

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Anderson County

J. Cordell Maddox, Jr., Circuit Court Judge

RECEIVED

DEC 1 2014

S.C. Supreme Court

ILA MICHELLE CARTER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001293

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 ILA MICHELE CARTER,)
)
 DEFENDANT.)
 _____)

2001-GS-04-765, 1203

TRANSCRIPT OF RECORD

VOLUME I

JUNE 25 - 28, 2001
ANDERSON, SOUTH CAROLINA

BEFORE:

THE HONORABLE JOHN KITTREDGE, JUDGE

APPEARANCES:

DRUANNE WHITE, ESQUIRE
SOLICITOR FOR TENTH JUDICIAL CIRCUIT
ATTORNEY FOR STATE

ROBERT GAMBLE, ESQUIRE
PUBLIC DEFENDER
ATTORNEY FOR DEFENDANT

RENEE H. TOLLISON
CIRCUIT COURT REPORTER

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PLAINTIFF THE STATE OF SOUTH CAROLINAATTORNEY DRUANNE WHDEFENDANT ILA MICHELLE CARTERATTORNEY ROBERT GAMCASE NO. 2001-GS-04-1203, 765JUDGE JOHN KITTREDDDATE 6/25/01

COURT

REPORTER RENEE TOLLDATE ENDED 6/28/01

JURY VOIR DIRE

Juror #	Name	Race	Sex	Strikes			Accept
				C	P	D	
T-15	DANIEL JOYE	W	M				X
24	JONATHAN CAIN	W	M				X
T-9	ERIC EZELL	W	M				X
13	KIMBERLY A BERG	W	F			X	
41-A	LYNN J HOLLIS	W	F				X
96	TIMOTHY KEANE	W	M			X	
146	JOHNNY SIMPSON	W	M				X
T-17	LINDA LOFTIS	W	F				X
58	JUDY FLETCHER	W	F			X	
117	JAMES MOORE	W	M		X		
14	KIMBERLY BOLDING	W	F			X	
156	JUDY TIPPETT	W	F			X	
30-A	JANET GALBREATH	W	F				X
51	JULIA DYAR	W	F				X
T-2	LAUREL BROWN	W	F			X	
67	NEIL GILHAM	W	M		X		

*For the Court column, please indicate who made the motion to strike the juror "for cause" with a "C" for Court, "P" for Plaintiff, or "D" for Defense.

Juror #	Name	Race	Sex	Strikes			Accep
				C	P	D	
29	STANLEY CARWILE	W	M			X	
T-14	ADAM JOWERS	W	M				X
67-A	CATHY SMITH	W	F			X	
95	VALARIE JOHNSON	B	F				X
145	JODY SHAW	W	M				X
T-4	DEWEY BULLINGTON	W	M			X	
22	BETTY BROYLES	W	F				X
	ALTERNATE 1						
159	FRANCES VICKERY	W	F			X	
162	SUZANNE WALTERS	W	F				X
	ALTERNATE 2						
93	JONATHAN JESTER	W	M		X		
23-A	LOUVINIA EDWARDS	B	F				X
	ALTERNATE 3						
97	CLAUDIA KEELER	W	F				X
	ALTERNATE 4						
T-10	BRIAN GREGORY	W	M				X

*For the Court column, please indicate who made the motion to strike the juror "for cause" with a "C" for Court, "P" for Plaintiff, or "D" for Defense.

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JURY VOIR DIRE

8

1

VOLUME I

2

JUNE 25, 2001

3

4

5

THE COURT: ALL RIGHT. SOLICITOR, DO YOU HAVE THE
FIRST CASE TO BE TRIED ON THE DOCKET THIS WEEK, PLEASE,
MA'AM?

6

7

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9

10

MS. WHITE: I DO, YOUR HONOR. THE STATE CALLS 2001-
GS-04-1203, STATE VERSUS ILA MICHELE CARTER, INDICTMENT FOR
HOMICIDE BY CHILD ABUSE. 2001-GS-04-765, STATE VERSUS ILA
MICHELE CARTER, INDICTMENT FOR GREAT BODILY INJURY UPON A
CHILD.

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THE COURT: IS THE DEFENSE READY TO PROCEED?

MR. GAMBLE: THE DEFENSE IS READY, YOUR HONOR.

THE COURT: LADIES AND GENTLEMEN, WE ARE PREPARING
TO TRY THE CASE OF THE STATE VERSUS ILA MICHELE CARTER. AND
WHAT WE'LL DO IS ATTEMPT TO GO THROUGH THE SELECTION PROCESS
AND ACCOMPLISH IT BEFORE LUNCH IN, SAY, ABOUT AN HOUR. IF
WE'RE NOT ABLE TO DO THAT, WE'LL TAKE A BREAK AND THEN COME
BACK AND DO IT AFTER THE LUNCH BREAK. BUT I'M NOT GOING TO
FORCE YOU ALL AFTERNOON TO SIT HERE UNTIL WE SELECT A JURY.
WE'LL JUST SEE HOW MUCH PROGRESS WE CAN MAKE OVER THE NEXT
HOUR. IF WE'RE ABLE TO SELECT THE JURY IN THAT TIME, WE'LL
DO SO. IF NOT, WE'LL BREAK AND HAVE A NORMAL LUNCH BREAK
AND THEN COME BACK AND FINISH UP AFTER THE LUNCH HOUR.

NOW, LADIES AND GENTLEMEN, LET ME TELL YOU SOME LEGAL
PRINCIPLES THAT APPLY IN THIS COURT AND CERTAINLY IN THIS

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9

1 CASE. ANYONE WHO IS ACCUSED OF VIOLATING THE CRIMINAL LAWS
2 OF SOUTH CAROLINA IS PRESUMED TO BE INNOCENT. AND THAT
3 PRESUMPTION OF INNOCENSE IS AN IMPORTANT RIGHT, A
4 SUBSTANTIAL RIGHT, TO WHICH ANY ACCUSED, INCLUDING MS.
5 CARTER, IS ENTITLED. THE PRESUMPTION OF INNOCENSE IS NOT
6 SOME SIMPLE LEGAL PHRASE OR SOME MERE LEGAL THEORY. IT'S AN
7 IMPORTANT RIGHT. ANYONE ACCUSED OF A CRIME IS ENTITLED TO
8 THAT PRESUMPTION OF INNOCENSE.

9 SECONDLY, AND RELATED TO THAT PRESUMPTION OF INNOCENSE,
10 IS A CONCEPT KNOWN AS THE BURDEN OF PROOF. IN A CRIMINAL
11 CASE, THE LAW REQUIRES THAT THE STATE PROVE GUILT BEYOND A
12 REASONABLE DOUBT.

13 NOW, SOME OF YOU FOLKS MAY HAVE SERVED IN THE PAST ON
14 CIVIL JURY CASES, AND YOU MAY SERVE ON CIVIL JURY CASES THIS
15 WEEK. AND THE BURDEN OF PROOF IN A CIVIL CASE IS GENERALLY
16 KNOWN AS THE PREPONDERANCE OR GREATER WEIGHT OF THE
17 EVIDENCE.

18 THE BURDEN OF PROOF IN A CRIMINAL CASE IS THE MOST
19 STRINGENT BURDEN KNOWN TO THE LAW. IT'S A PHRASE THAT WE
20 USE, PROOF BEYOND A REASONABLE DOUBT. AND THAT BURDEN IS ON
21 THE STATE TO PROVE GUILT. THERE IS AT NO TIME A BURDEN ON
22 AN ACCUSED TO PROVE OR DISPROVE ANYTHING. THAT TIES IN TO
23 THE PRESUMPTION OF INNOCENSE. A DEFENDANT HAS A RIGHT TO
24 REMAIN SILENT BECAUSE THE BURDEN OF PROOF IS ALWAYS, AT ALL
25 TIMES, ON THE STATE.

9 PLEASE UNDERSTAND THE CHARGES DO NOT IN ANY WAY
10 CONSTITUTE EVIDENCE. EVIDENCE WILL BE WHAT COMES FROM THIS
11 COURTROOM FROM THE TESTIMONY AND EXHIBITS THAT ARE OFFERED
12 DURING THE COURSE OF THE TRIAL.

13 AS THE SOLICITOR INDICATED FROM THESE INDICTMENTS,
14 THERE ARE TWO CHARGES. THERE IS ONE CHARGE THAT'S REFERRED
15 TO AS GREAT BODILY INJURY UPON A CHILD. THAT INDICTMENT
16 ALLEGES -- AND I EMPHASIZE THE WORD ALLEGES -- THAT THE
17 DEFENDANT, ILA MICHELE CARTER, DID IN ANDERSON COUNTY ON OR
18 BETWEEN NOVEMBER THE 1ST, 1999, AND OCTOBER THE 14TH, 2000,
19 INFLECT GREAT BODILY INJURY UPON HER STEPDAUGHTER KNOWN AS
20 Minor AND/OR THAT ILA MICHELE CARTER, A
21 PERSON WITH WHOM Minor 'S PARENT OR
22 GUARDIAN WAS COHABITING, DID KNOWINGLY ALLOW ANOTHER PERSON
23 TO INFLECT GREAT BODILY INJURY UPON Minor
24 THAT'S THE INDICTMENT OR THE CHARGE FOR GREAT BODILY INJURY
25 UPON A CHILD.

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11

1 THE OTHER CHARGE IS FOR HOMICIDE BY CHILD ABUSE. THAT
2 INDICTMENT ALLEGES -- AND AGAIN, I STRESS THE WORD ALLEGES
3 -- THAT ILA MICHELE CARTER DID IN ANDERSON COUNTY BETWEEN
4 APRIL THE 14TH, 2000, AND OCTOBER THE 14TH, 2000, CAUSE THE
5 DEATH OF HER FOUR-YEAR-OLD STEPDAUGHTER, Minor
6 [REDACTED], WHILE COMMITTING CHILD ABUSE OR NEGLECT, AND THE
7 DEATH OCCURRED UNDER CIRCUMSTANCES MANIFESTING AN EXTREME
8 INDIFFERENCE TO HUMAN LIFE AND/OR THAT ILA MICHELE CARTER
9 KNOWINGLY AIDED AND ABETTED ANOTHER PERSON TO COMMIT CHILD
10 ABUSE OR NEGLECT, AND THE CHILD ABUSE OR NEGLECT RESULTED IN
11 THE DEATH OF Minor

12 LADIES AND GENTLEMEN, THOSE ARE THE TWO CHARGES. GREAT
13 BODILY INJURY UPON A CHILD AND HOMICIDE BY CHILD ABUSE. I
14 HAVE A SERIES OF QUESTIONS I'M GOING TO ASK YOU. AND WE'RE
15 GOING TO FOLLOW THE SAME FORMAT WE DID DURING THE
16 QUALIFICATION PROCESS. IT MAY BE THAT YOU CAN VERY SIMPLY
17 RESPOND TO CERTAIN QUESTIONS FROM WHERE YOU'RE STANDING. IT
18 MAY BE, BECAUSE OF SOMETHING YOU MAY HAVE HEARD OR BEEN
19 EXPOSED TO THIS CASE IN THE MEDIA THAT IT'S SOMETHING YOU
20 WANT TO COME FORWARD AND DISCUSS PRIVATELY. PLEASE
21 UNDERSTAND YOU ALWAYS HAVE THAT OPTION. IF ANY QUESTION I
22 ASK YOU WANT YOU COME FORWARD AND DISCUSS IT WITH ME AND THE
23 ATTORNEYS AT THE COURT REPORTER'S STATION, I'LL CERTAINLY
24 GRANT YOU THAT AND BE GLAD TO ACCOMMODATE YOU.

25 WHAT I'M GOING TO DO IS INTRODUCE YOU TO THE FINE

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1

1 ATTORNEYS IN THIS CASE AS WELL AS THE ACCUSED, MS. CARTER.
2 AND THEN I'LL BEGIN WITH A SERIES OF QUESTIONS.

3 THE STATE IS REPRESENTED BY THE SOLICITOR'S OFFICE.
4 AND SOLICITOR DRUANNE WHITE IS THE ONE WHO IS PROSECUTING
5 THIS CASE. THIS IS SOLICITOR WHITE WHO YOU WERE EARLIER
6 INTRODUCED TO.

7 THE DEFENDANT IS ILA MICHELE CARTER. MS. CARTER IS
8 SEATED HERE AT THE COUNSEL TABLE. I'D ASK MS. CARTER JUST
9 TO BRIEFLY STAND AND FACE THE JURY PANEL ALONG WITH HER FINE
10 ATTORNEY, MR. ROBERT GAMBLE. THANK YOU VERY MUCH.

11 NOW, LADIES AND GENTLEMEN, I'M GOING TO ASK YOU ABOUT
12 THE ATTORNEYS AND THE POTENTIAL WITNESSES IN THE CASE. I'M
13 GOING TO ASK IF YOU HAVE HEARD ANYTHING ABOUT THE CASE, KNOW
14 ANYTHING ABOUT THE CASE, IF YOU KNOW ANY OF THE PARTICIPANTS
15 IN THE CASE. AND IF YOU HAVE ANY SUCH KNOWLEDGE, WHETHER IF
16 WOULD AFFECT YOUR ABILITY TO SERVE AS A FAIR JUROR.

17 NOW, THE FIRST THING I'M GOING TO DO IS ASK YOU ABOUT
18 THE ATTORNEYS, AND THEN WE'LL GET TO THE CASE ITSELF AND SEE
19 IF YOU'VE HEARD OR SEEN OR HAVE ANY KNOWLEDGE ABOUT THIS
20 PARTICULAR CASE.

21 IS THERE ANY MEMBER OF THE JURY PANEL WHO IS RELATED BY
22 BLOOD OR MARRIAGE OR AN ACQUAINTANCE OF ANY KIND WITH
23 SOLICITOR WHITE OR ANY MEMBER OR EMPLOYEE OF HER STAFF IN
24 THE SOLICITOR'S OFFICE IN EITHER ANDERSON OR OCONEE
25 COUNTIES? IF THAT APPLIES TO YOU, WOULD YOU PLEASE STAND?

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13

1 WE'VE GOT A COUPLE OF RESPONSES. SIR, YOU STOOD FIRST.
2 WE'LL START WITH YOU. WE'LL WORK OUR WAY ACROSS. WHAT'S
3 YOUR NAME, PLEASE, SIR?

4 JUROR: DAVID TRADO.

5 THE COURT: MR. TRADO? ONE SECOND. LET ME FIND YOU
6 ON THE LIST.

7 MADAM CLERK: TRANSFER 23.

8 THE COURT: MR. TRADO, WHAT WOULD BE YOUR RESPONSE
9 TO THAT QUESTION?

10 JUROR: I'M AN ACQUAINTANCE OF MS. WHITE.

11 THE COURT: ALL RIGHT. A SOCIAL ACQUAINTANCE? DO
12 YOU GO TO CHURCH TOGETHER?

13 JUROR: SAME CHURCH.

14 THE COURT: SAME CHURCH? OKAY. THE FACT THAT Y'ALL
15 ATTEND THE SAME CHURCH, WOULD THAT IN ANY WAY AFFECT YOUR
16 ABILITY TO SERVE AS A FAIR JUROR?

17 JUROR: NO, SIR.

18 THE COURT: YOU CAN BE FAIR TO BOTH SIDES?

19 JUROR: YES, SIR.

20 THE COURT: VERY GOOD, MR. TRADO. THANK YOU, SIR.

21 TRANSFER 23.

22 YES, MA'AM.

23 JUROR: FRANCES MICHELLE VICKERY.

24 THE COURT: YOUR LAST NAME IS VICKERY?

25 JUROR: VICKERY.

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JURY VOIR DIRE

1 THE COURT: ONE SECOND, PLEASE, MA'AM.

2 MADAM CLERK: 159.

3 THE COURT: YES, MA'AM, MS. VICKERY.

4 JUROR: I'M AN ACQUAINTANCE OF DRUANNE WHITE AND
5 BRIAN WHITE.

6 THE COURT: IN WHAT WAY ARE YOU AN ACQUAINTANCE? D
7 Y'ALL GO TO THE SAME CHURCH? GO TO THE SAME SCHOOL?

8 JUROR: NO, SIR. WE WERE INVOLVED IN A CASE.

9 THE COURT: OKAY. SO THROUGH A CASE SITUATION, YOU
10 WERE INTRODUCED TO THEM AND YOU KNOW THEM AS ACQUAINTANCES?

11 JUROR: YES, SIR.

12 THE COURT: IS THAT CASE STILL PENDING?

13 JUROR: NO, SIR.

14 THE COURT: OKAY. SO YOU HAVE NO PRESENT
15 RELATIONSHIP WITH THE SOLICITOR'S OFFICE WHERE THEY'RE
16 REPRESENTING YOUR INTEREST?

17 JUROR: NO, SIR.

18 THE COURT: IS THAT CORRECT?

19 JUROR: THAT IS CORRECT.

20 THE COURT: THE FACT THAT YOU PREVIOUSLY HAD A CASE
21 IN WHICH THEY WERE INVOLVED, WOULD THAT IN ANY WAY AFFECT
22 YOUR ABILITY TO SERVE AS A FAIR JUROR?

23 JUROR: NO, SIR.

24 THE COURT: WOULD YOU BE FAIR TO BOTH THE STATE AND
25 THE DEFENDANT?

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15

1 JUROR: YES, SIR.

2 THE COURT: THANK YOU VERY MUCH.

3 THE RECORD WILL REFLECT NO ADDITIONAL RESPONSE.

4 IS ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD OR
5 MARRIAGE OR AN ACQUAINTANCE OF ANY KIND WITH MR. ROBERT
6 GAMBLE OR ANY MEMBER OF HIS STAFF OR OFFICE? IF SO PLEASE
7 STAND. THERE IS NO RESPONSE.

8 NOW, LADIES AND GENTLEMEN, THIS CASE HAS RECEIVED SOME
9 ATTENTION IN THE MEDIA. AND IN JUST A FEW MOMENTS, I'M
10 GOING TO ASK IF YOU HAVE EVER HEARD ANYTHING ABOUT THIS
11 CASE, BEEN EXPOSED IN ANY FASHION TO ANYTHING ABOUT THIS
12 CASE IN THE MEDIA. THAT MIGHT BE A SMALL NUMBER OF YOU. IT
13 MIGHT BE A LARGE NUMBER OF YOU. I JUST DON'T KNOW. BUT
14 WHAT I'M GOING TO DO IS HAVE YOU STAND... AND THEN I'LL JUST
15 INDIVIDUALLY GO AROUND AND HAVE YOU STAND BACK UP AS WE GET
16 TO YOU. AND I'LL ASK BASICALLY THE FOLLOWING QUESTION TO
17 SORT OF GIVE YOU A HEADS-UP OF WHERE WE'RE GOING.

18 THE FIRST THING I'M GOING TO ASK YOU IS IF YOU HAVE ANY
19 KNOWLEDGE ABOUT THIS CASE FROM ANY SOURCE OTHER THAN THE
20 MEDIA. IN OTHER WORDS, IS ALL YOU'VE HEARD OR KNOW ABOUT
21 THIS CASE FROM THE MEDIA? AND IF ALL YOU KNOW ABOUT THIS
22 CASE OR HEARD ABOUT THIS CASE COMES ONLY FROM THE MEDIA, I'M
23 GOING TO ASK YOU IF YOU'VE ALREADY MADE UP YOUR MIND. HAVE
24 YOU ALREADY FORMED AN OPINION AS TO THE GUILT OR INNOCENSE
25 OF THE DEFENDANT? AND WE'RE GOING TO TAKE IT FROM THERE.

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JURY VOIR DIRE

1 IF YOU HAVE SOME INFORMATION FROM SOURCES OTHER THAN THE
2 MEDIA, I MAY ASK YOU TO COME FORWARD AND MEET WITH THE
3 ATTORNEYS PRIVATELY AT SOME POINT.

4 BUT I WANT YOU ALL TO UNDERSTAND VERY IMPORTANTLY --
5 AND IT'S CONSISTENT WITH MY EARLIER INSTRUCTIONS TO YOU
6 ABOUT THE PRESUMPTION OF INNOCENSE AND THE BURDEN OF PROOF.
7 THERE ARE A NUMBER OF CASES THAT ARE TRIED IN COURTROOMS
8 THROUGHOUT THE STATE OF SOUTH CAROLINA WHERE THERE HAS BEEN
9 PRETRIAL COVERAGE ABOUT A CASE OR SOME ISSUE IN A CASE. THE
10 MERE FACT THAT SOMEONE HAS BEEN EXPOSED TO SUCH MEDIA
11 COVERAGE DOES NOT DISQUALIFY A JUROR.

12 THE KEY THING IS FOR YOU TO UNDERSTAND THAT IF YOU ARE
13 SELECTED TO SERVE, YOU WOULD BE REQUIRED TO TAKE AN OATH.
14 AND THAT OATH, AS A JUROR, WOULD REQUIRE YOU TO FIND THE
15 FACTS, THE TRUTH, ONLY FROM THE EVIDENCE THAT'S PRESENTED
16 HERE IN COURT. IF YOU HAD BEEN EXPOSED TO ANY PRETRIAL
17 PUBLICITY, YOU WOULD HAVE TO COMPLETELY IGNORE THAT. AND IN
18 YOUR DECISION-MAKING PROCESS, IN DETERMINING WHETHER OR NOT
19 THE STATE HAD MET ITS BURDEN, YOU WOULD BE LIMITED TO THE
20 EVIDENCE, THE EVIDENCE PRESENTED TO YOU IN THIS COURTROOM.
21 AND THAT'S WHAT YOUR OATH WOULD REQUIRE. AND THAT'S WHY WE
22 ASK THESE QUESTIONS UP FRONT ABOUT WHETHER YOU'VE BEEN
23 EXPOSED TO ANY PRETRIAL PUBLICITY AND WHETHER YOU'VE ALREADY
24 MADE UP YOUR MIND AND WHETHER YOU HAVE ANY DOUBT ABOUT YOUR
25 ABILITY TO SERVE AS A FAIR JUROR.

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JURY VOIR DIRE

17

1 SO LADIES AND GENTLEMEN, IF THERE'S ANY MEMBER OF THE
2 JURY PANEL WHO KNOWS ANYTHING ABOUT THIS CASE, HAS HEARD
3 ANYTHING ABOUT THIS CASE, HAS BEEN EXPOSED TO ANY PUBLICITY
4 FROM THE MEDIA OR OTHERWISE REGARDING THIS CASE, I'D ASK YOU
5 TO PLEASE STAND.

6 ALL RIGHT. WE'VE GOT ABOUT FIFTEEN OF YOU FOLKS. WHAT
7 I'M GOING TO DO IS I'LL START OVER HERE, AND WE'LL GO FROM
8 ROW TO ROW. SO I'M -- AND IT'S PROBABLY GOING TO TAKE, YOU
9 KNOW, A GOOD BIT OF TIME TO GO THROUGH THESE QUESTIONS WITH
10 EACH OF YOU. AND RATHER THAN MAKE YOU STAND UP FOR THE NEXT
11 FIFTEEN MINUTES, JUST GO AHEAD AND SIT BACK DOWN. AND AS WE
12 GET TO YOU ON YOUR ROW, YOU CAN JUST POP BACK UP.

13 AND WE'LL START WITH YOU AT THE END OF THE FRONT ROW,
14 SIR. I FORGOT YOUR NAME. WHAT'S YOUR NAME, PLEASE, SIR?

15 JUROR: JAMES MOORE.

16 THE COURT: MR. MOORE. ALL RIGHT. MR. MOORE, LET
17 ME FIND YOU ON THE LIST, PLEASE, SIR.

18 MADAM CLERK: 117.

19 THE COURT: MR. MOORE, 117. MR. MOORE, THE
20 INFORMATION THAT YOU HAVE ABOUT THIS CASE, DOES IT COME
21 SOLELY AS A RESULT OF MEDIA COVERAGE ABOUT THE CASE?

22 JUROR: MEDIA COVERAGE IS ALL I'VE HEARD. JUST A
23 MINIMAL ABOUT HER ARREST. AND THAT'S ALL I REALLY KNOW.

24 THE COURT: OKAY. NOW, I NEED TO KNOW, MR. MOORE,
25 BASED ON WHAT YOU'VE BEEN EXPOSED TO IN THE MEDIA, HAVE YOU

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1 ALREADY FORMED AN OPINION AS TO THE GUILT OF INNOCENSE OF
2 THE DEFENDANT?

3 JUROR: NO. I HAVEN'T THOUGHT ANYTHING ABOUT IT.

4 THE COURT: AND IF YOU WERE SELECTED TO SERVE IN
5 THIS CASE, SIR, WOULD YOU HONOR YOUR OATH AND FIND THE TRUTH
6 ONLY FROM THE EVIDENCE PRESENTED DURING THE COURSE OF THIS
7 TRIAL?

8 JUROR: YES, SIR.

9 THE COURT: AND WOULD YOU BE FAIR TO BOTH THE STATE
10 AND THE DEFENDANT?

11 JUROR: YES.

12 THE COURT: VERY GOOD. JUROR NUMBER 117, MR. MOORE.
13 THANK YOU, SIR.

14 THE NEXT GENTLEMAN?

15 JUROR: STEVE ANDREASEN.

16 MADAM CLERK: NUMBER 4.

17 THE COURT: YES, SIR, MR. ANDREASEN. THE SAME
18 QUESTION TO YOU. IS WHAT YOU'VE HEARD OR WHAT YOU KNOW
19 ABOUT THIS CASE BASED SOLELY ON WHAT YOU'VE BEEN EXPOSED TO
20 IN THE MEDIA?

21 JUROR: YES, SIR.

22 THE COURT: BASED ON WHAT YOU'VE BEEN EXPOSED TO IN
23 THE MEDIA, HAVE YOU ALREADY FORMED AN OPINION AS TO THE
24 GUILT OF INNOCENSE OF THE DEFENDANT?

25 JUROR: NO, SIR.

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1 THE COURT: IF YOU WERE SELECTED TO SERVE IN THIS
2 CASE WOULD YOU HONOR YOUR OATH AND FIND THE TRUTH ONLY FROM
3 THE EVIDENCE PRESENTED DURING THE COURSE OF THE TRIAL?

4 JUROR: YES, SIR.

5 THE COURT: AND IN THAT REGARD, MR. ANDREASEN, WOULD
6 YOU BE FAIR TO BOTH THE STATE AND THE DEFENDANT?

7 JUROR: YES, SIR.

8 THE COURT: MR. ANDREASEN, JUROR NUMBER 4. THANK
9 YOU, SIR.

10 I DON'T BELIEVE THERE WAS ANYONE ON THAT ROW. WE'LL GO
11 TO THE NEXT ROW.

12 JUROR: BARBARA MCCOY.

13 THE COURT: MS. MACAULEY?

14 JUROR: MCCOY.

15 THE COURT: MCCOY? OKAY. ONE SECOND.

16 MADAM CLERK: 108.

17 THE COURT: AND MS. MCCOY, THE INFORMATION THAT YOU
18 HAVE ABOUT THIS CASE, IS IT BASED ONLY ON WHAT YOU'VE BEEN
19 EXPOSED TO IN THE MEDIA?

20 JUROR: THAT'S RIGHT.

21 THE COURT: BASED ON WHAT YOU'VE BEEN EXPOSED TO IN
22 THE MEDIA, MS. MCCOY, HAVE YOU ALREADY FORMED AN OPINION AS
23 TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

24 JUROR: NO.

25 THE COURT: IF YOU WERE SELECTED TO SERVE AS A JUROR

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1 IN THIS CASE, MA'AM, WOULD YOU HONOR YOUR OATH AND FIND TH.
2 TRUTH ONLY FROM THE EVIDENCE PRESENTED DURING THE COURSE OF
3 THIS TRIAL?

4 JUROR: I DO NOT THINK I COULD BE FAIR. I REALLY
5 DON'T.

6 THE COURT: OKAY. MS. MCCOY, I APPRECIATE YOUR
7 CANDOR. THAT'S WHY WE GO THROUGH THIS PROCESS. IT'S THAT
8 TYPE OF CANDOR THAT MAKES THE SYSTEM WORK. SO I'M GOING TO
9 GO AHEAD AND EXCUSE YOU FROM THIS CASE. AND I HATE TO DO
10 THIS TO YOU -- BECAUSE JUDGE HALL IS DOING CIVIL COURT. AND
11 I SORT OF NEED TO KEEP YOU TOGETHER UNTIL I EXCUSE YOU FOR
12 LUNCH IN ABOUT FORTY-FIVE MINUTES. SO IF YOU DON'T MIND
13 JUST BEARING WITH US. AND THERE WILL BE PROBABLY SOME
14 OTHERS IN THE SAME SITUATION. SO IF YOU'LL JUST BEAR WITH
15 US SO I CAN KEEP YOU TOGETHER AS A UNIT AND GIVE YOU
16 INSTRUCTIONS AS A UNIT. AND I THANK YOU FOR YOUR PATIENCE,
17 MA'AM.

18 NOW, WAS THERE ANYONE ELSE ON THAT ROW THAT NEEDS TO
19 RESPOND TO THAT QUESTION? ALL RIGHT. LET'S JUST GO ON BACK
20 TO THE NEXT ROW. I KNOW WE HAVE AT LEAST A COUPLE MORE ON
21 THIS SIDE. I'M JUST NOT SURE HOW FAR BACK. AND IF WE MISS
22 SOMEONE, THAT'S FINE. WE'LL COME BACK TO YOU.

23 THE COURT: YES, MA'AM. YOUR NAME, PLEASE?

24 JUROR: JAN BROOME.

25 THE COURT: MS. BROOME? ONE SECOND, PLEASE, MA'AM.

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1 MADAM CLERK: NUMBER 20.

2 THE COURT: MS. BROOME, THE INFORMATION THAT YOU
3 HAVE ABOUT THIS CASE, IS IT BASED SOLELY ON WHAT YOU'VE BEEN
4 EXPOSED TO IN THE MEDIA?

5 JUROR: ACTUAL INFORMATION, YES. I WORK AT D.S.S.,
6 BUT I DON'T WORK IN THE AREA THAT WOULD HAVE HANDLED THIS.
7 I'M AWARE OF EMOTIONS, BUT I'M NOT AWARE OF INFORMATION.

8 THE COURT: MS. BROOME, I'M GOING TO MAKE A NOTE AND
9 MEET WITH THE ATTORNEYS. AND WHAT WE MAY NEED TO DO IS
10 BRING YOU FORWARD. AND THAT'S WHY WE BRING PEOPLE FORWARD
11 SOMETIMES, BECAUSE WE DON'T WANT ANYTHING A POTENTIAL JUROR
12 SAYS TO IN ANY WAY IMPACT OR INFLUENCE THE REST OF THE
13 MEMBERS OF THE JURY. SO I'VE GOT YOUR NAME DOWN. AND WE
14 MAY NEED TO BRING YOU FORWARD A LITTLE BIT LATER ON, MS.
15 BROOME. THANK YOU.

16 ALL RIGHT. I KNOW THERE WAS AT LEAST ONE OTHER PERSON
17 ON THIS SIDE. ALL RIGHT.

18 JUROR: MICHELLE HOWARD.

19 THE COURT: MS. HOWARD? ALL RIGHT. ONE SECOND,
20 PLEASE, MA'AM.

21 MADAM CLERK: NUMBER 90.

22 THE COURT: MS. HOWARD, THE INFORMATION THAT YOU
23 HAVE ABOUT THIS CASE, IS IT BASED ONLY ON WHAT YOU'VE BEEN
24 EXPOSED TO IN THE MEDIA?

25 JUROR: YES.

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1 THE COURT: BASED ON WHAT YOU'VE BEEN EXPOSED TO IN
2 THE MEDIA, MS. HOWARD, HAVE YOU ALREADY FORMED AN OPINION A
3 TO THE GUILT OF INNOCENSE OF THE DEFENDANT?

4 JUROR: HONESTLY, YES.

5 THE COURT: OKAY. AND I APPRECIATE YOUR CANDOR.
6 AND BASED ON THAT, MA'AM, I'M GOING TO GO AHEAD AND EXCUSE
7 YOU. BUT JUST LIKE WITH MS. MCCOY, IF YOU'D BE KIND ENOUGH
8 MA'AM, JUST TO STAY WITH US FOR THE BALANCE OF THIS PROCESS,
9 I'LL GIVE YOU INSTRUCTIONS AT THE END.

10 WAS ANYONE ELSE ON THIS SIDE OF THE COURTROOM?

11 ALL RIGHT. THIS LADY OVER HERE. YOUR NAME, PLEASE?

12 JUROR: ELIZABETH SWORDS.

13 THE COURT: MS. SWORDS.

14 MADAM CLERK: NUMBER 71-A.

15 THE COURT: MS. SWORDS, THE INFORMATION THAT YOU
16 HAVE ABOUT THIS CASE, IS IT BASED ONLY ON WHAT YOU'VE BEEN
17 EXPOSED TO IN THE MEDIA?

18 JUROR: NO, SIR.

19 THE COURT: YOU HAVE INFORMATION OUTSIDE OF THE
20 MEDIA?

21 JUROR: YES, SIR.

22 THE COURT: OKAY. WHAT I'D LIKE TO DO, MS. SWORDS,
23 I'M GOING TO WRITE YOUR NAME DOWN. AND WE WILL CALL YOU UP
24 A LITTLE BIT LATER UP FRONT, AND WE'LL DISCUSS THAT THEN.
25 THANK YOU, MS. SWORDS.

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1 ALL RIGHT.. ANYONE ELSE ON THIS SIDE OF THE COURTROOM?

2 AND IF YOU DIDN'T STAND EARLIER, YOU CAN STILL STAND NOW.

3 IT'S NO PROBLEM.

4 (NO RESPONSE)

5 THE COURT: ALL RIGHT. LET'S MOVE TO THIS SIDE OF
6 THE COURTROOM. AND WE'LL START WITH ANYONE ON THE FRONT
7 ROW, AND THEN WE'LL JUST WORK OUR WAY BACK.

8 JUROR: MY NAME IS CAROL SMITH.

9 THE COURT: MS. SMITH? ONE SECOND, PLEASE.

10 MADAM CLERK: NUMBER 147.

11 THE COURT: MS. SMITH, THE INFORMATION THAT YOU HAVE
12 ABOUT THIS CASE, DOES IT COME SOLELY FROM YOUR EXPOSURE IN
13 THE MEDIA?

14 JUROR: TO THE CASE. I JUST HAVE A VERY GOOD FRIEND
15 THAT KNOWS THE DEFENDANT. AND JUST SOME INFORMATION WAS
16 RELATED TO ME ABOUT HER AS A PERSON.

17 THE COURT: OKAY. I TELL YOU WHAT I'M GOING TO DO,
18 MS. SMITH, IS I'M GOING TO WRITE YOUR NUMBER DOWN, TOO, AND
19 YOUR NAME. AND I'M GOING TO CALL YOU FORWARD AT THE END,
20 AND WE'LL GET THAT INFORMATION. IN FACT, I'M GOING TO ASK A
21 SPECIFIC QUESTION IF ANYBODY IS RELATED TO THE WITNESSES OR
22 THE PARTIES INVOLVED. AND THAT WOULD INVOLVE THAT AS WELL.

23 ALL RIGHT. ANYONE ELSE ON THE FRONT ROW THAT'S HEARD
24 ANYTHING ABOUT THE CASE? IF NOT, WE'LL GO TO THE NEXT ROW.
25 ANYONE ON THE NEXT ROW?

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1 JUROR: JAMES WYLIE.

2 THE COURT: I'M SORRY. YOUR LAST NAME?

3 JUROR: WYLIE.

4 THE COURT: MR. WYLIE, ONE SECOND.

5 MADAM CLERK: 174.

6 THE COURT: MR. WYLIE, THE INFORMATION THAT YOU HAVE
7 ABOUT THIS CASE, DOES IT COME SOLELY AS A RESULT OF YOUR
8 EXPOSURE TO THE MEDIA?

9 JUROR: YES.

10 THE COURT: BASED ON WHAT YOU'VE BEEN EXPOSED TO IN
11 THE MEDIA, HAVE YOU ALREADY FORMED AN OPINION AS TO THE
12 GUILT OR INNOCENCE OF THE DEFENDANT?

13 JUROR: NO, SIR.

14 THE COURT: IF YOU WERE SELECTED TO SERVE AS A
15 JUROR, MR. WYLIE, WOULD YOU HONOR YOUR OATH AND FIND THE
16 TRUTH ONLY FROM THE EVIDENCE PRESENTED DURING THE COURSE OF
17 THIS TRIAL?

18 JUROR: YES, SIR.

19 THE COURT: IN THAT REGARD, MR. WYLIE, COULD YOU BE
20 FAIR AND IMPARTIAL BOTH TO THE STATE AND THE DEFENDANT?

21 JUROR: YES, SIR.

22 THE COURT: THANK YOU, MR. WYLIE. JUROR 174. THANK
23 YOU, SIR.

24 ANYONE ELSE ON THAT ROW? IF NOT, LET'S MOVE TO THE
25 NEXT ROW AND JUST WORK OUR WAY BACK. I KNOW THERE WERE A

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1 NUMBER OF PEOPLE ON THIS SIDE AS WELL.

2 IS IT TRADO?

3 JUROR: YES, SIR.

4 THE COURT: LET ME SEE IF I CAN FIND YOU.

5 MADAM CLERK: TRANSFER 23.

6 THE COURT: MR. TRADO, THE INFORMATION THAT YOU HAVE
7 ABOUT THIS CASE, SIR, DOES IT COME SOLELY AS A RESULT OF
8 YOUR EXPOSURE TO THE MEDIA?

9 JUROR: YES, SIR.

10 THE COURT: BASED ON WHAT YOU'VE BEEN EXPOSED TO IN
11 THE MEDIA, MR. TRADO, HAVE YOU ALREADY FORMED AN OPINION AS
12 TO THE GUILT OR INNOCENSE OF THE DEFENDANT?

13 JUROR: NO.

14 THE COURT: IF YOU WERE SELECTED TO SERVE IN THIS
15 CASE, WOULD YOU HONOR YOUR OATH AND FIND THE TRUTH ONLY FROM
16 THE EVIDENCE PRESENTED DURING THE COURSE OF THIS TRIAL?

17 JUROR: YES.

18 THE COURT: AND COULD YOU BE FAIR IN THAT REGARD,
19 BOTH TO THE STATE AND THE DEFENDANT?

20 JUROR: YES, SIR.

21 THE COURT: THANK YOU, SIR. TRANSFER 23.

22 YES, SIR. AT THE END OF THIS ROW.

23 JUROR: DEWEY BULLINGTON.

24 THE COURT: LAST NAME BULLING?

25 JUROR: BULLINGTON, B-U-L-L-I-N-G-T-O-N.

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1 THE COURT: ALL RIGHT, SIR.

2 MADAM CLERK: TRANSFER 4.

3 THE COURT: TRANSFER? OKAY.

4 MR. BULLINGTON, THE INFORMATION THAT YOU HAVE ABOUT
5 THIS CASE, DOES IT COME SOLELY AS A RESULT OF WHAT YOU'VE
6 LEARNED OR HEARD AND BEEN EXPOSED TO IN THE MEDIA?

7 JUROR: DEFINITELY.

8 THE COURT: BASED ON WHAT YOU'VE BEEN EXPOSED TO IN
9 THE MEDIA, MR. BULLINGTON, HAVE YOU ALREADY FORMED AN
10 OPINION AS TO THE GUILT OR INNOCENCE OF THIS DEFENDANT?

11 JUROR: ABSOLUTELY NOT.

12 THE COURT: IF YOU WERE SELECTED TO SERVE IN THIS
13 CASE, SIR, COULD YOU HONOR YOUR OATH AND FIND THE TRUTH ONLY
14 FROM THE EVIDENCE PRESENTED DURING THE COURSE OF THIS TRIAL?

15 JUROR: YES, SIR.

16 THE COURT: IN THAT REGARD, SIR, WOULD YOU BE FAIR
17 TO BOTH THE STATE AND THE DEFENDANT?

18 JUROR: YES.

19 THE COURT: VERY GOOD, MR. BULLINGTON. THANK YOU,
20 SIR. THAT'S TRANSFER NUMBER 4.

21 ANYONE ON THAT ROW? YES, MA'AM. YOUR NAME, PLEASE?

22 JUROR: DIANE CALLAHAM.

23 THE COURT: CALLAHAM?

24 JUROR: CALLAHAM.

25 MADAM CLERK: 25.

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1 THE COURT: MS. CALLAHAM, THE INFORMATION YOU HAVE
2 ABOUT THIS CASE, DOES IT COME SOLELY AS A RESULT OF YOUR
3 EXPOSURE TO THE MEDIA?

4 JUROR: YES, SIR.

5 THE COURT: BASED ON WHAT YOU'VE BEEN EXPOSED TO IN
6 THE MEDIA COVERAGE, HAVE YOU ALREADY FORMED AN OPINION AS TO
7 THE GUILT OR INNOCENSE OF THE DEFENDANT?

8 JUROR: NO, SIR.

9 THE COURT: IF YOU WERE SELECTED TO SERVE AS A JUROR
10 IN THIS CASE, WOULD YOU HONOR YOUR OATH AND FIND THE TRUTH
11 ONLY FROM THE EVIDENCE PRESENTED DURING THE COURSE OF THE
12 TRIAL?

13 JUROR: I WOULD.

14 THE COURT: IN THAT REGARD, MA'AM, WOULD YOU BE FAIR
15 AND IMPARTIAL TO BOTH THE STATE AND THE DEFENDANT?

16 JUROR: YES, SIR.

17 THE COURT: MS. CALLAHAM, THANK YOU. THAT'S JUROR

18 25.

19 ANYONE ELSE ON THAT ROW? YES, MA'AM.

20 JUROR: MARTHA HANWELL.

21 THE COURT: MS. HANWELL, ONE SECOND. SEVENTY-NINE,
22 I THINK.

23 MADAM CLERK: YES, YOUR HONOR.

24 THE COURT: MS. HANWELL, THE INFORMATION THAT YOU
25 HAVE ABOUT THIS CASE, IS IT BASED ONLY ON WHAT YOU'VE BEEN

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1 EXPOSED TO IN THE MEDIA?

2 JUROR: NO, SIR, IT'S NOT.

3 THE COURT: WHAT I WOULD LIKE TO DO WITHOUT GOING
4 ANY FURTHER, MA'AM, IS JUST WRITE YOUR NAME AND NUMBER DOWN
5 ALONG WITH SEVERAL OTHERS, AND JUST CALL YOU FORWARD TOWARD
6 THE END OF THE PROCESS. ALL RIGHT? THANK YOU, MA'AM.

7 ANYONE ELSE ON THAT ROW?

8 (NO RESPONSE)

9 THE COURT: OKAY. LET'S GO TO THE NEXT ROW.

10 JUROR: KATHRYN MILLER.

11 THE COURT: MS. MILLER.

12 MADAM CLERK: 112.

13 THE COURT: AND MS. MILLER, THE INFORMATION THAT YOU
14 HAVE ABOUT THIS CASE, DOES IT COME SOLELY FROM YOUR EXPOSURE
15 TO THE MEDIA?

16 JUROR: YES, SIR.

17 THE COURT: BASED ON WHAT YOU'VE BEEN EXPOSED TO IN
18 THE MEDIA, MS. MILLER, HAVE YOU ALREADY FORMED AN OPINION AS
19 TO THE GUILT OR INNOCENCE OF THE DEFENDANT?

20 JUROR: NO, SIR.

21 THE COURT: IF YOU WERE SELECTED TO SERVE IN THIS
22 CASE, WOULD YOU HONOR YOUR OATH AND FIND THE TRUTH ONLY FROM
23 THE EVIDENCE THAT'S PRESENTED DURING THE COURSE OF THIS
24 TRIAL?

25 JUROR: YES, SIR.

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1 THE COURT: IN THAT REGARD, MS. MILLER, WOULD YOU BE
2 FAIR TO BOTH THE STATE AND THE DEFENDANT?

3 JUROR: I WOULD.

4 THE COURT: THANK YOU, MA'AM. THAT'S JUROR 112, MS.
5 MILLER.

6 ANYONE ELSE ON THAT ROW? AND WE'LL WORK OUR WAY BACK
7 IF ANYONE ELSE -- OKAY. YES, SIR.

8 JUROR: JOHN SIMPSON.

9 THE COURT: JOHN SIMPSON. ONE SECOND, MR. SIMPSON.

10 MADAM CLERK: 146.

11 THE COURT: MR. SIMPSON, THE INFORMATION THAT YOU
12 HAVE ABOUT THIS CASE, DOES IT COME SOLELY FROM WHAT YOU'VE
13 BEEN EXPOSED TO IN THE MEDIA?

14 JUROR: YES, SIR.

15 THE COURT: BASED ON WHAT YOU'VE BEEN EXPOSED TO IN
16 THE MEDIA, HAVE YOU ALREADY FORMED AN OPINION AS TO THE
17 GUILT OR INNOCENCE OF THE DEFENDANT?

18 JUROR: NO, SIR.

19 THE COURT: IF YOU WERE SELECTED TO SERVE AND GIVEN
20 AN OATH IN THIS CASE, WOULD YOU HONOR YOUR OATH AND FIND THE
21 TRUTH ONLY FROM THE EVIDENCE PRESENTED DURING THE COURSE OF
22 THIS TRIAL?

23 JUROR: YES, SIR.

24 THE COURT: IN THAT REGARD, MR. SIMPSON, IF YOU WERE
25 SELECTED TO SERVE, WOULD YOU BE FAIR AND IMPARTIAL TO BOTH

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1 THE STATE AND THE DEFENDANT?

2 JUROR: YES, SIR.

3 THE COURT: MR. SIMPSON, THANK YOU SIR. THAT'S

4 JUROR 146.

5 JUROR: JOHN ALLGOOD.

6 THE COURT: WHAT'S YOUR LAST NAME?

7 JUROR: ALLGOOD.

8 THE COURT: MR. ALLGOOD. ONE SECOND, SIR.

9 MADAM CLERK: 3-A.

10 THE COURT: ALL RIGHT, MR. ALLGOOD. THE INFORMATI

11 THAT YOU HAVE ABOUT THIS CASE, DOES THAT COME SOLELY AS A

12 RESULT OF YOUR EXPOSURE TO THE MEDIA?

13 JUROR: YES, SIR.

14 THE COURT: BASED ON WHAT YOU'VE BEEN EXPOSED TO IN

15 THE MEDIA, HAVE YOU ALREADY FORMED AN OPINION AS TO THE

16 GUILT OR INNOCENSE OF THIS DEFENDANT?

17 JUROR: YES, SIR.

18 THE COURT: BASED ON THAT, I'M GOING TO GO AHEAD AN

19 EXCUSE YOU. BUT AS WITH THE OTHERS, I'M GOING TO ASK YOU T

20 PLEASE REMAIN WITH US. WE'LL PROBABLY BREAK FOR LUNCH IN

21 ABOUT TWENTY-FIVE OR THIRTY MINUTES. AND I'LL GIVE YOU

22 INSTRUCTIONS AT THAT POINT. THANK YOU FOR YOUR PATIENCE,

23 MR. ALLGOOD. THAT'S JUROR 3-A.

24 ALL RIGHT. IS IT MS. VICKERY?

25 JUROR: VICKERY.

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1 THE COURT: ALL RIGHT. LET ME FIND YOU ON THE LIST,
2 MS. VICKERY.

3 MADAM CLERK: 159.

4 THE COURT: MS. VICKERY, THE INFORMATION THAT YOU
5 HAVE ABOUT THIS CASE, DOES IT COME SOLELY AS A RESULT OF
6 WHAT YOU'VE BEEN EXPOSED TO IN THE MEDIA?

7 JUROR: YES, SIR.

8 THE COURT: BASED ON WHAT YOU'VE BEEN EXPOSED TO IN
9 THE MEDIA, MA'AM, HAVE YOU ALREADY FORMED AN OPINION AS TO
10 THE GUILT OR INNOCENSE OF THE DEFENDANT?

11 JUROR: NO, SIR.

12 THE COURT: IF YOU WERE SELECTED TO SERVE AS A JUROR
13 IN THIS CASE, WOULD YOU HONOR YOUR OATH AND FIND THE TRUTH
14 ONLY FROM THE EVIDENCE PRESENTED DURING THE COURSE OF THIS
15 TRIAL IN THIS COURTROOM?

16 JUROR: YES, SIR.

17 THE COURT: IN THAT REGARD, MA'AM, IF YOU WERE
18 SELECTED TO SERVE, WOULD YOU BE FAIR AND IMPARTIAL TO BOTH
19 THE STATE AS WELL AS THE DEFENDANT?

20 JUROR: YES, SIR.

21 THE COURT: THANK YOU, MA'AM. THAT'S JUROR 159, MS.
22 VICKERY.

23 ANYONE ELSE ON THAT ROW? IF NOT, WE'LL MOVE TO THE
24 NEXT ROW. OKAY. WE'LL WORK OUR WAY BACK. ANYONE BEHIND
25 MS. VICKERY? ALL RIGHT. THE GENTLEMAN IN THE REAR, YOUR

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1 NAME, PLEASE?

2 JUROR: EDDIE DEAN.

3 THE COURT: MR. DEAN, ONE SECOND.

4 MADAM CLERK: TRANSFER 7.

5 THE COURT: MR. DEAN, THE INFORMATION THAT YOU HAV
6 ABOUT THIS CASE, DOES IT COME SOLELY FROM WHAT YOU'VE BEEN
7 EXPOSED TO IN THE MEDIA?

8 JUROR: YES, SIR.

9 THE COURT: BASED ON WHAT YOU'VE BEEN EXPOSED TO IN
10 THE MEDIA, MR. DEAN, HAVE YOU ALREADY FORMED AN OPINION AS
11 TO THE GUILT OR INNOCENSE OF THE DEFENDANT?

12 JUROR: YES, SIR.

13 THE COURT: MR. DEAN, THANK YOU, SIR. YOU MAY BE
14 SEATED. SAME INSTRUCTIONS I GAVE THE EARLIER ONES WHO HAVE
15 BEEN EXCUSED IN THIS CASE.

16 ALL RIGHT. ANYONE ELSE ON THAT ROW? ALL RIGHT. LET
17 ME JUST ASK THE QUESTION. ANYONE ELSE ON THIS SIDE WHO
18 DIDN'T RESPOND WHO NEEDS TO RESPOND? ANYONE ELSE ON THIS
19 SIDE OF THE COURTROOM? ALL RIGHT. THERE'S NO ADDITIONAL
20 RESPONSE.

21 LET ME GO BACK OVER HERE ONE MORE TIME. IS THERE
22 ANYONE ON THIS SIDE OF THE COURTROOM WHO DID NOT RESPOND
23 EARLIER, WHO IN HEARING SOME COMMENTS THINKS THAT PERHAPS
24 EVEN THOUGH THEY DIDN'T RESPOND EARLIER, THEY HAVE HEARD
25 SOMETHING OR SEEN SOMETHING IN THE MEDIA ABOUT THIS CASE?

1 IF SO, PLEASE STAND. ALL RIGHT. THERE IS NO ADDITIONAL
2 RESPONSE. I HAVE THE NAMES DOWN OF THOSE THAT WE NEED TO
3 DISCUSS THEIR RESPONSES AT THE COURT REPORTER'S STATION.

4 LADIES AND GENTLEMEN, I HAVE A LONG LIST OF POTENTIAL
5 WITNESSES IN THIS CASE. BEFORE I GET TO THAT, I'M GOING TO
6 ASK IF THERE'S ANY MEMBER OF THE JURY PANEL WHO IS RELATED
7 BY BLOOD OR MARRIAGE OR AN ACQUAINTANCE OF ANY KIND, SOCIAL
8 OR PROFESSIONAL, WITH THE DEFENDANT, MS. ILA MICHELE CARTER.
9 IF SO, PLEASE STAND. ALL RIGHT. THERE IS NO RESPONSE.

10 NOW, LADIES AND GENTLEMEN, I HAVE A LIST OF POTENTIAL
11 WITNESSES. AND THE LIST IS VERY LENGTHY. IT'S GOING TO
12 TAKE ME A LITTLE WHILE JUST TO GO THROUGH THE LIST OF NAMES.
13 AND IF YOU NEED FOR ME AT THE END TO GO OVER SOME NAMES,
14 I'LL BE GLAD TO DO SO. SOME OF THE WITNESSES MAY BE
15 PRESENT. IF THEY ARE, I'D ASK THEM TO STAND BRIEFLY IN THE
16 COURTROOM. BUT LADIES AND GENTLEMEN, MOST OF THESE
17 WITNESSES ARE NOT GOING TO BE HERE. YOU DON'T GET A CHANCE
18 TO EYEBALL ALL THE WITNESS THE WAY YOU DO THE ATTORNEYS AND
19 THE PARTIES INVOLVED. SO I WANT YOU TO PAY PARTICULARLY
20 CLOSE ATTENTION TO THE NAMES. IF YOU HEAR A NAME THAT'S
21 FAMILIAR TO YOU, IT RINGS A BELL AS SOMEONE YOU MIGHT HAVE
22 GONE TO CHURCH WITH YEARS AGO OR GONE TO SCHOOL WITH YEARS
23 AGO, GO AHEAD AND STAND. LET'S ERR ON THE SIDE OF CAUTION.
24 SO WHEN I GIVE THE QUESTION AT THE END, GO AHEAD AND STAND.
25 AND LET'S FIND OUT NOW WHETHER OR NOT YOU KNOW A POTENTIAL

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1 WITNESS. IT'S SO MUCH EASIER TO ADDRESS AND RESOLVE THESE
2 ISSUES NOW. IT'S MUCH MORE DIFFICULT TO DO SO ONCE THE
3 TRIAL HAS BEGUN AND YOU'RE IN THE JURY BOX.

4 I ASK COUNSEL TO ASSIST ME IF I MISPRONOUNCE ANYONE'S
5 NAME. PLEASE CORRECT ME. IF I OMIT ANYONE, PLEASE BRING
6 THAT TO MY ATTENTION. AND THESE ARE JUST POTENTIAL
7 WITNESSES. THEY WILL NOT HAVE THIS NUMBER ONCE THE TRIAL
8 BEGINS. BUT BECAUSE THEY POTENTIALLY COULD TESTIFY, I'M
9 REQUIRED TO DISCLOSE ALL OF THESE NAMES.

10 INVESTIGATOR JOHN CARPENTER WITH THE SHERIFF'S OFFICE,
11 INVESTIGATOR MATT SMITH WITH THE SHERIFF'S OFFICE,
12 INVESTIGATOR JEAN SUTTON WITH THE SHERIFF'S OFFICE,
13 INVESTIGATOR MIKE MITCHELL WITH THE SHERIFF'S OFFICE,
14 INVESTIGATOR JAMI BROTHERS WITH THE SHERIFF'S OFFICE, DENNI
15 DENARDO, CAROLYN WHITLOCK, LEE WHITLOCK, CHARLIE CALVIN
16 BURGESS, D.W. ., J.W. , DR. AARON
17 SHEETS. IT'S EITHER CHARIE OR SHERIE JENKINS.

18 MS. WHITE: CHARIE.

19 THE COURT: CHARIE? CHARIE JENKINS, MARGARET
20 WILSON, SYLVIA M. THOMAS, SHARON K. CARTER, DR. BRETT
21 WOODARD, TIMOTHY D. HARMON, BONITA HARMON, PAT HARMON, DAVI
22 HARMON, TERRI L. CARTER, JESSIE CARTER, JR., REBECCA LYNN
23 LEGETTE, JAMES BURGESS, RANDALL L. CARTER, PATSY PATTERSON
24 CAPE, FLOYD RIDER, BRYAN RIDER, KIMBERLY CAPE WAGES, STEVE
25 MOSS OR SOMEONE WHO IS CUSTODIAN OF RECORDS FOR A COMPANY

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1 KNOWN AS PLASTIC OMNIUM, DONNA MARIE PATTERSON, MAUREEN
2 LEWIS, KALESHA LEWIS, KIMEYA LEWIS, LORETTA LEWIS, BETHANY
3 LEWIS, DENISE -- EXCUSE ME -- DENNIS KEEFE, MICHAEL COX, AL
4 PEARCE, TERESA DENARDO, LYNN FINLEY, DR. STELLA LEGARDA,
5 PAMELA STANDARD, LISA KNIGHT, CAROLE WHITTED, DELLA
6 CULBERTSON, VICKI WATT, CANDY RICKETTS, JEANNIE DOBBINS,
7 REGINA LATIMER, DR. STEVE SWEARINGEN, CHRIS WILKINSON, DR.
8 MICHAEL G. AVANT, DR. GARY A. COTTINGIM, DEBBIE ROBINSON,
9 DR. CHARLES P. HUNTER, III, DR. JOHN GRIER, DR. MONICA
10 GRIER, CYNTHIA SWANEY, JOHNNIE GREENE, DR. ROBERT S.
11 SEIGLER, DR. LISA CASTELLANI, BEVERLY BROOKSHIRE, PAULA
12 PRATT, ADRIENNE RILEY, DUSTIN SMITH, ALICIA COWART, ANDREW
13 WHITTAKER, SR., BUDDY ELLISON, DAWN ZERCHER, DR. ALFRED T.
14 NELSON, JR., DR. AUGUSTO MORALES, DR. CINDY WELSH,
15 INVESTIGATOR MARK COYLE, JAMES WHITLOCK, MARIANNE BURGESS,
16 MARY LUNDKOVSKY, TERRY ANN HAYES, TODD CARON, DR. JAE IL
17 ZOHN ---
18 MS. WHITE: SOHN.
19 THE COURT: SOHN. DR. SALLIE CARTER, DR. RUCHIKA
20 JAIN, DR. KIMBERLY PHILLIPS, DR. LAURIE ROBINSON, DR. STACY
21 SMITH, RALPH MAYER OR A CUSTODIAN OF RECORDS FROM BELL SOUTH
22 COMMUNICATIONS, DIANE ELLISON WHO IS CUSTODIAN OF RECORDS
23 FOR ANDERSON COUNTY BEHAVIORAL HEALTH SERVICES, TERRY
24 JARRARD ---
25 MS. WHITE: TREY JARRARD.

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1 THE COURT: I'M SORRY. TREY JARRARD, TAMELA TYRE,
2 DR. BARRY H. MADDOX, DR. KATHLEEN OXNER, DR. STEPHEN A.
3 ANVAR, KIM DICKERSON, C.M. , DRAKE BROWN, SHERRA
4 RICHARDSON, JONATHAN WILKINSON, CHASE WILKINSON, CALEB
5 WILKINSON, CUSTODIAN OF RECORDS FOR ANDERSON AREA MEDICAL
6 CENTER, CUSTODIAN OF RECORDS FOR GREENVILLE MEMORIAL
7 HOSPITAL, GAILE HEATH, AMANDA SIMMONS, JOY SARGENT, LARRY
8 BANNISTER, THOMAS MEYERS, MELINDA CADE, SARGENT RODNEY
9 HARBIN, DANA FOWLER, WILLIAM CRUMPTON, LAURA CORLEY, SHEREE
10 BROWN, STEVE LAMBERT, LEE ANN GANDY, PAT CROOKS, RITA
11 SHULER, CHARLIE BOSEMAN, SANDRA GUNTER, KAY KENT, SHERREE
12 (PHONICS) OR SHERRI HOWARD.

13 LADIES AND GENTLEMEN, THAT CONCLUDES THE LIST OF
14 POTENTIAL WITNESSES. IF YOU NEED FOR ME TO REPEAT A
15 PARTICULAR NAME, I'LL BE GLAD TO DO SO. ALSO, I CALLED OUT
16 A NUMBER OF MEDICAL CARE PROFESSIONALS. SO IF YOU HAVE EVER
17 BEEN TREATED OR PRESENTLY BEING TREATED BY ANY SUCH MEDICAL
18 CARE PROFESSIONAL, THAT WOULD LIKEWISE BE INCLUDED IN THIS
19 QUESTION. IF YOU ARE RELATED BY BLOOD OR MARRIAGE OR AN
20 ACQUAINTANCE OF ANY KIND, SOCIAL OR PROFESSIONAL, WITH ANY
21 OF THESE POTENTIAL WITNESSES, WOULD YOU PLEASE STAND?

22 ALL RIGHT. WHAT I'LL DO THIS TIME, TO TRY TO BE FAIR,
23 IS I'LL START OVER HERE AND WORK OUR WAY BACK. AND I'LL
24 JUST GET TO YOU AS I CAN. BUT THIS SHOULDN'T TAKE VERY
25 LONG.

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1 I'LL START WITH YOU, MA'AM, HERE ON THE END. YOUR NAME
2 AGAIN, PLEASE?

3 JUROR: DIANE CALLAHAM.

4 THE COURT: MS. CALLAHAM.

5 MADAM CLERK: NUMBER 25.

6 THE COURT: MS. CALLAHAM, WHICH OF THESE WITNESSES
7 DO YOU KNOW?

8 JUROR: DR. JOHN GRIER.

9 THE COURT: AND HOW DO YOU KNOW DR. GRIER?

10 JUROR: HE WAS A FRIEND OF OUR FAMILY FOR YEARS. AND
11 I'M ACQUAINTANCES WITH HIS WIFE.

12 THE COURT: IF HE'S A WITNESS IN THIS CASE, WOULD
13 THAT IN ANY WAY AFFECT YOUR ABILITY TO BE FAIR?

14 JUROR: NO, SIR.

15 THE COURT: AND YOU WOULD -- IF HE TESTIFIED IN THIS
16 CASE AND YOU WERE ON THE JURY, YOU'D STILL BE A FAIR AND
17 IMPARTIAL JUROR?

18 JUROR: YES, SIR, I WOULD.

19 THE COURT: VERY GOOD. MS. CALLAHAM, THANK YOU VERY
20 MUCH.

21 NEXT TO YOU. YES, MA'AM.

22 JUROR: MARTHA HANWELL.

23 THE COURT: MS. HANWELL, YES, MA'AM?

24 JUROR: SOME OF THE NAMES YOU CALLED ARE STUDENTS AT
25 MY SCHOOL. THE WHITLOCKS, THE LEWISES. I THINK THERE WERE

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1 SOME OTHERS.

2 THE COURT: ALL RIGHT. AND HERE'S THE QUESTION.
3 THROUGH YOUR WORK AT SCHOOL, YOU KNOW MANY OF THE POTENTIAL
4 WITNESSES. AND IF YOU ARE ON THE JURY AND ANY OF THOSE
5 STUDENTS OR RELATIVES OF THOSE STUDENTS CAME INTO COURT,
6 WOULD IT IMPACT YOUR ABILITY TO SERVE AS A FAIR JUROR?

7 JUROR: NO, SIR, IT WILL NOT.

8 THE COURT: AND SO IF YOU DO KNOW THESE PEOPLE, AND
9 IF THEY DO, IN FACT, TESTIFY, WOULD YOU STILL SERVE AS A
10 FAIR AND IMPARTIAL JUROR?

11 JUROR: YES, SIR, I WOULD.

12 THE COURT: MS. HANWELL, I WANT TO THANK YOU VERY
13 MUCH.

14 YES, SIR?

15 JUROR: DEWEY BULLINGTON.

16 THE COURT: MR. BULLINGTON, WHAT WOULD BE YOUR
17 RESPONSE TO THESE WITNESSES?

18 JUROR: I'M A PHARMACIST. I'VE BEEN A PHARMACIST IN
19 THE ANDERSON AREA FOR ABOUT TEN AND A HALF YEARS. AND I
20 RECOGNIZE AND POSSIBLY HAVE TALKED TO THESE DOCTOR ON
21 NUMEROUS OCCASIONS. AND ALSO, PROBABLY SOME OF THE OTHER
22 WITNESSES. SOME OF THE NAMES RING A BELL.

23 THE COURT: OKAY. ARE THERE ANY WITNESSES WHO GO
24 MORE THAN RING A BELL AND THAT YOU DEFINITELY KNOW AND ARE
25 VERY CLOSE TO?

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1 JUROR: NO.

2 THE COURT: SO WE'RE DEALING WITH PEOPLE THAT YOU
3 MAY HAVE COME ACROSS THEIR NAMES IN YOUR BUSINESS AS A
4 PHARMACIST AND MEDICAL CARE PROFESSIONALS YOU DEAL WITH ON A
5 PROFESSIONAL BASIS THROUGH YOUR OFFICE. AND IF ANY OF THESE
6 FOLKS TESTIFY, WOULD THAT IN ANY WAY AFFECT YOUR ABILITY TO
7 SERVE AS A FAIR JUROR?

8 JUROR: NO, SIR.

9 THE COURT: VERY GOOD. THANK YOU, SIR.
10 YES, SIR; YOUR NAME PLEASE?

11 JUROR: ANDY SCOTT.

12 THE COURT: MR. SCOTT? LET'S FIND YOUR NUMBER.

13 MADAM CLERK: 143.

14 THE COURT: ALL RIGHT. AND MR. SCOTT, WHICH OF
15 THESE WITNESSES DO YOU KNOW, SIR?

16 JUROR: PATSY CAPE.

17 THE COURT: HOW DO YOU KNOW THAT POTENTIAL WITNESS?

18 JUROR: WE WORKED TOGETHER AT GLEN RAVEN MILL.

19 THE COURT: I'M SORRY?

20 JUROR: WE WORKED TOGETHER. IT'S ON DIFFERENT
21 SHIFTS.

22 THE COURT: YOU WORKED TOGETHER. AND WHERE DO YOU
23 WORK?

24 JUROR: GLEN RAVEN.

25 THE COURT: AND IF THIS INDIVIDUAL THAT YOU KNOW OR

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1 WORK WITH TESTIFIES, IF YOU'RE ON THE JURY, WOULD THAT
2 AFFECT YOUR ABILITY TO BE FAIR?

3 JUROR: NO, SIR.

4 THE COURT: WOULD YOU STILL BE FAIR TO BOTH SIDES?

5 JUROR: YES, SIR.

6 THE COURT: VERY GOOD, MR. CAPE [SIC]. THANK YOU,
7 SIR. I APPRECIATE IT.

8 IN THE REAR. YES, MA'AM; YOUR NAME, PLEASE?

9 JUROR: SHELLY DUCKETT.

10 THE COURT: WHAT'S YOUR LAST NAME?

11 JUROR: DUCKETT.

12 THE COURT: DUCKETT. OKAY. ONE SECOND.

13 MADAM CLERK: NUMBER 48.

14 THE COURT: AND MS. DUCKETT, WHICH OF THESE
15 WITNESSES DO YOU KNOW, MA'AM?

16 JUROR: SALLIE CARTER.

17 THE COURT: AND HOW DO YOU KNOW DR. CARTER?

18 JUROR: MY CHILD, I TAKE HER TO THE CLINIC WHERE SHE
19 IS A DOCTOR.

20 THE COURT: NOW, MS. DUCKETT, IF DR. CARTER
21 TESTIFIES, WOULD THAT IN ANY WAY AFFECT YOUR ABILITY TO BE
22 FAIR?

23 JUROR: NO, SIR.

24 THE COURT: CAN YOU STILL BE FAIR TO BOTH SIDES?

25 JUROR: YES, SIR.

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- 1 THE COURT: VERY GOOD, MS. DUCKETT. THANK YOU.
2 THIS LADY HERE. YOUR NAME PLEASE?
3 JUROR: CECILE EVANS.
4 THE COURT: MS. EVANS.
5 MADAM CLERK: NUMBER 55.
6 THE COURT: YES, MA'AM, MS. EVANS. WHICH OF THESE
7 WITNESSES DO YOU KNOW, MA'AM?
8 JUROR: I KNOW DR. MADDOX. AND I ALSO KNOW ONE OF
9 THE PEOPLE THAT I WORK WITH.
10 THE COURT: AND HOW DO YOU KNOW DR. MADDOX?
11 JUROR: HE'S TREATING ME.
12 THE COURT: OKAY. AND IF HE WERE TO TESTIFY IN THIS
13 CASE, WOULD THAT AFFECT YOUR ABILITY TO SERVE AS A FAIR
14 JUROR?
15 JUROR: NO, SIR.
16 THE COURT: NOW, YOU SAY THERE WAS SOMEONE ELSE ON
17 THE LIST?
18 JUROR: YES, SIR. THE LADY HERE.
19 THE COURT: WHAT'S THAT LADY'S NAME?
20 JUROR: KIMBERLY. I DIDN'T KNOW IT UNTIL IT WAS
21 SPOKEN EARLIER.
22 THE COURT: OKAY. AND HOW DO YOU KNOW THIS PERSON
23 BY THE FIRST NAME OF KIMBERLY?
24 JUROR: I HEARD HER NAME HERE. BUT SHE WORKS ON THE
25 SHIFT THAT I DO AT FRIGIDAIRE.

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1 THE COURT: OKAY. SO YOU KNEW HER FIRST NAME AS
2 KIMBERLY, AND YOU RECOGNIZED HER, HER BEING IN THE
3 COURTROOM? .

4 JUROR: I DIDN'T KNOW HER NAME UNTIL Y'ALL SPOKE IT
5 HERE.

6 THE COURT: OKAY. BUT YOU RECOGNIZED HER FACE
7 BECAUSE YOU'VE SEEN HER AT WORK?

8 JUROR: YES, SIR.

9 THE COURT: AND NOW YOU'VE HEARD HER FULL NAME, AND
10 YOU KNOW IT NOW? THE FACT THAT Y'ALL WORK AT THE SAME
11 BUSINESS OR SAME PLANT, WOULD THAT IN ANY WAY AFFECT YOUR
12 ABILITY TO SERVE AS A FAIR JUROR IF KIMBERLY WERE TO
13 TESTIFY?

14 JUROR: NO, IT WOULDN'T.

15 THE COURT: OKAY. AND WOULD YOU STILL BE FAIR TO
16 BOTH SIDES?

17 JUROR: YES, SIR.

18 THE COURT: ALL RIGHT, MA'AM. THANK YOU, MS. EVANS.
19 YOU MAY BE SEATED. JUROR NUMBER 55.

20 ANYONE ELSE ON THIS SIDE?

21 (NO RESPONSE)

22 THE COURT: ALL RIGHT. LET'S MOVE OVER TO THIS
23 SIDE. I KNOW I HAD A NUMBER ON THIS SIDE AS WELL. AND IT
24 SHOULDN'T TAKE VERY LONG AT ALL.

25 LET'S START WITH YOU, MA'AM. YOUR NAME PLEASE?

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1 JUROR: LILLIAN BERGERON.

2 THE COURT: WHAT'S YOUR LAST NAME?

3 JUROR: BERGERON.

4 MADAM CLERK: NUMBER 7-A.

5 THE COURT: MS. BERGERON, WHICH OF THESE WITNESSES
6 DO YOU KNOW, MA'AM?

7 JUROR: I THOUGHT THAT I KNEW KIMBERLY WHEN SHE
8 STOOD. BUT NOW THAT THE LADY SAID WHAT SHE DID, IT'S NOT
9 THE PERSON THAT I THOUGHT IT WAS.

10 THE COURT: AND IF IT WERE THE SAME PERSON, WOULD IT
11 IN ANY WAY AFFECT YOUR ABILITY TO BE FAIR?

12 JUROR: NO.

13 THE COURT: VERY GOOD. THANK YOU, MA'AM.

14 YES, SIR?

15 JUROR: STEVE ANDREASON.

16 THE COURT: YES, SIR, MR. ANDREASON?

17 JUROR: I WORK WITH A CHARLES HUNTER, III. WE ARE IN
18 THE SAME OFFICE AND PRACTICE.

19 THE COURT: AND IF IT TURNS OUT TO BE THE SAME
20 INDIVIDUAL WHO TESTIFIES, IF YOU'RE ON THE JURY, WOULD IT
21 MAKE A DIFFERENCE TO YOU?

22 JUROR: NO.

23 THE COURT: WOULD YOU STILL BE FAIR TO BOTH SIDES?

24 JUROR: YES, SIR.

25 THE COURT: VERY GOOD, MR. ANDREASON. THANK YOU,

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1 SIR.

2 WE'LL GO OVER HERE TO THE END OF THE ROW. YES, SIR;
3 YOUR NAME, PLEASE?

4 JUROR: LOUIS UPCHURCH. IT HAS TO DO WITH AN EARLI
5 QUESTION ABOUT ASSOCIATION WITH THE ATTORNEYS.

6 THE COURT: OKAY.

7 JUROR: IN 1978, MR. GAMBLE REPRESENTED MY EXWIFE.

8 MADAM CLERK: JUROR NUMBER 158.

9 THE COURT: 158?

10 MADAM CLERK: YES, YOUR HONOR.

11 THE COURT: MR. UPCHURCH, WOULD THAT IN ANY WAY
12 AFFECT YOUR ABILITY TO BE FAIR IN THIS PARTICULAR CASE?

13 JUROR: NO, SIR.

14 THE COURT: ALL RIGHT. THANK YOU VERY MUCH, SIR.

15 OKAY. WE'LL GO DOWN -- I DON'T KNOW IF Y'ALL ARE ON
16 THE SAME ROW OR NOT. BUT WE'LL START WITH YOU, MA'AM, AND
17 WORK OUR WAY DOWN.

18 JUROR: MY NAME IS CHRISTINA ALBERTSON CROFT, NUMBER
19 1-A.

20 MADAM CLERK: 1-A.

21 THE COURT: YES, MA'AM, MS. CROFT?

22 JUROR: I AM LIKE HIM. I WORK WITH A LOT OF
23 PHYSICIANS THAT YOU LISTED. DR. SWEARINGEN. AND I'M VERY
24 CLOSE WITH HIS DAUGHTER, ALSO.

25 THE COURT: AND I DON'T KNOW FROM WHAT ISSUE OR WHA

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1 SIDE DR. SWEARINGEN WOULD TESTIFY OR THE OTHER DOCTORS AT
2 THIS POINT. BUT WOULD IT MAKE A DIFFERENCE TO YOU IF THE
3 DOCTORS THAT YOU'VE WORKED WITH AND A DOCTOR WOULD COME INTO
4 THE COURTROOM AND IF YOU KNEW HIM OR HER AND YOU RECOGNIZED
5 HIM OR HER ON THE WITNESS STAND, WOULD THAT AFFECT YOUR
6 ABILITY TO BE A FAIR JUROR?

7 JUROR: NO, SIR, IT WOULD NOT.

8 THE COURT: YOU'D STILL BE FAIR TO BOTH SIDES?

9 JUROR: YES, SIR.

10 THE COURT: ALL RIGHT, MA'AM. THANK YOU SO MUCH,

11 MS. CROFT. JUROR 1-A.

12 YES, MA'AM?

13 JUROR: RHONDA TIPPETT. I THINK I'M 157.

14 MADAM CLERK: 156, MS. TIPPETT.

15 THE COURT: THAT'S CLOSE ENOUGH TO GET A BROWNIE
16 POINT.

17 (LAUGHTER)

18 THE COURT: MS. TIPPET, WHICH OF THESE WITNESSES DO
19 YOU KNOW, MA'AM?

20 JUROR: I KNOW MR. ELLISON. I KNOW MEMBERS OF HIS
21 FAMILY.

22 THE COURT: HOW DO YOU KNOW HIM?

23 JUROR: I KNEW HIS FATHER-IN-LAW BEFORE HE PASSED
24 AWAY. I KNOW HIS WIFE AND HIS DAUGHTER. I TAUGHT HIS
25 DAUGHTER.

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1 THE COURT: THE FACT THAT YOU KNOW HIM IN THAT
2 CAPACITY, WOULD THAT IN ANY WAY AFFECT YOUR ABILITY TO BE
3 FAIR IN THE CASE?
4 JUROR: NO, SIR, IT WOULDN'T AFFECT MY DECISION IN
5 ANY WAY.
6 THE COURT: VERY GOOD. THANK YOU SO MUCH, MS.
7 TIPPETT.
8 YES, MA'AM?
9 JUROR: JAN BROOME, NUMBER 20.
10 THE COURT: NUMBER 20?
11 MADAM CLERK: YES, YOUR HONOR.
12 THE COURT: OKAY. YES, MA'AM, MS. BROOME. DO YOU
13 KNOW SOME OF THESE OTHERS THAT WORK AT D.S.S.?
14 JUROR: AND JAMI AND JOHN AND DR. GRIER.
15 THE COURT: WHAT I'LL DO IS -- I'VE GOT YOUR NAME
16 DOWN. AND WE'RE GOING TO GO OVER ALL THAT IF I NEED TO
17 BRING YOU UP. THANK YOU SO MUCH, MS. BROOME.
18 YES, SIR. THIS GENTLEMAN HERE?
19 JUROR: ADAM JOWERS.
20 THE COURT: WHAT'S YOUR LAST NAME?
21 JUROR: JOWERS.
22 THE COURT: ALL RIGHT.
23 MADAM CLERK: TRANSFER 14.
24 THE COURT: MR. JOWERS, WHICH OF THESE WITNESSES DO
25 YOU KNOW, SIR?

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1 JUROR: JAMI BROTHERS.

2 THE COURT: AND HOW DO YOU KNOW THAT WITNESS?

3 JUROR: I GO TO CHURCH WITH HER.

4 THE COURT: THAT'S OKAY. NOW, WOULD THAT IN ANY WAY AFFECT
5 YOUR ABILITY TO BE FAIR IF THAT WITNESS TESTIFIED IN THIS
6 CASE?

7 JUROR: NO, SIR.

8 THE COURT: YOU WOULD STILL BE FAIR TO BOTH SIDES,
9 SIR?

10 JUROR: YES, SIR.

11 THE COURT: THANK YOU. THAT'S TRANSFER 14, MR.
12 JOWERS.

13 YES, SIR?

14 JUROR: I'M MARTIN HARBECK.

15 THE COURT: MR. HARBECK?

16 JUROR: YES, SIR.

17 MADAM CLERK: NUMBER 35-A.

18 THE COURT: MR. HARBECK, WHICH OF THESE WITNESSES DO
19 YOU KNOW, SIR?

20 JUROR: DR. CHARLES HUNTER. I'M ASSUMING HE'S THE
21 OPHTHAMOLOGIST. HE'S TREATED ME AND MY WIFE.

22 THE COURT: AND IF IT IS THE SAME INDIVIDUAL, AND IF
23 THAT DOCTOR COMES IN AND TESTIFIES, IF YOU ARE ON THE JURY,
24 WOULD IT MAKE A DIFFERENCE TO YOU IN BEING FAIR OR NOT?

25 JUROR: NO, IT WOULD NOT.

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1 THE COURT: WOULD YOU STILL SERVE AS A FAIR JUROR?

2 JUROR: I WOULD.

3 THE COURT: MR. HARBECK, THANK YOU, SIR. THAT'S 35

4 A.

5 YES, MA'AM?

6 JUROR: JACQUELINE SIMPSON.

7 THE COURT: YOUR LAST NAME IS?

8 JUROR: SIMPSON.

9 THE COURT: SIMPSON? ONE SECOND, MS. SIMPSON.

10 MADAM CLERK: 64-A.

11 THE COURT: AND MS. SIMPSON, WHICH OF THESE

12 WITNESSES DO YOU KNOW, MA'AM?

13 JUROR: I JUST KNOW A COUPLE OF THE DOCTORS THAT YOU
14 NAMED LIKE DR. SWEARINGEN. JUST BY WORKING AT THE HOSPITAL.

15 THE COURT: SO YOU WORK AT THE HOSPITAL?

16 JUROR: YES, SIR.

17 THE COURT: AND YOU HAD SOME CONTACT WITH THESE
18 DOCTORS? YOU RECOGNIZE THEIR NAMES?

19 JUROR: YES, SIR.

20 THE COURT: MS. SIMPSON, IF YOU WERE ON THE JURY AND
21 THESE DOCTORS TESTIFIED, ANY OF THEM, WOULD IT AFFECT YOUR
22 ABILITY TO BE FAIR?

23 JUROR: NO, SIR.

24 THE COURT: WOULD YOU STILL SERVE AS A FAIR AND
25 IMPARTIAL JUROR?

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1 JUROR: YES, SIR.

2 THE COURT: MS. SIMPSON, THANK YOU, MA'AM. THAT'S
3 64-A.

4 YES, SIR; IN THE REAR?

5 JUROR: MYRON SMITH.

6 THE COURT: MR. SMITH?

7 JUROR: I GOT A COUSIN NAMED LORETTA LEWIS.

8 THE COURT: LET ME FIND YOU ON THE LIST.

9 MADAM CLERK: 150, YOUR HONOR.

10 THE COURT: NOW, TELL ME AGAIN, MR. SMITH, WHICH OF
11 THESE WITNESSES THAT YOU THINK YOU MIGHT BE RELATED TO.

12 JUROR: LORETTA LEWIS.

13 THE COURT: THE LEWISES? AND HOW WOULD YOU BE
14 RELATED TO THE LEWISES?

15 JUROR: COUSINS.

16 THE COURT: OKAY. IS IT YOU THINK YOU MIGHT BE
17 RELATED OR YOU DEFINITELY ARE RELATED?

18 JUROR: I DON'T KNOW.

19 THE COURT: BUT YOU'RE RELATED TO A BUNCH OF
20 LEWISES? IS THAT WHAT WE'RE DEALING WITH?

21 JUROR: NOT A BUNCH OF THEM.

22 THE COURT: DID YOU RECOGNIZE THOSE NAMES, THOSE
23 FIRST NAMES? DID THAT RING A BELL?

24 JUROR: JUST LORETTA, YES.

25 THE COURT: SO YOU ARE RELATED AS A COUSIN TO A

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1 LORETTA ---

2 JUROR: LORETTA ---

3 THE COURT: LORETTA SMITH? ALL RIGHT. WAS MS.
4 LORETTA SMITH IN THE COURTROOM WHEN I CALLED THAT NAME?

5 (NO RESPONSE)

6 THE COURT: APPARENTLY NOT. THIS COUSIN LORETTA,
7 WHEN WAS THE LAST TIME YOU SAW HER?

8 JUROR: LAST YEAR.

9 THE COURT: OKAY. IS THIS SOMEONE THAT YOU HAVE A
10 CLOSE RELATIONSHIP WITH, OR YOU JUST SEE ---

11 JUROR: JUST OCCASIONALLY.

12 THE COURT: --- JUST OCCASIONALLY?

13 JUROR: MOST OF THE TIME AT REUNIONS.

14 THE COURT: IF IT TURNS OUT -- AND LET'S ASSUME FOR
15 THE PURPOSE OF THIS QUESTION, MR. SMITH, THAT LORETTA IS, IN
16 FACT, YOUR COUSIN AND SHE COMES IN AND TESTIFIES. I DON'T
17 KNOW FOR WHAT SIDE. BUT WOULD IT MAKE A DIFFERENCE TO YOU?

18 JUROR: I WOULDN'T BELIEVE WHAT SHE SAID.

19 (LAUGHTER)

20 THE COURT: ALL RIGHT, MR. SMITH. THANK YOU VERY
21 MUCH. YOU MAY BE SEATED.

22 EXCUSED FOR CAUSE, CATHY.

23 MADAM CLERK: YES, YOUR HONOR.

24 THE COURT: TAKE HIM OUT OF THE POT.

25 AS TO THIS LAST QUESTION ABOUT THESE WITNESSES, IS

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1 THERE ANYONE ELSE ON EITHER SIDE OF THE COURTROOM, ANY
2 MEMBER OF THE JURY PANEL, WHO NEEDS TO RESPOND FURTHER?
3 THERE IS NO FURTHER RESPONSE.

4 LADIES AND GENTLEMEN, IS THERE ANY MEMBER OF THE JURY
5 PANEL OR MEMBER OF YOUR FAMILY EVER BEEN A VICTIM OF CHILD
6 ABUSE, BEEN ACCUSED OR CONVICTED OF COMMITTING CHILD ABUSE?
7 SO IF YOU'VE EVER BEEN -- EITHER YOU OR A MEMBER OF YOUR
8 FAMILY EVER BEEN A VICTIM OF CHILD ABUSE, ACCUSED OR
9 CONVICTED OF CHILD ABUSE, WOULD YOU PLEASE STAND?

10 MR. SMITH, YOU CAN SIT BACK DOWN. I BELIEVE WE'VE GOT
11 YOUR BASES COVERED.

12 (LAUGHTER)

13 THE COURT: YOUR NAME, PLEASE, MA'AM?

14 JUROR: JULIE RHYMER.

15 THE COURT: YOUR LAST NAME AGAIN?

16 JUROR: RHYMER.

17 THE COURT: RYBER (PHONICS).

18 JUROR: RHYMER, R-H-Y-M-E-R.

19 MADAM CLERK: JUROR 136, YOUR HONOR.

20 THE COURT: MS. RHYMER, WHAT I'M GOING TO DO IS --
21 AND YOU MAY BE VERY WILLING JUST TO TELL ME YOUR SITUATION
22 RIGHT THERE. WHAT I'D LIKE TO DO IS -- I LIKE TO ERR ON THE
23 SIDE OF CAUTION. I'M JUST GOING TO WRITE YOUR NAME AND
24 NUMBER DOWN. I'VE GOT SEVERAL OTHERS I'M GOING TO BRING
25 FORWARD. I'M GOING TO BRING YOU FORWARD, TOO, INDIVIDUALLY

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1 LATER; OKAY? DOES THAT SUIT YOU?

2 JUROR: THAT'S FINE.

3 THE COURT: ALL RIGHT.

4 AND IN THE REAR; YES, MA'AM?

5 JUROR: TRISHA PAYTON.

6 THE COURT: LAST NAME IS HAGEN?

7 JUROR: PAYTON, P-A-Y-T-O-N.

8 MADAM CLERK: 127.

9 THE COURT: OKAY. PAYTON? OKAY. MS. PAYTON, I'M
10 GOING TO DO LIKEWISE, IF YOU DON'T ---

11 JUROR: I REALLY DON'T WANT TO BE EXEMPTED FROM THIS
12 IT WOULD NOT AFFECT ME IN THIS CASE.

13 THE COURT: AND THAT'S PROBABLY FINE. I JUST DON'T
14 WANT ANYTHING YOU SAY IN ANY WAY TO IMPACT YOUR FELLOW
15 JURORS.

16 JUROR: OH, NO. I WASN'T GOING TO SPEAK WHAT THE
17 PROBLEM WAS. I'M JUST SAYING WHAT HAS HAPPENED IN THE PAST
18 WITH MY FAMILY'S PAST WOULD NOT AFFECT THE CASE.

19 THE COURT: OKAY.

20 JUROR: AFFECT MY OUTLOOK ON THE CASE.

21 THE COURT: LET ME JUST EXPLORE THAT IN A LITTLE
22 FURTHER DETAIL WITH YOU WHEN I HAVE YOU COME FORWARD IN JUST
23 A LITTLE BIT; OKAY?

24 JUROR: OKAY.

25 THE COURT: THANK YOU, MS. PAYTON.

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1 THE RECORD WILL REFLECT NO ADDITIONAL RESPONSE BEYOND
2 THOSE TWO.

3 I KNOW I'VE GOT MS. BROOME'S SITUATION AS SHE WORKS FOR
4 D.S.S. IS ANY OTHER MEMBER OF THE JURY PANEL WHO IS
5 EMPLOYED OR EVER BEEN EMPLOYED OR HAS A FAMILY MEMBER WHO IS
6 DIRECTLY EMPLOYED WITH THE DEPARTMENT OF SOCIAL SERVICES?
7 IF SO, PLEASE STAND. THE RECORD WILL REFLECT NO RESPONSE.

8 NOW, LADIES AND GENTLEMEN, IS THERE ANY MEMBER OF THE
9 JURY PANEL WHO HAS ANY PERSONAL INTEREST IN THE OUTCOME OF
10 THIS CASE SUCH THAT YOU COULD NOT SERVE AS A FAIR JUROR? IF
11 SO, PLEASE STAND. THERE IS NO RESPONSE.

12 ANY MEMBER OF THE JURY PANEL CONSCIOUS OR AWARE OF ANY
13 BIAS OR PREJUDICE FOR OR AGAINST THE STATE OR FOR OR AGAINST
14 THE DEFENDANT? IF SO, PLEASE STAND. THERE IS NO RESPONSE.

15 NOW, LADIES AND GENTLEMEN, I'VE GOT ONE FINAL QUESTION.
16 THEN I'M GOING TO STEP OFF THE BENCH AND MEET BRIEFLY WITH
17 THESE INDIVIDUALS WHOSE NAMES I'VE IDENTIFIED. AND THEN
18 WE'LL BE ABLE TO SELECT THE JURY, AND THEN WE'LL JUST BREAK
19 FOR LUNCH AT THAT POINT. AND I THANK YOU FOR YOUR PATIENCE
20 BECAUSE I KNOW IT'S PAST THE LUNCH HOUR AT THIS TIME.

21 IT MAY BE AN EARLIER QUESTION THAT YOU WISH YOU HAD
22 RESPONDED TO. IT'S NOT TOO LATE TO DO SO. HERE'S ANOTHER
23 OPPORTUNITY. IT MAY BE THAT I DIDN'T ASK THE RIGHT
24 QUESTION. BUT YOU HAVE SOME DOUBT OR HESITATION ABOUT YOUR
25 ABILITY TO SERVE AS A FAIR JUROR. IF SO, NOW IS THE TIME TO

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1 DISCLOSE IT. IT MAY BE BECAUSE OF THE NATURE OF THE CHARGE
2 INVOLVED. WHATEVER THE REASON. BUT IF YOU KNOW OF ANY
3 REASON WHY YOU COULD NOT SERVE AS A FAIR AND IMPARTIAL
4 JUROR, NOW WOULD BE THE TIME TO DISCLOSE IT. IF THAT
5 APPLIES TO ANYONE, WOULD YOU PLEASE STAND? THERE IS NO
6 RESPONSE.

7 ALL RIGHT. I'M GOING TO STEP OFF THE BENCH, AND LET ME
8 JUST MEET WITH THE ATTORNEYS BRIEFLY AT THE COURT REPORTER'S
9 STATION. AND THEN WE'LL CALL YOU FOLKS UP INDIVIDUALLY. WE
10 SHOULD MOVE QUICKLY AFTER THAT. THANK YOU.

11 (WHEREUPON THE FOLLOWING DISCUSSION WAS HELD ON THE
12 RECORD, BUT OUT OF THE HEARING OF THE JURY PANEL BETWEEN THE
13 COURT AND BOTH COUNSEL)

14 THE COURT: DO Y'ALL WANT TO MESS WITH MS. BROOME
15 FROM D.S.S.? WILL Y'ALL AGREE TO JUST EXCUSE HER? WE HAD
16 SOMEONE LAST TIME, AND COUNSEL CONSENTED -- IF YOU DON'T
17 CONSENT, THAT'S FINE. I'LL COME UP HERE AND QUESTION HER.

18 MR. GAMBLE: I'VE X'D HER.

19 THE COURT: OKAY. BY CONSENT, NUMBER 20, MS.
20 BROOME, IS EXCUSED FOR CAUSE. WE'LL DEAL WITH THESE FIVE,
21 AND THEN WE'LL TAKE IF FROM THERE AND SEE IF YOU HAVE ANY
22 ADDITIONAL VOIR DIRE.

23 (TO JURY PANEL) ALL RIGHT. JUROR 71-A, MS. ELIZABETH
24 SWORDS? AND JUST TO LET YOU KNOW, AS SOON AS MS. SWORDS
25 GETS DONE, WE'LL DEAL WITH MS. SMITH, 147. SHE'LL BE

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1 SECOND. AND THEN MS. HANWELL BACK THERE, JUROR 79. WE' LL
2 DEAL WITH HER THIRD.

3 (WHEREUPON THE FOLLOWING DISCUSSIONS WERE HELD ON THE
4 RECORD, BUT OUT OF THE HEARING OF THE JURY PANEL BETWEEN THE
5 COURT, BOTH COUNSEL AND JURORS)

6 THE COURT: GOOD AFTERNOON, MA'AM. YOU INDICATED
7 EARLIER YOU HAD SOME INFORMATION ABOUT THIS CASE. AND I
8 DIDN'T WANT TO GO INTO DETAIL THEN. SO IF YOU WOULD SHARE
9 WHAT YOU KNOW ABOUT THIS CASE AND THE SOURCE OF THAT
10 INFORMATION.

11 JUROR: THE SOURCE IS THE HAIRDRESSERS AT THE BEAUTY
12 SHOP THAT I HAVE MY HAIR FIXED AND MY MOTHER'S HAIR FIXED.
13 IT'S JUST A CONVERSATION I OVERHEARD.

14 THE COURT: AND WHAT DID YOU OVERHEAR?

15 JUROR: THAT ONE OF THEM ACTUALLY DOES THE HAIR OF
16 THE LADY THAT IS EMPLOYED WITH THE DEFENDANT.

17 THE COURT: WHAT DID THEY SAY ABOUT THE DEFENDANT?
18 ANYTHING GOOD? BAD? ANYTHING THAT IMPRESSED YOU?

19 JUROR: INITIALLY, IT WAS GOOD. BUT THEN THEY SAID
20 SHE NEVER MENTIONED Minor AT ALL. AND THEY DIDN'T KNOW
21 FOR A LONG TIME THAT SHE HAD A STEPDAUGHTER. AND THEN THEY
22 MENTIONED SOMETHING THAT SUPPOSEDLY THE DEFENDANT HAD DONE
23 TO THE STEPDAUGHTER, WHICH WAS POUR ALCOHOL ON HER
24 PERSONALS, HER GENITALS, WHATEVER YOU WANT TO CALL IT.

25 THE COURT: AND DO YOU UNDERSTAND THAT IF YOU WERE A

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1 JUROR, NOT ONLY WOULD YOU HAVE TO DISREGARD ANYTHING YOU
2 HAVE READ IN THE MEDIA, YOU WOULD HAVE TO DISREGARD WHAT
3 HEARD IN THE BEAUTY SHOP?

4 JUROR: THAT'S WHAT I TOOK IT FOR. GOSSIP. I MEAN
5 I DIDN'T HEAR IT. SO I TOOK IT AT THAT.

6 THE COURT: NOW, DO YOU THINK THE INFORMATION YOU'
7 BEEN EXPOSED TO IN THE MEDIA OR PARTICULARLY WHAT YOU'VE
8 HEARD ABOUT SPECIFICS IN THE BEAUTY SHOP, HAS THAT IN ANY
9 WAY CAUSED YOU TO ALREADY MAKE UP YOUR MIND AND BE LEANING
10 ONE WAY IN THIS CASE?

11 JUROR: NO, SIR.

12 THE COURT: AND IF YOU SERVED AS A JUROR AND YOU
13 WERE SELECTED AND YOU WERE GIVEN AN OATH, AND THAT OATH
14 WOULD REQUIRE YOU TO FIND THE TRUTH ONLY FROM THE EVIDENCE
15 PRESENTED TO YOU DURING THE COURSE OF THIS TRIAL, COULD YOU
16 DO THAT?

17 JUROR: YES, SIR.

18 THE COURT: AND COULD YOU COMPLETELY DISREGARD
19 ANYTHING YOU MAY HAVE BEEN EXPOSED TO EARLIER IN THE BEAUTY
20 SHOP OR OTHERWISE?

21 JUROR: YES, SIR.

22 THE COURT: AND IN THAT REGARD, WOULD YOU BE FAIR
23 AND IMPARTIAL TO BOTH THE STATE AND THE DEFENDANT?

24 JUROR: YES, SIR.

25 THE COURT: NOW, IF COUNSEL HAS ANY QUESTIONS THEY'

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1 LIKE TO POSE TO MS. SWORDS OR YOU'D LIKE FOR ME TO POSE,
2 I'LL BE GLAD FOR COUNSEL TO PURSUE IT.

3 MS. WHITE: SO THIS WAS JUST THE USUAL GOSSIP IN
4 BEAUTY PARLORS THAT WE ALL HEAR EVERY TIME WE GO?

5 JUROR: THAT'S EXACTLY RIGHT.

6 THE COURT: YOU CERTAINLY CAN MAKE ANY APPROPRIATE
7 MOTION, BUT IF YOU HAVE ANY QUESTIONS YOU'D LIKE ME TO POSE
8 TO THIS JUROR, I'D BE GLAD TO DO SO, SIR. OR IF YOU WANTED
9 TO?

10 MR. GAMBLE: I THINK I'D RATHER MAKE IT BY MOTION ---

11 THE COURT: VERY GOOD.

12 MR. GAMBLE: --- LATER IN HER ABSENCE.

13 THE COURT: VERY GOOD. THANK YOU SO MUCH. VERY
14 GOOD. YOU MAY RETURN TO YOUR SEAT. THANK YOU.

15 ALL RIGHT, MS. SMITH. HEY, MS. SMITH. YOU INDICATED
16 SOMETHING ABOUT WORK, AND YOU HAD GOT TO KNOW SOMEBODY WHO
17 KNEW THE DEFENDANT. I SORT OF CUT YOU OFF. I DIDN'T MEAN
18 TO BE RUDE. BUT I WANT YOU TO SHARE WITH US WHAT YOU KNOW
19 ABOUT THIS CASE AND THE SOURCE OF THAT INFORMATION. HOW DO
20 YOU KNOW OF THE DEFENDANT?

21 JUROR: WELL, I DON'T KNOW ACTUALLY ABOUT THE CASE
22 EXCEPT WHAT I READ IN THE NEWSPAPER AND SAW ON T.V. BUT I
23 WORKED WITH A LADY WHOSE SON DATED THE DEFENDANT. AND SHE
24 RELATED TO ME SOME THINGS ABOUT HER PERSONALITY. I DON'T
25 THINK I COULD BE FAIR.

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1 THE COURT: OKAY. WELL, WE DON'T NEED TO GO INTO
2 ANY SPECIFICS BASED ON THAT LAST COMMENT. SO WHAT I'M GOI
3 TO DO IS JUST ASK YOU -- I KNOW YOU'RE TIRED. WE ALL WANT
4 TO GET OUT OF HERE RIGHT NOW. BUT IF YOU COULD STAY WITH
5 RATHER THAN WALKING OUT THE BACK DOOR SO NO ONE SPECULATES
6 ABOUT WHY YOU LEFT. THANK YOU VERY MUCH. I APPRECIATE IT

7 MS. HANWELL? YOU HAD INDICATED THAT YOU HAD
8 INFORMATION ABOUT THIS CASE BEYOND THE MEDIA COVERAGE.

9 JUROR: YES, THAT'S TRUE.

10 THE COURT: SO HERE'S AN OPPORTUNITY FOR YOU TO
11 SHARE WITH US WHAT YOU'VE HEARD ABOUT THIS CASE AND THE
12 SOURCE OF THAT INFORMATION.

13 JUROR: I'M A PRINCIPAL AT LAKESIDE MIDDLE SCHOOL.
14 AND THE INVESTIGATORS WOULD COME IN AND OUT. AND SOMETIMES
15 WHEN THEY WOULD TALK TO SOME OF THE STUDENTS, THE PARENTS
16 WOULD CALL AND MAKE COMMENTS ABOUT WHAT THEY HAD TALKED
17 ABOUT IN THAT CAPACITY.

18 THE COURT: DO YOU RECALL ANY SPECIFICS OF WHAT YOU
19 HEARD?

20 JUROR: NO. I THINK IT WAS ONE OF THE LEWISES THAT
21 MIGHT HAVE CALLED AND SAID THAT THEIR DAUGHTER WAS GOING TO
22 BE TESTIFYING HERE BECAUSE SHE HAD SEEN THE CHILD TIED UP I
23 THE YARD. D.C. , MS. CARTER'S SON, IS A STUDENT AT THE
24 SCHOOL. SO I WAS THERE WHEN D.S.S. CAME AND TOOK CUSTODY O
25 HIM. AND I KNOW THEY TALKED TO HIM. WHEN THEY CHANGED THE

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1 CUSTODIAL PARENT, I TALKED WITH HIM. AND HE MENTIONED SOME
2 OF THE THINGS THAT D.W. MIGHT HAVE SEEN THAT THEY HAD TALKED
3 TO HIM ABOUT.

4 THE COURT: AND WHAT IS THAT SPECIFICALLY ABOUT WHAT
5 D.W. MAY HAVE SEEN? DO YOU RECALL?

6 JUROR: WELL, NO. BUT HE SAID THAT THEY HAD BEEN
7 ASKING HIM WHETHER OR NOT THEY HAD HAD HER, YOU KNOW, LOCKED
8 UP IN VARIOUS ROOMS AND WHETHER OR NOT SHE HAD BEEN MADE TO
9 STAY IN THE YARD AND BEEN TIED TO TREES.

10 THE COURT: ANYTHING ELSE YOU CAN RECALL
11 SPECIFICALLY?

12 JUROR: NO. I WAS MORE CONCERNED WITH THE IMPACT ON
13 MY STUDENTS THAN ANY OF THE OTHER THINGS.

14 THE COURT: I DIDN'T MEAN TO PRESSURE YOU, BUT I
15 JUST WANTED TO FIND OUT SPECIFICALLY WHAT YOU COULD RECALL.
16 HERE'S THE QUESTION. IF YOU ARE SELECTED TO SERVE IN THIS
17 CASE, BASED ON WHAT YOU'VE HEARD, NOT ONLY IN THE MEDIA, BUT
18 BEING THE PRINCIPAL AT THE SCHOOL WHERE THERE'S BEEN
19 ACTIVITY COMING AND GOING WITH LAW ENFORCEMENT, D.S.S.
20 TAKING CHILDREN, ET CETERA, HAS THAT CAUSED YOU TO FORM AN
21 OPINION AS TO THE GUILT OR INNOCENCE OF THE DEFENDANT OR
22 EVEN LEANING ONE WAY OR THE OTHER?

23 JUROR: I WOULD HAVE TO SAY IN ALL HONESTY I WOULD BE
24 LEANING ONE WAY OR THE OTHER.

25 THE COURT: WELL, IT'S THAT TYPE OF HONESTY THAT

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1 MAKES THE SYSTEM WORK. AND I APPRECIATE YOUR CANDOR VERY
2 MUCH. BUT RATHER THAN LEAVING, IF YOU WOULD JUST BE PATIE
3 WITH US JUST A LITTLE BIT LONGER. I'D RATHER YOU NOT WALK
4 OUT THE BACK DOOR AND LET OTHERS SPECULATE; OKAY? THANK
5 YOU, MS. HANWELL.

6 ALL RIGHT. LET ME SEE MS. RHYMER, 136. ALL RIGHT, M:
7 RHYMER. THANK YOU SO MUCH FOR COMING UP. THERE WAS A
8 QUESTION ABOUT ANYONE EVER BEEN A VICTIM OR BEEN ACCUSED OF
9 CONVICTED OF CHILD ABUSE. I WANTED YOU TO COME UP AND GIVE
10 YOUR RESPONSE PRIVATELY, IF YOU DON'T MIND.

11 JUROR: MY DAUGHTER WAS SIX -- SHE WAS SEXUALLY
12 ABUSED AT AGE SIX.

13 THE COURT: HOW OLD IS YOUR DAUGHTER NOW?

14 JUROR: THIRTEEN.

15 THE COURT: NOW, THE FACT THAT SEVEN YEARS AGO YOUR
16 DAUGHTER WAS SEXUALLY ABUSED, WOULD THAT IN ANY WAY AFFECT
17 YOUR ABILITY TO SERVE AS A JUROR IN A CASE THAT INVOLVES
18 ALLEGATIONS OF CHILD ABUSE AND HOMICIDE BY CHILD ABUSE?

19 JUROR: I DON'T KNOW. I HAVE A FOUR-YEAR-OLD SON AT
20 HOME. AND I CAN'T SAY THAT IT WILL IN NO WAY.

21 THE COURT: OKAY. WELL, BASED ON THAT, YOUR
22 HESITANCY IN THAT REGARD, I'M GOING TO BE REQUIRED TO EXCUSI
23 YOU. BUT RATHER THAN LEAVING, IF YOU WOULDN'T MIND JUST
24 STAYING WITH US A LITTLE BIT LONGER. WE'RE ABOUT THROUGH.
25 THANK YOU.

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1 JUROR: OKAY.

2 THE COURT: AND LET'S SEE. MS. PAYTON? HEY, MS.
3 PAYTON.

4 JUROR: HEY. HOW ARE YOU?

5 THE COURT: FINE. I APPRECIATE YOUR SITTING ON THE
6 BACK ROW SO YOU COULD GET IN AND OUT QUICKLY. THAT'S FINE.
7 NO PROBLEM.. THAT QUESTION DEALT WITH ANYONE EVER BEING THE
8 VICTIM OF CHILD ABUSE OF ACCUSED OR CONVICTED OF CHILD
9 ABUSE, AND I DIDN'T WANT YOU TO SPEAK OUT IN FRONT OF THE
10 OTHERS. SO WHAT'S YOUR RESPONSE TO THAT QUESTION, MA'AM?

11 JUROR: I WAS THE VICTIM OF SEXUAL AND PHYSICAL ABUSE
12 AT A YOUNGER AGE. BUT IT HAS NEVER AFFECTED MY STATE OF
13 WELL-BEING. YOU KNOW, THE REQUIREMENTS ARE MOST OF THE TIME
14 WHEN YOU GO THROUGH THAT YOU HAVE TO SEE A DOCTOR. I NO
15 LONGER HAVE TO SEE THAT DOCTOR BECAUSE SHE SAYS THAT --
16 WELL, I HAVE JUST CHOSEN NOT TO FOLLOW IN THAT PATH.

17 THE COURT: AND HOW LONG AGO WAS THIS WHEN YOU WERE
18 A VICTIM OF ABUSE?

19 JUROR: BETWEEN THE AGES OF FIVE AND TEN BY MY
20 FATHER. AND HE'S DECEASED. AND BETWEEN ---

21 THE COURT: AND -- I'M SORRY. GO AHEAD.

22 JUROR: --- THE AGES OF SEVEN AND TEN BY MY
23 GRANDMOTHER'S FRIEND. AND HE WAS PROSECUTED. AND THEN WHEN
24 I WAS TWELVE, I WAS RAPED.

25 THE COURT: DO YOU MIND ME ASKING HOW OLD YOU ARE

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1 NOW?

2 JUROR: I'M TWENTY-ONE.

3 THE COURT: BASED ON WHAT YOU'VE SHARED WITH US
4 HAPPENED IN THE PAST, DO YOU THINK THAT WOULD IN ANY WAY
5 AFFECT YOUR ABILITY TO BE FAIR IN THIS CASE?

6 JUROR: NO. IT DOESN'T AFFECT ME.

7 THE COURT: WOULD YOU BE LEANING ONE WAY OR THE
8 OTHER?

9 JUROR: UH-UH. I'M ONE OF THOSE THAT I HAVE TO HEAR
10 THE WHOLE STORY TO BASE MY DECISION.

11 THE COURT: SO YOU WOULD SERVE AS A FAIR JUROR AND
12 FIND THE TRUTH ONLY FROM THE EVIDENCE?

13 JUROR: UH-HUH.

14 THE COURT: AND WOULD YOU BE FAIR TO BOTH SIDES?

15 JUROR: YES, SIR.

16 THE COURT: ALL RIGHT. MS. PAYTON, THANK YOU VERY
17 MUCH. I APPRECIATE IT.

18 WE HAVE ANOTHER JUROR. COME FORWARD, PLEASE, MA'AM.

19 JUROR: YOU WERE TALKING ABOUT CHILD ABUSE?

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

21 JUROR: JULIA SARGENT.

22 THE COURT: MS. SARGENT? THAT'S FINE, MS. SARGENT.
23 LET US FIND YOUR NUMBER FOR THE BENEFIT OF COUNSEL.

24 MADAM CLERK: 142.

25 THE COURT: AND WHAT QUESTION DID YOU COME UP HERE

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1 ON, MS. SARGENT?

2 JUROR: THE CHILD ABUSE. YOU SAID SOMETHING ABOUT
3 CHILD ABUSE?

4 THE COURT: YES, MA'AM, I DID.

5 JUROR: D.S.S. HAD TAKEN MY CHILDREN AWAY FROM ME
6 BECAUSE THEY CLAIM CHILD ABUSE AND STUFF LIKE THAT. I
7 DIDN'T KNOW IF THAT HAD ANYTHING TO DO WITH THIS OR
8 WHATEVER.

9 THE COURT: WELL, WHEN DID THEY -- DID THEY JUST DO
10 THIS RECENTLY?

11 JUROR: YES, SIR.

12 THE COURT: HOW LONG AGO?

13 JUROR: IT'S BEEN A COUPLE OF YEARS AGO.

14 THE COURT: DO YOU HAVE YOUR CHILDREN BACK, OR ARE
15 THEY STILL IN D.S.S. CUSTODY?

16 JUROR: NO, THEY'RE NOT IN D.S.S. CUSTODY. THEY'RE
17 WITH THEIR GRANDFATHER.

18 THE COURT: WITH THEIR GRANDFATHER?

19 JUROR: UH-HUH.

20 THE COURT: NOW, THE FACT THAT YOU'VE HAD CHILDREN
21 REMOVED BY D.S.S. -- AND D.S.S. MAY BE MENTIONED IN THAT
22 CASE. WOULD THAT IN ANY WAY AFFECT YOUR ABILITY TO SERVE AS
23 A FAIR JUROR?

24 JUROR: NO.

25 THE COURT: AND YOU WOULD BE FAIR TO BOTH THE STATE

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1 AND THE DEFENDANT?

2 JUROR: YES, SIR.

3 THE COURT: OKAY, MS. SARGENT. THANK YOU VERY MUCH
4 I APPRECIATE IT.

5 YES, MA'AM. YOUR NAME?

6 JUROR: MARGARET ALEXANDER.

7 THE COURT: MS. ALEXANDER?

8 MADAM CLERK: NUMBER 1.

9 THE COURT: MS. ALEXANDER, WHAT WOULD YOU LIKE TO
10 SHARE WITH US, PLEASE, MA'AM?

11 JUROR: I DON'T THINK I CAN BE FAIR ON THIS CASE
12 BECAUSE I AM THE SISTER OF A CRIME VICTIM. I'M THE SISTER
13 OF A CRIME VICTIM. AND I KNOW I CANNOT BE FAIR.

14 THE COURT: ALL RIGHT, MS. ALEXANDER. I APPRECIATE
15 YOUR SHARING THAT. I'M GOING TO EXCUSE YOU. BUT WOULD YOU
16 PLEASE REMAIN WITH US? I'LL GIVE YOU INSTRUCTIONS WITH THE
17 OTHERS AT THE END. THANK YOU, MS. ALEXANDER.

18 THE COURT: ALL RIGHT. THE FIRST ORDER OF BUSINESS
19 IS THERE ANY ADDITIONAL VOIR DIRE EITHER SIDE REQUESTS?
20 FROM THE STATE?

21 MS. WHITE: NO, SIR.

22 THE COURT: FROM DEFENDANT?

23 MR. GAMBLE: NO.

24 THE COURT: LET'S DEAL WITH CHALLENGE FOR CAUSE.
25 I'D LIKE TO HEAR FIRST FROM THE STATE ANY CHALLENGE FOR

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1 CAUSE.

2 MS. WHITE: JUDGE, I BELIEVE THAT WE BOTH AGREE THAT
3 RHYMER AND PAYTON SHOULD BE OFF. IS THAT RIGHT?

4 MR. GAMBLE: PAYTON AND SARGENT?

5 THE COURT: SO 127 AND 142 ARE EXCUSED FOR CAUSE.

6 MR. GAMBLE: I HAVE A PROBLEM WITH SWORDS, THE BEAUTY
7 PARLOR GOSSIP.

8 THE COURT: YES, SIR.

9 MR. GAMBLE: IN THAT THERE IS AN ALLEGATION IN THE
10 STATE'S CASE OF ALCOHOL BEING PUT ON THE CHILD'S VAGINAL
11 AREA. AND SHE'S INDICATED SHE HEARD THAT. AND I THINK IT
12 WOULD OVERLY EMPHASIZE IT TO HAVE IT AGAIN IN THE CASE. AND
13 THEN HER MIND WOULD SAY, OH, WELL, THAT WAS TRUE. THEN THE
14 REST MUST BE TRUE. I JUST -- I'M AFRAID OF THAT NUMBER 71-A
15 BECAUSE OF THAT.

16 THE COURT: AND YOUR POSITION, SOLICITOR?

17 MS. WHITE: JUDGE, I MEAN, I'M SPEAKING FROM A
18 WOMAN'S STANDPOINT. YOU HEAR EVERY CRAZY TALE IN A BEAUTY
19 PARLOR. THAT IS LIKE THE CENTER OF ALL GOSSIP. AND I MEAN,
20 YOU REALLY DON'T BELIEVE WHAT YOU HEAR IN A BEAUTY PARLOR.
21 I THINK SHE WAS PRETTY FIRM THAT, NO, SHE HEARS GOSSIP IN
22 BEAUTY PARLORS ALL THE TIME. IT DOESN'T MEAN ANYTHING.

23 THE COURT: THAT'S A VALID POINT. BUT I'M GOING TO
24 GRANT THE MOTION TO EXCUSE MS. SWORDS, 71-A, FOR CAUSE. AND
25 IT'S THE SPECIFICITY OF THAT INFORMATION, HAVING HEARD THE

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1 FIRST CASE AND BEEN EXPOSED TO MANY OF THE FACTS AND THE
2 PRETRIAL ISSUES. THAT'S A SPECIFIC DETAILED ALLEGATION.
3 AND I CONCUR WITH MR. GAMBLE'S ASSESSMENT, THAT THE NATURAL
4 TENDENCY WOULD BE ONCE THAT COMES OUT, IF THERE IS EVIDENCE
5 TO THAT EFFECT, IT TENDS TO VALIDATE THE REST OF WHAT SHE
6 HEARD GENERALLY ABOUT THIS PERSON'S CHARACTER AND OTHER
7 THINGS. SO I'M GOING TO ERR ON THE SIDE OF CAUTION BASED ON
8 THAT AND EXCUSE THAT JUROR.

9 NOW, DO YOU HAVE ANYTHING ELSE, SIR, ON CHALLENGE FOR
10 CAUSE?

11 MR. GAMBLE: NO, SIR.

12 THE COURT: THE RECORD IS GOING TO REFLECT THE
13 STATE'S EXCEPTION TO MY RULING. THE STRIKES ARE GOING TO BE
14 FIVE AND TEN. THE STATE CONTENDS IT'S A FIVE AND FIVE CASE
15 AND I UNDERSTAND THE STATE'S POSITION. AND THE RECORD NOTE
16 THEIR EXCEPTION TO MY RULING. I'M GOING TO DO STRIKES FIVE
17 AND TEN, FOUR ALTERNATES.

18 MR. GAMBLE: I WROTE DOWN THREE, BUT I CAN PUT FOUR.

19 THE COURT: AND THE STRIKES ARE GOING TO BE ONE AND
20 TWO ON EACH. WE'LL SELECT ONE AND GO TO THE NEXT ONE. ON
21 EACH ALTERNATE, THE STRIKES ARE ONE AND TWO. ALL RIGHT.

22 MADAM CLERK: SO WE'RE DOING THREE OR FOUR?

23 THE COURT: FOUR. WE'RE DOING FOUR. DO YOU HAVE
24 ANY QUESTIONS ABOUT THAT?

25 MADAM CLERK: I WAS JUST GOING TO GO OVER WITH THE

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1 COURT REPORTER BECAUSE I WANTED TO MAKE SURE I'VE GOT
2 EVERYBODY THAT WAS EXCUSED.

3 THE COURT: (TO JURY PANEL) ALL RIGHT, LADIES AND
4 GENTLEMEN. LET ME TELL YOU WHERE WE ARE AND WHERE WE'RE
5 GOING. WE'RE GOING TO GO AHEAD AND PICK THE JURY. THE
6 ACTUAL SELECTION OF THE JURY WILL PROBABLY TAKE TEN OR
7 TWELVE MINUTES. THAT'S WHAT IT GENERALLY TAKES. WE'LL
8 SELECT THE JURY. JUDGE HALL IS WAITING ON A PANEL TO START
9 THE FIRST CASE IN CIVIL COURT. AS SOON AS WE PICK THE JURY
10 -- THEY DON'T NEED ALL OF THE REST OF YOU. SO I'VE ASKED
11 MS. PHILLIPS TO GO AHEAD AND PREPARE A LIST. AND HE WANTED
12 -- WHAT? TWENTY-THREE?

13 MADAM CLERK: YES, YOUR HONOR.

14 THE COURT: WE'LL GIVE JUDGE HALL A LIST OF YOU JUST
15 DRAWN RANDOMLY. JUST BEAR WITH US. LET US SELECT THAT. IF
16 YOU'RE ON THAT LIST, WE WILL GO AHEAD AND EXCUSE YOU FOR AN
17 HOUR OR SO, THEN COME BACK TO JUDGE HALL'S COURTROOM FOR
18 SELECTION IN HIS CASE. AN HOUR FROM THAT POINT. IF YOU'RE
19 NOT ON THAT LIST AND YOU'RE NOT SELECTED IN THIS CASE, I'M
20 GOING TO GO AHEAD AND BUMP YOU FOR THE REST OF THE DAY. SO
21 MANY OF YOU WILL BE CUT LOOSE FOR THE REST OF THE DAY. AND
22 I FIGURE IT'S BETTER TO GO AHEAD AND DO THAT NOW RATHER THAN
23 AFTER LUNCH. BY PRESSING JUST A FEW MORE MINUTES, YOU'LL
24 KNOW WHETHER YOU HAVE TO COME BACK. A LOT OF YOU WILL NOT
25 HAVE TO COME BACK. SO WE'RE GOING TO DO IT IN THAT WAY.

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1 WE'LL NOW HAVE THE SELECTION OF THE JURY IN THIS CASE
2 AND HERE'S HOW WE DO THE SELECTION IN A CASE OF THIS NATUR
3 YOU'LL NOTICE IT'S DIFFERENT IF YOU GO DOWN TO JUDGE HALL'
4 COURTROOM THIS WEEK. IT'S DONE DIFFERENTLY IN CIVIL AND
5 CRIMINAL COURT. WHAT'S DONE HERE IS YOUR NAMES WILL BE
6 SELECTED RANDOMLY BY THE CLERK. IF YOUR NAME IS CALLED,
7 WHAT I'D LIKE FOR YOU TO DO IS JUST STAND RIGHT WHERE YOU
8 ARE. JUST STAND UP. EACH SIDE HAS A CERTAIN NUMBER OF
9 STRIKES WHERE YOU CAN BE EXCUSED FROM SERVICE. IF YOU ARE
10 EXCUSED FROM JURY SERVICE, JUST RETURN BACK TO YOUR SEAT,
11 AND I'LL GIVE YOU OTHER INSTRUCTIONS AT THE END. IF YOU ARE
12 SELECTED FOR SERVICE, PLEASE COME FORWARD AND WORK YOUR WAY
13 TO THE JURY BOX WHERE YOU'LL BE SEATED BY DR. GRAHAM. ONCE
14 I GET THIS JURY SELECTED, I'LL GIVE YOU A FEW INSTRUCTIONS
15 AND LET YOU GO TO LUNCH.

16 MADAM CLERK, YOU MAY PROCEED WITH THE SELECTION OF THE
17 JURY IN THIS CASE.

18 MADAM CLERK: YES, YOUR HONOR.

19 THE COURT: AND FOR THE RECORD, I NOTED THE STRIKES
20 ARE FIVE AND TEN. AND FOR THE FOUR ALTERNATES, THE STRIKES
21 ARE ONE AND TWO ON EACH OF THEM.

22 MADAM CLERK: LADIES AND GENTLEMEN, AS I CALL YOUR
23 NAME, IF YOU WILL PLEASE STAND.

24 TRANSFER NUMBER 15, DANIEL JOYE. TRANSFER 15. IF
25 YOU'LL PLEASE STAND RIGHT WHERE YOU'RE AT.

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1 WHAT SAY YE FOR THE STATE?

2 MS. WHITE: PRESENT THE JUROR.

3 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

4 MR. GAMBLE: SWEAR THE GENTLEMAN.

5 MADAM CLERK: IF YOU'LL PLEASE COME FORWARD, MR. JOYE,
6 AND BE SEATED IN THE JURY BOX.

7 NUMBER 24, JONATHAN CAIN. NUMBER 24. WHAT SAY YE FOR
8 THE STATE?

9 MS. WHITE: PRESENT THE JUROR.

10 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

11 MR. GAMBLE: SWEAR THE GENTLEMAN.

12 MADAM CLERK: COME FORWARD, PLEASE, MR. CAIN, AND BE
13 SEATED IN THE JURY BOX.

14 TRANSFER 9, ERIC EZELL. TRANSFER 9. WHAT SAY YE FOR
15 THE STATE?

16 MS. WHITE: PRESENT THE JUROR.

17 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

18 MR. GAMBLE: SWEAR THE GENTLEMAN.

19 MADAM CLERK: COME FORWARD, PLEASE, MR. EZELL, AND BE
20 SEATED IN THE JURY BOX.

21 NUMBER 13, KIMBERLY A. BERG. NUMBER 13. WHAT SAY YE
22 FOR THE STATE?

23 MS. WHITE: PRESENT THE JUROR.

24 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

25 MR. GAMBLE: EXCUSE THE JUROR, PLEASE.

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1 MADAM CLERK: YOU MAY TAKE YOUR SEAT. THANK YOU, MS.
2 BERG.
3 NUMBER 41-A, LYNN J. HOLLIS. NUMBER 41-A. WHAT SAY YE
4 FOR THE STATE?
5 MS. WHITE: PRESENT THE JUROR.
6 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?
7 MR. GAMBLE: SWEAR THE LADY.
8 MADAM CLERK: COME FORWARD, PLEASE, MA'AM, AND BE
9 SEATED IN THE JURY BOX, MS. HOLLIS.
10 NUMBER 96, TIMOTHY KEANE. WHAT SAY YE FOR THE STATE?
11 MS. WHITE: PRESENT THE JUROR.
12 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?
13 MR. GAMBLE: EXCUSE THE GENTLEMAN, PLEASE.
14 MADAM CLERK: YOU MAY TAKE YOUR SEAT. THANK YOU, MR.
15 KEANE.
16 NUMBER 146, JOHNNY SIMPSON. NUMBER 146. WHAT SAY YE
17 FOR THE STATE?
18 MS. WHITE: PRESENT THE JUROR.
19 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?
20 MR. GAMBLE: SWEAR THE GENTLEMAN.
21 MADAM CLERK: COME FORWARD, PLEASE, SIR, AND HAVE A
22 SEAT IN THE JURY BOX.
23 TRANSFER 17, LINDA LOFTIS. TRANSFER NUMBER 17. WHAT
24 SAY YE FOR THE STATE?
25 MS. WHITE: PRESENT THE JUROR.

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- 1 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?
- 2 MR. GAMBLE: SWEAR THE LADY.
- 3 MADAM CLERK: COME FORWARD, PLEASE, MA'AM, AND BE
- 4 SEATED IN THE JURY BOX.
- 5 NUMBER 58, JUDY FLETCHER. NUMBER 58. WHAT SAY YE FOR
- 6 THE STATE?
- 7 MS. WHITE: PRESENT THE JUROR.
- 8 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?
- 9 MR. GAMBLE: EXCUSE THE LADY.
- 10 MADAM CLERK: YOU MAY TAKE YOUR SEAT. THANK YOU,
- 11 MA'AM.
- 12 NUMBER 117, JAMES MOORE. NUMBER 117. WHAT SAY YE FOR
- 13 THE STATE?
- 14 MS. WHITE: EXCUSE THE JUROR IN THIS CASE, PLEASE.
- 15 MADAM CLERK: YOU MAY TAKE YOUR SEAT. THANK YOU, MR.
- 16 MOORE.
- 17 NUMBER 14, KIMBERLY BOLDING. NUMBER 14. WHAT SAY YE
- 18 FOR THE STATE?
- 19 MS. WHITE: PRESENT THE JUROR.
- 20 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?
- 21 MR. GAMBLE: EXCUSE THE LADY, PLEASE.
- 22 MADAM CLERK: YOU MAY TAKE YOUR SEAT. THANK YOU.
- 23 NUMBER 156, JUDY TIPPETT. NUMBER 156. WHAT SAY YE FOR
- 24 THE STATE?
- 25 MS. WHITE: PRESENT THE JUROR.

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1 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

2 MR. GAMBLE: EXCUSE THE LADY.

3 MADAM CLERK: YOU MAY BE SEATED. THANK YOU, MS.

4 TIPPETT.

5 NUMBER 30-A, JANET GALBREATH. NUMBER 30-A. WHAT SAY

6 YE FOR THE STATE?

7 MS. WHITE: PRESENT THE JUROR.

8 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

9 MR. GAMBLE: SWEAR THE LADY.

10 MADAM CLERK: COME FORWARD, PLEASE, MS. GALBREATH, AND

11 BE SEATED IN THE JURY BOX.

12 NUMBER 51, JULIA DYAR. NUMBER 51. WHAT SAY YE FOR TH

13 STATE?

14 MS. WHITE: PRESENT THE JUROR.

15 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

16 MR. GAMBLE: SWEAR THE LADY.

17 MADAM CLERK: COME FORWARD, PLEASE, MS. DYAR, AND BE

18 SEATED IN THE JURY BOX.

19 TRANSFER 2, LAUREL BROWN. TRANSFER 2. WHAT SAY YE FO

20 THE STATE?

21 MS. WHITE: PRESENT THE JUROR.

22 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

23 MR. GAMBLE: EXCUSE THE LADY.

24 MADAM CLERK: YOU MAY BE SEATED. THANK YOU, MS.

25 BROWN.

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1 NUMBER 67, NEIL GILHAM. NUMBER 67. WHAT SAY YE FOR
2 THE STATE?

3 MS. WHITE: PLEASE EXCUSE THE JUROR IN THIS CASE.

4 MADAM CLERK: YOU MAY BE SEATED. THANK YOU, MR.
5 GILHAM.

6 MR. GAMBLE: WAS THAT NUMBER 33?

7 MADAM CLERK: THAT WAS NUMBER 67, MR. GILHAM.

8 MR. GAMBLE: THANK YOU.

9 MADAM CLERK: NUMBER 29, STANLEY CARWILE. NUMBER 29.
10 WHAT SAY YE FOR THE STATE?

11 MS. WHITE: PRESENT THE JUROR.

12 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

13 MR. GAMBLE: EXCUSE THE GENTLEMAN, PLEASE.

14 MADAM CLERK: YOU MAY TAKE YOUR SEAT. THANK YOU, MR.
15 CARWILE.

16 TRANSFER 14, ADAM JOWERS. TRANSFER 14. WHAT SAY YE
17 FOR THE STATE?

18 MS. WHITE: PRESENT THE JUROR.

19 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

20 MR. GAMBLE: SWEAR THE GENTLEMAN.

21 MADAM CLERK: PLEASE COME FORWARD, MR. JOWERS, AND BE
22 SEATED IN THE JURY BOX.

23 NUMBER 67-A, CATHY SMITH. NUMBER 67-A. WHAT SAY YE
24 FOR THE STATE?

25 MS. WHITE: PRESENT THE JUROR.

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1 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?
2 MR. GAMBLE: EXCUSE THE LADY, PLEASE.
3 MADAM CLERK: YOU MAY BE SEATED. THANK YOU, MS.
4 SMITH.
5 NUMBER 95, VALARIE JOHNSON. NUMBER 95. WHAT SAY YE
6 FOR THE STATE?
7 MS. WHITE: PRESENT THE JUROR.
8 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?
9 MR. GAMBLE: SWEAR THE LADY.
10 MADAM CLERK: PLEASE COME FORWARD AND BE SEATED IN THE
11 JURY BOX, MS. JOHNSON.
12 NUMBER 145, JODY SHAW. NUMBER 145. WHAT SAY YE FOR
13 THE STATE?
14 MS. WHITE: PRESENT THE JUROR.
15 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?
16 MR. GAMBLE: SWEAR THE GENTLEMAN.
17 MADAM CLERK: PLEASE COME FORWARD AND BE SEATED IN THE
18 JURY BOX, MR. SHAW.
19 TRANSFER 4, DEWEY BULLINGTON. TRANSFER 4. WHAT SAY YE
20 FOR THE STATE?
21 MS. WHITE: PRESENT THE JUROR.
22 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?
23 MR. GAMBLE: EXCUSE THE GENTLEMAN, PLEASE.
24 MADAM CLERK: YOU MAY TAKE YOUR SEAT. THANK YOU, SIR.
25 NUMBER 22, BETTY BROYLES. NUMBER 22. WHAT SAY YE FOR

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1 THE STATE?

2 MS. WHITE: TWENTY-TWO?

3 MADAM CLERK: YES, MA'AM. MS. BROYLES.

4 MS. WHITE: PRESENT THE JUROR.

5 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

6 MR. GAMBLE: SWEAR THE LADY.

7 MADAM CLERK: PLEASE COME FORWARD, MS. BROYLES, AND BE
8 SEATED IN THE JURY BOX.

9 THE COURT: THE STRIKES ARE ONE AND TWO ON EACH
10 ALTERNATE. WE'LL NOW SELECT THE FIRST ALTERNATE.

11 MADAM CLERK: NUMBER 159, FRANCES VICKERY. NUMBER
12 159. WHAT SAY YE FOR THE STATE?

13 MS. WHITE: PRESENT THE JUROR.

14 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

15 MR. GAMBLE: EXCUSE THE LADY, PLEASE.

16 MADAM CLERK: YOU MAY BE SEATED. THANK YOU, MS.
17 VICKERY.

18 NUMBER 162, SUZANNE WALTERS. NUMBER 162. WHAT SAY YE
19 FOR THE STATE?

20 MS. WHITE: PRESENT THE JUROR.

21 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

22 MR. GAMBLE: SWEAR THE LADY.

23 MADAM CLERK: PLEASE COME FORWARD AND BE SEATED IN THE
24 JURY BOX.

25 THE COURT: THE STRIKES ARE ONE AND TWO ON THE NEXT

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1 ALTERNATE.

2 MADAM CLERK: NUMBER 93, JONATHAN JESTER. NUMBER 93
3 WHAT SAY YE FOR THE STATE?

4 MS. WHITE: PLEASE EXCUSE THE JUROR IN THIS CASE.

5 MADAM CLERK: NUMBER 23-A, LOUVINIA EDWARDS. WHAT S.
6 YE FOR THE STATE?

7 MS. WHITE: PRESENT THE JUROR.

8 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

9 MR. GAMBLE: SWEAR THE LADY.

10 MADAM CLERK: PLEASE COME FORWARD AND BE SEATED IN TI
11 JURY BOX, MS. EDWARDS.

12 THE COURT: STRIKES ARE ONE AND TWO ON THE NEXT
13 ALTERNATE. .

14 MADAM CLERK: NUMBER 97, CLAUDIA KEELER. NUMBER 97.
15 WHAT SAY YE FOR THE STATE?

16 MS. WHITE: PRESENT THE JUROR.

17 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

18 MR. GAMBLE: SWEAR THE LADY.

19 MADAM CLERK: PLEASE COME FORWARD AND BE SEATED IN TI
20 JURY BOX, MS. KEELER.

21 THE COURT: STRIKES ARE ONE AND TWO ON THE LAST
22 ALTERNATE.

23 MADAM CLERK: TRANSFER 10, BRIAN GREGORY. TRANSFER
24 10. WHAT SAY YE FOR THE STATE?

25 MS. WHITE: PRESENT THE JUROR.

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1 MADAM CLERK: WHAT SAY YE FOR THE DEFENDANT?

2 MR. GAMBLE: SWEAR THE GENTLEMAN.

3 MADAM CLERK: PLEASE COME FORWARD AND BE SEATED IN THE
4 JURY BOX, MR. GREGORY.

5 THE COURT: WILL THERE BE ANY OBJECTION TO SELECTION
6 -- OBJECTION OR CHALLENGE TO SELECTION OR COMPOSITION FROM
7 THE STATE? .

8 MS. WHITE: NO, SIR.

9 THE COURT: FROM THE DEFENDANT?

10 MS. WHITE: NO, YOUR HONOR.

11 THE COURT: ALL RIGHT. LET'S GO AHEAD AND START THE
12 STRIKE SHEET.

13 ALL RIGHT, LADIES AND GENTLEMEN, THOSE WHO WERE JUST
14 SELECTED, I'M GOING TO SEND YOU TO THE JURY ROOM IN JUST A
15 COUPLE OF MOMENTS. LET ME GET THE OTHER FOLKS TAKEN CARE OF
16 AND GET THEM OUT OF HERE AS QUICKLY AS I CAN.

17 WHEN YOU GO TO THE JURY ROOM, A COUPLE OF THINGS. FROM
18 THIS POINT FORWARD, DO NOT DISCUSS THE CASE AMONG YOURSELVES
19 OR WITH ANYONE ELSE. DO NOT SPECULATE ABOUT THE CASE.
20 DON'T TALK ABOUT ANY ISSUE IN THE CASE, ANY SIMILAR
21 SITUATION FROM A SIMILAR CASE OF SIMILAR CHARGES. DO NOT IN
22 ANY SHAPE OR FASHION DISCUSS ANYTHING POTENTIALLY INVOLVING
23 ANY ISSUES IN THIS CASE. I'M GOING INTO THAT IN MORE DETAIL
24 WHEN YOU COME BACK. AND I WILL EXCUSE YOU WHEN YOU COME
25 BACK.

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1 THE SECOND THING I WANT YOU TO DO WHILE YOU'RE IN THE
2 JURY ROOM, IN ADDITION TO NOT DISCUSSING THE CASE, I WANT
3 YOU TO DO ME A FAVOR. I WANT YOU TO SELECT YOUR OWN
4 FOREPERSON. NOW, ANY ONE OF THE TWELVE OF YOU INITIALLY
5 SELECTED IS ELIGIBLE TO SERVE AS THE FOREPERSON. NOW, FOR
6 THE LAST FOUR PEOPLE IN THESE SEATS OVER HERE, YOU FOLKS A
7 ALTERNATES HAVE AN ABSOLUTE RIGHT TO PARTICIPATE IN THE
8 SELECTION OF THE FOREPERSON, BUT AS ALTERNATES, ARE NOT
9 ELIGIBLE TO SERVE AS THE FOREPERSON AT THIS TIME. ANY ONE
10 OF YOU INITIALLY SELECTED, THE ORIGINAL TWELVE, ANY ONE OF
11 YOU IS ELIGIBLE TO SERVE. EACH OF YOU IS ELIGIBLE.

12 NOW, THE FOREPERSON HAS NO GREATER RIGHTS THAN ANYONE
13 ELSE. EACH OF YOU WILL HAVE ONE VOTE AND ONE VOTE ONLY.
14 BUT A FOREPERSON IS NECESSARY TO HELP FACILITATE THE
15 COMMUNICATION BETWEEN THE COURT AND THE JURY.

16 NOW, AS FAR AS SEATING GOES WHEN YOU COME BACK JUST
17 BRIEFLY BEFORE I EXCUSE YOU -- WHEN YOU COME BACK IN THE
18 COURTROOM, LET ME TELL YOU HOW WE'LL DO SEATING. THERE WILL
19 BE, I GUESS WE'LL CALL IT, FIVE RESERVED SEATS. THE FOUR
20 ALTERNATES, YOU WILL HAVE THOSE CHAIRS ON THIS SIDE. THE
21 LAST TWO ON THE BACK ROW, THE LAST ONE HERE IN THE MIDDLE
22 ROW AND THIS GENTLEMAN HERE THAT'S SORT OF A SEPARATE CHAIR
23 ON ITS OWN. THE FOUR ALTERNATE CHAIRS ARE RESERVED FOR THE
24 ALTERNATES. NOW, WHICH OF THOSE FOUR SEATS DO YOU SIT IN?
25 IT DOESN'T MAKE ANY DIFFERENCE. BUT THOSE FOUR CHAIRS ARE

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1 FOR THE FOUR ALTERNATES. THE OTHER RESERVED SEAT WILL BE
2 FOR THE FOREPERSON. IT'S AT THE END OF THE FRONT ROW WHERE
3 THIS LADY IS. IS YOUR NAME MS. HOLLIS?

4 JUROR: (NODDED HEAD UP AND DOWN IN THE AFFIRMATIVE)

5 THE COURT: MS. HOLLIS IS SEATED IN THE CHAIR WHERE
6 THE FOREPERSON WILL SIT. SO OTHER THAN THE ALTERNATES AND
7 THE FOREPERSON, THERE IS NO RESERVED SEATING. UNLESS YOU'RE
8 ONE OF THOSE FIVE PEOPLE, THE FOUR ALTERNATES OR THE
9 FOREPERSON, I SUGGEST TO YOU WHEN YOU COME IN THE COURTROOM,
10 JUST FILL UP THE ROW SO NO ONE HAS TO STEP OVER YOU TO FIND
11 AN EMPTY SEAT.

12 NOW, WITH THOSE INSTRUCTIONS, IF YOU WOULD KINDLY
13 FOLLOW DR. GRAHAM TO THE JURY ROOM. I'LL GET YOU BACK OUT
14 HERE IN ABOUT TEN MINUTES, THEN I'LL EXCUSE YOU. DON'T
15 DISCUSS THE CASE OR ANY ISSUE IN THE CASE. SELECT A
16 FOREPERSON. I'LL GET YOU BACK OUT HERE AS QUICKLY AS I CAN.
17 THANK YOU.

18 (WHEREUPON THE JURY EXITED THE COURTROOM AT 2:27 P.M.)

19 THE COURT: LET ME SEE THE ATTORNEYS IN THE CASE
20 THAT I'M GOING TO TRY FIRST.

21 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD,
22 OUT OF THE PRESENCE OF THE JURY BETWEEN THE COURT AND BOTH
23 COUNSEL)

24 THE COURT: WE'RE READY FOR THEM TO COME IN.

25 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 2:37 P.M.)

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1 THE COURT: ALL RIGHT. MR. SIMPSON, I UNDERSTAND
2 YOU'VE BEEN SELECTED AS FOREPERSON. LET ME TELL YOU WHAT
3 WE'RE GOING TO DO. THERE ARE A NUMBER OF LEGAL ISSUES THAT
4 I HAVE TO ADDRESS IN THIS CASE. AND THE LAW REQUIRES THAT
5 DO SO OUTSIDE YOUR PRESENCE. AND IT'S GOING TO TAKE A GOOD
6 BIT OF TIME. Y'ALL HAVE BEEN GREAT TROOPERS TODAY. YOU'VE
7 BEEN VERY PATIENT IN WORKING WITH US THROUGH THIS SCHEDULE.
8 AND SO WHAT I'M GOING TO DO IS LET YOU GO FOR THE REST OF
9 THE DAY. WE'RE GOING TO TAKE A LUNCH BREAK AND THEN GET
10 INTO WORKING ON THESE PRETRIAL MOTIONS THAT I MUST ADDRESS
11 OUTSIDE YOUR PRESENCE. WE MAY GET THROUGH WITH ALL OF THESE
12 MOTIONS THIS AFTERNOON. WE MAY HAVE TO, IF WE DON'T GET
13 THROUGH, HAVE TO CARRY THEM FORWARD TILL THE MORNING. SO
14 I'M REALLY NOT SURE AT THIS POINT IF WE'LL BE ABLE TO START
15 THE TRIAL SHARP AT NINE O'CLOCK. SO WHAT I'M GOING TO DO IS
16 MAKE SURE THAT WHEN YOU LEAVE YOU'RE GOING TO GET A SHEET OF
17 PAPER. AND DR. GRAHAM WILL HAND IT TO YOU, OR ONE OF THOSE
18 BAILIFFS WILL GIVE IT TO YOU. AND THERE'S A PHONE NUMBER ON
19 THIS SHEET. AND IT'S A PHONE NUMBER THAT I MENTIONED DURING
20 THE QUALIFICATION PROCESS. AND THAT'S A NUMBER THAT YOU'LL
21 CALL IN TONIGHT.

22 NOW, THERE WILL BE TWO MESSAGES ON THAT MACHINE. THERE
23 WILL BE A GENERIC OR GENERAL MESSAGE TO THE REST OF THE JURY
24 PANEL OF WHEN TO REPORT TOMORROW OR IF TO REPORT TOMORROW.
25 THOSE ARE THE FOLKS WHO HAVEN'T BEEN PICKED ON A JURY.

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1 THERE WILL BE A SECOND MESSAGE THAT IS SPECIFICALLY FOR THE
2 SIXTEEN OF YOU. AND THAT MESSAGE WILL INSTRUCT YOU AS TO
3 WHEN TO REPORT TOMORROW. NOW, IF WE CAN MAKE ENOUGH
4 PROGRESS THIS AFTERNOON, IT WILL BE TO REPORT AT NINE OR
5 NINE THIRTY IN THE MORNING. BUT IF WE DON'T QUITE GET
6 ENOUGH DONE AND WE NEED AN HOUR OR TWO IN THE MORNING, WE
7 MAY DELAY YOUR ARRIVAL TILL TEN OR ELEVEN. IT JUST DEPENDS
8 ON HOW MUCH PROGRESS WE MAKE TODAY. AND WHAT I DON'T WANT
9 TO DO IS BRING YOU IN AT NINE AND MAKE YOU SIT IN THE JURY
10 ROOM FOR A COUPLE OF HOURS WHILE WE ADDRESS LEGAL ISSUES.

11 SO WHEN YOU CALL THE NUMBER -- YOU'LL GET THAT SHEET OF
12 PAPER. WHEN YOU CALL THE NUMBER AFTER SIX THIS EVENING, BE
13 LOOKING FOR THAT INSTRUCTION. IT WILL BE SOMETHING TO THE
14 FOLLOWING EFFECT. IT WILL SAY, FOR THOSE JURORS IN JUDGE
15 KITREDGE'S COURTROOM IN THE CASE OF STATE VERSUS CARTER,
16 PLEASE REPORT TO YOUR JURY ROOM AT NINE, NINE THIRTY,
17 ELEVEN, WHATEVER IT IS. FOLLOW THOSE INSTRUCTIONS. SO
18 THERE WILL BE A GENERAL MESSAGE FOR THE JURY PANEL AS A
19 WHOLE TO COME IN AT TWO TOMORROW OR TO COME IN AT NINE. AND
20 THEN THERE WILL BE A SPECIFIC MESSAGE FOR YOU FOLKS. IT
21 WILL IDENTIFY THIS CASE AND ME. AND WHEN YOU HEAR THAT,
22 FOLLOW THOSE INSTRUCTIONS.

23 NOW, WHEN WE START TOMORROW, THE FIRST ORDER OF
24 BUSINESS WILL BE TO ADMINISTER AN OATH TO YOU AS JURORS.
25 ONE OF THE THINGS I'M GOING TO STRESS UPON YOU NOW AS PART

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1 OF THAT OATH -- AND IT HAS ALREADY STARTED. IT STARTED
2 BEFORE YOU TOOK THAT FIRST BREAK TO SELECT A FOREPERSON.
3 AND THAT IS YOU ARE NOT PERMITTED TO DISCUSS THIS CASE AMONG
4 YOURSELVES OR WITH ANYONE ELSE. AND I WANT TO TELL YOU
5 SOMETHING ELSE. THERE'S GOING TO BE SOME COVERAGE IN THE
6 MEDIA ABOUT THIS CASE. NUMBER ONE, YOU WILL SEE MEDIA IN
7 THE COURTROOM. THEY'LL DO IT VERY UNOBTRUSIVELY IN A WAY
8 THAT DOESN'T AFFECT YOU. IT WILL NOT INTERFERE WITH YOUR
9 ABILITY TO VIEW THE EVIDENCE VERY CAREFULLY AND PAY CLOSE
10 ATTENTION. AND UNDER THE RULES THAT APPLY, PLEASE
11 UNDERSTAND THAT YOUR PHOTOGRAPH, YOUR NAME IN NO WAY WILL BE
12 DISCLOSED BY THE MEDIA. SO REST ASSURED AS YOU SEE CAMERAS
13 IN THE COURTROOM, DON'T BE CONCERNED ABOUT YOUR IDENTITY
14 BEING IN THE MEDIA. IT WILL NOT. AND THEY HONOR THAT RULE
15 VERY STRICTLY.

16 THE SECOND THING, AND A VERY IMPORTANT THING, IS THAT
17 SINCE THERE WILL BE MEDIA COVERAGE ABOUT THIS CASE, AS I
18 HAVE INSTRUCTED YOU REPEATEDLY FROM THIS MORNING, THAT YOU
19 MUST MAKE YOUR DECISION ONLY ON THE EVIDENCE BASED IN THE
20 COURSE OF THE TRIAL. SO IF YOU'RE RIDING DOWN THE ROAD AND
21 YOU HEAR A RADIO BROADCAST ABOUT THIS CASE, CHANGE THE
22 CHANNEL. TURN THE RADIO OFF. IF YOU TURN THE TELEVISION ON
23 AND YOU SEE A BROADCAST ABOUT THIS TRIAL, CHANGE THE CHANNEL
24 OR TURN THE T.V. OFF. IF YOU'RE READING THE NEWSPAPER AND
25 YOU SEE A HEADLINE OR ARTICLE THAT SEEMS TO BE ABOUT THIS

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1 CASE, DO NOT READ IT. DO NOT EXPOSE YOURSELF TO IT ANY
2 FURTHER. BE VERY DILIGENT IN THAT REGARD NOT TO EXPOSE
3 YOURSELF TO ANY MEDIA COVERAGE ABOUT THIS CASE. BE VERY
4 DILIGENT ABOUT THAT.

5 SO NOT ONLY ARE YOU NOT PERMITTED TO DISCUSS THE CASE
6 AMONG YOURSELVES, YOU'RE NOT TO DO SO WITH ANYONE ELSE. AND
7 THAT INCLUDES EXPOSING YOURSELF TO ANY MEDIA COVERAGE. BE
8 VERY SENSITIVE TO THAT. REMEMBER, YOUR OBLIGATION
9 FUNDAMENTALLY AS JURORS IS TO BE FAIR. AND A CORNERSTONE OF
10 THAT FUNDAMENTAL FAIRNESS IS A JURY'S ABILITY TO REACH A
11 FAIR VERDICT AND IMPARTIAL VERDICT BASED ON THE EVIDENCE
12 PRESENTED DURING THE COURSE OF THE TRIAL. AND I THINK YOU
13 CAN UNDERSTAND VERY CLEARLY AND VERY PLAINLY THAT OUTSIDE
14 INFLUENCES FROM MEDIA COVERAGE, EITHER BEFORE A TRIAL OR
15 DURING A TRIAL, CAN PLAY NO ROLE WHATSOEVER IN A JURY'S
16 DELIBERATION AND DECISION ON A CASE. SO PLEASE BE VERY
17 DILIGENT ABOUT THAT. BE VERY CAREFUL ABOUT THAT. OF
18 COURSE, DON'T DISCUSS THE CASE AMONG YOURSELVES OR WITH
19 ANYONE ELSE OR EXPOSE YOURSELF TO ANY MEDIA COVERAGE ABOUT
20 THIS CASE.

21 NOW, WHEN YOU COME BACK TOMORROW, WHATEVER TIME IT
22 TURNS OUT TO BE -- YOU'LL GET THOSE INSTRUCTIONS WHEN YOU
23 CALL IN TONIGHT -- I WANT YOU TO REPORT TO YOUR JURY ROOM.
24 AND DR. GRAHAM, DO YOU WANT THEM TO REPORT TO THE SAME JURY
25 ROOM THEY WERE JUST IN?

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1 BAILIFF GRAHAM: YES, SIR.

2 THE COURT: SAME ROOM YOU WERE JUST IN. AND WHEN
3 YOU GO OUT, YOU GO OUT THE SAME WAY. AND DR. GRAHAM WILL
4 SHOW YOU HOW TO EXIT AND HOW TO RETURN IN THE MORNING. SO
5 WHATEVER TIME YOU COME BACK, YOU DON'T -- YOU JUST DON'T
6 COME IN THE COURTROOM AND HAVE A SEAT. YOU DON'T WALK OVER
7 TO THE JURY BOX AND HAVE A SEAT. YOU REPORT TO YOUR JURY
8 ROOM. AND THIS WILL BE YOUR REPORTING POINT FOR THE BALANCE
9 OF THIS TRIAL.

10 ALL RIGHT. WITH THAT, LADIES AND GENTLEMEN, I WANT TO
11 THANK YOU SO MUCH AGAIN FOR YOUR PATIENCE TODAY. AGAIN,
12 REMIND YOU NOT TO DISCUSS THE CASE AMONG YOURSELVES OR WITH
13 ANYONE ELSE OR EXPOSE YOURSELF TO THE MEDIA COVERAGE IN THIS
14 CASE. AS YOU EXIT THE COURTROOM, DR. GRAHAM WILL MAKE SURE
15 THAT THERE ARE HANDOUTS FOR YOU THAT HAVE THE NUMBER TO
16 CALL. PLEASE CALL THAT NUMBER AFTER SIX THIS EVENING FOR
17 YOUR REPORTING INSTRUCTIONS TOMORROW. I LOOK FORWARD TO
18 SEEING YOU SOMETIME IN THE MORNING. THANK YOU.

19 (WHEREUPON THE JURY EXITED THE COURTROOM AT 2:47 P.M.)

20 THE COURT: THE JURY HAS BEEN EXCUSED. WE'LL BE IN
21 RECESS UNTIL FOUR O'CLOCK.

22 MS. WHITE: YOUR HONOR, BEFORE WE RECESS, WE HAVE
23 ALL THE EVIDENCE IN THE FRONT OF THE COURTROOM. AND I WOULD
24 SUGGEST THAT WE LOCK THE COURTROOM. AND IF THE DEFENSE
25 DOESN'T OBJECT, THAT WILL SAVE THE CUSTODIAN FROM HAVING TO

1 GATHER IT ALL UP AND PACK IT AWAY OVER LUNCH.

2 THE COURT: I THINK WE ROUTINELY SECURE THE
3 COURTROOM DURING EACH BREAK IN GENERAL SESSIONS. IS THERE
4 ANY OBJECTION TO PROCEEDING IN THE NORMAL FASHION?

5 MR. GAMBLE: NO OBJECTION.

6 THE COURT: ALL RIGHT. WE'LL PROCEED IN THAT
7 MANNER. WE'LL BE BACK AT FOUR AND SEE HOW MUCH PROGRESS WE
8 CAN MAKE LATER THIS AFTERNOON AND MAKE A DECISION AT THAT
9 TIME.

10 (WHEREUPON COURT STOOD AT RECESS)

11 (10/25 RIGHTS WAIVER MARKED FOR IDENTIFICATION AS
12 STATE'S EXHIBIT 1)

13 (10/26 RIGHTS WAIVER MARKED FOR IDENTIFICATION AS
14 STATE'S EXHIBIT 2)

15 (WRITTEN STATEMENT MARKED FOR IDENTIFICATION AS STATE'S
16 EXHIBIT 3)

17 (BROWN BELT MARKED FOR IDENTIFICATION AS STATE'S
18 EXHIBIT 4)

19 (BROWN BELT MARKED FOR IDENTIFICATION AS STATE'S
20 EXHIBIT 5)

21 (CHAIN MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT 6)

22 (LOCKS MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT 7)

23 (VICTIM'S CLOTHES MARKED FOR IDENTIFICATION AS STATE'S
24 EXHIBIT 8)

25 (RAPE KIT MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT

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- 1 9)
- 2 (GATE MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT 10)
- 3 (HARNESS MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT
- 4 11)
- 5 (HEATER MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT
- 6 12)
- 7 (HEATER MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT
- 8 13)
- 9 (HEATER MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT
- 10 14)
- 11 (BUCKET MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT
- 12 15)
- 13 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 14 EXHIBIT 16)
- 15 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 16 EXHIBIT 17).
- 17 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 18 EXHIBIT 18)
- 19 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 20 EXHIBIT 19)
- 21 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 22 EXHIBIT 20)
- 23 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 24 EXHIBIT 21)
- 25 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S

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- 1 EXHIBIT 22)
- 2 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 3 EXHIBIT 23)
- 4 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 5 EXHIBIT 24)
- 6 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 7 EXHIBIT 25)
- 8 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 9 EXHIBIT 26)
- 10 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 11 EXHIBIT 27)
- 12 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 13 EXHIBIT 28)
- 14 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 15 EXHIBIT 29)
- 16 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 17 EXHIBIT 30)
- 18 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 19 EXHIBIT 31)
- 20 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 21 EXHIBIT 32)
- 22 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 23 EXHIBIT 33)
- 24 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 25 EXHIBIT 34)

- 1 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 2 EXHIBIT 35)
- 3 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 4 EXHIBIT 36)
- 5 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 6 EXHIBIT 37)
- 7 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 8 EXHIBIT 38)
- 9 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 10 EXHIBIT 39)
- 11 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 12 EXHIBIT 40)
- 13 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 14 EXHIBIT 41)
- 15 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 16 EXHIBIT 42)
- 17 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 18 EXHIBIT 43)
- 19 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 20 EXHIBIT 44)
- 21 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 22 EXHIBIT 45)
- 23 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 24 EXHIBIT 46)
- 25 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S

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- 1 EXHIBIT 47)
- 2 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 3 EXHIBIT 48)
- 4 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 5 EXHIBIT 49)
- 6 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 7 EXHIBIT 50)
- 8 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 9 EXHIBIT 51).
- 10 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 11 EXHIBIT 52)
- 12 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 13 EXHIBIT 53)
- 14 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 15 EXHIBIT 54)
- 16 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 17 EXHIBIT 55)
- 18 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 19 EXHIBIT 56).
- 20 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 21 EXHIBIT 57)
- 22 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S
- 23 EXHIBIT 58)
- 24 (VIDEOTAPED SUMMARY MARKED FOR IDENTIFICATION AS
- 25 STATE'S EXHIBIT 59)

1 (FLOOR PLAN DIAGRAM MARKED FOR IDENTIFICATION AS
2 STATE'S EXHIBIT 60)

3 THE COURT: WE'RE ON THE RECORD. I GUESS THE FIRST
4 ORDER OF BUSINESS IS I'D LIKE FOR COUNSEL TO BE KIND ENOUGH
5 JUST TO LIST WHAT MOTIONS EXIST THAT WE NEED TO RESOLVE.
6 AND THEN WE'LL DECIDE IN WHICH ORDER TO ADDRESS THOSE
7 MOTIONS. DOES THE STATE HAVE ANY MOTIONS?

8 MS. WHITE: YOUR HONOR, WE HAVE A JACKSON v. DENNO.
9 I'D LIKE TO KIND OF RUN THROUGH THE STATEMENTS SO I CAN SEE
10 WHERE THE DEFENSE STANDS. FIRST, THE -- OFFICER CARPENTER
11 WENT OUT TO THE DEFENDANT'S HOME. I BELIEVE IT WAS ON
12 10/20. TALKED TO THE DEFENDANT THERE. LEFT. DID NOT PLACE
13 HER UNDER ARREST. OUR CONTENTION IS THERE IS NO CUSTODY.
14 SHE FREELY AND VOLUNTARILY CAME DOWN TO THE SHERIFF'S
15 DEPARTMENT ABOUT FIVE DAYS LATER. I DON'T KNOW IF WE NEED A
16 JACKSON v. DENNO ON THAT. I HAVE SUPPLIED THE NOTES OF THAT
17 INTERVIEW TO THE DEFENSE.

18 MR. GAMBLE: THE ONLY JACKSON v. DENNO I THINK WE
19 HAVE IS THE 26TH OF OCTOBER. ALL OTHERS WERE NON CUSTODIAL
20 UP UNTIL THAT TIME. AND THEN DEREK, I THINK, HAD BEEN
21 ARRESTED AT THAT TIME AND WAS BEGINNING TO GET ACCUSATORY.
22 SO I THINK WE'RE INTO JACKSON v. DENNO THERE.

23 MS. WHITE: OKAY. WE HAD A QUESTIONNAIRE ON 10/25.
24 SHE LEFT AFTER THAT. SHE WAS MIRANDIZED AFTER THE
25 QUESTIONNAIRE. GAVE AN ORAL STATEMENT. WENT HOME. ON

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1 10/26 SHE ASKED TO REINITIATE. SHE CALLED ONE OF THE
2 DETECTIVES AND ASKED TO TALK TO THEM. AND THEN WE HAVE
3 ANOTHER SET OF MIRANDAS ON 10/26 AND THEN THE WRITTEN
4 STATEMENT ON 10/26 WITH ORAL INTERVIEW DURING THE POLYGRAPH.
5 SO I JUST WANT TO MAKE SURE WE UNDERSTAND. YOU'RE SAYING
6 YOU DON'T WANT ANYTHING ON 10/25?

7 MR. GAMBLE: I DO WANT 10/25. THAT'S WHERE THE 10/26
8 STARTS.

9 MS. WHITE: OKAY. ALL RIGHT. THEN WE WOULD HAVE A
10 JACKSON v. DENNO FROM 10/25 ON. YOUR HONOR, THE LAW
11 ENFORCEMENT GOT A SEARCH WARRANT FOR THE HOUSE AND GOT SOME
12 HEATERS. THE ONLY THING I'M PLANNING ON INTRODUCING FROM
13 THAT, WE HAVE THREE HEATERS, A GATE, A BUCKET, SOME BOLTS,
14 SOME BELTS, A CHAIN, AND SOME CLOTHES FROM THE VICTIM THAT
15 SHE WAS WEARING TO THE HOSPITAL. SO THOSE WOULD BE THE
16 ITEMS FROM THAT SEARCH ON THAT SEARCH WARRANT.

17 MR. GAMBLE: I DON'T CONTEST THE SEARCH WARRANT.

18 MS. WHITE: THE NEXT THING WE HAVE -- I DON'T HAVE
19 THAT UP HERE TODAY. WE HAVE -- THE DEFENDANTS, WHEN THEY
20 WENT TO JAIL, CONTACTED DEREK CARTER'S STEPMOTHER AND FATHER
21 AND ASKED THEM TO CLEAN OUT THE HOUSE. THEY WERE OBVIOUSLY
22 BEING EVICTED. THEY WEREN'T THERE TO PAY RENT. SO THEY
23 WENT IN AND THEY GOT THE HARNESS AND A DISK, A COMPUTER
24 DISK, AND SOME VIDEOTAPES, FAMILY VIDEOTAPES. THEY
25 CONTACTED LAW ENFORCEMENT AND HANDED THOSE OVER TO US. SO

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1 OUR CONTENTION THERE IS THERE WAS NO GOVERNMENT ---

2 THE COURT: DID THEY GO OUT AT THE REQUEST OF LAW
3 ENFORCEMENT?

4 MS. WHITE: NO, SIR. THEY WENT OUT AT THE REQUEST
5 OF THE DEFENDANTS TO CLEAN OUT THE HOUSE. AND THEN THEY
6 BROUGHT THAT. BUT AS FAR AS I KNOW, THERE'S NO -- I
7 SPECIFICALLY ASKED MS. CARTER, DID ANYBODY IN LAW
8 ENFORCEMENT ASK YOU TO BRING THIS STUFF IN. SHE SAID, NO.
9 I CONTACTED THEM, TOLD THEM WHAT I HAD AND THEN BROUGHT IT
10 IN. SO I DON'T KNOW IF YOU NEED ANYTHING ON THAT.

11 THE COURT: IS THERE AN ISSUE WITH RESPECT TO THAT?

12 MR. GAMBLE: THERE'S NO ISSUE.

13 MS. WHITE: ALL RIGHT. AND THEN THE OTHER THINGS
14 THAT WE HAVE -- OF COURSE, WE'LL LAY THE CHAIN ON IT. WE
15 HAVE A RAPE KIT THAT WAS TAKEN FROM THE AUTOPSY. AS I
16 UNDERSTAND IT, THE D.N.A. RESULT -- I WAS JUST GOING TO CALL
17 SHERRI HOWARD FROM OUR OFFICE, WHO IS AN INVESTIGATOR, TO
18 TALK ABOUT THE D.N.A. RESULTS. THE PHONE RECORDS AND THE
19 DEFENDANT'S -- OR MR. CARTER'S WORK RECORDS, AS I UNDERSTAND
20 IT, THE DEFENSE ATTORNEY HAS STIPULATED AND WE DON'T NEED
21 THE CUSTODIANS IN. WE'VE GATHERED ALL THE RECORDS. THEY'VE
22 BEEN PROVIDED.

23 MR. GAMBLE: THAT'S CORRECT. THAT WOULD JUST BE
24 PUTTING THE RECORD PEOPLE UP SAYING IT'S IN THE ORDINARY
25 COURSE OF BUSINESS. ANYBODY CAN SAY THAT.

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1 MS. WHITE: THE VIDEO -- WE TOOK THE VIDEOS THAT
2 WERE HANDED OVER BY MS. CARTER, THE STEPMOTHER. THEY'RE
3 FAMILY VIDEOS. AND WE TOOK OUT THE PARTS OF THE CHILD
4 SHOWING -- SOME OF THE STATEMENTS THE DEFENDANT MADE IN THIS
5 CASE ARE THAT THE BABY HAD FEEDING PROBLEMS. SHE BRUISED
6 EASILY. SHE WAS CLUMSY. SO WE CREATED A VIDEO MONTAGE
7 BASICALLY STARTING AT THE BEGINNING, THE FIRST TWO YEARS OF
8 THE CHILD'S LIFE WHEN THE DEFENDANT WAS NOT INVOLVED IN HER
9 LIFE ALL THE WAY THROUGH TO THE LAST VIDEO SHOWING HER
10 RUNNING AND -- IN OTHER WORDS, REFUTING THAT THIS IS SOME
11 KIND OF DISEASE-TYPE THING. AND SO WE WOULD HAVE THAT. IF
12 I UNDERSTAND IT, THEY ARE CONTESTING THAT. SO WE DO NEED TO
13 HAVE A HEARING ON THAT.

14 MR. GAMBLE: THAT'S CORRECT.

15 MS. WHITE: AND I DO HAVE ALL OF THE PHOTOGRAPHS
16 MARKED. I THOUGHT WE MIGHT WANT TO DO THAT BEFORE THE JURY
17 COMES IN IF THERE ARE ANY OBJECTIONS TO THOSE. THE ONLY
18 OTHER THING IS -- AND I KNOW WE'RE TRYING THESE TOGETHER.
19 BUT THERE ARE CERTAIN ACTS -- WELL, I MEAN, I THINK NOW THAT
20 WE'VE GOT BOTH CHARGES IN, IT WOULD COVER ALL OF THIS
21 ANYWAY. BUT I WOULD ARGUE THAT ALL OF THE PRIOR ABUSE COMES
22 IN UNDER BOTH OF THESE CHARGES. BUT I WOULD HAVE EVIDENCE,
23 IF THE DEFENSE REQUIRES IT, OF BATTERED CHILD SYNDROME AND
24 LYLE, COMMON SCHEME, PLAN, INTENT, ACCIDENT, UNDER LYLE.
25 AND MY FIRST WITNESS IN COURT IS DR. WOODARD. HE'S THE ONE

1 THAT WILL BE ADDRESSING ALL OF THAT. SO I DON'T KNOW IF WE
2 JUST WANT TO HANDLE THAT WHEN HE GETS HERE OR IF WE WANT TO
3 DO THAT AHEAD OF TIME OR IF WE EVEN NEED TO OR NOT. I
4 UNDERSTAND THAT THE DEFENSE ATTORNEY WAS PRESENT AT A PRIOR
5 HEARING ON ANOTHER DEFENDANT AND HEARD ALL OF THIS
6 TESTIMONY.

7 MR. GAMBLE: I DID.

8 THE COURT: WHAT DO YOU WANT TO DO IN TERMS OF
9 LOGISTICS REGARDING THE ADMISSIBILITY AND THE CHALLENGE TO
10 THAT EVIDENCE?

11 MR. GAMBLE: TO DR. WOODARD'S?

12 THE COURT: YES, SIR.

13 MR. GAMBLE: I PERSONALLY THINK THAT IT'S GOING TO
14 HAVE TO BE ADMISSIBLE. AND WITH REGARD TO CHALLENGING IT, I
15 DON'T KNOW OF ANY WAY I CAN CHALLENGE IT BECAUSE IT'S BEEN
16 RECOGNIZED IN THIS STATE AS A VALID SYNDROME. AND HE HAS
17 THE CREDENTIALS TO IDENTIFY THAT SYNDROME. SO I'M LEFT A
18 LITTLE BIT IN A QUANDARY AS TO WHAT I SHOULD DO TO KEEP IT
19 OUT BECAUSE I DON'T THINK I CAN.

20 THE COURT: I REMEMBER HIS TESTIMONY VERY WELL FROM
21 THE LAST PROCEEDING. AND IF YOU THINK OF SOME CHALLENGE TO
22 IT, I'LL BE GLAD TO HEAR FROM YOU. I'M NOT AWARE OF ANY IN
23 LIGHT OF THE EXISTING CASE LAW WHICH RECOGNIZES THAT
24 SYNDROME AND HIS QUALIFICATIONS IN THAT PARTICULAR AREA AND
25 HIS KNOWLEDGE OF THAT AREA. BUT I'M NOT FORECLOSING IT.

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1 I'M JUST SIMPLY -- I'LL LEAVE IT WITH YOU. IF YOU CAN THINK
2 OF SOME ISSUE YOU WANT TO ADDRESS, SOME ARGUMENT GROUNDED IN
3 LAW, I'M WILLING TO LISTEN TO YOU VERY CAREFULLY AND
4 PATIENTLY.

5 MR. GAMBLE: I APPRECIATE THAT. BUT I THINK I'D BE
6 ARGUING AGAINST PRECEDENT. AND I DON'T -- THAT PRECEDENT IS
7 NOT TOO OLD TO BE ARGUING AGAINST IT AT THIS POINT IN TIME.

8 MS. WHITE: YOUR HONOR, FOR THE RECORD, WE'RE
9 TALKING ABOUT MOTIONS THAT WERE HELD IN THE STATE VERSUS
10 DEREK CARTER. HE ENDED UP PLEADING GUILTY, AND THAT WAS TWO
11 WEEKS AGO TODAY THAT WE HAD THE MOTIONS WHICH WOULD BE,
12 WHAT, THE 11TH? TODAY'S THE 25TH. SO IT WAS TWO WEEKS AGO
13 TODAY WHEN WE HAD THOSE MOTIONS IN THAT CASE. AND MR.
14 GAMBLE WAS PRESENT FOR THOSE WATCHING.

15 THE COURT: WHAT ELSE DO WE HAVE, SOLICITOR?

16 MS. WHITE: JUDGE, THAT'S ALL I KNOW OF THAT WE CAN
17 TAKE UP AHEAD OF TIME TO EXPEDITE THE TRIAL.

18 THE COURT: ALL RIGHT. SO I'M NOT CERTAINLY WAIVING
19 ANY DEFENSE OBJECTIONS. BUT IT APPEARS TO ME -- CORRECT ME
20 IF I'M WRONG -- WE NEED TO ADDRESS JACKSON v. DENNO. WE
21 NEED TO ADDRESS SOME CHALLENGE TO A VIDEO. YOU HAVE
22 SUMMARIZED THE CONTENTS OF THAT VIDEO. I HAVE NOT REVIEWED
23 IT, NOR HAVE I HEARD THE OBJECTIONS TO IT. WE NEED TO
24 ADDRESS THAT. YOU HAD MENTIONED SOME PHOTOGRAPHS. I DON'T
25 KNOW IF THESE ARE PHOTOGRAPHS THAT YOU HAVE REVIEWED WITH

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1 MR. GAMBLE.

2 MS. WHITE: THEY HAVE BEEN PRODUCED, YOUR HONOR. I
3 HAVE MARKED THE ACTUAL ONES I PLAN ON INTRODUCING.

4 (PAUSE WHILE MR. GAMBLE REVIEWED PHOTOGRAPHS)

5 MR. GAMBLE: NO OBJECTION TO 16 - 28. OBJECTIONS TO
6 29 - 58.

7 THE COURT: THROUGH 58?

8 MR. GAMBLE: FIFTY-EIGHT.

9 THE COURT: MAY I LOOK AT 29 THROUGH 58? AND THEN
10 GIVE ME A CHANCE TO REVIEW IT, AND THEN I'LL HEAR FROM THE
11 STATE.

12 THE COURT: ARE THESE -- IS IT BASICALLY YOUR 403
13 OBJECTION?

14 MR. GAMBLE: YES, SIR.

15 THE COURT: PREJUDICIAL?

16 MR. GAMBLE: YES, SIR. PREJUDICE OUTWEIGHING THE
17 PROBATIVE VALUE. AND IT CAN BE DESCRIBED BY DR. WOODARD,
18 WHO IS ARTICULATE IN HIS DESCRIPTIONS.

19 (PAUSE WHILE THE COURT REVIEWED PHOTOGRAPHS)

20 THE COURT: I'D LIKE TO HEAR FROM THE STATE. AND
21 RECOGNIZING THAT WE'RE DEALING WITH A MOTION IN LIMINE, BUT
22 I'D LIKE TO GIVE SOME ASSESSMENT UP FRONT.

23 MS. WHITE: JUDGE, THE -- I THINK I'VE PICKED OUT AT
24 LEAST ONE PICTURE OF EACH INJURY ON THE CHILD'S BODY. I
25 BELIEVE IT'S THE LAST PICTURE SHOWS THE ENTIRE BODY SORT OF

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1 FROM A DISTANCE. AND THAT'S TO SHOW THE MALNUTRITION. ONE
2 OF THE FACTORS OF BATTERED CHILD SYNDROME IS THAT THEY'RE
3 MALNOURISHED. SO THAT WOULD BE FOR THAT PURPOSE. YOUR
4 HONOR, I WOULD CITE STATE v. POOLE AND BRANTLEY. THIS WAS
5 MY CASE. IT'S OPINION NUMBER 97-UP-172?. I'M SORRY -- 172.
6 IN THIS CASE, I HAD A CHILD WHO WAS DIPPED INTO SCALDING
7 WATER. HAD SOME PRETTY GRUESOME INJURIES FROM BASICALLY THE
8 LEGS AND FEET. THE COURT DID HOLD THAT THOSE PHOTOS WERE
9 ADMISSIBLE TO SHOW THE INJURY. IN THAT CASE, THE STATE v.
10 NANCE WAS CITED. IN NANCE, IT WAS A STABBING CASE. AND THE
11 -- IT SAYS, THE PICTURES CORROBORATED THE TESTIMONY
12 REGARDING THE VARIOUS PLACES ON HIS BODY WHERE THE APPELLATE
13 STABBED HIM.

14 I WOULD ALSO HAND UP STATE v. TODD, WHICH IS 349 S.E.2d
15 339. IN THAT ONE, THERE'S A PICTURE OF THE UPPER CHEST
16 WHERE THE BULLET WOUND WAS ADMITTED. STATE v. GOOLSBY,
17 WHERE THE COURT HELD THAT A PHOTOGRAPH OF THE DECEASED
18 SHOWING THE VICTIM'S FACE AND NECK ILLUSTRATING A BAND-LIKE
19 BRUISE AROUND THE VICTIM'S THROAT WAS OKAY. AND FINALLY, IN
20 STATE v. NATHARI, THIS WAS A FELONY D.U.I. CASE. AND IT
21 SAYS, "THE PHOTOGRAPHS ARE PROPERLY EXCLUDED IF THEY ARE
22 ENTIRELY WITHOUT RELEVANCE OR ARE NOT SUBSTANTIAL AND
23 NECESSARY TO SHOW MATERIAL FACTS OR CONDITIONS." HERE,
24 WE'VE GOT TO SHOW EXTREME INDIFFERENCE TO LIFE. WE'VE GOT
25 TO SHOW ABUSE OR NEGLECT. WE'RE ALSO GOING FORWARD ON

1 BATTERED CHILD SYNDROME, THAT THESE ARE NOT ACCIDENTAL, THAT
2 THEY ARE INTENTIONAL INJURIES. AND I WOULD ASK THAT ALL OF
3 THOSE BE ADMITTED TO SHOW THAT. YOUR HONOR, I'D HAND THE
4 CASES UP AT THIS TIME.

5 (WHEREUPON DOCUMENTS WERE HANDED UP TO THE COURT)

6 MS. WHITE: YOUR HONOR, IF YOU WANT ME TO GO THROUGH
7 EACH PICTURE, I'LL SAY WHAT THAT PICTURE ILLUSTRATES. SOME
8 THERE ARE CLUMPS OF HAIR MISSING FROM HER HEAD. THERE ARE
9 OTHERS THAT MIGHT NEED TO BE EXPLAINED. BUT I KNOW WHAT
10 GOES WITH WHAT NUMBER, BECAUSE YOU'VE GOT THE PICTURES UP
11 THERE.

12 THE COURT: ALL RIGHT. I'LL BE WITH YOU IN JUST A
13 MOMENT, AND THEN WE'LL PROCEED FROM THERE.

14 (PAUSE WHILE THE COURT REVIEWED DOCUMENTS AND
15 PHOTOGRAPHS)

16 THE COURT: AND I'LL BE GLAD TO HEAR FURTHER FROM
17 YOU, SOLICITOR, AND MR. GAMBLE AS WELL. AND I'M GOING TO
18 ASSUME THAT THERE'S SOME RELEVANCY BY WAY OF TESTIMONY
19 THAT'S LAID DURING THE TRIAL AS TO THESE PHOTOGRAPHS. RULE
20 403 PROVIDES THAT EVIDENCE MAY BE EXCLUDED, ALTHOUGH
21 RELEVANT, IF THE PROBATIVE VALUE IS SUBSTANTIALLY OUTWEIGHED
22 BY, AMONG OTHER THINGS, THE DANGER OF UNFAIR PREJUDICE.
23 BASED ON THE SUMMARY THAT'S BEEN PRESENTED, I'D ASK COUNSEL
24 TO WRITE DOWN THE FOLLOWING EXHIBIT NUMBERS. I HAVE DIVIDED
25 THEM INTO THREE CATEGORIES. THE FIRST CATEGORY IS WHAT I'LL

1 TERM THAT MAY WELL NOT BE ADMISSIBLE, AND I MAY VERY WELL
2 SUSTAIN THE OBJECTION TO THESE PHOTOGRAPHS. IN OTHER WORDS,
3 FOR THE STATE TO GAIN ADMISSIBILITY OF THE FOLLOWING
4 PHOTOGRAPHS, THE STATE WILL HAVE TO SHOW THE RELEVANCE TO
5 THOSE. FOR EXAMPLE, BUT NOT BY WAY OF LIMITATION, IT MAY BE
6 THAT THE NATURE OF THE RELEVANCE OF THESE PARTICULAR
7 PHOTOGRAPHS IS IN CONTROVERSY. IT'S DISPUTED. AND THUS THE
8 STATE IS IN NEED OF PHOTOGRAPHS TO ESTABLISH A PARTICULAR
9 POINT. HOWEVER, ON THE OTHER HAND, IF AN ISSUE IS
10 UNDISPUTED AND THE TESTIMONY OF A PHYSICIAN OR OTHERWISE IS
11 SUFFICIENT, THEN I WOULD LIKELY NOT ADMIT THESE PHOTOGRAPHS.
12 SO THE ONES THAT COME UNDER THIS CATEGORY THAT THE STATE
13 WOULD HAVE A BURDEN WITH ME TO ESTABLISH ADMISSIBILITY ARE
14 THE FOLLOWING NUMBERS: 29, 30, 48, 49, 50, 57 AND 58.

15 THE NEXT CATEGORY ARE PHOTOGRAPHS, NOT SO MUCH OF THE
16 BODY OR BODY CAVITIES IN A GRAPHIC NATURE, BUT MORE
17 INNOCUOUS AND IN MY JUDGEMENT, LESS INFLAMMATORY
18 POTENTIALLY. YET, THEIR ADMISSIBILITY, AGAIN, WOULD DEPEND
19 ON WHAT IS TRULY IN CONTROVERSY. IF THE PARTICULAR WOUND
20 THAT THE STATE SEEKS TO DEPICT BY INTRODUCTION OF THESE
21 PHOTOGRAPHS IS ADMITTED TO, IS NOT IN CONTROVERSY, THEN I
22 PROBABLY WOULD SEE NO REASON TO ALLOW THEM AS THEY WOULD
23 SIMPLY BE CUMULATIVE TO OTHER TESTIMONY AND WHAT IS NOT
24 CHALLENGED. IF THERE IS A DISPUTED ISSUE AND THESE
25 PHOTOGRAPHS ARE RELEVANT IN THAT REGARD, THEN I WOULD LIKELY

1 ADMIT THESE. IT AGAIN DEPENDS ON THE DEGREE OF RELEVANCE
2 AND WHAT IS IN CONTROVERSY. THE PHOTOGRAPHS THAT FALL UNDER
3 THIS SECOND CATEGORY ARE AS FOLLOWS: 40, 41, 47 AND 54.

4 THE THIRD CATEGORY IS THOSE, ASSUMING SOME RELEVANCE, I
5 WOULD LIKELY ADMIT AND OVERRULE ANY OBJECTION. THESE ARE
6 PHOTOGRAPHS, NOT OF THE BODY OR ANY BODY CAVITY IN IT'S
7 ENTIRETY, BUT VERY LIMITED AREAS OF THE BODY. FOR EXAMPLE,
8 THE WRIST, THE ELBOW, THE ARM, THAT TO ME, WOULD NOT BE
9 LEGALLY PREJUDICIAL. AND CERTAINLY THE RELEVANCE WOULD NOT
10 BE SUBSTANTIALLY OUTWEIGHED BY THE POSSIBLE PREJUDICIAL
11 EFFECT. SO ASSUMING SOME RELEVANCE TO THESE PHOTOGRAPHS, I
12 WOULD NEED AN ADDITIONAL SHOWING FROM THE DEFENDANT TO
13 SUSTAIN ANY OBJECTION. LET ME LIST THOSE FOR YOU: 31
14 THROUGH 39, 42 THROUGH 46, 51, 52, 53, 55 AND 56.

15 AND I HAVE GROUPED THESE INTO THE THREE SEPARATE
16 CATEGORIES THAT I HAVE MENTIONED. AND I'LL BE GLAD FOR
17 COUNSEL TO LOOK AT THEM IN THE CONTEXT OF THOSE THREE
18 SEPARATE RULINGS, ONE OF WHICH I WOULD LIKELY NOT ADMIT, ONE
19 OF WHICH BASICALLY DEPENDS AS THE FACTS DEVELOP AT TRIAL AS
20 TO WHAT'S IN CONTROVERSY.

21 AND THE FINAL GROUP, THE LARGEST GROUP, I WOULD LIKELY
22 ADMIT. AND I HAVE THEM UP HERE IN THAT ORDER. SO COUNSEL
23 IS WELCOME TO PERUSE THEM AND STUDY THEM VERY CAREFULLY.

24 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD,
25 OUT OF THE PRESENCE OF THE JURY BETWEEN THE COURT AND BOTH

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1 COUNSEL)

2 THE COURT: ALL RIGHT. I WANT THE RECORD TO REFLECT
3 I MET WITH COUNSEL. AND BY CONSENT, WHAT WE'VE AGREED TO DO
4 IS THE STATE IS TAKING THOSE EXHIBITS THAT I INDICTED THAT
5 WOULD BE THE HARDEST HURDLE FOR THE STATE TO MEET TO GAIN
6 ADMISSIBILITY. PHOTOGRAPHS THAT AT FIRST GLANCE, I WOULD
7 MOST LIKELY SUSTAIN THE OBJECTION UNDER 403. THE STATE
8 WANTS AN OPPORTUNITY TO ADDRESS EACH OF THOSE INDIVIDUALLY
9 AND EXPLAIN HOW THEY ARE RELEVANT TO AN ISSUE IN THE CASE.
10 SO I'D LIKE TO GIVE YOU THAT OPPORTUNITY, MA'AM.

11 MS. WHITE: YES, SIR. YOUR HONOR, 29 AND 30 BOTH
12 SHOW Minor NOSE, THE INJURY TO HER NOSE. AS I
13 UNDERSTAND IT, THE DEFENDANT IS TRYING TO SAY THAT IT'S FROM
14 A COLD OR SOMETHING LIKE THIS. IT SHOWS THE INTERIOR OF THE
15 NOSE. IT'S GOING TO SHOW, ACCORDING TO THE DOCTORS, THAT
16 THE OUTSIDE OF THE NOSE IS NOT INJURED AT ALL. THEREFORE,
17 IT COULD NOT -- IT WASN'T FROM BLOWING THE NOSE OR SOME KIND
18 OF COLD OR NATURAL PROCESS. THAT THIS INVOLVED SOME KIND OF
19 TRAUMA TO THE NOSE. I'D HAND THOSE UP AT THIS TIME.

20 THE PHOTOS 49, 50 AND 48 INVOLVE Minor VAGINAL
21 AREA.

22 THE COURT: NOW, WHICH ONES, PLEASE, SO I CAN WRITE
23 THOSE DOWN?

24 MS. WHITE: THIS IS 48, 49 AND 50 ---

25 THE COURT: ALL RIGHT.

1 MS. WHITE: --- ARE THE CHILD'S VAGINAL AREA. THEY
2 SHOW THE TEAR IN THE VAGINAL AREA. THEY SHOW THE LABIA AND
3 THE AREA AROUND IT ARE SWOLLEN. AND THE DISCOLORATION IN
4 PARTICULAR -- I'M LOOKING AT 48 ON THAT. THE DISCOLORATION.
5 THE DEFENDANT IN SOME OF HER -- SHE FILLED OUT A
6 QUESTIONNAIRE WHEN SHE FIRST CAME TO THE SHERIFF'S
7 DEPARTMENT. AND I BELIEVE SHE SAID IN IT SOMETHING ABOUT,
8 YOU KNOW, SHE'D STEP OVER THE TUB AND SLIP AND FALL WITH THE
9 TUB HITTING HER BETWEEN THE LEGS. THIS SHOWS THE
10 DISCOLORATION WHICH IS CONSISTENT WITH SITTING IN FECES AND
11 SO FORTH. AT SOME POINT, YOU BECOME DISCOLORED. IT ALSO
12 SHOWS THE SWELLING, AND IT SHOWS A RIP WHICH IS FAIRLY
13 INTERNAL. IF YOU TAKE THE LABIA MAJORA BACK, THERE IS A CUT
14 IN -- SORT OF INSIDE THE CREVICE AREA IN HER VAGINAL AREA.
15 THE DEFENDANT HAD SAID THAT THIS WAS SOME KIND OF SELF-
16 INFLICTED INJURY ON THE CHILD. AND AT TIMES, IT GETS A
17 LITTLE CONFUSING BECAUSE THE DEFENDANT, DEREK CARTER, MADE
18 CERTAIN STATEMENTS AND THE DEFENDANT, MICHELE CARTER, MADE
19 CERTAIN STATEMENTS. OBVIOUSLY, HIS STATEMENTS ARE NOT GOING
20 TO BE ADMISSIBLE. THEY WOULD BE HEARSAY IN THIS CASE. SO
21 ACCORDING TO HER STATEMENTS, THE CHILD SLIPPED AND FELL ON
22 THE BATHTUB, AND SHE NEVER DID ANYTHING TO THE VAGINAL AREA.
23 AS TO 57, THIS SHOWS Minor HAIR AND THAT IT'S NOT
24 HAIR THAT'S MISSING ALL OVER HER HEAD. IT'S CLUMPS OF HAIR
25 THAT ARE MISSING THAT ARE CONSISTENT WITH BEING YANKED.

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1 AGAIN, AS I RECALL, THIS DEFENDANT HAD -- KNEW OF NO ABUSE
2 OR ANYTHING THAT HAD OCCURRED ON THAT. SO THAT, AGAIN,
3 SHOWS NOT A NATURAL INJURY.

4 AND FINALLY, 58 GOES TO SHOWING THAT BASICALLY
5 Minor WAS STARVED ALMOST TO DEATH AS WELL. SO THOSE
6 WOULD BE THE RELEVANT -- AND I THINK THAT ONCE WE HAVE OUR
7 JACKSON v. DENNO, THESE WILL BECOME MORE RELEVANT BECAUSE
8 THE DEFENDANT DOES GO THROUGH WHAT MIGHT HAVE HAPPENED. AND
9 THEY'RE ALL NON-ACCIDENTAL INJURIES AND SO FORTH ON THIS
10 PILE OF PICTURES.

11 THE COURT: IF YOU WANT TO RESPOND TO THOSE AT THIS
12 TIME, YOU'RE WELCOME TO DO SO, MR. GAMBLE. THERE'S NUMBERS
13 29 AND 30 DEAL WITH SOME INJURY TO THE BASE OF THE NOSE.
14 EXHIBITS 48, 49 AND 50 DEAL WITH PHOTOGRAPHS OF THE VAGINAL
15 AREA. PHOTOGRAPH 57 DEALS WITH THE BACK OF THE HEAD AND
16 SHOWING APPARENTLY HAIR MISSING. AND THE FULL BODY SHOT IS
17 MARKED AS NUMBER 58.

18 MS. WHITE: YOUR HONOR, WE WOULD AGREE TO TAKE OUT
19 ONE OF THE VAGINAL INJURIES. THERE WERE TWO SORT OF
20 DIFFERENT ANGLES OF THE TEAR. AND WE WOULD AGREE TO TAKE
21 ONE OF THOSE OUT. WE WOULD WANT ONE WITH THE TEAR AND ONE
22 WITH THE SWELLING AND DISCOLORATION.

23 THE COURT: SEE, I WOULD SAY THE SAME THING ABOUT
24 THE ONE ON THE NOSE. YOU'VE GOT TWO THAT SHOW THE SAME
25 THING, 29 AND ---

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1 MS. WHITE: MAY I SEE THOSE AGAIN?

2 THE COURT: TWENTY-NINE AND 30. ASSUMING EITHER ONE
3 IS ADMISSIBLE IF THEY'RE BOTH TO SHOW THE SAME INJURY.

4 MS. WHITE: ONE SHOWS SORT OF THE SIDE OF THE NOSE,
5 AND ONE SHOW STRAIGHT ON THE NOSE. THAT'S WHY I PICKED TWO.
6 BUT IF WE HAD TO PICK ONE, WE WOULD PICK 30.

7 THE COURT: ALL RIGHT. IF YOU WANT TO REEXAMINE
8 THESE PHOTOGRAPHS, MR. GAMBLE, OR MAKE A RESPONSE TO THE
9 STATE'S POSITION?

10 MR. GAMBLE: NO, SIR. I'M FAMILIAR WITH THEM. THANK
11 YOU.

12 THE ONLY RESPONSE I HAVE, YOUR HONOR, WITHOUT ANY
13 TESTIMONY ON IT, WOULD BE THAT THE POSTMORTEM DONE BY DR.
14 WOODARD EXPLAINED EXACTLY WHAT MS. WHITE HAS SAID THOSE
15 PHOTOGRAPHS SHOW. TO WIT, "THE LABIA MAJORA WAS..." -- AND
16 I'M SORRY. I'M NOT A MEDICAL PERSON. I DON'T KNOW SOME OF
17 THESE WORDS. "HYPEREMIC IN LIFE AND SHOWS IRREGULAR
18 WRINKLING AND EDEMA. EPITHELIAL ATROPHY EXTENDS ABOUT THE
19 LABIA MAJORA AND ONTO THE ANTERIOR VULVA." THIS IS
20 DESCRIBING EXACTLY WHAT SHE JUST SAID THOSE PHOTOGRAPHS
21 SHOW. THIS IS WHAT DR. WOODARD WILL TESTIFY TO. AND THAT'S
22 MY OBJECTION. THERE'S NOT ANY CONTEST THAT THESE INJURIES
23 ARE THERE. HE'S GOING TO TESTIFY EXACTLY TO THIS. AND
24 THERE WERE "IRREGULAR CONTUSIONS OBSERVED IN THE LEFT LABIA
25 MAJORA WHICH IS THREE-EIGHTHS OF AN INCH IN MAXIMUM

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1 DIMENSION. AN IRREGULAR TEAR OBSERVED IN THE POSTERIOR
2 FOSSA EXTENDING TOWARD THE ANUS THROUGH THE FRENULUM
3 PUDENDI. THIS HAS IRREGULAR SKIN TAGS ASSOCIATED WITH IT
4 AND IS THREE EIGHTHS BY ONE EIGHTH OF AN INCH IN MAXIMUM
5 DIMENSION."

6 MS. WHITE: YOUR HONOR, FOR THE PURPOSES OF THE
7 RECORD, I AGREE. OUR PATHOLOGIST IS GOING TO TESTIFY TO
8 EVERYTHING I JUST SAID. I MEAN, I DON'T KNOW IF WE NEED TO
9 GO THROUGH THIS BECAUSE THAT'S EXACTLY WHAT HE'S GOING TO --
10 WE STIPULATE TO THAT.

11 MR. GAMBLE: WELL, IF HE TESTIFIES TO THAT AND HE'S
12 DESCRIBING THE INJURIES THAT ARE ON THOSE PREJUDICIAL
13 PHOTOGRAPHS, THEN THEY DON'T BECOME RELEVANT BECAUSE HE CAN
14 DESCRIBE IN GLOWING TERMS THAT HE HAS HERE. AND TO HEAR IT
15 ALMOST IS WORSE THAN SEEING IT IN THE PHOTOGRAPHS BECAUSE OF
16 THE WAY HE DESCRIBES THINGS. AND HE THEN, FROM MY
17 EXPERIENCE WITH DR. WOODARD, BREAKS IT DOWN INTO LANGUAGE
18 THAT LAY PEOPLE CAN UNDERSTAND.

19 THE COURT: ALL RIGHT.

20 MR. GAMBLE: WHAT I'M SAYING IS THAT THEY DON'T SHOW
21 ANYTHING MORE THAN DR. WOODARD'S GOING TO DESCRIBE, WITHOUT
22 BELABORING IT AND READING ALL THIS POSTMORTEM THAT'S IN
23 HERE. AND I THINK YOU JUST STIPULATED, DIDN'T YOU ---

24 MS. WHITE: I WILL AGREE THAT HE'S -- YOUR HONOR,
25 BUT, I MEAN, THAT IS -- YOU NEVER HAVE A PICTURE THAT ISN'T

1 -- SOMEBODY DOESN'T TESTIFY AS TO WHAT IT IS. YOU CAN'T GET
2 A PICTURE IN UNLESS YOU DO. AND SO I THINK WHAT MR. GAMBLE
3 IS ASSUMING IS THAT THE JURY IS JUST GOING TO COMPLETELY
4 AGREE WITH EVERYTHING DR. WOODARD SAYS. WELL, THIS
5 CORROBORATES HIS TESTIMONY. IT'S NOT JUST HIM GETTING UP
6 SAYING, LOOK, IT'S NOT CONSISTENT WITH THE ACCIDENTAL
7 EXPLANATION GIVEN. WE SEE WITH OUR OWN TWO EYES. A VAGINAL
8 AREA ON A FOUR-YEAR-OLD SHOULD NOT BE DISCOLORED. IT SHOULD
9 NOT BE SWOLLEN. IT SHOULDN'T HAVE RIPS ON THE INTERIOR
10 CREVICE. I MEAN, THEY ARE NOT TOLD THAT THEY HAVE TO
11 BLINDLY ACCEPT EVERYTHING THAT DR. WOODARD SAYS. THIS
12 CORROBORATES HIS TESTIMONY, JUST AS A PICTURE IN ANY CASE
13 DOES. AND AGAIN, IT GOES TO ACCIDENTAL INJURY VERSUS
14 INTENTIONAL INJURY.

15 THE COURT: I UNDERSTAND YOUR RESPECTIVE POSITIONS.
16 AND MY INITIAL COMMENTS TO YOU STAND. IT'S SOMETHING THAT
17 ULTIMATELY I'M GOING TO HAVE TO HEAR IN THE CONTEXT OF
18 TESTIMONY, I GUESS, SPECIFICALLY WITH REGARD TO THESE
19 PHOTOGRAPHS, THE MEDICAL TESTIMONY, THE NATURE OF THE
20 EXAMINATION OF THE WITNESS. AND IT MAY BE -- AND I HATE TO
21 GIVE SCENARIOS BECAUSE THERE'S SO MANY DIFFERENT DIRECTIONS.
22 BUT IT MAY BE THAT THEY BECOME -- THE RELEVANCE IS
23 HEIGHTENED AND THEY BECOME ADMISSIBLE IN THE CONTEXT OF
24 REPLY. I JUST DON'T KNOW. I NEED A FACTUAL RECORD BEFORE I
25 WOULD CONSIDER ALLOWING PHOTOGRAPHS, THESE, TO BE VIEWED BY

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1 THE JURY. I UNDERSTAND THAT YOU'LL LAY A FOUNDATION. AND I
2 PREMISE ALL MY THOUGHTS ON THAT, THAT THEY WILL BE RELEVANT.
3 BUT THE LAW DOES RECOGNIZE THAT IN SOME INSTANCES, RELEVANT
4 EVIDENCE, BECAUSE OF ITS NATURE, THE PROBATIVE VALUE OF THAT
5 EVIDENCE CAN BE SUBSTANTIALLY OUTWEIGHED BY THE POSSIBILITY
6 OF PREJUDICE. AND THIS MIGHT BE AN EXAMPLE OF SUCH
7 EVIDENCE.

8 AND I'M GOING TO LISTEN VERY CAREFULLY TO THE EVIDENCE.
9 I'M GOING TO WEIGH IT VERY THOUGHTFULLY AND DO THE BEST I
10 CAN IN MAKING THE RIGHT DECISION IN TERMS OF ADMISSIBILITY.
11 BUT I UNDERSTAND BOTH SIDES' RESPECTIVE POSITIONS ON IT.
12 IT'S JUST HARD FOR ME IN THE CONTEXT OF ARGUMENTS AND
13 SUMMARIES, TO GIVE YOU ANY INDICATION WITH ANY FINALITY
14 COUPLED WITH THE FACT THAT WE NOW KNOW WITH CLARITY FROM THE
15 SUPREME COURT THAT A MOTION IN LIMINE IS NOT A FINAL RULING
16 IN ANY EVENT. I'D LIKE TO GIVE COUNSEL MORE BENEFIT OF
17 HAVING THAT FINALITY, BUT I'M JUST NOT IN A POSITION TO DO
18 IT. AND I APOLOGIZE.

19 MR. GAMBLE: OKAY.

20 THE COURT: NOW, THERE WAS ALSO A QUESTION. AND IT
21 MAY DEAL WITH THE SAME THING. THE VIDEO?

22 MS. WHITE: YES, SIR. YOUR HONOR, RULE 1006, IT'S
23 SUMMARIES. THE VIDEOTAPES WHICH WERE RECOVERED FROM THE
24 HOME, WE HAVE MADE AVAILABLE. I HAVE NOT MARKED THEM, BUT I
25 HAVE THEM AVAILABLE. IT TOOK OVER EIGHT HOURS TO LOOK AT

1 THESE. AND THAT WAS PRETTY MUCH ON FAST-FORWARD WHERE YOU
2 COULD SEE WHAT WAS HAPPENING, BUT IT WAS JUST FAST. SO I
3 FIGURED FOR THE JURY TO LOOK AT EVERY ONE OF THEM IT WOULD
4 PROBABLY BE WELL OVER TWENTY HOURS. RULE 1006 SAYS, "THE
5 CONTENTS OF VOLUMINOUS WRITINGS, RECORDINGS OR PHOTOGRAPHS
6 WHICH CANNOT BE CONVENIENTLY EXAMINED IN COURT MAY BE
7 PRESENTED IN THE FORM OF SUMMARY," IT SAYS, "OR IF THE
8 UNDERLYING DATA ARE AVAILABLE." CERTAINLY, THE UNDERLYING
9 DATA ARE AVAILABLE. THE -- I THINK REALLY THE JACKSON v.
10 DENNO WE MIGHT SHOULD HAVE TAKEN UP FIRST BECAUSE THAT WOULD
11 HELP ON THE PHOTOGRAPHS AND THIS. BUT IN THE JACKSON v.
12 DENNO, THE DEFENDANT FILLED OUT ON THE FORM TALKING ABOUT
13 HOW ALL THIS WAS ACCIDENTAL. SHE WAS CLUMSY. SHE WALKED
14 DRAGGING HER FEET. SHE FELL EVERY THREE STEPS. ALL THESE
15 OTHER THINGS, TO EXPLAIN ALL THESE INJURIES ON THE CHILD.
16 WHAT WE'VE DONE IS WE'VE TAKEN THE VIDEOTAPES FROM THE TIME
17 THE CHILD WAS FIRST RECORDED, WHICH I FIGURE SOMEWHERE
18 AROUND EIGHT TO TWELVE MONTHS. THEY ARE DATED. MOST OF THE
19 VIDEOS HAVE DATES ON THEM. AND WE RUN HER THROUGH WHERE
20 SHE'S -- YOU REALLY -- I GUESS YOU JUST HAVE TO LOOK AT IT.
21 BUT YOU RUN IT THROUGH AND SHE'S RUNNING AROUND. SHE'S
22 NORMAL. SHE NOT PUDGY BUT, I MEAN, A NORMAL FOUR-YEAR-OLD
23 WITH CHUBBY LITTLE CHEEKS AND ELBOWS AND ALL THAT LITTLE
24 CHILDREN HAVE. NO CLUMSINESS. SHE'S PUTTING ORNAMENTS ON A
25 TREE WHEN SHE'S TWO YEARS OLD.

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1 AND THEN YOU RUN THROUGH WHEN THE DEFENDANT COMES INTO
2 HER LIFE, AND IT PRETTY MUCH GOES DOWNHILL FROM THAT. AND
3 THEN THE LAST, I'D SAY, TEN MONTHS OF HER LIFE, WE'RE
4 ALLEGING THAT SHE WAS PRETTY MUCH CHAINED INSIDE A BATHROOM
5 FOR THAT PERIOD OF TIME. AND SHE'S ONLY ON ONE VIDEO FROM
6 THAT TIME OUT WHEREAS ALL THE OTHERS -- SO WE'LL ONLY HAVE
7 ONE -- THE WHOLE THING, I THINK, IS ABOUT THIRTY MINUTES.

8 BUT I REALLY DON'T THINK THERE'S ANY WAY TO RULE ON
9 THIS TILL YOU SEE IT BECAUSE THERE'S NO WAY, REALLY, TO
10 EXPLAIN IT UNTIL YOU SEE IT. BUT WHAT THEY DID IS THEY TOOK
11 THE PIECES OF EACH VIDEO CHRONOLOGICALLY. I THINK THAT
12 ONE'S NOT QUITE CHRONOLOGICAL. IT MAY BE A WEEK AHEAD, AND
13 THEN WE GO BACK A WEEK. BUT IT'S TO SHOW HER COORDINATION,
14 HER LACK OF INJURIES. SHE -- ANOTHER THING THE DEFENDANT
15 TOLD DOCTORS IS SHE BRUISED EASILY. IT SHOWS HER LACK OF
16 INJURIES, HER NUTRITION AND HER COORDINATION. AND IT JUST
17 SHOWS CHRONOLOGICALLY WHAT HAPPENS TO HER.

18 THE COURT: SO THIS IS IN ANTICIPATION OF THE
19 ADMISSIBILITY OF DEFENDANT'S STATEMENTS REGARDING THE
20 PROPENSITY OF THIS CHILD IN TERMS OF PHYSICAL DEXTERITY AND
21 THINGS OF THAT NATURE?

22 MS. WHITE: YES, SIR. AND LIKE I SAY, I THINK THE
23 BEST THING TO DO IS JUST TO -- YOU JUST HAVE TO SEE IT AND
24 WATCH IT TO SEE WHAT I'M TALKING ABOUT.

25 THE COURT: AND I GUESS WE HAVE TO ADDRESS THE

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1 JACKSON v. DENNO FIRST. AND THE DEFENDANT'S OBJECTION TO
2 THE SUMMARY OF THE VIDEOTAPES?

3 MR. GAMBLE: WELL, I THINK IT'S MANUFACTURED EVIDENCE
4 THAT THE POLICE HAS PUT TOGETHER. IF THEY'RE GOING TO SHOW
5 THEM, THEY SHOULD SHOW THE WHOLE COMPENDIUM OF THEM.

6 MS. WHITE: YOUR HONOR, THAT'S WHERE 1006 COMES IN.
7 THEY CAN SHOW ANY OF THESE OTHER VIDEOS. OH, THE OTHER
8 THING THAT'S ON THESE TAPES IS, ONE, THE DEFENDANT -- AND
9 I'M SUMMARIZING HERE. BUT THE DEFENDANT TURNS TO THE CHILD
10 AND SAYS, AS SHE'S FILMING HER, THIS IS THE CHILD THAT
11 DOESN'T EXIST. AND THEN IN ANOTHER ONE SHE SAYS, I THINK
12 WE'VE FINALLY GOTTEN THROUGH TO Minor THAT THE LESS SHE
13 BREATHES AND THE LESS SHE LIVES, THE BETTER OFF SHE IS, OR
14 WORDS TO THAT EFFECT. ANYWAY, IT'S SHOWING SOME OF THAT,
15 TOO. BUT WE HAVE PROVIDED ALL THE OTHER TAPES. IF THE
16 DEFENSE THINKS IT'S NOT FAIR, THEY CAN INTRODUCE ANY OF
17 THESE OTHER TAPES FROM WHICH WE TOOK THESE.

18 THE COURT: I'LL BE GLAD TO HEAR FROM YOU AT THIS
19 TIME, MR. GAMBLE. BUT AT SOME POINT, I NEED FIRST TO
20 ADDRESS THE JACKSON v. DENNO SINCE THAT'S ---

21 MR. GAMBLE: I THINK IT PROPER WE ADDRESS THE JACKSON
22 v. DENNO BEFORE THE TAPE BECAUSE THAT HAS TO DO WITH THE
23 TAPE ITSELF.

24 THE COURT: RIGHT. I AGREE WITH THAT. THAT'S A
25 PREMISE TO THE ADMISSIBILITY OF THE VIDEO. CAN WE GO AHEAD

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1 AND START THE PROCESS OF ADDRESSING JACKSON v. DENNO TODAY?

2 MS. WHITE: YES, SIR. WOULD YOU LIKE ME TO DO THAT
3 AT THIS TIME, JUDGE?

4 THE COURT: IF YOU DON'T MIND, MA'AM.

5 MS. WHITE: THE STATE CALLS JOHN CARPENTER.

6 **JOHN CARPENTER,**

7 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

8 MS. WHITE: YOUR HONOR, I'M GOING TO BACK UP JUST A
9 LITTLE BIT TO THE INTERVIEW ON OCTOBER 20TH, NOT FOR JACKSON
10 v. DENNO PURPOSES, BUT IT GOES TO THE TAPE. IF YOU DON'T
11 MIND, I WON'T GO THROUGH THE JACKSON v. DENNO PART, BUT JUST
12 THE CONTENT THAT I THINK IS RELEVANT.

13 DIRECT EXAMINATION BY MS. WHITE:

14 Q. INVESTIGATOR CARPENTER, DID YOU GO TO THE DEFENDANT'S
15 HOME ON OCTOBER 20TH OF LAST YEAR?

16 A. YES.

17 Q. AND DID YOU TALK TO THE DEFENDANT AND MR. CARTER?

18 A. YES.

19 Q. AND WERE THEY TOGETHER WHEN YOU TALKED TO THEM SITTING
20 IN THE HOUSE?

21 A. YES.

22 Q. AND I'M NOT GOING TO GO THROUGH YOUR WHOLE INTERVIEW.
23 BUT DID -- HOW DID THEY DESCRIBE THE VICTIM, Minor
24 COORDINATION?

25 A. 'Minor WAS CLUMSY AND HER FEET TURNED OUT."

1 Q. AND DID THEY DESCRIBE WHAT HAPPENED TO HER TOES? THE
2 INJURIES ON HER TOES?

3 A. OUTLINED AN INCIDENT INVOLVING EITHER A BOARD OR LEVEL-
4 TYPE INSTRUMENT THAT THEY SAID FELL FROM THE BACK PORCH.
5 AND WHEN IT FELL, THAT IT SOMEHOW WENT ACROSS ALL TEN OF HER
6 TOES AND CAUSED THE INJURIES THAT WE HAD OBSERVED ON THE
7 CHILD'S TOES.

8 Q. HOW DID THEY DESCRIBE HER APPETITE AND THE AMOUNT OF
9 FOOD SHE ATE?

10 A. ASK ME AGAIN. I DON'T UNDERSTAND.

11 Q. DID THEY SAY ANYTHING ABOUT SPAGHETTI, HOW MUCH SHE ATE
12 AND WHAT HER APPETITE WAS LIKE?

13 A. I MAY HAVE A DIFFERENT SET OF NOTES UP HERE. CAN I
14 CHECK MY PAPERWORK?

15 MS. WHITE: YOUR HONOR, MAY HE STEP DOWN TO GET HIS
16 NOTES?

17 THE COURT: SURE.

18 (WHEREUPON WITNESS STEPPED DOWN, RETRIEVED NOTES AND
19 THEN STEPPED BACK UP TO THE WITNESS STAND)

20 A. COMMENTED THAT Minor COULD EAT MORE THAN THE
21 DEFENDANT CARTER COULD. DESCRIBED A WHOLE PLATE OF
22 SPAGHETTI THAT SHE CONSUMED.

23 Q. ALL RIGHT. HOW MANY STEPS DID MICHELE CARTER TELL YOU
24 THAT Minor COULD TAKE BEFORE SHE FELL?

25 A. (NO RESPONSE)

1 Q. THIS IS IN MICHELE'S INTERVIEW ON 10/20 OF 2000. IF
2 YOU'LL START WITH THE PART WHERE SHE SAYS SHE'S CLUMSY.

3 IT'S RIGHT AFTER THAT. TELL US WHAT SHE SAID ABOUT THAT.

4 A. Minor WAS CLUMSY AND HER FEET TURNED OUT. LATER
5 NOTICED HER ANKLES WOULD SWELL. WE TRIED NEW SHOES. TOOK

6 Minor OUTSIDE AND MADE HER WALK WITHOUT SHOES. AND I

7 MADE HER WALK AROUND THE YARD BAREFOOT BECAUSE SHE DID

8 BETTER WITHOUT SHOES. WHEN SHE WALKED SHE HAD HER FEET

9 TURNED OUT SO THAT HER INSIDE ANKLES WERE ON THE GROUND.

10 WHEN DEREK CAME HOME, I SHOWED DEREK WHAT I WAS LOOKING AT.

11 Minor WOULD -- WAS CLUMSY AND WOULD NOT WALK THREE STEPS
12 WITHOUT FALLING DOWN."

13 Q. ALL RIGHT. I THINK THAT'S ALL ON THE COORDINATION ON

14 THE 20TH. LET'S GO NOW TO 10/25 OF LAST YEAR. DID YOU SEE

15 THE DEFENDANT AT THE SHERIFF'S DEPARTMENT?

16 A. YES, I DID.

17 Q. AND DESCRIBE FOR THE JUDGE HOW YOU SET UP SEEING HER AT
18 THE SHERIFF'S DEPARTMENT.

19 A. AFTER THE INTERVIEW ON THE 20TH, MADE CONTACT WITH THE
20 DEFENDANTS. THEY AGREED THAT THEY COULD COME TO THE

21 SHERIFF'S OFFICE ON THE 25TH. THEY CAME AROUND NINE A.M.

22 Q. NOW, DID THEY COME OF THEIR OWN VOLITION?

23 A. THEY CAME TOGETHER IN THEIR OWN VAN. THEY DROVE UP
24 THERE.

25 Q. SO THEY CAME TO THE SHERIFF'S DEPARTMENT THEMSELVES IN

1 THEIR OWN PRIVATE VEHICLE?

2 A. YES.

3 Q. AND WHEN THEY ARRIVED, WHAT HAPPENED?

4 A. I MET THEM IN THE LOBBY UPSTAIRS AND ASKED DEREK TO
5 COME BACK TO A ROOM WHERE HE COULD FILL OUT A QUESTIONNAIRE
6 AND GAVE HIM THE PAPERWORK AND THE PENS TO DO IT AND LET HIM
7 READ THE INSTRUCTIONS TO MAKE SURE HE DIDN'T HAVE ANY
8 QUESTIONS. AND THEN I WENT BACK TO THE LOBBY AND GOT THE
9 DEFENDANT.

10 Q. MS. CARTER?

11 A. MS. CARTER. AND TOOK HER BACK TO A ROOM AND GAVE HER
12 THE PAPERWORK, READ THE INSTRUCTIONS AND MADE SURE SHE
13 DIDN'T HAVE ANY QUESTIONS AND LEFT HER WITH THE PAPERWORK TO
14 COMPLETE THE QUESTIONNAIRE.

15 Q. AND DID SHE, IN FACT, COMPLETE THE QUESTIONNAIRE?

16 A. YES.

17 Q. WAS ANYONE ELSE PRESENT IN THE ROOM WHEN SHE DID IT, OF
18 DID SHE FILL IT ALL OUT HERSELF?

19 A. SHE WAS ALL BY HERSELF.

20 Q. WAS SHE IN ANY KIND OF CUSTODY AT THAT TIME?

21 A. NO.

22 Q. WAS SHE FREE TO LEAVE?

23 A. YES.

24 Q. IN FACT, AFTER SHE FILLED OUT THE QUESTIONNAIRE, WHAT
25 HAPPENED? WHAT DID SHE DO? WHERE DID SHE GO?

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1 A. WENT OUTSIDE TO THE LOBBY AND TO HER VAN. AND WE
2 ENCOURAGED HER TO GO GET SOME FOOD. WE WERE TALKING TO THE
3 DEFENDANT, MR. CARTER, AND I TOLD HER THAT, YOU KNOW, SINCE
4 IT WAS GETTING CLOSE TO LUNCH TIME, IF SHE WANTED TO GO GET
5 SOME SANDWICHES FOR THEM, IF SHE WANTED TO GO GET SOME FOOD,
6 COME BACK, WHATEVER. AND SHE KEPT INSISTING, NO, SHE WAS
7 FINE. SHE JUST WANTED TO GO OUTSIDE. AND I THINK SHE -- I
8 THINK SHE SMOKED A CIGARETTE OR HAD CIGARETTES OUT IN THE
9 CAR THAT SHE WENT TO GET TO SMOKE. I DIDN'T STAY OUTSIDE
10 WITH HER. SHE WENT OUTSIDE BY HERSELF.

11 Q. SO WAS SHE TOLD SHE WAS FREE TO LEAVE AT ANY TIME? IN
12 FACT, ENCOURAGED TO LEAVE?

13 A. YES.

14 (QUESTIONNAIRE MARKED FOR IDENTIFICATION AS STATE'S
15 EXHIBIT 61)

16 Q. I'M HANDING YOU STATE'S EXHIBIT 61. I'M GOING TO TELL
17 YOU RIGHT NOW ON PAGE NINE, TWO QUESTIONS REGARDING THE
18 POLYGRAPH WERE REDACTED SO THAT NO MENTION OF A POLYGRAPH
19 WOULD BE ON THIS. DO YOU RECOGNIZE 61 OTHER THAN THAT?

20 A. YES.

21 Q. AND HAS THAT BEEN CHANGED OR ALTERED IN ANY RESPECT
22 SINCE THE TIME THAT THE DEFENDANT FILLED IT OUT OTHER THAN
23 TO REDACT THE QUESTIONS INVOLVING THE POLYGRAPH?

24 A. NO.

25 Q. AFTER THE DEFENDANT FILLED OUT THE QUESTIONNAIRE, TO

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1 WHOM DID SHE GIVE IT?

2 A. TO ME.

3 Q. ALL RIGHT. NOW, AFTER THIS SHE WAS MIRANDIZED BY
4 ANOTHER DETECTIVE, IS THAT CORRECT, AND TALKED TO?

5 A. YES.

6 Q. ALL RIGHT. LET'S GO TO LATER THAT EVENING. AND AGAIN,
7 I'M GOING TO PUT THE DETECTIVES UP. BUT JUST TO CLARIFY,
8 SHE INVOKED HER RIGHT TO AN ATTORNEY AT SOME POINT DURING
9 THAT QUESTIONING WITH ANOTHER DETECTIVE. IS THAT WHAT YOU
10 UNDERSTAND?

11 A. THAT'S MY UNDERSTANDING.

12 Q. ALL RIGHT. NOW, LET'S GO TO THE SEARCH OF THE HOME.
13 DID YOU GO SEARCH THE DEFENDANT'S HOME LATER THAT DAY?
14 WE'RE STILL ON THAT 10/25 OF LAST YEAR.

15 A. I WENT TO THE HOME WHILE THEY WERE FINISHING UP. BUT I
16 WAS A PART OF IT LATE.

17 Q. AND WHAT, IF ANYTHING, DID THE DEFENDANT SAY TO YOU AS
18 YOU LEFT THE HOUSE?

19 A. SINCE THEY WERE WRAPPING UP, I WAS GOING BACK OUT TO MY
20 PATROL CAR AND MAKING ARRANGEMENTS TO MEET WITH SOME OF THE
21 SOCIAL SERVICES PEOPLE AND OTHER DETECTIVES TOMORROW TO WORK
22 ON OTHER THINGS. SHE CAME OUT AND WANTED TO KNOW WHEN I WAS
23 GOING TO TALK TO HER.

24 Q. OKAY. SO WHO INITIATED THE CONVERSATION OF WHEN ARE
25 YOU GOING TO START TALKING TO ME AGAIN?

1 A. THE DEFENDANT CAME OUT TO MY CAR WHERE I WAS TALKING TO
2 THE OTHER DETECTIVES AND ASKED WHEN I WAS GOING TO TALK TO
3 HER. SO SHE INITIATED THE CONTACT.

4 Q. AND WHAT HAPPENED?

5 A. I EXPLAINED TO HER THAT BASED ON MY UNDERSTANDING THAT
6 SHE HAD INVOKED HER RIGHT TO COUNSEL OR HAD ASKED ABOUT AN
7 ATTORNEY WITH ANOTHER DETECTIVE, THAT I COULDN'T TALK TO
8 HER. I SAID, YOU KNOW, IF YOU WANT TO TALK TO A LAWYER, YOU
9 NEED TO TALK TO A LAWYER. AND I SAID, IF YOU DECIDE THAT
10 YOU DO WANT TO TALK TO ME, WHAT YOU NEED TO DO IS CALL. AND
11 I GAVE HER MY CARD. AND I SAID, LEAVE A MESSAGE TELLING ME
12 THAT YOU DO NEED -- FEEL LIKE YOU WANT TO -- NEED OR WANT TO
13 TALK TO ME. AND THEN I'LL BE GLAD TO MAKE ARRANGEMENTS TO
14 SEE WHEN I CAN GET A TIME WHERE I CAN SIT DOWN AND TALK TO
15 YOU.

16 Q. AND AGAIN, WHO INITIATED THIS CONVERSATION OF, I WANT
17 TO TALK TO YOU AGAIN?

18 A. SHE DID.

19 Q. ALL RIGHT. AND THIS WAS APPROXIMATELY MIDNIGHT; IS
20 THAT RIGHT? TOWARD THE END OF 10/25?

21 A. IT WAS VERY LATE. I'M NOT SURE.

22 Q. AND THE NEXT MORNING WHEN YOU CAME IN TO WORK ON 10/26
23 OF LAST YEAR, WHAT, IF ANYTHING, DID YOU HAVE ON YOUR
24 ANSWERING MACHINE?

25 A. A MESSAGE THAT THE TIME STAMP SAID WAS ONE THIRTY-ONE

1 A.M. THAT SHE WANTED -- THE DEFENDANT, MS. CARTER, CALLED
2 AND SAID THAT SHE WANTED TO TALK TO ME AND ASKED ME TO CALL
3 HER AT [REDACTED].

4 Q. AND WHAT DID YOU DO AS A RESULT OF RECEIVING THAT
5 MESSAGE?

6 A. TALKED TO INVESTIGATOR SUTTON AND TOLD HER ABOUT THE
7 PHONE MESSAGE. AND THEN WE TOGETHER MADE A PHONE CALL TO
8 THE DEFENDANT, MS. CARTER, ON A SPEAKER PHONE TO MAKE
9 ARRANGEMENTS FOR HER TO COME BACK TO THE SHERIFF'S OFFICE OF
10 HER OWN FREE WILL FOR ANOTHER INTERVIEW.

11 Q. AND AGAIN, WHO INITIATED -- DID YOU CALL HER, OR DID
12 SHE INITIATE THE CALL TO YOU?

13 A. SHE LEFT A MESSAGE AT ONE THIRTY-ONE A.M. AND THEN
14 MYSELF AND INVESTIGATOR SUTTON CALLED HER RETURNING THAT
15 MESSAGE.

16 MS. WHITE: YOUR HONOR, I'D HAND UP STATE'S EXHIBIT
17 61 FOR IDENTIFICATION, WHICH IS THE QUESTIONNAIRE. I WOULD
18 ASK THAT YOUR HONOR JUST READ IT. IT'S BEEN PROVIDED TO THE
19 DEFENSE. I DON'T SEE ANY NEED FOR HIM TO PUBLISH IT.

20 THE COURT: ALL RIGHT. YOU WANT ME TO READ IT AT
21 THIS TIME?

22 MS. WHITE: WHATEVER YOU PREFER. I'M READY TO GO
23 FORWARD WITH MORE WITNESSES.

24 THE COURT: DOES THE CONTENT OF THE QUESTIONNAIRE
25 IMPACT THE QUESTION OF ADMISSIBILITY?

1 MS. WHITE: IT DOESN'T OF ADMISSIBILITY, BUT IT DOES
2 OF THE VIDEO.

3 THE COURT: ALL RIGHT. WELL, LET'S DEAL WITH
4 ADMISSIBILITY. AND AT THE END I'LL TAKE A FEW MOMENTS, AND
5 I WILL READ IT VERY CAREFULLY.

6 MS. WHITE: THAT'S ALL I HAVE OF THIS WITNESS.

7 CROSS EXAMINATION BY MR. GAMBLE:

8 Q. OFFICER CARPENTER, YOU STARTED AN INTERVIEW WITH
9 MICHELE CARTER AT WHAT TIME ON THE 25TH OF OCTOBER, 19 --
10 2000?

11 A. I DID NOT INTERVIEW HER ON THE 25TH. I TALKED TO HER
12 BRIEFLY GIVING HER THE INSTRUCTIONS AND THE QUESTIONNAIRE SO
13 THAT SHE COULD FILL IT OUT. BUT I DIDN'T INTERVIEW HER. I
14 JUST MADE SURE SHE UNDERSTOOD THE INSTRUCTIONS AND LET HER
15 READ THROUGH THEM AND LEFT HER IN THE ROOM BY HERSELF.

16 Q. WHAT TIME DID YOU START THAT?

17 A. THE DEFENDANT, MS. CARTER, WAS GIVEN THE QUESTIONNAIRE
18 AT NINE FIFTEEN A.M.

19 Q. AND YOU SAY YOU SENT SHE AND DEREK OUT FOR LUNCH AT --
20 OR YOU SENT HER OUT FOR LUNCH AT AROUND TWELVE OR ONE?

21 A. NO. SHE COMPLETED THE QUESTIONNAIRE AT ELEVEN THIRTY.
22 I ENCOURAGED HER TO DO THAT, TO GO GET LUNCH FOR HERSELF.
23 GO GET LUNCH FOR DEREK. BUT TO MY KNOWLEDGE, SHE JUST WENT
24 OUTSIDE. I DON'T KNOW THAT SHE LEFT THE PREMISES. BUT SHE
25 WENT OUT TO HER CAR TO GET CIGARETTES OR SMOKE OR WHATEVER.

1 BUT I DON'T HAVE ANY KNOWLEDGE THAT SHE WENT TO EAT.

2 Q. ALL RIGHT. WHEN DID YOU NEXT KNOW THAT SHE WAS AT THE
3 LAW ENFORCEMENT CENTER OR THAT SHE WAS BEING INTERVIEWED?
4 FROM THE ELEVEN FIFTEEN BREAK OR WHATEVER TIME -- ELEVEN
5 THIRTY-FIVE BREAK?

6 A. I'M NOT SURE WHEN SHE STARTED BEING INTERVIEWED AGAIN
7 BECAUSE IT WAS BY OTHER DETECTIVES, AND I WAS TIED UP TAKING
8 CARE OF OTHER THINGS. I HAVE NO IDEA.

9 Q. THAT WAS AN INTERVIEW BY DETECTIVE SUTTON?

10 A. I BELIEVE THE NEXT INTERVIEW AFTER SHE COMPLETED THE
11 QUESTIONNAIRE WAS BY INVESTIGATOR SUTTON AND INVESTIGATOR
12 BROTHERS. BUT I WASN'T THERE, SO I BELIEVE THAT'S RIGHT.

13 Q. ALL RIGHT. AND THAT WAS -- YOU WEREN'T THERE?

14 A. NO.

15 Q. SO YOU DON'T KNOW WHAT TIME IT WAS?

16 A. NO, SIR.

17 Q. AND YOU DON'T KNOW WHAT WAS SAID OR DONE OTHER THAN THE
18 OFFICIAL REPORT FROM -- SENT TO YOU AS MAIN INVESTIGATOR?

19 A. THAT'S MY KNOWLEDGE OF THE INTERVIEW BASED ON WHATEVER
20 PAPERWORK THEY GAVE ME, YES.

21 Q. ALL RIGHT. AND YOU WERE AWARE OF THE FACT THAT HER
22 BIOLOGICAL CHILD, J.C. , WAS TAKEN FROM THE HOME THAT
23 THEY HAD PLACED HIM IN AT SEVEN O'CLOCK THAT NIGHT, WEREN'T
24 YOU?

25 A. I'M AWARE THAT THE CHILD WAS TAKEN INTO EMERGENCY

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1 PROTECTIVE CUSTODY, YES.

2 Q. AND ARE YOU AWARE OF THE FACT THAT HER OTHER TWO
3 BIOLOGICAL CHILDREN WERE ALSO IN PROTECTIVE CUSTODY?

4 A. I THINK THEY WERE PLACED WITH THE BIOLOGICAL FATHER BY
5 THE DEPARTMENT OF SOCIAL SERVICES. I DON'T KNOW THAT THERE
6 WAS AN EMERGENCY PROTECTIVE CUSTODY DONE ON THE TWO OLDER
7 SIBLINGS.

8 Q. BUT AT ANY RATE, THEY WERE NOT WITH ILA MICHELE CARTER?

9 A. NOT AT ---

10 Q. ALL THREE OF THE CHILDREN WERE NOT WITH ILA MICHELE
11 CARTER?

12 A. NOT THE NIGHT OF THE 25TH, THEY WERE NOT.

13 Q. ALL RIGHT. NOW, DID YOU SERVE THE SEARCH WARRANT AT
14 TEN P.M. ON THE NIGHT OF THE 25TH AT THE CARTER RESIDENCE?

15 A. NO.

16 Q. WERE YOU AT THE CARTER RESIDENCE WHEN THAT SEARCH
17 WARRANT WAS SERVED?

18 A. NEAR THE END OF IT.

19 Q. WHAT TIME DID YOU GET TO THE CARTER RESIDENCE?

20 A. I DON'T KNOW EXACTLY. SOMETIME LATE IN THE EVENING.
21 PROBABLY ELEVEN OR ELEVEN THIRTY.

22 Q. AND WHEN DID YOU LEAVE?

23 A. SOMEWHERE CLOSE TO MIDNIGHT.

24 Q. ISN'T IT TRUE THAT ILA MICHELE CARTER ASKED YOU WHAT

25 HAD HAPPENED TO J.C. AND D.W. AND J.W. HER CHILDREN, AND

1 YOU SAID IN RESPONSE TO THAT, I CAN'T DISCUSS ANYTHING WITH
2 YOU? YOU DON'T HELP US; WE DON'T HELP YOU?

3 A. NO.

4 Q. WHAT DID YOU SAY TO HER THEN WHEN SHE ASKED ABOUT THE
5 WELFARE OF HER CHILDREN AND HER HUSBAND?

6 A. THE EXPLANATION GIVEN TO HER WAS THAT THEY WERE IN THE
7 DEPARTMENT OF SOCIAL SERVICES CARE AND HAD BEEN PLACED
8 SOMEWHERE ELSE AND THAT I COULDN'T DISCUSS THAT BECAUSE THAT
9 WOULD BE SOMETHING THAT D.S.S. WOULD HAVE TO TAKE CARE OF
10 BECAUSE THEY WEREN'T IN MY CUSTODY.

11 Q. AND AT THAT POINT SHE WAS VERY UPSET ABOUT THAT, WASN'T
12 SHE?

13 A. I ONLY SPOKE WITH HER BRIEFLY WHILE WE WERE IN THE
14 RESIDENCE BECAUSE THE OTHER INVESTIGATORS HAD DONE SO MUCH
15 BEFORE I GOT THERE. I TALKED TO THEM. AND THEN OUTSIDE SHE
16 RE-APPROACHED ME ABOUT TALKING TO ME.

17 Q. ABOUT TALKING TO YOU ABOUT WHAT? HER CHILDREN?

18 A. SHE DIDN'T SPECIFY. WHEN SHE CAME OUTSIDE AND SHE
19 WANTED TO KNOW WHEN SHE WAS GOING TO BE ABLE TO TALK TO ME,
20 I SAID THAT, YOU KNOW, I COULDN'T TALK TO HER BECAUSE
21 INVESTIGATOR SUTTON ADVISED THAT SHE HAD INVOKED MIRANDA AND
22 TERMINATED HER INTERVIEW. SO I EXPLAINED TO HER AT THAT
23 POINT I COULDN'T TALK TO HER UNTIL SHE -- UNLESS SHE
24 REINITIATED CONTACT. AND I GAVE HER MY CARD AND GAVE HER --
25 TOLD HER HOW SHE COULD REINITIATE CONTACT IF SHE SO CHOSE.

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1 Q. ALL RIGHT, SIR. BUT THAT WAS AFTER SHE HAD ASKED YOU
2 ABOUT WHERE HER CHILDREN WERE AND WHERE HER HUSBAND WAS?

3 A. I'M SURE BECAUSE WE WERE OUTSIDE GETTING IN THE CAR
4 AND WAS READY TO LEAVE WHEN SHE CAME OUT THERE.

5 Q. RIGHT. AND SHE ASKED YOU ABOUT THAT, HER CHILDREN AND
6 HER HUSBAND, IN THE INSIDE OF THE TRAILER?

7 A. I DON'T RECALL WHERE I WAS WHEN SHE ASKED ABOUT THE
8 KIDS. IT WAS PROBABLY EITHER THE FRONT PORCH OR INSIDE.

9 Q. ALL RIGHT. AND THEN YOU GOT THE MESSAGE AND YOU
10 CONTACTED MS. SUTTON WITH REGARD TO INITIATING CONTACT WITH
11 ILA MICHELE CARTER ON THE 26TH OF OCTOBER?

12 A. YES.

13 Q. YOU DIDN'T TALK WITH HER ON THE 26TH OF OCTOBER, DID
14 YOU?

15 A. WHO?

16 Q. YOU.

17 A. TALK TO WHO?

18 Q. ILA MICHELE CARTER.

19 A. I WAS PRESENT IN INVESTIGATOR SUTTON'S OFFICE WHEN SHE
20 INITIATED THE PHONE CALL, AND IT WAS ON SPEAKER PHONE. I
21 DON'T KNOW IF I SPOKE DIRECTLY WITH HER OR NOT BECAUSE I
22 THINK THAT'S WHY I HAD INVESTIGATOR SUTTON INITIATE THE
23 PHONE CALL BECAUSE THE DEFENDANT HAD INVOKED MIRANDA TO
24 INVESTIGATOR SUTTON THE NIGHT BEFORE. SO I LET HER CALL HER
25 BACK BASED ON THE PHONE MESSAGE.

1 Q. ALL RIGHT. WERE YOU INSTRUMENTAL IN OBTAINING THE
2 SEARCH WARRANT?

3 A. WHICH ONE?

4 Q. THE ONE FOR THE HOUSE. MATT SMITH AND JAMI BROTHERS
5 WITH FORENSICS AND MIKE MITCHELL GOT A SEARCH WARRANT AND
6 WENT TO [REDACTED]. WERE YOU INSTRUMENTAL IN
7 OBTAINING THAT SEARCH WARRANT?

8 A. I CAN'T REMEMBER IF I SIGNED IT OR IF I JUST HELPED
9 INVESTIGATOR SMITH TYPE IT UP. I'D HAVE TO LOOK AT THE
10 PAPERWORK. I DON'T RECALL FROM MEMORY. I'LL BE GLAD TO GET
11 A COPY OUT OF MY BOX IF IT WILL HELP.

12 Q. I GOT THEM HERE, I THINK. BUT AT ANY RATE, THE SEARCH
13 WARRANT WAS OBTAINED WITH YOUR KNOWLEDGE?

14 A. YES.

15 Q. MATT SMITH, BY THE WAY -- I'M HANDING YOU WHAT I HAVE
16 FROM MY DISCOVERY, YOUR SEARCH WARRANTS OF OCTOBER 25TH. I
17 NOTE THAT YOU WERE NOT THE ONE WHO SIGNED THOSE SEARCH
18 WARRANTS, WERE YOU? YOU DIDN'T SIGN FOR THEM IN YOUR NAME?

19 A. NO.

20 Q. JAMI BROTHERS AND MATTHEW SMITH DID?

21 A. YES.

22 Q. DO YOU KNOW WHEN THEY WERE OBTAINED?

23 A. I DON'T KNOW WHAT TIME THEY WERE PRESENTED TO THE JUDGE
24 FOR SIGNATURES. I KNOW THEY WORKED ON THEM THAT DAY.

25 Q. MY QUESTION IS, IT WAS AFTER -- OH, HERE WE GO. BUT

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1 THEY EXECUTED THEM AT AROUND TEN O'CLOCK THAT NIGHT TO HER
2 TRAILER?

3 A. ON THE 25TH.

4 Q. ON THE 25TH OF OCTOBER OF 2000?

5 A. THE ONE FOR THE RESIDENCE. THE ONE FOR THE VEHICLE WAS
6 EARLIER IN THE DAY, IF I REMEMBER CORRECTLY.

7 Q. I'M TALKING ABOUT THE ONE FOR THE RESIDENCE. I DON'T
8 CARE ABOUT THE VEHICLE.

9 A. OKAY.

10 Q. ALL RIGHT. SO SHE HAD BEEN AT THE SHERIFF'S OFFICE
11 FROM NINE FIFTEEN IN THE MORNING TILL AFTER SIX O'CLOCK THAT
12 NIGHT? WELL, NINE FIFTEEN, TO BE EXACT?

13 A. ON THE 25TH?

14 Q. ON THE 25TH.

15 A. I DON'T KNOW HOW LATE SHE WAS AT THE SHERIFF'S OFFICE
16 THAT NIGHT. THAT WAS THE DAY THAT I WAS INTERVIEWING THE
17 DEFENDANT, MR. CARTER.

18 Q. OKAY. BUT SOMETIME AROUND ELEVEN O'CLOCK, YOU WENT OUT
19 TO HER TRAILER BECAUSE YOU KNEW THOSE SEARCH WARRANTS WERE
20 BEING EXECUTED, DIDN'T YOU?

21 A. I COMPLETED MY INTERVIEW WITH THE DEFENDANT, MR.
22 CARTER. AND I MADE CONTACT AND FOUND OUT THAT'S WHERE THEY
23 WERE, EXECUTING THE SEARCH WARRANT; YES, SIR.

24 Q. AND THAT'S WHEN SHE WAS ASKING ABOUT HER FAMILY, WHERE
25 THEY WERE, WHAT THEY WERE DOING?

1 A. SAY THAT AGAIN.

2 Q. THAT'S WHEN SHE ASKED YOU ABOUT HER FAMILY, WHERE THEY
3 WERE, WHO HAD THEM?

4 A. YES.

5 Q. AND THEN SHE SAID, WELL, WHEN ARE YOU GOING TO TALK TO
6 ME?

7 A. LATER, YES.

8 Q. DID YOU EVER DO OR DID ANYBODY EVER DO ANYTHING TO
9 ASSIST HER IN OBTAINING AN ATTORNEY?

10 A. I HAVE NO KNOWLEDGE OF THAT OTHER THAN WHAT
11 INVESTIGATOR SUTTON CONVEYED ABOUT HER ASKING ABOUT ONE.

12 Q. SO THE 26TH WAS TOTALLY INVESTIGATOR SUTTON WITH REGARD
13 TO INTERVIEW?

14 A. SHE CONDUCTED THE INTERVIEW ON THE 26TH.

15 Q. RIGHT. ABOUT TEN O'CLOCK?

16 A. BASED ON THE MIRANDA FORM, THE INTERVIEW -- THE MIRANDA
17 FORM WAS INITIATED AND SIGNED BETWEEN TEN FIFTY-TWO A.M. AND
18 TEN FIFTY-FIVE A.M.

19 Q. OKAY. .

20 A. AND THEN THE INTERVIEW STARTED AFTER THAT.

21 Q. OKAY. THANK YOU.

22 THE COURT: REDIRECT?

23 REDIRECT EXAMINATION BY MS. WHITE:

24 Q. THE DEFENSE ATTORNEY ASKED YOU IF YOU EVER ASSISTED HER
25 IN GETTING AN ATTORNEY. DID SHE LEAVE THE SHERIFF'S

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1 DEPARTMENT, GO BACK HOME, I ASSUME, IF YOU ALL WENT TO HER
2 HOUSE TO DO A SEARCH WARRANT?

3 A. IT'S MY UNDERSTANDING SHE LEFT ON HER OWN.

4 Q. SO WAS SHE FREE TO DO WHATEVER SHE WANTED IN THAT TIME?

5 A. YES.

6 Q. NO FURTHER QUESTIONS.

7 MR. GAMBLE: NOTHING FURTHER ON RECROSS, YOUR HONOR.

8 THE COURT: THANK YOU, SIR.

9 MS. WHITE: THE STATE CALLS JAMI BROTHERS.

10 JAMI ELIZABETH BROTHERS,

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION BY MS. WHITE:

13 Q. TO CLARIFY, THE DEFENDANT COMES IN, SHE FILLS OUT THE
14 QUESTIONNAIRE, HANDS IT BACK TO DETECTIVE CARPENTER. AND AT
15 THAT POINT, YOU DO WHAT?

16 A. MYSELF AND INVESTIGATOR SMITH ADVISED HER OF HER
17 RIGHTS.

18 Q. I'M HANDING YOU STATE'S EXHIBIT 1 FOR IDENTIFICATION.
19 DO YOU RECOGNIZE THAT?

20 A. YES, MA'AM.

21 Q. AND WHAT IS IT?

22 A. THE ADVICE OF RIGHTS FORM THAT WE READ TO THE DEFENDANT
23 AND THAT SHE SIGNED.

24 Q. WAS THAT OCTOBER 25TH OF 2000?

25 A. YES.

1 Q. RIGHT AFTER SHE FILLED OUT THE QUESTIONNAIRE?

2 A. YES.

3 Q. WHAT TIME DID YOU START THIS?

4 A. SEVENTEEN TWENTY, WHICH IS FIVE TWENTY P.M.

5 Q. FIVE TWENTY P.M.?

6 A. UH-HUH.

7 Q. TO YOUR KNOWLEDGE, WAS SHE FREE TO DO WHATEVER SHE
8 WANTED ---

9 A. YES.

10 Q. --- AT THE TIME SHE FINISHED THE QUESTIONNAIRE AND THE
11 TIME THAT YOU BEGAN TALKING TO HER AND MIRANDIZED HER?

12 A. YES.

13 Q. WAS SHE IN ANY KIND OF CUSTODY AT THAT TIME?

14 A. NO.

15 Q. ALL RIGHT. AND WILL YOU PLEASE DEMONSTRATE FOR THE
16 JUDGE HOW YOU ADVISED THE DEFENDANT OF HER MIRANDA RIGHTS?

17 A. OUR ADVICE OF RIGHTS FORM STARTS FIRST WITH LISTING THE
18 PLACE WHICH WAS ANDERSON COUNTY SHERIFF'S OFFICE LAW
19 ENFORCEMENT CENTER. THE DATE WAS 10/25 OF 2000. THE TIME
20 WAS SEVEN TWENTY. WE BASICALLY SHOW THE PERSON THE FORM AND
21 READ THEIR RIGHTS TO THEM. AFTER EACH RIGHT IS READ, WE
22 HAVE THEM TO INITIAL IF THEY UNDERSTAND.

23 Q. AND PLEASE DESCRIBE -- GO AHEAD AND ADVISE -- SHOW THE
24 JUDGE HOW YOU ADVISED HER OF HER RIGHTS.

25 A. "BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND

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1 YOUR RIGHTS. YOU HAVE THE RIGHT TO REMAIN SILENT." AND WE
2 ASKED HER IF SHE UNDERSTOOD THAT, AND IF SHE DID TO INITIAL
3 IT. THE SECOND, "ANYTHING YOU SAY CAN BE USED AGAINST YOU
4 COURT." SHE ALSO INITIALED THAT. "YOU HAVE THE RIGHT TO
5 TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS
6 AND TO HAVE HIM WITH YOU DURING QUESTIONING." SHE INITIALED
7 THAT. "IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED
8 FOR YOU BEFORE ANY QUESTIONING IF YOU WISH." THE DEFENDANT
9 INITIALED THAT. "IF YOU DECIDE TO ANSWER QUESTIONS NOW
10 WITHOUT A LAWYER PRESENT, YOU STILL HAVE THE RIGHT TO STOP
11 ANSWERING AT ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP
12 ANSWERING AT ANY TIME UNTIL YOU TALK TO A LAWYER." SHE
13 INITIALED THAT AS WELL. SHE SIGNED IT ON 10/25 OF 2000 AT
14 SEVENTEEN TWENTY-TWO. ALSO, MYSELF AND INVESTIGATOR MATT
15 SMITH SIGNED AS WITNESSES.

16 DOWN AT THE BOTTOM IS THE WAIVER OF RIGHTS. WE ALSO
17 READ THIS TO THE DEFENDANT. "I HAVE READ THIS STATEMENT OF
18 MY RIGHTS, AND I UNDERSTAND WHAT MY RIGHTS ARE. I AM
19 WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT
20 WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM
21 DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME. AND NO
22 PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME."
23 AND AT THIS TIME, WE UNDERLINE THE WORDS THREAT, PRESSURE
24 AND COERCION. ASKED HER IF SHE UNDERSTANDS WHAT THOSE MEAN.
25 SHE STATED THAT SHE DID. SHE STATED THAT SHE DID WANT TO

1 WAIVE HER RIGHTS TO HAVE AN ATTORNEY WITH HER. SHE SIGNED
2 IT 10/25 OF 2000 AT SEVENTEEN TWENTY-FOUR. ALSO, I SIGNED
3 AS DID INVESTIGATOR MATT SMITH AS WITNESSES.

4 Q. WHAT, IF ANY, THREATS WERE MADE TO THE DEFENDANT?

5 A. NONE.

6 Q. WHAT, IF ANY, COERCION WAS USED?

7 A. NONE.

8 Q. WHAT, IF ANY, PROMISES WERE MADE?

9 A. NONE.

10 Q. DID SHE APPEAR TO BE UNDER THE INFLUENCE OF ANY DRUGS,
11 ALCOHOL OR ANY OTHER SUBSTANCE THAT WOULD IMPAIR HER ABILITY
12 TO KNOWINGLY AND INTELLIGENTLY WAIVE HER MIRANDA RIGHTS?

13 A. NO, SHE DIDN'T.

14 Q. AT ANY TIME, DID SHE REQUEST AN ATTORNEY?

15 A. NO, SHE DID NOT.

16 Q. AT ANY TIME DID SHE REQUEST TO REMAIN SILENT?

17 A. NO, SHE DID NOT.

18 Q. IN YOUR OPINION, DID SHE FREELY AND VOLUNTARILY AGREE
19 TO WAIVE HER MIRANDA RIGHTS AND SIGN STATE'S EXHIBIT 1?

20 A. YES.

21 Q. HAS STATE'S EXHIBIT 1 BEEN CHANGED OR ALTERED IN ANY
22 MANNER SINCE SHE SIGNED IT?

23 A. NO.

24 Q. NOW, AFTER SHE SIGNED STATE'S EXHIBIT 1, TO WHOM DID
25 SHE SPEAK?

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1 A. TO MYSELF AND INVESTIGATOR SMITH. AND WE BASICALLY
2 JUST ASKED HER FOR SOME HISTORY, BACKGROUND INFORMATION, ON
3 HER AND HER FAMILY.
4 Q. JUST RUN FROM TOP TO BOTTOM AS TO WHAT SHE TOLD Y'ALL.
5 A. SHE STATED TO US THAT SHE MET DEREK CARTER ON MAY THE
6 2ND OF 1999, AND THEY MARRIED JUNE THE 2ND OF '99. SHE
7 STATED THAT DEREK HAD A DAUGHTER, Minor
8 WHO WAS FOUR YEARS OF AGE. SHE STATED THAT SHE HAD TWO SONS
9 BY A PREVIOUS MARRIAGE, D.W. AND J.W. SHE HAD Minor
10 AND J.C. WITH DEREK.
11 SHE STATED THAT THEY LIVED ON SCARBOROUGH ROAD IN A
12 HOUSE. AFTER SHE BECAME PREGNANT WITH J.C. SHE QUIT
13 WORKING. SO THEY HAD TO GIVE UP THE HOUSE AND MOVE TO
14 [REDACTED] DRIVE, WHICH IS IN THE OAK SQUARE APARTMENTS. SHE
15 STATED THAT ANGELA, DEREK'S FIRST WIFE, HAD DIED IN MARCH OF
16 1999 FROM LUPUS. SHE STATED THAT THEY HAD BEEN RENTING THE
17 TRAILER THAT THEY WERE NOW IN SINCE APPROXIMATELY NOVEMBER.
18 SHE STATED THAT SHE WAS EMPLOYED AT ALLIED SIGNAL UP UNTIL
19 HER PREGNANCY AND THAT DEREK WAS EMPLOYED WITH PLASTIC
20 OMNIUM. SHE STATED THAT DURING HER PREGNANCY WITH J.C.
21 THAT THEY FOUGHT SOME, BUT NEVER PHYSICAL. WE ASKED HER
22 ABOUT HOW THE BOYS FELT ABOUT Minor CORRECTION. HOW
23 THE BOYS FELT ABOUT THE BABY, THE NEW BABY, J.C. SHE
24 STATED THAT D.W. DID NOT WANT ANYBODY TO KNOW HOW HE FELT
25 ABOUT THE BABY AND THAT J.W. AND Minor THOUGHT J.C.

1 WAS THEIR PLAY TOY. SHE STATED THAT Minor WAS SOMETIMES
2 ROUGH WITH J.C. THAT Minor WAS REAL CLUMSY, THAT SHE
3 FELL A LOT, AND THAT HER FEET STUCK OUT. SHE NOTICED THAT
4 HER FEET TURNED OUT AND THAT HER ANKLES TOUCHED THE FLOOR.
5 SHE STATED ALSO THAT Minor WAS ALWAYS PALE, PASTY WHITE
6 AND THAT HURT PLACES TOOK A LONG TIME TO HEAL.

7 Q. ALL RIGHT. NOW, AFTER YOU BEGAN TALKING TO HER, DID
8 YOU HAND HER OVER TO DETECTIVE SUTTON FOR AN INTERVIEW AND
9 POLYGRAPH?

10 A. YES, I DID.

11 MS. WHITE: YOUR HONOR, WE GO TO DETECTIVE SUTTON
12 NOW. BUT DETECTIVE BROTHERS WAS ALSO INVOLVED IN THE FINAL
13 WRITTEN STATEMENT ON 10/26. BUT DETECTIVE SUTTON WAS IN
14 THAT, TOO. SO I'D ASK IF YOU NEED TO HEAR MORE TESTIMONY OF
15 DETECTIVE SUTTON, I'D ASK TO RECALL HER. BUT IT WOULD BE
16 WAY OUT OF ORDER IF I TAKE HER AT THIS POINT. I DON'T THINK
17 I'LL NEED HER TO TESTIFY ABOUT THAT ANYWAY.

18 MR. GAMBLE: YOU'VE GOT SUTTON ON IT, TOO?

19 MS. WHITE: YES.

20 THE COURT: YOUR WITNESS.

21 CROSS EXAMINATION BY MR. GAMBLE:

22 Q. NOW, YOU WERE INTERVIEWING MICHELE FROM FIVE TWENTY
23 UNTIL WHAT TIME?

24 A. SHE WAS TURNED OVER TO INVESTIGATOR SUTTON AT
25 APPROXIMATELY SIX O'CLOCK P.M.

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1 Q. AND YOU HAD NOT OBTAINED THE SEARCH WARRANT FOR HER
2 HOME, HAD YOU?

3 A. INVESTIGATOR SMITH OBTAINED IT. AND I'M NOT SURE OF
4 THE EXACT TIME THAT HE OBTAINED THE WARRANT.

5 Q. INVESTIGATOR WHO?

6 A. SMITH.

7 Q. OKAY. BUT YOU WENT OUT TO EXECUTE IT?

8 A. RIGHT.

9 Q. AT TEN O'CLOCK THAT NIGHT WHEN SHE INVOKED THAT RIGHT?

10 A. I WAS WATCHING THROUGH THE TWO-WAY MIRROR.

11 Q. OKAY. AND YOU DON'T KNOW WHEN SMITH GOT THE SEARCH
12 WARRANT, DO YOU?

13 A. NOT THE ACCURATE TIME, NO, I DON'T.

14 Q. DO YOU KNOW NOW?

15 A. I DON'T HAVE THAT IN MY NOTES.

16 Q. OKAY. DID YOU HAVE ANY DISCUSSION WITH MICHELE CARTER
17 OUT AT THE -- WHEN YOU EXECUTED THE SEARCH WARRANT?

18 A. I DON'T RECALL SPEAKING TO HER DIRECTLY.

19 Q. DID YOU SPEAK TO HER INDIRECTLY?

20 A. NO.

21 Q. OKAY. DID YOU EXECUTE THE SEARCH WARRANT ON THE VAN AT
22 THE SAME TIME?

23 A. WE EXECUTED THE SEARCH WARRANT ON THE VAN PRIOR TO
24 GOING TO THE RESIDENCE.

25 Q. WHERE WAS THE VAN?

1 A. AT THE SHERIFF'S OFFICE.

2 Q. OKAY. SO YOU JUST SEARCHED IT THERE AT THE SHERIFF'S
3 OFFICE?

4 A. RIGHT.

5 Q. OKAY. HOW DID SHE GET FROM THE SHERIFF'S OFFICE HOME?

6 A. SHE DROVE HER VAN HOME.

7 Q. AFTER YOU SEARCHED IT?

8 A. CORRECT.

9 Q. WAS SHE PRESENT WHEN YOU SEARCHED THE VAN?

10 A. YEAH. SHE WAS THERE AT THE SHERIFF'S OFFICE.

11 Q. BUT SHE WASN'T OUT WHERE THE VAN IS IN THE COMPOUND?

12 A. I DON'T THINK SO, NO.

13 Q. OKAY. ALL RIGHT. THAT'S ALL I HAVE.

14 THE COURT: ANY REDIRECT?

15 MS. WHITE: NO, SIR.

16 THE COURT: HOW LONG DO YOU ANTICIPATE THE
17 EXAMINATION OF INVESTIGATOR SUTTON TO BE?

18 MS. WHITE: YOUR HONOR, IF YOU JUST WANT TO TAKE A
19 BREAK NOW, SHE WAS KIND OF ON THE REST OF ALL THIS. I DON'T
20 KNOW IF YOU WANT TO TAKE A BREAK OR WHAT. I MEAN, SHE DID
21 ONE MIRANDA. AND THEN I CAN JUST HAND THE REPORTS UP TO
22 YOU. IF YOU DON'T -- WE SUPPLIED THEM TO THE DEFENSE.

23 MR. GAMBLE: I'VE HEARD MIRANDA READ. SHE CAN JUST
24 SAY I READ THE MIRANDA RIGHTS. I'M SATISFIED TO THAT, IF
25 THAT'S WHAT YOU WANT TO DO.

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1 MS. WHITE: IN THAT CASE, YOUR HONOR, NOT LONG.

2 THE COURT: ALL RIGHT. LET'S PROCEED. IF
3 NECESSARY, WE'LL FINISH UP TOMORROW.

4 MS. WHITE: THE STATE CALLS DETECTIVE SUTTON.

5 JEAN M. SUTTON,

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION BY MS. WHITE:

8 Q. DETECTIVE SUTTON, WHAT'S YOUR OCCUPATION?

9 A. I'M AN INVESTIGATOR AND POLYGRAPH EXAMINER FOR ANDERSON
10 COUNTY SHERIFF'S OFFICE.

11 Q. ALL RIGHT. I UNDERSTAND THAT ON 10/25, THE DEFENDANT
12 COMES IN AND FILLS OUT THE QUESTIONNAIRE. SHE IS THEN
13 MIRANDIZED BY DETECTIVE BROTHERS AND MATT SMITH. AND THEN
14 YOU BEGIN TALKING TO HER; IS THAT CORRECT?

15 A. THAT'S CORRECT.

16 Q. AND YOU FILLED OUT A REPORT THAT HAS BEEN SUPPLIED TO
17 THE DEFENSE ON THE ORAL STATEMENT WHICH SHE MADE TO YOU
18 BEFORE THE POLYGRAPH REPORT; IS THAT CORRECT?

19 A. THAT'S CORRECT.

20 Q. AND IS THAT A COPY OF THE REPORT?

21 A. YES, MA'AM.

22 MS. WHITE: YOUR HONOR, IF IT'S ALL RIGHT, WE'LL
23 JUST PASS UP A COPY OF THE REPORT.

24 (WHEREUPON MS. WHITE HANDED UP DOCUMENT TO THE COURT)

25 Q. AND AT THE END OF HER CONVERSATION WITH YOU, WHAT, IF

1 ANYTHING, DID SHE INVOKE?

2 A. SHE TOLD ME THAT SHE THOUGHT SHE NEEDED TO TALK WITH AN
3 ATTORNEY.

4 Q. THAT SHE THOUGHT SHE NEEDED TO TALK TO AN ATTORNEY?

5 A. YES.

6 Q. AND DID YOU STOP THE INTERVIEW AT THAT POINT?

7 A. YES, I DID.

8 Q. LATER THAT NIGHT, APPROXIMATELY TEN P.M., DID YOU GO TO
9 THE DEFENDANT'S RESIDENCE WITH A COUPLE OF OTHER PEOPLE FOR
10 THE SEARCH?

11 A. YES, I DID.

12 Q. AND WERE YOU PRESENT -- WAS THE DEFENDANT THERE?

13 A. YES, SHE WAS.

14 Q. DID YOU ALL FORCE HER TO GO THERE OR ANYTHING LIKE
15 THAT, OR HAD SHE JUST GONE HOME?

16 A. SHE WENT HOME. DROVE HER OWN VEHICLE.

17 Q. AND DURING THE TIME THAT YOU WERE AT THE RESIDENCE, DID
18 ANY OFFICER INITIATE ANY KIND OF VERBAL CONTACT WITH THE
19 DEFENDANT OTHER THAN TO EXPLAIN THEY WERE SEARCHING THE
20 HOME?

21 A. NO, MA'AM.

22 Q. ON THE -- DID YOU LEAVE BEFORE JOHN CARPENTER LEFT THAT
23 NIGHT?

24 A. YES, I DID.

25 Q. ALL RIGHT. NOW, DID DETECTIVE CARPENTER CALL YOU AS

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1 YOU WERE ON YOUR WAY HOME AND TELL YOU ANYTHING THAT MS.

2 CARTER HAD INITIATED?

3 A. YES, HE DID.

4 Q. WHAT DID HE SAY?

5 A. JOHN CARPENTER CALLED ME AT APPROXIMATELY ONE O'CLOCK

6 IN THE MORNING TELLING ME THAT AFTER I HAD LEFT, THE

7 DEFENDANT HAD ASKED HIM WHEN I WAS GOING TO TALK WITH HER.

8 AND CARPENTER WENT ON TO EXPLAIN THAT HE TOLD THE DEFENDANT

9 THAT SINCE SHE HAD ASKED FOR AN ATTORNEY, THAT WE WOULD NOT

10 BE SPEAKING WITH HER AGAIN UNLESS SHE REINITIATED CONTACT.

11 Q. AND THE NEXT MORNING, TO YOUR KNOWLEDGE, DID DETECTIVE

12 CARPENTER HAVE A MESSAGE ON HIS ANSWERING MACHINE?

13 A. YES, HE DID.

14 Q. NOW, HAD YOU INITIATED ANY CONTACT WITH THE DEFENDANT

15 AFTER THE TIME THAT SHE INVOKED HER RIGHT OR PERHAPS INVOKED

16 HER RIGHT TO REMAIN -- TO AN ATTORNEY?

17 A. NO, MA'AM.

18 Q. AND DID SHE REQUEST THAT YOU TALK TO HER AGAIN?

19 A. YES, SHE DID.

20 Q. AND DID YOU CALL HER ON THE MORNING OF 10/26?

21 A. YES, I DID.

22 Q. AND WHAT, IF ANYTHING, DID SHE INDICATE TO YOU?

23 A. SHE APOLOGIZED AND SAID SHE DIDN'T UNDERSTAND THAT WE

24 WOULD NOT BE TALKING WITH HER. AND SHE STATED THAT SHE

25 WANTED TO SPEAK WITH ME. AND AT THAT TIME, I ASKED HER TO

1 COME TO THE SHERIFF'S OFFICE.

2 Q. AND DID SHE COME BY HERSELF, NO POLICE ESCORT OR
3 ANYTHING LIKE THAT?

4 A. SHE CAME BY HERSELF.

5 Q. AND WHEN SHE ARRIVED AT THE POLICE DEPARTMENT OR AT THE
6 SHERIFF'S DEPARTMENT, DID YOU ADVISE HER OF HER RIGHTS?

7 A. YES. INVESTIGATOR CARPENTER DID IN MY PRESENCE.

8 Q. AND I'M HANDING YOU STATE'S EXHIBIT 2. IS THAT THE
9 MIRANDA WAIVER THAT SHE SIGNED?

10 A. YES, IT IS.

11 MS. WHITE: YOUR HONOR, IF I UNDERSTAND IT, THE
12 DEFENSE DOES NOT REQUIRE THAT WE GO THROUGH IT.

13 Q. WAS THIS READ WORD FOR WORD AND EXPLAINED TO HER?

14 A. YES, IT WAS.

15 Q. AND DID SHE SIGN IT?

16 A. YES, SHE DID.

17 Q. HAS IT BEEN CHANGED OR ALTERED IN ANY MANNER?

18 A. NO, IT HASN'T.

19 Q. WAS SHE AT ANY TIME THREATENED, COERCED, OR PROMISED
20 ANYTHING?

21 A. NO, MA'AM.

22 Q. AT ANY TIME, WAS ANY OF THIS CHILD CUSTODY OR D.S.S.
23 STUFF HELD OVER HER HEAD OR USED AS ANY KIND OF THREAT,
24 COERCION OR PROMISE?

25 A. NO, MA'AM.

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1 Q. AND IN YOUR OPINION, DID SHE FREELY AND VOLUNTARILY
2 AGREE TO TALK TO YOU?

3 A. YES, SHE DID.

4 Q. DID SHE AGREE TO WAIVE HER RIGHT TO AN ATTORNEY?

5 A. YES, SHE DID.

6 Q. AND WHICH INDIVIDUAL INITIATED THE CONTACT FOR THIS TO
7 OCCUR?

8 A. THE DEFENDANT DID.

9 Q. AT ANY TIME, DID SHE ASK FOR AN ATTORNEY OR ASK TO
10 REMAIN SILENT DURING THIS CONVERSATION?

11 A. NO, SHE DID NOT.

12 Q. NOW, AFTER THE DEFENDANT WAIVED HER MIRANDA RIGHTS, DID
13 YOU ORALLY INTERVIEW HER?

14 A. YES, I DID.

15 Q. AND ULTIMATELY, DID YOU POLYGRAPH HER?

16 A. YES, I DID.

17 Q. AND I'M HANDING YOU THIS REPORT. IS THAT THE,
18 BASICALLY THE REPORT OF WHAT SHE ORALLY TOLD YOU?

19 A. YES, MA'AM.

20 Q. AND HAS THAT BEEN SUPPLIED TO THE DEFENSE?

21 A. YES, MA'AM.

22 Q. NOW, AFTER SHE GAVE THE ORAL STATEMENT, DID YOU TAKE A
23 WRITTEN STATEMENT?

24 A. YES.

25 Q. I'M HANDING YOU STATE'S EXHIBIT 3 FOR IDENTIFICATION.

1 DO YOU RECOGNIZE THAT?

2 A. YES, I DO.

3 Q. WHAT IS THAT?

4 A. THIS IS A VOLUNTARY STATEMENT GIVEN BY THE DEFENDANT IN
5 MY PRESENCE ALONG WITH INVESTIGATOR BROTHERS.

6 Q. AND JUST DESCRIBE FOR THE JUDGE HOW THIS OCCURRED.

7 A. AFTER I HAD INTERVIEWED THE DEFENDANT AND SHE HAD
8 ADMITTED TO SEVERAL DIFFERENT ACTS OF ABUSE WITH Minor
9 SHE WAS ASKED IF SHE WOULD GIVE A WRITTEN STATEMENT. AND
10 SHE CONSENTED TO DO SO. AT THAT TIME, THE DEFENDANT WAS
11 TAKEN INTO A ROOM ALONG WITH INVESTIGATOR BROTHERS. AND I
12 WROTE THIS STATEMENT FOR THE DEFENDANT AT HER REQUEST.

13 Q. WAS SHE TALKING AS YOU WROTE, OR HOW DID THAT GO?

14 A. YES. IN OTHER WORDS, I WAS TALKING WITH THE DEFENDANT,
15 AND I WAS WRITING HER WORDS.

16 Q. AND BEFORE SHE SIGNED IT, WHAT, IF ANYTHING, HAPPENED?

17 A. I READ THIS BACK TO HER, ASKED HER IF THERE WERE ANY
18 CORRECTIONS OR DELETIONS OR ADDITIONS THAT SHE NEEDED TO
19 MAKE. SHE DID MAKE AN ADDENDUM AT THE END OF IT, WHICH WAS
20 ADDED. AND THEN SHE SIGNED EACH PAGE, INITIALING ANY ERRORS
21 ON EACH PAGE. AND THIS WAS WITNESSED BY MYSELF AND
22 INVESTIGATOR BROTHERS.

23 Q. AND WAS SHE GIVEN A COPY OF THAT STATEMENT AT THE TIME
24 SHE MADE IT?

25 A. YES, SHE WAS.

1 Q. AND DID SHE TRY AND CONTACT YOU AFTER THAT TO TRY TO
2 CHANGE HER STATEMENT?

3 A. NO, MA'AM.

4 Q. AND IS STATE'S EXHIBIT 3 -- HAS THAT BEEN CHANGED OR
5 ALTERED IN ANY RESPECT SINCE IT WAS SIGNED BY THE DEFENDANT?

6 A. NO, IT HAS NOT.

7 Q. THAT'S ALL I HAVE OF DETECTIVE SUTTON.

8 CROSS EXAMINATION BY MR. GAMBLE:

9 Q. DO YOU KNOW WHEN THE SEARCH WARRANT WAS OBTAINED ON THE
10 DATE OF 10/25 BY DETECTIVE SMITH?

11 A. NO, SIR.

12 Q. DID YOU HAVE ANY CONVERSATION WITH SMITH? MATTHEW
13 SMITH?

14 A. NO, SIR. I WAS BUSY INTERVIEWING BOTH DEFENDANTS,
15 DEREK CARTER AND MICHELE.

16 Q. DID YOU HAVE ANY CONVERSATION WITH SMITH ON THE 25TH
17 AFTER MICHELE CARTER SAID SHE MIGHT OUGHT TO TALK TO A
18 LAWYER?

19 A. I'M SORRY. WOULD YOU REPEAT THE QUESTION.

20 Q. DID YOU HAVE ANY CONVERSATION WITH SMITH ON THE 25TH OF
21 OCTOBER AFTER MICHELE CARTER TOLD YOU SHE WANTED TO TALK TO
22 A LAWYER?

23 A. NO, SIR.

24 Q. DID NOT TALK WITH HIM?

25 A. WELL, I WAS AT THE RESIDENCE, SO I MAY HAVE SEEN HIM AT

1 THE RESIDENCE. BUT I HAD NO SPECIFIC CONVERSATIONS WITH
2 HIM.

3 Q. WHY WERE YOU AT THE RESIDENCE?

4 A. I JUST WENT TO THE RESIDENCE, YOU KNOW, ALONG WITH
5 INVESTIGATOR BROTHERS. WE HAD BEEN TOLD OF DIFFERENT THINGS
6 THAT WOULD BE FOUND AT THE RESIDENCE. AND SINCE I HAD BEEN
7 WORKING ON THIS CASE ALL DAY, I WENT TO THE RESIDENCE.

8 Q. SO IT WAS YOU AND MATTHEW SMITH AND DETECTIVE BROTHERS
9 AND JOHN CARPENTER WENT TO THE RESIDENCE?

10 A. JOHN CARPENTER SHOWED UP LATER AT THE RESIDENCE.

11 Q. WHO ELSE WAS THERE?

12 A. I BELIEVE CHARIE JENKINS WITH THE DEPARTMENT OF SOCIAL
13 SERVICES MIGHT HAVE BEEN THERE.

14 Q. DID YOU HAVE ANY CONVERSATION THAT NIGHT FROM -- YOU
15 GOT THERE, I THINK YOU SAID, AROUND TEN TWENTY-FIVE UNTIL
16 AROUND ONE O'CLOCK?

17 A. I GOT TO THE RESIDENCE AT APPROXIMATELY TEN O'CLOCK.
18 AND I LEFT AT TWELVE THIRTY-FIVE A.M.

19 Q. SO IN TWO AND A HALF HOURS, DID YOU HAVE ANY
20 CONVERSATION WITH MICHELE CARTER?

21 A. NO, I DID NOT.

22 Q. DID YOU SEE ANYONE HAVE ANY CONVERSATION WITH HER?

23 A. NO, I DID NOT.

24 Q. DID SHE ASK YOU ANYTHING?

25 A. NO, SIR. SHE MADE, I CAN RECALL, TWO COMMENTS. ONE

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1 WAS THAT SHE WAS THIRSTY AND WANTED TO GET SOMETHING TO

2 DRINK. AND SHE MADE THE COMMENT THAT SHE WAS COLD.

3 Q. OKAY. AND THAT'S ALL YOU REMEMBER?

4 A. THAT'S CORRECT.

5 Q. ALL RIGHT. DID SHE ASK YOU ANYTHING ON THE NEXT DAY,

6 OCTOBER 26TH, WITH REGARD TO THE WELFARE OF HER CHILDREN?

7 A. NO, SIR.

8 Q. ALL RIGHT. I DON'T HAVE ANYTHING FURTHER.

9 THE COURT: ANY REDIRECT?

10 MS. WHITE: YOUR HONOR, THAT'S ALL WE HAVE ON THE

11 JACKSON v. DENNO.

12 THE COURT: ARE YOU GOING TO PRESENT ANY EVIDENCE ON

13 THE JACKSON v. DENNO ISSUE, SIR?

14 MR. GAMBLE: YES, SIR.

15 THE COURT: ALL RIGHT. WHAT I'D LIKE TO DO IS DO

16 THAT IN THE MORNING.

17 MR. GAMBLE: YES, SIR.

18 THE COURT: WE'LL DO THAT AT NINE O'CLOCK. AND THEN

19 I'LL HEAR AN ARGUMENT FROM EACH SIDE. THAT WILL GIVE ME A

20 CHANCE IN THE INTERIM TO READ WHAT'S BEEN PRESENTED. AND WE

21 WILL RECONVENE AT NINE O'CLOCK IN THE MORNING. THANK YOU.

22 (COMPUTER DISKETTE MARKED FOR IDENTIFICATION AS STATE'S

23 EXHIBIT 62)

24 (WHEREUPON COURT STOOD AT RECESS)

25 JUNE 26, 2001

1 THE COURT: MR. GAMBLE, ARE YOU READY TO PROCEED
2 WITH THE DEFENDANT'S PRESENTATION ON THE JACKSON v. DENNO
3 ISSUE?

4 MR. GAMBLE: I AM, YOUR HONOR.

5 THE COURT: YOU MAY PROCEED, SIR.

6 MR. GAMBLE: CALL MICHELE CARTER.

7 ILA MICHELE CARTER,

8 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION BY MR. GAMBLE:

10 Q. YOU'RE ILA MICHELE CARTER?

11 A. YES, SIR.

12 Q. SPEAK LOUDLY.

13 A. OKAY.

14 Q. LOUDER.

15 A. OKAY.

16 Q. BETTER. LOUDER.

17 A. OKAY.

18 Q. THANK YOU. NOW, MS. CARTER, ON OCTOBER 26TH OF 2000,
19 YOU WERE AT THE ANDERSON COUNTY SHERIFF'S OFFICE; IS THAT
20 CORRECT?

21 A. YES.

22 Q. WHEN DID YOU GET THERE?

23 A. ABOUT TEN. NINE OR TEN.

24 Q. HOW DID YOU GET THERE?

25 A. I DROVE.

- 1 Q. IN WHAT?
- 2 A. IN THE VAN.
- 3 Q. A VAN?
- 4 A. YES.
- 5 Q. YOUR VAN?
- 6 A. YEAH.
- 7 Q. IS THAT THE ONLY AUTOMOBILE YOU AND DEREK OWNED?
- 8 A. YES, SIR.
- 9 Q. AND HOW LONG WERE YOU AT THE LAW ENFORCEMENT CENTER?
- 10 A. THIS IS THE FIRST DAY OR THE SECOND DAY?
- 11 Q. THE FIRST DAY. THE 25TH.
- 12 A. TILL LATE OVER INTO THE NIGHT. ABOUT EIGHT, NINE, TEN.
- 13 SOMEWHERE IN THROUGH THERE. IT WAS ALREADY DARK.
- 14 Q. WHEN YOU LEFT?
- 15 A. UH-HUH.
- 16 Q. HOW DID YOU GO HOME?
- 17 A. DROVE THE VAN.
- 18 Q. DID DEREK RIDE WITH YOU?
- 19 A. NO.
- 20 Q. WHERE WAS DEREK?
- 21 A. I DON'T KNOW.
- 22 Q. WHERE WERE YOUR CHILDREN?
- 23 A. I DON'T KNOW.
- 24 Q. YOU HAD AT THIS TIME HOW MANY CHILDREN?
- 25 A. THREE.

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1 Q. YOU HAVE A BABY THAT WAS EIGHT MONTHS OLD?

2 A. YES, SIR.

3 Q. AND A TWELVE-YEAR-OLD?

4 A. YES, SIR.

5 Q. AND A SEVEN-YEAR-OLD?

6 A. YES, SIR.

7 Q. OR EIGHT? IS THAT CORRECT?

8 A. YES, SIR.

9 Q. ALL BOYS?

10 A. YES, SIR.

11 Q. ALL RIGHT. WHEN YOU GOT HOME OVER ON [REDACTED],

12 WHAT HAPPENED THEN?

13 A. WELL, BEFORE WE LEFT THE SHERIFF'S DEPARTMENT, THEY
14 WANTED TO SEARCH THE VAN. AND THEN THEY SAID THAT I WOULD
15 FOLLOW A CAR BACK TO MY HOUSE AND ONE WOULD FOLLOW ME. SO I
16 WOULD BE IN BETWEEN THEM. AND SO WHEN I WENT TO PULL OUT,
17 THEY HAD ALREADY -- ALL OF THEM HAD ALREADY LEFT. AND SO I
18 DIDN'T KNOW THE WAY THEY WERE GOING. SO I WENT THE WAY THAT
19 I KNEW HOW TO GET BACK TO MY HOUSE. AND WHEN I GOT THERE,
20 THEY WERE WAITING ON ME. AND THEY CAME IN TO DO THE SEARCH.

21 Q. HOW MANY PEOPLE WERE AT YOUR TRAILER THAT NIGHT DOING
22 THE SEARCH?

23 A. SIX OR SEVEN PEOPLE.

24 Q. DID YOU HAVE A CONVERSATION WITH OFFICER CARPENTER?

25 A. YES, I DID.

1 Q. WHAT DID YOU SAY TO OFFICER CARPENTER?

2 A. WHEN THEY WERE -- AFTER THEY HAD DONE GOT IN THEIR CARS
3 AND ALL THAT, I ASKED HIM WERE THEY THROUGH. AND HE SAID,
4 YEAH. AND I ASKED HIM WHERE MY CHILDREN WERE AT AND WHERE
5 DEREK WAS AT. AND HE SAID I COULD -- HE SAID SOME NUMBER --
6 SOME NUMBER. HE ---

7 Q. WHAT DO YOU MEAN SOME NUMBER?

8 A. HE SAID SOMETHING LIKE, NUMBER THIRTEEN OR SOMETHING
9 LIKE THAT. I DIDN'T REALLY UNDERSTAND WHAT HE MEANT BY
10 THAT. AND HE TOLD ME THAT SINCE I WAS NOT COOPERATING WITH
11 THEM AND I WAS NOT TALKING TO THEM, HE WAS NOT GOING TO TELL
12 ME WHERE THEY WERE AT.

13 Q. OKAY. WAS ANYBODY FROM THE D.S.S. AT YOUR HOME THAT
14 NIGHT?

15 A. I'M NOT SURE IF THEY WERE FROM D.S.S. OR THE POLICE
16 DEPARTMENT.

17 Q. HAVE YOU EVER SEEN MS. CHARIE JENKINS?

18 A. YEAH.

19 Q. WAS SHE AT YOUR HOME THAT NIGHT?

20 A. YES, SIR.

21 Q. OKAY. BUT YOU DIDN'T -- DID YOU KNOW THAT SHE WORKED
22 -- DID YOU KNOW WHAT AGENCY SHE WORKED WITH?

23 A. NO, SIR.

24 Q. DID SHE HAVE ANY CONVERSATION WITH YOU?

25 A. NO, SIR.

1 Q. ALL RIGHT. SO OFFICER CARPENTER TOLD YOU WHAT, NOW?

2 A. HE TOLD ME ONCE I WENT OUTSIDE -- HE TOLD ME THAT SINCE
3 I WAS NOT COOPERATING WITH THEM AND I HAD ASKED FOR MY
4 ATTORNEY, THAT HE DID NOT HAVE TO TELL ME WHERE DEREK OR THE
5 KIDS WERE AT.

6 Q. OKAY. HAD YOU HAD ANYTHING TO -- ANY TYPE OF DRUG OR
7 ALCOHOL THAT NIGHT?

8 A. YES.

9 Q. WHAT HAD YOU HAD?

10 A. A XANAX.

11 Q. WHERE -- HOW DID YOU GET A XANAX?

12 A. THEY WERE IN MY POCKETBOOK.

13 Q. DID YOU HAVE A PRESCRIPTION FOR XANAX?

14 A. YES.

15 Q. AND HOW MANY DID YOU TAKE?

16 A. TWO.

17 Q. IS THAT YOUR NORMAL DOSAGE?

18 A. I DON'T TAKE THEM ALL THE TIME.

19 Q. ALL RIGHT. DID YOU CALL OFFICER CARPENTER'S PHONE OR A
20 NUMBER THAT HE GAVE YOU?

21 A. YEAH. HE TOLD ME THAT I HAD -- I HAD TO CALL THAT
22 NUMBER TO SET UP AN APPOINTMENT.

23 Q. ALL RIGHT. AND THAT WAS AT WHAT TIME OF THE NIGHT?

24 A. THIS WAS AFTER THEY HAD LEFT. I'M NOT SURE EXACTLY
25 WHAT TIME IT WAS, BUT IT WAS VERY LATE AT NIGHT.

1 Q. OFFICER CARPENTER TESTIFIED IT WAS ONE THIRTY-ONE.
2 WOULD THAT BE ABOUT RIGHT?

3 A. PROBABLY SO.

4 Q. OKAY. WHAT HAPPENED NEXT?

5 A. I WENT IN AND TOOK A BATH.

6 Q. NO. WITH YOU AND THE OFFICERS.

7 A. THEY LEFT.

8 Q. WHEN DID YOU NEXT HEAR FROM ANY OFFICERS?

9 A. THE LADY CALLED ME. I'M NOT SURE WHAT TIME IT WAS, BUT
10 IT WAS EARLY THAT MORNING SHE HAD CALLED ME.

11 Q. A LADY FROM THE SHERIFF'S OFFICE?

12 A. YES, SIR.

13 Q. AND TOLD YOU WHAT?

14 A. COULD I BE THERE AT, I BELIEVE SHE SAID, TEN A.M. OR
15 TEN THIRTY.

16 Q. ALL RIGHT. AND DID YOU GO THERE AT TEN OR TEN THIRTY?

17 A. YES, SIR.

18 Q. WHY DID YOU GO THERE AT TEN OR TEN THIRTY?

19 A. BECAUSE I WAS WANTING TO TRY TO FIND OUT SOMETHING
20 ABOUT MY CHILDREN AND DEREK.

21 Q. THANK YOU, MA'AM.

22 THAT'S ALL I HAVE, YOUR HONOR.

23 THE COURT: YOUR WITNESS.

24 CROSS EXAMINATION BY MS. WHITE:

25 Q. YOU CAME TO THE SHERIFF'S DEPARTMENT ON THE 25TH OF

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1 YOUR OWN VOLITION; IS THAT CORRECT?

2 A. YES, MA'AM.

3 Q. YOU DROVE YOURSELF THERE?

4 A. YES, MA'AM.

5 Q. YOU AND DEREK? NO POLICE OFFICERS ESCORTED YOU, DID
6 THEY?

7 A. NO, SIR [SIC].

8 Q. NOW, YOU FILLED OUT THE QUESTIONNAIRE?

9 A. YES, MA'AM.

10 Q. AND YOU SIGNED ALL OF THAT YOURSELF AND FILLED IT ALL
11 OUT YOURSELF?

12 A. YES, MA'AM.

13 Q. THERE WAS NO OFFICER IN THE ROOM, WAS THERE?

14 A. NO, MA'AM.

15 Q. AND WHEN YOU FINISHED FILLING OUT THE QUESTIONNAIRE,
16 YOU HANDED IT TO ONE OF THE DETECTIVES?

17 A. YES.

18 Q. AND THEY TOLD YOU TO GO GET SOME LUNCH, DIDN'T THEY?

19 A. YEAH. WELL, THEY DIDN'T AT THAT TIME. I HAD -- I
20 ASKED THEM COULD I GO OUTSIDE, AND THEY SAID YES. SO I WENT
21 OUT TO SMOKE.

22 Q. AND THEY AT SOME POINT -- YOU FINISHED THE
23 QUESTIONNAIRE SOMETIME BEFORE NOON. AT SOME POINT THEY TOLD
24 YOU TO GO ON AND GET LUNCH?

25 A. YEAH.

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1 Q. GO ON AND TAKE CARE OF YOUR THING. WE'RE DEALING WITH
2 DEREK RIGHT NOW; IS THAT RIGHT?

3 A. ALL HE TOLD ME WAS TO GO GET SOME LUNCH.

4 Q. OKAY. SO THEY BASICALLY TOLD YOU TO LEAVE AND GO GET
5 SOMETHING TO EAT AND TAKE CARE OF WHAT YOU NEED TO TAKE CARE
6 OF; IS THAT RIGHT?

7 A. THEY DIDN'T SAY TAKE CARE OF WHAT I NEED TO TAKE CARE
8 OF.

9 Q. MA'AM, YOU COULD HAVE DONE WHATEVER YOU WANTED WHEN YOU
10 LEFT TO GO GET LUNCH; ISN'T THAT RIGHT? THEY DIDN'T PUT ANY
11 RESTRICTIONS ON YOU?

12 A. NO, MA'AM.

13 Q. ALL RIGHT. NOW, YOUR CHILDREN GET OUT OF SCHOOL AT
14 WHAT TIME?

15 A. AT TWO THIRTY.

16 Q. OKAY. AND YOU NEXT BEGIN TALKING TO DETECTIVE SUTTON.
17 I BELIEVE THEY BRING YOU IN AND MIRANDIZED YOU ABOUT FIVE
18 P.M.; IS THAT CORRECT?

19 A. I'M NOT REAL SURE OF THE TIME. BUT YEAH, THAT -- SHE
20 DID BRING ME IN.

21 Q. WELL, IF YOU DIDN'T KNOW WHERE -- ISN'T IT TRUE THAT
22 JAMI BROTHERS TOOK THE CHILDREN THAT DAY AND TOLD YOU THAT
23 THEY HAD TAKEN THE CHILDREN INTO PROTECTIVE CUSTODY?

24 A. NO, SHE DIDN'T.

25 Q. WELL, WHAT TIME DO YOUR KIDS GET OUT OF SCHOOL?

1 A. AT TWO THIRTY. AND I KEPT ASKING THE LADY AT THE DESK,
2 AND SHE SAID THAT SOMEONE WAS GOING TO PICK UP MY CHILDREN
3 AND BRING THEM THERE.

4 Q. SO YOU KNEW THEY HAD BEEN BROUGHT IN?

5 A. I DIDN'T KNOW WHERE THEY WERE AT. I KEPT ASKING THEM.
6 AND I WENT TO LEAVE, AND SHE TOLD ME NO, THAT I NEEDED TO
7 SIT RIGHT THERE UNTIL THEY WERE FINISHED.

8 Q. NOW, WHEN YOU BEGAN TALKING TO DETECTIVE SUTTON AT FIVE
9 O'CLOCK, IF YOU WERE SO CONCERNED AND YOU HADN'T BEEN
10 NOTIFIED ABOUT WHERE YOUR CHILDREN WERE, WHY DIDN'T YOU ASK
11 DETECTIVE SUTTON?

12 A. I DID.

13 Q. YOU'RE SAYING YOU ASKED DETECTIVE SUTTON?

14 A. YES, MA'AM.

15 Q. WHY DIDN'T YOU ASK HER DURING THE INTERVIEW AFTER THAT?

16 A. I -- WHEN THEY ASKED ME COULD THEY GO OUT TO DO THE
17 VAN, THAT THEY NEEDED TO DO THE SEARCH ON THE VAN, I SAID
18 OKAY. AND I ASKED THEM SEVERAL TIMES WHERE THEY WERE AT.

19 Q. NOW, YOU HAD MET CHARIE JENKINS FROM D.S.S. TWO OR
20 THREE TIMES BEFORE THIS BECAUSE SHE HAD GONE OUT AND TALKED
21 TO YOU WITH DETECTIVE CARPENTER AND BEEN TO THE HOSPITAL AND
22 SO FORTH?

23 A. I DIDN'T SEE HER AT THE HOSPITAL. THE FIRST TIME I
24 SEEN HER WAS AT THE HOUSE.

25 Q. MA'AM, DID YOU KNOW SHE WAS WITH DETECTIVE CARPENTER

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1 WHEN HE CAME OUT AND TALKED TO YOU ON OCTOBER 20TH SITTING
2 IN THE SAME ROOM?

3 A. YES, MA'AM.

4 Q. SO YOU HAD MET HER BEFORE OCTOBER 25TH THEN?

5 A. YEAH.

6 Q. AND SHE INTRODUCED HERSELF AS BEING FROM D.S.S.?

7 A. I DON'T RECALL HER SAYING SHE WAS FROM D.S.S.

8 Q. NOW, SHE WAS AT THE HOUSE THAT NIGHT DURING THE SEARCH,
9 WASN'T SHE?

10 A. YES.

11 Q. AND SHE WAS THERE THE WHOLE TIME?

12 A. YEAH.

13 Q. AND THEY WERE CONDUCTING THEIR INVESTIGATION FOR D.S.S.
14 JUST LIKE THE SHERIFF'S DEPARTMENT WAS CONDUCTING ITS
15 INVESTIGATION?

16 A. I DON'T KNOW ABOUT THAT PART.

17 Q. NOW, IN THE TWO TO THREE HOURS THAT SHE WAS AT YOUR
18 HOUSE, WHY DIDN'T YOU EVER ASK HER, WHERE ARE MY CHILDREN,
19 IF YOU DIDN'T KNOW WHERE THEY WERE?

20 A. I HAD ASKED SEVERAL QUESTIONS. BUT ---

21 Q. NO, MA'AM, THAT'S NOT MY QUESTION. MY QUESTION, MS.
22 CARTER, IF YOU WILL PLEASE LISTEN, WHY DID YOU NOT APPROACH
23 CHARIE JENKINS, THE ONE FROM D.S.S., AND ASK, WHERE ARE MY
24 CHILDREN, IF YOU DID NOT KNOW WHERE THEY WERE?

25 A. BECAUSE I WAS TOLD THEY DID NOT HAVE TO GIVE ME ANY

1 INFORMATION.

2 Q. NO, MA'AM. YOU SAID THAT HAPPENED ON THE WAY OUT WITH
3 DETECTIVE CARPENTER. I'M ASKING BEFORE THAT TIME, IN THE
4 TWO TO THREE HOURS BEFORE THAT TIME, WHY DIDN'T YOU ASK THE
5 D.S.S. WORKER, WHERE ARE MY CHILDREN?

6 A. I DID NOT KNOW SHE WAS FROM D.S.S.

7 Q. I SEE. ALL RIGHT. WELL, IN THE TWO TO THREE HOURS
8 BEFORE YOU WALKED OUT WITH DETECTIVE CARPENTER, WHY DIDN'T
9 YOU ASK DETECTIVE SUTTON, WHERE ARE MY CHILDREN?

10 A. I HAD ASKED THEM AT THE SHERIFF'S DEPARTMENT.

11 Q. NOW, ON YOUR QUESTIONNAIRE, YOU TOLD THE POLICE THAT
12 YOU DIDN'T KNOW HOW THIS CHILD SUSTAINED ALL THESE INJURIES;
13 ISN'T THAT RIGHT?

14 A. NO. I DID GIVE EXPLANATIONS FOR SOME OF THEM.

15 Q. AND THEY WERE LIES, WEREN'T THEY?

16 A. NO, MA'AM.

17 Q. MA'AM, YOU LATER GAVE A WRITTEN STATEMENT.

18 A. THAT HAD WROTE -- WRITTEN MY STATEMENT FOR ME. AND I
19 HAD TOLD THEM THAT SOME OF THE STUFF WAS NOT RIGHT. AND SHE
20 HAD TOLD ME THAT IT WAS ON DEREK'S STATEMENT, SO IT WENT ON
21 MINE.

22 Q. I SEE. SO YOU SIGNED THIS STATEMENT AND CORRECTED ALL
23 THE WAY THROUGH?

24 A. YES, MA'AM. I WAS TOLD TO DO THAT.

25 Q. AND YOU WERE GIVEN A COPY OF IT, WEREN'T YOU?

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1 A. YES, MA'AM.

2 Q. SO WHEN DID YOU CALL OUR OFFICE OR CALL THE SHERIFF'S
3 DEPARTMENT BACK OR CALL D.S.S. AND TELL THEM, OH, I SIGNED
4 THE WRONG KIND OF STATEMENT?

5 A. I WAS ALREADY IN JAIL.

6 Q. IN FACT, WHAT HAPPENED IS YOU LIED UP TO THE POINT THAT
7 YOU FAILED THE POLYGRAPH. AND AT THAT POINT YOU REALIZED
8 THE SHERIFF'S DEPARTMENT KNEW YOU WERE LYING, AND SO THEN
9 YOU DECIDED TO TELL THE TRUTH; ISN'T THAT RIGHT?

10 A. NO, MA'AM.

11 Q. SO YOU'RE SAYING THERE'S NOT ONE SINGLE LIE? AND I
12 WANT TO MAKE SURE WE HAVE THIS ON THE RECORD. THERE'S NOT
13 ONE SINGLE LIE IN THAT QUESTIONNAIRE THAT YOU FILLED OUT?

14 A. ACCORDING TO DEREK, YES.

15 Q. NO, MA'AM. I'M ASKING YOU. PLEASE LISTEN TO MY
16 QUESTION AND ANSWER MY QUESTION. I'M ASKING YOU IS THERE
17 ONE SINGLE LIE IN THE QUESTIONNAIRE THAT YOU FILLED OUT FOR
18 THIS SHERIFF'S DEPARTMENT RIGHT AFTER YOUR STEPDAUGHTER HAD
19 BEEN KILLED?

20 A. YOU'RE NOT TALKING ABOUT THE STATEMENT, THE
21 QUESTIONNAIRE?

22 Q. THE QUESTIONNAIRE.

23 A. YES.

24 Q. THERE ARE LIES?

25 A. YES.

1 Q. SO DURING AN INVESTIGATION OF THE DEATH OF YOUR FOUR-
2 YEAR-OLD STEPDAUGHTER, YOU LIED TO THE SHERIFF'S DEPARTMENT?

3 A. ON THE QUESTIONNAIRE ACCORDING TO DEREK.

4 Q. NO, MA'AM. I DIDN'T ASK YOU THAT. I ASKED YOU WAS
5 THERE A LIE ON YOUR QUESTIONNAIRE. AND YOU JUST SAID YES.
6 WAS THERE?

7 A. YES.

8 Q. BUT NOW YOU EXPECT US TO BELIEVE YOU? YOU'RE TELLING
9 THE TRUTH NOW? IS THAT WHAT YOU WANT THIS JUDGE TO BELIEVE?

10 A. YES, MA'AM.

11 Q. NO FURTHER QUESTIONS ON THIS ISSUE.

12 THE COURT: ANY REDIRECT?

13 MR. GAMBLE: NOTHING FURTHER, YOUR HONOR.

14 THE COURT: THANK YOU, MA'AM. YOU MAY STEP DOWN.

15 ANY FURTHER TESTIMONY FROM THE DEFENDANT'S SIDE

16 REGARDING THE JACKSON v. DENNO ISSUE, SIR?

17 MR. GAMBLE: NO, YOUR HONOR.

18 THE COURT: ALL RIGHT. WILL THERE BE ANY REPLY?

19 MS. WHITE: YES, SIR.

20 THE COURT: YOU MAY RESPOND BY BRIEF REPLY.

21 MS. WHITE: THE STATE CALLS DETECTIVE SUTTON.

22 REPLY DIRECT EXAMINATION BY MS. WHITE:

23 Q. DETECTIVE SUTTON, YOU TESTIFIED EARLIER, I BELIEVE,
24 THAT YOU BEGAN TALKING TO THE DEFENDANT ON THE 25TH OF
25 OCTOBER ABOUT FIVE P.M.?

1 A. I THINK IT WAS CLOSER TO SIX P.M. YES, MA'AM.

2 Q. AT ANY RATE, AS FAR AS YOU KNEW, DID THE DEFENDANT --
3 DID SHE HAVE ANY CONTACT WITH YOU BEFORE FIVE OR SIX P.M.
4 THAT DAY?

5 A. NO.

6 Q. NOW, WHEN, IF EVER, DURING THE TIME THAT YOU TALKED TO
7 THAT DEFENDANT DID SHE ASK ABOUT THE WHEREABOUTS OF HER
8 CHILDREN?

9 A. SHE DID NOT ASK ME.

10 Q. NOW, WERE YOU AT THE LOCATION OF THE SEARCH THAT NIGHT?

11 A. YES, I WAS.

12 Q. APPROXIMATELY HOW LONG WERE YOU THERE?

13 A. I WAS THERE FROM APPROXIMATELY TEN P.M. UNTIL A LITTLE
14 AFTER TWELVE THIRTY A.M.

15 Q. AND DID SHE EVER, EVEN ONE TIME, ASK ABOUT THE
16 WHEREABOUTS OF HER CHILDREN?

17 A. NO, SHE DID NOT.

18 Q. NO FURTHER QUESTIONS.

19 THE COURT: ANY QUESTIONS?

20 REPLY CROSS EXAMINATION BY MR. GAMBLE:

21 Q. DID YOU HAVE ANY CONVERSATION WITH HER AT THE TRAILER
22 DURING THE SEARCH?

23 A. NO, SIR. SHE MADE TWO STATEMENTS TO ME. BUT I DID NOT
24 HAVE ANY CONVERSATION WITH HER.

25 Q. WHAT WAS THE STATEMENT SHE MADE TO YOU?

1 A. SHE SAID THAT SHE WAS THIRSTY AND WENT TO GET SOMETHING
2 TO DRINK, AND SHE SAID THAT SHE WAS COLD.

3 Q. OKAY. YOU DIDN'T MAKE ANY NOTES OR ANYTHING THAT
4 NIGHT, DID YOU?

5 A. AT THE ---

6 Q. TRAILER.

7 A. --- TRAILER? NO, SIR.

8 Q. OKAY. THANK YOU.

9 THE COURT: THANK YOU, MA'AM.

10 MS. WHITE: THE STATE CALLS CHARIE JENKINS.

11 **CHARIE JENKINS,**

12 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION BY MS. WHITE:

14 Q. WHAT'S YOUR OCCUPATION?

15 A. I WORK WITH THE DEPARTMENT OF SOCIAL SERVICES WITH
16 PROTECTIVE SERVICES.

17 Q. HOW LONG HAVE YOU WORKED THERE?

18 A. TWENTY-FOUR YEARS.

19 Q. NOW, PRIOR TO OCTOBER 25TH OF LAST YEAR, HAD YOU MET
20 THE DEFENDANT?

21 A. YES, ON TWO DIFFERENT OCCASIONS.

22 Q. AND WHAT WERE THOSE OCCASIONS?

23 A. THE FIRST OCCASION WAS, I THINK, ABOUT THE 18TH OF
24 OCTOBER. DETECTIVE CARPENTER AND I WENT TO MR. CARTER'S
25 PARENTS' RESIDENCE OVER IN GREENVILLE COUNTY AND TALKED WITH

1 MS. CARTER AND MR. CARTER BRIEFLY. WE HAD BEEN TRYING TO
2 LOCATE THEM AND WERE TOLD THAT THEY MAY BE THERE. WENT
3 THERE -- THEY DID NOT HAVE THE THREE CHILDREN WITH THEM --
4 AND ASKED THEM TO MAKE ARRANGEMENTS FOR US TO TALK WITH THEM
5 AND THE CHILDREN THE NEXT MORNING. I IDENTIFIED MYSELF TO
6 MS. CARTER THAT I WAS WITH THE DEPARTMENT OF SOCIAL
7 SERVICES.

8 Q. AND DID YOU TALK TO OR WERE YOU WITH DETECTIVE
9 CARPENTER ON THE 20TH WHEN HE WENT AND TALKED TO THEM?

10 A. YES. WENT TO THEIR HOME ON THE 20TH. I AGAIN TOLD HER
11 WHO I WAS AND WHY WE WERE THERE. AND WE WERE THERE FOR A
12 GOOD WHILE TALKING TO SHE AND MR. CARTER.

13 Q. NOW, IN THIS COUNTY WE HAVE, I GUESS YOU WOULD CALL IT
14 A JOINT TASK FORCE, IS THAT RIGHT, ON CHILD ABUSE CASES
15 WHERE LAW ENFORCEMENT AND D.S.S. GO TOGETHER TO TALK TO
16 WITNESSES AND SEARCHES AND THINGS LIKE THAT SO THAT YOU CAN
17 BOTH CONDUCT YOUR INVESTIGATIONS BUT NOT SUBJECT WITNESSES
18 TO MULTIPLE INTERVIEWS; IS THAT CORRECT?

19 A. YES.

20 Q. AND DID YOU GO TO THE HOUSE THE DAY THAT IT WAS
21 SEARCHED?

22 A. YES, I DID.

23 Q. AND HOW LONG WERE YOU AT THE HOUSE?

24 A. PROBABLY FROM AROUND TEN FIFTEEN, TEN THIRTY TILL
25 PROBABLY AROUND TWELVE THIRTY THAT NIGHT.

1 Q. AND FROM WHAT I UNDERSTAND, THE CHILDREN WERE TAKEN
2 INTO EMERGENCY PROTECTIVE CUSTODY EARLIER THAT AFTERNOON; IS
3 THAT CORRECT?

4 A. YES, THE CHILDREN WERE E.P.C.'D AT -- EARLIER IN THE
5 AFTERNOON AND THEN PLACED IN FOSTER CARE.

6 Q. NOW, WHILE YOU WERE AT THE DEFENDANT'S RESIDENCE, WHEN,
7 IF EVER, DID THE DEFENDANT HAVE ANY INQUIRIES AS TO THE
8 WHEREABOUTS OF HER CHILDREN?

9 A. SHE NEVER ASKED ME ANYTHING ABOUT HER CHILDREN. I
10 NEVER HEARD HER ASK ANY OF THE OTHER OFFICERS THERE ABOUT
11 THE CHILDREN.

12 Q. AND WERE YOU THERE BASICALLY THE WHOLE TIME DURING THE
13 SEARCH?

14 A. YES.

15 Q. TO YOUR KNOWLEDGE, DID SHE -- WHAT DID SHE DO WHILE
16 Y'ALL WERE SEARCHING? WHAT WAS SHE DOING?

17 A. PRETTY MUCH THE WHOLE TIME SHE SAT IN THE DEN AREA AS
18 YOU COME INTO THE -- IT'S LIKE IN THE MIDDLE AREA OF THE
19 TRAILER, AND THERE ARE BEDROOMS ON EITHER SIDE. AND SHE SAT
20 IN THAT DEN AREA THE WHOLE TIME.

21 Q. NO FURTHER QUESTIONS.

22 CROSS EXAMINATION BY MR. GAMBLE:

23 Q. DO YOU WEAR A BADGE IDENTIFYING YOURSELF AS A D.S.S.
24 WORKER?

25 A. NO, I DON'T.

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1 Q. AND THE WHOLE TIME YOU WERE RIDING WITH THE DETECTIVES
2 OR THE POLICE?

3 A. NO, I WAS NOT RIDING WITH THEM. I WAS IN MY OWN -- WE
4 WERE IN A STATE VEHICLE.

5 Q. BUT YOU WERE ACCOMPANYING ---

6 A. YES.

7 Q. OR THEY WERE ACCOMPANYING YOU?

8 A. YES.

9 Q. AND THE WHOLE TIME THERE WERE FIVE POLICE OFFICERS AND
10 YOU?

11 A. THERE WAS POLICE OFFICERS, MYSELF AND ANOTHER D.S.S.
12 WORKER.

13 Q. DID THAT D.S.S. WORKER WEAR A BADGE IDENTIFYING HERSELF
14 AS A D.S.S. WORKER?

15 A. NOT THAT I REMEMBER, NO.

16 Q. AND THEY WERE WITH THE DETECTIVES AND THE UNIFORMED
17 PEOPLE?

18 A. YES.

19 Q. ALL RIGHT. THANK YOU.

20 REDIRECT EXAMINATION BY MS. WHITE:

21 Q. DID THE OTHER D.S.S. WORKER THAT WAS THERE -- WAS SHE
22 IN TRAINING?

23 A. YES.

24 Q. SO WAS SHE PRETTY MUCH FOLLOWING YOU AROUND?

25 A. YES.

1 Q. AT ANY TIME, DID THE DEFENDANT APPROACH HER?

2 A. NO.

3 Q. THANK YOU. NO FURTHER QUESTIONS.

4 MR. GAMBLE: NOTHING FURTHER.

5 MS. WHITE: THE LAST WITNESS IS JAMI BROTHERS.

6 REPLY DIRECT EXAMINATION BY MS. WHITE:

7 Q. DID YOU SEE THE DEFENDANT AT THE SHERIFF'S DEPARTMENT
8 SOMETIME IN THE AFTERNOON OF OCTOBER 25TH?

9 A. YES, I DID.

10 Q. AND WHAT, IF ANYTHING, DID YOU ADVISE HER ABOUT THE
11 WHEREABOUTS OF HER CHILDREN?

12 A. I ADVISED HER THAT HER CHILDREN HAD BEEN TAKEN INTO
13 EMERGENCY PROTECTIVE CUSTODY DUE TO STATEMENTS THAT HER
14 OTHER CHILDREN HAD MADE CONCERNING ABUSE IN THE HOME. WE
15 DID NOT KNOW THE WHEREABOUTS OF THE YOUNGEST CHILD. AND I
16 ASKED HER, WHERE IS J.C. SHE TOLD ME. AND CHARIE JENKINS
17 AND ANOTHER OFFICER WENT OUT AND PLACED THAT CHILD INTO
18 PROTECTIVE CUSTODY.

19 Q. NO FURTHER QUESTIONS.

20 MR. GAMBLE: NO QUESTIONS.

21 THE COURT: THANK YOU, MA'AM.

22 MS. WHITE: THAT'S ALL, YOUR HONOR.

23 THE COURT: LET ME HEAR FIRST FROM THE DEFENDANT.

24 THE DEFENDANT HAD INITIALLY -- IN FRAMING WHAT IS IN DISPUTE
25 AS TO THE JACKSON v. DENNO ISSUE, THE STATEMENT GIVEN ON

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1 OCTOBER THE 26TH AFTER THE DEFENDANT INVOKED HER RIGHT TO
2 COUNSEL ON THE 25TH. AND I'D LIKE TO HEAR THE DEFENDANT'S
3 POSITION REGARDING THE ADMISSIBILITY OF THE STATEMENT GIVEN
4 ON THE 26TH IN LIGHT OF THAT ISSUE, SIR.

5 MR. GAMBLE: YES, SIR. I FRAME THIS IN LIGHT OF
6 MICHIGAN v. JACKSON, YOUR HONOR, WHICH IS A SIXTH AMENDMENT
7 QUESTION. I'M NOT NECESSARILY CONCERNED WITH THE FIFTH
8 AMENDMENT MIRANDA, BUT THE SIXTH AMENDMENT RIGHT TO AN
9 ATTORNEY. AND YOU HAVE TO TAKE THIS ENTIRE SCENARIO AS A
10 WHOLE. YOU START AT NINE O'CLOCK ON THE 25TH OF OCTOBER,
11 2000, THERE'S A LONG INTERROGATION THERE THAT'S A WRITTEN
12 INTERROGATION. THEN THERE'S AN INTERROGATION THAT STARTS
13 WITH REGARD TO WHAT'S CALLED A POLYGRAPH EXAM THAT STARTS
14 AROUND SIX O'CLOCK IN THE EVENING. THAT WAS A MIRANDIZED
15 BEGINNING. DURING THAT MIRANDIZED BEGINNING, SHE SAID, I
16 WOULD LIKE AN ATTORNEY, I THINK, OR WORDS TO THAT EFFECT.
17 SHE SAID A LAWYER. AT WHICH TIME, PROPERLY, MS. SUTTON
18 STOPPED THE INTERVIEW. IMMEDIATELY THEREAFTER, A SEARCH
19 WARRANT IS OBTAINED, A SEARCH WARRANT FOR HER VAN, A SEARCH
20 WARRANT FOR HER HOUSE. SHE'S STILL UP AND MOVING. AND AT
21 TEN THEY GO TO HER HOUSE AND SEARCH IT FOR TWO SOLID HOURS
22 AFTER SHE'S INVOKED HER RIGHT FOR AN ATTORNEY. SHE'S
23 WORRIED ABOUT HER CHILDREN, ASKS ABOUT THEM. TOLD, YOU
24 DON'T TALK TO US, WE CAN'T TALK TO YOU, WHICH IS PROBABLY
25 RIGHT EXCEPT VACANT IN THE FRAMEWORK IS A PERSON WHO HAS HAD

1 TWO XANAX AND THREE CHILDREN TAKEN AWAY FROM HER THAT DAY.
2 NOW -- AND HAS NEVER BEEN WITH THE LAW -- ANY INVOLVEMENT
3 WITH THE LAW.

4 SO WE HAVE A NOVICE ON XANAX WORRIED ABOUT HER
5 CHILDREN, AND THEY'RE GONE. AND YOU DON'T TALK TO US, WE
6 DON'T TALK TO YOU. YOU DON'T COOPERATE WITH US, WE DON'T
7 COOPERATE WITH YOU. THAT IS OFFICIAL CONDUCT DIRECTED
8 TOWARD HER AFTER SHE HAD INVOKED HER RIGHT TO AN ATTORNEY.
9 AND I TAKE THE POSITION, YOUR HONOR -- IT'S THE DEFENSE'S
10 POSITION THAT MICHIGAN v. JACKSON ADDRESSES THAT DIRECTLY.
11 IT SAYS THAT ONCE THAT RIGHT IS INVOKED THAT THAT SHOULD
12 STOP ALL INTERROGATION OR LEGAL ACTIONS AT THAT POINT UNTIL
13 AN ATTORNEY CAN EITHER BE GOTTEN FOR HER OR SHE CAN OBTAIN
14 ONE.

15 SECONDLY, THEY NEVER INQUIRED WITH HER WITH REGARD TO
16 HER FINANCIAL WHEREWITHAL AS TO WHETHER SHE COULD ACQUIRE AN
17 ATTORNEY OR NOT. AND BECAUSE OF THESE CHARGES AND HER
18 POSITION, I SERIOUSLY DOUBT SHE COULD. BUT THEY NEVER
19 CONTACTED OUR OFFICE TO SEE THAT MORNING. THEY NEVER DID
20 ANYTHING TO ATTEMPT TO GET HER AN ATTORNEY OR TO HONOR HER
21 REQUEST FOR AN ATTORNEY. AND THAT, I THINK, FOLLOWS
22 DIRECTLY WITH MICHIGAN v. JACKSON, WHICH IS A UNITED STATES
23 SUPREME -- YOUR HONOR IS FAMILIAR WITH THAT CASE, I'M SURE.
24 IT'S A LEADER. THANK YOU, YOUR HONOR.

25 THE COURT: THANK YOU, SIR.

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1 I'LL BE GLAD TO HEAR FROM THE STATE.

2 MS. WHITE: YOUR HONOR, THE SUPREME COURT CASES ARE
3 CLEAR. THIS IS NOT A SIXTH AMENDMENT QUESTION AT ALL. THE
4 SIXTH AMENDMENT DOES NOT KICK IN UNTIL ARRAIGNMENT. SHE
5 HADN'T EVEN BEEN ARRESTED. SO IT MOST CERTAINLY IS NOT A
6 SIXTH AMENDMENT ISSUE. IT IS A FIFTH AMENDMENT ISSUE OF
7 MIRANDA. WHETHER OR NOT SHE INVOKED HER MIRANDA RIGHTS. IN
8 THIS CASE -- I'M NOT CLEAR WHAT WE'RE -- ARE ONLY ARGUING
9 THE 26TH STATEMENT, OR ARE WE ARGUING ANYTHING BEFORE THAT?

10 MR. GAMBLE: THE 26TH.

11 MS. WHITE: THE 26TH? OKAY.

12 YOUR HONOR, IF WE LOOK AT THE 26TH, SHE VOLUNTARILY
13 COMES IN. SHE'S TOLD TO GO EAT LUNCH. SHE LEAVES ON HER
14 OWN.

15 THE COURT: THAT'S THE 25TH.

16 MS. WHITE: RIGHT. UP TO THIS. AND THEN THAT NIGHT
17 THEY ASK HER TO MEET THEM. THEY DON'T WANT TO KICK THE DOOR
18 DOWN IN A SEARCH AND USE FORCE. THEY ALWAYS GIVE THE PERSON
19 THE OPTION OF LETTING THEM IN SO THAT THEY DON'T HAVE TO
20 DAMAGE THE HOUSE. SHE MEETS THEM. SHE DOES THAT. AND THEN
21 SHE IS THE ONE THAT REINITIATES. SHE IS THE ONE THAT SAYS,
22 WHY HAVEN'T YOU TALKED TO ME. AT THAT POINT, SHE CALLS THE
23 SHERIFF'S DEPARTMENT. SHE GETS A RETURN CALL. IS IT OKAY?
24 DO YOU WANT US TO TALK TO YOU? YES, I DO. AND AT THAT
25 POINT, SHE COMES DOWN AND SHE'S REMIRANDIZED.

1 I'VE GOT SEVERAL CASES. STATE v. SIMS. FIRST OF ALL,
2 THE OFFICER DID NOT INITIATE ANY CONVERSATION WITH HER ON
3 THE SEARCH. BUT EVEN IF SHE DID, THAT WOULD BE CONSIDERED
4 ROUTINE. LIKE IN SIMS, THEY WERE ASKING ABOUT EXTRADITION
5 AND THINGS LIKE THAT, AND HE REINITIATES ABOUT THE CASE.
6 THAT'S JUST SOMETHING THAT HAS TO BE DONE WITHIN THE SEARCH.
7 THEY HAVE TO SERVE THE SEARCH WARRANT ON HER. THEY HAVE TO
8 DO THOSE THINGS. AND THE CASE LAW IS CLEAR IN THAT EVEN IF
9 THEY DO INVOKE THEIR RIGHT TO AN ATTORNEY, IF THEY
10 REINITIATE, WHICH CLEARLY SHE DID WHEN SHE SAID, WHEN ARE
11 Y'ALL GOING TO START TALKING TO ME ABOUT THIS CASE AGAIN. I
12 WANT TO TALK. I DIDN'T REALIZE THAT I COULDN'T TALK TO YOU
13 AFTER THAT. I CITE STATE v. SIMS, WHICH IS 405 S.E.2d 377.
14 STATE v. PLEMMONS 332 S.E.2d 765. STATE v. HOWARD, 374
15 S.E.2d -- MY COPY ISN'T SO GREAT. LOOKS LIKE MAYBE 284.
16 AND STATE v. KENNEDY, WHICH IS A RECENT DECISION. OPINION
17 NUMBER 2595. ACTUALLY, IT'S NOT THAT RECENT. IT'S '96, BUT
18 I HAVE THE ADVANCE SHEET. IN THESE, THE COURT MAKES IT
19 CLEAR THAT ONCE THEY INVOKE THEIR RIGHT TO AN ATTORNEY, YOU
20 CANNOT REINITIATE. BUT HOWEVER, IF THEY REINITIATE, THEN
21 THE POLICE MAY TALK TO HER. THEY DID REMIRANDIZE HER AFTER
22 SHE REINITIATED. SHE DID SIGN ANOTHER FORM WAIVING ALL OF
23 HER RIGHTS. AND AT THAT POINT, SHE WAS FREE TO GIVE A
24 STATEMENT. SHE WAS GIVEN A COPY OF IT. AND WE WOULD ARGUE
25 THAT THAT'S ADMISSIBLE.

1 THE COURT: DOES COUNSEL WANT TO ARGUE ANYTHING
2 FURTHER REGARDING THE VIDEOTAPE, WHICH IS APPARENTLY A
3 THIRTY-MINUTE COMPILATION OF ALL THE FAMILY VIDEOS?

4 MR. GAMBLE: NO, YOUR HONOR.

5 THE COURT: LET ME TAKE ABOUT A FIVE MINUTE BREAK.

6 I'LL CHECK ON THE STATUS OF THE JURY. I'LL ANNOUNCE MY
7 DECISION ON THE JACKSON v. DENNO ISSUE, AND THEN WE'LL BEGIN
8 WITH THE TRIAL. WE'LL BE IN RECESS FOR FIVE MINUTES,
9 PLEASE.

10 (WHEREUPON COURT STOOD AT RECESS)

11 THE COURT: I'VE TAKEN THE TIME TO REVIEW THE CASE
12 LAW THAT'S BEEN CITED AND THAT WHICH HAS BEEN HANDED UP. I
13 HAVE CAREFULLY CONSIDERED ALL THE CIRCUMSTANCES AND THE
14 TOTALITY OF THE CIRCUMSTANCES. AND I FIND THE STATE HAS
15 ESTABLISHED BY THE REQUISITE STANDARD THAT ALL STATEMENTS
16 GIVEN BY THE DEFENDANT WERE VOLUNTARY ALTHOUGH I RECOGNIZE
17 THE DEFENDANT HAS LIMITED HER CHALLENGE TO THE OCTOBER 26TH
18 STATEMENT, HAVING INVOKED HER RIGHT TO COUNSEL ON THE
19 PREVIOUS DAY, OCTOBER 25TH. IT IS NOT DISPUTED THAT THE
20 DEFENDANT WAS PROPERLY ADVISED OF HER FIFTH AND SIXTH
21 AMENDMENT RIGHTS ON OCTOBER 25TH AND AGAIN ON OCTOBER 26TH
22 PRIOR TO THE STATEMENT IN QUESTION. IT IS FURTHER
23 UNDISPUTED THAT THE DEFENDANT INVOKED HER RIGHT TO COUNSEL
24 ON OCTOBER 25TH. FROM LEADING CASES FROM THE U.S. SUPREME
25 COURT SUCH AS EDWARDS v. ARIZONA AND OTHER SOUTH CAROLINA

1 PRECEDENTS, THE LAW IS SETTLED THAT ANY STATEMENT GIVEN BY A
2 DEFENDANT AFTER INVOKING THE RIGHT TO COUNSEL MUST BE
3 PURSUANT TO CONTACT OR REQUEST INITIATED BY THE DEFENDANT.
4 OTHERWISE, SUCH STATEMENT IS INADMISSIBLE.

5 OUR COURTS RECOGNIZE A RIGID RULE THAT AN ACCUSED'S
6 REQUEST FOR AN ATTORNEY IS PER SE AN INVOCATION OF HER FIFTH
7 AMENDMENT RIGHTS REQUIRING THAT ALL INTERROGATION CEASE. I
8 FIND THAT LAW ENFORCEMENT COMPLIED WITH THE LAW IN THIS
9 REGARD. I FIND THE TESTIMONY OF THE OFFICERS TO BE CREDIBLE
10 IN EVERY MATERIAL RESPECT. IT WAS DEFENDANT WHO APPROACHED
11 INVESTIGATOR CARPENTER AT THE TRAILER LATE IN THE EVENING ON
12 OCTOBER 25TH. IT WAS DEFENDANT WHO INITIATED CONTACT AND
13 EXPRESSED A DESIRE TO SPEAK WITH LAW ENFORCEMENT.
14 INVESTIGATOR CARPENTER FURNISHED A PHONE NUMBER TO
15 DEFENDANT. DEFENDANT CALLED THAT NUMBER IN THE EARLY
16 MORNING HOURS OF THE 26TH, REPEATING HER REQUEST TO SPEAK
17 WITH A LAW ENFORCEMENT OFFICER. INVESTIGATOR CARPENTER
18 RELAYED THAT MESSAGE TO INVESTIGATOR SUTTON. INVESTIGATOR
19 SUTTON THEN RETURNED DEFENDANT'S PHONE CALL. DEFENDANT THEN
20 VOLUNTARILY RETURNED TO THE POLICE STATION AND WAS AGAIN
21 FULLY MIRANDIZED.

22 THERE IS NO CREDIBLE EVIDENCE OF A POLICE-INITIATED
23 INTERROGATION ON THE 26TH OR AT ANY TIME ON THE 25TH
24 FOLLOWING THE INVOCATION OF DEFENDANT'S RIGHT TO COUNSEL. I
25 REJECT DEFENDANT'S ARGUMENT THAT THE POLICE ENGAGED IN THE

1 FUNCTIONAL EQUIVALENT OF INTERROGATION BY SERVING A SEARCH
2 WARRANT IN HER PRESENCE. I FURTHER REJECT DEFENDANT'S
3 SUGGESTION THAT LAW ENFORCEMENT CREATED A SITUATION AND
4 ENVIRONMENT FOR THE PURPOSE OF LEVERAGING HER TO REINITIATE
5 CONTACT WITH THE OFFICERS. I FURTHER FIND NO SIXTH
6 AMENDMENT VIOLATION FOR NO CRITICAL STAGE OF THE PROCEEDING
7 WAS PRESENTED BY THE EXECUTION OF THE SEARCH WARRANT.

8 IN SUM, POLICE HONORED THE DEFENDANT'S INVOCATION OF
9 HER RIGHT TO COUNSEL. AND POLICE SPOKE WITH DEFENDANT ONLY
10 AFTER SHE INITIATED THE CONTACT AND WAS AGAIN FULLY ADVISED
11 OF HER RIGHTS. BASED ON THIS RECORD, I WOULD PERMIT THE
12 STATEMENT TO BE INTRODUCED AS PROPERLY OBTAINED IN
13 COMPLIANCE WITH ALL LEGAL REQUIREMENTS. THE RECORD WILL
14 REFLECT DEFENDANT'S EXCEPTION TO MY RULING.

15 I FURTHER WANT TO ADDRESS PRELIMINARILY MY VIEW ON THE
16 SUMMARIES. THE RULE OF EVIDENCE CONTEMPLATES SUMMARIES,
17 BOTH IN TERMS OF DOCUMENTS AND OTHER RECORDINGS, TO BE
18 PRESENTED TO A JURY WHEN THE COMPLETE RECORD HAS BEEN MADE
19 AVAILABLE TO OPPOSING COUNSEL. IN THIS CASE, THAT HAS BEEN
20 ACCOMPLISHED. I FIND THAT THE STATEMENT MADE BY THE
21 SOLICITOR AS TO THE PURPOSE OF THAT VIDEO WOULD LEAD ME TO
22 PROBABLY ALLOW THE VIDEO IN EVIDENCE IF THE FOUNDATION IS
23 PROPERLY LAID. THAT VIDEO WILL BE DIRECTLY RELEVANT IN
24 LIGHT OF STATEMENTS MADE BY THE DEFENDANT REFERRING TO, BUT
25 NOT EXCLUSIVELY, THE QUESTIONNAIRE SHE COMPLETED AT THE LAW

1 ENFORCEMENT CENTER ON OCTOBER 25TH.

2 IF THE DEFENDANT DESIRES ANY OTHER PORTION OF THE
3 VIDEOS TO BE SHOWN TO THE JURY, I'LL BE GLAD TO VISIT THAT
4 ISSUE WITH THE DEFENSE COUNSEL. I'LL BE GLAD TO BREAK EARLY
5 IN THE EVENING, START LATER IN THE MORNING, IF COUNSEL WOULD
6 LIKE AN ADDITIONAL OPPORTUNITY TO REVIEW THOSE VIDEOS AGAIN.
7 SO I AM WILLING TO ADJUST THE SCHEDULE OF THE TRIAL TO
8 ACCOMMODATE COUNSEL IF COUNSEL WISHES TO VIEW THOSE VIDEOS
9 IN ITS ENTIRETY AGAIN. THEY ARE MADE AVAILABLE THROUGHOUT
10 THE TRIAL. BUT THE SUMMARIES IN THE FIRST INSTANCE, IF THE
11 FOUNDATION IS PROPERLY LAID, I WOULD LIKELY ADMIT THOSE AS
12 BEING RELEVANT AND PROPER UNDER THE RULES OF EVIDENCE.

13 ANYTHING FURTHER FROM THE STATE?

14 MS. WHITE: NO, SIR.

15 THE COURT: FROM DEFENDANT?

16 MR. GAMBLE: NO, YOUR HONOR. I THANK YOU FOR THE
17 COMMENTS ON THE VIDEO. AND I WOULD LIKE TO REVIEW THOSE.

18 THE COURT: ALL RIGHT. IS IT EASIER FOR YOU TO DO
19 IT -- AND WE CAN DO BOTH. WE CAN EITHER STOP EARLIER IN THE
20 AFTERNOON OR WE COULD DELAY IT AN HOUR OR SO EACH MORNING.
21 IS THAT A GOOD WAY TO DO IT FROM YOUR STANDPOINT IF WE STOP
22 AT, SAY, FOUR OR FOUR THIRTY THE NEXT TWO DAYS AND THEN
23 DON'T CRANK UP TILL NINE THIRTY OR TEN?

24 MR. GAMBLE: FOUR OR FOUR THIRTY WOULD BE GOOD
25 BECAUSE THAT WAY -- WELL, I'M GOING TO HAVE TO -- YOU DON'T

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1 HAVE COPIES, DO YOU?

2 MS. WHITE: YOUR HONOR, WE DON'T HAVE COPIES. WE
3 CAN TAKE THEM BACK OUT TO THE NARCOTICS DIVISION. AND THEY
4 WORK KIND OF A FUNNY SHIFT AT NIGHT ANYWAY. SO I'M SURE
5 THAT WE COULD MAKE THEM AVAILABLE THERE.

6 MR. GAMBLE: WELL ---

7 THE COURT: I'M NOT GOING TO MAKE MR. GAMBLE CHANGE
8 HIS SCHEDULE TO JIVE WITH THE NARCOTICS OFFICERS.

9 MS. WHITE: YES, SIR. WHAT I'M SAYING IS THEY'RE
10 THERE ANYWAY. I MEAN, THEY'VE GOT ALL THE VIDEO EQUIPMENT
11 AND ALL TO PLAY ALL THEM. I THINK THERE'S DIFFERENT KINDS
12 OF TAPES IN THERE. AND THEY'VE GOT -- I MEAN, THAT'S WHAT I
13 DID. I JUST WENT OUT TO THE SHERIFF'S OFFICE.

14 THE COURT: ARE THESE STANDARD V.H.S. TAPES OR NOT?

15 MS. WHITE: I'M THINKING THERE WERE A COUPLE OF THE
16 LITTLE MINI ONES IN THERE. LET ME LOOK. I CAN'T REMEMBER.
17 YEAH, THERE ARE. THERE ARE A FEW DIFFERENT TYPES. SOME OF
18 THESE LITTLE KINDS AND SOME OF THE BIG KIND. THEY DO HAVE
19 THE EQUIPMENT TO PLAY EVERYTHING. SO ...

20 THE COURT: I TELL YOU, DURING THE LUNCH BREAK
21 TODAY, JUST LOOK AT THAT AND BE THINKING ABOUT THAT ISSUE,
22 MR. GAMBLE. YOU TELL ME WHAT YOU BELIEVE WOULD BE A
23 REASONABLE RESPONSE FROM ME TO PERMIT YOU TO MEANINGFULLY
24 REVIEW THOSE TAPES AGAIN. SO I'M OPEN TO YOU. AND I'M NOT
25 REQUIRING YOU TO HIT THE BULL'S-EYE RIGHT NOW. BUT LET'S

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1 THINK ABOUT IT. AND MAYBE BEFORE WE GO BACK ON THE RECORD
2 AFTER LUNCH, YOU TELL ME WHAT YOUR DESIRE IS. AND I'M GOING
3 TO DO EVERYTHING I CAN TO ACCOMMODATE THAT REQUEST AND GIVE
4 YOU A CHANCE ONCE AGAIN TO REVIEW THE TAPES OVER.

5 MR. GAMBLE: THANK YOU, YOUR HONOR.

6 THE COURT: THANK YOU.

7 BRING THE JURY.

8 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 10:05
9 A.M.)

10 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.
11 WE'RE READY TO PROCEED. AND THE FIRST ORDER OF BUSINESS IS
12 FOR YOU TO RECEIVE YOUR OATH AS JURORS IN THIS CASE. SO AT
13 THIS TIME, MADAM CLERK, I WOULD ASK YOU IF YOU WOULD PLEASE
14 ADMINISTER THE OATH TO OUR JURY.

15 (WHEREUPON THE JURY WAS DULY SWORN)

16 THE COURT: LADIES AND GENTLEMEN, AS WE BEGIN THIS
17 TRIAL, I'D LIKE TO TAKE JUST A FEW MINUTES AND EXPLAIN THE
18 PROCESS OF A TRIAL. I'M SURE WHERE YOU'RE PRESENTLY SEATED
19 IS AN UNFAMILIAR SETTING TO MOST OF YOU, PERHAPS EVEN AN
20 UNCOMFORTABLE SETTING. AND I WANT TO DO MY BEST TO PUT YOU
21 AT EASE, TO LET YOU KNOW WHAT'S EXPECTED OF YOU. WHAT'S
22 YOUR ROLE? HOW DO YOU FIT INTO THE PROCESS? WHAT'S MY
23 ROLE? AND WHAT'S THE ROLE OF THE FINE ATTORNEYS IN THIS
24 CASE. SO HOPEFULLY, YOU'LL HAVE SOME COMFORT LEVEL AS WE
25 BEGIN THE TRIAL OF HOW YOU FIT IN.

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1 NOW, AS THE TRIAL JUDGE, I HAVE A THREE-FOLD FUNCTION.
2 I PRESIDE OVER THE TRIAL OF THE CASE. I RULE ON THE
3 ADMISSIBILITY OF EVIDENCE IN ACCORDANCE WITH THE LAWS OF
4 EVIDENCE HERE IN SOUTH CAROLINA. AND LASTLY, AT THE END OF
5 THIS CASE, I WILL INSTRUCT YOU OR CHARGE YOU ON THE LAW THAT
6 APPLIES TO THIS CASE.

7 YOUR DUTY LIES BASICALLY IN THE OATH WHICH YOU JUST
8 TOOK. IT'S OFTEN SAID THAT THE TRIAL JUDGE IS THE JUDGE OF
9 THE LAW. BUT YOU SERVE AS JUDGES, TOO. YOU ARE JUDGES OF
10 THE FACTS. YOU AND YOU ALONE DETERMINE WHAT THE FACTS ARE
11 AND WHAT THE TRUTH IS IN THE TWO CHARGES THAT HAVE BEEN
12 BROUGHT IN THIS CASE. AND YOU WILL DECIDE THE FACTS, THE
13 TRUTH, FROM THE EVIDENCE AND EVIDENCE ALONE. THAT'S
14 SOMETHING I STRESSED WITH YOU THROUGHOUT THE JURY SELECTION
15 PROCESS YESTERDAY.

16 NOW, WHAT IS EVIDENCE? EVIDENCE WILL COME TO YOU ONLY
17 FROM THIS COURTROOM. AND IN SOUTH CAROLINA, WE RECOGNIZE
18 THREE SOURCES OR THREE TYPES OF EVIDENCE. THE MOST COMMON
19 EXAMPLE OF EVIDENCE IS THE TESTIMONY OF A WITNESS. A
20 WITNESS WHO WOULD TESTIFY FROM THIS WITNESS CHAIR. YOU'LL
21 SEE THE WITNESS. YOU'LL HEAR THE WITNESSES. YOU'LL GET A
22 FEEL OR SENSE FOR THE DEemeanOR OR THE CREDIBILITY OF THAT
23 WITNESS.

24 ANOTHER EXAMPLE OF EVIDENCE IS WHAT THE LAW CALLS AN
25 EXHIBIT. AN EXHIBIT COULD BE A PHOTOGRAPH, INVOICE, SOME

1 TYPE OF A TANGIBLE DOCUMENT THAT HAS AN EXHIBIT LABEL
2 ATTACHED TO IT. NOW, AS WE GO THROUGH THE TRIAL,
3 OFTENTIMES, JURIES WILL HEAR REFERENCES TO AN EXHIBIT OR SEE
4 AN EXHIBIT FAIRLY QUICKLY. AND YOU MIGHT HAVE IN YOUR MIND
5 THE VIEW THAT I DIDN'T GET ENOUGH OF A CHANCE TO LOOK AT
6 THAT EXHIBIT. I WISH I HAD SEEN THAT EXHIBIT MORE CLOSELY.
7 THAT'S SORT OF A NATURAL PROCESS OF A TRIAL. BECAUSE WE
8 DON'T STOP THE TRIAL SO ALL SIXTEEN OF YOU CAN REVIEW EACH
9 EXHIBIT UNTIL YOUR HEART'S CONTENT. WE REALLY CAN'T DO
10 THAT. SO SOME EXHIBITS MAY BE SHOWN TO YOU IN MORE DETAIL
11 THAN OTHERS. BUT REMEMBER THIS. AT THE END OF THE CASE
12 WHEN YOU RETIRE TO THE JURY ROOM TO BEGIN YOUR DELIBERATIONS
13 AS YOU CONSIDER A VERDICT IN THE CASES PRESENTED TO YOU, THE
14 EXHIBITS WILL BE WITH YOU IN THE JURY ROOM. SO YOU'LL HAVE
15 FULL OPPORTUNITY TO REVIEW AND STUDY EACH OF THE EXHIBITS IN
16 THE JURY ROOM DURING THE PROCESS OF YOUR DELIBERATIONS.

17 THE THIRD SOURCE OF EVIDENCE IS WHAT THE LAW CALLS A
18 STIPULATION. THERE MAY OR MAY NOT BE A STIPULATION IN THIS
19 CASE. BUT AS THE NAME IMPLIES, A STIPULATION IS BASICALLY
20 AN AGREEMENT. IT'S WHERE THE PARTIES, THROUGH THEIR
21 ATTORNEYS, AGREE ON THE EXISTENCE OF A CERTAIN FACT. AND IF
22 THEY DO, THERE WOULD BE A STIPULATION TO THAT EFFECT.

23 SO THAT'S WHAT EVIDENCE IS. TESTIMONY, EXHIBITS AND
24 ANY STIPULATIONS. YOU SEE, WHAT I TELL YOU IS NOT EVIDENCE.
25 AND BY THE SAME TOKEN, WHAT THESE FINE ATTORNEYS TELL YOU IS

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1 NOT EVIDENCE. QUESTIONS ASKED OF WITNESSES, THOSE AREN' T
2 CONSIDERED EVIDENCE. IT'S THE TESTIMONY OF THE WITNESS
3 WHICH CONSTITUTES EVIDENCE. THE ATTORNEYS ARE ADVOCATES
4 REPRESENTING THEIR RESPECTIVE SIDES TO THE BEST OF THEIR
5 ABILITY. THE ATTORNEYS ASK QUESTIONS OF WITNESSES. THEY
6 FACILITATE IN THE INTRODUCTION AND RECEIPT OF THE EXHIBITS.

7 LADIES AND GENTLEMEN, YOU AND I DON'T ASK QUESTIONS OF
8 WITNESSES. WE DON'T OFFER ANY EXHIBITS. YOUR DUTY UNDER
9 YOUR OATH, AS JUDGES OF THE FACTS AS JURORS IN THIS CASE, IS
10 TO LISTEN OPENLY AND HONESTLY TO ALL OF THE EVIDENCE. KEEP
11 AN OPEN MIND AS YOU LISTEN TO THE EVIDENCE. DO NOT FORM ANY
12 JUDGEMENTS OR CONCLUSIONS PREMATURELY. BUT KEEP AN OPEN
13 MIND AS YOU LISTEN TO EVERYTHING. AND THEN WHEN YOU RETIRE
14 TO THE JURY ROOM AT THE END OF THE CASE AFTER I HAVE
15 INSTRUCTED YOU ON THE LAW, THEN BEGIN THE PROCESS OF WORKING
16 INDIVIDUALLY AND COLLECTIVELY TO REACH JUDGEMENTS ABOUT THE
17 TWO CASES THAT ARE PRESENTED TO YOU. THAT'S WHY WE HAVE THE
18 RULE THAT YOU'RE NOT PERMITTED TO DISCUSS THE CASE AMONG
19 YOURSELVES UNTIL YOU GET TO THE DELIBERATION TIME. THAT'S
20 WHY YOU'RE NOT PERMITTED TO DISCUSS THE CASE WITH OTHERS.
21 THAT'S WHY YOU'RE NOT PERMITTED TO EXPOSE YOURSELF TO ANY
22 MEDIA COVERAGE ABOUT THE CASE. BECAUSE YOU'RE LIMITED TO
23 EVIDENCE IN THE COURTROOM. AND YOU'RE TO KEEP AN OPEN MIND
24 AS YOU LISTEN TO IT ALL. AND YOU SIFT THROUGH THE EVIDENCE.
25 AND THEN AT THE END, THEN BEGIN WORKING TOGETHER TO REACH A

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1 VERDICT IN THIS CASE, BOTH INDIVIDUALLY AND COLLECTIVELY.
2 BECAUSE ANY VERDICT TO BE RENDERED IN THIS COURT MUST BE A
3 UNANIMOUS VERDICT.

4 NOW, LET ME TELL YOU SOMETHING ELSE ON THE FRONT END.
5 AND I HAVE SAID THIS SEVERAL TIMES ALREADY. AND YOU'RE
6 FAMILIAR WITH IT. BUT YOU'RE GOING TO HEAR ME REPEAT IT
7 THROUGHOUT THIS TRIAL, AND I'LL STRESS IT TO YOU AGAIN
8 DURING MY FINAL CHARGE TO YOU. TWO IMPORTANT LEGAL
9 PRINCIPLES. AND ONE IS THE PRESUMPTION OF INNOCENSE.
10 ANYONE ACCUSED OF A CRIME IS PRESUMED TO BE INNOCENT. AND
11 THAT IS AN IMPORTANT AND SUBSTANTIAL RIGHT TO WHICH ANY
12 ACCUSED, INCLUDING MS. CARTER, IS ENTITLED.

13 SECONDLY IS THE BURDEN OF PROOF. THAT'S THE LEGAL
14 YARDSTICK YOU WILL USE IN MEASURING THE EVIDENCE. IN THIS
15 CASE, AS I HAVE ALREADY TOLD YOU, THE BURDEN OF PROOF IS ON
16 THE STATE. AND THAT BURDEN OF PROOF IS KNOWN AS PROOF
17 BEYOND A REASONABLE DOUBT. IN ORDER FOR THE STATE TO BE
18 ENTITLED TO A VERDICT OF GUILTY ON EITHER OR BOTH OF THESE
19 INDICTMENTS, THE STATE MUST CONVINCE YOU FROM THE EVIDENCE
20 OF ELEMENTS OF THE OFFENSE CHARGED BEYOND A REASONABLE
21 DOUBT. IF THE STATE WERE TO FAIL TO DO THAT IN ANY REGARD,
22 IT WOULD BE YOUR DUTY TO FIND THE DEFENDANT NOT GUILTY WITH
23 RESPECT TO THAT CHARGE. THAT'S THE LEGAL YARDSTICK AS
24 SERVING AS JURORS IN THIS CASE.

25 NOW, HERE'S THE FORMAT OF THE TRIAL. EACH SIDE WILL

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1 BEGIN MAKING A BRIEF OPENING STATEMENT AFTER WHICH -- THE
2 STATE GOES FIRST. THE STATE GOES FIRST BECAUSE IT BROUGHT
3 THESE TWO CHARGES AND IT HAS THE BURDEN OF PROOF. AFTER
4 WE'VE HEARD FROM THE STATE, THE SAME OPPORTUNITY IS GIVEN TO
5 THE DEFENDANT, BEARING IN MIND, HOWEVER, THERE IS NO
6 OBLIGATION AT ALL FOR A DEFENDANT TO PRESENT ANY EVIDENCE
7 BECAUSE I HAVE INSTRUCTED YOU ON THE PRESUMPTION OF
8 INNOCENCE AND THE BURDEN OF PROOF BEING AT ALL TIMES AND
9 REMAINING AT ALL TIMES ON THE STATE TO PROVE GUILT.

10 ONCE WE HAVE RECEIVED ALL THE EVIDENCE IN THE CASE,
11 EACH SIDE WILL THEN MAKE A FINAL ARGUMENT, SOMETIMES CALLED
12 A SUMMATION, TO YOU AFTER WHICH I WILL CHARGE YOU ON THE
13 LAW. IT WILL TAKE A FEW DAYS TO GET THROUGH THIS TRIAL.
14 THAT'S WHAT I'M INFORMED BY THE ATTORNEYS.

15 NOW, AS WE GO THROUGH THE PROCESS OF THIS TRIAL, LADIES
16 AND GENTLEMEN, LET ME TELL YOU SOME HOUSEKEEPING RULES. WE
17 GENERALLY RUN COURT ABOUT AN HOUR AND A HALF TO TWO HOURS AT
18 A CLIP... BUT NOTHING IS SET IN STONE. I WANT YOU TO KNOW
19 THAT AT ANYTIME THAT YOU NEED TO TAKE A BREAK, EVEN IF IT'S
20 NOT THE NORMAL BREAK TIME, JUST RAISE YOUR HAND IF YOU NEED
21 TO TAKE A BREAK, AND WE'LL HONOR THAT. ALSO, LEGAL ISSUES
22 COME UP SOMETIMES THAT I'M REQUIRED BY LAW TO ADDRESS
23 OUTSIDE YOUR PRESENCE. SO WE MAY BE TAKING BREAKS MORE
24 FREQUENTLY THAN WE WOULD LIKE SO THAT I CAN ACCOMPLISH THAT
25 AND ADDRESS THOSE LEGAL ISSUES AND DO SO OUTSIDE YOUR

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1 PRESENCE. IT MAY MAKE IT NECESSARY FOR YOU TO GO TO THE
2 JURY ROOM MORE FREQUENTLY THAN YOU WOULD LIKE. I APOLOGIZE
3 ON THE FRONT END FOR THAT. BUT THAT'S JUST PART OF TRYING A
4 CASE. SO IF THAT HAPPENS, I JUST WANT YOU TO BE AWARE THAT
5 THAT'S THE NATURAL PROCESS OF A TRIAL. IT'S NOTHING
6 UNUSUAL. AND IT MAY VERY WELL HAPPEN THROUGHOUT THIS CASE.
7 SO GENERALLY SPEAKING, WE GO ABOUT AN HOUR AND A HALF OR TWO
8 HOURS AT A TIME. BUT IF YOU EVER NEED TO TAKE A BREAK,
9 RAISE YOUR HAND AND GET MY ATTENTION. AND WE MAY NEED TO
10 BREAK MORE OFTEN TO ADDRESS LEGAL ISSUES.

11 IF YOU NEED TO BRING ANYTHING TO MY ATTENTION DURING
12 THE TRIAL, ANY DAYCARE SITUATION, ANY WORK SITUATION,
13 ANYTHING THAT INVOLVES YOU OR YOUR JURY SERVICE OR ANY
14 QUESTION OR CONCERN THAT YOU WANT TO BRING TO MY ATTENTION,
15 THE LAW GENERALLY FAVORS THOSE QUESTIONS BEING PUT IN
16 WRITING. THE LAW DOES NOT FAVOR VERBAL COMMUNICATION
17 BETWEEN THE JURY AND THE COURT. SO I'M GOING HAVE THE
18 BAILIFF PROVIDE A PAD AND A PENCIL FOR THE JURY ROOM. AND
19 IF YOU DO HAVE A QUESTION OR CONCERN, PLEASE REDUCE IT TO
20 WRITING AND GIVE IT TO THE BAILIFF. THEY WILL IN TURN GIVE
21 IT TO ME, AND I WILL RESPOND TO YOU AS QUICKLY AS I CAN TO
22 THE EXTENT THE LAW PERMITS ME TO DO SO.

23 NOW, LADIES AND GENTLEMEN, THIS IS AN IMPORTANT CASE.
24 IT'S IMPORTANT TO THE STATE, AND IT'S IMPORTANT TO THE
25 DEFENDANT. I APPRECIATE THE KIND ATTENTION THAT YOU'VE

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OPENING STATEMENTS - MS. WHITE

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1 GIVEN THUS FAR. I TRUST YOU WILL BE AS THOUGHTFUL AS
2 ATTENTIVE TO THE ATTORNEYS, THE PARTIES INVOLVED AND THE
3 WITNESSES THAT TESTIFY THROUGHOUT THIS TRIAL.

4 WITH THAT, WE'LL NOW BEGIN WITH OUR OPENING STATEMENTS
5 AFTER WHICH WE'LL BEGIN WITH THE RECEIPT OF SOME EVIDENCE.
6 SOLICITOR, YOU MAY PROCEED, MA'AM.

7 MS. WHITE: Minor WAS BORN [REDACTED]
8 [REDACTED], [REDACTED]. HER NATURAL PARENTS WERE ANGIE CARTER -- THAT
9 WAS HER MOTHER -- AND DEREK CARTER, HER FATHER. YOU'RE
10 GOING TO HEAR THAT Minor PRETTY MUCH HAD A NORMAL FIRST
11 TWO YEARS. JUST A NORMAL LITTLE TODDLER. RAN AROUND. DID
12 TODDLER LITTLE THINGS. UNFORTUNATELY, HER MOTHER ANGIE DIED
13 WHEN Minor WAS APPROXIMATELY TWO YEARS OLD. SHE DIES IN
14 MARCH OF '99. DEREK CARTER, HER FATHER, REMARRIED IN JUNE
15 OF '99, APPROXIMATELY THREE MONTHS LATER. HE REMARRIED THIS
16 DEFENDANT, MICHELE CARTER. LADIES AND GENTLEMEN, AT THAT
17 POINT Minor LIFE TOOK A TURN FOR THE WORSE.

18 THE DEFENDANT HAD TWO SONS, D.W. WHO WAS TWELVE AND
19 J.W. WHO WAS SIX. SHE ALSO HAD ANOTHER CHILD WITH DEREK
20 IN FEBRUARY OF 2000. SO THERE WERE FOUR CHILDREN IN THE
21 HOUSE, HER TWO, THE ONE THAT SHE HAD WITH DEREK AND
22 Minor WHOSE MOTHER WAS DEAD.

23 Minor QUICKLY BECAME THE TARGET CHILD. NOTHING SHE
24 COULD DO WOULD SUIT HER STEPMOTHER. IN OCTOBER OF 2000,
25 Minor WAS BROUGHT TO THE HOSPITAL IN GREENVILLE.

1 Minor HAD HEAD TRAUMA. Minor HAD INJURIES TO HER
2 NOSE. Minor HAD BOXER'S SYNDROME. Minor HAD
3 SEVERAL SCARS CONSISTENT WITH THE SIZE OF A CIGARETTE BURN.
4 Minor HAD A GENITAL AREA THAT WAS TORN AND BRUISED,
5 SWOLLEN AND DISCOLORED. SHE HAD SCRAPES. SHE HAD BRUISES.
6 THE TOP OF HER FEET WERE INJURED IN A PATTERN INJURY. IN
7 OTHER WORDS, SOME KIND OF OBJECT. THE TOP OF HER TOES WERE
8 ALL INJURED. TOENAILS MISSING.

9 Minor NEVER REGAINED CONSCIOUSNESS, AND SHE DIED A
10 COUPLE OF DAYS LATER. THE POLICE, OF COURSE, BEGAN AN
11 INVESTIGATION. AND WHAT THEY FOUND IS GOING TO CHANGE YOUR
12 LIVES FOREVER. AND I'M SORRY. I HOPE YOU ALL SLEPT VERY
13 WELL LAST NIGHT BECAUSE I ASSURE YOU, YOU WON'T IN THE NEXT
14 FEW MONTHS.

15 Minor IN HER SHORT LITTLE LIFE -- SHE DIED WHEN
16 SHE WAS FOUR -- WAS CHAINED TO THE FLOOR. SHE WAS CHAINED
17 IN A SMALL CLOSET-LIKE BATHROOM. SHE SPENT MOST OF HER LAST
18 YEAR IN THERE. THE FOUR OTHER MEMBERS OF THE FAMILY WOULD
19 SIT AT THE KITCHEN TABLE AND EAT. Minor WOULD BE TOLD
20 TO STAND NEARBY AND EAT SOMETHING DESCRIBED AS SMELLING LIKE
21 CAT FOOD. SHE WAS ALLOWED FIVE SECONDS TO CHEW HER FOOD.
22 AND IF SHE DIDN'T CHEW AND SWALLOW AT THE COUNT OF FIVE, SHE
23 WOULD BE SEVERELY PUNISHED. THIS IS THE TIP OF THE ICEBERG.
24 AND AGAIN, I'M SO SORRY THAT YOU'RE GOING TO HAVE TO HEAR
25 ALL OF THIS.

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OPENING STATEMENTS - MS. WHITE

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1 YOU'RE GOING TO HEAR THAT PEOPLE WITNESSED SO MUCH OF
2 WHAT HAPPENED TO Minor BUT THEY WERE ALWAYS TOLD BY
3 THE DEFENDANT THAT SHE HAD LUPUS OR SHE WAS DIABETIC. SHE
4 WAS ALSO ALMOST STARVED TO DEATH, INCIDENTALLY, WHEN SHE WAS
5 BROUGHT INTO THE HOSPITAL. BUT THIS DEFENDANT WAS VERY GOOD
6 AT DECEIVING PEOPLE, ASSURING PEOPLE THAT THE REASON WHY
7 Minor LOOKED LIKE THIS, THE REASON WHY Minor ACTED
8 LIKE THIS, WAS BECAUSE SHE HAD A BAD DISEASE. SHE HAD
9 TESTED POSITIVE ONE TIME ON A PRESUMPTIVE TEST FOR LUPUS.
10 THIS DISEASE HAS A LOT OF FALSE POSITIVES. ABOUT EIGHT TO
11 NINE PEOPLE OUT OF EVERY TEN THAT TAKE THIS TEST HAVE A
12 FALSE POSITIVE.

13 AT HER AUTOPSY AND IN THE HOSPITAL, FURTHER TESTS WERE
14 DONE. SHE DIDN'T HAVE THE DISEASE. SHE SUFFERED FROM A
15 DISEASE, LADIES AND GENTLEMEN. UNFORTUNATELY, THE DISEASE
16 IS WHAT WE CALL BATTERED CHILD SYNDROME. AND YOU'RE GOING
17 TO HEAR FROM DR. WOODARD, A FORENSIC PATHOLOGIST. HE'LL BE
18 THE FIRST ONE TO TALK TO YOU. HE WILL EXPLAIN THIS SYNDROME
19 TO YOU AND GO OVER ALL OF THE INJURIES THAT HE FOUND ON THIS
20 FOUR-YEAR-OLD AT THE TIME OF HER DEATH.

21 THEY LIVED AT [REDACTED] [SIC] DRIVE. WHEN I GET A CASE,
22 SOMETIMES WE NAME THE CASE. AND THIS WOULD HAVE TO BE
23 NIGHTMARE ON [REDACTED] [SIC] DRIVE BECAUSE YOU WOULD NOT
24 TREAT A DOG THE WAY THAT THIS CHILD WAS TREATED.

25 THE COURT: MR. GAMBLE?

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OPENING STATEMENTS - MR. GAMBLE

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1 MR. GAMBLE: MAY IT PLEASE THE COURT, YOUR HONOR?

2 THE COURT: YES, SIR.

3 MR. GAMBLE: MICHELE CARTER, IN MAY 1999, MET DEREK
4 CARTER. THEY MARRIED JUNE OF '99. AT THAT TIME, SHE WAS
5 PREGNANT. SHE GAVE BIRTH TO J.C. [REDACTED] OF
6 2000. SHE HAD ENTERED INTO A QUICK, HURRIED MARRIAGE AND A
7 RELATIONSHIP THAT SHE COULDN'T QUITE GET A HOLD OF. SHE HAD
8 FORCED -- WAS FORCED TO QUIT HER JOB TO STAY HOME.

9 THERE WAS DRINKING. THERE WAS BRUTALITY. BUT IT WAS
10 NOT MICHELE CARTER WHO DID THIS. IT WAS DEREK CARTER.
11 MICHELE WAS SIMPLY TRYING TO GET ENOUGH MONEY TO GET
12 SOMEWHERE TO GO TO GET OUT. AND SHE COULDN'T.

13 IT'S NOT A PRETTY CASE. I'LL AGREE WITH MS. WHITE.
14 BUT NO CASE INVOLVING A DEATH IS A PRETTY CASE. AND IT'S
15 YOUR POSITION TO SORT IT ALL OUT AND SEE JUST WHAT MICHELE
16 CARTER DID, IF ANYTHING. THANK YOU.

17 THE COURT: THANK YOU, SIR.

18 SOLICITOR, IF YOU WOULD CALL YOUR FIRST WITNESS,
19 PLEASE.

20 MS. WHITE: THE STATE CALLS DR. WOODARD.

21 BRETT H. WOODARD, M.D.,

22 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION BY MS. WHITE:

24 Q. DR. WOODARD, WHAT'S YOUR OCCUPATION?

25 A. I'M A MEDICAL DOCTOR, A PATHOLOGIST BY SPECIALTY

1 TRAINING.

2 Q. AND WHAT'S YOUR EDUCATIONAL BACKGROUND?

3 A. I RECEIVED A BACCALAUREATE DEGREE FROM THE UNIVERSITY
4 OF PITTSBURGH. I THEN WENT TO TULANE UNIVERSITY SCHOOL OF
5 MEDICINE WHERE I RECEIVED MY MEDICAL DEGREE. I DID AN
6 INTERNSHIP IN PEDIATRICS AT THE CHARITY HOSPITAL OF NEW
7 ORLEANS. I THEN DID A PATHOLOGY RESIDENCY AT DUKE
8 UNIVERSITY MEDICAL CENTER IN DURHAM, NORTH CAROLINA. I
9 SERVED ON THE FACULTY AT DUKE UNIVERSITY MEDICAL CENTER FOR
10 TWO YEARS AS A SURGICAL PATHOLOGIST AND PEDIATRIC
11 PATHOLOGIST. I THEN CAME TO ANDERSON IN 1982. CAME INTO
12 PRACTICE WITH PIEDMONT PATHOLOGY ASSOCIATES OF ANDERSON,
13 SOUTH CAROLINA. IN 1994, I RETURNED TO NORTH CAROLINA AND
14 DID A FELLOWSHIP TRAINING IN FORENSIC PATHOLOGY AT THE NORTH
15 CAROLINA MEDICAL EXAMINER'S OFFICE.

16 Q. ARE YOU LICENSED?

17 A. I'M LICENSED IN SOUTH CAROLINA AND NORTH CAROLINA,
18 GEORGIA, LOUISIANA AND PENNSYLVANIA.

19 Q. DOCTOR, WHAT DO YOU MEAN BY PEDIATRIC? I NOTICE YOU
20 HAD A LOT OF EXPERIENCE IN PEDIATRICS. WHAT DOES THAT MEAN?

21 A. PEDIATRICS IS DISEASES OF CHILDREN OR ILLNESSES OF
22 CHILDREN AS OPPOSED TO PEOPLE OF ALL AGE GROUPS.

23 Q. AND WHAT ABOUT PATHOLOGY? WHAT DOES THAT MEAN?

24 A. PATHOLOGY IS THE STUDY OF INJURIES AND DISEASES TO THE
25 HUMAN BODY, THEIR CAUSES AND THEIR DIAGNOSIS.

1 Q. AND YOU'RE LICENSED AS A FORENSIC PATHOLOGIST; IS THAT
2 CORRECT?

3 A. I'M BOARD CERTIFIED BY THE AMERICAN BOARD OF PATHOLOGY
4 AND FORENSIC PATHOLOGY.

5 Q. ALL RIGHT. WHAT IS THE DIFFERENCE BETWEEN A
6 PATHOLOGIST AND A FORENSIC PATHOLOGIST?

7 A. FORENSIC PATHOLOGY IS ADDED TRAINING THAT DEALS WITH
8 HUMAN INJURY, ITS CAUSES AND HOW THAT INJURY MAY MANIFEST
9 ITSELF IN THE VICTIM OF THE INJURY VERSUS JUST DISEASE
10 PROCESSES.

11 Q. AND HAVE YOU TESTIFIED BEFORE IN VARIOUS COURTS ACROSS
12 THIS STATE AS AN EXPERT IN FORENSIC PATHOLOGY?

13 A. YES, I HAVE.

14 MS. WHITE: YOUR HONOR, I'D ASK THAT THE WITNESS BE
15 RECOGNIZED AS AN EXPERT IN FORENSIC PATHOLOGY.

16 MR. GAMBLE: NO OBJECTION.

17 THE COURT: WITHOUT OBJECTION. LADIES AND
18 GENTLEMEN, LET ME JUST TELL YOU BRIEFLY THE SIGNIFICANCE OF
19 THAT. WHEN THE WITNESS IS PRESENTED AS AN EXPERT IN A
20 PARTICULAR AREA, THAT PERMITS THE WITNESS TO TESTIFY IN THE
21 FORM OF OPINIONS. GENERALLY, A WITNESS CAN'T TESTIFY IN THE
22 FORM OF OPINIONS. BUT THE LAW MAKES AN EXCEPTION WHERE AN
23 INDIVIDUAL BY WAY OF BACKGROUND, TRAINING, EXPERIENCE,
24 EDUCATION OR OTHERWISE, ACQUIRES A CERTAIN DEGREE OF
25 EXPERTISE IN AN AREA. WHEN THEY'RE RECEIVED AS AN EXPERT,

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1 THEY MAY TESTIFY IN THE FORM OF OPINIONS. AND YOU MAY
2 RECEIVE THOSE OPINIONS AS EVIDENCE. BUT YOU ARE TO TREAT
3 THE OPINION EVIDENCE JUST AS YOU DO ALL OF THE OTHER
4 EVIDENCE IN THE CASE. BY THAT I MEAN THAT YOU MAY ACCEPT IT
5 OR YOU MAY REJECT IT BASED ON YOUR VIEW OF THE EVIDENCE.

6 YOU MAY PROCEED, MA'AM.

7 Q. DOCTOR, DID YOU PERFORM AN AUTOPSY ON Minor ?

8 A. YES, I DID.

9 Q. AND WHEN DID YOU PERFORM THIS AUTOPSY?

10 A. ON THE 18TH OF OCTOBER AT APPROXIMATELY NINE THIRTY
11 A.M. IN THE MORNING.

12 Q. PLEASE TELL THE JURY Minor SIZE AT THE TIME OF
13 HER DEATH.

14 A. Minor WAS FORTY AND A HALF INCHES LONG AND ABOUT
15 TWENTY KILOGRAMS IN WEIGHT. THAT WOULD BE ABOUT FORTY
16 POUNDS.

17 Q. NOW, IN PREPARING FOR THIS, FOR THE FINAL RESULTS OF
18 THE AUTOPSY OR THE TRIAL AND SO FORTH, WHICH MEDICAL RECORDS
19 DID YOU REVIEW OF Minor

20 A. I WAS GIVEN HER MEDICAL RECORDS FROM BOTH HER
21 ADMISSIONS AT THE ANDERSON AREA MEDICAL CENTER IN APRIL AND
22 HER ADMISSION TO GREENVILLE MEMORIAL HOSPITAL IN OCTOBER AS
23 WELL AS PHYSICIAN OFFICE RECORDS CONCERNING HER VARIOUS
24 VISITS TO PHYSICIANS IN THE ANDERSON AREA AND THE
25 SPARTANBURG AREA. AND I BELIEVE, ALSO, I SAW HER BIRTH

1 RECORDS.

2 Q. AND DOCTOR, DID YOU REVIEW THE PHOTOGRAPH THAT WAS
3 TAKEN OF Minor THAT WAS TAKEN IN THE HOSPITAL. AND I'M
4 TALKING ABOUT IN THE HOSPITAL, THE GREENVILLE HOSPITAL.

5 A. YES. I WAS GIVEN A FULL SET OF ALL THE PHOTOGRAPHS
6 THAT WERE PREPARED BY POLICE AUTHORITIES WHEN SHE WAS
7 ADMITTED TO THE HOSPITAL IN GREENVILLE FOR THE ULTIMATE
8 TERMINAL ILLNESS.

9 Q. AND DID YOU REVIEW ANY STATEMENTS GIVEN BY THE CARTERS?

10 A. YES, I REVIEWED BOTH THE STATEMENTS GIVEN BY MR. AND
11 MS. CARTER TO ANDERSON COUNTY SHERIFF'S INVESTIGATORS.

12 Q. DOCTOR, LET'S TALK ABOUT THE AUTOPSY A MINUTE. WERE
13 YOU ABLE TO DETERMINE WHETHER OR NOT Minor WAS AN EASY
14 BRUISER?

15 A. THERE WAS NOTHING ABOUT HER BODY THAT WOULD SUGGEST
16 THAT SHE WAS AN EASY BRUISER.

17 Q. WHY NOT?

18 A. THE BRUISING INJURY PATTERNS THAT SHE HAD WERE
19 CORRELATED WITH SCRAPES OF THE SKIN IN SUCH A PATTERN THAT
20 THEY WERE CAUSED BY OBJECTS OR BEING EITHER PUSHED INTO
21 OBJECTS OR OBJECTS PUSHED INTO HER. THEY WERE NOT UNUSUAL
22 BRUISES OVER WIDE AREAS ACROSS THE BODY SUCH AS THE BACK.
23 THEY WERE VERY FOCAL BRUISING. IN REVIEWING HER MEDICAL
24 RECORDS AT THE TIME THAT SHE WAS ADMITTED TO ANDERSON, THERE
25 WAS NO DOCUMENTATION OF ABNORMALITIES OF THE ELEMENTS OF THE

1 BODY THAT ARE INVOLVED IN US STOPPING BLEEDING, CLOTTING
2 PLATELETS. ALL THOSE FACTORS WERE NORMAL.

3 Q. LET'S START WITH -- DO YOU HAVE YOUR AUTOPSY IN FRONT
4 OF YOU?

5 A. YES, I DO.

6 Q. ALL RIGHT. LET'S JUST WORK THROUGH THE AUTOPSY REPORT.
7 IN LOOKING AT THE EXTERNAL AREAS OF HER BODY, WHY DON'T WE
8 START WITH HER VAGINAL AREA?

9 A. SHE HAD MULTIPLE BRUISES OF THE VAGINAL AREA. THE AREA
10 OF THE VAGINA WHERE THE URETHRA COMES OUT, THERE WERE LARGE
11 BRUISES. WHEN A DOCTOR LOOKS AT THE BODY, IT'S THE FRONT OF
12 THE BODY. SO THE FRONT PORTION OF THE VAGINA WHERE THE
13 URETHRA WERE SHOWED THAT THE AREA AROUND THE URETHRA WOULD
14 BE SWOLLEN. THERE WAS LARGE BRUISES TOWARD THE SIDE OF HER
15 VAGINA, ON THE LEFT SIDE OF HER VAGINA. AND AT THE BACK OF
16 HER VAGINA, THERE WAS A LARGE TEAR OVER THE TISSUE THAT
17 WOULD BE BETWEEN THE VAGINAL OPENING AND THE RECTAL OPENING,
18 WAS TORN DOWN INTO THE TISSUES THERE. THE OUTSIDE OF THE
19 VAGINA ITSELF HAD INFLAMMATION AND SWELLING ASSOCIATED WITH
20 IT WHICH ARE BEST SEEN IN THE PHOTOGRAPHS WHEN SHE FIRST
21 CAME TO THE HOSPITAL. BY THE TIME I SAW HER, HER VAGINA HAD
22 SHRUNKEN, BECAME SOMEWHAT SCARRED IN ITS APPEARANCE. THIS
23 EXTENDED FROM THE TOP OF THE PUBIC BONE ALL THE WAY AROUND
24 BACK TOWARD THE BACK OR POSTERIOR ASPECT OF THE VAGINA WHERE
25 IT WOULD FUSE BACK TOWARD THE RECTUM.

1 Q. WHAT, IF ANY, DISCOLORATION DID YOU NOTICE IN THIS
2 AREA?

3 A. WHEN I SAW HER, THE AREA WAS WHITENED AND PALE. AT THE
4 TIME SHE WAS ADMITTED TO THE HOSPITAL, IT WAS RED AND
5 SWOLLEN. THIS WAS A PERIOD OF ABOUT EIGHT DAYS -- SEVEN
6 DAYS IN BETWEEN THE TWO TIME PERIODS.

7 MS. WHITE: YOUR HONOR, COULD I HAVE THE PICTURES?

8 THE COURT: HERE THEY ARE. WHICH ...

9 Q. DOCTOR, PLEASE DON'T -- THESE ARE NOT ADMITTED YET, SO
10 DON'T SHOW THEM TO THE JURY. I'M HANDING YOU STATE'S
11 EXHIBIT 50, 48 AND 49. WILL YOU LOOK AT THOSE, PLEASE? AND
12 WHAT IS THAT?

13 A. OKAY, 48 REPRESENTS THE APPEARANCE OF HER EXTERNAL
14 GENITALIA AT THE TIME THAT SHE WAS ADMITTED TO THE
15 GREENVILLE MEMORIAL HOSPITAL WHEN THEY WERE DOING VARIOUS
16 EMERGENT WORK ON HER. IT ALSO SHOWS WHERE THEY PUT A
17 VASCULAR LINE IN HER GROIN AREA.

18 Q. LET'S STOP THERE A MINUTE. WOULD A CATHETER OR
19 ANYTHING LIKE THAT HAVE CAUSED THE INJURIES THAT YOU SAW IN
20 THE VAGINAL AREA?

21 A. NO.

22 Q. WHY NOT?

23 A. A SIGNIFICANT PORTION OF THE INJURIES WERE NOWHERE NEAR
24 WHERE THE CATHETER WOULD BE PLACED. THE DEGREE OF INJURY
25 THAT WAS PRODUCED OUTSIDE THE AREA WHERE THE CATHETER WOULD

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1 GO THROUGH TO GO INTO THE URETHRA, THAT DEGREE OF INJURY
2 COULDN'T BE PRODUCED BY A CATHETER TIP. THEY'RE MADE OUT OF
3 A FIRMER RUBBER MATERIAL. AND IF A VERY INEPT OR INCAPABLE
4 PERSON TRIES TO PLACE THE CATHETER AND DOESN'T PLACE IT
5 PROPERLY, IT CAN PRODUCE IRRITATION TO THE OPENING WHERE THE
6 URINE WOULD COME OUT. AND IT MAY EVEN PRODUCE A LITTLE TINY
7 BRUISE RIGHT THERE. THESE WERE VERY LARGE BRUISES TO THE
8 OUTSIDE. AND THAT STRUCTURE, BECAUSE OF ITS FLEXIBILITY,
9 COULDN'T PRODUCE THAT INJURY.

10 Q. WHAT ABOUT THE TEAR FROM, I THINK YOU SAID, THE VAGINAL
11 AREA DOWN INTO THE ANAL AREA?

12 A. THAT, AGAIN, WOULD BE IN AN AREA THAT'S NOWHERE NEAR
13 WHERE A CATHETER WOULD BE PLACED, AND AGAIN, WOULDN'T BE
14 PRODUCED EVEN BY A VERY INEPT VAGINAL EXAMINATION.

15 Q. WHAT DO YOU OFTEN SEE IN SKIN COLOR OF SOMEONE WHO HAS
16 SAT IN FECES?

17 A. THE SKIN WILL BECOME RED, SWOLLEN. EVENTUALLY, IT WILL
18 BECOME DEPIGMENTED. EVEN WHITE PEOPLE HAVE A DEGREE OF
19 PIGMENT TO THEIR SKIN. THEY'LL LOSE THAT PIGMENT BECAUSE
20 THERE'S BEEN CHRONIC INFLAMMATION OR IRRITATION OF THAT
21 SKIN. SO IT WILL BECOME VERY WHITE WHEN THE ACUTE
22 INFLAMMATION GOES AWAY OR THE HYGIENE LEVEL COMES UP. IT
23 WILL BECOME VERY WHITE. IT WILL BECOME ATROPHIC AND
24 SOMEWHAT SCARRED.

25 Q. WAIT. . WHAT'S ATROPHIC?

1 A. MEANING IT WILL SHRINK BACK AND LOOK PUCKERED LIKE A
2 RAISIN LOOKS COMPARED TO A GRAPE.

3 Q. AND HOW -- I MEAN, HOW SOON DOES THIS OCCUR? IS THIS
4 CHRONIC? DOES IT REQUIRE CHRONIC SITTING IN FECES ---

5 A. OH, IT REQUIRES -- YEAH.

6 Q. --- OR NOT?

7 A. OBVIOUSLY, ANYONE WHO'S HAD A CHILD KNOWS THAT THEY
8 PERIODICALLY SIT IN FECES AND URINE. BUT WITH USUAL
9 CHANGING OF THE CHILD IN A REASONABLE TIMELY FASHION, THIS
10 WON'T PRODUCE THESE CHRONIC CHANGES. THIS TAKES CHRONIC,
11 SUSTAINED, LONG-TERM POOR HYGIENE IN THAT AREA WITH FECES
12 AND URINE IN THE AREA.

13 Q. DID YOU SEE ANY OF THIS DISCOLORATION ON Minor

14 A. YES.

15 Q. AND DO THE PHOTOGRAPHS DEPICT THAT?

16 A. NO, THESE PHOTOGRAPHS DON'T DEPICT IT BECAUSE OF THE
17 PREPARATION THAT THEY'VE DONE FOR THE PLACEMENT OF THE INTRA
18 VASCULAR LINE. BUT THEY DO DEPICT THE REDNESS OF THE ACTIVE
19 INFLAMMATION.

20 Q. DO YOU HAVE PHOTOGRAPHS THAT DEPICT THAT?

21 A. YES.

22 Q. LET'S MOVE ON, AND I'LL JUST ASK YOU TO PULL SOME OUT
23 WHILE WE GO ON. DOCTOR, WOULD THE INJURIES THAT YOU SAW BE
24 CONSISTENT OR INCONSISTENT WITH A CHILD STEPPING OVER A TUB
25 AND FALLING?

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1 A. THEY WOULD BE INCONSISTENT.

2 Q. WHY?

3 A. THE PLACEMENT OF THE BRUISES TO THE SIDE AND DIRECTLY
4 IN THE CENTER ARE TWO DIFFERENT FORCE POSITIONS. ONE
5 POSITIONING WOULD BE, IF YOU WILL, FROM FRONT TO BACK. AND
6 THE OTHER POSITIONING WOULD BE AT AN OBLIQUE ANGLE OR AT A
7 TURNED ANGLE, WHILE STILL FROM FRONT TO BACK, MORE SIDE TO
8 SIDE. ALSO, THE TEAR IS IN A -- WOULD BE IN A PROTECTED
9 LOCATION DURING THAT POSITIONING. IF SOMEONE FELL ACROSS A
10 BAR LIKE THE EDGE OF A TUB AND THE TUB EDGE WAS NARROW
11 ENOUGH, THAT BACK PORTION IS AIMED UP TOWARD THE RECTUM
12 WOULD BE A PROTECTED POSITION AND THEREFORE WOULDN'T SUFFER
13 THE INJURY. THE INJURY WOULD BE MORE FOCUSED TO THE FRONT.
14 THE WIDTH OF A STANDARD TUB WOULD BE FAR TOO GREAT TO
15 PRODUCE THIS FOCUSED ENERGY.

16 Q. AND DOCTOR, WOULD THIS BE CONSISTENT OR INCONSISTENT,
17 IN YOUR EXPERT OPINION, OF A CHILD TAKING A SPOON AND
18 RUBBING HERSELF THERE WITH THE SPOON?

19 A. THAT WOULD BE INCONSISTENT. WHEN ONE TAKES A ROUGHENED
20 OBJECT LIKE A WOOD SPOON AND RUBS IT REPETITIVELY, INSTEAD
21 OF PRODUCING A BRUISE OR A TEAR, ONE SCRAPES THE SURFACE OF
22 THE SKIN AWAY IF YOU DO IT REPETITIVELY MUCH LIKE ONE CLAWS
23 THEMSELVES WITH THEIR FINGERNAILS. YOU END UP WITH LITTLE
24 TINY SCABS IN A ROUGHENED AREA. THIS WOULD BE INCONSISTENT
25 WITH THAT.

1 Q. DOCTOR, I BELIEVE IN YOUR REPORT, YOU GO THROUGH SOME
2 AREAS OF HER SKIN THAT SHOWED SCARRING?

3 A. THAT'S CORRECT.

4 Q. WHY DON'T YOU JUST SORT OF START -- I BELIEVE YOU
5 STARTED AT NEAR THE RIGHT NIPPLE. AND IF YOU WILL JUST GO
6 THROUGH THE NUMBER THAT YOU SAW, THE SIZE, SHAPE AND AGE?

7 A. OKAY. THERE WERE MULTIPLE INJURIES THAT STARTED NEAR
8 THE NIPPLE AND WENT SORT OF IN AN OBLIQUE WAY OR AN ANGLED
9 WAY DOWN ONTO THE RIGHT SIDE FROM THE LEFT SIDE. THESE
10 REPRESENTED AREAS WHERE THE SKIN -- SURFACE OF THE SKIN HAD
11 BEEN PULLED OR TORN AWAY BY SOME FORM OF FORCE. AND WE WERE
12 LEFT WITH A SUPERFICIAL SCAR. WE REFER TO THAT AS AN
13 ABRASION, MEANING THAT THE SURFACE WAS INJURED. THESE WERE
14 VARIOUS SIZES EXTENDING DOWN OVER THE ABDOMEN AND WERE
15 INTERMITTENT. THEY WEREN'T IN A CONTINUOUS LINE, AND THEY
16 DID NOT HAVE A PATTERN ASSOCIATED WITH THEM. BY THAT, I
17 MEAN THERE WASN'T A SPECIFIC OBJECT THAT TOOK ITS SHAPE AND
18 PLACED IT ON THE SKIN.

19 Q. AND APPROXIMATELY HOW MANY WERE THERE -- LET'S JUST
20 TALK ABOUT THAT -- IN THIS AREA OF THE BODY, IN OTHER WORDS,
21 THE CHEST AND THE ABDOMEN?

22 A. APPROXIMATELY FIVE.

23 Q. ALL RIGHT. LET'S GO DOWN NOW TO THE THIGH. WHAT, IF
24 ANYTHING, DID YOU SEE ON THE THIGH?

25 A. THERE WAS A LARGE SCARRED AREA ON THE INSIDE OF THE

1 LEFT THIGH THAT, AGAIN, WAS VERY SIMILAR TO THE INJURY ON
2 THE CHEST WHERE THE SURFACE SKIN HAD BEEN SEVERELY INJURED,
3 AND A BROAD IRREGULAR SCAR WAS PRESENT. THAT SCAR DID NOT
4 ACCEPT A PATTERN THAT WOULD INDICATE WHAT HAD CAUSED THE
5 INJURY TO THE SKIN.

6 Q. LET'S KEEP ON GOING DOWN THE BODY TO THE LEG AREA.
7 WHAT DID YOU FIND ON THE LEG?

8 A. THE TOPS OF THE FEET AND THE TOES ALL HAD INJURIES THAT
9 WERE VERY RECENT, IN THE LAST WEEK TIME PERIOD UP TO
10 MULTIPLE WEEKS EARLIER. THESE INJURIES ---

11 Q. WAIT A MINUTE. STOP THERE. YOU SAID THE LAST TO WEEK
12 TO MULTIPLE WEEKS BEFORE?

13 A. THAT'S CORRECT.

14 Q. SO IN OTHER WORDS, ARE YOU SAYING ---

15 A. OF VARIOUS AGES.

16 Q. --- THEY ALL OCCURRED AT ONE TIME SOMETIME IN THAT TIME
17 PERIOD OR VARIOUS AGES?

18 A. VARIOUS AGES.

19 Q. ALL RIGHT.

20 A. OKAY. A RECENT PATTERN OF AN OBJECT, AN EDGED OBJECT
21 WAS STRUCK DOWN ACROSS THE TOP OF THE LEFT FOOT WHERE
22 REPETITIVE BLOWS BY A NARROW OBJECT HAD STRUCK THE TOP OF
23 THE FOOT SIX TO EIGHT TIMES.

24 Q. WOULD THESE PATTERN INJURIES BE CONSISTENT OR
25 INCONSISTENT, IN YOUR EXPERT OPINION, WITH, SAY, A RULER OR

1 A BROOMSTICK OR SOMETHING OF THAT NATURE?

2 A. SOMETHING THIN. A RULER WOULD BE A BETTER CHOICE THAN
3 A BROOMSTICK. A YARDSTICK. A RULER. SOMETHING -- A SMALL
4 BOARD. SOMETHING WITH A THINNER DIAMETER THAN A BROOMSTICK.
5 BUT A BROOMSTICK COULD HAVE PRODUCED THE INJURIES.

6 Q. AND DOCTOR, IN YOUR EXPERT OPINION, WOULD THESE
7 INJURIES ON TOP OF THE FEET BE CONSISTENT OR INCONSISTENT
8 WITH, SAY, A BOARD FALLING DOWN ON HER FEET OR SOMETHING
9 LIKE THAT?

10 A. IT WOULD BE INCONSISTENT WITH A BOARD FALLING ON HER
11 FOOT UNLESS WE PICKED THE BOARD UP AND DROPPED IT
12 REPETITIVELY, BECAUSE THERE WERE SIX TO EIGHT DIFFERENT
13 BLOWS WITH THE SAME AGE PERIOD OF TIME. IF A BOARD FALLS ON
14 YOUR FOOT, THE EDGE OF THE BOARD COULD PRODUCE ONE SUCH
15 INJURY, BUT IT WOULDN'T PRODUCE A SERIES OF SIX TO EIGHT.
16 THAT WOULD BE CONSISTENT WITH MULTIPLE REPETITIVE BLOWS IN A
17 CLOSE AREA, BUT NOT IN THE SAME EXACT AREA.

18 Q. AND I BELIEVE YOU SAID THERE WERE MULTIPLE AGES, TOO;
19 ISN'T THAT CORRECT?

20 A. AS WE MOVE DOWN ONTO THE TOES, THERE WERE MULTIPLE AGES
21 OF BRUISES AND INJURIES TO THE NAILS OF THE TOES AS WELL AS
22 THE LAST PORTION OF THE TOE, THE SKIN OF THE TOE, SO THAT
23 THE TOENAILS HAD BLOOD UNDERNEATH THEM AND HAD LIFTED THE
24 NAILS UP, WHICH WOULD BE AN OLDER INJURY, RECENT INJURIES
25 THAT PRODUCED JUST SCRAPES RIGHT PAST THE CUTICLE OF THE

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1 TOENAIL, AND THEN OLDER BRUISE-APPEARING INJURIES THAT WOULD
2 BE OF SOME TIME OTHER THAN THE ACUTE INJURIES TO THE TOES.

3 Q. ALL RIGHT. NOW ---

4 A. THE TOE INJURIES WERE PRESENT ON BOTH FEET.

5 Q. LET'S MOVE UP THE LEG A LITTLE TO THE LOWER LEG. DID
6 YOU FIND ANYTHING THERE? I THINK THAT WAS RIGHT BEFORE IN
7 YOUR REPORT WHERE YOU WENT TO THE FEET.

8 A. THERE WERE VARIOUS BRUISES ALONG THE -- IN THE GENERAL
9 AREA OF THE KNEES. THERE WERE VARIOUS TIME PERIODS. AND
10 THEY WERE PRESENT ON BOTH KNEE AREAS.

11 Q. ALL RIGHT. AND WHAT, IF ANY, INJURIES DID YOU NOTICE
12 -- I'M GOING DOWN BELOW THE FEET NOW. WHAT, IF ANY,
13 INJURIES DID YOU NOTICE TO HER LEFT HAND?

14 A. OKAY. THE -- GIVE ME ONE SECOND HERE.

15 Q. WHILE YOU'RE LOOKING FOR THAT, LET ME GO BACK A MINUTE
16 FOR THE INJURIES THAT YOU FOUND ON THE ABDOMINAL AREA. WERE
17 THOSE CONSISTENT OR INCONSISTENT, IN YOUR OPINION, WITH
18 RUNNING INTO A SPACE-TYPE HEATER?

19 A. NO. IF ONE BURNED THEMSELVES ON A SPACE HEATER, THE
20 GRILLING OF THE HEATER IS WHAT TRANSFERS THE HEAT. AND THAT
21 WOULD PRODUCE A FOCAL OR ALMOST A BRANDING-TYPE OF AN INJURY
22 AS IT TRANSLATED TO THE BODY. SO WE CAN GET A BIG AREA OF
23 SKIN SLOUGHING. WE'D GET SOMETHING THAT TRANSLATED INTO THE
24 GENERAL SHAPE OF THE GRILLING OF THE SPACE HEATER.

25 Q. AND DID YOU ---

1 A. AND WE WOULDN'T, AGAIN, FALL INTO IT IN MULTIPLE SPACED
2 PLACES. IF YOU LEANED UP AGAINST SOMETHING REALLY HOT,
3 YOU'D END UP WITH A BURN IN ONE PLACE. YOU WOULDN'T BURN
4 YOURSELF IN FAR SEPARATED -- OR SPACES THAT WERE SEPARATED
5 BY SEVERAL INCHES.

6 Q. LET'S GO BACK TO BELOW WHERE YOU TALK ABOUT THE TOES.
7 LET'S PICK UP THERE.

8 A. OKAY. THE FINGERS OF THE LEFT HAND HAD IRREGULAR
9 SCRAPES ON THEM THAT WERE CRESCENT SHAPED OR CURVED SHAPE
10 WHICH SUGGESTED A FINGERNAIL IMPRINT WHERE A FINGERNAIL HAD
11 REACHED TO GRASP THE HAND, AND THEN THE FINGERNAIL HAD DUG
12 INTO THE TISSUE OF THE FINGER.

13 Q. MOVE ON UP THE ARM.

14 A. THERE WERE BRUISES ON THE ELBOWS, BOTH THE RIGHT AND
15 LEFT ELBOWS. THE -- BOTH OF THE ELBOWS ALSO DEMONSTRATED
16 THESE CURVED LITTLE INJURIES SUGGESTING SOME -- THERE HAD
17 BEEN A GRASP WHERE THE FINGERNAIL HAD DUG INTO THE SKIN.

18 Q. LET'S TALK ABOUT THE NOSE A MINUTE. WHAT, IF ANY,
19 INJURIES DID YOU FIND TO Minor NOSE?

20 A. SHE HAD A SEVERE SCRAPE INJURY TO THE LITTLE PIECE OF
21 SKIN THAT CONNECTS THE TWO NOSTRILS, THE TWO OPENINGS. AND
22 THEN THAT SCRAPE INJURY WENT UP INTO THE RIGHT NOSTRIL. IN
23 THE ADMISSION FILM OR PHOTOGRAPH TO THE HOSPITAL, THIS
24 INJURY WAS NOTED BEFORE ANY EMERGENCY CARE WAS ADMINISTERED
25 TO THE CHILD. AND THE TUBE THAT THEY DRAINED HER STOMACH

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1 WITH WENT UP INTO THE LEFT NOSTRIL. SO IT WAS NOT
2 RESPONSIBLE FOR PRODUCING THE INJURY.

3 Q. NOW, DOCTOR, IN YOUR EXPERT OPINION, WOULD THIS BE
4 CONSISTENT OR INCONSISTENT WITH A CHILD HAVING A BAD COLD OR
5 SOMETHING LIKE THAT AND BLOWING THEIR NOSE A LOT?

6 A. NO. IF THE CHILD HAD A BAD COLD AND BLEW THEIR NOSE A
7 LOT, THE INJURY WOULDN'T BE JUST ISOLATED TO THIS PARTICULAR
8 TISSUE THAT SEPARATES THE TWO NOSTRILS. IT WOULD GO AROUND
9 THE ENTIRE NOSE. AND THIS WAS FAR MORE SEVERE THAN THE
10 IRRITATION OF IRRITATED MUCUS MEMBRANE SECRETIONS OR THE
11 RUBBING OF LESS THAN SMOOTH KLEENEX OR NOSE WIPING.

12 Q. DOCTOR, IN YOUR EXPERT OPINION, WOULD THIS INJURY BE
13 CONSISTENT OR INCONSISTENT WITH A BLOW TO THE NOSE?

14 A. IT CERTAINLY COULD BE PRODUCED BY A BLOW TO THE NOSE.
15 IT WOULD BE CONSISTENT WITH IT.

16 Q. I BELIEVE YOU SAID THAT YOU VIEWED THE PHOTOGRAPHS FROM
17 THE HOSPITAL; IS THAT CORRECT?

18 A. THAT WERE PREPARED BY THE POLICE AUTHORITIES, YES.

19 Q. AND WHAT, IF ANY, INJURIES DID YOU NOTICE TO THE LEFT
20 EAR?

21 A. AT THE TIME OF HER ADMISSION TO THE HOSPITAL, SHE HAD
22 -- HER LEFT EAR WAS REDDENED AND SWOLLEN. AND THERE WAS A
23 PROMINENT DEMARCATION LINE GOING ACROSS THE EAR THAT
24 INDICATED A MANMADE EDGED SURFACE HAD COME INTO CONTACT WITH
25 THE EAR BECAUSE OF ITS -- IT WAS MANMADE BECAUSE OF ITS VERY

1 SHARP EDGING TO IT. SO EITHER THE HEAD STRUCK A MANMADE
2 EDGE OR A MANMADE EDGE STRUCK THE HEAD.

3 Q. IN YOUR OPINION, WHAT YOU SAW ON THE EAR, WAS IT
4 CONSISTENT OR INCONSISTENT WITH A BEE STING?

5 A. IT WAS INCONSISTENT.

6 Q. WHY?

7 A. A BEE STING WOULD PRODUCE A PUNCTATE OR PUNCTURE MARK
8 WHERE THE BEE ACTUALLY DOES THE STINGING, AND THEN WE WOULD
9 END UP WITH DIFFUSE SWELLING. WE WOULD END UP WITH NO
10 EDGING OR TRANSLATION OR TRANSFER OF A HUMAN SHAPE ONTO THE
11 EAR. THE BEE IS NOT A HUMAN SHAPE. THAT REDNESS WOULD
12 SWELL AWAY FROM THE EAR. AND ACTUALLY, IF THERE WAS A
13 SIGNIFICANT ALLERGIC RESPONSE, IT MAY THEN EXTEND OUT ONTO
14 THE HEAD AND NECK AREA.

15 Q. ALL RIGHT. LET'S MOVE TO THE BACK NOW. WHAT, IF ANY,
16 INJURIES DID YOU NOTICE TO Minor BACK?

17 A. SHE HAD A BRUISE ASSOCIATED WITH THE BACK NEAR HER
18 SCAPULA OR YOUR WING AT THE BACK OF THE SHOULDER. SHE HAD A
19 BRUISE IN THAT BACK AREA ON THE LEFT.

20 Q. AND WHAT, IF ANY, SCARRING OR OTHER TYPE INJURY LIKE
21 THAT DID YOU SEE ON THE BACK?

22 A. SHE HAD SOME REGULAR CIRCULAR-TYPE SCARS WHICH WERE
23 SMALL SHAPED CIRCULAR SCARS WHICH WERE PRESENT OFF TO THE
24 SIDE OF THE BACKBONE, BUT IN THE GENERAL AREA OF THE
25 BACKBONE. THEY WERE SEEN HIGH, ABOUT THE UPPER PORTION OF

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1 THE ABDOMEN AREA. BUT THEY THEN WENT LOWER AND ONTO THE
2 EDGE OF THE BUTTOCKS. THEN THERE WERE LARGER AREAS OF
3 ATROPHIC SCARRING ALSO SEEN ON THE SOFT TISSUES OF THE BACK.

4 Q. NOW, THE CIRCULAR SCARRING THAT YOU SAW, IN YOUR EXPERT
5 OPINION, WOULD THEY BE CONSISTENT OR INCONSISTENT WITH A
6 SCAR THE SIZE OF THE END OF A CIGARETTE?

7 A. THEY WERE CONSISTENT WITH THE SCAR THE SIZE OF A
8 CIGARETTE.

9 Q. WHY?

10 A. THEIR PHYSICAL SIZE AND THE FACT THAT THEY HAD A ROLLED
11 OR PROMINENT EDGE WERE CONSISTENT WITH ALMOST AN OBJECT OF
12 THAT PHYSICAL SIZE PRODUCING A VERY SPECIFIC ISOLATED INJURY
13 TO THE SKIN AND THEN THE SKIN RECOVERING FROM THAT.

14 Q. WOULD THESE BE CONSISTENT OR INCONSISTENT, IN YOUR
15 EXPERT OPINION, WITH A LUMBAR PUNCTURE?

16 A. THEY WEREN'T IN THE PROPER LOCATION FOR A LUMBAR
17 PUNCTURE. A LUMBAR PUNCTURE HAS TO BE DONE LOW IN THE BACK
18 SO THAT THE NERVE -- THE MAIN NERVE ROOT IN YOUR SPINAL CORD
19 ISN'T IN THE BONY CANAL ANYMORE. AND THERE'S JUST SOME
20 LITTLE NERVE ROOTS COMING THROUGH THERE. SO WHEN THEY PASS
21 THE NEEDLE INTO THAT AREA, THEY DON'T DESTROY YOUR SPINE.
22 THESE WERE HIGH, AS I SAID, IN THE MID ABDOMEN AREA WHERE
23 ONE WOULD DO -- A SPINAL TAP WOULD BE ALMOST DOWN AT THE TOP
24 OF THE PUBIC BONE, SLIGHTLY ABOVE THE TOP OF THE PUBIC BONE
25 BUT CERTAINLY BELOW YOUR UMBILICUS. SO THESE WERE MUCH

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1 HIGHER ON THE BACK.

2 Q. ALL RIGHT. LET'S GO NOW TO HER SCALP. WHAT, IF
3 ANYTHING, DID YOU NOTICE IN HER HAIR AREA?

4 A. SHE HAD MULTIPLE AREAS OF HAIR PRIMARILY ORIENTED
5 AROUND THE SIDES OF THE HEAD, BUT ALSO SEEN IN THE BACK,
6 WHERE PATCHES OF HAIR HAD BEEN TRAUMATICALLY REMOVED OR
7 FORCIBLY REMOVED.

8 Q. HOW DO YOU KNOW THAT THE PATCHES OF HAIR WERE FORCIBLY
9 REMOVED AND NOT JUST FALLING OUT OR WHATEVER?

10 A. THE EXAMINATION OF HER HAIR, SHE WAS NOT -- IT WASN'T
11 FREELY FALLING FROM HER HEAD. AND IN SOME OF THESE PATCHES,
12 YOU COULD SEE EARLY REGROWTH OF HAIR INTO THE AREAS. SO
13 THEY WERE OF DIFFERENT AGES.

14 Q. HOW DO YOU KNOW THEY WEREN'T CUT OUT OR THE CLUMPS
15 DIDN'T JUST FALL OUT? HOW DO YOU KNOW THEY WERE FORCIBLY
16 REMOVED?

17 A. IF CLUMPS OF HAIR WERE JUST FALLING OUT, THEN WHEN WE
18 EXAMINED HER HEAD AT THE TIME OF THE AUTOPSY, THEY WILL ALSO
19 JUST FALL OUT WITH LIGHT MOTION. AND WE'LL END UP WITH
20 CLUMPS OF HAIR THAT ARE FALLING OUT. ALSO, WE EXAMINED THE
21 SCALP TO LOOK FOR EVIDENCE OF DISEASE IN THE SCALP THAT
22 MIGHT BE ASSOCIATED WITH THAT TYPE OF ABNORMALITY. IF THEY
23 HAD BEEN CUT OUT AT SOME TIME, ONE WOULD ANTICIPATE THE
24 STUBBLE OR THE EDGE WHERE IT WAS CUT. AND WHILE WE COULD
25 SEE SOME EARLY REGROWTH IN SOME AREAS, SOME AREAS ALL YOU

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1 COULD SEE WERE THE HAIR FOLLICLES. YOU COULDN'T SEE ANY
2 HAIR AT ALL, WHICH SAYS THAT THEY HAD TO BE PULLED OUT OR
3 PLUCKED. AND BECAUSE OF THEIR SIZE, THEY HAD TO BE PULLED
4 OUT WITH SOME SIGNIFICANT FORCE.

5 Q. DOCTOR, WOULD THESE INJURIES THAT YOU SAW, IN YOUR
6 EXPERT OPINION, BE CONSISTENT OR INCONSISTENT WITH TAKING
7 HER HEAD AND YANKING IT BACK BY THE HAIR?

8 A. THEY WOULD BE CONSISTENT WITH THAT ACTIVITY.

9 Q. HOW MUCH FORCE IS REQUIRED TO PULL OUT CLUMPS OF HAIR
10 LIKE THIS?

11 A. A VERY SIGNIFICANT AMOUNT OF FORCE.

12 Q. IN YOUR EXPERT OPINION, WOULD A FOUR-YEAR-OLD THAT
13 WEIGHS APPROXIMATELY FORTY POUNDS BE STRONG ENOUGH TO TAKE
14 CLUMPS OF HER HAIR AND YANK IT OUT?

15 A. NO.

16 Q. DOCTOR, LET'S GO TO THE INTERNAL BODY. WHAT, IF ANY,
17 EXAMINATION DID YOU DO OF Minor INSIDE HER HEAD?

18 A. WE EXAMINED HER SCALP AND THEN EXAMINED INSIDE HER
19 BRAIN. HER BRAIN WAS BADLY SWOLLEN. THERE WAS EXTRA FLUID
20 IN HER BRAIN. THAT EXTRA FLUID HAD -- BECAUSE INSIDE YOUR
21 BRAIN IS A CLOSED CASE. THAT EXTRA FLUID HAD PREVENTED THE
22 BLOOD THAT USUALLY COMES INTO YOUR BRAIN AND GIVES
23 NOURISHMENT TO THE NEURONS TO BE STOPPED, SO NO OXYGEN OR
24 NOURISHMENT TO THE NEURONS OCCURRED. AND THE NEURONS, THE
25 NERVE CELLS THEMSELVES THAT MAKE YOUR BRAIN WORK, DIED. AND

1 SO HER BRAIN DIED.

2 Q. AND WHAT WAS HER CAUSE OF DEATH?

3 A. HER BRAIN -- CAUSE OF DEATH WAS BECAUSE OF LACK OXYGEN
4 TO THE BRAIN BECAUSE OF THE SWELLING.

5 Q. DOCTOR, DO WE HAVE ANY SUTURES -- AND I MEAN NATURAL
6 SUTURES -- IN OUR HEAD? WOULD YOU DESCRIBE THAT TO THE JURY
7 IF WE DO?

8 A. AS WE GROW WE GET BIGGER, AND SO OUR BODY HAS THE
9 ABILITY TO ACCOMMODATE THIS GROWTH. AND SO OUR SKULL IS PUT
10 TOGETHER BY MULTIPLE PIECES OF BONES. WHEN BABIES ARE BORN,
11 THEY ACTUALLY HAVE OPENINGS WHERE YOU CAN FEEL A DIRECT
12 CONNECTION TO THE UNDERLYING BRAIN. WE CALL THAT THE
13 FONTANEL OR THE SOFT SPOT OF A BABY'S HEAD. AND AS THOSE
14 SKULL BONES GROW, THEY COME TOGETHER INTO THE SHAPE OF OUR
15 HEAD. AND WHERE THEY FIT TOGETHER, WE REFER TO AS SUTURES.
16 NATURAL SUTURES. FINALLY, AS WE GET OLDER AND OLDER, MORE
17 AND MORE OF THESE SUTURES FUSE AND WE BECOME AS COMPLETE
18 ADULTS, MORE THAN THIRTY, THE BONES ARE COMPLETELY STUCK
19 TOGETHER. YOUNGER ADULTS IN THEIR TWENTIES, ACTUALLY SOME
20 OF THE LOWER BONES IN THE SKULL STILL HAVEN'T FUSED TOGETHER
21 BECAUSE THERE STILL IS SOME FACIAL GROWTH THAT OCCURS AS
22 THEY GO INTO EARLY ADULTHOOD.

23 Q. AND WHAT IS ---

24 A. AND SO THE BRAIN HAS TO ACCOMMODATE THAT.

25 Q. WHAT DID Minor SUTURES LOOK LIKE, AND WAS THAT

1 COMMON OR UNCOMMON IN A FOUR-YEAR-OLD?

2 A. HERS WERE SPACED BECAUSE THERE WAS SO MUCH PRESSURE
3 INSIDE HER SKULL, THAT IT ACTUALLY, BECAUSE THESE WEREN' T
4 BONY OR HARD, BUT WERE JUST FIBROUS TISSUE OR GRISTLE, THEY
5 HAD PUT PRESSURE ON IT AND CAUSED THESE BONES TO SEPARATE
6 AND PUT SOME SPACE IN THERE.

7 Q. WHAT, IF ANY, INJURY -- YOU SAID THE BRAIN HAD MASSIVE
8 SWELLING. BUT WHAT, IF ANY, INJURY DID YOU SEE TO THE
9 BRAIN?

10 A. SHE HAD -- WELL, ON THE OUTSIDE OF HER BRAIN, SHE HAD A
11 SUBDURAL HEMATOMA OR A BLEED BENEATH THE FIBROUS SAC THAT
12 COVERS THE BRAIN AND THE SURFACE OF THE BRAIN. THIS WAS
13 PRESENT ON THE RIGHT SIDE OF Minor HEAD. AND IT WOULD
14 BE AN INDICATOR OF A SEVERE ACCELERATION OR DECELERATION
15 INJURY TO THE BRAIN BECAUSE OF SOME BLOW THAT SET THE HEAD
16 INTO MOTION.

17 Q. SO THEN WHAT AMOUNT OF FORCE IS NECESSARY IN ORDER TO
18 INFLICT A SUBDURAL HEMATOMA ON A CHILD, ADULT, WHATEVER, BUT
19 IN PARTICULAR A CHILD?

20 A. A SEVERE DEGREE OF FORCE.

21 Q. DOCTOR, I BELIEVE WHILE SHE WAS IN THE HOSPITAL IN
22 GREENVILLE, DOCTORS TRIED TO DO A SHUNT TO GET SOME OF THIS
23 FLUID AND SWELLING OUT OF HER HEAD; IS THAT CORRECT?

24 A. YEAH. THEY PLACED A SMALL HOLE ON THE LEFT SIDE OF THE
25 HEAD AND PLACED A CATHETER INTO THE FLUID CHAMBERS OF YOUR

1 BRAIN, THE VENTRICLES, TO LET SOME OF THAT FLUID COME OUT
2 THROUGH THIS CATHETER. AND SO THEY COULD MONITOR HOW
3 EFFECTIVE THEIR THERAPY WAS AT TRYING TO REDUCE THE PRESSURE
4 THAT WAS INSIDE HER BRAIN. THEY DID THAT ON THE LEFT SIDE
5 OF HER HEAD.

6 Q. DOCTOR, WAS THAT IN ANY WAY THE CAUSE OF THE SUBDURAL
7 HEMATOMA THAT YOU SAW ON THE OTHER SIDE OF HER HEAD?

8 A. NO. THE SUBDURAL REQUIRES TEARING OF THE VEINS THAT
9 COME AWAY FROM THE SURFACE OF THE BRAIN AND GO INTO THE
10 FIBROUS SAC THAT COVERS THE BRAIN WHERE THEN THEY'RE
11 COLLECTED AND THEY DRAIN BACK TO THE CENTRAL PORTION OF THE
12 BODY. IT REQUIRES SOMETHING THAT EITHER THE WHOLE HEAD IS
13 SET IN MOTION AND SUDDENLY STOPPED, OR THE SKULL IS SET INTO
14 MOTION WHILE THE BRAIN HASN'T GOTTEN A CHANCE TO GET
15 STARTED. AND IT PRODUCES A TEARING OF THESE VEINS AND
16 ALLOWS THAT BLOOD TO BLEED IN THAT AREA.

17 Q. DOCTOR, I BELIEVE YOU TALKED A LITTLE EARLIER ABOUT
18 SOME INJURY YOU SAW TO THE EAR. WHICH EAR WAS THAT?

19 A. THAT WAS ON HER LEFT SIDE.

20 Q. AND WHERE WAS THIS?

21 A. ON HER RIGHT SIDE.

22 Q. DESCRIBE FOR THE JURY WHAT, IF ANY, CORRELATION THERE
23 MIGHT BE BETWEEN THOSE TWO INJURIES.

24 A. WELL, THE INJURY TO THE LEFT EAR AND THE LEFT SHOULDER
25 INDICATE SOME BLUNT FORCE TRAUMA OCCURRED. AND IF THE WHOLE

1 BODY IS SET IN MOTION AND THEN SUDDENLY STOPPED AGAINST AN
2 OBJECT, LIKE A COUNTER TOP MUCH LIKE THAT RAILING IN FRONT
3 OF THE JURY BOX, WITH SUFFICIENT MOTION, THEN THAT BRAIN
4 COMES -- THE DURA STOPS WHEN THE HEAD STOPS AGAINST THE
5 OBJECT BUT THE BRAIN SLIDES UNDERNEATH IT. AND THAT
6 PRODUCES A TEARING OF THESE VESSELS. WE GET IT ON THE WRONG
7 SIDE OF THE BRAIN, IF YOU WILL, OR ON THE SIDE OTHER THAN
8 WHERE THE IMPACT IS IF THE MASS OF WHATEVER STOPS THEM IS
9 HUGE COMPARED TO THE INDIVIDUAL. IN THIS CASE, IF IT WAS A
10 COUNTER TOP OR A MANMADE OBJECT LIKE THAT RAILING, THEN
11 YOU'RE DEALING WITH THE MASS OF THE ENTIRE EARTH VERSUS, YOU
12 KNOW, EVEN MY MASS AS AN ADULT. SO IF I COULD BE SET IN
13 MOTION STRONGLY ENOUGH COMPARED TO MY PHYSICAL SIZE, THEN I
14 COULD PRODUCE THIS INJURY.

15 Q. SO IF I TAKE A CHILD AND I WHACK THEM ON ONE SIDE AND
16 THEY FLY THROUGH THE AIR AND HIT SOMEWHERE ELSE, OR IF I
17 SMACK THEM DOWN AND THEY HIT ON THE GROUND, ARE YOU GOING TO
18 -- IS THAT COMMON OR UNCOMMON TO FIND THE ACTUAL INJURY ON
19 THE OPPOSITE SIDE OF WHERE THE BRAIN IS?

20 A. COMMON WHEN THEY HIT A VERY LARGE OBJECT.

21 Q. DOCTOR, WERE YOU ABLE TO AGE THIS SUBDURAL HEMATOMA?

22 A. YES. BY LOOKING AT IT THROUGH THE MICROSCOPE, I WAS
23 ABLE TO TELL THAT THE SUBDURAL HEMATOMA OCCURRED AT THE
24 GENERAL TIME WHICH THE CHILD WAS ADMITTED TO THE HOSPITAL.
25 BY THAT I MEAN IT OCCURRED WITHIN HOURS OF THAT TIME THAT

1 THE CHILD WAS ADMITTED TO THE HOSPITAL OR WAS INVOLVED WITH
2 THAT HOSPITALIZING EVENT.

3 Q. AND DOCTOR, THE SUBDURAL HEMATOMA THAT YOU SAW, WHAT,
4 IF ANY, IMMEDIATE EFFECT ON THE CHILD WOULD YOU EXPECT TO
5 SEE IF THAT INJURY WERE INFLICTED ON HER? WHAT WOULD YOU
6 EXPECT THE CHILD'S BEHAVIOR TO DO ONCE THAT SUBDURAL IS
7 INFLICTED?

8 A. I WOULD EXPECT THE CHILD'S MENTAL CAPACITIES TO
9 DECREASE, AND VERY QUICKLY THE CHILD WOULD GO INTO A COMA
10 BECAUSE THAT WOULD PUT PRESSURE ON THE BRAIN AND CAUSE
11 SWELLING OF THE BRAIN. BUT IN Minor CASE, Minor
12 ALREADY HAD SWELLING OF HER BRAIN.

13 Q. ALL RIGHT. LET'S TALK ABOUT THAT A MINUTE. YOU SAID
14 THAT YOU ALSO REVIEWED MEDICAL RECORDS FROM APRIL OF 2000;
15 IS THAT CORRECT?

16 A. THAT'S CORRECT.

17 Q. AND WHAT DID THAT INVOLVE?

18 A. SHE WAS ADMITTED TO THE ANDERSON AREA MEDICAL CENTER
19 WITH A SUBDURAL HEMATOMA AROUND THE FRONT OF HER BRAIN.

20 Q. OKAY. WAIT A MINUTE. STOP THERE A MINUTE. NOW, IS
21 THAT THE SAME SUBDURAL HEMATOMA THAT YOU SAW IN OCTOBER?

22 A. NO.

23 Q. WHY NOT?

24 A. BY LOOKING AT MICROSCOPICALLY, YOU CAN TELL THE
25 CHANGES, THE TIME PERIOD CHANGES, THAT ARE INVOLVED. JUST

1 LIKE A BRUISE ON THE OUTSIDE OF YOUR BODY STARTS OUT SORT OF
2 RED-PURPLE AND PROGRESSES TO A DIRTY ORANGE-BLUE COLOR AND
3 THEN FINALLY GOES AWAY AS A SORT OF DIRTY GREEN COLOR, THE
4 BRUISES INSIDE THE BRAIN OR ON THE SURFACE OF THE BRAIN ARE
5 GOING THROUGH A PROCESS TO TRY AND CAUSE THEM TO RESOLVE.
6 THAT HAS CERTAIN CHANGES THAT WE CAN LOOK AT UNDER THE
7 MICROSCOPE. IT WON'T TELL US WITHIN A FIVE-MINUTE TIME
8 PERIOD, BUT IT TELLS US WITHING TIME PERIODS OF, YOU KNOW,
9 THIS IS VERY RECENT - LESS THAN THREE DAYS. THIS IS MORE
10 THAN FIVE DAYS. THIS IS MORE THAN TEN DAYS. THIS IS MONTHS
11 OLD. AND YOU CAN MAKE VERY CLEAN SEPARATIONS BETWEEN THOSE
12 LONGER TIME PERIODS. SO TO SEPARATE BETWEEN APRIL AND
13 OCTOBER IS VERY EASY. TO SEPARATE BETWEEN OCTOBER 10TH AND
14 OCTOBER 11TH IS IMPOSSIBLE. TO SEPARATE BETWEEN OCTOBER 1ST
15 AND OCTOBER 10TH IS VERY EASY.

16 Q. AND SO THE FIRST SUBDURAL THAT YOU FOUND WAS CONSISTENT
17 WITH THE TIME PERIOD AROUND WHERE THE CHILD ENTERED THE
18 HOSPITAL, BUT THIS ONE WAS NOT; IS THAT CORRECT?

19 A. THE APRIL ONE, RIGHT; THAT'S CORRECT.

20 Q. ALL RIGHT. NOW, WAS THIS ALSO IN A DIFFERENT LOCATION?

21 A. YES, IT WAS. IT WAS ON THE FRONT RATHER THAN THE TOP.
22 SO IT WAS IN A DIFFERENT LOCATION.

23 Q. AND AGAIN, HOW MUCH FORCE IS NECESSARY BEFORE A
24 SUBDURAL HEMATOMA WILL OCCUR?

25 A. SIGNIFICANT FORCE. NOW, IN ACCIDENTAL TERMS, WE WOULD

1 ANTICIPATE A FALL FROM SEVERAL STORIES HIGH. IN AUTOMOBILE
2 ACCIDENTS, THERE'S COMMON ACCIDENTS WHERE WE MIGHT SEE
3 ACCIDENTAL SUBDURALS BEGIN.

4 Q. ALL RIGHT. LET'S GO TO NUTRITION. I BELIEVE YOU
5 TESTIFIED THAT Minor WAS ABOUT FORTY-ONE INCHES LONG ---

6 A. THAT'S CORRECT.

7 Q. --- AND ABOUT FORTY POUNDS; IS THAT CORRECT?

8 A. THAT'S CORRECT.

9 Q. WHAT WAS HER STATE OF NUTRITION?

10 A. HER GENERAL NUTRITIONAL STATUS WAS BAD. SHE HAD NO
11 SUBCUTANEOUS FAT OVER HER ABDOMEN.

12 Q. IS THAT COMMON OR UNCOMMON IN A SMALL CHILD?

13 A. UNCOMMON.

14 Q. WHY?

15 A. THE SUBCUTANEOUS FAT IN CHILDREN IS VERY WELL PRESERVED
16 EXCEPT WHEN THE CHILD IS EXTREMELY DENIED OF FOOD. TO SEE
17 TOTAL ABSENCE OF SUBCUTANEOUS FAT IN A CHILD WHO IS BEING
18 CARED FOR AS WELL AS THEY CAN BE CARED FOR, WE WOULD EITHER
19 HAVE TO HAVE A CHILD WITH A MAJOR METABOLIC DISORDER, A
20 MAJOR ILLNESS OF THEIR ABILITY TO TAKE IN FOOD OR A CHILD
21 WHO LIVES IN A THIRD WORLD COUNTRY.

22 Q. AND DID YOU EXAMINE Minor GASTROINTESTINAL TRACT?

23 A. YES, I DID.

24 Q. AND WHAT, IF ANY, ABNORMALITIES DID YOU FIND?

25 A. THERE WERE NO ABNORMALITIES THAT WOULD PREVENT HER FROM

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1 NORMAL INTAKE OF FOOD OR THE NORMAL DIGESTION OR USE OF
2 FOOD.

3 Q. WHAT, IF ANY, FOOD DID YOU FIND IN HER STOMACH?

4 A. HER STOMACH WAS FILLED WITH PEAS, A LARGE NUMBER OF
5 CHEWED UP PEAS INTO A PASTY FORM AND PEAS THAT HELD THEIR
6 SHAPE LIKE YOU'D SEE THEM OUT OF A CAN OR IF YOU HAD COOKED
7 SOME PEAS FOR DINNER AND WERE SITTING ON YOUR PLATE AND WERE
8 MIXED WITH THAT CHEWED UP PEA MATERIAL.

9 Q. ALL RIGHT. AND I BELIEVE YOU TALKED A LITTLE BIT
10 EARLIER ABOUT HOW WITH THE SUBDURAL YOU CAN'T EXACTLY PIN
11 DOWN THE TIME. HOW ABOUT WITH THIS FOOD? CAN YOU TELL THIS
12 JURY APPROXIMATELY HOW LONG Minor ATE BEFORE THE HEAD
13 INJURY WAS INFLICTED AND DIGESTION -- WELL, FIRST OF ALL,
14 WOULD DIGESTION HAVE STOPPED AT THE TIME THE HEAD INJURY WAS
15 INFLICTED AND SHE WENT INTO A COMA?

16 A. YES, IT WOULD.

17 Q. ALL RIGHT. SO CAN YOU TELL THE JURY APPROXIMATELY HOW
18 LONG Minor ATE THESE THINGS YOU FOUND IN HER STOMACH
19 BEFORE THE HEAD INJURY WAS INFLICTED?

20 A. YEAH. WE CAN LOOK AT THE CONTENTS OF THE STOMACH. AND
21 WE'RE DEALING WITH, IF YOU WILL, A VERY SOFT MEAL, A VERY
22 BLAND MEAL, VERSUS LIKE THANKSGIVING DINNER WHICH IS, YOU
23 KNOW, FULL OF MEAT AND LOTS OF FATS. THERE'S ESSENTIALLY NO
24 FAT TO THIS TYPE OF MEAL. IT'S ALL CARBOHYDRATES. THAT'S
25 THE EASIEST TYPE OF MEAL TO DIGEST. SO I CAN TELL YOU

1 WITHIN AN HOUR TO TWO HOURS OF THE TIME THAT SHE GOES INTO
2 COMA THAT SHE ATE THIS MEAL.

3 Q. AND I BELIEVE YOU SAID YOUR BODY STOPS DIGESTING ONCE
4 YOU ---

5 A. ONCE YOU GO INTO COMA, YOUR BODY STOPS DIGESTING. THE
6 -- AND THIS WOULD NOT BE MATERIAL THAT SOMEBODY WOULD HAVE
7 TRIED TO FORCE-FEED HER THROUGH A TUBE IN THE HOSPITAL. THE
8 COMPLETE PEAS WOULDN'T FIT THROUGH SUCH A TUBE.

9 Q. DOCTOR, ARE YOU AWARE OF THE TERM BATTERED CHILD
10 SYNDROME?

11 A. YES, I AM.

12 Q. I'M HANDING YOU AN ARTICLE ENTITLED "THE BATTERED CHILD
13 SYNDROME" BY KEMP AND OTHERS. DO YOU RECOGNIZE THAT
14 ARTICLE?

15 A. YES. THIS IS ONE OF THE INITIAL ARTICLES CONCERNING
16 BATTERED CHILD SYNDROME THAT WAS BROUGHT TO THE ATTENTION OF
17 THE MEDICAL COMMUNITY. AND IT IS ONE OF THE BASIC REFEREE
18 OR QUOTED ARTICLES WHEN THIS SUBJECT IS DISCUSSED.

19 Q. AND WAS THIS SORT OF THE ARTICLE THAT SET FORTH THE
20 DEFINITION OF BATTERED CHILD SYNDROME?

21 A. IT BEGAN THE DEFINITION, YES.

22 Q. DOCTOR, I'M GOING TO ASK YOU -- AND IS THIS RECOGNIZED
23 IN MEDICAL LITERATURE AS A RELIABLE PIECE OF LITERATURE?

24 A. YES, IT IS.

25 Q. IS IT STILL CITED TODAY IN LEGAL OPINIONS AS WELL AS IN

1 MEDICAL LITERATURE?

2 A. WELL, CERTAINLY MEDICAL LITERATURE.

3 Q. I'M GOING TO ASK YOU THE PARTS THAT I HAVE WITH THE
4 BLACK AROUND, IF YOU WILL JUST READ THE DEFINITION OF
5 BATTERED CHILD SYNDROME.

6 A. I'M QUOTING. "IN SOME INSTANCES THE CLINICAL
7 MANIFESTATIONS ARE LIMITED TO THOSE RESULTING FROM A SINGLE
8 EPISODE OF TRAUMA. BUT MORE OFTEN THE CHILD'S GENERAL
9 HEALTH IS BELOW PAR, AND HE SHOWS EVIDENCE OF NEGLECT
10 INCLUDING POOR SKIN HYGIENE, MULTIPLE SOFT TISSUE INJURIES
11 AND MALNUTRITION. ONE OFTEN OBTAINS A HISTORY OF PREVIOUS
12 EPISODES SUGGESTIVE OF PARENTAL NEGLECT OR TRAUMA. A MARKED
13 DISCREPANCY BETWEEN THE CLINICAL FINDINGS AND HISTORY DATA
14 SUPPLIED BY THE PARENTS IS A MAJOR DIAGNOSTIC FACTOR OF THE
15 BATTERED CHILD SYNDROME. SUBDURAL HEMATOMA, WITH OR WITHOUT
16 FRACTURE OF THE SKULL, IS, IN OUR EXPERIENCE, AN EXTREMELY
17 FREQUENT FINDING EVEN IN THE ABSENCE OF FRACTURE OF THE LONG
18 BONES."

19 Q. DOCTOR, WERE YOU ABLE -- IN YOUR EXPERT OPINION, ARE
20 YOU ABLE TO TELL THIS JURY WHETHER OR NOT Minor

21 [REDACTED] WHO WAS FOUR YEARS OLD, SUFFERED FROM BATTERED CHILD
22 SYNDROME?

23 A. YES, I AM.

24 Q. AND PLEASE TELL THE JURY.

25 A. SHE SUFFERED FROM BATTERED CHILD SYNDROME. SHE HAD HAD

1 REPETITIVE EPISODES OF NON-ACCIDENTAL TRAUMA.

2 Q. ALL RIGHT. LET'S GO THROUGH SOME OF THE FACTORS IN
3 LOOKING AT THAT. WHAT, IF ANY, IMPACT DID THE AGES OF THESE
4 INJURIES HAVE ON YOUR DIAGNOSIS OF BATTERED CHILD SYNDROME?

5 A. THE FACT THAT THE INJURIES WERE OF DIFFERENT AGES SAY
6 THAT THEY COULD NOT HAVE OCCURRED AT THE SAME TRAUMATIC
7 EVENT. THEREFORE, THERE HAD TO BE MULTIPLE TRAUMATIC
8 EVENTS. THE HOSPITALIZATIONS FOR TWO TRAUMATIC HEAD
9 INJURIES THAT WERE NON-ACCIDENTAL OCCURRED AT FAR SEPARATED
10 TIME PERIODS.

11 Q. WHAT ABOUT THE LOCATION OF THE INJURIES? WHAT, IF ANY,
12 IMPACT DOES THAT HAVE? IN PARTICULAR THE KIND OF PROTECTED
13 AREAS OF THE ABDOMEN AND BACK.

14 A. THE LOCATION OF THE INJURIES WERE PRIMARILY FOCUSED TO
15 AREAS THAT WOULD BE CONCEALED. OBVIOUSLY, EVEN WELL-MEANING
16 PHYSICIANS OFTEN DON'T LOOK AT PEOPLE'S FEET. THE BLOWS TO
17 THE FEET ARE EASILY CONCEALED FROM THE NEIGHBORS AND FROM
18 ANYONE ELSE, EVEN MEDICAL PEOPLE WHO MAY BE EXAMINING THE
19 CHILD FOR OTHER REASONS. THE INJURIES TO AREAS THAT ARE
20 COVERED, GENITALIA, THE SKIN, ARE EASILY CONCEALED FROM THE
21 NEIGHBORS OR RELATIVES WHO, IN AN OLDER CHILD LIKE THAT, MAY
22 NOT HAVE ANY PARTICIPATION IN BATHING OR BATHROOM
23 ACTIVITIES.

24 Q. DOCTOR, ALL OF US WHO HAVE CHILDREN KNOW OUR CHILDREN
25 GET SCRAPES AND BRUISES WHEN THEY FALL. IN YOUR EXPERT

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1 OPINION, IS IT COMMON OR UNCOMMON FOR CHILDREN IN THESE KIND
2 OF FALLS, PLAYING AND THAT SORT OF THING, TO INJURE INSIDE
3 THE THIGHS, THE STOMACH, THE BACK?

4 A. USUALLY WHEN A CHILD FALLS, THEY BRACE THEMSELVES.
5 THEY END UP WITH INJURIES TO THE CONTACT SURFACES OF THE
6 HANDS, TO THE KNEES, THE LOWER LEGS. EVEN OCCASIONALLY
7 INJURIES WHERE THE CHILD, WHEN THEY'RE YOUNGER, BECAUSE OF
8 THEIR CENTER OF GRAVITY -- WHEN THEY'RE A LITTLE YOUNGER
9 THAN THIS CHILD, THE BUTTOCKS AREA CAN BECOME BRUISED AS
10 THEY FALL ON THAT PROMINENT WEIGHT ZONE OF THE CHILD. IN
11 THIS PARTICULAR CHILD, ALL THE INJURIES WERE IN CONFINED AND
12 SEALED PLACES THAT ARE USUALLY COVERED BY CLOTHING.
13 CLOTHING OFFERS A PROTECTION FROM THESE INJURIES THAT -- AND
14 IN THIS PARTICULAR CASE, THERE WAS NO PROTECTION FROM THE
15 CLOTHING.

16 Q. AND DOCTOR, IN YOUR EXPERT MEDICAL PINION, WOULD A
17 FOUR-YEAR-OLD -- I BELIEVE YOU SAID YOU HAD SOME BACKGROUND
18 IN PEDIATRICS. WOULD A FOUR-YEAR-OLD HAVE THE ABILITY OR
19 KNOWLEDGE TO SELF-INFLICT IN AREAS WHICH WOULD NOT BE
20 READILY APPARENT TO OTHERS?

21 A. A FOUR-YEAR-OLD WOULD NOT HAVE THE KNOWLEDGE TO DO
22 THAT.

23 Q. WHAT, IF ANY, IMPORTANCE DID THE NUMBER OF INJURIES
24 HAVE IN YOUR DIAGNOSIS OF BATTERED CHILD SYNDROME?

25 A. THE -- VERSUS AN ACUTE EXPLOSIVE EPISODE OF CHILD

1 ABUSE, THE MULTIPLE NUMBERS AT MULTIPLE DIFFERENT LOCATIONS
2 AROUND THE BODY, WHICH BASICALLY WOULD REQUIRE ATTACKING THE
3 BODY FROM DIFFERENT DIRECTIONS, ALL CONTRIBUTED TO THAT
4 DIAGNOSIS.

5 Q. AND I BELIEVE YOU READ THE DEFENDANT'S STATEMENT; IS
6 THAT CORRECT?

7 A. YES, I DID.

8 Q. WHAT, IF ANY, IMPORTANCE WOULD THERE BE IN DIAGNOSING
9 BATTERED CHILD SYNDROME IF THE CARE-GIVER HAD CHANGED
10 STORIES?

11 A. AGAIN, JUST FROM WHAT YOU HAD ME READ IN THE ARTICLE,
12 THAT IS ONE OF THE CLASSIC MEDICAL DIAGNOSTIC THINGS THAT
13 ARE LOOKED FOR IN BATTERED CHILD SYNDROME WHERE THE CARE-
14 GIVER TROLLS WITH DIFFERENT STORIES, IF YOU WILL, TO TRY AND
15 FIND SOMETHING THAT THE HEALTHCARE GIVERS WILL SAY, OH,
16 WELL, I GUESS THAT'S OKAY. THAT EXPLAINS IT. SO THERE'S A
17 REPETITIVE CHANGING OF STORIES SORT OF LOOKING FOR A STORY
18 THAT YOU WILL BELIEVE OR ACCEPT VERSUS THE ONE THAT I
19 STARTED OUT TELLING.

20 Q. WHAT, IF ANY, IMPORTANCE IN DIAGNOSING BATTERED CHILD
21 SYNDROME WOULD THERE BE IF THE CARE-GIVER DID NOT SEEK
22 IMMEDIATE ATTENTION?

23 A. AGAIN ---

24 Q. MEDICAL ATTENTION?

25 A. --- THE INDIVIDUAL WHO INFLECTS THE TRAUMA DOESN'T WANT

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1 TO BE CAUGHT FOR INFLECTING THE TRAUMA, SO THEY SEPARATE
2 THEMSELVES FROM THAT TRAUMATIC EVENT AND TRY AND MAKE AN
3 EXCUSE THAT SOMETHING ELSE OCCURRED OTHER THAN THE TRAUMATIC
4 EVENT. SO THERE'S OFTEN -- IT'S VERY CLASSIC OR
5 CHARACTERISTIC FROM A MEDICAL DIAGNOSTIC STANDPOINT THAT THE
6 TRAUMA AND SEEKING HEALTHCARE ARE SEPARATE IN TIME.

7 Q. WHAT WOULD YOU EXPECT A REASONABLY PRUDENT ADULT TO DO
8 IF A CHILD HAD ACCIDENTALLY GOTTEN THIS SUBDURAL HEMATOMA?
9 IN OTHER WORDS, THIS HEAD INJURY?

10 A. PROBABLY EITHER TAKE THE CHILD IN A PANIC STRICKEN
11 BEHAVIOR TO THE NEAREST EMERGENCY ROOM, OR I'D CALL 9-1-1
12 FOR IMMEDIATE ASSISTANCE.

13 Q. ALL RIGHT. DOCTOR, I BELIEVE YOU TALKED ABOUT THE
14 CAUSE OF DEATH. AND IF YOU'LL STATE THAT ONE MORE TIME. I
15 WANT TO ASK YOU A FEW QUESTIONS ABOUT THAT.

16 A. THE CAUSE OF DEATH WAS HYPOXIA TO THE BRAIN MEANING
17 OXYGEN COULDN'T GET TO THE BRAIN BECAUSE THE BRAIN WAS SO
18 SWOLLEN. AND THE BRAIN WAS SWOLLEN BECAUSE THERE HAD BEEN
19 BLUNT FORCE TRAUMA TO THE HEAD. AND SO NO NUTRIENTS OR
20 OXYGEN GOT TO THE BRAIN, AND THE BRAIN DIED.

21 Q. ALL RIGHT, DOCTOR. NOW, YOU SAID BLUNT FORCE BECAUSE
22 OF THE SUBDURAL HEMATOMA; IS THAT CORRECT?

23 A. THAT'S CORRECT. AND THE EAR INJURY.

24 Q. DID THE SUBDURAL HEMATOMA SHOW UP IN THE GREENVILLE
25 HOSPITALIZATION? DID IT SHOW UP ON THE C.T.'S, THAT TYPE OF

1 THING, OR NOT?

2 A. NO, IT DID NOT.

3 Q. AND WHY DID IT NOT SHOW UP?

4 A. IT'S NOT UNCOMMON THAT SUBDURAL HEMATOMA WON'T SHOW UP
5 IN THOSE EARLY SCANS. THEY TOOK THE SCANS VERY SHORTLY
6 AFTER SHE WAS ADMITTED. AND UNTIL IT BECOMES A LITTLE
7 LARGER IN SIZE, IT'S BELOW THE SIZE THAT CAN BE DETECTED.

8 Q. WAIT A MINUTE. STOP THERE. IT'S A BLEED FROM THE
9 VESSELS; IS THAT CORRECT?

10 A. THAT'S CORRECT.

11 Q. SO IT'S SORT OF AN ONGOING BLEED?

12 A. IF YOU WILL, IT'S LIKE A CUT OF YOUR FINGER THAT WOULD
13 BE DRIPPING BLOOD. YOU KNOW, IT'S GOING TO KEEP DRIPPING
14 UNTIL THERE'S ENOUGH PRESSURE LIKE YOU WOULD PUSH ON YOUR
15 FINGER TO STOP IT BLEEDING. SO IT HAS TO GET TO A CERTAIN
16 SIZE BEFORE THOSE TESTS WILL SEE IT. THE CHILD'S BRAIN WAS
17 SWOLLEN WHICH ALSO MAKES THE TEST'S ACCURACY TO PICK UP THE
18 SUBDURAL LOWER.

19 Q. AND ON THE AUTOPSY YOU DID FIND THE SUBDURAL; IS THAT
20 CORRECT?

21 A. THAT'S CORRECT.

22 Q. NOW, IS THERE ANOTHER WAY THAT YOU CAN GET THIS
23 SWELLING AND LACK OF OXYGEN TO THE BRAIN BESIDES BLUNT
24 TRAUMA?

25 A. IF THE OXYGEN TO THE INDIVIDUAL IS SHUT OFF, THEN THE

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1 BRAIN BEGINS TO SWELL IF THE HEART CAN CONTINUE TO WORK
2 BECAUSE THE NEURONS WOULDN'T HAVE OXYGEN. THE HEART WILL
3 LAST LONGER THAN THE BRAIN WHEN OUR OXYGEN IS CUT OFF. SO
4 IF SOMEONE SMOTHERED AN INDIVIDUAL, THEY COULD DO THAT, BUT
5 IT WOULDN'T PRODUCE THE SUBDURAL.

6 Q. ALL RIGHT. AND I BELIEVE YOU SAID THAT THERE WERE SOME
7 INJURIES TO WHAT PART OF HER NOSE?

8 A. THE -- AROUND THE LITTLE PIECE OF SKIN THAT CONNECTS
9 THE TWO NOSTRIL OPENINGS AND THEN UP INTO THE RIGHT NOSTRIL.

10 Q. SO DOCTOR, IS THERE ANY WAY TO TELL FOR SURE IF IT WAS
11 ASPHYXIA, OR SMOTHERING, OR REPEATED HEAD TRAUMA?

12 A. WELL, THE FACT THAT THE SUBDURAL IS THERE SAYS THAT
13 THERE WAS A TRAUMATIC EVENT. THE FACT THAT THE SUBDURAL IS
14 OF THE AGE THAT IT OCCURRED AT THE TIME THIS CHILD BECAME
15 ACUTELY ILL AND THE FINDINGS OF THE INJURY TO THE EAR AND
16 THE SHOULDER ARE ALL BLUNT FORCE TRAUMA INJURIES. IF THERE
17 WAS ASPHYXIA ON TOP OF THAT, I CANNOT EXCLUDE. BUT THERE
18 WAS A SIGNIFICANT BLUNT FORCE TRAUMA TO PRODUCE THE
19 SUBDURAL.

20 Q. NOW, WHILE WE'RE TALKING ABOUT BLUNT FORCE, IS THERE
21 MEDICAL LITERATURE, IN FACT, QUITE A BIT OF MEDICAL
22 LITERATURE, ON REPEATED HEAD TRAUMA?

23 A. YES. IT'S A WELL-STUDIED AREA OF MEDICAL LITERATURE.

24 Q. AND IS A LOT OF THAT SPORTS RELATED?

25 A. WELL, OBVIOUSLY, THE MOST CONTROLLED SITUATION WHERE

1 REPETITIVE HEAD TRAUMA COMES UP IS IN SPORTS, CONTACT
2 SPORTS. IN OUR COUNTRY FOOTBALL AND BOXING WOULD BE THE TWO
3 MOST COMMON CONTACT SPORTS. BUT CERTAINLY AROUND THE WORLD,
4 SOCCER IS. FROM JUST HITTING THE BALL WITH YOUR HEAD AND
5 RUNNING INTO OTHER SOCCER PLAYERS IS A COMMON CAUSE.

6 Q. JUST DISCUSS WITH THE JURY WHAT DOES THIS LITERATURE
7 SAY, AND WHAT IS THE IMPORTANCE OF THAT LITERATURE IN THIS
8 PARTICULAR CASE?

9 A. WELL, ANYONE WHO SUFFERS REPETITIVE SERIOUS HEAD TRAUMA
10 OR CONCUSSIVE HEAD TRAUMA, AS MORE AND MORE BLOWS ARE STRUCK
11 TO THE HEAD, IT TAKES LESS AND LESS ENERGY TO STRIKE ANOTHER
12 BLOW THAT WILL PRODUCE CONCUSSION OR A MORE SERIOUS
13 COMPLICATION TO THE BRAIN WHICH LEADS TO SWELLING. TROY
14 AIKMAN, THE FOOTBALL PLAYER FOR DALLAS, IS A GOOD EXAMPLE
15 WHERE HE HAD TO QUIT HIS CAREER BECAUSE HE'D HAD SO MANY
16 CONCUSSIVE HEAD TRAUMAS THAT THEY WERE AFRAID, EVEN WITH THE
17 PROTECTIVE HELMET THAT HE WORE, THAT ANOTHER BLOW TO THE
18 HEAD MIGHT BE SUFFICIENT TO CAUSE HIS BRAIN TO START
19 SWELLING AND THEY WOULDN'T BE ABLE TO CONTROL IT.

20 THE BOXERS WHO SEEM TO HAVE AN INSIGNIFICANT BLOW IN
21 THE RING AND DROP OVER DEAD, BUT HAVE BEEN PREVIOUSLY
22 KNOCKED OUT ARE ANOTHER EXAMPLE OF A LARGE GROUP OF PEOPLE
23 THAT DO THAT. AND YOU KNOW, YOU ONLY HAVE TO READ THE
24 NEWSPAPER EVERY FALL AND HEAR ABOUT SOME YOUNG MAN WHO DIED
25 IN FOOTBALL WHERE THIS HAD OCCURRED TO THE INDIVIDUAL. IT'S

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1 SO WELL-RECOGNIZED THAT ANYONE WHO'S HAD A CHILD WHO'S HAD A
2 SEVERE HEAD TRAUMA, THEY ARE SEVERELY CAUTIONED BY THE
3 NEUROSURGEONS AND THE CARE-GIVERS NOT TO ALLOW THE CHILD TO
4 PARTICIPATE IN AN ACTIVITY WHERE'S THERE IS A REASONABLE
5 RISK THERE CAN BE A BLOW TO THE HEAD, EVEN IF THAT BLOW
6 WOULDN'T BE MASSIVE OR SEVERE, THAT THEY SHOULDN'T
7 PARTICIPATE IN THOSE ACTIVITIES.

8 Q. ALL RIGHT, DOCTOR, LET'S SWITCH GEARS A LITTLE BIT.
9 THERE'S BEEN A LITTLE TALK OF LUPUS IN THIS CASE. WHY DON'T
10 YOU START BY DEFINING WHAT IS LUPUS?

11 A. LUPUS IS AN AUTOIMMUNE DISEASE, MEANING OUR BODY'S
12 IMMUNE SYSTEM WORKS AGAINST US. AUTO-SELF. IT SOMETIMES --
13 WE DOCTORS USE THE TERM COLLAGEN VASCULAR DISEASE BECAUSE IT
14 INVOLVES THE BLOOD VESSELS WITH EXTRA COLLAGEN BEING
15 PRODUCED. LUPUS IS CHARACTERIZED BY THE PRESENCE OF CERTAIN
16 ANTIBODIES AGAINST ONE'S SELF THAT ARE PRESENT IN THE BLOOD.
17 AND WHAT LUPUS DOES IS PUT DEPOSITS OF THESE ANTIBODIES ON
18 THE SURFACES OF BLOOD VESSELS IN DIFFERENT PLACES OF THE
19 BODY AND CAUSE INJURY TO THOSE BLOOD VESSELS WHICH THEN
20 INJURES THE BODY ORGAN. THE KIDNEYS ARE COMMONLY INVOLVED.
21 KIDNEYS FILTER ALL YOUR BLOOD. AND THE LITTLE FILTER AREAS
22 OF THE KIDNEYS BECOME INJURED, AND RENAL FAILURE CAN OCCUR.
23 BUT OTHER ORGANS, THE HEART AND BRAIN, CAN BE INVOLVED AND
24 WILL SHOW THE SAME VASCULITIS, OR INFLAMMATION OF BLOOD
25 VESSELS, THAT ARE PRESENT WITHIN THE GLOMERULI OF THE

1 KIDNEYS.

2 Q. NOW, I BELIEVE THAT ANGIE, Minor MOTHER, DIED OF
3 LUPUS; IS THAT CORRECT? I BELIEVE YOU REVIEWED THE MEDICAL
4 RECORDS?

5 A. WELL, I'VE SEEN THAT STATED IN THE RECORDS. I HAVE NO
6 SPECIFIC RECORDS ON HER.

7 Q. ALL RIGHT. AT SOME POINT BEFORE HER DEATH, WAS
8 Minor GIVEN A PRESUMPTIVE TEST FOR LUPUS?

9 A. YES. Minor WAS GIVEN THE SCREENING TEST THAT'S
10 PERFORMED FOR LUPUS CALLED THE A.N.A. OR ANTI-NUCLEAR
11 ANTIBODY TEST. AND HER RESULTS WERE CONSIDERED TO BE A TIER
12 OF ONE TO ONE SIXTY BY THE LABORATORY REPORT.

13 Q. ALL RIGHT. SHE WAS POSITIVE ON THE PRESUMPTIVE TEST?

14 A. THAT'S CORRECT.

15 Q. ALL RIGHT. AND I'M HANDING YOU THE LUPUS BOOK, WHICH
16 IS PUT OUT BY THE LUPUS FOUNDATION OF AMERICA AS A GUIDE FOR
17 PATIENTS AND THEIR FAMILIES. IS THAT SOMETHING THAT WOULD
18 BE REASONABLY RELIED ON IN THE MEDICAL LITERATURE?

19 A. YES, AT THE TIME OF ITS ---

20 Q. IF YOU WILL PLEASE READ THE FIRST SENTENCE AND THE
21 SECOND SENTENCE.

22 A. "AS MANY AS TEN MILLION AMERICANS MAY RECEIVE A
23 POSITIVE A.N.A. TEST RESULT, BUT FEWER THAN A MILLION
24 PROBABLY HAVE S.L.E., LUPUS."

25 Q. WAIT, WAIT, WAIT. STOP THERE. SO FOR EVERY TEN PEOPLE

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1 WHO SCREEN POSITIVE, I GUESS YOU'D SAY, ON AN A.N.A. TEST,
2 HOW MANY DO NOT HAVE IT?

3 A. WELL, ONLY ONE OUT OF EVERY TEN -- OR NINE OUT OF EVERY
4 TEN WHO SCREEN POSITIVE DON'T HAVE IT.

5 Q. ALL RIGHT. SO FOR EVERY TEN THAT SCREEN POSITIVE, ONLY
6 ONE WILL END UP ACTUALLY HAVING IT?

7 A. THAT'S CORRECT.

8 Q. THEREFORE, WHEN YOU GET A POSITIVE A.N.A. TEST, WHAT
9 ADDITIONAL TEST DO YOU HAVE TO RUN TO MAKE SURE THAT YOUR
10 PATIENT IS NOT ONE OF THE NINE THAT DOESN'T REALLY HAVE IT?

11 A. WE THEN RUN A SERIES OF SPECIFIC ANTI-NUCLEAR
12 ANTIBODIES THAT ARE SPECIFIC TO THINGS THAT ARE INSIDE THE
13 NUCLEUS OF THE CELL. DEPENDING UPON THE PATTERN -- IN THIS
14 CASE, HER PATTERN WAS CALLED SPECKLED -- WE RUN CERTAIN
15 ANTIBODIES VERSUS IF THE PATTERN WAS CALLED SOMETHING ELSE
16 LIKE HOMOGENEOUS, WE MIGHT RUN CERTAIN ANTIBODIES.

17 Q. ALL RIGHT. IF YOU'LL RUN -- READ THE NEXT SENTENCE
18 AFTER THAT.

19 A. "POSITIVE A.N.A.'S, EVEN IN LARGE AMOUNTS, CAN BE FOUND
20 IN HEALTHY RELATIVES OF S.L.E. PATIENTS, PATIENTS WITH OTHER
21 AUTOIMMUNE DISEASES AND NORMAL PEOPLE, ESPECIALLY THOSE OVER
22 THE AGE OF SIXTY."

23 Q. ALL RIGHT. SO YOU CAN GET THIS POSITIVE A.N.A. TEST IF
24 YOU HAVE A RELATIVE THAT HAS LUPUS THEN?

25 A. THAT'S CORRECT.

1 Q. ALL RIGHT. NOW, IN GREENVILLE HOSPITAL, WERE THESE
2 ADDITIONAL TESTS RUN ON Minor

3 A. THEY RAN BOTH AN A.N.A. TEST AND THEY BASICALLY TOOK
4 THE SHEET OF PAPER THAT HAD ALL THE EXTRACTED ANTIGENS ON IT
5 AND CHECKED THEM ALL OFF AND RAN ALL THOSE EXTRACTED
6 ANTIGENS.

7 Q. ALL RIGHT. LET'S START WITH THE A.N.A. TEST. THE
8 A.N.A. TEST THAT WAS GIVEN AT HER DEATH, WAS THAT POSITIVE
9 OR NEGATIVE FOR LUPUS?

10 A. IT WAS NEGATIVE. IT WAS NOT REACTIVE.

11 Q. SO EVEN THE PRESUMPTIVE TEST WAS NEGATIVE?

12 A. THAT'S CORRECT.

13 Q. NOW, LET'S GO -- IN ADDITION TO THE A.N.A. TEST, THEY
14 RAN THESE OTHER TESTS NEVERTHELESS; IS THAT CORRECT?

15 A. THAT'S CORRECT.

16 Q. AND WERE THEY POSITIVE OR NEGATIVE FOR LUPUS?

17 A. THEY WERE NEGATIVE. THEY SHOWED NO ABNORMALITIES.

18 Q. NOW, WHEN YOU PERFORMED THE AUTOPSY, DID YOU ALSO RUN
19 ADDITIONAL TESTS TO DETERMINE WHETHER OR NOT SHE HAD LUPUS?
20 IN OTHER WORDS, KIND OF REPEAT THE GREENVILLE TESTS?

21 A. YEAH. I WAS UNAWARE AT THE TIME I DID THE AUTOPSY THAT
22 THEY HAD CONDUCTED THE TEST IN GREENVILLE. SO I REPEATED,
23 BASICALLY, ALL THE SAME TESTS. I RAN THE EXTRACTABLE
24 NUCLEAR ANTIGENS AND RAN THE A.N.A., AND THEY WERE ALL NON-
25 REACTIVE.

1 Q. NOW, IN ORDER TO DIAGNOSE SOMEBODY AS HAVING LUPUS, HOW
2 MANY FACTORS DOES A PHYSICIAN LOOK AT?

3 A. WELL, THE LARGEST GROUP OF PHYSICIANS THAT DEAL WITH
4 THESE DISEASES IN CLINICAL PATIENTS ARE KNOWN AS
5 RHEUMATOLOGISTS. AND THEIR NATIONAL ORGANIZATION HAS SET
6 FORTH A CRITERIA TO MAKE A DEFINITIVE DIAGNOSIS OF LUPUS
7 WHICH REQUIRES OUT OF A LIST OF POTENTIAL ABNORMALITIES THAT
8 FOUR OF THESE THINGS BE CLEARLY POSITIVE.

9 Q. ALL RIGHT.

10 A. OR ABNORMAL.

11 Q. SO FOUR OUT OF THE ELEVEN MUST BE PRESENT TO BE
12 DIAGNOSED LUPUS?

13 A. THAT'S CORRECT.

14 Q. ONE OF THOSE IS A POSITIVE A.N.A. TEST; IS THAT
15 CORRECT?

16 A. THAT'S CORRECT.

17 Q. ALL RIGHT. HOW MANY OF THESE ELEVEN FACTORS DID
18 Minor HAVE AT THE TIME OF HER DEATH?

19 A. NONE.

20 Q. NONE?

21 A. NONE.

22 Q. DOCTOR, IN YOUR EXPERT OPINION, WERE ANY OF THESE
23 INJURIES THAT YOU SAW ON Minor OR ANY OF HER BRAIN
24 INJURY, OR ANY OF THESE OTHER THINGS THAT WE HEARD ABOUT,
25 CAUSED BY LUPUS?

1 A. NO.

2 Q. WHY NOT?

3 A. WELL, THERE'S NO EVIDENCE THAT THE CHILD HAD LUPUS.
4 BUT SPECIFICALLY ADDRESSING THE BRAIN INJURY, LUPUS, WHEN IT
5 PRODUCES A BRAIN INJURY, PRODUCES IRRITATION OF THE BLOOD
6 VESSELS. AND THAT IRRITATION OF THE BLOOD VESSELS CAN CAUSE
7 SWELLING OF THE BRAIN MUCH LIKE INFECTIONS OF THE BRAIN CAN
8 CAUSE SWELLING OF THE BRAIN. BUT Minor HAD NO EVIDENCE
9 OF THAT IRRITATION OF THE BLOOD VESSELS OR WHAT'S KNOWN AS
10 VASCULITIS THAT PRODUCES LUPUS' INJURY TO THE BRAIN.

11 SHE ALSO HAD NO ABNORMALITIES OF HER CHOROID PLEXUS,
12 WHICH IS THE SMALL ORGAN IN THE BRAIN THAT PRODUCES YOUR
13 SPINAL FLUID. AND LUPUS CAN INFECT THAT PARTICULAR ORGAN.
14 I ALSO LOOKED AT HER OTHER ORGANS LIKE HER LIVER, HER HEART,
15 HER KIDNEYS FOR SIGNS OF LUPUS. AND THERE WAS NO SIGNS OF
16 THE INFLAMMATION OR VESSEL DAMAGE THAT LUPUS PRODUCES IN
17 THOSE LOCATIONS. THEN I SPECIFICALLY LOOKED AT THE SKIN
18 LESIONS. LUPUS PRODUCES A VERY CHARACTERISTIC INJURY TO THE
19 SKIN. AND NONE OF THE SKIN LESIONS HAD THE INFLAMMATION OR
20 OTHER CHANGES THAT ARE PRODUCED IN LUPUS WHEN IT'S ACTIVE IN
21 THE SKIN OR WHEN IT'S BEEN THERE, BUT IT'S IN A QUIETER
22 STAGE IN THE SKIN.

23 Q. SO THEN, DOCTOR, CAN YOU SAY BEYOND A REASONABLE DOUBT
24 -- CAN YOU LOOK AT THIS JURY AND TELL THEM BEYOND A
25 REASONABLE DOUBT WHETHER THE THINGS THAT YOU SAW IN THIS

1 CHILD WERE CONSISTENT OR INCONSISTENT WITH BATTERED CHILD
2 SYNDROME?

3 A. BEYOND A REASONABLE DOUBT, THE FINDINGS THAT WE HAD IN
4 THIS AUTOPSY ARE CONSISTENT WITH BATTERED CHILD SYNDROME.

5 Q. ALL RIGHT. LET'S GO TO ONE OTHER POSSIBLE AREA. DID
6 YOU NOTICE IN THE RECORDS THAT THERE WAS SOME MENTION OF
7 PSEUDO TUMOR CEREBRI?

8 A. YES, I DID.

9 Q. AND WILL YOU PLEASE DESCRIBE FOR THE JURY WHAT IS
10 PSEUDO TUMOR CEREBRI?

11 A. PSEUDO TUMOR CEREBRI, BASICALLY, IS AN INCREASED
12 PRESSURE IN THE BRAIN THAT'S NOT DUE TO A TUMOR. WHEN A
13 BRAIN TUMOR IS PRESENT IN THE BRAIN, IT CAUSES INCREASED
14 PRESSURE IN THE BRAIN. AND THIS HAS CERTAIN MANIFESTATIONS
15 WHEN THE DOCTOR EXAMINES THE PATIENT. IN THE BACK OF THE
16 EYE, THERE WILL BE SWELLING AROUND THE NERVES. THERE WILL
17 BE INCREASED PRESSURE IN THE SPINAL FLUID. THERE CAN BE
18 MULTIPLE CAUSES OF THIS. ONE CAUSE IS CERTAIN VIRAL
19 INFECTIONS. ONE CAUSE IS WE JUST DON'T KNOW WHAT THE CAUSE
20 WAS. BUT THERE CAN BE MULTIPLE CAUSES OF WHY SOMEONE MAY
21 HAVE INCREASED CEREBRAL SPINAL FLUID PRESSURE OR BRAIN
22 SWELLING WITHOUT A TUMOR BEING PRESENT.

23 Q. DOCTOR, IN LOOKING AT SOME OF THE CAUSES, AND AGAIN,
24 LOOKING AT THIS MEDICAL LITERATURE AND MEDICAL JOURNALS AND
25 SO FORTH, WHAT, IF ANY, IMPACT DOES REPEATED HEAD INJURY AND

1 MALNUTRITION HAVE AS A CAUSE OF PSEUDO TUMOR CEREBRI?

2 A. WELL, THOSE ARE TWO. AS ONE GOES DOWN WHAT WE CALL
3 YOUR DIFFERENTIAL DIAGNOSIS AS A CLINICAL PHYSICIAN GOING
4 THROUGH THE POSSIBILITIES, THEY MAY END UP WITH THIS PATIENT
5 COMPLAINED OF THE PROBLEM. REPETITIVE HEAD TRAUMA IS A
6 CLEAR CAUSE OF PSEUDO TUMOR CEREBRI. AND IT'S BASICALLY
7 BACK TO THE POINT OF THE SPORTS LITERATURE WHERE REPETITIVE
8 HEAD TRAUMA IN COMPETITIVE ATHLETES, RECOGNIZING THAT
9 INCREASE WILL CAUSE AN INCREASED BACKGROUND SWELLING IN THE
10 BRAIN MAKES THE BRAIN MORE PREPARED TO HAVE MORE INJURY FROM
11 MORE SWELLING.

12 Q. ALL RIGHT. NOW, AFTER Minor HEAD INJURY IN APRIL
13 WHERE SHE WENT TO ANDERSON HOSPITAL, WHAT, IF ANY, INJURY
14 DID SHE HAVE AS A RESULT OF THAT INJURY?

15 A. SHE HAD A SUBDURAL THAT WAS RECOGNIZED. THERE WERE
16 REPETITIVE C.T. SCANS. AND SHE HAD ELEVATED SPINAL FLUID
17 PRESSURE WITH SWELLING OF HER BRAIN.

18 Q. AND WHAT, IF ANYTHING, DID THIS CAUSE?

19 A. SHE DEVELOPED CROSSING OF THE EYES WHICH WAS CAUSED BY
20 A WEAKENING OR PARALYSIS OF THE NERVES THAT CONTROL THE
21 SMALL MUSCLES THAT ALLOW OUR EYES TO TRACK IN ONE DIRECTION
22 OR ANOTHER.

23 Q. NOW, UNTIL YOU DID THE AUTOPSY AND FOUND THE SUBDURAL
24 HEMATOMA, AND UNTIL YOU GOT ALL THE LAB RESULTS BACK FROM
25 ALL THE LUPUS TESTS AND SO FORTH, WERE YOU ALL ABLE TO SAY

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1 DEFINITELY AS TO WHETHER IT WAS LUPUS, PSEUDO TUMOR,
2 BATTERED CHILD SYNDROME, OR DID YOU HAVE TO DO ALL OF THESE
3 THINGS BEFORE YOU COULD RENDER AN OPINION?

4 A. IT WOULD BE THE CONSTELLATION OF ALL THOSE THINGS THAT
5 WOULD ALLOW US TO MAKE A DEFINITIVE STATEMENT OF WHAT CAUSED
6 THE CHILD'S PROBLEMS.

7 Q. DOCTOR, DID YOU SEE ANY EVIDENCE THAT THIS CHILD HAD
8 HAD SOME KIND OF SPELL OR SEIZURE BEFORE HER DEATH?

9 A. THE -- NO, I HAD NO EVIDENCE THAT THERE WAS A, QUOTE,
10 "SPELL" OF SOME SORT OR AN ANATOMIC FINDING THAT WOULD TELL
11 ME THAT THE CHILD MAY HAVE A, QUOTE, "SPELL."

12 Q. AND WHAT DO YOU MEAN BY THAT? WHAT WAS NOT THERE THAT
13 YOU WOULD HAVE EXPECTED TO BE THERE HAD SHE HAD A SEIZURE?

14 A. WELL, IF SHE HAD A SUDDEN SEIZURE EVENT, I MAY SEE A
15 TONGUE BITE OR A SPECIFIC FOCAL LESION OF THE MOUTH, INSIDE
16 THE MOUTH AREA, WHERE DURING THE SEIZURE PROCESS A PORTION
17 OF HER MOUTH BECAME INJURED. OR TEETH. OR WHEN I LOOK AT
18 THE BRAIN, WE FIND -- I MAY FIND AN AREA WHERE THE EVENT
19 STARTED. IN OTHER WORDS, A SPECIFIC DEFECT IN A PORTION OF
20 THE BRAIN THAT THEN COULD HAVE LED TO A SEIZURE SPREADING
21 OVER THE BRAIN.

22 Q. DOCTOR, WHAT IS THE BIGGEST ORGAN OF THE BODY?

23 A. THE SKIN.

24 Q. AND DOCTOR, DID ANY OF THE INJURIES THAT YOU FOUND
25 CREATE A SUBSTANTIAL RISK OF DEATH OR CAUSE SERIOUS OR

1 PERMANENT DISFIGUREMENT OR PROTRACTED LOSS OR IMPAIRMENT OF
2 THE FUNCTION OF ANY BODILY MEMBER OR ORGAN?

3 A. WELL, CERTAINLY, THE PERMANENT DISFIGUREMENT. THE SKIN
4 SCARS WOULD BE PERMANENT DISFIGUREMENT. THE VAGINAL
5 INJURIES AROUND THE URETHRA WOULD CAUSE DYSFUNCTION OF
6 URINATION AND BLADDER CONTROL AND THE INJURY BETWEEN THE
7 BACK OF THE VAGINA AND THE RECTUM WOULD LEAD TO POTENTIAL
8 SEXUAL DYSFUNCTION AS AN ADULT AND POTENTIAL DYSFUNCTION OF
9 THE LITTLE MUSCLE THAT CONTROLS OUR ANUS AND ALLOWS US TO
10 EXPEL AT WILL OUR DEFECATION. THE HEAD INJURY CLEARLY WOULD
11 PRODUCE A PERMANENT IF -- EVEN IF SURVIVAL HAD OCCURRED,
12 THERE IS A PERMANENT DIMINISHING OF THE QUALITY THE BRAIN
13 CAN BE USED FOR WITH EACH OF THESE EVENTS. SO THERE'S A
14 LITTLE LOSS EACH TIME. IT MAY NOT BE NOTICEABLE, BUT
15 COMPARED TO THE GENETIC POTENTIAL, IT WOULD BE LESS.

16 Q. BUT OTHER THAN THE HEAD INJURY? LET'S TAKE THE HEAD
17 INJURY AWAY. WOULD THE OTHER INJURIES, THE INJURIES TO THE
18 SKIN, TO THE VAGINAL AREA, TO THE TOES, WOULD THEY CAUSE
19 SERIOUS OR PERMANENT DISFIGUREMENT OR PERHAPS INVOLVE MORE
20 IMPAIRMENT OF THE FUNCTION OF A BODILY MEMBER OR ORGAN?

21 A. YES. AND WE DIDN'T ADDRESS THE TOES. BUT THERE WOULD
22 BE SIGNIFICANT NAIL LOSS AND PROBABLY SOME PERMANENT NAIL
23 LOSS FROM THOSE INJURIES.

24 Q. DOCTOR, AT THE TIME OF AUTOPSY, DID YOU PERFORM A RAPE
25 KIT ON Minor

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1 A. YES.

2 Q. I'M HANDING YOU STATE'S EXHIBIT 9. WILL YOU TAKE A
3 LOOK AT THAT AND SEE IF YOU RECOGNIZE IT?

4 A. THIS IS A STANDARD CHILD SEXUAL ASSAULT EVIDENCE KIT.
5 IT'S SUPPLIED BY SLED. AND THESE REPRESENT THE CONTENTS OF
6 THAT KIT THAT WE ACQUIRED THAT HAD BEEN SECONDARILY OPENED
7 AND RESEALED BY SLED.

8 Q. AND DESCRIBE FOR THE JURY WHAT IS A RAPE KIT.

9 A. A RAPE KIT -- WE COLLECT FLUIDS AND SECRETIONS FROM THE
10 ORIFICES OF THE BODY THAT MIGHT BE USED SEXUALLY IN AN
11 EFFORT TO ESTABLISH IF THERE WAS SEXUAL CONTACT AND IF THERE
12 WAS AN EXCHANGE IN SEXUAL FLUIDS.

13 Q. AND DO YOU USE VARIOUS SWABS IN THE VARIOUS AREAS?

14 A. THAT'S CORRECT. WE SWAB VARIOUS AREAS. WE MAKE
15 SLIDES. WE MAKE PREPARATION FOR D.N.A. IN A SPECIFIC KIT.

16 Q. DID YOU SEE ANY EVIDENCE OF SEXUAL -- WHAT YOU SAW IN
17 THE VAGINAL AREA, WAS IT MORE CONSISTENT WITH SOME KIND OF
18 BLUNT TRAUMA OR MORE CONSISTENT WITH SOME KIND OF SEXUAL
19 ACT?

20 A. IT WAS MORE CONSISTENT WITH BLUNT TRAUMA THAN SEXUAL
21 ACT. WE CAREFULLY EXAMINED THE INTROITUS OF THE CHILD, AND
22 ALL THAT WAS INTACT WITH NO EVIDENCE OF TEARING OR
23 PENETRATION.

24 MR. GAMBLE: STIPULATION, YOUR HONOR.

25 Q. DOCTOR, I'M HANDING YOU THE -- THIS WAS SENT TO SLED

1 FOR TESTING; IS THAT CORRECT?

2 A. THAT'S CORRECT.

3 Q. WHERE THEY TESTED FOR SEMEN, SPERM, ALL THAT SORT OF
4 THING?

5 A. VARIOUS ENZYMES WHICH ARE ASSOCIATED WITH SEMEN AND
6 SPERM. AND THEN IF THOSE WERE FOUND, WOULD PROGRESS TO TEST
7 FOR D.N.A.

8 Q. ALL RIGHT. LET'S LOOK AT THESE SMEARS, VAGINAL SWABS,
9 ORAL SWABS AND RECTAL SWABS. WERE THOSE NEGATIVE OR
10 POSITIVE FOR SEMEN AND SPERM?

11 A. NO SPERM WERE IDENTIFIED. AND THE FINGERNAIL CLIPPINGS
12 ---

13 Q. DON'T GO TO FINGERNAILS YET. LET'S FINISH WITH THE
14 RAPE KIT. WAS THERE ANY EVIDENCE OF SEMEN OR SPERM ON ANY
15 OF THAT?

16 A. NO.

17 Q. SO THEN THE RAPE KIT BASICALLY CAME BACK NEGATIVE?

18 A. THAT'S CORRECT.

19 Q. ALL RIGHT. NOW, DURING THE AUTOPSY -- WHAT DAY DID YOU
20 PERFORM THE AUTOPSY?

21 A. THE -- I BELIEVE IT WAS THE 18TH.

22 Q. AND THE CHILD CAME INTO THE HOSPITAL ON THE 14TH; IS
23 THAT RIGHT?

24 A. THAT'S CORRECT.

25 Q. ABOUT FOUR DAYS LATER?

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1 A. YEAH. THE 18TH IS WHEN I PERFORMED IT.

2 Q. DID YOU ALSO SWAB THE CHILD'S FINGERNAILS?

3 A. YEAH, WE CLIPPED THEM, TOOK THEM BACK TO THE QUICK AND
4 SAVED THAT WHOLE AREA.

5 Q. AND WHY DID YOU DO THIS?

6 A. ANYTIME THAT THERE'S CLOSE CONTACT BETWEEN TWO
7 INDIVIDUALS, THERE CAN BE TRANSFER. WE HAD INJURIES ON THE
8 CHILD'S BODY THAT SUGGESTED FINGERNAIL INJURIES INTO THE
9 CHILD'S SKIN. IF THE CHILD HAD DONE THOSE TO ITSELF, THEN
10 THERE WOULD BE ONLY TRANSFER OF THE CHILD'S OWN MATERIAL
11 UNDER THERE. BUT IF SOMEBODY DID THAT TO THE CHILD, THERE
12 WAS A CHANCE THAT THE CHILD COULD HAVE GRABBED A HOLD IN THE
13 SAME FASHION BACK TO SOMEONE ELSE. AND WE'D FIND THEIR
14 D.N.A. UNDERNEATH THE CHILD'S FINGERNAILS.

15 Q. OKAY. BUT YOU TOOK THESE FOUR DAYS AFTER THE CHILD WAS
16 BROUGHT IN?

17 A. THAT'S CORRECT.

18 Q. OKAY. AND WAS D.N.A. PERFORMED -- WERE D.N.A. TESTS
19 PERFORMED ON THE FINGERNAIL SCRAPINGS BY SLED?

20 A. YEAH. THEY DID D.N.A. TESTING, AND THEY FOUND NO
21 D.N.A. PROFILE UNLIKE Minor 'S. IN OTHER WORDS,
22 THE ONLY THING THEY FOUND WAS HER D.N.A. PROFILE ASSOCIATED
23 WITH THE FINGERNAILS.

24 Q. ALL RIGHT. BUT AGAIN, THESE SWABS WEREN'T DONE TILL
25 FOUR DAYS LATER; IS THAT CORRECT?

1 A. THAT'S CORRECT.

2 MS. WHITE: YOUR HONOR, I'D ASK THAT STATE'S EXHIBIT
3 9 BE ADMITTED.

4 MR. GAMBLE: NO OBJECTION.

5 THE COURT: WITHOUT OBJECTION, EXHIBIT 9 IN
6 EVIDENCE.

7 (RAPE KIT ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT 9)

8 Q. DOCTOR, ALL TOGETHER HOW MANY INJURIES DID YOU FIND ON
9 Minor BODY AT THE TIME OF DEATH?

10 A. SHE HAD OVER TWENTY INJURIES TO THE SURFACE OF HER BODY
11 PLUS THE INJURY TO HER BRAIN WHICH WOULD BE SEPARATE.

12 Q. DOCTOR, YOU SAID THAT YOU HAD REVIEWED HER PERSONAL
13 MEDICAL RECORDS. BY THAT, I MEAN PRIVATE PHYSICIANS AS WELL
14 AS HOSPITALIZATIONS. BETWEEN THE HEAD INJURY IN APRIL OF
15 2000, WHERE SHE HAD THE SUBDURAL HEMATOMA AND HER EYES WERE
16 CROSSED, BETWEEN THAT TIME AND THE TIME THAT SHE WENT INTO
17 THE HOSPITAL IN OCTOBER FOR THIS HEAD INJURY, ARE YOU AWARE
18 OF HOW MANY TIMES SHE WAS TAKEN TO A DOCTOR?

19 A. MY BEST REMEMBRANCE IS FOUR TO FIVE TIMES.

20 Q. FOUR TO FIVE TIMES?

21 A. THAT'S CORRECT.

22 Q. LET'S GO BACK TO THE PHOTOGRAPHS THAT WE TALKED ABOUT
23 ORIGINALLY, STATE'S EXHIBITS 48, 49 AND 50. WHAT DO THEY
24 SHOW, AND ARE THEY FAIR AND ACCURATE REPRESENTATIONS?

25 A. THEY SHOW THE INJURIES TO HER VAGINAL AREA AT THE TIME

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1 OF HER HOSPITAL ADMISSION IN GREENVILLE MEMORIAL. THEY SHOW
2 THE EXTERIOR APPEARANCE OF THE VAGINAL AREA, 48. THEY SHOW
3 THE BRUISE ON THE SIDE OF THE VAGINAL AREA, 50. AND THEY
4 SHOW THE TEAR AT THE BACK OF THE VAGINAL AREA, 49.

5 Q. YOU SAID THAT THEY DO NOT SHOW THE DISCOLORATION? DO
6 YOU -- I'M HANDING YOU ---

7 A. NO. THEY SHOW THE REDNESS. THEY DON'T SHOW THE LACK
8 OF -- THE REDNESS MASQUERADES -- AND THE CLEANING MATERIALS
9 THAT WERE USED BEFORE THE EXAMINATION MASQUERADE THE LACK OF
10 PIGMENT IN THE SKIN THAT WAS SO CLEARLY EVIDENT AT AUTOPSY.

11 Q. I'M SHOWING YOU A COUPLE OF OTHER PICTURES. DO YOU SEE
12 IT IN EITHER ONE OF THOSE?

13 A. NO. AGAIN, THESE ARE CLINICAL PICTURES, SOMEWHAT
14 SIMILAR TO THE SAME ONES THAT WERE SHOWN.

15 Q. DID YOU TAKE PICTURES AT AUTOPSY?

16 A. YES, I DID.

17 Q. AND WOULD THOSE SHOW IT?

18 A. YES.

19 Q. I'M TRYING HARD HERE. HOLD ON A MINUTE. DOCTOR, I
20 BELIEVE I HAVE THOSE. IF YOU WILL SEE IF YOU SEE ANY
21 PICTURES THAT SHOW THAT IN THIS GROUP.

22 A. YEAH. THIS PICTURE.

23 Q. ALL RIGHT. HOLD ON ONE SECOND.

24 A. AND THIS PICTURE.

25 (PHOTOGRAPH MARKED FOR IDENTIFICATION AS STATE'S

1 EXHIBIT 63)

2 Q. I'M HANDING YOU STATE'S EXHIBIT 63 FOR IDENTIFICATION.
3 WHAT, IF ANYTHING, DOES THAT SHOW?

4 A. THIS REPRESENTS A PICTURE THAT I TOOK OR CAUSED TO BE
5 TAKEN AT THE TIME OF AUTOPSY, AND SHOWS THE VAGINAL AREA UP
6 ONTO THE PUBIC AREA AT THE TIME THAT I SAW THE CHILD AT ITS
7 DEATH. IT SHOWS THE LACK OF PIGMENT OR THE -- WHERE THE
8 NORMAL COLOR TO THE SKIN HAS BEEN LOST BECAUSE OF THIS
9 CHRONIC IRRITATION AND INFLAMMATION.

10 Q. AND DOES THAT PHOTOGRAPH FAIRLY AND ACCURATELY DEPICT
11 HOW THE CHILD LOOKED WHEN YOU TOOK THAT PICTURE?

12 A. YES, IT DOES.

13 Q. I'M HANDING YOU STATE'S EXHIBITS 30 AND 29. AGAIN,
14 DON'T SHOW THOSE TO THE JURY YET. WHAT, IF ANYTHING, DO
15 THOSE SHOW?

16 A. THESE ARE CLINICAL PICTURES TAKEN AT THE TIME OF THE
17 CHILD'S ADMISSION TO THE GREENVILLE MEMORIAL HOSPITAL AND
18 SHOW THE NOSE INJURY THAT I DISCUSSED. BOTH 29 AND 30 ARE
19 SIMILAR, THOUGH 30 SHOWS IT BETTER, I THINK.

20 Q. AND DO THOSE PHOTOGRAPHS FAIRLY AND ACCURATELY DEPICT
21 THE WAY THE NOSE INJURY LOOKED WHEN YOU SAW THE CHILD?

22 A. YES.

23 Q. I'M HANDING YOU STATE'S EXHIBITS 57 AND 58. WHAT, IF
24 ANYTHING, DO THOSE SHOW?

25 A. FIFTY-EIGHT REPRESENTS A PICTURE OF THE CHILD AT THE

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1 TIME OF AUTOPSY AS WE RECEIVED HER FROM THE GREENVILLE
2 MEMORIAL HOSPITAL. IT SHOWS HER EXTREMELY THIN CHARACTER
3 WITHOUT FAT OVER THE ABDOMEN OR AROUND THE FACE. AND GIVEN
4 A GENERAL OVERVIEW, IT ALSO DEPICTS HER HAIR WITH LOSS OF
5 HAIR. AND 57, AGAIN, SHOWS THE HAIR WHERE YOU CAN SEE AREAS
6 WHERE PATCHES OF HAIR HAVE BEEN EXTRACTED.

7 Q. AND DO THOSE PHOTOGRAPHS FAIRLY AND ACCURATELY DEPICT
8 THE WAY THE CHILD LOOKED WHEN YOU SAW HER?

9 A. YES.

10 Q. DOCTOR, I'M HANDING YOU STATE'S EXHIBIT 40. WHAT IS
11 THAT?

12 A. THIS IS A LESION ON THE INNER THIGH ON THE LEFT SIDE OF
13 Minor

14 Q. AND DOES IT FAIRLY AND ACCURATELY DEPICT THE WAY IT
15 LOOKED ---

16 A. I SAID THE LEFT SIDE. I DON'T EXACTLY KNOW WHICH SIDE
17 IT IS FROM THIS PICTURE. IT MUST BE THE RIGHT SIDE FROM THE
18 PICTURE. AND IT SHOWS THE LITTLE CURVED INJURIES I REFERRED
19 TO AS SUGGESTIVE OR CONSISTENT WITH NAIL INJURIES.

20 Q. AND I'M HANDING YOU STATE'S EXHIBIT 41. DO YOU
21 RECOGNIZE THAT?

22 A. YES. THIS IS ONE OF THE INJURIES TO Minor LOWER
23 CHEST BELOW HER NIPPLE THAT WERE PRESENT ON HER CHEST AT THE
24 TIME OF HER HOSPITAL ADMISSION AND LATER ON SEEN BY ME AT
25 THE TIME OF HER AUTOPSY.

1 Q. AND DOES THAT FAIRLY AND ACCURATELY DEPICT THE INJURIES
2 AS YOU SAW THEM?

3 A. YES.

4 Q. AND STATE'S EXHIBIT 47?

5 A. THIS IS A PICTURE THAT I CAUSED TO HAVE TAKEN OF HER
6 BUTTOCKS AREA. IT SHOWS ONE OF THE CIRCULAR SCARS ON HER
7 BUTTOCKS -- I BELIEVE IT'S HER RIGHT SIDE BUTTOCKS -- AT THE
8 TIME OF AUTOPSY.

9 Q. AND THE CIRCULAR SCAR IS CONSISTENT OR INCONSISTENT
10 WITH THE SIZE OF A CIGARETTE?

11 A. IT'S CONSISTENT.

12 Q. AND THAT'S ON THE BUTTOCK?

13 A. THAT'S ON THE BUTTOCK.

14 Q. AGAIN, DID THAT FAIRLY AND ACCURATELY DEPICT THE INJURY
15 YOU FOUND AT THE TIME OF HER DEATH?

16 A. YES.

17 Q. AND FINALLY, STATE'S EXHIBIT 54. DO YOU RECOGNIZE
18 THAT?

19 A. THESE ARE INJURIES TO HER ELBOW AREA THAT WERE PRESENT
20 AT THE TIME OF HER DEATH. THIS IS HER LEFT ELBOW AREA.

21 Q. AND WHAT INJURIES ARE THOSE?

22 A. AGAIN, THESE ARE SUPERFICIAL SCARS. AND THERE'S SOME
23 CIRCULAR INJURY THAT LOOKS LIKE A NAIL.

24 Q. DID THAT FAIRLY AND ACCURATELY DEPICT THE WAY SHE
25 LOOKED AT THE TIME YOU SAW HER?

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1 A. YES, IT DOES.

2 Q. DOCTOR, I BELIEVE THAT YOU SAID THAT YOU DID NOT SEE
3 THE EAR INJURY EXCEPT FROM THE PICTURES FROM THE HOSPITAL.
4 IT HAD GONE DOWN BY THE TIME YOU SAW HER?

5 A. THAT'S CORRECT.

6 Q. OKAY. LET'S GO TO STATE'S EXHIBIT 32 AND 33.

7 A. THESE ARE PICTURES THAT, I BELIEVE, ARE TAKEN WHILE THE
8 CHILD IS STILL OUT AT GREENVILLE MEMORIAL HOSPITAL, BUT
9 REPRESENT THE LITTLE CURVED INJURIES OR FINGERNAIL-LIKE
10 INJURIES THAT WERE PRESENT ON HER HANDS.

11 Q. AND DO THEY FAIRLY AND ACCURATELY DEPICT THE INJURIES
12 AS YOU SAW THEM?

13 A. YES.

14 Q. ALL RIGHT. LET'S GO TO 34. WHAT IS THAT?

15 A. THIS IS HER ELBOW AREA AGAIN, THE SCRAPE INJURIES ON
16 HER ELBOW. I CAN'T TELL FROM THIS PICTURE IF IT'S A RIGHT
17 OR LEFT ELBOW. BUT THEY'RE BELOW THE ELBOW ON THIS PORTION
18 OF THE ARM.

19 Q. AND DO THEY FAIRLY AND ACCURATELY REPRESENT WHAT YOU
20 SAW AND NOTED IN YOUR AUTOPSY REPORT?

21 A. YES.

22 Q. LET'S GO TO 37, 35 AND 36. WHAT ARE THOSE?

23 A. LET'S SEE. THIRTY-SEVEN REPRESENTS THE RIGHT FOOT, THE
24 INJURIES TO THE TOES AND BOTH THE TOES AND THE TOENAILS OF
25 THE RIGHT FOOT. THIRTY-FIVE REPRESENTS THE LEFT FOOT,

1 MAINLY FOCUSING ON THE TOES. THIRTY-SIX SHOWS COMING UP THE
2 GREAT TOE, THE TOP OF THE FOOT, THE MULTIPLE BLOWS ALONG THE
3 TOP OF THE FOOT.

4 Q. AND DO THOSE FAIRLY AND ACCURATELY REPRESENT THE
5 INJURIES YOU SAW ON Minor

6 A. YES.

7 Q. I'M HANDING YOU STATE'S EXHIBIT 38 AND 39.

8 A. THESE REPRESENT INJURIES TO Minor KNEES THAT WE
9 DISCUSSED BEFORE. I CAN'T TELL DEFINITELY RIGHT FROM LEFT.
10 I BELIEVE 38 IS LEFT AND 37 IS RIGHT.

11 Q. AND DO THOSE FAIRLY AND ACCURATELY REPRESENT THE
12 INJURIES YOU SAW?

13 A. YES.

14 Q. LOOKING AT 42, WHAT IS THAT?

15 A. THIS IS, AGAIN, SOME INJURIES ACROSS HER ABDOMEN. YOU
16 CAN SEE ONE HIGHER ON THE LEFT, ONE OF AN OLDER AGE GROUP
17 BELOW THE RIB CAGE ON THE RIGHT AND THEN ONE JUST COMING ON
18 THE LOWER RIGHT.

19 Q. AND DOES THAT FAIRLY AND ACCURATELY REPRESENT THE WAY
20 SHE LOOKED AT AUTOPSY?

21 A. YES.

22 THE COURT: WHAT WAS THAT NUMBER ON THAT LAST ONE?

23 MS. WHITE: THAT WAS 42.

24 THE COURT: ALL RIGHT.

25 Q. ALL RIGHT. LET'S GO TO 43, 44, 45, AND 46. WHAT AREAS

1 OF Minor DO THOSE SHOW?

2 A. FORTY-THREE IS THE LEFT SCAPULA, THE BRUISE AREA ON HER
3 LEFT SCAPULA.

4 Q. THE SCAPULA IS THE BACK ---

5 A. BACK OF HER SHOULDER. AND 46 IS -- SHOWS ONE OF THE
6 CIRCULAR SCARS ON HER BACK WITH A SIZING INSTRUMENT PLACED
7 IN THE PICTURE TO SHOW THE APPROXIMATE SIZE OF THAT SCAR
8 AREA THAT I CAUSED TO HAVE TAKEN AT THE TIME OF AUTOPSY. IT
9 ALSO SHOWS SOME OF THE OTHER SCAR AREAS ON HER BACK. FORTY-
10 FIVE REPRESENTS ONE OF THE CIRCULAR SCAR AREAS WITHOUT THE
11 SIZER PLACED IN THE -- WITH THE SCAR. FORTY-FOUR REPRESENTS
12 ANOTHER -- OR ACTUALLY SHOWS TWO OF THESE CIRCULAR SCAR
13 AREAS ON HER BACK.

14 Q. OKAY. SO THESE ARE VARIOUS AREAS ON HER BACK THAT SHOW
15 VARIOUS INJURIES?

16 A. THAT'S CORRECT.

17 Q. DO THOSE FAIRLY AND ACCURATELY DEPICT THE WAY SHE
18 LOOKED AT THE TIME OF HER AUTOPSY?

19 A. YES.

20 Q. LET'S GO TO 51, 52, 53, 55 AND 56.

21 A. OKAY. FIFTY-ONE REPRESENTS A PICTURE I TOOK OR HAD
22 TAKEN AT THE AUTOPSY WHICH SHOWS BRUISES ABOUT HER RIGHT
23 HAND ON HER WRIST AREA. FIFTY-TWO SHOWS AN INJURY TO HER --
24 ONE OF HER KNEES SIMILAR TO A PICTURE WE SAW PRE-MORTEM OF
25 HER KNEE INJURIES. FIFTY-THREE SHOWS THE HEALING SCARRED

1 AREA TO THE LEFT INNER THIGH. FIFTY-FIVE SHOWS ONE OF HER
2 KNEE AREAS WITH MULTIPLE BRUISES ALONG THE OUTSIDE EDGE OF
3 HER KNEE. THESE BRUISES ARE IN A SIZE THAT WOULD BE
4 CONSISTENT WITH FINGERTIP INJURIES. FIFTY-SIX SHOWS SOME
5 BRUISES ON THE INSIDE OF ONE OF HER ARMS. I CAN'T -- IT'S
6 HER LEFT ARM.

7 Q. AND DO ALL OF THOSE FAIRLY AND ACCURATELY PORTRAY THE
8 WAY SHE LOOKED AT THE TIME OF AUTOPSY?

9 A. YES, THEY DO.

10 Q. DOCTOR, WHAT -- ALL OF THE PHOTOGRAPHS THAT I HAVE
11 SHOWN YOU TODAY, WHAT, IF ANYTHING, DO THEY SHOW IN REGARD
12 TO WHETHER THE INJURY IS ACCIDENTAL VERSUS INFLECTED?

13 A. THE NATURE OF SOME OF THE INJURIES ARE NOT OF A NATURE
14 THAT WOULD BE AN ACCIDENTAL INJURY SUCH AS THE CURVED
15 FINGERNAIL-TYPE OF INJURIES HAVE TO BE INFLECTED BY SOMEONE
16 GRASPING THE INDIVIDUAL. THEY ALSO OCCURRED AT SO MANY
17 DIFFERENT LOCATIONS THAT THEY'RE INCONSISTENT WITH THE
18 INDIVIDUAL, THE PATIENT, ACTUALLY DOING IT TO THEMSELVES.
19 SOME OF THE LOCATIONS ARE NOT CONVENIENT FOR THE PATIENT TO
20 DO IT. THEY ALSO SHOW THAT THESE INJURIES OCCURRED AT
21 DIFFERING TIMES. SO THEY DIDN'T OCCUR AT THE SAME TIME.
22 THEY OCCURRED AT ONE TIME, THERE WAS A TIME SPACING, AND
23 THEN THEY OCCURRED AGAIN.

24 Q. IS THERE ANY WAY TO TAKE SOME OF THE INJURIES OR ONE OF
25 THE INJURIES, OR DO YOU NEED TO LOOK AT THE WHOLE -- EVERY

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1 INJURY IN ORDER TO DIAGNOSE BATTERED CHILD SYNDROME? IS IT
2 -- IN OTHER WORDS, IS IT THE WHOLE PICTURE, OR IS IT AN
3 INDIVIDUAL THING?

4 A. IT'S ALL OF THESE THINGS PUT TOGETHER. ALL OF THESE
5 INJURIES PUT TOGETHER.

6 Q. AND DOCTOR, DO THESE PICTURES CORROBORATE YOUR
7 TESTIMONY THAT YOU TOLD THE JURY ABOUT THE INJURIES?

8 A. YES, THEY DO.

9 Q. NO FURTHER QUESTIONS.

10 THE COURT: LADIES AND GENTLEMEN, WE'RE GOING TO
11 TAKE A BREAK. WE'VE BEEN GOING FOR TWO HOURS. SO LET'S
12 TAKE ABOUT A TEN-MINUTE STRETCH BREAK. RETURN TO THE JURY
13 ROOM. DO NOT DISCUSS THE CASE. WE'LL GET YOU BACK OUT HERE
14 IN ABOUT TEN MINUTES. WE'LL GO TILL ABOUT ONE O'CLOCK
15 PROBABLY AND BREAK FOR LUNCH ABOUT THAT TIME. THANK YOU.

16 LET'S REMAIN SEATED UNTIL THE JURY IS EXCUSED, PLEASE.

17 (WHEREUPON THE JURY EXITED THE COURTROOM AT 12:02 P.M.)

18 THE COURT: WE'LL BE AT RECESS FOR TEN MINUTES.

19 THANK YOU.

20 (WHEREUPON COURT STOOD AT RECESS)

21 THE COURT: WE'RE BACK ON THE RECORD. AND ANY
22 QUESTIONS OF EVIDENCE WE NEED TO ADDRESS BEFORE WE BRING THE
23 JURY BACK IN?

24 MS. WHITE: YES, SIR. YOUR HONOR, I SHOULD HAVE
25 STOOD UP AND SAID I HAVE NO QUESTIONS -- MORE QUESTIONS AT

1 THIS TIME. I AM ACTUALLY WANTING TO INTRODUCE THE
2 PHOTOGRAPHS. I DID NOT WANT TO DO THAT IN FRONT OF THE
3 JURY. AND IF SOME OF THEM ARE INTRODUCED, THEN I WOULD LIKE
4 TO HAVE AN OPPORTUNITY TO SHOW THEM TO THE JURY. AND THE
5 SAME GROUNDS THAT I THINK WE'VE ALL ARGUED ALREADY.

6 THE COURT: I DON'T KNOW IF YOU, MR. GAMBLE, HAVE
7 SEEN THIS NEW ONE, STATE'S EXHIBIT 63 FOR IDENTIFICATION.
8 IT WAS ONE THAT WAS PUT IN TODAY. AND I WANT YOU TO HAVE
9 THE BENEFIT OF REVIEWING IT. IT WAS NOT PART OF THE GROUP
10 THAT WE WENT OVER AND REVIEWED VERY CAREFULLY YESTERDAY
11 EVENING.

12 MS. WHITE: JUDGE, ACTUALLY, THE VAGINAL INJURIES
13 FROM THE HOSPITAL AND THE EAR INJURY I COULD WAIT BECAUSE
14 THIS DOCTOR DID NOT SEE THE CHILD IN THE HOSPITAL. SO
15 ACTUALLY STATE'S EXHIBIT 31 AND -- I THINK HE SAID ALL THE
16 OTHERS LOOKED THE SAME AT THE TIME OF AUTOPSY. AND STATE'S
17 EXHIBIT 48 I WOULD HOLD OUT. AND I'LL SEEK TO INTRODUCE
18 THOSE IN FRONT OF -- OR WITH THE PHYSICIAN FROM THE
19 HOSPITAL.

20 THE COURT: I DON'T BELIEVE WE ADDRESSED -- WELL,
21 YOU SAID 48?

22 MS. WHITE: I NEVER ADDRESSED THE EAR INJURY BECAUSE
23 THIS DOCTOR DID NOT -- REMEMBER, HE SAID AT AUTOPSY IT HAD
24 GONE AWAY? SO I'M GOING TO HAVE TO WAIT UNTIL THE PHYSICIAN
25 FROM THE HOSPITAL TO ADDRESS THOSE TWO.

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1 THE COURT: ALL RIGHT. I'M AWARE OF YOUR POSITION.
2 I'D BE GLAD TO HEAR ANYTHING FURTHER IF YOU WANT TO PUT
3 ANYTHING ADDITIONAL ON THE RECORD.

4 MR. GAMBLE: NO, YOUR HONOR. MY POSITION IS THE SAME
5 AS YESTERDAY ON PRETRIAL.

6 THE COURT: HERE'S MY RULING ON THE EVIDENCE THAT'S
7 BEEN PRESENTED. AND DEFENDANT OBJECTS TO ALL OF THESE
8 EXHIBITS ON A 403 BASIS ALLEGING THAT EVEN IF RELEVANT, THE
9 RELEVANCE IS SUBSTANTIALLY OUTWEIGHED BY THE PREJUDICIAL
10 IMPACT OF THESE PHOTOGRAPHS. AT THIS TIME, BASED ON THE
11 FACTUAL RECORD BEFORE ME, I SUSTAIN THE OBJECTION WITH
12 RESPECT TO EXHIBIT 58 FOR IDENTIFICATION, 50 FOR
13 IDENTIFICATION AND 49 FOR IDENTIFICATION. I ALSO SUSTAIN
14 THE OBJECTION WITH RESPECT TO EXHIBIT 29 FOR IDENTIFICATION.
15 I AM NOT FORECLOSING THE STATE FROM REVISITING ANY ISSUE
16 WITH RESPECT TO THAT GROUP OF PHOTOGRAPHS TO WHICH I SUSTAIN
17 THE OBJECTION AT THIS TIME IF THE FACTUAL RECORD CHANGES OR
18 IF CERTAIN AREAS BECOME DISPUTED TO A DEGREE THAT CHANGES
19 THE ANALYSIS. WITH RESPECT TO THE FOLLOWING EXHIBITS: 32,
20 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47,
21 51, 52, 53, 54, 55 AND 56, I RESPECTFULLY OVERRULE THE
22 OBJECTION, BASED ON RULE 403, AND WOULD PERMIT AND DO AT
23 THIS TIME ALLOW THOSE PHOTOGRAPHS TO BE RECEIVED IN
24 EVIDENCE. I ALSO ALLOW EXHIBIT 63 FOR IDENTIFICATION, THE
25 ONE THAT WAS NOT ADDRESSED LAST NIGHT, BUT HAS BEEN

1 CAREFULLY STUDIED TODAY, AND IS CONSISTENT WITH THE
2 CONDITION OF THE VAGINA AS TESTIFIED BY THE PATHOLOGIST AT
3 THE TIME HE CONDUCTED THE AUTOPSY. SO ALL OF THOSE
4 PHOTOGRAPHS, INCLUDING THE NEW ONE THAT WAS REVIEWED TODAY,
5 63, ARE PERMITTED AND INTRODUCED AT THIS TIME. THE RECORD
6 WILL REFLECT THE DEFENDANT'S EXCEPTION TO MY RULING WITH
7 REGARD TO THAT GROUP OF PHOTOGRAPHS THAT I PERMIT. THE
8 RECORD WILL ALSO REFLECT THE STATE'S EXCEPTION TO MY RULING
9 AT THIS TIME EXCLUDING THOSE PHOTOGRAPHS TO WHICH I
10 SUSTAINED THE OBJECTION.

11 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
12 32)

13 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
14 33)

15 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
16 34)

17 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
18 35)

19 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
20 36)

21 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
22 37)

23 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
24 38)

25 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

1 39)
2 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
3 40)
4 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
5 41)
6 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
7 42)
8 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
9 43)
10 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
11 44)
12 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
13 45)
14 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
15 46)
16 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
17 47)
18 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
19 51)
20 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
21 52)
22 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
23 53)
24 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
25 54)

1 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

2 55)

3 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

4 56)

5 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

6 63)

7 MS. WHITE: YOUR HONOR, MAY I ASK ---

8 THE COURT: IF YOU HAVE ANY QUESTIONS OR

9 CLARIFICATION, I'LL BE GLAD TO RECEIVE IT.

10 MS. WHITE: I JUST WANT TO SEE 29, 49, 50 AND 58.

11 I'M NOT SURE -- I DON'T REMEMBER WHICH ONES THOSE WERE.

12 THE COURT: ALL RIGHT. TWENTY-NINE, 58, 50, 49.

13 MS. WHITE: YOUR HONOR, WE'D WITHDRAW THE REQUEST TO
14 GET IN 30. I THINK THAT'S SHOWN IN ONE OF THE OTHERS THAT
15 WAS ADMITTED.

16 MR. GAMBLE: YOU WITHDRAW -- I BEG YOUR PARDON?

17 THE COURT: YOU'RE WITHDRAWING ---

18 MS. WHITE: I THINK YOU KEPT OUT 29. WE WOULD
19 WITHDRAW OUR REQUEST TO GET IN 29. I THINK IT'S SHOWN OKAY
20 IN 30, WHICH YOU DID LET IN.

21 THE COURT: WELL, I PERMITTED 30. YOU'RE SAYING YOU
22 JUST WITHDREW 30.

23 MS. WHITE: NO, NO. I'M SORRY. I WANT 30. TWENTY-
24 NINE AND 30 LOOKED ENOUGH ALIKE THAT WE WITHDRAW. AS LONG
25 AS ONE COMES IN, WE'LL WITHDRAW ON THE OTHER ONE.

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1 THE COURT: ALL RIGHT.

2 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

3 30)

4 MS. WHITE: SO NOW, BEFORE I GO THROUGH THIS WITH
5 HIM, MAY I HAVE A MINUTE TO GET THEM IN ORDER AND JUST MAKE
6 SURE I'VE GOT ONLY THE ONES THAT ARE ADMITTED?

7 THE COURT: SURE. AND IF YOU NEED ME TO GO OVER THE
8 NUMBERS FOR CLARIFICATION. I UNDERSTAND THERE'S A LOT OF
9 PHOTOGRAPHS. SOME ARE IN; SOME ARE OUT. AND I'D BE GLAD TO
10 REVIEW IT WITH YOU IF EITHER SIDE NEEDS TO.

11 MR. GAMBLE: YOUR HONOR, I DIDN'T SPECIFICALLY SAY
12 IT, BUT NUMBER 63 I STATE THE SAME OBJECTION AS I DID TO ALL
13 OF THE OTHER PHOTOGRAPHS ON THAT -- ON 63.

14 THE COURT: YES, SIR.

15 MR. GAMBLE: THANK YOU.

16 THE COURT: YOUR OBJECTION IS ---

17 MR. GAMBLE: JUST FOR THE RECORD, I DID NOT MENTION
18 ANYTHING ABOUT 63, BUT I DO OBJECT TO IT.

19 THE COURT: VERY GOOD, SIR.

20 MR. GAMBLE: AND I UNDERSTAND THE RULING. I'M NOT
21 ARGUING THAT. I JUST WANT TO ...

22 MS. WHITE: JUDGE, MAY I GO THROUGH THE NUMBERS THAT
23 I THINK I CAN GET IN?

24 THE COURT: SURE.

25 MS. WHITE: I HAVE 30 HERE. I DID NOT WRITE DOWN 30

1 WHEN YOU WERE CALLING THEM OUT. THIRTY IS ADMITTED, THOUGH;
2 IS THAT RIGHT?

3 THE COURT: THIRTY IS ADMITTED. TWENTY-NINE IS NOT.
4 BUT YOU WITHDREW THAT ONE.

5 MS. WHITE: I HAVE 30. I HAVE 32, 33, 34, 35, 36,
6 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 51, 52, 53, 54,
7 55, 56 AND -- I HAVE 57. I DIDN'T WRITE THAT DOWN. IS THAT
8 SUPPOSED TO BE IN OR OUT?

9 THE COURT: THAT'S IN. AND 63 IS IN.
10 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
11 57)

12 MS. WHITE: AND 63. AND JUDGE, IF YOU DON'T MIND,
13 I'D LIKE TO LEAVE THOSE PHOTOGRAPHS UP WITH YOU SO THAT I
14 DON'T GET THEM MIXED IN WITH THE ONES THAT WERE ADMITTED.

15 THE COURT: AND IF YOU WANT TO REVISIT LATER, I'LL
16 BE GLAD TO DO IT. I MAY PUT A PAPERCLIP ON THOSE AT LUNCH
17 AND GIVE THEM TO THE COURT REPORTER, AND THOSE WILL JUST BE
18 COLLECTIVELY MARKED EACH FOR IDENTIFICATION SO THEY WILL
19 REMAIN PART OF THE RECORD IN THE CASE.

20 MS. WHITE: ALL RIGHT.

21 THE COURT: ARE YOU READY TO GO?

22 MS. WHITE: YES, SIR, I'M READY.

23 THE COURT: BRING THE JURY.

24 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 12:27
25 P.M.)

1 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, WE'RE
2 READY TO PROCEED. WE HAVE SOME ADDITIONAL MATTERS FROM THE
3 STATE, AND THEN WITH TIME PERMITTING, WE'LL MOVE TO CROSS
4 EXAMINATION.

5 MS. WHITE: YOUR HONOR, MAY I HAVE THE WITNESS STEP
6 DOWN?

7 THE COURT: YOU MAY.

8 (WHEREUPON WITNESS STEPPED DOWN FROM THE WITNESS STAND)

9 Q. DR. WOODARD, I'M PUTTING UP STATE'S EXHIBIT 30. WHO IS
10 THIS?

11 A. THIS IS Minor AT THE TIME SHE WAS
12 HOSPITALIZED AT GREENVILLE MEMORIAL HOSPITAL.

13 Q. WAIT A MINUTE. LET ME TRY TO FOCUS IT A BIT BETTER.
14 ALL RIGHT.

15 A. THIS IS THE TUBE THAT WOULD DRAIN -- THEY TRIED TO
16 DRAIN HER STOMACH. THIS IS THE NOSE INJURY THAT I REFERRED
17 TO. THE SKIN BETWEEN THE TWO NOSTRILS. AND YOU CAN SEE
18 THIS INJURY GOING UP INSIDE THE NOSE, BUT NOT INVOLVING THE
19 OUTSIDE OR THE NOSE BALL ITSELF.

20 Q. THIRTY-TWO?

21 A. THIS REPRESENTS HER LEFT HAND. YOU CAN SEE THE SMALL
22 CURVED INJURIES ON HER LEFT HAND WHICH ARE CONSISTENT WITH
23 NAIL INJURIES. FOR THE NAIL ACTUALLY PRODUCES THE CURVE IN
24 THE OPPOSITE DIRECTION THAT YOU THINK IT'S GOING TO PRODUCE.

25 Q. DESCRIBE THAT FOR THE JURY.

1 A. THE NAIL, AS IT GOES IN, PRODUCES A SMALL TEAR IN THE
2 SKIN. IT PRODUCES A SMALL CURVED INJURY. THAT CURVED
3 INJURY WILL INSTEAD OF WHERE YOUR NAIL -- YOU WOULD THINK
4 YOUR NAIL WOULD PRODUCE THE CURVE THE OTHER WAY. THEY
5 ACTUALLY PRODUCE THE CURVE IN THE OPPOSITE DIRECTION YOU
6 THINK IT'S GOING TO PRODUCE.

7 Q. STATE'S EXHIBIT 33?

8 A. THIS, AGAIN, ARE SOME OF THOSE CURVED INJURIES THAT WE
9 SEE ON HER THUMB OF HER LEFT HAND.

10 Q. STATE'S EXHIBIT 34?

11 A. THIS SHOWS HER ELBOW AREA. YOU SEE THE SCRAPES ON HER
12 ELBOW AREA. THIS ONE HAS A VERY SQUARED EDGE TO IT, WHICH
13 AGAIN, THAT SQUARING IS VERY -- SOME MANMADE OBJECT RATHER
14 THAN SOMETHING YOU'D FIND IN NATURE.

15 Q. STATE'S EXHIBIT 35?

16 A. THESE ARE THE TOES OF HER LEFT FOOT. YOU SEE INJURIES
17 STARTING WITH THE GREAT TOE UNDERNEATH THE NAIL, BLEEDING
18 UNDER THE NAIL. AND YOU SEE THE NAIL BEGINNING TO LIFT
19 HERE, AN INJURY HERE, UP ON THE TOES AS WELL AS INJURIES TO
20 THE TOENAILS TO INCLUDE THE LITTLE TOE. ALL FIVE TOES ARE
21 INVOLVED. AND AT THE TOP OF THE FOOT, WE SEE AN INJURY
22 PATTERN HERE. GOING FURTHER UP THIS PROMINENCE THAT FOLLOWS
23 YOUR GREAT TOE BACK TOWARD YOUR ANKLE, WE BEGIN TO SEE THE
24 PATTERN OF INJURIES HERE.

25 Q. STATE'S EXHIBIT 36? WAIT A MINUTE. WAIT A MINUTE.

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1 LET ME BACK UP HERE A MINUTE.

2 A. OKAY. WE TALKED ABOUT YOU CAN BEGIN TO SEE THOSE
3 INJURIES COMING UP THE FOOT. HERE YOU SEE THAT THERE ARE
4 MULTIPLE BANDS COMING UP THE FOOT. YOU SEE HOW THESE BANDS
5 ARE COMING JUST AT THE VERY TOP MOST PROMINENT PART OF THE
6 FOOT IS CAUGHT BY WHATEVER IS INJURED.

7 Q. STATE'S EXHIBIT 37?

8 A. THIS IS HER OTHER FOOT. HER RIGHT FOOT. AGAIN, WE SEE
9 THE INJURIES ON THE NAILS ON THE TOES. ON THE NAILS,
10 LIFTING OF THE NAILS BECAUSE OF OLD BLEEDING UNDERNEATH THE
11 INJURIES ALL THE WAY TO THE TIPS OF THE TOES INVOLVING ALL
12 THE TOES AS WELL AS THE TOPS OF THE TOES. A LARGE BLOOD
13 COLLECTION IS HERE UNDERNEATH THE CUTICLE OF THIS TOE.

14 MS. WHITE: YOUR HONOR, MAY WE APPROACH THE BENCH?

15 THE COURT: SURE.

16 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD,
17 IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE
18 JURY BETWEEN THE COURT AND BOTH COUNSEL)

19 THE COURT: BEFORE WE RESUME, IF ANYBODY ON THE
20 SIDE, THE ALTERNATES PARTICULARLY, IF YOU CAN'T SEE AND YOU
21 NEED TO MOVE, OR EVEN IF YOU NEED TO STAND UP OUTSIDE THE
22 JURY BOX TO GET A VIEW, PLEASE FEEL FREE TO DO SO. I WANT
23 EVERYBODY, ALTERNATES INCLUDED, TO HAVE EQUAL ACCESS TO THE
24 EVIDENCE. CAN Y'ALL STILL SEE?

25 (JURORS NODDED HEAD UP AND DOWN IN THE AFFIRMATIVE)

1 Q. STATE'S EXHIBIT 38?

2 A. THIS REPRESENTS HER LEFT KNEE. AGAIN, YOU CAN SEE THAT
3 CURVED SHAPE WE TALKED ABOUT. THIS IS THE URINARY CATHETER.
4 THIS IS NOT THE FRONT OF THE KNEE, BUT AROUND THE SIDE OF
5 THE KNEE.

6 Q. STATE'S EXHIBIT 39?

7 A. THIS REPRESENTS HER ELBOW. YOU SEE THE SCRATCHES HERE
8 ON HER ELBOW, AND WE CAN ALSO SEE THAT THERE'S AN AREA WHERE
9 THERE'S BEEN A LARGER INJURY TO THE ELBOW AND THERE'S A SCAR
10 IN THE BACKGROUND.

11 Q. THIS IS STATE'S EXHIBIT 40. I'M NOT REALLY SURE HOW
12 YOU WANT THIS. I GUESS THAT MIGHT BE THE BEST WAY.

13 A. THIS IS HER RIGHT LEG. THIS IS THE CATHETER THEY PUT
14 IN FOR VASCULAR ACCESS. THIS IS THE DIAPER HERE. HERE WE
15 SEE THOSE CURVED INJURIES, THE FINGERNAIL INJURIES. WE SEE
16 TWO OF THEM THAT, AGAIN, WERE PRESENT AND OBSERVED AT THE
17 TIME SHE WAS ADMITTED TO THE HOSPITAL.

18 Q. STATE'S EXHIBIT 41?

19 A. THIS IS HER CHEST. THIS IS HER NIPPLE. AGAIN, YOU SEE
20 INJURIES STARTING BENEATH THE NIPPLE. A LARGER INJURY.
21 THIS IS HER RIB CAGE HERE. AN INJURY -- THESE ARE FRESHER
22 INJURIES. HERE'S AN OLD INJURY. YOU SEE AN IRREGULAR SHAPE
23 TO IT. SO THIS INJURY HAD TO OCCUR AT A DIFFERENT TIME THAN
24 THESE. IT WOULD BE MY OPINION THAT THESE TWO INJURIES
25 OCCURRED AT A DIFFERENT TIME THAN THIS INJURY. SO WE -- IN

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1 JUST THIS ONE FIELD, WE HAVE INJURIES FROM THREE DIFFERENT
2 TIME PERIODS.

3 Q. THIS IS STATE'S EXHIBIT 42. WHICH WAY DO YOU WANT IT?
4 LIKE OR LIKE THAT?

5 A. YEAH. HERE'S HER BELLY BUTTON. THIS WAS A LARGER,
6 MORE PROMINENT INJURY ON HER LEFT -- EDGE OF HER LEFT CHEST
7 THAT WE SAW. THIS IS COMING DOWN. WE SEE OLD SCAR INJURIES
8 ON HER RIGHT SIDE OF HER -- I'M GOING DOWN ONTO THE ABDOMEN
9 NOW. WE SEE THESE SCARRED AREAS. YOU SEE THE PIGMENT IS A
10 DIFFERENT COLOR THAN THE NORMAL PIGMENT OF HER SKIN AS YOU
11 COME DOWN THE EXHIBIT.

12 Q. STATE'S EXHIBIT 43?

13 A. THIS IS HER SHOULDER BLADE AND BACK OF HER SCAPULA.
14 HERE'S THE EDGE OF HER SCAPULA. HERE'S A LARGE BRUISE
15 THAT'S AT THE BACK OF HER LEFT SCAPULA.

16 Q. WHAT'S THIS IN HERE?

17 A. THAT'S JUST A SMALL SCRAPE TO HER SKIN. IT'S NOT
18 SPECIFIC AS FAR AS -- I CAN'T SAY THAT THAT'S A FINGERNAIL
19 SCRAPE OR SOME SORT OF LINEAR SCRAPE TO HER SKIN.

20 Q. STATE'S EXHIBIT 44?

21 A. HERE WE'RE ON HER BACK. THIS WOULD BE HER HEAD AT THIS
22 END. WE'RE IN HER MID OR UPPER BACK OR APPROXIMATELY WE'D
23 BE IN THIS AREA RIGHT THROUGH HERE. WE'D BE AT THE LEVEL OF
24 THE BOTTOM OF YOUR RIB CAGE IN THE FRONT. WE SEE THESE
25 CIRCULAR SCARS, TWO OF THEM, IN THIS PARTICULAR PICTURE AND

1 THEN SOME NONSPECIFIC SCARS. HERE'S THE BONES OF THE BACK
2 COMING BACK DOWN THROUGH THIS AREA. SO THESE ARE OFF TO THE
3 SIDE OF THAT BONE.

4 Q. FORTY-FIVE? IS THAT THE RIGHT WAY?

5 A. NO. IT'S THE OTHER WAY.

6 Q. OTHER WAY? OKAY.

7 A. THIS IS JUST A CLOSER-UP OF THOSE PARTICULAR SCARS
8 SHOWING THE VERY CIRCULAR QUALITY TO THEM. THIS IS A RULER
9 ON THE SIDE IN SONAMETERS. SO ONE SONOMETER IN BETWEEN.
10 AND THAT SHOWS THAT'S AROUND FOUR MILLIMETERS ESTIMATED.

11 Q. WHAT IS THIS DOWN IN HERE?

12 A. THERE'S ANOTHER NONSPECIFIC SCAR. WE SEE THE LOSS OF
13 PIGMENT, THE WHITE EDGE, THE RETRACTED NATURE OF THE SKIN.

14 Q. WHAT'S THAT RIGHT THERE?

15 A. AGAIN, THAT'S PROBABLY ANOTHER ONE OF THESE CIRCULAR
16 INJURIES. BUT IT'S NOT REALLY -- THE MAIN FOCUS -- IT'S
17 PRIMARILY FOCUSED UPWARD.

18 Q. ALL RIGHT. AND STATE'S EXHIBIT 46? WHAT ARE YOU
19 SHOWING HERE?

20 A. THIS IS THAT INJURY THAT WE JUST SAW THAT I POINTED OUT
21 WITH THE CIRCULAR SHAPE TO IT. THIS IS MY HAND. THIS IS A
22 CIGARETTE THAT I BORROWED FROM ONE OF THE SMOKERS AT THE
23 HOSPITAL SMOKING AREA. IT'S NOT LIT, BUT SHOWS THE SCAR IS
24 THE APPROXIMATE SIZE OF THE END OF A CIGARETTE.

25 Q. STATE'S EXHIBIT 47? WHAT IS THIS?

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1 A. AGAIN, THIS IS HER BUTTOCKS. WE'RE LOOKING AT THE BACK
2 RIGHT CHEEK. AND WE SEE A SIMILAR CIRCULAR SCAR, ABOUT THE
3 SAME FOUR MILLIMETER SIZE THAT WE TALKED ABOUT BEFORE, ON
4 THE RIGHT CHEEK OF HER BUTTOCKS.

5 Q. STATE'S EXHIBIT 51?

6 A. THIS SHOWS HER HAND AT THE TIME OF AUTOPSY, AND THAT WE
7 CAN SEE MULTIPLE ROUND CIRCULAR BRUISES EXTENDING UP HER
8 HAND. THESE BRUISES WOULD BE IN THE SIZE AND THE SPACING
9 THAT WOULD SUGGEST FINGERTIP PRESSURE ON THE HAND.

10 Q. FIFTY-TWO?

11 A. HERE AGAIN, WE SEE THREE -- THIS IS ON HER LEG. WE SEE
12 THREE ROUND BRUISES EXTENDING DOWN AGAIN. THESE ARE IN THE
13 GENERAL SIZE AND SHAPE TO SUGGEST FINGERNAIL -- EXCUSE ME --
14 FINGERTIP PRESSURE. WE SEE A CURVED OR NAIL-LIKE INJURY
15 HERE ON THE SKIN OF THE LEG.

16 Q. STATE'S EXHIBIT 53?

17 A. THIS REPRESENTS THE INNER PORTION OF HER THIGH ON THE
18 LEFT SIDE. YOU CAN SEE HOW THE PIGMENT CHANGES OR THE
19 PIGMENT IS LOST. IT'S VERY PALE AND WHITE AND SHRUNKEN AND
20 SCARRED INJURED SKIN THAT'S OF AN OLDER AGE GROUP THAN THE
21 BRUISES OR THE SCRAPE -- FINGERNAIL SHAPED SCRAPES THAT WE
22 SAW ON THE BODY.

23 Q. STATE'S EXHIBIT 54?

24 A. THIS IS HER ELBOW AREA. THIS IS HER LEFT ELBOW. WE
25 SEE TWO SCAR AREAS THAT ARE STILL REDDENED SCARS THAT ARE OF

1 A DIFFERENT AGE THAN THOSE ATROPHIC OR PALE WHITER AREAS
2 THAT YOU SEE.

3 Q. DOCTOR, TELL THE JURY -- THIS LOOKS LIKE BRUISING IN
4 HERE. BUT WHAT IS THIS OTHER DISCOLORATION?

5 A. THIS PINKISH RED OR PALE PURPLE DISCOLORATION
6 REPRESENTS THE SETTLING OF BLOOD AFTER DEATH FROM ITS
7 LIVIDITY. AND IT'S THE NATURAL PROCESS THAT OCCURS AFTER
8 DEATH.

9 Q. SO THE INJURIES IN THIS PHOTOGRAPH ARE THESE TWO
10 ROUNDS?

11 A. ONLY THESE TWO ROUND -- WELL, OVAL AND ROUND SHAPED.

12 Q. STATE'S EXHIBIT 55?

13 A. THIS IS ON HER LEFT LEG. IT REPRESENTS THE OUTER EDGE
14 OF HER LEFT LEG. WE HAVE THREE BASIC BRUISE AREAS. THE
15 CENTER ONE IS A LITTLE LARGER. AGAIN, THESE ARE IN A
16 SPACING AND SHAPE THAT SUGGESTS FINGERTIP PRESSURE.

17 Q. NOW, WHEN YOU HAVE FINGERTIP PRESSURE, DO FINGERS
18 ALWAYS STAY EXACTLY WHERE THEY STARTED? OR DO THEY
19 SOMETIMES MOVE, ESPECIALLY WITH A CHILD THAT'S STRUGGLING?

20 A. IF THERE'S MOTION BY THE APPLIER OF THE PRESSURE OR THE
21 INDIVIDUAL WHO HAS PRESSURE APPLIED TO THEM, THEY WON'T
22 MAINTAIN THAT VERY DISCREET SIZING OF YOUR FINGERTIPS. IT
23 WILL BECOME BIGGER. THE PRESSURE WILL BE APPLIED OVER A
24 LARGER AREAS CRUSHING THE CAPILLARIES AND PRODUCING THE
25 BRUISE.

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1. Q. STATE'S EXHIBIT 56?

2. A. THIS REPRESENTS HER ARM. YOU CAN SEE SOME BRUISING.
3. THIS WOULD BE THE ARMPIT. YOU SEE SOME BRUISING IN THIS
4. GENERAL AREA OF THE ARM.

5. Q. STATE'S EXHIBIT 57?

6. A. THIS IS THE BACK OF HER SCALP. YOU CAN SEE AREAS WHERE
7. SHE HAS HAIR MISSING. LARGE PATCHES OF HAIR HAVE BEEN
8. MISSING. IN THIS PARTICULAR ONE, IN THE CENTER YOU CAN SEE
9. A SMALL AMOUNT OF RESIDUAL HAIR WHILE THE OVERALL LARGE HAIR
10. AREA IS GONE.

11. Q. ALL RIGHT. AND STATE'S EXHIBIT 63? NOW, DOCTOR, YOU
12. HAD -- YOU TOLD -- WELL, FIRST, DESCRIBE THIS.

13. A. THIS REPRESENTS HER VAGINAL AREA AT THE TIME I SEE HER.
14. HERE YOU CAN SEE THE PIGMENT OF HER SKIN UP HERE, BUT YOU
15. CAN SEE HOW PALE AND WHITE THIS WHOLE AREA BECOMES HERE AND
16. HOW SHRUNKEN DOWN OR ALMOST PRUNE-LIKE QUALITY TO THIS
17. TISSUE. THERE HAD BEEN A GREAT DEAL OF INFLAMMATION, AND
18. THE INFLAMMATION IS GONE DURING THE HOSPITALIZATION SO THAT
19. THE TISSUE FALLS BACK. IT'S BEEN SWOLLEN. IT'S NOT
20. SWOLLEN, SO IT LOOKS LIKE IT'S BEEN BATHED IN THE BATHTUB
21. FOR A LONG TIME PERIOD AND SHRUNKEN AWAY THAT WAY.

22. Q. NOW, DOCTOR, IN SOME OF THE OTHER PHOTOGRAPHS, YOU
23. TALKED ABOUT THE BRUISING AND THE TEAR AND ALL OF THOSE.
24. THOSE HAVE NOT BEEN ADMITTED. SO CAN YOU JUST KIND OF POINT
25. OUT ON THIS ONE WHERE YOU SAW THE BRUISING, WHERE YOU SAW

1 THE TEAR AND THAT SORT OF THING?

2 A. INSIDE ON THE LEFT SIDE, THERE WAS A LARGE BRUISE. UP
3 IN THIS AREA NEAR THE URETHRA WHERE THE URETHRA WOULD OPEN,
4 THERE WAS AN IRREGULAR BRUISE AROUND THE SURFACE OF THE
5 URETHRA. AND THEN BACK HERE AT THE BACK OF THE VAGINA, BUT
6 GOING BACK THROUGH THIS OPENING, WAS A TEAR. THERE WERE NO
7 BRUISES HERE ON YOUR BONY PROMINENCES WHICH A MAIN PORTION
8 OF YOUR PELVIS HAS TWO LITTLE BONY PROMINENCES THAT SIT
9 THERE. SO IF A FALL HAD OCCURRED IN THIS AREA, THESE
10 PROMINENCES ARE MORE LIKELY THAN NOT TO CATCH ANY REASONABLY
11 SIZED OBJECT THAT YOU WOULD FALL AGAINST LIKE A CAR SEAT OR
12 A -- SOMEBODY ASKED ABOUT THE EDGE OF A BATHTUB WHICH WOULD
13 BE SEVERAL INCHES WIDE AND WOULD DISTRIBUTE THE PRESSURE
14 AGAINST THESE AREAS, PROTECTING ALL BUT THE FRONT OF THE
15 VAGINAL AREA.

16 Q. SO WHAT WAS UP IN THIS CREVICE THEN FROM HERE TO HERE?

17 A. THAT'S -- THAT WAS A TEAR.

18 Q. OKAY. AND IS THAT IN A PROTECTED OR UNPROTECTED AREA?

19 A. IT'S PROTECTED BY THESE TWO BONY PROMINENCES THAT COME
20 BACK DOWN ON YOUR PELVIS RIGHT HERE OR RIGHT UNDERNEATH THAT
21 SKIN.

22 Q. THANK YOU, DOCTOR. YOU CAN GO AHEAD AND SIT BACK UP
23 THERE.

24 (WHEREUPON WITNESS STEPPED BACK UP TO THE WITNESS
25 STAND)

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1 Q. NO FURTHER QUESTIONS.

2 THE COURT: IT'S A QUARTER TILL ONE, MR. GAMBLE. I
3 DON'T WANT TO BREAK UP THE CONTINUITY OF YOUR CROSS
4 EXAMINATION. IF YOU WANT TO MOVE FORWARD AT THIS TIME, I
5 CERTAINLY WILL GRANT YOU THAT PERMISSION. IF YOU'D RATHER
6 BREAK NOW AND DO IT ALL IN ONE FELL SWOOP AFTER LUNCH,
7 WHATEVER YOUR CHOICE IS, SIR.

8 MR. GAMBLE: I'D RATHER DO IT IN ONE FELL SWOOP, YOUR
9 HONOR.

10 THE COURT: I UNDERSTAND.

11 MR. GAMBLE: AND I DON'T MIND COMING BACK A LITTLE
12 EARLY JUST TO GET CRANKED UP.

13 THE COURT: VERY GOOD. LADIES AND GENTLEMEN, I
14 DON'T LIKE TO BREAK UP THE CONTINUITY OF THE EXAMINATION OF
15 A WITNESS. AND TO FORCE MR. GAMBLE TO BEGIN HIS EXAMINATION
16 NOW WOULDN'T BE FAIR IN THAT REGARD. SO WE'RE GOING TO
17 START THE CROSS EXAMINATION AFTER LUNCH. I'M GOING TO ASK
18 YOU TO BE BACK IN YOUR JURY ROOM AT TWO O'CLOCK. I HOPE
19 THAT WILL GIVE YOU TIME TO GET TO YOUR CARS OR GET SOME
20 PLACE AND HAVE A DECENT LUNCH BREAK. BE BACK IN YOUR JURY
21 ROOM AT TWO O'CLOCK.

22 AGAIN, AS I HAVE STRESSED THROUGHOUT, DO NOT DISCUSS
23 THE CASE AMONG YOURSELVES OR WITH ANYONE ELSE. AGAIN, IF
24 YOU'RE OUTSIDE THE COURTHOUSE, DO NOT EXPOSE YOURSELF TO ANY
25 MEDIA COVERAGE FROM ANY SOURCE ABOUT THIS CASE. HOPE YOU

1 HAVE A NICE LUNCH. BUT PLEASE BE BACK IN THE JURY ROOM AT
2 TWO O'CLOCK. THANK YOU.

3 (WHEREUPON THE JURY EXITED THE COURTROOM AT 12:45 P.M.)

4 THE COURT: LADIES AND GENTLEMEN, FOR THOSE IN THE
5 COURTROOM, I'M GOING TO RESPECTFULLY REQUEST THAT YOU REMAIN
6 SEATED UNTIL THE JURY IS EXCUSED. THE BAILIFFS WILL COME IN
7 HERE IN THE COURTROOM -- IT WILL BE JUST A COUPLE OF
8 MOMENTS, I HOPE -- AND NOTIFY YOU THAT THE JURY HAS EXITED
9 THE COURTHOUSE. ONCE THAT'S BEEN ACCOMPLISHED, YOU'LL BE
10 FREE TO GO. IF YOU'LL JUST BEAR WITH US IN THAT REGARD, I'D
11 APPRECIATE IT. THE BAILIFFS WILL BE BACK MOMENTARILY TO
12 EXCUSE YOU, AND WE'LL RESUME AT TWO O'CLOCK. THANK YOU.

13 (WHEREUPON COURT STOOD AT RECESS)

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 ILA MICHELE CARTER,)
)
 DEFENDANT.)
 _____)

2001-GS-04-765, 1203

TRANSCRIPT OF RECORD

VOLUME II

JUNE 25 - 28, 2001
ANDERSON, SOUTH CAROLINA

BEFORE:

THE HONORABLE JOHN KITTREDGE, JUDGE

APPEARANCES:

DRUANNE WHITE, ESQUIRE
SOLICITOR FOR TENTH JUDICIAL CIRCUIT
ATTORNEY FOR STATE

ROBERT GAMBLE, ESQUIRE
PUBLIC DEFENDER
ATTORNEY FOR DEFENDANT

RENEE H. TOLLISON
CIRCUIT COURT REPORTER

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THE COURT: I MET WITH COUNSEL FOR PLANNING PURPOSES

IN TERMS OF ALLOWING MR. GAMBLE TO REVIEW THE TAPES AGAIN.

WE'RE GOING TO STOP AT APPROXIMATELY FOUR. AND SOLICITOR,

YOU'RE GOING TO GEAR YOUR WITNESSES TO TRY AND STOP AROUND

FOUR. IF WE GO A LITTLE BIT PAST, THAT'S FINE. BUT WE'RE

GOING TO SHOOT FOR FOUR O'CLOCK.

BRING THE JURY, PLEASE.

(WHEREUPON THE JURY ENTERED THE COURTROOM AT 2:10 P.M.)

THE COURT: ALL RIGHT, LADIES AND GENTLEMEN. WE'RE

READY TO PROCEED.

MR. GAMBLE, YOUR WITNESS, SIR.

MR. GAMBLE: THANK YOU, YOUR HONOR.

CROSS EXAMINATION BY MR. GAMBLE:

Q. DR. WOODARD, YOU HAD THE BENEFIT OF DR. LEGARDA'S

REPORT FROM SPARTANBURG REGIONAL HEALTHCARE SYSTEM WHEN YOU

DID THIS AUTOPSY, DIDN'T YOU?

A. AFTER I DID THE AUTOPSY. NOT BEFORE.

Q. BEFORE YOU DID YOUR REPORT?

A. YES.

Q. ALSO, I BELIEVE THAT YOU WERE IN SOME DOUBT IN REGARD

TO CAUSE OF DEATH, AND YOU SENT THE BRAIN STRUCTURE TO

CHARLESTON MEDICAL COLLEGE?

A. FOR CONFIRMATION.

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1 Q. FOR CONFIRMATION?

2 A. YES, SIR.

3 Q. AND DID THEY CONFIRM WHAT YOU SAW?

4 A. YES, THEY DID.

5 Q. ALL RIGHT. ON THAT ORIGINAL SUBDURAL HEMATOMA, THE OLD
6 ONE ---

7 A. THE APRIL.

8 Q. --- WERE YOU ABLE TO DISCERN IF THAT WAS APRIL OR A
9 LATER DATE TO THAT?

10 A. THERE WAS ONLY THE ONE SUBDURAL HEMATOMA THAT WAS ON
11 THE UPPER RIGHT SIDE. WHERE THE SUBDURAL HAD BEEN SEEN
12 PREVIOUSLY, IT WAS NO LONGER EVIDENT. IT HAD BEEN ABSORBED
13 OR JUST LIKE A BLOOD CLOT WHEN YOU GET A BRUISE ON YOUR ARM
14 IS CLEANED UP.

15 Q. RIGHT. SO YOU COULD TELL THERE HAD BEEN A SUBDURAL
16 HEMATOMA THERE?

17 A. BUT IT WAS NO LONGER THERE.

18 Q. RIGHT. BUT ONCE YOU GET ONE, A SUBDURAL HEMATOMA, THEN
19 ANOTHER ONE IS MORE DANGEROUS TO YOU, AS YOU WERE SAYING
20 ABOUT THE FOOTBALL PLAYER?

21 A. IT CAN BE IF THEY OCCUR IN THE SAME LOCATION. IF ONE
22 HAS ---

23 Q. IN THE SAME LOCATION?

24 A. IF ONE HAS A CHRONIC SUBDURAL, MEANING IT DIDN'T
25 RESOLVE BUT SIT THERE, THEN THOSE LITTLE BLOOD VESSELS THAT

1 ARE INSIDE THE SUBDURAL TRYING TO ORGANIZE IT AND CLEAN IT
2 UP, THEY CAN BE BROKEN WITH LESS ENERGY.

3 Q. ALL RIGHT. SO WITH REGARD TO CAUSE OF DEATH HERE, WAS
4 THE SUBDURAL HEMATOMA, THAT WAS THE ONE FROM THE BLOW ON THE
5 SIDE OF THE HEAD?

6 A. SOME BLOW TO THE HEAD; THAT'S CORRECT?

7 Q. WERE YOU ABLE TO DETERMINE WHAT TYPE BLOW THAT WAS?

8 A. ONLY IN LOOKING AT THE CLINICAL PHOTOGRAPHS I WAS ABLE
9 TO DETERMINE THAT SOME HUMAN EDGED OBJECT CAME ACROSS THE
10 EAR, AND THERE WAS A BLOW TO THAT SIDE OF THE HEAD. BY THE
11 TIME I SAW THE CHILD, THAT PATTERN WAS NO LONGER EVIDENT.

12 Q. DID THIS PATTERN ALSO EXTEND TO THE SHOULDER?

13 A. THERE WAS A BRUISE ON THE BACK OF THE SHOULDER. AND
14 THOSE TWO IN THAT POSITION SUGGESTED SOME CONTACT OF THE
15 CHILD AGAINST A HARD OBJECT. A HARD OBJECT APPLIED TO THE
16 CHILD OR THE CHILD APPLIED TO AN OBJECT.

17 Q. EARLIER YOU SAID THAT WOULD HAVE TO HAVE BEEN WITH THE
18 FORCE OF A TWO-STORY FALL OR THEREABOUT?

19 A. TO PRODUCE A SUBDURAL, IT WOULD BE SEVERAL STORIES'
20 FALL, GREATER THAN TEN FEET OR THE TYPE OF ENERGY THAT IS
21 INVOLVED IN AN AUTOMOBILE ACCIDENT.

22 Q. A PRETTY VIOLENT INJURY?

23 A. THAT'S CORRECT.

24 Q. ALL RIGHT, SIR. THE REASON I ASKED ABOUT LEGARDA'S
25 REPORT IS THAT THERE WAS A REPORT IN IT FROM THE FATHER OF

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1 THE CHILD, DEREK CARTER, THAT I'M SURE YOU READ THAT SAID,
2 "HER LEGS GOT -- GAVE OUT AND SHE FELL. AND HE PICKED HER
3 UP ----"

4 MS. WHITE: YOUR HONOR, IF WE CAN HAVE THE DATE AND
5 WHEN THIS -- I'M NOT GOING TO OBJECT TO HEARSAY. I THINK I
6 COULD, BUT I'M NOT GOING TO. BUT IF WE COULD AT LEAST HAVE
7 THE DATE OF WHEN THIS HISTORY WAS ALLEGEDLY GIVEN.

8 MR. GAMBLE: THIS WAS 4/20/2000. AND IT'S A
9 STATEMENT OF HER PHYSICAL CONDITION TO THE ATTENDING DOCTOR,
10 DR. LEGARDA, WHICH WAS GIVEN TO DR. WOODARD PRIOR TO HIS
11 FINAL REPORT.

12 Q. "HER LEGS GAVE OUT AND SHE FELL. WHEN HE PICKED HER
13 UP, SHE WAS STIFF AS A BOARD AND WHITE." WHAT DOES THAT
14 INDICATE TO YOU?

15 A. IT INDICATES THE STORY THE FATHER TOLD. MY REMEMBRANCE
16 OF THIS STATEMENT WAS HE WAS BEING ASKED WHAT HAPPENED TO
17 HER WHEN SHE SUDDENLY BECAME UNRESPONSIVE. IT WOULD NOT
18 EXPLAIN THE INJURIES THAT SHE HAD OR THE PRODUCTION OF THE
19 SUBDURAL. SO THE STORY WOULD BE INCONSISTENT WITH THE
20 MEDICAL FINDINGS OF WHAT WAS WRONG WITH THE CHILD.

21 Q. WOULD THE STORY OF FALLING OFF OR JUMPING OFF OF A TOP
22 BUNK BED AND DIVING ONTO HER HEAD BE CONSISTENT WITH A
23 SUBDURAL HEMATOMA?

24 A. THE -- FROM THE AVERAGE HEIGHT OF A BUNK BED, EVEN
25 ASSUMING AN UNPADDED FLOOR OR AN UNGIVING FLOOR LIKE A

1 CONCRETE FLOOR, FROM THAT HEIGHT OF SIX TO SEVEN FEET, THAT
2 WOULD BE INCONSISTENT WITH THE PRODUCTION OF A SUBDURAL.

3 Q. ALL RIGHT, SIR. NOW, THE ROUND SCARS, COULD THEY BE
4 CONSISTENT WITH FIRE ANT BITES OR INSECT BITES?

5 A. USUALLY A FIRE ANT BITE, WHEN IT PRODUCES A ROUND --
6 JUST A SINGLE BITE, PRODUCES A SMALL PUSTULE AND WILL BE
7 MUCH PHYSICALLY SMALLER THAN THE SIZE THAT THIS WAS
8 OBSERVED. INSECT BITES USUALLY EVEN -- IN ORDER FOR A USUAL
9 INSECT BITE, LIKE A SPIDER OR A FLEA OR A MOSQUITO-TYPE
10 BITE, TO END UP WITH A PERMANENT SKIN INJURY, IT HAS TO BE
11 SCRATCHED AND TORN OPEN AND IMPETIGONIZED. AND SO IT
12 DOESN'T MAINTAIN ITS ROUND SHAPE AFTER THAT'S OCCURRED. SO
13 I WOULD SAY THAT BECAUSE OF THOSE FEATURES, THEY WOULD BE
14 INCONSISTENT WITH THAT AS A SOURCE OF THOSE INJURIES.

15 Q. YOU WOULD CONSIDER THE FACT THAT THERE WAS EVIDENCE OF
16 POOR HYGIENE?

17 A. YES, THERE WAS.

18 Q. AND WOULD THAT HAVE ANY EFFECT IN INFECTING THE INSECT
19 BITE?

20 A. AN INSECT BITE WOULD BE MORE LIKELY TO BE INFECTED WITH
21 POOR HYGIENE.

22 Q. WOULD THAT CAUSE YOU TO HAVE CIRCULAR SCARRING?

23 A. NO. USUALLY THAT WOULD PRODUCE A BIGGER AREA OF
24 SCARRING OR MORE LIKE IMPETIGO, WHERE IT WOULD BE MORE IN
25 THE SIZE AND SHAPE OF A QUARTER TO FIFTY CENT PIECE.

1 Q. ALL RIGHT. BUT THAT'S JUST MORE LIKELY?

2 A. EVEN WHEN AN INSECT BITE IS SCRATCHED OPEN, IT WON'T
3 SCAR UNLESS IT BECOMES INFECTED. AND WHEN IT BECOMES
4 INFECTED, IT LOSES ITS SHAPE.

5 Q. WHEN A PERSON HAS A SEIZURE, THEY DON'T ALWAYS BITE
6 THEIR TONGUE OR THE MOUTH MEMBRANES, DO THEY?

7 A. NO, THEY DO NOT.

8 Q. AND IT'S DIFFICULT ON AN AUTOPSY TO FIND A SPECIFIC
9 DEFECT IN THE BRAIN THAT WOULD CAUSE YOU TO BELIEVE THAT A
10 SEIZURE HAD OR HAD NOT OCCURRED?

11 A. YES, IT IS.

12 Q. BECAUSE YOU NEED SOMEONE -- YOU NEED TO HAVE THEM SO
13 YOU CAN TEST FOR THE NEURO-SYNAPSES, AND ALL THAT SORT OF
14 THING, INSIDE THE BRAIN WHILE THEY'RE ALIVE, DON'T YOU?

15 A. WELL, THAT TELLS YOU WHERE TO LOOK IN THE BRAIN.

16 Q. YES, SIR.

17 A. THE TEST THEY CALL AN E.E.G. TELLS YOU WHERE IN THE
18 BRAIN THE DEFECT MAY BE SO IT MAKES IT EASIER TO FIND AT AN
19 AUTOPSY. IT NARROWS THE LOCATION.

20 Q. THESE CURVED FINGERNAIL INJURIES, DID YOU MEASURE THEM?

21 A. I MEASURED SOME OF THEM, YES.

22 Q. WHAT DID YOU DETERMINE THE MEASUREMENT OF THE
23 FINGERNAIL INJURIES?

24 A. THAT THEY WERE EXTREMELY NARROW IN WIDTH, AND THEY WERE
25 ABOUT FIVE EIGHTHS OF AN INCH IN MAXIMUM DIMENSION. THAT

1 THEY WERE MORE CONSISTENT WITH AN ADULT THAN A CHILD-SIZED
2 FINGERNAIL.

3 Q. WERE THEY MORE CONSISTENT WITH A MALE OR A FEMALE?

4 A. I WOULD BE UNABLE TO TELL THAT.

5 Q. FIVE EIGHTHS OF AN INCH IS ---

6 A. A LITTLE OVER A HALF AN INCH.

7 Q. --- A LITTLE OVER A HALF AN INCH. WERE THEY -- AND I
8 KNOW THE ANSWER THAT YOU GAVE TO MS. WHITE WITH REGARD TO
9 THE PRESSURE BRUISES. WERE THE FINGERNAIL BRUISES ARCED TO
10 SUCH AN EXTENT THAT YOU COULD SAY THEY DIDN'T JAG OR DO WHAT
11 PRESSURE BRUISES DO, THAT IS, FLARE OUT?

12 A. NO. WITH THE INDIVIDUAL -- ONCE THE NAILS ARE STUCK IN
13 AN INDIVIDUAL, IF THE INDIVIDUAL TWISTS OR TURNS, THAT CAN
14 MAKE THE NAIL MARK BIGGER THAN IT WOULD OTHERWISE BE. SO IF
15 SOMEBODY HAD A HALF AN INCH NAIL, THEY COULD EASILY PRODUCE
16 A FIVE EIGHTHS OF AN INCH NAIL INJURY IF EITHER THEY MOVE
17 THEIR HAND OR THE PERSON WHO HAD THE NAIL STUCK IN THEM
18 MOVED.

19 Q. RIGHT. HAVE YOU DISCUSSED THAT FINGERNAIL INJURY WITH
20 ME BEFORE TODAY?

21 A. I DON'T REMEMBER DISCUSSING THIS CASE WITH YOU AT ALL.

22 Q. THAT'S CORRECT. AND HAVE YOU DISCUSSED THAT WITH
23 ANYONE THAT YOU KNOW OF THAT WOULD RELATE IT TO Minor

24 [REDACTED] -- OR TO MICHELE CARTER? THAT INFORMATION?

25 A. I'M NOT SURE I UNDERSTAND THE QUESTION.

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1 Q. IN OTHER WORDS, TO YOUR KNOWLEDGE, IS THERE ANY WAY
2 MICHELE CARTER COULD HAVE FOUND OUT THESE WERE FINGERNAIL
3 INJURIES FROM YOUR OFFICE?

4 A. IF SHE INQUIRED AND ASKED WHAT WE THOUGHT THEY WERE.

5 Q. DID SHE?

6 A. NO, NOT THAT I'M AWARE OF.

7 Q. SO THERE'S NO WAY PROBABLY THAT SHE COULD HAVE FOUND
8 OUT THESE WERE FINGERNAIL INJURIES?

9 A. NO, NOT -- SHE DID NOT INQUIRE, TO MY KNOWLEDGE, NOR
10 DID YOU.

11 Q. DO YOU MIND STEPPING OVER TO THERE AND LOOKING AT HER
12 FINGERNAILS?

13 DO YOU MIND, YOUR HONOR?

14 THE COURT: ANY OBJECTION?

15 MS. WHITE: YES, SIR, YOUR HONOR. UNLESS THERE'S
16 SOME KIND OF SHOWING THAT THEY'RE THE SAME AS THEY WERE THE
17 DAY THE CHILD WENT IN THE HOSPITAL, I WOULD OBJECT.

18 THE COURT: WHAT'S YOUR RESPONSE TO THAT?

19 MR. GAMBLE: MY RESPONSE TO THAT, YOUR HONOR, IS --
20 MAY WE APPROACH?

21 THE COURT: YES, FEEL FREE TO APPROACH.

22 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD,
23 IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE
24 JURY BETWEEN THE COURT AND BOTH COUNSEL)

25 (PAUSE WHILE MR. GAMBLE CONFERRED WITH DEFENDANT

1 CARTER)

2 Q. CHANGE OF TACT, DR. WOODARD. IF FINGERNAILS ARE BITTEN
3 DOWN, LET'S SAY, TO THE QUICK OR CLOSE TO IT, WOULD YOU HAVE
4 THIS TYPE HALF MOON INJURY?

5 A. YES, THEY STILL CAN PRODUCE IT. BUT THEY ARE LESS
6 LIKELY TO PRODUCE IT THAN LONGER FINGERNAILS.

7 Q. RIGHT. AND THE NAIL INDENTATION THAT YOU SAW WAS FIVE
8 EIGHTHS OF AN INCH, WHICH IS ONE EIGHTH OF AN INCH ABOVE A
9 HALF?

10 A. THAT'S CORRECT.

11 Q. ALL RIGHT, SIR. THE MULTIPLE BRUISING, I BELIEVE IT
12 WAS IN THE CHEST AREA, THAT WAS A DIAGRAM-TYPE BRUISING?

13 A. THERE WERE AREAS WHERE THE SKIN HAD BEEN ABRADED OR
14 TORN AWAY FROM THE SURFACE OF THE BODY IN SORT OF AN ANGLED
15 WAY DOWN ACROSS THE FRONT PART OF THE CHEST ONTO THE RIGHT
16 ABDOMEN OF VARIOUS AGES. STARTED IN THE LEFT LOWER CHEST
17 AND WORKED ITS WAY ACROSS TO THE RIGHT.

18 Q. WERE THESE ELONGATED OR SPOTTED?

19 A. THEY WERE VERY IRREGULAR IN THEIR SHAPE. THEY WERE NOT
20 OF A SPECIFIC SHAPE OR PATTERN. THEY WERE DIFFERENT SHAPES.

21 Q. DO YOU HAVE ANY IDEA AS TO WHAT THAT SHAPE WOULD BE ON
22 A MANMADE OBJECT?

23 A. NO. IT DOES NOT TRANSLATE INTO A SPECIFIC MANMADE
24 OBJECT.

25 Q. NOT TO A SPOON, A WOODEN SPOON, OR ANYTHING LIKE THAT?

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1 A. IT DOESN'T REALLY LOOK LIKE THE SHAPE OF A WOODEN
2 SPOON. THEY WERE VERY IRREGULAR IN THEIR OUTER EDGES AND
3 WERE NOT AT ALL A REPETITION OF THE SAME SHAPE. THEY WERE
4 DIFFERENT SHAPES.

5 Q. ALL RIGHT, SIR. ON THE FINGERTIP PRESSURE INJURIES --
6 THAT IS THE HAND CIRCULAR BRUISES AND THE THREE ROUNDS THAT
7 YOU TESTIFIED TO. AND THERE WERE THREE ON THE LEG, LEFT
8 LEG, THAT WERE FINGERTIP PRESSURE BRUISES?

9 A. YES, SIR.

10 Q. DID YOU MEASURE THOSE, AND WERE YOU ABLE TO ASCERTAIN
11 THE SIZE OF THE PERSON THAT PUT THEM THERE?

12 A. FROM REVIEWING THE PHOTOGRAPHS, THEY'RE ABOUT FIVE
13 MILLIMETERS. BUT I DON'T HAVE A SPECIFIC SIZE LISTED IN MY
14 PROTOCOL.

15 Q. HOW MANY INCHES IS FIVE MILLIMETERS, OR WHAT PART OF AN
16 INCH IS FIVE MILLIMETERS?

17 A. FIVE MILLIMETERS IS AROUND A HALF AN INCH. A LITTLE
18 LESS.

19 Q. THREE EIGHTHS?

20 A. IN THAT GENERAL AREA.

21 Q. THREE EIGHTS TO A HALF?

22 A. YEAH.

23 Q. WOULD THAT BE FAIR?

24 A. THAT WOULD BE FAIR.

25 Q. THE ELBOW SCRAPES, I NOTICED, ARE ON BOTH ELBOWS. AND

- 1 THEY ARE SCRAPE INJURIES?
- 2 A. YEAH, THE SURFACE SKIN WAS SCRAPED AWAY.
- 3 Q. IS THAT INDICATIVE OF FALLING DOWN?
- 4 A. IT COULD BE.
- 5 Q. PAVEMENT OR ANYTHING LIKE THAT?
- 6 A. IT COULD PRODUCED BY FALLING BACKWARDS ONTO THE ELBOWS.
- 7 BUT AGAIN, THAT'S NOT A NATURAL POSTURING FOR FALLING.
- 8 Q. WELL, I AGREE WITH YOU. BUT IT'S POSSIBLE THAT IT
- 9 COULD HAPPEN THAT WAY?
- 10 A. IT'S POSSIBLE.
- 11 Q. HOW -- CAN YOU DISCERN FROM THAT PHOTOGRAPH YOU HAD,
- 12 NUMBER 31, ANY CAUSE OF THAT INJURY TO THE NOSE?
- 13 A. THE -- SOME FORM OF PRESSURE WAS APPLIED TO THE NOSE.
- 14 AND THE PRESSURE WAS EITHER APPLIED ALMOST DIRECTLY AT THAT
- 15 SITE OR AT A NINETY DEGREE ANGLE TO THAT SITE, OR IT WAS
- 16 APPLIED AT A VERY TANGENT TO THAT SITE. ONE OF THOSE TWO
- 17 OPTIONS.
- 18 Q. AND WAS THIS AN OLD INJURY OR A NEW INJURY?
- 19 A. THIS WAS A NEWER INJURY. IT DID HAVE SOME SCABBING ON
- 20 IT WHEN IT FIRST WAS NOTED AT THE TIME PRESENTED. SO IT
- 21 WOULD NOT BE IMMEDIATELY RELATED TO THE TIME PERIOD WHEN SHE
- 22 BECAME UNCONSCIOUS. BUT IT CERTAINLY COULD BE WITHIN A DAY
- 23 OR TWO OF THE TIME THAT SHE BECAME UNCONSCIOUS.
- 24 Q. I BELIEVE YOU TESTIFIED SHE BECAME UNCONSCIOUS PROBABLY
- 25 -- THAT THIS INJURY OCCURRED AN HOUR TO TWO HOURS BEFORE

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1 PRESENTMENT TO THE HOSPITAL?

2 A. IT OCCURRED A SHORT TIME BEFORE PRESENTMENT TO THE
3 HOSPITAL. AN HOUR? THREE HOURS? I CAN'T TELL YOU IF IT
4 WAS -- YOU KNOW, I CAN TELL YOU IT WASN'T THE DAY -- THE
5 INJURY DIDN'T OCCUR TWENTY-FOUR OR THIRTY-SIX HOURS BEFORE.
6 BUT IT COULD HAVE BEEN THREE HOURS. IT COULD HAVE BEEN TWO
7 HOURS BEFORE SHE PRESENTS TO THE HOSPITAL. THAT I CAN'T
8 NARROW DOWN FOR YOU.

9 Q. BECAUSE THERE WAS NO DISCOLORATION STARTING FROM THE
10 SUBDURAL HEMATOMA?

11 A. WELL, NO. BECAUSE IT CAN'T BE TIMED THAT EXACTLY.

12 Q. OKAY.

13 A. IT CAN'T BE FILED DOWN TO THAT NARROW A TIME PERIOD.

14 Q. THE OLD SUBDURAL HEMATOMA FROM APRIL OF 2000 WAS TO THE
15 FRONT OF THE BRAIN. DOES THAT INDICATE THAT A BLOW WAS HAD
16 TO THE BACK OF THE HEAD?

17 A. IT VERY WELL COULD BE A BLOW TO THE BACK OF THE HEAD
18 OCCURRED. BUT IT ALSO COULD HAVE BEEN TO THE FRONT OF THE
19 HEAD. IT WOULD DEPEND ON THE RELATIVE FORCES OF THE BLOW.
20 BECAUSE NO BRUISING IS DESCRIBED TO THE SKIN OF THE FRONT OF
21 THE HEAD, IT MAKES IT SEEM MORE LIKELY TO ME THAN NOT THAT
22 THE BLOW WAS TO THE BACK OF THE HEAD.

23 Q. OKAY. AND YOU SAID THAT THESE SUBDURAL HEMATOMAS CAN
24 BE CAUSE BY RAPID ACCELERATION OR DECELERATION?

25 A. ANYTHING THAT STOPS THE HEAD SUDDENLY ONCE ITS PLACED

1 IN MOTION OR ANYTHING THAT PLACES THE HEAD IN MOTION
2 SUDDENLY. SO IF YOU WILL, THE BALL LANDING ON THE HARD
3 SURFACE OR THE BALL BEING HIT BY THE BAT.

4 Q. WERE THE SUTURES -- I KNOW THEY WERE SWOLLEN. BUT WERE
5 THE SUTURES AFFECTED AT ALL BY ANY BLOW THAT YOU COULD
6 ASCERTAIN?

7 A. NO. THEY WERE JUST SEPARATED BY THE INCREASED PRESSURE
8 THAT WAS INSIDE THE SKULL.

9 Q. THAT HAD COME SINCE THE SUBDURAL HEMATOMA HAD STARTED
10 FORMING?

11 A. THAT SEVERE DEGREE OF PRESSURE, YES.

12 Q. ALL RIGHT. WHICH CAUSED THE EDEMA?

13 A. WELL, THE EDEMA CAUSED THE PRESSURE.

14 Q. RIGHT. EXCUSE ME. I'M GOING BACK. ALL RIGHT, SIR.
15 THE BRUISING TO THE KNEES, YOU SAID, WERE AT VARIOUS TIME
16 PERIODS. DOES THAT INDICATE SEVERAL INJURIES TO THE KNEES
17 OVER A PERIOD OF TIME?

18 A. IT INDICATES THAT THERE WERE SEVERAL -- THERE WERE
19 INJURIES TO THE KNEE THAT OCCURRED AT DIFFERENT TIMES.
20 THERE WERE TWO OR MORE INJURIES TO THE KNEE.

21 Q. ARE KNEE SCRAPES COMMON OR UNCOMMON IN A FOUR-YEAR-OLD?

22 A. VERY COMMON.

23 Q. ARE THESE SCRAPE INJURIES TO THE KNEE?

24 A. SOME OF THEM WERE THE CRESCENT SHAPED FINGERNAIL
25 INJURIES THAT WE'VE ALREADY DESCRIBED, BUT SOME WERE

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- 1 SCRAPES.
- 2 A. BUT THE OTHERS WERE SCRAPES?
- 3 A. THAT'S CORRECT.
- 4 Q. ALL RIGHT. WITH REGARD TO THE SCALP, DID YOU NOTE ANY
- 5 -- OTHER THAN THE HAIR THAT WAS GONE, DID YOU NOTE ANY TEAR
- 6 INJURY OR INJURY TO THE SCALP?
- 7 A. NO, I DID NOT.
- 8 Q. THOSE BIG BRUSHES THAT WOMEN USE TO ROLL THEIR HAIR
- 9 AROUND, COULD THAT POSSIBLY ACCOUNT FOR PULLING OUT HAIR?
- 10 A. CERTAINLY THAT WILL -- THOSE BRUSHES WILL PULL HAIR OUT
- 11 OR REMOVE HAIR. BUT IT TENDS TO BE MORE DISPERSE OVER A
- 12 LARGER AREA RATHER THAN IN SMALL CONFINED SPACES. YOU
- 13 CERTAINLY COULD TWIST THE HAIR INTO ONE OF THOSE BRUSHES AND
- 14 PULL OUT A SMALL ---
- 15 Q. THAT WOULD GIVE YOU LEVERAGE THEN?
- 16 A. THAT WOULD GIVE YOU LEVERAGE TO PULL OUT HAIR.
- 17 Q. THE TEAR ON THE -- I BELIEVE IT'S CALLED THE PERIDIUM?
- 18 A. PERIDIUM, YES.
- 19 Q. DOES THAT APPEAR TO BE FROM A SHARP TRAUMA?
- 20 A. NO. THAT WAS FROM A BLUNT TRAUMA. IT WAS A TEAR
- 21 RATHER THAN A CUT. THE -- SO IT WASN'T FROM A SHARP TRAUMA.
- 22 Q. AND YOU SAID IT WAS FROM A BLUNT ---
- 23 A. SOME SORT OF BLOW THAT CRUSHED THE SKIN.
- 24 Q. ALL RIGHT. WHAT DO YOU MEAN WHEN YOU SAY, "NO
- 25 CONTUSIONAL INJURIES ARE OBSERVED AT THE TIME OF THE

1 AUTOPSY"?

2 A. WE'RE TALKING ABOUT IN THE BRAIN, AND WE'RE TALKING
3 ABOUT BRUISING OF THE BRAIN ITSELF.

4 Q. OKAY. THAT SENTENCE IS ON PAGE SEVEN RIGHT AFTER YOU
5 HAVE, "... PHOTOGRAPHS REVEAL HYPEREMIA TO THE LEFT EXTERNAL
6 EAR IN THE CARTILAGE AND SOFT TISSUES. NO CONTUSIONAL
7 INJURIES ARE OBSERVED AT THE TIME ..."

8 A. THAT MEANS NO -- WE'RE TALKING ABOUT IN THE SCALP
9 ITSELF. AS WE REFLECT THE SCALP, I DON'T SEE BLOOD INSIDE
10 THE SCALP ITSELF.

11 Q. SO WOULD THAT INDICATES SOME SORT OF SOFT INJURY SUCH
12 AS A COUCH?

13 A. THE -- IT WOULD ONLY INDICATED THAT THERE WAS EITHER
14 ENOUGH TIME FOR THAT TO CLEAR ITSELF UP, OR THE EAR ITSELF
15 PRODUCED ENOUGH PADDING TO PROTECT THAT UNDERLYING SCALP.

16 Q. SO YOU'RE SAYING THERE WAS NO HIT TO THE SCALP?

17 A. NO. I'M SAYING THAT THERE WASN'T SUFFICIENT FORCE TO
18 CRUSH THE CAPILLARIES INSIDE THE SCALP SO IT STILL -- IT
19 DIDN'T LEAVE ANY KIND OF BRUISE, YOU KNOW, AT THE TIME I DID
20 THE AUTOPSY.

21 Q. ALL RIGHT. BUT YOU HAD TESTIFIED EARLIER THAT THIS
22 BRUISE, IT LOOKED LIKE HAD BEEN RUN INTO A CABINET OR THIS
23 SEPARATING WALL HERE?

24 A. SOME SORT OF MANMADE EDGE LIKE THAT; THAT'S CORRECT.

25 Q. RIGHT. BUT THAT DIDN'T GO UP INTO THE SCALP?

1 A. IT DID NOT PRODUCE A BRUISE IN THE SCALP, NO.

2 Q. THEN IF IT TAKES A TREMENDOUS FORCE TO CAUSE THAT
3 SUBDURAL HEMATOMA ON THE OTHER SIDE -- I BELIEVE IT WAS ON
4 THE RIGHT SIDE -- THEN HOW DO YOU GET THAT MUCH WITHOUT
5 BRUISING THE SCALP? HOW DO YOU GET THAT MUCH FORCE WITHOUT
6 BRUISING THE SCALP?

7 A. THE SAME METHOD BY WHICH PEOPLE GET SUBDURALS IN CARS
8 WITH PADDED DASHES. EVEN THOUGH THE PADDED DASH DOESN'T
9 PRODUCE AN INJURY THAT CAN BE SEEN OUT HERE, THEY END UP
10 WITH INJURIES INSIDE THEIR BRAIN BECAUSE AS THE CAR SUDDENLY
11 STOPS, THE HEAD IS ACCELERATED. AND THEN IT SUDDENLY STOPS
12 AGAINST THE PADDED DASH. THERE IS A BLOW TO THE HEAD, THE
13 DASH AND THE HEAD RUNNING TOGETHER. BUT ALL WE SEE IS THE
14 ACCELERATION FORCE OF THE BRAIN TEARING THE BLOOD VESSELS
15 AND LEAVING THE SUBDURAL RATHER THAN THE BLOW INJURY TO THE
16 OUTSIDE OF THE BRAIN.

17 Q. IN A HOUSEHOLD, WHERE WOULD YOU FIND SOMETHING THAT
18 WOULD CREATE THAT TYPE INJURY?

19 A. A CORNER OF A BED. THE CORNER OF A CHAIR. LOTS OF
20 OBJECTS.

21 Q. WOULD IT HAVE -- BUT DIDN'T YOU SAY THAT A WHILE AGO
22 THAT IT WOULD TAKE A FALL FROM MULTI STORIES TO CREATE THAT
23 TYPE INJURY?

24 A. THAT'S RIGHT. IF WE TOOK THE PERSON AND JUST DROPPED
25 THEM, IT WOULD TAKE A FALL GREATER THAN TEN FEET TO PRODUCE

1 THAT KIND OF INJURY.

2 Q. AND THEN YOU WOULD PROBABLY HAVE CONTUSIONAL BRUISING?

3 A. AGAINST A CONCRETE SURFACE, ABSOLUTELY.

4 Q. OR WOODEN?

5 A. I BEG YOUR PARDON?

6 Q. OR A WOODEN SURFACE?

7 A. A WOODEN SURFACE YOU MAY OR MAY NOT. CERTAINLY, IF YOU
8 TOOK THE PERSON UP HIGH ENOUGH AND DROPPED THEM INTO WATER,
9 YOU COULD PRODUCE THAT KIND OF INJURY. BUT YOU WOULD
10 PRODUCE NO EXTERNAL BRUISING.

11 Q. COULD YOU HAVE THAT KIND OF INJURY JUMPING OFF OF A
12 TRAMPOLINE OR FALLING OFF A TRAMPOLINE?

13 A. IF YOU WERE ABLE TO GET HIGH ENOUGH.

14 Q. BOUNCE UP AND COME OFF THE TRAMPOLINE ---

15 A. THAT'S RIGHT.

16 Q. --- ONTO HARD GROUND?

17 A. ONTO THE GROUND.

18 Q. IT COULD CAUSE A SUBDURAL HEMATOMA?

19 A. YES, IT COULD.

20 Q. ALL RIGHT.

21 EXCUSE ME JUST A MINUTE, YOUR HONOR.

22 THE COURT: YES, SIR.

23 MR. GAMBLE: THANK YOU, DR. WOODARD.

24 THE COURT: ANY REDIRECT?

25 MS. WHITE: JUST A FEW, YOUR HONOR.

1 REDIRECT EXAMINATION BY MS. WHITE:

2 Q. NOW, DR. WOODARD, BUT IF YOU JUMPED OFF A TRAMPOLINE
3 AND LANDED ON THE GROUND, WOULD YOU EXPECT ONLY DAMAGE
4 ACROSS THE TOP PART OF THE EAR WITH A STRAIGHT LINE?

5 A. NO. AND I WOULD EXPECT OTHER INJURIES SECONDARY TO
6 HITTING THE GROUND. OTHER SCRAPING-TYPE INJURIES SOMEWHERE
7 ON THE HEAD.

8 Q. DOCTOR, IF I TOOK MY HAND, AND I'M AN ADULT, AND I WENT
9 AS HARD AS I COULD AGAINST YOUR EAR WITH A STRAIGHT HAND,
10 WOULD THAT BE CONSISTENT OR WOULD THAT -- AND YOU WERE VERY
11 SMALL, FORTY POUNDS. WOULD THAT BE CONSISTENT OR WOULD
12 INCONSISTENT WITH THE INJURY THAT YOU SAW ON THIS CHILD?

13 A. IT WOULD BE CONSISTENT. AND IT WOULD BE, AS I GAVE THE
14 EXAMPLE, THE BAT HITTING THE BALL RATHER THAN THE BALL
15 HITTING THE GROUND.

16 Q. AND IT COULD HAPPEN EITHER WAY. SOMEBODY HITTING THE
17 CHILD, THE CHILD FLIES, OR KNOCKING THE CHILD INTO
18 SOMETHING; IS THAT CORRECT?

19 A. AND THEN THE CHILD SUDDENLY STOPS; THAT'S RIGHT.

20 Q. THE DEFENSE ATTORNEY ASKED YOU AT FIRST ABOUT SEIZURE,
21 WHETHER THIS COULD BE A SEIZURE. DO YOU GET A SUBDURAL FROM
22 A SEIZURE?

23 A. NO, YOU DO NOT.

24 Q. DO YOU GET VAGINAL INJURIES FROM A SEIZURE?

25 A. NO, YOU DON'T.

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1 Q. DO YOU GET TOE INJURIES FROM A SEIZURE?

2 A. NO, YOU DON'T.

3 Q. DID YOU SEE ANY EVIDENCE AT AUTOPSY FROM A SEIZURE?

4 A. NO.

5 Q. NO FURTHER QUESTIONS.

6 THE COURT: ANYTHING FURTHER, SIR?

7 MR. GAMBLE: NO RE CROSS.

8 THE COURT: DOCTOR, THANK YOU SO MUCH. THANK YOU
9 FOR BEING HERE.

10 MS. WHITE: THE STATE CALLS TERRI CARTER.

11 YOUR HONOR, MAY DR. WOODARD BE EXCUSED? WE CAN GET HIM
12 BY PHONE IF WE NEED HIM BACK.

13 MR. GAMBLE: NO OBJECTION.

14 THE COURT: WITHOUT OBJECTION. THANK YOU, SIR.

15 TERRY L. CARTER,

16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION BY MS. WHITE:

18 Q. MS. CARTER, DO YOU KNOW Minor ?

19 A. YES, I DO.

20 Q. AND HOW DO YOU KNOW HER -- DID YOU KNOW HER?

21 A. SHE WAS MY STEP-GRANDDAUGHTER.

22 Q. DO YOU KNOW WHAT HER DATE OF BIRTH WAS?

23 A. IT WAS [REDACTED], [REDACTED].

24 Q. AND WHO WERE HER NATURAL PARENTS?

25 A. DEREK CARTER AND ANGELA CARTER.

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1 Q. WHAT HAPPENED TO ANGIE CARTER IN MARCH OF '99?

2 A. THAT EVENING I HAPPENED TO COME HOME FROM WORK, AND THE
3 STEREO WAS PLAYING LOUD. I WENT BACK ---

4 Q. I'M SORRY. MS. CARTER, JUST REMEMBER THESE PEOPLE ON
5 THE VERY LAST ROW BACK HERE HAVE GOT TO HEAR YOU. SO IF
6 YOU'LL TALK ALL THE WAY TO THIS WALL.

7 A. SORRY. WHEN I GOT HOME FROM WORK, THE STEREO IN THEIR
8 TRAILER IN BEHIND OURS WAS REAL LOUD. SO I WENT BACK THERE
9 TO INVESTIGATE. AND THEIR DOOR WAS WIDE OPEN. AND THIS WAS
10 FEBRUARY. IT WAS ABOUT FORTY DEGREES. WHEN I ENTERED THE
11 HOME, I SAW ANGIE ON THE FLOOR BASICALLY SHAKING. AND I
12 KEPT ASKING -- YOU KNOW, OVER HER, "ANGIE, ANGIE!" AND
13 DETERMINED THAT SHE WAS IN A SEIZURE. SO I CALLED 9-1-1 AND
14 THEN I CALLED MY HUSBAND TO COME HOME AND HELP ME WITH

15 Minor

16 Q. AND WAS Minor THERE WHEN YOU -- WHAT WAS SHE DOING
17 WHILE HER MOTHER -- ANGIE DIED; ISN'T THAT RIGHT? SHE WENT
18 TO THE HOSPITAL AND DIED?

19 A. YES.

20 Q. AND WHAT WAS Minor -- WHERE WAS Minor WHEN YOU
21 FOUND HER MOTHER DYING ON THE FLOOR?

22 A. SHE WAS IN THE LIVING ROOM DRESSED WITH JUST A DIAPER
23 AND TEE SHIRT ON. SHE HAD GOTTEN INTO THE REFRIGERATOR AND
24 PUT BUTTER AND EGGS AND THINGS THROUGHOUT THE HOUSE.

25 Q. DO YOU KNOW HOW LONG ANGIE HAD BEEN LYING THERE?

1 A. A COOL WHIP CAN WAS WARM. THE EGGS WERE WARM AND THE
2 BUTTER REAL SOFT.

3 Q. NOW, WHAT COLOR OF HAIR WAS ANGIE'S?

4 A. IT WAS A REDDISH COLOR.

5 Q. AND WHAT COLOR OF HAIR WAS Minor

6 A. REAL RED HAIR.

7 Q. HOW SIMILAR WAS Minor TO ANGIE IN APPEARANCE?

8 A. VERY CLOSE.

9 Q. NOW, IN THIS PERIOD OF Minor LIFE -- YOU SAID SHE
10 LIVED BEHIND YOU; IS THAT RIGHT?

11 A. CORRECT.

12 Q. HOW OFTEN DID YOU ALL SEE Minor YOU AND YOUR
13 HUSBAND?

14 A. WE SEEN HER BASICALLY DAILY AS THEY WERE GOING BACK AND
15 FORTH IN AND OUT OF THE DRIVEWAY EITHER GOING TO WORK OR THE
16 GROCERY STORE.

17 Q. AND WHAT, IF ANY, PROBLEMS DID SHE HAVE WITH APPETITE?

18 A. NONE.

19 Q. WHAT, IF ANY, PROBLEMS DID SHE HAVE WITH COORDINATION?
20 AND I'M TALKING AGE APPROPRIATE.

21 A. OKAY. NONE.

22 Q. WHAT, IF ANY, PROBLEMS DID SHE HAVE WITH PATCHES OF HER
23 HAIR FALLING OUT?

24 A. SHE HAD A FULL HEAD OF HAIR.

25 Q. WAS SHE A TOMBOY?

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1 A. NO. SHE LIKED PLAYING IN THE LITTLE PLAYHOUSE, PLAYED
2 WITH THE BABY DOLLS, CHANGED THEIR CLOTHES, HAD TEA PARTIES
3 WITH GRANDMA AND GRANDPA.

4 Q. AND IN YOUR OPINION -- DID YOU SEE HER PLAYING WITH
5 COUSINS AND OTHER CHILDREN IN THE FAMILY AND SO FORTH?

6 A. YES. MY GRANDSONS WOULD COME OVER, AND THE THREE OF
7 THEM WOULD PLAY. AND SHE WOULD CON ONE OF THEM INTO PLAYING
8 WITH THE DISHES. AND THEN THEY WOULD BE PLAYING WITH THE
9 CARS. SO SHE WOULD KIND OF PLAY WITH THE CARS. THE SAND
10 BOX WITH SAND.

11 Q. HOW ROUGH WAS SHE? IN OTHER WORDS, DID SHE ENJOY --
12 YOU KNOW, WITH MY LITTLE BOYS, IT WAS TEENAGE MUTANT NINJA
13 TURTLES BACK THEN. BUT DID SHE ENJOY DOING THAT KIND OF
14 THING?

15 A. NO. SHE WAS MORE DAINTY. SHE DIDN'T REALLY LIKE TO
16 GET DIRT ON HER. SHE HAD TO WIPE IT OFF. WIPE HER KNEES
17 OFF.

18 Q. AND WHEN -- HOW LONG -- YOU SAID THAT ANGIE DIED IN
19 MARCH OF '99. HOW LONG DID Minor CONTINUE LIVING WITH
20 DEREK BEHIND YOUR PLACE?

21 A. BASICALLY, WHEN ANGIE DIED, DEREK AND Minor MOVED
22 INTO OUR HOUSE. DEREK COULDN'T GO BACK THERE. EVERY ONCE
23 IN A WHILE, I'D HAVE TO GO BACK TO GET CERTAIN ITEMS. BUT
24 AFTER ABOUT A MONTH OR SO, HE STARTED SLOWLY GOING BACK
25 THERE. AND HE WAS CHANGING. SO THAT WAY IT WASN'T THE

1 SAME. PUT IN NEW CARPET, WALLPAPER, CHANGING THE COUNTERS.

2 Q. NOW, IN JUNE OF '99, WHAT DID DEREK DO?

3 A. IN JUNE OF '99, HE GOT MARRIED TO MICHELE.

4 Q. OKAY. AND IS MICHELE THE DEFENDANT IN THIS CASE?

5 A. YES.

6 Q. AND AT SOME POINT RIGHT AROUND THAT TIME, DID HE AND

7 Minor MOVE IN WITH MICHELE?

8 A. IN MAY, DEREK WASN'T COMING HOME OR MAKING PHONE CALLS

9 LETTING US KNOW WHERE HE WAS AT. WE DIDN'T KNOW IF WE

10 EXPECTED HIM FOR A MEAL OR NOT. AND IT WOULD BE TWO OR

11 THREE DAYS THAT THEY WERE GONE AT A TURN. AND I FELT AS

12 THOUGH THAT HE REALLY DIDN'T NEED OUR HELP AND ASSISTANCE,

13 THAT HE WAS CAPABLE OF DOING THIS ON HIS OWN. SO I PACKED

14 HIS STUFF UP AND PUT HIM OUT,

15 Q. AND AFTER THAT, DID YOU -- SO THIS WOULD HAVE BEEN

16 AROUND MAY OF '99?

17 A. YES.

18 Q. AND HE WAS MARRIED IN JUNE OF '99 TO THE DEFENDANT; IS

19 THAT CORRECT?

20 A. CORRECT.

21 Q. NOW, AFTER THAT DID YOU AND YOUR HUSBAND, Minor

22 NATURAL GRANDFATHER -- DID YOU ALL ATTEMPT TO SEE Minor

23 A. YES. WHEN DEREK AND MICHELE WERE FIRST MARRIED, THEY

24 WERE LIVING ON [REDACTED] AND WE WOULD PERIODICALLY GO

25 OVER THERE AND TRANSPORT SOME OF DEREK'S OR Minor

1 THINGS LIKE TOYS AND THE BED. SO AT LEAST ABOUT EVERY WEEK,
2 EVERY OTHER WEEK, WE WERE STOPPING OVER THERE WITH THEIR
3 ITEMS.

4 Q. AND CHRISTMAS OF '99, WHAT, IF ANYTHING, DID YOU NOTICE
5 ABOUT Minor HAIR?

6 A. Minor HAIR WAS DYED BROWN.

7 Q. AND DID YOU TALK TO MICHELE? HOW OLD WAS Minor AT
8 THIS TIME?

9 A. THREE AND A HALF.

10 Q. AND WAS IT CUT DIFFERENTLY?

11 A. IT WAS CUT SHORT WHERE SHE NORMALLY HAD LONG HAIR.

12 Q. AND WHAT, IF ANYTHING, DID MICHELE CARTER TELL YOU
13 ABOUT WHY THIS THREE-YEAR-OLD CHILD HAD CUT AND DYED HAIR?

14 A. SHE SAID THAT SHE DIDN'T LIKE RED HAIR. AND THAT'S WHY
15 IT WAS COLORED.

16 Q. NOW, IN FEBRUARY OF 2000, WHAT, IF ANY, ADDITIONAL
17 CHILDREN JOINED THE HOUSEHOLD WITH DEREK CARTER, MICHELE
18 CARTER AND MICHELE'S TWO BOYS?

19 A. J.C. WAS BORN.

20 Q. AND FOR APPROXIMATELY TWO WEEKS DURING THAT PERIOD,
21 WHICH ONE OF THOSE CHILDREN, IF ANY, CAME TO STAY WITH YOU?

22 A. WE KEPT Minor FOR ABOUT FOURTEEN DAYS MOSTLY PRIOR
23 TO THE BIRTH. DEREK AND MICHELE AND J.C. CAME ABOUT THREE
24 DAYS AFTER HIS BIRTH TO PICK Minor BACK UP. AND WE WENT
25 AND TOLD HIM THAT WE'D KEEP HER FOR A LONGER TIME IF THEY

1 WANTED SO IT WOULD GIVE MICHELE TIME TO RECOVER FROM HER
2 BIRTH.

3 Q. ALL RIGHT. NOW, WHAT, IF ANYTHING, DID YOU NOTICE
4 ABOUT HER APPETITE DURING THE TWO WEEKS SHE WAS WITH YOU IN
5 FEBRUARY OF 2000?

6 A. CONSTANTLY HUNGRY. SHE WOULD EAT TWO PLATES TO MY ONE.

7 Q. AND DESCRIBE HER APPEARANCE.

8 A. SHE WAS CHUNKY. CHUNKY CHEEKS AT THAT TIME. HER
9 STOMACH WAS KIND OF ENLARGED. AND THEN WE WERE INFORMED
10 THAT SHE HAD LUPUS AND THAT SHE HAD TO GO ONTO A DIET, WHICH
11 KIND OF EXPLAINED WHY THE STOMACH WAS SO LARGE.

12 Q. NOW, WHAT, IF ANYTHING, DID YOU NOTICE ABOUT HER
13 REFUSING FOOD OR MAKING HERSELF THROW UP AFTER SHE ATE OR
14 ANYTHING ABNORMAL LIKE THAT?

15 A. NO. SHE WOULD -- IF SHE COULD GET AWAY WITH IT, SHE
16 WOULD SNEAK SOMETHING TO EAT. SHE LOVED THE CHEESE,
17 COOKIES, BROCCOLI, ANYTHING THAT WE PUT ON HER PLATE.

18 Q. AND WHAT, IF ANY, POTTY ACCIDENT PROBLEMS DID YOU HAVE
19 WITH Minor DURING THIS TWO-WEEK PERIOD?

20 A. WE HAD ONE ACCIDENT WHERE SHE WET THE BED WHILE SHE WAS
21 TAKING A NAP. AND WHEN I WENT INTO THE BEDROOM, SHE JUST
22 DREW (PHONICS) UP SCARED. AND I GO, THAT'S OKAY.
23 EVERYBODY HAS ACCIDENTS. I GO, TAYLOR HAS ACCIDENTS.
24 KIRKLAND HAS ACCIDENTS.

25 Q. THOSE ARE OTHER GRANDCHILDREN?

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1 A. THOSE ARE MY OTHER TWO GRANDSONS.

2 Q. AND DID YOU HAVE ANY POTTY ACCIDENTS WITH HER DURING
3 THE DAY OR ANY OTHERS OTHER THAN THAT ONE WHERE SHE WAS
4 SLEEPING AND HAD A POTTY ACCIDENT?

5 A. THAT WAS THE ONLY ACCIDENT. SHE WOULD GET UP AND GO
6 RIGHT ON TO THE BATHROOM. IN FACT, SHE WOULD ASK, I GOT TO
7 GO POTTY. AND IT'S LIKE, GO AHEAD.

8 Q. NOW, AFTER THAT TIME, WHAT, IF ANYTHING, STARTED
9 HAPPENING WHEN YOU WOULD REQUEST OR YOUR HUSBAND WOULD
10 REQUEST TO SEE Minor

11 A. THERE WAS ALWAYS SOME KIND OF EXCUSE THAT SHE WAS GOING
12 TO THE DOCTORS OR TO THE PSYCHIATRIST. WE WENT AND MADE AN
13 ATTEMPT TO GO SEE HER FOR HER BIRTHDAY, BUT WE WEREN'T
14 ALLOWED TO BECAUSE SHE WAS BEING PUNISHED BECAUSE SHE THREW
15 SOMETHING THROUGH A WINDOW. SO SHE WAS ON RESTRICTION FOR
16 TWO WEEKS.

17 Q. SO DID YOU FIND IT EASY OR DIFFICULT TO COME SEE
18 Minor IN THE YEAR 2000?

19 A. DIFFICULT.

20 Q. AND DID YOU GET TO SEE HER AROUND EASTER OR SOMETIME
21 RIGHT AFTER APRIL OF 2000?

22 A. YES. WE STOPPED OVER FOR EASTER.

23 Q. OKAY. I'M HANDING YOU STATE'S EXHIBIT 16 AND 17. DO
24 YOU RECOGNIZE THOSE?

25 A. YES.

1 Q. WHAT ARE THEY?

2 A. THIS PICTURE IS OF Minor AT DEREK AND MICHELE'S
3 HOUSE. AND ---

4 Q. OKAY. NOW, YOU'RE SAYING THIS PICTURE. YOU'RE LOOKING
5 AT STATE'S EXHIBIT 17. HOW ABOUT STATE'S EXHIBIT 16? DO
6 YOU RECOGNIZE THAT?

7 A. YES. THIS WAS TAKEN AT THE LAKE. WE HAD THEM COME OUT
8 IN JUNE. AND WE TRIED TO GET THE BOYS TO BE ABLE TO SPEND
9 THE NIGHT, BUT THEY WEREN'T ALLOWED TO. THEY ALL HAD TO
10 ALWAYS GO TOGETHER.

11 Q. IN LOOKING AT 16 AND 17, DO THOSE FAIRLY AND ACCURATELY
12 DEPICT THE WAY THAT Minor LOOKED AFTER THE APRIL HEAD
13 INJURY?

14 A. YES. HER EYES WERE CROSSED.

15 Q. OKAY. SO EVEN IN JUNE THEY WERE CROSSED?

16 A. YEAH. THEY WERE STILL CROSSED IN JUNE.

17 MS. WHITE: YOUR HONOR, I'D ASK THAT STATE'S EXHIBIT
18 16 AND 17 BE ADMITTED. I DON'T THINK THERE WAS AN
19 OBJECTION.

20 MR. GAMBLE: NO, SIR. THERE'S NO OBJECTION TO THESE.

21 THE COURT: STATE'S 16 AND 17 IN EVIDENCE WITHOUT
22 OBJECTION.

23 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
24 16)

25 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

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1 17)

2 Q. NOW, WERE -- AND YOU SAID Minor EYES WERE NOT
3 CROSSED. WERE THEY NORMAL UNTIL THIS INCIDENT OCCURRED?
4 THE APRIL INCIDENT?

5 A. YES.

6 Q. DID YOU NOTICE ANYTHING ABOUT Minor WEIGHT AS YOU
7 GOT IN TOWARD JUNE?

8 A. SHE STARTED LOSING WEIGHT. SHE STARTED GETTING REAL
9 SKINNY.

10 Q. LET ME JUST LET THE JURY SEE THESE BEFORE WE MOVE ON.
11 ALL RIGHT. IF YOU DON'T MIND, CAN YOU STEP DOWN FOR ONE
12 MINUTE?

13 (WHEREUPON WITNESS STEPPED DOWN FROM THE WITNESS STAND)

14 Q. AND YOU HAVE A POINTER BEHIND THERE. IF YOU WILL JUST
15 POINT OUT Minor

16 A. HERE'S Minor RIGHT HERE.

17 Q. AND WHILE WE'RE AT IT, POINT OUT -- WHO ARE ALL THE
18 OTHERS IN THE PICTURE?

19 A. THIS IS D.W. THIS IS J.C. THIS IS MY HUSBAND.
20 THIS IS DEREK, MICHELE AND J.W.

21 Q. ALL RIGHT. NOW, D.W. AND J.W. ARE WHOSE CHILDREN?

22 A. THESE ARE MICHELE AND ---

23 Q. MICHELE'S CHILDREN WITH SOMEONE ELSE. ALL RIGHT. AND
24 THEN J.C. IS?

25 A. J.C. BACK HERE IS DEREK AND MICHELE'S.

1 Q. JUST STAY THERE ONE MINUTE. AND I'M NOW PUTTING UP
2 STATE'S EXHIBIT 17. WHAT DOES THIS SHOW?

3 A. OKAY. THIS IS Minor AT DEREK AND MICHELE'S
4 TRAILER.

5 Q. WHAT DOES IT SHOW IN REGARD TO THE EYES?

6 A. THE EYES ARE CROSSED. ALSO, HER TEETH ARE MISSING IN
7 THE FRONT.

8 Q. ALL RIGHT. I WAS GOING TO ASK YOU THAT NEXT. GO AHEAD
9 AND HAVE A SEAT BACK UP, AND I'LL TALK TO YOU ABOUT THAT.

10 (WHEREUPON WITNESS STEPPED BACK UP TO THE WITNESS
11 STAND)

12 Q. YOU SAID THAT HER TEETH WERE MISSING UP FRONT. DID THE
13 DEFENDANT -- DID YOU ASK THE DEFENDANT WHY HER TEETH WERE
14 MISSING? HER FRONT TEETH?

15 A. YES. IT WAS EXPLAINED TO US THAT THE KIDS WERE PLAYING
16 FOOTBALL IN THE FRONT YARD. AND THERE WAS AN ELEVEN OR
17 TWELVE-YEAR-OLD THAT WAS BIG FOR HIS SIZE.

18 Q. A NEIGHBOR?

19 A. NEIGHBOR CHILD. AND THAT HE WENT TO CATCH THE FOOTBALL
20 AND RAN OVER Minor AND KNOCKED HER TWO FRONT TEETH OUT.

21 Q. THAT'S WHAT THEY TOLD YOU?

22 A. YES.

23 Q. NOW, YOU SAID THAT YOU WERE NOT ALLOWED TO SEE

24 Minor ON HER BIRTHDAY. THAT WOULD HAVE BEEN [REDACTED] OF
25 2000?

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1 A. CORRECT.

2 Q. ALL RIGHT. DID YOU GO BY IN AUGUST TO TRY TO SEE

3 *Minor?*

4 A. YES. WE WERE GETTING READY TO GO ON OUR VACATION. AND

5 I STILL HAD ALL OF Minor -- AND D.W. BIRTHDAY, ALSO,

6 WAS AT THAT TIME. THEIR BIRTHDAY PRESENT.

7 Q. STOP THERE A MINUTE. WHAT DID YOU GET Minor FOR

8 HER BIRTHDAY? DO YOU REMEMBER?

9 A. WE GOT HER A MAGIC BOARD WHERE SHE COULD WRITE AND ---

10 Q. THAT'S FINE. GO AHEAD. WHAT HAPPENED?

11 A. WE STOPPED OVER THERE BASICALLY UNANNOUNCED. WE JUST

12 DROVE OVER THERE. IT WAS MY DAY OFF. AND IT WAS ABOUT FOUR

13 THIRTY WHEN WE ARRIVED. AND THE VAN WASN'T THERE AT THE

14 HOUSE. SO I WENT UP TO THE HOUSE, AND I KNOCKED. AND D.W.

15 OPENED THE DOOR, AND HE LET ME IN. I ASKED HIM WHERE

16 EVERYBODY WAS AT. AND HE SAID THAT MICHELE HAD GONE TO GO

17 PICK UP DEREK AT WORK. AND I GO, WELL, WHERE IS J.W.

18 AND HE GOES, IN THE BEDROOM SLEEPING. AND HE BASICALLY TOOK

19 ME THROUGH THE HOUSE. AND I SEEN J.W. SLEEPING ON THE

20 FLOOR.

21 Q. OKAY. DID YOU EVER GO IN THE HALF-BATH?

22 A. I DIDN'T KNOW THE HALF-BATH EXISTED.

23 Q. ALL RIGHT. NOW, WHAT ENDED UP HAPPENING WHEN DEREK

24 CARTER AND MICHELE CARTER CAME UP?

25 A. WHEN THEY DROVE IN, MY HUSBAND AND I KIND OF WENT

1 OUTSIDE. AND THEY GOT THE BABY OUT OF THE VAN, AND THEY
2 LEFT THE VAN DOOR OPEN. I KIND OF THOUGHT MAYBE Minor
3 WAS SOUND ASLEEP IN THE VAN. SO I WENT OUT THERE AND LOOKED
4 AROUND. I DIDN'T SEE ANYBODY. AND I ASKED THEM WHERE
5 Minor WAS. AND I WAS TOLD THAT SHE WENT WITH ONE OF
6 MICHELE'S FRIENDS TO TARGET AND TO THE FAIRGROUNDS.

7 Q. NOW, WAS THE FAIR THERE AT THE TIME?

8 A. NO. THEY WERE IN THE PROCESS OF SETTING UP TO START UP
9 THAT NEXT WEEKEND.

10 Q. SO HOW LONG DID YOU WAIT THERE HOPING THAT Minor
11 WOULD COME HOME?

12 A. WE WERE THERE FROM FOUR THIRTY UNTIL NINE THIRTY.

13 Q. AND AT ANYTIME, DID Minor SHOW UP?

14 A. NO.

15 Q. AND HOW OLD WAS Minor AT THIS TIME?

16 A. FOUR.

17 Q. IN OCTOBER, ON OCTOBER 14TH OF THE YEAR 2000, DID YOU
18 RECEIVE A CALL FROM GREENVILLE MEMORIAL HOSPITAL?

19 A. YES. NINE THIRTY AT NIGHT WE RECEIVED A PHONE CALL
20 FROM DEREK. TOLD US THAT THEY WERE AT GREENVILLE MEMORIAL
21 HOSPITAL AND THAT Minor WAS IN PEDIATRIC INTENSIVE CARE
22 AND THEY DIDN'T EXPECT HER TO LIVE.

23 Q. AND DID YOU ALL END UP GOING TO THE HOSPITAL?

24 A. YES. I TOLD HIM WE'D BE THERE WITHIN THE HOUR BECAUSE
25 IT TAKES ABOUT A HALF HOUR TO GET THERE, AND WE WERE ALL

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1 READY FOR BED. SO WE ALL HAD TO GET DRESSED.

2 Q. AND WHEN YOU GOT DOWN THERE, DID YOU TALK TO DEREK AND
3 MICHELE ABOUT WHAT HAD HAPPENED?

4 A. YES. DEREK BASICALLY EXPLAINED THAT HE ---

5 Q. NOW, WAIT A MINUTE. WAS MICHELE PRESENT AND PITCHING
6 IN ON THIS CONVERSATION WITH DEREK AT THE TIME THIS
7 CONVERSATION OCCURRED?

8 A. YES.

9 Q. ALL RIGHT. AND SO WHAT DID THEY END UP TELLING YOU?

10 A. THEY TOLD US THAT DEREK WAS HAVING PROBLEMS WITH THE
11 VAN AND THAT HE TOOK Minor WITH HIM. AND HE WAS COMING
12 OVER TO HIS FRIEND'S HOUSE, JAMES, WHICH IS DOWN THE STREET.
13 AND AS HE WAS DRIVING DOWN 85 THAT HE STARTED HEARING
14 GURGLING SOUNDS. AND THAT HE REACHED BACK AND KIND OF SHOOK
15 HER. AND SHE DIDN'T RESPOND. SO HE PULLED OFF AND LOOKED.
16 AND THAT SHE WAS NOT RESPONDING TO HIM. SO HE TOOK HER
17 RIGHT OVER TO GREENVILLE MEMORIAL.

18 Q. ALL RIGHT. NOW, THEY LIVED ON [REDACTED] IN
19 ANDERSON COUNTY AT THE TIME THIS OCCURRED; IS THAT CORRECT?

20 A. CORRECT.

21 Q. HOW FAR IS [REDACTED] -- WHERE IS [REDACTED]? DO YOU
22 -- ARE YOU FAMILIAR WITH ---

23 A. BY THE AIRPORT IS ALL I CAN TELL YOU.

24 Q. OKAY. OUT NEAR THE AIRPORT IN ANDERSON?

25 A. YEAH.

1 Q. ALL RIGHT. SO IF YOU'RE IN THAT LOCATION AND YOU WANT
2 TO GO TO THE NEAREST EMERGENCY ROOM, WHAT IS -- IS YOUR
3 NEAREST EMERGENCY ROOM GOING TO BE ANDERSON MEMORIAL
4 HOSPITAL, OR IS IT GOING TO BE GREENVILLE HOSPITAL?

5 A. IT WOULD BE ANDERSON.

6 Q. NOW, AFTER THE DEFENDANTS WERE ARRESTED FOR THIS, WERE
7 YOU CONTACTED BY YOUR STEPSON, MR. CARTER, AND MS. CARTER
8 AND BASICALLY ASKED TO GO INTO THE TRAILER, THEIR HOUSE, AND
9 CLEAN EVERYTHING OUT AND GET IT ALL IN ORDER? AND DON'T
10 LOOK -- THERE MAY BE SOME HEARSAY IN HERE. SO JUST ANSWER
11 MY QUESTIONS. WERE YOU CONTACTED?

12 A. I WAS CONTACTED THROUGH -- THE FIRST TIME, MR.
13 CARPENTER CALLED AND THE BOYS NEEDED THEIR CLOTHES. AND MY
14 HUSBAND AND I HAD TO GO INTO THE TRAILER AND GET ALL THE
15 BOYS' CLOTHES.

16 Q. I'M NOT TALKING ABOUT CLOTHING. I'M TALKING ABOUT THE
17 THINGS THAT WERE GOTTEN LATER. THE TAPES. THE OTHER THINGS
18 THAT WERE GOTTEN OUT THAT ARE HERE IN FRONT OF US.

19 A. OKAY.

20 Q. NOT PERSONAL ITEMS FOR THE BOYS.

21 A. OKAY.

22 Q. WERE YOU CONTACTED AT SOME POINT BY THE DEFENDANTS
23 AND/OR THEIR ATTORNEY TO GO IN AND CLEAN OUT THIS PLACE?

24 A. I WAS TOLD BY MR. CARPENTER THAT DEREK AND MICHELE
25 WANTED ME TO MOVE THE VAN, WHICH WAS IN FRONT OF THE POLICE

1 STATION, AND TO MOVE THEIR FURNITURE AND THINGS OUT.

2 Q. OKAY. AND DID DEREK END UP WRITING YOU AND ASKING YOU
3 TO GET ALL THIS STUFF AND INVENTORY IT ---

4 A. YES.

5 Q. --- TO GET IT ALL PUT AWAY? ---

6 A. HE WROTE A LETTER TELLING ME TO TRY TO GET EVERYTHING
7 THERE WAS. THEN HE INFORMED ME THAT THERE WAS A STORAGE
8 SHED DOWN THE ROAD FROM HERE WITH OTHER ITEMS IN IT.

9 Q. AND DID YOU PROVIDE COPIES OF THOSE LETTERS TO US?

10 A. YES.

11 Q. ALL RIGHT. AND SO PURSUANT TO HIS REQUEST, DID YOU ALL
12 END UP GETTING THESE THINGS?

13 A. YES. AS MUCH AS I COULD BECAUSE MY STORAGE AREA IS
14 KIND OF SHY. AND I TOOK AS MUCH AS I COULD OF THEIR THINGS.
15 SO IF THEY WERE RELEASED TOMORROW, THEY WOULD BE ABLE TO GO
16 FROM THERE.

17 Q. NOW, WHILE YOU WERE CLEANING OUT THE DEFENDANTS' HOUSE,
18 DID YOU -- DID YOU FIND SOME ITEMS IN THE HOME?

19 A. YEAH.

20 Q. ALL RIGHT. LET'S START WITH STATE'S EXHIBIT 11 FOR
21 IDENTIFICATION. WHAT IS THAT AND WHERE DID YOU FIND IT?

22 A. THIS IS A LITTLE HARNESS. AND I FOUND IT IN THE MAIN
23 BATHROOM UNDER THE SINK.

24 Q. NOW, HAD YOU EVER TALKED TO MR. CARTER OR MS. CARTER
25 ABOUT WHETHER OR NOT THEY HAD PREVIOUSLY HAD OTHER

1 HARNESSES?

2 A. THEY HAD INITIALLY TOLD ME THAT DR. MADDOX TOLD THEM
3 THAT BECAUSE Minor WOULD GET UP DURING THE NIGHT AND GET
4 INTO THINGS TO HARNESS HER ---

5 MR. GAMBLE: YOUR HONOR, I WOULD OBJECT TO THE THEY
6 TOLD ME. I'D LIKE MS. CARTER TO BE MORE SPECIFIC WITH
7 REGARD TO ---

8 MS. WHITE: I'LL CLARIFY.

9 Q. DID MS. CARTER EVER DISCUSS THE HARNESS WITH YOU?

10 A. YES.

11 Q. OKAY. AND WHAT DID YOU -- YOU SAID -- WELL, LET'S BACK
12 UP. WHEN SHE WAS WITH YOU FOR THOSE TWO WEEKS, DID SHE EVER
13 WANDER OUT OF HER BED AND TEAR UP YOUR HOUSE OR GET INTO
14 YOUR KITCHEN OR ANYTHING LIKE THAT?

15 A. NO.

16 Q. AND WERE YOU ALL FEEDING HER REGULARLY WHEN SHE WAS AT
17 YOUR HOUSE?

18 A. YES.

19 Q. ALL RIGHT. OKAY. NOW, WHAT DID MS. CARTER -- DON'T GO
20 INTO THEY. WHAT DID MS. CARTER TELL YOU ABOUT ANY PRIOR
21 HARNESSES?

22 A. THAT MICHELE TOLD ME THAT Minor GOT OUT OF THE
23 FIRST HARNESS AND SHE HAD RIPPED IT. AND THEN SHE HAD TO GO
24 GET ANOTHER ONE.

25 Q. ALL RIGHT. NOW, DID YOU END UP CONTACTING LAW

1 ENFORCEMENT AND TURNING THIS HARNESS IN?

2 A. YES.

3 Q. HAS IT BEEN CHANGED OR ALTERED IN ANY MANNER SINCE YOU
4 TURNED IT IN? DID YOU ALTER IT AT ALL?

5 A. NO.

6 Q. ALL RIGHT. LET'S GO TO STATE'S EXHIBIT 62. AFTER YOU
7 GOT THE ITEMS FROM THE HOME, DID YOU LOOK AT SOME COMPUTER
8 DISKS?

9 A. AFTER I GOT THE ITEMS FROM THE HOME, I ALSO RECEIVED
10 POWER OF ATTORNEY OVER THEIR AFFAIRS. I WAS TRYING TO BE
11 ABLE TO CONTACT ---

12 Q. WHOA, WAIT A MINUTE. STOP THERE. WHO GAVE YOU THE
13 POWER OF ATTORNEY?

14 A. DEREK GAVE ME AND ALSO MICHELE.

15 Q. ALL RIGHT. THEY GAVE YOU POWER OF ATTORNEY OVER THEIR
16 THINGS?

17 A. CORRECT.

18 Q. AND PURSUANT TO THAT -- AGAIN, WAS THIS PURSUANT TO LAW
19 ENFORCEMENT REQUEST OR THE DEFENDANTS' REQUEST TO GET THESE
20 THINGS?

21 A. THIS WAS WITHIN THE BEDROOM. AND I WAS TRYING TO
22 ESTABLISH WHAT BILLS AND WHO I NEEDED TO CONTACT. MOST OF
23 THE FURNITURE IN THE HOUSE WAS RENTAL. SO I HAD TO FIGURE
24 OUT WHO GOT THIS AND WHO GOT THAT.

25 Q. SO DID YOU LOOK THROUGH THE COMPUTER BECAUSE YOU WERE

1 EXPECTING TO FIND SOME BILLING INFORMATION?

2 A. I LOOKED -- RIGHT.

3 Q. AND DID YOU FIND ON THAT -- COULD YOU GO INTO THAT
4 DISK?

5 A. I OPENED THIS ONE UP AND IT SAID, "MY FILES." AND
6 THERE IT SAID, "MY DIARY." AND I CLICKED ON IT. AND THERE
7 WAS TWO DIFFERENT NOTATIONS INTO IT.

8 Q. OKAY. HOLD ON ONE MINUTE, MS. CARTER.

9 (DIARY ENTRIES MARKED FOR IDENTIFICATION AS STATE'S
10 EXHIBIT 64)

11 Q. AND DID YOU CHANGE OR ALTER THIS IN ANY MANNER?

12 A. NO.

13 Q. I'M HANDING YOU STATE'S EXHIBIT 64. WOULD YOU JUST
14 TAKE A SECOND TO LOOK AT THAT. IS THAT WHAT YOU FOUND IN
15 THE DIARY ENTRY?

16 A. YES, IT IS.

17 Q. HAS THAT BEEN CHANGED OR ALTERED IN ANY MANNER?

18 A. NO.

19 Q. AND TO WHOM DID YOU GIVE THE DISK?

20 A. I HANDED IT OVER TO MR. CARPENTER. I HAD HIM COME OVER
21 TO THE HOUSE AND PICK IT UP.

22 Q. AND AGAIN, WERE YOU LOOKING THROUGH THESE COMPUTER
23 DISKS AT MR. CARPENTER'S REQUEST OR BECAUSE YOU HAD THIS
24 POWER OF ATTORNEY?

25 A. I WAS -- BECAUSE OF MY POWER OF ATTORNEY, I WAS TRYING

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1 TO ESTABLISH WHERE THEIR BILLS WERE AND WHAT NEEDED TO BE
2 TAKEN CARE OF.

3 Q. ALL RIGHT. AND FINALLY, I SHOW YOU A BOX OF
4 VIDEOTAPES. WHERE DID YOU GET THESE?

5 A. THE LITTLE DISKS WERE WITH THE CAMERA AND EVERYTHING
6 WHEN I REMOVED IT FROM THE HOUSE. I WENT AND TRIED TO
7 RECORD THEM ONTO THE BIG DISKS TO HAND OVER TO THE
8 SOLICITORS OFFICE BY THE REQUEST OF DEREK'S ATTORNEY.

9 Q. OKAY. SO WERE YOU REQUESTED BY LAW ENFORCEMENT AT ALL
10 TO GATHER THESE AND HAND THEM OVER?

11 A. NO. I WAS REQUESTED TO BY DEREK'S ATTORNEY.

12 Q. OKAY. AND WHEN YOU -- DID YOU GET THOSE OUT OF THE
13 HOUSE PURSUANT TO THE POWER OF ATTORNEY?

14 A. YEAH.

15 Q. ORIGINALLY?

16 A. YEAH.

17 Q. OKAY. AND DID YOU HAND THOSE OVER ULTIMATELY TO LAW
18 ENFORCEMENT AFTER YOU WENT IN AND GOT THEM PURSUANT TO YOUR
19 POWER OF ATTORNEY?

20 A. YES.

21 Q. AND YOU FOUND THEM IN THE DEFENDANT'S HOME?

22 A. YES.

23 Q. HAVE YOU WATCHED THOSE VIDEOTAPES?

24 A. MOST OF THEM, YES.

25 Q. AND DO THEY FAIRLY AND ACCURATELY DEPICT Minor IN

1 VARIOUS STAGES OF HER LIFE AS YOU REMEMBER HER?

2 A. YES.

3 Q. AND I BELIEVE THEY'RE DATED; IS THAT CORRECT?

4 A. YES.

5 Q. AND DO THE DATES CORRESPOND -- FOR INSTANCE, IF IT WAS
6 A BIRTHDAY, WAS IT THE CORRECT DATE ON THERE FOR THE DATE?
7 THERE WAS SOME BIRTHDAYS ---

8 A. YES.

9 Q. --- AND THAT SORT OF THING.

10 A. AND CHRISTMAS AND NEW YEARS. AND THE DATES CORRESPOND.

11 Q. ARE YOU FAMILIAR WITH DEREK CARTER'S RELATIONSHIP WITH
12 MICHELE CARTER? DID YOU SEE THEM TOGETHER AT TIMES?

13 A. YES. WHEREVER YOU SEEN ONE, THE OTHER ONE WAS RIGHT
14 THERE. THEY WERE NEVER ALLOWED TO BE SEPARATED.

15 Q. WHAT, IF EVER -- WHAT DO YOU MEAN, THEY WEREN'T ALLOWED
16 TO BE SEPARATED?

17 A. DEREK WASN'T ALLOWED TO GO OUTSIDE TO DO SOMETHING
18 WITHOUT MICHELE RIGHT THERE BEHIND HIM.

19 Q. ALL RIGHT. AND WHO APPEARED TO BE THE DOMINANT PERSON
20 IN THIS DUO?

21 A. MICHELE.

22 Q. WHAT, IF ANY, FEAR DID MICHELE EVER SHOW WHEN SHE WAS
23 AROUND DEREK?

24 A. MICHELE SHOW FEAR? SHE WAS FEARLESS.

25 Q. AND WHEN THERE WOULD BE CONVERSATIONS, WHO WOULD

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1 NORMALLY DOMINATE THE CONVERSATION?

2 A. MICHELE.

3 Q. AND WHO BOSSED THE OTHER ONE AROUND, IF, IN FACT, THAT
4 DID OCCUR?

5 A. MICHELE.

6 Q. WILL YOU PLEASE TELL THIS JURY WHEN, IF EVER, YOU EVER
7 SAW HER BEING SUBSERVIENT OR AFRAID OF DEREK CARTER?

8 A. NEVER.

9 Q. WHEN, IF EVER, DID SHE COMPLAIN TO YOU ABOUT HER
10 TREATMENT FROM DEREK CARTER?

11 A. SHE NEVER COMPLAINED ABOUT DEREK.

12 Q. NOW, UNTIL THE DEFENDANT -- UNTIL DEREK CARTER MARRIED
13 MICHELE CARTER, WHAT, IF ANY, PROBLEMS DID Minor HAVE
14 WITH BRUISING OR MALNUTRITION OR ANY OF THAT SORT OF THING?

15 A. NOTHING. THE ONLY THING WOULD BE IF SHE WAS EXPOSED TO
16 THE SUN, SHE WOULD GET SUNBURNED QUICK. SHE JUST HAPPENED
17 TO HAVE FAIR SKIN.

18 Q. WHO WORKED IN THAT FAMILY?

19 A. WHICH ONE?

20 Q. IN THE CARTER -- DEREK AND MICHELE FAMILY?

21 A. DEREK WORKED.

22 Q. ABOUT HOW MANY HOURS A WEEK WOULD HE WORK? DO YOU
23 KNOW?

24 A. HE WAS AT WORK ALMOST ALL THE TIME. THE PAY STUBS THAT
25 I EVEN SEEN, I MEAN, SEVENTY-TWO AND EIGHTY HOURS A WEEK.

1 Q. AND WHILE HE WAS AT WORK, WHERE WAS MICHELE CARTER?

2 A. SHE WAS AT HOME WITH THE CHILDREN.

3 Q. SO SHE DIDN'T WORK?

4 A. NO.

5 Q. AND HOW MANY VEHICLES DID THEY HAVE, SAY, THE LAST PART
6 OF 2000?

7 A. THEY HAD BASICALLY THE VAN.

8 Q. AND HOW WOULD -- WHO WOULD HAVE THE VAN DURING THE DAY?

9 A. MICHELE BECAUSE SHE WOULD HAVE TO TRANSPORT THE KIDS
10 BACK AND FORTH AND TAKE Minor TO THE PSYCHIATRIST.

11 Q. WAIT A MINUTE. WHO TOLD YOU THAT Minor HAD BEEN TO
12 THE PSYCHIATRIST?

13 A. MICHELE DID. SHE SAID THAT SHE WAS TAKING Minor
14 DAILY.

15 Q. AND WHEN YOU ASKED ABOUT WHY SHE WAS SO THIN AND THINGS
16 LIKE THAT, WHAT, IF ANY, ILLNESS DID THE DEFENDANT TELL YOU
17 THAT Minor HAD?

18 A. THEY SAID THAT THEY WERE TOLD THAT SHE HAD LUPUS.

19 Q. SO THEY EXPLAINED HER DOWNTURN, I GUESS YOU WOULD CALL
20 IT, IN HEALTH TO WHAT?

21 A. THEY WERE BLAMING IT ON THE LUPUS.

22 Q. AND DID YOU ALL KNOW ANY DIFFERENT?

23 A. I KNOW OF A SKIN-TYPE LUPUS FROM MY COUSIN BECAUSE SHE
24 WOULD ALWAYS HAVE THE RASHES. AND THEY -- WE WERE CHILDREN
25 IN THE FIFTIES. THEY JUST SAID IT WAS ALLERGIES. BUT WE

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1 NOW KNOW WHAT IT IS.

2 Q. BUT -- NO. WHAT I'M ASKING IS DID Minor -- DID YOU
3 ALL JUST ATTRIBUTE WHATEVER YOU SAW TO THE LUPUS BECAUSE
4 THAT'S WHAT THE DEFENDANT TOLD YOU?

5 A. WE DIDN'T BELIEVE ---

6 MR. GAMBLE: OBJECT TO LEADING, YOUR HONOR.

7 MS. WHITE: I'LL REPHRASE. I'LL JUST WITHDRAW.

8 HOLD ON ONE MINUTE. I HAVE NO FURTHER QUESTIONS.

9 THE COURT: YOUR WITNESS.

10 CROSS EXAMINATION BY MR. GAMBLE:

11 Q. DID DEREK DRINK?

12 A. OCCASIONALLY HE DRANK BEER.

13 Q. DID HE DRINK TO GET DRUNK?

14 A. NO.

15 Q. YOU EVER SEEN HIM DRUNK?

16 A. NO.

17 Q. IN MARCH, YOU HAD OCCASION TO TAKE Minor TO DR.

18 CHOICE? WHERE WAS THAT DOCTOR?

19 A. THIS IS WHEN ANGIE DIED?

20 Q. MARCH OF '99.

21 A. OKAY. YES. THEY'RE IN SIMPSONVILLE AT DOCTOR'S

22 CHOICE.

23 Q. AND THAT WAS BEFORE ANGIE PASSED? THE DAY BEFORE THAT?

24 A. CORRECT.

25 Q. AND SHE HAD CHICKEN POX?

1 A. YES.

2 Q. ALL RIGHT. NOW, Minor LIVED WITH YOU IN 2000 FOR
3 ABOUT TWO WEEKS?

4 A. YES, SIR.

5 Q. DID YOU SEE ANY BRUISES OR MARKS ON HER THEN?

6 A. HER RIGHT TOES WERE SKINT UP. AND DEREK SAID THAT SHE
7 WENT TO OPEN THE FRONT DOOR AND IT SKINT HER TOES.

8 Q. AND THAT'S ALL YOU SAW?

9 A. ABOUT THE FOURTH OR FIFTH DAY THAT I HAD HER, I WAS
10 SITTING THERE READING A BOOK WITH HER. AND SHE WAS ON MY
11 LAP. AND THE WAY THE LIGHT HIT HER -- I LOOKED TWICE, AND
12 IT LOOKED LIKE SHE HAD A BLACK EYE. AND I ASKED HER WHAT
13 HAPPENED. SHE WENT -- SHE TOLD ME THAT HER DADDY HIT HER.
14 I GO, YOUR DADDY HIT YOU? YES. HE'S MAD AT ME. AND THEN
15 MY HUSBAND WENT AND SAID, DID THE DOG BIT YOU THERE? YEAH.
16 SO WE COULDN'T TELL WHAT REALLY HAD HAPPENED.

17 Q. AND THAT WAS THE FOURTH OR FIFTH DAY YOU HAD THE CHILD
18 WITH YOU?

19 A. CORRECT.

20 Q. ALL RIGHT. AND YOU GAVE HER BATHS AND ALL, WATCHED HER
21 WHILE SHE BATHED?

22 A. CORRECT.

23 Q. TENDED TO HER IN THE BATHTUB?

24 A. CORRECT.

25 Q. AND DIDN'T NOTICE ANY BRUISING OR HARM TO HER AT THAT

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1 TIME OTHER THAN WHAT YOU'VE TESTIFIED TO, THE RIGHT TOE AND
2 THE BLACK EYE?

3 A. THAT'S ABOUT ALL I NOTICED.

4 Q. MA'AM?

5 A. SHE HAD A SKINT PART ON HER HAND, BUT THAT WAS ABOUT
6 ALL. SHE HAD SOME SKINT ELBOWS RIGHT HERE WHERE SHE HAD
7 FALLEN. AND NORMALLY SHE ALWAYS HAD LONG SLEEVES AND LONG
8 PANTS ON.

9 Q. WELL, ---

10 A. BUT AS I BATHED HER, I NOTICED THAT.

11 Q. ON BOTH ELBOWS?

12 A. CORRECT.

13 Q. YOU QUESTIONED HER ABOUT IT?

14 A. NO.

15 Q. LOOKED LIKE NORMAL SKINS FOR A FOUR-YEAR-OLD?

16 A. YES.

17 Q. KNOCKING THE BARK OFF?

18 A. YEAH.

19 Q. KNEES, TOO?

20 A. NO.

21 Q. OKAY. YOU WENT TO THE HOSPITAL WHEN J.C. WAS BORN IN

22 [REDACTED] OF [REDACTED], AND VISITED WITH J.C. AND MICHELE AND

23 DEREK; IS THAT CORRECT?

24 A. CORRECT.

25 Q. AND YOU HAD TO ADMONISH DEREK BECAUSE HE IGNORED

1 Minor

2 A. CORRECT.

3 Q. HOW DID HE IGNORE Minor

4 A. HE ACTED LIKE SHE WASN'T EVEN THERE. DIDN'T PICK HER
5 UP. OH, IT'S GOOD TO SEE YOU. GIVE HER A KISS, A HUG.

6 WHEN WE WERE ACTUALLY LEAVING THE HOSPITAL, HE WAS WALKING

7 OUT WITH US, AND Minor WAS WALKING BETWEEN US. AND I

8 LOOKED AT DEREK AND SAID, DEREK, HOW ABOUT PICK HER UP AND

9 GIVE HER SOME ATTENTION. SO HE DID.

10 Q. AND HE'D BEEN AWAY FROM HER THEN TWO WEEKS?

11 A. A GOOD TEN DAYS.

12 Q. TWO WEEKS TO TEN DAYS?

13 A. WELL, WE HAD Minor FOR ABOUT TWO WEEKS. AND THEY
14 PICKED HER UP ABOUT THREE DAYS AFTER J.C. WAS BORN.

15 Q. WHAT WAS Minor REACTION TOWARD HER DADDY WHEN YOU
16 BROUGHT HER TO THE HOSPITAL ROOM WITH YOU?

17 A. SHE KEPT ON WHINING AT HIM, TRYING TO GET HIS
18 ATTENTION. BUT HE WOULDN'T ACKNOWLEDGE HER.

19 Q. WHAT WAS MICHELE'S REACTION TO Minor WHEN YOU
20 BROUGHT HER INTO THE HOSPITAL ROOM WITH J.C.

21 A. NONE. EVERYBODY WAS CONCERNED ABOUT J.C. AND MICHELE.

22 Q. WAS J.C. IN THE ROOM?

23 A. NO.

24 Q. HE WAS IN THE NURSERY?

25 A. YES.

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- 1 Q. OKAY. NOW, YOUR HUSBAND IS CARROLL?
- 2 A. YES. HIS LEGAL NAME IS JESSE, BUT WE CALL HIM CARROLL.
- 3 Q. OKAY. BUT HE HAD SEEN THESE BRUISES ON MICHELE [SIC]?
- 4 YOU SHOWED THEM TO HIM, TOO?
- 5 A. YEAH. ON Minor THE BRUISES THAT WERE ON
- 6 Minor
- 7 Q. I MEANT Minor EXCUSE ME. DID YOU EVER SEEN ANY
- 8 BRUISES ON MICHELE?
- 9 A. NONE.
- 10 Q. OKAY. WHO CAME OVER ON EASTER WHEN Minor EYES
- 11 WERE CROSSED?
- 12 A. DEREK, MICHELE, Minor J.W. D.W. AND JEREMY.
- 13 Q. OKAY. AND I BELIEVE Y'ALL HAD HOTDOGS?
- 14 A. YES, SIR. WE HAD A BIRTHDAY PART FOR J.W.
- 15 Q. DID YOU HAVE ANY DIFFICULTY GETTING Minor TO EAT?
- 16 A. YES. THAT DAY SHE BASICALLY JUST LAID ON THE SOFA.
- 17 SHE WOULDN'T EVEN ACKNOWLEDGE ME. I WENT AND GOT ONE OF HER
- 18 LITTLE STUFFED ANIMALS THAT SHE HAD GOTTEN, AND SHE DIDN'T
- 19 EVEN WANT NOTHING TO DO WITH IT. SHE JUST LAID THERE.
- 20 Q. THIS IS ABOUT TWO MONTHS AFTER YOU'D HAD HER IN YOUR
- 21 HOUSE FOR TWO WEEKS; IS THAT RIGHT? SIX WEEKS AFTER?
- 22 A. CORRECT.
- 23 Q. RIGHT. DID YOU SEE ANY BRUISES ON HER THEN OR ANY
- 24 MARKS ON HER?
- 25 A. SHE HAD LONG SLEEVES, LONG PANTS ON. BUT HER EYES WERE

1 SWOLLEN AND REAL RED. AND THEY WERE CROSSED. AND HER NOSE
2 LOOKED RED.

3 Q. AND SHE DIDN'T WANT TO EAT?

4 A. NOT TO BEGIN WITH. BUT THEN SHE FINALLY DID EAT A
5 HOTDOG.

6 Q. SLOWLY ATE?

7 A. YES.

8 Q. AS IF SHE WAS IN A TRANCE OR SOMETHING?

9 A. YES. LIKE SHE JUST WAS NOT FEELING GOOD.

10 Q. OKAY. DID MICHELE GIVE YOU AN EXPLANATION AS TO WHAT
11 HAD HAPPENED TO HER?

12 A. THAT IT WAS PART OF WHERE SHE FELL WITH D.W. OFF THE
13 BUNK BED.

14 Q. JUNE THE 17TH, THEY CAME OUT TO THE LAKE. WELL, JULY
15 THE 28TH, DID Y'ALL GO TO THE LAKE TOGETHER? 2000? THAT
16 WAS RIGHT BEFORE Minor WAS SUPPOSED TO GO TO SCHOOL JULY
17 31ST.

18 A. WHAT HAD HAPPENED WAS WE WERE PLANNING ON GOING TO THE
19 RACETRACK. SO I HAD MY CAMPER SET UP FOR THE RACETRACK.
20 MICHELE CALLED, AND SHE WANTED US TO GO TO THE LAKE. AND
21 SHE TALKED ME INTO GOING AND BASICALLY SWITCHING OUR PLANS
22 BECAUSE I TAKE ALL THE LIFE JACKETS AND SWIM GEAR WHEN WE GO
23 TO THE LAKE. AND I HAD TO WORK THE WEDNESDAY AND THURSDAY.
24 SO MY HUSBAND WENT OUT ON WEDNESDAY AND SET THE CAMPER UP.
25 AND THEN DEREK, MICHELE, J.W. D.W. AND J.C. AND

1 Minor CAME OUT TO THE LAKE ON THURSDAY. AND I DIDN' T
2 GET TO SEE THEM BECAUSE I WAS STILL AT WORK. WHEN I GOT OFF
3 WORK, I THEN LEFT AND PICKED UP MY TWO GRANDSONS AND HEADED
4 OUT TO THE LAKE. WE WERE TRYING TO GET IT SO ALL FOUR BOYS
5 WERE OUT CAMPING TOGETHER, AND WE WERE GOING TO SET UP THEIR
6 PUP TENT.

7 Q. BUT YOU DIDN'T GET TO SEE DEREK, MICHELE AND THE KIDS
8 THAT DAY?

9 A. NO.

10 Q. BUT ON JUNE 17TH YOU DID SEE THEM AT THE LAKE?

11 A. WE NEVER SEEN THEM AGAIN.

12 Q. I MEAN BEFORE THAT ON JUNE 17TH, THEY CAME OUT TO THE
13 LAKE WITH Y'ALL FOR A DAY. THAT'S WHERE THE PICTURE WAS
14 MADE.

15 A. OH, YEAH. IN JUNE, YES.

16 Q. IN JUNE?

17 A. RIGHT. I WAS THINKING YOU WERE TALKING ABOUT THE
18 AUGUST ONE. OR JULY.

19 Q. AND DID Minor HAVE A BATHING SUIT?

20 A. YES, SHE DID.

21 Q. DID YOU SEE HER IN A BATHING SUIT?

22 A. YES, I DID.

23 Q. DID YOU SEE ANY BRUISES OR MARKS ON HER AT THAT TIME?

24 A. NO.

25 Q. OTHER THAN THE CROSSED EYES ---

1 A. CROSSED EYE.

2 Q. --- AND TEETH? ABOUT WHEN DID THIS TOOTH INCIDENT
3 OCCUR THAT YOU WERE TOLD ABOUT? DO YOU KNOW?

4 A. IN SEPTEMBER OR OCTOBER OF '99.

5 Q. SO THE LAST TIME YOU SAW Minor WAS THE JUNE 17TH
6 TIME AT THE LAKE WHEN Y'ALL WERE ALL TOGETHER?

7 A. THAT WAS THE LAST TIME I SAW HER.

8 Q. AND HOW WAS SHE ON THAT DATE?

9 A. PLAYFUL. HER AND I WENT SWIMMING. I PUT THE LIFE
10 JACKET ON HER, AND SHE WAS REAL PROUD BECAUSE SHE WAS ABLE
11 TO SWIM BY HERSELF. I WOULD BE CLOSE BUT LET HER DO THE
12 SWIMMING. AND SHE KEPT ON WANTING TO TELL MOMMY AND DADDY
13 THAT, LOOK, I'M SWIMMING. THEY WEREN'T PAYING HER ANY
14 ATTENTION.

15 Q. DEREK PLAY WITH HER OUT AT THE LAKE?

16 A. NO.

17 Q. DID MICHELE GO IN THE WATER?

18 A. DID SHE GO IN THE WATER? YES.

19 Q. SHE PLAY WITH HER ANY?

20 A. NO.

21 Q. YOU HAD HER MOST OF THE TIME?

22 A. WHEN WE WERE IN THE WATER, CORRECT.

23 Q. DID SHE HAVE ANYTHING WRONG WITH HER ANKLES OR HER
24 FEET?

25 A. NO.

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1 Q. DID SHE STILL HAVE BRUISING ON HER TOES WHEN YOU WERE
2 AT THE LAKE ON JUNE 17TH?

3 A. I DON'T REMEMBER SEEING ANYTHING ON HER TOES.

4 Q. BUT YOU SAW HER IN BATHING SUITS?

5 A. CORRECT.

6 Q. PRETTY MUCH UNDRESSED, BASICALLY?

7 A. CORRECT.

8 Q. OKAY. DID YOU EVER SEE Minor IN A HARNESS WHEN YOU
9 WENT OVER THERE TO VISIT WITH THEM?

10 A. NO.

11 Q. DID YOU EVER SEE HER TIED DOWN OR HELD DOWN IN ANY WAY?

12 A. NO.

13 Q. DID YOU NOTICE ANY CHANGE AT ALL AFTER J.C. WAS BORN
14 IN DEREK'S BEHAVIOR TOWARD Minor OR MICHELE'S BEHAVIOR
15 TOWARD Minor

16 A. BOTH DEREK AND MICHELE THOUGHT ONLY OF THE BABY. IT
17 WAS ALWAYS J.C. THIS, J.C. THAT. IF THEY SAID ANYTHING
18 ABOUT Minor IT WAS ALWAYS, Minor WAS BAD.

19 Minor DID THIS. Minor DID THAT.

20 Q. DID DEREK SAY THAT, TOO?

21 A. YES.

22 Q. IN THE PRESENCE OF MICHELE?

23 A. YES.

24 Q. HE WOULD SAY SHE WAS DOING BADLY? SHE WAS DOING THE
25 WRONG THINGS?

1 A. WHEN YOU SPOKE TO DEREK ON THE PHONE, YOU ALSO HAD
2 MICHELE ON THE PHONE. YOU NEVER GOT TO SPEAK TO DEREK BY
3 HIMSELF.

4 Q. YOU DON'T KNOW WHOSE DESIGN THAT WAS, THOUGH, DO YOU?

5 A. MICHELE'S. DEREK SAID SO.

6 Q. OKAY. THOSE PAY STUBS YOU SAID YOU LOOKED AT FROM
7 DEREK'S WORK, WERE THEY FOR ONE WEEK OR TWO WEEKS?

8 A. THOSE WERE A COLLECTION OF ALMOST THE WHOLE YEAR.

9 Q. I MEAN, DO YOU KNOW IF THE PAY PERIOD WAS ONE WEEK OR
10 TWO WEEKS?

11 A. THEY WERE ONE WEEK.

12 Q. OKAY. AND DID IT SHOW OVERTIME?

13 A. YES.

14 Q. MICHELE WAS PRESENT WHEN THEY CAME OVER TO PICK UP
15 Minor FEBRUARY 25TH, WASN'T HE?

16 A. OF WHAT YEAR?

17 Q. 2000? FEBRUARY 25TH, DEREK AND MICHELE CAME OVER WITH
18 THE BABY TO GET Minor DO YOU REMEMBER THAT?

19 A. YES, BUT I THOUGHT THEY GOT HER A LITTLE SOONER THAN
20 THAT.

21 Q. OKAY. DID YOU KEEP A DIARY OR SOMETHING?

22 A. ME?

23 Q. YEAH.

24 A. I KIND OF DO TAKE NOTES.

25 Q. JUST THE DATES AND TIMES?

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1 A. CORRECT.

2 Q. WELL, I HAVE PROBABLY WHAT WAS PRINTED FROM THAT.
3 THAT'S WHY I ASKED YOU IF IT WAS FEBRUARY 25TH WHEN THEY
4 CAME OVER TO GET THE BABY. AND IN MICHELE'S PRESENCE, DID
5 YOUR HUSBAND ADMONISH THEM WITH REGARD TO ANYTHING WITH
6 REGARD TO Minor

7 A. I DON'T UNDERSTAND.

8 Q. IN MICHELE'S PRESENCE, DID YOUR HUSBAND ADMONISH DEREK
9 WITH REGARD TO BRUISES?

10 A. YEAH.

11 Q. WHAT DID HE SAY TO HIM?

12 A. TOLD DEREK THAT HE'D BETTER NOT SEE ANY MORE MARKS AND
13 BRUISES ON Minor

14 Q. OKAY. DID HE INDICATE TO YOU -- DID MICHELE INDICATE
15 TO YOU WHY Minor S BIRTHDAY PARTY WAS CANCELLED?

16 A. YES. SHE WAS BAD. SHE HAD PICKED SOMETHING UP IN THE
17 HOUSE THAT WAS ON THE COFFEE TABLE AND THREW IT THROUGH THE
18 PICTURE WINDOW. AND THEN SHE WAS THEN BEING ----

19 Q. THROUGH A BIG WINDOW?

20 A. I DON'T REMEMBER THEIR TRAILER HAVING A BIG PICTURE
21 WINDOW. ALL OF THEM ARE JUST REGULAR SIZE.

22 Q. DID MICHELE TELL YOU WHAT SHE THREW THROUGH THE PICTURE
23 WINDOW?

24 A. A CANDLE HOLDER.

25 Q. DID YOU QUESTION MICHELE ANY MORE ABOUT THAT?

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1 A. MICHELE SAID THAT SHE WAS ON TWO-WEEK RESTRICTION. BUT
2 THEY HAD TO GO AND USE Minor BIRTHDAY MONEY TO REPLACE
3 THE WINDOW.

4 Q. ALL RIGHT. WAS YOUR VISIT ON AUGUST THE 15TH -- HAD
5 YOU CALLED AND MADE ARRANGEMENTS TO VISIT AND BE THERE?

6 A. NO. WE JUST DECIDED TO GO FOR A RIDE AND STOP OVER
7 THERE AND GIVE Minor HER BIRTHDAY PRESENTS.

8 Q. SO YOU WEREN'T EXPECTED?

9 A. NO, SIR.

10 Q. AND MICHELE AND DEREK DROVE UP ABOUT FIVE O'CLOCK THAT
11 DAY?

12 A. ABOUT FIVE.

13 Q. NOW, I DIDN'T UNDERSTAND WHAT YOU SAID ABOUT THE
14 FAIRGROUNDS. I'M SORRY. I DIDN'T HEAR.

15 A. MICHELE TOLD US THAT Minor WAS WITH HER FRIEND.
16 AND THEY HAD GONE SHOPPING OVER AT TARGET, AND THEN THEY
17 WERE GOING OVER TO THE FAIRGROUNDS.

18 Q. WHAT WAS AT THE FAIRGROUNDS?

19 A. THE FAIR WAS COMING UP THE FOLLOWING WEEK. SO I GUESS
20 THEY WERE SETTING UP.

21 Q. ALL THE TRUCKS ROLLING IN WITH THE FAIR EQUIPMENT AND
22 EVERYTHING LIKE THAT?

23 A. YEAH.

24 Q. OKAY. SO THE LAST TIME YOU SAW Minor WAS THAT JULY
25 THE 28TH VISIT THAT YOU DIDN'T ---

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1 A. MY LAST SIGHT OF HER WAS IN JUNE.

2 Q. JUNE THE 17TH?

3 A. CORRECT.

4 Q. ALL RIGHT. AND YOU NOTICED NO BRUISES, CUTS, SCRAPES
5 OR INJURY TO HER ON THAT DAY OTHER THAN THE CROSSED EYES AND
6 THE TEETH?

7 A. JUST THE CROSSED EYES AND THE TEETH.

8 Q. ALL RIGHT. THANK YOU.

9 THE COURT: ANY REDIRECT?

10 MS. WHITE: JUST A LITTLE BIT, YOUR HONOR.

11 REDIRECT EXAMINATION BY MS. WHITE:

12 Q. YOU SAID THAT Minor USUALLY HAD ON LONG PANTS AND
13 LONG SHIRTS? LONG-SLEEVED SHIRTS; IS THAT RIGHT?

14 A. CORRECT.

15 Q. HOW DID MICHELE TREAT Minor

16 A. JUST BASICALLY THAT SHE'S JUST THERE. NO REAL
17 ATTENTION. NO NOTHING.

18 Q. YOU SAID THAT IT WAS IMPOSSIBLE TO TALK TO DEREK
19 WITHOUT ALSO TALKING TO MICHELE. WHEN YOU WOULD CALL AND
20 TALK TO DEREK ON THE PHONE, WHO WOULD BE IN THE BACKGROUND?

21 A. MICHELE.

22 Q. AND WHAT WOULD SHE BE DOING?

23 A. SHE WOULD BE TALKING, ARGUING, YELLING. AND SHE WOULD
24 BE ON THE SPEAKER PHONE.

25 Q. AND DID IT APPEAR LIKE SHE WAS AT ALL BEING DOMINATED

1 BY DEREK CARTER?

2 A. DEREK BOSSING HER AROUND?

3 Q. YEAH.

4 A. NO.

5 Q. WHY NOT?

6 A. THAT BASICALLY WASN'T DEREK.

7 Q. YOU SAID THAT THE DEFENDANT TOLD YOU HOW Minor GOT
8 HER EYES CROSSED. AND SHE SAID WHAT ABOUT THE BUNK BED?

9 A. SHE SAID THAT D.W. J.W. AND Minor WERE IN THE
10 BEDROOM JUMPING OFF OF THE BUNK BED AND LANDING ON A
11 BEANBAG. AND SOMEHOW THE TWO JUMPED AND COLLIDED AND HIT
12 HEADS.

13 Q. THE TWO BEING D.W. AND Minor

14 A. YEAH.

15 Q. AND YOU SAID THAT YOUR HUSBAND SAID, I'D BETTER NOT SEE
16 ANY MORE MARKS ON HER. IS THAT THE VISIT WHERE Y'ALL SAW
17 THE BLACK EYE?

18 A. YES.

19 Q. WHAT, IF ANY, BEHAVIOR DID YOU HAVE OUT OF Minor
20 WHEN YOU SAW HER OR WHEN SHE WAS AT YOUR HOUSE AS TO
21 THROWING THINGS OR DESTROYING YOUR HOUSE, THAT SORT OF
22 THING?

23 A. SHE DIDN'T THROW OBJECTS THROUGH THE HOUSE. ALL THE
24 KIDS TOYS ARE IN ONE ROOM. AND THEY KNOW THEY HAVE TO KEEP
25 ALL THE TOYS IN THERE. IF THEY START BRINGING THEM OUT, I

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1 GO, UH-UH, UH-UH. AND THEY START TAKING THEM BACK. THE
2 ONLY TOYS I WOULD ALLOW TO COME OUT WAS WHEN WE WERE
3 DRESSING THE BABY DOLLS.

4 Q. AND SHE SAID SHE PUT THIS FOUR-YEAR-OLD ON A TWO-WEEK
5 RESTRICTION ON HER BIRTHDAY?

6 A. YES.

7 Q. NO FURTHER QUESTIONS.

8 MR. GAMBLE: NO QUESTIONS.

9 THE COURT: THANK YOU, MA'AM.

10 DO YOU HAVE A WITNESS WE COULD TAKE BEFORE THE BREAK?

11 MS. WHITE: YES, SIR. WE MAY GO A LITTLE PAST FOUR,
12 BUT NOT PAST FOUR THIRTY.

13 THE COURT: ANYBODY NEED TO TAKE A BREAK AT THIS
14 TIME?

15 (NO RESPONSE)

16 THE COURT: ALL RIGHT. LET'S DO THE NEXT WITNESS.

17 MS. WHITE: THE STATE CALLS JOHN CARPENTER.

18 JOHN CARPENTER,

19 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION BY MS. WHITE:

21 Q. WHERE DO YOU WORK?

22 A. ANDERSON COUNTY SHERIFF'S OFFICE.

23 Q. AND WERE YOU ASSIGNED TO INVESTIGATE THIS CASE?

24 A. YES, MA'AM.

25 Q. AND DID YOU GO TO GREENVILLE MEMORIAL HOSPITAL ON 10/17

1 OF THE YEAR 2000?

2 A. YES.

3 Q. AND AFTER THAT VISIT, DID YOU TALK TO THE DEFENDANT,
4 MICHELE CARTER, ON OCTOBER 20TH OF THIS YEAR? OF LAST YEAR.
5 I'M SORRY.

6 A. OF 2000, YES, MA'AM.

7 Q. AND WHAT, IF ANYTHING, DID SHE TELL YOU ABOUT HOW SHE
8 BECAME INVOLVED WITH DEREK CARTER?

9 A. SHE DESCRIBED THAT SHE FIRST MET DEREK IN 1998.

10 Q. KEEP GOING. GO AHEAD AND TELL THE JURY WHAT SHE TOLD
11 YOU.

12 A. SHE DESCRIBED HOW THAT -- WORKED TWELVE-HOUR SHIFTS AND
13 SLEPT ---

14 Q. WHO WORKED TWELVE-HOUR SHIFTS?

15 A. MICHELE WORKED TWELVE-HOUR SHIFTS AND SLEPT DURING THE
16 DAY UNTIL THE KIDS GOT HOME FROM SCHOOL.

17 Q. OKAY. KEEP GOING. PLEASE, JUST -- WE'RE KIND OF
18 PRESSED FOR TIME. SO JUST GO THROUGH THE INTERVIEW. WHAT
19 DID SHE TELL YOU?

20 A. DEREK TOLD THE DEFENDANT THAT Minor HAD DOWN
21 SYNDROME. BUT THE DEFENDANT SAID Minor DID NOT LOOK
22 LIKE SHE HAD IT. MICHELE GOT PREGNANT -- THE DEFENDANT GOT
23 PREGNANT AND WAS VERY SICK. Minor [SIC] WOULD LAY IN
24 THE BED, AND Minor WOULD GO GET A WASH CLOTH FOR THE
25 DEFENDANT'S FACE. SHE FURTHER DESCRIBED HOW Minor WAS

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1 CLUMSY AND HER FEET TURNED OUT. AND SHE LATER NOTICED THAT
2 HER ANKLES WOULD SWELL. THEY TRIED NEW SHOES. AND THE
3 DEFENDANT SAID SHE TOOK Minor OUTSIDE AND MAKE HER WALK
4 WITHOUT SHOES AND MADE HER WALK AROUND THE YARD BAREFOOT
5 BECAUSE SHE THOUGHT SHE DID BETTER WITHOUT SHOES.

6 Q. OKAY. STOP HERE A MINUTE. WERE YOU ALL GOING OVER THE
7 VARIOUS INJURIES ON HER BODY, AND THEY WERE GIVING YOU
8 EXPLANATIONS FOR THIS?

9 A. WE WERE TRYING TO GET A BACKGROUND AND HISTORY ON THE
10 INJURIES THAT WERE OBSERVED BY THE MEDICAL COMMUNITY.

11 Q. GO AHEAD.

12 A. SHE FURTHER DESCRIBED THAT WHEN -- THE DEFENDANT
13 DESCRIBED THAT WHEN Minor WALKED, SHE HAD HER FEET
14 TURNED OUT SO THAT HER INSIDE ANKLES WERE ON THE GROUND.
15 AND THAT WHEN DEREK CAME HOME, THE DEFENDANT SHOWED DEREK
16 WHAT SHE WAS TALKING ABOUT AS FAR AS HOW Minor WAS
17 WALKING. THE DEFENDANT DESCRIBED THAT -- SHE SAID Minor
18 WENT THROUGH A TOMBOY STAGE AND HOW THEY TRIED TO MAKE HER
19 WEAR CLOTHES, AND Minor DID NOT WANT TO AND WENT THROUGH
20 A DEFIANT STAGE IS THE WAY THE DEFENDANT DESCRIBED IT. SHE
21 WENT ON TO STATE THAT Minor WAS CLUMSY AND WOULD NOT
22 WALK THREE STEPS WITHOUT FALLING DOWN. AND SAID THAT SHE
23 TALKED AND EXPRESSED HER CONCERN TO DR. MADDOX ABOUT THIS.
24 SHE -- WHEN WE WERE TALKING ABOUT TALKING TO DR. MADDOX, SHE
25 SAID THE FIRST VISIT WITH DR. MADDOX WAS AFTER THE BUNK BED

1 INCIDENT THAT WAS DESCRIBED WHERE THE CHILDREN ALLEGEDLY
2 BUMPED HEADS. AND THEN THE SUBSEQUENT REFERRAL TO DR.
3 STELLA LEGARDA, AN EYE DOCTOR. I'M SORRY. THE REFERRAL TO
4 DR. STELLA LEGARDA WAS BY AN EYE DOCTOR. SHE DID NOT KNOW
5 THE EYE DOCTOR'S NAME. SHE WENT ON TO DESCRIBE HOW DR.
6 LEGARDA FOUND A, WHAT SHE DESCRIBED, FAKE TUMOR. AND
7 MICHELE TALKED TO DR. LEGARDA. AFTER DEREK DIDN'T TELL HER
8 ABOUT IT, SHE SAID -- SHE WENT ON TO DESCRIBE THAT THERE WAS
9 A TOTAL OF THREE VISITS TO DR. LEGARDA, THE LAST VISIT BEING
10 ON 10/11 OF 2000. IT WAS A WEDNESDAY. AND THAT WHILE AT
11 DR. LEGARDA'S OFFICE, THEY MADE Minor WALK, RUN. AND
12 THAT -- SAID HER EYES WERE IMPROVING, BUT SAID THAT SHE HAD
13 PRESSURE ON HER EYES. SHE -- TO SHOW ME THE DOCTOR'S
14 APPOINTMENT, SHE HAD LITTLE APPOINTMENT CARDS IN HER WALLET.
15 SHE GOT THOSE OUT, AND I MADE NOTES FROM THOSE APPOINTMENT
16 CARDS WHERE SHE WAS SUPPOSED TO GO ON 10/11 OF 2000, A
17 PRESCRIPTION FOR OCCUPATIONAL THERAPY. AND THEN ON TUESDAY,
18 10/14/2000, THERE WAS A ---

19 Q. OKAY. DID SHE SAY SHE MADE SOME APPOINTMENTS? WHAT
20 DID SHE SAY ABOUT -- WHAT DID SHE SAY ABOUT Minor AS TO
21 HER ABILITY TO DO THINGS?

22 A. AFTER WE GOT DONE WITH THE APPOINTMENT CARDS, SHE
23 DESCRIBED HOW Minor WAS LEARNING SPANISH. SHE WAS
24 SINGING SONGS, KNEW HER A.B.C.'S, HAD TRIED KNITTING. AND
25 SHE WENT ON TO DESCRIBE THAT WHEN SHE TOLD Minor NO THAT

1 Minor WOULD THROW TEMPER TANTRUMS AND HOLD HER BREATH.

2 AND SHE -- HER DESCRIPTION WAS, Minor WAS SLOW -- WAS

3 NOT SLOW, BUT SHE WAS STUBBORN.

4 Q. WHAT, IF ANY, FOOD DID YOU DISCUSS WITH THE DEFENDANT?

5 A. I ASKED HER ABOUT OTHER MEDICAL PROBLEMS. SHE SAID

6 THAT CERTAIN FOODS WOULD CAUSE FLARE-UPS. AND WHEN SHE

7 BROUGHT UP FOOD, I SAID, WELL, CAN YOU TELL ME WHAT KIND OF

8 FOOD SHE HAD ON SATURDAY PRIOR TO HER ADMISSION TO

9 GREENVILLE MEMORIAL HOSPITAL. AND SHE DESCRIBED THAT FOR

10 BREAKFAST Minor HAD SALMON PATTIES, SWEET PEAS, MASHED

11 POTATOES AND MACARONI AND CHEESE.

12 Q. DID SHE SAY WHAT HAPPENED THAT SATURDAY, OCTOBER 14TH,

13 RIGHT BEFORE Minor WAS TAKEN TO THE HOSPITAL?

14 A. Minor WAS OUTSIDE PLAYING, CAME IN AND ATE THAT

15 FOOD THAT I DESCRIBED FOR BREAKFAST. SHE THOUGHT IT WAS

16 LIKE A COUPLE OF HOURS BEFORE DEREK CAME HOME. Minor

17 DID COME INSIDE ONE TIME WITH A HEADACHE, BUT HAD NO OTHER

18 COMPLAINTS OR ACCIDENTS THAT SHE KNEW OF. THAT'S WHEN SHE

19 WENT INTO THE STORY ABOUT THEY GOT READY TO LEAVE AND THAT

20 J.C. THE BABY, WAS FUSSING AND DID NOT WANT TO GO TO THIS

21 PLACE TO GET THE VAN FIXED AND THAT J.W. DID NOT WANT TO

22 GO. DEREK CALLED AND TOLD THE DEFENDANT THEY WERE AT THE

23 HOSPITAL. Minor WAS IN THE HOSPITAL. AND A LADY GOT ON

24 THE PHONE AND SAID THAT Minor WAS IN FOR TESTS, IS THE

25 WAY THE DEFENDANT DESCRIBED IT. DEREK TOLD THE DEFENDANT

1 ABOUT Minor MAKING SOUNDS. AND THERE'S A GENTLEMAN
2 NAMED CARL MCGUIRK (PHONICS) GAVE THE DEFENDANT A RIDE TO
3 THE HOSPITAL. AND THAT WHEN SHE WENT TO THE HOSPITAL, SHE
4 LEFT THE TWO OLDER BOYS WITH A NEIGHBOR AND TOOK J.C. THE
5 BABY, WITH HER.

6 Q. DID SHE SAY ANYTHING ELSE THAT DAY ABOUT WHAT HAPPENED,
7 OR WAS THAT IT?

8 A. SHE WAS A PART OF THE CONVERSATION WHEN I WAS ALSO
9 TALKING TO HER HUSBAND, DEREK SHANE CARTER. AND ---

10 Q. LET'S GO TO THE 25TH. DID YOU SEE HER AGAIN ON OCTOBER
11 THE 25TH? I'M SORRY. I DIDN'T MEAN TO INTERRUPT. ANYTHING
12 DEREK SAYS IS HEARSAY, SO DON'T GO INTO THAT. THAT'S NOT
13 ADMISSIBLE. DID YOU SEE HER ON 10/25 OF LAST YEAR?

14 A. YES, I DID.

15 Q. AND WHERE WAS THAT?

16 A. ANDERSON COUNTY SHERIFF'S OFFICE.

17 Q. AND WHY DID YOU SEE HER ON THAT DAY?

18 A. I ASKED THEM IF THEY WOULD COME IN SO THAT WE COULD GET
19 A LITTLE BETTER BACKGROUND AND HISTORY ABOUT WHAT EVENTS LED
20 UP TO PRIOR TO Minor ADMISSION AND TO GET HER JUST TO

21 GIVE US AN IDEA OF -- I MEAN, WE HAD A ---

22 Q. AND DID SHE FILL OUT A QUESTIONNAIRE?

23 A. AT THAT TIME, YES, SHE DID.

24 Q. AND DID YOU GIVE HER THE QUESTIONNAIRE, THE BLANK

25 QUESTIONNAIRE, AND LET HER GO INTO A ROOM AND FILL IT OUT BY

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1 HERSELF?

2 A. YES, I DID.

3 Q. AND IS STATE'S EXHIBIT 61 THE QUESTIONNAIRE THAT SHE
4 FILLED OUT?

5 A. YES, IT IS.

6 MS. WHITE: YOUR HONOR, I'D ASK THAT STATE'S EXHIBIT
7 61 BE ADMITTED.

8 THE COURT: MR. GAMBLE, HAVE YOU REVIEWED THIS?

9 MR. GAMBLE: YES, SIR. I HAVE A COPY OF IT.

10 THE COURT: ANY OBJECTION?

11 MR. GAMBLE: NO SIR.

12 THE COURT: WITHOUT OBJECTION, RECEIVED INTO
13 EVIDENCE AT THIS TIME.

14 (QUESTIONNAIRE ADMITTED INTO EVIDENCE AS STATE'S
15 EXHIBIT 61).

16 Q. NOW, APPROXIMATELY WHAT TIME DID SHE FINISH -- WHEN SHE
17 CAME IN TO TAKE THE QUESTIONNAIRE, WHAT TIME DID SHE FINISH
18 TAKING THE QUESTIONNAIRE?

19 A. SHE WAS GIVEN THE QUESTIONNAIRE AND INSTRUCTION SHEET
20 AT NINE OH FIVE A.M. -- I'M SORRY -- AT NINE FIFTEEN A.M.
21 AND COMPLETED IT AT ELEVEN THIRTY A.M.

22 Q. AND AFTER SHE COMPLETED THE QUESTIONNAIRE, WHAT WAS SHE
23 TOLD TO DO?

24 A. I LET HER SIT THERE FOR A MINUTE. THEN SHE WENT OUT
25 INTO THE LOBBY AND WENT DOWN TO HER VEHICLE, I THINK, TO GET

1 CIGARETTES OR TO SMOKE OR WHATEVER. AND THEN ...

2 Q. ALL RIGHT. DID YOU RECEIVE -- I'M HANDING YOU STATE'S
3 EXHIBIT 62, STATE'S EXHIBIT ELEVEN, AND BASICALLY JUST A BOX
4 OF TAPES. FROM WHOM DID YOU RECEIVE THESE ITEMS?

5 A. EXHIBIT 11, THE BLUE HARNESS, WAS GIVEN TO ME BY TERRI
6 CARTER, THE PATERNAL STEP-GRANDMOTHER.

7 Q. AND HAS IT BEEN CHANGED OR ALTERED IN ANY MANNER SINCE
8 YOU RECEIVED IT FROM HER?

9 A. NO.

10 Q. DID YOU IN ANY WAY REQUEST HER TO GET THIS, OR DID SHE
11 CALL YOU AND OFFER TO GIVE IT TO YOU?

12 A. SHE OFFERED TO GIVE IT TO ME.

13 MS. WHITE: I ASK THAT STATE'S EXHIBIT 11 BE
14 ADMITTED.

15 THE COURT: ANY OBJECTION TO NUMBER 11?

16 MR. GAMBLE: NO, YOUR HONOR.

17 THE COURT: WITHOUT OBJECTION.

18 (HARNESS ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT 11)

19 Q. STATE'S EXHIBIT 62, ARE YOU IN THE CHAIN OF CUSTODY ON
20 THAT?

21 A. YES. THIS THREE AND A HALF FLOPPY DISKETTE WAS GIVEN
22 TO ME, ALSO, BY TERRI CARTER AT HER RESIDENCE.

23 Q. AND WAS IT CHANGED OR ALTERED IN ANY MANNER AFTER YOU
24 OBTAINED IT?

25 A. NO, MA'AM.

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1 MS. WHITE: I'D ASK THAT STATE'S EXHIBIT 62 BE
2 ADMITTED.

3 THE COURT: ANY OBJECTION?

4 MR. GAMBLE: NO OBJECTION, YOUR HONOR.

5 THE COURT: WITHOUT OBJECTION.

6 (COMPUTER DISKETTE ADMITTED INTO EVIDENCE AS STATE'S
7 EXHIBIT 62)

8 Q. AND AGAIN, THE BOX OF TAPES AND VIDEOTAPES. WERE THOSE
9 CHANGED OR ALTERED IN ANY MANNER AFTER THEY WERE GIVEN TO
10 YOU?

11 A. NO.

12 Q. NOW, THERE ARE A LOT OF TAPES IN THAT BOX; IS THAT
13 RIGHT?

14 A. THERE ARE FIFTEEN EIGHT MILLIMETER AND TWO V.H.S.

15 Q. AND HAVE YOU VIEWED THOSE TAPES?

16 A. YES.

17 Q. I'M HANDING YOU STATE'S EXHIBIT 59 FOR IDENTIFICATION.
18 WHAT IS STATE'S EXHIBIT 59?

19 A. THE V.H.S. TAPE THAT WAS MADE AT THE ANDERSON COUNTY
20 SHERIFF'S OFFICE. IT'S A COMPILATION OR MONTAGE OF CLIPS,
21 OUT-TAKES, WHATEVER YOU WANT TO CALL IT, FROM ALL OF THOSE
22 TAPES THAT WERE GIVEN TO US BY MS. CARTER.

23 Q. AND THESE ARE BASICALLY FAMILY VIDEOS; IS THAT RIGHT?

24 A. THAT'S CORRECT.

25 Q. NOW, WHAT WERE YOU -- IN THE MONTAGE, WHAT WAS THE

1 ATTEMPT TO SHOW THE JURY?

2 A. WELL, WE STARTED WITH THE EARLIEST DATE POSSIBLE AND
3 WENT THROUGH AND TOOK OUT CLIPS TO SHOW A CHRONOLOGY OR
4 WITHIN ---

5 MR. GAMBLE: YOUR HONOR, I WOULD OBJECT TO
6 CHARACTERIZATION OF WHAT IT'S TO SHOW TO THE JURY. I THINK
7 THE TAPE, IF IT'S DONE, SHOULD SPEAK FOR ITSELF IN THAT
8 REGARD AND NOT A CHARACTERIZATION.

9 MS. WHITE: YOUR HONOR ---

10 THE COURT: HE CAN GIVE A BRIEF SYNOPSIS OF WHAT WAS
11 TAKEN FROM THE ENTIRE COLLECTION AND REDUCED TO THE SUMMARY.
12 SO I OVERRULE IT TO THAT EXTENT.

13 Q. WERE YOU TRYING TO TAKE OUT PARTS THAT SHOWED WHETHER
14 OR NOT THERE WERE ANY INJURIES? COORDINATION? WERE THOSE
15 THE MAIN THINGS THAT WE'RE LOOKING AT? HAIR, THAT SORT OF
16 THING? WHETHER THERE WERE ANY PATCHES OF HAIR AND WHETHER
17 SHE WAS THIN OR REGULAR?

18 A. EXACTLY. YES.

19 Q. NOW, IN THE YEAR 2000, HOW MANY IN THE REGULAR TAPES --
20 NOW THESE -- THE MONTAGE IS JUST OF THE VICTIM; IS THAT
21 RIGHT? OR THAT WAS THE IDEA, TO GET THE PICTURES OF THE
22 VICTIM AS YOU GO THROUGH THE YEARS?

23 A. YES.

24 Q. ALL RIGHT. IN THE YEAR 2000, HOW MANY DATES WERE THERE
25 ON THE TAPES OF VARIOUS TAPINGS OF THIS FAMILY?

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1 A. SIXTEEN DIFFERENT DATES.

2 Q. AND OUT OF THE SIXTEEN DATES, HOW MANY IS Minor IN
3 OF THE FAMILY VIDEOS FOR THE YEAR 2000?

4 A. JUST ONE.

5 MS. WHITE: YOUR HONOR, I'D ASK THAT WE BE ALLOWED
6 TO PLAY THE MONTAGE AT THIS POINT. AND I'D ASK THAT STATE'S
7 EXHIBIT 59 BE ADMITTED.

8 THE COURT: SUBJECT TO THE EARLIER OBJECTION, SIR?

9 MR. GAMBLE: YES, SIR.

10 THE COURT: SO NOTED. IT'S NOTED FOR THE RECORD.

11 (VIDEOTAPED SUMMARY ADMITTED INTO EVIDENCE AS STATE'S
12 EXHIBIT 59)

13 THE COURT: AND THE LENGTH IS APPROXIMATELY HOW
14 LONG, SOLICITOR?

15 WITNESS: THIRTY-TWO MINUTES.

16 THE COURT: AND YOU WANT TO SHOW IT AT THIS TIME?

17 MS. WHITE: YES, SIR. I WOULD LIKE TO.

18 THE COURT: I TELL YOU, WE'VE BEEN GOING FOR AN HOUR
19 AND FIFTY MINUTES. LET'S TAKE A SHORT BREAK, AND LET'S
20 FIGURE OUT HOW WE'RE GOING TO USE THE MACHINE HERE. AND
21 WE'LL COME BACK AND WE'LL WATCH THE VIDEO AND RECEIVE THAT
22 EVIDENCE, LADIES AND GENTLEMEN. AFTER THAT WE'RE GOING TO
23 BREAK FOR THE DAY. THERE'S SOME LEGAL ISSUES I NEED TO
24 ADDRESS AND ALLOW THE ATTORNEYS TO EXAMINE FURTHER. AND SO
25 WE'LL STOP AFTER WE REVIEW THE TAPE, AND WE'LL COME BACK IN

1 THE MORNING. SO THAT'S WHERE WE ARE, AND THAT'S WHERE WE'RE
2 GOING. JUST STEP TO THE JURY ROOM. WE'LL GET YOU BACK OUT
3 HERE IN TEN MINUTES. THANK YOU.

4 (WHEREUPON THE JURY EXITED THE COURTROOM AT 3:55 P.M.)

5 THE COURT: THE JURY HAS BEEN EXCUSED. WE'LL RECESS
6 FOR TEN MINUTES.

7 (WHEREUPON COURT STOOD AT RECESS)

8 (8MM VIDEOTAPE MARKED AS COURT'S EXHIBIT 1)

9 MR. GAMBLE: MAY I MOVE A CHAIR OVER SO THAT MY
10 CLIENT CAN SEE THE V.C.R.?

11 THE COURT: SURE. AND I'M GOING TO JOIN YOU, TOO.
12 I WANT TO SEE IT.

13 BRING THE JURY.

14 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 4:05 P.M.)

15 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, WE'RE
16 GOING TO WATCH THE VIDEO. AND THEN WE'LL RECESS FOR THE
17 DAY. AND I'M GOING TO STEP DOWN FROM THE BENCH NEXT TO MR.
18 GAMBLE AND WATCH IT WITH YOU. YOU CAN START IT WHENEVER
19 YOU'RE READY, SOLICITOR.

20 MS. WHITE: YES, SIR.

21 (WHEREUPON STATE'S EXHIBIT 59, VIDEOTAPED SUMMARY, WAS
22 PLAYED FOR THE JURY)

23 Q. THE LAST PORTION THAT WE JUST SAW, IS THAT THE ONLY
24 TIME THAT SHE APPEARS IN THE FAMILY VIDEOS IN THE YEAR 2000?

25 A. THE FINAL BIRTHDAY PARTY THEY HAVE, YES.

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1 Q. NO FURTHER QUESTIONS.

2 THE COURT: WE'LL STOP THE EXAMINATION AT THAT
3 POINT. SINCE WE WENT PAST FOUR O'CLOCK, MR. GAMBLE, DO YOU
4 WANT TO STILL START AT NINE, OR WOULD YOU LIKE TO DELAY IT
5 TO GIVE YOU ADDITIONAL TIME IN THE MORNING? NINE O'CLOCK
6 STILL OKAY?

7 MR. GAMBLE: FINE WITH ME, YOUR HONOR.

8 THE COURT: ALL RIGHT. WE'LL STOP AT THAT POINT FOR
9 THE EVENING. DURING THE EVENING BREAK, AS I HAVE ADDRESSED
10 YOU THROUGHOUT, DO NOT DISCUSS THE CASE AMONG YOURSELVES OR
11 WITH ANYONE ELSE, OF COURSE. AND DO NOT EXPOSE YOURSELF TO
12 ANY MEDIA COVERAGE ABOUT THIS CASE. BE VERY CAREFUL IN THAT
13 REGARD. BE VERY SENSITIVE OF THAT TO NOT PUT YOURSELF IN A
14 POSITION WHERE YOU'RE EXPOSED TO ANY COVERAGE ABOUT THIS
15 CASE. BE BACK IN THE JURY ROOM TOMORROW MORNING AT NINE
16 A.M. SEE YOU AT NINE O'CLOCK IN THE MORNING. THANK YOU.

17 (WHEREUPON THE JURY EXITED THE COURTROOM AT 4:44 P.M.)

18 THE COURT: WE'RE GOING TO FOLLOW THE SAME PROCEDURE
19 WE DID AT LUNCH. EVERYONE IS TO REMAIN SEATED. ONE OF THE
20 DEPUTIES OR BAILIFFS WILL NOTIFY YOU WHEN THE JURY HAS
21 EXITED THE COURTHOUSE. ONCE THAT'S DONE, YOU'RE FREE TO GO.
22 THANK YOU, AND WE'LL RESUME AT NINE A.M.

23 (WHEREUPON COURT STOOD AT RECESS FOR THE DAY)

24 JUNE 27, 2001

25 THE COURT: ALL RIGHT. THE JURY IS NOW ALL PRESENT.

1 WE'RE READY TO PROCEED. BRING THE JURY. INVESTIGATOR
2 CARPENTER, IF YOU'LL COME BACK TO THE WITNESS STAND, PLEASE,
3 SIR. AND DO YOU HAVE ADDITIONAL DIRECT EXAMINATION OF THIS
4 WITNESS, SOLICITOR?

5 MS. WHITE: NO, SIR.

6 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 9:12 A.M.)

7 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

8 WE'RE READY TO PROCEED.

9 YOUR WITNESS ON CROSS EXAMINATION, MR. GAMBLE.

10 MR. GAMBLE: THANK YOU, YOUR HONOR.

11 CROSS EXAMINATION BY MR. GAMBLE:

12 Q. INVESTIGATOR CARPENTER, WHAT YOU DID WAS TAKE THESE
13 FILMS THAT MS. CARTER GAVE YOU AND SPLICED THEM TOGETHER OR
14 HAVE THEM SPLICED TOGETHER?

15 A. THAT'S CORRECT.

16 Q. AND WHO SPLICED THEM TOGETHER?

17 A. THE ACTUAL EDITING WAS DONE BY SARGENT RODNEY HARBIN.

18 Q. SO IT WAS BY OFFICERS OF THE ANDERSON COUNTY SHERIFF'S
19 OFFICE?

20 A. YES, SIR.

21 Q. WHO ASSISTED THE PROSECUTION IN THIS CASE?

22 A. I REQUIRED HIS TECHNICAL ASSISTANCE TO PREPARE THAT
23 VIDEO FOR THIS CASE; YES, SIR.

24 Q. ALL RIGHT. AND YOU WERE -- YOU ARE THE CHIEF
25 INVESTIGATING OFFICER ON THIS CASE?

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1 A. YES, SIR.

2 Q. ALL RIGHT. NOW, I NOTED HERE YOU SAID ONE TIME DEREK
3 HAD TOLD MICHELE THAT Minor HAD DOWN SYNDROME?

4 A. MY NOTES REFLECT THAT'S WHAT THE DEFENDANT TOLD ME IN
5 THE INTERVIEW ON 10/20 OF 2000; YES, SIR.

6 Q. OKAY. ON 10/20 OF 2000?

7 A. YES, SIR.

8 Q. NOW, WHEN YOU -- YOU DID GO TO THE HOUSE TO INVESTIGATE
9 THERE, DIDN'T YOU, ON THE SEARCH WARRANT?

10 A. I ARRIVED NEAR THE END OF THE SEARCH WARRANT BEING
11 SERVED. I WASN'T THERE THE ENTIRE TIME, NO, SIR.

12 Q. WHO WAS THERE, IF YOU KNOW, THE ENTIRE TIME?

13 A. I KNOW THAT FORENSICS INVESTIGATOR MITCHELL SERVED THE
14 SEARCH WARRANT.

15 Q. SO HE WOULD BE THERE THE ENTIRE TIME?

16 A. TO THE BEST OF MY KNOWLEDGE. I WAS NOT THERE, BUT I
17 BELIEVE THAT HE WAS. HE WAS ASSISTED BY INVESTIGATOR
18 SUTTON, INVESTIGATOR BROTHERS. ALSO, ACCOMPANIED BY
19 DEPARTMENT OF SOCIAL SERVICES PERSONNEL. I BELIEVE MS.
20 JENKINS WAS THERE. AND IF THERE WERE ANY OTHER OFFICERS OR
21 AGENCY REPRESENTATIVES THERE, I'M NOT SURE.

22 Q. I DON'T HAVE ANYTHING FURTHER.

23 THE COURT: ANY REDIRECT?

24 MS. WHITE: NO, SIR.

25 THE COURT: THANK YOU, INVESTIGATOR CARPENTER. YOU

1 MAY STEP DOWN.

2 NEXT WITNESS, PLEASE.

3 MS. WHITE: THE STATE CALLS MIKE MITCHELL.

4 **MIKE MITCHELL,**

5 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

6 DIRECT EXAMINATION BY MS. WHITE:

7 Q. YOU SAID YOU WORK AT THE SHERIFF'S DEPARTMENT?

8 A. YES, MA'AM, I DO.

9 Q. WHAT ARE YOUR DUTIES THERE?

10 A. I'M A CRIME SCENE INVESTIGATOR.

11 Q. AND WERE YOU WORKING ON OCTOBER -- WELL, BACK UP A
12 MINUTE. WHAT IS A CRIME SCENE INVESTIGATOR? DESCRIBE FOR
13 THE JURY -- HOW DOES THAT DIFFER -- TALK ABOUT WHAT THE
14 UNIFORMED OFFICER DOES, WHAT THE DETECTIVE DOES AND WHAT YOU
15 DO TO JUST GIVE THEM AN IDEA OF WHAT YOUR AREA IS.

16 A. OKAY. THE UNIFORMED OFFICER ACTUALLY ROUTINELY ANSWERS
17 THE FIRST CALL TO SERVICE. HE'S THE FIRST ONE TO ARRIVE,
18 AND HE DETERMINES IF THERE'S A CRIME BEEN COMMITTED. AND IF
19 THERE IS, IF HE NEEDS ADDITIONAL HELP, THEN HE CALLS OUT
20 CRIMINAL INVESTIGATORS TO TAKE STATEMENTS, TALK TO SUSPECTS
21 OR VICTIMS. AND IF NEED BE, HE CALLS OUT A CRIME SCENE
22 INVESTIGATOR. WE DO PHOTOGRAPHING, FINGERPRINTING, CRIME
23 SCENE RECONSTRUCTION, TO DEAL WITH THE PHYSICAL PART INSTEAD
24 OF THE PERSONAL PART THAT THE CRIMINAL INVESTIGATORS
25 NORMALLY TALK TO.

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1 Q. SO CRIMINAL INVESTIGATORS TALK TO THE PEOPLE; YOU ALL
2 GATHER THE EVIDENCE?

3 A. THAT'S CORRECT.

4 Q. WERE YOU WORKING ON OCTOBER 15TH OF THE YEAR 2000?

5 A. YES, MA'AM, I WAS.

6 Q. AND DID YOU RECEIVE A CALL FROM GREENVILLE MEMORIAL
7 HOSPITAL?

8 A. YES, MA'AM.

9 Q. AND WHEN YOU GOT THERE, WHERE DID YOU GO?

10 A. I WENT TO THE PEDIATRIC INTENSIVE CARE UNIT AT
11 GREENVILLE MEMORIAL.

12 Q. AND WHICH INDIVIDUAL DID YOU SEE THERE?

13 A. DR. AVANT.

14 Q. AND DID YOU SEE ANY VICTIMS THERE?

15 A. YES, MA'AM, I DID. I SEEN THE Minor . Minor ?
16 Minor

17 Q. AND I'M HANDING YOU STATE'S EXHIBIT 31, 49, 50 AND 48.
18 PLEASE DO NOT DISPLAY THESE. WHAT ARE THOSE?

19 A. THESE ARE PHOTOGRAPHS OF THE VICTIM THAT I
20 PHOTOGRAPHED.

21 Q. AND ARE THEY A FAIR AND ACCURATE PORTRAYAL OF HOW SHE
22 LOOKED THAT DAY IN THE HOSPITAL WHEN YOU ARRIVED THERE?

23 A. YES, MA'AM.

24 MS. WHITE: YOUR HONOR, I'D ASK THAT STATE'S EXHIBIT
25 50, 49, 48 AND 31 BE ADMITTED. I UNDERSTAND THERE'S BEEN A

1 PREVIOUS RULING ON A FEW OF THOSE.

2 THE COURT: WHAT ARE THE NUMBERS AGAIN, PLEASE,
3 MA'AM?

4 MS. WHITE: THIRTY-ONE, 48, 49 AND 50. THIRTY-ONE
5 IS A NEW ONE.

6 THE COURT: ALL RIGHT. THE PICTURE OF THE EAR IN
7 STATE'S EXHIBIT 31, ANY OBJECTION TO THAT? IF YOU'D LIKE TO
8 LOOK AT IT SPECIFICALLY. I KNOW THAT YOU WERE HANDED
9 SEVERAL. I'LL BE GLAD TO HAND THEM BACK TO YOU, SIR.

10 MR. GAMBLE: IS THERE NOT -- MAY I APPROACH AND SEE
11 THAT AGAIN?

12 THE COURT: SURE. THAT'S 31. HERE ARE THE OTHERS.
13 (PAUSE WHILE MR. GAMBLE EXAMINED PHOTOGRAPHS)

14 MR. GAMBLE: I OBJECT TO ALL OF THEM, YOUR HONOR.

15 THE COURT: VERY WELL. AND THE GROUNDS FOR THE
16 OBJECTION CONTINUES TO BE RULE 403, SIR?

17 MR. GAMBLE: YES, SIR.

18 THE COURT: VERY GOOD. THE OBJECTION IS SUSTAINED
19 WITH REGARD TO EXHIBITS 48, 49 AND 50. I SIMPLY WILL NOT
20 PERMIT THE JURY TO SEE THOSE PHOTOGRAPHS. STATE'S EXHIBIT
21 31, THE OBJECTION IS OVERRULED. AND I WOULD PERMIT THAT,
22 HAVING CAREFULLY CONSIDERED RULE 403. SO STATE'S EXHIBITS
23 48, 49 AND 50 WILL REMAIN FOR IDENTIFICATION AT THIS TIME.

24 MS. WHITE: YES, SIR.

25 THE COURT: THANK YOU.

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1 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

2 31)

3 Q. WAS A SEARCH WARRANT LATER OBTAINED TO GO TO THIS

4 RESIDENCE ON WILDWOOD -- OR [REDACTED] I'M SORRY. [REDACTED]

5 [REDACTED] [REDACTED]?

6 A. YES, MA'AM.

7 Q. AND DID YOU GO TO [REDACTED] [REDACTED]?

8 A. YES, MA'AM, I DID.

9 Q. DO YOU RECALL WHEN THAT WAS?

10 A. THE DATE ON THE SEARCH WARRANT WAS 10/25/2000, AND

11 THAT'S THE DATE WE WENT.

12 Q. NOW, LET'S GO THROUGH, IF YOU CAN JUST SORT OF -- WELL,

13 I'LL TELL YOU WHAT. LET ME DO IT THIS WAY. I'M HANDING YOU

14 STATE'S EXHIBIT 60 FOR IDENTIFICATION. DO YOU RECOGNIZE

15 THAT?

16 A. YES, MA'AM. THIS IS A BASIC FLOOR PLAN OF THE

17 RESIDENCE ON [REDACTED] [REDACTED].

18 Q. AND ALTHOUGH NOT TO SCALE, DOES IT FAIRLY AND

19 ACCURATELY REPRESENT THE LAYOUT OF THE SCENE?

20 A. YES, MA'AM, IT DOES.

21 MS. WHITE: YOUR HONOR, I'D ASK THAT STATE'S EXHIBIT

22 60 BE ADMITTED.

23 MR. GAMBLE: NO OBJECTION.

24 THE COURT: WITHOUT OBJECTION, RECEIVED AT THIS

25 TIME.

1 (FLOOR PLAN DIAGRAM ADMITTED INTO EVIDENCE AS STATE'S
2 EXHIBIT 60)

3 Q. LET ME GO THROUGH ALL THIS WHILE YOU'RE SITTING UP
4 HERE. THEN WE'LL HAVE YOU STEP DOWN.

5 A. YES, MA'AM.

6 Q. DID YOU TAKE PHOTOGRAPHS OF THE SCENE WHILE YOU WERE
7 THERE?

8 A. YES, MA'AM.

9 Q. I'M HANDING YOU STATE'S EXHIBITS 19, 18, -- HOLD ON.
10 LET ME GET THESE IN ORDER. ALL RIGHT. THESE ARE GOING TO
11 BE 18 THROUGH 28. IF YOU'LL TAKE A LOOK AT THOSE, PLEASE,
12 AND SEE IF YOU RECOGNIZE THEM.

13 A. YES, MA'AM. ALL THESE ARE OF THE RESIDENCE.

14 Q. AND DO THEY FAIRLY AND ACCURATELY PORTRAY THE RESIDENCE
15 AS YOU FOUND IT ON 10/25 OF 2000?

16 A. YES, MA'AM.

17 MS. WHITE: YOUR HONOR, I'D ASK THAT THE
18 PHOTOGRAPHS, 18 THROUGH 28, BE ADMITTED.

19 (PAUSE WHILE MR. GAMBLE REVIEWED PHOTOGRAPHS)

20 MR. GAMBLE: NO OBJECTION TO THOSE, YOUR HONOR.

21 THE COURT: ALL THOSE WILL BE RECEIVED WITHOUT
22 OBJECTION.

23 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
24 18)

25 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

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1 19)

2 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

3 20)

4 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

5 21)

6 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

7 22)

8 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

9 23)

10 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

11 24)

12 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

13 25)

14 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

15 26)

16 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

17 27)

18 (PHOTOGRAPH ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

19 28)

20 MS. WHITE: YOUR HONOR, MAY I HAVE THE WITNESS STEP
21 DOWN?

22 THE COURT: SURE.

23 (WHEREUPON WITNESS STEPPED DOWN FROM THE WITNESS STAND)

24 Q. ALL RIGHT. LET'S LOOK AT STATE'S EXHIBIT 60. WAIT A
25 MINUTE. BEFORE YOU PUT IT UP, LET ME ... ALL RIGHT.

1 INVESTIGATOR MITCHELL, IF YOU'LL PLEASE STAND SORT OF TO THE
2 SIDE SO THESE JURORS CAN SEE AS WELL. AND IF YOU'LL JUST
3 SORT OF TAKE THE JURY THROUGH THE SCENE AS YOU FOUND IT.
4 WHAT THIS IS AND SO FORTH.

5 A. OKAY. THIS IS THE FRONT PORCH DECK AREA, THE
6 ENTRANCEWAY TO THE DOOR. THIS IS A DEN/LIVING ROOM AREA
7 WHERE THE COUCH AND CHAIR IS. THIS IS A SMALL BREAKFAST
8 AREA ADJOINING THE KITCHEN. REFRIGERATOR RIGHT IN THIS
9 AREA. AND THEN THIS IS JUST A LITTLE HALLWAY WITH A WASHER
10 AND DRYER COMING INTO A LARGE BATHROOM WITH TUB AND COMMODE
11 AND LAVATORY. AND THIS WHERE THE BUNK BEDS WERE WHERE THE
12 TWO BOYS THAT LIVED IN THE RESIDENCE SLEPT. AND ON THIS END
13 OF THE HOUSE, THIS WAS THE NURSERY AREA WITH A BABY BED IN
14 IT, A LITTLE CLOSET IN THE HALLWAY GOING INTO THE MASTER
15 BEDROOM AREA WHERE THE DEFENDANT'S BEDROOM WAS. LITTLE
16 SMALL CLOSET. THIS IS A LITTLE HALF-BATH WITH A LITTLE
17 VANITY AND LITTLE COMMODE.

18 Q. AND THEN WHAT ARE THESE HERE?

19 A. THESE ARE DOORS THAT OPEN THROUGH AND THROUGH. TWO OF
20 THE DOORS ARE TWO-FOOT DOORS WHERE YOU CAN COME INTO THIS
21 HALF-BATHROOM FROM THIS NURSERY AREA OR FROM THE MASTER
22 BEDROOM.

23 Q. NOW, WHEN YOU WERE SEARCHING THE HOUSE, WHAT, IF ANY,
24 TOYS FOR BOYS DID YOU FIND?

25 A. THEY WERE IN THIS AREA IN THIS BOYS' BEDROOM COMING

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1 INTO THE CLOSET AREA AND JUST LAYING AROUND ON THE CHEST OF
2 DRAWERS.

3 Q. AND WHAT, IF ANY, TOYS FOR GIRLS LIKE DOLLS, CARRIAGES,
4 HAIR BOWS, ANYTHING LIKE THAT, WHAT DID YOU FIND IN ---

5 A. I DIDN'T FIND ANY.

6 Q. SO WHAT, IF ANY, EVIDENCE DID YOU FIND IN THIS ENTIRE
7 HOUSE -- IN THE ENTIRE HOUSE ON DIAGRAM 60, WHAT EVIDENCE
8 DID YOU FIND THAT A LITTLE GIRL RESIDED IN THAT HOME?

9 A. THERE WAS ONE BAG, LIKE A BI-LO BAG OR WAL-MART BAG, OF
10 GIRLS' CLOTHES IN THIS BEDROOM. AND IN THIS BEDROOM, IN THE
11 NURSERY, ON A CHEST OF DRAWER OR A LITTLE CHANGING TABLE WAS
12 A BAG, A PERSONAL BELONGINGS BAG, THAT THE HOSPITAL GIVES
13 YOU TO PUT YOUR CLOTHES IN. AND THEY HAD THE VICTIM'S
14 CLOTHES THAT SHE HAD WORE TO THE HOSPITAL ON THAT DAY.

15 Q. ARE YOU DONE?

16 A. YES, MA'AM.

17 Q. ALL RIGHT. LET'S TALK ABOUT THIS BATHROOM OVER HERE.
18 YOU SAID THAT'S A HALF-BATH?

19 A. YES, MA'AM.

20 Q. AND WHAT'S IN THE HALF-BATH?

21 A. ONE VANITY AND ONE COMMODOE. THIS VANITY IS JUST NORMAL
22 HEIGHT.

23 Q. AND WHAT, IF ANYTHING, DID YOU FIND OUT HERE OUTSIDE
24 THE DOOR IN THE MASTER BEDROOM?

25 A. WELL, WE -- THE DOORS HAD LOCKS ON THEM AT THE TOP,

1 MIDDLE AND BOTTOM.

2 Q. OKAY. WHOA. WHICH DOORS?

3 A. THE ENTRANCE OR THE EXIT DOORS ON EACH SIDE.

4 Q. OKAY. WHAT DO YOU MEAN THEY HAD LOCKS ON THEM?

5 A. THEY WERE THE LITTLE HINGE-TYPE LOCKS LIKE WHEN YOU --
6 ALMOST LIKE YOU SEE IN MOTEL ROOMS. AND THEY WERE ON THE
7 OUTSIDE TO WHERE YOU COULD LATCH IT TO WHERE THIS DOOR WOULD
8 NOT OPEN THIS WAY. AND THERE WAS ONE AT THE TOP, THE MIDDLE
9 AND THE BOTTOM. AND ALSO, ON THIS DOOR THAT LOCKED THE DOOR
10 FROM OPENING THIS WAY.

11 Q. SO IF I'M IN THE BATHROOM, CAN I UNLOCK THE LOCKS, OR
12 DO I HAVE TO BE IN ONE OF THESE TWO ROOMS TO UNLOCK THE
13 LOCKS?

14 A. NO, MA'AM. YOU WOULD HAVE TO BE OUTSIDE THE ROOM TO
15 LOCK THE DOOR FROM OPENING OUTSIDE.

16 Q. AND THERE WERE LOCKS HOW MANY PLACES ON THE DOORS?

17 A. THREE PLACES. UP, MIDDLE AND BOTTOM.

18 Q. AND WHAT, IF ANYTHING, DID YOU FIND OUT HERE IN THIS
19 AREA?

20 A. IN THIS ABOUT HALFWAY OF THIS WALL ON THE BEDROOM SIDE
21 WAS A -- JUST RIGHT WHERE THE CARPET MEETS THE WALL AT THE
22 BASEBOARD WAS A HOLE IN THE FLOOR WHERE THE SCREW HAD BEEN
23 ATTACHED. THE EYE-BOLT HAD BEEN ATTACHED TO THE FLOOR.

24 Q. WAS THERE ANY DAMAGE TO EITHER OF THESE DOORS?

25 A. YES, MA'AM. THIS DOOR IS JUST AN INTERIOR HOLLOW WALL

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1 DOOR. AND IT HAD BEEN SPRUNG, SORT OF LIKE WEAKENED, TOWARD
2 THE MIDDLE OF THE DOOR. WEAKENED TOWARD THE BOTTOM.

3 Q. BUT WITH THE THREE BOLTS ON IT FROM THE OUTSIDE, TOP,
4 BOTTOM AND MIDDLE, COULD YOU, EVEN DESPITE THE WEAKENING,
5 COULD YOU GET OUT, OR WAS IT STILL BOLTED IF YOU BOLTED
6 THOSE THREE?

7 A. IF YOU BOLTED ALL THREE, IT WOULD HAVE BEEN SECURE.

8 Q. DID YOU MEASURE THAT BATHROOM?

9 A. YES, MA'AM, I DID.

10 Q. AND AT THE TIME THAT YOU WENT IN ON THE SEARCH, WHAT
11 WAS THE FLOORING IN THIS BATHROOM?

12 A. IT WAS A LINOLEUM INLAY-TYPE.

13 Q. ALL RIGHT. IF YOU WOULD PLEASE -- WHILE YOU'RE DOWN
14 HERE, IF YOU WILL JUST MEASURE OUT AND TAPE OUT THE SIZE OF
15 THIS BATHROOM SO THE JURY WILL HAVE AN IDEA OF WHAT SIZE
16 WE'RE TALKING ABOUT.

17 A. RIGHT HERE?

18 Q. LET'S DO IT RIGHT HERE. WE'LL JUST HAVE THE JURORS --
19 THEY CAN STAND UP AND SEE IT. WAIT A MINUTE, NOW. ARE WE
20 GOING TO HAVE ROOM, OR ARE WE GOING TO RUN INTO THE TABLE?

21 A. ABOUT THAT MUCH.

22 Q. YOU WANT TO GO OUT THIS WAY? LET'S DO IT THIS WAY.

23 (PAUSE WHILE WITNESS MEASURED AND TAPED OUT BATHROOM
24 DIAGRAM ON THE FLOOR IN FRONT OF THE PROSECUTION TABLE)

25 Q. NOW, DID YOU LATER GO TO THE RESIDENCE AND TRACE THE

1 ITEMS THAT WERE IN THE BATHROOM?

2 A. YES, MA'AM, I DID.

3 Q. AND IF YOU WOULD PLACE THOSE ITEMS IN THE BATHROOM.

4 (PAUSE WHILE WITNESS PLACED CUTOUTS OF VANITY AND
5 COMMODE ON FLOOR WITHIN DIAGRAM)

6 Q. ALL RIGHT. YOU'VE PLACED WHICH TWO ITEMS IN THE
7 BATHROOM?

8 A. THIS IS THE VANITY AND THE COMMODE.

9 MS. WHITE: YOUR HONOR, MAY I ASK THAT THE JURORS BE
10 ALLOWED TO STAND UP OR GET WHERE THEY CAN SEE THIS JUST FOR
11 A MINUTE?

12 THE COURT: SURE. HAVE YOU COMPLETED WITH THE
13 DIAGRAM?

14 MS. WHITE: UM ...

15 THE COURT: I DON'T MEAN THAT. I MEAN ON THE ---

16 MS. WHITE: OH, YES, SIR. WE'RE DONE WITH THIS NOW.

17 THE COURT: OKAY. SO THAT'S COMPLETED. ANY MEMBER
18 OF THE JURY THAT NEEDS TO STAND UP OR MOVE ONE WAY OR THE
19 OTHER TO GET A BETTER VIEW, PLEASE FEEL FREE TO DO SO.

20 Q. NOW, THE DOORS, WHILE THEY'RE STANDING, WERE WHERE?

21 THE COURT: IF YOU NEED TO STEP DOWN, THAT'S -- FEEL
22 FREE TO DO SO.

23 Q. YOU DON'T NEED TO DO EXACT, BUT THOSE WERE THE TWO
24 DOORS?

25 A. YES, MA'AM.

1 Q. ALL RIGHT. SO DOES THIS SHOW THE ACTUAL LIVING SPACE
2 OF THE LINOLEUM FLOOR IN THIS HALF-BATH?

3 A. YES, MA'AM. IT WAS IN THIS AREA RIGHT IN HERE.

4 Q. WERE THERE ANY CLOSETS IN THERE WITH TOWELS OR BLANKETS
5 OR SHEETS OR ANYTHING?

6 A. NO, MA'AM.

7 Q. OKAY.

8 YOUR HONOR, THAT'S ALL WE HAVE ON THIS.

9 NOW, WHILE YOU'RE DOWN, LET'S GO OVER THESE
10 PHOTOGRAPHS. ALL RIGHT. IF YOU'LL, AGAIN, TRY NOT TO BLOCK
11 ANY JURORS. AND I'M GOING TO PUT UP THE PHOTOGRAPHS. WE'RE
12 GOING TO START WITH HERE. THEN I WANT YOU TO SHOW THE
13 JURORS WHERE THESE WERE. FIRST, WE'RE STARTING WITH STATE'S
14 EXHIBIT 31. AND IS THAT THE PHOTOGRAPH YOU TOOK IN THE
15 HOSPITAL?

16 A. YES, MA'AM, IT IS.

17 Q. LET'S START WITH STATE'S EXHIBIT 18. WHAT DOES THAT
18 SHOW?

19 A. THAT IS THE FRONT OF THE RESIDENCE. YOU CAN SEE THE
20 PORCH ON THE FRONT, THE FRONT DOOR.

21 Q. AND STATE'S EXHIBIT 19?

22 A. THAT'S THE REAR OF THE RESIDENCE BACK IN THIS AREA.

23 Q. WHAT IS THIS RIGHT IN HERE?

24 A. THAT'S THE DECK THAT I DIDN'T DRAW ON THE SKETCH. I
25 APOLOGIZE. BUT THAT WOULD BE JUST OFF THIS BACK DOOR.

- 1 Q. AND STATE'S EXHIBIT 20?
- 2 A. THAT IS THE DECK THAT WAS IN THE PREVIOUS PHOTOGRAPH.
- 3 Q. WHAT IS THIS RIGHT HERE? YOU MAY NEED TO LOOK AT THE
- 4 PICTURE.
- 5 A. THAT'S A LITTLE OLD RED MOP BUCKET STANDING RIGHT THERE
- 6 WITH A BROOM LAYING AGAINST IT. CAN I POINT IT OUT?
- 7 Q. YES, PLEASE.
- 8 A. A LITTLE RED MOP BUCKET RIGHT HERE. AND THIS IS A
- 9 BROOM THAT YOU SEE LAYING AGAINST THE BACK DOOR. AND THIS
- 10 IS A LITTLE RED MOP PAIL.
- 11 Q. STATE'S EXHIBIT 21? WHAT IS THAT?
- 12 A. THAT'S THE DOOR -- THIS DOOR RIGHT HERE. IT'S IN THE
- 13 MASTER BEDROOM. THIS IS GOING INTO THE BATHROOM.
- 14 Q. WHAT ARE THESE RIGHT HERE?
- 15 A. THOSE ARE THE LOCKS I WAS REFERRING TO.
- 16 Q. STATE'S EXHIBIT 22? WHAT'S THAT?
- 17 A. AGAIN, THOSE ARE THE LOCKS THAT'S ON THE DOOR. AND
- 18 THIS IS IN THE NURSERY ROOM. YOU CAN SEE THE LOCK. HERE'S
- 19 ONE HERE, AND HERE'S ANOTHER ONE JUST OUT OF THE PHOTOGRAPH.
- 20 Q. STATE'S EXHIBIT 23?
- 21 A. THOSE ARE THE PERSONAL BELONGINGS BAG THAT I FOUND IN
- 22 THE NURSERY THAT BELONGED TO THE VICTIM THAT COME FROM
- 23 GREENVILLE HOSPITAL.
- 24 Q. STATE'S EXHIBIT 24?
- 25 A. THAT IS THE HOLE WHERE THE EYE-BOLT WAS IN THE FLOOR

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1 INSIDE THE MASTER BEDROOM.

2 Q. AND STATE'S EXHIBIT 25?

3 A. THAT'S A CLOSEUP OF THE HOLE RIGHT HERE. A ROUND
4 CIRCLE.

5 Q. INVESTIGATOR MITCHELL, SHE NEEDS TO TAKE DOWN
6 EVERYTHING YOU SAY, SO BE SURE TO SPEAK UP.

7 A. I'M SORRY.

8 Q. STATE'S EXHIBIT 26? DO YOU NEED TO LOOK AT THE
9 PICTURE?

10 A. THOSE ARE THE LITTLE GIRL'S CLOTHES I FOUND IN THIS
11 BEDROOM ON THIS SIDE.

12 Q. AND THEY WERE IN A BI-LO BAG OR SOME KIND OF BAG?

13 A. A SMALL LITTLE PLASTIC BAG. WAL-MART OR BI-LO. I
14 CAN'T REMEMBER.

15 Q. STATE'S EXHIBIT 27?

16 A. THAT IS THE LITTLE DINING AREA ALONG IN HERE.

17 Q. HOW MANY CHAIRS DID THEY HAVE AT THE TABLE?

18 A. FOUR CHAIRS. FOUR PLACE SETTINGS.

19 Q. WERE THERE ANY OTHER CHAIRS AROUND HERE?

20 A. NO, MA'AM, THERE WERE NOT.

21 Q. AND STATE'S EXHIBIT 28, WHAT IS THAT?

22 A. THAT'S THE BUNK BEDS THAT WAS ALONG THIS WALL IN THE
23 KIDS' BEDROOM.

24 Q. AND YOU TOOK THIS PICTURE WHAT DAY?

25 A. THAT WAS THE -- OCTOBER THE 25TH, THE DAY OF THE SEARCH

1 WARRANT.

2 Q. GO AHEAD AND HAVE A SEAT BACK UP, PLEASE.

3 (WHEREUPON WITNESS STEPPED BACK UP TO THE WITNESS
4 STAND)

5 Q. WHILE YOU WERE AT THE RESIDENCE, DID YOU GATHER ANY
6 ITEMS FROM THE RESIDENCE?

7 A. YES, MA'AM. I GATHERED A CONSIDERABLE AMOUNT.

8 Q. I HAND YOU STATE'S EXHIBIT 10 FOR IDENTIFICATION. DO
9 YOU RECOGNIZE THAT?

10 A. YES, MA'AM. THAT'S A CHILD'S GATE THAT WE GOT FROM THE
11 RESIDENCE.

12 Q. WHERE DID YOU GET THAT?

13 A. OH, I'M THINKING THAT -- WHEN WE WENT BACK, I'M
14 THINKING IT WAS IN THE DEN AREA OR THE HALLWAY.

15 Q. AND HAS IT BEEN CHANGED OR ALTERED IN ANY MANNER?

16 A. NO, MA'AM, IT HAS NOT.

17 MS. WHITE: I ASK THAT STATE'S EXHIBIT 10 BE
18 ADMITTED.

19 THE COURT: ANY OBJECTION AS TO NUMBER 10?

20 MR. GAMBLE: NO, SIR.

21 THE COURT: WITHOUT OBJECTION, RECEIVED AT THIS
22 TIME.

23 (GATE ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT 10)

24 Q. I'M HANDING YOU STATE'S EXHIBITS 14, 12 AND 13. DO YOU
25 RECOGNIZE THOSE?

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1 A. YES, MA'AM.

2 Q. WHAT ARE THOSE?

3 A. THOSE ARE THE ELECTRIC HEATERS THAT WE GOT FROM THE
4 RESIDENCE.

5 Q. DID YOU GET ALL THE HEATERS THERE?

6 A. YES, MA'AM, I DID.

7 Q. HAVE THEY BEEN CHANGED OR ALTERED IN ANY MANNER SINCE
8 THEY WERE COLLECTED?

9 A. NO, MA'AM.

10 MS. WHITE: I ASK THAT THOSE BE ADMITTED, YOUR
11 HONOR.

12 MR. GAMBLE: NO OBJECTION.

13 THE COURT: WITHOUT OBJECTION.

14 (HEATER ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT 12)

15 (HEATER ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT 13)

16 (HEATER ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT 14)

17 Q. I HAND YOU STATE'S EXHIBIT 15. DO YOU RECOGNIZE THAT?

18 A. YES, MA'AM.

19 Q. WHAT IS THAT?

20 A. THAT'S THE RED MOP BUCKET THAT WAS SITTING ON THE BACK
21 DECK.

22 Q. AND HAS THAT BEEN CHANGED OR ALTERED IN ANY MANNER
23 SINCE YOU GATHERED IT?

24 A. NO, MA'AM, IT HAS NOT.

25 MS. WHITE: I ASK THAT STATE'S EXHIBIT 15 BE

1 ADMITTED.

2 MR. GAMBLE: NO OBJECTION.

3 THE COURT: FIFTEEN WITHOUT OBJECTION.

4 (BUCKET ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT 15)

5 Q. I HAND YOU STATE'S EXHIBIT 6 FOR IDENTIFICATION. DO
6 YOU RECOGNIZE THAT?

7 A. YES, MA'AM. THIS IS THE CHAIN THAT COME FROM A TOOLBOX
8 THAT WAS OUTSIDE BY THE DECK.

9 Q. AND HAS THAT BEEN CHANGED OR ALTERED IN ANY MANNER
10 SINCE IT WAS COLLECTED?

11 A. NO, MA'AM, IT HAS NOT.

12 MS. WHITE: YOUR HONOR, I'D ASK THAT IT BE ADMITTED.

13 MR. GAMBLE: NO OBJECTION.

14 THE COURT: WITHOUT OBJECTION.

15 (CHAIN ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT 6)

16 Q. I'M HANDING YOU STATE'S EXHIBITS 4 AND 5. DO YOU
17 RECOGNIZE THOSE?

18 A. YES, MA'AM.

19 Q. WHAT ARE THOSE?

20 A. THE TWO BELTS, LEATHER BELTS.

21 Q. AND WHERE DID YOU COLLECT THOSE?

22 A. ONE FROM THE BOYS' BEDROOM AND ONE FROM THE MASTER
23 BEDROOM.

24 Q. AND HAVE THEY BEEN CHANGED OR ALTERED IN ANY MANNER
25 SINCE THEY WERE COLLECTED?

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1 A. NO, MA'AM.

2 MS. WHITE: I ASK THAT 4 AND 5 BE ADMITTED.

3 MR. GAMBLE: NO OBJECTION.

4 THE COURT: WITHOUT OBJECTION, 4 AND 5 ARE IN
5 EVIDENCE.

6 (BROWN BELT ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

7 4)

8 (BROWN BELT ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT

9 5)

10 Q. I'M HANDING YOU STATE'S EXHIBIT 7. DO YOU RECOGNIZE
11 THAT?

12 A. YES, MA'AM.

13 Q. WHAT ARE THEY?

14 A. THESE ARE THE LOCKS THAT COME FROM THE RESIDENCE.

15 Q. HAVE THOSE BEEN CHANGED OR ALTERED IN ANY MANNER -- DID
16 YOU ACTUALLY RECEIVE THOSE FROM A NEIGHBOR?

17 A. YES, MA'AM. MS. DENARDO. TERESA DENARDO.

18 Q. AND HER HUSBAND REPAIRS THINGS FOR THE LANDLORD THERE;
19 IS THAT CORRECT?

20 A. YES, MA'AM. THAT'S WHAT I WAS TOLD.

21 Q. AND YOU RECEIVED THEM FROM THE DENARDOS. TO WHOM DID
22 YOU GIVE THEM?

23 A. I TURNED THEM IN TO EVIDENCE.

24 Q. TO WHOM?

25 A. BUDDY ELLISON.

1 Q. AND DID YOU ALTER THEM OR CHANGE THEM IN ANY MANNER?

2 A. NO, MA'AM, I HAVE NOT.

3 MS. WHITE: I ASK THAT 7 BE ADMITTED.

4 THE COURT: WHAT'S THE DEFENDANT'S POSITION WITH
5 RESPECT TO NUMBER 7?

6 MR. GAMBLE: I THINK THE CHAIN HAS TO BE ESTABLISHED
7 WITH MS. DENARDO OR MR. DENARDO.

8 THE COURT: I SUSTAIN THAT OBJECTION.

9 MS. WHITE: WE'LL DO THAT, YOUR HONOR.

10 Q. I'M HANDING YOU STATE'S EXHIBIT 8 FOR IDENTIFICATION.
11 DO YOU RECOGNIZE THOSE?

12 A. YES, MA'AM.

13 Q. WHAT ARE THEY?

14 A. THOSE ARE THE VICTIM'S CLOTHES THAT I REMOVED FROM THE
15 NURSERY.

16 Q. OKAY. THE HOSPITAL CLOTHES?

17 A. YES, MA'AM.

18 Q. AND HAVE THEY BEEN CHANGED OR ALTERED IN ANY MANNER
19 SINCE THEY WERE COLLECTED?

20 A. NO, MA'AM.

21 MS. WHITE: I ASK THAT STATE'S EXHIBIT 8 BE
22 ADMITTED.

23 MR. GAMBLE: OBJECTION WITH REGARD TO RELEVANCY, YOUR
24 HONOR.

25 THE COURT: IF Y'ALL WANT TO APPROACH ON THAT, I'LL

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1 BE GLAD TO HEAR FROM YOU.

2 MS. WHITE: YOUR HONOR, I CAN -- IF I COULD ASK A
3 QUESTION, I THINK I CAN ...

4 THE COURT: YES, MA'AM.

5 Q. IF YOU'LL LOOK AT THE CLOTHING AND JUST TELL THE JURY
6 WHAT SIZE THE SHIRT AND THE SHORTS WERE FOR THIS FOUR PLUS A
7 FEW MONTHS OLD CHILD.

8 A. THE ---

9 Q. DON'T PULL THEM OUT IN FRONT OF THE JURY, PLEASE. THEY
10 HAVE NOT BEEN ADMITTED. IF YOU'LL JUST LOOK AT THE TAG.

11 A. THE PANTS IS A -- THE TOP IS THREE TODDLER.

12 Q. NO FURTHER QUESTIONS.

13 CROSS EXAMINATION BY MR. GAMBLE:

14 Q. WHEN YOU FOUND THIS HOLE IN THE FLOOR, YOU DIDN'T FIND
15 AN EYE-BOLT IN THAT?

16 A. NO, SIR, I DID NOT.

17 Q. DID YOU FIND ANY EYE-BOLTS AT THE RESIDENCE?

18 A. NO, SIR, I DID NOT.

19 Q. DID YOU FIND ANY HARNESS AT THE RESIDENCE?

20 A. NO, SIR, I DID NOT.

21 Q. AND YOU WERE THERE ON THE 25TH?

22 A. YES, SIR.

23 Q. AND THAT WAS PURSUANT TO A SEARCH WARRANT BY MATTHEW
24 SMITH WHO ASSISTED YOU?

25 A. YES, SIR. THAT'S CORRECT.

1 Q. ALL RIGHT, SIR. AND DID YOU OPEN THE DRESSER DRAWERS
2 IN THE NURSERY?

3 A. YES, SIR.

4 Q. WHAT DID YOU FIND THEREIN?

5 A. BABY CLOTHES.

6 Q. ALL RIGHT. YOU DID NOT FIND ANY OF THE OTHER CLOTHES
7 OR ANY 3-T CLOTHES OR ANYTHING LIKE THAT IN THERE?

8 A. NO, SIR.

9 Q. DID YOU OPEN THE DRESSER DRAWERS IN THE BOYS' ROOM IN
10 THE CLOSET?

11 A. YES, SIR.

12 Q. AND WHAT DID YOU FIND IN THERE?

13 A. JUST BOYS' CLOTHES.

14 Q. DID YOU GO THROUGH THE DRESSERS IN THE MASTER BEDROOM?

15 A. YES, SIR.

16 Q. ALL RIGHT, SIR. WHAT DID YOU FIND IN THERE?

17 A. JUST ADULT CLOTHES FOR MALE AND FEMALE.

18 Q. ALL RIGHT. AND THIS CHILD DIED ON THE 14TH? OR 18TH
19 RATHER?

20 A. I HONESTLY DON'T KNOW WHAT DAY SHE DIED. SHE EXPIRED
21 IN GREENVILLE.

22 Q. WELL, YOU KNOW IT WAS ABOUT A WEEK OR TEN DAYS BEFORE
23 YOU WERE THERE AT THE MOBILE HOME?

24 A. YES, SIR. TO THE BEST OF MY KNOWLEDGE.

25 Q. ON THAT DECKING ON THE BACK, IT WAS INCOMPLETE?

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- 1 A. YES, SIR. IT APPEARED TO BE.
- 2 Q. DID IT HAVE A WAY TO GET UP TO IT FROM THE BACK YARD?
- 3 A. NOT THAT I RECALL.
- 4 Q. THE ONE ON THE FRONT, HOW DID YOU GET UP TO THE DECK
- 5 FROM THE FRONT YARD?
- 6 A. IT HAD LEADING STEPS.
- 7 Q. I BEG YOUR PARDON?
- 8 A. STEPS GOING UP TO IT, LEADING UP TO IT.
- 9 Q. WHAT KIND OF STEPS?
- 10 A. WOODEN STEPS, THE BEST I CAN REMEMBER.
- 11 Q. I'M HANDING YOU 18 AND 20. IF YOU LOOK AT THE FAR
- 12 CORNER OF THE DECK ON 20, DO YOU SEE WHAT APPEARS TO BE
- 13 CEMENT BLOCKS?
- 14 A. YES, SIR, I DO.
- 15 Q. WERE THOSE CEMENT BLOCKS STACKED IN SUCH A FASHION AS
- 16 TO FORM A STAIRWAY OR STEPS UP TO THAT DECK?
- 17 A. YES, SIR. IT LOOKS LIKE IT.
- 18 Q. SO THEY WERE JUST ROUGH CEMENT BLOCKS? THEY WEREN'T --
- 19 TO YOUR KNOWLEDGE, WERE THEY CEMENTED TOGETHER?
- 20 A. NO, SIR. IT DON'T LOOK LIKE IT. I DON'T REMEMBER THEM
- 21 BEING.
- 22 Q. YOU LOOKED AT THEM WHEN YOU WERE OUT THERE, DIDN'T YOU,
- 23 ON THE SEARCH?
- 24 A. YES, SIR. I'M SURE I SEEN THEM.
- 25 Q. OKAY. ALL RIGHT, SIR. NOW, WHEN YOU SAY THE DOOR WAS

1 WEAKENED, COULD YOU ELABORATE ON THAT? WHAT DO YOU MEAN BY
2 WEAKENED?

3 A. I'M NOT AN EXPERT ON A DOOR. BUT IT WAS AN INTERIOR
4 DOOR. IT'S NOT A SOLID WOODEN DOOR. IT'S WHAT I REFER TO
5 AS A HOLLOW CORE DOOR. AND IT'S REAL THIN. IT HAD LIKE A
6 CREASE GOING ACROSS IT LIKE WHERE IT HAD BEEN FORCED OR
7 PRIED OR IT DIDN'T -- IT JUST SEEMED FLIMSY.

8 Q. DID YOU SEE ANY SCRATCH MARKS OR ANYTHING ON IT?

9 A. I DON'T RECALL.

10 Q. OKAY. YOU TOOK A PICTURE OF THE DINING AREA, DIDN'T
11 YOU, EXHIBIT 27?

12 A. YES, SIR.

13 Q. DID YOU SEE A COMPUTER TABLE WITH A CHAIR DOWN IN THE
14 LIVING AREA?

15 A. YES, SIR. I REMEMBER SEEING THAT.

16 Q. AND THE CHAIR WAS A STRAIGHT CHAIR SIMILAR TO THOSE
17 CHAIRS AT THE DINING TABLE?

18 A. MY MEMORY IS NOT THAT GOOD. I DON'T REMEMBER WHAT IT
19 LOOKED LIKE, SIR.

20 Q. BUT THERE WAS A CHAIR THERE?

21 A. YES, SIR. I REMEMBER THERE WAS A CHAIR AT THE DESK.

22 Q. OKAY. AND IT WAS A -- DO YOU RECALL WHAT TYPE CHAIR IT
23 WAS?

24 A. NO, SIR. I'D ONLY BE SPECULATING.

25 Q. ALL RIGHT. HOW MANY SEARCHES DID YOU MAKE OF THIS

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- 1 HOUSE?
- 2 A. JUST THE ONE.
- 3 Q. THE 25TH OF OCTOBER?
- 4 A. YES, SIR.
- 5 Q. YOU FOUND A NINTENDO GAME, DIDN'T YOU?
- 6 A. YES, SIR.
- 7 Q. AND YOU TESTIFIED EARLIER THERE WERE NO TOYS FOR GIRLS.
- 8 IS A NINTENDO BISEXUAL?
- 9 A. YES, SIR. DEFINITELY. AND THERE WERE GAME-BOY LITTLE
- 10 TOYS, TOO. ELECTRONIC GAME-BOYS.
- 11 Q. ELECTRONIC GAMES?
- 12 A. YEAH.
- 13 Q. AND I NOTICED YOU FOUND TOY HANDCUFFS. BUT YOU DON'T
- 14 LIST ANY OTHER TOYS AS MS. WHITE CLASSIFIED THEM AS BOY
- 15 TOYS. WHAT OTHER BOY TOYS WERE IN THE HOUSE?
- 16 A. I HONESTLY CAN'T REMEMBER. I JUST REMEMBER A CLUTTERED
- 17 UP -- NOT CLUTTERED. KIDS' ROOM WITH JUST STUFF ALL AROUND
- 18 IT.
- 19 Q. WHERE WAS THE NINTENDO?
- 20 A. IN THE DEN.
- 21 Q. THE DEN IS A COMMUNITY AREA?
- 22 A. YES, SIR.
- 23 Q. FOR EVERYBODY?
- 24 A. YES, SIR.
- 25 Q. THE GAME-BOY?

1 A. THE BEST I CAN REMEMBER, IT WAS ALSO IN THE DEN. IN
2 THE DEN.

3 Q. OKAY. DID ASK YOU AND DID YOU FIND AN EYE-BOLT? I'M
4 SORRY.

5 A. NO, SIR. YES, SIR, YOU ASKED ME. AND NO, SIR, I
6 DIDN'T FIND ONE.

7 Q. OKAY. THESE LATCHES THAT YOU FOUND, I BELIEVE YOU SAID
8 THEY WERE IN A WAL-MART BAG OR A HOME DEPO BAG OR SOMETHING
9 LIKE THAT?

10 A. A WAL-MART BAG; YES, SIR.

11 Q. WAS THERE A PURCHASE RECEIPT IN THE BAG SHOWING THE
12 DATE OF PURCHASE -- IT WAS PURCHASED? WHEN THE CREDIT CARD
13 WAS USED?

14 A. I DON'T RECALL.

15 Q. DO YOU HAVE THE BAG THEY WERE IN? DID YOU TAKE IT,
16 TOO?

17 A. YES, SIR.

18 Q. AND DO YOU HAVE IT STILL?

19 A. I TURNED EVIDENCE IN TO THE EVIDENCE CUSTODIAN. AND I
20 CAN'T SPEAK FOR HIM, BUT I WOULD SAY WE STILL HAVE IT; YES,
21 SIR.

22 Q. BUT YOU DON'T KNOW IF A PURCHASE RECEIPT IS IN THAT BAG
23 OR NOT?

24 A. I DON'T REMEMBER.

25 Q. ALL RIGHT. THE REAR DECK WAS NOT COMPLETED, WAS IT?

1 A. NO, SIR. IT DIDN'T APPEAR TO BE.

2 Q. WAS THERE ANY LOOSE LUMBER BACK THERE?

3 A. YES, SIR. I REMEMBER SOME TOOLS AND LUMBER AND STUFF.

4 YES, SIR.

5 Q. DID YOU SEE A LONG LEVEL? A FOUR-FOOT LEVEL?

6 A. I CAN'T RECALL IT JUST ...

7 Q. BUT THERE WAS SOME LOOSE TWO-BY -- WHAT WOULD YOU SAY

8 THEY WERE? ONE-BY-SIX FLOORING? DECKING?

9 A. THEY WERE PROBABLY -- I CAN'T REMEMBER. BUT I'M

10 THINKING LIKE THEY WERE DECKING BOARDS. THREE QUARTER

11 BOARDS. THREE QUARTER-BY-SIX.

12 Q. THEY'RE CALLED ONE-BY-SIX. THEY'RE ACTUALLY THREE

13 QUARTER-BY-FIVE AND A HALF, AREN'T THEY?

14 A. YES, SIR.

15 Q. TREATED?

16 A. YES, SIR.

17 Q. OKAY. ANY TWO-BY-SIXES?

18 A. I CAN'T RECALL.

19 Q. ALL RIGHT. WITH REGARD TO THE AREA AT THE MASTER

20 BATHROOM -- MASTER BEDROOM WHERE THE HALF-BATH IS, YOU SAID

21 THE FLOOR WAS LINOLEUM. OTHER THAN THAT, DID YOU SEE ANY

22 MATS IN EITHER THE NURSERY OR THE MASTER BEDROOM? BY MAT, I

23 MEAN A SMALL RUG.

24 A. I DON'T REMEMBER ANY. NO, SIR.

25 Q. DID YOU PHOTOGRAPH THE ENTIRE MASTER BEDROOM OR THE

1 NURSERY?

2 A. YES, SIR, I DID.

3 Q. DID YOU REVIEW THOSE BEFORE YOU CAME IN TODAY?

4 A. NO, SIR, I DID NOT. I JUST CAME IN FROM COLUMBIA.

5 Q. THE LAUNDRY ROOM OFF FROM THE KITCHEN, IS IT ACTUALLY
6 SEPARATED FROM THE KITCHEN?

7 A. NO, SIR, THERE NO DOOR BETWEEN THEM. IT'S LIKE ONE BIG
8 AREA.

9 Q. THAT'S KIND OF IN A HALLWAY, THOUGH?

10 A. YES, SIR.

11 Q. AND IN THE KITCHEN, THERE ARE CABINETS AND SHELVING?

12 A. YES, SIR.

13 Q. STOVE, REFRIGERATOR?

14 A. YES, SIR.

15 Q. AND THE CABINETS, I SUPPOSE, ARE, WHAT -- THIRTY INCHES
16 OFF THE FLOOR IS NORMAL CABINETS?

17 A. THEY APPEARED TO BE NORMAL HEIGHT.

18 Q. THIRTY TO THIRTY-TWO? SOMEWHERE IN THERE?

19 A. YES, SIR.

20 Q. AND SOMEONE IN THE LAUNDRY ROOM COULD SEE INTO THE
21 KITCHEN, COULDN'T THEY?

22 A. YES, SIR.

23 Q. SOMEONE IN THE DEN COULD SEE INTO THE KITCHEN, COULDN'T
24 THEY?

25 A. YES, SIR.

1 Q. ALL RIGHT. THANK YOU. I THINK THAT'S ALL.

2 REDIRECT EXAMINATION BY MS. WHITE:

3 Q. WERE YOU LOOKING FOR GIRL'S TOYS DURING THIS SEARCH AND
4 GIRL'S CLOTHING?

5 A. UH-HUH.

6 Q. WERE YOU LOOKING FOR BOY'S, OR DID YOU JUST NOTICE WHAT
7 WAS AROUND?

8 A. MAINLY JUST NOTICED.

9 Q. AND DID YOU TAKE PHOTOGRAPHS OF THE SCENE?

10 A. YES, MA'AM.

11 Q. AND I'M JUST SHOWING YOU SOME THINGS OF THE BOY'S ROOMS
12 AND ALL. WHAT, IF ANYTHING, DO YOU NOTICE JUST LYING
13 AROUND? YOU DON'T HAVE TO BE TOO SPECIFIC. BUT WHAT THINGS
14 DO YOU NOTICE IN THE NURSERY AND THE BOYS' ROOMS? IN
15 PARTICULAR, A BOX HERE OF STUFF?

16 A. IT'S JUST LITTLE TRUCKS, LITTLE TOY CARS, LITTLE
17 STUFFED ANIMALS, INFANT MOBILES, LITTLE GAMES AND TOYS, TINY
18 TYKES TOYS. AGAIN, LITTLE INFANT TOYS TO PLAY WITH, LITTLE
19 CARS AND TRUCKS.

20 Q. THE DEFENSE ATTORNEY ASKED YOU IF YOU FOUND ANY EYE-
21 BOLTS. I DON'T KNOW -- I'M JUST GOING TO -- DID YOU ALSO
22 TAKE PICTURES OF SOME THINGS YOU FOUND IN THE HOUSE IN BAGS?

23 A. YES. YES, MA'AM. THIS WAS IN THE MASTER BEDROOM, THE
24 WAL-MART BAG THE DEFENSE ATTORNEY WAS ASKING ME ABOUT.

25 Q. AND WHAT WERE THOSE?

1 A. THESE ARE EYE-BOLTS AND ---

2 Q. IN THE PACKAGING?

3 A. YEAH, STILL IN THE PACKAGING AND HASN'T BEEN OPENED IN
4 THE WAL-MART BAG.

5 Q. AND IS THAT WHY YOU TAKE PHOTOGRAPHS OF THE RESIDENCE,
6 SO YOU'LL REMEMBER SIX MONTHS OR A YEAR LATER WHEN YOU TRY A
7 CASE WHAT'S IN IT?

8 A. YES, MA'AM.

9 Q. NO FURTHER QUESTIONS.

10 RECROSS EXAMINATION BY MR. GAMBLE:

11 Q. YOU FOUND SHRINK-SEALED EYE-BOLTS IN PACKAGES BUT NO
12 LOOSE EYE-BOLTS?

13 A. YES, SIR. THE PLASTIC ON THE CARDBOARD THAT HANGS UP
14 ON A HOOK.

15 Q. THAT STUFF YOU CAN NEVER GET OFF WHEN YOU'RE TRYING TO
16 GET TO IT?

17 A. YES, SIR. THAT'S IT.

18 Q. AND THAT WAS STILL INTACT?

19 A. YES, SIR.

20 Q. DID YOU SEE ANY RECEIPTS IN THAT BAG?

21 A. I LOOKED IN THAT PICTURE, AND I DIDN'T SEE THE RECEIPT
22 IN THAT PICTURE.

23 Q. OKAY. THANK YOU.

24 THE COURT: THANK YOU, SIR. APPRECIATE YOUR BEING
25 HERE.

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1 MS. WHITE: YOUR HONOR, THE WITNESS IS IN A SCHOOL
2 IN COLUMBIA. MAY HE BE EXCUSED TO BACK? WE'VE GOT HIM ON
3 BEEPER IF WE NEED HIM.

4 THE COURT: ANY OBJECTION?

5 MR. GAMBLE: NO OBJECTION.

6 THE COURT: WITHOUT OBJECTION. THANK YOU, SIR.

7 NEXT WITNESS, PLEASE.

8 MS. WHITE: YOUR HONOR, OUR NEXT WITNESS IS GOING TO
9 BE VERY LENGTHY, SO I DON'T KNOW IF YOU WANT TO BREAK HERE
10 OR LATER.

11 THE COURT: WELL, TELL ME -- JUST ROUGHLY ANTICIPATE
12 THE DIRECT. THIRTY MINUTES? AN HOUR?

13 MS. WHITE: DETECTIVE SUTTON WHO IS ON ALL THE STUFF
14 WE DID IN PRETRIAL.

15 THE COURT: WE'VE ONLY BEEN GOING AN HOUR, LADIES
16 AND GENTLEMEN. BUT IN ORDER NOT TO BREAK UP THE CONTINUITY
17 OF THE DIRECT EXAMINATION, LET'S TAKE A SHORT FIVE TO TEN
18 MINUTE BREAK. DO NOT DISCUSS THE CASE. WE'LL GET YOU BACK
19 OUT HERE, THEN MOVE FORWARD. THANK YOU SO MUCH.

20 (WHEREUPON THE JURY EXITED THE COURTROOM AT 10:05 A.M.)

21 THE COURT: THE JURY HAS BEEN EXCUSED. WE'LL BE IN
22 RECESS FOR TEN MINUTES.

23 (WHEREUPON COURT STOOD AT RECESS)

24 (PHOTOGRAPH OF BATHROOM DIAGRAM ON FLOOR OF COURTROOM
25 MARKED AS COURT'S EXHIBIT 2)

1 (PHOTOGRAPH OF BATHROOM DIAGRAM WITH FACILITIES MARKED
2 AS COURT'S EXHIBIT 3)

3 THE COURT: BRING THE JURY.

4 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 10:17
5 A.M.)

6 THE COURT: CALL YOUR NEXT WITNESS.

7 MS. WHITE: YOUR HONOR, I KNOW I SAID THE NEXT
8 WITNESS WAS LONG. BUT I'VE GOT ONE HERE THAT'S CHAIN OF
9 CUSTODY ON TWO THINGS. MAY I CALL HIM AND GET HIM OUT OF
10 HERE?

11 THE COURT: SURE.

12 MS. WHITE: THE STATE CALLS BUDDY ELLISON.

13 CLARENCE D. ELLISON,

14 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION BY MS. WHITE:

16 Q. AND YOU WORK AT THE SHERIFF'S DEPARTMENT?

17 A. YES, MA'AM. I WORK FOR THE ANDERSON COUNTY SHERIFF'S
18 OFFICE IN CHARGE OF PROPERTY AND EVIDENCE WITH THE SHERIFF'S
19 OFFICE.

20 Q. I'M HANDING YOU STATE'S EXHIBIT 7 FOR IDENTIFICATION.
21 DO YOU RECOGNIZE THAT?

22 A. YES, MA'AM, I DO.

23 Q. FROM WHOM DID YOU RECEIVE THOSE?

24 A. MIKE MITCHELL OF THE ANDERSON COUNTY SHERIFF'S OFFICE.

25 Q. AND WHAT DID YOU DO WITH THEM?

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1 A. THEY WERE PLACED INTO EVIDENCE FOR SAFEKEEPING UNTIL
2 THE COURT DATE.

3 Q. AND HAVE YOU TAMPERED WITH OR ALTERED THOSE IN ANY
4 MANNER?

5 A. NO, MA'AM, I HAVE NOT.

6 Q. I'M HANDING YOU STATE'S EXHIBIT 62 FOR IDENTIFICATION.
7 WHAT IS THAT?

8 A. IT'S A COMPUTER DISK.

9 Q. AND FROM WHOM DID YOU RECEIVE THAT?

10 A. JOHN CARPENTER WITH THE ANDERSON COUNTY SHERIFF'S
11 OFFICE.

12 Q. AND WHAT DID YOU DO WITH IT?

13 A. THIS WAS CARRIED TO SLED.

14 Q. BY WHOM?

15 A. BY ME AND RETURNED TO THE SHERIFF'S OFFICE BY CARPENTER
16 AND THEN RETURNED BACK TO ME.

17 Q. AND WHEN YOU TOOK IT TO SLED, DID YOU PLACE IT IN
18 EVIDENCE AT SLED?

19 A. YES, MA'AM, I DID.

20 Q. DID YOU TAMPER WITH IT OR ALTER IT IN ANY MANNER?

21 A. NO, MA'AM, I DID NOT.

22 Q. NO FURTHER QUESTIONS.

23 MR. GAMBLE: NO QUESTIONS.

24 THE COURT: THANK YOU, SIR.

25 MS. WHITE: MAY THE WITNESS BE EXCUSED?

1 MR. GAMBLE: NO OBJECTION.

2 THE COURT: WITHOUT OBJECTION. NEXT WITNESS?

3 MS. WHITE: THE STATE CALLS DETECTIVE JEAN SUTTON.

4 JEAN M. SUTTON,

5 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

6 DIRECT EXAMINATION BY MS. WHITE:

7 Q. WHAT'S YOUR OCCUPATION?

8 A. I'M AN INVESTIGATOR WITH ANDERSON COUNTY SHERIFF'S
9 OFFICE.

10 Q. AND WHAT ARE YOUR DUTIES AT THE SHERIFF'S DEPARTMENT?

11 A. I AM A SPECIALIST IN INTERVIEWING AND INVESTIGATING
12 CASES.

13 Q. AND WERE YOU WORKING ON OCTOBER 25TH OF LAST YEAR?

14 A. YES, I WAS.

15 Q. WHERE WERE YOU WORKING?

16 A. I WAS WORKING AT THE SHERIFF'S OFFICE.

17 Q. DID YOU SEE DEREK AND MICHELE CARTER?

18 A. YES, I DID.

19 Q. AND WHEN MICHELE CARTER FINISHED HER QUESTIONNAIRE, DID
20 YOU GET A COPY OF THAT QUESTIONNAIRE?

21 A. YES, I DID.

22 Q. NOW, JUST TELL THE JURY BRIEFLY -- YOU'RE THE ONE WHO
23 DRAFTED THE QUESTIONNAIRE; IS THAT CORRECT?

24 A. THAT'S CORRECT.

25 Q. AND TELL THE JURY WHY YOU DID THIS.

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JEAN M. SUTTON - DIRECT EXAMINATION BY MS. WHITE

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1 A. I HAD MET WITH INVESTIGATOR CARPENTER BRIEFLY
2 CONCERNING THIS CASE AND WAS ADVISED THAT THIS CHILD, WHEN
3 ADMITTED TO THE HOSPITAL, HAD VARIOUS INJURIES. THE
4 QUESTIONNAIRE WAS DESIGNED TO TRY TO DETERMINE A CAUSE FOR
5 THESE INJURIES AND WAS ADMINISTERED TO THE CARETAKERS OF THE
6 CHILD.

7 Q. AND DID SHE FINISH FILLING OUT THE QUESTIONNAIRE?

8 A. YES, SHE DID.

9 Q. AND I'M HANDING YOU STATE'S EXHIBIT 61. IS THAT A COPY
10 OF THE QUESTIONNAIRE AND MICHELE CARTER'S ANSWERS?

11 A. YES, IT IS.

12 Q. AND WHAT DAY WAS THIS THAT SHE FILLED THIS OUT?

13 A. THIS WAS OCTOBER THE 25TH OF 2000.

14 Q. WAS IT IN THE MORNING OR IN THE AFTERNOON?

15 A. SHE CAME IN, TO MY UNDERSTANDING, AT APPROXIMATELY NINE
16 FIFTEEN IN THE MORNING AND FILLED OUT THIS QUESTIONNAIRE.
17 AND I BELIEVE INVESTIGATOR CARPENTER HAS TESTIFIED SHE
18 FINISHED AT APPROXIMATELY ELEVEN THIRTY.

19 MS. WHITE: YOUR HONOR, I HAVE MADE COPIES -- IT'S
20 KIND OF LENGTHY -- FOR THE JURORS JUST FOR DEMONSTRATIVE
21 PURPOSES. IF I COULD HAVE DETECTIVE SUTTON PUBLISH IT AND
22 GIVE THEM A COPY, AND THEN WE'LL COLLECT THEM WHEN WE'RE
23 DONE.

24 THE COURT: HAS THIS EXHIBIT BEEN ALREADY INTRODUCED
25 IN EVIDENCE?

1 MS. WHITE: AS I UNDERSTAND IT, IT HAS.

2 THE COURT: ALL RIGHT. IF IT'S IN EVIDENCE, YOU MAY
3 PUBLISH IT IN THAT FASHION.

4 (WHEREUPON COPIES OF STATE'S EXHIBIT 61 DISTRIBUTED TO
5 JURORS)

6 Q. DETECTIVE SUTTON, IF YOU COULD GIVE THEM A MINUTE JUST
7 TO READ THE FRONT PAGE ON THEIR ON AS TO THE INSTRUCTIONS.

8 (PAUSE WHILE JURORS READ FRONT PAGE OF COPIES OF
9 STATE'S EXHIBIT 61)

10 Q. ALL RIGHT. IF YOU'LL TURN TO PAGE TWO WHERE IT STARTS,
11 AND JUST GO AHEAD AND PUBLISH IT AND LET THE JURORS READ
12 ALONG WITH YOU.

13 A. "ON OCTOBER 14TH, 2000, Minor WAS TAKEN TO
14 GREENVILLE MEMORIAL HOSPITAL. Minor HAD NUMEROUS
15 INJURIES TO INCLUDE SMALL CIRCULAR SCARS ON THE SPINE AND
16 BUTTOCKS, SWELLING OF THE BRAIN, SWELLING TO THE LEFT EAR,
17 ABRASIONS ON TOES, BURN-TYPE INJURY TO CHEST. IN ADDITION,
18 Minor HAD SEVERE BRUISING AND A TEAR INJURY TO THE
19 VAGINAL AREA. PLEASE EXPLAIN IN DETAIL HOW EACH OF THESE
20 INJURIES OCCURRED." AND THE DEFENDANT WROTE THE FOLLOWING.
21 "SHE SCRATCHED HER BACK ONE TIME DOWN ALONG HER SPINE WHEN
22 SHE WAS STEPPING DOWN THE STEPS. THE STEPS ARE CEMENT
23 BLOCKS. WHEN SHE SLID DOWN THE STEPS, IT SCRAPED HER BACK.
24 I CALLED DR. MADDOX ONE TIME BECAUSE SHE HAD BEEN GETTING UP
25 AT NIGHT AND GETTING INTO THINGS. I EXPLAINED THAT WE HAD

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1 BEEN STAYING UP AT NIGHT TO MAKE SURE SHE HADN'T GET INTO
2 ANYTHING. THE NURSE SAID THAT DR. MADDOX WOULD TELL SOME
3 PARENTS TO TURN THE LOCKS INSIDE OUT ON THE BEDROOM DOOR.
4 WE DID THAT, BUT IT DIDN'T -- I BELIEVE THAT'S -- "NOT WORK
5 BECAUSE THE DOORS WERE FLIMSY, AND SHE PUSHED THE BOTTOM OF
6 THE DOOR AND GOT OUT THAT WAY. I THINK SHE GOT A FEW
7 SCRATCHES FROM THAT. ON HER BUTTOCKS, I'M NOT SURE. THEY
8 WERE PLAYING IN LIMBS THAT WE WERE CUTTING UP FROM WHERE WE
9 HAD CUT SOME TREES DOWN. SHE MAY HAVE GOTTEN THAT ON HER
10 BUTTOCKS THEN. I DO KNOW THAT SHE HAD SCRATCHES FROM
11 PLAYING IN THE LIMBS. I REALLY DON'T KNOW EXACTLY CIRCULAR
12 SCARS MEAN. THE SWELLING OF THE BRAIN, THE DOCTORS SAID
13 THAT WAS CAUSED FROM THE FLUID BUILT UP AGAIN FROM THE FAKE
14 TUMOR. Minor CAME IN ONE DAY AND SAID A BEE HAD STUNG
15 HER. WE ASKED HER WHERE. AND SHE SHOWED US OR TOLD US HER
16 EAR. AT THAT TIME IT DID LOOK A LITTLE SWOLLEN, SO I GAVE
17 HER SOME TYLENOL AND BENADRYL. THEN I GAVE HER SOME ICE TO
18 PUT ON IT. HER TOES GOT HURT FROM NOT WEARING SHOES WHEN
19 SHE WAS OUTSIDE. SHE WOULD" -- I CAN'T READ THAT WORD.
20 Q. SCRAPE.
21 A. "... SCRAPE HER TOES ON THE PAVEMENT BECAUSE SHE USED
22 HER FEET TO STOP AND PUSH OFF TO GET THE BIKE TO STOP AND
23 GO. WE WERE BUILDING THE DECK AND CAME INSIDE TO GET
24 SOMETHING TO DRINK AND TAKE A BREAK. THE KIDS WERE OUTSIDE
25 PLAYING, AND THEY KNOCKED SOME BOARDS, TOOLS AND METAL OFF

1 OF THE DECK. I AM NOT SURE WHICH ONE HIT HER FOOT OR TOES.
2 SHE PLAYED ON THE WOOD PILE. WE HAD IT STACKED ON THE SIDE
3 OF THE TREES. I THINK SHE GOT A FEW SCRAPES ON HER TOES
4 WHEN SHE MISSED THE STEPS AND WALKED RIGHT OFF THE PORCH.
5 SHE HAD GOTTEN OUT OF THE BATHTUB. AND SHE DIDN'T WANT TO
6 PUT ON THE GOWN I HAD FOR HER, SO SHE TOOK OFF RUNNING AND
7 RAN INTO THE HEATER. I SAY RAN, BUT SHE MAY HAVE SLIPPED.
8 WE PUT A NEW FLOOR DOWN, AND IT IS SLIPPERY IF ANY WATER
9 GETS ON IT. I DON'T KNOW WHAT IT MEANS, BUT A TEAR INJURY
10 TO THE VAGINA AREA. I AM NOT SURE WHAT IT MEANS BY SEVERE
11 BRUISING THERE EITHER. I KNOW I HAD TO KEEP MEDICINE ON HER
12 BECAUSE OF DIAPER OR PULL-UP RASH. I KNOW SHE WOULD GO TO
13 STEP OUT OF THE TUB, AND SOMETIMES SHE WOULD SLIP AND FALL.
14 ONE LEG WOULD BE IN THE TUB, AND ONE LEG WOULD BE OUT SO
15 THAT SHE WOULD BE STRADDLING THE TUB. I KNOW WHEN WE SAW
16 SOMETHING LIKE THAT WRITTEN ON HER CHART AT THE HOSPITAL, WE
17 ASKED THEM -- WE ASKED HIM ABOUT IT. HE SHOWED US, BUT WHAT
18 HE SHOWED US WAS WHERE SHE HAD THE RASH. HE SAID IT LOOKED
19 LIKE HER MONKEY WAS A LITTLE SWOLLEN. DEREK SAID HE FELL
20 TRYING TO GET OVER THE SEATS, AND IT MIGHT HAVE HAPPENED
21 THEN. HE SAID HE KIND OF FELL OVER ON HER BECAUSE" -- I
22 CAN'T READ THAT WORD.

23 MR. GAMBLE: I HATE TO INTERRUPT, BUT MY COPY DOESN'T
24 HAVE THIS IN IT.

25 (WHEREUPON MS. WHITE ASSISTED MR. GAMBLE)

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1 MR. GAMBLE: OKAY. SORRY TO INTERRUPT.

2 THE COURT: THAT'S FINE. NO PROBLEM.

3 Q. GO AHEAD.

4 A. "HE SAID HE KIND OF FELL OVER ON HER ..." -- AND I
5 CAN'T READ THAT NEXT WORD.

6 Q. GO AHEAD.

7 A. "... GOT STUCK TRYING TO GET OVER THE SEATS. SHE WOULD
8 GET HURT OUTSIDE PLAYING, INSIDE PLAYING. ONE TIME THEY
9 WERE SWINGING THE CONTROLLER AROUND, AND ONE HIT HER IN THE
10 FACE. SHE FELL WHEN IT SNOWED. SHE SLIPPED ON THE ICE ON
11 THE PORCH AND FELL FACE FIRST. SHE GOT HURT PLAYING
12 FOOTBALL, BASKETBALL, KICK-BALL."

13 Q. BASEBALL OR BASKETBALL?

14 A. BASEBALL. I'M SORRY. "... KICK-BALL. SHE GOT BOUNCED
15 OFF THE TRAMPOLINE. WE WERE JUST GOING BY THE DOCTORS. WE
16 WERE CONFUSED. ALSO, THE DOCTOR TOLD US ABOUT HER FEET AND
17 WHAT COULD BE DONE. NO ONE ACTED AS THOUGH IT WAS LIKE
18 MAJORLY (PHONETIC) BAD."

19 PAGE THREE, "DESCRIBE IN DETAIL EVERYTHING YOU DID TO
20 AND FOR Minor FROM SIX P.M. FRIDAY, OCTOBER 13TH UNTIL
21 Minor ARRIVED AT THE HOSPITAL. SHE ATE SUPPER. SHE
22 PLAYED OUTSIDE. SHE DRUNK SOME WATER OUT OF A COOLER AND
23 HAD TO STAND IN THE CORNER. I PUT SOME MEDICINE ON HER
24 NOSE. I PUT SOME BAND-AIDS ON HER TOES AND SOME MEDICINE.
25 I GAVE HER SOME PEDIA CARE FOR HER RUNNING NOSE AND

1 SNEEZING. I PUT SOME MEDICINE ON HER CHEST. I DID ALL THAT
2 AFTER I GAVE HER A BATH. WE WERE BOTH IN AND OUT OF THE
3 BATHROOM WHILE SHE WAS IN THE TUB. GOT HER READY FOR BED.
4 THE NEXT MORNING WE TOOK DEREK TO WORK. SHE LAID DOWN IN
5 THE VAN. I GOT HOME. SHE SAID THE VAN WAS SMOKING A
6 CIGARETTE. I ASKED HER WHAT SHE WAS TALKING ABOUT. THEN I
7 SEEN IT. I STARTED TELLING HER TO GET OUT AND HURRY UP.
8 SHE STOOD BESIDE THE VAN, SO I YELLED AT HER TO GET OUT FROM
9 THE VAN. I WAS TRYING TO GET THE BABY OUT. WE GOT UP ON
10 THE PORCH. I TOLD HER TO GET INSIDE. I WENT IN, SAT THE
11 BABY DOWN. WALKED OUT ON THE PORCH TO SEE IF IT WAS ON FIRE
12 OR WHAT. IT WAS SMOKING THAT BAD, AND I DIDN'T SEE ANY
13 FIRE. SO I JUST WATCHED FOR A LITTLE BIT. I CAME BACK IN,
14 FED THE BABY. TRIED TO FIGURE OUT WHAT Minor WANTED FOR
15 BREAKFAST, BUT SHE DIDN'T WANT ANYTHING. SO I STARTED
16 WASHING DISHES. ONE OF THE BOYS GOT UP. HE FIXED HIM
17 SOMETHING. Minor SAID SHE WANTED SOME CEREAL. I TOLD
18 HER WE WERE GOING TO HAVE MAC AND CHEESE FOR DINNER. SO SHE
19 ENDED UP EATING WHAT I HAD FIXED FOR SUPPER. DEREK CALLED A
20 LITTLE BIT LATER. I TOLD HIM ABOUT THE VAN. HE SAID THEY
21 WOULDN'T LET HIM OFF TO FIX THE VAN, THAT I WOULD HAVE TO
22 CALL AND SAY THAT THE KIDS WERE SICK OR SOMETHING. I TOLD
23 HIM I NEEDED TO GET MY MEAT PUT UP FIRST AND TRY TO
24 STRAIGHTEN UP. THEN I WOULD CALL. IT WASN'T LONG AFTER
25 THAT Minor WANTED TO GO OUTSIDE. SO I OPENED THE.

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1 BLINDS, AND SHE WENT OUTSIDE. THE BABY STARTED CRYING. THE
2 PHONE STARTED RINGING. I DIDN'T MAKE IT TO THE PHONE.
3 Minor SAID SHE WANTED A TRACK BUILT, AND I TOLD HER I
4 COULDN'T RIGHT NOW. SHE GOT MAD AND HAD A TANTRUM. I TOLD
5 HER IF SHE WAS GOING TO DO THAT, SHE WAS GOING TO COME
6 INSIDE. I MADE HER COME INSIDE. I GOT THE BABY SETTLED
7 DOWN AGAIN. HER AND D.W. HAD ALREADY WENT BACK OUTSIDE. I
8 WENT OUTSIDE, BUILT HER A TRACK OUT OF SOMETHING OUT OF THE
9 YARD. I CAME BACK IN AND STARTED PUTTING MY MEAT UP. I
10 STARTED ON MY MEATLOAF. Minor CAME IN, WANTED SOMETHING
11 TO DRINK. I TOLD HER SHE WOULD HAVE TO WAIT BECAUSE I WAS
12 CUTTING MY ONIONS. SHE WENT TO THE BATHROOM. SHE CAME OUT
13 AND SAID HER EYES WERE BURNING. I TOLD HER IT WAS FROM THE
14 ONIONS, TO GO BACK OUT AND PLAY. SHE SAID SHE WANTED
15 SOMETHING TO DRINK. I TOLD HER WOULD GET IT WHEN I GOT
16 FINISHED. THE BABY STARTED FUSSING AGAIN, SO I HAD TO STOP.
17 THEN I CALLED D.W. IN TO HELP. HE GOT AN ATTITUDE. SO I
18 TOLD HIM TO FORGET IT. Minor CAME IN AND SAID SHE WAS
19 HUNGRY. I TOLD HER TO PLAY. THEN I TRIED TO GET IN TOUCH
20 WITH DEREK, BUT I COULDN'T. Minor CAME TO THE DOOR,
21 SAID SHE WAS THIRSTY. I SAID, I'M FRIDAY. COME OVER
22 SATURDAY AND WE'LL HAVE A SUNDAY. SHE WRINKLED UP HER NOSE
23 AND LAUGHED. I GAVE HER SOME WATER. I TRIED TO FINISH MY
24 MEATLOAF, BUT THE BABY KEPT GETTING FUSSY. I HAD TO RUN
25 BACK AND FORTH. FINALLY, I TRIED TO GET IN TOUCH WITH DEREK

1 AGAIN. ALL I WAS GETTING WAS MACHINES. I GOT HIM SETTLED
2 DOWN AGAIN. GOT MY MEATLOAF FINISHED. THE BABY STARTED
3 FUSSING AGAIN. I TRIED TO CALL DEREK AGAIN. Minor CAME
4 IN AND SAID HER HEAD WAS HURTING. WAY HURTING. I GAVE HER
5 SOME IBUPROFEN. I FINALLY GOT SOMEBODY AT THE PLANT. THEY
6 HEARD THE BABY CRYING. I TOLD THEM I HAD ONE WITH A
7 HEADACHE AND ONE JUST BEING A BUTT. DEREK GOT ON THE PHONE,
8 AND I TOLD HIM I WAS ON MY WAY. D.W. AND Minor HAD GONE
9 A FEW HOUSES DOWN ON THE TRAMPOLINE. I GOT ON TO THEM
10 BECAUSE NO ONE WAS AT HOME. I TOLD THEM TO COME ON. I HAD
11 TO GO GET DEREK. D.W. ASKED WHY. I TOLD HIM JUST TO COME
12 ON. WE WENT AND GOT DEREK. WE GOT HOME. I WASHED
13 Minor FACE AND HANDS. I CHANGED HER CLOTHES. TOLD
14 HER NOT TO GET DIRTY. THE BABY STARTED CRYING AGAIN. I
15 TOLD DEREK THAT I DIDN'T WANT TO TAKE HIM UP THERE LIKE
16 THAT. IF THEY HAD TO GO TO THE SHOP OR ANYTHING, I WOULDN'T
17 HAVE A PLACE TO KEEP HIS MILK COLD OR TO FIX BOTTLES. THEN
18 THE BOYS DIDN'T WANT TO GO. SO I TOLD HIM JUST TO GO ON.
19 THEN Minor SAID SHE WANTED TO GO. I TOLD HER SHE COULD
20 STAY, BUT DEREK SAID HE COULD TAKE HER SINCE ... -- I CAN'T
21 READ THIS BOTTOM LINE. "WE KISSED AND HE LEFT."

22 PAGE FOUR, "LIST THE FIVE MOST IMPORTANT THINGS THAT
23 COULD HAVE CAUSED THESE INJURIES. NUMBER ONE, LUPUS,
24 CLUMSINESS, CUTS NOT HEALING RIGHT, BRUISES EASILY, FALLING,
25 LOSING BALANCE. NUMBER TWO, FALLING OR JUMPING OFF THE BED.

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1 THEY TOLD US THE FLUID HAD BUILT UP. THREE, PLAYING LIKE
2 FOOTBALL, BASEBALL, RIDING THE BIKE, JUMPING ON THE
3 TRAMPOLINE, PLAYING ON THE WOOD PILE. FOUR, HER FEET WAS
4 TURNED OUT. SHE WALKED ON HER ANKLES. SHE HAD BIG FEET.
5 BOARD OR THE LEVEL FELL ON HER FEET. FIVE, BURN CAME FROM
6 THE HEATER. SHE GOT STUNG."

7 PAGE FIVE, "IF YOU WERE CONDUCTING AN INVESTIGATION
8 INTO THIS MATTER, DESCRIBE IN DETAIL HOW YOU WOULD DO IT."
9 "TO BE HONEST, I AM NOT REAL SURE WHAT IT IS ABOUT. I KNOW
10 WHAT IT IS THAT I WANT TO KNOW. I WANT TO KNOW WHY THE
11 DOCTORS WERE GETTING THE WIRES CROSSED UP."

12 PAGE SIX, "PLEASE ANSWER EACH QUESTION LISTED BELOW."
13 NUMBER ONE, "WHO HAD THE GREATEST OPPORTUNITY TO CAUSE THESE
14 INJURIES?" "I AM NOT SURE WHAT YOU ARE ASKING."

15 NUMBER TWO ---

16 Q. WAIT. WHAT WAS THAT QUESTION AGAIN?

17 A. "WHO HAD THE GREATEST OPPORTUNITY TO CAUSE THESE
18 INJURIES?"

19 Q. AND THE ANSWER WAS WHAT?

20 A. "I AM NOT SURE WHAT ..." -- IT APPEARS TO BE -- "...
21 YOU ARE ASKING."

22 Q. ALL RIGHT.

23 A. NUMBER TWO, "DID YOU OBSERVE ANYTHING YOURSELF THAT YOU
24 THINK MAY HAVE CAUSED THESE INJURIES? WHEN SHE WAS PLAYING
25 OUTSIDE, I SAW AT TIMES WHEN SHE WOULD GET HURT. NOT EVERY

1 SINGLE TIME."

2 NUMBER THREE, "DID YOU GET UPSET BY ANYTHING THAT
3 HAPPENED WITH Minor SATURDAY MORNING? I WAS MAD AT HER
4 AND D.W. FOR BEING IN SOMEONE'S YARD ON THEIR TRAMPOLINE. I
5 WASN'T UPSET."

6 NUMBER FOUR, "IN THE PAST HAVE YOU EVER GOTTEN ANGRY
7 WITH ONE OF YOUR CHILDREN TO THE POINT WHERE YOU LOST
8 CONTROL? I AM NOT SURE WHAT YOU MEAN BY LOST CONTROL. THEY
9 ALL GOT PUNISHED WHEN THEY DID SOMETHING WRONG."

10 NUMBER FIVE, "HAVE YOU EVER CAUSED INJURY TO ANY OF
11 YOUR CHILDREN? NO, EXCEPT JUST NOT BEING MORE CAREFUL."

12 PAGE SEVEN, "DID YOU DO ANYTHING THAT COULD HAVE CAUSED
13 ANY OF THOSE INJURIES TO Minor WE SHOULD NOT HAVE LEFT
14 THE TOOLS OUT. WE SHOULD NOT HAVE LEFT THE WOOD PILED UP.
15 WE SHOULD NOT HAVE HAD THE HEATER. WE SHOULD HAVE CALLED
16 THE BUG PEOPLE TO GET RID OF THE BEES. WE SHOULD NOT HAVE
17 LET THEM PLAY IN THE TREES AFTER WE CUT THEM DOWN."

18 NUMBER TWO, "DID YOU OBSERVE ANYTHING THAT COULD HAVE
19 CAUSED ANY OF THOSE INJURIES TO Minor THE BOARD OR
20 LEVEL, WHATEVER, HIT HER FEET. SHE HAD HAD DIAPER RASH.
21 SHE SAID SHE GOT STUNG. THEY JUMPED OFF THE BED. I WOULD
22 SEE HOW CLUMSY SHE WAS. I KNOW SHE WOULD SLIP SOMETIMES ON
23 THE TUB AND STRADDLE IT. SHE PLAYED FOOTBALL. SHE ACTED
24 LIKE ONE OF THE BOYS."

25 NUMBER THREE, "WRITE DOWN ANY ADDITIONAL INFORMATION

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1 THAT YOU WOULD LIKE TO FURNISH THIS AGENCY. I WAS TOLD SHE
2 HAD DOWN SYNDROME. SHE DIDN'T. I KNOW SHE DIDN'T ACT LIKE
3 Minor AFTER VISITS OR CALLS FROM TIM. WE -- WE TOLD SHE
4 HAD LUPUS. WE WERE TOLD SHE HAD A FAKE TUMOR. WE WERE TOLD
5 THAT IS WHY FLUID HAD BUILT UP. WE WERE TOLD THAT IS WHY
6 SHE HAD SWELLING. I DID SEE WHEN SHE WOULD FALL DOWN."

7 PAGE EIGHT, THIS PAGE ---

8 Q. DETECTIVE SUTTON, IF YOU'LL JUST EXPLAIN THIS PAGE, AND
9 THEY CAN READ THROUGH THAT. IT'S NOT GOING TO MAKE SENSE IF
10 YOU DO IT.

11 A. RIGHT. IN THE GENERAL INSTRUCTIONS, THEY'RE ASKED NOT
12 TO MAKE ANY ERASURES OR ANY CORRECTIONS. AND THEY ARE TOLD
13 THAT THEY HAVE A PAGE SUPPLIED TO THEM FOR THAT PURPOSE.
14 AND SO PAGE EIGHT IS JUST ANY CORRECTIONS, ADDITIONS OR
15 DELETIONS THAT SHE'D LIKE TO MAKE. AND THOSE ARE NOTED ON
16 PAGE EIGHT.

17 PAGE NINE, "SHOULD WE BELIEVE THE ANSWERS YOU HAVE
18 GIVEN ON THIS QUESTIONNAIRE? YES."

19 NUMBER TWO, "IF YOUR ANSWER TO THE ABOVE QUESTION WAS
20 YES, GIVE ONE REASON WHY. I AM TRYING TO REMEMBER
21 EVERYTHING. I CAN ONLY TELL YOU WHAT I KNOW."

22 NUMBER THREE, "IF IT WAS LATER DETERMINED THAT YOU WERE
23 NOT TRUTHFUL IN THIS QUESTIONNAIRE, WHAT WOULD YOU SAY TO
24 THIS? I CAN ONLY TELL YOU WHAT I KNOW."

25 NUMBER FOUR, "WHAT ARE YOUR FEELINGS NOW THAT YOU HAVE

1 COMPLETED THIS QUESTIONNAIRE? I FEEL LIKE YOU ARE TRYING TO
2 SAY THAT WE DID SOMETHING TO HER. DEAR GOD, SHE IS OUR
3 DAUGHTER."

4 Q. SO WHEN, IN THIS QUESTIONNAIRE, IF AT ALL, DID SHE
5 MENTION THAT SHE WAS AFRAID OF DEREK?

6 A. SHE NEVER MENTIONED THAT.

7 MS. WHITE: YOUR HONOR, IF I MAY COLLECT THE
8 QUESTIONNAIRES.

9 THE COURT: YES, MA'AM.

10 (WHEREUPON COPIES OF STATE'S EXHIBIT 61 COLLECTED FROM
11 JURORS)

12 Q. DID YOU INTERVIEW MS. CARTER AFTER SHE FILLED OUT THIS
13 QUESTIONNAIRE?

14 A. YES, I DID.

15 Q. DO YOU KNOW APPROXIMATELY WHAT TIME THAT WAS?

16 A. I BELIEVE IT WAS APPROXIMATELY SIX P.M.

17 Q. AND SHE WAS MIRANDIZED BY SOMEONE ELSE BEFORE THAT WHO
18 WILL TESTIFY LATER; IS THAT RIGHT?

19 A. THAT'S CORRECT.

20 Q. ALL RIGHT. NOW, LET'S TALK ABOUT WHAT SHE TOLD YOU ON
21 THE 25TH. WHY DON'T YOU JUST SORT OF RUN THROUGH THAT
22 INTERVIEW WITH THE JURY AND TELL THEM BEGINNING WITH WHAT
23 SHE SAID ABOUT HER EDUCATIONAL BACKGROUND AND HER HEALTH?

24 A. RIGHT. I QUESTIONED HER CONCERNING HER EDUCATION, AND
25 SHE TOLD ME THAT SHE HAD COMPLETED THE TWELFTH GRADE AT

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1 MCDUFFIE HIGH SCHOOL IN 1988.

2 I ASKED HER ABOUT ANY SERIOUS HEALTH PROBLEMS, AND SHE
3 TOLD ME SHE WAS NOT UNDER A PHYSICIAN'S CARE FOR ANYTHING.

4 I ASKED HER ABOUT MEDICATIONS THAT SHE HAD TAKEN IN THE PAST
5 TWENTY-FOUR HOURS, AND SHE STATED THAT SHE HAD TAKEN XANAX
6 LAST NIGHT AND THAT THIS WAS GIVEN TO HER AT THE HOSPITAL.
7 AND SHE HAD TAKEN SOME COUGH MEDICINE. BUT SHE DENIED ANY
8 OTHER USE OF MEDICATION AND SHE -- IN THE PAST TWENTY-FOUR
9 HOURS. I ALSO ASKED HER ABOUT ALCOHOL CONSUMPTION IN THE
10 PAST TWENTY-FOUR HOURS, AND SHE TOLD ME THAT SHE DRANK LESS
11 THAN ONE BEER THE NIGHT BEFORE. EXCUSE ME.

12 SHE TOLD ME THAT SHE HAD BEEN TREATED FOR DEPRESSION
13 AFTER HER MOTHER DIED TWO YEARS AGO. AND AT THAT TIME, HER
14 EXHUSBAND TRIED TO TAKE HER CHILDREN AWAY. SHE TOLD ME SHE
15 HAD BEEN HOSPITALIZED AT ANDERSON AREA MEDICAL CENTER FOR
16 HER NERVES BEFORE SHE AND DEREK MARRIED. SHE ALSO TOLD ME
17 THAT SHE WAS TREATED WITH PAXIL WHILE SHE WAS PREGNANT WITH
18 J.C. WHO I BELIEVE WAS UNDER NINE MONTHS OLD AT THAT TIME.

19 I ADVISED THE DEFENDANT THAT HER RIGHTS, HER MIRANDA
20 RIGHTS, WERE STILL IN EFFECT. AND SHE STATED THAT SHE
21 UNDERSTOOD THAT. AND THEN I QUESTIONED HER ABOUT HOW MUCH
22 SLEEP SHE HAD HAD IN THE PAST TWENTY-FOUR HOURS. AND SHE
23 SAID THAT SHE HAD HAD TROUBLE SLEEPING SINCE THIS HAPPENED.

24 WE TALKED ABOUT WHEN SHE MARRIED DEREK. AND SHE SAID
25 SHE MARRIED HIM JUNE THE 2ND OF 1999. AND SHE WAS ASKED

1 ABOUT EMPLOYMENT AND SAID SHE HAD BEEN UNEMPLOYED SINCE JULY
2 OF 1999. SHE TOLD ME SHE HAD TWO SONS FROM A PREVIOUS
3 MARRIAGE, D.W. WHO WAS TWELVE YEARS OLD, AND J.W. WHO
4 WAS SIX YEARS OLD. SHE TOLD ME THAT SHE AND DEREK HAD AN
5 EIGHT-MONTH-OLD SON, J.C.

6 I ADVISED THE DEFENDANT THAT I HAD TALKED WITH THE
7 PATHOLOGIST WHO HAD DONE THE AUTOPSY ON Minor AND I
8 ADVISED THE DEFENDANT THAT THE PATHOLOGIST HAD TOLD ME THE
9 CAUSE OF DEATH WAS HYPOXIA AND WAS NOT DUE TO A NATURAL
10 DISEASE PROCESS. I, AT THAT TIME, TOLD THE DEFENDANT THAT
11 HYPOXIA WAS A LACK OF OXYGEN TO THE BRAIN AND WOULD HAVE
12 BEEN CAUSED BY SMOTHERING.

13 I ASKED THE DEFENDANT ABOUT THE SLEEPING ARRANGEMENTS
14 IN THEIR HOME, IN THE TRAILER, AND SHE BEGAN CRYING, SAYING
15 THAT IT WAS HARD TO GET IN THE BED BECAUSE Minor SLEPT
16 THERE SOMETIMES. SHE WENT ON TO SAY THAT Minor SLEPT
17 WITH THE BOYS SOMETIMES BECAUSE THEY HAD A T.V. IN THEIR
18 ROOM. SHE WAS ASKED ABOUT HAVING HER HANDS FULL WITH FOUR
19 CHILDREN, AND SHE TOLD ME THAT Minor WASN'T THE HANDFUL,
20 THAT SHE DIDN'T CAUSE ANY PROBLEMS.

21 SHE WAS ASKED ABOUT PUNISHING Minor AND SHE STATED
22 THAT BOTH HER AND DEREK PUNISHED HER. I ASKED HER TO
23 DESCRIBE THE PUNISHMENT, AND SHE SAID THAT THEY WOULD MAKE
24 HER STAND IN THE CORNER, BUT SHE WOULDN'T STAY. SHE SAID
25 THEY TRIED TO SEND HER TO HER ROOM, BUT SHE WOULD PLAY OR

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1 WATCH T.V. SHE TOLD ME THAT SHE HAD SPANKED Minor ON
2 THE BUTT, BUT NOT WITH A BELT. SHE DENIED EVER HITTING
3 Minor WITH A BELT.
4 I ASKED THE DEFENDANT TO EXPLAIN THE COUNTING RITUAL AT
5 MEALTIME, AND SHE STATED THAT THEY WOULD GIVE Minor TIME
6 TO EAT. IT WOULD ALWAYS TAKE HER A LONG TIME TO EAT. SHE
7 SAID THAT DR. MADDOX TOLD THEM TO MAKE Minor EAT BY
8 HERSELF. SHE TALKED ABOUT Minor ALWAYS HAVING A RASH ON
9 HER BOTTOM. I ASKED HER, THE DEFENDANT, ABOUT POURING
10 ALCOHOL ON Minor BOTTOM, AND SHE BECAME HOSTILE AND
11 DENIED DOING THIS. SHE TALKED ABOUT Minor GETTING STUNG
12 BY A BEE ON HER EAR AND TOLD ME THAT SHE GAVE HER TYLENOL.
13 SHE WAS ASKED ABOUT THE CIRCULAR SCARS THAT WERE ON
14 Minor BACK, AND SHE DENIED KNOWING ANYTHING ABOUT
15 THESE SCARS. SHE WAS ASKED ABOUT THE VAGINAL INJURIES SEEN
16 AT THE AUTOPSY, AND SHE STATED THAT Minor USED A SPOON
17 TO SCRATCH HERSELF, BUT SHE DID NOT THINK Minor INSERTED
18 THE SPOON INTO HER VAGINA.
19 SHE WAS ASKED IF ANYTHING OUT OF THE ORDINARY HAPPENED
20 ON FRIDAY BEFORE Minor WAS TAKEN TO THE HOSPITAL ON
21 SATURDAY, AND SHE STATED THAT IT DIDN'T. AND SHE TOLD ME
22 THAT SHE TOOK DEREK TO WORK ON SATURDAY MORNING, AND SHE
23 TOOK THE BABY WITH HER. SHE SAID THE VAN HAD BEEN TORN UP
24 ---
25 Q. WAIT A MINUTE. STOP THERE. I DON'T KNOW IF WE'VE SAID

1 THIS. BUT OCTOBER 14TH IS A SATURDAY; IS THAT RIGHT? THE
2 DAY THAT Minor CAME INTO THE HOSPITAL?

3 A. THAT'S CORRECT.

4 Q. ALL RIGHT. GO AHEAD.

5 A. SHE TOLD ME THAT SHE HAD TAKEN DEREK TO WORK THAT
6 MORNING. SHE STATED THAT THE VAN HAD BEEN TORN UP, AND IT
7 WAS SMOKING AND SMELLED LIKE SOMETHING WAS BURNING. SHE
8 SAID THAT DEREK CALLED. SHE DOESN'T KNOW WHAT TIME. AND
9 SHE TOLD HIM ABOUT THE VAN. SHE TOLD ME THAT DEREK TOLD HER
10 THAT THEY WOULDN'T LET HIM GET OFF WORK TO GET THE VAN
11 FIXED, THAT SHE WOULD NEED TO CALL AND SAY SOMETHING WAS
12 WRONG WITH ONE OF THE CHILDREN. SHE SAID SHE CALLED HIS
13 WORK AND TOLD THEM THERE WAS AN EMERGENCY, AND SHE WENT AND
14 PICKED HIM UP. SHE STATED THAT SHE TOOK Minor AND THE
15 BABY WITH HER WHEN SHE PICKED UP DEREK.

16 SHE STATED THAT Minor HAD BEEN PLAYING OUTSIDE, AND
17 SHE CHANGED HER CLOTHES AFTER THEY GOT BACK TO THE TRAILER.
18 SHE SAID THE BOYS DIDN'T WANT TO GO WITH DEREK. SO SHE
19 WASHED Minor FACE AND HANDS, AND Minor WENT WITH
20 DEREK. SHE THEN TOLD ME THAT DEREK AND Minor LEFT GOING
21 TO JAMES' HOUSE TO GET THE VAN FIXED.

22 SHE SAID A LITTLE LATER DEREK CALLED HER AND ASKED --
23 AND SHE ASKED HIM WHERE HE WAS AT. SHE TOLD ME THAT DEREK
24 TOLD HER THAT THEY WERE AT THE GREENVILLE HOSPITAL. AND SHE
25 ASKED HIM WHAT WAS WRONG. SHE TOLD ME THAT HE TOLD HER THAT

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1 HE WAS GOING DOWN THE ROAD. Minor BEGAN MAKING NOISES
2 AND THEN BECAME UNRESPONSIVE. SHE SAID THAT HE TOLD HER
3 THAT Minor WAS ON A RESPIRATOR. AND SHE FLIPPED OUT.
4 SHE WAS ASKED WHAT SHE THOUGHT HAPPENED TO Minor
5 AND SHE SAID SHE THINKS SHE HAD SEIZURES. SHE HAD ONE IN
6 THE CAR JUST LIKE IN THE DOCTOR'S OFFICE. SHE WAS OFF
7 BALANCE AND CLUMSY A LOT. SHE SAID Minor SAID HER HEAD
8 WAS HURTING WHEN SHE CAME IN RIGHT BEFORE THEY WENT TO GET
9 DEREK. AND SHE WAS ASKED ABOUT THE BLEEDING SEEN AROUND
10 Minor NOSE AT THE TIME OF THE AUTOPSY, AND SHE STARTED
11 TALKING ABOUT Minor HAVING A COLD AND PUTTING MEDICINE
12 ON HER NOSE. SHE WAS ASKED ABOUT STUFFING TISSUES UP
13 Minor NOSE, AND SHE STATED THAT SHE WOULD DO THIS WHEN
14 HER NOSE WAS RUNNING.

15 AT THIS POINT, I ADVISED THE DEFENDANT THAT DEREK HAD
16 ADMITTED THAT THEY MADE UP THE STORY ABOUT GETTING THE VAN
17 FIXED.

18 Q. OKAY. DID YOU LATER TALK TO -- DID YOU FINISH
19 INTERVIEWING HER AT THAT TIME?

20 A. YES, I DID. IT WAS GETTING -- IT WAS APPROXIMATELY
21 EIGHT O'CLOCK.

22 Q. LET'S GO TO THE NEXT DAY, OCTOBER 26TH. DID YOU SEE
23 THE DEFENDANT THAT DAY?

24 A. YES, I DID.

25 Q. APPROXIMATELY WHAT TIME AND WHERE?

1 A. I BELIEVE SHE CAME IN AT APPROXIMATELY TEN FIFTY-TWO IN
2 THE MORNING.

3 Q. I'M HANDING YOU STATE'S EXHIBIT 2. WHAT IS THAT?

4 A. THIS IS AN ADVICE OF RIGHTS FORM FOR MIRANDA WARNINGS.

5 Q. AND DID YOU PERSONALLY ADVISE HER OF HER MIRANDA
6 RIGHTS, YOU AND JOHN CARPENTER, BEFORE YOU BEGAN TALKING TO
7 HER THIS TIME?

8 A. YES, WE DID.

9 Q. PLEASE DEMONSTRATE FOR THE JURY HOW SHE WAS ADVISED OF
10 HER MIRANDA RIGHTS.

11 A. AT THE TOP IS A PLACE ON THE FORM FOR THE PLACE. AND
12 IT WAS FILLED IN "ANDERSON COUNTY SHERIFF'S OFFICE," THE
13 DATE, "OCTOBER 26, 2000," THE TIME, "TEN FIFTY-TWO A.M."
14 INVESTIGATOR CARPENTER READ THIS FORM TO THE DEFENDANT IN
15 THE FOLLOWING MANNER. "BEFORE WE ASK YOU ANY QUESTIONS, YOU
16 MUST UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT TO REMAIN
17 SILENT. ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT.
18 YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE
19 ASK YOU ANY QUESTIONS AND HAVE HIM WITH YOU DURING
20 QUESTIONING. IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE
21 APPOINTED FOR YOU BEFORE ANY QUESTIONING, IF YOU WISH. IF
22 YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT,
23 YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME.
24 YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME UNTIL
25 YOU TALK TO A LAWYER." AT THIS POINT THE DEFENDANT WAS

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1 ASKED IF SHE UNDERSTOOD THESE RIGHTS OR HAD ANY QUESTIONS
2 ABOUT THESE RIGHTS. AND SHE INDICATED THAT SHE DID
3 UNDERSTAND THE RIGHTS. AND SHE WAS ASKED TO SIGN THE MIDDLE
4 PORTION OF THE FORM. THE DEFENDANT SIGNED THIS.
5 INVESTIGATOR CARPENTER SIGNED AS A WITNESS, AND I SIGNED AS
6 A WITNESS. THE TIME WAS NOW TEN FIFTY-THREE, AND THE DATE,
7 OF COURSE, WAS OCTOBER 26TH.

8 THE WAIVER OF RIGHTS PORTION AT THE BOTTOM OF THIS PAGE
9 WAS THEN READ TO THE DEFENDANT IN THE FOLLOWING MANNER. "I
10 HAVE READ THIS STATEMENT OF MY RIGHTS, AND I UNDERSTAND WHAT
11 MY RIGHTS ARE. I AM WILLING TO MAKE A STATEMENT AND ANSWER
12 QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I
13 UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS
14 HAVE BEEN MADE TO ME, AND NO PRESSURE OR COERCION OF ANY
15 KIND HAS BEEN USED AGAINST ME." AGAIN, THE DEFENDANT WAS
16 ASKED IF SHE UNDERSTOOD THIS, AND SHE INDICATED THAT SHE
17 DID. THE DEFENDANT SIGNED THE BOTTOM PART OF THE STATEMENT.
18 THIS WAS WITNESSED BY INVESTIGATOR CARPENTER AND MYSELF.
19 AND THE TIME WAS TEN FIFTY-FIVE A.M.

20 Q. DURING THE TIME THAT YOU WERE TALKING TO HER AFTER YOU
21 MIRANDIZED HER, DID SHE -- OR DURING THESE MIRANDAS, DID SHE
22 ASK FOR AN ATTORNEY?

23 A. NO, SHE DID NOT.

24 Q. DID SHE ASK TO REMAIN SILENT?

25 A. NO, SHE DID NOT.

1 Q. DID SHE APPEAR TO UNDERSTAND WHAT SHE WAS DOING?

2 A. YES, SHE DID.

3 Q. WERE ANY THREATS USED AGAINST HER?

4 A. NO.

5 Q. WAS ANY COERCION USED?

6 A. NO, MA'AM.

7 Q. WERE ANY PROMISES MADE TO HER?

8 A. NO.

9 Q. DID SHE APPEAR TO KNOWINGLY AND VOLUNTARILY WAIVE HER
10 MIRANDA RIGHTS AND AGREE TO TALK TO YOU?

11 A. YES, SHE DID.

12 MS. WHITE: YOUR HONOR, I WOULD ASK THAT STATE'S
13 EXHIBIT 2 BE ADMITTED.

14 THE COURT: ANY OBJECTION?

15 MR. GAMBLE: NO, YOUR HONOR.

16 THE COURT: WITHOUT OBJECTION.

17 (10/26 RIGHTS WAIVER ADMITTED INTO EVIDENCE AS STATES
18 EXHIBIT 2)

19 Q. NOW, WHEN YOU BEGAN TALKING TO HER THIS TIME, DID YOU
20 FIRST TALK TO HER ABOUT WHAT HAPPENED?

21 A. YES, I DID.

22 Q. AND AGAIN, IF YOU WILL GO THROUGH WHAT MEDICATION AND
23 SO FORTH SHE WAS ON STARTING AT THE BEGINNING OF THIS
24 INTERVIEW. NOW, WE'RE ON 10/26. SO IT'S APPROXIMATELY
25 ELEVEN A.M. AT THIS POINT; IS THAT RIGHT?

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1 A. THAT'S CORRECT.

2 Q. ALL RIGHT. GO AHEAD.

3 A. AGAIN, SHE WAS ASKED ABOUT ANY MEDICATIONS THAT SHE MAY
4 HAVE TAKEN IN THE PAST TWENTY-FOUR HOURS, AND SHE INDICATED
5 THAT SHE HAD TAKEN ANAPROX FOR MENSTRUAL CRAMPS DURING THE
6 PAST TWENTY-FOUR HOURS. AND SHE DENIED ANY OTHER USE OF
7 MEDICATION IN THE TWENTY-FOUR HOURS.

8 Q. I'M SORRY TO INTERRUPT. BUT WHILE I'M THINKING ABOUT
9 IT. IN THE LAST INTERVIEW YOU TALKED ABOUT, OCTOBER 25TH
10 INTERVIEW, WHAT, IF ANYTHING, DID SHE INDICATE TO YOU AS TO
11 ANY FEAR OF DEREK CARTER?

12 A. SHE NEVER INDICATED ANY FEAR.

13 Q. GO AHEAD. I'M SORRY. I DIDN'T MEAN TO INTERRUPT.

14 A. OKAY. I THEN BEGAN TO QUESTION THE DEFENDANT ABOUT THE
15 ISSUE AT HAND AGAIN. SHE WAS AGAIN ADVISED THAT DEREK HAD
16 BEEN FORTHCOMING WITH INFORMATION CONCERNING INAPPROPRIATE
17 PUNISHING THAT THEY HAD BEEN INFLECTING ON Minor SHE
18 WAS ASKED SPECIFICALLY ABOUT A HARNESS SINCE THIS ITEM WAS
19 NOT FOUND DURING A SEARCH OF THE RESIDENCE THE NIGHT BEFORE.

20 Q. ALL RIGHT. THIS ITEM THAT WAS MARKED IN COURT WAS
21 FOUND LATER BY A FAMILY MEMBER; IS THAT CORRECT?

22 A. THAT'S MY UNDERSTANDING.

23 Q. ALL RIGHT.

24 A. YES. SHE STATED THAT THEY THREW THE HARNESS AWAY AFTER
25 Minor DIED. SHE SAID THEY BURNED EVERYTHING THEY COULD

- 1 BECAUSE THEY WERE TRYING TO BURN SOME STUMPS DOWN. SHE
2 TALKED ABOUT Minor MAKING MESSSES AT NIGHT AND GAVE THIS
3 AS AN EXPLANATION FOR USING THE HARNESS. SHE STATED THAT
4 Minor HAD A BAD HABIT OF DRINKING OUT OF THE TOILET, SO
5 SHE PUT CLOROX IN THE WATER TO MAKE HER STOP. SHE SAID THAT
6 Minor WOULD BE LOCKED IN THE HALF-BATHROOM IN HER
7 HARNESS WITH A CHAIN.
- 8 Q. ALL RIGHT. NOW, STOP THERE. THE HALF-BATHROOM, IS
9 THAT THE ONE WE HEARD ABOUT BEFORE?
- 10 A. THAT'S CORRECT.
- 11 Q. GO AHEAD. SHE WAS LOCKED WHERE?
- 12 A. SHE WAS LOCKED IN THE HALF-BATHROOM IN THE HARNESS WITH
13 A CHAIN. THEY WOULD PUT A GATE IN THERE TO KEEP HER FROM
14 GETTING INTO THE CABINET AND TOILET. SHE WAS ASKED ABOUT
15 MAKING Minor STAND IN A MOP BUCKET FULL OF ICE WATER,
16 AND SHE STATED THAT WHEN Minor FEET WOULD SWELL, SHE
17 WOULD MAKE HER STAND IN THE RED MOP BUCKET FULL OF ICE
18 WATER. SHE SAID THAT SHE DID THIS BECAUSE HER ICE PACKS
19 WERE BUSTED.
- 20 SHE TALKED ABOUT GETTING FRUSTRATED ABOUT Minor NOT
21 BEING POTTY-TRAINED, BUT SAID IT WAS NOT HER FAULT.
- 22 WHEN ASKED ABOUT MAKING Minor EAT, SHE SAID THAT
23 Minor DID NOT EAT FAST ENOUGH. AND THEY WOULD COUNT TO
24 FIVE AND THEN POP HER ON HER HAND IF SHE DIDN'T CHEW AND
25 SWALLOW HER FOOD.

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1 SHE AGREED THAT SHE AND DEREK HAD MADE UP THE STORY
2 ABOUT GETTING THE VAN FIXED. AND I ASKED HER TO EXPLAIN
3 WHAT REALLY HAPPENED SATURDAY MORNING. AND SHE STATED THAT
4 SHE TOOK DEREK TO WORK, THAT Minor ATE A LATE BREAKFAST.
5 SHE SAID Minor WAS LAYING ON THE FLOOR WATCHING T.V.
6 WHILE SHE WAS TRYING TO GET A MEATLOAF READY FOR SUPPER.
7 SHE SAID THAT Minor WENT OUTSIDE AND CAME BACK INSIDE
8 AND WAS WATCHING AN ORANGE TAPE. SHE SAID Minor THEN
9 WENT BACK OUTSIDE, AND SHE LOOKED OUT, THOUGHT SHE APPEARED
10 TO BE HAVING ONE OF THOSE SPELLS. SHE SAID SHE CALLED D.W.
11 INSIDE TO FEED A BOTTLE TO THE BABY. SHE SAID IT LOOKED
12 LIKE Minor KEPT HAVING SOME OF THOSE SPELLS. SHE STATED
13 THAT SHE GAVE HER A BATH AND HELPED HER GET DRESSED. SHE
14 STATED SHE STARTING GETTING READY TO TAKE A BATH AND
15 Minor KEPT HAVING THOSE SPELLS. SHE SAID SHE TOOK A
16 BATH AND THOUGHT Minor WAS GETTING WORSE. SHE TOLD ME
17 SHE CALLED DEREK AT WORK AND TOLD HIM THAT Minor WAS
18 GETTING WORSE.

19 Q. ALL RIGHT. WAIT A MINUTE. LET'S STOP THERE. SO
20 ACCORDING TO HER, WHERE WAS DEREK WHEN THIS CHILD STARTED
21 SUFFERING THESE -- FROM THESE INJURIES?

22 A. HE WAS AT WORK.

23 Q. GO AHEAD.

24 A. SHE STATED THAT SHE TOOK Minor AND THE BABY TO PICK
25 UP DEREK. THEN SHE STARTED TALKING ABOUT ONCE EVERYONE KNEW

1 THAT SHE WAS THE STEPMOTHER, IT SEEMED LIKE EVERYTHING WAS
2 HER FAULT. AND SHE HAD TO EXPLAIN EVERY LITTLE THING.

3 SHE AGREED THAT IT WAS WRONG TO MAKE Minor EAT BY
4 COUNTING TO FIVE. SHE TALKED ABOUT MAKING Minor : RUN
5 LAPS INSIDE, BUT STATED THAT EVERYONE BLEW THAT OUT OF
6 PROPORTION. SHE SAID THAT THE BIG THIRTEEN-YEAR-OLD BOY
7 NEXT DOOR MADE HER RUN, BUT HE ONLY TRIED FOR AN HOUR.

8 SHE TALKED ABOUT STEPCHILDREN AND SAID THAT YOU CAN
9 LOVE THEM ALMOST AS MUCH, BUT IT'S NOT THE SAME AS IF
10 THEY'RE YOUR OWN. THE SUBJECT WAS ASKED IF SHE HAD EVER
11 PUNISHED ONE OF HER CHILDREN THE WAY SHE PUNISHED Minor
12 AND SHE STATED THAT SHE HIT D.W. WITH A BELT ONE TIME LAST
13 YEAR..

14 SHE STATED SHE THOUGHT SHE AND DEREK WERE ABOUT EQUAL
15 IN THE AMOUNT OF THE ABUSE TOWARD Minor SHE WAS ASKED
16 -- SHE TOLD ME THAT SHE KNEW SHE WAS RESPONSIBLE FOR
17 Minor DEATH. SHE SAID THE ONLY THING THAT SHE DID
18 THAT SATURDAY MORNING WAS TO PUT KLEENEX UP HER NOSE AND
19 HOLD HER HEAD BACK TO TRY TO STOP THE BLEEDING. SHE SAID
20 SHE KNOWS THAT SHE CAUSED Minor DEATH. SHE'S JUST NOT
21 SURE HOW IT HAPPENED. SHE TOLD ME SHE TOLD DEREK WHAT
22 HAPPENED. SHE ALSO STATED THAT SHE DIDN'T MESS THAT MUCH
23 WITH Minor THAT MORNING. SHE AGAIN STATED THAT SHE
24 KNOWS SHE PUT KLEENEX UP HER NOSE AND HELD HER HEAD BACK.
25 THAT'S THE ONLY THING SHE COULD THINK OF..

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1 SHE WAS ASKED ABOUT Minor CONDITION WHEN SHE PUT
2 HER IN THE VAN. AND SHE STATED THAT SHE TOTED HER OUT TO
3 THE VAN. SHE PICKED HER UP AND CARRIED HER TO THE VAN. SHE
4 STATED THAT WHEN SHE CALLED DEREK, SHE TOLD HIM SHE WAS
5 HAVING SPELLS AGAIN.

6 SHE TALKED ABOUT PUTTING -- WENT BACK TO TALKING ABOUT
7 PUTTING KLEENEX UP Minor 'S NOSE AND STATED THAT SHE JUST
8 DID THIS TO DRY HER NOSE OUT SO SHE COULD PUT MEDICINE ON
9 IT. SHE WAS ASKED ABOUT HITTING Minor TOES WITH A
10 BROOM HANDLE. AND SHE STATED THAT SHE AND DEREK BOTH DID
11 THIS. SHE WAS ASKED ABOUT REFERRING TO Minor AS A
12 LITTLE BITCH. AND SHE STATED THAT SHE WOULD REFER TO HER AS
13 A LITTLE WITCH.

14 I ADVISED HER THAT MUCH OF WHAT SHE AND DEREK ADMITTED
15 TO DOING TO Minor WAS TORTURE, AND SHE AGREED THAT IT
16 WAS. AT THIS POINT, THE DEFENDANT WAS ASKED TO GIVE A
17 WRITTEN STATEMENT CONCERNING HER ADMISSIONS, AND SHE AGREED
18 TO DO THIS.

19 Q. I'M HANDING YOU STATE'S EXHIBIT 3 FOR IDENTIFICATION.
20 WHAT IS THAT?

21 A. THIS IS A VOLUNTARY STATEMENT THAT THE DEFENDANT GAVE
22 THAT AFTERNOON ON THE 26TH OF OCTOBER.

23 Q. AND HAS IT BEEN CHANGED OR ALTERED IN ANY MANNER SINCE
24 IT WAS WRITTEN AND SIGNED BY THE DEFENDANT?

25 A. NO, MA'AM.

1 Q. NOW, JUST BRIEFLY BEFORE ...

2 YOUR HONOR, I'D ASK THAT STATE'S EXHIBIT 3 BE ADMITTED.

3 THE COURT: SUBJECT TO THE EARLIER OBJECTION NOTED

4 IN LIMINE?

5 MR. GAMBLE: YES, SIR.

6 THE COURT: VERY GOOD. SO NOTED. OVERRULED. IT
7 MAY BE ADMITTED.

8 (WRITTEN STATEMENT ADMITTED INTO EVIDENCE AS STATE'S
9 EXHIBIT 3)

10 Q. DETECTIVE SUTTON, IF YOU'LL JUST EXPLAIN TO THE JURY
11 HOW YOU TOOK THIS WRITTEN STATEMENT AFTER THE DEFENDANT TOLD
12 YOU THE THINGS THAT YOU JUST DESCRIBED TO THE JURY.

13 A. THIS STATEMENT WAS TAKEN BY ME, WRITTEN BY ME. BUT IT
14 WAS ALSO WITNESSED BY INVESTIGATOR JAMI BROTHERS.

15 Q. AND IS THIS INVESTIGATOR BROTHERS RIGHT HERE BESIDE ME?

16 A. YES, IT IS. MYSELF AND JAMIE BROTHERS AND THE
17 DEFENDANT WERE IN A ROOM TOGETHER. THE DEFENDANT WAS ASKED
18 IF SHE WOULD LIKE TO WRITE THE STATEMENT FOR HERSELF OR TO
19 HAVE ME WRITE IT FOR HER, AND SHE INDICATED THAT SHE WANTED
20 ME TO WRITE THE STATEMENT FOR HER. SHE WAS -- WE WENT
21 THROUGH THIS SENTENCE BY SENTENCE. THESE WERE HER WORDS
22 THAT SHE WANTED WRITTEN DOWN. AFTER THE STATEMENT IS
23 FINISHED, BEFORE THE DEFENDANT SIGNS IT, IT IS READ BACK TO
24 HER, HERE AGAIN, IN THE PRESENCE OF INVESTIGATOR BROTHERS.
25 SHE IS ASKED AT THAT IF SHE WOULD LIKE TO MAKE ANY

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1 CORRECTIONS, DELETIONS, ADDITIONS TO THE STATEMENT. AND
2 THEN THE DEFENDANT SIGNS EACH PAGE OF THE STATEMENT,
3 INITIALS ANY CORRECTIONS, ADDITIONS OR DELETIONS ON THE
4 STATEMENT, AND IT IS WITNESSED BY MYSELF AND INVESTIGATOR
5 BROTHERS.

6 Q. AND WAS SHE GIVEN A COPY OF THE STATEMENT AT THE TIME
7 TO TAKE WITH HER?

8 A. THAT'S CORRECT.

9 Q. I'M HANDING YOU STATE'S EXHIBIT 3. IF YOU WILL PLEASE
10 PUBLISH THAT STATEMENT TO THE JURY.

11 A. THIS IS A VOLUNTARY STATEMENT. AT THE TOP THE DATE IS
12 WRITTEN IN "OCTOBER 26, 2000," PLACE, "ANDERSON COUNTY
13 SHERIFF'S OFFICE," TIME STARTED, "TWO FIFTY P.M." "I, THE
14 UNDERSIGNED," AND IT'S WRITTEN, "ILA MICHELE CARTER, THIRTY
15 YEARS OF AGE, HAVING BEEN BORN ON [REDACTED], 1970, AT
16 ANDERSON, SOUTH CAROLINA. I NOW LIVE AT [REDACTED],
17 ANDERSON, SOUTH CAROLINA."

18 Q. DETECTIVE, LET ME INTERRUPT. THEY'LL BE ABLE TO HAVE
19 THIS IN THE JURY ROOM. SO THEY'LL GO THROUGH -- SHE'S
20 REMIRANDIZED AT THAT POINT; IS THAT RIGHT?

21 A. THAT'S CORRECT. THE MIRANDA WARNING IS AGAIN ON THIS
22 FORM.

23 Q. JUST GO INTO WHERE SHE STARTS THE ACTUAL STATEMENT.

24 A. "I HAVE ASKED INVESTIGATOR JEAN SUTTON TO WRITE THIS
25 STATEMENT FOR ME. I MET DEREK CARTER IN MAY OF 1999. WE

1 GOT MARRIED JUNE 2ND OF 1999. I HAD TWO CHILDREN, D.W.
2 [REDACTED], TWELVE YEARS OF AGE, AND J.W. [REDACTED] R, SIX
3 YEARS OF AGE, WHEN DEREK AND I MARRIED. I HAD CUSTODY OF
4 THE BOYS. DEREK HAD ONE CHILD, Minor . SHE WAS TWO
5 YEARS OLD WHEN WE GOT MARRIED. WE MOVED TO [REDACTED] [REDACTED]
6 IN NOVEMBER OR DECEMBER OF LAST YEAR."
7 "RIGHT AFTER WE MOVED TO [REDACTED] [REDACTED], Minor
8 STARTED POOPING AND PEEING. THIS WAS AFTER SHE WOULD SEE
9 TIM. TIM IS Minor GRANDFATHER. DEREK AND I WOULD
10 MAKE Minor STAND IN THE CORNER WHEN SHE POOPED OR PEED.
11 WE WOULD MAKE HER CLEAN IT UP. WE'D GIVE HER PAPER TOWELS."
12 'Minor WOULD GET REAL DEFIANT AFTER TIM'S PHONE
13 CALLS OR VISITS AND WOULDN'T DO WHAT WE TOLD HER TO DO.
14 Minor WOULDN'T EAT AND WOULD THROW FOOD. SHE WOULD CRAM
15 HER MOUTH FULL AND MAKE HER GAG. WE JUST SAID, IF YOU'RE
16 NOT GOING TO EAT, TOO BAD. AND WE'D MAKE HER WAIT UNTIL THE
17 NEXT MEAL. IT GOT TO THE POINT WHERE EVERY MEAL WAS THIS
18 WAY. WE PUT A TIMER ON HER. AND WHEN IT WENT OFF, WE TOOK
19 THE FOOD AWAY. IF SHE DIDN'T EAT IN THIRTY MINUTES, SHE
20 WOULD HAVE TO WAIT UNTIL THE NEXT MEAL. SHE WAS HUNGRY AND
21 THIRSTY ALL THE TIME, EVEN AFTER SHE JUST ATE."
22 "AFTER CHRISTMAS OF LAST YEAR, BOTH DEREK AND I STARTED
23 HITTING Minor WITH A BELT BECAUSE TIME OUT DIDN'T WORK
24 OR HITTING HER HANDS WITH OUR HAND OR A SPOON WOULDN'T. WE
25 USUALLY HIT HER ON THE BUTT WITH THE BELT, BUT I HIT HER ON

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1 THE ARM WHEN SHE WAS TRYING TO RUN AWAY. WHEN THAT DIDN'T
2 WORK, WE WOULD MAKE HER RUN BECAUSE SHE WOULD BRUISE SO
3 EASILY AND WE DIDN'T WANT TO LEAVE MARKS. WE WOULD MAKE HER
4 RUN IN THE KITCHEN OR THE HALLWAY. DEREK TOLD LEE WHITLOCK,
5 THE BOY NEXT DOOR, HE'D GIVE HIM FIFTY DOLLARS IF HE COULD
6 GET Minor TO STOP PEEING IN HER PANTS. LEE MADE HER RUN
7 OUTSIDE. I DIDN'T REALLY PAY ANY ATTENTION TO THAT."

8 "A COUPLE OF MONTHS AGO, Minor WOULD START GETTING
9 UP AT NIGHT. I CALLED DR. MADDOX'S OFFICE AND TOLD THEM SHE
10 WAS GETTING UP AND MAKING A MESS. THIS WAS IN THE
11 SUMMERTIME. A NURSE TOLD ME TO TALK TO DR. MADDOX THE NEXT
12 TIME WE CAME IN ABOUT IT. SHE SAID SHE HEARD DR. MADDOX
13 TELL HIS PATIENTS' PARENTS TO TURN THE LOCKS AROUND ON THE
14 DOOR. I ALSO ASKED HER ABOUT THE HARNESS. WE HAD A HARNESS
15 THAT WE USED WHEN WE TOOK HER OUT. WE WOULD PUT Minor
16 IN THE HARNESS AND CHAIN THE HARNESS TO THE FLOOR. SHE HAD
17 FIGURED OUT HOW TO UNTIE THE HARNESS FROM THE DOORKNOB.
18 THAT'S WHY WE USED A CHAIN. SHE SLEPT ON THE FLOOR IN THE
19 HALF-BATH OR ON OUR BEDROOM FLOOR."

20 "SHE WOULD DRINK OUT OF THE TOILET. SHE WOULD SAY SHE
21 WAS THIRSTY. I WOULD POUR CLOROX IN THE TOILET WHEN I
22 CLEANED THE TOILET. I DON'T THINK SHE GOT TO THE CLOROX. I
23 KEPT A PRETTY GOOD EYE ON THAT."

24 "ONE DAY ABOUT A MONTH AGO, DEREK AND I WERE BOTH
25 PUNISHING Minor AND WE BOTH POPPED HER TOES WITH A

1 BROOMSTICK. SHE HAD HER SANDALS ON WITH BARE TOES. SHE HAD
2 POOPED IN THE FLOOR. THIS HAPPENED WHILE WE WERE MAKING HER
3 CLEAN HER POOP UP."

4 "ABOUT A MONTH AGO, Minor FEET WERE SWOLLEN. AND
5 THE ICE PACKS BROKE. SO I MADE HER STAND IN THE MOP BUCKET
6 WITH ICE WATER. SHE STAYED IN THERE FOR ABOUT FIVE MINUTES.
7 AND THEN I MADE HER LAY DOWN AND PUT HER FEET UP."

8 "ON SATURDAY, OCTOBER 14TH, I TOOK DEREK TO WORK AT
9 ABOUT SEVEN A.M. I STAYED HOME WITH ALL THE CHILDREN.

10 Minor LAID DOWN ON THE FLOOR AND WATCHED MOVIES. SHE
11 DIDN'T WANT ANYTHING TO EAT. I WAS MESSING AROUND IN THE
12 KITCHEN WASHING DISHES. THE BABY STARTED CRYING, AND THEN I
13 WENT AND GOT HIM. Minor SAID SHE WAS HUNGRY. AND THEN
14 I TOLD HER SHE'D HAVE TO WAIT A MINUTE. I GOT THE BABY
15 SETTLED DOWN AND ASKED HER WHAT SHE WANTED. SHE WANTED
16 CEREAL, AND I TOLD HER SHE WAS HAVING MACARONI AND CHEESE.
17 AND I TOLD HER TO WAIT. IF SHE HAD CEREAL, SHE COULDN'T
18 HAVE MACARONI AND CHEESE BECAUSE THAT WOULD BE HER MILK
19 PRODUCT FOR THE DAY. SHE ENDED UP EATING SALMON PATTIES,
20 PEAS AND MASHED POTATOES LEFT OVER FROM THE NIGHT BEFORE.
21 SHE ATE AND THEN SHE WENT OUTSIDE."

22 "THE BABY STARTED FUSSING AGAIN, AND Minor CAME TO
23 THE DOOR AND SAID SHE WAS THIRSTY. I SAID, I'M FRIDAY. WHY
24 DON'T YOU COME OVER SATURDAY AND WE'LL HAVE A SUNDAY? SHE
25 WRINKLED UP HER NOSE AND SAID, YOU FUNNY. I DIDN'T GET HER

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1 ANYTHING TO DRINK BECAUSE I WAS MESSING WITH THE BABY.
2 THAT'S WHEN I CALLED D.W. IN THERE. HE DIDN'T WANT TO FOOL
3 WITH THE BABY, SO I TOLD HIM TO GO ON. I GOT THE BABY A
4 BOTTLE AND FED HIM A LITTLE. Minor CAME TO THE DOOR
5 AGAIN AND SAID SHE WAS THIRSTY AGAIN. I ASKED D.W. TO COME
6 IN AND FINISH FEEDING HIM. D.W. CAME IN. I GOT Minor
7 SOMETHING TO DRINK, AND I STARTED PUTTING HAMBURGER MEAT
8 UP."

9 "Minor SAID SHE WANTED A TRACK, AND I TOLD HER TO
10 STAY IN THE FRONT YARD. Minor GOT MAD BECAUSE I
11 WOULDN'T BUILD HER A TRACK, SO I WENT OUTSIDE. I GAVE HER
12 SOME STUFF TO USE TO BUILD A TRACK, AND SHE GOT MAD AND HAD
13 A TANTRUM BECAUSE I WOULDN'T BUILD IT FOR HER. I MADE HER
14 COME INSIDE."

15 "SHE WENT TO THE BATHROOM, AND I WAS WORKING ON MY
16 MEATLOAF. I THINK SHE WENT BACK AND STARTED WATCHING A
17 MOVIE. THE BABY STARTED CRYING AGAIN. I ASKED D.W. TO COME
18 IN AND GET THE BABY. Minor GOT UP AND WENT TO THE
19 BATHROOM. SHE CAME OUT SAYING HER EYES BURNED, AND I TOLD
20 HER IT WAS FROM THE ONIONS. I TOLD HER TO GO ON, AND SHE
21 WENT OUTSIDE."

22 "D.W. COULDN'T GET J.C. SETTLED DOWN, SO I WASHED MY
23 HANDS AND WENT AND GOT HIM. I SENT D.W. OUTSIDE FOR
24 SOMETHING AND GOT ON TO HIM BECAUSE HE SAID SOMETHING TO
25 Minor "

1 "I GOT THE BABY SETTLED DOWN AND NOTICED Minor
2 HAVING ONE OF HER SPELLS. I TOLD HER TO COME INSIDE. I
3 FINISHED UP ON THE MEATLOAF. THE BABY WAS ASLEEP.
4 Minor WANTED SOMETHING ELSE TO DRINK, SO I GAVE HER
5 WATER. I TOLD HER TO GO LAY DOWN."
6 "I DECIDED TO TAKE A BATH BEFORE THE BABY WOKE UP, SO I
7 WENT AND GOT MY CLOTHES. ON THE WAY BACK THROUGH, I NOTICED
8 Minor HAVING A SPELL WHERE SHE COULDN'T GET UP. I
9 DECIDED TO GIVE HER A BATH TO SEE IF SHE JUST WANTED
10 ATTENTION AND WAS PUTTING ON."
11 Q. WAIT A MINUTE. SO SHE JUST HAD A SPELL AND COULDN'T
12 GET UP, AND WHAT DID THE DEFENDANT DO?
13 A. SHE DECIDED TO GIVE HER A BATH AND SEE IF SHE JUST
14 WANTED ATTENTION AND WAS PUTTING ON.
15 "SHE PLAYED AROUND A FEW MINUTES, AND I GAVE HER A
16 BATH. I DRIED HER OFF, AND THEN I TRIED TO DRY HER NOSE. I
17 GOT HER DRESSED AND GOT TISSUE PAPER AND DRIED HER NOSE SO
18 THE MEDICINE WOULD STICK. I PUT 1-2-3 PASTE ON HER NOSE.
19 Minor WALKED IN THE LIVING ROOM. I DECIDED NOT TO TAKE
20 A BATH. Minor WAS STILL WALKING FUNNY."
21 "I DECIDED TO CALL DEREK. I KEPT GETTING ANSWERING
22 MACHINES AND VOICE MAILS. I GOT AGGRAVATED BECAUSE I
23 COULDN'T GET DEREK. I FINALLY GOT SOME MAN AND TOLD HIM I
24 NEEDED DEREK TO CALL HOME. SOMETIME BEFORE THIS, Minor
25 COMPLAINED OF A HEADACHE, AND I GAVE HER A TEASPOON OF

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1 ORANGE STUFF. I THINK IT WAS IBUPROFEN. HE DIDN'T KNOW WHO
2 DEREK WAS, AND I TOLD HIM THERE WAS AN EMERGENCY. DEREK GOT
3 ON THE PHONE AND I TOLD HIM WHAT SHE WAS DOING, HAVING THEM
4 SPELLS AGAIN. I TOLD HIM IT WAS DIFFERENT, LIKE CONTINUOUS.
5 I TOLD HIM I'D PICK HIM UP."

6 "I PICKED UP Minor AND PUT HER IN THE VAN ALONG
7 WITH THE BABY. I DIDN'T CALL 9-1-1 BECAUSE I WAS GOING TO
8 WAIT TO SEE WHAT DEREK WANTED TO DO. WE WENT TO THE PLANT
9 AND GOT DEREK. WHEN WE GOT AT THE PLANT, I GOT IN THE BACK
10 WITH Minor I CALLED OUT HER NAME, AND SHE JUST LOOKED
11 AT ME. I TOLD DEREK THIS DIDN'T LOOK RIGHT."

12 "WE WENT BACK TO THE HOUSE. ON THE WAY BACK TO THE
13 HOUSE, WE DECIDED TO TAKE Minor TO GREENVILLE BECAUSE,
14 NUMBER ONE, WE DIDN'T WANT TO SEE DR. SHEETS BECAUSE OF
15 SOMETHING THAT HAPPENED WHILE I WAS IN THE HOSPITAL HAVING
16 J.C. NUMBER TWO, WE DIDN'T WANT THEM TO THINK WE DID
17 SOMETHING BECAUSE I'M THE STEP-MOM."

18 Q. OKAY. STOP THERE A MINUTE. HOW FAR DO THESE PEOPLE
19 LIVE FROM ANDERSON MEMORIAL HOSPITAL?

20 A. I WOULD ESTIMATE ABOUT TEN MINUTES.

21 Q. AND ARE THEY -- IN OTHER WORDS, DO YOU HAVE TO GO BY
22 ANDERSON TO GET TO GREENVILLE, OR ARE THEY BETWEEN ANDERSON
23 AND GREENVILLE HOSPITALS?

24 A. IT'S MY UNDERSTANDING THAT THEY PRETTY MUCH HAVE TO GO
25 BY ANDERSON HOSPITAL TO GO TO GREENVILLE.

1 Q. THEY LIVE OUT BEYOND LAKESIDE SHOPPING CENTER TOWARD
2 THE AIRPORT?

3 A. THAT'S CORRECT.

4 Q. GO AHEAD.

5 A. "AND NUMBER 3, THE THIRD REASON, GREENVILLE IS A BETTER
6 HOSPITAL. Minor WAS UNRESPONSIVE AND WOULD JUST LOOK AT
7 ME WITH A BLANK STARE."

8 "ON THE WAY HOME, WE DECIDED TO TELL A LIE ABOUT TAKING
9 THE VAN TO GET IT FIXED. WE FIGURED IF THEY KNEW DEREK WAS
10 AT WORK, AUTOMATICALLY I DONE SOMETHING. BECAUSE THAT'S THE
11 WAY IT ALWAYS HAPPENED. EVEN IF I WASN'T THERE, IT WAS
12 ALWAYS MY FAULT. WE CONTINUED TELLING THE LIE UNTIL NOW. I
13 WAS THE ONE Minor WAS WITH, SO I'M RESPONSIBLE FOR HER
14 DYING. I DIDN'T PUT NO BAG OVER HER HEAD OR CLOSE HER UP IN
15 ANYTHING. I DIDN'T HOLD MY HAND OVER HER MOUTH. BY THE
16 TIME I PICKED UP DEREK, I KNEW Minor WAS IN SERIOUS
17 TROUBLE. WE COULD HAVE DRIVEN TO THE ANDERSON HOSPITAL IN
18 ABOUT TEN MINUTES. INSTEAD WE WENT HOME, AND THEN DEREK
19 DROVE TO GREENVILLE. HE CALLED ME LATER AND TOLD ME THEY
20 WERE ADMITTING Minor CARL, DEANNE'S HUSBAND, TOOK ME
21 TO THE HOSPITAL. I HAD TO BE TREATED WITH TWO PILLS BECAUSE
22 I GOT UPSET."

23 "ADDENDUM. THE TIMER PART HAPPENED BEFORE WE MOVED TO
24 [REDACTED] [REDACTED]. WHEN WE LIVED ON [REDACTED] [REDACTED] WE DIDN'T HAVE
25 THE TIMER. SO WE WOULD COUNT TO FIVE OR TEN. AND IF

1 Minor DIDN'T SWALLOW HER FOOD, WE'D POP HER HANDS OR
2 FEET OR BUTT. END OF STATEMENT."

3 Q. I BELIEVE WE HAD A LITTLE TESTIMONY YESTERDAY ABOUT

4 Minor GOING TO A PSYCHIATRIST AND BEING IN BOOT CAMP.
5 TO YOUR KNOWLEDGE, HAS YOUR SHERIFF'S DEPARTMENT BEEN ABLE
6 TO CONFIRM THAT SHE WAS EVER SEEING A PSYCHIATRIST OR IN A
7 BOOT CAMP IN COLUMBIA?

8 A. NO.

9 Q. DID SHE SAY WHERE SHE WAS DURING THOSE TIMES WHEN THE
10 FAMILY WAS TOLD THAT?

11 A. SHE WAS IN THE HOUSE.

12 Q. NO FURTHER QUESTIONS.

13 THE COURT: YOUR WITNESS, SIR.

14 MR. GAMBLE: THANK YOU, SIR.

15 CROSS EXAMINATION BY MR. GAMBLE:

16 Q. MS. SUTTON, YOU INTERVIEWED MS. CARTER, MICHELE CARTER,
17 ON OCTOBER THE 25TH, 19 -- OF 2000?

18 A. THAT'S CORRECT.

19 Q. AND IN THAT INTERVIEW, THIS WAS SOME SIX O'CLOCK AT
20 NIGHT ON THE 25TH?

21 A. THAT'S CORRECT.

22 Q. AND SHE HAD BEEN AT THE SHERIFF'S OFFICE IN ANDERSON
23 FROM NINE FIFTEEN THAT MORNING UNTIL SIX O'CLOCK THAT NIGHT?

24 A. SHE CAME IN AT NINE FIFTEEN IN THE MORNING, FILLED OUT
25 THE QUESTIONNAIRE. WHEN SHE FINISHED THE QUESTIONNAIRE A

1 LITTLE AFTER ELEVEN THIRTY, SHE WAS ENCOURAGED TO LEAVE AND
2 GO GET SOMETHING TO EAT OR TAKE CARE OF WHATEVER MATTERS SHE
3 NEEDED TO TAKE CARE OF. AND I DO NOT HAVE KNOWLEDGE AS FAR
4 AS WHETHER SHE ACTUALLY LEFT THE SHERIFF'S OFFICE AT THAT
5 TIME.

6 Q. BUT YOU KNOW SHE WAS AT THE SHERIFF'S OFFICE AT SIX
7 O'CLOCK THAT NIGHT BECAUSE YOU TALKED TO HER?

8 A. THAT'S CORRECT.

9 Q. ALL RIGHT. AND AT THAT INTERVIEW WITH HER, YOU ALSO
10 ADMINISTERED WHAT'S KNOWN AS THE MIRANDA RIGHTS THAT YOU
11 JUST READ TO THE JURY?

12 A. SHE WAS ADMINISTERED HER MIRANDA RIGHTS BY INVESTIGATOR
13 BROTHERS AND INVESTIGATOR SMITH A FEW MINUTES PRIOR TO MY
14 TALKING WITH HER.

15 Q. BUT YOU KNEW THAT SHE HAD BEEN ADMINISTERED THAT?

16 A. THAT'S CORRECT. I WAS PROVIDED WITH A FORM.

17 Q. AND YOU SAW SHE HAD SIGNED THE WAIVER ON THAT?

18 A. THAT'S CORRECT.

19 Q. AND PART OF MIRANDA SAYS THAT YOU MAY STOP AT ANY TIME
20 IF -- AND YOU MAY BE ENTITLED TO A LAWYER AT ANY TIME?

21 A. THAT'S CORRECT.

22 Q. AND ---

23 MS. WHITE: YOUR HONOR, MAY WE APPROACH?

24 THE COURT: YES, MA'AM.

25 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD,

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1 IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE
2 JURY BETWEEN THE COURT AND BOTH COUNSEL)

3 THE COURT: LADIES AND GENTLEMEN, LET ME JUST
4 BRIEFLY ASK YOU TO STEP TO THE JURY ROOM. THIS WILL BE JUST
5 A FEW MINUTES. WE'LL GET YOU BACK OUT HERE VERY QUICKLY.
6 LET US ADDRESS THESE LEGAL ISSUES, AND WE'LL GET YOU BACK
7 OUT HERE. THANK YOU FOR YOUR PATIENCE AND UNDERSTANDING.

8 (WHEREUPON THE JURY EXITED THE COURTROOM AT 11:20 A.M.)

9 THE COURT: THE JURY HAS BEEN EXCUSED. THE
10 SOLICITOR ASKED TO APPROACH THE BENCH. AND WE FELT IT
11 PRUDENT TO GO AHEAD AND PUT IT ON THE RECORD THE ISSUE
12 THAT'S BEFORE THE COURT. MR. GAMBLE HAS INDICATED HIS
13 DESIRE TO GO INTO THE DEFENDANT'S INVOCATION OF HER RIGHT TO
14 COUNSEL ON OCTOBER 25TH. IS THAT CORRECT, SIR?

15 MR. GAMBLE: THAT'S CORRECT, YOUR HONOR. AND THE
16 REASON I WANT TO GO INTO THAT STOPPING OF THE INTERVIEW AND
17 THE REQUEST FOR COUNSEL AND THE NON-ASSISTANCE IN GETTING
18 COUNSEL WAS THAT THE JURY HAS THE RIGHT TO DETERMINE THAT
19 THE STATEMENT GIVEN, FINALLY GIVEN, WAS FREELY, VOLUNTARILY
20 AND ALL THAT GIVEN. AND THIS, IN MY OPINION, THIS REQUEST
21 WITH NO ASSISTANCE TO GET THE LAWYER AND THEN THE LATER
22 SEARCH FROM TEN O'CLOCK UNTIL ONE O'CLOCK AND THE CONTINUED
23 POLICE INVOLVEMENT WITH MS. CARTER OVERCAME HER WILL, IN MY
24 OPINION, AND SHE FINALLY JUST GAVE THE STATEMENT. I'LL GO
25 INTO HER OPINION OF IT. AND I'M GOING TO PUT HER ON THE

1 STAND. AND SHE'S GOING TO TELL HER OPINION ABOUT TRYING TO
2 FIND HER CHILDREN AND THOUGHT THAT THIS WAS THE ONLY WAY
3 THAT SHE COULD GET -- TO FIND HER CHILDREN WAS TO FINALLY
4 GIVE A STATEMENT AND COOPERATE.

5 THE COURT: SO THE DECISION TO PURSUE THIS
6 PARTICULAR AREA OF INQUIRY IS DONE AFTER CAREFUL THOUGHT AND
7 STRATEGY AS TO WHAT YOU DEEM TO BE AN APPROPRIATE STRATEGY
8 AND APPROACH AT THIS STAGE?

9 MR. GAMBLE: YES, SIR, BECAUSE I BELIEVE YOUR HONOR
10 IS GOING TO CHARGE THE JURY THAT THEY HAVE TO DETERMINE THAT
11 THIS STATEMENT WAS FREELY AND VOLUNTARILY GIVEN, ALSO.

12 THE COURT: THANK YOU, SIR.

13 WOULD YOU LIKE TO RESPOND, MA'AM?

14 MS. WHITE: I HAVE NO OBJECTION. I JUST WANT TO PUT
15 IT ON THE RECORD THAT IT IS A STRATEGY, A TRIAL STRATEGY.
16 YOUR HONOR, THE ONLY THING THAT I WOULD OBJECT TO IS THAT
17 THE STATE DID NOT -- ANY TESTIMONY ABOUT THE STATE DID NOT
18 ASSIST HER IN GETTING AN ATTORNEY. WE HAVE NO OBLIGATION TO
19 DO THAT AT ALL. SHE HAD NOT BEEN ARRESTED. SHE HAD NOT
20 BEEN ARRAIGNED. AS A MATTER OF FACT, THERE WAS A TOTAL
21 BREAK IN CUSTODY. AND I WOULD -- IF HE'S GOING TO GO INTO
22 THAT, THEN I AM GOING TO REQUEST THAT YOUR HONOR INSTRUCT
23 THE JURY THAT THE STATE IS UNDER NO OBLIGATION TO SECURE
24 COUNSEL FOR A DEFENDANT UNDER THESE CIRCUMSTANCES.

25 THE COURT: WE'LL DEAL WITH WHAT WOULD BE AN

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1 APPROPRIATE CHARGE AS THE CASE DEVELOPS.

2 ANY OF THE PARTICIPANTS, COUNSEL, COURT STAFF NEED TO
3 TAKE A BREAK BEFORE WE BRING THE JURY BACK?

4 (NO RESPONSE)

5 THE COURT: BRING THE JURY.

6 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 11:24
7 A.M.)

8 THE COURT: MR. GAMBLE, YOU MAY RESUME WITH YOUR
9 CROSS EXAMINATION.

10 MR. GAMBLE: THANK YOU, YOUR HONOR.

11 Q. YOU HAD WITH YOU THE MIRANDA RIGHTS WAIVER FORM SIGNED
12 BY MICHELE CARTER WHEN YOU WERE TALKING WITH HER -- THAT'S
13 STATE'S EXHIBIT 1 -- DIDN'T YOU?

14 A. YES. I HAD BEEN SHOWN IT.

15 Q. MA'AM?

16 A. I HAD BEEN SHOWN THAT.

17 Q. ALL RIGHT. NOW, AS PART OF THAT WAIVER -- I HAND YOU
18 STATE'S EXHIBIT 1, BUT I'M READING OFF STATE'S EXHIBIT 2.
19 PART OF THAT WAIVER SAYS YOU HAVE TO HAVE -- "YOU HAVE THE
20 RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY
21 QUESTIONS AND HAVE HIM WITH YOU DURING QUESTIONING"?

22 A. THAT'S CORRECT.

23 Q. AND ISN'T IT TRUE THAT WHILE YOU WERE QUESTIONING
24 MICHELE CARTER ON THE 25TH DAY OF OCTOBER, 2000, SHE DID, IN
25 FACT, SAY SHE THOUGHT SHE NEEDED TO TALK TO A LAWYER?

1 A. THE INTERVIEW WAS TERMINATED WHEN SHE SAID THAT.

2 Q. YES, MA'AM. DID YOU KNOW FROM THE EXHIBIT IN FRONT OF
3 YOU THAT PART OF THAT WARNING, MIRANDA RIGHTS, READS, "IF
4 YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED FOR YOU
5 BEFORE ANY QUESTIONING IF YOU WISH"?

6 A. THAT'S ONE OF HER RIGHTS. THAT'S CORRECT.

7 Q. DID YOU ASK HER IF SHE COULD AFFORD A LAWYER?

8 A. NO, SIR.

9 Q. DID YOU CONTACT THE PUBLIC DEFENDER'S OFFICE?

10 A. NO, SIR.

11 Q. YOU CEASED QUESTIONING HER AT WHAT TIME?

12 A. SHORTLY BEFORE EIGHT P.M.

13 Q. SO YOU WERE WITH HER FOR TWO HOURS, FROM SIX UNTIL
14 EIGHT?

15 A. THAT'S CORRECT.

16 Q. AND AFTER THAT, TO YOUR KNOWLEDGE, WAS HER VAN
17 SEARCHED?

18 A. YES, IT WAS.

19 Q. AND SHE WAS KEPT AT THE SHERIFF'S OFFICE THEN UNTIL
20 ABOUT TEN O'CLOCK?

21 A. SINCE HER VAN WAS BEING SEARCHED DURING THAT PERIOD OF
22 TIME, I BELIEVE THAT'S CORRECT.

23 Q. AND SHE WAS STILL THERE?

24 A. SHE WAS STANDING OUTSIDE THE SHERIFF'S OFFICE AT THAT
25 TIME.

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1 Q. WHILE THE OFFICERS SEARCHED THROUGH HER VAN?

2 A. THAT'S MY UNDERSTANDING.

3 Q. AND THEN THEY OBTAINED -- SOME OFFICERS OBTAINED A
4 SEARCH WARRANT? NOT YOU, BUT SOME OTHER?

5 A. FOR THE HOUSE?

6 Q. FOR HER HOUSE?

7 A. THAT'S CORRECT.

8 Q. AND FIVE OR SIX OFFICERS, EITHER OFFICERS OR D.S.S.

9 PERSONNEL, WENT TO HER HOUSE AT TEN O'CLOCK AT NIGHT. YOU
10 WERE ONE OF THEM?

11 A. THAT'S CORRECT.

12 Q. YOU STAYED AT HER HOUSE FROM TEN O'CLOCK UNTIL ONE
13 O'CLOCK IN THE MORNING SEARCHING THROUGH THE HOUSE; IS THAT
14 CORRECT?

15 A. I LEFT, I THINK, AT TWELVE THIRTY-FIVE A.M. I LEFT
16 BEFORE THE SEARCH WAS COMPLETED.

17 Q. BUT WHEN YOU LEFT AT TWELVE THIRTY-FIVE, OFFICER
18 CARPENTER AND SEVERAL OTHER OFFICERS WERE STILL THERE?

19 A. THAT'S CORRECT.

20 Q. ALL RIGHT. AND YOU HAVE NO KNOWLEDGE OF A CONVERSATION
21 BETWEEN OFFICER CARPENTER AND MICHELE CARTER THAT NIGHT, DO
22 YOU?

23 A. ONLY WHAT INVESTIGATOR CARPENTER HAS TOLD ME.

24 Q. RIGHT. AND THE NEXT MORNING WITH OFFICER CARPENTER AND
25 YOU, Y'ALL CALLED MICHELE CARTER AND ASKED HER TO COME BACK

1 IN AS A RESULT OF A CONVERSATION THAT WAS RELATED TO YOU AND
2 ASKED HER TO COME BACK IN TO THE SHERIFF'S OFFICE TO GIVE --
3 OR TO TALK TO YOU?

4 A. NO, SIR.

5 Q. YOU DID NOT CALL HER AT TEN O'CLOCK IN THE MORNING ON
6 THE 26TH DAY OF OCTOBER?

7 A. YES, SIR. BUT THAT WAS NOT IN RESPONSE TO ANY
8 CONVERSATION THAT WAS HAD AT HER HOUSE. THAT WAS IN
9 RESPONSE TO A MESSAGE THAT THE DEFENDANT HAD LEFT ON JOHN
10 CARPENTER'S ANSWERING MACHINE, WHICH I LISTENED TO,
11 REQUESTING THAT WE CALL HER.

12 Q. OKAY. SO THEN AGAIN YOU BROUGHT HER IN ON THE 26TH DAY
13 OF OCTOBER. OR SHE CAME IN ON THE 26TH DAY OF OCTOBER OF
14 2000. AND YOU AGAIN READ THESE RIGHTS TO HER AS EVIDENCED
15 BY STATE'S EXHIBIT 2?

16 A. THAT'S CORRECT.

17 Q. AND AGAIN, AFTER HAVING ASKED FOR A LAWYER, SHE WAIVED
18 A LAWYER BEING THERE?

19 A. THAT'S CORRECT.

20 Q. AND YOU DIDN'T INQUIRE AS TO WHETHER SHE COULD AFFORD
21 ONE OR NOT, DID YOU?

22 A. NO.

23 Q. ALL RIGHT. NOW, HAD YOU CONDUCTED THE INTERVIEW OF
24 DEREK CARTER?

25 A. ON WHICH DATE?

1 Q. THE 25TH OR 26TH IN OCTOBER OF 2000.

2 A. THE 25TH OF OCTOBER, YES, SIR.

3 Q. ALL RIGHT. ON THE 25TH INTERVIEW, SPECIFICALLY CENTER
4 OF THE PAGE, YOU WERE ASKING ABOUT POURING ALCOHOL ON

5 Minor BOTTOM. AND SHE BECAME HOSTILE. CAN YOU

6 DESCRIBE THAT OR ELABORATE ON THE WORD HOSTILE, PLEASE,

7 MA'AM?

8 A. SHE APPEARED UPSET WHEN I ASKED HER THAT. THE ONLY WAY

9 I CAN DESCRIBE IT IS RATHER HOSTILE. I MEAN, SHE WAS NOT --

10 DID NOT JUST ANSWER THE QUESTION. IT WAS A SHOCKED

11 EXPRESSION AND RATHER JUST HOSTILE ATTITUDE.

12 Q. DID SHE APPEAR SHOCKED THAT YOU WOULD ASK THAT?

13 A. I WOULD SAY YES.

14 Q. AND THEN SHE DENIED IT?

15 A. THAT'S CORRECT.

16 Q. AND WOULD IT BE A GOOD CHARACTERIZATION TO SAY THAT SHE

17 VEHEMENTLY DENIED IT?

18 A. SHE DENIED IT. SHE JUST ---

19 Q. IN A HOSTILE MANNER?

20 A. THAT'S CORRECT.

21 Q. ALL RIGHT. I DON'T BELIEVE, OFFICER SUTTON, THAT I

22 HAVE ANYTHING ELSE. THANK YOU.

23 THE COURT: REDIRECT?

24 MS. WHITE: NO, SIR.

25 THE COURT: THANK YOU, INVESTIGATOR SUTTON. YOU MAY

1 STEP DOWN, MA'AM.

2 NEXT WITNESS, PLEASE.

3 MS. WHITE: THE STATE CALLS JAMI BROTHERS.

4 JAMI E. BROTHERS,

5 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

6 DIRECT EXAMINATION BY MS. WHITE:

7 Q. WHAT'S YOUR DUTIES OUT AT THE SHERIFF'S DEPARTMENT?

8 A. I'M A CRIMINAL INVESTIGATOR.

9 Q. I'M HANDING YOU STATE'S EXHIBIT 1. DO YOU RECOGNIZE
10 THAT?

11 A. YES, MA'AM.

12 Q. WHAT IS IT?

13 A. THIS IS THE ADVICE OF RIGHTS FORM THAT THE DEFENDANT
14 SIGNED ON OCTOBER 25TH OF 2000.

15 Q. OKAY. WE'RE KIND OF JUMPING AROUND ON DATES. SHE
16 COMES IN ON THE 25TH. YOU ADVISE HER OF HER RIGHTS. THEN
17 SHE TALKS TO DETECTIVE SUTTON; IS THAT RIGHT?

18 A. THAT'S CORRECT.

19 Q. AND THEN SHE COMES BACK THE NEXT DAY, NEW ADVICE AND
20 STATEMENT?

21 A. RIGHT.

22 Q. OKAY. BUT WE'RE BACK ON THE FIRST DAY?

23 A. RIGHT.

24 Q. ALL RIGHT. AND WILL YOU PLEASE DEMONSTRATE FOR THE
25 JURY HOW YOU ADVISED THE DEFENDANT OF HER MIRANDA RIGHTS?

1 A. YES, MA'AM. AT THE TOP YOU PUT THE PLACE, WHICH WAS
2 "ANDERSON COUNTY SHERIFF'S OFFICE LAW ENFORCEMENT CENTER."
3 THE DATE WAS OCTOBER 25TH OF 2000. THE TIME WAS SEVENTEEN
4 TWENTY OR FIVE TWENTY P.M. WE ALLOW THE PERSON TO READ
5 ALONG WITH US AND HAVE THEM INITIAL EACH RIGHT IF THEY
6 UNDERSTAND THEIR RIGHT. "BEFORE WE ASK YOU ANY QUESTIONS,
7 YOU MUST UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT TO
8 REMAIN SILENT." THE DEFENDANT INITIALED THAT. "ANYTHING
9 YOU SAY CAN BE USED AGAINST YOU IN COURT." THE DEFENDANT
10 ALSO INITIALED THAT. "YOU HAVE THE RIGHT TO TALK TO A LAWYER
11 FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND HAVE HIM WITH
12 YOU DURING QUESTIONING." THE DEFENDANT INITIALED THAT AS
13 WELL. "IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED
14 FOR YOU BEFORE ANY QUESTIONING, IF YOU WISH." SHE ALSO
15 INITIALED THAT. "IF YOU DECIDE TO ANSWER QUESTIONS NOW
16 WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE THE RIGHT TO
17 STOP ANSWERING AT ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP
18 ANSWERING AT ANY TIME UNTIL YOU TALK TO A LAWYER." AND SHE
19 INITIALED THAT. I SIGNED AS A WITNESS AS DID INVESTIGATOR
20 MATT SMITH. THE DEFENDANT SIGNED THERE, ALSO. THE DATE WAS
21 OCTOBER 25TH OF 2000. THE TIME WAS SEVENTEEN TWENTY-TWO OR
22 FIVE TWENTY-TWO P.M.

23 DOWN AT THE BOTTOM IS A WAIVER OF RIGHTS. WE ALSO
24 ALLOW HER TO READ THAT AS WE READ ALONG WITH HER. "I HAVE
25 READ THIS STATEMENT OF MY RIGHTS, AND I UNDERSTAND WHAT MY

1 RIGHTS ARE. I AM WILLING TO MAKE A STATEMENT AND ANSWER
2 QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I
3 UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS
4 HAVE BEEN MADE TO ME. AND NO PRESSURE OR COERCION OF ANY
5 KIND HAS BEEN USED AGAINST ME." AT THAT TIME, WE UNDERLINE
6 THE WORDS, THREATS, PRESSURE AND COERCION AND ASK HER IF SHE
7 UNDERSTANDS WHAT THOSE WORDS MEAN. SHE STATED THAT SHE DID,
8 AND SHE SIGNED THE WAIVER OF RIGHTS. I SIGNED IT AS A
9 WITNESS, AS DID MATT SMITH, WHO IS ALSO AN INVESTIGATOR.
10 THE DATE WAS OCTOBER 25TH OF 2000, THE TIME SEVENTEEN
11 TWENTY-FOUR OR FIVE TWENTY-FOUR P.M.

12 Q. DID YOU ALL USE ANY THREATS OR COERCION OR MAKE ANY
13 PROMISES TO HER?

14 A. NO, WE DID NOT.

15 Q. DID SHE APPEAR TO BE UNDER THE INFLUENCE OF ANY DRUGS,
16 ALCOHOL OR ANYTHING ELSE THAT WOULD HAVE ALTERED HER ABILITY
17 TO FREELY AND VOLUNTARILY WAIVE HER RIGHTS?

18 A. NO.

19 Q. IN YOUR OPINION, DID SHE FREELY AND VOLUNTARILY AGREE
20 TO WAIVE HER RIGHTS?

21 A. YES.

22 Q. NOW, I BELIEVE DETECTIVE SUTTON SAID SHE STARTED
23 INTERVIEWING HER AFTER THIS; IS THAT CORRECT?

24 A. YES. MYSELF AND MATT SMITH, INVESTIGATOR MATT SMITH,
25 JUST ASKED HER SOME GENERAL QUESTIONS.

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1 Q. AND THEN SHE WENT TO TALK TO DETECTIVE SUTTON?

2 A. THAT'S CORRECT.

3 Q. NOW, THE NEXT DAY WHEN THE DEFENDANT CAME IN AND GAVE
4 THE WRITTEN STATEMENT, I BELIEVE YOU WITNESSED THE WRITTEN
5 STATEMENT AS WELL?

6 A. YES, I DID.

7 Q. WHAT, IF ANY, COERCION OR THREATS OR PROMISES WERE MADE
8 TO HER TO GET A WRITTEN STATEMENT?

9 A. NONE.

10 Q. OKAY. AND HOW WAS THAT WRITTEN STATEMENT TAKEN?

11 A. INVESTIGATOR SUTTON ASKED HER IF SHE WOULD LIKE TO
12 WRITE HER OWN STATEMENT. SHE TOLD HER, NO, THAT

13 INVESTIGATOR SUTTON COULD WRITE IT. AND BASICALLY, WE JUST
14 HAVE HER PUT WHAT SHE WANTS TO SAY IN HER OWN WORDS. AND AS
15 INVESTIGATOR SUTTON IS WRITING, WE ALLOW HER TO KNOW WHAT IS
16 BEING WRITTEN AND HAVE HER WORD IT THE WAY SHE WANTS IT TO
17 BE WORDED.

18 Q. AND BEFORE SHE SIGNED IT, WHAT WAS SHE -- WHAT WAS
19 DONE?

20 A. YOU KNOW, IF THERE'S ANY ERRORS MADE IN WRITING, YOU
21 KNOW, WE SCRATCH THOSE OUT. WE ALLOWED HER TO INITIAL THOSE
22 TO SHOW THAT THAT WAS JUST AN ERROR IN WRITING. AND SHE
23 ALSO READ IT.

24 Q. WHOA, WAIT A MINUTE. SO SHE WAS ALLOWED TO CORRECT ANY
25 MISTAKES?

1 A. YES.

2 Q. ALL RIGHT. AND DID SHE, IN FACT, MAKE SOME CORRECTIONS
3 ON SOME THINGS THAT SHE THOUGHT WASN'T RIGHT?

4 A. YES, SHE DID.

5 Q. AND WHOSE INITIALS ARE THESE, 'M' 'C', ON EACH PAGE OF
6 THE STATEMENT?

7 A. THE DEFENDANT'S.

8 Q. ALL OF THESE STRIKEOUTS?

9 A. RIGHT.

10 Q. OKAY. AND THEN WHAT?

11 A. WE READ OVER IT AGAIN A FINAL TIME. SHE SIGNED IT. WE
12 ALSO PUT DOWN AT THE BOTTOM THAT -- WE PUT, "I HAVE RECEIVED
13 A COPY." SHE INITIALS THERE, AND WE GIVE HER A COPY OF THE
14 STATEMENT. I SIGN AS A WITNESS AS DOES INVESTIGATOR SUTTON.

15 Q. AND WERE YOU AND DETECTIVE SUTTON IN UNIFORM?

16 A. NO, WE WERE NOT.

17 Q. SO YOU WERE DRESSED SORT OF LIKE YOU'RE DRESSED TODAY?

18 A. YES, MA'AM.

19 Q. ONE MINUTE. NO FURTHER QUESTIONS.

20 CROSS EXAMINATION BY MR. GAMBLE:

21 Q. THE TIME YOU GAVE THIS WAIVER WAS -- TO HER OR READ TO
22 HER WAS COMPLETED AT TEN FIFTY-THREE IN THE MORNING?

23 A. I DID NOT DO THIS ONE. BUT ACCORDING TO THIS, TEN
24 FIFTY-FIVE, I BELIEVE.

25 Q. TEN FIFTY-FIVE?

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- 1 A. UH-HUH.
- 2 Q. DID YOU SEE HER -- IS THAT THE 26TH?
- 3 A. YES, SIR.
- 4 Q. DID YOU SEE HER ON THE 26TH?
- 5 A. YES. WELL, I WAS IN THE ROOM WITH HER AND INVESTIGATOR
- 6 SUTTON WHEN THE WRITTEN STATEMENT WAS TAKEN.
- 7 Q. DID YOU -- YOU DIDN'T SEE HER THEN WHEN THAT ONE WAS
- 8 READ TO HER?
- 9 A. NO, SIR.
- 10 Q. YOU READ THE FIRST ONE TO HER?
- 11 A. ON THE 25TH.
- 12 Q. ALL RIGHT. BUT THAT ONE WAS GIVEN AND ENDED ON TEN
- 13 FIFTY-FIVE, ACCORDING TO THE ---
- 14 A. YES, ACCORDING TO THE BOTTOM.
- 15 Q. RIGHT. NOW, THE STATEMENT THAT YOU WITNESSED, YOU
- 16 TESTIFIED TO, WAS STARTED AT WHAT TIME?
- 17 A. TWO FIFTY P.M.
- 18 Q. SAME DAY?
- 19 A. YES, SIR, THE SAME DAY.
- 20 Q. TO YOUR KNOWLEDGE, DO YOU KNOW WHAT WENT ON FROM ELEVEN
- 21 O'CLOCK UNTIL TWO, ALMOST THREE O'CLOCK?
- 22 A. I CAN'T RECALL.
- 23 Q. AND WHEN DID THE STATEMENT END, IF IT STARTED AT TWO
- 24 FIFTY?
- 25 A. AT THE BOTTOM IT SAYS, "THIS STATEMENT WAS COMPLETED AT

1 FIVE O'CLOCK P.M."

2 Q. SO TWO HOURS IT TOOK TO MAKE THAT STATEMENT. DURING
3 THIS TIME TOGETHER, DID YOU EVER HEAR MICHELE CARTER ASK
4 ABOUT THE WELFARE OR THE WELL-BEING OF HER CHILDREN, DEREK
5 AND J.C. AND J.W. I MEAN, D.W. DEREK AND J.W.

6 A. SHE WAS ADVISED THE PRIOR DAY, THE 25TH, THAT HER
7 CHILDREN HAD BEEN TAKEN INTO EMERGENCY PROTECTIVE CUSTODY BY
8 THE DEPARTMENT OF SOCIAL SERVICES.

9 Q. THE QUESTION WAS ON THIS DAY, THE 26TH, DID SHE ASK YOU
10 ANYTHING ABOUT HER CHILDREN?

11 A. I DON'T RECALL.

12 Q. ALL RIGHT. DID YOU EVER DISCUSS THE CHILDREN OR SAY
13 ANYTHING ABOUT HER CHILDREN TO HER?

14 A. I DON'T RECALL ON THIS DAY.

15 Q. ALL RIGHT. AFTER SHE GAVE THIS STATEMENT, WAS SHE
16 ARRESTED?

17 A. I THINK THAT DAY SHE WAS TAKEN TO THE DETENTION CENTER,
18 YES, AND ARRESTED.

19 Q. DOES THAT MEAN SHE WAS ARRESTED?

20 A. RIGHT.

21 Q. ALL RIGHT. NOTHING FURTHER.

22 THE COURT: ANY REDIRECT?

23 MS. WHITE: JUST A LITTLE BIT, YOUR HONOR.

24 REDIRECT EXAMINATION BY MS. WHITE:

25 Q. THE WRITTEN STATEMENT, DO YOU HAVE THAT? HOW MANY

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JAMI E. BROTHERS - REDIRECT EXAMINATION BY MS. WHITE

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1 HANDWRITTEN PAGES IS THAT?

2 A. SIX.

3 Q. AND SO Y'ALL TOOK TWO HOURS. DID YOU GIVE HER TIME TO
4 TELL YOU ANYTHING SHE WANTED TO SAY?

5 A. YES.

6 Q. AND DID YOU GIVE HER TIME TO READ IT BACK, MAKE ANY
7 CORRECTIONS, MAKE ANY CHANGES THAT SHE WANTED?

8 A. YES, WE DID.

9 Q. AND WHERE IN THERE DOES SHE SAY THAT SHE WAS COERCED BY
10 DEREK INTO THINGS?

11 A. SHE DOESN'T.

12 Q. NOW, YOU SAID THAT SHE HAD BEEN ADVISED THE PRIOR DAY,
13 THE 25TH OF OCTOBER?

14 A. YES, MA'AM.

15 Q. ALL RIGHT. I BELIEVE WE'VE HEARD TESTIMONY SHE DID THE
16 QUESTIONNAIRE UNTIL SOMETIME AROUND NOON, THEN STARTED
17 TALKING TO DETECTIVE SUTTON SOMEWHERE AROUND FIVE?

18 A. RIGHT.

19 Q. IN THAT TIME PERIOD, DID YOU SEE HER? WE'RE BACK ON
20 THE 25TH, NOW. DID YOU SEE THE DEFENDANT AT THE SHERIFF'S
21 DEPARTMENT?

22 A. YES.

23 Q. WHAT, IF ANYTHING, DID YOU TELL HER?

24 A. I ADVISED HER THAT HER CHILDREN HAD BEEN TAKEN INTO
25 EMERGENCY PROTECTIVE CUSTODY BY US AND PLACED INTO THE

1 CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICES DUE TO
2 STATEMENTS MADE BY HER OTHER CHILDREN OF ABUSE IN THE HOME.
3 HER INFANT CHILD, WE DID NOT KNOW HIS WHEREABOUTS. THE
4 OLDER BOYS WERE AT SCHOOL. WE ASKED HER HIS LOCATION. SHE
5 DISCLOSED THAT LOCATION. I SPOKE WITH CHARIE JENKINS AT THE
6 DEPARTMENT OF SOCIAL SERVICES AND ADVISED HER OF THAT
7 LOCATION. SHE, ALONG WITH ANOTHER DEPUTY, WENT OUT TO THAT
8 RESIDENCE AND PICKED UP THAT CHILD.

9 Q. WOULD YOU ALL HAVE HAD ANY IDEA WHERE THE INFANT WAS IF
10 YOU HADN'T GOTTEN THAT INFORMATION FROM HER?

11 A. NO.

12 Q. AND OF COURSE, I BELIEVE SHE WAS NOT TALKING TO ANYBODY
13 FROM ABOUT TWELVE TO FIVE. WHAT TIME DO KIDS USUALLY GET
14 OUT OF SCHOOL?

15 A. TWO THIRTY, I THINK.

16 Q. BUT YOU DID ADVISE HER BEFORE THAT THAT THERE WAS NO
17 NEED TO GO BY THE SCHOOL BECAUSE THE CHILDREN WERE IN
18 PROTECTIVE CUSTODY?

19 A. RIGHT.

20 Q. ALL RIGHT. AT ANY TIME WHEN YOU ALL WERE TALKING TO
21 THE DEFENDANT, TAKING A STATEMENT, ANYTHING LIKE THAT, AT
22 ANY TIME DID YOU, DETECTIVE SUTTON, ANYBODY ELSE SHE EVER
23 SAW, THREATEN THE DEFENDANT ABOUT TAKING HER CHILDREN OR
24 DOING SOMETHING WITH HER CHILDREN OR WITHHOLDING HER
25 CHILDREN OR ANYTHING LIKE THAT?

1 A. NO.

2 Q. IN FACT, APPROXIMATELY TWENTY-FOUR HOURS BEFORE SHE
3 GAVE THE WRITTEN STATEMENT, WHAT HAD YOU ALL ALREADY TOLD
4 HER?

5 A. THAT HER CHILDREN WERE IN THE CUSTODY OF THE DEPARTMENT
6 OF SOCIAL SERVICES.

7 Q. NO FURTHER QUESTIONS.

8 MR. GAMBLE: NO RECROSS.

9 THE COURT: THANK YOU, INVESTIGATOR BROTHERS. YOU
10 MAY STEP DOWN.

11 NEXT WITNESS.

12 MS. WHITE: THE STATE CALLS SHERRI HOWARD.

13 **SHERRI HOWARD,**

14 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION BY MS. WHITE:

16 Q. WHERE DO YOU WORK?

17 A. THE ANDERSON SOLICITOR'S OFFICE.

18 Q. AND WHAT ARE YOUR DUTIES THERE?

19 A. I'M AN INVESTIGATOR.

20 Q. NOW, IN THE SOLICITOR'S OFFICE, IT'S BROKEN INTO WHAT?

21 A. INTO TEAMS.

22 Q. AND DO WE HAVE A HOMICIDE TEAM?

23 A. YES, WE DO.

24 Q. AND WHOSE THE ATTORNEY ON THE HOMICIDE TEAM?

25 A. YOU ARE.

1 Q. AND WHOSE THE INVESTIGATOR ON THE HOMICIDE TEAM?

2 A. I AM.

3 Q. AND WHEN WE INVESTIGATE OR GET A CASE IN ON A HOMICIDE,
4 WHICH MEMBER OF OUR TEAM GATHERS PHONE RECORDS, MEDICAL
5 RECORDS, WORK RECORDS, ALL THE OTHER THINGS THAT WE NEED FOR
6 COURT?

7 A. I DO.

8 Q. AND DID YOU GATHER THE PHONE RECORDS ON THIS PARTICULAR
9 CASE, OR DID YOU HELP GET THEM FROM THE SHERIFF'S DEPARTMENT
10 AND START ANALYZING THEM AND SUMMARIZING THEM?

11 A. I DID.

12 Q. DID YOU LOOK AT THE PHONE RECORDS FROM THE CARTER
13 RESIDENCE AND FROM PLASTIC OMNIUM WHERE THE DEFENDANT DEREK
14 CARTER WORKED?

15 A. I DID.

16 Q. AND WILL YOU PLEASE TELL THE JURY ON OCTOBER 14TH OF
17 THE YEAR 2000, WHAT, IF ANY, PHONE CALLS WERE MADE BETWEEN
18 PLASTIC OMNIUM AND THE CARTER RESIDENCE? AND IF YOU'LL SAY
19 WHICH WAY THE PHONE CALLS WENT AND FOR HOW LONG.

20 A. OKAY. THERE WERE FOUR CALLS TOTAL FROM THE CARTER
21 HOUSE TO PLASTIC OMNIUM AND ONE CALL FROM PLASTIC OMNIUM TO
22 THE CARTER HOUSE.

23 Q. ALL RIGHT. JUST START AT THE TOP AND RUN THROUGH THEM.

24 A. OKAY. AT TWELVE FOURTEEN THERE WAS A CALL FROM THE
25 HOME TO WORK FOR ONE MINUTE. AT TWELVE SEVENTEEN FROM THE

1 HOME TO WORK FOR ONE MINUTE. AND TWELVE EIGHTEEN FROM THE
2 HOME TO WORK FOR FIVE MINUTES. AT TWELVE TWENTY-FOUR FROM
3 THE HOME TO WORK FOR ONE MINUTE. AND AT TWELVE TWENTY-FIVE
4 FROM PLASTIC OMNIUM TO THE HOME FOR ONE MINUTE.

5 Q. NO FURTHER QUESTIONS.

6 MR. GAMBLE: NO QUESTIONS.

7 THE COURT: THANK YOU, MS. HOWARD.

8 NEXT WITNESS.

9 MS. WHITE: THE STATE CALLS KIM WAGES.

10 KIMBERLY K. WAGES,

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION BY MS. WHITE:

13 Q. MS. WAGES, WHAT'S YOUR OCCUPATION?

14 A. I WORK AT FRIGIDAIRE.

15 Q. AND DO YOU KNOW MICHELE CARTER?

16 A. YES, MA'AM.

17 Q. HOW DID YOU KNOW HER?

18 A. SHE'S MY COUSIN.

19 Q. MS. WAGES, I'M GOING TO ASK YOU TO TALK ALL THE WAY
20 BACK HERE. THE JURORS NEED TO HEAR YOU ALL THE WAY BACK.
21 THANK YOU.

22 IN THE SUMMER OF 2000, DID YOU TALK TO MICHELE ABOUT
23 HOW SHE FELT ABOUT Minor

24 A. YES, MA'AM.

25 Q. AND WHAT DID SHE TELL YOU?

1 A. SHE WAS ALWAYS COMPLAINING ABOUT HER.

2 Q. WHAT DID SHE SAY?

3 A. SHE DIDN'T HAVE ANYTHING GOOD TO SAY. SHE ALWAYS SAID
4 THAT SHE WAS JUST VERY TROUBLED AND JUST A VERY MISBEHAVING
5 CHILD, I GUESS YOU WOULD SAY.

6 Q. AND DID SHE EVER TELL YOU WHETHER OR NOT Minor WAS
7 SENT SOMEWHERE OUT OF TOWN?

8 A. YES, MA'AM. THERE WERE SEVERAL TIMES SHE WOULD COME
9 OVER TO MY GRANDMOTHER'S, AND I WOULD ASK WHERE Minor
10 WAS. AND EITHER SHE WAS, SHE WOULD SAY, WITH HER
11 GRANDPARENTS OR SHE WOULD SAY THAT THEY HAD FOUND A BOOT
12 CAMP IN COLUMBIA.

13 Q. AND WOULD THIS BE DURING THE WORKDAY OR NOT WHEN SHE
14 WOULD SAY THIS?

15 A. IT WOULD BE DURING THE DAY.

16 Q. AND WERE THE OLDER CHILDREN IN SCHOOL OR NOT?

17 A. SOMETIMES J.C. WOULD BE WITH HER OR SHE WOULD BE
18 ALONE.

19 Q. NOW, AT ANY TIME WHEN SHE CAME OVER TO YOUR HOUSE, OR
20 YOUR GRANDMOTHER'S HOUSE, DURING THE SUMMER OF 2000, WOULD
21 SHE ALLOW Minor TO COME INTO THE HOUSE?

22 A. SOMETIMES, BUT SOMETIMES SHE WOULD SAY SHE WAS BEING
23 PUNISHED, AND SHE'D MAKE HER SIT OUT ON THE FRONT PORCH IN
24 THE HEAT.

25 Q. HOW HOT WOULD IT BE?

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KIMBERLY K. WAGES - DIRECT EXAMINATION BY MS. WHITE

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1 A. IT WOULD BE AROUND JULY AND AUGUST, ABOUT A HUNDRED
2 DEGREES OUTSIDE.

3 Q. ABOUT A HUNDRED DEGREES?

4 A. IN LATE AFTERNOON.

5 Q. AND HOW LONG WOULD SHE MAKE Minor SIT OUT IN THE
6 HUNDRED DEGREE HEAT?

7 A. I WOULD BE GOING IN AND OUT. SO I KNOW ONE TIME I WAS
8 THERE A GOOD HOUR. SO A LITTLE OVER.

9 Q. AND DID YOU EVER TALK TO HER ABOUT THIS AND TRY TO ---

10 A. YEAH. ONE TIME I TRIED. I FINALLY CONVINCED HER TO
11 LET HER COME IN. BUT SHE WOULD MAKE HER STAND AND FACE THE
12 WALL OR GET ON THE TREADMILL AND WALK.

13 Q. WHAT DO YOU MEAN SHE MADE HER GET ON THE TREADMILL AND
14 WALK?

15 A. OUR GRANDMOTHER HAS A TREADMILL FOR EXERCISING BECAUSE
16 SHE CAN'T GET OUT AND WALK. AND SHE'D MAKE HER WALK ON
17 THAT.

18 Q. FOR HOW LONG?

19 A. FOR LONG PERIODS OF TIME.

20 Q. WHAT WOULD HAPPEN IF Minor REQUESTED SOMETHING TO
21 DRINK WHILE SHE WAS ON THE TREADMILL?

22 A. AT ONE TIME I ASKED HER IF SHE WANTED ANYTHING TO
23 DRINK, AND I WAS GOING TO FIX HER SOME TEA. MICHELE SAID
24 SHE COULDN'T HAVE IT. SHE WAS A DIABETIC.

25 Q. HOW DID Minor ACT AROUND MICHELE?

1 A. THE LAST TIME I SEEN HER, SHE WAS JUST STANDING THERE
2 REAL STILL LIKE SHE WAS SCARED TO MOVE OR SAY ANYTHING.

3 Q. NOW, DID YOU -- AT ANY TIME DID MICHELE INDICATE TO YOU
4 THAT SHE WAS SCARED OF DEREK OR THAT DEREK DOMINATED HER?

5 A. NO, MA'AM.

6 Q. WAS HE EVER PRESENT WHEN SHE WOULD MAKE Minor STAND
7 IN THE CORNER, WALK ON THE TREADMILL, SIT OUT IN THE HUNDRED
8 DEGREE HEAT?

9 A. HE WAS PRESENT ONE TIME, BUT SHE WAS IN THE HOUSE.

10 Q. ON ANY OF THOSE OTHER OCCASIONS WHERE YOU SAW THESE
11 THINGS, WAS HE PRESENT?

12 A. NO, MA'AM. I'VE ONLY SEEN HIM MAYBE TWICE.

13 Q. NOTHING FURTHER.

14 CROSS EXAMINATION BY MR. GAMBLE:

15 Q. HOW OFTEN DID MICHELE COME TO YOUR HOUSE, MS. WAGES?

16 A. WELL, IT WAS MY GRANDMOTHER'S.

17 Q. WELL, HOW OFTEN DID MICHELE COME TO YOUR GRANDMOTHER'S
18 HOUSE?

19 A. IT WASN'T TOO OFTEN.

20 Q. HOW MANY TIMES WAS SHE THERE WHILE SHE WAS PREGNANT?

21 A. MAYBE ONCE OR TWICE.

22 Q. DO YOU RECALL WHEN?

23 A. NO, SIR.

24 Q. DID YOU EVER SEE HER THERE WHILE SHE WAS PREGNANT?

25 A. I REMEMBER HER COMING IN ONE TIME WHEN SHE HAD COME

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KIMBERLY K. WAGES - CROSS EXAMINATION BY MR. GAMBLE

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1 BACK FROM THE EMERGENCY ROOM WHERE SHE HAD BEEN SICK OR
2 SOMETHING WHILE SHE WAS PREGNANT.

3 Q. DID SHE HAVE Minor WITH HER THEN?

4 A. I DON'T RECALL.

5 Q. HUH?

6 A. I DON'T RECALL.

7 Q. ALL RIGHT. DID SHE BRING J.C. TO YOUR GRANDMOTHER'S?

8 A. YES, SIR.

9 Q. WHEN?

10 A. I KNOW ONE TIME, IT WAS SHORTLY AFTER HE WAS BORN UP
11 TILL -- HE WAS STARTING TO EAT SOLID FOODS. SO I WOULD
12 PROBABLY SAY AROUND FOUR OR FIVE MONTHS OLD THE LAST TIME I
13 SEEN HIM.

14 Q. FOUR OR FIVE MONTHS OLD?

15 A. UH-HUH.

16 Q. AND YOU NEVER SAW HER OR HIM AFTER THE CHILD WAS FOUR
17 OR FIVE MONTHS OLD; IS THAT RIGHT?

18 A. YES, SIR.

19 Q. OKAY. SO THE LAST TIME YOU SAW THEM WAS IN JULY OF
20 2000?

21 A. YES, SIR. JULY OR SOMETIME IN THERE.

22 Q. AND ISN'T IT TRUE THAT YOUR GRANDMOTHER ALLOWED
23 Minor TO PLAY ON THE TREADMILL?

24 A. WELL, SHE WOULDN'T MIND IF SHE WANTED TO GO IN THERE.
25 BUT MICHELE HAD TOLD HER TO GO IN THERE FOR PUNISHMENT.

- 1 Q. BUT YOUR GRANDMOTHER LET HER PLAY ON IT, TOO, DIDN'T
2 SHE?
3 A. YES, SIR; SHE LET'S HER GRANDCHILDREN PLAY ON IT. BUT
4 THEY'RE ALLOWED TO LEAVE AND COME AND GO IN THERE WHEN THEY
5 WANT TO.
6 Q. WAS THE TREADMILL IN A SEPARATE ROOM?
7 A. YES, SIR.
8 Q. DID YOU EVER GO IN THERE?
9 A. YES, SIR.
10 Q. WHEN Minor WAS IN THERE?
11 A. YES, SIR.
12 Q. AND HOW FAST WAS IT GOING?
13 A. IT WAS ON LOW SPEED.
14 Q. HUH?
15 A. IT WAS ON LOW SPEED.
16 Q. WALK SPEED?
17 A. UH-HUH.
18 Q. OKAY. AND THIS HOUSE THAT YOU'RE DESCRIBING, YOUR
19 GRANDMOTHER'S HOUSE, WHERE IS IT?
20 A. IT'S ON [REDACTED]
21 Q. HUH?
22 A. [REDACTED]
23 Q. [REDACTED]?
24 A. UH-HUH.
25 Q. WHERE IS THAT?

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KIMBERLY K. WAGES - CROSS EXAMINATION BY MR. GAMBLE

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1 A. IT'S ON EQUINOX MILL HILL.

2 Q. IS IT NEAR ---

3 A. IT'S NEAR JACKSON STREET.

4 Q. SO IT'S WHAT WE REFER TO AS -- SOME PEOPLE CALL THEM
5 THE MILL HOUSES?

6 A. UH-HUH.

7 Q. IT WAS OWNED AT ONE TIME BY EQUINOX MILL?

8 A. YES, SIR.

9 Q. THE HOUSE HAS A FRONT PORCH, DOESN'T IT?

10 A. YES, SIR.

11 Q. AND THIS TIME YOU WERE TALKING ABOUT WHEN Minor WAS
12 SITTING ON THE FRONT PORCH, WAS SHE IN THE SHADE ON THE
13 FRONT PORCH?

14 A. THE TREES WERE CUT DOWN YEARS AGO.

15 Q. WELL, A PORCH IS A SHADE?

16 A. THE SUNLIGHT IS DIRECT. IT'S SO BAD MY GRANDMOTHER
17 CLOSES THE BLINDS BECAUSE IT GETS IN HER EYES.

18 Q. WHICH DIRECTION DOES THE HOUSE FACE WHERE THE PORCH IS?

19 A. IT FACES TOWARD THE SUN.

20 Q. WHAT TIME OF DAY WAS IT?

21 A. IT WOULD BE IN THE AFTERNOON BEFORE SHE WOULD GO GET
22 DEREK OR THE KIDS FROM SCHOOL OR ANYTHING LIKE THAT.

23 Q. SO IT WAS BEFORE TWO THIRTY?

24 A. IT WOULD BE AROUND TWO AND THREE O'CLOCK IN THE
25 AFTERNOON.

1 Q. WELL, THE KIDS GOT OUT OF SCHOOL AT TWO THIRTY, DIDN'T
2 THEY?

3 A. IF IT WAS AROUND JULY, THEY PROBABLY WASN'T AT SCHOOL.

4 Q. THEY WEREN'T IN SCHOOL IN JULY, WERE THEY?

5 A. ALL I REMEMBER IS IT WAS HOT WEATHER. I DON'T REMEMBER
6 EXACTLY WHAT MONTH.

7 Q. DO YOU KNOW HOW LONG SHE WAS OUT THERE?

8 A. FOR THE HOUR THAT I WAS THERE, SHE WAS OUT THERE. BUT
9 SHE WAS OUT THERE WHEN I GOT THERE.

10 Q. HUH?

11 A. SHE WAS THERE WHEN I GOT THERE.

12 Q. WHY DIDN'T YOU BRING HER IN?

13 A. BECAUSE SHE'S A VERY MEAN PERSON, AND I DIDN'T WANT TO
14 GET Minor IN NO MORE TROUBLE THAN WHAT SHE WAS ALREADY
15 IN.

16 Q. YOU'RE A LOT BIGGER THAN SHE IS, AREN'T YOU?

17 A. YES, SIR, I AM. BUT I DIDN'T WANT TO UPSET MY
18 GRANDMOTHER EITHER.

19 Q. HOW MANY PEOPLE LIVE IN YOUR GRANDMOTHER'S HOUSE?

20 A. AT THE TIME IT WAS ME AND MY TWO CHILDREN AND MY
21 MOTHER.

22 Q. IS YOUR GRANDFATHER LIVING?

23 A. NO, SIR.

24 Q. FIVE PEOPLE WERE LIVING IN THE HOUSE?

25 A. YES, SIR.

1 Q. DID YOU HAVE YOUR TWO CHILDREN WITH YOU WHEN YOU WE'RE
2 OVER THERE ON JULY -- JUNE OR JULY?

3 A. YES, SIR, I DID.

4 Q. HOW OLD ARE THEY?

5 A. THEY WERE -- WELL, THEY'RE TEN AND EIGHT.

6 Q. SO THEY WERE ---

7 A. NINE AND SEVEN.

8 Q. --- NINE AND SEVEN?

9 A. UH-HUH.

10 Q. WHAT DID THEY DO WHEN YOU GOT THERE?

11 A. THEY PLAYED IN THE BACK YARD.

12 Q. THEY PLAYED IN THE BACK YARD?

13 A. UH-HUH.

14 Q. DID YOU BRING THEM INSIDE IN THE AIR CONDITIONING?

15 A. THEY WOULD COME IN AND OUT. THEY WOULD COME AND GO AS
16 THEY PLEASED. WHENEVER THEY WANTED TO COME IN, THEY WOULD
17 COME IN.

18 Q. BUT THEY WERE PLAYING IN THE BACK YARD?

19 A. YES, SIR. IN THE FENCE.

20 Q. WHEN IS IT YOU SAW Minor -- I MEAN, SAW MICHELE AND
21 Minor WASN'T WITH HER AND SHE TOLD YOU SHE WAS WITH HER
22 GRANDPARENTS OR AT BOOT CAMP?

23 A. SHE STOPPED BY ONE AFTERNOON.

24 Q. WHEN WAS THAT?

25 A. I DON'T RECALL. I JUST REMEMBER HER STOPPING BY.

1 Q. WAS THAT BEFORE -- WAS SHE PREGNANT WHEN SHE STOPPED
2 BY?

3 A. NO. I BELIEVE J.C. WAS ALREADY BORN.

4 Q. SO IT WAS SOMETIME FROM [REDACTED] [REDACTED] TO JUNE OR JULY;
5 RIGHT?

6 A. YES, SIR.

7 Q. HUH?

8 A. YES, SIR.

9 Q. AND YOU DON'T KNOW WHEN?

10 A. NO, SIR. I JUST REMEMBER HAVING A CONVERSATION WITH
11 HER.

12 Q. WAS IT DURING HOT WEATHER OR COLD WEATHER?

13 A. I DON'T RECALL.

14 Q. HOW LONG DID SHE STOP BY FOR?

15 A. I DON'T KNOW. I LEFT FOR WORK BEFORE SHE LEFT.

16 Q. WHAT TIME DO YOU GO TO WORK?

17 A. I WENT TO WORK -- I LEFT, I GUESS, AROUND TWO BECAUSE I
18 HAD TO BE THERE AT THREE.

19 Q. SO SHE JUST -- YOU JUST IN PASSING CONVERSATION, Y'ALL
20 WOULD TALK?

21 A. YES, SIR.

22 Q. SHE DIDN'T EXPLAIN TO YOU WHERE BOOT CAMP WAS?

23 A. SHE JUST SAID SOMEWHERE IN COLUMBIA.

24 Q. SHE SAID SHE WAS WITH HER GRANDPARENTS?

25 A. YES, SIR.

1 Q. I BELIEVE THEY LIVE IN COLUMBIA?

2 A. I DON'T KNOW. SHE NEVER TALKED OF ANY OF HIS FAMILY
3 EXCEPT FOR THAT ONE TIME. THAT WAS THE FIRST TIME I EVER
4 HEARD HER MENTION ANY OF DEREK'S FAMILY.

5 Q. SHE TOLD YOU Minor WAS WITH KIN OF HERS; RIGHT?

6 A. UH-HUH.

7 Q. WHERE DO YOU WORK?

8 A. I WORK AT FRIGIDAIRE NOW.

9 Q. WHERE WERE YOU WORKING IN 2000?

10 A. I WAS A SECURITY OFFICER AT G.N.P.

11 Q. G & P TRUCKING?

12 A. NO. IT'S A VITAMIN PLANT OUT ON LIBERTY HIGHWAY.

13 Q. OKAY. WHEN YOU WERE TALKING ABOUT THIS BEING
14 PUNISHMENT, YOU DIDN'T SEE HER STRIKE Minor OR DO
15 ANYTHING, DID YOU?

16 A. NO, SIR.

17 Q. Minor WAS JUST SITTING ON THE FRONT PORCH? WAS SHE
18 SITTING ON THE FLOOR?

19 A. NO. SHE WAS JUST SITTING IN THE CHAIR IN DIRECT
20 SUNLIGHT.

21 Q. A ROCKING CHAIR?

22 A. IT WAS A STRAIGHT CHAIR.

23 Q. AND THE SUN WAS SHINING DOWN ON THE PORCH AT TWO
24 O'CLOCK IN THE AFTERNOON ON A SUMMER DAY?

25 A. UH-HUH.

1 Q. WAS THE CHAIR UP AGAINST THE WALL?

2 A. NO, SIR.

3 Q. HUH?

4 A. NO, SIR.

5 Q. DID ANYBODY PROHIBIT HER FROM MOVING IT AGAINST THE
6 WALL?

7 A. NO, SIR.

8 Q. THANK YOU.

9 REDIRECT EXAMINATION BY MS. WHITE:

10 Q. WAS Minor STILL IN THAT CHAIR?

11 A. YES, MA'AM. SHE NEVER MOVED.

12 Q. WAS SHE PLAYING?

13 A. NO, MA'AM.

14 Q. FROM THE TEMPERATURE YOU SAW THAT DAY, HOW COMFORTABLE
15 WOULD IT HAVE BEEN TO SIT STILL, NOT PLAYING, AS A FOUR-
16 YEAR-OLD IN DIRECT SUNLIGHT WHEN IT WAS A HUNDRED DEGREES,
17 OUTSIDE?

18 A. VERY UNCOMFORTABLE.

19 Q. NO FURTHER QUESTIONS.

20 THE COURT: ALL RIGHT. THANK YOU, MA'AM. YOU MAY
21 STEP DOWN.

22 NEXT WITNESS, PLEASE.

23 MS. WHITE: MAY THE WITNESS BE EXCUSED, YOUR HONOR?

24 MR. GAMBLE: NO OBJECTION.

25 THE COURT: WITHOUT OBJECTION.

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LISA KNIGHT - DIRECT EXAMINATION BY MS. WHITE

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1 MS. WHITE: THE STATE CALLS LISA KNIGHT.

2 LISA KNIGHT,

3 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION BY MS. WHITE:

5 Q. MS. KNIGHT, WHAT'S YOUR OCCUPATION?

6 A. HOUSEWIFE.

7 Q. AND DO YOU KNOW MICHELE CARTER?

8 A. YES.

9 Q. HOW DID YOU KNOW HER?

10 A. I MET HER IN JUNE OF '97.

11 Q. AND WHERE WAS THAT?

12 A. ALLIED SIGNAL.

13 Q. DID YOU ALL WORK TOGETHER?

14 A. YES.

15 Q. DID YOU ALL EVER HAVE ANY FIGHTS, ARGUMENTS, DISPUTES
16 OR ANY OTHER PROBLEMS?

17 A. NO.

18 Q. WHAT WAS THE NATURE OF YOUR RELATIONSHIP?

19 A. FRIENDS.

20 Q. NOW, DURING THE YEAR 2000, ABOUT HOW OFTEN DID YOU TALK
21 TO MICHELE CARTER?

22 A. THE FIRST TIME I HAD TALKED TO HER OR SOCIALIZED WITH
23 HER WAS -- WE JUST SOCIALIZED OFF AND ON IN '97 BECAUSE I
24 HAD GOT LAID OFF IN '98. AND I WAS LAID OFF FOR A YEAR. WE
25 JUST SOCIALIZED -- AND I DIDN'T KNOW DEREK EXISTED UNTIL

1 JUNE OF 2000.

2 Q. LET'S START THEN WITH JUNE OF 2000.

3 A. OKAY.

4 Q. DURING JUNE OF 2000 FORWARD, SAY, DURING THE SUMMER AND
5 THE FALL AND UP UNTIL Minor DIED, ABOUT HOW OFTEN ON
6 AVERAGE WOULD YOU TALK TO MICHELE?

7 A. PRETTY OFTEN.

8 Q. WHAT DOES THAT MEAN?

9 A. PROBABLY AROUND ABOUT ONCE A WEEK AVERAGE.

10 Q. AND DID YOU GO TO MICHELE AND DEREK'S HOUSE IN JUNE OF
11 2000 OR SOMEWHERE AROUND THAT TIME?

12 A. YES.

13 Q. AND WHO WAS THERE AT THE HOUSE WHEN YOU ARRIVED?

14 A. MICHELE AND J.C. AND Minor

15 Q. AND WHAT, IF ANYTHING, DID MICHELE SAY WHEN YOU GOT
16 THERE ABOUT Minor

17 A. SHE TOLD ME THAT SHE HAD JUST GAVE HER A BATH AND THAT
18 -- I SAT DOWN. AND SHE TOLD ME SHE WAS BEING PUNISHED.

19 Q. AND DID SHE SAY WHY SHE WAS BEING PUNISHED?

20 A. FOR -- AS I RECALL, FOR BREAKING A WINDOW.

21 Q. AND SO WHAT DID SHE DO TO Minor

22 A. SHE MADE HER STAND IN FRONT OF THE DOOR FACING THE
23 DOOR.

24 Q. WHAT DO YOU MEAN? WHAT DOOR?

25 A. THE FRONT DOOR.

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LISA KNIGHT - DIRECT EXAMINATION BY MS. WHITE

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- 1 Q. AND HOW LONG DID SHE STAY THERE?
- 2 A. APPROXIMATELY -- I'D SAY AROUND TWO HOURS.
- 3 Q. AND HOW OLD WAS THIS CHILD AT THAT TIME?
- 4 A. FOUR.
- 5 Q. AND DURING THE TWO HOURS THAT SHE STOOD THERE, WHAT, IF
- 6 ANYTHING, DID MICHELE SAY TO Minor
- 7 A. WELL, Minor HAD TURNED AROUND. AND SHE HAD SAID,
- 8 DID I TELL YOU YOU COULD LOOK AT ME. AND SHE SAID, NO,
- 9 MA'AM.
- 10 Q. AND WHAT DID SHE DO?
- 11 A. SHE TURNED BACK AROUND.
- 12 Q. NOW, DID THE DEFENDANT EVER DISCUSS WITH YOU HOW SHE
- 13 FELT ABOUT Minor OR WHETHER SHE WAS HAVING ANY PROBLEMS
- 14 WITH HER?
- 15 A. SHE WAS AGITATED. SAID SHE COULDN'T GET HOUSEWORK DONE
- 16 TAKING CARE OF THE NEW BABY AND Minor AND I KNEW THAT
- 17 SHE WAS AGGRAVATED SOMETIMES WHEN WE WOULD TALK ON THE
- 18 PHONE. AND I TOLD HER IF SHE EVER NEEDED ANY HELP --
- 19 BECAUSE MY CHILD WAS IN SCHOOL. I TOLD HER IF SHE EVER
- 20 NEEDED ANY HELP THAT I WOULD BE GLAD TO TAKE CARE OF
- 21 Minor
- 22 Q. NOW, WHAT, IF ANY, PUNISHMENT DID YOU SEE INVOLVING
- 23 HAVING Minor BE OUTSIDE IN HEAT?
- 24 A. MICHELE HAD -- WE HAD TALKED THAT MORNING. AND SHE HAD
- 25 -- I HADN'T SEEN THE BABY YET. AND SHE SAID SHE WOULD DROP

1 BY AND BRING THE BABY SO I COULD SEE IT. AND SHE COME IN,
2 HER AND THE BABY AND J.W. AND SHE -- WE SAT THERE ABOUT,
3 I'D SAY, APPROXIMATELY THIRTY MINUTES. AND THEN SHE TOLD ME
4 THAT SHE NEEDED TO CHECK ON Minor AND I ASKED HER
5 ABOUT Minor AND SHE SAID IT WAS MY -- IT'S MY
6 STEPDAUGHTER. AND I DIDN'T RECALL Minor THEN. AND THEN
7 I FOLLOWED HER OUTSIDE. WE WALKED OUTSIDE. AND Minor
8 WAS SITTING IN THE DRIVEWAY NEAR THE VAN. AND SHE CALLED
9 HER UP TO THE PORCH, TO MY FRONT DECK. AND SHE WAS GOING TO
10 HAVE HER SIT THERE. AND I ASKED HER WHY SHE COULDN'T COME
11 IN. AND SHE SAID, BECAUSE SHE WILL POTTY AND POOP ON
12 HERSELF, AND SHE WILL POTTY IN YOUR FLOOR. AND I TOLD HER
13 THAT WAS FINE, THAT SHE COULD COME ON IT. I CAN CLEAN IT
14 UP. THAT IT WAS TOO HOT.
15 Q. YOU SAID IT WAS TOO HOT. WHAT DO YOU MEAN BY THAT?
16 A. IT WAS -- IT WAS DURING THE SUMMERTIME. IT WAS HOT.
17 Q. AND DID SHE FINALLY ALLOW Minor TO COME IN?
18 A. YES.
19 Q. NOW, DID YOU TALK TO HER? WHEN SHE GOT INSIDE, DID
20 MICHELE SAY ANYTHING ABOUT Minor BACKGROUND?
21 A. YES, SHE DID.
22 Q. WHAT DID SHE SAY?
23 A. WELL, SHE DIDN'T DISCUSS Minor NO, SHE DIDN'T.
24 Q. DID SHE SAY ANYTHING ABOUT Minor MOTHER OR HOW
25 OLD SHE WAS WHEN HER MOTHER DIED?

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LISA KNIGHT - DIRECT EXAMINATION BY MS. WHITE

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1 A. YES.

2 Q. WHAT DID SHE SAY?

3 A. SHE HAD DISCUSSED THAT SHE HAD BEEN TAKING Minor : TO
4 COUNSELING, HER AND HER HUSBAND. THAT SHE -- THAT ONCE THE
5 COUNSELOR FOUND OUT SHE WAS THE STEPMOTHER, THEN THEY SAID
6 THAT WAS HER BEHAVIOR PROBLEM. SHE WAS HAVING BEHAVIOR
7 PROBLEMS. AND THAT THEY BLAMED HER. SO THEY -- TO MY
8 KNOWLEDGE, SHE HAD TOOK HER TO ANOTHER COUNSELOR.

9 Q. THAT'S WHAT SHE TOLD YOU?

10 A. YES. AND SHE TOLD ME -- TO MY KNOWLEDGE, THEY HAD SAID
11 THAT THEY HAD SHOWED PICTURES OF Minor MOTHER TO
12 Minor IN FRONT OF COUNSELORS AND THAT Minor DIDN'T
13 RECOGNIZE HER. COULDN'T TELL WHO SHE WAS. THAT SHE WAS --
14 TO MY KNOWLEDGE, SHE SAID THAT SHE WAS SIX MONTHS OLD WHEN
15 HER MOTHER DIED.

16 Q. DID YOU EVER TALK TO THE DEFENDANT ON THE PHONE?

17 A. YES.

18 Q. AND WHAT, IF ANYTHING, WOULD YOU HEAR REGARDING EATING
19 IN THE BACKGROUND?

20 A. I WOULD HEAR -- I'D HEAR HER TELL Minor "CHEW,
21 Minor AND SHE WOULD COUNT. AND I WOULD HEAR A
22 POPPING SOUND. AND THEN I'D HEAR HER SAY, "SWALLOW,
23 Minor " AND THEN I WOULD HEAR A POPPING SOUND.

24 Q. NOW, AT SOME POINT WHEN YOU WERE TALKING TO HER, DID A
25 DISCUSSION COME UP OF Minor VAGINAL AREA?

1 A. YES.

2 Q. TELL THE JURY WHAT YOU REMEMBER ABOUT THIS.

3 A. I HEARD Minor CRYING. AND I ASKED ---

4 Q. WERE YOU TALKING ON THE PHONE?

5 A. YES, ON THE PHONE.

6 Q. OKAY.

7 A. I HAD ASKED HER WHAT WAS WRONG. AND SHE HAD TOLD ME

8 THAT Minor HAD A REAL BAD RASH AND ALL AND THAT SHE HAD

9 TOOK HER TO THE DOCTOR. AND THAT SHE HAD POURED ALCOHOL ON

10 HER PRIVATE.

11 Q. AND WHAT DID YOU HEAR? HOW -- YOU SAID Minor WAS

12 CRYING. DESCRIBE THE KIND OF CRYING THAT YOU HEARD.

13 A. IT WAS A CRY -- A PAINFUL CRY.

14 Q. WHAT DID SHE SAY AS TO WHY SHE HAD POURED IT?

15 A. SHE SAID THAT THE DOCTOR HAD TOLD HER THAT IT WOULD DRY

16 THE RASH.

17 Q. AND WHAT DID YOU TELL HER?

18 A. I TOLD HER THAT I RECOMMEND ANOTHER -- I MEAN, I WOULD

19 TALK TO ANOTHER DOCTOR BECAUSE I WOULDN'T POUR ALCOHOL.

20 Q. AND DURING THAT CONVERSATION, DID SHE DISCUSS POTTY

21 TRAINING AND WHAT SHE AND DEREK WERE DETERMINED TO DO ABOUT

22 THE POTTY TRAINING?

23 A. OH, THEN SHE WENT ON AND TOLD ME THAT HER AND DEREK

24 WERE GOING TO TEACH HER ONE WAY OR THE OTHER ABOUT POTTY

25 TRAINING.

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1 Q. WHAT, IF ANY, DISCUSSIONS DID YOU EVER HAVE WITH THE
2 DEFENDANT REGARDING A HARNESS?

3 A. SHE TOLD ME THAT SHE HAD PUNISHED HER IN THE BATHROOM
4 AND IN THE LIVING ROOM. THAT'S ALL I RECALL.

5 Q. DID YOU TALK THE DEFENDANT APPROXIMATELY -- OKAY. DID
6 YOU END UP MAKING A PHONE CALL?

7 A. YES.

8 Q. AND WHO DID YOU CALL?

9 A. MICHELE.

10 Q. DID YOU CALL ANY OTHER ORGANIZATION?

11 A. YES.

12 Q. AND WHICH ORGANIZATION WAS THAT?

13 A. D.S.S.

14 Q. BUT WERE YOU ABLE TO GIVE THEM THE ADDRESS OR THE --
15 DID YOU KNOW HER LAST NAME WAS CARTER AT THIS POINT, OR DID
16 YOU STILL KNOW HER BY HER OLD NAME?

17 A. I WAS UPSET AT THE TIME. AND I COULDN'T RECALL BECAUSE
18 I KNEW MICHELE AS WHITTAKER. AND I COULD NOT RECALL THE
19 LAST NAME.

20 Q. SO IN DEFENSE OF D.S.S., LOOKING BACK NOW, DO YOU THINK
21 THEY HAD ENOUGH INFORMATION TO BE ABLE TO FROM WHAT YOU TOLD
22 THEM?

23 A. YES.

24 Q. DID YOU THINK THAT THEY DID COME OUT?

25 A. YES.

1 Q. AND WHY DID YOU THINK THAT?

2 A. BECAUSE MICHELE WAS TELLING ME THAT A CHURCH HAD BEEN
3 CALLING D.S.S. FOR HER HARNESSING HER TO A TREE.

4 Q. SO TO YOUR KNOWLEDGE, HAD SOMETHING ALREADY HAPPENED
5 ABOUT THAT?

6 A. TO MY KNOWLEDGE.

7 Q. NOW, ABOUT TWO WEEKS OR SHORTLY AFTER Minor
8 DEATH, DID YOU TALK TO THE DEFENDANT?

9 A. YES.

10 Q. AND DESCRIBE WHAT HAPPENED.

11 A. I HAD CALLED HER. I HAD BEEN TRYING TO GET IN TOUCH
12 WITH HER BECAUSE I WAS TRYING TO GET IN TOUCH WITH HER TO
13 SEE HOW Minor WAS BECAUSE TO MY KNOWLEDGE, SHE HAD TOLD
14 ME THAT SHE WAS TAKING HER TO A DOCTOR IN COLUMBIA. AND I
15 KNEW THAT SHE HAD AN APPOINTMENT. SO I WAS GOING TO CALL TO
16 SEE HOW Minor WAS DOING. AND SHE TOLD ME THAT Minor
17 HAD DIED.

18 Q. WHAT KIND OF EMOTION DID SHE SHOW WHEN SHE TALKED TO
19 YOU?

20 A. NONE.

21 Q. DID SHE SAY WHAT HAD HAPPENED?

22 A. YES.

23 Q. WHAT DID SHE SAY?

24 A. SHE TOLD ME THAT THEIR VAN HAD TORE UP AND THAT DEREK
25 WAS GOING TO GET A PART FOR THE VAN AND GET A PART IN

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LISA KNIGHT - DIRECT EXAMINATION BY MS. WHITE

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1 GREENVILLE. AND HE --- Minor HAD STARTED MAKING GURGLING
2 NOISES. AND HE PULLED ON THE SIDE OF THE ROAD. AND HE
3 CALLED TO Minor AND Minor RESPONDED. AND THEN HE
4 WENT A LITTLE WAYS MORE, AND SHE MADE THE NOISE. AND SHE
5 DIDN'T RESPOND. AND THEN HE RUSHED HER TO GREENVILLE
6 MEMORIAL HOSPITAL.

7 Q. DID SHE SAY ANYTHING ABOUT WHAT HAPPENED WHEN Minor
8 DIED?

9 A. TO BE HONEST WITH YOU, I CAN'T REALLY RECALL BECAUSE I
10 WAS SO STUNNED.

11 Q. AND DID YOU CALL LAW ENFORCEMENT AT THAT TIME OR LATER
12 AFTER THAT?

13 A. I THINK I CALLED THEM THAT DAY AFTER I HAD TALKED TO
14 HER.

15 Q. AT ANY TIME DID MICHELE CARTER COMPLAIN ABOUT DEREK
16 CARTER'S TREATMENT OF HER? WAS HE DOMINATING HER? FORCING
17 HER TO DO THINGS? THAT SORT OF THING.

18 A. NOT THAT I RECALL.

19 Q. AT THE TIMES THAT YOU SAW THESE THINGS HAPPEN TO
20 Minor WAS DEREK CARTER PRESENT?

21 A. NO.

22 Q. WAS MICHELE CARTER A DOCILE PERSON THAT COULD BE EASILY
23 BULLIED?

24 A. NOT TO MY KNOWLEDGE.

25 Q. NOTHING FURTHER.

1 CROSS EXAMINATION BY MR. GAMBLE:

2 Q. THE PURPOSE OF YOUR GOING OVER TO HER -- MICHELE
3 CARTER'S HOUSE WAS TO HAVE HER FOLLOW YOUR HUSBAND AND FILM
4 HIM, WASN'T IT?

5 A. NO, SIR.

6 Q. AND YOU HAD DISCUSSIONS WITH HER ABOUT YOU AND YOUR
7 HUSBAND WERE HAVING TROUBLE, AND IT WAS DUE TO YOUR MENTAL
8 HEALTH?

9 A. WE HAD A DISCUSSION.

10 Q. ABOUT YOUR MENTAL HEALTH?

11 A. DEPRESSION.

12 Q. YOU WERE HAVING DEPRESSION AT THAT TIME WHEN YOU WERE
13 OVER THERE?

14 A. NO, SIR.

15 Q. MICHELE TOLD YOU ON SEVERAL OCCASIONS THAT DEREK LOST
16 HIS TEMPER WITH HER A LOT, DIDN'T SHE?

17 A. NO, SIR.

18 Q. SHE TOLD YOU HE DRANK AND WOULD LOSE HIS TEMPER?

19 A. NO, SIR.

20 Q. YOU DON'T RECALL THAT?

21 A. NO, SIR.

22 Q. ALL RIGHT. NOW, YOU NEVER SAW MICHELE HIT Minor
23 DID YOU?

24 A. NO, SIR.

25 Q. DID YOU SEE A WINDOW BROKEN OUT IN THE MOBILE HOME?

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LISA KNIGHT - CROSS EXAMINATION BY MR. GAMBLE

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1 A. YES, SIR.

2 Q. AND WAS THAT WINDOW IN THE DEN AREA?

3 A. YES.

4 Q. AND WAS THE GLASS STILL OUT ON THE PORCH?

5 A. NOT THAT I RECALL.

6 Q. OKAY. AND WHAT TIME OF THE YEAR WAS THIS WHEN YOU WENT
7 BY THERE?

8 A. SCHOOL HAD ALREADY STARTED BACK. I CAN'T RECALL THE
9 EXACT DATE.

10 Q. SO IT WAS AFTER AUGUST? THE MIDDLE OF AUGUST OR
11 THEREABOUT?

12 A. IT COULD HAVE BEEN.

13 Q. HOW OFTEN DID YOU TALK TO MICHELE ON THE TELEPHONE?

14 A. OFF AND ON. NOT A WHOLE, WHOLE LOT. OFF AND ON.

15 Q. ONCE A MONTH? EVERY SIX WEEKS?

16 A. I'D SAY APPROXIMATELY.

17 Q. YOU INTRODUCED HER TO DEREK, DIDN'T YOU?

18 A. NO, SIR.

19 Q. IN A PARKING LOT?

20 A. NO, SIR.

21 Q. DID YOU KNOW DEREK BEFORE YOU KNEW MICHELE?

22 A. NO, SIR.

23 Q. OKAY. NOW, WHEN MICHELE CAME OVER TO VISIT WITH YOU

24 AND Minor STAYED OUT BY THE VAN IN THE DRIVEWAY AT THE

25 BASKETBALL GOAL ---

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LISA KNIGHT - CROSS EXAMINATION BY MR. GAMBLE

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1 A. YES, SIR.

2 Q. --- WAS THAT A SUNSHINE OR SHADY SPOT?

3 A. (NO RESPONSE)

4 Q. IT WAS YOUR HOUSE.

5 A. IN THE MORNING, I THINK IT'S MORE SHADY. IN THE

6 MORNING. AND IN THE AFTERNOON ...

7 Q. WAS THIS IN THE MORNING?

8 A. YES, SIR.

9 Q. WHAT TIME OF YEAR WAS IT?

10 A. IT WAS AROUND JUNE. IT WAS SUMMER. JUNE OR JULY.

11 Q. DID Minor HAVE ANY ACCIDENTS WHILE SHE WAS IN YOUR
12 HOUSE AFTER Y'ALL GOT HER AND BROUGHT HER IN?

13 A. SHE -- RIGHT WHEN SHE HAD COME IN, SHE STARTED TO PULL
14 HER PANTS DOWN.

15 Q. WHAT HAPPENED?

16 A. MICHELE JUMPED UP AND YELLED.

17 Q. DO YOU HAVE ANY CHILDREN OF YOUR OWN?

18 A. YES, SIR.

19 Q. YOU KNOW WHAT IT MEANS WHEN THEY START PULLING THEIR
20 PANTS DOWN, DON'T YOU?

21 A. YES, SIR.

22 Q. DID SHE CARRY Minor INTO THE BATHROOM?

23 A. NO, SIR.

24 Q. WHAT DID SHE DO?

25 A. SHE JUST YELLED AT HER AND TOLD ME -- SHE SAID, "SEE?"

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LISA KNIGHT - CROSS EXAMINATION BY MR. GAMBLE

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1 I TOLD YOU. I TOLD YOU."

2 Q. ALL RIGHT. WHAT DID YOU DO?

3 A. I TOLD Minor THAT IF SHE NEEDED TO POTTY OR POOP,
4 AND I TOLD HER WHERE THE BATHROOM WAS. I SHOWED HER WHERE
5 THE RESTROOM WAS.

6 Q. DID SHE GO?

7 A. NO, SIR. SHE SAT DOWN BESIDE ME.

8 Q. SHE SAT DOWN BESIDE YOU?

9 A. YES, SIR.

10 Q. OF COURSE, YOU PUT YOUR ARM AROUND HER?

11 A. NO, SIR.

12 Q. AND HOW LONG WAS MICHELE AT YOUR HOUSE AFTER THAT
13 HAPPENED? HOW LONG DID SHE STAY?

14 A. I'D SAY APPROXIMATELY AN HOUR, AN HOUR AND A HALF.

15 Q. AND Minor SAT BESIDE YOU THE WHOLE TIME?

16 A. YES, SIR.

17 Q. WHEN DID THEY ARRIVE?

18 A. I'D SAY APPROXIMATELY AROUND NINE THIRTY OR TEN.

19 Q. WHEN DID THEY LEAVE?

20 A. I JUST RECALL THAT SHE HAD TO LEAVE TO PICK UP HER SON
21 FROM SUMMER SCHOOL.

22 Q. SO IT WAS ABOUT ELEVEN THIRTY WHEN HE GOT OUT OF SUMMER
23 SCHOOL?

24 A. I DON'T RECALL.

25 Q. YOU DON'T KNOW?

1 A. (SHOOK HEAD SIDE TO SIDE IN THE NEGATIVE)

2 Q. SO SHE WAS THERE ABOUT TWO HOURS?

3 A. I DON'T KNOW THE EXACT TIMES. APPROXIMATELY.

4 Q. WHEN THEY FIRST GOT THERE, Minor WAS OUT IN THE
5 YARD FROM NINE THIRTY FOR WHAT? THIRTY MINUTES? FORTY-FIVE
6 MINUTES?

7 A. I'D SAY AROUND -- THAT'S JUST AN ESTIMATE. I'M NOT
8 SURE.

9 Q. THIRTY TO FORTY-FIVE MINUTES?

10 A. I DIDN'T EVEN KNOW Minor WAS OUT THERE WHEN THEY
11 COME.

12 Q. ALL RIGHT. I DON'T HAVE ANYTHING FURTHER.

13 THE COURT: ANY REDIRECT?

14 MS. WHITE: YES, SIR.

15 REDIRECT EXAMINATION BY MS. WHITE:

16 Q. DURING THE HOUR, HOUR AND A HALF, WHATEVER, AFTER SHE
17 CAME IN, YOU SAID SHE SAT BESIDE YOU?

18 A. YES, MA'AM.

19 Q. DID SHE MOVE?

20 A. SHE HAD PUT HER HAND ON MY LEG AND WAS RUBBING MY LEG
21 AND STARING AT ME AND SMILING.

22 Q. OTHER THAN TO TAKE HER LITTLE HAND AND RUB YOUR LEG AND
23 STARE AT YOU, DID SHE DO ANYTHING ELSE FOR THAT HOUR OR HOUR
24 AND A HALF?

25 A. NO, MA'AM.

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STEVEN PATRICK MOSS - DIRECT EXAMINATION BY MS. WHITE

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1 Q. DID SHE CAUSE ANY TROUBLE?

2 A. NO, MA'AM.

3 Q. DID SHE TALK BACK TO MICHELE CARTER?

4 A. NO, MA'AM.

5 Q. NO FURTHER QUESTIONS.

6 THE COURT: THANK YOU, MS. KNIGHT. YOU MAY STEP
7 DOWN.

8 MS. WHITE: THE STATE CALLS STEVE MOSS.

9 YOUR HONOR, MAY THE WITNESS BE EXCUSED?

10 MR. GAMBLE: NO OBJECTION.

11 THE COURT: WITHOUT OBJECTION.

12 STEVEN PATRICK MOSS,

13 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION BY MS. WHITE:

15 Q. MR. MOSS, WHERE DO YOU WORK?

16 A. PLASTIC OMNIUM.

17 Q. AND WHAT IS YOUR JOB THERE?

18 A. I AM THE HUMAN RESOURCES MANAGER FOR THE ANDERSON
19 PLANT.

20 Q. AND AS PART OF BEING THE HUMAN RESOURCES MANAGER, ARE
21 YOU IN CHARGE OF MAKING SURE THAT THE BUSINESS RECORDS ARE
22 KEPT APPROPRIATELY?

23 A. YES, MA'AM.

24 Q. AND DO YOU KEEP TIME SHEETS AND HOURS, AND THAT SORT OF
25 THING, IN THE REGULAR COURSE OF BUSINESS?

1 A. YES, MA'AM.

2 Q. AND DID AN INDIVIDUAL BY THE NAME OF DEREK CARTER WORK
3 AT YOUR PLANT?

4 A. YES, MA'AM.

5 Q. AND CAN YOU TELL THE JURY WHEN HE BEGAN WORKING THERE?

6 A. HE BEGAN AS A TEMPORARY. AND I'M NOT SURE OF THE EXACT
7 DATE. AS A PERMANENT EMPLOYEE, IT WAS OCTOBER OF 1999.

8 Q. AND ON AVERAGE, APPROXIMATELY HOW MANY -- LET'S START
9 FROM, SAY, SUMMER OF 2000 AND GO FORWARD.

10 A. OKAY.

11 Q. ON THE AVERAGE -- IT DOESN'T HAVE TO BE EXACT. BUT ON
12 AVERAGE, HOW MANY HOURS A WEEK WOULD HE WORK?

13 A. ON A WEEK WHEN WE HAD A FULL -- WITH NO HOLIDAYS DURING
14 THE WEEK, IT COULD AVERAGE ANYWHERE FROM -- FORTY IS A VERY
15 LOW NUMBER ACTUALLY. IT COULD BE AS HIGH AS UPWARDS OF
16 SIXTY OR SEVENTY HOURS A WEEK.

17 Q. OKAY. IF YOU'LL JUST START WITH THE WEEK AFTER THE 4TH
18 OF JULY -- DON'T GO TO THE HOLIDAY WEEK -- OF THE YEAR 2000,
19 AND JUST -- NOW, THESE ARE WEEKLY HOURS OR BIWEEKLY HOURS
20 THAT YOU'RE GOING TO GIVE US?

21 A. THESE ARE WEEKLY HOURS. I'M ACTUALLY LOOKING AT A
22 PAYCHECK STUBS HERE ---

23 Q. OKAY.

24 A. --- WHICH SHOWS THE ACTUAL NUMBER OF HOURS.

25 Q. ALL RIGHT. WHY DON'T YOU JUST RUN THROUGH SEVERAL

1 WEEKS AND JUST GIVE US AN IDEA OF HOW OFTEN OR HOW LONG HE
2 WORKED A WEEK?

3 A. OKAY. . BEGINNING THE WEEK OF JULY 2, 2000, FIFTY-NINE
4 HOURS. JULY 9TH -- THE WEEK ENDING DATE, JULY 9TH. THAT
5 WOULD INCLUDE THE HOLIDAY. EXCLUDING THE HOLIDAY HOURS,
6 THERE WAS ACTUALLY FIFTY HOURS WORKED. FIFTY-SIX HOURS.
7 FIFTY-NINE HOURS. SIXTY-SEVEN HOURS. FORTY-EIGHT HOURS.
8 FIFTY-SEVEN. SEVENTY HOURS. SEVENTY HOURS. FIFTY-SEVEN.
9 SIXTY-ONE. FORTY-SEVEN. SIXTY-THREE. FIFTY-TWO. FORTY-
10 FIVE. AND THE LAST WEEK WAS WEEK ENDING 10/22 OF 2000.

11 THERE ARE ACTUALLY NO WORKED TIME HOURS. WE PAID TWENTY-
12 FOUR HOURS OF BEREAVEMENT PAY.

13 Q. NOW, ON APRIL 14TH OF THE YEAR 2000, THE DAY Minor
14 WENT INTO ANDERSON HOSPITAL, DID DEREK CARTER WORK THAT DAY?

15 A. YES.

16 Q. AND WHAT WERE HIS HOURS THAT DAY?

17 A. HE CLOCKED IN AT TEN TWENTY-FIVE A.M. CLOCKED OUT AT
18 FIVE FIFTY-FIVE P.M.

19 Q. AND LET'S GO TO OCTOBER 14TH, THE DAY THAT SHE WENT TO
20 THE GREENVILLE HOSPITAL.

21 A. OCTOBER 14TH?

22 Q. YES, SIR.

23 A. CLOCKED IN AT SIX FORTY-NINE A.M. CLOCKED OUT AT
24 TWELVE THIRTY P.M.

25 Q. AND DOES IT HAVE IN THERE WHETHER HE CLOCKED OUT -- WE

1 HEARD SOME PRIOR TESTIMONY ABOUT PHONE CALLS. DOES IT SAY
2 IN THERE WHY HE CLOCKED OUT AT TWELVE SOMETHING?

3 A. IT DOES NOT HERE ON THE SHEET.

4 Q. HE WORKED THERE FROM WHAT TIME IN THE MORNING UNTIL
5 AFTERNOON?

6 A. HIS SHIFT WOULD HAVE BEGUN AT SEVEN O'CLOCK. HE
7 CLOCKED IN AT SIX FORTY-NINE.

8 Q. NO FURTHER QUESTIONS.

9 CROSS EXAMINATION BY MR. GAMBLE:

10 Q. IS THIS THE HONOR SYSTEM, CLOCK IN AND CLOCK OUT?

11 A. I'M SORRY?

12 Q. HONOR SYSTEM, CLOCK IN AND CLOCK OUT? YOU DON'T SEE
13 ANYBODY CHECK THEM AS THEY CLOCK IN AND CLOCK OUT?

14 A. YES, IT IS CHECKED. THE EMPLOYEE USES, ACTUALLY, A
15 CARD SIMILAR TO THIS. THEY SWIPE IT THROUGH A CLOCKING
16 DEVICE THAT RECORDS THE TIME THAT THEY CLOCKED IN OR OUT.
17 FURTHERMORE, A SUPERVISOR WILL CHECK DURING THE WEEK AND AT
18 THE END OF THE WEEK TO ASSURE THAT THE HOURS INDICATED ON
19 THE TIME TRANSACTION REPORT IS ACTUALLY WHAT THE EMPLOYEE
20 WORKED. I DON'T KNOW IF THAT ANSWERS YOUR QUESTION.

21 Q. WHAT IF I CLOCKED IN AND WANTED TO GO, SAY, RUN UP TO
22 WAL-MART AND DIDN'T CLOCK OUT?

23 A. AND DIDN'T CLOCK OUT?

24 Q. YEAH.

25 A. WELL, THE MANAGER WOULD KNOW THAT THE EMPLOYEE HAD LEFT

1 THE FACILITY BECAUSE THEY'RE IN CHARGE AND RESPONSIBLE FOR
2 THE STAFF ON SITE.

3 Q. CAN YOU GET IN WITHOUT USING THAT SLIDE CARD?

4 A. COULD THEY GET IN WITHOUT USING THE SLIDE CARD? YES,
5 THEY COULD.

6 Q. AND GET OUT WITHOUT USING IT, TOO?

7 A. YES.

8 Q. THANK YOU.

9 REDIRECT EXAMINATION BY MS. WHITE:

10 Q. AND THIS IS A MILL; IS THAT RIGHT?

11 A. I'M SORRY?

12 Q. THIS IS A MILL? A PLANT?

13 A. A MILL?

14 Q. THIS IS A PLANT? PLASTIC OMNIUM?

15 A. OH, YES, IT IS A PLANT.

16 Q. AND WHAT WAS DEREK CARTER'S JOB THERE?

17 A. HE WORKED ON PAINT PLANT ONE, AND HE WORKED BACK IN THE
18 PAINT PLANT. IT'S ACTUALLY DEEP INSIDE THE PLANT. IT'S AN
19 AREA THAT'S -- IT'S HARD TO DESCRIBE EXCEPT TO SAY THAT YOU
20 HAVE TO GO -- COME IN THROUGH THE EMPLOYEE ENTRANCE, WALK TO
21 THE BACK OF THE PLANT, AND THEN IN THE PAINT PLANT AREA.

22 AND HE ACTUALLY WOULD WORK IN AN AREA THAT WAS -- TYPICALLY
23 WOULD WORK IN AN AREA THAT WAS ACCESSIBLE ONLY TO AUTHORIZED
24 EMPLOYEES.

25 Q. AND DOES HIS SUPERVISOR WORK IN THAT LITTLE AREA IN

1 THERE WITH HIM?

2 A. NUMEROUS SUPERVISORS WORK IN THAT AREA.

3 Q. AND IS IT A PRODUCTION-TYPE JOB?

4 A. I DON'T BELIEVE HIS RESPONSIBILITIES WERE EXPLICITLY
5 PRODUCTION. THEY WERE IN A SUPPORT ROLE. BUT HE WOULD BE
6 -- SUPERVISORS WOULD BE IN CONSTANT CONTACT WITH HIM.

7 Q. THANK YOU. NO FURTHER QUESTIONS.

8 MR. GAMBLE: NO QUESTIONS.

9 THE COURT: ALL RIGHT. THANK YOU, MR. MOSS.

10 APPRECIATE IT, SIR.

11 MS. WHITE: MAY THE WITNESS BE EXCUSED, YOUR HONOR?

12 MR. GAMBLE: NO OBJECTION.

13 THE COURT: WITHOUT OBJECTION.

14 MS. WHITE: MAY WE APPROACH, YOUR HONOR?

15 THE COURT: YES, MA'AM.

16 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD,
17 IN THE PRESENCE OF THE JURY, BUT OUT OF THE HEARING OF THE
18 JURY BETWEEN THE COURT AND BOTH COUNSEL)

19 THE COURT: LADIES AND GENTLEMEN, THAT CONCLUDES THE
20 SLATE OF WITNESSES FOR THE MORNING SESSION. SO WE'LL GO
21 AHEAD AND BREAK AT THIS TIME FOR LUNCH. I'M GOING TO ASK
22 YOU TO BE BACK IN YOUR JURY ROOM AT TWO O'CLOCK. I HOPE
23 THAT GIVES YOU ENOUGH TIME TO TAKE CARE OF ANY MATTERS.
24 HOME, BANKING, WHATEVER. I WILL LET YOU KNOW THAT WE'LL
25 STOP TONIGHT ABOUT FIVE. I KNOW WE HAVE ISSUES WITH CHILD

1 CARE, CHURCH ACTIVITIES AND OTHER THINGS THAT YOU NEED TO
2 TEND TO. SO WE'LL STOP ABOUT FIVE O'CLOCK TODAY. WE'LL
3 COME BACK AT TWO, PUSH FOR ABOUT THREE HOURS, SEE HOW MUCH
4 MORE TESTIMONY WE RECEIVE TODAY, AND THEN WE'LL RESUME IN
5 THE MORNING.

6 DURING THE LUNCH BREAK, SAME ADMONITION I'VE GIVEN YOU
7 FROM THE VERY BEGINNING. DO NOT DISCUSS THE CASE AMONG
8 YOURSELVES OR WITH ANYONE ELSE. AND ALSO, VERY IMPORTANTLY,
9 NOT TO EXPOSE YOURSELF TO ANY MEDIA COVERAGE ABOUT THIS
10 CASE.

11 HOPE YOU HAVE A NICE, ENJOYABLE LUNCH HOUR. SEE YOU
12 BACK AT TWO O'CLOCK. THANK YOU.

13 (WHEREUPON THE JURY EXITED THE COURTROOM AT 12:35)

14 THE COURT: LADIES AND GENTLEMEN, WE'RE GOING TO
15 FOLLOW THE SAME PROCEDURE AS YESTERDAY. IF YOU'LL JUST BE
16 PATIENTLY WAITING FOR THE JURY TO EXIT THE COURTHOUSE,
17 YOU'LL BE NOTIFIED BY THE DEPUTY OR THE BAILIFF MOMENTARILY.
18 AT THAT POINT YOU'LL BE FREE TO LEAVE, AND WE'LL RESUME AT
19 TWO O'CLOCK.

20 AND IF I COULD SEE COUNSEL FOR JUST A MOMENT AT THE
21 BENCH.

22 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD,
23 OUT OF THE PRESENCE OF THE JURY BETWEEN THE COURT AND BOTH
24 COUNSEL)

25 (WHEREUPON COURT STOOD AT RECESS)

1 THE COURT: ALL RIGHT. THE JURY IS PRESENT. WE'LL
2 BRING THE JURY IN AND THEN RESUME WITH THE STATE'S CASE.

3 BRING THE JURY, PLEASE, DR. GRAHAM.

4 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 2:07 P.M.)

5 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN, WE'RE
6 READY TO PROCEED.

7 MADAM SOLICITOR, IF YOU WOULD CALL YOUR NEXT WITNESS,
8 PLEASE.

9 MS. WHITE: THE STATE CALLS MARGARET WILSON.

10 MARGARET JOHNSON WILSON,

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION BY MS. WHITE:

13 Q. MS. WILSON, WHAT'S YOUR OCCUPATION?

14 A. I'M A FIRST GRADE TEACHER AT NEW PROSPECT ELEMENTARY.

15 Q. AND DO YOU KNOW A CHILD BY THE NAME OF J.W. ?

16 A. YES. HE WAS IN MY CLASSROOM.

17 Q. WHAT'S HIS LAST NAME? [REDACTED] ?

18 A. J.W.

19 Q. AND ON OCTOBER 12TH OF THE YEAR 2000, DID YOU SEE
20 Minor [REDACTED] AND MICHELE CARTER?

21 A. YES, I DID.

22 Q. AND PLEASE TELL THE JURY WHY YOU SAW THEM AND WHERE YOU
23 SAW THEM.

24 A. WE WERE HAVING OUR REPORT CARD CONFERENCE THAT DAY.

25 AND MICHELE CAME IN WITH Minor [REDACTED] AND J.W. WAS IN

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1 SCHOOL THAT DAY, SO HE WAS IN THE CLASSROOM WITH A
2 SUBSTITUTE. AND SHE CAME IN FOR A ROUTINE REPORT CARD
3 CONFERENCE THAT DAY ABOUT TWO TWENTY.

4 Q. AND WHERE WAS THIS CONFERENCE?

5 A. WE HAD IT OUT IN THE HALL. SINCE WE HAD CHILDREN IN
6 THE CLASSROOM DURING THE DAY, WE HAD THE REPORT CARD
7 CONFERENCE OUT IN THE HALLWAY AROUND FROM MY CLASSROOM.

8 Q. AND THIS WAS OCTOBER 12TH, SO APPROXIMATELY TWO DAYS
9 BEFORE Minor WENT INTO THE HOSPITAL?

10 A. THAT'S CORRECT.

11 Q. WHAT, IF ANYTHING, DID MICHELE CARTER SAY ABOUT
12 Minor

13 A. WHEN SHE CAME IN, SHE WAS FRUSTRATED AND SAID SHE --
14 THAT Minor HAD JUST BEEN BAD THAT DAY. AND SHE HAD JUST
15 HAD IT. AND I TOLD HER THAT I PROMISED THAT THE REPORT CARD
16 CONFERENCE WOULDN'T TAKE LONG. I WOULD TRY TO HURRY. I
17 SAID, IT WON'T TAKE BUT ABOUT FIFTEEN MINUTES.

18 Q. AND SO WHAT HAPPENED WHEN YOU STARTED THE CONFERENCE?

19 A. WELL, SHE HAD ASKED Minor TO SIT DOWN ON THE FLOOR
20 NEAR WHERE WE WERE CONFERENCING. AND Minor SAT DOWN
21 WITH HER BACK AGAINST THE WALL AND HER LITTLE LEGS STICKING
22 OUT IN FRONT OF HER. AND MY STUDENT TEACHER WAS WITH ME AT
23 THE TIME, AND SHE WAS SITTING IN ON ALL THE REPORT CARD
24 CONFERENCES. AND WE HAD HAD A LITTLE CONTAINER OF BLOCKS
25 THAT WE WERE LETTING YOUNG SIBLINGS PLAY WITH WHEN THEY CAME

1 SO WE COULD CONFERENCE WITH THE PARENTS. AND MY STUDENT
2 TEACHER AT THE TIME WENT TO Minor TO SEE IF SHE WANTED
3 TO PLAY WITH THE BLOCKS. AND MICHELE SAID, "NO, NO, NO,
4 DON'T GIVE HER THAT. SHE'LL EAT THOSE." SO WE KIND OF
5 STEPPED BACK AND CONTINUED WITH THE CONFERENCE.

6 Q. SO WAS SHE ALLOWED TO HAVE ANY TOYS?

7 A. NO, NOT AT THAT TIME.

8 Q. AND HOW LONG DID THE CONFERENCE LAST?

9 A. FIFTEEN MINUTES. WE FINISHED AT TWO THIRTY-FIVE.

10 Q. DURING THE TIME THAT YOU HAD THE CONFERENCE, WHAT, IF
11 ANY, TROUBLE DID Minor CAUSE?

12 A. NONE. SHE DIDN'T SAY ANYTHING. SHE DIDN'T GET UP.
13 SHE DIDN'T -- SHE SAT STILL. QUIET. NOT A -- DIDN'T MAKE A
14 SOUND THE WHOLE FIFTEEN MINUTES.

15 Q. WHAT, IF ANYTHING, DID YOU NOTICE ABOUT HER APPEARANCE?

16 A. SHE LOOKED SICK. SHE HAD DARK CIRCLES UNDER HER EYES,
17 AND HER EYES APPEARED TO BE CROSSED. AND I DIDN'T SAY
18 ANYTHING ABOUT THAT, BUT MICHELE WENT ON TO TELL ME THAT SHE
19 HAD BEEN DIAGNOSED WITH LUPUS AND THAT SHE WAS GOING TO HAVE
20 TO START TAKING HER TO AUGUSTA ONCE A WEEK. I WAS TELLING
21 HER ABOUT AN INCENTIVE WE HAD GOING ON AT SCHOOL WITH
22 PERFECT ATTENDANCE. AND SHE TOLD ME THAT J.W. WOULD NOT
23 BE A PART OF THAT BECAUSE HE WOULD HAVE TO GET OUT OF SCHOOL
24 ONCE A WEEK FOR THOSE DOCTOR'S APPOINTMENTS FOR Minor
25 Q. AND DID YOU ATTRIBUTE THE APPEARANCE AND BEHAVIOR OF

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1 Minor TO HAVING THAT DISEASE?

2 A. I ASSUMED BECAUSE SHE WAS SICK THAT'S WHY, YOU KNOW,
3 SHE LOOKED LIKE THAT. AND I DIDN'T SAY ANYTHING.

4 Q. NOW, ON OCTOBER 18TH -- I GUESS THAT WOULD BE THE DAY
5 AFTER Minor DIED -- DID YOU CALL MICHELE CARTER?

6 A. I DID. J.W. WAS OUT OF SCHOOL MONDAY AND TUESDAY,
7 CAME BACK TO SCHOOL ON -- NO. HE WAS OUT MONDAY AND
8 TUESDAY. AND WE GOT A PHONE CALL WEDNESDAY FROM MICHELE
9 STATING THAT THE REASON J.W. HAD BEEN OUT THOSE TWO DAYS,
10 AND WOULD BE THE REST OF THE WEEK, WAS BECAUSE HE -- THEY
11 HAD HAD A DEATH IN THEIR FAMILY. AND SHE TOLD THE SECRETARY
12 THIS AT OUR SCHOOL. AND I HAPPENED TO BE IN THE OFFICE AT
13 THE TIME. SO I IMMEDIATELY CALLED HER BACK TO SEE, YOU
14 KNOW, WHAT HAD HAPPENED. AND THAT'S WHEN SHE TOLD ME THAT
15 Minor HAD DIED.

16 Q. AND WHAT DID SHE SAY HAPPENED?

17 A. SHE SAID -- WELL, SHE KIND OF WENT BACK TO -- BACK ON
18 THAT SATURDAY. SHE SAID THAT THEY HAD BEEN HAVING SOME CAR
19 TROUBLE WITH THEIR VAN AND THAT SHE -- HER HUSBAND WAS AT
20 WORK. AND SHE HAD CALLED HIM TO -- SHE SAID THE ONLY WAY
21 SHE COULD GET HIM OUT OF WORK WAS TO TELL HIM THAT THERE WAS
22 A SICKNESS IN THE FAMILY. A SICK CHILD OR SOMETHING. SO
23 SHE CALLED WORK AND TOLD THEM HE NEEDED TO COME HOME BECAUSE
24 THERE A CHILD -- HAD A SICK CHILD. SHE SAID THAT WAS THE
25 ONLY WAY SHE COULD GET HIM HOME SO HE COULD GO GET THE CAR

1 FIXED. SO SHE SAID WHEN HE CAME HOME THAT HE WAS GOING TO
2 GO TOWARD GREENVILLE TO HAVE THE VAN FIXED. AND Minor
3 -- SHE SAID Minor ASKED TO GO WITH HER DADDY. AND SO HE
4 TOOK HER WITH HIM.
5 AND SHE SAID ABOUT HALFWAY TO GREENVILLE, HE --
6 Minor STARTED MAKING A MOANING AND GROANING SOUND IN THE
7 BACK SEAT. AND SO HE ASKED HER IF SHE WAS OKAY, AND SHE
8 DIDN'T RESPOND. AND SO HE PULLED OVER AND GOT OUT AND
9 CHECKED ON HER. AND AT THAT TIME, HE SAID SHE WASN'T
10 RESPONDING TO ANYTHING. SO HE SHOOK HER, AND STILL NO
11 RESPONSE. SO HE TOOK HER ON TO THE HOSPITAL IN GREENVILLE
12 TO THE EMERGENCY ROOM. AND THAT WAS ON SATURDAY. SO ON
13 WEDNESDAY WHEN I TALKED TO MICHELE, SHE SAID THAT THEY WERE
14 DOING AN AUTOPSY THAT DAY TO FIND THE CAUSE OF DEATH.
15 Q. DID YOU TALK TO THE DEFENDANT AGAIN ON OCTOBER THE
16 23RD?
17 A. THAT WAS ON A MONDAY, I BELIEVE.
18 Q. I'M NOT SURE.
19 A. OKAY. WHEN J.W. WAS -- J.W. WAS OUT FOR A WHOLE
20 WEEK. WHEN HE CAME BACK TO SCHOOL ON MONDAY, THERE WAS A
21 NOTE FROM MICHELE ASKING FOR ME TO CALL HER. AND MY STUDENT
22 TEACHER HANDED IT TO ME AS SOON AS J.W. GOT IN. SO I
23 IMMEDIATELY WENT AND CALLED HER AND ASKED HER, YOU KNOW, IF
24 EVERYTHING WAS OKAY. AND SHE SAID SHE WOULD JUST -- DIDN'T
25 WANT ANYBODY TALKING TO J.W. DIDN'T WANT ANYONE ASKING

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1 HIM QUESTIONS. SHE SAID HE HAD FINALLY ACCEPTED HIS
2 SISTER'S DEATH AND THAT HE -- SHE THOUGHT THAT IF ANYBODY
3 TALKED TO HIM OR ASKED HIM QUESTIONS, THAT WOULD UPSET HIM
4 AGAIN. SHE SAID SHE DIDN'T FEEL LIKE HE NEEDED TO TALK
5 ABOUT THAT UNTIL HE WAS READY AND JUST WANTED TO MAKE SURE
6 NO ONE ASKED HIM QUESTIONS. AND I UNDERSTOOD. I DIDN'T
7 WANT TO UPSET HIM EITHER. HE WAS REAL QUIET WHEN HE CAME
8 BACK AND DIDN'T HAVE A WHOLE LOT TO SAY.

9 Q. SO THEN, WHO PROHIBITED YOU FROM TALKING TO THE OTHER
10 CHILD IN THE HOUSE, J.W. WHICH INDIVIDUAL IN A PHONE
11 CONVERSATION TOLD YOU NOT TO TALK TO HIM?

12 A. MICHELE CARTER.

13 Q. NO FURTHER QUESTIONS.

14 MR. GAMBLE: NO QUESTIONS.

15 THE COURT: THANK YOU, MA'AM. APPRECIATE YOUR BEING
16 HERE, MS. WILSON.

17 MS. WHITE: YOUR HONOR, MAY THE WITNESS BE EXCUSED?

18 MR. GAMBLE: NO OBJECTION.

19 THE COURT: WITHOUT OBJECTION. NEXT WITNESS.

20 MS. WHITE: THE STATE CALLS CYNTHIA SWANEY.

21 CYNTHIA SIMPSON SWANEY,

22 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION BY MS. WHITE:

24 Q. MA'AM, WHAT'S YOUR EDUCATIONAL BACKGROUND?

25 A. I'M A REGISTERED NURSE. FROM TRI-COUNTY TECH AN

25 Q. WHAT WERE THEY EATING?

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1 A. THEY WERE EATING A SUBWAY SANDWICH. AND MOM SAID,
2 "SHE'S MAD." AND I SAID, "WELL, WHY ARE WE MAD?" AND SHE
3 SAID, "BECAUSE SHE'S ..." -- I THINK I SAID -- I THINK MOM
4 SAID, "BECAUSE SHE'S HUNGRY, AND SHE WANTS A HAMBURGER."
5 AND I SAID, "WELL, WHY CAN'T SHE HAVE A HAMBURGER?" AND MOM
6 SAID SHE HAD GOTTEN SICK EARLY IN THE DAY. AND I SAID,
7 "WELL, IT'S BEEN A WHILE." AND I TOLD THEM THAT IF SHE
8 COULDN'T HAVE ANYTHING TO EAT, I DIDN'T THINK THAT THEY
9 SHOULD EAT IN FRONT OF HER. AND I THINK I PROCEEDED TO GO
10 GET HER SOME JELL-O. AND SHE ATE THE JELL-O.

11 Q. NOW, DID YOU TALK TO THE CARTERS ABOUT HOW THE INJURIES
12 OCCURRED?

13 A. I DID. I ASKED THEM, YOU KNOW, WHAT HAD HAPPENED TO
14 Minor WHAT HAD HAPPENED TO BRING HER HERE. AND THE
15 STORY THAT I GOT WAS THAT THEY WERE JUMPING OFF OF THE BUNK
16 BED ONTO A BEAN BAG CHAIR. HER AND THE BROTHERS. AND AT
17 ONE POINT, Minor MISSED THE BEAN BAG CHAIR AND HIT THE
18 FLOOR AND HAD CAUSED THE BRUISING TO HER HEAD.

19 Q. AND WHAT, IF ANY, INJURIES ON -- I THINK DR. WOODARD
20 HAS ALREADY TALKED ABOUT HER INTERNAL INJURIES. BUT WHAT,
21 IF ANY, EXTERNAL INJURIES DID SHE HAVE?

22 A. AT THIS POINT, SHE HAD A HEMATOMA ON HER FOREHEAD.

23 Q. WHAT'S A HEMATOMA?

24 A. IT'S JUST A BRUISING AND SWELLING OF THE OUTSIDE OF THE
25 SKIN. AND IT WAS -- I DON'T ACTUALLY REMEMBER HOW BIG IT

1 WAS. BUT I REMEMBER THERE BEING A HEMATOMA THERE.

2 Q. DID YOU NOTICE ANYTHING ELSE?

3 A. I BELIEVE I HAD CHARTED THAT SHE HAD BRUISES ON HER
4 ARMS AND HER LEGS. JUST SOME ECCHYMOSIS ALONG WITH THAT.
5 THAT'S BRUISING.

6 Q. AND DID YOU NOTICE ANYTHING ABOUT HER EYES?

7 A. THE RIGHT EYE DEVIATED INWARD. AND AT THAT POINT, I
8 THINK WE MUST HAVE THOUGHT IT CAME FROM THE HEMATOMA.

9 Q. NOW, MS. SWANEY, YOU SAID YOU WORKED ON PEDIATRICS?

10 A. YES.

11 Q. WHEN SOMEBODY FALLS DOWN AND HITS, LET'S SAY, THEIR
12 HEAD ON THE GROUND, DO THEY BOUNCE?

13 A. NO. I MEAN ---

14 Q. SO HAVE YOU EVER SEEN A CHILD FALL AND HIT THEIR HEAD
15 AND THEN BOUNCE AND HIT A LEG AND THEN BOUNCE AND HIT AN
16 ARM, TO DIFFERENT BODY PARTS IN ONE FALL?

17 A. NO.

18 Q. THESE WERE TO DIFFERENT AREAS OF THE BODY, THE INJURIES
19 THAT YOU NOTED?

20 A. YES.

21 Q. NO FURTHER QUESTIONS.

22 CROSS EXAMINATION BY MR. GAMBLE:

23 Q. THE INJURY TO THE FRONT OF THE FOREHEAD, CAN YOU --
24 YOU'VE BEEN NURSING HOW LONG?

25 A. FOR TWENTY YEARS.

- 1 Q. FOR TWENTY YEARS? WOULD WHAT THEY TOLD YOU BE
2 CONSISTENT WITH THAT TYPE INJURY? WOULD THAT TYPE FALL,
3 WOULD THAT BE CONSISTENT WITH THAT TYPE INJURY?
4 A. YES, SIR, IT COULD BE.
5 Q. IT COULD BE?
6 A. UH-HUH.
7 Q. AND HAVE YOU SEEN INJURIES LIKE THAT BEFORE ON CHILDREN
8 OF THIS AGE?
9 A. NOT THAT PARTICULAR INJURY, I HAVE NOT.
10 Q. I MEAN A HEMATOMA ON THE FOREHEAD?
11 A. I HAVE SEEN A HEMATOMA ON THE FOREHEAD.
12 Q. FROM A FALL?
13 A. FROM A FALL.
14 Q. AND DO YOU KNOW THE HEIGHT OF THE FALL OR ANYTHING LIKE
15 THAT?
16 A. NO, I DON'T.
17 Q. I BELIEVE YOU WERE TOLD THAT IT WAS A BUNK BED THAT SHE
18 FELL FROM?
19 A. RIGHT. JUMPED FROM.
20 Q. JUMPED FROM. ALL RIGHT. DID YOU NOTE -- WHEN YOU WERE
21 DOING THE EVALUATION, WHAT WAS THE FATHER OF THE CHILD
22 DOING?
23 A. I BELIEVE HE WAS JUST SITTING THERE.
24 Q. ALL RIGHT. WERE YOU WORKING WITH DR. AARON SHEETS ---
25 A. YES, SIR.

1 Q. --- AT THAT TIME? AND WERE YOU IN THE ROOM WHEN DR.
2 SHEETS WAS DOING AN EVALUATION?

3 A. I DO NOT REMEMBER. I DO NOT THINK I WAS THERE WHEN DR.
4 SHEETS -- HE MIGHT HAVE ADMITTED, BUT I MAY NOT HAVE BEEN
5 THERE WHEN HE ACTUALLY DID HIS EXAM.

6 Q. AND HOW LONG WAS Minor IN THE HOSPITAL? DO YOU
7 KNOW?

8 A. SHE WAS ADMITTED ON THE 14TH, AND I BELIEVE SHE WAS
9 DISCHARGED ON THE 17TH.

10 Q. OF?

11 A. OF APRIL.

12 Q. APRIL?

13 A. UH-HUH.

14 Q. AND DID YOU NOTE WHETHER OR NOT SHE WAS WEARING A
15 DIAPER OR NOT? OR A PULL-UP?

16 A. I BELIEVE THAT Minor WORE PULL-UPS AT NIGHT. BUT
17 DURING THE DAY, I WANT TO SAY, SINCE SHE HAD -- SHE WORE
18 UNDERPANTS, WHICH IS COMMON AND WHAT WE SEE. YOU KNOW, LIKE
19 UNDERWEAR. I THINK THAT -- WE SEE THAT A GOOD BIT.

20 Q. PULL-UPS AT NIGHT ---

21 A. RIGHT.

22 Q. --- UNDERWEAR DURING THE DAY? DID YOU NOTICE ANY HAIR
23 MISSING FROM HER SCALP?

24 A. I DID NOT LOOK AT HER SCALP. BUT SHE DID HAVE REAL
25 FINE, THIN HAIR.

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TAMELA ROACH TYRE - DIRECT EXAMINATION BY MS. WHITE

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1 Q. LIKE WHAT WE CALL BABY HAIR?

2 A. I WOULD SAY THAT SHE HAD REAL FINE, THIN BABY HAIR.

3 Q. OKAY. ALL RIGHT.

4 THE COURT: ANY REDIRECT?

5 MS. WHITE: NO, SIR. MAY THE WITNESS BE EXCUSED?

6 MR. GAMBLE: NO OBJECTION.

7 THE COURT: THANK YOU, MS. SWANEY.

8 NEXT WITNESS.

9 MS. WHITE: THE STATE CALLS TAMELA TYRE.

10 **TAMELA ROACH TYRE,**

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION BY MS. WHITE:

13 Q. MS. TYRE, WHAT'S YOUR OCCUPATION?

14 A. I'M A REGISTERED NURSE.

15 Q. AND WHAT'S YOUR EDUCATIONAL BACKGROUND?

16 A. I HAVE AN ASSOCIATE'S DEGREE IN NURSING.

17 Q. AND HOW LONG HAVE YOU WORKED AS A NURSE?

18 A. SINCE NOVEMBER OF -- NO. I'M SORRY. SINCE MAY OF '97.

19 Q. AND WERE YOU WORKING AT THE HOSPITAL IN APRIL OF 2000?

20 A. YES, I WAS.

21 Q. AND DID YOU SEE Minor ?

22 A. I DID.

23 Q. WHAT, IF ANY, INJURIES DID -- WHAT DAY DID YOU SEE

24 Minor

25 A. I HAD Minor ON APRIL THE 16TH.

1 Q. AND WHAT, IF ANY, INJURIES DID YOU NOTICE ON Minor
2 AND DOCUMENTED IN YOUR CHART?

3 A. SHE HAD A HEMATOMA TO THE RIGHT FOREHEAD. HER RIGHT
4 EYE WAS FACING INWARD TOWARD HER NOSE. SHE ALSO HAD SOME
5 BRUISING TO HER FACE, ARMS. I BELIEVE SHE HAD SOME ON HER
6 LEGS.

7 Q. AND WHAT, IF ANYTHING, DID YOU NOTICE ABOUT HER
8 ABDOMEN?

9 A. HER ABDOMEN, TO ME, WAS WHAT I CALL SWOLLEN.
10 DISTENDED. IT WAS TIGHT.

11 Q. AND IN A CHILD THAT'S DEPRIVED OF FOOD, NUTRITIONALLY
12 DEPRIVED, WHAT IS ONE OF THE SIGNS OF THAT?

13 A. YOU WOULD HAVE A TIGHT SWOLLEN ABDOMEN.

14 Q. AT SOME POINT WHILE YOU WERE TREATING Minor DID
15 YOU GO INTO Minor ROOM AND ASKED HER WHAT HAPPENED?

16 A. I DID.

17 Q. AND BEFORE Minor COULD ANSWER, WHO JUMPED IN?

18 A. MS. CARTER.

19 Q. AND DID SHE ALLOW Minor TO SPEAK?

20 A. NO. Minor NEVER SAID ANYTHING.

21 Q. AND WHEN YOU ASKED Minor WHAT HAD HAPPENED, WHAT
22 DID MS. CARTER JUMP IN AND SAY?

23 A. SHE GAVE ME A SEQUENCE OF EVENTS OF Minor AND THE
24 TWO OLDER BROTHERS WERE PLAYING IN THE BEDROOM. THEY WERE
25 JUMPING FROM ONE THING TO ANOTHER. SHE HEARD A COMMOTION,

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TAMELA ROACH TYRE - DIRECT EXAMINATION BY MS. WHITE

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1 SO SHE WENT IN AND TOLD THEM TO STOP AND REMOVED WHATEVER IT
2 WAS THEY WERE JUMPING FROM. SHE WENT BACK TO WHEREVER IT
3 WAS SHE WAS IN THE HOUSE. SHE HEARD ANOTHER COMMOTION, WENT
4 BACK IN THE ROOM, AND THEY WERE JUMPING FROM SOMETHING ELSE.
5 SHE SAID SHE REMOVED THAT AND WENT BACK TO WHEREVER SHE WAS.
6 AND THEN SHE HEARD A NOISE. AND I THINK SHE SAID ONE OF THE
7 BOYS CAME OUT AND SAID Minor WAS CRYING, BUT I'M NOT
8 SURE. SHE WENT IN AND THEY SAID -- SHE SAID THAT Minor
9 HAD JUMPED FROM THE BUNK BED AND HAD HIT HER HEAD ON THE
10 FLOOR.

11 Q. NOW, DID YOU FIND ANYTHING UNUSUAL ABOUT THIS
12 EXPLANATION?

13 A. WELL, BEING A MOTHER, I WOULD THINK, YOU KNOW, IF IT
14 WAS MY CHILD AND I HAD WENT IN AND THEY WERE DOING THIS KIND
15 OF BEHAVIOR, I WOULD HAVE REMOVED THE SMALLER CHILD FROM THE
16 ROOM OR ALL THE CHILDREN FROM THE ROOM.

17 Q. AFTER SEEING MICHELE CARTER AND DEREK CARTER WITH
18 Minor AND LOOKING AT Minor INJURIES AND SO FORTH,
19 DID YOU NOTIFY ANYBODY AT THE HOSPITAL?

20 A. I TALKED WITH OUR SOCIAL WORKER ABOUT IT.

21 Q. NO FURTHER QUESTIONS.

22 MR. GAMBLE: I DON'T HAVE ANY QUESTIONS.

23 THE COURT: THANK YOU, MA'AM. APPRECIATE YOUR BEING
24 HERE, MS. TYRE.

25 WITHOUT OBJECTION THE WITNESS WILL BE EXCUSED.

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DEBORAH JONES ROBINSON - DIRECT EXAMINATION BY MS. WHITE

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1 MR. GAMBLE: NO OBJECTION.

2 MS. WHITE: NO, SIR.

3 THE COURT: NEXT WITNESS.

4 MS. WHITE: THE STATE CALLS DEBBIE ROBINSON.

5 DEBORAH JONES ROBINSON,

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION BY MS. WHITE:

8 Q. MS. ROBINSON, WHAT'S YOUR OCCUPATION?

9 A. I'M A SOCIAL WORKER AT ANDERSON AREA MEDICAL.

10 Q. AND WERE YOU WORKING ON APRIL 17TH OF THE YEAR 2000?

11 A. I WAS.

12 Q. WHERE WERE YOU WORKING?

13 A. I WAS WORKING ON THE PEDIATRIC FLOOR.

14 Q. AND DID YOU SEE MICHELE CARTER?

15 A. YES, I DID.

16 Q. WHY DID YOU SEE HER?

17 A. I DIDN'T SEE HER THEN. I SAW HER ON THE 17TH.

18 Q. WHY DID YOU SEE HER?

19 A. DR. ROBINSON REQUESTED THAT I SEE THAT FAMILY.

20 Q. AND DID YOU TALK TO MICHELE CARTER TO TRY TO FIND OUT
21 WHAT HAD HAPPENED?

22 A. I DID. I WENT IN THE ROOM. MR. AND MS. CARTER WERE IN
23 THERE. MS. CARTER IS THE ONE WHO ANSWERED MY QUESTIONS. I
24 ASKED HER WHAT HAPPENED. SHE SAID THAT Minor AND HER
25 BROTHERS WERE IN THE BEDROOM JUMPING OFF THE BUNK BED. SHE

1 SAID SHE WASN'T SURE WHAT HAPPENED EXACTLY, THAT Minor
2 EITHER HIT HER HEAD ON THE FLOOR OR BUMPED HEADS WITH HER
3 BROTHER.

4 Q. DID SHE SAY ANYTHING ABOUT WHAT SHE WOULD DO REGARDING
5 THE BUNK BEDS?

6 A. YES. SHE TOLD ME THAT SHE INTENDED TO TAKE THE BUNK
7 BEDS DOWN SO THAT NOTHING LIKE THAT COULD HAPPEN AGAIN.

8 Q. I'M HANDING YOU A PHOTOGRAPH MARKED STATE'S EXHIBIT 28,
9 TAKEN ON OCTOBER 25TH OF 2000. WOULD THAT HAVE BEEN AFTER
10 YOU TALKED TO HER?

11 A. YES, IT WAS.

12 Q. AND WHAT DOES THAT SHOW?

13 A. THE BUNK BEDS ARE STILL UP.

14 Q. AFTER TALKING TO THE CARTERS AND THE DOCTORS INVOLVED
15 IN THE CASE AND THE NURSES INVOLVED IN THE CASE, DID YOU
16 CALL AN OUTSIDE AGENCY?

17 A. I DID. I CALLED THE DEPARTMENT OF SOCIAL SERVICES THE
18 FOLLOWING DAY BECAUSE THEY HAD ALREADY CLOSED FOR THE
19 EVENING AND MADE A CHILD ---

20 Q. NO FURTHER QUESTIONS.

21 A. --- CHILD PROTECTIVE SERVICE REFERRAL.

22 Q. THANK YOU.

23 CROSS EXAMINATION BY MR. GAMBLE:

24 Q. WHEN DID YOU CALL THE DEPARTMENT OF SOCIAL SERVICES?

25 A. I CALLED THEM ON APRIL 18TH.

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D.W. - DIRECT EXAMINATION BY MS. WHITE

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1 Q. I NOTED YOU SAID THE BUNK BEDS WERE STILL UP. YOU
2 DON'T KNOW FROM APRIL UNTIL OCTOBER IF THEY WERE DOWN OR UP,
3 DO YOU?

4 A. NO, I DON'T.

5 Q. ALL RIGHT. THANK YOU, MA'AM.

6 THE COURT: ANY REDIRECT?

7 MS. WHITE: NO, SIR. MAY SHE BE EXCUSED?

8 MR. GAMBLE: NO OBJECTION.

9 THE COURT: WITHOUT OBJECTION. THANK YOU, MA'AM.

10 APPRECIATE YOUR BEING HERE.

11 NEXT WITNESS.

12 MS. WHITE: THE STATE CALLS D.W.

13 D.W. , [REDACTED]

14 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION BY MS. WHITE:

16 Q. IT'S KIND OF SCARY UP THERE, ISN'T IT?

17 A. YES, MA'AM.

18 Q.D.W. I WANT YOU TO TALK ALL THE WAY BACK TO THIS WALL
19 AS LOUD AS YOU CAN; OKAY?

20 A. OKAY.

21 Q. NOW, FIRST, LET'S SPIT OUT WHATEVER YOU'VE GOT IN YOUR
22 MOUTH; OKAY?

23 (LAUGHTER)

24 Q. THANK YOU.

25 A. YOUR WELCOME.

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1 Q. OKAY. D.W. TELL THESE PEOPLE OVER HERE WHAT'S YOUR
2 NAME?

3 A. D.W.

4 Q. AND HOW OLD ARE YOU?

5 A. I'M ABOUT TO TURN THIRTEEN.

6 Q. WHAT SCHOOL DO YOU GO TO?

7 A. LAKESIDE.

8 Q. WHAT GRADE WILL YOU BE IN?

9 A. THE EIGHTH.

10 Q. AND DO YOU KNOW AN INDIVIDUAL BY THE NAME OF MICHELE
11 CARTER?

12 A. YES, MA'AM. SHE'S MY MOM.

13 Q. AND DO YOU KNOW AN INDIVIDUAL BY THE NAME OF DEREK
14 CARTER?

15 A. YES, MA'AM. HE WAS MY STEP-DAD.

16 Q. NOW, DO YOU HAVE ANY BROTHERS?

17 A. YES, MA'AM. I'VE GOT ONE THAT'S SEVEN. HIS NAME IS

18 J.W. . AND THEN I HAVE ANOTHER BROTHER NAMED

19 J.C. . AND HE'S ONE.

20 Q. AND WHO IS YOUR FATHER?

21 A. MY FATHER IS ANDREW JOHN WHITTAKER, JR.

22 Q. DO ANY OF YOUR BROTHERS ---

23 A. I MEAN, ANDREW JOHN WHITTAKER. SORRY.

24 Q. OKAY. AND DO YOU HAVE -- WHO'S THE FATHER OF J.C.

25 A. DEREK CARTER.

- 1 Q. AND DID YOU HAVE ANY SISTERS OR STEPSISTERS?
- 2 A. YES, MA'AM. I HAD ONE STEPSISTER. HER NAME WAS
- 3 Minor
- 4 Q. WHEN -- LET'S GO OVER TO, I THINK IT'S, [REDACTED] OR
- 5 WILDWOOD; IS THAT RIGHT? WHAT'S THE NAME OF THE STREET
- 6 Y'ALL LIVED ON?
- 7 A. [REDACTED] [REDACTED].
- 8 Q. [REDACTED] AND THAT'S IN ANDERSON COUNTY; IS THAT
- 9 RIGHT?
- 10 A. YES, MA'AM.
- 11 Q. WHEN YOU LIVED OVER AT [REDACTED] TELL ME WHO ALL LIVED
- 12 IN THAT HOUSE.
- 13 A. IT WAS ME, MICHELE, DEREK, Minor AND J.C.
- 14 Q. NOW, DREW, WHEN Y'ALL LIVED THERE, HOW DID MICHELE
- 15 CARTER TREAT Minor
- 16 A. VERY BADLY.
- 17 Q. YOU SAID THAT SHE TREATED HER VERY BADLY. LET'S JUST
- 18 KIND OF WORK OUR WAY THROUGH SOME THINGS. FIRST OF ALL,
- 19 WHAT COLOR WAS Minor HAIR?
- 20 A. IT WAS RED.
- 21 Q. AND DO YOU REMEMBER WHETHER YOUR MOM CHANGED THAT
- 22 COLOR?
- 23 A. YES, MA'AM. SHE DIED IT BROWN.
- 24 Q. DID YOUR MOM SAY WHY?
- 25 A. NO, MA'AM.

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- 1 Q. WHEN YOU WERE AT THE HOUSE, WHERE DID YOU ALL EAT
2 MEALS?
3 A. WE ATE AT THE KITCHEN TABLE.
4 Q. WHO ALL ATE AT THE KITCHEN TABLE?
5 A. DEREK, MICHELE, ME AND J.W.
6 Q. AND WHERE DID Minor EAT?
7 A. SHE ATE OFF ON THE SIDE.
8 Q. NOW, WHEN SHE ATE OFF BY THE SIDE, DID SHE SIT DOWN OR
9 STAND UP OR WHAT?
10 A. SHE STOOD UP.
11 Q. AND WHY DID SHE STAND UP OFF TO THE SIDE?
12 A. I DON'T KNOW.
13 Q. DID SHE WANT TO?
14 A. IT'S JUST SOMETHING MICHELE MADE HER DO.
15 Q. AND WHEN SHE WOULD STAND OFF TO THE SIDE, HOW DID SHE
16 EAT? WHERE WOULD HER PLATE BE?
17 A. IT WOULD BE ON THE STOOL.
18 Q. AND WHEN SHE WOULD EAT A BITE OF FOOD, WHAT WOULD
19 HAPPEN?
20 A. MICHELE -- MICHELE WOULD MAKE -- MICHELE WOULD COUNT
21 ONE, TWO, THREE, FOUR, FIVE, LIKE THAT. AND IF SHE DIDN'T
22 HAVE IT SWALLOWED, SHE'D GET POPPED.
23 Q. OKAY. NOW, WHEN YOU SAID SHE WOULD GET POPPED, WHAT
24 PART OF HER BODY DID SHE GET POPPED ON?
25 A. ANYWHERE MICHELE FELT LIKE POPPING HER.

1 Q. WELL, DID YOU EVER SEE IT ON HER HEAD?

2 A. YES, MA'AM.

3 Q. DID YOU EVER SEE IT ON HER BACK?

4 A. YES, MA'AM.

5 Q. HOW ABOUT HER FRONT?

6 A. YES, MA'AM.

7 Q. HOW HARD WOULD SHE POP HER?

8 A. VERY HARD.

9 Q. WHAT WOULD Minor BODY DO WHEN SHE WOULD POP HER?

10 A. IT WOULD EITHER GO FORWARD OR GO BACK LIKE THAT.

11 Q. WHAT WOULD SHE POP HER WITH?

12 A. A BELT, HER HAND OR A WOODEN SPOON OR THE BELT BUCKLE.

13 Q. OKAY. YOU SAID OR A BELT BUCKLE. WHAT DO YOU MEAN BY
14 THAT?

15 A. SHE'D JUST TAKE THE BELT BUCKLE AND HOLD IT LIKE RIGHT
16 THERE AT THE EDGE AND JUST HIT HER LIKE THAT.

17 Q. NOW, WHAT WOULD Minor EAT WHEN SHE WOULD STAND TO
18 THE SIDE OF THE TABLE?

19 A. SHE WOULD EAT LEFTOVERS AND -- I DON'T KNOW EXACTLY
20 WHAT IT WAS, BUT IT CAME IN A CAN. AND IT SMELLED LIKE CAT
21 FOOD, BUT IT WASN'T CAT FOOD.

22 Q. WHEN SHE WOULD EAT BREAKFAST, YOU SAID SHE WOULD EAT
23 LEFTOVERS?

24 A. YES, MA'AM.

25 Q. WHAT WOULD YOU ALL HAVE FOR BREAKFAST?

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1 A. CEREAL, POP TARTS. JUST THE NORMAL STUFF.

2 Q. AND WHAT KIND OF LEFTOVERS WOULD Minor HAVE FOR
3 BREAKFAST?

4 A. WHATEVER WE HAD LAST NIGHT THAT MICHELE THOUGHT THAT
5 SHE COULD EAT.

6 Q. WHEN WOULD Minor BE ALLOWED TO EAT?

7 A. JUST WHENEVER MICHELE WANTED HER TO EAT.

8 Q. WOULD SHE EAT -- YOU SAID SHE WOULD STAND THERE WITH
9 HER PLATE ON THE STOOL AND EAT. WOULD SHE EAT AT THE SAME
10 TIME THAT YOU ALL WERE SITTING AT THE TABLE, OR WOULD SHE
11 EAT ---

12 A. NO, MA'AM. SHE'D EAT AT A DIFFERENT TIME LIKE EITHER
13 RIGHT AFTER WE GOT DONE OR LIKE A FEW MINUTES OR HOURS
14 AFTERWARD.

15 Q. SO WAS SHE ALLOWED TO EAT AT THE SAME TIME THAT THE
16 FAMILY ATE?

17 A. NO, MA'AM.

18 Q. NOW, WHEN YOU ALL ATE OUT, YOUR FAMILY ATE OUT, WHAT
19 WOULD Minor DO WHEN YOU ALL ATE?

20 A. SHE WOULD STAND BY THE SIDE OF THE TABLE AND NOT EAT.

21 Q. WHEN YOU ALL WERE IN RESTAURANTS AND YOU ALL WOULD BE
22 EATING, WOULD SHE BE ALLOWED TO EAT OR DRINK NORMALLY?

23 A. NO, MA'AM.

24 Q. LET'S TAKE SINCE J.C. WAS BORN AND WORK OUR WAY
25 FORWARD. FROM THAT TIME FORWARD, WHERE DID Minor SPEND,

1 SAY, NINETY PERCENT OF HER TIME?

2 A. SHE WOULD SPEND IT IN THE BACK BEDROOM -- WELL,
3 BATHROOM WHERE YOU COULD WALK IN IT TWO DIFFERENT PLACES,
4 FROM J.C. ROOM AND FROM MICHELE'S AND DEREK'S BEDROOM.

5 Q. AND WHEN SHE WOULD BE IN THAT ROOM, WHAT WOULD KEEP HER
6 IN THERE?

7 A. DEREK BOUGHT SOME KIND OF LOCKS OR SOMETHING, AND HE
8 WOULD LOCK IT OR MICHELE WOULD LOCK IT. AND SHE WOULD STAY
9 IN THERE, AND SHE COULD NOT GET OUT.

10 Q. WHEN PEOPLE WOULD COME OVER, LET'S SAY GRANDPARENTS, TO
11 BRING A BIRTHDAY PRESENT OR SOMETHING LIKE THAT, WHERE WAS

12 Minor

13 A. SHE WAS IN THE BACK BATHROOM.

14 Q. WHEN SHE WASN'T IN THE BATHROOM -- WELL, LET ME SHOW
15 YOU SOMETHING. I'M SHOWING YOU STATE'S EXHIBIT 11. DO YOU
16 RECOGNIZE THAT?

17 A. YES, MA'AM. IT'S HER HARNESS.

18 Q. HER HARNESS?

19 A. YES, MA'AM.

20 Q. DID YOU HAVE A HARNESS?

21 A. NO, MA'AM.

22 Q. DID J.W. HAVE A HARNESS?

23 A. NO, MA'AM.

24 Q. HOW ABOUT J.C. DID HE HAVE A HARNESS?

25 A. NO, MA'AM.

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- 1 Q. WHOSE HARNESS WAS THAT?
- 2 A. THAT WAS Minor
- 3 Q. AND WHEN SHE WOULD WEAR THE HARNESS, WHERE WOULD SHE BE
- 4 HARNESSED TO?
- 5 A. SHE WAS HARNESSED TO THE FRONT DOOR HANDLE, TO THE
- 6 BATHROOM DOOR HANDLE. AND ONCE SHE WAS OUTSIDE ON A TREE.
- 7 Q. DO YOU REMEMBER YOUR MOTHER EVER TELLING PEOPLE AND
- 8 TELLING YOU THAT Minor WAS AT BOOT CAMP IN COLUMBIA?
- 9 A. YES, MA'AM.
- 10 Q. WERE YOU EVER ALONE IN THE HOUSE DURING THAT TIME?
- 11 A. YES, MA'AM.
- 12 Q. AND DID YOU DISCOVER WHERE Minor REALLY WAS?
- 13 A. YES, MA'AM. SHE WAS IN THE BACK BATHROOM. AND HOW I
- 14 DISCOVERED THAT WAS J.C. WAS CRYING, AND I WENT BACK THERE
- 15 TO SEE WHAT WAS WRONG. AND I HEARD A NOISE IN THE BATHROOM.
- 16 AND I KNEW IT COULDN'T HAVE BEEN Minor BECAUSE I THOUGHT
- 17 SHE WAS GONE. THEN I OPENED THE DOOR, AND SHE WAS THERE
- 18 SITTING DOWN WITH HER LEGS STRAIGHT OUT ON THE FLOOR.
- 19 Q. OKAY. CAN YOU STAND UP? I JUST WANT YOU TO KIND OF
- 20 SHOW ME.
- 21 (WHEREUPON WITNESS STEPPED DOWN FROM THE WITNESS STAND)
- 22 Q. SO SHE WAS ON THE FLOOR? WAS SHE FACING THE SINK, OR
- 23 WAS SHE FACING THE TOILET?
- 24 A. SHE WAS FACING THE OTHER DOOR.
- 25 Q. WILL YOU TELL THE JURY HOW SHE WAS SEATED IN THE

1 BATHROOM?

2 A. HERE'S ONE DOOR. AND SHE WAS JUST SITTING DOWN LIKE
3 THAT AND JUST STARING AT THE OTHER DOOR.

4 Q. OKAY. GO AHEAD AND SIT BACK UP THERE, PLEASE.

5 (WHEREUPON WITNESS STEPPED BACK UP TO THE WITNESS
6 STAND)

7 Q. WHAT WOULD SHE WEAR WHEN SHE WOULD EITHER BE HARNESSSED
8 TO THE DOORS OR HARNESSSED IN THE BATHROOM?

9 A. SHE WOULD JUST BE WEARING A PULL-UP.

10 Q. WOULD SHE HAVE A BLANKET OR A SLEEPING BAG OR A PILLOW
11 OR SOMETHING LIKE THAT?

12 A. WHEN I WENT IN THERE TO CHECK ON HER THAT TIME THAT I
13 THOUGHT SHE WAS AT BOOT CAMP, SHE HAD LIKE A LITTLE PUPPY
14 PEE PAD ON THE FLOOR. AND THAT'S WHAT SHE WAS SITTING ON.

15 Q. HOW ABOUT THE OTHER TIMES WHEN SHE WOULD BE ATTACHED TO
16 DOORS AND THAT SORT OF THING?

17 A. SHE WOULD JUST WEAR A PULL-UP, AND SHE WOULD BE SITTING
18 ON THE FLOOR.

19 Q. NOW, WHEN Minor SOILED HER PULL-UPS, GOING TO THE
20 BATHROOM IN THEM, HOW LONG WOULD SHE HAVE TO WEAR HER PULL-
21 UP?

22 A. I'D SAY ABOUT A WEEK OR SO.

23 Q. AND WHEN SHE WOULD GO OUTSIDE WITH A SOILED PULL-UP ON,
24 WOULD YOU SEE ANYTHING FLYING AROUND HER?

25 A. FLIES AND -- YES, IT WAS FLIES.

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1 Q. BEFORE YOUR PARENTS WOULD LET HER IN WHEN SHE WOULD BE
2 OUTSIDE WITH THESE SOILED PULL-UPS, HOW WOULD THEY CLEAN HER
3 OFF?

4 A. THEY WOULD TAKE THE HOSEPIPE, AND THEY'D MAKE HER TAKE
5 OFF THE PULL-UP, STAND ON THE PORCH AND THEY'D SPRAY HER
6 OFF.

7 Q. AND WAS THE WEATHER EVER VERY COLD WHEN THIS OCCURRED?

8 A. YES, MA'AM.

9 Q. NOW, I'M GOING TO ASK YOU ABOUT THE INJURIES THAT WE
10 FOUND ON YOUR SISTER. AND I WANT YOU TO TELL ME WHAT YOU
11 REMEMBER HAPPENING. FIRST OF ALL, DID YOU NOTICE WHAT
12 HAPPENED FOR HER TO HAVE PATCHES OF HAIR OUT?

13 A. THEY WOULD PICK HER UP WITH ONE OR TWO HANDS AND JUST
14 SLING HER AROUND OR JUST DRAG HER TO THE PLACE THEY WANTED
15 HER TO GO IF SHE WASN'T GOING FAST ENOUGH.

16 Q. AND WHAT WERE THEY HOLDING ON TO WHEN THEY WOULD DO
17 THAT?

18 A. THEY'D BE HOLDING ON TO HER HAIR AND JUST DRAGGING HER
19 LIKE THAT.

20 Q. HOW ABOUT -- SHE HAD SOME LITTLE ROUND BURNS -- OR I
21 SHOULD SAY SCARS. LITTLE ROUND SCARS ON HER. DO YOU KNOW
22 -- DID YOU EVER SEE ANYTHING THAT MIGHT HAVE CAUSED THAT?

23 A. NO, MA'AM.

24 Q. HER NOSE HAD AN INJURY IN IT. DID YOU SEE WHAT
25 HAPPENED TO THAT?

1 A. MICHELE WOULD TAKE TOILET PAPER AND TWIST IT UP AND
2 STICK IT UP IN HER NOSE.

3 Q. DID SHE SAY WHY SHE DID THAT?

4 A. NO, MA'AM.

5 Q. HOW ABOUT HER VAGINAL AREA, THE AREA THAT HER UNDERWEAR
6 COVERED, DID SHE ---

7 A. MICHELE WOULD -- WHEN SHE GOT PUNISHED FOR PEEING OR
8 SOMETHING, MICHELE WOULD MAKE HER LAY ON THE FLOOR WITH HER
9 LEGS SPREAD OUT. AND SHE WOULD JUST GRAB IT AND TWIST IT.
10 AND IF IT STARTED BLEEDING, SHE WOULD POUR ALCOHOL ON IT.

11 Q. NOW, SHE ALSO HAD SOME INJURIES ON HER TOES, THE TOP OF
12 HER TOES. DO YOU RECALL WHAT MIGHT HAVE CAUSED THAT?

13 A. YES, MA'AM. MICHELE WOULD TAKE A BROOM, A PLASTIC
14 BROOM, AND SHE'D HIT HER ON HER TOES WITH, NOT THE BRUSHY
15 PART, THE OTHER PART.

16 Q. AND DO YOU KNOW WHY SHE WOULD HIT HER ON THE TOES?

17 A. FOR PUNISHMENT.

18 Q. DID YOU EVER SEE DEREK OR MICHELE HIT Minor

19 A. YES, MA'AM.

20 Q. WHAT, IF ANY, STRIKES DID YOU EVER SEE TO THE HEAD?

21 A. BELT BUCKLES, HANDS, FISTS, BELTS ITSELF.

22 Q. AND HOW HARD WOULD SHE BE HIT IN THE HEAD?

23 A. VERY HARD.

24 Q. WOULD SHE STAY STANDING WHEN THEY WOULD HIT HER IN THE
25 HEAD OR NOT?

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- 1 A. NO, MA'AM.
- 2 Q. WHAT WOULD SHE DO WHEN THEY HIT HER IN THE HEAD?
- 3 A. SHE WOULD FALL OVER LIKE THAT.
- 4 Q. WHAT, IF ANY, CHOKING DID YOU EVER NOTICE?
- 5 A. THEY WOULD -- THEY WOULD PICK HER UP LIKE THAT AND JUST
- 6 HOLD HER UP AND SHAKE HER, OR THEY WOULD PICK HER UP AND
- 7 JUST THROW HER LIKE THAT. OR THEY WOULD PICK HER UP AND SIT
- 8 HER DOWN SOME PLACE.
- 9 Q. LET'S TALK ABOUT EXERCISE. SOMETIMES WHEN SHE WOULD BE
- 10 DISCIPLINED, WHAT, IF ANYTHING, WOULD THEY MAKE HER DO IN
- 11 REGARD TO EXERCISE?
- 12 A. THEY WOULD MAKE HER RUN AROUND THE KITCHEN. AND IF SHE
- 13 WASN'T RUNNING FAST ENOUGH, THEY WOULD PUSH HER. AND
- 14 SOMETIMES SHE'D HIT THE WALL AND FALL BACK. AND IF SHE
- 15 STILL WASN'T RUNNING FAST, THEY'D STILL PUSH HER AND MAKE
- 16 HER RUN.
- 17 Q. AND HOW LONG WOULD SHE HAVE TO RUN?
- 18 A. TWO OR THREE HOURS.
- 19 Q. AND WAS SHE ALWAYS MADE TO RUN INSIDE, OR WAS IT
- 20 SOMETIMES OUTSIDE?
- 21 A. I SAW HER ONE TIME RUNNING AROUND THE HOUSE IN JUST A
- 22 PULL-UP.
- 23 Q. DO YOU RECOGNIZE STATE'S EXHIBIT 15?
- 24 A. YES, MA'AM.
- 25 Q. HOW DO YOU RECOGNIZE THAT?

1 A. THAT WAS THE BUCKET SHE -- SHE HAD TO STAND ON THE BACK
2 PORCH WITH ICE IN.

3 Q. DO YOU RECOGNIZE STATE'S EXHIBIT 6?

4 A. YES, MA'AM.

5 Q. HOW WAS THAT USED?

6 A. THAT WAS USED IN THE BATHROOM TO -- IT WAS ATTACHED TO
7 THE HARNESS. AND THEN THERE WAS A SCREW OUTSIDE THE DOOR.
8 THEY RAN IT THROUGH THE DOOR AND PUT IT ON THERE SO IF SHE
9 DID GET OUT OF THE HARNESS, WHICH SHE DID ABOUT THREE OR
10 FOUR TIMES, THEN THEY'D HAVE THAT AND SHE'D STAY IN THERE.

11 Q. DO YOU RECOGNIZE STATE'S EXHIBIT 4 AND STATE'S EXHIBIT
12 5?

13 A. YES, MA'AM.

14 Q. WHAT ARE THOSE?

15 A. THEY ARE BELTS AND BELT BUCKLES USED ON Minor

16 Q. WERE THESE THE ONLY BELTS THAT WERE USED AGAINST
17 Minor

18 A. NO, MA'AM. THERE WAS ONE BELT THAT MICHELE AND DEREK
19 USED THAT, I THINK, MICHELE BROKE WHIPPING HER. AND THEY
20 THREW THAT ONE AWAY, I THINK, BECAUSE IT WAS BROKE.

21 Q. D.W. DO YOU REMEMBER WHEN Minor WENT INTO THE
22 ANDERSON HOSPITAL THE FIRST TIME SHE WAS IN THE HOSPITAL?

23 A. YES, MA'AM.

24 Q. NOW, THE DAY THAT SHE WENT INTO THE HOSPITAL, WERE YOU
25 AND YOUR BROTHER AND Minor JUMPING OFF THE BUNK BEDS?

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- 1 A. NO, MA'AM.
- 2 Q. DID YOU TELL THE DOCTOR THAT YOU WERE?
- 3 A. YES, MA'AM.
- 4 Q. PLEASE TELL THESE PEOPLE WHY YOU TOLD THE DOCTOR THAT
- 5 YOU WERE JUMPING OFF THE BED.
- 6 A. BECAUSE MICHELE CARTER TOLD ME TO SAY THAT.
- 7 Q. AND HAD THAT REALLY HAPPENED?
- 8 A. NO, MA'AM.
- 9 Q. DO YOU KNOW WHAT REALLY HAPPENED?
- 10 A. NO, MA'AM.
- 11 Q. ON OCTOBER 14TH, THE DAY THAT Minor WENT INTO
- 12 GREENVILLE HOSPITAL -- ON THAT DAY, WERE YOU AND Minor
- 13 JUMPING ON THE TRAMPOLINE?
- 14 A. NO, MA'AM.
- 15 Q. WAS Minor ALLOWED TO JUMP ON THE TRAMPOLINE?
- 16 A. NO, MA'AM.
- 17 Q. WAS SHE ALLOWED TO EVEN LEAVE THE YARD?
- 18 A. NO, MA'AM.
- 19 Q. WHEN MICHELE WOULD TELL Minor TO STAND IN THE
- 20 CORNER, WHAT WOULD Minor DO?
- 21 A. SHE WOULD JUST GO TO THE CORNER WITHOUT SAYING ANYTHING
- 22 AND WOULD STAND THERE.
- 23 Q. AND WAS SHE ALLOWED TO LEAVE THE YARD?
- 24 A. NO, MA'AM.
- 25 Q. WAS SHE ALLOWED TO PLAY FOOTBALL WITH THE BOYS IN THE

1 NEIGHBORHOOD?

2 A. NO, MA'AM.

3 Q. WAS SHE ALLOWED TO PLAY BASEBALL WITH THE BOYS IN THE
4 NEIGHBORHOOD?

5 A. NO, MA'AM.

6 Q. HOW OFTEN WAS Minor PUNISHED?

7 A. VERY OFTEN.

8 Q. WELL, HOW MANY TIMES A WEEK?

9 A. A LOT.

10 Q. LET ME PUT IT THIS WAY. HOW MANY DAYS OUT OF THE MONTH
11 WOULD SHE NOT BE PUNISHED?

12 A. MAYBE ONE.

13 Q. D.W. DID YOUR MOTHER EVER TALK TO YOU ABOUT WHAT YOU
14 SHOULD TELL PEOPLE ABOUT A HEATER?

15 A. YES, MA'AM. YES, MA'AM.

16 Q. TELL THE JURY WHAT SHE TOLD YOU.

17 A. SHE TOLD ME TO SAY THAT SHE WAS JUST SITTING THERE AND
18 SHE JUST LEANED OVER AND BURNED HER CHEST.

19 Q. DID YOU REALLY SEE HER BURN HER CHEST ON THE HEATER OR
20 NOT?

21 A. NO, MA'AM.

22 Q. DID YOUR MOM ASK YOU TO SAY ANYTHING ABOUT HOW HER FEET
23 WERE INJURED?

24 A. YES, MA'AM.

25 Q. WHAT DID SHE TELL YOU TO SAY?

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1 A. SHE TOLD ME TO SAY THAT ME AND SOME OF MY FRIENDS WERE
2 ON THE DECK POPPING POPPERS AND THERE WAS LOOSE WOOD ON IT.
3 AND WE HIT IT, AND IT FELL ON HER TOES AND MESSED UP HER
4 TOES.

5 Q. DID THAT HAPPEN?

6 A. NO, MA'AM.

7 Q. DO YOU KNOW WHAT HAPPENED TO HER TOES OTHER THAN WHAT
8 YOU'VE ALREADY TOLD US?

9 A. NO, MA'AM.

10 Q. DID Minor KNOW HOW TO RIDE A BIKE?

11 A. NO, MA'AM.

12 Q. SHE WAS ONLY FOUR WHEN SHE DIED; IS THAT RIGHT?

13 A. YES, MA'AM.

14 Q. NOW, D.W. THE POLICE WENT OUT AND TALKED TO YOU A
15 COUPLE OF TIMES RIGHT AFTER THIS; IS THAT RIGHT?

16 A. YES, MA'AM.

17 Q. AND WHEN THEY TALKED TO YOU, DID YOU TRY TO PROTECT
18 YOUR MOTHER AND LIE?

19 A. YES, MA'AM.

20 Q. WHY DID YOU DECIDE NOT TO TELL THE POLICE WHAT REALLY
21 HAPPENED?

22 A. BECAUSE MICHELE TOLD ME IF ANYBODY ASKS YOU, THIS WHAT
23 YOU SAY. AND SHE TOLD ME A BUNCH OF STUFF TO SAY TO COVER
24 UP FOR HER BEATING ON Minor

25 Q. WHAT DID YOU THINK WOULD HAPPEN IF YOU TOLD THE POLICE

D.W.

- DIRECT EXAMINATION BY MS. WHITE

1 THE TRUTH ABOUT WHAT YOU SAW WITH Minor

2 A. I REALLY WASN'T THINKING NOTHING BECAUSE MICHELE TOLD
3 ME TO SAY ALL THIS, AND I JUST SAID IT.

4 Q. D.W. I WANT YOU TO LOOK THESE PEOPLE IN THE EYE. AND
5 I WANT YOU TO TELL THEM WHETHER OR NOT WHAT YOU TOLD THEM
6 HAPPENED TODAY ON THE STAND IS WHAT HAPPENED IN THAT HOUSE.

7 A. IT'S TRUE.

8 Q. D.W. JUST ONE MORE QUESTION. ON THE MORNING WHEN
9 Minor WENT TO THE HOSPITAL WHEN SHE DIED, DO YOU HAVE
10 ANY IDEA WHAT HAPPENED TO Minor THAT MORNING?

11 A. YES, MA'AM. WHAT I REMEMBER IS SHE CAME IN -- FIRST,
12 SHE THREW A TEMPER TANTRUM OVER EATING.

13 Q. OKAY. D.W. YOU'VE GOT TO SLOW DOWN A LITTLE BIT.
14 OKAY? TALK A LITTLE SLOWER. I'LL GO THROUGH THAT IN A
15 MINUTE. BUT DO YOU KNOW WHAT CAUSED HER HEAD INJURY?

16 A. OH, NO, MA'AM.

17 Q. SO YOU DON'T HAVE ANY IDEA WHAT CAUSED HER TO DIE?

18 A. NO, MA'AM.

19 Q. DID YOU GO OUTSIDE TO PLAY SOME THAT MORNING?

20 A. YES, MA'AM.

21 Q. WHEN Minor LEFT IN THE VAN THAT MORNING WHEN THEY
22 TOOK HER -- OR THAT AFTERNOON, I GUESS, TO THE HOSPITAL, WAS
23 SHE CONSCIOUS? OR DO YOU KNOW?

24 A. I DON'T KNOW. I KNOW THAT SHE WAS CARRIED OUT AND HER
25 EYES WERE CLOSED.

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1 Q. BUT YOU HAVE NO IDEA WHAT HAPPENED TO HER TO CAUSE THE
2 INJURY?

3 A. NO, MA'AM.

4 Q. NO FURTHER QUESTIONS.

5 THE COURT: YOUR WITNESS.

6 CROSS EXAMINATION BY MR. GAMBLE:

7 Q. D.W. YOU TALKED WITH INVESTIGATOR SUTTON, THE LADY
8 HERE, THE DAY BEFORE HALLOWEEN LAST YEAR, DIDN'T YOU?

9 A. I'M NOT SURE.

10 Q. YOU CAN READ AND WRITE, CAN'T YOU?

11 A. YES, SIR.

12 Q. IS THAT YOUR SIGNATURE ON THE BOTTOM OF THAT PAGE?

13 (HANDING DOCUMENT TO WITNESS)

14 A. YES, SIR.

15 Q. AND CAN YOU READ THE DATE FOR ME ON THE TOP OF THE
16 PAGE?

17 A. 10/30/2000.

18 Q. OCTOBER 30TH OF 2000. NOW, ON OCTOBER 30TH OF 2000,
19 WHERE WERE YOU LIVING THEN?

20 A. I WAS LIVING AT [REDACTED] [REDACTED]

21 Q. WELL, YOUR MOTHER WAS IN THE JAIL AT THAT TIME.

22 A. NO, NO. I WAS LIVING AT [REDACTED] [REDACTED]

23 [REDACTED]

24 Q. WITH YOUR DADDY?

25 A. YES, SIR.

1 Q. ALL RIGHT. SO DID YOU KNOW THAT YOUR MOTHER WAS IN
2 JAIL AT THAT TIME?

3 A. NO, SIR, I DID NOT.

4 Q. YOUR DADDY DIDN'T TELL YOU?

5 A. NO, SIR.

6 Q. OKAY. AND WHEN YOU GAVE THIS STATEMENT TO OFFICER
7 SUTTON, YOU SIMPLY SAID THAT THEY WOULD HIT Minor WITH
8 SPOONS AND ABOUT SOMETIMES THEY WOULD CHOKE HER. YOU WERE
9 SAYING THAT. WHO DID MOST OF THAT?

10 A. MICHELE.

11 Q. WHY DO YOU CALL YOUR MOTHER MICHELE?

12 A. I JUST DO.

13 Q. HAVE YOU ALWAYS?

14 A. NO, SIR.

15 Q. BUT YOU DO NOW?

16 A. YES, SIR.

17 Q. SINCE WHEN?

18 A. SINCE I MOVED IN WITH MY REAL DAD AND STEP-MOM.

19 Q. OKAY. NOW, YOU TOLD THAT ON THE DAY THAT Minor
20 WENT TO THE HOSPITAL THE LAST TIME YOU SAW HER THAT YOU WERE
21 IN THE LIVING ROOM PLAYING DRAGON BALL?

22 A. YES, SIR. I WAS WATCHING -- I WAS WATCHING T.V.

23 Q. IS THAT TRUE?

24 A. YES, SIR.

25 Q. YOU HEARD A LOUD BANG?

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- 1 A. NO, SIR, THAT IS NOT TRUE.
- 2 Q. OKAY. YOU LOOKED INTO THE KITCHEN?
- 3 A. NO, SIR.
- 4 Q. 'Minor WAS LYING ON HER BACK ON THE FLOOR."
- 5 A. NO, SIR.
- 6 Q. "MOM WAS IN THE LAUNDRY ROOM BY THE WASHING MACHINE."
- 7 A. NO, SIR.
- 8 Q. THAT'S NOT TRUE?
- 9 A. NO, SIR.
- 10 Q. "MOM ASKED HER WHAT WAS WRONG."
- 11 A. NO, SIR.
- 12 Q. 'Minor DIDN'T ANSWER."
- 13 A. NO, SIR.
- 14 Q. ALL RIGHT. DID YOUR MOM PICK 'Minor UP AND PUT HER
- 15 IN THE VAN?
- 16 A. YES, SIR.
- 17 Q. OKAY. NOW, THAT'S TRUE; RIGHT?
- 18 A. YES, SIR.
- 19 Q. ON OCTOBER 25TH, AT THREE OR SO IN THE AFTERNOON, YOU
- 20 TALKED WITH THIS BLONDE INVESTIGATOR OVER HERE, MS. JAMI
- 21 BROTHERS, DIDN'T YOU?
- 22 A. YES, SIR.
- 23 Q. ALL RIGHT. DO YOU REMEMBER TALKING WITH HER?
- 24 A. YES, SIR.
- 25 Q. NOW, YOU TOLD HER THAT TWO DAYS BEFORE 'Minor WENT

1 TO THE HOSPITAL SHE FELL OFF OF THE TRAMPOLINE ONTO THE
2 GROUND?

3 A. YES, SIR.

4 Q. DID THAT HAPPEN?

5 A. NO, SIR.

6 Q. AND ON THE DAY THAT SHE WENT TO THE HOSPITAL, WERE YOU
7 OVER PLAYING ON THE TRAMPOLINE AT YOUR NEIGHBOR'S HOUSE?

8 A. NO, SIR.

9 Q. YOU DIDN'T LEAVE THE HOUSE?

10 A. NO, SIR.

11 Q. BUT YOU TOLD THEM YOU WERE PLAYING ON THE TRAMPOLINE AT
12 THE NEIGHBOR'S HOUSE?

13 A. YES, SIR.

14 Q. ALL RIGHT. WEREN'T YOU ADMITTED TO THE HOSPITAL ON THE
15 SAME DAY IN APRIL THAT Minor WAS?

16 A. I'M NOT SURE.

17 Q. WERE YOU EVER IN THE HOSPITAL OVERNIGHT?

18 A. YES, SIR.

19 Q. AND WASN'T THAT THE SAME DAY THAT Minor WENT TO THE
20 HOSPITAL?

21 A. YES, SIR.

22 Q. AND THAT'S WHEN YOU TOLD THEM Y'ALL WERE JUMPING OFF
23 THE BED?

24 A. YES, SIR.

25 Q. AND YOU FELT BAD ABOUT IT BECAUSE YOU THOUGHT IT WAS

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1 YOUR FAULT?

2 A. NO, SIR.

3 Q. OKAY. DO YOU REMEMBER TALKING TO MS. CHARIE JENKINS,
4 THIS LADY SITTING RIGHT HERE, WHEN YOU WERE AT LAKESIDE
5 MIDDLE SCHOOL?

6 A. YES, SIR.

7 Q. OKAY. AND YOU AND J.W. HAD A SMALL MATTRESS UNDER
8 YOUR BUNK BEDS, DIDN'T YOU?

9 A. YES, SIR.

10 Q. AND DIDN'T Minor SLEEP IN THERE WITH Y'ALL SOME?

11 A. SHE SLEPT A COUPLE OF TIMES. BUT MOST OF THE TIME, SHE
12 WAS IN THE BATHROOM.

13 Q. DO YOU REMEMBER TALKING TO A COUNSELOR AT THE
14 DEPARTMENT OF SOCIAL SERVICES ABOUT TELLING LIES?

15 A. I'M NOT SURE.

16 Q. DID YOU EVER GET COUNSELING IN REGARD TO THAT AT
17 SCHOOL?

18 A. I'M NOT SURE WHAT YOU'RE TALKING ABOUT.

19 Q. DID ANYBODY EVER TELL YOU OR COUNSEL WITH YOU OR
20 DISCUSS WITH YOU ABOUT LYING?

21 A. YES, SIR.

22 Q. AND YOU TOLD THEM YOU HAD LIED TO THE SOLICITOR?

23 A. I'M NOT SURE.

24 Q. BUT ANYWAY, YOU'VE HAD COUNSELING OR TALKED TO OR BEEN
25 TALKED TO ABOUT LYING AND NOT TO LIE; IS THAT CORRECT?

1 A. YES, SIR.

2 Q. DO YOU KNOW WHEN THAT WAS?

3 A. NO, SIR.

4 Q. YOU TOLD MS. JENKINS THAT THE MORNING THAT Minor
5 WENT TO THE HOSPITAL THAT SHE HAD TO STAND IN ICE WATER.
6 WAS THAT THE TRUTH?

7 A. I'M NOT SURE.

8 Q. DO YOU KNOW WHAT HAPPENED THAT MORNING?

9 A. I DON'T GET WHAT YOU'RE SAYING.

10 Q. SIR?

11 A. I'M NOT SURE WHAT YOU'RE SAYING.

12 Q. OKAY. DO YOU REMEMBER YOU TOLD THE SOLICITOR ABOUT
13 Minor HAVING TO STAND IN A BUCKET OF ICE WATER?

14 A. YES, SIR.

15 Q. AND YOU TOLD MS. JENKINS THAT WAS THE SAME MORNING THAT
16 Minor WENT TO THE HOSPITAL?

17 A. NO, SIR.

18 Q. YOU DID NOT TELL MS. JENKINS THAT?

19 A. NO, SIR.

20 Q. OR IT WAS NOT THE DAY THAT ---

21 A. IT WAS NOT THE DAY.

22 Q. IT WAS NOT THE DAY?

23 A. NO, SIR.

24 Q. YOU ALSO TOLD MS. JENKINS, DIDN'T YOU, THAT TWO DAYS
25 BEFORE Minor WENT TO THE HOSPITAL THAT Y'ALL WERE

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1 JUMPING ON THE TRAMPOLINE WITH ANOTHER CHILD IN THE
2 NEIGHBORHOOD? DIDN'T YOU TELL HER THAT?

3 A. YES, SIR.

4 Q. YOU TOLD THEM YOU AND Minor AND J.W. AND THIS
5 OTHER CHILD WERE JUMPING ON THE TRAMPOLINE?

6 A. YES, SIR.

7 Q. AND THAT YOU HAD BOUNCED Minor OFF OR SOMEBODY
8 BOUNCED Minor OFF AND SHE FELL BACKWARD INTO THE GRASS?

9 A. YES, SIR.

10 Q. YOU TOLD THAT?

11 A. YES, SIR.

12 Q. AND THAT WASN'T THE TRUTH?

13 A. NO, SIR.

14 Q. ALL RIGHT. DID YOU EVER FEEL THAT Minor DEATH
15 WAS SOMEHOW YOUR FAULT? OR HAVE YOU EVER FELT THAT?

16 A. YES, SIR.

17 Q. AND YOU KIND OF BLAME YOURSELF, DO YOU?

18 A. YES, SIR.

19 Q. I'M SORRY. AND DOES THAT AFFECT HOW YOU FEEL
20 SOMETIMES?

21 A. NO, SIR.

22 Q. IT DOES NOT?

23 A. NO, SIR.

24 Q. DID Minor KIND OF WALK FUNNY?

25 A. SHE LOST HER BALANCE A LOT; YES, SIR.

1 Q. WAS THIS AFTER SHE WENT TO THE HOSPITAL IN APRIL?

2 A. YES, SIR.

3 Q. IT WAS?

4 A. YES, SIR.

5 Q. NOW, YOU TOLD THE SOLICITOR THAT Minor WOULD SOIL
6 HER PULL-UPS, GO TO THE BATHROOM IN HER PULL-UP, AND SHE
7 WOULD HAVE TO WEAR THEM A WEEK OR SO?

8 A. YES, SIR.

9 Q. WITH POOP IN THEM?

10 A. YES, SIR.

11 Q. A WEEK OR SO?

12 A. YES, SIR.

13 Q. ALL RIGHT. AND THEN THEY'D TAKE THE HOSE AND SPRAY HER
14 OFF?

15 A. YES, SIR; ON THE BACK PORCH.

16 Q. ISN'T IT TRUE THAT Y'ALL PLAYED A LOT IN SOME SWAMPY
17 KIND OF GROUND OR WET GROUND OVER THERE, AND ALL OF YOU GOT
18 HOSED OFF ONCE OR TWICE?

19 A. NO, SIR.

20 Q. YOU NEVER DID?

21 A. NO, SIR.

22 Q. ALL RIGHT. WELL, WOULD SHE GO AROUND INSIDE THE HOUSE
23 DURING THIS WEEK WITH THESE DIRTY PULL-UPS ON?

24 A. YES, SIR.

25 Q. DIDN'T THE SMELL GET TO YOU?

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1 A. YES, SIR.

2 Q. IT DID?

3 A. YES, SIR.

4 Q. AND WOULD SHE SIT ON THE FURNITURE WITH THE PULL-UPS
5 THAT WERE DIRTY ON?

6 A. NO, SIR.

7 Q. WHERE WOULD SHE SIT?

8 A. SHE WOULD SIT EITHER IN FRONT OF THE DOOR OR IN THE
9 BATHROOM.

10 Q. ALL RIGHT. DO YOU RECALL MS. TERRI CARTER COMING TO
11 VISIT Y'ALL IN JUNE OF LAST YEAR? THAT'S YOUR GRANDDADDY'S
12 WIFE.

13 A. YES, SIR.

14 Q. DO YOU RECALL GOING TO THE LAKE WITH THEM BACK IN JUNE?

15 A. I'M NOT SURE.

16 Q. YOU DON'T REMEMBER GOING TO THE LAKE?

17 A. YES, I DO.

18 Q. CAMPING?

19 A. CAMPING, YES, SIR.

20 Q. AND WAS Minor WITH YOU THEN?

21 A. YES, SIR.

22 Q. WAS THIS BEFORE OR AFTER SHE FELL OFF THE BED?

23 A. THIS WAS AFTER.

24 Q. HUH?

25 A. AFTER.

1 Q. AFTER YOU HAD BEEN IN THE HOSPITAL, TOO, FOR FALLING
2 OFF THE BED?

3 A. YES, SIR.

4 Q. BUT THAT DIDN'T REALLY HAPPEN, YOU SAY?

5 A. NO, SIR.

6 Q. WELL, WHY WOULD THEY PUT YOU IN THE HOSPITAL? DO YOU
7 KNOW?

8 A. BECAUSE I SAID THAT ME AND Minor BOTH HAD HIT OUR
9 HEADS. AND THEY JUST WANTED TO MAKE SURE I WAS ALL RIGHT.

10 Q. BUT YOU DIDN'T HIT YOUR HEAD?

11 A. NO, SIR.

12 Q. YOU DIDN'T HAVE ANY BRUISES ON YOUR HEAD?

13 A. NO, SIR.

14 Q. BUT THE HOSPITAL PEOPLE PUT YOU IN THE HOSPITAL?

15 A. YES, SIR.

16 Q. ALL RIGHT. EXCUSE ME JUST A MINUTE, YOUNG MAN.

17 THE COURT: TAKE YOUR TIME, SIR.

18 MR. GAMBLE: I DON'T HAVE ANYTHING FURTHER, YOUR
19 HONOR.

20 THE COURT: REDIRECT?

21 MS. WHITE: YES, SIR.

22 REDIRECT EXAMINATION BY MS. WHITE:

23 Q. D.W. YOU SAID THAT YOU HAD BEEN TALKING TO A COUNSELOR
24 ABOUT TELLING A LIE OR TELLING THE TRUTH. DO YOU SEE LYNN
25 FINLEY SOMETIMES?

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- REDIRECT EXAMINATION BY MS. WHITE

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1 A. YES, MA'AM.

2 Q. MS. FINLEY?

3 A. YES, MA'AM.

4 Q. SHE'S A COUNSELOR; IS THAT RIGHT?

5 A. YES, MA'AM.

6 Q. DO YOU REMEMBER TELLING HER THAT IT'S HARD TO REMEMBER
7 WHAT'S THE TRUTH AND A LIE BECAUSE YOU WERE TOLD TO SAY SO
8 MANY LIES?

9 A. YES, MA'AM.

10 Q. AND WHEN YOU WANTED HELP ABOUT LYING, IS THAT WHAT YOU
11 WERE TALKING ABOUT THAT -- YOU TOLD HER THAT SOMEBODY HAD
12 GOTTEN INTO THE HABIT OF LYING. WHO WAS THAT?

13 A. MICHELE.

14 Q. WHO TOLD YOU TO SAY THAT ABOUT THE HEATERS?

15 A. MICHELE.

16 Q. WHO TOLD YOU TO SAY THAT ABOUT THE BOARD FALLING ON HER
17 FEET?

18 A. MICHELE.

19 Q. NOW, WHEN YOU WENT INTO THE HOSPITAL IN APRIL OF 2000,
20 JUST LOOKING AT YOUR RECORDS, YOU HAD NO BRUISES OR
21 ANYTHING; IS THAT RIGHT?

22 A. YES, MA'AM.

23 Q. BUT YOU TOLD THE DOCTORS YOU WERE DIZZY?

24 A. YES, MA'AM.

25 Q. AND YOU TOLD THEM YOU FELL, TOO?

1 A. YES, MA'AM.

2 Q. WHO TOLD YOU TO SAY THAT?

3 A. MICHELE.

4 Q. WHEN YOU SAID THE THINGS ABOUT THE TRAMPOLINE AND ABOUT
5 HEARING HER FALL IN THE KITCHEN, WAS ANY OF THAT TRUE?

6 A. NO, MA'AM.

7 Q. WHO TOLD YOU TO SAY THAT?

8 A. MICHELE.

9 Q. AND YOU HAVE HAD SOME COUNSELING ABOUT HOW TO OVERCOME
10 BEING TOLD TO LIE; IS THAT RIGHT?

11 A. YES, MA'AM.

12 Q. NOW, D.W. WHAT IS THE ONE RULE IN COURT WHEN YOU TAKE
13 THE STAND ABOUT WHAT YOU'RE ALLOWED TO SAY TO THE JURY?

14 A. THE TRUTH.

15 Q. THE TRUTH?

16 A. YES, MA'AM.

17 Q. AND ARE YOU SURE ABOUT THE THINGS THAT YOU TOLD THE
18 JURY TODAY?

19 A. YES, MA'AM.

20 Q. NO FURTHER QUESTIONS.

21 THE COURT: THANK YOU. WATCH YOUR STEP GETTING
22 DOWN.

23 NEXT WITNESS, PLEASE.

24 MS. WHITE: YOUR HONOR, MY NEXT WITNESS MAY BE A

25 LITTLE BIT LENGTHY. I DON'T KNOW IF YOU WANT ME TO GO INTO