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VOL II of IV

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

R. Knox McMahon, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ZINAH DAMARIS JENNINGS,

APPELLANT

APPELLATE CASE NO. 2012-212947

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE’S EXHIBIT # 16 (RECORDING OF DEFENDANT’S INTERROGATION)

RODERICK MITCHELL -- DIRECT -- MS. WALKER

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- 1 Q About how long was Child with you that day?
- 2 A Pretty much, I would guess, seven to nine hours.
- 3 Q Did you take him back to his mother?
- 4 A Yes, I did.
- 5 Q Where was Ms. Jennings when you took Child back to
- 6 her?
- 7 A We met at Church's Chicken on Taylor Street.
- 8 Q Did you make arrangements to see Child again?
- 9 A Yes, I did.
- 10 Q What were those arrangements?
- 11 A I told her I was off that next Tuesday on the 29th,
- 12 and she said that was fine. I dropped Child off.
- 13 She told me thank you. I was telling her, No need
- 14 to tell me thank you because that's my son. That's
- 15 what I was supposed to do.
- 16 Q Have you ever heard the name Ernest Robinson?
- 17 A No.
- 18 Q Do you know of any Ernest Robinson?
- 19 A I heard Ernest Robinson on the radio before.
- 20 Q Whom is Child father?
- 21 A Me, Roderick Mitchell.
- 22 Q The next time you were scheduled to see Child --
- 23 A Uh-huh. (Indicating affirmative response.)
- 24 Q -- can you tell the jury about that?
- 25 A The next time I was scheduled to see him was on the

1 29th. I had explained to Zinah that like as soon
2 as I wake up, I would come and pick him up because
3 I thought we was going to have arrangements. I was
4 thinking everything was smoothing out. I picked
5 him up whenever. I went over to her mother's
6 house.

7 Her husband was kind of hesitant about letting
8 me in, but I had explained to him I had ^{Child} I
9 was there to pick him up. He was like, Come on in.
10 I went upstairs. I was talking to Zinah. She was
11 putting on makeup in the mirror getting ready for
12 the day.

13 She told me, I thought you was coming to get
14 him Monday. I said, I clearly told you I was off
15 Tuesday. She was telling me, she was like, We got
16 things to do. I say, Well, Zinah, you can do those
17 by yourself. I can take ^{Child} off your hands, you
18 know. I ain't want to get in no altercation or no
19 argument. So I picked him up, gave him a hug and
20 kiss, and left, left their premises.

21 Q That was the last time you saw your son?

22 A That was the last time I saw my son.

23 Q Do you remember that date?

24 A November 29th.

25 Q So ^{Child} did not spend the Christmas holidays with

1 you and your family?

2 A If I can explain about that. It was a point in
3 time where me and Zinah was supposed to go
4 Christmas shopping for ^{Child} It was when she moved
5 back with her mother after she left the apartment
6 we first stayed in together.

7 I was still staying there, which is like my
8 old apartment, and her mother's house is like 15
9 seconds from me. I didn't spend the holidays with
10 him, which they stay like right down the street
11 from me.

12 Q You did not spend the holidays with him?

13 A No, I didn't. Actually if I can explain. I
14 actually left that apartment for that reason,
15 knowing my son was like right there and I couldn't
16 even see him.

17 Q At some point were you contacted by the City of
18 Columbia Police Department about the search for
19 your son?

20 A Yes.

21 Q Did they ask you to submit what is known as a
22 buccal swab? Swab your mouth?

23 A Yes.

24 Q And did you voluntarily do so?

25 A Yes.

1 Q I want to show you, Mr. Jennings, what has been
2 marked -- I'm sorry -- Mr. Mitchell, what has been
3 marked as State's Exhibit 17.

4 MR. PRIDE: Judge, before she shows it to him,
5 I would appreciate it if I can take a look at it.

6 (Pause.)

7 THE COURT: No objection?

8 MR. PRIDE: I read it. No objection.

9 THE COURT: No objection. Thank you very
10 much. That is State's Exhibit 17, Solicitor?

11 MS. WALKER: Yes, Your Honor. It's just for
12 identification purposes only.

13 (State's Exhibit Number 17 is marked for
14 identification).

15 BY MS. WALKER:

16 Q Do you recognize this handwriting?

17 A Yes.

18 Q Whose handwriting is this?

19 A Zinah's.

20 Q And how do you recognize this handwriting?

21 A I done seen it plenty of times.

22 THE COURT: Speak up a little bit.

23 THE WITNESS: I done seen it plenty of times
24 before.

25 THE COURT: That is I.D. only, Solicitor?

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1 MS. WALKER: At this point, yes.

2 BY MS. WALKER:

3 Q I would also like to show you State's Exhibit 21.

4 Do you recognize this?

5 A Yes.

6 Q What is it?

7 A That's ^{Child}

8 Q That's your son?

9 A Yes.

10 MS. WALKER: Your Honor, at this point I would
11 like to move State's Exhibit 21 into evidence.

12 MR. PRIDE: Without objection.

13 THE COURT: State's 21 is in evidence without
14 objection.

15 (State's Exhibit Number 21 is received into
16 evidence.)

17 MS. WALKER: Move to publish it.

18 THE COURT: You may publish it.

19 MS. WALKER: Thank you, Your Honor.

20 BY MS. WALKER:

21 Q This is your son?

22 A Yes.

23 Q How old was he the last time you saw him?

24 A At least 18 months, I think.

25 Q And who was he with?

1 A Zinah Jennings.

2 MS. WALKER: Beg the Court's indulgence.

3 THE COURT: Yes, ma'am.

4 (Pause.)

5 BY MS. WALKER:

6 Q If Zinah would have asked you to take your son,
7 would you have done so?

8 A I certainly would have.

9 MS. WALKER: No further questions, Your Honor.

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

11 **CROSS EXAMINATION**

12 BY MR. PRIDE:

13 Q When is Roderick's [verbatim] birthday?

14 A June the 28th.

15 Q What year?

16 A Uh...

17 Q And the first time you saw him --

18 THE COURT: Wait a minute, Mr. Pride. Let me
19 see if he answers the question. I didn't hear him if he
20 answered it.

21 THE WITNESS: I said June 28th. I should know
22 the year, but I got choked up. He was supposed to be
23 born on July the 4th actually.

24 BY MR. PRIDE:

25 Q You want some tissues?

1 A No, I'm fine. I appreciate it.

2 Q Okay. Now, the first time that you ever spent any
3 time with Child was November the 22nd, 2011; isn't
4 that correct?

5 A That is not correct. The first time I spent time
6 with Child was in the hospital when he was born.

7 Q Since being born in the hospital thereafter, the
8 first time you spent any time with him was on
9 November 11th?

10 A That's not correct either.

11 Q When did you spend time with him?

12 A Me and Zinah was still in a relationship. I spent
13 plenty of times with Child and her.

14 Q When were y'all living together? Were you living
15 together when Child was born?

16 A Yes.

17 Q And when Child was born, Zinah left you; is that
18 correct?

19 A Yes.

20 Q So she left shortly after June 28th to go live with
21 her mother?

22 A No.

23 Q You said that she left you.

24 A I did say that but she did not go live with her
25 mother.

- 1 Q Where did she go live?
- 2 A She went to go stay at the Hollows on Broad River
- 3 Road.
- 4 Q She got her own apartment?
- 5 A Yes.
- 6 Q And did you have any contact with her then?
- 7 A Yes.
- 8 Q What was the reason she left you?
- 9 A I don't know. I -- it was a surprise.
- 10 Q Did you ask her, Why are you leaving, Zinah?
- 11 A I did ask her but I don't remember what she said.
- 12 Q You don't remember what she said?
- 13 A No. Well, actually I do remember what she said.
- 14 Q Okay.
- 15 A She said she had left because I came in the house
- 16 that night with friends to see Child and it was too
- 17 late to be coming in showing off my son.
- 18 Q So that's the reason she decided she would move out
- 19 and get her own place, for she and Child
- 20 A Yes.
- 21 Q She got a place on Broad River Road?
- 22 A Yes.
- 23 Q And after she moved away from you, did you come up
- 24 to her place?
- 25 A Yes.

1 Q And how often would you say that you would go up
2 there?

3 A I would give it three times a week.

4 Q Three times a week. Would you spend the night?

5 A Yes.

6 Q All right. And how long did that last?

7 A Off and on, I couldn't tell you.

8 Q Were you contributing anything to the support of
9 Child

10 A Plenty, yes.

11 Q How?

12 A I would give Zinah money.

13 Q When?

14 A Every time I got paid. I'm a fair person. At the
15 time I was giving my daughter's mother \$150 every
16 time I got paid, and I would give Zinah the same
17 thing.

18 Q That was during the time that she was living on
19 Broad River Road. I'm trying to follow you. You
20 said --

21 A Yeah, I understand. I understand. I understand.
22 It's like Broad River Road, we were still together.
23 So I wasn't really giving her no amount of cash.
24 We spent time together. We would go out and get
25 stuff for Child together.

1 Q So on Broad River Road when she moved out, you
2 weren't giving her any money?

3 A Yes, I was giving her money.

4 Q I thought you said -- maybe I misunderstood you.
5 Let me start over. On Broad River Road is where
6 Zinah moved when she left the place the two of you
7 were living together?

8 A Yes.

9 Q Your testimony is you would go see her at this
10 address at least three times a week?

11 A Yes. It depends, yeah.

12 Q How long did Zinah live on Broad River Road?

13 A I can't give you the exact amount of time, but at
14 the most I would give it eight months. She ain't
15 ever finish out her lease.

16 Q During that eight-month period that she lived on
17 Broad River Road, were you giving her money for
18 support for Child

19 A Yes.

20 Q Were you and Zinah still boyfriend and girlfriend?

21 A Yes.

22 Q During that time?

23 A Yes.

24 Q And why did Zinah leave Broad River Road? Do you
25 know?

- 1 A I don't think she was able to afford it.
- 2 Q Was she working during the time she was living on
- 3 Broad River Road?
- 4 A No.
- 5 Q Zinah had worked prior to having ^{Child} hadn't she?
- 6 A Yes.
- 7 Q And you knew that Zinah had money in the bank; is
- 8 that not correct?
- 9 A I really didn't worry about her bank account
- 10 because I had money in the bank. I wasn't
- 11 concerned about it.
- 12 Q I am simply asking you.
- 13 A No. No, I didn't.
- 14 Q You didn't know whether she had her own money or
- 15 not?
- 16 A No.
- 17 Q When she was living on Broad River Road, were you
- 18 paying the rent up there?
- 19 A I was not paying the rent, but there was one time
- 20 where I paid the light bill.
- 21 Q Okay. You paid the light bill one time?
- 22 A Uh-huh. (Indicating affirmative response.)
- 23 Q And the best you can recall, she stayed there for
- 24 approximately eight months?
- 25 A The best I can recall. I just know -- not putting

1 that on there -- but I know the lease wasn't...

2 Q And when she left Broad River Road, where did Zinah
3 go?

4 A To her mother's house.

5 Q And at all times that I have been questioning you
6 about Zinah --

7 A Uh-huh. (Indicating affirmative response.)

8 Q -- would you not agree with me that Zinah was the
9 custodial parent of Child

10 A No, I wouldn't agree with you there.

11 Q You were the custodial parent?

12 A Oh, yeah, I would agree with you on that.

13 Q Thank you.

14 A Yeah.

15 Q You have now told me that she left Broad River Road
16 and she moved back to her mother's?

17 A Yes.

18 Q And when she moved back to her mother's, did you
19 continue to see her?

20 A Yes.

21 Q Would you come to her mother's house?

22 A Yes.

23 Q And how often would you see her at her mother's
24 house?

25 A It was quite -- it was -- when she would let me, it

1 was quite often.

2 Q Quite often?

3 A Yeah.

4 Q Would you pick her up from her mother's house?

5 A No, I wouldn't pick her up from her mother's house.

6 Q Zinah had her own car; is that correct?

7 A That's correct.

8 Q And Zinah, would she -- I am trying to figure out
9 how the two of you would get together. Would she
10 meet you somewhere or would you come to the house
11 and the two of you would leave or would you just
12 come to the house and visit with her?

13 A I would come to her mother house, and sometimes she
14 would bring ^{Child} down to my house when I was still
15 staying on Heidt Street, that location. So she
16 could have walked down to my house.

17 Q Would she walk down to your house?

18 A Yes.

19 Q And when Zinah had ^{Child} and was living at her
20 mother's house, was she also in school?

21 A Yes.

22 Q Where was she in school?

23 A Midlands Tech.

24 Q Was she also working?

25 A No, I don't think so.

- 1 Q She wasn't working?
- 2 A No.
- 3 Q And was ^{Child} also in day care?
- 4 A At one point in time he was.
- 5 Q Were you paying the day care?
- 6 A No, I think she was getting vouchers.
- 7 Q But you weren't paying the day care?
- 8 A I wasn't paying the day care, no.
- 9 Q When you saw ^{Child} on the 22nd of November, was ^{Child}
- 10 in good health?
- 11 A Yeah.
- 12 Q Was he well dressed?
- 13 A Yeah. It was just like a run to the beauty salon
- 14 and back home. He was in his pajamas, yeah, just
- 15 probably going to the hair store and back home.
- 16 Q Was he happy?
- 17 A Yes.
- 18 Q Now, did you love ^{Child}
- 19 A Yes, I did.
- 20 Q Do you love Zinah?
- 21 A Yes, I do.
- 22 Q Now? Today?
- 23 A Yeah, I still do for the sake of her being the
- 24 mother of my first son.
- 25 Q Do you love her because of the fact that she is a

1 woman or do you love her just because she is the
2 mother of your child?

3 A It could be both.

4 Q It could be both?

5 A Yeah.

6 Q Now, in your opinion was Zinah a good mother to
7 Child

8 A Yes. Yeah, yeah.

9 Q And at all times that you had the occasion to be
10 around Zinah -- and you have told the jury that you
11 were around Zinah when the baby was born and when
12 Zinah brought the baby home to the apartment that
13 you lived in --

14 A Uh-huh. (Indicating affirmative response.)

15 Q -- and then subsequently for eight months on Broad
16 River Road, did Zinah treat ^{Child} as a mother should
17 treat a child?

18 A Yes.

19 Q Now, Roderick, I am not trying to embarrass you by
20 asking these questions, but you had visitations
21 with your wife's child that you all had together;
22 is that correct? Oftentimes you would see that
23 child?

24 A Yes.

25 Q That was a little girl?

1 A Yes.

2 Q When you had visitation, isn't it a fact that
3 oftentimes Zinah would keep your daughter, along
4 with Child

5 A No, that's -- no.

6 Q Zinah never baby-sat for your daughter and Child

7 A No, that's false.

8 Q Was your daughter ever in the presence of Zinah?

9 A Yes.

10 Q Was it after Child was born or before Child was born?

11 A Before.

12 Q But after --

13 A Before and after, but she never kept my daughter
14 and Child together.

15 Q Well, sort of explain to me how your daughter and
16 Child and Zinah were together?

17 A I would have my daughter. We would stay in
18 separate places, and I would go to Zinah's mother's
19 house when I had my daughter because my daughter
20 would always ask that she wanted to see her little
21 brother.

22 Q Now, when Zinah lived with her mother --

23 A Uh-huh. (Indicating affirmative response.)

24 Q -- and I think you said that we know that she
25 stayed in the apartment for eight months. So Child

- 1 must have been about eight months old when she
2 moved in with her mother; is that correct?
- 3 A I can't give the -- I mean, yeah.
- 4 Q You are not exactly sure?
- 5 A I'm not accurate with it.
- 6 Q And I am not holding you to accuracy.
- 7 A Yeah.
- 8 Q When she lived with her mother, would she let you
9 see ^{Child}
- 10 A Yes.
- 11 Q When I say see, carry him out, as you did for nine
12 hours on the 22nd of November?
- 13 A No. When I did spent time with him, it was me,
14 Zinah, and ^{Child}
- 15 Q And the only time that she let you have ^{Child} alone
16 was on the 22nd of November?
- 17 A I believe so, yes.
- 18 Q And would you say that on the 22nd of November,
19 that you and Zinah were still in a relationship?
- 20 A No, we were not.
- 21 Q What ended the relationship between you and Zinah?
- 22 A We just couldn't get along. We couldn't get along.
23 We had our differences.
- 24 Q Was Zinah jealous?
- 25 A At some point both us were, at some point.

1 Q You were jealous too? You said both?

2 A At some point.

3 Q At some point?

4 A Yeah.

5 Q That jealousy was because you oftentimes thought
6 Zinah had another man, and oftentimes Zinah perhaps
7 would accuse you of being with other women? Would
8 that be a fair statement?

9 A That would be a fair statement.

10 Q And when Zinah was at Midlands Tech, did you ever
11 go over to the school to see her?

12 A A couple of times.

13 Q And was there a situation where you were in her car
14 and she wanted the car back?

15 A Yes, it was a situation.

16 Q And as a result she called the police; is that
17 correct?

18 A Yes.

19 Q And why were you over to Midlands Tech while she
20 was in school?

21 A I was over there like waiting on her to get out of
22 class to try to have visits with Child

23 Q Where was Child at that time?

24 A I don't know if he was with her mother or day care.
25 I don't know which one it was.

1 Q So you went over to Midlands Tech while she was in
2 school to talk to her about your having --

3 A About being involved with Child

4 Q Would it be a fair statement to say that Zinah was
5 very possessive of Child

6 A Yeah, that would be a fair statement to say.

7 Q And Ms. Walker asked you about the fact that at
8 some point in time law enforcement swabbed your
9 mouth. What they did, they took some of your
10 saliva because they wanted to perform D.N.A. tests
11 to see if you were the father of Child is that
12 correct?

13 A Yes.

14 Q And how many times was your mouth swabbed?

15 A I don't remember.

16 Q I don't mean how many times did they go around in
17 your mouth. How many times did you sit for them to
18 perform that?

19 A I could say twice but that's why I said, like I
20 said, I don't recall how many times it was.

21 Q Do you recall where you were?

22 A Yes.

23 Q Where?

24 A I was on Harden Street -- not Harden -- Devine
25 Street, the office at Devine Street.

1 Q At the police department?

2 A Yeah.

3 Q And you went voluntarily; is that correct?

4 A When they called me I went, yeah.

5 Q Do you remember going there more than once for that
6 process?

7 A I remember going -- yeah, I think so.

8 Q You think you went there more than once?

9 A I know I been there more than once.

10 Q Now, did you go there more than once for them to go
11 in your mouth?

12 A Oh, no, I don't think so.

13 Q So the best you can recall, they just swabbed your
14 mouth one time on Devine Street?

15 A That process only happened once.

16 Q Only happened once. Thank you very much.

17 THE COURT: Redirect, Solicitor?

18 MS. WALKER: Briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. WALKER:

21 Q You said that your daughter wanted to see her
22 little brother?

23 A Yes.

24 Q Does she still want to see her little brother?

25 A She does and I can't -- I mean, I don't know what

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1 to say to her. I don't know how to explain it to
2 her. I mean, she asked -- her mom would call me
3 and say, K.M. is asking about her little
4 brother --

5 MR. PRIDE: Objection to what her mother would
6 call and tell him.

7 THE COURT: That would be hearsay. I would
8 sustain the objection.

9 BY MS. WALKER:

10 Q Does your daughter still want to see her brother?

11 A Yes, she does.

12 Q She is not able to do so?

13 A No.

14 Q Mr. Pride asked you if Zinah was possessive of
15 Child You said she was?

16 A I would -- yeah, I would say that.

17 Q So she wouldn't just leave him with unknown,
18 unnamed individuals?

19 A Not when we was together. She would never do
20 nothing like that.

21 MS. WALKER: No further questions, Your Honor.

22 THE COURT: Recross, Mr. Pride?

23 MR. PRIDE: No, none.

24 THE COURT: Thank you very much, Mr. Mitchell.

25 (Witness leaves the witness stand.)

1 MR. PRIDE: Could we approach, Your Honor?

2 (Whereupon there was a bench conference off
3 the record in the presence of the jury but out of the
4 hearing of the jury.)

5 THE COURT: Madame Forelady, ladies and
6 gentlemen of the jury, perhaps now would be a good time
7 for us to take a morning recess. The attorneys have
8 been out here since 9:00 A.M.

9 We are going to take about a 15-minute recess.
10 Please leave your notes on your chair. Do not discuss
11 the case during this brief recess. Thank you very much.
12 You may now go with your bailiff.

13 (The jury retires to the jury room.)

14 THE COURT: Anything before we take our
15 recess, Solicitor?

16 MS. GARFIELD: No, sir.

17 THE COURT: Mr. Pride?

18 MR. PRIDE: Nothing, Your Honor.

19 THE COURT: Thank you very much. We will be
20 in recess 15 minutes.

21 (Whereupon there is a recess.)

22 THE COURT: Anything from the State before we
23 bring in our jury, Solicitor?

24 MS. GARFIELD: Your Honor, I anticipate maybe
25 getting into some witnesses this morning and publishing

1 videos to the jury. We have several videos we intend to
2 introduce into evidence. They are all on one C.D.,
3 State's Exhibit 22.

4 I spoke with Mr. Pride at the recess, Your
5 Honor. He has agreed to stipulate that we enter that
6 into evidence, and I will publish each video as we go
7 through several witnesses.

8 The C.D. contains videos: Two from a bank;
9 from a Kroger; one from Food Lion; one from a Bi-Lo; one
10 from a convenience store, Family Dollar; and I believe
11 one other place on Farrow Road. But I will be referring
12 to the same exhibit number throughout.

13 THE COURT: Tell me again: The bank, Kroger,
14 Food Lion, convenience store?

15 MS. GARFIELD: 2300 Taylor, which is Family
16 Dollar; 3900 Main Street, which is Bi-Lo; two videos
17 from the South Carolina Federal Credit Union, one dated
18 November 29, 2011, one dated December 15, 2011; a store
19 on Beltline called One Love. It's a convenience store.

20 There is a video from the Forest Drive Kroger;
21 a video from a Food Lion; a video from Hardee's; and a
22 video from 3020 Farrow Road, which off the top of my
23 head, I'm not sure the name of the establishment. I
24 think it's Dollar Store.

25 THE COURT: All of these videos are on one

1 C.D.?

2 MS. GARFIELD: Yes, sir.

3 THE COURT: Can you tell me, Solicitor, the
4 length, time wise?

5 MS. GARFIELD: They are all very short, five
6 minutes maybe.

7 THE COURT: Are you going to have to call to
8 witnesses to authenticate it?

9 MS. GARFIELD: Mr. Pride has agreed to
10 stipulate to the authentication.

11 THE COURT: So you are calling witness --

12 MS. GARFIELD: -- just to explain.

13 THE COURT: All right. Is all of that
14 correct, Mr. Pride?

15 MR. PRIDE: All of that is correct, Your
16 Honor, just to try and expedite the trial. I have been
17 turned over in discovery those disks, and I had an
18 opportunity to look at them. Rather than having her put
19 the disk up for each one, I think it would be better to
20 do it that way.

21 THE COURT: Can you go ahead and set your
22 equipment up now?

23 MS. GARFIELD: It will be like the fifth or
24 sixth witness.

25 THE COURT: All right. Anything further,

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1 Solicitor?

2 MS. GARFIELD: No, sir.

3 THE COURT: Mr. Pride?

4 MR. PRIDE: Nothing.

5 THE COURT: You can bring the jury.

6 (The jury returns to the courtroom.)

7 THE COURT: Welcome back, ladies and gentlemen
8 of the jury panel. We are continuing the trial of the
9 case by the presentation of evidence and testimony by
10 the State in its case in chief. If you would please
11 continue to give the parties your complete and undivided
12 attention.

13 Solicitor, you may call your next witness.

14 MS. GARFIELD: Thank you, Your Honor. The
15 State calls Darlene Mitchell.

16 DARLENE MITCHELL, being
17 first duly sworn, testifies as follows:

18 CLERK: Have a seat in the witness stand,
19 please. State your full name for the record.

20 THE WITNESS: My name is Darlene Mitchell.

21 **DIRECT EXAMINATION**

22 BY MS. GARFIELD:

23 Q Ms. Mitchell, where are you from?

24 A Originally from Gastonia, North Carolina, but I now
25 reside here in Columbia.

- 1 Q And how long have you been in Columbia?
- 2 A Eighteen years.
- 3 Q And do you have a family?
- 4 A Yes.
- 5 Q Can you share with the jury a little bit about your
- 6 family?
- 7 A I have three sons and three daughters and I have
- 8 eight grandchildren.
- 9 Q And what is your relationship with ^{Child} Jennings?
- 10 A I'm his grandmother on my son's side.
- 11 Q Who is your son?
- 12 A Roderick Mitchell, his father.
- 13 Q What type of involvement did you have with your
- 14 grandson, ^{Child} Jennings?
- 15 A I didn't have too much of a relationship with ^{Child}
- 16 I saw ^{Child} once when I had a little gathering for
- 17 my birthday at a restaurant. Zinah brought him
- 18 there, and I saw him two other times other than
- 19 that.
- 20 Q Where was this gathering for your birthday?
- 21 A It was at Oceanview Restaurant on Broad River.
- 22 Q When was this?
- 23 A I think it was August 2010.
- 24 Q Roughly two years ago?
- 25 A Yes.

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1 Q Ms. Mitchell, why did you have such little
2 involvement in your grandson's life?

3 A I don't really know. I can't give a specific
4 answer for that. I just know that we weren't able
5 to see him as much as I would have liked to have
6 seen him.

7 Q Why is that?

8 MR. PRIDE: She said she didn't know. That's
9 repetitious. I object.

10 THE COURT: I overrule the objection.

11 BY MS. GARFIELD:

12 Q Go ahead.

13 A I would say because he wasn't really allowed to be
14 a part of our family. It wasn't like we didn't
15 want him to be; he just wasn't allowed to be.

16 Q And did you ever try to become a part of ^{Child}
17 life?

18 A Yes, I did.

19 Q Explain to the jury how -- what kind of attempts
20 you made.

21 A I talked to Zinah maybe two or three times to let
22 her know that I wanted to be involved in his life.
23 I went to her apartment when she stayed in the
24 Hollows on Broad River to let her know that I would
25 be there for her and ^{Child} but she never made any

1 attempts to contact me or, you know, try to get me
2 involved in his life.

3 Q And did you have any contact with ^{Child} Jennings in
4 November of last year?

5 A No, I did not.

6 Q Did you have any contact with ^{Child} Jennings in
7 December of last year?

8 A No, I did not.

9 Q So can you recall the last time you saw your
10 grandson?

11 A The last time I saw ^{Child} was August at the function
12 that we had for my birthday.

13 Q In 2010?

14 A Yes.

15 Q He was an infant?

16 A Yes. Yes, he was an infant.

17 Q I am going to show you State's Exhibit Number 17.
18 Do you recognize this?

19 A Yes, I do.

20 Q Can you explain to the jury what State's Exhibit 17
21 is?

22 A It's a mother's day card that was sent to me by --
23 from Zinah to my job. It was sent to my job, not
24 to my home address.

25 Q Where do you work?

DARLENE MITCHELL -- DIRECT -- MS. GARFIELD

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1 A I work at Hunter-Gatherer at 900 Main Street.

2 Q What is Hunter-Gatherer?

3 A It's a brewery and a restaurant.

4 Q Is that also where your son works?

5 A Yes, we both work there. We've both been employed
6 there for about three years.

7 Q What is your position there?

8 A I'm a head cook.

9 Q What is your son's position?

10 A He is the head chef.

11 Q And you received this in the mail?

12 A Yes.

13 Q And who was it from?

14 A It was from Zinah.

15 Q When did you receive it?

16 A I received it the Monday or Tuesday after Mother's
17 Day. My boss' mother came and gave it to me.

18 Q Of what year?

19 A Of this year.

20 MS. GARFIELD: Your Honor, at this time I
21 would like to introduce State's Exhibit Number 17 into
22 evidence.

23 MR. PRIDE: Without objection.

24 THE COURT: State's 17 is in evidence without
25 objection.

1 (State's Exhibit Number 17 is received into
2 evidence.)

3 MS. GARFIELD: May I publish it to the jury?

4 THE COURT: Yes, ma'am.

5 BY MS. GARFIELD:

6 Q Ms. Mitchell, if you had ever been asked to care
7 for Child would you have done so?

8 A Yes. Yes, I would have.

9 Q Thank you. Please answer any questions Mr. Pride
10 may have.

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

12 **CROSS EXAMINATION**

13 BY MR. PRIDE:

14 Q Do you know where Zinah was when she sent you that
15 Mother's Day card?

16 A No, because it doesn't have a return address on it.

17 Q And you don't know of your own knowledge where she
18 was?

19 A No, because it doesn't have a return address on it.

20 Q And that was the first Mother's Day card you had
21 ever gotten from her?

22 A That was the first Mother's Day card that I ever
23 received from her.

24 Q I show you what has been marked as State's Exhibit
25 17 and ask you to take a look at this.

1 A Well, I didn't see the return address on there.

2 Q Just tell us what the return address is.

3 A John Mark Dial Drive, Columbia, South Carolina.

4 Q Do you know where that is?

5 A Yes, I do.

6 Q Where is that?

7 A Columbia, South Carolina, Mark Dial Drive.

8 Q Was Zinah living there?

9 A I don't know.

10 Q Was ^{Child} living there?

11 A I don't know.

12 Q So basically what you have told the jury is that
13 since ^{Child} was born, you have seen him three times?

14 A Yes.

15 MR. PRIDE: I have no further questions.

16 THE COURT: Redirect?

17 MS. GARFIELD: Nothing further.

18 THE COURT: Thank you, Ms. Mitchell. You may
19 step down.

20 THE WITNESS: Thank you.

21 (Witness leaves the witness stand.)

22 THE COURT: You may call your next witness.

23 MS. CAMPBELL: May it please the Court. The
24 State calls Yolanda Williams.

25 THE COURT: Ms. Williams, if you would come

1 around for us, please, and be sworn.

2 YOLANDA WILLIAMS, being
3 first duly sworn, testifies as follows:

4 CLERK: Have a seat in the witness stand,
5 please. State your full name for the record.

6 THE WITNESS: My name is Yolanda Williams.

7 **DIRECT EXAMINATION**

8 BY MS. CAMPBELL:

9 Q Ms. Williams, how old are you?

10 A I'm 23.

11 Q Where are you from?

12 A Columbia, South Carolina.

13 Q And how long have you been living here?

14 A All my life.

15 Q Where did you go to high school?

16 A A.C. Flora High School.

17 Q And at some point did you become friends with Zinah
18 Jennings?

19 A Yes.

20 Q And tell the jury how you became friends with her?

21 A I met her at summer school when we were going --

22 MR. PRIDE: Judge, if you would ask her to
23 talk up, please.

24 A When we were going towards the tenth grade, I met
25 her at summer school.

YOLANDA WILLIAMS -- DIRECT -- MS. CAMPBELL

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1 THE COURT: Can you hear, Mr. Pride?

2 MR. PRIDE: Yes, sir.

3 BY MS. CAMPBELL:

4 Q So the summer of the tenth grade?

5 A Yes.

6 Q Y'all were going where?

7 A We was at C.A. Johnson for summer school.

8 Q And did y'all develop some sort of friendship over
9 the years?

10 A Yes.

11 Q Are you currently employed?

12 A I am but I'm out right now.

13 Q Why are you out now?

14 A Because of my pregnancy.

15 Q And you aren't able to work at this time?

16 A No.

17 Q Why is that?

18 A Because of the pregnancy and my sickle cell
19 disease.

20 THE COURT: And what? I couldn't hear.

21 THE WITNESS: My sickle cell disease.

22 THE COURT: Thank you.

23 BY MS. CAMPBELL:

24 Q Where were you working?

25 A Agape Senior.

1 Q Once you finished high school, did you continue to
2 see Zinah on occasions?

3 A Yes.

4 Q And how often would you actually see Zinah?

5 A Frequent.

6 Q And did you become aware that she gave birth to a
7 son?

8 A Yes.

9 Q And did you know the son's name?

10 A Yes.

11 Q What was his name?

12 A Child

13 Q And did you continue, after Child birth, to see
14 Zinah on occasions?

15 A Yes.

16 Q Would it be as frequent as it was before that?

17 A No.

18 Q Why was that, ma'am?

19 A I'm not sure. I guess because I was working and
20 being a mother on my own. I was explaining when
21 you become a mother sometimes you --

22 COURT REPORTER: Wait a minute. I am not
23 hearing you.

24 BY MS. CAMPBELL:

25 Q Move up to the microphone a little bit. I know you

1 can't get too close.

2 A When you become a mother, you go your own route and
3 you focus on being a mother and working, but we did
4 keep in contact but we didn't see each other often.

5 Q And you have a child as well, another child?

6 A Yes.

7 Q How old is that child?

8 A He's five.

9 Q And then when is this baby due?

10 A October 20th.

11 Q What are you having?

12 A A girl.

13 Q But you did still keep in contact with Zinah
14 somewhat; is that correct?

15 A Yes.

16 Q In the fall of 2011, just last year, did you have
17 an occasion to see her?

18 A Yes.

19 Q And specifically I want to talk about the last time
20 you saw her. Where were you that day?

21 A I was at my grandmother house on Tree Street.

22 Q Do you remember what date it was when that
23 occurred?

24 A It had to be a day during the week.

25 Q During the week?

1 A I had to go pick my son up from school.

2 Q And if it was during the week, was it in October?

3 November? December? Do you remember?

4 A It was the beginning of December.

5 Q The beginning of December?

6 A Uh-huh. (Indicating affirmative response.)

7 Q And you were at your grandmother's house that day?

8 A Yes.

9 Q Were you expecting to see Zinah that day?

10 A No.

11 Q Do you remember the last time you had seen her
12 before that?

13 A No, I don't remember.

14 Q Had it been a while?

15 A Yes.

16 Q And that day when you were at your grandmother's
17 house, tell the jury what happened.

18 A She knocked on the door and I went to the door, and
19 it was her. We gave each other hugs because we
20 hadn't seen each other in a while. She told me to
21 come walk with her, and I asked where. She was
22 just like, Come walk.

23 My grandmother was like, Well, you have to go
24 get your son. Because my son, he was attending
25 Clemson Road Child Development. It's a distance

YOLANDA WILLIAMS -- DIRECT -- MS. CAMPBELL

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- 1 from Tree Street from that side of town.
- 2 Q Let me stop you for a second. Your grandmother's
- 3 house, what part of town is it located in?
- 4 A It's in the City, close to Gervais Street.
- 5 Q Were you aware of where Zinah was living?
- 6 A I think she was living with her mom.
- 7 Q And where is her mom's house located in reference
- 8 to your grandmother's house?
- 9 A They live maybe 10, 15 minutes away.
- 10 Q Ten to 15 minutes. Would that be walking or
- 11 riding?
- 12 A Riding, maybe riding ten minutes.
- 13 Q And that day she showed up at your grandmother's
- 14 house?
- 15 A Yes.
- 16 Q And were you expecting her?
- 17 A No.
- 18 Q Do you know how she knew you were there?
- 19 A I guess she saw my car outside.
- 20 Q Once she knocked on the door, what did she ask you
- 21 to do?
- 22 A To go with her somewhere; so we took a walk. She
- 23 said she was meeting someone. So we walked up to,
- 24 I think, that was off of Bradley and King Streets.
- 25 Q Bradley and King Street?

- 1 A Yes.
- 2 Q Here in the City of Columbia?
- 3 A Yes.
- 4 Q How long were y'all actually out there walking?
- 5 A Maybe a five to seven-minute walk from my
- 6 grandmother's to down there.
- 7 Q Whose idea was it to go on that walk that day?
- 8 A Zinah's.
- 9 Q And why did she tell you she wanted to go out
- 10 there?
- 11 A She said she had to meet someone to get something
- 12 from them. I don't know who it was.
- 13 Q While you were walking, did y'all have a
- 14 conversation?
- 15 A Yes.
- 16 Q That day when she showed up in early December at
- 17 your grandmother's house, did she have her child
- 18 with her?
- 19 A No.
- 20 Q And did you ask any questions about ^{Child} that day?
- 21 A Yes.
- 22 Q And tell the jury what you asked her about ^{Child}
- 23 A I asked her where ^{Child} was, and she stated he was
- 24 in Atlanta with her sister.
- 25 Q In Atlanta with whom?

YOLANDA WILLIAMS -- DIRECT -- MS. CAMPBELL

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1 A Her sister.

2 Q Did she say anything else about anybody?

3 A I asked her how her mom was doing, and she said her
4 mom --

5 MR. PRIDE: Judge, excuse me. Can we approach
6 the bench?

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, Mr. Pride.

12 Solicitor, you may continue.

13 BY MS. CAMPBELL:

14 Q On prior occasions prior to that day, had you and
15 Zinah ever had any discussions about her
16 relationship with her mother?

17 A Yes.

18 Q In what context were y'all having that discussion?

19 A She was stating that her mom doesn't really help
20 her with Child

21 Q And did you personally ever observe her mother
22 interact with Zinah and Child

23 A Yes.

24 Q What was the relationship like with her mother, as
25 far as her mother's willingness to help out?

1 A Well, one time when I visit their home to get a
2 charger that I left in her car, her mom was
3 cleaning him up from -- I guess he was eating
4 dinner or something or eating. To me it seemed
5 like she interact with him, but I was just being --
6 it was being told to me by her. So I really don't
7 know.

8 Q She told you something different from what you
9 observed?

10 A Yes.

11 Q That day in early December at your grandmother's
12 house, you mentioned that y'all were walking down
13 the street, and that's when she had the
14 conversation specifically about where the child
15 was?

16 A Yes.

17 Q And where did she tell you the child was?

18 A He was in Atlanta with her sister.

19 Q After y'all did your walking and everything, did
20 you ever meet up with the person she was supposed
21 to get something from?

22 A No.

23 Q What did you do?

24 A I walked back because I told her I had to leave at
25 2:00, no later than 2:15, to make it to his school

YOLANDA WILLIAMS -- DIRECT -- MS. CAMPBELL

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1 at 2:45. I don't know where she went. I left
2 before she left; so I don't know where she went.

3 Q When you left her, where was she?

4 A She was standing in front of my grandmother's
5 house.

6 Q And after that did you have anymore contact with
7 her?

8 A Once.

9 Q Did you ever see ^{Child} again?

10 A No.

11 Q And the last time that you actually saw ^{Child} was
12 when?

13 A I do remember her visiting me in December of 2010,
14 but I saw him once after that when I saw him at her
15 mom's house when I was getting my charger. That
16 had to be around maybe in -- I'm not sure if it was
17 April. I know it was before the summer.

18 Q The summer, that summer --

19 A -- before.

20 Q -- the summer before, before the time period we are
21 talking about?

22 A Before, in 2011. It was before the summer.

23 MS. CAMPBELL: Beg the Court's indulgence.

24 THE COURT: Yes, ma'am.

25 (Pause.)

1 BY MS. CAMPBELL:

2 Q When you stated that you had some more contact with
3 Zinah, that wasn't in person?

4 A No, it was over the telephone.

5 Q And at that point did she ever indicate to you
6 where ^{Child} was?

7 A I asked her and she said he was sleeping. So I
8 assumed that she was next to him, but I don't know
9 that.

10 Q And those conversations would have been sometime
11 shortly after December?

12 A Yes.

13 Q The first of December?

14 A Yes.

15 Q We are talking about last year?

16 A Yes.

17 Q And do you know anyone named Ernest Robinson?

18 A No.

19 Q Your relationship with Zinah, was it such that if
20 she asked you to help out with ^{Child} would you have
21 helped her?

22 A Yes.

23 Q Did she ever ask you?

24 A No.

25 Q Thank you.

CROSS EXAMINATION

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BY MR. PRIDE:

Q Ms. Williams, I read a statement that you gave in the file. It's dated the 31st of December. Is that about the time?

A Yes.

Q That appears to be correct?

A Uh-huh. (Indicating affirmative response.)

Q And who got in contact with you to give that statement?

A Officer Kelly.

Q Kelly?

A Uh-huh. (Indicating affirmative response.)

Q And how did Officer Kelly know to find you?

A Phone records.

Q Zinah had phoned you?

A Yes.

Q Had called you and they were checking Zinah's phone?

A Yes.

Q As a result of it, they talked with you; and that was on the 31st of December?

A Yes.

Q At times when you did see ^{Child} was he in good health?

1 A Yes.

2 Q Was he happy?

3 A Yes. Well, he was a baby; so yes.

4 MR. PRIDE: Thank you, Judge.

5 THE COURT: Redirect, Solicitor?

6 MS. CAMPBELL: No, sir.

7 THE COURT: Thank you. Thank you very much,
8 Ms. Williams. You may step down.

9 (Witness leaves the witness stand.)

10 THE COURT: Solicitor, you may call your next
11 witness.

12 MS. CAMPBELL: The State calls Pathenia
13 Starks.

14 Your Honor, may she be excused?

15 THE COURT: Mr. Pride?

16 MR. PRIDE: She can.

17 THE COURT: You may be excused, Ms. Williams.
18 Thank you for being with us.

19 PATHENIA STARKS, being
20 first duly sworn, testifies as follows:

21 CLERK: Have a seat in the witness stand,
22 please. State your full name for the record and spell
23 your first name.

24 THE WITNESS: Pathenia Starks,
25 P-A-T-H-E-N-I-A.

1 DIRECT EXAMINATION

2 BY MS. CAMPBELL:

3 Q Ms. Starks, where are you from?

4 A I'm from Columbia.

5 Q And how long have you been living in the Columbia
6 area?

7 A All my life.

8 Q Do you have a family?

9 A Yes.

10 Q And you have children?

11 A Just one.

12 Q Who is your child?

13 A Yolanda Williams.

14 Q The young lady who just testified?

15 A Yes, ma'am.

16 Q Are you employed?

17 A Yes, ma'am.

18 Q What do you do for a living, ma'am?

19 A I'm a medical secretary at Baptist.

20 Q At Baptist. How long have you been doing that job?

21 A For 16 years.

22 Q Do you know Zinah Jennings?

23 A Yes, ma'am.

24 Q And how do you know Zinah?

25 A I met Zinah through my daughter Yolanda.

1 Q And what type of relationship did Yolanda and Zinah
2 have over the years?

3 A They had a pretty close relationship. They were
4 friends.

5 Q Do you have any grandchildren?

6 A I have one.

7 Q And one on the way?

8 A And one on the way.

9 Q And I want to turn your attention back to last
10 fall. Did you have an opportunity to speak to
11 Zinah Jennings on the telephone?

12 A Yes, ma'am.

13 Q Do you remember approximately the first time you
14 talked to her last fall on the phone?

15 A It was like towards the end of November, the first
16 part of December, somewhere right up in there. I'm
17 not exactly sure.

18 Q But would it be safe to say it was after
19 Thanksgiving?

20 A Yes.

21 Q Tell the jury where you were when you received the
22 phone call?

23 A I was at home.

24 Q When you got the phone call, did you recognize the
25 voice?

- 1 A Yes, ma'am.
- 2 Q Who was on the phone?
- 3 A Zinah.
- 4 Q Was it unusual for her to call you?
- 5 A Well, since my daughter had moved out the house,
- 6 yes.
- 7 Q But she called you on this occasion. Had it been a
- 8 while since you had seen Zinah?
- 9 A Yes, ma'am.
- 10 Q Did you know she had a son?
- 11 A Yes, ma'am.
- 12 Q Did you know her son's name?
- 13 A Yes, ma'am.
- 14 Q What was that?
- 15 A Child
- 16 Q And had it been a while since you had seen him as
- 17 well?
- 18 A Yes, ma'am.
- 19 Q When you got that phone call and you recognized the
- 20 voice of Zinah, did she identify herself?
- 21 A No, because I knew who she was.
- 22 Q Tell the jury what the conversation was with Zinah
- 23 that day?
- 24 A She called and I was like, Hello, how are you? She
- 25 was telling me that she was at Bojangle's, that she

1 had a flat tire. She was waiting on the tow truck
2 to come.

3 I asked her, you know, did she want me to come
4 sit with her. She was like, No, the tow truck
5 should be there in a minute. I was like okay. We
6 talked a little after that. I asked her about
7 Child

8 Q What did you ask her about Child specifically?

9 A I asked her where Child was at.

10 Q Again, this phone call came. Do you remember what
11 day of the week it was?

12 A It was during the week. I knew I had to work that
13 night. So I want to say maybe -- I think it was
14 either a Tuesday or a Wednesday, somewhere up in
15 there.

16 Q This would have been at the end of November, early
17 December?

18 A Yes, ma'am.

19 Q And approximately what time of day was it she was
20 calling you?

21 A I know it was before -- it had to be before 2:00.
22 So I want to say like between mid morning, early
23 evening, somewhere around in there.

24 Q And you mentioned that you asked her about Child

25 A Yes, ma'am.

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1 Q And what did she tell you at that time?

2 A At that time she told me that he was traveling with
3 family.

4 Q Traveling with family?

5 A Yes, ma'am.

6 Q And did she elaborate any on what family he was
7 traveling with?

8 A No, ma'am, not at that time.

9 Q But she indicated he wasn't with her but with
10 family?

11 A Yes, ma'am.

12 Q As the conversation progressed, what happened?

13 A I just kept asking her did she want me to come sit
14 with her. She was like, No, the tow truck would be
15 there. We just talked. I told her I hadn't seen
16 her in a while. She told me that she loved me. I
17 told her I loved her back and, you know, it was
18 just making little small talk. That was it.

19 Q Once the conversation ended, what did you do?

20 A I got up and got in my car and went to Bojangle's
21 because, you know, I just -- I hadn't seen her in a
22 while, and I went up there to make sure she was
23 okay.

24 Q You were worried about her?

25 A Yes.

1 Q Did she tell you which Bojangle's she was at?

2 A She said that she was at the Bojangle's by my
3 house. I don't know if she was referring to my
4 house or, you know, whether she thought I was at my
5 mom's house. I don't know.

6 Q Did you go to the Bojangle's near your house?

7 A Yes, ma'am, I did.

8 Q When you got there, did you find Zinah?

9 A No, ma'am.

10 Q And at that point what did you do?

11 A I went back home.

12 Q Later did you also have another phone conversation
13 with Zinah?

14 A Maybe a week or two after that.

15 Q A week or two after that. So this would have been
16 in December?

17 A Yes, ma'am.

18 Q And where were you when you got that phone call?

19 A I was also at home.

20 Q And what was the conversation that you had with
21 Zinah in December?

22 A She just -- she called and she was like, Hey. I
23 was like, Hey, how are you? She just didn't seem
24 like herself. I asked her was she okay. She was
25 like, I'm fine. I asked her where she was at. She

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1 was just stating, I'm fine. That's all she would
2 say, I'm fine.

3 Q Did she tell you where she was?

4 A No, ma'am.

5 Q Did she ask you to do anything for her?

6 A No, ma'am.

7 Q Did you ask her any questions specifically about
8 the baby?

9 A I asked her at that time too where ^{Child} was and at
10 that time she told me that he was in Georgia with
11 her sister.

12 Q What else did you tell her that day?

13 A I just told her that, Don't let the new year come
14 in without me seeing him. Because I hadn't seen
15 him or her in a while and that I wanted her to
16 bring him by the house so that I could see the both
17 of them. She was like she would and that was the
18 end of the conversation.

19 Q So she stated that she would bring him by to see
20 you before the new year?

21 A Before the new year came, yeah.

22 Q Did she ever bring him by to see you?

23 A No, ma'am.

24 Q After the phone call ended -- was that the gist of
25 what was in y'all's conversation?

- 1 A Yes, ma'am.
- 2 Q After that what did you do?
- 3 A After that I had spoke with my daughter, you know,
4 and told her that I had had a -- that Zinah had
5 called me, and she was kind of shocked because I
6 was shocked when she called me.
- 7 Q Did you ever have a conversation after that second
8 phone call with Zinah's mother?
- 9 A I spoke to Miss Jocelyn about Zinah back -- I don't
10 know if it was after the second conversation. I
11 can't even remember. I can't.
- 12 Q You can't say what Ms. Jennings said to you, but
13 did you express concern to her?
- 14 A Yes, ma'am.
- 15 Q Thank you. Do you know any young man named Ernest
16 Robinson?
- 17 A No, ma'am.
- 18 Q If Zinah had come to you and your family, your
19 daughter, and asked for help with ^{Child} would y'all
20 have helped her?
- 21 A Yes, ma'am.
- 22 Q Did she ever ask?
- 23 A No, ma'am.
- 24 Q Thank you.
- 25 MS. CAMPBELL: I don't have anything further.

1 THE COURT: Cross?

2 CROSS EXAMINATION

3 BY MR. PRIDE:

4 Q When you spoke to Zinah over the phone and she
5 said -- she told you she had a flat fire; is that
6 correct?

7 A Yes, sir.

8 Q And when you offered assistance, she told you that
9 the tow truck was coming; is that correct?

10 A Yes, sir.

11 Q And notwithstanding the fact that -- she didn't
12 tell you to come down there; did she?

13 A No, sir, she didn't.

14 Q But when you got down there, she was not there?

15 A No, sir.

16 Q And you have told the solicitor that you had a
17 conversation with Zinah's mother; is that correct?

18 A I had spoke with Jocelyn once before about I was,
19 you know, worried -- well, me and my daughter both
20 was worried about Zinah.

21 Q Why were you worried? What were your concerns?

22 A She just didn't seem like herself, you know. The
23 last time that I spoke to her, she just didn't seem
24 like herself, kind of shied away. I am just used
25 to Zinah -- the Zinah I know, you know, would be

1 smiling. You know, you could hear it in her voice
2 and that type of thing, and she just seemed
3 distant. I was just worried about her.

4 Q You seem to describe her as being withdrawn. Is
5 that a fair statement?

6 A Like I said, I had not seen Zinah in a while.
7 Because after my daughter moved out, you know, of
8 course, the friends don't come in your house
9 anymore. So now that she has her own house, they
10 don't have no need to come to your house. To me
11 she just sounded like -- she just didn't sound like
12 herself.

13 Q Didn't sound like herself to you?

14 A Didn't sound like herself.

15 Q Did you tell her, Zinah, you don't sound like
16 herself? What's wrong?

17 A I just asked her, you know, what was wrong. I
18 just, you know, was trying to reach out to her
19 because, like I said, she just didn't sound like
20 herself.

21 Q When you told her, Zinah, you don't seem to be
22 right, what was her response?

23 A She said, I'm fine.

24 Q She said, I'm fine?

25 A She said, I'm fine.

1 Q Do you feel that she was close enough that if she
2 was having personal problems that she could confide
3 in you? Did y'all have that kind of rapport?

4 A Well...

5 Q That's a yes or no.

6 A I believe she could have.

7 Q You believe she could have. Now, when Zinah had
8 this flat tire, what month was that?

9 A That was -- like I said, it was the ending part of
10 November, the first part of December. I'm not
11 quite sure; but I do know it was after
12 Thanksgiving.

13 Q And before Zinah had the flat tire in the latter
14 part of November or the first part of December,
15 when is the last time you had seen ^{Child}

16 A The day after he was born.

17 Q That was the only time you had seen him?

18 A Yes, sir.

19 Q When did you -- I read from the investigation that
20 you gave a statement on or about the 31st of
21 December. Does that sound to be right to you?

22 A Yes, it was around about that time, I think.

23 Q The 31st of December, 2011; is that correct?

24 A Yes, sir, it was around about that time.

25 Q And how did you come to give this statement? Who

1 called you about it?

2 A My daughter was at my house when she got the phone
3 call from the police, I guess. That's when they
4 asked us to come down to the police department.

5 Q And that's when you gave your statement?

6 A Yes, sir.

7 MR. PRIDE: I have no further questions.

8 Thank you.

9 THE COURT: Thank you, Mr. Pride. Redirect,
10 Solicitor?

11 MS. CAMPBELL: No, sir.

12 THE COURT: Thank you. Thank you very much
13 for being with us, Ms. Starks. You may step down.

14 (Witness leaves the witness stand.)

15 MS. CAMPBELL: Your Honor, may she be excused
16 as well?

17 THE COURT: Any objections?

18 MR. PRIDE: None.

19 THE COURT: You may be excused, Ms. Starks.
20 You may call your next went.

21 MS. WALKER: Your Honor, the State calls
22 Christian Dickerson.

23 CHRISTIAN DICKERSON, being
24 first duly sworn, testifies as follows:

25 CLERK: Have a seat in the witness stand,

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1 please. State your full name for the record, and please
2 spell your first name.

3 THE WITNESS: My name is Christian Dickerson.
4 The first name is C-H-R-I-S-T-I-A-N.

5 DIRECT EXAMINATION

6 BY MS. WALKER:

7 Q Good morning, Ms. Dickerson.

8 A Good morning.

9 Q Where are you from?

10 A Greenville originally.

11 Q Did you move to Columbia at some point?

12 A Yes.

13 Q How old were you when you moved to Columbia?

14 A About six weeks old.

15 Q Did you go to middle school and high school here?

16 A Yes, I went to Hand and I also went to Dreher.

17 Q Did you meet Zinah Jennings while you were in
18 school?

19 A Yes, I met her in 2000 at Hand when we were in the
20 seventh grade. I became friends with her when we
21 were in about the eighth grade.

22 Q Did y'all become pretty close?

23 A Yes.

24 Q At some point did you even live with her and her
25 family?

- 1 A Yes, her mom and her took me in.
- 2 Q When you say took you in, what do you mean?
- 3 A My grandparents -- well, my grandmother was real
- 4 sick. She was no longer able to care for me and my
- 5 brother, and her mom took me in. My brother went
- 6 with my aunt.
- 7 Q How old were you when that happened?
- 8 A I was in the tenth grade at Dreher High School,
- 9 going into the tenth grade -- to the eleventh grade
- 10 from tenth grade; so I was about 16.
- 11 Q How long did you live with Zinah and her family?
- 12 A Maybe the max of six months.
- 13 Q At some point you left that home?
- 14 A Yes, I did leave the home.
- 15 Q Did you and Zinah remain close?
- 16 A Yes.
- 17 Q Do you have any children?
- 18 A Yes, I have two.
- 19 Q How old are they?
- 20 A My son is two and my daughter is two months.
- 21 Q Were you and Zinah pregnant with your sons around
- 22 the same time?
- 23 A Yes.
- 24 Q Did you know if Zinah planned her pregnancy?
- 25 A Yes, we both wanted to have a baby.

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1 Q You both wanted to have kids?

2 A Yes. We actually took our pregnancy tests
3 together.

4 Q Did Zinah ever tell you why she wanted to have a
5 baby?

6 A No, not exactly directly, kind of indirectly she
7 stated it.

8 Q What did she say indirectly?

9 A She stated that she thought if she had a baby, Rod
10 would appreciate her more. Things would be better
11 between them.

12 Q So she wanted to have a baby in order to improve
13 her relationship with Roderick Mitchell?

14 A That's what -- that was the impression that I got.
15 She didn't directly say that however.

16 Q Were you around Roderick when he and Zinah Jennings
17 were dating?

18 A Yes, I was around them very often.

19 Q At some point did Roderick and Zinah end their
20 relationship? Do you know?

21 A Yes.

22 Q Was that before or after ^{Child} was born?

23 A That was after.

24 Q Were you ever around ^{Child} Jennings?

25 A Yes.

1 Q Do you remember the first time you saw ^{Child}

2 A Yes. Zinah had came and got her hair done. I
3 asked her to bring ^{Child} I called to check
4 periodically on her after that point, and she
5 brought him one day to my home.

6 Q How old was ^{Child} when she brought him to your
7 house?

8 A He was a little over one. Him and my son are a few
9 months apart, and at the time my son was going on
10 two.

11 Q What time did ^{Child} and Zinah Jennings come to your
12 home?

13 A It was during the evening. Myself and three of my
14 other friends were there; so it was after about
15 5:00.

16 Q Why did you say she came to your house?

17 A I asked her to bring him. I was concerned about
18 her and him. Her character was a little different;
19 so I called and asked her could she bring him and
20 could she come over, did she want any company.

21 Q When she got there, how was ^{Child} doing?

22 A That was my first time being around him. He was
23 kind of bubbly to me. All he wanted to do was
24 play. Initially when they came in, he was up under
25 her.

1 Q Did he go play at some point?

2 A Yes. Well, she sent him to play.

3 Q When you said she sent him to play, describe that,
4 please.

5 A She sat him on the floor and she kicked him and
6 told him, Go play. He didn't move initially. She
7 kicked him again and told him to go play.

8 Q How old was he?

9 A He was over one but I don't know the exact month
10 age.

11 Q And he sat in the floor, was kicked in the back,
12 and told to go play?

13 A Yes.

14 Q When were y'all together? When did this happen?
15 About what time of year?

16 A This happened around September of 2011.

17 MR. PRIDE: Judge, can we approach?

18 THE COURT: Yes, sir.

19 (Whereupon there was a bench conference off
20 the record in the presence of the jury but out of the
21 hearing of the jury.)

22 THE COURT: Step out a minute, ladies and
23 gentlemen. Do not discuss the case during this brief
24 recess.

25 (The jury retires to the jury room.)

1 THE COURT: Mr. Pride, you had a matter?

2 MR. PRIDE: Yes, Judge. First of all, I would
3 appreciate it if you would sequester this witness while
4 I discuss this matter with you.

5 THE COURT: All right. Can she step out in
6 the hallway with the bailiff? Is that appropriate? Do
7 they allow that over here?

8 Have her step out in the hallway momentarily,
9 Mr. Bailiff. You remain with her, please.

10 BAILIFF: Yes, sir.

11 (The witness leaves the courtroom.)

12 THE COURT: What is your matter, Mr. Pride?

13 MR. PRIDE: Judge, the last testimony from
14 this witness was that the act of kicking ^{Child} in his
15 back was on September the 11th.

16 THE COURT: I thought the testimony was around
17 September of 2011.

18 MR. PRIDE: She said September 2011?

19 THE COURT: You can rely on my notes. Well,
20 let's rely on our court reporter.

21 MR. PRIDE: I think that's good enough. I
22 still have another objection.

23 THE COURT: Yes, sir.

24 MR. PRIDE: I think that before unindicted bad
25 conduct comes in on the part of Zinah Jennings, the

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1 foundation must be laid. The foundation has to be laid
2 that the acts occurred within the time span of the
3 indictment.

4 It is not sufficient to put a witness up there
5 and let the witness talk about the bad act and then say
6 what time did it occur and have the witness testify it
7 occurred around the first of December -- I mean -- the
8 first of September.

9 I think that is not an appropriate foundation
10 for that kind of testimony in this case against
11 Ms. Jennings. All I'm saying is that, you know, she has
12 got to establish, first of all, within the parameters of
13 the indictment. Once she does that, then she can go to
14 the bad acts.

15 But she is going to the bad acts, and then she
16 has the witness speculate that it was around the first
17 -- around December 2011. If it's on the second of
18 September, then it's out.

19 THE COURT: Are you suggesting, Mr. Pride,
20 that the solicitor should ask this question, for
21 example: I want to direct your attention to
22 September 17th of 2011. Did you see Ms. Jennings --
23 whatever day -- did you see Ms. Jennings on that
24 particular day?

25 MR. PRIDE: No. I'm suggesting this, that the

1 solicitor -- who am I to tell the solicitor how to try a
2 case? I am suggesting that the rules require that she
3 show that that conduct, that bad conduct on the part of
4 my client, occurred within the framework of the
5 indictment. Judge, you remember the one time I filed a
6 404(b) motion in limine?

7 THE COURT: Yes, sir.

8 MR. PRIDE: You sort of said, Mr. Pride, you
9 don't have to worry about that because I will confine
10 all of those acts within the framework on the
11 indictment. Therefore I said, That's fine with me. I
12 don't need a hearing.

13 Since we have said that, the only thing I'm
14 saying, Judge, is this: You have got to show the bad
15 acts to be within the framework before you show the bad
16 act. You have got to give me a date. That's the way it
17 goes.

18 THE COURT: Thank you. Thank you, Mr. Pride.
19 Solicitor?

20 MS. WALKER: Your Honor, the witness'
21 testimony was that the defendant kicked her son in
22 September of 2011. The indictment references from
23 September 1, 2011, through December 24, 2011. So
24 September of 2011 would be included in the indictment.
25 I'm confused as to what the objection is at this point.

1 THE COURT: I don't think he has an objection
2 on that at this point, that this conduct -- I agree with
3 you, Solicitor. I think Mr. Pride agrees with you --
4 that this conduct was within the time frame of the
5 indictment, the amended indictment. Is that correct,
6 Mr. Pride?

7 MR. PRIDE: That's right.

8 THE COURT: This was not an objection he
9 brought up at the bench. I think his position now is
10 before a witness is called to the stand to talk about
11 bad acts within that time frame of September 21st
12 [verbatim] to December 24, 2011, first you have to
13 determine that the conduct -- the bad conduct that you
14 are going to question a witness about -- occurred within
15 that time frame.

16 MS. WALKER: If I am to understand this
17 correctly, Your Honor, he has a specific order in which
18 he would like for me to ask questions: Date and then
19 incident?

20 THE COURT: If I am to understand his
21 position, Solicitor, that's my understanding of his
22 position.

23 Mr. Pride, perhaps you could enlighten the
24 Court.

25 MR. PRIDE: I think the Court has succinctly

1 stated my position. I don't know of anything I could
2 add to that.

3 THE COURT: Here is the issue. I guess trying
4 to look around the curve -- and I'm not really good at
5 that. I don't tell good trial lawyers how to try cases.
6 I don't tell any lawyers how to try cases. There are
7 good trial lawyers on both sides.

8 I guess the concern is that bad conduct comes
9 in and then it is not within the time frame of the
10 indictment. I'm assuming with good trial lawyers that
11 is not going to happen; that there is not going to be
12 any witness called that will testify to bad conduct that
13 is not within the time frame of the indictment.

14 MS. WALKER: Yes, Your Honor.

15 THE COURT: If that were to happen -- of
16 course, I can predict the future but just a little bit
17 of it -- but if that were to happen, then I'm sure
18 Mr. Pride would make a motion or several motions.

19 It's always very difficult -- although I would
20 rule at the time -- to unring the bell. So make sure
21 whatever the bad conduct is, it's within the confines of
22 the dates in the indictment. Thank you, Solicitor.

23 Anything further, Mr. Pride?

24 MR. PRIDE: Nothing further, Your Honor.

25 THE COURT: Solicitor, anything further?

1 MS. WALKER: No, Your Honor.

2 THE COURT: If you would bring us our witness
3 first, Sheriff. As soon as she is seated, you can bring
4 the jury.

5 (The witness returns to the courtroom.)

6 THE COURT: Mr. Bailiff, you may bring us our
7 jury.

8 (The jury returns to the courtroom.)

9 THE COURT: Ladies and gentlemen of the jury,
10 please continue to give the parties your complete and
11 undivided attention.

12 Madame Solicitor.

13 MS. WALKER: Thank you, Your Honor.

14 **DIRECT EXAMINATION**

15 BY MS. WALKER:

16 Q Before the time when you saw ^{Child} had Zinah come
17 to your house before?

18 A Yes, the one time she came and got her hair done.

19 Q And was she alone at that point in time?

20 A Yes.

21 Q When was this?

22 A It was during September as well, just prior to this
23 particular day.

24 Q September of 2011?

25 A Yes, it was early in the morning.

1 Q What time did she get there?

2 A It had to have been before nine because what we
3 were particularly doing, I asked her to come
4 earlier if she could.

5 Q Did she bring anything with her?

6 A Yes, she brought two 32-ounce beers with her.

7 Q While she was at your house, did y'all talk about
8 your kids?

9 A Yeah. I asked her how ^{Child} was doing, where was
10 he.

11 Q Could you speak up a little bit so we can make sure
12 that everybody can hear you.

13 A I asked her how he was doing, also where he was,
14 different questions.

15 Q What did she say about her son?

16 A She told me that she thought about throwing him out
17 the car and continuing on the highway. I said to
18 her at that point, you know, it can be
19 overwhelming. This is not something you think
20 about. She told me sometimes it feels more than
21 just overwhelming. From there she actually said,
22 Sometimes I think about giving him away.

23 Q Did that cause you to be concerned for ^{Child}

24 A Yes.

25 Q Then you said you saw her again in September after

1 that?

2 A Yes. That's when I started calling her. I called
3 her daily from that point since she left my house,
4 every day, to try to check on her and see how he
5 was; and I asked her to bring him over there.

6 Q And she did that?

7 A Yes.

8 Q And still in September of 2011 is when she put him
9 on the floor?

10 A Yes.

11 Q Kicked him?

12 A Yes.

13 Q Told him to go play?

14 A Yes.

15 Q At some point on that day, did she and ^{Child} leave
16 your home?

17 A Yes.

18 Q Where was ^{Child} when he was playing?

19 A He was in my son's room. Him and my son were
20 playing together.

21 Q Were y'all in the same room, you and Zinah?

22 A No, we were actually in the living room.

23 Q Did Zinah say anything when she got ready to leave?

24 A She said they were about to go because he was
25 getting on her nerves.

1 Q Had he been anywhere around her?

2 A No, he was in the room.

3 Q And that was the last time you have seen ^{Child}

4 A Yes.

5 MS. WALKER: Beg the Court's indulgence.

6 THE COURT: Yes, ma'am.

7 (Pause.)

8 BY MS. WALKER:

9 Q When Zinah said she thought about giving him away
10 or throwing him out of the window, did she ever say
11 anything about selling her son?

12 A Yes.

13 Q What did she say?

14 MR. PRIDE: Judge, I have to object to the
15 form of the question. That didn't come from the
16 witness. I object.

17 THE COURT: Just restate the question,
18 Solicitor.

19 BY MS. WALKER:

20 Q Did she say any additional things about her son?

21 A Yes, she said many statements. She told me she
22 thought about selling him. She thought about
23 giving him away and his check. I didn't -- that's
24 for the most part what she said in that particular
25 statement.

1 Q Thank you.

2 MS. WALKER: No further questions.

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

4 **CROSS EXAMINATION**

5 BY MR. PRIDE:

6 Q Ms. Dickerson, I want to show you a document and
7 ask if you can identify it.

8 MR. PRIDE: May I approach the witness, Judge?

9 THE COURT: Certainly, yes, sir.

10 BY MR. PRIDE:

11 Q (Hands to witness.)

12 A Yes, this is my statement.

13 Q Would you tell the jury what date is on that
14 statement?

15 A The 26th of January, 2012.

16 Q It's at the very top.

17 A The 26th of January, 2012.

18 Q And how did you -- who came to you to take this
19 statement from you?

20 A Officer Kelly.

21 Q And how did he know to come to you?

22 A I don't know the exact person, but someone informed
23 him of something I said to them. They called my
24 phone. I don't even know how they got my phone
25 number.

- 1 Q Officer Kelly called your phone?
- 2 A Yes.
- 3 Q Then he asked you what was your name?
- 4 A Yes.
- 5 Q And your address?
- 6 A Yes.
- 7 Q As a result of that call, he came out to see you?
- 8 A Yes.
- 9 Q And he came out to see you because ^{Child} was
- 10 missing?
- 11 A Yes, and also because someone said something I told
- 12 them.
- 13 Q Told who? Somebody else?
- 14 A I'm not sure. They never did tell me. They just
- 15 came to me because my name came up.
- 16 Q What I'm getting at is they came out to see you
- 17 because ^{Child} was missing, and they were conducting
- 18 an investigation; is that not correct?
- 19 A Yes.
- 20 Q And when they came to see you, they began to ask
- 21 you questions which resulted in your giving this
- 22 statement; is that correct?
- 23 A Yes.
- 24 Q On the 1st of January, 2012 [verbatim]. The things
- 25 that you gave on this statement they were notarized

- 1 and they are true; is that correct?
- 2 A Yes.
- 3 Q You have also told the jury that -- where are you
- 4 from?
- 5 A Originally I was born in Greenville, but I was
- 6 raised here.
- 7 Q And at what age did you come to Columbia?
- 8 A When I was six weeks old.
- 9 Q Did you come with your mother?
- 10 A No, I was actually adopted.
- 11 Q Adopted?
- 12 A Yes.
- 13 Q Were you raised in your adopted home?
- 14 A I was raised by my grandparents, my adoptive
- 15 parents.
- 16 Q Here in Columbia?
- 17 A Yes.
- 18 Q And you went to high school?
- 19 A Yes.
- 20 Q Where did you go to high school?
- 21 A Dreher High School.
- 22 Q Did you know Zinah then?
- 23 A Yes.
- 24 Q At some point in time during your relationship with
- 25 Zinah, you have told the jury that you came to live

1 in Zinah's house with her mother?

2 A Yes.

3 Q And how long did you live with them?

4 A I don't know the exact length of time but not
5 exceeding a six-month time period.

6 Q A six-month time period. What was your relation
7 with Zinah's mother?

8 A She was someone I appreciated. She did something
9 for me. As far as the relationship, it wasn't --
10 it was like more so Miss Jocelyn. I called her
11 mom though, but she preferred me calling her
12 Miss Jocelyn.

13 Q Miss Jocelyn had rules in her house; didn't she?

14 A Yes.

15 Q Would you say she was strict, Miss Jocelyn?

16 A Yes.

17 Q And at some point in time, Miss Jocelyn felt like
18 you weren't abiding by her rules, and she asked you
19 to leave; didn't she?

20 A Yes.

21 Q You were not expecting her to ask you to leave;
22 were you?

23 A No.

24 Q And when you left where did you go?

25 A I went to a girlfriend's house of mine who I was

1 actually dating in high school.

2 Q And how old were you then?

3 A I was 16.

4 Q Sixteen years old. And at that time you had no
5 children; right?

6 A No.

7 Q Now, Zinah continued her friendship with you,
8 notwithstanding the fact that you were no longer
9 staying with them?

10 A Correct.

11 Q And in your statement you recognized the fact --
12 you state that you knew there was a relationship
13 between Rod and Zinah?

14 A Yes.

15 Q And I think you identified the relationship as
16 Zinah being in love for the first time? Would that
17 not be correct?

18 A Yes.

19 Q Was Zinah sort of sheltered as a girl?

20 A Yes.

21 Q Was she -- she didn't have a lot of street sense;
22 did she?

23 A No.

24 Q And she had not been exposed to that way of life;
25 had she?

- 1 A No.
- 2 Q And would it be fair to say that Zinah was also a
3 bit naive?
- 4 A Yes.
- 5 Q Would it also be a fair description to say that she
6 fell head over heels in love with Rod?
- 7 A Yes.
- 8 Q And you also described your relationship with Rod;
9 is that correct?
- 10 A Yes.
- 11 Q Did you have sex with Rod?
- 12 A No.
- 13 Q Did he want to?
- 14 A He came on to me at a party.
- 15 Q And was that during the time that he was dating
16 Zinah?
- 17 A Yes.
- 18 Q Did you tell Zinah that he came on to you?
- 19 A I told her immediately at that point.
- 20 Q And also did you -- did you just not be acceptable
21 to Rod's approach or did you call it to his
22 attention, Hey, man, that ain't me?
- 23 A I actually told him and told her after. I actually
24 informed him I told her what happened.
- 25 Q And how did Zinah take that?

1 A She seemed to be upset initially --

2 Q Go ahead. I'm sorry. She seemed to be upset?

3 A She seemed to be upset initially.

4 Q And when did this occur?

5 A It occurred at a pool party we were having before
6 we both had our kids.

7 Q When I say when, what year?

8 A It was actually in 2008, maybe 2009.

9 Q So Zinah didn't even have the baby then; did she?

10 A No.

11 Q Do you remember did you ever live with Zinah and
12 Rod?

13 A No, I used to go over there often.

14 Q Would you spend the night?

15 A Yes, I have before.

16 Q And when you spent the night, it was just the three
17 of you in the apartment; is that correct?

18 A Yes.

19 Q And Rod worked late at night. How did Rod work?
20 Excuse me.

21 MS. WALKER: Your Honor, may we approach?

22 THE COURT: Yes, ma'am.

23 (Whereupon there was a bench conference off
24 the record in the presence of the jury but out of the
25 hearing of the jury.)

1 THE COURT: Thank you. Thank you very much,
2 Mr. Pride.

3 BY MR. PRIDE:

4 Q Now, did you -- when Zinah got pregnant, was it
5 during a period of time when you would spend the
6 night over there sometimes?

7 A No.

8 Q Zinah was not pregnant during that time?

9 A No.

10 Q When was that that the three of you would be in the
11 same apartment and you would spend the night? What
12 year was that?

13 A That was in 2009.

14 Q In '09?

15 A Yes, the beginning of 2009.

16 Q Do you know when Zinah got pregnant?

17 A It was after that. I don't know the exact date. I
18 know when she took her pregnancy test at that
19 point, she wasn't pregnant.

20 Q And you have testified that Zinah told you that she
21 wanted to get pregnant from Rod?

22 A Yes.

23 Q And she felt that -- based on your testimony --
24 that if she got pregnant from Rod, she would be
25 able to claim him or possess him or control him a

1 little bit more? Is that a fair statement?

2 A Yes.

3 Q When she told you that she wanted to get pregnant
4 from Rod, did you give her any advice?

5 A No.

6 Q Was there any discussion about that?

7 A I asked her was she sure she wanted to do something
8 like that.

9 Q And what was her response?

10 A She really didn't have a direct response. It's
11 kind of like she brushed the question off, and I
12 just made a statement as though when you have a
13 child, a lot of things are going to change.

14 Q And how old are you?

15 A I'm 23.

16 Q Twenty-three?

17 A Yes.

18 Q Were you pregnant at that time?

19 A No.

20 Q How old are your children?

21 A My son is two and my daughter is two months.

22 Q Two months. When Zinah got pregnant, was Zinah
23 working?

24 A Yes.

25 Q Where was she working?

1 A To my understanding at Hardee's. That's what she
2 told me.

3 Q And I think on your statement, you also said she
4 was in school too at that time?

5 A Yes.

6 Q And do you remember when Child was born?

7 A No, I didn't actually know anything about him being
8 born. I wasn't talking to her at that point.

9 Q When is the first time that you saw Child

10 A The first time that I saw Child was actually on a
11 picture she showed me. Person wise, in person, was
12 September.

13 Q Tell me, when is the first time she showed you a
14 picture of Child

15 A We actually were on a cell phone, and she sent me a
16 picture of him.

17 Q When was that?

18 A That was about two months before September. I
19 don't know the exact date, but I asked her how he
20 was doing, you know, could I get a picture, could I
21 see him, and she sent me a picture.

22 Q And you said that there was a period of time that
23 you and Zinah did not see each other, and you were
24 not as close as you were before? Is that a fair
25 description of the relationship between the two of

1 you?

2 A Yes.

3 Q What caused that severance of the relationship?

4 A When Rod had came on to me and I told Zinah, I told
5 Zinah about it, she portrayed to me as though she
6 did believe me; but after a time period, she
7 actually stated she felt like I wanted him.

8 So I kind of cut my ties with dealing with her
9 as much because I kind of felt uncomfortable in the
10 situation. So I stopped really talking to her as
11 much because I would have to call his phone to talk
12 to her. At that particular time, she didn't have a
13 phone.

14 Q She didn't have a phone?

15 A Yeah.

16 Q You all became separate in terms of your
17 relationship shortly after you were spending time
18 with them together, the three of you, in the
19 apartment too; is that correct?

20 A Yes.

21 Q Now, when is the first time you actually physically
22 saw ^{Child}

23 A September of 2011.

24 Q September. And that was when she brought him over
25 to your house?

1 A Yes.

2 Q And primarily if I understand you, she brought him
3 over there because she was getting her hair done
4 and you were fixing her hair?

5 A No, not that particular time. Child was at day care
6 that time. I asked her to bring him a separate
7 time.

8 Q Wait a minute now. Did you fix her hair before you
9 met Child or after you met Child

10 A Before.

11 Q Before you met Child

12 A Yes.

13 Q And I assume while you were fixing -- I mean, when
14 you met him, that was the time that Zinah came
15 wherever you were living?

16 A Yes.

17 Q And your two -- just one child was there; is that
18 correct?

19 A Yes.

20 Q Were there any other children?

21 A Yes.

22 Q Whose children were there?

23 A My godsister's daughter. I was babysitting her as
24 well.

25 Q How many adults were there?

1 A Just me and Zinah.

2 Q You and Zinah. The children were in one room
3 playing, and you and Zinah were in another room
4 talking? Is that a fair statement?

5 A Yes.

6 Q Tell the jury, did Zinah kick Child to the extent
7 that Child cried or yelled or screamed?

8 A No, he just moved away.

9 Q Did she kick him brutally?

10 A Yes.

11 Q Did she kick him to hurt him in your opinion?

12 A Yes.

13 Q Why was she kicking him?

14 A I'm not sure. She just told him to go play.

15 Q Did you ask her, Zinah, why did you kick Child like
16 that? Or why do you do things? Did you ask her
17 that?

18 A No, I just grabbed Child and said, Come on. Let's
19 go play.

20 Q I thought you said she kicked him and Child went,
21 but she kicked him, and you went and grabbed him?

22 A No. After the second time she kicked him, he moved
23 away some. I went and grabbed him and said, Come
24 on. Let's go play, and I showed him to my son's
25 room.

- 1 Q So she kicked him more than once?
- 2 A Yes.
- 3 Q And did she kick him with the front of her foot,
- 4 like that (indicating)?
- 5 A Yes.
- 6 Q Did she kick him in the butt?
- 7 A No, it was in his back. He was sitting on his
- 8 behind.
- 9 Q He was sitting on his behind, and she kicked him --
- 10 was she standing up?
- 11 A No, she was sitting down.
- 12 Q She was sitting down. She kicked him. Did she
- 13 kick him one, two times like that?
- 14 A She kicked him once initially and told him go to
- 15 play. When he didn't move, she kicked him again
- 16 and said, Go play.
- 17 Q Did she push him also?
- 18 A No.
- 19 Q And when she kicked him the second time, according
- 20 to you, you went and picked him up and guided him
- 21 into the room where the children were playing?
- 22 A Yes.
- 23 Q And what happened after ^{Child} and Zinah -- what
- 24 happened after ^{Child} went into the room to play with
- 25 the children? What did you and Zinah do?

1 A We went on the porch and talked because we also had
2 three other of my friends that were there. Me and
3 her went on the porch and talked.

4 Q You had three other of your friends that were
5 there?

6 A Three of my friends, yes. One friend was Zinah's
7 friend from high school as well, but the other two
8 were friends of mine.

9 Q I thought you told me that there were only two
10 adults there, you and Zinah?

11 A Not when she brought ^{Child} When she came and I did
12 her hair, it was just her and I.

13 Q I got you. So the two of you went on the porch and
14 talked?

15 A Yes.

16 Q What did you talk about?

17 A I asked her where she stayed, how was she doing.
18 She told me that she was staying in a place near
19 her mom's house. I asked her how was she able to
20 stay there because I knew she wasn't working at the
21 time. She said Rod paid the bills.

22 Q And that was in September of 2011 that this
23 conversation took place?

24 A Yes.

25 Q And she said that she was staying in a place near

1 where?

2 A Near her mom's house, close to where she originally
3 stayed. She didn't tell me the exact street and
4 where it was.

5 Q And she said Rod was paying the bills?

6 A Yes.

7 Q What else did the two of you talk about?

8 A We talked about the fact, you know -- about the car
9 she was driving. I liked the car. We talked about
10 my friends who were inside, their cars out in front
11 of the house.

12 I asked her where she got her car from. She
13 said, you know, she had got it from a lot. We
14 talked about how much she put down. We talked
15 about Rod and his relationship currently, how he
16 was dating her cousin. She expressed that to me.

17 Q That Rod was dating her cousin?

18 A Yes.

19 Q Who is Zinah's cousin that Rod was dating?

20 A She said it was Jordan.

21 Q Jordan?

22 A Yes. We went to high school with her.

23 Q Jordan lives here in Columbia?

24 A Yes.

25 Q So she told you that Rod was paying her rent down

1 there and that Rod was also dating her cousin
2 Jordan?

3 A Yes.

4 Q And what else did the two of you talk about?

5 A We mostly went around in a circle discussing Rod
6 and Jordan's relationship; but other than that, we
7 didn't actually discuss anything else. We more so
8 concentrated on that.

9 Q What were you concentrating on about the
10 relationship between Rod and Jordan?

11 A She was basically expressing how upset she was
12 about it, the fact that how could Jordan do that to
13 her; that she talked to Jordan; that she had talked
14 to Rod.

15 But other than that she basically kept saying
16 the same things, just in different ways and
17 repeating herself about the statement that she had
18 previously made.

19 Q Did she cry?

20 A No.

21 Q Well, you say she was upset. I assume that you
22 discerned that from her facial expressions if she
23 didn't cry and the way she was acting? Is that a
24 fair statement?

25 A Yes.

1 Q And how long do you think that that conversation
2 took place outside?

3 A It wasn't longer than ten minutes, if that. We
4 actually went back inside because my son was trying
5 to come outside; so I went back inside.

6 Q And did Zinah go back inside with you?

7 A Yes.

8 Q And after you got back in the house, what did the
9 two of you do then?

10 A We sat down for about a couple of minutes at the
11 most. That's when she actually said that she was
12 about to leave because ^{Child} was getting on her
13 nerves.

14 Q You have told the jury that Zinah said that she
15 would drive down the road and throw ^{Child} out the
16 car; is that correct?

17 A Yes.

18 Q When did that conversation take place?

19 A When I did her hair.

20 Q So that was a different time?

21 A Yes.

22 Q So on the occasion that ^{Child} came with Zinah, the
23 only thing that happened on this occasion was you
24 say that you saw Zinah kick him twice in the back?

25 A Yes.

1 Q Did she make any conversation or have any
2 conversation with you about Child

3 A No, not that particular time.

4 Q I assume that most of her conversation was about
5 Rod and Jordan, as you have explained to me; is
6 that correct?

7 A Yes.

8 Q Now, the second time that Zinah came, you have told
9 the jury that she did not have Child with her; is
10 that correct?

11 A Yes, but that was the first time now.

12 Q I am turned around. That was the first time. So
13 the first time she came, she didn't have Child with
14 her?

15 A No.

16 Q And she came primarily to have her hair done?

17 A Yes.

18 Q And during the time that you were doing her hair is
19 when she disclosed to you that she would throw Child
20 out of the window of the car; is that correct?

21 A Yes.

22 Q And tell us exactly what brought that conversation
23 up?

24 A I actually asked her how she liked being a mom. I
25 know she had wanted to be a mom. She said it was

1 nothing like she expected; that sometimes she
2 thinks about throwing him out of the car on the
3 highway. I said to her, You can't feel like that.
4 This is overwhelming. She said she feels like it
5 was more than just being overwhelmed.

6 Q And is that all she said? I feel like it's being
7 more than being overwhelmed?

8 A I mean, we continued to talk about it. I actually
9 told her, I said, It can be hard because when you
10 have a child, you give up your life for theirs; but
11 you always can go to different people. It's not
12 hard. She said it is a lot harder than what she
13 thought it would be.

14 She went into actually discussing all the
15 things she has to pay for, and she didn't have
16 help. From there we actually continued the
17 conversation.

18 She said that sometimes she thinks about
19 giving him away. I said, Zinah, that's your baby.
20 You can't feel that way about him. She said she
21 couldn't explain how she was feeling on the inside.

22 Q Okay. When did this conversation take place in
23 terms of the date?

24 A This happened in early September.

25 Q In early September?

1 A Yes.

2 Q So both events happened in early September?

3 A Yes.

4 Q So according to you Zinah said she was tired
5 because she was overwhelmed and that she was
6 thinking about selling him; is that correct?

7 A Yes.

8 Q She also told you that she was tired of ^{Child} and
9 overwhelmed and that she thought about throwing him
10 out the window?

11 A Yes.

12 Q Did you believe her?

13 A Honestly, no.

14 Q You thought she was just fat mouthing?

15 A I thought she was just stressed out.

16 Q Stressed out?

17 A And it was more of her stress speaking.

18 Q So when she said that she would throw the baby out
19 of the window, you didn't think that she was
20 serious?

21 A I didn't want to think she was serious. I thought
22 she was just stressing. It was more so not
23 speaking from the brain, it was speaking from being
24 stressed out, being overwhelmed, and taking care of
25 him.

1 Q When she said that she wanted to give the baby
2 away, do you think she was telling the truth or she
3 was just talking and she was stressed out?

4 A I didn't think she wanted to handle the
5 responsibilities anymore, but I didn't think she
6 was actually going -- or possibly a case for
7 hurting him in any kind of way. I would think she
8 would give him away rather than hurt him, but I
9 just think the responsibilities were actually
10 getting to her.

11 Q During this period of time we are talking about,
12 did Zinah have help from her mother?

13 A Yes, she actually called her mom while she was
14 there for him to be picked up by her mom from day
15 care.

16 Q That's right. She called her mom on the phone and
17 said, Mom, go pick ^{Child} up from the day care; is
18 that correct?

19 A Yes.

20 Q And during that time in September, are you sure
21 that Zinah was living in a place where Rod was
22 paying her rent or could she have been living with
23 her mother?

24 A After I spoke to a friend after the incident,
25 expressing my concern about her character, they

1 actually told me she was staying with her mom. But
2 she didn't ever tell me that she was actually
3 staying with her mom.

4 Q So when she told you that she was living in a place
5 and Rod was paying the rent, you subsequently were
6 able to find out that that was not true? That
7 Zinah was living with her mother?

8 A Yes.

9 Q And you have described Ms. Jennings for us in your
10 previous testimony, but I would ask you: Was
11 Ms. Jennings a loving grandmother?

12 A Yes.

13 Q And did Ms. Jennings -- did you observe
14 Ms. Jennings help Zinah with Child

15 A Yes, it seemed like she was very well. When she
16 called just initially, she said, Yeah, you know,
17 and the call ended.

18 Q And when you testified that you saw Zinah kick Child
19 twice, as you testified, did he cry?

20 A No, he just made a squinting noise. He didn't
21 actually verbally cry.

22 Q Did Zinah have on shoes?

23 A Yes, she had on some wedge heels.

24 Q Do you think she kicked him out of anger or do you
25 think that she kicked him just moving him on, and

1 that was an inappropriate way to do it?

2 A I don't know why she kicked him. I don't have a
3 believable reason. I didn't feel like it was a
4 reason.

5 Q Thank you very much.

6 THE COURT: Redirect, Solicitor?

7 MS. WALKER: Yes, Your Honor.

8 **REDIRECT EXAMINATION**

9 BY MS. WALKER:

10 Q Mr. Pride asked you about where you went to high
11 school. You said that was Dreher?

12 A Yes.

13 Q Did you know an Ernest Robinson at Dreher High
14 School?

15 A Not by name. The name sounds familiar, but I can't
16 put a face with the name.

17 Q Not from Dreher?

18 A No.

19 Q He also asked you about when you were asked by
20 Jocelyn Jennings to leave the home after they had
21 taken you in?

22 A Yes.

23 Q Tell the jury what happened.

24 A Me and Zinah both were acquainted or we worked with
25 the basketball team. She worked with the boys; I

CHRISTIAN DICKERSON -- REDIRECT -- MS. WALKER

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1 worked with the girls. So we would stay late for
2 basketball games.

3 After that particular game, we went to a
4 friend's house that used to go to Dreher. She had
5 moved. When we went to her home, it was actually
6 marijuana there.

7 Initially, I had a funny feeling in my
8 stomach. So I asked Zinah could we leave because I
9 knew that something bad was going to happen. So we
10 stayed a little bit. She smoked. I actually hit
11 it as well.

12 When we went to her mom's house before we got
13 there, she called her mom and said that the game
14 had ran into overtime. By this time it was almost
15 12:00.

16 I asked her why did she tell her mom something
17 like that. No game is lasting that long, period.
18 When we got in the home, Zinah went, you know, and
19 talked with her momma. She regularly would. I
20 went straight upstairs.

21 I heard her mom call for me to come
22 downstairs. When I came down, she asked me where
23 we had been. She continued to ask me. I didn't
24 say anything because I felt like it wasn't my
25 place. I didn't want to get Zinah in trouble.

1 So when she asked again, I just went ahead and
2 told her because it was obvious we weren't at the
3 game. Her mom told me she felt like, you know, I
4 was negatively influencing Zinah, and she told me I
5 needed to leave.

6 I told her that, you know, I couldn't control
7 what Zinah had done. I wasn't the one driving. I
8 even asked her could we go ahead and go home. Her
9 mom was very strict. She was not slow at all as
10 well.

11 So her mom proceeded to say that I still
12 needed to leave. She also told me, Don't expect
13 Zinah to tell me the truth. I have to stand up and
14 tell the truth. So I told her where we had been
15 and how long we were there.

16 Q Her mother said what?

17 A Don't expect Zinah to admit and tell the truth to
18 me.

19 Q Did you ever hear Zinah speak about Ernest
20 Robinson?

21 A No.

22 MS. WALKER: No further questions.

23 THE COURT: Recross?

24 MR. PRIDE: Indulge me a moment, Judge.

25 THE COURT: Yes, sir.

1 (Pause.)

2 **RECROSS EXAMINATION**

3 BY MR. PRIDE:

4 Q When you and Zinah came home that night, you were
5 coming from a basketball game at first; right?

6 A When we came home, we were coming from someone
7 else's house.

8 Q Well, you were at a basketball game that night?

9 A Yes.

10 Q And after the basketball game, rather than coming
11 straight home, you and Zinah went somewhere else;
12 is that correct?

13 A Yes.

14 Q And you have told the jury as a result of that, you
15 came home much later than you should have and that
16 Ms. Jennings, Zinah's mother, was upset; is that
17 correct?

18 A Yes.

19 Q And that Ms. Jennings talked to Zinah and then she
20 talked to you; is that correct?

21 A She talked to us together.

22 Q Talked to you together. Did Zinah tell her
23 mother -- what did you hear Zinah say?

24 A She didn't say anything.

25 Q She wouldn't answer her mother?

1 A She kept telling her we were coming from the game.
2 Besides that, we told her we stopped at McDonald's.
3 Other than that, she didn't say anything else.

4 Q So basically Zinah didn't tell her mother the
5 truth?

6 A No.

7 Q And then her mother turned to you and said, Where
8 were you?

9 A Yes.

10 Q And ultimately you are telling the jury you told
11 Zinah's mother where you had been and what had
12 happened?

13 A Yes.

14 Q And as a result of that, Ms. Jennings felt that you
15 were a bad influence on Zinah and asked you to
16 leave?

17 A Yes.

18 Q Thank you very much.

19 THE COURT: Thank you. Thank you very much,
20 Ms. Dickerson. You may step down.

21 (Witness leaves the witness stand.)

22 MS. WALKER: Your Honor, may the witness be
23 excused?

24 THE COURT: Any objection?

25 MR. PRIDE: None.

1 THE COURT: You may be excused, Ms. Dickerson.
2 Thank you for being with us.

3 How long is your next witness?

4 MS. GARFIELD: Maybe 10 or 15 minutes. This
5 will involve the video, Judge, one of the videos.

6 THE COURT: Why don't we take a recess now if
7 we are getting into that. A good trial judge told me
8 one time that good trial lawyers can't estimate time
9 anyway. I know none of y'all can estimate time.

10 MR. PRIDE: What Court was that, Judge?

11 THE COURT: George Bell Timmerman, the
12 Honorable George Bell Timmerman.

13 With that being said, ladies and gentlemen, I
14 believe we will take our luncheon recess at this time.
15 As I told you yesterday before the week is out, I am
16 sure you will be able to repeat these instruction back
17 to me, but I am required to instruct you each and every
18 time.

19 Remember, you may not discuss this case with
20 others. That includes your fellow jurors, lunch mates,
21 family, friends, or anyone else. Do not read, watch, or
22 listen to any news report about the case. Do not use
23 your computer or cellular phone to search for any
24 information that is prohibited, which includes but is
25 not limited to the following:

1 Information about a party, a witness, an
2 attorney, or a court officer, news account of the case,
3 information collected through juror research on any
4 topics raised or testimony offered by any witness or
5 information collected through juror research on any
6 other topic that the juror might think would be helpful
7 in deciding the case.

8 Remember, you must decide the case based on
9 the evidence and testimony presented in the courtroom
10 from the witnesses testifying under oath and the law as
11 I tell you the law is.

12 Do not begin your deliberations until you have
13 heard all the evidence, all the testimony, the closing
14 arguments of the attorneys, and the instruction on the
15 law by the Court.

16 With that being said, I am going to excuse you
17 for your luncheon recess and ask you to please be back
18 at 2:15. Please be back promptly at 2:15. I hope y'all
19 have a pleasant lunch. You may leave your notes
20 upside-down on your chair.

21 (The jury is excused for lunch at 12:50 P.M.)

22 THE COURT: Anything further from the State,
23 Solicitor?

24 MS. GARFIELD: No, sir.

25 THE COURT: From the defense?

1 MR. PRIDE: Nothing, Your Honor.

2 THE COURT: Thank you. We will be in recess
3 until 2:15.

4 (Whereupon there is a luncheon recess.)

5 THE COURT: Just for a quick review before we
6 bring in the jury, as far as the spectators in the
7 courtroom, please remember, I do not allow any movement
8 in or out of the courtroom while the witness is on the
9 witness stand.

10 You may certainly leave after the direct
11 examination of a witness by the solicitor, before
12 Mr. Pride begins his cross examination, or you may leave
13 when we change from one witness to another.

14 If you do leave, you will have to remain
15 outside until the next witness is called. As I have
16 said several times, of course, if you have some type of
17 emergency, the bailiff has my permission to use his
18 discretion.

19 Anything before we bring in our jury from the
20 State, Solicitor?

21 MS. GARFIELD: No, sir.

22 THE COURT: From the defense, Mr. Pride?

23 MR. PRIDE: Nothing from the defense, Your
24 Honor.

25 THE COURT: You can bring the jury.

1 (The jury returns to the courtroom at
2 2:18 P.M.)

3 THE COURT: Madame Forelady, ladies and
4 gentlemen of the jury, welcome back. I hope y'all had a
5 pleasant lunch. Before I have the solicitor call her
6 next witness, I would like to make one observation.

7 I noticed upon my return -- I went out into
8 what I call the real world -- I went out through the
9 lobby today and came back through the first floor lobby.
10 There was a number of citizens sitting on the benches
11 that would be out to my left on the second floor lobby.

12 I do not want any jurors sitting in that area.
13 Upon your return if you would come straight on back and
14 be escorted through the door and back to your jury room.
15 Please do that.

16 You never know what you might be exposed to by
17 way of somebody making a statement. It could be a very
18 innocent statement that you could overhear in some
19 manner; so if you would just come on back.

20 Also, if you would wear your badges at all
21 times in and around the courthouse and the grounds of
22 the courthouse. Therefore members of the public should
23 at least be on some time of implied notice not to speak
24 with you. That's not by way of complaint against any of
25 y'all whatsoever in any manner. It's kind of a

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1 remainder.

2 With that being said, Solicitor, you may call
3 your next witness.

4 MS. GARFIELD: Thank you, Your Honor. The
5 State calls Kristen Knight.

6 KRISTEN KNIGHT, 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 and please
10 spell your first name.

11 THE WITNESS: Kristen Knight. That's
12 K-R-I-S-T-E-N.

13 **DIRECT EXAMINATION**

14 BY MS. GARFIELD:

15 Q Can you spell your last name for the court
16 reporter?

17 A Knight, K-N-I-G-H-T.

18 Q Thank you, Ms. Knight. Ms. Knight, back in
19 December of 2011, where were you employed?

20 A At South Carolina Federal Credit Union.

21 Q Where is that bank located?

22 A On Forest Drive.

23 Q And how long have you been employed at that bank?

24 A Seven years.

25 Q Are you still employed there?

- 1 A No.
- 2 Q Why are you no longer at the bank?
- 3 A I took another position at Columbia County Club at
4 a golf course.
- 5 Q Do you also care for any children?
- 6 A I do. I have two kids of my own.
- 7 Q What are their ages?
- 8 A I have a four year old and a two year old.
- 9 Q Are you familiar with the defendant in this case,
10 Zinah Jennings?
- 11 A Yes.
- 12 Q Can you explain to the jury what your relationship
13 was with Ms. Jennings?
- 14 A I met her whenever she came to open her account for
15 the very first time and had numerous occasions with
16 her. She made withdrawals, deposits, loan
17 payments; and I also dealt with her mother. So I
18 was very familiar with her.
- 19 Q What was your position at the bank?
- 20 A I was a certified teller.
- 21 Q And about how long would you say you have known
22 Ms. Jennings?
- 23 A Since she opened her account.
- 24 Q Do you know about when that was?
- 25 A I do not. It's on her records.

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1 Q That's fair enough. Do you recall seeing her at
2 any time with her son ^{Child} Jennings?

3 A Yes.

4 Q And can you explain to the jury the nature of your
5 observations between Ms. Jennings and her son?

6 A As he got older, I just noticed she was more
7 perturbed, like it was just a disturbance to her.
8 There was numerous times that he was running
9 around. On one occasion he ran out our front doors
10 to the corridor. We had to tell her, Your son is
11 going out the front door.

12 It was -- in the beginning it was very loving.
13 We held him ourselves. We talked to him and we
14 have known since he was born, but it just got to
15 where it was kind of an annoyance. As a mother I
16 just noticed it.

17 Q Did Ms. Jennings make her transactions inside the
18 bank or through the drive-through?

19 A Both.

20 Q Did you ever observe her and her son in the
21 drive-through?

22 A Yes.

23 Q Can you explain to the jury what you would observe
24 when she made those transactions in the
25 drive-through?

1 A On multiple occasions he was not in a child seat.
2 I did not see a child seat in the car, and he was
3 jumping around in the back seat. Also, the one
4 time she was drinking in the car.

5 Q Ms. Knight, as a mother did this cause you concern?

6 A Yes, I immediately told my head teller.

7 Q Do you recall having transactions with Ms. Jennings
8 specifically on November 29th of last year?

9 A Yes.

10 Q And explain to the jury about that transaction.

11 A She came in because her credit card would not work.
12 One of our other tellers was assisting her. So she
13 was taking -- it was multiple accounts she was
14 getting money out of. Her credit card was not
15 working. I took her to my window and said, Let me
16 help you with this.

17 She was very annoyed that day, very -- just
18 irritant acting. She has always been patient with
19 us, and it was no patience that day. She was very
20 persistent of why her card wasn't working.

21 I got the answer that was not what she wanted
22 to hear. Our people in Charleston, our main
23 branch, had to explain it to her in further detail
24 than I could, and it was not anything -- she was
25 just very irritated with all the answers we had for

1 her.

2 Q Specifically I want to take you back to a day -- I
3 believe it was November 29th -- that Ms. Jennings
4 came into your bank to withdraw or close her
5 account. Are you familiar with that day?

6 A Yes.

7 Q And did you assist her in that transaction?

8 A Not when she was taking all the cash out. I was
9 there. I was present but I didn't actually deal
10 with her.

11 Q And she did take all the cash out of the account;
12 correct?

13 A Uh-huh. (Indicating affirmative response.)

14 Q On the day that she took all the money out of her
15 bank account, was ^{Child} Jennings with her?

16 A Not that day.

17 Q Not in November?

18 A Yeah, that was -- he was not with her.

19 Q Okay. Do you recall the last time you saw ^{Child}
20 Jennings?

21 A Yes.

22 Q And can you explain how he appeared that day?

23 A He was very happy, very playful. Of course, kids
24 are always in the bank. It doesn't bother us. We
25 just noted that he was getting away, and she did

1 not pay any attention.

2 It was kind of our responsibility to say, Hey,
3 he is heading out the front door. So he seemed
4 very happy though, not crying, nothing of that
5 nature, well dressed.

6 Q Do you recall what the nature of her business was
7 with the bank that day?

8 A She was taking cash out. I'm not sure the whole
9 transaction. I just assisted with the credit card.

10 Q And is your bank or the bank that you formerly
11 worked in equipped with video equipment?

12 A Yes.

13 Q So what goes on inside the bank, is it videoed?

14 A Oh, yeah.

15 Q Do you recall viewing the video from the day?

16 A Yes.

17 Q Have you had an opportunity to review it?

18 A Uh-huh. (Indicating affirmative response.)

19 MS. GARFIELD: Your Honor, at this time I
20 would like to publish a video from the bank on
21 November 29th. It's State's Exhibit Number 22 that the
22 defense has stipulated into evidence.

23 THE COURT: Mr. Pride?

24 MR. PRIDE: That is correct, Your Honor, I did
25 stipulate.

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1 THE COURT: State's 22 is in evidence without
2 objection. You may publish it.

3 (State's Exhibit Number 22 is received into
4 evidence.)

5 MS. GARFIELD: Thank you, Your Honor. I will
6 ask my law clerk, Joe Leventis, to please come help me,
7 assist me. I am not technically advanced.

8 (Pause.)

9 MS. GARFIELD: Your Honor, may I ask the
10 witness to step around so she may be sure to see this?

11 THE COURT: Yes, ma'am. You may step around.
12 Remember to keep your voice up. You may step around.
13 Just remember to keep your voice up when you are away
14 from the microphone.

15 (Witness leaves the witness stand.)

16 BY MS. GARFIELD:

17 Q Is this the video you are familiar with?

18 A Yes.

19 (State's Exhibit Number 22 is played for the
20 jury.)

21 (During the playing of the videotape, the
22 following is reported).

23 BY MS. GARFIELD:

24 Q Who do you see in the video?

25 A That is Zinah and that is Child

1 Q Is that Ms. Jennings at the table?

2 A Yes, ma'am.

3 Q Did Ms. Jennings go get her son of her own free
4 will?

5 A Yes.

6 Q Did anyone have to prompt her to do so?

7 A Yes.

8 Q And who did so?

9 A One of our fellow service reps.

10 Q Ms. Knight, is this a different angle?

11 A Yes.

12 Q Would that conclude the video?

13 A Yes.

14 Q You can have a seat.

15 A (Witness resumes the witness stand.)

16 Q Ms. Knight, had you seen -- obviously, you have
17 seen Ms. Jennings on prior occasions in the bank.
18 Was she normally with Child

19 A She came in --

20 THE COURT: Wait just a minute, please. Would
21 you repeat that question. I apologize, Solicitor. I
22 wasn't hearing it.

23 MS. GARFIELD: Sure.

24 BY MS. GARFIELD:

25 Q On the prior occasions that she came in the bank,

1 was she with Child

2 A Sometimes she came without him.

3 Q And as of November 29, 2011, did you ever see her
4 with Child in the bank again.

5 A No.

6 Q Did you ever see her in the bank again?

7 A I did but not with him.

8 Q Not with Child I know you don't recall exactly how
9 much money she withdrew, but do you recall how much
10 was left?

11 A It was less than a hundred dollars.

12 Q Left in the account?

13 A Uh-huh. (Indicating affirmative response.)

14 Q Ms. Knight, I will show you what has been marked as
15 State's Exhibits 23 through 27 and just flip
16 through these and tell me if you recognize these.

17 A (Pause.) Yes.

18 Q Can you explain to the jury what those are
19 photographs of? Don't show it to them, just
20 explain what they are.

21 A It's Zinah and Child coming into the bank to do the
22 transactions. It's him also running around during
23 the transaction and then her completing the
24 transaction when she had problems with her credit
25 card.

1 Q Do those appear to be still shots taken from that
2 video?

3 A Yes.

4 MS. GARFIELD: Your Honor, at this time I
5 would like to introduce State's Exhibit 23 through 27
6 into evidence.

7 MR. PRIDE: No objection.

8 THE COURT: State's 23 through 27 in evidence
9 without objection.

10 (State's Exhibits Number 23-27 are received
11 into evidence.)

12 MS. GARFIELD: Thank you, Your Honor. May I
13 publish these to the jury?

14 THE COURT: Yes, ma'am.

15 MS. GARFIELD: Beg the Court's indulgence.

16 THE COURT: Yes, ma'am.

17 (Pause.)

18 BY MS. GARFIELD:

19 Q Thank you, Ms. Knight. Please answer any questions
20 Mr. Pride has for you.

21 THE COURT: Thank you, Solicitor. Ms. Darwin.

22 **CROSS EXAMINATION**

23 BY MS. DARWIN:

24 Q Ms. Knight, could I ask what date you were
25 contacted or who contacted you regarding this

1 matter?

2 A The gentleman behind you came into the bank earlier
3 this year. It would have been probably January or
4 February.

5 Q Okay. Did you give a written statement or did you
6 just have an informal conversation?

7 A It was just me and a fellow employee talking to him
8 and a few other guys.

9 Q Do you have any children of your own?

10 A I do.

11 Q What ages?

12 A Four and two.

13 Q Have there been other occasions in the bank where
14 you have a parent who comes in by themselves or
15 without another adult, with a child, that the child
16 may wander around the bank or cause a disruption?
17 Is that unusual?

18 A It's not. I mean, most of them do run around.

19 Q Right. That's fairly common to have a child --

20 A But most of them are, you know, within a few feet
21 of their mom or dad.

22 Q Most but not all?

23 A Yes.

24 Q When is the first date that you saw ^{Child} with
25 Ms. Jennings?

1 A Shortly after he was born. He was still in a car
2 seat.

3 Q So how did you know that? Was it through the
4 drive-through?

5 A She would come inside with him. We commented. She
6 would put him on the counter for us to see him and
7 stuff.

8 Q So he was in his car carrier?

9 A Yes.

10 Q When is the last time you saw ^{Child}

11 A November 29th.

12 Q The times that you have had the occasion to see
13 him, was he healthy?

14 A I thought so.

15 Q Was he happy?

16 A Yes.

17 Q Was he well dressed, well groomed?

18 A Uh-huh. (Indicating affirmative response.) He was
19 very well dressed. I mean, you know, not pajamas,
20 coats -- because it was pretty cool outside the
21 last couple of times. He was very well clothed
22 when it was cold.

23 Q He was dressed appropriately?

24 A Uh-huh. (Indicating affirmative response.)

25 MS. DARWIN: Thank you.

1 THE COURT: Thank you. Thank you very much,
2 Ms. Darwin.

3 Redirect, Solicitor?

4 MS. GARFIELD: Yes, sir.

5 REDIRECT EXAMINATION

6 BY MS. GARFIELD:

7 Q Ms. Knight, when these other parents brought their
8 children to the bank, did they routinely run out
9 the door?

10 A No.

11 Q So as a mother that's something that caused you
12 alarm?

13 A Yes.

14 Q I will hand you a document. Do you recognize this?

15 A Yes.

16 Q Can you explain what that document is?

17 A It is a statement print-off of her account.

18 Q And can you look at -- does that reflect the
19 activity from her bank account?

20 A Yes.

21 Q Can you tell me what actually --

22 MR. PRIDE: Excuse me, Judge. I object. This
23 is a matter that she is going into that was not gone
24 into on direct. I object.

25 THE COURT: I will allow it under Rule 611.

1 MS. GARFIELD: Thank you, Your Honor.

2 BY MS. GARFIELD:

3 Q Can you please tell me what kind of transaction
4 took place on November 29th?

5 A She did a withdrawal of \$386.

6 Q How much money was left in her account after that
7 withdrawal?

8 A It was \$5.95.

9 Q Thank you.

10 MS. GARFIELD: Your Honor, at this time I
11 would like to introduce this exhibit into evidence as
12 State's Exhibit 30.

13 MR. PRIDE: No objection, Your Honor.

14 MS. GARFIELD: Thank you, Your Honor.

15 THE COURT: State's 30 is in evidence without
16 objection.

17 (State's Exhibit Number 30 is received into
18 evidence.)

19 BY MS. GARFIELD:

20 Q Thank you, Ms. Knight.

21 THE COURT: Any recross, Ms. Darwin?

22 **RECROSS EXAMINATION**

23 BY MS. DARWIN:

24 Q Ms. Knight, when it came to your attention that
25 Child was running around the bank and you wanted

1 Ms. Jennings to take control of him, did she comply
2 with your request?

3 A Yes. One of our branch service reps also noticed
4 it, and she is a mother. She was like, He is going
5 out the door. So she went and got him.

6 MS. DARWIN: Thank you.

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

8 You may step down.

9 (Witness leaves the witness stand.)

10 MS. GARFIELD: Your Honor, may Ms. Knight be
11 excused?

12 THE COURT: Any objections to Ms. Knight being
13 excused?

14 MR. PRIDE: None, Your Honor.

15 THE COURT: Yes, she may be excused. Thank
16 you for being with us.

17 You may call your next witness, Solicitor.

18 MS. GARFIELD: Thank you, Your Honor. The
19 State calls Ashleigh Burnett.

20 THE COURT: If you would come around for us,
21 please, and be sworn.

22 ASHLEIGH BURNETT, 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 and please

1 spell your first and your last name.

2 THE WITNESS: The first name is Ashleigh. The
3 last name is Burnett. The first is A-S-H-L-E-I-G-H.

4 DIRECT EXAMINATION

5 BY MS. GARFIELD:

6 Q How do you spell your last name?

7 A B-U-R-N-E-T-T.

8 Q Ms. Burnett, where were you employed back in
9 December of last year?

10 A South Carolina Federal Credit Union.

11 Q Where is that bank located?

12 A Forest Drive.

13 Q At that time how long would you have been employed
14 with the bank?

15 A At that time four years.

16 Q What was your position at South Carolina Federal
17 Credit Union?

18 A A teller.

19 Q I'm sorry?

20 A A teller.

21 Q Are you still employed there?

22 A No, ma'am.

23 Q Why are you no longer employed at the bank?

24 A I just got into school; so I will be going to
25 school full time.

1 Q What are you planning to pursue?

2 A Radiology.

3 Q During your tenure at the bank, were you familiar
4 with one of your clients, Zinah Jennings?

5 A Yes, ma'am.

6 Q Can you share with the jury how you knew Zinah
7 Jennings?

8 A She opened her account. We often did referrals for
9 accounts. So she was there. She did many
10 transactions throughout the time of her account
11 being open. I helped her on numerous occasions in
12 the drive-through and inside.

13 Q Did you have opportunities to observe Ms. Jennings
14 with her son ^{Child} Jennings?

15 A Yes, ma'am.

16 Q Were these observations inside the bank?

17 A Some of them were.

18 Q Where were others?

19 A Through the drive-through.

20 Q Let's talk about the drive-through. Can you share
21 with the jury anything in particular that stood out
22 in your memory from your observations of
23 Ms. Jennings in the drive-through?

24 A There was numerous ones where she did not have him
25 secured in a car seat. This was as he got older.

1 When he was an infant, he was in a car seat. That
2 was usually when she did come.

3 As he would get older, he was in the back, and
4 he was always happy. It was kind of sad seeing him
5 not hooked up in a car seat and waving joyfully at
6 us. That did happen on numerous occasions.

7 Q Did that cause you any concern?

8 A Uh-huh. (Indicating affirmative response.) Yes.

9 Q And do you recall seeing Ms. Jennings on
10 December 15th of last year?

11 A Yes, ma'am.

12 Q Can you explain to the jury the nature of that
13 observation and what it was?

14 A She came in. She seemed at first overly happy.
15 Then I asked her what she wanted to do. She wanted
16 to withdraw the money out of her account. There
17 wasn't very much in there.

18 When I specified how much from each account,
19 she said she wanted all of it. So I did what was
20 available. In the course of that action there was
21 95 cents in the saving account.

22 I didn't take that out because I didn't think
23 that was needed, but she ended up wanting that as
24 well. A couple of times she said, I want all of
25 it. I want all of it. That was kind of how that

1 played out.

2 Q What was her demeanor like?

3 A She was confused when I was telling her the amount
4 in her account. She was very persistent on how she
5 wanted everything out.

6 Q Did this appear to be common behavior from your
7 dealings with Ms. Jennings?

8 A Not necessarily. Especially when she first opened
9 her account before ^{Child} was born, she came in, did
10 her business, and that was it. She was very normal
11 acting.

12 It was after ^{Child} was born was when we started
13 seeing a little bit of changes in her, the actions.
14 She wasn't as talkative or whatever. On that day
15 she was very persistent on how she wanted that out
16 and nothing to be left in the accounts.

17 Q On that particular day, was her son with her?

18 A No, ma'am.

19 Q Is your bank equipped with security video?

20 A Yes, ma'am.

21 Q Was the December 15th transaction with Ms. Jennings
22 on video?

23 A Yes.

24 Q Have you had the opportunity to review that video?

25 A Yes, ma'am.

1 MS. GARFIELD: Your Honor, at this time I
2 would like to ask Ms. Burnett to come down as we publish
3 the video from December 15, 2011, from South Carolina
4 Federal Credit Union to the jury. I believe that is
5 exhibit...

6 THE COURT: Number 22?

7 MS. GARFIELD: Yes, sir, Number 22.

8 THE COURT: Is that correct? No objection,
9 Mr. Pride?

10 MR. PRIDE: None.

11 (Witness leaves the witness stand.)

12 (State's Exhibit Number 22 is played for the
13 jury.)

14 (During the playing of the videotape, the
15 following is reported.)

16 BY MS. GARFIELD:

17 Q Is this the video that you are familiar with?

18 A Yes, ma'am.

19 Q Where is Ms. Jennings physically in this video?

20 A We have a computer station where you can check your
21 account. You can check your own account by
22 yourself, just looking online. That's where she
23 was sitting.

24 Q You can take your seat.

25 A (Witness resumes the witness stand.)

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1 Q Ms. Burnett, ^{Child} Jennings is not seen in that
2 video; is he?

3 A No.

4 Q I will hand you what has been marked as State's
5 Exhibit Number 31. Do you recognize this
6 photograph?

7 A Yes.

8 Q What is that a photograph of?

9 A Zinah Jennings.

10 Q Is that a still photo taken from the video we just
11 reviewed?

12 A Yes, ma'am.

13 MS. GARFIELD: Your Honor, at this time I like
14 would to introduce State's Exhibit 31 in evidence.

15 MR. PRIDE: I have no objection.

16 THE COURT: State's 31 is in evidence without
17 objection.

18 (State's Exhibit Number 31 is received into
19 evidence.)

20 MS. GARFIELD: May I publish to the jury?

21 THE COURT: Yes, ma'am.

22 BY MS. GARFIELD:

23 Q Thank you, Ms. Burnett. Please answer any
24 questions defense counsel may have.

25 THE COURT: Mr. Pride.

1 CROSS EXAMINATION

2 BY MR. PRIDE:

3 Q How long had you known Zinah Jennings?

4 A Just as long as she had the account with us, which
5 I'm not aware, maybe a year, two years.

6 Q Maybe a year?

7 A Maybe a year or two.

8 Q A year or two?

9 A I'm not exactly sure of the date that she opened
10 her account, but I knew of her from dealing with
11 her.12 Q It's safe to say when she came in the bank you knew
13 who she was?

14 A Yes.

15 Q As a teller in the bank, is it safe to say that you
16 had many financial transactions which you handled
17 that Zinah Jennings, as a customer, would request?

18 A Yes.

19 Q And the financial transactions that you handled
20 were not only in the bank, they were also for
21 Ms. Jennings in a drive-through?

22 A Yes.

23 Q Is that correct?

24 A Yes, sir.

25 Q Now, when you say that her demeanor changed, what

1 do you base that on?

2 A How she was before. Can you specify your question?

3 Like from what time? What do you mean a change?

4 Q Well, my question is based on your answer. Your
5 answer was that her demeanor changed, and whenever
6 you were talking is about when I'm talking about.

7 A Well, her demeanor changed once -- well, first,
8 when she actually had ^{Child} it changed a great
9 deal. She just wasn't -- we would actually talk to
10 her normally, and she was just quick with the
11 transactions when she had ^{Child} especially through
12 the drive-through.

13 But that particular day it was different as
14 well. She just seemed very rushed, really wanting
15 to get the transaction done, get the money, leave
16 and go. She was kind of confused also as to why
17 the money wasn't there, how much she had, and she
18 wanted all of it.

19 Q And based on that, those descriptions that you have
20 given, you discerned that her demeanor had changed?

21 A Yes.

22 Q When Ms. Jennings asked you for all of the money,
23 you didn't give her all the money; did you?

24 A Usually we do what is available per the bank terms.
25 The available amount never shows the actual change

1 in the account. So when I first told her the
2 amount, she asked me again how much was in there
3 and was that all of it.

4 I said there is 95 cents in your savings, and
5 she said she wanted that. So that was not normal
6 for her to do, from prior transactions I had done
7 for her.

8 Q She never closed her account before; had she?

9 A No, but she didn't close it this time either. She
10 just took the total available amount and left it
11 with nothing.

12 Q And you thought that was abnormal because she had
13 never taken out the total available amount before?

14 A Yeah. We get numerous people that do the same kind
15 of transactions. For her that was -- there was no
16 time that she ever wanted everything out of her
17 account and even asked for the change. So, yes,
18 that was very abnormal.

19 Q If you take all of your money out of your account,
20 do you close it?

21 A Not necessarily. It still stays open. There is
22 five dollars that keeps the account open.

23 Q If there is nothing in it, it stays open?

24 A There's five dollars that stays on hold with our
25 accounts. So unless she stated that she wanted to

1 close everything, then we would have taken out that
2 five dollars, but she didn't state that. She just
3 wanted all of the cash.

4 Q Was there anything else she did that day that made
5 you feel like her demeanor had changed?

6 A No.

7 Q Thank you.

8 THE COURT: Redirect, Solicitor?

9 MR. PRIDE: Excuse me.

10 THE COURT: Yes, sir. I'm sorry, Mr. Pride.

11 BY MR. PRIDE:

12 Q When were you first contacted to give a statement
13 in this matter?

14 A January or February of this year.

15 Q This year?

16 A Yes, sir.

17 Q Thank you. Thank you very much.

18 THE COURT: Redirect, Solicitor?

19 MS. GARFIELD: No, sir.

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

21 MS. GARFIELD: May Ms. Burnett be excused?

22 MR. PRIDE: Certainly.

23 THE COURT: Yes, ma'am. You may step down.

24 You may be excused.

25 (Witness leaves the witness stand.)

1 THE COURT: Solicitor, you may call your next
2 witness.

3 MS. CAMPBELL: May it please the Court. The
4 State calls Marcus Johnson.

5 MR. PRIDE: May we approach, Judge, on this?

6 THE COURT: Yes, sir.

7 (Whereupon there was a bench conference off
8 the record in the presence of the jury but out of the
9 hearing of the jury.)

10 THE COURT: Thank you, Mr. Pride.

11 Solicitor, will you instruct the witness first
12 for me, please.

13 MS. CAMPBELL: Yes, sir.

14 (Pause.)

15 THE COURT: Have you accomplished that,
16 Solicitor?

17 MS. CAMPBELL: Yes, sir.

18 THE COURT: If you would come around for us,
19 Mr. Johnson, and be sworn.

20 MARCUS JOHNSON, being
21 first duly sworn, testifies as follows:

22 CLERK: Have a seat in the witness stand,
23 please. State your full name for the record, and please
24 spell your first name.

25 THE WITNESS: Marcus Johnson. M-A-R-C-U-S,

1 J-O-H-N-S-O-N.

2 DIRECT EXAMINATION

3 BY MS. CAMPBELL:

4 Q Mr. Johnson, where do you live?

5 A In Augusta, Georgia.

6 Q How long have you been living there?

7 A Going on a year.

8 Q A year?

9 A Going on that.

10 Q Could it have been a little longer?

11 A Probably a year and two months maybe.

12 Q Where did you live prior to living in Augusta,
13 Georgia?

14 A Sandersville, Georgia.

15 Q Do you work? Are you employed?

16 A Yes, ma'am.

17 Q What do you do, sir?

18 A I work at Thermal Ceramics.

19 Q Thermal?

20 A Ceramics.

21 Q What do you do there?

22 A I operate a machine dealing with fiber.

23 Q Dealing with fiber?

24 A Yes.

25 Q And how long have you been working there? Since

1 you have lived in Augusta?

2 A I had several jobs since I've been in Augusta, but
3 I been working here about five or six months.

4 Q And I want to turn your attention back to November
5 the 30th of 2011. That day did you happen to be at
6 a gas station in Augusta?

7 A Yes, ma'am.

8 Q What gas station were you at that day?

9 A The Raceway gas station on Washington Road.

10 Q Washington Road?

11 A Yes, ma'am.

12 Q Is that near the highway?

13 A Yes, ma'am.

14 Q What highway is that?

15 A When you say highway, what do you mean?

16 Q The highway.

17 A The main road?

18 Q It's off of Washington?

19 A It's on Washington Road.

20 Q That day what were you doing at the gas station?

21 A I was just pumping gas.

22 Q Tell the jury while you were pumping your gas that
23 day, what happened?

24 A I was going to pay for my gas, and I met her in the
25 store when I was coming out the store. She, you

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1 know, came up to me, rubbed my hair, and whatnot.

2 Q Let me stop you for a second. You said you went
3 into the store?

4 A Yes.

5 Q To pay for the gas?

6 A Uh-huh. (Indicating affirmative response.)

7 Q Then as you coming out, what happened?

8 A She came up to me.

9 Q When you say she, was this a person you had known
10 before?

11 A No.

12 Q Was this a person you had ever seen before?

13 A No, ma'am.

14 Q When this person came up behind you, what exactly
15 did she do?

16 A I mean, she was an attractive female. I turned
17 around. I was kind of startled --

18 Q She was trying to -- I didn't understand.

19 A I said I turned around.

20 Q How did she get your attention?

21 A Her appearance basically.

22 Q Did she touch you?

23 A Yes, by pulling my hair.

24 Q Pulling your hair?

25 A Yes.

1 Q And that's the first time you noticed she was
2 behind you?

3 A Yes, ma'am.

4 Q And when you turned around, there was a female that
5 you didn't know; is that correct?

6 A Yes, ma'am.

7 Q And at that point did y'all have a conversation?

8 A Just exchanged numbers, nothing drastic. We didn't
9 have no long conversation.

10 Q You exchanged numbers?

11 A Yes, ma'am.

12 Q Did y'all talk about anything in detail at that
13 point?

14 A Nothing, but -- let me see. She said something
15 about she had to take her brother or something to
16 school. We couldn't --

17 MR. PRIDE: I'm sorry, Judge. I can't hear
18 him. I didn't hear what he said.

19 THE COURT: Would you repeat that answer for
20 me, please, Mr. Johnson.

21 THE WITNESS: We talked about getting
22 together, but she didn't -- we couldn't do it at the
23 time. She had to take someone to school.

24 BY MS. CAMPBELL:

25 Q Someone to school?

- 1 A Yes.
- 2 Q Do you remember who she said she had to take to
3 school that day?
- 4 A I want to say brother.
- 5 Q Her brother?
- 6 A Her brother or cousin.
- 7 Q And y'all exchanged phone numbers?
- 8 A Yes, ma'am.
- 9 Q Did she identify herself at that point?
- 10 A No, ma'am.
- 11 Q Did you have a name you called her?
- 12 A I called her Red.
- 13 Q Red?
- 14 A Yes, ma'am.
- 15 Q And did she ever give you any formal name that day?
- 16 A No, ma'am.
- 17 Q And when you exchanged numbers, what was the
18 purpose of y'all exchanging numbers?
- 19 A Just to meet. I was new to the area. I guess we
20 were going to meet and try to get together later
21 on.
- 22 Q Did she tell you whether or not she even lived in
23 the area?
- 24 A I think she told me she was going to Paine College.
- 25 Q Paine College. Where is Paine College? Do you

1 know?

2 A That's in Augusta also.

3 Q And did she tell you anything else about herself
4 that day?

5 A Nothing but her age.

6 Q And what age did she tell you she was?

7 A Nineteen.

8 Q So at that point after y'all exchanged numbers, the
9 information you had was that she was 19 and
10 attended Paine College and needed to take her
11 brother, you think, to school?

12 A Yes.

13 Q Was she going to take him to school or pick him up
14 from school? Did she say?

15 A Take him.

16 Q Did she tell you which school she was going to take
17 him to?

18 A No, ma'am.

19 Q How long were y'all there and actually talking that
20 day?

21 A It was like a two or three-minute span. It wasn't
22 long at all.

23 Q Did you get a good look at her though?

24 A Yes, ma'am.

25 Q And when you gave her your number, you wanted to

1 meet her again later?

2 A Yeah, later.

3 Q Over the next couple of days, did y'all exchange
4 any information?

5 A We only texted or called brief. It wasn't no --
6 never had a real long conversation at all as far as
7 getting to know each other.

8 Q She was what?

9 A I said as far as getting to know each other, we
10 never really got to know each other in that sense.

11 Q After your initial meeting there at the RaceTrac --
12 and did you notice whether or not she had a vehicle
13 that day?

14 A Yes, ma'am.

15 Q How did you know that she had a vehicle?

16 A It was parked in front of mine.

17 Q What kind of vehicle was it? Do you know?

18 A I know it was red, some kind of red little car,
19 small red car.

20 Q And did you have an opportunity to look into the
21 car that day?

22 A When I walked back to mine, I glanced. I didn't go
23 up to it, but I could notice it was clothes in it.

24 Q You noticed clothing in it?

25 A A couple of clothes.

- 1 Q Did you see any children in the car that day?
- 2 A No, ma'am.
- 3 Q Did you see any car seat of any type in the car
- 4 that day?
- 5 A No, ma'am.
- 6 Q And you remember that specifically?
- 7 A Yes, ma'am.
- 8 Q At any point while you were at the gas station on
- 9 the 30th, did you see her with a child of any kind?
- 10 A No, ma'am.
- 11 Q Did she ever mention to you that day that she had a
- 12 child?
- 13 A No, ma'am.
- 14 Q But she said -- did you actually attempt to get
- 15 with her that day?
- 16 A I did.
- 17 Q And why did she say she couldn't get with you that
- 18 day?
- 19 A She had to take her brother or cousin to school.
- 20 Q To school?
- 21 A Yes, ma'am.
- 22 Q Did y'all meet again?
- 23 A Yes, ma'am.
- 24 Q Tell the jury how that happened.
- 25 A I think, I want to say two days after that, I

1 called her. I think I did. She was in the area
2 and I invited her over to my apartment. She came
3 over. We chilled out for a minute. After that day
4 I never saw her again.

5 Q Let me back up. A couple of days after your
6 initial meeting?

7 A Yes.

8 Q Did you make contact with her or did she make
9 contact with you? Do you remember?

10 A I think I made contact with her or we were texting
11 on and off; so I think I may have made contact.

12 Q Then where did y'all meet?

13 A Washington Road at the same gas station.

14 Q And then where did you go?

15 A To my apartment.

16 Q Once you got to your apartment -- do you remember
17 if this was daytime or nighttime?

18 A Daytime.

19 Q And the prior meeting, was that daytime or
20 nighttime?

21 A Daytime.

22 Q Once you got to your apartment, what did y'all do?

23 A We got a couple of drinks, listened to music, and I
24 think we had sex.

25 Q Once that happened -- approximately how long do you

1 remember that she was in your apartment that day?

2 A Maybe two or three hours.

3 Q And then did she leave of her own accord?

4 A Ma'am?

5 Q She left?

6 A Yes, ma'am.

7 Q While she was in the apartment that day, did y'all

8 have any small talk about her family or her

9 children or anything?

10 A No, ma'am.

11 Q Did she ever mention to you she had a child?

12 A No, ma'am.

13 Q Did you ever find out her real name at that point?

14 A No, ma'am.

15 Q And what name did you know her by?

16 A Red.

17 Q Did you find out any additional information,

18 personal information, other than what she told you

19 on the prior occasion?

20 A No, ma'am.

21 Q And did you have anymore contact with her after

22 that day?

23 A No, ma'am.

24 Q About a month or two later, did the police from

25 Columbia -- here in Columbia -- contact you?

1 A Yes, ma'am. They went to my auntie's house in
2 Sandersville, but I wasn't there. I was in Augusta
3 but that's the address I use. She called me and
4 told me that some guys was here looking for me. I
5 talked to someone. I don't know who they were -- I
6 can't remember -- but I did talk to someone about
7 the case.

8 Q When they first started talking to you, did they
9 mention a name?

10 A Yes, ma'am.

11 Q Do you remember what name they mentioned to you?

12 A Zinah.

13 Q Did you recognize that name?

14 A No, ma'am.

15 Q Did you even know who they were talking about at
16 first?

17 A No, ma'am.

18 Q How did you end up knowing who they were talking
19 about?

20 A When they described her.

21 Q Described her physically?

22 A Yes, ma'am.

23 Q At that point you were able to remember the
24 information you have given to this jury?

25 A Yes, ma'am.

- 1 Q Once you spoke to the police, were you able to put
2 it together of who they were talking about?
- 3 A Yes, ma'am.
- 4 Q And that's when you gave them this information?
- 5 A Yes, ma'am.
- 6 Q And, again, the only two occasions you saw her was
7 on that first visit -- do you remember if that was
8 morning or afternoon?
- 9 A It was in the morning.
- 10 Q And then the second time was when?
- 11 A Afternoon.
- 12 Q Did you attempt to get in touch with her anymore
13 after that? Do you recall?
- 14 A I may have sent a text, you know, wondering where
15 she was or how she was doing, but I never got a
16 response.
- 17 Q So when she left your apartment on that second
18 occasion, you never had anymore contact with her
19 directly?
- 20 A No, ma'am.
- 21 Q Did you ever see a child with her or did she ever
22 mention a child to you?
- 23 A No, ma'am.
- 24 Q You have a prior conviction for fleeing or
25 attempting to allude a police officer from 2010?

1 A Yes, ma'am.

2 Q And then you have a prior conviction from February
3 of this year for giving false name, address, or
4 birth date to law enforcement?

5 A Yes, ma'am.

6 Q Thank you, sir. I don't have anything further.

7 MR. PRIDE: Judge, can we excuse the jury a
8 minute, please?

9 THE COURT: Yes, sir. Ladies and gentlemen,
10 step to your jury room, please. Do not discuss the case
11 during this brief recess.

12 (The jury retires to the jury room.)

13 THE COURT: Yes, sir.

14 MR. PRIDE: Thank you. Judge, I would
15 respectfully ask you to find that that testimony --
16 excuse me -- sequester the witness, please.

17 THE COURT: I'm not locking you up. Don't
18 look like that. I will ask you to step outside.
19 Sequestered means -- step outside the courtroom door
20 with the bailiff briefly for me, Mr. Johnson. I saw
21 that look. He might have misinterpreted it.

22 (The witness leaves the courtroom.)

23 MR. PRIDE: Judge, the purpose of my standing
24 is to ask you to strike from the record that entire
25 testimony on the grounds that it's not relevant to the

1 res gestae or the charges against Ms. Jennings. It has
2 absolutely nothing to do with it, and I would ask you to
3 instruct the jury to disregard his testimony.

4 Ms. Jennings going to Atlanta doesn't have
5 anything to do with the abandonment of Child It
6 certainly doesn't have anything to do with his safety
7 and welfare. I mean, if she was there on a social visit
8 and decided that she saw somebody that she had a liking
9 to and she pulled his hair so she could hook up with him
10 -- well, so she could meet him, what's wrong with that?

11 Then after that they made several phone calls
12 and finally got together at his house. Because she
13 didn't disclose her name, I don't know how any relevancy
14 could come out of that entire testimony. Even the
15 timing of it is questionable.

16 There is just no relevancy, and I think the
17 State -- respectfully, Judge, I think you should ask the
18 State to make a proffer of what they think the relevancy
19 of that testimony is before we go any further.

20 THE COURT: Solicitor?

21 MS. CAMPBELL: May it please the Court, Your
22 Honor. The next witness will testify as to phone
23 records, specifically showing Zinah Jennings' phone,
24 which she had in her possession, moving at the exact
25 time corroborating this witness' testimony.

1 He will actually be able to track the cell
2 phone towers where she left Columbia the morning of the
3 30th. She was in Augusta around the same time the
4 witness testified to. She then went to Atlanta that
5 day. She then returns from Atlanta that day, and comes
6 back to Columbia by 7:30 that night.

7 There will also be testimony from the next
8 witness as far as phone records which show that
9 Ms. Jennings, again, three days later on the 3rd of
10 December took her -- with her cell phone we can track
11 it. She went to Augusta again, which corroborates
12 exactly what this witness testified.

13 He was able to corroborate and give
14 information to police about his meeting with her. The
15 main part he says specifically he doesn't see a car seat
16 in the car. He doesn't see a child in the car. She
17 never mentions a child with him. She makes plans to
18 meet with him again. She meets with him again and still
19 never mentions the child and does not have the child at
20 that point.

21 We will be showing several witnesses in this
22 case to show under the abandonment part, as well as the
23 harm part that, in fact, ^{Child} Jennings has never been
24 seen again after the video that was just placed into
25 evidence from the 29th. ^{Child} Jennings is never seen

1 again by anyone that we can find after that date. This
2 is the first witness that correlates that timeline as
3 far as his disappearance.

4 THE COURT: Mr. Pride.

5 MR. PRIDE: Judge, if she is trying to prove
6 where she's traveling, then she's got the cellular phone
7 records which will trace the phone calls and where
8 Ms. Jennings went.

9 I submit to you, Judge, that Ms. Campbell did
10 not answer your question. She gave you an answer but
11 not an answer to the question of relevancy of this
12 testimony.

13 She can prove all of that without the
14 testimony of this witness. So far as Ms. Jennings not
15 having ^{Child} with her when she is going out socially and
16 getting with him, I mean, what law requires that she
17 say, I've got a baby.

18 First of all, there is no testimony in the
19 record that this gentleman even asked her did she have
20 any children, absolutely none. The fact that she didn't
21 have the child with her, so what?

22 I mean, she's entitled to not have the child
23 with her. So the testimony just -- you know, it's
24 superfluous. It's useless and it's confusing, and it
25 doesn't serve any probative value in this case.

1 THE COURT: As I tracked the testimony,
2 Roderick Mitchell testified -- witness number nine --
3 that he spent seven to nine hours with his child on
4 November 22nd.

5 He thereafter testified that he made
6 arrangements to see his child November 29th of '11. He
7 went to Ms. Jocelyn Jennings' home, which as I recall
8 the testimony, that would have been a Tuesday; and that
9 Zinah Jennings was there and ^{Child} was there.

10 She said, as I recall it, I thought you were
11 coming yesterday, which would have been Monday the 28th.
12 So on the 29th -- of course, Mr. Mitchell thereafter
13 testified that he didn't want to get in any conflict
14 with Ms. Jennings. He hugged his child, kissed his
15 child, and thereafter left; and that was the last time
16 he had ever seen his child.

17 Now, as I track Mr. Johnson on the morning of
18 October 30th, he is at the Raceway gas station on
19 Washington Road, which I think is at I-20 and Washington
20 Road.

21 That testimony has not come out that it's I-20
22 and Washington Road, but that's irrelevant whether it's
23 at I-20 and Washington Road or not. Of course, as we
24 all know I-20 is the main road from here to Atlanta.

25 MR. PRIDE: I would agree.

1 THE COURT: That morning pulling his hair, not
2 pulling his hair; but as you go through that, he said, I
3 saw a red car. I only knew her as Red. I saw a red
4 car. There is no kid, no car seat.

5 To me that is circumstantial evidence that he
6 is right now -- the last time so far the testimony is
7 that ^{Child} has been seen by any other living human being
8 that we know of is on the 29th.

9 On the 30th that morning, Mr. Johnson is
10 saying, I didn't see the child in the car. I didn't see
11 any car seat. I think that's some circumstantial
12 evidence when you look at what she is charged with,
13 unlawful conduct towards a child, she being a person
14 responsible for the welfare of the minor, placing the
15 child at unreasonable risk of harm affecting the child's
16 life, physical, or mental health or safety; or further
17 abandoned the child.

18 So I think it is relevant, Mr. Pride. There
19 may have been parts of it that were perhaps
20 objectionable, but it wasn't objected to. It goes to
21 the weight that the jury may choose to give that
22 testimony, not its admissibility.

23 MR. PRIDE: Judge, I have got to preface my
24 remarks --

25 THE COURT: I couldn't quite hear you.

1 MR. PRIDE: I said I've got to preface my
2 remarks by saying that I have hide regard and high
3 respect for you as a man and as a judge; but in this
4 instance, Judge, if the solicitor had argued what you
5 said, then that would have shown relevancy. That was
6 not their argument. That's your argument. They didn't
7 offer you that.

8 What they said to you: Relevancy was the
9 tracking. I submit to you that that is where they place
10 the pendulum for relevancy in this case. I don't
11 think -- Judge, that's why I am treading on such tender
12 ground because I don't want to be disrespectful.

13 THE COURT: You are not being disrespectful.

14 MR. PRIDE: I just don't think you can help
15 them like that. I don't think you can go that far and
16 supply relevancy when they -- you know, you are doing
17 this sort of sua sponte. I just think it's just -- I am
18 climbing the hill anyhow. I want to tell you a joke,
19 but I don't think I will, to make my point.

20 THE COURT: You can tell me later.

21 MR. PRIDE: Judge, that's not what they said,
22 and that's not what they offered it for. They offered
23 it for tracking.

24 THE COURT: The question is -- the question
25 is -- I think before the Court of whether or not this

1 evidence is relevant. The question is whether or not I
2 think under the law it's relevant.

3 You may think it's irrelevant for different
4 purposes. I may say well, it's not irrelevant for those
5 purposes, but it's irrelevant for other purposes; and I
6 would agree with you.

7 They may say it's relevant for some purposes,
8 but I still have to look at it in the totality of the
9 record. That's why I was trying to track the particular
10 date and time or time of day that Mr. Johnson said this
11 first event occurred to see what that time frame was.

12 I think there are parts of it, as I have said,
13 perhaps with a timely objection would not be admissible.
14 Is there a particular part to the testimony you want me
15 to consider parceling out?

16 MR. PRIDE: Judge, I don't want to change my
17 position. I think the entire testimony is not relevant.
18 I respectfully ask --

19 THE COURT: And I respect your position too,
20 Mr. Pride. The same judge that I alluded to before used
21 to say: You can't prove everything on a pencil point.
22 Evidence comes in through many different sources, as you
23 know. The last witness could be the most important or
24 parts of one witness could be important or what have
25 you.

1 Quite frankly, I don't think I can base my
2 ruling on what they might produce as far as tracking of
3 a cell phone and such. I think I've got to rule on what
4 is in front of me right now and not what they say is
5 going to be produced.

6 MR. PRIDE: I understand. Thank you.

7 THE COURT: Thank you. Thank you very much.
8 While we are at this point, let's take a recess while we
9 have the jury out. Have the witness step back in for me
10 a minute, Sheriff. Thank you.

11 (The witness returns to the courtroom.)

12 THE COURT: You can stand right there a
13 minute, Mr. Johnson. We are going to take about a
14 15-minute recess. I will allow you to -- you can go
15 refresh yourself during that recess.

16 You need to be back in 15 minutes, back on the
17 witness stand. During this recess you may not discuss
18 your testimony with anyone. You are subject to cross
19 examination, perhaps redirect, perhaps recross. So you
20 may not discuss your testimony with anyone. Do you have
21 any questions?

22 THE WITNESS: No, sir.

23 THE COURT: Court will be in recess 15
24 minutes. Thank you very much.

25 (Whereupon there is a recess.)

1 THE COURT: Before we bring our jury back in,
2 I would like to place one thing on the record. Prior to
3 Mr. Johnson being called as a witness, Mr. Pride,
4 Ms. Darwin, the solicitor approached the bench.

5 Mr. Johnson was not even sworn in at that
6 time. Mr. Pride had some objections concerning
7 potential testimony that might come out through the
8 course of Mr. Johnson's stint on the witness stand.

9 Those objections, if my memory serves me right
10 and my notes, are, one, that when Mr. Johnson saw
11 Ms. Jennings at the gas station in Augusta that she was
12 wearing tight-fitting clothes. Number two, that his
13 characterization of her was he thought she was on drugs.
14 Three, that he thought she was crazy.

15 I agreed and the solicitor did not object.
16 Mr. Pride did not want that coming in. I agreed that
17 that was not admissible. I then allowed the solicitor
18 to speak with Mr. Johnson over in the corner in the
19 courtroom to apprise him of my ruling. That was with
20 Mr. Pride's consent.

21 Of course, then Mr. Johnson takes the stand.
22 He testifies, according to my notes -- and please
23 correct me if I am wrong in this regard -- according to
24 my notes, there have been no objections during the
25 course of Mr. Johnson's testimony. At the conclusion of

1 the direct examination, Mr. Pride then made a motion on
2 relevancy that I have ruled on.

3 MR. PRIDE: That is correct.

4 THE COURT: Is that correct?

5 MR. PRIDE: Judge, you succinctly and
6 correctly stated on the record the bench conference as I
7 recall it.

8 THE COURT: Now, with that being said, again,
9 I will revisit -- although I understand you maintain
10 your position. I respect you for that and I further
11 understand many times defense lawyers are in somewhat of
12 that no man or no woman's land to where it's hard to
13 determine how you keep that record and keep that
14 objection ongoing so to speak in the record, whether or
15 not you wanted a motion to strike any particular part of
16 the testimony and whether or not that might highlight
17 that part even worse. Have you thought about that any
18 further, Mr. Pride?

19 MR. PRIDE: Judge, I have thought about it,
20 and I have not changed my position. I think the entire
21 testimony is not relevant and was not offered for that
22 purpose. I would stand -- I would move to strike and
23 have the Court instruct the jury to disregard all of it.

24 THE COURT: Thank you. Thank you very much.
25 I will reaffirm my previous ruling as to the testimony.

1 Anything further from the State before we
2 bring in our jury, Solicitor?

3 MS. CAMPBELL: No, sir.

4 THE COURT: Defense?

5 MR. PRIDE: Nothing.

6 THE COURT: Thank you very much, Mr. Pride.
7 You can bring our jury, please, Mr. Bailiff.

8 (The jury returns to the courtroom.)

9 THE COURT: We are continuing the trial of the
10 case by the cross examination of the witness,
11 Mr. Johnson, by Mr. Pride.

12 Mr. Pride, you may proceed.

13 MR. PRIDE: Thank you, Judge. No questions.

14 THE COURT: Thank you. Thank you very much.
15 Thank you, Mr. Johnson. You may step down.

16 MS. CAMPBELL: Your Honor, may he be excused?

17 THE COURT: Any objection, Mr. Pride?

18 MR. PRIDE: None.

19 THE COURT: You may be excused.

20 (Witness leaves the witness stand.)

21 THE COURT: Solicitor, you may call your next
22 witness.

23 MS. CAMPBELL: The State calls Mike Sutton.

24 MICHAEL SUTTON, being
25 first duly sworn, testifies as follows:

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1 CLERK: Have a seat in the witness stand,
2 please. State your full name for the record.

3 THE WITNESS: Michael Sutton, M-I-C-H-A-E-L,
4 S-U-T-T-O-N.

5 DIRECT EXAMINATION

6 BY MS. CAMPBELL:

7 Q Agent Sutton, where are you employed?

8 A I'm a special agent with the Federal Bureau of
9 Investigation.

10 Q How long have you been with the F.B.I.?

11 A Ten and a half years.

12 Q Did you have any positions in law enforcement prior
13 to joining the F.B.I.?

14 A I did. I served five years with the Durham, North
15 Carolina Sheriff's Office and six years with the
16 Durham, North Carolina Police Department.

17 Q Are you currently assigned to any particular team
18 within the F.B.I.?

19 A I am. I am assigned to the F.B.I.'s criminal
20 investigative division, specifically the cellular
21 analysis survey team.

22 Q What type of work do you do with that team?

23 A We utilize historical cellular telephone records to
24 place phones in particular locations at particular
25 times.

1 Q And can you briefly summarize for the jury how a
2 cell phone engages a cell tower per your analysis?

3 A Certainly. Your cellular phone is nothing more
4 then a radio, just like the radio that is in your
5 car or a television is considered a radio. What is
6 different about a cellular telephone that you have
7 is the two-way communication.

8 So for you to be able to make a cellular
9 telephone call, it has got to be able to engage a
10 cellular tower. Typically it will engage that
11 tower that is the closest and has the strongest
12 signal.

13 Your cellular telephone networks are made up
14 of thousands or tens of thousands of different
15 cellular towers that are placed in areas in which
16 your phone company wants you to have service. They
17 are aware that you are not going to stay with them
18 if you don't have service. So they put up, again,
19 thousands upon thousands of different towers.

20 So when you want to make a phone call, the
21 cell tower needs to know where you are at. Your
22 phone needs to know the closest cell tower; so it's
23 measuring signals. If somebody wants to make a
24 phone call into your cell phone, the network itself
25 needs to know where you are.

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1 Well, the cell phone itself is the device that
2 chooses what tower you are attached to. It sends
3 out signals. It surveys the network. It says, I
4 see that Tower A. is the strongest tower and has
5 the most attractive signal.

6 It tells the network, If anybody wants to call
7 me, route through your tower. It also tells the
8 network, if I'm going to make a call, the first
9 tower that I will connect to is this one that I
10 have identified.

11 Now, how that translates to a little bit later
12 in the way we know that that happens is on your
13 cellular telephone records, the tower that
14 populates as the initial cell tower is that one
15 that the phone has already chosen and has seen as
16 its strongest and most attractive tower.

17 Q What does the term historical cell site data mean
18 for this jury?

19 A Any time that your phone is engaged in activity --
20 and it varies from cell phone company to company on
21 what records they maintain -- but records will be
22 reported within the cellular telephone company.

23 When a phone call is made, when somebody
24 attempts to call your phone but your phone may be
25 off or you may be off on another call, at times

1 with a smart phone if you are doing data
2 connections, it will oftentimes with the phone
3 companies create this record that they keep within
4 the normal course of their business.

5 So we take those records, utilizing the
6 information from the location of the tower, the
7 layout of the particular tower, to give us an idea
8 of how far that tower may actually produce a signal
9 to help determine where that phone was at a
10 particular time of phone activity.

11 Q And what are call detail records?

12 A Call detail records is the name that phone
13 companies typically use to list out your call
14 activity. When you make a phone call and somebody
15 calls you, it's how long the call is, the time, and
16 the date of the call.

17 Q And what are cell site records?

18 A Cell site records are the -- is a listing of
19 cellular telephone towers of a particular phone
20 company.

21 Q Can you also get cell tower information or
22 locations from companies?

23 A Yes.

24 Q And is that useful in doing your job?

25 A Absolutely, because we need to know where the tower

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1 is that was utilized by the phone to provide an
2 area in which the phone was during the time of the
3 call.

4 Q Once you get all the information together, what are
5 you able to do as part of your job?

6 A I then take and analyze the records based on -- at
7 times anomalies with the different cell phone
8 companies -- to determine an area in which the
9 phone would have been at during its utilization.

10 Q How long have you been assigned to the cellular
11 analysis survey team?

12 A Since its creation, approximately two years ago.

13 Q Are you certified in any way?

14 A I am. I am certified by the F.B.I., as well as the
15 cellular analysis survey team. I am certified by
16 J.V.S.U., which is a company that utilizes drive
17 test equipment to measure the breadth and the
18 distance of cellular telephone towers. I am
19 certified to utilize their tools as well.

20 Q Can you tell the jury a little bit about your
21 special training in the field?

22 A I have over 600 hours of training in historical
23 cellular telephone analysis. It includes
24 understanding how the cellular telephone networks
25 are built, how the different technologies -- all

1 phones are not alike.

2 Your A.T.& T. and your T-Mobile phones work
3 off of a system known as G.S.N. Your Sprint and
4 Verizon and other phones work off of a system known
5 as C.B.M.A. You probably heard the term 3-G. You
6 have probably heard the term now 4-G that is coming
7 out. So there are different technologies that act
8 different ways. I have received specific training
9 on all of those.

10 I have also received specific training from
11 engineers from each of the major cellular telephone
12 companies, as well as training from the law
13 enforcement records personnel from each of the
14 major telephone companies so that I can understand
15 exactly how their system works and how it populates
16 the telephone records.

17 Q Have you actually been certified as an instructor
18 in historical cell site analysis?

19 A I have. We teach -- we have taught over -- my unit
20 -- has taught over 5,000 law enforcement personnel,
21 how to interpret and understand these records. We
22 have been teaching that course for a number of
23 years before the casting at the cellular analysis
24 survey team was formerly developed, but we have
25 been teaching that for a number of years.

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1 Q Have you been qualified before as an expert in the
2 field of historical cell site data analysis, both
3 in State and Federal court?

4 A I have.

5 MS. CAMPBELL: Your Honor, at this time we
6 offer him as an expert in historical cell site analysis.

7 THE COURT: I'm sorry, historical?

8 MS. CAMPBELL: Cell site analysis.

9 THE COURT: Mr. Pride?

10 MR. PRIDE: I don't contest his credentials.

11 THE COURT: Thank you. Madame Forelady,
12 ladies and gentlemen of the jury, normally a person
13 cannot give opinion testimony. Normally when a person
14 testifies, they must testify as to what they either saw,
15 heard, or sensed by smell or something of that nature.

16 However, there is an exception when someone is
17 qualified because of education, experience, or training
18 in a particular field. They are permitted to give their
19 opinions in certain areas if the Court qualifies them
20 that way.

21 This witness, Agent Michael Sutton, will be
22 qualified in the area of historical cell site analysis
23 to give opinion testimony in that regard. That does not
24 mean that you must accept the opinion, but it is
25 evidence for you the jury to use in any way you see fit.

1 Thank you, Solicitor. You may continue.

2 MS. CAMPBELL: May it please the Court.

3 THE COURT: Yes, ma'am.

4 BY MS. CAMPBELL:

5 Q Agent Sutton, you explained a little bit earlier
6 about how you are able to do your tracking.
7 Specifically, is there a certain range a phone has
8 to be from a cell phone tower location in order for
9 it to hit?

10 A That varies based on a number of factors: The
11 setting, whether it be urban or rural; the
12 population density in that particular area; and the
13 number of towers in that area, as well as how the
14 phone companies have set up the direction of that
15 radio frequency.

16 They actually tilt the towers down at a
17 particular angle to provide service to the greatest
18 number of folks. If we had to give an average,
19 most cell towers average a mile and a half to two
20 miles of service distance.

21 Q So as far as the cell tower and the information you
22 are able to convey to this jury, you can't say
23 exactly -- say, if I was standing in the back of
24 the courtroom or the front of the courtroom -- from
25 this analysis; is that correct?

1 A That's correct.

2 Q But you can say the general area?

3 A Yes, I can.

4 Q In tracking a person that may be moving over a
5 distance say, from state to state, it can be useful
6 in tracking cell phone activity?

7 A Yes.

8 Q Does the phone always have to be on for the cell
9 phone to actually track?

10 A It has to be on and there has to be activity on the
11 phone for it to record a record. Again, we use the
12 records to plot where that phone may have been or
13 was.

14 Q I want to turn your attention -- was your
15 assistance requested in this case?

16 A It was.

17 Q And were there certain cell phone records that
18 were provided to you for you to do some analysis
19 on?

20 A Yes.

21 Q And specifically there are two dates I want to
22 focus on. First of all, let me show you State's
23 Exhibit Number 29. Is this a copy of the cell
24 phone records that were provided to you?

25 A (Pause.) Yes, these are the records that I

1 reviewed.

2 MS. CAMPBELL: Your Honor, at this time we
3 would offer State's Exhibit Number 29 into evidence.

4 MR. PRIDE: Let me see those, please.

5 MS. CAMPBELL: These have been provided.

6 MR. PRIDE: No objection.

7 THE COURT: State's 29 is in evidence without
8 objection.

9 (State's Exhibit Number 29 is received into
10 evidence.)

11 BY MS. CAMPBELL:

12 Q In State's Exhibit Number 29, is there subscriber
13 information involved in those?

14 A These are Sprint records and they show an account
15 billing address and person as Jocelyn Jennings,
16 Lady Street in Columbia, South Carolina.

17 Q And that's the person whose account the name is
18 actually in; is that correct?

19 A That's correct.

20 Q Specifically the dates that were provided to you
21 include November, I believe the 30th, as well as
22 December 3rd?

23 A Yes.

24 Q 2011?

25 A 2011. These records actually conclude on

1 December 1st, 2011.

2 Q They conclude on December 1st?

3 A Yes.

4 Q And I want to be specific on that date. There is
5 some activity in the Columbia area, but I want to
6 focus on some of the activity outside the Columbia
7 area. At law enforcement's request, did you, in
8 fact, come up with a PowerPoint presentation
9 tracking the number of that telephone?

10 A I did.

11 Q And specifically on November the 30th?

12 A Yes.

13 Q I want to show you State's Exhibit Number 28. Is
14 that a C.D. of the PowerPoint itself?

15 A It is.

16 Q You provided that to me?

17 A Yes.

18 Q Does that accurately reflect some of your findings
19 in this case?

20 A It does.

21 MS. CAMPBELL: Your Honor, at this time we
22 would offer State's Exhibit 28 into evidence.

23 MR. PRIDE: No objection.

24 THE COURT: State's 28 is in evidence without
25 objection.

1 (State's Exhibit Number 28 is received into
2 evidence.)

3 BY MS. CAMPBELL:

4 Q Would it aid you to be able to step down and
5 explain to the jury what we are showing on this?

6 A Yes, it would.

7 MS. CAMPBELL: Your Honor, at this time I ask
8 permission to publish.

9 THE COURT: Yes, you may publish, and the
10 witness may step down.

11 (Witness leaves the witness stand.)

12 BY MS. CAMPBELL:

13 Q What does this depict?

14 A What this pictures depicts, I want to point out a
15 couple of things on here just from a legend
16 standpoint for the jury to understand. Each of
17 these yellow triangles that you see represents
18 Sprint cellular telephone towers there.

19 These were the towers that were in place on or
20 about the dates in question. So this (indicating)
21 is the Columbia, South Carolina region. It's a
22 small depiction of that. This red dot (indicating)
23 represents the address of Lady Street in
24 Columbia, South Carolina.

25 What I have noticed in looking at the records

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1 was that beginning on the first call on
2 November 30, 2011, was at 2:30 in the morning.
3 There were six or seven calls that then proceeded
4 through 9:30 in the morning.

5 All of those calls occurred on towers that are
6 going to be highlighted here all within the
7 Columbia region. So up until about 9:30 that
8 morning, the phone was being utilized on one of
9 these six or seven cell towers that you see
10 highlighted in red.

11 Q Again, this is on which date?

12 A This is on November 30, 2011.

13 Q Thank you.

14 A I then noticed that beginning at about 10:21 in the
15 morning, the phone began to move. Previously where
16 it had been here (indicating), at , in the area
17 around Lady Street, a call I noticed occurred
18 at 10:21 or so in the morning that utilized this
19 cell tower (indicating), which I believe this
20 (indicating) is going to be Interstate 20 heading
21 west.

22 Pardon me. I'm not from this area; so I'm not
23 completely sure of the directions. It went from
24 this area (indicating) and then down to this area
25 (indicating) around 10:20 or so in the morning.

1 The phone continued to move in a westward fashion
2 through the morning.

3 I noticed its next call was down -- let me see
4 if I can adjust this a little bit so you can see --
5 the next call occurred in the Augusta area around
6 11:19 in the morning. The phone continued to move
7 westbound consistent with travel down I-20.

8 This was the last phone call that I discussed
9 about at 11:19 in the morning. It continued to
10 move west and then utilized this tower (indicating)
11 just west of the Augusta area.

12 Q In the Augusta area where it's hitting right there,
13 that 334- , is that the number that is actually
14 being called?

15 A No, the numbers that you see there are the
16 designators that the cellular telephone company
17 puts on its towers that then read into the records.
18 The 334 is what Sprint calls a repoll. It's like
19 an area code.

20 So you have got your area code and within it
21 you have got a bunch of phone numbers. So in this
22 case here is our area code of cell towers in the
23 area, and then this is somewhat of the phone
24 number.

25 The first digit indicates the sector of the

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1 tower. Typically a cellular phone tower has three
2 sectors. You can kind of position it into a Y.
3 Actually which direction sector one is is all
4 dependent upon on the service area and the
5 population where they want to direct it. It's not
6 always directed due north. So we have to look at
7 what is called the azimuth to determine that.

8 Then the last three numbers indicate the tower
9 number or the name that they actually give that
10 particular tower. So we put that all together to
11 find out exactly where that tower is
12 geographically.

13 Q Before you go any further, the one that is hitting
14 on the 334- number in the Augusta area,
15 approximately what time was that again?

16 A That was about 11:19 in the morning on November the
17 30th, 2011.

18 Q It appears that the phone has been on the move
19 again, and the next one is approximately what time?

20 A That one occurred at about 11:33 in the morning.
21 So you have got about a 13-, 14-minute travel time
22 between these two points. As it proceeds, it
23 proceeds again going westbound to this tower
24 (indicating) 561- .

25 Again, it would provide service to the

1 Interstate 20 area. It continues in that westbound
2 motion to this tower (indicating) located just east
3 of Covington. That was at about 12:40 in the
4 afternoon on November the 30th.

5 Q And all these times are reflected in the phone
6 records themselves?

7 A They are reflected in the phone records, yes. It
8 actually sends -- it then utilizes this tower
9 (indicating) near Covington prior to it ultimately
10 moving on towards the Atlanta area. It actually
11 stayed in the Covington area about ten or so
12 minutes. So there actually could have been a pause
13 here for some reason.

14 Q Continue.

15 A Then I noticed that beginning at about 1:28 in the
16 afternoon, the phone began utilizing towers in the
17 Atlanta area, which are being highlighted on the
18 scene now. That use continued until about 3:54 in
19 the afternoon.

20 Q From what time to what time again? I'm sorry.

21 A From approximately 1:28 on November 30, 2011, until
22 about 3:54 on November 30, 2011. This was the
23 final tower that was used in the Atlanta area
24 before I then noted that it began moving in an
25 eastward direction, again, consistent with travel

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1 which could be consistent with travel down I-20.

2 It moved again eastward utilizing this tower
3 (indicating) that is adjacent to I-20, 561- ,
4 which is just east of the Covington area. It
5 continued -- pardon me for having to keep moving
6 this -- so this (indicating) is this next tower
7 that it used, just west of the Madison area.

8 It moved to -- and I know I'm probably going
9 to butcher this name -- Siloam, again, a tower that
10 would provide service to Interstate 20 until it
11 ultimately began using towers again in the downtown
12 Columbia area.

13 Q And what is the first sign that the phone returns
14 to the Columbia area that day on the 30th?

15 A It began using service in the Columbia area at
16 around 7:36.

17 Q That evening; so 7:36 P.M.?

18 A That's correct.

19 Q So your findings, as far as tracking that phone
20 that day, are consistent with someone traveling
21 down I-20 to the Atlanta area, spending
22 approximately two and a half hours there, and then
23 returning?

24 A Yes, that is correct. That is the end of the
25 PowerPoint.

1 Q Thank you.

2 A (Witness resumes the witness stand.)

3 Q The area in Atlanta where you see her hitting on
4 several of the cell phone towers, is that in the
5 eastern part of Atlanta?

6 MR. PRIDE: Excuse me, Judge. The question
7 was "see her." There has been no testimony from this
8 witness about who was using that phone.

9 THE COURT: I will sustain the objection.
10 Solicitor, if you will rephrase your question.

11 BY MS. CAMPBELL:

12 Q The cell phone that was hitting in the Atlanta
13 area, was that on the east side of Atlanta?

14 A It was.

15 Q And East Point, Georgia, is in that area of
16 Atlanta?

17 A Yes, it is.

18 Q Were you also requested to do some similar
19 tracking -- you didn't map it out for them --
20 several days later, I believe on December 3rd, with
21 that same phone?

22 A I was.

23 Q And what information can you tell the jury about
24 what you found on December the 3rd as far as
25 tracking that cell phone and its movement out of

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1 Columbia?

2 A I noticed that the cell phone -- again, looking
3 specifically at the call detail records for
4 December the 3rd, there was call activity at
5 4:00 o'clock in the morning that indicated use in
6 the Columbia area, again, in the downtown area in a
7 region near Lady Street. Then from between 10:31
8 in the morning and 2:59 in the afternoon, the phone
9 was utilizing towers in the Augusta, Georgia area.

10 Q So between 10:54, I believe you said?

11 A Approximately 10:31 in the morning --

12 Q Sorry.

13 A -- to 2:59 in the afternoon.

14 Q It was in what area?

15 A In the Augusta, Georgia area.

16 Q And then any activity after that returns to?

17 A There was no call activity between 2:59 and
18 4:24 P.M., but at 4:24 P.M. the phone was again
19 back in the Columbia area.

20 Q Thank you, sir.

21 MS. CAMPBELL: I don't have anything further.

22 THE COURT: Thank you, Solicitor. Mr. Pride?

23 MR. PRIDE: May we approach?

24 THE COURT: Yes, sir, certainly.

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: Questions, Mr. Pride?

4 MR. PRIDE: No questions. No examination.
5 Thank you.

6 THE COURT: Thank you. Thank you very much,
7 Mr. Pride.

8 Thank you for being with us today, Agent
9 Sutton. You may step down.

10 Any objection to the officer being excused,
11 Mr. Pride?

12 MR. PRIDE: None.

13 THE COURT: You are excused.

14 THE WITNESS: Thank you, sir.

15 (Witness leaves the witness stand.)

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

18 MS. CAMPBELL: The State would call Adrienne
19 Alston.

20 ADRIENNE ALSTON, being
21 first duly sworn, testifies as follows:

22 CLERK: Have a seat in the witness stand,
23 please. State your full name for the record and please
24 spell your first and last name.

25 THE WITNESS: Adrienne Alston,

1 A-D-R-I-E-N-N-E, A-L-S-T-O-N.

2 DIRECT EXAMINATION

3 BY MS. CAMPBELL:

4 Q Ms. Alston, how old are you?

5 A Twenty-three.

6 Q Where do you live, ma'am?

7 A Currently in Atlanta, Georgia.

8 Q And do you know the defendant in this case, Zinah
9 Jennings?

10 A Yes.

11 Q And can you tell this jury how you know Zinah?

12 A We met playing A.A.U. basketball in high school.

13 Q In high school. What high school did you attend?

14 A C.A. Johnson.

15 Q And was she in your same high school?

16 A No.

17 Q What high school did she attend?

18 A Dreher.

19 Q But y'all met through basketball?

20 A Yes.

21 Q Over the years after meeting in high school, did
22 you continue to have a friendship with Zinah?

23 A Yes.

24 Q And typically in the last year or two, how often
25 would you see Zinah?

1 A Not so often, probably saw each other about three
2 or four times.

3 Q In the fall of 2011, were you living here in the
4 Columbia area?

5 A Yes.

6 Q Where were you living?

7 A In the fall I was living in my own home at that
8 time off of Covenant.

9 Q Off of Covenant Street?

10 A Yes.

11 Q Were you aware that Zinah had a child?

12 A In the beginning, yes, I was aware she was
13 pregnant. I didn't see Zinah while she was
14 pregnant or anything, but I was aware she was
15 pregnant and had a child.

16 Q And the last six month before all this happened,
17 did you have an occasion to see Zinah?

18 A Six months prior to?

19 Q Within that six-month period prior to all this
20 happening?

21 A No.

22 Q Can I turn your attention to November of 2011, last
23 year?

24 A Yes.

25 Q Were you at your house that day in November when

1 Zinah popped up?

2 A Yes.

3 Q Can you tell the jury about that?

4 A I was on the way to work. Zinah popped up. I
5 asked her what was her reason for coming by. She
6 said she lost her phone and wasn't able to get in
7 contact with me; so she stopped by to see what I
8 was doing.

9 Q When she came by that day, who all was at your
10 house that day with you?

11 A Me and my boyfriend Troy.

12 Q Troy? What is Troy's last name?

13 A Clark.

14 Q And approximately what time of day was it when she
15 came by? Do you remember?

16 A The afternoon.

17 Q What were you getting ready to do when she dropped
18 by?

19 A Going to work.

20 Q You were going into work. Where were you working
21 at the time?

22 A Teleperformance call center.

23 Q When she came to the door that day, did you ask her
24 specifically about her child?

25 A Yes, I asked her where was Child

- 1 Q Did she give you any information as far as where
2 Child was that day?
- 3 A Yes, she said he was in the car.
- 4 Q Again, this was in November of 2011?
- 5 A Yes.
- 6 Q And at that point what did you or Troy do?
- 7 A I asked her why was he in the car. She said he was
8 sleeping. I was like, so you left him? And she
9 was like yes. Troy just decided to go out there
10 and, you know, make sure the air was, you know,
11 fluctuating and he can breathe and all that and
12 make sure he was out there.
- 13 Q At that point did you and Zinah have a
14 conversation?
- 15 A Just a little conversation. I was on the way to
16 work, that maybe she can come by another time.
- 17 Q Another time?
- 18 A Uh-huh. (Indicating affirmative response.)
- 19 Q So basically you didn't have time to talk to her
20 that day?
- 21 A No.
- 22 Q Did she then leave?
- 23 A Yes, we walked out together.
- 24 Q And then did Troy come back in the house after she
25 got back in the car?

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1 A No, we all left out together. He dropped me off at
2 work.

3 Q I want to turn your attention to December of 2011.
4 Did you receive a phone call?

5 A In December, yes.

6 Q You can't say what was said to you. As a result of
7 that phone call, where did you go?

8 A To a nightclub.

9 Q What nightclub were you going to?

10 A It was called Apple Bottoms.

11 Q Apple Bottoms. Where is that located?

12 A Bush River.

13 Q And approximately what time was it when you went to
14 Apple Bottoms?

15 A Around one-ish.

16 Q Once you got there, who were you looking for?

17 A Zinah.

18 Q Did you find her?

19 A Yes.

20 Q What was Zinah doing that evening?

21 A Sitting at the bar.

22 MR. PRIDE: Judge, could we talk?

23 THE COURT: Yes, sir.

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: Solicitor, you may ask your next
3 question.

4 MS. CAMPBELL: Thank you, sir.

5 BY MS. CAMPBELL:

6 Q Without going into what was said that night, did
7 you and Zinah have a conversation there at the bar?

8 A Yes, we had a conversation. It wasn't exactly at
9 the bar.

10 Q Where was it?

11 A We left the club, just to sit in my car and talk.

12 Q Did you observe any other car that caught your
13 attention out there in the parking lot?

14 A Just hers.

15 Q What kind of car was she driving?

16 A It was a Neon, burgundy or red.

17 Q A Neon?

18 A Uh-huh. (Indicating affirmative response.)

19 Q After having that conversation with Zinah that
20 night, did you leave with her or did you leave by
21 yourself?

22 A I left by myself.

23 Q Was she still there when you left?

24 A Yes.

25 Q That night when you observed her after being called

1 to the bar, did you see Child

2 A No.

3 Q Again, what month was this in?

4 A December.

5 Q After that did you have anymore contact with Zinah?

6 A Not directly, just sent me a Facebook message.

7 Q And when she sent you a Facebook message, what did
8 she want?

9 A She told me that she was at her mother house and to
10 come and pick her up A.S.A.P.

11 Q Did you do that?

12 A No.

13 Q During this same time period, did you have a
14 conversation with Zinah about her child and the
15 care of her child?

16 A No. Most of the rest of the conversation was about
17 her coming to -- wanting to come and see me, just
18 wanted to hang out, and I didn't have time.

19 Q At some point did you ask Zinah about the father of
20 her child?

21 A Yes.

22 Q What information were you asking about?

23 A I just asked what was going on, you know, between
24 her and him.

25 Q Did you know who the father was?

- 1 A Yes.
- 2 Q Who was it?
- 3 A Rob. I called him Rob.
- 4 Q You asked her what was going on?
- 5 A Yeah.
- 6 Q What did Zinah tell you?
- 7 A She just said that he didn't claim the child. He
- 8 said it was not his.
- 9 Q How many occasions did you actually see Zinah with
- 10 her child?
- 11 A Two times.
- 12 Q And other than that and other than what she told
- 13 you about Rob, you didn't have any other contact
- 14 with her?
- 15 A No.
- 16 Q After the end of November, you never saw ^{Child}
- 17 again; did you?
- 18 A No.
- 19 Q Thank you.

20 MR. PRIDE: Judge, may we approach?

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: Step out, please, ladies and

25 gentlemen.

1 (The jury retires to the jury room.)

2 THE COURT: You want the witness to remain?

3 MR. PRIDE: Thank you, Judge. I would
4 appreciate it if you would excuse her.

5 THE COURT: Ms. Alston, if you would just step
6 out in the hallway with our bailiff momentarily. Thank
7 you.

8 (The witness leaves the courtroom.)

9 THE COURT: Mr. Pride?

10 MR. PRIDE: Judge, I want to preface my
11 remarks by saying that I'm not being picayunish. You
12 know, I am not just standing up and asking just to be
13 asking.

14 What value in this case does it have that
15 Zinah brought a baby by the house that was asleep in the
16 car? I mean, what is the inference? That a good mother
17 wouldn't leave her baby out sleeping in the car? So
18 that makes her a bad mother? So that makes her guilty
19 of anything that she is charged with? Any elements of
20 an offense that she is charged with?

21 Her boyfriend goes out to the car. The child
22 is fine. They all leave. Other than that, somebody
23 calls her at the club and says, Come out here. The
24 inference is that she goes out there. She talks to
25 Zinah. She sees Zinah's car in the parking lot, and the

1 baby ain't in the car. Judge, that's spurious. I will
2 say it again, Judge, it rises to the level of gossip.

3 THE COURT: It's certainly not gossip if this
4 young lady that right now I have sequestered out in
5 hallway, Ms. Alston, said she came by my house
6 November of '11, November 2011. I don't think she said
7 the date.

8 She stopped by because she had lost her phone.
9 She, Ms. Alston, was there with Troy Clark and that
10 Ms. Alston asked her about Child She said he was in the
11 car asleep. To me depending on -- it's not gossip.

12 MR. PRIDE: I withdraw that.

13 THE COURT: It's not gossip.

14 MR. PRIDE: I withdraw that. It does not rise
15 to -- that is a poor statement.

16 THE COURT: A jury could determine that
17 leaving a 17-month-old child in the car, even asleep
18 unattended, could be some evidence of placing the child
19 at unreasonable risk of harming affecting the child's
20 life, physical, or mental health or safety. I mean,
21 obviously I don't know what a jury will do that with
22 that information. I'm not the fact finder.

23 MR. PRIDE: When Ms. Garfield opened to the
24 jury, she opened on abandonment. That's the only thing
25 she opened on.

1 THE COURT: And, of course, as we all know,
2 what the lawyers say is not evidence. It's the
3 testimony of the witnesses testifying under oath from
4 this witness stand and how the jury weighs those
5 witnesses' credibility and any reasonable inferences to
6 be drawn, not what Solicitor Garfield said or Attorney
7 Pride said, regardless of how eloquently either one of
8 you say it or how often or how loud.

9 Now, the other issue in December of '11, I
10 think her testimony is -- Well, I think at that point
11 when we are talking about, what I took to be the name of
12 the place as Apple Bottoms on Bush River Road, you
13 approached the bench -- you and Ms. Campbell -- and you
14 had an objection concerning some of the testimony that
15 would be spurious concerning perhaps behavior that
16 Ms. Jennings had engaged in at the club.

17 As I understood it, Ms. Campbell indicated she
18 was not going into that, only that she was going into
19 that they had a conversation and that she did not see
20 Child To me that cuts both ways.

21 I would have no objections to a young lady
22 being out at a club. I would have more objection if the
23 young lady was out at the club with her 18-month-old
24 child.

25 With that being said, I have never been to

1 Apple Bottoms. Perhaps it's family friendly. I don't
2 know. Perhaps you could take your children there. I
3 don't know.

4 MR. PRIDE: I didn't conduct an investigation,
5 and I don't know either.

6 THE COURT: All I'm saying is that cuts both
7 ways in my mind. I have no objections to a young lady
8 or a young man going out to a club. I would have
9 objections if I went into a club and there was a baby.

10 I would be calling the police or I would be
11 calling the Department of Social Services or someone. I
12 wouldn't remain in that club if the baby was in the
13 club. That cuts both ways.

14 Mr. Pride, I know this isn't your intent. I
15 don't mean it like that, but I feel like if I can rule
16 on this before the testimony is out, the case will flow
17 smoother.

18 What is happening is the testimony is coming
19 out, and then you are saying, Strike all the testimony,
20 Judge. I would be glad to let you have an in camera
21 hearing if you want on the witness that you have
22 concerns about. I would rather rule on it upfront.

23 MR. PRIDE: Okay.

24 THE COURT: So that I'm not trying to go back
25 and smooth over a field that has already been plowed.

1 MR. PRIDE: Judge, I would be glad to comply
2 with that. Just one thing I do want you to understand,
3 and we may differ in this; but it is my understanding
4 that when the solicitor opens, the solicitor is required
5 to open on the law.

6 The law that Ms. Garfield opened on was only
7 abandonment. That's certainly for you to decide, but if
8 I am right about that, then none of this testimony would
9 be relevant.

10 THE COURT: Quite frankly, I don't take notes
11 on the lawyers' openings. We have a court reporter who
12 we can rely on.

13 MR. PRIDE: That's not such a big point that I
14 would put you to the task of having to go back and
15 research it. That's not going to kill my defense. It's
16 not going to make my defense.

17 THE COURT: I want to be right.

18 MR. PRIDE: Okay.

19 THE COURT: I don't mind doing that. But at
20 any rate, what are you asking me to do right now? You
21 said the first part is not gossip.

22 MR. PRIDE: I am just saying that there is
23 nothing that this young lady has said that is relevant
24 to the charges against Zinah. She went to her house.
25 She had the baby in the car. The baby was asleep. The

1 baby was fine. They left the house. She went to the
2 club.

3 THE COURT: Nobody has testified the baby was
4 fine yet; have they? She didn't even see the baby.

5 MR. PRIDE: Conversely nobody has testified
6 that the baby wasn't fine.

7 THE COURT: Right, right. I assume Troy Clark
8 was on the witness list also. I haven't reviewed it.

9 MR. PRIDE: Right. But certainly no evidence
10 has been produced before you that the baby was not fine.
11 If no evidence is produced before you, then the
12 assumption is that the baby is fine.

13 THE COURT: The evidence has been produced by
14 this witness that the baby was left in the car --
15 according to the mother -- was left in the car asleep.
16 That's the testimony as I recall it.

17 MR. PRIDE: You recall it correctly.

18 THE COURT: I'm not going to strike that.
19 What are you asking me to do about Apple Bottoms Club on
20 Bush River Road?

21 MR. PRIDE: I just don't know that it has
22 anything to do with this case. She was out there. She
23 was at the bar. Her car was out there.

24 THE COURT: And Child wasn't.

25 MR. PRIDE: And Child wasn't.

1 THE COURT: Like I said, to me --

2 MR. PRIDE: I will take the slice on my side.
3 You say it cuts both ways. You are absolutely right and
4 I understand. I will take the slice on my side. I will
5 withdraw the objection.

6 THE COURT: Thank you. Thank you very much.
7 Mr. Pride again, if you have an objection to any of
8 these witnesses, please tell me. I would be glad to
9 listen to your objections outside the presence of the
10 jury before they call the witness.

11 MR. PRIDE: Thank you, Judge.

12 THE COURT: You are welcome. Maybe we will be
13 through by Veterans' Day. No, wait a minute. That's
14 Labor Day. No, Veterans' Day. Any time you have got a
15 an objection, all you have to do is tell me.

16 Bring our jury, please. Bring me the witness.
17 Bring me all of them.

18 (The witness returns to the courtroom.)

19 (The jury returns to the courtroom.)

20 THE COURT: Solicitor, you had completed your
21 direct examination?

22 MS. CAMPBELL: Yes, sir.

23 THE COURT: Mr. Pride?

24 MR. PRIDE: Thank you, Judge. No questions.

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

1 Mr. Pride.

2 Ms. Alston, you may step down. Any objections
3 to this young lady being excused?

4 MR. PRIDE: None.

5 THE COURT: Thank you. You may be excused.

6 (Witness leaves the witness stand.)

7 THE COURT: Solicitor, you may call your next
8 witness.

9 MS. WALKER: Your Honor, the State calls Troy
10 Clark.

11 THE COURT: Mr. Clark, if you would come
12 around for us and be sworn.

13 TROY CLARK, being
14 first duly sworn, testifies as follows:

15 CLERK: Have a seat in the witness stand,
16 please. State your full name for the record and please
17 spell your last name.

18 THE WITNESS: The first name is Troy. The
19 last name is Clark, C-L-A-R-K.

20 **DIRECT EXAMINATION**

21 BY MS. WALKER:

22 Q Good afternoon, Mr. Clark. Sir, where do you live?

23 A Columbia, South Carolina.

24 Q And I want you to speak up. Everybody needs to be
25 able to hear you.

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1 A Here in Columbia.

2 Q How long have you lived in Columbia?

3 A All my life.

4 Q Are you currently employed?

5 A Yes, ma'am.

6 Q What do you do?

7 A I sell fresh produce, vegetables.

8 Q Do you know Zinah Jennings?

9 A Yeah, I know her through my girlfriend. I met her
10 like approximately five years ago off of Lady
11 Street.

12 Q Five years ago off of Lady Street?

13 A Yes, when I was staying with my girlfriend across
14 the street from Zinah mother house.

15 Q That was your girlfriend that just testified?

16 A Yes, ma'am.

17 Q Did you ever see her son ^{Child}

18 A Yeah, just that time they had popped up to our
19 house.

20 Q You said they popped up to your house?

21 A Yeah, when she came over to the house.

22 Q Where was your house at? Where were you living
23 then?

24 A Dubar Street. It's off of Covenant Road.

25 Q Off of Covenant Road?

- 1 A Yes, ma'am.
- 2 Q Were you expecting to see Zinah that day?
- 3 A Oh, no, ma'am.
- 4 Q Describe your interaction with Zinah, please.
- 5 A I ain't never really talk to Zinah too much.
- 6 Q That day did you talk to her?
- 7 A No, ma'am, I ain't say nothing to her. I just
- 8 opened the door and my girlfriend was in the house
- 9 with me.
- 10 Q Do me a favor. I know you are kind of soft spoken,
- 11 but we've got to make sure that everybody, even the
- 12 people in the back row can hear you. Okay? You
- 13 said you didn't talk to her too much?
- 14 A No, ma'am.
- 15 Q At some point did you realize that Child was with
- 16 her?
- 17 A Yeah. When Adrienne had asked her where Child was
- 18 at, she replied that he was in the car.
- 19 Q Did you go out and check on Child
- 20 A Yes, I had went out the door.
- 21 Q You went and checked on Child
- 22 A Yes, Zinah and her stayed in the house. I went out
- 23 to check on Child
- 24 Q When you got to the car -- well, first of all,
- 25 describe that day. Was it cold? Was it hot? Do

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1 you remember?

2 A Yeah, kind of hot, like warm.

3 Q It was kind of a warm day?

4 A Yes, ma'am.

5 Q Were the windows rolled down in the car?

6 A No, ma'am.

7 Q Was the door open to allow some air to get in?

8 A Yeah. I went out and I had opened the door. He
9 was on the back passenger side in the car seat.

10 Q Before you opened the door, all four doors were
11 closed and the windows were up?

12 A Yes, ma'am.

13 Q So you went out. What was he doing when you went
14 to the car?

15 A He was in the car asleep.

16 Q He was asleep?

17 A Yeah, I could tell because his stomach was still
18 breathing. He was just sleeping.

19 Q So you made sure he was still breathing?

20 A Yes, ma'am, I had opened the door and checked on
21 him.

22 Q And he stayed asleep while you stayed out there
23 with him?

24 A Yes, ma'am.

25 Q Did his mother return at some point?

1 A Yes, her and Adrienne stayed in the house about two
2 or three minutes.

3 Q Did Zinah and Adrienne come back out at the same
4 time?

5 A Yes, ma'am.

6 Q And what did y'all do then?

7 A Zinah, she got in her car. Her car was parked
8 behind our car. She backed up first, and then me
9 and Adrienne got in the car, and I took Adrienne to
10 work.

11 Q Was that the last time you have seen ^{Child}

12 A Yes, ma'am.

13 MS. WALKER: No further questions.

14 THE COURT: Thank you. Mr. Pride.

15 **CROSS EXAMINATION**

16 BY MR. PRIDE:

17 Q Zinah came to the house where you and Adrienne were
18 around what time?

19 A It had to be around like the afternoon time. I
20 can't say what time it was.

21 Q And this was in the month of November?

22 A Yes, sir.

23 Q And what date in November? What date? Do you
24 know?

25 A No, sir.

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1 Q But this was in 2011?

2 A Yes, sir.

3 Q Was it before noon or after noon when Zinah came?

4 A I would say afternoon.

5 Q In the afternoon?

6 A Yeah, it was probably like a little bit after 12:00
7 or 1:00, something like that.

8 Q What do you estimate is the total amount of time
9 that Zinah stayed in the house before she came back
10 out and left?

11 A It was short. She went in the house about two or
12 three minutes.

13 Q And then came right back out?

14 A Yeah, I guess they was in the house talking while I
15 went out the door.

16 Q She knew you went out the door; didn't she?

17 A Yes.

18 Q Zinah knew you went out to the car; didn't she?

19 A No, I ain't tell her. I just walked out the door
20 to check on him. I told my girlfriend I was going
21 out the door.

22 Q Speak up a little louder.

23 A No, I ain't tell Zinah. I told my girlfriend I was
24 going out the door to check on him.

25 Q Well, Zinah was talking with your girlfriend;

1 right?

2 A She was in the back there getting dressed. Zinah
3 was -- when I let her in, she was in the front
4 room. So I went back there and tell her. You
5 know, the walls are thin. She had went back there
6 and I went out the door to check on him.

7 Q And Zinah was there two or three minutes and then
8 she left and went back to the car, and you all left
9 at the same time?

10 A Yes, sir.

11 Q Is that correct?

12 A Yes, sir.

13 Q And are you sure? Did you check each window in the
14 car to make sure that none of them were rolled
15 down? Did you do that?

16 A Yeah. When you walk up to the car, you can see all
17 the windows was up.

18 Q You can see the window on the other side of the car
19 too?

20 A Yeah. Because when you walk out, you walk out of
21 my house, you could see. That's the driver's side
22 of the car. I walked around the other side. He
23 was in the passenger seat in the back seat.

24 Q So you walked around the car?

25 A Yes, sir.

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1 Q And you say this was in November?

2 A Yes, sir.

3 Q And Zinah came out and she got in the car and left?

4 A Yes, sir.

5 Q Thank you very much.

6 THE COURT: Redirect?

7 MS. WALKER: No, Your Honor.

8 THE COURT: Thank you. Thank you very much,
9 Mr. Clark.

10 Did you have other questions? Did I cut you
11 off, Mr. Pride?

12 MR. PRIDE: No, you did not.

13 THE COURT: You may step down, Mr. Clark. You
14 may be excused.

15 THE WITNESS: Yes, sir.

16 (Witness leaves the witness stand.)

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

19 MS. GARFIELD: Your Honor, the State calls
20 Jessica Thomas.

21 JESSICA THOMAS, 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, please.

25 THE WITNESS: Jessica Thomas.

1 DIRECT EXAMINATION

2 BY MS. GARFIELD:

3 Q Ms. Thomas, where do you work?

4 A Hilton Hotel.

5 Q Which Hilton Hotel is that?

6 A Senate Street.

7 Q What do you do at the Hilton?

8 A Housekeeping.

9 Q And where did you go to high school?

10 A Dreher High School.

11 Q Ms. Thomas, do you know the defendant, Zinah
12 Jennings?

13 A Yes.

14 Q Can you explain to the jury how you met
15 Ms. Jennings?16 A I met her at Dreher High School in 2002. I stay --
17 I live across the street from her on Lady Street,
18 and her mom used to give me a ride to school.

19 Q Are you two the same age?

20 A No.

21 Q What is the age difference?

22 A I'm two years older than her.

23 Q After you graduated did you and Zinah stay in
24 touch?

25 A No. I saw her a few times out and about, but I saw

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1 her walking in my neighborhood one day.

2 Q When you say you saw her walking in your
3 neighborhood, where do you live?

4 A In Gonzalez Gardens community.

5 Q You saw her in your neighborhood approximately
6 when?

7 A It was kind of warm, like the summer.

8 Q Do you recall the year?

9 A 2011.

10 Q So a year ago?

11 A Uh-huh. (Indicating affirmative response.)

12 Q A year ago. And when you ran into Ms. Jennings,
13 did the two of you renew your friendship?

14 A Yes, yes.

15 Q Did you show Ms. Jennings where you lived?

16 A Well, I was kind of like sitting outside. So I
17 pointed to, That's my location.

18 Q And this is an apartment complex?

19 A Uh-huh. (Indicating affirmative response.)

20 Q So did you show her which apartment was yours?

21 A Yes.

22 Q From then, talking the summer of last year, did
23 Ms. Jennings start visiting you regularly?

24 A Yes, she would come by.

25 Q And would she have her son ^{Child} with her?

- 1 A Yes, sometimes.
- 2 Q And the occasions that she had Child with her, did
3 you ever observe her to do anything neglectful?
- 4 A Yes.
- 5 Q Can you explain to the jury what you observed?
- 6 A For one he didn't have proper clothing in my
7 opinion, a shirt and a diaper, no shoes on. A few
8 times he was hungry. I fed him gave, him a pair of
9 pants of my youngest baby. It seemed like he had a
10 little mark on his forehead, not much of a big one;
11 and he just seemed hungry, like he was agitated.
- 12 Q Do you have any children of your own?
- 13 A I do.
- 14 Q How many children do you have?
- 15 A Two boys.
- 16 Q What are their ages?
- 17 A I have a six year old and a one year old.
- 18 Q Did you ever observe Ms. Jennings hit Child
- 19 A I saw her squeeze his hand.
- 20 Q Cause harm is what I should have asked you. Did
21 you ever see her cause harm to Child
- 22 A Squeezing his hand.
- 23 Q Explain to the jury what you observed.
- 24 A My one year old was pretty much -- he wasn't one at
25 the time, but he was saying momma. She wanted him

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1 to say momma. When I looked down, she was like
2 squeezing his hand, Say momma, and he was
3 screaming.

4 Q What did you do?

5 A I was like, Let his hand go. I asked her what she
6 was doing. He will eventually say it. They all
7 have their own stages.

8 Q That particular day he was not saying it yet?

9 A No, I don't think he called her momma.

10 Q I want to direct your attention to Thanksgiving.
11 Did you have any contact with Zinah Jennings on
12 Thanksgiving of last year?

13 A I did.

14 Q Explain to the jury about that.

15 A Well, I was at my sister's house near the Benedict
16 stadium. She popped up on Thanksgiving Day, and
17 she was like, I need to use your house key to do my
18 hair. She wanted to do her hair. I was like, I'm
19 not home. I'm with my family, at dinner. She
20 pretty much demanded that I give her my key to go
21 to my apartment, but I told her no.

22 Q Did she have her son with her?

23 A She didn't.

24 Q Did she tell you where he was?

25 A On that day I didn't ask her.

1 Q And a couple of days later, did you see her with
2 Child

3 A Yeah, I saw her. She came to my apartment.

4 Q And that was a couple of days later?

5 A Yes.

6 Q And did you notice anything about Child at that
7 time?

8 A No. She just told me about her Thanksgiving Day.

9 Q And what did she tell you?

10 A She told me that she was at a friend house in the
11 country, which is like the Leesburg area. I don't
12 know exactly where it is, but she was explaining to
13 me her friend went to jail on the same charge she
14 has been charged with. Her friend supposedly had
15 did something to her sister's kid and went to jail
16 on Thanksgiving day.

17 Q Did you find that story unusual?

18 A Very.

19 Q Did she ever tell you at any time when she was
20 alone that Child was being taken care of by his
21 aunt?

22 A Yes. Any time I asked where he was, she would say
23 with his Aunt Tay (phonetic).

24 Q Who do you know Tay to be?

25 A At the time I didn't know Tay. She tried to

1 explain to me, You know Tay. You went to school
2 with her. I was like, No, I didn't. When all this
3 happened, I found out it was Artavia Mitchell.

4 Q Who is Artavia Mitchell?

5 A The aunt.

6 Q Child aunt?

7 A Uh-huh. (Indicating affirmative response.)

8 Q Child father's sister; is that correct?

9 A Yes.

10 Q And this would have been a time period of November,
11 December of last year?

12 A Yes.

13 Q Did you also have an opportunity to be with Zinah
14 Jennings, the defendant, on December 23rd of last
15 year?

16 A Uh-huh. (Indicating affirmative response.)

17 Q Just explain to the jury the nature of that.

18 A I saw her at my sister -- well, she came to my
19 apartment. She got in the car with me and my other
20 sister, and we drove to my other sister house. We
21 went to a party. She wanted to go but we told her
22 the directions.

23 She drove her own car because we got into a
24 little argument, nothing big, but she had an
25 attitude. She got in her own car. We told her

1 where the party was at and she went.

2 Q Do you know what time y'all got to the party?

3 A It had to be 11-something.

4 Q That would have been 11:00 o'clock on the evening
5 of December 23rd?

6 A Twenty-third.

7 Q Did you stay at the party until the early morning
8 hours of December 24th?

9 A We did.

10 Q What time did you leave?

11 A Around 2:00, I believe, or one-something.

12 Q Did the defendant leave with you?

13 A No.

14 Q Was she still there when you left?

15 A I think I left before her.

16 MS. GARFIELD: Beg the Court's indulgence.

17 (Pause.)

18 BY MS. GARFIELD:

19 Q Did she ever make any comments to you -- when I say
20 she, talking about the defendant, Ms. Jennings --
21 referring to the police looking for her?

22 A Yes. In my community it's like a lot of drug
23 activity, gangs. It's prone to police officers
24 being out there.

25 Q Is it safe to say you live in a high-crime

1 community?

2 A Uh-huh. (Indicating affirmative response.) And
3 for some reason they were out there on a daily
4 basis in the neighborhood, and she kept peeping out
5 the door.

6 Q When you say they, who was out there?

7 A The officers, the police officers.

8 Q Police officers were in your neighborhood?

9 A Uh-huh. (Indicating affirmative response.)
10 Patrolling.

11 Q Okay.

12 A And she kept peeping out the door, like the police
13 was looking for her. I was like, What? I told
14 her, Well, you can't be in here. She was like,
15 Girl, I am just playing, like she was joking.

16 Q Do you know about when that was?

17 A I can't remember.

18 Q But the last time you saw her was when you left
19 that party?

20 A December 23rd.

21 Q And that was the early morning hours of
22 December 24th?

23 A Uh-huh. (Indicating affirmative response.)

24 Q Thank you. Answer any questions the defense has.

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

1 MR. PRIDE: Thank you very much.

2 CROSS EXAMINATION

3 BY MR. PRIDE:

4 Q Ms. Thomas, you and Zinah became friends in high
5 school?

6 A Yes.

7 Q And what school were you attending?

8 A Dreher High School.

9 Q Dreher High School. How old are you?

10 A Twenty-five.

11 Q Twenty-five. You were in a class above Zinah?
12 Would that be correct?

13 A I believe two classes.

14 Q Two classes above?

15 A Uh-huh. (Indicating affirmative response.)

16 Q And did you all remain friends during your tenure
17 as a student at Dreher High School?

18 A Whenever I saw her, we spoke kind of cordial.

19 Q And after Zinah graduated from high school, did you
20 know her at any time when she was dating Roderick?

21 A No.

22 Q Do you recall when or did you know when Zinah had a
23 baby?

24 A Like I said, that summer I saw her pushing a baby
25 in a stroller. I didn't know she had a baby. I

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1 take that back. I saw her pregnant one time before
2 in the Family Dollar. She told me she was pregnant
3 but...

4 Q That would have been in 2010?

5 A 2010, proceeding to 2011, I think.

6 Q '09 or '10, I guess it would be?

7 A Uh-huh. (Indicating affirmative response.)

8 Q You saw her in Family Dollar and she was pregnant?

9 A Yes.

10 Q And at that time you had not seen her in a long
11 time?

12 A Correct.

13 Q And after Family Dollar when she was pregnant --

14 A Uh-huh. (Indicating affirmative response.)

15 Q -- the next time you saw her, she had a stroller
16 and she was rolling her baby?

17 A Correct.

18 Q And I assume she told you, This is my baby?

19 A Correct.

20 Q Do you know where she was staying then?

21 A When I asked her, she said she was living with her
22 mom.

23 Q Okay. After you saw her in a stroller, when is the
24 next time that you had any contact with Zinah?

25 A She came by my house, I want to say, maybe a week

1 later when she found out where I lived.

2 Q What year was that?

3 A 2011.

4 Q 2011. When she came by your house, that was in
5 2011?

6 A Yes.

7 Q What month was that, if you can recall?

8 A She came by my house at least about two or three
9 months.

10 Q What month?

11 A I can't remember.

12 Q You can't recall?

13 A All the way up until December, November.

14 Q And she brought ^{Child} by your house in November or
15 December, if you can recall?

16 A November.

17 Q Of 2011?

18 A Yes.

19 Q Was that the first time that she brought him to
20 your house?

21 A No.

22 Q She had been there before?

23 A Like I said, maybe it could have been September,
24 October, leading into November. I saw him like
25 maybe five times.

JESSICA THOMAS -- CROSS -- MR. PRIDE

1 Q And do you have children?

2 A I do.

3 Q How many children?

4 A Two.

5 Q What are their ages?

6 A Six and one.

7 Q And when you saw ^{Child} those five times, was ^{Child}
8 well dressed?

9 A Only that one time I saw him he didn't have any
10 bottoms, just a diaper and a white T-shirt.

11 Q So the other four times that you saw him, you would
12 say that he was well dressed?

13 A Yes.

14 Q When you saw him and he just had on the diaper, did
15 you say to Zinah, Zinah, why is ^{Child} walking around
16 with just a diaper?

17 A Yes. Well, I really didn't say anything to her. I
18 just gave him a pair of pants.

19 Q You weren't curious to find out why he didn't have
20 on a pair of pants?

21 A No.

22 Q Did Zinah have her car with her?

23 A A car?

24 Q Her car with her?

25 A Yes.

- 1 Q Child could have had pants out in the car; right?
- 2 A Correct.
- 3 Q But you took it upon yourself to put some pants on
- 4 him?
- 5 A Correct.
- 6 Q And did you say also he was barefooted?
- 7 A Uh-huh. (Indicating affirmative response.) No
- 8 shoes.
- 9 Q What?
- 10 A No shoes.
- 11 Q Did he have on socks?
- 12 A No socks.
- 13 Q And what month was that?
- 14 A It was before November.
- 15 Q Was it cold?
- 16 A Towards this time of year, getting or leaning
- 17 towards being cold.
- 18 Q Well, was it cold enough that a baby should have
- 19 had on socks or shoes? That's what I'm asking.
- 20 A Yes.
- 21 Q In your opinion?
- 22 A Uh-huh. (Indicating affirmative response.)
- 23 Q And did you say to Zinah, Zinah, why doesn't Child
- 24 have on any socks or shoes?
- 25 A No, I didn't question, just shook my head.

JESSICA THOMAS -- CROSS -- MR. PRIDE

1 Q You didn't question it?

2 A (Witness shakes head.) (Indicating negative
3 response.)

4 Q Did you give ^{Child} any socks to put on?

5 A No.

6 Q Do you know whether or not ^{Child} walked from the car
7 in your house or did Zinah bring him in the house?

8 A I can't remember.

9 Q You can't remember?

10 A I can't.

11 Q But where you saw him barefooted was in your house?

12 A In my apartment.

13 Q In your apartment. And you didn't think enough to
14 inquire about why he didn't have on pants or why he
15 didn't have on shoes or socks; is that correct?
16 That's your testimony?

17 A Yes.

18 Q When you and Zinah were together and ^{Child} was
19 there, did Zinah seem -- did Zinah have a good
20 relation with ^{Child}?

21 A Many days she seemed like she loved him. I saw
22 that from her.

23 Q When you say many days it seemed like she loved
24 him, that also says that there were days that you
25 saw when she acted like she didn't love him? Is

1 that true?

2 A Yes.

3 Q Tell the jury about that. What were those days
4 like? What did she do?

5 A Which days? The good or the bad?

6 Q You told me that there were days when you could
7 witness the fact that Zinah loved Child

8 A Yes.

9 Q And there were days -- let me ask you this way.
10 Were there days where you felt that Zinah didn't
11 love Child

12 A Yes.

13 Q Tell the jury about that.

14 A For one when she squeezed his hands, I felt like
15 the reason why she did it, on top -- it was wrong
16 for her to do it because he wouldn't say momma.
17 It's kind of like who does that? But on another
18 bad day -- well, I wouldn't let my kids come out
19 the house like that.

20 Q So the other things that you saw is the fact that
21 Child was out of the house without any pants, socks,
22 or shoes on; right?

23 A And he seemed hungry. I fed him.

24 Q Okay. And he was hungry?

25 A Yeah, he seemed hungry. He kept -- well, my

JESSICA THOMAS -- CROSS -- MR. PRIDE

1 youngest son was eating something. He kept going
2 over there trying to get it. So I just gave him
3 some of his own plate and he ate it.

4 Q What was Zinah doing during this time?

5 A She would be on the phone, sitting around my
6 apartment talking. We would go on the porch, take
7 the kids outside.

8 Q Was she taking care of Child

9 A I wouldn't know.

10 Q All right. Now, other than the instances of the
11 clothes, the shoes, the socks, you told the jury
12 that you felt that Zinah perhaps -- well, not
13 perhaps -- but that she was trying to get Child to
14 say momma because your children, your child, would
15 say momma?

16 A Uh-huh. (Indicating affirmative response.)

17 Q And that she squeezed Child hand?

18 A Uh-huh. (Indicating affirmative response.)

19 Q Did she squeeze his hand and say, Child say momma.
20 Say momma?

21 A She didn't say Child She said, Say momma. Say
22 momma.

23 Q Say momma. Say momma?

24 A Like as she was squeezing hard, she was asking and
25 he was crying.

1 Q And did she stop when he started to cry?

2 A Yeah, once I asked her the reason why she was doing
3 it. I was like, Stop. Eventually it will come.

4 Q And you admonished -- well, you told her, Stop,
5 don't squeeze his hands or something to that
6 effect?

7 A Yes.

8 Q And she stopped?

9 A Uh-huh. (Indicating affirmative response.) Yes.

10 Q Was there anything else that you saw Zinah do?

11 A One day -- harmfully? Like physically?

12 Q Yes.

13 A No.

14 Q Now, how did the police department get in contact
15 with you to get a statement?

16 A New Year's night I was on my way out to a party for
17 the New Year's, and I received a phone call. They
18 was like they had Zinah, Ms. Jennings, in custody
19 because she was missing, and her son was not with
20 her. They wanted to know when was the last time I
21 had seen Child

22 Q That's what the police department told you?

23 A Uh-huh. (Indicating affirmative response.) They
24 called my sister phone.

25 Q And they told you, We have got her in custody

JESSICA THOMAS -- CROSS -- MR. PRIDE

1 because ^{Child} is missing?

2 A Correct.

3 Q And when did they come out? Did they come out on
4 the 3rd of January and take a statement from you?

5 A I can't recall any dates.

6 Q I'm sorry? Excuse me?

7 A I can't recall any dates.

8 Q But it was in January?

9 A Yes.

10 Q That would be fair to say?

11 A Uh-huh. (Indicating affirmative response.)

12 Q And one other thing I want to ask you about. You
13 said that there developed sort of an antagonistic
14 relation -- well, a bad relation between you and
15 Zinah when you all were going to a party. As a
16 result of that, Zinah drove her own car. Do you
17 remember that, testifying to that?

18 A Yes.

19 Q Let me put it this way. What did y'all fall out
20 about?

21 A We was at my sister house and she -- my nephew, he
22 is very active. He was jumping around and he
23 seemed to be getting on her nerves. She took his
24 arm and threw him on the floor.

25 I told her, Look, this is not your child. You

1 don't own him. Don't put your hands on him. She
2 said her little thing and I said my thing, and she
3 wanted to go to the party, but she wasn't riding
4 with me.

5 Q When you say she said her thing --

6 A She cursed and said, Well the M.F.er shouldn't
7 have -- I told him to stop basically and he
8 wouldn't stop. So that's what she did towards him.

9 Q And as a result of that, the two of you went to the
10 same party --

11 A Uh-huh. (Indicating affirmative response.)

12 Q -- but you rode in a separate car and Zinah --

13 A -- she drove her own car.

14 Q -- drove her own car. I think you later testified
15 that the two of you were at the same party?

16 A Yes.

17 Q And that you left about 2:00 o'clock?

18 A Uh-huh. (Indicating affirmative response.)

19 Q You can't remember whether or not Zinah had left
20 before you or after you? Is that a fair statement?

21 A Correct.

22 Q And did the two of you talk or make up at the party
23 or were you able to socialize?

24 A No, we wasn't able to socialize because she was
25 arrested that night. She wrecked her car, I

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1 believe, after she left the party, which is the
2 last time I saw her. That's when she went to jail,
3 I believe.

4 Q What you know is when she left that party or within
5 proximity there, she had an automobile accident; is
6 that correct?

7 A Correct.

8 Q And you don't know whether or not the automobile
9 accident resulted in her going to jail or not; do
10 you?

11 A I was told from -- I can't remember. Somebody told
12 me in her case that she was arrested after the
13 party.

14 Q And the party would have been on the 24th of
15 December; is that correct?

16 A Twenty-third.

17 Q The 23rd of December. You are right. Thank you
18 very much.

19 THE COURT: Redirect, Solicitor?

20 MR. PRIDE: Excuse me, Judge. I'm sorry.

21 Excuse me.

22 (Pause.)

23 BY MR. PRIDE:

24 Q I just want to show you this and ask you to look at
25 this document and tell me if you recognize it?

1 A Yes.

2 Q The only thing I want to know is: Is that your
3 statement?

4 A It is.

5 Q What's the date on that statement?

6 A January 3rd.

7 Q Thank you very much.

8 THE COURT: Anything further, Mr Pride?

9 MR. PRIDE: No, that's it.

10 THE COURT: Thank you. Solicitor.

11 MS. GARFIELD: Thank you, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. GARFIELD:

14 Q The document that Mr. Pride just handed you, is
15 that a statement you gave law enforcement?

16 A Uh-huh. (Indicating affirmative response.)

17 Q That was on January 3rd?

18 A Yes.

19 Q Would that statement help refresh your memory as to
20 what exactly Ms. Jennings said to you when you
21 interfered after she hit your nephew?

22 A Yes.

23 Q Can you say exactly to the jury what she said to
24 you. I believe it's on page 2.

25 A She said, "His mother fucking ass should have

1 stopped."

2 Q Did that upset you?

3 A It did.

4 Q I believe you were asked on cross examination the
5 day that Ms. Jennings brought her son over and he
6 was only wearing a diaper, it was possible he had
7 clothes in the car?

8 A Yes.

9 Q Child couldn't walk to the car and get his clothes;
10 could he?

11 A He couldn't.

12 Q And as a parent of young children, you felt that
13 the clothing he was wearing was inappropriate --

14 MR. PRIDE: I object to the question in its
15 form.

16 THE COURT: Rephrase the question.

17 BY MS. GARFIELD:

18 Q Did you find the clothing he was wearing
19 inappropriate?

20 A I did.

21 Q Would you have dressed your child that way?

22 A Yes -- no, not that way.

23 Q Thank you.

24 MS. GARFIELD: I have nothing further.

25 MR. PRIDE: Thank you, Judge.

1 THE COURT: Thank you very much, Ms. Thomas.
2 You may step down and you may be excused.

3 (Witness leaves the witness stand.)

4 THE COURT: Solicitor, you may call your next
5 witness.

6 MS. GARFIELD: The State calls Investigator
7 Steve Narewski.

8 STEPHAN NAREWSKI, being
9 first duly sworn, testifies as follows:

10 CLERK: Have a seat in the witness stand,
11 please. State your full name and spell your last name.

12 THE WITNESS: Stephan, S-T-E-P-H-A-N,
13 Narewski, N-A-R-E-W-S-K-I.

14 DIRECT EXAMINATION

15 BY MS. GARFIELD:

16 Q Investigator Narewski, where are you employed?

17 A City of Columbia.

18 Q What do you do for the City of Columbia?

19 A I'm an investigator in the special victims unit. I
20 have been in that section for a little over six
21 years now.

22 Q How many years do you have in law enforcement?

23 A Twelve.

24 Q What did you do prior to your career in law
25 enforcement?

1 A I was in automotive maintenance in the Army for 23
2 years.

3 Q Are you from South Carolina?

4 A No, ma'am, Philadelphia.

5 Q Investigator Narewski, did you have an opportunity
6 to do some work on the investigation of Zinah
7 Jennings and the case of her missing child?

8 A Yes.

9 Q And were you able to secure any records concerning
10 her E.B.T. card?

11 A Yes.

12 Q Can you first explain to the jury what an E.B.T.
13 card is?

14 A Electronic benefits transfer. It replaces food
15 stamps basically. The E.B.T. card looks like a
16 credit card. It's used on a credit card reading
17 machine. The customer then puts in a P.I.N., a
18 personal identification number, thereby allowing
19 them to use their food stamp payment to pay for
20 goods at a store. Typically it's clothing or child
21 care items.

22 Q And Ms. Jennings had such an account, an E.B.T.
23 card?

24 A That is correct.

25 Q Were you able to obtain her records from the E.B.T.

1 account for the month of December?

2 A I don't remember --

3 Q I'm sorry. Maybe even late November as well?

4 A I collected a date range based on guidance from my
5 sergeant.

6 Q And through that were you able to find locations
7 she had used the E.B.T. card?

8 A Yes, every transaction from the credit card, the
9 E.B.T. card, which functions as a credit card, is
10 logged. D.S.S. processes that. They then know the
11 dollar amount of what was acquired and where it was
12 acquired, all the way down to the time frame of the
13 acquisition.

14 Q And did you, as well as other members of the
15 special victims unit, try to go to locations where
16 the E.B.T. card had been used?

17 A I primarily did all that.

18 Q Did other people assist as well?

19 A Occasionally another one would accompany, but I did
20 the bulk of the work in that area.

21 Q And what was your purpose for going to those
22 locations?

23 A To attempt to acquire video showing who would be
24 present at the cash register at the time of the
25 transaction and to see if we could determine what

1 kind of items were purchased.

2 Q Were many of those locations equipped with video
3 surveillance?

4 A Many of them were. There were several that either
5 had broken systems or only held two to seven days
6 worth of video.

7 Q From the ones that did have video surveillance,
8 were you able to obtain copies?

9 A Yes.

10 Q And also in your work with this case, Investigator
11 Narewski, were you able to obtain a D.N.A. sample
12 or what we call a buccal swab from the paternal
13 father in this case, Roderick Mitchell?

14 A Yes, he gave consent. I believe Bailey, my partner
15 Bailey, was present. Then I gloved up, took the
16 swab, rubbed the inside of his mouth, then placed
17 it into a container, sealed it in that cardboard
18 container, and then placed it in a envelope which I
19 also sealed. It has two seals on it.

20 Q I believe you also did the same thing with the
21 defendant's half-sister, Denise Jennings?

22 A That's correct.

23 Q And you sealed those properly?

24 A Yes.

25 Q And at that time you handed them over to

1 Investigator Bailey?

2 A Yes.

3 Q Can you explain to the jury, what is a swab? We
4 referred to a swab. What is it?

5 A Basically it is a Q-tip that is sealed in a paper
6 wrapping like you would see at the hospital. It's
7 sterile when we receive it. We glove up. We then
8 peel it open. We then handle the wooden stick
9 portion of the Q-tip.

10 We go up and down inside the cheek, around the
11 gum, at the base where the cheek touches it, dip
12 under the tongue, and then do the top area also
13 between the gum and the cheek area.

14 Q And that's the standard procedure for getting a
15 sample for testing for you?

16 A That's correct.

17 MS. GARFIELD: Beg the Court's indulgence.

18 (Pause.)

19 BY MS. GARFIELD:

20 Q Thank you, Investigator. Please answer any
21 questions the defense may have.

22 THE COURT: Mr. Pride.

23 MR. PRIDE: I would appreciate the Court's
24 indulgence.

25 THE COURT: Certainly.

STEPHAN NAREWSKI -- CROSS -- MR. PRIDE

1 (Pause.)

2 CROSS EXAMINATION

3 BY MR. PRIDE:

4 Q After taking the swab from Roderick, you
5 subsequently participated in an interview, an
6 interrogation --

7 MS. GARFIELD: Objection. May we approach?

8 THE COURT: Yes, ma'am.

9 (Whereupon there was a bench conference off
10 the record in the presence of the jury but out of the
11 hearing of the jury.)

12 THE COURT: Step out, please, momentarily,
13 ladies and gentlemen. Do not discuss the case during
14 this brief recess.

15 (The jury retires to the jury room.)

16 THE COURT: I don't know where y'all are
17 headed. What are y'all talking about? Somebody help
18 me.

19 MR. PRIDE: Judge, let me tell you what I was
20 asking. I was asking him whether or not he participated
21 in an interrogation of Ms. Zinah Jennings. That was the
22 question. Later on there is a recording in which he
23 did, along with Coleman and others, interrogate
24 Ms. Jennings.

25 THE COURT: Ms. Jennings, Zinah?

1 MR. PRIDE: Zinah, that is correct. I never
2 agreed that I would not go into that. That's very
3 important to my case. I'm not going to put it on now
4 in front of this witness, but I simply asked him about
5 it.

6 The only other question that I was going to
7 ask him was whether or not -- and it's important to me
8 right now -- whether or not he ever swabbed Roderick
9 more than once. That's the extent of my examination.

10 THE COURT: So the only question you want to
11 ask him is: Did you participate in an interview of
12 Zinah Jennings on X. date?

13 MR. PRIDE: On the 31st. She was arrested on
14 the 30th. Well, it was the very next day after she was
15 arrested. I think that would be the 31st. I'm not
16 sure.

17 THE COURT: So you want to ask this officer:
18 Did you participate in an interview?

19 MR. PRIDE: Right.

20 THE COURT: Of Zinah Jennings on December 31,
21 2011?

22 MR. PRIDE: I will change my word to
23 interview. That will be fine.

24 THE COURT: Solicitor.

25 MS. GARFIELD: Judge, he filed motions back in

1 July asking for all statements Zinah Jennings gave to be
2 suppressed. We had a suppression hearing before Your
3 Honor in July.

4 At that time we had a full-blown Jackson v.
5 Denno hearing for the first statement that Zinah
6 Jennings gave to law enforcement, which would have been
7 the early morning hours of December 30, 2011.

8 After hearing testimony you ruled that
9 statement was admissible. There were two following
10 statements that were given. One is the next morning of
11 December 30, 2011, same morning but later in the
12 morning, and then there is another one given, I believe,
13 January 2nd.

14 The January 2nd interview is the one
15 Ms. Coleman is a participant of. December 30th, later
16 in the morning interview, was when Investigator Narewski
17 was a part of it.

18 We believe both of those statements are
19 self-serving statements, and at that hearing we agreed
20 not to introduce them. Mr. Pride agreed with that.
21 Since then Mr. Pride has e-mailed me a couple of times
22 asking questions about that interview.

23 That is why Ms. Campbell made a preliminary
24 motion before the start of this trial to say, Mr. Pride
25 has made attempts and questions about these two

1 statements, and we have already agreed they are not
2 admissible. He stood up and said, I do not intend to go
3 into those. We do not believe they are admissible at
4 all because they are self-serving.

5 MR. PRIDE: I don't know what the solicitor
6 means by self-serving.

7 THE COURT: State versus Terry will enlighten
8 all of us if you read it, not that you haven't read it.

9 MR. PRIDE: I have not read it.

10 THE COURT: Self-serving hearsay is not
11 admissible. In other words, if it were the wise
12 defendant, he would find the best officer in the law
13 enforcement agency, the most articulate, and ask him to
14 come to his or her cell and say, I want to tell you what
15 happened.

16 Then when they go to the trial, the defendant
17 would then call that officer to the witness stand and he
18 would be asked, Tell me what the defendant said. Then
19 you would have the defendant's articulated, self-serving
20 statement presented to the jury, and the defendant would
21 never have to testify.

22 MR. PRIDE: That's not the case here. What we
23 are going to play -- just like you played the
24 interrogation between Thomas and Bailey, this is a disk
25 with an interrogation of officers the very next day of

1 Zinah Jennings, what they asked her and what she said,
2 the same as in Bailey and Thomas.

3 So I don't see where there is a self-serving
4 interest in this matter, and I don't intend to pit that
5 testimony against anybody. But it's very important to
6 my case. I didn't waive it and if Ms. Garfield can
7 find an order from this Court in which -- I didn't waive
8 it. I wouldn't waive it. It's just too important to
9 me.

10 MS. GARFIELD: The court reporter can go back
11 to Monday morning's motion -- Tuesday morning.

12 MR. PRIDE: I didn't stipulate to that.

13 THE COURT: Have y'all got a transcript of
14 whatever statement -- he said December 31st. You said
15 later in the morning of December 30th.

16 MS. GARFIELD: The first statement is like
17 12:30 A.M. on December 30th. The second statement is
18 like 11:30 A.M. December 30th, separate officers, post
19 arrest.

20 THE COURT: I'm sorry, Solicitor. I didn't
21 understand you.

22 MS. GARFIELD: The second statement is post
23 arrest. She had been arrested.

24 MR. PRIDE: I would submit that all the
25 statements are post arrest.

1 THE COURT: Well, the statement to Officer
2 Miller, of course, is not.

3 MR. PRIDE: No, not Miller. I'm talking about
4 the ones on the disk that were down at the police
5 department concerning Zinah. You are absolutely right
6 and I would not say that.

7 THE COURT: Do you have a transcript of
8 whatever he is talking about?

9 MS. GARFIELD: Of the statement?

10 THE COURT: The statement he is asking about.

11 MS. GARFIELD: I do have a transcript. It's
12 approximately five hours.

13 THE COURT: That will give me something to do
14 tonight. Bring us our jury, please.

15 (The jury returns to the courtroom).

16 THE COURT: Thank you, Mr. Bailiff.

17 Madame Forelady, ladies and gentlemen of the
18 jury, your time is very valuable to me. Perhaps I have
19 no credibility with y'all when I say that, but it is
20 very valuable to me.

21 There's two things I think you will find about
22 trial judges in South Carolina. Please don't tell the
23 others I said this. One, none of us can manage time
24 very well during a jury trial because issues can come up
25 and many times the jury is back there waiting.

1 Two, many of us have no personality. I don't
2 know why those two attributes are like that. But,
3 again, please if you see any of the others, don't tell
4 them I said that.

5 Rather than hold you captive any longer today,
6 I have a matter I need to take up that may take an
7 extended period of time. So I will release y'all for
8 the remainder of the evening.

9 I must again give you these instructions. You
10 can say the words in your mind along with me as I read
11 them. Please remember, you may not discuss this case
12 with others. That includes your fellow jurors, family,
13 friends, or anyone else.

14 You may not read, listen to, or watch any news
15 reports about the case. You may not use your computer
16 or cellular phone or any other electronic device with
17 communication capabilities to access any prohibited
18 information.

19 Such information includes but is not limited
20 to the following: Information about a party, witness,
21 attorney or court officer, news accounts of the case,
22 information collected through juror research on any
23 topics raised or testimony offered by any witness, or
24 information collected through juror research on any
25 other topic that you might think would be helpful in

1 deciding this case.

2 You have heard this numerous times now. I
3 know you understand it. I know you will follow your
4 oath. I thank you for your patience with the Court and
5 for the attention that you have shown all the parties
6 throughout these proceedings.

7 With that being said, you are now excused
8 for the remainder of the evening. I would ask you to
9 please be back promptly at 9:30 in the morning.
10 Please be back promptly at 9:30. Leave your notes.
11 The clerk will secure them. I hope y'all have a
12 pleasant evening.

13 (The jury is excused for the day at 5:31 P.M.)

14 THE COURT: Let me make sure I generally know
15 where we are headed, Solicitor and Mr. Pride.

16 Officer, you may step down. I will give you
17 further instructions before you leave tonight, but you
18 may step down.

19 (Witness leaves the witness stand.)

20 THE COURT: As I understand it, you want to
21 ask this officer if he participated in the taking of an
22 interview from Ms. Zinah Jennings on whatever date y'all
23 ultimately decide it is, whether it's the 30th or the
24 3rd?

25 Thereafter is it your intention to offer that

1 statement into evidence at some point in time,
2 Mr. Pride?

3 MR. PRIDE: What I would offer is the same
4 thing that they offered with the Bailey/Thomas tapes,
5 the way that interview went with the defendant, Zinah
6 Jennings.

7 What she said, she said a number of things
8 that I think would help her defense in this case to
9 them. I think it's an interview that was held at the
10 police department, and it was recorded and it was
11 supplied to me during discovery.

12 Judge, just to sort of try and get a fix on
13 where we are, I think the burden is on Ms. Garfield to
14 offer you whatever she says that I agreed to. I can
15 tell you that I have the transcript from those hearings
16 of suppression. If you don't have them available, you
17 can have ours.

18 THE COURT: I have the transcripts from all
19 those hearings.

20 MR. PRIDE: I don't know what else -- I
21 certainly don't recall the Court signing an order. It
22 appears that it's going to boil down to my word against
23 her word.

24 As you know I have certainly tried to
25 cooperate with the State by saying let's do what we can

1 to shorten the trial, but I wouldn't cut my own throat.
2 I wouldn't hurt myself to try to help them. That's
3 where I am.

4 THE COURT: Well, it appears there are at
5 least two issues. One, whether or not there was an
6 agreement not to use the statement. Second, whether or
7 not the statement is admissible or if it violates the
8 rule of self-serving hearsay.

9 Without me looking at the statement or
10 listening to the statement, I will not be able to decide
11 if it is or is not self-serving hearsay. The solicitor
12 says it is, and you just indicated that you want to
13 offer the statement because it helps your client,
14 Ms. Jennings.

15 That does give me an indication that it is
16 self-serving hearsay because she will not be the one
17 testifying, but I will do a little bit of additional
18 research on that issue.

19 MR. PRIDE: Judge, it's no more hearsay than
20 the original tape offered by Bailey and Thomas where
21 they interviewed Ms. Jennings. It is the same -- Judge,
22 if you remember -- if you remember -- the way Bailey
23 ended up that interview with Ms. Jennings --

24 THE COURT: -- he said, We will talk to you
25 later.

1 MR. PRIDE: That's right. This is the later
2 interview. So this was -- that was just nothing but a
3 hearing in the interviews. Now, we are going to the
4 whole paragraph, and that's where I am.

5 If Ms. Garfield can produce an agreement, I
6 know -- if it happened more than two days ago, Judge, I
7 have a problem remembering it. So I may be wrong on
8 that, but I don't think I am. I wouldn't do anything to
9 hurt myself.

10 MS. GARFIELD: Judge, before we go any
11 further, can I release our next witness? Can he leave
12 the courtroom?

13 THE COURT: Yes, ma'am.

14 MR. PRIDE: I have no objection.

15 THE COURT: I'm not going to call another
16 witness. Ms. Jennings' statement under 801(D)(2) is not
17 hearsay under these conditions: Admission by a party
18 opponent.

19 Admission by a party opponent, the statement
20 is offered against the party and is (A), the party's own
21 statement in either an individual or a representative
22 capacity or a statement that is adopted and all and such
23 like that or a co-conspirator.

24 So the reason the State can offer hearsay of
25 Ms. Jennings is because specifically under our rule that

1 statement is not hearsay because it's offered against a
2 party and is the party's own statement.

3 If it's offered for a party, it's got to hit
4 some exception to the hearsay rule. That's the only
5 point I am making. I will research it some more
6 tonight, Mr. Pride.

7 MR. PRIDE: Judge, here is what I'm saying
8 though. I'm saying that I filed a motion to suppress.

9 THE COURT: Yes, sir.

10 MR. PRIDE: We argued this matter before you,
11 and you ruled against me on the motion to suppress and
12 found that the testimony that was played earlier was
13 given by Ms. Jennings voluntarily.

14 They showed she signed the consent and waived
15 her right to a lawyer. If you admitted that, then you
16 admitted all of it because this is simply -- the other
17 is the next day.

18 Like Bailey said, We will be back to get you
19 the next day and continue. This is the continuation.
20 To allow just that part to go in and not allow all of it
21 in is to take it out of context.

22 THE COURT: You are arguing a different issue
23 now. You are arguing Rule 106 or either State versus
24 Jackson, the rule of completeness.

25 MR. PRIDE: Denno versus Jackson?

1 THE COURT: State versus Jackson. What had
2 happened is if my memory serves me correct, by agreement
3 you sent me motions. You also sent me the transcript of
4 the statement that was subject to the Jackson versus
5 Denno hearing and the C.D. of the statement.

6 All I got is the unredacted version of the
7 transcript that was used during the presentation of
8 Sergeant Thomas' testimony. All I got was the C.D. that
9 went with that transcript.

10 I never reviewed another statement. I never
11 received another transcript. So what I ruled on, as I
12 recall, was the statement given to Sergeant Thomas and
13 Detective Bailey on the early morning hours of
14 December 30th.

15 MR. PRIDE: Judge -- and certainly straight
16 up -- when the Solicitor's Office said we want to send
17 the judge the transcripts, we agreed. We had no way of
18 knowing that they didn't send all of them.

19 There was no letter saying, We sent the one
20 for just this time but we didn't send these other two.
21 So it was reasonable certainly for me to assume that you
22 sent everything. Because it is -- all of this is one
23 package.

24 THE COURT: I understand your position. I do
25 want to see the lawyers after court on another matter,

1 but before I do that --

2 MS. GARFIELD: Judge, I would like to be heard
3 before we finish this issue.

4 THE COURT: I'm not going to rule now anyway,
5 Solicitor.

6 MS. GARFIELD: I just want some clarification.

7 THE COURT: Court will be in recess until 9:30
8 in the morning. I would like to see the lawyers a few
9 moments. Thank you very much.

10 (Whereupon the proceedings are concluded for
11 August 29, 2012.)

12 (The following proceedings are reported on
13 August 30, 2012.)

14 THE COURT: Solicitor, I believe I ended court
15 before giving you the opportunity to place whatever it
16 was you wanted to place on the record. I apologize to
17 you for that -- oh, we will wait on the defendant.

18 (Pause.)

19 THE COURT: Again, Solicitor, I believe I
20 ended court before I gave you the opportunity to place
21 whatever you wanted to place on the record yesterday for
22 that. I would be glad to hear from you.

23 MS. GARFIELD: Thank you, Your Honor. May it
24 please the Court. I just wanted to bring to your
25 attention that Mr. Pride did file several pretrial

1 motions. I believe they were clocked in July 26th, one
2 of which listed in his motion was a motion to suppress
3 all statements made by the defendant.

4 Subsequently we did have hearings before you
5 on July 30th, at which point the State offered two
6 statements that we intended to introduce: The statement
7 by Officer Miller at the hospital and the statement
8 taken by Investigator Bailey and Sergeant Thomas on the
9 early morning hours of December 30th of last year.

10 A Jackson v. Denno was held at that time. You
11 ruled them admissible. We did not go any further into
12 subsequent statements that were taken by Ms. Jennings by
13 other investigators, one of which was in the later
14 morning hours of December 30th by Investigator Narewski.

15 I also wanted to ask for some clarification
16 because Mr. Pride on his questioning was asking about
17 Investigator Coleman. Investigator Coleman is not a
18 part of that interview. She was a part of a third
19 interview that was taken, I believe, on January 2, 2012.

20 The State did not intend to introduce either
21 of those two statements, finding them self-serving and
22 two of them cumulative.

23 THE COURT: Self-serving and cumulative?

24 MS. GARFIELD: The two of those, yes, sir.

25 THE COURT: Mr. Pride?

1 MR. PRIDE: Judge, I would propose the
2 following and ask you to take it under consideration.
3 The argument concerning those transcripts and those
4 recordings is premature at this time. I have not
5 attempted to introduce it into evidence.

6 I would ask you to give me some additional
7 time to address the matter. Every night I have got to
8 prepare -- I'm not saying I'm too busy -- but I have to
9 prepare for the next day.

10 That is sort of a collateral matter and is an
11 important matter, and it would come up during the
12 defense's case if and when I decided to approach that
13 matter and to introduce it.

14 I would submit to you that is another time for
15 me to research the matter and to take an intelligent
16 position on that and would ask you to delay any decision
17 on that until that time.

18 THE COURT: All right. Well, I guess the
19 question then becomes: What questions are you going to
20 pose to Detective -- his name starts with an N.

21 MS. GARFIELD: Narewski.

22 THE COURT: Narewski. What questions are you
23 going to pose to Detective Narewski? Because that's the
24 point at which I sent the jury out yesterday. I believe
25 you asked him a question -- I meant to get my court

1 reporter to read it back precisely to me this morning
2 and didn't have an opportunity -- but the question was
3 something to the effect of: Did you take a statement?
4 Did you interview her, interrogate Ms. Zinah Jennings,
5 on a certain date?

6 Are you withdrawing that question at this
7 time? Because I need to rule on what the next question
8 is going to be. Of course, you can always recall him.
9 I won't release him from the subpoena if you want.

10 I can hold my decision. If you are not
11 offering the statements at this time, I don't have to
12 rule on them at this time. Then there is nothing for me
13 to rule on at this time, but I do have to rule on
14 whatever questions you are going to ask the detective.

15 MR. PRIDE: To make sure that I understand you
16 correctly, are you saying that if my cross examination
17 of that witness goes to: Did you have an interview with
18 Ms. Zinah Jennings at January such and such a date? At
19 that interview what did she tell you or what did she
20 say? If I go in that direction, then it is your
21 position you need to rule on it now?

22 THE COURT: I think it's going to be the
23 State's position that they will object. I think that's
24 what they objected to yesterday.

25 MS. GARFIELD: That's correct.

1 THE COURT: That's the only thing. Again,
2 Mr. Pride, just because a witness is called by the State
3 in its case in chief does not mean that that same
4 witness cannot be called by the defense in its case. So
5 he can remain under subpoena of the Court, and he can be
6 recalled as a witness.

7 I'm not saying you have to make a decision
8 now, but unless there are questions you are going to
9 pose to the officer now that the State is going to
10 object to, then I have to make that decision.

11 MR. PRIDE: I will not pursue that line of
12 questioning from this witness at this time.

13 THE COURT: All right. Then I don't think I
14 have to rule on it. Yes, Solicitor.

15 MS. CAMPBELL: May it please the Court, Your
16 Honor. There is just one other housekeeping matter that
17 I want to clear up. When we had met with Mr. Pride
18 prior to trial, he agreed to the authentication of all
19 records.

20 One of the records that is already in are part
21 of the phone records that were used in this case that
22 were testified to yesterday that we have got to get back
23 relevant.

24 Your Honor, that phone number, the records we
25 put in was through December 1st with that witness. We

1 are going to put in the rest of the records that were
2 used as far as the PowerPoint, what he testified to,
3 with Investigator Colin Bailey.

4 I did check with Mr. Pride this morning to
5 make sure -- because we canceled our Sprint person to
6 come in. Basically what happened is during the course
7 of his investigation, Mr. Bailey subpoenaed these
8 records, the records that are already in.

9 He then went in and through his investigation
10 found out that Ms. Jennings or someone has changed that
11 phone number on December 1st. Then he got the
12 additional records for that, which we are going to put
13 in with him.

14 I asked Mr. Pride this morning if we needed to
15 bring in anyone from Sprint to testify to that or if
16 Mr. Bailey can testify as part of his investigation, and
17 he has agreed Mr. Bailey can testify as part of his
18 investigation and for the authentication of the records.

19 MR. PRIDE: I agreed to so much of
20 Ms. Campbell's statements that I would not object to the
21 records coming in without verification or flying
22 somebody from out of state to verify them. As to the
23 rest of the statements made about Zinah changing the
24 number and all, I have not agreed to that and will not
25 agree to that.

1 MS. CAMPBELL: I'm sorry, Your Honor. That is
2 contrary to the conversation we just had as far as us
3 explaining that it was during the course of his
4 investigation. He wouldn't say Zinah changed the
5 number, just that the number was changed; and that's why
6 he got the records.

7 THE COURT: I take it the records show the
8 number as changed, where one number ends and another
9 number begins?

10 MR. PRIDE: Whatever the records show is what
11 it is, and I don't challenge the authenticity. I don't
12 challenge the chain. I don't challenge the custody.
13 But I don't admit what Ms. Campbell said, that
14 Ms. Jennings changed the number. No, I don't agree to
15 that.

16 THE COURT: All right. Solicitor?

17 MS. CAMPBELL: We will bring in someone to
18 testify.

19 THE COURT: We have got ten minutes. Is there
20 anything additional I need to address before we bring in
21 the jury at 9:30, Solicitor?

22 MS. GARFIELD: No, sir.

23 MR. PRIDE: No, Your Honor.

24 THE COURT: All right. We will take a
25 ten-minute recess.

1 (Whereupon there is a recess.)

2 THE COURT: I received this note from the
3 jury: Have witnesses speak into the microphone.
4 Perhaps bend the microphone down and scoot up -- and
5 that's S-C-O-T-T on the note -- scoot up to it. If
6 y'all would please address that issue, Solicitor,
7 Mr. Pride.

8 Anything further before we bring in our jury
9 from the State?

10 MS. GARFIELD: No, sir.

11 THE COURT: Defense?

12 MR. PRIDE: No, nothing further.

13 MS. GARFIELD: Judge, should Investigator
14 Narewski take the stand?

15 THE COURT: Yes, he can come back around.

16 STEPHAN NAREWSKI, having been
17 previously duly sworn, resumes the witness stand.

18 (The jury returns to the courtroom at
19 9:32 A.M.)

20 THE COURT: Good morning, ladies and gentlemen
21 of the jury panel. Welcome back. I have conveyed your
22 request to the parties in the case to inform their
23 witnesses to speak up, to use the microphone, speak up,
24 scoot up, and use the microphone.

25 If you cannot hear a particular witness

1 during his or her testimony, please raise your hand. I
2 will try to have that particular witness speak up even
3 more.

4 With that being said, I hope y'all had a
5 pleasant evening. Again, welcome back. We are
6 continuing the trial of the case by the cross
7 examination of the detective by Mr. Pride.

8 MR. PRIDE: Thank you, Your Honor.

9 THE COURT: Mr. Pride, you may proceed.

10 **CROSS EXAMINATION**

11 BY MR. PRIDE:

12 Q Detective, please pronounce your name. I don't
13 want to mispronounce it.

14 A Stephan Narewski.

15 Q Detective Narewski, what was your assigned
16 responsibility as it related to ^{Child} and Zinah's
17 being missing?

18 A I had several assigned responsibilities. One was
19 to acquire the information on the E.B.T. card
20 usage, which was discussed yesterday. The other
21 one, another significant task, was to acquire the
22 medical records by serving the search warrant over
23 at the doctor's office for ^{Child} medical records.
24 I had a lot of other tasks because we had daily
25 meetings where we would sit and discuss what had to

1 be done for the day.

2 Q What medical records did you acquire and from what
3 doctor?

4 A I went to the pediatrician over at Middleburg Plaza
5 area, served a search warrant there to get the
6 medical history that would have been generated by
7 his wellness baby check-ups at that doctor's
8 office.

9 Q Would that have been Dr. Dollison?

10 A That is correct.

11 Q And once you got those records, you turned them
12 over to Investigator Bailey; is that correct?

13 A That is correct.

14 Q Now, during the course of your investigation, did
15 you also make contact with D.S.S.?

16 A That is correct.

17 Q Tell the jury exactly why you made contact with
18 D.S.S. and for what purpose?

19 A Several purposes, one of which was to determine
20 if D.S.S. had received a child of that age
21 somewhere else in the State, and it may possibly
22 be ^{Child} I talked with the Director of D.S.S.
23 Richland County.

24 He then sent an e-mail out statewide to all
25 the D.S.S. county directors, asking that they

1 check with their workers to see if a child in that
2 age range had been taken into State custody and
3 then placed and would it have matched up with our
4 search for Child

5 Then the other task was also to gather E.B.T.
6 information. Because if we could figure out the
7 spending pattern of Ms. Jennings and then go get
8 store video, we could ascertain whether or not Child
9 was seen in public and thereby recorded on video at
10 some point.

11 Q Did your investigation with D.S.S. ever determine
12 whether or not there had been any previous
13 complaints filed against Ms. Jennings as it relates
14 to her parenting Child

15 A I do not remember any prior complaints. Our focus
16 was more trying to get a sighting of Child and to
17 determine whether he was in State custody somewhere
18 else.

19 Q When you say you do not remember in answering my
20 question, is that saying you don't remember whether
21 or not there were any prior complaints filed
22 against Ms. Jennings? Or are you saying that you
23 don't remember whether or not complaints resulted
24 being filed against her? Which one is that?

25 A I do not remember any complaints being filed

STEPHAN NAREWSKI -- CROSS -- MR. PRIDE

1 against her.

2 Q All right. And also did you have --

3 MR. PRIDE: Your Honor, I have shown this to
4 the solicitor. Can I approach the witness?

5 THE COURT: Yes, sir.

6 BY MR. PRIDE:

7 Q Can you identify this document that I have in my
8 hand?

9 A That would be a B.O.L.O. or be-on-the-lookout,
10 missing child.

11 Q All right.

12 A It's used by us to indicate to others that we have
13 an interest in locating this person.

14 Q You generated that document? Did you prepare that
15 document? Did you have anything to do with that
16 document being prepared?

17 A I don't believe so. I believe Bailey generated
18 that.

19 Q You didn't have anything to do with passing it out
20 either?

21 A I did hand out a few of them as I went around to
22 the stores that I was going to.

23 MR. PRIDE: Judge, I want to offer this.

24 THE COURT: Any objection?

25 MS. GARFIELD: No, sir.

1 THE COURT: Defense 3 is in evidence.

2 (Defendant's Exhibit Number 3 is received into
3 evidence.)

4 MR. PRIDE: May I publish it?

5 THE COURT: Yes, sir.

6 BY MR. PRIDE:

7 Q Other than gathering the records, tracing the food
8 stamp card, and participating in passing out what
9 has been marked as Defendant's Exhibit 3, can you
10 tell us anything else that you contributed to this
11 investigation?

12 A One of the other significant tasks I did was locate
13 Zinah's car. It had been towed from the scene of
14 the collision where it was significantly damaged.
15 From there it was taken down to City Garage down on
16 Superior Street.

17 I went there to locate the car. It was gone.
18 By talking to the staff there, they said it had
19 been transferred to A-1-A, which would be the
20 auction house that would sell it for the insurance
21 company.

22 I then went down to A-1-A, verified the car
23 was there, and then asked them to separate it from
24 the rest of their other vehicles that they had
25 stored there awaiting auction.

1 They moved it to the side and informed their
2 staff not to touch the car. Because it had not
3 been handled, other than by forklift, at that point
4 on their property. Then at some point it was moved
5 up to the Columbia P.D.

6 Q Do you remember the date? Can you look at your
7 records and tell me the date that you went down and
8 saw that wrecked car at A-1-A?

9 A I do not remember the date. It would be in my case
10 notes.

11 Q You have told us that -- would it be fair to say
12 that the car was a total loss?

13 A Based on my experience as a mechanic, yes.

14 Q And most of the damage to the car was on the
15 driver's side? Would you not agree?

16 A I know it was some frontal and some driver's side
17 damage, yes.

18 Q And when you got to A-1-A, as you previously
19 stated, you told them to segregate the car from the
20 rest of the vehicles; is that correct?

21 A Yes.

22 Q And you do have a date, but you don't remember the
23 date; but whatever day you went down and talked to
24 A-1-A would be in the file?

25 A Yes.

1 Q Thank you very kindly.

2 THE COURT: Redirect, Solicitor?

3 MS. GARFIELD: No further questions.

4 THE COURT: Thank you. You may step down.

5 MS. GARFIELD: May this investigator be
6 excused, Judge?

7 THE COURT: He can be excused, but he is still
8 under subpoena of the Court.

9 MS. GARFIELD: Yes, sir.

10 (Witness leaves the witness stand.)

11 THE COURT: You may call your next witness,
12 Solicitor.

13 MS. CAMPBELL: May it please the Court. The
14 State calls Denise Jennings.

15 THE COURT: If you would come around for us,
16 please, and be sworn.

17 DENISE JENNINGS, being
18 first duly sworn, testifies as follows:

19 CLERK: Have a seat in the witness stand,
20 please. State your full name.

21 THE WITNESS: Good morning.

22 **DIRECT EXAMINATION**

23 BY MS. CAMPBELL:

24 Q Good morning, Ms. Jennings. Can you state your
25 name for the record.

DENISE JENNINGS -- DIRECT -- MS. CAMPBELL

- 1 A Denise Jennings.
- 2 Q And where do you live, Ms. Jennings?
- 3 A Pensacola, Florida.
- 4 Q And how long have you been in living in Pensacola,
- 5 Florida?
- 6 A Approximately 60, 90 days.
- 7 Q If you can speak up just a little bit.
- 8 A Approximately 60 to 90 days.
- 9 Q And prior to moving to Pensacola, Florida, where
- 10 were you living?
- 11 A 2282 Ridge Crest Lane, Atlanta or East Point,
- 12 Georgia.
- 13 Q What was that address again, 2282?
- 14 A That's correct.
- 15 Q Ridge Crest Lane?
- 16 A Yes.
- 17 Q And how long had you been living at the Ridge Crest
- 18 Lane address in East Point, Georgia?
- 19 A Roughly 30 months.
- 20 Q Thirty months?
- 21 A Yeah, a little over two years.
- 22 Q So in the fall of last year, say, you were living
- 23 there?
- 24 A Yes.
- 25 Q And East Point, Georgia, you mentioned Atlanta

1 first. Can you explain to the jury where that is
2 in relation to Atlanta, Georgia?

3 A Very near the airport. It's in Fulton County, the
4 same county as Atlanta.

5 Q So is it just slightly to the east of Atlanta, the
6 city itself?

7 A I would have to be looking at a map. I am
8 geographically challenged.

9 Q I understand. Ms. Jennings, do you know Zinah
10 Jennings?

11 A Yes.

12 Q Tell this jury how you know Ms. Jennings.

13 A Zinah Jennings?

14 Q Yes, ma'am?

15 A She is my sister. We have the same father.

16 Q Y'all have the same father?

17 A Yes.

18 Q Is Jocelyn your mother?

19 A She is my stepmother.

20 Q So y'all have the same father. Are you older or
21 younger than Ms. Jennings?

22 A Older.

23 Q And how much hold older are you than Zinah?

24 A I was 35 when Zinah was born.

25 Q As Zinah grew up, did you have a close relationship

1 with her?

2 A Yes.

3 Q And to this day do you continue to have a close
4 relationship with Zinah?

5 A Yes.

6 Q I want to turn your attention to the fall of 2011
7 of last year. You were living in the Atlanta area
8 at that point or that East Point address?

9 A Yes.

10 Q And at some point -- well, let me back up. You
11 were aware that Zinah had a child?

12 A Yes.

13 Q And what was her child's name?

14 A Child Jennings.

15 Q And did you play an active role in Child life?

16 A Yes.

17 Q At some point after Child was born, did Zinah come
18 to stay with you for a period of time?

19 A Yes.

20 Q When did that happen, Ms. Jennings?

21 A Early September.

22 Q Of last year?

23 A Yes.

24 Q So Child would have been approximately how old when
25 he came and lived with you and Zinah?

- 1 A Seventeen, 18 months.
- 2 Q Why was Zinah staying with you at that point?
- 3 A I'm sorry. I don't understand your question.
- 4 Q Was there a reason Zinah had come to stay with you?
- 5 Was she going to school? Was she looking for work?
- 6 Or was there anything like that? Or she just
- 7 decided to stay?
- 8 A She just decided to stay. That would be my answer.
- 9 Q Well, let me rephrase. Was she welcome in your
- 10 home at any time?
- 11 A Yes.
- 12 Q Was ^{Child} welcome in your home at any point?
- 13 A Yes.
- 14 Q From September, going into October, November, was
- 15 she still staying with you at that point?
- 16 A Yes.
- 17 Q And was ^{Child} with her?
- 18 A Yes.
- 19 Q And how was ^{Child} health?
- 20 A Excellent.
- 21 Q At times would you take care of ^{Child}
- 22 A Yes, quite often.
- 23 Q Kind of give an example of when you would take care
- 24 of ^{Child}
- 25 A Because I hadn't been around him very much, and she

1 was there, we just ended up spending lots of time
2 together.

3 Q Was ^{Child} comfortable with you?

4 A Yes.

5 Q And over that two or three-month period, he got to
6 know you quite well; is that correct?

7 A Yes.

8 Q And, again, he would have been welcome in your home
9 at any point?

10 A Yes.

11 Q With or without Zinah?

12 A Yes.

13 Q I want to turn your attention to November 17, 2011.
14 Up until that point, was Zinah and ^{Child} still
15 living with you?

16 A Yes.

17 Q Did something happened that day that changed that?

18 A That's the day that she left. I haven't seen ^{Child}
19 since then.

20 Q I will get to that in a second. Do you know why
21 she left that day on November 17, 2011?

22 A No, I don't.

23 Q Do you remember talking to the police about why she
24 left when you gave a statement?

25 A I don't recall.

1 Q Do you remember Ms. Jocelyn Jennings showing up at
2 your house on that date?

3 A Yes.

4 Q And were you present -- maybe I should pose it this
5 way -- for the interaction between Zinah and her
6 mother?

7 A Yes.

8 Q And what happened during that interaction?

9 A Nothing out of the ordinary. We had dinner
10 together, and I left them downstairs to spend some
11 time together and I was upstairs.

12 Q So you weren't down there at that point?

13 A At what point?

14 Q When they were down there together by themselves.
15 You were upstairs you just stated?

16 A Yes.

17 Q After Zinah met with her mother, did she then
18 choose to leave Atlanta?

19 A She left my house. I wasn't sure she was leaving
20 Atlanta.

21 Q Did she have ^{Child} with her?

22 A Yes.

23 Q And as you just stated, was that the last time you
24 ever saw ^{Child}

25 A Yes.

DENISE JENNINGS -- DIRECT -- MS. CAMPBELL

1 Q To this day?

2 A Yes.

3 Q Did you know why Jocelyn Jennings came to Atlanta
4 at that point to your house?

5 A Yes.

6 Q Why did she come there?

7 A She had a meeting or it was business. She had some
8 business earlier in the day.

9 Q After Zinah left your house on November 17th, did
10 you stay in contact with her?

11 A I'm sorry?

12 Q Did you stay in contact with Zinah Jennings after
13 she left on November 17th?

14 A Yes.

15 Q And primarily how would you talk to her?

16 A Telephone.

17 Q And are you aware of what her phone number was at
18 the time?

19 A At the time but not now.

20 Q I want to show you some phone records on the
21 account of (803)497- . Do you recognize that
22 number?

23 A I have numbers in my phone. I wouldn't be able to
24 recognize that.

25 Q Would that have been one of the numbers in your

1 phone?

2 A I could check. I don't know.

3 Q Do you remember talking to a victim advocate in our
4 office yesterday indicating that was one of the
5 numbers she would use?

6 A I'm sorry?

7 Q Do you remember talking to Ms. Nataki Brown of our
8 office?

9 A Yes.

10 Q And telling her that was one of the numbers?

11 A Yes. I looked in my phone and whatever number -- I
12 don't remember the number off the top of my head.

13 Q But the information you gave her was accurate?

14 A That's correct.

15 Q And this was one of the numbers in your phone
16 connected to Zinah?

17 A Yes. If that's the number I gave the lady
18 yesterday, that is correct.

19 Q When you would talk to her on the phone, would she
20 tell you about Child

21 A Yes.

22 Q And do you remember the last time -- when she would
23 talk to you about Child what would she say she was
24 doing with Child Do you remember? Would she ever
25 put Child on the phone with you?

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1 A She did once.

2 Q Do you remember the last time -- telling the
3 police -- the last time she put ^{Child} on the phone
4 was sometime between November 28th and
5 December 4th?

6 A That sounds about right. That would be my best
7 guess.

8 Q As time progressed into December, did Zinah give
9 you any information about where ^{Child} was?

10 A No.

11 Q Do you remember telling the police that she told
12 you that ^{Child} was with his father? Would your
13 statement help you refresh your memory maybe,
14 Ms. Jennings?

15 A Probably.

16 Q Let me give you that, that last paragraph. That's
17 your handwriting; isn't it?

18 A No.

19 Q Oh, that's Investigator Merrill's handwriting. I'm
20 sorry.

21 A What are you asking me again?

22 Q When you asked Zinah where ^{Child} was going to spend
23 the holidays -- and that would be Christmas.

24 A I'm sorry. Ask me your question. I'm confused.

25 Q Do you remember talking to the police and that you

1 had talked to Zinah, and she told you where ^{Child}
2 was for the holidays?

3 A I kind of do recall that. I think she said he was
4 spending the holidays with his dad.

5 Q With his dad?

6 A Uh-huh. (Indicating affirmative response.)

7 Q And who did you know his dad to be?

8 A Rod Mitchell.

9 Q Rod Mitchell. Have you ever heard of anybody named
10 Ernest Robinson?

11 A The first time I heard it was when I went to the
12 South Carolina police department. I came down to
13 talk to Zinah, and they informed me that she --
14 well, they asked me the same question, did I know
15 an Ernest Robinson.

16 Q Did you?

17 A No, I've never heard of him.

18 Q In your conversations with Zinah, who has she told
19 you the father of the child was?

20 A Roderick Mitchell.

21 Q Do you remember receiving a phone call on or around
22 Christmas from a Shon Harris?

23 A No.

24 Q Do you remember receiving any phone calls about
25 ^{Child} being missing right around Christmas?

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- 1 A Oh, Shon is Zinah's cousin. I do recall. She
2 called and asked me if he was at my house.
- 3 Q Do you remember the date she called you? Christmas
4 Eve or Christmas Day?
- 5 A No, I don't recall.
- 6 Q When she asked you if Child was with you, what did
7 you tell her?
- 8 A I don't recall. He wasn't there. So I know I told
9 her that he wasn't there; but whatever else I said,
10 I don't remember.
- 11 Q After that phone call, did you have any
12 conversations with Jocelyn Jennings about Child
13 whereabouts?
- 14 A That would have been my natural reaction. I would
15 think I called to try to say he is not here. Where
16 is he?
- 17 Q Do you recall being contacted by C.P.D. in
18 December of 2011 about Child whereabouts?
- 19 A Yes.
- 20 Q Do you remember what date that was?
- 21 A No.
- 22 Q Would it have been earlier even then when
23 Ms. Harris called you?
- 24 A No.
- 25 Q Did you become aware that Zinah had been arrested

1 on December 29th?

2 A After the fact, kind of way after. It was several
3 days before I knew anything about it.

4 Q Do you remember on January 2nd being contacted by
5 the Columbia Police Department?

6 A Pardon me?

7 Q Do you remember being contacted by the Columbia
8 Police Department on January 2nd?

9 A Again, I don't recall the dates.

10 Q Do you remember coming to Columbia at the request
11 of the Columbia Police Department?

12 A Yes.

13 Q And on that day do you remember bringing certain
14 items that belonged to Child

15 A Yes.

16 Q And did those items include a pacifier and some
17 spoons?

18 MR. PRIDE: Judge, excuse me. Can the answers
19 come from the witness? Leading, I object.

20 THE COURT: Just rephrase your question,
21 Solicitor.

22 MS. CAMPBELL: Yes, sir.

23 BY MS. CAMPBELL:

24 Q What items did you bring to the Columbia Police
25 Department at their request?

1 A A sippy cup, a pacifier, toothbrush, maybe a
2 blanket.

3 Q Did you know why you were bringing those items to
4 them?

5 A Yes.

6 Q Why were you bringing those items to them?

7 A They said they wanted some D.N.A. samples. They
8 wanted something to see...

9 Q And that day did you --

10 A You know, as I think about it, I'm not sure if I
11 brought them or if they came to get them. I think
12 I went down there. I went. I volunteered and
13 wanted to go.

14 I went down to visit with Zinah. I think it
15 was days later when they called and asked for that
16 stuff. If I'm not mistaken, Sergeant Bailey came.
17 I could have brought it, but I don't recall.

18 Q Either way it got turned over?

19 A Yeah, it got turned over.

20 Q By you?

21 A Yes, exactly.

22 Q Those were items that belonged to whom?

23 A ^{Child} Jennings, my nephew.

24 Q Do you remember when you were here in town also
25 that they asked your permission to get what is

1 known as a buccal swab from you, a known D.N.A.
2 sample from you?

3 A Yes.

4 Q And you cooperated fully and gave them one?

5 A Yes.

6 Q Ms. Jennings, I appreciate it. You are still close
7 to Zinah?

8 A Yes.

9 Q Do you know where ^{Child} is?

10 A No.

11 Q Thank you, ma'am.

12 THE COURT: Mr. Pride.

13 CROSS EXAMINATION

14 BY MR. PRIDE:

15 Q How old was your father when he passed away?

16 A Sixty-eight, 70, somewhere between 68 and 70, maybe
17 68, 69, something like that.

18 Q How old was Zinah? Do you remember?

19 A She was four.

20 Q Four years old?

21 A Uh-huh. (Indicating affirmative response.)

22 Q And at the time that your father passed away, he
23 was married to Jocelyn; is that not correct?

24 A That's correct.

25 Q And they were living here in the City of Columbia?

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1 A In Blyth -- yes.

2 Q Blythewood?

3 A Blythewood.

4 Q Now, you have testified you have had and have a
5 close relation with Zinah; is that correct?

6 A Yes.

7 Q And during the time that Zinah lived with you, did
8 you ever see Zinah do anything to ^{Child} to affect
9 his health, safety, or welfare?

10 A Zinah, very early on, was a very doting mother. I
11 saw a difference when she stayed with me in the
12 fall of 2011, nothing that would hurt him. I saw
13 the love she had for him, but I saw that she was
14 just absent most of the time, just not able to --
15 you know, not deliberate neglect but she wasn't
16 there. I did most of the care for him, but she
17 showed him a lot of love but just seemed almost
18 incapable of changing a diaper.

19 Q As a result of what you saw in Zinah, did you seek
20 medical attention for her?

21 A Yes, I did.

22 Q What did you do?

23 MS. CAMPBELL: Objection, Your Honor. May we
24 approach?

25 THE COURT: Yes, ma'am.

1 (Whereupon there was a bench conference off
2 the record in the presence of the jury but out of the
3 hearing of the jury.)

4 THE COURT: Step out, please, ladies and
5 gentlemen. Do not discuss the case during this brief
6 recess.

7 (The jury retires to the jury room.)

8 THE COURT: Solicitor, is your objection --
9 will you state your objection on the record for me,
10 please.

11 MS. CAMPBELL: Your Honor, this would be the
12 same objection to this type of mental health testimony
13 that we had earlier. Basically he is trying to back
14 door, I think, in some mental health records that would
15 not be relevant to this proceeding. That's what we
16 would be objecting to, any kind of testimony as to that.

17 THE COURT: Thank you. So you are saying it's
18 not relevant? Her mental state is not relevant?

19 MS. CAMPBELL: As stated by the defense
20 counsel, there is no -- and as we have put on the record
21 continuously in this trial, Judge -- there is no issue
22 as to her competency, M'Naghten, any of those issues
23 where that would become relevant.

24 THE COURT: What about all this testimony from
25 witnesses like witness Dickerson: I thought she was

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1 just stressed out, concerned about her, checking on her
2 every day. Witness Knight, the manner in which she
3 treated her child when she was in the bank.

4 The witness -- the young lady that lived at
5 Gonzalez Gardens. Give me just a moment and I will find
6 it -- Ms. Alston, that was concerned about her, like she
7 wasn't there.

8 Even Ms. Starks said she calls on the phone,
9 and it was unusual for her -- I paraphrase all this. I
10 was trying to look back through my notes. Isn't that in
11 evidence?

12 MS. CAMPBELL: Yes, sir, all that is in
13 evidence. Being stressed out or acting meanly or acting
14 unusual is one thing, but when you go into mental health
15 evaluations and treatment, that takes it to another
16 level. That would be our position, Your Honor.

17 THE COURT: Thank you, Solicitor. Mr. Pride?

18 MR. PRIDE: Judge, I want to put all my cards
19 on the table so you can evaluate my case and see exactly
20 where I am going. I am going to produce a lady from
21 L.R.A.D.A.C.

22 THE COURT: L.R.A.D.A.C.?

23 MR. PRIDE: Yes, Judge, who says she went down
24 and evaluated Zinah and definitely that she had mental
25 problems. Also, Judge, while Zinah was in custody down

1 at the Alvin S. Glenn Detention Center, she got into an
2 altercation.

3 As a result of that altercation, she was
4 interviewed by -- I don't have his name right now --
5 interviewed by somebody who worked at the Alvin S. Glenn
6 Detention Center. He determined that she was
7 demonstrating bizarre behavior.

8 As a result of it, they sent her to the
9 Bryan -- not me, Judge. I didn't hire a gun in order to
10 conjure a defense. The State sent her to the Alvin S.
11 Glenn Detention Center [verbatim]. She was evaluated
12 there for almost three weeks. When she was there --
13 there being the State's doctor -- evaluated her as
14 having an undeterminable mental problem.

15 Then, Judge, she was taken before a Richland
16 County probate court for the Fifth Judicial Circuit, and
17 at a hearing the judge determined that she was mentally
18 ill and passed an order to that effect.

19 Judge, I was at that hearing. Quite frankly,
20 over my objection the judge ordered that she take
21 Risperdal for a period of one year. That was sort of
22 shocking to me because I don't know how you order
23 anybody to take medicine for one year without coming
24 back periodically and evaluating that person, but that's
25 what happened.

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1 Then after that -- and I am trying to put all
2 my cards out so you will know exactly what I intend to
3 do -- I hired by applying -- Zinah was indigent -- so I
4 applied to Judge Cooper. Judge Cooper gave me money. I
5 hired a psychiatrist. The psychiatrist went down there.
6 He evaluated -- Dr. Moustafa was his name -- he
7 evaluated her.

8 I gave them the report from Dr. Moustafa.
9 Ms. Garfield was having a problem getting records from
10 the probate court. I gave her my records from the
11 probate court. I gave them, as a result of reciprocal
12 discovery, all of my records from the Fulton County
13 Mental Health Department with their evaluation.

14 Judge, I have been straight up. When you
15 asked me about her competency, I have always told you
16 that that's not an issue. I'm not saying that she is
17 incompetent. Having a mental problem is like physically
18 having a cold.

19 At one time, Judge, in my life I've got to
20 concede if a person had a mental problem, I thought they
21 were crazy and used to talk about the insane asylum and
22 all, but today mental health problems are as acceptable
23 as physical health problems.

24 It is what it is, Judge. One other thing I
25 want you to consider, Judge, as you look at the question

1 of relevancy, look at that statute. It says "willfully
2 abandon," willfully abandon.

3 You have got to have a state of mind because
4 to willfully abandon, it requires the element of
5 specific intent. That's where I am, Judge, and that's
6 what I am going to attempt to do. It's like taking off
7 all your clothes and you can have a good look at me.
8 That's it.

9 THE COURT: Perhaps you could use another
10 example.

11 MR. PRIDE: That's a hyperbole, Judge, a
12 hyperbole. I wouldn't want to do that. That's just a
13 hyperbole.

14 THE COURT: Mr. Pride, did you serve a
15 discovery motion on the solicitor?

16 MR. PRIDE: Yes.

17 THE COURT: And did the solicitor serve a
18 reciprocal discovery?

19 MR. PRIDE: They certainly did. They always
20 do. They are proficient.

21 THE COURT: I mean, this kind of hints to me
22 not a competency defense. You have never questioned
23 competency and not a M'Naghten defense, but it has the
24 appearance of a defense of guilty but mentally ill or,
25 as you say, goes to the issue of willfulness.

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1 MR. PRIDE: Right.

2 THE COURT: Whether or not she would have had
3 the ability to form that specific intent.

4 MR. PRIDE: And you can negate the verdict of
5 mentally ill. Because, again, Judge I'm not saying that
6 any kind of disability that she might have suffered as a
7 result of her mental illness is a defense to any of
8 these charges.

9 I'm simply saying that if she had the flu
10 while she was charged with this offense, then I would
11 say she had a cold. That's what I meant, Judge, when I
12 say to you that at one time I thought mental illness,
13 you are crazy.

14 But mental illness is something -- Judge, I
15 read that a psychiatrist said that 95 percent of the
16 people in America are bipolar, and I believe him.
17 That's a mental illness.

18 But does that excuse people from committing
19 crimes? No. Is that a defense? No? And that's the
20 same thing with this young lady. But it does go to what
21 the statute says "willfully abandon." Thank you.

22 THE COURT: Solicitor.

23 MS. CAMPBELL: May it please the Court, Your
24 Honor. State versus Santiago addresses this issue. In
25 that case the defense tried to put up evidence from

1 experts and others that the defendant had Asperger's
2 Disorder. That caused him to fear for his life; so he
3 didn't have the mental state to commit murder, which is
4 exactly what the defense just argued.

5 He is arguing diminished capacity or sympathy
6 or for whatever reason he wants to go into this, Your
7 Honor. I think he just classically defined what
8 diminished capacity is. Of course, our Courts have held
9 that is not a defense in our State. It was most
10 recently held in State versus Santiago, which is 634
11 S.E.2d 23.

12 In that case the defense was not allowed to
13 bring in expert testimony or any other testimony about
14 the defendant's mental state because diminished capacity
15 is not recognized.

16 If he were to elect -- and we have asked
17 repeatedly -- if he wanted a G.B.M.I. or not guilty by
18 reason of insanity, then, yes, your Honor, all this
19 would be.

20 But just because a person acts strangely or
21 doesn't act like themselves, typically most people that
22 commit murders aren't really acting in conformance with
23 what all of us think are normal parameters for a person
24 to do.

25 So in every case you could say a person is

1 acting strangely whenever they do any kind of crime to a
2 child, to another person, be a murder, be it harm to a
3 child, be it abandonment of the child.

4 For him to try to backdoor in the diminished
5 capacity, sympathy-seeking information, Your Honor,
6 simply it's our position that it is not allowed; and we
7 don't know -- he has already asked her: Was she acting
8 differently? He has brought that out, yes. But to go
9 any further than that, Your Honor, would simply -- our
10 position is it's simply not proper.

11 THE COURT: May I see Santiago?

12 MS. CAMPBELL: Yes, Your Honor. I have just
13 got the notes. Let me get the case.

14 THE COURT: Is that Judge Early's case?

15 MS. CAMPBELL: You know more about it than I
16 do, Judge. Can I have a moment to get the case?

17 THE COURT: That's all right. One of my law
18 clerks will get it for me. Give me that cite, please.

19 MS. CAMPBELL: 634 S.E.2d 23. It's a 2006
20 Court of Appeals case.

21 THE COURT: Yes, Mr. Pride.

22 MR. PRIDE: Judge, I am not finicky. I
23 consider myself as a person not being thin skinned and
24 being of broad shoulders, but I am not a lawyer to
25 ambush anybody as it relates to defending a client.

1 I'm sorry Ms. Campbell felt the need to refer
2 to me in that manner. Judge, I would respectfully
3 submit to you that if Ms. Campbell and the Solicitor's
4 Office felt that this defense and these records were not
5 admissible, they would file the appropriate motions.

6 That gives me notice when you file a motion to
7 suppress. You know, Judge, I filed voluminous motions
8 in this case upfront, out front with notice, showing you
9 which way I'm going and what I intend to do. They have
10 got a corresponding responsibility.

11 You can't jump up in the middle of a trial and
12 say, Oh, I don't want those records in. Judge, you were
13 as patient as anybody I have ever seen before by
14 granting pretrial hearing after pretrial hearing,
15 sometimes as many as two in a week and making it
16 convenient for everybody.

17 It's not like they don't have these records.
18 They sat on them. They didn't make the appropriate
19 motion. Now, they want to jump up and say, I'm
20 ambushing them as though they didn't have notice. They
21 never denied, Judge, any of the statements that I made
22 about furnishing those records way upfront and complying
23 with the reciprocal discovery.

24 If I complied with it and you don't like it,
25 you don't think it's relevant, what do you do, Judge?

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1 You file a motion to suppress. That gives me notice so
2 I can prepare to respond to it, and they didn't do it.

3 Judge, ordinarily where you have a
4 corresponding responsibility or something you are
5 supposed to do and you don't do it, it's deemed to be
6 waived. Thank you.

7 THE COURT: Ms. Campbell.

8 MS. CAMPBELL: Respectfully, Your Honor, we
9 have asked this question over and over. We brought up
10 the fact there was no diminished capacity. He has put
11 on the record there is no diminished capacity.

12 At this point all he is trying to do is go
13 forward on a diminished capacity defense and for jury
14 nullification. We brought this up, Your Honor. We
15 can't anticipate what he is going to do with them.

16 When we first got them, we immediately made
17 sure we had competency, double-checked with him to make
18 sure there was no M'Naghten issue or any issues like
19 that.

20 So we did bring this up. We have brought it
21 up in many hearings asking the defense what their
22 intention was, whether or not they intended to offer
23 diminished capacity. He has put on the record
24 repeatedly he did not. That's exactly what we are now
25 here looking at is diminished capacity and jury

1 nullification.

2 THE COURT: I think --

3 MR. PRIDE: Judge, just one more thing. Jury
4 nullification --

5 THE COURT: Wait just a minute. I think he
6 actually put on the record on diminished capacity that
7 he was only going to bring that up for purposes of
8 mitigation --

9 MR. PRIDE: That's right.

10 THE COURT: -- if there was a finding of
11 guilt.

12 MS. CAMPBELL: That's right. I stand
13 corrected.

14 THE COURT: That was my understanding of
15 Mr. Pride's position.

16 MS. CAMPBELL: I was referring to in the
17 trial.

18 THE COURT: I understand that was your
19 reference, Solicitor. Yes, Mr. Pride.

20 MR. PRIDE: Jury nullification, that's an
21 ethical violation. I would never do that. I sure
22 wouldn't try do it in your courtroom. I mean, that's
23 just a bunch of junk. That is what that is tantamount
24 to. That's just an answer, but it's not an answer to
25 the issue before you. They didn't answer you.

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1 What Ms. Campbell should have stood up and
2 given you was an explanation of why she didn't file a
3 motion to suppress these records and this testimony.
4 She didn't address that at all because she has no
5 answer. So because she has no answer, then she argues
6 frivolous things that are not in issue in this case.

7 THE COURT: What records specifically are you
8 intending to offer through Ms. Jennings, through
9 Ms. Denise Jennings?

10 MR. PRIDE: The records from Fulton County.

11 THE COURT: Do you have those records?

12 MR. PRIDE: Yes.

13 THE COURT: And you are going to offer them
14 through Ms. Jennings?

15 MR. PRIDE: Right. We agreed --

16 THE COURT: Just have them marked for
17 identification purposes only. I want to see them.

18 MS. CAMPBELL: And, Your Honor, there is no
19 question that he has provided those records during
20 discovery.

21 THE COURT: I didn't think that was an issue.

22 MS. CAMPBELL: No, sir, it's not.

23 THE COURT: I want to make sure I know what I
24 am ruling on.

25 MR. PRIDE: And no question about the fact

1 that I showed them to the solicitor prior to having them
2 marked.

3 (Defendant's Exhibit Number 4 is marked for
4 identification).

5 THE COURT: And y'all agreed, I believe,
6 pretrial to the fact that you would not have to have
7 records custodians present --

8 MR. PRIDE: That's correct.

9 THE COURT: -- to authenticate records.

10 MS. CAMPBELL: Yes, sir.

11 MR. PRIDE: Judge, in a pretrial transcript
12 that I can produce right now and let you see, where
13 Ms. Garfield in an effort to keep my client from getting
14 a bond, argued that she missed the appointment down in
15 Atlanta at the Fulton County Hospital as one of the
16 reasons why she shouldn't get a bond, one of the reasons
17 why she got a bond of \$150,000. I have got that in a
18 transcript if you want to see it. I can produce it.

19 MS. GARFIELD: Can I see it?

20 MR. PRIDE: Yes.

21 THE COURT: Give me a minute. Are there any
22 other cases y'all want me to look at besides Santiago?

23 MR. PRIDE: I don't have any.

24 THE COURT: Solicitor?

25 MS. CAMPBELL: No, sir. I'm sorry I didn't

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1 have Santiago earlier.

2 THE COURT: I will step out.

3 MR. PRIDE: And, Judge, had I had notice, I
4 would have given you a memorandum. You have to
5 acknowledge that any point of law that I have argued
6 before you, I have tried to be diligent in giving you a
7 memorandum.

8 If this is a question, I am caught offguard
9 because nobody filed a motion, and I haven't done the
10 research. That's the only reason why I am not able to
11 give you any research right now.

12 THE COURT: Thank you. Anything further,
13 Solicitor?

14 MS. CAMPBELL: Just, Your Honor, we spoke
15 about this in opening argument. He was advised that he
16 couldn't go into the mental health issues.

17 THE COURT: All right. Thank you. I will
18 take a few minutes.

19 Ms. Jennings, you may step down during this
20 brief recess. You may not discuss your testimony with
21 anyone. You may certainly refresh yourself, but you may
22 not discuss your testimony with anyone. You are subject
23 to continuing cross and perhaps redirect examination.

24 THE WITNESS: Thank you.

25 THE COURT: Court will be in recess about 15

1 minutes. Thank you very much.

2 (Whereupon there is a recess.)

3 THE COURT: Anything further from the State,
4 Solicitor?

5 MS. CAMPBELL: Yes, sir, just briefly, Your
6 Honor. We are getting the e-mails where we did inquire
7 from Mr. Pride as to the mental health issues or
8 defenses. He then did inform us initially that he had a
9 defense of diminished capacity.

10 At that point we brought it up on the record
11 in here. In addition to that, Your Honor, I have asked
12 the court reporter to go back and review her notes as to
13 what was put on the record.

14 Tuesday morning, prior to opening arguments, I
15 think I brought up speaking objections and mental
16 defenses, at which time Mr. Pride -- and I don't want to
17 paraphrase it. It's in the record -- but I will
18 paraphrase with the Court's permission.

19 Your Honor, he did not intend on using any
20 defense of mental capacity, except in mitigation, I
21 believe, or at the sentencing. I can't remember the
22 exact verbiage, Your Honor. The court reporter has that
23 teed up if you want to hear it.

24 In addition to that, Your Honor, we would just
25 argue that in effect he is attempting to insert into

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1 this trial insanity or mental health issues. Your
2 Honor, you brought to our attention that some people
3 have indicated she acted strangely, she was stressed
4 out, things of that nature. Respectfully, Your Honor, I
5 think that goes to her behavior, not to her mental
6 health. Those would be two separate issues.

7 In reviewing the Santiago case, Your Honor,
8 it's our position that when he argues about the mens rea
9 or mental state, that is exactly what Santiago addresses
10 as far as what would not be admissible. There he was
11 attempting to offer expert testimony, not just records
12 of a hospital visit. Thank you, Your Honor.

13 THE COURT: Mr. Pride.

14 MR. PRIDE: Judge, the State versus Santiago
15 case is not applicable. This is a case in which a
16 defense lawyer put on expert witnesses. The expert
17 witnesses were talking about the fact that the
18 defendant's capacity had been diminished. Obviously, we
19 answered when diminished capacity comes in.

20 Based on that the Court said that the trial
21 court was absolutely correct in their ruling. I just
22 don't find that this case is not only on all fours, it's
23 just not applicable.

24 THE COURT: What is the purpose for which you
25 are offering what has been marked as Defense 4 for

1 identification, the records from Fulton County Mental
2 Health?

3 MR. PRIDE: In support of the testimony of
4 Denise Jennings that Zinah was acting -- Judge, she
5 didn't say bizarre. Whatever you wrote in your notes as
6 to how she described Zinah is what it is.

7 But she was not acting -- she seemed to be
8 sort of spaced out or sort of not herself or she
9 recognized that her -- the propensities that Zinah was
10 demonstrating were not normal as she had known Zinah in
11 the past.

12 Now, she didn't say that verbatim. I'm
13 paraphrasing what I think Denise Jennings said and what
14 her response was to that. She felt that based on what
15 she saw and how well she knew her, she took her for a
16 mental health evaluation. The records speak for
17 themselves. Therefore, Judge, I don't want to be long
18 winded. You know the rest of the story.

19 THE COURT: What are you offering the records
20 for?

21 MR. PRIDE: I am offering the records for the
22 fact that it shows and it weighs on the element of
23 specific intent as it relates to the requirement of the
24 statute on willfulness on abandonment.

25 THE COURT: All right. Well, I apologize I

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1 took so long. I wanted to look at those cases or that
2 case in a little detail, Santiago, 370 S.C. 153. I also
3 looked at Gill versus State, 346 S.E. 209.

4 Santiago, as y'all have pointed out, argued on
5 appeal that the trial court, which was Judge Goodstein,
6 erred in failing to allow the testimony of Dr. Donna
7 Schwartz-Watts because the evidence was relevant to
8 Santiago's mental state, both at the time he made the
9 statement to the police and at the time of the
10 shooting.

11 Essentially it was that Santiago had an
12 Asperger's Disorder that caused him to fear for his
13 life, and accordingly he did not have the requisite
14 mental state to commit the murder, essentially arguing
15 that Santiago was culpable of a lesser offense because
16 of his diminished capacity.

17 However, the diminished capacity defense is
18 not recognized in South Carolina, which is citing Gill
19 versus State. In Gill the defense counsel wanted a
20 forensic psychiatrist, Dr. Harold Morgan, to testify
21 that because Gill had a low I.Q., he did not have the
22 requisite mental state to commit murder.

23 Our Court -- actually in my reading of it, I
24 don't know if they just proffered Dr. Morgan's testimony
25 or if it was before the jury or not. It appears it

1 actually went before the jury, but I can't quite tell.
2 But at the close of the trial, Gill's attorney asked the
3 trial court to charge diminished capacity as an accepted
4 defense in several jurisdictions.

5 The diminished capacity doctrine allows the
6 defendant to offer evidence of his mental condition with
7 respect to his capacity to achieve the mens rea required
8 for the commission of the offense charged, citing no
9 South Carolina case but citing 21 Am Jur 2d, Criminal
10 Laws, Section 38-1998.

11 In particular the defense may be invoked to
12 negate specific intent where such intent is an element
13 of the offense charged. Diminished capacity differs
14 from the insanity defense in that it may be raised by a
15 defendant who has conceded to be legally sane.

16 In South Carolina the mental defenses include:
17 An insanity defense, M'Naghten or guilty but mentally
18 ill. Diminished capacity may be the law in some areas.
19 Although I realize Mr. Pride is not identifying the
20 purpose -- identifying his offer of testimony as to
21 diminished capacity, and I think he is being very clear
22 with the Court -- he is offering it on the requirement
23 of specific intent.

24 I think those two cases, Gill and Santiago,
25 right now are the law in South Carolina. Therefore,

DENISE JENNINGS -- CROSS -- MR. PRIDE

1 defense's Exhibit Number 4 is not admissible. I would
2 sustain the objection.

3 Ms. Jennings -- I believe it was Denise
4 Jennings -- can certainly testify to her observations of
5 Ms. Zinah Jennings' behavior. She can certainly testify
6 to her responses thereto or her concerns therewith, but
7 the records are not admissible.

8 Anything further before we bring in our jury,
9 Mr. Pride?

10 MR. PRIDE: I think, Judge, would your ruling
11 so extend to other testimony that I intend to introduce,
12 such as -- or you don't want to go there now?

13 THE COURT: No. Such as, you listed for me
14 L.R.A.D.A.C., the gentleman at Alvin S. Glenn, Bryan
15 Psychiatric, Richland County Probate, and medication for
16 a year.

17 I don't want to make an anticipatory ruling.
18 Right now all I'm ruling on is Ms. Denise Jennings and
19 the Fulton County records. I tried as best I could to
20 give you my reasoning for my ruling. It will be up to
21 you to interpret my ruling in regards to those others,
22 those other witnesses. I assume that's the ones you
23 were referring to, Mr. Pride.

24 MR. PRIDE: That's correct. On that list you
25 should also put the introduction of a judicial order

1 from the probate court, which is a matter of public
2 record, that determined that she was mentally ill.

3 THE COURT: I thought I did say Richland
4 County Probate Court. I have Richland County Probate
5 Court and a couple of words I can't quite read. I do
6 have that on my list. That was from Judge Clement, I
7 believe.

8 MR. PRIDE: And to be clear, Denise Jennings
9 cannot testify -- I don't want to go in an area and be
10 admonished -- Denise Jennings cannot testify that as a
11 result of her determining behavior that was usual on the
12 part of Zinah, that she took her to the hospital in
13 Atlanta?

14 THE COURT: Do you have any position on that,
15 Solicitor?

16 MS. CAMPBELL: Yes, sir. That would be
17 referencing the records you said were inadmissible, Your
18 Honor. I don't think she can talk about anything as far
19 as her mental health. I think, as you were clear, of
20 course, her observations that he has gone into. That
21 mean that almost opens the door without...

22 THE COURT: I was thinking about that
23 witness -- and I understood your position between
24 observations and behavior and mental condition and
25 stressed out and all those other things.

DENISE JENNINGS -- CROSS -- MR. PRIDE

1 I was recalling one witness who said, I kept
2 trying to stay in touch with her, call her, check on
3 her. Why can't she testify: As a result of that, what
4 did you do, Ms. Jennings? I took her to the doctor.

5 MS. CAMPBELL: And that would be the extent of
6 it?

7 THE COURT: I don't think she can get into
8 what occurred there. That was my thought processes on
9 that, Solicitor.

10 MS. CAMPBELL: Thank you.

11 THE COURT: That she responded. That's the
12 manner in which she responded.

13 MS. CAMPBELL: If that's the extent of it,
14 Judge, I understand.

15 MR. PRIDE: Judge, she didn't take her to the
16 doctor. She took her to the emergency mental health
17 unit. That is what -- that is the answer I expect for
18 her to say now. All I'm doing, Judge, is trying to make
19 sure that I don't walk somewhere where you don't want me
20 to. That's exactly where I intend to go.

21 THE COURT: I understand.

22 MS. CAMPBELL: Except, Mr. Pride, she took her
23 to the emergency room at the South Fulton Medical Center
24 in the emergency department, just to be correct about
25 where she took her.

1 MR. PRIDE: All right, Judge.

2 THE COURT: I don't object to any testimony
3 that y'all don't object to. I am saying I think she can
4 testify as to her response to her behavioral
5 observations of her sister Zinah.

6 MR. PRIDE: Okay, Judge.

7 THE COURT: Are we ready for the jury,
8 Solicitor?

9 MS. CAMPBELL: Yes, sir.

10 THE COURT: Mr. Pride?

11 MR. PRIDE: Judge, Ms. Jennings is out here.
12 Do you want to put her back on the stand?

13 THE COURT: Do you object to him advising
14 Ms. Jennings the response to that question?

15 MS. CAMPBELL: I have no objection to that.
16 So that it would be correct it was the South Fulton
17 Emergency Department.

18 (Pause.)

19 THE COURT: If you would come back around,
20 please, Ms. Jennings.

21 DENISE JENNINGS, having been
22 previously duly sworn, resumes the witness stand.

23 THE COURT: Mr. Bailiff, if you would bring
24 our jury, please.

25 (The jury returns to the courtroom.)

DENISE JENNINGS -- CROSS -- MR. PRIDE

1 THE COURT: Welcome back, ladies and
2 gentlemen. I apologize for the delay. I assure you it
3 was the fault of the Court. Please do not hold it
4 against any of the parties in the case. They were
5 working very diligently. With that being said, we are
6 continuing the cross examination of Ms. Jennings by
7 Mr. Pride.

8 MR. PRIDE: May it please the Court.

9 THE COURT: Yes, sir.

10 CROSS EXAMINATION

11 BY MR. PRIDE:

12 Q Ms. Jennings, just to refresh your memory, I was
13 asking you about Zinah; and you had described some
14 behavior that she demonstrated that disturbed you.
15 Do you recall that?

16 A Yes.

17 Q And would you describe again -- and I know you did
18 before -- the behavior that you observed?

19 A I'm certainly not a clinician, but she had what I
20 would phrase as schizophrenia and paranoia --

21 MS. CAMPBELL: Objection, Your Honor.

22 THE COURT: I would sustain the objection.

23 BY MR. PRIDE:

24 Q You can't diagnose her. I want you to describe the
25 physical characteristics demonstrated by Zinah

1 Jennings that you observed. What did she do? What
2 was her manner?

3 A She wasn't attentive. You couldn't communicate
4 with her. She'd just kind of look right through
5 you, didn't answer questions.

6 Q What you have just described, was that different
7 from the Zinah Jennings that you knew in the past?

8 A Very, absolutely.

9 Q Describe Zinah in the past as you knew her, as you
10 saw her to be herself. What was she like?

11 A Fun loving, happy, just -- if normal is the right
12 word, just very normal. She would interact and
13 communicate very appropriately. We would give each
14 other pedicures. We watched movies together. We'd
15 laugh. Just none of that was happening.

16 Q When this change took place that you recognized in
17 Zinah, what month was that?

18 A In September of 2011 when she arrived at my house.

19 Q September?

20 A Yes.

21 Q And she stayed with you from September until when?

22 A November 17th.

23 Q November 17th?

24 A Uh-huh. (Indicating affirmative response.)

25 Q And when you recognized this change, would it be a

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1 fair statement that you were disturbed to the
2 extent that you thought you should do something
3 about it?

4 A Yes.

5 Q And what did you do?

6 A I called the authorities out to my house on three
7 separate occasions. I took her to the emergency
8 room.

9 Q When did you take her to the emergency room?

10 A I don't remember the exact date. My guess would be
11 maybe the first week of November. I don't
12 remember. I don't recall.

13 MR. PRIDE: Judge, I understand your rulings
14 about the records, but I want to establish the date.

15 THE COURT: You can use that to refresh her
16 memory, yes, sir.

17 BY MR. PRIDE:

18 Q Can you look at what has been marked as a
19 Defendant's Exhibit 4 and tell us if those records
20 reflect the date that you have referred to in your
21 testimony?

22 THE COURT: And that's Defendant's Exhibit 4
23 for identification purposes only.

24 MR. PRIDE: That's correct. That's what I
25 understand.

1 THE COURT: Can you point it out to her,
2 Mr. Pride? She is having a little problem finding it,
3 I'm sure.

4 MR. PRIDE: I am pointing out the date to her
5 on Defendant's Exhibit 4.

6 BY MR. PRIDE:

7 Q Do you see that there?

8 A Yes, it says November 1st. I would agree that's
9 right.

10 Q That was pointed out on Defendant's Exhibit 4
11 marked for identification only. Now, when you took
12 her, where did you take her on the 1st of November?

13 A I think its called South Fulton Medical Center.
14 It's the closest hospital to my house.

15 Q And when you got there, was she seen? Was Zinah
16 examined?

17 A Yes.

18 Q And how long did this examination -- in other
19 words, how long did she stay there for this
20 examination?

21 A We were there for several hours. The examination
22 itself was not long at all. They did a referral if
23 I may say so.

24 Q Don't tell me where they referred her to.

25 A Okay.

DENISE JENNINGS -- CROSS -- MR. PRIDE

1 Q But can you tell me, after they made the
2 examination -- you have told us the examination
3 took a short period of time -- but the wait for the
4 examination was a long period of time? Is that a
5 fair statement?

6 A That's correct.

7 Q And after Zinah's examination, where did Zinah go?

8 A Back to my house.

9 Q Back to your house? Was she with Child

10 A Yes, Child was with us.

11 Q And she stayed there until the 17th of November; is
12 that correct?

13 A That's correct.

14 Q Now, did you, through some means, inform Zinah's
15 mother of what you had determined as it related to
16 her change in her behavior? Did you tell her
17 mother about it?

18 A Yes, we talked often.

19 Q Did you inform Ms. Jennings, Zinah's mother, of the
20 actions that you had taken as a result of what you
21 thought was going on with Zinah? Did you tell her
22 about the fact you took her to the hospital?

23 A Yes, I had to get the insurance information.

24 Q And thereafter did Ms. Jennings come to Atlanta?

25 A She did.

1 Q Did Ms. Jennings really come there for business
2 purposes or did she come for other reasons?

3 A She came for business purposes, I assume. I don't
4 know if it was job related. She had a -- I don't
5 know if it's a travel business or what, but I
6 remember also that I was scheduled to be in
7 Mississippi that Friday; and I was not comfortable
8 leaving Zinah alone in my house. So we were
9 putting our heads together too to try to figure out
10 what we were going to do over the holidays with
11 Zinah and Child

12 Q Right.

13 A So that was part of her purpose also.

14 Q What was Ms. Jennings' intentions as it related to
15 Child What did she want to do?

16 A She was bringing Child back to -- we decided it
17 would be good for Child to spend Thanksgiving with
18 family here in South Carolina until we could figure
19 out what was going on with Zinah.

20 Q So really -- correct me if I'm wrong -- do I
21 understand the testimony to be that Zinah's mother
22 came to get Child

23 A Yes.

24 Q And what was Zinah's attitude? What did Zinah do?
25 Did she agree to let her mother have Child

DENISE JENNINGS -- CROSS -- MR. PRIDE

1 A I didn't have privy to that conversation. Again,
2 her mother came and we all --

3 Q I am not asking about the conversation. I am
4 asking you about the conduct of Zinah.

5 A Ask me again.

6 Q Zinah's mother came to Atlanta and wanted to take
7 Child back --

8 MS. CAMPBELL: Objection, Your Honor.

9 Assuming facts not in evidence according to this
10 witness.

11 THE COURT: Rephrase your question.

12 BY MR. PRIDE:

13 Q Zinah's mother, while in Atlanta, wanted to take
14 Child back to Columbia?

15 MS. CAMPBELL: Objection, Your Honor, same
16 grounds.

17 THE COURT: I thought that's what she said.

18 MR. PRIDE: I thought so.

19 THE COURT: Ask her the question.

20 BY MR. PRIDE:

21 Q What did Zinah's mother want to do as it related to
22 Child

23 A She came to Atlanta. It was the 17th of November.
24 We were planning for the holidays. The answer to
25 our plans was that she would take Child back to

1 South Carolina with her because I was scheduled to
2 leave the very next day for Mississippi.

3 Q Now, was Ms. Jennings -- and I am referring to
4 Zinah's mother -- able to get ^{Child} and take him
5 back to Columbia?

6 A No.

7 Q What did Zinah do?

8 A Zinah left before -- again, I didn't have privy to
9 the conversation downstairs. I was upstairs.
10 Zinah came up, told me she was leaving. I didn't
11 know if she was going to the store. I didn't know.
12 She just said she was going to run out. I was
13 upstairs again.

14 Jocelyn was downstairs. Zinah left. Jocelyn
15 came up and informed me that she was gone. She
16 didn't think Zinah was going to let her take ^{Child}
17 and anything other than that I don't recall.

18 Q And Zinah, you do know now, left Atlanta with ^{Child}
19 is that not correct?

20 A Yes.

21 Q And just to back up a minute, that was after
22 Zinah's mother came to Atlanta and you and Zinah
23 and ^{Child} and Zinah's mother went out and had a
24 lovely dinner?

25 A Yes.

DENISE JENNINGS -- CROSS -- MR. PRIDE

- 1 Q But Ms. Jennings would not -- strike that.
2 Ms. Jennings did not take ^{Child} from Zinah and carry
3 ^{Child} back to Columbia?
- 4 A No, no.
- 5 Q Zinah wouldn't have any part of that?
- 6 A No, obviously.
- 7 Q Now, when you were notified by law enforcement here
8 in Columbia that ^{Child} -- were you notified by law
9 enforcement here in Columbia that ^{Child} was missing?
- 10 A I don't recall how I first found out that he was.
11 I would suppose -- I think it was Detective Bailey.
12 I don't recall which was first and who I heard it
13 from first. It could have well been -- it would
14 seem to me that Jocelyn would have called, and we
15 would have communicated and figured it for our
16 ourselves.
- 17 Q The answer is you really don't remember how you
18 first became aware?
- 19 A No, I don't remember how I first found out ^{Child} was
20 missing.
- 21 Q But be that as it may, when were you here in
22 Columbia? Who told you to come to Columbia as a
23 result of ^{Child} being missing?
- 24 A I think I spoke with Sergeant Thomas, if I'm not
25 mistaken; and we agreed that I would come and visit

1 with Zinah.

2 Q And did you come and visit with Zinah?

3 A I did.

4 Q Ms. Campbell asked you about that visit on direct
5 examination. Where did that visit take place?

6 A I don't really remember where I was. They gave me
7 an address and they escorted me in. I would assume
8 it was -- it wasn't the detention center because
9 they brought her over to wherever I was, I guess
10 at their office. I don't know. It's on the
11 record.

12 Q And did you have an opportunity to talk with Zinah?

13 A Yes, I did.

14 MS. CAMPBELL: Objection, Your Honor. We have
15 a matter of law.

16 THE COURT: Step out, please, ladies and
17 gentlemen. Do not discuss the case during this brief
18 recess.

19 (The jury retires to the jury room.)

20 THE COURT: Yes, ma'am, Solicitor.

21 MS. CAMPBELL: Your Honor, I believe on direct
22 examination I indicated or I brought out testimony that
23 she had come to Columbia; that she had brought some
24 items belonging to ^{Child} that she then turned them over
25 to the police department; and that she gave a buccal

1 swab.

2 We specifically did not go into the fact about
3 the conversation because this would be back to where we
4 were with the self-serving statements. She participated
5 in the third statement on January 2nd that we contend
6 are self-serving. So we are back to that.

7 THE COURT: Mr. Pride?

8 MR. PRIDE: Well, I guess I'm a bit confused
9 because I still don't understand, what is the objection
10 about the question? Could I ask you to ask Ms. Campbell
11 why she thinks that what I asked Ms. Jennings was
12 objectionable before I argue it?

13 THE COURT: Read that last question, Madame
14 Court Reporter.

15 COURT REPORTER: "And did you have an
16 opportunity to talk with Zinah?"

17 Answer: "Yes, I did." Then there was an
18 objection.

19 THE COURT: Again, state your objection,
20 Solicitor.

21 MS. CAMPBELL: The objection, Your Honor is to
22 the self-serving statement that should not be referenced
23 in the record. The fact it even happened should not --
24 Your Honor, if it's not admissible, then the reference
25 to it would not be admissible. I was also

1 anticipating -- I know I'm not allowed to -- where he is
2 going with this.

3 MR. PRIDE: Judge, I'm not going to ask her
4 what Zinah said or what she said to Zinah. I am simply
5 establishing that she came from Atlanta to the police
6 department. I will ask her about what was Zinah's
7 demeanor at that time.

8 I don't intend to ask her about anything that
9 Zinah said to her, and I don't intend to ask her about
10 anything she said to Zinah. Do you mind if I go a step
11 further so you won't have to send them back out again?

12 THE COURT: I don't mind.

13 MR. PRIDE: Judge, after that I intend to go
14 into asking Ms. Jennings: Did the police department
15 from Atlanta serve you with a search warrant, come to
16 your house in Atlanta, and search your house?

17 THE COURT: Solicitor?

18 MS. CAMPBELL: I have no problem with anything
19 about the search warrant, Your Honor.

20 THE COURT: What about her observations?

21 MS. CAMPBELL: I don't know that her demeanor
22 after her arrest and after the time period of the
23 indictment would be necessarily relevant as to her --
24 and I assume we are back to state of mind or intent --
25 during the time period in the indictment.

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1 MR. PRIDE: Judge, I would be glad to withdraw
2 that so we can move on.

3 MS. CAMPBELL: Okay.

4 THE COURT: The question is withdrawn. Bring
5 us the jury.

6 (The jury returns to the courtroom.)

7 THE COURT: Mr. Pride, you may continue.

8 CROSS EXAMINATION

9 BY MR. PRIDE:

10 Q Ms. Jennings, at some point in time, you did come
11 from Atlanta to Columbia; is that correct?

12 A That's correct.

13 Q And I think you told us that you came here and at
14 some point in time you did see Zinah; is that
15 correct?

16 A Yes.

17 Q And that was in a situation where she was with the
18 police department and under arrest; is that
19 correct?

20 A That's correct.

21 Q Now, according to what I'm reading here, and
22 Ms. Campbell asked you about a statement you gave,
23 and she gave you, if I'm not mistaken --

24 MR. PRIDE: I guess I better mark this purely
25 for identification.

1 THE COURT: Certainly. Defendant's 5 is
2 marked for identification.

3 (Defendant's Exhibit Number 5 is marked for
4 identification).

5 MR. PRIDE: May I approach the witness?

6 THE COURT: Yes, sir.

7 BY MR. PRIDE:

8 Q I show you what has been marked by the court
9 reporter and allowed by the judge as Defendant's
10 Exhibit 5 and ask you, is that your statement?

11 A (Pause.) Okay. What is your question?

12 Q My question is sort of repetitious, but you pointed
13 out to Ms. Campbell on direct examination that you
14 didn't write that statement; is that correct?

15 A No, I didn't write it. I signed it.

16 Q Was that statement -- and that statement sort of is
17 a narrative of what you said as opposed to being
18 verbatim? Would you not agree?

19 A Yes.

20 Q And would you not agree that that statement did not
21 ask you anything about a blanket; is that correct?

22 A No.

23 Q Now, I want to ask you: When ^{Child} left on
24 November 17th, did he have any disfigurements on
25 his face?

DENISE JENNINGS -- CROSS -- MR. PRIDE

1 A He had a bruise or something going on with his lip.

2 Q Was it more like a cold sore?

3 A Yeah, I don't think it was from an accident or
4 anything. It was just something because we were
5 trying to determine what it was. I don't know what
6 it was, but it was bleeding.

7 Q And how did Zinah clean that blood off of him?

8 A I didn't necessarily ever see her clean it.

9 Q But was it an open sore where blood would come
10 from?

11 A Yes.

12 Q Now, you told the jury, notwithstanding the fact
13 that Zinah acted differently or acted not normal,
14 did Zinah do anything in your presence that was
15 injurious to Child health?

16 A No. Again, other than just not being as attentive
17 as -- when he was first born, she was just an
18 absolutely doting mom. I didn't see that
19 characteristic. She didn't do anything harmful to
20 him.

21 As a matter of fact, she talked about how he
22 was the joy of her life and the only joy of her
23 life. She loved him. But I didn't see the
24 changing diapers and the feeding and the doting
25 that I had noticed early on. That was gone.

1 Q Did she do anything in your presence or did you
2 observe anything that was injurious to his safety,
3 Child safety?

4 A No, physically, no.

5 Q Did she do anything in your presence and
6 demonstrate anything that was injurious to his
7 welfare?

8 A No.

9 Q Thank you, Ms. Jennings.

10 A You're welcome.

11 THE COURT: Thank you, Mr. Pride. Redirect,
12 Solicitor?

13 MS. CAMPBELL: Yes, sir. Thank you, Your
14 Honor.

15 REDIRECT EXAMINATION

16 BY MS. CAMPBELL:

17 Q You have given Mr. Pride a lot of details about her
18 behavior, and you even mentioned you had to call
19 the police on three different occasions?

20 A That's correct.

21 Q Do you remember talking to Sergeant Thomas about
22 why you called the police on those three different
23 occasions?

24 A That's correct.

25 Q Do you remember telling -- just to refresh your

1 memory -- Sergeant Thomas that the reason you
2 called was because Zinah would be missing --

3 MR. PRIDE: Judge, I object to that line of
4 questioning. The answer should -- I don't want to have
5 a speaking objection, but I object. That's leading.
6 That's her witness and she is leading, and I object to
7 that.

8 THE COURT: Please rephrase the question,
9 Solicitor.

10 BY MS. CAMPBELL:

11 Q Do you remember why you told him you called the
12 police about Zinah?

13 A Ask me again.

14 Q Do you remember why you called the police on Zinah
15 when she was living with you?

16 A Yes.

17 Q Why was that?

18 A I called them on three occasions to simply ask what
19 do I do? How do I get my sister some help?

20 Q Do you remember speaking to Sergeant Thomas when
21 you came here to Columbia, as you testified
22 earlier?

23 A Yes.

24 Q Do you remember that took place at police
25 headquarters?

1 A Yes.

2 Q And do you remember telling him --

3 MR. PRIDE: Objection. That would be hearsay,
4 anything you told him.

5 THE COURT: It's the witness' statement;
6 correct?

7 MR. PRIDE: I beg your pardon?

8 THE COURT: It's her statement; correct?

9 MR. PRIDE: All right, Your Honor.

10 THE COURT: Just rephrase your question,
11 Solicitor.

12 MS. CAMPBELL: Your Honor, at this point I am
13 under Rule -- in an attempt to impeach her.

14 THE COURT: Under Rule 607?

15 MS. CAMPBELL: Yes, sir.

16 BY MS. CAMPBELL:

17 Q Do you remember telling him --

18 MR. PRIDE: Judge, I object. There is no
19 basis for impeachment. She has to establish -- Judge, I
20 object to impeaching her.

21 THE COURT: Rule 607 -- well, it is 607.

22 MS. CAMPBELL: Correct, Your Honor.

23 THE COURT: Ask your question, Solicitor.

24 If you want to object to it, Mr. Pride, you
25 certainly may.

DENISE JENNINGS -- REDIRECT -- MS. CAMPBELL

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

2 THE COURT: I told her to ask her next
3 question. If you want to object to it, you certainly
4 may.

5 MR. PRIDE: Thank you.

6 BY MS. CAMPBELL:

7 Q You remember meeting with him when you came to
8 Columbia?

9 A Sergeant Thomas, yes, I do.

10 Q Do you remember talking to him about Zinah and
11 calling the police?

12 A Yes, I do.

13 Q Do you remember telling him at that point that the
14 reason --

15 MR. PRIDE: I object, Your Honor. That's
16 leading, "telling him." What did you tell him? I
17 object to that.

18 MS. CAMPBELL: I believe I have to establish
19 the place, the time, and the substance of the statement.

20 THE COURT: Assuming she is attempting to
21 impeach the witness under Rule 611, I believe it is.

22 MS. CAMPBELL: Yes, sir.

23 MR. PRIDE: She has to establish a foundation
24 first.

25 THE COURT: I took it that's what she was

1 attempting to do. It's not 611, 613.

2 MR. PRIDE: It was a leading question.

3 THE COURT: You may continue under Rule 613,
4 Solicitor.

5 MS. CAMPBELL: Thank you.

6 BY MS. CAMPBELL:

7 Q Again, as to time and place and who you made the
8 statement to, you agree with that?

9 A I'm sorry?

10 Q Do you remember telling him at that point that the
11 reason you called the police on Zinah was because
12 she would disappear for three to five days at a
13 time, and you didn't know where she was?

14 A Yes, I had reported her missing.

15 Q And that was the reason you were calling the police
16 on her?

17 A I would call the police to report her missing.

18 Q And those were the reasons you were calling the
19 police is because she was gone; is that correct?

20 A I called on three occasions. On one occasion she
21 was gone. On another occasion we had had an
22 altercation, and I couldn't handle her. She was
23 out of control. On the third occasion, it was to
24 figure out how I could get her some help, what can
25 I do.

1 Q Do you disagree with me that that's not exactly
2 what you told Sergeant Thomas back in January of
3 2011 -- 2012? Excuse me.

4 A That's what happened. If we had the conversation
5 and it was appropriate for me to respond that way,
6 that's what I would have told him.

7 Q And do you know where Zinah would be when she would
8 be away from your house for this three to five-day
9 period? And it was more than one occasion; wasn't
10 it? Or was it?

11 A No.

12 Q Do you know where she would be?

13 A Well, come to find out she was in jail. She had
14 been arrested.

15 Q Do you know what she was doing while she was away
16 from your house?

17 A She was arrested for prostitution.

18 Q You mentioned earlier that she had a blank stare
19 about her and she wasn't herself. You went into
20 some detail about all that?

21 A Yes.

22 MS. CAMPBELL: Your Honor, may I approach to
23 make sure I don't violate any rules?

24 THE COURT: Yes, ma'am.

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: Step out, please, ladies and
4 gentlemen. Do not discuss the case.

5 (The jury retires to the jury room.)

6 THE COURT: Solicitor, you approached the
7 bench. You wanted to approach the bench. Tell me what
8 your position is now.

9 MS. CAMPBELL: Your Honor, at this point she
10 has basically described behavior by Zinah. On cross
11 examination the defense brought out behavior by Zinah
12 that it was unusual; that it had changed; that she
13 would look blankly sometimes. It's in the record, Your
14 Honor. I don't want to misquote. You know it better
15 than I do.

16 Then based on that she took her to the
17 hospital. The inference is that she took her to the
18 hospital because she thought she was -- I may be
19 assuming this inference -- that she thought there was
20 something wrong with her, I think, to be fair.

21 There is evidence in the record, in this
22 record, Your Honor, as a Court's exhibit of Zinah
23 having -- and there was other evidence too, Your Honor,
24 and specifically we didn't bring it out with many of the
25 witnesses -- of drug use, including Adrienne Alston,

1 Jessica Thomas, and others about Zinah's drug use
2 because I didn't think we would be allowed to go into it
3 until this became an issue.

4 At this point the only question I would like
5 to ask Ms. Jennings while she is on the stand is whether
6 or not she was aware of any substance abuse by the
7 defendant, Zinah Jennings, around that same time.

8 THE COURT: I will deny that request.
9 Anything further before I bring the jury back in?

10 MR. PRIDE: Judge, can I discuss one thing
11 with you? And that is the fact that she brought out the
12 prostitution, and now Ms. Campbell says, Oh, I'm sorry.
13 I didn't intend to do that.

14 There is no doubt about it, that Ms. Campbell
15 knew what Ms. Jennings told Officer Thomas when she
16 asked about the three different occasions. Since she
17 has now brought it out, certainly I should be able to
18 explain Zinah's behavior and to use the records from the
19 mental hospital and what they said down in Atlanta.

20 She is asking about behavior. She opened that
21 door herself about behavior. What did she tell you?
22 She knew the answer. She was sitting on the answer when
23 she asked the question. Now it came out that the jury
24 knows that Zinah was in jail for prostitution. I can't
25 explain the behavior by putting in the records?

1 That's also behavior that Denise Jennings
2 reacted to by taking her to the hospital. She has also
3 testified that at one point in time, she told the
4 officer, I am trying to get help for her. I am entitled
5 to explain that, Judge. I think minimal fairness
6 requires that I be able to use those records now in
7 light of the solicitor opening that door. Thank you.

8 THE COURT: Mr. Pride, I can't connect the
9 dots between Ms. Jennings' testimony to that one
10 response from the solicitor about, Do you know where she
11 would go during those three or five days she was
12 missing?

13 She said, Well, she was in jail arrested for
14 prostitution. I can't connect that to the mental health
15 records at the emergency room. I don't see how those
16 connect one to the other. If you would explain that to
17 me, please.

18 MR. PRIDE: The way they connect is that
19 Denise Jennings testified that in November, she saw a
20 change in Zinah. All these events that we are talking
21 about occurred in November.

22 So that's a continuing effort on Denise's part
23 to address behavior on the part of Zinah by carrying her
24 to the mental institution. I mean, Judge, I don't
25 understand.

1 Suppose Zinah had had a cold and she carried
2 her to the emergency room for a cold? Nobody would
3 argue about the fact that she had a cold when these
4 events happened.

5 Mental illness, there is no difference between
6 a physical disability and a mental disability. It
7 doesn't mean that she is crazy. I was just as clear as
8 I could be with you, Judge. I'm not using any kind of
9 mental defense in this case. I am only trying to show
10 and explain her behavior away, and I'm entitled to do
11 that.

12 Now, in the case that was cited, the lawyer
13 there tried to use an expert witness in order to explain
14 mental behavior by calling it -- that it was a
15 diminished capacity. I made it very clear and I was
16 always upfront, Judge.

17 You have got to realize, Judge, even when the
18 solicitor moved for -- well, you weren't the judge then,
19 but anyhow when the solicitor moved for a mental
20 examination of competency, I argued against that because
21 I said that I didn't see any propensities on the part of
22 Ms. Jennings that alerted me as her counsel that she
23 wasn't competent to stand trial. Had I seen any
24 propensities, then I would have taken the appropriate
25 action.

1 Judge, nobody wants to talk about in this case
2 why they didn't file a motion to suppress those records,
3 and nobody wants to talk about and respond on that end
4 on why I'm not right that they waived that right to
5 challenge those records.

6 I'm entitled to explain my client's behavior;
7 and when this witness saw some behavior that was
8 unusual, she did three things. She called the police
9 twice and also as a matter of -- I will call it bizarre
10 behavior or unusual behavior -- she took her to the
11 hospital.

12 THE COURT: She has testified to that.

13 MR. PRIDE: I want the records, Judge. Why do
14 you think I can't use those? Respectfully, why do you
15 rule against me? Especially when she comes back and
16 says now I have got a client who has spent -- so far as
17 this jury knows, has been away from home.

18 Denise calls the police. As a result of her
19 calling the police, she finds the reason why she was
20 away from home was because she was in jail charged with
21 prostitution.

22 Ordinarily, the Solicitor could not have
23 brought that charge in of prostitution. She couldn't
24 have gotten it in any other way, other than the way she
25 got it, and that was through the back door.

1 Then she would tell you, Oh, Judge, I'm sorry.
2 I didn't mean to do that. I didn't think I was going to
3 get that answer. How can she not think she was going to
4 get that answer when she knew that was the reason that
5 Denise called the police?

6 And she knew in the file that the four days
7 that she was away, she was in jail for prostitution.
8 This is nothing new to them. Judge, I am entitled --
9 thank you.

10 THE COURT: I wasn't cutting you off, please,
11 Mr. Pride.

12 MR. PRIDE: I didn't feel like I was going
13 anywhere so I quit.

14 THE COURT: You are always going forward,
15 Mr. Pride. I didn't mean to cut you off.

16 MR. PRIDE: You can cut me off, Judge. I just
17 don't know any other way to say it to you. I don't
18 think I am impressing you, and I don't think I am
19 getting the relief that I am looking for. I don't
20 really know any other way to say it to you.

21 What is the cautiousness about the fact in a
22 criminal case that a person was treated for mental
23 behavior when, in fact, the State sent the person? Just
24 like they sent Denise [verbatim] to be examined for
25 competency, that same State sent her to the Bryan

1 institution to be examined because of her behavior
2 again.

3 The State made the determination that she was
4 mentally ill, not me, not the defense, the State. And
5 all of a sudden now I have got prosecutors that want to
6 tiptoe all around this and say, Oh, no, Judge, that
7 should not be a part of this case.

8 It is a part of this case because it is a
9 fact, and it is not a defense. I'm not trying to defend
10 her on that basis. I'm not invoking -- I was straight
11 up. I said, No, Judge, I don't have any mental -- I
12 don't have any crazy -- you know what I'm saying --
13 defense.

14 THE COURT: Yes, sir.

15 MR. PRIDE: Thank you.

16 THE COURT: Mr. Pride, do you want me to -- do
17 you want to make a motion to strike the question and
18 answer concerning the prostitution from the record? And
19 give the jury a curative instruction in that regard?

20 MR. PRIDE: No, I want you to even the playing
21 field and let me put those records in. That's what I
22 want.

23 THE COURT: That's one of my favorite
24 questions I like to ask lawyers, What do you want?
25 That's not the question I asked you. I asked you --

1 MR. PRIDE: That's my answer.

2 THE COURT: All right.

3 MR. PRIDE: Thank you.

4 THE COURT: You do not want any type of
5 curative instruction as far as that is concerned?

6 MR. PRIDE: I think in all fairness to Zinah,
7 I could not turn that down in good conscience. I don't
8 think that would be the appropriate thing for me to do.
9 If you are willing to do that, I will take it, but that
10 still does not...

11 THE COURT: I don't think it's relevant. I
12 don't think it's relevant that she was in jail for
13 prostitution.

14 MR. PRIDE: I will take curative instructions,
15 but I would take curative instructions, along with
16 records, if I could get them.

17 THE COURT: The other thing, as far as the
18 records, to me they still go to the issue of Santiago
19 and Gill, that those records are the written equivalent
20 in my mind of the testimony of Dr. Donna Schwartz-Watts
21 in Santiago and Dr. Harold Morgan in Gill.

22 They are expert written documents and there is
23 no notice of an insanity defense -- I understand that --
24 which is a defense in South Carolina. There is no
25 notice of guilty but mentally ill. I understand that.

1 That is not where you are headed, but that is tantamount
2 to a diminished capacity defense that does not exist in
3 South Carolina respectfully.

4 MR. PRIDE: Thank you.

5 THE COURT: Anything further before we bring
6 in our jury, Solicitor?

7 MS. CAMPBELL: No, sir.

8 THE COURT: Mr. Pride?

9 MR. PRIDE: Nothing, Your Honor.

10 (The jury returns to the courtroom).

11 THE COURT: Welcome back, ladies and gentlemen
12 of the jury. Before we proceed with the examination of
13 this witness, I would advise you that there was some
14 testimony, a question and a response -- the question to
15 Ms. Denise Jennings and the response.

16 I will paraphrase. I believe the question
17 was: Do you know where Ms. Jennings, Zinah, was at when
18 she was missing for these three to five days or did you
19 learn where she was at? And the response concerned the
20 fact that she was in jail and was charged with a
21 criminal offense of prostitution.

22 I have ruled that that is not part of this
23 case. I am striking that question and that response
24 from the record in this case. What that means, ladies
25 and gentlemen, I realize you have heard it, but you have

DENISE JENNINGS -- REDIRECT -- MS. CAMPBELL

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1 to put it aside in your mind.

2 It should not even be discussed in the jury
3 room. It would not be part of your deliberations or the
4 rendering of your verdict in this case. You should not
5 even discuss it.

6 I recall back to -- gosh, it seems like last
7 week but I believe it was just Tuesday of this week when
8 y'all were sworn in -- you each took an oath that you
9 would try this case based on the evidence presented in
10 the courtroom and the law as I tell you the law is.
11 That is now the law of the case, and I know you will
12 follow my instructions in that regard. Thank you very
13 much.

14 Solicitor, you may continue.

15 MS. CAMPBELL: May it please the Court.

16 THE COURT: Yes, ma'am.

17 **REDIRECT EXAMINATION**

18 BY MS. CAMPBELL:

19 Q During the months that Zinah and ^{Child} were living
20 with you, basically you primarily took care of
21 ^{Child} That's your testimony?

22 A Yes, yes.

23 Q And as you testified earlier, had her attitude
24 towards ^{Child} changed?

25 A I'm sorry?

1 Q Had her attitude towards ^{Child} changed?

2 A Since? I mean, what is your time?

3 Q I am just referencing your testimony.

4 A Yeah, it changed since early on. Yes.

5 Q And when she left on the 17th, she didn't leave
6 necessarily because you told her she had to leave?
7 Did she leave of her own will?

8 A Yes.

9 Q And finally you are still very close to your
10 sister?

11 A Yes.

12 Q And do you know where ^{Child} is?

13 A No.

14 Q Thank you.

15 THE COURT: Recross, Mr. Pride?

16 MR. PRIDE: Thank you.

17 **RECROSS EXAMINATION**

18 BY MR. PRIDE:

19 Q Ms. Jennings, during the period of time that you
20 were concerned about Denise and didn't know
21 where -- I'm sorry -- about Zinah and didn't know
22 where she was, was ^{Child} in safekeeping?

23 A Yes, he was with me.

24 Q Was his health well?

25 A Yes, yes.

1 Q Was his well-being well?

2 A Yes.

3 Q Was he in any risk of harm?

4 A No.

5 Q Would you not -- I want to just ask you this:

6 Based on your observation on the relationship

7 between Zinah and ^{Child} would it be a fair

8 statement to say that Zinah was very possessive of

9 ^{Child}

10 A Yes.

11 Q To the exclusion of other people?

12 A Yes.

13 Q Even to the exclusion of her mother?

14 A Yes.

15 Q Thank you very much.

16 THE COURT: Thank you. Thank you very much,

17 Ms. Jennings. You may step down.

18 (Witness leaves the witness stand.)

19 THE COURT: You may call your next witness.

20 MS. WALKER: Thank you, Your Honor. The calls

21 Tai Williams Woods.

22 TAI WILLIAMS WOODS, being

23 first duly sworn, testifies as follows:

24 CLERK: Have a seat in the witness stand,

25 please. State your name for the record and please spell

1 your first name.

2 THE WITNESS: Hello. My name is Tai Williams
3 Woods, T-A-I.

4 DIRECT EXAMINATION

5 BY MS. WALKER:

6 Q Good afternoon.

7 A Good afternoon.

8 Q Where are you from, Ms. Woods?

9 A Originally Greenwood, South Carolina.

10 Q Did you move down to Columbia at some point?

11 A 2001.

12 Q Where do you live down here?

13 A Currently I live in the Forest Acres community,
14 Gonzalez Gardens.

15 Q How long have you lived in Gonzalez Gardens?

16 A In 2007 was when I moved in, December.

17 Q Do you know Zinah Jennings?

18 A I do.

19 Q How do you know her?

20 A We originally was neighbors, but I met her through
21 a mutual friend.

22 Q Do you remember when you met her?

23 A She was pregnant when I met her; so around 2008,
24 2009.

25 Q 2009 maybe?

TAI WOODS -- DIRECT -- MS. WALKER

1 A Something like that, yeah.

2 Q You said she was pregnant. Did you maintain a
3 relationship with her after her son was born?

4 A I guess you could say we were developing a
5 relationship, friendship.

6 Q Y'all's friendship was getting closer?

7 A Right.

8 Q Did you have the opportunity to ever be around her
9 son ^{Child}

10 A Yes.

11 Q Did you call ^{Child} by another name?

12 A I did. I called him little Rod because he looks
13 like his father.

14 Q And when you were around the defendant and her son,
15 were you able to observe the way they interacted?

16 A I did.

17 Q Did she ever do anything to harm him while you were
18 around?

19 A No.

20 Q How many times did you see Zinah with ^{Child} Can
21 you guess?

22 A Just a handful of times. I can't really say.

23 Q At some point did you begin to see Zinah Jennings
24 without her son?

25 A The end of the year, yes.

1 Q Which year are we talking about?

2 A 2011.

3 Q Where were you when you saw her without her son?

4 A At my home. She came by to visit.

5 Q That was in Gonzalez Gardens?

6 A Yes.

7 Q About what time of day was this?

8 A The first time I saw her it was during the early
9 part, I would say, the early part of the evening,
10 maybe 6:00, 7:00 o'clock, 8:00 o'clock. It was
11 still light outside.

12 Q And this was in December 2011?

13 A Uh-huh. (Indicating affirmative response.)

14 Q Was she by herself?

15 A In December she was by herself, yes. Well, no, I
16 take that back. She had two friends with her.

17 Q Did you know those people?

18 A No.

19 Q Can you describe those two friends that she had
20 with her?

21 A One guy was a young guy. The other one was an
22 older guy. His name was Bo. I don't really know
23 who they were or whatever like that.

24 MR. PRIDE: Objection, Your Honor, on the
25 grounds of relevancy.

TAI WOODS -- DIRECT -- MS. WALKER

1 THE COURT: Move along, Solicitor. I'm not
2 sure where you are headed.

3 BY MS. WALKER:

4 Q Zinah comes to your house with two people but
5 without her son?

6 A Right.

7 Q This is in December of 2011?

8 A Right.

9 Q What did y'all do?

10 A We hung out for about a couple of hours, talked.

11 Q Who all was there?

12 A Myself, my husband, Zinah, my best friend, and the
13 two gentlemen.

14 Q Did you ask Zinah Jennings where her son was?

15 A I don't recall asking her.

16 Q Did she ever tell you where her son was?

17 A No.

18 Q About how long did she stay with you that night?

19 A A couple of hours.

20 Q And over the course of your growing relationship
21 with Zinah Jennings, did you meet an Ernest
22 Robinson?

23 A No.

24 MS. WALKER: No further questions.

25 THE COURT: Mr. Pride?

1 MR. PRIDE: Excuse me, Judge.

2 THE COURT: Certainly.

3 (Pause.)

4 MR. PRIDE: Judge, I want to renew my
5 objection, and I have no examination, no questions.

6 THE COURT: The objection is noted. Thank
7 you. You may step down.

8 MS. WALKER: May the witness be excused,
9 Judge?

10 THE COURT: Thank you for being with us. You
11 may be excused.

12 (Witness leaves the witness stand.)

13 THE COURT: Call your next witness.

14 MS. WALKER: Your Honor, the State calls
15 Daniel Woods.

16 THE COURT: Step out, please, ladies and
17 gentlemen. Do not discuss the case during this brief
18 recess.

19 (The jury retires to the jury room.)

20 THE COURT: What is the summary of Mr. Woods'
21 testimony?

22 MS. CAMPBELL: Your Honor, this is the
23 previous witness' husband. He saw Ms. Jennings again
24 later in the year, same time frame of the indictment,
25 again without her son.

1 We are placing her, as we have been trying to
2 do throughout the trial, after a certain period of time
3 without her son, where she is seen and no one sees her
4 son.

5 THE COURT: What element of the indictment
6 does that testimony go to? That a mother is out with
7 friends without her child?

8 MS. WALKER: Your Honor, the testimony has
9 been that when you saw Zinah, you saw ^{Child} throughout
10 his young life. At some point whenever you see her, he
11 is never seen again. It would go at the very least to
12 the abandonment prong of the indictment.

13 THE COURT: Bring the jury, please. How about
14 move it along.

15 MS. GARFIELD: Judge, can we take something
16 up?

17 THE COURT: I am ready for the jury.

18 (The jury returns to the courtroom.)

19 THE COURT: Mr. Woods, come back around and be
20 sworn, please.

21 DANIEL WOODS, 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: My name is Daniel Woods.

1 DIRECT EXAMINATION

2 BY MS. WALKER:

3 Q Where do you currently live, Mr. Woods?

4 A 1505 Garden Plaza.

5 Q Is that known as the Gonzalez Gardens area?

6 A Yes.

7 Q That was your wife that just testified?

8 A Yes.

9 Q Do you know the defendant, Zinah Jennings?

10 A Yes.

11 Q Did you see her in December 27 -- on December 27,
12 2011?

13 A Yes, I seen her.

14 MR. PRIDE: Judge, excuse me. She fixes the
15 date in the question. I object as leading.16 THE COURT: Well, it moves us along,
17 Mr. Pride. I understand your objection. It's noted.

18 You may continue, Solicitor.

19 BY MS. WALKER:

20 Q You saw her on December 27th of 2011?

21 A Yes.

22 Q Was her son ^{Child} with her?

23 A No.

24 Q How many times did you see her that day?

25 A At least twice.

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1 Q And her son was with her neither time?

2 A Neither time.

3 MS. WALKER: No further questions.

4 THE COURT: Mr. Pride?

5 MR. PRIDE: I object on the grounds that the
6 testimony is not relevant, and I have no cross
7 examination.

8 THE COURT: Thank you. The objection is noted
9 for the record.

10 Thank you, Mr. Woods. You may step down.

11 (Witness leaves the witness stand.)

12 THE COURT: Solicitor, call your next witness.

13 MS. GARFIELD: Thank you, Your Honor. The
14 State would call Investigator George Wise.

15 THE COURT: Come around, please, and be sworn.

16 GEORGE WISE, being
17 first duly sworn, testifies as follows:

18 CLERK: Have a seat in the witness stand,
19 please. State your full name for the record and please
20 spell your last name.

21 MR. PRIDE: Judge, can we approach just a
22 minute?

23 THE COURT: Yes, sir.

24 THE WITNESS: My name is George Wise. The
25 last name is W-I-S-E.

1 (Whereupon there was a bench conference off
2 the record in the presence of the jury but out of the
3 hearing of the jury.)

4 THE COURT: Step out, please.

5 (The jury retires to the jury room.)

6 THE COURT: Step down for me, please, Officer
7 Wise.

8 Who is the next witness you are going to call,
9 Solicitor?

10 MS. CAMPBELL: May it please the Court, Your
11 Honor. It was Shon Harris. She is a cousin and a
12 friend of Zinah Jennings.

13 THE COURT: And she does not want her face
14 portrayed?

15 MS. CAMPBELL: She has requested that we
16 request that of the Court. We were trying to bring it
17 to your attention. I apologize. We should have done it
18 earlier.

19 THE COURT: Under 605 it appears that I can
20 limit media coverage in that regard.

21 Is there any problem with blurring her face as
22 far as cameras are concerned from any member of the
23 media? I have one operating the camera. Do you have
24 any problem with that?

25 UNIDENTIFIED MAN: That's fine.

1 THE COURT: Thank you. If you would just do
2 that for the next witness. Thank you very much. Bring
3 our jury back, please. I will explain to the jury that
4 Mr. Wise was going to be a lengthy witness, and we have
5 circled back to a shorter witness.

6 (The jury returns to the courtroom.)

7 THE COURT: Welcome back, ladies and
8 gentlemen. In my and the Solicitor's and Mr. Pride's
9 opinion, Mr. Wise would be a rather lengthy witness.
10 Rather than just start into his testimony before lunch,
11 I have asked him to stand down, and we will start back
12 with him after lunch.

13 However, the State is prepared to call a
14 shorter witness. If you would please continue to give
15 the parties your complete and undivided attention at
16 this time.

17 Solicitor, you may call your next witness.

18 MS. CAMPBELL: May it please the Court. The
19 State would call Shon Harris.

20 SHONDALA HARRIS, being
21 first duly sworn, testifies as follows:

22 CLERK: Have a seat in the witness stand,
23 please. State your full name for the record and please
24 spell your first name.

25 THE WITNESS: My name is Shondala Harris,

1 S-H-O-N-D-A-L-A.

2 DIRECT EXAMINATION

3 BY MS. CAMPBELL:

4 Q Ms. Harris, where are you employed?

5 A Metso.

6 Q What type of company is that?

7 A An engineering company.

8 Q And how long have you worked there, ma'am?

9 A February this year I started.

10 Q Are you from the Columbia area?

11 A Huh-uh. (Indicating negative response.)

12 Q Where are you from originally?

13 A Augusta, Georgia.

14 Q And how long have you been living in Columbia?

15 A About seven years.

16 Q Do you have family?

17 A Yeah.

18 Q And do you have children?

19 A Uh-huh. (Indicating affirmative response.)

20 Q In 2011 did you have an occasion to do some work
21 overseas?

22 A I did.

23 Q And what type of work were you involved in, ma'am?

24 A Military contractor.

25 Q And that took you to what country?

- 1 A Afghanistan.
- 2 Q If you can speak up. It's hard to hear in here.
- 3 A Afghanistan.
- 4 Q Thank you. And how long were you overseas in
- 5 Afghanistan on your job?
- 6 A For a year.
- 7 Q For a year?
- 8 A (Witness nods.) (Indicating affirmative response.)
- 9 Q Do you know the defendant?
- 10 A Yes.
- 11 Q How do you know Zinah Jennings?
- 12 A Her first cousin and I have two kids together.
- 13 Q Do you actually consider her like a cousin almost?
- 14 A Yes, she is like a big sister.
- 15 Q And definitely a close friend over the years?
- 16 A Yes.
- 17 Q How long have you been knowing Zinah Jennings?
- 18 A I think she was a senior in high school.
- 19 Q Were you aware that she had a son?
- 20 A Yes.
- 21 Q What was his name?
- 22 A Child
- 23 Q And on occasions would you do things with Zinah and
- 24 Child when he was young?
- 25 A Yes.

1 Q What dates were you actually in Afghanistan? Was
2 it 2011 or was it in 2010 also? I'm not sure.

3 A I left the end of August. My contract ended. I
4 came back the next year, the following year.

5 Q So it would have been that you left in August of
6 2010?

7 A Uh-huh. (Indicating affirmative response.)

8 Q And then came back home for good in 2011?

9 A 2011.

10 Q Is that right?

11 A That's right.

12 Q And during that period of time, did you keep in
13 touch with Zinah?

14 A I did.

15 Q But, of course, you didn't get to see her until you
16 came home?

17 A No.

18 Q When you came home, I believe you came home for a
19 break in the early summer of 2011?

20 A Yes.

21 Q And did you make contact with Zinah at that point?

22 A I did.

23 Q When you made contact with her, did the two of
24 y'all do something together?

25 A We did.

SHONDALA HARRIS -- DIRECT -- MS. CAMPBELL

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1 Q What were you helping her to do?

2 A It was ^{Child} birthday and I helped her get a
3 couple of things together for him so that we could
4 celebrate at his day care.

5 Q How long were you actually home from Afghanistan at
6 that time?

7 A I think about two weeks.

8 Q During that period of time, you had some
9 interaction with her and ^{Child}

10 A I did.

11 Q Then you had to go back to Afghanistan; is that
12 correct?

13 A That's right.

14 Q When did you finally return from Afghanistan for
15 good after your year over there?

16 A The end of -- I think August 17th or the end of
17 August.

18 Q August, September? Approximately?

19 A I think it was August 17th.

20 Q And at that point when you got back into Columbia,
21 you were living here?

22 A Uh-huh. (Indicating affirmative response.)

23 Q Did you make contact with Zinah again?

24 A I did.

25 Q And when was the last time you actually saw ^{Child}

1 A I would have to look at my statement for an exact
2 date because I don't remember.

3 Q Would that help refresh your memory?

4 A Yeah.

5 Q I believe it's about four or five lines down.

6 A There is no date on here.

7 Q But approximately is on here. What was the
8 approximate last time you saw ^{Child}

9 A It had to be, I think, right after my daughter was
10 born, October 28th.

11 Q Do you remember giving a statement to the police
12 back on January 2, 2012?

13 A Yes.

14 Q Were you at headquarters when you gave that
15 statement, at the Devine Street headquarters?

16 A Yes.

17 Q The police station on Devine Street?

18 A Yes.

19 Q Do you remember who you gave that statement to?
20 Investigator Charley, an investigator?

21 A It was a male. I don't know his name.

22 Q Do you remember telling them the last time you saw
23 him was around the end of August --

24 MR. PRIDE: Judge, I object to the manner in
25 which the examination is being made from the statement.

SHONDALA HARRIS -- DIRECT -- MS. CAMPBELL

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1 That's not appropriate. I object.

2 THE COURT: Does that refresh your memory,
3 Ms. Harris?

4 BY MS. CAMPBELL:

5 Q Did you see that line (indicating)?

6 A Yes, I wrote that. That's true.

7 Q And what was the time period which was the last
8 time you saw Child

9 A According to my statement, the end of August,
10 September-ish.

11 Q Does that sound about right?

12 A I believe so.

13 Q And at that point when you saw him, I believe --
14 what were you actually doing with him that day?

15 A Child

16 Q Yes.

17 A Zinah asked me to keep him for like two or three
18 hours.

19 Q And you did that?

20 A I did.

21 Q And while he was in your care and control then, he
22 was in fine shape? Nothing wrong with him?

23 A He was fine.

24 Q And then according to -- did you ever see Child
25 anymore after that?

- 1 A I think it was one more occasion. I don't remember
2 dates specifically.
- 3 Q Maybe in October?
- 4 A I think so, yes.
- 5 Q But after that you didn't see him anymore?
- 6 A No.
- 7 Q I will turn your attention to mid December when
8 your next contact with Zinah would have been. How
9 did you come in contact with her mid December?
- 10 A She called me.
- 11 Q And when she called you, what was she asking you
12 about?
- 13 A I think she asked me to take her to get her uniform
14 for school and to check on her car.
- 15 Q Did you help her out?
- 16 A I did.
- 17 Q And at that point did y'all have a conversation or
18 did you ask her about Child
- 19 A I did.
- 20 Q And what date was that approximately? Do you
21 remember?
- 22 A I don't remember.
- 23 Q December 15th or 16th?
- 24 A Whatever I have on that statement, that's when it
25 is.

SHONDALA HARRIS -- DIRECT -- MS. CAMPBELL

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- 1 Q And did she come to actually stay with you for a
2 little bit of time at that point?
- 3 A Off and on.
- 4 Q And at that point did she have ^{Child} with her?
- 5 A No.
- 6 Q So did you ask her about ^{Child}
- 7 A I did.
- 8 Q Do you remember what she told you where he was?
- 9 A She told me he was with Rod's girlfriend.
- 10 Q Rod's girlfriend?
- 11 A Yes.
- 12 Q Do you remember her telling you how long he had
13 been with Rod's girlfriend?
- 14 A I think she said seven days -- maybe three to four
15 days to seven days.
- 16 Q When y'all were talking about ^{Child} did she make
17 any other comments about her being a mother?
- 18 A She did.
- 19 Q What did she say?
- 20 A She told me that it was hard and, you know,
21 everyone is not mother material.
- 22 Q Did she say specifically whether or not she was
23 mother material?
- 24 A She did.
- 25 Q What did she say about that?

- 1 A That she wasn't.
- 2 Q Did she say anything else about the baby?
- 3 A No.
- 4 Q Being stuck with the baby?
- 5 A I don't remember.
- 6 Q I'm sorry. I know this is hard. Would it help you
7 to look at your statement to refresh your memory?
- 8 A That's fine.
- 9 Q Down here (indicating).
- 10 A That was on a different occasion, not the day I
11 talked to her.
- 12 Q On a different occasion when you talked to her in
13 December, did she make another comment about the
14 baby?
- 15 A Yes.
- 16 Q What was that comment?
- 17 A That she wasn't going to be stuck in a house with
18 him on Saturday.
- 19 Q On a Saturday?
- 20 A Uh-huh. (Indicating affirmative response.)
- 21 Q That she wasn't going to be stuck in the house with
22 him?
- 23 A Yes.
- 24 Q And she was referring to her child?
- 25 A Yes.

SHONDALA HARRIS -- DIRECT -- MS. CAMPBELL

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1 Q When was the next time you saw Zinah as Christmas
2 approached?

3 A She came to my house the morning -- the day of her
4 accident, which would be Christmas Eve. She came.

5 Q Did she just show up?

6 A She just showed up.

7 Q Did you know she was coming over?

8 A No.

9 Q And when she showed up, what was her appearance
10 like?

11 A She had on hospital paper clothing.

12 Q What happened once she got to your house?

13 A I asked her what happened, and she said she got in
14 a wreck and that she was tired, and she wanted to
15 sleep.

16 Q And did you allow her to come in your house?

17 A I did.

18 Q And did she stay with you for a period of time?

19 A She stayed that night and the next day, I believe.

20 Q And the next day, that would have been Christmas
21 Day?

22 A Uh-huh. (Indicating affirmative response.)

23 Q When y'all got up, what did she do?

24 A When we got up?

25 Q Yes.

- 1 A We opened gifts.
- 2 Q Do you have children?
- 3 A I do.
- 4 Q How many children do you have?
- 5 A Three.
- 6 Q And how old are they?
- 7 A Twelve, seven -- this Friday -- seven, and nine
- 8 months.
- 9 Q Nine months?
- 10 A Uh-huh. (Indicating affirmative response.)
- 11 Q And the next morning did she do anything with your
- 12 children?
- 13 A Yeah, she played with them.
- 14 Q Did she ever mention her child Child
- 15 A No.
- 16 Q Did you then ask her where Child was?
- 17 A Not that day.
- 18 Q Use your statement again to refresh your memory.
- 19 Do you remember making a statement to the police at
- 20 the police station on Devine Street?
- 21 A Yes.
- 22 Q Do you remember telling them what is in the
- 23 statement?
- 24 A Yes, whatever is on that statement is what I said.
- 25 Q It's what you said and it's correct?

SHONDALA HARRIS -- DIRECT -- MS. CAMPBELL

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1 A Uh-huh. (Indicating affirmative response.)

2 Q What is it that you told the police when you asked
3 her about Child on Christmas Day?

4 A I didn't ask her on Christmas Day. It doesn't say
5 that.

6 Q If you reference the back, it starts with Christmas
7 Day and what happened that day.

8 A Can I see it?

9 Q Sure. Take your time.

10 A (Pause.) I did ask her where Child was, but on the
11 statement it was kind of jumbled. It wasn't
12 referring to Christmas Day; so I apologize for
13 that.

14 Q And when you asked her where Child was -- what day
15 was this that you asked her that?

16 A I believe it was Christmas Eve.

17 Q I'm sorry. I may have misread it. I apologize.

18 A Yeah, it was Christmas Eve.

19 Q On Christmas Eve when you asked her where Child was,
20 what did she tell you?

21 A She told me that he was with Denise in Atlanta.

22 Q Who in Atlanta?

23 A Denise.

24 Q And did you know who Denise was?

25 A Her sister.

1 Q And what did you tell her when she said that she
2 had taken him to Denise in Atlanta?

3 A I asked her how did she get there because she
4 didn't have any gas money, and she said she met
5 Denise halfway.

6 Q And as a result of that conversation -- and I'm
7 sorry I misspoke. It was Christmas Eve not
8 Christmas Day.

9 A That's okay.

10 Q Did you make any phone calls?

11 A Yes.

12 Q And who did you call?

13 A Denise.

14 Q Why were you calling Denise after she told you
15 that?

16 A I wanted to see if -- excuse me -- I wanted to see
17 if she had Child

18 Q And was she able to give you information?

19 A She said she had not seen him since, I think,
20 before Thanksgiving.

21 Q And did Zinah stay at your house past Christmas
22 Day?

23 A No.

24 Q And do you know where she went?

25 A I don't.

SHONDALA HARRIS -- CROSS -- MR. PRIDE

1 Q Did you ever see ^{Child} during that time period?

2 A No.

3 Q Do you know where he is?

4 A I don't.

5 Q I'm sorry.

6 A That's okay.

7 Q If Zinah had asked you to help her with ^{Child} would
8 you have done it?

9 A Help her with what?

10 Q With ^{Child}

11 A Keep him?

12 Q Yes.

13 A Of course.

14 Q Thank you.

15 A You're welcome.

16 THE COURT: Mr. Pride.

17 CROSS EXAMINATION

18 BY MR. PRIDE:

19 Q Ms. Harris, you had children by one of Zinah's
20 cousins; is that correct?

21 A That's right.

22 Q What is his name?

23 A J.S.

24 Q Where does he live now?

25 A In Chicago.

1 Q How old is that child?

2 A What child?

3 Q The child that the two of you had?

4 A We have two kids together. We have two children.

5 Q Two children. One just turned seven?

6 A Tomorrow he will be seven.

7 Q And the other one?

8 A She is nine months.

9 Q When you saw Zinah on Christmas Eve, the 24th, she
10 explained to you that she had been involved in an
11 automobile accident; is that correct?

12 A She did.

13 Q What were her facial features? What did she look
14 like?

15 A Her lip was swollen. Her left eye was -- she had a
16 black eye.

17 Q Would you look at what has been marked as State's
18 Exhibit 19 and tell me if that reasonably reflects
19 what Zinah looked like? I know you said she came
20 from the hospital and had on a paper gown; is that
21 correct?

22 A Yes.

23 Q Did her face look more bruised than on that
24 picture?

25 A It did.

SHONDALA HARRIS -- CROSS -- MR. PRIDE

1 MR. PRIDE: Judge, I would like to give this
2 to the jury.

3 THE COURT: All right, sir.

4 BY MR. PRIDE:

5 Q Would it be a fair statement to say that right up
6 under her right eye was perforated, swollen?

7 A I thought it was her left eye.

8 Q Her left eye. Okay. And also her lip was cut?

9 A Yes.

10 Q And Zinah was tired and exhausted? Would that be a
11 fair statement?

12 A Yes.

13 Q And Zinah slept for -- up until Christmas Day?

14 A She did.

15 Q Now, these impressions and statements made by Zinah
16 that being a mother is hard, when exactly did you
17 and Zinah have that conversation if you can recall?

18 A It should be in my statement. I don't remember the
19 exact day.

20 Q And you and Zinah were good friends? Is that a
21 fair statement?

22 A Yes.

23 Q And being a good friend -- being a good friend --
24 she was confiding in you? Would that be a good
25 statement?

1 A Yes.

2 Q When she said -- what was the other statement she
3 said about not want wanting to be home on Saturday
4 night?

5 A She said she won't be stuck babysitting on a
6 Saturday night with him.

7 Q She was confiding in you then too; wasn't she?

8 A Yes.

9 Q And so far from your observation of Child when you
10 did see him with Zinah, was he healthy?

11 A Yes.

12 Q Was his welfare promoted by Zinah?

13 A It was.

14 Q And was he safe?

15 A Yes.

16 Q And you subsequently found out when you asked Zinah
17 where is Child that she had not told you the truth?

18 Because she told you that she had -- that Child was
19 with Denise?

20 A Yes.

21 Q And that was not the truth?

22 A Correct.

23 Q On Christmas Day you never inquired -- you never
24 asked Zinah anymore about Child Is that a fair
25 statement?

SHONDALA HARRIS -- CROSS -- MR. PRIDE

1 A That's right.

2 Q And according to your testimony on Christmas Day,
3 she got up, she played with the children, your
4 children, and then she left?

5 A We went to a family's house.

6 Q That's right. Your mother-in-law -- your
7 grandmother-in-law from Chicago --

8 A -- Chicago.

9 Q -- was down here; is that correct?

10 A Yes.

11 Q Did you and Zinah ride together over there?

12 A I don't remember. I don't think so. I think she
13 rode with her mother.

14 Q Rode with her mother?

15 A Yes.

16 Q So would it be reasonable for me to assume that
17 Joyce [verbatim] Jennings, Zinah's mother, came to
18 your house and picked her up? Or if you can
19 remember. You may not remember.

20 A I don't remember.

21 Q You don't remember. Now, you have known Zinah for
22 a long period of time; is that correct?

23 A Yes.

24 Q And you have had interactions with her; is that not
25 correct?

- 1 A That's correct.
- 2 Q Did you see any change in Zinah's personality?
- 3 A I did.
- 4 Q When did you observe the change?
- 5 A After ^{Child} was born.
- 6 Q And what came to your mind as a result of Zinah's
- 7 changes? How did you see Zinah and what changes
- 8 did you observe?
- 9 A She wasn't as reserved as she usually is. That's
- 10 pretty much it.
- 11 Q Did you know Roderick?
- 12 A Yes.
- 13 Q Did you observe Zinah's relationship with Roderick
- 14 change?
- 15 A That it changed?
- 16 Q Yes.
- 17 A No.
- 18 Q It was the same?
- 19 A Yes.
- 20 Q What was her relationship with Roderick?
- 21 A He was her boyfriend at the time.
- 22 Q And as a result of Zinah having ^{Child} you say that
- 23 you thought that her personality and her behavior
- 24 changed?
- 25 A Yes.

1 Q And ^{Child} when you last saw him, would it be a fair
2 statement to say he was 18 months old?

3 A I assume so, yes.

4 Q So within that 18-month period, you had seen
5 Zinah's behavior change?

6 A Yes.

7 Q But your testimony is that whatever change there
8 was in Zinah's behavior, you never observed Zinah
9 do anything that wasn't in ^{Child} best interest?

10 A No.

11 Q And she was always protective of his safety?

12 A Yes.

13 Q And his well-being?

14 A Yes.

15 Q Thank you very much.

16 THE COURT: Redirect, Solicitor?

17 MS. CAMPBELL: No, sir.

18 THE COURT: Thank you. Thank you for being
19 with us today. You may step down.

20 MR. PRIDE: And she can be excused if she
21 wants to.

22 THE COURT: Yes, ma'am, you may be excused,
23 Ms. Harris.

24 THE WITNESS: Okay.

25 (Witness leaves the witness stand.)

1 THE COURT: Ladies and gentlemen of the jury,
2 I believe now would be a good time to take our luncheon
3 recess. Please remember my instructions. Do not
4 discuss the case with anyone, including your fellow
5 jurors, lunch mates, family, friends, or anyone else.

6 Do not read, watch, or listen to any news
7 reports about the case. Do not use your computer or
8 cellular phone to look up any prohibited information,
9 which includes but is not limited to the following:

10 Information about a party, a witness, an
11 attorney, or court officer, news accounts about the
12 case, information collected through juror research on
13 any topics raised or testimony offered by any witness,
14 or information collected through juror research on any
15 other topic that the juror might think would be helpful
16 in deciding the case.

17 Remember to keep an open mind. Do not do any
18 independent investigation or any investigation on the
19 internet or otherwise. Please be back promptly at 2:30.
20 Please be back promptly at 2:30. Leave your notes
21 upside-down. The clerk will secure them during the
22 recess. I hope y'all have a pleasant lunch.

23 (The jury is excused for lunch at 1:00 P.M.)

24 THE COURT: Anything from the State before we
25 take our luncheon recess?

1 MS. GARFIELD: No, sir.

2 THE COURT: From the defense?

3 MR. PRIDE: Nothing.

4 THE COURT: See you at 2:30. Thank you very
5 much.

6 (Whereupon there is a luncheon recess.)

7 THE COURT: Anything from the State before we
8 bring in our jury, Solicitor?

9 MS. GARFIELD: Your Honor, briefly. The State
10 anticipates to introduce some phone calls from the jail
11 from the defendant. We have provided a copy of those
12 phone calls to defense counsel, and we will provide you
13 with a copy as well. They have been redacted -- some
14 have been redacted.

15 MR. PRIDE: Judge, when they say that they
16 have been redacted, the problem is I don't know what
17 they have redacted. I see in those conversations that
18 there are several mentions of my name by Zinah.

19 If Zinah mentions my name on the telephone,
20 that's not a conversation between her and her lawyer
21 that would fit under the privilege, but that's so highly
22 inflammatory.

23 I think that where she mentions me and things
24 that she is going to tell me or things concerning me, I
25 just don't see -- I would ask you to tell the prosecutor

1 that they should redact that likewise.

2 MS. CAMPBELL: No problem. Judge, if you want
3 to know what we did redact if we could approach. It's
4 of a personal nature.

5 THE COURT: All right.

6 (Whereupon there is a bench conference off the
7 record.)

8 THE COURT: Anything further before we bring
9 in our jury from the State?

10 MS. GARFIELD: No, sir.

11 THE COURT: Defense, anything further?

12 MR. PRIDE: Nothing. Could you give me one
13 second?

14 THE COURT: Yes, sir.

15 (Pause.)

16 MR. PRIDE: Thank you very much. Judge. I am
17 trying to, based on what was said up there, I am trying
18 to get ready for it.

19 THE COURT: Thank you.

20 (The jury returns to the courtroom at
21 2:40 P.M.)

22 THE COURT: Welcome back, ladies and gentlemen
23 of the jury. I hope y'all had a pleasant lunch. We are
24 now continuing the trial of the case by the presentation
25 of evidence and testimony by the State in its case in

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1 chief. If you would please continue to give the parties
2 your complete and undivided attention as you have done
3 throughout this trial.

4 Solicitor, you may call your next witness.

5 MS. GARFIELD: Thank you, Your Honor. The
6 State would call Nina Simpson.

7 NINA SIMPSON, being
8 first duly sworn, testifies as follows:

9 CLERK: Have a seat in the witness stand,
10 please. State your full name for the record and please
11 spell your first name.

12 THE WITNESS: Nina, N-I-N-A, Simpson.

13 DIRECT EXAMINATION

14 BY MS. GARFIELD:

15 Q Ms. Simpson, where do you live?

16 A Charlotte, North Carolina.

17 Q Are you from Charlotte?

18 A No.

19 Q Where are you originally from?

20 A Flint, Michigan.

21 THE COURT: Would you speak up a little bit
22 for me and perhaps scoot up.

23 THE WITNESS: Flint, Michigan.

24 BY MS. GARFIELD:

25 Q What brought you to North Carolina?

1 A I came to visit and I liked Charlotte; so I decided
2 I was going to move here.

3 Q Do you have any children?

4 MR. PRIDE: Judge, that carries a vibration
5 that comes this way, and I really am not able to clearly
6 understand. I will move up but it's vibrating.

7 THE COURT: Any time you need to move in the
8 courtroom to hear or see a witness any better,
9 Mr. Pride, please do so.

10 BY MS. GARFIELD:

11 Q Ms. Simpson, do you have any children?

12 A Yes, I have three.

13 Q You have how many?

14 A Three.

15 Q What are their ages?

16 A Nineteen and 11-year-old twins.

17 Q Ms. Simpson, do you know the defendant, Zinah
18 Jennings?

19 A Yes.

20 Q Can you explain to the jury how you know
21 Ms. Jennings?

22 A She's my cousin.

23 Q And is she a first cousin?

24 A Second.

25 Q And so who is your first cousin?

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1 A Her mother Jocelyn.

2 Q And would you describe your relationship with Zinah
3 Jennings to be a close one?

4 A I would say so.

5 Q Did Zinah Jennings routinely visit you in
6 Charlotte?

7 A Well, how often is routine?

8 Q Does she visit you?

9 A Yes, she did.

10 Q Would you characterize to the jury about how many
11 times she comes to see you or how often?

12 A I'm not sure. I have been here two years. I don't
13 know.

14 Q Is it common for Ms. Jennings to just show up at
15 your apartment?

16 A Show up without calling first?

17 Q Correct.

18 A No. No, it isn't.

19 Q Do you recall Ms. Jennings coming to your apartment
20 in December of last year?

21 A Yes.

22 Q Do you specifically remember when she came?

23 A Yes.

24 Q Ms. Jennings, it's obvious you don't want to be
25 here; do you?

1 A No, I don't.

2 MR. PRIDE: Objection, Your Honor. How is
3 that relevant?

4 THE COURT: Just move along, Solicitor.

5 MS. GARFIELD: Thank you, Your Honor.

6 BY MS. GARFIELD:

7 Q Do you recall what date Zinah Jennings came to your
8 apartment?

9 A Yes.

10 Q And can you tell the jury when that was?

11 A December 6th.

12 Q Of 2011?

13 A Yes.

14 Q And explain to the jury about that day she came to
15 your apartment.

16 A I wasn't there when she showed up because I was in
17 a class, a weekend class in downtown Charlotte. So
18 when I got home, she was already there. My
19 daughters had let her in, and they told me she was
20 there.

21 Q What was your response?

22 A I said, No, Zinah is not here. I thought they were
23 playing because she has never just shown up without
24 calling me and letting me know she was coming.

25 Q Then what did you do?

- 1 A They told me where she was at.
- 2 Q Where was she?
- 3 A In one of the bedrooms.
- 4 Q Did you go into that bedroom?
- 5 A Uh-huh. (Indicating affirmative response.)
- 6 Q And were the lights on?
- 7 A No.
- 8 Q Did you see Zinah?
- 9 A Yes.
- 10 Q Can you explain to the jury what you observed.
- 11 A She was sitting on the floor up against the wall.
- 12 She had her knees up to her chest and had her arms
- 13 around her knees.
- 14 Q What did you do?
- 15 A I asked her was anything wrong.
- 16 Q And what did she say?
- 17 A Uh-huh.
- 18 Q Then what did you ask her next?
- 19 A I can't remember exactly what I asked her next, but
- 20 I asked her a series of questions.
- 21 Q Can you share with the jury the series of questions
- 22 you asked?
- 23 A Was she hungry? Did she want anything to drink? I
- 24 could fix her something to eat. Did she want a
- 25 shower? Did she want to lay down? Did she want a

1 pillow? Did she want a blanket? Those sort of
2 things.

3 Q What were her responses?

4 A Huh-uh.

5 Q Did you ask her any specific questions about her
6 son?

7 A I did.

8 Q Can you share with the jury those questions?

9 A I asked her where was ^{Child} and she said he was in
10 Augusta.

11 Q Did you know of anyone in Augusta?

12 A No, I don't.

13 Q You don't have any family members in Augusta?

14 A No.

15 Q And then what happened?

16 A Well, I went outside to call her stepfather to let
17 someone here know where she was at. And while we
18 were on the phone talking, she came out of the
19 apartment.

20 Q And what did she did?

21 A She was walking and I told her to hold up. Where
22 was she going? She didn't have to go anywhere.
23 She could stay there. She could stay there as long
24 as she wanted to, but she didn't give me any
25 response, but huh-uh or uh-huh when I asked her a

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1 question.

2 Q And did she get in her car?

3 A She did.

4 Q Did she ever come back into your apartment?

5 A No, she didn't.

6 Q Did she leave?

7 A She did.

8 Q What day of the week was this evening class you
9 were taking?

10 A It was on a Friday.

11 Q Friday?

12 A Uh-huh. (Indicating affirmative response.)

13 Q And about what time was it that you got home?

14 A Late, probably -- I don't know -- 10:30 or so. The
15 class was out earlier, but a lot of us stayed
16 around and talked. Then I came on home.

17 Q Is it possible you are confused on the date?

18 A No.

19 Q Would you be surprised if I told you the 6th was
20 not a Friday?

21 A Yep.

22 Q Is it possible that that Friday was actually
23 December 2nd?

24 A Could have been. I mean, you have a statement from
25 me. You have to give me the date. At that time

1 what I said is what it was.

2 Q That's fair enough. And it was a long time ago;
3 right?

4 A Yeah.

5 Q It was a Friday --

6 A It was a Friday.

7 Q -- that was your evening class?

8 A The first Friday of every month.

9 Q If Zinah had come to you and requested any
10 assistance in carrying for Child would you have
11 helped her?

12 A Sure, I would have.

13 Q Did you ever hear of Ms. Jennings speak of a person
14 by the name of Ernest Robinson?

15 A No.

16 Q Did you know the father of Child Jennings?

17 A Yes.

18 Q Who was that father?

19 A Roderick from my understanding.

20 MS. GARFIELD: Beg the Court's indulgence.

21 (Pause.)

22 BY MS. GARFIELD:

23 Q Ms. Simpson, thank you so much. Please answer any
24 questions Mr. Pride has.

25 THE COURT: Mr. Pride.

CROSS EXAMINATION

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BY MR. PRIDE:

Q Just to sort of summarize and make sure I understand what you said, your testimony is that you are related to Zinah; is that correct?

A That's correct.

Q And how old are you if you don't mind me asking?

A No, I'm 52.

Q And you have known Zinah all of her life?

A Well, I lived in another state, although I did come down here and visit periodically as she was growing up.

Q Before you saw her in December of '11, when was the last time you saw Zinah?

A I'm not sure. Maybe sometime that summer.

Q That summer. And where would you have seen her?

A In Charlotte.

Q In Charlotte?

A Uh-huh. (Indicating affirmative response.)

Q Did she come to visit you?

A Yes, she did.

Q Did she bring ^{Child} with her?

A Yes.

Q At that time what was Zinah's demeanor? Was it different from when you saw her on December the

1 2nd?

2 A Yes.

3 Q What difference did you notice?

4 A When she came up prior to that, she was like I have
5 always seen her. It was the last time that she
6 came up that it was different.

7 Q Whenever you have seen Zinah with Child has Child
8 been in good health?

9 A Yes.

10 Q Has his well-being been looked after?

11 A Yes.

12 Q And his welfare?

13 A Uh-huh. (Indicating affirmative response.)

14 Q And did you ever see Zinah do anything physically
15 to abuse Child

16 A No, I have not.

17 Q Did she demonstrate love for him?

18 A Yes, she did.

19 Q Now, obviously when you saw Zinah in December --
20 early December, I will say -- you asked her what is
21 wrong; right?

22 A Uh-huh. (Indicating affirmative response.)

23 Q You have to say yes or no because the court
24 reporter has to take it down.

25 A Yes.

1 Q And when you asked her what's wrong, what prompted
2 you to make that inquiry?

3 A Because of the way she was acting, which was very
4 unusual. I have never seen her act like that
5 before.

6 Q Okay. And when you walked into your house and I
7 think you say your kids directed you to where Zinah
8 was --

9 A Uh-huh. (Indicating affirmative response.)

10 Q -- from your description it appears she was sitting
11 on the floor in what they call a fetal position?
12 Do you know what a fetal position is? Was she
13 sitting down on her butt with her legs up in the
14 air and her arms around her legs?

15 A Uh-huh. (Indicating affirmative response.)

16 Q Was she agonizing?

17 A No.

18 Q She was just quiet?

19 A She was just quiet.

20 Q And was she well dressed?

21 A Yes.

22 Q And she drove up? She had her own car outside?

23 A Yes.

24 Q When you asked her, Do you want something to eat,
25 and the litany of questions which you stated on

1 direct examination, did she respond at all?

2 A She would just say uh-huh or huh-uh.

3 Q And I take it that she didn't want anything to eat?

4 A That's correct.

5 Q And how long would you say Zinah remained in your
6 house?

7 A Maybe 30 minutes.

8 Q And when you asked her about the baby ^{Child} her
9 answer was that he is in Augusta?

10 A Uh-huh. (Indicating affirmative response.)

11 Q Have you subsequently found out any different, that
12 he was not in Augusta at that time?

13 A No.

14 Q So what she said to you could be true?

15 A Yeah, sure.

16 Q Thank you.

17 THE COURT: Redirect, Solicitor?

18 MS. GARFIELD: No, sir. May Ms. Simpson be
19 excused, please?

20 MR. PRIDE: Sure, she may.

21 THE COURT: Thank you. Thank you very much
22 for being with us. You may step down and you may be
23 excused.

24 (Witness leaves the witness stand.)

25 THE COURT: You may call your next witness,

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1 Solicitor.

2 MS. GARFIELD: The State calls Investigator
3 George Wise.

4 THE COURT: Officer Wise, you were sworn
5 previously.

6 THE WITNESS: Yes, sir.

7 GEORGE WISE, having been
8 previously duly sworn, resumed the witness stand and
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MS. GARFIELD:

12 Q Investigator Wise, where are you employed?

13 A I'm with the Columbia Police Department, crime
14 scene unit.

15 Q And can you explain to the jury what a crime scene
16 unit is?

17 A Crime scene officers' primary duties are to
18 investigate crime scenes, go into the crime scene,
19 and take photos, videotape crime scenes. We also
20 go in and process for fingerprints and also go in
21 and collect evidence from the scene.

22 Q And what is your background information? How many
23 years have you been with the Columbia Police
24 Department?

25 A Seventeen and a half years.

1 Q And what kind of training have you received to be
2 qualified to be a crime scene investigator?

3 A I have had different types of training. I have had
4 a fingerprint comparison class. I have had a palm
5 print comparison class. I have gone to a two-day
6 class on crime scene photographing.

7 Q And how long have you been with the crime scene
8 unit?

9 A Two and a half years, ma'am.

10 Q Investigator Wise, did you have an opportunity to
11 work as a crime scene investigator on this case,
12 State versus Zinah Jennings?

13 A Yes.

14 Q Did you have the opportunity to assist in
15 conducting a search warrant on Ms. Jennings' car?

16 A Yes.

17 Q Do you remember what kind of car it was?

18 A If I recall, it was a 2004 burgundy-color Dodge
19 Neon.

20 Q Before you begin a search of a vehicle, do you
21 photograph it?

22 A Yes.

23 Q I will show you what has been marked as State's
24 Exhibits 59, 61, 62, and 63. If you will go
25 through these. Do you recognize these photographs?

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1 A I recognize the car. I did not do these
2 photographs.

3 Q That's fine. Do you recognize what is in this
4 photographs?

5 A Yes.

6 Q Are you familiar with what is in the photographs?

7 A Yes, ma'am.

8 Q What is in the photographs?

9 A It is the burgundy-in-color Dodge Neon.

10 Q And that's the same car you assisted in searching?

11 A Yes.

12 MS. GARFIELD: Your Honor, at this time I like
13 to introduce these into evidence.

14 MR. PRIDE: I haven't seen them.

15 MS. GARFIELD: I'm coming to you.

16 (Pause.)

17 MR. PRIDE: No objections.

18 THE COURT: Fifty-nine, 61, 62, and 63 are in
19 evidence without objection.

20 MS. GARFIELD: Thank you, Judge.

21 (State's Exhibits Number 59, 61-63 are
22 received into evidence.)

23 BY MS. GARFIELD:

24 Q Investigator Wise, I am showing you State's Exhibit
25 Number 59. Can you explain what that tape is?

1 A It's like an integrity tape we place on the vehicle
2 to secure it.

3 Q And when would you have done that?

4 A I would have done that, if I recall, December 30th.
5 I believe it was right after I finished my search
6 of the vehicle. There was instructions for me to
7 secure the vehicle because we wanted to consult
8 with S.L.E.D. before we went in to collect items
9 from inside the vehicle, like the seat cover, the
10 seat binding, stuff like that. They wanted us to
11 stand by. I secured the vehicle using the
12 integrity tape.

13 Q That's something you do at the completion of your
14 search?

15 A Not all the time.

16 Q On this particular occasion?

17 A On this particular case, yes.

18 Q Is that to make sure no one goes in the vehicle?

19 A That is correct.

20 MS. GARFIELD: Your Honor, may I publish these
21 exhibits?

22 THE COURT: Yes, ma'am, you may publish.

23 BY MS. GARFIELD:

24 Q Once you began to enter the vehicle, Investigator
25 Wise, did you also continue to photograph it?

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1 A Yes.

2 Q Is this done before you collect any evidence?

3 A Yes.

4 Q And do you move anything in the vehicle before you
5 photograph it?

6 A No.

7 Q You photograph it just as when you opened the doors
8 or the trunk, whatever?

9 A Just as I enter it, unless it's items that I am
10 trying to photograph and I cannot get a full photo
11 of it. I would move it. In this case I did not
12 move anything.

13 MS. GARFIELD: Beg the Court's indulgence to
14 show these to Mr. Pride.

15 (Attorneys confer).

16 MR. PRIDE: No objection.

17 MS. GARFIELD: You don't object to these
18 coming into evidence?

19 THE COURT: He said no objection.

20 BY MS. GARFIELD:

21 Q Investigator, I am going to show you what has been
22 introduced into evidence, State's Exhibit 1, 2, 8,
23 9, 10, 11, and 12. Do you recognize these
24 photographs?

25 A Yes, these are the photographs I took of the

1 vehicle trunk area and also the driver's side
2 floor.

3 Q I will hand you these one by one, and I wish for
4 you to show it to the jury and explain what it is a
5 photograph of. First, State's Exhibit Number 1.

6 A State's Exhibit Number 1 is a photo of the driver's
7 side, pictures of the driver's side.

8 Q And State's Exhibit Number 2?

9 A This is a photo I took also from the driver's side,
10 driver's seat and passenger seat, and also the area
11 of the floorboard in the front seat.

12 Q State's Exhibit Number 10?

13 A This is a photo here I took of the trunk area. As
14 you can see, this is a picture of a cream-in-color
15 comforter inside the trunk area that I took a
16 picture of.

17 Q And I believe State's Exhibit Number 8, is that
18 pretty much the same thing?

19 A Yes, the same picture, cream-in-color comforter
20 from the trunk area.

21 Q I show you State's Exhibit Number 9.

22 A Same photo taken from parts of the trunk area,
23 starting from the left corner.

24 Q State's Exhibit Number 12.

25 A Here I took a photo of the left corner of some type

1 of bath wash, and I believe the bucket the bath
2 wash was in.

3 Q And State's Exhibit Number 11?

4 A Again, this here is the right corner of the trunk
5 area that I took.

6 MS. GARFIELD: May I publish, Judge?

7 THE COURT: Yes, ma'am. You may publish, but
8 let me do this. State's 1, 2, 8, 9, 10, 11, and 12 are
9 in evidence without objection.

10 (State's Exhibits Number 1, 2, and 8-12 are
11 received into evidence.)

12 BY MS. GARFIELD:

13 Q Where did this car come from?

14 A At the time that I received information on this
15 vehicle, the vehicle had already been placed behind
16 the Columbia Police Department in our secured area,
17 fenced-in area, behind the Columbia Police
18 Department. As far as my knowledge exactly where
19 it came from, I do not know that.

20 Q You were not a part of that process?

21 A No, ma'am.

22 Q And after you completed photographing the car, did
23 you then begin to collect items from the car?

24 A Yes.

25 Q And specifically I am going to show you State's

1 Exhibit Number 44. Is this the comforter you refer
2 to in the back of the car?

3 A Yes, ma'am, that would be the cream-in-color
4 comforter.

5 Q And after you collected it out of the car, what did
6 you do?

7 A Once I collected the items, I took them to our lab
8 area to secure in that location at that time
9 because our evidence room was closed.

10 Q Because? I didn't hear the last part.

11 A I said once I collected the items, I took them to
12 our lab area to secure it in that location until I
13 could actually bag it to place it in our evidence
14 room.

15 Q Was there anything wrapped in the comforter?

16 A Yes.

17 Q Can you explain to the jury what you did and what
18 you found?

19 A What I did, once I kind of opened up the comforter
20 and realized it was actually a bundle of items
21 inside the comforter, I opened up the comforter;
22 and I located what appeared to be a white blanket,
23 two light blue-colored baby blankets, a black shirt
24 with a black belt.

25 Q Did you collect the two light blue baby blankets

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1 you refer to?

2 A Yes.

3 Q I show you what is marked State's Exhibit Number
4 32. Do you recognize this object?

5 A Yes.

6 Q And what is that contained in that bag?

7 A It should be my two light blue baby blankets.

8 Q Do you want to look inside and just see if you
9 recognize it.

10 A Give me just a second. (Witness complies.)

11 THE COURT: I apologize. I can't hear. You
12 will have to speak up.

13 THE WITNESS: I'm sorry, sir.

14 A Yes, it is the light blue blankets.

15 Q And how did you package these two items,
16 Investigator Wise?

17 A Most of my items that I did package were all in
18 paper bags.

19 Q Is that proper procedure?

20 A Yes, for those items.

21 Q And after you packaged those items, did you -- I'm
22 sorry -- before you packaged those items, did you
23 take any photographs?

24 A Yes. Once I realized there was certain stain marks
25 on the light blue blankets, I took them and from my

1 knowledge, it would have been best for me to
2 document what I observed. So I took photos of the
3 light blue blankets.

4 (Attorneys confer).

5 MR. PRIDE: I have no objections, Your Honor.

6 MS. GARFIELD: Your Honor, I move these into
7 evidence.

8 THE COURT: Mr. Pride, you said no objection?

9 MR. PRIDE: None.

10 MS. GARFIELD: For the record these are
11 Exhibits 14, 15, 54, 53, 52, 51, 50, 49, 48, 47, 46, and
12 45.

13 THE COURT: Those are in evidence without
14 objection.

15 (State's Exhibits Number 14-15 and 45-54 are
16 received into evidence.)

17 MS. GARFIELD: Thank you, Your Honor.

18 BY MS. GARFIELD:

19 Q I am going to show you State's Exhibit 14 and 15.
20 Do you recognize these two items?

21 A Yes.

22 Q Can you please show them to the jury and explain
23 one by one what those photographs are. If you will
24 you refer to the picture by the exhibit number on
25 the back.

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1 A Exhibit Number 15 I'm showing to the jury now is a
2 picture of the light blue blanket. Actually this
3 would be the back side that I took photos of. I
4 placed them on a wrapping that we use at times. I
5 placed them on the ground and placed them on top of
6 a paper wrapping that we utilize to take photos of.
7 This is the backside of the light blue blanket.

8 MR. PRIDE: Judge, can you ask him to refer to
9 it by the exhibit number?

10 THE COURT: He did refer to that as State's
11 Exhibit 15. Is that right, Officer?

12 THE WITNESS: Yes, Exhibit 15. I'm sorry.

13 BY MS. GARFIELD:

14 Q Go ahead.

15 A State's Exhibit 14 will be the light blue baby
16 blankets. This is the front side that I took
17 photos of.

18 Q Why did you find it necessary to photograph these
19 blankets?

20 A Once I began looking at these baby blankets, I
21 realized there was a certain type of what appeared
22 to be a red stain at different locations on the
23 baby blankets. Once I realized that, I felt it
24 would be in my best interest to take photos and
25 document what I saw; so I took photos.

1 Q And based on your training in crime scene
2 investigations, as well as your experience, did the
3 red stains you see, did it appear to be consistent
4 with blood stains?

5 MR. PRIDE: He didn't testify they were red
6 stains. He just said stains.

7 THE COURT: No, sir, he said red stains.
8 Check back on it, Madame Court Reporter, please.

9 COURT REPORTER: Yes, "appeared to be a red
10 stain at different locations on the baby blankets."

11 THE COURT: Thank you. You may proceed,
12 Solicitor.

13 BY MS. GARFIELD:

14 Q What was your answer?

15 A To my knowledge and what I observed and all as far
16 as the red stain, it appeared to be a blood stain.

17 MS. GARFIELD: Your Honor, may I publish these
18 two exhibits to the jury?

19 THE COURT: Yes, ma'am. That's 14 and 15?

20 MS. GARFIELD: Yes, sir.

21 MR. PRIDE: Judge, I object to that line of
22 testimony. He has not even been qualified as an expert.
23 He hasn't even been offered.

24 THE COURT: I overrule the objection. He is
25 not an expert in that regard. I would agree with that.

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1 I do not think it takes expert testimony to form this
2 specific opinion.

3 BY MS. GARFIELD:

4 Q I am going to hand you the remaining of those
5 pictures, Investigator. Do you recognize those?

6 A (Pause.) Yes, ma'am, these are photos I have
7 taken. What I have done is basically took each
8 spot, broke it down into different pictures, and
9 also I measured it off.

10 Q Measuring -- that's the same two blankets?

11 A Yes, the same two blankets.

12 MS. GARFIELD: Your Honor, I just ask to
13 publish the remaining photographs.

14 THE COURT: What numbers are those?

15 MS. GARFIELD: Forty-five through 54.

16 THE COURT: You may publish.

17 BY MS. GARFIELD:

18 Q Investigator Wise, after you took everything out of
19 the trunk, did you then take another picture of the
20 trunk empty?

21 A Yes.

22 Q And I will show you what has been marked as State's
23 Exhibit Number 13.

24 MS. GARFIELD: I'm sorry.

25 (Attorneys confer).

1 MR. PRIDE: I have no objection.

2 THE COURT: Thirteen is in evidence without
3 objection.

4 (State's Exhibit Number 13 is received into
5 evidence.)

6 BY MS. GARFIELD:

7 Q Is that a photograph you took?

8 A Yes.

9 Q And that's the photograph of the trunk?

10 A Yes.

11 Q Thank you.

12 MS. GARFIELD: I ask to publish State's 13.

13 THE COURT: You may publish.

14 BY MS. GARFIELD:

15 Q After you packaged the baby blankets and the
16 comforter, did you put them in the evidence room at
17 the Columbia Police Department?

18 A If I recall, it was during the weekend time, plus I
19 think that Monday was a holiday. If I recall, I
20 placed them in our secure lockers.

21 Q At the evidence room?

22 A Yes, ma'am, the evidence secure lockers that we
23 have during weekend time.

24 Q And eventually at some point, you also went back to
25 the evidence room and got a number of items and

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1 took them to Investigator Bailey?

2 A Yes.

3 Q Do you recall doing that?

4 A Yes.

5 Q Would those items include a swab or D.N.A. sample
6 from Roderick Mitchell?

7 A Yes.

8 Q And did it also include the baby blankets and the
9 comforter?

10 A Yes.

11 Q Did you also have an opportunity to receive a
12 pacifier that had been provided at one point in
13 evidence?

14 A May I look at my notes, please?

15 Q Sure.

16 A (Pause.) Yes, a blue baby pacifier.

17 Q And lastly carpet cuttings?

18 A Yes.

19 Q And all those were taken to Investigator Bailey?

20 A Yes.

21 Q And that was at S.L.E.D., I believe?

22 A Yes, I accompanied Investigator Bailey to S.L.E.D.
23 and assisted him in carrying the items to S.L.E.D.

24 Q Is there any other further testing to the vehicle
25 that you completed?

1 A None. The only thing I did was took photos and
2 collected those items.

3 Q Was there any further searching of the vehicle at
4 another time?

5 A Yes, there was another search.

6 Q Explain why there was a subsequent search.

7 A Like I said, we waited during the weekend time. I
8 think it was a holiday that Monday; so we had to
9 wait to contact S.L.E.D. Because we wanted to find
10 out from S.L.E.D. how we needed to collect the
11 items from the back seat area, how they wanted us
12 to package it, and bring it to S.L.E.D.

13 Q You are referring to like the trunk lining?

14 A Yes. We wanted to consult with S.L.E.D. before we
15 did that.

16 Q Because you wanted to observe proper protocol?

17 A Yes.

18 Q And then once you received instructions from
19 S.L.E.D., was that done?

20 A Yes.

21 Q Was that done by you?

22 A No.

23 Q Was that done by other member of the crime scene
24 investigation unit?

25 A Yes.

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1 MS. GARFIELD: Beg the Court's indulgence.

2 (Pause.)

3 BY MS. GARFIELD:

4 Q When you took those items to S.L.E.D., were they
5 packaged properly?

6 A Yes.

7 Q Did you also assist on a search warrant of the home
8 that was known to be the residence of Zinah
9 Jennings?

10 A Yes.

11 Q And did you take any photographs of her bedroom?

12 A Yes.

13 Q And specifically I will show you two photographs,
14 Exhibit 56 -- I'm sorry -- 55 and 56. Do you
15 recognize these two photographs?

16 A Yes.

17 Q And Exhibit Number 55, what does that appear to be
18 a photograph of?

19 A It appears to be a child's shoes.

20 Q And where was that photograph taken?

21 A Inside Zinah Jennings' bedroom.

22 MS. GARFIELD: Your Honor, at this time I
23 would like to introduce State's 55 in evidence.

24 THE COURT: Mr. Pride, State's 55?

25 MR. PRIDE: I have no objection.

1 THE COURT: No objection. State's 55 is in
2 evidence without objection. You may publish.

3 (State's Exhibit Number 55 is received into
4 evidence.)

5 BY MS. GARFIELD:

6 Q If you will look at State's Exhibit Number 56. Do
7 you recall what that is a photograph of?

8 A If I recall, it was a photograph of some type of
9 paper. I believe, if I recall, it was on her bed
10 comforter on her bed.

11 Q Does it appear to be a business card? If you can't
12 tell, it's okay.

13 A I honestly cannot tell.

14 Q But you photographed it?

15 A Yes.

16 Q And you took that picture?

17 A Yes.

18 MS. GARFIELD: Your Honor, at this time I
19 introduce State's Exhibit 56 in evidence.

20 THE COURT: May I see it, Solicitor.

21 (Hands to Court.)

22 THE COURT: Any objections, Mr. Pride?

23 MR. PRIDE: Objection on the grounds of
24 relevancy.

25 THE COURT: Number 56 will be for

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1 identification purposes only at this time.

2 (State's Exhibit Number 56 is marked for
3 identification).

4 BY MS. GARFIELD:

5 Q You testified you took several items to S.L.E.D.,
6 two of which would be the two items, the comforter
7 and the baby blankets?

8 A Yes.

9 Q You also said the pacifier. Is this how it
10 appeared to be packaged?

11 A If I recall, yes.

12 MS. GARFIELD: And that is at this point for
13 I.D. State 33.

14 (State's Exhibit Number 33 is marked for
15 identification).

16 BY MS. GARFIELD:

17 Q State's Exhibit Number 66 for I.D., does this look
18 familiar to you?

19 A Yes.

20 Q Is this what you took out to Investigator Bailey?

21 A To S.L.E.D., yes.

22 Q Thank you.

23 MR. PRIDE: That is what number?

24 MS. GARFIELD: State's I.D. 66.

25 THE COURT: Beg the Court's indulgence.

1 (Pause.)

2 BY MS. GARFIELD:

3 Q Investigator Wise, please answer any questions
4 Mr. Pride has for you. Thank you.

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

6 CROSS EXAMINATION

7 BY MR. PRIDE:

8 Q Mr. Wise, you have been a crime collector for about
9 two years; is that correct?

10 A Two and a half years.

11 Q Two and a half years?

12 A Yes, sir.

13 Q And during that two and a half year period, would
14 it be fair to say that you were doing on-the-job
15 training? That's how you learned your training?

16 A Yes. Most of my training, yes, was on-the-job
17 training.

18 Q And the way you learned your training was from a
19 superior officer on your job who had been involved
20 in crime collecting for a period of time?

21 A Yes, one of our senior crime scene officers.

22 Q And when you started your crime collecting and they
23 were satisfied that you had the necessary knowledge
24 to do it, you were sent out during that two and a
25 half year period with a senior person from the

1 police department to oversee your work? Is that
2 not correct?

3 A Yes, sir.

4 Q And how long have you been out on your own as a
5 crime scene collector?

6 A Probably right now, sir, probably about --

7 Q No, no, no. After you were no longer going with a
8 senior member.

9 A On my own?

10 Q Yes.

11 A I would say probably right now, probably eight
12 months to about a year now.

13 Q Eight months. So back in December that would have
14 really been only about how many months?

15 A Probably about two or three months.

16 Q Two to three months. Now, as a crime scene
17 collector, Ms. Garfield indicated that you were a
18 member of a team. Were there other people or
19 officers that were crime scene collectors?

20 A Which time now?

21 Q During the time that you were collecting this
22 evidence that you are on the stand talking about
23 today.

24 A No, sir.

25 Q So you were the only one?

1 A Yes, sir.

2 Q And the blanket which you described as having blood
3 on it, that blood can be seen by the naked eye?

4 A Yes.

5 Q And did you measure that blood?

6 A Yes.

7 Q Was the blood circular?

8 A No, it was spotted.

9 Q Spotted.

10 MR. PRIDE: May I approach the witness?

11 THE COURT: Yes, sir.

12 BY MR. PRIDE:

13 Q To the best of your ability, would you step down
14 and spot on that card behind you with my pen about
15 how big it was.

16 A (Witness leaves the witness stand.) If we take
17 this (indicating) as a blanket, we would see
18 different spots, different locations and all down
19 this (indicating). If we took this as a blanket,
20 we would see very small spots of the red stain.

21 Q Now, while you are standing there, isn't it true
22 that the blanket that you were looking at was not
23 as wide as the cardboard?

24 A I would say probably maybe a little bit smaller.

25 Q And the length of the blanket you were looking at,

1 would it be a fair statement to say -- would it
2 be a fair statement if you measured the length of
3 the blanket, it would be about right here
4 (indicating)?

5 A Yes, sir, I would say probably the width of it
6 would be shorter but longer.

7 Q Okay.

8 A (Witness resumes the witness stand.)

9 Q And you took -- you have told the jury that you
10 could see that with your naked eye; isn't that
11 correct?

12 A Yes.

13 Q And you took those spots to be blood; is that
14 correct?

15 A To my knowledge, sir, they appeared to be red
16 stains, what looked to be blood stains.

17 Q And you followed all the necessary procedures
18 in order to preserve that evidence; is that
19 correct?

20 A Yes.

21 Q And in preserving it you then turned it over to a
22 D.N.A. lab at S.L.E.D. to be tested; is that
23 correct?

24 A That's correct, sir.

25 Q And would it be a fair statement to say that the

1 questions that I have asked you and the answers you
2 have given -- and on all the answers that you have
3 given to Ms. Garfield -- would fully disclose your
4 role in this investigation?

5 A Yes.

6 Q Thank you.

7 MR. PRIDE: I have no further questions.

8 THE COURT: Redirect, Solicitor?

9 MS. GARFIELD: Your Honor, may we approach?

10 THE COURT: Yes, ma'am.

11 (Whereupon there was a bench conference off
12 the record in the presence of the jury but out of the
13 hearing of the jury.)

14 MS. GARFIELD: Nothing further.

15 THE COURT: Thank you very much, Officer Wise.
16 You may step down.

17 (Witness leaves the witness stand.)

18 THE COURT: Solicitor, you may call your next
19 witness.

20 MS. GARFIELD: Thank you, Your Honor. The
21 State calls Investigator Paul Nelson.

22 PAUL NELSON, 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.

PAUL NELSON -- DIRECT -- MS. GARFIELD

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1 THE WITNESS: Officer Paul Nelson.

2 DIRECT EXAMINATION

3 BY MS. GARFIELD:

4 Q Officer Nelson, where are you employed?

5 A With the Columbia Police Department.

6 Q What are your duties with the Columbia Police
7 Department?

8 A Currently now in the crime scene unit.

9 Q And how many years have you been with the crime
10 scene unit?

11 A Five years.

12 Q How many years total in law enforcement?

13 A Seventeen.

14 Q All with the City?

15 A All with the City.

16 Q And what kind of training and background, education
17 have you received to become a crime scene
18 investigator?

19 A Fingerprints, photographs, photography, latent
20 print examination, analyzing fingerprints,
21 verifying fingerprints, physical evidence
22 collection, and preservation of evidence.

23 Q Investigator Nelson, you were present in the
24 courtroom for Investigator Wise's testimony?

25 A I was.

1 Q And are you familiar with a second search that was
2 done of Ms. Jennings' vehicle?

3 A I am.

4 Q Were you the one that did that second search?

5 A I did.

6 Q Explain to the jury exactly what you did.

7 A Investigator Bailey approached me in reference to a
8 search warrant to be executed sometime the first of
9 the year, January 3, 2012, at approximately 1218
10 hours in the afternoon.

11 From there we executed the search warrant at
12 399 Justice Square in the rear storage lot. From
13 that scene I took photographs and I collected from
14 a 2004 Dodge Neon the carpet section of the rear --
15 the rear carpet section, the whole section.

16 Q A carpet section being -- I am showing you State's
17 Exhibit Number 13 and showing it to the jury -- is
18 that the carpet section that you were retrieving?

19 A Correct, but this is not my photograph.

20 Q Right. But that's what you retrieved; correct?

21 A Yes, in the rear trunk area, Exhibit Number 13.

22 MS. GARFIELD: Judge, may the witness get
23 off the stand to identify these?

24 THE COURT: Yes, you may step down. Keep
25 your voice up when you are away from the microphone,

PAUL NELSON -- DIRECT -- MS. GARFIELD

1 please.

2 (Witness leaves the witness stand.)

3 BY MS. GARFIELD:

4 Q Do you recognize what is marked as State's Exhibit
5 Number 66?

6 A That is correct. This is the rear trunk area from
7 the 2004 Dodge Neon that I collected.

8 Q Is this packaging -- is that your packaging?

9 A That is my packaging for preservation for further
10 analysis.

11 Q After you packaged that floor -- the back seat
12 floor -- I'm sorry -- the trunk liner, what did you
13 do with that?

14 A I turned it into the evidence room.

15 Q And specifically do you remember who you turned it
16 into?

17 A Amanda.

18 Q Can you tell the jury Amanda's last name?

19 A Beckham.

20 THE COURT: What was the last name?

21 THE WITNESS: Beckham.

22 BY MS. GARFIELD:

23 Q Is that the extent of your involvement in the
24 investigation of this case?

25 A That's correct.

1 Q Thank you, Investigator Nelson. Please answer any
2 questions Mr. Pride may have.

3 THE COURT: Mr. Pride?

4 MR. PRIDE: Just a moment, Judge.

5 THE COURT: Certainly.

6 (Pause.)

7 MR. PRIDE: Thank you, Judge. No examination.

8 THE COURT: Thank you very much, Investigator
9 Nelson.

10 (Witness leaves the witness stand.)

11 THE COURT: You may call your next witness.

12 MS. GARFIELD: Thank you, Your Honor. The
13 State would call Donna Martin.

14 THE COURT: If you would come around and be
15 sworn, please.

16 DONNA MARTIN, being
17 first duly sworn, testifies as follows:

18 CLERK: Have a seat in the witness stand,
19 please. State your full name for the record.

20 THE WITNESS: Donna Martin.

21 **DIRECT EXAMINATION**

22 BY MS. GARFIELD:

23 Q Ms. Martin, where are you employed?

24 A Columbia Police Department.

25 Q What are your duties with the police department?

DONNA MARTIN -- DIRECT -- MS. GARFIELD

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1 A I'm the evidence supervisor.

2 Q As the evidence supervisor, can you explain to the
3 jury what that entails?

4 A We intake anything that -- all evidence -- that
5 comes in throughout the City, also from the crime
6 scene, to store.

7 Q And how many people are in the evidence room?

8 A Four.

9 Q And is there someone in the evidence room at all
10 times?

11 A Yes, every day except for the weekends.

12 Q On weekends when there is evidence collected, what
13 happens to it?

14 A We work weekends. We work 365 days a year and we
15 all have turns on the weekend. We collect
16 evidence, we get it out of the locker, stamp it,
17 and put it on the person's desk.

18 Q When you say get it out of the lockers, explain to
19 the jury what the lockers are.

20 A All our lockers are on the outside. Then we come
21 in our area and pull evidence from there. We stamp
22 date it, initial the date and time we get it out of
23 the locker.

24 Q Who puts the evidence in the lockers?

25 A The officers or crime scenes.

1 Q If you go to a locker and open it and there is
2 evidence that has not been packaged properly, what
3 do you do?

4 A We take it out and we inform the officer to -- we
5 will stamp date it because we have to do that.
6 Anything that comes in, we have to stamp date that.
7 It's by law and our rules. We inform the officer
8 and then they come back and repackage it the right
9 way.

10 Q So you won't accept it if it's not packaged
11 properly?

12 A No.

13 Q Do you recall collecting two swabs from
14 Investigator Bailey, one from Denise Jennings and
15 one from Roderick Jennings [verbatim]?

16 A Yes.

17 Q I will hand you what has been marked as State's
18 Exhibit 39. Do you recognize that exhibit?

19 A Yes, I got it from Investigator Bailey on
20 January 3rd.

21 Q What is that exhibit?

22 A It's a swab.

23 Q Does it indicate who it's from?

24 A It just said an oral swab. We don't open anything
25 that comes in the evidence room. We do not open

DONNA MARTIN -- DIRECT -- MS. GARFIELD

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1 it. This was sealed when it came in. The only
2 thing it is opened is when it goes to testing for
3 S.L.E.D.

4 Q And I will show you State's Exhibit Number 42. Can
5 you identify this object?

6 A This is also a swab, and I got it from Investigator
7 Bailey also on January 3rd.

8 Q Does it indicate who it's from?

9 A Mr. Mitchell.

10 Q Thank you. And after you would have received these
11 two items, what would you have done?

12 A We log them into our evidence on our log sheet and
13 place them where the evidence is stored at, where
14 the bin is stored.

15 Q And then if someone, another investigator, was to
16 come get a piece of evidence, are there proper
17 procedures to follow?

18 A Yes. Any time evidence is removed from the
19 evidence property unit, we have a chain of custody.
20 It shows, like when I gave it to Investigator
21 Bailey to take to S.L.E.D., it shows our evidence
22 chain of custody and where it's going.

23 Q And that's documentation for that?

24 A Yes.

25 Q Thank you, Ms. Martin. Please answer any questions

1 the defense has.

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

3 MR. PRIDE: Yes.

4 CROSS EXAMINATION

5 BY MR. PRIDE:

6 Q Were you in charge of all the evidence for this
7 case or could there have been other people in your
8 department that may have taken in evidence?

9 A Yes, all of us. It's four people. It's different
10 times. Whoever is working the window or is coming
11 up to the window, I say we will take turns and
12 evidence is logged into us.

13 Q Do you have a log before you to show everything
14 that was logged in?

15 A Yes, sir.

16 Q Do you see a swab from Zinah Jennings?

17 A Yes, it would be number 6, our number 6 on our log
18 sheet.

19 Q And how many swabs were taken from Zinah Jennings?

20 A It just shows one, sir.

21 Q What is the date on that?

22 A January 3rd.

23 Q January 3rd. Thank you very much.

24 THE COURT: Redirect, Solicitor?

25 MS. GARFIELD: No, sir. May Ms. Martin be

TRACEY DIXON -- DIRECT -- MS. GARFIELD

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1 excused, please?

2 THE COURT: Yes, ma'am. You may step down.
3 Thank you for being with us, Ms. Martin. You are
4 excused.

5 (Witness leaves the witness stand.)

6 THE COURT: You may call your next witness.

7 MS. GARFIELD: The State calls Tracey Dixon.

8 TRACEY DIXON, 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 last name.

13 THE WITNESS: Tracey, T-R-A-C-E-Y, Dixon
14 D-I-X-O-N.

15 **DIRECT EXAMINATION**

16 BY MS. GARFIELD:

17 Q Ms. Dixon, where are you employed?

18 A At the Columbia Police Department, evidence
19 property unit.

20 Q And you were just in the courtroom for the prior
21 testimony; correct?

22 A Yes.

23 Q Are those your same duties as Ms. Martin?

24 A Yes.

25 Q And did you collect a swab from Investigator -- I'm

1 sorry -- did you give a swab to Investigator Bailey
2 in this case?

3 A Yes, I did.

4 Q I will show you what has been marked as State's
5 Exhibit Number 39. Do you recognize this object?

6 A Yes.

7 Q Is that the object that you gave to Investigator
8 Bailey?

9 A Yes.

10 Q And is that the extent of your involvement in this
11 case?

12 A Yes.

13 Q Thank you. Please answer any questions Mr. Pride
14 has.

15 THE COURT: Mr. Pride?

16 MR. PRIDE: Thank you, Judge. I have no
17 questions.

18 THE COURT: Thank you. Thank you very much
19 for being with us today, Officer Dixon. You may step
20 down and you may be excused.

21 (Witness leaves the witness stand.)

22 THE COURT: Solicitor.

23 MS. GARFIELD: The State calls Amanda Beckham.

24 THE COURT: If you would come around and join
25 us, please.

AMANDA BECKHAM -- DIRECT -- MS. GARFIELD

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1 AMANDA BECKHAM, being
2 first duly sworn, testifies as follows:

3 CLERK: Have a seat in the witness stand,
4 please. State your full name for the record and please
5 spell your last name.

6 THE WITNESS: It's Amanda Beckham,
7 B-E-C-K-H-A-M.

8 DIRECT EXAMINATION

9 BY MS. GARFIELD:

10 Q Ms. Beckham, where are you employed?

11 A The City of Columbia Police Department.

12 Q Where are you employed at the police department?

13 A In evidence and property.

14 Q And have you been in the courtroom for the prior
15 testimony of Ms. Martin and Ms. Dixon?

16 A I have.

17 Q Are the duties they have at the Columbia Police
18 Department the same as you do?

19 A Yes, ma'am.

20 Q Do you recall in this case giving to Investigator
21 George Wise a swab from Roderick Mitchell?

22 A I do.

23 Q I will hand you what is marked as State's Exhibit
24 Number 42. Do you recognize this object?

25 A Yes, ma'am.

1 Q Is that the object that you gave to Investigator
2 Wise?

3 A Yes, ma'am.

4 Q And it was sealed properly?

5 A Yes, ma'am.

6 Q And if it wasn't, would you have given it to him?

7 A No.

8 Q Do you also recall giving a pacifier to Mr. Wise?

9 A Yes, ma'am.

10 Q I will show what you is marked as State's Exhibit
11 Number 33. Do you recognize this object?

12 A Yes, ma'am.

13 Q Is that the object that you gave to Investigator
14 Wise?

15 A Yes, ma'am.

16 Q At the time if it had not been packaged properly,
17 would you have given it to him?

18 A No, ma'am.

19 Q I will show you what has been marked as State's
20 Exhibit 32. Do you recall giving baby blankets to
21 Investigator Wise?

22 A Yes, ma'am.

23 Q I will show you State's Exhibit 32. Do you
24 recognize this object?

25 A Yes, ma'am.

AMANDA BECKHAM -- DIRECT -- MS. GARFIELD

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1 Q And is that the object you gave to Investigator
2 Wise?

3 A Yes, ma'am.

4 Q If it had been packaged wrong, would you have given
5 it to him?

6 A No, ma'am.

7 Q I show you what has been marked as State's Exhibit
8 Number 44. Do you recall giving a cream comforter
9 to Investigator Wise?

10 A Yes, ma'am.

11 Q Was this the packaging it was in when you gave it
12 to him?

13 A Yes, ma'am.

14 Q Was it packaged properly then?

15 A Yes, ma'am.

16 Q If it hadn't you wouldn't have given to it him;
17 right?

18 A Right.

19 Q Finally, I show you State's Exhibit Number 66. Do
20 you recall this object?

21 A Yes, ma'am.

22 Q Is this the trunk liner that was -- that you gave
23 to Investigator Wise to take --

24 A Yes, ma'am.

25 Q -- to S.L.E.D. If it hadn't been packaged

1 properly, would you have given it to him?

2 A No, ma'am.

3 Q Thank you, Ms. Beckham. Please answer any
4 questions Mr. Pride may have.

5 THE COURT: Mr. Pride?

6 MR. PRIDE: I don't have any questions. Thank
7 you.

8 THE COURT: Thank you, Mr. Pride.

9 Thank you for being with us today,
10 Ms. Beckham. You may step down and you may be excused.

11 (Witness leaves the witness stand.)

12 THE COURT: Solicitor, you may call your next
13 witness.

14 MS. GARFIELD: May I approach, Judge?

15 THE COURT: Yes, ma'am, certainly.

16 (Whereupon there was a bench conference off
17 the record in the presence of the jury but out of the
18 hearing of the jury.)

19 THE COURT: Madame Forelady, ladies and
20 gentlemen, perhaps now would be a good time for you to
21 take your afternoon recess. I have a matter of law to
22 take up. It may be a little more than 15 minutes.
23 Leave your notes upside-down on your chair. Do not
24 discuss the case during this brief recess. Thank you
25 very much.

1 (The jury retires to the jury room.)

2 THE COURT: Solicitor.

3 MS. CAMPBELL: May it please the Court, Your
4 Honor. In this case there was a search warrant that was
5 done for Zinah Jennings' buccal swab in January of 2011.
6 That buccal swab was obtained and was forwarded to
7 S.L.E.D.

8 Out of an abundance of caution in preparation
9 for this trial, we went ahead and did a Schmerber just
10 because the law on that is kind of evolving, Your Honor,
11 on the warrant affidavit.

12 Anyway, we felt like it was best out of an
13 abundance of caution to get a second confirmatory swab
14 from Ms. Jennings, which we got a Schmerber order that
15 was signed in July, I believe in July, Your Honor.

16 Was it consented to?

17 MR. PRIDE: Your Honor, I don't know anything
18 you can do with Schmerber but consent. Schmerber
19 entitles the State to blood, saliva, and others.

20 MS. CAMPBELL: Anyway, Your Honor, there was a
21 order signed, a court order signed, so that we could get
22 a buccal swab from Ms. Jennings.

23 Just based on defense counsel's recent
24 questioning, I don't know if he is trying to go there or
25 what explanation he is trying to get out as far as there

1 was one swab taken from certain people and then two
2 swabs taken from Ms. Jennings.

3 I just wanted to explore this before we got
4 into it so that we wouldn't have a problem in front of
5 the jury.

6 THE COURT: Mr. Pride, do you care to respond?

7 MR. PRIDE: No, I don't care to respond. I
8 mean, there were two swabs taken. I asked how many
9 swabs were taken. I knew that there were two swabs
10 taken.

11 Now, do I intend to play upon that? No, but
12 there were two swabs taken. You say as a matter of law,
13 what -- this was not a matter of law. This was a matter
14 of trying to find out what Mr. Pride is going to do.
15 Ain't no law being discussed.

16 THE COURT: Mr. Pride, I just try to handle
17 the ammunition y'all shoot at me. I don't know what
18 caliber it is.

19 MR. PRIDE: I know but we have to keep it
20 real, Judge.

21 THE COURT: Yes, sir.

22 MR. PRIDE: Judge, I have got a matter of law
23 that I want to discuss with you.

24 THE COURT: Let me finish where I am at on
25 this issue. I would assume, even though whether it's a

1 Court order or consent -- and as I recall it was
2 consent -- I think that issue actually came up at a
3 prior hearing pretrial.

4 The fact that the defendant did or did not
5 consent to the taking of the swabs would not foreclose a
6 defendant from cross examining the handling of the
7 evidence, the handling of the swab, or anything of that
8 nature.

9 I don't know why there were two in one case
10 and one in the other. I don't know if that's standard
11 operating procedure or not, but I think you could still
12 explore -- I think a defendant could still explore how
13 the swab was handled.

14 MS. CAMPBELL: I'm not disagreeing with how
15 the swab was handled, Your Honor. The explanation for
16 why we got the second swab would be my concern. I don't
17 know that that would be proper in front of a jury.

18 If he brings it up, we would just be -- the
19 scenario that happened in this case is Ms. Jennings was
20 taken into custody. They asked for her consent to get
21 the initial swab. She said no. They went and got a
22 search warrant, Your Honor.

23 They then executed the search warrant and got
24 the swab from her back in January is my understanding.
25 Since then in preparation for this trial, because of

1 the evolving law in the area of Schmerber, we went
2 ahead and wanted to do a hearing, which I believe you
3 are correct, it was a consent from the defense at that
4 point to confirm so that there would not be any issue
5 as to the search warrant on that matter. That would be
6 the purpose of that. I am just pointing out that we
7 would then, I think, have a right to explain why we did
8 this.

9 THE COURT: You are just concerned that the
10 issue of the search warrant comes before the jury,
11 Solicitor? Is that what I'm hearing?

12 MS. CAMPBELL: My issue is that it looks like
13 we weren't sure or for whatever reasons he is going to
14 infer, it was merely because of the evolving law in the
15 area of Schmerber and search warrants that we took the
16 precautionary route of circumventing the search warrant
17 so that there would not be an issue as to the collection
18 of the actual known standard.

19 THE COURT: From that point none of that is
20 relevant for the jury.

21 MS. CAMPBELL: I understand but I don't want
22 it to look like we were doing -- I'm sorry, Judge.

23 THE COURT: No, I understand that you
24 understand. That's a judicial decision, as far as
25 consent, search warrant. That is not for evidence

1 before this jury. I was saying what I think could come
2 before them as evidence is the handling of the first or
3 the second.

4 MS. CAMPBELL: The only problem is the
5 inference -- and he just said it on the record -- that
6 there were two swabs gotten from his person and only one
7 from the rest.

8 At that point I think we have the right -- and
9 I want to put this out there -- that we have the right
10 to then explain: Yes, we got a search warrant. Then,
11 yes, there was a subsequent Court order for her to turn
12 over her known sample.

13 THE COURT: I think -- do you care to respond,
14 Mr. Pride? A minute ago you didn't.

15 MR. PRIDE: I don't. This is a matter of law,
16 and I will let Ms. Campbell discuss the law.

17 THE COURT: I think if the question becomes,
18 Why did y'all get the second search warrant, and the
19 response to that is, We did because the law was
20 evolving, I do not think that is an area for the jury.

21 So if you question it in that regard, I will
22 allow the State to explain it; however, that does not
23 foreclose you in any manner from cross examining on the
24 handling or the chain of custody or anything of that
25 nature as far as the swab of Ms. Jennings.

1 Now, you have a matter of law, Mr. Pride?

2 MR. PRIDE: Yes.

3 THE COURT: Does that answer your question,
4 Solicitor?

5 MS. CAMPBELL: Somewhat, Your Honor, yes, sir.

6 MR. PRIDE: It may not be the answer she
7 likes, but that's an answer. Judge, I have sat here and
8 Ms. Garfield is just running away with leading
9 witnesses.

10 Now, I wish you would -- at least if you want
11 me to jump up and object every time, it slows the trial
12 down. But, you know, is this the pacifier? No, it
13 doesn't go that way.

14 Do you recognize this object? The
15 identification comes from up there and not in the
16 question. You can't embellish the answer in the
17 question. Judge, I wish you would admonish her to
18 follow the rules and not lead witnesses in this case.

19 THE COURT: A young law student asked me about
20 a month or so ago, Judge, what is evidence? I said,
21 There's two types of evidence. One, whatever the judge
22 lets in. Two, whatever the lawyers don't object to. If
23 you don't object, I can't rule.

24 MR. PRIDE: All right, Judge.

25 THE COURT: Of course, you are talking about

1 chain of custody. I'm not saying that it's not -- chain
2 of custody is a very important issue. I'm not
3 minimizing that a bit.

4 But if she goes through State's Exhibit 32,
5 33, 44, 66 -- and one number I can't read on my notes --
6 in that when you have got a chain witness that links K.
7 to L. -- I had to figure out where I was in the
8 alphabet -- that moves along without break. If you
9 object that it's leading, I will have her rephrase the
10 question.

11 MR. PRIDE: All right, Judge.

12 THE COURT: Sometimes, Mr. Pride, that may be
13 the tactic of a good trial lawyer not objecting. I
14 don't know. That's why I don't inject myself, but I
15 will say this, Don't lead. Thank you. Court will be in
16 recess 15 minutes.

17 (Whereupon there is a recess.)

18 THE COURT: Anything before we bring in our
19 jury, Solicitor?

20 MS. GARFIELD: No, sir.

21 THE COURT: Anything from the defense?

22 MR. PRIDE: Nothing, Judge.

23 THE COURT: How many witnesses do you have
24 this afternoon; do you think?

25 MS. GARFIELD: I believe five.

1 THE COURT: Five. Can you give me an idea of
2 how many witnesses there will be after that five?

3 MS. GARFIELD: Maybe two or three.

4 MS. CAMPBELL: But it will be brief.

5 MR. PRIDE: Judge, excuse me, seven witnesses.
6 Do you mind if I ask you how long you are going to run
7 today?

8 MS. GARFIELD: I understood they had the chain
9 witnesses from S.L.E.D. and D.N.A.

10 MR. PRIDE: The D.N.A. may take a little time
11 but the chain witnesses --

12 THE COURT: That's what I intended to get
13 through, the chain and the D.N.A.

14 MR. PRIDE: So there would be two tomorrow?

15 THE COURT: Or three, I think the solicitor
16 was saying. I am not holding them to that. I am just
17 trying to get an idea.

18 MS. CAMPBELL: Something like that.

19 THE COURT: But the State won't rest today?

20 MS. CAMPBELL: Correct.

21 THE COURT: The State will rest sometime in
22 the morning we think or we anticipate. Bring the jury.

23 (The jury returns to the courtroom.)

24 THE COURT: Thank you very much. Welcome
25 back, ladies and gentlemen of the jury panel. We are

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1 continuing with the trial of the case by the
2 presentation of evidence and testimony by the State in
3 its case in chief. Please continue to give the parties
4 your complete and undivided attention.

5 Solicitor, you may call your next witness.

6 MS. GARFIELD: Thank you, Your Honor. The
7 State calls Amy Stephens.

8 THE COURT: If you would come around and join
9 us, please.

10 AMY STEPHENS, being
11 first duly sworn, testifies as follows:

12 CLERK: Have a seat in the witness stand,
13 please. State your full name for the record and please
14 spell your last name.

15 THE WITNESS: Amy Stephens, S-T-E-P-H-E-N-S.

16 **DIRECT EXAMINATION**

17 BY MS. GARFIELD:

18 Q Ms. Stephens, where are you employed?

19 A I am employed with the South Carolina Law
20 Enforcement Division, also known as S.L.E.D.

21 Q What are your duties at S.L.E.D.?

22 A I'm a forensic technician in the evidence control
23 department. Our daily responsibilities are to
24 log-in, package, and transfer evidence for forensic
25 analysis in criminal cases.

1 Q And those criminal cases come from what
2 jurisdictions?

3 A All over the State of South Carolina.

4 Q Is it common for the Columbia Police Department to
5 take items of evidence for testing at S.L.E.D.?

6 A Yes, it is.

7 Q And what are your policies and procedures for
8 collecting evidence?

9 A We have the submitting agency who will come into
10 S.L.E.D., which is located here in Columbia, South
11 Carolina. They will bring the evidence into our
12 forensic laboratory with accompanying paperwork.

13 We will enter that information into our
14 computer system, package the evidence
15 appropriately. A unique lab number will be
16 assigned to that case.

17 The labels will be placed onto the evidence,
18 and then the evidence will be transferred to the
19 appropriate intake location to a forensic
20 technician of another department or analyst.

21 Q And did you have any opportunity to collect or
22 transfer any evidence in this case involving Zinah
23 Jennings?

24 A Yes, I did.

25 Q And can you explain to the jury what your role was

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1 with this case?

2 A I received a buccal swab from Zinah Jennings from
3 Investigator Colin Bailey of the Columbia Police
4 Department. When I received it, I placed it in a
5 S.L.E.D. heat-seal pouch.

6 As the submitting officer, Investigator Bailey
7 would have initialed and dated the heat-seal pouch,
8 as well as signed and dated the front of the pouch.
9 I then placed the accompanying lab number on the
10 label onto the heat-seal pouch.

11 Q I show you what has been marked as State's Exhibit
12 Number 43. Do you recognize this object?

13 A Yes, I do. This heat-seal pouch corresponds with
14 the S.L.E.D. number, which is L-12-00043.

15 Q Is that what you collected from Investigator
16 Bailey?

17 A This is what I received from Investigator Bailey.
18 Yes, it is.

19 Q Had it been packaged improperly, would you have
20 taken it?

21 A We would have taken it, but we would have made a
22 note on the package on the back side documenting
23 that it was not sealed when we received it.

24 Q And is there such documentation on that object?

25 A No, there is not.

1 Q And after you collected it and packaged it
2 according to S.L.E.D. procedure, what did you do
3 with that object?

4 A Once I packaged it, I would have had the
5 investigator or the submitting officer initial and
6 date the heat seal and sign and date the front of
7 the heal-seal pouch.

8 I would have then entered the information into
9 our computer system and then transferred the
10 evidence to our D.N.A. intake storage in our
11 evidence room.

12 Q And do you recall -- if you put it in the storage
13 room, you didn't give it to a specific person?

14 A Not on the day that I received it.

15 Q At any time did you give that exhibit to a
16 particular person?

17 A I did. July 20, 2012, I received the evidence from
18 the intake location and transferred it to directly
19 to Jennifer Clayton, which is an analyst in the
20 D.N.A. department.

21 Q And when we talk about swabs, what are swabs used
22 for?

23 A They can be used to collect evidence from crime
24 scenes or what we call the buccal swab is basically
25 a D.N.A. known standard, which is swabs that are

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1 used on the inside of a person's cheek to collect
2 their D.N.A.

3 Q And that would be giving a sample of your D.N.A.?

4 A That's correct.

5 Q When you gave that item to Ms. Clayton, was it
6 still properly secured and packaged?

7 A Yes, it was.

8 Q According to S.L.E.D. standards?

9 A Yes, it was.

10 MS. GARFIELD: Your Honor, at this time I
11 would like to introduce State's Exhibit Number 43 in
12 evidence.

13 MR. PRIDE: No objection.

14 THE COURT: State's 43 is in evidence without
15 objection.

16 (State's Exhibit Number 43 is received into
17 evidence.)

18 BY MS. GARFIELD:

19 Q Thank you, Ms. Stephens. Please answer any
20 questions Mr. Pride has for you.

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

22 MR. PRIDE: Thank you, Judge. I have no
23 questions.

24 THE COURT: Thank you very much. Thank you,
25 Ms. Stephens. You may step down and you may be excused.

1 THE WITNESS: Thank you.

2 (Witness leaves the witness stand.)

3 THE COURT: Solicitor.

4 MS. GARFIELD: Thank you, Your Honor. The
5 State calls Betty Butler.

6 BETTY BUTLER, being
7 first duly sworn, testifies as follows:

8 CLERK: Please have a seat in the witness
9 stand and state your full name for the record.

10 THE WITNESS: Betty Butler.

11 **DIRECT EXAMINATION**

12 BY MS. GARFIELD:

13 Q Ms. Butler, please share with the jury where you
14 are employed.

15 A I am employed with the South Carolina State Law
16 Enforcement Division, also known as S.L.E.D.

17 Q And what are your duties at S.L.E.D.?

18 A I am a forensic technician in the D.N.A.
19 department.

20 Q And as a forensic technician in the D.N.A.
21 department, what do you exactly do?

22 A As a forensic technician in the D.N.A. department,
23 we receive evidence. We look for -- do a
24 presumptive test for blood or semen. We look for
25 body fluids, skin cells, and different various

BETTY BUTLER -- DIRECT -- MS. GARFIELD

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1 types of fluids, hair, saliva, or anything that
2 would be of value to a particular case.

3 Q How do you go about doing such processes?

4 A Once we collect the evidence, we do additional
5 tests on all the evidence. Depending on the test,
6 if we are looking for blood, we do a chemical test.
7 If it's a possibility that it's blood, it will
8 turn purple -- or pink. I'm sorry.

9 If it's a possibility that it's semen, the
10 swab would turn purple. Then if we are looking
11 for skin cells, we scrape the item and collect that
12 or anything else that would go to a particular
13 case.

14 Q When you receive the evidence that you are
15 processing, do you make sure that it has been
16 packaged properly?

17 A Yes, I do.

18 Q Do you process any evidence if it has not?

19 A No, I do not.

20 Q Did you have the opportunity to process any
21 evidence in this case involving the State of South
22 Carolina versus Zinah Jennings?

23 A Yes, I did.

24 Q Can you just list items that you received for
25 processing?

1 A S.L.E.D. item number 1, which is a blue baby
2 pacifier; S.L.E.D. item number 4, two pieces of
3 trunk liner; item number 5, cream comforter; item
4 number 6, white baby blanket; item number 7, a
5 light blue baby blanket; item number 8, a light
6 blue baby blanket.

7 Q First, I will direct your attention to the pacifier
8 that you were asked to process. I will show you
9 what has been marked as State's Exhibit Number 33.
10 Do you recognize that item? Would you like some
11 gloves?

12 A I have some. Yes, I do.

13 Q And what is that object again?

14 A S.L.E.D. item number 1, blue baby pacifier.

15 Q Can you show that pacifier to the jury.

16 A (Witness complies.)

17 Q Can you explain to the jury what you did with that
18 pacifier upon receiving it at S.L.E.D.?

19 A Upon receiving this pacifier, always I do a visual
20 test. I looked at it. The request for was any
21 D.N.A. I used a clean swab on this particular
22 item, and I put distilled water on it. I did a
23 swab of this entire pacifier. I put the swab into
24 a coin envelope and let it dry.

25 Q When you say swab, just explain to the jury what

BETTY BUTLER -- DIRECT -- MS. GARFIELD

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1 that is.

2 A A swab is just a clean -- it looks like a Q-tip.
3 It has a wooden stick and has cotton at the tip of
4 it.

5 Q And after you did that, what did you do with the
6 pacifier?

7 A Every piece of item is marked with the item number,
8 my initials, and the particular lab number. It is
9 marked on here, the paper that we process it on,
10 and the paper that we received it in.

11 MS. GARFIELD: Your Honor, at this time I
12 would like to introduce State's Exhibit Number 33 into
13 evidence.

14 MR. PRIDE: No objection.

15 THE COURT: State's 33 is in evidence without
16 objection.

17 (State's Exhibit Number 33 is received into
18 evidence.)

19 BY MS. GARFIELD:

20 Q Mr. Butler, I will show you what has been marked as
21 State's Exhibit Number 38. Do you recognize this
22 envelope?

23 A Yes, I do. It has a lab number on it, L-12-43,
24 item number 1.1, which is the swab that I took
25 because everything has to have its own number, own

1 item number, which is 1.1. It's strictly from the
2 pacifier. It was for any D.N.A. After it dried I
3 put my initials and the date on it and sealed it.

4 Q And that is what you did on that date? That's the
5 object you prepared that day?

6 A Yes, it is.

7 Q And who did you give that item to?

8 A Jennifer Clayton.

9 MS. GARFIELD: Your Honor, at this time I
10 would like to introduce State's Exhibit Number 38 into
11 evidence.

12 MR. PRIDE: No objection.

13 THE COURT: State's 38 is in evidence without
14 objection.

15 (State's Exhibit Number 38 is received into
16 evidence.)

17 BY MS. GARFIELD:

18 Q It was given to Ms. Clayton for what purposes?

19 A For further testing.

20 Q Next, you also processed what you describe as a
21 trunk liner?

22 A Yes, I did.

23 Q And, Ms. Butler, I will ask you to stand up and
24 look at what has been marked as State's Exhibit
25 Number 66. Do you recognize this large heavy

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1 object?

2 A (Witness leaves the witness stand.)

3 Q Can you testify what it is without opening it?

4 MR. PRIDE: Judge, she needs to talk up louder
5 so I can hear back here.

6 MS. GARFIELD: I asked if she could testify
7 what it is without opening it.

8 A Yes, I can. Because it has the item number,
9 S.L.E.D. item number 4. It has my initials, the
10 date I processed it, and also the lab number. It's
11 item number 4 and it also has the S.L.E.D. seal
12 where I initialed, and I date the seal and close it
13 back up.

14 Q And did you process that item?

15 A (Witness resumes the witness stand.) Yes, I did.

16 Q And what did you do with that item?

17 A The item was two pieces of trunk liner. I laid it
18 out on the table, one by one. There was a hard
19 piece of trunk liner and it was a flex piece of
20 trunk liner.

21 Q And did you swab those items?

22 A First, what we did I was looking for blood at
23 first, for presumptive tests for blood. I turn all
24 the lights off, and I use what we call -- this is
25 how we do it.

1 We turn all the lights off. We have glasses,
2 particular glasses on, and we use the light source.
3 Everything that is on this particular liner would
4 fluoresce. I put a circle on everything that
5 fluoresces because we use two different light
6 sources.

7 Once it fluoresces I circle it, I turn the
8 lights back on, and I test each spot that it comes
9 on -- comes up. It was negative for blood but it
10 was also requested for any body fluids. So the
11 items that also fluoresced, I made a clean swab and
12 dried those swabs and sent it to the analyst,
13 Jennifer Clayton.

14 Q When you say fluoresced, what does that mean?

15 A It glows in the dark.

16 Q Thank you. I will show you items 34 and 35. Do
17 you recognize these envelopes?

18 A Yes, I do.

19 Q Please explain to the jury what each envelope
20 contains?

21 A S.L.E.D. item number 4.1, which is State's Exhibit
22 35, it was from the trunk liner. State's Exhibit
23 34, our item 4.3, is from the trunk liner. It's
24 also a swab.

25 Q That's referring to the same Q-tip and analysis

BETTY BUTLER -- DIRECT -- MS. GARFIELD

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1 that you were referring to before?

2 A That's correct.

3 Q That's from the trunk liner?

4 A Correct.

5 Q And after you did that, did you seal those
6 properly?

7 A I sealed it up, I put my initials, and the date I
8 processed it.

9 Q Who did you give those items to?

10 A These items went to the analyst, Jennifer Clayton.

11 Q For what purpose?

12 A For further testing.

13 MS. GARFIELD: Your Honor, at this time I
14 would like to introduce State's Exhibit 34, 35, and 66
15 into evidence.

16 THE COURT: Mr. Pride?

17 MR. PRIDE: No objection.

18 THE COURT: State's 34, 35, and 66 are in
19 evidence without objection.

20 (State's Exhibit Number 34, 35, and 66 are
21 received into evidence.)

22 BY MS. GARFIELD:

23 Q Ms. Butler, did you also get the opportunity to
24 process a comforter?

25 A Yes, I did.

1 Q And what kind of testing did you do on the
2 comforter?

3 A Item number 5, cream comforter, I was looking for
4 the possibility of blood.

5 Q And how did you go about doing that type of test?

6 A Once I received this particular piece of evidence,
7 I put the white paper down that we use to process
8 it on, laid it on out the table, and did a visual
9 tests.

10 On various items that it looks like it could
11 be blood, I did a chemical test. If an item
12 turned -- once I did the chemical tests, if it
13 turns pink, that means I cut it out and send it to
14 the analyst.

15 Q Mr. Butler, I want to show you State's Exhibit
16 Number 44. Do you recognize this comforter?

17 A Yes, I do.

18 Q And how do you recognize the item?

19 A This is S.L.E.D. item number 5, my initials, and
20 also the lab number that we tracked it with.

21 MS. GARFIELD: Your Honor, at this time I
22 would ask Investigator Wise to come down. He is going
23 to hold this blanket while Ms. Butler demonstrates to
24 the jury what she did with it.

25 THE COURT: All right. Officer Wise.

BETTY BUTLER -- DIRECT -- MS. GARFIELD

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1 MS. GARFIELD: Investigator Wise, come stand
2 right here where I am and if you will hold the blanket
3 out.

4 BY MS. GARFIELD:

5 Q Go ahead, Ms. Butler.

6 A Anything that looks like it could be blood, I did a
7 circle for every item. When I test it, if it
8 doesn't react, that means it's a negative for the
9 chemical test that I used for each spot.

10 I made one cutting from this particular
11 blanket that once I did the chemical test, if it
12 turned pink, I cut it out, which is this area right
13 here (indicating) that was positive.

14 I cut it out. I put item 5.1 on it, put it
15 into a coin envelope, put my initials, and the
16 date, and I sent it or gave it to Jennifer Clayton
17 for further testing. I tested all the other spots
18 that you see circled.

19 Q Ms. Butler, you only had one spot that reacted to
20 your test?

21 A Yes.

22 Q Thank you. And you gave -- well, that accurate
23 reactive, you made a cutting?

24 A Yes, I did.

25 Q And the cutting is what you gave to Ms. Clayton?

1 A That's correct.

2 MS. GARFIELD: Your Honor, at this time I
3 would like to introduce this blanket into evidence. Let
4 me get the number for you. I move item Number 44 into
5 evidence Judge.

6 MR. PRIDE: Forty-four is the comforter?

7 THE COURT: State's 44 is in evidence.

8 Without objection, Mr. Pride?

9 MR. PRIDE: Without objection.

10 (State's Exhibit Number 44 is received into
11 evidence.)

12 BY MS. GARFIELD:

13 Q Ms. Butler, at this time I show you what has been
14 marked as State's Exhibit Number 36. Do you
15 recognize this envelope?

16 A State's Exhibit 36 is our item number 5.1, the
17 cutting from the comforter.

18 Q And that's the cutting from the comforter we just
19 saw?

20 A Yes, it is.

21 Q Then you properly packaged it?

22 A Yes, I did. I put the lab number, description on
23 it, our item number taken off the cutting, the
24 presumptive test for blood, initials, and the date.

25 Q And who did you then give that envelope to?

BETTY BUTLER -- DIRECT -- MS. GARFIELD

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1 A To analyst Jennifer Clayton.

2 Q Thank you.

3 MS. GARFIELD: Your Honor, at this time I
4 introduce State's Exhibit 36 into evidence.

5 MR. PRIDE: No objection.

6 THE COURT: State's 36 in evidence without
7 objection.

8 (State's Exhibit Number 36 is received into
9 evidence.)

10 BY MS. GARFIELD:

11 Q And lastly, Ms. Butler, I will show you what is
12 marked as State's Exhibit Number 32. Do you
13 recognize what is in this brown paper bag?

14 A Yes, I do.

15 Q Can you please show the jury or tell the jury what
16 items are in that bag?

17 A S.L.E.D. item numbers 8.0 and 7.0.

18 Q We will take things out of order. What did you
19 first do to your item number 8?

20 A First, I did a visual. I was looking for the
21 presence of possible blood. Everything that looks
22 or appears that it could be blood, I circle it and
23 then do the chemical test.

24 If it reacts I cut it. If it didn't I just
25 circle it and put a negative on it. I had one area

1 that reacted to possible blood, which was S.L.E.D.
2 item number 8.1.

3 Then I cut it out, circled it, the item here,
4 and also put the item on the cutting into the gold
5 coin envelope, seal it, initial and date it, and
6 give it to Jennifer Clayton.

7 Q And did you do the same type of test with item
8 number 7, S.L.E.D. item number 7?

9 A Yes, I did.

10 Q And did you find any items or markings on the
11 blanket that reacted to your test?

12 A Yes, I did.

13 Q Approximately how many?

14 A I did a representative sample, which was four
15 cuttings. A representative sample means there was
16 other items that reacted but we just wanted a
17 representative sample. So that's why I only cut
18 four pieces.

19 Q So you didn't cut every piece that was positive?

20 A No, I did not.

21 Q And how many pieces did you cut?

22 A Four pieces.

23 Q And after you cut those four pieces, what did you
24 do with each piece?

25 A I put the item number on each piece and each

BETTY BUTLER -- DIRECT -- MS. GARFIELD

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1 cutting, put it into a gold coin envelope, I seal
2 it, initial and date it, put the description on it,
3 put it into a heat-seal pouch, and give it to
4 Jennifer Clayton, the analyst.

5 Q I show you what has been marked as State's Exhibits
6 40, 37, 64, and 41. Do you recognize these
7 envelopes?

8 A Yes, I do.

9 Q What do each of those envelopes contain?

10 A State's Exhibit 40 is S.L.E.D. item number 7.1. It
11 is from the blanket. It has the lab number on it.
12 It is one of the cuttings that I cut. It has my
13 initials and the date. State's Exhibit 37,
14 S.L.E.D. item number 7.2 from the blanket, is a
15 cutting, my initials, and the date.

16 State's Exhibit 64, S.L.E.D. item number 7.3
17 is another cutting, my initials and the date,
18 State's Exhibit 41, S.L.E.D. item number 7.4,
19 cutting from the blanket, my initials, and the
20 date.

21 Q And did you package those properly?

22 A After I packaged these particular ones, I put them
23 into a heat-seal pouch. I initialed and dated the
24 heat-seal pouch, sealed it, and gave it to Jennifer
25 Clayton.

1 Q And you gave it to Jennifer Clayton for what
2 purposes?

3 A For further testing.

4 Q When we refer to pieces of the blanket, do you
5 refer to those as cuttings?

6 A Yes, I do.

7 MS. GARFIELD: Your Honor, at this time I like
8 to introduce the following exhibits into evidence:
9 State's Exhibit 40, 37, 64, 41, and 32.

10 THE COURT: Mr. Pride?

11 MR. PRIDE: No objection.

12 THE COURT: State's 32, 37, 41, 40, and 64 are
13 in evidence without objection.

14 (State's Exhibits Number 32, 37, 40, 41, and
15 64 are received into evidence.)

16 MS. GARFIELD: Beg the Court's indulgence.

17 (Pause.)

18 BY MS. GARFIELD:

19 Q Thank you so much, Ms. Butler. Please answer any
20 questions Mr. Pride has for you.

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

22 **CROSS EXAMINATION**

23 BY MR. PRIDE:

24 Q Good evening, Ms. Butler. How are you?

25 A Fine. Thank you.

BETTY BUTLER -- CROSS -- MR. PRIDE

1 Q Ms. Butler, is it safe to say based on your
2 examination of the lining of the trunk that was
3 given to you, that you testified that you found no
4 blood on it?

5 A That's correct.

6 Q And on the quilt, which is this bag right here, you
7 cut one piece out -- and you showed us exactly
8 where -- and you found blood on that?

9 A It's a possibility it was blood.

10 Q A possibility?

11 A Yes.

12 Q Did it turn out to be blood?

13 A I don't know.

14 Q You don't see the results. The possibility is
15 based on observation first and a test which will
16 either come back positive or negative?

17 A That's correct.

18 Q And then perhaps a light test and a dark test; is
19 that correct? An illuminating test?

20 A We use that -- when I say alternate light source,
21 that's what you are referring to?

22 Q Yes.

23 A What I do is when we turn the lights off, it just
24 fluoresces; and we see if it comes back positive or
25 negative.

1 Q And you found one possible specimen on the -- it's
2 not a quilt? It's a --

3 A -- comforter.

4 Q -- a comforter; right? Is that right?

5 A That's correct.

6 Q And on the baby blanket you cut four specimens out;
7 is that correct?

8 A That's correct.

9 Q And those four specimens tested positive?

10 A Yes, they did.

11 Q And did you test any other items that were given to
12 you as a result of this, the charges and the
13 searching of Ms. Jennings' car, that you found
14 which possibly had blood on it?

15 A I had item number -- S.L.E.D. item number 10 that
16 had a possible weak positive on that particular
17 item.

18 Q A weak positive? Being it's not enough in order
19 for confirmation; is that correct?

20 A My weak positive is if one small spot turns a pink,
21 it is a possibility it is blood; and I transfer it
22 to the analyst and let them determine whether it's
23 really blood or not.

24 Q Why would you preference it by saying weak?

25 A It turns -- because when I swab the whole area,

BETTY BUTLER -- CROSS -- MR. PRIDE

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1 only a small spot turned pink.

2 Q Okay. Now, these items down here are the swabs
3 that you cut out of the blanket; is that right?
4 Would you come down, if you don't mind, and tell me
5 which ones you cut out of the blanket? I want you
6 to open the envelope and show the jury a piece of
7 the swab that you cut.

8 A (Witness leaves the witness stand.)

9 Q If you need any documentation, please get that.

10 A From the blankets?

11 Q Well, yeah, I think you said you cut four from
12 the --

13 COURT REPORTER: Judge, I cannot hear them.

14 MR. PRIDE: I'm sorry. I know better.

15 BY MR. PRIDE:

16 Q I think you cut four from the blanket.

17 A This is State's Exhibit Number 40, which is
18 S.L.E.D. item number 7.1, and 7.1 this is the
19 cutting.

20 Q All right. And what is on the other side? Did you
21 find stains on both sides? Well, let me ask you
22 another way. Are there stains visible on both
23 sides?

24 A It's not visible. There is not a circle so that
25 means I didn't find anything from that side. It

1 was only on this particular side.

2 Q Now, I would like to go to the comforter. If you
3 would show me a sample of what you cut in order to
4 send to the lab for further verification, I would
5 appreciate it.

6 A State's Exhibit 36, S.L.E.D. item 5.1, from the
7 comforter, item number 5.1.

8 Q That's the side of the comforter that was visible
9 for the stain by the eye; is that correct?

10 A That's correct.

11 Q And turn it around on the other side. Can you
12 tell me if the other side is visible?

13 A It is visible. You can see it.

14 Q And do you know what that comforter is made out
15 of?

16 A I wouldn't have any idea.

17 Q Thank you very much.

18 A (Witness resumes the witness stand.)

19 Q And so far as the final results of the samples that
20 you cut, that went to someone else for further
21 testing? Would that be correct?

22 A That's correct.

23 Q And you have no knowledge of the results of those
24 further testings?

25 A I don't have knowledge of it.

BETTY BUTLER -- REDIRECT -- MS. GARFIELD

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1 Q Okay. Thank you very much, Ms. Butler. I
2 appreciate your testimony.

3 THE COURT: Redirect, Solicitor?

4 MS. GARFIELD: Yes, sir.

5 **REDIRECT EXAMINATION**

6 BY MS. GARFIELD:

7 Q Mr. Pride directed your attention to S.L.E.D. item
8 number 10. Do you have in your notes what kind of
9 object that was?

10 A S.L.E.D. item number 10 was a shovel.

11 Q Do you recognize this item, Ms. Butler?

12 A It has the lab number, which is L-12-43, S.L.E.D.
13 item number 10. It has my initials on it and it
14 has my date. This (indicating) is the S.L.E.D.
15 seal. Inside, if you would see, my initials and
16 the lab number on it also.

17 Q What type of testing did you do on this item?

18 A On this I was looking only for blood.

19 Q And what were the results of your test?

20 A I received a weak positive on the head, the head of
21 the shovel.

22 MS. GARFIELD: Your Honor, at this time I
23 would move State's Exhibit Number 69 into evidence.

24 MR. PRIDE: No objection, Your Honor.

25 THE COURT: State's 69 is in evidence without

1 objection.

2 (State's Exhibit Number 69 is received into
3 evidence.)

4 BY MS. GARFIELD:

5 Q Thank you, Ms. Butler.

6 THE COURT: Redirect -- excuse me -- recross,
7 Mr. Pride?

8 **RECROSS EXAMINATION**

9 BY MR. PRIDE:

10 Q Mr. Butler, on 69 what kind of testing did you do?

11 A State's Exhibit 69, which is S.L.E.D. item
12 number 10?

13 Q Which is the shovel.

14 A Yes.

15 Q And when you said the head of the shovel, you mean
16 the metal part that you would dig in the ground;
17 right?

18 A That's correct.

19 Q What kind of testing did you do on that that gave
20 you a weak sample?

21 A I swabbed the entire shovel and only at the one
22 section of the metal section gave me only a weak
23 positive.

24 Q Ms. Butler, my drawing is terrible, but if this was
25 the shovel, would you show us where you found the

1 spots? You would have to look at it again?

2 A Yes, I have marked it. I also have it marked on
3 the shovel.

4 Q Do you remember that size? You do have that down;
5 don't you?

6 A It appears in this area right here (indicating)
7 from the drawing.

8 Q And would it appear as the size that you marked?

9 A Excuse me?

10 Q You circled showing the center or were you trying
11 to show us the size of the blood sample?

12 A No, I'm showing you the area that I swabbed.

13 Q Okay. And you don't recall the size?

14 A It was about this area (indicating), all this area
15 right in here (indicating) that I swabbed, from
16 this area right here (indicating).

17 Q And you found blood in that entire area?

18 A Once I swab, I swab it in pieces. I swab this
19 whole entire area right here (indicating) with a
20 clean swab. Once I swab this area, I put the
21 chemical test on. It will react and that's why I
22 sent it over. It was a weak positive. So that's
23 why I sent that particular item up for further
24 testing.

25 Q My point is this. You have demonstrated to me with

1 a pen this entire area (indicating) you swabbed;
2 right?

3 A Yes.

4 Q But you have not demonstrated to me where you found
5 the blood in that area.

6 A I really don't know exactly the spot because I did
7 this whole entire area right here (indicating).
8 Once I swab this area, I test that particular swab
9 and it turned up positive.

10 Q So what you tested was the swab that you swabbed
11 that you use to sort of paint that area; is that
12 correct?

13 A That's correct.

14 Q And would it not be correct -- would I be wrong or
15 would it be right -- if I said that the amount that
16 you found was infinitesimal? Very small?

17 A It was.

18 MR. PRIDE: I have no further questions.

19 THE COURT: Thank you. Thank you very much,
20 Ms. Butler. You may step down. You may be excused.

21 (Witness leaves the witness stand.)

22 MR. PRIDE: Were you asking? Yes.

23 THE COURT: Thank you. Thank you, Mr. Pride.
24 Solicitor, you may call your next witness.

25 MS. GARFIELD: Thank you, Your Honor. The

NIKKI HUGHES -- DIRECT -- MS. GARFIELD

1 State calls Nikki Perry.

2 THE COURT: Ms. Perry, if you would come
3 around for us, please, and be sworn.

4 NIKKI PERRY HUGHES, being
5 first duly sworn, testifies as follows:

6 CLERK: Have a seat in the witness stand,
7 please. State your full name, please, and spell your
8 first name.

9 THE WITNESS: My name is Nikki Perry Hughes.
10 N-I-K-K-I.

11 DIRECT EXAMINATION

12 BY MS. GARFIELD:

13 Q Ms. Hughes, where are you employed?

14 A I am employed with the South Carolina Law
15 Enforcement Division, commonly known as S.L.E.D.

16 Q Where are you employed at S.L.E.D.?

17 A I am employed in the forensic lab in the evidence
18 control department.

19 Q As part of your duties in the evidence control
20 department, what do you do?

21 A In our department we log-in, package, and transfer
22 evidence that is brought into the lab for forensic
23 testing.

24 Q Did you have any involvement in your capacity at
25 S.L.E.D. handling any evidence in this particular

1 case that we are in court for?

2 A I did.

3 Q Particularly what item did you have control of?

4 A I handled S.L.E.D. item number 11, which is an oral
5 swab from Denise Jennings.

6 Q And where did you obtain that particular oral swab?

7 A I retrieved it from our D.N.A. intake shelf, which
8 is located in our secure evidence room on
9 April 3rd, 2012.

10 Q Can you identify who put it in your evidence room?

11 A According to my chain of custody, it was placed in
12 the evidence room by Selena Kinard, which was a
13 forensic technician in our evidence.

14 Q Does your log indicate who Selena Kinard accepted
15 it from?

16 A According to my chain, she received it from Colin
17 Bailey with the Columbia Police Department.

18 Q Ms. Hughes, when you received that item containing
19 Denise Jennings' oral swab, was it packaged
20 properly?

21 A It would have been, yes, ma'am.

22 Q And if it wasn't, would you have taken it?

23 A No, ma'am.

24 Q And once you gained possession of the oral swab
25 from Denise Jennings, what did you do with it?

NIKKI HUGHES -- DIRECT -- MS. GARFIELD

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1 A I then transferred it to the custody of forensic
2 scientist, Jennifer Clayton, who is employed in our
3 D.N.A. department.

4 MS. GARFIELD: Your Honor, at this time I like
5 to introduce State's Exhibit Number 39, which is the
6 oral swab of Denise Jennings.

7 THE COURT: Mr. Pride?

8 MR. PRIDE: I have no objection.

9 THE COURT: State's 39 is a swab from -- say
10 who it's from again.

11 MS. GARFIELD: Denise Jennings.

12 THE COURT: From Denise Jennings -- in
13 evidence without objection.

14 (State's Exhibit Number 39 is received into
15 evidence.)

16 MS. GARFIELD: Thank you, Your Honor. Nothing
17 further.

18 THE COURT: Mr. Pride?

19 MR. PRIDE: Thank you very much, Judge. No
20 questions.

21 THE COURT: Thank you for being with us,
22 Ms. Hughes. You may step down and you may be excused.

23 (Witness leaves the witness stand.)

24 THE COURT: Solicitor.

25 MS. GARFIELD: Thank you, Judge. The State

1 calls Patricia Crooks.

2 THE COURT: Ms. Crooks, if you would please
3 come around and join us.

4 PATRICIA CROOKS, 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 and please
8 spell your last name.

9 THE WITNESS: Patricia Crooks, C-R-O-O-K-S.

10 DIRECT EXAMINATION

11 BY MS. GARFIELD:

12 Q Ms. Crooks, where are you employed?

13 A I am employed at the State Law Enforcement
14 Division, also known as S.L.E.D.

15 Q And where are you assigned at S.L.E.D.?

16 A I'm assigned to the evidence control department,
17 and I work in the secure evidence room.

18 Q And what are your duties in the secure evidence
19 room?

20 A Some of my duties are to pull evidence when it is
21 requested by a forensic technician or forensic
22 scientist, to also receive evidence back after it
23 has been processed, and to pull evidence that has
24 been processed and return it to the submitting
25 agency.

1 Q And in this case we are in court for today, did
2 you have any responsibilities of evidence in this
3 case?

4 A Yes, I did.

5 Q Can you share with the jury what you did.

6 A On January 4th of 2012, I pulled one heat-seal
7 pouch containing buccal swab described as Roderick
8 Mitchell. I took custody of that item and then in
9 turn transferred that item to forensic scientist
10 Jennifer Clayton.

11 Q What type of scientist is Ms. Clayton?

12 A A forensic scientist.

13 Q Does she specialize in any kind of analysis?

14 A I couldn't answer for her department.

15 Q Okay. Ms. Crooks, where did you get this sample
16 from Mr. Mitchell, the swab from Mr. Mitchell?

17 A I removed that sample from the evidence room,
18 D.N.A. intake shelf 50.

19 Q Do your records indicate as to who actually put it
20 on that shelf?

21 A Yes, they do. That would have been forensic
22 technician Selena Kinard.

23 Q Does it also represent in your documents where
24 Ms. Kinard received the item?

25 A Yes, she received that item from Investigator Colin

1 Bailey of the Columbia Police Department.

2 Q Ms. Crooks, when you received that item from the
3 shelf, was it packaged properly?

4 A Yes, it was.

5 Q If it was not packaged properly, what would you
6 have done?

7 A I wouldn't have removed it. I would have contacted
8 my supervisor.

9 Q When you transferred it to Mr. Clayton, was it
10 still packaged properly?

11 A Yes, it was.

12 Q Thank you.

13 MS. GARFIELD: Your Honor, at this time I
14 would like to introduce State's Exhibit 42 into
15 evidence. This would be the swab of Mr. Roderick
16 Mitchell.

17 THE COURT: Mr. Pride?

18 MR. PRIDE: I don't have any objections to
19 that, Judge.

20 THE COURT: State's 42 is in evidence without
21 objection.

22 (State's Exhibit Number 42 is received into
23 evidence.)

24 BY MS. GARFIELD:

25 Q Thank you, Ms. Crooks. Please answer any questions

PATRICIA CROOKS -- CROSS -- MR. PRIDE

1 Mr. Pride may have.

2 CROSS EXAMINATION

3 BY MR. PRIDE:

4 Q Ms. Crooks?

5 A Yes, sir.

6 Q On direct examination you testified that on
7 January 4, 2012, that you removed that sample,
8 which has been identified as the sample of Roderick
9 Mitchell?

10 A That's correct.

11 Q Does that sample indicate when Roderick was
12 swabbed?

13 A No, sir, it does not.

14 Q So there is nothing in your record to indicate when
15 Roderick was swabbed?

16 A I don't have the knowledge of that, no, sir. I'm
17 reading from our electronic chain of custody.

18 Q Does it indicate a date that Ms. Kinard got that
19 swab?

20 A Yes, sir, it does, on January the 3rd, 2012.

21 Q And does it indicate who Ms. Kinard got it from?

22 A Yes, it does. She received that item on
23 1/3/12 from Investigator Colin Bailey of the
24 Columbia Police Department.

25 Q So the police department sent to S.L.E.D. a swab

1 from Roderick Mitchell in January of 2012? Would
2 that be correct?

3 A According to the electronic chain, yes, sir.

4 Q I don't have any further questions. Thank you.

5 THE COURT: Redirect, Solicitor?

6 MS. GARFIELD: No, sir.

7 THE COURT: Thank you. Thank you very much,
8 Ms. Crooks. You may step down and you may be excused.

9 THE WITNESS: Thank you.

10 (Witness leaves the witness stand.)

11 THE COURT: Solicitor.

12 MS. CAMPBELL: May it please the Court. The
13 State calls Jennifer Clayton.

14 THE COURT: Ms. Clayton, if you would come
15 forward and join us, please.

16 JENNIFER CLAYTON, being
17 first duly sworn, testifies as follows:

18 CLERK: Have a seat in the witness stand,
19 please. State your full name for the record.

20 THE WITNESS: Jennifer Clayton, C-L-A-Y-T-O-N.

21 **DIRECT EXAMINATION**

22 BY MS. CAMPBELL:

23 Q Agent Clayton, where are you employed?

24 A I am currently employed by the South Carolina Law
25 Enforcement Division, also known as S.L.E.D.

JENNIFER CLAYTON -- DIRECT -- MS. CAMPBELL

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1 Q What do you do there, ma'am?

2 A I am a forensic scientist with the D.N.A.
3 department.

4 Q And as a forensic scientist with the D.N.A.
5 department, what do your duties include?

6 A My main duties are to perform D.N.A. testing on
7 evidence that is submitted in criminal cases; and
8 also, if it's applicable, I test for the possible
9 presence of body fluids. I then prepare reports
10 based on my results and issue those reports.

11 Q When you say you test for the presence of possible
12 body fluids in certain cases, what body fluids are
13 you talking about?

14 A The body fluids that we test for are blood, semen,
15 and saliva.

16 Q And typically those are serological tests?

17 A That's correct.

18 Q Then once those tests are performed, in certain
19 cases can you then also perform D.N.A. testing as
20 well?

21 A That's correct.

22 Q Can you tell this jury a little bit about your
23 education and your training in the field of D.N.A.
24 analysis?

25 A I earned a Bachelor's of Science in biology from

1 the University of North Carolina at Chapel Hill. I
2 have also taken classes at N.C. State and U.S.C.
3 My course work includes molecular biology, Genex,
4 biochemistry, and statistics.

5 I completed an internship at the North
6 Carolina State Bureau of Investigations molecular
7 genetics department, which is the equivalent of
8 S.L.E.D.'s D.N.A. department.

9 I originally hired on with S.L.E.D. as a
10 forensic technician in the D.N.A. department. I
11 worked as a technician for two years before being
12 hired as an analyst.

13 I completed a one-year training program under
14 another qualified analyst and worked case work
15 under his supervision before I was allowed to work
16 case work on my own.

17 Q And how long have you actually been active in
18 analyzing D.N.A.?

19 A I completed my training approximately seven years
20 ago.

21 Q And over the course of the last -- after your
22 training was completed -- the last seven years, do
23 you know how many cases you have actually done
24 testing on?

25 A I don't know for certain. It's in the hundreds.

JENNIFER CLAYTON -- DIRECT -- MS. CAMPBELL

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1 Q And have you ever testified before as an expert in
2 D.N.A. analysis, as a forensic scientist in D.N.A.
3 analysis?

4 A Yes, I have.

5 Q And do you know how many times you have been
6 qualified in that area?

7 A I believe it's 27 times.

8 MS. CAMPBELL: Your Honor, at this time we
9 would offer her as an expert as a forensic scientist in
10 D.N.A. analysis.

11 THE COURT: Mr. Pride?

12 MR. PRIDE: Judge, we would not raise any
13 objection to Ms. Clayton's credentials and do not
14 challenge them.

15 THE COURT: Thank you. Thank you very much,
16 Mr. Pride.

17 Again, ladies and gentlemen of the jury panel,
18 normally a person cannot give opinion testimony.
19 Normally, when a person testifies, they must testify as
20 to what they either saw, heard, or sensed by smell or
21 something of that nature.

22 However, there is an exception when someone is
23 qualified because of education, training, and
24 experience. They are permitted to give their opinions
25 in certain areas if the Court qualifies them that way.

1 This witness, Agent Jennifer Clayton, will be
2 qualified in the area as a forensic scientist in the
3 area of D.N.A. analysis to give opinion testimony in
4 that regard. That does not mean that you must accept
5 the opinion, but it is evidence for you the jury to use
6 in any way you see fit.

7 Thank you, Solicitor. You may continue.

8 MS. CAMPBELL: Thank you.

9 BY MS. CAMPBELL:

10 Q In this case as -- well, let me talk about
11 typically in cases. When you receive evidence, you
12 receive evidence from the crime scene, as well as
13 what is known as known samples?

14 A Typically that is correct.

15 Q And you mentioned first that some preliminary
16 testing you may do may be for serological evidence,
17 such as body fluids. What types of body fluids can
18 you actually do testing for?

19 A We test for -- I can test for the presence of
20 semen, the presence of blood, or the presence of
21 saliva.

22 Q And depending on the nature of the case itself, is
23 certain testing done?

24 A That is correct. It's typically based on the
25 request that is given by the submitting agency.

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1 Q So, say, if it's a murder case versus a criminal
2 sexual conduct case, the testing you do may be
3 different?

4 A That's correct.

5 Q Prior to you receiving any evidence in any case,
6 does it go through your evidence technicians first?

7 A In our evidence control department, that's correct.

8 Q And as Ms. Butler just testified, is there certain
9 preliminary testing that is done even before you
10 receive the evidence?

11 A Depending on the type of evidence, that is correct.
12 When there are larger items submitted, such as
13 clothing, blankets, shovels, any large object, it
14 typically goes to an evidence processing technician
15 for processing. Then if they find anything that
16 may need D.N.A. testing, they will collect those
17 samples and send them to the D.N.A. department.

18 Q So their purpose is, in fact, to kind of serve as a
19 screening mechanism? Because if it doesn't test
20 positive for blood, they are not necessarily going
21 to forward anything for you if it's blood evidence
22 we are looking for?

23 A That's correct.

24 Q In this case even though certain items tested
25 positive in their department, did you do some

1 additional testing on certain items?

2 A That is correct. Depending on the scenario,
3 correct.

4 Q In this case as far as any serology you did in this
5 case, does the size of the sample or the amount of
6 sample there affect whether or not you may test for
7 the presence of blood?

8 A Yes, that's correct. Sometimes there is a very
9 limited amount of sample. So I have a choice
10 between consuming additional samples to do
11 confirmatory testing or saving a portion of that
12 sample in the event that anyone should choose to
13 have retesting done down the road. Typically when
14 that is the choice, I try to leave a sample
15 remaining.

16 Q And as far as being definitive, as far as being
17 able to actually match something when you are doing
18 the serological testing, you can just say whether
19 or not it's, say, human blood or blood?

20 A The testing we run is considered a confirmatory
21 test for blood. It was originally considered to be
22 confirmatory for human or higher primate blood;
23 however, it was later determined that it could give
24 a possible weak positive on ferret blood.

25 It doesn't give it on chickens or dogs or

1 ducks or most of the common things you run into,
2 deer. But because it was determined that it could
3 give a weak positive on ferret blood, it was no
4 longer considered confirmatory for human blood. It
5 was only considered confirmatory for the presence
6 of blood.

7 Q So with the exception of ferret blood, it's pretty
8 much an indicator that it's blood and human blood?

9 A Or a higher primate, correct.

10 Q Or a higher primate. In this case were there
11 certain items that you did -- before you did your
12 D.N.A. testing -- that you did some preliminary
13 testing on?

14 A Yes.

15 Q Let me back up a little bit too. In this case
16 different items are tested at different times as
17 they come into your laboratory?

18 A That is sometimes the case. It depends on at what
19 point I receive the items.

20 Q Is that pretty typical in certain cases as evidence
21 is collected? It may be forwarded to you --
22 samples collected from people -- may be forwarded
23 to you at different times?

24 A That's correct.

25 Q And as far as when a sample is actually collected

1 versus when you actually do the testing, as long as
2 it is properly preserved, does it affect the
3 outcome in any way?

4 A No. As long as a sample that contains D.N.A.
5 evidence is kept in a cool, dry environment and
6 it's protected from ultraviolet light, it can
7 conceivably be saved indefinitely without any
8 detrimental effect to the sample.

9 Q But on the other hand, in cases where items may be
10 stored outdoors or exposed to the elements, can
11 that affect your ability to get a result?

12 A Yes, it can.

13 Q Does it change the D.N.A. to make it look like
14 someone else's or what will it do?

15 A No. Typically when D.N.A. is exposed to excessive
16 heat, moisture, ultraviolet light, chemicals, it
17 will degrade the D.N.A. Basically what that means
18 is it starts to break the D.N.A. down, which can
19 either diminish our ability to develop a profile or
20 it completely inhibits our ability to develop a
21 D.N.A. profile.

22 Q Again, it won't make it change to look like
23 somebody else's blood?

24 A No.

25 Q In that same vein if someone, say, encounters an

JENNIFER CLAYTON -- DIRECT -- MS. CAMPBELL

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1 object -- an object is encountered with blood but
2 later someone washes it off or does something to
3 it, could that also inhibit your ability to get any
4 D.N.A. results?

5 A Well, certainly if they wash it thoroughly enough
6 to removed any D.N.A., we won't be able to develop
7 a D.N.A. profile because there is no D.N.A.
8 present. It can dilute the sample where there is a
9 very small amount remaining, but it's not enough to
10 develop a profile.

11 The testing that we use and the instruments
12 that we use have a minimum threshold. Below a
13 certain threshold, they won't detect the D.N.A.
14 Depending on what type of substance they used to
15 clean an item, that can affect the D.N.A. as well.
16 It can degrade the D.N.A.

17 Q In this case there were multiple items that were
18 forwarded to you that had tested positive on the
19 preliminary testing for the presence of blood, and
20 those items were forwarded to you. In your
21 laboratory do you also have the capability to test
22 for D.N.A. that is referred to as touch D.N.A.
23 versus body fluid D.N.A.?

24 A That's correct.

25 Q And the testing itself, is there any real

1 difference as far as the mechanisms of the testing?

2 A No, the mechanisms for testing for touch D.N.A.
3 would be the same as testing, for instance, for
4 blood.

5 Q And body fluids that are left, such as blood or
6 semen or saliva, in touch D.N.A. is it -- I don't
7 know how to put this -- what is the likelihood,
8 say, if I touched this item right here
9 (indicating)? Am I necessarily going to leave any
10 D.N.A. here that can be tested at a later time?

11 A It depends. Different people leave varying amounts
12 of D.N.A. behind when they touch an item. Actually
13 it has been shown that even the same person will
14 leave different amounts of D.N.A. at different
15 times on a object.

16 Sometimes there is enough D.N.A. left behind
17 to develop a profile and sometimes there is not.
18 Body fluids, such as blood, typically contain much
19 more D.N.A. than a touch D.N.A. sample would; and
20 therefore, there is a higher likelihood of
21 developing a profile from a blood sample.

22 Q And in this case when you did some preliminary
23 serological testing, what items did you actually
24 test?

25 A May I refer to my notes?

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1 Q Yes, please do.

2 A I performed serology testing on S.L.E.D. item 5.1,
3 which was a cutting from a cream-colored comforter;
4 item 7.1, which was a cutting from a light blue
5 baby blanket; and also items 7.3 and 7.4, which
6 were also cuttings from a light blue baby blanket.

7 Q And why did you choose those items to do your
8 serological or blood testing on?

9 A Those items had given a positive result on the
10 presumptive test performed in our evidence
11 processing department. I therefore ran
12 confirmatory tests.

13 There was an additional item, 7.2, that was a
14 presumptive positive in evidence processing for the
15 possible presence of blood; however, it was a very
16 limited sample. It was a small amount of the
17 sample.

18 So I used a portion of the sample to attempt
19 to develop a D.N.A. profile and then left the
20 remainder of the sample in the event that anyone
21 would choose to have retesting down the road; for
22 instance, for some reason they wanted to send it to
23 an external lab for testing.

24 Q In this case did you also receive a swab from item
25 number 10, S.L.E.D. item number 10, as well?

1 THE COURT: Ms. Campbell, let me stop you just
2 a minute. I apologize. Step up here just a moment,
3 please.

4 (Whereupon there was a bench conference off
5 the record in the presence of the jury but out of the
6 hearing of the jury.)

7 THE COURT: Ladies and gentlemen, step
8 momentarily to your jury room. Do not discuss the case
9 during this brief recess.

10 (The jury retires to the jury room.)

11 THE COURT: Agent Clayton, you may step down
12 and refresh yourself during this brief recess. You may
13 not discuss your testimony with anyone while we take
14 this recess.

15 MS. CAMPBELL: May I just tell her why we are
16 breaking? That it's nothing she has done?

17 THE COURT: Yes, ma'am. We will take about a
18 15-minute recess. Thank you very much.

19 (Whereupon there was a recess.)

20 MR. PRIDE: Judge, I asked Ms. Zinah Jennings:
21 Can we make it through the rest of the day? And the
22 answer was yes.

23 THE COURT: Are you all right, Ms. Jennings?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: For about another 35 or 40

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1 minutes?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Any time you have any problems,
4 just please let one of the lawyers know or let the
5 sheriff over here know, and they will notify me. Okay?

6 THE DEFENDANT: Thank you.

7 THE COURT: Thank you. Bring us our jury,
8 please.

9 (The jury returns to the courtroom.)

10 THE COURT: Welcome back, ladies and
11 gentlemen. I appreciate your patience with the Court
12 today. My goal is to finish with Agent Clayton. I
13 apologize for that delay, but my goal is to finish with
14 this witness this evening.

15 With that being said, if you would please
16 continue to give the parties your complete and undivided
17 attention.

18 Solicitor, you may proceed.

19 MS. CAMPBELL: Thank you, Your Honor.

20 **DIRECT EXAMINATION**

21 BY MS. CAMPBELL:

22 Q Agent Clayton, I show you what is marked as State's
23 Exhibit Number 60. Is that a swab you received
24 from item number 10?

25 A Yes, it is.

1 Q And in that case did you do any serological testing
2 on that swab?

3 A I did not. The evidence processing sheet from
4 Betty Butler indicated that it was a very small
5 area that gave a weak reaction for the possible
6 presence of blood.

7 Because it was such a limited sample, I had
8 the choice of testing to possibly confirm the
9 presence of blood or I could use the sample to
10 attempt to develop a D.N.A. profile. Given that
11 choice, I chose to attempt to develop a D.N.A.
12 profile.

13 Q In every case, say, when an item such as an item
14 found at a crime scene -- be it a shovel, a blanket
15 or whatever comes in contact with a body fluid or
16 someone touches it -- are you necessarily going to
17 be able to get a D.N.A. profile from that?

18 A No, not necessarily.

19 Q In this case were there certain known samples that
20 were submitted for your comparison purposes?

21 A Yes, there were.

22 Q Why do you have to have a known sample from someone
23 in order to do a D.N.A. comparison?

24 A The purpose of having a known sample is that the
25 sample is known to have come from an individual.

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1 Typically the sample that is used as a known
2 standard is either a buccal swab or a blood sample
3 from the individual.

4 Therefore, any D.N.A. profile developed from
5 that standard is known to have come from that
6 individual. That allows me as an analyst to
7 compare any D.N.A. profile developed from evidence
8 to a D.N.A. profile developed from a standard to
9 determine if there is a match.

10 Or if a mixture of D.N.A. from more than one
11 individual is developed from the evidence, it
12 allows me to compare the standards to the evidence
13 to determine if that individual could have possibly
14 contributed D.N.A. to the sample.

15 Q In this case did you receive certain known samples
16 from individuals?

17 A I did.

18 Q And were there four separate swabs taken from
19 individuals for your comparison purposes?

20 A That is correct.

21 Q And who all did you receive samples from in this
22 case?

23 A I received a known standard from Roderick Mitchell.
24 I also received a known standard from Denise
25 Jennings, and I actually received two separate

1 samples from Zinah Jennings.

2 Q Once you had done your serological testing and you
3 got the known standards, do you run the same type
4 testing on the known standard or the buccal swab as
5 you do on the actual individual test items
6 themselves?

7 A That's correct. The testing for evidence and the
8 telling for standards is the same; however, they
9 are -- the samples are tested separately from the
10 standards to prevent cross contamination between
11 evidence and standards.

12 Q Just for the jury's edification, do you take
13 certain precautions to make sure that none of your
14 evidence is cross contaminated, contaminated,
15 degraded or anything while it is in your care?

16 A Yes.

17 Q Was that done in this case as far as all the
18 evidence we are getting ready to talk about?

19 A Yes.

20 Q Was there any chance for any contamination,
21 degradation, or cross contamination of this
22 evidence?

23 A No. All of our evidence, in addition to taking
24 steps to prevent contamination, we are also
25 required to check for any indication of

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1 contamination before we write our report and issue
2 it. There was no indication of any contamination
3 in this case.

4 Q And even before your report can be issued, I
5 believe your results are actually reviewed by
6 another independent analyst in your department?

7 A That's correct. Our reports actually go through
8 two different reviews. The first one is called a
9 technical review. It's where all of my results
10 were reviewed by another qualified analyst.

11 They look at all my D.N.A. results and compare
12 that to my report. They read my results and
13 confirm that they agree with the results that I
14 have written. Then the report goes to a second
15 admin review where they check for --

16 MR. PRIDE: Judge, I object to what other
17 people do with her report. I think she is confined in
18 her testimony to what she did and what her results were.

19 THE COURT: Overruled.

20 BY MS. CAMPBELL:

21 Q You can continue. I'm sorry.

22 A The admin reviewer checks for typographical errors
23 and again reads the results that I have written and
24 confirms that they agree with those results.

25 Q You mentioned earlier -- and can you tell this jury

1 just briefly -- how the D.N.A. testing is done and
2 how you are able to get results that then can be
3 compared to known standards?

4 A When a sample is submitted for testing, sometimes
5 serological testing is performed to test for the
6 possible presence of blood or another body fluid.
7 Sometimes the sample that's being tested for is
8 only possible touch D.N.A. or it's from a standard.

9 Regardless of what type of sample it is, it's
10 generally going to be processed exactly the same
11 way. A portion of the sample is cut and placed
12 into a tube.

13 Then chemicals are added to that tube which
14 break open the cells, and then it's sent through an
15 extraction process which separates the D.N.A. from
16 anything else that might be present on the sample
17 fibers from the cottons swab or from the blanket,
18 other parts of the cell, or anything that is not
19 the D.N.A. that I am interested in.

20 The D.N.A. is then put into a tube that
21 contains a buffer to help preserve the D.N.A. and
22 the D.N.A. itself. At that point the D.N.A. has to
23 be quantitated to determine how much D.N.A. is
24 present.

25 As I said earlier, the instruments that we use

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1 have a certain range that they can detect. If
2 there is not enough D.N.A. there, then it won't be
3 able to detect the sample.

4 If there is too much D.N.A. present when I run
5 it on the instrument, it will give false results.
6 It will give additional peaks or indications of
7 peaks that are not true peaks. So quantitating the
8 D.N.A. to determine how much is there allows me to
9 make adjustments if there is too much D.N.A.
10 present.

11 At that point the sample is amplified. What
12 that means is that chemicals are used to make lots
13 and lots of copies of the areas of the D.N.A. that
14 I'm testing.

15 Because we don't make copies of the entire
16 D.N.A. We just make copies of sections of it.
17 Then it is run on the instrument that, in fact,
18 detects the D.N.A. and gives what is known as the
19 D.N.A. profile.

20 Q And in this case when you receive actual cuttings
21 in this case, such as State's Exhibit Number 35,
22 which is your item 4.1 -- and, again, the
23 connotation as far as 4.1, does that indicate that
24 it's a separate piece of evidence from the baby
25 blanket or that it was taken from the baby blanket?

1 A Item 4.1 is actually from the trunk liner.

2 Q I'm sorry, from the trunk liner. The .1 part, is
3 that just to differentiate between different areas
4 within the item itself where evidence may be
5 collected?

6 A That's correct. When a cutting or swab from an
7 item is taken from an item, rather than testing the
8 item itself or taking a direct cutting from the
9 item to test it, that new item is swabbed or the
10 cutting is given a subitem.

11 Q You also mentioned that sometimes you can actually
12 match someone's D.N.A. and then there is also what
13 is known as a mixture of people's D.N.A. Explain
14 how that can happen on a single item.

15 A How a mixture can happen?

16 Q Yes, more than one person's D.N.A. being present on
17 a sample.

18 A Right. That just means that either -- that more
19 than one person came into contact with an item or
20 their body fluid came in contact with it. So if,
21 for instance, two people share a hoodie -- one
22 wears a sweatshirt and then lends it to their
23 friend, and their friend wears the sweatshirt --
24 it's possible both those individuals will leave
25 their D.N.A. behind on the sweatshirt.

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1 Q That would be more of a touch D.N.A. or D.N.A. from
2 their skin cells?

3 A That would be from the skin cells.

4 Q Which is typically referred to as touch D.N.A.?

5 A Correct.

6 Q Then also, even if it's a blood sample, say, can
7 you also have a mixture with more than one person's
8 D.N.A. present?

9 A That's correct. When there is blood present, there
10 is a possibility that it's -- if a mixture is
11 developed -- it's possible that more than one
12 person's blood is present or it could be that
13 there's body fluids from more than one person
14 present.

15 It could be that one person left behind blood
16 and another person left behind saliva. It's also
17 possible that one person's blood has been left
18 behind and another person's touch D.N.A. is left
19 behind.

20 Because there is so much D.N.A. in blood,
21 typically it's going to overpower touch D.N.A. You
22 are going to get a much stronger result from blood
23 than from touch D.N.A. typically.

24 Q And a mixture -- that's what I want to go to next
25 -- is there what is known as a major contributor

1 versus a minor contributor in many of your
2 mixtures?

3 A That's correct. Sometimes we are able to pick out,
4 as she said, a major contributor. What that means
5 is that one individual contributed considerably
6 more D.N.A. to an item than another individual.

7 In that case it's possible to pick out that
8 individual's profile, and the profile from the
9 major contributor can then be used for comparison,
10 and you can -- and a match can be made possibly to
11 an individual.

12 Q In forensic D.N.A. testing such as what we are
13 talking about here today, can it actually exculpate
14 or exonerate a person? Has it been used for those
15 purposes?

16 A It has been used for those purposes.

17 Q As well as to inculcate or implicate a person?

18 A That's correct.

19 Q As far as the outcome in the D.N.A. results, you
20 don't have a dog -- I hate to say a dog in that
21 fight -- but your results are just what they are?

22 A That's correct.

23 Q And in this case have you had an opportunity to
24 review a chart as far as the results of your
25 findings in this case?

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1 A Yes.

2 Q I want to show you what has been marked as State's
3 Exhibit 68 and 67. Do you recognize those? These
4 are blowups of that chart?

5 A Yes, I recognize 68.

6 Q Let me show you the other one.

7 A Yes, I also recognize 67.

8 Q And do these fairly and accurately reflect your
9 findings in this case or some of them?

10 A It's a summary of some of my results, correct.

11 Q Would these aid you in explaining your results to
12 the jury?

13 A They may, yes.

14 MS. CAMPBELL: Your Honor, at this time we
15 offer them into evidence.

16 THE COURT: Mr. Pride?

17 MR. PRIDE: Without objection.

18 THE COURT: State's 67 and 68 are in evidence
19 without objection.

20 (State's Exhibits Number 67-68 are received
21 into evidence.)

22 MS. CAMPBELL: Your Honor, may the witness
23 step down?

24 THE COURT: Yes, you may step down. Keep your
25 voice up when you are away from the microphone, please.

1 (Witness leaves the witness stand.)

2 BY MS. CAMPBELL:

3 Q Once the items had gone through the screening
4 process -- if you will come on this side and talk
5 really loud for the court reporter to hear you.
6 You can bring your report. As far as taking the
7 first few items in this case, what are you able to
8 tell from items 2, 11, and 12?

9 A Two, 11, and 12 were known standards from Roderick
10 Mitchell, Denise Jennings, and Zinah Jennings. I
11 developed D.N.A. profiles from those items to
12 compare them to any profiles developed from
13 evidence.

14 Q Therefore, you would not find it necessary to test
15 them for the presence of blood because these are
16 saliva samples; is that correct?

17 A Correct.

18 Q Then the results would be just used for the
19 comparisons?

20 A Correct.

21 Q Then further down, item 1.1, is a swab from the
22 baby blue pacifier in this case. In this case did
23 it present particular difficulties because of the
24 absence of the child?

25 A Yes. Typically when we do testing, we request

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1 known standards from an individual for comparison
2 to evidence. However, in a case of a missing
3 person that is not possible because you don't know
4 where the individual is.

5 In those cases we request what is known as an
6 alternate known standard. An alternate known
7 standard is a sample that is strongly believed to
8 contain D.N.A. from the individual in question.

9 When possible we like the item to be
10 identified by an individual that knows the missing
11 individual. Then we will develop a D.N.A. profile
12 from that item to use for comparison.

13 Q Item 1.1, which is a swab from the baby blue
14 pacifier which you referred to as the alternate
15 known standard for ^{Child} Jennings, were you able to
16 develop a profile from that?

17 A Yes, I actually developed a mixture from that item.
18 In this case I was able to develop a D.N.A. profile
19 for a major contributor, and there was also D.N.A.
20 present from at least one minor contributor. The
21 D.N.A. profile from the major contributor is the
22 one that was used for comparison to evidence.

23 Q Did you do any confirmatory tests with Roderick
24 Mitchell's profile, as well as Zinah Jennings'
25 profile, to make any confirmations as to the

1 identity of the major contributor on the blue
2 pacifier?

3 A Yes. Because the profile that was developed from
4 the pacifier was a mixture, I wanted to further
5 indicate that it was, in fact, the profile of Child
6 Jennings.

7 So I tested -- what is called relationship
8 testing -- to determine if the major contributor to
9 the pacifier could possibly be a child of Zinah
10 Jennings and Roderick Mitchell.

11 The D.N.A. profile that was developed from the
12 major contributor is consistent with being from a
13 biological offspring of Roderick Mitchell. Given
14 the genetic evidence, it's 940 million times more
15 likely that the major contributor to item 1.1 is
16 the biological offspring of Roderick Mitchell and
17 Zinah Jennings rather than a random individual from
18 the population.

19 Q Is that number significant as far as your
20 statistics go?

21 A Yes. The statistic is -- it's a comparison of two
22 possibilities or two hypotheses. The first
23 hypothesis is that the profile is from a child of
24 Roderick Mitchell and Zinah Jennings. The other
25 hypothesis is that this profile is from some random

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1 individual from the population. Then a
2 mathematical calculation is used to determine that.

3 In relationship statistics any result higher
4 than a hundred is considered strong support for the
5 first hypothesis that the child is a child of
6 Roderick Mitchell and Zinah Jennings versus the
7 second hypothesis, that the D.N.A. profile is from
8 some random individual in the population.

9 Q You said higher than a hundred?

10 A That's correct.

11 Q And what was your number?

12 A Nine hundred forty million.

13 Q That is significantly higher than a hundred?

14 A Correct.

15 Q When doing paternity testing, what is the threshold
16 there as far as positive on paternity testing? Are
17 you familiar with that?

18 A I'm not sure what you are asking for.

19 Q As far as determining paternity.

20 A Well, I mean any --

21 Q Or relationships.

22 A Yes. With relationship testing anything considered
23 one or higher is considered to be support for the
24 first hypothesis. Anything less than that is
25 considered to be support for the second hypothesis.

1 A hundred is considered strong support for the
2 first hypothesis, and anything over a thousand is
3 considering very strong support for the hypothesis.

4 Q And we are 940 million?

5 A Correct.

6 Q Thank you. So the confirmatory test you did was
7 consistent with item 1.1 being the offspring of
8 Zinah Jennings and Roderick Mitchell --

9 A Correct.

10 Q -- as far as your testing went. The first item
11 that you compared to anything I believe was item
12 4.1; is that correct? Did you test for the
13 presence of blood on that item?

14 A No, I did not.

15 Q And did you do --

16 A Oh, wait. I apologize. Let me double-check. I
17 looked at the wrong result. I need my other
18 report. I apologize.

19 Q Have you got multiple reports in this case?

20 A No, I do not.

21 Q No, you do not. So what is reflected here is you
22 did not do any testing? That's what the N.A. is,
23 not applicable, stands for?

24 A Correct.

25 Q What were the results of the D.N.A. testing? Even

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1 when there is not the presence of blood, are you
2 able to do D.N.A. testing?

3 A Yes.

4 Q In this case what were your results?

5 A In this case there was a mixture of at least three
6 individuals. I was unable to exclude ^{Child} Jennings
7 or Zinah Jennings. Assuming that the profile from
8 the major contributor to the pacifier is from ^{Child}
9 Jennings, I was unable to exclude ^{Child} Jennings or
10 Zinah Jennings as possible contributors to the
11 mixture. I was, however, able to exclude Roderick
12 Mitchell and Denise Jennings as possible
13 contributors to the mixture.

14 Q Okay. You will have to help me out with this
15 terminology. When you say you are unable -- it's a
16 double or triple negative -- unable to exclude.
17 That means their D.N.A. profiles were included in
18 what you saw there?

19 A That's correct. It means they are included as a
20 possible contributor. We use "cannot exclude" just
21 to hopefully clarify that that doesn't mean that
22 they are the only people that could have possibly
23 contributed to this mixture or that necessarily
24 they are the ones that contributed to the mixture.
25 It's just possibly that they are the ones that

1 contributed to this mixture.

2 Q But alleles matching their D.N.A. profile were
3 present in this mixture?

4 A Correct.

5 Q And just so I know too, in this case you have got a
6 father and mother and a child. Is the child
7 necessarily going to have all the same alleles as
8 the mother and the father?

9 A No.

10 Q Explain that.

11 A Individuals inherits half of their D.N.A. from
12 their mother and half of their D.N.A. from their
13 father. So at every location that is tested, they
14 would expect -- they would be expected to share
15 half of their D.N.A. with a given parent. They
16 would expect to share half of their profile with
17 the mother and the other half of the profile with
18 their father.

19 Q So even, say, if my sister -- I have got two
20 sisters -- and we have the same parents, would we
21 necessarily have the same D.N.A.?

22 A No, with the exception of identical siblings. With
23 a full D.N.A. profile, with the number of locations
24 that we test, it would be -- you would not expect
25 two people to have exactly the same D.N.A. profile

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1 unless they are identical siblings.

2 Q Unless they are identical siblings? Twins?

3 A Yes.

4 Q In this case you said you cannot exclude ^{Child} or
5 Zinah Jennings. So their alleles or alleles in
6 their D.N.A. profile were present in that mixture?

7 A Yes.

8 Q And you were, however, able to exclude contributors
9 to that mixture from which two?

10 A Roderick Mitchell and Denise Jennings were excluded
11 as possible contributors.

12 Q In your examination of the mixture itself, it
13 actually puts three or more people actually
14 contributing to that mixture; is that correct?

15 A That's correct.

16 Q And two of those -- you can't exclude ^{Child} Jennings
17 and Zinah Jennings?

18 A That's correct.

19 Q And item 4.2, was there any testing done on that
20 item?

21 A No.

22 Q Why not?

23 A Because it was a hair removed from the trunk liner.
24 The problem with hairs is that they are easily
25 transferable from one item to another. It's called

1 secondary transfer.

2 So, for instance, if I were to shed a hair and
3 leave it on my jacket and then throw my jacket into
4 the trunk, there is a possibility that the hair
5 would then fall out of my jacket.

6 Then I would pull my jacket out of the trunk
7 and the hair would still be in there. So it
8 doesn't really tell you how a hair was deposited
9 there or how long it has been there.

10 Q Item 4.3, which is, again, a swab from a trunk
11 liner, did you test for the presence of blood? Or
12 was it tested? I'm sorry.

13 A Yes, it was tested.

14 Q And it was not indicated?

15 A No.

16 Q But your results -- did you do D.N.A. testing on
17 that as well?

18 A I did.

19 Q Again, in addition to body fluids when you are
20 testing, even if it's not for the presence of
21 blood, do you go ahead and do testing in certain
22 areas?

23 A For certain types of cases, depending on the
24 relevance of the evidence, yes.

25 Q Because there could be other ways for, say, someone

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1 to deposit their D.N.A. in the trunk?

2 A Correct.

3 Q Such as touch D.N.A. or other fluids; is that
4 correct?

5 A Correct.

6 Q What did you find from 4.3, the other swab from the
7 trunk liner?

8 A A mixture of at least two individuals was
9 developed.

10 Q What were you able to determine in comparison with
11 the four known standards that you had?

12 A Based on the standards that I had available, to
13 exclude ^{Child} Jennings and Zinah Jennings as
14 possible contributors, I was unable to exclude
15 them. I could not exclude ^{Child} Jennings or Zinah
16 Jennings as possible contributors to the mixture;
17 however, I did exclude Roderick Mitchell and Denise
18 Jennings as possible contributors to the mixture.

19 Q So as in the same result as 4.1, the two possible
20 contributors from the samples you had were ^{Child}
21 Jennings and Zinah Jennings?

22 A Yes, that's correct.

23 Q And that was a mixture of at least two or more
24 people?

25 A Correct.

1 Q So their alleles or the alleles present in their
2 D.N.A. were present in this mixture?

3 A Yes. I would have to look over the entire chart to
4 tell if it was all of them or if it was just a
5 majority of them. Sometimes with mixtures it's
6 incomplete information, but, yes.

7 Q Is there a difference between a full profile and a
8 partial profile?

9 A Correct.

10 Q But even with just a partial profile -- and it's a
11 smaller amount in this case -- but were you still
12 able to get valuable information?

13 A Yes.

14 Q Thank you. Moving onto 5.1, a cutting from a
15 cream-colored comforter, did you do any testing for
16 blood on that?

17 A Yes.

18 Q And were you able to identify whether or not blood
19 was present on that?

20 A Yes, blood was identified on that item.

21 Q Once you did that testing, did you go ahead and do
22 D.N.A. testing on that blood?

23 A I did.

24 Q How do you do the test on the actual comforter
25 itself? Do you have to cut out part of what is

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1 submitted to you or how does that work?

2 A Yes. Whenever I do D.N.A. testing, I find a
3 portion of the sample and put it in the tube, and
4 then the extraction process and the analysis
5 process is done from that point.

6 Q So the samples that have been submitted for this
7 jury, there may be small pieces missing and some
8 that was actually submitted for evidence
9 processing?

10 A Correct.

11 Q And that's where you have done your testing?

12 A Correct.

13 Q And there still may be representative blood left on
14 the sample itself?

15 A Correct.

16 Q In fact, in three out of the four, what was the
17 result? What were you able to determine?

18 A For item 5.1, the D.N.A. profile developed from 5.1
19 matches the D.N.A. profile of Zinah Jennings. The
20 probability of randomly selecting an unrelated
21 individual from the population having a D.N.A.
22 profile matching this item is approximately 1 in
23 7.1 quadrillion.

24 Q Quadrillion?

25 A Yes.

1 Q And a quadrillion, how many zero does that have?

2 A It would be 15.

3 Q And how many people are on earth?

4 A I believe the estimate now is 7 billion.

5 Q How many zeroes does that have?

6 A Nine.

7 Q So do you have an opinion on whether or not that
8 was Zinah Jennings blood?

9 A Assuming that she does not have an identical
10 sibling, in my opinion the D.N.A. profile developed
11 from that item is from Zinah Jennings.

12 Q That excludes Roderick Mitchell, Denise Jennings,
13 and Child

14 A Correct.

15 Q So you are even able to exclude her son with that
16 testing?

17 A Correct.

18 Q Again, that was a match but that wasn't a mixture?

19 A No, that was a single source profile.

20 Q That tested positive for blood?

21 A Correct.

22 Q Moving on to items from the baby blue blanket, item
23 7.1, did you do any testing for blood in that case?

24 A Yes, I did.

25 Q And item 7.1, the cutting from the baby blanket,

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1 what were the results from the tests for blood?

2 A Blood was identified on that item.

3 Q And then did you also have enough sample to do
4 D.N.A. testing?

5 A I did.

6 Q And what testing? What was the result of your
7 testing?

8 A For that item a partial D.N.A. profile was
9 developed. Partial means I did not get results in
10 all the locations, complete results from all the
11 locations that I tested.

12 If a D.N.A. profile is not from a major
13 contributor -- item 1.1, that was the pacifier, the
14 ultimate known standard for ^{Child} Jennings -- if
15 that profile was from ^{Child} Jennings, then ^{Child}
16 Jennings could not be excluded as a possible
17 contributor to this item.

18 Q So his alleles were once present there?

19 A Alleles matched him.

20 Q Matched. I'm sorry. Alleles matching his. In
21 every case we are talking about matching a known
22 standard with that; correct?

23 A Correct.

24 Q So when I'm saying that, that's what I mean. So
25 alleles matching his were present in the partial

1 profile, but you were able to do what else in that
2 sample?

3 A Zimah Jennings, Roderick Mitchell, and Denise
4 Jennings were excluded as possible contributors to
5 that item.

6 Q So the only person whose D.N.A. profile from the
7 standard you had on item 1.1 that had those alleles
8 present -- matching those alleles present?

9 A Right.

10 Q And these three were excluded?

11 A Correct.

12 Q Item 7.2, which is a cutting from the light blue
13 baby blanket -- and the cuttings were submitted to
14 you, not the baby blanket itself; right?

15 A Correct.

16 Q Did you test for the presence of blood?

17 A I did not run a confirmatory test on that sample.
18 It had less -- there was less sample present on
19 that cutting than on the other cuttings. Rather
20 than consume all of the sample for confirmatory
21 testing and D.N.A. testing, I used a portion of the
22 sample for D.N.A. testing and left the remainder of
23 the sample in the event that someone chose to have
24 outside testing performed.

25 Q But in that case you were able to do the D.N.A.

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1 testing?

2 A Correct.

3 Q Were you able to develop a result?

4 A Yes.

5 Q What was that result?

6 A A partial D.N.A. profile was developed from that
7 item, and it matched the D.N.A. profile for Child
8 Jennings.

9 Q And what does that mean? It matched? It was every
10 allele matched?

11 A The alleles that were present --

12 Q -- that were present?

13 A Yes, from that partial profile matched the alleles
14 in the D.N.A. profile of Child Jennings.

15 Q And was it a strong enough result to say a match?

16 A Correct.

17 Q Thank you. Item 7.3, the cutting from the baby
18 blue blanket, do you do any testing for blood?

19 A Yes, and blood was identified on that item.

20 Q And did you then do D.N.A. testing?

21 A Yes.

22 Q And were you able to match that to anyone's
23 profile?

24 A Yes. The D.N.A. profile developed from that item,
25 from item 7.3, matched the D.N.A. profile of Child

1 Jennings. Because that was the most complete
2 profile, that is the one that I did a mathematical
3 calculation on.

4 The probability of randomly selecting an
5 unrelated individual from the population having a
6 D.N.A. profile matching item 7.3 is approximately 1
7 in 14 quadrillion.

8 Q Again, that's the one with 15 zeros?

9 A Correct.

10 Q In your opinion, excluding identical twins or
11 whatever, would that be the same as item 1.1?

12 Assuming that is ^{Child} Jennings' profile?

13 A Yes. Assuming that is ^{Child} Jennings' profile, then
14 I would not expect to see that profile on anyone
15 else other than an identical sibling.

16 Q The cutting from 7.4, did you test for the presence
17 of blood?

18 A Yes.

19 Q And, again, were you able to get a result as far as
20 whether or not there was blood?

21 A Yes, blood was identified on that item.

22 Q Then did you do D.N.A. testing?

23 A Yes.

24 Q And what were the results of your D.N.A. testing?

25 A For 7.4, a partial profile was developed from item

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1 7.4; and that profile also matched the D.N.A.
2 profile of Child Jennings.

3 Q So out of the four blood cuttings that you got from
4 that baby blanket, three were matches? And one
5 could not exclude Child Jennings?

6 A Correct.

7 Q In all of these four, did it exclude Denise
8 Jennings, Zinah Jennings, as well as Roderick
9 Mitchell?

10 A Correct.

11 Q Thank you. You can step back to the stand.

12 A (Witness resumes the witness stand.)

13 Q Did you also attempt to do D.N.A. testing on
14 item -- I believe I just handed it up to you -- the
15 swab from the shovel?

16 A State's Exhibit 70?

17 Q Yes.

18 A Yes.

19 Q And that was the swab from the shovel in this case.
20 In this and in certain cases, you get cuttings from
21 certain evidence and in some cases you get swabs.
22 Why is that?

23 A Certain items are soft and easy to cut items, like
24 a blanket. Other items are hard, like a shovel.
25 You can't cut a piece of shovel without great

1 difficulty.

2 So given it's a hard surface, it's difficult
3 to cut but easy to swab. The evidence processing
4 technician would swab the item rather than
5 attempting to take a cutting from, say, a metal
6 item.

7 Q The swab, did you attempt to do any D.N.A. testing
8 on that?

9 A Yes.

10 Q And were you able to get a D.N.A. result from that?

11 A No D.N.A. profile was developed from that item.

12 Q Again, because of the factors we had talked about:
13 Weather, different things, cleaning possibly?
14 Sometimes you simply are not able to get a D.N.A.
15 profile?

16 A Yes. When no D.N.A. profile is developed, there is
17 no way to determine if it's because there was no
18 D.N.A. present or because there was such a limited
19 amount of D.N.A. present that the instrument was
20 unable to detect it.

21 MS. CAMPBELL: Beg the Court's indulgence.

22 THE COURT: Yes, ma'am.

23 (Pause.)

24 MS. CAMPBELL: Item Number 70 that was shown,
25 I believe I have not offered it into evidence. Your

JENNIFER CLAYTON -- CROSS -- MR. PRIDE

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1 Honor, at this time we offer it into evidence.

2 THE COURT: Seventy?

3 MS. CAMPBELL: Yes.

4 THE COURT: Item 70, Mr. Pride?

5 MR. PRIDE: I'm sorry, Judge. I was not
6 paying attention.

7 MS. CAMPBELL: I just offered it into
8 evidence.

9 MR. PRIDE: I have no objections.

10 THE COURT: State's 70 is in evidence without
11 objection.

12 (State's Exhibit Number 70 is received into
13 evidence.)

14 MS. CAMPBELL: Thank you, Agent.

15 THE COURT: Mr. Pride.

16 CROSS EXAMINATION

17 BY MR. PRIDE:

18 Q Ms. Clayton, you have no way of knowing how old
19 that blanket was that you found ^{Child} blood on; do
20 you?

21 A No, I do not.

22 Q And you have no way of telling the jury when that
23 blood was placed on that blanket; is that not
24 correct?

25 A There is no way to determine at this time the age

1 of a blood sample, no.

2 Q And you have no way of telling whether that blood
3 on the blanket came from a nose bleed or a cut lip
4 or where from ^{Child} body?

5 A No, there is no way to determine that with the
6 testing that we do.

7 Q The only thing you can determine is that by virtue
8 of the D.N.A. testing, that on the blanket that you
9 tested, at least three places on the blanket, was
10 where you found ^{Child} blood?

11 A That's correct.

12 Q Now, would you come down.

13 A (Witness leaves the witness stand.)

14 Q And take those four specimens that you were given
15 from Ms. Butler to test. I will give you some
16 gloves. I want you to show the jury the four
17 specimens and show them -- just put them right here
18 (indicating).

19 MS. CAMPBELL: Mr. Pride, I think you have to
20 get them for her. She doesn't know where they are.

21 THE WITNESS: I'm not sure which four you are
22 referring to, sir.

23 BY MR. PRIDE:

24 Q Ms. Butler testified that she sent you four
25 specimens that she cut from the blue baby blanket.

1 A Oh, from the blue baby blanket, yes.

2 Q I would like for you to look at that and pick out
3 those four.

4 A (Witness complies.)

5 Q Open them up --

6 THE COURT: Keep your voice up. You have your
7 back to me and my court reporter.

8 BY MR. PRIDE:

9 Q Open them up and take them out and place them up
10 here (indicating).

11 A Do you have a sterile piece of paper I can set them
12 on?

13 Q Hold them up. Could you tell the jury, as you hold
14 it up, which piece that is and the identification
15 number.

16 A This is S.L.E.D. item 7.1, which is State's Exhibit
17 40.

18 Q Point out, please, where you tested.

19 A I took a cutting from this area right here
20 (indicating). You can kind of see I had to cut
21 through some of the cotton or whatever type of
22 fiber it is. I had to cut through the fabric to
23 get to the area where the stain was.

24 That left some more -- a couple of other small
25 spots of stain up here (indicating) and there

1 (indicating), and I left those for further testing
2 because they weren't needed.

3 Q But you didn't test those. You only tested one
4 place on that specimen; isn't that correct?

5 A That's correct.

6 Q Thank you.

7 A This is S.L.E.D. 7.2, which is State's Exhibit 37.
8 Again, I had to cut into the center of the stain to
9 cut a piece of the sample. That left a small
10 amount of sample remaining.

11 Q All right.

12 A This is S.L.E.D. item 7.3, which is State's Exhibit
13 Number 64. Again, I cut areas from the center of
14 the circled area for testing, which left a small
15 sample remaining for any additional testing.

16 This is S.L.E.D. item 7.4, State's Exhibit 41.
17 Again, I took a couple of small cuttings from
18 different areas because the stain was sort of
19 disbursed on the item, which only left some faint
20 staining on the sample.

21 Q Okay. Thank you. You have testified that on
22 the -- not the quilt -- the comforter, and you
23 found the blood just of Zinah Jennings; is that
24 correct?

25 A That's correct. The D.N.A. profile developed from

1 that item matched Zinah Jennings.

2 Q And on the shovel you were not able to find any
3 blood?

4 A I did not run any type of confirmatory testing for
5 blood. I didn't run any type of serological
6 testing. I only attempted to develop a D.N.A.
7 profile, and no D.N.A. profile was developed.

8 Q So you found no blood; right?

9 A No, I did not test for blood.

10 Q And did you find blood on the carpet in the car?

11 A I only received swabs from the piece of trunk
12 lining, but there was no blood indicated on the
13 swab that I tested for the possible presence of
14 blood.

15 Q So really, to sort of sum your testimony up, you
16 had swabs from Denise Jennings, Roderick Mitchell,
17 Zinah, and D.N.A. from ^{Child} And as a result of
18 that, you were able to determine that ^{Child}
19 parents were Roderick and Zinah? Would that not be
20 correct?

21 A Well, it would be more correct to say that I was
22 able to determine that the major contributor to the
23 pacifier was an offspring of Roderick Mitchell and
24 Zinah Jennings.

25 Q By at least 15 zeros?

1 A I don't believe that one was 15 zeros. That was
2 940 million; so six or seven.

3 Q But that's enough for confirmation?

4 A It is a strong indication, correct.

5 Q You are not saying that they are not the parents;
6 are you?

7 A No.

8 Q And then you tested the shovel, and you didn't find
9 any blood on the shovel; is that correct? I am
10 trying to sum up what you testified to.

11 A I did not test for blood. So, no, I did not find
12 any.

13 Q And then you found Zinah Jennings' blood on the
14 comforter?

15 A Yes, item 5.1. I tested a cutting from the
16 comforter and the profile matched Zinah Jennings.

17 Q And you found ^{Child} blood on a baby blanket, the
18 blue baby blanket?

19 A Yes. Assuming the profile used as a alternate
20 known standard is from ^{Child} Jennings, then, yes,
21 the profile developed from those four cuttings is
22 from ^{Child} Jennings, correct.

23 Q Thank you very much.

24 THE COURT: Redirect, Solicitor?

25 MS. CAMPBELL: No, sir.

1 THE COURT: Thank you very much, Agent
2 Clayton. You may step down.

3 MR. PRIDE: I don't have any need to call her
4 again and would not object to her leaving.

5 THE COURT: You may not leave at this time.
6 If you would remain in the courtroom.

7 (Witness leaves the witness stand.)

8 THE COURT: Perhaps now would be a good time
9 to take our evening recess. Ladies and gentlemen of the
10 jury panel, I give you my instructions, as I have done
11 each and every one of our evening recesses, that you are
12 not to discuss this case with anyone.

13 That includes your fellow jurors, family,
14 friends, or anyone else. Do not watch, listen to, or
15 read any news accounts of the case. Do not use your
16 computer or cellular phone or any other electronic
17 device with communication capabilities to do any
18 research or look up any matters prohibited.

19 That includes but is not limited to:
20 Information about a party, a witness, an attorney or a
21 court officer, news accounts of the case, information
22 collected through juror research on any topics raised or
23 testimony offered by any witness or information
24 collected through juror research on any other topic the
25 juror might think would be helpful in deciding the case.

1 Do not do any independent investigation or any
2 investigation on the internet.

3 Now, ladies and gentlemen, I am going to ask
4 you over your evening recess to keep your own counsel
5 but to be prepared when you first get in in the morning
6 to talk about what schedule you would like to keep over
7 the weekend, if any at all.

8 I do not think the case will conclude
9 tomorrow. It would be highly unlikely that this case
10 will be concluded tomorrow. I am going to run court
11 over the weekend according to your schedule.

12 If you want to work Saturday, I will work
13 Saturday; and it won't be the first. My court reporter
14 will remind me of that often. It won't be the first.
15 If you want to work Monday and not Saturday, I will be
16 glad to do that. I will not work Sunday. I don't think
17 that is appropriate for a number of reasons.

18 If you were sequestered, I would work Sunday.
19 But given the fact that some people have lives outside
20 of the courtroom, if you have plans, just let it be
21 known. If y'all would discuss that amongst yourselves
22 when you first get here in the morning. Think about it
23 tonight.

24 Again, I would be glad to work Saturday. I
25 would be glad to work Monday. I would be glad to take

1 the weekend off and come back Tuesday. I do not think
2 the case will be concluded tomorrow.

3 So, Madame Forelady, in the morning when all
4 the jury is present, if you would discuss that issue --
5 just that issue alone -- your schedule. Once you are
6 ready to come out. Let me know.

7 If tomorrow is anything like the rest of the
8 week, I won't be ready for you to come out anyway; but
9 just let the bailiff know when y'all have concluded
10 those discussions in that regard.

11 With that being said, you are now released for
12 the evening recess. Leave your notes. They will be
13 secured by the clerk. See you promptly at 9:30 in the
14 morning. Thank you very much.

15 (The jury is excused for the day at 6:30 P.M.)

16 THE COURT: Anything further from the State?

17 MS. CAMPBELL: No, sir.

18 THE COURT: I have one thing. This is why I
19 asked Agent Clayton to remain. If there should ever be
20 any need for any of those items that were opened by
21 either Ms. Butler or Agent Clayton at the request of --
22 opened at the request of Mr. Pride -- to ever be tested,
23 should they not be resealed?

24 AGENT CLAYTON: That would be best if they
25 were resealed.

1 THE COURT: How can that be accomplished to
2 where it would maintain the integrity of those items?
3 Can you do that for us, Agent Clayton?

4 AGENT CLAYTON: Do you still have the original
5 heat-seal pouches?

6 THE COURT: I don't have anything but what is
7 within grasping distance of this bench quite frankly.
8 If ever somebody wants to retest or do additional
9 testing on that...

10 AGENT CLAYTON: I mean, it's not open to
11 contamination but to verify that there was no tampering
12 during storage, it would be best to seal them with some
13 type of evidence tape.

14 THE COURT: Solicitor, can y'all address that
15 issue?

16 MS. CAMPBELL: I have no question. Judge, the
17 only concern I have is now that it has been shown to the
18 jury, they may want to look at it themselves; and they
19 have that right, I believe. I could be wrong.

20 THE COURT: Well --

21 MS. CAMPBELL: Unless you want to instruct
22 them that if they want to examine that, they have to do
23 it with certain personnel.

24 MR. PRIDE: I don't think that would be
25 appropriate, those instructions.