

VOL I OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Alison Renee Lee, Circuit Court Judge

RECEIVED

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S.C. Supreme Court

MIAMA KROMAH,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001294

APPENDIX

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STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

COURT OF GENERAL SESSIONS

05-GS-40-8139 and

06-GS-40-2991

THE STATE)

VS.)

MIAMA KROMAH,)

DEFENDANT.)

TRANSCRIPT OF RECORD

JUNE 13, 2006

COLUMBIA, SOUTH CAROLINA

BEFORE:

HONORABLE JAMES W. JOHNSON, JR., JUDGE; AND A JURY

APPEARANCES:

KATHRYN LUCK CAMPBELL, 1ST ASST. SOLICITOR

NIKKI HALL, ASST. SOLICITOR

ATTORNEYS FOR THE STATE

JIMMY ROGERS, ESQ.

ATTORNEY FOR THE DEFENSE

KAREN TRACY

OFFICIAL COURT REPORTER

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1 THE COURT: ALL RIGHT. BEFORE WE GET STARTED ARE
2 THERE ANY MATTERS TO BRING TO THE COURT'S ATTENTION?
3 ANY SPECIAL VOIR DIRE THAT YOU'RE SEEKING?

4 MR. ROGERS: NO SPECIAL VOIR DIRE, YOUR HONOR.
5 WITH THE STATE'S PERMISSION, I WOULD LIKE -- WITH THE
6 COURT'S PERMISSION, I WOULD LIKE FOR THE COURT TO
7 ALLOW THE DEFENDANT'S MOTHER, WHO IS SITTING IN THE
8 WHEELCHAIR, TO SIT WHERE SHE IS DURING THE PENDENCY OF
9 THIS TRIAL.

10 THE COURT: ANY OBJECTION?

11 MS. CAMPBELL: NO, SIR.

12 THE COURT: ALL RIGHT.

13 MR. ROGERS: THANK YOU.

14 THE COURT: SOLICITOR, ANYTHING BEFORE WE GET
15 STARTED?

16 MS. CAMPBELL: YOUR HONOR, AS FAR AS VOIR DIRE, I
17 WOULD ASK IF YOU WOULD INQUIRE IF ANYONE HAS EVER BEEN
18 REPRESENTED BY MR. ROGERS AND, OF COURSE, YOU CAN MAKE
19 IT RECIPROCAL.

20 THE COURT: I ALWAYS ASK THAT QUESTION OR INTEND
21 TO.

22 MS. CAMPBELL: YES, SIR. AND THE NATURE OF THIS
23 CASE IS NOT UNIQUE, BUT THE ALLEGATIONS IN THIS CASE
24 ARE THAT MS. KROMAH DID INFLICT GREAT BODILY INJURY
25 UPON THE CHILD WHO WAS IN HER CARE. SPECIFICALLY THE

1 ALLEGATIONS ARE THAT SHE CUT THE SCROTUM, CAUSING A
2 BULGING OF HIS TESTICLE. I DON'T KNOW HOW MUCH YOU
3 WANT TO GO INTO THAT OR NOT, BUT JUST BECAUSE OF THE
4 NATURE OF THIS CASE, SOME PEOPLE MIGHT -- I JUST WANTED
5 TO BRING THAT TO THE COURT'S ATTENTION THAT THAT IS THE
6 ALLEGATION IN THE CASE.

7 THE COURT: ALL RIGHT. WE HAVE TWO INDICTMENTS IN
8 THE CASE; IS THAT RIGHT?

9 MS. CAMPBELL: YES, SIR, AND WE DO HAVE ONE
10 MOTION, YOUR HONOR, TO AMEND AN INDICTMENT. ONE OF
11 THEM REFLECTS AUGUST 18TH VERSUS AUGUST 16TH, AND IT
12 SHOULD BE THE 16TH.

13 MS. HALL: MAY I APPROACH, YOUR HONOR? THIS IS A
14 POTENTIAL WITNESS LIST.

15 THE COURT: ANY OBJECTION TO THE AMENDMENT AS
16 PRESENTED BY STATE?

17 MR. ROGERS: NOT TO THE AMENDMENT, YOUR HONOR, BUT
18 I WAS UNDER THE IMPRESSION -- AND CORRECT ME IF I'M
19 WRONG, BUT I THOUGHT THE NEW INDICTMENT SUPERSEDED THE
20 OLD INDICTMENT. ONE IS AN UNLAWFUL NEGLECT CHARGE.
21 THE OTHER IS A SERIOUS BODILY INJURY UPON A CHILD. I
22 DID NOT PERCEIVE THAT WE WERE GOING TO TRIAL ON BOTH
23 CHARGES. I THOUGHT THEY WENT BACK AND GOT AN
24 INDICTMENT THAT WOULD SUPERSEDE THE UNLAWFUL NEGLECT
25 CHARGE.

1 THE COURT: SOLICITOR?

2 MS. CAMPBELL: YOUR HONOR, I BELIEVE THE NOTICE WE
3 SENT MR. ROGERS DID INDICATE BOTH INDICTMENT NUMBERS ON
4 IT. I HAVE NOT HAD A CONVERSATION WITH HIM ABOUT IT,
5 BUT I CALLED HIM LAST WEEK TO INDICATE THAT WE WOULD BE
6 AMENDING THE ONE CHARGE.

7 MR. ROGERS: BUT THAT WAS -- WHEN YOU SAID
8 AMENDMENT, I THOUGHT YOU MEANT THE DATE.

9 MS. CAMPBELL: YES, SIR, THAT'S WHAT I DID MEAN,
10 ON --

11 MR. ROGERS: ALL RIGHT.

12 MS. CAMPBELL: -- ON THE ONE, ON THE UNLAWFUL
13 NEGLECT.

14 MR. ROGERS: YES, BUT JUDGE, I WAS UNDER THE
15 IMPRESSION -- AND I BELIEVE I LEFT MY INDICTMENT WITH
16 YOU YESTERDAY.

17 THE COURT: YOU DID. IT WAS SITTING ON MY DESK.
18 I CAN RETRIEVE THAT IF YOU NEED IT.

19 MR. ROGERS: I DO, YOUR HONOR. I WAS GOING TO ASK
20 FOR THAT.

21 MR. ROGERS: I WOULD THINK THAT THE FACTS OF THIS
22 CASE WOULD REQUIRE THE STATE TO ELECT WHICH INDICTMENT
23 THEY INTEND TO PROCEED ON. THE ALLEGATIONS OF BOTH
24 INDICTMENTS WOULD BE IDENTICAL. THE ELEMENTS WOULD BE
25 THE SAME, AND I MEAN, I THINK UNLAWFUL NEGLECT WOULD

1 ALMOST BE A LESSER INCLUDED OF THE INTENTIONAL
2 INFLECTION. BUT AGAIN, I WAS UNDER THE IMPRESSION THAT
3 THEY WERE AFTER 20 YEARS NOT TEN, BUT NOW I SEE THEY'RE
4 AFTER 30 YEARS.

5 THE COURT: ALL RIGHT. SOLICITOR?

6 MS. CAMPBELL: YOUR HONOR, I DO BELIEVE THE
7 ELEMENTS OF THE TWO CRIMES ARE DIFFERENT, AS IN MANY
8 CASES WHEN MULTIPLE CRIMES ARISE OUT OF THE DEFENDANT'S
9 ACTIONS. IN THIS CASE, WE DID CHARGE WITH TWO
10 DIFFERENT CHARGES, OF UNLAWFUL NEGLECT AS WELL AS
11 INFLECTION OF GREAT BODILY INJURY UPON THE CHILD.

12 IT IS OUR CONTENTION THEY DO HAVE DIFFERENT
13 ELEMENTS, YOUR HONOR, AND THAT THEY ARE NOT
14 OVERLAPPING. WE CONTEND IN THIS CASE IT WOULD BE
15 APPROPRIATE TO GO FORWARD WITH THAT.

16 MR. ROGERS: YOUR HONOR, I HAVEN'T DONE ANY
17 RESEARCH ON THIS, SO I DON'T KNOW WHAT THE ELEMENTS
18 ARE, BUT IF IN THE UNLAWFUL NEGLECT, THE ACT OF THE
19 NEGLECT WOULD BE CUTTING THE CHILD, THAT WOULD BE THE
20 SAME ACT THAT WOULD BE REQUIRED FOR THE INFLECTION OF
21 THE SERIOUS BODILY INJURY UPON A CHILD.

22 THERE WOULD BE NO ALLEGATION IN THE UNLAWFUL
23 NEGLECT CHARGE THAT SHE SOMEHOW DID THE ACT AND FAILED
24 TO TAKE THE CHILD FOR PROPER MEDICAL CARE OR FAILED TO
25 TAKE PROPER STEPS. THAT'S NOT GOING TO BE THE FACTS IN

1 THIS TRIAL, SO I DON'T KNOW UNDER WHAT THEORY THEY
2 THINK THAT THEY CAN PROCEED UNDER BOTH CHARGES.

3 MS. CAMPBELL: YOUR HONOR, I HAVE COPIES OF THOSE
4 CODE SECTIONS, IF I COULD HAND THOSE UP.

5 (PAUSE)

6 MR. ROGERS: YOUR HONOR, DO YOU HAVE THE UNLAWFUL
7 NEGLECT INDICTMENT?

8 THE COURT: YES, UH-HUH.

9 MR. ROGERS: MAY I SEE IT FOR A MOMENT?

10 THE COURT: YES. I MADE THE CHANGE ON THE DATE.

11 MS. CAMPBELL: THANK YOU, YOUR HONOR.

12 THE COURT: YOU SAID THERE WAS NO OBJECTION TO IT.

13 (PAUSE)

14 IN LOOKING AT THE STATUTES, THE ELEMENTS ARE
15 DIFFERENT. I DO THINK THERE IS SOME LAW. I DON'T KNOW
16 IF CONVICTED OF BOTH OFFENSES THAT THE DEFENDANT COULD
17 BE SENTENCED TO -- CAN'T BE PUNISHED MORE THAN ONCE FOR
18 THE SAME CONDUCT. FOR THAT REASON, I'LL CROSS THAT
19 BRIDGE IF AND WHEN WE GET TO IT.

20 WHAT'S THE LAST NAME OF THIS POTENTIAL WITNESS?
21 IS IT WESSELHOLF?

22 MR. ROGERS: YES, WESSELHOLF

23 THE COURT: WESSELHOLF. OKAY.

24 MR. ROGERS: YES, SIR.

25 THE COURT: FROM WHAT MR. ROGERS HAS, IT IS

1 SPELLED W-E-S-S-E-L-H-O-L-F.

2 MR. ROGERS: YES, SIR. THAT'S CORRECT.

3 THE COURT: ALL RIGHT. LET'S GET THE PANEL UP
4 HERE, PLEASE. THE STRIKES ARE FIVE AND FIVE; IS THAT
5 CORRECT? IS THAT YOUR UNDERSTANDING?

6 MS. CAMPBELL: YES, SIR.

7 MR. ROGERS: YES, SIR.

8 (WHEREUPON, THE JURY PANEL WAS BROUGHT INTO THE
9 COURTROOM.)

10 THE BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

11 THE COURT: ALL RIGHT. THANK YOU, SIR. LADIES
12 AND GENTLEMEN. WELCOME TO COURTROOM 3-A. MY NAME IS
13 JIM JOHNSON. I LIVE UP IN CLINTON IN LAURENS COUNTY.
14 I'VE BEEN ASSIGNED TO HOLD GENERAL SESSIONS AND
15 CRIMINAL COURT HERE ALL YEAR. I'M NEARLY THROUGH MY
16 TOUR IN COLUMBIA.

17 AS I'M SURE AS YOU WERE TOLD YESTERDAY, CIRCUIT
18 COURT HAS TWO SIDES TO IT, COMMON PLEAS OR CIVIL COURT,
19 AND GENERAL SESSIONS OR CRIMINAL COURT. WE ARE HOLDING
20 GENERAL SESSIONS COURT HERE IN THIS COURTROOM.

21 A CASE IS PROCESSED THROUGH THE COURT SYSTEM IN
22 GENERAL SESSIONS COURT BY MEANS OF THESE PIECES OF
23 PAPER THAT I'M HOLDING THAT ARE CALLED INDICTMENTS.
24 YOU HAVE PROBABLY HEARD THAT WORD BEFORE. THE
25 INDICTMENTS IN A CASE CONTAIN A CASE NAME AND A CASE

1 NUMBER, AND THEY CONTAIN THE CHARGE OR THE CHARGES THAT
2 ARE MADE IN THIS CASE. THEY ARE NOT EVIDENCE AND
3 CANNOT BE CONSIDERED BY THE JURY AS EVIDENCE OF THE
4 CHARGES THAT THEY CONTAIN.

5 THESE DOCUMENTS HAVE BEEN SERVED ON THE DEFENDANT
6 AND THE DEFENDANT'S ATTORNEY AT SOME TIME PRIOR TO THE
7 CASE BEING CALLED FOR TRIAL TO PUT THAT PERSON ON
8 NOTICE OF THE CHARGE OR CHARGES THAT HE OR SHE WOULD
9 FACE WHEN THE CASE WAS CALLED FOR TRIAL.

10 I'M GOING TO GIVE YOU SOME OF THAT INFORMATION AND
11 STATE IT INTO THE RECORD, BUT AGAIN, I WANT YOU TO
12 UNDERSTAND THAT THE INDICTMENTS CONTAIN ONLY THE
13 CHARGES OF THE ALLEGATIONS THAT ARE MADE IN THE CASE
14 AND THEY ARE NOT EVIDENCE OF THOSE CHARGES.

15 THERE ARE TWO INDICTMENTS IN THIS CASE. ONE IS
16 05-GS-40-8139 ENTITLED THE STATE VS. MIAMA KROMAH AND
17 INDICTMENT 06-GS-40-2991, ALSO ENTITLED THE STATE VS.
18 MIAMA KROMAH.

19 THERE ARE TWO CHARGES THAT ARE MADE IN THE CASE.
20 ONE IS UNLAWFUL NEGLECT OF A CHILD, THE OTHER IS
21 INFLECTION OF GREAT BODILY INJURY UPON A CHILD. IT IS
22 ALLEGED IN THE INDICTMENT THAT THE DEFENDANT COMMITTED
23 THESE OFFENSES ON OR ABOUT AUGUST 16TH, 2005. IT IS
24 ALLEGED THAT SHE DID CUT THE SCROTUM OF THE VICTIM, A
25 THREE YEAR OLD STEPSON. AGAIN, THOSE ARE THE

1 ALLEGATIONS THAT ARE MADE IN THE CASE.

2 THE DEFENDANT, MS. KROMAH, IS PRESENT. SHE IS
3 REPRESENTED BY MR. ROGERS. IF YOU WOULD INTRODUCE
4 YOURSELF AND YOUR CLIENT TO THE JURY PANEL, PLEASE,
5 MR. ROGERS.

6 MR. ROGERS: THANK YOU, YOUR HONOR. MY NAME IS
7 JIMMY ROGERS. I PRACTICE LAW IN COLUMBIA, AND THIS IS
8 MIAMA KROMAH.

9 THE COURT: THANK YOU. THE STATE IN THIS CASE
10 WILL BE REPRESENTED BY MS. CAMPBELL AND MS. HALL.
11 MS. CAMPBELL, IF YOU WILL INTRODUCE YOURSELF AND
12 MS. HALL.

13 MS. CAMPBELL: I'M LUCK CAMPBELL. I'M AN
14 ASSISTANT SOLICITOR IN THE FIFTH JUDICIAL CIRCUIT.

15 MS. HALL: I'M NIKKI HALL. I'M ALSO A SOLICITOR
16 HERE IN RICHLAND COUNTY.

17 THE COURT: THANK YOU. NOW, I'M GOING TO GO OVER
18 WITH YOU A LIST OF POTENTIAL WITNESSES IN THIS CASE.
19 IF THESE PEOPLE ARE PRESENT, I'D ASK THAT THEY STAND
20 JUST FOR A MOMENT, SO YOU CAN TAKE A LOOK AT THEM.
21 SOME OF THEM MAY OR MAY NOT BE HERE. PAY CLOSE
22 ATTENTION TO THESE NAMES. AFTER I HAVE READ THESE
23 NAMES, I'LL BE ASKING YOU WHETHER YOU KNOW OR ARE
24 RELATED TO OR HAVE ANY TYPE OF RELATIONSHIP WITH ANY OF
25 THESE INDIVIDUALS.

1 ROY LIVINGSTON WITH THE RICHLAND COUNTY SHERIFF'S
2 DEPARTMENT; Minor ; AMY GRANGER; RANDY TYLER;
3 MUSA KROMAH; CIATA GAROWAY; CINDI FORD; DR. ERIN
4 FIELDS; INVESTIGATOR ROBERT OATES WITH THE RICHLAND
5 COUNTY SHERIFF'S OFFICE, ALONG WITH SERGEANT RANDY
6 STRANGE; REBECCA GREENE; INVESTIGATOR JAY RUSSELL, ALSO
7 WITH THE RICHLAND COUNTY SHERIFF'S OFFICE; MAMIE
8 FREEMAN; DONNA SHARPE; MELANIE PORILLA; DR. JAMES
9 STALLWORTH; DR. ANNE ABEL, A-B-E-L; DR. JENNIFER
10 AMROL, A-M-R-O-L; APRIL BERRY; DR. JERRY EHRETH --
11 EXCUSE ME, DR. JEFFREY EHRETH, SPELLED E-H-R-E-T-H, I'M
12 JUST NOT SURE HOW TO PRONOUNCE THAT; DR. EDDIE
13 RICHMOND; JILL MCABEM, M-C-A-B-E-M; SHEREL MURPHY;
14 NIBBIA SMITH; ED VECCHIO, V-E-C-C-H-E-O; DIANNE BERRY;
15 DR. EDWARD CATALANO, C-A-T-A-L-A-N-O; DR. SEAN O'MEARA;
16 ANGELA WRIGHT; DICK DANN; LANCE AMARA; ROBBIE GOULD;
17 CHARLENE ROGERS; SUE OUTZS; JULY BARBER; HEATHER SMITH;
18 GRAY AMICK; AND ROSA WESSELHOLF, AND THAT'S SPELLED
19 W-E-S-S-E-L-H-O-L-F.

20 LET ME ASK IF ANYONE ON THE JURY PANEL IS RELATED
21 BY BLOOD OR CONNECTED BY MARRIAGE TO THE DEFENDANT,
22 MS. KROMAH, OR ANY OF THE POTENTIAL WITNESSES WHOSE
23 NAMES HAVE BEEN READ TO YOU, OR IF YOU'RE RELATED BY
24 BLOOD OR CONNECTED BY MARRIAGE TO ANY OF THOSE
25 INDIVIDUALS, IF YOU WOULD YOU PLEASE STAND AT THIS

1 TIME.

2 (THERE WAS NO RESPONSE.).

3 AS WE GO THROUGH THIS PROCESS, I NEED FOR YOU TO
4 UNDERSTAND THAT IN SELECTING A JURY, WHAT WE ARE
5 SEEKING AS WE GO THROUGH AND ASK THESE QUESTIONS, WE
6 ARE SEEKING TWELVE PEOPLE WHO ARE NOT RELATED TO AND
7 WHO DON'T KNOW ANYTHING ABOUT THE CASE, TWELVE PEOPLE
8 WHO WILL BE ABLE TO SIT AND LISTEN TO AND ANALYZE AND
9 EVALUATE THE EVIDENCE IN THE CASE AND MAKE A DECISION
10 BASED ONLY ON THE EVIDENCE THAT IS PRESENTED HERE IN
11 THE COURTROOM DURING THE TRIAL. THAT'S WHY I'M ASKING
12 THESE QUESTIONS.

13 LET ME ASK IF ANYONE ON THE JURY PANEL HAS ANY
14 TYPE OF BUSINESS OR PERSONAL OR SOCIAL RELATIONSHIP
15 EITHER WITH THE DEFENDANT MS. KROMAH OR ANY POTENTIAL
16 WITNESS IN THE CASE. I'M SOMETIMES ASKED, "WHAT DO YOU
17 MEAN BY PERSONAL OR SOCIAL RELATIONSHIP?" IF YOU ARE
18 FRIENDS WITH, IF YOU BELONG TO THE SAME CIVIC
19 ORGANIZATIONS, GO TO THE SAME CHURCH OR BELONG TO THE
20 SAME CHURCH, THINGS OF THAT NATURE. SO, IF YOU DO HAVE
21 ANY TYPE OF BUSINESS, PERSONAL OR SOCIAL RELATIONSHIP,
22 AGAIN EITHER WITH THE DEFENDANT, MS. KROMAH, OR ANY
23 OTHER POTENTIAL WITNESS IN THE CASE, WOULD YOU PLEASE
24 STAND?

25 ALL RIGHT. NOW, WHEN YOU DO STAND I'LL HAVE SOME

1 FOLLOW-UP QUESTIONS. THE FIRST THING I NEED TO FIND
2 OUT IS WHO YOU ARE. IF YOU WILL STATE YOUR NAME,
3 PLEASE, SIR.

4 PROSPECTIVE JUROR: JIM DAVIS.

5 THE COURT: ALL RIGHT. LET ME FIND YOU ON THE
6 LIST. THIS IS NUMBER SEVEN ON THE JURY LIST. IF YOU
7 CAN TELL ME WHO AND THE GENERAL NATURE OF THAT
8 RELATIONSHIP, PLEASE.

9 PROSPECTIVE JUROR: JUDGE, MY FIRM REPRESENTS THE
10 RICHLAND COUNTY SHERIFF'S DEPARTMENT.

11 THE COURT: WHICH FIRM IS THAT?

12 PROSPECTIVE JUROR: DAVIDSON MORRISON AND
13 LINDEMANN.

14 THE COURT: OKAY. AND WOULD THE FACT THAT SOME OF
15 THOSE WITNESSES MAY BE CALLED IN THIS CASE, WOULD THAT
16 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN
17 THIS CASE?

18 PROSPECTIVE JUROR: I THINK IT COULD, JUDGE.

19 THE COURT: BASED ON THAT, YOU WILL BE EXCUSED
20 FROM THIS CASE. IF YOU WILL HAVE A SEAT AT THE BACK OF
21 THE COURTROOM, PLEASE. THAT'S NUMBER 7 ON THE LIST.

22 OKAY, AND YOUR NAME PLEASE?

23 PROSPECTIVE JUROR: VIRGINIA WILLIAMS.

24 THE COURT: OKAY, LET ME FIND YOU ON THE LIST,
25 MS. WILLIAMS.

1 PROSPECTIVE JUROR: 272 IS THE JUROR NUMBER.

2 THE COURT: YES, BUT MY LIST IS NEITHER
3 ALPHABETICAL OR NUMERICAL. OKAY, I'VE GOT YOU AS
4 NUMBER 20 ON THE LIST. AND IF YOU CAN JUST TELL ME WHO
5 AND THE NATURE OF THAT RELATIONSHIP, PLEASE.

6 PROSPECTIVE JUROR: I WORK WITH SEVERAL OF THE
7 PEDIATRICIANS THAT YOU MENTIONED, JAMES STALLWORTH,
8 JENNIFER AMROL, AND ERIN FIELDS.

9 THE COURT: ALL RIGHT. AND THAT RELATIONSHIP,
10 IT'S THROUGH YOUR EMPLOYMENT; IS THAT CORRECT?

11 PROSPECTIVE JUROR: YES.

12 THE COURT: IF THEY ARE CALLED AS WITNESSES IN
13 THIS CASE, WOULD THAT AFFECT YOUR ABILITY TO BE A FAIR
14 AND IMPARTIAL JUROR?

15 PROSPECTIVE JUROR: YES, IT WOULD.

16 THE COURT: ALL RIGHT. IF YOU WOULD ALSO HAVE A
17 SEAT IN THE BACK OF THE COURTROOM. NUMBER 20 ON THE
18 LIST WILL BE EXCUSED.

19 I HAVE GIVEN YOU A LITTLE INFORMATION ABOUT WHAT
20 THE ALLEGATIONS ARE IN THE CASE. I NEED TO KNOW IF ANY
21 MEMBERS OF THE JURY HAS READ OR HEARD OR SPOKEN WITH OR
22 FROM ANY SOURCE AT ALL KNOWS ANYTHING OR HAS HEARD
23 ANYTHING ABOUT THE ALLEGATIONS THAT ARE MADE IN THIS
24 CASE. IF SO, WOULD YOU PLEASE STAND.

25 ALL RIGHT. COME UP AND LET ME TALK TO YOU. LET

1 ME ASK MY QUESTIONS. COUNSEL, YOU MAY STEP UP HERE,
2 AND -- COME ON UP AND LET ME TALK WITH YOU PRIVATELY,
3 PLEASE.

4 (WHEREUPON, THE FOLLOWING DISCUSSION WAS HELD AT
5 THE COURT REPORTER'S STATION.)

6 THE COURT: WHAT'S YOUR NAME, PLEASE?

7 PROSPECTIVE JUROR: LUCY FREEMAN.

8 THE COURT: MS. FREEMAN, I SAW YOUR NAME ON HERE.
9 IF YOU CAN JUST TELL ME WHAT THE SOURCE WAS.

10 PROSPECTIVE JUROR: I WORK FOR D.S.S.

11 THE COURT: OKAY.

12 PROSPECTIVE JUROR: AND I'M THE PROGRAM DIRECTOR
13 OF THE CHILD PROTECTIVE SERVICES SYSTEM.

14 THE COURT: OKAY. AND ARE YOU FAMILIAR WITH THIS
15 CASE?

16 PROSPECTIVE JUROR: IT WAS DISCUSSED --

17 THE COURT: ALL RIGHT. THEN I'LL EXCUSE YOU FROM
18 THE TRIAL OF THIS CASE. THAT'S LUCY FREEMAN, NUMBER 11
19 ON THE LIST.

20 MS. FREEMAN, YOU CAN HAVE A SEAT IN THE BACK OF
21 THE COURTROOM. THANK YOU.

22 WAS THERE ANYONE ELSE WHO RESPONDED TO THAT
23 QUESTION?

24 (THERE WAS NO RESPONSE.)

25 THE COURT: LET ME ASK IF ANYONE ON THE JURY PANEL

1 IS SENSITIVE TO OR AWARE OF ANY KIND OF BIAS OR
2 PREJUDICE THAT YOU MIGHT HAVE THAT WOULD PREVENT YOU
3 FROM BEING A FAIR AND IMPARTIAL JUROR IF YOU ARE
4 SELECTED IN THIS CASE. IF SO, WOULD YOU PLEASE STAND
5 AT THIS TIME.

6 (THERE WAS NO RESPONSE.)

7 THE COURT: IS THERE ANY MEMBER OF THE JURY WHO IS
8 EITHER CURRENTLY OR IN THE PAST HAS BEEN REPRESENTED BY
9 ANY OF THE ATTORNEYS INVOLVED IN THE CASE, OR DO YOU
10 HAVE ANY OTHER KIND OF BUSINESS, PERSONAL, OR SOCIAL
11 RELATIONSHIP WITH ANY OF THE ATTORNEYS? IF SO, WOULD
12 YOU PLEASE STAND.

13 (THERE WAS NO RESPONSE.)

14 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL
15 A MEMBER OF OR WHO MAKES CONTRIBUTIONS TO ANY GROUP
16 THAT HAS AS ONE OF ITS PRIMARY GOALS THE PROMOTION OF
17 LAW ENFORCEMENT OR POLICE OFFICERS OR PRISONER'S
18 RIGHTS? IF YOU BELONG TO OR MAKE CONTRIBUTIONS TO ANY
19 SUCH GROUP, WOULD YOU PLEASE STAND.

20 YOUR NAME, PLEASE, MA'AM.

21 PROSPECTIVE JUROR: GERALDINE LOCKHART.

22 THE COURT: LOCKHART. LET ME FIND YOU ON THE
23 LIST, MS. LOCKHART. OKAY, THIS IS NUMBER 40 ON THE
24 LIST. MS. LOCKHART IF YOU WOULD JUST TELL ME WHICH
25 GROUP?

1 PROSPECTIVE JUROR: I'M EMPLOYED IN LAW
2 ENFORCEMENT.

3 THE COURT: WOULD THAT EMPLOYMENT IN ANY WAY
4 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN
5 THIS CASE?

6 PROSPECTIVE JUROR: I DON'T BELIEVE SO.

7 THE COURT: ALL RIGHT. YOU CAN HAVE A SEAT,
8 MA'AM. THAT'S MS. LOCKHART, NUMBER 40. ANYONE ELSE?

9 (THERE WAS NO RESPONSE.)

10 THE COURT: IS THERE ANYTHING ABOUT THE NATURE OF
11 THE CHARGES IN THIS CASE THAT WOULD PREVENT ANYONE ON
12 THIS JURY PANEL FROM BEING A FAIR AND IMPARTIAL JUROR?
13 AND WHEN I SAY FAIR AND IMPARTIAL, OF COURSE, I'M
14 SPEAKING OF FAIR AND IMPARTIAL BOTH TO THE STATE AND TO
15 THE DEFENDANT. IF SO, WOULD YOU PLEASE STAND.

16 (THERE WAS NO RESPONSE.)

17 THE COURT: NOW, I HAVE ASKED A NUMBER OF
18 QUESTIONS. LET ME ASK THIS QUESTION: IF YOU KNOW OF
19 ANY REASON, WHETHER IT'S RELATED TO ANYTHING THAT I
20 HAVE ASKED YOU OR ANY OTHER REASON, THAT YOU COULD NOT
21 BE FAIR AND IMPARTIAL, AGAIN, BOTH TO THE DEFENDANT AND
22 TO THE STATE, I WOULD ASK YOU TO STAND AT THIS TIME,
23 PLEASE.

24 (THERE WAS NO RESPONSE.)

25 ALL RIGHT SOLICITOR, ANYTHING FURTHER FROM THE

1 STATE?

2 MS. HALL: NOTHING, YOUR HONOR.

3 THE COURT: MR. ROGERS?

4 MR. ROGERS: NO, YOUR HONOR.

5 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, WE'RE
6 GOING TO STRIKE THE JURY. THAT'S JUST WHAT WE CALL IT,
7 WE'RE NOT GOING TO STRIKE ANYBODY. WHAT IS GOING TO
8 HAPPEN IS YOUR NAMES ARE GOING TO BE CALLED RANDOMLY
9 ONE AT A TIME. IF YOUR NAME IS CALLED, IF YOU WILL
10 BRING WHATEVER PERSONAL BELONGINGS YOU HAVE WITH YOU.
11 COME TO THIS MICROPHONE HERE. WE'RE NOT GOING TO BE
12 ASKING ANY MORE QUESTIONS, BUT IF YOU WILL STAND AT THE
13 MICROPHONE AND STATE YOUR NAME AND WHERE YOU ARE
14 EMPLOYED, THEN THE CLERK IS GOING TO ASK THE ATTORNEYS
15 -- SHE WILL FIRST ASK THE STATE WHETHER THEY WOULD LIKE
16 FOR YOU TO BE SEATED OR WHETHER THEY WOULD LIKE FOR YOU
17 TO BE EXCUSED FROM THIS TRIAL.

18 IF THE STATE INDICATES THEY WOULD LIKE FOR YOU TO
19 BE SEATED OR PRESENT YOU TO THE DEFENSE, AND THE
20 DEFENSE IS ASKED THAT SAME QUESTION. IF BOTH ATTORNEYS
21 INDICATE THEY WOULD LIKE FOR YOU TO BE SEATED, YOU WILL
22 HAVE A SEAT IN THE JURY BOX. IF EITHER ATTORNEY
23 INDICATES THAT THEY WOULD LIKE TO EXCUSE YOU FROM THE
24 TRIAL OF THIS CASE, THEN YOU WILL SIMPLY GO BACK TO THE
25 BACK OF THE COURTROOM AND TAKE A SEAT.

1 ALL RIGHT.

2 THE CLERK: NUMBER 156, AMY MCCARTHY.

3 PROSPECTIVE JUROR: THIS ONE?

4 THE COURT: STATE YOUR NAME AND WHERE YOU'RE
5 EMPLOYED.

6 PROSPECTIVE JUROR: MY NAME IS AMY MCCARTHY. I'M
7 SELF-EMPLOYED.

8 THE CLERK: WHAT SAYS THE STATE?

9 MS. HALL: PLEASE PRESENT MS. MCCARTHY.

10 THE CLERK: WHAT SAYS THE DEFENSE?

11 MR. ROGERS: PLEASE SWEAR MS. MCCARTHY.

12 THE CLERK: HAVE A SEAT IN THE JURY BOX.

13 NUMBER 284, STEVEN KRANENDONK.

14 PROSPECTIVE JUROR: MY NAME IS STEVEN KRANENDONK.
15 I'M AN INCIDENT CONTROL TECHNICIAN.

16 THE CLERK: WHAT SAYS THE STATE?

17 MS. HALL: PLEASE PRESENT MR. KRANENDONK.

18 THE CLERK: WHAT SAYS THE DEFENSE?

19 MR. ROGERS: PLEASE EXCUSE MR. KRANENDONK FROM
20 SERVICE IN THIS CASE.

21 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
22 COURTROOM.

23 NUMBER 7, JEANNETTE ARVAY.

24 PROSPECTIVE JUROR: I'M JEANNETTE ARVAY. I TEACH
25 THEATER AT DREHER HIGH SCHOOL.

1 THE CLERK: WHAT SAYS THE STATE?
2 MS. HALL: PLEASE PRESENT MS. ARVAY.
3 THE CLERK: WHAT SAYS THE DEFENSE?
4 MR. ROGERS: PLEASE SWEAR MS. ARVAY.
5 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.
6 NUMBER 213, ERNEST SETTLES.
7 PROSPECTIVE JUROR: MY NAME IS ERNEST SETTLES.
8 I'M A TEACHER AT HEATHWOOD HALL SCHOOL.
9 THE CLERK: WHAT SAYS THE STATE?
10 MS. HALL: PLEASE PRESENT MR. SETTLES.
11 THE CLERK: WHAT SAYS THE DEFENSE?
12 MR. ROGERS: PLEASE SWEAR MR. SETTLES.
13 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.
14 NUMBER 120, LEONARD JACKSON.
15 PROSPECTIVE JUROR: MY NAME IS LEONARD JACKSON.
16 I'M SELF-EMPLOYED.
17 THE CLERK: WHAT SAYS THE STATE?
18 MS. HALL: PLEASE PRESENT MR. JACKSON.
19 THE CLERK: WHAT SAYS THE DEFENSE?
20 MR. ROGERS: PLEASE SWEAR MR. JACKSON.
21 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.
22 NUMBER 24, BRIAN BLEDSOE.
23 PROSPECTIVE JUROR: MY NAME IS BRIAN BLEDSOE. I'M
24 EMPLOYED AS A MACHINIST.
25 THE CLERK: WHAT SAYS THE STATE?

1 MS. HALL: PLEASE PRESENT MR. BLEDSOE.

2 THE CLERK: WHAT SAYS THE DEFENSE?

3 MR. ROGERS: PLEASE SWEAR MR. BLEDSOE.

4 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

5 NUMBER 273, CHERRELLE WILSON.

6 PROSPECTIVE JUROR: MY NAME IS CHERRELLE WILSON.

7 I'M EMPLOYED AT BOSE.

8 THE CLERK: WHAT SAYS THE STATE?

9 MS. HALL: PLEASE EXCUSE MS. WILSON.

10 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
11 COURTROOM.

12 NUMBER 49, DEMETRIUS CHAVIS.

13 PROSPECTIVE JUROR: MY NAME IS DEMETRIUS CHAVIS.

14 I'M A MANAGER AT SELECT DISTRIBUTION CENTER.

15 THE CLERK: WHAT SAYS THE STATE?

16 MS. HALL: PLEASE EXCUSE MR. CHAVIS.

17 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
18 COURTROOM.

19 NUMBER 176, MERCY PALACIOS.

20 PROSPECTIVE JUROR: MY NAME IS MERCY PALACIOS. I
21 WORK FOR THE UNITED STATES POSTAL SERVICE.

22 THE CLERK: WHAT SAYS THE STATE?

23 MS. HALL: PLEASE PRESENT MS. PALACIOS.

24 THE CLERK: WHAT SAYS THE DEFENSE?

25 MR. ROGERS: PLEASE SWEAR MS. PALACIOS.

1 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.
2 NUMBER 266, QUIANA WHITTED.
3 PROSPECTIVE JUROR: MY NAME IS QUIANA WHITTED.
4 I'M A PROFESSOR AT THE UNIVERSITY OF SOUTH CAROLINA.
5 THE CLERK: WHAT SAYS THE STATE?
6 MS. HALL: PLEASE PRESENT MS. WHITTED.
7 THE CLERK: WHAT SAYS THE DEFENSE?
8 MR. ROGERS: YOUR HONOR, MAY I INQUIRE WHAT THE
9 PROFESSOR TEACHES?
10 PROSPECTIVE JUROR: I'M IN THE ENGLISH DEPARTMENT.
11 I TEACH AFRICAN AMERICAN LITERATURE.
12 MR. ROGERS: THANK YOU.
13 MR. ROGERS: PLEASE SWEAR MS. WHITTED.
14 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.
15 NUMBER 135, ROBERT LANEY.
16 PROSPECTIVE JUROR: I'M ROBERT LANEY. I'M THE
17 ADMINISTRATOR OF BUDGET, VOLUNTEER PROGRAMS WITH LABOR,
18 LICENSING, AND REGULATION.
19 THE CLERK: WHAT SAYS THE STATE?
20 MS. HALL: PLEASE PRESENT MR. LANEY.
21 THE CLERK: WHAT SAYS THE DEFENSE?
22 MR. ROGERS: PLEASE SWEAR MR. LANEY.
23 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.
24 NUMBER 167, VICKIE MOODY.
25 PROSPECTIVE JUROR: VICKIE MOODY, I WORK AT SALON

1 2000.

2 THE CLERK: WHAT SAYS THE STATE?

3 MS. HALL: PLEASE EXCUSE MS. MOODY.

4 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
5 COURTROOM.

6 NUMBER 161, KEVIN MCWILLIAMS.

7 PROSPECTIVE JUROR: KEVIN MCWILLIAMS. I TEACH AT
8 COLUMBIA INTERNATIONAL UNIVERSITY.

9 THE CLERK: WHAT SAYS THE STATE?

10 MS. HALL: PLEASE PRESENT MR. MCWILLIAMS.

11 THE CLERK: WHAT SAYS THE DEFENSE?

12 MR. ROGERS: PLEASE SWEAR MR. MCWILLIAMS.

13 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

14 NUMBER 101, DOROTHY HAM.

15 PROSPECTIVE JUROR: MY NAME IS DOROTHY HAM. I AM
16 THE PRINCIPLE OF AN ELEMENTARY SCHOOL.

17 THE CLERK: WHAT SAYS THE STATE?

18 MS. HALL: PLEASE PRESENT MS. HAM.

19 THE CLERK: WHAT SAYS THE DEFENSE?

20 MR. ROGERS: PLEASE SWEAR MS. HAM.

21 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

22 NUMBER 262, DONNA WESTFALL.

23 PROSPECTIVE JUROR: DONNA WESTFALL. I'M A
24 HOUSEWIFE.

25 THE CLERK: WHAT SAYS THE STATE?

1 MS. HALL: PLEASE PRESENT MS. WESTFALL.

2 THE CLERK: WHAT SAYS THE DEFENSE?

3 MR. ROGERS: PLEASE SWEAR MS. WESTFALL.

4 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

5 NUMBER 182, ELAINE PEARSON.

6 PROSPECTIVE JUROR: MY NAME IS ELAINE PEARSON. I

7 WORK WITH AN ATTORNEY PART TIME, AND I WORK WITH
8 ASSISTED CARE.

9 THE CLERK: WHAT SAYS THE STATE?

10 MS. HALL: PLEASE EXCUSE MS. PEARSON.

11 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
12 COURTROOM.

13 THE STRIKES NOW ARE FOUR FOR THE STATE, ONE FOR
14 THE DEFENSE.

15 NUMBER 197, DAVID ROBINSON.

16 PROSPECTIVE JUROR: I'M DAVE ROBINSON AND I'M
17 EMPLOYED AT TYSON FOODS.

18 THE CLERK: WHAT SAYS THE STATE?

19 MS. HALL: PLEASE EXCUSE MR. ROBINSON.

20 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
21 COURTROOM.

22 NUMBER 26, AUBURY BOSKET.

23 PROSPECTIVE JUROR: AUBURY BOSKET, I'M A TERMINAL
24 MANAGER.

25 THE CLERK: DOES THE STATE CHALLENGE FOR CAUSE?

1 MS. HALL: PLEASE PRESENT MR. BOSKET.

2 THE CLERK: WHAT SAYS THE DEFENSE?

3 MR. ROGERS: PLEASE SWEAR MR. BOSKET.

4 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

5 THE BAILIFF: SIR, WATCH YOUR STEP.

6 THE CLERK: ALL RIGHT. WE'LL NOW SELECT AN
7 ALTERNATE. STRIKES WILL BE TWO FOR THE DEFENDANT, ONE
8 FOR THE STATE.

9 NUMBER 177, JAY PARK.

10 PROSPECTIVE JUROR: MY NAME IS JAY PARK. I'M A
11 TEACHER AT HAMMOND SCHOOL.

12 THE CLERK: WHAT SAYS THE STATE?

13 MS. HALL: PLEASE PRESENT MR. PARK.

14 THE CLERK: WHAT SAYS THE DEFENSE?

15 MR. ROGERS: PLEASE SWEAR MR. PARK.

16 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

17 THE COURT: LET'S HAVE ONE OTHER ALTERNATE.

18 STRIKES AGAIN, WILL BE TWO AND ONE.

19 NUMBER 38, ANNIE BUTLER.

20 PROSPECTIVE JUROR: MY NAME IS ANNIE BUTLER. I'M
21 A RETIRED COMPUTER OPERATOR, AND I'M EMPLOYED PART TIME
22 AS AN ADULT P.T. -- PHYSICAL THERAPIST.

23 MS. HALL: PRESENT MS. BUTLER.

24 THE CLERK: WHAT SAYS THE DEFENSE?

25 MR. ROGERS: PLEASE EXCUSE MS. BUTLER.

1 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
2 COURTROOM.

3 NUMBER 285, WILLIE MAE MCKENZIE.

4 PROSPECTIVE JUROR: MY NAME IS WILLIE MCKENZIE. I
5 WORK FOR RICHLAND DISTRICT ONE.

6 THE CLERK: WHAT SAYS THE STATE?

7 MS. HALL: PLEASE PRESENT MS. MCKENZIE.

8 THE CLERK: WHAT SAYS THE DEFENSE?

9 MR. ROGERS: PLEASE SWEAR MS. MCKENZIE.

10 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

11 THE COURT: ALL RIGHT. ANY MATTERS OF LAW? ANY
12 MOTIONS CONCERNING THE STRIKING OF THE JURY?

13 MS. HALL: NOTHING FROM THE STATE, YOUR HONOR.

14 THE COURT: FROM THE DEFENSE?

15 MR. ROGERS: ONE MOMENT, SIR.

16 THE COURT: ALL RIGHT, SIR.

17 (PAUSE)

18 MR. ROGERS: NO MATTERS OF LAW, YOUR HONOR.

19 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN,
20 THOSE OF YOU WHO WERE NOT SELECTED, IF YOU WILL GO
21 DOWNSTAIRS TO THE ASSEMBLY ROOM. EVERYONE ELSE STAY
22 SEATED, PLEASE.

23 (WHEREUPON, THE UNSELECTED MEMBERS OF THE JURY
24 LEFT THE COURTROOM.)

25 THE COURT: LADIES AND GENTLEMEN, THOSE OF YOU WHO

1 HAVE BEEN SELECTED IN THE CASE, THERE MAY BE SOME
2 PRETRIAL MATTERS THAT I NEED TO TAKE UP WITH THE
3 ATTORNEYS. I'M REQUIRED TO DO THAT OUTSIDE OF YOUR
4 PRESENCE, BUT WHILE I'M DOING THAT HERE IN THE
5 COURTROOM, I'M GOING TO ASK YOU TO DO ONE THING FOR ME
6 IN THE JURY ROOM.

7 THE BAILIFF IS GOING TO TAKE YOU TO YOUR JURY
8 ROOM. IN SOUTH CAROLINA THERE ARE TWO DIFFERENT WAYS
9 OF HAVING A JURY FOREMAN OR A FORELADY SELECTED. ONE
10 IS FOR ME TO SIMPLY PICK ONE OF YOU, TO JUST APPOINT
11 THAT PERSON. THE OTHER IS FOR YOU TO DISCUSS AMONG
12 YOURSELVES WHO YOU WOULD LIKE FOR THAT PERSON TO BE AND
13 THEN ADVISE ME OF THAT NAME, AND I WOULD APPOINT THAT
14 PERSON. THAT'S THE METHOD I'VE BEEN USING FOR THE PAST
15 TEN YEARS OR SO.

16 I WOULD LIKE THE JURY TO DECIDE WHO THEY WOULD
17 LIKE THEIR FOREMAN OR FORELADY TO BE. WHEN YOU HAVE --
18 WHOEVER THAT PERSON IS -- THE TWO ALTERNATES IN THE
19 BACK, YOU'RE NOT ELIGIBLE TO SERVE AS FOREPERSON OF THE
20 JURY. ANY OF THE OTHER TWELVE JURORS ARE. WHOEVER
21 THAT PERSON IS, THEIR VOTE IS NO MORE IMPORTANT. IT
22 DOES NOT CARRY ANY MORE WEIGHT THAN ANY OTHER MEMBER OF
23 THE JURY, BUT THE FOREPERSON WILL PRESIDE IN THE JURY
24 ROOM AND BE THE SPOKESPERSON FOR THE JURY HERE IN THE
25 COURTROOM.

1 THE FIRST THING WE'RE GOING TO DO, I'M GOING TO
2 SEND YOU BACK TO THE JURY ROOM, LET YOU TALK AMONG
3 YOURSELVES AND DECIDE WHO YOU WOULD LIKE FOR THAT
4 PERSON TO BE. ONCE YOU HAVE MADE THAT DECISION, IF YOU
5 WILL WRITE THAT NAME ON A SLIP OF PAPER AND HAND IT OUT
6 TO THE BAILIFF, AND I WILL APPOINT THAT PERSON WHEN YOU
7 ARE BROUGHT BACK OUT TO THE COURTROOM.

8 I WILL ASK THAT THAT PERSON TAKE THE FIRST SEAT ON
9 THE FRONT ROW AND KEEP THAT SEAT THROUGHOUT THE TRIAL.
10 THE ALTERNATES WILL HAVE THOSE SEATS ON THE BACK ROW
11 AND KEEP THEM THROUGHOUT THE TRIAL. THE REST OF YOU
12 CAN SIT WHEREVER YOU LIKE AS WE COME AND GO FROM THE
13 BREAKS WE TAKE.

14 THE ONLY OTHER INSTRUCTIONS THAT I AM GOING TO
15 GIVE YOU AT THIS TIME -- WE'RE NOT GOING TO SWEAR YOU
16 IN NOW. WE WON'T DO THAT UNTIL RIGHT BEFORE THE TRIAL
17 STARTS, BUT I WOULD ORDER YOU AT THIS TIME NOT TO
18 DISCUSS THE CASE WITH ANYBODY. I THINK IT'S FAIRLY
19 COMMON KNOWLEDGE THAT YOU CANNOT DISCUSS IT INSIDE OR
20 OUTSIDE THE COURTHOUSE WITH ANYONE, BUT THAT ALSO
21 PERTAINS TO YOUR FELLOW JURORS. I THINK THAT SOMETIMES
22 SURPRISES A PERSON ON THE JURY TO HEAR THE JUDGE TELL
23 YOU THAT WHILE THE TRIAL IS GOING ON YOU CANNOT DISCUSS
24 THE CASE WITH YOUR FELLOW JURORS, BUT IT WOULD BE
25 IMPROPER TO DO THAT.

1 I HOPE THAT CELL PHONE GETS TURNED OFF REAL
2 QUICKLY BECAUSE IT NORMALLY COSTS \$250 TO GET A CELL
3 PHONE BACK FROM THE COURT. THERE ARE SIGNS UP
4 EVERYWHERE AND EVERYBODY HAS BEEN TOLD ABOUT CELL
5 PHONES THREE OR FOUR OR TEN OR FIFTEEN TIMES BEFORE
6 THEY GET IN THE COURTROOM TO GET THOSE THINGS TURNED
7 OFF. I WON'T TAKE THAT ONE RIGHT NOW, BUT IF IT GOES
8 OFF AGAIN, IT'S \$250 TO GET IT BACK.

9 ALTERNATE JUROR: IT'S OFF.

10 THE COURT: IT'S BEST TO LEAVE THEM OUT. NOW WHAT
11 I NEED FOR YOU TO DO IS GO BACK TO THE JURY ROOM. THE
12 BAILIFF WILL TAKE YOU BACK TO THAT JURY ROOM. WE WILL
13 GET YOU WHEN WE NEED YOU TO COME BACK INTO THE
14 COURTROOM, AND WHEN YOU COME BACK I'LL MAKE SOME BRIEF
15 REMARKS TO YOU AND EXPLAIN PROCEDURALLY WHAT YOU CAN
16 EXPECT. THE ATTORNEYS WILL THEN MAKE SOME BRIEF
17 OPENING STATEMENTS, AND THEN WE'LL GO RIGHT INTO THE
18 TESTIMONY AND THE OTHER EVIDENCE IN THE TRIAL.

19 AGAIN, DON'T DISCUSS THE CASE WITH ANYONE. IF YOU
20 WILL STEP BACK TO YOUR JURY ROOM NOW, AND EVERYONE ELSE
21 STAY SEATED, PLEASE.

22 (WHEREUPON, THE JURY LEFT OPEN COURT AT
23 APPROXIMATELY 10:29 A.M.)

24 THE COURT: ALL RIGHT. I KNOW WE HAD A BRIEF
25 CONFERENCE YESTERDAY ABOUT POSSIBLE ISSUES THAT WOULD

1 BE COMING UP DURING THE COURSE OF THE TRIAL. ARE THERE
2 ANY MATTERS WE NEED TO TAKE UP BEFORE WE GET STARTED,
3 MR. ROGERS?

4 MR. ROGERS: YES, YOUR HONOR, BUT BEFORE WE DO
5 THAT, MS. KROMAH NEEDS TO GO TO THE BATHROOM.

6 THE COURT: ALL RIGHT. YES, WE PROBABLY ALL NEED
7 TO TAKE A BREAK NOW.

8 MR. ROGERS: AND MAY SHE BE ALLOWED DURING THE
9 PENDENCY OF THE TRIAL TO REMAIN OUT ON BOND?

10 THE COURT: DOES THE STATE HAVE ANY OBJECTION TO
11 THAT?

12 MS. CAMPBELL: YOUR HONOR, TECHNICALLY THE BOND IS
13 DOWN AS SOON AS WE CALL THE CASE AND SELECT THE JURY.

14 THE COURT: I UNDERSTAND --

15 MR. ROGERS: I'VE CONTACTED A.B.C. THEY'RE
16 WILLING TO STAY ON THE BOND.

17 THE COURT: THEY'RE WILLING TO STAY ON THE BOND?

18 MR. ROGERS: YES.

19 THE COURT: LET ME DO THIS. THE TRIAL HAS
20 STARTED. MS. KROMAH, NOT BECAUSE I THINK YOU WON'T
21 COME BACK OR YOU WON'T APPEAR -- THE TRIAL HAS STARTED,
22 AND YOU'RE ON NOTICE THAT THE TRIAL HAS STARTED. IT
23 WILL CONTINUE WHETHER YOU'RE HERE OR NOT. I HAVE TO
24 STATE THAT ON THE RECORD SO IF YOU HAPPEN NOT TO APPEAR
25 THE STATE CAN CONTINUE WITH THE PROSECUTION OF THIS

1 CASE EVEN IN YOUR ABSENCE. DO YOU UNDERSTAND THAT?

2 THE DEFENDANT: YES.

3 THE COURT: ALL RIGHT. FOR THAT REASON THEN SHE
4 WILL NOT BE REQUIRED TO STAY IN CUSTODY DURING THE
5 TRIAL. ALL RIGHT. WE'LL TAKE ABOUT TEN MINUTES AND
6 THEN WE'LL -- YES, MA'AM?

7 MS. CAMPBELL: IF I CAN JUST EXPRESS ONE CONCERN
8 THAT'S HAPPENED IN THE PAST. THERE'S THE POTENTIAL FOR
9 CONTACT BETWEEN -- THE JURY SEEING HER COMING AND GOING
10 AS FAR AS HER -- YOU KNOW, JUST TO BE CAREFUL ABOUT NOT
11 GETTING ON THE ELEVATOR --

12 THE COURT: THERE SHOULD BE NO CONTACT ON
13 ELEVATORS, ON THE STAIRWELLS, OR IN THE LOBBY. I WILL
14 ENCOURAGE THE JURY NOT TO HANG AROUND OUT THERE, BUT TO
15 GO STRAIGHT TO THEIR JURY ROOM, AND, OF COURSE,
16 MR. ROGERS, IF YOU WILL COUNSEL YOUR CLIENT ABOUT THAT
17 AS WELL.

18 MR. ROGERS: YES, YOUR HONOR.

19 THE COURT: WE'LL TAKE ABOUT TEN MINUTES AND THEN
20 DEAL WITH ANY OTHER PRETRIAL MATTERS.

21 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

22 (WHEREUPON, STATE'S EXHIBITS 1-32 WERE MARKED FOR
23 IDENTIFICATION ONLY.)

24 THE COURT: BEFORE WE GET STARTED, I HAD A NOTE
25 FROM ONE JUROR, JUROR NUMBER 7, WHO WAS THE SECOND

1 JUROR WHO WAS SELECTED. BASED ON THAT NOTE -- AND I
2 HAVE REVIEWED AND WILL MAKE IT A PART OF THE COURT'S
3 EXHIBIT -- THAT JUROR HAS BEEN EXCUSED. WE WILL SEAT
4 ONE OF THE ALTERNATES. THE ALTERNATE IS SELECTED BY
5 BALLOT. PAT, IF YOU WILL DRAW ONE OF THE TWO NAMES.

6 (WHEREUPON, COURT'S EXHIBIT 1 WAS MARKED FOR
7 IDENTIFICATION ONLY.)

8 THE CLERK: JAY PARK.

9 THE COURT: JAY PARK, JUROR NUMBER 177, THE FIRST
10 ALTERNATE SELECTED, WILL BE SEATED AS A MEMBER OF THE
11 JURY PANEL.

12 ALL RIGHT. ANY OTHER MATTERS WE NEED TO TAKE UP
13 BEFORE THE JURY IS BROUGHT IN AND WE GET STARTED?
14 ANYTHING FROM THE STATE?

15 MS. CAMPBELL: NOTHING FROM THE STATE, YOUR HONOR.

16 THE COURT: ALL RIGHT. MR. ROGERS?

17 MR. ROGERS: YES, YOUR HONOR. AS WE DISCUSSED
18 YESTERDAY IN CHAMBERS, IT IS MY UNDERSTANDING THAT THE
19 STATE IS GOING TO ATTEMPT TO INTRODUCE STATEMENTS OF
20 THE VICTIM, Minor , THROUGH OTHER WITNESSES.

21 AS I INDICATED YESTERDAY, I THOUGHT THE RULES
22 PREVENTED THAT. IN LOOKING AT THE ASSESSMENT AND
23 RESOURCE CENTER TAPE, I HAD SERIOUS QUESTIONS AS TO THE
24 COMPETENCY OF Minor DURING THAT INTERVIEW. HE WAS
25 ASKED ON A COUPLE OF OCCASIONS IF HE WAS HURT, DID HE

1 GO TO THE DOCTOR. HE SAID "NO" TO BOTH OF THOSE
2 QUESTIONS, WHICH WE OBVIOUSLY KNOW THAT THE ANSWER IS
3 YES. SO IT WAS ON THAT BASIS THAT I FEEL THAT Minor
4 IS NOT A COMPETENT WITNESS.

5 THE CASE I HAVE JUST HANDED UP IS THE CASE OF
6 SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES VS.
7 JOHN DOE. IT WAS A CASE THAT IS EXACTLY ON POINT. IF
8 I CAN DIRECT THE COURT'S ATTENTION TO THE NEXT TO THE
9 LAST PAGE, NOTE NUMBER FIVE, THE COURT OF APPEALS HERE
10 SAID THAT AN ADMISSION OF HEARSAY UNDER AN EXCEPTION TO
11 THE RULE PRESUPPOSES THE DECLARANT IS POSSESSED OF THE
12 QUALIFICATIONS OF A WITNESS IN REGARDS TO COMPETENCY --

13 THE COURT: WHERE ARE YOU READING FROM THERE?

14 MR. ROGERS: PARAGRAPH FIVE -- NOTE FIVE -- ON THE
15 NEXT TO THE LAST PAGE OF THE OPINION.

16 THE COURT: OKAY. GO AHEAD.

17 MR. ROGERS: -- THE RIGHT TO COMPETENCY, PERSONAL
18 KNOWLEDGE, AND THE LIKE. THUS, THE DECLARANT'S
19 COMPETENCY IS A PRECONDITION TO THE ADMISSION OF HIS
20 HEARSAY STATEMENT ON THE GROUND OF UNAVAILABLE, SO THE
21 COURT WOULD FIRST HAVE TO MAKE A FINDING THAT Minor
22 WAS COMPETENT AS A WITNESS BEFORE ANY HEARSAY
23 STATEMENTS COULD BE ADMITTED IN THIS TRIAL OF HIS, EVEN
24 THOUGH IS A 1987 CASE. I WOULD SHEPARDIZE IT IS STILL
25 THE LAW. THE COURT OF APPEALS RECENTLY UPHELD THAT

1 PREMISE, THAT HOLDING IN ANOTHER CASE, SOUTH CAROLINA
2 DEPARTMENT OF SOCIAL SERVICES VS. WEEKS. I CAN PASS
3 THAT CASE UP IF NECESSARY, BUT I HAVE NOT SEEN THAT
4 THAT REQUIREMENT HAS BEEN OVERRULED OR REVERSED, SO
5 THAT IN ORDER FOR THE STATE TO INTRODUCE ANY PURPORTED
6 STATEMENTS MADE BY Minor , THIS COURT WOULD HAVE TO
7 MAKE A PRELIMINARY FINDING OF HIS COMPETENCY AS A
8 WITNESS.

9 AS THE COURT IS AWARE, THOSE FINDINGS CONSIST OF
10 THE WITNESS'S ABILITY TO PERCEIVE THE EVENTS WITH A
11 SUBSTANTIAL DEGREE OF ACCURACY, REMEMBER THE EVENT,
12 COMMUNICATE ABOUT THE EVENT INTELLIGENTLY, AND BE
13 MINDFUL OF THE DUTY TO TELL THE TRUTH IN COURT OR UNDER
14 OATH.

15 I DON'T THINK, IN THIS CASE, THE COURT CAN MAKE
16 THAT FINDING WITH REGARD TO THIS WITNESS. THE WITNESS
17 IS UNAVAILABLE AND IS NOT GOING TO BE CALLED, IS OUT OF
18 THE COUNTRY, AS I RECENTLY LEARNED, SO THERE WOULD BE
19 NO WAY FOR THIS COURT TO MAKE A FINDING OF COMPETENCY,
20 THAT WOULD HAVE TO BE A PREDICATE FINDING BEFORE THE
21 ADMISSION OF ANY SO-CALLED CHILD ABUSE EXCEPTION TO THE
22 HEARSAY EVIDENCE.

23 I UNDERSTAND THERE WOULD BE MORE THAN ONE WITNESS,
24 I THINK, TO REPORT STATEMENTS MADE BY Minor . IT IS
25 ON THAT BASIS, YOUR HONOR, WE ARE MOVING TO EXCLUDE

1 SUCH STATEMENTS.

2 THE COURT: ALL RIGHT. SOLICITOR?

3 MS. CAMPBELL: MAY IT PLEASE THE COURT, YOUR
4 HONOR. HE IS REFERRING TO A 1987 CASE, THE D.S.S.
5 CASE. SINCE THEN THERE HAVE BEEN SOME OTHER CASES THAT
6 CAME OUT. ONE THAT I WOULD HAND UP IS STATE VS.
7 MANDELL SIMS. I'M SORRY, BUT I ONLY HAVE ONE COPY OF
8 THIS. IN THAT CASE, IT WAS A CASE WHERE THE CHILD WAS
9 CALLED TO THE STAND AND ANSWERED SOME PRELIMINARY
10 QUESTIONS AND THEN WAS NO LONGER ABLE TO SPEAK. AT
11 THAT POINT, THE STATE CONTINUED WITH THE TRIAL AND
12 THERE WAS NO FINDING OF COMPETENCY. THEY CONTINUED
13 WITH THE TRIAL AND OFFERED SOME HEARSAY STATEMENTS THAT
14 HE MADE THE MORNING AFTER THIS MURDER OCCURRED, THAT HE
15 HAD WITNESSED, OF HIS MOTHER. IN THAT CASE, THE COURT
16 ALTHOUGH NOT ADDRESSING THE SPECIFIC ISSUE, SAID THE
17 STATEMENTS WERE ADMISSIBLE EVEN THOUGH THERE WAS A 12
18 TO 24 HOUR PERIOD AFTER THE STARTLING EVENTS OCCURRED.

19 IT DOES ADDRESS HEARSAY TESTIMONY AT LENGTH, YOUR
20 HONOR, AND THAT WAS INVOLVING THE CASE WITH A FIVE YEAR
21 OLD WITNESS. THIS IS A 2001 SUPREME COURT CASE, YOUR
22 HONOR. I BELIEVE IT WAS DECIDED IN JANUARY OF 2002.
23 CAN I GIVE YOU THE CITE OR HAND UP MY RATHER MARKED UP
24 COPY?

25 THE COURT: ALL RIGHT. I'LL HAVE TO TAKE A LOOK

1 AT THAT.

2 WHAT EXACTLY IS IT -- WHAT STATEMENTS OF THE CHILD
3 IS THE STATE SEEKING TO INTRODUCE THROUGH SOME OTHER
4 SOURCE?

5 MS. CAMPBELL: YOUR HONOR, ONE, IT'S NOT A
6 STATEMENT. WE WOULD EVEN SAY IT IS NON-TESTIMONIAL.
7 THERE IS -- IN THE HOSPITAL, WHEN THE CHILD IS
8 TRANSFERRED FROM LEXINGTON HOSPITAL OVER TO RICHLAND
9 MEMORIAL, ONE OF THE DOCTORS THAT'S TREATING HIM,
10 DR. ERIN FIELDS WHO WILL BE TESTIFYING, INDICATES AT
11 ONE POINT THE MOTHER IS IN THE ROOM, AND SHE WAS
12 LOOKING AT Minor SHE WILL DESCRIBE HIS DEMEANOR.
13 SHE ASKED Minor , "WHO DID THIS TO YOU, WHO DID THIS
14 TO YOU?" HE STARTS TO MOUTH SOMETHING, AT WHICH POINT
15 THE DEFENDANT INTERCEDES AND STARTS TELLING HIM
16 SOMETHING, WHICH -- I CAN'T REMEMBER THE EXACT WORDS,
17 SO THERE'S NO TESTIMONY THERE, YOUR HONOR.

18 THE ONLY OTHER TIME THAT WE THINK THAT WE WOULD BE
19 ABLE TO GET INTO THE EXCITED UTTERANCE IS ON THAT SAME
20 TIME PERIOD, WHEN THE INVESTIGATOR IN THE CASE, ROY
21 LIVINGSTON, GOES TO SEE THE CHILD AFTER HIS OPERATION,
22 AFTER HE HAS COME OUT OF SURGERY -- AND THIS WAS
23 CONSIDERED TO BE FAIRLY MAJOR SURGERY, YOUR HONOR.
24 ONCE HE WAS AWAKE, HE DOES GO TO HIM AND ASKED HIM
25 AGAIN, "WHO DID THIS, WHO DID THIS?", AND THE CHILD WAS

1 ABLE TO ANSWER, "MIAMA DID IT."

2 THAT IS THE EXTENT OF THE STATEMENT. THERE IS AN
3 A.R.C. INTERVIEW, YOUR HONOR, I BELIEVE SOME TEN DAYS
4 LATER, WE ADMIT, I DON'T THINK THERE IS ANY HEARSAY
5 EXCEPTION AT THIS POINT. THEY ACTUALLY SIGNED A BILL
6 ABOUT HEARSAY EXCEPTION THAT WOULD MAKE THE VIDEOTAPE
7 ADMISSIBLE, HOWEVER, THAT DOESN'T GO INTO EFFECT UNTIL
8 JULY 1ST AND ONLY APPLIES TO CASES THAT OCCURRED AFTER
9 THAT DAY. WE WOULD ADMIT, EVEN THOUGH THE TESTIMONY IS
10 TO THE FINDINGS IN THIS CASE, THAT WE WOULD NOT BE ABLE
11 TO GET INTO THE SPECIFICS UNLESS THE DOOR IS OPENED AS
12 TO WHAT THE CHILD ACTUALLY SAID. WE WILL BE SAYING
13 THAT HE DID IDENTIFY WHO DID IT, BUT WE WILL CAUTION
14 THE WITNESS THAT SHE WILL NOT BE ABLE TO SAY WHAT HE
15 SAID.

16 THE COURT: ALL RIGHT. IF YOU'LL GET A COPY OF
17 THAT CASE. I'LL BE GLAD TO HEAR FROM YOU, MR. ROGERS.

18 MR. ROGERS: WELL, YOUR HONOR, FIRST OF ALL, I
19 DON'T THINK THEY COULD INTRODUCE -- WELL, THE PREMISE
20 STANDS THAT IN ORDER TO INTRODUCE ANY STATEMENT OF
21 Minor , THIS COURT HAS TO FIND THAT Minor IS
22 COMPETENT AS A WITNESS TO MAKE ANY STATEMENTS
23 WHATSOEVER. THIS PURPORTED ASSERTION THAT THE DOCTOR
24 WAS ASKING Minor WHO DID IT AND HE WAS ABOUT TO
25 ANSWER, THAT'S CLEARLY SPECULATIVE, YOUR HONOR. WE

1 DON'T KNOW IF Minor WAS ABOUT TO ANSWER OR NOT.
2 THAT GOES TO THE HEART OF MY OBJECTION WITH REGARD TO
3 HIS COMPETENCY. IF YOUR HONOR WOULD LIKE TO VIEW THE
4 A.R.C. TAPE AND DRAW CONCLUSIONS AS TO WHY I'M RAISING
5 HIS COMPETENCY -- WE DON'T KNOW WHAT HE WOULD HAVE
6 SAID, AND THE STATE WANTS TO TAKE THE POSITION THAT HE
7 WAS ABOUT TO ANSWER WHO DID IT AND THEN MIAMA STOPPED
8 HIM. I MEAN, THAT'S CLEARLY SPECULATION, YOUR HONOR.

9 WITH REGARD TO THE STATEMENT MADE TO INVESTIGATOR
10 LIVINGSTON, THAT'S A STATEMENT THAT I HAVE NOT SEEN,
11 NUMBER ONE. MS. CAMPBELL AND I HAVE DISCUSSED THIS,
12 WHERE THAT STATEMENT WAS. I HAVE GONE THROUGH THE
13 DISCOVERY MATERIAL. I HAVE GONE THROUGH INVESTIGATOR
14 LIVINGSTON'S NOTES SEVERAL TIMES, SPECIFICALLY LOOKING
15 FOR THAT. NONETHELESS, IF IT DOES EXIST, IT IS STILL
16 THE SUBJECT OF -- OKAY. (PAUSE) I DID MISS THIS. I
17 APOLOGIZE, BUT THE COURT WILL STILL HAVE TO MAKE A
18 FINDING, YOUR HONOR, THAT Minor WAS COMPETENT TO
19 EVEN MAKE THAT STATEMENT TO INVESTIGATOR LIVINGSTON.

20 YOUR HONOR, IF I MAY.

21 THE COURT: YES, SIR.

22 MR. ROGERS: THERE'S ANOTHER CASE, STATE VS.
23 CAMELE C-A-M-E-L-E REPORTED AT 293 SC302 WHERE THE
24 JUDGE IN THAT CASE DID EXACTLY WHAT THE STATE IS ASKING
25 YOU TO DO HERE. THEY WERE ATTEMPTING TO INTRODUCE A .

1 HEARSAY VIDEOTAPE OF THE VICTIM, AND WITHOUT -- AND THE
2 COURT IN THAT CASE DID SO. THE SUPREME COURT OF SOUTH
3 CAROLINA SAID IN THAT CASE THAT THE INTRODUCTION OF THE
4 VIDEOTAPE WAS IMPROPER WITHOUT THE JUDGE FIRST MAKING A
5 FINDING AS TO THE CHILD WHO TESTIFIED ON THE VIDEOTAPE
6 AS BEING COMPETENT.

7 IN THAT CASE, THE JUDGE ONLY HAD THE ASSERTIONS OF
8 THE SOLICITOR'S OFFICE THAT THE CHILD WAS COMPETENT,
9 AND THE SUPREME COURT SAID THERE THAT THAT WOULD NOT BE
10 ENOUGH, THAT THE COURT WOULD HAVE TO CONDUCT ITS OWN
11 HEARING AND MAKE A SPECIFIC FINDING OF THE COMPETENCY
12 OF THE CHILD IN ORDER TO ALLOW THIS HEARSAY EXCEPTION.
13 THAT'S EXACTLY WHAT WE HAVE HERE.

14 MS. CAMPBELL: YOUR HONOR, IF I MIGHT HAND UP
15 SIMS.

16 THE COURT: YES. WHAT IS THE DATE OF THAT LAST
17 CASE YOU CITED, MR. ROGERS?

18 MR. ROGERS: 1987, YOUR HONOR, BUT AGAIN I
19 SHEPARDIZED AND IT HAS NOT BEEN OVERRULED.

20 THE COURT: WELL, IN THE SIM'S CASE LISTED ON PAGE
21 TWO IN THE TOP RIGHT HAND COLUMN, IT SAYS, "AFTER BEING
22 FOUND COMPETENT TO TESTIFY, THEN THE BOY WAS PERMITTED
23 TO TESTIFY," SO THE COMPETENCY THERE WAS AN ISSUE AND
24 THE CHILD WAS FOUND TO BE COMPETENT AT THAT POINT IN
25 TIME.

1 I GUESS ONE THING I'M STRUGGLING WITH IS RULE 601,
2 WHICH WAS ADOPTED AFTER THESE '87 CASES, SUBSECTION (A)
3 SAYS EVERY PERSON IS COMPETENT TO BE A WITNESS EXCEPT
4 AS OTHERWISE PROVIDED BY STATUTE. IN THE NOTES IT SAYS
5 THAT THIS CHANGES THE LAW IN SOUTH CAROLINA. THE PRIOR
6 SOUTH CAROLINA LAW PROOF OF COMPETENCY TO CHILDREN
7 UNDER THE AGE OF 14 WAS REQUIRED UNLESS THE CHILD WAS A
8 VICTIM OF ABUSE OR NEGLECT AS DEFINED IN THE CHILDREN'S
9 CODE AS TESTIFYING CONCERNING THE ABUSE OR NEGLECT. IT
10 CITES D.S.S. VS. DOE.

11 UNDER THIS RULE, CHILDREN ARE PRESUMED TO BE
12 COMPETENT UNLESS IT IS SHOWN OTHERWISE. IT SEEMS TO ME
13 THAT STARTING OFF UNDER 601 ALL WITNESSES ARE PRESUMED
14 COMPETENT AND THERE HAS TO BE SOME SHOWING FOR THE
15 COURT TO MAKE A DETERMINATION THAT, IN FACT, A WITNESS
16 IS NOT COMPETENT. THAT'S THE WAY I'M READING THAT
17 RULE.

18 MR. ROGERS: WELL, YOUR HONOR, I'M ATTEMPTING TO
19 MAKE THAT SHOWING.

20 THE COURT: ALL RIGHT.

21 MR. ROGERS: I GUESS --

22 THE COURT: IT'S GOT TO BE MORE THAN COUNSEL'S
23 ARGUMENT, JUST LIKE IT HAD TO BE MORE THAN THE STATE'S
24 ARGUMENT IN THAT CASE THAT WAS CITED.

25 MR. ROGERS: THEN I WOULD ASK THE COURT TO REVIEW

1 THE A.R.C. TAPE AND MAKE A DETERMINATION FROM THAT,
2 BECAUSE THAT'S WHAT MY BASIS IS, THAT EVEN THOUGH THE
3 CHILD DID EVENTUALLY SAY THAT MIAMA DID IT, IT'S VERY
4 -- THE TAPE TAKES ABOUT AN HOUR, AND HE WAS ASKED
5 REPEATEDLY, AND I THINK THE COURT HAS TO CONSIDER
6 WHETHER THERE WAS A TAINTING SITUATION INVOLVED. I'LL
7 BE MORE THAN HAPPY TO GET THE TAPE FOR THE COURT.

8 MS. CAMPBELL: YOUR HONOR --

9 THE COURT: MY UNDERSTANDING IS THAT THE STATE
10 WASN'T GOING TO INTRODUCE THAT TAPE.

11 MS. CAMPBELL: WE AREN'T INTRODUCING THE TAPE.

12 MR. ROGERS: BUT WHAT I'M SAYING TO YOUR HONOR IS
13 THE TAPE IS OUR BASIS FOR CONCLUDING -- MY ASSERTION
14 THAT THE CHILD WAS NOT COMPETENT.

15 THE COURT: WAS THE TAPE MADE IN THE SAME TIME,
16 THE SAME GENERAL TIMEFRAME AS THE ALLEGED STATEMENT
17 THAT WAS MADE TO THE OFFICER?

18 MR. ROGERS: DAYS LATER.

19 THE COURT: THE TAPE WAS AFTER --

20 MR. ROGERS: THE TAPE WAS AFTER THE STATEMENT TO
21 THE OFFICER. NOT ONLY THAT, YOUR HONOR, IT IS MY
22 UNDERSTANDING THAT THE CHILD WAS GIVEN MORPHINE WHEN HE
23 WAS TREATED AT PALMETTO LEXINGTON. OF COURSE, THAT
24 WOULD ALSO HAVE SOME BEARING ON HIS ABILITY TO BE A
25 COMPETENT WITNESS. I MEAN, IF WE HAD THE CHILD, THE

1 COURT COULD ASK THE QUESTIONS TO MAKE THE
2 DETERMINATION.

3 THE COURT: I UNDERSTAND. THAT'S PART OF THE
4 PROBLEM THAT I'VE GOT. I DO THINK UNDER THE LAW I DO
5 HAVE TO MAKE A DETERMINATION OF THE COMPETENCY OF THE
6 CHILD BEFORE THE STATEMENTS YOUR TALKING ABOUT COULD BE
7 INTRODUCED.

8 NOW, AS TO THE STATEMENT MADE TO THE DOCTOR, IT'S
9 REALLY NOT A STATEMENT. IT'S CONDUCT AND IT'S NOT
10 CONDUCT REALLY OF THE CHILD. IT'S CONDUCT OF THE
11 DEFENDANT. FOR THAT REASON, I WILL PERMIT THAT TO BE
12 DESCRIBED. I DON'T KNOW WHETHER IT CAN BE DESCRIBED AS
13 HE WAS ATTEMPTING TO SAY SHE DID IT, BECAUSE FROM WHAT
14 YOU FOLKS ARE TELLING ME, THAT'S NOT WHAT WAS SAID. IT
15 WAS WHENEVER HE WENT TO RESPOND TO THE QUESTION, THERE
16 WAS AN INTERRUPTION AND THAT WAS IT.

17 MS. CAMPBELL: AND PRIOR TO THAT WITNESS
18 TESTIFYING WE WOULD LIKE TO MAKE A PROFFER TO MAKE SURE
19 THAT'S EXACTLY -- MY UNDERSTANDING WAS IN INTERVIEWING
20 DR. FIELDS IS THAT SHE IS ASKING THE CHILD, "WHO DID
21 THIS TO YOU, WHO DID THIS TO YOU?" HE STARTS TO MOUTH
22 SOMETHING LIKE THIS, AT WHICH POINT THE DEFENDANT THEN
23 INTERCEDES.

24 THE COURT: THAT'S NOT A STATEMENT FROM ANYBODY,
25 AND THAT COULD BE TESTIFIED TO. WHAT I WOULD SUGGEST

1 AT THIS TIME IS RATHER THAN MY TAKING AN HOUR TO LOOK
2 AT A TAPE RIGHT NOW, IS LET ME RESERVE RULING ON THAT.
3 IT IS AN ISSUE I'M GOING TO HAVE TO DETERMINE AND
4 SIMPLY INSTRUCT COUNSEL NOT TO MENTION THAT STATEMENT
5 DURING OPENING STATEMENTS. DOES THAT CREATE ANY
6 PROBLEM?

7 MR. ROGERS: NO, YOUR HONOR.

8 THE COURT: AND I'LL MAKE A RULING ON THAT LATER
9 ON THIS AFTERNOON. IS THAT GOING TO BE ONE OF YOUR
10 FIRST WITNESSES THAT YOU'RE GOING TO CALL?

11 MS. CAMPBELL: NO, SIR, THIS IS DOWN THE ROAD.

12 THE COURT: PARDON ME?

13 MS. CAMPBELL: IT'S THE INVESTIGATOR WHO WOULD BE
14 TOWARDS THE END OF THE CASE.

15 THE COURT: ALL RIGHT. MR. ROGERS.

16 MR. ROGERS: YOUR HONOR, AS I UNDERSTAND IT, THERE
17 WILL BE SOME -- FROM THE MEDICAL RECORDS THERE WOULD BE
18 SOME TESTIMONY REGARDING SOME OTHER ALLEGED INJURIES, A
19 BRUISE TO THE LIP, A CUT ON THE HEAD.

20 I WOULD ASK THE COURT TO LIMIT THE TESTIMONY TO
21 ONLY SURROUNDING THE SCROTUM THAT WAS CUT.

22 THE ALLEGATIONS OF BOTH INDICTMENTS ARE ON FOR
23 AUGUST 16TH, 2005, AND IT STATES SPECIFICALLY THAT THE
24 SCROTUM WAS CUT WITH A VERY SHARP OBJECT.

25 WE FEEL THAT ANY REFERENCE TO OTHER BRUISES WOULD

1 MERELY BE SPECULATIVE WITHOUT ANY EXPLANATION AS TO THE
2 NATURE OF THOSE BRUISES OR WHEN THEY WERE -- WHEN THEY
3 OCCURRED. I MEAN, THE DOCTORS THEMSELVES THOUGHT THEY
4 WERE OLDER BRUISES, AND MY FEAR IS THAT IT WOULD BE TOO
5 PREJUDICIAL TO LET IN TESTIMONY ABOUT OTHER INJURIES
6 WHEN WE DON'T EVEN HAVE AN ALLEGATION THAT THOSE
7 INJURIES WERE MADE AS A RESULT OF ANY INTENTIONAL
8 INFLICTION OR NEGLECT. I MEAN, CHILDREN DO INJURE
9 THEMSELVES, AND FOR THERE TO BE THAT TESTIMONY ABOUT
10 OTHER INJURIES, I THINK, ASKS THE JURY TO SPECULATE,
11 NUMBER ONE, THAT MIAMA DID THAT WHEN THERE IS NO
12 ASSERTION FROM THE STATE PURSUANT TO THE INDICTMENTS
13 THAT SHE DID.

14 YOUR HONOR, I JUST THINK IT WOULD BE HIGHLY
15 PREJUDICIAL TO ALLOW EVIDENCE OF THOSE INJURIES TO COME
16 IN, SINCE THEY ARE NOT THE SUBJECT OF THIS TRIAL.

17 THE COURT: ALL RIGHT. SOLICITOR.

18 MS. CAMPBELL: MAY IT PLEASE THE COURT, YOUR
19 HONOR. THERE IS ONE INJURY TO THE TOP OF THE CHILD'S
20 HEAD WHICH WAS AN OLD INJURY THAT SHOULD HAVE REQUIRED
21 STITCHES, BUT WAS UNTREATED. THAT WILL BE, I THINK,
22 THE TESTIMONY OF THE DOCTORS THAT THAT WAS AN OLDER
23 THING.

24 THE OTHER THINGS HE REFERENCES, YOUR HONOR, ARE
25 WHEN THE CHILD PRESENTS, HE HAS AN ABRASION TO THE

1 HEAD, AN ABRIDEMENT, HE HAS INTERIOR LIP CUTS THAT LOOK
2 RECENT. HE HAS KIND OF -- INTERIOR LIP SCRATCHES OR
3 CUTS CONSISTENT WITH HIM BITING HIS LIP, BECAUSE THE
4 TESTIMONY IS GOING TO BE THAT WHEN THIS CUT WAS DONE TO
5 THIS CHILD IT WOULD HAVE BEEN EXTREMELY PAINFUL.

6 THERE IS ALSO BRUISING TO THE ABDOMEN AND TO THE
7 ARMS THAT IS CONSISTENT WITH THE CHILD HAVING BEEN HELD
8 DOWN OR TIED DOWN IN ORDER FOR THE CUT TO HAVE BEEN
9 MADE, THAT THOSE WERE RED IN NATURE, APPEARANCE, AND
10 WOULD BE CONSISTENT WITH THAT HAVING BEEN USED TO HOLD
11 DOWN THE CHILD.

12 I WOULD HAND UP PHOTOS, YOUR HONOR. THE ONE TO
13 THE TOP OF THE HEAD, I DO NOT DISPUTE THE TESTIMONY ON
14 THIS ONE WILL BE THAT IT WAS AN OLDER CUT, HOWEVER, THE
15 OTHER ONES, YOUR HONOR, WOULD BE CONTEMPORANEOUS WITH
16 THE ACTUAL CUTTING OF THE CHILD'S GENITALS.

17 MR. ROGERS: I DON'T THINK THAT'S THE -- THAT'S
18 NOT WHAT'S IN THE MEDICAL REPORTS. THE MEDICAL REPORTS
19 EVIDENCE THOSE BRUISES, BUT THERE'S NO STATEMENT AS TO
20 THE TIMEFRAME AS TO WHEN THAT BRUISE OCCURRED AS IT
21 RELATES TO WHEN THE SCROTUM CUTTING OCCURRED. THERE'S
22 NO TIMEFRAME EVEN FOR THE SCROTUM CUTTING. IT'S GOING
23 TO BE THE STATE'S THEORY THAT IT HAD TO HAVE BEEN DONE
24 WHILE --

25 THE COURT: WELL, YOU'RE GOING TO HAVE TO ARGUE --

1 YOU'RE MAKING YOUR JURY ARGUMENT TO ME RIGHT NOW. THE
2 DOCTORS CAN TESTIFY, OR THE MEDICAL PERSONNEL, AS TO
3 WHAT THEY OBSERVED ON THE CHILD. NOW, IT APPEARS FROM
4 WHAT I'M HEARING FROM BOTH COUNSEL THAT THE CUT OR
5 WHATEVER THE INJURY WAS ON THE TOP OF THE HEAD IS
6 IRRELEVANT TO THIS CASE; IS THAT RIGHT, SOLICITOR?
7 THAT'S WHAT I HEAR YOU SAY.

8 MS. CAMPBELL: I'M GOING TO CONCEDE THAT WAS ABOUT
9 TWO WEEKS OLD.

10 THE COURT: ANYTHING ABOUT THE CUT TO THE TOP OF
11 THE HEAD WOULD BE IRRELEVANT AND WOULD NOT BE
12 ADMISSIBLE.

13 MR. ROGERS: AND I UNDERSTAND THERE ARE SOME
14 PICTURES THAT ALSO WOULD NOT BE ADMISSIBLE.

15 THE COURT: OF THE CUT TO THE HEAD.

16 MR. ROGERS: OF THE CUT TO THE HEAD, YES.

17 THE COURT: ALL RIGHT.

18 MS. CAMPBELL: YES, SIR, AND I WOULD REMOVE THOSE,
19 HOWEVER, I WOULD JUST ASK FOR PERMISSION WHEN THE
20 DOCTORS GET HERE TO SPEAK TO THEM BRIEFLY ABOUT NOT
21 MENTIONING ANYTHING ABOUT THAT.

22 THE COURT: THAT'S FINE.

23 MR. ROGERS: YOUR HONOR, THE STATE INTENDS TO
24 INTRODUCE SOME PICTURES OF THE CUT SCROTUM. WE CONTEND
25 THEY SHOULD BE SUPPRESSED BASED ON PREJUDICIAL VALUE OR

1 PROBATIVE VALUE. THERE WILL BE PLENTY OF TESTIMONY AS
2 TO WHAT THE INJURY LOOKED LIKE AND THE DESCRIPTION OF
3 THE SCROTUM HANGING OUT AND THE COURT HAS SEEN THOSE
4 PICTURES. THEY'RE --

5 THE COURT: I HAVEN'T SEEN ANY PICTURES.

6 MS. CAMPBELL: YOUR HONOR, I'LL --

7 MR. ROGERS: BECAUSE OF THE NATURE OF WHERE THIS
8 CUT IS ON THE SCROTUM, I THINK THAT FOR A JURY TO SEE
9 THIS RED BLOODY SCROTUM IS CERTAINLY --

10 THE COURT: SHOW ME THE PICTURES OF THE CUT THAT
11 THE STATE INTENDS TO INTRODUCE.

12 MS. CAMPBELL: I NARROWED IT DOWN TO THREE, YOUR
13 HONOR. OF COURSE, WE HAVE THE BURDEN TO PROVE GREAT
14 BODILY INJURY. ALSO, THE NATURE OF THE CUT ITSELF,
15 YOUR HONOR, IS ABSOLUTELY CRUCIAL TO THE STATE'S CASE
16 BECAUSE THE ALLEGATIONS IS GOING TO BE, AND THE
17 TESTIMONY IS GOING TO BE, THAT THIS WAS NOT CONSISTENT
18 WITH SOMEONE HAVING APPLIED FORCE, AS THE DEFENDANT
19 SAID SHE DID AND IT JUST POPPING OPEN OR TEARING OPEN.

20 IT IS A PRECISION CUT THAT IS APPROXIMATELY THREE
21 INCHES IN LENGTH IN WHICH THE TESTICLE THEN FELL OUT OF
22 THE SCROTUM. HOWEVER, THE TESTIMONY IS GOING TO BE
23 THAT IT WAS CONSISTENT WITH A SCALPEL OR A RAZOR BLADE,
24 WHICH IS OUR CASE, AND I THINK THE JURY HAS A RIGHT --
25 WE DO HAVE MORE PICTURES, YOUR HONOR, AND I'VE TAKEN

1 THEM OUT --

2 THE COURT: IS THERE ANY DIFFERENCE IN STATE'S 17
3 AND 16 OTHER THAN THERE IS A STANDARD IN ONE SHOWING
4 THE LENGTH?

5 MS. CAMPBELL: I BELIEVE IT'S THE ANGLE. YOU CAN
6 SEE THE CUT FROM THIS ANGLE AND DOWN HERE. THAT'S THE
7 REASON WE WERE ATTEMPTING --

8 THE COURT: THEY ARE ESSENTIALLY THE SAME. 16 AND
9 17, YOU WILL HAVE TO CHOOSE ONE. STATE'S 15 AND EITHER
10 16 OR 17 WOULD BE ADMISSIBLE IF THEY ARE PROPERLY
11 IDENTIFIED, BUT NOT BOTH 16 AND 17.

12 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

13 THE COURT: ALL RIGHT. MR. ROGERS, ANYTHING
14 FURTHER?

15 MR. ROGERS: FINALLY, YOUR HONOR, I UNDERSTAND THE
16 STATE IS ATTEMPTING TO INTRODUCE A RAZOR BLADE, A RAZOR
17 THAT WAS FOUND IN THE BATHROOM OF THE HOME.

18 I HAVE A FORENSIC LAB REPORT THAT INDICATES THAT
19 THERE WAS NO D.N.A. GLEANED FROM THAT RAZOR, SO THAT
20 RAZOR CANNOT BE LINKED TO THIS CRIME AT ALL. TO ALLOW
21 THEM TO INTRODUCE THAT RAZOR SIMPLY BECAUSE IT WAS
22 FOUND IN THE HOUSE, I THINK AGAIN IS CLEARLY
23 PREJUDICIAL AND HAS NO PROBATIVE VALUE IF IT CANNOT BE
24 OBJECTIVELY OR SCIENTIFICALLY LINKED TO THIS CUT, SO
25 FOR THOSE REASONS, YOUR HONOR, WE'RE REQUESTING THAT

1 THE INTRODUCTION OF THE RAZOR BLADE BE SUPPRESSED.

2 THE COURT: ALL RIGHT. SOLICITOR.

3 MS. CAMPBELL: MAY IT PLEASE THE COURT, YOUR
4 HONOR. THIS WAS A RAZOR BLADE THAT WAS FOUND IN THE
5 CABINET IN THE BATHROOM WHERE THE ASSAULT TOOK PLACE.
6 WE FEEL LIKE ALTHOUGH NO BLOOD WAS LEFT ON IT, WE FEEL
7 LIKE IT IS PROBATIVE TO THE STATE'S CASE, AND IT GOES
8 TO ITS WEIGHT AND NOT ITS ADMISSIBILITY OR ITS
9 ARGUMENT.

10 THE COURT: IF IT'S PROPERLY IDENTIFIED, YOUR
11 OBJECTION BASED ON 403 ANALYSIS WOULD BE OVERRULED.

12 ALL RIGHT. ANYTHING FURTHER AT THIS TIME,
13 MR. ROGERS?

14 MR. ROGERS: NO, YOUR HONOR.

15 THE COURT: SOLICITOR, ANYTHING?

16 MS. CAMPBELL: NO, SIR.

17 THE COURT: ALL RIGHT. LET'S GET THE JURY IN,
18 PLEASE.

19 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
20 APPROXIMATELY 11:28 A.M.)

21 THE BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

22 THE COURT: ALL RIGHT. THANK YOU, SIR.

23 FIRST OF ALL, MR. PARK, I HAVE EXCUSED ONE MEMBER
24 OF THE JURY, SO YOU CAN HAVE A SEAT DOWN WITH THE REST
25 OF THE 12. YOU HAVE BEEN SELECTED TO TAKE THAT JUROR'S

1 PLACE, AND YOU ARE NOW A MEMBER OF THE JURY.

2 I ALSO NEED TO APPOINT MR. BOSKET, THAT'S THE NAME
3 I'VE GOT ON THE SLIP OF PAPER, AS THE FOREMAN OF THE
4 JURY. AGAIN YOUR VOTE DOES NOT COUNT MORE AND IT IS NO
5 MORE IMPORTANT THAN ANY OTHER MEMBER OF THE JURY, BUT
6 YOU WILL PRESIDE IN THE JURY ROOM. YOU WILL BE THE
7 SPOKESMAN FOR THE JURY HERE IN THE COURTROOM. NOW THAT
8 YOU ARE HERE AND HAVE GOTTEN COMFORTABLE, I NEED TO ASK
9 YOU TO STAND. THE CLERK WILL ADMINISTER YOUR OATH AS
10 THE JURY IN THIS CASE.

11 THE CLERK: AFTER MY STATEMENT, PLEASE ACKNOWLEDGE
12 BY ANSWERING YES.

13 DO YOU SWEAR OR AFFIRM THAT YOU SHALL WELL AND
14 TRULY TRY AND TRUE DELIVERANCE MAKE, BETWEEN THE STATE
15 OF SOUTH CAROLINA, AND THE DEFENDANT AT BAR, WHOM YOU
16 SHALL HAVE IN CHARGE, AND A TRUE VERDICT GIVE,
17 ACCORDING TO THE LAW AND THE EVIDENCE, SO HELP YOU GOD.

18 (JURY RESPONDS.)

19 THANK YOU, YOU MAY BE SEATED.

20 PRETRIAL CHARGE

21 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN,
22 I AM GOING TO MAKE SOME VERY BRIEF COMMENTS AND SORT OF
23 INTRODUCE THE TRIAL OF THE CASE AND EXPLAIN TO YOU
24 PROCEDURALLY WHAT YOU CAN EXPECT DURING THE COURSE OF
25 THE TRIAL. WHAT I'M ABOUT TO GO OVER WITH YOU IS

1 CERTAINLY NOT INTENDED TO BE A SUBSTITUTE OF THE
2 DETAILED INSTRUCTIONS OF THE LAW THAT I WILL BE GIVING
3 YOU AT THE END OF THE CASE.

4 AGAIN, THIS IS A CRIMINAL CASE THAT HAS BEEN
5 COMMENCED BY THE STATE. I'M GOING TO REFER TO THE
6 STATE AS THE SOLICITOR OR THE PROSECUTION. THE CASE IS
7 AGAINST MS. MIAMA KROMAH, WHO HAS ALREADY BEEN
8 INTRODUCED TO YOU.

9 THE CASE IS BASED ON THE INDICTMENTS THAT I
10 BRIEFLY WENT OVER WITH YOU EARLIER THIS MORNING. I
11 WOULD AGAIN POINT OUT TO YOU THAT THE INDICTMENTS OR
12 THE DOCUMENTS THAT ARE PROCESSED ON THE CASE THROUGH
13 THE COURT SYSTEM, THEY CONTAIN THE ALLEGATIONS IN THIS
14 CASE, BUT THEY ARE NOT EVIDENCE. IN OTHER WORDS, THE
15 INDICTMENTS ARE SIMPLY THE CHARGES OR THE ALLEGATIONS,
16 BUT THEY ARE NOT AND CANNOT BE CONSIDERED BY THE JURY
17 AS EVIDENCE OF THE CHARGES THAT THEY CONTAIN.

18 THE DEFENDANT HAS PLED NOT GUILTY TO THE CHARGES
19 IN THESE INDICTMENTS, AND THE STATE, THEREFORE, HAS THE
20 BURDEN OF PROVING EACH OF THE ESSENTIAL ELEMENTS OF THE
21 CHARGES IN THESE INDICTMENTS BEYOND A REASONABLE DOUBT.
22 THE PURPOSE OF THIS TRIAL IS TO DETERMINE WHETHER THE
23 STATE HAS MET THAT BURDEN.

24 YOUR PURPOSE AS JURORS, AND I'M SURE FOR SOME OF
25 YOU THIS IS THE FIRST TIME YOU HAD JURY SERVICE -- YOUR

1 PURPOSE AS JURORS IS TO DETERMINE WHAT THE FACTS ARE.
2 YOU HAVE NOW BECOME JUDGES JUST AS MUCH AS I'M THE
3 JUDGE, BUT I'M THE JUDGE OF THE LAW, BUT YOU, THE JURY,
4 ARE THE JUDGES OF THE FACTS, AND YOU HAVE TO DETERMINE
5 WHAT THE FACTS ARE IN THIS CASE. UNDER OUR SYSTEM OF
6 CRIMINAL PROCEDURE, YOU ARE THE SOLE JUDGE OF THE
7 FACTS, AND IF AT ANY TIME DURING THIS TRIAL I SHOULD
8 COMMENT OR MAKE ANY COMMENT OR DO OR SAY ANYTHING THAT
9 YOU FEEL LIKE IS A REFLECTION OF WHAT I THINK ABOUT THE
10 FACTS, YOU SHOULD COMPLETELY DISREGARD THAT. I WILL
11 TELL YOU NOW THAT I DO NOT AND I WILL NOT HAVE AN
12 OPINION AS TO WHAT THE FACTS ARE. THAT IS A MATTER
13 SOLELY FOR THE JURY TO DETERMINE.

14 THE SAME LAW THAT MAKES YOU THE JUDGE OF THE FACTS
15 MAKES ME, AS THE TRIAL JUDGE, THE JUDGE OF THE LAW.
16 UNDER THE OATH THAT YOU HAVE JUST TAKEN, YOU AGREE TO
17 ACCEPT AND APPLY THE LAW AS I WILL INSTRUCT IT TO YOU
18 AT THE END OF THE CASE.

19 YOU MAKE YOUR DETERMINATION OF WHAT THE FACTS ARE
20 BASED ON THE TESTIMONY AND THE OTHER EVIDENCE THAT IS
21 PRESENTED HERE IN THIS COURTROOM. YOU CANNOT CONSIDER
22 ANYTHING THAT YOU MAY HAVE HEARD OR READ ABOUT THE CASE
23 OUTSIDE OF THE COURTROOM WHETHER BEFORE OR DURING THE
24 TRIAL. AGAIN, I WILL INSTRUCT YOU AND ORDER YOU NOT TO
25 DISCUSS THIS CASE AMONG YOURSELVES OR WITH ANYONE ELSE

1 DURING THE COURSE OF THE TRIAL.

2 DURING THE COURSE OF THE TRIAL, THERE MAY BE
3 OBJECTIONS THAT ARE MADE BY THE ATTORNEYS. I WOULD BE
4 SURPRISED IF THERE WERE NO OBJECTIONS. I CAN'T
5 REMEMBER A TRIAL IN 14 YEARS THAT WE DIDN'T HAVE SOME
6 OBJECTIONS. IF THE LAWYER MAKES AN OBJECTION, YOU DO
7 NOT HOLD THAT AGAINST THE LAWYER'S CLIENT OR AGAINST
8 THE LAWYER. THAT IS SIMPLY THE LAWYER'S WAY OF
9 BRINGING TO MY ATTENTION THE FACT THAT A RULE OF
10 EVIDENCE HAS COME INTO PLAY AND I'LL HAVE TO MAKE A
11 RULING.

12 IF I SUSTAIN THE OBJECTION, YOU ARE NOT PERMITTED
13 TO TRY TO GUESS AS TO WHAT THE ANSWER TO THAT QUESTION
14 MIGHT HAVE BEEN, OR IF IT IS AN EXHIBIT THAT IS OFFERED
15 INTO EVIDENCE AND IT IS OBJECTED TO AND I SUSTAIN THE
16 OBJECTION, YOU CANNOT TRY TO GUESS AS TO WHAT THAT
17 EXHIBIT WAS. AGAIN, YOU CAN RELY ONLY ON THE TESTIMONY
18 AND THE OTHER EVIDENCE THAT IS ADMITTED INTO THE RECORD
19 OF THE CASE.

20 FROM TIME TO TIME IF EXHIBITS ARE ADMITTED INTO
21 EVIDENCE, THE ATTORNEYS MAY ASK PERMISSION TO PUBLISH
22 THOSE EXHIBITS TO THE JURY. THAT SIMPLY MEANS TO TAKE
23 THAT EXHIBIT AND TO PASS IT AROUND AMONG THE JURY WHILE
24 THE TRIAL IS GOING ON.

25 THERE'S NOTHING WRONG WITH THAT. I WOULD CAUTION

1 YOU THOUGH TO CONTINUE TO LISTEN TO THE TESTIMONY
2 THAT'S GOING ON WHILE THAT EXHIBIT IS BEING PASSED
3 AROUND.

4 I'VE HAD SOME JURORS TELL ME IN THE PAST THAT THEY
5 WERE CONCERNED THAT THEY DIDN'T HAVE LONG ENOUGH TO
6 LOOK AT A PARTICULAR EXHIBIT THAT THEY WANTED TO STUDY
7 AND LOOK AT FOR A GREAT LENGTH OF TIME, BUT I WOULD
8 POINT OUT TO YOU THAT ALL OF THE EXHIBITS THAT ARE
9 ADMITTED INTO EVIDENCE IN THE CASE ARE GOING TO BE WITH
10 YOU IN THE JURY ROOM WHEN YOU ARE DELIBERATING, SO AT
11 THAT TIME YOU CAN LOOK AT THEM AND STUDY THEM FOR AS
12 LONG AND AS CLOSELY AS YOU WOULD LIKE TO.

13 WE WILL BE TAKING A BREAK ABOUT EVERY HOUR, HOUR
14 AND 15 MINUTES. THAT'S ONE OF THE THINGS THAT I DO
15 DURING THE COURSE OF A TRIAL, SO I CAN KEEP AN EYE ON
16 YOU FOLKS TO BE SURE YOUR PAYING ATTENTION. IT'S HARD
17 TO SIT AND LISTEN AND OBSERVE FOR MORE THAN ABOUT AN
18 HOUR, HOUR AND 15 MINUTES OR AT LEAST IT IS FOR ME. SO
19 WE'LL TAKE A BREAK ABOUT THAT FREQUENTLY IN ORDER TO
20 LET YOU STRETCH YOUR LEGS AND USE THE RESTROOM. ALSO,
21 FROM TIME TO TIME THERE WILL BE SNACKS PROVIDED TO YOU.

22 OF COURSE, DURING THOSE BREAKS YOU CANNOT DISCUSS
23 THE CASE AMONG YOURSELVES. IF WE GET TO THE POINT
24 WHERE YOU HAVE TO TAKE A BREAK AND IT DOESN'T LOOK LIKE
25 I'M ABOUT TO THAT POINT MYSELF, IF YOU WILL SIMPLY

1 RAISE YOUR HAND, GET MY ATTENTION, WE'LL TAKE A BREAK.
2 THE SAME WOULD HOLD TRUE IF YOU ARE UNABLE TO
3 UNDERSTAND WHAT A WITNESS IS TESTIFYING TO, IF YOU WILL
4 JUST GET MY ATTENTION, I'LL BE SURE THAT EVERYONE
5 SPEAKS LOUDLY AND CLEARLY ENOUGH FOR YOU TO UNDERSTAND
6 WHAT THEIR TESTIMONY IS. I WOULD ASK YOU TO PLEASE
7 GIVE ALL OF THE ATTORNEYS AND ALL OF THE WITNESSES WHO
8 TESTIFY IN THE CASE YOUR FULL ATTENTION.

9 NOW, PROCEDURALLY WHAT'S GOING TO HAPPEN, ONCE I
10 CONCLUDE THESE REMARKS, AND I'M ABOUT DONE, I'LL
11 RECOGNIZE THE ATTORNEYS. FIRST THE STATE, THE
12 SOLICITOR'S OFFICE WILL MAKE A BRIEF OPENING STATEMENT
13 TO YOU. THEN THE DEFENSE ATTORNEY IS GIVEN THAT SAME
14 OPPORTUNITY.

15 THE ATTORNEYS WHEN THEY ARE MAKING THEIR OPENING
16 STATEMENTS TO YOU, THEY'RE NOT TESTIFYING. THE
17 TESTIMONY WILL COME FROM THE WITNESSES, BUT THE PURPOSE
18 OF THE OPENING STATEMENTS IS FOR THE ATTORNEYS TO
19 EXPLAIN TO YOU THEIR POSITION IN THIS CASE. ONCE YOU
20 HAVE HEARD THESE OPENING STATEMENTS WE WILL PROCEED
21 WITH THE PRESENTATION OF TESTIMONY AND OTHER EVIDENCE.
22 WHEN ALL OF THAT HAS BEEN PRESENTED TO YOU, THEN THE
23 ATTORNEYS WILL COME BACK AND MAKE WHAT WE CALL THEIR
24 CLOSING ARGUMENTS, AND THEN I WILL INSTRUCT YOU ON THE
25 LAW AND THEN YOU BE SENT BACK TO DELIBERATE AND TO

1 REACH A VERDICT.

2 AGAIN, PLEASE GIVE ALL OF THE ATTORNEYS AND ALL OF
3 THE WITNESSES YOUR FULL ATTENTION, AND WE'LL GO AHEAD
4 WITH THE OPENING STATEMENTS AT THIS TIME.

5 ALL RIGHT, MS. HALL.

6 MS. HALL: THANK YOU, YOUR HONOR, MAY IT PLEASE
7 THE COURT.

8 OPENING STATEMENT

9 MS. HALL: CAROL AND ELLIOT, THOSE NAMES PROBABLY
10 MEAN NOTHING TO YOU, AND YOU DON'T HAVE TO REMEMBER
11 THEM BECAUSE THEY'RE RELEVANT TO THIS CASE, BUT THEY
12 ARE MY STEP PARENTS. MY PARENTS ARE BOTH REMARRIED AND
13 HAVE BEEN FOR A LONG TIME AND THEY'VE BEEN MY STEP
14 PARENTS FOR A LONG TIME. THEY'VE LOVED ME AND CARED
15 FOR ME JUST LIKE I WAS THEIR NATURAL BORN CHILD. I'M
16 VERY LUCKY TO HAVE THEM.

17 Minor , THE VICTIM IN THIS CASE, IS NOT
18 AS LUCKY AS I AM. HE'S HAD A HARD LIFE. HE'S ONLY
19 ABOUT FOUR YEARS OLD RIGHT NOW. HE GREW UP IN
20 MINNESOTA, AND HE WAS BORN TO MUSA KROMAH AND HIS
21 MOTHER. HIS MOTHER HAD A HISTORY OF MENTAL ILLNESS,
22 AND SO HE WAS PLACED IN FOSTER CARE WITH A COUSIN OF
23 THE BIOLOGICAL MOTHER. HE WAS IN FOSTER CARE UNTIL
24 ABOUT JUNE OF 2005, WHEN MUSA KROMAH, HIS BIOLOGICAL
25 FATHER, GOT CUSTODY OF HIM.

1 WHEN MUSA GOT CUSTODY OF HIM, HE WENT TO MINNESOTA
2 AND BROUGHT HIM BACK TO LIVE WITH MUSA AND HIS NEW
3 WIFE, MIAMA KROMAH, THE DEFENDANT, AND THEIR ROOMMATE.

4 THEY ENROLLED Minor IN SCHOOL AND HE WAS A
5 HEALTHY CHILD AT THAT TIME. EVERYTHING APPEARED TO BE
6 FINE, BUT EVERYTHING WASN'T FINE.

7 ON AUGUST 15TH Minor WENT TO SCHOOL. HE
8 ATTENDED PRESCHOOL. HE WENT TO SCHOOL, AND HE WENT TO
9 SCHOOL FOR THE WHOLE DAY, AND HE WAS FINE. HE WAS
10 HEALTHY. LATE THAT AFTERNOON, CIATA GAROWAY, THE
11 DEFENDANT'S SISTER, PICKED HIM UP ALONG WITH HER OWN
12 SON AND SHE TOOK HIM HOME AND THEY ATE JUNK FOOD AND
13 THE KIDS PLAYED AND EVERYTHING WAS FINE.

14 AT ABOUT ELEVEN O'CLOCK THAT EVENING, THE
15 DEFENDANT MIAMA KROMAH CAME TO PICK Minor UP. WELL,
16 SHE PICKED HIM UP AND SHE TOOK HIM BACK HOME, AND
17 SOMETIME BETWEEN THE TIME SHE GOT HIM HOME AND THE TIME
18 SHE RUSHED HIM TO THE HOSPITAL, SHE CUT A THREE INCH
19 PERFECTLY STRAIGHT LACERATION INTO HIS SCROTUM, SO DEEP
20 THAT HIS TESTICLE FELL OUT AND SHE HAD TO RUSH HIM TO
21 THE HOSPITAL.

22 I'M SURE YOU ARE ASKING, "HOW DID SHE EXPLAIN
23 THAT? WHY DID SHE DO THAT?" I'M SURE YOU HAVE
24 MILLIONS OF QUESTIONS RUNNING THROUGH YOUR HEAD. WELL,
25 WHEN SHE GOT TO LEXINGTON MEDICAL CENTER, SHE TOLD THE

1 NURSES THERE THAT HIS SCROTUM WAS SWOLLEN AND IT JUST
2 EXPLODED. SHE JUST PUT PRESSURE ON IT WITH A WASHCLOTH
3 AND IT JUST EXPLODED. LEXINGTON MEDICAL CENTER
4 COULDN'T HANDLE THE TRAUMA, SO THEY IMMEDIATELY
5 REFERRED HER TO RICHLAND COUNTY -- TO PALMETTO
6 RICHLAND. ON THE TRANSPORT TO PALMETTO RICHLAND, SHE
7 TOLD THE E.M.T.'S THAT SHE HAD NO IDEA WHAT HAPPENED.
8 SHE JUST HAD NO IDEA. SHE SAID, "I DON'T KNOW WHAT
9 HAPPENED; I JUST SAW BLOOD."

10 THEN WHEN SHE GOT TO PALMETTO RICHLAND, SHE TOLD
11 SEVERAL OF THE DIFFERENT PHYSICIANS SEVERAL DIFFERENT
12 STORIES. BASICALLY, JUST THAT HIS SCROTUM WAS MORE
13 SWOLLEN THAN USUAL AND THAT SHE GOT HIM HOME, AND SHE
14 PUT HIM IN THE BATHTUB. SHE SUPPLIED PRESSURE WITH A
15 WASHCLOTH AND SHE JUST SAW BLOOD.

16 WELL, THEN SHE GAVE A STATEMENT TO THE
17 INVESTIGATING OFFICER, ROY LIVINGSTON, WHO YOU WILL
18 HEAR FROM, AND SHE TOLD MR. LIVINGSTON -- SHE ADDED TO
19 THE STORY. SHE SAID, "WELL, I PICKED HIM UP FROM MY
20 SISTER'S HOUSE AND HE WAS FINE. HE WAS FINE. HE
21 DIDN'T SEEM UNUSUAL." SHE TOLD HIM THAT SHE GOT HIM
22 HOME AND THEY WATCHED A LITTLE T.V. AND THEY WATCHED
23 T.V. UNTIL SHE TOLD HIM HE HAD TO GET READY TO GO TO
24 SCHOOL. SO SHE PUT HIM IN THE BATHROOM, AND WHEN SHE
25 TOOK OFF HIS CLOTHES, SHE TOLD INVESTIGATOR LIVINGSTON

1 THAT SHE NOTICED HIS SCROTUM WAS SWOLLEN, SO SHE PUT
2 HIM IN THE BATHTUB TO SOAK IT, ALLEGEDLY TO REDUCE THE
3 SWELLING.

4 THEN SHE CAME WITH A WARM WASHCLOTH AND SHE
5 APPLIED PRESSURE TO THE SWOLLEN SCROTUM. SHE SAID IT
6 JUST BURST OPEN. THERE WAS JUST BLOOD EVERYWHERE. SHE
7 ALSO TOLD INVESTIGATOR LIVINGSTON THAT SHE AND Minor
8 WERE THE ONLY PEOPLE IN THE APARTMENT.

9 WELL, LADIES AND GENTLEMEN, THERE IS NO SUCH THING
10 AS AN EXPLODING SCROTUM. THERE IS NO -- AND EVEN IF
11 THERE WERE SUCH A THING AS AN EXPLODING SCROTUM, THIS
12 LACERATION WAS A PERFECTLY STRAIGHT THREE INCH LINE,
13 SIMILAR TO A SURGICAL INCISION, SO THE STATE SUBMITS
14 THAT HER EXPLANATION IS NOT CONSISTENT WITH INJURIES,
15 BUT, YOU KNOW, I'M A LAWYER. I'M NOT A DOCTOR, SO
16 DON'T LISTEN TO ME. LISTEN TO THE FIVE DIFFERENT
17 DOCTORS WE HAVE THAT WILL COME IN AND EACH ONE WILL
18 TESTIFY THAT THIS WOMAN'S STORY IS JUST NOT CONSISTENT
19 WITH THIS INJURY.

20 LISTEN TO DR. SEAN O'MEARA, WHO FIRST SAW THE
21 VICTIM AND SAID THIS IS NOT AN ACCIDENTAL THING.
22 LISTEN TO DR. ERIN FIELDS, WHO TOOK THE CHILD'S HISTORY
23 AND EXAMINED HIS BODY AND SHE SAW THAT IT WAS A PERFECT
24 INCISION. SHE ALSO SAW BRUISING ON HIS STOMACH
25 CONSISTENT WITH PERHAPS A HAND HOLDING HIM DOWN.

1 LISTEN TO DR. JENNIFER AMROL, WHO ALSO TREATED THE
2 VICTIM, WHO IS GOING TO TALK ABOUT THE ELASTICITY OF
3 THE SCROTUM, THAT THEY THAT CAN SOMETIMES EXPAND TO
4 TEN, TWENTY TIMES THEIR SIZE AND NOT RUPTURE FROM
5 SWELLING. LISTEN TO DR. ANNE ABEL, AN EXPERT ON CHILD
6 ABUSE, WHO SAID THERE WAS NO WAY THIS WAS ACCIDENTAL.
7 THIS WAS AN INFLECTION, AN INTENTIONAL INFLECTION ON
8 THIS CHILD WITH A SHARP RAZOR BLADE, PERHAPS A SCALPEL,
9 SIMILAR TO ONE THAT WAS LATER FOUND IN THE DEFENDANT'S
10 APARTMENT.

11 IF FOR SOME REASON YOU DON'T WANT TO LISTEN TO ANY
12 OF THOSE DOCTORS, LISTEN TO DR. JEFFERY EHRETH, THE
13 PEDIATRIC UROLOGIST, WHO PERFORMED THE SURGERY ON THE
14 VICTIM TO REPAIR THE SCROTUM. HE IS GOING TO TELL YOU
15 THAT HE PERFORMS AS MANY AS 800 SURGERIES A YEAR AND HE
16 COULDN'T HAVE DONE A BETTER INCISION HIMSELF. LISTEN
17 TO THEM. DON'T LISTEN TO ME.

18 LADIES AND GENTLEMEN, MY NAME IS NIKKI HALL WITH
19 THE SOLICITOR'S OFFICE. I INTRODUCED MYSELF TO YOU
20 EARLIER. I, ALONG WITH LUCK CAMPBELL, ARE GOING TO TRY
21 MIAMA KROMAH ON TWO DIFFERENT OFFENSES TODAY. ONE
22 OFFENSE IS UNLAWFUL CONDUCT TOWARDS THE CHILD. I'M
23 READING FROM THE CODE OF LAWS, AND IT READS:

24 "IT IS UNLAWFUL FOR A PERSON WHO HAS CHARGE
25 OR CUSTODY OF A CHILD OR WHO IS A PARENT OR

1 GUARDIAN OF A CHILD OR WHO IS RESPONSIBLE FOR
2 THE WELFARE OF A CHILD TO PLACE THE CHILD AT
3 UNREASONABLE RISK OF HARM AFFECTING THE
4 CHILD'S LIFE, PHYSICAL, OR MENTAL HEALTH OR
5 SAFETY OR DO CAUSE TO BE DONE UNLAWFULLY OR
6 MALICIOUSLY ANY BODILY HARM TO THE CHILD SO
7 THAT THE LIFE OR HEALTH OF THE CHILD IS
8 ENDANGERED OR LIKELY TO BE ENDANGERED."

9 SHE IS ALSO CHARGED WITH INFLECTION OF GREAT
10 BODILY INJURY UPON A CHILD. THIS STATUTE READS IN
11 RELEVANT PART:

12 "IT IS UNLAWFUL TO INFLECT GREAT BODILY
13 INJURY UPON A CHILD. FOR THE PURPOSE OF THIS
14 SECTION, GREAT BODILY INJURY MEANS BODILY
15 INJURY WHICH CREATES A SUBSTANTIAL RISK OF
16 DEATH OR WHICH CAUSES SERIOUS OR PERMANENT
17 DISFIGUREMENT OR PROTRACTED LOSS OR
18 IMPAIRMENT OF THE FUNCTION OF ANY BODILY
19 MEMBER OR ORGAN."

20 LADIES AND GENTLEMEN, ONCE YOU HEAR FROM THE
21 DOCTORS, THE TESTIMONY OF THE DIFFERENT DOCTORS, ONCE
22 YOU HEAR THE TESTIMONY FROM THE DIFFERENT PEOPLE THAT
23 SHE GAVE DIFFERENT VERSIONS OF THIS STORY TO , ONCE
24 YOU -- ONCE WE CONFIRM THROUGH BUSINESS RECORDS THAT
25 SHE INDEED WAS ALONE IN THAT APARTMENT, YOU'LL

1 UNDERSTAND AND YOU WILL BE FORCED TO CONVICT MIAMA
2 KROMAH FOR INFLECTING BODILY INJURY, GREAT BODILY
3 INJURY, ON THIS CHILD AND FOR UNLAWFUL CONDUCT TOWARDS
4 THIS CHILD.

5 LADIES AND GENTLEMEN, THIS IS GREAT BODILY INJURY.
6 Minor S SCROTUM IS PERMANENTLY DISFIGURED, AND HE
7 WAS FORCED TO HAVE SURGERY TO REPAIR THIS INJURY.
8 ANYTIME WE HAVE SURGERY, THERE'S ALWAYS THE RISK OF
9 DEATH. ANYTIME YOU HAVE TO GO UNDER GENERAL
10 ANESTHESIA, THERE'S ALWAYS A RISK OF DEATH.

11 LADIES AND GENTLEMEN, I KNOW THAT YOU MAY BE
12 WONDERING WHY WOULD SHE DO THIS. WHY WOULD SHE -- WHY
13 ANYONE DO THIS TO A CHILD? THE STATE DOESN'T HAVE TO
14 PROVE THAT. WE ONLY HAVE TO PROVE BEYOND A REASONABLE
15 DOUBT THAT SHE DID, IN FACT, INFLECT THIS INJURY ON
16 THIS CHILD WITH A SHARP RAZOR, MAYBE A SCALPEL, AND WE
17 WILL PROVE THAT THROUGH THE TESTIMONY.

18 SO, LADIES AND GENTLEMEN, ONCE YOU GET TO THE
19 POINT WHERE YOU'RE NO LONGER WONDERING IF SHE ACTUALLY
20 DID THIS, BUT YOU'RE ALSO WONDERING WHY SHE DID THIS,
21 WHICH THE STATE DOESN'T HAVE TO PROVE, THEN YOU MUST
22 RETURN A VERDICT OF GUILTY. PROTECT THIS VICTIM, FOUR
23 YEAR OLD Minor . PROTECT HIM. RETURN A
24 VERDICT OF GUILTY. THANK YOU.

25 THE COURT: ALL RIGHT. MR. ROGERS.

1 MR. ROGERS: MAY IT PLEASE THE COURT.

2 THE COURT: ALL RIGHT, SIR.

3 OPENING STATEMENT

4 MR. ROGERS: I'VE BEEN PRACTICING LAW FOR TWENTY
5 YEARS, AND IN EVERY CASE ONE SIDE SAYS ONE THING
6 HAPPENED. THE OTHER SIDE SAYS ANOTHER THING HAPPENED
7 OR IT DIDN'T HAPPEN THAT WAY. YOU HAVE BEEN PLACED
8 WITH THE UNTENABLE TASK OF HAVING TO DECIDE WHAT
9 HAPPENED AND WHO DID WHAT.

10 OUR COURTS HAVE SAID YOU HAVE TO DO THAT TO A
11 CERTAIN STANDARD, A STANDARD BEYOND A REASONABLE DOUBT.
12 IF YOU CAN'T DO THAT, THEN YOU HAVE TO RETURN A VERDICT
13 OF NOT GUILTY. THAT'S ONLY FAIR. A PERSON WHO IS
14 ACCUSED OF OR CHARGED WITH A CRIME NEVER HAS TO PROVE
15 HIMSELF NOT GUILTY. IN FACT, A PERSON COULDN'T PROVE
16 HIMSELF NOT GUILTY. THAT'S WHY OUR CONSTITUTION AND
17 OUR LAWS HAVE PUT THE BURDEN ON THE STATE TO SAY TO YOU
18 THIS IS THE FACT -- TO SAY THESE ARE THE FACTS, THIS IS
19 WHAT WE THINK, AND YOU HAVE TO BELIEVE THOSE VERSIONS
20 OF THOSE FACTS BEYOND A REASONABLE DOUBT.

21 I THINK THAT WHEN YOU HEAR THE TESTIMONY IN THIS
22 CASE, YOU SEE HOW THE STATE HAS MADE CERTAIN
23 CONCLUSIONS. MS. HALL HAS TOLD YOU THAT EVERYTHING WAS
24 OKAY WHEN Minor WAS AT CIATA'S HOUSE THAT EVENING
25 AFTER SCHOOL. I THINK YOU'RE GOING TO HEAR DIFFERENT

1 TESTIMONY ON THAT.

2 MS. HALL TOLD YOU THAT YOU WILL HAVE A RAZOR BLADE
3 THAT WILL BE INTRODUCED INTO EVIDENCE THAT THEY THINK
4 IS WHAT CAUSED THIS INJURY, BUT THERE'S NO -- THERE
5 WILL BE NO EVIDENCE TO SHOW THAT THAT RAZOR BLADE
6 CAUSED THIS INJURY.

7 THIS IS GOING TO BE CLOSE TO WHAT WE CALL A
8 CIRCUMSTANTIAL EVIDENCE CASE, MEANING THERE WON'T BE
9 ANY DIRECT EVIDENCE OF WHAT HAPPENED. OF COURSE, THERE
10 WAS AN INJURY. THIS WAS A TERRIBLE INJURY TO Minor
11 BUT YOU CANNOT LET YOUR EMOTIONS DECIDE THIS CASE.
12 EACH OF YOU HAS TAKEN AN OATH TO JUDGE THIS CASE FAIRLY
13 BASED ON THE TESTIMONY THAT YOU HEAR FROM THE
14 WITNESSES.

15 YOU WILL HEAR FROM MIAMA, AND SHE WILL TELL YOU
16 WHAT HAPPENED THAT DAY, THAT WHAT SHE DID WAS WHAT ANY
17 MOTHER WOULD DO. AS THE EVIDENCE WILL SHOW, ONCE SHE
18 SAW THE BLOOD IN THE TUB, SHE IMMEDIATELY -- WELL,
19 FIRST OF ALL, SHE CALLED HER SISTER WHEN SHE SAW THE
20 SWELLING. SHE SAID, "HEY, DID YOU NOTICE ANYTHING
21 UNUSUAL?", AND I THINK CIATA WILL SAY, "I DIDN'T BATHE
22 HIM TONIGHT SO I DIDN'T NOTICE."

23 THEN SHE PUT HIM IN THE TUB AND IMMEDIATELY WHEN
24 SHE SAW THE BLOOD, SHE CALLED CIATA BACK AND SAID,
25 "HEY, OH MY GOD, I SEE BLOOD. I'M TAKING HIM TO THE

1 HOSPITAL." SHE TOOK HIM TO LEXINGTON, TO PALMETTO
2 LEXINGTON, AND FOR WHATEVER REASON, PALMETTO LEXINGTON
3 HOSPITAL COULDN'T TREAT HIM AND THEN HE WAS TRANSPORTED
4 TO PALMETTO RICHLAND.

5 MIAMA WILL TELL YOU THAT SHE DID NOT DO THIS
6 THING. SHE DOESN'T KNOW WHAT HAPPENED, BUT YOU HAVE TO
7 LISTEN TO ALL THE EVIDENCE. ON BEHALF OF MIAMA, I WANT
8 TO THANK YOU FOR YOUR ATTENTION THAT YOU'RE GOING TO
9 PAY IN THIS CASE. THIS IS AN IMPORTANT DAY FOR THE
10 STATE OF SOUTH CAROLINA, AND IT'S AN IMPORTANT DAY FOR
11 MIAMA. I THINK THAT ONCE YOU HEAR ALL THE EVIDENCE IN
12 THE CASE, YOU WILL HAVE A DOUBT ABOUT WHO DID THIS. IF
13 YOU HAVE THAT KIND OF DOUBT, YOU HAVE TO RETURN A
14 VERDICT OF NOT GUILTY.

15 THE COURT: ALL RIGHT. THANK YOU, MR. ROGERS.

16 SOLICITOR, CALL YOUR FIRST WITNESS, PLEASE.

17 MS. CAMPBELL: MAY IT PLEASE THE COURT. THE STATE
18 CALLS DONNA SHARPE.

19 THE BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE,
20 RAISE YOUR RIGHT HAND, FACE THE CLERK.

21 DONNA SHARPE,

22 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

23 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL
24 NAME FOR THE RECORD.

25 THE WITNESS: MY NAME IS DONNA SHARPE.

DIRECT EXAMINATION

2 BY MS. CAMPBELL:

3 Q MS. SHARPE, WHERE ARE YOU EMPLOYED?

4 A AT LEXINGTON MEDICAL CENTER.

5 Q AND HOW LONG HAVE YOU BEEN WORKING AT LEXINGTON
6 MEDICAL CENTER?

7 A JUST RIGHT AT THREE YEARS.

8 Q AND WHAT DO YOU DO --

9 THE COURT: I KNOW THE LAWYER IS GETTING CLOSER TO
10 YOU AND YOU SOUND LIKE YOUR TALKING LOUD, BUT I'VE GOT
11 TO BE ABLE TO HEAR YOU, EVERYBODY IN THE COURTROOM HAS
12 TO HEAR YOU, AND ALL THE JURORS HAVE GOT TO BE ABLE TO
13 HEAR YOU, SO SPEAK UP PLEASE, MA'AM.

14 THE WITNESS: JUST SHORT OF THREE YEARS.

15 THE COURT: THANK YOU.

16 BY MS. CAMPBELL:

17 Q WHAT DO YOU DO AT THE LEXINGTON MEDICAL CENTER,
18 MA'AM?

19 A I'M AN E.R. NURSE.

20 Q CAN YOU TELL THIS JURY A LITTLE ABOUT YOUR
21 EDUCATION AND TRAINING AS A NURSE? DID YOU RECEIVE A
22 DEGREE?

23 A I DID. I RECEIVED A DEGREE, I'VE HAD SOME
24 CLINICAL NURSING COURSES, AND ALSO DOING SOME ON-SITE
25 TRAINING IN CLASSROOM EDUCATION.

1 Q AND IN THE LAST THREE YEARS AT LEXINGTON MEDICAL
2 CENTER, YOU HAVE BEEN THERE AS AN E.R. NURSE?

3 A THAT'S CORRECT.

4 Q I WANT TO TURN YOUR ATTENTION BACK TO LAST YEAR,
5 AUGUST 16TH, THE EARLY MORNING HOURS. WERE YOU WORKING
6 THAT EVENING?

7 A I BELIEVE THAT WAS THE RIGHT DATE, YES.

8 Q AND WHAT SHIFT WERE YOU WORKING THAT NIGHT?

9 A I WORKED 7:00 P.M. TO 7:00 A.M.

10 Q SO YOU WOULD HAVE ACTUALLY COME TO WORK ABOUT
11 AUGUST 15TH AT 7:00 P.M.?

12 A THAT'S RIGHT.

13 Q AND THEN WORK UNTIL THE NEXT MORNING AT 7:00 A.M.,
14 CORRECT?

15 A YES, THAT'S CORRECT.

16 Q DURING THE COURSE OF THAT EVENING, DID SOMEONE
17 RUSH A THREE YEAR OLD CHILD NAMED Minor IN TO
18 THE E.R.?

19 A YES, MA'AM.

20 Q CAN YOU DESCRIBE TO THE JURY HOW IT WAS PRESENTED,
21 HOW YOUR FIRST CAME IN CONTACT WITH LITTLE Minor ?

22 A FROM WHAT I REMEMBER, SHE BROUGHT HIM IN THROUGH A
23 WALK-IN, THROUGH THE FRONT, NOT BY AN AMBULANCE. WE
24 GET BOTH. SHE WALKED HIM IN, AND HAD HIM, FROM WHAT I
25 RECALL, SITTING IN HER LAP. I REMEMBER HIM HAVING A .

1 DIAPER ON. I REALLY DON'T REMEMBER THE REST OF HIS
2 CLOTHING.

3 Q WHEN YOU SAID HE WAS SITTING IN HER LAP, WHERE
4 WERE THEY WHEN YOU FIRST CAME IN CONTACT WITH Minor
5 AND THE WOMAN?

6 A THEY NORMALLY REGISTER THROUGH THE E.R. AND THEN I
7 CALL PATIENTS AS THEY COME IN ORDER. IT CAME TIME FOR
8 ME TO CALL HER NAME OR THE CHILD'S NAME, AND WE WALKED
9 THEM TO THE TRIAGE ROOM AND WE SIT THEM IN THE CHAIR IN
10 MY TRIAGE ROOM.

11 Q AND IF A PERSON PRESENTS WITH AN EMERGENCY
12 SITUATION, I MEAN, WHAT THEY PERCEIVE TO BE AN
13 EMERGENCY SITUATION, WOULD YOU TAKE THEM OUT OF ORDER?

14 A IF IT'S OBVIOUS THAT IT'S AN EMERGENCY. SOMETIMES
15 WE HAVE THINGS THAT ARE APPARENT, SHORTNESS OF BREATH
16 OR CHEST PAINS, THINGS LIKE THAT THAT ARE APPARENT.

17 Q IN THIS CASE, THE WOMAN HAD NOT MADE ANY
18 ALLEGATIONS THAT THIS WAS AN EMERGENCY SITUATION?

19 A NOTHING THAT MADE IT APPARENT TO ME, NO.

20 Q SO WHEN YOU FIRST CAME IN CONTACT WITH THEM,
21 THEY'RE IN THE WAITING ROOM AND SHE HAS THE CHILD
22 SITTING IN HER LAP?

23 A NO, I DON'T RECALL EXACTLY IN THE WAITING AREA. I
24 JUST CALL THE NAME AND THEY COME WALKING TOWARD ME FROM
25 SOME DIRECTION IN THE LOBBY, AND I THEN PUT HER IN MY

1 CHAIR AND THAT'S WHERE I SEE HER SITTING IN THE CHAIR.

2 SHE SITS THE CHILD IN HER LAP.

3 Q WHAT IS THE CHILD DOING?

4 A HE'S CRYING, BUT KIND OF STARING AT HER, THE BEST
5 I REMEMBER, KIND OF -- HE KEEPS LOOKING TOWARD HER LIKE
6 LOOKING UP.

7 Q AND HE'S CRYING?

8 A YES, HE'S CRYING. HE LOOKS SCARED AND CONFUSED.

9 Q WHAT IS SHE DOING?

10 A SHE IS JUST SITTING THERE THE BEST I REMEMBER.
11 IT'S A QUICK VISIT.

12 Q AT SOME POINT AFTER SHE GOT BACK INTO THE AREA
13 WHERE YOU WERE TREATING HER, DID YOU ASK HER WHAT THE
14 PROBLEM WAS?

15 A WE GO THROUGH A NORMAL SET OF QUESTIONS. WE SAY
16 WHAT'S THE NAME, HOW OLD IS HE, ARE HIS SHOTS UP TO
17 DATE, HAS HE BEEN HERE IN THE LAST MONTH. WE GO
18 THROUGH A SET OF QUESTIONS BEFORE WE REALLY ASK WHAT
19 THE PROBLEM IS UNLESS IT'S AN APPARENT OBVIOUS
20 EMERGENCY. I ASKED HER THOSE SET OF QUESTIONS. WE
21 KIND OF WENT THROUGH THOSE, AND WE WEIGHED THE CHILD
22 AND THAT SORT OF THING.

23 I THEN PROCEED TO ASK HER WHAT IS WRONG AND THEN
24 SHE PROCEEDS TO TELL ME. FROM WHAT I RECALL I REMEMBER
25 SHE MENTIONED THE SWELLING. SHE TALKED ABOUT PUTTING A

1 CLOTH ON IT. THEN SHE SAID IT -- I'M NOT SURE WHAT
2 WORD SHE USED, BUT THAT IT BUSTED OPEN OR TORE OPEN. I
3 THINK I WROTE TORE OPEN OR SOMETHING AND I THEN
4 PROCEEDED TO EXAMINE HIM AT THAT POINT.

5 Q AT THAT POINT THE ONLY INFORMATION YOU HAD WAS
6 WHAT SHE HAD GIVEN YOU, AND SHE HAD GIVEN YOU THE
7 HISTORY OF THE CHILD, THE SHOTS AND SUCH?

8 A UH-HUH.

9 Q I BELIEVE YOU EVEN MENTIONED THAT YOU WEIGHED THE
10 CHILD?

11 A UH-HUH.

12 Q SO SHE WASN'T EXPRESSING ANY CONCERN OVER --

13 A I'M NOT -- I DON'T RECALL WEIGHING HIM, BUT IT'S
14 ON THE CHART, SO I KNOW THAT'S LISTED ON THERE WHEN WE
15 GO THROUGH AND THAT'S ON THERE. I'M ASSUMING THAT'S
16 WHAT I DID WITH THE WEIGHT.

17 Q OKAY. BUT AT ANY POINT DURING THIS, DID SHE ALERT
18 YOU THAT THERE WAS A MAJOR PROBLEM GOING ON?

19 A NO, NOT UNTIL AFTER WE WERE TALKING ABOUT THE
20 EXACT PROBLEM.

21 Q AND THAT WAS AFTER YOU BROUGHT IT UP?

22 A RIGHT, WHEN I PROCEEDED TO THAT PART OF THE
23 QUESTIONING.

24 Q AND WHEN YOU GOT TO THAT PART OF THE QUESTIONING,
25 AGAIN THE CHILD IS STILL CRYING?

1 A UH-HUH.

2 Q DID YOU ASSESS -- DO AN ASSESSMENT YOURSELF TO
3 FIGURE OUT WHAT WAS GOING ON WITH THE CHILD?

4 A WHEN SHE SAID THAT ABOUT HIS TESTICLE, I LIFTED
5 THE DIAPER DOWN BECAUSE HE WAS STILL SITTING IN HER
6 LAP.

7 Q DO YOU REMEMBER WHAT KIND OF DIAPER IT WAS?

8 A FROM WHAT I RECALL IT WAS ONE WITH THE TABS, I
9 BELIEVE, BECAUSE I REMEMBER FLAPPING IT DOWN. IF IT
10 HAD BEEN A PULL-UP OR SUCH, YOU COULDN'T -- I WOULD
11 HAVE HAD TO PULL THE WHOLE DIAPER OFF, BUT I REMEMBER
12 PULLING IT FORWARD WHILE HE SAT IN HER LAP.

13 Q AT THAT POINT WHAT DID YOU SEE?

14 A MY ASSUMPTION WAS WHEN SHE SAID IT -- SOME PEOPLE
15 COME INTO THE E.R. AND THEY SAY THEY HAVE -- AND IT'S
16 JUST A SCRATCH. SO MY ASSUMPTION WAS THAT IT WAS GOING
17 TO BE A LITTLE SCRATCH OR SOMETHING. I KIND OF PULLED
18 THE DIAPER DOWN AND LOOKED AND I IMMEDIATELY COVERED IT
19 BACK UP BECAUSE I SAW BLOOD AND SOMETHING. I WAS
20 STARTLED. SO I KIND OF COVERED IT BACK UP FOR A
21 SECOND. I SAT THERE AND I WAS LIKE, OKAY. I LOOKED A
22 SECOND TIME TO REALLY EXAMINE WHAT I SAW, AND WHAT I
23 SAW WAS THE TESTICLE WITH WHAT I DESCRIBED AS A BIG
24 LOOP OR SOMETHING, A BIG HALF CIRCULAR KIND OF
25 PROTRUSION FROM IT AND BLOOD ALL OVER IT.

1 Q AND YOU'RE FAMILIAR WITH THE TERMS SCROTUM AND
2 TESTICLE?

3 A UH-HUH.

4 Q AND WHAT IS THE SCROTUM, JUST TO DESCRIBE FOR THE
5 JURY?

6 A THE SCROTUM IS THE SKIN THAT SURROUNDS AND WHAT
7 HOLDS IN THE TESTICLES, AND THERE IS ONE ON EACH SIDE.
8 THE TESTICLE WAS TO ONE SIDE, AND THE TESTICLE WAS
9 STICKING OUT.

10 Q SO THE SCROTUM ITSELF WAS OPENED UP, AND THE
11 TESTICLE HAD ACTUALLY COME OUT OF THE SCROTUM; IS THAT
12 CORRECT?

13 A YES, COME OUT AND WAS LYING IN THE DIAPER CLOSE TO
14 THE SCROTUM.

15 Q AND YOU MENTIONED BLOOD?

16 A UH-HUH.

17 Q WHAT KIND OF BLOOD WERE YOU SEEING?

18 A BRIGHT RED.

19 Q ONCE YOU LOOKED THE SECOND TIME TO MAKE SURE YOU
20 SAW WHAT YOU SAW, WHAT DID YOU DO?

21 A I PICKED UP THE PHONE AND CALLED MY FLOOR MANAGER
22 IMMEDIATELY.

23 Q AND WHY WOULD YOU DO THAT IMMEDIATELY?

24 A WE HAVE EMERGENCIES THAT COME IN. IF THEY'RE NOT
25 EMERGENCIES, I CODE THEM A CERTAIN WAY. IF IT'S AN

1 EMERGENCY, I IMMEDIATELY PICK UP A PHONE AND CALL A
2 NURSING COORDINATOR THAT IMMEDIATELY PUTS SOMEONE IN
3 THE ROOM, AND THEN WE RUSH PEOPLE BACK FOR FURTHER
4 EVALUATION AND TREATMENT. I CONSIDERED THAT TO BE AN
5 EMERGENCY.

6 Q ONCE THAT HAPPENED, WHAT HAPPENED?

7 A WE IMMEDIATELY TOOK HER BACK TO A TREATMENT ROOM.
8 SHE CARRIED THE CHILD BACK, AND WE TOOK HER BACK TO A
9 TREATMENT ROOM.

10 Q AND ONCE SHE GOT BACK TO THE TREATMENT ROOM, DID
11 YOU CONSULT WITH A DOCTOR?

12 A I EXPLAINED WHAT I -- FROM WHAT I RECALL, I
13 EXPLAINED QUICKLY WHAT WAS GOING ON AND I LEFT TO GO
14 BACK TO MY TRIAGE AREA.

15 Q AND I BELIEVE, AT THAT TIME, DR. AMARA AND ANOTHER
16 NURSE, MELANIE --

17 A PORILLA.

18 Q PORILLA, OKAY. THEY ACTUALLY TOOK OVER THE
19 TREATMENT AT THAT POINT?

20 A UH-HUH.

21 Q WERE YOU AWARE THAT LATER, SOON AFTER, HE WAS
22 TRANSPORTED TO THE CHILDREN'S HOSPITAL AT RICHLAND
23 MEMORIAL?

24 A I CAME BACK TO SEE IF THEY WERE KEEPING HIM OR
25 SENDING HIM OUT.

1 Q BECAUSE OF THE SEVERITY OF WHAT HAD HAPPENED TO
2 HIM?

3 A EXACTLY.

4 Q AT ANY POINT, DID YOU CONTINUE TO SEE THE WOMAN --
5 AND THE WOMAN YOU SAW, DO YOU SEE HER IN THE COURTROOM
6 TODAY?

7 A YES, AT THE TABLE.

8 Q SITTING AT THE TABLE NEXT TO HER LAWYER?

9 A UH-HUH.

10 MS. CAMPBELL: YOUR HONOR, MAY THE RECORD REFLECT
11 THAT THE WITNESS HAS IDENTIFIED THE DEFENDANT.

12 THE COURT: YES, GO AHEAD.

13 BY MS. CAMPBELL

14 Q AT ANY POINT -- YOU MENTIONED THAT SHE WAS CALM
15 WHEN SHE FIRST CAME IN?

16 A SHE WAS KIND OF CALM AND AS I -- I THINK MY
17 PERCEPTION WAS THAT SHE APPEARED TO SEE ME GET A LITTLE
18 MORE EXCITED, I GUESS, AND SHE STARTED LOOKING A LITTLE
19 MORE WIDE-EYED, KIND OF PAID MORE ATTENTION, THAT SORT
20 OF THING, TO MY REACTION AND SEEMED TO GET A LITTLE
21 MORE ANXIOUS AT THAT POINT, MAYBE FEEDING OFF OF MY
22 BEHAVIOR.

23 Q DID YOU EVER SEE HER BECOME TEARFUL OR UPSET AT
24 ANY TIME?

25 A NO.

1 MS. CAMPBELL: THANK YOU, MA'AM.

2 I DON'T HAVE ANYTHING FURTHER OF THIS WITNESS,
3 YOUR HONOR.

4 THE COURT: ALL RIGHT. MR. ROGERS.

5 MR. ROGERS: MAY IT PLEASE THE COURT.

6 THE COURT: YES, SIR.

7 CROSS-EXAMINATION

8 BY MR. ROGERS:

9 Q MS. SHARPE, DID YOU GENERATE THIS REPORT FROM
10 LEXINGTON MEDICAL?

11 A I GENERATED THE TOP PORTION OF THAT REPORT.

12 Q AND WHAT ABOUT THIS ONE?

13 A I DIDN'T GENERATE -- OTHER THAN WRITING THE VITAL
14 SIGNS ACROSS THE VERY TOP, I DIDN'T WRITE ANYTHING ON
15 THAT PORTION.

16 Q ALL RIGHT. DO YOU HAVE YOUR COPIES WITH YOU, THE
17 COPIES OF YOUR REPORT?

18 A THEY'RE IN MY --

19 Q WELL, SINCE YOU DON'T HAVE IT WITH YOU, WHAT TIME,
20 DID YOU INDICATE THAT THE TRIAGE BEGAN?

21 A IT LOOKS LIKE I WROTE DOWN 0223, WHICH IS
22 2:23 A.M.

23 Q SO THAT WAS 2:23 THE MORNING OF THE 16TH?

24 A I'M LOOKING AT THE DATE HERE. I DON'T REMEMBER
25 THE DATE. YES, IT LOOKS LIKE IT WAS ON THE 16TH.

1 Q OKAY. SO Minor -- THE CHILD WASN'T BROUGHT TO
2 THE EMERGENCY ROOM IN AN AMBULANCE, MIAMA BROUGHT HIM,
3 CORRECT?

4 A THAT'S WHAT I REMEMBER.

5 Q AND DO YOU HAVE ANY IDEA HOW LONG SHE SAT THERE
6 BEFORE 2:23?

7 A I DON'T.

8 Q OKAY.

9 A USUALLY AT 2:23 IT'S NOT VERY CROWDED. I WOULD
10 ASSUME IT WAS NOT FOR A VERY LONG TIME, BUT I DON'T
11 KNOW THAT.

12 Q THAT WAS GOING TO BE MY QUESTION, HOW MANY OTHER
13 PATIENTS WERE IN THE EMERGENCY ROOM AT THAT TIME; DO
14 YOU KNOW?

15 A I DON'T HAVE ANY RECOLLECTION OF THAT.

16 Q YOU DON'T REMEMBER?

17 A NO.

18 Q OKAY. NOW, WHEN A PERSON FIRST COMES IN THE E.R.
19 ROOM, ARE THEY SEEN BY A PHYSICIAN OR A NURSE OR DO
20 THEY JUST --

21 A DO YOU MEAN ONCE I BROUGHT THEM BACK TO A
22 TREATMENT ROOM?

23 Q NO, BEFORE THAT. BEFORE.

24 A YOU'RE TALKING ABOUT TO SEE ME?

25 Q I'M SORRY. LET ME REPHRASE THE QUESTION. WHEN A

1 PERSON BRINGS SOMEONE IN LIKE MIAMA DID THAT NIGHT, WHO
2 WOULD SHE SEE FIRST?

3 A SHE WOULD WALK TO THE DESK AND ASK TO BE SEEN OR
4 TO HAVE HER CHILD SEEN.

5 Q OKAY.

6 A AND THEY WOULD --

7 Q AND THEY WOULD HAVE TOLD HER TO HAVE A SEAT AND
8 WAIT TO --

9 A THEY WOULD HAVE WRITTEN THE NAME ON THE CHART.
10 THEY WOULD HAVE WRITTEN HER NAME AT THE TOP -- PUT HER
11 NAME AT THE TOP AND FLIPPED IT OVER ON THE DESK, THEN I
12 WOULD SEE THAT THERE'S A PATIENT, GOTTEN UP AND GOTTEN
13 THE PAPER.

14 Q IS THERE ANY NOTATION MADE OF WHEN THAT PERSON
15 ARRIVES IN THE EMERGENCY ROOM?

16 A NO.

17 Q THE FIRST NOTATION OF TIME IS WHEN YOU TOOK THE
18 PERSON TO TRIAGE?

19 A THAT'S CORRECT.

20 Q SO WE HAVE NO IDEA FROM YOUR RECORDS HOW LONG
21 MIAMA WAS WAITING THERE WITH Minor BEFORE YOU CAME
22 AT 2:23?

23 A I HAVE NO RECOLLECTION OF IT.

24 Q BUT YOU SAY THAT Minor WAS CRYING THE ENTIRE
25 TIME?

1 A HE WAS CRYING WHEN HE WAS IN MY ROOM.

2 Q OH, IN YOUR ROOM. WERE YOU OUT THERE VIEWING THE
3 PEOPLE THAT WERE WAITING?

4 A I HAVE A ROOM THAT SITS RIGHT BEHIND THE
5 REGISTRATION DESK. IT HAS A WINDOW AND I CAN LOOK OUT
6 AND SEE PEOPLE. IF I SEE SOMEONE COMING IN CLUTCHING
7 THEIR THROAT CHOKING OR SOMETHING LIKE THAT, I WOULD
8 SEE THAT.

9 Q SO YOU DON'T KNOW OF YOUR OWN KNOWLEDGE IF
10 WAS CRYING THE ENTIRE TIME?

11 A WELL, HE WAS CRYING THE ENTIRE TIME HE WAS IN MY
12 ROOM.

13 Q I UNDERSTAND THAT, BUT NOT IN THE LOBBY, RIGHT?

14 A IN THE LOBBY, I DON'T KNOW.

15 Q YOU WOULDN'T KNOW THAT, RIGHT?

16 A NO

17 Q SO WHEN YOU BEGAN YOUR EXAMINATION AT 2:23, YOU
18 ASKED MIAMA WHAT HAPPENED, CORRECT?

19 A THAT'S CORRECT.

20 Q AND SHE TOLD YOU THAT THE CHILD HAD SWELLING, IT
21 WAS WORSE THAN NORMAL, CORRECT?

22 A I DON'T REMEMBER HER TELLING ME WORSE THAN NORMAL.
23 SHE SAID HE HAD SWELLING, AND SHE APPLIED A RAG OR
24 CLOTH TO IT AND APPLIED PRESSURE.

25 Q DID YOU MAKE -

1 A THE NOTES AT THE BOTTOM ARE NOT MY NOTES.
2 Q THE NOTES ARE NOT YOURS. OKAY.
3 A THE TOP HALF OF THE FORM IS MINE.
4 Q OKAY. BUT YOU DO SEE THERE ON THE NOTES THAT IT
5 SAYS --
6 A THAT'S SOMEBODY ELSE'S NOTE.
7 Q I SAID, BUT DO YOU SEE THAT?
8 A YES, I DO.
9 Q AND IT'S REFERRING THIS CASE?
10 A IT IS. I'M JUST TELLING YOU THAT I DIDN'T WRITE
11 THAT.
12 Q I UNDERSTAND.
13 A OKAY.
14 Q BUT IT WAS A PART OF A DOCUMENT THAT YOU DID WRITE
15 ON?
16 A THAT'S CORRECT.
17 Q OKAY. HAVE YOU SEEN THIS DOCUMENT SINCE?
18 A I HAVEN'T.
19 Q NOW, SO THIS POPPING OUT BUSINESS THAT YOU SAY SHE
20 SAID, DID YOU TAKE ANY NOTES WITH RESPECT TO THAT
21 SPECIFIC FACT?
22 A NO, BECAUSE ONCE SHE STARTED -- ONCE I ASKED ALL
23 THESE OTHER QUESTIONS, AS SOON AS I STARTED WRITING MY
24 NOTES SHE SAID THAT IT TORE. I WROTE A QUICK NOTE,
25 "TEAR TO THE RIGHT TESTICLE." I IMMEDIATELY REALIZED

1 THAT I NEEDED TO EXAMINE HIM QUICKLY AND WE MOVED ON.

2 I DIDN'T CONTINUE WITH THE NOTES.

3 Q HAD SHE SAID PRIOR TO THAT TIME THAT SHE SAW
4 BLOOD?

5 A I DON'T RECALL.

6 Q YOU DON'T RECALL?

7 A I DON'T RECALL THAT.

8 Q OKAY. SO ONCE SHE SAID THAT THERE WAS A TEAR OR
9 SHE SAW BLOOD, THEN YOU EXAMINED Minor ?

10 A YES.

11 Q AND WHEN YOU EXAMINED Minor WAS WHEN YOU SAW
12 THE TESTICLE PROTRUDING?

13 A (NODS IN THE AFFIRMATIVE)

14 Q OKAY. YOU HAVE NO WAY OF KNOWING THAT THAT WAS
15 NOT THE FIRST TIME MY MIAMA SAW THE TESTICLE
16 PROTRUDING, CORRECT?

17 A I ASSUME WHEN SHE TOLD ME IT TORE.

18 Q OKAY. THAT'S WHAT I'M SAYING. YOU'RE MAKING AN
19 ASSUMPTION. OKAY. MY QUESTION WAS: YOU HAVE NO WAY OF
20 KNOWING THAT WHEN YOU SAW THE TESTICLE PROTRUDING THAT
21 WAS NOT THE FIRST TIME SHE SAW IT?

22 A I WOULD HAVE NO WAY OF KNOWING THAT.

23 Q YOU HAVE NO WAY OF KNOWING THAT. AND THAT IT WAS
24 FROM THAT POINT ON THAT YOU SAY MIAMA'S EYES GOT BIG,
25 SHE GOT MORE INVOLVED AND SEEMED TO BE A LITTLE MORE

1 NERVOUS AT THAT TIME, CORRECT?

2 A AFTER SHE SAW ME CALLING THE NURSE TO GET A ROOM
3 AND ALL THAT.

4 Q AFTER SHE SAW THE PROTRUDING TESTICLE?

5 A I DID IT THE FIRST TIME AND BACKED UP AND SHE
6 DIDN'T DO IT THEN. THE SECOND TIME AFTER I LOOKED AND
7 MADE THE PHONE CALL, THAT'S WHEN SHE STARTED GETTING
8 MORE ATTENTIVE.

9 Q AND YOU REMEMBER THAT?

10 A I DO.

11 Q OKAY.

12 A I CAN EXPLAIN TO YOU THE REASON WHY I NOTICED
13 THAT.

14 Q NO. SHE CAN ANSWER THAT.

15 A NO, I MEAN, MY PERCEPTION.

16 Q I SAID, SHE CAN ANSWER THAT QUESTION. WAS THERE
17 ANY OTHER PERSON THAT SAW ^{Minor} THAT NIGHT, AS FAR
18 AS HOSPITAL PERSONNEL?

19 A THERE WOULD HAVE BEEN PROBABLY A TECH OUT IN THE
20 E.R., IN THE TRIAGE ROOM WITH ME, THE DOCTOR, ANY NURSE
21 THAT WOULD HAVE CAME IN THE ROOM.

22 Q ANYONE ELSE?

23 A THE SECOND NURSE AND THE DOCTOR COULD PROBABLY
24 TELL THAT BETTER THAN I COULD BECAUSE I WASN'T BACK
25 THERE.

1 MR. ROGERS: THANK YOU, MS. SHARP.

2 THE WITNESS: YOU'RE WELCOME.

3 THE COURT: ALL RIGHT. ANY REDIRECT?

4 REDIRECT EXAMINATION

5 BY MS. CAMPBELL:

6 Q JUST A COUPLE OF QUESTIONS. MS. SHARPE, YOU
7 MENTIONED THAT YOU REMEMBERED THIS FOR A REASON?

8 A LIKE I SAID, YOU GET A LOT OF PEOPLE COME INTO THE
9 E.R. WHAT WE USUALLY HAVE IS WE HAVE PEOPLE COME IN
10 AND SAY MY CHILD IS REALLY SICK. HE HAS THIS SEVERE
11 BURN OR THIS SEVERE CUT, BUT WHAT IT TURNS OUT IS WHAT
12 THEY USUALLY ARE --

13 MR. ROGERS: YOUR HONOR, I'M GOING TO OBJECT.

14 THE COURT: WAIT JUST A MINUTE.

15 MR. ROGERS: I'M GOING TO OBJECT TO THIS QUESTION
16 AND ANSWER THAT WHAT USUALLY HAPPENS IN THE E.R. IS NOT
17 RELEVANT TO WHAT HAPPENED THIS NIGHT. SHE CAN TESTIFY
18 AS TO WHAT SHE OBSERVED THAT NIGHT, BUT MAKING A
19 COMPARISON TO WHAT IS USUAL, I DON'T THINK IS PROPER OR
20 RELEVANT.

21 THE COURT: WELL, SHE IS EXPLAINING AN ANSWER THAT
22 WAS GIVEN ON CROSS-EXAMINATION. I'M GOING TO PERMIT
23 IT. GO AHEAD.

24 BY MS. CAMPBELL:

25 Q I'M SORRY FOR THE INTERRUPTION. GO AHEAD.

1 A WHAT USUALLY HAPPENS IS THE OPPOSITE. YOU HAVE
2 PARENTS THAT ARE HYSTERICAL OVER SOMETHING THAT IS VERY
3 MINOR IN THE END, AND SO THE REASON I REMEMBERED THAT I
4 THOUGHT SHE WAS NOT VERY EXCITABLE OR CRYING OR THAT
5 SORT OF THING WAS BECAUSE COMPARED TO WHAT WE USUALLY
6 GET, IT'S THE OPPOSITE. THEY'RE VERY PANICKED NORMALLY
7 OVER A VERY MINOR THING. THIS SEEMED TO BE A VERY
8 MAJOR THING, AND SHE DIDN'T SEEM VERY EXCITED ABOUT IT.
9 NORMALLY SOMEBODY IN THE E.R. LOBBY IS YELLING, "WHEN
10 ARE YOU GOING TO SEE MY PATIENT. IT'S TAKING TOO LONG.
11 IT'S TAKING TOO LONG." SHE WAS CALM IN MY CHAIR AND
12 SHE DIDN'T GET EXCITED UNTIL AFTER SHE SAW ME EXITED.
13 THAT'S WHY I REMEMBER THAT IMPRESSION.

14 MS. CAMPBELL: THANK YOU, MA'AM.

15 THE COURT: ANYTHING FURTHER MR. ROGERS?

16 MR. ROGERS: NO.

17 THE COURT: ALL RIGHT. THANK YOU. YOU MAY STEP
18 DOWN, MA'AM.

19 GO AHEAD, CALL YOUR NEXT WITNESS, MS. CAMPBELL.

20 MS. CAMPBELL: MAY IT PLEASE THE COURT. THE STATE
21 CALLS DR. O'MEARA.

22 DR. SEAN O'MEARA

23 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

24 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL
25 NAME FOR THE RECORD.

1 THE WITNESS: MY NAME IS SEAN O'MEARA.

2 DIRECT EXAMINATION

3 BY MS. CAMPBELL:

4 Q DR. O'MEARA, WHERE ARE YOU EMPLOYED?

5 A AT LEXINGTON MEDICAL CENTER.

6 Q AND WHAT DO YOU DO THERE, SIR?

7 A I'M AN EMERGENCY PHYSICIAN.

8 Q AN EMERGENCY PHYSICIAN?

9 A YES.

10 Q IT'S HARD TO HEAR IN HERE FOR SOME REASON. CAN
11 YOU TELL THE JURY A LITTLE BIT ABOUT YOUR TRAINING IN
12 THE MEDICAL FIELD?

13 A I WENT THROUGH MEDICAL SCHOOL IN AUGUSTA, GEORGIA,
14 FOUR YEARS OF MEDICAL SCHOOL, AND I DID MY RESIDENCY IN
15 GREENVILLE, NORTH CAROLINA, IN EMERGENCY MEDICINE, AND
16 I COMPLETED THAT IN 1997. I BECAME BOARD CERTIFIED IN
17 EMERGENCY MEDICINE THE FOLLOWING YEAR AND HAVE REMAINED
18 BOARD CERTIFIED.

19 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD
20 OFFER HIM AS AN EXPERT IN EMERGENCY MEDICINE.

21 MR. ROGERS: NO OBJECTION.

22 THE COURT: WITHOUT OBJECTION HE IS FOUND TO BE
23 QUALIFIED AS AN EXPERT IN THE FIELD OF EMERGENCY
24 MEDICINE.

25 LADIES AND GENTLEMEN, LET ME BRIEFLY EXPLAIN TO

1 YOU THAT NORMALLY WITNESSES CANNOT TESTIFY TO THEIR
2 OPINIONS, BUT ONE EXCEPTION TO THAT GENERAL RULE IS IF
3 A WITNESS IS QUALIFIED AS AN EXPERT THEN THAT DOES GIVE
4 THAT WITNESS THE RIGHT TO VOICE HIS OR HER OPINION IN
5 THAT PARTICULAR FIELD. I'LL HAVE SOME FURTHER
6 INSTRUCTIONS FOR YOU WHEN I GIVE YOU THE INSTRUCTIONS
7 OF LAW.

8 YOU MAY CONTINUE, SOLICITOR.

9 MS. CAMPBELL: MAY IT PLEASE THE COURT.

10 BY MS. CAMPBELL:

11 Q DOCTOR, I WANT TO TURN YOUR ATTENTION BACK TO THE
12 EVENING -- TO THE EARLY MORNING HOURS, ACTUALLY, OF
13 AUGUST 16TH 2005. WERE YOU WORKING THAT EVENING?

14 A YES, I WAS.

15 Q AND WHAT SHIFT WERE YOU WORKING, SIR?

16 A I WAS WORKING FROM 11:00 P.M. UNTIL 8:00 THE
17 FOLLOWING MORNING.

18 Q AND DURING THE COURSE OF THAT EVENING, DID YOU
19 HAVE OR, WERE YOU REQUIRED TO COME INTO CONTACT WITH A
20 YOUNG MAN NAMED Minor ?

21 A YES, I WAS.

22 Q CAN YOU EXPLAIN TO THE JURY HOW THAT PATIENT CAME
23 TO YOUR ATTENTION?

24 A HE WAS PLACED IN A TREATMENT ROOM, AND THEN I WAS
25 TOLD THERE WAS A PATIENT THERE THAT NEEDED MY

1 ATTENTION.

2 Q AND ONCE HE WAS IN THE TREATMENT ROOM, DID YOU
3 ACTUALLY MAKE CONTACT WITH M^{Minor} ?

4 A YES.

5 Q AND WAS HIS STEPMOTHER, MIAMA KROMAH, ALSO THERE
6 THAT EVENING?

7 A YES.

8 Q AND AS A PHYSICIAN IN THIS CASE, AS IN EVERY CASE,
9 WHAT DO YOU DO IMMEDIATELY, WHAT ARE YOU TRYING TO
10 ESTABLISH?

11 A I'M TRYING TO DETERMINE WHY THE PATIENT HAS COME
12 INTO THE EMERGENCY DEPARTMENT AND WHAT NEEDS TO BE
13 ADDRESSED AS FAR AS THE PATIENT'S PRIMARY COMPLAINT.

14 Q AND IN EVERY CASE, IS IT IMPORTANT TO GET A
15 HISTORY FROM THE ADULT IN THE CASE, SINCE THIS WAS A
16 SMALL CHILD?

17 A YES.

18 Q WHAT WAS THE Demeanor OF THE CHILD WHEN YOU FIRST
19 CAME IN CONTACT WITH HIM, DO YOU RECALL?

20 A HE WAS CRYING.

21 Q AND THE STEPMOTHER THAT YOU CAME IN CONTACT WITH,
22 WHAT WAS HER Demeanor LIKE?

23 A SHE SEEMED TO BE A LITTLE BIT ANXIOUS ABOUT THE
24 SETTING.

25 Q THE SETTING?

1 A UH-HUH.

2 Q BY SETTING --

3 A BY SETTING, I MEAN AS FAR AS BEING IN THE
4 EMERGENCY DEPARTMENT.

5 Q ONCE YOU MADE CONTACT WITH HER, DID YOU ATTEMPT TO
6 GET A HISTORY OF WHAT HAD HAPPENED TO THE CHILD?

7 A I DID.

8 Q WHAT DID SHE TELL YOU THAT NIGHT?

9 A I'LL JUST REFER TO MY NOTES --

10 Q YES.

11 A -- BECAUSE MY RECOLLECTION CAN BEST BE DESCRIBED
12 BY THE NOTES. BASICALLY, SHE SAID THAT SHE WAS BATHING
13 THE CHILD, AND HIS SCROTUM APPEARED ENLARGED, AND SHE
14 APPLIED PRESSURE TO THE SCROTUM, USING A TOWEL AND THE
15 PATIENT DEVELOPED BLEEDING, AND WHEN SHE LOOKED AT THE
16 SCROTUM, SHE SAID THERE WAS BLEEDING FROM THE RIGHT
17 SIDE OF THE SCROTUM.

18 Q AND THAT WAS THE HISTORY SHE GAVE TO YOU; IS THAT
19 CORRECT?

20 A THAT'S CORRECT.

21 Q AND DID YOU MAKE -- AT THAT POINT DID YOU MAKE
22 OBSERVATIONS YOURSELF AS TO THE CHILD'S CONDITION?

23 A YES.

24 Q WHAT DID YOU OBSERVE, SIR?

25 A IN TERMS OF THE SCROTUM OR IN GENERAL?

1 Q IN TERMS OF SCROTUM FIRST AND THEN IN GENERAL.

2 A OKAY. THE SCROTUM APPEARED TO HAVE A DEFECT OR A
3 TEAR OR A CUT OR SOME SORT OF OPENING IN THE RIGHT SIDE
4 OF THE SCROTUM AND THERE WAS BLOOD AROUND THAT ON THE
5 TISSUES. THERE WAS TISSUE THAT WAS EXTERNAL TO THE
6 SCROTUM AND AT THAT APPEARED TO BE THE TESTICLE ON THE
7 RIGHT SIDE.

8 Q SO THE TESTICLE WAS ACTUALLY HANGING OUT OF THE
9 SCROTUM WHEN YOU SAW IT?

10 A THAT'S CORRECT.

11 Q DID YOU NOTICE -- AND LIMIT THIS JUST TO BRUISING
12 -- DID YOU NOTICE ANY BRUISING ON THE CHILD?

13 A WELL, THE SCROTUM APPEARED BRUISED, AND IT ALSO
14 APPEARED SWOLLEN.

15 Q AS FAR AS -- AND LIMIT THIS JUST TO ANY BRUISING
16 YOU SAW ON OTHER PARTS OF CHILD, SPECIFICALLY AS TO HIS
17 MOUTH, DID YOU NOTE ANY BRUISING?

18 A THERE WAS A SMALL AMOUNT OF WHAT APPEARED TO ME TO
19 BE DRIED BLOOD ON THE MOUTH.

20 Q WOULD THAT BE CONSISTENT WITH HAVING RECENTLY HAD
21 AN INJURY TO THE MOUTH AREA?

22 A THAT COULD BE, YES.

23 Q AND DID YOU NOTICE ANY OTHER BRUISING AT THAT
24 POINT?

25 A I DID NOT.

1 Q ONCE YOU MADE AN ASSESSMENT OF THE INJURIES TO THE
2 CHILD, DID YOU THEN REFER HIM TO ANOTHER HOSPITAL, TO
3 PALMETTO RICHLAND?

4 A YES.

5 Q WHY WAS THAT, SIR?

6 A I FELT THAT IT WOULD REQUIRE A PEDIATRIC
7 UROLOGIST, AND WE DO NOT HAVE A PEDIATRIC UROLOGIST AT
8 LEXINGTON MEDICAL CENTER.

9 Q AND BECAUSE OF THE NATURE OF THE ACTUAL INJURY?

10 A THAT'S CORRECT.

11 Q AND AT THAT POINT, DID YOU REFER HIM OVER TO
12 RICHLAND MEMORIAL WHERE THERE'S A CHILDREN HOSPITAL?

13 A WE DID. I SPOKE TO DR. EHRETH AND ALSO TO THE
14 PEDIATRIC SERVICES AT PALMETTO RICHLAND AND THEY
15 ACCEPTED HIM TO BE TRANSFERRED OVER THERE.

16 Q WHY WAS THIS SOMETHING THAT YOU COULDN'T HANDLE AS
17 AN EMERGENCY ROOM DOCTOR?

18 A IT WAS REALLY TWO FACTORS THERE, THE FIRST BEING
19 THAT WE DIDN'T HAVE A PEDIATRIC UROLOGIST, AND ONCE THE
20 SCROTUM WAS EXPOSED -- THE TESTICLES WERE EXPOSED OUT
21 OF THE SCROTUM, I FELT THAT WOULD REQUIRE SURGICAL
22 INTERVENTION BY A PEDIATRIC UROLOGIST.

23 THE SECOND ISSUE IS THAT WHEN YOU HAVE A CHILD
24 THAT'S INJURED, YOU WOULD LIKE A PEDIATRIC ADMISSION TO
25 THE HOSPITAL TO ASSESS WHETHER THERE ARE ANY OTHER

1 INJURIES THAT MAY NOT BE EVIDENT, WHETHER THERE ARE ANY
2 PROBLEMS AS FAR AS THERE BEING THE POTENTIAL FOR CHILD
3 ABUSE OR THAT SORT OF THING.

4 Q THE INJURY THAT YOU OBSERVED THAT MORNING -- AND
5 APPROXIMATELY WHAT TIME WAS IT WHEN YOU CAME IN CONTACT
6 WITH THE CHILD, DO YOU RECALL?

7 A ACTUALLY, WHEN I ENTERED THE ROOM I NOTED THE TIME
8 OF 2:35.

9 Q WHEN YOU CAME IN CONTACT WITH THE CHILD, WOULD YOU
10 DESCRIBE THIS AS GREAT BODILY INJURY?

11 A YES.

12 Q AND WHY IS THAT, SIR?

13 A CONCERN ABOUT POTENTIAL FOR STERILITY, WITH THE
14 LOSS OF THE TESTICLE AND THE LOSS OF THE CAPABILITY TO
15 REPRODUCE.

16 Q AND I BELIEVE THE E.M.T.'S ACTUALLY RESPONDED TO
17 THE HOSPITAL AND TRANSPORTED HIM TO PALMETTO RICHLAND
18 THAT MORNING ; IS THAT CORRECT?

19 A THAT'S CORRECT.

20 Q OTHER THAN THAT EXPLANATION WHEN YOU TALKED TO
21 MS. KROMAH, DID SHE GIVE YOU ANY OTHER EXPLANATION AS
22 TO HOW THIS INJURY OCCURRED?

23 A NONE THAT I RECALL, NO.

24 MS. CAMPBELL: THANK YOU, SIR. PLEASE ANSWER ANY
25 QUESTIONS DEFENSE MAY HAVE.

1 THE COURT: ALL RIGHT. MR. ROGERS.

2 MR. ROGERS: MAY IT PLEASE THE COURT.

3 CROSS-EXAMINATION

4 BY MR. ROGERS:

5 Q DR. O'MEARA, HOW LONG DID YOU OBSERVE Minor
6 THAT NIGHT? HOW LONG WAS YOUR TREATMENT OF HIM OR WHAT
7 HAVE YOU?

8 A AS FAR AS HIS TOTAL TREATMENT COURSE IN THE
9 EMERGENCY DEPARTMENT --

10 Q ABOUT HOW LONG DID YOU SEE HIM? DO YOU RECALL?

11 A I WOULD SAY PERHAPS TEN MINUTES OF DIRECT BEDSIDE
12 OBSERVATION.

13 Q AND YOU DIDN'T DO ANYTHING? YOU DIDN'T PERFORM
14 ANY PROCEDURE OR GIVE HIM ANY MEDICATION OR --

15 A I PERSONALLY DID NOT, NO, BUT I ORDERED SOME
16 MEDICATION TO BE GIVEN TO HIM FOR PAIN WHEN HE APPEARED
17 UNCOMFORTABLE.

18 Q AND THAT WAS MORPHINE, CORRECT?

19 A THAT'S CORRECT.

20 Q HOW IS MORPHINE ADMINISTERED TO A THREE YEAR OLD?

21 A IT CAN BE ADMINISTERED EITHER AS AN ORAL MEDICINE
22 THAT YOU SWALLOW. IT CAN BE ADMINISTERED AS AN I.V.
23 MEDICATION THROUGH INJECTION THE MUSCLE OR SKIN.

24 Q DO YOU KNOW HOW IT WAS ADMINISTERED TO Minor
25 THAT NIGHT?

1 A ACCORDING TO THE RECORDS, IT WAS ADMINISTERED
2 INTRAVENOUSLY, SO THROUGH AN I.V. ACCESS.

3 Q NOW, YOU SAID SOMETHING THAT WHEN YOU FIRST
4 OBSERVED THE SCROTUM, YOU USED THE TERM DEFECT, AND I
5 JUST DIDN'T KNOW WHAT THAT MEANT. ARE YOU SAYING
6 THAT --

7 A THE SKIN IS DISRUPTED.

8 Q SOMETHING LIKE THIS COULD HAVE OCCURRED BY A
9 DEFECT?

10 A WELL, PEOPLE --

11 Q I'M SORRY, I'M SORRY?

12 A YOU THINK ABOUT A DEFECT AS WHEN YOU BOUGHT A CAR
13 AND IT HAD A DENT IN THE DOOR AND THAT'S A DEFECT.
14 THAT'S NOT WHAT WE'RE REFERRING TO HERE.

15 Q OKAY.

16 A WHAT WE'RE REFERRING TO IS SOMETHING THAT SHOULD
17 BE INTACT, BUT --

18 Q I SEE.

19 A -- IT HAS A DISRUPTION OF BEING INTACT.

20 Q SO YOU WERE JUST REFERRING TO THE CUT ITSELF?

21 A THAT'S CORRECT.

22 Q ALL RIGHT. NOW, Minor WAS CRYING?

23 A YES.

24 Q AND MIAMA APPEARED TO BE ANXIOUS?

25 A YES.

1 Q LIKE A NORMAL MOTHER, IN YOUR OPINION?

2 A I DON'T KNOW WHAT A NORMAL MOTHER IS.

3 Q BUT YOU HAVE SEEN MANY MOTHERS IN THE EMERGENCY
4 ROOM?

5 A YES, I'VE SEEN MANY MOTHERS.

6 Q APPEARED NORMAL TO YOU?

7 A APPEARED UNREMARKABLE AT THAT POINT.

8 Q OKAY. AND SHE TOLD YOU THAT SHE SAW HIS SCROTUM
9 WAS ENLARGED?

10 A THAT'S CORRECT.

11 Q AND SHE PUT HIM IN THE TUB, APPLIED A TOWEL,
12 CORRECT?

13 A RIGHT. I DON'T KNOW EXACTLY AS TO THE TIMING OF
14 PUTTING HIM IN THE TUB, APPLYING THE TOWEL. SHE SAID
15 WHEN SHE WAS BATHING HIM.

16 Q OKAY.

17 A SHE NOTICED THE SCROTUM WAS ENLARGED. I WAS
18 ASSUMING HE WAS IN THE TUB WHEN SHE BATHED HIM.

19 Q AND SHE SAW BLOOD?

20 A THAT'S CORRECT.

21 Q AND THAT'S WHEN SHE BROUGHT Minor TO THE
22 EMERGENCY ROOM?

23 A CORRECT.

24 Q OKAY.

25 MR. ROGERS: THANK YOU, DOCTOR.

REDIRECT OF O'MEARA BY CAMPBELL
RECROSS OF O'MEARA BY ROGERS

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1 THE COURT: ALL RIGHT. REDIRECT?

2 MS. CAMPBELL: THANK YOU, YOUR HONOR. JUST ONE
3 QUESTION.

4 REDIRECT EXAMINATION

5 BY MS. CAMPBELL:

6 Q HE ASKED YOU ABOUT ANY TREATMENT. DID YOU PUT ANY
7 KIND OF DRESSING ON THE WOUND FOR TRANSPORT?

8 A YES, WE DID PUT SOME MOISTENED GAUZE ON THE
9 TESTICLE ITSELF AND AROUND THE SCROTUM TO TRY TO
10 PRESERVE THE VIABILITY AND SURVIVABLE OF THE TESTICLE.

11 Q ALSO, HE ASKED YOU ABOUT SOME MORPHINE THAT WAS
12 GIVEN TO THE CHILD?

13 A YES.

14 Q IS THAT APPROPRIATE FOR A CHILD THAT IS IN EXTREME
15 PAIN?

16 A YES.

17 MS. CAMPBELL: THANK YOU.

18 RECROSS-EXAMINATION

19 BY MR. ROGERS:

20 Q DID YOU PUT THE GAUZE ON YOURSELF OR DID SOMEBODY
21 ELSE PUT IT ON?

22 A I DID. THAT WAS READJUSTED, I THINK. A COUPLE OF
23 TIMES THE GAUZE WAS REPOSITIONED BECAUSE IT WOULD TEND
24 TO GET DISPLACED.

25 Q DID YOU TAKE ANY PHOTOGRAPHS?

1 A I DID NOT.

2 MR. ROGERS: THANK YOU, THAT'S ALL.

3 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, DOCTOR.

4 THE BAILIFF: WATCH YOUR STEP DOWN.

5 THE COURT: ALL RIGHT. CALL YOUR NEXT WITNESS,

6 PLEASE.

7 MS. CAMPBELL: MAY IT PLEASE THE COURT. THE STATE

8 CALLS APRIL BERRY.

9 APRIL BERRY,

10 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

11 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL

12 NAME FOR THE RECORD.

13 THE BAILIFF: SPEAK INTO THAT MICROPHONE LOUD AND

14 CLEAR.

15 THE WITNESS: MY NAME IS APRIL BERRY.

16 DIRECT EXAMINATION

17 BY MS. CAMPBELL:

18 Q MS. BERRY, WHERE ARE YOU EMPLOYED?

19 A I AM NOW EMPLOYED AT CAPITAL CITY AMBULANCE.

20 Q AND WHAT DO YOU DO THERE?

21 A I AM A PARAMEDIC AND AN INSTRUCTOR. I ALSO AM

22 EMPLOYED WITH MIDLANDS TECHNICAL COLLEGE AS AN

23 INSTRUCTOR. I TEACH EMERGENCY MEDICAL TECHNICIANS, AND

24 I'M ALSO SEATED AS A DIRECTOR RIGHT NOW UNTIL FURTHER

25 NOTIFIED.

1 Q OKAY. TELL THIS JURY A LITTLE BIT ABOUT YOUR
2 EDUCATION, AND ABOUT YOUR TRAINING AS AN E.M.T. AND A
3 PARAMEDIC?

4 A I'VE BEEN DOING THIS FOR APPROXIMATELY 15 YEARS.
5 I WENT BACK TO SCHOOL TO BECOME AN INSTRUCTOR. I'M THE
6 TRAINING DIRECTOR. I ALSO TRAIN -- I'VE HAD SEVERAL
7 YEARS OF EDUCATION IN TRAINING, AS WELL AS IN EMERGENCY
8 MEDICAL SERVICES, AND I'VE BEEN DOING THIS FOR FIFTEEN
9 YEARS.

10 Q OKAY. AND THE TWO TERMS, E.M.T. VERSUS A
11 PARAMEDIC, IS THERE A DIFFERENCE BETWEEN THOSE TWO
12 TERMS?

13 A YES.

14 Q WHAT IS IT?

15 A THERE'S ACTUALLY THREE LEVELS, THERE'S A BASIC
16 E.M.T., THERE'S AN INTERMEDIATE AND THEN THERE'S A
17 PARAMEDIC LEVEL. IT TAKES APPROXIMATELY FOUR YEARS TO
18 GET TO A PARAMEDIC LEVEL WITH THE CONTINUING EDUCATION
19 THAT YOU HAVE TO GO THROUGH. YOU'RE CERTIFIED ON A
20 HIGHER SKILL LEVEL AS FAR AS THE ABILITY TO TREAT
21 PATIENT CARE ON A LEVEL OF -- IF YOU WANTED TO -- MOST
22 PEOPLE ARE MORE FAMILIAR WITH NURSES. AS AN L.P.N. AND
23 AN R.N. I WOULD BE MORE ON R.N. LEVEL THAN AN L.P.N.
24 LEVEL.

25 Q I WANT TO TURN YOUR ATTENTION BACK TO THE EARLY

1 MORNING HOURS OF AUGUST 16TH, 2005. WERE YOU WORKING
2 OR ON CALL THAT EVENING?

3 A I WAS WORKING A 24 HOUR SHIFT.

4 Q AT SOME POINT DURING THE EARLY MORNING HOURS, DID
5 YOU RESPOND TO LEXINGTON MEMORIAL HOSPITAL?

6 A YES, I DID.

7 Q WHAT KIND OF CALL WERE YOU RESPONDING TO?

8 A WE WERE RESPONDING TO A PEDIATRIC CALL TO TRANSFER
9 A PEDIATRIC PATIENT FROM LEXINGTON TO PALMETTO RICHLAND
10 CHILDREN'S HOSPITAL WITH A LACERATION TO THE SCROTUM.

11 Q WHEN YOU GOT THERE WHO DID YOU COME INTO CONTACT
12 WITH THAT MORNING?

13 A WHEN WE FIRST CAME INTO THE E.R. THEY TOLD US OVER
14 THE PHONE, OF COURSE, WHEN WE TAKE THE CALL, THEY TELL
15 US WHAT ROOM WE'RE GOING TO BE GOING TO. WE GO TO THE
16 NURSE'S STATION, FIND OUT EXACTLY WHERE THE PATIENT IS
17 AT. AS WE WALKED INTO THE ROOM, THERE WAS NURSE IN THE
18 ROOM WITH THE PATIENT MONITORING THE PATIENT AND THE
19 MOTHER WAS ALSO IN THE ROOM.

20 Q AND THAT TURNED OUT TO BE THE STEPMOTHER?

21 A YES.

22 Q WHEN YOU GOT THERE ARE YOU ACTUALLY THERE TO DO
23 ANY TREATMENT -- OR WHAT WAS YOUR PURPOSE ON THAT
24 EVENING?

25 A USUALLY WHEN WE'RE CALLED TO TRANSFER A PATIENT

1 FROM ONE FACILITY TO ANOTHER FACILITY, USUALLY THE
2 PATIENT IS ALREADY WHAT WE CALL PACKAGED. THEY'RE
3 USUALLY PREPARED. THEY'VE ALREADY BEEN TREATED TO SOME
4 DEGREE AND THEY'RE BEING TRANSFERRED TO ANOTHER
5 FACILITY FOR A HIGHER LEVEL OF CARE. IN OTHER WORDS,
6 THAT FACILITY IS NOT EQUIPPED TO HANDLE THAT SO WE TAKE
7 THEM TO ANOTHER FACILITY.

8 Q WHEN YOU GOT THERE CAN YOU DESCRIBE THE Demeanor
9 OF THE THREE YEAR OLD CHILD, Minor ?

10 A HE WAS SEDATED APPARENTLY. THEY TOLD ME THAT HE
11 HAD BEEN GIVEN MORPHINE, BUT HE WAS NOT SEDATED TO THE
12 POINT THAT WHEN I TOUCHED HIM AND I BENT DOWN TO SPEAK
13 TO HIM TO AROUSE HIM, HE OPENED HIS EYES AND LOOKED AT
14 ME, AND HE NODDED WHEN I TOLD HIM WHO I WAS AND I WHEN
15 I TOLD HIM I WAS GOING TO TAKE HIM TO THE OTHER
16 HOSPITAL, HE RESPONDED VERY WELL TO ME.

17 Q AND DID HE SEEM TO COMPREHEND WHAT YOU WERE SAYING
18 TO HIM?

19 A OH, YES.

20 MR. ROGERS: OBJECTION, HEARSAY.

21 THE COURT: WHAT WAS THE QUESTION? I ASK THAT YOU
22 REPEAT IT, DON'T ANSWER IT, OKAY, JUST REPEAT THE
23 QUESTION.

24 MS. CAMPBELL: DID HE APPEAR TO COMPREHEND WHAT
25 SHE WAS SAYING TO HIM?

1 THE COURT: OVERRULED. SHE CAN TESTIFY TO THAT.

2 BY MS. CAMPBELL:

3 Q DID HE APPEAR TO COMPREHEND THAT?

4 A YES, HE DID.

5 Q DID HE -- YOU CAN'T SAY WHAT HE SAID, BUT DID HE
6 RESPOND APPROPRIATELY?

7 A YES, HE DID. HE DIDN'T SAY ANYTHING. HE JUST
8 NODDED.

9 Q DID YOU ALSO TRY TO, THERE AT THE HOSPITAL WHILE
10 YOU'RE STILL IN THE EMERGENCY DEPARTMENT, DID YOU TRY
11 TO MAKE CONTACT WITH THE STEPMOTHER IN THIS CASE?

12 A YES. I DO ALWAYS MAKE IT A POINT, ESPECIALLY WHEN
13 I'M TREATING A CHILD TO MAKE SURE THAT IF THERE IS A
14 PARENT OR A GUARDIAN AROUND THAT I DO ACKNOWLEDGE WHO I
15 AM AND THAT I'M GOING TO BE THE PERSON TRANSPORTING
16 THEIR CHILD, AND I'M GOING TO DO EVERYTHING WITHIN MY
17 POSSIBLE MEANS TO TAKE CARE OF THE CHILD DURING
18 TRANSPORT.

19 Q AND WHEN YOU SPOKE WITH MS. KROMAH -- DO YOU SEE
20 HER HERE IN THE COURTROOM TODAY?

21 A YES, SHE IS RIGHT THERE.

22 Q RIGHT THERE?

23 A YES.

24 Q SITTING NEXT TO HER ATTORNEY?

25 A YES, MA'AM.

1 Q WHEN YOU SPOKE TO HER THAT MORNING, WHAT KIND OF
2 INFORMATION WERE YOU TRYING TO GET FROM HER INITIALLY
3 IN THE EMERGENCY ROOM, OR WERE YOU TRYING TO GET ANY
4 INFORMATION?

5 A I WASN'T TRYING TO GET ANY INFORMATION FROM HER AT
6 THAT POINT OTHER THAN TO INTRODUCE MYSELF AND TO PUT
7 HER AT EASE AS TO WHO I WAS AND WHAT MY JOB WAS AND
8 WHAT I WOULD BE DOING WITH THE CHILD.

9 Q BASED ON THE NATURE OF THIS INJURY, WHAT WAS YOUR
10 PRIMARY FOCUS? WHAT WERE YOU TRYING TO DO QUICKLY?

11 A IT WAS KIND OF AN OVERALL QUESTION TO THE NURSE
12 AND TO THE MOTHER IF THERE WAS ANY TRAUMA INVOLVED,
13 OKAY, AND --

14 Q EXPLAIN THAT TO THE JURY, WHAT WERE YOU ASKING AND
15 HOW DID YOU ASK IT?

16 A WHEN I ASKED THE QUESTION, "WAS THERE TRAUMA
17 INVOLVED, WAS THERE SOMETHING THAT FORCEFULLY CAUSED
18 THIS TO HAPPEN," IS WHAT THAT MEANS. SHE SHOOK HER
19 HEAD "NO" AND SHE DID NOT REALLY ANSWER ME. THE NURSE
20 SAID, "NOT THAT WE'RE AWARE OF AT THIS TIME," AND IT
21 HAD BEEN REPORTED.

22 Q AND THAT'S THE HISTORY YOU WERE GIVEN AS FAR AS
23 TRANSPORTING THE CASE?

24 A PRETTY MUCH.

25 Q AT THAT POINT, DID YOU ASK HER ANY MORE QUESTIONS

1 IN THE EMERGENCY ROOM ABOUT THE INJURY?

2 A NO, I DID NOT.

3 Q DID SHE UNDERSTAND THE WORDS TRAUMA OR FORCEFUL
4 INJURY? DID SHE APPEAR TO UNDERSTAND?

5 A AS FAR AS I KNOW. LATER ON WHEN WE GOT IN THE
6 TRUCK WE DID DISCUSS ENROUTE MORE IN DEPTH ABOUT IT.

7 Q TELL THIS JURY WHAT YOU WERE TRYING TO DO IN
8 GETTING THE CHILD ENROUTE, WHAT YOU DID THAT NIGHT.

9 A ONE THING USUALLY -- THE CHILD WAS VERY CALM AT
10 THE TIME, BUT IN MY FIFTEEN YEARS OF EXPERIENCE, WHEN I
11 TRANSPORT CHILDREN, USUALLY I DON'T GET A TRUE REACTION
12 OR A TRUE RESPONSE WHEN THEY --

13 MR. ROGERS: OBJECTION, OBJECTION.

14 THE WITNESS: OR GET A --

15 MR. ROGERS: OBJECTION TO WHAT USUALLY HAPPENS.

16 THE COURT: OVERRULED. SHE CAN TESTIFY TO IT. GO
17 AHEAD.

18 BY MS. CAMPBELL:

19 Q I'M SORRY. YOU CAN TESTIFY.

20 A A LOT OF TIMES WHEN PARENTS ARE INVOLVED WITH
21 CHILDREN AND THEY'RE INJURED, THEY CAN CAUSE AN OVER
22 REACTION TO THE CHILDREN, EITHER TOO MUCH OR NOT
23 ENOUGH, SO IN ORDER FOR ME TO BE ABLE TO SPECIFICALLY
24 MONITOR THE CHILD ENROUTE, I PREFER THAT THE PARENTS
25 DON'T GO IF THE CHILDREN FEEL COMFORTABLE ENOUGH WITH

1 ME, SO I TOLD HER IF SHE WOULD LIKE TO FOLLOW ALONG
2 WITH US AND ASKED IF SHE HAD DIRECTIONS OR KNEW HOW TO
3 GET TO THE OTHER FACILITY AND THAT IF SHE DID NOT SHE
4 COULD FOLLOW US. SHE INFORMED ME, NO, THAT SHE WOULD
5 BE RIDING WITH US.

6 Q DID YOU GO FURTHER AND EVEN ASK THE CHILD IF HE
7 WOULD BE -- IF HE WANTED MIAMA KROMAH TO RIDE WITH YOU?

8 A AS WE WERE GOING OUT TO GET INTO THE UNIT, SHE
9 SAID THAT THERE WERE SOME THINGS SHE NEEDED TO RETRIEVE
10 FROM HER PERSONAL VEHICLE. I TOLD HER IF SHE WANTED TO
11 THAT SHE WAS MORE THAN WELCOME TO FOLLOW BEHIND US. AT
12 THIS POINT THE CHILD WAS MORE AROUSED, OF COURSE, WITH
13 US TALKING AND THINGS LIKE THAT.

14 AS WE WERE GETTING READY TO PUT HIM INTO THE BACK
15 OF UNIT, HE WAS LOOKING AT ME. I LOOKED DOWN AND I
16 SAID, I ASKED HIM WHAT HIS NAME WAS. HE SAID HIS NAME
17 WAS Minor . I ASKED HIM, I SAID, "DO YOU WANT TO
18 GO -- DO YOU FEEL COMFORTABLE, CAN YOU RIDE WITH ME,
19 JUST ME AND YOU, DO YOU THINK WE CAN GO TO THE OTHER
20 HOSPITAL BY OURSELVES?" I TRY TO TALK ON THAT LEVEL
21 WHEN I TALK TO THE CHILDREN.

22 MR. ROGERS: THERE'S GOING TO BE AN OBJECTION TO
23 WHAT Minor SAID, YOUR HONOR.

24 THE WITNESS: HE DIDN'T SAY ANYTHING.

25 THE COURT: HOLD ON. DON'T SAY ANYTHING. HE'S

1 NOT ASKING YOU A QUESTION.

2 THE WITNESS: OKAY.

3 THE COURT: I DON'T KNOW WHAT YOUR NEXT QUESTION
4 IS, SOLICITOR.

5 MS. CAMPBELL: AND I'LL LIMIT IT TO NOT SAYING
6 WHAT HE SAID.

7 BY MS. CAMPBELL:

8 Q DID HE SAY ANYTHING?

9 A HE DID NOT SAY ANYTHING. HE NODDED. EVERYTHING
10 WAS A NOD. HE NODDED YES.

11 THE COURT: THE OBJECTION IS OVERRULED, GO AHEAD.

12 MS. CAMPBELL: THANK YOU.

13 THE WITNESS: AT THAT POINT --

14 THE COURT: WAIT A MINUTE, WAIT A MINUTE. THERE'S
15 NOT A QUESTION RIGHT NOW. ASK YOUR QUESTION,
16 SOLICITOR, GO AHEAD.

17 BY MS. CAMPBELL:

18 Q WHAT DID YOU ASK NEXT? I'M SORRY.

19 A THE NEXT QUESTION WAS DID HE WANT HIS MOM, WHICH I
20 THOUGHT IT WAS HIS MOM, I WAS NOT INFORMED THAT IT WAS
21 HIS STEPMOTHER AT THE TIME, I SAID, "DO YOU WANT YOUR
22 MOM TO RIDE WITH YOU?" AT THAT POINT --

23 Q DON'T SAY WHAT HE SAID.

24 A HE DIDN'T SAY ANYTHING. HE JUST LOOKED OVER AT
25 HER AND DID JUST LIKE THIS, LIKE A NOD AND THEN JUST

1 LOOKED STRAIGHT UP AT ME, DIDN'T SAY A WORD, AND SHE
2 JUST INSISTED -- SHE INSISTED TO RIDE WITH US AND SO I
3 SAID OKAY. AT THAT POINT I'M NOT GOING TO KEEP PARENTS
4 FROM THEIR CHILDREN. I SAID, "OKAY, IF YOU WANT TO
5 RIDE, THEN FINE," AND WE LOADED THE CHILD INTO THE
6 UNIT, AND I PUT HER -- IF ANYONE HAS EVER BEEN IN THE
7 AMBULANCE, WHEN YOU STEP UP IN IT, THERE IS A CHAIR
8 THAT SITS UP AT THE VERY HEAD OF THE STRETCHER. THAT
9 WAS THE CHAIR THAT I PUT HER IN SO THAT SHE COULD BE
10 RIGHT ABOVE THE CHILD, BECAUSE IT'S GOT THE SAFETY
11 BELTS AND EVERYTHING THAT WE STRAP THE RIDERS IN, AND
12 I -- WE THEN PROCEEDED ENROUTE TO RICHLAND.

13 Q PRIOR TO ACTUALLY GETTING HER IN THE AMBULANCE
14 ALONG WITH THE CHILD, DID YOU HAVE TO WAIT ON HER FOR
15 ANYTHING?

16 A I HAD TO WAIT FOR HER TO RETRIEVE WHATEVER ITEMS
17 OR ARTICLES OR WHATEVER IT WAS THAT SHE GOT FROM HER
18 VEHICLE.

19 Q BUT SHE DIDN'T WANT TO TAKE HER VEHICLE THAT
20 NIGHT?

21 A RIGHT.

22 Q ONCE YOU WERE INSIDE THE VEHICLE, DID YOU TRY TO
23 GET A FURTHER HISTORY OF WHAT HAD HAPPENED TO THE
24 CHILD?

25 A NOT SPECIFICALLY, NO. AT THAT POINT, MY FOCUS WAS

1 MAINLY ON MONITORING THE CHILD. I TURNED MY FOCUS TO
2 THE CHILD. I GOT DOWN ONTO THE FLOOR. HIS EYES WERE
3 OPEN. HE WAS AWAKE AT THIS POINT. HE DID NOT SEEM SO
4 SEDATED AS HE DID WHEN I FIRST CAME INTO THE ROOM. I
5 THINK THAT WAS BECAUSE THEY WERE JUST LETTING HIM LAY
6 THERE, AND THEY WEREN'T MESSING WITH HIM OR ANYTHING
7 THERE.

8 MY THING IS TO MESS WITH HIM ENROUTE, FOR ONE HE
9 HAS HAD A SEDATIVE, WHICH I HAVE TO MONITOR CHILDREN OR
10 ANYONE FOR THAT MATTER AND MAKE SURE THEY'RE BREATHING
11 LIKE THEY SHOULD BE WHILE THEY ARE ONBOARD. I HAVE TO
12 MAKE SURE THEIR HEART RATE IS REGULAR. I CHECK THEIR
13 BLOOD PRESSURE. I JUST OVERALL CHECK AND MONITOR THEIR
14 REACTIONS.

15 I WAS ON THE FLOOR, BECAUSE HE WAS A CHILD AND SO
16 I COULD BE SOMEONE AT FACE LEVEL SO THAT HE FELT
17 COMFORTABLE WITH ME, AND -- WHAT WAS YOUR QUESTION
18 AFTER THAT, I'M SORRY?

19 Q DID YOU SPEAK TO HER ABOUT WHAT HAPPENED TO
20 Minor THAT DAY?

21 A SHE ACTUALLY -- I DIDN'T ASK HER. SHE ACTUALLY
22 ASKED ME DID I KNOW WHAT COULD HAVE HAPPENED, AND
23 THAT'S WHERE WE GOT INTO MORE OF A CONVERSATION OF WHAT
24 TRAUMA WAS. I SAID, "WELL, IN FIFTEEN YEARS OF DOING
25 THIS, I'VE NEVER HEARD OF A SPONTANEOUS ERUPTION OF THE

1 SCROTUM." USUALLY THERE'S SOME SORT OF TRAUMA
2 INVOLVED. I ASKED HER AT THAT POINT, "YOU DO
3 UNDERSTAND WHAT TRAUMA MEANS?" AND SHE TOLD ME THAT SHE
4 KNEW SOME MEDICAL TERMINOLOGY, SO SHE WAS WELL AWARE OF
5 WHAT TRAUMA MEANT.

6 I TOLD HER THAT I COULDN'T EXPLAIN TO HER REALLY
7 WHAT HAPPENED, AND SHE STARTED ASKING ME A SERIES OF
8 QUESTIONS AND TELLING ME ABOUT EVENTS AND THINGS THAT
9 HAD HAPPENED THAT LED UP TO WHERE WE WERE AT THAT
10 POINT.

11 Q WHAT DID SHE TELL YOU?

12 A SHE TOLD ME THAT --

13 MR. ROGERS: YOUR HONOR --

14 THE COURT: HOLD ON ONE SECOND.

15 MR. ROGERS: I'M GOING TO OBJECT. WHAT THE
16 DEFENDANT SAID IS HEARSAY.

17 THE COURT: OVERRULED, GO AHEAD.

18 BY MS. CAMPBELL:

19 Q GO AHEAD.

20 A SHE TOLD ME THAT SHE HAD BEEN AT WORK, THAT THE
21 CHILD WAS BEING KEPT BY THE SISTER AND THAT SHE HAD,
22 THE SISTER HAD A SON SOMEWHERE AROUND THE SAME AGE,
23 DIDN'T SPECIFY THE AGE, AND THAT SHE HAD PICKED HER SON
24 UP FROM WORK, HAD TAKEN HIM HOME, WAS TRYING TO GET HIM
25 TO EAT, AND THAT HE JUST KIND OF ACTED SLEEPY LIKE HE

1 DIDN'T REALLY WANT TO EAT, AND THAT SHE WENT TO TAKE
2 HIM AND PUT HIM IN THE BATHTUB AT THAT POINT BECAUSE
3 SHE KNEW HE WASN'T GOING TO EAT, SO SHE WAS GOING TO
4 GIVE HIM A BATH. AT THAT POINT WAS WHEN SHE REALIZED
5 THERE WAS SOMETHING WRONG. THAT'S WHEN SHE SEEN THE
6 BLOOD. THAT'S PRETTY MUCH WHAT SHE TOLD ME HAD
7 HAPPENED.

8 Q DID SHE TELL YOU ANY OTHER ALTERNATIVE STORIES
9 THAT NIGHT AS TO WHAT HAD HAPPENED WITH THE CHILD?

10 A WHEN WE WERE HAVING THE CONVERSATION ABOUT THE
11 TRAUMA, SHE HAD -- AND SHE HAD ASKED ME WAS THERE
12 SOMETHING ELSE THAT COULD HAVE CAUSED THAT, YOU KNOW,
13 SINCE I DIDN'T FEEL THAT IT WAS A SPONTANEOUS ERUPTION,
14 AND WHEN WE WERE TALKING ABOUT THE TRAUMA, SHE SAID,
15 "WELL, DO YOU THINK DURING -- THE CHILDREN, IF THEY
16 WERE PLAYING ROUGH OR SOMETHING LIKE THAT IF HE COULD
17 HAVE GOTTEN KICKED OR FELL ON A TOY," KIND OF MORE OR
18 LESS ASKING ME WHAT MY THOUGHTS WERE. I TOLD HER,
19 "WELL, IT'S POSSIBLE, BUT I WASN'T THERE, I DON'T
20 KNOW."

21 Q AND AT THAT POINT, DID YOU ACTUALLY OBSERVE THE
22 THREE INCH CUT YOURSELF?

23 A NO, I DID NOT.

24 Q DID YOU HAVE ANY OTHER CONVERSATIONS WITH HER
25 ABOUT Minor C'S INJURIES GOING FROM LEXINGTON TO

1 RICHLAND MEMORIAL, PALMETTO RICHLAND?

2 A NOT THAT I CAN RECALL.

3 Q WHAT WAS Minor S Demeanor LIKE THAT EVENING, DO
4 YOU REMEMBER?

5 A HIS, DURING TRANSPORT?

6 Q YES.

7 A HE WAS VERY RECEPTIVE OF MY INTERACTION WITH HIM.
8 AS A MATTER OF FACT I EVEN ASKED HER IF HE -- AND I WAS
9 TALKING TO HIM, IF HE LIKED TO SING AND IT MAY SEEM
10 SILLY TO SOME PEOPLE, BUT I TAKE PRIDE ESPECIALLY WHEN
11 IT COMES TO PEDIATRICS. I WAS ASKING HIM, TRYING TO
12 SOOTHE HIM AND COMFORT HIM, IF HE HAD ANY FAVORITE
13 SONGS. I DO BELIEVE THAT SHE SPOKE UP AND SAID, "OLD
14 MCDONALD." WE SANG A FEW VERSES OF OLD MCDONALD. HE
15 WAS VERY RECEPTIVE TO EVERYTHING I DID. HE WAS VERY
16 SOOTHED AND CALM AT THAT POINT.

17 Q WHAT WAS HER Demeanor LIKE?

18 A SHE DIDN'T REALLY -- NOTHING. SHE WASN'T OVER
19 REACTIVE OR UNDER REACTIVE, JUST KIND OF SOLID.

20 Q AND ANY -- DID YOU EXPRESS TO HER YOUR CONCERN
21 ABOUT THE SEVERITY OF WHAT HAD HAPPENED TO THE CHILD?

22 A I DON'T UNDERSTAND THE QUESTION.

23 Q IN YOUR DISCUSSIONS ABOUT HOW THIS COULD HAVE
24 HAPPENED, DID YOU MAKE IT CLEAR THAT THIS WAS A SEVERE
25 INJURY?

1 A YES, I DID.

2 Q IS THAT WHEN SHE STARTED ASKING YOU ABOUT
3 ALTERNATIVE WAYS THIS WOULD HAVE HAPPENED?

4 A PRETTY MUCH. TRAUMA, WE STARTED ON THE ROAD OF
5 TRAUMA.

6 Q AND SHE HAD ALREADY GIVEN YOU THE STORY OF WHAT
7 SHE SAID HAPPENED; IS THAT CORRECT?

8 A SOMEWHERE IN BETWEEN THERE, YES.

9 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

10 (PAUSE)

11 MS. CAMPBELL: THAT'S ALL I HAVE.

12 THE COURT: ALL RIGHT, MR. ROGERS.

13 MR. ROGERS: THANK YOU, YOUR HONOR.

14 CROSS-EXAMINATION

15 BY MR. ROGERS:

16 Q MS. BERRY, DID YOU MAKE ANY NOTES ABOUT THIS
17 EMERGENCY RUN?

18 A YES, I DID.

19 Q DO YOU HAVE THEM WITH YOU?

20 A I DID NOT BRING MY COPY, NO, SIR.

21 Q WHAT TIME DID YOU RECEIVE THE CALL TO GO TO
22 LEXINGTON TO PICK UP Minor ?

23 A IT WAS AFTER 3:00 A.M.

24 Q AND HOW LONG DID IT TAKE YOU TO GET TO LEXINGTON
25 AFTER YOU RECEIVED THE CALL?

- 1 A FROM MY LOCATION?
- 2 Q YES.
- 3 A WITHIN FIVE MINUTES, TEN MINUTES TOPS.
- 4 Q FIVE TO TEN?
- 5 A YEAH, WE WERE RIGHT THERE ON LEAPHART ROAD, WHICH
- 6 IS LESS THAN A MILE FROM THE HOSPITAL.
- 7 Q AND THEN HOW LONG WERE YOU AT THE HOSPITAL BEFORE
- 8 YOU LEFT TO GO TO RICHLAND?
- 9 A MAYBE TEN MINUTES, FIFTEEN TOPS.
- 10 Q AND YOU NEVER EXAMINED THE CHILD?
- 11 A NOT UNTIL AFTER I GOT TO RICHLAND.
- 12 Q OKAY. NOW, WHEN YOU PUT Minor IN THE
- 13 AMBULANCE, WAS HE CRYING?
- 14 A NO.
- 15 Q OKAY. AND WHEN YOU ASKED HIM BASICALLY WAS IT
- 16 OKAY IF HIS MOTHER WENT ALONG, HE DIDN'T CRY OR YELL OR
- 17 SCREAM?
- 18 A NO.
- 19 Q OR RUN?
- 20 A NO.
- 21 Q AND HOW LONG WAS THE RIDE, THE TRAVEL BETWEEN
- 22 LEXINGTON AND RICHLAND MEMORIAL?
- 23 A BETWEEN FIFTEEN AND TWENTY MINUTES.
- 24 Q AND THAT WAS -- SO YOU WERE THE FIRST PERSON THAT
- 25 MIAMA HAD THAT MUCH CONTACT WITH, FOR FIFTEEN TO TWENTY

1 MINUTES?

2 A (NODS IN THE AFFIRMATIVE)

3 Q OKAY. NOW, SHE TOLD YOU THAT SHE OBSERVED THE
4 SCROTUM SWOLLEN?

5 A I DON'T REMEMBER HER SAYING ANYTHING ABOUT THE
6 SWELLING.

7 Q OH YOU DON'T?

8 A (THE WITNESS SHAKES HEAD IN THE NEGATIVE.)

9 Q OKAY. SO ALL SHE TOLD YOU WAS THAT SHE PUT HIM IN
10 THE BATH AND THEN SAW BLOOD?

11 A SHE WAS GETTING PREPARED TO PUT HIM IN THE BATH.
12 SHE NEVER SPECIFIED THE POINT OF --

13 Q THAT HE WAS ALREADY IN THE BATHTUB?

14 A RIGHT. NO. SHE NEVER TOLD ME THAT.

15 Q OKAY. AND SO SHE SAW BLOOD AT SOME POINT?

16 A AT THE POINT OF UNDRESSING HIM TO PREPARE TO PUT
17 HIM IN THE BATH.

18 Q AT SOME POINT IN THE BATHROOM IS WHEN SHE SAW THE
19 BLOOD?

20 A CORRECT.

21 Q OKAY. AND WHEN YOU TOLD HER THAT THIS WAS A
22 SERIOUS INJURY, SHE ASKED YOU HOW COULD THIS HAVE
23 HAPPENED, CORRECT?

24 A SHE ASKED ME FROM THE POINT OF START OF THE
25 TRANSPORT HOW DID I THINK THIS COULD HAVE HAPPENED.

1 Q HOW THIS COULD HAVE HAPPENED?

2 A SHE ACTUALLY STARTED THE CONVERSATION MORE SO WITH
3 HER AND I.

4 Q BUT SHE WANTED TO KNOW FROM YOU HOW THIS POSSIBLY
5 COULD HAVE HAPPENED?

6 A SHE WAS QUESTIONING ME, YES, THAT'S CORRECT.

7 Q AND YOU TOLD HER YOU DIDN'T KNOW, BASICALLY?

8 A I WASN'T THERE. I DIDN'T KNOW. I COULDN'T TELL
9 HER.

10 Q NOW, WHEN MIAMA WENT TO HER CAR TO GET HER THINGS,
11 HER CAR WAS PARKED RIGHT THERE IN FRONT OF THE
12 HOSPITAL, WASN'T IT? DIDN'T YOU SEE HER GO TO HER CAR?

13 A I WASN'T WATCHING HER GO TO HER CAR.

14 Q OKAY.

15 A MY FOCUS WAS ON MY PATIENT.

16 Q OKAY. SHE WASN'T GONE LONGER THAN A MINUTE, WAS
17 SHE?

18 A A COUPLE OF MINUTES, NOT A LONG TIME.

19 Q OKAY. AND YOU WERE ALONE? THERE WAS NOBODY
20 ASSISTING YOU?

21 A I HAD A PARTNER.

22 Q SO YOUR PARTNER WAS PRESENT?

23 A YES.

24 Q OKAY. WAS THE -- WAS Minor RESTRAINED IN ANY
25 KIND OF WAY? WAS HE STRAPPED IN ON A BED OR ON A

1 GURNEY?

2 A NO.

3 Q WAS HE SITTING UP OR LAYING DOWN?

4 A HE WAS LAYING DOWN.

5 Q HE WAS LAYING DOWN?

6 A YES.

7 Q BUT NOT STRAPPED IN?

8 A WELL, WE BUCKLED HIM ACROSS.

9 Q THAT'S WHAT I'M ASKING.

10 A YES, SIR.

11 Q SO HE WAS BUCKLED IN?

12 A YES.

13 Q WERE YOU DRIVING?

14 A NO, I WAS IN THE BACK.

15 Q OH, YOU WERE IN THE BACK WITH HIM. DID HE MOVE

16 AROUND?

17 A NOT MUCH, JUST MOSTLY HIS HEAD. MOSTLY HEAD

18 MOVEMENTS. WHEN I CHECKED THE BLOOD PRESSURE, HE GAVE

19 ME HIS ARM AND I --

20 Q OKAY. WELL, DID HE MOVE WHEN THE AMBULANCE MOVED?

21 I MEAN, IF THE AMBULANCE TOOK A CORNER, HE WOULD HAVE

22 MOVED WOULDN'T HE? HE WASN'T THAT STRAPPED IN, RIGHT?

23 A WE RESTRAIN --

24 Q OKAY.

25 A WE RESTRAIN OUR PATIENTS SO --

1 Q OH, OKAY.

2 A -- SO THEY DON'T --

3 Q OKAY, ALL RIGHT. I --

4 THE COURT: WHEN YOU START TALKING BEFORE THE
5 OTHER ONE STOPS, THIS LADY CANNOT GET IT DOWN, BECAUSE
6 WE CAN'T TAKE MORE THAN ONE PERSON AT A TIME. REPEAT
7 THE QUESTION, COUNSELOR.

8 MR. ROGERS: I APOLOGIZE.

9 BY MR. ROGERS

10 Q WHAT I'M SAYING IS, WAS HE STRAPPED IN SO TIGHT
11 THAT HE COULDN'T MOVE AROUND WHEN THE AMBULANCE MOVED?

12 A THERE IS SOME MOVEMENT --

13 Q OKAY.

14 A -- NO MATTER HOW YOU RESTRAIN THEM.

15 Q OKAY. ALL RIGHT. AND I DIDN'T UNDERSTAND
16 MS. CAMPBELL'S QUESTION. MIAMA DIDN'T TELL YOU A
17 DIFFERENT VERSION OF WHAT HAPPENED, DID SHE? SHE JUST
18 ASKED YOU HOW YOU THOUGHT THIS COULD HAVE POSSIBLY
19 HAPPENED?

20 A SHE DID ASK ME, BUT SHE ALSO DID TELL ME WHAT
21 HAPPENED, THE EVENTS THAT HAD LED UP TO HER FINDING IT.

22 Q RIGHT, BUT THAT STORY WAS CONSISTENT, WASN'T IT?
23 I MEAN, SHE NEVER WAVERED FROM WHAT SHE OBSERVED AND
24 WHAT HAPPENED UNTIL SHE SAW THE BLOOD?

25 A I DON'T REALLY UNDERSTAND WHAT YOU'RE ASKING ME.

1 Q OKAY. DID SHE TELL YOU ANY OTHER VERSION OF WHAT
2 HAPPENED?

3 A OTHER THAN THE ONE SHE TOLD ME?

4 Q YES.

5 A NO.

6 MR. ROGERS: THANK YOU.

7 THE COURT: ALL RIGHT. REDIRECT?

8 MS. CAMPBELL: JUST A COUPLE OF QUESTIONS, YOUR
9 HONOR.

10 REDIRECT EXAMINATION

11 BY MS. CAMPBELL:

12 Q SHE DID ASK YOU ABOUT WHAT COULD HAVE CAUSED THIS;
13 IS THAT RIGHT?

14 A YES, SHE DID ASK ME.

15 Q AND THEN DID SHE OFFER AN EXPLANATION AS TO WHAT
16 TRAUMA COULD HAVE CAUSED THIS?

17 A YES.

18 Q AND WHAT WAS THAT EXPLANATION?

19 A IT WAS A QUESTION AND STATEMENT AT THE SAME TIME,
20 THAT WAS IT POSSIBLE THAT BY HER -- BY HIM INTERACTING
21 WITH THE OTHER CHILD, THEM PLAYING TOO ROUGH, COULD
22 THIS POSSIBLY HAVE HAPPENED THAT WAY. IT WAS A
23 QUESTION AND STATEMENT IN THE SAME TERM.

24 Q AND SHE INDICATED TO YOU WHEN SHE FIRST SAW BLOOD
25 WAS WHEN?

1 A WHEN SHE WAS GETTING READY TO GIVE HIM A BATH.

2 MS. CAMPBELL: THAT'S ALL I HAVE.

3 THE COURT: ANY RECROSS?

4 MR. ROGERS: NO, YOUR HONOR.

5 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

6 MS. CAMPBELL: THE STATE CALLS MELANIE PORILLA.

7 MELANIE PORILLA,

8 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

9 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL
10 NAME FOR THE RECORD.

11 THE WITNESS: MY NAME IS MELANIE PORILLA.

12 DIRECT EXAMINATION

13 BY MS. CAMPBELL:

14 Q MS. PORILLA, WHERE ARE YOU EMPLOYED?

15 A LEXINGTON MEDICAL CENTER.

16 Q AND WHAT DO YOU DO THERE, MA'AM?

17 A I'M A REGISTERED NURSE IN THE EMERGENCY
18 DEPARTMENT.

19 Q HOW LONG HAVE YOU BEEN WORKING AT LEXINGTON
20 MEDICAL CENTER?

21 A TWO YEARS.

22 Q I WANT TO TURN YOUR ATTENTION BACK TO AUGUST 16TH
23 OF LAST YEAR, THE EARLY MORNING HOURS. WERE YOU
24 WORKING THAT SHIFT?

25 A YES, MA'AM.

1 Q AND WHAT TIME DID YOU ACTUALLY GET TO WORK THAT
2 NIGHT?

3 A 7:00 P.M. AND I WORKED UNTIL 7:00 A.M. THE NEXT
4 MORNING.

5 Q AT SOME POINT, SOME TIME AFTER TWO IN THE MORNING,
6 DID YOU COME INTO CONTACT WITH A THREE YEAR OLD NAMED
7 Minor ?

8 A YES, MA'AM.

9 Q CAN YOU TELL THE JURY HOW YOU CAME IN CONTACT WITH
10 HIM?

11 A HE WAS BROUGHT TO THE EXAM ROOM THAT I WAS
12 ASSIGNED TO. HE WAS LAYING DOWN ON THE BED. HIS
13 MOTHER, OR WHO I ASSUMED WAS HIS MOTHER AT THE TIME,
14 WAS ALSO WITH HIM. OUR COORDINATOR, THE HEAD NURSE AT
15 THE E.R. WAS IN THERE WITH HIM, AS WELL AS DR. O'MEARA,
16 AND I JOINED THEM THERE.

17 Q AND ONCE YOU GOT BACK INTO THE EMERGENCY ROOM
18 WHERE HE WAS, DID YOU OBSERVE ANY INJURIES ON THAT
19 CHILD?

20 A YES, I DID. THERE WAS HIS PRIMARY COMPLAINT OF
21 THE INJURY TO HIS SCROTUM THAT EXPOSED HIS TESTICLE
22 THAT WAS LAYING OUT. I ALSO NOTED THAT HE HAD SOME
23 INJURIES HIS FACE THAT SEEMED TO BE, AS I RECALL, AN
24 ABRASION TO HIS FOREHEAD, CHIN, AND A SWOLLEN LIP.
25 THERE SEEMED TO BE SOME BLOOD ON THEM, TOO, AS I

1 RECALL.

2 Q OKAY. AND YOU MENTIONED THAT THERE WAS A TESTICLE
3 THAT WAS ACTUALLY EXPOSED?

4 A YES, MA'AM.

5 Q I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
6 EXHIBIT NUMBER 17.

7 MR. ROGERS: YOUR HONOR, MAY WE APPROACH?

8 THE COURT: SURE.

9 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
10 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE
11 JURY.)

12 BY MS. CAMPBELL:

13 Q I'M SORRY. I SHOW YOU NOW WHAT'S BEEN MARKED AS
14 STATE'S EXHIBIT NUMBER 17 AND THEN STATE'S EXHIBIT
15 NUMBER 15. DO YOU RECOGNIZE THOSE?

16 A YES, MA'AM.

17 Q AND THESE WERE ACTUALLY TAKEN LATER AT ANOTHER
18 EMERGENCY ROOM, BUT IS THAT HOW THE CHILD PRESENTED TO
19 YOU WITH THE EXPOSED TESTICLE?

20 A YES, MA'AM.

21 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD
22 OFFER 15 AND 17 INTO EVIDENCE.

23 THE COURT: ANY OBJECTION OTHER THAN WHAT I'VE
24 ALREADY RULED UPON?

25 MR. ROGERS: NO, YOUR HONOR.

1 THE COURT: ALL RIGHT. THEN STATE'S 15 AND 17
2 WILL BE ADMITTED.

3 (WHEREUPON, STATE'S EXHIBITS 15 AND 17 WERE
4 ADMITTED INTO EVIDENCE.)

5 BY MS. CAMPBELL:

6 Q AND THAT WILL BE THE SAME PRESENTATION THAT WAS
7 MADE TO DR. O'MEARA THAT NIGHT, AS WELL?

8 A YES, MA'AM.

9 Q WHEN YOU FIRST CAME IN CONTACT WITH THE CHILD, WAS
10 HE CRYING?

11 A YES, HE WAS CRYING.

12 Q DID DR. O'MEARA GET YOU TO ADMINISTER SOME PAIN
13 MEDICATION TO HELP HIM BECAUSE OF THE PAIN?

14 A YES, WE STARTED AN I.V. AND GAVE HIM HALF A
15 MILLIGRAM OF MORPHINE BY I.V. TO CALM HIM DOWN.

16 Q AND ONCE YOU HAD GIVEN HIM THE MORPHINE, WAS HE
17 ABLE TO CALM DOWN AND THEN GET SOME RELIEF FROM THE
18 PAIN?

19 A I BELIEVE HE FELL ASLEEP IMMEDIATELY AFTER WE GAVE
20 IT TO HIM.

21 Q DID YOU MAKE ANY ATTEMPT TO GET A HISTORY OF WHAT
22 HAPPENED TO THE CHILD, WHAT CAUSED THE INJURY THAT
23 NIGHT?

24 A I WAS WITH THE DOCTOR AND OUR COORDINATOR IN THE
25 ROOM WHEN THE DOCTOR WAS GETTING A HISTORY FROM THE

1 MOTHER. I DOCUMENTED WHAT I HEARD WAS THEIR
2 INTERACTION TOGETHER.

3 Q I'M GOING TO SHOW YOU A COPY OF SOME NOTES THAT
4 YOU MADE THAT EVENING. THESE ARE YOUR NOTES; IS THAT
5 CORRECT?

6 A YES, MA'AM.

7 Q AND WHAT HISTORY DID -- AND FIRST OF ALL, THE
8 PERSON WE'RE TALKING ABOUT IS MIAMA KROMAH?

9 A THAT'S CORRECT.

10 Q WHAT HISTORY DID SHE GIVE AS FAR AS THE INJURY TO
11 THE CHILD THAT NIGHT THAT SHE OBSERVED?

12 A THAT SHE HAD DENIED THAT ANYTHING -- THAT SHE
13 HADN'T DONE ANYTHING OR NOTHING HAD ACTUALLY HAPPENED
14 TO HIM TRAUMATICALLY, THAT SHE RETURNED HOME FROM WORK,
15 THAT THERE WAS SWELLING TO HIS SCROTUM THAT WAS WORSE
16 THAN NORMAL, THAT HE HAD INTERMITTENTLY HAD SWELLING, I
17 REMEMBER HER SAYING, AND THAT SHE HAD APPLIED A TOWEL I
18 BELIEVE AND APPLIED PRESSURE.

19 Q TO HIS SWOLLEN SCROTUM?

20 A YES, TO HIS SCROTUM.

21 Q AND SHE INDICATED THAT IS WHAT CAUSED THIS INJURY?

22 A YES, AND IT SEEMED LIKE IT HAD POPPED OR BURST.

23 Q IT HAD BURST?

24 A YES.

25 Q AT ANY TIME DID SHE INDICATE IT WASN'T AS SEVERE

1 EARLIER AS IT WAS WHEN HE WAS PRESENTING TO YOU ALL?

2 A NO, MA'AM, AT NO TIME DID SHE SAY THAT.

3 Q WAS THE CHILD ACTUALLY TRANSFERRED TO ANOTHER
4 HOSPITAL?

5 A YES, HE WAS.

6 Q AND WHAT WAS THE PURPOSE FOR THAT?

7 A WE NEEDED TO HAVE HIM SEEN BY A PEDIATRIC
8 UROLOGIST IN ORDER TO HAVE SURGERY TO, CORRECT, IF
9 POSSIBLE -- TO PUT THE TESTICLE BACK INSIDE TO SAVE IT,
10 TO PREVENT PERMANENT DAMAGE. ANYTIME THAT YOU HAVE
11 SURGERY ON A CHILD THAT YOUNG, YOU WANT SOMEONE WHO IS
12 A PEDIATRIC SPECIALIST. YOU ALSO WOULD LIKE TO HAVE A
13 PEDIATRIC INTENSIVE CARE UNIT IN CASE THERE'S ANY
14 IMPLICATIONS. RICHLAND HAS THE CHILDREN'S HOSPITAL AND
15 P.I.C.U.

16 MS. CAMPBELL: YOUR HONOR, AT THIS TIME I'D LIKE
17 PERMISSION TO PUBLISH.

18 THE COURT: ALL RIGHT.

19 MS. CAMPBELL: THANK YOU. PLEASE ANSWER ANY
20 QUESTIONS THE DEFENSE MAY HAVE.

21 THE COURT: ALL RIGHT, MR. ROGERS.

22 CROSS-EXAMINATION

23 BY MR. ROGERS:

24 Q MS. PORILLA, DID YOU MAKE ANY OTHER NOTES OTHER
25 THAN THIS DOCUMENT?

- 1 A NO, SIR. THAT'S MY COMPLETE NOTES.
- 2 Q AM I MISSING SOMETHING? YOU WROTE "CHILD" -- THAT
- 3 MARK IS "WITH"?
- 4 A YES.
- 5 Q -- "SWELLING TO THE SCROTUM?"
- 6 A YES.
- 7 Q "PINK TESTICLE HANGING OUT OF RIGHT SIDE, SLIGHT
- 8 ABRASION TO FOREHEAD AND CHIN. BLOOD ON THE BOTTOM
- 9 LIP, MOTHER AT BEDSIDE." IS THAT CORRECT?
- 10 A YES, SIR, THAT'S CORRECT.
- 11 Q OKAY. "INSERTED" -- HELP ME, PLEASE?
- 12 A NUMBER 22 GAUGE -- THAT'S JUST THE SIZE OF THE
- 13 NEEDLE CATHETER THAT WE PLACED INTO HIS RIGHT A.C.,
- 14 WHICH IS THE AREA BEHIND THE RIGHT ELBOW. IT WAS FOR
- 15 THE I.V.
- 16 Q "FLUSHES WELL, MORPHINE, FIVE MILLIGRAMS"--
- 17 A 0.5 MILLIGRAMS, I.V. GIVEN, CHILD FELL ASLEEP.
- 18 EASILY.
- 19 Q DID Minor GO TO SLEEP?
- 20 A HE WENT TO SLEEP VERY EASILY RIGHT AFTER THAT.
- 21 Q RIGHT AFTER THE ADMINISTRATION OF THE MORPHINE?
- 22 A YES, SIR.
- 23 Q "CONSULTED VIA PHONE, CHILD SLEEPING. MOTHER AT
- 24 BEDSIDE, DENIES TRAUMA, STATES RETURNED FROM WORK THIS
- 25 MORNING WITH"--

1 A APPROXIMATELY 1:00 A.M.

2 Q "APPROXIMATELY 1:00 A.M. THE CHILD HAD SWELLING

3 TO SCROTUM WORSE THAN NORMAL"--

4 A AND THOSE ARE MY INITIALS. THAT'S WHERE I HAD

5 STOPPED.

6 Q "MOBILE CARE AND"--

7 A AND CHILD WAS TRANSPORTED TO RICHLAND VIA MOBILE

8 CARE.

9 Q WHERE DID THE POP COME IN?

10 A THAT'S WHAT I RECALL HER SAYING. I MAY NOT HAVE

11 WRITTEN IT DOWN.

12 Q OKAY. AND YOU FILLED OUT THE PATIENT TRANSFER

13 FORM?

14 A I FILLED OUT THE NURSING SECTION OF THE PATIENT

15 TRANSFER. THE DOCTOR HAD A SECTION, AND I ALSO HAD A

16 SECTION TO FILL OUT.

17 Q SO YOU FILLED OUT THE BOTTOM, NOT THE TOP?

18 A THAT'S CORRECT, I BELIEVE. WITHOUT LOOKING AT A

19 COPY OF IT, I COULDN'T SAY FOR CERTAIN. (PAUSE) YES,

20 SIR, THAT'S CORRECT. I FILLED OUT UNDERNEATH THE

21 PHYSICIAN/QUALIFIED MEDICAL PERSONNEL SIGNATURE. THE

22 REST IS MINE EXCEPT FOR THE RESPONSIBLE PARTY'S

23 SIGNATURE.

24 Q Minor 'S INJURIES WEREN'T LIFE THREATENING, WERE

25 THEY?

1 A THEY WERE NOT AT THAT TIME LIFE THREATENING.

2 Q WOULD YOU HAVE HAD THE CAPABILITY TO TRANSPORT HIM
3 FROM LEXINGTON TO RICHLAND IN A HELICOPTER?

4 A YES, WE COULD HAVE CALLED IN A HELICOPTER AS LONG
5 AS THEY WERE RUNNING THAT NIGHT, BUT WE DID NOT NEED
6 THAT.

7 Q I'M SORRY?

8 A WE DID NOT NEED THEIR SERVICES.

9 Q OKAY. BUT YOU COULD HAVE?

10 A WE COULD HAVE, YES.

11 Q AND THE SUMMARY OF THE RISK IN THE TRANSFER IS
12 THAT THE AMBULANCE COULD HAVE CRASHED?

13 A BASICALLY, YES.

14 Q AND THAT WAS NOTED ON THIS FORM?

15 A YES.

16 Q OKAY.

17 MR. ROGERS: THANK YOU, MS. PORILLA.

18 THE WITNESS: THANK YOU.

19 THE COURT: ANY REDIRECT?

20 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

21 (PAUSE)

22 MS. CAMPBELL: THANK YOU, YOUR HONOR, I HAVE JUST
23 A COUPLE OF QUESTIONS.

24 REDIRECT EXAMINATION

25 BY MS. CAMPBELL:

1 Q HE ASKED YOU ABOUT YOUR NOTES FROM THAT NIGHT. DO
2 YOU HAVE AN INDEPENDENT MEMORY OF THIS EVENT?

3 A I DO, YES, MA'AM.

4 Q WHY IS THAT?

5 A IT WAS PRETTY STRIKING. IT'S NOT SOMETHING YOU
6 SEE VERY OFTEN, AND ACTUALLY, IT'S THE ONLY TIME IN TWO
7 YEARS OF WORKING IN THE EMERGENCY DEPARTMENT THAT I
8 HAVE EVER SEEN A TESTICLE OUTSIDE OF THE SCROTUM.

9 Q AND THE PERSON THAT GAVE YOU THE INFORMATION ABOUT
10 THE POP, IS SHE HERE IN THE COURTROOM?

11 A YES, MA'AM.

12 Q WOULD YOU POINT HER OUT?

13 A YES. SHE IS SITTING AT THE DESK THERE.

14 MR. ROGERS: WOULD YOU THINK THAT WOULD BE AN
15 IMPORTANT THING TO NOTE?

16 THE WITNESS: I DO NOT NOTE EVERY SINGLE
17 INTERACTION, JUST WHAT IS PERTINENT TO WHAT I PERFORM
18 IN THE ROOM.

19 MR. ROGERS: SO THE ANSWER TO THAT QUESTION THEN
20 IS "NO"?

21 THE WITNESS: THAT'S CORRECT, YES, SIR.

22 MR. ROGERS: THANK YOU.

23 THE COURT: ANYTHING FURTHER, SOLICITOR?

24 MS. CAMPBELL: NO, SIR.

25 THE COURT: ALL RIGHT. THANK YOU. YOU MAY STEP

1 DOWN, MA'AM.

2 THE WITNESS: THANK YOU.

3 THE COURT: DO YOU HAVE A SHORT WITNESS OR IS IT A
4 GOOD TIME TO BREAK FOR LUNCH, SOLICITOR?

5 MS. CAMPBELL: IT'S PROBABLY A GOOD TIME TO BREAK
6 FOR LUNCH.

7 THE COURT: ALL RIGHT. AT THIS TIME WE WILL BREAK
8 FOR LUNCH. LET ME AGAIN CAUTION YOU NOT TO DISCUSS THE
9 CASE AMONG YOURSELVES OR WITH ANYONE ELSE. WE WILL
10 START BACK AT 2:15. I NEED FOR YOU TO BE ON TIME AND
11 BE IN YOUR JURY ROOM AT 2:15, SO THAT SHOULD GIVE YOU
12 ENOUGH TIME TO GET A BITE TO EAT.

13 LET ME ASK YOU TO DO THIS ALSO, WE HAVE WITNESSES
14 WHO MAY BE IN THE COURTROOM OR WHO MAY BE OUT IN THE
15 LOBBY. WHEN YOU GET HERE, PLEASE DON'T HANG AROUND OUT
16 IN THE LOBBY, PLEASE COME STRAIGHT BACK AND GO TO YOUR
17 JURY ROOM JUST SO THERE'S NO POSSIBILITY OF ANY
18 INAPPROPRIATE CONTACT.

19 I MIGHT ALSO ADD THAT IT HASN'T BEEN MENTIONED IN
20 THIS CASE, BUT I KNOW LAST WEEK OR THE WEEK BEFORE, THE
21 ATTORNEYS WANTED ME TO BE SURE TO LET THE JURY KNOW IF
22 THEY PASSED THEM IN THE HALL AND A JUROR SPOKE TO THE
23 ATTORNEY AND THEY DIDN'T RESPOND OR NOD OR SPEAK OR
24 GIVE ANY RESPONSE TO THE GREETING, THE ATTORNEYS ARE,
25 OF COURSE, ARE UNDER STRICT RULES THAT THEY CAN'T

1 COMMUNICATE WITH ANY JURORS. THEY'RE NOT TRYING TO BE
2 UNFRIENDLY. THEY JUST DON'T WANT TO BE ACCUSED OF ANY
3 INAPPROPRIATE CONTACT. HAVE A GOOD LUNCH. BE BACK IN
4 YOUR JURY ROOM AT 2:15.

5 EVERYONE ELSE STAY SEATED. EVERYONE ELSE STAY
6 SEATED WHILE THE JURY IS EXCUSED, PLEASE.

7 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
8 12:53 P.M.)

9 THE COURT: ALL RIGHT. WE'LL BREAK UNTIL 2:15.

10 MS. HALL: THANK YOU, YOUR HONOR.

11 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

12 THE COURT: ALL RIGHT, IS THE STATE READY?

13 MS. CAMPBELL: THE STATE IS READY.

14 THE COURT: IS THE DEFENSE READY?

15 MR. ROGERS: YES, YOUR HONOR.

16 THE COURT: ANYTHING WE NEED TO TAKE UP BEFORE THE
17 JURY IS BROUGHT BACK?

18 THE COURT: APPARENTLY NOT. ALL RIGHT. LET'S GET
19 THE JURY BACK, PLEASE.

20 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
21 APPROXIMATELY 2:23 P.M.)

22 THE BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

23 THE COURT: ALL RIGHT. THANK YOU, SIR.

24 MR. FOREMAN, LADIES AND GENTLEMEN, I APPRECIATE YOUR
25 BEING BACK WHEN YOU WERE INSTRUCTED TO.

1 WE WILL CONTINUE AT THIS TIME. SOLICITOR, CALL
2 YOUR NEXT WITNESS.

3 MS. CAMPBELL: MAY IT PLEASE THE COURT, YOUR
4 HONOR, THE STATE CALLS DR. ERIN FIELDS-HARRIS.

5 DR. ERIN FIELDS-HARRIS,

6 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

7 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL
8 NAME FOR THE RECORD.

9 THE WITNESS: ERIN FIELDS-HARRIS.

10 DIRECT EXAMINATION

11 BY MS. CAMPBELL

12 Q DR. HARRIS, WHERE ARE YOU EMPLOYED?

13 A PALMETTO HEALTH RICHLAND.

14 Q WHAT DO YOU DO THERE?

15 A I'M A SECOND YEAR PEDIATRIC RESIDENT.

16 Q AS A SECOND YEAR PEDIATRIC RESIDENT, CAN YOU TELL
17 THIS JURY WHAT YOUR JOB INCLUDES?

18 A MY JOB INCLUDES ADMITTING PATIENTS, ASSESSING THEM
19 WHEN THEY ARRIVE, AND MAKING PLANS AND WRITING ORDERS
20 ON THEM.

21 Q AND TYPICALLY IN A CASE, YOU MAY SEE A PATIENT
22 THAT COMES IN INITIALLY?

23 A YES.

24 Q AND ARE THERE OTHER DOCTORS THAT CONSULT IN A
25 CASE?

1 A YES.

2 Q CAN YOU TELL THIS JURY A LITTLE ABOUT YOUR
3 EDUCATION AND TRAINING IN THE FIELD OF MEDICINE?

4 A YES. I ATTENDED MEDICAL SCHOOL AT THE UNIVERSITY
5 OF SOUTH CAROLINA SCHOOL OF MEDICINE AND HAVE BEEN
6 DOING RESIDENCY AT RICHLAND SINCE THAT TIME.

7 Q AND WHEN YOU WENT TO MEDICAL SCHOOL, HOW MANY
8 YEARS OF MEDICAL SCHOOL DID YOU ACTUALLY GO?

9 A FOUR YEARS.

10 Q AND ONCE YOU GRADUATED FROM MEDICAL SCHOOL, DID
11 YOU ACTUALLY BECOME A DOCTOR AT THAT POINT?

12 A YES.

13 Q SO THEN YOU ARE ACTUALLY AN M.D., A MEDICAL
14 DOCTOR?

15 A YES.

16 Q SUBSEQUENT TO BECOMING A MEDICAL DOCTOR, DID YOU
17 IN FACT DO SOME FURTHER TRAINING IN THE FIELD OF
18 PEDIATRICS?

19 A I'M SORRY, CAN YOU REPEAT THAT?

20 Q AFTER RECEIVING YOUR MEDICAL DEGREE, DID YOU DO
21 SOME FURTHER TRAINING IN THE FIELD OF PEDIATRICS?

22 A YES.

23 Q CAN YOU TELL THE JURY ABOUT THAT?

24 A YES. I'M DOING A THREE YEAR RESIDENCY IN
25 PEDIATRICS.

1 Q AND YOU'RE CURRENTLY IN YOUR SECOND YEAR OF THAT?

2 A THAT'S CORRECT.

3 Q AND WHAT IS THE FOCUS WHEN YOU DO A RESIDENCY IN
4 PEDIATRICS, WHAT TYPES OF THINGS ARE YOU TRYING TO
5 LEARN IN ADDITION TO BECOMING A MEDICAL DOCTOR?

6 A I'M LEARNING ABOUT PEDIATRICS IN GENERAL, AS WELL
7 AS SOME OF THE SPECIALTIES THROUGHOUT.

8 Q AND PEDIATRICS IS ACTUALLY THE MEDICAL TREATMENT
9 OF CHILDREN?

10 A THAT'S CORRECT.

11 MS. CAMPBELL: YOUR HONOR, AT THIS TIME, WE WOULD
12 OFFER HER AS AN EXPERT IN THE FIELD OF PEDIATRICS.

13 MR. ROGERS: NO OBJECTION.

14 THE COURT: WITHOUT OBJECTION, SHE WILL BE
15 PERMITTED TO TESTIFY AS AN EXPERT WITNESS.

16 BY MS. CAMPBELL.

17 Q DR. HARRIS, I WANT TO TURN YOUR ATTENTION BACK TO
18 AUGUST 16TH OF LAST YEAR, WERE YOU WORKING IN THE EARLY
19 MORNING HOURS THAT NIGHT?

20 A YES.

21 Q AND WHAT SHIFT WERE YOU ACTUALLY WORKING AT THAT
22 NIGHT?

23 A I WAS ON CALL.

24 Q AND WHEN YOU'RE ON CALL IN THE PEDIATRIC UNIT,
25 WHAT TYPES OF CALLS -- WHEN DO YOU GET CALLED INTO THE

1 EMERGENCY ROOM OR IN TO SEE A PATIENT?

2 A WE GET CALLED BY OUTLYING FACILITIES FOR TRANSFER
3 PATIENTS -- WHEN THEY WANT TO TRANSFER PATIENTS TO OUR
4 EMERGENCY ROOM THAT NEED ADMISSION TO THE HOSPITAL.

5 Q OKAY. THAT NIGHT SPECIFICALLY, DID YOU RECEIVE A
6 PHONE CALL FROM LEXINGTON MEDICAL CENTER REQUESTING
7 TRANSFER OF A PATIENT FOR EMERGENCY PEDIATRIC CARE
8 THERE?

9 A I DID.

10 Q DOES PALMETTO RICHLAND, OR RICHLAND MEMORIAL IT
11 USED TO BE CALLED, DOES IT HAVE A SPECIALIZED
12 CHILDREN'S HOSPITAL?

13 A YES.

14 Q AND IN THAT THERE'S ACTUALLY A PEDIATRIC INTENSIVE
15 CARE UNIT?

16 A THAT'S CORRECT.

17 Q AS WELL AS, I BELIEVE, A PEDIATRIC UROLOGIST ON
18 CALL THERE?

19 A YES, MA'AM.

20 Q AND SO FOR SPECIALIZED CARE OF CHILDREN IN THE
21 MIDLANDS, IS IT PRETTY MUCH THE LEADING FACILITY?

22 A YES, MA'AM.

23 Q WHAT TIME -- DO YOU REMEMBER APPROXIMATELY WHAT
24 TIME IT WAS WHEN YOU WERE CONTACTED BY LEXINGTON THAT
25 THEY WERE TRANSFERRING A PATIENT FOR YOUR CARE?

1 A I DO NOT REMEMBER THE TIME.

2 Q DO YOU REMEMBER APPROXIMATELY WHAT TIME YOU CAME
3 IN CONTACT WITH Minor ?

4 A I BELIEVE IT WAS AROUND 6:00 A.M.

5 Q AND YOU HAVE SOME NOTES IN FRONT OF YOU, I
6 BELIEVE?

7 A I DO.

8 Q YOU CAN REFER TO THOSE IF YOU NEED TO.

9 A OKAY.

10 Q WHEN YOU FIRST CAME IN CONTACT WITH Minor , TELL
11 THIS JURY WHAT YOU DID INITIALLY IN ASSESSING HIS
12 SITUATION?

13 A INITIALLY I WENT INTO THE ROOM AND SPOKE WITH THE
14 STEPMOTHER WHO WAS THERE AND I EXAMINED THE PATIENT, AS
15 WELL.

16 Q AND WHEN YOU SPOKE WITH THE STEPMOTHER WHO WAS
17 THERE, WHAT TYPE OF INFORMATION DID YOU TRY TO GET AT
18 THAT POINT AS FAR AS MAKING AN ASSESSMENT OF THE
19 INJURIES TO THE CHILD?

20 A I WAS JUST TRYING TO GET MORE INFORMATION
21 REGARDING THE EVENTS AND WHAT HAD LED UP TO THE CHILD
22 BEING TRANSFERRED TO OUR FACILITY.

23 Q AND THE STEPMOTHER, DO YOU SEE HER HERE IN THE
24 COURTROOM TODAY?

25 A YES, MA'AM.

1 Q CAN YOU POINT HER OUT TO THE JURY?

2 A SHE IS SITTING RIGHT THERE.

3 Q BESIDE HER LAWYER?

4 A YES, MA'AM.

5 Q WAS SHE ABLE TO GIVE YOU HER VERSION OF WHAT
6 HAPPENED DURING THAT EVENING?

7 A YES, MA'AM.

8 Q AND CAN YOU TELL THE JURY, BASICALLY, WHAT HER
9 ACCOUNT WAS TO YOU?

10 A YES, MA'AM. I WAS TOLD THAT SHE HAD PICKED THE
11 PATIENT UP FROM HER SISTER'S HOUSE AT 11:00 P.M., TAKEN
12 THE PATIENT HOME, WENT TO PLACE HIM INTO THE BATHTUB AT
13 WHICH TIME HER -- ACTUALLY, I THINK SHE PUT HIM INTO
14 THE BATHTUB AND REALIZED THAT HE HAD SOME SWELLING IN
15 THE SCROTAL AREA. SHE SAID SHE APPLIED PRESSURE WITH A
16 WASHCLOTH AND THEN NOTICED THE BLEEDING, AFTER WHICH
17 TIME SHE TOOK THE PATIENT TO THE LEXINGTON EMERGENCY
18 ROOM.

19 Q DID SHE MAKE ANY REPORT ABOUT THE PATIENT'S
20 APPETITE ON THE EVENING BEFORE?

21 A SHE DID. SHE SAID THAT HER SISTER COMMENTED THAT
22 HE HAD A DECREASED APPETITE.

23 Q DID YOU ASK HER SPECIFICALLY ABOUT ANY KIND OF
24 TRAUMA OR ACCIDENT OR ANY KIND OF INJURY THAT COULD
25 HAVE HAPPENED TO THE CHILD?

1 A I DID, YES, MA'AM. SHE SAID OTHER THAN THE
2 PRESSURE WITH THE WASHCLOTH, THAT THERE WAS NO OTHER
3 TRAUMA.

4 Q ONCE YOU HAD GOTTEN THAT HISTORY, DID YOU ACTUALLY
5 DO AN EXAMINATION YOURSELF OF THE CHILD?

6 A I DID.

7 Q AND WHAT DID YOU NOTE ON YOUR EXAMINATION OF THE
8 CHILD INITIALLY?

9 A INITIALLY HE WAS LYING IN THE BED AND HIS SCROTUM
10 WAS INITIALLY WRAPPED IN GAUZE FROM HIS TRANSPORT. HE
11 HAD SEVERAL BRUISES OR SEVERAL LACERATIONS AND
12 ABRASIONS NOTED THROUGHOUT HIS EXAM, AND THEN ONE OF
13 NURSES CAME IN AND UNWRAPPED THE SCROTAL AREA, AND I
14 NOTICED THE TESTES, THE RIGHT TESTICLE WAS OUTSIDE OF
15 THE SCROTUM.

16 Q AND YOU NOTICED THAT THERE WAS SOME -- WHEN YOU
17 INITIALLY CAME IN CONTACT WITH HIM, HE WAS LYING ON THE
18 BED?

19 A YES, MA'AM.

20 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
21 EXHIBIT NUMBER --

22 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.
23 BY MS. CAMPBELL

24 Q WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER 29.
25 IS THAT HOW Minor PRESENTED THAT MORNING WHEN YOU

1 CAME IN CONTACT WITH HIM?

2 A YES.

3 Q AND IS THAT ACTUALLY THE BED HE WAS LYING IN WHEN
4 YOU MADE YOUR INITIAL EXAMINATION?

5 A YES.

6 Q I'M GOING TO SHOW YOU ANOTHER SERIES OF
7 PHOTOGRAPHS, WHICH IS GOING TO INCLUDE STATE'S EXHIBIT
8 NUMBER 1, 2, 4, 7, 3, 8, 9 AND 10 AND JUST ASK YOU,
9 FIRST OF ALL, JUST TO LOOK AT THOSE AND SEE IF YOU
10 RECOGNIZE THOSE?

11 A (PAUSE) I DO.

12 Q DO THOSE PHOTOGRAPHS FAIRLY AND ACCURATELY DEPICT
13 HOW THE CHILD PRESENTED TO YOU WHEN YOU WERE DOING YOUR
14 EXAMINATION AROUND 6:30 A.M. THAT MORNING?

15 A YES.

16 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE OFFER
17 THEM INTO EVIDENCE.

18 THE COURT: HAVE YOU SEEN THESE?

19 MR. ROGERS: YES, YOUR HONOR.

20 MS. CAMPBELL: THEY WERE TURNED OVER.

21 MR. ROGERS: NO OBJECTION.

22 THE COURT: WITHOUT OBJECTION, STATE'S 1, 2, 3, 4,
23 7, 8, 9 AND 10 AND 29 ARE ADMITTED.

24 (WHEREUPON, STATE'S EXHIBITS 1, 2, 3, 4, 7, 8, 9,
25 10, AND 29 WERE ADMITTED INTO EVIDENCE.)

1 MS. CAMPBELL: THANK YOU.

2 BY MS. CAMPBELL:

3 Q BEFORE I -- REFERRING TO PAGE TWO OF YOUR NOTES,
4 DID YOU GO THROUGH, BASICALLY DID YOU NOTICE ANY
5 SPECIFIC BRUISING TO THE FACE AREA?

6 A I DID.

7 Q AND WHAT BRUISES -- LIMITING IT TO -- WHAT DID YOU
8 SEE?

9 A HE HAD AN ABRASION ON THE MIDDLE OF HIS FOREHEAD.

10 Q THE MIDDLE OF HIS FOREHEAD?

11 A UH-HUH. HE HAD A PETECHIAL RASH ON HIS CHIN.

12 Q A RASH ON HIS CHIN?

13 A UH-HUH, AND HE ALSO HAD SOME LACERATIONS ON HIS
14 UPPER AND LOWER LIP, AS WELL.

15 Q OKAY. AND AS FAR AS DIFFERENT OTHER PARTS OF HIS
16 BODY, SPECIFICALLY AS TO HIS ABDOMEN, DID YOU NOTICE
17 ANY BRUISING THERE?

18 A I DIDN'T. HE HAD A RED AREA ALONG THE INGUINAL
19 CREASE ON HIS ABDOMEN.

20 Q WHAT DOES THAT MEAN?

21 A THAT COULD GO ALONG WITH THE SWELLING.

22 Q OKAY. WHEN YOU SAY A CREASE, WHERE IS THAT ON THE
23 BODY?

24 A RIGHT DOWN IN THE LOWER ASPECT OF THE ABDOMEN.

25 Q TOWARDS THE GENITAL AREA?

1 A YES.

2 Q AND WHEN YOU MENTIONED THE CREASE -- IS THAT KIND
3 OF WHERE THE LEG MEETS THE BODY?

4 A IT IS.

5 Q AND YOU NOTED WHAT THERE?

6 A REDNESS, AS WELL AS SOME SWELLING.

7 Q DID YOU ALSO NOTE ANY KIND OF INJURY TO HIS
8 SCROTUM?

9 A I DID.

10 Q ALL RIGHT. AND WHAT INJURY DID YOU NOTE TO THE
11 SCROTUM AREA?

12 A HE HAD A FOUR TO FIVE CENTIMETER "V" SHAPED CLEAN,
13 LINEAR LACERATION NOTED WITH THE RIGHT TESTICLE
14 EXPOSED. THE TESTICLE APPEARED ERYTHEMATIC TO PINK,
15 WITH NO EVIDENCE OF BLUENESS NOTED.

16 Q SO NO EVIDENCE OF BLUENESS?

17 A NO.

18 Q WOULD THAT HAVE INDICATED IT WOULD HAVE BEEN A
19 RECENT INJURY?

20 A YES.

21 Q OKAY. IF YOU --

22 MS. CAMPBELL, YOUR HONOR, MAY THE WITNESS STEP
23 DOWN?

24 THE COURT: YES. KEEP YOUR VOICE UP WHILE YOU'RE
25 DOWN, PLEASE SO THAT EVERYONE IS ABLE TO UNDERSTAND

1 WHAT YOU'RE SAYING.

2 MS. CAMPBELL: IF YOU CAN COME OVER ON THIS SIDE,
3 THE COURT REPORTER CAN HEAR YOU BETTER.

4 THE WITNESS: OKAY.

5 BY MS. CAMPBELL:

6 Q WHEN YOU FIRST CAME IN CONTACT WITH THE CHILD -- I
7 SHOW YOU STATE'S EXHIBIT NUMBER 29, WHICH IS IN
8 EVIDENCE. IS THAT HOW THE CHILD PRESENTED TO YOU?

9 A THIS IS HOW HE PRESENTED, YES.

10 Q AND THAT WOULD HAVE BEEN ACTUALLY TAKEN AT YOUR
11 HOSPITAL LATER THAT MORNING; IS THAT CORRECT?

12 A YES.

13 Q YOU MENTIONED A LACERATION OR AN ABRASION -- I'M
14 SORRY, I USED THE WRONG ONE. I SHOW YOU STATE'S
15 EXHIBIT NUMBER 1. DOES THAT SHOW HIS FACE ON THAT
16 MORNING?

17 A IT DOES.

18 Q AND YOU MENTIONED AN ABRASION TO HIS FOREHEAD. IS
19 THAT DEPICTED IN THAT PHOTOGRAPH?

20 A IT IS.

21 Q OKAY, AND WHERE IS THAT DEPICTED, CAN YOU SHOW THE
22 JURY?

23 A RIGHT HERE. (INDICATING)

24 Q AND STATE'S EXHIBIT NUMBER 2, IS THAT A LITTLE BIT
25 CLOSER ON THIS PART, IS THAT A LITTLE BIT CLOSER UP OF

1 THAT ABRASION?

2 A IT IS.

3 Q AND YOU ALSO MENTIONED THAT HIS LIPS HAD SOME
4 SCRATCHES?

5 A UH-HUH.

6 Q I SHOW YOU STATE'S EXHIBIT NUMBER 4. WHAT DOES
7 THAT SHOW?

8 A IT SHOWS SCRATCHES ON HIS UPPER AND THE LOWER
9 ASPECT OF HIS LIPS.

10 Q AS A MEDICAL DOCTOR, DO YOU HAVE ANY OPINION OF
11 WHAT THAT COULD BE CONSISTENT WITH?

12 A IT COULD BE CONSISTENT WITH HIM BITING HIS OWN LIP
13 POSSIBLY.

14 Q SOME KIND OF TRAUMA TO THAT?

15 A SOME KIND OF TRAUMA.

16 Q AND I SHOW YOU STATE'S EXHIBIT NUMBER 7, WHICH
17 JUST SHOWS THE UPPER LIP A LITTLE BIT BETTER. I NOTICE
18 THERE IS SOME REDNESS THERE. WHAT IS THAT?

19 A THAT WOULD BE CONSISTENT WITH THE SCRATCH AND THEN
20 THERE'S REDNESS ALSO.

21 Q WOULD THAT BE CONSISTENT WITH BLOOD?

22 A ON THE LIP, YES.

23 Q STATE'S EXHIBIT NUMBER 3, WE MENTIONED THE
24 LACERATION. IS THAT JUST A CLOSER UP OF THAT, THE
25 ABRASION?

1 A YES, THE ABRASION ON HIS FOREHEAD.

2 Q YOU MENTIONED IN THE ABDOMEN AREA IN THE CREASE
3 THERE WAS SOME REDNESS NOTED?

4 A UH-HUH.

5 Q I SHOW YOU STATE'S EXHIBIT NUMBER 8. DOES THAT
6 DEPICT THE REDNESS OR BRUISING YOU WERE REFERRING TO?

7 A IT DOES.

8 Q AND THE COLOR OF THE BRUISING CAN BE SIGNIFICANT,
9 CAN'T IT?

10 A IT CAN.

11 Q AND RED BRUISES SUCH AS THIS WOULD BE CONSISTENT
12 WITH --

13 MR. ROGERS: OBJECT TO LEADING.

14 THE COURT: SUSTAINED AS TO THE FORM OF QUESTION.

15 MS. CAMPBELL: I'M SORRY, YOUR HONOR. I WILL
16 REPHRASE. I APOLOGIZE.

17 BY MS. CAMPBELL:

18 Q WHAT WOULD THE REDNESS INDICATE?

19 A MORE OF AN ACUTE INJURY.

20 Q WHEN YOU SAY AN ACUTE INJURY, WHAT DOES THAT MEAN
21 IN LAYMAN'S TERMS?

22 A ONE THAT JUST RECENTLY OCCURRED.

23 MR. ROGERS: I'M SORRY. I DIDN'T HEAR THAT
24 ANSWER.

25 THE COURT: I DIDN'T HEAR IT EITHER. I'M HAVING

1 TROUBLE HEARING. I KNOW YOU'RE TALKING IN FRONT OF THE
2 JURY, BUT COUNSEL NEEDS TO BE ABLE TO HEAR AND I NEED
3 TO BE ABLE TO HEAR, TOO.

4 MS. CAMPBELL: I APOLOGIZE, JUDGE.

5 BY MS. CAMPBELL:

6 Q WHAT WOULD THAT INDICATE?

7 A SOMETHING THAT HAD HAPPENED MORE RECENTLY.

8 Q AND HERE IS STATE'S EXHIBIT NUMBER 9, WHAT DOES
9 THAT SHOW?

10 A ON WHAT?

11 Q OH, IN STATE'S EXHIBIT NUMBER 10.

12 A THAT SHOWS THE REDNESS ON THE ABDOMEN, AS WELL.

13 Q AND FINALLY, STATE'S EXHIBIT NUMBER 15, IS THAT
14 HOW HE PRESENTED THAT MORNING TO YOU AS FAR AS HIS
15 INJURY TO THE SCROTUM?

16 A YES, IT IS.

17 Q AND THEN STATE'S EXHIBIT NUMBER 17?

18 A THAT'S, YES --

19 Q A CLOSE UP?

20 A THAT IS, YES.

21 Q OKAY. YOU CAN BE SEATED ON THE STAND NOW. THANK
22 YOU.

23 ONCE YOU WERE ABLE TO DO YOUR EXAMINATION OF THE
24 PATIENT INITIALLY, DID YOU FEEL IT WAS APPROPRIATE TO
25 BRING IN OTHER DOCTORS IN THIS CASE?

1 A I DID.

2 Q AND WHAT OTHER DOCTORS ACTUALLY WERE CALLED IN
3 THAT MORNING?

4 A DR. EHRETH, THE PEDIATRIC UROLOGIST, MY ATTENDING
5 DR. JENNIFER AMROL.

6 Q DR. AMROL AND DR. EHRETH?

7 A YES, MA'AM.

8 Q DURING THE COURSE OF THIS EXAMINATION, ARE YOU
9 STILL HAVING CONTACT WITH MIAMA KROMAH?

10 A SHE REMAINED IN THE ROOM THROUGHOUT THE
11 EXAMINATION.

12 Q AT SOME POINT DURING YOUR EXAMINATION, DID YOU
13 ATTEMPT TO ASK -- WAS THE CHILD RESPONSIVE -- DESCRIBE
14 THE CHILD'S DEMEANOR THAT MORNING.

15 A INITIALLY, HE WAS SOMEWHAT SLEEPY. HE HAD
16 RECEIVED MORPHINE AT THE OUTLYING FACILITY BEFORE HE
17 WAS TRANSFERRED TO US, BUT HE WOULD RESPOND
18 APPROPRIATELY. WELL, HE WOULD ATTEMPT TO RESPOND, I
19 GUESS, APPROPRIATELY TO QUESTIONS.

20 Q OKAY. DURING THE COURSE OF TREATING THE CHILD
21 THAT MORNING AND DOING YOUR ASSESSMENT PRIOR TO CALLING
22 THE OTHER DOCTORS, DID YOU ATTEMPT TO FIND OUT FROM THE
23 CHILD WHAT HAD HAPPENED TO HIM?

24 A I DID.

25 Q WHAT DID YOU ASK HIM?

1 A I ASKED THE PATIENT, AFTER EXAMINING HIM AND
2 NOTING THE INJURIES, I ASKED HIM WHAT HAD HAPPENED TO
3 HIM, IF SOMEONE HAD DONE THIS TO HIM, AND COULD HE TELL
4 ME WHO DID THIS TO HIM.

5 Q YOU ASKED HIM WHO DID THAT TO HIM?

6 A I DID.

7 Q AND WHAT HAPPENED THEN?

8 A HE STARTED TO MOUTH SOMETHING AND THEN HIS
9 STEPMOTHER CAME OVER FROM ACROSS THE ROOM AND STARTED
10 INTERRUPTING AT THAT POINT.

11 Q AND WHAT WAS SHE ASKING HIM? HOW WAS SHE
12 INTERRUPTING HIM?

13 A SHE WAS ASKING HIM IF HE WAS OKAY, IF HE WAS OKAY.

14 Q PRIOR TO THAT HAD SHE COME OVER TO ASK HIM IF HE
15 WAS OKAY OR ANYTHING OF THAT NATURE?

16 A I DO NOT RECALL.

17 Q WAS HE ABLE TO ANSWER YOU?

18 A AS FAR AS --

19 Q DID HE ANSWER YOU?

20 A NO, HE DID NOT.

21 Q DID THE STEPMOTHER STAY IN THE ROOM THE ENTIRE
22 TIME?

23 A YES, MA'AM.

24 Q DID YOU ASK HER ANY MORE QUESTIONS THAT MORNING
25 ABOUT WHAT HAD HAPPENED? DID YOU GIVE HER ANY MORE

1 INFORMATION AND ASK HER QUESTIONS?

2 A I DID.

3 Q EXPLAIN TO THE JURY WHAT ELSE YOU WERE ASKING HER
4 AND WHAT INFORMATION YOU GAVE HER AND WHAT SHE
5 RESPONDED.

6 A AFTER EXAMINING THE PATIENT AND NOTING THE CLEAN
7 LINEAR LESION ON THE SCROTUM, IT APPEARED TO ME THAT
8 THIS WAS NOT A COMMON -- IT HAD BEEN DONE TO THE
9 PATIENT, POSSIBLY -- I'M SORRY, CAN I START OVER?

10 Q SURE.

11 A I APOLOGIZE. AFTER EXAMINING THE PATIENT AND
12 NOTING THE LACERATION TO THE SCROTUM, IT DID NOT APPEAR
13 THAT IT WAS CONSISTENT WITH THE PRESSURE THAT SHE HAD
14 INITIALLY TOLD ME SHE APPLIED AS PART OF THE STORY, SO
15 I ASKED HER AGAIN WHAT HAD HAPPENED, AS FAR AS HER
16 STORY AS TO WHAT HAD HAPPENED TO THE PATIENT. SO I
17 ASKED HER AGAIN IF SHE KNEW WHO HAD DONE THIS TO HIM,
18 BECAUSE IT APPEARED TO BE SOME TRAUMATIC INJURY TO THE
19 PATIENT.

20 Q AND WHAT DID SHE REPLY WHEN YOU ASKED HER WHAT HAD
21 HAPPENED?

22 A THAT SHE DID NOT KNOW.

23 Q WHAT WAS HER Demeanor LIKE THAT MORNING,
24 MS. KROMAH'S?

25 A SHE DIDN'T APPEAR TO HAVE MUCH OF A RESPONSE OR

1 EMOTION WHEN I TOLD HER THAT, FROM MY EXAM, IT APPEARED
2 THE CHILD HAD BEEN INJURED INTENTIONALLY.

3 Q OKAY. AND DID THE NATURAL FATHER ALSO SHOW UP
4 THAT MORNING?

5 A HE DID.

6 Q THE CHILD -- WELL, LET ME ASK YOU THIS, AN INJURY
7 OF THIS TYPE, WOULD IT BE PAINFUL?

8 A YES.

9 Q AN INJURY OF THIS TYPE, A LACERATION AS YOU
10 OBSERVED, WOULD IT BLEED IMMEDIATELY?

11 A YES, MA'AM.

12 Q AT ANY TIME WHEN YOU WERE IN THERE WITH THE CHILD,
13 DID HE EVER REACH OUT FOR HIS MOTHER OR FOR ANYONE
14 ELSE?

15 A NO.

16 MS. CAMPBELL: THAT'S ALL I HAVE OF THIS WITNESS,
17 YOUR HONOR. THANK YOU.

18 THE COURT: ALL RIGHT. CROSS-EXAMINATION,
19 MR. ROGERS?

20 MR. ROGERS: THANK YOU, YOUR HONOR.

21 CROSS-EXAMINATION

22 BY MR. ROGERS

23 Q DR. HARRIS, IF I CAN REFER YOU TO PAGE TWO OF YOUR
24 NOTES ABOUT ONE, TWO, THREE, FOUR, FIVE LINES DOWN
25 WHERE IT SAYS "CHILD TRANSPORTED BY AMBULANCE." DO YOU

1 SEE THAT PART?

2 A IF I --

3 Q LET ME -- I CAN SHOW YOU WHAT I HAVE AND YOU CAN
4 FIND IT.

5 A NO, THOSE ARE NOT MY NOTES. THAT'S SOMEONE ELSE'S
6 NOTES.

7 Q ARE THESE YOUR NOTES?

8 A YES, THOSE ARE MINE.

9 Q BUT THESE ARE NOT?

10 A NO, SIR.

11 Q SO HOW MANY PAGES OF NOTES DO YOU HAVE?

12 A I HAVE THREE.

13 Q ARE THESE YOUR NOTES?

14 A YES.

15 Q DOCTOR, DO YOU SIGN THE BOTTOM OF EACH PAGE OF
16 YOUR NOTES?

17 A I DO.

18 Q OKAY. SO YOU HAVE -- REFERRING TO PAGE ONE OF
19 YOUR NOTES THAT DICTATION STARTED WITH -- OR THE
20 NOTATION BEGINS WITH AN ENTRY THAT SAYS 6:30 A.M.,
21 CORRECT?

22 A THAT'S CORRECT.

23 Q YOU TESTIFIED THAT YOU FIRST SAW Minor AT 6:00
24 A.M.?

25 A WE --

1 Q I'M JUST TRYING TO GET AT --

2 A WE WRITE THE NOTES AFTER WE SEE THE PATIENT, SO I
3 ALWAYS GO IN AND EXAMINE THE PATIENT AND THEN WRITE THE
4 NOTES.

5 Q OKAY. THAT'S WHAT I THOUGHT. SO DO YOU KNOW WHAT
6 TIME Minor ARRIVED AT PALMETTO RICHLAND?

7 A I DO NOT HAVE THAT RECORDED.

8 Q BUT YOU DIDN'T SEE HIM UNTIL 6:00 O'CLOCK?

9 A I APOLOGIZE. I THINK IT WAS ABOUT 6:00 O'CLOCK.
10 I DO NOT HAVE THE EXACT TIME.

11 Q THERE WAS NO NOTATION OF THE TIME THAT YOU BEGAN
12 YOU'RE --

13 A AS SOON AS HE ARRIVED AT THE FLOOR WHEN I WAS
14 CALLED, AND I CAME DOWN IMMEDIATELY FOLLOWING THAT.

15 Q NOW, WHEN YOU WERE IN THE ROOM WITH Minor , IT
16 WAS YOU, Minor , MIAMA AND MUSA, THE FATHER; IS THAT
17 CORRECT?

18 A INITIALLY IT WAS Minor , MYSELF, AND MIAMA.

19 Q THERE CAME A TIME LATER THAT MUSA CAME IN?

20 A THAT'S CORRECT.

21 Q AND MUSA IS THE FATHER?

22 A YES.

23 Q DID THE CHILD REACH OUT FOR MUSA?

24 A I DO NOT RECALL HIM REACHING FOR MUSA.

25 Q NOW, YOU DON'T HAVE AN OPINION, DO YOU,

1 DR. HARRIS, THAT THE INJURIES THAT YOU DESCRIBED, THE
2 LACERATION TO THE SCROTUM, THE ABRASION TO THE LIP, AND
3 FOREHEAD OCCURRED AT THE SAME TIME, DO YOU?

4 A THEY ARE ALL ACUTE INJURIES. I CANNOT SAY THEY
5 OCCURRED AT THE EXACT SAME TIME, BUT THEY ARE ALL VERY
6 RECENT INJURIES.

7 Q OKAY. AND WHEN YOU SAY VERY RECENT, WHAT, BASED
8 ON YOUR OBSERVATION OF THE INJURIES, WHAT TIMEFRAME ARE
9 YOU SAYING IS VERY RECENT? TWO HOURS, THREE HOURS,
10 FOUR HOURS, TWELVE HOURS? DO YOU HAVE AN OPINION AT
11 ALL ABOUT THE TIMEFRAME?

12 A I THINK THEY WOULD ALL HAVE TO HAVE OCCURRED
13 WITHIN THE PAST 24 HOURS, BUT THAT IS MY OPINION.

14 Q OKAY. NOW YOU SAID SOMETHING ABOUT NO EVIDENCE OF
15 BLUENESS. I DIDN'T QUITE HEAR WHAT THE ANSWER WAS AS
16 TO WHAT THAT MEANT.

17 A THAT WAS WITH RESPECT TO THE TESTICLE ACTUALLY
18 BEING VIABLE, IF IT HAD BEEN BLUE, THAT WOULD HAVE
19 INDICATED THAT IT DID NOT HAVE AN ADEQUATE BLOOD
20 SUPPLY. THAT WAS DOCUMENTED -- BLUENESS IS CYANOSIS,
21 WHICH IS THE TERM I USED IN MY DOCUMENTATION --

22 Q I'M SORRY. I DIDN'T MEAN TO INTERRUPT YOU. SO
23 THE FACT THAT THERE WAS NO BLUENESS MEANT THAT THE
24 INJURY WAS MORE CLOSER TO WHEN YOU SAW IT OR MORE
25 FARTHER BACK IN TIME, OR DOES IT MEAN ANYTHING?

1 A NO. I THINK NOT SEEING THE BLUENESS WOULD HAVE
2 MEANT THE TESTICLE STILL HAD A BLOOD SUPPLY TO IT AND
3 IT WAS STILL CONSIDERED A VIABLE TESTICLE.

4 Q OKAY. NOW, WERE YOU IN THE ROOM WHEN Minor S
5 VITAL SIGNS WERE BEING TAKEN?

6 A I DO NOT RECALL.

7 Q OKAY. NOW, MS. CAMPBELL ASKED YOU ABOUT WHEN YOU
8 WERE ATTEMPTING TO ASK Minor WHAT HAD HAPPENED TO
9 HIM?

10 A THAT'S CORRECT.

11 Q OKAY. PRIOR TO THAT TIME, HAD YOU AND Minor
12 HAD A DIALOGUE?

13 A PRIOR TO THAT -- WHEN I INITIALLY CAME INTO THE
14 ROOM, I WAS TRYING TO OBTAIN THE HISTORY FROM THE STEP
15 MOM AND ASKING HER WHAT WAS GOING ON, WHAT HAD GONE ON,
16 AND THEN I ASK Minor IF HE WAS OKAY, AND THEN
17 PROCEEDED TO DO THE EXAM.

18 Q SO WAS THAT THE ONLY THING THAT YOU SAID TO
19 Minor BEFORE YOU BEGAN ASKING HIM QUESTIONS ABOUT
20 WHO DID THIS AND WHAT HAPPENED, IF HE WAS OKAY?

21 A I TALK THROUGHOUT THE EXAM TO THE KIDS TO TRY TO
22 KEEP THEM CALM AND TO MAKE THEM FEEL BETTER. I'M NOT
23 SURE EXACTLY WHAT YOU'RE ASKING.

24 Q WELL, I GUESS I'M ASKING DID Minor RESPOND TO
25 YOUR TALKING TO HIM?

1 A YES, HE WOULD MAKE EYE CONTACT WITH ME, THAT'S
2 CORRECT.

3 Q AND --

4 A AND SHAKE HIS HEAD, YES, SIR.

5 Q DID HE SAY ANYTHING?

6 A I DID NOT RECALL HIM SAYING ANYTHING.

7 Q DO YOU KNOW IF Minor EVEN UNDERSTOOD WHAT YOU
8 WERE SAYING TO HIM? WELL, LET ME ASK IT TO YOU THIS
9 WAY, DO YOU KNOW IF Minor SPEAKS ENGLISH --

10 A UH -

11 Q -- OF YOU'RE OWN KNOWLEDGE?

12 A I RECALL HIM SPEAKING WITH AN ACCENT.

13 Q OKAY. SO MY QUESTION IS WHEN YOU WERE ASKING HIM
14 WHAT HAPPENED AND WHO DID THIS TO HIM, WITHOUT HIM
15 RESPONDING, YOU DON'T KNOW IF HE EVEN UNDERSTOOD WHAT
16 YOU WERE ASKING HIM, DO YOU?

17 A I GUESS NOT.

18 Q AND THE STATE IS TRYING TO SAY OR IMPLY BY THESE
19 QUESTIONS THAT Minor --

20 MS. CAMPBELL: OBJECTION, YOUR HONOR, TO WHAT THE
21 STATE IS TRYING TO IMPLY.

22 THE COURT: SUSTAINED. SUSTAINED. IMPROPER FORM
23 OF THE QUESTION.

24 MR. ROGERS: I'LL REPHRASE IT, YOUR HONOR.

25 BY MR. ROGERS:

1 Q WHEN MIAMA CAME AND ASKED Minor IF HE WAS DOING
2 OKAY, ISN'T IT POSSIBLE THAT ALL SHE WAS DOING WAS
3 ASKING HIM IF HE WAS OKAY?

4 A I SUPPOSE SO.

5 Q AND YOU HAVE NO WAY OF REALLY KNOWING, DO YOU,
6 CORRECT?

7 A THAT'S CORRECT.

8 Q YOU HAVE NO WAY OF KNOWING THAT WHAT SHE WAS
9 ATTEMPTING TO DO WAS NOT HAVE HIM ANSWER YOUR QUESTION,
10 DO YOU?

11 A NO, I DO NOT.

12 Q NOW, OBVIOUSLY THERE WAS A CUT OF SOME KIND,
13 CORRECT?

14 A THAT'S CORRECT.

15 Q ALL RIGHT. SO IF MIAMA DIDN'T KNOW ABOUT THE CUT,
16 OKAY, AND SHE TOLD YOU THAT WHEN SHE PUT PRESSURE ON
17 THE SCROTUM, THAT'S WHEN SHE SAW BLOOD --

18 A UH-HUH.

19 Q -- ISN'T THAT CONSISTENT WITH HER VERSION THAT ALL
20 SHE SAW WAS BLOOD WHEN SHE PUT THE TOWEL ON HIM IN THE
21 BATHTUB?

22 A SHE -- WHAT I WAS TOLD IS THAT WHEN HE WAS PLACED
23 IN THE BATHTUB --

24 Q TOLD BY?

25 A BY THE STEP MOM.

1 Q OKAY.

2 A HE WAS PLACED IN THE BATHTUB. SHE NOTICED THE
3 SWELLING. THERE WERE NOT SIGNS OF BLEEDING AT THAT
4 TIME AND THAT SHE APPLIED PRESSURE AND THEN SAW THE
5 BLOOD.

6 Q BUT YOU KNEW THERE WAS A CUT THERE, RIGHT, BECAUSE
7 YOU SAW THE CUT?

8 A I SAW THE CUT ON EXAM, BUT IF THAT HAD BEEN
9 PRESENT THERE BEFORE, THEN THERE WOULD HAVE BEEN
10 BLEEDING.

11 Q OKAY. AND SHE SAW BLOOD. SHE TOLD YOU SHE SAW
12 BLOOD?

13 A SHE DID SEE IT, YES.

14 Q OKAY. SO YOU CONCLUDED THAT MIAMA WASN'T TELLING
15 YOU THE TRUTH BY SAYING THAT THE CUT WAS CAUSED WITH
16 PRESSURE, BUT THAT'S NOT WHAT SHE TOLD YOU, CORRECT?

17 A WHAT SHE --

18 Q SHE DIDN'T TELL YOU, RIGHT?

19 A SHE DID NOT MENTION THE CUT TO ME.

20 Q RIGHT.

21 A THE STORY THAT I WAS TOLD IS THAT PRESSURE WAS
22 APPLIED.

23 Q ALL RIGHT.

24 A AND THE BLOOD -- THEN IT WAS NOTED TO START
25 BLEEDING.

1. Q OKAY.

2. A THAT THERE WAS NOT A CUT. THAT'S WHAT I NOTED ON
3. THE EXAM.

4. Q OKAY. AND THAT'S CONSISTENT WITH NOT HAVING SEEN
5. THE CUT. IF YOU DIDN'T SEE A CUT, YOU COULDN'T KNOW A
6. CUT WAS THERE. ALL YOU'D KNOW IS THERE WAS BLOOD,
7. CORRECT?

8. A RIGHT.

9. Q NOW, DID YOU MAKE A NOTATION OF YOUR TESTIMONY A
10. MOMENT AGO WHEN YOU SAID THAT MIAMA DIDN'T SHOW ANY
11. EMOTION WHEN YOU TOLD HER THAT THE INJURY WAS
12. INTENTIONAL? DID YOU MAKE A NOTATION OF THAT IN YOUR
13. NOTES THERE?

14. A I DID NOT.

15. Q AND WAS MUSA IN THE ROOM WHEN YOU WERE ATTEMPTING
16. TO ASCERTAIN FROM Minor WHO DID THIS?

17. A I DO NOT RECALL.

18. Q YOU DON'T RECALL?

19. A NO.

20. Q AND YOU DIDN'T MAKE ANY NOTATIONS OF THAT EITHER,
21. OF COURSE, RIGHT?

22. A WELL, THROUGHOUT THE EXAM THE FATHER WAS IN AND
23. OUT OF THE ROOM. I DO NOT KNOW AT WHAT POINT HE WAS IN
24. THE ROOM.

25. MR. ROGERS: THANK YOU, DR. HARRIS.

1 THE COURT: ALL RIGHT. ANYTHING FURTHER,
2 SOLICITOR?

3 MS. CAMPBELL: JUST A COUPLE OF QUESTIONS, YOUR
4 HONOR.

5 THE COURT: REDIRECT, GO AHEAD.

6 MS. CAMPBELL: THANK YOU.

7 REDIRECT EXAMINATION

8 BY MS. CAMPBELL.

9 Q JUST FOR THE RECORD, I WANT TO GET THIS STRAIGHT,
10 AT THE TIME -- WHEN THIS CUT OCCURRED, WOULD IT HAVE
11 BLED IMMEDIATELY?

12 A IT WOULD HAVE BLED IMMEDIATELY, YES.

13 Q AND IF SOMEONE WAS UNDESSING A CHILD AND PUTTING
14 A CHILD IN THE BATHTUB, WOULD THE BLOOD HAVE BEEN
15 NOTICEABLE?

16 A YES.

17 Q HE ASKED YOU ABOUT THAT -- WHEN SHE CAME OVER, HE
18 SAID SHE WAS JUST CHECKING TO SEE IF HE WAS ALL RIGHT.
19 WHEN WAS -- WAS THIS THE ONLY TIME OR HOW MANY TIMES
20 DID SHE COME OVER TO CHECK TO SEE IF THIS CHILD WAS
21 OKAY?

22 A THAT INCIDENT IS THE ONE THAT I RECALL.

23 Q IT WAS JUST THAT ONE TIME?

24 A YES.

25 Q AND WHAT WERE YOU ASKING Minor AT THAT POINT

1 WHEN SHE CAME OVER AND WAS MAKING SURE HE WAS OKAY?

2 A WHO DID THIS TO HIM.

3 MS. CAMPBELL: THANK YOU.

4 RECROSS-EXAMINATION

5 BY MR. ROGERS:

6 Q BUT THAT WAS ONLY WHEN YOU WERE IN THE ROOM?

7 A THAT'S CORRECT.

8 Q DID YOU KNOW THAT MIAMA SPEND THE NIGHT WITH HIM
9 IN THE SAME ROOM?

10 A SPENT -- I DON'T THINK I UNDERSTAND.

11 Q THAT MIAMA STAYED THE WHOLE TIME WITH Minor.
12 WHEN HE WAS BROUGHT TO THE HOSPITAL?

13 A THAT IS CORRECT.

14 Q YOU KNEW THAT?

15 A AS FAR AS AT OUR FACILITY OR AT THE OUTLYING
16 FACILITY?

17 Q NO, AT YOUR FACILITY.

18 A WHAT I KNOW IS THAT SHE WAS IN THE ROOM THROUGHOUT
19 MY EXAM.

20 MR. ROGERS: THANK YOU. THAT'S ALL.

21 THE COURT: ALL RIGHT. DOCTOR, YOU MAY STEP DOWN.

22 THE BAILIFF: WATCH YOUR STEP DOWN.

23 THE COURT: ALL RIGHT. SOLICITOR, CALL YOUR NEXT
24 WITNESS, PLEASE.

25 MS. HALL: THANK YOU, YOUR HONOR. THE STATE CALLS

1 DR. JENNIFER AMROL.

2 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

3 THE CLERK: PLEASE HAVE A SEAT ON THE WITNESS
4 STAND AND STATE YOUR FULL NAME FOR THE RECORD.

5 THE WITNESS: MY NAME IS JENNIFER GREGORY AMROL.

6 DIRECT EXAMINATION

7 BY MS. HALL:

8 Q THANK YOU, DR. AMROL. WHERE DO YOU WORK?

9 A I WORK AT THE CHILDREN'S HOSPITAL AT PALMETTO
10 HEALTH RICHLAND.

11 Q AND WHAT IS YOUR JOB THERE?

12 A I AM ATTENDING PHYSICIAN ON THE FACULTY OF THE
13 U.S.C. SCHOOL OF MEDICINE IN THE DEPARTMENT OF THE
14 PEDIATRICS.

15 Q OKAY. WHAT IS YOUR -- TELL THE JURY ABOUT YOUR
16 EDUCATION, YOUR BACKGROUND AND YOUR TRAINING.

17 A I WENT TO COLLEGE AT FURMAN UNIVERSITY IN
18 GREENVILLE. I WENT TO MEDICAL SCHOOL HERE AT U.S.C.
19 SCHOOL OF MEDICINE IN COLUMBIA. I DID MY RESIDENCY
20 TRAINING IN WAKE FOREST AT WINSTON SALEM, NORTH
21 CAROLINA, AND I WORKED IN PRIVATE PRACTICE FOR TWO
22 YEARS IN NASHVILLE, TENNESSEE. FOR THE PAST THREE
23 YEARS, I SPENT MY TIME ON THE FACULTY AT U.S.C. AT THE
24 CHILDREN'S HOSPITAL.

25 Q THANK YOU.

1 MS. HALL: YOUR HONOR, AT THIS TIME THE STATE
2 WOULD OFFER DR. AMROL AS AN EXPERT IN THE AREA OF
3 PEDIATRICS.

4 THE COURT: ANY CROSS OR OBJECTION?

5 MR. ROGERS: NO, YOUR HONOR.

6 THE COURT: THE WITNESS IS FOUND TO BE QUALIFIED
7 AS AN EXPERT IN THE FIELD OF PEDIATRICS. YOU MAY
8 CONTINUE.

9 MS. HALL: THANK YOU, YOUR HONOR.

10 BY MS. HALL:

11 Q DR. AMROL, HAVE YOU TESTIFIED AS AN EXPERT WITNESS
12 BEFORE?

13 A YES.

14 Q HOW MANY TIMES?

15 A ONCE.

16 Q THANK YOU. WERE YOU WORKING ON AUGUST 16TH, 2005?

17 A I WAS.

18 Q AND DID YOU HAVE AN OCCASION TO TREAT Minor

19 ON THAT DAY?

20 A I DID.

21 Q OKAY. AND WHAT WAS YOUR INITIAL CONTACT WITH HIM?

22 A I MET HIM WHEN I CAME IN THAT FIRST MORNING. I
23 SPOKE WITH DR. HARRIS, AND I WENT AND EVALUATED HIM
24 ABOUT 8:30 THAT MORNING.

25 Q OKAY. LET ME BACK UP. YOU SAID YOU'RE AN

1 ATTENDING PHYSICIAN, CORRECT?

2 A YES.

3 Q DR. AMROL, PLEASE EXPLAIN TO THE JURY WHAT THAT
4 MEANS.

5 A WHEN YOU'RE IN RESIDENCY TRAINING, THEY BECOME
6 DOCTORS, BUT NOW THEY'RE SPECIALIZING IN THE TRAINING,
7 SO DURING THE TRAINING THEY HAVE THE SUPERVISING
8 PHYSICIANS, WHICH I'M ONE OF THOSE, SO AS AN ATTENDING
9 PHYSICIAN YOU SUPERVISE WHATEVER IS GOING ON EITHER IN
10 INPATIENT SERVICES OR IN THE CLINICS.

11 Q THANK YOU FOR CLARIFYING THAT. WHAT WAS YOUR
12 INITIAL -- HOW DID HE PRESENT WHEN YOU FIRST SAW
13 Minor ?

14 A I WENT IN AND EVALUATED HIM IN HIS ROOM, AND HE
15 HAD ALREADY HAD AN INITIAL EVALUATION BY THE RESIDENT.
16 I WENT IN AND MET THE FATHER AND THE STEPMOTHER, AND I
17 EVALUATED HIM, OBTAINED THE HISTORY AGAIN AND LOOKED
18 ALSO AT HIS WOUND.

19 Q OKAY. AND IF WE CAN REFER TO YOUR NOTES -- DO YOU
20 HAVE A COPY OF YOUR NOTES?

21 A YES.

22 Q OKAY. REFERRING TO YOUR ENTRY ON AUGUST 16TH AT
23 9:30 A.M., WHAT DID YOU NOTE ON THAT -- IN THAT FIRST
24 PARAGRAPH?

25 A I NOTED THAT HE HAD COME IN OVERNIGHT WITH THIS

1 BRIGHT SCROTAL LACERATION AND OTHER BRUISES AND
2 ABRASIONS AS DR. HARRIS HAD NOTED IN HER NOTES.

3 Q OKAY. AND THEN FURTHER DOWN, WHERE I BELIEVE IT
4 SAYS IMPRESSION PLANNED, WHAT DID YOU NOTE THERE?

5 A I NOTED THAT HE HAD THE SCROTUM LACERATION WITH
6 THE BULGING OF HIS TESTICLE, MEANING THAT HIS TESTICLE
7 WAS OUTSIDE OF HIS SCROTUM, AND THE MOST -- THE CAUSE
8 OF THIS TYPE OF INJURY WOULD BE NON-ACCIDENTAL TRAUMA,
9 AND SO FROM THAT POINT WE DECIDED TO CONTINUE TO GET
10 DR. EHRETH, THE PEDIATRIC UROLOGIST, INVOLVED SO THAT
11 HE COULD REPAIR THE INJURY AND THEN WE CONSULTED WITH
12 THE FORENSIC PEDIATRICIAN, DR. ABLE, TO COME IN AND
13 EVALUATE THE CASE, AS WELL.

14 Q IS THAT STANDARD TO REFER TO DR. ABLE WHEN YOU
15 SUSPECT CHILD ABUSE OR SOME KIND OF MISCONDUCT?

16 A YES, IT IS.

17 Q OKAY. DID THE DEFENDANT, MIAMA KROMAH, GIVE YOU
18 ANY EXPLANATION, OR DID SHE TELL YOU ANYTHING ABOUT HOW
19 THIS MAY HAVE HAPPENED?

20 A YES. SHE GAVE THE SAME STORY WHERE SHE HAD
21 NOTICED SOME SCROTAL SWELLING, PUT HIM IN THE BATHTUB,
22 APPLIED THE WASHCLOTH AND THEN NOTICED THE BLOOD, BUT
23 SHE HAD NOTHING TO EXPLAIN THE ACTUAL CUT.

24 Q OKAY. AND IN YOUR EXPERIENCE, HAVE YOU EVER SEEN
25 AN EXPLODING SCROTUM OR A SCROTUM THAT MIGHT RUPTURE

1 WHEN PRESSURE IS APPLIED?

2 A NO. THE SKIN OVER THE SCROTUM IS VERY, VERY
3 DISTENSIBLE, SO THEY CAN SWELL UNTIL LIKE TEN TIMES
4 THEIR NORMAL SIZE AND THE SKIN WILL NOT TEAR, SO YOU
5 REALLY -- YOU NEVER SEE A SCROTUM JUST BURST. IT HAS
6 TO BE CUT IN ORDER FOR THE TESTICLE TO COME OUT LIKE
7 THIS.

8 Q OKAY. AND IF, FOR INSTANCE, SOMEHOW THE CHILD GOT
9 THIS INJURY ROUGH-HOUSING WITH A PLAYMATE, WHAT WOULD
10 THAT WOUND LOOK LIKE?

11 A IT WOULD BE MORE LIKE -- IT WOULD HAVE A RAGGED
12 EDGE, IF IT WAS JUST A TEAR OR SOMETHING.

13 Q OKAY. HOW WAS THIS WOUND? HOW WOULD YOU
14 CHARACTERIZE IT?

15 A THIS IS A VERY CLEAN CUT, VERY STRAIGHT LINE
16 ACROSS THE SCROTUM.

17 Q LET ME ASK YOU THIS, IS THERE ANY CONDITION THAT
18 MIGHT CAUSE SWOLLEN TESTICLES?

19 A THERE ARE INFECTIOUS DISEASES, ONE PARTICULARLY,
20 ELEPHANTIASIS, WHERE YOU CAN GET SEVERE SWELLING OF THE
21 SCROTUM.

22 Q OKAY. DID Minor HAVE THAT?

23 A NO. HE DID HAVE A HYDROCELE, WHICH CAN CAUSE
24 SLIGHT SWELLING OF THE SCROTUM.

25 Q OKAY, BUT WOULD YOU SAY THAT WAS ENOUGH SWELLING

1 TO CAUSE THIS INJURY?

2 A NO.

3 Q DR. AMROL, LET ME ASK YOU THIS, WOULD YOU
4 CHARACTERIZE THIS AS A SERIOUS INJURY?

5 A YES.

6 Q MAYBE IF YOU CAN EXPLAIN TO THE JURY WHAT MIGHT
7 HAVE HAPPENED IN THIS CASE WITHOUT MEDICAL TREATMENT?

8 A OKAY. WITHOUT MEDICAL TREATMENT, ANY TIME YOU
9 HAVE AN OPEN WOUND LIKE THIS, YOU WOULD RUN THE RISK OF
10 INFECTION, WHICH COULD HAVE BEEN SPREAD TO THE
11 BLOODSTREAM AND YOU COULD GET WHAT WE CALL BACTEREMIA
12 AND YOU WOULD GET A REALLY HIGH FEVER. YOU WOULD GET
13 REALLY SICK AND YOU COULD DIE FROM THAT. ALSO, WITHOUT
14 TREATMENT HIS TESTICLE COULD HAVE BECOME TWISTED ON THE
15 SPERMATIC CORD THAT WAS HANGING OUT AND THEN HE COULD
16 HAVE LOST REPRODUCTIVE FUNCTION OF THAT TESTICLE, AS
17 WELL.

18 Q OKAY. AND THIS INJURY WAS TREATED WITH SURGERY;
19 IS THAT CORRECT?

20 A YES.

21 Q OKAY. CAN A CHILD -- IS THERE A DANGER OF DEATH
22 WHEN A CHILD HAS TO UNDERGO SURGERY?

23 A YES, ANY SURGERY IS ASSOCIATED WITH RISK. ALSO,
24 WHEN YOU NEED ANESTHESIA, THAT'S ONE OF THE RISKS THEY
25 EXPLAIN TO THE FAMILY BEFORE A CHILD IS TAKEN TO

1 SURGERY.

2 Q IN YOUR EXPERT OPINION, WERE Minor 'S INJURIES
3 CONSISTENT WITH THE EXPLANATION THAT THE DEFENDANT GAVE
4 YOU?

5 A NO.

6 Q IN YOUR EXPERT OPINION, WHAT CAUSED Minor 'S
7 INJURIES?

8 A NON-ACCIDENTAL TRAUMA OR CHILD ABUSE.

9 MS. HALL: OKAY. THANK YOU. YOUR HONOR, BEG THE
10 COURT'S INDULGENCE.

11 (PAUSE)

12 MS. HALL: THAT'S ALL WE HAVE, YOUR HONOR.

13 THE COURT: ALL RIGHT. MR. ROGERS.

14 MR. ROGERS: MAY IT PLEASE THE COURT?

15 THE COURT: YES, SIR.

16 CROSS-EXAMINATION

17 BY MR. ROGERS:

18 Q DR. AMROL, IF Minor 'S INJURIES WERE SO SEVERE
19 AND SO LIFE THREATENING, WHY DID IT TAKE SO LONG FOR
20 HIM TO BE TREATED?

21 A I DON'T THINK THAT IT DID. ACUTELY, IT WAS NOT
22 LIFE THREATENING. HE WAS TAKEN TO THE EMERGENCY ROOM,
23 THE WOUND WAS CLEANED, SALINE GAUZES WERE PLACED ON IT,
24 SO HE WAS NOT AT RISK FOR INFECTION BECAUSE HE RECEIVED
25 MEDICAL CARE.

1 Q WELL, YOU DON'T KNOW WHAT TIME HE ARRIVED AT
2 PALMETTO RICHLAND, DO YOU?

3 A WELL, HE ARRIVED AT LEXINGTON AT 2:30 IN THE
4 MORNING.

5 Q AND HE WASN'T SEEN BY A PHYSICIAN AT PALMETTO
6 RICHLAND UNTIL 6:00?

7 A YES, BUT I'M SURE IT TOOK A COUPLE OF HOURS TO BE
8 SEEN AT LEXINGTON AND THEN HE WAS TRANSPORTED TO
9 PALMETTO RICHLAND.

10 Q WELL, WE'VE HAD THE TESTIMONY AS TO HOW LONG THAT
11 TOOK AND IT WASN'T AS LONG AS YOU MIGHT IMAGINE. SO DO
12 YOU HAVE ANY EXPLANATION FOR THE DELAY IN TREATMENT OF
13 Minor ?

14 A MY EXPLANATION WOULD BE THAT WHEN PEOPLE GO IN TO
15 THE HOSPITAL IN THE MIDDLE OF THE NIGHT, MAYBE THEY'RE
16 NOT GOING TO BE AWARE OF WHAT TIME IT COULD BE.
17 DR. HARRIS MAY HAVE SEEN HIM AT 5:00 A.M. OR SHE MAY
18 HAVE SEEN HIM AT 5:30. I REALIZE SHE WAS SAYING
19 6:00 A.M., BUT HAVING BEEN A RESIDENT, YOU KNOW THAT
20 YOUR TIME COULD HAVE BEEN OFF BY THIRTY MINUTES PRETTY
21 EASILY.

22 Q SO AT 5:30 THEN?

23 A YES, I THINK THREE HOURS FROM THE TIME HE GOT TO
24 LEXINGTON TO THE TIME HE WAS SEEN AT RICHLAND IS A
25 RELATIVELY QUICK TIME.

1 Q THREE HOURS IS A QUICK TIME?

2 A YES.

3 Q OKAY. NOW, YOU DON'T KNOW HOW THIS INJURY
4 OCCURRED, DO YOU?

5 A NO.

6 Q YOU DON'T KNOW WHAT CAUSED THE INJURY?

7 A NO.

8 Q AND MIAMA TOLD YOU BASICALLY THAT SHE DIDN'T KNOW.
9 SHE TOLD YOU WHAT SHE SAW, RIGHT?

10 A RIGHT.

11 Q OKAY. AND YOU AS AN EXPERT CAN'T TELL THIS JURY
12 WHAT EXACTLY HAPPENED, CAN YOU?

13 A RIGHT.

14 Q OKAY. IT'S IMPOSSIBLE THAT IT COULD HAVE BEEN AN
15 ACCIDENT?

16 A RIGHT.

17 Q IS IT POSSIBLE?

18 A OH, NO.

19 Q IS IT POSSIBLE THAT Minor SOMEHOW INADVERTENTLY
20 DID IT TO HIMSELF?

21 A NOT WITH THIS STORY THAT SHE WAS WITH HIM THE
22 WHOLE TIME AND SAW NORMAL, NO BLOOD, THEN BLOOD AND
23 THAT SHE WAS WITH HIM THE WHOLE TIME.

24 Q WELL, SHE WASN'T WITH HIM THE WHOLE TIME, BUT WHAT
25 I'M ASKING YOU IS, IS IT POSSIBLE THAT SOMEHOW HE

1 INJURED HIMSELF?

2 A NO.

3 Q OKAY. WHEN THE CUT OCCURRED, THERE WOULD HAVE
4 BEEN A LOT OF BLOOD, WOULDN'T THERE?

5 A RIGHT.

6 Q A LOT OF BLOOD?

7 A RIGHT.

8 Q OKAY. IT'S NOT POSSIBLE THAT THE CUT COULD HAVE
9 OCCURRED SOMEHOW, BUT THEN THE TESTICLE DIDN'T PROTRUDE
10 UNTIL LATER? IS THAT POSSIBLE?

11 A NO.

12 Q THAT'S NOT POSSIBLE?

13 A NO.

14 Q OKAY. THANK YOU.

15 THE COURT: ANY REDIRECT?

16 MS. HALL: NOTHING FROM THE STATE.

17 THE COURT: DOCTOR, YOU MAY STEP DOWN.

18 ALL RIGHT, SOLICITOR, CALL YOUR NEXT WITNESS,
19 PLEASE.

20 MS. CAMPBELL: MAY IT PLEASE THE COURT, YOUR
21 HONOR. WE HAVE A COUPLE TO TAKE OUT OF ORDER WITH THE
22 COURT'S PERMISSION.

23 THE COURT: THAT'S FINE.

24 MS. CAMPBELL: THE STATE CALLS HEATHER SMITH.

25 HEATHER SMITH,

1 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

2 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL
3 NAME FOR THE RECORD.

4 THE WITNESS: MY FULL NAME IS HEATHER MARIE SMITH.

5 MS. CAMPBELL: YOUR HONOR, MAY WE APPROACH?

6 THE COURT: SURE.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
8 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE
9 JURY).

10 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN,
11 THERE MAY BE A MATTER FOR ME TO TAKE UP OUT OF YOUR
12 PRESENCE. I'M GOING TO SEND YOU BACK TO YOUR JURY ROOM
13 FOR A FEW MINUTES. DO NOT DISCUSS THE CASE. WE WILL
14 HAVE YOU BACK IN JUST A FEW MINUTES. YOU FOLKS ARE
15 EXCUSED TO YOUR JURY ROOM AT THIS TIME.

16 (WHEREUPON, THE JURY LEFT OPEN COURT AT
17 APPROXIMATELY 3:08 P.M.)

18 THE COURT: THIS IS A WITNESS WHO MAY OR MAY NOT
19 GET INTO SOME MATTERS THAT THE COURT WOULD HAVE TO RULE
20 ON THE ADMISSIBILITY OF WHAT SHE MIGHT HAVE TO SAY. I
21 THOUGHT IT WOULD BE BETTER TO GET THE JURY OUT AND HAVE
22 THE STATE MAKE A PROFFER AND SEE WHERE WE GO.

23 MS. CAMPBELL: MAY IT PLEASE THE COURT. YOU DON'T
24 WANT ME TO QUALIFY HER AS AN EXPERT AT THIS POINT?

25 THE COURT: FOR PURPOSES OF THIS HEARING, WOULD

DIRECT OF SMITH BY CAMPBELL
(IN CAMERA)

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1 YOU STIPULATE TO THAT?

2 MR. ROGERS: YES, SIR.

3 THE COURT: ALL RIGHT. THANK YOU. ALL RIGHT, FOR
4 PURPOSES OF THIS HEARING.

5 DIRECT EXAMINATION

6 (IN CAMERA)

7 BY MS. CAMPBELL:

8 Q DID YOU HAVE OCCASION TO COME IN CONTACT WITH

9 Minor ?

10 A YES, I DID.

11 Q WHEN DID YOU MAKE CONTACT WITH HIM?

12 A AUGUST 25TH, 2005.

13 Q WAS HE REFERRED TO YOU FOR A FORENSIC INTERVIEW AS
14 A RESULT OF HIS INJURIES?

15 A HE WAS.

16 Q WHEN DID YOU -- DID YOU ACTUALLY PERFORM THAT
17 INTERVIEW ON AUGUST 25TH?

18 A YES, I DID.

19 Q CAN YOU TELL THE JUDGE JUST BASICALLY WHAT YOU
20 WERE DOING AND THE QUESTIONING YOU WENT THROUGH WITH
21 THE CHILD?

22 A SURE. I PERFORMED A FORENSICALLY -- A CHILD
23 FRIENDLY PROTOCOL FORENSIC INTERVIEW ON Minor
24 KNOWN AS THE RAP BAC RECALL (PHONETIC), AN ACRONYM FOR
25 RAPPORT BUILDING, BELIEF IDENTIFICATION, A TOUCH

1 INQUIRY, AND ABUSE SCENARIO, AND CLOSURE PROCESS.
2 THAT'S THE PROTOCOL THAT WE USE, AND THROUGH CONDUCTING
3 THAT FORENSIC INTERVIEW RAPPORT WAS ACHIEVED WITH
4 Minor , AND HE CONSISTENTLY INFORMED ME THAT HE HAD
5 BEEN HURT AND WHO HURT HIM.

6 Q AND FOR PURPOSES OF THIS HEARING, WHO DID HE
7 INDICATE HAD HURT HIM?

8 A HE INDICATED THAT MIAMA HURT HIM, MORE THAN ONE
9 TIME, AND POINTED TO WHERE HE HAD BEEN HURT ON HIS
10 BODY.

11 Q AND WHEN YOU INTERVIEWED THE CHILD ON THE 25TH,
12 WAS HE ABLE TO SPEAK ENGLISH?

13 A YES, HE WAS.

14 Q AND DURING THE COURSE OF YOUR INTERVIEW WITH THE
15 CHILD -- APPROXIMATELY HOW LONG DID YOUR INTERVIEW
16 LAST, DO YOU RECALL?

17 A APPROXIMATELY AN HOUR.

18 Q AND DURING THE COURSE OF YOUR INTERVIEW, WAS HE
19 ABLE TO RESPOND APPROPRIATELY?

20 A HE WAS.

21 Q AND PART OF THE PURPOSE OF YOUR INTERVIEW WAS TO
22 ASSESS WHETHER OR NOT THERE WAS ACTUAL CHILD ABUSE
23 INVOLVED?

24 A YES.

25 Q AND ALSO WHETHER OR NOT HE COULD REPORT WHO DID

1 IT?

2 A THAT'S RIGHT.

3 Q IN THAT AREA, WERE YOU ABLE TO -- WAS HE ABLE TO
4 GIVE YOU ENOUGH INFORMATION FOR YOU TO THEN FORWARD
5 THOSE FINDINGS TO POLICE?

6 A YES. ACTUALLY POLICE AND CHILD PROTECTIVE
7 SERVICES WERE THERE TO VIEW THE INTERVIEW, SO THEY
8 RECEIVED THAT INFORMATION AS IT WAS BEING TOLD TO ME.

9 Q AND JUST FOR PURPOSES OF THIS HEARING, THE PERSON
10 THAT HE IDENTIFIED AS HAVING HURT HIM -- DID HE
11 ACTUALLY INDICATE WHAT AREA OF HIS BODY HAD BEEN HURT?

12 A HE DID. HE PULLED DOWN HIS PANTS, SHOWED ME, AND
13 HE POINTED TO IT.

14 Q AGAIN, WHO DID HE INDICATE HAD HURT HIM?

15 A HE PULLED DOWN HIS PANTS AND POINTED TO WHAT HE
16 CALLED HIS TUTU AND STATED, "MIAMA HURT ME."

17 MS. CAMPBELL: YOUR HONOR, BUT FOR THE FACT WE
18 WOULD NOT BE GOING INTO WHO HE SAID HURT HIM, THAT
19 WOULD BE THE ESSENCE, AND THAT SHE FORWARDED THIS
20 INFORMATION TO LAW ENFORCEMENT AND THAT HER FINDING WAS
21 ONE OF PHYSICAL ABUSE.

22 THE WITNESS: COMPELLING PHYSICAL ABUSE.

23 THE COURT: CROSS-EXAMINATION AT THIS TIME,
24 MR. ROGERS?

25 CROSS-EXAMINATION

(IN CAMERA)

2 BY MR. ROGERS:

3 Q MS. SMITH, IT TOOK YOU AN HOUR WHEN YOU TALKED TO
4 Minor , DIDN'T IT?

5 A IT DID.

6 Q HE WASN'T COOPERATING, WAS HE?

7 A NO. HE COOPERATED FOR PART OF IT, AND HE DID NOT
8 WANT TO COOPERATE FOR OTHER PARTS. THAT'S NOT AT ALL
9 UNCOMMON FOR A THREE YEAR OLD.

10 Q HE WAS MORE INTERESTED IN THAT POTATO HEAD TOY
11 THAN IN ANSWERING ANY QUESTIONS YOU ASKED HIM, CORRECT?

12 A HE WAS MORE INTERESTED IN DRAWING BEFORE THAT.

13 Q AND DRAWING BEFORE THAT?

14 A UH-HUH.

15 Q WHEN YOU ASKED HIM, "ARE YOU A BOY OR A GIRL?" HE
16 SAID, "NOBODY," DIDN'T HE?

17 A HE DID.

18 Q WHEN YOU ASKED HIM ABOUT BODY PARTS, HE DIDN'T
19 ANSWER YOU, DID HE?

20 A HE ACTUALLY CALLED, HE POINTED AT -- HE NAMED IT
21 AS HIS TUTU.

22 Q THAT WAS LATER ON. WHEN YOU FIRST ASKED HIM RIGHT
23 THERE AT THE EASEL WHERE YOU ALL WERE DRAWING, HE
24 DIDN'T ANSWER YOU, DID HE?

25 A DURING THE ANATOMICAL IDENTIFICATION PART, HE DID

1 ANSWER ME. HE CALLED HIS -- HE POINTED TO HIS PENIS ON
2 THE DRAWING AND CALLED IT A TUTU.

3 Q OKAY. AND WHEN YOU ASKED HIM, "SOMETHING HAPPENED
4 TO YOUR BODY, Minor ;," AND HE SAID, "NO", DIDN'T HE,
5 DIDN'T HE?

6 A I'M NOT -- I ASKED HIM DIFFERENT QUESTIONS ABOUT
7 BEING HURT, ABOUT GOING TO THE DOCTOR, ABOUT HAS
8 SOMETHING HAPPENED TO YOU RECENTLY. HE ANSWERED "NO"
9 TO SOME OF THE QUESTIONS. HE ANSWERED "YES" TO OTHERS,
10 BUT HE WAS VERY CLEAR AND CONSISTENT ABOUT BEING HURT
11 AND WHO DID IT.

12 Q ALL RIGHT. THAT WASN'T UNTIL YOU TOLD HIM HE
13 COULDN'T GO OUTSIDE AND PLAY UNTIL HE ANSWERED YOUR
14 QUESTIONS, CORRECT?

15 A EXCUSE ME, I'M SORRY --

16 Q IS THAT CORRECT?

17 A THAT IS NOT CORRECT. DURING FAMILY CIRCLES, WHICH
18 IS THE PART WE DO AS PART OF THE REPORTABILITY PROCESS,
19 HE STATED TO ME DURING -- AFTER ASKING HIM WHO WAS IN
20 HIS FAMILY, HE NAMED HIS DADDY, HE NAMED CICI, AND THEN
21 HE STATED "MIAMA HURT ME."

22 Q AND DIDN'T HE SAY, "MAMA HURT ME"?

23 A MIAMA, MAMA.

24 Q AND YOU WERE AWARE --

25 A I THINK MY REFLECTIONS BACK TO HIM WAS THAT "MAMA

1 HURT YOU."

2 Q AND WERE YOU AWARE THAT HE HAD CALLED THREE PEOPLE
3 MAMA?

4 A I WAS NOT.

5 Q NOW, HE WANTED TO GO OUTSIDE AND THAT DOOR WAS
6 LOCKED, WASN'T IT?

7 A NO, WE DO NOT LOCK THE DOORS.

8 Q HE COULDN'T OPEN IT, RIGHT?

9 A IT WAS --

10 Q IT WAS A HEAVY DOOR?

11 A YES, AND HE COULDN'T TURN THE KNOB.

12 Q AND YOU TOLD HIM HE COULDN'T GO OUT AND PLAY --
13 AND THIS WAS AFTER ABOUT 45 MINUTES OF YOUR TRYING TO
14 GET HIM TO TALK ABOUT THE EVENT, CORRECT?

15 A NO.

16 Q NO, WHAT?

17 A THAT I TOLD HIM HE COULD NOT LEAVE THE ROOM?

18 Q YES.

19 A I DON'T RECALL THAT. THAT'S NOT USUALLY THE
20 PROCESS.

21 Q DIDN'T YOU SAY, "YOU CAN'T GO OUT AND PLAY UNTIL
22 YOU TALK TO ME, THAT THE REASON WE'RE IN HERE IS FOR
23 YOU TO ANSWER QUESTIONS?"

24 A I STATED -- I TOLD HIM THAT THE REASON WAS FOR HIM
25 TO -- THE REASON FOR HIM TO BE IN THE ROOM WAS TO

1 ANSWER QUESTIONS, TO TALK. THIS IS A VERY COMMON
2 STRATEGY THAT WE USE WITH THREE YEARS OLDS JUST TO LET
3 THEM KNOW THAT THERE IS A TASK THAT WE NEED TO
4 COMPLETE. HE WANTED TO LEAVE THE ROOM. AT THAT POINT
5 I ENGAGED HIM IN FURTHER REPORTABILITY BY RETRIEVING
6 MR. POTATO HEAD, THE TOY, AND I ALLOWED HIM TO PLAY.
7 WE BUILT FURTHER RAPPORT. HE STAYED IN THE ROOM WITH
8 ME. HE DIDN'T WANT TO LEAVE.

9 Q DIDN'T HE AT ONE TIME, DIDN'T HE SAY TO YOU, "I
10 HIT MY BACK?"

11 A HE STATED THAT HIS BACK WAS HURT.

12 Q "I HURT MY BACK?"

13 A HE SAID, "MIAMA HURT ME," AND THEN HE STATED, WHEN
14 ASKED WHERE, HE SAID IT WAS HIS BACK.

15 Q ALL OF THAT STUFF DIDN'T COME OUT UNTIL THE LAST
16 FIVE OR TEN MINUTES OF THIS HOUR, CORRECT?

17 A I DON'T REMEMBER THAT AS BEING, YOU KNOW, IT'S ON
18 VIDEO, BUT I DON'T REMEMBER IT BEING THE LAST FIVE
19 MINUTES, ABOUT THE BACK.

20 Q BUT IT WAS TOWARDS THE END OF THE INTERVIEW,
21 WASN'T IT?

22 A MAYBE THE LAST 20 MINUTES, BUT I WOULD HAVE TO SIT
23 IN FRONT OF THE VIDEO AND LOOK AT IT TO BE ACCURATE.

24 Q YOU ASKED HIM, "WHAT DOES CICI LOOK LIKE?" HE
25 DIDN'T ANSWER, DID HE?

1 A I'M NOT -- I'D HAVE TO LOOK AT THE VIDEO. I CAN'T
2 REMEMBER THE DETAILS OF THAT.

3 Q YOU ASKED HIM, "WHO DOES MAMA LIVE WITH?" AND HE
4 ANSWERED "CICI," DIDN'T HE?

5 A HE DID. I DO RECALL THAT.

6 Q YOU ASKED HIM, "DID YOU GO TO THE DOCTOR?" HE
7 SAID "NO."

8 A I ASKED HIM LATER IF HE WENT TO THE DOCTOR AND HE
9 SAID "YES."

10 Q YES, BUT INITIALLY WHEN YOU ASKED HIM DID HE GO TO
11 THE DOCTOR, HE SAID "NO," CORRECT?

12 A I'M NOT SURE IF IT WAS INITIALLY OR IF IT WAS THE
13 SECOND TIME THAT I ASKED HIM. I'D HAVE TO LOOK AT THE
14 VIDEO TO BE COMPLETELY 100 PERCENT ACCURATE ON THAT
15 ANSWER.

16 Q THIS WASN'T A DIFFICULT INTERVIEW FOR YOU?

17 A I WOULD SAY FOR A THREE YEAR OLD, IT WAS NOT AN
18 UNCOMMON INTERVIEW.

19 Q AND YOUR TESTIMONY IS HE PULLED HIS PANTS DOWN AND
20 SHOWED YOU HIS TUTU?

21 A HE INDICATED WHERE HE WAS HURT BY OPENING HIS
22 PANTS AND POINTING TO HIS TUTU.

23 Q DIDN'T YOU POINT AT THE TUTU AND SAY, "DIDN'T YOU
24 GET HURT THERE?"

25 A NO, NO, NO, NO. I DID NOT.

1 MR. ROGERS: JUDGE, I THINK WE NEED TO WATCH THIS
2 VIDEO. I HAVE NO FURTHER QUESTIONS.

3 THE COURT: ALL RIGHT. ANY FURTHER QUESTIONS?

4 MS. CAMPBELL: NO, SIR.

5 MR. ROGERS: JUDGE, MY OBJECTION IS, OF COURSE,
6 THE SAME, THAT M^{Minor} IS NOT COMPETENT. THEREFORE,
7 ANY HEARSAY TESTIMONY IS --

8 THE COURT: WELL, THAT'S WHAT I'M REQUESTING. MY
9 UNDERSTANDING IS THE STATE IS NOT GOING TO ASK WHO HE
10 SAID DID THIS TO HIM; IS THAT CORRECT, SOLICITOR?

11 MS. CAMPBELL: THE EXTENT OF WHAT WE'RE GOING TO
12 GO THROUGH IS WHEN SHE WENT THROUGH THAT, SHE HAD A
13 CONVERSATION WITH HIM, THAT SHE INTERVIEWED HIM. SHE
14 WON'T BE ABLE TO SAY WHAT HE SAID OR WHO HE SAID DID
15 IT, BUT DID SHE FORWARD THAT INFORMATION TO LAW
16 ENFORCEMENT AND EXTEND THAT AS TO DID SHE MAKE A
17 FINDING IN THIS CASE, AND SHE IS GOING TO SAY THAT IT
18 WAS COMPELLING FOR PHYSICAL ABUSE, CHILD ABUSE.

19 THE COURT: YOU'RE NOT GOING TO ASK AND SHE'S NOT
20 GOING TO RESPOND TO ANY CONVERSATION SHE HAD WITH THE
21 CHILD OTHER THAN THE FACT THAT SHE INTERVIEWED HIM; IS
22 THAT RIGHT?

23 MS. CAMPBELL: THE ONLY THING I'M GOING TO SAY IS
24 YOU CAN'T SAY WHAT HE SAID TO YOU. YOU INTERVIEWED
25 HIM, HE GAVE YOU INFORMATION, AND YOU FORWARDED THAT

1 INFORMATION TO LAW ENFORCEMENT -- OR LAW ENFORCEMENT
2 ACTUALLY OBSERVED WHOLE INTERVIEW.

3 MR. ROGERS: THE IMPLICATION IS THE SAME, JUDGE.

4 MS. CAMPBELL: AND I CAN GET INTO HER TRAINING IN
5 THE FIELD AND EVERYTHING, BUT THIS IS PART --

6 THE COURT: I'M HAVING TROUBLE HEARING --

7 MS. CAMPBELL: I CAN GET INTO HER TRAINING AND
8 EVERYTHING, BUT, I MEAN, SHE IS TRAINED TO DEAL WITH
9 TWO, THREE, FOUR, FIVE YEAR OLDS, INTERVIEW THEM AND
10 MAKE ASSESSMENTS. SHE WAS ABLE TO DO SO IN THIS CASE.
11 HAD SHE NOT FELT COMFORTABLE, SHE WOULDN'T HAVE BEEN
12 ABLE TO MAKE A FINDING ONE WAY OR THE OTHER.

13 MR. ROGERS: THAT'S MY POINT, YOUR HONOR. I DON'T
14 THINK SHE COULD HAVE MADE AN ASSESSMENT BASED ON THIS
15 INTERVIEW. THAT'S WHY I'M REQUESTING THE COURT TO TAKE
16 A LOOK -- I HATE TO BELABOR THE TRIAL, BUT I THINK THIS
17 IS A CRUCIAL ISSUE ON -- BECAUSE IF SHE SAYS I TALKED
18 WITH HIM AND A RESULT OF MY TALK WITH HIM, THEN I
19 TURNED MY FINDINGS OVER TO D.S.S. OR WHOEVER SHE IS
20 GOING TO SAY SHE TURNED IT OVER TO, THE CLEAR
21 IMPLICATION THAT THE JURY IS GOING TO DERIVE IS THAT
22 Minor MUST HAVE TOLD HER SOMETHING THAT FURTHERED
23 THIS INVESTIGATION, THIS PROSECUTION, AND THEY'RE
24 TRYING TO DO BY THE BACK DOOR WHAT THEY CAN'T --
25 THE COURT: ALL RIGHT. DO WE HAVE THE TAPE?

1 MS. CAMPBELL: YES, SIR.

2 THE COURT: I'M JUST NOT SURE WHERE I CAN GO TO
3 WATCH IT.

4 MS. CAMPBELL: DO YOU WANT ME TO HAVE A T.V.
5 BROUGHT TO YOUR CHAMBERS?

6 THE COURT: PARDON ME?

7 MS. CAMPBELL: I CAN GET A T.V. OR V.C.R. BROUGHT
8 TO YOUR CHAMBERS OR BACK HERE?

9 THE COURT: LET'S GET THAT MARKED AS A COURT'S
10 EXHIBIT. YOU'RE NOT PLANNING ON PUTTING THAT IN, ARE
11 YOU?

12 MS. CAMPBELL: I CAN'T -

13 THE COURT: AT THIS POINT IN TIME?

14 MS. CAMPBELL: I DON'T THINK I CAN, JUDGE.

15 THE COURT: I'LL MARK IT AS A COURT'S EXHIBIT SO I
16 HAVE IT IN THE RECORD AND THEN I'LL GO TAKE A LOOK AT
17 IT.

18 (WHEREUPON, COURT'S EXHIBIT 2 WAS MARKED FOR
19 IDENTIFICATION ONLY.)

20 MS. CAMPBELL: CAN I SUPPLEMENT WITH A COUPLE OF
21 QUESTIONS BEFORE YOU SEE THIS, JUDGE?

22 THE COURT: SURE. THAT'S COURT'S 2; IS THAT
23 RIGHT?

24 MS. CAMPBELL: COURT'S 2, I'M SORRY.

25 REDIRECT EXAMINATION

1 (IN CAMERA)

2 BY MS. CAMPBELL:

3 Q MS. SMITH, WOULD YOU CONSIDER Minor WHAT WE
4 WOULD CALL A VERBAL CHILD?

5 A HE WAS BELOW AVERAGE VERBALLY.

6 Q DOES THAT MEAN THAT HE IS NOT ABLE TO RESPOND TO
7 OR UNDERSTAND YOUR QUESTIONS?

8 A NO.

9 Q IN YOUR INTERVIEW -- HOW LONG HAVE YOU BEEN DOING
10 THIS?

11 A FOR ALMOST FOUR YEARS.

12 Q AND HOW MANY CHILDREN HAVE YOU INTERVIEWED OVER
13 THE LAST FOUR YEARS?

14 A OVER 500.

15 Q WOULD A THREE YEAR OLD, WOULD HIS RESPONSES OR
16 HIS -- AND PART OF IT WE NEED TO EXPLAIN IS, WOULD YOU
17 SAY A THREE YEAR OLD IS MORE EASILY DISTRACTED THAN SAY
18 AN OLDER CHILD?

19 A YES. THREE YEAR OLDS ARE VERY EASILY DISTRACTED.

20 Q WERE HIS DISTRACTIONS UNUSUAL?

21 A NO.

22 Q IN FACT, IN MAKING YOUR FINDING IN THIS CASE AND
23 BASED ON YOUR TRAINING, DID YOU TAKE IN ALL THE FACTORS
24 THAT ARE BASED ON THIS VIDEOTAPE?

25 A MY INTERVIEW ITSELF WAS BASED ON ALL THOSE

1 FACTORS, SO I WAS MAKING DECISIONS CONSTANTLY DURING
2 THE INTERVIEW PROCESS OF WHAT TO DO NEXT BASED ON HIS
3 DEVELOPMENTAL LEVEL, AGED THREE, AND HIS LANGUAGE, HIS
4 EMOTIONS, HIS BEHAVIOR IN THE INTERVIEW.

5 Q AND A THREE YEAR OLD THAT'S RECENTLY BEEN
6 TRAUMATIZED WITH A FAIRLY PAINFUL INJURY, WOULD IT BE
7 UNUSUAL FOR HIM TO BE RELUCTANT TO TALK ABOUT IT?

8 A NO. ALSO HE WAS PLACED IN FOSTER CARE, SO HE HAD
9 BEEN REMOVED FROM HIS HOME. THAT WOULD ALSO MAKE HIM
10 OPPOSITIONAL.

11 Q WERE YOU ALSO AWARE THAT HE HAD BEEN REMOVED FROM
12 HIS PREVIOUS FOSTER CARE HOME IN MINNESOTA ABOUT A
13 MONTH PRIOR TO ALL OF THIS OCCURRING, TOO?

14 A RIGHT. I ACTUALLY DID NOT HAVE THAT KNOWLEDGE
15 PRIOR, BUT PLACEMENT IN FOSTER CARE CAN BE TRAUMATIC
16 FOR A THREE YEAR OLD, FOR ANY CHILD, BUT ESPECIALLY FOR
17 A THREE YEAR OLD.

18 Q AND YOU HAVE NOT HAD AN OPPORTUNITY TO REVIEW THIS
19 TAPE?

20 A HUH-UH.

21 Q SINCE YOUR ORIGINAL OPINION, HAS IT CHANGED IN ANY
22 WAY?

23 A IT HAS NOT.

24 MS. CAMPBELL: THAT'S ALL WE HAVE, YOUR HONOR.

25 MR. ROGERS: JUST ONE QUESTION, YOUR HONOR.

1 THE COURT: SURE.

2 RECROSS-EXAMINATION

3 (IN CAMERA)

4 BY MR. ROGERS:

5 Q YOU WERE TOLD BEFORE YOU INTERVIEWED Minor ON
6 THE 25TH THAT Minor HAD SAID MIAMA DID THIS, WEREN'T
7 YOU?

8 A I HAD AN A.R.C. INTAKE WHERE A SUMMARY OF
9 ALLEGATIONS WERE LISTED THAT STATED HE HAD STATED IN
10 THE HOSPITAL THAT HIS STEPMOTHER HAD HURT HIM.

11 Q SO YOU KNEW THAT GOING INTO THIS INTERVIEW; IS
12 THAT RIGHT?

13 A I DID.

14 MR. ROGERS: THANK YOU.

15 THE COURT: ALL RIGHT. WE'LL STAND IN RECESS.

16 MS. CAMPBELL: WE'LL GET A T.V. AND TAKE IT TO
17 YOUR CHAMBERS.

18 THE COURT: ALL RIGHT. I'LL VIEW THE VIDEO AND
19 MAKE A RULING FROM THERE. WE'LL STAND IN RECESS FOR --
20 YOU SAY IT'S ABOUT AN HOUR LONG; IS THAT RIGHT?

21 MR. ROGERS: YES, SIR.

22 THE COURT: TELL THE JURY WE ARE GOING TO HAVE AN
23 EXTENDED BREAK WHILE I DEAL WITH A MATTER OF LAW. GET
24 THEM SOME REFRESHMENTS IF YOU HAVEN'T ALREADY.

25 THE BAILIFF: I'VE DONE THAT.

1 THE COURT: YOU MAY STEP DOWN, MA'AM. DON'T
2 DISCUSS YOUR TESTIMONY DURING THE BREAK, OKAY?

3 THE WITNESS: YES, SIR.

4 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

5 THE COURT: ALL RIGHT. I VIEWED THE VIDEO OF THE
6 INTERVIEW WITH THE CHILD IN THE CASE. IT IS
7 APPROXIMATELY AN HOUR LONG, AND I WATCHED EVERY BIT OF
8 IT.

9 BASED ON THAT AND THE CRITERIA, THIS IS COMING
10 FROM D.S.S. VS. JOHN DOE, THE CASE CITED BY MR. ROGERS
11 EARLIER TODAY, 292 SC 211, THE CRITERIA FOR DETERMINING
12 COMPETENCY OF A CHILD. I KNOW I'VE ALREADY CITED THE
13 RULE THAT INDICATES THAT ALL WITNESSES ARE -- LET ME
14 GET THE EXACT LANGUAGE. THIS IS RULE 601. EVERY
15 PERSON IS COMPETENT TO BE A WITNESS EXCEPT AS OTHERWISE
16 PROVIDED BY STATUTE OR THESE RULES. IT GOES THROUGH
17 AND IT EVEN CITES THIS CASE.

18 UNDER THE NOTES, THE FACTORS TO BE CONSIDERED IN
19 DETERMINING WHETHER OR NOT A CHILD IS COMPETENT -- IT
20 USED TO BE A CHILD UNDER 14 YOU HAD TO HAVE A
21 COMPETENCY HEARING BEFORE THAT CHILD TESTIFIED.

22 HERE ARE THE CRITERIA: IF THE CHILD IS MATURE
23 ENOUGH TO UNDERSTAND QUESTIONS AND NARRATE ANSWERS,
24 THAT'S NUMBER ONE. NUMBER TWO, RECEIVE FACTS
25 ACCURATELY DUE TO THE MEDIUM OF THE SENSES. NUMBER

1 THREE, RECALL THEM CORRECTLY. NUMBER FOUR, RELATE A
2 TRUE VERSION OF THE FACTS TO PROCEED. NUMBER FIVE, TO
3 KNOW THE DIFFERENCE BETWEEN RIGHT AND WRONG, GOOD AND
4 BAD. NUMBER SIX, TO UNDERSTAND THAT IT IS RIGHT OR
5 GOOD TO TELL THE TRUTH AND WRONG OR BAD TO LIE. NUMBER
6 SEVEN, TO BE WILLING TO TELL THE TRUTH. NUMBER EIGHT,
7 THE PUNISHMENT IF HE OR SHE LIES. THEN THAT PERSON IS
8 COMPETENT TO TESTIFY. BASED ON WHAT I HAVE OBSERVED,
9 THERE IS NO WAY THAT I CAN MAKE A DETERMINATION THAT
10 THE CHILD IS COMPETENT TO TESTIFY. THERE IS NOTHING IN
11 THE VIDEO TALKING ABOUT THE DIFFERENCE IN RIGHT AND
12 WRONG, UNDERSTANDING WHETHER IT'S RIGHT OR GOOD TO TELL
13 THE TRUTH OR WRONG OR BAD TO LIE, BE WILLING TO TELL
14 THE TRUTH, FEAR OF PUNISHMENT IF A LIE IS TOLD, AND
15 QUITE FRANKLY I'M NOT SURE IF BASED ON THE TAPE THAT
16 IT'S -- THAT I CAN MAKE A FINDING THAT THE CHILD
17 UNDERSTANDS THE QUESTIONS AND CAN NARRATE ANSWERS.
18 THERE WERE QUESTIONS ASKED AND ANSWERS GIVEN.

19 BASED ON MY OBSERVATION OF THE TAPE, I WOULD FIND
20 THAT THE CHILD WOULD NOT BE COMPETENT TO TESTIFY AS A
21 WITNESS.

22 I'M NOT SURE THAT GETS US TO THE ISSUE THAT I
23 STILL HAVE TO DECIDE AND THAT IS WHETHER OR NOT THIS
24 EXPERT CAN TESTIFY BASED ON HER INTERVIEW WITH THE
25 CHILD.

1 AS I UNDERSTAND IT, SOLICITOR, TELL ME IF I'M
2 WRONG, WHAT THE STATE IS TENDERING THE WITNESS FOR IS
3 TO SAY, TO QUALIFY HER AS AN EXPERT IN HER FIELD, THAT
4 SHE HAS APPLIED THE STANDARDS THAT EXPERTS IN THAT
5 FIELD USE AND HAS INTERVIEWED THE CHILD THROUGH ASKING
6 QUESTIONS, AND SHE HAS TAKEN THE INFORMATION THAT SHE
7 HAS GLEANED FROM THAT INTERVIEW AND MADE A
8 DETERMINATION THAT IN HER OPINION CHILD ABUSE HAS
9 OCCURRED AND SHE TURNED THAT OVER TO LAW ENFORCEMENT.

10 IS THAT SORT OF A SUMMARY OF WHAT YOU'RE ELICITING
11 FROM THE WITNESS?

12 MS. CAMPBELL: YES, SIR.

13 THE COURT: RULE -- I'VE GOT IT RIGHT HERE, RULE
14 703, TALKING ABOUT THE BASIS OF OPINIONS OF TESTIMONY
15 BY EXPERTS. THE FACTS OR THE DATA IN A PARTICULAR CASE
16 UPON WHICH AN EXPERT BASES AN OPINION OR INFERENCE MAY
17 BE THOSE PERCEIVED BY OR MADE KNOWN TO THE EXPERT AT OR
18 BEFORE THE HEARING. IF OF A TYPE REASONABLY RELIED
19 UPON BY EXPERTS IN THE PARTICULAR FIELD IN FORMING
20 OPINIONS OR INFERENCES UPON THE SUBJECT, THE FACTS OR
21 THE DATA NEED NOT BE ADMISSIBLE IN EVIDENCE, AND THERE
22 IS AN INHERIT CONFLICT BETWEEN THAT AND THE COURT IN
23 DETERMINING THAT THE CHILD WOULD NOT BE COMPETENT TO
24 TESTIFY BECAUSE WHAT WE ARE LEFT WITH IS, AS I LOOK AT
25 IT, IF THE CHILD WERE HERE, IF I HAD MADE A RULING, HE

1 WOULD NOT BE PERMITTED TO BE PUT ON THE STAND TO
2 TESTIFY.

3 THE STATE WANTS TO USE AN EXPERT WHO HAS TALKED TO
4 THE CHILD AND TAKE THAT INFORMATION PROVIDED BY THAT
5 CHILD AND TESTIFY THAT BASED ON THAT INFORMATION, THEY
6 REACHED THE CONCLUSION THAT CHILD ABUSE OCCURRED AND
7 TURNED THE INFORMATION OR REFERRED THE CASE TO LAW
8 ENFORCEMENT, AND THERE'S SOMETHING TO ME JUST WRONG
9 WITH THAT.

10 IF THE CHILD COULDN'T TESTIFY HIMSELF, HOW
11 COULD -- I MEAN, THE IMPLICATION IS BASED ON WHATEVER
12 HE TOLD THE EXPERT, THAT'S -- I MEAN, THAT'S OBVIOUSLY
13 THE BASIS FOR HER OPINION, BUT ANYWAY, THAT'S WHERE I
14 AM. I JUST WANT YOU ALL -- YOU CAN PICK IT UP FROM
15 THERE. SOLICITOR?

16 MS. CAMPBELL: MAY IT PLEASE THE COURT, YOUR
17 HONOR. I BELIEVE HER SAYING IT WAS A STRONG -- WHAT
18 WAS THE PHRASE YOU USED AS FAR AS INDICATION OF CHILD
19 ABUSE?

20 THE WITNESS: COMPELLING.

21 MS. CAMPBELL: HER TERM IS THAT IT IS COMPELLING
22 FOR CHILD ABUSE BASED ON HER INTERVIEW AND HER REVIEW
23 OF WHAT HAPPENED. IN ADDITION TO THAT, YOUR HONOR, AND
24 LET ME JUST GET THE RECORD STRAIGHT. THE CHILD IS IN
25 LIBERIA NOW. HE WAS SENT THERE BY HIS GUARDIAN. THE

1 GUARDIANSHIP WAS RETURNED FROM D.S.S. TO THE FATHER
2 BACK IN JANUARY OF THIS YEAR. I HAVE SPOKEN TO THE
3 FATHER. HE WILL NOT PRODUCE THE CHILD FOR ME. WHETHER
4 OR NOT THE CHILD IS COMPETENT AT THIS POINT TO TESTIFY
5 WOULD NOT BE BASED JUST ON WHAT THE VIDEOTAPE SHOWED.
6 WE WOULD HAVE TO HAVE A HEARING THAT WOULD EXPLORE THAT
7 FACT.

8 THE STATE IS PROHIBITED -- AND NOT THAT THIS MAKES
9 A DIFFERENCE, BUT THE FATHER IS STILL WITH THE
10 DEFENDANT IN THE CASE. WE DON'T HAVE THE CHILD
11 AVAILABLE AND CANNOT COMPEL A CHILD AS LONG AS THE
12 GUARDIAN SAYS IT CAN'T TESTIFY, NOR CAN WE COMPEL A
13 CHILD TO RETURN FROM LIBERIA.

14 THAT IS THE PLACE WE ARE AT. I DON'T KNOW WHETHER
15 OR NOT THAT CHILD, AT THIS POINT, BECAUSE I HAVEN'T HAD
16 AN OPPORTUNITY TO TALK TO THE CHILD, HAS ANY
17 INDEPENDENT MEMORY, NUMBER ONE, OR NUMBER TWO WOULD BE
18 QUALIFIED TO TESTIFY, BECAUSE I THINK THE FACTORS YOU
19 WENT THROUGH ARE COMPETENCE FACTORS THAT ARE REQUIRED
20 PERHAPS PRIOR TO A CHILD TESTIFYING IN COURT UNDER
21 OATH.

22 I DON'T MEAN TO SAY THAT THIS DOESN'T APPLY THAT
23 THE CHILD MAY NOT BE COMPETENT AT THE TIME AS A THREE
24 YEAR OLD, HOWEVER, YOUR HONOR, I THINK THAT GOES TO ITS
25 WEIGHT, NOT ITS ADMISSIBILITY AS FAR AS WHAT WOULD BE

1 ADMISSIBLE. THE CHILD WAS ABLE TO ARTICULATE TO SOME
2 EXTENT AS TO WHAT WENT ON WITH HIM. WHETHER OR NOT --
3 AND THE CHILD HAS SOME SPEECH DELAYS. THERE IS NO
4 QUESTION ABOUT THAT, BUT BASICALLY YOUR RULING NOW PUTS
5 US IN THE POSITION WHERE THE JURY IS GOING TO BE
6 LOOKING AT US AND GOING, DIDN'T YOU MAKE ANY ATTEMPT TO
7 FIND OUT WHAT THE CHILD SAID HAPPENED. WE AREN'T GOING
8 TO BE ABLE TO ANSWER THAT BECAUSE YOU NOW RULED THE
9 CHILD IS NOT COMPETENT OR EVEN IF WE JUST GET INTO THE
10 FACT THAT WE TRIED TO GET STATEMENTS.

11 I THINK THAT'S AT LEAST SOMETHING WE SHOULD BE
12 ABLE TO SHOW THE JURY SO THEY CAN GET THE FULL PICTURE,
13 WHEREAS THE DEFENSE IS GOING TO ARGUE WE DON'T KNOW WHO
14 DID THIS. I THINK THE CRUX OF THEIR DEFENSE IS WHO DID
15 THIS. THE CHILD STATED ON AT LEAST TWO DIFFERENT
16 OCCASIONS, JUDGE, WHO DID THIS TO HIM AND NOW WE ARE --
17 I UNDERSTAND UNDER HEARSAY EVIDENCE -- WE AREN'T TRYING
18 TO GET IN WHAT HE SAID IN THE INTERVIEW.

19 HOWEVER, WE ARE TRYING TO SHOW THAT THE POLICE AND
20 LAW ENFORCEMENT DID THEIR JOB. WE ATTEMPTED TO GARNER
21 INFORMATION. WHAT LITTLE INFORMATION WE GOT WAS PART
22 OF THIS WHOLE PROCESS. OTHERWISE, THE INFERENCE IS
23 CLEAR TO THE JURY, AND I'M SURE IT WILL BE ARGUED THAT
24 NO ONE WAS THERE, NO ONE SAW WHAT HAPPENED AND NO ONE
25 SAID WHAT HAPPENED, WHICH IS NOT TRUE.

1 THE COURT: OKAY, MR. ROGERS?

2 MR. ROGERS: WELL, I REALLY DON'T KNOW WHAT I NEED
3 TO SAY. I THINK THE COURT CORRECTLY DEDUCED THIS
4 DILEMMA THAT BECAUSE THE WITNESS, UPON WHICH THE EXPERT
5 RELIED ON TO BASE HER OPINION, IS NO LONGER COMPETENT
6 OR IS NOT COMPETENT THEN, OF COURSE, TO ME THAT RENDERS
7 INADMISSIBLE ANY OPINION SHE MAY HAVE BECAUSE IT WOULD
8 BE BASED ON INCOMPETENT EVIDENCE. YOU KNOW, THE FACT
9 THAT THE CHILD IS NOT HERE, THAT'S NOT OUR DOING. WE
10 DIDN'T PROCURE THE CHILD'S ABSENCE. IF THE CHILD WERE
11 HERE, IT WOULD BE MY ASSERTION THAT THE CHILD WOULD NOT
12 BE COMPETENT TO TESTIFY. THE FACT THAT THE CHILD ISN'T
13 HERE JUST PUTS US INTO A HEARSAY SITUATION.

14 BACK TO THIS, MS. SMITH TESTIFYING, RULE 704.5
15 SAYS THAT AN EXPERT MAY IN ANY EVENT BE REQUIRED TO
16 DISCLOSE THE UNDERLYING FACTS OR DATA ON
17 CROSS-EXAMINATION, AND I WOULD BE PRECLUDED IF THE
18 WITNESS WOULD BE ABLE TO TESTIFY THAT SHE CONDUCTED THE
19 INTERVIEW AND AS A RESULT OF THE INTERVIEW MADE A
20 CONCLUSION THAT ABUSE OCCURRED OR FORWARDED IT ON TO
21 THE APPROPRIATE AUTHORITIES. THE IMPLICATION IS THAT
22 ABUSE OCCURRED.

23 THE IMPLICATION IS THAT SHE GOT THAT INFORMATION
24 THROUGH THE INTERVIEW AND THE COURT HAS ALREADY RULED
25 THAT THAT INFORMATION CAME FROM AN INCOMPETENT WITNESS,

1 SO I DON'T SEE HOW THE STATE CAN KIND OF DO WHAT, IN
2 THE BACK DOOR, WHAT WE HAVE RULED THEY CAN'T DO IN THE
3 FRONT DOOR AND THAT IS TO GET IN THE IMPLICATION THAT
4 Minor MADE THESE STATEMENTS WHEN THE COURT HAS
5 ALREADY RULED THAT THOSE STATEMENTS CAN'T COME IN, SO
6 WE WOULD ASK THAT MS. SMITH NOT BE ALLOWED TO TESTIFY
7 AS TO HER OPINION.

8 THE COURT: DO YOU INTEND TO ARGUE THAT THE STATE
9 DID NOT DO ITS JOB THOROUGHLY AND DID NOT INTERVIEW THE
10 CHILD OR ATTEMPT TO FIND OUT FROM THE CHILD WHEN IT
11 OCCURRED?

12 MR. ROGERS: NO. I WOULD ARGUE THE INFERENCE FROM
13 THE ABSENCE OF THE TESTIMONY TOTALLY, BUT I WOULDN'T
14 ARGUE THAT THE STATE DIDN'T DO ITS JOB BY NOT
15 PRESENTING -- WELL, I MEAN, IF THE CHILD WERE HERE,
16 THEY WOULD BE ATTEMPTING TO OFFER HIM AS A WITNESS, BUT
17 I'M NOT GOING TO SAY -- WHAT I WOULD LIKE TO BE ABLE TO
18 ARGUE IS THAT THE FACT THAT THE CHILD IS NOT HERE IS
19 SOMETHING THAT THE JURY CAN CONSIDER AND THE JURY IS
20 NOT --

21 THE COURT: BEFORE YOU ARGUE THAT YOU'RE GOING TO
22 HAVE TO BE ABLE TO SHOW IN SOME WAY THE STATE IS
23 RESPONSIBLE FOR THAT CHILD NOT BEING HERE. THAT'S
24 WHERE WE'RE JUMPING THE GUN ANYWAY ON WHAT YOU CAN
25 ARGUE AND WHAT YOU CAN'T ARGUE.

1 MR. ROGERS: YES, SIR. I CAN REVISIT MY --

2 THE COURT: IF, IN FACT, WHAT HAS OCCURRED IS WHAT
3 THE SOLICITOR HAS STATED, THAT THE FATHER WHO HAS
4 CONTROL OVER IT -- IF THE CHILD IS BACK IN -- WHERE DID
5 YOU SAY HE WAS?

6 MS. CAMPBELL: LIBERIA.

7 THE COURT: LIBERIA, AND THE STATE HAD ABSOLUTELY
8 NOTHING TO DO WITH THAT AND DOES NOT HAVE CONTROL OF
9 THE FATHER, THAT'S AN UNFAIR ARGUMENT.

10 MR. ROGERS: IF THE COURT RULES I CAN'T ARGUE IT,
11 I WON'T ARGUE IT.

12 THE COURT: I UNDERSTAND.

13 MS. CAMPBELL: I -- BUT JUDGE, IN ANY EVENT, AND I
14 DON'T WANT TO --

15 THE COURT: GO AHEAD.

16 MS. CAMPBELL: MY DILEMMA IS SOMEWHAT -- THE CHILD
17 WASN'T -- THE NEXT DAY AFTER THIS, RIGHT AFTER SURGERY
18 HE WAS INTERVIEWED, AND HE INDICATED WHO HAD DONE IT.
19 THAT'S ANOTHER -- WE HAVEN'T REACHED THAT ONE YET.
20 THEN A WEEK LATER AS PER PROTOCOL, HE WAS REFERRED FOR
21 ASSESSMENT BY AN EXPERT IN THE FIELD WHO, BASED ON HER
22 EXPERTISE, FOUND THAT THE CHILD PRESENTED WITH
23 COMPELLING PHYSICAL ABUSE OR CHILD ABUSE. WE AREN'T
24 GOING TO TRY TO SAY THAT, YOU KNOW, HE SAID MIAMA DID
25 IT. IT JUST SHOWS -- I MEAN, I THINK WE HAVE THE RIGHT

1 TO AT LEAST SHOW WE DID OUR JOB.

2 THERE'S ALWAYS GOING TO BE THE DILEMMA ANYWAY IF
3 YOU RULE THAT, YOU KNOW, NONE OF THESE DECLARATIONS BY
4 THE CHILD, WHO IS NOT AVAILABLE ANYMORE, COME IN, THEN,
5 YOU KNOW, WE AT LEAST SHOULD BE ABLE TO SHOW WE TRIED.
6 I MEAN, I THINK IT IS NOT UNREASONABLE FOR ANYONE WHO
7 HAS EVER HAD A THREE YEAR OLD THAT THEY CAN SAY WHAT
8 HAPPENED TO THEM TO SOME EXTENT, AND THAT THIS CHILD
9 DIDN'T EVEN WHEN IT'S GOING TO COME OUT THAT HE WAS
10 TAKEN AWAY FROM THEM, I MEAN, AT LEAST WE SHOULD HAVE,
11 YOU KNOW, AN OPPORTUNITY TO SAY WE TRIED BECAUSE
12 OTHERWISE, I MEAN, I DON'T MEAN TO SAY ANYTHING -- I
13 KNOW THERE ARE MANY THINGS THAT ARE EXCLUDED, BUT
14 THAT'S ALMOST PURPORTING TO THE JURY THAT THEY'RE THEN
15 THINKING THAT WE DIDN'T TRY, THAT THE CHILD NEVER SAID
16 ANYTHING.

17 MR. ROGERS: WELL, THAT'S THE STATE OF THE
18 EVIDENCE THAT'S GOING TO BE BEFORE THE JURY; IT'S NOT
19 GOING TO BE A STATEMENT THAT THE CHILD SAID ANYTHING.
20 THEY WON'T HAVE ANY EVIDENCE THAT THE CHILD SAID
21 ANYBODY DID IT.

22 THE COURT: THE STATE CAN SHOW THE EFFORTS THAT
23 THEY MADE IN INVESTIGATING THE CASE.

24 MS. CAMPBELL: THANK YOU.

25 THE COURT: YOU CAN'T GO INTO STATEMENTS THAT WERE

1 MADE. I THINK THE BEST THING TO DO IS TRY TO GET
2 THROUGH IT AS BEST WE CAN. IF YOU FEEL LIKE THERE'S AN
3 OBJECTION TO BE TAKEN, I'LL RULE ON IT AT THAT
4 PARTICULAR POINT IN TIME.

5 MR. ROGERS: YES, SIR. WELL, MAY WE GET STRAIGHT
6 WHAT SHE IS GOING TO SAY NOW?

7 THE COURT: ALL RIGHT. IF THE WITNESS WILL RESUME
8 THE STAND. SOLICITOR, I WANT YOU TO ASK THE QUESTIONS
9 THAT YOU INTEND TO ASK IN THE PRESENCE OF THE JURY SO I
10 CAN GO AHEAD AND TAKE CARE OF THAT.

11 MR. BAILIFF, ONCE SHE HAS BEEN SEATED YOU CAN
12 ADVISE THE JURY THAT I'M GOING TO HAVE THEM OUT OF HERE
13 IN TIME TO VOTE, OKAY?

14 THE WITNESS HAS ALREADY BEEN SWORN. SHE WILL NOT
15 NEED TO BE RESWORN AT THIS TIME. SOLICITOR.

16 MS. CAMPBELL: MAY IT PLEASE THE COURT, YOUR
17 HONOR.

18 FURTHER REDIRECT EXAMINATION

19 (IN CAMERA)

20 BY MS. CAMPBELL:

21 Q MS. SMITH -- AND I WILL QUALIFY HER AS AN EXPERT.
22 MS. SMITH, ON AUGUST 25TH, YOU WERE ABLE TO CONDUCT AN
23 INTERVIEW OF Minor ?

24 A THAT'S CORRECT.

25 Q AND YOU WERE LOOKING AT THE ALLEGATIONS OF ABUSE?

1 A YES.

2 Q AND APPROXIMATELY HOW LONG DID THAT INTERVIEW
3 LAST?

4 A IT WAS APPROXIMATELY AN HOUR LONG.

5 Q AND BASED ON THAT INFORMATION, AS WELL AS OTHER
6 INFORMATION THAT WAS PROVIDED TO YOU, DID YOU COME TO
7 ANY FINDINGS?

8 A I DID.

9 Q AND YOU CAN'T SAY WHAT HE SAID OR IF HE SAID
10 ANYTHING, BUT BASED ON YOUR INTERVIEW OF HIM, WHAT WERE
11 YOUR FINDINGS?

12 A MY FINDINGS WERE THAT BASED ON THE AVAILABLE DATA,
13 I FOUND THE INTERVIEW COMPELLING FOR CHILD ABUSE, FOR
14 CHILD PHYSICAL ABUSE.

15 Q AND THAT WAS YOUR INTERVIEW WITH Minor ?

16 A YES.

17 Q AND WAS INVESTIGATOR ROY LIVINGSTON ABLE TO
18 OBSERVE AT LEAST PART OF THAT INTERVIEW?

19 A HE WAS.

20 Q AND YOU TURNED OVER YOUR FINDINGS TO HIM AND THE
21 OTHER LAW ENFORCEMENT AGENCY?

22 A YES, I DID.

23 MS. CAMPBELL: THAT WOULD BE IT, YOUR HONOR.

24 THE COURT: THE COURT WILL PERMIT THAT.

25 MR. ROGERS: AND FOR THE RECORD, I JUST OPPOSE.

1 THE COURT: I UNDERSTAND. I UNDERSTAND THAT, BUT
2 I WOULD OVERRULE THAT OBJECTION. IT WOULD BE LIMITED
3 TO WHAT HAS JUST BEEN GONE INTO HERE IN CAMERA.

4 ALL RIGHT. WE GOING TO TRY TO GET THROUGH WITH
5 THIS WITNESS, AND THEN WHAT ARE YOUR PLANS FOR THE
6 AFTERNOON?

7 MS. CAMPBELL: I'D LIKE TO PUT UP ONE MORE
8 WITNESS, A D.N.A. EXPERT, WHO HAS SCHOOL TOMORROW. I
9 DON'T THINK IT'S A CONTESTED WITNESS.

10 THE COURT: OKAY. THAT'S FINE. WE'LL TRY TO GET
11 THAT WITNESS.

12 MS. CAMPBELL: AND I HAVE ONE MORE IF YOU WANT TO
13 TRY TO DO THAT, TOO.

14 THE COURT: ALL RIGHT, LET'S GET THE JURY BACK IN
15 HERE NOW.

16 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
17 APPROXIMATELY 4:49 P.M.)

18 MS. CAMPBELL: YOUR HONOR, WE PROBABLY NEED TO
19 REQUALIFY HER.

20 MR. ROGERS: I DON'T HAVE A PROBLEM WITH THAT.

21 THE COURT: YES. AND WE PROBABLY NEED TO RESWEAR
22 HER IN THE PRESENCE OF THE JURY.

23 THE BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

24 THE COURT: ALL RIGHT. THANK YOU, LADIES AND
25 GENTLEMEN. IF YOU -- WE ARE GOING TO RESWEAR THE

1 WITNESS, PLEASE.

2 HEATHER SMITH,

3 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

4 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL
5 NAME FOR THE RECORD.

6 THE WITNESS: MY FULL NAME IS HEATHER MARY SMITH.

7 THE COURT: BEFORE YOU BEGIN, SOLICITOR,
8 MR. FOREMAN, LADIES AND GENTLEMEN, LET ME APOLOGIZE TO
9 YOU. IT'S NOT MY DESIRE TO HAVE THE JURY SITTING IN
10 THE JURY ROOM AS LONG AS YOU FOLKS HAVE BEEN BACK
11 THERE. IN NEARLY EVERY CASE, FROM TIME TO TIME, THERE
12 WILL COME UP ISSUES AND MATTERS OF LAW THAT I HAVE TO
13 MAKE A RULING ON. SOMETIMES IT TAKES ME A WHILE TO
14 EVEN CONDUCT RESEARCH. SOMETIMES I HAVE TO TAKE
15 TESTIMONY OUTSIDE OF YOUR PRESENCE AND MAKE A
16 DETERMINATION OF WHETHER IT IS OR IS NOT ADMISSIBLE AND
17 SOMETIMES VIEW OTHER EVIDENCE SUCH AS VIDEOTAPES AND
18 THINGS OF THAT NATURE. I'VE DEALT WITH WHAT I DEALT
19 WITH AND WE'LL NOW CONTINUE. I'LL HAVE YOU FOLKS OUT
20 OF HERE IN TIME TO VOTE. REST ASSURED YOU WILL BE OUT
21 OF HERE IN TIME TO VOTE TONIGHT.

22 ALL RIGHT, SOLICITOR, CONTINUE.

23 DIRECT EXAMINATION

24 BY MS. CAMPBELL:

25 Q WHERE ARE YOU EMPLOYED?

1 A I'M EMPLOYED AT ASSESSMENT AND RESOURCE CENTER,
2 WHICH IS A CHILD ADVOCACY CENTER OF RICHLAND COUNTY
3 THROUGH THE -- UNDERNEATH THE DEPARTMENT OF MENTAL
4 HEALTH.

5 Q AND WHAT DO YOUR DUTIES THERE INCLUDE?

6 A I AM A FORENSIC EVALUATOR AND CHILD THERAPIST.

7 Q CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR
8 EDUCATION AND YOUR TRAINING, ESPECIALLY AS A FORENSIC
9 EVALUATOR?

10 A SURE. I WENT TO COLLEGE AT THE UNIVERSITY OF
11 SOUTH CAROLINA, GRADUATED WITH A DEGREE IN PSYCHOLOGY.
12 AFTER THAT I WORKED IN A RESIDENTIAL TREATMENT FACILITY
13 WITH CHILDREN AND ADOLESCENTS WHO HAD BEEN ABUSED OR
14 NEGLECTED, FOR APPROXIMATELY FIVE YEARS. THEN I
15 RETURNED TO GET MY MASTERS IN COUNSELING AT THE
16 UNIVERSITY OF SOUTH CAROLINA THROUGH THE MEDICAL
17 SCHOOL. I HAVE A MASTERS IN COUNSELING, AND AS PART OF
18 THAT PROGRAM I DID MY INTERNSHIP AT THE ASSESSMENT AND
19 RESOURCE CENTER, WHICH PROVIDES FORENSIC INTERVIEWING
20 TO CHILDREN AND WAS PRESENTLY -- AFTER THAT I WAS
21 HIRED, AND I HAVE NOW BEEN WORKING THERE FOR ALMOST
22 FOUR YEARS.

23 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD
24 OFFER HER AS AN EXPERT AS A FORENSIC INTERVIEWER OF
25 CHILDREN.

1 THE COURT: ANY CROSS-EXAMINATION OR OBJECTION AS
2 TO QUALIFICATIONS AT THIS TIME, MR. ROGERS?

3 MR. ROGERS: NO, YOUR HONOR.

4 THE COURT: THEN THIS WITNESS IS FOUND TO BE AN
5 EXPERT IN THE FIELD OF FORENSIC CHILD EVALUATIONS. ALL
6 RIGHT, SOLICITOR, YOU MAY CONTINUE.

7 MS. CAMPBELL: THANK YOU, YOUR HONOR.

8 BY MS. CAMPBELL:

9 Q WHEN YOU DO A FORENSIC EVALUATION, BASICALLY,
10 YOU'RE TRYING TO -- AND YOUR HONOR, IF I COULD LEAD A
11 LITTLE BIT, YOU'RE TRYING TO ASSESS WHETHER OR NOT
12 CHILD ABUSE OR SEXUAL ABUSE MAY HAVE HAPPENED; IS THAT
13 CORRECT?

14 A YES.

15 Q I WANT TO TURN YOU'RE ATTENTION BACK TO
16 AUGUST 25TH OF 2005. DID YOU COME INTO CONTACT WITH A
17 YOUNG MAN NAMED Minor ?

18 A I DID.

19 Q THE PURPOSE OF THAT MEETING THAT DAY WAS FOR YOU
20 TO DO A FORENSIC EVALUATION; IS THAT RIGHT?

21 A YES. I DID A FORENSIC EVALUATION AT THE REQUEST
22 OF THE RICHLAND COUNTY SHERIFF'S DEPARTMENT AND THE
23 DEPARTMENT OF SOCIAL SERVICES FOR RICHLAND COUNTY.

24 Q WHEN YOU WERE INTERVIEWING OR EVALUATING Minor
25 THAT DAY, APPROXIMATELY HOW LONG DID YOU SPEND WITH

1 HIM?

2 A IT WAS APPROXIMATELY ONE HOUR.

3 Q WAS ANYONE ELSE ACTUALLY PRESENT IN THE ROOM WHEN
4 YOU WERE DOING THE EVALUATION?

5 A NO.

6 Q WERE THERE OTHER PEOPLE, OTHER LAW ENFORCEMENT
7 AGENCIES WHO WERE ABLE TO OBSERVE THE EVALUATION?

8 A YES, THE CHILD PROTECTIVE SERVICES WORKER WAS
9 PRESENT AND LAW ENFORCEMENT, THE RICHLAND COUNTY
10 SHERIFF'S DEPARTMENT INVESTIGATOR ROY LIVINGSTON WAS
11 PRESENT.

12 Q INVESTIGATOR LIVINGSTON, WHO IS RIGHT HERE?

13 A YES.

14 Q AND ONCE YOU -- AND YOU CAN'T SAY WHAT WAS SAID OR
15 WASN'T SAID DURING THAT EVALUATION, BUT ONCE THE
16 EVALUATION WAS COMPLETE AND YOU GOT SUFFICIENT
17 INFORMATION, WERE YOU ABLE TO MAKE AN ASSESSMENT AS TO
18 WHETHER OR NOT THIS WAS FOUNDED FOR CHILD ABUSE?

19 A YES, I DID.

20 Q AND WHAT WAS YOUR CONCLUSION, BASED ON YOUR
21 EVALUATION OF THE CHILD?

22 A BASED ON THE INTERVIEW THAT I CONDUCTED, AS WELL
23 AS INFORMATION PROVIDED BY LAW ENFORCEMENT AND THE
24 CHILD PROTECTIVE SERVICES WORKER, I MADE A DECISION
25 THAT THE CHILD HAD GIVEN COMPELLING -- A COMPELLING

1 FINDING.

2 MR. ROGERS: OBJECTION.

3 THE COURT: OVERRULED.

4 MR. ROGERS: YOUR HONOR, MAY WE APPROACH? I
5 APOLOGIZE.

6 THE COURT: ALL RIGHT. COME UP.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
8 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE
9 JURY.)

10 THE COURT: THE OBJECTION IS SUSTAINED AS TO THE
11 FORM OF THAT QUESTION. PLEASE REPHRASE YOUR QUESTION,
12 SOLICITOR.

13 MS. CAMPBELL: THANK YOU, SIR.

14 BY MS. CAMPBELL:

15 Q MS. SMITH, YOUR FINDING WAS COMPELLING FOR CHILD
16 ABUSE OR PHYSICAL ABUSE?

17 A FOR CHILD PHYSICAL ABUSE, YES.

18 Q AND WITHOUT SAYING WHAT WAS SAID DURING THE
19 INTERVIEW OR ANYTHING ELSE, DID YOU PASS THAT
20 INFORMATION ALONG TO LAW ENFORCEMENT OFFICERS INCLUDING
21 INVESTIGATOR LIVINGSTON AND OTHER LAW ENFORCEMENT
22 AGENCIES?

23 A YES, YES, I DID.

24 MS. CAMPBELL: THANK YOU, MA'AM.

25 THE COURT: ALL RIGHT. MR. ROGERS.

1 MR. ROGERS: NO QUESTIONS.

2 THE COURT: ALL RIGHT. YOU MAY STEP DOWN,

3 MS. SMITH.

4 THE BAILIFF: WATCH YOUR STEP. DOWN.

5 THE COURT: ALL RIGHT. CALL YOUR NEXT WITNESS,

6 SOLICITOR.

7 MS. CAMPBELL: THE STATE WOULD CALL GRAY AMICK,

8 YOUR HONOR. HE'S ANOTHER WITNESS OUT OF ORDER, I

9 APOLOGIZE.

10 GRAY AMICK,

11 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

12 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL

13 NAME FOR THE RECORD.

14 THE WITNESS: MY NAME IS GRAY AMICK.

15 DIRECT EXAMINATION

16 BY MS. CAMPBELL:

17 Q INVESTIGATOR AMICK, WHERE ARE YOU EMPLOYED?

18 A I'M EMPLOYED AT THE RICHLAND COUNTY SHERIFF'S

19 DEPARTMENT.

20 Q WHAT DO YOU DO THERE, SIR?

21 A I'M THE TECHNICAL LEADER AND SUPERVISOR OF THE

22 D.N.A. DEPARTMENT.

23 Q CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR

24 EDUCATION AND YOUR TRAINING IN THE FIELD OF D.N.A.

25 COMPARISON?

1 A I CAN. I HAVE A BACHELOR OF SCIENCE IN BIOLOGY
2 AND A DOCTORATE IN CHEMISTRY FROM THE UNIVERSITY OF
3 SOUTH CAROLINA IN 1993, AT WHICH POINT I WAS EMPLOYED
4 AT THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION. I WAS
5 EMPLOYED AT S.L.E.D. FOR APPROXIMATELY ELEVEN YEARS,
6 SIX OF WHICH WERE IN THE D.N.A. DEPARTMENT.

7 IN MARCH OF 2004, I WAS HIRED BY THE RICHLAND
8 COUNTY SHERIFF'S DEPARTMENT TO START THEIR D.N.A.
9 LABORATORY UP. AT THAT POINT, I DID SO WITH ANOTHER
10 COLLEAGUE, AND WE DO D.N.A. TESTING AT THE RICHLAND
11 COUNTY SHERIFF'S DEPARTMENT.

12 Q AND HAVE YOU BEEN QUALIFIED BEFORE AS AN EXPERT IN
13 D.N.A. COMPARISON?

14 A I HAVE.

15 Q HOW MANY TIMES HAVE YOU BEEN QUALIFIED?

16 A APPROXIMATELY 40 TIMES.

17 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD
18 OFFER HIM AS AN EXPERT IN D.N.A. COMPARISON.

19 THE COURT: ANY OBJECTION OR CROSS-EXAMINATION?

20 MR. ROGERS: NO.

21 THE COURT: WITHOUT OBJECTION, THIS WITNESS IS
22 FOUND TO BE AN EXPERT IN THE FIELD OF D.N.A. ANALYSIS.
23 YOU MAY CONTINUE, SOLICITOR.

24 MS. CAMPBELL: THANK YOU.

25 BY MS. CAMPBELL:

1 Q INVESTIGATOR AMICK, DID YOU BECOME INVOLVED IN
2 TESTING SOME ITEMS THAT WERE RECOVERED FROM THE HOME OF
3 Minor IN THIS CASE?

4 A I WAS.

5 Q AND SPECIFICALLY I WANT TO HAND YOU UP WHAT HAS
6 BEEN MARKED AS STATE'S EXHIBIT NUMBER 26. ARE THESE
7 ITEMS OF CLOTHING, WERE THOSE PROVIDED TO YOU FOR SOME
8 TESTING?

9 A THEY WERE.

10 Q AND IN ADDITION TO THAT, STATE'S EXHIBIT NUMBER 28
11 IF YOU WOULD LOOK AT THAT AS WELL.

12 A YES, IT WAS.

13 Q AND WHO SUBMITTED THOSE ACTUAL ITEMS TO BE TESTED,
14 WHAT INVESTIGATOR?

15 A THE INVESTIGATOR THAT I AUTHORED MY REPORT TO IS
16 ROY LIVINGSTON.

17 Q AND DID YOU ALSO COME INTO CONTACT WITH
18 INVESTIGATOR RANDY STRANGE DURING THE COURSE OF THIS
19 CASE?

20 A I DID.

21 Q ONE ITEM I FORGOT, WHICH IS STATE'S EXHIBIT
22 NUMBER 27, WHICH IS A DIAPER, WAS THAT ALSO SUBMITTED
23 FOR TESTING?

24 A IT WAS.

25 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE OFFER

1 THESE THREE ITEMS INTO EVIDENCE.

2 MR. ROGERS: YOUR HONOR, I AM NOT SURE WHAT THEY
3 ARE.

4 THE COURT: I KNOW 27 AND 28 -- WHAT WAS THE OTHER
5 ONE, 26?

6 MS. CAMPBELL: 26, YOUR HONOR, IS THE CHILD'S
7 CLOTHING, THE ITEMS TESTED.

8 MR. ROGERS: THAT'S GOING TO BE ONE EXHIBIT?

9 MS. CAMPBELL: YES, SIR.

10 MR. ROGERS: WELL, YOUR HONOR, WE WOULD INTERPOSE
11 AN OBJECTION TO THE INTRODUCTION OF THE UNDERWEAR. I
12 DON'T THINK A PROPER FOUNDATION HAS BEEN LAID, AND I
13 CAN STATE MY OBJECTION MORE SUCCINCTLY, BUT AT THIS
14 POINT THERE HASN'T BEEN A PROPER FOUNDATION LAID THAT
15 THOSE ITEMS --

16 MS. CAMPBELL: I CAN -- I'M SORRY. TO EXPEDITE
17 THINGS I MARKED THEM FOR I.D.

18 THE COURT: THEY'RE MARKED FOR IDENTIFICATION AT
19 THIS TIME.

20 MS. CAMPBELL: THANK YOU, YOUR HONOR.

21 BY MS. CAMPBELL:

22 Q THESE ARE THE ITEMS THAT YOU ACTUALLY DID SOME
23 TESTING ON; IS THAT CORRECT?

24 A THAT'S CORRECT.

25 Q AND WHEN YOU GET ITEMS FROM A CRIME SCENE OR OTHER

1 SCENE, WHAT KIND OF EVIDENCE ARE YOU AS THE D.N.A.

2 ANALYST LOOKING FOR?

3 A WHAT I LOOK FOR IS BASICALLY BIOLOGICAL EVIDENCE.

4 THAT WOULD BE BLOOD, SEMEN, SALIVA, ANYTHING THAT MAY

5 CONTAIN D.N.A. ALL THOSE THINGS DO CONTAIN D.N.A.

6 Q AND WE'RE TALKING ABOUT A BODY FLUID SUCH AS

7 BLOOD, SALIVA -- WHAT WAS THE OTHER THING?

8 A SEMEN.

9 Q SEMEN, THINGS OF THAT NATURE. IN THIS CASE,

10 INITIALLY CAN YOU TELL THE JURY DID YOU ALSO RECEIVE

11 CERTAIN, WHAT'S CALLED KNOWN SAMPLES, OF D.N.A. FROM

12 THE VICTIM IN THIS CASE?

13 A I DID. I GOT A BUCKLE SWAB OR A SWAB FROM THE

14 MOUTH OF Minor .

15 Q DO YOU ACTUALLY HAVE TO DRAW BLOOD TO DO A D.N.A.

16 COMPARISON?

17 A SOME STILL DO. YOU CAN EITHER TAKE BLOOD OR A

18 SWAB FROM THE MOUTH.

19 Q OKAY, AND IN THIS CASE, YOU RECEIVED A SWAB FROM

20 THE MOUTH OF THE THREE YEAR OLD VICTIM IN THE CASE; IS

21 THAT CORRECT?

22 A THAT'S CORRECT.

23 Q AND THEN THOSE ITEMS THAT WERE SUBMITTED TO YOU

24 FOR TESTING, TELL THE JURY, BASICALLY, WHEN YOU FIRST

25 GOT THEM, DID YOU CONSULT WITH INVESTIGATOR RANDY

1 STRANGE?

2 A I DID. WHEN I OPENED THESE ITEMS UP I WASN'T
3 FAMILIAR WITH THE TYPE OF CASE IT WAS, AND SO I OPENED
4 THEM UP, FOUND OUT THAT IT WAS CLOTHING. THERE'S
5 UNDERWEAR, THERE'S A DIAPER. LIKE I SAID, I WASN'T
6 FAMILIAR WITH THE BACKGROUND OF THE CASE, BUT FROM THE
7 EVIDENCE I THOUGHT IT MIGHT BE CRIMINAL SEXUAL CONDUCT,
8 WHICH IS A CASE TYPE THAT WE DEAL WITH FREQUENTLY AND
9 THAT'S THE TYPE OF EVIDENCE WE DEAL WITH IN THOSE CASES
10 FREQUENTLY, SO I CALLED INVESTIGATOR STRANGE, AND HE
11 CAME INTO THE LABORATORY AND TOLD ME KIND OF THE
12 BACKGROUND, WHAT WAS INVOLVED WITH THE CASE SO I WOULD
13 HAVE A BETTER DIRECTION OF HOW TO DO THE TESTING.

14 Q OKAY. AND ON STATE'S EXHIBIT NUMBER 27, WHICH I
15 BELIEVE YOU TESTED, IS ONE PULL-UP TYPE OF DIAPER; IS
16 THAT CORRECT?

17 A THAT'S CORRECT.

18 Q DID YOU AND SERGEANT STRANGE DECIDE WHETHER OR NOT
19 ANY FURTHER TESTING WOULD BE NECESSARY ON THIS DIAPER?

20 A WE DETERMINED THAT NO ANALYSIS WOULD BE PERFORMED
21 ON THE DIAPER.

22 Q WHY WAS THAT, SIR?

23 A BECAUSE FROM WHAT I WAS TOLD, IT WAS TAKEN FROM
24 THE VICTIM, SO ANY BIOLOGICAL EVIDENCE, I.E. BLOOD,
25 WOULD NATURALLY BE FROM THE VICTIM.

1 Q SO IT WOULDN'T BE NECESSARY TO DO D.N.A. TESTING
2 TO DETERMINE THAT?

3 A THAT'S CORRECT.

4 Q ON THE ITEMS OF CLOTHING THAT YOU RECEIVED, TELL
5 THIS JURY, BASICALLY, WHEN YOU FIRST RECEIVED THOSE
6 WHAT YOU DID WITH THEM?

7 A I HAD LOOKED AT THE UNDERWEAR BEFORE HE EVEN GOT
8 THERE FOR SEMEN. AFTER I TALKED TO HIM, I ENDED UP
9 STATING THAT THERE WAS NOTHING OF SEROLOGICAL
10 EVIDENTIARY VALUE FOUND ON THE UNDERWEAR, SO NOTHING
11 REALLY IMPORTANT WAS FOUND ON THE UNDERWEAR.

12 Q ON THE THREE ITEMS OF UNDERWEAR?

13 A THAT'S CORRECT.

14 Q AND WHEN YOU SAY IMPORTANT, DOES THAT INCLUDE THE
15 PRESENCE OF BLOOD?

16 A THAT'S CORRECT.

17 Q THERE WAS NO BLOOD OR ANY OTHER SEROLOGICAL
18 EVIDENCE ON THOSE THREE PANTS?

19 A THAT'S CORRECT.

20 Q DID YOU ALSO LOOK AT WHAT APPEARS TO BE A LITTLE
21 BOY'S PAIR OF PANTS?

22 A I DID.

23 Q AND WHEN YOU DID THAT EXAMINATION, TELL THE JURY
24 HOW YOU DID THE EXAMINATION AND WHAT YOUR FINDINGS WERE
25 INITIALLY?

1 A I LAID THE CLOTHES OUT OF THE EVIDENCE AND
2 VISUALLY LOOKED FOR BLOOD, BASICALLY. WITH THE
3 EXPERIENCE OF EVIDENCE PROCESSING, YOU CAN LOOK AND SEE
4 IF THERE'S ANY BLOOD ON THE CLOTHING. ONCE I DO THAT,
5 IF I SEE BLOOD OR WHAT I THINK IS BLOOD, I'LL DO A
6 CHEMICAL SPOT TEST FOR BLOOD AND CAN DETERMINE WHETHER
7 OR NOT THAT IT MAY BE BLOOD AND GO FURTHER AND DO
8 D.N.A. TESTING OR THAT IT'S NOT, IT'S JUST A STAIN.

9 Q AND IN THIS CASE YOU RECEIVED, I BELIEVE, A
10 T-SHIRT AND A PAIR OF PANTS. WHEN YOU DID YOUR VISUAL
11 AND INITIAL TESTING, WHAT WERE YOUR FINDINGS AS FAR AS
12 THOSE TWO ITEMS?

13 A THERE WERE A COUPLE OF SPOTS THAT I FOUND ON THOSE
14 TWO ITEMS. THEY BOTH TESTED THAT BLOOD WAS INDICATED
15 ON THOSE TWO ITEMS IN A COUPLE OF SPOTS.

16 Q SO YOUR PRELIMINARY TEST, WHEN YOU FIND A SPOT,
17 MAY OR MAY NOT BE BLOOD?

18 A CORRECT.

19 Q YOU TEST WITH A CERTAIN ITEM TO INDICATE WHETHER
20 OR NOT IT IS BLOOD?

21 A THAT'S CORRECT.

22 Q IN THIS CASE HOW MANY AREAS OF THE ACTUAL PANTS,
23 THE LONG PANTS, TESTED POSITIVE FOR BLOOD?

24 A I CIRCLE -- I USUALLY CIRCLE WHERE I TEST.

25 MS. CAMPBELL: YOUR HONOR, MAY THE WITNESS STEP

1 DOWN JUST ONE MINUTE?

2 THE COURT: YOU MAY.

3 MS. CAMPBELL: JUST TO EXPEDITE THINGS.

4 BY MS. CAMPBELL:

5 Q GO AHEAD.

6 A THESE ARE MY MARKINGS ON THESE PANTS, SO I WOULD
7 LOOK AT THIS UNDER JUST REGULAR LIGHT AND IF I SAW A
8 STAIN OF ANY TYPE I WOULD CIRCLE IT AND THEN DO A SPOT
9 TEST. THIS WAS PROBABLY CIRCLED. WHEN I LOOKED AT IT
10 UNDER AN ALTERNATE LIGHT SOURCE WHEN I INITIALLY
11 THOUGHT IT WAS A RAPE CASE OR CRIMINAL SEXUAL CONDUCT
12 CASE, BUT WHEN I WENT BACK AND TESTED IT, I DIDN'T FIND
13 BIOLOGICAL FLUID. THIS HERE INDICATES A POSITIVE FOR
14 THAT TEST WHEN I SEE BLOOD.

15 Q I NOTICE THERE ARE TWO KIND OF CUTOUTS ON THIS.
16 THE ONE THAT'S CIRCLED WITH THE PLUS NEXT TO IT, IS
17 THAT WHERE YOU WOULD HAVE FOUND THE POSITIVE FOR BLOOD;
18 IS THAT CORRECT?

19 A THAT'S CORRECT.

20 Q AND WHEN DOING AN EVALUATION ON ANY KIND OF THING
21 LIKE THIS, DO YOU LOOK INSIDE AND OUT?

22 A I DO.

23 Q DID YOU DO THAT IN THIS CASE?

24 A YES.

25 Q AND THE BLOOD THAT WAS FOUND OVER HERE ON THIS

1 POCKET WHERE YOU INDICATED A PLUS, WAS IT ON THE INSIDE
2 OR THE OUTSIDE OF THE PANTS?

3 A THAT'S ON THE OUTSIDE.

4 Q SO THAT WOULD HAVE BEEN ON THE OUTSIDE OF THE
5 PANTS?

6 A CORRECT.

7 Q THE ENTIRE INSIDE AREA OF THE CROTCH AREA, DID YOU
8 EXAMINE IT FOR THE PRESENCE OF ANY POSSIBLE BLOOD?

9 A I WOULD VISUALLY EXAMINE THAT, AS WELL.

10 Q AND DID YOU FIND THE PRESENCE OF ANY BLOOD ON
11 THAT?

12 A NO.

13 Q ONCE YOU HAD DETERMINED THAT THIS TESTED POSITIVE
14 FOR BLOOD, DO YOU THEN DO A LITTLE CUTTING THERE?

15 A THAT'S CORRECT.

16 Q AND IS THAT WHAT YOU ACTUALLY END UP DOING YOUR
17 D.N.A. TESTING ON?

18 A CORRECT.

19 Q THE SHIRT THAT IN THIS CASE IS A T-SHIRT; IS THAT
20 CORRECT?

21 A YES.

22 Q AND CAN YOU TELL THE JURY WHEN YOU EXAMINED THIS
23 INSIDE AND OUT WHAT YOUR FINDINGS WERE?

24 A AGAIN, I MAKE A MARK HERE OF WHERE I SAW THE
25 STAIN, WHERE I TESTED IT, AND THE RESULTS BEING

1 POSITIVE FOR, PRESUMPTIVE FOR, BLOOD. I MAKE A CUTTING
2 FOR D.N.A.

3 Q AND I NOTICE IN THIS THERE IS ANOTHER CUTTING THAT
4 DOESN'T HAVE A PLUS BY IT. DOES THAT MEAN IT WAS
5 NEGATIVE?

6 A YES, THAT WAS A NEGATIVE.

7 Q THAT WAS A NEGATIVE. ONLY IF IT HAS THIS PLUS BY
8 IT IS IT POSITIVE FOR BLOOD?

9 A THAT'S CORRECT.

10 Q AGAIN, WHEN YOU EXAMINED THIS SHIRT ON THE INSIDE
11 AND THE OUTSIDE, WAS THERE ANY BLOOD ON THE INSIDE OF
12 THE SHIRT?

13 A NO.

14 Q AND THIS ONE UP NEAR THE COLLAR, WAS IT ON THE
15 INSIDE OR THE OUTSIDE, THE DROP OF BLOOD?

16 A IT WAS ON THE OUTSIDE.

17 Q THANK YOU, SIR. PLEASE TAKE THE STAND.

18 ONCE YOU HAD COLLECTED THE BLOOD SPOTS FROM THOSE
19 TWO ITEMS, DID YOU ALSO EXAMINE STATE'S EXHIBIT
20 NUMBER 28, WHICH IS A RAZOR BLADE?

21 A I DID.

22 Q AND WHAT KIND OF COLLECTION DID YOU ATTEMPT ON
23 THAT?

24 A ON THIS ITEM WHAT I DID, I SAW NO VISIBLE BLOOD ON
25 IT, SO I JUST TAKE A -- IT'S LIKE A Q-TIP MOISTENED

1 WITH DISTILLED WATER. I'LL SWAB THE EDGES OF THAT
2 Q-TIP AND THEN CUT THAT Q-TIP TO TRY TO ISOLATE ANY
3 D.N.A. FROM IT.

4 Q AND WHEN YOU SWABBED THE Q-TIP TIP AND CUT IT,
5 WERE YOU ABLE TO REMOVE D.N.A. FROM THE SURFACE OF THAT
6 RAZOR?

7 A I WAS.

8 Q AND WHAT DOES THAT INDICATE TO YOU?

9 A THAT THERE WAS SOME D.N.A. ON THE RAZOR.

10 Q AND COULD YOU TELL AT THAT POINT -- YOU DIDN'T DO
11 A PRESUMPTIVE TEST FOR BLOOD ON THIS?

12 A I DID NOT.

13 Q TELL THE JURY WHY YOU COULDN'T DO THAT?

14 A WELL, ON A SAMPLE THAT I DON'T SEE ANY BLOOD OR
15 ANY BIOLOGICAL FLUID, BUT FROM THE HISTORY, FROM
16 TALKING WITH THE INVESTIGATOR THAT IT MAY BE INVOLVED
17 IN WHATEVER THE CASE IS, IF I DON'T SEE ANY, THEN I'LL
18 JUST GO AHEAD AND SWAB IT FOR D.N.A. INSTEAD OF TRYING
19 TO DO A PRESUMPTIVE TEST. IF I WAS TO SWAB IT AND TRY
20 TO DO A PRESUMPTIVE TEST, THEN I MAY BASICALLY USE UP
21 ALL THE EVIDENCE ON THAT TEST SO I'LL GO STRAIGHT TO
22 THE D.N.A. ON A SAMPLE LIKE THAT.

23 Q AND JUST FOR THE RECORD, WERE YOU ABLE TO EXTRACT
24 D.N.A. FROM THAT RAZOR?

25 A I WAS.

1 Q HOWEVER, TO GET A RESULT, DOES THERE HAVE TO BE A
2 CERTAIN AMOUNT OF WHATEVER FLUID, SUCH AS BLOOD OR
3 SEMEN OR WHATEVER PRESENT IN ORDER FOR YOU TO GET A
4 RESULT?

5 A CORRECT, THERE HAS TO BE A CERTAIN AMOUNT OF
6 D.N.A. ON THAT ITEM TO GET A PROFILE. I CAN EXTRACT
7 THE D.N.A. FROM AN ITEM, BUT THERE MAY NOT BE ENOUGH
8 THERE TO ACTUALLY GET A PROFILE. THAT'S WHAT -- TO BE
9 ABLE TO IDENTIFY WHOSE IT IS.

10 Q ONCE YOU GOT THE SWAB AND EXTRACTED THE D.N.A.
11 FROM THE RAZOR AND THE SHIRT AND THE PANTS, DID YOU
12 THEN DO ACTUAL D.N.A. TESTING ON THESE ITEMS?

13 A I DID.

14 Q AND WHAT WERE YOUR FINDINGS AS TO THE PANTS AS FAR
15 AS WHOSE BLOOD WAS ON THE OUTSIDE OF THOSE PANTS?

16 A THE PANTS -- BOTH ITEMS HAVE THE SAME D.N.A.
17 RESULT.

18 Q WHAT WERE THE RESULTS ON THE OUTSIDE OF BOTH OF
19 THOSE?

20 A THE RESULT OF THE D.N.A. PROFILE DEVELOPED FROM
21 ITEMS 3.4 AND 3.5, WHICH ARE THE GREEN SHIRT AND THE
22 PANTS, MATCHES Minor , WHICH IS ITEM 1.

23 Q AND Minor WAS THE VICTIM IN THE CASE?

24 A THAT'S CORRECT.

25 Q WHO YOU GOT THE KNOWN STANDARD FROM THE SWABS FROM

1 INSIDE HIS MOUTH?

2 A THAT'S CORRECT.

3 Q AND THE ONLY OTHER ITEM YOU WERE ABLE TO GET
4 D.N.A. FROM WAS THE RAZOR; IS THAT CORRECT?

5 A THAT'S CORRECT.

6 Q THE RAZOR BLADE, EXCUSE ME. WHEN YOU TESTED THE
7 RAZOR BLADE, WERE YOU ABLE TO GET A RESULT?

8 A I GOT NO RESULT BASICALLY, WHICH IS NO D.N.A.
9 PROFILE DEVELOPED FROM ITEM 2, WHICH WAS THE RAZOR
10 BLADE.

11 Q SO JUST FOR THE RECORD, THERE WAS D.N.A. ON THE
12 RAZOR BLADE, THERE JUST WASN'T ENOUGH FOR THE PROFILE?

13 A CORRECT.

14 Q SO YOU COULD NOT MAKE ANY DETERMINATIONS FROM
15 THAT?

16 A I COULDN'T TELL WHOSE D.N.A. THAT WAS, THAT'S
17 CORRECT.

18 Q AND WOULD THAT BE CONSISTENT WITH EVEN IF THEY HAD
19 BEEN -- IT WAS USED TO CUT SOMEONE'S SKIN AND BLOOD HAD
20 BEEN ON IT, IF IT HAD BEEN WASHED, THAT'S CONSISTENT
21 WITH WHAT YOU FOUND?

22 A THAT'S A POSSIBILITY.

23 Q OR OTHER FLUID FROM THE BODY?

24 A CORRECT.

25 MS. CAMPBELL: THANK YOU. THAT'S ALL I HAVE,

1 INVESTIGATOR.

2 THE COURT: ALL RIGHT. MR. ROGERS.

3 MR. ROGERS: MAY IT PLEASE THE COURT.

4 CROSS-EXAMINATION

5 BY MR. ROGERS:

6 Q INVESTIGATOR AMICK, IF THERE WAS NO BLOOD ON THAT
7 RAZOR BLADE, YOUR RESULTS WOULD HAVE BEEN THE SAME,
8 CORRECT?

9 A THAT'S CORRECT.

10 Q AND I BELIEVE YOUR TESTIMONY WAS THAT YOU SAW NO
11 VISIBLE BLOOD ON THE RAZOR?

12 A THAT'S CORRECT. THAT'S A POSSIBLE SCENARIO.
13 THERE WAS D.N.A. ON THE RAZOR.

14 Q I UNDERSTAND.

15 A I NEVER -- I DIDN'T SAY THERE WAS BLOOD.

16 Q RIGHT. YOU DIDN'T SEE ANY BLOOD?

17 A THAT'S CORRECT.

18 Q BUT YOU DID DEVELOP SOME D.N.A., BUT YOU COULDN'T
19 IDENTIFY IT, RIGHT?

20 A THAT'S CORRECT.

21 Q OKAY. AND IF YOU WERE TOLD THAT THE RAZOR
22 BELONGED TO MUSA KROMAH, THAT IT WAS HIS RAZOR, WOULD
23 YOU EXPECT TO FIND HIS D.N.A.?

24 A THAT'S A POSSIBILITY, YES.

25 Q BUT YOU COULDN'T DEVELOP ENOUGH OF A PROFILE OF

1 WHAT WAS THERE TO MAKE AN IDENTIFICATION?

2 A ON THE RAZOR, CORRECT.

3 Q OKAY. BUT YOU DID FIND BLOOD ON THE PANTS AND THE
4 SHIRT?

5 A THAT'S CORRECT.

6 Q AND DID I MISUNDERSTAND YOU, DID YOU FIND BLOOD ON
7 THE INSIDE, OR NOT, OF THE PANTS?

8 A I DID NOT.

9 Q YOU CUT A HOLE ON THE INSIDE?

10 A NO. I VISUALIZED IT ON THE OUTSIDE, AND I CUT
11 THAT AREA OUT, SO THE HOLE GOES ALL THE WAY THROUGH,
12 YES.

13 Q OKAY. BUT THERE WAS BLOOD ON THE PANTS?

14 A CORRECT, ON THE OUTSIDE.

15 Q AND YOU HAVE NO WAY OF KNOWING HOW THE BLOOD GOT
16 ON THE PANTS?

17 A THAT'S CORRECT.

18 Q OR WHEN THE BLOOD WAS PUT ON THE PANTS?

19 A THAT'S CORRECT.

20 Q IT COULD HAVE BEEN THIS DAY. IT COULD HAVE BEEN
21 ANOTHER DAY. YOU DIDN'T TEST FOR HOW LONG THE BLOOD
22 HAD BEEN PRESENT ON THOSE TWO ITEMS?

23 A THERE'S NO TEST FOR THAT, CORRECT.

24 Q SO YOU DON'T HAVE ANY OPINION AS TO THAT?

25 A THAT'S CORRECT.

1 Q AND YOU DIDN'T RUN ANY TESTS TO DETERMINE WHETHER
2 THE RAZOR HAD BEEN WASHED?

3 A NO, WE DON'T HAVE A TEST FOR THAT.

4 Q OKAY. SO YOU CAN'T SAY THAT THE RAZOR WAS EVEN
5 WASHED?

6 A THAT'S CORRECT.

7 Q ALL YOU CAN SAY IS THAT YOU DEVELOPED NO D.N.A.
8 PROFILE AND SAW NO BLOOD?

9 A THAT'S CORRECT.

10 MR. ROGERS: NO FURTHER QUESTIONS.

11 THE COURT: ALL RIGHT. ANY REDIRECT?

12 MS. CAMPBELL: NO, SIR.

13 THE COURT: ALL RIGHT, SIR. YOU MAY STEP DOWN.

14 MS. CAMPBELL: THANK YOU.

15 THE COURT: GO AHEAD.

16 MS. CAMPBELL: THE STATE CALLS LANCE AMARA.

17 LANCE AMARA,

18 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

19 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL
20 NAME FOR THE RECORD.

21 THE WITNESS: MY NAME IS LANCE AMARA. I'M WITH
22 CISCO FOODS OF COLUMBIA.

23 DIRECT EXAMINATION

24 BY MS. CAMPBELL:

25 Q MR. AMARA, YOU'RE WITH CISCO FOODS OF COLUMBIA?

- 1 A YES.
- 2 Q WHAT DO YOU DO THERE, SIR?
- 3 A I'M THE OPERATIONS MANAGER.
- 4 Q YOU'RE THE OPERATIONS MANAGER?
- 5 A YES, MA'AM.
- 6 Q DO YOU KNOW A MAN BY THE NAME OF MUSA KROMAH?
- 7 A YES, MA'AM.
- 8 Q AND YOU KNOW A MAN NAMED DICK DANN?
- 9 A YES, MA'AM.
- 10 Q HOW DO YOU KNOW THOSE PEOPLE?
- 11 A THEY ARE EMPLOYED BY CISCO. THEY WORK FOR ME.
- 12 Q THEY WORK FOR YOU?
- 13 A YES, MA'AM.
- 14 Q AND SPECIFICALLY BACK IN AUGUST OF LAST YEAR WERE
- 15 THEY WORKING FOR YOU AT CISCO?
- 16 A YES.
- 17 Q AND IS CISCO HERE IN RICHLAND COUNTY?
- 18 A I BELIEVE IT IS. IT IS IN EAST COLUMBIA OFF
- 19 GARNERS FERRY ROAD.
- 20 Q OFF GARNERS FERRY ROAD?
- 21 A YES.
- 22 Q WERE YOU AWARE THAT MUSA AND DICK DANN LIVED
- 23 TOGETHER, WERE ROOMMATES?
- 24 A AT SOME POINT I BECAME AWARE OF IT, YES.
- 25 Q DURING THE COURSE OF YOUR BUSINESS, DO YOU MONITOR

1 WHETHER OR NOT SOMEONE SHOWS UP FOR WORK?

2 A YES, DAILY.

3 Q I'M SORRY, GO AHEAD.

4 A WE DO THAT DAILY, EVERY DAY.

5 Q OKAY. I WANT TO TURN YOUR ATTENTION TO THE
6 EVENING OF THE 15TH. WHAT SHIFT DID DICK DANN AND MUSA
7 KROMAH WORK?

8 A THEY WORKED THE EVENING SHIFT WHICH STARTS AT
9 6:00, 6:30 IN THE EVENING.

10 Q 6:00 OR 6:30 IN THE EVENING?

11 A SUNDAYS AT 6:00 AND MONDAY THROUGH THURSDAY WE
12 START AT 6:30.

13 Q MONDAY THROUGH THURSDAY, SO IF I WERE TO TELL YOU
14 THIS HAPPENED ON MONDAY NIGHT, THE SHIFT WOULD HAVE
15 STARTED AT 6:30?

16 A YES.

17 Q AND AT MY REQUEST HAVE YOU REVIEWED TWO WORK
18 RECORDS FOR MR. DICK DANN AND MUSA KROMAH?

19 A YES, I HAVE.

20 Q AND THE DOCUMENTS I JUST HANDED TO YOU, DO YOU
21 RECOGNIZE THOSE?

22 A YES.

23 Q AND DO THOSE ACCURATELY REFLECT BUSINESS RECORDS
24 THAT ARE KEPT IN THE NORMAL COURSE OF BUSINESS?

25 A YES.

1 Q AND THOSE ARE ACTUALLY COPIES OF THOSE RECORDS?

2 A YES.

3 Q AND YOU ACTUALLY MONITOR WHEN DICK DANN AND MUSA
4 KROMAH WORK FOR YOU?

5 A YES.

6 MS. CAMPBELL: AT THIS TIME WE OFFER THEM INTO
7 EVIDENCE.

8 THE COURT: ARE THEY MARKED?

9 MS. CAMPBELL: NO, SIR, I HAVE NOT MARKED THEM.

10 MR. ROGERS: I DON'T HAVE ANY OBJECTION.

11 THE COURT: OKAY. WITHOUT OBJECTION THEY WILL BE
12 MARKED AND ADMITTED INTO EVIDENCE.

13 (WHEREUPON, STATE'S EXHIBITS 30 AND 31 WERE MARKED
14 FOR IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

15 BY MS. CAMPBELL:

16 Q I'M GOING TO HAND YOU STATE'S EXHIBIT 30, WHICH IS
17 THE WORK RECORD FOR MUSA KROMAH. I BELIEVE HIS NAME IS
18 OLLUSU --

19 A OLLUSU MUSA KROMAH.

20 Q OLLUSU MUSA KROMAH; IS THAT CORRECT?

21 A YES.

22 Q AND TURNING YOUR ATTENTION TO THE EVENING OF
23 AUGUST 15TH, WHAT TIME DID HE REPORT TO WORK THAT
24 NIGHT?

25 A HE CLOCKED IN AT 6:26 P.M.

1 Q AT SOME POINT IN THE NIGHT, DID HE TAKE A BREAK?

2 A YES.

3 Q WHAT TIME WAS THAT?

4 A 10:04 AND THEN HE CLOCKED BACK IN AT 10:23.

5 Q AND THEN HOW LONG DID HE REMAIN ON THE JOB AFTER

6 CLOCKING BACK IN AT 10:23?

7 A HE STAYED ON UNTIL 4:27 A.M. THE FOLLOWING

8 MORNING.

9 Q AND DO YOU KNOW MUSA?

10 A YES.

11 Q AND DO YOU REMEMBER HIM BEING AT WORK THAT NIGHT?

12 A YES.

13 Q OKAY. SO YOU INDEPENDENTLY SAW HIM AND MONITORED

14 HIM ON THAT EVENING?

15 A YES, HE WAS AT WORK.

16 Q STATE'S EXHIBIT NUMBER 31, DICK DANN, HIS

17 ROOMMATE?

18 A YES.

19 Q DOES THAT SHOW ON THE EVENING OF AUGUST 15TH

20 WHETHER OR NOT HE REPORTED FOR WORK?

21 A YES, HE WAS THERE.

22 Q AND WHAT TIME DID HE CLOCK IN?

23 A HE CLOCKED IN AT 6:20 -- NO, 6:31.

24 Q 6:31?

25 A YES.

1 Q AND THAT WOULD BE APPROPRIATE FOR A MONDAY NIGHT,
2 CORRECT?
3 A YES.
4 Q AND THEN DID HE TAKE A BREAK ON THAT EVENING?
5 A YES, 10:07 AND CAME BACK AT 10:38 AND HE LEFT AT
6 4:06 A.M. TUESDAY MORNING.
7 Q FOUR O'CLOCK IN THE MORNING?
8 A YES, 4:06.
9 Q AND THAT WOULD BE ON THE MORNING OF THE 16TH?
10 A YES.
11 Q AND DO YOU HAVE ANY INDEPENDENT RECOLLECTION AS TO
12 WHETHER OR NOT HE WAS ACTUALLY THERE ON THE PREMISES
13 WORKING THAT NIGHT?
14 A ABSOLUTELY.
15 Q IN FACT, ARE THERE CERTAIN PRECAUTIONS TAKEN TO
16 MAKE SURE PEOPLE SHOW UP TO WORK?
17 A YES.
18 Q AND YOU MONITOR THAT YOURSELF?
19 A ME AND MY SUPERVISORS.
20 Q YOU REMEMBER BOTH OF THOSE MEN WERE ACTUALLY AT
21 WORK ON THAT NIGHT?
22 A YES.
23 Q AND DID EITHER ONE OF THEM LEAVE BEFORE FOUR IN
24 THE MORNING?
25 A NO.

1 MS. CAMPBELL: THANK YOU, SIR. PLEASE ANSWER ANY
2 QUESTIONS THE DEFENSE MAY HAVE.

3 THE COURT: MR. ROGERS?

4 MR. ROGERS: NO QUESTIONS.

5 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, SIR.

6 THE WITNESS: THANK YOU.

7 THE COURT: ALL RIGHT. GOOD TIME TO BREAK,
8 SOLICITOR?

9 MS. CAMPBELL: YES, SIR.

10 THE COURT: ALL RIGHT, MR. FOREMAN, LADIES AND
11 GENTLEMEN, WE WILL BREAK FOR THE DAY. WE WILL START AT
12 9:30 TOMORROW MORNING. I NEED FOR YOU TO BE IN YOUR
13 JURY ROOM AT THAT TIME. I KNOW WHEN YOU'RE AT THE
14 COURTHOUSE ALL DAY LONG, AND I KEEP INSTRUCTING YOU AND
15 ORDERING YOU NOT TO TALK AMONG YOURSELVES OR WITH
16 ANYONE ELSE, IT'S FAIRLY EASY TO COMPLY WITH THOSE
17 INSTRUCTIONS.

18 THOSE OF YOU WHO HAVE SPOUSES OR CHILDREN OR
19 FRIENDS WHO KNOW THAT YOU HAVE JURY SERVICE, I CAN
20 GUARANTEE YOU THAT WHEN YOU WALK IN THE DOOR WHETHER
21 IT'S TEN MINUTES FROM NOW OR AN HOUR FROM NOW, YOU'RE
22 GOING TO BE BOMBARDED WITH QUESTIONS IF YOU GET PICKED
23 ON A JURY. THEY WANT TO KNOW WHAT KIND OF CASE IS IT,
24 WHAT'S INVOLVED. YOU CAN'T DISCUSS IT WITH ANYONE, NOT
25 WITH YOUR FAMILY OR FRIENDS OR ANYONE ELSE. YOU CAN

1 BLAME IT ON ME. I'LL TAKE ALL THE BLAME, BUT IT WOULD
2 BE INAPPROPRIATE TO DO THAT.

3 OF COURSE, THE REASON FOR THAT IS I WOULD HATE FOR
4 ANYONE TO MAKE SOME COMMENT TO YOU OR SAY SOMETHING
5 THAT WOULD INFLUENCE YOUR DECISION MAKING ABILITY IN
6 THE CASE, AND THAT'S WHY YOU CAN'T DISCUSS IT WITH
7 ANYONE.

8 HAVE A GOOD NIGHT. BE BACK IN YOUR JURY ROOM AT
9 9:30 AND WE'LL CONTINUE AT THAT TIME. YOU'RE EXCUSED.
10 EVERYONE ELSE STAY SEATED, PLEASE, WHILE THE JURY IS
11 EXCUSED.

12 (WHEREUPON, THE JURY LEFT OPEN COURT AT
13 APPROXIMATELY 5:17 P.M.)

14 THE COURT: WE'LL START BACK AT 9:30.

15 (WHEREUPON COURT WAS ADJOURNED FOR THE DAY.)

16 JUNE 14, 2006

17 THE COURT: IS THE STATE READY?

18 MS. CAMPBELL: YES, SIR.

19 THE COURT: IS THE DEFENSE READY?

20 MR. ROGERS: YES, SIR.

21 THE COURT: ANYTHING WE NEED TO TAKE UP?

22 MS. CAMPBELL: YOUR HONOR, THE SECOND WITNESS IN
23 THIS CASE, AND WE MIGHT WANT TO TAKE THAT UP NOW, IS
24 THE DEFENDANT'S HUSBAND. WE ANTICIPATE PUTTING UP THIS
25 MORNING, MUSA KROMAH. HE IS STILL MARRIED TO THE

1 DEFENDANT. HE HAS REPEATEDLY EXPRESSED TO OUR OFFICE
2 HIS OPINIONS AS TO WHETHER OR NOT SHE WANTED TO DO
3 THIS. I WOULD JUST ASK FOR A RULING OF THE COURT THAT
4 HE CANNOT STATE ANY OPINION ON THE STAND. HE'S NOT
5 GOING TO BE QUALIFIED AS AN EXPERT. HE IS NOT AN
6 EXPERT. IN ADDITION TO THAT, YOUR HONOR, HE IS HERE
7 UNDER SUBPOENA AND WE WOULD ASK THAT HE BE DECLARED
8 HOSTILE AND THAT WE HAVE SOME LEEWAY IN QUESTIONING
9 HIM, UNDER RULE 611C.

10 THE COURT: WELL, I DON'T KNOW THAT I CAN DECLARE
11 HIM A HOSTILE WITNESS RIGHT OFF THE BAT WITHOUT HEARING
12 ANYTHING. IF HE IS IDENTIFIED WITH AN ADVERSE PARTY
13 FROM THE STATE, THEN UNDER THE RULE YOU WOULD BE
14 PERMITTED TO ASK LEADING QUESTIONS. I GUESS IT DEPENDS
15 ON WHAT KIND --

16 MS. CAMPBELL: THANK YOU, YOUR HONOR.

17 THE COURT: AS FAR AS OPINIONS ARE CONCERNED, OF
18 COURSE, OPINIONS ARE RESERVED FOR EXPERTS, AND IF HE'S
19 NOT QUALIFIED IN THAT MANNER, THEN HE COULD NOT DO
20 THAT.

21 MS. CAMPBELL: THANK YOU, SIR.

22 THE COURT: ANYTHING FURTHER, MR. ROGERS, AT THIS
23 TIME?

24 MR. ROGERS: YOUR HONOR, I JUST WANT TO BE
25 CAUTIOUS ABOUT THE DOCTOR'S TESTIMONY ABOUT THE INJURY

1 THAT YOU RULED WOULD BE INADMISSIBLE.

2 MS. CAMPBELL: YES, YOUR HONOR. I HAVE GONE
3 THROUGH THAT WITH HER, AND IN HER REPORT SHE KNOWS NOT
4 ONLY THAT INJURY, BUT ALL INJURIES --

5 THE COURT: THIS IS THE TOP OF THE HEAD?

6 MS. CAMPBELL: AS WELL AS MULTIPLE OLD SCARS. I
7 TALKED WITH THE DOCTOR THIS MORNING AND INDICATED TO
8 HER WE CAN ONLY TALK ABOUT THE ONES ON THE FOREHEAD,
9 THE LIP, THE ABDOMEN, AND THE SCROTUM.

10 THE COURT: THOSE OTHERS ARE IRRELEVANT BASED ON
11 WHAT I RULED YESTERDAY.

12 MS. CAMPBELL: BASED ON YOUR RULINGS, SHE WILL NOT
13 BE TALKING ABOUT THE OLD SCARS OR THE ONE ON TOP OF THE
14 SCALP.

15 THE COURT: ANYTHING FURTHER?

16 MR. ROGERS: NO, YOUR HONOR.

17 THE COURT: ALL RIGHT. LET'S GET THE JURY IN,
18 PLEASE.

19 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
20 APPROXIMATELY 9:50 A.M.)

21 THE BAILIFF: THE JURY IS SEATED, YOUR HONOR.

22 THE COURT: ALL RIGHT. THANK YOU. MR. FOREMAN,
23 LADIES AND GENTLEMEN, I APPRECIATE YOUR BEING HERE.
24 I'VE JUST BEEN HANDED A NOTE FROM ONE OF THE JURORS
25 CONCERNING A DOCTOR'S APPOINTMENT. THAT SHOULD NOT BE

1 A PROBLEM ONE WAY OR THE OTHER. WE'LL TAKE CARE OF
2 THAT.

3 ALL RIGHT. WE WILL CONTINUE. SOLICITOR, YOU MAY
4 CALL YOUR NEXT WITNESS.

5 MS. CAMPBELL: MAY IT PLEASE THE COURT, THE STATE
6 CALLS DR. ANNE ABEL.

7 DR. ANNE ABEL,

8 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

9 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL
10 NAME FOR THE RECORD.

11 THE WITNESS: MY NAME IS DR. ANNE ABEL.

12 DIRECT EXAMINATION

13 BY MS. CAMPBELL:

14 Q DR. ABEL, WHERE ARE YOU CURRENTLY EMPLOYED?

15 A MEDICAL UNIVERSITY OF SOUTH CAROLINA.

16 Q AND WHAT DO YOU DO THERE?

17 A I'M THE MEDICAL DIRECTOR OF THE VIOLENT
18 INTERVENTION AND PREVENTION PROGRAM IN THE DEPARTMENT
19 OF PEDIATRICS.

20 Q CAN YOU TELL THIS JURY A LITTLE ABOUT YOUR
21 TRAINING AND EXPERTISE IN THE FIELD OF MEDICINE?

22 A YES. I GRADUATED FROM MEDICAL SCHOOL FROM INDIANA
23 UNIVERSITY. I DID A PEDIATRIC RESIDENCY AND COMPLETED
24 IT HERE AT PALMETTO HEALTH RICHLAND, AT THE TIME, IT
25 WAS CALLED RICHLAND MEMORIAL HOSPITAL. I PRACTICED

1 PEDIATRICS FOR A NUMBER OF YEARS. IN THE MID '90S, I
2 WAS INVOLVED IN CLINICS AND WORKING AND BECAME INVOLVED
3 PROFESSIONALLY IN CHILD ABUSE EVALUATION, AND IN THE
4 YEAR 2000, I DID A FELLOWSHIP IN FORENSIC PEDIATRICS AT
5 BROWN UNIVERSITY IN PROVIDENCE, RHODE ISLAND. THEN I
6 BECAME THE DIRECTOR OF THE FREDDIE MAC CHILD AND
7 ADOLESCENT PROTECTION PROGRAM AT THE CHILDREN'S
8 HOSPITAL IN WASHINGTON, D.C.

9 I RETURNED THREE YEARS LATER TO SOUTH CAROLINA AND
10 I WORKED FOR A PERIOD OF TIME AS THE MEDICAL DIRECTOR
11 OF THE DURANT CHILDREN'S CENTER IN FLORENCE, AND THEN I
12 CURRENTLY HAVE ACCEPTED THE POSITION AND HAVE BEEN
13 WORKING AT THE MEDICAL UNIVERSITY OF SOUTH CAROLINA IN
14 CHARLESTON.

15 Q IN CHARLESTON, SOUTH CAROLINA?

16 A YES.

17 Q AND YOU BEEN QUALIFIED BEFORE AS AN EXPERT IN THE
18 FIELD OF FORENSIC PEDIATRICS?

19 A YES.

20 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD
21 OFFER HER AS AN EXPERT IN FORENSIC PEDIATRICS.

22 THE COURT: ANY CROSS EXAMINATION OR OBJECTION TO
23 THE QUALIFICATIONS, MR. ROGERS?

24 MR. ROGERS: NO, YOUR HONOR.

25 THE COURT: ALL RIGHT. THE WITNESS IS FOUND TO BE

1 AN EXPERT IN THE FIELD OF FORENSIC PEDIATRICS. YOU MAY
2 CONTINUE, SOLICITOR.

3 BY MS. CAMPBELL:

4 Q DOCTOR, BEFORE WE GO ANY FURTHER, CAN YOU EXPLAIN
5 TO THE JURY WHAT IS FORENSIC PEDIATRICS, WHAT
6 ASSESSMENTS ARE YOU TRYING TO MAKE IN THAT FIELD?

7 A IT'S A NEW FIELD OF PEDIATRICS WHERE THE PERSON IS
8 A BOARD CERTIFIED PEDIATRICIAN WHO HAS EXTRA TRAINING
9 AND EXPERTISE IN EVALUATION WHEN THERE'S A QUESTION OF
10 CHILD MALTREATMENT OF ANY KIND, PHYSICAL ABUSE,
11 EMOTIONAL ABUSE, SEXUAL ABUSE.

12 Q THINGS OF THAT NATURE?

13 A THINGS OF THAT NATURE, YES.

14 Q AND YOU ARE CONSULTED TYPICALLY IN AREAS WHERE
15 THERE IS SUSPECTED CHILD ABUSE?

16 A YES.

17 Q WHETHER IT BE EMOTIONAL, SEXUAL OR PHYSICAL CHILD
18 ABUSE?

19 A YES, OTHER TYPES, ALSO.

20 Q I WANT TO TURN YOUR ATTENTION BACK TO AUGUST OF
21 LAST YEAR, 2005. WERE YOU CALLED IN AS A CONSULTING
22 PHYSICIAN TO MAKE AN ASSESSMENT ON A CHILD NAMED

23 Minor ?

24 A YES.

25 Q AND WHO ACTUALLY -- WHAT DEPARTMENT ACTUALLY

1 CONTACTED YOU TO COME IN AND DO A CONSULTATION IN THIS
2 CASE?

3 A THE DEPARTMENT OF PEDIATRICS.

4 Q AT RICHLAND MEMORIAL OR PALMETTO RICHLAND?

5 A YES.

6 Q OKAY, AND WHEN DID YOU FIRST COME IN CONTACT WITH
7 Minor ?

8 A AUGUST 16TH, IN THE EVENING.

9 Q DURING THE EVENING OF AUGUST 16TH?

10 A YES.

11 Q AT THAT POINT HAD Minor HAD SURGERY OR NOT?

12 A YES, HE HAD HAD SURGERY.

13 Q IS IT IMPORTANT FOR YOU TO GET A HISTORY OR TO
14 REVIEW A HISTORY PRIOR TO MAKING THE ASSESSMENT OF A
15 CHILD?

16 A YES. PART OF MY JOB IS TO LISTEN TO WHAT THE
17 FAMILY IS SAYING, REVIEW THE CURRENT MEDICAL RECORD,
18 REVIEW ANY TRANSPORT RECORDS OR EMERGENCY ROOM RECORDS,
19 PAST MEDICAL RECORDS, SO I NEED A TOTAL UNDERSTANDING
20 OF THE CHILD'S HEALTH AND CIRCUMSTANCES AND HOW THEY
21 CAME TO THE ATTENTION OF THE MEDICAL PROVIDERS.

22 Q AND, WERE YOU ABLE TO REVIEW A HISTORY THAT WAS
23 PROVIDED BY THE STEPMOTHER, AS WELL AS THE FATHER IN
24 THIS CASE?

25 A YES.

1 Q IN ADDITION TO THAT, DID YOU ALSO GET TO REVIEW
2 SOME MEDICAL RECORDS FROM MINNESOTA WHERE THE CHILD HAD
3 LIVED JUST PRIOR TO THIS?

4 A YES. COPIES OF THE OUTPATIENT MEDICAL RECORDS
5 FROM MINNESOTA.

6 Q AND BEFORE WE GO ANY FURTHER, WAS THERE ANYTHING
7 REMARKABLE IN THE RECORDS FROM MINNESOTA?

8 A NO. MY NOTES REFLECT THAT THE OUTPATIENT RECORDS
9 REVEALED NORMAL CHILD CARE.

10 Q NORMAL?

11 A NORMAL.

12 Q THE HISTORY, CAN YOU TELL THE JURY WHAT HISTORY
13 WERE YOU PROVIDED IN THIS CASE AS FAR AS WHAT HAD
14 HAPPENED TO THE CHILD?

15 A YES. I GOT ORAL INFORMATION FROM THE REFERRING
16 PHYSICIAN, AND THEN I REVIEWED THE REPORT, AND THEN
17 FINALLY ON THE SECOND DAY I WAS ABLE TO TALK TO THE
18 FATHER DIRECTLY. I HAD NO DIRECT ACCESS TO THE
19 STEPMOTHER.

20 Q OKAY. AND THE HISTORY OF WHAT HAD HAPPENED IN THE
21 EARLY MORNING OF AUGUST 16TH, WHAT WAS PROVIDED? WHAT
22 HISTORY DID YOU HAVE?

23 A THE HISTORY I GOT WAS THAT THE CHILD WAS
24 DISCOVERED BY THE STEPMOTHER TO HAVE BLEEDING IN THE
25 SCROTAL AREA AT THE TIME OF A BATH, AND THAT DIRECT

1 PRESSURE WAS APPLIED.

2 Q BY WHOM?

3 A BY THE STEPMOTHER.

4 Q AND IT WAS SUBSEQUENT TO THAT DIRECT PRESSURE
5 BEING APPLIED IN THE BATHTUB THAT SHE NOTICED THE
6 BLOOD?

7 MR. ROGERS: YOUR HONOR, I'D ASK THAT SHE NOT LEAD
8 THIS WITNESS.

9 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

10 MS. CAMPBELL: I'LL REPHRASE. I'M SORRY, YOUR
11 HONOR.

12 BY MS. CAMPBELL:

13 Q WHEN DID SHE INDICATE THAT SHE NOTICED THE
14 BLEEDING DOWN THERE?

15 A MAY I REFER TO MY RECORDS?

16 Q YES, YOU CAN REFER TO YOUR NOTES.

17 A THANK YOU VERY MUCH.

18 (PAUSE)

19 MY RECORD INDICATES IN MY SUMMARY OF ALL THE
20 REVIEW, THAT THE STEPMOTHER PLACED HIM IN THE BATHTUB
21 AND NOTICED THE SCROTUM WAS SWOLLEN AND APPLIED
22 PRESSURE WITH THE WASHCLOTH, THEN NOTICED BLEEDING DOWN
23 THERE.

24 Q OKAY.

25 A AND THE PATIENT WAS TAKEN TO THE EMERGENCY

1 DEPARTMENT FOR A MEDICAL EVALUATION.

2 Q IN YOUR REVIEW OF THE RECORDS, DID YOU ALSO BECOME
3 AWARE THAT THERE WERE SOME BRUISES AND SCRATCHES ON HIS
4 FACE AND ABDOMEN?

5 A YES. THE RECORDS INDICATED THAT THERE WERE
6 BRUISES ON THE ABDOMEN AND SCRATCHES ON THE LIP AND
7 FOREHEAD.

8 Q OKAY. AND DID YOU ALSO SUBSEQUENTLY -- AND I'LL
9 GET BACK TO THAT, BUT WERE YOU ABLE TO INTERVIEW THE
10 FATHER ABOUT HOW THE CHILD WAS EARLIER IN THE DAY WHEN
11 THIS HAPPENED?

12 A YES. ON THE 17TH WHEN I WENT TO SEE THE CHILD
13 AGAIN, THE FATHER WAS THERE WITH THE UNCLE OR SOME MALE
14 RELATIVE, AND HE TALKED TO ME ABOUT WHAT HE KNEW ABOUT
15 WHAT HAD HAPPENED TO THE BOY.

16 Q AND WHAT DID HE INDICATE HE KNEW HAD HAPPENED TO
17 THE BOY?

18 A HE INDICATED THAT THE CHILD HAD BEEN NORMAL WHEN
19 HE LEFT THE CHILD WITH THE BABYSITTER AND THAT HE KNEW
20 NOTHING ABOUT WHAT HAPPENED UNTIL HE GOT A PHONE CALL
21 FROM THE STEPMOTHER INDICATING SOMETHING ABOUT THE
22 EMERGENCY ROOM, SO HE HAD NO DIRECT KNOWLEDGE.

23 Q DID YOU ALSO REVIEW ANY INFORMATION AS TO WHETHER
24 OR NOT EITHER THE FATHER OR THE STEPMOTHER WERE AWARE
25 OF ANY TRAUMA THAT HAD HAPPENED TO THE CHILD?

1 A YES.

2 Q WHAT WAS THAT?

3 A THE FATHER DIRECTLY TOLD ME HE HAD NO KNOWLEDGE OF
4 ANY TRAUMA TO THE CHILD OTHER THAN IN THE PAST THE
5 CHILD HAD BUMPED INTO THINGS, BUT HE HAD NO KNOWLEDGE
6 OF ANY TRAUMA TO THE CHILD'S GENITALIA. THE RECORD
7 INDICATED THAT THE STEPMOTHER DENIED ANY KNOWN TRAUMA
8 TO THE CHILD, EVEN AT THE TIME THE CHILD WAS BROUGHT TO
9 THE EMERGENCY ROOM.

10 Q OKAY. YOU MADE CONTACT, I BELIEVE IT WAS AROUND
11 7:30 ON THE EVENING OF THE 16TH; IS THAT CORRECT?

12 A YES.

13 Q AND AT THAT POINT, TELL US WHAT YOUR INITIAL
14 INTERACTION WITH Minor WAS. WHAT WENT ON?

15 A OKAY. Minor WAS IN THE PEDIATRIC INTENSIVE
16 CARE UNIT. HE WAS IN HIS BED. HE WASN'T TALKING MUCH.
17 HE DID INDICATE THAT HE WAS HUNGRY. SOMEHOW WE
18 COMMUNICATED, SO WE MADE SURE THAT, YOU KNOW, HE GOT
19 SOME ICE CREAM, AND THEN SHORTLY AFTER THAT HE WAS
20 HUNGRY AND HE WANTED MORE. HE WAS POST SURGICAL, SO HE
21 HAD PAIN MEDICATION IN HIS SYSTEM AND HE WAS COMING OUT
22 FROM THE ANESTHETIC.

23 Q YOU MENTIONED THAT HE WAS DIFFICULT TO UNDERSTAND.
24 IS HE DIFFICULT TO UNDERSTAND?

25 A I WAS ABLE TO TALK TO HIM MORE THE NEXT DAY. YES,

1 HIS SPEECH WAS A LITTLE DIFFICULT TO UNDERSTAND, BUT I
2 DID UNDERSTAND SOME WORDS AND HE DID HAVE SOME ENGLISH
3 WORDS.

4 Q OKAY. SO HE WAS ABLE TO SPEAK SOME ENGLISH?

5 A YES.

6 Q ONCE YOU MADE YOUR INITIAL CONTACT WITH HIM AND HE
7 INDICATED HE WAS HUNGRY, WHAT HAPPENED THEN?

8 A WELL, I MADE SURE THE NURSES GOT HIM A SNACK RIGHT
9 AWAY, AND THEN HE INDICATED HE WAS MORE HUNGRY, SO WE
10 GOT HIM A TRAY, A FULL MEAL. I DID PROCEED TO DO AN
11 EXAMINATION OF HIM, AS WELL.

12 Q OKAY. CAN YOU TELL THE JURY WHAT YOU FOUND, AS
13 FAR AS THIS CASE GOES, AS FAR AS YOUR EXAMINATION OF
14 HIM?

15 A OKAY. HE SEEMED TO BE RATIONAL. HE KNEW WHERE --
16 HE HAD THE GENERAL IDEA OF WHERE HE WAS. HE HAD A
17 SWOLLEN LIP AND A SLIGHT ABRASION OF HIS LIP,
18 ESPECIALLY WHEN YOU TURNED THE LIP UP. ON THE INSIDE
19 HE HAD LIKE AN INJURY TO THE INSIDE OF THE LIP.

20 Q AND I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
21 EXHIBIT NUMBER 7. DOES THAT ACTUALLY SHOW THE INJURY
22 YOU WERE JUST REFERRING TO?

23 A IT DOESN'T SHOW IT VERY WELL, BUT IT SHOWS A
24 SWOLLEN LIP. THE UPPER LIP WAS PRETTY SWOLLEN.

25 Q I'LL SHOW YOU STATE'S EXHIBIT NUMBER 4. DOES THAT

1 SHOW IT A LITTLE BIT BETTER?

2 A YES. YOU CAN SEE A LITTLE BIT OF THE BLOOD DOWN
3 ON THE LOWER LIP.

4 Q I'LL GET BACK TO THAT IN A MINUTE. DID YOU NOTICE
5 ANY OTHER AREAS AROUND HIS FACE WITH ANY TYPE OF
6 ABRASION?

7 A YES. HE HAD AN ABRASIONED AREA, RIGHT IN THE
8 MIDDLE OF THE FOREHEAD.

9 Q DID YOU NOTICE ANYTHING ABOUT HIS CHIN AREA?

10 A I DID NOT.

11 Q OKAY. ONCE YOU HAD MADE THAT ASSESSMENT, AS FAR
12 AS HIS HEAD GOES, DID YOU THEN DO AN EXAMINATION OF HIS
13 MID BODY?

14 A YES. I LOOKED AT HIS SKIN. I MADE SURE I SAW --
15 I TURNED HIM OVER SO THAT I SAW HIS SKIN FROM EVERY
16 ASPECT. HIS CHEST WAS FINE. HIS ARMS WERE FINE, BUT
17 ON HIS ABDOMEN HE HAD A LARGE TENDER BRUISE ON THE
18 RIGHT LOWER ABDOMEN, KIND OF OFF TO THE SIDE A BIT.

19 Q ON THE RIGHT LOWER ABDOMEN?

20 A YES.

21 Q AND AGAIN YOU'RE SEEING HIM SOME SIXTEEN HOURS
22 AFTER HE PRESENTED INITIALLY TO THE HOSPITAL?

23 A YES.

24 Q AND IS THAT SHOWN IN STATE'S EXHIBIT NUMBER 8 AT
25 ALL?

1 A YOU CAN SEE A LITTLE BIT OF BRUISING ON THE RIGHT
2 LOWER ABDOMEN.

3 Q AND WHEN YOU SAW HIM SEVERAL HOURS LATER, IT
4 SHOWED UP A LITTLE BIT MORE REMARKABLE?

5 A APPARENTLY THOSE --

6 MR. ROGERS: YOUR HONOR, I'D ASK THE WITNESS NOT
7 TO LEAD -- I'D ASK MS. CAMPBELL NOT TO LEAD THIS
8 WITNESS.

9 THE COURT: ALL RIGHT. REPHRASE YOUR QUESTION,
10 SOLICITOR.

11 BY MS. CAMPBELL:

12 Q HOW DID IT APPEAR?

13 A AT THE TIME I EXAMINED THE CHILD, I'M SEEING
14 BRUISES ON THE RIGHT SIDE, A RATHER LARGE BRUISE AND
15 TENDER AND SWOLLEN.

16 Q OKAY. WHEN YOU SAY A LARGE BRUISE, WHAT SIZE WAS
17 IT?

18 A IT WAS FOUR-AND-A-HALF BY THREE-AND-A-HALF INCHES
19 IN DIAMETER.

20 Q AND IT WAS IN WHAT PART OF HIS ABDOMINAL AREA?

21 A THE RIGHT LOWER -- SLIGHTLY TO THE SIDE, LATERAL.

22 Q SLIGHTLY TO THE SIDE, NEAR HIS HIP OR BELOW HIS
23 HIP?

24 A A LITTLE BELOW.

25 Q RIGHT WHERE I'VE GOT MY HAND, IN THAT GENERAL

1 AREA?

2 A YES.

3 Q AND IT WAS THREE-AND-A-HALF BY FOUR-AND-A-HALF
4 INCHES?

5 A YES.

6 Q AND YOU ALSO MENTIONED SOMETHING ABOUT IT WAS
7 TENDER?

8 A YES, IT WAS TENDER.

9 Q DID YOU NOTICE ANY OTHER INJURIES TO HIS BODY?

10 A YES. NOW HE WAS POST SURGICAL, SO I WAS VERY
11 CAREFUL ABOUT WHAT I WAS DOING WITH THIS WOUND BECAUSE
12 IT HAD BEEN CAREFULLY KEPT FREE OF GERMS IN THE
13 SURGICAL SUITE, SO I SAW THE PENIS AND THE SHAFT OF THE
14 PENIS WAS SWOLLEN, AND I SAW THE SCROTUM, WHICH WAS
15 VERY SWOLLEN, BUT I DID NOT LIFT UP THE BANDAGE TO LOOK
16 AT THE FRESHLY SUTURED SITE. INSTEAD, I CHOSE TO LOOK
17 AT AND REVIEW AT THE PHOTOGRAPHS THAT I SAW THAT HAD
18 BEEN MADE.

19 Q I SHOW YOU STATE'S EXHIBIT 15 AND 17. ARE THOSE
20 THE PHOTOGRAPHS THAT YOU REVIEWED?

21 A YES.

22 Q AND YOU REVIEWED THESE IN HELPING MAKE YOUR
23 DETERMINATION AS TO WHETHER OR NOT THERE HAD BEEN ANY
24 KIND OF PHYSICAL ABUSE IN THIS CASE?

25 A YES.

1 Q WHEN YOU REVIEWED THOSE PHOTOGRAPHS, DID YOU NOTE
2 ANYTHING THAT WAS SIGNIFICANT?

3 A YES. THE SCROTUM HAS A DEEP LACERATION AND THE
4 RIGHT TESTICLE WAS HANGING ON THE OUTSIDE. IT STILL
5 LOOKS LIKE IT'S ALIVE BECAUSE THERE IS BRIGHT RED COLOR
6 TO IT SO IT WASN'T GANGRENOUS OR ANYTHING. IT WAS
7 GETTING A GOOD BLOOD SUPPLY.

8 Q THE ACTUAL TEAR ITSELF, DID YOU NOTICE ANYTHING
9 ABOUT IT AS FAR AS LENGTH AND APPEARANCE? DO YOU WANT
10 ME TO HAND YOU THAT BACK?

11 A YES.

12 Q I'M SORRY. STATE'S EXHIBIT NUMBER 17.

13 A OKAY. THE QUESTION. CAN YOU RESTATE THE
14 QUESTION?

15 Q THE ACTUAL OPENING ITSELF, DID YOU NOTE ANYTHING
16 SIGNIFICANT ABOUT THAT?

17 A THERE IS A "V" SHAPED WOUND, BUT THE EDGES ARE
18 VERY, VERY CLEAN, AND YOU CAN'T SEE THE TOTAL LENGTH OF
19 THE LACERATION BECAUSE THE TESTICLE IS LAYING ON PART
20 OF THE WOUND, SO I CAN'T TELL HOW FAR THIS WOUND
21 EXTENDS, BUT IT'S SEVERAL CENTIMETERS LONG AT LEAST.

22 Q SEVERAL CENTIMETERS?

23 A YEAH.

24 Q AND THE SURGEON WHO ACTUALLY DID THE SURGERY WOULD
25 BE BETTER ABLE TO ADDRESS THAT?

1 A YES, YES.

2 Q DID YOU NOTE ANYTHING ELSE IN YOUR EXAMINATION AS
3 FAR AS RECENT INJURIES TO THIS CHILD?

4 MR. ROGERS: OBJECTION. THERE'S BEEN NO TESTIMONY
5 AS TO TIMEFRAME, SO WHEN SHE SAYS RECENT, THAT'S
6 MISCHARACTERIZING THE EVIDENCE.

7 THE COURT: ALL RIGHT. I'LL OVERRULE. GO AHEAD.
8 ANSWER THE QUESTION IF YOU'RE ABLE.

9 BY MS. CAMPBELL:

10 Q THE INJURIES THAT WE'VE GONE THROUGH, HOW WOULD
11 YOU CHARACTERIZE THEM AS FAR AS TIME PERIOD?

12 A THESE WERE RECENT INJURIES.

13 Q WHEN YOU SAY RECENT, WHAT TYPE OF TIME PERIOD ARE
14 YOU TALKING ABOUT?

15 A AT THE TIME THOSE PHOTOGRAPHS WERE MADE?

16 Q YES.

17 A THEY WOULD HAVE BEEN WITHIN 12 HOURS.

18 Q DID YOU MAKE ANY OTHER FINDINGS AS FAR AS THE
19 GENERAL PHYSICAL HEALTH OF THE CHILD?

20 A THE GENERAL PHYSICAL HEALTH OF THE CHILD APPEARED
21 GOOD.

22 Q DOCTOR, IN YOUR EXPERIENCE, YOU NOTE SEVERAL
23 BRUISES. DO SOME CHILDREN BRUISE MORE EASILY THAN
24 OTHERS?

25 A YES.

1 Q AND WAS THERE ANY INDICATION THAT THIS CHILD
2 BRUISED EASILY?

3 A NO.

4 Q CAN YOU EXPLAIN THAT TO THE JURY?

5 A THE CHILD HAD NORMAL CLOTTING. AT THE TIME OF
6 SURGERY THE CHILD DID NOT HAVE UNUSUAL BLEEDING, SO HE
7 TOLERATED THE SURGICAL PROCEDURE FINE IN THAT RESPECT.
8 THERE WAS NO EVIDENCE OF ANY CLOTTING PROBLEM.

9 Q WHICH WOULD BE A NORMAL CHILD?

10 A A NORMAL CHILD, YES.

11 Q THERE WAS ALSO SOME HISTORY GIVEN TO YOU ABOUT THE
12 SWOLLEN TESTICLES IN THIS CASE?

13 A IN THE HISTORY FROM THE CHART, THERE WAS SOME
14 MENTION THAT THE CHILD HAD HAD SOME SWOLLEN TESTICLE
15 PROBLEM PRIOR TO WHATEVER HAPPENED THAT NIGHT.

16 Q AND CAN YOU TELL WHETHER OR NOT THE CHILD HAD
17 SWOLLEN TESTICLES?

18 A WELL, THE NON -- THE SIDE -- THE TESTICLE THAT DID
19 NOT REQUIRE SURGERY WAS OF NORMAL SIZE, SO I SAW NO
20 EVIDENCE ON THE DAY I SAW THE CHILD OF ANY UNDERLYING
21 TESTICULAR SWELLING PROBLEM.

22 Q DOCTOR, I WANT TO GET BACK TO YOUR ULTIMATE
23 OPINION ON THINGS. STARTING WITH THE LIP OF THE CHILD
24 AS IN STATE'S EXHIBIT NUMBER 4, YOU MENTIONED THAT
25 THERE'S SOME BLOOD HERE AROUND INSIDE OF THE LIP AND

1 ACTUALLY LACERATIONS?

2 A YES.

3 Q CAN YOU TELL THIS JURY, IN YOUR EXPERT OPINION,
4 HOW THAT WOULD BE CAUSED?

5 A YES. THIS IS FROM SOME FORM OF BLUNT FORCE TRAUMA
6 TO THE FACE WHERE THE MOUTH IS CLOSED ENOUGH THAT WHEN
7 THE IMPACT IS AGAINST THE FACE, THE FACE, THE LIP WAS
8 PRESSING AGAINST THE TEETH, WHICH DON'T MOVE, SO IT
9 CAUSES THE LIP TO GET SWOLLEN AND CUT.

10 Q AND WHEN YOU SAY BLUNT FORCE TRAUMA, WHAT KIND OF
11 TRAUMA ARE WE TALKING ABOUT?

12 A A BLOW OR POSSIBLY THE CHILD IN MOTION AND THE
13 CHILD'S FACE HITTING A CORNER OR A BLUNT OBJECT.

14 Q OR COULD BE CONSISTENT WITH HITTING A FIST OR A
15 HAND?

16 A YES, A BLOW.

17 Q THE ABDOMEN AREA, THE BRUISING YOU SAW, I BELIEVE
18 IN YOUR -- AND YOU'VE GOT YOUR NOTES IN THIS CASE, DO
19 YOU HAVE AN OPINION AS TO HOW THAT COULD HAVE BEEN
20 CAUSED?

21 A YES. THAT PART OF THE BODY DOESN'T GET INJURED
22 EASILY BECAUSE THE ABDOMEN -- THERE IS A LOT OF GIVE TO
23 IT. IT'S NOT A PART OF THE BODY THAT TYPICALLY GETS
24 INJURED IN AN ACCIDENT, SO MY OPINION IS THAT'S FROM A
25 BLOW OR FROM SUSTAINED PRESSURE.

1 Q AND WHEN YOU SAY SUSTAINED PRESSURE, DO YOU MEAN
2 SUCH AS HOLDING THE CHILD DOWN?

3 A YES.

4 MR. ROGERS: OBJECTION.

5 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

6 BY MS. CAMPBELL:

7 Q GIVE ME AN EXAMPLE, IF YOU COULD.

8 A HEAVY PRESSURE FROM A HAND OR A FOOT HOLDING THE
9 BELLY DOWN IN A VERY FORCEFUL MANNER.

10 Q YOU TESTIFIED EARLIER IT WAS STILL TENDER WHEN YOU
11 EXAMINED HIM ON THE 16TH?

12 A YES, IT WAS STILL TENDER AT 7:30 AT NIGHT ON THE
13 16TH.

14 Q IS THAT SIGNIFICANT TO YOU AS FAR AS --

15 A YES, IT'S A SIGNIFICANT INJURY, YES.

16 Q IN YOUR REVIEW OF THE ACTUAL INJURY TO THE SCROTUM
17 AREA --

18 A YES.

19 Q -- DO YOU HAVE AN OPINION ON HOW THAT INJURY WAS
20 CAUSED?

21 A WELL, WE HAVE FROM THE FAMILY NO HISTORY OF TRAUMA
22 WHATSOEVER, AND WE HAVE EVIDENCE OF TRAUMA IN THREE
23 DIFFERENT PARTS OF THE BODY. MY DIAGNOSIS IS PHYSICAL
24 ABUSE.

25 Q PHYSICAL ABUSE TO THE CHILD?

1 A YES.

2 Q AND DO YOU HAVE AN OPINION AS TO HOW THE CHILD
3 COULD HAVE INCURRED -- LET ME REPHRASE THAT. DO YOU
4 HAVE AN OPINION AS TO WHETHER OR NOT THE SCROTUM
5 INJURY, WAS THAT ACCIDENTAL OR NON-ACCIDENTAL?

6 A NON-ACCIDENTAL.

7 Q CAN YOU EXPLAIN TO THE JURY WHY YOU CAME TO THAT
8 CONCLUSION?

9 A THE GENITALS, THE PENIS AND THE SCROTUM ARE VERY
10 PROTECTED PARTS OF THE BODY. GENERALLY CHILDREN WEAR
11 CLOTHING TO PROTECT IT. ADULTS DO, TOO. IT'S A PART
12 OF THE BODY THAT ANY INJURY HURTS A LOT, AND SO HUMANS
13 INSTINCTUALLY PROTECT THAT PART OF THE BODY. NOW, THIS
14 KIND OF INJURY WITH NO EXPLANATION IS DIAGNOSTIC OF
15 PHYSICAL ABUSE.

16 Q AND THE FACT OF THE APPEARANCE OF THE CUT ITSELF,
17 WAS THAT SIGNIFICANT TO YOU?

18 A YES, IT WAS.

19 Q AND EXPLAIN TO THE JURY WHAT KIND OF INSTRUMENT
20 WOULD HAVE CAUSED THAT?

21 A THE CLEAN LINEAR CUT, WHICH WHEN SPLIT APART
22 LOOKED LIKE A "V", BECAUSE THE TISSUE NATURALLY
23 RETRACTS A LITTLE BIT, BUT THE CLEAN CUT INDICATED A
24 SHARP LINEAR OBJECT HAD BEEN USED TO CAUSE THE
25 LACERATION ON THE SCROTUM.

1 Q AND THAT WOULD HAVE BEEN AN INTENTIONAL ACT OR
2 NON-INTENTIONAL?

3 MR. ROGERS: OBJECTION.

4 THE COURT: SUSTAINED. REPHRASE YOUR QUESTION,
5 SOLICITOR.

6 BY MS. CAMPBELL:

7 Q WHAT KIND OF ACT WOULD THAT HAVE BEEN?

8 A INFLICTED PHYSICAL TRAUMA WITH A SHARP LINEAR
9 OBJECT.

10 Q CAN YOU GIVE AN EXAMPLE OF WHAT A SHARP LINEAR
11 OBJECT THAT COULD HAVE MADE THIS?

12 A A SHARP KNIFE, A SHARP OBJECT, A SCALPEL LIKE A
13 SURGEON USES, A RAZOR, A BOX CUTTER, SOMETHING VERY
14 SHARP.

15 Q IN THIS CASE, COULD THE CHILD HAVE DONE THIS TO
16 HIMSELF?

17 A FROM WHAT I KNOW OF INTERACTING WITH THE CHILD AND
18 REVIEWING THE RECORD, NO.

19 Q A CUT, AND I WANT TO FOCUS ON THE SCROTUM AREA AT
20 THIS POINT. A CUT SUCH AS THIS, ONCE THE CUT WAS MADE,
21 WOULD IT -- WHAT WOULD HAPPEN? WOULD IT BLEED OR NOT
22 BLEED?

23 A THIS IS A HIGHLY -- BIG BLOOD SUPPLY TO THIS PART
24 OF THE BODY, SO THIS WOULD BLEED RIGHT AWAY.

25 Q IS THERE, IN YOUR EXPERT OPINION, ANY WAY THAT

1 THIS CUT WOULD HAVE BEEN MADE AND NOT BLEED FOR SEVERAL
2 HOURS?

3 A NO.

4 Q OR EVEN SEVERAL MINUTES?

5 A NO.

6 Q I WANT TO ASK YOU A LITTLE BIT ABOUT THE PAIN, THE
7 WOUND TO THE SCROTUM AREA -- AND WE'LL GET BACK TO THE
8 OTHER AREAS, BUT HOW WOULD YOU DESCRIBE THE PAIN TO THE
9 SCROTUM AREA?

10 A SEVERE.

11 Q YOU EXAMINED THIS INJURY TO THE SCROTUM. WOULD
12 THERE HAVE BEEN SOME SCARRING INVOLVED IN THIS?

13 A YES. ANYTIME YOU HAVE A FULL THICKNESS LACERATION
14 THROUGH THE SKIN THAT REQUIRES SURGICAL REPAIR, THERE
15 WILL BE SOME SCARRING.

16 Q AND THIS INJURY, HOW WOULD YOU CHARACTERIZE IT AS
17 FAR AS THE SEVERITY AS FAR AS WHETHER OR NOT IT'S GREAT
18 BODILY INJURY?

19 A THIS INJURY IS A GRAVE BODILY INJURY, WHICH
20 REQUIRED SURGICAL REPAIR.

21 Q COULD THE INCISION, DOCTOR, HAVE BEEN, IN YOUR
22 REVIEW OF THE -- WOULD THE TESTICLE BE ACTUALLY HANGING
23 OUTSIDE THE SCROTUM AT THAT POINT?

24 A YES.

25 Q WOULD THAT HAVE BEEN IMMEDIATE OR COULD THE CUT

1 HAVE BEEN MADE AND THE TESTICLE COME OUT LATER?

2 A THE LACERATION WAS TOTALLY ALL THE WAY THROUGH THE
3 LAYERS OF THE SCROTAL SACK, SO IT DEPENDS ON THE
4 POSITION THE CHILD WAS IN. IF THE CHILD WAS LAYING
5 DOWN AND THERE WAS THIS LACERATION, THE TESTICLE MIGHT
6 HAVE REMAINED IN THE SACK, BUT IF THE CHILD GOT IN A
7 VERTICAL POSITION, STOOD UP, THEN BY GRAVITY, THE
8 SCROTUM -- THE TESTICLE WOULD HANG OUT FROM THE SCROTUM
9 ATTACHED BY ITS LITTLE BLOOD SUPPLY CORD.

10 Q SO IF THE CHILD BECOMES VERTICAL, BEING LIFTED UP
11 OR ANYTHING OF THAT NATURE, IT'S GOING TO BE OUT?

12 A YES, IT WOULD FALL OUT, BEING HELD BY ITS LITTLE
13 PETIOLE.

14 Q DOCTOR, IN YOUR EXPERTISE, IN YOUR EXPERIENCE,
15 HAVE YOU EVER HEAR OF A SCROTUM JUST EXPLODING?

16 A I HAVE NEVER SEEN THAT IN ANY MEDICAL LITERATURE
17 OR IN MY EXPERIENCE.

18 Q AND EVEN IF THERE HAD BEEN, SAY, PRESSURE APPLIED,
19 WOULD YOU EXPECT THIS KIND OF CUT IF IT WERE JUST
20 EXPLODING?

21 A IF THE THEORY OF THE EXPLODING SCROTUM HAD ANY
22 VALIDITY, AN EXPLOSION FROM THE INSIDE WOULD BE LIKE A
23 BOMB GOING OFF ON THE INSIDE IN THE SENSE THAT THE
24 SCROTUM WOULD HAVE STELLATE OR MULTIPLE OPENINGS.

25 Q STELLATE?

1 A STAR SHAPED OR -- INSTEAD OF A CLEAN SINGLE CUT
2 LINE, THERE WOULD HAVE BEEN MULTIPLE CUT LINES AND
3 RAGGED EDGES.

4 Q ONCE YOU HAD REVIEWED ALL THE RECORDS AND MADE
5 YOUR EXAMINATION OF THE CHILD AND THE HISTORY GIVEN BY
6 THE STEPMOTHER, WAS THE INJURY POSSIBLE TO HAVE
7 OCCURRED THAT WAY?

8 A WELL, FIRST OF ALL, THE DESCRIPTION IN THE
9 RECORD --

10 MR. ROGERS: OBJECTION TO THE CHARACTERIZATION OF
11 THAT QUESTION. MS. CAMPBELL HAD JUST SAID THE
12 STEPMOTHER GAVE AN EXPLANATION OF THE INJURY. THAT'S
13 NOT WHAT --

14 MS. CAMPBELL: YOUR HONOR, MAY WE APPROACH?

15 THE COURT: SURE.

16 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
17 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE
18 JURY.)

19 THE COURT: REPHRASE THE QUESTION, SOLICITOR.

20 MS. CAMPBELL:

21 Q YOU GOT A HISTORY?

22 A YES.

23 Q ARE YOUR FINDINGS CONSISTENT OR INCONSISTENT WITH
24 WHAT SHE SAID HAPPENED?

25 A MY FINDINGS ARE INCONSISTENT WITH WHAT THE RECORDS

1 SAY THAT THE STEPMOTHER SAID HAD HAPPENED.

2 Q COULD IT HAVE HAPPENED THAT WAY?

3 A NO.

4 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

5 THE COURT: ALL RIGHT.

6 (PAUSE)

7 MS. CAMPBELL: THANK YOU, DOCTOR. PLEASE ANSWER

8 ANY QUESTIONS MR. ROGERS MAY HAVE.

9 THE COURT: ALL RIGHT, MR. ROGERS, YOU MAY
10 CROSS-EXAMINE.

11 MR. ROGERS: MAY IT PLEASE THE COURT?

12 THE COURT: ALL RIGHT.

13 CROSS-EXAMINATION

14 BY MR. ROGERS:

15 Q DR. ABLE, YOU NEVER INTERVIEWED MS. KROMAH, DID
16 YOU?

17 A THAT'S RIGHT.

18 Q AND YOU NEVER ACTUALLY SAW THE INJURY TO THE
19 SCROTUM LIVE. YOU ONLY VIEWED PHOTOGRAPHS?

20 A I SAW SOME OF THE SCROTUM, BUT I DIDN'T SEE THE
21 LACERATION SITE BECAUSE IT WAS COVERED.

22 Q BECAUSE ACTUALLY YOU DIDN'T SEE Minor UNTIL
23 AFTER THE SURGERY WAS DONE?

24 A THAT'S CORRECT.

25 Q SO YOU NEVER SAW THE ACTUAL OPEN WOUND LIVE?

1 A NOT LIVE.

2 Q RIGHT. OKAY.

3 A THE SCROTUM WOUND THAT IS.

4 Q WHEN YOU SPOKE WITH MUSA, THE FATHER, HE HAD
5 INDICATED THAT Minor PLAYED ROUGH?

6 A YES.

7 Q AND SOME OF THE INJURIES HE THOUGHT WERE AS A
8 RESULT OF HIM PLAYING ROUGH?

9 A THE --

10 Q NOT THE SCROTUM, BUT THE OTHER INJURIES, I'M
11 SORRY.

12 A HIS EXPLANATION TO THAT WAS WHEN I WAS TALKING TO
13 HIM ABOUT THIS ON HIS FOREHEAD.

14 Q RIGHT.

15 Q SO THE INJURY TO THE FOREHEAD IS CONSISTENT WITH
16 SOMEBODY JUST KIND OF BUMPING INTO A TABLE?

17 A IT'S A NONSPECIFIC INJURY.

18 Q AND THE INJURY TO THE LIP COULD BE CONSISTENT WITH
19 Minor FALLING DOWN, CORRECT?

20 A CHILDREN DO SOMETIMES INJURE THEIR FACE THAT WAY
21 BY ACCIDENT.

22 Q WOULD IT ALSO BE CONSISTENT WITH BITING OF THE
23 LIP?

24 A NO.

25 Q OKAY. NOW YOU DON'T KNOW HOW THE INJURY WAS

1 CAUSED, CORRECT?

2 A I KNOW THAT I CAN CHARACTERIZE THE INJURY AS A
3 TRAUMATIC LACERATION WITH NO EXPLANATION OF INJURY.

4 Q I UNDERSTAND THAT, DOCTOR, BUT TO ANSWER THE
5 QUESTION, YOU DON'T KNOW HOW THE INJURY WAS CAUSED?

6 A THAT'S HARD FOR ME TO ANSWER. I DON'T KNOW WHAT
7 WE'RE GETTING AT HERE. I WASN'T THERE.

8 Q THAT'S WHAT WE'RE GETTING AT. YOU WEREN'T THERE--

9 A ABSOLUTELY NOT.

10 Q SO YOU DO NOT KNOW HOW THE INJURY WAS CAUSED?

11 A I KNOW THAT HE HAD A LACERATION.

12 Q CORRECT.

13 A WITH NO EXPLANATION.

14 Q CORRECT. YOU DON'T KNOW WHAT CAUSED THE INJURY?

15 A I KNOW IT WAS FROM A SHARP LINEAR OBJECT.

16 Q OKAY.

17 A BUT I CAN'T -- I WAS NOT THERE TO SEE ANY OBJECT.

18 Q AND YOU CAN'T SAY WITH ANY SPECIFICITY THAT ANY
19 PARTICULAR OBJECT CAUSED THIS INJURY.

20 A I CAN GIVE YOU EXAMPLES OF SHARP LINEAR OBJECTS.

21 Q OF COURSE, YOU CAN. OF COURSE, YOU CAN.

22 A THAT'S ALL I CAN DO.

23 Q THAT'S ALL YOU CAN DO?

24 A THAT'S ALL CAN I DO, YES.

25 Q NOW, YOU CANNOT DISPUTE THE INFORMATION ABOUT THE

1 TESTICLES BEING SWOLLEN ON A PREVIOUS OCCASION AS
2 INCORRECT, CAN YOU?

3 A THAT IS RIGHT.

4 Q NOW, DO YOU HAVE -- DO YOU HAVE AN OPINION AS TO
5 THE TIMEFRAME? YOU SAW THESE INJURIES AT WHAT TIME,
6 SEVEN O'CLOCK?

7 A 7:30 AT NIGHT ON THE 16TH.

8 Q OKAY. DO YOU HAVE AN OPINION AS TO THE TIMEFRAME
9 AS TO WHEN THE INJURY TO THE SCROTUM WAS CAUSED?

10 A IT WOULD HAVE BEEN WITHIN A 12 HOUR TIME SPAN,
11 THAT COULD BE A ROUGH GUESS. IT COULD HAVE BEEN TEN
12 HOURS.

13 Q COULD IT BE LONGER THAN 12 HOURS, FOR THE SCROTUM?

14 A FOR THE SCROTUM ALONE, NOT TOO LIKELY BECAUSE THE
15 PHOTOGRAPHS, I LOOKED AT THE PHOTOGRAPHS, AND THERE WAS
16 NO SIGN OF EARLY HEALING.

17 Q AND YOU'RE BASING THIS OPINION ON THE PHOTOGRAPHS,
18 RIGHT?

19 A THAT IS CORRECT.

20 Q NOW, YOU NEVER ACTUALLY -- I THINK I'VE MENTIONED
21 THIS BEFORE, BUT YOU NEVER REALLY SAW THIS INJURY IN
22 PERSON?

23 A NOT IN PERSON.

24 Q AND YOU HAVE CONCLUDED THAT THE TRAUMA WAS A
25 SMOOTH CUT, CORRECT?

1 A BY REVIEW OF PHOTOS.

2 Q ALL RIGHT. ISN'T THERE SOMETHING CALLED A
3 BINOCULAR SURGICAL OPERATING MICROSCOPE THAT'S USED TO
4 MICROSCOPICALLY LOOK AT CUTS OR INJURIES TO DETERMINE
5 WHETHER IT'S A CUT OR A TEAR OR A RIP?

6 A THAT IS NOT -- HOW DO I SAY THAT? THAT IS A
7 SURGEON'S TOOL.

8 Q RIGHT. BUT YOU'RE FAMILIAR WITH THAT TOOL?

9 A I AM NOT -- NO, I'M NOT VERY FAMILIAR WITH IT. I
10 KNOW IT EXISTS, BUT IT'S NOT SOMETHING THAT PEOPLE IN
11 MY FIELD USE.

12 Q I UNDERSTAND, AND IF -- WELL, I'LL ADDRESS THAT
13 LATER, BUT YOU ARE FAMILIAR WITH THAT TOOL?

14 A YES.

15 Q NOW, I GUESS WHAT I'M TRYING TO ASK YOU, LET ME
16 SEE IF I CAN ILLUSTRATE IT THIS WAY. LET ME GET A
17 MAGIC MARKER. EXCUSE ME -- MY CRUDE ATTEMPT TO DRAW,
18 BUT IF THIS IS LET'S SAY THE SCROTUM, OKAY. I KNOW
19 IT'S ROUGH, AND WHAT YOU SAW WAS THE RESULT, WHICH WAS
20 SOMETHING LIKE THAT, CORRECT?

21 A THE PHOTOGRAPH HAD A "V" SHAPE.

22 Q A "V" SHAPE. IS IT POSSIBLE THAT IF THE CUT, IF
23 THE ORIGINAL CUT WAS ONLY SAY A CENTIMETER, WOULD THE
24 TESTICLE THEN HANG OUT?

25 A I DOUBT IT.

1 Q AND IF THIS WERE A CUT OR A TEAR, IS IT POSSIBLE
2 THAT OVER TIME IT WOULD INCREASE?

3 A NO.

4 Q IT WOULD NEVER DO THAT?

5 A THIS WAS FULL THICKNESS THROUGH THE WHOLE
6 THICKNESS OF THE SCROTUM --

7 Q I UNDERSTAND WHAT YOU SAW WHEN YOU LOOKED AT --
8 MS. CAMPBELL: OBJECTION, YOUR HONOR. I THINK SHE
9 WASN'T ABLE TO FINISH HER ANSWER.

10 MR. ROGERS: I APOLOGIZE FOR INTERRUPTING.

11 THE COURT: ALL RIGHT.

12 BY MR. ROGERS:

13 Q I'M SORRY, GO AHEAD.

14 A YOUR QUESTION IS IF THE INITIAL CUT WAS ONE
15 CENTIMETER, WOULD IT SPONTANEOUSLY, ON ITS OWN,
16 CONTINUE AND GET TWO OR THREE TIMES AS LONG WITH THE
17 EXACT SAME CHARACTERISTICS OF THE CLEAN LINEAR LINE
18 CUT?

19 Q RIGHT.

20 A AND THE ANSWER IS NO.

21 Q WHAT ABOUT IF THE TESTICLE SACK WAS NOT INTACT?
22 BY THAT I MEAN, IT WAS MOVING OR PRESSURE WAS APPLIED
23 TO IT. COULD THAT ACCOUNT FOR THE INCREASE IN THE
24 SCAR -- INCREASE IN THE CUT?

25 A NO. PRESSURE BEING APPLIED TO IT --

1 Q OKAY.

2 A JUST -- NO.

3 Q OKAY. SO THAT IF A SCROTUM HAD A ONE HALF OR A
4 CENTIMETER CUT, IT COULD NEVER UNDER ANY CIRCUMSTANCES
5 GET BIGGER?

6 A OKAY. WE ARE TALKING ABOUT A CLEAN LINEAR
7 LACERATION, FULL THICKNESS ALL THE WAY THROUGH THE
8 TISSUE. IT COULD BE MANUALLY RIPPED APART, BUT THEN IT
9 WOULD NO LONGER BE A STRAIGHT LINE. IT WOULD BE MORE
10 JAGGED AND MORE RIPPED LOOKING.

11 Q MORE JAGGED, CORRECT?

12 A AND NOT AS LIKELY TO BE IN A PERFECTLY STRAIGHT
13 LINE.

14 Q BUT IT'S POSSIBLE. WOULD YOU SAY IT'S POSSIBLE?

15 A WHAT'S POSSIBLE?

16 Q WOULD YOU SAY IT'S POSSIBLE THAT THE -- UPON
17 MANIPULATION, THE TEAR COULD INCREASE, NO MATTER WHAT
18 THE FORMATION OF THE TEAR, BUT IT'S POSSIBLE THAT THE
19 TEAR COULD INCREASE, RIGHT?

20 A CAN YOU DEFINE MANIPULATION?

21 Q THAT SOME PRESSURE WAS APPLIED TO THE AREA.

22 A NO.

23 Q OR MOVING OF THE CHILD.

24 A NO.

25 Q IT COULD NOT HAVE HAPPENED THAT WAY?

1 A NOT THAT WAY.

2 Q OKAY. BUT -- ALL RIGHT. I'LL LEAVE THAT ALONE.

3 NOW, WHEN AN INJURY OF THIS TYPE WOULD BE MADE,
4 WOULD IT BE YOUR OPINION THAT THE CHILD WOULD SCREAM
5 AND HOLLER?

6 A YES.

7 Q SUCH THAT OTHER PEOPLE COULD HEAR HIM?

8 A THAT WOULD BE THE NORMAL RESPONSE. IF THE CHILD
9 WAS UNDER A FORM OF TERROR, YOU COULD DO A LOT OF
10 THINGS AND THE KID DOESN'T MAKE A PEEP, SO I CAN'T
11 ABSOLUTELY SAY --

12 Q YOU HAVE NO INFORMATION THAT ANY TERROR WAS
13 INVOLVED, RIGHT?

14 A YOU ASKED ME A QUESTION, IF HE WOULD CRY. UNDER
15 NORMAL CIRCUMSTANCES, YES, HE WOULD CRY, BUT
16 OCCASIONALLY THERE ARE UNUSUAL CIRCUMSTANCES.

17 Q WELL, I WAS ASKING YOU IN THE CONTEXT OF THE FACTS
18 THAT YOU KNEW TO BE IN THIS CASE. YOU DON'T KNOW OF
19 ANY FACTS THAT THERE WAS ANY TERROR INVOLVED, DO YOU?

20 A I DON'T KNOW.

21 Q OKAY. NOW, WOULD A DELAY IN SURGICAL TREATMENT
22 ADD TO THE SCAR OR ADD TO THE REHABILITATION PROCESS?

23 A A DELAY IN TREATMENT INDUCES THE POSSIBILITY OF
24 INFECTION SETTING IN, A POSSIBLE PROBLEM WITH THE BLOOD
25 SUPPLY OVER A PROLONGED PERIOD OF THE TESTICLE HANGING

1 OUT OF THE SCROTUM. THAT WOULD BE BAD IF THERE WAS A
2 DELAY IN SURGICAL REPAIR.

3 Q OKAY. I BELIEVE YOU ANSWERED WHEN MS. CAMPBELL
4 ASKED YOU WHETHER THIS COULD HAVE IN ANY WAY BEEN A
5 SELF-INFLICTED WOUND, AND YOUR ANSWER WAS NO BASED ON
6 YOUR INTERACTION WITH THE CHILD.

7 A NO, BASED ON MULTIPLE FACTORS, WHAT THE INJURY
8 LOOKED LIKE IN THE PHOTOGRAPHS, AND DUE TO THE HISTORY
9 I GOT.

10 Q BUT NOT FROM ANYTHING THE CHILD TOLD YOU?

11 A THAT'S RIGHT.

12 Q OKAY. AND YOUR CONCLUSION THAT WHERE THERE WAS NO
13 EXPLANATION FOR THE CAUSE OF THE INJURY, THAT THERE
14 MUST BE AN ABUSIVE SITUATION. IS THAT THE ONLY
15 POSSIBLE CONCLUSION THAT YOU COULD REACH MERELY BECAUSE
16 YOU DON'T HAVE AN ANSWER TO WHAT HAPPENED?

17 A NO.

18 Q OKAY.

19 A MY CONCLUSION IS BASED ON YEARS OF TRAINING AND
20 YEARS OF EXPERIENCE AND YEARS OF LITERATURE REVIEW.

21 Q SO IF I TOOK MY CHILD TO THE DOCTOR, AND I DIDN'T
22 KNOW WHAT HAPPENED, YOU'RE GOING TO AUTOMATICALLY
23 ASSUME THAT I ABUSED HIM?

24 A NO.

25 MR. ROGERS: BEG THE COURT'S INDULGENCE JUST A

1 MOMENT, SIR.

2 THE COURT: ALL RIGHT, SIR.

3 (PAUSE)

4 MR. ROGERS: THANK YOU DOCTOR, NO MORE QUESTIONS.

5 THE COURT: ALL RIGHT. REDIRECT?

6 MS. CAMPBELL: NO, SIR.

7 THE COURT: DOCTOR, YOU MAY STEP DOWN.

8 THE BAILIFF: WATCH YOUR STEP, PLEASE.

9 THE WITNESS: AM I EXCUSED?

10 MS. CAMPBELL: YOUR HONOR, MAY SHE BE EXCUSED?

11 THE COURT: ANY OBJECTIONS?

12 MR. ROGERS: NO OBJECTIONS.

13 THE COURT: ALL RIGHT. YOU'RE EXCUSED. CALL YOUR
14 NEXT WITNESS.

15 MS. CAMPBELL: THE STATE WOULD CALL MUSA KROMAH.

16 MUSA KROMAH,

17 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

18 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL
19 NAME FOR THE RECORD.

20 THE WITNESS: I'M MUSA KROMAH.

21 DIRECT EXAMINATION

22 Q MR. KROMAH, HOW OLD ARE YOU?

23 A THIRTY.

24 Q WHERE DO YOU LIVE?

25 A RIGHT NOW I'M IN ATLANTA, GEORGIA.

- 1 Q AND ARE YOU EMPLOYED ANYWHERE?
- 2 A YES, I DO.
- 3 Q WHERE DO YOU WORK?
- 4 A CISCO CORPORATION.
- 5 Q CISCO CORPORATION. YOU'RE GOING TO HAVE TO SPEAK
- 6 UP A LITTLE BIT, OKAY?
- 7 A CISCO CORPORATION.
- 8 Q AND YOU'RE HERE TODAY BECAUSE I HAVE YOU UNDER
- 9 SUBPOENA?
- 10 A YES, I AM.
- 11 Q WHERE DID YOU GROW UP, SIR?
- 12 A MONROVIA, LIBERIA.
- 13 Q MONROVIA, LIBERIA?
- 14 A YES.
- 15 Q WHEN DID YOU ACTUALLY COME TO THE UNITED STATES?
- 16 A 2000.
- 17 Q WHY DID YOU COME TO THE UNITED STATES?
- 18 A SCHOOL.
- 19 Q AND WHERE DID YOU GO TO SCHOOL ONCE YOU GOT HERE?
- 20 A ORANGEBURG, SOUTH CAROLINA. IT'S CALLED SOUTHERN
- 21 METHODIST.
- 22 Q AFTER YOU FINISHED WITH SCHOOL, DID YOU GET
- 23 EMPLOYMENT HERE IN COLUMBIA?
- 24 A YES, I DID.
- 25 Q AND WHERE WERE YOU EMPLOYED?

- 1 A SOUTHEASTERN FRIGHT LINES, WEST COLUMBIA.
- 2 Q DO YOU KNOW THE DEFENDANT?
- 3 A YES, I DO.
- 4 Q AND HOW DO YOU KNOW THE DEFENDANT?
- 5 A I KNOW HER FROM LIBERIA AND FROM COLUMBIA, SOUTH
- 6 CAROLINA.
- 7 Q SO YOU KNEW HER BACK WHEN YOU WERE IN LIBERIA?
- 8 A YES, I DID.
- 9 Q AND DO YOU KNOW WHEN SHE CAME TO THE UNITED
- 10 STATES?
- 11 A PROBABLY DON'T KNOW THE EXACT MONTH, BUT I THINK I
- 12 KNOW.
- 13 Q DO YOU KNOW A YEAR?
- 14 A NOT ANY DATE.
- 15 Q 1998?
- 16 A '98 OR '99.
- 17 Q DID SHE COME OVER HERE ON A STUDENT VISA ALSO?
- 18 A NO, SHE DIDN'T.
- 19 Q DID YOU END UP MARRYING THE DEFENDANT?
- 20 A YES, I DID.
- 21 Q AND WHEN DID YOU GET MARRIED?
- 22 A MARCH 15TH, 2004, 2005.
- 23 Q MARCH 15TH OF 2005?
- 24 A I THINK SO. I DON'T RECALL THAT TIME.
- 25 Q DO YOU HAVE A SON?

- 1 A YES, I DO.
- 2 Q AND HOW OLD IS YOUR SON?
- 3 A HE'S FOUR NOW.
- 4 Q WHAT'S YOUR SON'S NAME?
- 5 A Minor
- 6 Q AND WHO IS Minor 'S MOTHER?
- 7 A KOUREE DRAPER.
- 8 Q WHAT WAS THE NAME?
- 9 A KOUREE DRAPER. K-O-R-U-E-E.
- 10 Q AND WHERE DOES MS. DRAPER LIVE?
- 11 A SHE IS PRESENTLY IN JAPAN, I THINK.
- 12 Q WHEN WAS YOUR SON BORN?
- 13 A
- 14 Q WHAT?
- 15 A
- 16 Q YOU THINK IT WAS THE ?
- 17 A YES.
- 18 Q OF 2002?
- 19 A YEAH.
- 20 Q WHERE WAS HE BORN? WAS HE BORN HERE IN THE UNITED
- 21 STATES?
- 22 A YES, PHILADELPHIA.
- 23 Q PHILADELPHIA?
- 24 A YES.
- 25 Q SO HE IS AN AMERICAN CITIZEN?

1 A YEAH.

2 Q WHERE DID HE LIVE FOR THE FIRST THREE YEARS OF HIS
3 LIFE?

4 A HE -- WHEN SHE HAD HIM, SHE TOOK HIM TO
5 PHILADELPHIA FOR THREE MONTHS AND LET HIM MOVE TO
6 MINNESOTA, TO ST. PAUL, MINNESOTA.

7 Q MINNESOTA?

8 A YES.

9 Q AND THAT'S WHERE HE LIVED FOR MOST OF HIS FIRST
10 THREE YEARS?

11 A YES, HE DID.

12 Q AT SOME POINT, DID CHILD PROTECTIVE SERVICES TAKE
13 THE CHILD FROM HER?

14 A YES, THEY DID.

15 Q AND WHEN DID YOU ACTUALLY GET CUSTODY OF THREE
16 YEAR OLD Minor ?

17 A JUNE 2005.

18 Q JUNE 2005, SO THAT I CAN GET THE TIMELINE RIGHT,
19 YOU WERE MARRIED WHEN?

20 A MARCH.

21 Q AND THEN YOU GOT Minor , THE THREE YEAR OLD IN
22 JUNE; IS THAT CORRECT?

23 A YEAH.

24 Q SO HOW LONG HAD YOU BEEN MARRIED?

25 A THREE MONTHS.

1 Q ONCE YOU GOT CUSTODY OF Minor -- AND BY THE
2 WAY, DOES Minor SPEAK ENGLISH?
3 A HE DOES.
4 Q DOES Minor HAVE A SLIGHT SPEECH PROBLEM,
5 THOUGH?
6 A YES, HE DOES.
7 Q AND HE IS SPEECH DELAYED?
8 A YES.
9 Q ONCE YOU GOT CUSTODY OF Minor , WHERE WERE YOU
10 LIVING AND WITH WHOM?
11 A WHEN I GOT CUSTODY OF Minor --
12 THE COURT: CAN YOU SPEAK UP, PLEASE?
13 BY MS. CAMPBELL:
14 Q GO AHEAD.
15 A WHEN I GOT CUSTODY OF Minor , I WAS AT PAVILION
16 TOWERS DOWN IN COLUMBIA, AND THEN I MOVED IN AT THE
17 ST. ANDREWS COMMONS OVER ON ST. ANDREWS ROAD.
18 Q SO YOU MOVED OVER TO ST. ANDREWS COMMON?
19 A YES, MA'AM, AND I WAS WITH MY WIFE RIGHT NOW,
20 MIAMA KROMAH.
21 Q AND WHO ELSE WAS LIVING THERE?
22 A A COUSIN OF MINE CALLED DICK DANN.
23 Q AND WHERE DID DICK DANN WORK?
24 A HE WORKED FOR CISCO, IN COLUMBIA, SOUTH CAROLINA.
25 Q DID YOU, IN FACT, WORK THE SAME SHIFT?

1 A AT THE TIME, YES, WE DID.

2 Q OKAY. SO IN JUNE OF 2005 YOU WERE LIVING IN
3 ST. ANDREWS?

4 A YES, I WAS.

5 Q AND AT THAT POINT IN JUNE, WHAT SHIFT WERE YOU
6 WORKING?

7 A I WAS ON SECOND/THIRD SHIFT.

8 Q WHAT WERE YOUR HOURS?

9 A 6:30 TO WHENEVER WE FINISHED.

10 Q AND SO THAT WOULD BE 6:30 IN THE MORNING OR AT
11 NIGHT?

12 A 6:30 P.M.

13 Q AND THEN YOU WOULD WORK INTO THE EARLY MORNING
14 HOURS, WHENEVER YOU FINISHED?

15 A WHENEVER WE FINISHED.

16 Q WHILE YOU WERE WORKING, WHO WOULD TAKE CARE OF
17 Minor THAT SUMMER?

18 A WHEN I'M AT WORK, HE WAS -- MY WIFE WOULD TAKE
19 CARE OF HIM.

20 Q DID HE EVER STAY AT YOUR WIFE'S SISTER'S HOUSE?

21 A YES, HE DID.

22 Q AND THAT SUMMER, DID Minor HAVE ANY HEALTH
23 PROBLEMS?

24 A NOT THAT I --

25 Q UP UNTIL AUGUST 15TH?

1 A NOT THAT I KNOW OF.

2 Q HOW WOULD YOU DESCRIBE HIS HEALTH?

3 A HEALTHY EXCEPT FOR THE SWELLING DOWN, DOWN THERE,

4 YOU KNOW, THAT THEY ALREADY TOLD ME ABOUT.

5 Q THEY TOLD YOU ABOUT SWELLING DOWN THERE?

6 A YES.

7 Q YOU NEVER SAW IT?

8 A WELL, HE CAME TO MY HOUSE. HE HAD IT ONE TIME.

9 IT WAS NOT -- IT WAS NOT SOMETHING THAT WAS EVER REALLY

10 ABNORMAL.

11 Q THIS IS THE FIRST TIME YOU HAVE EVER MENTIONED THE

12 SWELLING ; IS THAT CORRECT?

13 A TO WHO, YOU?

14 Q YEAH.

15 A YES.

16 Q BEFORE WHENEVER I ASKED YOU IF HE WAS FINE THAT

17 SUMMER, YOU TOLD ME HE WAS HEALTHY; IS THAT CORRECT?

18 THAT'S WHAT YOU TOLD ME.

19 A ACTIVELY HE'S HEALTHY, BUT IT WAS NOT SOMETHING

20 THAT HAPPENED TO HIM.

21 Q OKAY. SO WHEN YOU FOUND THAT OUT -- WHEN YOU

22 FOUND OUT ABOUT THE SWELLING, DID YOU TAKE HIM TO THE

23 DOCTOR?

24 A WELL, THE PERSON THAT TOLD ME WAS MY COUSIN IN

25 MINNESOTA. SHE SAID SHE ALREADY TOOK HIM TO THE DOCTOR

1 THERE, AND HE SAID IT WAS NOT THAT BIG OF A PROBLEM.

2 THAT'S WHAT SHE TOLD ME.

3 Q OKAY. DID YOU REVIEW HIS MEDICAL RECORDS?

4 THERE'S NO MENTION OF HIS HAVING SWOLLEN TESTICLES.

5 A I ASKED FOR HIS MEDICAL RECORD FROM MINNESOTA AND

6 I HAVEN'T GOT IT SENT TO ME.

7 Q WOULD YOU DISAGREE WITH ME THAT THERE'S NO MENTION

8 OF SWOLLEN TESTICLES IN THE RECORD?

9 A WHAT?

10 MR. ROGERS: OBJECTION, YOUR HONOR, IF HE SAID HE

11 HADN'T SEEN THEM --

12 THE COURT: SUSTAINED.

13 BY MS. CAMPBELL:

14 Q ONCE YOU FOUND -- SO YOU DIDN'T TAKE HIM TO THE

15 DOCTOR THAT SUMMER, DID YOU?

16 A I TOOK HIM, BUT THEY SAID I HAD TO HAVE HIS
17 MEDICAL RECORD FROM MINNESOTA BEFORE I DID ANYTHING.

18 Q WHAT --

19 A THEY SAID I HAD TO HAVE HIS MEDICAL RECORD FROM
20 MINNESOTA BEFORE THEY COULD DO SOMETHING TO HIM.

21 Q BEFORE A DOCTOR WOULD SEE HIM?

22 A FOR HIS SITUATION, BECAUSE I TOLD -- I SAID -- I
23 SAID IT WAS SWOLLEN DOWN THERE, AND THEY SAID THEY HAD
24 TO HAVE HIS MEDICAL RECORD.

25 Q WHO'S THEY?

1 A EVEN THE HOSPITAL IN GEORGIA BEFORE HE GOT SENT
2 HERE, THEY TOLD ME THEY NEEDED A RECORD. THE SCHOOL
3 SAID THEY NEEDED THE MEDICAL RECORD OR SOMETHING LIKE
4 THAT.

5 Q I'M NOT TALKING ABOUT LATER WHEN YOU MOVED TO
6 GEORGIA.

7 A OKAY.

8 Q OKAY. CAN WE TALK ABOUT THE SUMMER? YOU NEVER
9 TOOK HIM TO A DOCTOR?

10 A I DID.

11 Q WHAT DOCTOR DID YOU TAKE HIM TO?

12 A HE WENT TO SOME HOSPITAL IN MINNESOTA, MOUNT --
13 SOMETHING HOSPITAL. I CAN'T REMEMBER RIGHT NOW. I CAN
14 GET IT FOR YOU IF I WANT, IF YOU WANT.

15 Q THAT WOULD BE GOOD. WHEN DID YOU TAKE HIM TO A
16 HOSPITAL IN MINNESOTA THAT YOU NEVER TOLD ME ABOUT
17 BEFORE?

18 A I'VE NOT TOLD YOU ABOUT HIM BEFORE, THOUGH.

19 Q WHEN DID YOU TAKE HIM TO THE HOSPITAL IN
20 MINNESOTA?

21 A I GOT HIM IN JUNE.

22 Q OKAY.

23 A I CAME TO SOUTH CAROLINA. WE WENT BACK IN JULY,
24 ON JULY 26TH.

25 Q JULY 26TH?

1 A YEAH.

2 Q OKAY.

3 A AND I WAS AT MY COUSIN'S HOUSE, MY COUSIN THAT HE
4 USED TO LIVE WITH, AND WE TOOK HIM TO THE HOSPITAL. I
5 HAD TO GET HIS MEDICAL RECORD, ALSO OR THEY STILL
6 WOULDN'T GIVE IT TO ME BECAUSE I DIDN'T HAVE THE LETTER
7 TO STATE THAT I HAVE FULL CUSTODY OF HIM.

8 Q OKAY.

9 A I NEEDED IT.

10 Q LET MOVE ON TO AUGUST 15TH, OKAY?

11 A OKAY.

12 Q THAT MORNING, WHAT DID YOU DO WITH Minor , ON
13 AUGUST 15TH?

14 A OH, OKAY. I GOT HIM DRESSED. BATHED HIM, GOT HIM
15 DRESSED, TOOK HIM TO SCHOOL.

16 Q WHEN YOU GOT HIM DRESSED THAT MORNING, DID HE
17 APPEAR HEALTHY?

18 A YEAH, HE DID APPEAR.

19 Q WHEN YOU TOOK HIM TO SCHOOL, WHAT SCHOOL DID YOU
20 TAKE HIM TO?

21 A ST. STEVEN'S PRESCHOOL, NORTH MAIN.

22 Q AND WHILE HE WAS AT THE PRESCHOOL, DID THEY CALL
23 YOU WITH ANY PROBLEMS HE HAD THAT DAY?

24 A NO, THEY DIDN'T.

25 Q DURING THE COURSE OF THAT DAY, DID YOU SEE

- 1 Minor ANYMORE?
- 2 A AFTER I TOOK HIM TO SCHOOL, NO.
- 3 Q DO YOU KNOW HOW HE GOT HOME FROM SCHOOL THAT
- 4 AFTERNOON?
- 5 A YES, I DO.
- 6 Q AND HOW DID HE GET HOME FROM SCHOOL?
- 7 A MY WIFE'S SISTER PICKED HIM UP, TAKES HIM ALONG
- 8 WITH HER SON FROM SCHOOL, TAKES HIM TO HER HOUSE.
- 9 ELEVEN O'CLOCK MY WIFE GETS OFF WORK AND PICKS HIM UP
- 10 FROM HIS SISTER'S HOUSE AND TAKES HIM HOME.
- 11 Q OKAY. WHERE WAS YOUR WIFE WORKING AT THAT TIME?
- 12 A BRIAN CENTER.
- 13 Q AND WHAT KIND OF WORK DID SHE DO AT THAT TIME?
- 14 A NURSING AID.
- 15 Q A NURSING AID?
- 16 A (NODS IN THE AFFIRMATIVE).
- 17 Q SO SHE'S IN THE MEDICAL FIELD?
- 18 A YES, SHE IS.
- 19 Q AND DID YOU KNOW WHAT WENT ON THAT EVENING OR WERE
- 20 YOU JUST TOLD LATER?
- 21 A I WAS TOLD.
- 22 Q WHEN IS THE FIRST TIME YOU BECAME AWARE THAT YOUR
- 23 CHILD WAS AT THE EMERGENCY ROOM OR THAT THERE WAS
- 24 ANYTHING WRONG?
- 25 A ABOUT 3:00 A.M., 3:30 OR 4:00 A.M. THAT MORNING.

1 Q 3:30?

2 A 3:30, 4:00 A.M.

3 Q 3:30, 4:00 A.M.?

4 A I WAS AT WORK, YES.

5 Q SO IT WAS SOME TIME AROUND THE TIME YOU WERE
6 GETTING OFF WORK?

7 A THAT'S WHEN I GOT THE MESSAGE ON MY PHONE THAT HAD
8 BEEN LEFT THERE BEFORE.

9 Q OKAY. ONCE -- AND IT HAD BEEN LEFT THERE ABOUT
10 4:00?

11 A TWELVE SOMETHING BECAUSE WE DON'T -- AT WORK, OUR
12 PHONE -- SHE CALLED AND LEFT A MESSAGE. SHE LEFT A
13 MESSAGE AND JUST ON AND ON AND ON AND ON.

14 Q OKAY.

15 A SHE JUST LEFT A MESSAGE.

16 Q SO ONCE YOU GOT THE MESSAGE WHERE DID YOU GO?

17 A WHEN I GOT THE MESSAGE, I CALLED HER AND SHE TOLD
18 ME TO COME TO RICHLAND HOSPITAL, SO I WENT STRAIGHT
19 DOWN THERE.

20 Q SO THE MESSAGE YOU GOT WAS TO GO TO RICHLAND
21 MEMORIAL HOSPITAL?

22 A I CALLED HER. I CALLED HER WHEN I GOT THE
23 MESSAGE.

24 Q I GOT IT. OKAY. I GOT IT, AND THAT'S WHEN SHE
25 TOLD YOU SHE WAS AT RICHLAND?

- 1 A RICHLAND.
- 2 Q DID YOU GO TO THE HOSPITAL?
- 3 A YES, I DID.
- 4 Q DID YOU MEET WITH THE POLICE THAT NIGHT?
- 5 A NO.
- 6 Q DID YOU MEET WITH THE POLICE THE NEXT MORNING?
- 7 A YES, I DID.
- 8 Q DID YOU TELL THEM WHAT YOU KNEW ABOUT WHAT HAD
- 9 HAPPENED?
- 10 A I DIDN'T KNOW.
- 11 Q YOU DIDN'T KNOW ANYTHING?
- 12 A EXCEPT FOR WHAT I WAS TOLD.
- 13 Q AND WERE YOU AWARE THAT YOUR SON HAD SURGERY THAT
- 14 DAY?
- 15 A YEAH, I WAS THERE WHEN THE SURGERY TOOK PLACE.
- 16 Q AND THE NEXT NIGHT YOU WENT BACK TO WORK?
- 17 A I DIDN'T WORK THAT WHOLE WEEK. THAT WHOLE WEEK I
- 18 DIDN'T WORK.
- 19 Q YOU DIDN'T?
- 20 A I DIDN'T WORK THAT WEEK I THINK, IF I REMEMBER
- 21 THAT RIGHT.
- 22 Q I'M SHOWING YOU STATE'S EXHIBIT 30. IT SHOWS
- 23 WHERE YOU WENT IN TO WORK ON THE 16TH AND THE 17TH.
- 24 A AND WHAT TIME --
- 25 Q YOU WORKED, I BELIEVE, NINE HOURS ONE NIGHT AND

1 THREE HOURS THE NEXT?

2 A THREE HOURS, YES.

3 Q YOUR SON WAS STILL IN THE HOSPITAL?

4 A WHAT?

5 Q YOUR SON WAS STILL IN THE HOSPITAL?

6 A YEAH, HE WAS IN THE HOSPITAL.

7 Q DID D.S.S. BECOME INVOLVED, CHILD PROTECTIVE
8 SERVICES?

9 A THE NEXT MORNING, YEAH, THE SAME MORNING WHEN HE
10 WAS THERE.

11 Q AND THE POLICE?

12 A THE POLICE CAME THE NEXT MORNING, YEAH.

13 Q WAS YOUR CHILD TAKEN INTO PROTECTIVE CUSTODY?

14 A YES, HE WAS.

15 Q AND IN WHOSE CUSTODY WAS HE FOR THE NEXT FIVE, SIX
16 MONTHS? WHO HAD CUSTODY OF HIM?

17 A SOMEBODY. I FORGOT HER NAME.

18 Q DID YOU HAVE VISITATION WITH HIM WHILE HE WAS IN
19 D.S.S. CUSTODY?

20 A YES, I DID.

21 Q WAS MIAMA ALLOWED AROUND HIM?

22 A NO, SHE WASN'T.

23 Q THE DAY AFTER THIS OCCURRED, DID YOU MEET UP WITH
24 INVESTIGATOR STRANGE AND LET HIM INTO YOUR HOUSE?

25 A YEAH, I MET HIM.

1 Q AND WHEN HE WENT INTO YOUR HOUSE, WAS IT -- DID IT
2 APPEAR AS IT HAD THE DAY BEFORE? HAD YOU CLEANED UP
3 ANYTHING OR ANYTHING?

4 A NO.

5 Q DID YOU NOTICE THE BLOOD IN THE BEDROOM AREA?

6 A YES, I NOTICED IT.

7 Q WHOSE BEDROOM WAS THAT?

8 A MINE.

9 Q AND WHO ELSE SLEPT IN THAT BEDROOM?

10 A MY WIFE.

11 Q AND WHERE DID Minor SLEEP WHEN HE STAYED WITH
12 YOU?

13 A HE SLEPT THERE SOME TIME. HE SLEPT WITH HIS
14 GRANDMA ALSO.

15 Q WHEN HE SLEPT AT YOUR HOUSE, WHERE DID HE SLEEP?

16 A IN MY ROOM.

17 Q IN YOUR ROOM?

18 A YEAH.

19 Q AND HOW MANY BEDROOMS WERE IN YOUR APARTMENT?

20 A TWO BEDROOMS.

21 Q SO DID MR. DICK DANN HAVE THE OTHER BEDROOM?

22 A YES, HE DID.

23 Q EVENTUALLY DID YOU GET CUSTODY BACK OF Minor ?

24 A YES, I DID.

25 Q WHEN DID THAT HAPPEN, SIR?

1 A I DON'T KNOW. SOMETIME THIS YEAR, I THINK. I
2 DON'T KNOW.

3 Q SOME TIME THIS YEAR?

4 A FEBRUARY, FEBRUARY.

5 Q FEBRUARY?

6 A OR JANUARY -- I DON'T KNOW.

7 Q WERE THERE CERTAIN CONDITIONS TO YOUR GETTING
8 CUSTODY BACK?

9 A LIKE?

10 Q LIKE WITH REGARD TO YOUR WIFE?

11 A SHE WOULD NOT HAVE CONTACT WITH HIM.

12 Q SHE WHAT?

13 A SHE WOULD HAVE NO CONTACT WITH HIM.

14 Q NO CONTACT WITH YOUR WIFE?

15 A SURE.

16 Q AND THAT ORDER IS STILL IN PLACE.

17 A YEAH.

18 Q ONCE YOU GOT CUSTODY OF Minor , DID YOU MOVE
19 SHORTLY THEREAFTER?

20 A YES.

21 Q WHERE DID YOU GO?

22 A ATLANTA, GEORGIA.

23 Q AND ONCE YOU GOT TO ATLANTA, DID YOU THEN SEND

24 Minor SOMEWHERE?

25 A YES, I DID.

1 Q WHERE DID YOU SEND Minor ?

2 A I SENT HIM TO MY MOM'S IN LIBERIA.

3 Q TO YOUR MOTHER IN LIBERIA?

4 A YEAH.

5 Q AND Minor IS AN AMERICAN CITIZEN?

6 A YES.

7 Q AND YOU CHOSE TO STAY HERE AND SEND YOUR CHILD TO
8 LIBERIA?

9 A SURE.

10 Q WHEN DID YOU SEND HIM? DO YOU REMEMBER?

11 A SOMETIME IN MAY, MAY 20 OR SOMETHING.

12 Q MAY?

13 A IF I'M RIGHT. I KNEW IT WAS AFTER MY BIRTHDAY ANY
14 WAY.

15 Q AFTER YOUR BIRTHDAY?

16 A YEAH, MY BIRTHDAY IS IN MAY.

17 Q DID YOU TELL ANYONE WITH PROTECTIVE SERVICES, LAW
18 ENFORCEMENT OR ANYONE ELSE THAT YOU WERE SENDING THE
19 CHILD TO LIBERIA?

20 A NO. I HAD FULL CUSTODY, SO I FELT I COULD.

21 Q WHEN I TALKED TO YOU, DID YOU EVER TELL ME YOU
22 SENT THE CHILD TO LIBERIA?

23 A YES, I DID.

24 Q WHEN WAS THAT?

25 A WHEN I CAME TO YOUR OFFICE.

1 Q IN THE LAST TWO WEEKS?

2 A YES.

3 Q YOU ARE AWARE THIS TRIAL WAS COMING UP? WHEN WE
4 MET IN THE LAST TWO WEEKS, YOU WERE AWARE THIS TRIAL
5 WAS COMING UP?

6 A WHEN YOU CALLED ME, YES AND TOLD ME, YES.

7 Q AND I ASKED YOU ABOUT WHERE THE CHILD WAS?

8 A YES.

9 Q AND YOU TOLD ME THAT HE WASN'T GOING TO BE
10 INVOLVED IN THIS, RIGHT?

11 A I TOLD YOU --

12 Q THAT YOU WOULD NOT ALLOW ME TO TALK TO HIM?

13 A I TOLD YOU I DID NOT WANT HIM TO BE A PART OF
14 THIS.

15 Q AND WHEN I OFFERED TO GET HIM BACK FROM LIBERIA,
16 YOU TOLD ME NO?

17 A SAY WHAT?

18 Q WHEN I OFFERED TO HAVE HIM FLOWN BACK FROM
19 LIBERIA, YOU REFUSED AS HIS GUARDIAN?

20 A I DID NOT WANT HIM BEING INVOLVED IN THIS WHOLE
21 CASE.

22 Q ARE YOU STILL MARRIED, SIR?

23 A YES, I AM.

24 Q WHOSE IDEA WAS IT TO SEND THE CHILD TO LIBERIA
25 RIGHT BEFORE THIS TRIAL?

1 A IT WAS A FAMILY DECISION.

2 MR. ROGERS: OBJECTION. IT WASN'T RIGHT BEFORE
3 THIS TRIAL.

4 MS. CAMPBELL: I'LL REPHRASE, YOUR HONOR.

5 THE COURT: REPHRASE YOUR QUESTION.

6 BY MS. CAMPBELL:

7 Q WHOSE IDEA WAS IT TO SEND THE CHILD BACK TO
8 LIBERIA?

9 A IT WAS A FAMILY THING. MY MOM FELL, SINCE MY WIFE
10 WOULD NOT LIVE AT THE HOUSE WITH Minor BEING THERE
11 AND I WOULD SPEND \$300, ALMOST \$200 PLUS A WEEK FOR A
12 BABYSITTER FOR HIM BECAUSE I WORK AT NIGHT, SO WHEN
13 EVER HE IS BABYSIT, HE HAS TO SLEEP THERE AND IT COSTS
14 ALMOST \$200 -- I'M PAYING THE EXACT AMOUNT OF \$220 A
15 WEEK FOR HIM TO BE THERE, SO IT COST ME TOO MUCH. WE
16 SENT HIM THERE FOR SCHOOL. WHEN HE IS ELEMENTARY AGE,
17 OR ELEMENTARY SCHOOL, WE SEND HIM BACK.

18 Q BECAUSE YOU'RE STILL WITH YOUR WIFE, NOT YOUR
19 CHILD?

20 A YEAH, THAT'S HOW WE DO IT. SEND HIM BACK FOR
21 ELEMENTARY SCHOOL AND SEND HIM BACK TO THE U.S. FOR
22 HIGH SCHOOL.

23 MS. CAMPBELL: THANK YOU.

24 THE COURT: LET'S TAKE A BREAK BEFORE YOU
25 CROSS-EXAMINE. WE WILL TAKE ABOUT A TEN MINUTE BREAK.

1 MR. FOREMAN, LADIES AND GENTLEMEN, DON'T DISCUSS THE
2 CASE. I'LL HAVE YOU BACK IN ABOUT TEN MINUTES.
3 EVERYONE ELSE STAY SEATED, PLEASE.

4 (WHEREUPON, THE JURY LEFT OPEN COURT AT
5 APPROXIMATELY 10:53 A.M.)

6 THE COURT: WE'LL TAKE ABOUT TEN MINUTES.
7 MR. KROMAH, YOU MAY STEP DOWN FROM THE WITNESS STAND,
8 BUT YOU CANNOT DISCUSS YOUR TESTIMONY DURING THE BREAK.
9 ALL RIGHT.

10 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

11 THE COURT: ALL RIGHT. MR. KROMAH, YOU CAN COME
12 BACK ON THE WITNESS STAND.

13 IS THE STATE READY TO PROCEED?

14 MS. CAMPBELL: THE STATE IS READY.

15 THE COURT: IS THE DEFENSE READY?

16 MR. ROGERS: THE DEFENSE IS READY.

17 THE COURT: ALL RIGHT. LET'S GET THE JURY BACK.

18 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
19 APPROXIMATELY 11:10 A.M.)

20 THE BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

21 THE COURT: ALL RIGHT. THANK YOU.

22 CROSS-EXAMINATION, MR. ROGERS.

23 MR. ROGERS: THANK YOU, YOUR HONOR. MAY IT PLEASE
24 THE COURT.

25 THE COURT: ALL RIGHT.

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- 1 A NO.
- 2 Q DID I EVEN KNOW ABOUT IT?
- 3 A NO.
- 4 Q DID YOU DO IT IN AN EFFORT TO HELP YOUR WIFE IN
5 THIS CASE?
- 6 A NO.
- 7 Q WHO IS HE STAYING WITH IN LIBERIA?
- 8 A MY MOM.
- 9 Q YOUR MOTHER?
- 10 A YES, SIR.
- 11 Q DURING -- DO YOU LOVE Minor ?
- 12 A YES, I DO.
- 13 Q HOW HAS ALL OF THIS BEEN ON YOU?
- 14 A REAL HARD.
- 15 Q ARE YOU CONCERNED ABOUT HIS WELFARE?
- 16 A SURE.
- 17 Q DURING THE ENTIRE TIME THAT -- ONCE YOU GOT
18 CUSTODY OF Minor AND YOU AND Minor AND MIAMA WERE
19 LIVING TOGETHER, DID YOU EVER SEE MIAMA DO ANYTHING
20 THAT IN ANY WAY ENDANGERED Minor ?
- 21 A NO.
- 22 Q WAS SHE LOVING TOWARD HIM?
- 23 A YES, SIR.
- 24 Q DID SHE RESENT IN ANY WAY THAT YOU HAD GOTTEN THE
25 CHILD FROM YOUR FIRST MARRIAGE THAT SHE WAS NOW GOING

- 1 TO HAVE TO RAISE HIM?
- 2 A NO, SIR.
- 3 Q DID SHE TREAT Minor LIKE Minor WAS HER OWN
- 4 CHILD?
- 5 A YES, SIR.
- 6 Q NOW, DID THERE COME A TIME AFTER YOU GOT CUSTODY
- 7 THIS TIME THAT Minor GOT SICK AND YOU HAD TO GO TO
- 8 AUGUSTA TO TAKE HIM TO THE HOSPITAL?
- 9 A YES, SIR.
- 10 Q WHAT WAS THAT?
- 11 A HE HAD A STOMACH VIRUS.
- 12 Q A STOMACH VIRUS?
- 13 A YES.
- 14 Q HOW DID Minor REACT OR BEHAVE WHEN YOU HAD TO
- 15 TAKE HIM TO THE HOSPITAL?
- 16 A Minor , HE WAS REAL AFRAID TO GO TO THE HOSPITAL
- 17 WITH ME. I TOLD HIM I WANTED TO TAKE HIM TO THE
- 18 HOSPITAL. EVERY TIME I DID, HE SAID HE'S OKAY, BUT
- 19 BECAUSE OF HIM THROWING UP CONSTANTLY, I STILL TOOK
- 20 HIM.
- 21 Q SO YOU EVENTUALLY DID TAKE HIM?
- 22 A YES.
- 23 Q OKAY. WERE YOU PRESENT AT THE HOSPITAL WHEN THESE
- 24 PHOTOGRAPHS OF Minor WERE TAKEN?
- 25 A YES, SIR.

- 1 Q DID THEY -- I DON'T KNOW HOW TO PHRASE IT. DID
2 THEY KIND OF POSE Minor IN THE POSITIONS THAT
3 RESULTED IN THOSE PHOTOGRAPHS OR DID THEY TAKE JUST
4 KIND OF CANDID SNAP SPOTS?
- 5 A THEY POSED HIM.
- 6 Q SO THEY POSED HIM AND LAID HIM OUT AND PUT HIM IN
7 THE POSITIONS?
- 8 Q AND YOU SAW THIS?
- 9 A YES, I WAS THERE.
- 10 Q OKAY. NOW, ONE LAST AREA, THIS BUSINESS ABOUT HIS
11 SWELLING SCROTUM PROBLEM, YOU WERE AWARE OF THAT BEFORE
12 AUGUST?
- 13 A YES, I WAS.
- 14 Q AND WAS MIAMA AWARE OF THAT, TOO?
- 15 A SHE KNEW ABOUT IT.
- 16 Q I'M SORRY?
- 17 A YES, SHE DID.
- 18 Q HAD YOU EVER SEEN HIS SWOLLEN SCROTUM WHEN HE WAS
19 IN YOUR CUSTODY BEFORE THIS EVENT HAPPENED?
- 20 A I DIDN'T SEE IT.
- 21 Q WHO NORMALLY BATHES AND CHANGES Minor ?
- 22 A MIAMI DOES.
- 23 Q DO YOU KNOW IF SHE HAD EVER SEEN IT BEFORE?
- 24 A I THINK SHE DID.
- 25 Q OKAY. DID SHE TALK TO YOU ABOUT IT?

1 A SHE DID.

2 Q DID YOU ALL ATTEMPT TO SEEK MEDICAL TREATMENT?

3 A YES, WE DID.

4 Q AND YOU COULDN'T, YOU SAY, BECAUSE YOU DIDN'T HAVE
5 HIS MEDICAL RECORDS?

6 A SURE.

7 MR. ROGERS: BEG THE COURT'S INDULGENCE.

8 (PAUSE)

9 MR. ROGERS: NOTHING FURTHER.

10 THE COURT: REDIRECT.

11 MS. CAMPBELL: JUST ONE QUESTION.

12 REDIRECT EXAMINATION

13 BY MS. CAMPBELL:

14 Q WHEN YOU GOT CUSTODY BACK OF Minor , THERE WAS
15 AN ORDER IN PLACE SAYING THAT SHE COULDN'T COME NEAR
16 HIM?

17 A SURE.

18 Q AND THAT'S DIFFERENT THAN THE OTHER ORDER HE'S
19 TALKING ABOUT. THAT WAS A CONDITION OF YOUR GETTING
20 CUSTODY FROM D.S.S.?

21 A I HAD A COURT ORDER THAT SHE COULDN'T COME AROUND
22 HIM THAT I KNOW OF.

23 Q FROM D.S.S.?

24 A FROM THE BOND COURT THAT NIGHT.

25 Q WERE YOU ALSO AWARE OF A CONDITION OF YOU

1 RECEIVING CUSTODY FROM CHILD SERVICES IS THAT SHE
2 CANNOT GO AROUND THAT CHILD?

3 A I WAS TOLD THAT.

4 MS. CAMPBELL: THANK YOU.

5 THE COURT: ALL RIGHT, SIR. YOU MAY STEP DOWN.

6 ALL RIGHT, SOLICITOR, CALL YOUR NEXT WITNESS.

7 MS. CAMPBELL: THE STATE CALLS DR. JEFFERY EHRETH.

8 JEFFREY EHRETH,

9 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

10 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL
11 NAME FOR THE RECORD.

12 THE WITNESS: JEFFERY THOMAS EHRETH.

13 DIRECT EXAMINATION

14 BY MS. CAMPBELL:

15 Q DR. EHRETH, WHERE ARE YOU EMPLOYED?

16 A I'M AT PALMETTO RICHLAND.

17 Q AND WHAT DO YOU DO THERE, SIR?

18 A I'M A PEDIATRIC UROLOGIST.

19 Q YOU MAY HAVE TO SPEAK UP. FOR SOME REASON THE
20 ACOUSTICS ARE AWFUL. CAN YOU TELL THE JURY ABOUT YOUR
21 MEDICAL TRAINING AS A PEDIATRIC UROLOGIST?

22 A I WENT TO COLLEGE AND MEDICAL SCHOOL AT THE
23 UNIVERSITY OF VIRGINIA. I DID MY RESIDENCY IN GENERAL
24 UROLOGY AT THE UNIVERSITY OF ARIZONA. I WAS THERE FOR
25 SIX YEARS. THAT'S HOW LONG THE PROGRAM IS. I DID A

1 FELLOWSHIP AT DUKE IN PEDIATRIC UROLOGY.

2 Q AND -- YOUR HONOR --

3 A AND I'VE BEEN PRACTICING FOR TEN YEARS.

4 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD
5 OFFER HIM AS AN EXPERT IN PEDIATRIC UROLOGY.

6 THE COURT: ANY OBJECTIONS OR CROSS EXAMINATION?

7 MR. ROGERS: HAVE YOU EVER BEEN QUALIFIED AS AN
8 EXPERT BEFORE, DOCTOR?

9 THE WITNESS: NO, SIR.

10 MR. ROGERS: HAVE YOU HAD ANY PROFESSIONAL
11 TRAINING IN FORENSIC PEDIATRIC UROLOGY?

12 THE WITNESS: NO, SIR.

13 MR. ROGERS: HAVE YOU HAD ANY SPECIAL TRAINING
14 WITH REGARD TO CUTS OR LACERATIONS?

15 THE WITNESS: I PERFORM ABOUT 850 SURGERIES A
16 YEAR, SO I HAVE EXTENSIVE EXPERIENCE IN CUTS AND
17 LACERATIONS.

18 MR. ROGERS: I HAVE NO FURTHER QUESTIONS, YOUR
19 HONOR, NO OBJECTIONS.

20 THE COURT: ALL RIGHT. THE WITNESS IS FOUND TO BE
21 AN EXPERT IN THE FIELD OF PEDIATRIC UROLOGY. YOU MAY
22 CONTINUE, SOLICITOR.

23 MS. CAMPBELL: THANK YOU, YOUR HONOR.

24 BY MS. CAMPBELL:

25 Q DOCTOR, HOW MANY PEDIATRIC UROLOGISTS ARE THERE

1 ACTUALLY IN THIS STATE?

2 A THERE ARE TWO. THERE'S ONE OTHER ONE DOWN IN
3 CHARLESTON.

4 Q I WANT TO TURN YOUR ATTENTION BACK TO AUGUST 16TH
5 OF LAST YEAR. DID YOU HAVE OCCASION TO PERFORM SURGERY
6 ON A CHILD NAMED Minor ?

7 A I DID.

8 Q JUST TELL THE JURY, BASICALLY, HOW HE PRESENTED TO
9 YOU AND WHAT OPERATION YOU PERFORMED?

10 A I WAS CALLED, I CAN'T RECALL BY WHICH PEDIATRIC
11 PHYSICIAN IN PARTICULAR, BUT CALLED TO EVALUATE A YOUNG
12 BOY WHEN I WAS ON CALL EARLY IN THE MORNING. AGAIN, I
13 CAN'T RECALL A SPECIFIC TIME, BUT IT WAS EARLY IN THE
14 MORNING. HE WAS LAYING THERE IN BED. HIS FATHER WAS
15 IN THE CHAIR RIGHT BESIDE HIM, AND I REMOVED THE COVER
16 AND NOTICED QUITE READILY HIS SCROTUM WAS SLICED OPEN
17 AND HIS TESTICLE WAS HANGING OUT.

18 Q AND I SHOW YOU STATE'S EXHIBIT NUMBER 15 AND
19 NUMBER 17. IS THAT BASICALLY WHAT YOU OBSERVED WHEN
20 YOU CAME IN CONTACT WITH Minor ?

21 A YES, IT WAS.

22 Q AND AT THAT POINT DID YOU DO AN EXAMINATION AND
23 DECIDE THAT SURGERY WAS APPROPRIATE IN THIS CASE?

24 A SURGERY WAS NECESSARY, YES.

25 Q DID YOU CONSULT WITH THE FATHER PRIOR TO DOING

1 SURGERY ON THE CHILD IN ORDER TO GET HIS PERMISSION?

2 A I DID. I DISCUSSED THE SITUATION WITH HIS FATHER
3 TO THE EXTENT I COULD, TRIED TO OBTAIN WHATEVER HISTORY
4 I COULD. IT WAS VERY SKETCHY AT THE TIME AND CONSENTED
5 HIM FOR REPAIR.

6 Q IN FACT, DID YOU OPERATE ON HIM THAT DAY?

7 A YES, I DID.

8 Q CAN YOU DESCRIBE TO THE JURY, BASICALLY, WHAT WAS
9 DONE TO THE CHILD AND WHAT PROCEDURE YOU DID TO CORRECT
10 WHAT HAPPENED TO THE CHILD?

11 A WELL, WHEN I EXAMINED THE CHILD I NOTICED HE HAD
12 ABOUT A FOUR CENTIMETER LACERATION TRANSVERSING ACROSS
13 HIS SCROTUM -- THAT'S A BIG CUT -- AND HIS TESTICLE WAS
14 HANGING OUT. AFTER HE WAS PROPERLY ANESTHETIZED, I
15 EXAMINED HIM EVEN FURTHER. I DIDN'T WANT TO DO A LOT
16 OF MANIPULATION TO HIM ON THE FLOOR. HE WAS IN A LOT
17 OF PAIN AND ANXIETY, BUT ONCE HE WAS ASLEEP, I WAS ABLE
18 TO GET A GOOD LOOK AT EVERYTHING WHEN HE WAS PROPERLY
19 DRAPED AND ANESTHETIZED. THERE'S A LITTLE MEMBRANE
20 AROUND THE TESTICLE THAT'S CALLED THE TUNICA VAGINALIS
21 AND THAT WAS INTACT.

22 AFTER WE HAD PREPPED AND DRAPED AND OPENED UP THE
23 TUNICA VAGINALIS, I FOUND A SMALL AMOUNT OF FLUID
24 AROUND THE TESTICLE, A SMALL HYDROCELE, BUT IT WAS VERY
25 SMALL, CERTAINLY NOT PATHOLOGICAL OR A PROBLEM. I

1 NOTICED THAT THE INSIDE LINING OF THE TUNICA VAGINALIS
2 WAS SMOOTH AND COMPLETELY WITHOUT EVIDENCE OF INJURY,
3 TRAUMA OR PRESSURE. IF THIS WERE A PRESSURE
4 PHENOMENON, FROM SOMEBODY SQUEEZING, YOU WOULD
5 EFFECTIVELY GET LIKE A HICKEY, IT'S CALLED PETECHIAL
6 HEMORRHAGING, ON THE INSIDE LINING OF THE TUNICA
7 VAGINALIS.

8 I'VE SEEN THIS ON OTHER KIDS THAT HAVE VERY LARGE
9 HYDROCELES THAT I HAVE TO MANIPULATE OUT OF A SMALL
10 INCISION IN THE SCROTUM AND THE PRESSURE WILL CAUSE
11 THESE PETECHIAL HEMORRHAGES AND SOMETIMES THE HYDROCELE
12 FLUID WILL BE BLOODY IF IT'S A TRAUMATIC HIGH PRESSURE
13 EVENT, AGAIN KIND OF LIKE A HICKEY. IT'S NOT SOMETHING
14 THAT GOES AWAY IN A MATTER OF HOURS. HICKEYS LAST FOR
15 ABOUT A WEEK ON MOST PEOPLE. SO, THERE WAS NO EVIDENCE
16 OF ANY BLOOD INSIDE THE HYDROCELE FLUID, NO EVIDENCE OF
17 ANY PETECHIAL HEMORRHAGES, NEITHER ON THE TESTICLE
18 ITSELF OR THE MEMBRANE AROUND THE TESTICLE OR THE
19 INSIDE MEMBRANE.

20 ONCE I WAS ASSURED THAT THE TESTICLE WAS PINK AND
21 VIABLE, I SECURED THE TESTICLE BACK INTO THE SCROTUM,
22 CLOSED EVERYTHING UP WITH MULTIPLE LAYERS AND SAW HIM
23 BACK IN POST-OP IN MY OFFICE SEVERAL WEEKS LATER, AND
24 HE HAD HEALED BEAUTIFULLY.

25 Q I WANT TO GO BACK TO -- YOU WERE ABLE TO OBSERVE

1 THE ACTUAL LACERATION TO THE SCROTUM --

2 A YES.

3 Q -- DURING YOUR SURGERY?

4 A YES.

5 Q CAN YOU BASICALLY TELL THE JURY, WAS THIS A FAIRLY
6 SUPERFICIAL LACERATION OR WHAT TYPE OF LACERATION WAS
7 THIS, THE TWO INCH --

8 A IT WAS ABOUT FOUR CENTIMETERS LONG.

9 Q FOUR CENTIMETERS?

10 A YES. JUST A HAIR UNDER TWO INCHES. IT WAS VERY
11 SHARP. IT LOOKED LIKE A SCALPEL INCISION. I'M VERY
12 FAMILIAR WITH SCALPEL INCISIONS, AND IT WENT THROUGH
13 THE SKIN AND ALSO THROUGH WHAT'S CALLED A CREMASTERIC
14 MUSCLE. THERE'S A MUSCULAR LAYER RIGHT UNDER THE
15 SCROTUM SO WHEN IT'S COLD EVERYTHING KIND OF SHRINKS
16 UP, AND IT HAD GONE THROUGH BOTH OF THOSE LAYERS. HE
17 WAS ACTUALLY QUITE FORTUNATE THAT IT HADN'T INJURED HIS
18 TESTICLE.

19 Q AND WAS THE CUT THE SAME FROM ONE END TO THE OTHER
20 AS FAR AS DEPTH?

21 A IT WAS A SMOOTH CUT FROM ONE END TO THE OTHER.
22 THERE WAS NO EVIDENCE OF ANY STELLATE OR LIKE A, YOU
23 KNOW, LIKE A ROCK HITS YOUR WINDSHIELD AND YOU JUST
24 KIND OF GET THAT SPIDER WEB FRACTURE, PRESSURE INJURIES
25 TO THE SKIN, THE SKIN WILL FRACTURE, AND IT WILL HAVE A

1 BUNCH OF ROUGH EDGES ON IT, BUT THIS WASN'T. THIS WAS
2 A SMOOTH CUT FROM ONE END TO THE OTHER.

3 Q AND IN YOUR EXPERT OPINION, DO YOU HAVE AN OPINION
4 AS TO WHAT TYPE OF INSTRUMENT COULD HAVE CAUSED THIS
5 LACERATION?

6 A IT HAD TO BE SOMETHING SHARP, AND WE'RE TALKING
7 SCALPEL, RAZOR BLADE, STEAK KNIFE, SOMETHING VERY
8 SHARP.

9 Q WOULD THIS BE CONSISTENT, IN YOUR EXPERT OPINION,
10 WITH SOME TYPE OF TEAR? YOU ALREADY MENTIONED THE
11 PRESSURE, BUT SOME TYPE OF TEARING?

12 A NO, AGAIN, BECAUSE OF THE -- THERE ARE A COUPLE OF
13 THINGS. THE SCROTUM, THE SCROTAL SACK ACTUALLY HAS
14 RIDGES, WHICH ARE MUCH MORE READILY EVIDENT IN CHILDREN
15 THAN IN ADULTS, BUT THEY ARE ALMOST GROOVES AND ALMOST
16 FINGER-LIKE LATERAL PROJECTIONS, BUT THEY'RE A BIT
17 OBLIQUE OR TWISTED SIDEWAYS LIKE THIS, SO THERE IS AN
18 INHERENT WEAKNESS TO PARTICULAR PARTS OF THE SCROTAL
19 SKIN, IN THE BOTTOM OF THOSE GROOVES.

20 IN THIS PATIENT, THE INCISION WENT ACROSS THE
21 GROOVES. FOR INSTANCE, IF THE GROOVES ARE LIKE THAT,
22 THE INCISION WENT ACROSS LIKE THAT, SO IF THIS WERE A
23 PRESSURE PHENOMENON, YOUR POINT OF WEAKNESS WITHIN THE
24 SCROTAL SKIN WOULD HAVE BEEN RIGHT ALONG THE GROOVE,
25 AND THE INCISION WASN'T, IT WAS ACROSS IT.

1 Q THIS INCISION, WOULD THIS INCISION HAVE PRODUCED
2 BLOOD RIGHT AWAY?

3 A YES.

4 Q AND WOULD IT HAVE BEEN A SIGNIFICANT AMOUNT OF
5 BLOOD, A MINIMAL AMOUNT OF BLOOD, OR WHAT?

6 A NOT ENOUGH TO REQUIRE A TRANSFUSION, BUT IT WOULD
7 HAVE BEEN A SIGNIFICANT AMOUNT OF BLOOD.

8 Q COULD THIS CUT HAVE BEEN MADE AND NOT BLED FOR SAY
9 MINUTES, HOURS, OR SOMETHING?

10 A NO. BLEEDING WOULD BE IMMEDIATE.

11 Q AND WHAT TYPE OF PAIN WOULD A LACERATION SUCH AS
12 THIS CAUSE?

13 A PRETTY SEVERE.

14 Q THE TESTICLE WAS ACTUALLY HANGING OUTSIDE THE
15 SCROTUM AREA; IS THAT CORRECT, WHEN YOU SAW IT?

16 A THAT'S CORRECT.

17 Q COULD THIS CUT HAVE BEEN MADE AND THE TESTICLE
18 STAYED IN FOR A WHILE AND NOT BLEED?

19 A NO. AGAIN, BLEEDING WOULD HAVE BEEN IMMEDIATE.
20 THE TESTICLE, IF THE CHILD IS IN A RECUMBENT OR LYING
21 DOWN POSITION, THE TESTICLE MAY HAVE STILL STAYED
22 WITHIN THE SACK, BUT IT WAS INEVITABLE FOR THE TESTICLE
23 TO COME OUT THE SECOND THE KID STOOD UP.

24 Q OR WAS LIFTED UP?

25 A OR WAS LIFTED UP.

1 Q IN YOUR OPINION, DOCTOR, COULD THIS HAVE BEEN
2 ACCIDENTAL?

3 A IN MY OPINION, NO, I DON'T SEE HOW IT'S POSSIBLE
4 THAT IT COULD BE ACCIDENTAL.

5 Q AND FINALLY, DOCTOR, DID YOU ACTUALLY EXPLORE SUCH
6 THINGS AS HERNIAS OR TUMORS OR ANY OTHER WAY THIS
7 INJURY COULD HAVE BEEN CAUSED IN YOUR EXPERTISE AND
8 EXPERIENCE AS A UROLOGIST?

9 A RIGHT. BEFORE THE PROCEDURE, AS I TOLD YOU, THE
10 HISTORY WAS KIND OF SKETCHY FROM THE DAD. WE HADN'T
11 REALLY GOTTEN MUCH INFORMATION. THERE WAS A
12 POSSIBILITY THAT THERE WAS SOME SWELLING. THERE'S
13 ACTUALLY SEVERAL CAUSES OF SCROTAL OR TESTICULAR
14 SWELLING, A TUMOR, A HERNIA. THERE WAS ABSOLUTELY NO
15 EVIDENCE OF A HERNIA WHEN I EXPLORED HIM.

16 THERE IS ANOTHER KIND OF HERNIA CALLED A
17 COMMUNICATING HYDROCELE. NOW THAT'S WHERE THERE'S
18 REALLY A COMMUNICATION BETWEEN THE MEMBRANE THAT HOLDS
19 OUR INTESTINES IN THE PERITONEUM. WHEN THE TESTICLES
20 DESCEND, BECAUSE THEY'RE UP HIGH, BUT WHEN THEY DESCEND
21 WHEN THE BABY IS STILL IN THE WOMB, THEY TAKE A LITTLE
22 TUBE OF THAT MEMBRANE DOWN WITH THEM. NOW THAT
23 MEMBRANE IS SUPPOSED TO COLLAPSE AND SCAR DOWN. IN A
24 VERY SMALL NUMBER OF BOYS, IT DOESN'T, IT STAYS OPEN,
25 AND YOU CAN GET SOME SWELLING DOWN THERE, AND THAT

1 WOULD BE CALLED A COMMUNICATING HYDROCELE.

2 THE THING WITH HIM WAS HE DIDN'T HAVE A
3 COMMUNICATING HYDROCELE. I EXPLORED THAT AND THAT WAS
4 NOT THE CASE. THERE ARE OTHER RARE CONDITIONS OF
5 SCROTAL EDEMA, WHERE IT JUST SWELLS ALL ON ITS OWN OR
6 TESTICULAR INFARCTION.

7 AGAIN, HE HAD SWELLING THAT EXTENDED NOT JUST ON
8 THE SCROTUM, BUT AT THE TIME I SAW HIM SEVERAL HOURS
9 REMOVED FROM THE EVENT, BUT THE EDEMA HAD ALREADY
10 SPREAD ALL THE WAY UP AND SIGNIFICANTLY INVOLVED HIS
11 PENIS, AS WELL AS HIS LOWER ABDOMEN, SO HE HAD A TON OF
12 EDEMA, SO THERE'S NOTHING MEDICAL THAT I WAS ABLE TO
13 IDENTIFY AS A CAUSE OF THE SCROTAL SWELLING.

14 Q AND AGAIN, IN YOUR EXPERT OPINION, WHAT CAUSED
15 THIS INJURY TO THE SCROTUM?

16 A SOMETHING SHARP.

17 Q FINALLY, HE WILL HAVE SOME SCARS FROM THIS?

18 A YES.

19 Q AND IN YOUR OPINION, DOCTOR, WOULD YOU CONSIDER
20 THIS TO BE GREAT BODILY INJURY?

21 A YES.

22 Q IN YOUR OPINION, DOCTOR, WOULD A CHILD OF THIS
23 AGE, COULD HE HAVE DONE THAT TO HIMSELF, OR IN THIS
24 CASE?

25 A NO.

1 MS. CAMPBELL: THANK YOU. PLEASE ANSWER ANY
2 QUESTIONS DEFENSE COUNSEL HAS.

3 THE COURT: ALL RIGHT. MR. ROGERS.

4 CROSS-EXAMINATION

5 BY MR. ROGERS:

6 Q WHY DO YOU SAY THAT, DOCTOR, THAT HE COULDN'T HAVE
7 DO THAT TO HIMSELF? I'M JUST CURIOUS WHY YOU WOULD SAY
8 THAT?

9 A UNLESS THE CHILD WAS AUTISTIC OR HAD SOME TYPE OF
10 SELF-MUTILATING BEHAVIOR.

11 Q THAT'S WHAT I MEAN. YOU'VE HEARD OF PEOPLE THAT
12 CUT THEMSELVES, CORRECT?

13 A PEOPLE WITH SELF-MUTILATING BEHAVIORS.

14 Q YES.

15 A I JUST GAVE YOU THAT EXCLUSION.

16 Q OKAY. HAD THE LACERATION BEEN HALF A CENTIMETER
17 OR A CENTIMETER, THE SCROTUM WOULD NOT HAVE COME OUT --
18 THAT IS, THE TESTICLE WOULD NOT HAVE COME OUT OF THE
19 SCROTUM, WOULD IT?

20 A HALF A CENTIMETER, IT CAN'T FIT OUT.

21 Q EXACTLY, SO THERE WOULD BE SOME RATIO BETWEEN HOW
22 LONG THE CUT WAS -- IN RELATION TO WHEN THE SCROTUM
23 WOULD COME OUT?

24 A YOU MEAN THE TESTICLE?

25 Q I'M SORRY, YES, FORGIVE ME, THE TESTICLE.

1 A YES, OBVIOUSLY, IT'S A MATTER OF DIMENSIONS.

2 Q OKAY. YOU'RE FAMILIAR WITH THE BINOCULAR SURGICAL
3 OPERATING MICROSCOPE?

4 A YES, I AM.

5 Q AND IT IS USED FORENSICALLY IN MANY CASES TO
6 ACTUALLY GET A BETTER IDEA OF THE TYPE OF LACERATION OF
7 WHAT CAUSED THE LACERATION, WHETHER IT WAS SMOOTH OR
8 JAGGED, THAT TYPE OF THING, CORRECT?

9 A IT IS.

10 Q AND YOU DID NOT USE ONE IN THIS CASE?

11 A I HAVE NEVER USED ONE. I DON'T EVEN KNOW IF ONE
12 EXISTS IN THE HOSPITAL.

13 Q BUT YOU HAVE HEARD OF IT?

14 A I'VE HEARD OF IT ON C.S.I.

15 MR. ROGERS: OKAY. THANK YOU, DOCTOR.

16 MS. CAMPBELL: JUST ONE QUESTION, YOUR HONOR.

17 THE COURT: GO AHEAD, SOLICITOR.

18 REDIRECT EXAMINATION

19 BY MS. CAMPBELL:

20 Q HE ASKED YOU ABOUT A ONE CENTIMETER CUT, COULD
21 THIS HAVE BEEN A ONE CENTIMETER CUT AND THEN TORN INTO
22 TWO INCHES?

23 A I DON'T SEE HOW THAT'S POSSIBLE, NOT WITHOUT
24 ANESTHESIA.

25 MS. CAMPBELL: THANK YOU.

1 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

2 MR. ROGERS: I HAVE ONE QUESTION, YOUR HONOR.

3 THE COURT: I'M SORRY, GO AHEAD, MR. ROGERS.

4 RECROSS EXAMINATION

5 BY MR. ROGERS

6 Q DOCTOR, NOT WITHOUT GREAT PAIN, CORRECT?

7 A TREMENDOUS PAIN. THAT'S WHY WE HAVE ANESTHESIA.

8 MR. ROGERS: OKAY.

9 THE COURT: ANYTHING FURTHER?

10 MS. CAMPBELL: NO, SIR.

11 THE COURT: MAY HE BE EXCUSED?

12 MS. CAMPBELL: NO OBJECTION.

13 THE COURT: ANY OBJECTION?

14 MR. ROGERS: NO OBJECTION.

15 THE COURT: DOCTOR, YOU ARE EXCUSED.

16 ALL RIGHT, SOLICITOR.

17 MS. HALL: THE STATE CALLS SERGEANT RANDY STRANGE.

18 SERGEANT RANDY STRANGE,

19 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

20 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL
21 NAME FOR THE RECORD.

22 THE WITNESS: RANDY H. STRANGE.

23 DIRECT EXAMINATION

24 BY MS. HALL:

25 Q THANK YOU, SERGEANT STRANGE. WHERE DO YOU WORK?

- 1 A WITH THE RICHLAND COUNTY SHERIFF'S DEPARTMENT.
- 2 Q OKAY. AND HOW LONG HAVE YOU BEEN WITH THEM?
- 3 A APPROXIMATELY 17 YEARS.
- 4 Q SEVENTEEN YEARS. OKAY. DID YOU HAVE AN
- 5 OPPORTUNITY ON AUGUST 17TH OF 2005 TO SERVE A SEARCH
- 6 WARRANT?
- 7 A I SERVED WHAT WE CALLED A CONSENT TO SEARCH FORM,
- 8 YES, I DID.
- 9 Q OKAY. WHAT DOES THAT MEAN?
- 10 A SOMETIMES WHEN WE SEARCH SOMEONE'S RESIDENCE, IF
- 11 THEY'RE COOPERATIVE WITH US, WE USE WHAT WE CALL A
- 12 CONSENT TO SEARCH FORM. IT'S A STANDARD FORM BY THE
- 13 SHERIFF'S DEPARTMENT WHICH REQUESTS PERMISSION FROM THE
- 14 HOMEOWNER TO LET US SEARCH THE HOME FOR SHARP ITEMS. I
- 15 MET WITH MUSA KROMAH, THE VICTIM'S FATHER. I ASKED HIM
- 16 IF I HAD PERMISSION TO SEARCH THE APARTMENT. HE SAID
- 17 THAT YES, I COULD. HE SIGNED THAT FORM GIVING ME
- 18 PERMISSION TO SEARCH IT. HE ALSO CAME TO THE APARTMENT
- 19 WITH ME WHILE I SEARCHED THE APARTMENT.
- 20 Q OKAY. THE APARTMENT WAS AT ST. ANDREWS -- 1200
- 21 ST. ANDREWS ROAD?
- 22 A YES.
- 23 Q IS THAT IN RICHLAND COUNTY?
- 24 A YES, IT IS.
- 25 Q AND WHAT ITEMS WERE YOU LOOKING FOR?

1 A EARLIER THAT DAY I SPOKE BRIEFLY WITH INVESTIGATOR
2 LIVINGSTON ABOUT THE CASE, AND HE GAVE ME TWO DIFFERENT
3 SCENARIOS OF WHAT HAD HAPPENED TO THE CHILD, SO I WENT
4 TO THE HOME. WHENEVER I HAVE THE CHANCE, I LIKE TO GO
5 BACK TO THE SCENE TO TRY TO UNDERSTAND FOR MYSELF WHAT
6 TOOK PLACE AND WHAT IT LOOKED LIKE, AND TRY TO GATHER
7 ANY EVIDENTIARY EVIDENCE REGARDING THE INJURY TO THE
8 CHILD.

9 Q OKAY. AND SO I'M GOING TO SHOW YOU SOME PHOTOS.
10 IS THIS -- STATE'S EXHIBIT 18, IS THIS THE BATHROOM?

11 A YEAH, THIS IS A PICTURE OF THE BATHROOM IN THE
12 APARTMENT, WHICH I TOOK MYSELF.

13 Q OKAY. AND THIS IS STATE'S EXHIBIT 19.

14 A THAT IS A MEDICINE CABINET LOCATED IN THE
15 BATHROOM.

16 Q OKAY. AND THIS IS STATE'S EXHIBIT 20. WHAT DOES
17 THAT DEPICT?

18 A THIS IS A RAZOR BLADE LOCATED IN THE MEDICINE
19 CABINET OF THE RESTROOM, IN THE BATHROOM.

20 Q YOU FOUND THAT STRAIGHT RAZOR BLADE?

21 A YES, I DID.

22 Q OKAY. DID YOU FIND KIND OF AN OLD FASHIONED RAZOR
23 THAT THOSE STRAIGHT BLADES GO INTO?

24 A NO, I DID NOT. I ONLY FOUND THE RAZOR BLADE.

25 Q AND ALSO IN THIS PHOTO, WHAT ELSE DO YOU SEE?

1 A WE HAVE TWO TOOTHBRUSHES AND WE ALSO HAVE
2 SOMETHING RESEMBLING A BIC RAZOR, SOMETHING THAT A MALE
3 MIGHT SHAVE HIS FACE WITH OR A FEMALE MIGHT SHAVE HER
4 LEGS WITH.

5 Q AND THAT WAS NEXT TO THE STRAIGHT RAZOR?

6 A YES. THAT'S EXACTLY HOW IT APPEARED IN THE
7 PHOTOGRAPH.

8 Q AND THIS IS STATE'S EXHIBIT 21. WHAT DOES THAT
9 DEPICT?

10 A THIS IS A PHOTOGRAPH SHOWING THE TRASH CAN IN THE
11 BATHROOM.

12 Q WHAT DID YOU FIND IN THAT TRASH CAN?

13 A INSIDE THAT TRASH CAN WAS A DIAPER SOAKED WITH
14 BLOOD.

15 Q AND THIS IS STATE'S EXHIBIT 22. IS IT JUST A
16 CLOSER VERSION?

17 A YES, IT IS.

18 Q OKAY. AND STATE'S EXHIBIT 24, WHAT DOES THIS
19 DEPICT?

20 A THIS IS A PHOTOGRAPH OF THE BEDROOM THAT THE
21 FATHER, THE STEPMOTHER, AND THE CHILD SHARED. IT IS A
22 PHOTOGRAPH OF THE FLOOR, THE CARPET IN THAT BEDROOM,
23 WITH WHAT APPEARED TO BE BLOOD STAINS ON THE FLOOR.

24 Q OKAY. AND THIS IS STATE'S EXHIBIT 25. WHAT IS
25 THAT?

1 A THAT IS JUST A CLOSER UP SHOT OF THE STAINS ON THE
2 FLOOR.

3 Q AND THIS IS STATE'S EXHIBIT 23. WHAT DOES THAT
4 DEPICT?

5 A AGAIN, THIS IS A CLOSE UP OF THE DIAPER THAT WAS
6 TAKEN OUT OF THE TRASH CAN.

7 Q OKAY.

8 MS. HALL: YOUR HONOR, AT THIS TIME, THE STATE
9 WOULD OFFER STATE'S EXHIBIT 19, 21, 22, 20, AND 24 INTO
10 EVIDENCE.

11 THE COURT: WELL, NOW HE IDENTIFIED SOME OTHERS.
12 ARE YOU OFFERING ALL THAT HE HAS JUST IDENTIFIED?

13 MS. HALL: YES, SIR.

14 THE COURT: ALL RIGHT. THAT WOULD BE 18 THROUGH
15 25, I BELIEVE.

16 MS. HALL: YES, SIR.

17 THE COURT: ANY OBJECTION, MR. ROGERS? HAVE YOU
18 SEEN THOSE? DO YOU HAVE ANY OBJECTION TO THEM?

19 MR. ROGERS: NO, SIR, NO OBJECTION.

20 THE COURT: OKAY. STATE'S 18 THROUGH 25 ARE
21 ADMITTED. GO AHEAD, MS. HALL.

22 MS. HALL: THANK YOU, YOUR HONOR. PERMISSION TO
23 PUBLISH TO THE JURY.

24 THE COURT: YES, YOU MAY.

25 (WHEREUPON, STATE'S EXHIBITS 18 THROUGH 25 WERE

1 ADMITTED INTO EVIDENCE.)

2 BY MS. HALL:

3 Q DID YOU ALSO FIND SOME CHILDREN'S CLOTHING?

4 A YES, WE DID.

5 Q OKAY. AND WHERE DID YOU FIND THAT CLOTHING?

6 A WHEN THE FATHER OF THE CHILD TOOK ME BACK TO THE
7 RESIDENCE, I ASKED THE FATHER WHAT TYPE OF CLOTHING
8 THIS CHILD HAD ON EARLIER THAT DAY WHEN HE LAST SAW THE
9 CHILD. HE TOLD ME THE DESCRIPTION OF THE CLOTHES. WE
10 ACTUALLY WENT TO A CLOTHES HAMPER, WHICH WAS LOCATED
11 BETWEEN THE BEDROOM AND THE BATHROOM. THE FATHER
12 ACTUALLY SHOWED ME THE CLOTHES THAT THE CHILD HAD ON
13 THAT DAY THE LAST TIME HE SAW HIM. I RETRIEVED THOSE
14 CLOTHES FROM THE HAMPER.

15 Q OKAY. SO MUSA KROMAH DIRECTED YOU TO THE HAMPER?

16 A YES, HE DID.

17 Q ARE THESE ARE THE CLOTHES THAT YOU FOUND THAT DAY?

18 A YES, THERE ARE. THE REASON THERE'S MORE THAN ONE
19 SET OF UNDERWEAR IS BECAUSE THE FATHER DID NOT KNOW
20 WHAT UNDERWEAR THE CHILD WAS SPECIFICALLY WEARING THAT
21 MORNING. THERE WERE A TOTAL OF, WHAT IS IT, THREE
22 UNDERWEAR?

23 Q IT IS.

24 A A TOTAL OF THREE UNDERWEAR IN THE HAMPER, SO I
25 COLLECTED ALL THREE JUST TO MAKE SURE THAT -- HE HAD TO

1 HAVE HAD ONE OF THOSE ON, SINCE ALL THREE WERE IN THE
2 HAMPER.

3 Q BUT YOU TOOK THEM ALL?

4 A YES.

5 MS. HALL: OKAY. YOUR HONOR, STATE'S EXHIBIT 26,
6 THE CLOTHING, I OFFER THAT INTO EVIDENCE.

7 THE COURT: ANY OBJECTION?

8 MR. ROGERS: I OBJECT TO THE UNDERWEAR, YOUR
9 HONOR, NOT TO THE PANTS OR SHIRT. THE TESTIMONY WAS
10 THAT THE FATHER DIDN'T KNOW WHICH UNDERWEAR HE WAS
11 WEARING. WE DON'T KNOW IF IT'S ANY OF THOSE THREE.
12 FOR THAT -- SO IT HAS NO PROBATIVE VALUE IF THE FATHER
13 COULDN'T SAY THAT THAT WAS THE UNDERWEAR THAT HE WAS
14 WEARING ON THE 16TH.

15 THE COURT: ALL RIGHT. THE OBJECTION IS
16 OVERRULED. STATE'S EXHIBIT 26 WILL BE ADMITTED. THANK
17 YOU.

18 MS. HALL: THANK YOU, YOUR HONOR.

19 (WHEREUPON, STATE'S EXHIBIT 26 WAS MARKED FOR
20 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

21 MS. HALL: BEG THE COURT'S INDULGENCE.

22 (PAUSE)

23 BY MS. HALL:

24 Q SERGEANT STRANGE, IS THIS THE BLOODY DIAPER THAT
25 YOU FOUND?

1 A YES, IT IS.

2 Q OKAY.

3 MS. HALL: YOUR HONOR, AT THIS TIME THE STATE
4 WOULD OFFER STATE'S EXHIBIT 27 INTO EVIDENCE.

5 THE COURT: ANY OBJECTION?

6 MR. ROGERS: NO OBJECTION.

7 THE COURT: STATE'S 27 IS ADMITTED.

8 (WHEREUPON, STATE'S EXHIBIT 27 WAS ADMITTED INTO
9 EVIDENCE.)

10 BY MS. HALL:

11 Q AND SERGEANT STRANGE, FINALLY, IS THIS THE RAZOR
12 THAT YOU FOUND?

13 A YES, IT IS.

14 Q AND THIS IS THE ONLY ONE YOU FOUND?

15 A THAT'S CORRECT.

16 Q OKAY.

17 MS. HALL: YOUR HONOR, WE ALSO WOULD LIKE TO ADMIT
18 STATE'S EXHIBIT NUMBER 28 INTO EVIDENCE.

19 THE COURT: ANY OBJECTION?

20 MR. ROGERS: YES, YOUR HONOR. I OBJECT TO THE
21 RAZOR.

22 THE COURT: ON WHAT BASIS?

23 MR. ROGERS: THERE'S BEEN NO LINK THAT THAT RAZOR
24 WAS USED IN ANY WAY IN THE CUTTING OF Minor . THE
25 TESTIMONY YESTERDAY WAS THAT THERE WAS NO D.N.A. AND NO

1 BLOOD THAT WAS IDENTIFIED TO Minor , SO TO FIND A
2 RAZOR BLADE IN A BATHROOM IN THAT CABINET, TO ME, I
3 THINK, WOULD BE HIGHLY PREJUDICIAL.

4 THE COURT: ALL RIGHT. THAT OBJECTION IS
5 OVERRULED. STATE'S 28 IS ADMITTED.

6 (WHEREUPON, STATE'S EXHIBIT 28 WAS ADMITTED INTO
7 EVIDENCE.)

8 MS. HALL: THANK YOU, YOUR HONOR. BEG THE COURT'S
9 INDULGENCE.

10 (PAUSE)

11 BY MS. HALL:

12 Q AGAIN, SERGEANT STRANGE, WHAT DAY DID YOU SERVE
13 THE SEARCH WARRANT?

14 A THIS WAS ON AUGUST 17TH.

15 Q OKAY. DID YOU FIND ANY BLOOD IN THE BATHROOM?

16 A NO. FROM THE PHOTOGRAPHS YOU'RE LOOKING AT, THE
17 HOME WAS VERY WELL KEPT. THE BATHROOM WAS CLEAN. THE
18 TOWELS WERE UP. THE REST OF THE HOUSE WAS ALSO CLEAN
19 AND ORGANIZED.

20 Q OKAY. DID YOU CONSULT WITH GRAY AMICK ABOUT
21 TESTING THE BLOODY DIAPER?

22 A RIGHT. I COLLECT THE EVIDENCE AND TURN IT IN TO
23 THE PROPER CHAIN OF CUSTODY, AND IT WAS TAKEN TO
24 MR. AMICK. WE BOTH AGREED THAT THE BLOOD ON THE DIAPER
25 SHOULD BELONG TO NO OTHER PERSON BUT THE CHILD, AND

1 THAT WAS WHY IT WAS NOT TESTED.

2 Q BUT GRAY ALSO, DID HE TEST THE CLOTHING?

3 A I KNOW THAT HE EXAMINED THE CLOTHING AND PROCESSED
4 IT, AND HE ADVISED ME THAT HE DID LOCATE STAINS ON THE
5 OUTSIDE OF THE PANTS THAT WERE LATER DETERMINED TO BE
6 BLOOD. I DON'T KNOW IF HE MATCHED THAT TO HIM OR NOT,
7 BUT HE DID TEST THAT.

8 MS. HALL: OKAY. THANK YOU, YOUR HONOR. NOTHING
9 FURTHER.

10 THE COURT: ALL RIGHT. YOU MAY CROSS-EXAMINE,
11 MR. ROGERS.

12 MR. ROGERS: THANK YOU, YOUR HONOR.

13 CROSS-EXAMINATION

14 BY MR. ROGERS:

15 Q SERGEANT STRANGE, YOU WERE -- HAD THE
16 RESPONSIBILITY OF GOING TO THE HOME AND CONDUCTING A
17 SEARCH?

18 A YES, SIR.

19 Q AND DID YOU SEARCH ANYTHING ELSE OTHER THAN THE
20 BATHROOM AND THE BEDROOM?

21 A THIS WAS A CONSENT TO SEARCH, AND MR. KROMAH WAS
22 VERY COOPERATIVE. WHEN WE WALKED INTO THE APARTMENT,
23 IT WAS SPLIT LEVEL APARTMENT. THE ROOMMATE LIVED ON
24 ONE SIDE OF THE APARTMENT AND THE VICTIM LIVED ON THE
25 OTHER SIDE OF THE APARTMENT. WE KEPT OUR SEARCH

1 DIRECTLY TOWARDS THE HALF OF THE APARTMENT THAT THEY
2 LIVED ON, AT HIS REQUEST.

3 Q SO YOU DIDN'T SEARCH ANYWHERE THAT THE ROOMMATE
4 LIVED?

5 A NO SIR, BASED ON THE CONSENT TO SEARCH, WE WERE
6 ASKED TO KEEP OUR SEARCH ON THEIR HALF OF THE
7 APARTMENT.

8 Q DID YOU LOOK AT ANY OTHER TRASH CANS?

9 A WE LOOKED AT THE TRASH CANS THAT WERE IN THE
10 BEDROOM AND THE BATHROOM.

11 Q DID YOU FIND ANYTHING IN THERE?

12 A JUST THE BLOODY DIAPER.

13 Q I'M SORRY?

14 A THE BLOODY DIAPER WAS IN THE TRASH CAN IN THE
15 BATHROOM OFF THE BEDROOM.

16 Q OKAY. THE BATHROOM THAT WAS OFF THE BEDROOM?

17 A YES.

18 Q THAT'S WHERE THE TRASH CAN WAS?

19 A YES.

20 Q DID YOU FIND ANY OTHER TRASH CANS IN THE HOUSE?

21 A THAT WAS THE ONLY TRASH CAN THAT WAS IN THE
22 BEDROOM OR THE BATHROOM.

23 Q WHAT ABOUT THE KITCHEN?

24 A WE DID NOT SEARCH IN THE KITCHEN. WE WERE ASKED
25 TO KEEP OUR SEARCH TO THE BEDROOM AND BATHROOM ONLY AND

1 I COMPLIED WITH WHAT THE FATHER REQUESTED OF US,
2 BECAUSE HE WAS COOPERATING WITH US.

3 Q SO YOU CONFINED YOUR SEARCH TO THE BEDROOM AND THE
4 BATHROOM?

5 A NO, IT WAS ON THE REQUEST OF THE FATHER WHO GAVE
6 US PERMISSION TO GO IN THE HOME, THAT'S WHY WE DID
7 THAT.

8 Q OKAY. SO MY QUESTION IS, HE ASKED YOU NOT TO
9 SEARCH IN THE KITCHEN?

10 A YES, SIR. HE ASKED US THAT WE WOULD SEARCH ONLY
11 IN THE BEDROOM WHERE HE, THE STEPMOTHER, AND THE CHILD
12 LIVED AND THEIR BATHROOM, THAT HE DID NOT WANT US TO
13 SEARCH ANYWHERE ELSE BECAUSE THAT PART OF THE HOUSE WAS
14 THE ROOMMATE'S, AND WE COULD SEARCH ONLY IN THAT AREA,
15 WHICH I COMPLIED WITH THAT.

16 Q WELL, THERE WERE OTHER COMMON AREAS OF THE HOUSE,
17 RIGHT?

18 A THERE WAS A LIVING ROOM, WHICH WE WERE SITTING IN
19 AND TALKING PART OF THE TIME. WE FILLED OUT SOME
20 PAPERWORK, YES, SIR. THERE WERE NO TRASH CANS IN THE
21 LIVING ROOM.

22 Q DID YOU SEARCH THE LIVING ROOM?

23 A WE DID A VISUAL SEARCH OF IT. THERE WAS NOTHING
24 OUT OF PLACE, NO BLOOD THAT WE SAW, NO RAZOR BLADES, NO
25 KNIVES, NO ANYTHING ELSE THAT WAS LAYING OUT IN THAT

1 AREA.

2 Q DID YOU LOOK IN DRAWERS?

3 A IN THE BATHROOM, YES, IN THE BEDROOM, YES, THAT WE
4 SEARCHED IN.

5 Q NOT THE LIVING ROOM OR KITCHEN?

6 A TO MY KNOWLEDGE THERE WERE NO DRAWERS THAT I
7 REMEMBER IN THE LIVING ROOM.

8 Q ANY CONCEALED AREAS IN THE LIVING ROOM?

9 A NOT THAT I REMEMBER, NO.

10 Q AND THE REASON THAT YOU DIDN'T TAKE A SAMPLE OF
11 BLOOD IS THE SAME REASON THAT YOU DIDN'T TAKE A SAMPLE
12 OF THE BLOOD FROM THE DIAPER?

13 A CORRECT, BECAUSE WE WERE UNDER THE ASSUMPTION THAT
14 THE BLOOD WOULD HAVE BEEN THAT OF THE CHILD.

15 Q NOW, THE RAZOR IN THE CABINET, DID MUSA TELL YOU
16 THAT WAS HIS?

17 A NO, HE DID NOT. HE DID NOT GIVE ANY SPECIFIC
18 REASON FOR THAT RAZOR.

19 Q DID YOU ASK HIM?

20 A YES, SIR.

21 A AND HE DID NOT GIVE ME -- HE SAID --

22 Q WHO DID YOU ASK?

23 A I SAID, "DO YOU KNOW WHO THIS RAZOR BELONGS TO?
24 IS THIS YOUR RAZOR?" HE HAD NO SPECIFIC ANSWER THAT HE
25 COULD PROVIDE ME AT THAT TIME.

1 Q THE RAZOR WASN'T FOUND IN THE TRASH CAN?

2 A NO, SIR.

3 Q IT WASN'T FOUND CONCEALED?

4 A IT WAS FOUND IN THE MEDICINE CABINET WHERE IT WAS
5 PHOTOGRAPHED AT.

6 Q ALONG WITH THE OTHER ITEMS IN THE MEDICINE
7 CABINET?

8 A YES, SIR.

9 Q WAS THERE ANY BLOOD FOUND NEAR THE RAZOR IN THE
10 MEDICINE CABINET?

11 A THERE WAS NO BLOOD LOCATED ANYWHERE EXCEPT THE
12 BABY'S DIAPER IN THE TRASH CAN.

13 Q DID YOU ATTEMPT TO ASCERTAIN WHETHER THERE WAS
14 BLOOD ANYWHERE ELSE OTHER THAN WHAT YOU COULD VISIBLY
15 SEE?

16 A I ASKED THE FATHER WAS THERE ANY BLOOD THAT I DID
17 NOT SEE BESIDES THAT ON THE CARPET AND ON THE TRASH
18 CAN. HE SAID THAT NO, THAT WAS ALL HE KNEW OF.

19 Q OKAY. AND YOU NEVER WENT BACK WITH A SEARCH
20 WARRANT TO SEARCH AREAS THAT YOU DIDN'T SEARCH BEFORE?

21 A NO, SIR.

22 Q DID YOU SEARCH A TRASH CAN OUTSIDE?

23 A THERE IS A COMPLEX COMPRESSOR SORT OF TRASH CAN
24 OUTSIDE, AND NO, I DID NOT SEARCH THAT.

25 Q YOU DID NOT SEARCH OUT THERE?

1 A NO, SIR.

2 Q DID YOU SEARCH ANY OTHER PLACE IN CONNECTION WITH
3 THIS CASE?

4 A NO, SIR. THE APARTMENT, SPECIFICALLY THE BEDROOM
5 AND THE BATHROOM ARE THE ONLY PLACES THAT I PERSONALLY
6 SEARCHED.

7 Q DID YOU SEARCH MS. GAROWAY'S APARTMENT, WHERE
8 Minor HAD BEEN EARLIER THAT DAY?

9 A NO, I DID NOT.

10 Q DO YOU KNOW IF ANYONE DID?

11 A I DO KNOW -- ARE YOU TALKING ABOUT THE SISTER?

12 Q YES.

13 A I DO KNOW THAT INVESTIGATOR LIVINGSTON DID HAVE
14 CONTACT WITH HER. THE RESULT OF HIS CONTACT, I DO NOT
15 KNOW.

16 Q IS THERE A HOT WATER HEATER IN THAT APARTMENT?

17 A THERE WOULD HAVE BEEN A HOT WATER HEATER SOMEWHERE
18 IN THAT APARTMENT, BUT I CAN'T REMEMBER THE EXACT
19 LOCATION OF IT.

20 Q DID YOU MAKE ANY EFFORT TO TEST HOW HOT THE WATER
21 WAS SINCE Minor HAD BEEN PUT IN THE BATH?

22 A NO.

23 MR. ROGERS: THANK YOU, SIR.

24 THE COURT: ANY REDIRECT?

25 MS. HALL: NO, YOUR HONOR.

1 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

2 THE COURT: COUNSEL, WILL YOU ALL STEP UP HERE
3 BEFORE YOU CALL ANOTHER WITNESS, PLEASE?

4 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
5 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE
6 JURY.)

7 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN, I
8 HAD TOLD THE ATTORNEYS EARLIER THAT ONE OF THE DUTIES I
9 HAVE WHILE I'M IN COLUMBIA, I HAVE TO DEAL WITH
10 ADMINISTRATIVE MATTERS WITH THE STATE GRAND JURY. I
11 HAVE GOT TO MEET WITH THEM IN ANOTHER LOCATION AT
12 12:30, SO WE'RE GOING TO BREAK FOR LUNCH AT THIS TIME
13 SO THAT YOU CAN GO AHEAD AND GET LUNCH AND WE WILL
14 CONTINUE AFTER LUNCH.

15 IF YOU WILL PLEASE BE BACK IN YOUR JURY ROOM AT
16 TWO O'CLOCK, WE WILL CONTINUE WITH THE TRIAL AT THAT
17 TIME. DON'T DISCUSS THE CASE WITH ANYONE OR WITH
18 YOURSELVES OR WITH ANYONE ELSE. HAVE A GOOD LUNCH AND
19 BE BACK AT TWO O'CLOCK, PLEASE. EVERYONE ELSE STAY
20 SEATED. THE JURY IS EXCUSED.

21 (WHEREUPON, THE JURY LEFT OPEN COURT AT
22 APPROXIMATELY 11:52 A.M.)

23 THE COURT: ALL RIGHT. WE'LL START BACK AT
24 TWO O'CLOCK. LET ME SEE YOU ALL JUST FOR SCHEDULING
25 PURPOSES IN THE HALLWAY, OR YOU CAN JUST COME UP HERE.

1 (WHEREUPON, THERE WAS A BENCH CONFERENCE.)
2 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)
3 THE COURT: ALL RIGHT. THE STATE IS READY?
4 MS. CAMPBELL: YES, SIR.
5 THE COURT: THE DEFENSE IS READY?
6 MR. ROGERS: YES, SIR.
7 THE COURT: ANY MATTERS TO TAKE UP BEFORE THE JURY
8 GETS BACK?
9 MS. CAMPBELL: NO, SIR.
10 MR. ROGERS: NO, SIR.
11 THE COURT: BRING THE JURY IN, PLEASE.
12 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
13 APPROXIMATELY 2:15 P.M.)
14 THE BAILIFF: THE JURY IS SEATED, YOUR HONOR.
15 THE COURT: ALL RIGHT. THANK YOU. SOLICITOR YOU
16 MAY CALL YOUR NEXT WITNESS.
17 MS. CAMPBELL: MAY IT PLEASE THE COURT. THE STATE
18 CALLS INVESTIGATOR ROY LIVINGSTON.
19 ROY LIVINGSTON,
20 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:
21 THE CLERK: PLEASE HAVE A SEAT ON THE WITNESS
22 STAND AND STATE YOUR NAME FOR THE RECORD.
23 THE WITNESS: ROY LIVINGSTON.
24 DIRECT EXAMINATION
25 BY MS. CAMPBELL:

- 1 Q INVESTIGATOR LIVINGSTON, WHERE ARE YOU EMPLOYED?
- 2 A WITH THE RICHLAND COUNTY SHERIFF'S DEPARTMENT.
- 3 Q WHAT DO YOU DO THERE, SIR?
- 4 A I'M AN INVESTIGATOR WITH THE SPECIAL VICTIM'S
- 5 UNIT.
- 6 Q WHAT IS THE SPECIAL VICTIM'S UNIT?
- 7 A THE SPECIAL VICTIM'S UNIT, WE HAVE THREE TASKS, WE
- 8 INVESTIGATE CHILD AND ELDER ABUSE CRIMES AND SEX
- 9 CRIMES.
- 10 Q I'M GOING TO TURN YOUR ATTENTION BACK TO AUGUST OF
- 11 LAST YEAR, AUGUST 16TH. DID YOU BECOME INVOLVED, OR
- 12 GET ASSIGNED TO A CASE WITH A VICTIM NAMED Minor
- 13 ?
- 14 A I WAS.
- 15 Q OKAY. WHAT DID YOU DO ON THAT CASE INITIALLY AS
- 16 PART OF YOUR INVESTIGATION?
- 17 A WHAT I INITIALLY DID WAS I WAS TOLD TO GO TO THE
- 18 HOSPITAL. HE WAS IN THE HOSPITAL. I RESPONDED TO THE
- 19 HOSPITAL THAT MORNING AFTER COMING INTO WORK. I WAS
- 20 TOLD BY SERGEANT STRANGE THAT THERE WAS A CHILD IN THE
- 21 HOSPITAL, THAT A UNIFORM OFFICER THERE AT THE HOSPITAL
- 22 NEEDED AN INVESTIGATOR AND SO I RESPONDED THEN TO THE
- 23 HOSPITAL.
- 24 Q AND THAT WOULD HAVE BEEN ON AUGUST 16TH, 2000?
- 25 A YES, I WAS.

1 Q AND APPROXIMATELY WHAT TIME OF THE DAY WAS IT WHEN
2 YOU GOT TO THE HOSPITAL?

3 A 9:30 IN THE MORNING.

4 Q THE FIRST PERSON YOU MET WITH, I BELIEVE, WAS A
5 SOCIAL WORKER THERE IN THE HOSPITAL?

6 A YES, IT WAS A SOCIAL WORKER AND THE RESPONDING
7 OFFICER.

8 Q YOU CAN'T SAY WHAT THEY TOLD YOU, BUT DID THEY
9 BRIEF YOU ON THE SITUATION AT HAND?

10 A YES, THEY DID.

11 Q ONCE YOU HAD GOTTEN THAT INFORMATION FROM THEM,
12 DID YOU COME IN CONTACT WITH THE FATHER AND THE
13 STEPMOTHER OF THE CHILD?

14 A YES, I DID.

15 Q TELL THE JURY HOW THAT HAPPENED AND BASICALLY WHAT
16 INFORMATION -- YOU CAN'T SAY WHAT THE FATHER SAID, BUT
17 YOU CAN SAY WHAT INFORMATION WAS RELATED TO YOU BY
18 MIAMA KROMAH.

19 A OKAY. I WALKED INTO THE R.O., WHICH IS RESPONDING
20 OFFICER, AND THE SOCIAL WORKER WHO WERE TURNING INTO
21 THE ROOM WHERE THE VICTIM WAS.

22 I MET WITH THE STEPMOTHER AND THE FATHER, AND THE
23 STEPMOTHER, I STARTED ASKING QUESTIONS OF WHAT HAPPENED
24 TO THE VICTIM BECAUSE THE R.O. HAD ALREADY INFORMED ME
25 AS TO WHAT HE HAD SEEN, WHAT HAD HAPPENED TO THE

1 VICTIM, SO I ASKED THE STEPMOTHER AND THE FATHER WHAT
2 HAD HAPPENED, AND, OF COURSE, THEY BRIEFED ME AS TO
3 WHAT HAPPENED.

4 Q BEFORE WE GET ANY FURTHER, I JUST WANT TO SHOW YOU
5 ONE PHOTOGRAPH, THE CHILD WE'RE TALKING ABOUT, STATE'S
6 EXHIBIT 29. DOES THAT REFLECT THE CHILD, Minor
7 ?

8 A YES, IT IS.

9 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE OFFER
10 STATE'S EXHIBIT 29 INTO EVIDENCE.

11 THE COURT: HAVE YOU SEEN THAT, MR. ROGERS?

12 MR. ROGERS: YES, SIR.

13 THE COURT: ANY OBJECTION?

14 MR. ROGERS: NO, YOUR HONOR.

15 THE COURT: STATE'S 29 IS ADMITTED.

16 (WHEREUPON, STATE'S EXHIBIT 29 WAS ADMITTED INTO
17 EVIDENCE.)

18 BY MS. CAMPBELL:

19 Q INVESTIGATOR, ACCORDING TO YOUR INFORMATION OF
20 WHAT MIAMI KROMAH RELATED TO YOU, CAN YOU TELL THIS
21 JURY EXACTLY WHAT SHE TOLD YOU THE FIRST TIME YOU CAME
22 IN CONTACT WITH HER?

23 A YES, SHE TOLD ME, SHE SAID SHE HAD PICKED THE
24 VICTIM UP FROM HER SISTER'S RESIDENCE AND CARRIED HIM
25 HOME AND SHE STATED THEY HAD WATCHED TELEVISION. SHE

1 WAS GETTING HIM READY TO GO TO SCHOOL THE NEXT DAY.
2 SHE WENT INTO THE BATHROOM TO RUN HIS BATH WATER AND TO
3 GET HIM READY. WHEN SHE TOOK HIS CLOTHES OFF, SHE
4 NOTICED THAT HIS PRIVATE AREA WAS SWOLLEN. SHE SAID
5 THAT HE MADE A FROWN ON HIS FACE, LIKE IT WAS A FROWN
6 OF PAIN. SHE ASKED HIM WHAT WAS WRONG AND THAT'S WHEN
7 HE TOLD HER THAT HE WAS HURTING IN HIS PRIVATE AREA.
8 OF COURSE, SHE LOOKED DOWN TO SEE THAT. SHE THEN
9 SAID -- SHE TOLD ME THAT SHE TOOK A HOT CLOTH AND PUT
10 ON THE AREA TO HELP THE SWELLING.

11 Q THE NOTES YOU HAVE FROM THAT CONVERSATION, ARE
12 THOSE ON PAGE ONE OF YOUR FOLLOW-UP?

13 A YES, IT IS.

14 Q IF I CAN REFER YOU SPECIFICALLY TO THE PART WHERE
15 THE IT SAYS "THE VICTIM TOOK OFF HIS CLOTHES AND THE
16 GENITALS WERE SWOLLEN..."-- IT'S ABOUT HALFWAY DOWN,
17 THE FIRST PARAGRAPH.

18 (PAUSE)

19 A OKAY.

20 Q DO YOU SEE WHAT I'M TALKING ABOUT?

21 A WHERE -- WAS IN THE TUB?

22 MS. CAMPBELL: MAY I APPROACH, YOUR HONOR?

23 THE COURT: YES.

24 (PAUSE)

25 BY MS. CAMPBELL:

1 Q THE NEXT LINE. SPECIFICALLY, DO YOUR NOTES

2 REFLECT WHAT SHE TOLD YOU AT THAT POINT?

3 A SHE STATED SHE PUT HIM IN THE BATH WATER AND PUT
4 SOME WARM WATER ON HIM.

5 Q WHAT DID SHE SAY SHE NOTICED AT THAT POINT?

6 A AT THAT POINT SHE SAID SHE NOTICED THE BLOOD
7 APPEARED.

8 Q AT THAT POINT WHAT DID SHE DO WITH THE VICTIM?

9 A SHE STATED SHE PUT HIM IN THE TUB AND PUT A TOWEL
10 AROUND HIM.

11 Q AND THEN DID SHE DO ANYTHING WHAT WITH THE VICTIM?

12 A SHE SAID SHE TOOK THE VICTIM -- AT THAT TIME, SHE
13 TOOK THE VICTIM TO THE LEXINGTON MEDICAL CENTER.

14 Q DID SHE ALSO GIVE YOU SOME OTHER INFORMATION ABOUT
15 THE CARE OF THE CHILD ON A DAILY BASIS?

16 A YES, SHE TOLD ME THAT ON A DAILY BASIS SHE WOULD
17 PICK HIM UP FROM HER SISTER'S RESIDENCE. SHE HAD A SON
18 HIS AGE. SHE WOULD PICK HIM UP AND SHE WOULD KEEP HIM
19 AT HER HOUSE UNTIL -- THE SISTER WOULD KEEP HIM AT HER
20 HOUSE UNTIL SHE GOT OFF WORK AND THEN SHE WOULD COME
21 OVER AND PICK HIM UP AND TAKE HIM HOME.

22 Q DID YOU ALSO GET SOME ADDITIONAL INFORMATION FROM
23 MUSA KROMAH, THE FATHER?

24 A YES, I DID.

25 Q AFTER YOU SPOKE TO THEM BRIEFLY, AT THAT POINT HAD

1 THE CHILD GONE INTO SURGERY YET?

2 A WHEN I GOT TO THE ROOM THAT MORNING, AS I WAS
3 WALKING INTO THE ROOM -- WELL, LET ME BACK UP. BEFORE
4 GOING TO THE HOSPITAL, I HAD ALREADY NOTIFIED FORENSICS
5 TO MEET ME AT THE HOSPITAL. AS I GOT TO THE HOSPITAL
6 AND GOT TO THE ROOM, AS I WAS TALKING WITH THE PARENTS,
7 INVESTIGATOR OATES CAME IN WHO WAS FROM THE FORENSIC
8 SECTION AND RIGHT BEHIND HIM CAME THE SURGICAL TEAM TO
9 TAKE Minor UP TO SURGERY.

10 Q AND JUST FOR THE RECORD, THE PHOTOGRAPHS WE'RE
11 REFERRING TO THAT ARE SHOWING SOME OF THE BRUISING AND
12 THE GENITAL AREA, THOSE WERE TAKEN BY INVESTIGATOR
13 OATES?

14 A YES, THEY WERE.

15 Q AND THOSE WERE TAKEN THAT MORNING PRIOR TO THE
16 SURGERY?

17 A YES.

18 Q AFTER SPEAKING WITH THE PARENTS, DID YOU MAKE
19 CONTACT WITH THE DOCTOR, DR. ERIN FIELDS, NOW DR. ERIN
20 HARRIS?

21 A YES, I DID.

22 Q AND YOU CAN'T SAY WHAT SHE SAID, BUT DID SHE GIVE
23 YOU SOME INFORMATION ABOUT THE TYPE OF INJURY AND HOW
24 IT MAY HAVE BEEN INFLICTED?

25 A YES, SHE DID.

1 Q ONCE THE WOUNDS HAD BEEN PHOTOGRAPHED AND
2 EVERYTHING, AT THAT POINT WAS THE CHILD TAKEN INTO
3 SURGERY THAT DAY?

4 A YES, HE WAS.

5 Q DID YOU MAKE ANY CONTACT WITH EITHER THE FATHER OR
6 THE STEPMOTHER THAT DAY?

7 A NOT THAT DAY, I DIDN'T.

8 Q ONE THING I WANT TO ASK YOU IN THIS CASE AND IN
9 THE INVESTIGATION OF THIS CASE, WAS A -- THERE'S BEEN
10 MENTION OF A WASHCLOTH AND/OR A TOWEL IN THIS CASE.
11 WAS THERE EVER A BLOODY WASHCLOTH RECOVERED IN THIS
12 CASE?

13 A NO, THERE WAS NOT.

14 Q HOW ABOUT A BLOODY TOWEL?

15 A NO, THERE WAS NOT.

16 Q MOVING ON TO AUGUST 17TH OF 2005, THAT NEXT
17 MORNING, DID YOU GO BACK TO THE HOSPITAL AND GET SOME
18 MORE INFORMATION?

19 A YES, I DID.

20 Q AND WHO DID YOU MEET WITH THEN?

21 A I MET WITH AGAIN THE SOCIAL WORKER, MS. AMY
22 GRANGER, AT THE HOSPITAL.

23 Q THAT NEXT MORNING, DID YOU ALSO HAVE AN
24 OPPORTUNITY TO MEET WITH THE FATHER, MUSA KROMAH,
25 AGAIN?

1 A YES, I DID.

2 Q DID YOU HAVE A CONVERSATION WITH HIM? AGAIN, YOU
3 CAN'T SAY WHAT IT WAS.

4 A YES, WE DID.

5 Q AT THAT POINT, DID YOU SET UP A TIME FOR A MORE
6 FORMAL INTERVIEW OF BOTH MR. AND MRS. KROMAH?

7 A I DID.

8 Q ALL RIGHT. AND WHEN WERE YOU SUPPOSED TO MEET
9 WITH THEM THAT DAY?

10 A I ASKED THEM TO MEET ME AT MY OFFICE, WHICH IS ON
11 TWO NOTCH ROAD AT 1400, WHICH IS TWO O'CLOCK THAT
12 AFTERNOON.

13 Q AND LATER THAT AFTERNOON DID YOU, IN FACT, MEET
14 WITH MR. AND MRS. KROMAH?

15 A I DID.

16 Q AND WHAT TIME DID THAT TAKE PLACE, SIR?

17 A IT TOOK PLACE ABOUT 1500, WHICH IS THREE O'CLOCK.

18 Q AND WHERE DID THAT INTERVIEW TAKE PLACE?

19 A IT TOOK PLACE AT THE RICHLAND COUNTY SHERIFF'S
20 DEPARTMENT ON TWO NOTCH ROAD.

21 Q WHO ALL WAS PRESENT WHEN YOU WERE DOING THOSE
22 INTERVIEWS?

23 A DURING THE INTERVIEW, JUST MYSELF AND -- THE
24 WIFE AND THE HUSBAND WERE NOT AT THE SAME TIME, WHEN I
25 FIRST GOT THERE, I HAD BOTH OF THEM IN MY OFFICE TO

1 TALK TO BOTH OF THEM, BUT I DIDN'T KNOW WHAT WAS GOING
2 TO HAPPEN, SO THEN I TOOK ONE OUT AND KEPT ONE -- TOOK
3 A STATEMENT FROM ONE AND THEN DID THE SAME THING WITH
4 THE OTHER.

5 Q WHO DID YOU INTERVIEW FIRST THAT DAY?

6 A THE HUSBAND.

7 Q AND AFTER INTERVIEWING HIM, DID YOU HAVE AN
8 OPPORTUNITY TO INTERVIEW MIAMA KROMAH?

9 A YES, I DID.

10 Q AND TELL THE JURY HOW THAT TOOK PLACE AND
11 BASICALLY WHAT KIND OF INFORMATION YOU WERE TRYING TO
12 GET?

13 A WHAT I WAS TRYING TO DO IS FIND OUT EXACTLY WHAT
14 HAPPENED TO THE CHILD, TO THE VICTIM, BECAUSE SHE
15 WAS -- HE WAS IN HER CARE. I WAS TRYING TO FIND OUT
16 WHAT HAPPENED, AND I WANTED THE CHRONOLOGICAL FOR WHAT
17 HAPPENED FROM THE TIME SHE PICKED HIM UP UNTIL SHE GOT
18 TO THE HOSPITAL.

19 Q AT THAT POINT WAS SHE UNDER ARREST?

20 A NO, SHE WAS NOT.

21 Q WAS SHE IN CUSTODY?

22 A NO, SHE WAS NOT.

23 Q DID YOU ADVISE HER OF HER RIGHTS BEFORE YOU TALKED
24 TO HER THAT DAY?

25 A NO, I DID NOT.

1 Q WHY NOT?

2 A BECAUSE SHE WAS NOT A SUSPECT AT THE TIME.

3 Q AT THAT TIME, DID YOU TAKE A FORMAL STATEMENT FROM
4 MS. KROMAH?

5 A I DID.

6 Q AND DO YOU HAVE THE ORIGINAL IN YOUR FILE?

7 THE COURT: MR. ROGERS. MR. ROGERS.

8 MR. ROGERS: I'M SORRY, WE APOLOGIZE.

9 BY MS. CAMPBELL:

10 Q AND THIS TWO PAGE FORM, IS THIS THE INFORMATION
11 THAT SHE GAVE YOU AND THE FORMALIZED STATEMENT ON
12 AUGUST 17TH?

13 A YES, IT IS.

14 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD
15 OFFER THE STATEMENT INTO EVIDENCE.

16 THE COURT: IS THERE ANY OBJECTION, MR. ROGERS?

17 MR. ROGERS: LET ME LOOK AT IT.

18 MR. ROGERS: NO OBJECTION.

19 THE COURT: STATE'S 32 IS ADMITTED WITHOUT
20 OBJECTION.

21 (WHEREUPON, STATE'S EXHIBIT 32 WAS MARKED FOR
22 IDENTIFICATION AND ADMITTED INTO EVIDENCE.)

23 MS. CAMPBELL: THANK YOU.

24 BY MS. CAMPBELL:

25 Q INVESTIGATOR, CAN YOU GO THROUGH BASICALLY THE

1 QUESTIONS AND THE ANSWERS THAT WERE GIVEN TO YOU BY
2 MIAMA KROMAH ON THE 17TH?

3 A ON THE SECOND PAGE?

4 Q NO, ON THE 17TH, THAT WAS AUGUST 17TH.

5 A YES.

6 Q I'M SORRY, YES.

7 A GO THROUGH THE WHOLE THING?

8 Q YES.

9 A OKAY. AGAIN, I MET WITH HER AND WE TOOK -- I TOOK
10 THE FOLLOWING STATEMENT:

11 "ON MONDAY, I PICKED Minor UP FROM MY SISTER'S
12 HOUSE. WE DROVE HOME. WE WATCHED TELEVISION FOR
13 A WHILE. I TOLD Minor THAT HE HAD TO GET READY
14 FOR SCHOOL THE NEXT DAY. I TOLD HIM THAT WE HAD
15 TO GIVE HIM HIS BATH AND GET READY FOR BED. I
16 TURNED THE TELEVISION OFF AND PICKED Minor UP
17 AND TOOK HIM TO THE BATHROOM. WHEN WE GOT IN THE
18 BATHROOM, I STOOD Minor UP. I STOOD Minor
19 UP ON THE BATHROOM FLOOR. WHEN I DID, Minor
20 MADE A FACE. I ASKED HIM WHY DID HE MAKE THAT
21 FACE. Minor SAID THAT HE HAD TO TAKE A SHOWER.
22 I STARTED UNDRESSING HIM, AND THAT'S WHEN I SAW
23 THE SWELLING IN HIS PRIVATE AREA. I ASKED HIM
24 WHAT HAPPENED, AND HE SAID, "I HURT." I TOLD HIM,
25 "I KNOW YOU ARE HURTING BECAUSE I CAN SEE THE

1 SWELLING." I PICKED UP A PHONE TO CALL MY SISTER,
2 CIATA GAROWAY. I ASKED HER WHAT HAPPENED TO
3 Minor TODAY BECAUSE HE WAS SWOLLEN ON HIS
4 PRIVATE AREA, BUT IT'S NOT LIKE NORMAL. CIATA
5 TOLD ME SHE DIDN'T KNOW, BUT Minor DIDN'T EAT
6 LIKE HE NORMALLY EATS. I TOLD HER I WAS GOING TO
7 PUT HIM -- GOING TO PUT HIM IN THE TUB TO SOAK IN
8 THE WARM WATER, SO THE SWELLING COULD GO DOWN. I
9 RAN Minor S BATH WATER AND PUT HIM IN THE TUB.
10 I TOLD Minor I WAS GOING TO KEEP PUTTING A WARM
11 TOWEL ON HIM SO THE SWELLING WOULD GO DOWN. I PUT
12 A WARM TOWEL ON HIM A FEW TIMES BEFORE I STARTED
13 SEEING BLOOD. WHEN I SAW THE BLOOD, I GOT HIM OUT
14 OF THE TUB. I GOT HIM OUT OF THE TUB AND CALLED
15 MY SISTER. I TOLD HER I WAS GOING TO TAKE HIM TO
16 LEXINGTON HOSPITAL. I TOOK Minor UP ON THE RUG
17 AND LOOKED AT -- I LOOKED FOR SOME PULL-UPS TO PUT
18 ON HIM. WHEN I PUT THE FIRST PULL-UP ON Minor ,
19 I SAW THAT HE WAS STILL WET. I TOOK THAT PULL-UP
20 OFF AND DRIED HIM OFF AND PUT ANOTHER ONE ON HIM.
21 I TOOK HIM TO HIS BED AND GOT HIM DRESSED. WE
22 LEFT AND DROVE TO LEXINGTON HOSPITAL. LEXINGTON
23 HOSPITAL TOLD ME THEY COULDN'T DO ANYTHING FOR
24 Minor , BUT THAT HE NEEDED TO GO TO CHILDREN'S
25 HOSPITAL. WE LEFT LEXINGTON HOSPITAL AROUND -- WE

1 LEFT LEXINGTON HOSPITAL AFTER FOUR O'CLOCK IN THE
2 MORNING GOING TO CHILDREN'S HOSPITAL. Minor
3 WAS TRANSPORTED BY E.M.S."

4 QUESTION: WHAT TIME DID YOU CALL MUSA KROMAH?

5 ANSWER: I CALLED HIM BEFORE I LEFT THE HOUSE AND
6 AFTER I GOT TO THE HOSPITAL.

7 QUESTION: DID YOU CUT Minor ON HIS SCROTUM?

8 ANSWER: NO.

9 QUESTION: DO YOU KNOW WHO DID?

10 ANSWER: NO.

11 QUESTION: DID Minor TELL YOU WHO CUT HIM?

12 ANSWER: NO. ALL WE TALKED ABOUT WAS THE
13 SWELLING.

14 QUESTION: WHO WAS HOME WITH YOU AND Minor ?

15 ANSWER: NO ONE, JUST HIM AND ME.

16 QUESTION: MS. KROMAH, ARE YOU TELLING ME THE
17 TRUTH?

18 ANSWER: YES.

19 QUESTION: IS THERE ANYTHING WE NEED TO ADD OR
20 CHANGE TO YOUR STATEMENT?

21 ANSWER: NO.

22 QUESTION: IS THIS STATEMENT BEING GIVEN OF YOUR
23 OWN FREE WILL AND ACCORD?

24 ANSWER: YES.

25 END OF STATEMENT.

1 Q AND DID SHE ACKNOWLEDGE THAT STATEMENT IN ANY WAY
2 ONCE YOU HAD REDUCED IT TO WRITING? AND YOU ACTUALLY
3 TYPED IT IN, I ASSUME?

4 A YES.

5 Q ONCE SHE HAD GIVEN YOU THAT STATEMENT, DID SHE
6 ACKNOWLEDGE IT WAS HER STATEMENT IN ANY WAY?

7 A YES, SHE DID. SHE SIGNED THE STATEMENT.

8 Q AND WHOSE WORDS ARE THOSE AS FAR AS WHAT SHE SAID
9 HAPPENED THAT NIGHT?

10 A THEY ARE ALL HER WORDS.

11 Q I NOTICE IN THAT STATEMENT SHE MENTIONED SOMETHING
12 ABOUT PUTTING ON A PULL-UP ON THE CHILD?

13 A YES.

14 Q TAKING IT OFF AND PUTTING ON ANOTHER ONE?

15 A YES.

16 Q DID SHE BECOME AWARE THAT A BLOODY DIAPER HAD BEEN
17 RECOVERED AT THE SCENE?

18 A NOT THAT I KNOW OF.

19 Q AFTER TALKING TO MR. AND MS. KROMAH, DID YOU MAKE
20 CONTACT WITH ANYONE ELSE IN AN EFFORT TO VALIDATE WHAT
21 SHE HAD TOLD YOU?

22 A THE A.R.C.

23 Q AND DID YOU MAKE CONTACT WITH HER SISTER,
24 MS. GAROWAY?

25 A YES, I DID.

1 Q WAS THAT ON THE SAME DAY AFTER YOU INTERVIEWED
2 THEM?

3 A YES, IT WAS.

4 Q AND DID YOU -- AND YOU CAN'T SAY WHAT SHE SAID,
5 BUT DID YOU INTERVIEW MS. GAROWAY?

6 A YES, I DID.

7 Q AND PRIMARILY, WHAT WERE YOU TRYING -- WHAT TYPE
8 OF INFORMATION WERE YOU TRYING TO GET FROM MS. GAROWAY?

9 A WHEN I WAS TALKING TO HER TO TRY TO GET HER
10 RECOLLECTION -- I WAS TRYING TO FIND OUT DID ANYTHING
11 HAPPEN AT HER RESIDENCE BEFORE THE CHILD WENT HOME AND
12 WHAT HAPPENED WHILE THE CHILD WAS IN HER CUSTODY BEFORE
13 MS. KROMAH PICKED HIM UP.

14 Q DURING THAT INTERVIEW, WHAT WAS MS. GAROWAY'S
15 Demeanor LIKE?

16 A WHEN SHE WAS INTERVIEWING WITH ME?

17 Q YES.

18 A SHE WAS A LITTLE BIT ARROGANT.

19 Q LATER THAT DAY OR ACTUALLY THAT EVENING, DID YOU
20 RETURN TO THE HOSPITAL TO THE INTENSIVE CARE UNIT?

21 A YES, I DID.

22 Q AND WHO DID YOU MEET WITH ON THAT EVENING?

23 A WHEN I WAS AT THE -- I WENT UP TO THE P.I.C.U.
24 WHICH IS WHERE THE KIDS ARE AT, AND I MET WITH THE
25 STAFF AT THE P.I.C.U. UNIT AND WITH THE VICTIM IN THE

1 UNIT.

2 Q WERE EITHER MR. OR MRS. KROMAH PRESENT AT THAT
3 POINT WHEN YOU WENT UP THERE THAT EVENING?

4 A NO, THEY WERE NOT.

5 Q AND YOU HAD THE OPPORTUNITY TO MEET WITH THE
6 VICTIM AT THAT POINT?

7 A I DID.

8 Q AND YOU CAN'T SAY WHAT HE SAID, BUT WHAT WERE YOU
9 ASKING HIM ABOUT? DO NOT SAY WHAT HE SAID.

10 A I WAS ASKING WHAT HAPPENED TO HIM AND WHO DID IT.

11 Q WAS THE CHILD -- YOU CAN'T SAY WHAT HE SAID, BUT
12 WAS HE ABLE TO COMMUNICATE WITH YOU?

13 A YES, HE WAS.

14 Q DOES THE CHILD HAVE A SPEECH PROBLEM?

15 A IT SOUNDS LIKE HE'S GOT A BIT OF A SPEECH PROBLEM,
16 BUT HE'S LIKE TWO-AND-A-HALF TO THREE YEARS OLD, SO
17 HE'S JUST BEGINNING TO TALK, BUT I COULD UNDERSTAND
18 WHAT HE WAS SAYING.

19 Q AND HE RELATED -- WAS HE ABLE TO RELATE
20 INFORMATION TO YOU?

21 A YES, HE DID.

22 Q AND BASED ON YOUR INVESTIGATION AT THAT POINT, THE
23 NEXT DAY DID YOU ARREST MIAMA KROMAH?

24 A YES, I DID.

25 MR. ROGERS: OBJECTION, YOUR HONOR. THAT IS AN

1 IMPROPER QUESTION, BASED ON THAT INFORMATION. WE'VE
2 ALREADY DISCUSSED THIS. MAY WE APPROACH THE BENCH?

3 THE COURT: YES, SIR. COME UP.

4 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
5 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE
6 JURY.)

7 THE COURT: ALL RIGHT. THE OBJECTION IS
8 OVERRULED. YOU MAY CONTINUE, SOLICITOR.

9 BY MS. CAMPBELL:

10 Q BASED ON YOUR INVESTIGATION, WHAT DID YOU DO THE
11 NEXT DAY, INVESTIGATOR LIVINGSTON?

12 A I PLACED MS. KROMAH UNDER ARREST.

13 Q DURING THE COURSE OF YOUR INVESTIGATION, WERE YOU
14 ABLE TO DETERMINE WHO ALL WAS LIVING AT THAT APARTMENT
15 OUT AT ST. ANDREWS?

16 A YES, I WAS.

17 Q AND WHO ALL WAS LIVING THERE?

18 A MR. AND MS. KROMAH, Minor , AND THEY HAD A
19 ROOMMATE, AS WELL THAT WAS LIVING THERE.

20 Q AND BASED ON THE INVESTIGATION, THERE WERE SEVERAL
21 PARTIES IN AND AROUND Minor THAT DAY. WERE YOU ABLE
22 TO ELIMINATE ANY OF THEM AS SUSPECTS?

23 A YES, I DID.

24 Q AND WHO WERE YOU ABLE TO ELIMINATE?

25 A MR. KROMAH, HIS ROOMMATE, AND THE -- HIS

1 SISTER-IN-LAW.

2 Q DID THE DEFENDANT EVER INDICATE TO YOU WHAT HER
3 OCCUPATION WAS?

4 A YES, SHE DID.

5 Q WHAT WAS IT?

6 A SHE WAS A STUDENT AT SOUTH CAROLINA STATE
7 UNIVERSITY, AND ALSO THAT SHE WORKED PART TIME AT THE
8 BRIAN CENTER.

9 Q AND IS BRIAN CENTER A TYPE OF MEDICAL CENTER?

10 A YES, IT IS.

11 Q DURING THE COURSE OF YOUR INVESTIGATION -- AND I
12 SKIPPED SOMETHING, I'M SORRY. WHILE YOU WERE AT THE
13 HOSPITAL THE NIGHT BEFORE, AFTER TALKING TO THE CHILD,
14 DID YOU ALSO MAKE CONTACT WITH THE STAFF THERE AT THE
15 HOSPITAL?

16 A YES, I DID.

17 Q AND WHAT DID YOU TELL THEM YOU WERE GOING TO DO AS
18 FAR AS WHAT WAS GOING TO HAPPEN TO THE CHILD?

19 A I TOLD THE STAFF THAT BEFORE THE CHILD WAS
20 RELEASED FROM THE HOSPITAL TO NOTIFY THE RICHLAND
21 COUNTY SHERIFF'S DEPARTMENT, AND SPECIFICALLY MYSELF
22 BECAUSE I WAS GOING TO TAKE THE CHILD INTO EMERGENCY
23 PROTECTIVE CUSTODY. HE WOULD NOT BE RELEASED TO THE
24 PARENTS.

25 Q AND THAT WOULD MEAN THE DEFENDANT OR HER HUSBAND?

1 A THAT'S CORRECT.

2 Q DID D.S.S. BECOME INVOLVED IN THIS CASE?

3 A YES, THEY DID.

4 Q DO YOU KNOW THIS CHILD'S BIRTHDAY, Minor 'S?

5 A YES, I DO.

6 Q WHAT IS IT?

7 A HIS BIRTHDAY IS

8 Q FEBRUARY ?

9 A YES, IT IS.

10 Q THANK YOU.

11 MS. CAMPBELL: I DON'T HAVE ANYTHING FURTHER.

12 THE COURT: ALL RIGHT. MR. ROGERS.

13 MR. ROGERS: MAY IT PLEASE THE COURT.

14 THE COURT: YES, SIR.

15 CROSS-EXAMINATION

16 BY MR. ROGERS:

17 Q YOU'RE THE MAIN CASE INVESTIGATOR ON THIS CASE,
18 CORRECT?

19 A YES, I AM.

20 Q AND AS SUCH YOU'RE RESPONSIBLE FOR MARSHALLING ALL
21 THE EVIDENCE, GATHERING ALL THE EVIDENCE?

22 A I ALSO HAVE ASSISTANCE TO HELP ME WITH THE
23 EVIDENCE.

24 Q BUT THE BUCK STOPS WITH YOU, RIGHT, YOU TELL
25 EVERYONE ELSE, RIGHT?

1 A THEY LET ME KNOW WHAT THEY COLLECTED.

2 Q YOU TELL EVERYBODY ELSE WHAT TO DO?

3 A BASICALLY.

4 Q AND YOU'RE RESPONSIBLE FOR MAKING SURE THAT
5 EVIDENCE GETS SENT TO S.L.E.D. FOR ANALYSIS?

6 A IF IT NEEDS TO GO, YES.

7 Q AND YOU DID THAT IN THIS CASE?

8 A YES.

9 Q AND YOU'RE RESPONSIBLE FOR CONDUCTING ANY OTHER
10 INVESTIGATION SURROUNDING THESE FACTS?

11 A YES.

12 Q OKAY. AFTER YOU CONDUCTED YOUR INTERVIEW WITH
13 MRS. KROMAH AND MR. KROMAH, DID YOU GO TO THE APARTMENT
14 YOURSELF?

15 A NO, I DID NOT.

16 Q YOU SENT SERGEANT GRAINGER?

17 A STRANGE.

18 Q STRANGE?

19 A STRANGE, YES.

20 Q YOU SENT HIM?

21 A YES.

22 Q AND DID YOU INSTRUCT HIM TO DO CERTAIN THINGS?

23 A YEAH, I TOLD HIM WHAT TO LOOK FOR WHILE HE WAS IN
24 THE APARTMENT.

25 Q WHICH WAS?

1 A TO LOOK FOR THE BLOODY DIAPERS, THE CLOTHING, ANY
2 CLOTHING, TOWELS OR WHATEVER.

3 Q AND HE DID THAT?

4 A YES, HE DID.

5 Q DID YOU EVER GO TO THE APARTMENT YOURSELF?

6 A NO, I NEVER DID.

7 Q DID YOU EVER GO TO THE SURROUNDING APARTMENTS AND
8 CONDUCT AN INVESTIGATION TO DETERMINE IF ANYONE HEARD
9 ANY CHILD SCREAMING THE NIGHT BEFORE?

10 A NO, I DID NOT.

11 Q A COUPLE OF NIGHTS BEFORE?

12 A NO.

13 Q WHY NOT?

14 A THERE WAS NO NEED TO DO THAT.

15 Q OKAY. NOW MS. KROMAH TOLD YOU THAT SHE HAD PICKED
16 Minor UP FROM HER SISTER'S?

17 A YES.

18 Q AND THAT SHE HAD TAKEN HIM HOME, PUT HIM IN THE
19 BATHTUB AND BEFORE SHE PUT HIM IN THE BATHTUB SHE SAW
20 THE SWELLING?

21 A THEY WERE IN THE BATHROOM.

22 Q IN THE BATHROOM?

23 A UH-HUH.

24 Q AND IT WAS ONLY AFTER SHE HAD PUT THE TOWEL ON THE
25 SWELLING IS WHEN SHE FIRST SAW BLOOD?

- 1 A THAT'S CORRECT.
- 2 Q OKAY. AND THEN SHE TOLD YOU THAT SHE PUT A DIAPER
- 3 ON HIM OR A PAMPER ON HIM?
- 4 A A PULL-UP.
- 5 Q A PULL-UP, BUT THAT HE WAS STILL WET AND SHE TOOK
- 6 THAT ONE OFF AND PUT THAT IN THE TRASH, I MEAN, IN THE
- 7 HAMPER?
- 8 A RIGHT.
- 9 Q SO YOU KNEW THAT THERE WOULD BE A BLOODY DIAPER
- 10 THERE IN THE HAMPER OR TRASH?
- 11 A YES.
- 12 Q SHE DIDN'T ATTEMPT TO TELL YOU THAT SHE DIDN'T
- 13 KNOW WHAT HAPPENED TO THE PULL-UP?
- 14 A NO, SHE DIDN'T.
- 15 Q AND THERE WAS NO ATTEMPT MADE TO SAY -- TO HIDE
- 16 THE PAMPER?
- 17 A NO.
- 18 Q OKAY. IT WAS RIGHT THERE WHERE SHE TOLD YOU THAT
- 19 YOU WOULD FIND IT?
- 20 A YES.
- 21 Q OKAY. DID YOU GO TO MS. GAROWAY'S APARTMENT?
- 22 A NO, I DID NOT.
- 23 Q BUT YOU WERE AWARE THAT Minor HAD BEEN PRESENT
- 24 THERE?
- 25 A YES.

1 Q AND YOU WERE AWARE THAT Minor HAD BEEN PRESENT
2 THERE DURING A TIMEFRAME THAT THE INJURY COULD HAVE
3 OCCURRED?

4 A I KNEW HE HAD BEEN THERE, YES.

5 Q YOU HEARD THE DOCTORS SAY YESTERDAY THAT THE
6 INJURY COULD HAVE OCCURRED WITHIN A 24 HOUR PERIOD FROM
7 WHEN SHE SAW HIM THAT MORNING AT SIX O'CLOCK, CORRECT?

8 Q YES.

9 A WERE YOU AWARE OF THAT AT THE TIME YOU WERE
10 CONDUCTING YOUR INVESTIGATION?

11 A THAT HE WAS IN THE HOUSE?

12 Q NO, THAT THE INJURY COULD HAVE OCCURRED WITHIN A
13 24 HOUR WINDOW?

14 A AT THAT TIME, NO.

15 Q OKAY. HAD YOU KNOWN THAT, WOULD YOUR
16 INVESTIGATION HAVE CHANGED?

17 A HAD I KNOWN THAT HE POSSIBLY COULD HAVE BEEN
18 INJURED AT THE HOUSE, I WOULD HAVE GONE TO THE HOUSE,
19 BUT I DIDN'T.

20 Q OKAY. SO THAT IF THERE WAS ANY EVIDENCE AT
21 MS. GAROWAY'S HOUSE THAT WOULD CORROBORATE WHAT
22 HAPPENED, YOU DIDN'T LOOK FOR THAT?

23 A I DIDN'T GO TO MS. GAROWAY'S APARTMENT.

24 Q AND DID YOU GO TO ST. STEPHEN'S NURSERY SCHOOL?

25 A NO, I DID NOT.

1 Q AND YOU WERE AWARE THAT Minor HAD BEEN IN
2 ST. STEPHEN'S NURSERY SCHOOL?
3 A YES.
4 Q WITHIN THE PERIOD THAT THIS COULD HAVE OCCURRED?
5 A YES.
6 Q BUT YOU DIDN'T GO THERE EITHER?
7 A NO, I DID NOT.
8 Q OKAY. WHEN YOU WERE TALKING WITH MUSA AND MIAMA,
9 DID YOU MENTION TO THEM OR ASK THEM DID THEY DO IT?
10 A I REMEMBER ASKING HER, NOT MR. KROMAH BECAUSE HE
11 WAS AT WORK.
12 Q WELL, YOU EVENTUALLY TALKED TO MR. KROMAH?
13 A YES.
14 Q DID YOU MENTION ANYTHING TO THEM ABOUT THIS WAS --
15 OR DID YOU ASK THEM WAS THIS SOMETHING CULTURAL OR
16 RITUAL BECAUSE THEY WERE AFRICAN?
17 A I DID NOT ASK THAT QUESTION. THAT QUESTION DID
18 COME UP, BUT IT DID NOT COME FROM ME.
19 Q THAT CAME UP?
20 A IT DID NOT COME FROM LAW ENFORCEMENT, PERIOD.
21 Q IT CAME UP FROM WHO?
22 A THE DEPARTMENT OF SOCIAL SERVICES.
23 Q SO THERE HAD BEEN SOME TALK PRIOR TO YOUR GETTING
24 THE ARREST WARRANT FOR MS. KROMAH THAT THIS ACTION WAS
25 CULTURAL OR RITUAL?

1 A I DON'T KNOW WHEN IT CAME UP, BUT I DON'T THINK IT
2 WAS BEFORE I MADE THE ARREST.

3 Q BUT YOU GOT THE WARRANT TWO DAYS LATER ON THE
4 18TH; IS THAT RIGHT?

5 A ON THE 18TH. IT WASN'T -- I WAS DOING MY OWN
6 INVESTIGATION AND D.S.S. WAS DOING THEIR OWN
7 INVESTIGATION.

8 Q SO YOU NEVER SAID ANYTHING TO MUSA OR MIAMA
9 QUESTIONING THEM ABOUT WHETHER OR NOT THIS WAS
10 SOMETHING RITUAL OR CULTURAL?

11 A I DID NOT.

12 Q YOU DID NOT?

13 A I DID NOT.

14 Q OKAY. DID YOU SEE SOMETHING? DID YOU SEE THE
15 NEWS REPORTS OF MS. KROMAH'S ARREST ON W.I.S. TV AND IN
16 THE NEWSPAPER?

17 A I THINK I READ IT IN THE NEWSPAPER, BUT I DID NOT
18 SEE IT ON TELEVISION.

19 Q DID YOU READ IN THE NEWSPAPER THAT THERE WAS A
20 SUSPICION THAT THIS INJURY MAY HAVE BEEN CAUSED DUE TO
21 SOME CULTURAL OR RITUAL REASON?

22 A I DO NOT REMEMBER READING THAT, NO.

23 Q AND, OF COURSE, YOU DIDN'T GIVE AN INTERVIEW TO
24 THE NEWSPAPER?

25 A NO, I DID NOT.

1 Q AND YOU WEREN'T RESPONSIBLE FOR GIVING AN ACCOUNT
2 OF THE ARREST TO W.I.S. TELEVISION?

3 A NO, I WAS NOT.

4 Q SO YOU DON'T KNOW HOW THEY WOULD HAVE GOTTEN THAT
5 INFORMATION?

6 A NO, I DON'T.

7 Q OKAY. BUT IT'S CLEAR IN YOUR MIND THAT YOU NEVER
8 MENTIONED THAT TO MUSA OR MIAMA?

9 A THAT'S CORRECT.

10 Q YOU DIDN'T SAY ANYTHING TO MUSA THAT, "MAN, IF
11 THIS IS CULTURAL YOU WON'T --

12 MS. CAMPBELL: OBJECTION. I THINK HE HAS ANSWERED
13 THIS QUESTION.

14 THE COURT: SUSTAINED.

15 MR. ROGERS: YOUR HONOR, I'M ON CROSS-EXAMINATION.

16 THE COURT: YES, SIR, YOU ARE, BUT WHEN HE SAYS HE
17 HADN'T TALKED TO HIM, IT DOESN'T MAKE ANY SENSE TO KEEP
18 ASKING HIM WHAT HE DIDN'T SAY. I SUSTAIN THE
19 OBJECTION.

20 MR. ROGERS: YES, YOUR HONOR.

21 BY MR. ROGERS:

22 Q DID YOU THINK IT WAS RITUAL OR CULTURAL?

23 A NO, I DID NOT.

24 Q YOU DID NOT?

25 A NO.

1 Q WHO TOOK THE PHOTOGRAPHS IN THE HOSPITAL?

2 A INVESTIGATOR -- OFFICER OATES.

3 Q IS HE SOMEONE FROM THE RICHLAND COUNTY SHERIFF'S
4 DEPARTMENT?

5 A YES. HE'S FROM THE RICHLAND COUNTY SHERIFF'S
6 DEPARTMENT FORENSICS UNIT.

7 Q THERE WAS NOT A HOSPITAL PHOTOGRAPHER THERE?

8 A I DID NOT SEE ONE, NO.

9 Q SO BASICALLY YOUR INVESTIGATION IN THIS CASE
10 CONSISTED OF TALKING TO THE KROMAHS, TALKING TO THE
11 SISTER AND TALKING TO THE DOCTORS, CORRECT?

12 A CORRECT.

13 Q AND NOTHING ELSE?

14 A NOTHING ELSE.

15 MR. ROGERS: BEG THE COURT'S INDULGENCE ONE
16 MOMENT?

17 THE COURT: YES, SIR.

18 (PAUSE)

19 THE COURT: REDIRECT.

20 MS. CAMPBELL: JUST A COUPLE OF QUESTIONS.

21 REDIRECT EXAMINATION

22 BY MS. CAMPBELL:

23 Q IN YOUR INVESTIGATION, YOU WERE AWARE THAT
24 SERGEANT STRANGE WAS EXECUTING A CONSENT TO SEARCH?

25 A I WAS.

1 Q THAT WAS ON THE 17TH; IS THAT CORRECT?

2 A YES.

3 Q WOULD THAT HAVE BEEN AT THE SAME TIME YOU WERE
4 INTERVIEWING OR BEFORE YOU INTERVIEWED MR. AND
5 MRS. KROMAH?

6 A YES. IT WAS DONE WHILE MS. KROMAH WAS BEING
7 INTERVIEWED.

8 Q OKAY. AND HE ASKED YOU ABOUT WHAT EVIDENCE WAS
9 FOUND AT OTHER SCENES. WHAT EVIDENCE WAS FOUND AT THE
10 PLACE WHERE MS. KROMAH SAID THE CHILD WAS BLEEDING?

11 A THERE WAS BLOOD ON THE FLOOR.

12 Q AND IN THE TRASH CAN, ON STATE'S EXHIBIT
13 NUMBER 22, WHAT EVIDENCE WAS FOUND IN THE BATHROOM?

14 A A BLOODY PULL-UP.

15 Q IN YOUR INTERVIEW OF ANYONE, WAS THERE ANY
16 ALLEGATION THE CHILD WAS EVER BLEEDING ANYWHERE ELSE?

17 A NO.

18 Q THANK YOU, SIR.

19 MS. CAMPBELL: I DON'T HAVE ANYTHING FURTHER.

20 THE COURT: ANY RECROSS?

21 MR. ROGERS: JUST ONE QUESTION.

22 RECROSS EXAMINATION

23 BY MR. ROGERS:

24 Q DID SHE TELL YOU THAT YOU WOULD FIND BLOOD ON THE
25 FLOOR?

1 A NO, SHE DIDN'T.

2 Q SHE DIDN'T?

3 A NO.

4 MR. ROGERS: NOTHING FURTHER.

5 THE COURT: ANYTHING FURTHER, SOLICITOR?

6 MS. CAMPBELL: NO, SIR.

7 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

8 ALL RIGHT. SOLICITOR.

9 MS. HALL: YOUR HONOR, AT THIS TIME THE STATE
10 RESTS.

11 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND
12 GENTLEMEN, THE STATE HAS RESTED. THERE MAY BE SOME
13 MATTERS OF LAW THAT I NEED TO TAKE UP OUTSIDE YOUR
14 PRESENCE. PLEASE DO NOT DISCUSS THE CASE. STEP BACK
15 TO THE JURY ROOM, AND I'LL HAVE YOU BACK IN A FEW
16 MINUTES. YOU'RE EXCUSED. EVERYONE ELSE STAY SEATED,
17 PLEASE.

18 (WHEREUPON, THE JURY LEFT OPEN COURT AT
19 APPROXIMATELY 2:47 P.M.)

20 THE COURT: ALL RIGHT. MR. ROGERS, ANY MOTIONS
21 FROM THE DEFENSE?

22 MR. ROGERS: YOUR HONOR, I MOVE FOR A DIRECTED
23 VERDICT BASED ON MY EARLIER MOTIONS AND OBJECTIONS. I
24 WOULD ASK THE COURT TO REVISIT THE ISSUE OF THE TWO
25 CHARGES. I HAD INITIALLY RAISED THE ISSUE OF HAVING

1 THE STATE ELECT BETWEEN UNLAWFUL NEGLECT AND INFLICTION
2 OF GREAT BODILY INJURY UPON A CHILD. I DON'T BELIEVE
3 THAT, TAKEN IN THE LIGHT MOST FAVORABLE TO THE STATE
4 THAT THE JURY COULD FIND THAT THERE WAS ANY UNLAWFUL
5 NEGLECT. I THINK IF YOU LOOK AT THE INDICTMENT ON
6 UNLAWFUL NEGLECT, IT SAYS (1) TO PLACE THE CHILD AT
7 UNREASONABLE RISK OF HARM AFFECTING THE CHILD'S LIFE,
8 (2) DO OR CAUSE TO BE DONE UNLAWFULLY OR MALICIOUSLY,
9 BODILY HARM TO THE CHILD, OR (3) WILLFULLY ABANDON THE
10 CHILD, TO WHIT THE DEFENDANT DID CUT THE SCROTUM OF THE
11 CHILD.

12 THE OTHER INDICTMENT, INFLICTION OF GREAT BODILY
13 INJURY UPON A CHILD HAS THE SPECIFIC ALLEGATIONS OF
14 CUTTING THE SCROTUM. WE FEEL THAT THE EVIDENCE GOES
15 MORE TO THE INFLICTION OF GREAT BODILY INJURY. THERE
16 IS NOT ENOUGH EVIDENCE TO SUPPORT A VERDICT ON THE
17 UNLAWFUL NEGLECT CHARGE, AND WE WOULD ASK FOR A
18 DIRECTED VERDICT.

19 THE COURT: ALL RIGHT, SOLICITOR.

20 MS. CAMPBELL: MAY IT PLEASE THE COURT, YOUR
21 HONOR. I DO BELIEVE THE ELEMENTS OF THE TWO CRIMES ARE
22 DIFFERENT. I UNDERSTAND THAT YOU THINK THAT IT MAY BE
23 SOMETHING WE NEED TO ADDRESS AT SENTENCING IF WE GET TO
24 THAT POINT. WE WOULD RESPECTFULLY SUBMIT THAT SINCE
25 THE ELEMENTS ARE DIFFERENT, THAT WE HAVE THE RIGHT TO

1 GO FORWARD AT LEAST ON THE TWO INDICTMENTS IN THIS
2 CASE.

3 THE COURT: ALL RIGHT. THE MOTION TO REQUIRE THE
4 STATE TO ELECT IS DENIED. 16-395 INDICATES THAT IT IS
5 UNLAWFUL TO INFLICT GREAT BODILY INJURY UPON A CHILD.
6 A PERSON WHO VIOLATES SAID SUBSECTION IS GUILTY OF A
7 FELONY. IT GOES THROUGH AND DEFINES GREAT BODILY
8 INJURY. THE JURY COULD DETERMINE THAT GREAT BODILY
9 INJURY HAD NOT BEEN PROVEN, BUT THERE WOULD STILL BE
10 SUFFICIENT EVIDENCE IN THE RECORD TO SUPPORT THE CHARGE
11 OF UNLAWFUL CONDUCT TOWARDS A CHILD UNDER 20-7-50,
12 WHICH DOES NOT REQUIRE GREAT BODILY INJURY. FOR THAT
13 REASON I'M NOT REQUIRING THE STATE TO ELECT.

14 AGAIN, YOU CANNOT BE PUNISHED TWICE FOR THE SAME
15 OFFENSE. I'LL KEEP THAT IN MIND IF AND WHEN WE GET TO
16 THAT POINT.

17 ALL RIGHT. ANYTHING FURTHER?

18 MR. ROGERS: NOT FROM THE DEFENDANT, YOUR HONOR.

19 THE COURT: THAT IS TAKEN BOTH AS A MOTION TO
20 REQUIRE THE STATE TO ELECT AND A MOTION FOR DIRECTED
21 VERDICT, AND THOSE WOULD BE DENIED.

22 ALL RIGHT. MR. ROGERS, HAS YOUR CLIENT MADE THE
23 FINAL DECISION ON WHETHER OR NOT SHE WILL TESTIFY?

24 MR. ROGERS: YES, YOUR HONOR, SHE HAS. SHE WILL
25 TESTIFY.

1 THE COURT: ALL RIGHT. MS. KROMAH, I NEED TO TALK
2 WITH YOU FOR JUST A MOMENT ON THE RECORD. IF YOU WILL
3 JUST STAND THERE. I'M SURE MR. ROGERS HAS GONE OVER
4 THIS WITH YOU, BUT I'M REQUIRED TO ALSO.

5 YOU DO HAVE A CONSTITUTIONAL RIGHT NOT TO TESTIFY.
6 NOBODY CAN FORCE YOU TO TESTIFY. IT HAS TO BE A
7 DECISION THAT IS MADE BY YOU. IF YOU CHOOSE NOT TO
8 TESTIFY, YOUR SILENCE CANNOT BE HELD AGAINST YOU OR
9 USED AGAINST YOU IN ANY WAY. AS I'VE INDICATED, YOUR
10 LAWYER CANNOT FORCE YOU TO TAKE THE WITNESS STAND. THE
11 SOLICITOR CERTAINLY CANNOT FORCE YOU TO AND THE JUDGE
12 CANNOT NOT FORCE YOU TO TAKE THE WITNESS STAND.

13 YOUR SILENCE COULD NOT BE USED AGAINST YOU, COULD
14 NOT BE HELD AGAINST YOU. IF A DEFENDANT DOES NOT
15 TESTIFY, I WOULD INSTRUCT THE JURY THAT THEY CANNOT
16 EVEN DISCUSS THAT BACK IN THE JURY ROOM. IT IS AN
17 IMPORTANT RIGHT. IT IS A PERSONAL RIGHT THAT IS
18 PERSONAL TO YOU, AND THE ONLY PERSON WHO CAN DECIDE
19 WHETHER TO EXERCISE THAT RIGHT AND NOT TO TESTIFY OR TO
20 GIVE UP THAT RIGHT AND TAKE THE WITNESS STAND AND
21 TESTIFY IS YOU.

22 IF YOU DECIDE TO GIVE UP THAT RIGHT, THEN YOU WILL
23 BE PERMITTED TO TAKE THE STAND AND YOU WILL BE ASKED
24 QUESTIONS BY YOUR LAWYER, AND THEN THE STATE, THE
25 SOLICITOR, WILL HAVE THE RIGHT TO CROSS-EXAMINE OR

1 QUESTION YOU ONCE YOU HAVE TAKEN THE STAND.

2 AT THIS TIME, DO YOU HAVE ANY QUESTIONS ABOUT YOUR
3 RIGHT TO REMAIN SILENT?

4 THE DEFENDANT: NO.

5 THE COURT: ALL RIGHT. AND YOU DISCUSSED IT WITH
6 MR. ROGERS; IS THAT RIGHT?

7 THE DEFENDANT: YES, SIR.

8 THE COURT: HE HAS ADVISED ME THAT YOU WOULD LIKE
9 TO GIVE UP THAT RIGHT AND TAKE THE WITNESS STAND; IS
10 THAT CORRECT?

11 THE DEFENDANT: YES, SIR.

12 THE COURT: ARE YOU DOING THAT OF YOUR OWN FREE
13 WILL?

14 THE DEFENDANT: YES, I AM.

15 THE COURT: ALL RIGHT, THEN THE DEFENDANT WILL BE
16 PERMITTED TO GIVE UP HER CONSTITUTIONAL RIGHT TO REMAIN
17 SILENT AND SHE WILL BE PERMITTED TO TESTIFY. YOU CAN
18 TAKE A SEAT, MS. KROMAH.

19 WE'LL TAKE A BRIEF RECESS BEFORE WE GET THE JURY
20 BACK. COME UP HERE. LET ME TALK TO YOU ALL FOR JUST A
21 MOMENT. WE'LL TAKE A RECESS OF ABOUT TEN MINUTES,
22 PLEASE.

23 (WHEREUPON, THERE WAS A BENCH CONFERENCE.)

24 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

25 THE COURT: ALL RIGHT. IS THE STATE READY?

1 MS. CAMPBELL: THE STATE IS READY.

2 THE COURT: THE DEFENDANT IS READY?

3 MR. ROGERS: THE DEFENDANT IS READY.

4 THE COURT: ALL RIGHT. GET THE JURY BACK IN,
5 PLEASE.

6 (WHEREUPON, THE JURY RETURNED TO COURT AT
7 3:12 P.M.)

8 THE BAILIFF: THE JURY IS SEATED, YOUR HONOR.

9 THE COURT: ALL RIGHT. THANK YOU. LADIES AND
10 GENTLEMEN, WE WILL CONTINUE.

11 MR. ROGERS, YOU MAY CONTINUE.

12 MR. ROGERS: THANK YOU, YOUR HONOR. WE WOULD
13 RECALL MUSA KROMAH.

14 THE COURT: MR. KROMAH, YOU HAVE ALREADY BEEN
15 SWORN EARLIER AND YOU WON'T BE SWORN AGAIN. COME ON UP
16 AND HAVE A SEAT IN THE WITNESS STAND, PLEASE.

17 MUSA KROMAH,
18 HAVING BEEN PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY MR. ROGERS:

21 Q MR. KROMAH, YOU'RE STILL UNDER OATH. YOU
22 UNDERSTAND THAT, CORRECT?

23 A YES, SIR.

24 Q ALL RIGHT. WAS THIS PAST, I'M SORRY, JUNE -- WAS
25 IT JUNE OF 2005, WAS THAT THE FIRST TIME Minor EVER

1 CAME AND VISITED YOU HERE IN SOUTH CAROLINA?

2 A NO, SIR.

3 Q WHEN DID HE COME BEFORE?

4 A HE -- THE MOST RECENT WAS THE CHRISTMAS BEFORE,
5 THAT JUNE.

6 Q OKAY. WERE YOU MARRIED TO MIAMA THEN?

7 A NO, SIR.

8 Q NO?

9 A NO, SIR.

10 Q OKAY. BUT WAS -- DID Minor INTERACT WITH MIAMA
11 THEN?

12 A YES, SIR.

13 Q WERE YOU LIVING TOGETHER?

14 A YES, SIR.

15 Q SO Minor WAS STAYING WITH YOU ALL?

16 A YES, SIR.

17 Q SO IN JUNE, WHEN YOU GOT LEGAL CUSTODY THAT WAS
18 NOT THE FIRST TIME THAT Minor HAD BEEN AROUND MIAMA,
19 WAS IT?

20 A NO, SIR.

21 Q DID YOU SENSE ANY FEELINGS, NEGATIVE OR POSITIVE,
22 THAT MY MIAMA HAD TOWARD Minor ?

23 A NO, SIR.

24 Q EVERYTHING WAS NORMAL?

25 A YEAH.

1 Q NOW, WERE YOU PRESENT AT YOUR APARTMENT WHEN
2 SERGEANT STRANGE CAME TO DO HIS SEARCH?

3 A YES, SIR.

4 Q AND YOU CONSENTED TO THAT SEARCH?

5 A YES, SIR.

6 Q OKAY. WERE YOU PRESENT WHEN THE RAZOR WAS FOUND?

7 A YES, SIR.

8 Q OKAY. WHAT, IF ANYTHING, DID YOU SAY TO SERGEANT
9 STRANGE ABOUT THE RAZOR?

10 A HE HAD ASKED ME ABOUT THE RAZOR, AND I TOLD HIM
11 THAT'S WHAT I USED TO SHAVE.

12 Q YOU TOLD HIM IT WAS YOUR RAZOR?

13 A YES, SIR.

14 Q AND DID YOU HAVE A CONVERSATION WITH INVESTIGATOR
15 LIVINGSTON?

16 A YES, I DID.

17 Q WHAT, IF ANYTHING, DID INVESTIGATOR LIVINGSTON SAY
18 TO YOU ABOUT ANYTHING RITUAL OR CULTURAL?

19 A AT THE HOSPITAL THAT MORNING, INVESTIGATOR
20 LIVINGSTON, ALONG WITH THE SOCIAL WORKER THEY SENT FOR
21 CAME BACK AND CALLED ME IN AN INTERVIEW ROOM AT THE
22 HOSPITAL.

23 Q OKAY.

24 A AND I WAS INTERVIEWED AND ASKED IF THIS HAD TO DO
25 ANYTHING WITH AFRICAN CULTURE, AND MR. LIVINGSTON ALSO

1 SAID HE HAD BEEN TO LIBERIA BEFORE, HE HAD BEEN THERE
2 IN THE '70S, THAT'S WHAT HE TOLD ME AND HE KNOWS THEY
3 HAVE A CULTURE IN AFRICA THAT DOES THINGS LIKE THIS AND
4 SAID IF IS IT IN ANY WAY RELATED TO A CULTURAL THING,
5 AND I SAID, "NO."

6 Q DID HE SAY ANYTHING MORE TO YOU ABOUT WHETHER OR
7 NOT YOU AND YOUR WIFE COULD GET IN TROUBLE?

8 A HE TOLD ME THAT THIS IS THE ONLY WAY -- THIS COULD
9 HELP US GET OUT OF THIS BECAUSE IF IT IS A CULTURE
10 THING, THEN WE CANNOT DO ANYTHING ABOUT IT BECAUSE IT'S
11 A CULTURE THING, SO HE SAID, "IS IT A CULTURE THING?"
12 I TOLD HIM, "NO, THERE'S NOTHING LIKE THIS."

13 Q WERE THOSE THE ONLY TWO PEOPLE THAT YOU HEARD SAY
14 ANYTHING ABOUT THIS CASE CONCERNING RITUAL OR CULTURAL
15 ACTIVITY?

16 A EVERYBODY THAT INTERVIEWED ME FROM THE SOCIAL
17 WORKER DOWN TO THE INVESTIGATOR.

18 Q THEY ASKED YOU ABOUT THAT?

19 A EVERYBODY.

20 MR. ROGERS: THANK YOU, MR. KROMAH. ANSWER ANY
21 QUESTIONS THE SOLICITOR MIGHT HAVE FOR YOU.

22 THE COURT: ALL RIGHT. YOU MAY CROSS-EXAMINE.

23 CROSS EXAMINATION

24 BY MS. CAMPBELL:

25 Q EVERYONE ASKED YOU ABOUT THE RITUAL THING?

1 A EVERYBODY IN THE INITIAL STAGE.

2 Q AND THIS STAGE STARTED WHEN HE WAS IN THE HOSPITAL
3 AND WENT ON FOR MONTHS AFTER THAT THE INVESTIGATION
4 WITH D.S.S.?

5 A SAY IT AGAIN.

6 Q THE D.S.S. INVESTIGATION LASTED FOR MONTHS AFTER
7 THAT, DIDN'T IT?

8 A I GUESS.

9 Q YOU WERE INTERVIEWED MULTIPLE TIMES BY MULTIPLE
10 PEOPLE?

11 A AT THE VERY EARLY STAGE THEY ASKED ME THAT.

12 Q AND YOU HAVE A SPECIFIC MEMORY WITH NO NOTES OR
13 ANYTHING ABOUT EXACTLY WHAT INVESTIGATOR LIVINGSTON
14 ASKED YOU ON THAT MORNING WHEN YOU JUST FOUND OUT THAT
15 YOUR SON'S TESTICLE HAD BEEN CUT?

16 A I DIDN'T GET THAT.

17 Q EXCUSE ME?

18 A I DIDN'T GET THAT.

19 Q YOU DIDN'T GET WHAT?

20 A I DIDN'T GET YOUR QUESTION.

21 Q YOU DIDN'T GET MY QUESTION?

22 A SURELY.

23 Q YOU REMEMBER SPECIFICALLY WHAT INVESTIGATOR
24 LIVINGSTON, APART FROM AT LEAST THE TEN OR TWENTY OTHER
25 PEOPLE WHO INTERVIEWED YOU, ASKED YOU ABOUT ON THAT

1 MORNING WHEN YOU FOUND OUT YOUR CHILD'S TESTICLES HAD
2 BEEN CUT OPEN?

3 A YES.

4 Q YOU REMEMBER SPECIFICALLY?

5 A I REMEMBER WHAT HE ASKED ME.

6 Q OKAY. AND THIS NEVER CAME UP BEFORE?

7 A WHAT NEVER CAME UP?

8 Q YOUR MEMORY OF THIS IN YOUR INTERVIEWS WITH ME OR
9 ANYBODY ELSE?

10 A WHAT NEVER CAME UP ARE YOU TALKING ABOUT?

11 Q THAT YOU AND I NEVER HAD A CONVERSATION ABOUT THIS
12 WHEN WE HAVE TALKED ABOUT THIS BEFORE ON SEVERAL
13 OCCASIONS BOTH ON THE PHONE OR IN MY OFFICE.

14 A I TALK ABOUT IT WITH YOU ON THE PHONE.

15 Q ON THE PHONE AND THE OFFICE?

16 A YES.

17 Q YOU DIDN'T MENTION ANY OF THIS TO ME.

18 A WHEN I TALK TO YOU ON THE PHONE, I TELL YOU.

19 Q YOU MENTIONED THAT THE PEOPLE AT THE HOSPITAL HAD
20 ASKED YOU ABOUT RITUALS, BUT NOBODY ELSE.

21 A I SAID THAT EVERYBODY KEPT ASKING ME ABOUT
22 RITUALS.

23 Q OKAY. LET'S MOVE ON TO THIS RAZOR THAT YOU USE TO
24 SHAVE. IS THAT YOUR TESTIMONY?

25 A (NO RESPONSE.)

1 Q OKAY. THIS IS THE RAZOR AND YOUR TESTIMONY HERE
2 TODAY IS THAT THIS IS THE RAZOR THAT YOU USE TO SHAVE
3 YOURSELF; IS THAT CORRECT?

4 A (NODS IN THE AFFIRMATIVE).

5 Q OKAY, AND YOU DON'T USE ANY KIND OF HANDLE ON IT?

6 A I PREFER USING IT -- I CAN SHOW YOU HOW.

7 Q AND THE OTHER RAZORS THAT ARE IN HERE, DO YOU SEE
8 THOSE?

9 A THOSE ARE PINK RAZORS, THAT'S A LADIES.

10 Q THOSE ARE THE LADIES, EVEN THE BLUE ONE?

11 A THAT'S MY WIFE'S.

12 Q AND WHEN INVESTIGATOR STRANGE TOOK THIS RAZOR,
13 YOUR TESTIMONY IS NOW THAT THAT'S WHAT YOU TOLD HIM?

14 A I TOLD HIM THAT'S HOW I USUALLY SHAVE.

15 Q SO IF YOU SHAVE WITH THOSE, DID YOU KEEP MULTIPLE
16 RAZORS AROUND?

17 A YES.

18 Q WHERE ARE THE REST OF THEM?

19 A IT'S THE LAST ONE, I CAN'T RECALL THAT.

20 Q SO YOU SHAVE WITH THIS TYPE OF RAZOR EVERY DAY AND
21 THIS IS THE ONLY ONE THAT HAPPENED TO BE LEFT IN THE
22 CABINET WHEN THE POLICE CAME AND SEARCHED IT THE DAY
23 AFTER YOUR SON'S TESTICLES WERE CUT OPEN?

24 A SURE.

25 MS. CAMPBELL: THAT'S ALL I HAVE, YOUR HONOR.

1 THE COURT: ANY REDIRECT.

2 MR. ROGERS: YES, YOUR HONOR.

3 REDIRECT EXAMINATION

4 BY MR. ROGERS:

5 Q I DON'T KNOW IF I UNDERSTAND WHAT YOU JUST SAID
6 ABOUT OTHER RAZORS. YOU HAD OTHER RAZORS?

7 A WHAT I USE TO SHAVE WITH, AND I USE A STRAIGHT
8 RAZOR.

9 Q AND WHERE WAS THAT STRAIGHT RAZOR?

10 A IN THE BATHROOM CABINET.

11 Q IN THE SAME CABINET?

12 A YEAH.

13 Q DID YOU SEE IT?

14 A SHE SHOWED ME THE SHAVING STICK. THE ONE SHE
15 SHOWED ME.

16 Q I THINK WE ARE TALKING ABOUT TWO DIFFERENT THINGS.

17 A YEAH, A SHAVING STICK.

18 Q THIS IS WHAT YOU CALL A SHAVING STICK?

19 A YEAH, THAT'S IT.

20 Q OKAY. AND WHOSE IS THIS?

21 A MIAMA'S.

22 Q OKAY. AND SO WAS THE RAZOR THAT SERGEANT STRANGE
23 GOT. WAS IT THE LAST ONE OF YOUR RAZORS?

24 A YEAH, THAT WAS THE LAST ONE.

25 Q YOU HAD USED THE OTHERS?

1 A I DID.

2 Q OKAY. THANK YOU.

3 THE COURT: ANY RECROSS?

4 MS. CAMPBELL: NO, SIR.

5 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, SIR.

6 MR. ROGERS: THE DEFENSE WOULD CALL CIATA GAROWAY.

7 CIATA GAROWAY,

8 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

9 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL
10 NAME FOR THE RECORD.

11 THE WITNESS: MY NAME IS CIATA GAROWAY.

12 DIRECT EXAMINATION

13 BY MR. ROGERS:

14 Q MS. GAROWAY, ARE YOU RELATED TO THE DEFENDANT IN
15 THIS CASE?

16 A YES.

17 Q HOW?

18 A THAT'S MY SISTER.

19 Q HOW LONG HAVE YOU LIVED IN THIS COUNTRY?

20 A FOR A WHILE, SINCE '98.

21 Q AND WHAT KIND OF WORK DO YOU DO?

22 A BASICALLY PERSONAL CARE AND WAITRESS. THAT'S THE
23 TWO JOBS I DID.

24 Q OKAY. DIRECTING YOUR ATTENTION TO AUGUST OF LAST
25 YEAR, DID YOU HAVE AN OCCASION TO KEEP Minor ?

- 1 A YES, I DID.
- 2 Q OKAY. AND DO YOU HAVE A SON?
- 3 A YES, I DO.
- 4 Q AND WHAT'S HIS NAME?
- 5 A HIS NAME IS R.
- 6 Q AND WHERE DOES R. GO TO SCHOOL?
- 7 A AT THE TIME, HE ATTENDED ST. STEPHENS ON MAIN
- 8 STREET.
- 9 Q SO HE AND Minor WENT TO THE SAME SCHOOL?
- 10 A YES.
- 11 Q OKAY. THE DAY IN QUESTION, DID YOU PICK UP
- 12 R. AND Minor FROM SCHOOL?
- 13 A I DID.
- 14 Q DO YOU RECALL WHAT TIME THAT WAS?
- 15 A IT WAS CLOSE TO 6:00 O'CLOCK.
- 16 Q OKAY. AND AFTER YOU PICKED THEM UP, WHAT DID YOU
- 17 DO?
- 18 A I TOOK THEM HOME. THEY ATE AS USUAL -- BOTH OF
- 19 THEM HAVE AN APPETITE. THEY ATE AND BECAUSE I WAS REAL
- 20 TIRED FROM WORK, I WENT UPSTAIRS. I USUALLY BATHE THEM
- 21 IN THE EVENING, BUT THAT DAY I DID NOT. I WAS TIRED.
- 22 WE WENT UPSTAIRS AND WE WATCHED SOME T.V. AND WERE
- 23 THERE.
- 24 Q WERE THEY IN YOUR PRESENCE THE ENTIRE TIME?
- 25 A YEAH, THEY WERE IN THE ROOM WITH ME. I STARTED

1 TALKING WITH THEM AND AFTER A WHILE I WAS ASLEEP ON THE
2 BED.

3 Q AND WHAT TIME DID YOU SAY YOU PICKED THEM UP?

4 A ABOUT CLOSE TO SIX O'CLOCK.

5 Q AND DID THERE COME A TIME THAT MIAMA LATER CAME
6 AND GOT Minor ?

7 A YEAH.

8 Q DO YOU KNOW WHAT TIME THAT WAS?

9 A NO, BECAUSE WHEN SHE CAME TO PICK HIM UP I WAS
10 ASLEEP.

11 Q OKAY. AND DO YOU RECALL WHAT TIME YOU FELL
12 ASLEEP?

13 A MAYBE BY 10:30, 10:45, SOMETHING.

14 Q AND WHAT TIME DOES MIAMA USUALLY COME AND PICK UP
15 Minor ?

16 A SHE USUALLY COMES BETWEEN 11:15, 11:20. SHE GETS
17 OFF WORK AT 11:00.

18 Q OKAY. WAS ANYONE ELSE HOME WITH YOU, Minor AND
19 RR. THAT AFTERNOON?

20 A YEAH, THERE WAS MY COUSIN WITH US.

21 Q WHO WAS THAT?

22 A MY COUSIN, YATTA SANDERS.

23 Q SAY THAT AGAIN.

24 A YATTA SANDERS.

25 Q Y-A-T-A?

- 1 A Y-A-T-T-A.
- 2 Q AND WHO WAS THAT?
- 3 A THAT'S MY COUSIN.
- 4 Q AND HOW OLD IS YATTA? IS THAT A WOMAN OR A MAN?
- 5 A THAT'S A LADY.
- 6 Q I'M SORRY. HOW OLD IS YOUR COUSIN?
- 7 A SHE AND MIAMA ARE ABOUT THE SAME AGE.
- 8 Q SO SHE WAS PRESENT?
- 9 A YES.
- 10 Q DID ANYONE COME TO YOUR HOME FROM THE RICHLAND
- 11 COUNTY SHERIFF'S DEPARTMENT?
- 12 A NO.
- 13 Q OKAY. YOU DID TALK TO INVESTIGATOR LIVINGSTON?
- 14 A YES, I DID.
- 15 Q BUT THAT WAS OVER THE TELEPHONE?
- 16 A NO. HE CALLED ME IN HIS OFFICE AND I WENT THERE.
- 17 Q YOU WENT TO HIS OFFICE?
- 18 A YEAH.
- 19 Q BUT YOU NEVER CAME TO YOUR HOUSE?
- 20 A NO, HE DID NOT.
- 21 Q OR ANYONE ELSE FROM THE SHERIFF'S DEPARTMENT?
- 22 A NO.
- 23 Q TO YOUR KNOWLEDGE, WAS YATTA SANDERS EVER
- 24 INTERVIEWED BY THE SHERIFF'S DEPARTMENT?
- 25 A NO, SHE WASN'T. I GAVE HIM HER NAME AND TELEPHONE

1 NUMBER, BUT HE DID NOT CONTACT HER.

2 Q AND YOU KNOW THAT BECAUSE YOU TALKED TO YATTA?

3 A YEAH.

4 Q HAS YOUR SON R. EVER BEEN HURT AT SCHOOL?

5 A YEAH, HE GOT A BUMP ON HIS HEAD.

6 Q DID THE SCHOOL CALL YOU AND INFORM YOU OF THAT?

7 A NO.

8 Q OKAY. YOU JUST FOUND OUT. WHEN DID YOU FIND OUT
9 ABOUT THAT?

10 A WHEN I PICKED HIM UP FROM SCHOOL.

11 Q OKAY. NOW, AFTER MIAMA PICKED UP Minor ON THIS
12 NIGHT, DID YOU SEE Minor ANYMORE?

13 A IN THE MORNING?

14 Q ANYMORE?

15 A NO.

16 Q OKAY. DID YOU HEAR FROM MIAMA ANYMORE?

17 A YEAH.

18 Q OKAY. WHEN Minor WAS AT YOUR HOUSE, WAS HE
19 ACTING NORMAL OR UNUSUAL?

20 A THE ONLY UNUSUAL THING ABOUT HIM IS HE HAS AN
21 APPETITE. NORMALLY HE EATS LOTS, BUT HE WAS JUST QUIET
22 AND WATCHING A MOVIE AND NORMALLY WHEN WE WATCH MOVIES
23 THEY LIKE THEY'LL BE REAL QUIET.

24 Q DID YOU SAY SOMETHING TO MIAMA THAT EVENING ABOUT
25 Minor S BEHAVIOR?

1 A NO. SHE CALLED ME THAT NIGHT, LATER ON THAT
2 MORNING, AND SHE ASKED ME IF THERE WAS ANYTHING UNUSUAL
3 ABOUT HIM. I SAID, "NO, THE ONLY THING UNUSUAL ABOUT
4 HIM IS HE DIDN'T EAT AS MUCH, BUT HE ATE."

5 Q WHAT ELSE DID SHE TELL YOU WHEN SHE CALLED YOU
6 THEN?

7 A SHE TOLD ME THAT HE WAS SWOLLEN AND THEN SHE, YOU
8 KNOW, RAN THE BATH WATER AND TRIED TO, YOU KNOW, WARM
9 HIM UP WITH SOME TOWELS BECAUSE USUALLY HE SWELLS.
10 SOMETIMES HIS STUFF JUST SWELLS AND THEN IT GOES BACK
11 DOWN.

12 Q BEFORE THIS DATE WERE YOU AWARE OF M^{Minor} HAVING
13 THIS PROBLEM WITH SWELLING?

14 A YEAH.

15 Q OKAY. AND SO WHEN SHE CALLED YOU THAT NIGHT, THAT
16 WASN'T ANYTHING UNUSUAL?

17 A NO.

18 Q OKAY. AND THEN DID THERE COME A TIME WHEN SHE
19 CALLED YOU LATER THAT NIGHT?

20 A YES.

21 Q AND WHAT DID SHE SAY THEN?

22 A SHE TOLD ME THAT HE STARTED BLEEDING AND SHE WAS
23 TAKING HIM TO THE HOSPITAL.

24 Q DID YOU GO?

25 A AT THE HOSPITAL?

1 Q YES.

2 A NO, I DIDN'T GO WITH THEM. I WAS HOME WITH MY
3 SON.

4 MR. ROGERS: THANK YOU, MS. GAROWAY, ANSWER ANY
5 QUESTIONS THE SOLICITOR'S OFFICE MAY HAVE FOR YOU.

6 THE COURT: ALL RIGHT. CROSS EXAMINE.

7 MS. CAMPBELL: MAY IT PLEASE THE COURT.

8 CROSS-EXAMINATION

9 BY MS. CAMPBELL:

10 Q MS. GAROWAY?

11 A YEAH.

12 Q YOU MENTIONED THAT THERE WAS ANOTHER PERSON AT
13 YOUR HOUSE. DID YOU SAY IT WAS YATTA?

14 A YES, I DID.

15 Q AND HOW OLD IS YATTA?

16 A ABOUT 24, 25.

17 Q AND THAT'S HOW OLD YOU ARE?

18 A SAY IT AGAIN.

19 Q IS THAT HOW OLD YOU ARE?

20 A NO, THAT IS NOT MY AGE.

21 Q WHAT IS YOUR AGE?

22 A I'M 29.

23 Q OKAY. AND YOU MENTIONED THAT THE FOUR PEOPLE THAT
24 WERE AT YOUR HOUSE THAT EVENING WERE YOU, YATTA AND

25 Minor , R. -- THEY'RE BOTH AROUND THREE,

1 RIGHT?

2 A YEAH.

3 Q IN WHAT PART OF THE HOUSE WAS YATTA?

4 A YATTA WAS IN THE ROOM WITH US.

5 Q IN THE ROOM WITH YOU WHILE YOU WERE SLEEPING IN

6 YOUR BEDROOM?

7 A YEAH.

8 Q AND AT SOME POINT DURING THAT NIGHT YOU FELL

9 ASLEEP?

10 A YES, I DID.

11 Q AND ABOUT WHAT TIME WAS THAT?

12 A IT WAS ABOUT TEN SOMETHING, 10:35, 10:45.

13 Q AND THEN SOME TIME AFTER THAT YOU NOTICED THAT

14 MIAMA CAME AND GOT Minor ; IS THAT CORRECT?

15 A YEAH.

16 Q THE ONLY THING YOU NOTICED -- AND WHAT TIME DID

17 YOU PICK UP Minor ?

18 A I PICKED UP Minor CLOSE TO SIX O'CLOCK.

19 Q WHEN YOU PICKED HIM UP, DID HE COMPLAIN OF FEELING

20 ILL OR HURTING ANYWHERE?

21 A NO.

22 Q WAS HE CRYING?

23 A NO, HE WASN'T CRYING.

24 Q DID HE APPEAR TO HAVE BEEN CRYING? DID HE LOOK

25 LIKE HE HAD BEEN CRYING?

1 A NO, IT DIDN'T LOOK LIKE HE WAS CRYING. HE WAS
2 JUST QUIET.

3 Q WHEN HE WENT TO SCHOOL THAT DAY, THE TESTIMONY IS
4 HE WAS WEARING HIS UNDERWEAR?

5 A I DIDN'T DRESS Minor TO GO TO SCHOOL, SO I
6 DON'T KNOW WHAT HIS UNDERWEAR WAS.

7 Q SO FROM THE TIME YOU PICKED Minor UP AT SCHOOL
8 UNTIL YOU FELL ASLEEP AT 10:30, 10:45, YOU NEVER TOOK
9 Minor TO THE BATHROOM?

10 A NO, I DID NOT.

11 Q WAS Minor POTTY TRAINED?

12 A YEAH, IN THE DAY, YEAH. SOMETIMES HE WOULD WET
13 THE BED AT NIGHT.

14 Q AND WOULD Minor USUALLY WEAR UNDERWEAR?

15 A YEAH. WHAT KIND OF UNDERWEAR ARE YOU TALKING
16 ABOUT?

17 Q LIKE THIS.

18 A YEAH.

19 Q HE DIDN'T WEAR PULL-UPS?

20 A HE WOULD WEAR PULL-UPS IN THE NIGHT. IN THE DAY
21 HE'S FINE, BUT SOMETIMES IN THE NIGHT HE WOULD WET THE
22 BED.

23 Q DO YOU REMEMBER WHAT HE WAS WEARING THAT DAY WHEN
24 YOU PICKED HIM UP?

25 A NO.

1 Q DID YOU NOTICE ANY BLOOD ON HIS CLOTHING?

2 A NO.

3 Q DID YOU NOTICE ANY BLOOD ON HIS HANDS OR ANYWHERE
4 ELSE?

5 A NO.

6 Q AT ANY TIME WHILE HE WAS WITH YOU THAT FOUR PLUS
7 HOURS, DID HE COMPLAIN ABOUT PAIN?

8 A NO. HE JUST SAID HE WAS UP AND DOWN PLAYING ON
9 THE MONKEY BARS AND STUFF.

10 Q DID YOU TELL -- YOU MENTIONED THAT YOU FED HIM
11 WHEN YOU FIRST GOT HOME. DID YOU TELL YOUR SISTER WHEN
12 SHE CALLED THAT HE HADN'T EATEN WELL?

13 A I DID.

14 Q WHEN HE DIDN'T EAT WELL, WAS HE CRYING?

15 A NO. HE WAS NORMAL. NORMAL FOR Minor IS NOT A
16 TALKATIVE CHILD. MY SON TALKS A LOT. Minor
17 DOESN'T, SO HE NORMALLY DOESN'T TALK A LOT.

18 Q OKAY. DURING THE COURSE OF THE EVENING, DID THEY
19 STAY IN THE ROOM WITH YOU WHERE YOU FELL ASLEEP?

20 A YEAH, THEY WERE WATCHING THE MOVIE.

21 Q IF SOMEONE HAD STARTED CRYING OR HAD BEEN INJURED
22 IN ANYWAY, WOULD YOU HAVE BEEN ABLE TO HEAR IT?

23 A YEAH.

24 Q WHEN YOUR SISTER GOT THERE TO PICK UP THE CHILD,
25 DID SHE WAKE YOU UP SAYING THERE WAS SOMETHING WRONG

1 WITH THE CHILD?

2 A NO.

3 Q TO YOUR KNOWLEDGE, DID ANYTHING HAPPEN TO Minor
4 OR TO R. WHILE THEY WERE IN YOUR CARE THAT
5 AFTERNOON?

6 A NOT THAT I KNOW OF.

7 Q AT ANY POINT DID YOU SEE HIM DOUBLE OVER WITH
8 PAIN, WALKING FUNNY, ANYTHING LIKE THAT?

9 A NO. HE WAS QUIET WHEN I PICKED HIM UP ANYWAY.
10 WHEN HE CAME IN, HE ATE HIS FOOD, BUT NOT ALL OF IT.
11 HE WANTED TO WATCH THE MOVIES AND HE WAS NORMALLY QUIET
12 WHEN THEY WATCH MOVIES.

13 Q WHEN THE TWO CHILDREN WERE PLAYING, WERE THEY
14 PLAYING WITH RAZORS OR SCALPELS OR ANYTHING LIKE THAT,
15 OR KNIVES?

16 A NO.

17 Q DO YOU KEEP RAZORS OR SCALPELS OR KNIVES IN THE
18 AREA WHERE YOU KEEP THE CHILDREN?

19 A NO.

20 Q DO YOU REMEMBER BACK WHEN YOU TALKED TO
21 INVESTIGATOR LIVINGSTON DOWN AT THE RICHLAND COUNTY
22 SHERIFF'S DEPARTMENT?

23 A YES.

24 Q AND YOU GAVE HIM A STATEMENT ABOUT WHAT YOU
25 OBSERVED THAT DAY?

1 A I WAS TALKING TO HIM AND HE JUST LISTENED WHILE HE
2 WAS WRITING SOMETHING DOWN. I ASKED HIM IF I COULD SEE
3 WHAT HE WAS ABOUT TO WRITE DOWN, BUT HE SAID NO, I
4 COULDN'T BECAUSE THAT WAS FOR HIS RECORD, SO I DON'T
5 KNOW WHAT HE WROTE DOWN.

6 Q OKAY. WOULD YOU DISAGREE WITH ME THAT YOU TOLD
7 HIM YOU PICKED THE VICTIM UP FROM SCHOOL ALONG WITH
8 YOUR SON?

9 A YES, I DID.

10 Q DID YOU ALSO TELL HIM THAT THE VICTIM WAS DOING
11 FINE?

12 A YEAH.

13 Q THAT HE WAS RUNNING AND PLAYING AND WATCHING
14 CARTOONS WITH YOUR SON?

15 A I DID NOT TELL HIM RUNNING AND PLAYING.

16 Q OKAY. YOU HAVE A SPECIFIC MEMORY OF THAT NOW?

17 A LIKE I SAID, I DID NOT TELL HIM HE WAS RUNNING AND
18 PLAYING.

19 Q SO HE WAS MISTAKEN WHEN HE WROTE DOWN THAT YOU
20 SAID Minor WAS RUNNING AND PLAYING AND WATCHING
21 CARTOONS WITH YOUR SON? DO YOU REMEMBER TELLING HIM
22 THAT THE VICTIM AND YOUR SON WERE THE SAME AGE?

23 A YEAH.

24 Q DO YOU REMEMBER TELLING HIM THAT THEY DIDN'T WANT
25 TO EAT DINNER, EITHER ONE OF THEM. THEY JUST WANTED

1 JUNK FOOD?

2 A I DIDN'T TELL HIM THAT.

3 Q DO YOU REMEMBER TELLING HIM THAT MS. KROMAH PICKED
4 HIM UP WHEN SHE GOT OFF WORK?

5 A YES, I DID.

6 Q DO YOU REMEMBER TELLING HIM YOU WERE ASLEEP AND
7 YOU DON'T REMEMBER WHEN SHE PICKED HIM UP?

8 A YEAH.

9 Q DO YOU REMEMBER STATING THAT THE ONE PHONE CALL
10 YOU GOT, SHE STATED SHE WAS GOING TO TAKE HIM TO THE
11 HOSPITAL?

12 A YEAH.

13 Q DO YOU REMEMBER TALKING TO THE PEOPLE FROM THE
14 DEPARTMENT OF SOCIAL SERVICES?

15 A SOCIAL SERVICES, YEAH.

16 Q AND DO YOU REMEMBER TELLING THEM THAT HE WAS FINE
17 THAT DAY WHEN HE WAS WITH YOU?

18 A YEAH. I TOLD THEM THAT HE WAS NORMAL OR WHATEVER.
19 THAT'S WHAT I TOLD THEM.

20 Q OKAY. DO YOU REMEMBER TELLING THEM THAT, WHEN
21 THEY ASKED YOU ABOUT BRUISES, THAT YOU TOLD THEM HE
22 PROBABLY RECEIVED THE BRUISES FROM RIDING IN THE
23 AMBULANCE, THAT HE HAS SENSITIVE SKIN AND BRUISES VERY
24 EASILY?

25 A YES, HE DOES.

1 Q AND YOU HAVE KNOWLEDGE OF WHAT WENT ON IN THE
2 AMBULANCE?

3 A I WAS NOT IN THE AMBULANCE, BUT I HAVE RIDDEN IN
4 AN AMBULANCE.

5 Q LET ME ASK YOU THIS, HE ALSO ASKED YOU WHETHER OR
6 NOT THE POLICE EVER CAME TO YOUR HOUSE?

7 A REPEAT THAT QUESTION PLEASE.

8 Q THE POLICE NEVER CAME TO YOUR HOUSE, RIGHT?

9 A THEY DID NOT.

10 Q WAS THERE ANY BLOOD ON THE FLOOR IN YOUR HOUSE OR
11 IN THE BATHTUB?

12 A THEY NEVER BATHED AT MY HOUSE.

13 Q JUST ANSWER MY QUESTION FIRST AND THEN YOU CAN SAY
14 THAT. WAS THERE ANY BLOOD FROM EITHER YOUR CHILD OR
15 THE VICTIM IN YOUR HOUSE?

16 A NO. THEY DIDN'T BATHE AT MY HOUSE.

17 Q SO THERE WAS NO BLOOD AT YOUR HOUSE?

18 A NO.

19 Q AND TO YOUR KNOWLEDGE WHILE THEY WERE IN THE ROOM
20 WITH YOU AND WITHIN HEARING DISTANCE, YOU NEVER HEARD
21 ANYONE CRY OUT, NEVER HEARD ANYONE SCREAM OR ANYTHING
22 OF THAT NATURE?

23 A NO.

24 Q AND, IN FACT, WHEN YOU FELL ASLEEP, WHAT WERE THE
25 TWO CHILDREN DOING AT 10:30 AT NIGHT?

1 A THEY WERE WATCHING T.V.

2 Q OKAY. AND DID YATTA OR ANYONE ELSE EVER INDICATE
3 TO YOU THAT EITHER ONE OF THE CHILDREN WERE EVER HURT?

4 A NO.

5 Q WAS THERE ANY BLOOD ALL OVER YOUR BEDROOM OR
6 ANYTHING LIKE THAT?

7 A NO.

8 Q AND YOUR TESTIMONY HERE TODAY IS THAT WHILE THIS
9 CHILD WAS YOUR CARE, HE WAS FINE?

10 A HE WAS HIS NORMAL SELF.

11 MS. CAMPBELL: THANK YOU, MA'AM. I DON'T HAVE ANY
12 FURTHER QUESTIONS.

13 THE COURT: ANY REDIRECT?

14 MR. ROGERS: NO, YOUR HONOR.

15 THE COURT: THANK YOU. YOU MAY STEP DOWN.

16 THE BAILIFF: WATCH YOUR STEP.

17 MR. ROGERS: I CALL MIAMA KROMAH.

18 THE COURT: ALL RIGHT.

19 MIAMA KROMAH,

20 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

21 THE CLERK: HAVE A SEAT. PLEASE STATE YOUR FULL
22 NAME FOR THE RECORD.

23 THE WITNESS: MY NAME IS MIAMA KROMAH.

24 DIRECT EXAMINATION

25 BY MR. ROGERS:

- 1 Q MS. KROMAH, HOW OLD ARE YOU?
- 2 A I'M 24.
- 3 Q AND WHERE WERE YOU BORN?
- 4 A MONROVIA, LIBERIA.
- 5 Q AND DID YOU GO TO SCHOOL THERE?
- 6 A YES.
- 7 Q AND HOW FAR DID YOU GO IN SCHOOL?
- 8 A TO THE NINTH GRADE.
- 9 Q OKAY. WHEN DID YOU COME TO AMERICA?
- 10 A 1998.
- 11 Q DID YOU FINISH YOUR SCHOOLING HERE?
- 12 A YES, I DID.
- 13 Q OKAY. WHERE DID YOU GO TO SCHOOL HERE?
- 14 A COLUMBIA HIGH SCHOOL.
- 15 Q WHEN YOU WERE LIVING IN LIBERIA, WAS ANYTHING
- 16 UNUSUAL GOING ON?
- 17 A JUST THE WAR, THE CIVIL WAR.
- 18 Q AND WAS THE CIVIL WAR PART OF THE REASON THAT YOU
- 19 MOVED TO AMERICA?
- 20 A YES.
- 21 Q HOW LONG WAS THAT GOING ON BEFORE YOU CAME HERE?
- 22 A FROM '89 UNTIL '96 -- '96 WAS THE LAST ONE I WAS
- 23 THERE FOR.
- 24 Q AND WHERE DID YOU LIVE IN LIBERIA?
- 25 A I LIVED IN MONROVIA.

1 Q MONROVIA. DURING THE CIVIL WAR, DID YOU HAVE AN
2 OCCASION TO SEE ATROCITIES?

3 A A LOT.

4 Q I'M SORRY. I DIDN'T HEAR YOU.

5 A A LOT.

6 Q AND DESCRIBE WHAT YOU SAW.

7 MS. CAMPBELL: OBJECTION.

8 THE WITNESS: LIKE --

9 THE COURT: WAIT JUST A MINUTE.

10 MS. CAMPBELL: YOUR HONOR, MAY WE APPROACH?

11 THE COURT: SURE.

12 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
13 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE
14 JURY.)

15 THE COURT: OBJECTION IS OVERRULED. GO AHEAD,
16 MR. ROGERS.

17 BY MR. ROGERS:

18 Q WITHOUT GETTING TOO GRAPHIC, WHAT KINDS OF THINGS
19 WOULD YOU SEE?

20 A LIKE WHENEVER TWO PARTIES WAS FIGHTING LIKE
21 SOMEBODY MAY HAVE HIT THEM.

22 Q I CAN'T HEAR YOU, SO I KNOW SHE CAN'T UNDERSTAND
23 YOU. YOU NEED TO SLOW UP JUST A LITTLE BIT, PLEASE.

24 A OKAY. LIKE IN A CASE WHERE IS TWO PARTIES WAS
25 FIGHTING, THE REBELS AND THE SOLDIERS GO, IF YOU GOT IN

1 THE MIDDLE, YOU MIGHT GET A STRAY BULLET IN YOUR BODY
2 AND A ROCKET MIGHT FALL ON YOU AND CUT YOUR ARM OFF OR
3 YOUR LEG OFF OR GET HURT AND THINGS LIKE THAT. YOU ARE
4 WALKING SOMETIMES AND YOU JUST SAW DEAD BODIES THERE
5 AND...

6 Q SO WHILE YOU WERE GROWING UP, YOU SAW DEAD AND
7 MUTILATED BODIES?

8 A YEAH.

9 Q NOW, WHEN DID YOU FIRST MEET MUSA?

10 A I MET MUSA IN LIBERIA; I CAN'T REMEMBER WHEN.

11 Q SO YOU KNEW HIM IN LIBERIA?

12 A YEAH.

13 Q BUT DID YOU DATE HIM THEN?

14 A NO.

15 Q OKAY. AND DID THERE COME A TIME AFTER YOU MOVED
16 TO THIS COUNTRY THAT YOU SAW HIM AGAIN?

17 A YES.

18 Q IS THAT WHEN YOU STARTED DATING?

19 A YES.

20 Q DO YOU REMEMBER APPROXIMATELY WHAT YEAR THAT WOULD
21 HAVE BEEN?

22 A 2003, 2000 -- I'M NOT SURE.

23 Q OKAY. WHO WERE YOU LIVING WITH IN LIBERIA?

24 A MY MOM.

25 Q IS YOUR MOM HERE IN THE COURTROOM TODAY?

- 1 A YES, SHE IS.
- 2 Q WHERE IS SHE?
- 3 A IN THE WHEELCHAIR.
- 4 Q DID YOU COME TO THIS COUNTRY WITH HER?
- 5 A NO, AFTER HER.
- 6 Q AFTER HER. NOW, AFTER YOU COMPLETED YOUR
- 7 EDUCATION AT COLUMBIA HIGH, WHAT DID YOU DO?
- 8 A I DID THE C.N.A. CLASS, BECAUSE I WASN'T SURE WHAT
- 9 I WAS GOING TO, BUT I TOOK A C.N.A. CLASS AND I STARTED
- 10 TO WORK.
- 11 Q YOU'RE SAYING C.N.A.?
- 12 A YEAH, CERTIFIED NURSING ASSISTANT.
- 13 Q AND WHERE WERE YOU WORKING?
- 14 A I WORK AT BRIAN CENTER.
- 15 Q AND WERE YOU ALSO GOING TO SCHOOL?
- 16 A YEAH, NOT AT THAT POINT, BUT AFTER, A LITTLE AFTER
- 17 I STARTED WORKING.
- 18 Q OKAY. AFTER YOU FINISHED COLUMBIA HIGH, DID YOU
- 19 THEN GO TO SOME SCHOOL?
- 20 A YEAH. I WENT TO SOUTH CAROLINA STATE UNIVERSITY.
- 21 Q UNDERGRAD?
- 22 A YES.
- 23 Q AND WHAT PROGRAM DID YOU ENROLL?
- 24 A THE NURSING PROGRAM.
- 25 Q HOW FAR HAVE YOU GONE IN THAT PROGRAM?

- 1 A NOT FAR.
- 2 Q MORE THAN A YEAR OR LESS THAN A YEAR?
- 3 A MORE THAN A YEAR.
- 4 Q OKAY. WHEN DID YOU AND MUSA GET MARRIED?
- 5 A MARCH 15TH, 2005.
- 6 Q AND DID THERE COME A TIME THAT Minor CAME TO
7 LIVE WITH YOU?
- 8 A YES.
- 9 Q AND WHEN WAS THAT?
- 10 A THAT WAS JUNE 1ST, 2005.
- 11 Q BUT IN JUNE OF 2005, THAT WAS NOT THE FIRST TIME
12 YOU HAD SEEN Minor , RIGHT?
- 13 A NO.
- 14 Q YOU HAD SEEN HIM BEFORE?
- 15 A UH-HUH.
- 16 Q WHEN?
- 17 A HE SPENT CHRISTMAS IN THE YEAR 2004 WITH ME, AND I
18 TALKED TO HIM ON THE PHONE FREQUENTLY, AND HE CAME DOWN
19 BEFORE THAT, TOO.
- 20 Q OKAY. SO YOU WERE AWARE BEFORE YOU MARRIED MUSA
21 THAT HE HAD A CHILD BY ANOTHER WOMAN?
- 22 A YEAH.
- 23 Q OKAY. HOW DID YOU FEEL ABOUT THAT?
- 24 A I MEAN, I DIDN'T FEEL -- HE HAD A CHILD, THAT WAS
25 IT.

- 1 Q OKAY. DID YOU AND Minor GET ALONG?
- 2 A YEAH.
- 3 Q HOW DID YOU FEEL ABOUT Minor ?
- 4 A I FELT GOOD ABOUT HIM, YOU KNOW. BECAUSE WE DID A
- 5 LOT OF STUFF TOGETHER. A LOT OF STUFF. I TEACH HIM
- 6 WHAT TO DO, LIKE HIS A.B.C.'S, POTTY TRAINING, AND YOU
- 7 KNOW, LOTS OF STUFF.
- 8 Q AND YOU KNEW ABOUT THE HISTORY OF Minor 'S
- 9 HISTORY WITH HIS REAL MOTHER IN MINNESOTA?
- 10 A YEAH.
- 11 Q SO YOU KNEW WHAT ALL THAT WAS ABOUT?
- 12 A UH-HUH.
- 13 Q ANY ILL FEELINGS TOWARD Minor AT ALL?
- 14 A NO.
- 15 Q ANY ILL FEELINGS TOWARDS MUSA?
- 16 A NO.
- 17 Q OKAY. NOW, DIRECTING YOUR ATTENTION TO THIS DAY,
- 18 HAD YOU GONE TO WORK THAT DAY?
- 19 A YES.
- 20 Q AND THAT WAS AT BRIAN CENTER?
- 21 A UH-HUH.
- 22 Q AND WHAT TIME DO YOU GET OFF?
- 23 A I GET OFF AT ELEVEN O'CLOCK.
- 24 Q OKAY. WHO TOOK MUSA TO SCHOOL THAT MORNING?
- 25 A MUSA TOOK Minor TO SCHOOL THAT MORNING.

1 Q I'M SORRY. MUSA TOOK Minor TO SCHOOL.

2 A YES.

3 Q DO YOU REMEMBER WHAT Minor HAD ON WHEN HE WENT

4 TO SCHOOL THAT?

5 A I WAS SLEEPING.

6 Q I'M SORRY?

7 A I WAS SLEEPING. I DIDN'T GET UP.

8 Q OKAY. SO THEN -- WHAT TIME DID YOU GET OFF?

9 A I GOT OFF AT ELEVEN O'CLOCK.

10 Q AND WHAT DID YOU DO THEN?

11 A I WENT TO MY SISTER'S HOUSE TO PICK Minor UP.

12 Q AND DO YOU HAVE ANY IDEA ABOUT WHAT TIME YOU GOT

13 TO YOUR SISTER'S HOUSE?

14 A NO, I WASN'T WATCHING THE TIME.

15 Q DID YOU SEE YOUR SISTER?

16 A NO, SHE WAS SLEEPING.

17 Q OKAY. AND YOU PICKED Minor UP?

18 A UH-HUH.

19 Q AND DO YOU REMEMBER WHAT HE HAD ON THEN?

20 A HE HAD ON A LONG TROUSER AND A SHIRT.

21 Q WAS IT THESE ITEMS THAT HAVE BEEN INTRODUCED?

22 A YEAH.

23 Q SO WHAT DID YOU DO THEN?

24 A HE WAS SLEEPING, SO I PICKED HIM UP, PUT HIM IN

25 THE CAR. I COULDN'T FIND HIS SHOES, AND DROVE ON TO

1 THE HOUSE.

2 Q SO YOU LEFT THE SHOES AT CIATA'S HOUSE?

3 A UH-HUH.

4 Q OKAY. AND WHEN YOU GOT TO YOUR HOUSE WHAT
5 HAPPENED THEN?

6 A I PUT HIM IN, YOU KNOW, HE KIND OF WOKE UP BECAUSE
7 THE LIGHT WAS ON, AND I SAT DOWN IN THE LIVING ROOM
8 WITH THE T.V. ON. I HAD SOME FRIED CHICKEN. I ASKED
9 HIM IF HE WANTED SOME. NORMALLY HE WOULD EAT ANYTHING
10 YOU GAVE HIM. I PUT IT THERE AND HE REFUSED, SO I LEFT
11 HIM.

12 MS. CAMPBELL: YOUR HONOR, I CAN'T UNDERSTAND.

13 THE COURT: YOU NEED TO SLOW DOWN, MS. KROMAH.

14 BY MR. ROGERS:

15 Q YOU NEED TO SLOW DOWN. I KNOW YOU'RE NERVOUS.

16 A A LITTLE BIT.

17 Q OKAY. LET ME GO BACK. DOES Minor HAVE A CAR
18 SEAT?

19 A YEAH, HE DOES.

20 Q DID HE RIDE IN THE CAR SEAT THAT NIGHT?

21 A YES.

22 Q OKAY. AND HOW DOES THE CAR SEAT STRAP?

23 A THE SEAT BELT GOES ACROSS THERE.

24 Q OKAY. SO AFTER YOU GOT HIM HOME AND -- YOU
25 COMPLAINED ABOUT HE DIDN'T WANT TO EAT?

1 A YEAH, HE SAID HE DIDN'T WANT ANYTHING I TRIED TO
2 GIVE HIM.

3 Q SO WHAT DID YOU DO?

4 A I GOT UP TO GO TAKE HIM -- I SAID, "YOU HAVE TO GO
5 TAKE YOUR BATH SO YOU CAN GO TO BED TO GO TO SCHOOL
6 TOMORROW MORNING BECAUSE IT'S GETTING LATE." I PICKED
7 HIM UP FROM THE CHAIR AND I TOOK HIM TO THE BATHROOM.
8 I STOOD HIM UP AND HE MADE A FACE. I SAID TO HIM,
9 "WHAT'S WRONG WITH YOU? YOU KNOW YOU HAVE TO BATHE.
10 YOU HAVE TO GO TO SCHOOL TOMORROW." THEN I ASKED HIM
11 WHAT HAPPENED. HE SAID HE HURT. I SAID, "I SEE IT
12 HURTS BECAUSE IT'S SWOLLEN," SO I CALLED MY SISTER.
13 SHE SAID SHE DOESN'T KNOW WHY, THAT THE ONLY THING SHE
14 SAID WAS HE DIDN'T EAT LIKE -- HE JUST LAID THERE AND
15 WATCHED T.V. THAT'S WHAT SHE SAID.

16 Q AND THEN WHAT DID YOU DO?

17 A I TOLD HER I'M GOING TO GIVE HIM -- PUT HIM IN THE
18 BATH AND SOAK HIM SO THAT THE SWELLING WILL GO DOWN, SO
19 I TOOK OFF THE CLOTHES, I RAN THE BATH WATER, AND I PUT
20 HIM IN THE BATHTUB AND TOOK THE WASHCLOTH. WE SAT
21 THERE, I WAS TALKING TO HIM, WASHING HIS FACE AND ARM
22 AND LIKE ASKING HIM WHAT HE DID IN SCHOOL, WHAT HE
23 SAID, WHAT HE ATE, AND ASKED IF HE LEARNED NEW THINGS
24 AND LIKE THAT.

25 Q DID YOU SEE ANY BLOOD AT THAT TIME?

1 A NO, IT WAS AFTER A WHILE I SAW THE BLOOD.

2 Q WAS HE IN THE WATER THEN?

3 A YEAH, HE WAS.

4 Q AND DIDN'T HAVE ON ANY CLOTHES?

5 A NO.

6 Q OKAY. SO THEN WHAT HAPPENED?

7 A SO WHEN I SAW THE BLOOD I TOOK HIM OUT OF THE TUB
8 AND PUT HIM ON THE -- IN FRONT OF THE BATHROOM DOOR,
9 AND I PUT A PULL-UP ON HIM AND I CALLED MY SISTER AND
10 SAID, "I HAVE TO GO TO THE HOSPITAL." SHE SAID OKAY,
11 TO CALL AND THAT'S WHEN I TOOK HIM.

12 Q REFERRING TO STATE'S EXHIBIT 25, DO YOU RECOGNIZE
13 THAT?

14 A YEAH, THAT'S THE RUG WHEN YOU COME FROM THE
15 BATHROOM, THE RUG WHEN YOU COME FROM THE BATHROOM, THE
16 FIRST PIECE OF THE RUG.

17 Q THIS RUG IS YOUR BEDROOM?

18 A YES.

19 Q AND WHY IS THERE BLOOD AT THAT LOCATION?

20 A BECAUSE HE DIDN'T HAVE ON NO CLOTHES.

21 Q DID YOU LAY HIM DOWN?

22 A NO, I DIDN'T LAY HIM DOWN. HE WAS WET. I PUT THE
23 PULL-UP ON HIM AND THEN I REALIZED HE WAS STILL WET.
24 BY THAT TIME, I DRIED HIM AND I TOOK THE FIRST PULL-UP
25 AND PUT IT IN THE TRASH AND THEN PUT A DRY PULL-UP ON

1 HIM.

2 Q YOU TOOK THE PULL-UP OFF?

3 A I --

4 THE COURT REPORTER: I DIDN'T UNDERSTAND THE LAST
5 PART OF WHAT YOU SAID.

6 BY MR. ROGERS:

7 Q OKAY. LET'S START OVER. WHEN YOU -- YOU TOOK THE
8 PULL-OFF, RIGHT?

9 A YES.

10 Q AND THEN WHAT DID YOU DO?

11 A I DRIED HIS SKIN FIRST BECAUSE HE WAS ALREADY --
12 WHEN I PUT THE FIRST PULL-UP ON, I REALIZED THE SKIN
13 WAS STILL WET.

14 Q OKAY. SO LET ME STOP YOU THERE AND ASK YOU -- YOU
15 TOOK A BATH TOWEL?

16 A UH-HUH.

17 Q NOT A WASHCLOTH?

18 A UH-HUH.

19 THE COURT: I'M GOING TO NEED A YES OR A NO SO THE
20 RECORD IS CLEAR.

21 MR. ROGERS: I'M SORRY, YOUR HONOR.

22 BY MR. ROGERS:

23 Q YOU HAVE TO SAY YES OR NO.

24 A OKAY.

25 Q IT WAS A BATH TOWEL?

1 A UH-HUH.

2 Q AND WHERE DID YOU DRY HIM?

3 A I DRIED HIS SKIN. IT WAS NOT HIS GENITALS BECAUSE
4 HE HAD ON THE FIRST PULL-UP. I JUST DRIED HIS ARMS AND
5 LEGS AND FACE.

6 Q IS THERE ANYTHING UNUSUAL ABOUT MUSA'S SKIN -- I'M
7 SORRY, Minor S SKIN?

8 A WHAT DO YOU MEAN?

9 Q IS IT SENSITIVE, NOT SENSITIVE, EASILY --

10 A YEAH, HIS SKIN, IT'S EASILY BRUISED.

11 Q AND HAVE YOU SEEN BRUISES ON Minor BEFORE THIS
12 DAY?

13 A YEAH.

14 Q FROM WHAT KIND OF ACTIVITY?

15 A JUST LIKE SOMETHING LIKE WALKING BY AND HIT A
16 CHAIR OR SOMETHING AND HE SWINGS HIS ARM OR SOMETHING
17 AND HITS SOMETHING AND IT PUFFS UP AND BRUISES.

18 Q YOU NEED TO SLOW DOWN. IS THERE A JUNGLE GYM AT
19 ST. STEVENS?

20 A YEAH. IT'S IRON, IT'S OUTSIDE.

21 Q DOES HE PLAY ON THAT?

22 A YEAH.

23 Q SO WHEN YOU TOOK THE BATH TOWEL AND YOU DRIED HIM
24 OFF, THEN WHAT DO YOU DO?

25 A I TOOK ANOTHER PULL-UP, PUT IT ON HIM AND I PUT

1 THE FIRST ONE IN THE TRASH CAN. I SAT ON THE BED AND
2 PUT HIS CLOTHES ON HIM. I PUT HIS NIGHT CLOTHES ON HIM
3 AND I TOOK HIM TO THE HOSPITAL.

4 Q OKAY. BEFORE THAT, WHEN DID YOU TAKE THE WASH
5 TOWEL?

6 A THAT'S WHEN WE FIRST GOT IN THE TUB.

7 Q WHEN YOU FIRST GO IN THE TUB?

8 A YES, I --

9 Q AND YOU NOTICED THE SWELLING?

10 A YES.

11 Q OKAY. SO IS THIS SOMETHING THAT YOU LEARNED IN
12 NURSING SCHOOL ABOUT PUTTING A WARM TOWEL THAT HAS THE
13 SWELLING GO DOWN?

14 A YEAH, NOT JUST NURSING SCHOOL, BUT FROM MY MOM,
15 YOU KNOW, WHEN I WAS SMALL YOU GET A KNOT ON YOUR HEAD.
16 YOU CAN PUT EITHER ICE, COLD STUFF ON THERE OR WARM
17 STUFF ON THERE. IT'S SUPPOSED TO GET THE SWELLING
18 DOWN.

19 Q HOW HARD DID YOU PRESS?

20 A I REALLY DON'T KNOW. ALL I WAS TRYING TO DO IS
21 GET THE SWELLING TO GO DOWN.

22 Q AND IS THAT WHEN YOU NOTICED THE BLOOD?

23 A YES.

24 Q WAS IT A LOT OF BLOOD, A LITTLE BLOOD, MEDIUM
25 BLOOD, HOW WOULD YOU CHARACTERIZE IT?

1 A JUST WHEN I MOVED MY HAND I SAW THE BLOOD IN THE
2 WASHCLOTH. I MOVED IT AND I SAW IT WHEN I MOVED IT.

3 Q DID YOU SEE HIS SCROTUM HANGING OUT THEN?

4 A NO.

5 Q SO THEN WHAT DID YOU DO?

6 A YOU MEAN AFTER I GOT HIM DRESSED?

7 Q YES.

8 A I TOOK HIM TO THE CLOSEST HOSPITAL, THAT WAS
9 LEXINGTON MEDICAL CENTER.

10 Q WHY DIDN'T YOU CALL AN AMBULANCE?

11 A BECAUSE WHEN YOU CALL AN AMBULANCE THEY TAKE THEIR
12 OWN TIME TO COME. I DIDN'T KNOW HOW LONG IT WAS GOING
13 TO TAKE SO I JUST DROVE HIM.

14 Q AND HOW LONG DID IT TAKE YOU TO GET TO LEXINGTON
15 HOSPITAL?

16 A NOT LONG.

17 Q FIVE MINUTES, TEN MINUTES?

18 A PROBABLY LIKE FIVE MINUTES, 15 MINUTES, THAT'S
19 ALL.

20 Q SO BETWEEN FIVE AND FIFTEEN MINUTES, OR DO YOU
21 KNOW?

22 A NO, NOT FIVE, MORE LIKE TEN OR FIFTEEN MINUTES OR
23 SO.

24 Q OKAY. AND WHEN YOU GOT TO THE EMERGENCY ROOM WHAT
25 DID YOU DO?

1 A I WENT OVER TO THE LADY, TO THE FRONT DESK AND I
2 SAY I NEED TO SEE A DOCTOR. SHE SAID, "WELL YOU HAVE
3 TO GIVE ME YOUR NAME AND SIT DOWN." I SAY, "IT'S NOT
4 ME. IT'S MY CHILD. HE HAS TO SEE SOMEBODY." SHE
5 SAID, "EVEN FOR THE CHILD YOU HAVE TO SIT DOWN AND WAIT
6 FOR THEM TO CALL." SO I GAVE THEM MY NAME FIRST AND
7 THEN SAT DOWN BEFORE SOMEBODY COULD CALL ME. I GAVE
8 HER THE NAME AND STARTED HOLDING HIM IN MY LAP.

9 Q DID YOU MAKE ANY TYPE OF PROTESTS AND SAY I WANT
10 SOMEBODY TO SEE MY SON NOW?

11 A NO, I DIDN'T YELL AND SCREAM AT HER.

12 Q HOW LONG DID YOU WAIT BEFORE YOU WERE SEEN?

13 A I DON'T KNOW. ONE OF THEM WAS LONG BECAUSE THE
14 ROOM WAS FULL.

15 Q ALL RIGHT. DID YOU -- BEFORE YOU LEFT, DID YOU
16 CALL YOUR SISTER AND TELL HER YOU WERE GOING TO THE
17 HOSPITAL?

18 A YEAH, I DID.

19 Q OKAY. SO ONCE Minor WAS SEEN AT LEXINGTON,
20 WHAT HAPPENED THEN?

21 A THE DOCTOR SAID -- I TOLD THE DOCTOR WHAT
22 HAPPENED. HE SAID IT LOOKED LIKE A RUPTURE. HE
23 SAID -- HE TOOK THE VITAL SIGNS AND HE SAID HIS VITAL
24 SIGNS AND TEMPERATURE AND ALL WERE NORMAL AND
25 EVERYTHING AND --

1 MS. CAMPBELL: OBJECTION, HEARSAY.

2 THE COURT: WAIT ONE SECOND. WHAT'S THE
3 OBJECTION?

4 MS. CAMPBELL: HEARSAY.

5 THE COURT: HAS THE DOCTOR TESTIFIED?

6 MR. ROGERS: YES, YOUR HONOR.

7 THE COURT: OVERRULED.

8 BY MR. ROGERS:

9 Q GO AHEAD.

10 A HE TOLD ME EVERYTHING WAS GOING TO BE OKAY. HIS
11 TEMPERATURE WAS NORMAL AND THE ONLY THING WAS THEY
12 COULDN'T TAKE CARE OF HIM THERE BECAUSE THEY DIDN'T
13 HAVE ANY PEDIATRICS FACILITY.

14 Q WERE YOU IN THE TREATMENT ROOM WHEN HE WAS BEING
15 EXAMINED?

16 A YEAH, I STAYED THERE THE WHOLE TIME.

17 Q OKAY. DID Minor INDICATE ANY DISPLEASURE WITH
18 YOU BEING THERE?

19 A NO.

20 Q OKAY. AND, OF COURSE, HE GOT IN THE CAR WITH YOU
21 TO GO TO LEXINGTON?

22 A YEAH.

23 Q DID YOU HAVE TO FORCE HIM? DID YOU HAVE TO MAKE
24 HIM?

25 A OH, NO.

- 1 Q SO THEN AFTER THE DOCTOR TOLD YOU THAT AT
2 LEXINGTON, WHAT HAPPENED?
- 3 A HE SAID IT WAS GOING TO HAVE TO WAIT AND THEY WERE
4 GOING TO CALL AN AMBULANCE TO COME GET US. Minor
5 STARTED TO FALL ASLEEP. I WAS SITTING BY HIM. I ASKED
6 ONE OF THE NURSING STAFF FOR A BIBLE AND SHE BROUGHT IT
7 TO ME SO I JUST SAT THERE AND READ IT UNTIL THE
8 AMBULANCE PEOPLE CAME.
- 9 Q OKAY. AND DID YOU GO WITH THE AMBULANCE?
- 10 A YEAH.
- 11 Q WHY DIDN'T YOU DRIVE YOURSELF?
- 12 A I DIDN'T WANT TO LEAVE HIM BY HIMSELF.
- 13 Q DO YOU REMEMBER THE NURSE AT LEXINGTON MEDICAL
14 CENTER, NURSE PORILLA, WHO TESTIFIED EARLIER?
- 15 A NO, I DON'T KNOW THEIR NAMES.
- 16 Q OKAY. DID YOU TELL ANYONE AT LEXINGTON THAT YOU
17 HAD PUT PRESSURE ON THE SCROTUM AND HEARD A POP?
- 18 A NO, I DIDN'T SAY NOTHING ABOUT NO POPPING.
- 19 Q OKAY. BUT YOU TOLD THE PEOPLE AT LEXINGTON --
- 20 A I TOLD THEM THAT I HAD HIM IN THE TUB AND I WAS
21 SOAKING HIS SCROTUM.
- 22 Q YOU TOLD THE PEOPLE IN LEXINGTON JUST WHAT YOU
23 TOLD THIS JURY HAD HAPPENED?
- 24 A YES.
- 25 Q SO THEN WHEN YOU GOT IN THE AMBULANCE --

1 A UH-HUH.

2 Q ANYTHING UNUSUAL HAPPEN IN THE AMBULANCE?

3 A NO. THE AMBULANCE, THERE WAS TWO, ONE WAS THE
4 DRIVER AND ONE WAS BACK THERE WITH US. SHE WAS SAYING
5 SHE HAD A SON AND YEARS BACK SHE SAID THAT A SIMILAR
6 THING HAPPENED TO HIM, BUT HIS WAS FROM A GAME OR
7 SOMETHING.

8 Q WHAT -- I DIDN'T UNDERSTAND YOU?

9 A SHE SAID THAT HE HAD A PROBLEM WITH HIS SCROTUM,
10 YOU KNOW. SO I ASKED HER, "WHAT COULD HAVE CAUSED
11 THIS?" BECAUSE I REALLY DIDN'T UNDERSTAND, YOU KNOW.
12 SHE SAID SHE DIDN'T KNOW BUT, YOU KNOW BOYS AND HOW
13 THEY ARE, YOU KNOW.

14 Q SO DO YOU RECALL WHAT TIME YOU ARRIVED AT PALMETTO
15 RICHLAND?

16 A WE ARRIVED AT RICHLAND, IT WAS FOUR SOMETHING, IT
17 WAS 4:54.

18 Q OKAY. AND WHERE DID THEY TAKE ^{Minor} ?

19 A UPSTAIRS IN THE PEDIATRIC WARD.

20 Q AND WHAT HAPPENED AFTER THAT?

21 A THE AMBULANCE LADY CAME AND SHE SAID SHE HAD TO
22 LEAVE. SHE SAID SHE WAS SURE EVERYTHING WOULD WORK
23 OUT. I SAID, "OKAY. THANK YOU." DR. FIELDS CAME IN.
24 SHE SAID SHE WAS AN INTERN AT THE TIME AND SHE WAS
25 GOING TO TAKE CARE OF THE CASE UNTIL THE DOCTOR CAME ON

1 THE NEXT MORNING.

2 Q AND DID YOU TELL DR. FIELDS THE SAME THING YOU HAD
3 TOLD THE DOCTOR, THE PERSONNEL AT LEXINGTON?

4 A YES, I DID.

5 Q OKAY. SO THEN WHAT HAPPENED?

6 A AND SHE ASKED ME, "ARE YOU HIS MOM?" I SAID,
7 "YEAH." SHE SAID, "YOU KNOW, HIS BIOLOGICAL MOM." I
8 SAID, "NO, I'M HIS STEP MOM." SHE SAID, "IS THIS AN
9 AFRICAN RITUAL YOU WERE PRACTICING?" I DIDN'T SAY
10 ANYTHING TO HER. I JUST SAT ON THE OTHER SIDE OF THE
11 BED.

12 Q SO DR. FIELDS ASKED YOU THAT?

13 A YES, SHE DID.

14 Q AND THIS WAS AFTER YOU HAD TOLD HER WHAT HAPPENED,
15 RIGHT?

16 A YES.

17 Q THEN, WHEN DID YOU CALL MUSA?

18 A I CALLED HIM A LOT.

19 Q WHEN DID YOU CALL MUSA TO TELL HIM WHAT HAD
20 HAPPENED WITH Minor ?

21 A I CALLED HIM BEFORE I LEFT THE HOUSE.

22 Q BEFORE YOU LEFT THE HOUSE?

23 A YEAH, I KEPT LEAVING MESSAGES.

24 Q YOU DIDN'T TALK TO HIM?

25 A HUH-UH.

1 Q WHEN WAS IT THAT YOU ACTUALLY TALKED WITH HIM?
2 A IT WAS AFTER FOUR.
3 Q WERE YOU AT RICHLAND?
4 A I WAS AT RICHLAND.
5 Q AND DID MUSA COME LATER?
6 A YEAH, HE CAME.
7 Q OKAY. SO WHERE WAS Minor AND WHERE WERE YOU
8 WHILE YOU WERE WAITING FOR THE SURGERY?
9 A I WAS IN THE ROOM WITH HIM.
10 Q AND WAS HE AWAKE, SLEEPING?
11 A THE NEXT MORNING HE WAS AWAKE.
12 Q OKAY. SO FROM FOUR O'CLOCK UNTIL SIX, YOU STAYED
13 IN THE ROOM WITH Minor ?
14 A YEAH, I NEVER LEFT HIM.
15 Q YOU NEVER LEFT HIM THAT ENTIRE DAY?
16 A I LEFT HIM AFTER THE SURGERY.
17 Q AFTER THE SURGERY. OKAY. BEFORE THE SURGERY,
18 WERE YOU IN THE ROOM WHEN THE MEDICAL PERSONNEL WERE
19 TAKING Minor 'S VITALS, HIS VITAL SIGNS?
20 A YES, I WAS THERE.
21 Q ANYTHING UNUSUAL HAPPEN THEN?
22 A AT LEXINGTON OR RICHLAND?
23 Q AT RICHLAND.
24 A EXCUSE ME, RICHLAND, I DON'T RECALL THE VITAL
25 SIGNS, BUT I RECALL THEY TOOK THE VITAL SIGNS AT

1 LEXINGTON. THEY WERE COMING IN TALKING AND GOING OUT,
2 LIKE THAT.

3 Q WAS Minor CALM AROUND THE NURSING PERSONNEL?

4 A AT RICHLAND?

5 Q YES.

6 A AT FIRST HE WAS, BUT THEN HE JUST GOT, YOU KNOW --
7 I THINK HE GOT AFRAID BECAUSE --

8 Q DID IT TAKE MORE THAN ONE PERSON TO ADMINISTER THE
9 VITAL SIGNS, THE VITAL SIGN TESTS?

10 A THAT'S WHAT THE D.S.S. CASEWORKER TOLD ME. I
11 WASN'T THERE.

12 Q YOU WEREN'T THERE?

13 A NO, I WASN'T THERE THEN.

14 Q OKAY. SO THEN YOU STAYED WITH Minor ALL THE
15 WAY UP UNTIL THE TIME HE WENT TO SURGERY?

16 A UH-HUH, YES.

17 Q OKAY. AND DID YOU STAY UNTIL HE CAME OUT OF
18 SURGERY?

19 A AFTER HE CAME OUT OF SURGERY, YEAH.

20 Q OKAY.

21 A AND EVERYTHING WAS FINE. THE DOCTOR TOLD ME HE
22 WAS ASLEEP, AND I WENT HOME TO TAKE A SHOWER, AND I
23 CAME BACK THAT EVENING.

24 Q OKAY. DO YOU REMEMBER WHAT TIME YOU LEFT THE
25 HOSPITAL TO GO HOME AND TAKE A SHOWER?

1 A PROBABLY AFTER THREE SOMETHING BECAUSE HIS SURGERY
2 WAS IN THE AFTERNOON, LIKE SOMETHING AROUND TWO
3 O'CLOCK.

4 Q AND DO YOU REMEMBER WHAT TIME YOU CAME BACK?

5 A WHAT TIME I CAME BACK TO THE HOSPITAL?

6 Q YES.

7 A FIVE SOMETHING.

8 Q OKAY. AND HOW LONG DID YOU STAY THEN?

9 A I STAYED THERE UNTIL AFTER FOUR THE NEXT MORNING
10 OR MAYBE THREE.

11 Q SO YOU SPENT THE NIGHT IN THE HOSPITAL?

12 A UH-HUH, YES, I DID.

13 Q AND WHERE WERE YOU?

14 A I WAS RIGHT BY HIS BED.

15 Q IN THE SAME ROOM?

16 A YES, I WAS.

17 Q OKAY. SO THEN DID THERE COME A TIME THAT YOU HAD
18 A CONVERSATION WITH INVESTIGATOR LIVINGSTON?

19 A YES, I DID.

20 Q WHAT HAPPENED THEN?

21 A THE FIRST CONVERSATION WAS IN THE MORNING.

22 Q THIS WOULD HAVE BEEN THE MORNING AFTER THE
23 SURGERY?

24 A NO.

25 Q THE MORNING BEFORE THE SURGERY?

1 A YES.

2 Q OKAY.

3 A HE CAME IN AND HE SAID -- IT WAS AFTER 9:30. THE
4 HOSPITAL STAFF CALLED HIM AND TOLD HIM THAT THEY WERE
5 GOING TO DO AN INVESTIGATION, THEN THE D.S.S.
6 INVESTIGATOR CAME.

7 Q AND DID YOU TELL HIM WHAT YOU HAD TOLD EVERYBODY
8 ELSE BEFORE?

9 A YES, I DID.

10 Q OKAY. AND THEN WHAT HAPPENED?

11 A HE SAID HE WENT TO LIBERIA BACK IN THE 70'S AND HE
12 HAD FUN. EVERYONE THOUGHT IT WAS --

13 Q JUST SLOW DOWN A LITTLE BIT. WHAT DID
14 INVESTIGATOR LIVINGSTON SAY?

15 A HE SAID HE WENT TO LIBERIA IN THE 70'S, SO HE
16 KNOWS SOMETHING ABOUT LIBERIA AND EVEN THOUGH HIS STAY
17 THERE WAS PLEASANT, ALL THE COUNTRY PRACTICED RITUAL
18 AND, YOU KNOW, THEY CUT CHILDREN AND PEOPLE DO
19 SACRIFICES, AND HE ASKED ME WAS THIS RITUAL STUFF, AND
20 I TOLD HIM NO. THE D.S.S. LADY ASKED ME THE SAME
21 THING. I TOLD HER NO. THAT WAS AFTER WE FINISHED
22 TALKING WITH DR. FIELDS. SHE IS THE ONE THAT STARTED
23 THE WHOLE THING. THAT'S THE ONE THAT CAME TO ME WITH
24 THE QUESTION.

25 Q SO DR. FIELDS HAD ALREADY BRIEFED INVESTIGATOR

1 LIVINGSTON?

2 A YEAH.

3 Q DID YOU SEE THAT OR DID SOMEBODY TELL YOU?

4 A SHE TOLD ME.

5 Q OKAY.

6 A YEAH, SHE TOLD SHE WAS GOING TO CALL D.S.S. AND
7 THE INVESTIGATOR BECAUSE THIS IS AMERICA.

8 Q AND WHAT DID YOU SAY TO INVESTIGATOR LIVINGSTON?

9 A I TOLD HIM NO.

10 Q DID HE EVER ASK YOU POINT BLANK DID YOU CUT

11 Minor ?

12 A YES, HE DID.

13 Q OKAY. WAS THAT THAT DAY OR THE NEXT DAY?

14 A THAT WAS AT HIS OFFICE.

15 Q AT HIS OFFICE, OKAY.

16 A AT THE HOSPITAL, HE JUST SAID, "DID YOU DO THIS?"

17 AND I TOLD HIM "NO."

18 Q DID YOU CUT Minor ?

19 A NO, I DID NOT.

20 Q DO YOU KNOW WHAT HAPPENED TO HIM?

21 A NO.

22 Q MIAMA, CAN YOU -- DO YOU HAVE ANY EXPLANATION AT
23 ALL FOR WHY HIS SCROTUM WAS HANGING OUT OF HIS TESTICLE
24 LIKE THAT?

25 A NO, THE ONLY THING IS WHAT I TOLD YOU, WHAT I SAW

1 AND WHAT I WAS TRYING TO DO, BUT OTHER THAN THAT AS FAR
2 AS TO GO WITH ALL THE OTHERS, I DON'T KNOW NOTHING
3 ABOUT THAT.

4 Q AND WHEN INVESTIGATOR LIVINGSTON ASKED YOU ABOUT
5 THE PULL-UP?

6 A UH-HUH.

7 Q DID YOU TELL HIM WHERE IT WAS?

8 A HE DIDN'T ASK ME ABOUT THE PULL-UP. I TOLD HIM
9 ABOUT IT.

10 Q OKAY. DID YOU ATTEMPT TO HIDE OR LEAVE OUT
11 ANYTHING WHEN YOU WERE BEING INTERVIEWED BY
12 INVESTIGATOR LIVINGSTON?

13 A NO.

14 Q DID YOU TELL HIM EVERYTHING THAT YOU KNEW ABOUT
15 WHAT HAD HAPPENED THAT DAY?

16 A YES, I DID.

17 Q HOW DID YOU FEEL ABOUT Minor ?

18 A I FEEL GOOD ABOUT HIM. ME AND HIM GOT ALONG REAL
19 GOOD. WE HAVE FUN ON THE WEEKEND AND AT BEDTIME I READ
20 HIM A STORY EVERY NIGHT BEFORE HE GOES TO BED.

21 Q WOULD YOU SAY THAT YOU ALL WERE CLOSE OR
22 DEVELOPING CLOSENESS OR HOW WOULD YOU CLASSIFY YOUR
23 RELATIONSHIP WITH Minor ?

24 A WE WERE DEVELOPING CLOSENESS.

25 Q DO YOU KNOW OF ANYTHING THAT COULD HAVE CAUSED

1 THIS INJURY TO Minor ?

2 A NO. I JUST TOLD THEM WHAT HAPPENED.

3 MR. ROGERS: I BELIEVE THAT'S ALL WE HAVE.

4 THE COURT: ALL RIGHT. CROSS-EXAMINATION,
5 SOLICITOR.

6 MS. CAMPBELL: MAY IT PLEASE THE COURT.

7 CROSS-EXAMINATION

8 BY MS. CAMPBELL:

9 Q I JUST WANT TO ASK YOU A FEW QUESTIONS TO FOLLOW
10 UP. YOU CAME HERE IN 1998 ON A STUDENT VISA; IS THAT
11 CORRECT?

12 A NO.

13 Q YOU CAME HERE ON A VISA OF SOME SORT?

14 A YES.

15 Q OKAY. AND YOU HAVE BEEN HERE EVER SINCE; IS THAT
16 CORRECT?

17 A YES.

18 Q DURING THAT TIME PERIOD, HAVE YOU LIVED IN
19 COLUMBIA?

20 A YES, I HAVE.

21 Q AND WHEN DID YOU MEET MUSA?

22 A IN AMERICA OR BACK HOME?

23 Q BACK HOME.

24 A I DON'T REMEMBER THE YEAR.

25 Q YOU DON'T REMEMBER THE YEAR?

1 A HUH-UH.

2 Q ONCE YOU CAME TO AMERICA, DO YOU REMEMBER WHEN YOU
3 NEXT SAW HIM?

4 A IT WAS 2003, 2004, ONE OF THOSE.

5 Q DID YOU START DATING IMMEDIATELY?

6 A NO.

7 Q DID YOU KNOW, THOUGH OR DID YOU COME TO KNOW AT
8 SOME TIME THAT HE HAD A SON?

9 A YEAH, HE TOLD ME.

10 Q BUT YOU KNEW THAT HE DIDN'T HAVE CUSTODY; IS THAT
11 CORRECT?

12 A YOU MEAN WAS HE LIVING WITH HIM?

13 Q THAT'S CORRECT.

14 A YEAH, HE WASN'T LIVING WITH HIM.

15 Q THE CHILD STARTED LIVING WITH YOU ALL -- YOU WERE
16 MARRIED IN MARCH?

17 A YEAH.

18 Q AND THE CHILD STARTS LIVING YOU ALMOST THREE
19 MONTHS LATER IN JUNE?

20 A YES, UH-HUH.

21 Q AND OVER THE NEXT TWO MONTHS LIVING IN THAT
22 APARTMENT, I JUST WANT TO MAKE SURE, THE ONLY OTHER
23 PEOPLE LIVING THERE ARE DICK DANN?

24 A YES.

25 Q DOES HE LIVE ON ONE SIDE OF THE APARTMENT?

- 1 A YES.
- 2 Q AND DOES HE HAVE HIS OWN BEDROOM?
- 3 A YES.
- 4 Q AND DO YOU SHARE A COMMON LIVING ROOM?
- 5 A YES.
- 6 Q AND THEN IN YOUR BEDROOM, IT WOULD HAVE BEEN YOU
- 7 AND Minor
- 8 A YES.
- 9 Q AND MUSA; IS THAT CORRECT.
- 10 A YES.
- 11 Q DID YOU KEEP Minor S TOYS AT YOUR HOUSE OR WERE
- 12 THOSE KEPT SOMEWHERE ELSE?
- 13 A SOME WERE AT HER HOUSE, SOME WERE AT MY HOUSE.
- 14 Q TURNING YOUR ATTENTION TO AUGUST 15TH, THAT DAY,
- 15 WHAT TIME DID YOU GO TO WORK FOR BRIAN CENTER?
- 16 A I DON'T KNOW. SOMETIME IN THE AFTERNOON.
- 17 Q SOMETIME IN THE AFTERNOON?
- 18 A I WAS SUPPOSED TO BE THERE AT THREE. I DON'T KNOW
- 19 THE EXACT TIME I GOT TO WORK.
- 20 Q SO IT WAS SOME TIME AROUND THREE O'CLOCK?
- 21 A YEAH.
- 22 Q YOU WENT THERE TO THE BRIAN CENTER AND -- YOU WERE
- 23 A NURSING ASSISTANT, CORRECT?
- 24 A YES.
- 25 Q SO YOU HAD TRAINING IN THE MEDICAL FIELD; IS THAT

1 CORRECT?

2 A YES.

3 Q AND HOW MUCH TRAINING HAVE YOU HAD?

4 A NOT A LOT, JUST HOW TO CARE FOR PATIENTS.

5 Q OKAY. AND WHEN CARING FOR PATIENTS, YOU LEARN HOW
6 TO TAKE CARE OF PROBLEMS THAT MAY COME ON THEM, CHECK
7 THEIR TEMPERATURE, CHECK THEIR VITAL SIGNS. IF THEY
8 HAD A CUT OR SOMETHING, HAVE IT TREATED, THINGS OF THAT
9 NATURE?

10 A YES.

11 Q ON THAT DAY, YOUR TESTIMONY WAS THAT YOU WENT OVER
12 TO YOUR SISTER'S HOUSE SOME TIME AFTER ELEVEN O'CLOCK,
13 RIGHT?

14 A YES.

15 Q BUT YOU DID NOT SEE HER?

16 A NO, I DID NOT.

17 Q BECAUSE SHE WAS ASLEEP?

18 A YES.

19 Q WHERE WERE THE CHILDREN?

20 A THEY WERE ALL SLEEP.

21 Q WHERE WERE THEY ASLEEP?

22 A IN HER HOUSE.

23 Q WHERE IN HER HOUSE?

24 A I DON'T KNOW EXACTLY WHERE IN HER HOUSE.

25 Q YOU DON'T REMEMBER WHERE YOU PICKED UP Minor

1 THAT NIGHT, WHERE HE WAS SLEEPING?

2 A I PICKED HIM UP FROM THE DOOR. YATTA BROUGHT HIM
3 TO ME.

4 Q EXCUSE ME?

5 A MY COUSIN, YATTA, HANDED HIM TO ME.

6 Q YATTA HAD HIM?

7 A YATTA SANDERS, THE ONE THAT MY SISTER TOLD YOU
8 ABOUT.

9 Q OKAY. SO YOU WENT UP TO THE FRONT DOOR, YOU
10 KNOCKED ON THE DOOR, AND THE CHILD WAS DELIVERED TO
11 YOU?

12 A YEAH.

13 Q AT WHAT POINT -- YOUR TESTIMONY WAS THAT YOU
14 COULDN'T FIND HIS SHOES, SO I ASSUME AT SOME POINT YOU
15 CROSSED THE THRESHOLD; IS THAT CORRECT?

16 A NO, I DIDN'T.

17 Q OKAY. YOU COULDN'T FIND HIS SHOES, BUT YOU DIDN'T
18 GO IN TO LOOK FOR THEM?

19 A YES, WHEN SHE BROUGHT HIM TO THE DOOR, I SAID,
20 "WHERE'S HIS SHOES." SHE SAID, "WE COULDN'T FIND
21 THEM." I SAID, "OKAY, WE'LL JUST GET THEM TOMORROW."

22 Q OKAY. AND WHEN YOU GOT ^{Minor} AT 11:30 OR
23 WHATEVER TIME IT WAS, WHEN HE WAS HANDED TO YOU BY YOUR
24 COUSIN YATTA, WAS HE ASLEEP OR WAS HE AWAKE?

25 A HE WAS SLEEPING.

1 Q HE WAS SLEEPING?

2 A UH-HUH.

3 Q AT THAT POINT WHEN HIS COUSIN -- WHEN YOU PICKED
4 HIM UP, TELL THE JURY HOW YOU PICKED HIM UP?

5 A LIKE THAT. (INDICATING)

6 Q SO HE'S DRAPED ACROSS BOTH YOUR ARMS?

7 A YES.

8 Q SO IN THE TRANSFER FROM YATTA TO YOU, WHILE HE'S
9 ASLEEP, DID HE SCREAM, WAKE UP, OR ANYTHING?

10 A HE OPENED HIS EYES, BUT THEN HE JUST CLOSED IT
11 AGAIN.

12 Q OKAY. SO THEN YOU WERE ABLE TO TAKE HIM AT THAT
13 POINT. AT THAT POINT, LET ME JUST MAKE SURE, DID YOU
14 SEE ANY BLOOD ON HIS CLOTHES?

15 A NO, I DIDN'T SEE ANY BLOOD ON ANYTHING. HE WAS
16 JUST ASLEEP.

17 THE COURT: THIS LADY IS HAVING TO TYPE EVERYTHING
18 THAT YOU'RE SAYING AND SO IF YOU WILL JUST TALK A
19 LITTLE BIT SLOWER, PLEASE.

20 BY MS. CAMPBELL:

21 Q DID YOU SEE ANY BLOOD, DID YOU NOTICE ANY BLOOD AT
22 THAT POINT?

23 A NO, I DID NOT.

24 Q AND AT THAT POINT YOU THEN TAKE HIM AND YOU
25 MENTIONED THAT YOU HAVE A CAR SEAT. YOU DID THE SAFE

- 1 THING, AND YOU PUT HIM IN A CAR SEAT, RIGHT?
- 2 A YES.
- 3 Q AND IN ORDER TO PUT HIM IN A CAR SEAT, YOU HAVE TO
- 4 ACTUALLY SHIFT HIS POSITION AND PUT HIM DOWN; IS THAT
- 5 CORRECT?
- 6 A YES.
- 7 Q AT THAT POINT DID HE SCREAM OUT IN PAIN OR
- 8 ANYTHING OF THAT SORT?
- 9 A NO, HE WAS SLEEPING.
- 10 Q AND AFTER ALL THIS WAS OVER, DID YOU NOTICE ANY
- 11 BLOOD IN THE CAR SEAT?
- 12 A NO, I DIDN'T LOOK IN THE CAR SEAT FOR NO BLOOD.
- 13 Q AND JUST FOR THE RECORD, DID YOU EVER SEE
- 14 R. , LITTLE R. THAT NIGHT?
- 15 A NO, I DID NOT SEE HIM.
- 16 Q OKAY. YOU THEN DROVE FROM -- WHERE IS YOUR
- 17 SISTER'S APARTMENT?
- 18 A OFF OF NORTH MAIN.
- 19 Q AND YOU DROVE OVER TO YOUR APARTMENT ON ST.
- 20 ANDREWS?
- 21 A YES.
- 22 Q AND DO YOU KNOW APPROXIMATELY HOW LONG A DRIVE
- 23 THAT IS?
- 24 A TEN MINUTES OR SO.
- 25 Q DURING THAT PERIOD OF TIME, WAS HE ASLEEP OR

1 AWAKE?

2 A I WASN'T PAYING ATTENTION TO HIM. WHEN I PUT HIM
3 IN THE CAR SEAT, HE WAS SLEEPING.

4 Q SO WAS SLEEPING WHEN YOU PUT HIM IN AND YOU DIDN'T
5 PAY ATTENTION TO HIM, SO YOU DON'T KNOW?

6 A NO, I WAS DRIVING.

7 Q OKAY. YOU WERE DRIVING, SO YOU DON'T KNOW WHAT HE
8 WAS DOING?

9 A NO.

10 Q ONCE YOU GOT TO THE APARTMENT I ASSUME YOU TOOK
11 HIM OUT OF THE CAR SEAT OR DID YOU TAKE HIM IN THE CAR
12 SEAT?

13 A OUT OF THE CAR SEAT.

14 Q YOU LEFT THE CAR SEAT IN THE CAR?

15 A YEAH.

16 Q AND YOU PICKED HIM UP AGAIN?

17 A YES.

18 Q AND WHEN YOU GO TO PICK HIM UP, WAS HE STILL
19 ASLEEP?

20 A YES.

21 Q AND WHEN YOU PICKED HIM UP, RAISED HIM UP, DID HE
22 SCREAM OUT OR ANYTHING OF THAT NATURE?

23 A NO, HE WAS SLEEPING.

24 Q DID YOU NOTICE ANY BLOOD AT THAT POINT?

25 A NO.

1 Q AND ONCE YOU GET HIM INSIDE THE APARTMENT, I
2 BELIEVE YOU MENTIONED EARLIER THAT HE WOKE UP; IS THAT
3 CORRECT?

4 A YEAH.

5 Q WAS THAT UNUSUAL FOR HIM TO WAKE UP WHEN YOU GOT
6 HIM HOME?

7 A NO, NOT REALLY. SOMETIMES HE DID, SOMETIMES HE
8 DIDN'T.

9 Q AND WHAT TIME OF DAY DID Minor GO TO SCHOOL?

10 A WHAT DO YOU MEAN?

11 Q WHAT TIME DID HE HAVE TO LEAVE TO GO TO SCHOOL?

12 A IN THE MORNING.

13 Q WHAT TIME IN THE MORNING?

14 A SEVEN SOMETHING, EIGHT SOMETHING.

15 Q WOULD IT HAVE BEEN SIX SOMETHING?

16 A NO.

17 Q HE WENT AT SEVEN SOMETHING?

18 A YEAH.

19 Q YOU WOULD STILL BE ASLEEP AND YOUR HUSBAND WOULD
20 TAKE HIM; IS THAT CORRECT?

21 A SOMETIMES.

22 Q SO AT THIS POINT, BY THE TIME YOU GET HIM FROM
23 YOUR SISTER'S HOUSE, GET HIM BACK ACROSS TOWN TO YOUR
24 APARTMENT IT'S PROBABLY CLOSE TO MIDNIGHT, WOULD YOU
25 SAY?

1 A I WASN'T LOOKING AT THE TIME. I WASN'T PAYING
2 ATTENTION TO THE TIME.

3 Q OKAY. YOU WENT IN AND SAID HE WOKE UP.

4 A YES.

5 Q SO YOU WENT INTO WHAT PART OF YOUR APARTMENT?

6 A THE LIVING ROOM.

7 Q THE LIVING ROOM?

8 A YEAH.

9 Q AND WHAT WERE YOU DOING IN THE LIVING ROOM?

10 A I PUT HIM ON A CHAIR BESIDE THE OTHER CHAIR AND
11 GOT HIM SOME PLANTAINS.

12 Q YOU GOT SOME PLAYTHINGS?

13 A PLANTAINS, IT'S A FOOD.

14 Q AND THEN YOU OFFERED HIM FOOD?

15 A YEAH.

16 Q AND DID HE EAT?

17 A NO.

18 Q ONCE YOU OFFERED HIM THE PLANTAINS, WAS THAT
19 UNUSUAL?

20 A FOR HIM NOT TO EAT IT, IT WAS UNUSUAL.

21 Q AT THAT POINT WHEN YOU SAT HIM ON THE CHAIR, WAS
22 HE CRYING?

23 A I LAID HIM ON THE CHAIR.

24 Q YOU LAID HIM ON THE CHAIR?

25 A NO, THE CHAIR HAD LIKE -- THE CHAIR ARM IS -- HE

1 WAS LAYING PARTLY ON THE CHAIR.

2 Q SO HE'S LAYING ON THE CHAIR?

3 A YES.

4 Q HE IS AWAKE?

5 A SOMEWHAT AWAKE.

6 Q SO YOU'RE TRYING TO FEED HIM WHILE HE'S SOMEWHAT

7 AWAKE OR NOT?

8 A I LAID HIM ON THE CHAIR AND HE OPENED HIS EYES AND

9 I TOLD HIM THAT I WAS HAVING A PLANTAIN, AND ASKED HIM,

10 "DO YOU WANT SOME?"

11 Q SO HE WAS STILL PARTLY ASLEEP?

12 A IT TAKES A WHILE TO ADJUST, SO HE WAS STILL KIND

13 OF SLEEPING.

14 Q I UNDERSTAND. IT TAKES A WHILE TO ADJUST AND WAKE

15 UP. SO WHILE HE WAS STILL HALF ASLEEP, HE DIDN'T WANT

16 ANYTHING TO EAT?

17 A NO.

18 Q AT THAT POINT, YOU ARE IN THE LIVING ROOM AND

19 YOU'VE GOT THE T.V. ON; IS THAT YOUR TESTIMONY?

20 A YES.

21 Q AND WHAT ARE YOU WATCHING?

22 A I DON'T KNOW. I WAS JUST RESTING. I WAS TIRED.

23 Q I UNDERSTAND. DURING THIS PERIOD OF TIME WHILE

24 YOU ARE IN THE LIVING ROOM, APPROXIMATELY HOW LONG DID

25 YOU STAY IN THERE?

- 1 A I HAVE NO IDEA.
- 2 Q DID HE CONTINUE TO WAKE UP OR WAS HE STAYING
- 3 ASLEEP OR COMING IN AND OUT OR WHAT?
- 4 A I WASN'T LOOKING AT HIM.
- 5 Q OKAY. WHILE YOU'RE WATCHING T.V., DID YOU HEAR
- 6 HIM MAKE ANY NOISE WHILE YOU WEREN'T PAYING ATTENTION
- 7 TO HIM? DID YOU HEAR HIM MAKING ANY NOISE AT ALL?
- 8 A NO, I DON'T RECALL.
- 9 Q OKAY. AT THAT POINT DID HE COMPLAIN OF ANY PAIN
- 10 OR ANYTHING LIKE THAT?
- 11 A NO, WE HADN'T EVEN TALKED AT THAT POINT.
- 12 Q YOU HAVEN'T TALKED? YOU OFFERED HIM FOOD, BUT YOU
- 13 NEVER TALKED?
- 14 A I JUST PUT THE PLANTAIN TO HIS MOUTH AND ASKED HIM
- 15 IF HE WANTED SOME, BUT ME AND HIM WASN'T HAVING A
- 16 CONVERSATION.
- 17 Q OKAY. I UNDERSTAND.
- 18 A OKAY.
- 19 Q I'M NOT TRYING TO PUT WORDS IN YOUR MOUTH. YOU
- 20 CORRECT ME IF I'M WRONG, OKAY?
- 21 A ALL RIGHT.
- 22 Q DO YOU KNOW HOW LONG YOU STAYED IN THE LIVING ROOM
- 23 WITH YOU SITTING ON THE CHAIR WATCHING T.V. AND HIM
- 24 LYING ON THE CHAIR?
- 25 A I DON'T KNOW HOW LONG.

1 Q OKAY. WHAT HAPPENED NEXT? HOW DID YOU -- DID YOU
2 MAKE THE MOVE INTO THE NEXT ROOM? DID HE GET UP, WHAT
3 HAPPENED?

4 A NO. I TOLD HIM, "IT'S TIME TO GET A BATH SO YOU
5 CAN GO TO SLEEP AND GO TO SCHOOL TOMORROW MORNING."

6 Q AND YOU DON'T HAVE --

7 A AND I --

8 Q SORRY. I DIDN'T MEAN TO INTERRUPT YOU.

9 A I TOLD HIM I WAS GOING TO CARRY HIM TO THE BATH SO
10 HE COULD GET A BATH AND GO TO BED AND THEN GO TO SCHOOL
11 THE NEXT MORNING.

12 Q WAS THAT UNUSUAL FOR YOU TO GIVE HIM A BATH AT
13 NIGHT?

14 A NO, IT'S NOT. MY SISTER DOESN'T BATHE HIM.

15 Q SO YOU TOLD HIM HE HAD TO GET UP AND GO TAKE A
16 BATH; IS THAT CORRECT? WAS HE STILL LYING IN THE
17 CHAIR?

18 A UH-HUH.

19 Q AND YOU HAVE NO IDEA HOW LONG YOU ALL WERE IN
20 THERE?

21 A NO.

22 Q AND YOU DON'T KNOW WHAT YOU WERE WATCHING OR HOW
23 LONG YOU WERE IN THERE?

24 A NO.

25 Q AND ONCE YOU HAD TOLD HIM THAT, WHAT HAPPENED

1 NEXT?

2 A I PICKED HIM UP AND TOOK HIM INTO THE BATHROOM.

3 Q WAS HE AWAKE OR NOT AT THIS POINT?

4 A I STOOD HIM UP, SO HE KIND OF LIKE WOKE UP.

5 Q YOU MENTIONED EARLIER THAT YOU THOUGHT WHEN HE
6 WENT INTO THE APARTMENT THAT HE WOKE UP FROM THE LIGHT,
7 BUT REALLY WAS IT THAT HE WOKE UP WHEN YOU PUT HIM IN
8 THE BATHROOM?

9 A WHAT DO YOU MEAN?

10 Q I'M JUST ASKING THE QUESTION, DID HE WAKE UP FROM
11 THE LIGHT OR WHEN YOU PUT HIM IN THE BATHROOM?

12 A I DON'T KNOW IF HE WAS FULLY AWAKE IN THE CHAIR OR
13 NOT. YOU KNOW IF YOU PUT LIGHT ON SOMEBODY THEY OPEN
14 THEIR EYES.

15 Q ALL RIGHT, BUT --

16 A HE HAD TO WAKE UP BECAUSE HE WAS ON HIS FEET.

17 Q AND WHEN YOU PUT HIM ON THE FLOOR, WERE YOU
18 PUTTING HIM ON THE FLOOR IN THE LIVING ROOM OR THE
19 BATHROOM?

20 A IN THE BATHROOM.

21 Q SO YOU CARRIED HIM FROM THE LIVING ROOM TO THE
22 BATHROOM?

23 A YES.

24 Q AT THAT POINT, THAT'S WHEN YOU STOOD HIM UP? WAS
25 HE ABLE TO STAND UP?

1 A YEAH, HE STOOD UP IN FRONT OF ME.

2 Q AT THAT POINT, WHEN HE WAS STANDING UP WAS HE
3 FULLY CLOTHED?

4 A YEAH, HE HAD ON CLOTHES.

5 Q AND JUST FOR THE RECORD, WERE THESE THE CLOTHES HE
6 HAD ON? (INDICATING)

7 A YES.

8 Q AND WHEN HE GOES TO SCHOOL AND ON THAT DATE, WAS
9 HE WEARING UNDERWEAR?

10 A YEAH, HE WAS WEARING UNDERWEAR, BUT I DON'T KNOW
11 WHICH ONE.

12 Q AND ONCE HE STOOD UP, WAS HE ABLE TO TALK TO YOU?

13 A YEAH. I TRIED TO --

14 Q OKAY, WELL, TELL ME WHAT HAPPENED ONCE YOU STOOD
15 HIM UP.

16 A I STOOD HIM UP IN FRONT OF ME AND TRIED TO TAKE
17 OFF HIS SHIRT. HE MADE A FACE. I ASKED HIM WHAT WAS
18 WRONG, DOESN'T HE KNOW HE HAS TO BATHE.

19 Q AND THIS WAS ALL IN THE BATHROOM, RIGHT?

20 A YEAH.

21 Q AT THAT POINT YOU TOOK HIS SHIRT OFF, RIGHT?

22 A YES.

23 Q AND WHAT DID YOU DO WITH THE SHIRT?

24 A I DON'T KNOW WHERE I PUT IT.

25 Q OKAY.

1 A I DROPPED IT NEXT TO ME UNTIL I CAN PICK IT UP
2 LATER.

3 Q OKAY.

4 A I JUST DROPPED IT.

5 Q SO YOU TAKE THAT OFF HIM AND JUST DROPPED IT ON
6 THE FLOOR SOMEWHERE IN THE BATHROOM?

7 A I DON'T KNOW EXACTLY WHERE I PUT IT, I PUT IT
8 SOMEWHERE.

9 Q OKAY. AND AT THAT POINT YOU ALSO GO AHEAD AND
10 TAKE OFF HIS PANTS?

11 A YEAH.

12 Q AND THESE ARE THE PANTS? (INDICATING)

13 A YEAH.

14 Q AND YOU WOULD PUT THEM IN THE SAME PLACE?

15 A I DON'T KNOW WHERE I PUT THEM.

16 Q BUT YOU REMEMBERED THE OTHER DETAILS?

17 A WHAT DO YOU MEAN I REMEMBERED THE OTHER DETAILS?
18 WHAT ARE YOU ASKING?

19 Q I'M ASKING IF YOU REMEMBER OTHER DETAILS OF WHAT
20 HAPPENED THAT NIGHT?

21 A YEAH, BUT WHEN YOU TAKE YOUR CLOTHES OFF YOU
22 DON'T --

23 Q OKAY. THAT'S FINE. AT THAT POINT, LET ME ASK YOU
24 THIS, YOU SAY THAT HE MADE A FACE?

25 A YES.

1 Q AND WAS THAT BEFORE YOU TOOK HIS CLOTHES OFF OR
2 AFTER?

3 A WHEN I WAS TRYING TO TAKE HIS CLOTHES OFF.

4 Q AT WHAT POINT -- DO YOU CONTINUE TAKING HIS
5 CLOTHES OFF EVEN THOUGH HE MADE A FACE? WERE HIS
6 CLOTHES ON OR OFF WHEN HE SAID IT HURTS?

7 A HIS SHIRT WAS OFF. I SAY, "YOU HAVE TO BATHE." I
8 SAID, "WHAT'S WRONG, YOU KNOW YOU HAVE TO BATHE." HE'S
9 LIKE, "I HURT," JUST LIKE THAT.

10 Q AND AT THAT POINT THAT'S WHEN YOU TAKE OFF HIS
11 LITTLE PANTS?

12 A UH-HUH.

13 Q AND YOU THROW THEM DOWN WITH THE OTHER THINGS?

14 A UH-HUH.

15 Q AND THEN THAT'S WHEN YOU NOTICE HIS SWOLLEN
16 TESTICLES?

17 A YES.

18 Q LET ME ASK YOU THIS, YOU MENTIONED THAT HIS
19 TESTICLES WERE MORE SWOLLEN THAN USUAL?

20 A YES.

21 Q HAD YOU TAKEN HIM TO THE DOCTOR THAT SUMMER,
22 BECAUSE HE HAD BEEN LIVING YOU A LITTLE OVER TWO
23 MONTHS. HAD YOU TAKEN HIM TO THE DOCTOR FOR THE
24 SWOLLEN TESTICLE PROBLEM?

25 A I DIDN'T TAKE HIM TO THE DOCTOR BECAUSE EVERYBODY

1 I TALK TO SAID I NEEDED A MEDICAL RECORD ON HIM FOR HIS
2 FATHER TO TAKE HIM. WE WENT IN MINNESOTA IN JULY.
3 MUSA TOOK HIM TO THE HOSPITAL.

4 Q OKAY. DID YOU GO WITH MUSA WHEN HE DECIDED TO
5 TAKE THE CHILD TO THE HOSPITAL IN MINNESOTA?

6 A YEAH, I WENT WITH HIM.

7 Q AND DO YOU HAVE THOSE MEDICAL RECORDS?

8 A NO. I DON'T KNOW.

9 Q YOU KNEW THIS TRIAL WAS COMING UP THIS WEEK?

10 A I KNEW WHAT?

11 Q THAT THE TRIAL WAS COMING UP THIS WEEK.

12 A YES.

13 Q BUT YOU DON'T HAVE THE MEDICAL RECORDS?

14 MR. ROGERS: YOUR HONOR, I OBJECT. SHE HAS NO
15 OBLIGATION TO PRODUCE ANYTHING.

16 THE COURT: ALL RIGHT. THERE IS NO BURDEN ON THE
17 DEFENDANT TO PROVE ANYTHING. LET'S MOVE ALONG.

18 MS. CAMPBELL: YES, YOUR HONOR. SHE JUST
19 TESTIFIED SHE WENT THERE.

20 THE COURT: ALL RIGHT. MOVE ALONG.

21 BY MS. CAMPBELL:

22 Q ONCE YOU -- SO YOU WERE NEVER ABLE TO TAKE HIM TO
23 THE DOCTORS IN SOUTH CAROLINA THAT SUMMER BECAUSE YOU
24 DIDN'T HAVE HIS MEDICAL RECORDS?

25 A YES.

1 Q ONCE YOU GET HIM IN AND YOU SEE THAT IT'S MORE

2 SWOLLEN THAN USUAL --

3 A YEAH.

4 Q -- AT THAT POINT, AND YOU'VE GOT SOME MEDICAL

5 TRAINING, THAT'S WHEN YOU CALL YOUR SISTER THE FIRST

6 TIME?

7 A YES.

8 Q AT THAT POINT YOU ASK HER ABOUT THE -- WAS HE

9 OKAY, RIGHT?

10 A I ASKED HER ABOUT HIS ACTIVITIES, YEAH.

11 Q AND THEN YOU GET THAT INFORMATION FROM HER AND YOU

12 DECIDE YOU SHOULD PUT HIM IN A HOT BATH -- OR A WARM

13 BATH, I'M SORRY?

14 A YES.

15 Q SO DO YOU RUN THE WATER IN THE BATHTUB?

16 A YES, I DO.

17 Q DO YOU PUT ANY SOAP IN IT OR BUBBLE BATH OR

18 ANYTHING LIKE THAT, OR WAS IT JUST WATER?

19 A I KNOW I RAN THE WATER.

20 Q YOU RAN THE WATER?

21 A YEAH.

22 Q WAS THERE ANYTHING IN THE BATHTUB?

23 A I DON'T REMEMBER THERE BEING ANYTHING IN THE

24 BATHTUB.

25 Q AT THAT POINT, YOU PUT HIM INTO THE WARM WATER.

- 1 AT THIS POINT IS HE CRYING?
- 2 A NO, HE'S JUST SITTING THERE MAKING FACES.
- 3 Q MAKING FACES?
- 4 A YEAH.
- 5 Q HE'S NOT CRYING, SCREAMING?
- 6 A NO.
- 7 Q YOU PUT HIM INTO THE WARM WATER?
- 8 A YES.
- 9 Q YOU PUT HIM DOWN. IS HE SITTING UP?
- 10 A I SAT HIM IN THE TUB AND LAID HIM BACK. LIKE HOW
- 11 I CARRY HIM, LIKE THIS. (INDICATING) IT WAS IN THE
- 12 SAME POSITION, BUT HIS HEAD WAS HIGHER THAN THE REST OF
- 13 HIS BODY.
- 14 Q OKAY. ALL RIGHT. AND AT THAT POINT YOU START
- 15 USING A WARM WASHCLOTH?
- 16 A YES.
- 17 Q AND AT SOME POINT YOU PUT IT ON SEVERAL TIMES; IS
- 18 THAT CORRECT?
- 19 A YES.
- 20 Q AND YOU DON'T KNOW HOW MUCH PRESSURE YOU PUT ON
- 21 IT?
- 22 A NO.
- 23 Q IN YOUR EXPERIENCE, IS IT APPROPRIATE TO PUT
- 24 PRESSURE ON AN ENLARGED SCROTUM?
- 25 A YES, TO CARRY IT DOWN, PUT SOMETHING WARM AND YOU

1 HOLD IT THERE.

2 Q OKAY. BUT WASN'T HE ALREADY SUBMERGED IN THE WARM
3 WATER?

4 A CAN YOU SAY THAT AGAIN?

5 Q WASN'T HE UNDER THE WARM WATER? WASN'T HIS
6 GENITAL AREA IN THE WARM WATER?

7 A YES, IT WAS IN THE WATER.

8 Q AND YOU DECIDED TO APPLY THE PRESSURE WITH THE
9 CLOTH?

10 A YES.

11 Q AT SOME POINT AFTER DOING THIS SEVERAL TIMES, YOU
12 NOTICED BLOOD ON THIS CLOTH?

13 A YES.

14 Q OKAY. AND AT THAT POINT THAT'S WHEN YOU BECOME
15 AWARE THAT SOMETHING IS WRONG?

16 A YES.

17 Q OKAY. AND AT THAT POINT, WHAT DO YOU DO?

18 A I GRAB HIM FROM THE TUB, PUT HIM ON THE RUG AND
19 GOT A PULL-UP AND PUT IT ON HIM AND THEN I WOULD CALL
20 MY SISTER. I WAS ON THE PHONE WITH HER WHEN I GOT A
21 TOWEL AND DRIED HIS SKIN OFF. I TOOK THE PULL-UP OFF
22 BECAUSE IT WAS WET. I TOOK THE FIRST PULL-UP AND PUT
23 IT IN THE TRASH CAN, GOT THE SECOND ONE, PUT THAT PULL-
24 UP ON HIM, PUT HIS CLOTHES ON AND TOOK HIM TO THE
25 HOSPITAL.

1 Q SO WHEN YOU TAKE HIM FROM THE BATHROOM, HE'S
2 BLEEDING BADLY; IS THAT RIGHT?

3 A THAT'S THE DROP THAT CAME OFF OF HIM.

4 Q FROM OFF OF HIM?

5 A YEAH.

6 Q DID HE DRIP BLOOD WHEN YOU GOT HIM OUT OF THE
7 BATHTUB AND INTO THE BEDROOM?

8 A IT'S A SHORT DISTANCE. I TOOK HIM FROM THE
9 BATHROOM AND PUT HIM ON THE RUG.

10 Q AND YOU JUST THREW DOWN THE WASHCLOTH WITH THE
11 BLOOD ON IT?

12 A THE WATER STAYED IN THE TUB. I HADN'T RUN THE
13 WATER OUT YET. I LEFT THE WASHCLOTH IN THE WATER IN
14 THE TUB.

15 Q OKAY. AT THAT POINT YOU THEN PUT HIM OUT AND YOU
16 PUT A PULL-UP ON HIM?

17 A YES.

18 Q AND BEING TRAINED IN THE MEDICAL FIELD, DID YOU DO
19 ANY EXAMINATION TO SEE WHAT WAS BLEEDING?

20 A I KNOW HIS SCROTUM WAS BLEEDING BECAUSE THE BLOOD
21 WAS COMING FROM THERE.

22 Q YOU DIDN'T DO AN EXAMINATION?

23 A NO, NO, NO. I WAS GOING TO TAKE HIM TO THE
24 HOSPITAL.

25 Q SO AT THAT POINT YOU DIDN'T CALL 911, YOU CALLED

1 YOUR SISTER?

2 A WHAT DO YOU MEAN I DIDN'T CALL 911? I CALLED MY
3 SISTER.

4 Q DID YOU CALL 911?

5 A NO, I DID NOT.

6 Q YOU CALLED YOUR SISTER?

7 A YES, I DID.

8 Q AND YOU TALKED TO YOUR SISTER AND THEN AFTER THAT
9 YOU WENT TO LEXINGTON HOSPITAL; IS THAT CORRECT?

10 A I WAS ON THE PHONE WITH HER WHILE I WAS GETTING
11 HIM TOGETHER TO CARRY HIM TO THE HOSPITAL.

12 Q OKAY. AND ONCE YOU PUT THE TOWEL ON HIM IN THE
13 BATHTUB UNDER THE WATER AND YOU NOTICED THE BLOOD, WAS
14 HE CRYING?

15 A YES, HE WAS.

16 Q WAS HE SCREAMING?

17 A NO, HE WASN'T SCREAMING.

18 Q HE WAS CRYING?

19 A TEARS WERE IN HIS EYES, BUT NO, HE WASN'T
20 SCREAMING.

21 Q AND WHEN YOU HAD HIM AND WERE UNDESSING HIM, DID
22 YOU NOTICE THE BRUISES TO HIS BODY?

23 A I WASN'T -- IT WAS SWOLLEN. THE WHOLE AREA DOWN
24 THERE WAS SWOLLEN.

25 Q WHAT ABOUT THIS STOMACH AREA, DID YOU NOTICE THE

1 BIG BRUISE ACROSS HIS ABDOMEN?

2 A I WASN'T PAYING ATTENTION TO HIS ABDOMEN. I WAS
3 LOOKING DOWN THERE. I KNOW THAT EVERYTHING WAS
4 SWOLLEN.

5 Q WHEN YOU UNDRESSED HIM -- WHEN YOU BROUGHT HIM
6 HOME THAT NIGHT, DID YOU NOTICE THAT HIS LIP WAS
7 BLEEDING.

8 A NO, THAT'S WHERE HE WAS BITING HIS LIP ON THE WAY
9 TO THE HOSPITAL. THAT'S WHEN THAT HAPPENED. I TOLD
10 HIM TO STOP BITING HIS LIPS. HIS LIP DIDN'T JUST START
11 BLEEDING. HE WAS BITING IT.

12 Q DID YOU CLEAN UP THE BATHROOM BEFORE YOU LEFT TO
13 GO TO THE HOSPITAL?

14 A NO.

15 Q YOU TOOK HIM IMMEDIATELY TO THE HOSPITAL, GOT
16 THERE AS FAST AS YOU COULD?

17 A YES.

18 Q AT THAT POINT, YOU HAD ALREADY TAKEN OFF ONE
19 BLOODY DIAPER; IS THAT CORRECT?

20 A YES.

21 Q SO YOU, AS A NURSE, KNOW THAT HE'S BLEEDING PRETTY
22 GOOD. DID YOU KNOW THAT THERE WAS AT LEAST A CUT TO
23 THE SCROTUM?

24 A YES, BECAUSE I SAW THE BLOOD.

25 Q SO WOULD IT BE APPROPRIATE FOR YOU TO THEN PUT ON

1 A PULL-UP AND PUT PRESSURE ON A CUT SCROTUM, WHICH
2 WOULD BE A PAINFUL EVENT?

3 A I DIDN'T THINK THE PULL-UP WOULD PUT PRESSURE ON
4 HIM. I DIDN'T WANT HIS BLOOD -- IF YOU STOP THE BLOOD
5 FROM FLOWING IT'S BETTER FOR THE PERSON. THEY DON'T
6 LOSE MORE BLOOD THAT WAY. IF YOU HAVE SOMETHING OVER
7 IT, THE BLOOD FLOW WOULD BE SLOWER THAN IT WOULD BE IF
8 YOU DIDN'T.

9 Q OKAY. AND YOUR TESTIMONY IS THAT YOU HAD TO TAKE
10 THIS ONE OFF HIM AND PUT ON ANOTHER ONE BECAUSE HE WAS
11 WET?

12 A YEAH.

13 Q ONCE YOU GOT HIM TO THE HOSPITAL, YOU TALKED TO
14 THE NURSE AT THE FRONT DESK, THE PERSON THAT SIGNED YOU
15 IN?

16 A YEAH.

17 Q DID YOU TELL HER -- AT THIS POINT WERE YOU
18 CONCERNED WITH WHAT WAS GOING ON WITH Minor ?

19 A YES. THAT'S WHY I TOOK HIM TO THE HOSPITAL.

20 Q THAT'S RIGHT, BECAUSE EVEN THOUGH YOU DIDN'T HAVE
21 MEDICAL RECORDS, BECAUSE IT WAS AN EMERGENCY SITUATION,
22 YOU COULD TAKE HIM TO THE HOSPITAL, RIGHT?

23 A YES. I DIDN'T MAKE THE MEDICAL RULES.

24 Q SO ONCE YOU GOT HIM TO THE HOSPITAL, DID YOU TELL
25 HER HE WAS CUT IN THE SCROTUM AND BLEEDING HEAVILY?

1 A I TOLD HER THAT HE HAD BLEEDING TO HIS GENITAL
2 AREA.

3 Q AT ANY POINT, BEING TRAINED IN THE MEDICAL FIELD
4 TO SOME EXTENT, DID YOU THINK IT WOULD BE PRUDENT TO
5 LOOK AT WHAT WAS GOING ON THERE AND, IN FACT, SCREAM
6 AND YELL FOR THEM TO COME GET HIM?

7 A WHAT ARE YOU TALKING ABOUT?

8 Q DID YOU EVER EXAMINE HIM TO LOOK AND SEE WHAT WAS
9 GOING ON?

10 A AT THE HOUSE.

11 Q AT THE HOUSE. DURING THE DRIVE OVER THERE? ONCE
12 YOU GOT TO THE HOSPITAL?

13 A I WAS DRIVING. HOW COULD I BE CHECKING HIM AND
14 PAY ATTENTION TO THE ROAD. I CAN'T BE DRIVING HIM TO
15 THE HOSPITAL AND CHECKING HIM AT THE SAME TIME.

16 Q YOU CAN EXPLAIN IT, BUT WAS THAT A "NO"; IS THAT
17 CORRECT?

18 A WHAT WAS YOUR QUESTION?

19 Q DID YOU EVER EXAMINE HIM ONCE YOU PULLED HIM OUT
20 OF THAT BATHTUB? DID YOU EVER LOOK TO SEE HOW SERIOUS
21 AN INJURY THIS WAS?

22 A NO.

23 Q YOU'RE TRAINED TO LOOK AT WOUNDS AND EXAMINE THEM
24 AND ASSESS THEM AND YOU NEVER THOUGHT THIS WAS A
25 PROBLEM?

1 A I'M NOT TRAINED TO EXAMINE WOUNDS AND ASSESS THEM.
2 THAT'S WHAT LPN'S AND RN'S DO.

3 Q THIS WAS A THREE YEAR OLD AND YOU DIDN'T LOOK AT
4 THE WOUND?

5 A (NO RESPONSE.)

6 Q LET ME ASK YOU THIS, THE WASHCLOTH THAT YOU WERE
7 USING, IT WAS JUST A CLOTH, RIGHT?

8 A YEAH.

9 Q JUST A WASHCLOTH, RIGHT?

10 A YES.

11 Q YOU WEREN'T USING ANYTHING SHARP TO PRESS DOWN ON
12 HIM, DID YOU?

13 A NO.

14 Q SO THERE WASN'T LIKE A RAZOR BLADE ON THAT?

15 A NO.

16 Q ARE YOU AWARE THAT YOUR HUSBAND USES STRAIGHT
17 RAZOR BLADES TO SHAVE?

18 A THAT'S WHAT HE DOES FOR THE EDGES OF HIS HEAD.

19 Q FOR HIS HEAD?

20 A YES.

21 Q OKAY. SO HE DOESN'T SHAVE WITH HIM?

22 A NO, HE USES THE SHAVER TO SHAVE HIM AND HE USES
23 THAT TO EDGE HIS HAIR.

24 Q TO EDGE HIS HAIR?

25 A YES.

1 Q SO THESE WERE IN THE BATHROOM WHERE THIS INJURY
2 OCCURRED AND YOU KNEW THAT?

3 A YEAH, I KNEW THAT.

4 Q AND DOES HE USUALLY HAVE A SUPPLY OVER THERE
5 BECAUSE THEY GET DULL PRETTY QUICKLY?

6 A YEAH, HE BUYS THEM IN THE PACK AND WHEN HE GETS
7 FINISHED HE GETS SOME MORE.

8 Q YOU MENTIONED THAT YOU WENT TO THE HOSPITAL THAT
9 DAY AND YOU TOLD SEVERAL PEOPLE WHAT WENT ON WITH THE
10 CHILD WHEN THEY ASKED YOU, RIGHT?

11 A YES.

12 Q AND YOU TOLD THEM, ACCORDING YOUR TESTIMONY HERE
13 TODAY, YOU TOLD THEM THE SAME STORY?

14 A YEAH, I TOLD THEM --

15 Q AND DID YOU EVER HAVE ANY ILL FEELINGS WITH THE
16 DOCTORS OR NURSES OR ANYONE ELSE THERE PRIOR TO THIS
17 EVENT?

18 A THE PEOPLE AT LEXINGTON THEY WERE CONCERNED ABOUT
19 TREATING HIM. THE PEOPLE AT RICHLAND WERE MORE
20 CONCERNED ABOUT ACCUSING ME OF STUFF AND NOT PAYING
21 ATTENTION TO HIM. SO I DIDN'T TALK TO THE PEOPLE AT
22 RICHLAND LIKE THAT.

23 Q OKAY. DID ANYONE -- HAD YOU EVER HAD ANY PRIOR
24 DEALINGS WITH ANY OF THESE PEOPLE THAT THEY WOULD HAVE
25 SOMETHING AGAINST YOU?

1 A WHICH PEOPLE?

2 Q THE DOCTORS, THE NURSES, EVERYONE THAT HAS
3 TESTIFIED OTHER THE LAST TWO DAYS.

4 A YOU'RE TALKING ABOUT THE PEOPLE FROM RICHLAND?

5 Q RICHLAND AND LEXINGTON.

6 A I DIDN'T HAVE ANY PRIOR DEALING WITH THEM, BUT IF
7 SOMEONE JUST ACCUSES YOU, HOW ARE YOU SUPPOSED TO TREAT
8 THEM?

9 Q DID YOU GO BACK THE NEXT DAY AND CLEAN UP THE
10 BATHROOM?

11 A I DIDN'T GO BACK THE NEXT DAY AND CLEAN UP THE
12 BATHROOM.

13 Q OKAY. SO THE BATHROOM, THE DAY AFTER THAT, WOULD
14 HAVE BEEN IN THE SAME SHAPE AS IT WAS AFTER YOU LEFT
15 THERE?

16 A I LEFT THE HOSPITAL AFTER HIS SURGERY AND THEY
17 SAID HE WAS SLEEPING. I WENT BACK HOME AND TOOK A
18 BATH. I HAD TO RUN THE WATER OFF AND RINSE THE TOWEL
19 OFF AND PUT IT IN THE HAMPER.

20 Q JUST A COUPLE MORE QUESTIONS. DO YOU KNOW HOW THE
21 LITTLE DROPLETS OF BLOOD GOT ON HIS CLOTHING?

22 A PROBABLY WHEN I WAS TAKING HIM FROM THE TUB
23 TRANSFERRING HIM TO THE RUG IN THE BEDROOM.

24 Q BUT YOU DIDN'T GET ANY ON THE TUB OR THE FLOOR OR
25 ANYWHERE ELSE?

1 A IT WOULD BE IN THE TUB BECAUSE THAT'S WHEN I
2 DISCOVERED THE BLOOD.

3 Q DID YOU DRAIN THE TUB THE NEXT DAY?

4 A NO, THE EVENING -- OKAY. WE WENT TO THE HOSPITAL
5 EARLY MORNING AND --

6 Q THE WASHCLOTH THAT YOU USED THAT HAD THE BLOOD ON
7 IT, DO YOU KNOW WHAT HAPPENED TO IT?

8 A WHEN I CAME BACK THAT EVENING TO BATHE AND GO BACK
9 TO THE HOSPITAL, I RINSED IT OFF AND I RINGED IT OUT
10 AND PUT IT IN THE HAMPER AND RAN THE WATER AND I DIDN'T
11 DO ANYTHING TO IT. I PUT IT IN THE HAMPER.

12 Q OKAY. AND THAT WAS IN THE SAME HAMPER WHERE YOU
13 PUT THOSE CLOTHES?

14 A YES, HIS DIRTY CLOTHES.

15 Q AND WHAT HAPPENED TO THE TOWEL YOU DRIED HIM OFF
16 WITH?

17 A I PUT IT IN THE HAMPER, TOO.

18 MS. CAMPBELL: THANK YOU. THAT'S ALL.

19 THE COURT: REDIRECT?

20 MR. ROGERS: JUST BRIEFLY, YOUR HONOR.

21 REDIRECT EXAMINATION

22 BY MR. ROGERS:

23 Q MS. KROMAH, MS. CAMPBELL ASKED YOU WHY DIDN'T YOU
24 LOOK AT THE AREA THAT WAS BLEEDING AFTER YOU SAW THE
25 BLOOD?

1 A I COULDN'T DO ANYTHING ABOUT THE BLOOD. I FIGURED
2 THE PEOPLE AT THE EMERGENCY ROOM COULD HANDLE IT
3 BETTER. THE QUICKER I COULD GET HIM THERE, THE BETTER
4 IT WOULD BE FOR HIM.

5 MR. ROGERS: THANK YOU. THAT'S ALL I HAVE.

6 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

7 THE WITNESS: ALL RIGHT.

8 THE COURT: ALL RIGHT. MR. ROGERS.

9 MR. ROGERS: THAT'S THE DEFENDANT'S CASE, YOUR
10 HONOR.

11 THE COURT: ALL RIGHT. SOLICITOR, ANYTHING
12 FURTHER FROM THE STATE?

13 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

14 (PAUSE)

15 MS. CAMPBELL: NOTHING FROM THE STATE, YOUR HONOR.

16 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND
17 GENTLEMEN, THAT WILL CONCLUDE THE TESTIMONY AND OTHER
18 EVIDENCE TO BE PRESENTED IN THE CASE. IF YOU THINK
19 BACK TO WHEN THE TRIAL STARTED, I TOLD YOU AFTER ALL
20 THE EVIDENCE WAS PRESENTED THAT THE ATTORNEYS WILL BE
21 MAKING THEIR CLOSING ARGUMENTS AND THEN I'LL INSTRUCT
22 YOU ON THE LAW. THAT'S WHERE WE ARE. WE'RE GOING TO
23 DO THAT TOMORROW MORNING. I'M GOING TO SEND YOU HOME
24 NOW. I WILL AGAIN INSTRUCT YOU NOT TO DISCUSS THE CASE
25 WITH FAMILY OR FRIENDS OR WITH ANYONE ELSE. IF YOU

1 WILL BE BACK IN YOUR JURY ROOM AT 9:30 TOMORROW
2 MORNING, WE'LL HAVE THE CLOSING ARGUMENTS AND THE
3 INSTRUCTIONS OF LAW. AGAIN, PLEASE DON'T DISCUSS THE
4 CASE WITH ANYONE. HAVE A GOOD NIGHT. WE'LL SEE YOU
5 ALL AT 9:30 IN THE MORNING. EVERYONE ELSE PLEASE STAY
6 SEATED.

7 (WHEREUPON, THE JURY LEFT OPEN COURT AT
8 APPROXIMATELY 4:30 P.M.)

9 THE COURT: ALL RIGHT. ANY OTHER MOTIONS OR ANY
10 OTHER LEGAL MATTERS AT THIS TIME? ANYTHING FROM THE
11 STATE OR THE DEFENSE?

12 MS. CAMPBELL: NO, SIR, NOTHING FROM THE STATE.

13 MR. ROGERS: I JUST RENEW MY MOTIONS, YOUR HONOR,
14 AT THIS TIME.

15 THE COURT: THE DEFENSE MOTIONS FOR A DIRECTED
16 VERDICT ARE DENIED AT THIS TIME. THERE IS SUFFICIENT
17 EVIDENCE IN THE RECORD, I BELIEVE, TO SUPPORT THE
18 CHARGES THAT HAVE MADE IN THIS CASE. FOR THAT REASON
19 THE MOTION IS DENIED.

20 WE WILL RECESS UNTIL 9:30 TOMORROW MORNING. ARE
21 THERE ANY WRITTEN REQUESTS FOR CHARGES AT THIS TIME?

22 MR. ROGERS: I DON'T HAVE ANY, YOUR HONOR. IF I
23 THINK OF SOMETHING OVERNIGHT, I'LL GET IT TO YOU AS
24 SOON AS I CAN, BUT I DON'T ANTICIPATE ANYTHING.

25 THE COURT: SOLICITOR, ANYTHING SPECIAL YOU'RE

1 ASKING ME TO CHARGE?

2 MS. CAMPBELL: NOT THIS TIME.

3 THE COURT: IF YOU WILL BE HERE NO LATER THAN
4 9:15 SO THAT IF SOMETHING DOES COME UP, WE CAN DEAL
5 WITH THAT. ALL RIGHT. HAVE A GOOD NIGHT.

6 (WHEREUPON COURT WAS ADJOURNED FOR THE DAY.)

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8 THE COURT: ALL RIGHT. ANY MATTERS THIS MORNING
9 BEFORE WE GET STARTED? ANYTHING FROM THE STATE?

10 MS. CAMPBELL: NO, SIR.

11 THE COURT: MR. ROGERS.

12 MR. ROGERS: YES, YOUR HONOR. I'D LIKE TO GET A
13 RULING FROM THE STATE AS TO WHAT I CAN ARGUE ABOUT
14 Minor 'S ABSENCE. THE COURT SAID IT WOULD RESERVE
15 ITS RULING ON THAT UNTIL AFTER IT HEARD ALL THE
16 TESTIMONY.

17 I MEAN, I DIDN'T WANT TO GO INTO IT EXTENSIVELY,
18 BUT I DO THINK THAT I'M ALLOWED TO SAY THAT THERE WAS
19 NO EVIDENCE DIRECTLY IMPLICATING MIAMA. THERE'S NO
20 TESTIMONY IMPLICATING MIAMA. IF I'M ALLOWED TO SAY
21 THAT, I WON'T MENTION Minor AT ALL, BUT I THINK THAT
22 THE ABSENCE OF ANY TESTIMONY IMPLICATING MIAMA
23 DIRECTLY, I SHOULD BE ALLOWED TO AT LEAST ARGUE IT AND
24 ASK THE JURY TO DRAW INFERENCES.

25 THE COURT: SOLICITOR.

1 MS. CAMPBELL: YOUR HONOR, MAYBE I DON'T
2 UNDERSTAND THE CONTEXT IN WHICH HE'S GOING TO ARGUE
3 THAT. THE STATEMENT IS THERE'S NO ONE DIRECTLY
4 IMPLICATING MIAMA. I DO THINK THAT IS AN UNTRUTH IN
5 THIS CASE. IF HE WANTS TO SAY THERE WAS NO TESTIMONY
6 DIRECTLY IMPLICATING MIAMA, I DON'T THINK THAT IS AN
7 UNTRUTH.

8 MR. ROGERS: I MEAN, THE EVIDENCE THAT WAS
9 INTRODUCED IS CIRCUMSTANTIAL EVIDENCE, SO I WOULD BE
10 CORRECT IN SAYING THAT THERE WAS NO DIRECT EVIDENCE
11 IMPLICATING MIAMA OR THERE WAS NO TESTIMONY, DIRECT
12 TESTIMONY, IMPLICATING MIAMA.

13 THE COURT: ALL RIGHT. I BELIEVE THAT THE LAST
14 CHARACTERIZATION, MS. CAMPBELL, THAT YOU MADE, I
15 BELIEVE YOU INDICATED IF THE ARGUMENT WAS THAT THERE
16 WAS NO DIRECT TESTIMONY, THAT THAT WOULD NOT BE
17 OBJECTIONABLE; IS THAT RIGHT?

18 MS. CAMPBELL: THERE IS NO TESTIMONY THAT
19 DIRECTLY -- YEAH, I DON'T HAVE A PROBLEM WITH THAT,
20 YOUR HONOR.

21 THE COURT: ALL RIGHT. I WILL PERMIT THAT, BUT
22 NOT BEYOND THAT.

23 MR. ROGERS: AND NO MENTION OF Minor AT ALL, I
24 MEAN, IN TERMS OF HIM SAYING ANYTHING ABOUT THIS EVENT.

25 MS. CAMPBELL: I THINK --

1 THE COURT: IT IS INACCURATE TO TESTIFY ABOUT WHAT
2 Minor DID OR DID NOT SAY. I HAVE RULED THAT WHAT
3 HE, IN FACT, DID SAY WAS INADMISSIBLE, SO IT WOULD BE
4 INACCURATE TO SAY HE DID NOT SAY ANYTHING.

5 MR. ROGERS: WELL, CAN I -- ONE LAST ISSUE --

6 THE COURT: JUST AS IT WOULD BE IMPERMISSIBLE FOR
7 THE STATE TO SAY, "WELL, HE SAID SOMETHING."

8 MR. ROGERS: RIGHT. WELL, I UNDERSTAND THAT.
9 JUST A MOMENT, YOUR HONOR. MAY I ARGUE THAT THERE WAS
10 NO TESTIMONY THAT Minor IMPLICATED MIAMA?

11 OH, I'M SORRY, THAT'S NOT WHAT I WANT TO SAY. I
12 WANT TO BE ABLE TO ARGUE THAT ABSENT THAT TESTIMONY IS
13 A REASON TO DOUBT. ABSENT DIRECT TESTIMONY IMPLICATING
14 MIAMA IS REASON TO DOUBT.

15 MS. CAMPBELL: JUDGE, I DON'T THINK I HAVE A
16 PROBLEM WITH HIM ARGUING WHAT THE TESTIMONY WAS OR
17 WASN'T AS LONG AS HE'S NOT TRYING TO INFER THE CHILD
18 DIDN'T SAY ANYTHING.

19 THE COURT: RIGHT. THAT'S WHAT I'M ATTEMPTING TO
20 DO. I THINK YOU CAN MAKE THE ARGUMENT THAT IF -- I
21 MEAN, I WOULD HAVE ALREADY SAID THAT A REASONABLE -- OR
22 WILL BE SAYING THAT A REASONABLE DOUBT CAN ARISE FROM
23 EVIDENCE OR LACK OF EVIDENCE, SO I THINK THE ARGUMENT
24 IS FINE. IT IS A MISCHARACTERIZATION TO INDICATE THAT
25 Minor HAS NOT ACCUSED THE DEFENDANT OF COMMITTING

1 THAT.

2 MR. ROGERS: AND I'M NOT SAYING THAT, BUT MAY I
3 FURTHER SAY THAT YOU CAN'T SPECULATE AS TO WHAT
4 Minor MAY HAVE SAID?

5 THE COURT: THAT IS PART OF MY INSTRUCTIONS. NOW,
6 I KNOW MS. CAMPBELL HAS HAD SEVERAL TRIALS. MY
7 DEFINITION OF REASONABLE DOUBT IS SORT OF A HYBRID. I
8 STILL USE THE OLD LANGUAGE, HESITATE TO ACT AND
9 WHATNOT. I'LL ALSO INCORPORATE THE VICTOR VS.
10 NEBRASKA, FIRMLY CONVINCED. SO I HAVE BOTH OF THOSE IN
11 MY --

12 MR. ROGERS: ALL RIGHT.

13 THE COURT: AND I DO HAVE A GENERAL SPECULATION IS
14 NOT PART OF IT, TOO.

15 MR. ROGERS: ALL RIGHT.

16 MS. CAMPBELL: AND YOUR HONOR, WE WOULD JUST -- IF
17 HE'S ALLOWED TO ARGUE THAT, WE WOULD BE ASKED TO BE
18 ALLOWED TO ARGUE THE EVIDENCE.

19 THE COURT: YOU CAN ARGUE WHAT IS IN EVIDENCE.
20 YOU'LL RUN INTO PROBLEMS WHEN YOU START ARGUING WHAT
21 ISN'T AND WHY IT ISN'T, BUT MY IMPRESSION IS THAT
22 YOU'RE NOT GOING TO DO THAT.

23 MR. ROGERS: THANK YOU, YOUR HONOR.

24 THE COURT: AND MS. CAMPBELL, YOU'RE GOING TO DO
25 THE OPENING AND CLOSING, RIGHT?

1 MS. CAMPBELL: YES, SIR, I'LL OPEN BRIEFLY ON THE
2 LAW.

3 THE COURT: ALL RIGHT. THEN LET'S GET THE JURY
4 IN, PLEASE.

5 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
6 APPROXIMATELY 9:43 A.M.)

7 THE COURT: WHILE THEY'RE COMING IN, I MADE A NOTE
8 ABOUT A DOCTOR'S APPOINTMENT. ONE OF THEM HAS AN
9 APPOINTMENT TOMORROW MORNING AND THAT'S WHAT I WAS
10 REFERRING TO. I WANTED YOU FOLKS TO KNOW WHAT I WAS
11 TALKING ABOUT.

12 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
13 APPROXIMATELY 9:43 A.M.)

14 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND
15 GENTLEMEN, GOOD MORNING. I APPRECIATE YOUR BEING HERE
16 WHEN I INSTRUCTED YOU TO BE HERE. AS I TOLD YOU
17 YESTERDAY WHEN WE BROKE, YOU'RE NOW GOING TO HEAR THE
18 CLOSING ARGUMENTS FROM THE ATTORNEYS. YOU WILL FIRST
19 HEAR FROM THE SOLICITOR AND THEN YOU WILL HEAR FROM THE
20 DEFENSE ATTORNEY AND THEN THE FINAL ARGUMENT WOULD BE
21 MADE BY THE SOLICITOR.

22 THE ATTORNEYS, I AM SURE, ARE GOING TO GO OVER AND
23 REVIEW WITH YOU THEIR MEMORY OF WHAT THE TESTIMONY AND
24 EVIDENCE HAS BEEN. THEY HAVE A RIGHT TO DO THAT, BUT I
25 WOULD POINT OUT TO YOU THAT YOU ARE THE JUDGES OF

1 FACTS. IF YOUR MEMORY DIFFERS FROM THEIRS, YOU RELY ON
2 YOUR MEMORY. ONCE YOU HAVE HEARD FROM THE ATTORNEYS, I
3 WILL INSTRUCT YOU ON THE LAW AND THEN YOU WILL BE SENT
4 BACK TO DELIBERATE AND REACH A VERDICT IN THE CASE.
5 PLEASE GIVE BOTH OR ALL OF THE ATTORNEYS YOUR FULL
6 ATTENTION AS THEY MAKE THEIR ARGUMENTS TO YOU. ALL
7 RIGHT, MS. CAMPBELL.

8 MS. CAMPBELL: MAY IT PLEASE THE COURT.

9 THE COURT: ALL RIGHT.

10 OPENING STATEMENT ON THE LAW

11 MS. CAMPBELL: GOOD MORNING. LADIES AND
12 GENTLEMEN, THE FIRST THING I WOULD LIKE TO DO IS THANK
13 YOU FOR YOUR SERVICE IN THIS CASE. I KNOW THAT WHEN
14 YOU CAME HERE ON MONDAY MORNING YOU HAD NO IDEA WHAT
15 KIND OF CASE IF ANY, YOU WOULD BE ASKED TO SERVE ON.

16 AS I THINK IT HAS BECOME APPARENT OVER THE LAST
17 SEVERAL DAYS, THIS IS A VERY IMPORTANT CASE. ANY CASE
18 INVOLVING CHILD ABUSE IS VERY IMPORTANT BOTH TO THE
19 STATE AND TO THE DEFENDANT, MIAMA KROMAH, BECAUSE THIS
20 IS HER DAY IN COURT.

21 BUT IN THAT SAME VEIN, LADIES AND GENTLEMEN, IT IS
22 ALSO Minor DAY IN COURT. ON BEHALF OF THE
23 CITIZENS OF THE STATE OF SOUTH CAROLINA, I WANT TO
24 THANK YOU. YOU HAVE BEEN VERY ATTENTIVE. I KNOW THE
25 SUBJECT MATTER IN THIS CASE HAS BEEN SOMEWHAT

1 UNPLEASANT, AND I JUST WANT TO THANK YOU AGAIN FOR
2 LISTENING.

3 NOW, AS THE JUDGE JUST TOLD YOU, YOU'RE GOING TO
4 HEAR BRIEFLY FROM ME. I'M GOING TO TALK TO YOU A
5 LITTLE BIT ABOUT THE LAW IN THE CASE THEN YOU'RE GOING
6 TO HEAR FROM THE DEFENSE AND I'LL HAVE AN OPPORTUNITY
7 TO ADDRESS YOU ONE MORE TIME ABOUT THE FACTS. LET ME
8 BE THE FIRST TO TELL YOU IF I'M TALKING ABOUT THE LAW
9 AND I SAY SOMETHING DIFFERENT THAN WHAT THE JUDGE TELLS
10 YOU WHEN HE GIVES YOU THE CHARGE ON THE LAW, YOU TAKE
11 IT AS THE JUDGE TELLS YOU. IT'S NOT INTENTIONAL ON MY
12 PART. HE IS THE SOLE JUDGE OF THE LAW.

13 IN THAT SAME VEIN, JUST AS THE JUDGE SAID, IF
14 EITHER SIDE MISCHARACTERIZES OR MISQUOTES THE
15 TESTIMONY, YOU REMEMBER IT BECAUSE YOU ARE THE SOLE
16 JUDGES OF THE CREDIBILITY OF THE WITNESSES, AND YOUR
17 ROLE IS VERY IMPORTANT. I'LL GET BACK TO THAT IN A
18 MINUTE. NOW, YOU HEARD ALL THE TESTIMONY THAT YOU'RE
19 GOING TO BE ALLOWED TO CONSIDER IN THIS CASE IN MAKING
20 YOUR DECISION.

21 YOU MUST BASE YOUR VERDICT ON THE EVIDENCE, AND
22 THAT'S THE SWORN TESTIMONY AND THE PHYSICAL EVIDENCE IN
23 THE CASE. YOU CAN'T BASE IT ON QUESTIONS BY THE
24 LAWYERS, FISHING EXPEDITIONS, INNUENDOS, SPECULATION,
25 OR CONJECTURE. THE JUDGE WILL TELL YOU THAT'S NOT

1 EVIDENCE. LADIES AND GENTLEMEN, JUST PLAIN WISHFUL
2 THINKING IS NOT EVIDENCE.

3 NOW, THE ROLES IN THIS COURTROOM ARE VERY
4 IMPORTANT, AND THE ROLE OF THE PROSECUTION IS TO
5 PRESENT ALL THE RELEVANT ADMISSIBLE EVIDENCE THAT WE
6 ARE ALLOWED BY LAW TO PUT BEFORE YOU. THE DEFENSE'S
7 ROLE IS OBVIOUS, TO DEFEND HIS CLIENT TO THE BEST OF
8 HIS ABILITY, AND THE JUDGE'S ROLE IS TO DETERMINE WHAT
9 IS ADMISSIBLE, WHAT EVIDENCE YOU ARE ALLOWED TO HEAR.
10 IN ADDITION TO THAT, THE JUDGE WILL TELL YOU WHAT THE
11 LAW IS.

12 BY FAR, LADIES AND GENTLEMEN, THE MOST IMPORTANT
13 ROLE IN THIS COURTROOM IS YOURS. ALL OF YOU
14 INDIVIDUALLY AND THEN ONCE YOU GET BACK THERE
15 COLLECTIVELY, BECAUSE YOU ALONE MUST DETERMINE WHAT
16 HAPPENED ON THAT NIGHT, WHAT HAPPENED TO Minor

17 THAT RESULTED IN BRUISING, LACERATIONS AND A TWO
18 INCH CUT TO HIS SCROTUM. YOU HAVE TO DETERMINE WHAT
19 HAPPENED BECAUSE YOU ARE THE SOLE JUDGES.

20 I WANT TO TAKE THIS OPPORTUNITY TO APOLOGIZE IF I
21 HAVE OFFENDED ANYONE OVER THE LAST SEVERAL DAYS. AT
22 TIMES MY QUESTIONS HAVE BEEN IN ARTFUL, CLUMSY, SLOPPY
23 AT TIMES, OR MAYBE THE FORM OF THE QUESTION WAS
24 INCORRECT. AT TIMES, THERE'S BEEN TESTIMONY THAT IS
25 ADMISSIBLE AND NOT ADMISSIBLE OR LATER BECOMES

1 ADMISSIBLE. YOU HAVE HEARD ME INSTRUCT PEOPLE
2 REPEATEDLY THAT YOU CAN'T GO INTO WHAT IS SAID BECAUSE
3 THAT'S HEARSAY. THERE ARE RULES AND THEY'RE IN PLACE
4 FOR A REASON, AND THAT'S TO PROTECT THE DEFENDANT'S
5 RIGHTS. THERE ARE RULES. SO IF I HAVE DONE ANYTHING
6 TO OFFEND ANYONE, PLEASE, PLEASE DON'T HOLD THAT
7 AGAINST Minor

8 NOW, ALSO IF YOU NOTICE OVER THE LAST SEVERAL
9 DAYS, A CRIMINAL CASE IS SOMEWHAT UNIQUE BECAUSE YOU
10 HAVE HEARD ABOUT MEDICAL RECORDS. YOU HEARD WHAT OTHER
11 RECORDS REFER TO, BUT AS YOU NOTICE, THERE HAVE BEEN NO
12 REPORTS SUBMITTED. THERE HAVE BEEN NO STATEMENTS OTHER
13 THAN THE DEFENDANT'S STATEMENTS ADMITTED. THERE HAVE
14 BEEN NO MEDICAL RECORDS.

15 THE REASON FOR THAT IS ALSO BASED ON OUR
16 CONSTITUTION, BECAUSE IN CRIMINAL CASES A DEFENDANT HAS
17 AN ABSOLUTE RIGHT TO CONFRONT EACH AND EVERY WITNESS
18 AGAINST HER. THAT IS A RIGHT, AS IT SHOULD BE, SO YOU
19 HAVEN'T HEARD REPORTS ISSUED BY DOCTORS. YOU HEARD US
20 BRING IN THE DOCTORS. YOU HEARD FROM THE POLICE
21 OFFICERS. YOU JUST DIDN'T SEE THEIR REPORTS. THE
22 REASON FOR THAT IS BECAUSE THE DEFENDANT HAS A RIGHT TO
23 CONFRONT THE WITNESSES. THAT IS IMPORTANT, THAT IS
24 EVERY DEFENDANT'S CONSTITUTIONAL RIGHT.

25 THE STATE HAS ALSO CALLED A NUMBER OF DIFFERENT

1 WITNESSES, BUT YOU HEARD REFERENCES TO OTHER WITNESSES,
2 SUCH AS THE SOCIAL WORKER AT THE HOSPITAL. THE STATE
3 CANNOT CALL WITNESS AFTER WITNESS JUST TO SAY THE SAME
4 THING OVER AND OVER AGAIN. IT'S CALLED CUMULATIVE
5 EVIDENCE.

6 WE ARE ONLY ALLOWED TO BRING FORTH WITNESSES WHO
7 HAVE SOMETHING ADMISSIBLE TO ADD, SOMETHING ELSE THAT
8 THEY CAN ADD. THERE ARE A NUMBER OF DOCTORS THAT
9 ACTUALLY PARTICIPATED IN THE TREATMENT OF THIS CHILD.
10 HE WAS IN THE HOSPITAL FOR A WHILE, BUT YOU DID NOT
11 HEAR FROM EVERY NURSE AND EVERY DOCTOR, JUST THE ONES
12 THAT HAVE SOMETHING TO ADD AND SOMETHING DIFFERENT TO
13 SAY.

14 KNOW, IN EVERY CASE WHEN IT'S A CRIMINAL CASE,
15 THAT THE BURDEN OF PROOF IS ON THE STATE OF SOUTH
16 CAROLINA TO PROVE THE DEFENDANT'S GUILT BEYOND A
17 REASONABLE DOUBT. THAT IS THE LEVEL OF PROOF THAT WE
18 MUST MEET AND SHOULD MEET, PROOF BEYOND A REASONABLE
19 DOUBT.

20 WHAT IS THAT? I THINK THE SIMPLEST WAY TO DEFINE
21 WHAT IS PROOF BEYOND A REASONABLE DOUBT, IS PROOF THAT
22 MAKES A REASONABLE MAN HESITATE TO ACT. I THINK THAT'S
23 THE SIMPLEST THING. I THINK THE JUDGE WILL CHARGE YOU
24 THAT'S WHAT THE SIMPLEST DEFINITION MAY BE, BUT THE
25 COURTS HAVE RECOGNIZED THAT PERHAPS THAT DEFINITION

1 NEEDS A LITTLE MORE EXPLAINING. IN THAT CASE THEY HAVE
2 GONE A LITTLE BIT FURTHER IN DEFINING WHAT IS
3 REASONABLE DOUBT.

4 LADIES AND GENTLEMEN, REASONABLE DOUBT, PROOF
5 BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU
6 FIRMLY CONVINCED OF THE DEFENDANT'S GUILT, FIRMLY
7 CONVINCED OF THE DEFENDANT'S GUILT.

8 THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE
9 KNOW WITH ABSOLUTE CERTAINTY, AND IN CRIMINAL CASES THE
10 LAW DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY
11 POSSIBLE DOUBT. IF BASED ON YOUR CONSIDERATION OF THE
12 EVIDENCE, YOU ARE FIRMLY CONVINCED THE DEFENDANT IS
13 GUILTY OF THE CRIME CHARGED, THEN YOU MUST FIND HIM OR
14 HER GUILTY.

15 IF, ON THE OTHER HAND, YOU THINK THAT THERE IS A
16 REAL POSSIBILITY THAT HE OR SHE DIDN'T DO IT, YOU MUST
17 GIVE HIM OR HER THE BENEFIT OF THE DOUBT AND FIND NOT
18 GUILTY.

19 AGAIN, PROOF THAT LEAVES YOU FIRMLY CONVINCED OF
20 THE DEFENDANT'S GUILT. THAT IS THE LEVEL. LAWYERS MAY
21 GET UP HERE AND WANT TO SAY WE HAVE TO PROVE IT BEYOND
22 EVERY DOUBT, ALTHOUGH I SUBMIT IN THIS CASE, LADIES AND
23 GENTLEMEN, THE PROOF IS OVERWHELMING. IN THIS CASE, IN
24 THIS COURTROOM, THE PROOF IS OVERWHELMING BASED ON
25 THESE FACTS.

1 ALL WE MUST PROVE IS THAT YOU ARE FIRMLY CONVINCED
2 OF THE DEFENDANT'S GUILT. THAT'S WHAT THE COURTS HAVE
3 DEFINED AS REASONABLE DOUBT.

4 NOW, THERE ARE TWO INDICTMENTS THAT ARE GOING TO
5 BE BEFORE YOU. YOU MUST DECIDE ON EACH INDICTMENT
6 WHETHER THE DEFENDANT IS GUILTY OR NOT GUILTY. THERE
7 ARE NO LESSER INCLUDED OR ANYTHING OF THAT NATURE IN
8 THIS CASE. THERE ARE TWO SEPARATE INDICTMENTS AND YOU
9 MUST COME TO TWO SEPARATE VERDICTS. THEY CAN BE THE
10 SAME, DIFFERENT, OR WHATEVER. THE JUDGE WILL INSTRUCT
11 YOU ON THAT.

12 THE FIRST ONE I WANT TO TALK TO YOU ABOUT IS IN
13 OUR CODE OF LAWS 16-395. IT VERY SIMPLY SAYS, AND IT'S
14 ONE OF THE SHORTER ONES, OTHER THAN MURDER. THE
15 DEFINITION IS, IT IS UNLAWFUL TO INFLECT GREAT BODILY
16 INJURY UPON A CHILD. THAT'S THE STATUTE. THAT'S WHAT
17 IT SAYS IN DETERMINING GREAT BODILY INJURY, AND IN THIS
18 CASE WE HAD SOME HELP BECAUSE THERE'S BEEN EXPERT
19 TESTIMONY. WHAT IS GREAT BODILY INJURY? IT'S BODILY
20 INJURY WHICH CREATES -- DOESN'T MEAN IT HAS TO CAUSE,
21 JUST CREATE, A SUBSTANTIAL RISK OF DEATH OR CREATES OR
22 CAUSES SERIOUS OR PERMANENT DISFIGUREMENT, AS IN THIS
23 CASE, OR PROTRACTED LOSS OR IMPAIRMENT, AS IN THIS
24 CASE, OF THE FUNCTION OF ANY BODILY MEMBER OR ORGAN,
25 MEANS BODILY INJURY WHICH CREATES A SUBSTANTIAL RISK OF

1 ANY OF THOSE THINGS. I SUBMIT, LADIES AND GENTLEMEN,
2 NO ONE, I SUBMIT, WILL GET UP HERE AND ARGUE THAT WHAT
3 WAS DONE TO THAT CHILD IS NOT GREAT BODILY INJURY.

4 THE SECOND INDICTMENT IS UNLAWFUL CONDUCT TOWARDS
5 A CHILD, AND IT'S GOT SEVERAL PARTS. YOU WILL SEE
6 THESE THINGS THAT WE HAVE TO PROVE. YOU DON'T HAVE TO
7 PROVE ALL OF THEM. I'LL GET BACK TO THAT A LITTLE
8 MORE. IN THIS STATE, LADIES AND GENTLEMEN, PURSUANT TO
9 27-50, IT IS UNLAWFUL FOR A PERSON WHO HAS CHARGE OR
10 CUSTODY -- IN THIS CASE, MIAMA KROMAH, AND WE AREN'T
11 SAYING SHE HAD CUSTODY OF THE CHILD, BUT HE WAS IN HER
12 CUSTODY THAT NIGHT. THE JUDGE WILL DEFINE THIS FOR
13 YOU. BASICALLY, SHE HAD CHARGE OF THE CHILD IN A
14 PARENTAL ROLE ON THE NIGHT IN QUESTION.

15 IT DOESN'T HAVE TO BE A PARENT OR GUARDIAN, BUT
16 JUST HAS A CHARGE OR CUSTODY AND EITHER PLACES THE
17 CHILD AT UNREASONABLE RISK OF HARM AFFECTING THE
18 CHILD'S LIFE, PHYSICAL OR MENTAL HEALTH OR SAFETY OR
19 DID SO CAUSE TO BE DONE UNLAWFULLY OR MALICIOUSLY ANY
20 BODILY HARM TO THE CHILD SO THAT THE LIFE OR HEALTH OF
21 THE CHILD IS ENDANGERED OR IS LIKELY TO BECOME
22 ENDANGERED OR ABANDON A CHILD. THIS DOES NOT APPLY.

23 WE DON'T HAVE TO PROVE BOTH OF THESE, BUT I SUBMIT
24 IN THIS CASE, SHE PUT HIM AT UNREASONABLE RISK OF HARM
25 AFFECTING HIS LIFE, PHYSICAL AND MENTAL HEALTH. IN

1 THIS CASE SHE CAUSED MALICIOUSLY BODILY HARM TO THE
2 CHILD SO THAT HIS LIFE OR HEALTH WERE IN DANGER.

3 THOSE ARE THE DEFINITIONS. THE JUDGE MAY GIVE YOU
4 MORE DEFINITIONS TO GO WITH THAT, BUT BASICALLY, THOSE
5 ARE THE TWO STATUTES IN THE INDICTMENTS THAT ARE BEFORE
6 YOU. NOW, IN EVERY CASE, THERE ARE DIFFERENT WAYS OF
7 PROVING THE CASE. THE LAW RECOGNIZES THAT. THERE IS
8 WHAT WE CALL DIRECT EVIDENCE AND CIRCUMSTANTIAL
9 EVIDENCE. THE LAW ALSO RECOGNIZES THAT ONE IS NOT
10 NECESSARILY BETTER THAN ANOTHER. IT'S JUST A WAY OF
11 PROVING SOMETHING. DIRECT EVIDENCE, LADIES AND
12 GENTLEMEN, IS TYPICALLY EYEWITNESS EVIDENCE. THAT IS
13 EVIDENCE WHERE SOMEONE SEES A CRIME BEING COMMITTED AND
14 COMES, GETS ON THE STAND AND TALKS TO YOU ABOUT WHAT
15 THEY SEE. IT'S WHAT'S PERCEIVED THROUGH THE SENSES,
16 WHAT YOU FEEL, SEE, HEAR, AND TOUCH.

17 THERE'S ANOTHER KIND OF EVIDENCE ALSO AND IT'S
18 CALLED CIRCUMSTANTIAL EVIDENCE. THE JUDGE IS GOING TO
19 CHARGE YOU THAT THERE ARE TWO TYPES OF EVIDENCE.
20 DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO
21 ASSERTS OR CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT,
22 SUCH AS AN EYEWITNESS.

23 YOU HAVE EYEWITNESSES IN A CASE SUCH AS THE
24 DEFENDANT'S BEHAVIOR AT THE TIME SHE PRESENTS THE CHILD
25 AT THE HOSPITAL THROUGH THE NEXT SEVERAL HOURS AND

1 SEVERAL DAYS. THAT'S KIND OF DIRECT TESTIMONY, BUT
2 THERE'S ALSO ANOTHER KIND OF TESTIMONY, CIRCUMSTANTIAL
3 EVIDENCE IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES
4 PROVING THE EXISTENCE OF ANOTHER FACT.

5 OKAY. LET ME SAY THAT AGAIN, PROOF OF A CHAIN OF
6 FACTS OR CIRCUMSTANCES INDICATING THE EXISTENCE OF A
7 FACT. VERY SIMPLY, LADIES AND GENTLEMEN, LIKE D.N.A.
8 EVIDENCE FOUND AT A SCENE, BLOOD FOUND AT A SCENE
9 THAT'S LATER ANALYZED AND LATER MATCHED BACK TO THE
10 VICTIM. THAT, LADIES AND GENTLEMEN, IS CIRCUMSTANTIAL,
11 GOOD CIRCUMSTANTIAL EVIDENCE, THAT THAT VICTIM WAS
12 BLEEDING AT THAT SCENE. IT MAY INDICATE MORE THAN
13 THAT. IT MAY INDICATE LESS DEPENDING ON THE TYPE OF
14 CRIME.

15 THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN
16 THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR
17 CIRCUMSTANTIAL EVIDENCE. NOR IS A GREATER DEGREE OF
18 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF
19 DIRECT EVIDENCE. YOU SHOULD WEIGH ALL THE EVIDENCE IN
20 THE CASE IF, AFTER WEIGHING ALL THE EVIDENCE, YOU ARE
21 NOT CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A
22 REASONABLE DOUBT, YOU WOULD FIND THE DEFENDANT NOT
23 GUILTY. IF ON THE OTHER HAND YOU ARE CONVINCED OF THE
24 DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT, YOU MUST
25 FIND HIM GUILTY.

1 CIRCUMSTANTIAL EVIDENCE, AND AS AN EXAMPLE THAT'S
2 OFTEN USED, IS I GO TO BED TONIGHT AND I LOOK OUT IN MY
3 YARD AND THE GROUND IS BROWN. IT HAS NOTHING ON IT.
4 IT'S BROWN. THE NEXT MORNING WHEN I WAKE UP AND I PULL
5 UP THE BLINDS, I LOOK OUTSIDE AND THERE'S SNOW
6 EVERYWHERE AS FAR AS YOU CAN SEE. THAT IS
7 CIRCUMSTANTIAL EVIDENCE THAT WHILE I WAS ASLEEP YOU CAN
8 INFER THAT IT SNOWED.

9 I SUBMIT, LADIES AND GENTLEMEN, THE DEFENSE WOULD
10 GET UP HERE AND WANT YOU TO BELIEVE THAT MY NEXT DOOR
11 NEIGHBOR WENT TO NORTH CAROLINA, GOT A SNOW MACHINE,
12 THEN CAME BACK AND JUST BLEW SNOW ALL OVER THE
13 NEIGHBORHOOD TO CONVINCE ME THAT IT SNOWED. THAT'S NOT
14 REASONABLE. CIRCUMSTANTIAL EVIDENCE IS PROOF OF
15 EVIDENCE THAT POINTS TO THE EXISTENCE OF A FACT. THE
16 CIRCUMSTANTIAL EVIDENCE IN THIS CASE COMBINED WITH THE
17 DIRECT EVIDENCE AND LUCKILY IN THIS CASE YOU HAVE GOT
18 THAT, YOU HAVE GOT SOME EVIDENCE AS TO HOW SHE WAS
19 ACTING, WHAT HER REACTIONS WERE AND WHAT HER STORIES
20 WERE.

21 YOU GOT HER VERSION, BUT THE CIRCUMSTANTIAL
22 EVIDENCE IS VERY IMPORTANT IN THIS CASE. IT'S THE
23 MEDICAL TESTIMONY. YOU HAVE EXPERT AFTER EXPERT COME
24 BEFORE YOU AND TESTIFY WHAT COULD HAVE CAUSED THESE
25 INJURIES AND WHAT COULDN'T. THAT'S CIRCUMSTANTIAL

1 EVIDENCE.

2 IN THIS CASE, LADIES AND GENTLEMEN, IT DOESN'T
3 ONLY CORROBORATE WHAT HAPPENED, THE CIRCUMSTANTIAL
4 EVIDENCE DISPROVES HER VERSION. NO ONE HAS TO COME UP
5 WITH A STORY THAT THEY DIDN'T DO ANYTHING.

6 YOU ALSO ARE GOING TO BE INSTRUCTED BY THE JUDGE
7 THAT WE HAVE TO PROVE IN EVERY CASE CRIMINAL INTENT. I
8 THINK THAT'S FAIRLY OBVIOUS. BASICALLY, THE LAW
9 DEFINES CRIMINAL INTENT AS A CONSCIOUS WRONGDOING.
10 THEY ALSO RECOGNIZE THAT WE CAN'T TAKE SOMEONE'S BRAIN
11 AND DISSECT IT OR CALCULATE IT TO SOME MEASURABLE
12 CERTAINTY WHAT IS CRIMINAL INTENT, SO THEY LET YOU LOOK
13 AT THE CIRCUMSTANCES AND THE FACTORS LEADING UP TO, AT
14 THE TIME OF, AND ESPECIALLY AFTERWARDS TO DETERMINE
15 WHETHER OR NOT SOMEONE HAS ACTED WITH CRIMINAL INTENT.

16 I SUBMIT, LADIES AND GENTLEMEN, THAT NO ONE IS
17 GOING TO GET UP HERE AND ARGUE THAT WHEN SOMEONE TAKES
18 A RAZOR BLADE OR A SCALPEL AND CUTS THE SCROTUM OF A
19 THREE YEAR OLD, FOUR CENTIMETERS, THAT THAT'S NOT
20 MALICIOUS, THAT THAT'S NOT CRIMINAL INTENT FOR WHATEVER
21 REASON.

22 WHEN DISCUSSING THESE CASES, TOO, WE AREN'T
23 TELLING PEOPLE THEY CAN'T USE CORPORAL PUNISHMENT.
24 WHEN IT GETS DOWN TO THE POINT OF ENDANGERING THE
25 CHILD'S LIFE, WHERE WE'RE INFLECTING UNNECESSARY AND

1 INHUMAN PAIN, THEN IT BECOMES UNLAWFUL, THEN IT BECOMES
2 A CRIME.

3 YOU ALSO HEARD FROM EXPERTS. THE JUDGE WILL TELL
4 YOU TO CONSIDER THE TESTIMONY AND YOU HEARD ALL THE
5 TESTIMONY YOU CAN CONSIDER IN THIS CASE. JUDGE THEIR
6 CREDIBILITY. DID THEY HAVE EXPERTISE? DID THEY HAVE
7 SPECIALIZED EXPERTISE? WAS IT CONSISTENT WITH THE
8 REPORT THEY GAVE AT THE TIME? YOU CAN CONSIDER THAT.
9 PEOPLE CAN'T COME AND GO TO COURT AND GIVE OPINIONS
10 UNLESS THEY ARE ABLE TO BE QUALIFIED BY THE COURT AS AN
11 EXPERT.

12 THERE IS NO DISPUTE THAT YOU HEARD FROM
13 DR. O'MEARA, DR. HARRIS, DR. EHRETH, DR. ABLE,
14 DR. AMROL, OVER AND OVER CONSISTENTLY, ALL EXPERTS TO
15 WHATEVER DEGREE IN THEIR FIELD, AND THEY TOLD YOU,
16 ESPECIALLY DR. AMROL, DR. ABLE, AND DR. EHRETH, THEIR
17 EXPERT OPINION. THREE OF THEM COME TO THE SAME
18 CONCLUSION AS TO WHAT HAPPENED TO THIS CHILD, WHAT
19 COULD HAVE HAPPENED, AND WHAT DIDN'T HAPPEN.

20 NOW, THE LAST THING I WANT TO TALK ABOUT BEFORE I
21 SIT DOWN AND MR. ROGERS TALKS TO YOU IS CREDIBILITY.
22 IN EVERY CASE, LADIES AND GENTLEMEN, IT BOILS DOWN TO
23 CREDIBILITY BECAUSE YOU HAVE HEARD TWO DIFFERENT WAYS
24 THIS HAPPENED. EITHER IT WAS THE INTENTIONAL
25 INFLECTION OF A VIOLENT INJURY TO THE SCROTUM OF A

1 THREE YEAR OLD CHILD OR IT WAS JUST AN INNOCENT WOMAN
2 APPLYING PRESSURE TO A CHILD'S SWOLLEN SCROTUM AND IT
3 TORE. THOSE ARE THE TWO, BECAUSE IN THIS CASE THERE IS
4 NO MIDDLE GROUND. IT'S ONE OR IT'S THE OTHER.

5 WHEN JUDGING CREDIBILITY, THE JUDGE WILL TELL THAT
6 YOU CAN BELIEVE ALL OF THE WITNESSES, NONE OF THE
7 WITNESSES, PART OF THE WITNESSES, IT'S UP TO YOU. WHEN
8 JUDGING CREDIBILITY, THINK ABOUT IT, DO THEY HAVE A
9 BIAS OR A PREJUDICE, SOMETHING TO GAIN OR LOSE IN
10 PRESENTING THEIR TESTIMONY. WHAT WAS THEIR DEMEANOR
11 LIKE? WERE THEY FORTHRIGHT OR HESITANT? WAS THEIR
12 STORY CONSISTENT WITH THE OTHER EVIDENCE, WITH ANY OF
13 THE EVIDENCE? WAS IT CONSISTENT WITH THE TESTIMONY?
14 THOSE ARE FACTORS, JUST SOME OF FACTORS, AND THE JUDGE
15 WILL GIVE YOU MORE ON JUDGING CREDIBILITY BECAUSE IT'S
16 TOTALLY UP TO YOU.

17 THE MOST IMPORTANT THING, LADIES AND GENTLEMEN,
18 THAT YOU'VE GOT IS YOUR EVERY DAY COMMON SENSE. WHAT
19 MAKES SENSE? I'LL TALK ABOUT THAT A LITTLE MORE WHEN I
20 COME BACK UP HERE. WHAT IS ACTUALLY EVEN PLAUSIBLE OR
21 BELIEVABLE? IN THIS CASE, LADIES AND GENTLEMEN, I
22 STAKE IT ON THE EXPERT TESTIMONY, THE INVESTIGATORS, ON
23 HER OWN STORY, IT COULDN'T HAVE HAPPENED THAT WAY. I
24 BEG YOU TO JUDGE THE CREDIBILITY OF THOSE DOCTORS.
25 WHAT DO THEY HAVE TO GAIN OR LOSE FROM SAYING THIS

1 CHILD WAS PHYSICALLY ABUSED? SO THEY COULD COME IN
2 HERE EIGHT OR NINE MONTHS LATER AND TAKE TIME OUT OF
3 THEIR DAY TO TESTIFY? WHAT DO THEY HAVE TO GAIN OR
4 LOSE? I BEG YOU TO JUDGE THEIR CREDIBILITY.

5 I'M GOING TO SIT DOWN, BUT AS YOU LISTEN TO ALL OF
6 US TALK ABOUT THE FACTS, REMEMBER AS THE JUDGE TOLD
7 YOU, YOU HAVE TO REMEMBER THE FACTS AS YOU HEARD THEM
8 BECAUSE YOU ARE THE SOLE JUDGES OF THE FACTS, LADIES
9 AND GENTLEMEN. WHEN YOU GO BACK TO THAT ROOM, YOU'RE
10 GOING TO HAVE TO TAKE WHAT YOU FIND TO BE THE CREDIBLE
11 EXPLANATION FOR WHAT HAPPENED THAT NIGHT AND APPLY THE
12 LAW AND THAT'S ALL YOU HAVE TO DO. THANK YOU.

13 THE COURT: ALL RIGHT. MR. ROGERS.

14 MR. ROGERS: MAY IT PLEASE THE COURT.

15 THE COURT: YES, SIR.

16 CLOSING STATEMENT

17 MR. ROGERS: GOOD MORNING, LADIES AND GENTLEMEN OF
18 THE JURY. I, TOO, WANT TO THANK YOU ON BEHALF OF MIAMA
19 KROMAH AND HER FAMILY FOR THE ATTENTION THAT I SAW YOU
20 PAYING TO THIS TRIAL.

21 OF COURSE, IT IS IMPORTANT FOR THE STATE, AS WELL
22 AS IMPORTANT FOR MIAMA, SO I WANT TO THANK YOU FOR YOUR
23 CONSIDERATION AND THE TIME THAT YOU HAVE TAKEN IN
24 LISTENING TO THIS CASE AND THE TIME THAT YOU WILL TAKE
25 TO DELIBERATE. I TOLD YOU AT THE BEGINNING OF THIS

1 TRIAL, BASED ON MY CRIMINAL DEFENSE EXPERIENCE THAT
2 THERE'S ALWAYS TWO SIDES TO EVERY STORY, AND
3 MS. CAMPBELL JUST SAID AGAIN THERE ARE TWO SIDES TO
4 EVERY STORY, BUT I THINK I WAS WRONG IN THIS CASE. I
5 THINK I MISJUDGED THIS CASE BECAUSE IT IS SO UNUSUAL
6 AND SO UNIQUE THAT WE DON'T HAVE TWO SIDES TO THIS
7 STORY, BECAUSE EVERY WITNESS THAT THE STATE INTRODUCED
8 SAID BASICALLY THE SAME THING, THAT MIAMA SAYS SHE
9 DIDN'T DO IT, SO THERE ISN'T ANOTHER VERSION. THERE
10 ISN'T ANOTHER STORY.

11 THERE ISN'T OTHER TESTIMONY THAT DIRECTLY
12 IMPLICATES MIAMA. THE STATE IS ASKING YOU TO CONCLUDE,
13 BASED ON WHAT YOU HEARD, THAT MIAMA DID THIS, BUT YOU
14 HAVE HEARD NO TESTIMONY, SO WE DON'T HAVE ONE STORY
15 VERSION OR THE OTHER. WE HAVE ONE VERSION THAT HAS
16 REALLY BEEN UNCONTRADICTED, AND YOUR ANALYSIS OF THE
17 TESTIMONY I THINK WILL BEAR THAT OUT.

18 I TOLD YOU THAT THE STATE HAD THE BURDEN OF PROOF
19 AND THAT MIAMA, THE DEFENSE, DIDN'T HAVE ANY BURDEN TO
20 PROVE ANYTHING TO YOU, BUT YOU HEARD FROM HER, AND YOU
21 HEARD FROM THE STATE, AND YOU HEARD THEIR TESTIMONY,
22 THEIR EVIDENCE, AND NOW THAT EVIDENCE HAS TO CONVINCE
23 YOU BEYOND A REASONABLE DOUBT THAT MIAMA DID THIS.

24 NOW, LET'S GO A MINUTE THROUGH THE TESTIMONY, AND
25 I KNOW IT'S VERY CLEAR IN YOUR MINDS, BUT I JUST WANT

1 TO DEMONSTRATE HOW ALL OF THE EVIDENCE IS BASICALLY
2 CONSISTENT.

3 FIRST WE HEARD FROM DONNA SHARPE, WHO WAS THE
4 EMERGENCY ROOM NURSE AT LEXINGTON. SHE SAYS SHE SAW
5 Minor SITTING IN MIAMA'S LAP, AND HE WAS CRYING,
6 MIAMA WAS CALM, AND THAT MIAMA RELATED THE VERSION THAT
7 YOU HEARD FROM EVERY WITNESS, BASICALLY THAT TESTIFIED,
8 THAT SHE PICKED UP THE CHILD FROM HER SISTER'S AFTER
9 ELEVEN, WHEN SHE GOT OFF OF WORK. SHE TOOK^{Minor}
10 HOME. SHE WAS ABOUT TO BATHE ^{Minor} . ^{Minor} MADE
11 A FACE. SHE, IN UNDRESSING HIM, DISCOVERED THAT HIS
12 SCROTUM WAS SWOLLEN. SHE CALLS HER SISTER AND ASKED
13 HER SISTER DID HER SISTER NOTICE ANYTHING UNUSUAL. SHE
14 THEN PUT ^{Minor} IN THE TUB, SAW THE SWOLLEN SCROTUM
15 AND IN AN EFFORT TO HELP THE SWELLING GO DOWN SHE PUT
16 THIS WASHCLOTH ON IT AND THEN SHE NOTICED BLOOD. SHE
17 IMMEDIATELY GOT THE CHILD DRESSED. WHILE SHE WAS
18 GETTING THE CHILD DRESSED, SHE CALLED HER SISTER AND
19 SAID, "I'M TAKING HIM TO THE EMERGENCY ROOM," AND SHE
20 TOOK HIM TO THE EMERGENCY ROOM. THAT'S UNDISPUTED.
21 EVERY WITNESS, ALL FIVE OF THE WITNESSES THAT YOU HEARD
22 ALL SAID THAT SHE SAID THE SAME THING.

23 NOW, THE STATE IN THEIR OPENING SAID, WELL, THE
24 VERSION HAS CHANGED, BUT I ASKED YOU TO REMEMBER THE
25 TESTIMONY AS YOU WILL, AND I SUGGEST TO YOU THAT THE

1 STORY DID NOT CHANGE. THE STORY HAS BEEN CONSISTENT
2 THROUGHOUT, BECAUSE THIS IS WHAT ACTUALLY HAPPENED, AND
3 THIS WAS CONFIRMED BY DONNA SHARPE'S NOTES. SHE HAD
4 TAKEN NOTES AND THAT WAS REFLECTED ON HER NOTES GIVEN
5 SHORTLY AFTER THE TIME THAT SHE SAW MIAMA AND Minor
6 THAT MORNING. NOW SHE ALSO SAID THAT SHE SAW THE
7 TESTICLE, AND I ONLY WANT TO POINT OUT TO YOU THAT THE
8 PICTURES THAT YOU SAW OF Minor AND THE SCROTUM WERE
9 PICTURES THAT WERE TAKEN AT RICHLAND MEMORIAL SEVERAL
10 HOURS LATER.

11 SHE DIDN'T -- SHE WASN'T SHOWN A PICTURE -- THERE
12 WAS NO PICTURES TAKEN OF Minor AT LEXINGTON, SO WE
13 DON'T EXACTLY HOW THE SCROTUM LOOKED WHEN HE WAS FIRST
14 TAKEN TO LEXINGTON. WAS IT AS WE SAW FROM THE PHOTOS
15 FROM RICHLAND OR WAS IT PROTRUDING A LITTLE BIT OR WAS
16 IT PROTRUDING A LOT? WE JUST DON'T KNOW BECAUSE WE
17 DON'T HAVE ANY PHOTOS FROM LEXINGTON. I'LL ASK YOU TO
18 REMEMBER WHAT HER TESTIMONY WAS AS SHE IDENTIFIED THAT
19 PHOTO AS SHE SAW HIM ON THE MORNING AT LEXINGTON.

20 THEN WE HEARD FROM DR. O'MEARA, WHO WAS THE
21 EMERGENCY ROOM PHYSICIAN. HE SAID HE EXAMINED M^{Minor}
22 AT APPROXIMATELY 2:35. THAT EXAMINATION TOOK ABOUT TEN
23 MINUTES. MORPHINE WAS ADMINISTERED TO Minor AND
24 THEN HE GOT THE SAME STORY FROM MIAMA AS TO WHAT HAD
25 HAPPENED. I WON'T GO THROUGH THE LITANY OF THOSE

1 FACTS, BUT WHAT HE TOLD YOU WAS VERIFIED BY HIS NOTES,
2 AND WAS ALSO CONSISTENT WITH WHAT MIAMA SAID. HE EVEN
3 SAID THAT THERE WAS TESTIMONY OR THAT MIAMA HAD TOLD
4 HIM ABOUT PREVIOUS SWELLING, SO THIS WAS NOT SOMETHING
5 THAT MIAMA CONCOCTED AT THE LAST MINUTE AS THE STATE
6 WOULD HAVE YOU BELIEVE, BUT THIS HAD BEEN AN ONGOING
7 PROBLEM WITH Minor WITH THE SWELLING OF THE SCROTUM
8 AND THAT WAS TOLD TO DR. O'MEARA, CONSISTENT, TWO
9 CONSISTENT STORIES THAT ARE CONSISTENT WITH MIAMA'S
10 STORY.

11 THEN WE HEAR FROM APRIL BERRY, WHO WAS THE
12 EMERGENCY MEDICAL TECH. SHE SAYS SHE GETS THE CALL TO
13 GO TO LEXINGTON AT 3:00 A.M. IT TAKES HER ABOUT FIVE
14 TO TEN MINUTES TO GET TO THE HOSPITAL. SHE STAYED AT
15 THE HOSPITAL APPROXIMATELY TEN TO FIFTEEN MINUTES.
16 THEN IT TOOK HER APPROXIMATELY FIFTEEN TO TWENTY
17 MINUTES TO GET TO RICHLAND HOSPITAL, AND BY MY
18 CALCULATION THAT PUTS THEIR ARRIVAL TIME AT RICHLAND
19 SOMEWHERE BETWEEN 3:30 AND 3:45 BASED ON THE STATE'S
20 OWN TESTIMONY.

21 SHE TOLD YOU THAT MIAMA RODE WITH THEM. SHE COULD
22 HAVE TAKEN HER OWN CAR, BUT SHE DIDN'T AND SHE ALSO
23 TOLD YOU SOMETHING INTERESTING. SHE SAID MIAMA SAID TO
24 HER, "GEE, YOU'RE AN EMERGENCY MEDICAL TECHNICIAN, CAN
25 YOU TELL ME WHAT HAPPENED? DO YOU KNOW WHAT COULD HAVE

1 CAUSED THIS?" NOW, THE STATE WOULD HAVE YOU BELIEVE
2 THAT, YOU KNOW, MIAMA IS THIS COLD AND CALCULATING AND
3 RUTHLESS AND HEARTLESS PERSON AND THAT THIS WAS A PART
4 OF HER BIG SCHEME TO THROW EVERYBODY OFF THE TRAIL, BUT
5 DO YOU SEE WHAT THEY'RE ASKING YOU TO DO? THEY'RE
6 ASKING YOU TO CONCLUDE FROM THAT STATEMENT ANOTHER
7 FACT, THAT MIAMA IS TRYING TO THROW UP A RUSE WHEN YOU
8 CAN EQUALLY CONCLUDE FROM THAT FACT THAT SHE WAS
9 GENUINELY CONCERNED ABOUT Minor .

10 ALL OF THE OTHER TESTIMONY IS CONSISTENT WITH
11 THAT. SHE STAYED WITH Minor . SHE RODE WITH
12 Minor IN THE AMBULANCE. SHE SPENT THE NIGHT WITH
13 Minor IN THE ROOM. SHE STAYED WITH HIM THROUGHOUT
14 THE SURGERY, SO IT WOULD BE PERFECTLY CONSISTENT FOR
15 HER TO SAY, "LOOK, DO YOU KNOW WHAT HAPPENED BECAUSE I
16 CERTAINLY DON'T," BUT AGAIN THAT'S THE STATE OF THE
17 EVIDENCE IN THIS CASE.

18 THE STATE WANTS YOU TO TAKE CERTAIN FACTS AND DRAW
19 CERTAIN CONCLUSIONS FROM THEM. I SUGGEST TO YOU THAT
20 YOU MAY NOT BE ABLE TO DRAW THOSE CONCLUSIONS FROM
21 THOSE FACTS.

22 WE HEARD FROM MELANIE, THE FOURTH PERSON. WE
23 HEARD FROM MELANIE PORILLA, WHO WAS THE REGISTERED
24 NURSE AT LEXINGTON. SHE REITERATED THAT SAME THING
25 THAT WAS IN HER NOTES, SAYING THINGS THAT MIAMA TOLD

1 HER VERY CONSISTENTLY, BUT SHE ADDED THIS OTHER LITTLE
2 POP BUSINESS THAT SOMEHOW WHEN MIAMA TOLD HER THAT WHEN
3 SHE PUT THE TOWEL ON Minor S SCROTUM SHE HEARD A
4 POP. WELL, MIAMA SAYS SHE DIDN'T SAY THAT AND THAT WAS
5 NOT IN HER NOTES.

6 NOW, DON'T YOU THINK THAT IT WOULD BE MEDICALLY
7 SIGNIFICANT FOR THE NURSE TO PUT IN HER NOTES WHEN
8 TAKING THE HISTORY OF WHAT HAPPENED THAT THE WITNESS OR
9 THE PERSON HEARD A POP AT THE TIME THE PRESSURE WAS
10 APPLIED? I SUGGEST TO YOU THAT THAT'S SOMETHING THAT
11 CAME -- I'M NOT SURE FROM WHERE, BUT AGAIN THAT'S WHAT
12 THE STATE WILL HAVE YOU BELIEVE IS THE CHANGING OF THE
13 VERSION OF THE STORY.

14 WELL, HOW DOES THAT HELP MIAMA? HOW DOES THAT
15 HELP HER? HOW DOES THAT PROTECT HER IF SHE CHANGED HER
16 STORY TO SAY A POP? WELL, I SUGGEST TO YOU THAT MIAMA
17 DID NOT SAY THERE WAS A POP, NOT MIAMA.

18 THEN WE HEARD FROM DR. FIELDS, ERIN FIELDS-HARRIS
19 WHO WAS THE PEDIATRIC RESIDENT AT RICHLAND. SHE SAID
20 SHE SAW Minor AT APPROXIMATELY SIX O'CLOCK AND AGAIN
21 BY MY CALCULATIONS THAT WOULD PUT IT ABOUT TWO,
22 TWO-AND-A-HALF HOURS AFTER Minor ARRIVED AT
23 RICHLAND, SO WE DON'T KNOW WHAT SIGNIFICANCE THAT DELAY
24 HAD TO THE INJURY OR TO THE ULTIMATE VIEWING OF THE
25 PICTURES. WE JUST DON'T KNOW, BUT WE DO KNOW THAT

1 THERE WAS THAT TWO, TWO-AND-A-HALF HOUR DELAY, BUT SHE
2 DID KNOW, BASED ON THE HISTORY THAT SHE WAS GIVEN, THAT
3 Minor HAD HAD A DECREASED APPETITE WHEN HE WAS AT
4 THE SISTER'S EARLIER THAT EVENING, BUT SHE SAID
5 SOMETHING THAT I THOUGHT WAS VERY INTERESTING, AND I
6 THINK IT'S ONE OF THE KEYS TO THIS CASE.

7 SHE SAID, IN HER MEDICAL OPINION FROM VIEWING THE
8 CHILD AT SIX O'CLOCK A.M., THAT IT WAS HER OPINION THAT
9 THE INJURY COULD HAVE OCCURRED AS MUCH AS 24 HOURS
10 BEFORE, SO THAT WOULD PUT IT AT 6:00 A.M. THE PREVIOUS
11 MORNING. THAT WAS HER OPINION, THE STATE'S WITNESS.
12 NOW, THAT WAS NOT IN HER NOTES, AND I WONDERED, AND I
13 ASKED INVESTIGATOR LIVINGSTON, "WHAT WOULD YOU HAVE
14 DONE IF YOU HAD KNOWN THAT FACT, THAT THIS INJURY COULD
15 HAVE OCCURRED 24 HOURS BEFORE IT WAS OBSERVED BY THE
16 DOCTOR AT SIX OR 6:30 THAT MORNING? WOULD YOU HAVE
17 DONE FURTHER INVESTIGATION? WOULD YOU HAVE MAYBE GONE
18 TO ST. STEPHEN'S SCHOOL? WOULD YOU HAVE GONE TO CIATA
19 GAROWAY'S HOME? WOULD YOU HAVE DONE MORE?"

20 HIS RESPONSE WAS THAT HE DIDN'T KNOW OR PROBABLY
21 NOT OR WHATEVER YOU REMEMBER HIM TO SAY, BUT AT LEAST
22 THAT WAS NOT DONE, SO WE HAVE THAT WINDOW OF WHEN THIS
23 INJURY COULD HAVE OCCURRED, BUT THE STATE WANTS YOU TO
24 BELIEVE THAT IT OCCURRED WHEN HE WAS IN MIAMA'S
25 CUSTODY, I THINK PRIMARILY BECAUSE MIAMA WAS THE LAST

1 PERSON TO HAVE HIM BEFORE SHE TOOK HIM TO THE EMERGENCY
2 ROOM. THAT'S REALLY ALL THEY HAD, BUT THERE'S ANOTHER
3 KEY THAT I'LL TALK ABOUT IN A MINUTE, BUT THIS KEY OF
4 TWENTY-FOUR HOURS THAT THE INJURY COULD HAVE OCCURRED
5 IS VERY SIGNIFICANT IN THIS CASE.

6 THAT WAS NOT SOMETHING THAT THE STATE BROUGHT
7 BEFORE YOU. THAT WAS SOMETHING THAT THE DEFENSE
8 BROUGHT OUT WITH THEIR EXPERT WITNESS ON
9 CROSS-EXAMINATION.

10 NOW, THEY EVEN TRIED TO HAVE YOU CONCLUDE AGAIN
11 FROM HER TESTIMONY THAT MIAMA WAS TRYING TO KEEP

12 Minor FROM SAYING SOMETHING. THAT WHEN SHE WAS
13 ASKING Minor ABOUT THE EVENT, WHAT HAD HAPPENED, AND
14 ALL OF A SUDDEN, MIAMA JUMPS UP AND SAID, "OH, HOW ARE
15 YOU DOING?" AND AGAIN THEY'RE TRYING TO TAKE THAT ONE
16 FACT AND ASK YOU TO DRAW ONE CONCLUSION AND ONE
17 CONCLUSION ONLY.

18 THAT'S WHAT CIRCUMSTANTIAL EVIDENCE IS, AND HIS
19 HONOR WILL TELL YOU AGAIN WHAT IT IS, BUT YOU TAKE ONE
20 CIRCUMSTANCE AND YOU DRAW ONE INFERENCE TO THE
21 EXCLUSION OF ALL OTHER INFERENCES FROM THAT FACT. NOW,
22 ISN'T IT JUST AS REASONABLE, ISN'T IT JUST AS
23 BELIEVABLE AND CREDIBLE THAT, BASED ON MIAMA'S ACTIONS
24 AND DEMEANOR THE ENTIRE TIME SHE WAS WITH Minor THAT
25 SHE WAS GENUINELY CONCERNED ABOUT HIS WELFARE.

1 THAT WAS NOT AN ATTEMPT TO KEEP HIM FROM SAYING
2 SOMETHING. SHE ASKED HIM, "HOW ARE YOU DOING?" WHICH
3 IS, YOU KNOW, IT COULD HAVE BEEN SOMETHING THAT WAS
4 MEANT TO CALM HIM. THEY WANT TO MAKE SOMETHING OF
5 MIAMA'S DEMEANOR, BECAUSE SHE WAS SO CALM. SHE WASN'T
6 HYSTERICAL. SHE WASN'T CRYING. AGAIN, TRYING TO MAKE
7 YOU USE THAT FACT TO CONCLUDE THAT SHE MUST BE HIDING
8 SOMETHING, THAT SHE MUST BE EVIL, THAT SHE MUST HAVE
9 DONE THIS, AND THAT'S WHY I WENT INTO THE HISTORY OF
10 MIAMA, SO YOU COULD SEE HER BACKGROUND, SEE WHAT SHE
11 HAD COME FROM.

12 I DON'T KNOW WHAT HER DEMEANOR MEANS TO THIS CASE,
13 BUT IT CERTAINLY DOESN'T MEAN CRIMINAL INTENT. HERE
14 THIS YOUNG LADY HAS BEEN IN A SITUATION WHERE SHE HAS
15 SEEN MUTILATED AND DEAD BODIES, AND THEY WANT YOU TO
16 DRAW SOME -- ONE CONCLUSION FROM THE FACT THAT HER
17 DEMEANOR WAS NOT WHAT THEY THOUGHT IT SHOULD BE AT THE
18 TIME OF THIS TREATMENT. I DON'T THINK YOU CAN DRAW
19 THAT CONCLUSION, AND I SUGGEST THAT THAT IS NOT
20 SOMETHING THAT IS BORNE OUT BY THE EVIDENCE.

21 SO NOW WE HAVE FIVE WITNESS WHO ALL SAY THE SAME
22 THING, THAT MIAMA SAID, "I DON'T KNOW WHAT HAPPENED. I
23 SAW THE BLOOD, AND I IMMEDIATELY RUSHED HIM TO THE
24 HOSPITAL." I DON'T KNOW HOW THAT IMPLICATES HER. I
25 DON'T KNOW HOW THAT SHOWS HER INTENT TO COMMIT THIS

1 CRIME.

2 THEN WE HEAR FROM THE EXPERTS. AGAIN, NOTHING
3 DIRECT, BUT ALL CIRCUMSTANTIAL EVIDENCE. DR. JENNIFER
4 AMROL, THE ATTENDING PHYSICIAN AT RICHLAND, SAID SHE
5 CONCLUDED THAT THE INJURY WAS NOT ACCIDENTAL. OKAY. I
6 COULD ACCEPT THAT POSSIBILITY, BUT SHE COULDN'T TELL
7 YOU HOW THE INJURY OCCURRED.

8 NOW, DON'T YOU THINK YOU WOULD NEED TO KNOW HOW AN
9 INJURY OCCURRED BEFORE YOU COULD CONCLUDE THAT IT WAS
10 AN INTENTIONAL INJURY OR BEFORE YOU COULD CONCLUDE THAT
11 IT WAS NOT AN ACCIDENTAL INJURY? I THINK THAT IS
12 CRUCIAL. I CAN'T HELP IT THAT THEY DON'T KNOW HOW IT
13 OCCURRED. THAT'S NOT THE STATE OF THE FACTS, BUT THE
14 FACT BEFORE YOU IS THAT THEY DON'T KNOW HOW THE INJURY
15 OCCURRED, BUT THEY WANT YOU TO CONCLUDE FROM THAT LACK
16 OF KNOWLEDGE THAT IT MUST HAVE BEEN INTENTIONAL, THAT
17 IT HAD TO BE INTENTIONAL, AND THAT MIAMA WAS THE ONE
18 THAT DID IT BECAUSE SHE IS CHARGED WITH COMMITTING AN
19 INTENTIONAL ACT, NOT SOMETHING THAT HAPPENED BY
20 ACCIDENT, BUT SOMETHING THAT HAPPENED INTENTIONALLY.
21 THEY ARE TRYING TO PEG MIAMA AS A COLD CALCULATED
22 RUTHLESS SCROTUM CUTTER ON THE STATE OF THIS EVIDENCE.

23 THEN WE HEAR FROM HEATHER SMITH, WHO WAS THE
24 WORKER AT THE ASSESSMENT AND RESOURCE CENTER. SHE SAID
25 SHE CONDUCTED HER INVESTIGATION AND REFERRED IT ON FOR

1 FURTHER INVESTIGATION.

2 DR. AMICK, WHO WAS THE INVESTIGATOR FROM THE
3 RICHLAND COUNTY SHERIFF'S DEPARTMENT WHO CONDUCTED THE
4 TESTS ON THE CLOTHES AND RAZOR, HE SAID THERE WAS SOME
5 BLOOD ON THE SHORTS. THAT WAS BORNE OUT BY THE
6 TESTIMONY AND MIAMA TOLD YOU THAT YES, I THINK THE
7 BLOOD MUST HAVE GOTTEN ON THE PANTS AND TOP WHEN I HAD
8 TAKEN HIM OUT OF THE BATH AND WAS GETTING READY TO PUT
9 THE PULL-UP ON HIM, THE BLOOD MUST HAVE DRIPPED AS THE
10 CLOTHES WERE ON THE FLOOR. NOTHING ELSE TO REFUTE
11 THAT, NO OTHER EVIDENCE THAT SAYS IT DIDN'T HAPPEN THAT
12 WAY. THAT'S ALL THAT WE HAVE IN THIS CASE.

13 NOW, IT'S INTERESTING ABOUT THE RAZOR, BECAUSE THE
14 STATE'S THEORY, I THINK, AND I'M NOT SURE BUT THEY HAVE
15 INTRODUCED THIS RAZOR, STATE'S EXHIBIT 28. THEY MUST
16 THINK THAT'S THE ITEM THAT CAUSED THIS INJURY, BUT
17 NOBODY SAID THAT. NOBODY IN THIS CASE, NONE OF THEIR
18 EXPERTS, NONE OF THEIR INVESTIGATORS. NOBODY COULD SAY
19 THAT THIS IS THE RAZOR THAT CAUSED THIS INJURY THAT WAS
20 FOUND IN THE APARTMENT.

21 WHAT HE DID SAY WAS THAT HE COULDN'T GET A D.N.A.
22 PROFILE TO MATCH ANYTHING FROM THAT RAZOR, SO THERE WAS
23 NOTHING THAT THEY WERE ABLE TO ATTRIBUTE TO THIS CASE
24 FROM THAT RAZOR. WELL, WHAT DOES THAT GIVE YOU? NONE
25 OF THE WITNESSES, NONE OF THE EXPERTS EVEN SAID THAT

1 RAZOR MADE THIS INJURY. THEY SAID IT WAS CONSISTENT.
2 THEY SAY IT WAS CONSISTENT WITH OTHER OBJECTS, BUT YET
3 THE STATE HAS INTRODUCED THIS ONE OBJECT ONLY BECAUSE
4 IT CAME FROM THEIR APARTMENT AND THEY WANT YOU, AGAIN,
5 TO CONCLUDE, GEE, THIS MUST BE IT. THIS MUST BE WHAT
6 SHE USED.

7 DON'T YOU THINK HER FINGERS WOULD HAVE BEEN CUT?
8 LOOK AT IT WHEN YOU HAVE IT BACK IN THE JURY ROOM. IF,
9 AS THE STATE WANTS TO HAVE YOU THINK, SHE USED THIS
10 RAZOR, HER FINGERS WOULD HAVE BEEN CUT UP. BUT AGAIN,
11 THEY WANT YOU TO THINK THAT THE REASON THERE'S NO BLOOD
12 ON IT IS BECAUSE THE RAZOR MUST HAVE BEEN WIPED OFF,
13 BUT THERE'S NO EVIDENCE OF THAT. AGAIN, THEY WANT YOU
14 TO CONCLUDE, WANT YOU TO SURMISE, WANT YOU TO
15 CONJECTURE THAT MUST HAVE BEEN WHAT HAPPENED.

16 I'VE SEEN ENOUGH C.S.I.'S TO KNOW THAT THERE ARE
17 TESTS THAT CAN BE DONE TO DETERMINE WHEN SOMETHING HAS
18 BEEN WIPED AND THERE WAS SOME TRACE OF BLOOD THERE.
19 WAS THAT DONE IN THIS CASE WITH THE RAZOR? NO. WAS
20 THAT DONE IN THIS CASE WITH ANYTHING IN THE BATHROOM?
21 BECAUSE CLEARLY THERE WOULD BE MORE AREAS IN THE
22 APARTMENT THAN THE BATHROOM. NONE OF THAT WAS DONE,
23 NOTHING TO DETECT FOR BLOOD. I DON'T THINK HE SAID HE
24 TESTED FOR BLOOD.

25 AGAIN, YOU REMEMBER THE TESTIMONY AS HE SAID IT.

1 YOU CAN HAVE THE TESTIMONY PLAYED BACK BY THE COURT
2 REPORTER FOR YOU. I REMEMBER HIM SAYING HE TESTED THAT
3 RAZOR SPECIFICALLY FOR BLOOD, BUT THAT HE DIDN'T FIND
4 ANY AND SO THEY WANT YOU TO BELIEVE THAT MIAMA IS SO
5 CALCULATED, SO COLD BLOODED THAT SHE SLICED Minor S
6 SCROTUM WITH THIS RAZOR, WIPED IT OFF AND THEN PUT IT
7 BACK IN THE CABINET.

8 I MEAN, DON'T YOU THINK IF THAT'S WHAT SHE HAD
9 DONE, SHE WOULD HAVE DISPOSED OF THE RAZOR IN SOME
10 OTHER MANNER? SHE COULD HAVE THROWN IT OUT THE WINDOW
11 ON THE WAY TO THE HOSPITAL IN LEXINGTON. IT NEVER
12 WOULD HAVE BEEN FOUND. HERE THEY TAKE THIS RAZOR THAT
13 Minor , EXCUSE ME, THIS RAZOR THAT MUSA SAID HE USED
14 TO EDGE UP HIS HAIRCUT, AND THEY WANT YOU TO SAY, OH,
15 THIS MUST HAVE BEEN THE WEAPON THEY SAID WAS USED,
16 AGAIN WANTING YOU TO DRAW JUST ONE CONCLUSION FROM ONE
17 FACT.

18 AND THEN I THOUGHT DR. AMICK SAID SOMETHING
19 INTERESTING ABOUT THE UNDERWEAR. WE DON'T KNOW THAT
20 NECESSARILY THIS WAS THE UNDERWEAR HE HAD ON. THIS WAS
21 THE UNDERWEAR THAT WAS IN THE HAMPER. HE SAID WHEN HE
22 FIRST GOT THE UNDERWEAR HE THOUGHT IT WAS THE RAPE CASE
23 SO HE TESTED IT FOR SEMEN.

24 MS. HALL: OBJECTION, YOUR HONOR, JUST FOR THE
25 MISCHARACTERIZATION OF THE EVIDENCE.

1 THE COURT: I CAN'T COMMENT ON IT. THE JURY WOULD
2 HAVE TO RECALL WHAT THEY HEARD AND WHAT THE EVIDENCE
3 IS, AND I WILL INSTRUCT THEM TO DO SO.

4 GO AHEAD, MR. ROGERS.

5 MR. ROGERS: THANK YOU, YOUR HONOR.

6 IF I'M MISTAKEN ABOUT THAT, I APOLOGIZE. I
7 THOUGHT THAT'S WHAT HE SAID. THAT WHEN HE FIRST GOT
8 IT, HE THOUGHT IT WAS A RAPE CASE, AND IT WAS TESTED
9 FOR SEMEN. THEN HE WAS TOLD WHAT THE CASE WAS ABOUT
10 AND HE LOOKED AT IT TO SEE IF THERE WAS ANY BLOOD. I
11 DON'T REMEMBER IF HE SAID HE TESTED IT FOR BLOOD.
12 AGAIN, YOU USE YOUR RECOLLECTION ON THAT, BUT HIS
13 REPORT DID SAY, WITH RESPECT TO THE UNDERWEAR, THAT
14 THERE WAS NOTHING OF APPARENT SEROLOGICAL VALUE. I'M
15 NOT QUITE SURE WHAT THAT MEANS. IF HE DIDN'T TEST IT
16 AND THAT WAS HIS CONCLUSION BECAUSE HE DIDN'T SEE ANY
17 BLOOD, OR HE ACTUALLY TESTED IT FOR BLOOD, BUT YOU USE
18 YOUR RECOLLECTION ON THAT, BUT AGAIN, NOTHING IN HIS
19 TESTIMONY, NOTHING IN HIS TESTIMONY TO IMPLICATE MIAMA
20 KROMAH IN THIS CASE.

21 DR. ABLE, WHO WAS THE EXPERT IN FORENSIC
22 PEDIATRICS, SHE CONCLUDED THAT THE INJURY HAD TO BE
23 INTENTIONAL, AND THAT WAS HER OPINION, BUT THAT OPINION
24 DID NOT SAY MIAMA COMMITTED THIS ACT, BUT AGAIN SHE
25 RENDERED THAT OPINION ONLY AFTER HAVING LOOKED AT THE

1 PHOTOGRAPHS OF THE INJURY. SHE NEVER SAW THE INJURY
2 LIVE. SHE ALSO COULD NOT SAY HOW THE INJURIES
3 OCCURRED, WHAT CAUSED THE INJURIES, IF THE INJURIES
4 EVEN OCCURRED AT THE SAME TIME BECAUSE THEY'RE TALKING
5 ABOUT THE BRUISE ON THE CHEST, THE SWOLLEN LIPS, SOME
6 ABRASIONS TO THE HEAD, NOBODY TESTIFIED ALL OF THOSE
7 INJURIES OCCURRED AT THE SAME TIME. NOBODY COULD
8 TESTIFY AS TO HOW THOSE INJURIES OCCURRED, BUT AGAIN
9 THE STATE WANTS YOU TO CONCLUDE THAT THOSE INJURIES
10 MUST HAVE HAPPENED WHEN MIAMA WAS CUTTING THE SCROTUM.

11 THERE'S NO EVIDENCE OF THAT, NO TESTIMONY TO THAT.
12 THAT IS WHAT YOU HAVE TO BASE YOUR DECISION IN THIS
13 CASE ON, THE TESTIMONY THAT HAS COME FROM THE WITNESS
14 STAND. NOW, I THOUGHT SHE SAID, AND HER TESTIMONY WAS
15 THAT IT WAS HER OPINION THAT THEY WERE RECENT INJURIES.
16 NOW, AGAIN, I COULD BE MISTAKEN, BUT, I THOUGHT SHE
17 SAID THAT SHE EXAMINED Minor AT APPROXIMATELY
18 7:30 THAT EVENING AFTER THE OPERATION HAD BEEN
19 COMPLETED, BUT HER OPINION WAS THAT THESE INJURIES HAD
20 OCCURRED WITHIN A TWELVE HOUR WINDOW, TWELVE HOURS
21 BEFORE. WELL, THAT WOULD HAVE PUT Minor AT RICHLAND
22 MEMORIAL TWELVE HOURS BEFORE HER EVALUATION OR HER
23 EXAMINATION OF Minor. I'M NOT QUITE SURE WHAT HER
24 TESTIMONY MEANS REGARDING RECENT INJURIES SINCE THAT
25 WAS HER CONCLUSION.

1 SHE ALSO SAID SOMETHING INTERESTING, I THOUGHT,
2 THAT WHEN THERE IS NO EXPLANATION FOR THE CAUSE OF THE
3 INJURY, THEN THAT EQUATES TO ABUSE, A FINDING OF ABUSE.
4 LOGICALLY, THAT MAKES SENSE, BECAUSE YOU WANT TO ERR ON
5 THE SIDE OF PROTECTING THE CHILD. WHEN YOU CAN'T
6 FIGURE OUT WHAT HAPPENED, THEN YOU TAKE STEPS TO
7 PROTECT THE CHILD, AND THAT'S WHAT THEY DID IN THIS
8 CASE. THEY TOOK THE CHILD FROM MUSA AND THERE WAS NO
9 ALLEGATION THAT MUSA WAS INVOLVED IN THIS AT ALL, BUT
10 MUSA LOST CUSTODY BECAUSE, AND RIGHTFULLY SO, THE STATE
11 HAS AN INTEREST IN PROTECTING CHILDREN AND BECAUSE THEY
12 DIDN'T KNOW WHAT HAPPENED, BECAUSE THEY STILL DON'T
13 KNOW WHAT HAPPENED, THEY TOOK Minor FROM MUSA.

14 NOW, DR. EHRETH, THE NEXT WITNESS WAS THE ONE WHO
15 PERFORMED THE SURGERY. HE, TOO, COULDN'T SAY HOW IT
16 HAPPENED. HE THOUGHT IN HIS OPINION IT WASN'T AN
17 ACCIDENT, BUT NEITHER HE NOR DR. ABLE USED THIS
18 MICROSCOPE THAT THEY WERE BOTH AWARE AND FAMILIAR WITH
19 THAT WOULD HAVE GIVEN THEM OBJECTIVE EVIDENCE TO
20 SUPPORT THEIR CONCLUSION THAT THIS LACERATION WAS A
21 SMOOTH ONE BECAUSE YOU SEE, THAT HAS SOME BEARING ON
22 HOW THE INJURY OCCURRED.

23 I'M NO DOCTOR; I'M NO EXPERT. I DON'T TRY TO
24 PROFESS TO BE EITHER, BUT YOU WEREN'T ASKED TO LEAVE
25 YOUR COMMON SENSE OUTSIDE THIS COURTROOM WHEN YOU WERE

1 SWORN ON THIS JURY. I DON'T KNOW HOW BIG THE INJURY
2 WAS WHEN IT FIRST HAPPENED OR WHETHER IT GREW AND
3 WHETHER THAT MICROSCOPE COULD HAVE GIVEN THEM EVIDENCE
4 THAT THIS WAS A TEAR THAT GREW INSTEAD OF A CUT OF
5 THREE OR FOUR CENTIMETERS. WE DON'T KNOW THAT, SO WE
6 DON'T HAVE THAT EVIDENCE TO OBJECTIVELY SUPPORT THE
7 DOCTOR'S CONCLUSION THAT THIS WAS AN INTENTIONAL ACT
8 DONE BY THIS RAZOR.

9 THEN WE MOVE TO DR. STRANGE, EXCUSE ME, SERGEANT
10 STRANGE. HE TESTIFIED THAT HE SEARCHED THE APARTMENT.
11 HE FOUND THE CLOTHES WHERE MIAMA SAID THEY WERE, NO
12 ATTEMPT TO HIDE ANYTHING. THERE WAS BLOOD IN THE
13 APARTMENT. NO ATTEMPT TO HIDE THE BLOOD, NO EVIDENCE
14 THAT MIAMA AT SOME POINT TRIED TO WIPE THAT BLOOD UP
15 OFF THE CARPET. OF COURSE, SHE WAS HOME AND HAD AN
16 OPPORTUNITY TO DO THAT BEFORE THIS SEARCH TOOK PLACE.
17 HE DIDN'T SEARCH THE ENTIRE APARTMENT, I DON'T KNOW
18 WHY. HE DIDN'T SEARCH ANYWHERE ELSE. I DON'T KNOW
19 WHY.

20 HE ONLY DID WHAT MUSA CONSENTED TO LET HIM DO, AND
21 I DON'T UNDERSTAND THE SIGNIFICANCE OF WHY HE WOULDN'T
22 HAVE SAID THAT MUSA DIDN'T SAY TO HIM THAT WAS HIS
23 RAZOR BUT, OF COURSE, YOU HEARD FROM MUSA WHO SAID,
24 "YEAH, LOOK MAN, THAT'S MY RAZOR THAT I USE IT TO EDGE
25 UP MY HAIR." SO MUSA CONTRADICTS WHAT HE SAYS IN THAT

1 REGARD.

2 THEN FINALLY WE HAVE INVESTIGATOR LIVINGSTON.
3 AGAIN, HE GOT THE SAME HISTORY WHEN HE GOT TO THE
4 HOSPITAL. HE SENT SERGEANT STRANGE TO DO THE SEARCH AT
5 THE APARTMENT, BUT NOTHING ELSE WAS DONE IN THIS CASE.
6 I SUGGEST TO YOU THAT ONCE THIS WHOLE BUSINESS ABOUT
7 RITUAL CULTURE CAME OUT, THEY THOUGHT THEY HAD IT.
8 THEY THOUGHT THEY MADE THEIR CASE. HERE WE HAVE THIS
9 AFRICAN COUPLE WITH THE CHILD WITH THE SCROTUM CUT.
10 YOU KNOW, I HEARD SOMETHING ABOUT SOME RITUAL LIKE THAT
11 IN AFRICA; THEY MUST HAVE THOUGHT THAT. AND NOTHING
12 ELSE HAPPENED BEFORE SHE GOT ARRESTED. NO OTHER FACT
13 WAS DEVELOPED BEFORE SHE GOT ARRESTED AFTER HE LEARNED
14 THAT INFORMATION.

15 HE DIDN'T GO TO ANY OF THE OTHER APARTMENTS
16 SURROUNDING MIAMA'S APARTMENT TO SEE IF ANYONE HEARD A
17 CHILD SCREAMING THE NIGHT BEFORE TO CORROBORATE THAT
18 SOMETHING HAPPENED IN THAT APARTMENT. HE DIDN'T SEARCH
19 ANYWHERE ELSE FOR ANY OTHER KIND OF WEAPON OR ANY OTHER
20 OBJECT THAT COULD HAVE COMMITTED THIS INTENTIONALLY OR
21 ACCIDENTALLY. HE DIDN'T LOOK IN TRASH CANS AROUND THE
22 APARTMENT COMPLEX, DIDN'T GO TO CIATA'S APARTMENT TO
23 SEE IF THERE WAS BLOOD SOME PLACE ON THE LIVING ROOM
24 FLOOR OR ANYTHING. HE DIDN'T GO INVESTIGATE AT THE
25 SCHOOL, TALK TO THE TEACHERS AND SAY "HOW WAS Minor

1 TODAY? WAS HE NORMAL? WAS HE SULLEN? DID HE EAT HIS
2 LUNCH OR WAS HE WITHDRAWN?"

3 NONE OF THAT BECAUSE THEY THOUGHT THEY HAD IT,
4 AND, YOU KNOW, YOU KNOW IF MUSA HADN'T BEEN AT WORK AND
5 HAD A CONCRETE ALIBI, HE WOULD HAVE BEEN ARRESTED. IF
6 MUSA HAD BEEN HOME WHEN SHE SAID I WAS BATHING

7 Minor , THEY BOTH WOULD HAVE GONE TO JAIL BECAUSE OF
8 THIS CULTURAL BIAS, THIS CONCLUSION THAT, OH, GEE,
9 BECAUSE THEY'RE AFRICANS THEY MUST HAVE TRIED TO
10 PERFORM SOME RITUAL ON THEIR SON. THAT MAKES NO SENSE
11 AT ALL. THAT'S A MOTIVE, I GUESS, BUT THEY DIDN'T
12 BRING ANY EXPERT IN HERE TO TELL YOU THAT IN LIBERIA IN
13 MONROVIA, THIS IS A COMMON PRACTICE THAT THEY DO WITH
14 THEIR CHILDREN. NONE OF THAT. IT DOESN'T EXIST.

15 IT'S RIDICULOUS FOR THAT TO HAVE EVEN BEEN
16 MENTIONED BUT, OF COURSE, MIAMA SAID THAT DR. FIELDS,
17 THE FIRST THING OUT OF HER MOUTH AT SIX O'CLOCK IN THE
18 MORNING SHE HEARD ABOUT THIS. THEN, OF COURSE,
19 INVESTIGATOR LIVINGSTON SAID HE DIDN'T SAY ANYTHING
20 ABOUT IT, BUT I ASK YOU AGAIN TO USE YOUR COMMON SENSE.
21 HOW COULD MUSA COME UP WITH A STORY THAT INVESTIGATOR
22 LIVINGSTON SAID, "YOU KNOW, GEE, IF THIS IS SOMETHING
23 CULTURAL OR TRIBAL, MAN, YOU'RE NOT GOING TO GET IN
24 TROUBLE FOR THIS. THAT CAN GIVE YOU A DEFENSE SO YOU
25 WON'T BE ARRESTED." THAT DOESN'T MAKE SENSE THAT

1 SOMETHING LIKE THAT WOULD HAVE BEEN SAID IN ORDER TO
2 GET MUSA TO SAY, "OKAY, WE DID IT," AND THEN THEY WOULD
3 HAVE THEIR CASE, BUT THAT DIDN'T HAPPEN.

4 THAT'S JUST RIDICULOUS THAT THIS WOULD HAVE BEEN
5 INTERJECTED INTO THIS CASE AT ALL, AND I SUGGEST TO YOU
6 THAT'S WHY MIAMA GOT ARRESTED. NOW, MUSA SAID THERE
7 WERE NO PROBLEMS WITH MIAMA AND Minor . THERE WAS NO
8 PROBLEM, NO DISSENSION IN THE HOME BECAUSE SHE WAS NOW
9 RAISING THE CHILD FROM A PREVIOUS RELATIONSHIP, THAT
10 THEY WERE BONDING, THEY WERE GETTING CLOSE. THEY HAD
11 MET BEFORE THIS JUNE THAT HE HAD GOTTEN CUSTODY. SHE
12 HAD BEEN AROUND HIM BEFORE, SO THERE WERE NO PROBLEMS,
13 NO PROBLEMS THERE.

14 I ASK YOU AGAIN TO REMEMBER HOW MS. CAMPBELL
15 CROSSED -- DID THE DIRECT EXAMINATION OF MUSA. YOU
16 WOULD HAVE THOUGHT MUSA WAS ON TRIAL. I DON'T KNOW WHY
17 SHE WAS MAD AT HIM. MUSA DIDN'T DO ANYTHING, BUT HER
18 DEMEANOR AND THE WAY SHE ASKED QUESTIONS, I SUGGEST, IS
19 THE WAY THAT THE STATE IS VIEWING THIS CASE.

20 CIATA, I PUT CIATA ON TO CONFIRM THAT MIAMA HAD
21 CALLED HER AND ASKED HER ABOUT THE SWOLLEN SCROTUM AND
22 THAT MIAMA HAD CALLED HER AND SAID I'M GETTING READY TO
23 TAKE THE CHILD TO THE HOSPITAL, TO ALSO ESTABLISH THAT
24 Minor HAD BEEN THERE FOR A PERIOD OF TIME IN THE
25 PRESENCE OF THE OTHER CHILD AND ANOTHER ADULT AND THAT

1 FOR A PORTION OF THAT TIME SHE WAS SLEEPING, AND ALSO
2 TO ESTABLISH THAT SOMETIMES KIDS GET INJURED AT SCHOOL
3 AND THE PARENTS AREN'T TOLD ABOUT IT.

4 NOW, I PUT MIAMA UP. I DIDN'T HAVE TO, BUT I
5 WANTED YOU TO JUDGE HER DEMEANOR. I WANTED YOU TO USE
6 YOUR OWN COMMON SENSE, ALL OF FACTORS YOU USE WHEN
7 YOU'RE TALKING TO ANYBODY IN YOUR EVERY DAY LIVES TO
8 DETERMINE WHETHER SOMEONE IS TELLING THE TRUTH. WAS
9 SHE CREDIBLE? WAS SHE FORTHRIGHT? DID SHE COME ACROSS
10 CONSISTENTLY? HAS SHE TOLD THAT SAME STORY EACH TIME?
11 BUT THE STATE WANTS YOU TO BELIEVE THAT SHE IS THIS
12 COLD CALCULATING PERSON THAT WOULD DO THIS TO A THREE
13 YEAR OLD CHILD. I DON'T THINK THAT'S THE PERSON THAT
14 YOU SAW OF THE WITNESS STAND YESTERDAY AND THAT'S
15 BECAUSE MIAMA DIDN'T DO THIS.

16 NOW, MOTIVE AGAIN IS NOT AN ELEMENT THAT THE STATE
17 HAS TO PROVE, BUT NOTHING MAKES SENSE IN THIS CASE, SO
18 I DON'T KNOW WHAT THE STATE CAN ARGUE AS TO WHY
19 SOMETHING LIKE THIS WAS DONE, BUT THE FACT THAT THERE'S
20 NO MOTIVE, THE FACT THERE'S NO DIRECT TESTIMONY THAT
21 IMPLICATES MIAMA, ARE ALL FACTORS THAT GIVE YOU REASON
22 TO DOUBT ABOUT HER GUILT. THEY GIVE YOU A REASON TO
23 HESITATE TO CONVICT HER.

24 NO DIRECT EVIDENCE AT ALL AND AS MS. CAMPBELL TOLD
25 YOU, CIRCUMSTANTIAL EVIDENCE IS GOOD EVIDENCE, AND I

1 LIKE TO USE THE EXAMPLE SIMILAR TO HERS AS AN EXAMPLE
2 FOR CIRCUMSTANTIAL EVIDENCE IS, IF YOU GO OUT HERE NOW
3 AND YOU SEE THE STREET IS WET, YOU CAN CONCLUDE FROM
4 THAT FACT THAT IT RAINED, BUT IF YOU THEN WALK AROUND
5 THE CORNER AND SEE THE WATER TRUCK THAT JUST CLEANED
6 THE STREET WITH WATER, THEN YOU CAN SAY OKAY, I DON'T
7 KNOW IF IT RAINED OR I DON'T KNOW IF THE STREET IS WET
8 FROM THE WATER TRUCK. ANOTHER FACTOR, A FACTOR THAT
9 YOU CAN CONSIDER THAT'S -- NOT THAT IT RAINED, THAT'S
10 WHAT WE HAVE HERE.

11 WE HAVE OTHER FACTORS WHERE THE STATE WANTS YOU TO
12 TAKE ONE FACT AND CONCLUDE THAT MIAMA DID IT, BUT THERE
13 ARE OTHER FACTORS FROM THOSE CIRCUMSTANCES THAT YOU
14 HAVE TO CONCLUDE THAT ARE THERE, THAT ARE REAL, AND IF
15 THAT'S THE CASE, THAT GIVES YOU A REASON TO DOUBT THAT
16 THE CIRCUMSTANTIAL EVIDENCE CHAIN HAS NOT BEEN LINKED,
17 BECAUSE YOU CAN FIND ANOTHER RATIONAL EXPLANATION FOR
18 THE EXISTENCE OF THAT FACT.

19 MIAMA TOLD YOU SHE DIDN'T DO IT. SHE HAS BEEN
20 CONSISTENT. SHE SAID THAT AND YOU HAVE HER STATEMENT
21 WHEN LIVINGSTON FIRST INTERVIEWED HER, THE VERY SAME
22 CONSISTENT STORY, NO WAVERING, NO ATTEMPT TO HIDE. SHE
23 WAS FORTHRIGHT. SHE WAS COOPERATIVE, AND SHE TOLD
24 EVERYBODY I DON'T KNOW WHAT HAPPENED. I JUST DON'T
25 KNOW WHAT HAPPENED.

1 NOW, OUR SYSTEM OF JURISPRUDENCE IS BASED ON THE
2 OLD ENGLISH SYSTEM WHERE THERE WERE THREE FORMS OF A
3 VERDICT: GUILTY, NOT GUILTY, AND NOT PROVEN.

4 WE'VE COMBINED NOT GUILTY AND NOT PROVEN INTO NOT
5 GUILTY, BUT IT ENCOMPASSES THE SAME CONCEPT, THAT IF
6 BASED ON ALL THE EVIDENCE THAT YOU HEARD, YOU DON'T
7 THINK THAT THE GOVERNMENT, THE STATE HAS PROVEN THAT
8 MIAMA DID IT BEYOND A REASONABLE DOUBT, THEN YOUR DUTY
9 UNDER THE OATH THAT YOU HAVE TAKEN AS JURORS REQUIRES
10 YOU TO RETURN A VERDICT OF NOT GUILTY. I THINK THAT'S
11 THE STATE OF THE EVIDENCE HERE.

12 I TOLD YOU AT THE OUTSET THAT THIS WAS A TRAGIC
13 EVENT FOR Minor . NOBODY DISPUTES THAT. MIAMA,
14 MUSA, THE WHOLE FAMILY KNOWS IT, BUT DON'T COMPOUND
15 THIS TRAGEDY BY CONVICTING, BASED ON THE STATE OF THIS
16 EVIDENCE, AN INNOCENT WOMAN.

17 THANK YOU.

18 THE COURT: ALL RIGHT. THANK YOU, MR. ROGERS.
19 MS. CAMPBELL.

20 MS. CAMPBELL: MAY IT PLEASE THE COURT.

21 CLOSING STATEMENT

22 MS. CAMPBELL: IN EVERY CASE WHILE PREPARING FOR
23 TRIAL, AS A PROSECUTOR, YOU TRY TO ANTICIPATE WHAT THE
24 DEFENSE IS. DEPENDING ON THE NATURE OF THE CASE, THE
25 DEFENSE MAY BE DIFFERENT, BUT IN CHILD ABUSE CASES

1 TYPICALLY THERE ARE TWO DEFENSES AVAILABLE. ONE IS
2 YOU'VE GOT THE WRONG PERSON, THEY DIDN'T DO IT, OR
3 NUMBER TWO IS IT WASN'T PHYSICAL OR SEXUAL ABUSE, THERE
4 WAS NO ABUSE INVOLVED.

5 IN THIS CASE AS I LISTEN, NEITHER ONE OF THOSE
6 REALLY WORKS IN THIS CASE, SO YOU GO BACK TO THE OLD
7 CLASSIC DEFENSE WHEN THE FACTS AREN'T ON YOUR SIDE AND
8 WHEN THE LAW IS NOT ON YOUR SIDE, JUST DO WHAT YOU CAN
9 TO MUDDY THE WATER. ATTACK THE POLICE, ATTACK THE
10 DOCTORS, ATTACK THE NURSES. DON'T TALK ABOUT ANYTHING
11 THAT POINTS DIRECTLY TO THE DEFENDANT'S GUILT. MUDDY
12 THE WATERS. TALK ABOUT WHAT THE STATE DOESN'T HAVE.
13 WERE THEY ABLE TO GET THE D.N.A. PRINT OFF THAT RAZOR
14 BLADE? IT'S LIKE IN A MURDER CASE IF THE GUN IS NOT
15 RECOVERED, THEN IT WASN'T MURDER. IF SHE THREW THE
16 RAZOR OUT THE WINDOW, THEN IT'S NOT CHILD ABUSE. IS
17 THAT THE THEORY?

18 THERE'S AN OLD JOKE WHEN I WAS IN LAW SCHOOL,
19 WHICH IS HAS BEEN A WHILE. IT'S ABOUT A LAWYER AND A
20 PRIEST WALKING DOWN THE STREET. IT HAD RAINED THE DAY
21 BEFORE, AND THERE WAS A BIG MUDDY SPOT RIGHT NEXT TO
22 THE SIDEWALK AND IN THAT PUDDLE THAT WAS IN THE MUDDY
23 SPOT YOU COULD LOOK STRAIGHT DOWN. THE PRIEST SAID
24 LOOK, THERE'S A SILVER DOLLAR. THE LAWYER PICKS UP A
25 STICK AND HE STIRRED UP THE WATER AND THE MUD AND THE

1 SILT CLOUDED IT SO THAT YOU COULDN'T SEE IT ANYMORE AND
2 THEN HE LOOKED AT THE PRIEST AND HE SAID, WHAT SILVER
3 DOLLAR?

4 LADIES AND GENTLEMEN, I WANT TO TAKE THIS
5 OPPORTUNITY TO TALK ABOUT THE FACTS BECAUSE FACTS ARE
6 FUNNY THINGS. THEY'RE HARD TO GET AROUND. THE COLD
7 HARD FACTS ABOUT WHAT DID HAPPEN TO Minor
8 THREE YEAR OLD Minor ON THAT NIGHT WHILE HE
9 WAS WITH THAT WOMAN AND THAT WOMAN ALONE.

10 NOW, YOU HEARD FROM A NUMBER OF WITNESSES IN THIS
11 CASE. THE FIRST WITNESSES YOU HEARD FROM WERE THE
12 PEOPLE THAT SHE PRESENTED TO AT LEXINGTON HOSPITAL.
13 THE REASON YOU HEARD FROM THEM, LADIES AND GENTLEMEN,
14 IS NOT THAT WE'RE TRYING TO SAY THAT THAT PROVES
15 ANYTHING BY ITSELF. NO ONE IS TRYING TO SAY THAT HER
16 DEMEANOR BY ITSELF MAKES HER GUILTY, BUT IT'S A FACTOR
17 YOU CAN CONSIDER WITH ALL THE OTHER EVIDENCE, AND ALL
18 WE ASK, LADIES AND GENTLEMEN, IS THAT YOU CONSIDER ALL
19 THE EVIDENCE. DON'T PICK IT APART LITTLE PIECE BY
20 LITTLE PIECE.

21 ALL THE EVIDENCE. IT'S A PICTURE. WHAT DID THEY
22 TELL YOU? SHE PRESENTS THAT NIGHT. WHAT IS HER STORY,
23 AND YOU REMEMBER THE TESTIMONY. SHE TOLD DONNA SHARPE,
24 AND YOU REMEMBER ALL THOSE DETAILS, SHE BASICALLY TOLD
25 HER, WHICH IS UNDERSTANDABLE, THAT THIS CHILD AFTER SHE

1 GOES THERE, THE CHILD IS SITTING IN HER LAP CRYING.
2 SHE SAYS, "WHAT'S WRONG?" OH, HE HAS A SMALL CUT OR
3 SOME KIND OF CUT. DON'T LET ME MISQUOTE. DOES SHE
4 LOOK IT HIM AND SAY, "OH, MY GOD, HE'S BLEEDING
5 PROFUSELY. HE'S ALREADY BLED OUT ONE PULL-UP AND I HAD
6 TO PUT ANOTHER ONE ON. HE HAS AN INJURY TO HIS GROIN
7 AREA."

8 SHE'S CALM, COOL, AND COLLECTED, WHICH IS A FACTOR
9 YOU CAN CONSIDER. WE DON'T SAY THAT MAKES HER GUILTY.
10 THEY GET THE VITAL SIGNS, THEY GET A HISTORY. SHE'S
11 BEEN SITTING IN THE EMERGENCY ROOM. THIS IS A NON-
12 EMERGENCY SITUATION, AND YOU GOT THE PICTURES OF THE
13 BLOOD AT THE SCENE. YOU CAN LOOK AT THEM.

14 IF A THREE YEAR OLD IS BLEEDING OUT IN YOUR
15 BEDROOM, IS THAT SIGNIFICANT? IS THAT AN EMERGENCY?
16 SHE SITS THERE CALM, AND HE SAYS, "OH, WELL, WE DON'T
17 EVEN KNOW HOW IT PRESENTED."

18 DONNA SHARPE TOLD YOU HOW IT PRESENTED. SHE TOLD
19 YOU SHE LOOKED AND SHE JUST WENT LIKE THIS WHEN SHE
20 PICKED UP THAT DIAPER THAT WAS SITTING ON THAT CHILD'S
21 GENITALS BECAUSE SHE WAS SHOCKED. SHE IS AN EMERGENCY
22 ROOM NURSE AND SHE IS NOT SHOCKED BECAUSE NOTHING HAD
23 HAPPENED TO THE CHILD. SHE'S SHOCKED BECAUSE THE
24 CHILD'S SCROTUM HAS BEEN CUT OPEN AND THE TESTICLE IS
25 HANGING OUT.

1 NO MATTER HOW HE WISHES IT WASN'T THE TRUTH,
2 THAT'S WHAT SHE SAW, SO THE VERY FIRST MEDICAL
3 PERSONNEL THAT COMES IN CONTACT WITH Minor ON
4 THE EARLY MORNING HOURS OF AUGUST 16TH IS SHOCKED BY
5 WHAT SHE SEES. SHE THINKS IT'S AN EMERGENCY. SO MUCH
6 SO THAT SHE RUSHES THAT CHILD BACK, THIS CRYING CHILD
7 BACK INTO THE BACK TO MAKE SURE HE GETS THE TREATMENT
8 HE NEEDS.

9 AT THAT POINT YOU HEAR ABOUT DR. O'MEARA AND NURSE
10 PORILLA AND WHAT DID THEY TELL YOU? NO, WE DIDN'T SHOW
11 THEM ALL THE SAME PICTURES. WHAT DID THEY SEE? THEY
12 DESCRIBED IT. THAT'S WHAT THEY'RE ALLOWED TO DO. THE
13 TESTICLE, IT WAS OUTSIDE THE SACK JUST LIKE IT WAS WHEN
14 THEY GOT TO RICHLAND MEMORIAL. THERE'S NO DISPUTE
15 THERE, LADIES AND GENTLEMEN. AT THE TIME MIAMA SHOWED
16 UP WITH HER CRYING CHILD WHOSE TESTICLE IS HANGING OUT
17 OF THE SACK, THERE IS NO DISPUTE.

18 AND SHE GIVES STORIES -- LET ME SAY RIGHT NOW,
19 LADIES AND GENTLEMEN, THE VARIATIONS IN THE STORIES,
20 THE DETAILS, THEY CHANGE SOMEWHAT, YOU REMEMBER. I
21 THINK SHE SAID IT POPS AT ONE POINT. AT ONE POINT, SHE
22 SAID THE CHILD IS OUTSIDE THE BATHTUB; AT ONE POINT
23 IT'S INSIDE THE BATHTUB, AND THE ONLY THING THAT'S
24 CONVINCING ABOUT THAT, AND AGAIN, IT'S JUST ONE FACTOR,
25 BUT AS YOU KNOW WHEN YOU'RE HAVING TO MAKE THE STORY

1 UP, THE DETAILS CAN GET LOST AND THE DETAILS CAN GET
2 KIND OF MIXED UP UNTIL YOU CAN THINK IT THROUGH ENOUGH
3 TO MAKE IT RIGHT.

4 SHE FIRST TELLS MS. SHARPE -- AND YOU REMEMBER
5 THAT SHE APPLIED PRESSURE AND SAW BLOOD. THE NEXT
6 STORY IS THAT SHE APPLIED PRESSURE AND HEARD A POP. HE
7 SAID YOU CAN'T BELIEVE IT BECAUSE SHE DIDN'T WRITE IT
8 DOWN. HE WISHES. DO YOU THINK SHE DOESN'T REMEMBER
9 THIS CASE? SHE TOLD DR. O'MEARA SHE APPLIED PRESSURE.
10 THERE WASN'T ANY TALK ABOUT THE T.V., ABOUT HIM NOT
11 EATING AND ALL THOSE DETAILS AND YOU KNOW WHAT, ASSUME
12 THERE SHOULDN'T BE. THIS IS AN EMERGENCY SITUATION.
13 AT LEAST THE MEDICAL PERSONNEL WERE UPSET. AT THIS
14 POINT ACCORDING TO SHARPE, WHEN SHE SEES SHARPE'S
15 REACTION, SHE STARTED GETTING A LITTLE TENSE BECAUSE
16 MAYBE IT'S A BIGGER DEAL THAN SHE THOUGHT.

17 DR. O'MEARA REFERS THE CHILD OVER TO RICHLAND
18 MEMORIAL HOSPITAL. YOU HEARD ABOUT THE TRANSPORT, THE
19 E.M.T., APRIL BERRY WHO TESTIFIED. AGAIN, SHE GETS A
20 HISTORY ON THE CHILD. NO TRAUMA KNOWN. THAT'S THE
21 FIRST THING EVERY TIME, IS ANY TRAUMA KNOWN. THE
22 NURSES ASK THAT. SHE ASKS THAT, AND IT IS INTERESTING
23 AND AGAIN JUST A FACTOR TO BE TAKEN WITH ALL THE OTHER
24 EVIDENCE -- AND I'LL GET TO THE EVIDENCE IN A MINUTE,
25 BUT THIS IS JUST A BUILD UP.

1 WHAT DOES SHE WANT TO KNOW? WELL, WHAT COULD HAVE
2 CAUSED THIS? ROUGH HOUSING WITH HIS COUSIN? SHE'S GOT
3 HER STORY OUT THERE. SHE'S KIND OF STUCK WITH IT, BUT
4 SHE WANTS TO KNOW. THAT'S JUST ANOTHER FACTOR, LADIES
5 AND GENTLEMEN. NO ONE IS ASKING YOU TO CONVICT HER ON
6 HER DEMEANOR, BUT THAT, COUPLED WITH THE OVERWHELMING
7 MEDICAL TESTIMONY, IS SOMETHING YOU ARE ALLOWED TO
8 CONSIDER AND THAT'S WHY YOU'RE ALLOWED TO HEAR ABOUT
9 IT.

10 AND THE THING THAT SHE WON'T LEAVE HIM -- AND
11 GUESS WHAT, LADIES AND GENTLEMEN, THERE ARE TWO WAYS TO
12 INTERPRET THAT. SHE WON'T LEAVE BECAUSE SHE DOESN'T
13 WANT HIM TALKING OR SHE WON'T LEAVE HIM BECAUSE SHE IS
14 SO CONCERNED ABOUT IT. REMEMBER HER TESTIMONY. HOW
15 DID SHE CHARACTERIZE HER RELATIONSHIP WITH THE CHILD?
16 I LIKE HIM FINE. HE WAS FINE, SOMETHING OF THAT
17 NATURE. THAT'S HER CHARACTERIZATION, AND YOU REMEMBER
18 THE WORDS. THOSE WEREN'T NEW.

19 SHE WON'T LEAVE THIS CHILD ALONE. WAS IT OUT OF
20 HER OVERWHELMING LOVE AND AFFECTION FOR THIS BRUISED
21 AND BATTERED CHILD OR WAS IT BECAUSE SHE WANTED TO MAKE
22 SURE EVEN THIS POOR CHILD WITH A SPEECH DELAY PROBLEM
23 COULDN'T TALK. EVEN IF HE DID, WE COULD UNDERSTAND
24 HIM. SHE STAYS WITH HIM. SHE IS NOT LEAVING HIS SIDE.
25 SHE'S NOT EVEN LETTING HIM RIDE IN THE AMBULANCE

1 WITHOUT HER. ON THE WAY OVER THERE SHE TALKS TO THEM
2 ABOUT WHAT HAPPENED.

3 THEY TAKE THE CHILD OVER THERE AND SOMEHOW HE
4 COMES UP WITH SOME TIME LINE THAT IT'S EITHER TAKEN
5 THREE HOURS TO GET OVER THERE OR WHATEVER. SOMETIME IN
6 THE EARLY MORNING HOURS HE PRESENTS TO RICHLAND
7 MEMORIAL. AND I LIKE THIS FACT, TOO. THEY KEEP ACTING
8 LIKE THEY DIDN'T DO THEIR JOB, THAT LEXINGTON AND
9 RICHLAND DIDN'T DO THEIR JOB, THAT THEY TOOK TOO LONG.
10 THEY SAVED THAT CHILD. THIS WASN'T JUST GOOD CARE,
11 LADIES AND GENTLEMEN, THIS WAS GREAT CARE. THEY SAVED
12 HIS TESTICLE, HIS FUTURE, AND THEY HAVE THE AUDACITY TO
13 SAY THEY WEREN'T DOING THEIR JOB AND IT TOOK TOO LONG?
14 I'LL GET BACK TO WHAT TOOK TOO LONG.

15 YOU HEARD FROM THEM, AND THEN YOU HEARD FROM A
16 SERIES OF DOCTORS. DR. HARRIS. SHE IS A RESIDENT.
17 SHE IS TRAINED IN PEDIATRICS. SHE HAS ALWAYS DONE
18 PEDIATRICS. WE PUT HER ON THE STAND PRIMARILY JUST TO
19 GIVE YOU -- AND HE IS THE ONE WHO ASKED HER OPINION ON
20 THINGS. WE WANTED HER TO GIVE YOU THE SCENARIO BECAUSE
21 SHE HAD THE FIRST CONTACT AT RICHLAND MEMORIAL AND HER
22 STORY AND WHAT SHE TOLD THEM. YOU REMEMBER IT AS SHE
23 GAVE IT TO HER. I THINK THERE WAS PRESSURE AND THAT
24 MAYBE HE WAS OUTSIDE THE BATHTUB OR INSIDE, I DON'T
25 REMEMBER. AGAIN, IT DOESN'T MATTER, IT'S JUST ANOTHER

1 FACTOR.

2 THEN YOU HEARD FROM THREE DIFFERENT EXPERTS.
3 MR. ROGERS JUST GOT UP HERE AND TOLD YOU THAT THEY
4 COULDN'T TELL YOU WHAT HAPPENED, THAT THEY COULDN'T
5 TELL YOU ANYTHING. THAT THEY THOUGHT IT WAS NON-
6 ACCIDENTAL. THEY CAME UP HERE AND THEY SWORE AN OATH
7 AND PUT THEIR HAND ON THE BIBLE AND TOLD YOU IN THEIR
8 EXPERT OPINIONS -- AND THEY DIDN'T SAY THEY HAD A DOUBT
9 THAT THIS WAS AN INTENTIONAL INFLECTION WITH SOME
10 OBJECT CONSISTENT WITH -- AND NO, THEY AREN'T GOING TO
11 GET UP HERE AND SAY THAT THAT RAZOR DID IT. THAT'S NOT
12 REASONABLE. THAT'S NOT DOABLE, BUT THEY CAN TELL YOU
13 WHAT KIND OF INSTRUMENT CAUSED THIS.

14 I THINK DR. EHRETH SAID HE HAD SEEN MANY
15 INCISIONS. THIS WAS DONE WITH EITHER A SCALPEL, SHARP
16 OBJECT, SHARP KNIFE, OR A RAZOR. I CAN'T HELP IT IF
17 THEY JUST HAPPEN TO KEEP RAZORS IN THEIR BATHROOM.
18 THAT'S WHAT THEY SAID CAUSED THIS. EVERY SINGLE
19 DOCTOR.

20 THIS IS OVER AND OVER, IN THEIR EXPERT OPINIONS.
21 COULD THIS HAVE BEEN ACCIDENTAL? COULD HE HAVE DONE IT
22 TO HIMSELF? NO, NO, NO. THIS WAS DONE TO THIS CHILD.
23 IT IS CHILD ABUSE. THERE IS NO DISPUTE IN THIS CASE.
24 THEY ALL AGREED, INDEPENDENT WITH EACH OTHER, THEY ALL
25 AGREED. THEY EVEN WENT SO FAR, DR. AMROL DID, TO CALL

1 IN DR. ABLE, WHO IS A FORENSIC PEDIATRICIAN, WHO HAS
2 KNOWLEDGE ABOVE AND BEYOND WHOSE FIELD OF EXPERTISE IS
3 CHILD ABUSE, JUST TO MAKE SURE SO THAT THEY DID IT
4 RIGHT.

5 WHAT DID DR. ABLE AND DR. AMROL AND DR. EHRETH
6 TELL YOU? DR. EHRETH TOLD YOU ABOUT THE AREA, THE
7 SCROTAL AREA. IT WAS A FOUR CENTIMETER LACERATION, A
8 STRAIGHT LACERATION. HE TOLD YOU IT COULD NOT HAVE
9 BEEN CAUSED BY TEARING, IT WOULD HAVE BEEN TORN IN THE
10 RIDGES OF THE SCROTUM, IT WOULD HAVE BEEN JAGGED. IT
11 WOULD NOT HAVE BEEN CUT STRAIGHT ACROSS THE RIDGES IN
12 THE SCROTUM. EVEN SO, IT WOULD BE STELLATE OR JAGGED,
13 AND IT DOESN'T TAKE -- EVERYONE HAS TORN STUFF APART.
14 UNLESS IT'S PRECUT AND THE THEORY THAT THIS HAPPENED
15 AND HE ASKED OVER AND OVER BECAUSE HE WANTS IT TO BE
16 TRUE. ONE CENTIMETER AND THEN IT TORE ANOTHER THREE,
17 NO, THAT DID NOT HAPPEN IN THIS CASE.

18 IT WAS CUT THROUGH. IT DIDN'T JUST CUT THROUGH
19 THE SKIN, SHE CUT THROUGH A LAYER OF MUSCLE. AS HE
20 SAID, SHE WAS LUCKY SHE DIDN'T CUT THE ACTUAL TESTICLE.
21 THAT'S WHAT DR. EHRETH TOLD YOU. TESTICLE OUTSIDE THE
22 SCROTUM, A SHARP INSTRUMENT, KNIFE, SCALP, RAZOR, NON-
23 ACCIDENTAL TRAUMA, NO DOUBT.

24 THERE WERE OTHER INJURIES, TOO, LADIES AND
25 GENTLEMEN, AND THEY IGNORED THOSE. WHAT DO THEY MEAN?

1 OH, BUT THEY HAVE AN EXPLANATION FOR EVERYTHING. OH,
2 HE WAS BITING HIS LIP ON THE WAY TO THE HOSPITAL. SHE
3 DIDN'T NOTICE THIS INJURY ON HIS SCROTUM DOWN THERE,
4 BUT SHE SAW HIM BITING HIS LIP. DR. ABLE TOLD YOU IT
5 WASN'T CONSISTENT WITH BITING THE LIP. WHAT ABOUT THE
6 OTHERS, THE ABRASIONS TO THE FOREHEAD, THAT TRAUMA.
7 THAT IN AND OF ITSELF, LADIES AND GENTLEMEN, COULD BE
8 CAUSED ACCIDENTALLY. NO DISPUTE THERE.

9 THE STATE IS NOT TRYING TO -- WE'RE JUST TRYING TO
10 SAY AT THE TIME THIS CHILD PRESENTS HE HAS AN ABRASION
11 ON HIS FOREHEAD CAUSED BY SOME KIND OF TRAUMA. HE HAS
12 A PETECHIAL RASH ON HIS CHIN. COULD IT BE CAUSED BY
13 PLAYING AROUND AND ROUGH HOUSING, YEAH. SOMEBODY
14 GRABBING THE CHIN LIKE THAT, YEAH.

15 NO ONE IS TRYING TO SAY THAT AND THAT IN AND OF
16 ITSELF IS CONCLUSIVE OF ANYTHING. IT'S ANOTHER FACTOR
17 AND THEY'RE STARTING TO ADD UP. LACERATIONS TO THE
18 LIP, NOT CONSISTENT WITH SOMEONE BITING THEIR LIP AS IN
19 PAIN. WHAT IS IT CONSISTENT WITH? SOMEONE BOPPING
20 THEM IN THE MOUTH TO SHUT THEM UP. CONSISTENT WITH
21 TAKING THE CHILD, RAMMING HIS FACE AGAINST THE CORNER
22 OF SOMETHING TO SHUT HIM UP.

23 HE JUST HAPPENS TO PRESENT, AND YOU'VE GOT THE
24 PHOTOS, BUT NOT ONLY IS HIS SCROTUM SPLIT WIDE OPEN,
25 HE'S GOT DRY BLOOD ON HIS LIPS FROM LACERATIONS AND HE

1 WANTS TO DISPUTE THE TIME PERIOD, BUT I SUBMIT THAT
2 DR. ABLE DIDN'T SAY TWELVE HOURS FROM THE TIME SHE SAW
3 HIM. SHE SAID TWELVE HOURS FROM THE TIME HE PRESENTED.
4 THAT TWELVE HOUR TIME PERIOD, SHE WENT BACK AND CLEARED
5 THAT UP. WE AREN'T TRYING TO PICK AND CHOOSE. WE'RE
6 LOOKING AT ALL THE EVIDENCE.

7 RED TENDER BRUISE ON THE RIGHT SIDE OF THE
8 ABDOMEN. YOU'VE GOT PHOTOS THAT WERE TAKEN THAT
9 MORNING. SHE SAID WHEN SHE SAW HIM IT WAS EVEN MORE
10 PRONOUNCED BECAUSE AS TIME PASSES THAT'S WHAT BRUISES
11 DO. IT WAS TENDER TO THE TOUCH, SUCH FORCE OR SUCH
12 TRAUMA THAT IT'S STILL TENDER, AND WE'VE ALL BEEN HIT
13 AND HAD BRUISES, AND WE KNOW WHAT THEY'RE TALKING
14 ABOUT. WAS IT CONSISTENT WITH SUSTAINED FORCE SUCH AS
15 HOLDING A CHILD DOWN WHILE HE'S TRYING TO GET AWAY FROM
16 YOU? THEY TALK ABOUT THE CAR SEAT OR THE AMBULANCE
17 DOING THIS? THAT'S NOT THE TYPE OF FORCE WE'RE TALKING
18 ABOUT.

19 SO THIS CHILD, WHO JUST HAPPENS TO HAVE HIS
20 SCROTUM CUT OPEN PRESENTS WITH AN ABRASION TO THE
21 FOREHEAD, WITH LACERATIONS FROM BLUNT FORCE TRAUMA TO
22 HIS LIPS, WITH AN ABDOMEN THAT IS TENDER TO THE TOUCH
23 BECAUSE OF THE FORCE APPLIED, WHETHER HOLDING HIM DOWN
24 OR BOUNCING HIM AROUND OR WHATEVER.

25 WE AREN'T ASKING YOU JUST TO SAY BECAUSE OF ONE OF

1 THESE THINGS, BUT LADIES AND GENTLEMEN, YOU HEARD THE
2 EXPERTS. THERE IS NO DISPUTE. THIS WAS PHYSICAL
3 ABUSE, NOT DONE BY THE CHILD, THAT WAS DONE ON THE
4 CHILD THAT EQUALS GREAT BODILY INJURY.

5 THERE ARE TWO MORE THINGS I WANT TO TALK ABOUT.
6 WHEN YOU CONSIDER -- AND I'M GOING TO GET TO HER STORY
7 -- WHEN YOU CONSIDER HER TESTIMONY, THERE IS NO
8 DISPUTE. THIS IS COMMON SENSE. WHEN THE CUT WAS MADE,
9 THERE WAS BLOOD. NOW LET ME REPEAT THAT, WHEN THIS CUT
10 WAS MADE THERE WAS BLOOD, AND LOTS OF IT. IT'S A
11 VASCULAR AREA IS HOW THEY DESCRIBE IT. IT'S GOT LOTS
12 OF BLOOD IN IT. THIS WASN'T SOMETHING WHERE YOU CAN
13 CUT IT AND THEN FREEZE IT FOR TWELVE HOURS AND THEN IT
14 COMES BACK. YOU'VE GOT HIS CLOTHING, HIS UNDERWEAR.
15 THEY COLLECTED ALL OF IT TO MAKE SURE THEY HAD THE
16 RIGHT ONE.

17 YOU'VE GOT THE TESTIMONY OF HER OWN SISTER THAT
18 WHEN SHE PICKED THAT CHILD UP, EVEN THOUGH THEY TRIED
19 TO CAST ASPERSIONS ON EVERYONE INCLUDING THE DAY CARE,
20 THAT THIS CHILD WAS FINE. SHE SAW NO BLOOD. THERE WAS
21 NO BLOOD AT HER HOUSE, WHICH THEY DIDN'T INVESTIGATE.
22 THERE WAS NO BLOOD ANYWHERE. SHE HAS TO ADMIT THAT
23 THERE'S NO BLOOD UNTIL THAT CHILD COMES INTO HER
24 CUSTODY, HERS AND HERS ALONE.

25 AND BEYOND THE BLOOD, LADIES AND GENTLEMEN, IS THE

1 PAIN. THIS IS AN AREA OF THE BODY THAT SOMEONE KNOWS
2 THAT HURTS MORE THAN JUST A CUT TO YOUR ARM. IS THIS
3 CRIMINAL INTENT? COULD IT BE MORE MALICIOUS? THIS
4 ISN'T A CUT TO THE LEG. THIS ISN'T JUST SLAMMING HIM
5 IN THE FACE, HITTING HIM IN THE ABDOMEN OR PUTTING A
6 KNEE TO HOLD HIM DOWN WHILE YOU CUT HIM, LADIES AND
7 GENTLEMEN, THIS IS EVIL.

8 COULD YOU PICK AN AREA ON A MALE OR ON A FEMALE
9 THAT WOULD BETTER SEND A MESSAGE? THAT'S THE
10 TESTIMONY. NO DISPUTE. EVEN COMMON SENSE, A TWO INCH
11 CUT THROUGH THE MUSCLE, THERE IS NOT JUST PAIN, BUT
12 EXTREME PAIN, SEVERE PAIN, I THINK, IS HOW IT WAS
13 DESCRIBED.

14 ACCORDING HER SISTER, MS. GAROWAY, THIS CHILD WAS
15 FINE, NO PROBLEMS, DIDN'T HAVE ANY PROBLEM. I'LL GET
16 BACK TO THAT. THAT'S THE TESTIMONY YOU HEARD FROM
17 THEM.

18 FINALLY, YOU ALSO HEARD FROM ANOTHER -- OTHER
19 EXPERTS. I'LL GO THROUGH THESE FIRST. YOU HEARD FROM
20 GRAY AMICK. HE'S A D.N.A. EXPERT. WHAT WAS
21 SIGNIFICANT IN WHAT HE FOUND WAS TWO DROPS OF BLOOD
22 THAT HE FOUND ON THE OUTSIDE OF THE CLOTHING HE WORE
23 THAT DAY, AND SO WE KNOW THAT THE CLOTHING HE WORE THAT
24 DAY WHEN SHE UNDRESSED HIM WAS CLOSE. THERE'S NO BLOOD
25 ON THE INSIDE SO IT'S A REASONABLE CONCLUSION TO ASSUME

1 THE CLOTHING HAD BEEN TAKEN OFF IN A MANNER SIMILAR TO
2 WHAT SHE SAID HAPPENED AS FAR AS HIM TAKING OFF THE
3 CLOTHING. WE KNOW FOR A FACT THAT THERE WAS NO BLOOD
4 ON ANY PAIR OF PANTS. IF THERE HAD BEEN ONE, I'M SURE
5 IT WOULD HAVE BEEN PROVIDED BY MUSA. THAT'S ALL GOT NO
6 BLOOD ON THEM.

7 WHAT DO WE KNOW ABOUT THE RAZOR BLADE? I WANT TO
8 BE THE FIRST TO SAY, LADIES AND GENTLEMEN, THAT RAZOR
9 BLADE IS VERY SIGNIFICANT, BECAUSE IT PROVES THAT THEY
10 KEPT RAZOR BLADES IN THE BATHROOM. WE ARE NOT HERE TO
11 TELL YOU, AND WE DON'T HAVE TO PROVE TO YOU THAT THAT
12 IS THE RAZOR BLADE. HE TALKED LIKE THAT HAD TO BE
13 PROVEN IN THIS CASE, BUT WHAT WE HAVE TO PROVE TO YOU
14 IS THAT THIS DEFENDANT HAD THE PRESENT ABILITY TO
15 INFLICT THE INJURY THAT WAS INFLICTED. IT'S JUST LIKE
16 WITH A GUN. JUST BECAUSE WE DON'T RECOVER THE GUN
17 DOESN'T MEAN THE DEFENDANT DIDN'T HAVE ACCESS TO THE
18 GUN THAT CAUSED THE MURDER. IF THE KNIFE IS NOT
19 RECOVERED FROM A STABBING, IT DOES NOT MEAN THAT THE
20 STABBING DID NOT HAPPEN. THAT'S THEIR LOGIC.

21 WHAT THIS DOES PROVE THAT IS SIGNIFICANT IS THAT
22 THERE WAS D.N.A. MATERIAL ON IT. IS THAT CONSISTENT
23 WITH IT HAVING BEEN WASHED? I ASKED HIM THAT. HE SAID
24 YES. ARE WE UP HERE REPRESENTING TO YOU -- AND I DON'T
25 WANT TO MISREPRESENT ANYTHING, THAT THAT'S THE KNIFE,

1 THE RAZOR? IT MAY BE, BUT WHAT WE DO KNOW IS THEY KEPT
2 THEM BECAUSE MUSA EITHER -- I DON'T KNOW IF HE SHAVED.
3 HE SAID HIS FACE, SHE SAID HIS HAIR, BUT -- WHATEVER.
4 WELL, THEY'RE THE SAME. THAT'S WHAT'S SIGNIFICANT
5 ABOUT IT. THERE WAS SO MUCH BLOOD IN THE PULL-UP THAT
6 THEY DIDN'T EVEN DO THE TESTING. THERE WAS NO NEED.
7 THERE WAS NO DISPUTE TO THAT. THERE IS NO DISPUTE BY
8 HER THAT SHE PULLED THE PULL-UP ON HIM.

9 YOU HEARD FROM HEATHER SMITH. YOU HEARD THEM TALK
10 ABOUT HOW THE POLICE DIDN'T DO THEIR JOB BECAUSE THEY
11 DIDN'T GO CHECK ON WHAT HAD HAPPENED THAT TWENTY-FOUR
12 HOURS BEFORE. WHAT THEY DID DO WAS THEY REFERRED THE
13 CHILD OVER THERE FOR ASSESSMENT AT THE RESOURCE CENTER,
14 AS THEY SHOULD. THEY CALLED IN THE FORENSIC EXPERT.
15 THEY CALLED IN THIS FORENSIC EXPERT. SHE INTERVIEWED
16 THE CHILD. I CAN'T GET INTO WHAT THAT WAS, BUT AS A
17 RESULT OF THAT INTERVIEW, SHE TURNED THAT INFORMATION
18 OVER TO THE POLICE. HER FINDING WAS IT WAS COMPELLING
19 FOR PHYSICAL ABUSE. NO ONE DISPUTES THAT.

20 SERGEANT RANDY STRANGE, HE WENT TO THE HOME. HE
21 BECAME INVOLVED ON THE 17TH, THE DAY AFTER THIS REPORT.
22 HE WENT TO THE HOME WITH MR. KROMAH -- OH, AND THEY ARE
23 LIKE GETTING MAD AT HIM BECAUSE HE DIDN'T VIOLATE MUSA
24 KROMAH'S RIGHTS, WHEN HE SAID -- IT'S A FOURTH
25 AMENDMENT RIGHT THAT YOU CAN'T GO ANY FURTHER IN ANY

1 HOME. THEY HONORED HIS WISHES AND THEY WANT TO HOLD
2 THAT AGAINST HIM? HE TOLD THEM THAT THEY COULD SEARCH
3 THE AREA AND WHAT DOES HE FIND? YOU'LL HAVE THE
4 PICTURES. THE BATHROOM, THERE'S NOT A DROP OF BLOOD IN
5 IT.

6 NOW DURING THE TESTIMONY SHE SAID, NO, SHE DIDN'T
7 CLEAN IT UP, JUST PICKED UP, BUT SHE LET THE WATER OUT.
8 WHERE IS THE BLOODY WASHCLOTH? SHE RINSED THAT OUT,
9 AND I THINK SHE DID SAY THAT. WHERE IS THE BLOODY
10 TOWEL IF THEY DIDN'T CLEAN IT UP? WHERE IS THE BLOOD
11 DROPLETS FROM WHERE SHE TOOK HIM OUT OF THE BATHTUB,
12 BECAUSE ACCORDING TO HER HE IS SO WET THAT THE FIRST
13 PULL-UP SHE PUT ON HIM HAD TO BE REPLACED. WHERE IS
14 ALL THAT IF SHE WASN'T TRYING TO COVER HER TRACKS?

15 WHAT HE DID NOTE THAT'S SIGNIFICANT AND LET'S FACE
16 IT, THEY CAN'T DO MUCH WITH THIS, IT'S ON THE RUG.
17 THEY FIND THAT. WHERE DO THEY FIND THE BLOODY DIAPER?
18 IT'S ALREADY BEEN THROWN IN THE TRASHCAN. IS SHE
19 PANICKED? YEAH, BUT SHE HAD THE WHEREWITHAL TO PUT HIS
20 CLOTHES AFTER THEY GOT BLOOD ON THEM INTO THAT HAMPER,
21 OR SOMEBODY DID.

22 YOU HEARD FROM INVESTIGATOR ROY LIVINGSTON. HE
23 GOT UP HERE AND HE SAID HE WENT TO THE HOSPITAL AND HE
24 INTERVIEWED THEM ON THAT MORNING AND HE DIDN'T DO
25 ANYTHING ELSE. THAT IS NOT THE TRUTH. HE DID HIS JOB.

1 UNFORTUNATELY FOR THEM.

2 WHAT DID HE DO? HE WENT THERE THAT DAY. HE
3 TALKED TO THE DOCTORS. HE TALKED TO BOTH PARENTS. HE
4 ASKED THEM TO COME IN THE NEXT DAY FOR AN INTERVIEW.
5 HE GOT A FORMALIZED STATEMENT. YOU GOT IT BEFORE YOU,
6 AND I'LL GET BACK TO THAT. HE DIDN'T STOP THERE. HE
7 WENT BACK TO THE HOSPITAL. HE INTERVIEWED THE CHILD
8 AGAIN WHEN THEY WEREN'T THERE. HE GOT THE INFORMATION
9 FROM THE ASSESSMENT RESOURCE CENTER, FROM HEATHER
10 SMITH, AND BASED ON HIS INVESTIGATION, HE ARRESTED THE
11 PERSON THAT DID THIS, MIAMA KROMAH.

12 THEIR DEFENSE IS BECAUSE SHE SAYS IT'S NOT SO, IT
13 DIDN'T HAPPEN. LADIES AND GENTLEMEN, WHEN THE
14 OVERWHELMING EVIDENCE SAYS IT IS SO, JUST BECAUSE SHE
15 SAYS IT'S NOT DOESN'T MAKE HER INNOCENT.

16 WHEN I WAS GETTING READY FOR THIS CASE, I THOUGHT
17 TO MYSELF, BECAUSE OF THE NATURE OF THIS CASE, THE VERY
18 HEINOUS NATURE, WHO WOULD DO THIS? WHAT KIND OF PERSON
19 COULD DO SOMETHING LIKE THAT? I THOUGHT TO MYSELF,
20 WELL, YOU KNOW, FOR THAT MATTER, CHILD ABUSE IS CHILD
21 ABUSE. WHAT IS A RAPIST LIKE? WHAT IS AN ARMED ROBBER
22 LIKE? WHAT IS A MURDERER LIKE? UNFORTUNATELY, LADIES
23 AND GENTLEMEN --

24 MR. ROGERS: YOUR HONOR, I'M GOING TO OBJECT.

25 THE COURT: HOLD ON.

1 MR. ROGERS: YOUR HONOR, EQUATING THIS CASE WITH A
2 MURDER, ARMED ROBBERY, OR RAPE, IT'S INTERJECTING
3 PREJUDICE THAT NEEDS NOT BE HERE. I OBJECT.

4 THE COURT: I SUSTAIN THAT OBJECTION.

5 MS. CAMPBELL: WHAT DOES A CHILD ABUSER LOOK LIKE?
6 UNFORTUNATELY, LADIES AND GENTLEMEN, IT COULD BE THE
7 NEXT DOOR NEIGHBOR, A FRIEND, IT COULD BE THE LOCAL
8 PRIEST. CHILD ABUSE BY ITS VERY NATURE IS VERY
9 PRIVATE. THERE AREN'T GOING TO BE A LOT OF PEOPLE
10 AROUND IN SOMEONE'S HOME. IT'S PROTECTED BY FAMILY
11 MEMBERS WHO DON'T WANT TO BELIEVE IT'S SO. THAT'S A
12 CHILD ABUSER. IT CAN BE A MAN. IT CAN BE A WOMAN. IT
13 DOESN'T MATTER.

14 YOU HEARD FROM MUSA KROMAH AND LANCE AMARA. WHY
15 DID WE PUT THEM UP? MR. ROGERS SAID I WASN'T NICE TO
16 HIM. I'M SORRY IF I DIDN'T TREAT HIM WITH RESPECT. IT
17 WAS NOT INTENTIONAL ON MY PART, BUT IT'S FRUSTRATING TO
18 HEAR THINGS FOR THE FIRST TIME. MUSA KROMAH WAS PUT UP
19 BECAUSE HE WAS THE ACTUAL PARENT. WE PUT UP LANCE
20 AMARA TO TELL YOU THAT MR. KROMAH WAS AT WORK THAT
21 NIGHT, BUT MUSA KROMAH TOLD YOU SOME SIGNIFICANT THINGS
22 IN THAT HE TOLD YOU ABOUT THE EVENTS LEADING UP TO
23 THIS, HAVING MET HIS WIFE, HOW LONG THEY HAD BEEN
24 MARRIED, WHERE THEY WERE LIVING, CRAMPED QUARTERS WITH
25 A ROOMMATE WITH HALF OF THAT APARTMENT AND THREE OF

1 THEM IN THE OTHER HALF. HE TOLD YOU ABOUT THE EVENTS
2 THAT HAPPENED THAT DAY.

3 AT FIRST HE TOLD YOU THE CHILD WAS HEALTHY AND
4 THEN HE WENT BACK TO THE STORY ABOUT HIM HAVING SWOLLEN
5 TESTICLES. THAT HE COULDN'T GET MEDICAL CARE IN SOUTH
6 CAROLINA BECAUSE HE DIDN'T HAVE THE MEDICAL RECORDS,
7 BUT HE WAS ABLE TO GET MEDICAL CARE SOMEWHERE ON A TRIP
8 IN MINNESOTA, BUT HE DIDN'T HAVE THOSE RECORDS. BY THE
9 WAY, DR. ABLE, AS YOU RECALL, REVIEWED ALL THE MEDICAL
10 RECORDS AND THERE WAS NO INDICATION THE CHILD HAD
11 ANYTHING WRONG.

12 WHY MAKE THAT UP? BUT MORE THAN THAT, HE GETS
13 CUSTODY OF HIS CHILD BACK. SHE CAN'T HAVE HIM. HE
14 GETS CUSTODY BACK IN FEBRUARY. HE MOVES TO ATLANTA
15 IMMEDIATELY THEREAFTER.

16 AND I BELIEVE HE -- HE DIDN'T EVEN KNOW HIS OWN
17 SON'S BIRTHDAY BY THE WAY. I BELIEVE IN CARING FOR THE
18 CHILD OR MAYBE BECAUSE IT WAS GOING TO SAVE HIM MONEY,
19 APPROXIMATELY THREE OR FOUR WEEKS PRIOR THIS TRIAL, HE
20 SENDS THE CHILD TO LIBERIA. HE KNEW, LADIES AND
21 GENTLEMEN --

22 MR. ROGERS: YOUR HONOR, I HESITATE TO INTERRUPT,
23 BUT THERE WAS NO EVIDENCE THAT MUSA KNEW WHEN THE TRIAL
24 WAS COMING UP SUCH THAT THIS WAS SOMETHING INTENTIONAL
25 ON HIS PART. HE TESTIFIED THAT HE SENT THE CHILD

1 BECAUSE OF MONETARY REASONS.

2 THE COURT: ALL RIGHT. AGAIN, I CAN'T COMMENT ON
3 THE EVIDENCE. THE JURY HAS TO REMEMBER WHAT THE
4 EVIDENCE HAS BEEN ACCORDING TO THEIR RECOLLECTION OF
5 WHAT HAS BEEN PRESENTED.

6 MR. ROGERS: YES, SIR.

7 THE COURT: YOU MAY CONTINUE, SOLICITOR.

8 MS. CAMPBELL: THANK YOU, YOUR HONOR.

9 YOU CAN RECALL, LADIES AND GENTLEMEN. HE KNEW
10 THIS TRIAL WAS COMING UP, AND HE CHOSE RIGHT BEFORE
11 THIS TRIAL TO SEND THE CHILD TO LIBERIA. HE TOLD YOU
12 SPECIFICALLY THAT I COULDN'T HAVE ANY CONTACT WITH THE
13 CHILD. THE CHILD WAS NOT TO BE INVOLVED IN THESE
14 PROCEEDINGS AND AS HIS GUARDIAN, THAT WAS HIS RIGHT,
15 BUT, I SUBMIT, LADIES AND GENTLEMEN, WHY? I JUST ASK
16 YOU THAT QUESTION. WHY DOESN'T HE WANT US, ANYONE, TO
17 HEAR FROM Minor ? HE IS STILL WITH MIAMA. THEY ARE
18 STILL HUSBAND AND WIFE. THEY ARE STILL TOGETHER, AND
19 THAT IS HIS RIGHT. THAT IS WHO HE HAS CHOSEN TO
20 PROTECT TO THE BEST OF HIS ABILITY.

21 YOU EVEN HEARD HIM TALKING ABOUT, OH, THAT'S MY
22 RAZOR. I THINK HE SAID HE SHAVED WITH IT. SHE SAID HE
23 DID HIS HAIR. WHY DOES HE NEED TO SEND THE CHILD TO
24 LIBERIA? IT SPEAKS VOLUMES.

25 IN THIS CASE AND IT'S COME UP -- WE'VE ALL TALKED

1 ABOUT IT, WHY? WHAT KIND OF MOTIVE. LISTEN CAREFULLY
2 TO THE JUDGE AS HE INSTRUCTS YOU ON THE LAW. THERE
3 DOESN'T HAVE TO BE A MOTIVE. WHY WOULD SHE DO
4 SOMETHING LIKE THIS? WAS IT, AS THEY BROUGHT OUT, SOME
5 ATTEMPT AT RITUALISTIC MEDICINE? WAS SHE JUST TRYING
6 TO GET HER HUSBAND'S ATTENTION OR PAY HIM BACK FOR
7 BRINGING THIS CHILD INTO HER LIFE, PAY HIM BACK FOR HIS
8 INDISCRETION, HIS CHILD WITH ANOTHER WOMAN, OR IS IT
9 JUST SIMPLER THAN THAT. DID SHE JUST GET FED UP OF
10 TAKING CARE OF SOMEBODY ELSE'S KID IN THESE SMALL
11 QUARTERS AND THESE LONG HOURS AND SHE DECIDED TO TAKE
12 IT OUT ON HIM, ON THIS THREE YEAR OLD. I MEAN, WHO
13 COULD CARE? WHO WOULD EVER REPORT IT? SHE JUST NEEDED
14 TO TEACH HIM A LESSON, ONE, I SUBMIT HE WILL NEVER
15 FORGET, EVEN AT AGE THREE. WE DON'T HAVE TO PROVE ANY
16 MOTIVE.

17 SHE COMES FROM A TIME AND AN ERA WHERE SHE SAW
18 ATROCITIES. MAYBE SHE JUST SAW THIS AS PUNISHMENT,
19 BUT, LADIES AND GENTLEMEN, THIS IS WAY BEYOND
20 PUNISHMENT.

21 AS SHE HOLDS THIS CHILD DOWN AND INFLECTS
22 UNBELIEVABLE PAIN ON HIM, SOMETHING HAPPENED. MAYBE
23 SHE DIDN'T EXPECT THE BLOOD. MAYBE SHE DIDN'T THINK IT
24 COULD BE SO EASY TO CUT SO BIG. MAYBE IT ABSOLUTELY
25 BLEW HER MIND WHEN IT ACTUALLY FELL OUT OF THE SACK AND

1 SHE PANICKED. WHAT WAS SHE GOING TO DO? AND YOU KNOW
2 WHAT'S SIGNIFICANT? IN ALL THE STATEMENTS, DO YOU
3 REMEMBER HOW SHE ALWAYS TALKS ABOUT THAT PHONE CALL?
4 SHE IS PUTTING PULL-UPS ON, DRYING HIM OFF. SHE ALWAYS
5 SAYS BEFORE I WENT ANYWHERE, I CALL MY SISTER TO TELL
6 HER THAT I AM TAKING HIM TO THE HOSPITAL.

7 WHY COULDN'T SHE PUT THE CHILD IN THE CAR, BE ON
8 THE WAY TO LEXINGTON HOSPITAL AND THEN CALL? WHY IS
9 THAT SO SIGNIFICANT THAT SHE INCLUDES IT? PERHAPS SHE
10 KNOWS THE POLICE HAS THE CAPABILITY OF TRACING THE
11 PHONE CALL THAT SHE MADE IN THE HOUSE. BECAUSE DOESN'T
12 IT MAKE MORE SENSE THAT SHE PANICKED, THAT SHE MADE
13 THAT PHONE CALL, THAT SHE TALKED TO HER SISTER, OH MY
14 GOD THIS IS WHAT I'VE DONE, WHAT SHOULD I DO? TAKE THE
15 CHILD TO THE HOSPITAL, TELL THEM HE HAD SWOLLEN
16 TESTICLES, THAT YOU APPLIED PRESSURE AND STICK TO THE
17 STORY. NO MATTER WHAT, STICK TO THE STORY. IT WAS A
18 PERFECT PLAN BECAUSE WHO WOULD CARE? WHO WOULD
19 QUESTION HER?

20 WHAT ABOUT HER STORY? AGAIN, THE DETAILS -- BUT
21 JUST TAKE THE STORY. ASSUME THE DETAILS ARE THE SAME.
22 HER STORY IS THAT SOMEWHERE BETWEEN 11 AND 11:30, AND
23 LET'S GIVE HER THE BENEFIT OF THE DOUBT, SHE PICKS THIS
24 CHILD UP, LET'S SAY 11:30, FROM HER SISTER, AND IT IS
25 A -- LET'S GIVE HER HALF AN HOUR TO GET ACROSS TOWN.

1 BY 12:00 SHE IS HOME, AND WE KNOW FROM THE NURSE THAT
2 SHE FIRST CAME IN CONTACT WITH THIS CHILD AT 2:23 IN
3 THE MORNING, SHE HAD BEEN WAITING FOR A SHORT PERIOD OF
4 TIME. REMEMBER MS. SHARPE SAID IT WASN'T CROWDED THAT
5 NIGHT. BY TWO O'CLOCK SHE IS AT THE HOSPITAL. WHAT
6 HAPPENED -- AND THIS CHILD HAS GOT TO GET UP AND GO TO
7 SCHOOL THE NEXT DAY. WHAT WAS GOING ON IN THIS TWO
8 HOUR PERIOD, BECAUSE OTHER THAN FIFTEEN MINUTES TO THE
9 HOSPITAL -- WHAT IS SHE DOING, WATCHING T.V., OFFERING
10 HIM FOOD, HE'S NOT HUNGRY, THINGS OF THAT NATURE.

11 THEN THE STORY IS THAT SHE GETS HIM IN. HE IS
12 LYING THERE -- AND THIS IS WHAT SHE TESTIFIED TO
13 YESTERDAY. HE'S LYING THERE, HE'S FINE, SOMEWHAT
14 RESPONSIVE, BUT HE'S NOT HUNGRY. SHE PICKS HIM UP,
15 NEVER NOTICES ANY BLOOD. THERE'S NO BLOOD IN THE CAR
16 SEAT, NO BLOOD ON HIS PANTS, NO BLOOD ANYWHERE. SHE
17 TAKES HIM INTO THE BATHROOM. SHE HAS TRAINING IN THE
18 MEDICAL FIELD. I'M NOT SAYING SHE IS A REGISTERED
19 NURSE, BUT SHE HAS TRAINING. I DON'T EVEN THINK THIS
20 TAKES TRAINING, LADIES AND GENTLEMEN.

21 SHE TAKES OFF HIS CLOTHES, NOTICES A GRIMACE ON
22 HIS FACE. WHAT'S WRONG? AND HE SAYS, I HURT, AND HE
23 POINTS. SHE TAKES OFF HIS UNDERWEAR AND SHE NOTICES
24 THAT HIS SCROTUM IS SWOLLEN MORE THAN USUAL. SHE EVEN
25 MAKES THE PHONE CALL TO HER SISTER, WAS HE OKAY TODAY?

1 YEAH, HE'S OKAY. THERE'S NO BLOOD. HE'S NOT SCREAMING
2 IN PAIN. HE'S GRIMACED, ACCORDING HER.

3 AT THAT POINT, LADIES AND GENTLEMEN, SHE CHOOSES
4 TO TREAT THIS, AND THESE ARE HER WORDS. THESE ARE HER
5 DECISIONS ACCORDING TO HER BECAUSE SHE HAS GOT TO HAVE
6 A WAY TO EXPLAIN WHY THIS CHILD'S SCROTUM IS RIPPED
7 OPEN, SHE THEN APPLIES PRESSURE TO AN AREA THE CHILD
8 HAS JUST INDICATED, WHICH SHE HAS SEEN IS SWOLLEN AND
9 WHICH HE INDICATES HURTS. WHO WOULD APPLY PRESSURE,
10 BUT SHE HAS TO STICK TO THAT STORY, BECAUSE EVEN SHE
11 UNDERSTANDS THERE AREN'T SPONTANEOUSLY EXPLODING
12 SCROTUMS. DOES THAT MAKE SENSE?

13 THEN IN HER STATEMENT -- AND YOU WILL HAVE IT, SHE
14 SAYS THAT SHE GETS HIM OUT OF THE BATHTUB, THAT SHE
15 STANDS HIM UP, AND ALL THE DOCTORS TESTIFIED AS SOON AS
16 THIS CHILD IS IN AN UPRIGHT POSITION THERE'S NO DOUBT
17 THIS TESTICLE COMES OUT, BUT SHE SAYS SHE STANDS HIM
18 UP, PUTS PULL-UPS ON HIM NOT ONCE BUT TWICE, AND SHE
19 DOESN'T SEE THIS? IT'S NOT LIKE IT'S HIDDEN. IT'S
20 LITERALLY IN HER FACE, BUT SHE CAN'T SAY SHE SAW THIS
21 BECAUSE THAT DOESN'T MAKE HER DEMEANOR IN THE HOSPITAL
22 REASONABLE, THAT DOESN'T MAKE ANYTHING SHE DID
23 REASONABLE. SO SHE HAS TO INFER SHE DIDN'T SEE IT.
24 THE CHILD IS LITERALLY SCREAMING IN PAIN AT THIS POINT,
25 AND IS THAT WHEN HE GOT THE BACK HAND, TO SHUT UP?

1 THEN FINALLY YESTERDAY ON THE STAND AT ONE POINT
2 SHE SAID, YOU KNOW, THEY WERE SO BUSY BUILDING A CASE
3 AGAINST ME THEY WEREN'T EVEN TAKING CARE OF MY SON.
4 THAT'S OFFENSIVE.

5 THEY SAVED HER STEPSON, THE PERSON SHE DID THIS
6 TO. HER DEMEANOR -- AND AGAIN, JUST LIKE AT THE
7 HOSPITAL WHEN ERIN FIELDS IS SITTING THERE ASKING
8 Minor , WHO DID THIS TO YOU; Minor , WHO DID THIS
9 TO YOU, THE ONLY TIME SHE EXPRESSED CONCERN FOR THIS
10 CHILD IN THE PRESENCE OF ANY MEDICAL PERSON WAS THEN
11 WHEN THEY WERE ASKING WHO DID THIS.

12 THE EVIDENCE, LADIES AND GENTLEMEN, IS
13 OVERWHELMING.

14 Minor WAS NOT ALLOWED TO BE HERE TODAY,
15 BUT THAT DOESN'T MEAN IT'S NOT HIS DAY IN COURT. THAT
16 DOESN'T MEAN THAT HE DOESN'T DESERVE THE PROTECTION OF
17 THE LAWS OF AMERICA. HE IS AN AMERICAN CITIZEN.

18 YOU TOOK AN OATH TO CONSIDER THE EVIDENCE AND TO
19 APPLY THE LAW. LADIES AND GENTLEMEN, WE HAVE PROVEN
20 THIS CASE NOT JUST BEYOND A REASONABLE DOUBT, BUT
21 BEYOND ANY DOUBT. THE ONLY REASON SHE HAD TO COME UP
22 WITH THAT STORY IS BECAUSE SHE HAD TO HAVE SOME
23 EXPLANATION. THE STORY DIDN'T WORK. LUCKILY, IN THIS
24 CASE THERE WERE PROFESSIONALS IN PLACE THAT SAW WHAT
25 HAPPENED AND DID THE APPROPRIATE THINGS FROM START TO

1 FINISH.

2 WHEN I AM FINISHED TALKING, THE JUDGE IS GOING TO
3 TELL YOU WHAT THE LAW IS AND THEN YOU'RE GOING TO GO
4 BACK IN THAT JURY ROOM AND DELIBERATE AND YOU'RE GOING
5 TO BE ASKED TO MARK YOUR VERDICT ON THESE TWO
6 INDICTMENTS. THE WORD VERDICT COMES FROM A LATIN
7 PHRASE VEREDICTUM. THAT LITERALLY MEANS TO SPEAK THE
8 TRUTH. ALL THE STATE ASKS IN THIS CASE, LADIES AND
9 GENTLEMEN, IS DON'T LET HER GET AWAY WITH THIS. HOLD
10 HER RESPONSIBLE FOR HER DECISIONS, HER ACTIONS, HER
11 ABUSE ON THIS CHILD.

12 THANK YOU.

13 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN,
14 BEFORE I CAN GIVE MY INSTRUCTIONS TO YOU, WE'VE BEEN
15 GOING A LITTLE OVER AN HOUR-AND-A-HALF. WE'RE GOING TO
16 TAKE A BRIEF RECESS OF NO MORE THAN TEN MINUTES AND
17 THEN I'LL CHARGE YOU ON THE LAW. GO BACK TO YOUR JURY
18 ROOM. EVERYONE ELSE STAY SEATED, PLEASE. YOU'RE
19 EXCUSED TO YOUR JURY ROOM.

20 (WHEREUPON, THE JURY LEFT OPEN COURT AT
21 APPROXIMATELY 11:21 A.M.)

22 THE COURT: WE'LL TAKE A TEN MINUTE BREAK.

23 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

24 THE COURT: ALL RIGHT. LET'S GET THE JURY BACK
25 IN, PLEASE.

1 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
2 11:37 A.M.)

3 THE BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

4 JURY CHARGE

5 THE COURT: ALL RIGHT. THANK YOU. MR. FOREMAN
6 AND LADIES AND GENTLEMEN, AT THIS TIME IT IS MY DUTY TO
7 CHARGE YOU, AND THAT SIMPLY MEANS TO INSTRUCT YOU ON
8 THE LAW THAT APPLIES IN THIS CASE. I DO NEED TO TELL
9 YOU AT THE OUTSET THAT YOU'RE NOT GOING TO RECEIVE A
10 WRITTEN COPY OF WHAT I'M ABOUT TO GO OVER WITH YOU. MY
11 CHARGE IS NOT SUCH THAT I CAN COPY IT AND GIVE IT TO
12 YOU, SO YOU DO NEED TO PAY CLOSE ATTENTION. NOW DURING
13 YOUR DELIBERATIONS, IF YOU HAVE ANY QUESTIONS ABOUT
14 WHAT THE LAW IS, YOU'RE CERTAINLY FREE TO ASK ME A
15 QUESTION. I'LL GO OVER THE PROCEDURE TO DO THAT AT THE
16 CLOSE OF THESE INSTRUCTIONS TO YOU.

17 DURING THE COURSE OF THE ARGUMENTS THAT THE
18 ATTORNEYS HAVE MADE, THE ATTORNEYS HAVE DISCUSSED WITH
19 YOU THEIR UNDERSTANDING OF THE LAW. THEY DO HAVE A
20 RIGHT AND A DUTY TO DO THAT. I WOULD CHARGE YOU,
21 HOWEVER, THAT REGARDLESS OF ANYTHING THAT WAS SAID BY
22 ANY ATTORNEY DURING THE COURSE OF CLOSING ARGUMENTS
23 STATING WHAT THE SOUTH CAROLINA LAW IS, THAT YOU MUST
24 APPLY THE LAW ONLY AS I EXPLAIN IT TO YOU AT THIS TIME.
25 NOW THAT IS NOT TO IMPLY THAT I DISAGREE WITH ANY

1 STATEMENT MADE BY THE ATTORNEYS AS TO WHAT THE LAW IS.
2 IT IS SIMPLY MADE TO YOU TO EMPHASIZE THAT YOU MUST
3 TAKE THE LAW APPLICABLE AS I EXPLAIN IT TO YOU.

4 AGAIN, IT DOES BECOME MY DUTY AT THIS TIME TO
5 CHARGE YOU ON THE LAW AS IT APPLIES IN THIS CASE. IT
6 IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS
7 THE COURT IS NOW GOING TO STATE IT AND EXPLAIN IT TO
8 YOU.

9 AS JURORS IT IS YOUR EXCLUSIVE DUTY TO DECIDE ALL
10 THE ISSUES OF FACT IN THIS CASE. FOR THAT PURPOSE, TO
11 DETERMINE THE EFFECT, THE VALUE AND WEIGHT, AND THE
12 TRUTH OF THE EVIDENCE PRESENTED DURING THIS TRIAL FOR
13 BOTH THE STATE OF SOUTH CAROLINA AND THE DEFENDANT,
14 MIAMA KROMAH, HAVE A RIGHT TO EXPECT THAT YOU WILL
15 INDIVIDUALLY AND COLLECTIVELY CONSCIENTIOUSLY CONSIDER
16 AND EVALUATE THE EVIDENCE IN THIS CASE AND APPLY THE
17 LAW OF THE CASE TO THAT EVIDENCE TO THE END THAT BOTH
18 THE STATE OF SOUTH CAROLINA AND THE DEFENDANT WILL
19 RECEIVE AND OBTAIN A FAIR AND IMPARTIAL TRIAL IN THIS
20 CASE.

21 I'M GOING TO REVIEW IN PART WITH YOU THE
22 ALLEGATIONS THAT ARE MADE IN THE INDICTMENTS IN THIS
23 CASE. AGAIN, THE INDICTMENTS CONTAIN THE WRITTEN
24 CHARGES IN THE CASE. THEY CANNOT BE CONSIDERED BY THE
25 JURY AS EVIDENCE OF THE CHARGES THAT THEY CONTAIN.

1 IN THE FIRST INDICTMENT -- AND I HAVE EXPLAINED TO
2 YOU THERE ARE TWO SEPARATE INDICTMENTS. THE FIRST
3 INDICTMENT IS INDICTMENT 05-GS-40-8139 ENTITLED THE
4 STATE VS. MIAMA KROMAH. THIS IS AN INDICTMENT FOR THE
5 CHARGE OF UNLAWFUL NEGLECT OF A CHILD. IT IS ALLEGED
6 IN THIS INDICTMENT IN PART THAT THE DEFENDANT DID IN
7 RICHLAND COUNTY ON OR ABOUT AUGUST 15TH WHILE HAVING
8 CHARGE OR CUSTODY OF A CHILD WHO IS A PARENT OR
9 GUARDIAN OF A CHILD OR WHO IS RESPONSIBLE FOR THE CARE
10 AND SUPPORT OF THE CHILD, A THREE YEAR OLD STEPSON, DID
11 PLACE THE CHILD AT UNREASONABLE RISK OF HARM AFFECTING
12 THE CHILD'S LIFE, PHYSICAL OR MENTAL STATE OR SAFETY OR
13 DID CAUSE, DID DO OR CAUSE TO BE DONE UNLAWFULLY OR
14 MALICIOUSLY BODILY HARM TO THE CHILD SO THAT THE LIFE
15 OR HEALTH OF THE CHILD WAS ENDANGERED OR LIKELY TO BE
16 ENDANGERED. TO WHIT, THE DEFENDANT DID CUT THE SCROTUM
17 WITH A VERY SHARP OBJECT RESULTING IN SURGERY, ALL
18 RESULTING IN VIOLATION OF SECTION 20-5-50 OF THE SOUTH
19 CAROLINA CODE OF LAWS. THAT IS THE ALLEGATION MADE IN
20 THAT INDICTMENT.

21 THE OTHER INDICTMENT IS 06-GS-40-2991 AND IS
22 ENTITLED THE STATE VS. MIAMA KROMAH. THIS IS AN
23 INDICTMENT OR A CHARGE OF INFLICTION OF GREAT BODILY
24 INJURY UPON A CHILD. IT IS ALLEGED IN THIS INDICTMENT
25 THAT THE DEFENDANT DID IN RICHLAND COUNTY ON OR ABOUT

1 AUGUST 16TH, 2005, INFLECT GREAT BODILY INJURY UPON A
2 CHILD, TO WHIT DID CUT THE SCROTUM OF THE VICTIM, A
3 THREE YEAR OLD STEPSON WITH A VERY SHARP OBJECT, ALL IN
4 VIOLATION OF SOUTH CAROLINA CODE SECTION 16-3-95, SUB
5 SECTION (A).

6 THOSE ARE THE ALLEGATIONS MADE IN THAT INDICTMENT.
7 ON THE FIRST INDICTMENT, I MISSPOKE THE ALLEGED DATE.
8 I SAID THE 15TH. IT'S ALLEGES THAT IT WAS THE 16TH OF
9 AUGUST, 2005.

10 THROUGHOUT THESE INSTRUCTIONS WHEN I USE THE WORD
11 DEFENDANT, OF COURSE, I'M REFERRING TO MS. KROMAH AND,
12 TO THE CHARGES THAT ARE MADE IN THESE INDICTMENTS THE
13 DEFENDANT HAS ENTERED A PLEA OF NOT GUILTY. THIS PLEA
14 OF NOT GUILTY BY THE DEFENDANT PLACES THE BURDEN OF
15 PROOF ON THE STATE TO PROVE THE GUILT OF THE DEFENDANT
16 BEYOND A REASONABLE DOUBT BEFORE YOU, THE JURY, COULD
17 FIND THE DEFENDANT GUILTY.

18 THE DEFENDANT IS PRESUMED UNDER THE LAW OF THIS
19 STATE INNOCENT OF THE CHARGES THAT ARE MADE IN THESE
20 INDICTMENTS. IT IS A CARDINAL AND A FUNDAMENTAL RULE
21 OF THE LAW OF EVIDENCE IN THIS STATE THAT A DEFENDANT,
22 REGARDLESS OF THE CHARGE OR CHARGES AGAINST HIM OR HER,
23 WILL ALWAYS BE PRESUMED INNOCENT OF THE OFFENSES FOR
24 WHICH THAT DEFENDANT HAS BEEN INDICTED UNLESS AND UNTIL
25 THE GUILT OF THE DEFENDANT HAS BEEN PROVEN BY EVIDENCE