

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Dillon County
Court of Common Pleas

Thomas A. Russo, Circuit Court Judge

Appellate Case No. 2014-002401

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S.C. Supreme Court

Jeffrey Caulder, No. 336973.....Appellant,

v.

State of South Carolina.....Respondent.

APPENDIX TO PETITION FOR CERTIORARI – VOL. TWO

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1 Q. Now she was the first person you told about this,
2 right?

3 A. Yes, 'um.

4 Q. And, weren't y'all watching TV at that time?

5 A. No, ma'am.

6 Q. What were y'all doing?

7 A. We were um, talking in the kitchen at the --

8 Q. Are you sure you weren't watching Lifetime?

9 A. I'm sure.

10 Q. Would you be surprised if that is what your Grandmother
11 said?

12 **MR. DANIEL:** Your Honor, I object to that.

13 **THE COURT:** I will sustain that. You can't pit one
14 witness against another. That is for the jury to determine.

15 **MR. DANIEL:** Thank you.

16 Q. And minor 3 in terms of --- Did you ever go to the
17 park?

18 A. Yes, 'um.

19 Q. Did Jeffrey ever take you to the park?

20 A. One time.

21 Q. One time. And who gave you your first bike?

22 A. Jeffrey and my mother.

23 Q. Jeffrey and your mother. And they took you to church
24 all of the time didn't they?

25 A. No, ma'am.

26 Q. Y'all never went to Sunday School?

1 A. We went a couple of times, but Jeffrey usually didn't
2 allow me to go. He usually allowed minor2 to go.

3 Q. Only minor2 would go?

4 A. I've been a couple of times, but he --- when he got mad
5 at me, he wouldn't let me go.

6 Q. Now didn't you and minor2 get baptized together?

7 A. Yes, 'um.

8 Q. And that was at Jeffrey's church, right?

9 A. Yes, 'um.

10 Q. And didn't y'all go to Bible study together?

11 A. Yes, 'um.

12 Q. And didn't y'all go to Vacation Bible School together?

13 A. Yes, 'um.

14 Q. Now, you --- You blame Jeffrey for your Mother's
15 actions don't you?

16 A. No, ma'am. My Mamma did the same things as Jeffrey,
17 but Jeffrey did more than my Mamma.

18 Q. Did you ever tell anyone that this type of abuse or
19 your beatings didn't start until Jeffrey came around?

20 A. My Mamma started some, but it was a whole lot worse
21 when Jeffrey came along.

22 Q. Let me ask you a question. Did you ever make that
23 statement though that Jeffrey caused everything?

24 A. No, ma'am. It was both of their response --- it was
25 both of them.

26 Q. It was both of them. Now were you jealous of Cheyenne?

1 A. A little, I do admit, cause --- but I was also scared
2 because I asked him one time why doesn't C. ie get
3 beaten, and he said when she gets older she will.

4 Q. So you never saw C e get any beat --- get any
5 spankings?

6 A. No, ma'am. But I was scared that she would --- when
7 she got my age.

8 Q. You were scared that she would?

9 A. Yes, 'um.

10 Q. Now you said that if one got a spanking, everybody got
11 a spanking, correct?

12 A. Yes, 'um.

13 Q. So the incidents that you are talking about, minor2 and
14 minor1 with the same thing?

15 A. Yeah about some of the things they did not, but near
16 about everything that we went through, we usually
17 there --

18 Q. -- Together? Now what was some of the rules in your
19 house?

20 A. Um, not to lie. Not to get up earlier than them. Um,
21 if you have to throw up, you had better make it or
22 else.

23 Q. Anything about what time you had to go to bed?

24 A. Yes, 'um.

25 Q. Schoolwork?

26 A. We had to get our schoolwork done, but bedtime was left

1 to them.

2 Q. Left to them?

3 A. Yes, 'um.

4 Q. Was there anything about --- Did you have to clean up
5 behind yourself?

6 A. Yes, ma'am. It had to be perfect, if not we got beat
7 for it.

8 Q. Before Jeffrey came to your house, did y'all have any
9 rules like that?

10 A. Yes, 'um.

11 Q. What type of rules did you have?

12 A. Well back then we didn't have to clean up behind
13 ourselves, because we were four, five, three year olds.

14 Q. Did you have to put your toys up?

15 A. Yes, 'um.

16 Q. You did? Now, weren't you a little upset with Jeffrey
17 with his military background? He had too much
18 discipline. Didn't you make that statement?

19 A. Um, I --

20 Q. Didn't you say that you felt like you were in boot
21 camp?

22 A. Yes, 'um.

23 Q. Now this happened after Jeffrey came back from the
24 military?

25 A. Jeffrey never went into the military. He went to boot
26 camp, and he --- I don't think he ever made it through.

1 He came back.

2 Q. But this was after he came from boot camp?

3 A. Yes, 'um.

4 Q. Okay. And was this after he had his accident with his
5 leg?

6 A. Um, not --- this was actually before his leg.

7 Q. Before his leg. Everything was before his leg?

8 A. No, ma'am. He still had the same rules after his leg.

9 Q. He still had the same rules. Now tell me, with the
10 hogtie which house did you live in?

11 A. The trailer.

12 Q. The trailer. Can you demonstrate for me how Jeffrey
13 was able to hogtie you?

14 A. Yes, 'um. He had both of his legs back then.

15 Q. He had both of his legs back then?

16 A. Yes, 'um.

17 Q. And this was the first time you lived in the trailer?

18 A. Yes, 'um.

19 Q. Okay. Did you remember the apartment?

20 A. Yes, 'um.

21 Q. Now take us back to that story about minor 2 and minor 1
22 with the hot sauce. They only spilled a drop?

23 A. It was two or three drops and --

24 Q. -- Two or three drops?

25 A. Yes, 'um.

26 Q. And you saw everything, right?

1 A. Yes, 'um.

2 Q. Okay. Now, did y'all ever have to fight each other?

3 A. Yes, 'um. He would put us up to fight each other.

4 Q. Would he tell you to throw punches at each other?

5 A. Yes, 'um.

6 Q. Did y'all wrestle?

7 A. Yes, 'um.

8 Q. Jeffrey made you do that too?

9 A. Yes, 'um.

10 Q. Did your mom ever make you do anything?

11 A. Yes 'um, but more Jeffrey. One time when he made a
12 wrestle, so he wouldn't choose sides. Mamma choose my
13 side, and Jeffrey choose Jenna's side. And when minor2
14 was --- When I was winning Jeffrey threw a steal toe
15 boot at me.

16 Q. He threw a steal toe boot at you?

17 A. Yes, 'um.

18 Q. You never told anybody about this?

19 A. Yes 'um, my Grandmother is the first one I told.

20 Q. This is Grandmother --

21 A. Grandma Edna.

22 Q. Do you remember living with Grandma Cindy?

23 A. Yes, 'um.

24 Q. Did you ever observe any kind of fights when you were
25 living there?

26 A. Between them.

1 Q. Did you see anybody fight?

2 A. Yes, 'um.

3 Q. Who did you see fight?

4 A. I saw Jeffrey try to fight with them all the time.

5 Q. Now was Jeffrey living there?

6 A. Yes, 'um.

7 Q. He lived with your Grandma Cindy too?

8 A. No, ma'am. My Grandma Cindy came for a visit.

9 Q. She came for a visit to your house?

10 A. Yes, 'um.

11 Q. And were the police called?

12 A. I don't know.

13 Q. You don't know. Did you leave the house?

14 A. No, ma'am.

15 Q. Now when minor2 was at school, she spoke to the guidance
16 counselor?

17 A. Yes, 'um.

18 Q. And you told the guidance counselor it was just made
19 up?

20 A. Yes, 'um.

21 Q. You dreamed it up?

22 A. Yes 'um, because I was scared.

23 Q. You were scared. Did anybody else come and talk to you
24 about anything?

25 A. No.

26 Q. But you never told Ms. Griggs that did you, when you

1 were at the Durant Center?

2 A. I --- I don't recall.

3 Q. You never told her anything about duct taping your
4 mouth did you?

5 A. Yeah I did.

6 Q. You did tell her that?

7 A. Yes, 'um.

8 Q. So if it is not in her report, she has made a mistake?

9 A. Well there was a lot told. She probably might have
10 forgot something.

11 Q. And she recorded everything?

12 A. Yes, 'um. But I did tell her about the duct tape.

13 Q. You did tell her. How many times do you say this duct
14 tape happened?

15 A. Quite often.

16 Q. Quite often? Not one or two times like you said
17 before?

18 A. Um, it happened once like --- like twice a week, three
19 times a week.

20 Q. Did you ever tell anybody your Mamma had anger
21 management problems?

22 A. No, ma'am. My Mamma was never described with anger
23 management problems.

24 Q. You don't think she was ever --

25 A. No, ma'am.

26 Q. Did you say described?

1 A. Yes, 'um.

2 Q. All right. But you never made that statement about
3 anger management?

4 A. I don't think --- No, but I did mention I think she has
5 a chemical imbalance.

6 Q. Do you read a lot of psychology books?

7 A. Yes, 'um.

8 Q. You do? So you understand about a chemical imbalance?

9 A. Yes, 'um.

10 Q. Would you have had this conversation with your
11 Grandmother?

12 A. Yes, 'um. I knew about chemical imbalance, cause I
13 like to study science and chemistry.

14 Q. You like to study science and chemistry? What made you
15 interested in that?

16 A. Every since I set one of my goals to become --- to
17 become some part in the military, so I can become a
18 SWAT member.

19 Q. To become a what?

20 A. A SWAT member. You have to have training to be a SWAT
21 member and go into the military.

22 Q. Do you still want to become a preacher too?

23 A. Yes, 'um.

24 Q. Now did you ever tell anybody that your Mamma was
25 having problems?

26 A. Um, what kind of problems?

1 Q. I don't know exactly what type of problems, but did you
2 ever tell anybody what type of problems you thought she
3 was having?

4 A. Um, I don't think Mamma had any problems. She never
5 did any drugs or anything.

6 Q. Was the way she treated you a problem?

7 A. Yes, 'um.

8 Q. Did you ever tell anybody that you felt Jeffrey grew up
9 backwards?

10 A. Yes, 'um.

11 Q. Now what would be the right way to grow up?

12 A. Um --

13 Q. Would it be without any type of discipline?

14 A. No, ma'am. It takes two things to bring up a child, a
15 firm hand and a loving heart.

16 Q. A firm hand and loving heart? Did you ever feel loved
17 when you were at Ms. Wanda's house?

18 A. No, ma'am. But I feel loved with my Grandma now.

19 Q. You feel loved with your Grandma now? Let me ask you.
20 Do you remember being in foster care?

21 A. Yes, 'um.

22 Q. What happened with that?

23 A. I can't recall, but I know I was called from school,
24 and I was put in foster care for I think a year, and I
25 went to live with my Grandma Edna.

26 Q. Now, in terms of your --- your spankings that you got.

1 You said that your body was black and blue sometimes?

2 A. Yes, 'um.

3 Q. Your scares stayed visible for about a month or two?

4 A. Yes, 'um.

5 Q. And you went to school?

6 A. (Affirmative response.)

7 Q. Did anybody ever ask you questions?

8 A. No, ma'am. Because we were always wearing long sleeves
9 and long pants, and we were scared to tell anybody.

10 Q. So this only happened in the winter months?

11 A. No, ma'am.

12 Q. It happened in the summer too?

13 A. Yes, 'um.

14 Q. And you were wearing pants and long sleeves in the
15 summertime?

16 A. Yes, 'um.

17 Q. Nobody thought that was unusual?

18 **MR. DANIEL:** Objection, Your Honor. How can he say
19 what other people thought?

20 **MS. SELLERS:** Withdrawn.

21 Q. Did anybody inquire about why you were wearing long
22 sleeves?

23 A. No, ma'am.

24 Q. What about the pants?

25 A. No, ma'am. I never really communicated with people at
26 school. I always keep to myself.

1 Q. You always kept to yourself? So when you got home, did
2 you watch a lot of TV?

3 A. Um, when?

4 Q. When you were at home.

5 A. Yes 'um, because now I have no problems making friends.

6 Q. You have no what?

7 A. No problems making friends.

8 Q. You have no problems making friends?

9 A. Yes.

10 Q. Now didn't you tell someone at the Durant Center that
11 one of the problems you had with Jeffrey is that he
12 didn't like you watching so much TV, having your head
13 stuck in the TV box. Do you remember making that?

14 A. Yes, 'um. And the thing is, I didn't get to watch as
15 much TV as I do now.

16 Q. You didn't watch as much TV as you do now?

17 A. No, ma'am.

18 Q. Do you watch a lot of --- What type of TV, do you
19 watch?

20 A. Well I like science fiction movies.

21 Q. Do you watch any action or drama movies?

22 A. Yes, 'um.

23 Q. Now, in terms of that knife story, remember when you
24 were talking about that knife story? Didn't you state
25 to someone earlier that Jeffrey asked you --- told you
26 that you could have a knife when you got older?

1 A. Yes, 'um. He kept it in a trunk that had been locked
2 up. You know a locked trunk. He unlocked the trunk
3 and put the knife in my hand, and told me where to stab
4 him.

5 Q. Why would he do that?

6 A. I never understood why.

7 Q. You never understood why?

8 A. No, ma'am.

9 Q. But he promised you could keep that knife earlier,
10 right?

11 A. Yes, 'um.

12 Q. And didn't he promise to take you hunting too?

13 A. Yes, 'um.

14 Q. Did you ever remember going to Myrtle Beach/Conway?

15 A. One time, yes, 'um.

16 Q. Did y'all live down there twice?

17 A. We lived in Conway, but not with Jeffrey.

18 Q. Didn't he live in Conway with your Mom's other
19 boyfriend David?

20 A. Yes, 'um.

21 Q. And didn't you also go back and live down there with
22 your Grandma Cindy?

23 A. Yes, 'um.

24 Q. How long would you say you lived in Conway?

25 A. Two or three months.

26 Q. Two or three months each time?

1 A. Yes, 'um.

2 Q. So you basically spent about half a year in Conway?

3 Now when you came back to Dillon, what is the last
4 place you remember living?

5 A. The last place, with Jeffrey.

6 Q. With Jeffrey? You don't remember living in a motel?

7 A. Yes, 'um. I do, but that was --- we lived in there
8 like --- We lived in there for like --- we lived in the
9 motel, we kept renting the same room for like two
10 weeks.

11 Q. Two weeks. Didn't y'all live there twice?

12 A. No, ma'am. We only lived there one time, then we moved
13 in with my Grandma.

14 Q. With your Grandma Edna?

15 A. Yes, 'um.

16 Q. But --

17 A. We had been moved in with it, but she didn't like the
18 rules and we moved out.

19 Q. Who didn't like the rules?

20 A. My mamma.

21 Q. She doesn't like rules?

22 A. No, ma'am.

23 Q. Did she ever have any rules for you?

24 A. Yes, 'um.

25 Q. What was some of her rules?

26 A. The same exact rules as Jeffrey, only without the ---

1 she would make us stand in the corner, but not with our
2 arms up like that.

3 Q. Okay. Now when you were in the corner, were you
4 holding pillows?

5 A. No ma'am, we never were in the corner with pillows, we
6 were in Jeffrey's room during that time.

7 Q. You were never on the wall with pillows?

8 A. No, ma'am. On the walls he usually would make us hold
9 up his pill bottles and stuff.

10 Q. That's it?

11 A. Little cans, itty bitty stuff. But it hurts after your
12 arms like that a while.

13 MS. SELLERS: Beg the Court's indulgence.

14 (PAUSE)

15 Q. minor 3 did you ever go to Camp Pinehill?

16 A. Yes, 'um.

17 Q. You went every summer or just a couple of summers?

18 A. I only went one summer.

19 Q. Had you ever gone prior to knowing Jeffrey?

20 A. Yes, 'um.

21 Q. You went more than once?

22 A. Just once.

23 Q. And that was when you were around Jeffrey's family?

24 A. Yes, 'um.

25 Q. What about a Easter egg hunt?

26 A. Only one Easter egg hunt.

1 Q. What about Christmas' do you remember going over and
2 being with the entire family being together for
3 Christmas?

4 A. Yes, 'um.

5 Q. Do you remember the birthday party?

6 A. No, ma'am.

7 Q. You don't remember any birthday parties?

8 A. No, ma'am.

9 Q. Do you have any interactions with your, Grandma Edna
10 and your Papaw Gene?

11 A. No, ma'am. But they told us that they didn't care
12 about us, they lied and told us that.

13 Q. They lied and told you that?

14 A. Yes, 'um.

15 Q. Who is they?

16 A. My Mamma and Jeffrey.

17 Q. Did you ever see your Grandfather or your Grandmother?

18 A. We saw them one Christmas.

19 Q. You saw them Christmas?

20 A. Yes, 'um.

21 Q. Did they pick you up on the weekends?

22 A. No, ma'am.

23 Q. Did you hear your mom and your grandparents fussing a
24 lot?

25 A. No, ma'am.

26 Q. You didn't hear them fussing a lot?

1 A. No, ma'am.

2 Q. Did you hear them talking?

3 A. My Papaw Gene and my Mamma were the --- were my Mamma's
4 only choice to turn to, and my Grandma Cindy, when her
5 and Jeffrey got in a fight.

6 Q. And you said your mom and grandpa were the only place?

7 A. My Grandma Edna, and Papaw Gene, and my Grandma Cindy
8 were the only ones that Mamma would turn to when her
9 and Jeffrey got in a fight, and that was quite a bit.

10 Q. All right. Did she ever call the police at all?

11 A. No ma'am, except for one time when Jeffrey got in a
12 fight with the neighbors.

13 Q. With your neighbors?

14 A. Yes, 'um.

15 Q. Was anybody arrested?

16 A. Yes, 'um.

17 Q. Who was arrested?

18 A. The guy who was fighting and Jeffrey.

19 Q. Jeffrey was too?

20 A. Yes, 'um.

21 Q. Or just the guy he was fighting?

22 A. No, ma'am. Him and Jeffrey were arrested.

23 Q. How long have you been staying with your Grandma?

24 A. Say, about a year.

25 Q. A year. Those questions that Mr. Daniel was telling
26 about, did you ever go with your Grandma?

1 A. No, ma'am. In fact, I would actually tell her what
2 happened.

3 Q. You would tell her what happened?

4 A. Yes, 'um.

5 Q. Did you get a copy of the questions?

6 A. A copy?

7 Q. Yes.

8 A. Of Mr. Shipp's questions?

9 Q. Uh'huh.

10 A. No, ma'am.

11 Q. Would you ever go home and discuss the questions with
12 your Grandma?

13 A. I would tell her --- I would tell her some of the
14 stuff. I wrote it down for Mr. Shipp, I did for him so
15 he could go over them.

16 Q. So he could go over your answers?

17 A. Yes, 'um.

18 Q. Okay.

19 A. So he would have like my story, and I wouldn't have
20 his. I was the one who gave him my stories.

21 Q. Now did your story ever change?

22 A. No, ma'am.

23 Q. It never changed from the first time?

24 A. No, ma'am.

25 Q. So you told the Durant Center everything that you told
26 us today?

1 A. Yes, 'um.

2 Q. It is going to be on your report?

3 A. Yes, 'um.

4 Q. In terms of Court, is this the first time you have ever
5 been in court?

6 A. Yes, 'um.

7 Q. This is the first time you have ever testified?

8 A. Yes, 'um.

9 Q. Did you know about the Family Court?

10 A. Yes, 'um. I was in the waiting room, but I never had a
11 chance to come in and testify. This is my first time
12 testifying.

13 Q. Did any adults talk to you about court?

14 A. Yes, 'um.

15 Q. Did your Grandmother or grandparents ever talk with you
16 about Family Court?

17 A. No, ma'am. Because I was told I might be able to
18 testify, but I never got to. This is my first time.

19 Q. This is your first time? Now minor3 where is your
20 daddy?

21 A. Ah --

22 Q. Is your Daddy in this area, Brandon?

23 A. Yes, 'um. I don't have any contact with him.

24 Q. You don't have any contact with him. So how long has
25 it been since you have had any contact with him?

26 A. Well, I saw him the last time we had Family Court, and

1 he took me out to eat and that's it.

2 Q. That was it? How many times did you have Family Court?

3 A. I don't know.

4 Q. Was it more than five?

5 A. I've only been --- I think two.

6 Q. And you never heard any discussion at home about what
7 was going on in court?

8 A. No, ma'am.

9 Q. How often --- You see Cheyenne every day now, don't
10 you?

11 A. Yes, 'um.

12 Q. Do you get along with her good?

13 A. Yes, 'um.

14 Q. Are you still kind of jealous of her?

15 A. No, ma'am.

16 Q. You are not jealous anymore?

17 A. Cause I know now that she couldn't help it, that she
18 didn't get beat, it wasn't her choice. But she had to
19 see all of, that and that is bad enough.

20 MS. SELLERS: I beg the Court's indulgence.

21 (PAUSE)

22 Q. Now again you said it was all for one and one for all?

23 A. Yes, 'um.

24 Q. So sometimes you would lie to keep your brothers and
25 sisters safe?

26 A. Yes, 'um.

1 Q. Do you feel like everybody is safe now?

2 A. Yes, 'um.

3 Q. Would you still lie?

4 A. No, ma'am. I have no reason to lie now.

5 Q. You have no reason to lie now?

6 A. No, ma'am.

7 Q. Because you feel like everybody is safe?

8 A. Yes, 'um.

9 MS. SELLERS: No further questions. Thank you,
10 Judge.

11 THE COURT: Redirect.

12 MR. DANIEL: Very briefly, Your Honor.

13 THE COURT: All right, redirect.

14 REDIRECT EXAMINATION BY MR. DANIEL

15 Q. Real quick. minor3 what did you write down for me?

16 A. I write --- I wrote down some of the --- I wrote down
17 the stuff that happened to me, so you could read over
18 it, and so you would know what happened, so we could
19 get prepared.

20 Q. Did I ask you to do that?

21 A. Yes, sir.

22 Q. Did you ever write down the answers to any questions
23 that we might have done in court, that we might have
24 been preparing for court? Let me rephrase that. Did I
25 ever give you a list of questions that I was going to
26 ask you today?

1 A. No, sir. You would go over and tell me what questions
2 you would ask me, and I would tell you in my own the
3 answer to them.

4 Q. And how many times did we meet about this?

5 A. I'd say three or four times.

6 Q. Did I ever --- Did I ever make up any stories to tell
7 you?

8 A. No, sir.

9 Q. Did I ever tell you to do anything other than to tell
10 the truth in here?

11 A. No, sir.

12 Q. minor 3 how many years --- about how many years did
13 you live with Jeffrey total?

14 A. Three, four years, I guess.

15 Q. Okay. In that interview that you did at the Durant
16 Center, do you remember that?

17 A. Yes, sir.

18 Q. That Ms. Sellers asked you about?

19 A. Yes, sir.

20 Q. In that one interview, do you remember how long that
21 lasted?

22 A. No sir, I can't recall.

23 Q. And how many interviews did you have there that they
24 recorded?

25 A. I only think they had one. I think they may have had
26 the camera going in there, but I didn't know it was --

1 Q. -- Okay.

2 A. I'm not --

3 Q. Okay. In that one interview that you had, would you
4 say about an hour maybe? I really don't remember what
5 you said.

6 A. I don't remember how long.

7 Q. In that one interview, do you think, or were you able
8 to remember everything that happened to you over three,
9 four, or five years of living with Jeffrey?

10 A. I probably had forgotten some of the stuff.

11 Q. -- Okay --

12 A. -- But --

13 Q. I'm sorry.

14 A. But, I think I got it near about that I can remember.

15 Q. Okay. Let me ask you one more question. The hogtie
16 thing, is it possible that you are confused as to which
17 side of the body you were tied to?

18 A. Yes, sir. I know I was tied, but I probably might have
19 gotten confused. There is no telling me.

20 Q. Are you sure that you were tied up?

21 A. Yes, sir.

22 Q. Are you sure as to who did that?

23 A. Yes, sir.

24 Q. And who did it?

25 A. Jeffrey Caulder.

26 MR. DANIEL: Thank you. I have, no further

1 questions.

2 MS. SELLERS: Briefly, Your Honor.

3 THE COURT: You may follow up.

4 RE-CROSS EXAMINATION BY MS. SELLERS

5 Q. minor 3 how often did you get tied up?

6 A. Ah --

7 Q. -- How often have you ever been tied up?

8 A. I think that that was the only time he put his feet on
9 me where I wouldn't move. But --

10 Q. -- But in terms of hogtying you, you have only been
11 hogtied one time in your life?

12 A. And duct tape to my sister. I mean, that is probably
13 about it.

14 Q. Now let me ask you --- And you would remember that?

15 A. Yes, 'um.

16 Q. So you said just now, knowing you get confused a lot?

17 A. Yes, 'um. I have ADHD, Attention Deficit and
18 Hyperactive. And I --- my Grandma can tell me to do
19 something in five minutes, and I've totally forget to
20 do it, and in the next five minutes and I've done
21 something else.

22 Q. You take medication for it now don't you?

23 A. Yes, 'um.

24 Q. And you have been on your medication for a while?

25 A. Yes, 'um.

26 Q. Okay. But you still get confused from time to time?

1 A. Yes, 'um.

2 Q. So it is possible that you got confused going over the
3 issues today, right?

4 A. Maybe one or two, but as a matter of fact, I know I
5 told the truth today, and I know that I was right.

6 Q. And even if you were confused, it was still to the best
7 of your ability, correct?

8 A. Yes, 'um.

9 **MS. SELLERS:** No further questions. Thank you

10 **THE COURT:** All right, sir, you may step down.

11 **MASTER** : Thank you.

12 **THE COURT:** Thank you. Ladies and gentlemen, we're
13 going to take an afternoon break at this time. What I would
14 ask you to do --- You can go right on with to Mr. Daniel
15 there. We are going to take our break at this time. It
16 will be about fifteen minutes duration. Let's all remain
17 where we are while our jury departs the courtroom.

18 (Whereupon, the jury departs the courtroom at 3:20
19 p.m.)

20 **THE COURT:** All right, we are going to be in recess
21 now for about fifteen minutes.

22 **MR. DANIEL:** Thank you, Your Honor.

23 (Whereupon, a recess was taken from 3:21 p.m.
24 until 3:41 p.m.)

25 **THE COURT:** All right. Ladies and gentlemen, I
26 am told we are ready. So, if the jury is ready please bring

1 the jury in.

2 (Whereupon, the jury enters the courtroom at 3:41
3 p.m.)

4 **THE COURT:** All right. Ladies and gentlemen, I trust
5 you had a nice break. Welcome to the courtroom. We also
6 welcome to the courtroom The Honorable James B. Lockemy who
7 is seated with us in the Grand Jury Box.

8 And, counsel please call your next witness.

9 **MR. DANIEL:** Thank you, Your Honor, may it, please
10 the Court. The State calls Kristina Miller.

11 **THE COURT:** Please come forward and take the oath of
12 a witness.

13 **WHEREUPON, KRISTINA MILLER**

14 **AFTER BEING DULY SWORN TESTIFIES AS FOLLOWS**

15 **MS. MILLER:** Yes, ma'am.

16 **CLERK OF COURT:** Please be seated in the witness box,
17 and state your full name for the Court spelling your last.

18 **MS. MILLER:** Kristina Miller, M-I-L-L-E-R.

19 **DIRECT EXAMINATION BY MR. DANIEL**

20 Q. Kristina, good afternoon. Where are you from?

21 A. Dillon.

22 Q. Where do you live now?

23 A. Dillon.

24 Q. Did you go to school here?

25 A. Yeah.

26 Q. Did you graduate from high school?

1 A. No.

2 Q. What is last grade you completed?

3 A. I completed the ninth grade, but I went back and
4 completed my GED.

5 Q. You went back and got your GED?

6 A. Yeah.

7 THE COURT: All right. Ma'am, we are going to need
8 for you to speak a little louder for us to hear you.

9 MS. MILLER: Yes, sir.

10 THE COURT: Please pull that microphone a little
11 closer.

12 MS. MILLER: Okay.

13 THE COURT: Thank you.

14 Q. Kristina, I know this is probably rude, but how old are
15 you?

16 A. Twenty-eight.

17 Q. Do you work anywhere?

18 A. No.

19 Q. And you said you lived in Dillon, where in Dillon do
20 you live?

21 A. On [REDACTED] Highway 34 West.

22 Q. Kristina are you related to Cheyenne, minor1 minor2 and
23 minor3

24 A. Yes, sir.

25 Q. How are you related to them?

26 A. I am their mother.

1 Q. I'm sorry?

2 A. I'm their mother.

3 Q. Do they live with you?

4 A. No, sir.

5 Q. When is the last time they lived with you?

6 A. March 24, 2007.

7 Q. Do you know Jeffrey Caulder?

8 A. Yes, sir.

9 Q. Do you see him in here today?

10 A. Yes, sir.

11 Q. Were you ever --- Please describe your relation with
12 Jeffrey Caulder?

13 A. I meet Jeffrey in December of 2001, and we started
14 dating in December of 2002. We have a child together.

15 Q. What is that child's name?

16 A. Cheyenne.

17 Q. How old is Cheyenne?

18 A. Five.

19 Q. You said you meet in December of 2001?

20 A. Yes.

21 Q. How did you meet?

22 A. Through a mutual friend.

23 Q. And you said you started dating when?

24 A. December 2002.

25 Q. Did you date him at all in that year that you knew him?

26 A. For about a month.

1 Q. Okay. You said your children don't currently live you,
2 right?

3 A. No, sir.

4 Q. Do you know who they live with?

5 A. Yes, sir. minor3 and C. e stay with my father
6 and my stepmother and minor2 and minor stay with their
7 father.

8 Q. Kristina there has been some stuff --- lots of stuff
9 said about you today, and I'm going to ask you right
10 out. Did you ever hurt your children?

11 THE COURT: All right, counsel, just a moment.

12 Ma'am, before you answer that question, are you aware
13 that you have charges pending, criminal charges pending in
14 this Court?

15 MS. MILLER: Yes, sir. I've already ---

16 THE COURT: I'm just simply reminding you. Are you
17 aware of that?

18 MS. MILLER: Yes, sir.

19 THE COURT: I want you to be aware that anything that
20 you say in this courtroom, which is under oath and taken
21 down on this record may be used against you in any later
22 proceedings; do you understand that, ma'am?

23 MS. MILLER: Yes, sir.

24 THE COURT: Understanding that, do you wish to waive
25 your right to remain silent. You may be silent if you wish.
26 Do you wish to waive that right and go forward and answer

1 counsel's questions?

2 MS. MILLER: Yes, sir.

3 THE COURT: Are you certain of that?

4 MS. MILLER: Yes, sir.

5 THE COURT: Please proceed.

6 MR. DANIEL: Thank you.

7 THE COURT: Please rephrase or re-ask your question.

8 MR. DANIEL: Thank you, Your Honor.

9 Q. Kristina, have you ever hurt your children?

10 A. Yes.

11 Q. Did you ever see Jeffrey hurt your children?

12 A. Yes.

13 Q. Did you ever see Jeffrey leave marks on your children?

14 A. Yes.

15 Q. What kind of marks?

16 A. Bruises, broken skin, that was just physical. There is
17 emotional and psychological that you can't see.

18 Q. Okay. I am going to need you to speak up. Everybody
19 here has got to hear you. They have to hear you, and
20 we have all got to hear you.

21 A. Okay.

22 Q. Did you, Kristina, ever leave marks on your children?

23 A. Yes.

24 Q. What kind of marks did you leave on your children?

25 A. Bruises.

26 Q. Anything worse than that?

1 A. I have probably broke skin with a switch before, yeah.

2 Q. Kristina, did Jeffrey ever live with you?

3 A. Yes.

4 Q. Did he live with your children also? Were your
5 children in the house at the time?

6 A. Yes.

7 Q. Who all was living there?

8 A. Myself, Mr. Caulder, and in the beginning my oldest
9 three children. Then after Cheyenne was born she lived
10 with us also.

11 Q. Were there ever other people who may have come and
12 gone?

13 A. Yea. I've had my second cousin live with me and you
14 know, friends have stayed with us.

15 Q. Kristina what was Mr. Caulder's relationship, to the
16 children as far as being an authority figure?

17 A. He played the role of Daddy for about four or five
18 years.

19 Q. Did he in playing the role of Daddy, did he have
20 responsibilities with the children?

21 A. Yes.

22 Q. Was he free to discipline the way he wanted to?

23 A. Yeah.

24 Q. Were your children ever left alone with Jeffrey?

25 A. Yes.

26 Q. How often would that happen?

1 A. Mainly when I went to work or you know to the grocery
2 store, often.

3 Q. When you went to work or to the grocery store?

4 A. Yes.

5 Q. Okay. Kristina, this is what we are going to do, and I
6 think this is the easiest way to do this. We are going
7 to walk through --- You've already testified that you
8 started dating seriously in 2002. We are going to
9 start there.

10 A. Okay.

11 Q. We are going to go until you no longer had any
12 communication with Jeffrey, and I want you to tell us
13 what you can remember. I'll be asking you questions,
14 but I want you to tell us everything you can remember
15 about that. The jury needs to know what happened.

16 A. Ah --

17 Q. Including what you did.

18 A. Okay. Starting in December of 2002, like I said, we
19 started dating. I was staying with my parents at the
20 time. He left and went to boot camp in March 2003. He
21 came back from that I guess in April. I moved into
22 Maple Wood Apartments in June or July of that year,
23 2003.

24 Q. Where are Maple Wood Apartments?

25 A. Right on the outside of Dillon County.

26 Q. Within the city limits of Dillon?

1 A. Yeah, Dillon City Limits.

2 Q. Okay. You moved in with whom in Maple Wood Apartments?

3 A. In the beginning it was just me and my children. We
4 moved in, in June or July. He moved in the end of
5 August.

6 Q. Jeffrey moved in with you at the end of August?

7 A. Yes, sir.

8 Q. Now at that point, at the end of August, who lived in
9 the apartment?

10 A. Myself, Jeffrey, minor3 minor2 and minor1

11 Q. Okay. And this was in what year?

12 A. 2003.

13 Q. Okay. When did --- You said that you had seen Jeffrey
14 abuse your children, when did that start?

15 A. Not long after he moved in. I was already pregnant
16 with C. ie, and the children woke up before we did.
17 minor3 was at school, so you know I got up and took
18 him to school, and I came home, and laid back down.
19 But minor2 and minor woke up, and in the process of them
20 being up, they woke me up. And when I walked out of my
21 bedroom door, I saw that there was hot sauce from my
22 bedroom door all down the hallway, in the livingroom,
23 on the couch, on the walls, it was everywhere. And as
24 punishment for them doing this, he made minor2 and minor
25 drink the hot sauce. minor2 got physically sick. Both
26 of them were crying, very upset. We argued about it,

1 and that was the first incident.

2 Q. This is the first incident of abuse that you can
3 remember?

4 A. Yeah.

5 Q. And this would have been in what year?

6 A. 2003.

7 Q. Okay. Why didn't you stop him?

8 A. We argued. I told him, at that point, that is not how
9 you discipline children. And, I figured that we had
10 handled that situation, and it would be okay after
11 that.

12 Q. Did you laugh?

13 A. No.

14 Q. What else do you remember?

15 A. The next incident was, the kids were in their bedroom
16 playing. And one of the boys put on some of Jenna's
17 dress shoes, and they were playing. But because they
18 were playing and wanted to be prissy or whatever, he
19 made them wear *MINOR 2's* clothes. He put *MINOR 2's* clothes
20 on them.

21 Q. He, who is he?

22 A. Jeffrey.

23 Q. Put *MINOR 1's* clothes on who?

24 A. The boys.

25 Q. Who are the boys?

26 A. minor 1 and minor 3

1 Q. And how long did he make them wear these clothes?

2 A. Long enough, till they were embarrassed by having to
3 wear 'um, maybe an hour or two.

4 Q. Was this a game? Was it kind of a fun that everybody
5 was joking about?

6 A. No. Not --- They weren't. They were upset.

7 Q. What was Jeffrey doing?

8 A. I --- I --- I --- I don't know.

9 Q. Was it a joke to you?

10 A. No.

11 Q. You didn't like it?

12 A. No.

13 Q. Are you sure?

14 A. Yeah.

15 Q. What else?

16 A. We were at home. We were watching something on the TV
17 about siamese twins. And ah, one of the kids asked you
18 know, I wonder what it would feel like to be a siamese
19 twin. So, I told them you know, put your arm around
20 each other and walk around the house for a little while
21 together. You know, imagine being stuck with somebody
22 all the time, because that was the best way at their
23 age for me to explain that. Well, later on that
24 afternoon they started arguing about something, and he
25 took duct tape and tied them together by the legs and
26 their waist. They were upset. They were embarrassed,

1 humiliated.

2 Q. How long did he make them walk around like that?

3 A. Probably about two hours.

4 Q. Did you stop him? You're the mom. Did you protect
5 your kids?

6 A. No.

7 Q. Why not?

8 A. (No response.)

9 Q. These are your children, Kristina.

10 A. I didn't know what to do.

11 Q. When they were duct tape together for what, two or
12 three hours?

13 A. Yeah.

14 Q. What if they had to go to the bathroom?

15 A. They had to go together.

16 Q. Are you sure they didn't think this was a game or
17 something?

18 A. I didn't.

19 Q. Huh?

20 A. They didn't.

21 Q. What were they doing, were they crying or were they --

22 A. -- No, they were crying they were upset.

23 Q. Kristina, what else do you remember?

24 A. Um --

25 Q. Wait. By the way, I'm sorry. Do you remember when
26 that happened?

1 A. That was at the apartment, that was before we moved.

2 Q. That was at Maple Wood?

3 A. Yeah.

4 Q. Okay. Go ahead.

5 A. Um, we moved out of the apartment in July of the next
6 year, which would have been 2004. Cl e was born in
7 April of that year. And from there it was --- He would
8 make them stand on the wall. Um, his thing was we
9 didn't --- we didn't have any corners, so they could
10 stay on the wall.

11 Q. I'm sorry to interrupt you, but I do want to be clear
12 about --- Where were you living at this point?

13 A. Well, he started the wall thing when we stayed in the
14 apartment. But when he did it there, it wasn't but for
15 like, thirty or forty-five minutes at the time.

16 Q. At the apartment it was thirty or forty-five minutes.

17 A. Yeah. Once we moved into the trailer we were living
18 in, in Oak Grove, it became two and three hours, and
19 then it went to half a days, and all days.

20 Q. What went to half a days and all days?

21 A. Them having to stand on the wall.

22 Q. A trailer in Oak Grove, where in Oak Grove?

23 A. In Dillon County.

24 Q. Okay. Tell me about this standing on the wall thing.

25 A. They would have to touch their nose to the wall.

26 Sometimes he would just let them stand there.

1 Sometimes he would make them hold their arms straight
2 out, you know. They couldn't raise 'um, they couldn't
3 drop 'um, if they did he'd beat 'um. There were times
4 when he made 'um hold a pillow. They had to hold their
5 arms straight out and hold a pillow. And his thing for
6 that was when he was in boot camp, they had to do
7 physical training until they literally had muscle
8 failure. And that's what he would tell 'um, stand
9 there until you can't hold it anymore.

10 Q. When they dropped their hands or they dropped the
11 pillows, what would happen?

12 A. He would beat 'um.

13 Q. These beatings, would they leave marks?

14 A. Yeah.

15 Q. What kind of marks?

16 A. Bruises, whelps, red marks, ah --

17 Q. Did these ever draw blood?

18 A. Yeah.

19 Q. Kristina, let's be honest. Do you remember standing on
20 the wall?

21 A. Yeah.

22 Q. Did you ever make them stand on the wall for hours?

23 A. Yeah. Not all day.

24 Q. What?

25 A. Not all day.

26 Q. Did you ever make them hold pillows?

1 A. No.

2 Q. Did you ever make them hold their arms out?

3 A. No.

4 Q. What would happen if they needed to go to the bathroom
5 while they were standing on the wall?

6 A. He would tell 'um that from where he was sitting, it
7 didn't look like they had to use the bathroom. Um,
8 they would be made to stand there until they cried or
9 until they did what he called the pee-pee dance.

10 Q. The pee-pee dance, what does that mean?

11 A. Have you ever seen a small child that really had to go
12 to the bathroom, who is switching, and turning, and
13 that type of thing.

14 Q. Would they get in trouble for having to go to the
15 bathroom?

16 A. Sometimes, yeah.

17 Q. What kind of trouble?

18 A. He would fuss at 'um. There was times when he would
19 beat 'um for having to go to the bathroom, if they were
20 under punishment as he called it.

21 Q. Did they ever just get --- I mean --- I mean --- just
22 because they were bad, I mean because they needed
23 punishing?

24 A. Yeah, but he would always find a reason. He would
25 always find a reason for doing whatever he had done.
26 Whether it be them climbing the tree in the yard or

1 hollering to loud while they were outside. We stayed
2 in the country. I mean, we were two miles from a paved
3 road, and it was --- how do you get in trouble for
4 hollering in the yard? How do you get in trouble for
5 climbing a tree?

6 Q. He would --- He would beat them for climbing a tree in
7 the yard?

8 A. Yeah.

9 Q. How did the abuse Kristina, change from Maple Wood to
10 Oak Grove, what was different if anything, about the
11 abuse?

12 A. It got a lot worse. We were in the country like I
13 said, and there was never anybody around.

14 Q. What about the wall thing, how often would that happen?

15 A. Two or three times a week, if they were lucky.
16 Sometimes every day.

17 Q. What?

18 A. Sometimes every day.

19 Q. Why didn't you stop him? Why didn't you do move out?

20 A. There were times when I tried to stop him.

21 Q. How did you try? How did you try to stop him?

22 A. There were times when I tried to leave and he would
23 pull parts off my car so I couldn't. Or he would pull
24 a gun on me so I couldn't leave.

25 MS. SELLERS: Objection, Your Honor.

26 THE COURT: On what basis?

1 MS. SELLERS: In terms of the relevance in this Your
2 Honor, my client is charged with a specific crime, and I
3 don't feel --- I don't understand how this information would
4 be relevant.

5 THE COURT: Sustained. Move to your next question.

6 MR. DANIEL: Thank you, Your Honor.

7 Q. Tell me about some things that happened at the Oak
8 Grove trailer? Hold on. By the way, what year was
9 that that you moved to Oak Grove?

10 A. 2004.

11 Q. Do you remember what month?

12 A. We moved out of the apartment in June. We stayed with
13 his mamma for about a month or two, and then we moved
14 into his uncle's trailers in August --

15 Q. Who is his Uncle?

16 A. Right before --

17 Q. I'm sorry, what?

18 A. Right before school started?

19 Q. Who is his mamma?

20 A. Wanda Williamson.

21 Q. Okay. Can you tell me some things that happened at the
22 trailer at Oak Grove? I know you said the wall thing,
23 but tell me some other stuff.

24 A. We had got up one morning, and my livingroom and my
25 kitchen, were one opened space. So I had my couch
26 butted up against my refrigerator to kind of section it

1 off. When we woke up, there was a red cup in between
2 the couch and the refrigerator. Well he went to
3 fussing that who had left this cup here, and why was
4 somebody up in the middle of the night in his house,
5 when they didn't have no business. And I tried to tell
6 him that it was mine, that I had you know, knocked it
7 off of the table, and it rolled over there or whatever.
8 But he woke the children up out of the bed and
9 questioned them for hours, hours. If they didn't give
10 him an answer that he wanted to hear, he would beat
11 'um. minor3 finally took the blame for the cup
12 being down there, and then he beat minor3 for having
13 it down there and for lying about it. So it wasn't
14 just one time.

15 Q. What was the beating like? This particular beating.

16 A. Um, he beat him with a belt. At one end where the
17 buckle was, it buttoned off. You could unbuckle the
18 belt and take the buckle off of it. But he beat him to
19 the point where the buckle came loose and flew across
20 the room. He had bruises.

21 Q. Who had bruises?

22 A. minor3

23 Q. Did the other two have bruises this time?

24 A. Yeah.

25 Q. Any blood this time?

26 A. No.

1 Q. Was there ever any blood?

2 A. Yeah. Um, I um --- I was leaving to go to the grocery
3 store, and the kids were with me, and minor¹ my youngest
4 son had left his bicycle in the yard and I ran over it.
5 And I knew if I didn't punish him that, Jeffrey would,
6 because, um a couple of days before I had run over
7 Jonathan's bicycle, which would tell most people that
8 was my fault. I wasn't paying attention to what I was
9 doing. It wasn't their fault that they left the
10 bicycle in the yard. Um, so he had beat minor³ for
11 leaving the bicycle out there, so I just went ahead and
12 beat minor¹ so he wouldn't um --- Well he was gone in
13 the process and when he came home he wanted to know
14 what happened, so I told him, or what happened to the
15 bicycle, and I told him. And he insisted that he was
16 going to beat minor again. So he broke a switch, and he
17 did, he beat him. There were streaks on his legs.
18 They were bleeding. I had to put blue jeans on him to
19 send him to school the next day.

20 Q. How often did you put long pants, and long sleeve
21 shirts on your children when you sent them to school,
22 so nobody could see the marks?

23 A. Very often.

24 Q. How often was Jeffrey the person that left those marks?

25 A. Often. I'm not saying I didn't.

26 Q. That's my next question. How often were you the person

1 who would leave marks?

2 A. I --- I --- I have several times.

3 Q. The bike thing, when was that?

4 A. In the fall of 2005.

5 Q. And where did you live then?

6 A. In the trailer.

7 Q. In the trailer at?

8 A. Oak Grove.

9 Q. In Oak Grove. Tell me something that you did. Did you
10 ever do anything to your children at Wanda's?

11 A. Yes.

12 Q. Like what?

13 A. minor2 had went and spent the night with her --- with
14 Jeffrey's sister-in-law, and they called me down there.
15 Her and their oldest son had got in trouble,
16 misbehaving or whatever. And I went and got her, and
17 brought her back to his mom's house.

18 Q. Got who?

19 A. minor2 And I sent her to her room, but on my way as I
20 went in the room behind her, she said something and
21 what I honestly don't remember. But, I grabbed her by
22 her hair and I lead her to the livingroom.

23 Q. Hold on. You grabbed her by the hair and you lead her
24 to the livingroom?

25 A. Yeah.

26 Q. What did you do Kristina? You grabbed her by her hair

1 and did what?

2 A. I ah --- I started leading her to the livingroom and
3 she fell. And I ah, drug her the rest of the way in
4 there.

5 Q. I'm sorry. You did what?

6 A. I drug her the rest of the way in there.

7 Q. You drug her by what?

8 A. By her hair.

9 Q. How many times did you drag your daughter by her hair
10 down the hallway?

11 A. Just that one time.

12 Q. Why did you do that?

13 A. I don't know.

14 Q. Kristina, what would happen if the kids got sick?

15 A. They would have to clean up after their self.

16 Q. What do you mean?

17 A. If they got like a stomach virus and throwed up you
18 know, in the middle of the night, then they would have
19 to get up, and clean it up, and change their sheets. I
20 couldn't. I wasn't allowed to.

21 Q. You weren't allowed to? Who didn't allow you to clean
22 up?

23 A. Jeffrey.

24 Q. Did you ever make them clean up their own throw up?

25 A. I had to.

26 Q. No. I mean, was it ever your idea for them to clean up

1 their own throw up?

2 A. No.

3 Q. Did they get in trouble for throwing up?

4 A. Yeah.

5 Q. What would happen to them other than having to clean it
6 up themselves?

7 A. He would beat 'um.

8 Q. Which children did he do this to?

9 A. Any of 'um. The oldest three.

10 Q. Who are the oldest three?

11 A. minor3 minor2 or minor1

12 Q. Kristina, what about bad grades. Did they ever get in
13 trouble for bad grades?

14 A. Mostly minor3 they all did.

15 Q. What -- I'm sorry. I'm sorry.

16 A. If they got bad grades, yeah they got in trouble for
17 'um. But they would get beat.

18 Q. How?

19 A. With a belt or a switch. Mostly with a belt.

20 Q. Did he leave marks?

21 A. Uh'huh.

22 Q. Huh?

23 A. Yeah.

24 Q. Did you ever beat them for bad grades?

25 A. Yeah.

26 Q. Now, let's be clear. When I say beat, I'm not asking

1 if you spanked them. Did he leave marks for bad
2 grades?

3 A. Yeah. Um, there were some time that I was working at
4 Wal-Mart, and ah, I left the kids there while I went to
5 work. And the next morning I got up to get 'um ready
6 for school, and we went and got in the car, and
7 minor3 had his book-sack on, and he wouldn't sit
8 down. So, I asked him, I said, minor3 what is
9 wrong? And he wouldn't tell me.

10 Q. What do you mean he wouldn't sit down?

11 A. He had his book-sack on. And he had the book-sack
12 pushed just as far up against the seat as he could, and
13 his legs --- his feet were on the floorboard of the
14 car, but his butt was about that far up from the seat.
15 And I asked him several times, and he wouldn't tell me.
16 So, I made him get out of the car, and I took him in
17 the house to the bathroom. And I pulled his book-sack
18 and his coat off of him. I pulled his blue jeans down.
19 And when I got ready to pull his underwear down he
20 wouldn't let me. So I turned him around and his
21 underwear was stuck to his butt. His butt, had busted
22 open in two different places, from where he had beat
23 'um with a belt for a bad grade.

24 Q. What else? What year was that?

25 A. That was 2006.

26 Q. Where did you live then?

1 A. We lived with his mother.

2 Q. What else? You've got five years of stuff. Come on.

3 A. Um, before all of that, I was working at Eckerd in
4 Dillon, and we were still staying at the trailer in Oak
5 Grove. And I came home from work one day, and I went
6 into the bathroom, to change my clothes. On the way
7 back out, I noticed that minor² and minor were in my bed
8 asleep. I went in the kitchen to start supper, and I
9 thought I heard them wake up. So I went back there so
10 that I could put their coat and their shoes on 'um, and
11 send 'um in the yard. But they were still asleep. On
12 my way back to the kitchen to finish cooking or
13 whatever, I noticed that their bedroom door was closed.
14 As I opened it, minor³ had his back turned to me.
15 They had bunk beds in their room. He turned around and
16 looked at me, and he was upset, and he was crying. And
17 his hands were further up, you know, like eye level.
18 And the closer I got, I noticed that he was tied to the
19 bed around both of his wrist. Well, I went and I tried
20 to untie him, and I couldn't. I went in the kitchen to
21 get a knife. I went back in the bedroom. And the
22 whole time I am coming in, to untie him from the bed,
23 he is telling me, Mamma, just leave me here. He told
24 me several times just to leave him there. That if I
25 would leave him there, that he wouldn't get in trouble.
26 And Jeffrey wouldn't beat him, and he wouldn't beat me,

1 and he was just crying. Well, I cut him loose, and I
2 sent him into the back bedroom, because by this time
3 minor2 and minor1 was awake. I left minor3 my watch,
4 and told him, if I wasn't back in about fifteen minutes
5 to go to the neighbor's house. To tell them what was
6 going on, and she would know what to do. And I got his
7 shotgun. He had went outside in the process of me
8 getting a knife. And, um, I couldn't find him, so I
9 shot it in the woods three or four times, and I went
10 back in the house and got our stuff together, and I
11 went to his mamma's house. And I called my mamma to
12 come and get us from Conway. As I was waiting on her,
13 that is the day he had his accident with his leg.

14 **THE COURT:** Ma'am, I'm going to get you to get a
15 little closer --- Pull up closer to that microphone, so that
16 we all can hear you.

17 Q. What year was this?

18 A. 2005, December 23, 2005.

19 Q. And that is the day he had this accident?

20 A. Yeah.

21 Q. With his leg?

22 A. Yeah.

23 Q. Did he loose his leg on that day?

24 A. Yeah.

25 Q. You said December of 2005?

26 A. Yeah.

1 Q. So he had lived with you and the children how long
2 prior to this --- How long did he have both legs when
3 he lived with you and the children?

4 A. Um, from the time he moved in up until then.

5 Q. So, that would have been what year to what year?

6 A. He moved in August 2003 and this happened December
7 2005.

8 Q. Okay. On this date, did you leave him?

9 A. (No response.)

10 Q. No, you didn't. How did --

11 **THE COURT:** All right, just a moment. Ma'am, you
12 need to answer verbally that last question.

13 A. No.

14 Q. No, you did not leave him. How did the --- him only
15 having one leg affect the abuse that he inflicted upon
16 your children?

17 A. It got worse.

18 Q. I'm sorry?

19 A. It got worse.

20 Q. Was he typically on crutches or in a wheelchair?

21 A. Um, in the beginning it was a wheelchair, but it was a
22 little of both after that.

23 Q. Did the fact that he only had one leg impede him, or
24 prohibit him from having his way with these children?

25 A. Not at all.

26 Q. Tell me about some other things he did.

1 A. Um, there was one time minor2 had gotten in trouble
2 about something, I'm not real sure what. But he went
3 in the kitchen and got --- She got in trouble, and he
4 sent her to her room. And as he was going by to go to
5 the bathroom, he said, she said something along the
6 lines of she hated being here. That she wished she
7 lived somewhere else. I don't know. I didn't hear her
8 say that. But in the process, he went and got a trash
9 bag out of the kitchen, and put all of her clothes in
10 it, shoes, underwear, coats, everything that belonged
11 to her, and sat her and the bag on the porch.

12 Q. Sat who on the porch?

13 A. minor2

14 Q. And the bag with all of the stuff?

15 A. Yeah.

16 Q. What time of year was it?

17 A. It was cold outside. She had on a gray sweat suit,
18 jogging suit and a pair of socks.

19 Q. So, he sat minor2 and all of her stuff, and a trash bag
20 on the porch.

21 A. Yeah.

22 Q. Did she have on a coat or did she have on a jacket?

23 A. No.

24 Q. How long did he leave her out there?

25 A. It was probably about two hours. Two or three.

26 Q. Kristina, why didn't you get her and bring her back

1 inside?

2 A. I tried.

3 Q. What do you mean you tried?

4 A. I got up and went to the door, I tried.

5 Q. And what happened?

6 A. He grabbed me by the back of my neck and pulled me in
7 the --

8 MS. SELLERS: Objection, Your Honor. I believe this
9 information would be prejudicial.

10 THE COURT: Overruled. You may answer the question.

11 MR. DANIEL: Thank you, Your Honor.

12 A. He grabbed me by the back of my hair and pulled me in
13 the floor. If I tried to get up and go back to the
14 door --- um, one time when he pulled me in the floor,
15 I remember him kicking me in my side, in my ribs.

16 THE COURT: Counsel, she has answered the question.
17 Please move to your next question.

18 MR. DANIEL: Thank you, Your Honor.

19 Q. How long did you say he left her out there?

20 A. Two or three hours.

21 Q. What else? Wait, what year was that?

22 A. That was 2005. That was while we were still in the
23 trailer at Oak Grove.

24 Q. What else?

25 A. He would ah --

26 Q. -- Hold on, hold on a second. Okay. What else?

1 A. He would do --- if they got in trouble and he didn't
2 feel like punishing 'um, he would take their toys and
3 lock 'um in the barn. Um, I've seen him burn 'um.

4 Q. You have seen him what?

5 A. Burn their toys. They didn't have toys in their rooms.
6 They had a basket of books, but they didn't have toys
7 in their room.

8 Q. Did you ever burn their toys too?

9 A. No.

10 Q. Did you help him burn the toys?

11 A. No.

12 Q. Would your children ever hide from Jeffrey?

13 A. Yes. But if they hid from him and he found 'um, it was
14 just --- it was worse.

15 Q. You mentioned that Jeffrey --- And I think you said
16 that you did this too --- would make the children stand
17 on the wall?

18 A. Yeah.

19 Q. Did they ever have to hold anything?

20 A. Yeah. He would make 'um hold pillows.

21 Q. Did he ever do things like that when they hadn't done
22 anything wrong?

23 A. Yeah, but he would find a reason.

24 Q. He did what?

25 A. He would find a reason.

26 Q. When you would see Jeffrey beat your children, how

1 often would he leave marks?

2 A. Just about every time.

3 Q. And those marks included?

4 A. Bruises, busted skins, streaks, whelps.

5 Q. The situation that you described about the duct tape,
6 the duct taping of minor³ and minor² together, were
7 there another situations with duct tape?

8 A. No.

9 Q. How often was Jeffrey left alone with the children?

10 A. Often.

11 Q. And where would you be?

12 A. At work.

13 Q. When Jeffrey would hurt your children, would his
14 friends be around?

15 A. Sometimes. Most of the times not. He wouldn't --- He
16 wouldn't do stuff like that in front of most people.
17 He would tell everybody that he was gone.

18 Q. He would what?

19 A. He would wait until everybody was gone.

20 Q. Did --- Do you remember anything else?

21 A. Yeah. I mean it was --- it wasn't just one in
22 particular time. If they got a bad note home from
23 school, they got a beating. If they got a bad grade
24 home from school, they got a beating. If they didn't
25 wash the dishes right, they got a beating. There was
26 one time we were --- I was folding clothes, and me and

1 him were arguing. And I had finished folding the
2 clothes, and he took the basket, I had 'um in, and
3 dumped 'um upside down and made the children come in
4 there, and help me refold 'um. And minor 3 was
5 folding a towel, and I think I told him that his
6 corners wasn't meeting right. And Jeffrey --- Jeffrey
7 beat him because he didn't fold a towel right.

8 Q. He beat him because he didn't fold the towel right?

9 A. Yeah.

10 Q. Well, a minute ago you said that he would beat them if
11 they came home with a bad note, or a bad grade, or ---
12 I got beat for that. What's the big deal about that?

13 A. He would leave bruises. And, I mean it wouldn't just
14 be --- It was horrible. I lived in Hell.

15 Q. I'm sorry?

16 A. They lived in Hell.

17 THE COURT: Ma'am, I still have not heard that
18 comment. Please speak a little more loudly and say that
19 again.

20 A. I said they lived in Hell.

21 THE COURT: Is there anything further counsel?

22 MR. DANIEL: Yes, sir.

23 Q. How did it all end?

24 A. After he lost his leg, he would go to different
25 hospitals trying to get pain medication.

26 MS. SELLERS: Objection, Your Honor. Again this

1 information --- May we approach briefly, Your Honor?

2 **THE COURT:** Actually, no that is not necessary.

3 Ladies and gentlemen, there has previously been testimony
4 about acts that occurred between the defendant and the
5 witness not involving the children. I am going to ask you
6 to disregard those with regard to these charges. The
7 charges, that are before this Court, allege that the
8 defendant took certain action with regard to the children.
9 So, please disregard any other acts that you may hear this
10 witness testify to on the part of the defendant, that has
11 nothing to do with the children, including the last comment
12 about why or why not the defendant may have gone to a
13 hospital.

14 So, please proceed and move forward.

15 **MR. DANIEL:** Thank you, Your Honor.

16 Q. I don't even want to know why you broke up, when did
17 you brake up?

18 A. November of 2007.

19 Q. And were your children every around Jeffrey --- Your
20 oldest three, minor3 , minor2 and minor , were they ever
21 around Jeffrey since November of 2007?

22 A. No.

23 Q. Did Jeffrey ever hurt C e?

24 A. No.

25 Q. You never saw him hurt C ie?

26 A. No.

1 Q. Do you know why?

2 A. Because she --

3 MS. SELLERS: Objection, Your Honor that would call
4 for speculation.

5 MR. DANIEL: I'll withdraw the question.

6 THE COURT: Very good. Move to your next question,
7 counselor.

8 Q. Kristina, you are the mom here, okay. And the one
9 person that these children should be able to trust.
10 The biggest question I have for you is, why this went
11 on three, or four years, or five, or whatever. Why
12 didn't you do anything to stop it? You could have
13 moved out.

14 A. Because he made me believe that nobody would believe
15 me. If I went and told somebody about this, he made me
16 believe that nobody would believe me.

17 Q. Well, that is not the whole story. You did some of
18 this stuff too, didn't you?

19 A. I never said I didn't.

20 Q. I'm sorry?

21 A. I never said I didn't.

22 Q. So you did?

23 A. Yeah.

24 Q. Did you leave marks?

25 A. Yeah.

26 Q. Did you draw blood?

1 A. Yeah.

2 Q. minor2 --- I'm sorry. Kristina, was there ever any
3 happy times?

4 A. Not often. Not a lot.

5 Q. Did the children ever do anything to Jeffrey anything
6 nice?

7 A. Yeah. They --- Father's Day and Christmas cards, you
8 know. Christmas presents or birthday cards, because as
9 long as you made him feel better, then it wouldn't be
10 as bad.

11 Q. Who is David?

12 A. A ex-boyfriend of mine.

13 Q. Did he live with you and the children?

14 A. Yes.

15 Q. About how long did he live with you and the children?

16 A. About four months.

17 Q. When was that?

18 A. Um, March of 2007, until about June or July of 2007.

19 Q. Did you ever see David hurt your children?

20 A. No. Him and minor3 were arguing one time and he
21 grabbed him by his arm, but other than that you know,
22 not like he did.

23 Q. Not like who did?

24 A. Jeffrey.

25 Q. When you lived with or they lived with you --- after
26 they lived with you, did you ever at any time live with

1 Jeffrey again?

2 A. Yeah.

3 Q. And that was in what year?

4 A. 2007.

5 Q. Are you in counseling now?

6 A. Yes.

7 Q. How long have you been in counseling?

8 A. Over a year.

9 Q. Do you take any classes to go along with your
10 counseling?

11 A. Yeah.

12 Q. Well, if you don't have the children anymore, because
13 you said you don't have them anymore. Why are you
14 still in counseling?

15 A. For me.

16 Q. Finally, Kristina, were you charged --- were you
17 criminally charged in this whole situation too?

18 A. Yes.

19 Q. What were you charged with?

20 A. Unlawful neglect, child abuse.

21 Q. Do you know how many charges?

22 A. Three counts.

23 Q. Now are you going to go to trial too?

24 A. No.

25 Q. Why not?

26 A. Because I pled guilty.

1 Q. I'm sorry?

2 A. I plead guilty on one count.

3 Q. You have already pled guilty?

4 A. Uh'huh.

5 Q. When did you do that?

6 A. Monday.

7 Q. This week?

8 A. Yeah.

9 Q. So you admit your guilt in all of this?

10 A. Yeah.

11 Q. Have you been sentenced yet?

12 A. No.

13 Q. When is that, going to happen?

14 A. After this trial is over.

15 Q. Have you been promised anything by me or anybody in my
16 office as a result of testimony here today?

17 A. Yeah.

18 Q. I'm sorry?

19 A. Yeah.

20 Q. And what is that?

21 A. A cap of two years.

22 Q. Two years where?

23 A. In prison.

24 Q. What is your understanding of a cap of two years?

25 A. That I could serve two years in prison.

26 Q. Could you serve more?

1 A. Yeah.

2 Q. Who decides that?

3 A. The Judge.

4 Q. So you are facing some pretty serious prison time
5 yourself?

6 A. Yeah.

7 Q. As a result of your guilty plea?

8 A. Yes.

9 Q. Kristina, why if you are facing serious prison time
10 yourself, why would you --- why not role the dice and
11 go to trial like Jeffrey?

12 MS. SELLERS: Objection, Your Honor.

13 THE COURT: I'm going to sustain that counsel. The
14 defendant is presumed innocent of these charges. It is not
15 a matter of rolling the dice and going to trial. It is a
16 matter of if the State can meet the burden of proof, which
17 is a high burden of proof. So, please disregard that
18 comment made by counsel.

19 And, what is the relevance of this line of questioning,
20 counsel?

21 MR. DANIEL: Your Honor, I will withdraw that, and I
22 will be done with Ms. Miller at this time.

23 THE COURT: Very good, thank you.

24 MS. SELLERS: If it please the Court.

25 THE COURT: And now cross examination.

26 MS. SELLERS: Thank you.

1 THE COURT: Ma'am, again please move closer to the
2 microphone so that we all can hear you.

3 CROSS EXAMINATION BY MS. SELLERS

4 Q. Ms. Miller, you swore to tell the truth today didn't
5 you?

6 A. Yes, ma'am.

7 Q. And you told this jury --- the first thing you said is
8 you didn't know what to do, correct?

9 A. Yes, ma'am.

10 Q. You knew what to do, right? You had been there before
11 hadn't you?

12 A. What do you mean?

13 Q. You had been accused of child abuse before hadn't you?

14 A. Not in court, no.

15 Q. Not in court, but by DSS hadn't you?

16 A. Yes.

17 Q. More than one time, correct?

18 A. No.

19 Q. Not in 1999?

20 A. Yes. That was before all of this.

21 Q. Before all of this, 2000 and what? Weren't your
22 children removed in 2001 for an entire year? You
23 didn't get them back until 2002, right?

24 A. I lost my children November 30, 2000 --

25 Q. November 30 of 2001.

26 A. 2001 and I got them back October 26, 2002.

1 Q. So that is almost a year, correct?

2 A. Right.

3 Q. Now tell the jury what happened in 1999?

4 A. Um, I don't know what --

5 Q. You are a mother, correct?

6 A. Yes.

7 Q. Isn't it your natural instinct to protect your
8 children?

9 A. Yes, ma'am.

10 Q. And isn't it your natural instinct to know what is
11 going on with your children?

12 A. Yeah.

13 Q. So please tell the jury what happened in 1999.

14 A. When in 19 --- I mean --

15 Q. -- When DSS was involved?

16 A. I don't --

17 Q. -- Or why DSS was involved?

18 A. -- recall. I don't recall DSS being involved in 1999.

19 Q. You just told the jury that yes in 1999 DSS was
20 involved.

21 A. I recall them being involved in 2001 when I lost 'um.

22 Q. In 2001, please tell the jury what happened?

23 A. Um, they removed 'um from my home.

24 Q. Why? They just came to your home for no apparent
25 reason and removed your children --- all three of your
26 children?

1 A. No, ma'am. I split up with minor2 and Joshua's father,
2 and he made several calls. Anytime DSS gets a call
3 they have to investigate.

4 Q. So anytime they get a call --

5 A. -- Anytime.

6 Q. Do they remove the children?

7 A. Not all the time, no ma'am.

8 Q. Why did they remove the children in this incident?

9 A. Because minor2 was running through my livingroom with a
10 pencil. I went to grab her to stop her --- the shirt
11 she had on made a red mark on her neck.

12 Q. Weren't the children actually removed because you
13 kicked minor2 for knocking over minor1

14 A. Um, I don't --- I don't recall that. I remember
15 spanking minor2 because she knocked over minor in the --

16 Q. Did you pull her and spank her?

17 A. I pulled her for the pencil. I spanked her because she
18 knocked minor out of the walker.

19 Q. Isn't it true that DSS has made prior visits to your
20 home in November of 2001?

21 A. Yeah.

22 Q. And you were in the bed asleep at 2:00 in the
23 afternoon?

24 A. Yes, ma'am.

25 Q. And they tried and tried to wake you up?

26 A. Yes, ma'am.

1 Q. And you would never wake up, correct?

2 A. Right.

3 Q. And your children were actually outside running around?

4 A. minor2 was outside running around.

5 Q. minor2 was --

6 A. -- minor1 was in the bed asleep. That is why I slept
7 to 2:00, because I didn't go to sleep until 6:00
8 because he was up with pneumonia all night.

9 Q. So, were you stressed at having a lot of children?

10 A. Any parent with multiple children is under stress.

11 Q. You are under stress. Do you have outlets that you can
12 go to?

13 A. Yeah.

14 Q. Tell me about the --- Tell the jury about your family
15 relationship?

16 A. Um, my --

17 Q. Your dad, you didn't have a relationship with your Dad
18 until you were --

19 A. I was twelve years old.

20 Q. You were eleven --

21 A. -- Eleven or twelve, yeah.

22 Q. And you resent that don't you?

23 A. Um, we've resolved that.

24 Q. You have resolved that?

25 A. Yeah.

26 Q. And let me ask you. Your relationship with mother, you

1 didn't have a relationship with her either?

2 A. Yes, I did.

3 Q. Who raised you?

4 A. My mother raised me.

5 Q. Your Grandmother didn't help raise you?

6 **MR. DANIEL:** Your Honor, I would object at this time
7 to relevance. Mr. Caulder has been charged with three
8 counts of child abuse. I don't know what relationship
9 Kristina's relationship with her parents --

10 **THE COURT:** -- Overruled. It goes to credibility and
11 believability. And the Court overrules your objection.

12 **MS. SELLERS:** Thank you, Your Honor.

13 **MR. DANIEL:** Thank you.

14 Q. And your Grandmother, didn't she raise you?

15 A. She helped raise me. My mother was a single parent.

16 Q. Your mother was a single parent?

17 A. Yes, ma'am.

18 Q. Do you care if your daughter has a relationship with
19 her father?

20 A. Um, sure I do, but that is not up to me to decide.

21 Q. -- That's not up to --

22 A. -- I no longer have custody of them.

23 **THE COURT:** Counsel, I am going to ask you to not
24 bump or talk over your witness. Our court reporter cannot
25 take two at one time. It is also difficult for the jury to
26 hear.

1 MS. SELLERS: I apologize.

2 THE COURT: You may proceed. All right. Ma'am,
3 please move closer to the microphone and speak more loudly
4 so we can all hear you in the courtroom. It is somewhat
5 difficult for everyone to hear you.

6 MS. MILLER: Okay.

7 (PAUSE)

8 MR. REDMOND: Beg the Court's indulgence.

9 MS. SELLERS: May we approach, Your Honor?

10 THE COURT: I'll let you see if you can resolve your
11 issues that would be best. If you cannot, you may approach.

12 (PAUSE)

13 Q. Kristina, did you ever make any statements?

14 THE COURT: All right. And what is the number of the
15 marked documents? And will there be an objection to those
16 counsel?

17 MR. DANIEL: Your Honor, one of those documents I
18 have seen the other I have not. But, I won't object at this
19 time other than to say I have never seen it. But I have no
20 problem.

21 MS. SELLERS: For the records, I got both with my
22 discover packet.

23 THE COURT: All right. Defendant's 1 and 2 in
24 evidence without objection.

25 WHEREUPON, DEFENDANT'S EXHIBIT

NUMBERS 1 AND 2 WERE MARKED

AND ADMITTED INTO THE RECORD.

Q. Your father, you said you didn't have a relationship until you were twelve?

A. Uh'huh. Yes, ma'am.

Q. You haven't had a good relationship with him since that time have you?

A. I've been with my father several times since I met him.

Q. But hasn't he actually tried to kick you out of it because of your behavior?

A. Yeah.

Q. Doesn't he, despise how you treat your children?

MR. DANIEL: Objection, Your Honor.

THE COURT: Overruled. Cross examination, leading questions are permitted.

A. I can't answer that question.

Q. He was more concerned about your parenting skills, correct?

A. Yeah. He was actually the reason DSS was called in the last time.

Q. Okay. Let's talk about the reason DSS was called in. Didn't Jeffrey call or accompany your father and your stepmother?

A. To my --

Q. -- to file a complaint?

A. To my knowledge, yeah. I wasn't there.

1 Q. You weren't there, but you got paperwork from DSS,
2 right?

3 A. Yes.

4 Q. And they filed a complaint because you were living
5 where?

6 A. In a motel room.

7 Q. With four children?

8 A. Yes, 'um.

9 Q. And two men?

10 A. No.

11 Q. Was Larry Jacobs there?

12 A. Yeah.

13 Q. Was Scottie Clover there?

14 A. He didn't live with us. He worked with Larry.

15 Q. How much space was in that motel room?

16 A. There were two double beds.

17 Q. Two double beds. Did you have a kitchen?

18 A. There was a microwave and a refrigerator in that room.

19 Q. When DSS came --- Let me ask you, you were getting
20 assistance, correct?

21 A. Yeah.

22 Q. You have always gotten assistance, correct?

23 A. Yeah.

24 Q. And you are still going to tell this jury that you
25 didn't know what to do?

26 A. (No response.)

1 Q. You knew enough to go to DSS, correct?

2 A. To get --

3 Q. -- assistance?

4 A. Yeah.

5 Q. You knew what would happen if they thought the children
6 were being abused, correct?

7 A. Right.

8 Q. You knew they would remove children from the home?

9 A. Right.

10 Q. So you wouldn't have to find a place to go, correct?

11 A. Right.

12 Q. But you didn't?

13 A. Because I didn't think they would believe me.

14 Q. Because you were abusing the children, right?

15 A. I have already plead guilty to that.

16 Q. So that is a yes?

17 A. Yeah.

18 Q. So you knew --- You had a issue with DSS, correct?

19 A. Yes.

20 Q. And didn't try to let the defendant help your children?

21 A. No, because my children were terrified of DSS.

22 Q. Your children were terrified?

23 A. Yeah.

24 Q. Because they had been involved with DSS?

25 A. Right.

26 Q. So your children would probably say --- Do you think

1 A. No.

2 Q. When you stayed at Maple Wood?

3 A. That was through the apartment complex.

4 Q. Does the apartment complex --

5 A. -- It was based on your income.

6 Q. Based on your income?

7 A. Yes, ma'am.

8 Q. So it is a low income type of situation?

9 A. Yeah.

10 Q. How many people did you have reported staying there?

11 A. Me, and my oldest three children.

12 Q. But you said Jeffrey was living there too?

13 A. Yeah. I didn't put him on the lease until after

14 C e was born.

15 Q. After C ne was born?

16 A. Yeah.

17 Q. Jeffrey wasn't working at that time?

18 A. No.

19 Q. Okay. So, you didn't put him on the lease but he was
20 staying there during that time?

21 A. Yeah.

22 Q. So you lied?

23 A. (No response.)

24 Q. Do you often lie to get what you want?

25 A. No.

26 Q. When do you find it easiest to lie?

1 your children would say and do things to not go back in
2 DSS's custody?

3 A. Probably, yeah. I don't know. I don't answer for
4 them.

5 Q. Okay. Now -- I'm sorry.

6 A. I can't answer for them.

7 Q. All right. How much time did you actually work?

8 A. Um --

9 Q. Were you always gainfully employed? Let me rephrase
10 that.

11 A. No, not always.

12 Q. You have only really worked one or two years, correct?

13 A. I've worked off and on since I was sixteen.

14 Q. Since you were sixteen. What is the longest job you
15 have ever had?

16 A. A little over a year.

17 Q. A little over a year?

18 A. Yeah.

19 Q. With how many children to support?

20 A. Four.

21 Q. The best you can do is working for one-year?

22 A. Yeah.

23 Q. Let's go back to DSS. You were receiving what kind of
24 assistance, was it food stamps?

25 A. Yes.

26 Q. Was it helping you out with your housing?

1 A. (No response.)

2 MS. SELLERS: Your Honor, could you instruct the
3 witness to answer the question.

4 THE COURT: Well, I assumed that she was thinking
5 about the answer, and would respond to the question.

6 A. Can you repeat it?

7 Q. When do you find it okay to lie?

8 A. I don't know.

9 Q. You don't know. But you do it?

10 A. I lied then, yeah.

11 Q. When DSS --- or when you went to DSS --- You know how
12 to get there, correct?

13 A. Yeah. I have lived across the street from them all of
14 my life.

15 Q. From DSS?

16 A. Yes.

17 Q. All of your life?

18 A. Yes, ma'am.

19 Q. You lived across the street?

20 A. Yes, ma'am.

21 Q. And that is on Highway 34?

22 A. Yes, ma'am.

23 Q. When you went to DSS you filled out several
24 applications, correct?

25 A. Yes, ma'am.

26 Q. Did you indicate that males lived in your home with

1 you?

2 A. No, ma'am.

3 Q. So you lied to them too?

4 A. I put him on all of my stuff after Cheyenne was born.

5 Q. What about David Jackson?

6 A. What about him?

7 Q. Did you put that he was living with you?

8 A. Um, no.

9 Q. Why not?

10 A. Because --

11 Q. -- Because it was okay to lie?

12 A. No. It wasn't --

13 Q. -- Do you lie --

14 A. -- it wasn't okay.

15 Q. Do you lie by compulsion?

16 A. No.

17 Q. Do you lie when you feel that the situation warrants
18 it?

19 A. No.

20 Q. Was there anything that --- Is there a difference
21 between a small lie and a big lie?

22 A. Yeah.

23 Q. There is a difference?

24 A. Uh'huh.

25 Q. A lie isn't a lie?

26 A. It depends.

1 Q. It depends?

2 A. Yes.

3 Q. What does it depend on?

4 A. I don't know.

5 Q. In what --- When you make the decisions, what factors
6 do you consider?

7 A. Decisions about what?

8 Q. About lying.

9 A. I don't know.

10 Q. You don't know. So you don't know when you lie?

11 A. Yeah, I know when I lie.

12 Q. Do you try to stop lying?

13 A. Because I lied about who was living in my home.

14 Q. What --- I mean --- You just admitted to the jury that
15 you lied about several things. So I'm just trying to
16 help them understand, so that I can understand as well
17 when you decide to lie. When is it okay to lie?

18 A. I lied about who was living in my home.

19 Q. Did you lie to DSS in 1999 about your parenting?

20 A. What do you mean about my parenting?

21 Q. I mean, when the report was filed, did you lie to them
22 or did you readily admit that yes, I abused my
23 children?

24 A. I don't know. I don't remember DSS being involved with
25 me in 1999.

26 Q. In 2001 did you fully admit it?

1 A. As you said, they came to my door.

2 Q. But --

3 A. I was under investigation. They came to my door, they
4 could not get me up, because my son had been up all
5 night sick.

6 Q. Was that the second time in 2001, however that they had
7 been to your home? The first time was in August,
8 right?

9 A. They opened an investigation in August.

10 Q. But you were aware of that investigation?

11 A. Yes, and I was doing parenting classes and everything
12 that they had instructed me to do then.

13 Q. And your parenting classes, did that teach you to kick
14 minor 2

15 A. That was after that alleged incident happened.

16 Q. After that --

17 A. -- Yes. --

18 Q. That is the second time you had been involved with DSS?

19 A. Um --- That was the first time that my children were
20 removed from my home.

21 Q. Let's go back to the hotel --- the motel, I'm sorry.
22 The Latta Motel, right?

23 A. Right.

24 Q. That is right outside of 301?

25 A. Right.

26 Q. Is that a heavy drug area?

1 A. I don't know, I don't do drugs.

2 Q. You don't do drugs?

3 A. No, ma'am.

4 Q. Do you recognize that it may be a high crime area?

5 A. I have never seen any violence go on there.

6 Q. Let me ask you. Have you ever seen many families
7 living there?

8 A. Not living there, no.

9 Q. Not living there, but you decided to move your family
10 there.

11 A. Well it was either stay in a twenty-five-dollar room
12 motel at night, or sleep in my car with my four
13 children.

14 Q. Did you ever go to DSS and ask for housing assistance?

15 A. I had been in touch with DSS previous to that. I had
16 also put my name on housing.

17 Q. So you didn't --

18 A. -- Yes, 'um. I had went to put my house on housing. I
19 had been in contact with DSS. Prior to this I also got
20 in touch with the Pee Dee Collision and Community
21 Action.

22 Q. -- So you --

23 A. -- to try to get help for me and my children, for me
24 and my children somewhere to stay.

25 Q. So when it advantaged you, you would go to the proper
26 authorities and try to get help?

1 A. I was, like I said, at that point in time it, was
2 either go take my children to what I could afford, or
3 make them sleep in my car.

4 Q. But --- Ms. Miller, if you would just answer the
5 question. When it directly benefits you, you know
6 where to go and get help from?

7 A. Yes, ma'am.

8 Q. And at that time, the kids were already getting some
9 assistance with their food, correct?

10 A. Yeap.

11 Q. Why is it then that there were only a half a pack of
12 crackers and potato chips in the room?

13 A. That was only what was visible. Nobody went in and
14 opened the refrigerator.

15 Q. Well didn't DSS go in and do a thorough --

16 A. -- No, ma'am --

17 Q. -- investigation?

18 A. No, ma'am. DSS never went into the motel room.

19 Q. Didn't they remove the children from the motel room?

20 A. DSS met me at my father's house.

21 Q. Did you flee?

22 A. No, but they --

23 Q. -- Did you --

24 A. -- but when I knew that DSS was looking for me, I went
25 to my father's house.

26 Q. Why didn't you just go to DSS?

1 A. Because he told me if I would come there, he would have
2 them meet me there.

3 Q. Okay. Now, let's go back to your fathers. He is going
4 to help you out. Hasn't this incident caused you and
5 your father to have a relationship?

6 A. What do you mean?

7 Q. Isn't this the first time that your father has tried to
8 communicate with you?

9 A. No.

10 Q. It is not the first time?

11 A. No.

12 Q. Since this incident occurred in 2007, hasn't your
13 father tried to have you committed twice?

14 A. My father, along with my step-mother, and my mother.

15 Q. Everybody has tried to have you committed?

16 A. Yeah.

17 Q. Why?

18 A. I don't know.

19 Q. You don't know?

20 A. I can't answer that question. I went to the hospital
21 and the doctor released me.

22 Q. What types of questions did the doctor ask you?

23 A. Questions to whatever was on the paper when they tried
24 to have me committed?

25 Q. You didn't read that paperwork?

26 A. Um, that's been two years ago.

1 Q. How many times --- Have you ever --- How many times, in
2 your life has someone tried to commit you?

3 A. My father went the first time, and my mother, and my
4 step-mother went the second time, and that was all in
5 one week period.

6 Q. So your father did go and try to have you committed?

7 A. Yeah.

8 Q. Again was it for the same thing?

9 A. Yeah.

10 Q. How do I know if it is for the same thing if you don't
11 know what it is?

12 A. I know it was, because I was from house to house. I
13 was unstable.

14 Q. And why were you --

15 A. -- I had no where to stay.

16 Q. And why were you unstable?

17 A. Because I had no where to live.

18 Q. You knew how to get assistance, why didn't you have
19 anyplace to live?

20 A. I --- I --- I tried to, go that route. We just --- I
21 mean we just talked about how I went to Clio, to
22 housing authority, and got in contact with the Pee Dee
23 Coalition and Community Action.

24 Q. What year was that? What time was this?

25 A. This was right after I left Mr. Caulder, at the end of
26 2007, in the beginning of 2008.

1 Q. Now since you stopped dating Mr. Caulder, November
2 2007?

3 A. Yes, ma'am.

4 Q. You also said you were living with him dating ---
5 dating back from March and July?

6 A. Because me and Mr. Caulder split up.

7 Q. So, as soon as you brake up, there was another person
8 in your household with your children?

9 A. No. Me and Jeffrey had been split up for about two
10 months before.

11 Q. So, actually you and Jeffrey would have split up at the
12 end of 2007 --- 2006?

13 A. No. We split up at the beginning of 2007. I moved in
14 with my brother and my sister. From there I moved to
15 Conway with my mother.

16 Q. Now that wasn't the first time you lived in Conway was
17 it?

18 A. No ma'am, it was not.

19 Q. It was the second time you lived in Conway?

20 A. Yes, ma'am.

21 Q. You forgot to tell them about you living in Conway.
22 What time frame was that, remember you went through
23 that whole time frame?

24 A. Yeah. Yeah.

25 Q. Why did you forget to tell them about that?

26 A. I --- It wasn't that I intentionally forgot. I --- I

1 left Mr. Caulder in February of 2006, the first time I
2 left him, and went to go to Conway. I stayed there for
3 seven weeks and I came back.

4 Q. And you enrolled the children in school there?

5 A. Yes, ma'am.

6 Q. Now, you were getting child support checks, right?

7 A. Right.

8 Q. From Brandon or Phillip?

9 A. Phillip.

10 Q. And Phillip is minor² and Joshua's daddy?

11 A. Yes, ma'am.

12 Q. Now, you said you didn't know where to go.

13 A. Right.

14 Q. You were pregnant with C ne?

15 A. Right.

16 Q. But this wasn't your first baby?

17 A. No.

18 Q. So it was not like you were tied to the baby's father,
19 correct?

20 A. No.

21 Q. And you are about two years older than Jeffrey?

22 A. A year and a half.

23 Q. A year and a half. You said you are now in counseling?

24 A. Yes, ma'am.

25 Q. Who pays for that?

26 A. I'm not sure. It is free through the Pee Dee

1 Coalition.

2 Q. It is free through Pee Dee Coalition? How long have
3 you been going to counseling?

4 A. Um, for a little over a year.

5 Q. Now, this is the second time you have ever been in
6 counseling, or how many times is this for counseling?

7 A. The first time for actual counseling.

8 Q. The first time for actual counseling?

9 A. Yes, ma'am.

10 Q. Your family plan with DSS --

11 A. -- Uh'huh --

12 Q. -- 2001. Let's just focus on 2001 right now.

13 A. Okay.

14 Q. How long was that permanency plan for?

15 A. I don't --

16 Q. I'm sorry. The plan which DSS has. They go through
17 and work out all of these different referral services,
18 parenting classes, alcohol and drug classes, right?

19 A. Yes, ma'am.

20 Q. Did you go through that?

21 A. Yeah.

22 Q. Did you complete that?

23 A. Yeah.

24 Q. But you completed it with some stipulations, right?

25 A. I'm not real sure.

26 Q. Didn't DSS even though they gave you custody back of

1 your children, DSS stayed involved for ninety days,
2 right?

3 A. Yes, ma'am.

4 Q. With that plan, were you educated on the resources in
5 Dillon County?

6 A. As far as?

7 Q. Housing and --

8 A. No, because I did not have domestic violent issues
9 then.

10 Q. No, what I'm asking you in terms of that plan, you were
11 made available of the various agencies here, the Pee
12 Dee Coalition?

13 A. Not at the time, not then.

14 Q. How did you find out about the Pee Dee Coalition?

15 A. When me and Mr. Caulder split up the first time. My
16 mother actually contacted COSA in Horry County, which
17 helped me get into Pee Dee Coalition here.

18 Q. That get you into Pee Dee Coalition here?

19 A. Yeah, vice versa.

20 Q. How long did you stay in Conway again?

21 A. The first time several weeks.

22 Q. And the last time?

23 A. Right at four months.

24 Q. Now between the time period of 2004 to 2005 --

25 A. -- uh'huh --

26 Q. Were you working at that time?

1 A. 2004, 2006.

2 Q. Maybe 2004 to 2006, let's stretch it out two years.

3 A. Yeah.

4 Q. You were working then?

5 A. I worked several different places then.

6 Q. Now you testified and you told this jury that Jeffrey
7 kept your children.

8 A. Uh'huh.

9 Q. But isn't it true that Jeffrey's Mom kept the children?

10 A. Yeah.

11 Q. And wasn't she getting paid by DSS to keep your
12 children?

13 A. Yes she was.

14 Q. And therefore DSS could come out to the home?

15 A. No.

16 Q. From time to time? They never came out to her home?

17 A. No.

18 Q. Did they --

19 A. They may have came the first time, you know, one time
20 in the beginning, but after that no.

21 Q. And were there any reports filed with DSS?

22 A. No.

23 Q. Now, if you are working, you are not home, how can you
24 tell this jury what happened in your home?

25 A. Because of the incidents that happened in my home was
26 when I was there.

1 Q. But you said now --

2 A. -- I --

3 Q. But you just said now that sometimes you weren't there.

4 A. Sometimes I wasn't, but not to --- not when --- when
5 --- Everything that I testified to, I was there when it
6 happened.

7 Q. So you are not telling any lies now?

8 A. No.

9 Q. No reason to tell a lie?

10 A. No.

11 Q. Now, would you be surprised if this is the first time
12 this jury has heard anything about the siamese twins?

13 A. I --- I don't know.

14 Q. You said that Jeffrey played the role of daddy.

15 A. Yeah.

16 Q. How did he play that role?

17 A. He watched my children. He helped me wash their
18 clothes, and he was in their home. And --

19 Q. What does a Daddy do?

20 A. He was the male role model in their lives.

21 Q. But my question to you is what is a Daddy? You said he
22 played a role of a Daddy, what is your definition of a
23 Daddy?

24 A. He was the male figure in their lives.

25 Q. So it's just by being a male and living in the same
26 home?

1 A. Not necessarily no, but their fathers were not involved
2 in their lives.

3 Q. So how was Jeffrey involved in your lives?

4 A. He lived with us.

5 Q. Church?

6 A. Not often.

7 Q. Summer camp, did he send them to Vacation Bible School?

8 A. The church that his Grandmother went to sent them.

9 Q. Isn't it true that Jeffrey's family basically adopted
10 these children?

11 A. Um, I hadn't seen any papers.

12 Q. Well --

13 A. I mean, they helped me yes, they helped me support my
14 children. But my mother also helped me support my
15 children.

16 Q. But your mother lives in Conway, correct?

17 A. Yes, ma'am.

18 Q. Isn't it true that Jeffrey's family did for you and
19 your children what your family would not do?

20 A. At times yeah.

21 Q. At times, would you say that was over a two or three
22 year span?

23 A. Sometimes yeah.

24 Q. Because your family had basically disowned you,
25 correct?

26 A. He would not allow my family to be in contact with me.

1 Q. You said that you have not really had a relationship
2 with your father in sometime?

3 A. Right.

4 Q. How can Jeffrey stop you from having a relationship
5 with your father?

6 A. I was living with my father before I moved into Maple
7 Wood Apartments.

8 Q. Why did your father kick you out?

9 A. Because of him.

10 Q. Because of him. Now, when your father --

11 A. -- When I lived in the Maple Wood Apartments, I lived
12 on my own.

13 Q. On your own. Were you evicted out of Maple Wood?

14 A. Um, I turn in my month notice. My lease was up.

15 Q. Your lease was up?

16 A. Yes, ma'am.

17 Q. After the children were removed this last time in your
18 custody, who was in the room again --- in your room at
19 the motel?

20 A. Myself, my boyfriend and my four children.

21 Q. Your four children.

22 A. Yes, ma'am.

23 Q. Did you ever stay with Sherrie Dillard or Sharon
24 Hardee?

25 A. Yes, ma'am. We stayed with them about three months.

26 Q. What time frame? What year was that?

1 A. The end of 2007.

2 Q. Could you tell the jury that, you didn't think it was
3 important?

4 A. I --- I think the last question Shipp asked me was when
5 did I leave.

6 Q. Well, I think Shipp just let you tell the jury exactly
7 what was going on.

8 A. Exactly.

9 Q. He didn't really ask you to many questions, he just let
10 you give a narrative, right?

11 A. Yeah. Yeah.

12 Q. You didn't feel like it was important to tell them
13 everything?

14 A. Um, not at --- I told them what --

15 Q. -- What you thought they needed to know.

16 A. No, not necessarily what I thought they needed to know.

17 Q. Did you tell them what would fit into the story?

18 A. I told them the truth.

19 Q. But did you tell the whole truth?

20 A. Well, like I said, it wasn't something that I
21 intentionally left out. Just like I told 'um that I
22 went and stayed with my mother for seven weeks. I
23 mean, he was asking me about stuff that Jeffrey did to
24 my children. He wasn't in Conway with us, that's why I
25 didn't tell him about Conway. And he didn't um --- he
26 stayed with us some there, but nothing --

1 Q. In Conway?

2 A. No. When we lived with Sherrie and Sharon. Sherrie
3 Dillard and Sharon Hardee.

4 Q. Did Sherrie or Sharon ever witness anything?

5 A. Uh --

6 Q. On your behalf or anybody's behalf?

7 A. I don't know. I can't answer for her.

8 Q. So if there was abuse then, it just turned on and off?

9 A. No, it was done when people weren't around to witness
10 it.

11 Q. So, when were you all ever in a position that people
12 weren't around? You testified earlier that people were
13 in and out of your house. You said you had cousins
14 that lived there with you.

15 A. She lived there for about a month.

16 Q. Did her daughter?

17 A. No, not her daughter. One of Jeffrey's friends lived
18 there with us at the same time she was there, but that
19 wasn't but for about a month or two.

20 Q. Did you have family coming in and out?

21 A. No.

22 Q. In Oak Grove isn't that Jeffrey's community?

23 A. We stayed in his Uncle's trailer.

24 Q. Doesn't family live around?

25 A. His family.

26 Q. You said you lived in the country, but you actually

1 have neighbors don't you?

2 A. Yeah.

3 Q. And if this family heard these children yelling or
4 screaming, they would come running?

5 MR. DANIEL: Objection, Your Honor. That is total
6 speculation.

7 MS. SELLERS: I'll withdraw it, Your Honor.

8 THE COURT: Is there anything further?

9 MS. SELLERS: Yes, Your Honor.

10 Q. Did you ever --- Were you ever represented by a Mr.
11 McBride?

12 A. Yeah.

13 Q. Did you have Mr. McBride draft a letter on your behalf
14 in 2008?

15 A. I don't know. I --- We've been in touch with so many
16 lawyers in the past year and a half, till I don't know.

17 Q. Who is we?

18 A. Myself, Jeffrey, his mother, my father, my step-mother,
19 my mother.

20 Q. Y'all were involved in a very nasty custody battle
21 weren't you?

22 A. Yes, ma'am.

23 Q. And right now the battle is brewing over Cheyenne?

24 A. Uh, I don't know.

25 Q. You don't know, because you actually terminated your
26 parental rights?

1 A. Yes ma'am, I did.

2 Q. Okay. And when did you do that?

3 A. Earlier part of this year.

4 Q. This year.

5 A. Yeah.

6 Q. Almost a year and a half after your children were
7 abused?

8 A. Yeah.

9 Q. Why?

10 A. Um, because I was in a real bad relationship for about
11 six and a half years and could not protect my children.

12 Q. What happened in 2001?

13 A. Um, --

14 Q. -- Were you in a bad relationship then?

15 A. No.

16 Q. You don't take responsibility for everything do you?

17 A. I've already pled guilty to the charges.

18 Q. Okay. You plead guilty --

19 A. -- Yeah --

20 Q. To help yourself again, is that right?

21 A. No, not to help myself. To give my children closure,
22 because they deserve that.

23 Q. Closure. Did you give them closure when you terminated
24 your parental rights?

25 A. I don't know, but I removed myself from the situation.

26 Q. And by removing yourself from the situation, did you

1 make your father happy?

2 A. I can't speak for him.

3 Q. Your father wants custody of these children?

4 MR. DANIEL: Objection, Your Honor. Again this is
5 purely speculation.

6 Q. To your knowledge --

7 THE COURT: Overruled.

8 A. Um, my father is willing to take custody. Whether or.
9 not he wants it or not, I don't know.

10 Q. Has he not expressed that desire to you?

11 A. He told me he would take care of my --

12 MR. DANIEL: Objection, hearsay.

13 THE COURT: All right. Just a moment, let me rule.

14 -I am going to sustain that. That is an out of Court
15 statement by a third party. Please move forward.

16 Q. Have you ever made statements to your brother Eric,
17 Eric Miller?

18 A. I've made a lot of statements --

19 Q. -- About these children?

20 A. What about?

21 Q. Have you ever told him that you would give the children
22 to your parents?

23 A. I've already done that.

24 Q. You have already done that. But there is one missing
25 link.

26 A. What is that?

1 Q. Isn't it Jeffrey's child as well?

2 A. I've signed over my part.

3 Q. Your part?

4 A. My rights.

5 Q. In 2008 when you were represented by Mr. McBride, you
6 had him draft a letter on your behalf, correct?

7 A. I don't know.

8 Q. 2008 you were not living with Jeffrey at all, correct?

9 A. No.

10 Q. Would it be surprise to you that Mr. McBride drafted a
11 letter on your behalf indicating that you wanted
12 custody to go to Mr. Caulder?

13 A. I --

14 Q. -- Do you understand?

15 A. I signed a statement saying that, because I was still
16 living in his Uncle's trailer. I had no where else to
17 go.

18 Q. But in 2008 now Kristina, you just said, you weren't in
19 Oak Grove --

20 A. -- No, I said me and Jeffrey split up in 2007.

21 Q. But in 2007 you lost your children, correct?

22 A. Right.

23 Q. And you said you left that trailer?

24 A. No, I -- no. I left the trailer at that point.

25 Jeffrey moved in with his mother after I moved back. I
26 moved back in the trailer in 2000 --- June or July of

1 2008, and that had nothing to do with Mr. Caulder. I
2 went and talked to his uncle about that.

3 Q. So, despite the fact that you two were not together
4 anymore, the family would still allow you to live in
5 the house?

6 A. I paid him rent.

7 Q. You paid him rent. How much were you paying?

8 A. Seventy-five-dollars.

9 **MR. DANIEL:** Judge, I'm sorry, but what does any of
10 this have to do with the charges?

11 **THE COURT:** All right. Counsel, limit your objection
12 to one word.

13 **MR. DANIEL:** Relevance, absolutely.

14 **THE COURT:** All right. Thank you that would be
15 sufficient. What is the relevance?

16 **MS. SELLERS:** The relevance is, Your Honor, that we
17 are trying to establish a pattern of biases in terms of
18 custody.

19 **THE COURT:** I'm going to overrule the objection, and
20 let the witness --- let counsel follow up. Go ahead.

21 **MS. SELLERS:** Thank you, Your Honor.

22 Q. So you do remember that then?

23 A. What?

24 Q. You do remember having Mr. McBride drafting a letter?

25 A. I don't know what letter you are speaking of.

26 Q. Did you ever make an agreement that Jeffrey would have

1 the children --- have C e?

2 A. No. Not to my knowledge.

3 Q. Not to your knowledge?

4 A. I mean a judge will have to decide that. My wants.

5 (PAUSE)

6 (Whereupon, Ms. Sellers shows a document to Mr.
7 Daniel.)

8 MR. DANIEL: Your Honor, the State's only objection
9 would again be relevance.

10 THE COURT: And on that basis the Court will
11 overrule, and if you have evidence you need to lay a
12 foundation.

13 Q. I would just like to show Ms. Miller a document that
14 you signed, an Affidavit sometime in 2008.

15 A. (Witness reviews document.)

16 Q. Do you recall signing that document?

17 A. Yeap.

18 Q. You do?

19 A. Uh'huh.

20 Q. Did anybody force you to sign that document?

21 A. Uh'huh.

22 Q. So at that time you wanted Jeffrey and his mother to
23 have custody, right?

24 A. I wanted his mother to have custody.

25 Q. The same mother that watched him beat your children?

26 A. (No response.)

1 Q. And abuse your children?

2 A. Again, I was living in his uncle's trailer.

3 Q. But you also lived with them, with Jeffrey's mother,
4 correct?

5 A. Ah --

6 Q. This is the same woman that watched your children for
7 almost a year too?

8 A. But he never abused Cl e. I wouldn't give
9 minor3 minor2 or minor to him, no.

10 Q. But you would give anybody who abused --- that abused,
11 regardless of which child it is, you would allow them
12 to have custody?

13 A. He was in our home for six and a half years. He never
14 once abused Cl e, not one time. He abused
15 minor3 minor2 and minor1 And would I give custody of
16 them to him? No.

17 Q. You wouldn't do it again, but you would do it last
18 year?

19 A. If I had it to do all over again, no, I wouldn't.

20 Q. Is it because of your guilty plea?

21 A. No. The guilty plea has nothing to do with it.

22 Q. Let's talk about that.

23 THE COURT: Counsel, the first document what Defense
24 Number 1?

25 MS. SELLERS: I'm sorry, that is Defense 1.

26 THE COURT: All right. Then Defense 1, in evidence

1 over objection.

2 Q. Now, we are talking about the guilty plea.

3 THE COURT: I'm sorry, say again. I didn't hear you.

4 (PAUSE)

5 THE COURT: The Court Reporter tells me that is
6 already in evidence.

7 MS. SELLERS: These documents are already in
8 evidence?

9 MADAME COURT REPORTER: Yes, ma'am.

10 Q. That plea agreement, you got arrested in 2007, correct?

11 A. Correct.

12 Q. 2009. What took you two years? If you were guilty two
13 years ago, why didn't you plea then?

14 A. Um, because I hadn't talked to anybody about it. I was
15 arrested. I --- You know --- Nobody had said anything
16 about it coming to court, when it was coming to court.

17 Q. What do you mean you hadn't talked to anybody?

18 A. I did not know when it was going to court?

19 Q. Did you ever contact the Solicitor's Office?

20 A. No.

21 Q. Better yet, did you ever contact DSS?

22 A. For what reason?

23 Q. To get to the bottom of this.

24 A. Um, what do you mean?

25 Q. If you thought that this individual abused your
26 children, wouldn't you want to assist law enforcement,

1 because at this point you are not together anymore.

2 A. I --

3 Q. -- Did you ever make a statement?

4 A. No.

5 Q. Did you ever contact law enforcement?

6 A. No. I left in 2007, hoping that would be the end of my
7 ordeal with him.

8 Q. With --

9 A. -- Yeah.

10 Q. But then you got arrested?

11 A. Yeah.

12 Q. So that changed things?

13 A. No, I actually took my kids to mental health to get
14 them some help before charges were ever brought.

15 Q. But, you took your kids to mental health, but they were
16 in a motel room?

17 A. Before I went to the motel room. After I left Mr.
18 Caulder, while I was still staying with my father,
19 before I moved in the motel room, I took my children to
20 mental health to try to get them some help for the
21 abuse they had sustained from him.

22 Q. Tell me again, why did you leave your father's home?

23 A. Because me and him had got into an argument?

24 Q. And he wouldn't allow the kids to stay there?

25 A. I don't know.

26 Q. Did y'all get into an argument over the children?

1 A. I --- I think the reason me and him got in an argument
2 more or less because of a disagreement we had.

3 Q. You didn't think it was best to keep the children? I
4 would like to show you what has been marked as
5 Defendant's Exhibit 2. I believe that is an agreement,
6 or a document that you signed back in March?

7 A. Yes, ma'am.

8 Q. When was your first document hearing? Do you remember
9 that, your initial appearance --

10 A. -- No, ma'am --

11 Q. -- Remember how you come up here on Tuesdays?

12 A. No ma'am, I don't remember.

13 Q. How long have you been coming to court about this
14 issue?

15 A. Um, December of last year, January of this year.

16 Q. December or January of this year?

17 A. Yeah.

18 Q. So three months to finally decide to talk to the
19 Solicitor?

20 A. Yeah.

21 Q. You did -- And the whole time you were here?

22 A. I never said I wouldn't.

23 THE COURT: Anything further?

24 MS. SELLERS: Beg the Court's indulgence.

25 THE COURT: Very good.

26 Q. Were there any pictures of the bruises that you alleged

1 happened?

2 A. Not to my knowledge, no.

3 Q. You said not to your knowledge?

4 A. Not to my knowledge.

5 Q. Let me go back to the black and blue. You sent your
6 kids to school with long sleeve shirts on?

7 A. No, not all the time.

8 Q. In the summertime did you ever do that?

9 A. Yeah, they wore blue jeans in the summertime.

10 Q. How about long sleeve shirts?

11 A. They didn't really have bruises on their arms to where
12 short sleeves wouldn't have covered it up. It is
13 always up here.

14 Q. Remember the store you told the jury about minor² being
15 put out on the porch?

16 A. Uh'huh.

17 Q. Would you be surprised if one of your children said you
18 did that?

19 **MR. DANIEL:** Objection, Your Honor. You can't pit
20 one witness against.

21 **THE COURT:** Just a moment.

22 **MR. DANIEL:** It is not pitting.

23 **THE COURT:** Counsel I am going to sustain, the
24 objection by the way the question was posed. You may
25 rephrase the question if you wish to proceed.

26 Q. Do you think your children could get that account

1 confused as to who did what?

2 **MR. DANIEL:** Objection, speculative.

3 **THE COURT:** I will sustain that as well.

4 Q. Did you assist in placing any of *Minor 2's* clothing out?

5 A. No.

6 Q. Did you pick her up and take her out?

7 A. No.

8 Q. The hogtying, did you cut him down?

9 A. Who?

10 Q. Which one was hogtied?

11 A. minor³ was tied to the bed.

12 Q. Did you cut him down?

13 A. Yes ma'am, I did.

14 Q. You didn't just let him hang there?

15 A. No. He wasn't hanging there his hands were tied. His
16 feet were on the floor.

17 Q. His feet were on the floor?

18 A. Yes, ma'am.

19 **THE COURT:** Speak up, ma'am.

20 **MS. MILLER:** Okay.

21 Q. Were there anything around his feet?

22 A. Um, not to my knowledge.

23 Q. Now you said that Jeffrey --- Briefly, I'll wrap this
24 up, Your Honor.

25 **THE COURT:** Thank you.

26 Q. Jeffrey had an accident with his leg?

1 A. Uh'huh.

2 Q. And that was in December 2006, correct?

3 A. 2005.

4 Q. You're right. He didn't just go into the hospital and
5 go home did he?

6 A. No, he didn't.

7 Q. He had to go to rehab, correct?

8 A. Yeah, but he was in the hospital for ten days and they
9 sent him home.

10 Q. For ten days?

11 A. Yes, ma'am.

12 Q. Did he have to go back?

13 A. He went back several times to Charleston.

14 Q. Because --- Initially the leg was severed here, right
15 by the ankle?

16 A. Right.

17 Q. And because of infection --

18 A. -- They had to cut it above the knee.

19 Q. So that was a substantial rehab?

20 A. Yeah.

21 Q. Correct?

22 A. Yeah.

23 Q. And that is partly the reason why he moved back in with
24 his mother, right?

25 A. I guess.

26 Q. Okay. Now, how long would you say, in your opinion,

1 that took place? How long did it take him for rehab?

2 A. When he came home from Charleston, he came back to the
3 trailer.

4 Q. He only stayed a day in the trailer? How many days?

5 A. No. We stayed --- I'm not sure. The accident happened
6 December 23, 2005. He stayed --- They airlifted him
7 from Dillon to Charleston. He stayed in Charleston for
8 ten day. When he came home from Charleston he came
9 back to the trailer. I left the beginning part of
10 February, and that is when he moved in with his mother.

11 Q. Okay. And he, like I said, his leg was cut --- it was
12 cut a little further up, correct?

13 A. Uh'huh.

14 Q. Do you know if he ever got fitted for a prosthesis?

15 A. Yes, ma'am.

16 Q. But isn't it true that that prosthesis bothered him?

17 A. Yeah, because they left bone fragments in his leg.

18 Q. So he doesn't wear a prosthesis?

19 A. No ma'am, he doesn't.

20 Q. And the majority of time he is on crutches, right?

21 A. Or in his wheelchair.

22 Q. Or in his wheelchair depending on how he feels that
23 day, correct?

24 A. Right.

25 Q. Now, in your opinion, since you have lived with him for
26 such a long time. Doesn't he have some severe medical

1 issues, health issues?

2 A. Yeah.

3 Q. And he constantly is at the doctor, correct?

4 A. He was for the past couple of years, I guess, yeah.

5 The last couple of years since his leg was messed up.

6 Q. And that was back in 2005?

7 A. Yeah. But, he wasn't at the doctor every day.

8 Q. He wasn't at the doctor every day?

9 A. No, ma'am.

10 Q. They actually bring out one of those wheelchair units
11 to transport him back and forth?

12 A. No, ma'am.

13 Q. But he could go to the doctor at least two times a
14 week?

15 A. But he would be back home the same day.

16 Q. But he would still go to the doctor for the past three
17 or four years?

18 A. Yeah.

19 MS. SELLERS: No further questions.

20 THE COURT: Is there redirect?

21 MR. DANIEL: No sir, Your Honor.

22 THE COURT: All right, ma'am having plead guilty to
23 the charges we will take you into custody at this time.
24 Please be seated in the Grand Jury Box.

25 Ladies and gentlemen, that will end our proceedings for
26 today. I will ask you to do this. Please be back in your

1 jury room at 9:00 in the morning, so instead of starting at
2 9:30, we will start at 9:00 tomorrow morning.

3 Again, please do not --- I am going to ask you not to
4 read any local newspapers or regional newspapers. And not
5 to watch any television news. Again, I do that not to keep
6 anything from you, but whether it will be in the paper or
7 not, I don't know. But, I simply say this, whatever
8 evidence you decide this case on needs to come from the
9 witness stand, and not from some other source.

10 Have a nice evening. Please tell your loved ones at
11 home you are not able to discuss the facts. We will see you
12 at 9:00 tomorrow morning.

13 All right. Let's all remain where we are while our
14 jury leaves for the day. Have a nice evening ladies and
15 gentlemen.

16 (Whereupon, the jury exits the courtroom at 5:28
17 p.m.)

18 **THE COURT:** All right. Is there anything else for
19 our record before we close our record for the day.

20 **MR. DANIEL:** Briefly, Your Honor. As it relates to
21 Mr. Caulder being out on bond, Your Honor, there have been
22 some very serious allegations made against Mr. Caulder today
23 by young people. And because of the nature of those
24 allegations, also because of some testimony about Mr.
25 Caulder's state of mind, Your Honor, the State at this time
26 would ask that Mr. Caulder be detained pending the

1 disposition of this case.

2 **THE COURT:** What says the defense?

3 **MS. SELLERS:** Your Honor, I would be opposed to that.
4 This would be the first time I have ever heard of any
5 allegations. If we could be heard on the matter. To my
6 knowledge, my client is going back home with his mother. He
7 has been out on bond for over a year and a half without
8 incident. He has always come to court on time. He has
9 always shown up when we needed to speak with him. And I
10 feel no need to detain Mr. Caulder at this time.

11 **THE COURT:** All right. Given the nature of the
12 testimony, and the allegations against the defendant I am
13 going to grant the State's motion. We are going to take Mr.
14 Caulder into custody, and hold him at the Detention Center
15 and have him brought back at 9:00 o'clock in the morning.
16 Again, as you are aware his bond is no longer in place. The
17 trial is in process. And we will take Mr. Caulder into
18 custody.

19 Anything further now before we conclude for the day?

20 **MR. DANIEL:** Nothing from the State, Your Honor,
21 thank you.

22 **THE COURT:** All right. Very good. Counsel, let me
23 get you to step up for just one moment if you would.

24 (Whereupon, a bench conference was held.)

25 **THE COURT:** All right. This Court is now in recess
26 until 9:00 o'clock tomorrow morning.

1 (Whereupon, day two of trial was completed at
2 5:32 p.m. on Thursday September 17, 2009.)

3 -- END OF DAY TWO OF TRIAL --

1 (Whereupon, Court begins at 9:10 a.m. on Friday,
2 September 18, 2009.)

3 -- DAY THREE OF TRIAL --

4 THE COURT: All right. Is there anything before we
5 bring the jury in back in the State versus Caulder?

6 MR. DANIEL: No sir, Your Honor.

7 THE COURT: Anything from the defense?

8 MS. SELLERS: Nothing from the defense.

9 THE COURT: Very good. And Mr. Lane, would you
10 please bring in the jury?

11 We want to welcome our class from the Dillon Christian
12 School back to the courtroom. Good morning, ladies and
13 gentlemen.

14 (Whereupon, the jury enters the courtroom at 9:14
15 a.m..)

16 THE COURT: Just one moment, ladies and gentlemen.
17 Just when we began, they began with something upstairs, and
18 my court reporter tells me it is going to be difficult for
19 her to pick up. We are going to see if they can move to
20 another part of the roof, and make it a little less
21 difficult to hear. As you know yesterday we had difficulty
22 hearing witnesses without the noise.

23 Now, ladies and gentlemen, let me ask and welcome you
24 back to the courtroom, ladies and gentlemen. I appreciate
25 you being here on time. Let me ask, since we were last
26 together; is there any member of the jury panel who has had

1 a discussion with anyone about the facts of this case, or
2 been contacted by anyone concerning the facts of this case,
3 if you have, please raise your hand? Let's let the record
4 reflect that no one has raised their hand. Thank you for
5 complying with the Court's request. I didn't expect anyone
6 to be contacted, but certainly would want to know that if
7 they were.

8 You will recall we ended the day yesterday still in the
9 State's case. Please call your next witness.

10 **MR. DANIEL:** Thank you, Your Honor. The State calls
11 Krystal Tuck.

12 **THE COURT:** Please come forward and take the oath of
13 a witness.

14 All right, I am going to swear you in, as our clerk has
15 stepped from the room.

16 **WHEREUPON, KRYSTAL DAWN TUCK**

17 **AFTER BEING DULY SWORN TESTIFIES AS FOLLOWS**

18 **MS. TUCK:** I do.

19 **THE COURT:** Thank you. Please be seated. And if you
20 will, for our record, state your full name.

21 **MS. TUCK:** Krystal Dawn Tuck.

22 **THE COURT:** All right. And ma'am, let's do a voice
23 check. How about speak into that microphone and see if we
24 can hear you?

25 **MS. TUCK:** Hello.

26 **THE COURT:** All right. Tapp that microphone and

1 let's make sure it is working.

2 THE COURT: All right. Let's wait for a moment and
3 make sure our sound system comes in.

4 (PAUSE)

5 THE COURT: All right. Tapp that again, and let's
6 see. Very good. And ma'am, please spell your last name
7 for our record.

8 MS. TUCK: T-U-C-K.

9 THE COURT: Thank you. Go ahead, counsel.

10 MR. DANIEL: Thank you, Your Honor.

11 VOIR DIRE EXAMINATION BY MR. DANIEL

12 Q. Ms. Tuck, good morning.

13 A. Good morning.

14 Q. Can you tell us where you work?

15 A. I am the Director of the Durant Children's Center in
16 Florence, South Carolina.

17 Q. What sort of background and --- Wait. What is your
18 title there?

19 A. I am the Director, Program Director.

20 Q. And what does the Durant Children's Center do?

21 A. We are a Child Advocacy Center, so we provide forensic
22 medical interviews, forensic examination, individual
23 and family counseling for any child who has been
24 suspected of any type of abuse or maltreatment.

25 Q. Briefly, what is a forensic interview?

26 A. It is an interview that takes place to help illicit from

1 children when there may be a suspected case of abuse,
2 the details of their abuse. It is typically a recorded
3 interview that assist in the investigating process.

4 Q. Ms. Tuck, what is your background and training to do
5 this sort of thing?

6 A. I have a Bachelor's of Science Degree in Psychology
7 from Frances Marion University. I have a Master's of
8 Applied Science in Psychology, Frances Marion
9 University. I am also a licensed professional
10 counselor in South Carolina through the South Carolina
11 Board of Examiners for Marriage and Family Therapy, and
12 Licensed Professional Counselors.

13 Q. Have you taken any courses, or seminars, or other
14 training in child abuse --- in working with child abuse
15 victims?

16 A. Yes, I have.

17 Q. Can you tell us about that?

18 A. I am required to do forty hours of continuing education
19 each year for my license. I do at least ten of those
20 in child abuse, or at lease two in children who have
21 had some type of trauma.

22 Q. Any teaching experience?

23 A. Yes. I am also an Adjunct Faculty Member at Coker
24 College.

25 Q. What do you teach there?

26 A. I teach undergraduate psychology, family systems,

1 ethics, and I have taught a case on child abuse.

2 Q. Are you associated with any professional organizations,
3 or have you had an occasion for publication, or
4 anything like that?

5 A. No, I have not had any publications. We are a member
6 at the Durant Center of the National Children's
7 Alliance. And I am a individual member of the South
8 Carolina Child Advocacy Center.

9 Q. Could you tell the Court and the jury about how much
10 experience you have had counseling victims of physical
11 and mental abuse?

12 A. I received my graduate degree in 1987. I have been
13 working with children and adults since then. I became
14 licensed in 1995. So I have actually been working with
15 children and families now for twenty-years now.

16 Q. How many years --- You just said twenty; is that
17 twenty-years that you have been in practice?

18 A. Yes.

19 Q. Okay. This is going to probably be difficult. Can you
20 give us an estimated number of cases you have had in
21 twenty-years?

22 A. Thousands.

23 Q. Have you ever been qualified by a court before as an
24 expert witness?

25 A. Yes, I have.

26 Q. Do you have any idea how many times, or can you tell us

1 in what county and circuit?

2 A. I would say at least twenty-five. Richland County,
3 Lexington County, Orangeburg, Darlington, Florence,
4 Chesterfield, Marlboro.

5 MR. DANIEL: Thank you, Ms. Tuck. Your Honor, at
6 this time I would offer Ms. Tuck as an expert in the field
7 of child abuse counseling and treatment.

8 THE COURT: All right. Ladies and gentlemen, the
9 witness is offered as an expert witness. Let's talk about
10 that for just a moment. What that really means is, because
11 of the witness' level of education, experience, training,
12 and skill within a specialized area; the witness is allowed
13 to come in and testify about what they saw, what they heard,
14 or what they observed. But also, because of their
15 training, what opinion they derive from what they saw or
16 heard.

17 Our previous witnesses in this case have been lay
18 witnesses. Lay witnesses can testify about what they saw,
19 or heard, or did, but can't refer to or offer an opinion,
20 that is the difference.

21 Now, whenever we have an expert offered, we stop right
22 there, we let the other side have an opportunity to ask
23 questions about the expertise of the witness, if they wish
24 to do so.

25 Do you have any questions concerning the witnesses
26 expertise, counsel?

1 MS. SELLERS: No questions at this time, Your Honor.

2 THE COURT: Any objection to the offer as an expert
3 witness?

4 MS. SELLERS: No objection, Your Honor.

5 THE COURT: All right. Without objection the witness
6 is so admitted.

7 Now, let's talk about that, ladies and gentlemen. What
8 that means is, this witness is allowed to testify and give
9 an opinion, if requested. That does not mean that opinion
10 is given to control your judgment, it is given for the
11 purpose of assisting you, if you find it helpful in finding
12 matters of fact that are before you, that are within the
13 realm of expertise of the witness. You should give it such
14 credibility and weight you deem it is entitled to. Again,
15 it is not given to control you, but to assist you if you
16 find it helpful.

17 You may proceed.

18 MR. DANIEL: Thank you, Your Honor.

19 DIRECT EXAMINATION BY MR. DANIEL

20 Q. Ms. Tuck, before we get into the specifics of this
21 case, I want you to educate the jury a little bit about
22 some things, and actually educate me.

23 Among child abuse professionals what is meant by
24 the terms, delayed disclosure or delayed reporting?

25 A. Oftentimes, particularly with children, when they are
26 in an abusive situation they do not always tell. It is

1 actually unusual to have a child who reports abuse ---
 2 oftentimes, over ninety percent of the kids never
 3 disclose that the abuse went on in their home. So,
 4 oftentimes it is later on in life, either through
 5 spontaneous disclosure to someone who is a mandated
 6 reporter, or a situation comes up where the child is
 7 put in a situation and the disclosure comes out.
 8 Usually the child does not disclose all of the
 9 information at one time. Partial information is
 10 usually given after the child is taken out of the
 11 environment and is in a safe environment, is usually
 12 where we start to get disclosure.

13 Q. In your experience how common is this delayed reporting
 14 among victims of child abuse?

15 A. Very common.

16 Q. What factors do you say usually play a role in this
 17 delayed reporting?

18 A. Oftentimes, if it is a person who is known to the
 19 family, or a person who is living in the home, if that
 20 person is controlling or domineering, or of course
 21 children do not have very much power. They are the
 22 smallest person in the house. So, typically it will be
 23 either controlled, or coerced, or either threatened
 24 sometimes not to tell.

25 Q. Can you explain --- you just hit the full of it, but
 26 can you explain a little further, what some of these

1 family dynamics that may affect the child's delay in
2 reporting the abuse?

3 A. Particularly if there is chronic stress in a family.
4 Chronic stress, can be things like alcoholism,
5 addiction, or domestic violence. If a child's home
6 environment is full of chronic stress, if there is a
7 domineering person in the household, if the abuser is
8 controlling, if the protective parent is passive in the
9 relationship and is unable to protect them, typically a
10 child is very inhibited as far as disclosing.

11 Q. You mentioned domestic violence. In your experience
12 and in your education does domestic violence play a
13 role in --- in any sort of delayed reporting? Domestic
14 violence --- I'm sorry. By domestic violence, I mean,
15 between the two parents, or the two --- or the man and
16 the woman in the home?

17 Q. Yes there are statistical correlations that domestic
18 violence in the home definitely lead to an increased
19 chance of child abuse or neglect, and those children
20 are less likely to disclose.

21 Q. Ms. Tuck, how may a child's disclosure be effected if
22 the perpetrator, the person doing the abusing is a
23 family member or actually lives in the home?

24 A. Of course no child wants to be removed from their home
25 no matter how stressful the environment is. If it is a
26 family member, and they felt that they are going to be

1 taken away from other family members, of siblings in
2 the home, then they are less likely to disclose.

3 Q. Based on your professional experience, Ms. Tuck, can
4 you give us some differences of the different time
5 spans you have seen in delayed reporting.

6 A. Oftentimes, we will see adults who have never disclosed
7 as children; who disclose once they get into an
8 intimate relationship, or if they get involved in
9 another abuse relationship. Oftentimes, with children
10 it can be years. It can be --- the time spans can
11 vary. Oftentimes children, when they are very young,
12 do not disclose until they are a little older.

13 Q. You have touched on this very briefly, but what is
14 meant by the term piecemeal or partial disclosure?

15 A. That means that initially once a child has disclosed,
16 you typically get less than a third of the information.
17 If, a child is under chronic stress, their memories
18 sometimes can at times get a little confused. Their
19 time lines can be confused. But they will give you a
20 little bit of information to see what happens. If they
21 are being believed, if they are being supported, if
22 they are in an environment where they are, and they can
23 trust someone, you will see that disclosure built upon.

24 Q. So, do you necessarily expect a complete disclosure
25 when interviewing children?

26 A. No, I do not expect it.

1 Q. I believe you said a third is what you usually expect,
2 right?

3 A. Yes.

4 Q. Do children necessarily recall the things that happen
5 to them in chronological order?

6 A. No. Developmentally, depending on where they are,
7 children progress differently. Some children can be
8 very confused about time frames, especially if you know
9 they are under chronic stress.

10 Q. Ms. Tuck, have you worked with minor3 minor2 and
11 minor 1

12 A. Yes, I have.

13 Q. In your expert opinion, did any of the factors that you
14 just discussed play a role in their delayed reporting?

15 A. Yes.

16 Q. What about their partial reporting?

17 A. Yes.

18 Q. Based on your training and experience Ms. Tuck, was the
19 victims' delayed reporting consistent or inconsistent
20 with their history of physical and mental abuse?

21 A. Consistent.

22 Q. Now, hypothetically, if a perpetrator is a family
23 member, or someone who lives in the home, would this
24 delay disclosure or partial disclosure be consistent or
25 inconsistent with physical and mental abuse?

26 A. Consistent.

1 Q. What factors, Ms. Tuck, ultimately may encourage a
2 child to reveal --- to tell what happened to them?

3 A. Oftentimes once they are removed from a situation, or
4 they feel like they are in a safe place, maybe with an
5 alternative family member or either a foster care
6 placement, once they feel like they are safe, then we
7 typically see them disclose the information.

8 Q. Ms. Tuck, how did you come to work with minor2 minor1
9 and minor3

10 A. They were referred to the Durant Children's Center by
11 The Department of Social Services here in Dillon.

12 Q. Do you often get referrals from DSS at the Durant
13 Center?

14 A. Yes, we do.

15 Q. Talk to the jury and to me about the process. When DSS
16 or somebody refers a case to you, what happens at the
17 Durant Center?

18 A. Depending on the allegations, the children are brought
19 in individually. It is a child-friendly environment
20 where they are introduced to the interviewer. They are
21 then taken upstairs to an interview room. There are
22 standard questions that are asked. And the child is
23 videotaped, and they are made aware of that, so that it
24 is less traumatizing for them, so that they only have
25 to tell their story one time. It can be observed live
26 by DSS or by law enforcement, and they are present at

1 the time. Also children if it is deemed necessary and
 2 make a disclosure, they can have a forensic medical
 3 examination. One of our forensic pediatricians will
 4 determine whether or not that child is physically okay
 5 at that time. Then, of course, there are
 6 recommendations made for the protective parent or
 7 grandparent, or to DSS at that particular time about
 8 what the child needs.

9 Q. Ms. Tuck, did minor3 minor2 and minor have this
 10 forensic interview that you just talked about?

11 A. Yes, they did.

12 Q. After the forensic interview --- after the date the
 13 children were there for this interview --- the initial
 14 time --- the first time you ever met them; did you ever
 15 see them again?

16 A. Yes, I did.

17 Q. All right. Let's talk about minor first. What were
 18 your impressions of minor when you first met him?

19 A. minor was very quiet, sort of withdrawn. He appeared to
 20 be somewhat developmentally delayed as far as his age.
 21 Then was pretty afraid.

22 Q. How many sessions did you, or meetings did you have
 23 with minor1

24 A. We saw minor from June 10, 2008 I think until
 25 approximately August of 2008.

26 Q. Did you bring any notes with you today?

1 A. Yes, I did.

2 Q. Your records --- Please feel free to refer to those if
3 you need to, to refresh your memory.

4 **MS. SELLERS:** Your Honor, may we approach briefly,
5 please?

6 **THE COURT:** No, if you have an objection go ahead and
7 state it from there. Is there an objection?

8 **MS. SELLERS:** The only objection I have is that I
9 have not received any documents from Ms. Tuck. I don't know
10 if the Solicitor's Office has received that information.

11 **THE COURT:** All right. Counsel, if she intends to,
12 or if the State intends to put the document in evidence,
13 then that may become important. If you object to her
14 testimony at this time then please state it.

15 **MR. DANIEL:** I do object to her testimony at this
16 time, Your Honor.

17 **THE COURT:** On the basis of or records not being
18 revealed?

19 **MS. SELLERS:** Exactly --- Yes, Your Honor.

20 **THE COURT:** What say ye to that Mr. Daniel?

21 **MR. DANIEL:** Your Honor, the State does not at all
22 intend to introduce these records. This is only a situation
23 where I believe --- I was telling Ms. Tuck, if she just
24 needs to refer to those just to refresh her memory, if she
25 doesn't remember exactly how many sessions. I am not asking
26 her to refer to her notes for any substantive matter at all.

1 MS. SELLERS: Your Honor, I don't --- Ms. Tuck has
2 the records, and it seems that she could read from the
3 records if she needs to refresh her memory, that is not a
4 problem. But I don't believe that they need to be in her
5 possession when she testifies.

6 THE COURT: All right. I am going to overrule your
7 objection and let the witness have her records while she
8 testifies. If they are assisting her, she may use them. If
9 you wish to come up there and review them at some point,
10 before you begin your questions, you may do so.

11 Please proceed.

12 MR. DANIEL: Thank you, Your Honor.

13 Q. Tell us again, how many times you saw minor¹ or when you
14 saw him?

15 A. From June of 2008, until August of 2008.

16 Q. June --- That would have been sometime in June, July,
17 and August. Well, that is not a lot of time. How come
18 you didn't meet with him more than that?

19 A. DSS made a determination to place him with his
20 biological dad in Rock Hill, so they would relocate in
21 July.

22 Q. Did you have enough time to make any sort of diagnosis
23 in your meetings with minor¹

24 A. Yes.

25 Q. Can you tell the jury about that diagnosis?

26 A. He was diagnosed with child abuse with a focus on the

victim. Based on the diagnostic and statistical manual for psychological services that we use.

Q. You said child abuse with a focus on the victim? What is the focus on the victim, what is the significance that is on that? I would think any kind of child abuse would focus on the victim.

A. Well we treat others in addition to, yes the victim. But when you are specifically working with the victim of that abuse, that is part of the diagnosis that is given.

Q. Did you develop a treatment plan for minor 1

A. Yes, I did.

Q. Can you tell us about that treatment plan, what does that entail?

A. It involves helping a child to understand that child abuse is not their fault, to help build their self-esteem, to help them, to be able to discuss their feelings in appropriate ways. To help them understand that the way they think about them self, and the way they feel about them self, and they behave in ways that are consistent --- And, oftentimes we see changes in their behavior, so we want to be able to help them improve their behaviors.

Q. In the short time that you visited with minor 1, did you see any improvement at all?

A. There was a slight improvement in his ability to talk

1 and communicate about his feelings.

2 Q. When he left you to go to Rock Hill, when he moved and
3 everything was transferred to Rock Hill, do you know if
4 he has had continuing counseling there?

5 A. I do not. I know that it was recommended.

6 Q. And whose responsibility is it once he moved there to
7 get counseling?

8 A. The parent.

9 Q. Okay. Let's talk about minor2 You know minor2 I
10 believe you said.

11 A. Yes I did.

12 Q. What were your impressions of minor2 when you first met
13 with her?

14 A. minor2 appeared depressed, very anxious. I remember her
15 as being thin and somewhat reserved.

16 Q. How many sessions did you have with minor2

17 A. began as June as well, and I saw her up until
18 August.

19 Q. About the same --- About the same time frame?

20 A. Yes.

21 Q. This may be obvious, but why did you only see her so
22 little?

23 A. minor2 was also placed with her biological dad in Rock
24 Hill.

25 Q. Okay. Did you make a diagnosis as it relates to minor2

26 A. Yes.

1 Q. What is that diagnosis?

2 A. Physical abuse of a child focused on the victim.

3 Q. Did you develop a Treatment Plan for minor2

4 A. Yes.

5 Q. Can you tell us about that Treatment Plan?

6 A. Again, her Treatment Plan was designed to help her, to
7 deal with her anxiety and fears, to also improve her
8 self-esteem, to help her understand about the dramatics
9 of child abuse. That this was not her fault. And also
10 to help her to verbalize and express her feelings in
11 constructive ways.

12 Q. And with minor2, do you know if she has had continuing
13 counseling since she has moved to Rock Hill?

14 A. I do not.

15 Q. All right. Let's move onto minor3 What did think
16 of minor3 when you first saw him?

17 A. minor3 was very anxiety ridden. He was pretty mature
18 for his age. He took a lot of responsibility for his
19 siblings.

20 Q. Did you say pretty mature, or premature?

21 A. Pretty mature.

22 Q. Pretty mature.

23 A. For his age. He took a lot of responsibility for his
24 siblings. He did --- He was very anxious and fearful
25 about his situation, and what was going to happen with
26 he, and his brother, and sister. And he was also very

1 traumatized about what had been happening in his home.

2 Q. What did you see that indicated that he was anxious?

3 A. He would jump from topic to topic. He had difficulty
4 in sitting still. He also had a thing where he would
5 pull his ears when he would get very nervous or feel
6 afraid.

7 Q. How many sessions did you have with minor3 , do you
8 remember?

9 A. I saw minor3 from June of 2008 until April of 2009.

10 Q. Okay. So, that would be what about ten months? Why
11 so many more with minor3 Why so many more sessions
12 with him as opposed to the other two?

13 A. minor3 of course, remained in the area and had
14 access to the Durant Center by family members, so he
15 was able to participate for a longer period of time.

16 Q. Did you make a diagnosis as it relates to minor3

17 A. Yes, I did.

18 Q. What was that diagnosis?

19 A. Physical abuse of a child focus on the child.

20 Q. Did you develop a treatment for minor2

21 A. Yes, I did.

22 Q. And what did that entail?

23 A. That involved again understanding about the dynamics of
24 abuse and helping him to recognize that this was not
25 his fault, and for him to be able to express his
26 feelings in constructive ways. He was also

1 experiencing nightmares, so it was important to have
2 his anxiety be reduced. To help him to be abler to
3 behave, and sit still, and function in school.

4 Q. Are you still counseling minor3

5 A. I am not.

6 Q. I believe you said you stopped in April?

7 A. That's correct.

8 Q. Why did you stop?

9 A. At that point, I think his younger sibling was
10 receiving counseling locally in Dillon, and it was more
11 convenient for him to be seen by that counselor as
12 well.

13 Q. Did minor3 show any improvement in the time you were
14 counseling him?

15 A. He did. At different periods his anxiety was
16 decreased, and he seemed to be functioning better at
17 school. There were times that he did continue to have
18 issues as well. He would get really nervous about any
19 kind of Court appearances, or any kind of contact with
20 family members, or perceived threats or fear. But he
21 did make progress.

22 Q. When you began counseling all three of them, were any
23 of them at that time still living with the defendant?

24 A. No, they were not.

25 Q. Were any of them living with their mother?

26 A. They were not.

1 Q. Are the symptoms that minor had shown, or minor 2 or
2 minor 3 consistent or inconsistent that this could
3 have been a different perpetrator than the defendant?

4 A. No, they were very clear.

5 Q. Are the symptoms that they have shown you, in your
6 experience, consistent or inconsistent with a child
7 that is not being truthful with you?

8 A. No.

9 Q. In your experience, dealing with child abuse victims,
10 could this have been --- could the things that they
11 described to you have simply been punishment for a bad
12 child misbehaving?

13 A. No.

14 Q. How is minor 3 and minor 2 and Josh's mother affected
15 them?

16 A. When a child of course, when they are first born they
17 are completely dependent on their parents. In this
18 case, if a parent fails to protect them, it is very
19 difficult for them to develop trust.

20 Q. What --- Why are symptoms of trauma followed physical
21 or mental abuse of a child?

22 A. Because it creates chronic stress.

23 Q. What sort of lifelong effect, if any, could follow up
24 with a victim of child abuse as it relates to these
25 three kids?

26 A. Yeah. Often times people who have been through

1 traumatic experiences have difficulty developing
2 intimate relationships. Even with people of the
3 opposite sex, oftentimes maintaining friendships as
4 well. They have difficulty trusting other adults, or
5 trusting relationships. So oftentimes there are life
6 long affects.

7 Q. Ms. Tuck, what in general are any recognized symptoms
8 of trauma following acts of abuse like these children
9 experienced?

10 A. Children often react differently. Some experience what
11 we call traumatic arousal symptoms. That may be high
12 anxiety, easily startled, nightmares. Other kids may
13 experience more traumatic withdrawal symptoms. They
14 don't want to talk about it, don't want to think about
15 it; they just hope it will go away magically, and they
16 won't have to deal with it. And, some kids are in
17 between on that continuum.

18 Q. These trauma symptoms. Did you observe any of these
19 trauma symptoms displayed by these children?

20 A. Yes, I did.

21 Q. All three?

22 A. Yes.

23 Q. What about things like acting out at school, getting in
24 trouble at school, things like that?

25 A. Yes, if a child or any of us feel negatively about our
26 self, we think what is going on is our fault, or we are

1 made to feel bad about our self, and, of course, we are
2 going to behave in ways that are consistent with that,
3 which is very common with children.

4 Q. All right. I want you to be a little specific here.
5 What, if any, trauma symptoms did minor develop?

6 A. minor had more traumatic arousal symptoms. He had high
7 levels of anxiety. He had nightmares. He was very
8 vivid in his recollections of things. So, he had a
9 very heightened sense of awareness. He was very easily
10 startled. Those types of symptoms.

11 Q. What about minor2

12 A. minor2 was a little more withdrawn. She was able to
13 verbalize symptoms and express fear, so she did have, I
14 would say, moderate level of anxiety, as well. So, she
15 was sort of somewhere in the middle.

16 Q. And minor3

17 A. minor3 or minor1

18 Q. Didn't I ask you minor first? I think I asked you minor
19 first, then minor2 now I'm talking about minor3

20 A. Okay. minor3 had more arousal symptoms. He had
21 difficulty concentrating. He had some issues at
22 school. He had nightmares. So, he experienced a lot
23 of arousal symptoms.

24 Q. Just to make sure we covered it; tell me about minor1

25 A. minor was more quiet and withdrawn. More traumatic and
26 withdrawn symptoms. Just, you know, not wanting to

1 talk very much at all.

2 Q. Ms. Tuck, how does counseling help to address these
3 trauma symptoms?

4 A. With cognitive behavioral therapy, what we attempt to
5 do is --- again to understand about the dynamics of
6 abuse, to help them understand how it can be affecting
7 them, and their feelings, and behavior, and helping
8 them to learn coping skills that they can express these
9 feelings in ways that are healthy and constructive
10 versus destructive.

11 THE COURT: Just a moment, ma'am. Do you want to
12 move away from that, ma'am?

13 JUROR: Yes, sir.

14 THE COURT: Why don't you do that.

15 JUROR: It is crawling up the wall.

16 THE COURT: Gwen, we seem to have a roach over there.
17 Will you go see if you can --

18 MR. DANIEL: There is nothing like a -- I've got it.

19 (PAUSE)

20 THE COURT: All right. Madame Court Reporter, let's
21 let the record reflect that what happened was some sort of
22 large insect was crawling a long the wall beside one of our
23 jurors, and we have dispatched it.

24 But, what is happening is, with the work on the roof, I
25 suspect, there is probably some discomfort. Some of the
26 creatures that live here in the Courthouse with us, and that

1 may be what happened there. The Courthouse is regularly
2 sprayed with pest control.

3 THE COURT: All right. Is everyone ready to resume?
4 Are you, all right ma'am? Very good, go ahead.

5 Q. Ms. Tuck, what kind of trauma symptoms are followed by
6 seeing bugs on the wall? I'm kidding. In your expert
7 opinion, the symptom the trauma symptoms experienced by
8 minor 3 minor 2 and minor 1 are they consistent or
9 inconsistent with these children having a prolonged
10 history of child abuse?

11 A. They are consistent.

12 Q. Would it be unusual, in your experience, for you to
13 know that victims of child abuse give gifts and are
14 kind to the one who abuses them?

15 A. That is not unusual.

16 Q. Tell the jury why that is not unusual?

17 A. Again, children are very dependent on the adults who
18 are around them for love, and affection, and attention.
19 They want things to be normal in their home. So,
20 oftentimes they will behave as if it is. And they have
21 a certain degree for loyalty for the adults who are
22 there with them.

23 Q. What about one child feeling that he or she could
24 protect his siblings, does that ever play a role in any
25 of this?

26 A. Yes, it does. Oftentimes older siblings feel

1 responsible for their younger siblings. They
2 oftentimes will take the blunt of what is going on in
3 the home, in an attempt to protect their younger
4 children, and try to keep the peace.

5 Q. So, why would may someone even cooperate with the
6 abuser? Why does the victim cooperate with the abuser?

7 A. Oftentimes, especially again with children, they have
8 the least amount of power in the family. So they are
9 going to go along with that dominant figure, and the
10 person who has all the power and control in the family.

11 Q. And based on your professional experience, is that
12 common or uncommon reaction to child abuse by a victim?

13 A. It is common.

14 Q. In your expert opinion, can you tell us if cooperation
15 with the victim would have been explained, just as you
16 have in this case with minor3 minor2 and minor as
17 far as them being nice, and to the defendant?

18 A. Yes.

19 Q. Finally, Ms. Tuck, in your years of experience in
20 dealing with victims of child abuse, how does this case
21 this case with minor3 minor2 and minor1 how does
22 this case --- how does this compare to other cases that
23 you have worked on in your twenty-years of experience?

24 A. I would say it is moderately severe.

25 MR. DANIEL: Moderately severe. Thank you Ms. Tuck.

26 I have no further questions at this time, Your Honor.

1 THE COURT: And cross examination.

2 MS. SELLERS: Yes, Your Honor. Thank you.

3 CROSS EXAMINATION BY MS. SELLERS

4 Q. Good morning, Ms. Tuck.

5 A. Good morning.

6 Q. Ms. Tuck, you talked about delayed disclosure,
7 correct?

8 A. Yes, ma'am.

9 Q. Was there delayed disclosure, or recently removed from
10 the recent situation, is that correct? I said
11 oftentimes, that is when they do disclose? Oftentimes
12 that is when they disclose? Isn't it true that your
13 office --- when did you start seeing these children?

14 A. In June of 2008.

15 Q. Isn't that almost a year after they were removed from
16 the home?

17 A. I'm not sure at what point they were removed from the
18 home.

19 Q. Now were you the first person that they spoke with at
20 your center?

21 A. No, they received a forensic interview and exam before
22 they saw me.

23 Q. Through that forensic interview did you --- did you
24 note those notations in terms of your counseling?

25 A. No, they are not used in counseling. There is a
26 recommendation made for counseling after the interview.

1 Q. Now, actually now, wasn't there only a recommendation
2 made for minor3 and that is because minor3 asked
3 for counseling?

4 A. No, I think there was a recommendation for all three
5 children.

6 Q. For all three children.

7 **THE COURT:** Ma'am, can you pull a little closer to
8 that microphone, please?

9 **MS. TUCK:** Sure.

10 **THE COURT:** If you want to pull your chair forward
11 that's fine.

12 Q. Are you familiar with the term collateral evidence?

13 A. Excuse me, I didn't --

14 Q. -- Collateral evidence?

15 A. Yes.

16 Q. Could you explain to the jury what collateral evidence
17 is?

18 A. If, you are meaning, for purposes of investigation that
19 you are looking at all the information, different
20 reports that are present?

21 Q. Yes, ma'am. Now, isn't it true that when you are
22 investigating allegations of child abuse you refer to
23 it as collateral evidence?

24 A. Yes.

25 Q. And the collateral evidence will be pictures or
26 bruises, correct?

1 A. Correct.

2 Q. Reports from other outside agencies, that could
3 substantiate these allegations, correct?

4 A. Correct.

5 Q. In this case did you have any other collateral evidence
6 besides the words of these children?

7 A. Well, I was not involved in the investigative process,
8 I was involved in the treatment process.

9 Q. So, when you received these children, or you started
10 speaking with these children, it was --- you never
11 asked any questions about whether or not the
12 allegations were true?

13 A. Correct.

14 Q. You just counseled the children based on the
15 information that you received?

16 A. Correct.

17 Q. Now, have you ever heard of --- In your twenty-years of
18 experience, how many times have you conceded that the
19 child was making the story up?

20 A. It has been less than 10 percent of the cases that I
21 worked with.

22 Q. Now, in children that are abused, do you sometimes know
23 that they are involved in custody battles --- sometimes
24 the allegations are inflated --- the stories are
25 inflamed?

26 A. That can happen, yes.

1 Q. Also, when children make allegations, do they sometimes
2 have motives behind the allegations?

3 A. That can --

4 Q. -- Ulterior motives?

5 A. That can happen.

6 Q. It can. Now, what factors would you saw in these
7 children? What indicators did you see in these
8 children?

9 A. Indicators of what?

10 Q. About child abuse.

11 A. With minor3 he was very clear in his disclosures
12 with me. Again, he was very anxious. He was
13 experiencing nightmares. And he was very anxious and
14 fearful.

15 Q. Now, with minor3 being anxious as you know, he was a
16 victim?

17 A. Yes.

18 Q. And could that have also contributed to the fact that
19 he was anxious and lacked focus?

20 A. Yes. And he was also being treated with medication as
21 well for that.

22 Q. So basically with the information that you have, it is
23 circumstantial information?

24 A. It is the children's disclosure yes, and their
25 behavior.

26 Q. Now were you aware that these children were "A," "B"

1 honor roll students?

2 A. No, I was not.

3 Q. Were you surprised to learn that these children had
4 perfect attendance?

5 A. No, I was not.

6 Q. Were you surprised to learn that these children did not
7 have any behavioral problems?

8 A. No, I was not.

9 Q. But aren't those indicators for child abuse?

10 A. They can be, yes.

11 Q. Can be. The percentage, in your professional opinion,
12 the children that you speak with that are child abused
13 have those factors as indicators, would it be over 50%
14 of the time, 90% of the time?

15 A. I would say 50%.

16 Q. And how long did you work with these children again?

17 A. With minor2 and minor it was from June until August in
18 2008. And, with minor3 it was from June 2008 until
19 April 2009.

20 Q. Now let me ask you, children that have been abused, if
21 there is a pattern of abuse with these children, if
22 there was some abuse in 2001, and they were disciplined
23 in 2005; could that trigger a response even though
24 abuse has not occurred? Could that trigger their
25 feelings that they are being abused?

26 A. It could.

1 Q. Is there such a thing as post traumatic stress?

2 A. Yes.

3 Q. Could you explain to the jury what that is?

4 A. Post traumatic stress disorder, is a disorder that is
5 given once a person has experienced something very
6 traumatic, and the symptoms are persistent for at least
7 a six-month period of time.

8 Q. So it is possible that when someone were to discipline
9 these children their emotions would revert back to
10 2001, to a similar situation where they were being
11 disciplined, correct?

12 A. It could, but the stress would have to be --- I mean,
13 the discipline would have to be pretty severe, and they
14 would have to feel pretty threatened for it to be
15 triggered.

16 Q. But when you are dealing with children that have been
17 abused, aren't these children pretty fragile?

18 A. They can be, but typically kids will develop resiliency
19 skills and survival skills, because they are having to
20 rely on that.

21 Q. Did any of these children show any type of aggression?

22 A. I think there was some reports from --

23 Q. -- To you not from reports, but from your treatment
24 with you, did they show any type of regression?

25 A. Not in the sessions.

26 Q. Now, isn't that a factor or indicator of child abuse?

1 A. It can be.

2 Q. And from your professional opinion?

3 A. It can be.

4 Q. What would you say the percentage is that you deal
5 with?

6 A. Fifty percent.

7 Q. And how do you receive compensation for your services?

8 A. We are federally funded, grant funded, and also through
9 the South Carolina Victims' Assistance. But we do
10 provide services at no charge as well.

11 Q. Now, since you are an advocacy group, can you explain
12 to the jury, exactly what an advocacy group is?

13 A. A Child Advocacy Center is a multi disciplinary model,
14 where we work together with all the agencies to
15 advocate for a child, when there is any suspected of
16 abuse or neglect.

17 Q. So, if there is any suspected, even later determined to
18 be unfounded, these children receive your services?

19 A. Yes.

20 Q. During the course of your investigation?

21 A. Yes.

22 Q. Now do you work closely with the families in this
23 matter?

24 A. Their Grandmother had custody of them at the time, or
25 guardianship, and she would bring them, and we did work
26 with her.

1 Q. Did you work with DSS as well?

2 A. We did a summary as far as providing them progress
3 reports and updates on the children.

4 Q. But you didn't go to any of the school did you, and
5 talk with the teachers?

6 A. We do --- The children brought in report cards, or
7 minor³ did because he was there the longest, and
8 discipline reports from school.

9 Q. Okay. And did you speak with DSS about home visits,
10 any home visits?

11 A. Yeah. It was staffed with DSS.

12 Q. It was staffed with DSS. Did you get monthly reports,
13 or did you provide DSS with monthly reports?

14 A. No. We provided DSS with monthly reports, yes.

15 Q. You did provide DSS with monthly reports?

16 A. Yes.

17 Q. Now in the initial recommendation, you all only
18 indicated that the children should only have
19 unsupervised visits. Those unsupervised visits were
20 totally with the mother, correct?

21 A. I'm not sure, Rosalind, I didn't make those
22 recommendations.

23 Q. But you based our counseling on recommendations,
24 correct?

25 A. That there was a need for counseling.

26 Q. And you said there was a need for counseling for all

1 three children?

2 A. That was my understanding, all three of them were
3 referred for counseling.

4 Q. May I take a look at your report?

5 A. Sure.

6 (PAUSE)

7 Q. How long were your assessments that you conducted with
8 the child?

9 A. The assessment sessions usually last for a hour and a
10 half, and each session after that is forty-five
11 minutes.

12 Q. And was the Grandmother or Grandfather ever involved in
13 any of these sessions?

14 A. They are involved to the extent --- These are
15 individual sessions with the children. They are
16 involved as collateral --- just to see what they are
17 seeing with the child at home, and then if we give an
18 assignment to the child to do at home, then they are
19 made aware of those assignments.

20 Q. When they were taken to the Durant Center initially,
21 they got a physical and a medical examination, correct?

22 A. They did.

23 Q. There was no indication of any bruising correct?

24 A. I'm not sure what that report has in it, completely.

25 Q. When you all staff, do you staff as a group?

26 A. We do.

1 Q. So did you ever speak with Ms. Griggs or Ms. Jackson
2 about this case?

3 A. No, I did not.

4 Q. So all of your office you staff together you all never
5 had any communication about their findings of these
6 children, other than the reports you received?

7 A. Correct.

8 Q. Now, is it typical that children that have been abused
9 like these children --- the allegations of abuse, that
10 their grade would decline after they had been removed
11 out of that home?

12 A. Oftentimes with chronic stress grades --- some kids
13 compensate by doing real well in school. Other kids
14 when they are under chronic stress, you will see their
15 grades decline.

16 Q. So the chronic stress would be after they had been
17 removed or while they were in the situation?

18 A. While they were in the situation, but it depends on
19 where they are after the situation. If it is a stable
20 environment, then certainly they are usually able to
21 recover and do well --- do better. With these kids
22 there was a lot of questions about where they would be,
23 who they would be with, so there was ongoing trust even
24 once they were removed.

25 Q. So, would you say custody battles would create chronic
26 stress?

1 A. They do.

2 Q. You said these children seemed more focused on where
3 they would be after they were removed?

4 A. Well, there was a lot of questions about --- there was
5 a fear that they would be placed back with there mom.
6 There were questions about biological dad's
7 involvement, not having a relationship with him. So,
8 there were questions about who would be their
9 guardians.

10 Q. What protocol do you use when you are speaking with
11 your children? Do you follow any protocols?

12 A. What do you mean by protocol?

13 Q. Is there a certain publication that you use as some
14 type of --- How do you assess these children?

15 A. We do a clinical assessment, and it is based on the
16 background of training. We use a basic mental health
17 model to access a child. Basically, we look at how
18 they are currently functioning. We get information
19 from other family members. If they are present, we
20 oftentimes are looking at the different aspects of
21 their life. We are finding out who their biological
22 parents are. If they have been in counseling
23 previously. What kind of psychological stressors, are
24 they dealing with. And we are collecting this
25 basically on a diagnostic interview.

26 Q. So, were there any other interviews or tests performed?

1 A. No.

2 Q. So, would you say that if you don't necessarily have
3 any tests to perform, or any other standards, that you
4 have to rely on your own judgment, correct?

5 A. That is correct.

6 Q. And you say that 90% of the time that you have dealt
7 with children, interviewing children, you would say
8 they are abused?

9 A. Well, a therapeutic relationship is different than the
10 forensic interview.

11 Q. No, I am saying in your professional opinion are the
12 children that you work with, you would say that 90% of
13 them have been abused?

14 A. Well, in a therapeutic role, I would usually say that
15 number is larger, because if there is no disclosure or
16 it is ruled out that there is any kind of abuse, then
17 typically they would not be referred for counseling.
18 So by the time they get to me for therapy, usually that
19 number is probably higher.

20 Q. So, your opinion is actually based on, someone else's
21 opinion?

22 A. No, it is based on my clinical work with the child.

23 Q. But there is a screening process, correct? You need to
24 go through this first avenue, which is a forensic
25 interview, correct?

26 A. Correct.

1 Q. Before they get to you?

2 A. Well, they still may be referred to counseling for
3 different reasons. But typically if there is no
4 disclosure of the child --- there would be no need for
5 counseling.

6 Q. Okay. Now, in terms of your standard, how do you
7 evaluate your standards? Do see if they are effective
8 or not, or to see what is going on has been effective?

9 A. Well, as far as therapy standards, we are looking at
10 --- We may try it to see how the child is doing. We
11 are looking for decreased reports from school of
12 inappropriate behavior. We are looking for changes
13 in their appearance. We are looking for changes in
14 their mood. And we are evaluating them based on their
15 Treatment Plan.

16 Q. And again, what was minor3 minor2 and Jonathan's
17 Treatment Plan? Were you involved in that Plan?

18 A. Which child are you referencing?

19 Q. minor3 first.

20 A. Jonathan's Treatment Plan consisted of being able to
21 verbalize his anxiety and fear appropriately. Being
22 able to talk about stresses in his life. To be able to
23 do age appropriate activities and have fun, and to
24 improve his self-esteem.

25 Q. And minor2 again?

26 A. minor2 was to be able to verbalize her thoughts and

1 feelings appropriately. To improve her self-esteem and
2 self-confidence.

3 Q. And when you say appropriately, how was she disclose
4 this information to you? Was it inappropriate what she
5 was doing when she initially met you?

6 A. Um, well she was clearly experiencing some sadness and
7 depression, and not verbalizing thoughts and feelings.
8 She was pretty quiet and withdrawn.

9 Q. And some of these feelings that she exhibited, would
10 that be the normal feeling a child would experience
11 separated from their mother?

12 A. It could be.

13 Q. And isn't it true that oftentimes the parents are
14 charged with child abuse, the children will lie on
15 behalf of those parents?

16 A. I don't know.

17 Q. To protect the parent? Don't children try to protect
18 their parents?

19 A. Yes, they will try to protect their parents.

20 **MS. SELLERS:** I have no further questions. Thank
21 you.

22 **THE COURT:** Is there redirect?

23 **MR. DANIEL:** Yes sir, briefly.

24 **REDIRECT EXAMINATION BY MR. DANIEL**

25 Q. Ms. Tuck, actually Ms. Sellers said that it had been a
26 year since these children had been removed from the

1 home when you saw them. Is that unusual for you to not
2 see the children especially after a year?

3 A. Yes.

4 Q. It is unusual to not see --

5 MS. SELLERS: No, she has already answered the
6 question, Your Honor.

7 MR. DANIEL: She can correct her answer if she didn't
8 hear my --- if she didn't understand the question.

9 THE COURT: Objection overruled.

10 Q. In your experience, if what you just heard Ms. Sellers
11 talk about with these children inflating this story, in
12 your experience, your expert experience of over twenty-
13 years, did these children inflate these stories?

14 A. No, they did not.

15 Q. Is it your opinion that this trauma, experienced by
16 these children, came from a custody battle?

17 THE COURT: Counsel, don't lead your witness.

18 Q. What did the trauma --- In your opinion what did the
19 trauma come from?

20 A. The trauma that was relate to me, that was causing
21 their stress is physical abuse.

22 MR. DANIEL: I have no further questions. Thank you

23 THE COURT: All right. Ms. Sellers, any objection to
24 releasing the witness?

25 MR. DANIEL: None from the State, Your Honor.

26 THE COURT: You are free to leave, not required to

1 leave, but you are free to leave is you wish.

2 MS. TUCK: Thank you.

3 THE COURT: All right. Ladies and gentlemen, we are
4 going to take a brief break, let's do that, before we take
5 our next witness, probably ten minutes or so.

6 Let's all remain where we are while our jury departs
7 the courtroom.

8 (Whereupon, the jury exits the courtroom at 10:00
9 a.m.)

10 THE COURT: All right. Counsel let's come up and
11 talk about scheduling.

12 The Court will now be in recess for about ten minutes.

13 (Whereupon, a recess was taken from 10:00 a.m.
14 until 10:20 a.m.)

15 THE COURT: All right. Ladies and gentlemen, I want
16 to tell you that the jury is going to be taken to lunch
17 today by the Clerk and the Sheriff's Department. They are
18 going out to the B and C Steakhouse. And, I would ask those
19 who are in the courtroom, please if you go to lunch today in
20 the Dillon Community, please do not go there. This is just
21 to prevent some chance conversation from anyone who is
22 observing these proceedings somehow being overheard or
23 impacting the jurors' impression in the case. Thank you
24 with complying with the Court's request.

25 I am told that the jury is back from break. So, please
26 bring in the jury.

1 (Whereupon, the jury enters the courtroom at 10:22
2 a.m.)

3 **THE COURT:** All right. Welcome back ladies and
4 gentlemen. I trust you had a nice break. I want to tell
5 you that your elected Clerk of Court is going to take you to
6 lunch today. What we are going to do here is, attempt to
7 finish the testimony this morning. Then you will be taken
8 by a Sheriff's Deputy vehicles out to the Steakhouse for
9 lunch and then brought back. We will keep everyone together
10 and move through fairly efficiently with use of time, then
11 we will come back and argue and charge, and retire to
12 deliberate. So that is our plan. If any of you have lunch
13 plans, we will give you an opportunity to call if you need
14 to so whomever you need to make --- to let them know that
15 your plans are changing somewhat. But, again the county
16 will provide lunch for you today.

17 As you will recall, we remain in the State's case.
18 Please call your next witness.

19 **MR. DANIEL:** Thank you, Your Honor. Gaye Allen-Cook.

20 **THE COURT:** Please come forward and take the oath of
21 a witness.

22 And, ma'am please place your right hand on the Bible
23 please and raise your right hand.

24 **WHEREUPON, GAYE ALLEN-COOK**

25 **AFTER BEING DULY SWORN TESTIFIES AS FOLLOWS**

26 **MS. ALLEN-COOK:** I do.

1 **THE COURT:** All right. Please be seated. State your
2 full name, spelling your last for the record. Thank you.

3 **MS. ALLEN-COOK:** Gaye Allen-Cook. A-L-L-E-N dash
4 C-O-O-K.

5 **MR. DANIEL:** Thank you, Your Honor. .

6 **VOIR DIRE EXAMINATION BY MR. DANIEL**

7 **Q.** Do you go by Allen-Cook, or Cook, or by Allen, or what?

8 **A.** Allen-Cook.

9 **Q.** Allen-Cook. Ms. Allen-Cook. Can you tell the jury
10 what you do?

11 **A.** I am a children and family therapist in private
12 practice, specializing in trauma and abuse.

13 **Q.** You have your own practice?

14 **A.** I do.

15 **Q.** Where is that practice?

16 **A.** It is in Florence, on Cherokee Road.

17 **Q.** Do you ever see clients anywhere other than Florence?

18 **A.** On Wednesday, I come to the Department of Social
19 Services here in Dillon County, and see children on
20 site, and they do pay for that.

21 **Q.** Ms. Allen-Cook, what sort of background and training do
22 you have?

23 **A.** I have a Bachelor's Degree from FMU. Frances Marion
24 University in early childhood education, and I have a
25 masters of clinical counseling from Southeastern
26 Baptist. I have post graduate training in trauma and

1 abuse from Gardner Webb University. I am licensed in
2 this State to practice as a counselor, and am licensed
3 in the State of North Carolina to practice. I also
4 have training in forensic interviewing and forensic
5 evaluations, and have done self-competency to stand
6 trial evaluations.

7 Q. Ms. Allen-Cook have you taken any additional courses or
8 seminars in training with victims of child abuse?

9 A. My licenses requires me to have forty-hours of
10 continuing education credits every two years. But as I
11 sit here, I have done undergraduate studies in trauma
12 and abuse. I recently attended a three-day seminar on
13 child trauma, how it affects children, how they recover
14 from that. I am also currently in a model the State is
15 obtaining --- the State is approving called Project
16 Best, which is looking at child abuse, cognitive
17 behavior, and has accepted that as a model, to treat
18 children who have been traumatized, for the State. I
19 am acting as the supervisor in that role.

20 Q. Have you ever taught?

21 A. I have.

22 Q. Where?

23 A. I have taught at Gaston College in Gastonia, North
24 Carolina in 2002. I did an adjunct class in child
25 trauma.

26 Q. Are you affiliated with any professional organizations?

1 A. I am a member of the Psychological Association. I am a
2 member of the South Carolina Professional Association
3 Against Child Abuse and Child Trauma. I am a member
4 currently of the South Carolina Mental Health
5 Association, as well as the American Mental Health
6 Counseling Association. And, I subscribe to the
7 appropriate journals involving child abuse.

8 Q. Have you ever written anything that has been published?

9 A. I have one time.

10 Q. I'm sorry?

11 A. I have one time.

12 Q. How much experience do you have in dealing with victims
13 of child abuse?

14 A. I have been practicing for nine years. Four years of
15 that have been specifically dedicated to child trauma
16 and abuse.

17 Q. How many patients would you have had who have been
18 victims of child abuse?

19 A. Dealing in this state or also including the State of
20 North Carolina?

21 Q. Any child abuse victim you have ever seen, how many
22 have you ever seen?

23 A. I would say at least a hundred and fifty.

24 Q. Have you ever testified in court before?

25 A. I have.

26 Q. Have you ever been qualified as an expert witness in

1 child abuse?

2 A. I have.

3 Q. Do you know how many times?

4 A. Probably in criminal court around thirty, Family Court
5 probably seventy-five in the State of North Carolina
6 and South Carolina.

7 MR. DANIEL: Thank you. Your Honor, at this time I
8 would offer Ms. Allen-Cook as an expert in the field of
9 child abuse counseling and treatment.

10 THE COURT: And, are there voir dire questions on
11 behalf of the defendant?

12 MS. SELLERS: None from the defense, Your Honor.

13 THE COURT: Any objection?

14 MS. SELLERS: No objection.

15 THE COURT: All right. Then it is so ordered. You
16 may proceed.

17 MR. DANIEL: Thank you, Your Honor.

18 DIRECT EXAMINATION BY MR. DANIEL

19 Q. Ms. Allen-Cook, do you know minor 3 minor 2
20 and minor ?

21 A. I have met minor 1 and minor 2 on three
22 occasions, just to say hello. I know minor 3
23 because I am the therapist that is treating him.

24 Q. How long have you been treating minor 3

25 A. Since May of this year.

26 Q. And how often have you seen him since May?

1 A. One time per week.

2 Q. One time a week per week?

3 A. Yes, sir.

4 Q. Has he been this week?

5 A. No, sir.

6 Q. So every week once a week is how often you have seen
7 him?

8 A. That's correct.

9 Q. Now, why have you not seen minor 2 and minor 1

10 A. They live in a different part of the State, and they
11 have been in therapy, and being treated there.

12 Q. Okay. Some of this stuff we just heard from Ms. Tuck,
13 but I want to know your opinion. What did you --- What
14 were your initial thoughts when you first saw minor 3

15 A. When I first met minor 3 initially he was extremely
16 timid of me. He didn't really want to speak too much
17 about what had happened to him, which is a very normal
18 response in children that have been traumatized.
19 Children who have been traumatized don't give out trust
20 very easily. So, when you are meeting one of those
21 children, you have to gain that. The way that I gain
22 that is through getting to know them. Tell me about
23 school. Tell me about your family. Tell me about your
24 pet. Tell me what you do for fun. You know, playing
25 games, doing that kind of stuff. Doing art work, just
26 to get him where he is comfortable with me, and that

1 didn't take very long at all.

2 Q. Did you or have you since you have been counseling
3 minor3 have you ever developed a diagnosis?

4 A. I have.

5 Q. What tools do you use in developing a diagnosis?

6 A. When I am developing a diagnosis, one of the first
7 things that happens is a clinical assessment. That
8 includes the parent or care giver for them to give some
9 history of what has happened, and most of that comes
10 from the child, asking them questions about their life,
11 asking them what happened. Asking them if they have
12 ever had anything not okay happen to them. Using
13 drawings within the office. Sometimes children bring
14 drawings in they have done at home. Using writings
15 that we do in the office. Just observing their
16 behavior, just watching them and seeing how they
17 respond to different things.

18 Q. Did you do all of these things with minor3 in order
19 to develop a diagnosis?

20 A. I did.

21 Q. And did you in fact develop a diagnosis as it relates
22 to minor3

23 A. I did.

24 Q. And what is that diagnosis?

25 A. Post Traumatic Stress Disorder with a delayed onset.

26 Q. Okay, what in the world is that?

1 A. Post Traumatic Stress Disorder --- actually the term
2 was coined back when the wars first started. People
3 would come back home, and they would be having all
4 types of physical psychological mental health issues
5 that really nobody could understand. So that term
6 became coined then. What it means to me as far as
7 minor 3 is concerned is, based upon where he
8 has been, the disclosures that he has given, and the
9 current behaviors he had. Delayed onset means, you
10 know, it has been quite a while since the trauma
11 occurred, and when the trauma symptoms occur quickly,
12 we call it acute. If they occur ongoing, we call it
13 chronic. And if they wait a little while, which in
14 this case as far as my disclosure from him went, it was
15 delayed. So, I consider it delayed onset.

16 Q. Okay. Tell me one more time the name of that
17 diagnosis?

18 A. PTSD, Post Traumatic Stress Disorder.

19 Q. With?

20 A. Delayed onset.

21 Q. What is the relationship if any, between Post Traumatic
22 Stress Disorder and ADHD? First of all, what is ADHD?

23 A. Attention Deficit Hyperactivity Disorder.

24 Q. Okay. Tell me about the relationship between those two
25 diagnoses?

26 A. What happens oftentimes with children is that we see

1 ADHD and PTSD, and they came up very much the same.
2 What I mean by that is, most of us understand ADHD and
3 the kids that bounces off of the wall, that is how most
4 of us define that. But when you look at ADHD and PTSD
5 they look the same, because an ADHD kid and a PTSD kid
6 may both bounce off the walls. Both of them may not
7 pay attention in school. They may not hear half of
8 what is being said. May not follow commands. May have
9 to be reminded ten times to put on their shoes. And
10 what we have to do when we are dealing with children
11 is, we have to weigh out, is this true ADHD, is this
12 truly something going on. Is it chemically or Post
13 Traumatic Stress Disorder? In my professional opinion
14 with minor³ we are dealing with more Post
15 Traumatic Stress Disorder Symptom, and to me they are
16 on top and kind of covering the ADHD symptoms at this
17 time. I am not going to say that he doesn't have ADHD,
18 but for me I see the PTSD kind of overshadowing the
19 ADHD.

20 Q. Okay. If you were to meet with a patient or a client,
21 and you were to spend a couple of months with them,
22 could you in just a month or two say, all right, this
23 child has Post Traumatic Stress Disorder?

24 A. What normally happens when a child has been
25 traumatized, as you can see it. You can see it pretty
26 quickly. I am not one that likes to give a quick

1 diagnosis. I guess you could say I am kind of
2 conservative as far as diagnosis goes. But with
3 minor³ when he first came to me, the drawings, the
4 disclosures, the writings, the behavior in the home,
5 and at the school, the startle reflex, all of these
6 things --- it was right there in front of you. So, I
7 diagnosed him pretty quickly.

8 Q. In order to diagnose from PTSD, Post Traumatic Stress
9 Disorder, is there a time limit, or a minimum amount of
10 time that the child must show some symptoms?

11 A. When you look at the diagnostic manual, which is what
12 we use for identifying any type of diagnosis for mental
13 health. What it states is, we have to look at the
14 symptoms, and see that they have been going on, and we
15 look to see if they have been going on for about the
16 six-month period. And those symptoms may mean that ---
17 There is part of it we have to see a --- there has to
18 be a traumatic event, and then we go to the next part.
19 We have to see okay is this kid having a startle
20 reflex? Are they afraid? Are they remembering things?
21 Are they, you know, having trouble sleeping? Are they
22 having trouble eating? There are so many things that
23 we have to check off to see if that kid does qualify
24 for PTSD. minor³ was off the chart as far as his
25 numbers qualifying him for PTSD.

26 Q. So, if you were to only see the child for say two or

1 three months, I believe that you just testified that
2 there would be no way you could diagnose PTSD because
3 it had no moment, you had not been treating him long
4 enough?

5 A. I would not be comfortable in giving that diagnosis up
6 front, because that is, in my opinion is a pretty
7 sticky diagnosis. It is not very conservative.

8 Q. As it relates to minor 3 and the abuse, and you
9 mentioned a little bit of this, what specifically did
10 you use --- specifically minor 3 to develop this PTSD
11 diagnosis?

12 A. As I said, I used some drawings that he did with me. I
13 have used some writings that we have done in the
14 office. The majority of it has just been on his
15 disclosure. You know, being afraid of things. Being
16 afraid of the dark. Having bad dreams. Having the
17 startle effect. And what I mean by that is someone
18 coming too close and we get the jump. Or, you know,
19 someone --

20 Q. I do that though, so why is that significant?

21 A. It is significant in this case because it is ongoing.
22 It doesn't matter who it is, it startles him. And I
23 will give you an example. The game of hide and go
24 seek. He has great difficulty playing that, because
25 when someone pops out, he will have --- He may wet his
26 pants, he may start crying, he may go hide in a corner,

1 he may go in the fetal position, for someone not to
2 hurt him. That is abnormal versus a normal response in
3 a child which would be, ah, you caught me, or whatever.
4 His symptoms are much more abnormal in playing just
5 normal games, in interacting in normal events. He has
6 great difficulty when you get too close to his face.
7 He wants out. When he is in a room, he has got to know
8 where the door is. He has got to know how to get out.
9 Even in my office where he is very comfortable, he
10 always has to be close to the door.

11 Q. Well, the thing about the hide and go seek and the
12 jumping. Does that mean that he was scared a lot, that
13 somebody jumped out at him a lot? Is that what that
14 means?

15 MS. SELLERS: Objection, Your Honor. That calls for
16 speculation.

17 THE COURT: Counsel, don't lead. Let me explain
18 that to our jury. You can't ask a question which has the
19 answer contained in it when you are on direct examination.
20 It is not an appropriate form, please rephrase.

21 MR. DANIEL: Thank you, Your Honor.

22 Q. We just heard Ms. Tuck talk about that, so in thirty
23 seconds or less tell us what delayed disclosure is?
24 Delayed disclosure and partial disclosure.

25 A. I'm sorry?

26 Q. Delayed disclosure and partial disclosure.

1 A. Okay. What happens is when children are in disclosure
2 mode, we have what is called active and non-active.
3 What that means is, an active disclosure, the kid is
4 ready to tell. They are ready to talk about what has
5 happened to them. In non-active, of course, they are
6 not ready to tell. Partial disclosure means, when kids
7 tell us something, they tell us a little bit and they
8 judge our response. Based on our response they may
9 keep going, or they may stop. If they feel they have
10 upset us, if they feel that we can't handle maybe what
11 they are saying, they will stop, and they will give us
12 what we call a partial disclosure. Delayed disclosure
13 means, that a child has had something happen to them,
14 they are not ready to tell, or maybe they are ready to
15 tell, and they are concerned that we will not be
16 believed. So the stop, they wait, and when the time is
17 right, as the child judges that the time is right, they
18 will go ahead and disclose.

19 Q. Let's talk about delayed and partial disclosure as it
20 relates to minor 3

21 A. minor 3 has done lots of partial disclosure. He had
22 given minor details and then as time has gone on, he
23 has given some more details. Very, very, very normal
24 when we look at abuse, because just as I said a moment
25 ago, kids are not going to come out and tell us
26 seventeen things that happened to them. They are going

1 to give us one or two, judge our response and then keep
2 going. Oftentimes when kids have talked about things
3 in therapy --- when they have been in therapy as
4 minor3 has for quite some time, the talking about it
5 isn't as hard anymore. So, they are able to keep
6 talking, keep giving further detail, and it doesn't
7 seem as difficult to disclose it anymore as it may have
8 been previously.

9 Q. Are the symptoms that minor3 has shown, in your
10 experience and in your opinion, are they consistent
11 with the idea that anyone other than the defendant
12 could have been responsible?

13 A. Based on the disclosure that I have been given, no one
14 else has ever been mentioned other than the defendant.

15 Q. Are there symptoms that minor3 has shown you
16 consistent with a child who is lying?

17 A. No.

18 Q. Are the symptoms that minor3 has shown you been
19 consistent with a child who has inflated what has
20 happened to him?

21 A. No.

22 Q. In your experience Ms. Allen-Cook, could all of this
23 simply be a child who misbehaved and needed to be
24 punished --- just punished?

25 A. No.

26 Q. Have you ever met (?

1 A. I have.

2 Q. And who is C ne?

3 A. Cl e Caulder is the youngest child, youngest
4 sibling of minor3 .

5 Q. Do you counsel her as well?

6 A. I do.

7 MS. SELLERS: Objection, Your Honor. I don't know
8 how this information would be relevant in this matter?

9 THE COURT: What is the relevance?

10 MR. DANIEL: Your Honor, I was just simply going to
11 the family dynamics concerning this abuse. It is certainly
12 not my intention to have Ms. Allen-Cook testify as to
13 anything C e has said or otherwise incriminating to the
14 defendant, Your Honor.

15 MS. SELLERS: Again, Your Honor, I just don't
16 understand the relevancy in this matter.

17 THE COURT: All right. I will sustain.

18 MR. DANIEL: Thank you, Your Honor.

19 Q. How has Jonathan's mother Kristina effected him?

20 A. I have not had any contact with the mother. She has
21 not been a part of any of the treatment that I have
22 provided for him. In my opinion, the fact that she was
23 a part of this, the fact that she has admitted that she
24 was a part of it, has been greatly difficult, obviously
25 for a child. Mom's are supposed to protect. Mom's are
26 supposed to take care of their children. In this case

1 that is not what happened. minor3 has had to work
2 through his lack of trust for females, based upon what
3 she had done to him.

4 Q. Do you have an expert opinion as to the difference in
5 how MINOR 3's mother has affected him, versus how
6 Jeffrey has effected him?

7 A. You know, when we look at family dynamics, you know,
8 Ms. Miller is the mother of this child. She is
9 obviously the one this child looked to, to protect him,
10 to take care of him, and to make things right. So, I
11 would say that it is greatly significant on his
12 development, what she did, her part of this. As far as
13 Mr. Caulder goes, he was in the home from my
14 understanding. He was there. He was acting as a
15 father figure to the children, and then overstepped
16 that. And, then based on the allegations, has done
17 lots of things to these children that they should not
18 have gone through, and that has greatly impacted their
19 development in my professional opinion, and has also
20 caused minor 3 to have some trust issues with
21 male adult also.

22 Q. Has minor 3 improved since he has been under your
23 care?

24 A. Yes, he has.

25 Q. How has he gotten better?

26 A. I am using what we call a trauma focus model with

1 minor3 What we do is, in the beginning of that
2 model, we educate a child on why they are having the
3 issues they are having. Because, many children who are
4 traumatized, think they are the only person in the
5 whole world who has gone through this. There is a lot
6 of stigma on that for them. So when we educate them,
7 we are able to let them see, hay, you are not the only
8 person this has happened to. And we kind of not so
9 much normalize it, but make them so they don't feel so
10 abnormal. Then we move into a lot of relaxation
11 techniques, just getting him where he can cope with
12 things. When children are traumatized, they recall,
13 they remember, and they just kind of relive it. So
14 what happens with him is, he may for example go into a
15 room and see a coat-hanger, and he may go back to a
16 moment where something happens. So what I have to do
17 is teach him how to cope with that, because he is
18 always going to see coat-hangers, obviously. So we
19 teach him how to take that, how to put it in a
20 different part of his brain, and how to recall --- okay
21 I am safe now when I practice relaxation. Let me go
22 through --- Well, okay this is okay, I can see this,
23 and I can actually hang up a piece of clothing, I can
24 put it in the closet, and this object can't harm me
25 anymore. The other thing that minor3 and I are
26 doing, it is a model that we use, and we are somewhat

1 in the middle of that model. And we are doing what we
2 call trauma-narrative, which means that he is writing a
3 book about his life. He is writing a book about
4 positive things that have happened in his life. He is
5 writing about negative things that have happened in his
6 life. And the reason we do that is we want to
7 desynthesize him a little bit, so that when he does
8 hear, or think, or recalls something that has happened,
9 he doesn't go into the fetal position and want to run
10 and hide. He can cope with it a little better. In my
11 opinion, that is why he was able to come in here and
12 give the testimony he gave, because he has become
13 appropriately desynthesized to the emotion around that
14 trauma, which is exactly what we want him to do.

15 Because the end of the model will move him into safety,
16 where he can go into the school, he can go into the
17 home, he can go into the community, and he can
18 understand that he can feel safe, he can be strong, and
19 he doesn't have to worry about anything like this
20 happening again.

21 Q. As it relates to this trauma, in your experience, is it
22 possible that this trauma could be the result of a
23 custody battle?

24 A. Not the level that the trauma he is experiencing, no.

25 Q. Finally, Ms. Allen-Cook, in your years of experience in
26 dealing with child abuse victims, how does this case

1 with minor 3 rank among all of your patients that you
2 have ever treated?

3 A. I would say that it is not the worse case of child
4 physical abuse that I have ever seen, but it is pretty
5 close.

6 MR. DANIEL: Thank you. I have no further questions.

7 THE COURT: Cross examination.

8 MS. SELLERS: Yes, may it please the Court.

9 THE COURT: Yes, ma'am.

10 CROSS EXAMINATION BY MS. SELLERS

11 Q. Good morning, Ms. Cook.

12 A. Hi.

13 Q. Ms. Cook, did you bring any information from the
14 Durant Center?

15 A. I have the documentation in my file. I read it several
16 months ago.

17 Q. And did you use any of that information to assist in
18 your counseling with minor 3

19 A. I did not.

20 Q. Okay. Are you accredited in any form or fashion?

21 A. We are a corporate agency.

22 Q. Is it nationally affiliated or accredited nationally?

23 A. I have a state license, I am part of a lot of national
24 organizations, but I do not have any type of national
25 accreditations, I mean.

26 Q. Do you know if the Durant Center is accredited?

1 A. I worked there previously; they were then. I can't
2 speak to what they are doing now.

3 Q. Okay. Let me ask you. Typically abused children,
4 don't they have a pretty accurate memory of their
5 abuse?

6 A. It depends on what you mean by accurate memory.

7 Q. Can they tell you once they are at the point they can
8 disclose --- isn't their memory very vivid about their
9 abuse?

10 A. Once again it depends.

11 Q. Some children do tell?

12 A. Some do children do, yes ma'am.

13 Q. Some do children do make up stories about abuse?

14 A. I can't say in my professional practice that I have
15 ever had a child make up a story. What I have found,
16 is that children often diminish what has happened to
17 them. As I stated with Mr. Daniel was questioning me,
18 they give us just a little bit, to see how we are going
19 to respond before they will give us more.

20 Q. So in your professional opinion, from your experience,
21 you have never had a child who was lying about being
22 abused?

23 A. Not in my professional practice, no ma'am.

24 Q. So every child you speak with, you were positive ---
25 you believed that they have been abused?

26 A. The children that I have worked with, I have not had

1 any of them make up stories to me as a therapist.

2 Q. So, that means that you believe the children, not
3 ... necessarily there has been abused.

4 A. I will tell you that when I look at their behavior, and
5 I look at the stories that they tell, I have to make a
6 decision on whether or not the behaviors are matching
7 what they have said. I am not going to say that any of
8 them have lied to me. Many of them obviously have more
9 depth you know, PTSD symptoms than others may have.

10 Q. How --- What behaviors have you noticed, the typical
11 behaviors that you are looking for, indicators?

12 A. For PTSD?

13 Q. Just abuse.

14 A. Just abuse, okay. Well, we have lots items for
15 physical symptoms, but I am not a medical doctor, so I
16 won't get into those. We have mental health. We have
17 emotional. We have psychological. And, what I mean by
18 that is oftentimes when children have been abused, we
19 will see them not pay attention in school. We will see
20 them have decreases in their grades. We will see them
21 wet the bed. We will have them --- see them have
22 nightmares, or what we call night terrors. We will see
23 them as I stated earlier, have a startle reflex. We
24 will see them avoid certain situations. We often see
25 them have distrust in the gender of the person that was
26 their offender oftentimes. And then there are some

1 children who have PTSD, who have been, you know,
2 affected by abuse, and they may not have all of the
3 symptoms. It really varies on child by child.

4 Q. Now, some children do have false memories about the
5 abuse, correct?

6 A. There are cases where that has been true, yes, ma'am.

7 Q. And children may have nightmares for various reasons,
8 correct?

9 A. They can have some nightmares obviously for various
10 reasons.

11 Q. Is there any study that you know of that shows you or
12 indicates that --- that because a child acts a certain
13 way that means they have been abused?

14 A. I can tell you that in my studies of abuse, and the
15 classes, and everything I have had to do to become an
16 expert in that field, there are lots of things that
17 show us why kids act the way they act when they are
18 abused.

19 Q. What studies have you read, not from your experience,
20 what studies have you read?

21 A. I studied the Fickle for model. I have done the child
22 traumagenic model. We have looked at lots of models
23 that go with PTSD and the treatment of that. You heard
24 me speak a few minutes ago, I am a part of a project
25 called Project Best in this State, where we look at
26 what is the trauma that effects children. There are

1 thousands and thousands of research documents obviously
2 that have been written on that. I obviously have not
3 read them all. But, --

4 Q. -- Isn't it true, there are children that exhibit those
5 same behaviors that have not been abused?

6 A. I would say not to the level of the behaviors that I am
7 speaking of, in my patient minor3

8 Q. So, with your patient minor3, isn't it true
9 that his grades did have a decrease too?

10 A. His grades did have somewhat of a decrease per his
11 report.

12 Q. Now after he was removed from the home --

13 A. Oftentimes decrease can come when the child starts to
14 remember. It doesn't always happen necessarily when
15 the trauma is going on. Many children are able to
16 achieve, or able to do very well, and that is a coping
17 mechanism for them. They are trying to do the best
18 they can to make everything go away.

19 Q. Isn't it true that minor3 came to you after he had
20 already received counseling at the Durant Center?

21 A. I know that he had been seen at the Durant Center, from
22 what I know, about eighteen sessions, they were there.

23 Q. You said that you diagnosed him pretty quickly?

24 A. I did.

25 Q. And that was based solely on the information you
26 received from minor3

1 A. From him, yes, ma'am.

2 Q. Did you speak with DSS about him?

3 A. No, ma'am.

4 Q. Did you speak with law enforcement?

5 A. No, ma'am.

6 Q. Did you speak with any family members?

7 A. I always speak with the parent/care giver who brings
8 the child.

9 Q. And which parent or care giver were you speaking with
10 concerning minor 3 ?

11 A. Maggie Miller, who is the Grandmother who has the
12 child.

13 Q. Okay. Did you have detailed conversations with Ms.
14 Miller?

15 A. When Ms. Miller and I have conversations, I ask things
16 like this. How is he doing? Is he still having bad
17 dreams? Have the dreams gotten better? How are we
18 doing in school? Are we doing better when we are
19 outside, are we still afraid? Are we still seeing
20 things that make us think of the abuse? Those types
21 of questions. And when I question her, minor 3
22 is never in the room when she and I have a
23 conversation.

24 Q. Are you familiar with the term collateral evidence?

25 A. Collateral evidence. What I know about that is, that
26 just means that it is evidence that may go along side

1 what we are talking about. Other than that I don't
2 have much knowledge of it.

3 Q. So you didn't have any evidence that would cooperate
4 *MINOR 3*'s story did you?

5 A. I had evidence based upon what he said. And, then I
6 testified in the Family Court hearing.

7 Q. You did testify in Family Court?

8 A. I did.

9 Q. Now, has *minor 3* been stressed about that Family Court
10 issue?

11 A. I wouldn't say he has been stressed, no, ma'am.

12 Q. Have you all spoken about that on occasion?

13 A. When you say spoken about it ---

14 Q. -- Has it become a portion of your session? Have you
15 discussed this issue with him?

16 A. No, ma'am. No, ma'am.

17 Q. He has never discussed that with you?

18 A. No, ma'am.

19 Q. Did he seem to be afraid about the custody battle?

20 A. No, ma'am.

21 Q. He wasn't afraid at all?

22 A. In my opinion, he seemed pretty confident where he was,
23 and felt like that was where he was going to stay.
24 Because, he had said oftentimes that he didn't know how
25 he would have to go back to his mom, based upon all the
26 things she had done to him.

1 Q. So he has discussed the custody issue?

2 A. He has discussed willing to stay where he is, if that
3 is what you consider custody.

4 Q. Have you all spoken about that issue anymore?

5 A. No, ma'am.

6 Q. And are you still seeing minor3 at this time?

7 A. Yes, ma'am.

8 Q. And who pays for these services?

9 A. The State office of Victims Assistance.

10 Q. Now, how long have you been meeting with minor3
11 again?

12 A. Since May of this year.

13 Q. And you have never spoken with minor2

14 A. I'm sorry?

15 Q. You have never spoken with minor2

16 A. I have met minor2 when she comes like to accompany.

17 Every now and then she may be here, like on a Friday,
18 if I am seeing minor3 in the evening. She comes in,
19 I speak, and that's it. I have never spoken to her
20 about the abuse, if that is what you mean.

21 Q. Are there any external triggers?

22 A. External triggers as far as?

23 Q. Disclosure.

24 A. Do you mean as far as minor3 is concerned? I would
25 say that externally, he has been have some difficulty
26 focusing in school obviously. He has been thinking a

1 lot about the things that have happened to him. Other
2 than that I would say no.

3 Q. Now, aren't there some traditional I guess, indicators
4 of child abuse, like failing in school, acting out,
5 being disruptive in class. Would you agree with that?

6 A. There are some, yes, ma'am.

7 Q. Has any of that been evident in minor 3 or present
8 minor 3

9 A. When I first started seeing minor 3 back in May he was
10 having those issues. Those are very classic symptoms
11 when a kid is remembering --- when a kid is what we
12 call, active disclosure mode. When a kid is going back
13 and kind of reliving the abuse that happened to them.
14 We often do see the behaviors that you just listed.

15 Q. But he was removed from the home in 2007, correct?

16 A. As far as I know, yes, ma'am.

17 Q. And DSS has been involved with him since 2007?

18 A. I don't know about that, I'm sorry.

19 Q. Have you ever read any reports from DSS?

20 A. No ma'am, I have not.

21 Q. Have you ever read any police reports?

22 A. No, ma'am.

23 MS. SELLERS: I have no further questions, ma'am.

24 THE COURT: Is there redirect?

25 MR. DANIEL: No, Your Honor.

26 THE COURT: Is there any objection to the release of

1 the witness?

2 MR. DANIEL: No, Your Honor not from the State.

3 MS. SELLERS: Not from the defense, Your Honor.

4 THE COURT: All right. Ma'am you are not required
5 to, but you are free to leave.

6 MS. ALLEN-COOK: Thank you, sir.

7 THE COURT: Please call your next witness.

8 MR. DANIEL: Beg the Court's indulgence.

9 (PAUSE)

10 MR. DANIEL: Your Honor, at this time the State rests
11 its case.

12 THE COURT: The State rests. Are there any motions
13 for the Court to consider?

14 MS. SELLERS: Yes, Your Honor.

15 THE COURT: All right, there are. All right. Ladies
16 and gentlemen, the State has rested, and in every case when
17 one party rests, the Court has some matters of law and
18 motions that the Court has to consider. I must do that
19 outside your presence, just like when you are deliberating
20 the matters of fact, we won't be in your presence. So, I am
21 going to ask you to step back to the jury room, have a brief
22 break if you will. Let me resolve what these issues may be,
23 and we will be ready to go forward. Let's all remain where
24 we are while the jury departs the courtroom. Have a nice
25 break ladies and gentlemen.

1 (Whereupon, the jury departs the courtroom at
2 10:58 a.m.)

3 **THE COURT:** All right. The jury is clear and we are
4 outside of the jury's presence at the end of the State's
5 case. What are the motions from the defendant?

6 **MOTION FOR A DIRECTED VERDICT**

7 **MS. SELLERS:** Yes, Your Honor. I move for a Directed
8 Verdict in this matter, Your Honor. The State has the
9 burden of proving that my client was in legal custody ---
10 had legal custody or legal guardian of these children.
11 There has been no evidence presented whatsoever that my
12 client had legal custody or was a legal guardian.

13 Your Honor, also, they must prove, that he has placed
14 the children at unreasonable risks or harm affecting the
15 children's lives, or physical or mental health or safety.
16 Again, Your Honor there has been no direct evidence that my
17 client has placed these children in any imminent harm or
18 danger.

19 **THE COURT:** All right. And is there anything further
20 --- any other motions?

21 **MS. SELLERS:** No other motions, Your Honor.

22 **THE COURT:** And is there a response from the State?

23 **MR. DANIEL:** Absolutely, Your Honor. I would like to
24 correct Ms. Sellers on the Indictment. It actually says
25 that the defendant must have charge or custody, or being the
26 parent or guardian, or being responsible for the welfare of

1 the minor child. And, I believe that that has certainly
2 been shown through each witness, each witness who was there
3 who lived in the home has said that Mr. Caulder absolutely
4 had charge or custody of these children, and was certainly
5 responsible for the welfare of the children.

6 And as to placing the children at unreasonable risk or
7 harm. I mean, really, I could give --- I would be glad to
8 give the Court numerous examples of the testimony that we
9 have heard where it has been alleged quite forcefully that
10 the defendant has placed these children at unreasonable risk
11 of harm, affecting the child's life physical or mental
12 health or safety. And, again, there is more in the
13 Indictment than that --- or did willfully and malicious
14 cause, or cause to be done bodily harm to the child so that
15 the life or the health was in danger or likely to be
16 endangered.

17 **THE COURT:** All right. Ms. Sellers, I am going to
18 deny your Motion. First of all, whether the defendant was
19 custodian or responsible for the children, it is an issue
20 that has been placed in evidence. The State has put
21 evidence in on the issue, therefore it is for the jury to
22 determine, not for this Court.

23 I find that there is sufficient evidence on that issue,
24 and it will go forward, as to all three children.

25 In regard to the physical or mental endangerment, or
26 harm to the children, the Court also finds there is

1 sufficient evidence in this record for the case to go
2 forward, as to all three children. For those reasons your
3 Motions are denied. Are there any further Motions at this
4 juncture?

5 MS. SELLERS: No further motions, Your Honor.

6 THE COURT: All right, are we ready to move forward?

7 MS. SELLERS: May we take a five minute break. But
8 let me go on to speak with the defendant while we are all
9 together.

10 EXAMINATION OF MR. CAULDER BY THE COURT

11 All right. Now, Mr. Caulder, you have heard the
12 evidence against you in regard to all three cases, sir.

13 I am going to ask you to follow the clerk's instruction
14 while I have this discussion with you. Please follow our
15 Clerk's instruction.

16 WHEREUPON, JEFFREY CAULDER

17 AFTER BEING DULY SWORN TESTIFIES AS FOLLOWS

18 MR. CAULDER: I do.

19 THE COURT: All right. Mr. Caulder, you have heard
20 here in the courtroom the State has rested, meaning that we
21 have now reached the point in the case where if the
22 defendant wishes to put up evidence, you have that
23 opportunity; do you understand that, sir?

24 MR. CAULDER: Yes.

25 THE COURT: And with regard to --- pertaining the
26 case on behalf of the defendant, have you talked with Ms.

1 Sellers about your right to remain silent, as well as your
2 right to testify in this case?

3 MR. CAULDER: Yes, sir.

4 THE COURT: And do you understand that in this
5 courtroom, as the defendant, you have no burden of proof?
6 You are presumed innocent, and thus you have a right to
7 remain silent. You are not required to testify, you are not
8 required to take the witness stand, and if you decide not to
9 take the witness stand and not to testify, the Court will
10 tell the jury that they may not hold that against you,
11 because that is your constitutional right, because you have
12 no burden of proof. Do you understand that sir?

13 MR. CAULDER: Yes, sir.

14 THE COURT: All right. And is what I just told you
15 about your right to remain silent consistent with, and the
16 same thing that your lawyer told you about your right to
17 remain silent?

18 MR. CAULDER: Yes, sir.

19 THE COURT: Do you have any questions about your
20 right to remain silent in this courtroom?

21 MR. CAULDER: No, sir.

22 THE COURT: On the other hand, you also have a right
23 to testify. And if you wish to testify sir, you will be
24 placed under oath, and subject to direct examination by your
25 own lawyer as well as cross examination by the State, all of
26 this occurring in the presence of the jury. And the jury

1 may use whatever is testified to for you or against you, as
2 they determine the testimony to be given. Do you understand
3 that, sir?

4 MR. CAULDER: Yes, sir.

5 THE COURT: Now, have you fully understood what I
6 have explained to you about your right to testify and your
7 right to remain silent?

8 MR. CAULDER: Yes, sir.

9 THE COURT: Do you have any questions about your
10 right to testify, or your right to remain silent?

11 MR. CAULDER: No, sir.

12 THE COURT: Is what I have told you about your right
13 to testify, the same thing your lawyer has told you about
14 your right to testify?

15 MR. CAULDER: Yes.

16 THE COURT: Have you made a decision as to whether
17 you intend to testify in these proceedings?

18 MR. CAULDER: Yes sir, I have.

19 THE COURT: And what is that decision?

20 MR. CAULDER: I am not going to testify.

21 THE COURT: And have you --- Is this decision not to
22 testify, is it your decision, or someone else's decision?

23 MR. CAULDER: My decision.

24 THE COURT: All right, sir. Has your attorney
25 attempted to force you in bringing about this decision not

1 to testify?

2 MR. CAULDER: No, sir.

3 THE COURT: So are you telling me, this is your
4 voluntary decision that you have made with a full
5 understanding of your right to remain silent --

6 MR. CAULDER: Yes, sir.

7 THE COURT: As well as your right to testify?

8 MR. CAULDER: Yes, sir.

9 THE COURT: All right, very good. Then counsel do
10 you intend to put up any evidence on behalf of the
11 defendant?

12 MS. SELLERS: Your Honor, I will be able to answer
13 that after a five minute break.

14 THE COURT: All right. Please note that you already
15 have exhibits in the record, thus the defendant has made an
16 inference in the record, and is not entitled to final
17 argument based upon that. So, please discuss this with your
18 client, and advise us when we return.

19 MS. SELLERS: Thank you, Your Honor.

20 THE COURT: The Court will be in recess approximately
21 five minutes.

22 (Whereupon, a recess was taken from 10:55 a.m.
23 until 11:20 a.m.)

24 MS. SELLERS: Your Honor, in light of that recent
25 information, can I have two additional minutes to consult my

1 client.

2 THE COURT: We will sit right here while you do that.

3 (PAUSE)

4 MS. SELLERS: Your Honor, we are ready at this time to
5 proceed.

6 THE COURT: All right. There has been some
7 discussion about whether or not there is evidence in the
8 record from the defendant. There has been discussion among
9 counsel about that issue counsel?

10 MS. SELLERS: There has Your Honor.

11 THE COURT: All right. And what is the agreement or
12 consensus, if there is one between the parties? What says
13 the defense?

14 MS. SELLERS: Your Honor, I believe there is a
15 consensus that we will withdraw that information that has
16 been placed in the record.

17 THE COURT: All right. And what says the State to
18 that?

19 MR. DANIEL: Your Honor, the State will consent to
20 withdraw those two items from the record, leaving the
21 defense with no evidence having been put up.

22 THE COURT: All right. Let's go back and let the
23 record reflect that over the break defense counsel came back
24 to Chambers and discussed with the Court, that it had been
25 the defendant's intention to mark documents as exhibits, not
26 as evidence, but simply for purposes of identification.

1 By a review of the record, the Court did not find that
2 to be the case, and found the defendant has placed in
3 evidence Exhibits 1 and 2. However, after further
4 discussion between counsel, it was agreed that the State
5 would consent to withdrawing the Defendant's 1 and 2, so we
6 will mark our record such that these are remarked for
7 identification only, one and two, and thus there are
8 exhibits in this record for the defendant, meaning that the
9 defendant has not at this juncture put up any evidence.
10 Does the State so agree?

11 WHEREUPON, DEFENDANT'S EXHIBIT
12 NUMBERS 1 AND 2 WAS REMARKED
13 FOR IDENTIFICATION ONLY IN THE
14 RECORD.

15 MR. DANIEL: Yes, Your Honor, the State agrees.

16 THE COURT: Very good. Now, having that issue
17 resolved, is it the intention of the defense to call any
18 witnesses, Ms. Sellers?

19 MS. SELLERS: No, Your Honor.

20 THE COURT: All right. Counsel are you ready to
21 charge?

22 MR. DANIEL: Yes, sir. The State is ready.

23 THE COURT: Let's come up and talk about this for
24 just one moment. We will go off the record. Ladies and
25 gentlemen, we will resolve the scheduling issues.

26 (Whereupon, a bench conference was held.)

CHARGE CONFERENCE1
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THE COURT: All right. Now there is an issue ---
First of all the Court has given the charge in advance to
the parties. We gave the charge at the end of yesterday's
proceedings. And is there any objection to the charge or
any issues that you wish to raise at this time with regard
to charge; start with the defense?

MS. SELLERS: Yes, Your Honor. In regard to the
charge, I did have an opportunity to review this
information. I do not have a problem with any portion of
the charge. However, Your Honor, I would like a lesser
included offense listed, and that offense will be cruelty to
children. That Statute reads: Whoever so cruelly ill-
treats, deprives of necessary sustenance or shelter, or
inflicts unnecessary pain or suffering upon a child or
causes the same to be done, whether that person is a parent
or guardian, or has charge or custody of the child for the
defense, is guilty of a misdemeanor. Regardless if it is a
misdemeanor or a felony, Your Honor, I do believe that this
does fit the elements of the crime that has been listed with
the unlawful conduct of a child.

THE COURT: All right. Now, what is that Statute?

MS. SELLERS: That statute I'm readying --- I know
there has been newly codified. I am reading §20-7-70, but
I believe your Clerk was able to find it in her envelope.

(PAUSE)

1 **THE COURT:** All right. And what says the State?

2 **MR. DANIEL:** Your Honor, all the testimony has
3 pointed to the fact that this is --- was a --- that this
4 abuse was sustained for such a long period of time. Based
5 upon the sentence provided in that lesser included statute,
6 which I believe says a misdemeanor, I believe the maximum
7 punishment is thirty days there. It is hard for me to
8 believe that the Legislator intended for that to apply to
9 the facts that we have here. I think the facts that we have
10 fit perfectly with the charge that Mr. Caulder has been
11 charged with, and that being unlawful neglect of a child. I
12 think that when you look at the Legislative intent, based on
13 the Statute --- I'm sorry, based on the possible punishment,
14 I think that it can be easily inferred that that statute
15 that Ms. Sellers is wanting charged, just simply doesn't
16 apply here.

17 **THE COURT:** All right. Ms. Sellers, what facts do we
18 have in this record that you believe fit the lesser included
19 offense, which is presently codified at §63-5-50?

20 **MS. SELLERS:** Your Honor, the facts that I would have
21 is that has been presented to the jury, that first my
22 client, he treated them bad. He deprived them of their
23 necessity or shelter. He inflicted unnecessary pain or
24 suffering. Furthermore, Your Honor, in terms of when
25 speaking of a lesser included crime, I don't think we take
26 into consideration the sentence. A defendant is entitled to

1 a lesser included charge, Your Honor, if there has been any
2 information presented to the jury that would lead them to
3 convict him of this.

4 Now, with the first Statute that we have, Your Honor,
5 the unlawful conduct towards children, that specifically
6 means that the jury would have to believe that my client,
7 A, was the legal guardian. He was a parent, or he had
8 custody, or was in charge of those children. If the jury
9 does not believe that, then they would find him not guilty.
10 I believe that there has been other information presented to
11 the jury about the treatment in general of these children,
12 and therefore my client is entitled to this lesser included
13 offense. I don't believe the sentencing has anything to do
14 with it, because we do have grand larceny and clients are
15 entitled to petty larceny at any time.

16 THE COURT: All right, just a moment counsel.

17 (PAUSE)

18 MS. SELLERS: I understand that the State is wanting
19 all or nothing Your Honor, but they are not entitled to
20 that. I'm --- I'm requesting that there is a lesser
21 included charge.

22 THE COURT: What says the State in reply?

23 MR. DANIEL: Your Honor, the unlawful conduct toward
24 a child, which is what Mr. Caulder has obviously been
25 charged with, addresses mental health, which is not covered
26 at all under §63-5-80. And there has certainly been

1 evidence through the children, the mother, and the
2 psychologist, and the experts, as it relates to the mental
3 health that --- or the mental well-being of these children,
4 and how they have suffered as a result of the alleged or the
5 accusations here, Your Honor. And, I think that in and of
6 itself would mean that this §63-5-80 should not be charged,
7 because it doesn't mean the factual basis.

8 **MS. SELLERS:** Your Honor, in response to that the
9 Statute specifically says: Inflicts unnecessary pain or
10 suffering. I would say mental and emotional could be
11 encompassed in the pain and suffering upon a child, or
12 caused to be done. Also it specifically says that whoever
13 cruelly ill-treats a child.

14 **THE COURT:** All right. Counsel, just a moment.

15 **(PAUSE)**

16 **THE COURT:** I am going to grant the Motion by the
17 defense. The issue is not really one of punishment, as the
18 defense says for the jury, because that won't be discussed
19 and it does appear that the lesser offense is aimed towards
20 much more minor behavior. And the allegation here, and the
21 testimony here --- the evidence here will reflect it.
22 However, the defendant does have a right to a lesser
23 included offense. The Court is going to charge it.

24 **MS. SELLERS:** Thank you, Your Honor.

25 **MR. DANIEL:** Thank you, Your Honor. .

26 **THE COURT:** All right. Anything further now with

1 regard to the charge before we bring the jury in and charge.

2 All right. Let's talk about the way we will proceed.
3 The State goes first. The defendant argues last, because
4 the defendant has chosen not to put up evidence. How long
5 will the State's Closing Argument be?

6 **MR. DANIEL:** I'm sorry, I'm sorry, Your Honor.

7 **THE COURT:** How long will the State's closing
8 argument be?

9 **MR. DANIEL:** I don't know Your Honor, I would guess
10 twenty, twenty-five minutes.

11 **THE COURT:** And defense?

12 **MS. SELLERS:** Probably around the same time, maybe
13 fifteen or twenty minutes.

14 **THE COURT:** All right. I am going to notify you when
15 you have been twenty minutes; not to stop you, but just so
16 that you will be aware of the amount of time you have been
17 argument is proceeding.

18 **MS. SELLERS:** And, Your Honor, I know there was two -
19 -- that she left both portions about the defendant
20 testifying and not testifying. Has one portion been
21 removed?

22 **THE COURT:** I will. We give that to you, because at
23 the time we didn't know what the decision will be. I will
24 not charge the portion about the defendant testifying.

25 **MS. SELLERS:** And, Your Honor, just for
26 clarification; do you actually give the jurors your jury

1 charge?

2 **THE COURT:** I do not. If there is a request for the
3 charge, then the Court may give them some portion that
4 involves the request. Other than that, this charge does not
5 go to the jury.

6 **MS. SELLERS:** Thank you, Your Honor.

7 **THE COURT:** All right. Are we ready?

8 **MR. DANIEL:** Yes, Your Honor.

9 **THE COURT:** Then ladies and gentlemen, please
10 understand those of you in the courtroom, while we are
11 arguing and charging no one goes in, no one comes out. And
12 we are ready to proceed.

13 Please bring in the jury.

14 (Whereupon, the jury enters the courtroom at 11:34
15 a.m.)

16 **THE COURT:** All right. Ladies and gentlemen, welcome
17 back to the courtroom. We took a few minutes longer than we
18 had told you we would, but there were two or three matters
19 that we had to resolve.

20 The State has rested. Now, we move to the defendant.
21 Does the defense wish to call any witnesses?

22 **MS. SELLERS:** No, Your Honor. The defense rests at
23 this time.

24 **THE COURT:** All right. Ladies and gentlemen, let me
25 first of all say; let's go back to where we began in this
26 case. The defendant has no burden of proof in this case.

1 The defendant is not required to testify. He is absolutely
2 not required to prove innocence, because the burden is
3 always on the State to prove guilt beyond a reasonable
4 doubt. Thus, the defendant is not required to put up a
5 case. He is not required to respond. And you should make
6 no inference in your deliberations that the defendant did
7 not testify, and did not call witnesses. They do not have a
8 responsibility to do so, and I will talk with you a little
9 bit further about that in the charge.

10 Now, that means that we are at the end of the
11 testimony. So, what we are going to do is go ahead and have
12 final arguments and the charge, and then go to lunch, then
13 come back and begin your deliberations. I believe that is
14 the best way --- the most efficient use of time as we
15 proceed.

16 Now, the way we are going to do closing arguments is,
17 the State goes first, and the defendant goes last, and then
18 I will charge you on the law.

19 So, if you are ready to proceed at this time, the Court
20 recognizes prosecution for closing arguments.

21 **MR. DANIEL:** Thank you, Your Honor. May we approach
22 for one minute?

23 **THE COURT:** You may.

24 (Whereupon, a bench conference was held in the
25 presence of the jury but out of the hearing of the jury.)

26 **THE COURT:** All right. Ladies and gentlemen, some of

1 our witnesses have been sequestered as you know. We are
2 going to wait a minute for them to come in if they wish to
3 come in, because the testimony is finished, and the
4 sequestration order has ended, because no one else will be
5 testifying. So, we will wait just a moment, and they wish
6 to come in, they may do so.

7 Counsel, come back one more time, please.

8 MS. SELLERS: Thank you, Your Honor.

9 (PAUSE)

10 THE COURT: Just one moment, ladies and gentlemen.

11 (PAUSE)

12 THE COURT: All right. Prosecution for the State is
13 recognized.

14 MR. DANIEL: May it, please the Court, Ms. Sellers.

15 THE COURT: Yes, sir.

16 CLOSING ARGUMENTS BY MR. DANIEL

17 MR. DANIEL: Ladies and gentlemen of the jury, at the
18 beginning of this trial, I told you that this case was about
19 minor 3 the case was about minor 2 and this case was about
20 minor 1 that has not changed. This case is about three
21 children, as I told you in the beginning, who will never
22 ever be the same, because of what that man has done to them.

23
24 As I mentioned at the beginning of the trial, it is my
25 burden to prove the elements of the charge beyond a
26 reasonable doubt. Judge Baxley is going to instruct you

1 about reasonable doubt in a little bit. But briefly I will
2 say, what is reasonable doubt? Reasonable doubt is not
3 beyond all doubt, but truth beyond a reasonable doubt is
4 oftentimes and the judge will define it this way, as proof
5 which leaves you firmly convinced of the defendant's guilt.
6 Beyond a reasonable doubt is also defined as --- as I said
7 firmly convinced of the defendant's guilt. Again, Judge
8 Baxley will instruct you on that shortly.

9 In this case, Jeffrey Caulder has been charged with
10 three counts of unlawful conduct towards a child, which is
11 essentially child abuse. Now, this is what I must prove for
12 unlawful conduct toward a child, and Judge Baxley will read
13 this to you shortly. The State must prove beyond a
14 reasonable doubt, that the defendant was responsible for the
15 welfare of the child/victim as defined in state law. Also
16 the State must prove beyond a reasonable doubt that the
17 defendant placed the child victim at unreasonable risk of
18 harm affecting the child's life, physical or mental health,
19 or safety. And/or did cause to be done lawfully or
20 maliciously some bodily harm to the child, so that the life
21 or health of the child is in danger, or likely to be in
22 danger in violation of state law.

23 Now, that is what he is charged with. These three
24 Indictments. Three counts. One for minor³ One for
25 minor² One for minor¹ That is the charge. You may come
26 back with a verdict of guilty on each of these charges. The

1 Judge however will instruct you that you may also find Mr.
2 Caulder guilty on another charge. That charge being cruelty
3 to children.

4 Now, let me read this to you. Cruelty to children.
5 Whoever ill-treats, deprives of necessary sustenance or
6 shelter, or inflicts unnecessary pain or suffering upon a
7 child, or causes the same to be done, whether the person is
8 a parent or guardian, or has charge or custody of the child,
9 for every offense is guilty.

10 Now, there is a difference with what he is charged with
11 and what I just read to you. What he is charged with talks
12 about mental health, striking and/or excessive punishment,
13 and/or infliction of mental or emotional harm, this carries
14 a little more weight than this.

15 **MS. SELLERS:** Objection, Your Honor.

16 **MR. DANIEL:** Cruelty to children --

17 **THE COURT:** Overruled. Go ahead, counsel.

18 **MR. DANIEL:** Thank you, Your Honor. Cruelty to
19 children is a lesser included offense. That means that this
20 is the big charge, and if you don't find that he is guilty
21 of this, you can find that he is guilty of the lesser
22 charge. Or, you can find that he is not guilty at all.
23 This is what he is charged with. This is what I submit to
24 you, we have proven way beyond any reasonable doubt that you
25 might have, this charge, not cruelty to children, but this
26 that deals with mental and emotional pain. You heard these

1 children testify. You heard what kind of mental issues they
2 have, now even based on this man and what he did to them.

3 I have to prove to you that Jeffrey Caulder is the one
4 who did this. There is Jeffrey Caulder. The children have
5 identified Jeffrey Caulder. Their mother has identified
6 Jeffrey Caulder. They have all said that Jeffrey is the one
7 who did this. The counselor said, these kids came to me,
8 and it was Jeffrey that they talked about. It wasn't
9 anybody else. It wasn't David or whoever else. It was
10 Jeffrey. I must prove to you that it happened in Dillon
11 County, Maple Wood Apartments, Dillon County. It happened
12 between July 1, 2003, and November 30, 2007, a long time. I
13 went through that entire time line with Kristina Miller.
14 She told us where she lived. She told us where things
15 happened. The kids even said that it happened at this
16 particular location. And then Kristina would tell you, well
17 we lived at that location, and this or that happened. No
18 doubt, no doubt, that this happened between July 1, 2003 and
19 November 30, 2007. That is not to say that things couldn't
20 have happened before that time frame or after that time
21 frame, but all I have to show you is that it happened in
22 that time frame. At least one thing happened in that time
23 frame. We have done that, without a doubt. While having
24 charge or custody, or being the parent or guardian, or being
25 responsible for the welfare of minor¹ minor² and minor³
26 This is also an issue about which there is no doubt. I

1 don't have to prove to you that he was the biological
2 father. I don't have to prove to you that court gave him
3 custody officially or legally. I don't have to do that.
4 What I have to show to you and prove to you beyond a
5 reasonable doubt is that he had charge of these children, or
6 he was responsible for their welfare. There were several
7 mentioning of the fact that Jeffrey was sort of the father
8 figure in the home. Often he was there with the kids when
9 nobody else was, and he was responsible. Kristina even told
10 you that. She said, oh, yeah, he was responsible several
11 times --- I mean, many, many times. When she was at work,
12 he was there and he was responsible, there is no doubt not
13 any doubt reasonable or otherwise, there is no doubt that
14 Jeffrey Caulder did have charge over these children and was
15 responsible. Therefore, we meet that burden that I have to
16 prove to you.

17 Now, we move on. This is the part where all the
18 testimony comes in. I have got to prove to you that it is
19 Jeffrey Caulder. Done that. I have got to prove to you
20 that it happened in Dillon County. Done that. I have got
21 to prove to you that it happened between July 1, of 03 and
22 November 30 of 2007. Done that. I have got to prove to you
23 that he was responsible for these children. Done it, no
24 question. So, now we get to the last thing that I have got
25 to prove to you, and that is that the defendant placed the
26 child at unreasonable risk of harm affecting the child's

1 life, physical or mental health or safety. And/or did cause
2 to be done lawfully or maliciously some violent harm to the
3 child so that the life or the health of the child is
4 endangered or likely to be endangered. Now, based on the
5 evidence, I should be able to sit down right now, and not
6 say anything. After all that you heard --- well what else
7 do I need to say. But I won't.

8 I have to prove this for each child. Remember, there
9 is one Indictment for minor3 one for minor2 and one for
10 minor1 I have got to prove this for each child. So, let's
11 go with minor first. What did minor tell you? Hot sauce down
12 his throat for punishment. Who punishes a child like that?
13 Do kids spill sauce and ketchup all over, of course you are
14 going to punish them. But, do you pour hot sauce down their
15 throats? Who does that? Standing on a wall for hours,
16 minor said, at times holding their arms up until they get
17 tired? Hours. Stand on the wall holding pillows. He said
18 this happened for three hours. They would have to stand for
19 three hours with the pillows. When they dropped them what
20 happened? They would get beaten, more pillows. Had to use
21 the bathroom in their pants while standing up there. They
22 couldn't go to the bathroom. Beatings. Frequent beatings
23 with a switch, with a belt --- bruises, marks, blood. He
24 was picked up by his throat and thrown down. He said that
25 happened several times. He saw Jeffrey tape minor3 ---
26 I'm sorry. Jeffrey taped minor3 and minor2 together, he

1 saw that. In case you don't believe minor3 or minor2 when
2 they say it happened to them, maybe you will believe minor1
3 minor saw it happen. He told you about it. He saw minor3
4 tied to the bed and beaten. He was made to wear ~~Minor2's~~
5 clothes, he said all day. He was beaten for throwing up.
6 Then he had to clean it up himself. He got beaten for
7 leaving a cup behind the sofa, and why didn't he ever tell?
8 He never told because he was scared. He was scared at what
9 he might do to him. On cross examination, and this was very
10 interesting, and I hope you caught it. On cross
11 examination, Ms. Sellers, who is trying to listen to all of
12 this that has been said about her client Ms. Sellers kept
13 referring to these as spankings. Remember that, spankings.
14 Well when you are spanked --- when the spanking happened,
15 did you catch what minor said? minor said, no, Ms. Sellers,
16 it wasn't a spanking, it was a beating. It wasn't a
17 spanking, it was a beating. minor is eight years old and
18 even he knows that. It wasn't a spanking.

19 What did minor2 say? Beaten repeatedly leaving marks,
20 bruises, drawing blood. Taped to her brother minor3 for
21 four hours. Her mouth was taped with duct tape. This man
22 put duct tape on this little girl's mouth, and then yanked
23 it off. Who does that? This man does that that's who.
24 That is the part that disgust me the most, I think. There
25 are a lot of disgusting things, but that is unbelievable.
26 She was grabbed by her throat and thrown down. She was

1 beaten for being hungry. He beat her for being hungry.
2 Okay, maybe that is the worst. For being hungry. She saw
3 her brother minor3 tied to the bed. She saw minor3
4 beaten so badly, he couldn't sit down the next day. And
5 who did all of that? He did. He got beaten for leaving a
6 cup behind the couch. He got beaten for throwing up. Was
7 made to stand on the wall, she said it was a competition for
8 them. Jeffrey and Kristina laughed. It was a competition.
9 She said Jeffrey and Kristina enjoyed it. They enjoyed it.
10 Does this sound like cruelty to children? Or does this
11 sound like unlawful neglect? That is what this is. This is
12 unlawful neglect of a child. Mental, emotional scars, that
13 is what this is. She saw minor3 beaten for folding
14 clothes wrong. She gagged when Jeffrey poured that hot
15 sauce down her throat. When she asked --- When she was
16 asked about what life was like living with Jeffrey what did
17 she say? She said, it is like living in a black hole. She
18 is ten years old who says that. What ten-years-old says
19 that about their life? On cross examination, Ms. Sellers
20 asked her what she liked about living with her father, who
21 she lives with now in Rock Hill. And her answer, do you
22 remember her answer? Her answer was, because I don't have
23 to go through now what I had to go through when I lived with
24 Jeffrey and Kristina.

25 What did minor3 say? minor3 said that he was first
26 beaten because he told on Jeffrey about something. He said

1 something about Jeffrey, Jeffrey came back, called him a
2 liar, beat him, that was the first time. He was beaten for
3 spilling stuff, he said. He got beaten ungodly for not
4 folding that towel right. minor3 told you how he was
5 standing on the wall for hours at a time. Hours holding
6 things, getting beaten, they dropped. He said sometimes he
7 would get beaten four or five times a day. He was duct tape
8 to minor2 for hours, and he told you that, and said Jeffrey
9 and Kristina would just laugh. That was funny. Duct tape
10 over the mouth again. He said it happened to all three of
11 them. Duct tape ripped off so hard that there was blood.
12 Who did that? He did that. He did that. Beaten for
13 throwing up, hogtied. Does it matter? Does it really
14 matter that Ms. Sellers tried to make a point of that his
15 hands were here or here? Seriously, does it matter? And
16 then I came back and said, could you be confused about how
17 your hands were tied? He said, yes I could be confused.
18 And I said, are you confused at all about how did it, and he
19 said no. And, I said, who was it, and what did he say?
20 Jeffrey. He said it felt like three or four hours he was
21 tied to the bed. And he said he kept quiet, because if he
22 cried for what happened, he would get beaten again. He was
23 given a knife by Jeffrey, and this really bothered him; him
24 being given a knife by Jeffrey, and said if he stabbed him
25 --- if he was such a man, stab me. Who, does that to a
26 child? Who, does that? He picked him up by the neck too

1 and thrown down. He was also beaten for waking up early and
2 being hungry. He was made to wear *Minor 2's* clothes.

3 Jeffrey's moto, minor 3 said was one for one and one for
4 all. They all got beat except for C. e. Why didn't
5 C. e get beat? Well, I don't know. Maybe it was
6 because C. e is Jeffrey's real daughter. He wasn't
7 going to mess with his own. But he'll beat the hell out of
8 the other ones. He wasn't going to mess with his own. And
9 she wasn't around for some of this. She was the youngest.

10 She wasn't around. But, what did minor 3 say? minor 3
11 said, I am scared for C. e, when she gets old enough to
12 be beat. minor 3 said he never looked forward to the
13 summer, he thought it lasted too long. I have never heard a
14 child say, thought it lasted too long. Summer is supposed
15 to be the most fun time of the year for a child. He thought
16 it lasted too long. Why? School was an escape for him.
17 Why, because he didn't have to be around him.

18 Why didn't he tell? Jeffrey told him that he would ---
19 that they would be in foster care for the rest of their
20 lives if they told. That's a threat. Better not tell.
21 Remember that foster care you didn't like. Well, the rest
22 of your life is what you will do. He said he thought about
23 suicide and running away. Why does a twelve-year-old even
24 know what suicide is? But he is worried about his brother
25 and his sister. He worried about his brother and his
26 sister, and he didn't want to leave them alone. When

1 Jeffrey and Kristina would fight all the kids would take
2 Jeffrey's side. Why, because they were petrified at what
3 might happen if they didn't. He said Jeffrey wouldn't let
4 him go to church sometimes, because Jeffrey said hypocrites
5 don't go to church --- Wouldn't even let him go to church.

6 When minor 2 told the guidance counselor about what was
7 going on, minor 3 said to the guidance counselor, no, that
8 was --- she just dreamed that. It didn't really happen.
9 Why did it happen, because he was petrified of what would
10 happen if word got back to Jeffrey, that they had told
11 somebody at school about what Jeffrey had been doing, uh
12 hell to pay.

13 THE COURT: Counsel, this is a courtroom.

14 MR. DANIEL: minor 3 said he doesn't think Jeffrey
15 has a heart. And what about this, when minor 3 said,
16 parents are supposed to have a firm hand and loving heart.
17 That came by a twelve-year-old, a twelve-year-old who for
18 years lived with a mother and a mother's boyfriend, who had
19 a very abusive hand and a hateful heart. One thing to
20 remember about these children. We see them here today, or
21 yesterday, at the ages of twelve, ten and eight, but this
22 stuff happened from '03 to '07. Imagine how young they were
23 then. Right now when we see them take the stand, and we
24 hear them tell these stories, I think of them as going
25 through it at this age. You know, going through these
26 things at the age they are now, which is bad enough. But

1 what about thinking about these kids at six years old, six
2 years old, when they were six, four and two, or three years
3 ago. Now remember I must prove to you beyond a reasonable
4 doubt that minor3 minor2 and minor were all abused. Even
5 if their own story is not good enough. Even is you discount
6 everything they said, what happened to themself. Think
7 about this. No witness. They are the witnesses for what
8 happened to their siblings. They saw what happened to the
9 others too. And, you know, for anyone, particularly young
10 children, these stories were remarkably consistent,
11 remarkably consistent.

12 What did Kristina tell us? First of all let's get this
13 out in the open. Kristina is a failure of a mother. And I
14 hope you --- I think you probably thought my attitude and my
15 feelings toward Kristina and the way I talked to her, I have
16 no sympathy for her, none. Her children don't even call mer
17 Mom. Now, she probably could have left the house. She
18 probably could have taken these kids off, but she didn't.
19 She is to blame for not taking those kids away and try to
20 protect them more than she did. But she could only testify
21 to what she witnessed, right? Because several times she was
22 gone, she was at work. Think about what happened when she
23 was not there. What --- I shutter. She told you that
24 Jeffrey was the father figure of that home. He was also
25 responsible for these children. Most of the things Kristina
26 told us were reinforced. She talked about their beatings,

1 the marks, the bruises, the blood. Covering the kids legs
2 even in the summertime. Even when it was hot outside they
3 would have on long pants, because they had to cover the
4 bruises for nobody to see. She talked about the hot sauce,
5 another witness --- another witness. She talked about the
6 hot sauce. She talked about minor and minor3 having to
7 wear clothes --- you know minor3 being together with duct
8 tape for hours. She talked about standing on the wall for
9 hours. She said the stuff on the wall happened daily. She
10 said, Jeffrey always found reasons to beat the kids. Even
11 if he had to make something up, he would always find a
12 reason. The cup incident with the cup around the couch and
13 the refrigerator, she said, Jeffrey woke them up, questioned
14 them for hours. He said that was the time they were beating
15 him --- minor3 is who he was beating this particular
16 moment, beating him until the belt-buckle came loose. What
17 did he do? He taped it back together. He kept on beating
18 him. She said she saw the hogtying. She saw minor3 tied
19 to the bed. She walked in there, minor3 is tied to the
20 bed, she walks in, he looks back, and she said that minor3
21 said, mamma, please leave me here. Please leave me here,
22 because if you leave me here then Jeffrey won't hurt me
23 anymore or he won't hurt you. She told you about how
24 Jeffrey put minor2 outside on the porch for about two hours
25 with all of her stuff, in the cold without a jacket on. You
26 don't want to live here, fine. Go outside. Put all this

1 stuff --- How degrading for a child. On cross examination
2 Ms. Sellers spent about forty-five minutes talking to
3 Kristina about things having nothing to do with the charges
4 against Jeffrey Caulder. Had nothing to do with --- Yes,
5 they are in a custody battle. But what does that have to do
6 with this? Nothing. We don't dispute anything she says.
7 How many times did Ms. Sellers ask Kristina about bad things
8 Jeffrey did to the kids. You didn't hear that much did you?
9 She didn't talk about that. She didn't want to talk about
10 that, why? Because she knows that this case is about
11 minor3 minor2 and minor1 This case isn't about Kristina
12 Miller. This isn't about Kristina.

13 **THE COURT:** Twenty minutes, counsel.

14 **MR. DANIEL:** Thank you. Also, Ms. Sellers went
15 through this whole conversation about Kristina lying. Well,
16 first of all what would be her motivation be to lie? She
17 has already plead guilty, and she is going to face the music
18 this afternoon when the judge sentences her. Why would she
19 lie? But, even if you don't believe her, if you don't
20 believe a thing she said she saw, you've got the kids. They
21 all told you themselves out of their own mouths what
22 happened to them. Ms. Tuck today, Ms. Allen-Cook, the
23 counselors who between them have over thirty-years of
24 experience in child abuse cases, what did they tell us?
25 They told us about partial disclosure. They told you how
26 the children oftentimes won't tell you the whole story at

1 first. Sometimes you might never get the whole story. They
2 told you about delayed disclosure, which is when they might
3 not tell anybody anything for a long time. Maybe not ever.
4 But what did they both say? They said that in their
5 experience dealing with these children, in this case that
6 everything that they had picked up from these kids, is
7 consistent with three kids who have been severely abused.
8 There is no doubt that these kids were severely abused.
9 There is no doubt. There is also no doubt that he is the
10 one that did it. And, his mamma --- I agree, his mamma did
11 it too. And even she agreed that she did it. She admitted
12 to it. She pled guilty.

13 So, finally ladies and gentlemen when you go back in
14 the jury room, you are allowed to use common sense. I would
15 encourage you to use common sense. Don't get distracted by
16 all of the red hearings thrown out by the defense. Keep
17 your eye on the ball here. Don't get distracted. It is
18 their job to muddy the water. They have to muddy the water
19 however they can. They are going to try to make you focus
20 on things that has nothing to do with this case, and these
21 charges against Jeffrey Caulder. Ms. Sellers, implies
22 through her questions, that these witnesses had been
23 coached, that they talked to me too much. You can't make
24 this stuff up. You can't make this stuff up. They would
25 expect you to believe that a twelve-year-old, a ten-year-
26 old, and an eight-year-old, have conspired against Jeffrey

1 Caulder. That they have made up all of these elaborate
2 stories that are remarkably consistent. By the way they
3 made up all of these stories, but it is a lie. None of this
4 stuff happened.

5 There was testimony about Jeffrey and Jeffrey's family
6 taking minor³ to summer camp at the church, baptism. I
7 don't care if he and his family took these kids to summer
8 camp every summer, went there twice on Sunday and once on
9 Wednesday. It doesn't have anything to do with this. They
10 were severely beaten by him. Keep your eye on the ball. So
11 these red hearings have nothing to do with any of this other
12 stuff.

13 What is this case about? It is not about Kristina
14 Miller. She was charged with the same thing Jeffrey was
15 charged with, these three counts of unlawful neglect of a
16 child, not cruelty to children. What did she do? She pled
17 guilty to this, not this.

18 You heard the children say that Kristina beat them too.
19 Now, we brought that out because you need to know that this
20 is a situation where we are all ganging up on Jeffrey. We
21 are not ganging up on Jeffrey. We have readily admitted
22 that Kristina is just as guilty. And she has admitted it.
23 Did we make a deal with her to testify against Jeffrey?
24 Yes. Why? Because he's the big fish, he is the one we are
25 after. Why? Because, even the kids told you, mamma hurt
26 us, but he was so much worse. What he did was so much

1 worse. In fact the quote was, mom hurt us, but what she did
2 was nothing that could --- was nothing compared to Jeffrey.
3 Kristina pled guilty and took the stand, because as she told
4 you, the children finally deserved some justice. What did
5 she have to gain from lying on Jeffrey? Nothing. She is
6 getting sentenced this afternoon. She is facing prison
7 time. She told you that. And it is no walk in the park for
8 her. She doesn't even know how much she is going to get.
9 She doesn't know what her sentence is going to be.

10 Now, if this abuse happened for years like we told you
11 it did, why didn't we stroll up ten or twenty people to tell
12 you that they saw it? Well, you heard the kids say it. I
13 asked each one of them. Did, Jeffrey do this abuse when his
14 friends were around? No, and one said he really didn't have
15 any friends. But common sense, remember common sense, he
16 wouldn't do this stuff in front of people.

17 When I was growing up, there was a large plastic
18 kitchen spook that I got spanked with. My mamma still has
19 it. It hurt. It never left marks. It never left bruises.
20 I don't have a problem punishing a child. But, you are
21 talking about beyond punishment, beyond acceptable
22 punishment. Leave marks, duct tape, picked up by the throat
23 and thrown down numerous times. Tied to the bed, poured hot
24 sauce down the throat, make them stand on the wall for hours
25 and hours, uh'huh. Not acceptable in our community. We
26 don't allow that. We don't allow this stuff here. Somebody

1 has got to stand up for these children. Ladies and
2 gentlemen, if this isn't child abuse, if this isn't unlawful
3 conduct towards a child, then what is? I don't know what
4 more I can show you to convince you beyond a reasonable
5 doubt, that this man is guilty of what he has been charged
6 with. Not just cruelty to children, not the lesser included
7 --- uh'huh. He is guilty of this.

8 Ladies and gentlemen, in conclusion today, this trial
9 is about minor3 and minor2 and minor1 three children who
10 lived a life and I can't even imagine. For years they have
11 been petrified of Jeffrey Caulder. But even to this day
12 they are petrified. Today is their day. Today is their
13 chance at receiving some justice. You hold that justice in
14 your hands right now. Give it to them. Give it to them.

15 At the hand of both their mother and Jeffrey Caulder
16 these children have faced unimaginable things that they will
17 deal with for the rest of their life. Kristina has already
18 admitted her guilt. Now, it is time for Jeffrey.

19 Send a message, ladies and gentlemen to this community
20 that we will not stand for this. Send a message to Jeffrey
21 Caulder, that what he did will not be accepted. minor2 said,
22 I didn't know if we were going to be saved. Save them. You
23 can save them. Return a verdict, ladies and gentlemen, that
24 will finally give justice to these children. Return a
25 verdict for minor3 Return a verdict for minor2 And
26 return a verdict for minor1 Find Jeffrey Caulder guilty of

1 three counts of unlawful conduct toward a child.

2 I thank you for your attention.

3 **THE COURT:** And for the defense.

4 **MS. SELLERS:** Thank you, Your Honor.

5 **CLOSING ARGUMENTS BY MS. SELLERS**

6 **MS. SELLERS:** Mr. Daniel, Mr. Redmond. Let me start
7 where we were in the start of the trial. He said that these
8 were just pieces of paper, mere allegations. My client says
9 he is not guilty. You are the only ones who can find him
10 guilty. You heard stories of the children. Now, the
11 Solicitor's Office, they like to tell you things, and shout
12 and scream, but they don't tell you all of the information.
13 He told you that all of the children said the same story.
14 Now, I'll tell you what was consistent with the stories, and
15 I want you to use your common sense. Your common sense that
16 you have had all of these years from your experience of
17 being parents, their experience in being good children, and
18 probably your experience in disciplining your children.
19 What did these children sit up there and say? Everything
20 they got spanked, everything we got beat --- I said where
21 were you beaten, on your butt? Yes, on my butt. Anywhere
22 else? No. Well, we got hit on our legs sometimes,
23 sometimes on our upper back. Now, I'm a product of Dillon,
24 South Carolina. I grew up on Pine Street. There were times
25 I was spanked. I was spanked daily sometimes. What was the
26 one thing you were always told? Don't move. Because, when

1 you move, that is when you get hit on your legs, that is
2 when you get hit on your arms. These children said the same
3 thing over, and over, and over again. We were just hit on
4 our body. Is that child abuse or is that disciplining your
5 children?

6 Let's talk about disciplining children. I asked
7 minor3 was there any rules and regulations in your house?
8 Your mamma didn't get up 2:00 in the morning. She doesn't
9 fix any breakfast. What kind of rules and regulations did
10 you have? Sure, we have to pick up behind our self. What
11 is wrong with that? Don't children need discipline in their
12 life?

13 Also, let's talk about the specific incident. The hot
14 sauce. The kids are throwing hot sauce, ketchup, and
15 mustard all over the walls, all over the furniture.

16 minor3 said, it was just a little drop of hot sauce. It
17 was just a little drop of hot sauce. Kristina said that she
18 came in and she saw the hot sauce, and that Jeffrey spanked
19 her for the hot sauce. Again, don't children need
20 discipline in their life? If you are adding getting beaten
21 on your bottom is that child abuse? The hogtying incident.
22 Is it important if he was hogtied or behind his back? How
23 many times has he been hogtied in his back, he says once.
24 Wouldn't you remember where your hands were? Weren't you
25 remember how your feet were? That would be something that
26 you would never forget. It seems small whether it is in

1 front or behind, but if it only happened one time in your
2 life, and you promised to tell the truth today, it would
3 seem like to me you would remember that.

4 Let's go back to the hogtying. He says his legs and
5 feet were tied to the bed. He said to his mamma, don't
6 untie me. He watches television all the time. That would
7 seem like a more dramatic --- mamma just leave me. What did
8 Kristina say? She came in, saw him, went to the kitchen,
9 got a knife and cut him down. Then went outside and shot a
10 shotgun three or four times. None of that information was
11 presented by those children. None of it. None of their
12 stories have been consistent whatsoever. minor2 and minor1
13 said they saw the same hogtying. minor2 said it was an
14 elastic band, and also rope-tied around him. None of the
15 other children testified to that. These stories are not
16 consistent. But, like I said, what has been consistent is
17 that they were always beaten on their bottoms.

18 Let's talk about the holding of the hands, standing on
19 the walls. He had three children that testified that they
20 had to stand on the wall. But what is different is, one
21 said he had to hold books, one said we just had to hold our
22 hands out, and the other said he had to hold pillows.
23 Again, if this had happened on a daily basis; why do we have
24 three or four different accounts of what is going on in this
25 house?

26 Let's talk about minor3 when he said that his bottom

1 was black and blue. Black and blue, he could barely sit
2 down. But yet he never missed a day of school. He went to
3 school every day. Now, you know if a teacher --- it takes
4 nothing for them to contact DSS. You don't have any reports
5 from any teachers. You don't have any reports from DSS, all
6 you have are the stories of three children who are involved
7 in a nasty nasty custody dispute. A mother that has pled
8 guilty, a mother who also has a history since 1999 of
9 abusing children. So, yes these children have been to hell
10 and back, but not at the expense of my client Jeffrey
11 Caulder.

12 Let's talk about Jenna's dream or story to Ms.
13 Foxworth. Now, you know if a teacher is ever told about any
14 child abuse, what is the first thing that they do. Contact
15 DSS. Why? Because, they have a duty to report this
16 information, regardless if they come in and say it is just a
17 dream, just a mistake, they have a duty. They have a duty
18 to report that information, as a matter of fact, where is
19 DSS in all of that. The Department of Social Services, ---
20 Maggie and Gene Miller went together to DSS to report that
21 Kristina was abusing the children, and you have not heard
22 one person from DSS come and testify about this. They have
23 worked with these children since 1999. We didn't hear
24 anything from DSS.

25 Now, Mr. Daniel talked about this time line, but in
26 this time line they failed to mention that Kristina moved

1 eight to ten times. The children couldn't tell you exactly
2 where things happened in. They referred to the trailer,
3 then back to the apartment, then back to the apartment, and
4 I had to ask; were you in the trailer the first time, the
5 second time? They were back and forth in Conway. Different
6 men were in and out. That was never mentioned in that time
7 line.

8 Now, we talked about who was in charge of these
9 children. Well, you had Kristina, sitting up here and say
10 that she got food stamps. We were paying for her and her
11 children to eat. On top of that when she did go out and
12 work, that was very rare. When she did go out and work, who
13 was keeping the children, Jeffrey's mom. From 2003 until
14 2005, Jeffrey's mamma kept the children for her while she
15 was at work. Who would pay for that? DSS. So DSS is
16 involved in these children's lives the entire time, but
17 again, no reports, no photographs, no eye witnesses.
18 Kristina testified, my sister lived with us sometimes. A
19 friend of mine lived with us while the children were there.
20 These children were not just quarantined off from the rest
21 of world for seven years. They were going to church. They
22 were going to Vacation Bible School. They were getting
23 baptized and they were going to school. So, other people
24 --- someone would have recognized that these children were
25 being abused.

26 The counselors, they spoke to you. Well, some

1 behavioral problems did exist. School work, should be ---
2 They may act out. Again, did they question about these
3 children? "A" and "B" honor roll students. Perfect
4 attendance. No behavioral problems whatsoever. That is not
5 the typical sign of a child that has been abused.

6 Now, ask yourself this question. Common sense, do
7 children lie? Of course they do. Of course they lie. And,
8 these children, like I said, are involved in a nasty custody
9 battle. Do they have a reason to lie? Of course they do.
10 Of course they do. But you should find it ironic that only
11 one police officer came in and testified. The one police
12 officer that did come in and testify; guess what, he was not
13 the responding officer on the scene. He didn't do any
14 further investigation about this case. He read a direct
15 report, which he had no special or qualification whatsoever
16 to investigate child abuse cases. He had no expert opinion
17 whatsoever in this matter, he just happened to be friends
18 with the grandparents. There just happened to be a custody
19 dispute. You have got to find that ironic. And, again this
20 is supposed to have happened for five years. But in that
21 time you will realize that my client had an accident. From
22 2003 to 2005 his mother was getting paid by DSS to keep
23 these children. In 2005, my client had an accident. As a
24 result of this accident, he loses his leg initially at the
25 ankle. Now, his entire leg has been cut off.

26 MR. DANIEL: Your Honor, I'm going --- Well, I'm ---

1 Objection.

2 **THE COURT:** I am going to, sustained that as
3 testimony counsel, that is not in evidence.

4 **MR. DANIEL:** That was Kristina Miller testimony.

5 (Whereupon, Jeffrey Caulder comes around the
6 defense table in his wheelchair.).

7 **THE COURT:** Well, the defendant has come around.
8 Please go back to your side of the table sir.

9 **MS. SELLERS:** You never heard one time about his
10 recuperation. That was not brought out by Solicitor
11 Daniel. He never talked about how he recovered. How he had
12 to go through rehab. Kristina actually says that the abuse
13 got worse after he lost his leg. How was that possible?
14 How is that physically possible that the abuse would get
15 worse? She said herself he was bound to a wheelchair, or he
16 was using crutches. How could the abuse get worse after
17 that? She never talked again about the rehab. She
18 mentioned in her testimony, yes he goes to the doctor two or
19 three times a week. They come, picks him up, transports him
20 in a chair two or three times a week. He has some health
21 issues. How does that give him an opportunity to constantly
22 abuse children?

23 The State has a burden. They have the burden. We
24 don't have any burden whatsoever. My client is just like
25 you. If you were charged with a crime, you are innocent
26 until proven guilty --- Innocent until proven guilty. All

1 you have right now are the words of three children, you have
2 the words of three children, and you have the words of two
3 counselors. But, guess what? Those counselors even
4 admitted that we didn't talk to DSS. We didn't really
5 review anything. We didn't do any investigation. Those
6 counselors are being what they didn't get.

7 Now, have those children been abused? It has already
8 been a pattern established since 1999. DSS has been
9 actively involved in Kristina Miller's life. So there is
10 not a question whether or not they have been abused. Who is
11 responsible for this abuse? Who is responsible for this
12 abuse? Think back again to the stories you heard from these
13 children. minor2 even said herself, and I just asked the
14 question because I wanted to see what her answer was going
15 to be. Well, has Jeffrey ever made you fight, throw punches
16 at each other, kick each other? Yes, he does. No other
17 child testified to that. Kristina Miller never testified to
18 that.

19 Now, Kristina Miller, I didn't think very highly of her
20 at all. Kristina Miller will do what she has to benefit
21 her. She is the person that said she did not know where to
22 go. Now, she is living in Maple Wood Apartments from 2003
23 to 2004, living in Maple Wood Apartments. There are people
24 all around, if your children are screaming and hollering,
25 somebody is going to know about it. They would know.

26 So, you have taped the children together. Remember

1 that story? One child said they were taped all together.
2 Kristina says well, it was because we were watching a
3 documentary. That is the other alarming thing. Every time
4 these children can tell you about a spanking, whether they
5 call it a spanking or a beating, they can always pinpoint
6 what they were doing wrong at that time. So, think to
7 yourself, an abuser, do they only strike when the children
8 have just done something wrong? I'll tell you that these
9 stories have been inflated. They have been inflated,
10 because these children don't want to go back to Kristina
11 anymore. They don't want to go back to Kristina. Jeffrey
12 has a right --- I told you there is a forth child, right.
13 Jeffrey has a right to be a father to his daughter.

14 Kristina, in 2008 she is not dealing with Jeffrey
15 anymore. They are not in a relationship. She still writes
16 a letter on his behalf, to have her attorney to contact his
17 attorney, because they have come up with an agreement. Now,
18 it is not true what Mr. Daniel said that Cr was never
19 punished. minor3 said it, minor2 said it, she got popped.

20 **MR. DANIEL:** Objection, Your Honor. I hate to
21 object, but I don't want her to mischaracterize what I
22 said.

23 **THE COURT:** Overruled, counsel. Again the jury has
24 sat here for the entire thing. If that is a
25 mischaracterization, they know that, if it is correct, they
26 know that as well. You may proceed.

1 **MS. SELLERS:** Thank you, Your Honor. Cl e gets
2 punished, not with a beating. But when she gets older she
3 will get more beatings, but she was punished. Don't sit
4 here and believe these three children were victimized.
5 These children can tell you each and every time what they
6 did wrong before the spankings occurred. And what did they
7 do, they can tell you they did wrong, and they will tell you
8 I was hit on the bottom. I was just hit on my bottom.

9 The State has the burden. They have the burden of
10 proof. The judge is going to instruct you about reasonable
11 doubt, what reasonable doubt is. Again, I just ask you to
12 use your common sense in terms of evaluating the testimony
13 that you heard. No DSS. No police. You have got children
14 --- minor3 --- and he is talking to us about a chemical
15 imbalance. Please don't tell me that these children haven't
16 been coached or talked to about what they are going to
17 testify to. You have minor2 and minor1 saying they were
18 living in a black hole. What eight-year-old, what ten-year-
19 old do you hear talking about that?

20 At the conclusion there are three Indictments, one for
21 unlawful conduct for children. See the trick about unlawful
22 conduct for children means, that my client had to be the
23 legal custodian, he had to be the guardian. He had to be in
24 charge. Again, Kristina Miller is the mother. Cheyenne is
25 not a victim in this case. He is the legal custodian. He
26 does have custody. He is in charge of Cheyenne. These

1 other three children; although they were not his children,
2 he treated them as if they were his children. Again, not
3 their legal guardian. He doesn't have custody of these
4 children. Therefore, if you feel that the punishment that
5 these children received was in excess you have another
6 option.

7 You can talk about cruelty to children. It is my
8 understanding that discipline --- like I told you before, I
9 am a part time public defender here. And the one thing that
10 I will say, I often wonder, where were the parents. Where
11 are the parents in these children's lives? What happens
12 when you don't discipline our children? We are all
13 concerned about society. Mr. Daniel and your considered
14 community, that's right our community wants discipline with
15 children when necessary. I believe that once you review all
16 of that information, you get back there and talk, and you go
17 over the children's stories, and you find inconsistency with
18 these children's story, you will find my client not guilty
19 of this crime. My client happens to be a concerned parent
20 who has now found himself in a midst of an extremely
21 difficult custody battle. This case is about three children
22 yes. But today this case is about Jeffrey Caulder, because
23 he has rights. He is protected by the Constitution like we
24 are all protected by the Constitution. You have to go back
25 there and evaluate this information and say, are you firmly
26 convinced --- are you firmly convinced that my client is

1 guilty of this. And, after careful consideration, I would
2 argue there is no way you will find my client guilty.

3 Again, think about the stories of the children. Think about
4 the stories of Kristina Miller. Think about what you did
5 not hear from DSS, who has been involved with these children
6 for the last two years. What they have to say is important.
7 They were doing weekly visits with these children.

8 Thank you.

9 **THE COURT:** All right. Ladies and gentlemen we have
10 been here for about an hour. Let's just stand where you
11 are, if you wish. We will take a break for a moment in
12 place. If, you want to stand up, you are welcome, if not
13 you may remain seated. We will be at ease for one moment
14 before I begin my charge.

15 **(PAUSE)**

16 **THE COURT:** All right. Are you able to hear me,
17 ladies and gentlemen? All right. If you will recall, at
18 the beginning of the case I told you that most likely the
19 last person you would hear from before you retire to
20 deliberate would be the Court giving you the charge on the
21 law. We are at that point now. What we are actually going
22 to do is, I am going to give you the charge, and then we are
23 going to send you to lunch. I am going to, suggest to you
24 that you not deliberate during lunch, just go and enjoy
25 lunch among yourself and among your colleagues, and then
26 come back, and when we get back we will have for you in the

1 jury room the exhibits which have been placed into evidence,
2 and the jury Verdict Form, and then you may begin your
3 deliberations at that time.

4 The first thing I am going to ask you to do when you
5 return, is to elect a foreperson among yourselves. Now,
6 which of our jurors is our alternate juror? It was our last
7 juror chosen. There you go, good, thank you. And what I'm
8 going to do is ask you to preside when the jury chooses the
9 foreperson, but it should not be you sir, because you are
10 the alternate, and you may not actually deliberate. And,
11 after that is done, I will ask you to leave and come back
12 out to the jury room, and we will have a chance to speak
13 with you for a moment or two. But, I want to thank you for
14 your service. I am assuming our twelve are going to hold
15 their health here until they begin to deliberate, but I
16 would just ask you to preside over the choice of the
17 foreperson, and assist the members as they vote to choose
18 the foreperson. And, ladies and gentlemen, I would suggest
19 to you that the best foreperson is one who is a moderator of
20 discussion and a facilitator of discussion, because
21 ultimately your verdict has to be unanimous. So, please
22 consider that during your lunch, and then make your choice
23 of foreperson. Then I will have our alternate come out, and
24 then you may begin your deliberations.

25 CHARGE ON THE LAW

26 THE COURT: Now, as you are aware the State has

1 charged the Defendant Jeffrey Caulder with unlawful neglect,
2 unlawful child neglect and child abuse. Now, ladies and
3 gentlemen of the jury, of course, bear in mind, the
4 defendant has plead not guilty to that charge and by that
5 plea, the defendant denied the allegations that were
6 contained in the Indictment. As I said, to you previously,
7 those three Indictments that were explained to you at the
8 beginning of the case are merely accusations against the
9 defendant. They are not evidence, they are not to be
10 automatically accepted as the truth, because ultimately what
11 the truth is, is what comes from the witness stand. The
12 evidence that you are to consider is the testimony of the
13 various witnesses that appeared here in court before you.
14 Along with such exhibits as may have been introduced in the
15 trial of this case, which you will have back with you
16 whenever you retire to the jury room to deliberate.

17 Please remember, and this is important, the defendant
18 comes into this courtroom clothed with a presumption of
19 innocence, and that presumption of innocence continues
20 throughout the case and entitles the defendant to a verdict
21 of not guilty, unless and until it is dispelled by evidence
22 that satisfies you the jury beyond a reasonable doubt, that
23 the defendant is guilty of the offenses charged, and that
24 the State has proved each and every element of the alleged
25 crimes beyond a reasonable doubt.

26 Now, please remember, as I said when we began, you are

1 the judge of the facts and I am the judge of the law.

2 Please bear in mind as I said earlier the defendant has pled
3 not guilty to these charges, and thus places upon the State
4 the burden of proof, beyond a reasonable doubt to prove
5 these charges.

6 Now, I will tell you that under our constitution and
7 laws, as I had said to you, as the judges of the facts, one
8 of the things that you are going to do in deciding the facts
9 is to determine which of the witnesses is more credible and
10 believable. I went over some factors with you that you may
11 wish to consider. There is no need for me to duplicate and
12 restate those. But, I simply say this to you again. You
13 use the criteria you use every day in determining whether a
14 witness is believable and credible that you use in your life
15 everyday. I will tell you that when you decide what the
16 truth is, what the facts are, you may believe as much or as
17 little of any one witnesses testimony you think proper. You
18 can believe one witness against a whole group of witnesses,
19 and you can do just the opposite. You may believe part of
20 what a witness says and completely disbelieve the rest. I
21 say to fact that the testimony is not directly controverted,
22 does not mean you have to accept it as true. You still must
23 first gauge the credibility and the believability of the
24 witness from which it comes, to determine the believability
25 or the facts that are offered through that witness.

26 Keep in mind throughout the process of determining

1 facts, you have one objection, and that is to search for and
2 seek the truth, regardless of from which witness or from
3 which side of the case it may come.

4 Now there are two types of evidence in cases such as
5 these. There is direct evidence, and there is
6 circumstantial evidence. Direct evidence is testimony by a
7 person who asserts or claims to have actual knowledge of a
8 fact, such as an eyewitness. Someone who testifies about
9 what they saw, heard or observed. That is direct evidence.

10 Circumstantial evidence is indirect evidence.
11 Circumstantial evidence is proof of a set or chain of facts
12 that then indicate the existence out here of yet another
13 fact. I will tell you that the law makes no distinction
14 between the weight or value to be given to either direct or
15 circumstantial evidence, nor is some greater degree required
16 of one than the other. You should weigh all of the evidence
17 in the case, and after you weigh all the evidence in the
18 case, if you are not convinced of the guilt of the defendant
19 beyond a reasonable doubt as to the particular charge you
20 must find the defendant not guilty.

21 Now, you heard testimony of witnesses who came during
22 the course of this trial, who had special knowledge, skill,
23 or experience, or training, or education in a particular
24 field and they came in and they gave an opinion as an expert
25 as to matters in which they were skilled. I will tell you
26 in determining the weight to be given such an opinion, you

1 should consider the qualifications given for that expert,
2 and the credibility of the expert, and the reasons given for
3 her opinion. You are not bound by that opinion. You give
4 it what weight, if any, you deem it is entitled to.

5 I will tell you that the value and effect of expert
6 testimony is a matter to be solely determined by you the
7 jury. No mere opinion of an expert can be accepted in and
8 of itself, as truthful or reliable, but must be weighed by
9 you and convince you in your judgment, beyond a reasonable
10 doubt, and with the same force and effect as any other fact
11 proved in this case, before you can rely upon it as a basis
12 for a conviction.

13 You must consider expert testimony in the same manner
14 as you do any other testimony, and give it the weight you
15 deem it to be entitled to. Remember such testimony, though
16 is not given for the purpose of controlling your judgment,
17 but for helping you to find facts that are within the
18 experts purview.

19 Now I talked to you a moment ago about going back and
20 weighing the evidence. And I will tell you that you have
21 listened closely to this evidence, because I sit in the
22 courtroom where I can look beyond a witness or beyond an
23 attorney, and see the jury. And during the course of trial
24 I try to observe you. I don't stare at you. I don't want
25 to make you uncomfortable. But, I do gauge you for comfort
26 and focus, and every time that I have looked, just as I look

1 now, I see that you have been sitting where you are with
2 close focus, and what I call wrapped attention, and I thank
3 you for that level of commitment. I told you on Monday when
4 you came in, I know you had busy lives, but you have sat
5 those lives aside, because this is these parties one day in
6 court. I appreciate the commitment you have given to it,
7 because I know when you retire in a moment to weigh the
8 evidence, you will be in a position to do that, because you
9 have listened closely and focused on the case.

10 And there is not some set of scales to go back there
11 and weigh the evidence on. I know you know that. That is
12 because this is entirely a mental process. But I will say
13 to you evidence that weighs with you is evidence that
14 convinces you of its truth, again regardless of from which
15 witness or from which side of the case it may come.

16 Now the same constitution that makes you the judge of
17 the facts, makes me the judge of the law. And, I will tell
18 you that out on the street there is a lot of bad information
19 about what the law may be, about any subject no matter what
20 it may be. So, please accept the law as I give it to you
21 today, because I am giving it to you correctly. Not what
22 you think would be a better idea, not what you have heard
23 previously, or just what you think would be a better
24 standing. Please accept the law as I give it to you, find
25 it, apply it to the facts as you find them, and doing that,
26 you will reach a verdict which is just and which is true.

1 Now, in a criminal prosecution of this type, as I have
2 already mentioned several times, the State, the party seated
3 closest to you has the burden of proof. The defense has no
4 burden of proof. The defendant is presumed innocent. And,
5 in this state, according to the Constitution, the
6 prosecution must prove its case to the standard of proof we
7 call beyond a reasonable doubt before a finding of guilty
8 may occur. If the State fails to meet this high burden,
9 then the defendant is entitled to an acquittal.

10 ~~Now, so you say all right, well then what is a~~
11 reasonable doubt? And, I am going to start by first telling
12 you what it is not. It is not an imaginary or fanciful
13 doubt or a weak doubt; it is a substantial doubt. It is a
14 doubt that the words imply. A doubt for which you can give
15 or assign a reason based on the testimony and the evidence
16 in this case. A reasonable doubt is not any sort of a
17 doubt. You and I know from every day life and experiences
18 that we may have any sort of a doubt about anything. What
19 tie to wear to some event, or what pair of shoes to wear to
20 some event, that is not a reasonable doubt

21 A reasonable doubt is a doubt which makes an honest,
22 sincere, conscientious juror in search of the truth hesitate
23 to act. Proof beyond a reasonable doubt is proof that
24 leaves you firmly convinced of the defendant's guilt. If
25 you have a doubt for which you can assign or give a reason
26 as to the guilt of the defendant, with regard to each of

1 these three charges, then the defendant is entitled to a
2 verdict of not guilty.

3 Reasonable doubt may arise from evidence that is in the
4 case, or from the lack of evidence in the case. You, the
5 jury, must make the determination of whether or not
6 reasonable doubt exists as to the guilt of the defendant in
7 these cases.

8 The very fact, however, that the jury engages in a full
9 and free discussion of the issue of guilt or not-guilt with
10 the conversational ebb and flow on those issues, does not
11 mean that reasonable doubt automatically exist in this case,
12 or any other case for that matter.

13 I further charge you that under South Carolina Law,
14 criminal intent is a necessary element of each crime that
15 must be proved by the State beyond a reasonable doubt.

16 Criminal intent is always a mater that must be
17 determined by the jury from the circumstances that surround
18 a situation. You and I know there is no way to prove intent
19 to some mathematical certainty. There is no way medical
20 science can dissect or open up someone brain, and determine
21 what a person had in mind at a particular time. So the law
22 says that criminal intent may be inferred from the
23 circumstances shown to have existed both before and after
24 the fact. This is how you the jury make a determination of
25 whether or not the element requiring intent is present.

26 I tell you, criminal intent is a state of mind that

1 operates jointly with the act or omission in the commission
2 of a crime. Criminal intent is a mental state of conscious
3 wrongdoing. So it is up to you, the jury, to determine what
4 the defendant intended to do based on the circumstances
5 shown to have existed. The State must prove criminal intent
6 beyond a reasonable doubt, just as the State must prove
7 every element beyond a reasonable doubt as I have previously
8 explained.

9 Now, I further charge you and instruct you, and
10 emphasize that the defendant in this proceeding did not
11 testify, as you are aware, but that is not a factor to be
12 considered by you in any way in your deliberation and in
13 your consideration on the question of guilt or innocence of
14 the defendant. It must not be considered in any manner
15 whatsoever. The defendant has a constitutional right to
16 remain silent, and the assertion of this right must not be
17 considered in your deliberations. I repeat, under you oath
18 you took when you began as jurors in this case, you are to
19 draw no conclusion whatsoever from the fact that the
20 defendant in this case did not testify. The fact that the
21 defendant did not testify should not even be discussed in
22 the jury room. The burden of proof is on the State. The
23 defendant is not required to prove innocence. The burden of
24 proof never shifts to the defendant, and, again remains on
25 the State to prove guilt of the defendant beyond a
26 reasonable doubt.

1 Now, as you have already heard the defendant has three
2 charges against him in this case. And I instruct you that
3 these charges are separate and distinct as to the three
4 children individually, and must be considered individually.
5 Your verdict on one does not control your verdict on the
6 other.

7 Now, I wish to define for you unlawful neglect by legal
8 custodian. The defendant is charged with unlawful neglect
9 by a legal custodian. That is the name of the Statute.
10 But, in order to prove this, the State must prove beyond a
11 reasonable doubt that the defendant was responsible for the
12 welfare of the child victim as defined by state law. This
13 means that the State must prove beyond a reasonable doubt
14 that the defendant either had custody, or had charge of, or
15 had some responsibility for the welfare of the children.
16 Also, the State must prove beyond a reasonable doubt that
17 the defendant placed that child/victim at unreasonable risk
18 of harm affecting the child's life, physical, or mental
19 health, or safety, and/or did or caused to be done
20 unlawfully or maliciously some bodily harm to the child, so
21 that the life or the health of the child is in danger or
22 likely to be endangered, in violation of state law.

23 I will tell you that malice is defined as being wilful,
24 with intentional disregard to the rights of others.
25 Reckless or wonton motivated by ill will or spite.

26 Now, ladies and gentlemen, I also want to tell you that

1 under South Carolina's law, any greater offense which
2 unlawful neglect or what we call also child abuse, you have
3 heard referred to in the case; is the greater offense. And,
4 under South Carolina Law, any greater offense also includes
5 lesser offenses. Now, that sounds a little bit complicated,
6 but what it really means is that the charge of unlawful
7 conduct toward a child which is the greater offense also
8 includes a lesser offense of simply cruelty to a child.
9 And, even though the lesser crime is not charged in the
10 Indictment, you may consider it if you find that the facts
11 fit with these lesser charges rather than the greater charge
12 of unlawful conduct toward a child. In other words, a
13 defendant indicted for unlawful conduct toward a child may
14 be convicted of simple cruelty to a child.

15 If you find that the State has failed to prove the
16 greater offense of unlawful conduct toward a child, you must
17 consider whether or not the State has proved beyond a
18 reasonable doubt the lesser offense of simple cruelty to a
19 child.

20 I charge you under South Carolina Law that cruelty to
21 children is defined as follows. Whoever so cruelly ill-
22 treats, deprives of necessary sustenance or shelter, or
23 inflicts unnecessary pain or suffering upon a child, or
24 cause the same to be done, whether the person is the parent
25 or the guardian, or has charge or custody of the child,
26 shall be guilty of simply cruelty to children.

1 All right. Now, I further charge you ladies and
2 gentlemen, that if you find the State has not proved the
3 greater offense, then you must consider beyond a reasonable
4 doubt, then you must consider whether or not the State has
5 proved the lesser included offense. And, if there is some
6 doubt between the two, you must resolve that doubt in favor
7 of the defendant and find for the lesser included offense.
8 But I tell you that the jury cannot return any verdict of
9 guilt unless the State finds beyond a reasonable doubt that
10 at least one of the charges has been proven beyond a
11 reasonable doubt.

12 Now I further charge you that mere presence at the
13 scene of a crime is insufficient to prove somebody guilty of
14 a particular crime. The burden is upon the State to prove
15 every element of the crime charged. If you find after
16 reviewing all of the evidence, that the State has only
17 proved that the defendant was present at the scene of some
18 crime, and that they may not have proved beyond a reasonable
19 doubt, any other participation in that crime, then you must
20 find the defendant not guilty. The law is that proof or
21 mere presence at the scene of the crime is not sufficient to
22 convict someone of a crime.

23 Now, ladies and gentlemen of the jury, and Mr. or Ms.
24 Foreperson, whomever shall be chosen to be the foreperson, I
25 want to say to you in a few moments after you eat, you are
26 going to retire to begin your deliberations. And as you do,

1 I want to express the hope that each of you are mindful of
2 your responsibility. And, I know that you are. You may
3 recall when we met on Monday I told you as we qualified you
4 the jury, that you could not be required to serve more than
5 one time in three calendar years in the same court, and
6 there is a reason for that. The reason is this. Because it
7 requires you and I to reach the height of freeing our mind
8 of all outside influence, because we are acting for the
9 community in seeing to it that every trial here is fair, and
10 every verdict is just, and that is a difficult task.

11 Ladies and gentlemen, you have probably noticed that
12 throughout the trial the presiding officer, which is me, is
13 referred to as Your Honor. And, I know that you know that
14 is not some title given to me. That is a title that is
15 assigned to the position that I am privileged to hold. And,
16 that is because this Court is entrusted with the honor of
17 this community, this county, this state, and indeed this
18 Nation, in seeing to it that every trial here is fair and
19 every verdict here is just.

20 Now, in just a few moments you will take the care,
21 custody, and preservation of the honor of this community,
22 state, and nation into the jury room with you when you
23 retire to deliberate. And please understand when I say that
24 to you, I am not telling you how to decide this case, that's
25 not my point. That would be improper, and it is not my
26 point. I am simply saying this. Whatever verdict you reach

1 ladies and gentlemen, should be the result of you going back
2 in the jury room, confining your consideration to the
3 evidence put forth in this courtroom, weighing it fairly and
4 weighing it impartially, and applying it to the law that I
5 am giving you right here in this charge. And, if you do
6 that, you will reach a verdict which is just and fair. And
7 I say to you that everyone in this case is entitled to
8 justice, nothing more, and nothing less. We owe no sympathy
9 to any party. We owe no support to any party. And I am of
10 the confirmed opinion that whatever verdict you reach will
11 be the result of your going into the jury room, following
12 those instructions, and reaching a verdict that is just and
13 true.

14 Ladies and gentlemen, you cannot see this Verdict Form,
15 but basically it has six questions on it. I am just going
16 to call out the first two questions for you, because we have
17 three children, each has two questions, which is why we have
18 a total of six questions. The first question one and two
19 have to do with the Indictment that has the alleged victim
20 minor¹ Graham. And it simply says, as to the charge of
21 unlawful neglect of a child, with regard to minor¹ Graham,
22 we the jury, unanimously find the defendant Jeffrey Caulder,
23 and then there are two choices. Now, when I've got two
24 choices I can't give them both to you at the same time on a
25 piece of paper. One comes in front of the other. But there
26 is no priority, there are simply two choices. And the

1 choices are first, not guilty and second guilty. And right
2 beneath that it says, if you choose not guilty, then you
3 must consider the lesser included offense --- question
4 number two for simple cruelty to a child. And if you
5 proceed to question two, then you have two choices, not
6 guilty and guilty. And this is the pattern we follow for
7 all three children who are the alleged victims through six
8 questions on the jury form. If you have questions about the
9 Verdict Form, then I will be glad to answer them when you
10 return. But, I want to point out one thing to you. Whoever
11 is chosen as your foreperson the last sentence on this says,
12 I certify that this is the unanimous decision of the jury.
13 And, when you sign Mister or Miss foreperson, on this line,
14 you are confirming to the Court that your verdict is
15 unanimous.

16 All right. Now, ladies and gentlemen we are not going
17 to begin our deliberation now. I am going to let you go
18 back to the jury room. Just take a break for a moment. We
19 are going to transport you to lunch. I will tell you that
20 the bailiffs or the security officers that go with you, will
21 not suffer you to talk to others outside of our group during
22 this lunch. It is not that we want you to be rude to
23 anyone, but we don't want anyone making a comment to anyone
24 from outside of this proceeding that may somehow influence
25 you. If you see a newspaper lying down, or a television set
26 monitor on, please disregard it, move away, be seated, enjoy

1 your lunch, talk about whatever you wish, not the case.
2 When you come back we will begin deliberation. Any
3 questions from our jury, ladies and gentlemen. All right.
4 For our alternate you are going to enjoy lunch with your
5 colleagues. When you come back, please preside over
6 choosing the foreperson, then step from the room. Let us
7 know who the foreperson is, and we will be ready to proceed.

8 All right. Let's all remain where we are seated out of
9 respect for this jury, as they leave the courtroom to
10 proceed to lunch.

11 (Whereupon, the jury exits the courtroom at 12:55
12 p.m.)

13 **THE COURT:** All right. Outside of the presence of
14 the jury now, are there exceptions or objections to the
15 charge as given by the Court. From the State?

16 **MR. DANIEL:** None from the State, Your Honor.

17 **THE COURT:** And from the defendant?

18 **MS. SELLERS:** None from the defense, Your Honor.

19 **THE COURT:** All right. Then counsel let's come down
20 and take a moment to review any evidence. Please review the
21 Verdict Form. Let's make sure everything is in order,
22 because when we leave, as soon as the jury comes back, we
23 will give this to them. Please make sure our court reporter
24 has a cell number for you, so that we can contact you.

25 Ladies and gentlemen, we will be in recess now. The
26 jury will be at lunch for at least an hour. Please come

1 back in one hour, and we will await the jury's decision.

2 **MS. SELLERS:** Your Honor, just for the record at this
3 time, I would like to renew my Motion for a Directed
4 Verdict.

5 **THE COURT:** All right. We will let you do that.
6 Let's let the record reflect that the defendant is renewing
7 her Motion for a Directed Verdict here at the close of all
8 of the evidence.

9 The Court respectfully denies that Motion for the same
10 reasons previously given.

11 Anything further?

12 **MS. SELLERS:** Nothing further.

13 **THE COURT:** All right. Court is not in recess for
14 approximately an hour.

15 (Whereupon, the Court stood down from 12:58 p.m.
16 until 2:35 p.m.)

17 **WHEREUPON, THE JURY BEGINS THEIR DELIBERATION**

18 **AT 2:03 P.M. AND ANNOUNCED THEY HAVE A VERDICT AT 2:17 P.M.**

19 **THE COURT:** All right. Please be seated, ladies and
20 gentlemen. All right. Madame Clerk, are you going to
21 publish the verdict?

22 **CLERK OF COURT:** Yes sir, I will.

23 **THE COURT:** Very good. Then please bring in the
24 jury.

25 **CLERK OF COURT:** Okay, sir. And, Judge they chose
26 Ms. McCormick as the foreperson.

1 **THE COURT:** All right. Thank you very much.

2 (Whereupon, the jury enters the courtroom at 2:27
3 p.m.)

4 **CLERK OF COURT:** And, judge they chose Ms. McCormick
5 as the foreperson.

6 **THE COURT:** All right. Thank you very much. Ladies
7 and gentlemen, welcome back to the courtroom. Ms.
8 McCormick, Madame Forelady, I am told that the jury has
9 reached a verdict:

10 **MADAME FORELADY:** Yes, sir.

11 **THE COURT:** Would you please give the Verdict Form to
12 our bailiff. Thank you. Thank you, sir.

13 Let's let the record reflect that the Verdict Form is
14 appropriately filled out. It is signed by the foreperson.
15 Defendant's counsel please rise. Madame Clerk, please
16 publish the verdict.

17 **PUBLISHING OF THE VERDICT**

18 **CLERK OF COURT:** On Your Honor's Docket, in the Court
19 of General Session, County of Dillon, State of South
20 Carolina Plaintiff, versus Jeffrey Caulder Defendant.

21 As to the charge of unlawful neglect of a child with
22 regard to minor¹ . We the jury, unanimously find the
23 Defendant Jeffrey Caulder guilty.

24 Number three. As to the charge of unlawful neglect of
25 a child with regard to minor² We the jury,
26 unanimously find the Defendant Jeffrey Caulder guilty.

1 Number five. As to the charge of unlawful neglect of a
2 child with regard to minor3. . We the jury,
3 unanimously find the Defendant Jeffrey Caulder guilty.

4 Signed by Foreperson, Renata McCormick, September 18,
5 2009.

6 **THE COURT:** All right. Ladies and gentlemen, I ask
7 you now if this is your verdict, please raise your hand.
8 Let's let the record reflect that all of the jurors --- And,
9 please put your hands down. All of the jurors have raised
10 their hands in response to the Court's question.

11 Now, while we are in the presence of the jury, are
12 there any Motions from the Defense from which a jury
13 response would be necessary?

14 **MS. SELLERS:** Not at this time, Your Honor. No, Your
15 Honor.

16 **THE COURT:** All right, very good. Then ladies and
17 gentlemen, that concludes your service in this case, as the
18 judges of the facts, and for rendering a verdict which is
19 just and true.

20 Now, what the Court is going to do now is, we are going
21 to have a sentencing proceeding. What I am going to do is,
22 I am going to ask you if you are interested in staying, and
23 I am going to give you the option, but not in the jury box.
24 I want you to understand that whatever happens in sentencing
25 with regard to any defendant, is the Court's decision. It
26 is not the jury's decision. We divide our justice system so

1 that the jury are the judges of the facts, and then the
2 Court imposes the sentence. You are welcome to remain for
3 this proceeding. What I would ask you to do, and we will
4 give you time to do this, is to leave the jury box, and then
5 go back and be seated in the back. That way, if you decide
6 you wish to leave at any time you may, and if you wish to
7 leave immediately you may. You are not required to stay.
8 But, we will certainly give you the opportunity to join us
9 if you wish.

10 Now, are there announcements for our jury before they
11 leave?

12 **CLERK OF COURT:** Your Honor, I have their checks ready
13 if they want, or their work form when they come out, and I
14 will be glad to go ahead and give it to them on their way
15 out.

16 **THE COURT:** We will do that. And, you are going to
17 receive a check here from the county, which is not enough to
18 retire on, but it is the county's expression of gratitude
19 for your per diem and your service. Now, as you leave the
20 jury box, I am going to come down and I am going to shake
21 your hand as my expression of gratitude for a true and just
22 verdict. And for justice as you have determined it to be,
23 and for your important role in this case.

24 Thank you, ladies and gentlemen. It has been my
25 privilege to work with you. Give me just one moment.

26 **(PAUSE)**

1 **THE COURT:** All right. Now, while we are outside of
2 the presence of the jury who may join us in the back in a
3 few moments. Are there any Motions for which the Court
4 needs to make a response from defense?

5 **MS. SELLERS:** Your Honor, I would ask at this time
6 that I be allowed to submit my Motions to you in writing.

7 **THE COURT:** Counsel, I respectfully would decline
8 that request and would ask you to make any Motions that you
9 have at this time.

10 **MS. SELLERS:** Your Honor, at this time I would move
11 for a new trial based on the information presented to the
12 jury. I do not believe that the evidence was enough to find
13 my client guilty of this matter.

14 Also, Your Honor, in reference to the comments made by
15 the Solicitor's Office in terms of my client rolling the
16 dice, I do believe that information was prejudicial toward
17 my client.

18 **THE COURT:** All right. Counsel, you objected at that
19 time, however the Court gave a curative instructive that
20 this was not about rolling the dice. The Court does not
21 find that to have been prejudicial to you. It was a comment
22 that was not aimed and somehow to be prejudicial to the
23 defendant. I think it was a comment made by the State in
24 reference to a question that he was asking the witness. So,
25 the Court is not going to grant you any relief. I do not
26 find it sufficient to warrant relief. And I deny that

1 Motion.

2 Are there any further Motions now from defense?

3 **MS. SELLERS:** No further motions, Your Honor. Thank
4 you.

5 SENTENCING

6 **THE COURT:** All right. Then we are going to have a
7 sentencing proceeding at this time. What I would ask you to
8 do is, Mr. Daniel if you would come forward to the bar, and
9 the defendant and Ms. Sellers please come forward to the
10 bar.

11 All right, ladies and gentlemen at this time the Court
12 is going to entertain arguments and discussion about what is
13 the appropriate sentence in this case. I am going to ask
14 you to speak up counsel so that everyone in the courtroom is
15 able to hear. I am going to hear from the State first.
16 Then give an opportunity to the Defendant to respond if they
17 wish to do so.

18 And, what says the State?

19 **MR. DANIEL:** Thank you, Your Honor. May it, please
20 the Court. Your Honor, over the last day and a half you
21 have heard the serious allegations made against Mr. Caulder.
22 And, we now obviously, now know that the jury as finders of
23 fact have agreed with the victims in this case, who
24 incidently would like to be heard from at the appropriate
25 time.

26 Your Honor, I don't think there is anything more that I

1 can add. These are some pretty severe accusations that are
2 --- They are no longer accusations, but they are true as our
3 jury has informed us. Your Honor, when you consider the
4 sentence here, I would ask that you do so in regards to the
5 young victims, who will never again be the same, whether it
6 is in the remaining years of their childhood, or their
7 adulthood, or as parents, or as husbands and wife, it will
8 never be the same because of this. And I would ask that you
9 consider that when you are formulating your sentence.

10 Also, Your Honor, as I just said, the victims would
11 like to be heard at the appropriate time.

12 **THE COURT:** All right. Counsel, let me say, of
13 course, we have had the trial and I have heard from the
14 victims. I don't say that to cut anyone short here, but
15 they have fully had their say. And, I don't want to put the
16 children in any sort of interpersonal discomfort position
17 which they have lived in for years. So, it is not necessary
18 to come forward to confront again the defendant, because
19 that has been done, and the Court has heard the testimony,
20 and does not require anything further. However, if the
21 children have something they wish to say, I will hear from
22 them.

23 **MR. DANIEL:** Your Honor, these children have been
24 looking forward to this moment for a long time. And they
25 told me --- I told them what you just said, and they told me
26 that they would still like to speak to the Court. May I in

1 inquire, for a moment?

2 THE COURT: Please do.

3 (PAUSE)

4 THE COURT: Counsel, have the expert witnesses left?

5 MR. DANIEL: Yes, Your Honor, she has.

6 THE COURT: All right, very good.

7 MR. DANIEL: We actually talked with them about this
8 before they left.

9 THE COURT: All right. And what was their position?

10 MR. DANIEL: Your Honor, their position was that it
11 would be fine for the children to be in the room at this
12 proceeding, and to speak if they wanted to.

13 THE COURT: All right. Then let's bring the children
14 over and let them stand to your left please.

15 I am going to ask our officer to come in and stand
16 directly behind the Defendant, please. That's good, in
17 between is fine. That's fine.

18 All right. And, let me say to each of the children,
19 please remember that you are under oath, and welcome back to
20 the courtroom. And if you have something that you wish to
21 say, I will be glad to hear from you. Who wishes to speak
22 first? All right, minor³ come a little closer to the
23 microphone so we can all hear you please. And, go ahead and
24 tell us what you have to say.

25 MASTER MINOR³ The only thing that I have to say is
26 that --

1 **THE COURT:** All right, just a moment. Can you hear
2 in the back, ladies and gentlemen? We want to make sure
3 that everyone can hear what you have to say. So, please
4 speak up directly to the microphone if you will. Thank you.
5 Let's try this one right there. All right, let's make sure
6 that our microphones are on. Try it again now. Go ahead.

7 **MASTER *minor 3*** The only thing that I have to say is
8 that I hope that the defendant can forgive himself for what
9 he has done, and that he will be put in a place where he
10 can't harm another child.

11 **THE COURT:** All right. Thank you, *minor 3* Thank
12 you for your courage in coming forward.

13 And who wishes to speak next? All right. And, *minor* we
14 will be glad to hear from you if you have something to say.

15 (Whereupon, Master *minor 1* Graham asked Solicitor
16 Daniel a question privately.)

17 **THE COURT:** You don't have to speak. All right. And
18 who would like to be next?

19 **MR. DANIEL:** That's it, Your Honor.

20 **THE COURT:** All right. Well, let me say to *minor* and
21 to *minor 2* who chose not to speak. You spoke very loudly here
22 already in this courtroom. And, I admire the courage that
23 you have, the tremendous courage that it took to come
24 forward. And regardless of what happens here, I just wish
25 you well as life goes on for you. You are beautiful, young,
26 smart children who have such a bright future. And I just

1 admire you for coming as far as you have and doing the good
2 things that you have done. You are fine people. I thank
3 you for what you stand for, and for the courage you have
4 shown for being here. Okay. Now, do you want to go back
5 and be seated? Why don't you go back to your chair and be
6 comfortable? We will be back with you momentarily.

7 Is there anything further from the State?

8 **MR. DANIEL:** No sir, Your Honor.

9 **THE COURT:** What prior record if any does Mr. Caulder
10 have?

11 **MR. DANIEL:** None.

12 **THE COURT:** Very good. And what now says the
13 Defense?

14 **MS. SELLERS:** Thank you, Your Honor. Jeffrey Caulder
15 is a lifelong residence of Dillon, South Carolina. Your
16 Honor, he grew up in the Oak Grove Community, where he has
17 been a long time member of the Sardis Baptist Church.

18 Your Honor, as you heard he has absolutely no criminal
19 record. Prior to his leg injury, Jeffrey was gainfully
20 employed as a industrial plumber. During that time, he did
21 have the opportunity to work in several states.

22 Now, he has one child, that is Cheyenne Miller, who is
23 four years of age. I am sorry, Your Honor, Cheyenne Caulder
24 and she is four years of age. Now, she is five. I'm sorry,
25 Your Honor. He does have the support of his mother here,
26 Ms. Wanda, his stepfather, his Grandmother Helen, and his

1 Aunt Janice, also present is his niece.

2 Your Honor, he has a high school diploma. And I would
3 ask that you take into consideration Jeffrey's health
4 problems. He is in constant chronic pain from his leg
5 injury. His kidneys, he is telling me are currently
6 failing. He does have an enlarged prostate. He has a tumor
7 in his gallbladder, and Your Honor, he has been diagnosed as
8 bipolar.

9 **THE COURT:** All right. And, I will give the
10 Defendant, if Mr. Caulder has something he wishes to say,
11 Mr. Caulder you remain under oath from yesterday. You are
12 not required to speak, but if you wish to speak the Court
13 will be glad to hear from you, sir.

14 **MS. SELLERS:** Your Honor, at this time my client does
15 not wish to speak. He does ask for leniency and mercy in
16 sentencing. And, Your Honor, we ask you to run the
17 sentences concurrent.

18 **THE COURT:** All right, just one moment, please.

19 **(PAUSE)**

20 **THE COURT:** All right. Mr. Caulder, the Court has
21 listened over the last two days from the testimony of
22 children who should not be involved in the matters in which
23 they are involved in, sir.

24 And what struck me as so sad is that the comments were
25 made during this testimony, that you do not have a heart.
26 You do not care about anyone but yourself. And, that you

1 hate the whole world, and that you take it out on children.
2 And, these from the mouths of children. And, children
3 should never have, even have an understanding of people like
4 that, much less be subjected to the bullying and the Tiranë
5 of someone who would beat up on others who are defenseless.
6 We see a lot of people in this courtroom who steal things.
7 People who steal from homes. People who steal from people.
8 People who steal large sums of money. But, there is no
9 greater theft than the theft of a childhood sir, and this is
10 what you have done. Your actions are reprehensible. They
11 are not to be tolerated in this society.

12 I sentence you to thirty years in the Department of
13 Corrections. Ten years on each charge consecutive.

14 And that is the sentence of this Court.

15 I remand you now to The Department of Corrections. I
16 am also going to require, that should you be released from
17 prison at some time in the future, you must register for
18 South Carolina Central Registry of Child Abuse and Neglect.
19 And that is the order of this Court.

20 Please take the defendant away.

21 (PAUSE)

22 **THE COURT:** Madame Court Reporter, let the record
23 reflect that that is the maximum penalty under law for which
24 the defendant may be sentenced for these charges.

25 To the members of Mr. Caulder's family, I am sorry that
26 you find yourselves at this point today. Good luck to you.

SENTENCING

445

1 (Whereupon, this hearing was concluded at 2:42
2 p.m. on Friday, September 19, 2009.)

3 -- END OF TRANSCRIPT --
4
5
6
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0522

CERTIFICATE OF REPORTER

448

I, the undersigned, Pamela Ozment-Cartee, official Court Reporter, for the Fourth Judicial Circuit, of the State of South Carolina, do hereby certify, that the foregoing is a true, accurate, and complete Transcript of record, of all the proceedings had and evidence introduced in the trial of the above captioned case, relative to appeal, in the Court of General Sessions, Dillon County, South Carolina, on the 14th, 17th, and 18th, days of September 2009.

I do further certify that during the testimony of the three minor children, minor3 Miller, minor2 Graham, and minor1 Graham, I observed their testimony thereby being able to accurately reflect a negative or affirmative response, or no response.

I do further certify that am neither, of kin, counsel, nor interest to any party hereto.

January 29, 2010

Pamela Ozment-Cartee
Circuit Court Reporter

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT
AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Jeffrey Caulder, Appellant.

Appeal From Dillon County
J. Michael Baxley, Circuit Court Judge

Unpublished Opinion No. 2011-UP-223
Submitted May 1, 2011 – Filed May 18, 2011

APPEAL DISMISSED

Appellate Defender Robert M. Pachak,
of Columbia, for Appellant.

Attorney General Alan Wilson, Chief
Deputy Attorney General John W.
McIntosh, and Assistant Deputy
Attorney General Salley W. Elliott, all of
Columbia; and Solicitor William B.
Rogers, Jr., of Bennettsville, for
Respondent.

PER CURIAM: Jeffrey Caulder appeals his convictions for three counts of unlawful neglect of a child, arguing the trial court erred by failing to sever the three counts. After a thorough review of the record and counsel's brief pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss the appeal and grant counsel's motion to be relieved.[1]

APPEAL DISMISSED.

FEW, C.J., HUFF and THOMAS, JJ., concur.

[1] We decide this case without oral argument pursuant to Rule 215, SCACR.

STATE OF SOUTH CAROLINA

COUNTY OF Dillon
 STATE VS.
Jeffrey Caulder

AKA: _____

Race: W Sex: M Age: 27DOB: [REDACTED] SS# [REDACTED]

Address: _____

DL#: _____ SID#: _____

In disposition of the said indictment comes now the Defendant who was
 TO: Children / Legal custodian, unlawful neglect of child or helpless person

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009-GS-17-0274A/W#: DIL0581Date of Offense: 12/1/2005S.C. Code § : 63-5-70CDR Code #: 2481

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 63-5-70 of the S.C. Code of Laws, bearing CDR Code # 2481

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Whe 76085 Rose E. Heller 76085
Daniel, Shipp SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☒ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-20 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 47.12 (Public Def/Prob) \$500 \$ 25.00

§ 14-1-212 (Law Enforce. Funding) \$25 \$ _____

§ 14-1-213 (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

§ 90.7 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 133.90Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel; §47.12

requires \$500 be paid to Clerk during probation.

CLERK OF COURT

DILLON COUNTY

PRESIDING JUDGE [Signature] 527Judge Code: 211Sentence Date: 09/18/09

FILED
 CLERK OF COURT
 DILLON COUNTY
 2009 SEP 18 PM 4:51
 GWEN THYATT

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DILLON)

) Children / Legal custodian, unlawful neglect of child
or helpless person

§63-5-70

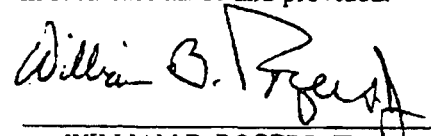
At a Court of General Sessions, convened on September 10, 2009, the Grand Jurors of Dillon County present upon their oath:

UNLAWFUL CONDUCT TOWARDS A CHILD

CDR: 2481 63-5-70

That Jeffrey Caulder did in Dillon County between July 1, 2003 to November 30, 2007, while having charge or custody, or being the parent or guardian, or being responsible for the welfare of the minor child, minor Graham, DOB: [REDACTED] 2000, place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety; or did unlawfully or maliciously cause or cause to be done bodily harm to the child so that the life or health of the child was endangered or was likely to be endangered; or did willfully abandon the child; to wit, including but not limited to, striking and/or excessive punishment and/or infliction of mental or emotional harm, in violation of Section 63-5-70, S. C. Code of Laws, 1976, as amended, previously codified as Section 20-7-50, S. C. Code of Laws.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Randy Tyler

Dillon County Sheriff

Law Enforcement Case #:

085

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
DIL0581

ARRESTED ON: 2008-11-01

ACTION OF GRAND JURY

TRUE BILL

Grand Jury Foreperson

Date

7-10-09

VERDICT

Petit Jury Foreperson

Date

Amended

DOCKET NUMBER:
09GS17-0274

The State of South Carolina

County of Dillon

COURT OF GENERAL SESSIONS

Term:
August 2009

THE STATE

vs.

Jeffrey Caulder

INDICTMENT FOR

Children / Legal custodian, unlawful neglect of
child or helpless person

§63-5-70

CDR Code: 2481

William B. Rogers, Jr., Solicitor

COUNTY: CF Dillon
 STATE VS.
Jeffrey Caulder
 AKA:
 Race: W Sex: M Age: 27
 DOB: [REDACTED] SS#: [REDACTED]
 Address:
 DL#: [REDACTED] SID#: [REDACTED]

INDICTMENT/CASE#: 2009-GS-17-0275
 A/W#: DIL0582
 Date of Offense: 12/1/2005
 S.C. Code § : 63-5-70
 CDR Code #: 2481

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
 TO: Children / Legal custodian, unlawful neglect of child or helpless person

☒ CONVICTED OF or ☐ PLEADS

in violation of § 63-5-70 of the S.C. Code of Laws, bearing CDR Code # 2481
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 76085 [Signature] 76997
Daniel, Shipp SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 09-65-17-274

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☒ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-25 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

§ 47.12 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

§ 90.7 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: Pamela Carter

SCCA/217 (06/2009)

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ TRUE COPY paid to Public Defender Fund

Other: [Signature]

CLERK OF COURT
 DILLON COUNTY

☐ Appointed PD or appointed other counsel, §47.12
 requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 21

Sentence Date: 09/18/09

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DILLON)

Children / Legal custodian, unlawful neglect of child
or helpless person

§63-5-70

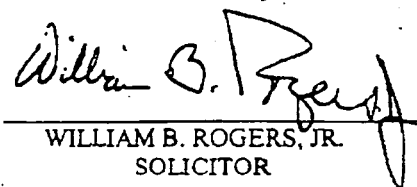
At a Court of General Sessions, convened on September 10, 2009, the Grand Jurors of
Dillon County present upon their oath:

UNLAWFUL CONDUCT TOWARDS A CHILD

CDR: 2481 · 63-5-70

That Jeffrey Caulder did in Dillon County between July 1, 2003 to November 30, 2007, while having charge or custody, or being the parent or guardian, or being responsible for the welfare of the minor child, minor 3 Miller, DOB: [REDACTED] 1997, place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety; or did unlawfully or maliciously cause or cause to be done bodily harm to the child so that the life or health of the child was endangered or was likely to be endangered; or did willfully abandon the child; to wit, including but not limited to, striking and/or excessive punishment and/or infliction of mental or emotional harm, in violation of Section 63-5-70, S. C. Code of Laws, 1976, as amended, previously codified as Section 20-7-50, S. C. Code of Laws.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Randy Tyler

Dillon County Sheriff

Law Enforcement Case #:

085

WAIVER OF PRESENTMENT

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Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
DIL0582

ARRESTED ON: 2008-11-01

ACTION OF GRAND JURY

TRUE BILL

William B. Rogers
Grand Jury Foreperson

Date *9-10-09*

VERDICT

Petit Jury Foreperson

Date

Amended

DOCKET NUMBER:
09GS17-0275

The State of South Carolina

County of Dillon

COURT OF GENERAL SESSIONS

Term:
August 2009

THE STATE

vs.

Jeffrey Caulder

INDICTMENT FOR

Children / Legal custodian, unlawful neglect of
child or helpless person

§63-5-70

CDR Code: 2481

William B. Rogers, Jr., Solicitor

COUNTY OF Dillon
STATE VS.
Jeffrey Caulder
AKA:
Race: W Sex: M Age: 27
DOB: [REDACTED] SS#: [REDACTED]
Address:
DL#: [REDACTED] SID#: [REDACTED]

INDICTMENT/CASE#: 2009-GS-17-0276
A/W#: DIL0583
Date of Offense: 12/1/2005
S.C. Code §: 63-5-70
CDR Code #: 2481

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
TO: Children / Legal custodian, unlawful neglect of child or helpless person

☒ CONVICTED OF or ☐ PLEADS

in violation of § 63-5-70 of the S.C. Code of Laws, bearing CDR Code # 2481
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: W. H. [REDACTED] 76085 [REDACTED] 76992
Daniel, Shipp SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 09-GS-17-274
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Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

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§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

§ 90.7 (SCCA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.92

TOTAL \$ 133.92

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ 133.92 beginning 12/1/09

\$ _____ paid to Public Defender Fund

Other: CLERK OF COURT

DILLON COUNTY

☐ Appointed PD or appointed other counsel, §47.12

requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk [REDACTED]

Court Reporter: Pamela Carter

SCCA/217 (06/2009)

PRESIDING JUDGE

Judge Code: 21

Sentence Date: 09/18/09

533

STATE OF SOUTH CAROLINA

COUNTY OF DILLON

INDICTMENT FOR

)
)
) Children / Legal custodian, unlawful neglect of child
or helpless person

§63-5-70

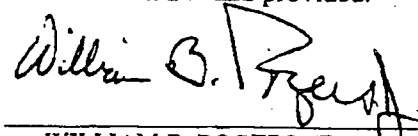
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WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Randy Tyler

Dillon County Sheriff

Law Enforcement Case #:

085

WAIVER OF PRESENTMENT

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Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
DIL0583

ARRESTED ON: 2008-11-01

ACTION OF GRAND JURY

TRUE BILL

William B. Rogers
Grand Jury Foreperson

Date 1-10-09

VERDICT

Petit Jury Foreperson

Date

Amended
DOCKET NUMBER:
09GS17-0276

The State of South Carolina

County of Dillon

COURT OF GENERAL SESSIONS

Term:
August 2009

THE STATE

vs.

Jeffrey Caulder

INDICTMENT FOR

Children / Legal custodian, unlawful neglect of
child or helpless person

§63-5-70

CDR Code: 2481

William B. Rogers, Jr., Solicitor

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 05/24/12
OMCOMITA RELEASE DATE SCREEN C051123
SCDC# > 336973 LOC: LEE
CAULDER, JEFFREY - SCDC CLASSIFICATION...: NON-VIOLENT
OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY...: N
SEXUAL PREDATOR...: NOT APP
DNA STATUS...: COMPLETED
GPS REQUIREMENT...: N
PREA DECISION...:
CURRENT SENTENCE: 030-00-000 CONSECUTIVE SENTENCE ...: Y
030-00-000 CURRENT SENT START DATE: 09/17/2009
PROJECTED COMPLETION DATES
MAXOUT DATE ...: 07/24/2025 CURRENT EWC ..: 3 F 5
YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
INITIAL PAROLE DATE: 11/13/2015 NEXT PAROLE HEARING DATE: 11/13/2015

TOTAL GT DAYS EARNED: 000620 LABOR CREW/WORK PROG DATE: 07/25/2020
TOTAL EARNED WORK CREDITS ...: 000211 LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS: 000000
TOTAL EXTRA EARNED CREDITS ..: 000 SUPERVISED REENTRY DATE...: 00/00/00
TOTAL SERVICE TIME EARNED...: 000968 ISS.....:

PFKEYS: 5: HISTORY OF DATE CHANGES
4- 1 Sess-1 167.7.50.33 SCDC1739 3/11

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD SUMMARY REPORT DATED 05/24/12

C0511

CAULDER,JEFFREY - FBI # 251198KC7 SID# SC01656121 SCDC # 336973

OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE

INSTITUTION ...: LEE CORR INST

SECURITY/CUST.: 3 MINIMUM IN

CURR INCARC SENT....: 30 YRS 0 MOS 0 DYS

CENTRAL MONITORING.: NO

SOCIAL SECURITY #....: [REDACTED]

DORM.....: KER1137B

RACE....:W SEX....:M

PROJ MAXOUT DATE: 07/24/2025

PROJ PAROLE DATE: 11/13/2015

EWC JOB...: GENERAL WORKER

EDUC PGM.: NO CURR EDUC PROGRAM

EWC LEVEL: 3F5 EEC LEVEL:

ASSIGNMENT...: KERSHAW UNIT

CURRENT PROGRAM...: NO CURRENT PROGRAM

AGE....: 29 DATE OF BIRTH...: [REDACTED]

PREVIOUS NUMBERS:

** NO PREVIOUS NUMBERS **

CURRENT OFFENSES	SENTENCE				SENTENCE		
	YRS	MOS	DYS	COUNTY	START	V/NV	CATEGORY
CHILD NEGLECT	20	0	0	DILLON	9/17/20	9 N	2
CHILD NEGLECT	10	0	0	DILLON	9/17/20	9 N	2

PRIOR COMMITMENTS OVER 90 DAYS:

INMATE HAS NO PRIORS

DETAINERS (HOLD,WANTED,NOTIFY):

NO DETAINERS

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES WHILE IN CUSTODY

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

NO NON-ASSAULTIVE DISCIPLINARY HISTORY

HISTORY OF MOVEMENTS:

9/20/10	LEE	INCARCERATED	RETURN FROM COURT
9/20/10	DILLON CO	AUTH ABSENCE (AWL)	TO COURT
12/ 2/ 9	LEE	INCARCERATED	ADMINISTRATIVE
9/21/ 9	KIRKLAND	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB	START	END	TERMINATION	JOB
DESCRIPTION	DATE	DATE	REASON	LVL
GENERAL WORKER	12/07/09	0/ 0/ 0		YF5

HISTORY OF EARNED EDUCATION CREDITS:

EEC	START	END	TERMINATION
DESCRIPTION	DATE	DATE	REASON

NO SCHOOL ASSIGNMENTS

***** END OF REPORT *****