From what he said on the
11 stand that he said he didn't do it in front of the child,
12 he went in the second bedroom and did it out of their
13 presence. And they said that he was asked about the pubic
14 hair removed from the child's vagina, and he said he
15 wasn't -- he didn't do it with his finger as he said
16 earlier but he did touch inside the vagina to check on the
17 smell so he changed it again. And again, he admits to all
18 those things; but the only thing he changed saying, well,
19 I didn't actually put my finger in the vagina, I just put
20 it down there. Of course he had to make that statement.
21 But then ladies and gentlemen, he had come up on the stand
22 and say something totally different and that was to try to
23 put the blame on either Shamar, Nate, or both, that
24 supposedly that they had molested this child in some way.
25 Well, you know, ladies, you saw all the people testify.

1 You know, you make your own determinations. You look at
2 the defendant, who is fairly small, fairly high pitched
3 voice, you know, I don't know where he lies. But anyway,
4 you saw Shamar, that big man, come in here; Nate who is
5 also a good-sized individual, 17 at the time, now 21. It
6 just strikes me that they're not the types that would have
7 any interest in a two year old child sexually. You know,
8 what happened was awful but the type thing that happened
9 as far as molesting a child of this age is something
10 you're going to do in private by yourself. You're not
11 gonna be going molesting a two year old child in front of
12 others where other people are around. That child would
13 be with the pain would be screaming bloody murder. People
14 would be coming to check to see what's going on. I mean,
15 and wouldn't you also think, you know, as the defendant
16 admitted, he had never told this in front of any of these
17 officers before. Wouldn't you think if you really thought
18 somebody else molested your child, the first thing you
19 said when you talked to these officers were, well you
20 know, that child I left it by itself and the child was on
21 the pallet and I came back and child had been moved and
22 Shamar had his hand down right like he had been messing
23 with the child. And then that Nate, the next day, you
24 know, that he had the child for a long time, I think he,
25 you know, washed the child where he probably messed with

1 the child. And you know, wouldn't you think if you really
2 thought that somebody had messed with your child that
3 would be the first thing you'd be telling the officer.
4 You would not tell that, but of course he had to come up
5 with some story before court to try to put the blame on
6 somebody else. That's what defendants typically do. And
7 you really think if he thought that somebody had messed
8 with his child that he would be staying there again, you
9 know, for another night, the rest of the next day? I
10 mean, that makes no sense.

11 The other thing that makes what he says totally
12 unbelievable is, are we gone say that Shamar when he
13 messed with this child with other people in the room and
14 his wife, the others upstairs, that child would be
15 screaming if that child been injured like this. Nobody
16 been messing with the child like that. Same thing, are we
17 gonna say that Nate, you know, going right before he's
18 taking the child to a church service in front of a lot of
19 people that he's going to be messing with the child where
20 the child is gonna be in pain, taking the child to church
21 screaming. Now of course everything that the defendant
22 says is totally different from what, you know, all that
23 they said. You really think Ms. Hamilton would come up
24 here and lie about what happened. I mean, she said that
25 she asked the defendant about changing his (sic) diaper,

1 the child's diaper, and he wouldn't let her. Why do you
2 think that is? 'Cause he had something to hide. Of
3 course he tries to put, oh, well, she changed his diaper
4 and tried to claim that, you know, she -- it was something
5 totally different from what they testified to on the
6 stand. She had no reason for saying anything different
7 that occurred. The only one that has any reason for
8 coming up and concocting some story like this is the
9 defendant, and that's clearly what he's done in this
10 particular case because he is the only one who could have
11 done these particular offenses. These other people didn't
12 have any opportunity to do that, certainly wouldn't have
13 before all these other people around. He is the only one
14 alone with that child in the apartment. And I think it
15 clearly that the sister was becoming suspicious. You
16 know, obviously on that Friday, you know, they had a lot
17 of words about it where she said that the defendant
18 indicated that the defendant in himself called the child a
19 bitch and said he never wanted to see the child again.
20 Now you know, it makes you wonder why is a father gonna
21 say that about a two year old unless he knows what he did
22 to that child and certainly he has -- may have some guilt
23 about what he's done to the child.

24 Then we know again it would appear that something
25 bad happened on either Sunday night, Monday morning, after

1 he got the child back because again, you know, the sister
2 had been noticing things, noticing bruises. And again, it
3 was so that she got so mad with the child she said the
4 child was walking funny, didn't want to come to the
5 defendant. And anyway, the child was trying to come to
6 her; the defendant wouldn't let her. Well, finally, she
7 had to literally take the child in a room and lock the
8 door to keep away from the defendant who didn't want her
9 to have that child. I guarantee you the reason is cause
10 he knew exactly what he had done to that child. And in
11 fact, she was suspicious enough that after she called the
12 law she went over to take the child to the mother's and
13 ask the mother to examine the child to see. She was
14 concerned. That's when the ed mother took off the diaper
15 and looked up the child, looked. They both saw all these
16 injuries both sexually and vaginally, and they notified
17 law enforcement about it.

18 When you look at that, common sense just tells you
19 that he's the one who did please particular offenses. Now
20 you know, let me just respond to a couple of other things
21 she said. You know, this particular case, you know, law
22 enforcement certainly tried to do all they can. And in
23 this particular case, you know, it's just a natural thing
24 you think, well, I've got to go collecting anything I can
25 collect. Well first, in this case the blanket as it

1 turned out is totally irrelevant because as the man from
2 SLED said there's no way of telling, if the blanket semen
3 you find on it is two days old, two months old, two years
4 old. Obviously the sister's then roommate had been in the
5 room and had had sex in the room, and obviously you're
6 having sex with having semen no telling when in the room.
7 In fact, the defendant himself admits that nobody else was
8 over there in that regard with the child. In that regard,
9 frankly, if they found the defendant's DNA on the blanket
10 it really wouldn't admit anything 'cause he himself had
11 had sex with somebody several years ago before, who knows.
12 So that blanket was totally irrelevant, but we put it up
13 'cause you should know everything whether it's -- whoever
14 it helps, positive or negative. You need to know the
15 whole truth in the case so you can make your
16 consideration.

17 Same thing on the shorts. There was one small
18 place, and you can see in the report it was very weak DNA
19 because the man, the chemist, could get a full report.
20 There was just a few places you could get some DNA out of
21 it. And as he said, that could well come from just the
22 fact if the child's shorts got wet and had any contact
23 with some semen stain, the semen can be transposed to the
24 shorts. And I think that's one reason he didn't get any
25 stronger than that. If there had been actual semen put on

1 that child's shorts directly right before this happened,
2 then you're gonna get a full picture; you'll get a full
3 DNA picture. You're not going to get some just small
4 little amount. Of course, yeah, we don't know how long
5 that had been on there. I mean, the shorts could have
6 been washed which may have partly taken off the stain and
7 not taken off the whole thing. That's why you get a
8 little bit of DNA that's still there but not very much in
9 that regard.

10 So those things we put up because you need to know
11 everything that was done, but in this case there really
12 was no help to the case in that regard. You know, it's
13 quite different from a case where if you had had a woman
14 that you knew was slept by herself in a room, she had not
15 had sex with anybody else, some stranger comes in the room
16 and rapes her and leaves semen on the sheets, then that
17 would be certainly very significant. But in this case it
18 really had no significance at all. And certainly the way
19 the officer, you know, Ms. Parrott said, oh, well, she
20 could have taken a recording machine over there; but the
21 way she did it was very professional. And certainly the
22 defendant really doesn't deny anything she says he said
23 except trying to claim that he really didn't say he put
24 his hands in her vagina. You make your own determination
25 in that regard. You wonder why everything else she said

1 is true except that one thing and because that's exactly
2 what he told her.

3 Finally, let me say, ladies and gentlemen, it's
4 about 1:00, time for lunch. As I said, this is a serious
5 case. I just ask you to go back and consider all the
6 evidence. You've seen the witnesses in the jury (sic)
7 room. Search for the truth in this case. Certainly the
8 State believes if you consider all the evidence in this
9 case, believability and credibility of witnesses, there is
10 only one person in this case that could have done these
11 particular offenses, only one person that did, and that is
12 the defendant in this case, Christopher McLeod.
13 Certainly, ladies and gentlemen, I would just ask you to
14 give him no more sympathy than he gave that two year old
15 when he did these horrendous acts too back in July 2006.
16 Again, ladies and gentlemen, I just thank you so much your
17 time and attention in this case.

18 THE COURT: Thank you, Mr. Wells.

19 Ladies and gentlemen, I'm now gonna charge you on
20 the law that is applicable to this case, and I come down
21 here to do it because, as I told you when we started the
22 trial, you are the judges of the facts. I'm not to have
23 any influence over you about what the facts are in this
24 case, and so it's appropriate that while the attorneys are
25 presenting the evidence to you that I'm out of the way and

1 out of the area where they are presenting the evidence to
2 you. But we've reached the portion of this trial now
3 where you and I are in this together: You, as the judges
4 of the facts and me as the judge of the law. And so I
5 think it's appropriate to come down and be with you when I
6 give you the charge. Another thing that I want you to
7 know, and that is, Mr. Carter, I'm going to give the
8 charge to the jury. I'm gonna read it verbatim so that I
9 don't leave anything out and you will have this back in
10 the jury room with you. I will send this notebook so
11 you'll have that with you. Please listen carefully while
12 I charge you on the law that is applicable to this case.

13 Mr. Foreman, and members of the jury, you've heard
14 the evidence and arguments of both parties. I will now
15 explain to you the law which applies to this action. The
16 indictment charges the defendant Christopher McLeod, Jr.,
17 with criminal sexual conduct with a minor in the first
18 degree, lewd act on a minor, unlawful conduct towards a
19 child, and assault and battery of a high and aggravated
20 nature. I remind you that the fact that the defendant was
21 charged and indicted in this case is not evidence in this
22 case and cannot be considered by you as evidence of guilt
23 in this case, nor does it create any presumption of
24 innocence or inference of guilt. The indictment is simply
25 the formal written instrument which contains the charge

1 that is made against the defendant. It is the formal
2 document by which the case is brought into court. The
3 defendant has pled not guilty to this indictment and that
4 plea puts the burden on the State to prove the defendant
5 guilty beyond a reasonable doubt. A person charged with
6 committing a criminal offense in South Carolina is never
7 required to prove him or herself innocent. I charge you
8 that it is an important rule of law that the defendant in
9 a criminal trial, no matter what the seriousness of the
10 charge may be, will always be presumed to be innocent of
11 the crime for which the indictment was issued unless guilt
12 has been proven by evidence satisfying you of that guilt
13 beyond a reasonable doubt. This presumption does not end
14 when you begin your deliberations, but it accompanies the
15 defendant throughout the trial until you reach a verdict
16 of guilt based on evidence satisfying you of that guilt
17 beyond a reasonable doubt. The presumption of innocence
18 is not a mere legal theory; it is not a legal phrase. It
19 is a substantial right to which every defendant is
20 entitled unless you, the jury, are satisfied from the
21 evidence of the defendant's guilt beyond a reasonable
22 doubt.

23 So what is a reasonable doubt in the law? The State
24 has the burden of proving the defendant guilty beyond a
25 reasonable doubt. Some of you may have served as jurors

1 in civil cases where you were told that it is only
2 necessary to prove that a fact is more likely true than
3 not true, such as by the greater weight of the
4 preponderance of the evidence. In criminal cases the
5 State's proof must be more powerful than that. It must be
6 beyond a reasonable doubt. Proof beyond a reasonable
7 doubt is proof that leaves you firmly convinced of the
8 defendant's guilt. Now there are very few things in this
9 world that we know with absolute certainty, and in
10 criminal cases the law does not require proof that
11 overcomes every possible doubt. If based on your
12 consideration of the evidence you are firmly convinced
13 that the defendant is guilty of the crimes charged, you
14 just find the defendant guilty. If on the other hand, you
15 think there is a real possibility that the defendant is
16 not guilty, then you must give the defendant the benefit
17 of that doubt and find him not guilty.

18 I remind you that during this trial you and I have
19 certain duties to perform. As the trial judge it is my
20 responsibility to preside over the trial of this case and
21 I also have the duty to rule on the admissibility of
22 evidence offered during the course of the trial. You are
23 to consider only the competent evidence that is before
24 you. You are to consider only the testimony which has
25 been presented from the witnesses on the witness stand and

1 any exhibits which have been made a part of the record in
2 this case and any stipulations or agreements of counsel.
3 I have the additional duty to charge you the law which is
4 applicable to this case. As the presiding judge I am the
5 sole judge of the law on this case, and it is your duty as
6 jurors to accept and to apply the law as I now state it to
7 you. If you already have any idea as to what the law is
8 or what you believe the law ought to be and it does not
9 agree with what I now tell you the law is, you must
10 abandon your idea because you were sworn to accept law and
11 apply the law exactly as I state it to you. In every case
12 tried in this court before a jury the jury becomes the
13 sole and the exclusive judge of the facts of a case. A
14 trial judge cannot intimate, state, comment on, or make
15 any statement to a trial jury about the facts in a case.

16 Since you, the jury, are the sole judges of the
17 facts in this case you are not to infer from what I have
18 said during the progress of this trial in ruling on the
19 admissibility of evidence, or otherwise, or anything that
20 I say now during the course of this instruction to you,
21 that I have any opinion about the facts. The law does not
22 allow me to have an opinion about the facts in this case.
23 This is a matter solely for you, the jury, to determine.
24 As jurors, it is your duty to determine the effect, value,
25 weight, and truth of the evidence that is presented during

1 the course of this trial.

2 Now there are two types of evidence that are
3 generally presented in a jury trial. There's direct
4 evidence and there's circumstantial evidence. Direct
5 evidence is the testimony of a person who claims to have
6 actual knowledge of a fact, such as an eyewitness. It is
7 evidence that immediately establishes the main fact to be
8 proved. Circumstantial evidence is proof of a chain of
9 facts and circumstances indicating the existence of a
10 fact. It is evidence that immediately establishes
11 collateral facts from which the main fact may be inferred.
12 Circumstantial evidence is based on inference and not on
13 personal knowledge or observation. Now the law makes
14 absolutely no distinction between the weight or the value
15 to be given to either direct or circumstantial evidence,
16 nor is there a greater degree of certainty required of
17 circumstantial evidence than that of direct evidence. You
18 should weigh all of the evidence in this case. After
19 weighing all of the evidence, if you are not convinced of
20 the guilt of the defendant beyond a reasonable doubt you
21 must find him not guilty. However, if after weighing all
22 of the evidence you are convinced of the guilt of the
23 defendant beyond a reasonable doubt, you must then find
24 him guilty.

25 Necessarily, you must determine the credibility of

1 witnesses who have testified in this case. And
2 credibility simply means believability. It becomes your
3 duty as jurors to analyze and to evaluate the evidence and
4 to determine which evidence convinces you of its truth.
5 In evaluating eyewitness testimony you should remember
6 that the State must prove the identity of the defendant as
7 the person who committed the crime beyond a reasonable
8 doubt. In determining the believability of a witness, of
9 witnesses who have testified in this case, you may believe
10 one witness over several, several witnesses over one. You
11 may believe a part of the testimony of a witness and
12 reject the remaining part of that testimony. You may
13 believe the testimony of a witness in its entirety or
14 reject the testimony of a witness in its entirety. You
15 may consider whether any witness has exhibited to you any
16 interest, bias, or other motive in this case. You may
17 also consider the appearance and the manner of a witness
18 while on the witness stand.

19 Now the rules of evidence ordinarily do not permit
20 witnesses to testify to opinions or conclusions. An
21 exception to this rule exists for witnesses that we call
22 expert witnesses. A witness who by education and
23 experience has become an expert in some art, science, or
24 profession or calling, may state an opinion as to the
25 relevant and material matter in which that witness claims

1 to be an expert and may also state the reasons for that
2 opinion. You should consider any expert opinion received
3 in evidence in this case, and like any other evidence,
4 give it the weight that you think it deserves. If you
5 decide that the opinion of an expert witness is not based
6 on sufficient education and experience or if you conclude
7 that the reasons given in support of the opinion are not
8 sound or that other evidence outweighs the opinion, you
9 may disregard the opinion in its entirety. However, if
10 you find that the testimony is credible and that it is
11 supported, then you may accept it in its entirety. It is
12 solely up to you to decide what believability or
13 credibility to give any testimony. An expert witness's
14 testimony is to be given no greater weight than that of
15 another witness simply because that witness is an expert.
16 And further, you're not required to accept an expert's
17 opinion even though it's not contradicted.

18 Now a statement alleged to have been made by the
19 defendant has been admitted into evidence in this case.
20 While the Court has determined that the statement is
21 admissible, I instruct you that you make the ultimate
22 decision of whether or not the defendant made the
23 statement. If the defendant did make the statement you
24 must determine whether the statement was made by the
25 defendant voluntarily and of his own free will. This

1 means that the statement was not caused by pressure,
2 force, fear, threats, coercion, or intimidation, or by
3 hope or a promise of leniency or reward of any kind. In
4 determining whether the statement was voluntary you should
5 consider both the characteristics of the defendant and the
6 details of the questioning. Some of the factors that you
7 must consider are: One, the age of the defendant; two,
8 the defendant's lack of education or what level of
9 education; three, the defendant's mental capacity or
10 ability to understand; four, the defendant's IQ or
11 intelligence; five, the defendant's background and
12 environment; six, the place and the length of detention;
13 seven, the nature of the questioning; and eight, the
14 advice or lack thereof to the defendant of his
15 constitutional rights, including but not limited to, the
16 right to remain silent, that any statement could be used
17 against him in a court of law, the right to have a lawyer
18 present, that if he could not afford a lawyer a lawyer
19 would be appointed to represent him without any cost, and
20 that he could stop making a statement at any time. You
21 must carefully consider all of the surrounding
22 circumstances before you give any weight to an alleged
23 statement. The State has the burden of proof of proving
24 beyond a reasonable doubt that the alleged statement was
25 voluntary. If you determine that it was you may give the

1 statement any further consideration that you deem proper.
2 You must decide what weight, if any, should be given to
3 the alleged statement. If you determine that the alleged
4 statement was not free and voluntary statement of the
5 defendant, then you should not consider the statement at
6 all.

7 Now there is one indictment in this case but with
8 multiple charges. I charge you that each charge is a
9 separate crime. You must consider each charge separately.
10 That is, you must decide separately what the evidence in
11 the case shows about each crime that is charged. Your
12 decision on one charge should not affect your decision on
13 another charge. You take each charge on its own merit,
14 okay?

15 Now the defendant is charged under count one of the
16 indictment with first degree criminal sexual conduct with
17 a minor. The State must prove beyond a reasonable doubt
18 that the defendant engaged in a sexual battery of the
19 victim. A sexual battery is sexual intercourse, oral sex,
20 anal intercourse, or any intrusion, however slight, of any
21 part of a person's body or of any object into the genital
22 or anal openings of another person's body except when the
23 intrusion is accomplished for a medically recognized
24 treatment or a diagnostic purpose. The State must then
25 prove beyond a reasonable doubt that the victim was less

1 than 11 years of age at the time of the sexual battery.
2 The State, however, is not required to denote precise day
3 or even the year of the accused conduct in an indictment
4 of criminal sexual conduct. A minor's consent,
5 willingness, indifference, or ignorance, if any, as to
6 what was taking place does not in any way affect the
7 charge of criminal sexual conduct with a minor.

8 Now the defendant is also charged with the offense
9 of lewd act on a minor. A minor is a person under the age
10 of 18. The State must prove beyond a reasonable doubt
11 that the defendant was over the age of 14. Next the State
12 must prove that the defendant willfully and lewdly
13 committed or attempted a lewd or lascivious act on or with
14 the body or its parts of a child under the age of 16 years
15 with the intent to arouse, appeal to, or gratify the lust,
16 passions, or sexual desires of either the defendant or the
17 child. Willfully means voluntarily and intentionally with
18 specific intent to do something the law forbids. Lewd
19 means obscene, lustful, indecent or lecherous. Lascivious
20 means tending to incite lust, lewd, indecent, obscene, or
21 tending to deprave the morals and respect to sexual
22 relations.

23 The defendant also is charged with unlawful conduct
24 toward a child. The State must first prove beyond a
25 reasonable doubt that the defendant had charged or custody

1 of the child, was a parent or guardian of the child, or
2 was responsible for the care and support of the child. A
3 person responsible for a child's welfare includes the
4 child's parent, guardian, or foster parent, an operator or
5 employee or caregiver of a public or private residential
6 home or institution or child day care center facility or
7 an adult who has assumed the role or responsibility of a
8 parent or guardian for the child, but does not necessarily
9 have the legal custody of the child. This does not
10 include a person whose only role is as a caregiver or
11 whose contact is only incidental with the child, such as a
12 babysitter.

13 The State must also prove beyond a reasonable doubt
14 that the defendant unlawfully or maliciously did or cause
15 to be done any bodily harm to the child so that the life
16 or health of the child is in danger or likely to be in
17 danger. The purposes of this statute -- for purposes of
18 this statute a child means a person under the age of 18
19 years of age.

20 Finally, the defendant is charged with assault and
21 battery of a high and aggravated nature. Assault and
22 battery of a high and aggravated nature is an unlawful act
23 of violent injury to the person of another accompanied by
24 circumstances of aggravation.

25 Excuse me, young lady, I need you to sit up in your

1 chair, open your eyes and listen to this charge.

2 An assault occurs when a person unlawfully attempts
3 or offers to commit a violent injury upon another person
4 and had the present ability to complete the attempted
5 injury. An assault is an intentional creation of
6 reasonable fear of immediate bodily harm. It is not
7 necessary that the attempted injury or harm actually take
8 place. For example, if I walk up to you and when we are
9 within arm's reach I draw back to hit you that's an
10 assault. A battery is the unlawful touching of another
11 person by a person who has committed the assault. An
12 unlawful touching can be caused by a part of the accused
13 body or by any object the accused puts in motion. A
14 battery is the completion of the assault by using or
15 applying force to another person, however slight, in a
16 rude, angry, or resentful manner without legal
17 justification for doing so. Using my earlier example, if
18 I draw back to hit you when you get within arm's length
19 and I carry through with the assault and I actually hit
20 you, that's the battery. The State must also prove a
21 circumstance of aggravation. Circumstances of aggravation
22 include the use of a deadly weapon, the intent to commit a
23 felony, the infliction of serious body injury, a great
24 disparity between the ages or the physical conditions of
25 the parties, a difference in the genders of the parties,

1 the purposeful infliction of shame and disgrace and the
2 resistance of lawful authorities. These are only examples
3 of circumstances of aggravation.

4 Now Mr. Foreman and ladies and gentlemen of the
5 jury, as you retire to begin your deliberations I want to
6 express to you the hope that each of you will be mindful
7 of the importance of your responsibility. You're not
8 called upon to serve as jurors very often, and the proper
9 performance of the duty requires each of you to reach the
10 height of freeing your mind of all improper influences.
11 You and I are acting for the community, and that is why we
12 must see to it that this trial is fair and that this
13 verdict is just. You observed that the presiding officer
14 in this court is referred to as Your Honor. Well, the
15 reason is not because of the person wearing this robe but
16 that this Court is entrusted with the honor of this
17 community, the honor of this state, the honor of this
18 country and in seeking that every case tried here receives
19 fair and impartial justice. Now I don't want you to get
20 any idea that I'm trying to intimate to you how I might
21 think you should decide this case 'cause I've already told
22 you under the law of South Carolina you, the jury, are the
23 sole judge of all questions of fact. It would be highly
24 improper for me to influence you in the performance of
25 that duty. But as the presiding offer of this court I am

1 vitally concerned that whatever verdict you find will be
2 the result of your going to the jury room confining your
3 consideration to the evidence and to the law that you have
4 heard in this courtroom weighing it fairly and impartially
5 as I have every confidence you'll do. Everyone is
6 entitled to justice in this case, both the State and the
7 defense. All are entitled to justice; nothing more,
8 nothing less. Your verdict in this case cannot be based
9 on sympathy, compassion, prejudice, or some emotion or
10 something other than a consideration that is not found in
11 the evidence. The Court is of the confirmed opinion that
12 whatever verdict you reach will represent truth and
13 justice for all parties that are involved.

14 And Mr. Foreman, remember that the verdict of the
15 jury must be unanimous. Everyone must agree on the
16 verdict. I'm going to explain to you now the possible
17 forms of verdict, and it's not a — this is not a
18 complicated verdict form. As a matter of fact, rather
19 than actually go over it I don't want to insult your
20 intelligence. Basically what I've done on the verdict
21 form is I have set out count one of the indictment,
22 violent criminal sexual conduct with a minor in the first
23 degree. You'll reflect the jury's verdict whether it's
24 either not guilty or guilty, whatever you decide. Then
25 you'll go to count two, 'cause remember I told you, each

1 count is to be considered separately. Lewd act on a
2 minor, you'll decide whether the defendant is guilty or
3 not guilty of that charge. Then you'll go to the third
4 one and then you'll go the fourth one. And then, sir, if
5 you will sign as the foreperson of the jury and then knock
6 on the door to let the bailiff know that you've reached a
7 verdict when you've reached a verdict.

8 Now what I'm gonna do, I don't know that they've --
9 if they've got your lunch here yet. What I'm gonna do,
10 I'm gonna ask you to retire to your jury room. Mr.
11 Foreman, please do not begin deliberations yet. Here's
12 what I'm gonna do. I'm gonna check with the attorneys to
13 verify that I've included everything that needs to be
14 included in the charge. If everything is in here -- or if
15 there's anything I have omitted to charge you I'll bring
16 you back out and I'll charge you. If everything is in
17 here however, what I'm gonna do is I'll gather the
18 exhibits. I'll place this notebook with the exhibits.
19 And when you receive the exhibits and this notebook that
20 will be your cue to begin your deliberations, okay? Now
21 I'm gonna leave it up to y'all to do it how you want to
22 'cause they're bringing your food up. You're -- once you
23 receive the exhibits and this notebook, if you want to
24 deliberate over lunch that's fine. If you want to wait,
25 finish your lunch, and then begin your deliberations it's

1 whatever y'all want to do.

2 I know some of you have inquired about being able to
3 step outside to smoke or whatever. I will allow you to do
4 that, but what I need for you to understand though is what
5 I told you earlier, and that is, deliberations can only
6 occur when everyone is present. So if during the lunch
7 break a couple of you want to go down and do that, that's
8 fine, I'll get a bailiff to take you down but there can be
9 no deliberations going on unless all of you are present.
10 All right. So if you please would retire to your jury
11 room and wait for these items.

12 Yes, sir.

13 THE ALTERNATE: As an alternate how much do I
14 participate in the —

15 THE COURT: Not at all yet. Let me — if I've got
16 everything in here I'm gonna bring you out and then give
17 you some further instructions.

18 THE ALTERNATE: All right.

19 THE COURT: Thank you, sir.

20 (WHEREUPON, the jury was removed from the
21 courtroom at 1:25 p.m., and the following proceedings
22 commenced in open court.)

23 THE COURT: All right. Any exceptions or objections to
24 the charge, Mr. Wells?

25 MR. WELLS: No, Your Honor.

1 THE COURT: Anything from the Defense?

2 MS. PARROTT: No, Your Honor.

3 THE COURT: Would y'all please do me a favor and flip
4 through and go over with Frances to make sure that all the
5 exhibits are here and that nothing goes back that
6 shouldn't.

7 MR. WELLS: Okay.

8 (Pause while attorneys review exhibits with court
9 reporter.)

10 THE COURT: Go ahead and tell them to begin their
11 deliberations or whatever they want to do, but I need
12 Mr. Benton, the alternate.

13 THE BAILIFF: Okay.

14 (Alternate is returned to the jury room.)

15 THE COURT: Mr. Benton, I appreciate your service. You
16 kind of have the unfortunate position of being kind of
17 like I relate to a football game. You practice all week
18 long, you sweated, you hit with everybody else and now
19 it's Saturday afternoon and we're getting ready to kickoff
20 and the coach won't let you play. It's not an easy
21 position to be in; but as you can see when we lost
22 Ms. Robinson, it's very important that you hear throughout
23 the process because if you did have to be substituted in
24 you have to obviously be aware of everything. What I'm
25 gonna do, I've got the — and I'm gonna let you do

1 whatever you like. I've got the remaining jurors coming
2 back at 2:30. We've got another case. But I'm more than
3 happy to excuse you for the week if you'd like to be
4 excused.

5 THE ALTERNATE: So —

6 THE COURT: They're gonna give you your meal and if you
7 want to stay and serve, you know, on this afternoon we'll
8 just set you up, get you a good place to eat, and eat your
9 meal, and then we're gonna select another jury at 2:30.

10 THE ALTERNATE: You're gonna select the same —

11 THE COURT: Out of the same pool 'cause these guys will
12 be working. They'll be deliberating.

13 THE ALTERNATE: Would I be in that room?

14 THE COURT: You would be in that pool out there for
15 selection of the next case if you want to be, but I'm
16 giving you the option to go home if you like.

17 THE ALTERNATE: If you got enough I'd like to just go
18 ahead and go home.

19 THE COURT: We have plenty.

20 (The alternate is excused.)

21 (WHEREUPON, a lunch break was taken.)

22 (Attorney Vick Meetze replaces Karen Parrott as defense
23 counsel.)

24 THE COURT: Ready, Vick?

25 MR. MEETZE: Yes, Judge.

1 **THE COURT:** Now ladies and gentlemen, everybody here in
2 the courtroom, let me reiterate what I told you earlier.
3 I stand here just as you are here, and I have no idea what
4 their verdict is, and but I do — there's a couple of
5 things I do know. I do know that in every single trial
6 that's tried in this courtroom somebody is happy, somebody
7 is not, okay? I know that. What I also know is this,
8 this jury deserves, whether you agree with their verdict
9 or you don't agree, this jury deserves their verdict being
10 received in a professional manner. What I'm telling you
11 is, I don't expect there to be any outbursts. I don't
12 expect there to be any screaming or hollering or anything
13 that would in any way make this jury feel like their
14 verdict isn't being received properly. If you don't think
15 you can control your emotions then let me suggest that you
16 go on out and listen to someone else tell you what the
17 verdict was when it's over because the last thing I know
18 is, sure as I'm standing here, I am going to look up,
19 anybody that doesn't act in a professional manner when
20 this jury's verdict is received. That's one thing I'm
21 very particular about so I'm telling you now if you can't
22 receive the verdict in a professional manner take yourself
23 outside. Save yourself however much time in jail that I
24 decide to put you in because I'm going to consider it
25 'cause I've warned I'm going to consider it contempt of

1 court if you violate this order.

2 All right, having said that, is the State ready to
3 receive the verdict?

4 MR. WELLS: We are, Your Honor.

5 THE COURT: Is Defense ready?

6 MS. PARROTT: Yes, Your Honor.

7 THE COURT: All right, Ms. Joe, if you would ask the
8 members of the jury to join us please.

9 (WHEREUPON, the jury was returned to the courtroom at
10 approximately 4:04 p.m., and the following proceedings
11 commenced in open court.)

12 THE COURT: Ladies and gentlemen, I want to apologize
13 to you for holding you up. I got word that you had a
14 verdict when you let us know. It's just at the time just
15 as they let me know that y'all had had a verdict I had the
16 jury panel out here. We were in the middle of selecting
17 the jury for the next case so I had to complete that
18 before I could receive your verdict.

19 But Mr. Foreman, am I correct that the jury has
20 reached a unanimous verdict, sir?

21 THE FOREPERSON: Yes, Your Honor.

22 THE COURT: All right, if you would please pass that to
23 the clerk.

24 (Verdict form tendered to the Court.)

25 THE COURT: All right, Madam Clerk, it does appear to

1 be in order. If you would please publish the jury's
2 verdict. Thank you, ma'am.

3 THE DEPUTY CLERK OF COURT: State of South Carolina
4 versus Christopher McLeod, Jr., defendant, indictment
5 number 2007-CS-21-230. As to count one, criminal sexual
6 conduct with a minor in the first degree: We, the jury,
7 find the defendant Christopher McLeod, Jr., not guilty.
8 As to count two, lewd act on a minor: We, the jury, find
9 the defendant Christopher McLeod, Jr., not guilty. As to
10 count three, assault and battery of a high and aggravated
11 nature: We, the jury find the defendant Christopher
12 McLeod, Jr., guilty. As to count four, unlawful conduct
13 towards a child: We, the jury, find the defendant
14 Christopher McLeod, Jr., guilty. Dated March the 10th,
15 2010. Signed by Alex Carter, foreperson.

16 Mr. Foreman and members of the jury, if this is your
17 verdict please raise your right hand.

18 (All jurors complied by raising their hand.)

19 THE DEPUTY CLERK OF COURT: Thank you.

20 THE COURT: All right. Ladies and gentlemen of the
21 jury, I want to thank you for your service this week. I
22 appreciate your attention to the case and your
23 attentiveness. I hope you got a good feel for our jury
24 system and how it works. And it's not smooth, it's not
25 real slick because it's not designed to be that way

1 because you have two competing sides. You have the State
2 who's prosecuting and the defense who's, you know, pled
3 not guilty and contesting the charges so it stops and goes
4 and hits and misses. But when the dust settles I can tell
5 you this, you people, not necessarily you individually
6 but, juries usually get it right. I hope you find some
7 comfort in that. Thank you again for your service. It's
8 much appreciated by the people of Florence County.

9 And having said that, if everyone will remain in the
10 courtroom while the members of the jury are excused. You
11 are excused for the balance of the week.

12 (WHEREUPON, the jury was removed from the
13 courtroom at 4:08 p.m., and the following proceedings
14 commenced in open court.)

15 THE COURT: All right. Now with regard to this case,
16 and I think those of you who are involved in the case knew
17 this ahead of time. Ms. Parrott had a doctor's
18 appointment that she had to make this afternoon and we —
19 whether or not we were through with the trial or not we
20 knew she was gonna have to attend that appointment. So in
21 light of that, I'm going to defer sentencing until
22 tomorrow morning at 9, 00 which will give her an
23 opportunity to be back and speak on behalf of Mr. McLeod.
24 And if there's anyone that wishes to be present and wishes
25 to address the Court on Mr. McLeod's behalf I'll be happy

1 to hear from you at that time as well. And Bob, if
2 there's anyone from the victim's family who wishes to be
3 present and be heard from I'll be happy to hear from them
4 as well. We're gonna do that tomorrow morning at 9:00.
5 All right.

6 MR. MEETZE: Your Honor.

7 THE COURT: Yes, sir.

8 MR. MEETZE: If I might just say if, whether if any
9 posttrial motions Ms. Parrott would wish to make, if she
10 would be able to do that in the morning as well.

11 THE COURT: Thank you, Mr. Meetze, and I am gonna defer
12 all posttrial motions until the morning and we'll take
13 those at that time, okay. Court will be in recess then
14 until 9:00 tomorrow morning.

15 (WHEREUPON, the proceedings were concluded for the day to
16 be reconvened on March 11, 2010.)

17 MR. WELLS: May it please the Court, indictment
18 2007-230 that we've had a jury trial on the last few days,
19 I pass up the sheets on the two counts he was convicted
20 of: Count three assault and battery high and aggravated
21 nature which can carry up to ten years; and count four,
22 unlawful conduct towards a child which can also carry up
23 to ten years. And defense attorney and I have calculated
24 the defendant will get credit for 788 days that he served.

25 THE COURT: All right, 788. Is that correct,

1 Ms. Parrott, 788?

2 MS. PARROTT: Yes, Your Honor.

3 THE COURT: All right. And I believe, Mr. Wells, if I
4 recall from the trial, Mr. McLeod doesn't have any
5 significant prior record?

6 MR. WELLS: No, the only thing I had on the sheet was
7 he had a charge of simple assault and battery in 2004 and
8 a petit larceny in 2006. I don't have a disposition on
9 either of those, but that's the only thing I show as
10 charges.

11 THE COURT: Ms. Parrott, I'll be happy to hear from
12 you.

13 MS. PARROTT: Thank you, Your Honor. May it please the
14 Court, I do stand here with Christopher, Your Honor, and I
15 do think it's important to let you know and remind you, as
16 I'm sure you heard, but still that Christopher was willing
17 to plead to this, these two charges all along. This is
18 what he said he was guilty of from the moment that our
19 file was opened, and I would ask that you take in
20 consideration exactly that the jury has found that
21 credible and —

22 THE COURT: Why didn't he plead to those and then go to
23 trial on the sex offenses?

24 MS. PARROTT: Your Honor, there was no offer to just
25 let him plead to just those two charges. It was taken as

1 an offer with everything with the lewd act as well. It
2 was never just I'll let you plead to those two and do the
3 other two.

4 THE COURT: How can they stop you?

5 MS. PARROTT: Your Honor —

6 MR. WELLS: Your Honor, I need — yeah, if I'd been —
7 you know, I'd said that I would take a plea to it but if
8 they said he wanted a trial on the other two and plead to
9 these two I'd certainly take a plea on those two.

10 THE COURT: They can't stop him from doing that.

11 MS. PARROTT: Your Honor, it was not done so I, you
12 know, whether that's my fault of then or not articulating
13 it well with Mr. Wells it certainly was never offered.
14 That having been said, Your Honor, he did spend 785 days
15 down in jail before he ever bonded out and then, of
16 course, came back to trial and faced his charges and has
17 been back in jail now during the duration of this trial
18 Monday night, Tuesday night, and now Wednesday night. I
19 would ask, given these charges do carry up to ten years
20 each, that if you would consider a time served sentence
21 for Mr. McLeod especially given that he does not have any
22 prior record of anything that has any disposition and
23 certainly never been in general sessions court. He does
24 have a job. He has a place to stay. He is trying to go
25 back to school so that he can better himself. He seems to

1 have everything in place so that even if you can't
2 consider a time served sentence I would ask whether or not
3 you would consider probation sentence; and if you still
4 believe that you cannot do so, then I would ask that you
5 sentence him to a concurrent sentence.

6 THE COURT: Mr. McLeod, anything you want to tell the
7 Court, sir?

8 THE DEFENDANT: No, sir. I know that I was wrong for
9 what I did and I'm truly sorry and I ask y'all to forgive
10 me and just give me a second chance. And I really did
11 have changed over the years, and I now live for the Lord
12 and I will continue to live for him and get my life fully
13 together.

14 THE COURT: Anybody else want to address the Court?

15 MS. PARROTT: Your Honor, I believe there was a letter
16 from his brother that they wanted to read.

17 THE COURT: All right. I'll be happy to consider that.

18 MS. PARROTT: Ma'am, if you would state your name for
19 the Court.

20 MS. STARR: Cynthia Starr. This is from his brother
21 Travis. He gave this to me. "To whom it may concern,
22 Christopher is my younger brother and he is not the
23 monster or rapist the State has made him out to be. If he
24 is guilty of anything it is disciplining his child the way
25 we were disciplined and that is with a switch as many of

1 us have been as a child. And for the State to want you to
2 believe that those bruises on my niece came from a beating
3 or spanking is truly absurd. You can clearly see those
4 marks come from a perpetrator who is going to walk free
5 because of a lack of effort on the State's part. For my
6 brother go serve time in prison so someone else can laugh
7 about the situation and say they got away with this crime
8 is just a travesty. I just want you, the jury, to look at
9 this man Christopher McLeod and ask yourself is he really
10 guilty. The Lord is going to work in his courtroom today
11 because the fact don't even add up to convict this man to
12 do prison time for disciplining his child — his daughter.
13 The State makes it seem like a two year old doesn't
14 cuss — doesn't curse. I can tell you a child right now
15 that does because they repeat what they hear. My brother
16 life is on the line and you, the jury, are the only ones
17 who can save him. So please in the name of our Savior
18 Jesus Christ make the right verdict. Travis Towne (ph)."

19 MS. PARROTT: And Your Honor, of course I would ask
20 that you keep in consideration that was his brother and
21 what his brother is saying but not here.

22 THE COURT: Sure, I understand that. He's entitled to
23 his opinion.

24 MS. PARROTT: Certainly, Your Honor.

25 THE COURT: If he thinks punching a two year old in the

1 face is proper discipline then somebody needs to talk to
2 your son.

3 MS. STARR: My nephew.

4 THE COURT: Nephew, whoever he is, I don't care who he
5 is.

6 MS. PARROTT: And Your Honor, I believe one other lady
7 would like to speak. Could you also state your name.

8 MS. DARGAN: My name is Mary Dargan.

9 THE COURT: Yes, ma'am.

10 MS. DARGAN: Your Honor, I would just like to say that
11 concerning little Chris, one thing about it I want you to
12 understand too and coming from the heart, I know you're
13 already aware of everything that took place and I just
14 want you to take in consideration of what I know
15 concerning him. When he spent his two years, a little
16 over two years in jail, he contact me when he got out. He
17 came to my house. And one thing about me, when people
18 talk I listen. Not with just my ears, I listen with the
19 heart so I can understand what's in the heart. And when
20 he came to my house and he told me what took place, and he
21 said they let him out because they had no evidence on him.
22 And so when -- I'm asking you, Judge, to take into
23 consideration that, yes, the child being hit or whatever,
24 I'm not for that. I got kids of my own. I do community
25 work; I work with children. So I'm not for the abuse or

1 whatever took place to the child. But for me to be here
2 and stand with him on my own or because of myself because
3 of the fact that I know what he -- I know that when he
4 talked to me i felt his heart and when he got out he went
5 -- he suffered but he suffered in there being on some
6 charges that they had no evidence on him. He suffered in
7 that area. I'm asking you to take into consideration the
8 pain and the suffering that he took in jail over two years
9 for a couple of crimes that he didn't even committed, that
10 he didn't know what --

11 THE COURT: You know, what --

12 (Inaudible remark.)

13 THE COURT: You know what I'm gonna take -- don't tell
14 me to be quiet in my courtroom. I tell you to be quiet.

15 MS. DARGAN: Yes, sir.

16 THE COURT: I'm gonna consider everything. And in all
17 of this I'm also gonna consider the pain that that two
18 year old went through.

19 MS. DARGAN: Yes, sir.

20 THE COURT: We're not gonna forget that while you sit
21 up here and speak on his behalf.

22 MS. DARGAN: Yes, sir.

23 THE COURT: Go ahead.

24 MS. DARGAN: So what I was saying, Your Honor, it was
25 that I'm not for what -- I'm not, you know, for what took