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VOL I of IV

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

R. Knox McMahon, Circuit Court Judge

RECEIVED

DEC 18 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ZINAH DAMARIS JENNINGS,

APPELLANT

APPELLATE CASE NO. 2012-212947

RECORD ON APPEAL

DAVID ALEXANDER
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

ALAN WILSON
Attorney General

WILLIAM M. BLITCH, JR.
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

DANIEL E. JOHNSON
Solicitor, Fifth Judicial Circuit
Post Office Box 192
Columbia, SC 29202-0192
(803) 576-1800

Attorneys for Respondent

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2 COUNTY OF RICHLAND

COURT OF GENERAL SESSIONS

3
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5 STATE OF SOUTH CAROLINA

6 -vs-

7 ZINAH DAMARIS JENNINGS,

8

Defendant.

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HONORABLE R. KNOX MCMAHON, Judge.

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A P P E A R A N C E S:

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DOLLY JUSTICE GARFIELD, Asst. Solicitor
K. LUCK CAMPBELL, Senior Asst. Solicitor
MEGHAN L. WALKER, Asst. Solicitor
Attorneys for the State

20

21

HEMPHILL P. PRIDE, II, Esquire
Lesli B. Darwin, Esquire
Attorneys for the Defendant

22

23

24

L. COCONUT PANTSARI, R.P.R.
Circuit Court Reporter

25

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TRIAL

(August 27 - September 7, 2012)

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1 (The following proceedings are reported on
2 July 30, 2012.)

3 THE COURT: As an initial matter, my
4 understanding is these are motions in a case, Indictment
5 Number 2012-GS-40-02067, the State versus Zinah Damaris
6 Jennings. Assistant Solicitors Justice -- excuse me --
7 Garfield, Campbell, and Walker present on behalf of the
8 State. Mr. Pride is present on behalf of Ms. Jennings.

9 Initially, I signed an order on the 26th of
10 July, 2012, concerning Ms. Jennings would always appear
11 in court in civilian clothes. Has that been
12 accomplished?

13 MR. PRIDE: Yes, it has, Your Honor, and the
14 solicitor was served a copy of that order.

15 THE COURT: Further, I have advised security
16 that she would not be handcuffed or shackled in the
17 courtroom. Has that been accomplished?

18 MR. PRIDE: Thank you, Judge.

19 THE COURT: There is also a motion, Mr. Pride,
20 concerning news media?

21 MR. PRIDE: That's correct, Your Honor.

22 THE COURT: I have not yet heard that motion.
23 I have signed three documents under Rule 605. One that
24 was faxed to me Friday, I believe, from the State
25 newspaper, and two that were received this morning, one

1 from W.I.S. T.V. and one from W.A.C.H. T.V.

2 Do you want to be heard on that matter,
3 Mr. Pride?

4 MR. PRIDE: I do not, Your Honor. My motion
5 goes to the trial of the case, not to motions. I have
6 no objection, but I do want you to entertain the motion
7 today, but that motion simply prohibits the televising
8 of the trial.

9 THE COURT: Thank you. Thank you very much,
10 Mr. Pride. In what form or in what order do y'all
11 propose for me to hear these motions?

12 MR. PRIDE: At the Solicitor's pleasure.

13 THE COURT: Solicitor.

14 MS. GARFIELD: We would like to proceed first
15 with the motion to suppress Ms. Jennings' statement that
16 she had made to law enforcement and then after that
17 proceed with his motions concerning the suppression of
18 search warrants.

19 THE COURT: In that regard I did receive a
20 transcript and -- I was about to say a C.D. I believe
21 it's a D.V.D. or what have you of that. Is that the one
22 you are referring to, Solicitor?

23 MS. GARFIELD: Yes, sir.

24 MR. PRIDE: Judge, we both have copies of the
25 same thing that you have. So I was well aware of the

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1 fact that you were being sent that information.

2 THE COURT: In that regard, Solicitor, you may
3 proceed.

4 MS. GARFIELD: Thank you, Your Honor. The
5 State calls Investigator Colin Bailey.

6 THE COURT: If you would come around and be
7 sworn, please.

8 MS. GARFIELD: Your Honor, while he is walking
9 around, I spoke with the court reporter. I didn't know
10 how to label these documents that we will be presenting.
11 We have marked them as Court's exhibits.

12 COLIN BAILEY, being
13 first duly sworn, testifies as follows:

14 **DIRECT EXAMINATION**

15 BY MS. GARFIELD:

16 Q Investigator Bailey, can you please inform the
17 judge where you are employed?

18 A I currently work for the City of Columbia Police
19 Department.

20 Q How long have you been with the Columbia Police
21 Department?

22 A For approximately seven years.

23 Q And prior to employment with the Columbia Police
24 Department, did you have any other law enforcement
25 experience?

1 A Prior to that I worked for the Atlanta Police
2 Department for three years and the U.S. Border
3 Patrol for six months.

4 Q And currently what are your duties with the
5 Columbia Police Department?

6 A Currently I am assigned to the criminal
7 investigations division of the Columbia Police
8 Department and specifically the special victims
9 unit.

10 Q And were these your duties also back in December of
11 last year?

12 A They were.

13 Q Specifically, Investigator Bailey, were you
14 involved in investigating a case involving the
15 defendant, Zinah Jennings?

16 A I was.

17 Q Can you explain to the judge how you become
18 involved in this case?

19 A Sure. I received a notice from a woman in the
20 Chief's office who alerted me that a Ms. Jocelyn
21 Jennings wanted to speak to the police department
22 regarding a missing person's case.

23 I then made a phone call to Ms. Jocelyn
24 Jennings, who was the grandmother of the missing
25 child and the mother of the defendant, Zinah

1 Jennings, to determine what she wanted and who was
2 missing.

3 Q Approximately when did you meet with Ms. Jennings,
4 Ms. Jocelyn Jennings?

5 A This was on December -- our phone conversation --
6 was on December 8th, 2011.

7 Q Can you explain to the judge the nature of that
8 conversation with Ms. Jennings that led to your
9 investigation?

10 A Sure. Ms. Jennings advised me or she told me that
11 she had not seen her daughter, and she was
12 concerned because an officer had knocked on her
13 door at least two days prior and was asking
14 Mr. Jocelyn Jennings about a hit and run that
15 Zinah, the defendant, may have been involved in.

16 Q I will stop you right there. Just elaborate on the
17 facts surrounding this hit and run, alleged hit and
18 run.

19 A The hit and run, as investigated by, I believe,
20 Officer Ellison, involved a two-car accident in a
21 parking lot, I believe on an address off of Taylor
22 Street, Forest Drive, close to Gonzalez Gardens.

23 According to Officer Ellison, Zinah Jennings'
24 vehicle -- because they had copied down the tag
25 number and the vehicle make and model -- had struck

1 another man's car in the parking lot and had fled
2 the scene.

3 The gentleman described a female driver that
4 apparently fit the description of Zinah Jennings.
5 The individual whose car was hit did call the
6 police department, and a report was written for hit
7 and run.

8 Officer Ellison did a follow up, and I believe
9 he later on that night, after taking the report, he
10 knocked on the door of the Lady Street address of
11 Ms. Zinah Jennings where apparently she was staying
12 at that time and encountered Ms. Jocelyn Jennings.
13 Apparently Zinah was not there. Ellison inquired
14 with Ms. Jennings about the whereabouts about
15 Zinah.

16 MR. PRIDE: Judge, excuse me just a moment.
17 The officer has a lot of "apparently" statements. I
18 would request that he only testify as to those things he
19 knows, not what apparently happened. Apparently is
20 speculation.

21 THE COURT: Yes, sir. Well, the officer can
22 testify under State versus Green and State versus Davis
23 to the reason why he is involved in this investigation.
24 So he is laying the foundation, the background, for
25 that. I will overrule your objection at this time,

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1 Mr. Pride.

2 Thank you, Solicitor. You may proceed.

3 MS. GARFIELD: Thank you, Judge.

4 BY MS. GARFIELD:

5 Q Investigator Bailey, after the officer knocked on
6 the home of Ms. Jocelyn Jennings and she also was
7 worried about her daughter, she had not seen her,
8 is that when she contacted you or contacted C.P.D.?

9 A Correct.

10 Q Then you were assigned as the case officer to go
11 and interview Ms. Jennings?

12 A Correct. I actually spoke to her over the phone.

13 Q And based on your conversation with her, what did
14 you determine was causing her worries?

15 A I determined what was causing her worries because
16 she indicated to me that her daughter was -- had
17 erratic behavior as of late, and also she was
18 worried for her grandson, the defendant's son. She
19 was worried about his health and whereabouts as
20 well.

21 Ms. Jocelyn Jennings indicated to me that she
22 thought that her daughter might suffer from
23 postpartum depression or some other ailment, and it
24 was causing her life to kind of spiral out of
25 control.

1 Therefore, she -- after the officer knocked on
2 the door inquiring about the one-car accident, she
3 indicated to me that that was sort of a trigger
4 where she decided that she needed assistance and
5 needed law enforcement to get involved.

6 Q At the time you spoke with her, how long had it
7 been since she had seen her daughter and grandson?

8 A I don't recall. I think it was either one or two
9 days.

10 Q It was one or two days?

11 A Right.

12 Q From December 8th?

13 A Right.

14 Q At that time based on your conversation with
15 Ms. Jennings, what did you do?

16 A I filled out a police -- typed a police report
17 regarding a missing person. Then the very next
18 day, after doing some research on her, and I went
19 through all the past incident reports involving
20 her, I determined that Ms. Zinah Jennings had had a
21 boyfriend at one time and was quite possibly the
22 biological father of her son.

23 So I went to try to track him down. I went to
24 his former address and where he worked at
25 Hunter-Gatherer, which is a restaurant in the

1 university area, without success.

2 I also spoke to a Denise Jennings, who is the
3 half-sister of Zinah Jennings, and Denise Jennings
4 lives in East Point, Georgia. I spoke to her over
5 the phone, and Denise Jennings assured me that
6 everything was fine. There was no need for an
7 investigation regarding a missing person. Denise
8 Jennings indicated to me a statement she later
9 reversed but indicated to me that Jocelyn Jennings
10 was overreacting.

11 Q Did you place the defendant, Zinah Jennings, into
12 the missing persons index?

13 A I did.

14 Q And was Zinah Jennings ever found?

15 A Zinah Jennings was located. She was.

16 Q And how did she come about to be located by the
17 Columbia Police Department?

18 A In another car accident. This time it was a
19 one-car car accident. I believe it was the night
20 of the 23rd of December, 2011. I was called at
21 4:00 in the morning by Officer Miller, who
22 indicated he had located a missing person, a person
23 listed in N.C.I.C., a Ms. Zinah Jennings, and he
24 indicated she had been involved in a one-car car
25 accident, the location of which was very close to

1 her Lady Street house.

2 I immediately told Officer Miller -- my first
3 question to him, of course, was: Is there a child
4 with her? He indicated there was not. I then
5 asked Officer Miller to ask Zinah where her son
6 was. Officer Miller indicated that Zinah had
7 already been transported to the hospital. So we
8 would have to go to the hospital and question her
9 there.

10 Q When you refer to her son, how old is the son?

11 A At the time 18 months old.

12 Q What is his name?

13 A Child

14 Q And did Officer Miller do as you instructed and go
15 to the hospital?

16 A He did.

17 Q And can you briefly share with the judge what
18 Officer Miller reported to have occurred?

19 A Officer Miller reported to me that he asked Zinah
20 where her --

21 MR. PRIDE: Excuse me. Officer Miller can
22 testify as to what he asked the defendant and what they
23 said.

24 THE COURT: I would sustain that objection.
25 That doesn't go to the voluntariness of the statement.

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1 This is a Jackson versus Denno hearing.

2 MS. GARFIELD: Judge, it's just more
3 information to explain what led Investigator Bailey to
4 eventually go and interview Ms. Zinah Jennings.

5 THE COURT: Well, still Jackson versus Denno
6 doesn't need that foundation. That's not going to be --
7 unless he talked to her at the hospital, and I don't
8 know what hospital you are referring to. I would
9 sustain the objection.

10 BY MS. GARFIELD:

11 Q Based on Investigator Miller's contact with Zinah
12 Jennings, were you able to determine a location of
13 where Child may be?

14 MR. PRIDE: Judge, that is -- as Judge Ness
15 would say, you can't do indirectly what you can't do
16 directly. That's exactly what the solicitor is
17 attempting to do, and you have already ruled on it.

18 THE COURT: Solicitor, what is the purpose of
19 that question as far as the Jackson versus Denno
20 hearing?

21 MS. GARFIELD: It's still leading to why
22 Investigator Bailey eventually goes and talks
23 with Ms. Jennings. The answers Ms. Jennings gives to
24 law enforcement concerning the whereabouts of her child
25 at the hospital turned out to be inaccurate after

1 Investigator Bailey investigated those answers.

2 THE COURT: They may or may not be correct.
3 The focus of the testimony from Detective Bailey today
4 is the voluntariness of Ms. Jennings' statement to this
5 investigator.

6 MS. GARFIELD: I was just laying a foundation
7 of what led Investigator Bailey to ultimately go and
8 interview Ms. Jennings. I will move on, Judge.

9 THE COURT: Thank you.

10 BY MS. GARFIELD:

11 Q Based on your further investigation, were you able
12 to find Child ?

13 A I was not.

14 Q Did that lead you to go and interrogate
15 Ms. Jennings at her home, Zinah Jennings?

16 A Right. I received a series of, I believe, e-mails
17 from Jocelyn Jennings indicating that Child was not
18 at the house on Lady Street but Zinah was. So I
19 went there. The date was the 26th of December. I
20 went there twice, and the second time I was able to
21 confront Zinah Jennings.

22 Q And you confronted Zinah Jennings at her home?

23 A That's right.

24 Q And that's on Lady Street?

25 A That's right.

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1 Q Here in Columbia?

2 A That's correct.

3 Q In the County of Richland?

4 A That's correct.

5 Q Investigator Bailey, were you able to talk with
6 Zinah Jennings that day?

7 A I was.

8 Q And did she appear to understand your questions?

9 A She appeared to understand the questions.

10 Q Did it appear voluntary to you?

11 A It appeared voluntary.

12 Q Did she leave at any time?

13 A She did not leave at any time.

14 Q Could she have left?

15 A Of course, yes.

16 Q She was not in custody?

17 A She was not in custody.

18 Q I would hand you what is marked as Court's Exhibit
19 Number 2. Do you recognize this document?

20 A I do.

21 Q Can you please explain to the judge what Court's
22 Exhibit Number 2 is?

23 MR. PRIDE: Judge, before he explains I would
24 like to see the document.

25 THE COURT: Certainly.

1 MS. GARFIELD: This was provided to the
2 defense attorney in discovery.

3 (Pause.)

4 MR. PRIDE: Okay.

5 A After speaking to Zinah -- and we spoke roughly ten
6 minutes, some about her college and some about what
7 she is involved with and what she is doing with her
8 life. Then I, of course, would ask her where her
9 son ^{Child} was, and she indicated that her son --

10 MR. PRIDE: Judge, I object to that. That's
11 the question of -- we are going now into what
12 Ms. Jennings said. Even though he has testified that
13 she could leave and that she wasn't under arrest,
14 certainly at this time she was under suspicion. She was
15 the only lead they had.

16 The question becomes at that time: Did this
17 officer have a responsibility to admonish her of her
18 rights and the consequences if she talked? Clearly,
19 that foundation has not been laid for him to testify as
20 to what Ms. Jennings said.

21 THE COURT: Well, as you all know, Miranda
22 only applies to in-custodial interrogations. The
23 officer has said that she was at the Lady Street
24 residence.

25 THE WITNESS: Yes, Your Honor.

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1 THE COURT: Of the grandmother, which as I
2 tracked it, would have been the residence where she and
3 her son ^{Child} had stayed previous to leaving that
4 location, that she was not under arrest, she was free to
5 leave.

6 MR. PRIDE: But she met the third prong. She
7 was a suspect.

8 THE COURT: I will overrule your objection.
9 You can certainly question the officer in cross
10 examination in that regard. That gives me the
11 foundation to rule, of course, Mr. Pride.

12 Without the full testimony of the officer, I
13 won't have the totality of the circumstances upon which
14 to rule on the voluntariness or involuntariness of the
15 statement.

16 Thank you. You may proceed, Solicitor.

17 BY MS. GARFIELD:

18 Q Investigator Bailey, I will back you up a bit. You
19 talked about how you spoke with Ms. Jennings
20 concerning her education?

21 A That's right.

22 Q Can you explain what kind of educational background
23 she provided you?

24 A She indicated that she had gone to -- that she had
25 graduated from high school and gone to Winthrop

1 University. I believe she also told me that she
2 had some time at Midlands Tech, but I definitely
3 remember we were talking about Winthrop University
4 because I have a relative there as well.

5 Q In your conversations with Ms. Jennings, did she
6 appear to be under the influence of anything?

7 A She did not.

8 Q Did she appear to be competent to you?

9 A She did.

10 Q And if she didn't want to talk to you, she didn't
11 have to?

12 A Correct, right.

13 Q You were asking her questions about her own son
14 that was missing?

15 A That's correct.

16 Q And if you will relate to the Court what questions
17 you asked her and her answers.

18 A I asked her where her son was, and she told us and
19 then wrote it down on the statement that her son
20 was with the biological father, Ernest Robinson.
21 She wrote in the statement and she told me verbally
22 that she had dropped him off with an Ernest
23 Robinson on December 6, 2011.

24 She indicated to me that Ernest Robinson lived
25 in an apartment complex that she did not know off

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1 of Garners Ferry Road. She told me that Ernest
2 Robinson had graduated. She had -- I asked her,
3 How can I find Mr. Ernest Robinson? She said he
4 graduated from Dreher High School or had gone to
5 Dreher High School and graduated in 2006.

6 She indicated -- or I asked her, I then said,
7 I thought that Robert Mitchell was the biological
8 father of Child and she indicated that was not the
9 case at all and that she was adamant that Ernest
10 Robinson was the biological father.

11 Then just before I left, using my smart phone,
12 I got on the Department of Motor Vehicles' website
13 and I pulled up Ernest Robinson or typed in the
14 name Ernest Robinson, ran Ernest Robinson in South
15 Carolina.

16 Then I asked Zinah could she be more specific
17 because I could not find an Ernest Robinson who fit
18 the criteria that she had laid out. Then she
19 indicated that Ernest Robinson probably had a New
20 Jersey driver's license, and that's why I couldn't
21 find it on the Department of Motor Vehicles'
22 website.

23 Q And did she put any of that in writing?

24 A She only put in writing -- I wrote, "Where is
25 Child And she wrote an answer, "Child is with his

1 father Ernest Robinson. I dropped him off on
2 December 6, 2011. He is safe and happy," and then
3 she signed it.

4 MS. GARFIELD: Your Honor, I would like to
5 introduce Court's Exhibit Number 2.

6 THE COURT: What was Court's Exhibit 1?

7 MS. GARFIELD: I haven't offered it yet.

8 (Court's Exhibit Number 2 is marked for
9 purposes of the record.)

10 BY MS. GARFIELD:

11 Q Investigator Bailey, were you ever able to find
12 Ernest Robinson?

13 A I was not able to find an Ernest Robinson.

14 Q And based on your investigation, did you take out a
15 warrant on Ms. Jennings?

16 A I did.

17 Q When was the next time you saw Ms. Jennings?

18 A The next time I saw Ms. Jennings was late on the
19 night of the 29th, and I think it was actually just
20 after midnight. So it was on the 30th.

21 Q Where did this meeting take place?

22 A At Columbia Police headquarters, Number 1 Justice
23 Square, which is in the city limits of Columbia,
24 County of Richland.

25 Q And how did it come about that Ms. Jennings was at

1 the Columbia Police Department?

2 A Ms. Jennings -- Ms. Jennings walked, made a phone
3 call to police headquarters asking if she was
4 wanted. The officer told her, "You should come
5 down to police lawyers so you can find out."
6 Apparently then she came to police headquarters,
7 and when she did, I was alerted and called. Then I
8 came into work and met with her there, as well as
9 Sergeant Thomas.

10 Q She voluntarily went to the police department?

11 A Correct.

12 Q And you said you were with Sergeant Thomas?

13 A That's correct.

14 Q Sergeant Arthur Thomas sitting in the courtroom?

15 A That's correct.

16 Q At that time did you two have an opportunity to
17 interview Ms. Jennings?

18 A We did.

19 Q At this time she was in custody?

20 A She was in custody.

21 Q So did you go over Miranda warnings with
22 Ms. Jennings?

23 A I did.

24 Q I will hand you what has been marked as Court's
25 Exhibit Number 1. Do you recognize this document?

1 MS. GARFIELD: Do you want to see this?

2 MR. PRIDE: Thank you.

3 BY MS. GARFIELD:

4 Q Do you recognize this document, Investigator
5 Bailey?

6 A I do.

7 Q What is that document?

8 A This document is titled interrogation, advice of
9 right, your rights. It's a form that we provide to
10 defendants and read in front of them so that they
11 are fully aware of their rights under Miranda.

12 Q What is the date on that document?

13 A The date is December 30, 2011.

14 Q What's the time?

15 A I wrote down 12:40, just after midnight.

16 Q So that would be A.M.?

17 A That's correct.

18 Q And did you use this document in assisting you in
19 advising Ms. Jennings of her rights?

20 A I did.

21 Q Can you explain to the judge how you used this
22 document with Ms. Jennings?

23 A What I did in this case and what I typically do is
24 we will have two copies, identical copies. I
25 provide one to the defendant and one I will read;

1 so therefore, they can -- while I read it, they can
2 read along.

3 Q And did you do that with Ms. Jennings?

4 A I did.

5 Q Did she appear to be under the influence of
6 anything at that time?

7 A She did not appear to be under the influence of
8 anything.

9 Q Did she seem to understand you when you went
10 through these rights?

11 A She seemed to understand.

12 Q Was she cooperative with you?

13 A She was cooperative.

14 Q And did she eventually sign the bottom of that
15 statement?

16 A She did.

17 Q Did you observe her sign that?

18 A I did.

19 Q Did you also sign it as well?

20 A I did.

21 Q And who was the other signature?

22 A Sergeant Arthur Thomas.

23 Q And at any time did you offer Ms. Jennings food or
24 water or deny her anything of that nature?

25 A I can't recall specifically if we offered her any

1 water. We certainly didn't deny her anything.

2 Q You didn't deny her anything?

3 A Correct.

4 Q Deny her use of the bathroom or anything of that
5 nature?

6 A Correct.

7 Q Did you coerce her in any way?

8 A We did not.

9 Q Did you make any threats towards her?

10 A Did not make any threats.

11 Q Can you please just read into the record what that
12 document says.

13 A Sure. At the very top it says: Interrogation,
14 advise of rights, your rights. Place, 1 Justice
15 Square. Date, 12/30/11. Time, 12:40. The
16 document continues: Before we ask you any
17 questions, you must understand your rights. You
18 have the right to remain silent. Anything you say
19 can be used against you in court.

20 You have the right to talk to a lawyer for
21 advice before we ask you any questions and have him
22 with you during questioning. If you cannot afford
23 a lawyer, one will be appointed for you before
24 questioning if you wish.

25 If you decide to answer questions now without

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1 a lawyer present, you will still have the right to
2 stop answering at any time. You also have the
3 right to stop answering at any time until you talk
4 to a lawyer.

5 Waiver of rights: I have read this statement
6 of my rights, and I understand what my rights are.
7 I am willing to make a statement and answer
8 questions. I do not want a lawyer at this time. I
9 understand and know what I am doing. No promises
10 or threats have been made to me and no pressure or
11 coercion of any kind has been used against me.
12 Signed Zinah Jennings; witness, Arthur Thomas;
13 witness, Colin Bailey. Time, 12:40.

14 Q And you observed her sign that statement?

15 A I did.

16 MS. GARFIELD: Your Honor, at this time I like
17 would like to introduce Court's Exhibit Number 1 into
18 evidence.

19 MR. PRIDE: I do not have any objection.

20 THE COURT: Thank you.

21 (Court's Exhibit Number 1 is marked for
22 purposes of the record.)

23 BY MS. GARFIELD:

24 Q At that time did you and Sergeant Thomas
25 interrogate Ms. Jennings?

1 A We did.

2 Q And was this interview with Ms. Jennings tape
3 recorded?

4 A It was.

5 Q And it was audio recorded?

6 A It was.

7 MS. GARFIELD: Your Honor, at this time I
8 would like to make a copy of the recording a Court's
9 exhibit, as well as a copy that was provided to you,
10 along with the transcript.

11 THE COURT: All right.

12 MS. GARFIELD: And I would like to move those
13 into evidence.

14 (Attorneys confer.)

15 THE COURT: Any objection, Mr. Pride?

16 MR. PRIDE: I'm sorry, Judge?

17 THE COURT: Any objections?

18 MR. PRIDE: No, no objection.

19 THE COURT: To the recording and the
20 transcript?

21 MR. PRIDE: Not at this time.

22 THE COURT: That would be Court's Exhibit's 3
23 and Court's 4. I have marked on mine. You will have to
24 give her a clean copy.

25 MS. GARFIELD: I can do that right now.

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1 BY MS. GARFIELD:

2 Q Have you had an opportunity to listen to that
3 interview?

4 A I have.

5 Q Is it an accurate reflection of what went on that
6 night?

7 A It is.

8 MS. GARFIELD: Did the Court wish us to
9 publish this interview since you have already had an
10 opportunity to listen to it?

11 THE COURT: I have listened to the audio. I
12 have read the transcript. If you want to publish it,
13 you may. If Mr. Pride wants to publish it, he may.

14 MS. GARFIELD: And I don't have any problem
15 since you have listened to it to just put it in
16 evidence.

17 MR. PRIDE: Judge, I don't have any problem.
18 If you are asking me, do I want you to play it, that's
19 up to the solicitor. I don't have an objection either
20 way.

21 THE COURT: All right. I don't think you are
22 required to publish it at this time, Solicitor.

23 MS. GARFIELD: Thank you. Beg the Court's
24 indulgence.

25 (Pause.)

1 BY MS. GARFIELD:

2 Q Just in sum, Investigator Bailey, that night that
3 you and Sergeant Thomas questioned Ms. Jennings,
4 you didn't threaten her in any way?

5 A Correct.

6 Q Did you make her any promises?

7 A We did not make her any promises.

8 Q Didn't coerce her?

9 A Correct.

10 Q Thank you. No further questions. Please answer
11 any questions Mr. Pride may have.

12 CROSS EXAMINATION

13 BY MR. PRIDE:

14 Q What was the date of the events that you are
15 talking about now?

16 A Which events?

17 Q The one that you said you didn't threaten her. You
18 didn't coerce her. What date was that? Was that
19 the 30th of December?

20 A Correct, and that would be just after midnight on
21 the 30th.

22 Q Just after midnight?

23 A Correct.

24 Q And Zinah reported to the police department on the
25 27th of December; is that correct?

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- 1 A I was not aware of that. Reported to the police
2 department?
- 3 Q On Devine Street.
- 4 A No.
- 5 Q Did she turn herself in?
- 6 A She did, on the 30th at some point just before we
7 started talking with her.
- 8 Q On the 30th?
- 9 A Right.
- 10 Q And when she turned herself in, was she a suspect?
- 11 A She was. There was an active warrant for her
12 arrest.
- 13 Q And what was she suspected of doing?
- 14 A The unlawful contact towards a child.
- 15 Q And this was based purely on the fact that you
16 could not find the child; is that correct?
- 17 A It was not. It was based on -- it was not only
18 based on that.
- 19 Q Well, you have testified that she voluntary came to
20 the Devine Street police department on the 30th of
21 December? Is that your testimony?
- 22 A Right. She actually came to our office at 1
23 Justice Square, the police headquarters, which is a
24 different location from my office at 2132 Devine
25 Street.

1 Q Did you take her to Devine Street?

2 A Not that day, no, sir.

3 Q But the day that she came in is the same day that
4 she was arrested?

5 A Correct.

6 Q And since that time she has been in your custody?

7 A Correct.

8 Q And the reading of her rights that you testified
9 about, that occurred also on the 30th of December?

10 A Correct.

11 Q And you have testified that based on your opinion,
12 she had not been drinking?

13 A On the 30th, correct.

14 Q And you saw her suffering under no disability that
15 you could observe?

16 A Correct.

17 MR. PRIDE: I ask to mark this.

18 (Defendant's Exhibit Number 1 is marked for
19 identification.)

20 BY MR. PRIDE:

21 Q Can you tell me what date Zinah became a suspect?

22 THE COURT: What was that question, Mr. Pride?

23 BY MR. PRIDE:

24 Q What day did the defendant become a suspect, if you
25 know?

1 A I know a date that we signed the warrant for her
2 arrest.

3 Q Well, obviously at that time you felt that you had
4 enough information, and you signed a warrant?

5 A Correct, yes, sir.

6 Q She was a suspect on the 24th of December; is that
7 not correct?

8 A No, I did not sign a warrant on the 24th of
9 December. I believe I signed it either on the
10 27th or the 28th of December.

11 MR. PRIDE: May I approach the witness?

12 THE COURT: Yes, sir.

13 BY MR. PRIDE:

14 Q I show you what has been marked by the court
15 reporter as Defendant's Exhibit 1 and ask you to
16 take a look at it. Tell me, based on that
17 document, what day did you sign the warrant?

18 A On the 29th of December.

19 Q On the 29th?

20 A Yes, sir.

21 Q So you had signed the warrant before Zinah came in?

22 A Correct.

23 Q On the 30th?

24 A Correct, yes, sir.

25 Q And read for the Court the language of that

1 warrant.

2 A Sure. Occurring within Columbia, County of
3 Richland, the defendant, being the mother and
4 primary caregiver of Child , age one, has
5 purposefully lied to law enforcement several times
6 regarding the whereabouts of Child telling Officer
7 Miller on 12/24/2011, she did not have a child and
8 then said the child was in Atlanta with her aunt.
9 Then on 12/28/2011 telling the affiant that the
10 child was at a residence of Ernest Robinson, having
11 left him there because she needed a break.

12 The affiant's training and experience and
13 investigation of the fictitious Robinson residence
14 has led him to believe Ernest Robinson does not
15 exist, and Child is not at the residence in Atlanta.
16 Therefore, this affiant believes the defendant is
17 willfully withholding information that would
18 implicate the defendant and others in the harm that
19 has befallen Child

20 Based upon Child age, he would require
21 intense supervision and care, and the defendant is
22 unable or unwilling to establish that this child,
23 who was solely in her care, is alive and healthy.
24 Admission by the defendant and family established
25 that Child has not been seen by the defendant nor

1 any known family members since December 6, 2011.

2 Q But your warrant is based on your conversation with
3 Ms. Jennings that took place on the 24th of
4 December; is that correct?

5 A It's not correct. That's not correct.

6 Q What are you saying in the language where you say
7 the 24th of December?

8 A That is regarding Officer Miller speaking with her.
9 So Officer Miller spoke to her on the 24th.

10 Q Well, basically the warrant says she wouldn't tell
11 Officer Miller the truth on the 24th; right?

12 A That's correct.

13 Q So that was speaking with her; right?

14 A Correct, yes, sir.

15 Q Let me see that.

16 A Certainly.

17 Q Now, during your examination on the 30th of
18 December, did anyone else besides you talk to
19 Zinah?

20 A Yes, Sergeant Arthur Thomas.

21 Q And when he talked to Zinah, was anyone else in the
22 room with him besides him?

23 A No.

24 Q Was he there when you Mirandized Zinah?

25 A I believe he was, yes, sir.

- 1 Q So there were two people present?
- 2 A Correct.
- 3 Q During your examination of Zinah, how many police
- 4 officers were present?
- 5 A Two, myself and Sergeant Thomas.
- 6 Q And the two of you asked questions; is that
- 7 correct?
- 8 A Correct.
- 9 Q Did Zinah ever take a break? This examination
- 10 started about 12:00 o'clock; is that correct?
- 11 A Yes, sir.
- 12 Q And what time did it end?
- 13 A I don't recall the time it ended.
- 14 Q You don't know if you were there one hour? Two
- 15 hours? Five hours?
- 16 A Right. If memory serves me, it was about two
- 17 hours.
- 18 Q About two hours?
- 19 A Yes, sir.
- 20 Q Did Zinah ever ask to take a break?
- 21 A I don't think she did.
- 22 Q During that entire colloquy with her, did she ever
- 23 stop you and ask for a lawyer?
- 24 A No.
- 25 Q Did she ever refuse to answer questions?

1 A No, however she was -- at times she did stop
2 talking, and we weren't sure she was thinking.

3 Q So you like your word stop talking as opposed to my
4 word refused; right? She did refuse to stop
5 talking?

6 A She did stop talking.

7 Q She did stop talking?

8 A Right, at different times there were pauses.

9 Q When she stopped talking, how did you get her to
10 start talking again?

11 A We didn't have a particular method to get her to
12 start talking again. She started talking again.

13 Q Did you tell her during that examination that you
14 all would give the baby to D.S.S.?

15 A I don't recall if I said that.

16 Q Do you recall if the other officer said that?

17 A I don't recall if he said that.

18 Q Do you recall D.S.S. being mentioned at any time?

19 A I don't recall D.S.S. being mentioned.

20 Q All right, sir. Thank you very much.

21 THE COURT: Solicitor?

22 REDIRECT EXAMINATION

23 BY MS. GARFIELD:

24 Q Investigator Bailey, Ms. Jennings turned herself
25 into the Columbia Police Department very late on

1 the 29th; correct?

2 A Correct.

3 Q You didn't arrive to the C.P.D. until the 30th?

4 A Correct.

5 Q After midnight?

6 A Yes, ma'am.

7 Q And that's when your interrogation began?

8 A That's correct.

9 Q And the entire time in this interview room, it was
10 you and Sergeant Thomas?

11 A Correct.

12 Q Was there ever a time it was just you or just
13 Sergeant Thomas?

14 A There may have been but it wasn't for more than
15 just a few moments.

16 Q And, in fact, at the end of the interview,
17 Ms. Jennings stopped talking to you; correct?

18 A Right.

19 Q And that's when you terminated the interview?

20 MR. PRIDE: Judge, excuse me. That's leading
21 and suggestive. The question embellishes the answer.
22 The question should come from the witness. I object.

23 THE COURT: The answer should come from the
24 witness.

25 MR. PRIDE: Thank you. I got it wrong.

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1 THE COURT: We could reverse it. The question
2 could come from the witness and the answer could come
3 from the solicitor.

4 MR. PRIDE: I stated it wrong.

5 THE COURT: That's all right. You can
6 rephrase the question, Solicitor.

7 MS. GARFIELD: Thank you.

8 BY MS. GARFIELD:

9 Q At any time did Ms. Jennings stop talking to you?

10 A She did.

11 Q And when was that?

12 A It was late in the interview with her.

13 Q Based on her ceasing talking to law enforcement,
14 was the interview terminated?

15 A It was. I believe we tried to inquire about why
16 she was being quiet and stopped talking. We
17 weren't quite sure if she wanted to continue or
18 not. We weren't sure if she was pausing and
19 thinking about her answer. But after we determined
20 that she just didn't -- it was evident she didn't
21 want to go on just by her continued silence, then
22 we just ended the interview.

23 Q Do you know about how long the interview lasted?

24 A It was about two hours.

25 Q And if she had asked you for a break, would you

1 have given her one?

2 A Of course.

3 Q And if she had asked you for food or water, you
4 would have given her some?

5 A Yes, ma'am.

6 Q If she had asked for an attorney, what would you
7 have done?

8 A We would have stopped the interview.

9 Q Thank you.

10 THE COURT: Recross, Mr. Pride?

11 MR. PRIDE: None.

12 THE COURT: Thank you. Thank you very much,
13 Officer. You may step down.

14 (Witness leaves the witness stand.)

15 THE COURT: Solicitor.

16 MS. GARFIELD: Thank you, Your Honor. The
17 State calls Arthur Thomas.

18 ARTHUR THOMAS, being
19 first duly sworn, testifies as follows:

20 MS. GARFIELD: May it please the Court.

21 THE COURT: Yes, ma'am.

22 **DIRECT EXAMINATION**

23 BY MS. GARFIELD:

24 Q Sergeant Thomas, where are you employed?

25 A For the City of Columbia Police Department.

ARTHUR THOMAS -- DIRECT -- MS. GARFIELD

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1 Q How long have you been with the Columbia Police
2 Department?

3 A Approximately 23 years.

4 Q What are your duties with the Columbia Police
5 Department?

6 A I supervise the special victims unit.

7 Q Was that your duty back in December of last year?

8 A That is correct.

9 Q And did you also have an opportunity to investigate
10 the case of State versus Zinah Jennings?

11 A Yes, I actually manage the case. I have a team of
12 investigators working on that.

13 Q Are you the supervisor of Investigator Bailey?

14 A I am.

15 Q You are active in searching for the missing child
16 Child ?

17 A Yes, I am.

18 Q Did you have an opportunity to ever come in contact
19 with Zinah Jennings?

20 A I did.

21 Q Can you explain to the judge what the nature of
22 that contact was?

23 A We received a call or I actually received a call
24 from Investigator Bailey that Ms. Jennings had, in
25 fact, turned herself in to headquarters once she

1 was notified there were outstanding warrants for
2 her arrest.

3 Upon her arriving at headquarters, he and I
4 both headed to that direction so we could interview
5 her. As stated earlier, it was approximately 12 or
6 sometime after 12, about 12:40 or so, when we
7 actually had her interview.

8 Q Were you present when Investigator Bailey read her
9 Miranda rights?

10 A I was.

11 Q Did he go through the rights using an advice of
12 rights form?

13 A Yes, he did.

14 Q Did you observe him go over these rights, each one,
15 with Ms. Jennings?

16 A Yes, I did.

17 Q And did you observe Ms. Jennings sign the waiver
18 form?

19 A I did.

20 Q And did she appear to do this voluntarily?

21 A Yes, she did.

22 Q Did you make any threat to her?

23 A No threats were made.

24 Q Did you make any promises to her?

25 A No promises.

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1 Q Did you coerce her in any way?

2 A No, we did not coerce her.

3 Q If she had asked you for food or water, would you
4 have provided that?

5 A Most definitely.

6 Q And if she told you she didn't want to talk to you,
7 what would you have done?

8 A We would have terminated the interview.

9 Q And if she had asked for an attorney, what would
10 you have done?

11 A We would have terminated the interview.

12 Q She did, in fact, waive those rights?

13 A She did.

14 Q At that time after waiver of the rights, did you
15 question Ms. Jennings?

16 A Yes, I did.

17 Q Was this interview with Ms. Jennings audio
18 recorded?

19 A It was.

20 Q Thank you, Agent Thomas. Please answer any
21 questions Mr. Pride may have.

22 CROSS EXAMINATION

23 BY MR. PRIDE:

24 Q During the time that the -- Officer Bailey read her
25 waiver of rights; is that correct?

1 A To my recollection, yes.

2 Q Miranda warnings; is that correct?

3 A To my recollection.

4 Q And you were present?

5 A That's correct.

6 Q During the time that they were being read, did
7 Ms. Jennings ever ask any questions?

8 A No. She appeared to be in full understanding of
9 the rights and then signed the waiver at that time.

10 Q How did she appear to be?

11 A She was very attentive. She followed -- I believe
12 Investigator Bailey gave her a sheet as well, and
13 she followed. Then once everything was complete,
14 she agreed to do so and signed.

15 Q And at some point in time, she stopped talking?

16 A As stated earlier, I believe in the latter part of
17 the interview, she became silent. During the
18 course of the interview, she would be silent, and
19 then she would come back and answer questions, as
20 though she was thinking or just pausing on her
21 answers. At the very end, there were extended
22 pauses, and we terminated the interview.

23 Q When she would become silent, what did you do in
24 order to get her to start talking again?

25 A Depending on the question, sir. If we asked a

1 particular question that may have taken some
2 thought on her behalf, we would sit there and wait
3 for an answer. If there was any other silences, we
4 may ask her did she understand the question or ask
5 the question again.

6 Q And never at one time did Ms. Jennings ever stop
7 the interview completely?

8 A Again, toward the end her pause became elongated,
9 and then we decided to terminate it.

10 Q And when she took that long pause, you took it as
11 her demonstration of terminating the interview?

12 A Toward the end, yes. It was a very lengthy type
13 situation. I think she fumbled with her nails,
14 playing with her nails or something of that nature,
15 which appeared to me that she no longer chose to
16 answer any questions and did not choose to respond
17 to any questions that we asked her.

18 Q Where did this interview take place?

19 A It happened at Number 1 Justice Square, which is
20 our police headquarters, our main headquarters.

21 Q And how did Ms. Jennings get there for the
22 interview on the 30th?

23 A I am not certain whether she was transported or
24 walked herself, but she found her way there.

25 Q She had already been arrested? When she got there

1 she was under arrest; wasn't she?

2 A She was cuffed when I arrived at the scene, and
3 that is protocol before coming into the police
4 department upstairs into investigations.

5 Q So after you terminated your interview, where did
6 you take her?

7 A After the interview was terminated, I believe she
8 was transported to Alvin S. Glenn.

9 Q And who took her?

10 A Certainly I believe it was a patrol transport.

11 Q You or Officer Bailey didn't take her?

12 A No, we do not transport.

13 Q Did she ever ask to call her mother?

14 A I don't recall if she did or not.

15 Q Did she ever ask to have her mother present?

16 A I don't recall. She had a great deal of animosity
17 toward her mother during the course of the
18 interview. So I will assert that she did not.

19 Q Your testimony is at no time during the course of
20 the interview did she ever ask for a lawyer?

21 A No, she did not.

22 Q Had you ever met Zinah Jennings before you
23 interviewed her?

24 A No, I have not.

25 Q So when you interviewed her, that was the very

1 first time you had any contact with her?

2 A My very first encounter was that night, correct.

3 Q But notwithstanding the fact you never met her
4 before, you found her to be competent to be
5 interviewed, and you found her to be in a position
6 that she could intelligently understand questions?

7 A I most definitely did.

8 Q Thank you very much.

9 THE COURT: Redirect, Solicitor?

10 MS. GARFIELD: Nothing further.

11 THE COURT: Thank you. Thank you very much.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: You may step down.

14 (Witness leaves the witness stand.)

15 THE COURT: Solicitor?

16 MS. GARFIELD: Judge, we have no further
17 witnesses concerning this statement. We would move that
18 this statement be allowed to be admitted at trial with
19 the exception of, I believe on page 79, when Sergeant
20 Thomas is conducting his interview, he does allude to
21 the fact that she is charged with a crime that carries
22 ten years. I would move to strike that language. As
23 well, on page 98 it's the same argument.

24 Finally, on page 105 the interview was over;
25 however, the audio recording was ongoing, and it does

1 catch some of the recorded banter between Sergeant
2 Thomas and his colleagues. I would just start where it
3 says, "Indistinct audio," the first time. Everything
4 after that to the end of the transcript is struck.
5 Judge, I do have clean copies of the C.D. and the
6 transcript to provide.

7 THE COURT: All right. Let's see if Mr. Pride
8 has any evidence or testimony he intends to present in
9 Jackson versus Denno.

10 MR. PRIDE: Judge, I am not going to put up
11 any testimony as it relates to the suppression of that
12 particular questioning.

13 THE COURT: All right. What is your position
14 in that regard?

15 MR. PRIDE: Judge, I certainly will not -- I
16 won't consent to the tape being admitted and would
17 object on the grounds that at the time that Ms. Jennings
18 was interviewed, she was incapacitated. Therefore, she
19 could not have understood her rights, but I make sort of
20 a bold statement absent of proof, and I do understand
21 that.

22 THE COURT: All right.

23 MR. PRIDE: But that is the position I would
24 take.

25 THE COURT: Thank you. While you are up,

1 Mr. Pride, would you hand me the transcript, please.

2 COURT REPORTER: And I haven't marked it yet,
3 Judge.

4 (Court's Exhibit Number 3-4 are marked for
5 purposes of the record.)

6 THE COURT: Mr. Pride, what about the
7 solicitor's direction of the Court's attention to page
8 79? I realize you are not consenting to the admission
9 of the --

10 MR. PRIDE: Right.

11 THE COURT: -- statement of the audio or the
12 transcript. Do you have any additional objection as to
13 those redactions that the solicitor is making?

14 MR. PRIDE: I would say to redact those would
15 be appropriate.

16 THE COURT: That would be page 79 where there
17 is a reference...

18 MR. PRIDE: To 105.

19 THE COURT: To line 17, "Look at me, Zinah.
20 Did you hear what I'm saying? The charges you are being
21 charged with is a ten-year felony." That would be
22 redacted?

23 MR. PRIDE: Right.

24 THE COURT: Is that correct, Solicitor?

25 MS. GARFIELD: That's correct, Judge. Also,

1 if you go above to line 12, there's also a reference:
2 "This is not an issue where you should go to jail for
3 ten years," to line 15.

4 THE COURT: Then the next one was page 98?

5 MS. GARFIELD: Yes, sir. The sentence begins
6 on line 10. The mention of ten years is on line 13.

7 THE COURT: So you go from line 10 to the end
8 of line 15?

9 MS. GARFIELD: Yes, sir.

10 THE COURT: And then you go to page 105?

11 MS. GARFIELD: Yes, sir, essentially
12 everything from line 8 to the end of the transcript.

13 THE COURT: Any objections to that, Mr. Pride,
14 105, line 8, to the end of the transcript?

15 MR. PRIDE: Page 105, line 8.

16 THE COURT: To the end of the transcript.

17 MR. PRIDE: None.

18 THE COURT: Are there any areas -- preserving
19 your objection, of course -- are there any areas that
20 you request me to consider redacting, Mr. Pride?

21 MR. PRIDE: I have none.

22 THE COURT: Thank you. Thank you very much.
23 In reviewing the evidence and the testimony presented on
24 behalf of the State and a document presented on behalf
25 of the defendant, the statement obtained as a result of

1 custodial interrogation is inadmissible unless the
2 suspect was advised of and voluntarily waived his or her
3 rights under Miranda versus Arizona, 384 U.S. 436, a
4 1966 case.

5 If a suspect was advised of his or her
6 Miranda rights but chooses to make a statement, the
7 burden is on the State to prove by a preponderance of
8 the evidence that his or her rights were voluntarily
9 waived, State versus Saltz, S-A-L-T-Z, and State versus
10 Rochester and State versus Washington, all South
11 Carolina cases.

12 The suspect's waiver must be voluntary in the
13 sense that it is the product of a free and deliberate
14 choice, rather than intimidation, coercion, or
15 deception. In determining whether a confession given
16 was voluntary, the Court must consider the totality of
17 the circumstances surrounding the defendant's giving of
18 the statement.

19 Our United States Supreme Court has instructed
20 the totality of the circumstances to include: The youth
21 of the accused, his or her lack of education, or his or
22 her intelligence, the lack of any advice to the accused
23 of his or her constitutional rights, the length of the
24 detention, the repeated and prolonged nature of the
25 questioning, and the use of physical punishment, such as

1 deprivation of food or sleep. Furthermore, no one
2 factor is determinative, but each case requires a
3 careful scrutiny of all the surroundings facts and
4 circumstances.

5 From the evidence and testimony, it appears
6 that the defendant voluntarily turned herself in or at
7 least proceeded to the Columbia Police Department on the
8 night of 29 December 11; that after midnight on the
9 early morning hours of 30 December 11 around 0040 hours,
10 the defendant according to the testimony was in the
11 presence of Detective Bailey and Sergeant Thomas.

12 Detective Bailey was previously familiar with
13 Ms. Jennings and her educational level, that she had
14 graduated from high school, had attended perhaps
15 Winthrop College and perhaps Midlands Technical College.
16 Both officers testified she did not appear to be under
17 the influence of any substances. She appeared
18 attentive, alert, aware.

19 The officer testified that he had two copies
20 of the form marked Court's Exhibit 2, interrogation and
21 advice of rights, your rights. It has the place, the
22 date, and the time. The officer further testified that
23 he advised Ms. Jennings of those rights and thereafter
24 the waiver of rights.

25 It appears to be the signature of Ms. Jennings

1 to the bottom right of this document, witnessed by
2 Arthur Thomas, and I would infer that is Detective
3 Bailey's signature.

4 Not only that, I listened to the tape where
5 she was advised of her rights. Further, on the tape I
6 believe Ms. Jennings read the waiver of her rights.
7 Officers testified there were no promises or threats, no
8 coercion. She never asked for an attorney.

9 There were times that she did not respond to
10 questions, but there was never a time that she refused.
11 It was perhaps behavioral as opposed to any affirmative
12 request to suspend any questioning.

13 The defense offers the position that she would
14 not have been alert to where she would not have
15 understood; however, there is no evidence or testimony
16 before the Court in that regard.

17 At this stage of the proceeding, I would find
18 by a preponderance of the evidence that the statement
19 was freely and voluntarily, knowingly and intelligently
20 made, that it was the product of her own free will and
21 accord. She was not coerced, threatened, or harmed in
22 any manner or made any promises or pressure or anything
23 of that nature.

24 That is the threshold issue of Jackson versus
25 Denno in this case. The statement of 12/30/11,

1 beginning at 12:40, 0040 hours, is admissible with the
2 redaction of those previously noted lines on page 97, on
3 page 98, and on page 105 to the end. I will leave that
4 to the attorneys to make sure the document is properly
5 redacted and the C.D. is properly redacted.

6 Solicitor.

7 MS. GARFIELD: Thank you, Judge. The only
8 other statement the State will be seeking to introduce
9 involves the questioning of Ms. Jennings at the Richland
10 County -- Palmetto Health Richland E.R. by Officer Chris
11 Miller.

12 Mr. Pride does not stipulate that she was not
13 in custody. We are trying to get a hold of Mr. Miller,
14 Officer Miller, to come and testify. He worked nights
15 last night. He will be here this afternoon.

16 Next we like go to forward with the search
17 warrant motion. They are quite lengthy. We probably
18 will have to put up extensive testimony. So I would
19 suggest at this time perhaps we address the shorter
20 motions of Mr. Pride, perhaps the media motion.

21 MR. PRIDE: Judge, the motion that I would
22 prefer you addressing at this time -- and I will have to
23 give you a little background. Judge, I filed a motion
24 to quash the indictment, the original indictment. That
25 matter was heard before Judge Cooper, and Judge Cooper

1 did not rule on it. But on the 19th of July, the
2 solicitor reindicted the defendant in this case.

3 The position that I have -- and I might tell
4 you too, Judge, I didn't get the indictment until -- the
5 new indictment -- until 4:30. It came to my office at
6 4:30 Friday afternoon. I really didn't see it until
7 this morning.

8 But in looking at the indictment, the present
9 indictment, the one that the grand jury -- this
10 indictment says that it was true billed on July 19,
11 2012. I would have the same objections to this
12 indictment, Judge, as I did to the other indictments.

13 I think in the information that I gave you,
14 Judge, I gave you memorandums relating to why I felt the
15 indictment should be quashed. The cases cited in that
16 memoranda would be applicable to the new indictment
17 which I have just referred to that came down on the 19th
18 of July.

19 Judge, just to give you briefly the contents
20 of this indictment, it says unlawful conduct towards a
21 child. It says that Zinah Jennings did in Richland
22 County, on or before September the 1st and
23 December 24th, while having charge or custody or being
24 the parent or guardian or being responsible for the
25 welfare of the minor child Child place the child

1 at unreasonable risk of harm affecting the child's life,
2 physical, or mental health or safety, did unlawfully or
3 maliciously cause or cause to be done bodily harm to the
4 child so that the life or health of the child was in
5 danger or was likely to be in danger or did willfully
6 abandon the child.

7 Judge, I would submit to you that the only
8 part of this statute that really is applicable to this
9 case would be the abandoning of the child. Judge, do
10 you have a copy of that indictment?

11 THE COURT: I do. I was reading along with
12 you, Mr. Pride.

13 MR. PRIDE: Judge, the repeating of the
14 statute simply makes out the mens rea in the case. It
15 simply is there for the purpose of the element of the
16 intent. That's why the repeating of the statute is
17 allowed.

18 But along with the repeating of the statute,
19 Judge, an indictment must have in it conduct, described
20 conduct, on the part of Zinah Jennings which violates
21 the statute; that is to say, that Zinah Jennings
22 abandoned the child at Piggly Wiggly, that Zinah
23 Jennings did something by giving the child to somebody
24 else. All of these are just, as you well know, Judge,
25 efforts to sort of give you examples of what I think the

1 indictment should include.

2 But you can't just repeat the statute, and
3 that's all this indictment does. Not only that, Judge,
4 this indictment under that abandonment, if you look at
5 it, it has the word willful. There is no willful
6 conduct, other than the use of the word willful in the
7 indictment.

8 Now, I submit to you, Judge, that the
9 indictment in this case has to reflect back to the
10 warrant that I gave you earlier. Judge, in this warrant
11 that warrant says Zinah Jennings is being arrested
12 because she would not talk to the police department.
13 That's the essence of what they say in there. She would
14 not tell us where the child is.

15 Zinah Jennings was a suspect there as the
16 officer testified. Zinah Jennings had the right, on the
17 24th of December, to remain silent. She was a suspect.
18 Based on that warrant it says in there because she would
19 not tell us where the child is or because she told us
20 several different versions of where the child is, we
21 find that as the basis of the crime in this case.

22 Judge, you can't get an indictment -- well,
23 you can get an indictment for anything when you go
24 before the grand jury. That's sort of a one-sided deal.
25 But when you come out with a document, the documents

1 must set forth conduct, criminal conduct, on the part of
2 the defendant.

3 I submit to you, Judge, that this document has
4 no criminal conduct. It does have the element of intent
5 because it repeats the statute. But so far as that, it
6 doesn't say how she abandoned the child. It does say
7 here in Richland County. It doesn't say where in
8 Richland County.

9 I certainly can't take issue with the time
10 span because indictments can allege a period of
11 September 1st through December the 24th. That's not
12 inappropriate. But what is inappropriate is that they
13 don't assign any particular or any definite -- any set
14 of facts showing what Zinah did in order to violate the
15 statute.

16 What Zinah did, according to the warrant, was
17 that Zinah wouldn't tell them where the child was and
18 wouldn't talk. That's exactly what that warrant says.
19 Of course, Zinah, at the time on the 24th, didn't have a
20 responsibility to talk because the testimony in this
21 case is that at that time she was -- there was a warrant
22 for her arrest.

23 Because she told them different versions or
24 because she refused to tell them, she had a right to not
25 talk, and that's not the basis of arresting somebody in

1 this country. I would submit to you, Judge, if you read
2 my memorandum, though it was a memorandum for the first
3 indictment, I would submit to you that everything I said
4 is applicable to this indictment.

5 THE COURT: Mr. Pride, not only did I read
6 your memorandum, I copied all the cases and read all the
7 cases you cited because you gave it to me last week. So
8 I do want you to know that. I reviewed those cases,
9 some of which took me down memory lane, which at many
10 times can be very dusty and bumpy.

11 MR. PRIDE: It's nice to have a judge that can
12 walk down memory lane.

13 THE COURT: Or shuffle down memory lane
14 perhaps. I did review your memorandum and did review a
15 number of those cases you were citing. Thank you.
16 Anything further?

17 MR. PRIDE: That would be it. Thank you.

18 THE COURT: Thank you, Mr. Pride.

19 Solicitor, as to the indictment?

20 MS. GARFIELD: Your Honor, this motion was
21 already heard before Judge Cooper, and he did formerly
22 deny Mr. Pride's motion. I have a copy of his order if
23 you would like that.

24 THE COURT: May I see Judge Cooper's order?

25 MS. GARFIELD: We did not reindict

1 Ms. Jennings. We amended the indictment to expand the
2 time frame of unlawful conduct towards the victim Child

3 . We expanded that time frame because there may
4 be evidence presented that harm was done to the child in
5 addition to the abandonment.

6 That would be something for a jury to decide
7 which way they would like to go with that. We do have
8 evidence of Child ' blood found in the trunk of
9 Ms. Jennings' car. So we just ask you to deny the
10 motion.

11 MR. PRIDE: Judge, I don't know how this
12 happened, but Judge Cooper signed this order on the 3rd
13 of June, and he filed it apparently on the 3rd of July.
14 I have never been served with a copy of this order from
15 Judge Cooper. It's the first time that I have seen it.
16 It's hard to argue something extemporaneously.

17 THE COURT: Do you need a few minutes to
18 review the order?

19 MR. PRIDE: Yes, Judge, would you.

20 (Pause.)

21 THE COURT: It's ten minutes to 1:00. Do you
22 want to take a recess and start back after lunch,
23 Mr. Pride? That will give you an opportunity to review
24 that order.

25 MR. PRIDE: Yes.

1 THE COURT: Do you have other motions this
2 afternoon, Solicitor?

3 MR. PRIDE: I do. Were you talking to me?
4 Yes, Judge, I have a number of motions. I think I
5 intend to take up each one of those motions at Your
6 Honor's pleasure. Judge, I would like to leave my
7 briefcase and a lot of my information in the courtroom.
8 The courtroom will be locked. It usually is.

9 THE COURT: If security tells me, that is fine
10 with me. Why don't we take a recess, and we will start
11 back at 2:30. Thank you very much. We will start back
12 at 2:30.

13 (Whereupon there is a luncheon recess.)

14 THE COURT: When we took a break, Mr. Pride,
15 did you have the opportunity to review Judge Cooper's
16 order?

17 MR. PRIDE: I had the opportunity.

18 THE COURT: Do you have any additional
19 arguments you would like to make concerning the amended
20 indictment?

21 MR. PRIDE: Judge, if you don't mind
22 backtracking a little bit, my reading of Judge Cooper's
23 order would have no bearing because obviously you can't
24 affect that order. One circuit court judge can't change
25 another judge's order.

1 You can rule differently now because you have
2 an entirely different warrant before you. Other than
3 the original arguments that I made, the only other thing
4 that I wanted to bring to your attention is the new
5 indictment, the only thing it changes really, is from
6 September, I think, until December.

7 There still is no language, as I originally
8 argued, that describes the conduct on the part of the
9 defendant which would constitute a violation of the
10 statute, and I think that is a necessary element.

11 THE COURT: Do you have a copy of the original
12 indictment -- not the original indictment -- but do you
13 have a copy of it?

14 MR. PRIDE: Cooper's indictment?

15 THE COURT: Correct.

16 MR. PRIDE: Yes.

17 MS. GARFIELD: Mr. Pride, I have a copy right
18 here.

19 MR. PRIDE: Thank you. May I approach, Judge?

20 THE COURT: Yes, sir.

21 (Hands to Court.)

22 THE COURT: Anything further, Mr. Pride?

23 MR. PRIDE: Judge, just to make myself clear,
24 my point is this. I know you can't modify or do
25 anything to Judge Cooper's order. You don't have

1 jurisdiction. One circuit court judge cannot modify
2 another circuit court judge.

3 My argument to you is that this is a different
4 indictment; therefore, whatever Judge Cooper did with
5 the original indictment and whatever his ruling is is
6 not binding on you now. That's the only argument I
7 would make.

8 THE COURT: All right. Thank you. Thank you
9 very much, Mr. Pride. Solicitor.

10 MS. GARFIELD: Judge, we would just argue that
11 the indictment before you is sufficient, as we have
12 complied with South Carolina Code Statute 17-19-20. The
13 indictment shall be deemed and judged sufficient and
14 good in law which, in addition to allegations as to time
15 and place, as required by law, charges the crime
16 substantially in the language of the common law or of
17 the statute prohibiting the crime or so plainly that the
18 nature of the offense charged may be easily understood,
19 and if the offense be a statutory offense, that the
20 offense be alleged to be contrary to the statute in such
21 case made and provided.

22 We have provided Ms. Jennings notice of the
23 statute in compliance with -- the indictment is in
24 compliance with the statute to provide her proper notice
25 as to what she would be tried.

1 THE COURT: Thank you. Thank you, Solicitor.
2 I have reviewed Judge Cooper's order dated June 3,
3 2012 -- excuse me -- signed June 3, 2012, and filed
4 July 3, 2012, which was an order as far as Indictment
5 2012-GS-40-2067. I have that indictment, a copy of that
6 indictment, in front of me.

7 Also, I have in front of me amended
8 2012-GS-40-02067. The distinction between the bodies of
9 the indictment that I see are -- and I will call it the
10 Cooper indictment -- it has on or between November 24,
11 2011, through December 24, 2011.

12 On what I will call the amended indictment, it
13 has on or between September 1, 2011, through
14 December 24, 2011. All of the wording in the body of
15 the indictment is exactly the same, except for the date
16 November 24, 2011, and the date September 1, 2011.

17 On the front of the indictment, the code
18 section is the same. The C.D.R. codes are the same.
19 The charge is the same. The witness is the same. The
20 warrant number is the same. The only difference is the
21 foreperson of the grand jury on the Cooper indictment
22 that is stamped May 10, 2012, and the different name of
23 the foreperson of the grand jury true billed July 19,
24 2012.

25 Mr. Pride is exactly correct that one circuit

1 court judge could not review or overturn an order of
2 another circuit court judge. I do not believe that this
3 is a separate and distinct indictment. It is my opinion
4 that it was an amended indictment with just that one
5 change as I have placed in the record.

6 With that being said, I could not change Judge
7 Cooper's order of July 3, 2012. To go further, however,
8 if I could, in reviewing 63-5-007 and 17-19-20, I would
9 find that the indictment is sufficient under those code
10 sections and under State versus Gentry and State versus
11 Means.

12 The trial court should look at the indictment
13 with a practical eye. An indictment is a notice
14 document to put the defendant on notice of the charges
15 that have been brought against him or her and further
16 put the Court on notice of what the sentence could
17 potentially be imposed if a defendant was found guilty.

18 If it is charged and substantially in the
19 language of the statute, plus time, place, and that it
20 is contrary to the statutes made in such case -- made
21 and provided -- it is sufficient under Gentry and Means
22 and that line of cases.

23 So I would deny your motion, Mr. Pride, as far
24 as the sufficiency of the indictment, either under my
25 lack of jurisdiction to change Judge Cooper's order or

1 if I could, I find the indictment is sufficient under
2 the appropriate statutes and the case law.

3 MR. PRIDE: Judge, please don't take this as
4 an argument.

5 THE COURT: No, sir.

6 MR. PRIDE: I would appreciate it if you would
7 mark as an exhibit for the Court Cooper's order because
8 I do take exception to the Court's calling the July--
9 the June 2nd indictment an amended indictment because it
10 does not say amended. It does not have amended on it.
11 That's a reindictment.

12 THE COURT: It has it stamped at the top of
13 the indictment. That's why I used that language.

14 MR. PRIDE: Could I did see that?

15 THE COURT: Yes, sir. It may not be an
16 amended indictment. I am just reading what it has on
17 it. It's at the very top of it.

18 MR. PRIDE: You are absolutely correct.

19 THE COURT: I wasn't trying to -- this doesn't
20 say it's an amended indictment. It might not be
21 amended. It is marked as amended --

22 MR. PRIDE: I am satisfied that it is an
23 amended indictment.

24 THE COURT: -- under the number.

25 MR. PRIDE: I am satisfied that it is an

1 amended indictment.

2 THE COURT: I certainly wouldn't take it as
3 argument. Do you want Judge Cooper's order --

4 MR. PRIDE: Not now, because I did not notice
5 that as an amended indictment.

6 THE COURT: Thank you. Thank you very much.
7 You may proceed, Mr. Pride. What is the next motion?

8 MR. PRIDE: Judge, I would appreciate it if
9 you would hear my motion in limine.

10 THE COURT: All right.

11 (Attorneys confer.)

12 THE COURT: You are referring to the motion in
13 limine concerning the quote, "light blue baby blanket,"
14 unquote?

15 MR. PRIDE: That's correct, and the cadaver
16 dogs.

17 THE COURT: And testimony regarding police
18 canine dogs?

19 MR. PRIDE: That's correct.

20 THE COURT: Solicitor?

21 MS. CAMPBELL: Your Honor, we just got the
22 motion. I'm sorry. He listed it on the list of
23 motions, but we had not gotten a copy of what the
24 actual -- what the motion was. We are copying that now.
25 He just kindly provided that us to. As far as the baby

1 blanket, he is suppressing that as part of the search
2 warrant issue or is he suppressing that under relevance
3 grounds?

4 MR. PRIDE: I am suppressing that under 403,
5 that it is not relevant and should not be used and would
6 be highly prejudicial to the defendant. I apologize
7 because I thought I served it. It was my intention to
8 give them all the motions. I did not realize they did
9 not have it.

10 MS. CAMPBELL: Your Honor, I think I can argue
11 it anyway. Just to give you a little bit of factual
12 background, I think it would help educate the Court as
13 far as what happened.

14 During the course of this, you heard about a
15 car accident that occurred on December 24th. When
16 Ms. Jennings was found at the hospital on that evening,
17 it was a one-car accident, Your Honor. Subsequent to
18 that her car was towed --

19 THE COURT: What officer was that? Was that
20 Officer Miller?

21 MS. CAMPBELL: Miller, Your Honor. Your
22 Honor, subsequent to that her car was apparently damaged
23 and was towed. I believe it was kept in a private
24 parking lot for a period of time.

25 Then shortly after her arrest, search warrants

1 were gotten. That would be search warrant number two,
2 Your Honor, issued on 12/30/2011 by Investigator Bailey
3 in your book. Your Honor, it was gotten for that car.

4 During the course of that search warrant,
5 cadaver dogs were brought in. The cadaver dogs hit
6 specifically on certain areas of the car, including, I
7 believe it was, the back seat and the trunk area, Your
8 Honor.

9 At that point the officers then proceeded to
10 search and found some baby blue blankets that were
11 located in the trunk area with some reddish-brown stains
12 on them. There was subsequent testing, Your Honor,
13 which I don't believe is necessary for this motion, but
14 there was subsequent testing done, and that did match
15 the child's blood, the blood stains that were found on
16 that blanket.

17 As far as being relevant in this prosecution,
18 Your Honor, it would be our position that it would be
19 more probative than prejudicial under a 403 analysis.
20 Basically under the statute, if you look at the three
21 different prongs, then we have a right to prove
22 either/or any one of them.

23 Being that abandonment and harm to the child
24 are under the three prongs, Your Honor, we feel like
25 that this would be valuable information for a jury to

1 consider when establishing whether or not Ms. Jennings
2 had, in fact, caused either some type of harm or
3 willfully abandoned or whatever theory they go under to
4 her child.

5 Your Honor, we would have an argument as far
6 as the search warrant goes at a later time. I believe
7 he is challenging those as well for any kind of issues
8 as to whether or not that was a valid search warrant.

9 So as far as prejudicial versus probative,
10 Your Honor, we feel like this would be extremely
11 probative as to the issues in this case and respectfully
12 ask the Court that it would be at this point. I don't
13 know if you need additional information before you make
14 a ruling.

15 THE COURT: Mr. Pride?

16 MR. PRIDE: Judge, I think Solicitor Campbell
17 has correctly cited the background with the facts and
18 the basis upon which my motion would rest. I did file a
19 motion to suppress the search for that car.

20 But notwithstanding, Judge, I think it's
21 important to discuss now whether or not the testimony
22 regarding the blood on the blanket and the fact that --
23 I call them cadaver dogs -- the testimony would be that
24 a trained canine officer from the Columbia Police
25 Department brought dogs to Ms. Jennings' car.

1 The dogs made -- let's call it -- an unusual
2 attack on the car. Well, the officer would then testify
3 that when the dogs attack a car like that it is because
4 somebody was dead, a dead body was in the car. So you
5 really have the testimony --

6 THE COURT: A dead body or some part of a
7 human body decomposing?

8 MR. PRIDE: Yes. You've got a body in the car
9 and it's not alive. That's in essence what the
10 testimony would be. I suspect the testimony would be
11 from those persons that run that cadaver dog.
12 Notwithstanding the fact that during the trial I could
13 jump up and make an objection, it is -- a motion in
14 limine is made, as the Court well knows, so we can
15 address this now.

16 Judge, my argument is it's clearly 403. My
17 client is not charged with killing anybody. The
18 inference would be that she killed the child, the
19 child's body was in the back of the car, and the
20 bloodstain came from the body, from the child.

21 The D.N.A. evidence presented will be that the
22 blood stain -- they call it a blanket. I called it, I
23 think a piece. It was about as big as -- the piece --
24 it was a piece of a blanket, I think the size of a
25 dishrag. Remember, the old dishrags that people would

1 wipe off counters with? I don't even know if they use
2 them anymore, but it's about that big. It had a
3 bloodstain on it.

4 The inference would be that that blood stain,
5 along with the cadaver dogs, that ^{Child} the missing
6 child, was in the trunk of the car. That would be
7 highly prejudicial. I am not trying a case where
8 somebody -- defending somebody for murder or for killing
9 somebody.

10 Even if you look at all of the prongs of the
11 statute, Judge, they have got one shot at this case, and
12 that's under abandonment. That's the only prong of the
13 case that they can prove.

14 I have always contended, Judge, that this case
15 is going on because Ms. Jennings won't tell them where
16 the child is. As a result of it, she got arrested.
17 That's the nuts and bolts of why we are here today so
18 far as I am concerned as a defense lawyer representing
19 Ms. Jennings.

20 I would submit to you that to allow that
21 testimony to come in, the jury would be so prejudiced
22 that I could never overcome and focus them -- I mean,
23 you couldn't focus them on your instructions, Judge, as
24 it would be relevant to the charges that are pending
25 against her because their minds would be set on cadaver

1 dogs and the blood found in the back of the car.

2 So I would ask you, Judge, to not let that
3 testimony come in and to forbid it under 403 as the
4 contents of it, the prejudice outweighs the relevancy of
5 it.

6 THE COURT: Thank you. Thank you, Mr. Pride.
7 Well, the statements of the attorneys are not evidence.
8 Although as officers of the Court, I certainly believe
9 precisely what Ms. Campbell and Ms. Garfield say and
10 precisely what you say, Mr. Pride.

11 However, there is not a sufficient record for
12 me to rule on this motion in limine at this point. I
13 would be glad to conduct an in-camera hearing as far as
14 the canine officer is concerned, as far as any findings
15 are concerned from the -- is it a Dodge Neon automobile;
16 is that right?

17 MR. PRIDE: That's right.

18 THE COURT: As far as any items recovered from
19 the Dodge Neon automobile.

20 MR. PRIDE: All right, Judge. Thank you very
21 much.

22 THE COURT: I'm not in my comfort zone so to
23 speak ruling on an evidentiary matter when I have not
24 heard any evidence. I would be glad to hear from
25 whatever officer or officers the State intends to

1 present on that issue before I make any ruling in that
2 regard.

3 MR. PRIDE: Judge, I think it would really be
4 a burden on the Solicitor's Office to do that today in
5 that they -- through inadvertence I didn't give them the
6 motion.

7 So I am certain that they don't have that
8 testimony today, but maybe at the Court's pleasure
9 during the appropriate time at the trial -- we are
10 supposed to start the trial on the 27th. We could do
11 that, at least that's my understanding.

12 THE COURT: I have an administrative week the
13 week of August the 6th so that any other motions that
14 are not resolved today, we could hear the week of August
15 the 6th.

16 MR. PRIDE: I certainly would be available.

17 THE COURT: I imagine the Solicitor's Office
18 has more employees than your office.

19 MR. PRIDE: Just a few more, especially when I
20 am working my son.

21 THE COURT: Thank you. Thank you, Mr. Pride.

22 MR. PRIDE: Judge, the next motion is a motion
23 to prohibit the televising of this trial. Judge, untold
24 publicity has inundated this County, the State of South
25 Carolina, and nationally. It has brought valid purpose,

1 and that is to try and find an 18-month-old child that
2 has been missing.

3 When you sort of read the book on missing
4 children, you know, the profile says that the way you
5 find them is the more publicity you have got out there,
6 the better the likelihood is that you are going to find
7 the child. So you really can't blame the media. I
8 think they were helpful in many respects.

9 But by that same token, this case has just
10 saturated the Fifth Judicial Circuit, and some awful
11 pictures have gone out with Ms. Jennings in an orange
12 suit and being chained and taken back and forth to
13 court.

14 Judge, one of the worse things that you could
15 possibly read is social media. If you would read some
16 of the comments about this case, it's just people are
17 mean. That's all I can say. With social media and
18 televising this trial, Judge, it just puts me in quite a
19 bind to pick a jury.

20 I don't want to necessarily -- if I felt
21 asking you to go somewhere else would help me, I would
22 ask you, but I don't know anywhere to go; that is to say
23 to remove the trial.

24 But I think what would help is that during the
25 trial if you don't allow the television cameras in

1 court -- and I know the lawyers from the T.V. stations
2 are going to be up here next week with motions because I
3 have had them come before.

4 They have got a First Amendment right, but my
5 client has a Sixth Amendment right that I think trumps
6 their right in this case because they can report this
7 case, other than televising it.

8 If, Judge, you decide that you think the media
9 does have a right and you feel you are going to let them
10 televise it, then I would ask you to sequester the jury
11 during the period of time that this case is being tried.
12 Thank you very much.

13 THE COURT: Thank you. Thank you, Mr. Pride.
14 Solicitor.

15 MS. CAMPBELL: May it please the Court, Your
16 Honor. I haven't reviewed the rules, but you are very
17 aware of what it is as far as allowing the press, and
18 whatever you think is appropriate, we have no problem
19 with it.

20 The concern is I think I just heard Mr. Pride
21 say that during the trial that the jurors or someone
22 might be exposed to it. Of course, you can take
23 appropriate measures to make sure the jury has
24 absolutely no exposure to any press whether or not they
25 are sequestered or not.

1 Your Honor, that is done in almost every high
2 profile case in this County, as well as this State.
3 Those remedies, of course, you can enforce and make sure
4 that no possible prejudice would be afforded to any
5 juror that sat on this case. That seems to be the gist
6 of Mr. Pride's argument here.

7 Your Honor, there has been extensive press in
8 this case. We haven't granted any on-air interviews or
9 anything, but there have been other interviews that have
10 been conducted.

11 However, we intend to go forward and if
12 Mr. Pride feels that there are any problems as far as
13 the jury pool, of course, he just mentioned the possible
14 remedies that are available.

15 THE COURT: Well, I think it's premature at
16 this time. I follow the rules laid down by our Supreme
17 Court in ex parte: Hearst-Argyle. That's H-E-A-R-S-T
18 dash A-R-G-Y-L-E, Hearst-Argryle Television, Inc. d/b/a
19 W.Y.F.F. T.V. 4 Greenville News versus the State and
20 Charles Christopher Williams.

21 In that particular case, a 2006 case, the
22 Supreme Court laid out justifications for closure. It
23 went on to discuss how the United States Supreme Court
24 has interpreted the guarantees of free speech and
25 freedom of the press and the First Amendment of our

1 Constitution, to include a constitutional guarantee over
2 open and public courts.

3 There is a strong presumption favoring open
4 criminal proceedings. The presumption may be only
5 overcome by an overriding interest based on the specific
6 findings that closure is necessary to preserve higher
7 values.

8 The closure must be narrowly tailored to serve
9 that interest. The alleged higher value justifying
10 closure is protecting the defendant, Ms. Jennings, Sixth
11 Amendment right to trial by an impartial jury. The
12 courtroom may be closed only if specific findings are
13 made. That is laid out numerically in our Supreme
14 Court's decision.

15 In this case our Supreme Court held that the
16 trial judge used the proper standard. This was a murder
17 case from the upstate where the Court did close the
18 proceedings, and that issue was reversed. I think it's
19 premature at this time unless there is more
20 documentation you can present to the Court, Mr. Pride.

21 I will say this. It depends on whether or not
22 you get a jury quite frankly. Then if you cannot or if
23 you think you cannot, there are certain other motions
24 that you can make.

25 I will be happy to consider extended questions

1 or additional questions of voir dire or even a
2 questionnaire for the jury prior to the jury selection
3 process. If both sides want to ponder that and present
4 proposed questionnaires for the jury venire, I will
5 certainly consider that.

6 Right now I have not questioned one juror or
7 one group of jurors that have said that they could not
8 give the parties, both the State of South Carolina and
9 Ms. Jennings, a fair and impartial trial. The media of
10 course, even if you close the proceedings, are still
11 free to report it.

12 MR. PRIDE: Sure.

13 THE COURT: Then they could report it, as you
14 point out, perhaps there has been other media coverage
15 with Ms. Jennings in an orange jumpsuit with shackles
16 and such. So stock photographs and stock video so to
17 speak could still go out to the public. I will consider
18 sequestering the jury also if I think that is necessary.

19 MR. PRIDE: Judge, can we agree, if the
20 Solicitor's Office finds it enough time, can we agree
21 that we will have our questions into you by the 6th of
22 August? That way we will know what you are going to ask
23 and what you are not going to ask so that we can have
24 sort of a heads up on that? I can have mine to you by
25 then. I don't know if they can have theirs. We can

1 argue -- not argue -- but discuss them at that time.

2 THE COURT: Solicitor, does that give you an
3 appropriate amount of time?

4 MS. GARFIELD: Judge, I will be honest with
5 the Court. When we conclude these hearings, my
6 co-counsel will beginning another trial. I personally
7 will be going on vacation as soon as we are done. Could
8 we have until perhaps the end of next week instead of
9 Monday?

10 MR. PRIDE: Judge, at their convenience.

11 THE COURT: Certainly.

12 MR. PRIDE: Whenever it's convenient.

13 THE COURT: Sure.

14 MR. PRIDE: Some people get vacations; some
15 don't.

16 THE COURT: That would be fine, Solicitor. So
17 at this time I'm not going to close the proceedings. I
18 think it depends on if those guidelines or requirements
19 are met at the appropriate time, Mr. Pride.

20 MR. PRIDE: Judge, I have a motion to inspect
21 all of the physical evidence that the solicitor has and
22 the police department has. They have supplied me with
23 voluminous discovery, but I want to see everything. I
24 want to see the car. I want to see what they took from
25 the car. I want to see the rag --

1 THE COURT: You don't have to convince me of
2 that. I agree. Any problem with that, Solicitor?

3 MS. GARFIELD: No, sir.

4 THE COURT: Make arrangements. Make sure the
5 officers cooperate fully and completely with Mr. Pride.
6 I'm sure I don't have to do an order.

7 MR. PRIDE: No, we will agree on a mutually
8 convenient time.

9 THE COURT: Make sure whatever they have,
10 whatever is in their possession, that Mr. Pride has the
11 opportunity to see those items.

12 MR. PRIDE: Judge, I want to ask you this
13 before we go to the suppression, and I think
14 Ms. Campbell will handle that. Judge, I have a motion
15 for bond in this case. Judge, I don't represent people
16 of means in this case. They are struggling people.

17 Zinah Jennings, at the time that she was
18 arrested, didn't have a job. She is indigent and has
19 been, as you have heard, in confinement since the
20 29th of December.

21 Her mother works for the County and Zinah's
22 father died when she was very young, about six or seven
23 years old. He was a professor over at the University of
24 South Carolina.

25 Zinah is presently pregnant and in her third

1 trimester. I would ask you, Judge -- Judge, if the
2 Public Defender's Office came before you on a case
3 charged with the same charges that Zinah Jennings has
4 today, you would probably grant a personal recognizance
5 bond.

6 Zinah has no prior criminal convictions. She
7 does have a mental health problem, but there is no
8 reason -- we have made arrangements, Judge, that we can
9 see that she gets her treatment. She has to take
10 medicine once a day.

11 At one time, Judge, there was a bond set on
12 her for \$150,000. I really did not oppose the bond
13 because at that time if Zinah had a reasonable bond and
14 had gotten out, we didn't have things in place -- let me
15 put it that way, Judge -- as we do today in order to
16 allow her to be out.

17 She has an aunt, Judge, and she would be glad
18 to come in and testify, let you swear her in and ask her
19 some questions. The aunt lives in Chicago who is now
20 down here with her mother and could be responsible for
21 Zinah 24 hours a day to make sure.

22 Zinah will probably have her child in
23 September, and she would be able to go to her own
24 private physician. Right now she is being attended by
25 the County. And not to cast aspersions on the County

1 treatment that she is getting, but it's certainly not
2 the kind of treatment that she would get if she were out
3 and were using her mother's insurance, which she is on,
4 in order to receive care and treatment. There is a
5 question of diet.

6 The Solicitor's Office, Judge, is going to
7 bring to your attention that since Zinah has been
8 detained, she has had two incidents. One of them, when
9 she got first arrested, was with an inmate who was in
10 jail who said something to her about the missing child,
11 and as a result of it, an altercation occurred.

12 When the altercation occurred, Zinah
13 displayed, for lack of a better description, bizarre
14 behavior. The gentleman who ran the detention center
15 felt that it was best to send her to the Bryan
16 psychological institute.

17 She went there and she stayed approximately 15
18 days, and they determined that she is mentally ill.
19 Judge, since that time she has been taking medication
20 for that.

21 Recently -- and when I say recently, Judge,
22 two months ago -- when Zinah was doing her detention,
23 she got into an altercation with a nurse. A nurse
24 brought the wrong medicine or didn't bring the right
25 medicine. I'm not able and I'm not clear enough on the

1 facts to tell you exactly what happened, but it's
2 somewhere along that.

3 No charges were pressed against her, but the
4 detention center, Mr. Myers, gave her 90 days in
5 solitary confinement. If she had gone before a
6 magistrate, he wouldn't have given her but 30 days and
7 out of the 30, she probably wouldn't even serve but
8 about 15 before she would be out.

9 I would submit to you that because she is
10 mentally ill, because she has no prior criminal record,
11 because she is pregnant, and because she has a mother
12 who is a responsible person who has brought her sister
13 down to take care of her, I would ask you, Judge, to
14 give her a personal recognizance bond.

15 She will only be out until the 27th, which is
16 not a long period of time. We will be glad to do
17 whatever the Court says to do while she is out to
18 report, whatever, but we have someone, Judge, who will
19 be with her 24 hours a day and can manage her behavior
20 and care.

21 As I said before, she is under medication, but
22 I don't ask for justice in this, I ask for mercy, Judge,
23 to please help them out and think about this young lady
24 and her pregnancy and what she is going through and help
25 them. Give them an opportunity to bring her home and

1 rehabilitate her so she can get ready for trial to help
2 me. She is not much help in the condition she is in
3 now. Thank you very much.

4 THE COURT: Thank you, Mr. Pride. Solicitor.

5 MS. GARFIELD: Thank you, Your Honor. May it
6 please the Court. Ms. Jennings' bond was initially set
7 by a magistrate on New Year's Eve. Investigator Bailey
8 and myself were present for that hearing.

9 She then subsequently retained Mr. Pride as
10 her counsel, and Mr. Pride moved the Court for a bond,
11 Casey Manning, for a bond reduction hearing sometime in
12 January, late January.

13 Judge Manning heard argument and took them
14 into consideration and ultimately denied a motion to
15 reduce bond. Keep in mind, Your Honor, that this case
16 initially began as a missing person's case. Her mother
17 reported her missing.

18 This is not the first time her mother has
19 reported her missed. She is obviously a flight risk.
20 She has ties to North Carolina, as well as Georgia. Her
21 half-sister lives in Atlanta. She has family members
22 that live in the Charlotte area.

23 She is a flight risk, and it is now my
24 understanding she also has family members in Illinois,
25 which ultimately makes her a greater flight risk. She

1 is also not necessarily a threat to the community, by
2 there is a definite threat to her unborn child.

3 While evidence was seized from her jail cell,
4 as well as her mother's home, correspondence between the
5 two of them while she has been incarcerated, while we
6 are not intending to use any of that information at
7 trial, I do bring to Your Honor's attention there have
8 been letters written where she has indicated that she
9 can't get wait to get of the jail so she can smoke
10 marijuana. She is pregnant. That would endanger her,
11 and I wanted to bring that to your attention.

12 THE COURT: Any response, Mr. Pride?

13 MR. PRIDE: The only thing that I know of,
14 Judge, to help my case before you is that if you think
15 it would help, I can put her aunt up and have you
16 examine her and have her tell you how she is capable and
17 can be in control of her 24 hours a day and is willing
18 to do that.

19 THE COURT: Mr. Pride, I take your word for it
20 as an officer of the Court.

21 MR. PRIDE: Thank you.

22 THE COURT: With all due respect, I don't
23 think it would help. As I say, I take your word as an
24 officer of the Court. If you tell me that's the case, I
25 would take that into consideration with this motion.

1 MR. PRIDE: That's fine with me, Judge. As I
2 said before, this is a situation for mercy and not for
3 justice. They don't have money to put up. They are
4 struggling. This is not a case that I took for a fee.
5 I have known the family. I knew her father. Her father
6 was a friend of mine.

7 Judge, as a matter of fact, when he died, I
8 was with him. He died from cancer. I was with him and
9 his wife. I knew both of them before they got married,
10 just a great friend is all I can tell you, Judge. They
11 are not people of means and they really want Zinah out
12 to try and let her have the baby somewhere other than
13 the jail. Thank you.

14 THE COURT: Thank you. Thank you very much,
15 Mr. Pride. What classification of felony is 63-5-70?

16 MR. PRIDE: It's ten years within the
17 discretion of the Court.

18 THE COURT: All right. Reviewing the history
19 of the bond, the fact that it was set at \$150,000 surety
20 bond, and it was reviewed by Judge Manning back in
21 January, I understand, he denied reduction of bond.

22 Looking at the factors I must look at,
23 although I believe a change of circumstance might also
24 be appropriate, given her family ties, the fact she was
25 not employed, her mental condition, although she has no

1 prior record, as Mr. Pride points out, she does have a
2 record of flight to avoid prosecution, which is evident
3 as recent as December the 6th of 2011, based on the
4 testimony that has been before the Court today.

5 Further, she is facing a felony charge that
6 she could receive a sentence of up to ten years. It
7 appears that Mr. Pride states she may have some mental
8 health issues, but those have been addressed timely by
9 the staff at the Alvin S. Glenn Detention Center,
10 wherein she was referred to Bryan psychiatric.

11 She is also obviously getting appropriate
12 medical treatment. As far as having the issue with the
13 inmate in the jail, I wouldn't imagine that is unheard
14 of for any inmate down there --

15 MR. PRIDE: Judge, excuse me for interrupting.

16 THE COURT: -- and given the fact that she is
17 pregnant and the solicitor's statement to me about the
18 fact there is a letter wherein she might purport to use
19 drugs if she were released, the fact it's less than a
20 month before the case is to be called for trial, I find
21 based on the nature and circumstances of the offense
22 charged, the history of flight risk, that a personal
23 recognizance bond would not be appropriate. I would
24 deny the bond reduction.

25 Mr. Pride, I did not meant to cut you off if

1 you have something further to say. I don't consider it
2 argument. I would be glad to hear from you.

3 MR. PRIDE: Not an argument, just the fact
4 when you said on December 6th, you remember that on
5 December 29th, she turned herself in. She walked all
6 the way from her house to the police department. That
7 certainly does not -- is not indicative of someone who
8 is a flight risk.

9 You said on December 6th she manifested
10 tendencies to be a flight risk, and I simply wanted to
11 called that to your attention. Thank you very much.

12 THE COURT: Thank you. Thank you very much,
13 Mr. Pride. Taking that into consideration, that she did
14 turn herself in, I would still consider her to be a
15 potential flight risk. I would deny the bond. I find
16 that the bond is reasonable under the circumstances of
17 this case and this defendant. The next motion?

18 MR. PRIDE: Judge, I think Ms. Campbell has
19 all her witnesses here and is prepared to go forward.
20 Am I correct?

21 MS. CAMPBELL: Yes, sir.

22 THE COURT: What motion will this be or
23 motions?

24 MS. CAMPBELL: The suppression of the search
25 warrants. It was filed by the defense.

1 THE COURT: Which search warrants, Solicitor?

2 MS. CAMPBELL: We received notice of his
3 intent to suppress the results of the search warrants.
4 In your table of contents that was handed up to Your
5 Honor, items 1 through 14, the table of contents we
6 actually did in the front of that, Your Honor, we took
7 directly from his motion.

8 Your Honor, I would note that two of those
9 need to be corrected. Items 7 and 8, affiant is C.D.
10 Bailey. The affiants on those two is actually Officer
11 Vanhouten.

12 THE COURT: Officer who?

13 MS. CAMPBELL: Vanhouten, V-A-N-H-O-U-T-E-N.

14 THE COURT: On 7 and 8?

15 MS. CAMPBELL: Yes, sir.

16 THE COURT: Are there going to be items that
17 the State intends to present from all of these various
18 search warrants?

19 MS. CAMPBELL: No, sir.

20 THE COURT: Why then am I hearing suppression
21 motions on search warrants if nothing is going to be
22 offered?

23 MS. CAMPBELL: The only thing the State would
24 like to allow is that part of this is since we are going
25 under an abandonment theory, that we did do the

1 necessary procedures to try to find information through
2 various venues.

3 Your Honor, it's our position that except in
4 three of these -- in search warrant number 6, Your
5 Honor, it's moot because we did a Schmerber order which
6 was consented to. That one does not need to come into
7 consideration.

8 Search warrants 1, 2, and 10, Your Honor, we
9 concede the defendant has standing under a Fourth
10 Amendment suppression motion to challenge. However,
11 Your Honor, the majority of the search warrants,
12 including search warrants 3, 4, 5, 7, 8, 9 -- and we are
13 not intending to go into 11, 12, 13, and 14, Your
14 Honor -- and I am assuming -- and I don't mean to assume
15 because I haven't heard his argument, but if he is
16 moving to suppress those under a Fourth Amendment
17 argument?

18 MR. PRIDE: That's correct.

19 MS. CAMPBELL: Then, Your Honor, pursuant to
20 State versus McKnight, he would not have standing. I
21 can hand up copies of that case, Your Honor.

22 MR. PRIDE: Judge, I would concede that the
23 law requires that a defendant who raises a suppression
24 or files a suppression motion must have standing. It
25 was difficult to tell from the search warrants in some

1 substances, I didn't know which ones they were going
2 forward with, but in those substances where somebody
3 else's property was searched, if we filed to suppress,
4 we would not have standing to do that.

5 MS. CAMPBELL: Then that narrows our scope
6 down to, I believe, three of the search warrants. May I
7 approach?

8 THE COURT: Yes, ma'am. What three then?

9 MS. CAMPBELL: One, two, and -- the two of the
10 house and the car. Under the table of contents, it
11 would be search warrants 1, 2, and 10.

12 MR. PRIDE: Excuse me a minute, Your Honor.

13 (Pause.)

14 MR. PRIDE: Judge, there is a disagreement
15 there were prior medical records obtained, and the
16 argument by the State would be that they are entitled to
17 them because of a Court order. Their position is that
18 they are entitled to those records because they got a
19 Court order.

20 I would still move to suppress them on the
21 grounds that, notwithstanding the fact that they got a
22 Court order, that they were not entitled to them because
23 they were personal and medical records.

24 THE COURT: That's medical records of
25 Ms. Jennings?

1 MR. PRIDE: It is the records of Ms. Jennings.

2 THE COURT: Ms. Jennings, Zinah Jennings?

3 MR. PRIDE: The defendant, that's correct. If
4 you want, I will give my authority but I stand on that.

5 MS. CAMPBELL: Your Honor, this is the first
6 we have heard of this motion. I would be glad to look
7 at the case law. I think we are entitled -- and we did
8 go through the proper venue in order to secure those
9 records legally -- and we have done so.

10 THE COURT: Before we get to the medical
11 records though, the search warrants, the first one in
12 this book, which is on the search warrant on the home --

13 MR. PRIDE: We don't have the same book you
14 have, Judge. When you say one, you will have to tell me
15 a little bit more.

16 MS. GARFIELD: Judge, I will get Mr. Pride a
17 copy of the table of contents.

18 MR. PRIDE: Okay, because I'm not looking at
19 the same thing you are, Judge.

20 MS. CAMPBELL: It came out of your motion.

21 MR. PRIDE: That list?

22 MS. CAMPBELL: Yes.

23 MR. PRIDE: I'm sorry.

24 (Attorneys confer.)

25 MS. CAMPBELL: Your Honor, I have marked all

1 the original search warrants, Court's Exhibits 5 through
2 19, to preserve the record. I would merely hand up the
3 originals, which are Court's Exhibits 5, 6, and 14, only
4 those three, Your Honor, and we would have testimony.

5 (Court's Exhibit Number 5-19 are marked for
6 purposes of the record.)

7 THE COURT: Do you understand the numbers now?

8 MR. PRIDE: Yes. Judge, in order to expedite
9 the matter, one motion that I have as it relates to the
10 records would not depend upon their testimony. It's a
11 matter of law. Either I am correct in the law that I'm
12 stating and you agree with me or either I'm incorrect.

13 If I'm incorrect, that ends the question of
14 suppression. Those are the medical records. So if we
15 could, could we entertain that first? That takes no
16 witnesses.

17 THE COURT: My preference is to not entertain
18 that first only because I would like to see your
19 authority and have the opportunity to read it. You said
20 you had a case and Ms. Campbell said she had a case.

21 MS. CAMPBELL: I would hand up a copy of the
22 order.

23 (Hands to Court.)

24 THE COURT: Mr. Pride?

25 MR. PRIDE: Judge, I don't have the case with

1 me. I do have the citation.

2 THE COURT: All right, sir.

3 MR. PRIDE: The citation would be State versus
4 Lawrence, 264 S.C. 3. Then it's 212 S.E.2d 52. It's a
5 1974 case that is still good. In that case they cite,
6 Judge, Boyd versus United States, which is a United
7 States Supreme Court decision. That is 116 U.S. 616.

8 I cite that for the proposition that the law
9 is clear that you cannot subpoena and you cannot get a
10 Court order for personal records and medical records.
11 By doing that, what you are doing is invading the
12 defendant's due process Fourteenth Amendment rights
13 because that is not subpoenaable.

14 Also, Judge , that information that was
15 obtained -- and if I can approach, I can show you -- was
16 obtained in an ex parte order from a circuit court judge
17 with no notice to counsel. The Lawrence case does cite
18 Boyd versus United States. It holds that the records
19 cannot be gotten by subpoena or Court order.

20 THE COURT: State versus Lawrence, which I am
21 looking at now, states that to compel a defendant by
22 subpoena or Court order to produce his private records
23 or papers for use as evidence against him violates his
24 privilege against self incrimination.

25 MR. PRIDE: Right.

1 THE COURT: A Court order has not compelled
2 Ms. Jennings to produce her records. It compelled the
3 State Department of Mental Health.

4 MR. PRIDE: That's why they cite Boyd because
5 Boyd says, "or a third party in possession thereof." It
6 makes it very clear from the United States Supreme Court
7 decision that the only way you can do it is through a
8 search warrant.

9 Any other way the defendant is giving evidence
10 against themselves, and therefore it cannot be done. It
11 certainly cannot be done, Judge, through an ex parte
12 order on a circuit court judge.

13 THE COURT: Solicitor, do you care to address
14 the medical records issue?

15 MS. CAMPBELL: Your Honor, they are pulling
16 State versus Lawrence, which he cited right now. I
17 apologize for not being prepared on this. I didn't know
18 there was an argument on this case. Your Honor, these
19 were records we got in response to a motion that was
20 granted by the Court during a competency evaluation of
21 this young woman.

22 As part of that evaluation, part of the
23 records that were relied upon that were referred to in
24 the competency evaluation are the records then we
25 procured via the Court order.

1 I understand in just looking at Lawrence
2 quickly -- and I haven't had a chance, Your Honor, to
3 look at it intensively -- it looks like they talk about
4 a person's right against self incrimination. In other
5 words, a person compelling to produce the records, it
6 would incriminate them. That was not done and is not an
7 issue in this case.

8 I do believe he referred to an ex parte order.
9 I believe any time we issue a subpoena or to a Court
10 order, it's generally an ex parte order to some extent.
11 I believe we did the proper thing in this case to
12 procure the records, which we then turned over to the
13 defense immediately to make sure that everyone had a
14 complete copy.

15 The only reason we did seek this is because we
16 were anticipating -- there have been numerous references
17 to Ms. Jennings' mental state in this case. As of yet
18 we have not received from defense counsel any notice of
19 insanity or guilty but mentally ill defenses in this
20 case and do not know if those would become relevant in
21 the case; however we do feel like they were properly
22 procured.

23 MR. PRIDE: Judge, I don't intend -- and you
24 won't receive such notices from counsel because I don't
25 intend to file any. But, Judge, any time somebody gets

1 records, it's always from a third party: a bank, a
2 hospital, a school. The question becomes: Are those
3 personal or business records?

4 Medical records are personal records; and if
5 they are personal records, you get them from a search
6 warrant, but you cannot get them by subpoena or Court
7 order. That's exactly what Boyd says, and that's why
8 State versus Lawrence spoke of the United States Boyd
9 case in that decision.

10 I submit to you also, Judge, I don't think
11 anybody can come to you and get an ex parte order to get
12 records. If you are dealing with something that you are
13 going to use during the prosecution of a case that
14 belongs to my client, then I am entitled to notice.

15 THE COURT: Don't they do that all the time
16 with search warrants?

17 MR. PRIDE: Judge, they used to just -- the
18 solicitor at one time could just object to jurors and
19 give no reason, but we changed that. I submit to you
20 just because they do it all the time doesn't make it
21 right.

22 THE COURT: Well, if you read cases like State
23 versus Baccus, State versus Woods where an officer has
24 gone to a circuit court judge ex parte and gotten an
25 order to take somebody's body fluids, samples, saliva or

1 drugs, what have you, that's done ex parte.

2 MR. PRIDE: That's Schmerber.

3 THE COURT: Excuse me?

4 MR. PRIDE: That's Schmerber.

5 THE COURT: That's not even a Schmerber
6 hearing.

7 MR. PRIDE: No, but I mean, the Schmerber
8 decision says that -- you are talking about something
9 that law enforcement is entitled to. They are not
10 entitled to these documents. That's why they call them
11 personal documents.

12 That's much different from a law enforcement
13 officer coming to you and saying, I got a drunk out
14 there, Judge, and I want to take his blood. You know
15 law enforcement is entitled to blood, saliva, urine, all
16 of those things.

17 But to come to you and say, Judge, I want to
18 go get Mr. Pride's bank records because we are going to
19 prosecute him. I want to get his health records, no, a
20 judge can't sign an ex parte order on that because you
21 have got to give Mr. Pride notice so that Mr. Pride can
22 come up and at least say, Judge, don't give them and
23 this is the reason why. Then you can take it under
24 consideration.

25 That's why I object to that ex parte order.

1 Further, the order -- the cases clearly hold that you
2 can't get that as a result of an order. That's what it
3 says clearly. You can't get it by subpoena and you
4 can't get it by court order, and it says court order.

5 THE COURT: So the foundation, if I am
6 tracking you correctly, the foundation of your objection
7 is the Fifth Amendment?

8 MR. PRIDE: No.

9 THE COURT: That's what Boyd says.

10 MR. PRIDE: The Fifth Amendment and Fourteenth
11 Amendment.

12 THE COURT: The Fifth Amendment, the
13 foundation is --

14 MR. PRIDE: Self incrimination.

15 THE COURT: Yes, sir.

16 MR. PRIDE: And Fourteenth, due process.

17 THE COURT: That the papers incriminate the
18 defendant?

19 MR. PRIDE: No. The defendant is giving
20 evidence that may incriminate her, is being required to
21 participate in their prosecution by giving it. That's
22 what I'm saying.

23 That's why the Court says you can't do it by
24 subpoena and Court order. You can do it if you look for
25 it and find it, and you do that through a search

1 warrant. But you just can't -- that's a privileged
2 area. Thank God it is, Judge.

3 THE COURT: Solicitor?

4 MS. CAMPBELL: May it please the Court, Your
5 Honor. The distinction I see in just reading
6 Lawrence -- and I have not had time to do any other
7 research, Your Honor -- in that case there was an order
8 or warrant to compel the defendant to produce records
9 that were then used against him.

10 In this case these are business records we are
11 attempting to get from an entity in which the defendant
12 in the case had no access or business with, other than
13 being a patient at one point, Your Honor. That would be
14 just to me the compelling distinction I see off the top
15 of my head.

16 MR. PRIDE: Judge, I am willing to let --

17 THE COURT: What I -- go ahead, Mr. Pride.

18 MR. PRIDE: I am willing to let the Court hold
19 it in abeyance and give them time to submit any
20 memorandum. If you want me to further develop a
21 memorandum on it, I would be glad to do it. Because it
22 is an important issue for me and if time will help my
23 argument, then I would want to give them time.

24 THE COURT: I have Lawrence and Boyd. I can
25 look at it in that regard, and if the solicitor wants to

1 provide anymore to the Court, she provide it to you and
2 she can provide it to the Court. If you want me to look
3 at anything else, I certainly will.

4 MR. PRIDE: No, Judge. My argument is based
5 on Boyd and Lawrence. I think I will win or lose in
6 that area.

7 THE COURT: All right.

8 MR. PRIDE: Thank you.

9 THE COURT: Thank you, Mr. Pride. Now, are we
10 ready for the search warrant?

11 MS. CAMPBELL: If you are, Your Honor, yes,
12 sir.

13 THE COURT: So now a search warrant number one
14 is now Court's Exhibit Number 5; is that correct?

15 MS. CAMPBELL: Yes, sir.

16 THE COURT: Solicitor, you may call your
17 witness.

18 MS. CAMPBELL: The State would call
19 Investigator Bailey.

20 COLIN BAILEY, being
21 first duly sworn, testifies as follows:

22 DIRECT EXAMINATION

23 BY MS. CAMPBELL:

24 Q Investigator Bailey, again for the record, where
25 are you employed?

1 A City of Columbia Police Department.

2 Q And you took an active role in the investigation
3 surrounding the disappearance of Child ?

4 A I did.

5 Q Through the course of your investigation, did you
6 seek several search warrants in this case?

7 A I did.

8 Q The first ones I want to show you are actually
9 identified as State's Exhibit -- excuse me --
10 Court's Exhibit's 5 and 6 and are dated on
11 December 30, 2011. Do you recognize those two
12 copies.

13 A (Pause.) Yes, ma'am, I do.

14 Q And are you the one that actually prepared those
15 search warrants?

16 A I was.

17 Q Did you then take the necessary arrangements to try
18 to get them signed off on by a neutral and detached
19 magistrate or ministerial recorder?

20 A I did.

21 Q Tell the judge how that actually happened.

22 A The magistrate, their office is at 811 Washington
23 Street, which is next door to police headquarters.
24 I went there and met with the magistrate. The
25 magistrate was already -- in the particulars of

1 these search warrants, the magistrate was already
2 familiar with the case. I further explained what
3 we were doing, why we were doing such, and then
4 secured two search warrants in relation to this
5 case.

6 Q So did you actually present the search warrants I
7 presented to you to the magistrate that day?

8 A I did.

9 Q Were those presented at the same time?

10 A They were, yes, ma'am.

11 Q And you mentioned that in presenting the warrants
12 prior to swearing to the affidavit, did you also
13 give her additional information about the case?

14 A I did.

15 Q Can you tell the judge some of the specifics of the
16 additional information you gave her about the case
17 surrounding Zinah Jennings, who was in custody at
18 this point; is that correct?

19 A That's correct. We explained that we had run into
20 a situation where we had met and interviewed Zinah
21 Jennings the previous night, and she had not given
22 us any information regarding the whereabouts of the
23 child.

24 We were now sure we had a case regarding the
25 unlawful conduct towards a child. We explained

1 what we had done so far in the case and what we
2 planned to do and why we were searching the car and
3 the house. We were looking for further evidence of
4 the crime.

5 Q So specifically she was informed of the underlying
6 charge?

7 A She was.

8 Q Or a crime had occurred?

9 A Correct.

10 Q And was she also told the reason why you were
11 attempting to search the car and the house in this
12 case?

13 A She was.

14 Q What were some of the reasons you were trying to
15 search the car and house where the child was last
16 seen?

17 A We were looking for any evidence as to where the
18 child might have been put by the defendant or what
19 might have occurred, what might have happened with
20 the child or anything that -- I can read exactly
21 what I wrote.

22 Regarding the car at that point, we were
23 looking for any evidence as to where Zinah may have
24 been with her car or what might have happened in
25 her car or any evidence inside the car that would

1 lead us to either Child location or his -- what
2 may have happened to him.

3 It was specifically things like notes, cell
4 phones, traffic tickets, anything that might
5 indicate where she had been in the last several
6 months. Regarding the home we were also looking
7 for the same thing and any evidence which may lead
8 us to either Child location or what may have
9 happened to him. Of course, at that point we were
10 also looking for information that would support the
11 charge on unlawful conduct towards a child.

12 Q At that point was the judge also given information
13 about the specifics and the timeline involving the
14 disappearance of Child ?

15 A She was.

16 Q And that was gone over in detail with her?

17 A It was.

18 Q As much as you testified to in an earlier hearing?

19 A Exactly, yes, ma'am.

20 Q And in addition to that, she was made aware of the
21 underlying charge?

22 A She was.

23 Q And the reason you needed to specifically search
24 those areas. Specifically had the child been seen
25 in those areas sometime prior to his disappearance?

1 A He had.

2 Q And, in fact, were those two, the car and the
3 house -- whose house was it?

4 A The house is essentially owned by Zinah's mother,
5 but Zinah has a room there and spends a substantial
6 amount of time there. At the time of her arrest, I
7 think she would consider herself a resident there.
8 Prior to September of 2011, I think she lived there
9 for almost a year and then when she went to high
10 school, lived there as well.

11 Q And even though it was her mother's house, you went
12 and made sure you got a search warrant?

13 A Correct.

14 Q Specifically you gave the judge specifics as to why
15 you were searching and the underlying charges for
16 the crime?

17 A Yes, ma'am.

18 MR. PRIDE: Judge, the questions embellish the
19 answer. The answer should come from the witness. All
20 he has to say is yes, yes, yes, yes. I object to that
21 line of questioning, Your Honor.

22 THE COURT: Rephrase your questions,
23 Solicitor.

24 BY MS. CAMPBELL:

25 Q Basically what information was she given?

1 A Specifically the charge that we had charged her
2 with and what we were looking for. Like I said,
3 things like receipts, traffic tickets, cell phones,
4 anything that might give us a hint as to what
5 Zinah's whereabouts had been or Child

6 We were also -- we told her about the
7 interview the previous night and about the charge,
8 and everything -- all the information we had
9 uncovered up until then.

10 Q Was she also made aware of how long the child had
11 been missing?

12 A Yes.

13 Q And approximately how long had the child been
14 missing as far as you knew at that point?

15 A At that point we had -- we were going on the
16 December 6th date. That came from Zinah herself,
17 but we later -- around the exact same time we were
18 also going through her phone records, and we were
19 looking at video as to -- for stores where Zinah
20 and Child were seen together, then video at various
21 stores where Zinah was seen without Child and we
22 later came up with another date of November the
23 29th.

24 Q November the 29th?

25 A Right, 2011.

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1 Q And were you aware at that point who actually
2 reported ^{Child} missing and Zinah for that matter?

3 A Can you say that again?

4 Q Who actually reported Zinah and ^{Child} missing?

5 A Jocelyn Jennings.

6 Q What relation is she to the defendant in this case?

7 A She is the mother.

8 Q You also mentioned in earlier testimony that there
9 was information that was garnered from an interview
10 with the defendant at the hospital by, I believe,
11 Officer Miller?

12 A That's correct.

13 Q Did you relate that information to the magistrate
14 as well?

15 A I believe I did.

16 Q What she reported?

17 A Yes, ma'am.

18 Q What was it she had reported?

19 A That she did not have a child.

20 Q Did she also -- did Zinah also give certain
21 officers information about the child being in
22 Atlanta?

23 A She did.

24 MR. PRIDE: Judge, excuse me. The question
25 embellishes the answer. All he has got to do it sit

1 there and repeat what the question is, and the answer is
2 yes. That's not the way to lay a foundation. I object
3 to this line of questioning.

4 THE COURT: Rephrase the question, Solicitor.
5 I sustain the objection.

6 BY MS. CAMPBELL:

7 Q Was there also other information about the child
8 reported by Zinah?

9 A Yes, there was, that ^{Child} was in East Point,
10 Georgia.

11 Q Where is East Point near?

12 A East Point is just outside of Atlanta, and is the
13 residence of Zinah's half-sister, who up until then
14 I had been in frequent contact with and, in fact,
15 officers with the East Point Police Department.
16 One of our officers went down there to East Point
17 and spoke to her.

18 Q And is that information also related to the
19 magistrate?

20 A The information that I had spoken to the woman, to
21 the half-sister in East Point, was related. I am
22 not sure if we had gone yet to the house at that
23 point.

24 Q Finally, you mentioned you had a conversation with
25 her, I believe, earlier in the day or midnight on

1 the same day you got the search warrants?

2 A Can you say that again?

3 Q You had a conversation with Zinah Jennings when she
4 turned herself in?

5 A That's correct.

6 Q Did you also relate the information she was able to
7 give you to the magistrate --

8 A I did.

9 Q -- in securing the search warrant?

10 A Yes, ma'am, I did.

11 Q And the search is actually -- did the magistrate
12 find that there was probable cause based on your
13 testimony to her, as well as the affidavit?

14 A Yes, she did.

15 Q And did you then execute those search warrants or
16 did someone execute them?

17 A The search warrants were executed by Investigator
18 Coleman for the house and by myself on the car.

19 Q Where was the car actually located when you
20 executed the search warrant?

21 A At police headquarters inside the City of Columbia,
22 County of Richland.

23 Q Where had the car been located prior to its towing
24 to police headquarters?

25 A It had been located on a tow lot on Atlas Road. I

1 can't recollect the exact address, but I think it
2 was A-1 Towing on Atlas Road.

3 Q At a later date did you find it necessary or frugal
4 to go back and search the house and curtilage on
5 Lady Street again?

6 A We did.

7 Q I show you what has been marked -- it hasn't been
8 marked as anything -- this is a copy of the search
9 warrant from January 4, 2012?

10 A Yes, ma'am.

11 Q Was that an additional search warrant you got in
12 this case?

13 A It was.

14 MR. PRIDE: Judge, would you mind if I see it
15 before you give it to the witness.

16 THE COURT: I do not mind. Of course. I
17 think this would be Court's Exhibit Number 14, the
18 second search warrant for Lady Street.

19 MS. CAMPBELL: Yes, sir. A copy has been
20 provided.

21 MR. PRIDE: Thank you.

22 BY MS. CAMPBELL:

23 Q Again, what area were you attempting to search that
24 day?

25 A On that particular day, we were searching the yard

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1 and the area mostly around the house, including
2 sheds and basically the curtilage.

3 Q And when you went and approached the magistrate,
4 was this the same magistrate or a different one or
5 do you remember?

6 A I don't remember. Yes, this is the same
7 magistrate, the same magistrate.

8 Q Prior to swearing the affidavit, did you again give
9 her additional information in addition to what was
10 on the face of the affidavit itself?

11 A I did, including information that we had had a
12 cadaver dog hit on the car during the search at
13 police headquarters. So we thought it was prudent
14 to also use a cadaver dog in the search of the
15 grounds at the residence.

16 Q And other information was similar to what you have
17 already testified to?

18 A It was.

19 Q And then did the magistrate find probable cause and
20 sign your search warrant?

21 A She did.

22 MS. CAMPBELL: That's all I have at this time,
23 Your Honor.

24 THE COURT: Thank you, Solicitor. Mr. Pride.

25 MR. PRIDE: Thank you very much, Judge.

1 **CROSS EXAMINATION**

2 BY MR. PRIDE:

3 Q Do you have the affidavit before you?

4 MS. CAMPBELL: Here it is.

5 BY MR. PRIDE:

6 Q When you went before the magistrate on December
7 the 30th, that was before or after you had your
8 interview with Zinah Jennings?

9 A That was after, just after the midnight interview
10 with Zinah Jennings.

11 Q So on the 30th you had a midnight interview with
12 Zinah?

13 A Right, as I testified to earlier today.

14 Q How long was that interview?

15 A Two hours.

16 Q Two hours. At midnight?

17 A About, yes, sir.

18 Q And what time did you get the search warrants?

19 A I don't know exactly what time. I can look at them
20 quickly to tell you what time.

21 MR. PRIDE: I hand to the witness Court's
22 Exhibit 5, 6, and 14.

23 A There is a date, but there isn't a time on the
24 warrants, but it was in the morning.

25 Q It was in the morning?

1 A Yes, sir.

2 Q And was that -- what was the name of the
3 magistrate?

4 A Ms. Ladson.

5 Q And she happened to be on duty at that time?

6 A Yes, sir.

7 Q And I think you told the judge that when you went
8 to get the search warrant that the magistrate told
9 you that she was familiar with this case?

10 A She didn't tell me she was familiar with it. I
11 knew she was familiar with it because she was
12 involved in the arrest warrant.

13 Q So she had previously issued the arrest warrant?

14 A Yes, sir.

15 Q And you didn't testify on direct examination that
16 you said the magistrate said she was already
17 familiar with this case? Well, let me just ask
18 you. Was she already familiar with this case?

19 A Yes, she was, sir.

20 Q What did she know about this case?

21 A She knew the basics in the sense that we had gotten
22 a warrant and everything that I testified to just a
23 few minutes ago.

24 Q So she knew about the warrant?

25 A She did.

1 Q And if she knew about the warrant, what she knew
2 was that Zinah was being arrested because she
3 wouldn't tell you where ^{Child} is; isn't that
4 correct? Isn't that what you put on the warrant?

5 A That was part of the arrest.

6 Q Other than that, what other facts did you have to
7 tell her? Other than the fact the mother would not
8 cooperate and tell you where the missing child was?

9 A Right. The fact that other family members and
10 friends of Zinah Jennings also did not know where
11 the child was, the fact that the defendant, Zinah
12 Jennings, had given conflicting statements to the
13 police and to family and friends about the location
14 of the child, the fact that no one had seen the
15 child for almost a month at that point.

16 Q No one had seen the child almost a month before the
17 30th of December?

18 A Correct.

19 Q And let me ask you this: Did the magistrate ask
20 you any questions at all?

21 A I don't remember any specific questions. I am
22 familiar with the magistrate, and typically there
23 are questions. She typically asks me questions
24 about a case.

25 Q And would you agree with me that what you told the

1 magistrate is that we have a missing child, we have
2 a mother in custody and under arrest, and the
3 mother won't tell us where the child is?

4 A Right, plus all the other things that I had just
5 testified.

6 Q Other things that you testified to was that other
7 people told you that the child was missing and had
8 not been seen in almost a month; is that correct?

9 A That's correct.

10 Q That's about the extent of what you knew?

11 A The fact that no one had seen the child, that there
12 was conflicting statements, and that Zinah had
13 either not told us where the child was or had
14 outright told us all what we thought to be a lie
15 about the location of the child.

16 Q Or refused to tell you at all?

17 A Correct, which she had done both.

18 Q And what were you -- why were you getting that
19 search warrant? Were you searching in connection
20 with the arrest warrant or were you searching for
21 other reasons?

22 A Right. We were searching in connection to the
23 arrest warrant to further gather evidence related
24 to the crime.

25 MR. PRIDE: Please indulge me, Your Honor.

1 THE COURT: Yes, sir.

2 (Pause.)

3 BY MR. PRIDE:

4 Q Were you searching because you thought that the
5 child was at an unreasonable risk of harm?

6 A Could you repeat that?

7 Q Were you searching for the child because you
8 believed the child was being exposed to an
9 unreasonable risk of harm?

10 A That was part of it, yes, sir.

11 Q Did you tell the magistrate that?

12 A I believe, probably not in those records, but, yes,
13 sir.

14 Q And did you tell the magistrate that the mother had
15 abandoned the child?

16 A We did. We thought that there was a strong
17 possibility based on what we had learned so far.

18 MR. PRIDE: Would you mark this is as an
19 exhibit.

20 (Defendant's Exhibit Number 2 is marked for
21 identification.)

22 BY MR. PRIDE:

23 Q I want to show you what has been marked by the
24 court reporter as Defendant's Exhibit 2 and ask you
25 to take a look at that.

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1 A Yes, sir.

2 Q Now, what is the very first charge in that statute?

3 A Underneath Section 63-5-70, unlawful conduct
4 towards a child, Section (a) reads: It is unlawful
5 for a person who has charge or custody of a child
6 or who is the parent or guardian of a child or who
7 is responsible for the welfare of a child as
8 defined in 63-7-20 to (1), place the child at
9 unreasonable risk of harm, affecting --

10 Q Excuse me for interrupting. That's what you said
11 or you told the magistrate that you thought the
12 child was being exposed or had been exposed to an
13 unreasonable risk of harm?

14 A Correct.

15 Q And what was that unreasonable risk of harm that
16 you referred to when you talked to the magistrate?

17 A At that point it was unknown.

18 Q It was unknown?

19 A Yes, sir.

20 Q And you told me that the magistrate didn't ask you
21 any questions that you can recall; is that correct?

22 A I can't recall any specific questions.

23 Q And you told me that the reason why you were
24 applying for a search warrant was because of the
25 charges that are enumerated in Section 63 dash...

- 1 A 5-70.
- 2 Q Yes.
- 3 A Yes, sir.
- 4 Q That was the reason?
- 5 A That's correct.
- 6 Q And you felt that part of your investigation should
- 7 be the car that Zinah had wrecked; is that correct?
- 8 A Correct, yes, sir.
- 9 Q Had you had any information that ^{Child} had been seen
- 10 in that car?
- 11 A Yes. Our understanding was that was the way that
- 12 ^{Child} typically was transported to various locations
- 13 was in Zinah's car.
- 14 Q And you told the Court that you had information
- 15 that Zinah maintained at least a room at her
- 16 mother's house on Lady Street?
- 17 A Yes, sir.
- 18 Q And you felt by going to that room and executing a
- 19 search warrant -- did you execute the search
- 20 warrant for the entire house or that room?
- 21 A We executed it for the entire house; however, we
- 22 focused our search efforts in that room.
- 23 Q I think you also told the Court that the car -- the
- 24 car was a total loss; would you not agree?
- 25 A A total loss?

1 Q That was in the wreck.

2 A Yeah, my understanding -- not being an expert on
3 vehicles, but it was in pretty rough shape,
4 virtually unfixable.

5 Q All those things -- not the car being a total
6 loss -- but the things you have previously stated
7 are things that you gave the magistrate which you
8 relied upon in issuing the search warrant?

9 A Yes, sir.

10 Q Now, the magistrate's office is right down there
11 with the Columbia Police Department; is that
12 correct?

13 A They generally -- their office is on the bottom
14 level of the courthouse, which is located at
15 811 Washington Street. That is next door to police
16 headquarters.

17 Q Next door?

18 A Yes, sir.

19 Q Does the police department maintain any office in
20 that building?

21 A The court liaison. There is one Columbia police
22 officer who has their office in that building. It
23 is the court liaison officer. Right now it's
24 Officer Hamm and he is located there.

25 Q Does the officer work for the magistrate over

1 there?

2 A He does not.

3 Q And that magistrate's office is in that building
4 that you described?

5 A Yes, sir.

6 MR. PRIDE: Thank you very much, Judge.

7 THE COURT: Thank you, Mr. Pride. Redirect,
8 Solicitor?

9 MS. CAMPBELL: No, sir.

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

12 THE WITNESS: Thank you, sir.

13 (Witness leaves the witness stand.)

14 THE COURT: Solicitor, you may call your next
15 witness.

16 MS. CAMPBELL: The State would call Angela
17 Ladson.

18 ANGELA LADSON, being
19 first duly sworn, testifies as follows:

20 **DIRECT EXAMINATION**

21 BY MS. CAMPBELL:

22 Q Ma'am, where are you employed?

23 A The City of Columbia Municipal Court.

24 Q What do you do for the municipal court?

25 A I'm a ministerial recorder.

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1 Q As a ministerial recorder, can you tell the judge
2 what your duties include?

3 A My duties include signing arrest warrants, search
4 warrants --

5 MR. PRIDE: I can't hear her, Judge. Would
6 you ask her to speak up.

7 A I sign arrest warrants, search warrants, bench
8 warrants, and I also do rules.

9 Q So your job includes -- specifically I want to talk
10 about search warrants today -- signing search
11 warrants?

12 A Yes.

13 Q Prior to you signing off on a search warrant, is it
14 necessary for the officer to present an affidavit
15 and come to that --

16 MR. PRIDE: Judge, see, that is what the
17 witness should be testifying to, not in the question.
18 What do you require of an officer when he comes before
19 you? That's the question.

20 THE COURT: Rephrase the question.

21 MR. PRIDE: Don't embellish the answer. Don't
22 give her the answer. I object.

23 THE COURT: Rephrase the question.

24 BY MS. CAMPBELL:

25 Q Prior to signing a search warrant, what information

1 is necessary for you to get?

2 A The officers bring in an affidavit with the
3 probable cause for a search warrant.

4 Q And receiving the probable cause, is part of it in
5 the affidavit?

6 A Yes.

7 Q Can you also get another information other ways?

8 A Yes.

9 Q What ways can they also give you information that
10 helps you in your probable cause?

11 A I asks question. If everything is not in the
12 probable cause, I will ask questions as to
13 everything that is in that search warrant: What
14 are you looking for? Why are you looking for it?
15 And is there a reason for you to get this?

16 Q Specifically I want to show you what has been
17 marked as Court's Exhibit 5, 6, and 14. Are you
18 familiar with those search warrants?

19 A (Pause.) Yes, I am.

20 Q Are those search warrants that you actually signed
21 off on?

22 A Yes.

23 Q And are you familiar with Investigator Bailey?

24 A Yes, ma'am.

25 Q And is he the person that actually came to you for

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1 these search warrants?

2 A Yes.

3 Q When he came for those search warrants, can you
4 tell the judge generally what type of information
5 you got, in addition to what is in the affidavits
6 on those warrants?

7 A Yes. He came to get one specifically on the car.
8 I asked him where was the car and why was he
9 searching the car. He told me the reason why. I
10 asked him why was he searching the house, and he
11 also told me the reason why. The reason he said he
12 was searching the house is that's where
13 Ms. Jennings lived, along with her son. He needed
14 to get information in the house that would lead him
15 to the whereabouts of the child.

16 Q Did he also give you any specifics about what had
17 led up to the arrest of Zinah Jennings.

18 A Yes.

19 Q And did that include some -- what type of
20 information did that include?

21 A Well, the fact she would not divulge where the
22 child was, and she had given misguided information
23 as to who she left the child with. So the child
24 was still not found, and he was still searching for
25 information leading to where the child's whereabouts

1 was.

2 Q Was he able to give you information about how long
3 the child was missing?

4 A Yes.

5 Q And was that something you also considered?

6 A Yes.

7 Q And did he also give you information as to the
8 underlying charge of the case?

9 A Yes.

10 Q He also came back, I believe, on January the 4th
11 for an additional search warrant; is that correct?

12 A Yes.

13 Q And at that time did he also swear out and sign the
14 affidavit?

15 A Yes.

16 MR. PRIDE: Judge, there again, I hate to keep
17 objecting, but she asked: Did he come back with the
18 affidavit? Then she said yes, he did. What did he come
19 back with? And let the answer come from the witness on
20 the stand. I object to it.

21 THE COURT: Solicitor, you may rephrase your
22 question.

23 BY MS. CAMPBELL:

24 Q What did he come with?

25 A He came with an affidavit on the 4th.

1 Q At that point can you relate to the judge briefly
2 what happened?

3 A Yes. He said he had additional information and he
4 needed to go back to the house again and search the
5 house again because he needed -- he had some
6 additional information that would help him to find
7 the whereabouts of the child or help him in the
8 search for the child.

9 Q What, if any, specifics did he give you at that
10 point?

11 A I'm not sure. This was actually the one -- which
12 one was this? This is the one that they were
13 looking on the outside in the back yard of the
14 house looking for -- if I'm not mistaken and I
15 could be because there was a lot of search
16 warrants -- it was a shovel involved in something
17 at this time.

18 I'm not quite sure if this is the one with the
19 shovel that they were looking for. They were in
20 the back yard of the house and the curtilage around
21 the house at this particular search warrant, the
22 one on the 4th.

23 Q Do you remember asking Investigator Bailey any
24 specific questions?

25 A I don't recall what I asked him at that time, but

1 knowing myself I did ask him questions pertaining
2 to: What did you have that would lead you to go
3 back to the house? I think at that time he was
4 telling me about what was in the back yard that
5 they were looking for.

6 Q And on each of these three search warrants, did you
7 find that there was probable cause?

8 A Yes, I did.

9 MR. PRIDE: I'm just standing over here
10 because I can't hear, Judge.

11 THE COURT: That's fine.

12 MS. CAMPBELL: That's all.

13 **CROSS EXAMINATION**

14 BY MR. PRIDE:

15 Q You sign basically search warrants for the Columbia
16 Police Department?

17 A I sign, yes, for the police department. I sign for
18 the V.A. Hospital. We sign for --

19 Q For who?

20 A Sometimes we have the V.A. We do sign for the
21 Columbia Police Department basically. Sometimes
22 the V.A. comes in and needs search warrants from us
23 too.

24 THE COURT: The V.A. Hospital?

25 THE WITNESS: I do. We can do arrest warrants

1 for the V.A. Hospital.

2 BY MR. PRIDE:

3 Q Search warrants for the V.A. Hospital?

4 A I mean, if they need a search warrant, I can do a
5 search warrant for them.

6 Q So, in other words, your offices are at the
7 Columbia Police Department?

8 A Uh-huh. (Indicating affirmative response.)

9 Q And you say you do search warrants for Columbia
10 Police Department and for the V.A. Hospital?

11 A I said -- very, very seldom have I signed anything
12 from the V.A., but they have come in. We do search
13 warrants for the fire department as well.

14 Q But primarily you do search warrants for the
15 Columbia Police Department?

16 A Correct.

17 Q And how long have you been down there?

18 A Seven years.

19 Q Seven years?

20 A Yes.

21 Q And would it be fair to say that you handle the
22 search warrants?

23 A I along with two other ministerial recorders.

24 Q Two other ministerial recorders. Okay. In this
25 case primarily what the officer told you was that

1 they couldn't get any correct information from
2 Zinah Jennings; is that correct?

3 A Correct.

4 Q And they also told you that she wouldn't tell them
5 where the child was?

6 A That's correct.

7 Q And as you said during your direct examination, you
8 don't recall what questions you asked them, but
9 knowing yourself --

10 A I asked some questions.

11 Q -- you must have asked some?

12 A I asked questions.

13 Q But you just can't remember on those particular
14 search warrants what questions you asked?

15 A I know I asked in particular about the car. I
16 asked why he was searching the car, and he
17 explained to me why he searched the car. I asked
18 him where the car was, and he told me where the car
19 was. I also asked him why he was searching the
20 home, and he told me the reason why.

21 Q Did you ask him: Why are you searching a wrecked
22 car when, in fact, you are looking for a missing
23 child?

24 A I did.

25 Q And what was his answer?

1 A He told me that the car was wrecked. The child was
2 believed to have been in that car at one time.
3 They were looking for information to see if
4 anything was in the car that would lead to the
5 whereabouts of the child.

6 Q Based on the affidavits that were presented and the
7 conversations that you had with the officer who
8 requested the search warrant and the questions that
9 you asked, you felt that there was probable cause?

10 A Yes, I did.

11 MR. PRIDE: Thank you very much, Judge.

12 THE COURT: Redirect, Solicitor?

13 MS. CAMPBELL: No, sir.

14 THE COURT: Thank you. Thank you very much
15 for being with us today.

16 THE WITNESS: Thank you.

17 (Witness leaves the witness stand.)

18 THE COURT: Any other witnesses, evidence,
19 testimony on this issue from the State?

20 MS. CAMPBELL: No, sir.

21 THE COURT: Are you going to present any
22 evidence or testimony on this issue?

23 MR. PRIDE: I'm not, Judge. I would like at
24 your pleasure to make my argument, but I'm not going to
25 present any witnesses.

1 THE COURT: We will take about a 15-minute
2 recess.

3 (Whereupon there is a recess.)

4 THE COURT: Mr. Pride?

5 MR. PRIDE: Judge, I would move the Court to
6 suppress the search warrants on the grounds that the
7 ministerial magistrate is not neutrally detached. They
8 are all in a complex together down there. Clearly from
9 her testimony she only signs search warrants for the
10 Columbia Police Department.

11 She uttered something about the V.A. Hospital,
12 but I was never clear on that. Where you have is a
13 magistrate who is functioning only for one law
14 enforcement agency.

15 Plus, Your Honor, I think you have to take
16 under consideration too the proximity. That's all one
17 complex. She testified in that building where the
18 magistrates are the police department does have an
19 office.

20 The law is clear that where a person who is a
21 magistrate, they must be neutrally detached from law
22 enforcement when it comes to issuing search warrants. I
23 would move you to suppress the search warrants on the
24 grounds that there is evidence that they are not
25 neutrally detached.

1 THE COURT: Thank you, Mr. Pride. Solicitor.

2 MS. CAMPBELL: Your Honor, I disagree with the
3 assessment. The testimony was from Investigator Bailey,
4 as well as from the ministerial recorder herself, that
5 they are neutral. They are separate from the police
6 department. I see no indication that she is anything
7 but what she is supposed to be.

8 THE COURT: Thank you. Thank you, Solicitor.
9 I would -- if the issue is the fact that the ministerial
10 recorder, Ms. Ladson, was not neutrally detached, I
11 would deny suppression of the search warrant on that
12 grounds.

13 The fact that the Columbia Police Department
14 is in close proximity to the City of Columbia judicial
15 office, that one officer has an office in the municipal
16 court complex and that is the court liaison officer, and
17 even given the fact that she issues search warrants,
18 primarily not only for the Columbia Police Department
19 and perhaps for the V.A. at times, it appears that
20 Magistrate Ladson's testimony was that she was
21 inquisitive, that it was typical of her to ask
22 questions.

23 She appeared to have independent knowledge of
24 the documents which she issued, not only Court's 5, 6,
25 and 14, but also other documents perhaps that she

1 issued. She said it was like her to ask questions, and
2 it would be unlike her not to ask questions.

3 When I look substantively at the probable
4 cause, the magistrate is to make a practical common
5 sense decision when given all the circumstances set
6 forth, including the veracity and basis of knowledge of
7 the person applying for the warrant, and there is a fair
8 probability that evidence will be found at a particular
9 place.

10 I think that is clear in this case, given the
11 fact that unlawful conduct towards a child, the officers
12 searched the known prior residence of the individual who
13 had been charged with the unlawful conduct of a child,
14 known to have been in the company of the child, searched
15 her residence, focused on her room, searched her vehicle
16 in which the child was known to be transported in from
17 time to time.

18 I believe it's clear that the police had
19 probable cause to seek the warrant, and there was a
20 wealth of information given in addition to the written
21 affidavit, both as to 5, 6, and 14. So your motion to
22 suppress the search warrants are respectfully denied.

23 Are there other motions, Mr. Pride?

24 MR. PRIDE: Yes, Your Honor. Your Honor, we
25 know for a fact that where you have a missing child, you

1 have -- the police department sets up Crimestoppers. I
2 don't know if they are independent of the police
3 department, but my request goes to Number 12, which says
4 motion to disclose impeaching and exculpatory evidence.

5 If the Solicitor's Office or the Columbia
6 Police Department has any reports that have come in
7 regarding where Child is or who has Child or information
8 regarding Zinah which may be favorable to the defense, I
9 am requesting that the Court order the Solicitor's
10 Office and the Columbia Police Department to turn all of
11 that over to me in preparation of my defense for
12 Ms. Jennings.

13 THE COURT: Thank you. Thank you, Mr. Pride.
14 Solicitor?

15 MS. CAMPBELL: Beg the Court's indulgence.

16 (Pause.)

17 MS. CAMPBELL: Your Honor, I believe that the
18 defense has all the discovery in the case, except that
19 there are some Crimestoppers' tips that we have not
20 received yet. We will get with Crimestoppers and redact
21 those properly with a Court order, Your Honor, if you
22 want and turn those over immediately.

23 THE COURT: What is your time frame?

24 MS. CAMPBELL: I can get somebody working on
25 it tomorrow.

1 THE COURT: When would they be delivered to
2 Mr. Pride?

3 MS. CAMPBELL: Wednesday. Does that work?

4 MR. PRIDE: Certainly. Thank you.

5 THE COURT: Works better than Thursday;
6 doesn't it, Mr. Pride?

7 MR. PRIDE: It sure does.

8 THE COURT: Solicitor, if you would please
9 make arrangements for that. If there is a follow-up
10 motion in that regard, Mr. Pride, just notify the Court.

11 MR. PRIDE: Judge, could we approach the bench
12 just a minute to discuss two matters?

13 THE COURT: Yes, sir.

14 (Whereupon there is a bench conference off the
15 record.)

16 THE COURT: Solicitor, as I understand, you
17 have another officer available?

18 MS. GARFIELD: Yes, sir. May it please the
19 Court.

20 THE COURT: Yes, ma'am.

21 MS. GARFIELD: The State calls Officer Chris
22 Miller from the Columbia Police Department.

23 THE COURT: Come around and be sworn, please.

24 CHRISTON LEE MILLER, being
25 first duly sworn, testifies as follows:

1 DIRECT EXAMINATION

2 BY MS. GARFIELD:

3 Q Officer Miller, state your name for the record.

4 A Christen Lee Miller.

5 Q Officer Miller, where are you employed?

6 A The City of Columbia Police Department.

7 Q How long have you been employed there?

8 A A little over three years.

9 Q What are your duties with the Columbia Police
10 Department?

11 A Regular patrol duties, patrol, answer calls.

12 Q Would that be including answering to wrecks?

13 A Yes, ma'am.

14 Q Were these your duties back in December of last
15 year?

16 A They were.

17 Q Do you recall specifically working on the evening
18 on December 23rd, into the morning hours of
19 December 24th of last year?

20 A Yes, ma'am, I did.

21 Q Particularly were you asked to respond to a wreck
22 involving a subject Zinah Jennings?

23 A Yes, I was.

24 Q Can you just relay to the Court what you responded
25 to?

1 A It was a single-car accident where the car had left
2 the road and struck a tree and a telephone pole, I
3 believe. It was at Millwood and Washington Street.
4 I arrived on scene and E.M.S. was on scene. They
5 were tending to Ms. Jennings.

6 I was able to get her driver's license. She
7 seemed not very coherent at the time. She was
8 just -- I don't know if she was challenged from the
9 wreck or whatnot, but she didn't want to talk to
10 me.

11 Q And once you got the name Zinah Jennings, were you
12 able to ascertain any legal status she was under?

13 A I'm sorry. I didn't hear you.

14 Q Were you able to ascertain if she was under any
15 sort of legal status, missing person, or anything
16 of that nature?

17 A Yes, ma'am. When I ran her driver's license, I
18 came back with an N.C.I.C. hit.

19 Q For what?

20 A To notify or make contact with Investigator Bailey
21 as soon as I could.

22 Q And did you make contact with Investigator Bailey?

23 A I did.

24 Q After speaking with Investigator Bailey, what did
25 he instruct you to do?

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- 1 A To immediately ask Ms. Jennings as to the
2 whereabouts of her child.
- 3 Q And did you do so?
- 4 A I did.
- 5 Q Where did that take place?
- 6 A In the trauma bay at Richland Memorial Hospital.
- 7 Q After you talked with Investigator Bailey, had
8 Ms. Jennings already been transported?
- 9 A She had.
- 10 Q At that time did you go to the hospital?
- 11 A Immediately.
- 12 Q And at that time was Ms. Jennings in custody?
- 13 A No, she was not.
- 14 Q Did you ask her where her child was?
- 15 A I did.
- 16 Q And what did she reply?
- 17 A She told me she didn't have a child.
- 18 Q And did you at any time ask her where her son was?
- 19 A I did. I asked her again where her son was for a
20 second time, and she gave me an address, I believe,
21 on Ridge Crest Lane and stated he was with a family
22 member.
- 23 Q Where is Ridge Crest Lane?
- 24 A I do not know.
- 25 Q Thank you. Please answer any questions Mr. Pride

1 may have.

2 **CROSS EXAMINATION**

3 BY MR. PRIDE:

4 Q You said when you first met Ms. Jennings she was
5 not coherent?

6 A She didn't want to talk to me. She would ignore
7 me.

8 Q The question is: Did you say that she was not
9 coherent?

10 A She seemed that way.

11 Q And notwithstanding the fact that she was not
12 coherent, you went to the hospital; is that
13 correct?

14 A Yes, sir.

15 Q And where did you see her in the hospital?

16 A She was on the bed in the trauma room.

17 Q In the trauma room. And were people taking care of
18 her medical needs?

19 A They had already -- they weren't working on her
20 when I was talking to her, no, sir.

21 Q They had cut her clothes off of her; hadn't they?

22 A I do not recall.

23 Q Do you recall, did she had a concussion, a big blue
24 spot up under her eye?

25 A No, sir.

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1 Q You don't remember that?

2 A No, sir.

3 Q Thank you very much.

4 THE COURT: Anything on redirect, Solicitor?

5 MS. GARFIELD: Just briefly.

6 REDIRECT EXAMINATION

7 BY MS. GARFIELD:

8 Q Officer Miller, was Ms. Jennings ever taken into
9 custody that night?

10 A No, ma'am.

11 MS. GARFIELD: Nothing further.

12 THE COURT: Recross, Mr. Pride?

13 MR. PRIDE: None.

14 THE COURT: Thank you. Thank you very much,

15 Officer Miller. You may step down.

16 (Witness leaves the witness stand.)

17 THE COURT: Solicitor, I would be glad to hear
18 from you.

19 MR. PRIDE: Judge, based on his testimony, I
20 think his testimony would go more to the weight of the
21 credibility based on the fact that he talked to somebody
22 who was incoherent than it would to the motion to
23 suppress.

24 Clearly he says the statement -- that she was
25 not in custody. He didn't know anything about that. It

1 was a voluntary statement. The question really goes to
2 do you believe somebody who would have been incoherent.
3 So I don't have a stance on that.

4 THE COURT: So you withdraw your motion to
5 suppress based on Miranda?

6 MR. PRIDE: That's correct.

7 THE COURT: Thank you. Thank you very much.
8 Other motions?

9 MR. PRIDE: No, none from the defense, Your
10 Honor.

11 THE COURT: I have several up here that I
12 don't know that you have addressed. One motion for
13 disclosure of attempt to use evidence?

14 MR. PRIDE: That would be done simultaneously
15 with my ability to physically go out and see the
16 evidence. I sort of agree with the Solicitor's Office.
17 We will get together outside of court and agree on a
18 mutually agreeable time. So we really don't need you to
19 help us with that.

20 THE COURT: There is a motion to quash the
21 warrant?

22 MR. PRIDE: That motion is withdrawn once the
23 indictment came down.

24 THE COURT: The motion for speedy trial, the
25 trial is scheduled for 27 August?

1 MR. PRIDE: That's correct.

2 THE COURT: So I need to rule on the mental
3 health records; correct? I need to rule on that motion
4 on the mental health records and the Court order?

5 MR. PRIDE: If you are asking me, if the
6 question is to me, yes, you do, Judge.

7 THE COURT: Then I need to -- I am trying to
8 re-track the ones that have not yet been resolved. We
9 have the in camera on the cadaver dogs and the blue
10 blanket.

11 MR. PRIDE: That's correct.

12 THE COURT: We have held in abeyance the press
13 issue.

14 MR. PRIDE: Subject to the picking of a jury.

15 THE COURT: Y'all are going to get me
16 requested voir dire by the end of next week.

17 MR. PRIDE: By the 6th.

18 THE COURT: I have asked the clerk to subpoena
19 more jurors than normal. Rather than 300, I think 350.

20 MR. PRIDE: Do you have any idea when that
21 pool will be sent out for? I can find out from the
22 Clerk's Office.

23 THE COURT: The clerk told me earlier. I have
24 completely forgotten. Do you know?

25 CLERK: Normally it's three weeks ahead of

1 time.

2 THE COURT: Normally three weeks out.

3 MR. PRIDE: All right.

4 THE COURT: Is there anything else either
5 under advisement or in abeyance, Solicitor? Mr. Pride?

6 MR. PRIDE: Excuse me a minute, Judge. I have
7 been told the 6th is on a Sunday. That would be the
8 7th. The 6th of August is on a Sunday.

9 MS. GARFIELD: It's actually on a Monday, but
10 I thought we agreed to sometime the middle of next week
11 with my vacation.

12 MR. PRIDE: Is it on a Monday? Yes, a Monday.

13 THE COURT: That's for the voir dire. Is that
14 what you are referring to?

15 MR. PRIDE: Yes, I will have it there by then.

16 THE COURT: I think y'all earlier agreed that
17 by the end of the week of the 6th, by the 10th, that
18 y'all would get those to me.

19 MR. PRIDE: That will be fine.

20 MS. GARFIELD: Will this be voir dire that you
21 will be using, Judge, or are you going to send out
22 questionnaires like in capital cases?

23 THE COURT: I would be glad to hear you on
24 that issue.

25 MS. GARFIELD: I just wasn't sure you said one

1 way or the other.

2 THE COURT: I didn't.

3 MR. PRIDE: Judge, I usually serve my requests
4 on the solicitor and a copy to the judge, and I file a
5 copy with the clerk.

6 THE COURT: My thoughts were it would just be
7 what I would ask, rather than send out questionnaires.

8 MS. GARFIELD: That's fine. I just wanted
9 clarification.

10 THE COURT: You are going to set up -- you and
11 Mr. Pride -- are going to set up whatever else you want
12 me to hear next week on that in camera?

13 MS. GARFIELD: Yes, sir.

14 THE COURT: Correct, Mr. Pride?

15 MR. PRIDE: That's correct. I can get you an
16 order this week. You are here all this week?

17 THE COURT: Yes, sir. Thank you. Thank you
18 very much. Court will be in recess until 9:30 in the
19 morning.

20 (Whereupon the proceedings are concluded for
21 July 30, 2012.)

22 (The following proceedings are reported on
23 August 8, 2012.)

24 THE COURT: Under Rule 605 of the South
25 Carolina Appellate Court Rules, which covers

1 broadcasting, televising, recording, or photographing
2 court proceedings, 605(f)(3) indicates: No more than
3 two television cameras operated by no more than one
4 camera person each shall be permitted in any
5 proceeding.

6 I think the rule goes on to elucidate what
7 the media must do in that regard. By my count there are
8 three cameras in the courtroom. That is a violation of
9 Rule 605. I think it then has to be pooled if I am
10 mistaken.

11 I am required to follow this rule, which means
12 the media is required to follow this rule. So one of
13 three cameras will have to be removed from the
14 courtroom. I think there is -- I think within the rule
15 there are factors as far as pooling arrangements under
16 3(i)(v).

17 MR. PRIDE: Judge, can I approach you while
18 they are working that out? It's not anything about the
19 case.

20 THE COURT: Sure.

21 (Whereupon there is a bench conference off the
22 record.)

23 THE COURT: Thank you. Thank you very much
24 for your cooperation in that regard.

25 This is the State versus Zinah Jennings. We

1 are back on the record as far as Indictment
2 2012-GS-40-02067, amended indictment. It appears there
3 is a motion in limine.

4 Is that what you want to proceed with first,
5 Mr. Pride? Solicitor?

6 MR. PRIDE: That is what will probably take
7 more time than anything else, and I would like to
8 proceed with it. Having said that, Judge, there is one
9 other thing that I would like to call to your attention.

10 When the motion in limine came before you, you
11 made it very plain that before you ruled, you wanted to
12 see everything that was involved in it so you could make
13 a decision.

14 Likewise, I would like the opportunity, after
15 everything has been presented, to give me at least until
16 tomorrow, which would be Thursday, to submit my
17 memorandum. I do have one prepared, but obviously the
18 one that I have prepared would not encompass what may
19 come forth before the Court today.

20 THE COURT: I will take that under advisement.

21 MR. PRIDE: Thank you.

22 THE COURT: Thank you. Anything before we
23 proceed, Solicitor?

24 MS. GARFIELD: Judge, just to put on the
25 record, you ordered us to turn over the Crimestopper

1 reports. We have done that, as well as we requested a
2 transcript of last weeks proceeding. With the court
3 reporter's permission, I have given a copy of those to
4 Mr. Pride.

5 THE COURT: Thank you. Thank you very much.
6 All right, Solicitor.

7 (Attorneys confer.)

8 MR. PRIDE: We will work that out.

9 THE COURT: Thank you, Mr. Pride. Solicitor.

10 MS. GARFIELD: Thank you, Your Honor. The
11 State would call Officer Jaime Gunter.

12 JAIME GUNTER, being
13 first duly sworn, testifies as follows:

14 CLERK: State your name for the record.

15 THE WITNESS: Jaime Gunter.

16 MS. GARFIELD: May it please the Court.

17 THE COURT: Yes, ma'am.

18 **DIRECT EXAMINATION**

19 BY MS. GARFIELD:

20 Q Officer Gunter, where are you employed?

21 A The Lexington County Sheriff's Department.

22 Q And if you will share with the judge what your
23 duties are with the Lexington County Sheriff's
24 Department?

25 A I'm a school resource officer there at Lexington

1 County.

2 Q Do you have any prior involvement with dog or
3 canine handling?

4 A I was a police canine handler from 2002 until 2005.

5 Q And in what department were you a handler?

6 A The City of Cayce.

7 Q And are you presently a handler?

8 A I'm a human remains detection dog handler through
9 another organization.

10 Q Can you just explain to the judge the organization
11 that you are referring to?

12 A My dog and I participate with what is called the
13 S.T.A.R.R. team. It stands for Search Tactics and
14 Rescue Recovery. It's a nonprofit search and
15 rescue team that works with government agencies to
16 locate missing and deceased persons.

17 Q And approximately how many dogs would you say are
18 on this team?

19 A Certified at the moment, I think we have about
20 three certified dogs.

21 Q Can you explain to the judge your qualifications
22 and your certifications and education regarding
23 canine handling?

24 A Yes, ma'am. I started out in 2001 handling
25 bloodhounds and went to man-tracking, man-trailing

1 schools. I then went to handling the police
2 canines and mentored and apprenticed my instructor
3 certificate with Highland Detector Dogs in
4 Edgefield, South Carolina. I've worked a police
5 canine on the street, and now I'm our lead canine
6 instructor for our search team.

7 Q And how many dogs do you have now?

8 A Working dogs, one.

9 Q Working dogs, I apologize. What is your dog's
10 name?

11 A Mia.

12 Q And how old is Mia?

13 A Mia turned three in July.

14 Q How long have you been working Mia as far as any
15 kind of search and recuse recovery?

16 A I started training Mia when she was eight months
17 old.

18 Q And explain to the judge how you go about training
19 your dog?

20 A We take the scent or odor of human remains, and we
21 use really Pavlov's theory. We are conditioning a
22 response that we want to a stimuli, and the stimuli
23 to the dog is the odor of human remains.

24 We start with toys. We scent the toys. The
25 dogs have to be extremely toy driven to do the

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1 work. They learn that odor and associate it with
2 their toy, and then we teach them a response that
3 we want then to elicit when they find that odor.
4 Mia's is to sit and bark.

5 Q And how long did you train Mia to do this kind of
6 effort?

7 A We started training at eight months old, and I
8 think she was approximately a year and a half when
9 we did her final certification.

10 Q And is she certified?

11 A She is.

12 Q And after she became certified, what was the
13 training like at that point?

14 A After certification we do a weekly training with
15 the dog just to keep her up to speed. Monthly our
16 team meets and we train as a team, and the dog has
17 to be recertified every year.

18 Q And are you also involved in instructing other
19 canine handlers?

20 A Correct.

21 MS. GARFIELD: Your Honor, at this time I
22 would like to introduce Ms. Gunter as an expert in
23 canine handling.

24 THE COURT: Mr. Pride?

25 MR. PRIDE: We do not accept her as an expert

1 and would like to cross examine.

2 THE COURT: You may do so.

3 VOIR DIRE EXAMINATION

4 BY MR. PRIDE:

5 Q Ms. Gunter, you testified before the Court that in
6 order to keep your dogs active and trained that you
7 take them out once a week; is that correct?

8 A Once they are certified, it's weekly work, yes.

9 Q So the answer to my question would be: Yes, you
10 take them out once a week?

11 A I take her out a lot of times more than once a
12 week, but we only document about once a week.

13 Q And do you keep a log?

14 A Yes.

15 Q Where is that log?

16 A It's at our team headquarters.

17 Q You didn't bring it with you today?

18 A No, sir.

19 Q And that log would indicate the number of times
20 that you took Mia out?

21 A Yes.

22 Q Okay. Now, so far as cadaver dogs and persons who
23 use cadaver dogs, would you not agree with me that
24 that's not a science?

25 A That what is not a science?

1 Q The use of cadaver dogs and the results thereof.

2 That's not a science; is it?

3 A I don't know the studies that have been done.

4 Q I beg your pardon?

5 A I don't know the studies that have been done.

6 Q So the answer to my question would be: No, it's
7 not a science?

8 A I don't know.

9 Q You don't know if it's a science or not?

10 A Huh-uh. (Indicating negative response.)

11 Q Tell me, what kind of training did you go through
12 in order to gain your certification?

13 A I worked and apprenticed with Highland Detector
14 Dogs. I started my work there with my own dog and
15 continued in his instructor's course after my dog
16 was done to continue training with him.

17 Q With him who?

18 A His name is Kenneth Cannon.

19 Q And where does he live?

20 A Last time I talked to him, I think he is in Arizona
21 maybe now.

22 Q In Arizona?

23 A Uh-huh. (Indicating affirmative response.)

24 Q And did you go to Arizona for your training?

25 A No, he lived here in South Carolina at the time.

1 Q And what were his credentials?

2 A He had just been in the dog business and had his
3 own business for a long time.

4 Q So he had just been in the dog business?

5 A Uh-huh. (Indicating affirmative response.)

6 Q And being in the dog business, I would assume means
7 buying and selling dogs; is that correct?

8 A He trained dogs for police agencies.

9 Q Do you know what police agencies he trained dogs
10 for?

11 A I don't know the exact agencies that bought them,
12 no.

13 Q And therefore it is your testimony that whatever
14 certification you have obtained, you have obtained
15 it from Ken; is that correct? What is his name
16 again?

17 A Kenneth Cannon.

18 Q Kenneth Cannon?

19 A Uh-huh. (Indicating affirmative response.)

20 Q I'm sorry. My hearing is not as good as it should
21 be. But you obtained your certification from him?

22 A Yes, he had -- there was a foundation at the time
23 called the International Detector Dog Federation.
24 I don't think it's active anymore, and I don't know
25 of a State or Federal database where you can go

1 through to be certified. You just have to get that
2 knowledge and work with a trainer.

3 Q And the certification that you obtained, was that a
4 document?

5 A It was then. When we started our -- when we have
6 our team, we started in, I think, 2001. We have an
7 internal certification now within our group; so we
8 use that.

9 Q Do you have a copy of your certification from
10 Mr. Cannon?

11 A Not from Mr. Cannon, no.

12 Q That's who you obtained your certification from; is
13 that correct?

14 A Right. Once the foundation closed, we didn't use
15 that certification anymore.

16 Q Did you ever have a certificate of certification
17 from him?

18 A Yes.

19 Q But at the present time, you don't have that
20 document?

21 A No.

22 Q All right. And your testimony is further that the
23 way that you -- I will use the word recertify -- is
24 you do it internally through the law enforcement
25 agency over in Lexington County?

1 A No.

2 Q Tell me again.

3 A We recertify through our search team, the
4 S.T.A.R.R. team.

5 Q Explain that process.

6 A I can't certify my own dog obviously. So there is
7 another certifying official with our agency with
8 the S.T.A.R.R. team, and he is the one that
9 actually has to watch my dog and either certify her
10 or not.

11 Q When you say watch my dog, what do you mean?

12 A We go out and one of the team members will put
13 hides out, the hides being containers with human
14 remains, throughout different locations. We don't
15 know where they are at. We have to locate those
16 without any false alerts, and we have to be able to
17 locate those.

18 Q Does that person take your dog out and locate the
19 human remains in order for the certification or do
20 you and your dog go out together?

21 A We go as a team and they come with us.

22 Q When you say a team, you have to explain that. Are
23 you saying that you and other certified cadaver dog
24 people go together or what?

25 A No, me and my dog is the team.

1 Q You and your dog?

2 A The handler and the dog.

3 Q I understand. So, in other words -- and correct me
4 if I'm wrong -- in order to get certified, some
5 person who is certified would hide remains
6 somewhere -- can I say in a field -- and you and
7 your dog would be responsible for finding those
8 remains, and that person would observe you?

9 A Yes.

10 Q Has your dog ever had a false hit?

11 A No.

12 Q Never?

13 A Never.

14 Q Every time your dog has a hit, do you record it?

15 A If it's a call for service, we do. If it's
16 training that is structured, organized training, we
17 have kept some records but we don't keep it for
18 every single one, no.

19 Q So the answer to my question would be no?

20 A Right.

21 Q Now, does your dog or is your dog -- strike that,
22 please. Can you determine from your experience in
23 handling your dog when you find human remains how
24 long those human remains have been deceased?

25 A No.

1 Q You can't tell?

2 A (Witness shakes head.) (Indicating negative
3 response.)

4 Q In other words, when you go out and look for human
5 remains, you can't tell how long that body has been
6 dead?

7 A No.

8 Q And can you tell how long that body has been in
9 whatever area that it is found in?

10 A No.

11 Q So the only thing, according to you, that your dog
12 is trained to do is find human remains?

13 A Right.

14 Q Can it also find where human remains once were?

15 A Could.

16 Q And what I have reference to is this case.

17 A Uh-huh. (Indicating affirmative response.)

18 Q In this case, as I understand it from reading the
19 reports and the discovery in this case, your
20 testimony would be that you were called by the
21 Columbia Police Department. You and your dog as a
22 team came and that you and your dog searched
23 Ms. Zinah Jennings' car; is that correct?

24 A We did a canine sniff with the car.

25 Q Huh?

1 A We did a canine sniff with the car.

2 Q A canine sniff with the car. Did you know whose
3 car it was?

4 A Yes.

5 Q And how did you know it was Ms. Jennings' car?

6 A They had told me that is what I was coming to do.

7 Q Other than them telling you that, did you have any
8 verification that you conducted independently to
9 determine whose car your dog was going to sniff?

10 A No.

11 Q You did not. Now, tell me, was your dog able -- on
12 this occasion your dog was simply able to determine
13 at one time that quite -- I don't want to say quite
14 possibly -- what did your dog determine? That's
15 the best way to ask it.

16 A She determined or told me that she recognized the
17 odor of human remains in Ms. Jennings' vehicle.

18 Q Did you find any human remains in her vehicle?

19 A I did not search her vehicle.

20 Q When you say, "she told me," what you mean is that
21 she sniffed and by her conduct, she demonstrated to
22 you that human remains, you would have to say, were
23 in that car?

24 A Yes, her change of behavior and her alert.

25 Q And how did she demonstrate that to you?

1 A She sits and barks.

2 Q She sniffed and barked. Did she scratch and claw?

3 A No, she is a passive trained dog. She doesn't
4 scratch and claw.

5 Q Would it be a fair statement to say -- strike that.
6 Where did the dog indicate to you that the human
7 remains were in the car?

8 A She first indicated on the trunk where it comes
9 down to the body, the creases. It's very common.
10 That's where odor can escape, through the creases.
11 She then indicated also on the driver's side rear
12 passenger seat, to the back of the rear seat where
13 it folds down to the trunk. She indicated there as
14 well.

15 Q So she gave you -- do you say hits?

16 A Alerts.

17 Q Alerts. She gave you two alerts on what you were
18 told to be Ms. Jennings' car?

19 A Yes.

20 Q And one was in the trunk?

21 A Yes, sir.

22 Q Where did it tell you in the trunk? Did it tell
23 you it was on the right-hand side in the trunk, on
24 the left-hand side of the trunk, or could it just
25 tell you that it was in the trunk?

1 A In the trunk.

2 Q In the trunk. And also the dog, according to you,
3 was able to tell you that human remains were in the
4 back seat of the Jennings' car?

5 A I think that she was still going back to the trunk.
6 Like I was saying, the back seat folds down to the
7 trunk. So it was that crease in the seat where it
8 pulls down or folds down to the trunk.

9 Q Folds down. Now, can you tell me or can you tell
10 the judge whether or not it's possible through
11 smell for an individual to smell that car and tell
12 that human remains were in there at one time?

13 A I could not smell it.

14 Q You could not smell it?

15 A (Witness shakes head.) (Indicating negative
16 response.)

17 Q Could you tell me whether or not the dog's reaction
18 to the -- I keep wanting to say hit -- to the car
19 was one that was done from the smell that the dog
20 had acquired through training?

21 A Yes.

22 Q So the dog could smell it?

23 A Yes.

24 Q But a human being couldn't smell it?

25 A Right.

1 Q And you were not able to determine the proximity of
2 where this alleged body was in the trunk? You were
3 only able to determine that it was in the trunk?

4 A Yes.

5 Q Okay.

6 A We did not allow her in the trunk so that she
7 couldn't contaminate anything in the trunk.

8 Q And once the dog informed you by her conduct, did
9 you record it?

10 A We did do a report. I think they have a copy of
11 our report.

12 Q Did you record it at the time, at the time that the
13 dog alerted you?

14 A No, I did not.

15 Q You did it subsequently?

16 A Right, after we were done.

17 Q How long after?

18 A I called my director as soon as I was driving back
19 home and gave him the times, and he recorded them.

20 Q Somebody else recorded them?

21 A Yes.

22 Q Who else recorded them?

23 A His name is Steven --

24 COURT REPORTER: I'm sorry. What is his name?

25 THE WITNESS: Stephen Pearrow, P-E-A-R-R-O-W.

1 A He is our director.

2 Q And on what day did your dog conduct this search?

3 A I don't know the date without the report.

4 Q You don't remember what day you were taken down
5 there?

6 A No, sir.

7 Q Where was the car located when your dog made this
8 search?

9 A It was behind the Columbia Police Department.

10 Q Do you know how long it had been at the Columbia
11 Police Department?

12 A No.

13 Q While your dog was at the Columbia Police
14 Department, were there other cars out there?

15 A Yes.

16 Q Did you get any reaction from your dog as it
17 related to any of the other cars that were out
18 there?

19 A No.

20 Q Did you take your dog, as a manner of a trial run,
21 and take the dog to some other car, other than
22 Ms. Jennings' before you went to Ms. Jennings'?

23 A I work my dog off leads, and we weren't going to be
24 independent workers. So she actually did search
25 three of those vehicles before she got to

1 Ms. Jennings' car on her own.

2 Q And would it be a fair statement to say, based on
3 your experience as a trainer, that the dog based on
4 its prior use knew why -- the dog knew why she was
5 there; right?

6 A Yes.

7 Q And she knew what she was looking for?

8 A Her toy.

9 Q And your testimony before the Court today is that
10 you don't know whether or not the handling of the
11 cadaver dogs and the results thereof is a
12 scientific experiment or not; right?

13 A I believe it is, but I have not read the studies.

14 Q And also your testimony before the Court today is
15 that your dog has a 100 percent accuracy rate?

16 A So far.

17 Q And how long has the dog been used?

18 A She turned three and I think she was certified -- I
19 would have to look at the exact date -- but I would
20 say about a year and half.

21 Q How many years is that in human life?

22 A A year and a half.

23 Q It is? A dog's life is determined the same as a
24 human's?

25 A No.

1 Q How many years is that in human?

2 A I think they say seven.

3 Q Seven years.

4 A Uh-huh. (Indicating affirmative response.)

5 MR. PRIDE: Would you indulge me a moment
6 please, Your Honor?

7 THE COURT: Yes, sir, certainly.

8 (Pause.)

9 BY MR. PRIDE:

10 Q Do you know if the City of Columbia has police
11 cadaver dogs?

12 A I don't know.

13 Q You don't have any rapport with the City of
14 Columbia and their K-9 unit?

15 A No, sir.

16 Q Could you tell me why on this case the City of
17 Columbia chose to go to Swansea, South Carolina, to
18 find you?

19 A I'm assuming they don't have a cadaver dog.

20 Q Have you ever conducted a search for the City of
21 Columbia before?

22 A No.

23 Q Thank you very much.

24 MR. PRIDE: Judge, would you sequester the
25 witness? I want to make my argument, and the reason why

1 I want you to do that is that obviously the trial will
2 start on the 27th. I will have to examine this witness
3 again, and to allow her to stay in court and hear my
4 argument would educate her.

5 THE COURT: Sheriff, would you step out in the
6 hallway with Ms. Gunter, please.

7 Ms. Gunter, if you would step out with the
8 sheriff momentarily. Thank you very much.

9 (The witness leaves the courtroom.)

10 THE COURT: Mr. Pride.

11 MR. PRIDE: Judge, this is the solicitor's
12 exhibit, and I'm just marking it for them for purposes
13 of my argument before you.

14 (State's Exhibit Number 16 is marked for
15 identification.)

16 MR. PRIDE: Judge, first of all, I want you to
17 note from that report that the testimony of the witness
18 was that the cadaver dog conducted the search at the
19 Columbia Police Department. On the report she says the
20 residence. So that certainly does go to credibility of
21 the testimony.

22 Judge, I think it is absolutely ludicrous for
23 anybody to testify that anything is 100 percent
24 accurate. I mean, that's just beyond the pale. Second
25 of all, Judge, it is clear from your knowledge that a

1 cadaver dog and the results thereof is not a science.

2 It never has and never will be.

3 Not only that, Judge, in order to admit this
4 testimony, the Court should have before it -- and the
5 State should be able to demonstrate to you -- the
6 accuracy of the dog by presenting to you a record to
7 show that this dog has been used once or twice, used
8 for whatever number of periods of time that it was used
9 for. I mean, that's how you keep anything accurate.
10 The more you use it, the better it is. I think that's a
11 fair statement.

12 But, Judge, to allow this -- this testimony is
13 very crucial, and I just don't think that the foundation
14 has -- I submit to you the foundation has not been
15 established for you to declare that she is an expert and
16 that she can give the kind of spurious testimony that
17 she has given and that she should be accepted as an
18 expert.

19 I would submit to you that her testimony was
20 also suspect that the Columbia Police Department doesn't
21 have cadaver dogs. I mean, I am going to find out about
22 that. Am I in a position to produce that today? No.
23 Can I make an argument and back it up today? No. But
24 the likelihood is that the Columbia Police Department
25 does have cadaver dogs. Second of all, it's sort of

1 suspicious that they would go all the way to Swansea to
2 get a cadaver dog.

3 The last part of my argument is this, Judge.
4 Certainly the witness should be able to testify when the
5 search was conducted, and her testimony was clear that,
6 "I don't know when I conducted this search," on
7 purportedly Ms. Jennings' car.

8 Not only that, Judge, there are steps that you
9 go through when you are conducting an experiment that
10 you verify A, B, C, D, just automatic things that should
11 be done in order to make sure that you are correct and
12 accurate.

13 When a witness comes to court and says, "No, I
14 don't know that is Ms. Jennings' car, but they told me
15 it was Ms. Jennings' car," I think she had a
16 responsibility to know whose car her cadaver dogs were
17 going to perform an experiment on.

18 The last thing I want to bring to your
19 attention is this, Judge. She clearly testified that
20 after the completion of the experiment, she made no
21 recording of the experiment on the scene. She made no
22 recording of the experiment at all.

23 She says to you, Judge, that: On my way back
24 in, I called somebody on the phone and they recorded it.
25 It is that person's recordation that would be crucial in

1 this case, and it is that person's recordation that I
2 should have that to look at as a matter of accuracy.

3 The very last part is this, Judge. Judge, how
4 do you say to you, how do you to say a judge, I'm
5 certified but I don't have my certificate of
6 certification because the organization I was certified
7 by I think is no longer in existence?

8 That's the age-old story from law enforcement
9 and prosecution that if you don't have it, then it's not
10 in existence. That's how you get around it. I don't
11 mean to impugn her personally, and I'm not saying
12 that --

13 THE COURT: I don't take it like that,
14 Mr. Pride.

15 MR. PRIDE: But, I mean, that's just the lay
16 of the land. That's the way they go about it. If I
17 don't have it, it's because I lost it and it's not
18 available, but it should be available and especially
19 where this young lady's liberty is at stake.

20 This is an important case to Zinah Jennings
21 and all of those I.s have got to be dotted and all of
22 those T.s have to be crossed before this Court can be
23 asked to certify this person as an expert. Thank you.

24 THE COURT: Thank you. Thank you, Mr. Pride.
25 Solicitor?

1 MS. GARFIELD: Judge, I believe if you
2 reference State versus Gary White, it will be obvious
3 that I have complied with the appropriate foundation to
4 introduce Ms. Gunter as an expert in canine handling.
5 That is a case that I tried here in Richland County
6 regarding canine handling.

7 Judge, at this point in time, we are just
8 seeking to introduce whether or not Ms. Gunter is an
9 expert, not whether or not Mia is accurate and how the
10 accuracy that he is referring to should have been
11 documented. That is not necessary at this time. That
12 is appropriate obviously for cross examination.

13 I can tell you as an officer of the Court --
14 and I do have a witness to testify to this -- that the
15 Columbia Police Department does not have cadaver dogs.

16 MR. PRIDE: And I accept that.

17 MS. GARFIELD: That's just one of the
18 arguments I assume he is going to redact at this time
19 and withdraw. She testified that she could not tell you
20 what date the search was conducted without a copy of her
21 report.

22 A copy of her report was not given to her to
23 refresh her memory. I am certain that with her report,
24 she would be able to refresh her memory. She did not
25 say that she did not record her findings at all. She

1 just indicated she did not record them on scene. A
2 report was generated to indicate what her findings were.

3 Judge, this is an important case to Zinah
4 Jennings. It's also a very important case to ^{Child}
5 J . We ask you to qualify her as an expert and
6 allow us to proceed with her in this case.

7 THE COURT: Thank you.

8 MR. PRIDE: Judge, can I get a chance to
9 reply?

10 THE COURT: Certainly, Mr. Pride.

11 MR. PRIDE: Judge, the first thing I want to
12 tell you is that there is no way that this Court can
13 find that it was her report because she testified that
14 she called and somebody else recorded it. So it's
15 not -- and the person who records the report, that makes
16 it their report. You might have supplied information,
17 but the owner of the report is the person who sets the
18 pen to hand or the computer and actually records it.
19 She didn't record any report, Judge.

20 Judge, her credentials so far as from a
21 nonprofit group, Judge, I would submit to you S.L.E.D.
22 has cadaver dogs. At least I believe they do, and I may
23 be wrong on that. But I just don't think that the State
24 has laid the kind of foundation that would be required
25 in order to admit her as an expert witness to testify to

1 what the dogs purportedly found.

2 THE COURT: Thank you. Thank you, Mr. Pride.
3 I will review all those factors that you brought to my
4 attention. I'm looking at State's Exhibit Number 16 for
5 identification that you handed up. Perhaps I miswrote
6 it in my notes. I thought you said this report
7 indicated she searched the residence?

8 MS. GARFIELD: Judge, I believe it should be a
9 report regarding the residence as well as a report
10 regarding the car. They are on two separate dates, I do
11 believe.

12 THE COURT: I see.

13 MS. GARFIELD: The date reflected of when the
14 home was searched I believe is incorrect. I believe it
15 is a typo also.

16 THE COURT: So all four of these pages,
17 unstapled, are 16's for identification; is that correct?

18 MS. GARFIELD: Yes, sir.

19 THE COURT: And the first two pages it
20 indicates a brief summary of the searched area, vehicle.
21 That's a two-page report. Then the last two pages
22 indicate your residence. Is that correct, Mr. Pride?
23 Do you agree with that?

24 MR. PRIDE: Could I see that, Judge?

25 THE COURT: Sure.

1 MR. PRIDE: What I have is quite different
2 from what you are reading.

3 THE COURT: That's why I asked because what
4 you argued was different from what is there.

5 MR. PRIDE: Just give me one minute.

6 THE COURT: Certainly.

7 (Pause.)

8 MR. PRIDE: Judge, I would agree that it says
9 what it says.

10 THE COURT: I just wanted to make sure -- no
11 pun intended -- I wanted to make sure I was tracking
12 properly. I use that terminology all the time.

13 MR. PRIDE: Judge, you are tracking properly.

14 THE COURT: As to your second point,
15 100 percent accuracy, part of her response, part of
16 Ms. Gunter's response, was, "So far." There was
17 probably a time in the careers of these fine lawyers in
18 the courtroom that they had 100 percent winning rate in
19 the courtroom, and at some point in time that changes
20 generally or it did in my career. Perhaps y'all's.

21 So for the year and a half, she says there has
22 never been a false positive. It has been 100 percent
23 accurate, but I take that into account. Also, you say
24 it's clearly not a science. That just takes us back to
25 Rule 702 which says: The scientific, technical, or

1 other specialized knowledge.

2 The threshold question isn't whether it is or
3 is not a science. It has been recognized in South
4 Carolina under State versus White. It has been
5 recognized as far as back as State versus Bostick back
6 in the '20s, I think, involving the homicide of a
7 sheriff from Jasper County in the Lowcountry. Be that
8 as it may, it doesn't have to be a scientific
9 specialized field for it to be admissible.

10 As far as accuracy of the records, that would
11 really go to if it were allowed in evidence, whether
12 before me or before the trier of fact, the jury
13 ultimately. That would go to the charge on the basis of
14 her opinions, I think, and her credibility as far as the
15 fact of inaccurate records.

16 You accept, as I do now, that C.P.D. does not
17 have a cadaver dog. I do not know about S.L.E.D. I do
18 not know at this point why Columbia Police Department
19 contacted S.T.A.R.R. and not S.L.E.D. or some public
20 agency; however, I don't think that affects the question
21 before the Court right now as far as her expertise or
22 lack of expertise.

23 I would say the same as far as when the search
24 was conducted. There were no records on the scene.
25 Although these may not have been contemporaneously

1 prepared and they were not shown to this particular
2 witness, it appears there are records recorded.

3 It does look like, as you followed up, on the
4 second page of State's Exhibit 16 for identification, it
5 has got the printed name of Stephen Pearrow, and that
6 appears to be the signature also. Again, I don't think
7 that necessarily goes to whether she is or is not -- her
8 expertise.

9 Certification. She testified she was
10 certified, and she went through the fact that this
11 particular organization no longer exists. I think being
12 from Columbia, as you are, Mr. Pride, I think about
13 University High School.

14 A lot of people we know graduated from
15 University High School. That no longer exists, but they
16 are high school graduates. They probably still have
17 their diplomas around. They are getting aged by the
18 programs.

19 She did testify to that. I think the
20 threshold is low under State versus Myers and State
21 versus Goode as far as the threshold levels of
22 expertise. In Myers I believe you had a nurse qualified
23 as to blood issues, and she has only taken like a
24 six-week course.

25 The officer has testified to her prior

1 training with canines, with tracking bloodhounds,
2 dealing with cadaver dogs, working as a canine officer
3 on the street, working for other law enforcement
4 agencies as I understand and then being trained as far
5 as the cadaver dog and weekly training, monthly team
6 training, recertification annually.

7 So I think she is qualified as an expert in
8 that technical field of dog tracking under State versus
9 White and the other line of cases. This, of course,
10 does not go to the admissibility of the testimony at
11 this point. It goes to her ability to give opinions.

12 MR. PRIDE: Thank you.

13 THE COURT: Thank you. Anything before we
14 bring, Ms. Gunter, back in Mr. Pride?

15 MR. PRIDE: Nothing additional from the
16 defense.

17 THE COURT: Madame Solicitor?

18 MS. GARFIELD: Nothing.

19 (The witness returns to the courtroom and
20 resumes the witness stand.)

21 THE COURT: In what field are you referring to
22 Ms. Gunter as an expert specifically, Solicitor?

23 MS. GARFIELD: Canine handling.

24 THE COURT: I would find that Ms. Gunter,
25 based on the evidence and testimony before the Court, is

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1 qualified as an expert in the field of canine handling
2 and qualified to give opinion testimony in that area.
3 Thank you, Solicitor. You may continue.

4 MS. GARFIELD: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MS. GARFIELD:

7 Q Officer Gunter, can you explain to the judge what
8 type of dog Mia is?

9 A She is a Belgian Malinois.

10 Q Are those dogs used in any specific training?

11 A They are very often used for police work.

12 Q Specifically what has Mia been trained in?

13 A Human remains detection.

14 Q When you say human remains, what all is included in
15 human remains?

16 A We train on teeth, different body fluids, blood,
17 any human body parts that we can get from doctors
18 or dentists.

19 Q And as of the time of this search, Mia had been
20 utilized in approximately, I think you testified,
21 15 searches?

22 A Approximately.

23 Q And are those searches done primarily with your
24 police agency?

25 A No.

1 THE COURT: What was that question, Solicitor?

2 MS. GARFIELD: Are those searches done
3 primarily with her police agency?

4 THE WITNESS: No.

5 BY MS. GARFIELD:

6 Q Can you explain to the judge other agencies you
7 have assisted?

8 A Myrtle Beach Police Department, Georgetown County,
9 Charleston County, Allendale. We have been to
10 North Carolina. I think it was Shelby and
11 Lawndale.

12 Q Can you explain why your team, your S.T.A.R.R.
13 team, is used by the other agencies?

14 A I think they call because the cadaver dogs are
15 harder to find. There is not that many of them,
16 and the fact that we do it for free, I think,
17 prompts them to call.

18 Q So it's a cost issue?

19 A For the department or the agency, no.

20 Q Not for you, but it's a cost issue which would make
21 it beneficial to use your program?

22 A Yes.

23 Q As well as availability?

24 A Yes.

25 Q And you said Mia had done 15 searches. Had Mia

1 ever hit or made an alert in searches prior to this
2 one before?

3 A Not on an official call out, no.

4 Q She made alerts during trainings?

5 A Correct.

6 Q But any alerts on those other searches?

7 A No.

8 Q Do you recall doing a search with Mia in late
9 December of last year for the Columbia Police
10 Department?

11 A Yes.

12 Q Explain to the judge when you got to Columbia
13 Police Department, what was the setting like for
14 Mia to search?

15 A We were in a fenced-in area behind the police
16 department. It was pavement and several cars in
17 the area.

18 Q And how many cars approximately?

19 A Approximately four or five.

20 Q Did you know which car belonged to Ms. Jennings?

21 A I did.

22 Q Did you at any time try to point out that car to
23 your dog?

24 A No.

25 Q Did you take the dog personally to the cars to be

1 searched?

2 A No.

3 Q Explain to the judge what your procedure is with
4 letting Mia do her work?

5 A We work our dogs off leads so that they are
6 independent of us while they are working. So we
7 released her into the fenced-in area, and she is
8 given her command to, "Find it." She goes to the
9 different cars and bypassed two or three before she
10 got to Ms. Jennings'.

11 Q At no time you didn't point out Ms. Jennings' car
12 to Mia?

13 A No, she did.

14 Q She went to Ms. Jennings' car?

15 A Yes.

16 Q When she went to Ms. Jennings' car, what did she
17 begin to do?

18 A I saw a behavior change in her breathing and body
19 posture and positioning. I knew that she was
20 working on an odor that she was in, and then she
21 did finally sit and bark to alert at the trunk.

22 Q And when you say sit and bark, what does that mean
23 to you?

24 A She was trained when she would find that odor that
25 in order to get her reward, to let us know that she

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1 was telling us this is where the odor is. We
2 trained her to sit and she picked up sitting and
3 barking.

4 Q What does Mia think she is looking for?

5 A Her toy.

6 Q And she began to sit and bark. Explain exactly
7 where she began to exhibit this behavior?

8 A The crease where the trunk closes, the crease is in
9 the body for the trunk area is where she first
10 exhibited.

11 Q And did she exhibit the alerts in any other place?

12 A Once the alert was made and they opened the doors
13 to the car, she was exhibiting that same behavior
14 in the barking and sitting. The back seat would
15 fold down to give you access to reach through to
16 the trunk, and she was alerting in that same area.

17 Q So she alerted when she was inside the car as well?

18 A Yes.

19 Q In the back seat?

20 A Yes.

21 Q You are indicating the back seat would be the area
22 going into -- that has access to actually crawling
23 back into the trunk?

24 A Right.

25 Q About how far away are you when you are observing

1 this?

2 A About ten yards.

3 Q And has she been on any other searches since this
4 one?

5 A Yes.

6 Q And has she had any alerts since this one?

7 A No.

8 Q Not official searches?

9 A Not an official search.

10 Q Has she had alerts during training?

11 A Yes.

12 Q So far this is the only case that she had an alert
13 for?

14 A Yes.

15 Q What is the percent of accuracy you believe to have
16 had with Mia?

17 A A hundred percent so far.

18 Q And you did generate a report after this?

19 A Director Pearrow did.

20 Q How does your team go about generating reports?

21 A We called him in with the times. The call would
22 actually go into him, and he calls us to send us
23 where to go. So he has the times that we were
24 called, and we let him know when we get there and
25 let him know when we leave, what we did, and what

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1 we found.

2 Q So he actually fills the report out?

3 A Yes.

4 Q With information that you provide?

5 A Yes.

6 Q Were you also contacted by the Columbia Police
7 Department to do a further search?

8 A Yes.

9 Q Do you know how many days after or about when that
10 was?

11 A I don't remember.

12 Q Would your report that was generated with your
13 information help refresh your memory?

14 A Yes.

15 MS. GARFIELD: May I approach the witness,
16 Judge?

17 THE COURT: Yes, ma'am.

18 BY MS. GARFIELD:

19 Q I hand you what is marked as State's Exhibit 16 for
20 identification purposes only. Do you recognize
21 this document?

22 A Yes.

23 Q And can your report to the judge what that document
24 contains or what that document is?

25 A The document is the search report that was

1 completed by Director Pearrow for a search done on
2 December 30th on a vehicle at the Columbia Police
3 Department and December 5th also.

4 Q I want you to look at that last date and indicate
5 what the year is?

6 A 2012.

7 Q Is that perhaps a typographical error?

8 A I believe so.

9 Q Because obviously December 5, 2012, has not
10 occurred yet?

11 A Right.

12 Q Officer Gunter, how many pages is that document I
13 have given you?

14 A Four.

15 Q I want you to take a moment to look at the document
16 and see the information in it is information you
17 provided.

18 A (Pause.) Yes, it appears to be.

19 Q And that document reflects that Mia alerted to
20 human remains in searching the vehicle belonging to
21 Zinah Jennings in late December of last year?

22 MR. PRIDE: Object to the question in its
23 form, Your Honor.

24 THE COURT: Restate the question, please,
25 Solicitor.

1 BY MS. GARFIELD:

2 Q Can you please explain to the judge in summary what
3 that report reflects?

4 A It reflects that a search was completed, that there
5 was no actual body found, but an alert was made.

6 Q An alert positive for what?

7 A Of human remains.

8 Q And human remains found in what car?

9 A It was a Dodge Neon.

10 Q And do you know who that Dodge Neon belonged to?

11 A I was told it was Ms. Jennings.

12 MS. GARFIELD: Your Honor, at this time I like
13 to introduce State's Exhibit 16 into evidence for
14 purposes of this hearing.

15 THE COURT: It's State's Exhibit 16 for I.D.
16 only, purposes of this hearing. Thank you.

17 MS. GARFIELD: Thank you, Your Honor. Beg the
18 Court's indulgence.

19 (Pause.)

20 MS. GARFIELD: Thank you, Officer Gunter.
21 Please answer any questions Mr. Pride may have for you.

22 THE COURT: Thank you, Solicitor. Mr. Pride.

23 CROSS EXAMINATION

24 BY MR. PRIDE:

25 Q It is not possible from your experiment with your

1 dogs to determine the sex of whatever body, if a
2 body was in that car; is it?

3 A No.

4 Q And you are not able to determine the age; is that
5 correct?

6 A Right.

7 Q And the dog is not able to tell you the race?

8 A No.

9 Q And the dog is not able to tell you how long
10 purportedly the body was in the trunk of that car;
11 is that right?

12 A Correct.

13 Q And the dog's signal of the fact that there was a
14 body, a dead body in that car, purportedly a dead
15 body in that car, the dog was on the outside of the
16 car; is that correct?

17 A Initially, yes.

18 Q Well, that's when the dog gave the signal when the
19 dog was on the outside of the car; is that correct?

20 A Yes.

21 Q And when the dog gave the signal, the trunk was
22 closed; is that correct?

23 A Yes.

24 Q And did the dog ever get into the car?

25 A She entered into the back seat.

1 Q Into the back seat. But never into the trunk?

2 A No, we did not allow her in the trunk.

3 Q Why didn't you allow her in the trunk?

4 A Once she gave the alert on the trunk compartment,
5 we didn't want her to contaminate any of their
6 crime scene.

7 Q Well, when she got in the back seat of the car, she
8 certainly got in the area where you testified that
9 she alerted you that she smelled something; is that
10 correct?

11 A After the trunk alert, we were letting her finish
12 the rest of the vehicle to see if there were any
13 further alerts or areas in the vehicle. We had to
14 give her access.

15 Q So the answer to my question would be: Yes, you
16 did let her in the car in that area?

17 A Yes.

18 MR. PRIDE: Excuse me, Judge.

19 THE COURT: Yes, sir.

20 MR. PRIDE: Judge, I want to approach the
21 witness.

22 THE COURT: Yes, sir.

23 BY MR. PRIDE:

24 Q I want you to look at what has been marked and
25 admitted into -- which the Court has allowed to be

1 marked for identification for purposes of this
2 hearing -- and tell me, based on State's Exhibit
3 16, what date is at the top of that first -- I
4 think there were four documents that were marked.

5 A The date at the top of the first document is
6 December 30, 2011.

7 Q December 30th?

8 A Uh-huh. (Indicating affirmative response.)

9 Q And does that date indicate the date -- what
10 does that date indicate as it relates to that
11 report?

12 A The date that -- I did not prepare this report --
13 but that's the date that he is saying that the
14 search was done.

15 Q Do you know that that's the day the search was
16 done?

17 A No, I do not.

18 Q And at the bottom of that same document, which is
19 the first sheet on State's Exhibit 16, what date is
20 on there?

21 A November 30th, 2011.

22 Q Could you tell me why the date of November 30,
23 2011, is on there?

24 A No, sir, I did not prepare the report.

25 Q What does that date indicate? What is that date on

1 that report for?

2 A I don't know.

3 Q Go to the next sheet of that report. What date is
4 on the second sheet of State's Exhibit 16?

5 A It says December 8, 2012.

6 Q December 8th?

7 A Uh-huh. (Indicating affirmative response.)

8 Q What does that date indicate?

9 A I don't know.

10 Q I'm not holding you responsible for it. I simply
11 want you to look at them and tell me.

12 A I don't know.

13 Q Looking at the same sheet, which is the second
14 sheet of State's Exhibit 16, at the bottom what
15 date is on that?

16 A That was the same question you asked. It was
17 December 8th.

18 Q What date is on the top of that sheet?

19 A On the first sheet?

20 Q No, ma'am, on the second sheet that you are looking
21 at. You are looking at the second sheet of Exhibit
22 16; is that correct?

23 A It's the second report.

24 Q Maybe I should look at it. The second sheet of
25 State's Exhibit 16, what date is on that?

1 A November 30, 2011.

2 Q Let me see this.

3 MR. PRIDE: Judge, I hope you don't mind me
4 standing here.

5 THE COURT: No, sir.

6 BY MR. PRIDE:

7 Q On the third sheet of that same exhibit, tell the
8 Court what date is on there at the top?

9 A December 5, 2012.

10 Q Do you know what that date indicates?

11 A No.

12 Q And on the very last sheet of this report, what
13 date is indicated?

14 A December 8, 2012.

15 Q And you have no explanation for that either?

16 A No, I did not prepare that.

17 MR. PRIDE: Judge, I have just been passed a
18 note. If you would give me a minute to find out. I
19 don't know how it relates to this trial. Would you give
20 me one second?

21 THE COURT: Certainly, Mr. Pride.

22 (Pause.)

23 BY MR. PRIDE:

24 Q Let me make sure I understand here. Your dog is
25 trained based on your command; is that correct?

1 A She is given the command to, "Find it."

2 Q When you say she is given a command, whose command?

3 Who gives that command?

4 A I do.

5 Q So it's based on your command?

6 A To start, yes.

7 Q And once the dog reacts to your command, the dog
8 ultimately is rewarded; is that correct?

9 A If she finds what she's looking for, yes.

10 Q Well, she always finds it; right?

11 A If there is anything there.

12 Q Well, That's a good answer. Thank you very much.

13 MR. PRIDE: Thank you, Judge. I appreciate
14 it.

15 THE COURT: Redirect, Madame Solicitor?

16 MS. GARFIELD: No, sir.

17 THE COURT: Thank you. Thank you very much,
18 Officer Gunter. You may step down.

19 MS. GARFIELD: Can Officer Gunter be excused,
20 Judge?

21 MR. PRIDE: I don't think so, not yet. Judge,
22 I would give the Solicitor's Office an opportunity to
23 address those dates because I feel certain there should
24 be some reasonable explanation about those dates.

25 Because obviously, as you have looked at them

1 and as I have looked at them, they don't jive. It's
2 just impossible. If they want to take that opportunity
3 to address the Court so we have a definitive and
4 understandable record, I am willing to allow that at
5 this time.

6 MS. GARFIELD: I am sure they are
7 typographical errors, Your Honor. I have not spoken
8 with the individual that actually wrote the report. I
9 am sure Ms. Gunter can get a hold of him and have him
10 here at the courthouse.

11 MR. PRIDE: I would consider that no
12 explanation and would not accept that. Thank you. And,
13 yes, you can excuse her.

14 THE COURT: All right. Thank you. Thank you
15 very much. Thank you for being with us this morning,
16 Ms. Gunter.

17 (Witness leaves the witness stand.)

18 THE COURT: Solicitor.

19 MS. GARFIELD: Thank you, Your Honor. The
20 State calls Officer George Wise.

21 THE COURT: Ask Ms. Gunter to remain outside
22 the courtroom for a moment, Mr. Bailiff.

23 Step up here a minute, Solicitor, and
24 Mr. Pride. Step up here just a minute.

25 (Whereupon there was a bench conference off

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1 the record.)

2 THE COURT: Ms. Gunter can be released,
3 Solicitor. If someone would so notify her.

4 MS. GARFIELD: Thank you.

5 GEORGE WISE, being
6 first duly sworn, testifies as follows:

7 DIRECT EXAMINATION

8 BY MS. GARFIELD:

9 Q Please state your name for the record.

10 A George Wise.

11 Q Officer Wise, where are you employed?

12 A Columbia Police Department.

13 Q And how long have you been employed there?

14 MR. PRIDE: Excuse me. Would you spell his
15 name for me?

16 MS. GARFIELD: W-I-S-E.

17 MR. PRIDE: Oh, thank you.

18 BY MS. GARFIELD:

19 Q Officer Wise, how long have you been employed with
20 the department?

21 A Seventeen years.

22 Q And specifically what are your duties with the
23 Columbia Police Department?

24 A I'm now with the crime scene unit.

25 Q And as your duties with the crime scene unit, does

1 that involve the collection of evidence?

2 A Yes.

3 Q Without going into all your duties as a crime scene
4 investigator for purposes of this hearing, were you
5 asked to collect any evidence regarding the case of
6 State versus Zinah Jennings?

7 A Yes.

8 Q Specifically, I want to take you back to
9 December 30, 2011. Were you asked to assist in the
10 execution of a search warrant?

11 A Yes.

12 Q And was that a search warrant of -- particularly
13 what?

14 A Repeat your question. I'm sorry.

15 Q You were asked to assist in the execution of a
16 search warrant of what on December 30th?

17 A Items pertaining to the crime inside the vehicle:
18 any type of body fluid, any type of evidence of a
19 child's clothing.

20 Q Officer Wise, were you present -- and you were
21 present in courtroom for the prior testimony --
22 were you also present that day when the cadaver dog
23 was brought over?

24 A Yes.

25 Q And did you observe Mia as well?

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1 A Yes.

2 Q And did you observe Mia's reaction when she was
3 sniffing around the car?

4 A Yes. I didn't want to stick too close because I
5 did not want to distract the dog while it was doing
6 the search.

7 Q Have you had any experience or expertise in canine
8 handling?

9 A Yes.

10 Q It was noticeable to you the alert from what you
11 saw?

12 A Yes.

13 MR. PRIDE: Judge, I object to the
14 questioning. The answer of what he saw and his
15 interpretation of it should come from him and not in the
16 question.

17 THE COURT: Just rephrase the question,
18 Solicitor.

19 MS. GARFIELD: Thank you, Your Honor. I will
20 move on.

21 BY MS. GARFIELD:

22 Q And after the dog was finished with his routine,
23 did you begin your search of the vehicle?

24 A Yes.

25 Q And by going through the search, what did you

1 find?

2 A I found an item inside the trunk, several
3 comforter/baby blankets and a shirt and a belt.

4 Q And I guess I should backtrack a bit. Before you
5 begin a search, did you take any photographs?

6 A Yes, I did.

7 MS. GARFIELD: May I approach the witness,
8 Judge?

9 THE COURT: Yes.

10 BY MS. GARFIELD:

11 Q I am going to show you several photographs that
12 have been premarked as State's Exhibits for
13 identification. If you just could go through these
14 one by one, Officer Wise, and if you will refer to
15 each picture by the number on the back of the
16 picture and explain what each picture is.

17 MR. PRIDE: Judge, I would like to see them
18 first.

19 THE COURT: All right.

20 (Pause.)

21 MR. PRIDE: I have looked at them, Judge. I
22 don't have any objection for the purpose of this hearing
23 for them to be marked for identification.

24 THE COURT: All right. Thank you.

25 MS. GARFIELD: I guess for purposes of this

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1 hearing, can he just step down and show you each picture
2 as he goes through it?

3 THE COURT: As long as my court reporter can
4 hear him, he can, and Mr. Pride, as long as we can hear
5 him.

6 (Witness leaves the witness stand.)

7 BY MS. GARFIELD:

8 Q (Hands to witness.)

9 A Beginning with picture Number 1, it would be the
10 interior of the car with the driver's side.

11 MR. PRIDE: Judge, could you ask him, rather
12 than saying Number 1, to say the exhibit number so we
13 will keep the record straight.

14 MS. GARFIELD: Judge, I will hand them to him
15 and I will cover that.

16 THE COURT: And this is Exhibit Number 1.

17 MR. PRIDE: Thank you, Your Honor.

18 BY MS. GARFIELD:

19 Q I will show you what has been offered as State's
20 Exhibit Number 2.

21 A This will actually be the interior of the car taken
22 from the driver's side.

23 Q I am now handing you State's Exhibit Number 3.

24 A Another picture of the interior, the passenger side
25 door.

- 1 Q I am now handing you State's Exhibit Number 4.
- 2 A Another picture taken from the driver's side. It
- 3 is a picture of the passenger side door.
- 4 Q And, Officer Wise, I show you State's Exhibit
- 5 Number 5.
- 6 A This is a picture of a cell phone that was taken
- 7 from the passenger side door.
- 8 Q All these photographs, Officer, you took?
- 9 A Yes, that is correct.
- 10 Q I show you State's Exhibit Number 6.
- 11 A This is a picture of the back portion of the seat.
- 12 It is a picture of a business card.
- 13 Q I show you State's Exhibit Number 7.
- 14 A This picture was taken from the outside portion
- 15 showing the business card again.
- 16 Q I show you State's Exhibit Number 8 -- and
- 17 actually I will show you the remainder of these
- 18 pictures, 8 through 12. If you will look at those
- 19 and tell me if those are pictures of the contents
- 20 of what?
- 21 A These are pictures of the trunk area and the
- 22 contents that were inside the trunk area.
- 23 Q Can you describe the contents that you found?
- 24 A It would be a cream-in-color comforter, a
- 25 white-in-color blanket, baby blanket. Again, this

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1 is a picture of the cream in color --

2 THE COURT: What number is that?

3 THE WITNESS: This is Exhibit Number 10.

4 THE COURT: He has handed up 8 and 9,

5 Mr. Pride.

6 A A picture of the cream-colored comforter.

7 THE COURT: That is Number 11.

8 A This would be Exhibit Number 12. It would be a
9 picture of some type of bath wash, also in the
10 trunk area.

11 Q Thank you, Officer. If you would please go back to
12 the stand.

13 A (Witness resumes the witness stand.)

14 Q And do all those picture accurately reflect what
15 you saw when you were executing the search
16 warrant?

17 A That's correct.

18 Q Have they been altered in any way?

19 A No.

20 MS. GARFIELD: Your Honor, at this time I
21 would like to offer State's Exhibit 1 through 12 in
22 evidence for purposes of this hearing.

23 MR. PRIDE: Without objection.

24 THE COURT: State's 1 through 12 in evidence
25 for purposes of this hearing without objection.

1 (State's Exhibits Number 1-12 are marked for
2 identification.)

3 BY MS. GARFIELD:

4 Q Officer Wise, when you began the search of the car,
5 what was your initial assessment of the inside of
6 the car? What was the condition like?

7 A The car had been in an accident and inside the
8 driver's area was basically a trashy area:
9 Contents of chips, bags, air bags had been
10 deployed.

11 Q So it appeared the inside of the car was well kept?

12 A No.

13 Q And when you first opened the trunk of the car
14 belonging to Ms. Jennings, what was your initial
15 observation of the condition of the trunk?

16 A The trunk appeared to be fairly clean, except for,
17 like I said, the contents that I took pictures of,
18 the bedding that was laying together, but other
19 than the trunk appeared to be fairly neat and
20 clean.

21 Q And after you took the contents out of the trunk,
22 was that trunk -- did you have an opportunity to
23 see the trunk empty?

24 A Yes.

25 Q I will show you what has been marked as State's

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1 Exhibit Number 13. Do you recognize what is in
2 this picture?

3 A Yes, this is the trunk area.

4 Q And is that what it looked like after you took the
5 contents out?

6 A Yes.

7 Q That's an accurate reflection?

8 A Yes.

9 Q It has not been altered in any way?

10 A No.

11 MS. GARFIELD: Your Honor, at this time I
12 would like to introduce State's Exhibit Number 13 into
13 evidence.

14 MR. PRIDE: I have seen all of them.

15 THE COURT: Any objection, Mr. Pride?

16 MR. PRIDE: None for the limited purpose of
17 this hearing.

18 THE COURT: Thirteen is in evidence for
19 purposes of this hearing.

20 (State's Exhibit Number 13 is marked for
21 identification.)

22 BY MS. GARFIELD:

23 Q Once you took the contents out of the trunk, can
24 you explain to the judge what you did with them?

25 A Once I collected the items, I took it back to our

1 lab to be placed into bags. Before placing them
2 into bags, I did look over the items to check for
3 any type of evidence, anything that I could see,
4 any type of body fluid before placing them in the
5 bags to be placed into our evidence room.

6 Q In reference to what you refer to as the baby
7 blankets, did you do that with them as well?

8 A Yes.

9 Q And explain to the judge specifically what you did
10 with the baby blankets?

11 A Once I began looking at the baby blankets, I
12 noticed red stains on them. So at that time I took
13 it upon myself to go ahead and document the red
14 stains on the baby blankets by taking photos of
15 them before placing them into the bags.

16 Q I show you what is State's for identification 14
17 and 15. Do you recognize these photographs?

18 A Yes. The photos will show where I took them and
19 placed them on a cardboard paper to photograph them
20 and their red stains.

21 Q Are the blankets that are in 14 and the blankets
22 that are in 15, are those the same blankets or
23 different blankets?

24 A They are the same blankets. What happened is you
25 will see that I actually took a front photo of

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1 them, and then I turned them over and took a back
2 photo of them.

3 Q That actually reflects what you observed on the
4 blankets?

5 A Yes.

6 Q And you took those pictures yourself?

7 A Yes.

8 Q Have they been changed in any way?

9 A No.

10 MS. GARFIELD: Your Honor, at this time I
11 would like to introduce State's Exhibit 14 and 15 into
12 evidence.

13 MR. PRIDE: For limited purposes of this
14 hearing, no objection.

15 THE COURT: Fourteen and 15 are in evidence
16 for purposes of this hearing.

17 (State's Exhibit Number 14-15 are marked for
18 identification.)

19 BY MS. GARFIELD:

20 Q And after you photographed the two blue baby
21 blankets, what did you do with them?

22 A At that time I went and placed them in the bags to
23 be placed into the evidence room.

24 Q And were they ever submitted to the State Law
25 Enforcement Division?

1 A Yes.

2 Q What was the purposes of them being submitted to
3 the State Law Enforcement Division?

4 A I submitted them for a D.N.A. analysis of the red
5 stains.

6 Q Thank you.

7 MS. GARFIELD: Beg the Court's indulgence.

8 (Pause.)

9 MR. PRIDE: And what date was this?

10 THE COURT: I'm not sure she was finished,
11 Mr. Pride.

12 MR. PRIDE: Excuse me.

13 BY MS. GARFIELD:

14 Q Officer Wise, do you know if there was ever any
15 further testing of the trunk?

16 A Yes.

17 Q And were any swabs collected from the testing of
18 that trunk?

19 A To the best of my knowledge, I don't think any
20 swabs were tested. We actually -- to my belief we
21 actually took the lining of the trunk to S.L.E.D.

22 Q And took it to S.L.E.D. for purposes of what?

23 A D.N.A. analysis.

24 Q Thank you, Officer Wise. Now answer any questions
25 Mr. Pride has.

1 MR. PRIDE: I was a little premature there.

2 THE COURT: Thank you, Solicitor. Mr. Pride.

3 CROSS EXAMINATION

4 BY MR. PRIDE:

5 Q Officer, tell me your background. How far did you
6 go in school?

7 A I completed high school. Then I have a two-year
8 degree, associate's degree, in criminal justice.

9 Q And where did you get your training from as it
10 relates to crime scenes?

11 A Most of my training now has been on-the-job
12 training. I have been trained by another crime
13 scene investigator. I do have a certificate in
14 fingerprint comparison, a certificate in palm print
15 comparison, and a two-day class in crime scene
16 photographing.

17 Q And what year did you become a crime scene
18 certificate holder?

19 A Sir, I began my career with crime scene back in
20 February of 2010.

21 Q 2010?

22 A Yes, sir, that's when I actually started.

23 Q You had on-the-job training in crime scene
24 investigation for a little less than two years?

25 A Two and a half years, yes, sir.

1 Q Two and a half years?

2 A Yes, sir.

3 Q And during that time have you had the opportunity
4 to participate by yourself in doing crime scene
5 investigation?

6 A I would say probably about the last eight months
7 now I have been myself. Only for the first year
8 and a half, I had another crime scene officer with
9 me.

10 Q And when you conducted this crime scene
11 investigation, you did this one by yourself; is
12 that correct?

13 A That is correct.

14 Q And when you got there, would it be correct to say
15 that the cadaver dogs were already there?

16 A Yes, sir.

17 Q And you waited until they finished their
18 investigation of the car before you began to
19 conduct your investigation of the crime scene?

20 A Yes.

21 Q And I think you said that when you arrived there
22 that you saw the dogs bark at the car? You saw the
23 dog bark at the car; is that correct?

24 A No, sir. When I first arrived at the Columbia
25 Police Department, I took Deputy Gunter to the back

1 portion of the police department where the car was
2 located at, sir.

3 Q Did the two of you come together?

4 A No, sir.

5 Q She was waiting on you when you got there?

6 A That is correct. She was waiting for me in the
7 parking lot, sir.

8 Q Well, my point is she conducted her investigation
9 with the cadaver dogs first; is that correct?

10 A Yes, sir.

11 Q And then after she completed her investigation,
12 then you started your investigation?

13 A Yes, sir.

14 Q And your investigation was basically taking items
15 out of the trunk of the car.

16 A Yes.

17 Q Did you take any items from the back seat of the
18 car?

19 A No, sir.

20 Q Did you take any items from the front of the car?

21 A No.

22 Q Did you take any items from the glove compartment?

23 A No.

24 Q Why did you just take items from the trunk of the
25 car for the crime scene?

1 A At that point in time, we were instructed to go
2 ahead and just remove items from the trunk. There
3 were questions on -- we wanted to consult with
4 S.L.E.D. on how we were going to remove items from
5 the back seat area, how we were going to collect it
6 and preserve it.

7 So at that point in time, I was -- to the best
8 of my knowledge -- not instructed to take anything
9 from inside the vehicle, just the trunk area.

10 Q And who instructed you just to take items from the
11 trunk area?

12 A Sergeant Rose, my supervisor of crime scene.

13 Q Your supervisor. But he was not there; is that
14 correct?

15 A That is correct.

16 Q And do you know why he told you just to take them
17 from the trunk? Did he explain to you, "why I want
18 you to go in and take everything out of the trunk?"
19 Because that's basically what he said; isn't it?

20 A No, sir. He just said to go ahead -- if there's
21 any items that I can collect that does not pertain
22 to inside the vehicle, go ahead and collect them.

23 Q And you considered items in the trunk to be items
24 not inside the vehicle?

25 A Yes.

1 Q And basically what you took was, I think, described
2 as a cream-colored blanket and a blue blanket?

3 A May I refer to my notes, please?

4 Q Sure. Please do.

5 A Yes, a cream-in-color comforter and a
6 white-in-color blanket.

7 Q And did you take any other items -- this was on the
8 30th of December; right?

9 A That is correct, sir.

10 Q And did you take any other items from that car?

11 A Only from the trunk area. Yes, two light
12 blue-in-color baby blankets, one black-in-color
13 long-sleeve shirt and one black-in-color belt,
14 along with the cream-in-color comforter and
15 white-in-color blanket.

16 Q Is it your testimony that once you took those
17 items, everything was taken out of the trunk?

18 A Yes.

19 Q Did you know that someone else had been there to
20 take items out of the trunk of that car before you
21 got there?

22 A To the best of my knowledge, no.

23 Q You did not know that. Did you see any diapers in
24 that car?

25 A To the best of my knowledge, I do not recall seeing

1 any diapers.

2 Q Did you see any items at all in the back seat of
3 the car?

4 A It was very trashy, but as far as I could testify,
5 it was just trash.

6 Q Tell the Court what you consider trash.

7 A Empty containers, empty bottles, empty potato chip
8 bags.

9 Q Anything else?

10 A No, sir.

11 Q Did you take pictures of that?

12 A Yes.

13 Q And in the front seat, did you find any items?

14 A I did not find any items. I took pictures of
15 items.

16 Q Picture of items?

17 A I did not collect anything from the front of the
18 car.

19 MR. PRIDE: Would you indulge me one moment?

20 THE COURT: Certainly.

21 (Pause.)

22 BY MR. PRIDE:

23 Q Officer, to the best of your knowledge, when you
24 went to that car, had anybody else proceeded you in
25 the examination of that car?

1 A No.

2 Q Had anyone else taken anything out of that car?

3 A To my knowledge, no.

4 Q To your knowledge, no. Would that be important in
5 your crime scene collection?

6 A Yes.

7 Q Would that have spoiled the crime scene if somebody
8 had proceeded you in taking items out of the car?

9 A Yes.

10 MR. PRIDE: Thank you very much.

11 THE COURT: Redirect, Solicitor?

12 **REDIRECT EXAMINATION**

13 BY MS. GARFIELD:

14 Q Had anyone from the Columbia Police Department
15 searched the car before you had an opportunity to
16 do so?

17 A To the best of my knowledge, no.

18 MS. GARFIELD: That's all.

19 THE COURT: Any recross, Mr. Pride?

20 MR. PRIDE: None. Thank you very much.

21 THE COURT: Thank you very much, Officer Wise.

22 You may step down.

23 (Witness leaves the witness stand.)

24 MS. GARFIELD: May Officer Wise be excused?

25 THE COURT: Any objection, Mr. Pride, for

1 Officer Wise being excused?

2 MR. PRIDE: I have none, Your Honor.

3 THE COURT: Thank you. You may be excused.

4 MR. PRIDE: Judge, excuse me. One question.

5 Can I ask him: Was the car at the police station?

6 THE WITNESS: Yes.

7 MR. PRIDE: Thank you. That's all.

8 THE COURT: You are still under oath.

9 THE WITNESS: Yes, sir.

10 THE COURT: Your witness is a moving target.

11 MR. PRIDE: Witnesses are always moving
12 targets.

13 THE COURT: Solicitor.

14 MS. GARFIELD: Your Honor, just as a
15 preliminary matter, we initially did D.N.A. testing from
16 a D.N.A. sample that was taken from Ms. Jennings
17 pursuant to a search warrant.

18 In abundance of caution, I did make a motion
19 for Schmerber to get a sample from her. She did consent
20 to that. We did get that examination done and retested.
21 I just received the updated report. I will give
22 Mr. Pride a copy.

23 MR. PRIDE: That has been cited correctly.
24 When the motion was filed, we didn't contest it because
25 they were entitled to it.

1 THE COURT: Thank you, Mr. Pride.

2 MS. CAMPBELL: May it please the Court.

3 THE COURT: Do you have another witness?

4 MS. CAMPBELL: No, Your Honor. I would submit
5 three D.N.A. S.L.E.D. reports just to make the record
6 complete.

7 (Attorneys confer.)

8 MS. CAMPBELL: I believe that is without
9 objection. I hand up State's Exhibit 17, 18, and 19 for
10 the record.

11 MR. PRIDE: I have seen them and for the
12 limited purpose of this hearing, I have no objection.

13 MS. CAMPBELL: Your Honor, if I just may
14 review for the record what we handed up. The first, I
15 believe State's Exhibit Number 17, is an evidence
16 processing examination dated January 6, 2012, where it
17 shows that certain items were tested by the evidence
18 processing unit at S.L.E.D.

19 The results of those tests indicate that from
20 the trunk liner, there was no blood indicated. However,
21 from the light blue baby blanket, items 7 and 8 --
22 excuse me, item 7 -- blood was indicated. Both of those
23 items indicated that the potential D.N.A. evidence was
24 collected and forwarded to the D.N.A. department.

25 Additionally, Your Honor, on State's Exhibit

1 Number 18, that is a D.N.A. analysis report from
2 Jennifer Clayton dated January 27, 2012. It indicates
3 that they tested certain items for the presence of
4 blood, including cuttings from items number 7, which
5 would be enumerated as items 7.1, 7.3, and 7.4, which
6 were cuttings from the light blue baby blanket. Item 7,
7 blood was identified.

8 Then finally, Your Honor, dated August 7,
9 2012, a report which Ms. Garfield just referred to and
10 was just handed over, on the second page of that report,
11 it indicates the results from the swabs that were taken
12 from the liner include Child as a potential
13 contributor.

14 Finally, Your Honor, the last two paragraphs
15 on that same page are items from item number 7, which is
16 a baby blue blanket from the trunk, which we have
17 already established matched Child ' D.N.A.
18 profile on items number 7.3 specifically and 7.2 and
19 7.4.

20 Finally, Your Honor, on the next page a
21 partial D.N.A. profile from 7.1, which also included the
22 child Child . For purposes of this hearing, Your
23 Honor, we offer that evidence.

24 THE COURT: All right for purposes of this
25 hearing only, Mr. Pride, any objection?

1 MR. PRIDE: None.

2 THE COURT: Seventeen, 18, and 19 are in
3 evidence for purposes of this hearing.

4 (State's Exhibits Number 17-19 are marked for
5 identification.)

6 MS. CAMPBELL: Your Honor, I believe that
7 would be all we have as far as testimony or exhibits for
8 purposes of this hearing at this time.

9 THE COURT: Thank you, Solicitor. Mr. Pride?

10 MR. PRIDE: Judge, we are not going to offer
11 and do not have any rebuttal testimony. We would be
12 prepared to go forward with an argument -- we would not
13 be prepared to go forward with an argument but would
14 renew my request again to ask you to allow me to give
15 you a written memorandum setting forth my position in
16 this case. I can assure you that we can have that to
17 you by 12:00 o'clock tomorrow.

18 THE COURT: So you don't want to make an oral
19 argument?

20 MR. PRIDE: No, sir.

21 THE COURT: You want to submit a written
22 memorandum.

23 MR. PRIDE: I want to get a chance to submit a
24 memorandum.

25 THE COURT: Any objection, Solicitor?

1 MS. CAMPBELL: No objection, Your Honor. We
2 would like an opportunity, once we have received his
3 written memorandum, to just have even half a day to
4 respond to that, Your Honor, just because we do not know
5 at this point where he is going.

6 THE COURT: Then he will want a quarter day.

7 MR. PRIDE: You are absolutely right. I want
8 until the next day at 10:00 o'clock to file a reply.
9 That's just two days, Judge.

10 THE COURT: All right. So by 12:00 o'clock
11 tomorrow the Solicitor's Office and the Court will have
12 your brief.

13 By what time will y'all submit a brief,
14 Solicitor?

15 MS. CAMPBELL: We could submit it first thing
16 the next day, which would be Friday morning.

17 THE COURT: All right. Then by the end of the
18 day Friday, you will submit a reply brief, Mr. Pride?

19 MR. PRIDE: Yes.

20 THE COURT: Does that suit the Solicitor's
21 Office?

22 MS. CAMPBELL: Yes, sir.

23 MR. PRIDE: Judge, also by Friday the voir
24 dire questions are due.

25 THE COURT: Yes, sir.

1 MR. PRIDE: And also, Your Honor, I have
2 pending before you a motion for you to rule on medical
3 records.

4 THE COURT: Yes, sir.

5 MR. PRIDE: Other than that, Judge, I think
6 that would complete everything that I have today, but
7 just let me look to make sure before I sit down.

8 (Pause.)

9 MR. PRIDE: Judge?

10 THE COURT: Yes, sir.

11 MR. PRIDE: That would be it for us. That's
12 it for the defense. In other words, we don't have
13 anything else.

14 THE COURT: The medical records issue has not
15 been resolved?

16 MR. PRIDE: It has not.

17 THE COURT: But y'all argued that.

18 MR. PRIDE: We did.

19 THE COURT: I have that order. I have it in
20 front of me, that Court order that was signed on the
21 records. I will look at that. You don't want to argue
22 any further on that?

23 MR. PRIDE: What Court order?

24 THE COURT: The Court order that was signed by
25 Judge Benjamin on the records.

1 MR. PRIDE: That's correct.

2 THE COURT: And the motions you made in that
3 regard.

4 MR. PRIDE: That is correct. Judge, we take
5 exception to the fact that Judge Benjamin issued an ex
6 parte order.

7 THE COURT: And that is your only exception?

8 MR. PRIDE: No, the other exception was that
9 you can't get medical records by way of subpoena or
10 Court order.

11 THE COURT: What was y'all's position,
12 Solicitor?

13 MS. GARFIELD: Our position is that there is a
14 loophole in the H.I.P.P.A. law that we are allowed to
15 get medical records via Court order.

16 THE COURT: All right. I will look at that.

17 MS. GARFIELD: Your Honor, in response to voir
18 dire questions, in addition to the questions we know you
19 will routinely ask, we are going to submit very few and
20 have those prepared today.

21 (Hands to Court.)

22 MR. PRIDE: We will get you ours Friday.

23 THE COURT: If that's the schedule, I will
24 expect to have something from the defense by tomorrow
25 midday?

1 MR. PRIDE: That's correct, Your Honor. That
2 would be in your office over in Lexington; right? You
3 won't be here tomorrow; right?

4 THE COURT: I don't think I will be here
5 tomorrow.

6 MR. PRIDE: You are not planning on it in
7 other words.

8 THE COURT: You can e-mail it.

9 MR. PRIDE: That's what I will do.

10 THE COURT: E-mail it to the law clerk and the
11 solicitor. Then the solicitor will respond by noon
12 Friday, and you will respond by the end of the day
13 Friday.

14 MR. PRIDE: Right. Judge, I need to see you
15 in chambers on something that I am entitled to see you
16 about ex parte.

17 THE COURT: Any objection to that, Solicitor?

18 MS. CAMPBELL: No, sir.

19 THE COURT: Thank y'all. Thank y'all very
20 much. For purposes of this hearing, State versus
21 Jennings will be in recess. We will be back on that
22 other matter I have to address on sentencing at 2:30.
23 Thank you. Thank you very much.

24 (Whereupon the proceedings are concluded for
25 August 8, 2012.)

1 (The following proceedings are reported on
2 August 27, 2012.)

3 THE COURT: Before I get started, according to
4 Rule 605 of the South Carolina Appellate Court Rules
5 which addresses broadcasting, televising, recording, or
6 photographing court proceedings, Rule (f)(3)(i),
7 indicates no more than two television cameras operated
8 by no more than one camera person each shall be
9 permitted in any proceeding.

10 By my count there are four. Two have to be
11 removed. There can only be two according to the rule,
12 and each of the media representatives that presented me
13 with documentation indicated that they would comply with
14 Rule 605. It further indicates no more than one radio
15 recorder operated by no more than one person shall be
16 permitted.

17 The rule goes on to say if two or more media
18 representatives have given notice under this section,
19 the presiding judge shall notify the applicants that no
20 coverage may begin until all the representatives have
21 agreed upon a pooling arrangement for their respective
22 news media.

23 Such pooling arrangement shall include the
24 designation of pool operators, procedures for cost
25 sharing, access to and dissemination of material and

1 selection of a pool representative, if appropriate.

2 It further goes on to say the presiding judge
3 may not be called upon to mediate or resolve any dispute
4 as to these pooling arrangements, which I am sure I will
5 not have to do.

6 So with that being said, if you would comply
7 with Rule 605, those members of the media who are
8 present. I would appreciate that and if you would
9 comply at this time.

10 (Pause.)

11 THE COURT: I would further advise the media
12 also according to the rule -- this is for your planning
13 purposes -- Rule 605 (f)(2), parenthetically (i)(i)(i),
14 the members of the jury may not be photographed except
15 when they happen to be in the background of other
16 subjects being photographed. Camera and audio coverage
17 of prospective jurors during selection is prohibited.

18 That is probably going to begin at
19 2:00 o'clock this afternoon and take up the remainder of
20 the day, the selection of prospective jurors. For your
21 planning purposes, I just wanted you to know the Court's
22 schedule.

23 Of course, that is not to say that if it is
24 completed earlier, there could be other motions. I
25 don't know the answer to that. I did want y'all to be

1 aware of that. Thank y'all. Thank y'all very much.

2 I have before me an amended indictment. I
3 believe there is an amended indictment on this, Madame
4 Clerk.

5 Do you have a copy of the amended indictment
6 you can hand up, please, Solicitor?

7 MS. GARFIELD: Yes, sir.

8 (Hands to Court.)

9 THE COURT: I have before me an amended
10 indictment, 2012-GS-40-02067, the State versus Zinah
11 Damaris Jennings, indictment for unlawful conduct
12 towards a child.

13 The State is present and represented by
14 Assistant Solicitors Campbell, Garfield, and Walker.
15 The defendant is present in the courtroom represented by
16 Mr. Hemphill Pride and Ms.?

17 MR. PRIDE: And Lesli Darwin.

18 THE COURT: Ms. Darwin. Are you ready to
19 proceed, Solicitor?

20 MS. CAMPBELL: May it please the Court, Your
21 Honor. We are ready to proceed. At this time I believe
22 it would be appropriate with the Court's permission to
23 have a Blair hearing briefly.

24 THE COURT: You may proceed.

25 MS. CAMPBELL: The State would call Kimberly

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1 Harrison.

2 THE COURT: If you would come around,
3 Ms. Harrison, and be sworn.

4 KIMBERLY HARRISON, being
5 first duly sworn, testifies as follows:

6 CLERK: Have a seat in the witness stand,
7 please. State your full name for the record.

8 THE WITNESS: My name is Dr. Kimberly
9 Harrison, H-A-R-R-I-S-O-N.

10 IN CAMERA DIRECT EXAMINATION

11 BY MS. CAMPBELL:

12 Q Dr. Harrison, where are you employed?

13 A I work for the South Carolina Department of Mental
14 Health, Forensic Evaluation Services.

15 Q And what do you do there?

16 A My job title is chief psychologist. I conduct
17 court-ordered psychological evaluations.

18 Q Can you tell the judge a little bit about your
19 education and your training in your field of
20 psychology?

21 A Sure. I have a Bachelor's degree in psychology, a
22 Master's of Science in psychology, and a Ph.D. in
23 clinical psychology. I also completed a
24 postdoctoral fellowship in forensic psychology.

25 Q And specifically you referred to this as being

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1 forensic psychology. Have you been qualified
2 before as an expert in those areas?

3 A Yes, I have.

4 Q Over the course of -- how long have you been with
5 William S. Hall?

6 A Almost four years. It will be four years in
7 October.

8 Q Over the course of that time, approximately how
9 many evaluations have you done? Do you know?

10 A Probably about 400.

11 Q Have you testified before as an expert as a
12 psychologist, a forensic psychologist?

13 MR. PRIDE: Judge I will admit her
14 credentials. I don't challenge her credentials to
15 testify in a Blair hearing or her credentials in her
16 field.

17 THE COURT: As an expert in the field of
18 forensic psychology and evaluation?

19 MR. PRIDE: I don't challenge that.

20 MS. CAMPBELL: Thank you.

21 THE COURT: Thank you. Thank you, Mr. Pride.
22 Ms. Campbell.

23 BY MS. CAMPBELL:

24 Q Doctor, were you court ordered to perform an
25 evaluation on Zinah Jennings?

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1 A Yes, I conducted a competency to stand trial
2 evaluation.

3 Q And just for edification basically as far as
4 determining this, this was for competency only; is
5 that correct?

6 A That's correct.

7 Q And prior to meeting with her, were there certain
8 documents that were provided to you?

9 A Yes, there were.

10 Q And briefly what types of document did you review
11 in performing this evaluation?

12 A I reviewed medical records from Palmetto Richland,
13 jail records from Alvin S. Glenn, records from when
14 she was hospitalized at the Department of Mental
15 Health forensic hospital, as well as police records
16 from Richland County, from a county in Georgia, and
17 I believe that's about it.

18 Q And also in doing your evaluations, is it important
19 to get a social history on the defendant?

20 A Yes, it is.

21 Q Was that done in this case?

22 A Yes. She had recently been admitted to our
23 inpatient unit from the detention center, and the
24 social worker there did a social history,
25 interviewed her mother, I believe. Then we also

1 gathered background information from the available
2 records and from Ms. Jennings herself.

3 Q So that information was also available for you in
4 the course of your evaluation?

5 A Yes.

6 Q Also, in the course of your evaluation, did you
7 also meet with the defendant herself?

8 A Yes, I did.

9 Q In meeting with her, what type of information are
10 you trying to gather from her, as well as what type
11 of testing was done?

12 A I am asking her about information about her
13 background. Specifically the two questions I was
14 trying to answer in this evaluation were: What is
15 her diagnosis? And is she competent to stand
16 trial?

17 I am looking for information that will help
18 answer those questions in the course of my
19 evaluation. I also conducted psychological testing
20 with her.

21 This was to assess her response style and any
22 possible feigning, as well as to assess for the
23 presence of psychopathology, personality
24 characteristics, just to do a broad psychological
25 assessment.

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1 Q In determining whether or not a person is competent
2 to stand trial, what parameters are you looking at
3 as far as her ability to, say, assist her attorney
4 and things of that nature?

5 A Right. I am looking at her ability -- her factual
6 understanding of courtroom personnel and
7 procedures, her understanding of what she is
8 charged with, her ability to gauge the seriousness
9 of the charge, her ability to think rationally
10 about her case, to make decisions that are based in
11 reality, her ability and willingness to assist her
12 attorney in terms of disclosing pertinent
13 information or being able to testify relevantly and
14 logically in her case.

15 Q And in determining competency in the report that
16 was issued, I believe in June of this year,
17 approximately how long did you spend with
18 Ms. Jennings herself interviewing her?

19 A It was about two hours and 20 minutes.

20 Q And during the course of that time, are you asking
21 her questions basically to come to conclusions
22 which you have just discussed?

23 A That's correct.

24 Q I want to show you what has been marked as Court's
25 Exhibit Number 1 for purposes of this hearing and

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1 first ask you to review that.

2 A (Pause.) Yes, this is the report that I issued.

3 Q I believe it an eight-page report where the person
4 you are evaluating is Zinah Jennings?

5 A Correct.

6 Q And the type of evaluation is competency to stand
7 trial?

8 A Correct.

9 Q When did you actually issue this report?

10 A On June 29th.

11 MS. CAMPBELL: Your Honor, at this time may I
12 approach with Court's 1?

13 THE COURT: I have a copy. Thank you. I said
14 that, Solicitor. Let me make sure I am looking at the
15 same thing.

16 MS. CAMPBELL: Yes, sir.

17 (Hands to Court.)

18 THE COURT: Yes, I have a copy. Thank you.

19 (Court's Exhibit Number 1 is marked for
20 purposes of the record.)

21 BY MS. CAMPBELL:

22 Q Court's Exhibit Number 1, did that summarize your
23 findings in this case?

24 A Yes, it does.

25 Q As well as the information, as well as background

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1 information?

2 A Yes.

3 Q And then we get to the current mental status. That
4 would have been her mental status when you met with
5 her back in June of this year?

6 A Yes.

7 Q What date specifically did you meet with her?

8 A On June 26th.

9 Q When you met with Ms. Jennings, did you go over
10 anything that could impair her ability to
11 participate in her trial with her at that time?

12 A Yes. In addition to talking with her about her --
13 just her general history, everything from her
14 education and employment history, to her family
15 history, we also talked specifically about her
16 understanding of her charge, as well as her
17 knowledge of courtroom information and legal
18 procedures.

19 Q And in that report also do you also address any
20 possible psychological problems that could impair
21 her ability?

22 A Yes, we do. I ask about specific psychological
23 symptoms, as well as observing her behavior to --
24 for example, see what her mood is or if she is
25 experiencing psychotic symptoms and then relying on

1 the records also, available records, about her
2 mental health history.

3 Q Do you also explore any history of, say, substance
4 abuse that could impair her ability?

5 A Yes, we do ask about that.

6 Q It's all summarized in that report, but just for
7 the record can you briefly summarize what your
8 findings were as far as Ms. Jennings and her
9 ability to assist in this trial?

10 A Sure. I found that Ms. Jennings had a pretty
11 adequate understanding of the different players in
12 the courtroom, what everybody's role is. She was
13 able to state what she is charged with and what
14 that charge means, what she is accused of doing.

15 She was able to state what the potential
16 penalties would be if she is found guilty. She
17 understood the difference between a guilty plea and
18 a not guilty plea and what would happen subsequent
19 to each of those pleas. She was able too
20 rationally evaluate what the best possible outcome
21 and the worse possible outcome in her case would
22 be.

23 She appeared to appreciate that Mr. Pride is
24 her attorney and is working on her behalf. She
25 seems to trust him. She seems willing to discuss

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1 the case with him, to be honest with him. She
2 seemed able to control her behavior. She did not
3 become agitated or have any outbursts with me that
4 might represent the potential for disruption in the
5 courtroom.

6 There were a few factual items she did not
7 know. I educated her on those items, and she was
8 able to correctly recall that information later in
9 the evaluation, which suggests that she has the
10 ability to learn new information that would be
11 relevant to her case.

12 Just as an example, she initially stated that
13 11 of the 12 jurors have to agree on a verdict.
14 She was instructed that the verdict would have to
15 be unanimous, and she recalled that information
16 correctly later in the evaluation. So I did not
17 find any -- that she was suffering from any
18 symptoms that would render her incompetent to stand
19 trial.

20 Q You specifically mentioned earlier in your
21 testimony that she had been admitted on an
22 inpatient basis, I believe, at one point during her
23 incarceration?

24 A Yes, in January she was admitted for 20 days to the
25 forensic hospital.

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1 Q Twenty days?

2 A Yes.

3 Q And at that point was she placed on any
4 antipsychotic medications?

5 A Yes, she was prescribed the antipsychotic
6 medication Risperdal at that time.

7 Q Were these factors you also took into account in
8 determining her competency?

9 A Yes, they were. When I evaluated her, she was
10 taking the medication. She reported that the
11 medication she felt was helpful to her, and she did
12 not have -- although she reported some beliefs that
13 may be delusional in nature, those don't seem to
14 effect her competency.

15 Q And that's what I was getting to. So even though
16 she had some delusional beliefs, those don't affect
17 her competency in your opinion?

18 A That's correct.

19 Q And did she also report a history of some substance
20 abuse?

21 A Yes, she reported using marijuana fairly regularly.
22 I am going to refer to my report for just one
23 moment.

24 Q Yes, ma'am.

25 A Began using alcohol and marijuana at the age of 16

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1 and was using marijuana on a daily basis until her
2 arrest.

3 Q And those were also a factor that you considered in
4 determining --

5 MR. PRIDE: Judge, objection to that testimony
6 on the grounds of relevancy. That is not necessary
7 during the course of her evaluation for the M'Naghten
8 rule. I move that it be stricken, and I ask that you
9 instruct the witness not to testify to those facts.

10 THE COURT: We are not addressing the
11 M'Naghten rule. She is addressing that she took into
12 account these other factors and how they may or may not
13 affect Ms. Jennings' competency to stand trial.

14 Rephrase your question, Solicitor.

15 MS. CAMPBELL: Actually I was going to move
16 on, Your Honor.

17 THE COURT: That's even better, Solicitor.
18 Move on. Thank you very much.

19 What do you want struck from the record?

20 MR. PRIDE: The part about the marijuana, the
21 use of marijuana.

22 MS. CAMPBELL: It's part of the report which
23 he did not object to, Your Honor.

24 MR. PRIDE: It may be part of the report, but
25 it is not relevant testimony in this trial, Your Honor.

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1 THE COURT: I don't think this testimony is
2 necessarily relevant at the trial before the jury. I
3 think the sole purpose of this testimony --

4 MR. PRIDE: You cured my -- I withdraw the
5 objection.

6 THE COURT: It's just solely for me to conduct
7 a State versus Blair hearing.

8 MR. PRIDE: I didn't want to later be caught
9 in: You let it in during the hearing and didn't object
10 to it then. So you don't get to now. That's where I
11 am.

12 THE COURT: Yes, sir. Thank you. Thank you,
13 Mr. Pride.

14 You may continue, Solicitor.

15 MS. CAMPBELL: May it please the Court.

16 BY MS. CAMPBELL:

17 Q Ma'am, you also mentioned you did some
18 psychological testing as well?

19 A Yes, I did.

20 Q And the results of that psychological testing --

21 MR. PRIDE: Judge, one other thing too since I
22 might as well bring that up. You know, Ms. Campbell has
23 a very imposing posture.

24 THE COURT: There seems to be imposing
25 postures on both side of the courtroom.

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1 MR. PRIDE: I would like to move her back
2 because she has a proclivity for getting right up on
3 the witness. We might as well talk about that now. I
4 would like for her to stand back from the witness and do
5 her examination, and likewise I will do the same. Thank
6 you.

7 THE COURT: You are welcome. I doubt
8 Dr. Harrison is feeling intimidated, however, in this
9 particular regard.

10 MR. PRIDE: I say that respectfully, Judge.

11 THE COURT: Yes, sir, and your point is well
12 taken.

13 MR. PRIDE: Thank you.

14 THE COURT: You may continue, Solicitor.

15 MS. CAMPBELL: Thank you.

16 BY MS. CAMPBELL:

17 Q Doctor, the psychological testing that you did in
18 this case?

19 A Yes.

20 Q The results of that, was that also another factor
21 you considered in coming to your conclusions?

22 A Yes, it was.

23 Q And was there anything in the psychological testing
24 that caused you alarm as far as her competence?

25 A No, there was nothing in the testing that suggested

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1 incompetence.

2 Q Back in June once you considered all the factors
3 that we reviewed -- and are there any others that
4 we need to go over?

5 A I believe that covers it, yes.

6 Q Did you come to a conclusion as far as her
7 competence at that point?

8 A Yes, in my opinion Ms. Jennings was competent to
9 stand trial.

10 Q And at that point she was on medication?

11 A Yes.

12 Q Those were all -- we have gone over all those
13 factors that you considered?

14 A Yes.

15 Q In your opinion she was competent at that point?

16 A Yes.

17 Q Since then have you had an opportunity to meet with
18 Ms. Jennings again in anticipation of this trial
19 this week?

20 A Yes, I met with her just this morning.

21 Q And did you also review some additional records
22 prior to meeting with her as far as medication and
23 things of that nature?

24 A Yes. I reviewed the jail records from the time
25 that I saw her in June, the more recent jail

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1 records I reviewed.

2 Q The medical records from the jail?

3 A Correct.

4 Q And when you met with her this morning,
5 approximately how long did you meet with her?

6 A It was about 45 to 50 minutes.

7 Q Can you tell the judge what was the nature of your
8 meeting with her this morning and what you went
9 over with her?

10 A Sure. Basically I just asked her, about how she
11 has been doing since I saw her in June, if there
12 were any kind of symptoms of mental illness, asked
13 her about her sleep, her appetite, her mood, any
14 problems she has been having.

15 I asked about her medication, her compliance
16 with the medication, how she feels like the
17 medication is helping her. I basically went over
18 how she is getting along with the staff at the
19 jail. So just sort of an update from the past two
20 month about how she has been doing.

21 Then we also reviewed competency-specific
22 material, so again discussed her attorney's role,
23 the solicitor's role, her appreciation of what she
24 is charged with, her ability to make decisions
25 pertinent to her case.

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1 Q And when going over those things, specifically as
2 to her ability to know what is going on in the
3 courtroom and assist in the trial of this case,
4 were there any issues this morning different from
5 before as far as her competence?

6 A No. She answered all the factual questions
7 correctly. She remembered, for example, that the
8 verdict from the jury must be unanimous. So she
9 was able to retain that information from two months
10 ago. There were no answers that she gave that
11 caused me concern as to her competency.

12 Q And having reviewed the medical records from the
13 last time until now, as well as your interview with
14 her this morning, do you have an opinion as to
15 whether or not she is competent here today for this
16 week of trial?

17 A My opinion is that she is competent.

18 Q When you met with her this morning, did she appear
19 rational and responsive to your questions?

20 A Yes, she did.

21 Q And are you aware of whether or not she is still on
22 the same medications when you first met with her?

23 A She is on an antipsychotic medication. It's my
24 understanding that they have -- the jail medical
25 staff has changed the specific medication that she

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1 is on, but she said that she is taking it
2 regularly. The jail records indicate that she is
3 compliant with the medication.

4 Q Again, your opinion here today is that she is
5 competent to stand trial?

6 A Correct.

7 MS. CAMPBELL: Beg the Court's indulgence.
8 (Pause.)

9 MS. CAMPBELL: I think that's all we have on
10 this issue.

11 THE COURT: Thank you, Solicitor. Mr. Pride.

12 MR. PRIDE: Judge, we make no challenge. I
13 have no cross examination. The only thing I want to
14 bring to your attention under the discovery rules, I am
15 entitled to any documents or records that she examined
16 in order to reach these conclusions.

17 One of the things that caught my attention was
18 the records at the Alvin S. Glenn Detention Center. I
19 may have all of those things, but if she testified to
20 any records that the solicitor knows during her
21 evaluation that we have not been sent, I would ask the
22 Court to instruct them to make them available to us and
23 see that we get them.

24 THE COURT: All right. First off, Doctor,
25 thank you for being with us. You may step down.

1 THE WITNESS: Thank you.

2 (Witness leaves the witness stand.)

3 MR. PRIDE: She can be excused. I have no
4 objection to that either.

5 THE COURT: Thank you.

6 MR. PRIDE: Judge, before you let her go,
7 could we make sure about those records?

8 THE COURT: Yes, sir. I was going to ask
9 Ms. Campbell about that right now.

10 MS. CAMPBELL: Yes, sir, all records have been
11 provided to him. We did update the medical records, I
12 believe, last week and sent them to him immediately. He
13 has got them.

14 THE COURT: Does that take care of that issue,
15 Mr. Pride?

16 MR. PRIDE: That's good enough for me, yes.

17 THE COURT: Thank you. Thank you very much.
18 Solicitor?

19 MS. CAMPBELL: Your Honor, that's all we have
20 on this issue.

21 THE COURT: Does the defense intend to offer
22 any evidence or testimony in this regard?

23 MR. PRIDE: None. We don't contradict and we
24 don't intend to offer any evidence, to answer your
25 question, Judge.

1 THE COURT: Anything further, Solicitor?

2 MS. CAMPBELL: No, sir.

3 THE COURT: I would like to put in the record
4 that I have been in the presence of Ms. Jennings on --
5 now this would be the fourth occasion. I was in her
6 presence on July 30th of 2012, for prior hearings; on
7 August 8, 2012, for prior hearings; and on August 15,
8 2012, for prior hearings.

9 On each of those occasion while in the
10 presence of the Court, she appeared to have appropriate
11 demeanor while within the courtroom. During those
12 hearings at time I would observe her engaged with her
13 attorney or on a break perhaps with members of her
14 family.

15 She always appeared to be alert and aware.
16 Although I do not recall having the opportunity to hear
17 Ms. Jennings speak, I have not observed any
18 inappropriate behavior while in my presence.

19 In looking at State versus Blair, it indicates
20 that I would take into account -- have this hearing --
21 and take into account the testimony that was presented
22 by the State.

23 Then looking at State versus W-E-I-K -- the
24 pronunciation is for your own -- 356 S.E.2d 76, it
25 appears that the standard that the Court must look at in

1 determining competency to stand trial is whether the
2 defendant has sufficient present ability to consult with
3 his lawyer with a reasonable degree of rational
4 understanding, and whether he or she has a rational, as
5 well as a factual, understanding of the proceedings
6 against him, citing Dusky versus United States, 1960,
7 and State versus Reed, 1998.

8 Competency is required to ensure that the
9 defendant has the capacity to understand the proceedings
10 and to assist counsel. The defendant bears the burden
11 of proving his lack or her lack of competence by a
12 preponderance of the evidence, and the trial judge's
13 ruling will be upheld on appeal if supported by the
14 evidence and not against the preponderance.

15 Further, in addition to any expert opinions,
16 the Court may take in its own observations of the
17 defendant. When I look at Court's Exhibit Number 1 and
18 I listened to the doctor's testimony and her
19 conclusions, from both her report of June the 29th of
20 '12 and now where she had reexamined her today, it is
21 clear that she does have the present ability and she is
22 competent to stand trial.

23 She understands the proceedings. She
24 understands the role of the parties. She has trust in
25 her attorney. She understands and has been explained

1 the unanimity of the verdict form as far as a guilty
2 verdict and consequences of a guilty verdict versus not
3 guilty.

4 Further, the doctor, Dr. Harrison, met with
5 her again today and reconfirmed those findings. So I
6 find that Ms. Zinah Jennings is competent to stand
7 trial.

8 Anything further at this time, Solicitor?

9 MS. CAMPBELL: No, sir.

10 MR. PRIDE: Judge, just to make sure the
11 record is complete.

12 THE COURT: Yes, sir.

13 MR. PRIDE: I have been representing
14 Ms. Jennings since December. As her counsel -- and
15 Ms. Darwin has been representing her about a month --
16 neither one of us have had any inclination from
17 Ms. Jennings that she is not competent to stand trial.
18 We are not in any respect offering or intending to offer
19 a defense of incompetence to the charges against her.

20 THE COURT: Thank you. Thank you very much,
21 Mr. Pride. Anything further?

22 MR. PRIDE: Nothing.

23 THE COURT: I have informed the clerk to have
24 a panel of 55 jurors to report at 2:00 P.M. If there is
25 nothing further, we will be in recess until that time.

1 Thank you. Thank you very much, Solicitor. Thank you,
2 Mr. Pride.

3 MR. PRIDE: While you are out for lunch, think
4 about allowing extra strikes in this case because of
5 pretrial publicity.

6 MS. CAMPBELL: I believe the strikes are five
7 and five, Your Honor.

8 THE COURT: Well, we can talk about that.

9 MR. PRIDE: All right.

10 THE COURT: That will give me something to
11 think about at lunch, Mr. Pride. I appreciate that.

12 (Whereupon there is a luncheon recess.)

13 THE COURT: Anything from the State before we
14 bring our panel up, Madame Solicitor?

15 MS. CAMPBELL: No, sir.

16 THE COURT: From the defense?

17 MR. PRIDE: Nothing, Your Honor. We are ready
18 to go.

19 THE COURT: All right. If you would bring our
20 panel, please, Madame Clerk.

21 CLERK: Yes, sir.

22 THE COURT: Do you have a witness list,
23 Mr. Pride?

24 MR. PRIDE: I do not have one ready for you
25 yet. I am still adding. I will see that you get one

1 before you leave the courtroom today.

2 THE COURT: Well, I need to ask the jurors
3 when I qualify them about knowledge of any potential
4 witnesses.

5 MR. PRIDE: Judge, could we e-mail it to you
6 and have you print it?

7 THE COURT: You can e-mail it to my law clerk
8 and have him print it.

9 MR. PRIDE: I appreciate that and sorry for
10 the inconvenience.

11 (Pause.)

12 (The jury panel enters the courtroom.)

13 THE COURT: The remainder of the panel is
14 present, Madame Clerk?

15 CLERK: Yes, Your Honor.

16 THE COURT: Thank you very much. I understand
17 the panel is present in the courtroom.

18 Madame Solicitor, you may call your first case
19 for trial.

20 MS. GARFIELD: Thank you, Your Honor. The
21 State calls the case of the State of South Carolina
22 versus Zinah Damaris Jennings, Indictment
23 Number 2012-GS-40-2067, for one count of unlawful
24 conduct towards a child.

25 MR. PRIDE: May it please, Your Honor.

1 Ms. Jennings is present in court and represented by
2 Ms. Darwin and myself.

3 THE COURT: Thank you. Thank you very much,
4 Mr. Pride.

5 Madame Clerk, would you place the jury panel
6 under oath for me, please.

7 CLERK: Yes, Your Honor.

8 (The jury panel is duly sworn.)

9 THE COURT: Thank you. Thank you very much,
10 Madame Clerk.

11 Ladies and gentlemen of the jury panel, if you
12 would please give me your complete and undivided
13 attention. I would like to begin by advising you that
14 you may notice that there are cameras in the courtroom.

15 I would advise you that under a rule of court,
16 of our appellate courts, the camera and audio coverage
17 of prospective jurors during selection is prohibited.
18 Therefore, none of you will be subjected to camera or
19 audio recording during this process.

20 They may point their cameras in other
21 directions and such like that; however, you will not be
22 subjected to that during this process or during this
23 entire process.

24 We are about to begin a process whereby we
25 select a trial jury for the trial of this case that has

1 courthouse by 8:00 A.M. Then her other schedule should
2 be adjusted accordingly.

3 MR. PRIDE: Judge, I want to thank you very
4 much for that because had you not done that, that was
5 really imposing a hardship on her. I appreciate it and
6 so does she.

7 THE COURT: Thank you very much. Court will
8 be in recess until 9:30 in the morning.

9 (Whereupon the proceedings are concluded for
10 August 27, 2012.)

11 (The following proceedings are reported on
12 August 28, 2012.)

13 THE COURT: You have housekeeping matters,
14 Solicitor?

15 MS. CAMPBELL: Yes, Your Honor. We are in
16 receipt this morning of another motion to quash the
17 superseding or replacement indictment from the defense.
18 I didn't know if you wanted to hear that argument at
19 this point.

20 We also have a couple of matters we would like
21 to address, the first of which goes to speaking
22 objections under Rule 18(b). The second would go to
23 there have been representations by the defense that they
24 do not plan on going forward on any diminished capacity
25 or any type of mental health defense.

1 However, in their witness list, they have a
2 number of people which our witnesses listed too, out of
3 an abundance of caution, that are associated with mental
4 health. I just wanted to, prior to opening arguments,
5 before any argument came up that we would have to object
6 to, just clarify that with the defense.

7 Also, he has asked us some questions about
8 portions of two statements that were made by
9 Ms. Jennings after the initial statement that was taken
10 once she was in custody on the 30th.

11 Those were self-serving statements. We are
12 not offering those, and therefore we would just ask the
13 Court -- since they are self-serving and we are not
14 offering them -- that no mention should be made of
15 those.

16 THE COURT: All right. Well, addressing
17 speaking objections first, I don't allow speaking
18 objections. You can either cite the rule of evidence,
19 401, 403, 404, what have you, whatever rule you think is
20 appropriate, 803, hearsay. I don't object to you saying
21 it's hearsay or something of that nature.

22 If it goes completely over my head and I can't
23 grasp what the basis of the objection is, I will either
24 ask you to step to the bench or I will send the jury
25 out, and we can argue it outside the presence of the

1 jury.

2 Any time you make an objection, Solicitor,
3 Mr. Pride, and I overrule your objection, if you want to
4 be heard, I would be glad to hear from you. We can
5 either note it at the bench, and we hear it later when
6 the jury is out; or if you want to be heard at that
7 time, I will send the jury out. I don't allow speaking
8 objections in that regard. I don't particularly like
9 bench conferences; however, there is a timeliness to
10 them in that regard.

11 As far as Mr. Pride's witness list and the
12 opening statements, I assume there is no -- and it has
13 been represented consistently by Mr. Pride -- there is
14 no M'Naghten, guilty but mentally ill, or anything of
15 that nature, and you are limited in that regard. You
16 know what the rules are in that regard.

17 MR. PRIDE: I certainly do, Judge. I informed
18 the Court and the prosecutors in this case that if I
19 went to diminished capacity, that would be assuming we
20 got a verdict favorable verdict for the State; and I
21 would use that simply for purposes of argument for the
22 Court in mitigation. So that matter has long been
23 settled.

24 THE COURT: Then that should not be an issue
25 at all either in openings or throughout the course of

1 the trial.

2 MR. PRIDE: Certainly, Judge.

3 THE COURT: Now, the motion that was handed up
4 this morning, are y'all prepared to argue that motion at
5 this time?

6 MR. PRIDE: Judge, before you go to that
7 motion, could I take up one matter?

8 THE COURT: Yes, sir.

9 MR. PRIDE: Judge, at this time -- sometimes
10 when you have a courtroom and you have witnesses in here
11 and we discuss things and argue things, you have a
12 tendency to educate them.

13 So I want to move at this time to sequester
14 all witnesses on the grounds that they may
15 contemporaneously harmonize their testimony so as to
16 prejudice the right of Ms. Jennings.

17 THE COURT: I usually follow State versus
18 Carmack, the case out of Fairfield County. If the
19 witness has given a statement, a sworn statement, I see
20 no reason that they would have to be sequestered because
21 you would have that sworn statement or the solicitor
22 would have that sworn statement as far as the ability to
23 cross examine.

24 Who do you want particularly sequestered,
25 Mr. Pride? Can you answer that?

1 MR. PRIDE: Quite frankly, I want all of them,
2 Judge. There are very few sworn statements in this case
3 on the part of the State. I just think it's in order to
4 even the playing field so that we get testimony that is
5 untainted by witnesses sitting here listening to the
6 trial of this case.

7 I mean, a witness doesn't have an interest in
8 this matter, and there is no reason for them to sit --
9 other than the fact, I certainly acknowledge it's a
10 public hearing, and they have got a right from that
11 standpoint.

12 But I would submit to you, Judge, in the best
13 interest of justice and fairness in this case, I would
14 move you to please consider sequestering all the
15 witnesses.

16 THE COURT: Solicitor, do you have a position?

17 MS. CAMPBELL: Your Honor, respectfully I
18 think you have gone through our analysis of everything.
19 The witnesses in this case that have given statements as
20 to what their testimony would be, I see no harm.

21 I believe the case law is that it is totally
22 up to the judge as to whether or not to sequester
23 witnesses. Respectfully, Your Honor, we would ask that
24 you follow your usual rulings in this matter.

25 THE COURT: Under Rule 615 of the South

1 Carolina Rules of Evidence, at the request of the party,
2 the Court may order witnesses excluded so that they
3 cannot hear the testimony of other witnesses or it may
4 make the order on its own motion.

5 In citing the cases to that rule, the first of
6 which I cited moments ago, State versus Carmack, 694
7 S.E.2d 224, the mere opportunity for the State's
8 witnesses to compare testimony is insufficient to compel
9 sequestration.

10 The question of the exclusion of the testimony
11 of the witnesses is left to the sound discretion of the
12 trial court. A party is not entitled to have witnesses
13 sequestered as a matter of right. The decision to
14 sequester, again, is within the sound discretion of the
15 trial court, citing State versus Huckabee, 694 S.E.2d
16 781.

17 Based on the previous pretrial hearings we
18 have had where numerous officers have testified,
19 testified under oath -- I think several of those
20 officers have even testified twice under oath -- they
21 also have reports. There is also many audiotapes,
22 transcripts involved.

23 Many of the witnesses appear to be what would
24 be identified somewhat as forensic witnesses. There has
25 also been testimony of family members of Ms. Jennings

1 that testified in a hearing last week or the week before
2 last.

3 I will deny the general sequestration order.
4 If there are specific witnesses, again, Mr. Pride, that
5 you have a specific concern about, over and above just
6 the fact that they are going to hear someone else's
7 testimony, I will consider those specific witnesses.

8 Quite frankly, I don't want to sequester the
9 State's witnesses and then I will have to sequester all
10 of the family members of Ms. Jennings. In my discretion
11 that's not the appropriate thing to do. If there are
12 specific witnesses you have concerns about, factual
13 witnesses, I would be glad to consider those.

14 MR. PRIDE: At the appropriate time, we will
15 bring it to your attention.

16 THE COURT: Thank you. Thank you very much,
17 Mr. Pride. Now, the motion?

18 MR. PRIDE: Yes.

19 THE COURT: You want me to hear the motion at
20 this time?

21 MR. PRIDE: I would appreciate it.

22 THE COURT: I would be glad to hear from you.

23 MR. PRIDE: Judge, you have before you in this
24 matter Judge Cooper's order concerning the first
25 indictment in this matter which was brought by the State

1 in that period of time. I think it was on the 24th of
2 November until the 24th of December, a period of 30
3 days.

4 In the indictment, which I will refer to as
5 the superseding indictment, you have before you an
6 extended period of time from September through December.
7 In earlier discussions I think we both agreed that the
8 only thing that changed was the period of time in the
9 indictment.

10 Your Honor, I would submit to you that the
11 superseding indictment is a prosecutorial scheme -- and
12 I saw you frown.

13 THE COURT: No, it wasn't because of that
14 terminology at all, Mr. Pride. I have to be a little
15 bit better at my poker face.

16 MR. PRIDE: Prosecutorial scheme certainly
17 does not infer -- if anything, it infers an effort on
18 the part of the State to make sure that they get a
19 conviction in this case. So that's how I refer to a
20 scheme, not a scheme necessarily ill intent or anything
21 like that; but it's a prosecutorial scheme.

22 It's a prosecutorial scheme in which the State
23 seeks to bring in conduct starting in September. In
24 other words, Judge, let me put it this way. Here is
25 what you have here, Judge. You have on December the 8th

1 notice to the police department that you have two people
2 missing, Zinah and ^{Child}

3 On December the 30th, you have Zinah being
4 arrested and charged pursuant to 63-5-70. Now, that's a
5 period, Judge, of 22 days. I would submit to you that
6 you have to take into consideration and look at -- I
7 would ask that you take into consideration and look at
8 the warrant.

9 Because I think the warrant -- first of all,
10 the warrant is a sworn statement on the part of the
11 police department. In that statement, Judge, to
12 paraphrase it -- and if you don't have it, I can give it
13 to you.

14 THE COURT: I have a copy.

15 MR. PRIDE: Judge, to paraphrase it, what the
16 warrant says: She wouldn't tell us where the baby was.
17 That is paraphrasing, not verbatim, but that is it
18 basically. The warrant goes on to say, She told us
19 several different stories.

20 Now, Judge, there is no statute in South
21 Carolina that provides or makes it mandatory that a
22 mother cooperate with the police and tell them where
23 her child is. I mean, there just is no law to that
24 effect.

25 That's where, Judge, the case that I submitted

1 to you today comes in, Baltimore City Department of
2 Social Services versus Bouknight. Because I think that
3 the language -- and this case is shepherdized, and I
4 would proffer to the Court it is good law today.

5 Judge, in this case the distinction was that
6 there was a Court order by the family court which
7 compelled the mother to do something, to speak. Unlike
8 in this case, you can't find anything compelling the
9 mother to speak.

10 But the Court said because she was in jeopardy
11 and she faced the possibility of a criminal offense,
12 that she had the right not to tell them where the child
13 is. This whole case, Judge, is not about Zinah abusing
14 the child. It's about a missing child. The abusing and
15 the statute is a pure -- it's a pretext on the part of
16 the State.

17 I submit to you, Judge, prior to Zinah being
18 arrested, all of these acts that you will hear -- if you
19 allow this case to go forward and disagree with my
20 motion -- were acts that the police department went and
21 investigated after the warrant was signed on Zinah.
22 That's when they found the evidence.

23 You can't put the cart before the horse.
24 That's when they went out and found it. When they
25 arrested her and took her into custody, the warrant

1 tells why they did it. It was purely because she would
2 not tell them where the child is.

3 She was not only a suspect, she was in custody
4 and arrested. They say in the warrant that she gave
5 several different versions. That was only because they
6 kept asking her where the child was. That's not a
7 violation of any law.

8 Once she got -- once they served her with the
9 warrant, then that's when they went into the community.
10 They didn't have one of these witnesses, not one of
11 these witnesses that you will hear between September and
12 December, until after the 30th of December, until after.
13 They didn't have them at the time of the arrest.

14 Judge, in and on its face, the indictment in
15 this case, again, Judge, it just verbatimly -- if there
16 is such a word -- repeats the statute. That alone,
17 Judge, is not enough. Zinah Jennings, as the defendant,
18 has a right to know. She has got to say -- it has got
19 to say -- it repeats the statute, and she did what?
20 What conduct rose to the level of a violation of that
21 statute?

22 And it doesn't do it, Judge. It just does not
23 do it. It does not describe any conduct on the part of
24 Zinah Jennings, other than the fact that they repeat the
25 statute. That's the first prong. The second prong is

1 notice, and the indictment fails for that reason, Judge.

2 Judge, to cross one more hurdle with you. You
3 and I have discussed this before, but I think it's
4 important to say what's what. I know that a circuit
5 court judge cannot overrule another circuit court
6 judge's order, but this is a different situation.

7 Once they brought about the superseding
8 indictment, it made Judge Cooper's order moot, I would
9 submit to you. So what you have is a fresh start, if
10 that's a proper description.

11 In other words, you are not bound by anything
12 that Cooper did -- Judge Cooper did -- excuse me -- that
13 Judge Cooper did as it relates to the language in his
14 order.

15 I know Your Honor told me, I have read this
16 and I adopt Judge Cooper's order, as it relates to what
17 I refer to as the superseding indictment. I just want
18 to put to rest the fact that I do recognize that a
19 circuit court judge cannot overrule another circuit
20 court judge, but I don't see that as being this
21 situation.

22 Because once they went back before the grand
23 jury and got this indictment in July, I would submit to
24 you that everything that Judge Cooper did was moot, even
25 though the only thing that changed in the indictment was

1 the period of time.

2 But the period of time is nothing but a
3 prosecutorial scheme, Judge. You arrest first, hold,
4 and then you run out and find the evidence. That's
5 exactly what happened in this case.

6 I submit to you that Zinah Jennings, at the
7 time that she was in custody, had an absolute right not
8 to cooperate and an absolute right not to tell them
9 where the child is. To prosecute her based on her
10 silence is just a horrific violation of her Fifth
11 Amendment. Thank you very much.

12 THE COURT: Thank you. Thank you very much,
13 Mr. Pride. Solicitor.

14 MS. CAMPBELL: Thank you, Your Honor. I
15 believe we are arguing the same motion again. The
16 defense concedes in the motion that the only change in
17 the amended indictment -- it's not the superseding
18 indictment. It's the same indictment number. It's the
19 same wording in the indictment.

20 The only thing he concedes in his motion is
21 the change was the date. At the time he had notice. He
22 has never argued that he did not have sufficient notice.
23 He was also on notice as to various acts done by the
24 defendant by the discovery that was provided to him
25 several months ago.

1 As far as his contention that we are violating
2 her Fifth Amendment rights, there are no Fifth Amendment
3 rights. We had a hearing on the only custodial
4 statement we intend to introduce against his client at
5 that time, Your Honor.

6 We had a hearing on that in which you found
7 specifically that her rights were observed and respected
8 by the police; that she had the right to invoke any
9 rights she wanted to -- a right to an attorney, a right
10 to remain silent -- and she voluntarily, according to
11 your ruling, chose to speak to the police.

12 We are not prosecuting Ms. Jennings because of
13 what she didn't say. We are prosecuting her because of
14 the different stories she has told different people,
15 including her own mother, who reported the child missing
16 on her own in early December, including statements she
17 made to police officers after a car wreck when she was
18 not in custody, statements she made to nursing personnel
19 at the hospital, and other statements as well, Your
20 Honor.

21 In fact, she did more acts that could be
22 constituted under the time period which we have indicted
23 her for, Your Honor. The defendant has had sufficient
24 notice, and this is the first time we have heard
25 anything about him not having notice.

1 He has had at least over a month, and we have
2 had multiple hearings on this specific issue. I don't
3 remember the exact language you used, Your Honor, so I
4 don't want to misspeak. As far as Judge Cooper's
5 ruling, he did rule on this indictment. He found the
6 indictment itself is sufficient, Your Honor.

7 You are more familiar with the case law, I'm
8 sure, than I am as far as what has to be alleged in the
9 indictment. Your Honor, there is a specific statute
10 that even allows us to come into court the day of trial
11 and amend the indictment.

12 That is foreseen by the legislature in the
13 law. Specifically, there are cases out there that talk
14 about how time period is not an essential element of the
15 crime itself.

16 Your Honor, we would stand by Judge Cooper's
17 prior rulings, your rulings adopting his rulings -- if
18 that is, in fact, what you did. I think you made an
19 independent finding. I'm not sure. I don't want to
20 misspeak.

21 Your Honor, we feel like the indictment itself
22 on its face is sufficient. I have never argued
23 prosecutorial scheme before. But, Your Honor, there was
24 no scheme here.

25 We are merely talking about the time period in

1 which the acts that fall under this crime of unlawful
2 neglect of a child would be appropriate to bring forth
3 evidence before a jury.

4 THE COURT: Thank you, Solicitor. Anything in
5 response, Mr. Pride?

6 MR. PRIDE: Yes. Your Honor, this is an
7 argument of apples and oranges. I have never read a
8 case yet where it said that the indictment -- notice to
9 the indictment can be supplied by discovery.

10 The indictment is a document that is supposed
11 to inform a defendant fully of the conduct that the
12 defendant has demonstrated that has violated the law; so
13 that the defendant will know exactly what they are
14 defending.

15 Having discovery is something that comes about
16 after the indictment. If you were able to get notice
17 from discovery, then we could almost do away with the
18 indictment altogether. We'd just give the defendant a
19 copy of the statute and give the lawyer the discovery,
20 and we would be off and running. It does not work that
21 way. It does not work that way.

22 Therefore, Ms. Campbell's argument does not
23 suffice in this case. When Ms. Campbell says that I did
24 not raise the notice, I respectfully submit to you that
25 I have raised notice all along.

1 When you talk about the fact that the statute
2 is sufficient, but the indictment must say what the
3 defendant did, then what are you talking about besides
4 notice? That's exactly what I'm talking about. That
5 argument does not hold water.

6 So, Your Honor, I think I am entitled to a
7 good look at this. I know where we are in the trial,
8 and I know this is a highly publicized case. But, I
9 mean, if it's there, it's there. Thank you.

10 THE COURT: Thank you. Thank you very much,
11 Mr. Pride.

12 An indictment is sufficient if it apprises the
13 defendant of the elements of the offense intended to be
14 charged and informs the defendant of the circumstances
15 she must be prepared to defend.

16 Generally, an indictment is required to
17 perform two functions. Number one, it should inform the
18 accused of the charge against her by listing the
19 elements of the offense charged. Two, it should be
20 sufficiently specific to protect the accused against
21 double jeopardy.

22 In determining whether an indictment meets the
23 sufficiency standard, the Court must look at the
24 indictment with a practical eye in view of all the
25 surrounding circumstances.

1 Further, whether an indictment could be more
2 definite or certain is irrelevant. All of the
3 surrounding circumstances must be weighed and considered
4 to make an accurate determination as to whether the
5 defendant was prejudiced by a lack of notice and/or an
6 insufficient indictment.

7 The indictment in this case -- and I am
8 referring to the amended indictment -- satisfies
9 17-19-20 and State versus Gentry. The defendant is
10 charged with unlawful conduct towards a child in
11 violation of 63-2-7.

12 The indictment as amended alleges a time frame
13 from September 1, 2011, through December 24, 2011, in
14 Richland County. The criminal charge and the language
15 is substantially similar to the statute prohibiting the
16 crime.

17 The indictment therefore satisfies the Gentry
18 standard because it states the offense with sufficient
19 certainty and particularity to enable the Court to know
20 which judgment to pronounce and provides the defendant
21 with notice of the elements of the offense that is
22 intended to be charged and tried.

23 Specifically the indictment states on those
24 dates, while having charge and custody or being the
25 parent or guardian or being responsible for the welfare

1 of the minor child, Child -- naming the
2 victim -- placed the child at unreasonable risk of harm
3 affecting the child's life, physical, or mental health
4 or safety; or she did unlawfully or maliciously cause or
5 cause to be done bodily harm to the child so that the
6 life or health of the child was endangered or was likely
7 to be endangered; or she did willfully abandon the child
8 in violation of the stated statute.

9 The State is not required to plead evidence
10 showing specific location but for Richland County. The
11 State is not required to plead its evidence in the
12 indictment.

13 The difference between stapling a copy of the
14 statute to the discovery and turning it over to the
15 defense and not doing an indictment, the difference is
16 the grand jury. It goes back to some field in England
17 and the Magna Carta, what have you. That is the
18 difference there, number one.

19 Number two, I don't know of a case where it's
20 relevant when evidence is discoverable. There may have
21 been a time when people were arrested and put in jail
22 and everybody stopped working or nobody started working.
23 That should not be in this country. There should
24 continue to be investigation, both by the State and the
25 defense, throughout the course of any alleged criminal

1 offense in this country.

2 I have looked at Bouknight versus Bouknight
3 which you handed up. I looked at the summary. I think
4 the indictment has to allege the -- or that the State at
5 trial would have to prove, first, the corpus delicti.
6 Although this case that you handed up refers to a Court
7 order in producing the child, there is a State statute
8 in South Carolina that a child not be abandoned.

9 So I would also point out in my previous
10 ruling on this, I did confirm Judge Cooper's order. I
11 also went further and said even if I couldn't and just
12 didn't confirm his order, I made an independent finding
13 at that time that the indictment was sufficient.

14 I would refer and incorporate into the record
15 pages 63, 64, and 65 of the transcript of July 30th of
16 2012. I will have those marked later for the record,
17 Madame Court Reporter.

18 Any other matters before we bring in our jury,
19 Mr. Pride?

20 MR. PRIDE: I don't have any motions, and I
21 don't have any other matters.

22 THE COURT: Solicitor?

23 MS. CAMPBELL: No, sir.

24 THE COURT: We have lost juror number 47.

25 Juror 47 is no longer on the primary jury. She called

1 in this morning and advised she was the guardian ad
2 litem for her grandchildren, both of whom were sick and
3 were having to go to emergency doctor care.

4 I advised the clerk that I was excusing her
5 and to present a doctor's excuse to the Clerk's Office.
6 I have asked our Clerk of Court to prepare -- well, I
7 asked her to prepare a hat. She told me she didn't have
8 a hat; she had a cup.

9 I said, Prepare a cup. Then she decided she
10 had a hopper. So we are going to select one, as I
11 understand the procedure, randomly one of the alternates
12 to now become a member of the primary jury. Madame
13 Clerk.

14 CLERK: Yes, sir, number 167.

15 THE COURT: Juror number 167?

16 CLERK: Yes, Your Honor.

17 THE COURT: Juror number 167 is now a member
18 of the primary jury. Juror number 47 has been excused
19 from jury service. I am appointing juror number 293.
20 Juror number 293 will be our foreperson.

21 Mr. Bailiff, when you bring the jurors out, if
22 you would have juror 293 in the foreperson seat. Also
23 juror number 167, one of the alternates, will now be on
24 the primary jury. I had three alternates.

25 Anything further?

1 MS. CAMPBELL: No, sir.

2 MR. PRIDE: Nothing for the defendant, Your
3 Honor.

4 THE COURT: Thank you, Mr. Pride.

5 If you would bring our jury, please.

6 (The jury returns to the courtroom at
7 10:08 A.M.)

8 THE COURT: Madame Clerk, would you swear our
9 jury, please.

10 CLERK: Yes, Your Honor.

11 (The jury is duly sworn.)

12 THE COURT: Good morning, ladies and gentlemen
13 of the jury panel. Welcome back. I hope you had a
14 pleasant evening. I apologize for the delay in getting
15 you out into the courtroom this morning.

16 I assure you that that had nothing to do with
17 the parties. They were here -- not on time -- but
18 early. They have been working very diligently in this
19 regard.

20 One member of our panel I had to excuse, and
21 now I believe juror number 167 has been promoted; is
22 that right? Number 167 is now a member of the primary
23 jury.

24 Ladies and gentlemen of the jury, the case we
25 are about to try is the case of the State versus Zinah

1 Damaris Jennings, the defendant. What I will now say is
2 intended to serve as an introduction to the trial of
3 this case.

4 These remarks are not a charge or instruction
5 on the law. I will instruct you on the law that applies
6 to this case at the end of the trial before you retire
7 to consider your verdict. This is merely an explanation
8 of the procedure that we will follow in the trial of
9 this case so that you may better understand what may be
10 happening.

11 I have been advised that you have requested to
12 take notes. You may certainly do so. I don't know if
13 they supplied you with those materials yet or not. I
14 see heads nodding up and down; so I take it they have.
15 You are welcome to take notes.

16 There are several things about taking notes.
17 You may not have them with you in the jury room until
18 the time of your deliberations. So that any time you
19 take a break, just turn them upside-down on your chair.
20 You might want to put your juror number on them, turn
21 them upside-down on your chair.

22 They will remain there during the break.
23 During the luncheon recess, they will be secured by the
24 Clerk's Office. During the overnight recesses, they
25 will be secured by the Clerk's Office.

1 I would further advise you that some folks are
2 good note takers and others are not. I am a good note
3 taker and later on I can't read my notes. I take a lot
4 of notes, but I go back and I can't read them. But one
5 juror's notes are no better than another juror's memory.
6 That's one issue I would like to instruct you on.

7 Also, when you are jotting down something, you
8 may be -- your eyes may be diverted from the witness on
9 the witness stand or something of that nature. You can
10 use demeanor. You can use the appearance of a witness
11 on the witness stand in helping you evaluate the
12 credibility of a witness.

13 So just keep in mind that you could miss some
14 of those nuances in that regard. As I say, one juror's
15 notes is no better than another juror's recollection or
16 memory.

17 The defendant is charged by an indictment
18 filed in this court with the crime of unlawful conduct
19 towards a child, which is a statute in South Carolina,
20 63-5-70, the elements of which I will explain to you
21 fully and completely later. I previously published the
22 indictment to you.

23 This indictment, ladies and gentlemen, is
24 simply a charging document. It is the document by
25 which -- the formal document -- by which a case is

1 brought into court, and it is in no sense any evidence
2 of the allegations it contains.

3 Ms. Jennings, the defendant, has pled not
4 guilty to this indictment. The State therefore has the
5 burden of proving each of the elements of the indictment
6 beyond a reasonable doubt. It will be your duty, ladies
7 and gentlemen, to decide whether the State has met that
8 burden.

9 Your purpose as jurors is to find and
10 determine the facts. Your sole purpose is to be the
11 judge of the facts. If at any time I make any comment
12 regarding the facts, you must disregard it.

13 You are to determine the facts from the
14 testimony you hear and the other evidence introduced in
15 court. It will be up to you to decide the inferences
16 which you feel may properly be drawn from the evidence.

17 It is especially important that you perform
18 your duty of determining the facts diligently and
19 conscientiously because ordinarily there is no way to
20 correct an erroneous determination of the facts by a
21 jury.

22 On the other hand and with equal emphasis, the
23 same law that makes you the judges of the facts makes me
24 the judge of the law. The law as given by the Court is
25 the only law you may consider.

1 You must accept and follow it even though you
2 may disagree with it. I cannot tell you what the facts
3 are. You cannot disagree with me about what the law is
4 or should be.

5 Your job is to take the law as I give it to
6 you and apply it to the facts as you find them from the
7 testimony of the witnesses testifying under oath and any
8 other evidence that is introduced. After doing that,
9 you will render your verdict, a true and just verdict,
10 under the solemn oath that you have just taken as
11 jurors.

12 Until I advise you to begin your
13 deliberations, you must not discuss this case with
14 anyone. That includes your fellow jurors, friends,
15 family members, or anyone else. After the case is
16 submitted to you, you must discuss it only in the jury
17 room with your fellow jurors.

18 Has any member of the jury panel discussed
19 this case with anyone since you have been on jury duty
20 this week? If so, please stand.

21 (There is no response.)

22 THE COURT: During the trial do not read,
23 listen to, or watch any news reports about the case.
24 This includes anything that may be in the newspaper, on
25 the internet, radio, or television.

1 Has any member of the jury panel read any
2 articles, listened to any new reports, seen anything on
3 the internet or television about this case since being
4 on jury duty this week? If so, please stand.

5 (There is no response.)

6 THE COURT: As to both of those questions I
7 asked, Madame Court Reporter, the record will reflect no
8 one stands.

9 You must not consider anything you may have
10 read or heard about the case outside of the courtroom,
11 whether before or during the trial. A number of you, I
12 had the opportunity to talk with individually up here
13 with the court reporter and the attorneys.

14 Each and every one of you assured me that you
15 could set aside whatever you may have heard or read
16 about the trial and base your decision solely on what
17 you hear in this courtroom and the law as I tell you the
18 law is.

19 It is your solemn responsibility to determine
20 the guilt or innocence of the defendant. Your verdict
21 must be based solely on the evidence as it is presented
22 to you in this trial and on the law as I instruct you
23 during and at the close of the trial.

24 Now, in just a moment the solicitor will make
25 what is called an opening statement in which the

1 solicitor will explain to you the issues in the case or
2 at least what the solicitor thinks the issues are in the
3 case. Mr. Pride or Ms. Darwin, the attorneys for the
4 defendant, may also make an opening statement, although
5 they are not required to do so.

6 What the attorneys tell you during their
7 opening statement is not evidence in the case. It is
8 only their contention of what the issues are. The
9 attorneys are not witnesses in the case.

10 Their questions are not evidence. Their
11 questions are the framework by which evidence is
12 presented through the testimony of the witnesses. The
13 evidence in this case will be presented to you by that
14 testimony of the sworn witnesses and/or by any exhibits
15 that may be introduced into evidence.

16 From time to time during the trial, you may
17 hear one of the attorneys say something like, Your
18 Honor, I believe we have a question of law or a matter
19 of law to discuss with you or, Your Honor, may we
20 approach the bench? Or sometimes I myself might find it
21 necessary to excuse you from the courtroom for a short
22 while so the attorneys and I can discuss a matter of
23 law.

24 The reason for this is because you are the
25 judges of the facts in the case. Sometimes when I am

1 discussing matters of law with the attorneys, it may be
2 necessary for me to make some comment as to the facts in
3 connection with ruling whether or not a particular law
4 applies.

5 I am not supposed to tell you what I think the
6 facts are. So I will excuse you from the courtroom
7 while these discussions take place so that in no way
8 will you be influenced by anything I might say or do in
9 connection with the facts.

10 In determining what the true facts are, in
11 using your good judgment and your common sense, you must
12 decide whether or not the testimony of the witnesses is
13 believable.

14 It will be my responsibility to rule as a
15 matter of law on whether or not certain testimony is
16 admissible at all or not; but once the testimony is
17 admitted into evidence, whether or not you believe it is
18 solely for you to decide.

19 In deciding whether to believe a witness, you
20 have the right to consider the interest of any witness,
21 the bias of any witness, the prejudice of any witness,
22 the opportunity for the witness to have seen the matters
23 and things about which the witness may testify, and the
24 way the witness acts on the witness stand.

25 You have a right to consider anything that is

1 in the record that will help you evaluate the testimony
2 of the witnesses. That means it will be your duty to
3 pay close attention to these witnesses, to observe them,
4 to listen to them, to pay close attention to the
5 attorneys and to the Court.

6 Don't let your thoughts wander but give strict
7 attention to the testimony in this case so that at the
8 end of all the testimony, after the closing arguments by
9 the attorneys and the instruction on law by the Court,
10 you will then be in a position to determine what the
11 true facts are and to apply the law to those facts and
12 thus render that true and just verdict.

13 Madame Forelady, it will be your added duty to
14 preside in the jury room and be the jury's spokesperson
15 here in court. It will also be your duty to write the
16 verdict, but I will give you further instructions about
17 that at the conclusion of the case.

18 Ladies and gentlemen, just a few housekeeping
19 matters before I turn it over to the attorneys for their
20 opening statements. First, I don't know what the
21 evidence may be. I don't know if there are any physical
22 items of evidence, photographs or the like.

23 Many times they may be shown to a witness and
24 then handed to the foreperson and passed among the
25 members of the jury while you are out here in the

1 courtroom in your jury box.

2 You may look at those all you wish to look at
3 them, as much time as you need or want to take while you
4 are out here in the jury box. Please keep in mind that
5 if I allow an item into evidence, you will have that
6 item with you in your jury room at the time of your
7 deliberations.

8 So that will not be the only opportunity you
9 will get to see whatever the item may be or get to
10 review it. But, again, take all the time you wish to
11 take in that regard.

12 Also, if you cannot hear a witness, please
13 raise your hand, get my attention, the attention of one
14 of these fine bailiffs; and I will have the witness
15 speak up.

16 I tell jurors also, what am I really in charge
17 of? I'm in charge of taking breaks. I have a rule.
18 When I want to take a break, we take a break. Well,
19 this is not some type of judicial marathon. If you sit
20 out here too long and your thoughts start to wander, if
21 you need a break, please raise your hand.

22 If you are not able to focus, you won't be
23 able to determine what the true facts are. Y'all will
24 take y'all's break; we will take our break. As I say,
25 this is not some type of judicial marathon in that

1 regard.

2 I don't know where my manners are at. Again,
3 my name is Knox McMahon. I am a circuit court judge
4 from the Eleventh Circuit, which includes McCormick,
5 Edgefield, Saluda, and Lexington County. To my left are
6 my two law clerks, Ms. Rogers and Mr. Nettles. They
7 will do research throughout the trial for me.

8 You may see me on the computer also from time
9 to time. I tell jurors this because one of them told me
10 it was very distracting. I do some legal research if I
11 think an issue is coming around the bend. That's why I
12 am on the computer.

13 I don't tweet, retweet, peat, repeat,
14 anything, e-mail, re-e-mail, or none of that. My focus
15 is entirely on the anticipation of what may be coming
16 around the corner.

17 With that being said, any objection from the
18 State to anything I have told the jury, Solicitor?

19 MS. GARFIELD: No, sir.

20 THE COURT: Mr. Pride?

21 MR. PRIDE: No objection but I would like to
22 approach the bench.

23 THE COURT: Yes, sir, certainly.

24 (Whereupon there was a bench conference off
25 the record in the presence of the jury but out of the

1 hearing of the jury.)

2 THE COURT: Thank you very much, Mr. Pride.

3 Solicitor, you may address the jury.

4 MS. GARFIELD: Thank you, Your Honor. May it
5 please the Court.

6 THE COURT: Yes, ma'am.

7 **OPENING STATEMENT**

8 MS. GARFIELD: This is a case about an
9 innocent child and whether or not his mother is innocent
10 of harming or leaving him abandoned.

11 In early December of 2011, Jocelyn Jennings,
12 the mother of the defendant, Zinah Jennings, went to the
13 Columbia Police Department because she was concerned
14 about the welfare of her daughter, the defendant, Zinah
15 Jennings, and her grandson, almost 18-month-old ^{Child}
16 , because she had not seen them in several
17 days.

18 Based upon her report, the Columbia Police
19 Department entered this child and his mother, Zinah
20 Jennings, into a national database for missing people.
21 In the very early morning hours of December 24, 2011,
22 Officer Chris Miller with the Columbia Police Department
23 responded to a one-car accident on Millwood Avenue near
24 Washington Street.

25 When he got there, he found the driver to be

1 Zinah Jennings, the defendant. Ms. Jennings was taken
2 to the hospital. While she was at the hospital, Officer
3 Miller was working the scene of the wreck and entering
4 the appropriate information into a computer that he is
5 required to do.

6 As a result of entering that information, he
7 learned that Zinah Jennings was a missing person. Part
8 of the database instructed him at that time to contact
9 Investigator Colin Bailey with the Columbia Police
10 Department.

11 At that time he was advised to find out was
12 the child with Zinah Jennings or the whereabouts of that
13 child. Based upon this information, Officer Chris
14 Miller went to Richland Memorial Hospital where he
15 confronted Zinah Jennings and asked her where her child
16 was.

17 Before he arrived at the hospital, nurses who
18 were treating Zinah Jennings asked her if she had
19 children. Her reply? No. A nurse asked her, But you
20 have a scar indicating you had a C-section delivery in
21 the past. She replied, I have a daughter.

22 When Officer Miller arrived, he asked her,
23 Where is your son? She informed the officer that her
24 son was with her sister who resides in Atlanta, Georgia.
25 As I told you, this was the very early morning hours of

1 December 24, 2011.

2 When Ms. Jennings gave a rational explanation
3 of where her child was, the officer felt that it was the
4 truth. However, after the next business day when
5 Investigator Bailey began to confirm the whereabouts of
6 Child , it was determined Child was not
7 in Atlanta and had not been so for several weeks.

8 Based upon this information, the Columbia
9 Police Department launched an investigation trying to
10 find Child . There are several videos from
11 different store venues that Zinah Jennings had been in,
12 and videos were obtained and reviewed. In every video
13 in the month of December was Ms. Jennings alone.

14 Several friends were interviewed, indicating
15 that they too had been concerned about Child and
16 had asked her where her son was. She told some friends
17 the child was in Atlanta. She told other friends that
18 the child was with the victim's biological father,
19 Roderick Mitchell.

20 However, when they went to see Roderick
21 Mitchell, Roderick Mitchell tells law enforcement that
22 he last saw his child on November 29, 2011, when he went
23 to the home of Zinah Jennings as previously scheduled
24 with her to visit with his son.

25 However, Ms. Jennings wouldn't let him. He

1 did not feel like arguing with Ms. Jennings. He simply
2 gave his son a hug, a kiss, and left. About a hour or
3 so later, Ms. Jennings is seen at a bank, and Child
4 Jennings is seen in a video.

5 What is she doing at the bank? She is closing
6 out an account. That is the last time that Child

7 is seen. It is now 10:30 on Tuesday,
8 August 28, 2012. Child has still not been
9 found.

10 Ladies and gentlemen of the jury, Zinah
11 Jennings is charged with one count of unlawful conduct
12 towards a child. A Richland County Grand Jury has
13 indicted Ms. Jennings with this charge, alleging that
14 between September 1, 2011, and December 24, 2011, while
15 being the parent or guardian of the victim, Child

16 , that she did place this child at unreasonable
17 risk of harm, affecting the child's life, physical or
18 mental health, or safety; or she did unlawfully or
19 maliciously cause or cause to be done bodily harm to the
20 child so that the life or health of the child was in
21 danger or was likely to be in danger; or she did
22 willfully abandon the child.

23 That's the law of the State of South Carolina.
24 For a person to willfully abandon your child you have
25 custody of is against the law. Ladies and gentlemen of

1 the jury, my name is Dolly Justice Garfield. I am a
2 prosecutor here at the Fifth Judicial Circuit.

3 Seated at the table with me to my left is Luck
4 Campbell. To her right is Meghan Walker. The three of
5 us are prosecutors. It is our job to prove to you
6 beyond a reasonable doubt that Zinah Jennings unlawfully
7 abandoned her child, ^{Child} .

8 This is our job. We are prosecutors, just
9 like prosecutors that you see on legal dramas; however,
10 this is not television. There are no fancy tricks that
11 you see in shows, such as C.S.I. and other legal dramas.

12 This is a real courtroom where you will hear
13 from real witnesses from this stand. There is a real
14 victim. There are real witnesses. There are no scripts
15 of fiction.

16 Every one in this courtroom has a job to do.
17 It is our job to prove to each of you beyond a
18 reasonable doubt that Ms. Jennings is guilty of
19 abandoning ^{Child} . The burden is on the State of
20 South Carolina, and in this courtroom with this case, we
21 welcome that burden.

22 Mr. Pride and Ms. Darwin, they have a job to
23 do. Their job is to represent their client to the best
24 of their ability. The judge, as he indicated, he has a
25 job. He is the judge of the law. He will be actively

1 researching on the computer issues of law. He will be
2 taking things up with the attorneys.

3 You all have a job to do. You have a job to
4 be the judge of the facts. It will be your job to
5 determine if Ms. Jennings broke the law. It will be
6 your job to determine if Ms. Jennings did her job in
7 taking care of her child.

8 It will not be your job to forgive
9 Ms. Jennings or to try to figure out why she did
10 something or to punish her. It will be your job to
11 determine if she broke the law.

12 Now, at this current moment, Zinah Jennings is
13 presumed innocent. I like to illustrate that as if she
14 has a cloak wrapped around her, a cloak of innocence.
15 But, ladies and gentlemen, I submit to you that as each
16 witness leaves this witness stand and leaves, a piece of
17 that cloak of innocence will be ripped.

18 After the final witness testifies, Zinah
19 Jennings will be revealed as the guilty mother
20 committing unlawful conduct towards ^{Child} . The
21 State will ask you at that time to render a verdict of
22 guilty. This is a case about an innocent child and
23 whether or not his mother is guilty and not innocent of
24 harming him. Thank you.

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

1 Solicitor. Mr. Pride.

2 MR. PRIDE: May it please the Court.

3 THE COURT: Yes, sir.

4 **OPENING STATEMENT**

5 MR. PRIDE: My name is Hemphill Pride. As you
6 have been told several times, along with Lesli Darwin,
7 who is seated next to me, Madame Foreman, and ladies and
8 gentlemen of the jury, we represent Zinah Jennings.

9 Now, the State trying to prove that Zinah
10 Jennings abandoned her child is like trying to put a
11 screw in a bolt or like trying to mix boiling water. It
12 doesn't go together.

13 Because in order to prove that a child was
14 abandoned, you have got to have the child. They don't
15 have a clue where the child is, and the reason why they
16 are holding Zinah Jennings is because she won't tell
17 them.

18 Because a mother won't tell the State where
19 her child is, does that constitute abandoning the child?
20 You have got to have the child. They don't even know
21 where they are claiming she abandoned the child. They
22 don't even know if it's in Richland County.

23 Ladies and gentlemen of the jury, I want to
24 discuss some things with you that I think are important.
25 First of all, a fact is what a thing is, and a value is

1 what something ought to be. Today in this case we are
2 dealing with the facts.

3 If the State doesn't have the facts, then they
4 don't have a case. And if they can't prove those facts
5 beyond a reasonable doubt, you can only reach one
6 decision. If you have got a reasonable doubt, you can
7 only reach one decision; and that decision is not
8 guilty.

9 Now, you can't let the State make you assume
10 things because this is not a case about assumptions.
11 When you walk outside and you see water on the ground,
12 you don't know that it rained. What you know is the
13 ground is wet. That's all you know. You don't know if
14 water got down there from somebody washing their car.
15 Don't assume. Don't let them make you assume.

16 When Ms. Garfield almost brings tears to your
17 eyes when she says, This is about a child, this is not
18 about a child. This is about Zinah Jennings and the
19 fact that they can't prove that Zinah Jennings abandoned
20 her child because they don't know where the child is.

21 Now, Zinah's mother is in court today.
22 Jocelyn, stand up. Around the first of December, the
23 8th of December, Jocelyn Jennings couldn't find Zinah
24 and ^{Child} Ms. Garfield is right about that, and she
25 reported them missing to the police department.

1 That's not the first time they had reported
2 Zinah missing. That had happened before when Zinah had
3 come back home. Zinah subsequently showed up at home
4 and did not have ^{Child} with her.

5 Zinah had an antagonistic relation with her
6 mother. I guess the best way to explain it was that
7 Zinah was independent. Zinah was hard headed. Zinah
8 knew everything until she got in trouble. And who does
9 she have to run to? Her mother.

10 She was rebellious. Her mother couldn't talk
11 to her. She had a fine upbringing. Her father was a
12 vice president of the University of South Carolina. Her
13 mother worked for the County. Her father died when she
14 was fours years old, and Ms. Jennings has been the
15 primary parent to raise Zinah.

16 She got her through high school. She put her
17 up at Winthrop College. She was studying up there. As
18 any parent would, she had high aspirations and
19 expectations for her daughter. Zinah went to Winthrop,
20 got up there, and decided when she came back, she didn't
21 want to go anymore.

22 Zinah met Roderick Mitchell, who stood up in
23 court, and Ms. Garfield said is the father of ^{Child} He
24 was the sperm donor. He wasn't a father. That's all he
25 was, the sperm donor. He beat Zinah --

1 MS. GARFIELD: Objection, Judge.

2 THE COURT: What is the basis of your
3 objection?

4 MS. GARFIELD: Relevance.

5 THE COURT: You may continue. It's opening
6 statement.

7 Jurors, if you recall what the attorneys say
8 is not evidence in the case. It will be your decision
9 to determine the evidence in the case from the testimony
10 of the witnesses testifying under oath from the witness
11 stand. You can move along.

12 MR. PRIDE: He beat her. He tried to prevent
13 her from going to school. He didn't support the child
14 at all, and he pulled her out of that house that she was
15 in with her mother, and he had more control over her
16 than her mother did, and he was a drunk too.

17 That's who Roderick is and that's what Zinah
18 got in her head. As a result of it, Zinah went down,
19 down, down. She fought with her mother. She knew
20 everything. She was hard headed.

21 She was out in the streets. She was out in an
22 area that she didn't have any business in because she
23 knew nothing about it. He knew everything about the
24 streets because that's where he came from.

25 Zinah was an independent young lady who had

1 her own apartment. She had her own bank account. She
2 always had a job. She had her car. As a matter of
3 fact, she had two cars she bought and paid for. Quite
4 frankly, she had a mother who had rules, regulations,
5 and discipline in her home.

6 If Zinah was going to live in that house with
7 her mom, Zinah could not come and go like she wanted to.
8 So Zinah decided she would leave and go out on her own,
9 which was a big mistake. She wasn't prepared to go out
10 on her own.

11 Zinah got out there and got pregnant, had
12 Child When she had Child Roderick was no help. He
13 didn't give her support. I think he might have bought
14 some clothes once in the 18 months that Child was --
15 during the time that Child was with Zinah. He had
16 custody, I think, and took him out for about five hours
17 one time. That's the extent of the father that he was.

18 Zinah is pregnant right now, and she is in her
19 third trimester of pregnancy. Zinah, once she was
20 reported missing, on the 24th of December had a real bad
21 automobile accident in which her car was a total loss.
22 Zinah suffered a concussion.

23 She left and went to her mother's house, and
24 her grandmother was down from Chicago. She subsequently
25 found out that the police department was looking for her

1 and ^{Child} Zinah lived out by Allen and Benedict
2 College, within that area of town.

3 Zinah called the police department and said,
4 My name is Zinah Jennings and I understand you are
5 looking for me. This was on the 30th of December. They
6 said, Yes, come on down. She walked from Allen and
7 Benedict down to the police department on Washington
8 Street, walked in, and said, I'm Zinah Jennings.

9 That's not the conduct of someone who had
10 something to hide or is guilty. She turned herself in.
11 She went into the police department, and immediately at
12 12:00 o'clock at night, they decided -- Mr. Bailey and
13 Mr Thomas -- that they wanted to question her about
14 ^{Child}

15 They asked her a number of questions. She
16 gave a number of false answers and basically told them,
17 I'm not going to tell you where ^{Child} is. They concocted
18 all kinds of scheme: Come on, Zinah. Get in the car.
19 Let's go see ^{Child} Let's go find out. We just want to
20 see him. That's all we want to do.

21 One of the police officers told her, Zinah, if
22 you just tell us where the baby is, you can go. That's
23 the end of it. Another one told her, If we find the
24 baby, we will give the baby to D.S.S. She wanted none
25 of that.

1 So she gave them different versions of where
2 the child was, and most importantly she wouldn't tell
3 them where the child was. They don't know where the
4 child is today.

5 In order to convict Zinah Jennings of
6 abandoning the child, I hope you would want to have the
7 child. I hope you would want to have the child. I hope
8 you would feel that is necessary before you convict
9 somebody for her crime.

10 The statute under which she is charged has
11 several different sections, as the judge will read them
12 to you. But as Ms. Garfield said, the only one they can
13 make applicable in this case is abandonment.

14 That's why she is here. They are charging her
15 with abandoning the child. This is not a case about the
16 child. This is a case about a mother who will not tell
17 the State where her child is.

18 Now, after Zinah was taken into custody -- and
19 I want you to count the days too -- on the 8th of
20 December, the mother reports it; on the 30th of
21 December, Zinah goes to the police department; and on
22 the 30th of December, they arrest her, 22 days after
23 this matter was reported. She turned herself in.

24 They didn't look anywhere else. They didn't
25 look anywhere else. They had her and they wanted her to

1 tell them where the child was. On the 30th when she
2 came in, they charged her with abandonment of a child.

3 I went to Episcopal church recently and the
4 minister told a story. The minister said that in this
5 small town were two high schools. This was a unique
6 situation where these two high schools were rivaling as
7 the state champions.

8 Out of all the other counties and cities, the
9 two high schools that were located in the small town
10 were playing for the championship. The minister said
11 that everybody was excited, and the gym was packed and
12 the tension was high.

13 It was a garrulous time for all of them. They
14 were looking forward to a great, great basketball game.
15 During the first half, when the half ended, the score
16 was tied. He said that in the second half when the
17 teams came out, the referee put them in the middle of
18 the floor, took them out, and threw the ball up in the
19 air.

20 One of them tipped the ball and got it and
21 threw to another one, and the other player threw it to
22 him and laid it up. He said the gym became completely
23 silent, completely silent. The reason why they were
24 completely silent is because the team went the wrong
25 way.

1 The police department in this case went the
2 wrong way. They went no further than Zinah. Everything
3 that they built this case on, they built it on after the
4 30th of December when they had her in custody.

5 They didn't have evidence before the 30th, and
6 they built it on the fact that Zinah wouldn't tell them
7 where the baby was. That's exactly what they did.
8 That's exactly what they did.

9 Now, Zinah, after being questioned, was
10 carried to the Alvin S. Glenn Detention Center, and
11 that's where in Richland County we keep people who are
12 charged with criminal offenses. While she was down
13 there, she had an incident with an inmate.

14 The inmate said something to her and Zinah
15 said something back. As a result, a small altercation
16 occurred. The director brought Zinah in and they talked
17 to her, and they thought she was displaying bizarre
18 behavior. As a result of that, she was sent to the
19 psychological --

20 MS. GARFIELD: Objection.

21 THE COURT: Let's move along from that,
22 Mr. Pride.

23 MR. PRIDE: Judge, could we approach?

24 THE COURT: Sure.

25 (Whereupon there was a bench conference off

1 the record in the presence of the jury but out of the
2 hearing of the jury.)

3 THE COURT: Thank you very much, Mr. Pride.
4 Thank you, Solicitor.

5 MR. PRIDE: When Zinah was interviewed by the
6 police department and the detectives, I want you to
7 consider the time. It was 12:00 o'clock at night and it
8 was about a two-hour interview. I want you to consider
9 what she told them when they asked her, Where is Child
10 She said, Child is in a safe place.

11 They weren't satisfied with that. So they
12 kept on and on and on. So she began to give them
13 different versions and tell them different places. She
14 gave them an answer, He is in a safe place; but they
15 weren't satisfied because she wouldn't tell them where
16 the safe place is.

17 I don't know of any law that requires a mother
18 to tell the State where her child is because of the
19 police department, especially when the mother is being
20 charged with a criminal offense.

21 Now, you are going to hear various witnesses
22 that will come in and testify about various things that
23 they will say they saw Zinah do. They remind me of the
24 buzzard. The buzzard won't kill anything, but as soon
25 as something is dead, they will jump right on it, when a

1 person is down.

2 You have got to look at these witnesses and
3 examine them. Look at their motives. Look if, in fact,
4 from their demeanor and their testimony if it squares up
5 and you can believe it. You have a right as a juror to
6 look at the credibility and the source of testimony in
7 deciding what the facts are in this case.

8 Zinah Jennings is presumed innocent as she
9 sits there right now. That presumption, as the judge
10 has told you, will follow her throughout the trial until
11 you reach a verdict.

12 If you give her that presumption of innocence,
13 it is up to the State to prove to you through facts,
14 through evidence from this stand that you can believe
15 in, that you can look yourself in the face and say, I
16 know I made the right decision. You can sleep well and
17 say, I know I made the right decision. You feel good
18 about yourself.

19 Don't let the State provoke sympathy about a
20 child. The only thing that a child is involved in this
21 is the fact that Zinah won't tell them where that child
22 is.

23 A case ordinarily like this, I would submit to
24 you, in order to convict a person, you would have to
25 have the child or you would wait until you found the

1 child.

2 But 163 days have passed since December
3 the 8th, and law enforcement has not found the child
4 yet. Zinah Jennings is presumed innocent until you are
5 satisfied that the State has proved that she abandoned,
6 abandoned her child.

7 The child is in a safe place but she refuses
8 to tell them, and that does not constitute abandonment.
9 Not only that, this abandonment must be willful and
10 intentional. They have got to show you that.

11 I ask you, please, examine the witnesses.
12 Examine their motives. Examine their ability and the
13 position that they are in to know what they are
14 testifying today. If you do that, I think that we will
15 get through this, and you can reach a verdict. We know
16 that your verdict will be not guilty. Thank you.

17 THE COURT: Thank you. Thank you very much,
18 Mr. Pride.

19 For those present in the courtroom, I do not
20 allow any movement about the courtroom while a witness
21 is on the witness stand. You may certainly leave after
22 the solicitor's direct examination and before Mr. Pride
23 starts cross examination or you may leave between
24 witnesses.

25 So, Sheriff, any -- besides the staff of the

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1 attorneys -- any witnesses engaged in such behavior, I
2 deem it inappropriate and I deem it contemptible.
3 Identify those witnesses for me so at the appropriate
4 time I can hold a contempt hearing.

5 Solicitor, you may call your first witness.

6 MS. GARFIELD: Thank you, Your Honor. The
7 State would call the City of Columbia Chief, Randy
8 Scott.

9 THE COURT: If you would come around, please,
10 and be sworn.

11 RANDALL G. SCOTT, being
12 first duly sworn, testifies as follows:

13 CLERK: Have a seat in the witness stand,
14 please. State your full name for the record.

15 THE WITNESS: My name is Randall G. Scott,
16 Columbia Police Chief.

17 DIRECT EXAMINATION

18 BY MS. GARFIELD:

19 Q Chief Scott, where are you employed?

20 A The City of Columbia Police Department.

21 Q And what is your position with the police
22 department?

23 A I'm the Columbia Police Chief at this time.

24 Q How long have you been the Chief?

25 A I have been the Columbia Police Chief since

1 October 5th of 2010.

2 Q And previously before being appointed the Chief,
3 what did you do?

4 A Starting May 5, 1993, I started with the Richland
5 County Sheriff's Department, where I worked for 17
6 years until the time I came to the City of Columbia
7 Police Department.

8 Q And before your tenure with the Sheriff's
9 Department, where were you?

10 A I was in the United States Marine Corps.

11 Q Chief Scott, are you familiar with a person by the
12 name of Jocelyn Jennings?

13 A Yes, ma'am, I am.

14 Q Can you explain to the jury how you have a
15 relationship with Ms. Jennings?

16 A While working at Richland County Sheriff's
17 Department, part of my job duties was community
18 services and basically organizing community events.
19 Ms. Jennings worked -- Jocelyn Jennings -- worked
20 at Richland County Administration.

21 We have known each other from working there
22 for many, many years and having direct contact with
23 each other from organizing community functions and
24 community events.

25 Q In early December of last year, did you have any

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1 contact with Ms. Jennings about a personal matter?

2 A I did, ma'am. Ms. Jennings contacted me on my cell
3 phone and told me that she needed to meet with me.
4 I can't remember the exact date, but Ms. Jennings
5 came to my office at Number 1 Justice Square.

6 That's where she met with me and informed me
7 about the issue with Zinah Jennings, and more
8 importantly she didn't know where her grandchild
9 was and wanted to be able to find out where her
10 grandchild was at.

11 Q Can you explain to the jury what issues
12 Ms. Jennings was having?

13 A Essentially Ms. Jennings did not have contact with
14 Zinah. As it was stated, I guess it may have been
15 some type of relationship there with Jocelyn and
16 her daughter, but Jocelyn told me --

17 MR. PRIDE: I object.

18 THE COURT: I sustain the objection. You can
19 rephrase the question, Solicitor.

20 BY MS. GARFIELD:

21 Q You can't tell the jury what she told you. If you
22 can just summarize the nature of the conversation.

23 A She wanted to report her child Zinah missing and
24 also let me know that she had not had contact with
25 her grandchild and that Zinah would not tell her

1 where her grandchild was at.

2 Q And based on your conversation with Ms. Jennings,
3 what course of action did you take, Chief?

4 A After talking with Ms. Jennings and several people
5 that came with her, you know, I took it very
6 serious because we were talking about a child. We
7 immediately contacted Investigator Bailey and the
8 investigative staff.

9 We called a meeting at headquarters, which
10 involved the Federal Bureau of Investigation, South
11 Carolina Law Enforcement Division, Richland County
12 Sheriff's Department, City of Columbia Police
13 Department, and Missing and Exploited Children.

14 Because we wanted -- we immediately realized
15 that this situation was very serious and that we
16 had no idea where the child -- at the time, I
17 believe, 18 months -- was at. So we reached out to
18 every law enforcement agency possible and started a
19 very vigorous search for Child

20 Q Later in the month of December, did the Columbia
21 Police Department have any contact with the
22 defendant, Zinah Jennings?

23 A Yes, ma'am. Ms. Jennings was subsequently
24 arrested, and I know that investigators spoke to
25 Ms. Jennings about where Child her son, was at. We

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1 still have to this day, still have that open case,
2 where we do not know where Child is at at
3 this time.

4 Q I will back up a little bit. Around Christmas Eve
5 do you recall the Columbia Police Department having
6 contact with Ms. Jennings?

7 A Yes, ma'am. Christmas Eve there was a call-in in
8 reference to a vehicle accident, and Ms. Jennings
9 was involved in a vehicle accident in her car, a
10 one-car accident.

11 The City of Columbia officers responded
12 because we work our own vehicle collisions. During
13 the officer's investigation, he realized that when
14 he ran the tag on the car, on the computer it came
15 up as a missing person's vehicle.

16 That's when the officer quickly responded and
17 notified the appropriate people to see if he could
18 confirm where the person, Ms. Jennings, and Child
19 was located at.

20 Q Chief, what efforts has the Columbia Police
21 Department made in trying to locate Child ?

22 A The Columbia Police Department has made many
23 efforts, from being on every media outlet, making
24 diligent searches as I stated earlier. We did not
25 take this as a case because we did not know where

1 Child was at; so we couldn't say Child was in
2 Columbia.

3 That's why we called in the F.B.I. and the
4 South Carolina Law Enforcement Division because
5 they have jurisdiction and capabilities to reach
6 far outside of Columbia.

7 So we immediately started the search from -- I
8 think it went as far as Charlotte to Atlanta.
9 Again, this is a case that still, as of last week,
10 every day that we continuously search for Child in
11 some way, shape, or form.

12 This is not something, because we are here
13 today, where we are able to conclude it. Because,
14 again, like I said, Ms. Jennings reported that she
15 didn't know where her grandchild was at.

16 I will also say that the father of Child and
17 his mother came in and met with me several times
18 because they also are concerned and want to know
19 where Child is at.

20 MS. GARFIELD: Beg the Court's indulgence.

21 (Pause.)

22 BY MS. GARFIELD:

23 Q Chief Scott, thank you. Please answer any
24 questions the defense counsel may have.

25 A Yes, ma'am.

1 THE COURT: Thank you, Solicitor. Mr. Pride.

2 CROSS EXAMINATION

3 BY MR. PRIDE:

4 Q Good morning, Chief.

5 A Good morning, sir.

6 Q Chief Scott, no question about the fact that you
7 held several news conferences with the media in
8 order to disseminate information about Child being
9 missing; is that not correct?

10 A Yes, sir.

11 Q And you held numerous news conferences also in an
12 effort to solicit help from the community as it
13 related to the location of Child

14 A Yes, sir.

15 Q At those news conferences, there is no question
16 about the fact that you said that: Zinah Jennings
17 will not tell us where Child is, and she is not
18 cooperating with us?

19 A That's correct.

20 Q And you felt like Zinah Jennings had a
21 responsibility to tell you where Child was?

22 A She is the child's mother.

23 Q She is the child's mother?

24 A Yes, sir.

25 Q Basically that's the basics behind these charges;

1 is that not correct?

2 A Not in and of itself, sir. My contention is that
3 we are still looking for Child has not been
4 located. As far as the charges are concerned, like
5 Ms. Garfield stated, she is the mother of the
6 child, and she is the sole person responsible for
7 Child

8 Q And you feel as a law enforcement officer,
9 notwithstanding the fact that Ms. Jennings is
10 charged with a criminal offense, that she should
11 supply you with information about the child?

12 A I can tell you that without Ms. Jennings'
13 cooperation, we are still doing everything
14 possible. I have not ever talked to
15 Ms. Jennings -- I mean, Zinah Jennings. I have not
16 talked to Ms. Zinah Jennings at all, but that does
17 not tailor or curtail anything we do with respect
18 to locating Child

19 Q Thank you for that answer. Now, my question is
20 this: Notwithstanding the fact that Ms. Zinah
21 Jennings is charged with a criminal offense, you
22 feel that she should cooperate with you and tell
23 you where Child is; isn't that correct?

24 A As reported, she was the last person with Child and
25 the last person seen with Child and she is Child

1 mother. Yes, sir.

2 Q So that's a yes to any question?

3 A Yes, sir.

4 Q All right sir. When Ms. Jocelyn Jennings, the
5 mother of Zinah, got involved, she cooperated with
6 you by being present at some of these news
7 conferences; is that not correct?

8 A She contacted me initially and she was cooperative
9 at the conferences, yes, sir.

10 Q And at some of these news conferences, she herself
11 made an appeal to the public for the missing child;
12 is that not correct?

13 A Yes, sir.

14 Q And Jocelyn Jennings printed some fliers with
15 ^{Child} picture on them. Do you recall seeing that?

16 A Yes, sir.

17 Q And she also got a focus group in the community and
18 took those fliers and put them in stores and all;
19 is that correct?

20 A And they are still there, yes, sir.

21 Q Did you ever get a handful of them and give them to
22 some of your police officers and ask them to put
23 them out?

24 A Yes, sir, we have printed them, multiple fliers.
25 It's on our website. It's in the building. As I

1 stated, even as of last week, we continue to do so.
2 We put it on social media, fliers, whatever can
3 help us with Child

4 Q And you offered a \$10,000 reward initially; is that
5 correct?

6 A Yes, sir. Initially there was no reward and then
7 we added the \$10,000 reward.

8 Q And there has been no increase on that reward; has
9 there?

10 A No information and no increase.

11 Q And primarily when it comes down to the fact
12 investigation in this case, you assigned that to
13 Mr. Bailey and other officers with the Columbia
14 Police Department?

15 A Yes, sir, that's correct.

16 Q You personally, as the Chief, didn't get involved
17 in the investigation, other than the news
18 conferences?

19 A I wouldn't say that totally, sir. I'm always
20 informed about our cases. And because Ms. Jennings
21 contacted me obviously initially, this is something
22 I wanted to, of course, see through. But
23 Investigator Bailey and all the investigations have
24 continuously kept me briefed on the Child case.

25 Q What I'm saying is that you didn't go out and

RANDALL SCOTT -- REDIRECT -- MS. GARFIELD

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1 interview any witnesses in this case?

2 A No, I did not. No, sir.

3 Q And you didn't go out and do any of the
4 investigation, but you are saying as the Chief of
5 police, you were kept informed? Would that be a
6 fair statement?

7 A Yes, sir.

8 Q And right now you told the jury, you don't have any
9 idea where ^{Child} is; do you?

10 A No, sir.

11 MR. PRIDE: Would you indulge me a moment,
12 please?

13 THE COURT: Certainly, yes, sir.

14 (Pause.)

15 MR. PRIDE: Thank you.

16 THE COURT: Redirect, Solicitor?

17 MS. GARFIELD: Just briefly.

18 **REDIRECT EXAMINATION**

19 BY MS. GARFIELD:

20 Q You are kept informed from the investigators?

21 A Yes, ma'am.

22 Q Are you also aware of any forensic investigations
23 on this case?

24 A I am.

25 Q And are you specifically familiar with anything

1 dealing with Ms. Jennings' car?

2 A I am, yes, ma'am.

3 Q Are you familiar with the results of what was found
4 in that car?

5 A I am. I met with S.L.E.D. and was briefed on it.

6 Q Do you know what it was?

7 A Yes, ma'am.

8 Q Can you please relay that to the Court?

9 MR. PRIDE: Judge, now, he can't relay the
10 results of forensic examinations. I object.

11 THE COURT: Thank you. When you stood up, you
12 were objecting, Mr. Pride. I am going to sustain the
13 objection.

14 MS. GARFIELD: Thank you.

15 THE COURT: Recross, Mr. Pride?

16 MR. PRIDE: None.

17 THE COURT: Thank you. Thank you very much
18 for being with us this morning, Chief.

19 THE WITNESS: Thank you, Your Honor.

20 (Witness leaves the witness stand.)

21 THE COURT: Solicitor, you may call your next
22 witness.

23 MS. GARFIELD: The State calls Ms. Keyonia
24 Johnson.

25 THE COURT: If you would come around and be

KEYONIA JOHNSON -- DIRECT -- MS. GARFIELD

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1 sworn.

2 MS. GARFIELD: Your Honor, may Chief Scott be
3 excused?

4 THE COURT: Any objection, Mr. Pride, to Chief
5 Scott being excused?

6 MR. PRIDE: No.

7 THE COURT: He may be excused. Thank you.

8 KEYONIA JOHNSON , being
9 first duly sworn, testifies as follows:

10 CLERK: Have a seat in the witness stand,
11 please. State your full name for the record, and please
12 spell your first name.

13 THE WITNESS: My name is Keyonia Johnson,
14 K-E-Y-O-N-I-A.

15 **DIRECT EXAMINATION**

16 BY MS. GARFIELD:

17 Q Ms. Johnson, good morning.

18 A Good morning.

19 Q Where are you employed?

20 A Palmetto Health Richland.

21 Q And what do you do at the hospital?

22 A I'm a registered nurse.

23 Q And where do you nurse at the hospital?

24 A In the emergency department.

25 Q Were you -- did you have the same job back on

1 Christmas Eve of last year?

2 A Yes, ma'am.

3 Q And did you have the occasion to treat the
4 defendant, Zinah Jennings?

5 A Yes, ma'am.

6 Q And can you explain to the jury how you came into
7 contact with Ms. Jennings?

8 A She was brought to the emergency department by
9 E.M.S. She was in a car accident and she came to
10 our trauma room. I was her trauma nurse and I took
11 care of her.

12 Q Can you explain to the jury what a trauma room is?

13 A A trauma room is somewhere where someone sustained
14 a significant injury or terrible accident, in which
15 we have to put them in to get one-on-one care with
16 doctors, one on one to make sure they have --

17 COURT REPORTER: I'm sorry. Someone coughed
18 and I didn't hear you.

19 A One-on-one nurse care. We work them up and make
20 sure they don't have any head injuries, internal
21 injuries, just to get direct care immediately after
22 an accident.

23 Q And while you were treating Ms. Jennings, did you
24 inquire about if she had any children?

25 A I did.

KEYONIA JOHNSON -- DIRECT -- MS. GARFIELD

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1 Q Can you explain to the jury how this conversation
2 took place?

3 A To relax her, to calm her down, I was about to
4 start an I.V. on her; and I asked did she have any
5 children, and she told me that she didn't.

6 Q Did you ask her anymore questions?

7 A I said, Yes, you do because you have a C-section
8 scar.

9 Q And did she report anything to you after that?

10 A She reported something to another nurse that was in
11 the room.

12 Q What other nurse was in the room?

13 A My charge nurse, Robin Ward.

14 Q Can you explain to the jury what a charge nurse is?

15 A A charge nurse is a nurse that is assigned to
16 direct the flow of traffic in the emergency
17 department. She controls the environment in the
18 E.R. She charts or assists the trauma nurse in the
19 trauma room with the trauma patient as well.

20 Q Do you know about what time of morning this was?

21 A It was maybe 4:00, really early four-ish.

22 Q Four A.M.?

23 A I'm not sure the exact time, about 3:00 or 4:00 in
24 the morning.

25 Q And about how long did you treat Ms. Jennings?

1 A Maybe 20 minutes. I use a protocol. When they
2 come in the trauma room, we will give them to
3 another nurse in the other areas of the department
4 so the trauma nurse will be free to take care of
5 other patients, critically ill patients.

6 MS. GARFIELD: Beg the Court's indulgence.

7 (Pause.)

8 BY MS. GARFIELD:

9 Q Thank you, Ms. Johnson. Please answer any
10 questions Mr. Pride has.

11 A Okay.

12 THE COURT: Thank you, Solicitor. Mr. Pride.

13 **CROSS EXAMINATION**

14 BY MR. PRIDE:

15 Q Ms. Johnson, Zinah Jennings, you determined from
16 her presence in the hospital was there because she
17 had been involved in an accident?

18 A Yes, sir.

19 Q An automobile accident?

20 A That's what was told to us.

21 Q And you have stated that her time of arrival was
22 about 4:00 o'clock in the morning?

23 A I don't have any paperwork in front of me. It
24 seems around four-ish.

25 Q Approximately?

KEYONIA JOHNSON -- CROSS -- MR. PRIDE

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1 A Uh-huh. (Indicating affirmative response.)

2 Q Give or take?

3 A Give or take, yes, sir.

4 Q And she was in the trauma unit; is that correct?

5 A Yes, sir.

6 Q Was she traumatized?

7 A I can't really say whether she was traumatized, but
8 usually I'm pretty sure we put her in there because
9 of the mechanism of her injury. She hit -- because
10 of what happened in the accident, we wanted to make
11 sure that she was okay.

12 Q She had hit her head; hadn't she?

13 A I'm not sure if she hit her head, but I know she
14 had hit a light pole.

15 Q A light pole. Did you see a contusion around her
16 eye that was full of blood? Blue?

17 A No, I saw her lip. She had a cut on her lip.

18 Q But you didn't remember any contusion in her eye?

19 A I don't remember that. It could have happened
20 later on, but initially I don't remember. I don't
21 recall seeing that.

22 Q Well, usually as a general rule, people who come in
23 who are involved in automobile accidents are pretty
24 excited; is that not correct?

25 A Yes, sir.

1 Q And they are oftentimes traumatized?

2 A Could be.

3 Q And it's nothing unusual for a person involved in
4 an automobile accident who is traumatized at 4:00
5 in the morning to give an incorrect answer; is it?

6 A That could happen.

7 Q Thank you.

8 THE COURT: Redirect, Solicitor?

9 MS. GARFIELD: No, sir.

10 THE COURT: Thank you. Thank you very much,
11 Ms. Johnson. You may step down.

12 (Witness leaves the witness stand.)

13 MS. GARFIELD: May Ms. Johnson be excused?

14 THE COURT: Any objection?

15 MR. PRIDE: None.

16 THE COURT: Yes. Thank you for being with,
17 Ms. Johnson. You may be excused.

18 MS. GARFIELD: The State calls Robin Ward.

19 THE COURT: If you would come around and be
20 sworn, please.

21 ROBIN WARD, being
22 first duly sworn, testifies as follows:

23 CLERK: Have a seat in the witness stand,
24 please. State your full name for the record.

25 THE WITNESS: Robin Ward.

ROBIN WARD -- DIRECT -- MS. GARFIELD

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1 DIRECT EXAMINATION

2 BY MS. GARFIELD:

3 Q Ms. Ward, where are you employed?

4 A Palmetto Health Richland Emergency Department.

5 Q And what is your position at the emergency
6 department?

7 A Registered nurse and assistant nurse manager.

8 Q How long have you been in that position?

9 A For the past two years, I have been assistant nurse
10 manager. The previous six years I was a registered
11 nurse.

12 Q And how many years total have you been a nurse?

13 A Eight.

14 Q And were these your duties back in December of last
15 year?

16 A Yes.

17 Q Did you have the occasion on Christmas Eve in the
18 early morning hours to treat the defendant, Zinah
19 Jennings?

20 A Yes.

21 Q And can you recall what the nature of her treatment
22 consisted of?23 A She was involved in a single-car motor vehicle
24 accident. When she arrived by emergency personnel,
25 it was my duty to assess her and to determine where

1 she should be placed within the emergency
2 department.

3 Q Where did you place Ms. Jennings?

4 A In the trauma bay.

5 Q What was the reasoning for placing her in the
6 trauma bay?

7 A Initial assessment she appeared uncooperative with
8 E.M.S. personnel. She was very vocal, screaming
9 and yelling. They were having a hard time
10 obtaining any vital signs, including blood
11 pressure. Due to that I decided to place her in
12 there to where she would receive one-on-one care.

13 Q Receiving one-on-one care, can you name all of the
14 medical personnel that was in the room?

15 A Myself, Keyonia Johnson, and three to five minutes
16 after arrival, Dr. Danielle Davis.

17 Q Did you attempt to try to calm down Ms. Jennings?

18 A Yes.

19 Q How did you go about trying to calm her down?

20 A Keyonia and myself were talking to her.

21 Q Did you talk to her about -- at any time did the
22 nature of your discussion go back to having
23 children?

24 A Yes.

25 Q Can you just explain to the jury the conversation

ROBIN WARD -- DIRECT -- MS. GARFIELD

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1 you had with Ms. Jennings?

2 A In my conversation I was trying to remove her
3 clothes so we could do a proper assessment. As we
4 were cutting her clothes off, Keyonia had
5 conversation as to if she had any children.

6 By the time this had passed, which was just
7 minutes, we discovered there was a C-section scar
8 after Ms. Jennings had answered no, that she did
9 not have any children.

10 Q After seeing the C-section scar, did you ask her
11 any additional questions?

12 A I did.

13 Q Please share with the jury the questions you asked
14 of her.

15 A I asked if she had a girl or a boy.

16 Q What was her response?

17 A A girl.

18 Q How long was Ms. Jennings in your care?

19 A Probably around 10 to 15 minutes.

20 Q And then she went on to what?

21 A She was in the care of Keyonia Johnson throughout
22 the rest of the procedures.

23 Q Thank you.

24 MS. GARFIELD: Beg the Court's indulgence.

25 (Pause.)

1 BY MS. GARFIELD:

2 Q Thank you, Ms. Ward. Please answer any questions
3 Mr. Pride or Ms. Darwin may have.

4 THE COURT: Thank you, Solicitor. Mr. Pride.

5 CROSS EXAMINATION

6 BY MR. PRIDE:

7 Q Ms. Ward, do you still work at the hospital?

8 A Yes.

9 Q And on the 24th of December when Zinah Jennings was
10 brought in, you testified that you were one of the
11 nurses that attended to her; is that not correct?

12 A Yes.

13 Q And you were present in the courtroom seated out
14 here when Ms. Johnson, your coworker, testified
15 from the stand; is that not correct?

16 A Yes.

17 Q You heard what she testified to; is that correct?

18 A Yes.

19 Q Did you notice any contusion on Ms. Jennings' face
20 below the eye, a blue spot?

21 A I did not. I can consult my documentation that I
22 made during that night on Ms. Jennings' chart.

23 Q Do you have the charts with you?

24 A Yes.

25 Q What does it say that her injuries were?

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1 A I documented that there was swelling to the lip
2 area.

3 Q And that's the only thing that you documented?

4 A As physical injury, yes.

5 Q Did you ever ask her if her head -- if she hit her
6 head in the accident?

7 A I personally did not.

8 Q Did you know her car was a total loss?

9 A I did not.

10 Q Do you know if she had hit a tree or a telephone
11 pole with her car?

12 A I understood from the E.M.S. report it was a
13 utility pole.

14 Q Was she traumatized in your opinion?

15 A In my opinion, yes.

16 Q So while you were asking her these questions, you
17 knew that she was traumatized?

18 A We attempted to calm her down.

19 Q You calmed her down. Did she object to the cutting
20 off of her clothes?

21 A No, sir.

22 Q What was she acting up about?

23 A We were attempting to start an I.V.

24 MR. PRIDE: Excuse me, Judge.

25 (Attorneys confer.)

1 MR. PRIDE: I will get this marked.

2 (Defendant's Exhibit Number 1 is marked for
3 identification.)

4 MS. GARFIELD: No objection.

5 BY MR. PRIDE:

6 Q Let me show you a picture of Zinah Jennings. I
7 want to ask you to look at her left eye.

8 THE COURT: Let's ask her if she can identify
9 the picture first.

10 MR. PRIDE: Thank you very much for your help.

11 BY MR. PRIDE:

12 Q I show you this picture. Can you identify this
13 picture?

14 A I believe it to be Zinah Jennings.

15 Q You believe or are you reasonably sure?

16 A Yes.

17 Q Would you look at her left eye?

18 A Yes.

19 Q Did the eye look like that on the 24th when you saw
20 her?

21 A I only have the documentation that I made. I can't
22 make any judgment based on this picture.

23 Q I am asking you to look at the picture, and your
24 judgment would be based on looking at her on the
25 24th, not your notes. I am asking you if it looked

ROBIN WARD -- CROSS -- MR. PRIDE

1 like that?

2 A To my knowledge this picture was not taken while I
3 was with the patient.

4 Q All right. I'm not asking you when the picture was
5 taken. I am simply asking you to look at the
6 picture and tell us whether or not on the 24th when
7 you saw Ms. Jennings and you examined Ms. Jennings,
8 did her eye look like it looks on that picture that
9 you have before you? Yes or no?

10 A I have no documentation about any bruising,
11 contusion to either eye. I only documented that
12 there was swelling to the lip.

13 Q Okay.

14 THE COURT: I think he is asking you your
15 memory.

16 MR. PRIDE: Thank you.

17 THE WITNESS: I have no memory of any
18 contusion to the face.

19 THE COURT: Thank you.

20 BY MR. PRIDE:

21 Q Now, you cut her clothes off because of the
22 automobile accident?

23 A Yes, sir.

24 Q But your testimony is that -- was she cooperative
25 in allowing you to cut her clothes off?

1 A At the time she was hyperventilating, which means
2 she was breathing fairly rapidly, and we were
3 trying to calm her down so we could provide care.

4 Q Was she hyperventilating and acting up because of
5 the injuries and the fact that she had had an
6 accident or was she acting that way because she did
7 not want to cooperate with you? Which one of those
8 would you say?

9 A She was cooperative to a point. She was being very
10 vocal and yelling and screaming. She was breathing
11 very quickly, and it was hard to provide an
12 assessment when we asked her questions.

13 Q How bad was she hurt?

14 A I can only go by the documentation on the swelling
15 to the lip. My job as a charge nurse, I am with
16 the patient very briefly.

17 Q So all you can tell the jury is that based on your
18 notes, she had a lip that was busted or had a cut
19 on it or something?

20 A Yes, sir.

21 Q When you asked her whether or not she had any
22 children, that was to fill out some form or
23 application?

24 A No, sir, that was a way to help calm her down.

25 Q So you just pulled that question as a calming

1 question: Do you have any children?

2 A It was basically providing talk between a nurse and
3 a patient.

4 Q Okay. Based on your proposing that question to
5 her, her answer was no?

6 A Yes.

7 Q And then after and during the cutting of the
8 clothes, you discovered that she had had a
9 C-section?

10 A Yes.

11 Q And you confronted her with the fact that: Here,
12 you have a C-section. And what was her answer
13 then?

14 A I'm sorry. I may not have understood.

15 Q I don't want to confuse you, but you did let her
16 know that you saw that she had a C-section; is that
17 correct?

18 A Yes.

19 Q And you did tell her about the C-section that you
20 saw?

21 A Yes.

22 Q And when you told her about that C-section, what
23 did she say?

24 A We asked if she had any children. She reported no.
25 Then we discovered the C-section scar, and then she

1 said that she did, she had a girl.

2 Q But, I mean, did you tell her, I see you've got a
3 C-section; so I know you had a child?

4 A I don't remember the exact verbiage that was used.

5 Q But the point is once you saw that C-section, you
6 let Zinah know, I know you had a C-section; isn't
7 that correct?

8 A Yes, sir.

9 Q And I am asking you, what was her response?

10 A She admitted that she did not have any children.
11 We discovered the C-section scar. We said, You
12 have a C-section scar, and she said she had a girl.

13 Q Had a little girl?

14 A She had a girl.

15 Q And after that how much -- did you ask her any
16 other questions?

17 A Not to my recollection. I'd just have to consult
18 the chart.

19 Q And you just happened to pick that question out of
20 the air to ask her about whether or not she had any
21 children in order to provoke conversation with her
22 in order to calm her down? Is that a fair
23 statement?

24 A We often make conversation about a patient's family
25 in order to relieve their anxiety about being in

1 the trauma bay.

2 Q Did you ask her if she had a mother?

3 A No, sir.

4 Q Did you ask her if she had a father?

5 A No, sir.

6 Q Did you ask her if she had any sisters or brothers?

7 A No, sir.

8 Q Thank you very much.

9 THE COURT: Redirect, Solicitor?

10 **REDIRECT EXAMINATION**

11 BY MS. GARFIELD:

12 Q The photograph that was shown to you, you don't
13 know when that picture was taken; do you?

14 A No.

15 Q As a normal course of action in your role as charge
16 nurse, do you document what you see on patients?

17 A Yes.

18 Q If you saw contusions, would you have documented
19 that?

20 A Yes.

21 Q Previous to the morning of December 24th of last
22 year, did you know anything about Zinah Jennings?

23 A No.

24 Q Had you ever met her before?

25 A No.

1 Q Were you aware that she was a missing person at the
2 time?

3 A No.

4 Q Were you aware that her child, ^{Child} Jennings, was a
5 missing person?

6 A No.

7 Q Thank you.

8 MS. GARFIELD: Nothing further.

9 THE COURT: Recross, Mr. Pride?

10 MR. PRIDE: Just very briefly.

11 **RECROSS EXAMINATION**

12 BY MR. PRIDE:

13 Q Did you talk to the police officer that came down
14 there that night?

15 A I was aware of his presence in the trauma bay, but
16 I had no direct conversation with him.

17 Q Did you wonder why he was coming down there?

18 A They often report after an accident.

19 Q Did you see him talking to Zinah Jennings?

20 A I did.

21 Q Thank you.

22 THE COURT: Thank you very much, Ms. Ward.

23 You may step down.

24 (Witness leaves the witness stand.)

25 MS. GARFIELD: Your Honor, may Ms. Ward please

1 be excused?

2 MR. PRIDE: Certainly.

3 THE COURT: Any objection?

4 MR. PRIDE: Certainly, she may.

5 THE COURT: You may be excused.

6 Madame Forelady, ladies and gentlemen of the
7 jury, perhaps now would be a good time to take a late
8 morning recess. I remind you during this recess, you
9 are not to discuss this case with anyone. That includes
10 your fellow jurors or anyone else. If anyone tries to
11 talk with you about the case during this recess, please
12 let me know immediately.

13 If, again you, would leave your notes
14 upside-down on your chair, they will be secured during
15 this period of time. We are going to take about a
16 15-minute recess.

17 If everyone else will please remain seated in
18 the courtroom while the jury retires.

19 (The jury retires to the jury room.)

20 THE COURT: Court will be in recess 15
21 minutes. Thank you very much.

22 (Whereupon there is a recess.)

23 THE COURT: Anything from the State before we
24 bring in our jury, Solicitor?

25 MS. CAMPBELL: No, sir.

1 THE COURT: Mr. Pride?

2 MR. PRIDE: I'm sorry?

3 THE COURT: Anything before we bring in our
4 jury?

5 MR. PRIDE: Nothing, Judge.

6 THE COURT: Bring the jury.

7 (The jury returns to the courtroom.)

8 THE COURT: Ladies and gentlemen, we are
9 continuing the trial of the case by the presentation or
10 testimony by the State in its case in chief.

11 Solicitor, you may call your next witness.

12 MS. GARFIELD: Thank you, Your Honor. The
13 State calls Officer Chris Miller with the Columbia
14 Police Department.

15 CHRISTON MILLER, being
16 first duly sworn, testifies as follows:

17 CLERK: Have a seat in the witness stand,
18 please. State your full name for the record.

19 THE WITNESS: Christon Miller.

20 COURT REPORTER: Spell your first name,
21 please.

22 THE WITNESS: C-H-R-I-S-T-O-N.

23 DIRECT EXAMINATION

24 BY MS. GARFIELD:

25 Q Officer Miller, where are you employed?

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1 A The City of Columbia Police Department.

2 Q Please share with the jury what your duties are
3 with the Columbia Police Department?

4 A I answer calls, take reports.

5 Q Do you also respond to traffic accidents?

6 A Yes, ma'am, I do.

7 Q Were those your duties back in December of last
8 year?

9 A They were.

10 Q How many years have you been in law enforcement?

11 A Eight years.

12 Q Did you have the occasion to come in contact with
13 Zinah Jennings, the defendant, on December 24th of
14 last year?

15 A Yes, ma'am, I did.

16 Q Can you please explain to the jury the nature of
17 the contact with Ms. Jennings?

18 A I was dispatched to a motor vehicle collision at
19 the intersection of Washington and Millwood
20 Streets. When I arrived on scene, I found a
21 red-in-color car that had struck several stationary
22 objects on the side of the road.

23 Inside of the car was a black female. I
24 approached the female and asked who she was. She
25 would not talk to me and refused to answer any of

1 my questions.

2 I asked her for her driver's license and she
3 retrieved it from her purse. She presented me with
4 her driver's license. I attempted to ask more
5 questions about the car, the motor vehicle
6 collision.

7 She wouldn't answer any of those questions
8 either, at which point I went back to my car, and
9 I ran the information that I had to begin the
10 report.

11 Q Did any kind of medical services report to the
12 scene?

13 A Yes, ma'am, they were on the scene when I arrived.

14 Q An ambulance?

15 A Yes, ma'am.

16 Q Was Ms. Jennings treated by the E.M.S.?

17 A Yes, ma'am, she was. She was transported to
18 Richland Memorial Hospital by them.

19 Q Did you go with them in the ambulance?

20 A No, I did not.

21 Q What did you do back at the scene?

22 A I stayed on the scene and began to initiate writing
23 the report.

24 Q And was Ms. Jennings --

25 MR. PRIDE: Excuse me. I didn't hear that

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1 last answer. He stayed on the scene and what?

2 THE WITNESS: I began to start the report.

3 BY MS. GARFIELD:

4 Q Did Ms. Jennings leave the scene?

5 A She did, in the ambulance.

6 Q And you are still out there?

7 A Yes, ma'am.

8 Q When you began to initiate your report, explain to
9 the jury what that entails?

10 A With the minimal amount of information we had, no
11 registration from inside the car or insurance
12 paperwork, only her license, we input that
13 information that we have into the computer so we
14 can get the information for the report.

15 Q And when you began to put that information into the
16 computer, what further information did you receive?

17 A When I ran the tag that was on the car, we have
18 what is called a N.C.I.C. hit. That's a national
19 database that holds information that alerted me
20 that there was a hit on the car. The information
21 in the hit was that the driver, Zinah Jennings, was
22 a missing person and to immediately contact
23 Investigator Bailey upon any contact.

24 Q Did you contact Investigator Bailey?

25 A I did.

1 Q And based on your contact with Investigator Bailey,
2 what were you instructed to do?

3 A To immediately go to the hospital where Ms. Zinah
4 Jennings was and make contact with her and to ask
5 her the whereabouts of her child.

6 Q Did you just abandon the wreck scene?

7 A No, ma'am, I left it with another officer who
8 completed the report.

9 Q Did you go to Richland Memorial Hospital?

10 A Immediately.

11 Q Where in the hospital did you go to?

12 A The trauma bay.

13 Q And in the trauma bay, did you come in contact with
14 Ms. Jennings?

15 A I did.

16 Q At that time did you ask Ms. Jennings any
17 questions?

18 A Yes, ma'am, I asked her where her child was.

19 Q And what did she reply to you?

20 A That she did not have a child.

21 Q And did you ask her anything further?

22 A Yes, ma'am, I again asked her where her child was.

23 Q Did you specify if it was a boy or girl?

24 A No, ma'am.

25 Q Did she give you a further response?

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1 A She stated -- she gave me an address, 2282 Ridge
2 Crest Lane, I believe.

3 Q And was that an address in the Columbia area?

4 A I was not sure. She wouldn't answer any further
5 questions at that point.

6 Q What did you do with that information pertaining to
7 the address she provided you?

8 A Investigator Bailey had requested that I write up a
9 supplemental report and forward him the information
10 so he could follow up on it.

11 Q And did you do so?

12 A Yes, ma'am, I did.

13 Q Officer Miller, did you have any further contact
14 with the investigation in this case?

15 A No, that was it.

16 Q When you appeared at the scene of the wreck, were
17 you aware that Ms. Jennings was missing at that
18 time?

19 A No, I was not.

20 Q Were you aware that ^{Child} Jennings was missing?

21 A No, ma'am.

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

23 (Pause.)

24 BY MS. GARFIELD:

25 Q Officer Miller, when you first came in contact with

1 Ms. Jennings, did you notice anything about her
2 appearance?

3 A She had glitter on her face.

4 Q Did she have any odor?

5 A Yes, ma'am, she smelled like she had been in a
6 strip club.

7 MR. PRIDE: I object, Your Honor. That's
8 just -- all right. I object.

9 THE COURT: There is no foundation for the
10 smell of a strip club. So I would sustain the
11 objection.

12 BY MS. GARFIELD:

13 Q Any other odor?

14 A Alcohol.

15 Q Thank you.

16 MS. GARFIELD: Nothing further.

17 THE COURT: Mr. Pride?

18 MR. PRIDE: Thank you, Judge.

19 CROSS EXAMINATION

20 BY MR. PRIDE:

21 Q Officer Miller, do you have your statement with you
22 that you made on December 24th?

23 A Yes, sir.

24 Q And that statement is typed out; is that correct?

25 A It is, sir.

CHRISTON MILLER -- CROSS -- MR. PRIDE

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1 Q And that's a correct statement; is that not
2 correct?

3 A Yes, sir.

4 Q If I see the 24th on that statement, can I assume
5 that this statement was made by you on the 24th?

6 A Which statement are you referring to?

7 Q We are only talking about one.

8 A This statement?

9 Q Yes.

10 A This statement was given on January 2, 2012.

11 Q And how do you know that?

12 A Because it's at the bottom where my name is.

13 Q I see that. I want you to read that statement that
14 you have before you. Read it good and tell me
15 where in that statement you wrote that Zinah
16 Jennings would not cooperate and wouldn't answer
17 any questions for you. Read the statement.

18 A The whole thing?

19 THE COURT: He is not asking you to read it
20 out loud.

21 BY MR. PRIDE:

22 Q I don't mean aloud. I mean, in order to refresh
23 your memory, I want you to read the statement to
24 yourself and tell me if you can find that in there,
25 where you put in your statement that she wouldn't

1 answer your questions.

2 A (Pause.) Okay.

3 Q Did you put it in there?

4 A There are several references to her being
5 uncooperative with everybody.

6 Q Now, the question is: You testified on direct
7 examination that you asked her questions and she
8 wouldn't answer. Did you write in the statement
9 that: I asked Zinah Jennings questions and she
10 wouldn't answer?

11 A No, I did not.

12 Q In the statement on about the fourth line, where it
13 says -- do you see where it says, "When I asked who
14 she was," do you see that?

15 A Yes, sir.

16 Q Read that line.

17 A "When asked who she was, she stated she didn't
18 know."

19 Q Read the next one.

20 A "But was able to remember where her license was and
21 give it to me."

22 Q So when you asked her for her license, she gave you
23 the license; right?

24 A She did.

25 Q And read the next one.

CHRISTON MILLER -- CROSS -- MR. PRIDE

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1 A "Once she handed me her license, I asked her if she
2 was Zinah Jennings, the name that was on the
3 license, and she stated yes."

4 Q So she answered your question by saying yes?

5 A Yes, sir.

6 Q Now, after you found out -- and when you say a hit,
7 you really mean that you got notice through your
8 computer or otherwise that Zinah Jennings was on
9 the missing person's list and was being looked for;
10 is that correct?

11 A Yes, sir.

12 Q That's what a hit means; right?

13 A It does.

14 Q I'm sorry?

15 A It does.

16 Q And then you called in and got additional
17 information; right?

18 A Most of the information was on the screen. I made
19 contact with Investigator Bailey per the
20 instructions on the scene.

21 Q And then you went to the Richland Memorial
22 Hospital; is that correct?

23 A Yes, sir.

24 Q And when you went there, you went in the trauma
25 room?

- 1 A Yes, sir.
- 2 Q And was she being attended to while you were
- 3 talking to her?
- 4 A I do not recall.
- 5 Q Where did you see her?
- 6 A She was lying on the table.
- 7 Q She was lying on the table, and you just went in
- 8 where she was lying on the table and started
- 9 talking to her?
- 10 A I asked permission from the doctor and the nurse in
- 11 the room first.
- 12 Q Okay. And you don't recall anybody else being
- 13 around that table?
- 14 A I don't know if they were working on her at the
- 15 moment, but there were other people in the room.
- 16 Q What were they doing to her as you observed?
- 17 A I do not recall.
- 18 Q You do not recall. Then what did you ask her while
- 19 she was lying on the table?
- 20 A I asked her where her child was.
- 21 Q Had she had her clothes cut off at the time? Do
- 22 you know?
- 23 A I do not remember.
- 24 Q They had a sheet over her, I would assume?
- 25 A I wouldn't have gone in the room if she wasn't

CHRISTON MILLER -- CROSS -- MR. PRIDE

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1 clothed to some extent.

2 Q Fair enough. When you were talking to her, you
3 asked her where her child was?

4 A Yes, sir.

5 Q What did she say?

6 A She said she didn't have a child.

7 Q Okay. And what did you say then?

8 A I told the nurse that I knew she had a child, at
9 which point I asked her a second time where her
10 child was.

11 Q And the second answer was what?

12 A She gave me an address on Ridge Crest Lane, 2282
13 Ridge Crest Lane.

14 Q When she gave you that address, did you leave?

15 A I attempted to ask her more questions, but she
16 wouldn't answer them.

17 Q What other questions did you attempt to ask?

18 A Probably where Ridge Crest --

19 Q Not probably, if you know?

20 A I don't know for sure.

21 Q So you don't know what other questions you
22 attempted to ask her?

23 A No, sir.

24 Q And whatever those questions were, you left to go
25 call this address in or check it yourself? Which

1 one?

2 A I was told to just write up a supplemental with
3 this address in it and forward it to Investigator
4 Bailey.

5 Q And was that the end of your role in this case?

6 A It was, sir.

7 Q Thank you very much.

8 THE COURT: Redirect, Solicitor?

9 MS. GARFIELD: Yes, sir.

10 **REDIRECT EXAMINATION**

11 BY MS. GARFIELD:

12 Q Officer Miller, in your report did you document
13 that you asked her several questions? I'm talking
14 about at the vehicle collision.

15 A I did.

16 Q And what time of day did you report this accident?

17 A It was 043 hours in the morning.

18 Q Early in the morning?

19 A Yes, ma'am.

20 Q When Ms. Jennings at the hospital gave you that
21 address, the Ridge Crest address, did she indicate
22 to you who resided at that address?

23 A Her aunt.

24 Q Thank you.

25 MS. GARFIELD: Nothing further.

1 THE COURT: Recross?

2 RECROSS EXAMINATION

3 BY MR. PRIDE:

4 Q What city was that address in?

5 A I do not know, sir.

6 Q Did you ask her?

7 A I don't know if I asked her.

8 Q So you only had an address but you didn't obtain
9 from her the city?

10 A I don't know if I asked her that question or not.
11 I don't remember. I feel sure that it would be one
12 of the questions I would ask because that is
13 incomplete information and would do me no good.

14 Q Did you write down the city?

15 A No, I did not.

16 Q Thank you.

17 MR. PRIDE: Excuse me one minute.

18 (Pause.)

19 BY MR. PRIDE:

20 Q At the time when you looked on your screen, did you
21 see any other information about Zinah Jennings'
22 disappearance as a missing person? Did you see:
23 We want to question her or she is a suspect or
24 anything like that?

25 A I don't remember what information was there, sir.

1 Q You don't remember?

2 A No, sir.

3 MR. PRIDE: Thank you, Judge.

4 THE COURT: Thank you very much, Officer
5 Miller. You may step down.

6 MS. GARFIELD: Your Honor, may Officer Miller
7 be excused?

8 THE COURT: Any objections, Mr. Pride?

9 MR. PRIDE: None, Judge.

10 THE COURT: Yes, you may step down and you may
11 be excused.

12 THE WITNESS: Thank you, Your Honor.

13 (Witness leaves the witness stand.)

14 THE COURT: You may call your next witness.

15 MS. CAMPBELL: The State calls A.L. Thomas.

16 THE COURT: If you would come around for us
17 and be sworn.

18 ARTHUR L. THOMAS, being
19 first duly sworn, testifies as follows:

20 CLERK: Have a seat in the witness stand,
21 please. State your full name for the record.

22 THE WITNESS: Arthur L. Thomas.

23 **DIRECT EXAMINATION**

24 BY MS. CAMPBELL:

25 Q Sergeant Thomas, where are you employed?

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

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1 A The City of Columbia Police Department.

2 Q What do you do there, sir?

3 A I supervise the special victims unit --

4 MR. PRIDE: I'm sorry, Ms. Campbell. May I
5 interrupt you for just a moment, please. May we
6 approach?

7 THE COURT: Yes, sir.

8 (Whereupon there was a bench conference off
9 the record in the presence of the jury but out of the
10 hearing of the jury.)

11 THE COURT: Thank you very much, Mr. Pride.
12 Thank you, Solicitor.

13 BY MS. CAMPBELL:

14 Q Sergeant Thomas, as sergeant over the special
15 victims unit, what do your duties include?

16 A Well, I supervise seven other investigators. We
17 investigate missing children, missing persons,
18 vulnerable adults, C.D.V., C.D.V.H.A.N., and a
19 series of other different criminal assaults.

20 Q Including sexual assaults?

21 A Including sexual assaults and so forth.

22 Q Part of your unit though is incorporated in missing
23 children cases?

24 A Yes, it is.

25 Q And how long have you been in law enforcement, sir?

1 A Approximately 23 years.

2 Q I want to turn your attention back to December of
3 2011. Were you aware that there was an active case
4 for a missing persons involving Zinah Jennings and
5 Child Jennings?

6 A Yes. I became aware that the mother had notified
7 our Chief of her concerns of her missing daughter
8 and grandson. Investigator Bailey was then
9 assigned to that particular case where he --

10 Q If you can scoot up just a little. For some reason
11 it's not picking up. I'm sorry.

12 A Investigator Bailey was assigned to that particular
13 case. He met with Ms. Jennings, I believe, and
14 documented the actual missing person's report and
15 entered the parties into the N.C.I.C. computer.

16 Q Just for clarification, when you say you met with
17 Ms. Jennings to document it and enter it into
18 N.C.I.C., which Ms. Jennings are we referring to
19 now?

20 A I am referring to the mother, Jocelyn Jennings.

21 Q Jocelyn Jennings?

22 A Uh-huh. (Indicating affirmative response.)

23 Q Who would be Zinah Jennings' what relation?

24 A Her mother.

25 Q And would be Child Jennings' what relation?

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1 A Grandmother.

2 Q That was done in early December; is that correct?

3 A That's correct.

4 Q Later that month did you become aware -- even
5 though you weren't the investigator assigned -- in
6 your supervisory role of any contact with either
7 Zinah Jennings or ^{Child} Jennings?

8 A There was information that there was contact on the
9 24th of December with Zinah Jennings after an
10 automobile accident.

11 Q As a result of the information that was forwarded
12 to your unit after December 24th, did your unit do
13 anything to follow up in trying to locate ^{Child}
14 Jennings?

15 A Yes. As stated before, Investigator Bailey was
16 contacted in reference to the location of the
17 mother. We then tried to see the location of the
18 child itself by communicating with the mother.

19 Information was given to an officer, which was
20 relayed to Investigator Bailey. Investigator
21 Bailey then followed up on that information and I
22 believe made contact with Ms. Jennings at a later
23 date.

24 Q And was there a certain address that was followed
25 up on involving the aunt?

1 A Yes. I don't have that before me, but there was an
2 address given in reference to the possible
3 whereabouts of the child.

4 Q And as December passed on -- the 26th, the 27th,
5 the 28th -- were y'all able to find Child Jennings?

6 A We were not able to find Child Jennings.

7 Q During that time period, again, did Investigator
8 Bailey make contact with anybody regarding the
9 whereabouts of Child Jennings?

10 A Made contact with a number of people in regard to
11 the whereabouts of Child Jennings.

12 Q Would that include the defendant herself?

13 A Yes.

14 Q And where was that contact made? Are you aware?

15 A During the course of the investigation,
16 Investigator Bailey actually was communicated to
17 that Ms. Jennings was at the mother's home and then
18 went there to actually speak with Zinah Jennings in
19 reference to the whereabouts of Child Jennings. I
20 don't have the date before me.

21 Q At some point late in December, based on the entire
22 investigation -- some of which we talked about --
23 was a warrant obtained?

24 MR. PRIDE: Could you move Ms. Campbell back a
25 little from the witness?

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1 MS. CAMPBELL: Objection.

2 THE COURT: Can you hear her all right?

3 MR. PRIDE: I can hear her. I can't hardly see
4 the witness.

5 THE COURT: I'm not going to tether the
6 lawyers to a particular place. I know they do that in
7 some states. Some states even require them to remain
8 seated, and some States, they come in from behind the
9 podium. I would say I'm old school, but they tore down
10 the school I went to to build the old school.

11 MR. PRIDE: I withdraw it, Judge.

12 THE COURT: All right.

13 MS. CAMPBELL: Thank you, Your Honor.

14 THE COURT: Thank you, Ms. Campbell. You may
15 proceed.

16 BY MS. CAMPBELL:

17 Q At some point did an arrest warrant get procured
18 for Zinah Jennings?

19 A Yes.

20 THE COURT: Let me stop you a minute,
21 Ms. Campbell.

22 Mr. Pride, you may certainly move around. If
23 you can't see the witness, you can certainly move to the
24 right side of the courtroom if you cannot see the
25 witness properly.

1 MR. PRIDE: Thank you.

2 THE COURT: Excuse me, Solicitor.

3 MS. CAMPBELL: Sure.

4 A That is correct.

5 Q And what charge did you procure in late
6 December for Zinah Jennings?

7 A Unlawful conduct towards a child.

8 Q Unlawful conduct towards a child?

9 A Correct.

10 Q At that point were there attempts made to make
11 contact with Ms. Jennings?

12 A Yes, there were.

13 Q At some point or do you recall when she actually
14 came to police headquarters?

15 A Yes. Approximately 11:40 or so on the 29th, there
16 was communication to me that Ms. Jennings wanted to
17 turn herself in. She had been informed that we
18 were looking for her and had warrants outstanding,
19 and she was to turn herself in. Investigator
20 Bailey communicated to me that she was coming to
21 headquarters. So I rolled out, along with
22 Investigator Bailey, to the interview.

23 Q This was sometime around 11:00 P.M. -- that would
24 be in the evening -- on December 29th?

25 A The evening of the 29th of December, correct.

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1 Q Again, as far as the hour when she turned herself
2 in, who controlled that?

3 A Whenever she arrived at headquarters, officers
4 would take her into custody at that point.

5 Q Once you had been contacted with this information,
6 where did you go?

7 A I went directly to headquarters.

8 Q Why were you going to headquarters around midnight
9 on December the 29th, into the early morning hours
10 of December 30th?

11 A So we could interview Ms. Jennings and find the
12 whereabouts of ^{Child} Jennings.

13 Q And at this point you actually got up -- were you
14 on duty that night?

15 A I was not. I was home asleep actually.

16 Q And why did you feel like you needed to go and
17 interview her?

18 A Again, we tried effortlessly to try to locate ^{Child}
19 Jennings to no avail. So we felt it very important
20 to get that information from Zinah Jennings, his
21 true whereabouts.

22 Q Once you got to headquarters, did you make contact
23 with Zinah Jennings?

24 A Yes, we did.

25 Q Where was that contact made?

1 A She had turned herself into the front desk. She
2 was escorted upstairs to our investigative room
3 where we actually interviewed her.

4 Q Who all was present during the interview that day?

5 A Myself and Investigator Bailey.

6 Q Prior to interviewing her, did you advise her of
7 certain rights?

8 A Yes, we did.

9 Q And is that customary when someone is taken into
10 custody?

11 A Yes.

12 Q What rights did you go over with her that evening
13 prior to asking her any questions?

14 A We advised her of her Miranda rights, advising her
15 that before speaking to us, she had the right to an
16 attorney and so forth. That was documented on a
17 form that we fill out the date, the time, and the
18 people present during the actual interview. That
19 was done in this particular interview.

20 (State's Exhibit Number 18 is marked for
21 identification.)

22 BY MS. CAMPBELL:

23 Q I want to show you what is marked as State's
24 Exhibit Number 18 for identification at this point.
25 Do you recognize this form here?

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1 A Yes, this is the waiver of rights form.

2 Q Is that the form you actually used with Zinah
3 Jennings that evening?

4 A Yes, it's the actual form that we utilized.

5 Q I notice that some of it is printed up. Would it
6 have been a blank form when you initially started
7 it?

8 A Correct. It was blank until we actually filled it
9 in.

10 Q The handwritten part, who actually filled that in?

11 A I did.

12 Q And what information did you actually write in on
13 that form as you were advising her of her rights?

14 A There is the place, the date, and time.

15 Q And what were the place, the date, and the time
16 that you filled in on that form?

17 A The place was 1 Justice Square. The date is
18 12/30/2011. The time is 12:40.

19 Q 12:40?

20 A Correct.

21 Q That would have been shortly after midnight? Forty
22 minutes after midnight?

23 A That's correct.

24 Q On what day?

25 A 12/30/2011.

1 Q That would be December 30th?

2 A Correct.

3 Q Can you tell the jury what rights you went through
4 with her that evening prior to asking her any
5 questions?

6 A Yes. The form has on it: Before we ask you any
7 questions, you must understand your rights. You
8 have the right to remain silent. Anything you say
9 can be used against you in court. You have the
10 right to talk to a lawyer for advice before we ask
11 you any questions and to have him with you during
12 questioning.

13 If you cannot afford a lawyer, one will be
14 appointed for you before questioning if you wish.
15 If you decide to answer questions now without a
16 lawyer present, you will still have the right to
17 stop answering questions at any time. You also
18 have the right to stop answering questions at any
19 time until you talk to a lawyer.

20 Once we advise her of that, we ask her to read
21 the waiver of rights, which she then agreed to. It
22 says: I have read the statement of my rights. I
23 understand what my rights are. I am willing to
24 make a statement and answer questions.

25 I do not want a lawyer at this time. I

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1 understand and know what I am doing. No pressure
2 or threats have been made to me and no pressure or
3 coercion of any kind has been used against me, and
4 then she affixed her signature.

5 Q And, in fact, is this Zinah Jennings' signature on
6 that form?

7 A That's correct.

8 Q And it's witnessed by whom?

9 A It's witnessed by myself and Investigator Bailey.

10 Q And these are the rights you went through that
11 night?

12 A That is correct.

13 Q Prior to talking to her, after advising her of her
14 rights, did you promise her anything to make her
15 talk to you?

16 A No, we did not.

17 Q Did you threaten her in any way?

18 A No, we did not.

19 Q Did she appear to be coherent and understand what
20 you were saying?

21 A She was quite coherent and did understand the
22 questions.

23 Q Once she had been advised of her rights and waived
24 her rights and chose to talk to you, did you then
25 question her about Child

1 A We did.

2 MS. CAMPBELL: Your Honor, at this time I
3 offer State's Exhibit Number 18 into evidence.

4 THE COURT: Mr. Pride?

5 MR. PRIDE: No objection.

6 THE COURT: State's 18 is in evidence without
7 objection.

8 (State's Exhibit Number 18 is received into
9 evidence.)

10 BY MS. CAMPBELL:

11 Q Once you started questioning her, did you record
12 the actual interview?

13 A Yes, we did.

14 Q And State's Exhibit 16, have you had the
15 opportunity to review the recording?

16 A I did.

17 Q Does it fairly and accurately depict the interview
18 you conducted with Zinah Jennings that early
19 morning of December 30th?

20 A It does.

21 Q And was that also transcribed at a later date?

22 A It was.

23 Q And have you had an opportunity to review the
24 transcript?

25 A I have.

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1 MS. CAMPBELL: Your Honor, at this time we
2 would offer State's Exhibit Number 16 into evidence.

3 THE COURT: Mr. Pride?

4 MR. PRIDE: Same objections that I noted.

5 THE COURT: Subject to previous objections?

6 MR. PRIDE: Right.

7 THE COURT: State's Exhibit 16 is in evidence
8 subject to the defense's previous objection.

9 (State's Exhibit Number 16 is received into
10 evidence.)

11 MS. CAMPBELL: Your Honor, at this time we
12 would ask permission to publish the interview and to
13 hand out transcripts for the jury.

14 THE COURT: How long is the interview,
15 Solicitor?

16 MS. CAMPBELL: It's close to two hours, an
17 hour and a half to two hours.

18 MR. PRIDE: Could we approach?

19 THE COURT: Yes, sir.

20 (Whereupon there was a bench conference off
21 the record in the presence of the jury but out of the
22 hearing of the jury.)

23 THE COURT: Are there any other areas you can
24 cover with the sergeant now and then wait until after
25 with the transcript?

1 MS. CAMPBELL: Yes, sir, his involvement is
2 limited.

3 THE COURT: That's fine. Sergeant, you may
4 step down at this time.

5 THE WITNESS: Thank you, Your Honor.

6 (Witness leaves the witness stand.)

7 THE COURT: Madame Forelady, ladies and
8 gentlemen of the jury, given the length of this tape,
9 which you heard the solicitor say it's an hour and a
10 half to two hours long, and given the time, I think we
11 will take an early luncheon recess today. I usually
12 take recess at 1:00 o'clock, but I think I will take it
13 now, as I say, given the length of the tape.

14 Although you haven't been back in the
15 courtroom but about 35 minutes since our break, that
16 could put us up to -- let me do my cycling here --
17 that could put us up to 2:30 before we would take a
18 break.

19 I really don't want to stop in the middle of
20 the tape. I want y'all to hear the entire tape at one
21 sitting, so to speak. So we are going to take our
22 luncheon recess now. When you have the tape or when the
23 tape is published, you will also have the transcript of
24 the tape.

25 The transcript will be only for allowing you

1 to follow along with the tape. It will not be
2 introduced into evidence. You will not have it in your
3 jury room with you, but you will be able to follow along
4 with the transcript while you are listening to the tape.

5 Before we take our luncheon recess, I need to
6 give you certain instructions. I'm sure before the week
7 is out, you will be able to repeat these instructions back
8 to me.

9 I remind you that you shall not discuss this
10 case with others. That's your fellow jurors, lunch
11 mates, family, friends, or anyone else. If anyone tries
12 to talk with you about the case, please let me know
13 immediately.

14 Do not read, watch or listen to any news
15 reports about the case. Do not use your computer,
16 cellular phone, or any other electronic device with
17 communication capabilities or any other method to obtain
18 or disclose information when you are not in court.

19 Information about the case which is prohibited
20 includes the following: Information about a party, a
21 witness, an attorney, or a court officer, news accounts
22 of the case, information collected through juror
23 research on any topics raised or testimony offered by
24 any witness, or information collected through juror
25 research on any other topic the juror might think would

1 be helpful in deciding the case.

2 I know each of you have heard me numerous
3 times, and I continue to emphasize to you that you
4 decide this case based on the evidence and testimony
5 presented before you in the courtroom and the witnesses
6 testifying under oath and the law as I tell you the law
7 is.

8 Do not do any independent investigation or any
9 investigation on the internet or in any other manner. I
10 will probably question you in that regard upon your
11 return. With that being said, we will take a recess
12 until, we will say, 1:45. That's an hour and 15
13 minutes, 1:45. If you would please be back in your jury
14 room promptly at 1:45.

15 Also, ladies and gentlemen, as I instructed
16 you yesterday when you return to the courthouse, if you
17 would just come on back to your jury room. I don't like
18 to use the word loiter with a jury. I don't mean it
19 like that. Don't stand around in the hallway. Come
20 right on up and come right on back and report back to
21 your jury room.

22 With that being said, if you would leave your
23 notes inside down on your chair. The clerk will secure
24 them during the recess. I hope you all have a pleasant
25 lunch. See you at 1:45.

1 (The jury is excused for lunch at 12:30 P.M.)

2 THE COURT: I would like to put on the record
3 State versus Winkler, W-I-N-K-L-E-R, 698 S.E. 596. It's
4 somewhat different but similar. In this particular
5 case, which I believe was a murder case in Horry County,
6 the jury requested a transcript of a 9-1-1 tape after
7 they had begun their deliberations.

8 The Court allowed it. That was upheld on
9 appeal. As I say, I realize it's different as far as
10 the timing of this case. There are some other cases I
11 haven't -- I didn't find this case. I give credit to my
12 law clerk for finding that, but that's in my discretion.
13 So I will allow them to use that transcript during the
14 course of the publication of the audio.

15 Anything further, Solicitor?

16 MS. CAMPBELL: No, sir.

17 THE COURT: I will have the court reporter
18 mark the transcript as a Court's exhibit.

19 (Court's Exhibit Number 2 is marked for
20 purposes of the record.)

21 THE COURT: Anything further, Mr. Pride?

22 MR. PRIDE: Judge, through inadvertence when
23 you asked about the voluntary statement signed by
24 Ms. Jennings, I said no objection. I would like to
25 rescind that and say that I would have the same

1 objections that I noted on the record during the
2 hearings that we had in limine and the motions to
3 suppress.

4 THE COURT: It's so noted. I never know what
5 an appellate court -- I don't know if an appellate court
6 will ever look at this case. I never know what they
7 will do. It's certainly on the record.

8 MR. PRIDE: Thank you.

9 THE COURT: Court will be in recess until
10 1:45.

11 (Whereupon there is a luncheon recess.)

12 THE COURT: Sergeant Thomas, is he going to
13 rejoin us?

14 MS. CAMPBELL: Yes, sir.

15 THE COURT: Sergeant, if you would retake the
16 stand. You are still under oath.

17 ARTHUR L. THOMAS, having been
18 previously duly sworn, resumed the witness stand and
19 testified as follows:

20 THE COURT: Anything from the State before we
21 bring in our jury, Solicitor?

22 MS. CAMPBELL: No, sir.

23 THE COURT: From the defense, Mr. Pride?

24 MR. PRIDE: Nothing.

25 THE COURT: Bring us our jury, please.

1 MS. CAMPBELL: Your Honor, for the record we
2 did put the transcripts in their chairs.

3 THE COURT: Thank you.

4 MR. PRIDE: I'm aware of that, Judge.

5 (The jury returns to the courtroom at
6 1:55 P.M.)

7 THE COURT: Welcome back, ladies and
8 gentlemen. I hope y'all had a pleasant lunch. We are
9 continuing the trial of the case by the presentation of
10 the testimony by the State in its case in chief.
11 Sergeant Thomas is on the witness stand.

12 Solicitor, you may proceed.

13 MS. CAMPBELL: May it please the Court, Your
14 Honor. At this time we would publish the audio version,
15 for which they have transcripts now.

16 THE COURT: Thank you. Thank you, Solicitor.

17 (State's Exhibit Number 16 is played for the
18 jury.)

19 (During the playing of the videotape, the
20 following is reported.)

21 MS. CAMPBELL: With defense counsel's
22 permission, we can fast forward to 11 minutes.

23 (Attorneys confer.)

24 MS. CAMPBELL: Without objection.

25 THE COURT: We are going to fast forward it to

1 where?

2 MS. CAMPBELL: Start back up about 11 --
3 11:17. It will be a few more seconds.

4 (State's Exhibit Number 16 is continued to be
5 played for the jury, and the following is reported.)

6 MS. CAMPBELL: There is another 13-minute
7 lapse if we could skip forward through that.

8 THE COURT: I think that would be appropriate,
9 Solicitor. So there is 13 minutes of silence?

10 MS. CAMPBELL: Yes, sir, and then conversation
11 is initiated by Ms. Jennings.

12 (State's Exhibit Number 16 is continued to be
13 played for the jury, and nothing further is reported.)

14 THE COURT: Mr. Foreman, and ladies and
15 gentlemen of the jury, please turn your transcripts
16 upside-down on your chair. We will take a 15-minute
17 recess. Do not discuss the case during this brief
18 recess. Everyone else remain seated while the jury
19 retires.

20 (The jury retires to the jury room.)

21 THE COURT: Court will be in recess 15
22 minutes. Thank you very much.

23 (Whereupon there is a recess.)

24 THE COURT: Solicitor.

25 MS. CAMPBELL: May it please the Court, Your

1 Honor. In an unrelated matter but on an upcoming
2 witness that is coming in the next few after this one,
3 in his opening argument defense counsel referred to
4 Roderick Mitchell and talked about how he would beat
5 Zinah, he was a drunk -- and I can't remember the exact
6 verbiage he used in describing him -- and basically
7 blamed Zinah's situation on Roderick Mitchell. He is a
8 witness for the State, Your Honor.

9 As far as impeachment on any of those grounds,
10 Your Honor, I'm not sure how they exactly intend to go
11 into that or what relevance it would have to this
12 hearing. I would refer to State versus Terry Grace,
13 which references Rule 608, which is evidence of
14 character, conduct, or bias of a witness.

15 I don't know -- and I would just ask before we
16 get to that so that I don't have to interrupt and send
17 the jury out while he is on the stand -- to what extent
18 he intends to go into that, if any, and under what
19 theory he thinks that would be admissible.

20 THE COURT: Mr. Pride?

21 MR. PRIDE: Judge, can we cross that bridge
22 when we get to it? This is the witness that is on the
23 stand now, and I was sort of preparing for my
24 examination of this witness.

25 All of a sudden I have been carried to the

1 State's next witness, which I didn't even know who their
2 next witness is. I can assure you that I will address
3 it appropriately.

4 THE COURT: Let me ask you this, Solicitor:
5 Do you think Mr. Mitchell will testify this afternoon?

6 MS. CAMPBELL: Yes, sir, at some point. I'm
7 not saying he is the exact next witness but in the next
8 two or three.

9 THE COURT: If he were to be the next witness,
10 if you will notify me of that at that time, I will let
11 the jury step out.

12 MS. CAMPBELL: Thank you.

13 THE COURT: We can take it up at that time.
14 That's fine, Mr. Pride.

15 MR. PRIDE: Thank you.

16 THE COURT: Thank you very much. We have some
17 amount to play on the statement?

18 MS. CAMPBELL: Yes, sir, just that last little
19 bit.

20 THE COURT: Then I would take it you would
21 continue on with your direct examination?

22 MS. CAMPBELL: Which should be fairly brief.

23 THE COURT: Thank you. Thank you very much.

24 Mr. Pride, anything else before we bring the
25 jury in?

1 MR. PRIDE: Nothing, Your Honor.

2 THE COURT: I will tell the members of the
3 audience that are observing today, I don't want to be
4 Draconian with anyone. I know we sat for an extended
5 period of time during the presentation of the audiotape,
6 two hours or so.

7 If you have an emergency for which you need to
8 leave, you understand what I'm saying, you may do so. I
9 think it's distracting to me; however, I think it's
10 distracting to the jury.

11 That's why I like the courtroom locked down
12 when evidence is being presented. I do not want anyone
13 to have an issue of an emergency-type nature. If you
14 would please use your good judgment and discretion in
15 that regard. Bring the jury.

16 (The jury returns to the courtroom.)

17 THE COURT: Welcome back, ladies and
18 gentlemen. We are continuing the trial of the case by
19 the presentation of testimony by the State in its case
20 in chief. If you would please continue to give the
21 parties your complete and undivided attention.

22 (State's Exhibit Number 16 is continued to be
23 played for the jury, and nothing further is reported.)

24 THE COURT: Solicitor.

25 MS. CAMPBELL: May it please the Court.

1 THE COURT: Yes, ma'am.

2 DIRECT EXAMINATION

3 BY MS. CAMPBELL:

4 Q Sergeant, at one point during the course of the
5 interview, there is a mention of an Ernest
6 Robinson?

7 A Yes.

8 Q And it sounds like at some point you were doing
9 something as far as trying to show her something?

10 A Yes, we were. You heard some paper rattling and so
11 forth. Upon speaking with Zinah, she mentioned
12 that a subject -- outside of the father we knew to
13 be the father of the child, an Ernest Robinson --
14 was where the child would be, with the subject.

15 She gave us some information about being a
16 Dreher High School graduate of 2005. She didn't
17 give us an age, but she said he may be from New
18 York or something of that nature.

19 So we did some background on some Ernest
20 Robinsons that we could locate from Dreher or
21 schools in the district alone that would match the
22 age and so forth and so on.

23 We were able to produce a few pictures, a few
24 photos to her, of Ernest Robinsons that we did
25 locate that may be in the approximate age and

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1 suing for the name and so forth that she gave to
2 us.

3 Q Were you able to identify any Ernest Robinson as
4 being the possible father of that child?

5 A We have, to this date, not been able to identify an
6 Ernest Robinson in any relation to Zinah or the
7 child.

8 Q After the interview was terminated that night, was
9 she then taken to Alvin S. Glenn and booked in?

10 A She was.

11 Q I show you the booking information. Does that
12 reflect the time and the date that she was actually
13 booked into the jail?

14 A Yes, it does.

15 Q What time and date was that, sir?

16 A On this one it shows 12/30/2011, at 3:39 A.M.

17 Q Is it customary to take a photo of the defendant
18 when they are being booked in?

19 A Yes. As they are booked, they are photoed and
20 fingerprinted.

21 Q I show you State's Exhibit Number 19. Do you
22 recognize that?

23 A Yes.

24 Q Was that, in fact, the photo that was taken that
25 night?

1 A Yes, this is, in fact, the jail photo. This is
2 what she looked like the night we arrested her.

3 Q So that fairly and accurately represents how she
4 looked when you were interviewing her?

5 A That is correct.

6 MS. CAMPBELL: Your Honor, at this time we
7 offer State's 19 into evidence.

8 MR. PRIDE: No objection.

9 THE COURT: No objection. State's 19 is in
10 evidence without objection.

11 (State's Exhibit Number 19 is received into
12 evidence.)

13 MS. CAMPBELL: Permission to publish, Your
14 Honor?

15 THE COURT: Yes, ma'am, you may publish.

16 BY MS. CAMPBELL:

17 Q After that interview that night, you didn't have
18 anymore contact with Ms. Jennings; did you?

19 A No, I did not.

20 Q The person you interviewed that night in referenced
21 to her son, ^{Child} Jennings, do you see her in the
22 courtroom?

23 A Yes, I do.

24 Q Can you identify her for the Court, please?

25 A The young lady in the black and white outfit

1 sitting adjacent to her two attorneys.

2 Q Has her appearance changed somewhat?

3 A Just the hair and the hair color and so forth. She
4 pretty much looks the same.

5 Q Thank you, sir.

6 MS. CAMPBELL: Your Honor, may the record
7 reflect he has identified the defendant.

8 THE COURT: So reflected.

9 BY MS. CAMPBELL:

10 Q During the course of talking with Ms. Jennings that
11 night, did she ever tell you she was pregnant at
12 that time?

13 A No, we didn't have any knowledge of her being
14 pregnant at that time.

15 Q Thank you.

16 MS. CAMPBELL: Your Honor, I don't have
17 anything further.

18 THE COURT: Thank you. Thank you very much,
19 Solicitor. Mr. Pride.

20 **CROSS EXAMINATION**

21 BY MR. PRIDE:

22 Q Would you turn to page 90 in the transcript.

23 A Page 90?

24 Q Right.

25 A Yes, sir. Give me just a moment. Okay.

1 Q Look at line 9.

2 A Line 9.

3 Q That's you speaking; isn't it? Line 9?

4 A I believe that may be Investigator Bailey.

5 Q Doesn't that say Investigator Thomas, line 9, page
6 90?

7 A No. That's Zinah Jennings and then parts of that
8 are Investigator Bailey.

9 (Pause.)

10 MR. PRIDE: I have the original, which you
11 know what happened; right?

12 THE COURT: Yes, sir, that's what I have. Do
13 you have a copy of the transcript? Here it is,
14 Mr. Pride. Do you have one now?

15 MR. PRIDE: I do. Thank you.

16 THE COURT: Thank you.

17 BY MR. PRIDE:

18 Q When Ms. Jennings came to the police department to
19 turn herself in, that was on what date?

20 A On December 29th she actually arrived at the police
21 department to my recollection approximately at
22 11-something P.M.

23 Q Right. She was questioned from the 29th through
24 the 30th of December?

25 A I believe we began actually speaking with her going

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1 into the 30th, sometime after 12:00.

2 Q After 12:00?

3 A Correct. I believe it's on the waiver of rights.

4 Q And she did come down to the police department on
5 Washington Street and say in effect, I'm Zinah
6 Jennings and I understand you've got a warrant out
7 for my arrest?

8 A She did do that.

9 Q And once she did that, then you were notified by
10 somebody at the police department that she was
11 there; is that correct?

12 A Investigator Bailey notified me that she was en
13 route or that she had arrived already, yes, sir.

14 Q And when you all read her her rights -- in other
15 words, you told her, You've got a right to remain
16 silent; right?

17 A That is correct.

18 Q You told her that she had a right to have a lawyer?

19 A That is correct.

20 Q And you say that she intelligently waived these
21 rights and said, I waive my right to a lawyer and I
22 waive my right to remain silent, and whatever other
23 rights that were involved in that waiver; is that
24 correct?

25 A She did so.

- 1 Q So she cooperated with you to that extent?
- 2 A She did.
- 3 Q On page 104, would you turn to that, please.
- 4 A Page 104.
- 5 Q Line 10.
- 6 A I am trying to get there. Which line is that, sir?
- 7 Q Line 10. Were you there with Investigator Bailey?
- 8 A Yes, Investigator Bailey. Line 10?
- 9 Q When he said, What happened to your eye, do you see
- 10 that?
- 11 A Okay.
- 12 Q Is that right? What happened to your eye?
- 13 A Right.
- 14 Q And further said, Was that from the accident?
- 15 A Okay. I see that as well.
- 16 Q And what did you see in her eye? Was her eye as it
- 17 is --
- 18 A Yeah, I believe there was bruising to the eye right
- 19 there as reflected in that photo.
- 20 Q It was a little greater perhaps than that; is that
- 21 correct?
- 22 A This is the exact night that she was taken into
- 23 custody by us; so it should be the same.
- 24 Q And that bruise that she suffered is reflected on
- 25 State's Exhibit 19 as you saw that night; is that

1 correct?

2 A That is correct. Her photo, arrest photo, is
3 representative of what she looked like the night we
4 took her into custody.

5 Q All right. Now, when Ms. Jennings came to the
6 police department, isn't it true that you already
7 had taken out a warrant for her arrest?

8 A Yes, we already had warrants for her arrest. We
9 had already gone in the neighborhood looking for
10 her, and I believe that's how she was informed that
11 there were warrants out for her. We had spoken to
12 friends and associates trying to locate the baby.

13 Q And you took that warrant out on the 24th?

14 A I do not have that warrant before me, but
15 Investigator Bailey took the warrant out. I did
16 not take the warrant out myself.

17 Q This is the warrant that you took out on the 24th;
18 is that correct?

19 A Looking at the warrant and looking at the date,
20 Investigator Bailey apparently did draw this
21 warrant.

22 Q On the 24th?

23 A That is correct.

24 Q And that warrant is a sworn affidavit where you
25 went before a magistrate and told the magistrate

1 the facts that are contained in the body of that
2 warrant; isn't that correct? And the magistrate
3 required that you swear to it -- not you -- but the
4 person who applied for the warrant?

5 A That is the procedure that we go through in order
6 to take out a probable cause warrant, yes.

7 Q That may be the procedure, but the answer to my
8 question is: Yes, on this one the person who took
9 it out had to swear to it before a magistrate;
10 right?

11 A In order to obtain this warrant, he had to do so,
12 yes.

13 Q Now, I want you to read to the jury the language in
14 that warrant?

15 MS. CAMPBELL: Objection, Your Honor. We have
16 no problem if he wants to enter it into evidence.

17 MR. PRIDE: Well, I move to put it in
18 evidence.

19 THE COURT: Step up here to the bench a
20 moment.

21 (Whereupon there was a bench conference off
22 the record in the presence of the jury but out of the
23 hearing of the jury.)

24 THE COURT: You are offering Defense 2 in
25 evidence, Mr. Pride?

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1 MR. PRIDE: Yes -- no, it will be Defense 1 in
2 evidence.

3 THE COURT: No, 1 is marked for
4 identification, the photo.

5 MR. PRIDE: But it's marked as an exhibit.

6 THE COURT: But it's still Defense 1 for I.D.
7 as an exhibit.

8 MR. PRIDE: That's fine.

9 THE COURT: This would be Number 2. Is that
10 correct, Madame Court Reporter?

11 COURT REPORTER: Yes, sir.

12 (Defendant's Exhibit Number 2 is received into
13 evidence.)

14 BY MR. PRIDE:

15 Q I want you to read that language to the jury.

16 A All right. "Occurring within the City of Columbia,
17 Richland County, the defendant, being the mother
18 and the primary caregiver of ^{Child} Jennings, age
19 one, has purposefully lied to law enforcement
20 several times regarding the whereabouts of ^{Child}
21 telling Officer Miller on 12/24/2011, that she did
22 not have a child; then said the child was in
23 Atlanta with an aunt; and then on 12/28/2011,
24 telling the affiant the child was at the residence
25 of Ernest Robinson, having left him there because

1 she needed a break.

2 The affiant's training, experience, and
3 investigation of fictitious Robinson's residence
4 has led him to believe that Ernest Robinson does
5 not exist, and Child is not at the residence in
6 Atlanta.

7 Therefore, the affiant believes that the
8 defendant has willfully withheld information that
9 would implicate the defendant or others in the harm
10 that has befallen Child

11 Based upon Child age and required intense
12 supervision of care, the defendant is unable or
13 unwilling to establish that the child, who was
14 solely in her care, is alive and healthy.

15 Admission by the defendant and family
16 establish Child has not been seen by the defendant
17 nor any known family member since December 6,
18 2011."

19 Q When the defendant -- when Ms. Zinah Jennings --
20 talked to Officer Miller, she was not under oath;
21 was she?

22 A No, she was not.

23 Q And when she talked to Officer Miller, she was not
24 given her Miranda warnings, and she had not waived
25 them; had she?

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1 MS. CAMPBELL: Objection, Your Honor.

2 A She was not in custody at the time.

3 THE COURT: Your objection?

4 MS. CAMPBELL: Relevance and misstatement of
5 the law.

6 THE COURT: I sustain the objection.

7 MS. CAMPBELL: Thank you.

8 THE COURT: The question is whether she was in
9 custody at the time or not. That is the appropriate
10 question.

11 MR. PRIDE: Thank you.

12 THE COURT: Yes, sir.

13 BY MR. PRIDE:

14 Q On the 24th when Mr. Miller talked to her, there
15 was a warrant out; wasn't it?

16 A Not at the time, no.

17 Q What is the date of the warrant that you have got
18 right there in your hand?

19 A The date on the warrant says the 24th, but there
20 was not a warrant for her arrest at that time.

21 Q That warrant was signed by a magistrate and had
22 been sworn to on the 24th; hadn't it?

23 A Again --

24 Q What you mean is it was not served?

25 THE COURT: Wait a minute. Let him answer the

1 question.

2 MR. PRIDE: Excuse me, Judge.

3 THE COURT: That's all right. Let him answer
4 the question, Mr. Pride.

5 A Again, sir, this is not my warrant. Investigator
6 Bailey took this warrant out, and I can only tell
7 you what I see before me, and that's what I see.

8 Q I am not asking whose warrant it is. I am asking
9 about a warrant that you have in your hand which
10 has been marked by the court reporter as
11 Defendant's Exhibit 2. Now, let's establish one
12 thing first. That warrant was signed by the
13 magistrate on the 24th of December; is that
14 correct?

15 A It's has the date of the 24th on the warrant.

16 Q And that language that you read to the jury was on
17 that warrant on the 24th of December; wasn't it?

18 A That's correct.

19 Q And when Mr. Miller stopped Ms. Jennings on the
20 24th, that warrant was in effect; wasn't it? In
21 existence?

22 A To my knowledge -- I repeat again -- Investigator
23 Bailey had not drawn that warrant at the time that
24 Mr. Miller spoke to Ms. Jennings. Ms. Jennings was
25 not at any point in custody on the night of her

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1 accident where she was receiving medical treatment.

2 So any questions that he asked her at that

3 particular point were not required to have Miranda.

4 Q She was a suspect; wasn't she?

5 A She was a missing person that had been located, and

6 we were trying to locate the child.

7 Q Well, how can you say that that warrant wasn't out,

8 and you say that you don't know when Officer Bailey

9 applied for the warrant?

10 A Again, I can only answer to what I see before me.

11 Q Do you see anything before you that would indicate

12 to you that that warrant was not in existence when

13 Mr. Miller talked to Ms. Zinah Jennings?

14 A Again, being the supervisor over the unit, I knew

15 at the time that Miller spoke with Ms. Jennings

16 that there was not a warrant for her arrest.

17 Q How did you know?

18 A Investigator Bailey works under me, and I know that

19 there was not a warrant at that particular time.

20 Q But how do you know that, just because he works

21 under you?

22 MS. CAMPBELL: Objection, Your Honor, asked

23 and answered.

24 THE COURT: You can rephrase your question as

25 to the foundation or the basis of his knowledge.

1 BY MR. PRIDE:

2 Q Does that warrant have any clocked date and time
3 when it was filed?

4 A Clocked date and time filed?

5 Q Yes.

6 A Again, on the warrant it shows 12/24/2012, at the
7 very top -- excuse me -- 12/24/2011. I apologize
8 for that, and that's the date that I see before me.

9 Q And you cannot tell from looking at that warrant
10 the time that it was issued or the time that it was
11 applied for? Would you not agree?

12 A I can't but when you speak to Investigator Bailey,
13 he may be able to clarify that for you. I can't
14 clarify the time.

15 Q Right now I am not examining Bailey --

16 A I can only go by the date before me.

17 Q Let's start over again.

18 A Let's do.

19 Q Looking at that warrant, you cannot tell the time
20 and the date --

21 A The date is the 24th.

22 Q -- the time that the warrant was applied for or the
23 time it was issued; can you?

24 A The date on the warrant is the 24th. I don't see a
25 time stamp because I don't believe we have time

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1 stamps on the warrants.

2 Q So the answer to my question would be yes? You
3 cannot tell when it was applied for or when it was
4 issued on the 24th; isn't that correct?

5 A No time stamp; that is correct.

6 Q Now, what time did Miller see Ms. Jennings?

7 A I'm uncertain. I don't have that documentation
8 before me. I think he spoke earlier, but I know
9 the accident was in the early morning hours.

10 Q How can you say that you don't know -- that the
11 warrant wasn't in existence -- if you don't know
12 what time Miller spoke with Ms. Jennings?

13 A I know the time he spoke with her, the warrant was
14 not signed; that's correct.

15 Q How do you know that?

16 A Because Investigator Bailey communicated that to
17 me. He communicated what he spoke with Miller
18 about and so forth. There was not a warrant at
19 that particular time, and I know she wasn't in
20 custody.

21 Q I'm not asking about custody.

22 A I have answered your question, Counselor.

23 Q And your testimony to me is that you know -- you
24 don't know what time Miller investigated the
25 accident or what time Miller met with Ms. Jennings,

1 but you know that the warrant was not issued and in
2 existence on the 24th because Bailey told you that?

3 A I supervise Investigator Bailey --

4 Q I didn't ask you who you supervise --

5 MS. CAMPBELL: Objection, Your Honor.

6 THE WITNESS: May I answer my question,
7 Mr. Pride?

8 THE COURT: Let him answer the question,
9 Mr. Pride.

10 Go ahead, Sergeant.

11 THE WITNESS: Thank you, sir.

12 A I supervise Investigator Bailey. I do not
13 supervise Miller. Investigator Bailey informed me
14 of what he had when Zinah was located. That's a
15 found missing person. It's something I need to be
16 notified on.

17 At the time it's still just a missing person.
18 So at that particular time there were no warrants
19 outstanding in reference to Zinah Jennings. She
20 was just a missing person that had been located due
21 to her accident.

22 Q And your testimony is that the information provided
23 to Miller only provided that she was a missing
24 person?

25 A That is correct.

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1 Q Even though the accident happened on the 24th, and
2 the warrant was issued on the 24th? You do agree
3 with that?

4 A That is the date before me, sir. So I have to
5 agree with it.

6 Q Let me ask you this.

7 A Yes, sir.

8 Q Before the 24th when the warrant was applied for
9 and you told us -- would it be fair to say that you
10 are the chief investigating officer as it relates
11 to the missing of ^{Child} Could I categorize you as
12 that?

13 A Actually Investigator Bailey is the chief
14 investigating officer. I'm his immediate
15 supervisor therein.

16 Q He works for you?

17 A That is correct.

18 Q But he is the chief investigating officer on this
19 case?

20 A That is correct. He did a whole lot of work on
21 this case. I can't take credit for it.

22 Q When on the 24th did he tell you -- did Bailey tell
23 you that he was applying for this warrant?

24 A He informed me at some juncture -- I can't remember
25 exactly when -- that a warrant was going to be

1 signed against Ms. Jennings, but he also informed
2 me that Ms. Jennings was located due to the car
3 accident.

4 Q Well, at that time you all had not talked with
5 Ms. Jennings to even ask her where the child was;
6 had you?

7 A To me, outside of the information given to Bailey
8 by Miller, no. That's the knowledge that I have of
9 that.

10 Q What information on the 24th did you and Bailey
11 have that would support the charge that Zinah
12 abandoned her child?

13 A Again, because Investigator Bailey drew the
14 warrant, that's a question you will have to ask him
15 more directly.

16 Q I am not asking about the warrant. I am asking
17 about --

18 A Again, he is the chief investigator. So if you
19 want to talk about probable cause therein, you
20 would have to speak with him directly.

21 Q Well, would it be fair to say that you can tell the
22 jury that through your investigation, you had no
23 information that would support a charge of
24 abandonment against Zinah Jennings?

25 A The information contained within the warrant is the

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1 information provided to the judge, and that
2 information therein was the probable cause for her
3 arrest. That's the answer that I can give you,
4 Counselor.

5 Q The question is not about the warrant. The
6 question is within your knowledge --

7 A I can only speak on the warrant.

8 Q Sir --

9 THE COURT: Let him finish the question,
10 Sergeant.

11 Go right ahead, Mr. Pride.

12 MR. PRIDE: Thank you.

13 BY MR. PRIDE:

14 Q As an investigator on the 24th, you, through your
15 investigation, had no knowledge of any
16 information -- you personally -- that would support
17 the charge of abandonment for Zinah Jennings? Do
18 you not agree?

19 A Again, Investigator Bailey is the chief
20 investigator in this particular case. He, at some
21 point when he drew his warrant, felt he had enough
22 probable cause to do so. He informed me of such
23 and I allowed him to do so. He had to speak to the
24 magistrate about his probable cause.

25 On the 24th Ms. Jennings was in a car

1 accident. She was a missing person. The child is
2 also a missing person. Our concern was the
3 whereabouts of the child since we had located
4 Ms. Jennings. So at that particular juncture, they
5 were just missing persons, where one had been
6 located.

7 Q Did you understand my question?

8 A That's my answer.

9 Q No, that may be your answer. But my question to
10 you is --

11 MS. CAMPBELL: Objection, Your Honor.

12 THE COURT: Just a minute. If he said that's
13 his answer, there is an inference he understood the
14 question, and that was the answer that he gave to your
15 question. However, you may ask your next question.

16 MR. PRIDE: My next question?

17 THE COURT: Yes, sir.

18 MR. PRIDE: Judge?

19 THE COURT: It may be the same question.

20 MR. PRIDE: Thank you very much.

21 BY MR. PRIDE:

22 Q My question -- how many years have you been in law
23 enforcement?

24 A Twenty-three years.

25 Q Twenty-three years. How many times do you think

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1 you have testified as a witness in court?

2 A I can't count them, a number of times.

3 Q A number of times. Over a hundred?

4 A Roughly through the years that's a good
5 approximation.

6 Q As a law enforcement officer who has your number of
7 years of experience and has testified in court as a
8 witness before, I ask you simply: Did you
9 personally, based on what you knew and your
10 investigation, have any facts that would have
11 supported the charge of abandonment on the part of
12 Zinah Jennings? You didn't have any; did you? Now
13 somebody else may have had some, but you didn't
14 have any; did you? You did not; did you?

15 A I'm the supervisor of the special victims unit --

16 MR. PRIDE: Judge --

17 A -- and my investigator --

18 MR. PRIDE: -- please I ask for help.

19 THE COURT: Just a moment. What were you
20 saying? Several things. Although I have the best court
21 reporter in South Carolina, she can't take down two
22 people talking at the same time, number one. Number
23 two, what were you saying?

24 MR. PRIDE: Judge, I asked him for facts
25 within his own knowledge, and he wants to tell me about

1 Bailey, procedure, and what went on that day. If he
2 wants to get into a diatribe, he can; but he is to
3 answer my question first, and what he says thereafter
4 should be relevant to the question I asked.

5 I mean, I'm not dealing with a neophyte. I am
6 dealing with an experienced officer who has been in
7 court. I can tell by his answers too that he has been
8 around the block more than once.

9 THE COURT: Haven't we all, Mr. Pride?

10 Sergeant, will you answer that question.
11 Would you have any personal knowledge of any facts that
12 supported the charge of abandonment of ^{Child} Jennings by
13 Zinah Jennings on the 24th of December, '11, of your
14 personal knowledge?

15 THE WITNESS: The only facts I had were the
16 facts related to me by Bailey and what transpired on the
17 24th. Again, he drew the warrant.

18 BY MR. PRIDE:

19 Q What did Bailey relay to you?

20 A Bailey related to me that there was an incident
21 with Ms. Jennings as far as the car accident. He
22 had grave concerns that the child was not in her
23 care and that several people inquired about the
24 whereabouts of the child.

25 She denied, one, having the child first.

1 Then, two, acknowledging that she had a female
2 child instead of a male child. And, three, placing
3 the child at a location outside of our
4 jurisdiction.

5 Q Outside of your jurisdiction?

6 A Yes, sir.

7 Q Where outside your jurisdiction?

8 A Whatever address was given at the time.

9 Q When you say your jurisdiction, you don't mean
10 outside of Richland County; do you?

11 A There was an address given and I believe that
12 address came back possibly to Atlanta or something
13 of that nature. So that's outside the
14 jurisdiction.

15 Q What you have told us that Bailey told you, you
16 think that those facts constituted information
17 about abandonment, about Zinah abandoning her
18 child?

19 A Again, the information that he gave me that day was
20 the beginning of whatever he was doing in his
21 investigation. He was just updating me. So when
22 he drew the warrant, he had what he felt was enough
23 probable cause and he did so. Again, you will have
24 to question him on that, sir.

25 Q Right now, of course, I am questioning you.

1 A I understand and I have answered.

2 Q So far as talking to Zinah Jennings, the first time
3 that you had an opportunity to question her --

4 A Okay.

5 Q -- was on the 30th?

6 A Correct.

7 Q The night of the 29th and the morning of the 30th?

8 A The night of the 29th and the morning of the 30th;
9 that's correct.

10 Q And that took place at the Columbia Police
11 Department?

12 A That is correct.

13 Q From your conversation with Ms. Jennings on the
14 30th, what did you find out that would support the
15 charge and lead you to believe that she abandoned
16 Child

17 A Well, as you have heard the conversation,
18 approximately two and a half hours of myself and
19 Investigator Bailey intensely, almost begging for
20 information of the whereabouts of Child and his
21 health and so forth.

22 Information that was provided was information
23 that we had prior, which is the Ernest Robinson
24 that we have determined does not exist because we
25 had already done research on Mr. Robinson.

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1 She made comments and gestures of needing a
2 break, no one would help her, she had nowhere to
3 take the child; and then she comes back and says,
4 Well, I did take it somewhere.

5 Throughout the course of that interview and
6 the constant refusal to in any way assist in at
7 least the whereabouts, the help, or anything
8 dealing with her own child, along with the things
9 that we had received prior to that, led me to
10 believe that we had an issue there.

11 Q On that conversation --

12 A Yes, sir.

13 Q -- I believe at one time you used yourself as a
14 personal example and said, I have children. I
15 understand. I needed a break. Is that not
16 correct?

17 A Absolutely.

18 Q So there was nothing wrong with Zinah needing a
19 break. You understood that parents need a break
20 from children sometime; right?

21 A Correct.

22 Q And what you are really telling the jury is that
23 Zinah Jennings would not tell you where ^{Child} was.
24 That's the basis of the charge against her; isn't
25 it?

1 A No. The basis of the charge against her is that we
2 have no idea the health, the well-being, and the
3 place of the child. We have no idea. She, in her
4 statement herself, even if we believe that she has
5 dropped him off to Ernest Robinson or whomever, she
6 admits she made no contact with whomever she tossed
7 the baby to.

8 She has not communicated with, didn't check
9 on, doesn't know the health, the well-being. In
10 one part of her statement she says, He tends to
11 wander off and walk in the street. All of those
12 comments in her statement concerned me.

13 That means that even though she knows that's a
14 probability and he is in the care of others, that I
15 do not even opt to make a phone call to check on or
16 do I care or care to tell you of his whereabouts.

17 Q And conversely, as you say, I don't know about the
18 health and the welfare of the child. Conversely,
19 you don't know that the health and the welfare of
20 the child is fine and safe either; do you?

21 A I have no evidence to prove that it is.

22 Q You have no evidence to prove otherwise; do you?

23 A I have no evidence to prove that the child is safe.

24 Q Do you have any evidence to prove otherwise,
25 conversely --

1 A I do not know the whereabouts of the child.

2 Q And the mother won't tell you; right?

3 A And therefore the child has been abandoned.

4 Q Because she won't tell you?

5 A Because no one knows the whereabouts of the child.

6 Q That's the point. How do you charge somebody --
7 strike that. That's the point. This matter is
8 about the fact that Zinah Jennings, at the police
9 department and other places, would not tell law
10 enforcement where her child is; isn't that correct?

11 A The fact that she blatantly said she did not care
12 to call, contact, or communicate with persons she
13 says she left in the care taking of her child, to
14 me is a statement of abandonment.

15 I don't know any person in this courtroom that
16 would leave a child of 18 months with anyone and
17 not care to communicate, talk with, know that the
18 child may wander off in the roadway, and not check
19 on the child. That's abandonment.

20 Q She also told you he was in a safe place; didn't
21 she?

22 A She doesn't know because she has not communicated
23 with the caretakers of her child.

24 Q Is there a law that requires that she communicate
25 with the safe keeper of the child?

1 A If she does not communicate and she has dropped the
2 child off somewhere to whomever and at no point
3 checks on the welfare of the child, that's
4 abandonment.

5 Q But you don't know anything about that child either
6 because you don't know where the child is; do you?
7 As a matter of fact, you told the jury you didn't
8 even know whether or not the child -- the place the
9 child was left was in Richland County or somewhere
10 else; right? You don't know where the child is; do
11 you?

12 A I do not know the whereabouts of the child, and I
13 wish I really did. We are working very hard to
14 find the child.

15 Q And you have not seen the child?

16 A I have not seen the child.

17 Q You have not examined the child?

18 A I have no way of examining the child.

19 Q But yet you would charge the mother with abandoning
20 the child without knowing where the child is, not
21 seeing the child. The crux of the matter is that
22 the charges stem from the fact that momma did two
23 things.

24 She gave false information. At least you say
25 it was false, but you agree that she wasn't under

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1 oath. The second is that she would not tell you
2 where the child is; isn't that correct? Isn't that
3 correct?

4 A We did not know the whereabouts of the child. To
5 our knowledge the information given by the mother,
6 she does not know the care or the welfare of the
7 child herself and had not bothered to check or
8 anything of that nature after supposedly dropping
9 the child off. That's the crux of it.

10 Q Well, suppose the child is doing fine,
11 notwithstanding the fact that it's possible for the
12 child to be doing fine, notwithstanding the fact
13 that the mother didn't check; isn't it? Isn't that
14 possible?

15 A The key is with your client, Counselor.

16 Q What?

17 A The key is with your client. If that's the case,
18 if she tells us the whereabouts of the child, we
19 can check that. The key is with your client.

20 Q As you say, if she would tell -- you go right back
21 to what I ask you. The point is she won't tell
22 you, and that's the crux of this case. She won't
23 tell you --

24 MS. CAMPBELL: Objection, Your Honor. If he's
25 asking a question, there needs to be a question.

1 THE COURT: State your question, Mr. Pride.

2 MR. PRIDE: Thank you, Judge.

3 BY MR. PRIDE:

4 Q The truth of the matter is the crux of this case is
5 that you feel that the mother should tell you where
6 the child is; is that correct?

7 A The crux of this case is that there is an
8 18-month-old child missing, and we have no earthly
9 idea of the health, the welfare, or the whereabouts
10 of that 18-month-old child. That is the crux of
11 this matter.

12 Q And conversely you don't know that that
13 18-month-old child is not in a safe place and not
14 in good health either; do you?

15 A I have no idea the whereabouts of the 18 month old.

16 Q Now, on the 24th you told the jury that the warrant
17 was applied for and was taken out. We know from
18 your testimony that on the 29th through the 30th,
19 you and Officer Bailey had contact with
20 Ms. Jennings down at the police department; is that
21 correct? Where she turned herself in?

22 A That's correct.

23 Q And that you questioned her; is that correct?

24 A That is correct; we interviewed her.

25 Q Did you ever tell her that she had a warrant? You

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1 had gotten a warrant on the 24th and what she was
2 charged with on the 30th?

3 A She, at one point, I think at the very end of the
4 interview did not care what her charges were, but
5 she was informed of what her charges were.

6 Q She might not have cared, but the question to you
7 is: Did you all ever tell her what the warrant
8 was? Did you read that warrant to her and say, On
9 the 24th we got this warrant and here is what you
10 are charged with? Did you do that? Yes or no?

11 A She was served the warrant and transported to jail;
12 that is correct.

13 Q No. The question to you is: Did you at any time
14 prior to carrying her to jail read to her the
15 charges that you had gotten on the 24th against
16 her?

17 A I reiterate. She was read her warrant and
18 transported to jail.

19 MR. PRIDE: Judge, I am getting sandbagged.

20 MS. CAMPBELL: Objection.

21 THE COURT: Restate your question, Mr. Pride.

22 BY MR. PRIDE:

23 Q You are an officer of many years of experience;
24 right?

25 A Yes, sir.

1 Q Testified more than a hundred years [verbatim] on
2 the stand; is that correct?

3 A More than a hundred times, yes, sir.

4 Q More than a hundred times. Have no dog in this
5 fight, just want to come here and tell the jury
6 what you know; is that correct?

7 A I want to locate the child, yes.

8 Q Locate the child?

9 A Yes, sir.

10 Q You can't locate the child on this witness stand.
11 You would agree with that; wouldn't you?

12 A Not today.

13 Q So you just want to tell the jury what you know;
14 right? My question to you is this: On the 30th or
15 the 29th, did you, in fact, ever say to Zinah
16 Jennings on the 24th, We have got a warrant for
17 you, and here is what you are charged with and read
18 the allegations that you read up there? Did you do
19 that?

20 A Again, the warrant was served. You are asking did
21 I serve it. I did not serve the warrant on her,
22 no, sir; but she was served with an arrest warrant
23 and transported to jail.

24 Q You told us that she was served with the arrest
25 warrant when she was transported to jail. I am

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1 talking about -- listen, you understand what I am
2 talking about.

3 THE COURT: Mr. Pride, let me interrupt you.

4 MR. PRIDE: Thank you, Judge.

5 THE COURT: Sergeant, all I think he is asking
6 you is did you personally advise Ms. Jennings, Ms. Zinah
7 Jennings, of what the arrest warrant was for? Did you?

8 THE WITNESS: Yes.

9 THE COURT: You did?

10 THE WITNESS: What the arrest warrant was for?

11 THE COURT: Yes.

12 THE WITNESS: I did not serve the arrest
13 warrant on her personally.

14 THE COURT: I'm not asking that. I don't
15 think you were asking that.

16 MR. PRIDE: No.

17 THE COURT: What was your follow-up question
18 to that?

19 BY MR. PRIDE:

20 Q When did you do that?

21 A During the course of us talking.

22 Q During the course of your talking?

23 A Uh-huh. (Indicating affirmative response.)

24 Q How did you do it?

25 A I advised her that she was going to be charged with

1 unlawful conduct towards a child.

2 Q And?

3 A That's it.

4 Q So you didn't read the warrant to her?

5 A I reiterate, I did not personally read any warrant
6 to anyone.

7 Q Fine. So during the course of your talking to
8 Ms. Jennings, you told her what she was going to be
9 charged with?

10 A That's it.

11 Q And what she was -- did you tell her what she was
12 going to be charged with or did you tell her what
13 she had been charged with?

14 A I told her what she was going to be charged with,
15 which is the unlawful conduct. I would imagine --
16 don't quote me on this -- the patrolman who took
17 her down actually served the warrant. I did not
18 serve the warrant.

19 Q That's on the way to the detention center. We are
20 at the Columbia Police Department. Do you
21 understand that? Do you understand where I am
22 focusing my examination of you? Do you understand
23 that?

24 A I have understood and I have answered your
25 question.

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1 Q Now, during that period you say that you told her
2 what she was charged with -- and the only thing I
3 am asking is -- did you read -- did you personally
4 read the language in the warrant to her?

5 A I will reiterate, I did not personally serve a
6 warrant on Zinah Jennings.

7 Q I'm not talking about serving. Listen --

8 MS. CAMPBELL: Objection, Your Honor.

9 MR. PRIDE: Judge, I'm not talking --

10 THE COURT: Let me ask a question. Sergeant,
11 to you is reading the warrant to somebody --

12 THE WITNESS: That's serving the warrant, Your
13 Honor.

14 THE COURT: -- the same as serving the
15 warrant?

16 THE WITNESS: Yes.

17 THE COURT: So your language of serving is his
18 language of reading; is that correct?

19 THE WITNESS: Exactly.

20 THE COURT: Thank you. If that answers your
21 question, Mr. Pride.

22 BY MR. PRIDE:

23 Q So you told her what she was going to be charged
24 with and you read the warrant to her. You served
25 the warrant, which is synonymous to reading the

1 warrant; right?

2 A I advised her what her charges were, and then the
3 warrant was served by another individual.

4 Q All right. After you served the warrant, obviously
5 she was charged with a criminal offense; right?

6 A She was.

7 Q And Ms. Jennings, during the course of your
8 interrogation -- and, of course, we heard the tape
9 being played in here -- told you on many occasions
10 that ^{Child} was in a safe place; is that correct?

11 A She did make that statement; that is correct during
12 our interview.

13 Q That was her answer. And she also told you that
14 she dropped him off with people that she knew; is
15 that not correct?

16 A That was a statement made during the course of the
17 interview, correct.

18 Q And when you asked her, was he hurt or harmed, her
19 answer was no; isn't that correct?

20 A I believe at certain points, she would say no. At
21 some points she would just pause and cry.

22 Q Well, pause and cry is not an answer; is it? We
23 are talking about answers that she gave. During
24 the course --

25 THE WITNESS: Can I answer that?

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1 THE COURT: You may answer, yes, sir.

2 A When we are interviewing, it's not just the words
3 that you say to us that speaks volumes, but it's
4 your actions, your conduct during particular
5 questions that are asked.

6 Her action and conduct during the questioning
7 of, Did you cause harm to your child, drew me
8 concern because she started crying and apologizing,
9 and then she turned back and said, He is fine.

10 Q Well, when she apologized, she apologized for
11 crying; didn't she?

12 A No.

13 Q Didn't she say, I cry all the time in instances
14 like this?

15 A When I asked her for details.

16 Q Beg your pardon?

17 A When I asked her for details on why she was crying
18 now on that particular question, then she said she
19 cries all the time; but she did not cry throughout
20 the interview.

21 Q But the verbiage coming from her mouth, when asked
22 by you, Did you harm the child, the answer was no;
23 isn't that correct?

24 A After crying and apologizing she eventually said
25 no.

1 Q And she never admitted during the interview that
2 she did anything to abandon the child; isn't that
3 correct?

4 A No.

5 Q And she never admitted during the interview at any
6 time that she didn't know where the child was;
7 isn't that correct?

8 A She said he was with Ernest Robinson.

9 Q Well, she also said that he was in a safe place; is
10 that correct?

11 A She did.

12 Q You felt like she knew where the child was because
13 if you didn't, you wouldn't keep asking her where
14 the child was; right?

15 A She was the only person that could tell us the
16 whereabouts of the child; so I kept asking.

17 Q All right. Did you believe her when she said that
18 she didn't harm the child?

19 A As I stated in the interview, toward the end of the
20 interview, I had problems with her statement on
21 whether the child was harmed or not; and I
22 mentioned that in my interview.

23 Q Now, when you talked to Ms. Jennings that night,
24 did she ever give the impression that she just gave
25 answers and she didn't care what they were? That

1 she was tired of answering questions?

2 A I felt that she was being evasive to the primary
3 question, which is where is the child. She
4 answered many other things, but whenever we buckled
5 down and we asked about specifics dealing with her
6 child is the only time she hesitates, she pauses,
7 or she stops speaking.

8 When you say something about her mother, she
9 will rant and rave. If you speak about her sister,
10 she will make inquiries and questions and talk
11 about incidents outside of the child. She will use
12 the verbiage necessary to articulate that; but any
13 time we referenced the child, she ceased.

14 Q Could that also mean that she didn't want to talk
15 about the child and tell you where it was? She
16 talked about everything else, gave an answer, any
17 other subject but the child; isn't that correct?

18 A That's correct.

19 Q Do you think that Ms. Jennings wanted you to give
20 her baby to D.S.S.?

21 A I'm uncertain exactly what Ms. Jennings wanted
22 because she did not respond to anything that I
23 spoke to her on when it came to the child. So I
24 can't answer that.

25 We gave her a number of different outs for

1 what we could do if we were to take the child.

2 D.S.S. was one of the last things mentioned, but
3 there were other things mentioned, even leaving the
4 child where it may be. So I really don't know.

5 Q Do you think Ms. Jennings really believed you when
6 you said, We will take the child and give it to
7 D.S.S., and then when you get yourself straight and
8 get a break, you can come back and get the child
9 back? Do you think she believed that?

10 A She wouldn't respond. So I don't know if she
11 believed that or not.

12 Q Was that true?

13 A Yes, it was very true.

14 Q I mean, what you told her, was that true? Is that
15 the way it's works at D.S.S.? They take the child.
16 When you get yourself straight, they give the child
17 back. Is that the way it works?

18 A It actually does, yes. They must go through
19 classes. They must take courses. They must prove
20 that they can be a responsible parent. The
21 objective of D.S.S. and the family court is to keep
22 the family together. So that is a correct
23 statement, sir.

24 Q Did you elaborate to Zinah, as you have from the
25 stand, that you have to take classes, prove

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1 yourself as a parent, and get yourself suited, and
2 we will give it back to you? Did you tell her
3 that?

4 A Had she acknowledged interest in the steps, I would
5 have very well did that if it would have gotten me
6 the child.

7 Q So the answer is no, you didn't tell her that;
8 right?

9 A She didn't ask.

10 Q Do you think that Zinah believed you when you told
11 her, Just take me down there and I will knock on
12 the door, and we will see the child. If the child
13 is fine, we will be up and out of here?

14 A I don't know if she believed me, but that statement
15 itself was true. Again, the objective was to see
16 the child, lay eyes on the child. I think I
17 elaborated to the fact that the only way I would
18 take the child from this person if they said they
19 didn't want a child or I saw rats, cockroaches,
20 food wasn't in the house or what have you. But if
21 the people say, Listen, she needed a break. We
22 told her we could keep the child. We would have
23 let the child stay there, yes.

24 Q What would you have done with the charges against
25 Zinah?

1 A That would have been addressed sometime later.

2 Q How would it have been addressed sometime later?

3 MS. CAMPBELL: Objection, Your Honor. That's
4 not the scope of this trial.

5 MR. PRIDE: He can say, I don't know. I will
6 withdraw the question, Judge. I will move on.

7 THE COURT: Thank you, Mr. Pride. Ask your
8 next question.

9 BY MR. PRIDE:

10 Q Do you think you had Zinah's confidence? Do you
11 think that she was comfortable and that you had --
12 you and Mr. Bailey -- had her confidence in that
13 room?

14 MS. CAMPBELL: Objection, Your Honor, calls
15 for speculation.

16 THE COURT: I will overrule the objection.

17 A I cannot answer whether we had her confidence
18 during the time of the interview, but we did
19 everything in our power to build that confidence.
20 Again, because the objective was to locate the
21 child. I can't tell you if we had it, but I did
22 everything within my power to build a rapport.

23 Q Would you not agree that you did everything in your
24 power to build her confidence because the objective
25 was to get her to tell you where the child was?

1 A That was the ultimate objective, to this day.

2 Q That was the ultimate objective?

3 A To this day.

4 MR. PRIDE: I have no further questions.

5 THE COURT: Redirect, Solicitor?

6 MS. CAMPBELL: Yes, sir.

7 **REDIRECT EXAMINATION**

8 BY MS. CAMPBELL:

9 Q Sergeant, he has asked you repeatedly about whether
10 or not you had any evidence about the whereabouts
11 or the welfare of the child?

12 A Yes, he did.

13 Q I believe one of his questions was about: Is it
14 possible the child is doing well?

15 A That was one of the questions.

16 Q And that you have no reason to believe the child is
17 not alive and well?

18 A That was another one.

19 Q Can we talk about the forensic evidence in this
20 case that you are aware of?

21 A If you allow it, yes.

22 Q Was the car ultimately -- that Zinah wrecked --
23 ultimately taken to Columbia Police Department
24 headquarters?

25 A Yes. In the statement you heard us inquire about

1 the whereabouts of her vehicle. Was it totaled?

2 We located the vehicle and we had it towed to the
3 Columbia Police Department.

4 Q And was certain evidence removed from the trunk of
5 that vehicle?

6 A Yes.

7 Q What did that evidence include?

8 A There were several blankets removed from the trunk,
9 a quilt and some baby blankets.

10 Q And on the baby blankets, was there certain testing
11 done by S.L.E.D. in this case?

12 A Yes.

13 Q What was the results of that testing done by
14 S.L.E.D. on the baby blankets in the trunk?

15 MR. PRIDE: Objection.

16 THE COURT: Overruled.

17 A The testing on the baby blanket, there was --

18 MR. PRIDE: Judge, that was not on direct. I
19 didn't open the door -- excuse me.

20 THE COURT: Step out please momentarily,
21 ladies and gentlemen. Step out, please. Leave your
22 notes and do not discuss this case during this brief
23 recess.

24 (The jury retires to the jury room.)

25 THE COURT: Mr. Pride.

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1 MR. PRIDE: That was not covered by
2 Ms. Campbell on direct examination. That's new matter
3 and neither did I cross on that. Therefore, she is not
4 able to now open that door and go into those matters by
5 this witness.

6 MS. CAMPBELL: I agree with him. I was not
7 allowed under the rules to go over that information on
8 direct examination, not until the defense attorney
9 repeatedly over and over and over questioned this
10 witness about any evidence in this case that indicates
11 whether or not this child is alive and well.

12 At this point, Your Honor, not only has he
13 opened the door -- it's our position. I'm sorry -- not
14 only has he opened the door to the blood evidence coming
15 in before this jury in order to correct the fallacy of
16 what he has asked this witness, who was constrained by
17 what we told him he couldn't talk about, in addition to
18 that, Your Honor, he has opened the door to the cadaver
19 dog. At this point that is a clear indication that ill
20 or harm has come to this child.

21 MR. PRIDE: Judge, I asked him what he knew.
22 He told me what he knew, and he didn't include the
23 blanket or anything else. This is new matter. She
24 might certainly -- not she -- certainly Ms. Campbell can
25 go into that, and it may be appropriate. My only

1 argument is that on direct examination she didn't
2 include that in her questioning, and neither have I
3 opened any doors.

4 THE COURT: Well, part of your cross
5 examination of Sergeant Thomas went to the issue of:
6 What evidence do you have to show the child is not in a
7 safe condition, in a safe environment, that no harm has
8 befallen him?

9 To me a blanket in the trunk of a child's
10 caretaker's vehicle that had forensic evidence of bodily
11 fluids from the child would be circumstantial evidence
12 that harm had befallen the child because the child would
13 have been the source of that bleeding.

14 So that would be partly right. It didn't come
15 out on direct because it would not be admissible on
16 direct because it would be hearsay as to Sergeant
17 Thomas.

18 MR. PRIDE: Judge, respectfully, that is a
19 stretch on the Court's part. That is very remote, and I
20 say that very respectfully, Judge.

21 Judge, if the witness had said, During my
22 accumulation of evidence, I found a blanket in the
23 trunk, and I found -- we had forensic evidence, then
24 that would have been fine. I would have stepped into a
25 trap that I opened myself.

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1 He didn't give that testimony. He clearly did
2 not say that. Therefore, Ms. Campbell has no right to
3 go back into it. Certainly, he can't talk about
4 forensic results. I mean, that's a situation -- I don't
5 want to talk too much, but that's a situation, Judge,
6 where you are going to have the people from S.L.E.D.
7 come in and lay the foundation.

8 I may or may not -- the chain of custody and
9 all. How does he know about that? He is a lay witness.
10 He is going to be testify that there was blood on a
11 blanket? I don't think so, Judge.

12 THE COURT: You have asked him a series of
13 questions concerning his knowledge as supervisor of the
14 special victims unit -- or whatever that is, major
15 crimes. I'm not sure the name of the unit -- that went
16 to actual knowledge another officer would have. I will
17 allow the blood evidence in, if that's where this is
18 headed, the forensic evidence.

19 MR. PRIDE: You are allowing it in under this
20 witness?

21 THE COURT: Yes, sir.

22 MR. PRIDE: Judge, can I ask you just one
23 question?

24 THE COURT: Yes, sir.

25 MR. PRIDE: How would he know, Judge? How

1 would he know blood from a cherry stand? I mean, I
2 don't see how, Judge, you would allow him to testify
3 that he found blood on a blanket when, in fact, there
4 has been no proof that the blanket was soiled with
5 blood.

6 THE COURT: If the issue is what evidence does
7 he have -- what evidence does he have -- whether it's in
8 personal knowledge or not -- what evidence does he have
9 that the child is in a safe, healthy environment or a
10 not safe, healthy environment?

11 That's the issue. That is solely the issue
12 that it goes to, that there is a bleeding source from
13 the child in the trunk in the caretaker's vehicle. That
14 is some evidence, circumstantial -- whatever weight and
15 value the jury wants to give to that evidence -- that
16 the child is not in a safe and healthy condition.

17 MR. PRIDE: Judge, I will stop after this, and
18 you have been very tolerant with me. I greatly
19 appreciate it. The only thing that I wish to make the
20 point is he couldn't tell blood from water on a blanket
21 because he does not have that capacity.

22 THE COURT: I will ask Ms. Campbell to lay a
23 foundation of whether or not this officer has ever seen
24 blood, if he has ever seen blood stains on a blanket.
25 He is not being offered as an expert witness in that

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1 regard, Mr. Pride.

2 MR. PRIDE: Thank you, Judge.

3 THE COURT: Now, the cadaver dog, you didn't
4 address that, Mr. Pride.

5 MR. PRIDE: What?

6 THE COURT: You didn't address the cadaver
7 dog.

8 MR. PRIDE: I don't think the cadaver dog
9 matter is open. I mean, how could that be opened?
10 Because I asked him what did -- and, Judge, you have got
11 to realize this. My question was limited to what did he
12 know within his knowledge, not what was in his
13 department or not what Bailey or somebody else knew.

14 It was limited strictly to, What have you done
15 and what do you know? I stayed within that avenue.
16 That's why I'm sort of surprised at your ruling on this
17 because I stayed in that avenue. I was conscious of the
18 kind of examination that I could and could not conduct.
19 Thank you.

20 THE COURT: Thank you, Mr. Pride. You can go
21 into the blood evidence. At this time you may not go
22 into the cadaver dog, Solicitor.

23 MS. CAMPBELL: Yes, sir.

24 THE COURT: Bring us our jury, please.

25 (The jury returns to the courtroom.)

1 THE COURT: Ladies and gentlemen, if you would
2 please continue to give the parties your complete and
3 undivided attention.

4 Thank you very much, Mr. Pride.

5 Solicitor, you may proceed under the ruling of
6 the Court.

7 MS. CAMPBELL: Thank you, Your Honor.

8 **REDIRECT EXAMINATION**

9 BY MS. CAMPBELL:

10 Q Sir, are you aware of what blood looks like? Blood
11 stains on clothing?

12 A Yes, I worked homicide for eight years prior to
13 supervising the S.V.U.

14 Q And during the course of this investigation, we
15 talked about a search that was done on the trunk of
16 the car belonging to Zinah Jennings?

17 A Yes.

18 Q And you mentioned what type of items were included
19 that were taken from that trunk?

20 A There was a quilt, kind of tan in nature, and there
21 were some baby blankets removed from the trunk.

22 Q The baby blankets, were those sent to S.L.E.D. for
23 testing, for D.N.A. testing?

24 A Yes, they were.

25 Q And did those test positive for a certain body

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1 fluid?

2 MR. PRIDE: Judge, I object as to the results
3 of the testing by this witness.

4 THE COURT: I sustain that objection,
5 Mr. Pride.

6 BY MS. CAMPBELL:

7 Q Was there evidence from that testing which
8 indicated whether or not Child Jennings' welfare may
9 by compromised?

10 A Yes, there was.

11 Q In addition to that, as your investigation
12 progressed, did you interview a number of Zinah
13 Jennings' friends, acquaintances, and colleagues?

14 A Yes, we did.

15 Q And you can't go into the substance of what they
16 said to you, but were there indications from what
17 they told you that could have indicated that Zinah
18 Jennings or that Child Jennings' welfare --

19 MR. PRIDE: Objection, suggestive and leading.

20 THE COURT: Rephrase your question, Solicitor.

21 BY MS. CAMPBELL:

22 Q Without going into what they said, was the
23 information they provided you -- what type of
24 information were they able to provide you?

25 MR. PRIDE: I object. That would be hearsay.

1 THE COURT: I would sustain that objection.

2 BY MS. CAMPBELL:

3 Q Interviewing the friends and colleagues, having
4 interviewed them in response to his questions about
5 the welfare of the child, did that affect your
6 opinion in any way about Child welfare?

7 A It caused grave concern for the welfare of the
8 child.

9 Q He asked you about the actual warrant in this case.
10 I show you the original warrant in this case.

11 A Okay.

12 Q State's Exhibit Number 20. I have not seen the
13 copy he handed you. Do you recognize that?

14 A Yes.

15 Q Does that appear to be the original warrant in this
16 case?

17 A It does. It has the official stamps and so forth.

18 THE COURT: Speak up a little bit for me,
19 Sergeant.

20 THE WITNESS: It has the official stamps that
21 the clerks use and so forth, yes.

22 MS. CAMPBELL: Your Honor, at this time we
23 offer State's Exhibit Number 20 into evidence out of the
24 clerk's file.

25 THE COURT: Any objection, Mr. Pride?

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1 MR. PRIDE: It's the same warrant that I --

2 MS. CAMPBELL: No, sir.

3 MR. PRIDE: Let me think about that. Let me
4 just think.

5 THE COURT: All right.

6 (Pause.)

7 MR. PRIDE: No.

8 THE COURT: No objection?

9 MR. PRIDE: No.

10 THE COURT: State's 20 is in evidence without
11 objection.

12 (State's Exhibit Number 20 is received into
13 evidence.)

14 BY MS. CAMPBELL:

15 Q Sergeant, generally just tell a jury how a warrant
16 is procured and who has to sign off on it before it
17 becomes an official arrest warrant?

18 A What we have to do is when we believe we have
19 enough probable cause to secure a warrant, we go to
20 our warrant division, and we speak to our
21 ministerial clerks at the warrant division. We
22 draw up an affidavit, providing them with
23 information of our probable cause for the warrant.

24 Once we provide them that information, we may
25 have some time to speak with them about the case

1 itself; but we are sworn to that affidavit for that
2 probable cause. The warrant itself is signed,
3 sworn in, and drawn and served from that point.

4 Q And it has to be signed off on by a -- it's called
5 a magistrate in some jurisdictions or ministerial
6 recorder in the City; right?

7 A That's correct.

8 Q And that is a separate -- actually a judge actually
9 signs off on it to make it official?

10 A That's correct.

11 Q And before they can do that, you must relate to
12 them probable cause, and they must make a finding
13 of that?

14 A That is correct.

15 Q And I want to show you State's Exhibit Number 20,
16 which is the original warrant -- oh, and once a
17 warrant is sworn out, we have mentioned the term
18 serve a warrant on somebody. What does that mean
19 once --

20 MR. PRIDE: Judge, let the testimony come from
21 the witness, please.

22 THE COURT: She said, You mentioned the term
23 served. I think her question was: What does that mean?

24 MS. CAMPBELL: Yes, sir.

25 THE COURT: All right. Go ahead.

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1 A What served means is that you officially read the
2 warrant verbatim to the defendant, and you actually
3 serve the warrant. They are officially charged at
4 that particular time with whatever crime it is, and
5 they have an opportunity to witness the warrant
6 saying it was served upon them.

7 Q I will show you over here on the left-hand column
8 down at the bottom, is that where the warrant would
9 have actually been served and signed off on?

10 A Yes.

11 Q And filled out?

12 A Yes.

13 Q Is my pen pointing to the right place so I don't
14 mislead the jury?

15 A Yes.

16 Q And that is actually -- the person signing off --
17 is indicating that they would have served this
18 warrant on Zinah Jennings?

19 A That's correct.

20 Q Then in the body of the actual warrant itself,
21 which was read to the jury earlier, doesn't that
22 actually reflect the actual date? Actually in this
23 case, it's the culmination of the unlawful neglect
24 charge?

25 A That is correct; it's a series of events.

1 Q I believe here the date is indicated as what date?

2 A 12/24/2011.

3 Q And is that the actual date when Zinah Jennings was
4 found?

5 A That was the date she was located; correct.

6 Q And then there is actually a signature on this at
7 the bottom of the page, I believe, right down here
8 (indicating); is that correct?

9 A Yes, there is a signature.

10 Q And whose signature would that be?

11 A That would be of the court administrator who
12 actually signed the warrant.

13 Q The ministerial recorder?

14 A Correct.

15 Q In this case since I believe it was a two-page
16 warrant, which is a little longer than most --

17 A Correct.

18 Q -- there is actually a second place where she
19 signed off?

20 A That's correct. That's the other location she has
21 to sign off on.

22 Q The date that it "was sworn to and subscribed
23 before me," would that be the date the warrant was
24 actually gotten?

25 A Correct.

ARTHUR THOMAS -- REDIRECT -- MS. CAMPBELL

623

1 Q What date is that? So I won't mislead you.

2 A The actual date it was signed was 12/29/2011.

3 Q So this warrant was actually sworn out on
4 12/29/2011?

5 A That is correct.

6 Q As indicated here on the original warrant?

7 A That is correct.

8 Q Just so we can be sure for the record, that's the
9 same date that is right here (indicating) where she
10 signed on the front page?

11 A That is correct.

12 Q So having reviewed this warrant, what date was it
13 actually sworn out before the ministerial recorder?
14 And you didn't do this personally?

15 A I did not.

16 Q What date was it actually sworn out?

17 A Having reviewed the official warrant, not a copy
18 given to me, 12/29/2011, was the date the warrant
19 was actually sworn.

20 Q And in the body up here in two places, it indicates
21 the date that the actual events -- that Zinah
22 Jennings was found?

23 A That is correct.

24 MS. CAMPBELL: Your Honor, at this time I
25 would ask for permission to publish.

1 THE COURT: You may publish.

2 MS. CAMPBELL: Thank you, sir. I have no
3 further questions.

4 THE COURT: Recross, Mr. Pride?

5 **RECROSS EXAMINATION**

6 BY MR. PRIDE:

7 Q The actual date on the warrant that you just looked
8 at?

9 A Yes, sir.

10 Q Is the 29th?

11 A The date that the judge signed on the warrant, the
12 magistrate, was the 29th. So that is the actual
13 date that it was approved.

14 Q And that is still prior to Zinah coming to the
15 police department; is that correct?

16 A I believe the 29th is prior to, yes. She had
17 turned herself in on the 29th.

18 Q And she voluntarily turned herself in?

19 A She did.

20 Q And whether that warrant has the 24th or the 29th,
21 it is your testimony that it was served when?

22 A It was served on her on the 30th.

23 Q On the 30th. And that was at the time she was
24 being interrogated?

25 A It was served on her on the 30th, I believe, prior

1 to going to jail.

2 Q Prior to going to jail. So is it your testimony --
3 have you changed your testimony or is it the
4 same -- that you told Zinah Jennings what was on
5 the warrant? When you say served, you say served
6 and reading the warrant are synonymous.

7 You now said that it was served on her on the
8 way to the jail. I am asking you: Did you -- do
9 you stick to your testimony that you told her about
10 that warrant while she was being interrogated?

11 A That is correct.

12 Q Did you read the warrant to her?

13 A As stated prior, I did not read the warrant.

14 Q But you told her what the charges were?

15 A She was advised of her charges; that is correct.

16 MR. PRIDE: Indulge me a moment, Judge.

17 THE COURT: Certainly.

18 (Pause.)

19 BY MR. PRIDE:

20 Q So far as the items that you testified that were
21 retrieved allegedly from Zinah's car, were you
22 present?

23 A I was not present.

24 Q And are those items in your custody?

25 A They are in the custody of the Court right now, I

1 believe.

2 Q The question is: Are they in your custody? Yes or
3 no?

4 A No, they are not in my custody anymore.

5 MR. PRIDE: Thank you very much, Judge.

6 THE COURT: Thank you very much, sergeant.

7 THE WITNESS: Thank you, Your Honor.

8 THE COURT: You may step down.

9 (Witness leaves the witness stand.)

10 THE COURT: Madame Forelady, ladies and
11 gentlemen of the jury, perhaps now would be a good time
12 to take our evening recess. Again, I would remind you
13 during the recess, you are not to discuss this case with
14 others. That includes your fellow jurors, family,
15 friends, or anyone else.

16 Do not read, watch, or listen to any news
17 reports -- read, watch, or listen to any news reports
18 about the case. Do not use your computer or cellular
19 phone or other electronic device to research any
20 information that is prohibited.

21 Information includes but is not limited to the
22 following: Information about a party, a witness, an
23 attorney, or a Court officer, news accounts of the case,
24 either present or past, information collected through
25 juror research on any topics raised or testimony offered

1 by any witness, or information collected through juror
2 research on any other topic that you may think would be
3 helpful in deciding the case.

4 Please remember my instructions that you
5 decide the case based on the evidence and testimony
6 presented before you in court and the witnesses
7 testifying under oath from the witness stand and the law
8 as I tell you the law is.

9 With that being said, you are now excused for
10 the evening. I would ask you -- and your notes will be
11 secured by the Clerk's Office overnight. I would ask
12 you to please be back in your jury room promptly at
13 9:30 in the morning. If you would please be back
14 promptly at 9:30 in the morning. I hope y'all have a
15 pleasant evening. Thank you very much.

16 (The jury is excused for the day at 6:05 P.M.)

17 THE COURT: Anything further from the State?

18 MS. CAMPBELL: Nothing at this time, Your
19 Honor.

20 THE COURT: From the defense?

21 MR. PRIDE: Nothing, Your Honor.

22 THE COURT: When will Mr. Mitchell -- is that
23 right, Roderick Mitchell?

24 MS. CAMPBELL: Yes, sir.

25 THE COURT: When is Mr. Mitchell going to

1 testify?

2 MS. CAMPBELL: Tomorrow morning.

3 THE COURT: First?

4 MS. CAMPBELL: One of the first.

5 MR. PRIDE: Judge, that is a good thing you
6 asked me that. I would like to talk about that now. I
7 am prepared to talk about that.

8 THE COURT: I'm not sure I'm prepared right
9 now, Mr. Pride.

10 MR. PRIDE: All right, sir.

11 THE COURT: Actually I am prepared.

12 MR. PRIDE: I understand what you mean.

13 THE COURT: I think now might not be the best
14 time. Why don't we say 0900? Court will be in recess
15 until 0900, 9:00 o'clock.

16 (Whereupon the proceedings are concluded for
17 August 28, 2012.)

18 (The following proceedings are reported on
19 August 29, 2012.)

20 THE COURT: I believe this morning we were
21 going to take up the matter concerning Mr. Roderick
22 Mitchell; is that correct?

23 MR. PRIDE: That's my understanding, Judge.

24 THE COURT: How would y'all like to proceed in
25 that matter?

1 MS. CAMPBELL: I would be glad to. May it
2 please the Court, Your Honor. In his opening statement,
3 the defense counsel referred to Mr. Roderick Mitchell
4 and basically said that Zinah got in trouble because of
5 him and that he beat her. He was a drunk, drugs, and he
6 was just a sperm donor in this case.

7 Your Honor, I don't know under what theory he
8 has got that he can get into any alleged prior
9 altercations. I'm not aware of any convictions. Even
10 if there were convictions, if it is a C.D.V. or simple
11 assault, they wouldn't be admissible under any theory
12 that I am aware of under 608 and 609.

13 At this point, Your Honor, I just wanted to
14 take that up in the hope of precluding me having to stop
15 in the middle of the witness and object and things of
16 that nature.

17 The case I am relying on, Your Honor -- of
18 course, the rules are 609 and 608 -- and I believe it's
19 addressed, a similar situation, in State versus Terry
20 Lee Grace. If I can approach and hand up a copy.

21 THE COURT: I have a copy.

22 MS. CAMPBELL: Then I would hand one to
23 Mr. Pride.

24 THE COURT: Mr. Pride.

25 MR. PRIDE: Your Honor, at the beginning of

1 the trial, I moved to sequester the witnesses, and Your
2 Honor denied that motion but as a caveat said that that
3 would not apply consistently through the trial if I ran
4 into a situation where I wanted a witness and could show
5 a basis for doing it, that you would consider it. I
6 would move you at this time to sequester Roderick
7 Mitchell during my argument.

8 THE COURT: All right.

9 MS. CAMPBELL: He is the biological father of
10 the child, Your Honor. I think he has a right to stay
11 in the courtroom.

12 THE COURT: For purposes of this in camera
13 hearing, is he going to be your first witness?

14 MS. CAMPBELL: No, sir.

15 THE COURT: For purposes of this in camera
16 hearing, I would ask him to step outside.

17 MS. CAMPBELL: Thank you, Your Honor.

18 THE COURT: If he is present in the courtroom.
19 I don't know the answer to that question.

20 (Pause.)

21 THE COURT: I took your request to mean that
22 you did not want him present while you were arguing your
23 motion.

24 MR. PRIDE: That's correct, strictly and
25 limited for that purpose.

1 THE COURT: So I will allow him to return once
2 we have conducted the motion hearing.

3 MR. PRIDE: And also Mr. Mitchell has a number
4 of people with him. I would appreciate it if the Court
5 would tell them that they are not to discuss what went
6 on in his absence with him until after he testifies as a
7 witness in this case.

8 THE COURT: With the caveat none of those in
9 the courtroom, as far as spectators, can discuss what is
10 occurring during this in camera hearing as far as
11 Mr. Mitchell is concerned until after he testifies. The
12 caveat is the solicitor can continue to prepare her
13 witness.

14 MR. PRIDE: Sure.

15 THE COURT: Again, based on my ruling, she may
16 have to prep him consistent with whatever my ruling is.
17 That wouldn't apply to the solicitor.

18 MR. PRIDE: I take no exception to that.

19 THE COURT: Thank you, Mr. Pride. I would be
20 glad to hear from you.

21 MR. PRIDE: Judge, during the course of
22 investigating this case and in reviewing the discovery
23 in this case and the statements that were given to me in
24 this case, there are statements, a number of
25 statements -- and also witnesses that have been

1 interviewed.

2 For example, Ms. Jennings, the mother of
3 Zinah, would testify that Roderick beat her daughter.
4 He hit her in the face with a fist. In the discovery to
5 corroborate that is a statement or a record showing that
6 Zinah called the Sheriff's Department and reported him
7 for domestic violence.

8 Ms. Jennings, likewise, could testify that
9 Roderick stalked her daughter. And while she was trying
10 to attend Midlands Tech school, he went over and took
11 the car, took her car from her.

12 Correspondingly and in confirmation of what
13 Ms. Jennings said, there is a report in the file that
14 shows that she reported -- to the Richland County
15 Sheriff's Department -- Roderick for taking her
16 automobile from her.

17 Also, Your Honor, Ms. Jennings would be able
18 to testify -- and let's just say other witnesses too --
19 that Roderick was so drunk until he slept under her car
20 one night.

21 I would also tend to show how jealous he was,
22 that he attempted to break into Zinah's apartment.
23 Zinah left him, got her own place, tried to get away
24 from him. He thought that she had somebody in the
25 apartment, wouldn't let him in. She was on the second

1 story. He grabbed up the pole and through the window in
2 the house.

3 So all of these things, I think tend to
4 reflect on his credibility as a witness and a motive
5 also on his part. I think that they would be
6 admissible.

7 Judge, let me just say to you, the point that
8 I really want you to consider -- those are sort of
9 fringe arguments, fringe positions -- but Roderick is
10 married. He had a child with Zinah out of wedlock while
11 being married. He has also got a child and a wife.

12 That's the epitome, I think, of immoral on his
13 part when you consider all the other things that I have
14 told you and then to say this man is married and older
15 than she is.

16 I think on that basis I am entitled to
17 undermine his credibility in this case by bringing these
18 facts out. Thank you very much, Judge, unless you want
19 to ask me something.

20 THE COURT: What rule are you relying on for
21 the admissibility of these various instances you have
22 related to me?

23 MR. PRIDE: I think under Rule 404, which I
24 think these matters are relevant.

25 THE COURT: Anything further, Mr. Pride?

1 MR. PRIDE: No, thank you.

2 THE COURT: Ms. Campbell? Solicitor?

3 MS. CAMPBELL: Respectfully, Your Honor,
4 Mr. Roderick Mitchell is not here on trial. Under Rule
5 404 I don't know element of the offense he would be
6 attempting to bolster. She is charged with unlawful
7 conduct towards a child.

8 The fact that he wants to just basically
9 denigrate Mr. Mitchell and slam his character, which is
10 specifically why Rule 608 is in place, is not
11 permissible under the rule that I am aware of, Your
12 Honor.

13 He has referred to many instances. The first
14 is there was a prior instance where, I believe, Zinah
15 Jennings accused the defendant of assaulting her;
16 however, that was not a conviction. She did not pursue
17 the charges. No one was present.

18 He claims that Ms. Jocelyn Jennings would
19 testify that he hit her. We are not aware of any
20 instance and have interviewed Ms. Jennings. We are not
21 aware -- and he has not turned over anything to us -- of
22 anything where she witnessed or could testify from
23 firsthand knowledge of any assault anyway. Even if she
24 were able to, Your Honor, it would not be admissible
25 under the rules -- that I'm aware of, Your Honor.

1 The fact, I believe, that the defendant was
2 married and they had a child out of wedlock, Your Honor,
3 that may be permissible to go into that, just to give a
4 factual background.

5 We are not aware of any report or any
6 evidence, and we don't know how this would -- that
7 Roderick Mitchell stalked Zinah. He says that in the
8 discovery. I'm not aware of it.

9 I don't know what relevance anything about him
10 sleeping under a car would have. As far as him being
11 jealous, I'm just not sure exactly where he is going
12 with this, other than to do exactly what the rules
13 prohibit, which is to basically cast him in just a
14 disparaging light which is not permitted, I believe,
15 Your Honor.

16 We would respectfully ask the Court to
17 instruct defense counsel the parameters which follow in
18 the rules. Rule 608 does allow that he can go into some
19 extent as far as any character traits for truthfulness
20 or untruthfulness.

21 But just a general assault on Mr. Mitchell's
22 character, Your Honor, I do not believe -- it is not
23 permitted by the rules or any extrinsic evidence of that
24 would be permitted.

25 THE COURT: Yes, sir, Mr. Pride.

1 MR. PRIDE: Judge, I don't want to misstate
2 facts. Ms. Campbell is right. There is nothing in the
3 record or discovery about stalking in this case. Of
4 course, when Ms. Campbell said we didn't turn over any
5 statements to her regarding him sleeping under the car,
6 we didn't turn over any statements because we didn't
7 take any statements.

8 There isn't anything that we took, anything in
9 our possession, that they were entitled to. As it
10 relates to reciprocal discovery, I can assure the Court
11 we did give them -- we had no statements -- but we did
12 have an interview with Ms. Jennings. From that
13 interview she did tell us of the incident of his
14 sleeping under the car.

15 We think that is important, and we think that
16 608, along with 404, that the rule is -- it is really
17 discretionary on the part of the Court, I think, and we
18 would urge you to allow it. Thank you.

19 THE COURT: Beat her daughter, now you said
20 Ms. Jennings, Jocelyn Jennings, would testify that
21 Roderick Mitchell beat her daughter. What time frame
22 are we talking about?

23 MR. PRIDE: No, I didn't say she testified.

24 THE COURT: I said earlier you said that
25 Jocelyn Jennings would testify that Roderick Mitchell

1 beat her daughter.

2 MR. PRIDE: Right.

3 THE COURT: What time frame are we talking
4 about that that incident occurred?

5 MR. PRIDE: Within the time frame of the
6 indictment.

7 THE COURT: So within the time frame of
8 September 11th of 2011 and December 24, 2011?

9 MR. PRIDE: Judge, I don't want to misspeak.
10 Would you indulge me?

11 THE COURT: Yes, certainly.

12 MS. CAMPBELL: Your Honor, the only incident
13 we are aware of, that there was an allegation about, was
14 July of 2010.

15 (Pause.)

16 MR. PRIDE: Judge, I'm glad I didn't misspeak.
17 Of course, I don't want to ever misspeak when I talk to
18 you.

19 Judge, what Ms. Jennings says is that Roderick
20 hit her in the head the day that she brought the baby
21 home from the hospital after he was born. That's when
22 she -- that's when he hit her in the face.

23 THE COURT: The baby's birth date was?

24 MS. CAMPBELL: June 28, 2010.

25 MR. PRIDE: Right, which would be outside of

1 September. The other events that Ms. Jennings could
2 testify, I do concede to you that they were not within
3 September 1st through December.

4 THE COURT: Is this 2010 incident the same
5 incident that was reported to the Sheriff's Office?

6 MR. PRIDE: That is correct. Judge, I don't
7 think I am bound within the framework of the indictment
8 as to any acts. I think that the State is bound to show
9 uncharged misconduct on the part of the defendant.

10 But if I can find things that are within
11 proximity of -- that is not stale. Let me put it that
12 way -- I think the Court certainly should take into
13 consideration whether or not you would allow me to go
14 into it.

15 THE COURT: The event or, I guess, the
16 stalking is a continuous course of conduct?

17 MR. PRIDE: No, it is not. It was but I
18 concede it was while Zinah was at Midlands Tech, and it
19 was before September the 1st.

20 THE COURT: My question is when you say you
21 are conceding, are you withdrawing your request to
22 examine Mr. Mitchell on cross examination as to
23 stalking?

24 MR. PRIDE: No. When I say I concede, I must
25 admit to you -- no, I am not withdrawing my request -- I

1 am just saying to you, Judge, I must acknowledge to the
2 Court that I am not within the framework of the
3 indictment as to those events.

4 THE COURT: And that stalking event is hand in
5 hand with the allegation that he took her car from
6 Midlands Tech?

7 MR. PRIDE: That's correct.

8 THE COURT: So that is all within the same
9 time frame?

10 MR. PRIDE: Yes, it is, Judge. That is in the
11 discovery as a reported offense to the Sheriff's
12 Department. Ms. Campbell is correct that there is no
13 conviction. We don't know what the resolution of that
14 is, but that is in the file.

15 THE COURT: Ms. Campbell.

16 MS. CAMPBELL: No, sir, it is not in the file.
17 The only thing in the file that we have turned over that
18 we are aware of is the alleged assault from July 3rd or
19 something of 2010, and that was not pursued.

20 In addition to that, Your Honor, he is saying
21 Ms. Jennings can testify to that. Ms. Jennings was not
22 present at that alleged assault.

23 THE COURT: Going to the report on the stolen
24 vehicle --

25 MR. PRIDE: I have it right here.

1 THE COURT: -- is there a report on the stolen
2 vehicle? That's all I'm asking.

3 MS. CAMPBELL: I stand corrected, Your Honor.
4 There is a reference to a report -- we don't have the
5 report -- from April, April 6, 2011, on the vehicle.
6 It's the same information as when Zinah was arrested for
7 prostitution.

8 THE COURT: April 6th of --

9 MR. PRIDE: That was so unnecessary and out of
10 order. What would call on Ms. Campbell to make a remark
11 like that? I do believe in fair play, Judge.

12 THE COURT: We are in camera. The jury is not
13 in here, Mr. Pride.

14 MR. PRIDE: The press is in here.

15 THE COURT: And they have a right to be under
16 the First Amendment of the Constitution.

17 Going back, let me just track the time frame a
18 little bit. The incident, the stalking, the alleged
19 stalking, taking the car, is in and around 6 April of
20 '11; is that correct?

21 MS. CAMPBELL: The taking of the car is around
22 April 6, 2011.

23 THE COURT: And is there allegations that
24 Mr. Mitchell took her car?

25 MS. CAMPBELL: She reported a breach of trust.

1 THE COURT: Did she report Mr. Mitchell --
2 now, breach of trust is different from stealing a car.
3 That's entrusting someone with a car and them not
4 bringing it back; correct? Clarify that as far as the
5 report, either you or Mr. Pride, whichever one. Let me
6 see the report, Solicitor.

7 MS. CAMPBELL: It's in Investigator Bailey's
8 notes, Your Honor.

9 (Hands to Court.)

10 THE COURT: All that is in this report, the
11 report you handed up, is this notation, 4/6/2011: Zinah
12 reports breach of trust, vehicle, perpetrated by
13 Roderick Mitchell. That's what you are referring to
14 Mr. Pride? Solicitor?

15 MR. PRIDE: That is what I am referring to.

16 THE COURT: Now, within that time frame is
17 that during the time of Mr. Mitchell's -- well, during
18 the time in which Ms. Jennings, Zinah, moves to another
19 apartment, and Mr. Mitchell is jealous? Mr. Mitchell
20 climbs the pole to the second floor? Is that within
21 that same time frame?

22 MR. PRIDE: That is within the time frame.

23 THE COURT: Is that in the discovery or part
24 of your investigation, Mr. Pride?

25 MR. PRIDE: The climbing of the pole and the

1 jealousy is not in the discovery.

2 THE COURT: But that's all that same time
3 frame?

4 MR. PRIDE: That is correct, Judge.

5 THE COURT: What about sleeping under the car?

6 MR. PRIDE: Excuse me, Judge. Would you
7 indulge me, please?

8 THE COURT: Yes, sir.

9 (Pause.)

10 MR. PRIDE: Judge, that happened, I would say,
11 but that was not -- first of all, it didn't happen
12 within the time frame period of the indictment, and when
13 it did happen --

14 THE COURT: I want you to understand. I am
15 not necessarily limiting you to that. I just want the
16 time frame.

17 MR. PRIDE: I think it's important that I
18 answer what you ask me.

19 THE COURT: Yes, sir, I do too, and you always
20 have.

21 MR. PRIDE: Thank you. The sleeping up under
22 the car and in the streets happened before the child was
23 born and would probably be in 2009, which might be --
24 which I will withdraw --

25 THE COURT: All right.

1 MR. PRIDE: -- any request on that.

2 THE COURT: That may be the best decision I
3 have made today then, Mr. Pride, if you withdraw that.
4 Thank you. Thank you very much. So the sleeping under
5 the car back in 2009, you withdraw that?

6 MR. PRIDE: Right.

7 THE COURT: Anything further, Mr. Pride?

8 MR. PRIDE: Nothing.

9 THE COURT: Anything further, Solicitor?

10 MS. CAMPBELL: No, sir.

11 THE COURT: Rule 404(b), as Mr. Pride cites,
12 if you read the rule, which I know you both have many,
13 many, many times, character evidence: Generally,
14 evidence of a person's character or a trait of character
15 is not admissible for the purpose of proving acts and
16 conformity therewith on a particular occasion, except --
17 the exception, first, is character of the accused.
18 Second, character of the victim. Third, character of
19 the witness.

20 Evidence of the character of a witness, as
21 provided in Rule 607, 608, and 609, so I then go to 607.
22 It just indicates that any party may attack a witness'
23 credibility as opposed to the old rule you had, the
24 vouching rule.

25 Six-oh-eight is evidence of character, conduct

1 and bias of a witness. I am simply directed to 608(b),
2 specific instance of conduct. Specific instances of
3 conduct of a witness for the purpose of attacking or
4 supporting the witness' credibility, other than
5 conviction of crime, as provided in Rule 609, may not be
6 proved by extrinsic evidence.

7 That tells me that Jocelyn Jennings may not
8 testify to specific instances of conduct on the witness,
9 Roderick Mitchell, for purposes of attacking or
10 supporting that witness' credibility.

11 The rule goes on to say they may, however, in
12 the discretion of the Court, if probative for
13 truthfulness or untruthfulness, be inquired into on
14 cross examination of the witness concerning the witness'
15 character for truthfulness or untruthfulness or
16 concerning the character for truthfulness or
17 untruthfulness of another witness as to which character
18 the witness is being cross examined has testified.

19 When I look at that and I also read the
20 instructions from State versus Grace, 564 S.E.2d 331,
21 that illuminates the rule of 608(b), which I am now
22 referring to, where the defense wanted to inquire into
23 specific instances of conduct of the wife of the
24 defendant, who was the aunt of the victim. That was
25 prohibited.

1 In my discretion I will allow the following.
2 I will allow you to ask, however the question is framed
3 properly on cross examination, whether or not
4 Mr. Mitchell was a suspect or perpetrator of a breach of
5 trust as to Ms. Jennings' car on 4/6/11. Of course, you
6 are stuck with that answer. I think that goes to
7 truthfulness or untruthfulness, breach of trust.

8 I will further allow you to ask his marital
9 status, his marital status at the time he and
10 Ms. Jennings were together, and whether or not he
11 fathered the child with Ms. Jennings out of wedlock
12 while he was married.

13 The incident concerning hitting Ms. Jennings
14 July 3rd of 2010, if it did occur, is obviously improper
15 and unlawful conduct; however, it does not go to
16 truthfulness or untruthfulness.

17 Further, I find that it is remote. When I say
18 remote, I am not limiting the defense to just presenting
19 evidence and testimony between the dates in the
20 indictment, but it goes back to July of 2010. I don't
21 see where it's relevant.

22 If it is relevant -- even though there is a
23 report to the Sheriff's Office as I understand -- even
24 if it is relevant, I will find it is not admissible
25 under 608(b).

1 Further, the stalking is not admissible, with
2 that minor exception about the breach of trust, which
3 was within that stalking time frame, as I understand it.
4 Drunk under the car has been withdrawn.

5 Jealousy, getting her own place, climbing the
6 pole, that is not probative for truthfulness or
7 untruthfulness. Jealousy may be the rule rather than
8 the exception in the modern world, maybe even in the old
9 world. I don't know. But it's not admissible.

10 Now, I will say this. Based on some evidence
11 and testimony yesterday, the door opens both ways. You
12 understand my ruling, Solicitor?

13 MS. CAMPBELL: Yes, sir.

14 THE COURT: Do you understand my ruling,
15 Mr. Pride? Not necessarily that you agree with it, but
16 do you understand it?

17 MR. PRIDE: No, it's not a matter of not
18 agreeing it. I just want to make sure I comply with it.
19 I really don't understand one thing you said.

20 THE COURT: All right.

21 MR. PRIDE: Judge, you said and you emphasized
22 it too, you said I am stuck with it, his answer. I
23 really -- are you saying that if he gives me an answer
24 that I think is not true or I don't agree with that I
25 can't cross examine him on it?

1 THE COURT: No, sir. I'm not saying you can't
2 cross examine him on it, but I am saying you need to
3 read the rule about proving specific instances of
4 conduct being excluded by the offering of extrinsic
5 evidence.

6 MR. PRIDE: Yes.

7 THE COURT: I'm not limiting your cross
8 examination.

9 MR. PRIDE: I just didn't know, "stuck with
10 it." I didn't understand that.

11 THE COURT: Yes, sir.

12 MR. PRIDE: All right. Yes, I understand your
13 ruling.

14 MS. CAMPBELL: Your Honor, we have also turned
15 over rap sheets on witnesses. As far as that witness is
16 concerned, I'm not aware of anything impeachable on his
17 record. I just want to make sure Mr. Pride and I are in
18 agreement.

19 THE COURT: Y'all understand my ruling: The
20 breach of trust, marital status, out of wedlock.

21 MS. CAMPBELL: I understand. I am talking
22 about his rap sheet.

23 MR. PRIDE: Judge, if there was something on
24 the rap sheet, I would have brought it to your
25 attention.

1 MS. CAMPBELL: Thank you.

2 THE COURT: Anything further before we bring
3 in our jury, Solicitor?

4 MS. CAMPBELL: No, sir.

5 THE COURT: Mr. Pride?

6 MR. PRIDE: Nothing, Your Honor.

7 THE COURT: Mr. Mitchell may certainly return
8 to the courtroom. Yes, Ms. Garfield.

9 MS. GARFIELD: Judge, we do have several
10 witnesses here that have not been here earlier in the
11 week. If you would go over your courtroom rules quickly
12 as far as coming and going.

13 THE COURT: Yes. Thank you. Thank you very
14 much, Solicitor.

15 Those that are spectators, I do not allow
16 movement in and out of the courtroom while a witness is
17 on the witness stand. After the solicitor finishes her
18 direct, you may leave before Mr. Pride starts his cross
19 examination or when a witness concludes his or her
20 testimony.

21 I say that. Of course, I try to take a break
22 about every hour and 15 minutes, hour and a half. If
23 you have an emergency for which you need to leave, I
24 have allowed my bailiff -- one of our fine bailiffs --
25 to use his discretion in allowing someone to exit if you

1 have sat here too long. Please keep that in mind. It
2 annoys me. I think if it annoys me, it may annoy the
3 jury.

4 MR. PRIDE: Judge?

5 THE COURT: Yes, sir.

6 MR. PRIDE: When Mr. Mitchell comes up, as a
7 preamble to his testimony, would you tell the jury that
8 we had an in camera hearing and Mr. Pride is limited on
9 what he can go into with Mr. Mitchell?

10 The reason why I say that is that I did say
11 during opening statement that he beat her. Of course,
12 the jury is going to wonder: Why did he say he beat her
13 and not be able to cross examine him?

14 I am not able to go into that because the
15 Court found that that was inappropriate and will not
16 allow it and just to -- you know, so that they do
17 understand and they do follow up, would you consider
18 that?

19 THE COURT: I will consider it but I will deny
20 it. I will give a limited instruction that any prior
21 specific instances of conduct can only go to the issue
22 of the credibility or incredibility of the witness.

23 I think I am required to give a limited
24 instruction on, for example, prior bad acts or these
25 instances that you are going to cross examine him on,

1 but I think to give the instruction you give --

2 MR. PRIDE: I am not trying to fashion it for
3 you, but will you at least say, The defense is
4 limited -- and then whatever word you find
5 appropriate -- because it does apply to the defense. It
6 doesn't apply to the State.

7 THE COURT: I think -- no, sir, I don't think
8 I will give that.

9 MR. PRIDE: All right.

10 MS. CAMPBELL: Your Honor, just an inquiry, as
11 far as the timing of instruction, can you give it
12 generally, not specific to that witness, but just
13 generally?

14 THE COURT: I generally give it specific to
15 the witness, Ms. Campbell. Let me see my instruction.
16 It's the same instruction you give when somebody has got
17 a -- it's not the same -- but it's similarly written to
18 the instruction you give when -- when is that witness
19 coming up, Ms. Campbell?

20 MS. CAMPBELL: Your Honor, we have got two or
21 three ahead of him.

22 THE COURT: I will have my law clerk pull it
23 up, and I will show you the instruction I typically give
24 at that point.

25 MS. CAMPBELL: I just know with the

1 credibility instruction, you give that typically in your
2 charge.

3 THE COURT: I give it also during my charge,
4 but I do it during the course of the trial as I do with
5 expert witness, when I give them that type of charge.
6 Let me pull the charge. I don't have my copy right here
7 in my notebook. I will show it to y'all before that
8 witness testifies.

9 MR. PRIDE: Thank you.

10 THE COURT: Thank you, Mr. Pride.

11 Anything further, Solicitor?

12 MS. CAMPBELL: No, sir.

13 THE COURT: Bring the jury.

14 (The jury returns to the courtroom at
15 9:50 A.M.)

16 THE COURT: Madame Forelady, ladies and
17 gentlemen of the jury, good morning. I hope y'all had a
18 pleasant evening. I hope you had a treat this morning
19 awaiting you when you arrived at the courthouse.

20 I received a note from the foreperson. Madame
21 Forelady, ladies and gentlemen of the jury, I'm not
22 prepared to attempt to give a credible answer to that
23 question at this time. I certainly had it in my mind,
24 and we will see how the day and days or week and weeks
25 progress. That's all I can say.

1 I will notify you, Madame Forelady, and
2 members of the jury, at the appropriate time of when
3 y'all could discuss that issue. Y'all's schedule will
4 be foremost in my mind if we get to that point. I will
5 just see how far we get.

6 I have had that already in my mind. I am
7 primarily guided by jurors' schedules when I get to
8 weekends and holidays in that regard. As I say, we will
9 see how far we get.

10 With that being said, we are continuing the
11 trial of the case by the presentation of evidence by the
12 State in its case in chief. If you would, as you did
13 yesterday, continue to give the parties your complete
14 and undivided attention.

15 Madame Clerk, have they received their notes?

16 CLERK: Yes, Your Honor.

17 THE COURT: Thank you. Thank you very much.
18 With that being said, Solicitor, you may call your next
19 witness.

20 MS. GARFIELD: Thank you, Your Honor. May it
21 please the Court. The State calls Officer Eric Walker.

22 E.J. WALKER, being
23 first duly sworn, testifies as follows:

24 CLERK: Have a seat in the witness stand,
25 please. State your full name for the record.

E.J. WALKER -- DIRECT -- MS. GARFIELD

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1 THE WITNESS: Good morning, ladies and
2 gentlemen. I'm Officer E.J. Walker with the Columbia
3 Police Department, K-9 unit.

4 DIRECT EXAMINATION

5 BY MS. GARFIELD:

6 Q Officer Walker, what are your duties with the
7 Columbia Police Department?

8 A My main duties right now is I'm a patrol officer
9 with a canine.

10 Q And explain to the jury who might not know what
11 canine refers to?

12 A In reference to the dog. Myself and the dog are
13 certified tracking, which means if a suspect runs
14 or there is a lost child, my dog can use his nose
15 and senses to locate whoever he is looking for.
16 His name is Officer Bobo.

17 Q Are your duties also -- you indicated patrol?

18 A Yes, ma'am.

19 Q Just explain that to the jury.

20 A Enforce laws, traffic stops, suspicious people, and
21 whatever is assigned from my corporal and sergeant.

22 Q Were those your duties back in November of last
23 year?

24 A Yes, ma'am.

25 Q And how long have you been at the police

1 department?

2 A I've been at the Columbia Police Department over
3 seven and a half years now.

4 Q Any other prior police experience?

5 A About three and a half years military police in the
6 Navy.

7 Q In the Navy?

8 A Yes, ma'am.

9 Q Do you recall back -- I'm sorry. Are you on duty
10 right now?

11 A I just got off duty, ma'am.

12 Q This morning. You have been up all night?

13 A Yes, ma'am.

14 Q I will try to make this brief. Did you have the
15 occasion to come into contact with the defendant in
16 this case, Zinah Jennings, in November of last
17 year?

18 A Yes, ma'am. I was on Carter Street, which if you
19 don't know, it's right off Two Notch Road, right
20 above D.S.S. I was facing westbound on Carter
21 Street getting ready to make a left-hand turn
22 southbound on Two Notch.

23 I observed Ms. Jennings driving -- it was a
24 2004 Dodge sedan -- driving southbound on Two
25 Notch, and she failed to stop for the red light at

1 that location. I went ahead and conducted a
2 traffic stop on Ms. Jennings for that traffic
3 infraction.

4 Q After you made a traffic stop on Ms. Jennings, what
5 did you proceed to do?

6 A She pulled over. I made contact with -- I got out
7 of my vehicle, made contact with Ms. Jennings,
8 observed her driving the vehicle, and observed a
9 young male sitting in the passenger front seat
10 without a safety child restraint device.

11 Q When you say a young male, could you give an
12 approximate age?

13 A At the time I was guessing. He was probably
14 between two and three years old.

15 Q Little?

16 A Yes, ma'am.

17 Q Do you have children yourself?

18 A Yes, ma'am.

19 Q Was he restrained in any way?

20 A If I remember straight, I believe he had a seat
21 belt on.

22 Q Was he in any type of infant or car seat?

23 A No car seat.

24 Q Do you have any specific training in car seats?

25 A Other than my two kids, no, ma'am.

- 1 Q Are you familiar with what is proper seating for
2 young children?
- 3 A Yes, ma'am.
- 4 Q And what is proper seating?
- 5 A A child that age should be in the back seat with a
6 child restraint -- I am tired -- a child seat,
7 safety seat.
- 8 Q Was there a child seat in the car?
- 9 A If I remember correctly, there was a child seat,
10 but I believe it was one of the booster seats.
- 11 Q Was that age appropriate?
- 12 A I can't be 100 percent sure. I wouldn't have put
13 my child in the seat.
- 14 Q That's what you observed?
- 15 A Yes, ma'am.
- 16 Q And sometime later were you shown a photograph of
17 Ms. Jennings' son, ^{Child} Jennings?
- 18 A Yes.
- 19 Q Did you recognize that photo?
- 20 A Yes, it was very distinctive with the young man.
21 When I was sitting there talking to Ms. Jennings,
22 he was sitting in the passenger seat and just had
23 that smile on him.
- 24 Q Thank you.
- 25 MS. GARFIELD: Please beg the Court's

1 indulgence.

2 (Pause.)

3 BY MS. GARFIELD:

4 Q Thank you, Officer Walker. Please answer any
5 questions the defense counsel may have.

6 THE COURT: Thank you, Solicitor. Mr. Pride.

7 CROSS EXAMINATION

8 BY MR. PRIDE:

9 Q Officer Walker, you had never met Ms. Jennings
10 before that stop in November; had you?

11 A No, sir, I do not believe I did.

12 Q And you have told the judge and the jury in this
13 case that she, in your opinion, ran a red light?

14 A Yes, sir.

15 Q Did you give her a ticket?

16 A Yes, sir.

17 Q And did you ask her for her driver's license?

18 A Yes, sir, that would have been part of the traffic
19 stop.

20 Q And did she give it to you?

21 A Yes.

22 Q Did you ask her for insurance?

23 A Yes, sir.

24 Q Did she give it to you?

25 A I believe so. I don't have that ticket on me,

1 Mr. Pride.

2 Q Did you ask her for her registration?

3 A Yes, sir. Standard operating procedure for myself,
4 I would have asked for a driver's license,
5 registration, and proof of insurance, sir.

6 Q And whatever you did ask her for, you didn't have
7 any problems with and she cooperated and responded?
8 Would that be a fair statement?

9 A Yes, sir. She was very cooperative. She was quiet
10 but well mannered. I understood, being a young
11 female, not knowing her, instead of giving her a
12 four-point ticket for the traffic light, I just
13 went ahead and cited her for a two-point ticket for
14 too fast for conditions, not giving her enough time
15 to slow down for the stoplight.

16 Q Did you cite her for having the child in the front
17 seat buckled up?

18 A Yes, sir.

19 Q So you gave her two tickets?

20 A I believe two, yes.

21 Q Are you sure?

22 A I know I definitely gave her two tickets, yes.

23 Q There was a seat in the back seat -- is that
24 correct -- for the child?

25 A Yes, sir.

1 Q And I think you took the child and helped her by
2 placing the child in the back seat?

3 A She did --

4 Q She did that or you did that?

5 A She did that.

6 Q She did that?

7 A Yes, sir.

8 Q When you arrived and she stopped, the child was in
9 the front seat of the car and had a buckle around
10 him; is that correct?

11 A Yes, sir.

12 Q Was the child happy?

13 A Yes, sir.

14 Q Was he in good health?

15 A He appeared to be, yes, sir.

16 Q Was he well dressed, as a child would be?

17 A Correct.

18 Q Was he clean?

19 A Yes, I believe so. Yes.

20 MR. PRIDE: No further questions.

21 THE COURT: Redirect, Solicitor?

22 MS. GARFIELD: Yes, sir.

23 **REDIRECT EXAMINATION**

24 BY MS. GARFIELD:

25 Q Officer Walker, you were asked about the tickets

1 you gave Ms. Jennings. Would it help if you had
2 your statement to refresh your memory as to what
3 you charged her with?

4 A I have a copy of that.

5 Q Do you have any information concerning that in your
6 statement?

7 A I see it right here. I charged Ms. Jennings with
8 too fast for conditions, as I said, gave her the
9 two-point ticket instead of the four-point ticket,
10 no proof of insurance, and the child restraint
11 ticket.

12 Q What do you have to do to be charged with no proof
13 of insurance?

14 A At the point in time, no proof of insurance, she
15 didn't have her insurance card on her person.

16 Q Do you recall what date it was that you pulled her
17 over?

18 A The date was 11/23/2011, approximately 11:10 in
19 the A.M.

20 Q You testified that before letting Ms. Jennings
21 leave the scene, you made sure the child, ^{Child}
22 Jennings, was seated correctly?

23 A Yes, ma'am.

24 Q Who physically belted him in?

25 A If I remember correctly, Ms. Jennings did.

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1 Q Thank you.

2 THE COURT: Recross, Mr. Pride?

3 MR. PRIDE: None, Your Honor.

4 THE COURT: Thank you. Thank you very much,
5 Officer Walker. You may step down.

6 (Witness leaves the witness stand.)

7 THE COURT: You may call your next witness.

8 MS. WALKER: Your Honor, the State calls
9 Artavia Mitchell.

10 THE COURT: Ms. Mitchell, if you would come
11 around for us, please.

12 ARTAVIA MITCHELL, being
13 first duly sworn, testifies as follows:

14 CLERK: Have a seat in the witness stand,
15 please. State your name for the record and please spell
16 your first name.

17 THE WITNESS: Artavia Mitchell, A-R-T-A-V-I-A.

18 DIRECT EXAMINATION

19 BY MS. WALKER:

20 Q Good morning.

21 A Good morning.

22 Q Mr. Williams, where are you from?

23 A I grew up partially in Gastonia, North Carolina,
24 but mostly I've lived here in Columbia, South
25 Carolina.

- 1 Q Where did you go to high school?
- 2 A C.A. Johnson.
- 3 Q And are you currently employed?
- 4 A Yes.
- 5 Q Where do you work?
- 6 A Laurel Crest Retirement Center.
- 7 Q What do you do at the retirement center?
- 8 A I'm an assistant.
- 9 Q You are an assistant?
- 10 A Nurse assistant.
- 11 Q Do you have any brothers and sisters?
- 12 A I do.
- 13 Q How many?
- 14 A I have three brothers and three sisters.
- 15 Q Is one of your brothers Roderick Mitchell?
- 16 A Yes.
- 17 Q Are you related to ^{Child} Jennings?
- 18 A I am.
- 19 Q Tell me how you are related to ^{Child}
- 20 A ^{Child} Jennings is my brother's son, which would make
- 21 him my nephew.
- 22 Q Do you know Zinah Jennings?
- 23 A I do.
- 24 Q How did you get to know her?
- 25 A She was a girlfriend of my brother, Roderick

1 Mitchell.

2 Q Is she ^{Child} mother?

3 A Yes.

4 Q How many times or how often would you see Zinah
5 Jennings before ^{Child} was born?

6 A Very frequently. Most of the time her and Roderick
7 were always together. Sometimes I didn't see her
8 as much because I usually was always at work. But
9 before ^{Child} was born a lot of times, any time we
10 had a family function or anything, he was there and
11 she was there too.

12 Q At some point did your brother and Ms. Jennings end
13 their relationship?

14 A At some point but I'm not really sure exactly when.

15 Q In terms of your nephew ^{Child} how often were you
16 allowed to see ^{Child}

17 A The last time I actually remember seeing him, it
18 was around -- well, I saw him, of course, when he
19 was born. Me and one of my sisters went to the
20 hospital to see him. Then on my mother's birthday,
21 I would say August 2010 -- when he was born -- that
22 was the last time I have seen him.

23 Q You haven't seen him since August of 2010?

24 A No. We met at Ocean View on Broad River for my
25 mother's birthday, and Zinah brought him with her.

1 Q So from September 1st of 2011, to December 24th of
2 2011, how many times did you see ^{Child} Jennings?

3 A None.

4 Q Did he spend the holidays with you?

5 A No.

6 Q If Zinah Jennings would have come to you and said
7 that she was overwhelmed and that she needed a
8 break --

9 MR. PRIDE: Objection.

10 THE COURT: Sustained.

11 BY MS. WALKER:

12 Q If you would have been requested to watch your
13 nephew at any point, would you have done so?

14 A I would have. My brother called me once before
15 and --

16 MR. PRIDE: I object.

17 THE COURT: I sustain it if it's she is going
18 into hearsay, Solicitor.

19 BY MS. WALKER:

20 Q Don't tell us what your brother said. Have you
21 ever been requested to watch ^{Child}

22 A I have been asked before.

23 Q Did you do so?

24 A I did not.

25 Q Were there other people in your family who would

1 have been able to watch Child

2 MR. PRIDE: Objection.

3 THE COURT: I will allow that question.

4 A Yes.

5 Q Were there members of your family who could watch

6 Child

7 A Yes.

8 Q Had you been asked to watch Child Jennings, would

9 you have done so?

10 A I would have.

11 Q When was the last time you saw your nephew?

12 A On my mother's birthday, August 11, 2010 -- I

13 mean -- yeah, August 11, 2010.

14 Q You said there was a time that you were requested

15 to watch your nephew and you did not?

16 A Uh-huh. (Indicating affirmative response.)

17 Q Why didn't you?

18 MR. PRIDE: Judge, she is going to have to

19 speak up. I can't understand if she said yes or no.

20 THE COURT: She, the witness?

21 MR. PRIDE: What?

22 THE COURT: I guess I have to speak up too.

23 MR. PRIDE: I'm sorry.

24 THE COURT: She, the witness, needs to speak

25 up, Mr. Pride?

1 MR. PRIDE: Yeah. I couldn't hear if she said
2 yes or no.

3 THE COURT: All right. Speak up for me,
4 please, Ms. Mitchell.

5 THE WITNESS: Okay.

6 BY MS. WALKER:

7 Q Why didn't you watch Child

8 A I did not watch Child because my brother asked me to
9 watch him for Zinah, and then he said that she
10 called --

11 MR. PRIDE: Objection.

12 THE COURT: Her question is why she didn't
13 watch him. You may answer the question.

14 A He stated to me that she called and said never
15 mind.

16 Q Who is she?

17 A Zinah Jennings.

18 MS. WALKER: Beg the Court's indulgence, Your
19 Honor.

20 (Pause.)

21 MS. WALKER: No further questions, Your Honor.

22 THE COURT: Thank you. Mr. Pride?

23 MR. PRIDE: I have no questions, Judge.

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

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1 (Witness leaves the witness stand.)

2 THE COURT: Solicitor, you may call your next
3 witness.

4 MS. WALKER: The State calls Charisma
5 Mitchell.

6 CHARISMA MITCHELL, being
7 first duly sworn, testifies as follows:

8 CLERK: Have a seat in the witness stand,
9 please. State your full name for the record. Please
10 spell your first name.

11 THE WITNESS: My first name is Charisma,
12 C-H-A-R-I-S-M-A, Mitchell.

13 MR. PRIDE: Judge, could we approach?

14 THE COURT: Yes, sir.

15 (Whereupon there was a bench conference off
16 the record in the presence of the jury but out of the
17 hearing of the jury.)

18 DIRECT EXAMINATION

19 BY MS. WALKER:

20 Q Where did you grow up, Ms. Mitchell?

21 A Where did I grow up?

22 Q Yes.

23 A I'm originally from Gastonia, North Carolina, but I
24 grew up in Columbia, South Carolina.

25 Q Where did you go to high school?

- 1 A C.A. Johnson.
- 2 Q Are you currently employed?
- 3 A Not at the time.
- 4 Q Do you still live here in Columbia?
- 5 A I do.
- 6 Q How many brothers and sisters do you have?
- 7 A It's six of us. It's three boys and three girls.
- 8 I have two sisters and three brothers.
- 9 Q Is one of your brothers Roderick Mitchell?
- 10 A Yes, ma'am.
- 11 Q Is one of your sisters Artavia Mitchell?
- 12 A Yes, ma'am.
- 13 Q How are you related to Child Jennings?
- 14 A His aunt.
- 15 Q Do you know Zinah Jennings?
- 16 A I do.
- 17 Q How do you know Zinah Jennings?
- 18 A She is Child mother and she dated my brother for
- 19 like, I guess, a year or two.
- 20 Q And while she was dating your brother, did you see
- 21 Ms. Jennings frequently?
- 22 A I did.
- 23 Q Was this before or after Child was born?
- 24 A Before Child was born.
- 25 Q After Child was born, did you see her less

1 frequently?

2 A I did.

3 Q At some point did Roderick and the defendant end
4 their relationship?

5 A They did.

6 Q How many times did you see your nephew?

7 A I would say the last time I saw ^{Child} was last year,
8 back in -- I would say June or July. It was around
9 the summertime when my kids were out of school.
10 She brought ^{Child} to my house and I was quite
11 surprised. You know, her and I talked maybe like
12 an hour or so.

13 You know, the only thing I kept talking to her
14 about is just like, you know, let my brother see
15 ^{Child} The only thing she was saying was I don't
16 want ^{Child} around another woman. You know, I
17 continuously told her, it's not about another
18 woman, it's about my brother seeing his child.

19 Q This was after they had broken up, she indicated
20 that she didn't want ^{Child} around your brother
21 anymore?

22 A Yes, because of another woman.

23 Q That was in August, you said, of --

24 A No, around June or July of last year.

25 Q June or July 2011?

1 A Uh-huh. (Indicating affirmative response.)

2 Q So from September 1st of 2011, until December 24th
3 of 2011, how many times did you see your nephew
4 Child

5 A None. I was on the other end of the telephone with
6 my brother several times.

7 MR. PRIDE: I object to what might have been
8 said on the other end of the telephone to her brother.

9 THE COURT: I'm not sure where that is headed.
10 You may ask your next question. I assume you are not
11 objecting to her answer that she was on the other end of
12 the phone.

13 MR. PRIDE: As long as there are no
14 conversations that she emits from her brother. That's
15 the objection.

16 THE COURT: As to hearsay?

17 MR. PRIDE: Yes.

18 THE COURT: Sustained.

19 BY MS. WALKER:

20 Q I think what you said was you didn't see him any
21 between September 1st and December 24th?

22 A No, ma'am.

23 Q Did you ever offer to watch or baby-sit?

24 A I did. When Zinah was at my house at the time, I
25 asked her, I said Zinah, I just want a relationship

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1 with my nephew. I have a relationship with my
2 other nieces and nephews.

3 I just want a relationship with him, and I
4 want him to become, you know, close with my kids.
5 I offered her -- I said, You can leave him here or
6 you can bring him over here any time, and she
7 refused.

8 Q How many children do you have?

9 A I have four.

10 Q And you offered Ms. Jennings the opportunity for
11 Child to be able to be around your children and get
12 to know them --

13 A I did.

14 Q -- as cousins. The woman who you were talking to
15 that day that said that she was not going to allow
16 your brother to see his son, do you see her in the
17 courtroom?

18 MR. PRIDE: Objection.

19 A I do.

20 MR. PRIDE: She said the woman that you were
21 talking to that day, who said that she didn't want --

22 THE COURT: She has already testified to that.
23 She has already testified.

24 MR. PRIDE: Thank you, Judge.

25 THE COURT: Yes, sir.

1 BY MS. WALKER:

2 Q The woman who said she did not want her child to
3 see his father, your brother, do you see her in the
4 courtroom today?

5 A I do.

6 Q Can you point her out for the jury?

7 A (Indicating), the woman over there in the black and
8 white.

9 MS. WALKER: Your Honor, may the record
10 reflect that the witness has pointed out Ms. Jennings.

11 MR. PRIDE: We acknowledge it.

12 THE COURT: What did you say?

13 MR. PRIDE: We acknowledge this is Zinah
14 Jennings.

15 THE COURT: I was trying see if both had on
16 black and white. So reflected. It's Ms. Jennings.
17 Thank you.

18 MS. WALKER: Thank you, Your Honor, no further
19 questions.

20 CROSS EXAMINATION

21 BY MR. PRIDE:

22 Q Ms. Mitchell?

23 A Yes, sir.

24 Q You have got four children?

25 A I do.

1 Q How many children does Roderick have?

2 A Roderick has one.

3 Q One?

4 A Well, two including ^{Child}

5 Q Wait a minute now. Let's start over again. You
6 sound like you have got a speech impediment.

7 A I don't.

8 MS. WALKER: Objection, Your Honor.

9 THE COURT: Rephrase the question and no
10 editorial comments.

11 MR. PRIDE: I won't, Judge.

12 THE COURT: Thank you. You may ask your next
13 question.

14 BY MR. PRIDE:

15 Q How many children does Roderick have?

16 A Roderick has two kids, sir.

17 Q One with his wife; right?

18 A He do.

19 Q And then he's got one with Zinah.

20 A Yes, sir.

21 Q How many times did you baby-sit Roderick and his
22 wife's children?

23 A Several times.

24 Q Several times?

25 A Uh-huh. (Indicating affirmative response.)

1 Q You wanted Zinah to bring ^{Child} over there where you
2 were with your four children. Was Roderick's child
3 there also?

4 A At the time Zinah came to my house, Roderick child
5 was not there, but his child was at my house
6 several times, plenty of weekends, sir.

7 Q You said Zinah -- she didn't want to come over
8 there and have the child with another woman. Did.
9 Roderick also have a girlfriend? Who is "another
10 woman?"

11 A Zinah thought that he had another woman. This is
12 what Zinah told me. She did not want to have ^{Child}
13 around another woman. She didn't know Roderick had
14 another woman or not. She assumed that he had
15 another woman.

16 Q Did he have another woman?

17 A No, he didn't.

18 Q He didn't but he had a wife?

19 A He did have a wife but they were separated, sir.

20 Q Were they divorced?

21 A They are not divorced. They are separated.

22 Q Thank you.

23 MR. PRIDE: Would you indulge me one moment,
24 please?

25 THE COURT: Yes, sir.

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1 (Pause.)

2 BY MR. PRIDE:

3 Q When is the last time you saw ^{Child}

4 A It was last year, back in June or July, sir.

5 Q And where was that?

6 A At my house.

7 Q And what was the occasion?

8 A There was no occasion.

9 Q I mean, Zinah just surprised you and came by?

10 A She did. I was very surprised.

11 Q Well, did you and Zinah have an ongoing relation?

12 A We did not.

13 Q Thank you very much.

14 THE COURT: Redirect, Solicitor?

15 MS. WALKER: Nothing, Your Honor.

16 THE COURT: Thank you. Thank you very much,

17 Ms. Mitchell. You may step down.

18 (Witness leaves the witness stand.)

19 THE COURT: You may call your next witness.

20 MS. GARFIELD: Your Honor, I failed to ask if

21 Officer Walker could be excused and go to sleep.

22 THE COURT: Any objection, Mr. Pride?

23 MR. PRIDE: None.

24 MS. GARFIELD: Thank you.

25 THE COURT: He may be excused. Solicitor.

1 MS. WALKER: The State calls Roderick
2 Mitchell.

3 Roderick Mitchell, being
4 first duly sworn, testifies as follows:

5 CLERK: Have a seat in the witness stand,
6 please. State your full name for the record.

7 THE WITNESS: Roderick Mitchell.

8 DIRECT EXAMINATION

9 BY MS. WALKER:

10 Q Good morning, Mr. Mitchell.

11 A Good morning.

12 Q How old are you, sir?

13 A I'm 29.

14 Q Did you grow up here in Columbia?

15 A Actually grew up in -- I was born in Gastonia, but
16 I grew up mostly here in Columbia.

17 THE COURT: Excuse me just a minute. Was that
18 a flash? Was that a flash in the courtroom? Was that a
19 flash in the courtroom?

20 UNIDENTIFIED MAN: I tried to turn it off.
21 I'm sorry.

22 THE COURT: I don't want a flash in the
23 courtroom.

24 UNIDENTIFIED MAN: I understand.

25 THE COURT: Thank you. Thank you, Solicitor.

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1 You may proceed.

2 MS. WALKER: Thank you, Your Honor.

3 BY MS. WALKER:

4 Q Where did you go to high school?

5 A C.A. Johnson.

6 Q What do you do for a living?

7 A I cook.

8 Q Where?

9 A Hunter-Gatherer.

10 Q How many children do you have?

11 A Two.

12 Q What are their names?

13 A K. M. and Child

14 Q Your daughter is K. M. ?

15 A Yes.

16 Q How old is she?

17 A She is six.

18 Q What's her mother's name?

19 A Kathy, Katrina Worms Mitchell.

20 Q Is that your wife?

21 A Yes.

22 Q How long have you been married?

23 A Probably about eight years.

24 Q Are y'all separated?

25 A Yes.

- 1 Q How long have you been separated?
- 2 A Probably about six years.
- 3 Q Your son ^{Child}
- 4 A Yes.
- 5 Q What is his mother's name?
- 6 A Zinah Jennings.
- 7 Q When did you meet Zinah Jennings?
- 8 A I can't exactly remember when. I can remember how
- 9 I met.
- 10 Q How did you meet her?
- 11 A I was at a friend's house and I saw her coming out,
- 12 and I went and talked to her.
- 13 Q Did y'all date after that?
- 14 A Yes.
- 15 Q About how long did y'all date?
- 16 A I would say like two-plus years, pretty much off
- 17 and on at some point.
- 18 Q During the course of y'all's relationship, did she
- 19 become pregnant?
- 20 A Yes.
- 21 Q How long had y'all been dating when Zinah got
- 22 pregnant?
- 23 A Probably a year.
- 24 Q Did she know you were married while y'all were
- 25 dating?

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1 A Yes.

2 Q And she continued to date you?

3 A Yes.

4 Q When ^{Child} was born, were y'all dating? Were y'all
5 together at that point in time?

6 A Yes.

7 Q After he was born, did y'all break up?

8 A We didn't break up. She actually moved a day after
9 he was born out of the apartments.

10 Q She moved away?

11 A Yes.

12 Q She moved out of the apartment?

13 A Yes.

14 Q How often, Mr. Mitchell, were you allowed to see
15 your son?

16 MR. PRIDE: Judge, that word allowed is
17 suggestive.

18 MS. WALKER: Your Honor, I will object to the
19 form of the objection.

20 THE COURT: Rephrase the question, Solicitor.

21 BY MS. WALKER:

22 Q How often did you see your son?

23 A After he was born?

24 Q Yes.

25 A I saw him quite frequently.

1 Q At some point did the frequency in which you saw
2 him decrease?

3 A Yes.

4 Q How often do you see your daughter?

5 A I see her a lot. If I'm off on the weekends, I
6 would have her. If I have to work the weekends,
7 her mother usually bring her by the job. So me and
8 my daughter, we spend a lot of time together.

9 Q Do you remember the last time you saw your son?

10 A The last time I saw my son was on November
11 the 29th.

12 Q November 29th of?

13 A 2011.

14 Q Where was he?

15 A At Zinah's mother's house.

16 Q When was the last time you have seen him before
17 that?

18 A November 22, 2011.

19 Q Where did you see him then?

20 A I first saw him at a beauty supply store.

21 THE COURT: Say that again for me,
22 Mr. Mitchell.

23 THE WITNESS: At a beauty supply store, Your
24 Honor.

25 THE COURT: Thank you.

1 BY MS. WALKER:

2 Q Where is that beauty supply store?

3 A It's off Taylor and Heidt Street.

4 Q What was he doing when you saw him at that store?

5 A He was with his mother.

6 Q Did you talk to him?

7 A We spent that day together. She let me get him.

8 Q How did you end up spending the day with him?

9 Please tell the jury about that.

10 A I asked her if I could get him because the day
11 before that we had conversated. The conversation
12 was about pretty much how I wasn't doing anything
13 for him. So I saw the car that looked like hers,
14 discussed the matter, and asked her to let me get
15 my son, which she did. I was surprised but she
16 did.

17 Q Now, when you said about how you weren't doing
18 anything, who said that you weren't doing anything
19 for your son?

20 A Zinah.

21 Q Why was your role in his life so limited?

22 A They wouldn't let me have contact.

23 Q Who is they?

24 A I wouldn't say "they" to some extent because I'm
25 not up here to bash anybody. I wouldn't say they,

1 but Zinah wouldn't let me have contact with him.

2 Q Did you make attempts to contact your son?

3 A Yes.

4 Q Did you want to be a part of his life?

5 A Yes, I did.

6 Q That day when you saw him at the beauty supply
7 store, you spoke with Zinah?

8 A Yes.

9 Q And you asked her if you could take your son
10 somewhere?

11 A Yes, I asked her could I just spend the day with
12 him, and she let me do that. I didn't tell her
13 specifically what I was going to do with him, but
14 she let me have him that day and I was very happy
15 about it.

16 Q What did you and ^{Child} do that day?

17 A After I picked him up, we went back to my house at
18 first. We went to the Laundromat, washed
19 clothes -- which it's a photo provided. I provided
20 that photo you have with like the little blue suit
21 on him. After I finished washing clothes, we had
22 walked over to City Trends, and I brought him some
23 clothes and shoes.

24 Q Then what did y'all do?

25 A Then we went to my house.