

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

SC Court of Appeals

R. Keith Kelly, Circuit Court Judge

Case No. 2015-CP-42-1688

Dedra H. Kiser, ... Appellant,

v.

Spartanburg School District 7, ... Respondent.

RECORD ON APPEAL
VOLUME 1 OF 2

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Civil Action No. 2015-CP-42-1688

Dedra H. Kiser,

Appellant,

vs.

Spartanburg School District 7,

Respondent.

ORDER

This matter is before the Court upon the Appellant's Notice of Appeal filed pursuant to Section 59-25-480 of the South Carolina Teacher Employment and Dismissal Act ("TEDA"), S.C. Code Ann. §§ 59-25-410 *et seq.* Appellant, Dedra H. Kiser ("Kiser"), appeals the decision of the Spartanburg School District 7 Board of Trustees (the "School Board") to immediately terminate her employment with the School District.

A hearing was held on November 2, 2015. Appellant was represented by David E. Rothstein of Rothstein Law Firm, PA. The School District was represented by Kenneth W. Nettles, Jr., and Kenneth E. Darr, Jr., of Lyles, Darr & Clark, LLP. Upon consideration of the briefs and arguments presented at the hearing, the record of the dismissal hearing before the School Board, the School Board's written decision, and the applicable law, the Court affirms the School Board's decision.

I. FACTS

Spartanburg School District 7 (the "School District") employed Kiser as a math teacher at Spartanburg High School ("SHS") and as an assistant coach for the girls' cross-country team. On Friday, September 26, 2014, Kiser was entrusted with driving seven members of the girls'

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cross-country team to Charleston for a meet. She drove a Suburban owned by the School District. The students were ages thirteen to seventeen years old. Three of the students attended SHS (the "SHS Students"), and the others attended SHS Freshman Academy or middle school.

A South Carolina Highway Patrol ("SCHP") officer stopped Kiser at approximately 5:00 p.m. on Interstate 26 outside of Charleston after multiple 911 calls by other drivers reporting her reckless and dangerous driving. During the traffic stop, Kiser was arrested for driving under the influence and child endangerment. The seven students were taken into protective custody and detained by law enforcement for at least four to five hours while their parents drove from Spartanburg to Charleston to pick them up.

After conducting an investigation of the matter, including an interview with Kiser, the School District's Superintendent, Dr. Russell Booker, notified Kiser by letter dated September 29, 2014, of his recommendation to the School Board that her employment be terminated immediately for conduct manifesting evident unfitness for teaching. Dr. Booker's recommendation was based on "the extreme hazard to the safety and well-being of the student-athletes entrusted to your care, misuse of a school district vehicle, and multiple violations of the law and school district policy, not to mention extremely poor judgment." Dr. Booker also notified Kiser of her right to request a hearing before the School Board.

At Kiser's request, the School Board held a dismissal hearing on March 18, 2015. The School District was represented by counsel and introduced exhibits and testimony from Dr. Booker and the SHS Principal, Jeff Stevens, among others, to substantiate the grounds for Dr. Booker's recommendation for immediate termination. Kiser and her attorney were present for the entire hearing. Kiser was afforded the opportunity to cross-examine the School District's witnesses, to present her own testimony, witnesses, and evidence, and to present all available

defenses. In addition to the testimony and exhibits presented at the hearing, the School Board reviewed both parties' pre-hearing briefs and the SHS Students' deposition transcripts.

After the hearing and deliberation in executive session, the School Board voted unanimously to uphold Dr. Booker's recommendation for immediate termination. On March 27, 2015, the Board issued a written decision setting forth its findings of fact and conclusions. On April 27, 2015, Kiser filed a Notice of Appeal of the School Board's decision.

II. STANDARD OF REVIEW

The standard applicable to judicial review of a school board's decision terminating a teacher is limited to a determination of whether the decision is supported by substantial evidence in the record. Laws v. Richland County School Dist. No. 1, 270 S.C. 492, 495, 243 S.E.2d 192, 193 (1978); Kizer v. Dorchester County Vocational Educ. Bd. of Trustees, 287 S.C. 545, 550, 340 S.E.2d 144, 147 (1986). Substantial evidence is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the School Board reached or must have reached to justify its action. Id. On appeal, the circuit court cannot substitute its judgment for that of the school board. Id.; see also Felder v. Charleston County School Dist., 327 S.C. 21, 489 S.E.2d 191 (1997) (circuit court erred in reversing the school board's decision terminating teacher since the determination was supported by substantial evidence in the record).

III. LAW/ANALYSIS

A. Substantial Evidence

State law specifically vests school boards with the power and duty to discharge teachers when good and sufficient reasons for so doing present themselves. S.C. Code § 59-19-90(2). It is undisputed Kiser entered into a valid continuing Contract for Professional Service with the

School District that was in full force and effect at the time of the incident resulting in her termination. Kiser admits she was under a continuing contract of employment. As such, the termination of Kiser's teacher employment was governed by TEDA, S.C. Code Ann. § 59-25-410 to 530.

The School Board terminated Kiser for conduct manifesting an evident unfitness for teaching. TEDA provides for the immediate removal of any teacher whose conduct manifests evident unfitness to teach. S.C. Code Ann. § 59-25-430 ("Any teacher may be dismissed at any time...who shall otherwise manifest an evident unfitness for teaching."); Kizer, 287 S.C. at 550, 340 S.E.2d at 147 ("[T]he officially enunciated public policy of this State is to provide for immediate removal of those whose conduct manifests evident unfitness.").

The statute sets forth a non-exclusive list of examples of conduct manifesting an evident unfitness to teach, "such as, *but not limited to*, the following: persistent neglect of duty; willful violations of rules and regulations of the Board; drunkenness; conviction of a violation of the law of this State or the United States; gross immorality; dishonesty; illegal use, sale or possession of drugs or narcotics." S.C. Code Ann. § 59-25-430 (emphasis added); Hall v. Board of Trustees of Sumter County School Dist. No. 2, 330 S.C. 402, 406, 499 S.E.2d 216, 219 (Ct. App. 1998) ("Section 59-25-430 sets forth a non-exclusive list of examples of unfitness for teaching."). Whether conduct manifests an evident unfitness for teaching that warrants immediate removal as a teacher is a judgment committed to the school board's discretion.

1. Substantial Evidence Supports The School Board's Decision

The School Board terminated Kiser for conduct manifesting an evident unfitness for teaching based on her failure to exercise good judgment and reasonable care by driving at dangerous speeds and failing to maintain proper control of the vehicle in complete disregard for

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the safety and welfare of the seven students entrusted to her care. The Court finds that there is substantial evidence in the record to support the School Board's decision to immediately terminate Appellant for conduct manifesting an evident unfitness for teaching.

Dr. Booker testified that it was a primary and essential function and expectation of Kiser's job as both a teacher and a coach to at all times protect the safety and well-being of students entrusted to her care. Kiser's contract, her written job responsibilities, and the School District's staff conduct policies, required her to at all times exercise good judgment, exercise a reasonable standard of care for the supervision and protection of students, and to carry out her assigned duties and responsibilities with conscientious concern and attention toward her own and the School Board's legal responsibility for the safety and welfare of students.

Kiser testified she drank three or four glasses of wine and stayed up until about 2:00 a.m. the night before driving the students to Charleston. That day, she woke up at 6:00 a.m., did not shower, performed "strenuous physical labor" all morning, and had almost nothing to eat or drink all day. Kiser admitted she was tired while driving to Charleston.

It is undisputed that the expectation was for the girls' and boys' cross-country teams to leave SHS at the same time and caravan to Charleston. However, immediately upon leaving the school, Kiser admittedly made two unauthorized detours, which separated the teams and put the girls' team at least twenty minutes behind schedule. First, at the girls' request, she drove to a student's house to pick up a CD player because the one in the Suburban did not work. Second, she detoured to her own house to get her e-cigarette charger.

According to all three SHS Students' accounts, Kiser was speeding, drifting off the road, and nearly hit another car. Before leaving Spartanburg, she hit a curb pulling out of the SHS parking lot, was speeding, and ran a red light. On Highway 56 – a two-lane "back road" – she

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drove "really fast" and was drifting off the edge of the road. At one point, the passenger side mirror clipped a mailbox. On Interstate 26, Kiser was driving at speeds of 90 and 95 miles per hour or more. According to one SHS Student: "And so we were going so fast that she had to pull off the side of the road because if she hadn't we would have slammed full force into the car in front of us. We slid in right next to them. And it would have been really bad."

Kiser admitted she drove "aggressively and fast," she was "going along with the flow of traffic," and "at times I would see myself going 85, 90." She admitted she drifted off the edge of the road and drove on the rumble strips on both sides of the road. She also admitted that she "had to slam on brakes and go off to the right of the road" to avoid hitting a car in front of her.

Other drivers observed and were concerned about Kiser's erratic and dangerous driving. The School District submitted audio recordings of two 911 calls made by other drivers reporting Kiser's erratic, reckless, and dangerous driving on Interstate 26. Both callers reported the Suburban was "swerving all over the road," and one caller exclaimed: "I think she might be intoxicated to be honest with you - Oh, my God! They need to stop her!"

The School District also submitted the Affidavit of Raymond Richards, an off-duty police officer with the Goose Creek Police Department. Officer Richards also observed the Suburban on Interstate 26 swerving from side to side across the fog lines and center lines of traffic, drifting across and straddling the center line occupying two lanes, and slamming on the brakes and swerving into the emergency lane to avoid hitting the car in front of it. Based on his observations, Officer Richards also believed the driver might have been intoxicated.

It is undisputed that, as a result of the 911 reports, Kiser was stopped by a SCHP officer on Interstate 26 in Charleston County. Kiser testified, "*I knew I had hit the rumbles. I knew I had veered off there. I knew I had been speeding, so I thought I was getting a speeding ticket.*"

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(emphasis added). However, rather than getting a speeding ticket, Kiser was arrested and charged with driving under the influence and child endangerment.

The SHS Students testified they were scared and shocked, and some of the girls cried. They were split up, put into police cars, and taken to SCHP headquarters. SCHP officials refused to release the girls to the School District's custody. Dr. Booker and the SHS Students testified the girls would be remanded to DSS custody if their parents did not pick them up. SCHP Call History Records confirm calls were made that same day to Charleston County DSS and Spartanburg County DSS concerning "6-7 children under the age of 17." The students were detained at SCHP headquarters four to five hours while their parents drove from Spartanburg to pick them up. The SHS Principal, who notified each student's parents, testified the parents "were shaken up."

Based on this record, reasonable minds could reach the same conclusion the School Board reached, justifying the immediate termination of Kiser based on her reckless and dangerous driving that endangered the safety and well-being of seven students, and ultimately resulted in the seven students entrusted to her care being detained in protective custody by law enforcement. The Court will not substitute its judgment for that of the School Board. Laws, 270 S.C. at 495, 243 S.E.2d at 193.

2. The School Board Had Wide Latitude To Consider And Weigh The Evidence

Kiser argues the School Board's decision should be reversed based on multiple evidentiary errors. School board hearings under TEDA are quasi-judicial administrative hearings in which the rules of evidence do not strictly apply. Calhoun v. Marlboro County School Dist., 2004 WL 6334910, *6 (Ct. App. 2004). As a quasi-judicial body, the School Board is afforded a wide latitude of procedure and in permitting the introduction of evidence in a teacher dismissal



hearing. Id.; Jacoby v. South Carolina State Bd. of Naturopathic Examiners, 219 S.C. 66, 90, 64 S.E.2d 138, 149 (1951) (an administrative or quasi-judicial body is allowed a wide latitude of procedure and not restricted to the strict rule of evidence adhered to in a judicial court). The admission or exclusion of evidence in general was within the School Board's discretion. On appeal, this Court is only concerned with the existence of evidence, and not its weight. Barrett v. Charleston County School District, 348 S.C. 426, 559 S.E.2d 365 (Ct. App. 2001) (noting in appeal of teacher's dismissal "we are only concerned with the existence of evidence and not its weight").

Kiser argues it was fundamentally unfair for the School Board to consider the Affidavit of Raymond Richards because he was not identified as a potential witness and, therefore, he could not be subjected to cross-examination by counsel. It should be noted that the hearing record reflects the introduction of a witness affidavit by counsel for Kiser without objection and an uncontested representation by School District counsel to the School Board that the parties had agreed in advance that affidavits could be introduced at the hearing. Even if the School Board improperly considered the affidavit without cross-examination, it was a harmless error that does not warrant reversal of the School Board's decision. The affidavit was cumulative of other competent and substantial evidence of Kiser's reckless and dangerous driving, including the SCHP incident report (which contained Officer Richard's name and a summary of his comments to the SCHP officer), 911 audio recordings, and the SHS Students' testimony, all of which was received into evidence without objection. Calhoun, 2004 WL 6334910, n. 4 (even assuming the admission of hearsay evidence was erroneous, the error was not prejudicial in light of the non-hearsay evidence supporting the board's decision not to renew teacher's contract); State ex rel. Medlock v. Nest Egg Soc. Today, Inc., 290 S.C. 124, 348 S.E.2d 341 (Ct. App. 1986) (asserted

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error in admitting affidavits into evidence made no difference in the outcome and was harmless as a matter of law). Even if the affidavit is disregarded, there is still substantial evidence in the record to support the School Board's decision.

Kiser's argument that the School Board gave too much weight to the SHS Students' written statements is not well-founded. Prior to the hearing, Kiser's attorney deposed all three SHS Students and had the opportunity to examine each of them at length regarding her written statement. At the hearing, the SHS Students' statements and deposition testimony were received into evidence without objection. There is no evidence in the record establishing that any student's written statement or sworn deposition testimony describing Kiser's driving at excessive speeds of 85 to 95 miles per hour, drifting and swerving all over the road, and nearly slamming into another car was "obviously influenced" by her parents, news reports, or any other factor. To the contrary, *Kiser admitted* to speeding, drifting, and almost hitting another car. The SHS Students' statements are also consistent with the 911 audio recordings and the SCHP incident report, all of which were admitted into evidence without objection. The School Board had wide latitude to weigh the credibility of the SHS Students' written statements and sworn deposition testimony.

In her Notice of Appeal, Kiser also complains the School Board disregarded her alibi witnesses' testimony that she was not intoxicated, and her evidence that she was a "model" classroom teacher. The School Board did not exclude any alibi witness testimony or any evidence of Kiser's performance as a classroom teacher. Kiser essentially argues her evidence is more credible and should have been given more weight, and asks the Court to reweigh the evidence. The weight of this evidence is a determination left solely to the School Board. Notably, the issue of intoxication was not presented as a ground for dismissal, and the School

Board expressly found in its written decision that "Kiser denies she was intoxicated or impaired on September 26." Additionally, as discussed in more detail below, TEDA does not preclude the School Board from considering conduct outside the classroom in determining whether good and sufficient grounds exist for dismissal. The School Board had wide latitude to weigh the testimony of Kiser's alibi witnesses and evidence of her classroom performance in reaching its conclusion.

In sum, the School Board's decision is supported by substantial evidence in the record, and its findings and conclusions are not clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. The Court cannot substitute its judgment for that of the School Board as to the weight of the evidence on questions of fact.

B. The School Board's Decision Did Not Violate TEDA

Appellant raises several grounds on appeal suggesting the School Board's decision violates TEDA. The Court finds the School Board's decision does not violate TEDA and, further, that the School District complied with TEDA's notice requirements.

1. The School Board Did Not Terminate Kiser For "Poor Driving"

Kiser's argument that her poor driving did not manifest an evident unfitness to teach because driving was not part of her teaching duties, and she is "a model classroom teacher," is self-serving and unavailing. Section 59-25-430 does not define or limit conduct manifesting an evident unfitness for teaching to classroom duties and performance. The statute plainly defines evident unfitness broadly in a non-exhaustive and non-exclusive manner that is clearly intended to encompass conduct outside of the classroom.

Consistent with the broad statutory language, the courts have upheld school board terminations of teachers under Section 59-25-430 based on conduct outside of the classroom and

unrelated to classroom performance. In Felder, 327 S.C. at 25-26, 489 S.E.2d at 193, the court found substantial evidence supported the school board's termination of a teacher for conduct manifesting an evident unfitness for teaching based on her insubordination in encouraging students to continue an unauthorized student protest despite the principal's instructions that students return to class. In Barrett, 348 S.C. at 436, 559 S.E.2d at 370, the court held that substantial evidence supported the school board's termination of a teacher because she manifested an evident unfitness for teaching based on her dishonesty in handling the proceeds from a Parent Teacher Student Organization ice cream fundraising account. In Hall, 330 S.C. at 410, 499 S.E.2d at 220, the court explicitly recognized "that a single act of disobedience could, under some circumstances, be sufficient to justify a teacher's termination *even though it was unrelated to that teacher's classroom performance.*" (emphasis added). Thus, a school board's judgment as to what conduct manifests an evident unfitness for teaching is not limited to just teaching duties and classroom performance.

In this case, reasonable minds could agree that Kiser's conduct in driving a School District vehicle occupied by seven students at speeds of 85 to 95 miles per hour or more, drifting all over the road and off the road, hitting a mailbox, and swerving off the road to avoid a wreck, in blatant disregard for the safety of the seven students entrusted to her care, cannot be trivialized as "poor driving." See Hilliard v. Orangeburg County School Dist. Number Three, 300 S.C. 123, 386 S.E.2d 628 (Ct. App. 1989) (substantial evidence supported charge that teacher allowed student to be unsupervised in work area of welding shop, a blatant safety violation that could not be characterized as trivial). There is substantial evidence in the record to support the School District's determination that Kiser's lack of good judgment and reasonable care in endangering the safety of seven students adversely and materially affected her fitness as a teacher because she

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cannot be entrusted with the supervision and protection of School District students, which is a primary and essential function of her job responsibility as a teacher. The School Board's decision does not violate the evident unfitness to teach provision of Section 59-25-430.

2. Kiser's Termination Was Not Premature

Kiser's argument that her termination was premature in violation of Section 59-25-430 is also without merit. Section 59-25-430 cites conviction of a violation of state or federal law as an example of conduct manifesting evident unfitness for teaching, and it provides that a teacher who is charged with a violation of the law which upon conviction may lead to or be cited as a reason for dismissal may be suspended pending resolution of the charge. S.C. Code Ann. § 59-25-430. However, Kiser's reliance on that provision of Section 59-25-430 is misplaced.

During the traffic stop, Kiser was arrested and charged with driving under the influence and child endangerment in violation of state criminal laws. However, neither the Superintendent nor the School Board cited Kiser's pending criminal charges as a ground for termination. The School District did not present any arguments or evidence to prove Kiser was guilty of driving under the influence or child endangerment in violation of any state law. Rather, Kiser's termination was due to the extreme danger that she put seven students in by her reckless and erratic driving in violation of the School District's policies and a primary responsibility of her employment – conduct which occurred *before* she was stopped by the SCHP officer and *before* she was arrested and charged with driving under the influence and child endangerment. As such, the School Board's decision was not premature in violation of Section 59-25-430.

3. The School District Complied With TEDA Notice Requirements

In her Notice of Appeal, Kiser vaguely contends the School Board relied on grounds for her termination that were not previously disclosed in violation of Section 59-25-460 of TEDA.

Kiser did not present any arguments on this issue in her appeal brief or at the appeal hearing. Kiser has not identified what grounds for termination she contends the School District did not disclose and to which she did not have an adequate opportunity to respond.

TEDA required that Kiser be given written notice specifying the cause of dismissal and the fact that a hearing before the board is available upon request. S.C. Code Ann. §§ 59-25-430 and -460; Smith v. Horry County Schools, 2014 WL 2969359 (Ct. App. 2014) (board's decision did not violate TEDA because teacher was given notice the superintendent had recommended her employment be terminated and she was afforded an opportunity to be heard prior to her dismissal). Dr. Booker's September 29, 2014, letter to Kiser satisfied the TEDA notice requirements. Specifically, Dr. Booker's letter notified Kiser he was recommending her immediate termination for conduct manifesting an evident unfitness for teaching "due to the extreme hazard to the safety and well-being of the student-athletes entrusted to your care, misuse of a school district vehicle, and multiple violations of the law and school district policy, not to mention extremely poor judgment." Thus, Kiser received adequate notice of the grounds for dismissal.

The question thus becomes whether there is substantial evidence to support the finding of violations of which Kiser had notice. Hilliard, 300 S.C. at 126, 386 S.E.2d at 630. If any of the charges of which Kiser had notice are supported by substantial evidence, the School Board's decision to dismiss must be sustained. Id. As already determined, there is substantial evidence in the record to support the School Board's finding that Kiser recklessly endangered the safety and well-being of the seven students entrusted to her care in violation of multiple School District policies governing staff conduct with students.

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C. Kiser Was Afforded All Due Process Rights

Appellant contends the School Board's decision violates her due process rights. The Court finds that neither Appellant's procedural, nor substantive due process rights were violated.

1. Procedural Due Process

In her Notice of Appeal, Kiser contends the School Board violated her right to procedural due process by refusing to issue deposition subpoenas as her attorney requested pursuant to TEDA, S.C. Code Ann. §§ 59-25-470, -490, -500, and -520. Kiser did not present any arguments in her appeal brief or at the appeal hearing to support this contention.

The Court finds Kiser's due process rights were not violated. TEDA provides any party may cause to be taken the depositions of witnesses in accordance with and subject to the same provisions, conditions and restrictions as apply to the taking of like depositions in civil actions at law in the court of common pleas. S.C. Code Ann. § 59-25-490. Kiser sought to depose the three SHS Students who were in the Suburban and interviewed by the SHS Principal. The parties disagreed over the procedure for issuing deposition subpoenas to the SHS Students under TEDA, but the issue was ultimately resolved by Consent Order in which the parties agreed Kiser's counsel was authorized to issue the subpoenas. Kiser was not denied the opportunity to depose the SHS Students, and she did not suffer any prejudice due to any alleged refusal by the School Board to issue deposition subpoenas. Kiser's attorney deposed all three students prior to the School Board hearing. The full transcripts from all three depositions were submitted to and reviewed by the School Board prior to the hearing. Additionally, both parties submitted excerpts from the SHS Students' deposition transcripts to the School Board during the hearing, without objection.

2. Substantive Due Process

Kiser contends the School Board deprived her of her right to substantive due process by allowing its decision to be swayed by public pressure and inaccurate media portrayals of her arrest, rather than the facts presented during the hearing. The Court disagrees.

Dr. Booker testified that he was not swayed by public pressure or media reports, but rather conducted an investigation before issuing his recommendation, which he based on the SCHP incident report, the SHS Students' accounts, and Kiser's admissions during their meeting. Kiser had the opportunity to cross-examine Dr. Booker about his decision to recommend her termination. There is no evidence in the record that Dr. Booker was more concerned with assuaging public outcry than affording Kiser her statutory rights under TEDA. Kiser received all notices and the opportunity for a hearing before the School Board, which is all that TEDA required.

The School Board had broad discretion to consider and weigh the evidence that news of "the Spartanburg High Coach" being arrested was reported throughout the school community and state, which brought discredit to the School District and its ability to maintain community confidence in its ability to protect its students. Kiser did not object to the news reports or move that they be excluded from evidence, and she was not prejudiced by the news reports. She was afforded the opportunity to discredit the media reports, and the School Board heard her testimony that she believed she was unfairly portrayed in the media. However, there is no evidence that any news reports were false, but rather the reports that Kiser was arrested while driving the girls' cross country team, and that the students were detained by law enforcement until their parents arrived, are corroborated by substantial evidence. Even if the Court were to ignore the media reports, there is still substantial evidence to support the School Board's

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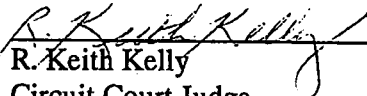
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decision. There is no competent evidence in the record to establish Dr. Booker or the School Board arbitrarily and capriciously based their decisions on media reports or public pressure.

IV. CONCLUSION

There is substantial evidence in the record supporting the School Board's decision to terminate Kiser for conduct manifesting an evident unfitness to teach. Courts will not interfere with the exercise of discretion by school boards in matters committed by law to their judgment unless there is clear evidence the board has acted corruptly, in bad faith, or in clear abuse of its powers. Singleton v. Horry County School Dist., 289 S.C. 223, 227, 345 S.E.2d 751, 753 (Ct. App. 1986). The court finds that there is no evidence that the School Board acted corruptly, in bad faith, or in clear abuse of its powers. Therefore, the School Board's decision is affirmed.

AND IT IS SO ORDERED.


R. Keith Kelly
Circuit Court Judge

November 23, 2015
Spartanburg, South Carolina

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County of Spartanburg

In the Court of Common Pleas

Dedra H. Kiser,

Plaintiff,

-VS-

Spartanburg School District Seven,

Defendants.

2015-CP-42-1688

November 2, 2015

Transcript of Record

BEFORE:

The Honorable Keith Kelly, Judge

APPEARANCES:

David E. Rothstein, Esquire
Attorney for the Plaintiff

Kenneth W. Nettles Jr., Esquire
Ken Darr, Esquire
Attorneys for Defendants

**Renee Tollison, CVR
Circuit Court Reporter**

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EXHIBITS

No	DESCRIPTION	ID	EV
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No exhibits were presented during the hearing

1 November 2, 2015

2 (WHEREUPON, court convened with all parties present,
3 and the following proceedings were had commencing at
4 approximately 9:30 a.m.)

5 THE COURT: Okay. This is Dedra Kiser versus
6 Spartanburg School District Seven. I don't have a motion
7 or anything in the file. I just have a pleading and a --
8 let's see. I have an answer and a pleading is all I have
9 up here.

10 MR. NETTLES: Your Honor, this is an appeal
11 filed by Mr. Rothstein appealing his client's dismissal
12 from her employment as a teacher in the Spartanburg
13 School District Seven. So it's an appeal of the school
14 board's decision.

15 THE COURT: Okay. Do you have a copy of the
16 ---

17 MR. NETTLES: May I approach, Your Honor?

18 THE COURT: Yes, sir.

19 MR. NETTLES: Here's a copy of our -- the
20 respondent's brief. Attached to that is a copy of the
21 board's decision.

22 THE COURT: Oh, good. Okay. Good.

23 MR. ROTHSTEIN: And here's the brief for the
24 appellant, Your Honor.

25 THE COURT: Okay. All right. Thank you.

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1 Okay. All right. Again, Counsel, if you don't mind, put
2 everybody's name on the record for my court reporter,
3 please.

4 Mr. Rothstein?

5 MR. ROTHSTEIN: Yes, Your Honor. I'm David
6 Rothstein from Greenville. I represent the appellant,
7 Dedra Kiser.

8 MR. NETTLES: Good morning, Your Honor. I'm
9 Kenneth Nettles with Lyle, Darr and Clark here in
10 Spartanburg. With me is Ken Darr. We're here on behalf
11 of the respondent, Spartanburg School District Seven.

12 THE COURT: Thank you, gentlemen.

13 Yes, sir?

14 MR. ROTHSTEIN: May it please the Court. Your
15 Honor, again, my name is David Rothstein. I'm a lawyer
16 in Greenville. This case illustrates the dangers of
17 rushing to judgment. Too often in today's society people
18 are swept up in this almost lynch-mob mentality that's
19 fueled by social media and preliminary news stories that
20 appear either on TV or in the paper or on the internet.
21 And it's oftentimes these news stories are based on
22 speculation and appearances before any evidence is
23 obtained about the underlying matter. Sometimes, in this
24 case, outraged parents demand that something be done
25 immediately. There's a lot of public pressure put on the

1 school board to act. Unfortunately, initial impressions
2 about cases are not often accurate.

3 Your Honor, you've probably heard or read about this
4 case. I know you're from the Upstate. I read about this
5 case before Ms. Kiser contacted me. But the bottom line
6 in this case is a good teacher, Dedra Kiser, who'd been
7 ten years with Spartanburg High School is trying to --
8 fighting to save her career because of what we believe is
9 a rush to judgment.

10 Now, backing up by way of introduction, Dedra Kiser
11 is a 43-year-old mother of three children. Her oldest
12 daughter is a sophomore at College of Charleston. She
13 graduated two years ago from Spartanburg High School and
14 is now at College of Charleston on a cross-country
15 scholarship.

16 Ms. Kiser is a life-long native of Spartanburg.
17 She'd been teaching math at Spartanburg High School for
18 ten years. By all accounts, Ms. Kiser is a fantastic
19 teacher. The Spartanburg High School principal in this
20 case, Jeff Stevens, described Ms. Kiser as a, quote,
21 model teacher and as a stellar teacher. She was beloved
22 by students and parents. Several of them who wrote
23 letters of support for her during the school board
24 hearing which were submitted ..

25 And I can pass up if Your Honor doesn't have a copy

1 of the record. This is the notebook of exhibits that we
2 submitted at the school board hearing, Your Honor.

3 She never had any writeups or disciplinary actions.
4 She had great classroom evaluations. The most recent one
5 occurred just days before the incident that we're here
6 about today.

7 And on Friday, September 26, 2014, Your Honor, Ms.
8 Kiser, who was an assistant cross-country coach in
9 addition to being a school teacher at Spartanburg High
10 School, was taking a group of seven girls, members of the
11 Spartanburg High School cross-country team, to a meet
12 down in Charleston. What you've read about in the papers
13 is that Ms. Kiser was arrested for D.U.I. -- for driving
14 erratically, charged with D.U.I. and child endangerment.
15 She was hauled off to jail, and there were pictures of
16 her mug shot and stories about her refusing to take a
17 Breathalyzer test as a result of that incident.
18 Everything looked pretty bad.

19 The day after she was -- she ended up spending the
20 weekend in jail. She got back on a Monday, met with the
21 superintendent and the principal, and they immediately
22 informed her that she was -- they asked for her
23 resignation and said that she -- if she didn't resign,
24 they would take steps to terminate her employment.

25 Your Honor, this case arises under the South

1 Carolina Teacher Employment Dismissal Act. Ms. Kiser was
2 a continuing contract teacher which essentially means
3 that she had an expectation that her teaching job would
4 continue unless there was sufficient cause to terminate
5 her employment.

6 The statute in question, Your Honor, specifies that
7 -- really the only applicable grounds that we're about
8 here today is whether the school district can establish a
9 manifest unfitness for teaching or an evident unfitness
10 for teaching by Ms. Kiser.

11 At the school board hearing, there was substantial
12 evidence that Ms. Kiser drove the vehicle erratically.
13 This was a 1999 Suburban. This car was older than every
14 girl that was in the car, Your Honor. It had over a
15 hundred and twenty thousand miles on it. The assistant
16 principal -- or the assistant coach, John Freed,
17 testified that he had driven that car before, the
18 steering was very loose, and it tended to drift to the
19 right. By all accounts, Ms. Kiser -- this was the first
20 time she had driven that particular car. She had driven
21 a similar car, a 2003 Suburban that the school owned, to
22 a meet the prior year or maybe two meets the prior year.
23 But this was this first time she believes that she had
24 driven this 1999 Suburban.

25 This car is eight and a half feet wide. It's much

1 larger than the vehicle she's used to driving. And
2 there's no question she had difficulty keeping that
3 vehicle in the lanes of traffic the entire time on the
4 way down to Charleston.

5 I think there is substantial evidence in the record
6 that Ms. Kiser is not the best driver in the world. But,
7 Your Honor, that does not manifest in an evident
8 unfitness for teaching. And that's what this case is
9 about. Was Ms. Kiser an unfit teacher?

10 Stepping back to the underlying facts of this case,
11 Your Honor, Ms. Kiser -- this was a Friday morning. She
12 had arranged to take the day off from school, the
13 morning. She knew she had to take the girls down for the
14 cross-country meet at one o'clock. She took the morning
15 off, spent the morning with her mother and a cable
16 installer from AT&T who submitted an affidavit. He spent
17 over four hours with her at her home that morning and is
18 an outstanding alibi witness. He never saw her have
19 anything to drink. He talked to her repeatedly as she
20 was moving in and out of the different rooms. Ms. Kiser
21 was preparing to have her mother come to move -- to live
22 in -- move in with her and live with her family. Her
23 mother had sold a house unexpectedly and had nowhere else
24 to live. And so Ms. Kiser, in anticipation of this day
25 being -- leaving in the afternoon, spent the morning with

1 the cable repairman and her mother arranging the things
2 at the home. There's no evidence that she had anything
3 to drink, any alcohol to drink that day. She was fine by
4 all accounts.

5 About one thirty, she left her home as she was
6 running a littler later than she had hoped to get there.
7 She got to the school about one forty or one forty-five
8 as they were getting ready to leave. And she met with
9 Coach Todd, who is the head coach of the cross-country
10 team, and Coach Freed, the assistant coach, who was
11 driving the boys team down in the other vehicle. They
12 spoke with Ms. Kiser for somewhere between five and ten
13 minutes before the trip started. None of them noticed
14 anything unusual about her behavior. None of them
15 smelled any alcohol on her breath, didn't see her swaying
16 or slurring her speech. Everything seemed to be fine.
17 Coach Freed testified if anything was amiss or he
18 suspected that there was any kind of danger, they would
19 have never let Ms. Kiser to get into that car.

20 Ms. Kiser had difficulty controlling the Suburban
21 from the moment she got in the car. As she left the
22 parking lot at Spartanburg High School, she ran the car
23 over the curb. This is, again, a big vehicle.

24 The original plan was for the boys team and the
25 girls team to drive down together sort of following each

1 other down. They wanted to get to the site of the meet
2 in Charleston early enough so they could walk or jog the
3 course the night before the meet because most of them had
4 not been familiar with the course.

5 As they got into the car, one of the girls who had
6 made a special CD sort of to amp the girls up for the
7 trip, realized that the CD player in the 1999 Suburban
8 didn't work. Either it didn't work or it wasn't a CD
9 player. So they convinced Ms. Kiser to run by one of the
10 girl's houses to pick up a portable CD player so they
11 could play this special music. And Ms. Kiser agreed with
12 that request.

13 Ms. Kiser also realized that she had left her e-
14 cigarette charger at her home. E-cigarettes -- I don't
15 know if Your Honor is familiar with them -- are sort of a
16 new thing. They call it vaping. And it's basically
17 using water vapor to inhale nicotine-type products. It's
18 sort of a liquid, and it produces water vapor rather than
19 smoke. Ms. Kiser had been a long-time smoker. She had
20 been -- she had stopped smoking for over a year because
21 of this e-cigarette system. And she realized that she
22 forgot the e-cigarette charger. It's a little thing that
23 charges the battery. So she went by her house which was
24 about five minutes away to pick up her e-cigarette
25 charger.

1 So they got back in the car. With those two stops,
2 they were approximately fifteen or twenty minutes behind
3 the boys team. Ms. Kiser, growing up in Spartanburg she
4 lived on the east side of town. She went to College of
5 Charleston, and so she always would go from Spartanburg
6 to Charleston on the back road to Clinton. I think it's
7 Highway 56 which, as Your Honor probably knows, is a
8 fairly narrow rural road.

9 There was some discussions among the girls later on
10 that Ms. Kiser had trouble keeping the car on the road,
11 that she would occasionally drift off the right side of
12 the road. And there was some indication that Ms. Kiser
13 may have clipped a mailbox with the rearview mirror. Ms.
14 Kiser never realized that she'd hit a mailbox or caused
15 any property damage. I think one of the girls said
16 something to the effect of, oh, Ms. Kiser, I think you
17 may have clipped that mailbox. And Ms. Kiser thought the
18 girl was joking. They didn't think anything more about
19 it.

20 Got on the highway. Ms. Kiser drove with the
21 regular flow of traffic. As Your Honor knows, I-26 down
22 to Charleston can get pretty fast, especially down past
23 Columbia. There's no question that she was exceeding the
24 speed limit. But if you go seventy miles an hour on the
25 way down to Charleston, you get passed like you're

1 standing still. Ms. Kiser admitted that she's somewhat
2 of an aggressive driver, has a little bit of a lead foot.
3 And she was driving, what the girls said, normally would
4 be seventy to eighty miles an hour. Occasionally she
5 would look down and catch herself and realize that she
6 was going faster than that.

7 A couple of times the girls testified that they
8 said, "Ms. Kiser, you know, you're going too fast. Can
9 you slow down?" And she moderated her speed back down to
10 the normal between seventy and eighty miles an hour.
11 There is testimony that at times she was traveling
12 eighty-five to ninety miles an hour. There's no doubt
13 about that.

14 And there's also no doubt that Ms. Kiser was having
15 trouble keeping that Suburban in the middle of the lanes
16 on I-26. She would hit the rubble strips every once in a
17 while on the left and the right. Again, the assistant
18 testified that that car -- the steering is very loose on
19 that car. We got the maintenance records on that car,
20 Your Honor. And in the sixteen years that the district
21 owned that car, the car had been aligned one time. And
22 there was some -- in the maintenance records, there's
23 also some indication that the car had about a thousand or
24 twelve hundred dollars worth of front-end damage after
25 hitting a deer one time. But there's no indication of

1 the maintenance records that the car was ever aligned
2 after the body work was done after hitting the deer. So
3 Ms. Kiser clearly had trouble keeping the car, you know,
4 straight and narrow, so to speak.

5 Two motorists ended up seeing Ms. Kiser and calling
6 in to the highway patrol saying that they observed that a
7 blue Suburban -- and it seems to be weaving in and out of
8 the road. And a couple of them called and said they were
9 concerned that the driver may be intoxicated.

10 Ms. Kiser, at one point as she's driving down toward
11 North -- getting close to North Charleston, there's a
12 line of traffic ahead of her. And the car in front of
13 her slammed on the brakes, and she had to pull off to the
14 emergency lane to avoid hitting the back of the car. I
15 mean, that happens from time to time. That's happened to
16 me before. I think that's one of the purposes of the
17 emergency lane, but it certainly startled some of the
18 girls. I think that prompted the second call to the
19 highway patrol.

20 As they were approaching North Charleston, they were
21 pretty much in a standstill, stuck in the traffic. And
22 Ms. Kiser got pulled over by a highway patrolman who had
23 pulled in behind her and pulled her off the side of the
24 road. The highway patrolman came up to Ms. Kiser and
25 said, "Can you step out of the car, please?" And Ms.

1 Kiser, I think, said something like, "Can you just give
2 me a speeding ticket?" She acknowledged that she was
3 driving, you know, fast like she normally does. And the
4 highway patrolman said, "No. You need to get out of the
5 car."

6 The highway patrolman proceeded to give Ms. Kiser a
7 field sobriety test. And, again, Ms. Kiser had not
8 stopped. She was sitting in the car for about four hours
9 from Spartanburg to Charleston. And she was asked to
10 stand on the side of the road and hold one leg out and
11 stand for five or ten seconds. And she wobbled a little
12 bit because she's a forty-three year old woman, had been
13 sitting in the same position in the car for over four
14 hours at that time.

15 The field sobriety test also included having Ms.
16 Kiser walk heel-to-toe. Ms. Kiser thought she was
17 complying with the officer's directions. She had on
18 Birkenstock sandals, Your Honor, which are like flip
19 flops. And if you slide your foot back, your foot comes
20 out of the sandal. So Ms. Kiser thought she did fine on
21 the field sobriety test. The trooper said that she did
22 not have her heel and her toe touching each other.

23 The officer also testified that he performed a pen
24 test, follow the pen, and he noticed what's called
25 nystagmus which is a jumping of the eyes. Your Honor,

1 that is very consistent with nicotine. That's a side
2 effect of nicotine. And Ms. Kiser had been smoking the
3 e-cigarette very discreetly in the car on the way down
4 there. The girls didn't even notice Ms. Kiser was using
5 the e-cigarette. She displayed it at the hearing. It's
6 about like a pen, Your Honor. She had it in one hand and
7 periodically would take an inhale on the e-cigarette
8 machine.

9 The trooper testified or stated that he smelled the
10 odor of alcohol about Ms. Kiser. Well, Your Honor, Ms.
11 Kiser was chewing gum, number one. And she was also
12 smoking these e-cigarettes that were -- I think she
13 testified a strawberry-kiwi flavor. So that would
14 certainly explain why there was this odor or fruity smell
15 that the trooper mistook for alcohol.

16 Once the trooper determined that Ms. Kiser, in his
17 mind, had failed the field sobriety test, he handcuffed
18 her and put her in the car. And at that point, Ms. Kiser
19 had no control over what happened to those girls. I
20 mean, this is a horribly unfortunate situation. Ms.
21 Kiser pleaded with the, you know -- with the trooper to
22 at least get her purse or at least let her call the other
23 coach to help come get the girls or whatever. The
24 trooper would have none of that.

25 He took her to the highway patrol headquarters, and

1 Ms. Kiser repeatedly asked to talk with an attorney. She
2 was so frustrated and so shocked that this could happen.
3 She had nothing to drink that day. She was not
4 intoxicated. She kept asking for an attorney. And the
5 trooper finally said, "Look, if you don't blow or give us
6 consent to do this Breathalyzer test, you're going to
7 lose your license." Ms. Kiser said, "I want to talk to
8 an attorney before I do anything." The trooper said
9 that's a refusal to take the test, and they hauled her
10 off to jail. Ms. Kiser never had a chance to tell her
11 story until the school board hearing in this matter, Your
12 Honor.

13 There's no question that this was a horribly
14 unfortunate event. The girls were on the side of the
15 road. They had to be taken to the highway patrol
16 headquarters by a couple of different troopers. The
17 assistant coach came down to the scene, to the highway
18 patrol headquarters, Coach Freed. He talked to all the
19 girls. They said they were all shocked that Ms. Kiser
20 was stopped, first of all. They said they were shocked
21 that she was arrested or given a field sobriety test.
22 They all testified -- they all stated to Coach Freed that
23 they never noticed anything wrong with Ms. Kiser's
24 appearance. Never smelled any alcohol. She didn't act
25 unusual. Other than the, you know, the poor driving,

1 there was nothing consistent with being intoxicated or
2 driving under the influence.

3 Coach Freed asked the highway patrolman, "Look, I've
4 got permission slips for these girls. We're in loco
5 parentis for the weekend, taking them down to this meet
6 in Charleston. Can you release the girls to me and I'll
7 take responsibility for them?" The trooper wouldn't
8 budge. He said, "Nope. These girls are in legal
9 custody. The only people we can release girls to are
10 their parents." And he said, "If the parents don't get
11 down here by ten o'clock tonight, we're going to release
12 them to D.S.S. custody for the weekend and ..." or foster
13 care or whatever.

14 So Coach Freed gets on the phone with the
15 superintendent. The superintendent tries to intervene
16 and tries to convince the trooper to let Coach Freed to
17 take custody of the girls. He has none of it. So again,
18 this is a terrible situation. The girls' parents are all
19 called. They all make it down to the highway patrol
20 headquarters before ten or ten thirty that night and get
21 the girls. Again, Ms. Kiser, once she was handcuffed and
22 put in the back of that car, had absolutely no control
23 over what happened next.

24 So, Your Honor, that's the factual background about
25 what happened. The legal standard in this case, again,

1 is set forth in the South Carolina Teacher Employment
2 Dismissal Act. And, Your Honor, the coded citation to
3 that is § 59-25-430. And, Your Honor, this says that any
4 -- quote, it says, "Any teacher may be dismissed at any
5 time who shall fail or who may be incompetent to give
6 instruction in accordance with the directions of the
7 superintendent or who shall otherwise manifest an evident
8 unfitness for teaching." That last phrase, "who shall
9 otherwise manifest an evident unfitness for teaching," is
10 what we're here about today, Your Honor.

11 The statute gives examples of what evident unfitness
12 for teaching means. Persist neglect of duty, willful
13 violation of rules and regulations of district board of
14 trustees, drunkenness, conviction of a violation of the
15 law of this state or the United States, gross immorality,
16 dishonesty, illegal use, sale or possession of drugs or
17 narcotics. Those are the examples the statute gives.
18 And that list is not exhaustive. But that gives you a
19 pretty good example -- indication that evident unfitness
20 for teaching is a pretty significant issue. I would
21 submit, Your Honor, that poor driving, as Ms. Kiser
22 displayed in this case, does not equal evident unfitness
23 for teaching.

24 Ms. Kiser was an assistant coach. She had a
25 separate supplement to her teaching contract that said

1 she's allowed or employed to be an assistant coach for a
2 year. There's no tenure or continuing expectation or
3 right. She's essentially an at-will employee. And, Your
4 Honor, I would submit that teaching does not involve
5 driving the students around. Coaching involved driving
6 the students around. And if the school district had an
7 issue of how she was driving the students, they should
8 have terminated her coaching contract or said, you're not
9 allowed to drive the girls anywhere, or given some other
10 type of remedial measures. But destroying this good
11 tenured teacher's career is excessive.

12 Your Honor, the other part of § 59-25-430 is if a
13 teacher is arrested for a crime and charged with a crime
14 -- I'll read the statute. It says, Your Honor, "When any
15 teacher is charged with a violation of the law in this
16 state or the United States which, upon conviction, may
17 lead to or be cited as a reason for dismissal, such
18 teacher may be suspended pending resolution of the
19 charges and receive his or her usual compensation during
20 the suspension period, such compensation not to exceed
21 the term of the teaching contract. If the teacher is
22 convicted, including pleading guilty or nolo contendere
23 to the charges, he or she may then be subject to
24 dismissal proceedings. If no conviction results, his or
25 her suspension shall be terminated."

1 So a criminal charge alone against a teacher is not
2 enough to justify a termination for cause under the
3 Teacher Employment Dismissal Act. The South Carolina
4 Supreme Court has held that in Shell versus Richland
5 County School District One. Your Honor, that was a case
6 where a teacher was arrested for suspected selling of
7 crack cocaine or some other type of drug transaction.
8 And he was immediately terminated from his teaching
9 contract at Richland School District One. And the Court
10 held, you know, you can't terminate someone for the
11 arrest. You have to await the criminal proceedings, let
12 them take their course, before you can act on that.

13 Spartanburg School District Seven policy, Your
14 Honor, also addresses the procedures that should be taken
15 when a teacher is arrested. And I'm quoting from the
16 school district's exhibit. And I've got -- and I think
17 you probably have their notebook as well. This is
18 Superintendent's Exhibit 7, which is policy GBEB under
19 staff conduct. And it states, quote, "Employees arrested
20 for a misdemeanor offense which would indicate a possible
21 danger or appearance of danger to the school district,
22 co-employees or to pupils will normally be suspended with
23 pay pending adjudication." So the school district's
24 policy is if a teacher is arrested for a crime, a
25 misdemeanor, that teacher is normally suspended with pay

1 awaiting the outcome of the criminal case.

2 Well, Your Honor, in this case, the superintendent
3 didn't wait for the criminal proceedings to take their
4 course. The district completely ignored its own policy
5 and instead chose to terminate Ms. Kiser immediately.
6 And we believe, Your Honor, that that termination was
7 prompted or motivated by the negative press that arose
8 from Ms. Kiser's arrest, pictures of her mug shot in the
9 papers, comments on social media that demanded her
10 termination. And we think that this case, again, was a
11 rush to judgment. Again, poor driving or poor operation
12 of that vehicle did not manifest an unfitness for
13 teaching. It may have manifested an unfitness for
14 driving. That is not a part of Ms. Kiser's teaching
15 responsibilities.

16 One of the witnesses in this case, Your Honor, was
17 Ms. Kiser's department chair in the math department, a
18 teacher named Lisa -- if you'll give me a second, Your
19 Honor, I'll find her last name. I beg the Court's
20 indulgence for one minute.

21 THE COURT: Yes, sir.

22 MR. ROTHSTEIN: Your Honor, I can't seem to put
23 my hands on it. But the teacher was a 22-year veteran
24 school teacher. She was Ms. Kiser's immediate department
25 chair. She testified that in her twenty-two years of

1 teaching, she had never had to drive students anywhere.
2 I also showed her a copy of a written job description for
3 teachers within the district, and nowhere does it say
4 that teachers have the job responsibility to drive a
5 vehicle. Certainly it says teachers have a duty to
6 safeguard the well-being of the children or to take steps
7 that ensure the safety of the children, but Ms. Kiser --
8 I think the logical problem is that the school district
9 is trying to say that Ms. Kiser's driving on the day in
10 question indicates that somehow she will be a danger to
11 the students in other contexts.

12 Your Honor, that issue could have been fixed by
13 terminating Ms. Kiser's assistant coaching job saying,
14 you can't drive girls around, you know, until we sort out
15 this criminal D.U.I. case or whatever. But they should
16 not have taken her teaching contract.

17 I'll be happy to answer any questions you have, Your
18 Honor. I appreciate your consideration.

19 THE COURT: Yes, sir.

20 Okay?

21 MR. NETTLES: Your Honor, may it please the
22 Court.

23 THE COURT: Yes, sir.

24 MR. NETTLES: With all due respect to Mr.
25 Rothstein, this case is about much more than trivial poor

1 driving. Every day Spartanburg School District Seven is
2 entrusted with caring for and educating thousands of
3 students. Parents put their children on busses. They
4 drop them off. They leave them in the care and trust
5 them to the care of the school district and the school
6 district's employees. And that's what this case is
7 about.

8 This case is about an employee who failed to
9 exercise good judgment, who failed to exercise reasonable
10 care to protect the safety and the well-being of seven
11 girls, ages thirteen to seventeen years old, who had been
12 entrusted to her care, who had been entrusted to her to
13 drive them to Charleston safely, get them there safely.
14 And she failed to do that.

15 This isn't a case of rushing to judgment. This
16 isn't a case of Ms. Kiser not having her opportunity to
17 tell her side of the story. She had an opportunity to
18 meet with the superintendent, Dr. Russell Booker, before
19 he made his recommendation to the school board. And in
20 that meeting, she didn't say anything to Dr. Booker about
21 the Suburban was too big. It was drifting off the road
22 because of loose steering. I had trouble controlling it.
23 She admitted she was speeding. She admitted that she was
24 speeding and endangering those students to Dr. Booker,
25 and that was the basis for his recommendation.

1 Dr. Booker specifically testified that, yes, he got
2 a call from a news reporter on Monday morning. This
3 incident occurred on Friday. Monday morning he gets to
4 his office. First thing he gets is a call from a
5 reporter. But he testified at the hearing that wasn't
6 enough. That wasn't what I was basing my decision on.

7 He conducted an investigation. He directed the
8 principal to go and interview three of the high school
9 students who were in that car. He got a copy of the
10 highway patrol incident report. He reviewed it. And
11 then he met with Ms. Kiser, and he talked to her about
12 it. He let her tell her side of the story before he made
13 his decision. And it was after that meeting and after he
14 considered the accounts of the three high school students
15 and after he reviewed the incident report that he made
16 his recommendation.

17 Now, state law vests the school board with the power
18 and the duty to discharge teachers when good and
19 sufficient reasons for doing so are present. As Mr.
20 Rothstein pointed out, § 59-25-430 provides for the
21 immediate removal to terminate a teacher at any time
22 whose conduct manifests unfitness to teach. And as Mr.
23 Rothstein pointed out, the statute itself says here are
24 some examples of what types of conduct manifests an
25 evident unfitness to teach. But the statute says, "...

1 such as but not limited to." And the courts that have
2 interpreted that section of the statute have extended it
3 beyond classroom responsibilities.

4 For example, in Felder versus Charleston County
5 School District, the teacher -- the school board
6 terminated a teacher for participating in a student
7 protest and telling students they didn't have to go back
8 to class in direct contravention of the principal's
9 instructions that they return to class. And the Court
10 found that insubordination was sufficient conduct
11 manifesting evident unfitness for teaching. And it
12 justified her termination.

13 In Berry versus Charleston County School District,
14 the school board terminated a teacher for stealing ice-
15 cream fund-raiser money. Had nothing to do with her
16 classroom reports. But her dishonest conduct in stealing
17 that money was sufficient conduct to manifest an evident
18 unfitness for teaching.

19 So the question of whether Ms. Kiser's conduct in
20 taking these children to Charleston and the manner in
21 which she conducted herself, whether that conduct
22 manifests evident unfitness for teaching was a question
23 within the discretion of the school board. And it's one
24 that the school board is particularly qualified to make.

25 Now, cases hold the courts can't substitute their

1 judgment for the judgment of the school board. "Courts
2 will not interfere with the exercise and discretion by
3 school boards in matters committed by law to their
4 judgment unless there's clear evidence the board is
5 acting corruptly, in bad faith or in clear abuse of its
6 powers." And that was the Court's language in Singleton
7 versus Horry County School District. So the primary
8 issue here on this appeal is whether there's substantial
9 evidence in the record to support the school board's
10 decision.

11 Now, the school board hearing is a quasi judicial
12 proceeding. So the rules of evidence do not strictly
13 apply. The civil rules of procedure do not strictly
14 apply. The board has wide latitude to admit what
15 evidence it deems appropriate and to weigh that evidence.
16 And the only question is whether in doing so is there
17 substantial evidence to support their decision. In this
18 case, there's more than substantial evidence. As Mr.
19 Rothstein conceded, there is substantial evidence in the
20 record of Ms. Kiser's erratic driving. Not only was it
21 erratic driving; it was reckless and dangerous driving.

22 The night before driving these children down, Ms.
23 Kiser admitted she had several glasses of wine. She
24 stayed up until two o'clock in the morning. She woke up
25 at six o'clock in the morning. She didn't shower. She

1 was engaged in strenuous physical labor that morning.
2 She admitted she was tired. But she got in that car.
3 She got in the car, and she leaves the parking lot. And
4 the students testified she hit a curb going out of the
5 parking lot. She admitted that. She testified at the
6 hearing, "It's possible I hit that curb."

7 Then she makes two detours. As Mr. Rothstein said,
8 "The plan and the expectation was that the girls were
9 going to caravan with the boys." As soon as she leaves
10 that parking lot, she makes two detours. She goes to a
11 student's house, and she goes to her house to get an e-
12 cigarette charger. So she's behind. She's already
13 deviated from the plan. She's twenty to thirty minutes
14 behind schedule and behind the boys.

15 So then we get on Highway -- well -- and before we
16 even leave Spartanburg, the three high school students --
17 they have statements and testimony that are in the
18 record. And they're in the record without objection.
19 They testified that not only did she hit the curb pulling
20 out of the parking lot, she was speeding through town,
21 going so fast that she missed a turn on the way to the
22 student's house. She ran a red light, slammed on brakes
23 and was stuck out in the intersection. Sits through
24 several cycles of the red light and then decides she's
25 just going to go ahead and run it and makes a left-hand

1 turn across oncoming traffic against a red light.

2 On Highway 56, a two-lane road between Spartanburg
3 and Clinton, three students testified that she was
4 driving really fast. She was drifting off the edge of
5 the road. The mirror clipped a mailbox. Ms. Kiser
6 testified at the hearing, "It is possible I hit the curb.
7 It's possible I drifted off the road."

8 Then we get on Interstate 26. All three of these
9 high school students who were in the car testified in
10 their depositions -- and this is testimony elicited by
11 Mr. Rothstein's questioning in their depositions -- she
12 was flying. She was driving really, really fast. She
13 wasn't just driving seventy to eighty miles an hour; she
14 was driving ninety to ninety-five miles an hour or more.

15 Ms. Kiser testified that she was driving like she
16 normally does. She said, "I was driving like I normally
17 drive with my children in the car." But she testified
18 she drives aggressively and she drives fast. And these
19 weren't her children.

20 She admitted in her testimony at the hearing she was
21 going along with the flow of traffic. "And at times, I
22 would see myself going eighty-five, ninety." On the
23 interstate, she's drifting across lanes of traffic. She
24 admitted to drifting off the side of the road. She
25 admitted to slamming on brakes and swerving off the road

1 in order to avoid hitting the car in front of her. But
2 here is one of the student's account of that incident.
3 This isn't just a routine coming up on traffic a little
4 bit too quick, let's hit the brakes. One student
5 testified, "And we were going so fast that she had to
6 pull off the side of the road because if she hadn't, we
7 would have slammed full force into the car in front of
8 us. We slid in right next to them. And it would have
9 been really bad."

10 Again, Ms. Kiser herself corroborated the student's
11 account. She testified that she had to slam on brakes
12 and go off the right of the road to avoid hitting the car
13 in front of her. Two other drivers on Interstate 26
14 called 9-1-1 because her driving was so bad. They both
15 -- two people who didn't know each other, had never
16 talked to each other, two independent witnesses,
17 separately called 9-1-1. And both of them identified the
18 Suburban as swerving all over the road. One of the
19 callers said -- and I quote -- "I think she might be
20 intoxicated to be honest with you. Oh, my God, they need
21 to stop her."

22 One student being deposed by Mr. Rothstein said the
23 9-1-1 recordings were accurate. Not only do we have the
24 students' accounts, not only do we have two callers
25 calling in and making 9-1-1 calls, not only do we have

1 Ms. Kiser's own admission, we have an affidavit from an
2 off-duty Goose Creek Police Officer. He observed Ms.
3 Kaiser in his rearview mirror tailgating him. He was in
4 a marked car, and she's tailgating him. So he lets her
5 pass. He follows her. He observes her swerving from
6 side to side across the fog lines and center lines of
7 traffic, drifting across and straddling the center line,
8 occupying two lanes. And he also saw her slam on brakes
9 and swerving off the road to avoid hitting the car in
10 front of her. So by now, 9-1-1 dispatcher has issued a
11 be on the lookout for a reckless driver in a blue
12 Suburban. That's why she was stopped.

13 Now, Mr. Rothstein said she had no -- once she was
14 stopped, she had no control over the situation. But this
15 case isn't about what happened after she was stopped.
16 This case is about she got stopped. And she got stopped
17 because she was driving dangerously and recklessly and
18 she had seven school district students in the car. And
19 because she got stopped, she got arrested. And because
20 she got arrested, seven school district students whose
21 parents were four hours and two hundred miles away were
22 taken into emergency protective custody by law
23 enforcement. They were taken to the police station where
24 they were detained. And they were told, if your parents
25 don't come pick you up, you will be remanded to D.S.S.

1 custody. There's evidence in the record. The school
2 district submitted copies of highway patrol call history
3 reports. And those reports show that calls were made to
4 Charleston County D.S.S. and Spartanburg County D.S.S.
5 concerning six to seven girls under the age of seventeen
6 on that same day.

7 So here we have a teacher and a coach with seven
8 students in her car driving so dangerous, so erratically,
9 so recklessly that she gets pulled over. She gets pulled
10 over. She's asked to step out of the car. These seven
11 students are in the car. They're a captive audience in
12 this Suburban. They see their teacher and their coach
13 being administered a field sobriety test. And the
14 district did not even introduce evidence at the board
15 hearing for the purpose of proving whether she was or was
16 not intoxicated.

17 Those students watched her conduct a field sobriety
18 test. They watched her being placed into handcuffs.
19 They watched her being placed in a patrol car. And they
20 did testify that they were shocked. One student
21 testified, "I was shocked because I trusted her." Not
22 only were they shocked, I was scared and shocked, one of
23 the high school students said some of the girls started
24 crying. One of them was, quote, really stressed out
25 because the highway patrol officer told them they had to

1 call their parents. Well, her parents weren't answering
2 her calls. So they weren't surprised -- they may have
3 been surprised. If they trusted her, they should have
4 been surprised. But they were scared. They were
5 shocked. They were taken into police custody. They were
6 no longer in the teacher's care. The woman who was
7 entrusted to supervise them, protect them and get them to
8 Charleston safely, they were removed from her care and
9 supervision. So there's more than substantial evidence
10 in the record.

11 And I want to point out -- again, we're under TEDA,
12 and so -- and only the school board has the power to fire
13 a teacher. The superintendent makes the recommendation
14 to the school board. And in his letter -- this is his
15 September 29th, 2014, letter to Ms. Kiser. And this is
16 the school district's exhibit 3. Dr. Booker gave Ms.
17 Kiser written notice for the grounds of her termination.
18 And in that letter he says, "This conduct represents,
19 among other things, an evident unfitness for teaching due
20 to the extreme hazard to the safety and well-being of the
21 student athletes entrusted to your care, misuse of a
22 school district vehicle and multiple violations of the
23 law and school district policy, not to mention extremely
24 poor judgment." He doesn't say anything about her being
25 recommended for termination based on an arrest or any

1 pending charges for any violation of state or federal
2 law. But what he does say is you placed these students
3 in extreme hazard to their safety and well-being. And
4 that's a violation of her contract, her job description,
5 and against school board policies.

6 As a continuing contract teacher, Ms. Kiser had an
7 employment contract that required her to comply with all
8 school board policies and procedures. Her written job
9 description, while it doesn't say that driving is one of
10 her responsibilities as a teacher -- and this is the
11 school district exhibit 6 -- number 14, "Takes all
12 necessary and reasonable precautions to protect students
13 and to properly care for all property, equipment,
14 materials, and facilities." "All necessary and
15 reasonable precautions to protect students ..." And I
16 would submit that driving ninety to ninety-five miles an
17 hour, swerving all over the road and swerving off the
18 road to avoid having a wreck is not taking all necessary
19 and reasonable precautions to protect these students.

20 In addition, her conduct violated multiple staff
21 conduct policies. The school district's exhibit 7, there
22 are five different staff conduct policies that she's
23 violated. These policies required -- and I quote -- and
24 this is policy G.B.E., Staff Rights and Responsibilities.
25 "Essential to the success of ongoing school operations

1 and the instructional program are the following specific
2 responsibilities which the school district requires of
3 all personnel" So it doesn't matter if you're a
4 teacher, a coach, a janitor, a chaperone, volunteer.
5 It's all personnel. "... concern and attention towards
6 his/her own and the board's legal responsibility for the
7 safety and welfare of students." I can't imagine that
8 driving ninety to ninety-five miles an hour and engaging
9 in other reckless conduct that results in seven students
10 being remanded to protective custody exhibits concern and
11 attention towards her own or the board's legal
12 responsibility to protect those children.

13 Policy G.B.E.B.B. requires all employees to exercise
14 good judgment and maintain professional boundaries when
15 interacting with students in all curricular and
16 extracurricular activities, again, whether you're a
17 teacher or a coach, both on and off school property,
18 whether you're in the classroom or whether you're
19 transporting a team of student athletes to Charleston.

20 So, Your Honor, there's more than substantial
21 evidence in the record to support the board's decision to
22 terminate Ms. Kiser because of the conduct that she
23 engaged in before she got charged with D.U.I. and
24 endangering students. They terminated her because she
25 placed these children in harm's way. She didn't exercise

1 good judgment or any reasonable care. And as a result,
2 these children were taken into police protective custody.
3 Their parents had to drive from Spartanburg to Charleston
4 to pick them up.

5 Now, with regards to the evidence in the record
6 concerning the loose steering, the difficulty that Ms.
7 Kiser had with keeping the vehicle on the road, Coach
8 Freed, who is the assistant coach for the boys cross-
9 country team, had driven this vehicle before. And I
10 believe he testified he didn't have any trouble. He
11 thought it was safe. Coach Todd who was the head coach
12 for the cross-country team testified that he knew it was
13 safe. They all testified, along with Dr. Booker, that if
14 they believed that vehicle was not safe, they would not
15 have put those children in it and allowed them to be
16 driven two hundred miles to Charleston in an unsafe
17 vehicle.

18 Again, the board had discretion to weigh Dr.
19 Booker's testimony, Coach Freed's testimony, Coach Todd's
20 testimony and Ms. Kiser's testimony and determine what
21 they believed to be the case and weigh the credibility
22 and assign the weight to the evidence that in their
23 discretion they believed was proper. They didn't exclude
24 any evidence.

25 Her termination was not premature. Again, her

1 termination was not based on her arrest or any pending
2 criminal charge. So the portion of § 59-25-430
3 concerning conviction for violation of law doesn't even
4 come into play here. She was terminated because she
5 failed to comply with her duty and her responsibilities
6 to exercise good judgment and reasonable care to ensure
7 the safety of these students who were entrusted to her
8 care in violation of her contract, in violation of her
9 written job responsibilities and in violation of multiple
10 school board policies concerning staff conduct.

11 Mr. Rothstein made a comment that once she was
12 stopped, she had no control over the situation. But that
13 ignores the fact that she had complete control over the
14 situation before she got stopped. She was in sole
15 control. She was the authority. She was the adult. She
16 was the district employee. She was in charge of that
17 vehicle, not the seven girls that were in it. So she was
18 in complete control of speeding, running off the road,
19 engaging in this erratic driving that caused other people
20 on the highway to have enough concern to report her to 9-
21 1-1.

22 So, again, this isn't a case of poor of driving.
23 She wasn't terminated because she's a bad driver. She
24 could control her driving.

25 The district complied with all the TEDA notice

1 requirements. The procedural requirements of written
2 notice and opportunity for a hearing were complied with.
3 She had her hearing. She was present the entire hearing
4 with Mr. Rothstein. She had the opportunity to cross-
5 examine the administration's witnesses. She had the
6 opportunity to hear all the evidence against her, to
7 present her own evidence, to present her own witnesses
8 and to present all defenses. There was no violation of
9 her due process rights.

10 With regards to media reports, again, Dr. Booker is
11 the one that made the recommendation to the school board.
12 And his recommendation was based on his investigation,
13 not media reports. Again, the school board has the
14 discretion to consider the fact that within forty-eight
15 hours of this incident that it was being reported -- not
16 just in the local school district community, but all over
17 the state -- that a Spartanburg High School teacher had
18 been arrested and charged with D.U.I. with seven students
19 being entrusted to her care. That brings discredit on
20 the school district. It brings into question in the
21 community the school district's ability to protect the
22 students. It raises doubts and concerns in the
23 community, sure. But there's nothing that says that the
24 school board can't consider that as a factor.

25 There's no evidence of any outraged parents putting

1 any pressure on the superintendent or any member of the
2 school board. There's no evidence that any of the school
3 board members were persuaded by any media report.

4 And the board didn't exclude any evidence that was
5 presented by Ms. Kiser. There are multiple grounds
6 stated in the notice of appeal that the board disregarded
7 her alibi witnesses. Well, no, the board didn't. The
8 board didn't exclude any of her witnesses. The board,
9 again, has discretion to give what weight they decide is
10 appropriate to their testimony. And here she presented
11 alibi witnesses who say she had not been drinking and was
12 not intoxicated. Well, in the board's written decision,
13 they acknowledged that Ms. Kiser denied she was
14 intoxicated at the time she was stopped. They
15 acknowledged that. So it wasn't that they disregarded
16 their testimony, but they were more concerned about the
17 fact that her conduct prior to being charged with D.U.I.
18 placed these children in direct harm's way, and it
19 resulted in them being taken into protective custody.
20 And when they were taken into protective custody, law
21 enforcement would not release them back to the school
22 district.

23 Coach Freed, the assistant coach, went to try to get
24 them. And by the way, Coach Freed, as a result of this,
25 had to leave the boys team unsupervised in their hotel

1 room because he was put in a position of having to stay
2 with the boys or try to get the girls. And so he chose
3 to go to try to get the girls. Law enforcement said, we
4 can't release them to you. We can only release them to
5 their parents. Dr. Booker did his best that night to try
6 to convince law enforcement to please release them back
7 to Coach Freed or a school district official. They would
8 not do it. They could not do it. And so these girls sat
9 there in that police station for at least four to five
10 hours waiting for their parents to get there.

11 So, Your Honor, based on the record, I would submit
12 to the Court there's more than substantial evidence to
13 support the school board's decision in this case. There
14 is -- their decision was not arbitrary or capricious. It
15 was not based on any corruption. There's no evidence of
16 bad faith, undue influence, anything of that nature. I
17 mean, the board made a decision based on the school
18 district's best interest.

19 In this case we have we have an employee, whether
20 she's acting as a teacher or a coach, engaged in conduct
21 that had such serious consequences it put into doubt
22 whether they could trust this lady to be in a classroom
23 or a car or at a school dance or anywhere where she's
24 entrusted to provide for the safety and well-being of
25 these students because of what happened on that day. So

1 I would ask the Court to please affirm the school board's
2 decision. Thank you, Your Honor.

3 THE COURT: Thank you.

4 MR. ROTHSTEIN: Your Honor, if I could just
5 briefly respond to a few things that Mr. Nettles said?

6 THE COURT: Yes, sir.

7 MR. ROTHSTEIN: And, Your Honor, this is a
8 fairly complicated issue. And I think the only way to
9 resolve this matter from Your Honor's perspective is to
10 read the transcript. It's not a long hearing. The
11 hearing was about three hours long. I think it was
12 pretty straightforward.

13 Mr. Nettles, one of the first things he said when he
14 stood up -- and I actually wrote it down -- is he said
15 Ms. Kiser was fired because she failed to exercise good
16 judgment and failed to exercise reasonable care. And he
17 repeated that phrase at least two other times during his
18 argument. I would respectfully submit, Your Honor, that
19 failure to exercise good judgment and failure to exercise
20 reasonable care in driving a car does not equal manifest
21 -- or does not manifest in evident unfitness for
22 teaching. If the standard was failure to exercise good
23 judgment, that would completely gut the entire Teacher
24 Employment Dismissal Act. That would take away the
25 teachers' rights under that law to be terminated only for

1 evident unfitness for teaching.

2 Mr. Nettles cited two specific examples of cases
3 where circuit courts or appellate courts have upheld
4 teacher terminations. One of them he mentioned was a
5 teacher told students that they didn't need to go back to
6 class after a protest in direct contravention of the
7 principal's duties. Well, Your Honor, that's
8 specifically addressed in the Teacher Employment
9 Dismissal Act. Teacher Employment Dismissal Act says a
10 teacher can be terminated if she fails to give
11 instruction in accordance with the directions of the
12 superintendent. That's not the manifest unfitness for
13 teaching section we're talking about here. That is a
14 direct insubordination to the principal. I mean, that
15 clearly can't be tolerated with a teacher.

16 The other example he gave was a teacher who stole
17 fund-raising money from the school. Well, Your Honor,
18 the statute under evident unfitness for teaching
19 specifically says dishonesty is an example of an evident
20 unfitness for teaching. This is not just good judgment
21 equals, you know, bad teacher or failure to exercise good
22 judgment or equal care equals bad teacher.

23 I concede that Ms. Kiser is not a model driver. I
24 have a daughter who is seventeen years old. At the time
25 of this incident, she was the exact age of two of the

1 girls in that vehicle. And My daughter is at Greenville
2 High School and is a volleyball player. If she got in
3 the car with a coach and there was reports of the coach
4 driving ninety to ninety-five miles an hour, I'd be
5 pretty upset about that. But that is not evident
6 unfitness for teaching in the school system, Your Honor.

7 Your Honor, one thing that Mr. Nettles mentioned is
8 that Dr. Booker in his termination letter didn't mention
9 anything about the criminal charges. Well, I would
10 submit that the termination letter does mention the
11 criminal charges. It says, "multiple violations of the
12 law." And I think the most telling document on that,
13 Your Honor, is our exhibit C. And if you'll look at the
14 notebook I've handed up, exhibit C is a letter that
15 Assistant Superintendent Carlotta Redish wrote to the
16 South Carolina Department of Education two days after Ms.
17 Kiser was informed that she was going to be terminated.
18 And Dr. Redish wrote for one, "I would like to report the
19 separation of employment of Dedra Kiser," number two,
20 "Ms. Kiser has been charged with driving under the
21 influence and child endangerment in Charleston County."
22 Those are the only two things that Dr. Redish cites to
23 the Department of Education as the grounds for Ms.
24 Kiser's termination.

25 I think it's grossly misleading to say that Ms.

1 Kiser was flying down I-26 going ninety or ninety-five
2 miles an hour.

3 And I would direct your attention, Your Honor, to
4 the deposition transcript that's in the record. This is
5 a student whose initials are M.G. And on page twenty-two
6 of her deposition, I asked her, "How many times would you
7 say you saw Ms. Kiser or noticed her driving over ninety
8 miles an hour?" Answer, "I saw it three times."
9 Question, "Did you mention it to her every time?"
10 Answer, "Yes, sir." Question, "And she would slow down
11 after you mentioned it to her?" Answer, "Yes, sir."
12 Question, "How fast was she normally driving when you
13 pointed out to her that she was going ninety or ninety-
14 five? What was her sort of normal rate of speed on the
15 trip?" The student responded, "Seventy to eighty if
16 there wasn't any traffic." So this was a situation where
17 Ms. Kiser occasionally would not be paying attention to
18 the speedometer. The car didn't have cruise control.
19 She looked down at the speedometer or the girls may have
20 said, Ms. Kiser, you're going too fast, and she would
21 moderate her speed. This isn't just her deliberately
22 flying down the road throughout the entire trip.

23 The 9-1-1 recordings are interesting too, the calls
24 from the drivers, and even the Goose Creek police officer
25 later. None of them mention speeding. They mentioned

1 she was having trouble keeping that car in the lines. If
2 you've ever -- I mean, I have a Honda Pilot which is not
3 nearly as big as this car. And I hit the rumble strips
4 all the time going down the highway. It's hard for me to
5 judge exactly where the right edge of that car is. I
6 submit that's exactly what happened with Ms. Kiser. She
7 was straddling the fog lines. She was in two lanes of
8 traffic. And, yes, there's no dispute that at one point
9 she slammed on the brakes and had to get off the right
10 side of the road. She did a good job avoiding a
11 collision in that sudden emergency.

12 I agree that the circumstances after Ms. Kiser was
13 pulled over were horrific. If I were a parent, I would
14 be outraged by this. If my child was at Spartanburg High
15 School and I saw mug shots of a teacher in the paper, I'd
16 be pretty upset about that. But, again, that's the rush
17 to judgment that this case is about. The Teacher
18 Employment Dismissal Act says if a teacher is charged
19 with a crime, you need to let the criminal process take
20 its place. You suspend the teacher if you think the
21 teacher can be a danger to the students or you have other
22 grounds for suspending her, but you wait until the
23 criminal process takes place.

24 Your Honor, this police officer was not going to
25 take someone questioning his authority or questioning

1 whether the teacher failed the field sobriety test or
2 whether she should have given the Breathalyzer or not.
3 He wouldn't even allow the superintendent to convince him
4 to release the students to the assistant coach that day.
5 And Ms. Kiser has since found out that -- and she
6 testified in the hearing -- that the trooper has now been
7 terminated from the highway patrol because of misconduct
8 in front of a judge. That is a matter for the criminal
9 process to take place. And the school district needs to
10 await the end of the criminal proceeding before they make
11 a decision about Ms. Kiser's employment in this case.

12 So, Your Honor, I do submit that this was a
13 premature act that was motivated primarily by the public
14 outcry and the bad press reports, as Mr. Nettles said.
15 The school district was put in a horrible light because
16 of the reports of the arrest. It felt like it had to do
17 something. And in doing so, it trampled on the rights of
18 this tenured school teacher. And I would submit, Your
19 Honor, that there is no manifest unfitness for teaching.
20 There may be evident unfitness for driving, but there's
21 no evident unfitness for teaching. Thank you.

22 MR. NETTLES: Your Honor, may I respond
23 briefly?

24 THE COURT: Yes, sir.

25 MR. NETTLES: First of all, this is not the

1 highway patrol officer's fault. He was responding to a
2 call of a reckless driver. And as soon as he makes the
3 stop is told by an off-duty police officer, she's driving
4 like an idiot like she's intoxicated. I mean, the
5 highway patrol officer is not at fault here. And I would
6 never blame the highway patrol officer for being cautious
7 and being on guard and being stern with someone who has
8 been pulled over for reckless driving and possibly
9 driving under the influence.

10 With regards to Mr. Rothstein's exhibit C, the
11 letter to the State Department of Education, an assistant
12 superintendent has no authority to recommend or terminate
13 a teacher. The assistant superintendent was responding
14 to a State Department of Education request because they
15 had seen the media reports and they had learned about it
16 through sources outside of the school district. They
17 made a request for information to the school district, so
18 she was responding to their request for information.

19 Dr. Booker's termination letter, again, starts out,
20 "Following reports of your extremely dangerous driving
21 while transporting student athletes in a school district
22 vehicle and your arrest in Charleston County for D.U.I.
23 and child endangerment ..." First sentence, "Following
24 reports ..." But you go down to the paragraph where he
25 states the basis for his recommendation, and it's

1 endangering those children.

2 With regards to failing to exercise good judgment
3 and reasonable care, her failure to exercise good
4 judgment and her failure to exercise reasonable care to
5 protect those students and ensure their safety was a
6 direct violation of her job responsibilities and school
7 district policies. TEDA expressly states that conduct
8 manifesting evident unfitness to teach includes willful
9 violation of school district policies. So we're well
10 within the confines of TEDA.

11 With regards to the Felder case that concerned the
12 teacher who was terminated after encouraging students to
13 engage in a protest rather than returning to class,
14 here's what the Court said. This is the State Supreme
15 Court. "The circuit court exceeded the scope of judicial
16 review in this case. Kirby's testimony regarding
17 Felder's insubordination is substantial evidence to
18 support the board's determination that Felder's conduct
19 evidenced unfitness to teach, substantially interfered
20 with the performance of her duty and constituted
21 unprofessional conduct." And, again, we're talking about
22 conduct outside the classroom.

23 Now, I want to just point out one last thing with
24 regards to the school board's decision. And it's in the
25 next to the last paragraph, page seven, of the school

1 board's decision, paragraph eight. The board said,
2 "Student safety is of paramount concern of the board.
3 Ms. Kiser recklessly endangered the safety and well-being
4 of seven students in violation of board policies and
5 expectations governing staff conduct and responsibility
6 to students. As a result, she cannot be entrusted with
7 the supervision and protection of school district
8 students which is a primary and essential responsibility
9 of her job as a teacher and coach." This is about that,
10 Your Honor. It's about the students and protecting the
11 safety and the welfare of students who are entrusted to
12 the school district every day.

13 THE COURT: Okay.

14 MR. NETTLES: Thank you, Your Honor.

15 THE COURT: Thank you, gentlemen.

16 (WHEREUPON, the hearing concluded at approximately
17 10:37 a.m.)

18 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	FOR THE SEVENTH JUDICIAL CIRCUIT
Dedra H. Kiser,	)	Case No. 2015-CP-42-1688
	)	
Appellant,	)	
	)	BRIEF OF APPELLANT
vs.	)	
	)	
Spartanburg School District 7,	)	
	)	
Respondent.	)	
_____	)	

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 SPARTANBURG
 M. HOFF BLANCHLEY

I. Introduction

This is an appeal pursuant to the South Carolina Teacher Employment and Dismissal Act ("SCTEDA"), S.C. Code Ann. § 59-25-480. Appellant appeals the decision of the Spartanburg School District 7 Board of Trustees dated March 27, 2015, upholding the Superintendent's recommendation for the immediate termination of Appellant's employment with the District as a certified school teacher. The District 7 Board conducted a hearing in this matter on March 18, 2015. The record of that proceeding, including the transcript of the testimony and the deposition excerpts and other exhibits introduced during the hearing have been filed with the Court.

Appellant timely filed and served a Notice of Appeal in this matter on Monday, April 27, 2015, within 30 days of her receipt of the written decision of the School Board.

II. Statement of Issues on Appeal

As set forth in the Notice of Appeal, the grounds for this appeal are as follows:

- (1) The School Board's decision is not supported by substantial evidence that Appellant manifested an "evident unfitness for teaching," so as to justify the immediate termination of her continuing contract of employment as a teacher;

(2) The School Board's termination of Appellant was pre-mature and violated S.C. Code Ann. § 59-25-430, as well as the Board's own written policy, by failing and refusing to await the outcome of the underlying criminal proceedings against Appellant for alleged Driving Under the Influence and Child Endangerment;

(3) The School Board incorrectly found that Appellant's poor driving on the date in question provided legitimate grounds for the termination of her teaching position, when driving is not an essential function of her teaching position, but only a required function of her supplemental position as an assistant cross-country coach;

(4) The School Board improperly considered evidence during the hearing for which Appellant's counsel raised timely objection; specifically, the Board allowed evidence in the form of an Affidavit from a Goose Creek Police Officer whose identity was not previously disclosed to Appellant as a possible witness in the case and for whom Appellant never had a fair and reasonable opportunity to conduct cross examination; and the Board relied upon deposition testimony from students that was obviously influenced by their parents after the fact and after the students were informed that Appellant had allegedly refused to take a Breathalyzer test;

(5) The School Board deprived Appellant of her right to substantive due process by allowing its decision to be swayed by public pressure and inaccurate media portrayals of Appellant's arrest, rather than the facts presented during the hearing of this matter; and

(6) The School Board incorrectly disregarded Appellant's almost ten-year record of outstanding job performance for the District and undisputed evidence that she has been a model classroom teacher.

For the reasons set forth in detail below, Appellant respectfully requests that the Court of

Common Pleas for Spartanburg County review the record in this matter and reverse the decision of the Respondent's Board of Trustees. Appellant should be fully reinstated to her position as a continuing contract teacher, with back pay and benefits and no loss of seniority.

III. Statement of Facts

Appellant, Dedra Kiser, was previously employed as a math teacher and an assistant cross country coach at Spartanburg High School for over 10 years. She began her teaching career at Spartanburg High with a student-teaching assignment in January 2004, and was employed at Spartanburg High on a full-time basis from August 2004 through the effective date of her termination in March 2015. She has been a dedicated teacher and has never had any previous write-ups or disciplinary actions. Her evaluations and class-room observations have always been outstanding, including one conducted only weeks before the incident in question by the assistant principal, David Lawson. (Tr. at 95, ll. 1-11; and Tr. at 157, l. 8 to 158, l. 12). Spartanburg High Principal, Jeff Stevens, described her as a "stellar teacher, a model teacher" prior to the underlying incident. (Tr. at 76, ll. 13-19).

Ms. Kiser is a forty-three year old, mother of three children, the oldest of whom graduated in May 2014 from Spartanburg High School in the top 10% of her class and was the captain of the cross country team. Her younger two boys are currently students in Spartanburg School District 7. Ms. Kiser would never do anything to knowingly or willfully place her students (or any child) in any type of danger.

The incident at issue in this case occurred on Friday, September 26, 2014, while Ms. Kiser was driving the girl's cross-country team to a meet in Charleston, South Carolina, in the school's 1999 Chevy Suburban. During the trip, Ms. Kiser was stopped by a highway patrol officer on I-26

in Charleston County, following two motorists' reports that she was driving erratically. She was ultimately arrested and charged with driving under the influence of alcohol and child endangerment. The criminal charges are still pending, but Ms. Kiser is confident that she will be fully vindicated once she is afforded due process and a reasonable opportunity to defend herself through the judicial system. She adamantly denies that she was intoxicated or impaired in any way in the operation of the school vehicle.

Ms. Kiser had previously arranged to take the morning off of work that Friday, because she was moving furniture, clothes, and other household items in anticipation of her mother moving in with her and her family. (Tr. at 95, l. 18 to 96, l. 14). Ms. Kiser had an appointment first thing that morning to meet with a cable technician from AT&T, who was helping to re-locate TV and phone lines in her house in connection with her mother's move. The cable technician, Geoff Cannon, signed an Affidavit in which he describes his interactions with Ms. Kiser and his observations of her for almost four hours that morning. (Kiser Ex. F). In summary, Mr. Cannon states, "I can say without equivocation that Ms. Kiser did not appear to be intoxicated, impaired, or under the influence of any substance at any time between 9:30 a.m. and when she left her house shortly before 1:30 p.m." (Id., at 2, ¶ 10).

Ms. Kiser left her house at approximately 1:30 p.m. to head for the school. She had to wait until Mr. Cannon had completed his work on the inside of the house and had moved to the outside of the house to finish the job. Ms. Kiser was a little late in getting to the school that afternoon, as the cross-country team had planned to leave at 1:45 p.m. Once she arrived at the school, she put her luggage in the Suburban, which had been pulled around to the front of the school. She then spoke briefly with the Cross Country Coach, Jack Todd, and assistant coach John Freed for 5-10 minutes

about the trip before they started to leave. Both Coach Freed and Coach Todd testified that neither of them noticed anything unusual about Ms. Kiser's behavior or appearance before she got into the school vehicle to start the trip. (Tr. at 148, ll. 7-20; Tr. at 154, ll. 2-11; at 154, l. 24 to 155, l. 12).

The original plan was for both the boys' team and the girls' team to follow each other in a caravan down to Charleston so they could walk or jog the race course before the meet, which was scheduled for Saturday morning. Coach Freed drove the boys team in the 2003 Suburban, and Ms. Kiser drove the girls team in the 1999 Suburban. As soon as they started to leave, the girls in Ms. Kiser's vehicle noticed that the CD player in the vehicle was not working. They asked Ms. Kiser to run by one student's (initials "E.B.") house to pick up a portable DVD player and some speakers, so they could listen to a CD of music that Ms. B. had made specially for the trip. Ms. Kiser agreed to stop by the B.s' residence so the girls could listen to the music on the drive down to Charleston.

Ms. Kiser also realized that she forgot to pack her e-cigarette charger in her rush to leave her house that afternoon. She had stopped smoking regular cigarettes a couple of years ago, with the help of electronic cigarettes, or vapor cigarettes, which contain stepped-down amounts of nicotine and are reportedly less harmful than regular cigarettes. Ms. Kiser's house is within the Spartanburg High School zone, but it is approximately 10 minutes away from the B.s' house. Ms. Kiser ran into her house momentarily to get her charger while the girls waited in the car. Principal Stevens testified that there was nothing wrong with Ms. Kiser stopping by the B.s' house or her own house on the way down to Charleston. (Tr. at 81, ll. 7-19). Unfortunately, those two side-trips caused the girls to be approximately 15-20 minutes behind the boys' team in leaving Spartanburg.

Ms. Kiser, who grew up on the east side of Spartanburg, decided to take Highway 56 to Clinton to meet up with I-26 eastbound towards Charleston. She believed this was a short-cut and

would have involved substantially less traffic than going through Spartanburg to get on I-26 at that time of day.

Ms. Kiser had obvious difficulty in controlling the school's Suburban from the very beginning of the trip. Ms. Kiser reportedly hit the curb with the right tires of the vehicle as they pulled out of the school parking lot, turning right onto Dupre Drive. This was only the second or third time she had ever driven one of the school's Suburbans and may have been the first time she ever drove the older one. The school's Suburbans are considerably larger than the vehicles she was used to driving. Coach Freed testified that he had driven that particular Suburban over the summer and that the "steering was a little loose." (Tr. at 146, ll. 20-22). He also stated that when he drove that Suburban, he had some difficulty keeping it in the lanes because that vehicle "wants to drift." (Tr. at 146, ll. 23-25). Furthermore, he stated that the school's other Suburban, a slightly newer 2003 model that he was driving, was in much better shape than the one Ms. Kiser was driving. (Tr. at 147, ll. 18-25).

Ms. Kiser believes that she drove the Suburban no differently than she normally drives, even when her own children are in the car with her, although she did have some obvious trouble in keeping the vehicle between the lane markers the entire time. She was driving an unfamiliar vehicle to her; there were 7 high-school aged girls in the vehicle listening to music and talking excitedly, as high-school girls do, especially on an out-of-town road trip to a sporting competition. She was on the way to a location she had not been before and was having difficulty getting one of the students to read her directions, since the vehicle did not have a GPS; and she found herself in heavy, Friday-afternoon traffic on I-26 just outside of North Charleston. She acknowledged that she was driving quickly, trying to catch up with the other vehicle that was carrying the boy's team, and that she was

trying to make it to the site of the meet in time for the team to familiarize themselves with the race course before it got dark. She does not believe that she was driving in a reckless manner, but acknowledged that she was traveling with the faster flow of traffic on I-26.

Ms. Kiser was completely taken aback when the highway patrol officer stopped the Suburban in North Charleston and ordered her to get out of the vehicle. The trooper required her to perform several field sobriety tests on the side of the road, which she thought she performed fine on. Although she does not understand how she allegedly failed any of three tests, she had been in the car for almost four hours straight by that time, had almost nothing to eat or drink earlier that day, and had been performing strenuous physical labor all morning, moving her household around in anticipation of her mother moving in with her family. She also was up late the night before until about 2:00 a.m. packing boxes and getting ready for the move, and he woke up that morning at 6:00 a.m. to get her younger children to school.

The trooper eventually handcuffed Ms. Kiser and put her into his patrol car after he said that she smelled of alcohol and failed the field sobriety tests. Ms. Kiser was very frustrated and worried when she was taken from the scene in the highway patrolman's vehicle. Her primary concern was what would happen to the girls in the school vehicle. When she arrived at the highway patrol headquarters, she repeatedly asked to speak with a lawyer, but she was treated in a rude and intimidating manner. Ms. Kiser's repeated requests to talk to a lawyer were deemed by the highway patrol officer as a refusal to submit to a Breathalyzer test. (Tr. at 121, ll. 15-17). Ms. Kiser was also concerned that the e-cigarettes that she had been discretely smoking on the way down to Charleston might give a false reading on the Breathalyzer test, because she believed that the liquid in the cartridges might contain small amounts of isopropyl alcohol. Ms. Kiser also believes that the fruity

scent from the e-cigarettes caused the trooper to think he smelled alcohol on her breath.

Ms. Kiser was horrified and embarrassed to have been arrested and forcibly removed from the care of the student athletes who were entrusted to her that weekend. She spoke with Principal Stevens on the following Sunday afternoon, shortly after she was released from the Charleston County detention center, and he informed her that she had been placed on administrative leave pending an investigation into the matter.

On Monday, September 29, 2014, she was called into a meeting with Superintendent, Dr. Russell Booker, who requested her immediate resignation. Ms. Kiser requested some time to think about the decision, because she loved her job and worked very hard to return to college to get her education degree and teaching certificate after her children were born. Dr. Booker instructed Ms. Kiser not to have any communication with the students, their families, or anyone at the school about this matter. Ms. Kiser testified that she deeply regretted never having had an opportunity to apologize to the girls and their families for putting them all in this unfortunate situation.

On or about October 15, 2014, Ms. Kiser received Dr. Booker's letter of September 29, 2014, informing her that he would be recommending her immediate termination to the District's Board of Trustees. Ms. Kiser timely requested a hearing before the Board to present her side of the story.

On October 27, 2014, Ms. Kiser through her undersigned counsel agreed to waive the 15-day deadline for a hearing before the Board in order to have a full opportunity to conduct discovery about the underlying facts of this matter. Ms. Kiser acceded to the School District's attorney's condition that she be placed on unpaid suspension from the District beginning October 30, 2014, pending the outcome of her hearing before the School Board.

IV. Discussion

A. “Evident unfitness for teaching” not demonstrated by poor driving.

Ms. Kiser was employed with Spartanburg School District 7 pursuant to a Continuing Contract of Employment, which gives her rights under the South Carolina Teacher Employment and Dismissal Act, S.C. Code Ann. § 59-25-410 et seq. Dismissal of a continuing contract teacher is governed by Section 59-25-430, which provides, in relevant part, “Any teacher may be dismissed at any time who shall fail, or who may be incompetent, to give instruction in accordance with the directions of the superintendent, or who shall otherwise manifest an evident unfitness for teaching.” S.C. Code Ann. § 59-25-430 (emphasis added). The statute contains a non-exhaustive list of conduct that constitutes “evident unfitness for teaching,” which includes: “persistent neglect of duty, willful violation of rules and regulations of district board of trustees, drunkenness, conviction of a violation of the law of this State or the United States, gross immorality, dishonesty, illegal use, sale or possession of drugs or narcotics.” Id.

The Superintendent, as the Complainant in the underlying School Board hearing, had the burden of proving that “good and just cause” for the dismissal exists. S.C. Code Ann. § 59-25-470. There is no evidence in the record that Ms. Kiser manifested an “evident unfitness for teaching” so as to justify her termination as a continuing contract teacher.

Ms. Kiser’s alleged erratic driving and speeding on the day in question did not “manifest an evident unfitness for teaching.” Driving is not part of the job duties and responsibilities of being a public school teacher. The District’s written job description for a teacher does not list driving as a job responsibility. (Kiser Ex. E, teacher job description). Ms. Kiser’s math department chair, Lisa Donahoo, testified that she has been a certified school teacher for 22 years, but has never had to drive a student anywhere. (Tr. at 150, ll. 12-18). Even if Ms. Kiser is a bad driver, that does not mean she

is unfit to be a teacher. There is absolutely no nexus between being a good driver and being a good teacher. Arguably poor judgment or bad driving skills on the road simply does not demonstrate poor judgment in the classroom or unfit teaching abilities.

Driving arguably might be a job duty or responsibility of Ms. Kiser's supplemental position as an assistant cross country coach, which is entirely separate from her teaching contract. The Superintendent could have terminated her coaching supplement without implicating her protected rights under the SCTEDA. Alternatively, he could have removed her driving responsibilities, placed her on probation, or required her to attend a safe-driving course before being allowed to operate another District vehicle again.

The Superintendent does not take any issue at all with Ms. Kiser's actual job performance as a classroom teacher. The undisputed evidence is that Ms. Kiser was a fantastic school teacher. Her arguably poor driving skills or overly aggressive driving do not translate to "unfitness for teaching."

B. Termination was pre-mature.

The Superintendent's recommendation of termination was clearly pre-mature. He should have placed Ms. Kiser on paid suspension pending the outcome of the criminal charges. Indeed, section 59-25-430 of the South Carolina Code further provides as follows:

Notwithstanding the provisions of § 59-25-450,¹ when any teacher is charged with a violation of the law of this State or the United States which upon conviction may lead to, or be cited as reason for, dismissal, such teacher may be suspended pending resolution of the charges and receive his [or her] usual compensation during the suspension period, such compensation not to exceed the term of his [or her]

¹Section 59-25-450 allows a superintendent immediately to suspend a teacher when "necessary to protect the well-being of the children of the district or . . . to remove substantial and material disruptive influences in the educational process." S.C. Code Ann. § 59-25-450.

teaching contract. If the teacher is convicted, including pleading guilty or *nolo contendere* to the charges, he [or she] may then be subject to dismissal proceedings. If no conviction results, his [or her] suspension shall be terminated.

S.C. Code Ann. § 59-25-430.

A criminal charge alone against a teacher is not sufficient grounds for termination of that teacher under the SCTEDA. See Shell v. Richland Co. School Dist. One, 362 S.C. 408, 608 S.E.2d 428 (2005). If Ms. Kiser were convicted of DUI and child endangerment, she would clearly be subject to termination under the statute; however, a charge is plainly not a conviction. One of the most fundamental principles of the American criminal justice system is the presumption of innocence, unless and until one is proven guilty of an alleged crime beyond a reasonable doubt.

The Superintendent disregarded the School District's own policies regarding "Arrest of an employee," which provide as follows: "Employees arrested for a misdemeanor offense which would indicate a possible danger or appearance of danger to the school district, co-employees or to pupils will normally be suspended with pay pending adjudication." (Superintendent Ex. 7, Policy GBEB Staff Conduct) (emphasis added).

Although Dr. Booker asserts that Ms. Kiser was fired for exercising poor judgment and endangering the safety of the student athletes in the vehicle with her, the Assistant Superintendent for Personnel and Student Services sent a letter to the SC Department of Education on October 1, 2014, stating that Ms. Kiser had been separated from employment because she had been charged with Driving under the Influence and Child Endangerment. (Kiser Ex. C). This letter illustrates the true motive for Ms. Kiser's termination: the fact that she had been arrested for DUI in connection with the underlying incident.

C. Superintendent and Board were unfairly swayed by public outcry over arrest.

The Superintendent's counsel submitted at least nine different news reports relating to Ms. Kiser's arrest. (Superintendent Ex. 20). The District's pre-hearing brief also states, "The incident and her arrest have been reported throughout the local community and state-wide." (Hearing Memo., at 4-5). These submissions reflect that the Superintendent was motivated by public outcry over this matter and felt compelled to act swiftly, rather than allowing the criminal justice system to take its course and afford Ms. Kiser the due process required by the law.

The SCTEDA and even the School District's own policies spell out the appropriate procedures to follow when a teacher is arrested and charged with a crime, the conviction of which could lead to her dismissal from employment. Both procedures require administrative suspension, with pay, pending the outcome of the criminal case.

The Superintendent disregarded both the statute and the District policy by not awaiting the outcome of the criminal proceedings against Ms. Kiser, but instead immediately taking steps to remove her from employment. This strongly suggests that the Superintendent was more concerned with assuaging the public outcry over Ms. Kiser's arrest than in affording her the statutory rights provided to her under the SCTEDA as a continuing contract teacher.

D. Student statements unfairly colored by after-the-fact, parental response to arrest.

The School Board gave too much weight to the written statements of the three high school students who were in the vehicle at the time of Ms. Kiser's arrest. These written statements were obtained by the District weeks or months after Ms. Kiser's suspension and after news accounts had reported that Ms. Kiser refused to submit to a Breathalyzer test. The written statements are materially different than the information Principal Stevens obtained from these same three students

in 6-7 minutes interviews he had with them on the Monday morning following the incident. (Tr. at 78, l. 24 to 79, l. 3).

In the interviews with Principal Stevens, none of the students mentioned anything about smelling alcohol on Ms. Kiser or thinking that Ms. Kiser was impaired in any way. (Tr. at 80, ll. 4-14; at 83, l. 19 to 83, l. 2; 84, ll. 15-20). Assistant Coach Freed testified in his deposition that on the night of the arrest, all of the girl in the vehicle stated that they "were surprised they got stopped. They didn't expect to be. They had no idea anything was going on bad enough to be stopped." (Freed Depo., at 15, ll. 17-19). Mr. Freed further testified, "Nobody saw her drink anything, nobody smelled anything and nobody had any suspicion of anything at all, one hundred percent. They kept saying the same thing over and over again." (Freed Depo., at 16, ll. 12-15). One of the students, whose initials are E.B., testified, that at the time of the arrest, the girls "were all, we were surprised . . . [b]ecause we hadn't seen her do anything." (E.B. Depo., at 35, ll. 1-2 & 12). Another student, whose initials are M.G., testified that she was "a little confused" when she heard the trooper mention a sobriety test, because "I didn't think she was drunk at the time." (M.G. Depo., at 25, ll. 18-22).

Only after the students were informed that Ms. Kiser had been arrested for allegedly refusing to submit to a Breathalyzer test did they begin to question whether or not Ms. Kiser was impaired. For example, M.G. testified, "I didn't know why anyone would refuse a Breathalyzer test unless they were driving under the influence." (M.G. Depo., at 32, ll. 4-6). Another student whose initials are C.Y. testified, "When he [the trooper] told us that he suspected her of being intoxicated I was thinking that her driving skills were kind of erratic . . . [and] it all made sense that he would pull her over." (C.Y. Depo., at 33, ll. 8-13). E.B. also testified, "And when she was cuffed and sitting in the

car, a police officer came over to the car, to our car and said that he suspected Ms. Kiser to be driving -- I can't remember his exact words -- to be driving under the influence, something like that. And we were surprised. But then looking back on it I guess some of it makes sense." (E.B. Depo., at 34, l. 22 to 35, l. 3) (emphasis added).

Obviously, the students were unfairly influenced in their recollection of events by the trooper's suggestion that Ms. Kiser appeared to be intoxicated, by the arrest itself, and by the news that Ms. Kiser had allegedly refused to submit to a Breathalyzer. They were also undoubtedly influenced by their parents' outrage over this matter and by Principal Stevens's request for additional details following Ms. Kiser's suspension from Spartanburg High School.

E. School Board unfairly considered affidavit testimony from unidentified witness.

Finally, the District introduced affidavit testimony by an off-duty police officer from the Goose Creek Police Department, who stated that he had observed Ms. Kiser's vehicle "swerving over the fog line, straddling lanes of traffic, and almost hitting another car." He also speculated that Ms. Kiser "might be intoxicated." (Superintendent Ex. 10).

The undersigned counsel for Ms. Kiser objected to the affidavit on the ground that this individual had never been identified as a potential witness by the District, nor had a copy of the affidavit (dated February 9, 2015), been provided to counsel prior to the hearing; thus, the witness could not be subjected to cross examination by counsel.

It is fundamentally unfair for the District to have submitted the affidavit from the Goose Creek police officer. The undersigned raised contemporaneous objection to this exhibit during the hearing.

The undersigned also objected to District's counsel's on-going commentary during the

playing of the dash-cam video. This evidence was highly inflammatory, especially after District's counsel indicated that this case was not about whether or not Ms. Kiser was driving under the influence on the date in question.

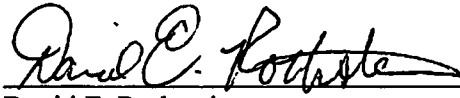
V. Conclusion

The media accounts of Ms. Kiser's arrest on September 26, 2014, unfairly and inaccurately portrayed the events that occurred in Charleston County on that afternoon. Although Ms. Kiser certainly understands the enraged parental reaction to such reports, she did not operate the vehicle in question while impaired or under the influence of any illicit substance; nor did she willfully or recklessly endanger the safety and well-being of the children in her care. She was forcibly removed from the scene by an overly aggressive highway patrol trooper. Ms. Kiser is a wonderful teacher even if she is not the greatest driver. The Superintendent did not produce substantial evidence to prove that Ms. Kiser has "manifested an evident unfitness for teaching," sufficient to justify her termination in this matter. Accordingly, she respectfully requests that this Court reverse the School Board's decision to accept the Superintendent's recommendation of termination. Ms. Kiser should be reinstated fully to her teaching position at Spartanburg High School, with back pay and no loss of seniority.

* * *

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Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of the foregoing **BRIEF OF APPELLANT** upon counsel of record for Respondent, Spartanburg School District 7, by causing a copy of the same to be hand delivered, this 2nd day of November, 2015, addressed as follows:

Kenneth E. Darr, Jr., Esq.
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David E. Rothstein

Greenville, SC.

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M. HOPE BLACKLEY

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Dedra H. Kiser,

Appellant,

vs.

Spartanburg School District 7,

Respondent.

IN THE COURT OF COMMON PLEAS

SEVENTH JUDICIAL CIRCUIT

Civil Action No. 2015-CP-42-1688

BRIEF OF RESPONDENT

This is a teacher dismissal appeal pursuant to Section 59-25-480 of the South Carolina Teacher Employment and Dismissal Act ("TEDA"). There is substantial evidence in the record to support the School Board's decision¹, and its decision must therefore be affirmed.

I. STATEMENT OF THE CASE

Spartanburg School District 7 (the "School District") employed Appellant, Dedra Kiser ("Kiser"), as a math teacher at Spartanburg High School ("SHS") and an assistant coach for the girls' cross-country team. On Friday, September 26, 2014, Kiser was stopped by a police officer while driving seven School District students to Charleston in a School District owned Suburban. The police officer stopped Kiser at approximately 5:00 p.m. on Interstate 26 outside of Charleston after multiple 911 calls by other drivers reporting her reckless and dangerous driving. During the traffic stop, Kiser was arrested, and the seven students (ages thirteen to seventeen years old) were taken into protective custody and detained by law enforcement for at least four to five hours while their parents drove from Spartanburg to Charleston to pick them up.

The School District placed Kiser on paid administrative leave pending the administration's

¹ A copy of the School Board's written decision is attached hereto as Exhibit A.

investigation of the incident. [H'rg Tr. pp. 36-37, 71; Sch. Dist. Ex. 2]. On Monday, September 29, 2014, the School District's Superintendent, Dr. Russell Booker, reviewed the police incident report and three SHS students' accounts of Kiser's erratic driving, the traffic stop, and their detention in protective custody. [H'rg Tr. pp. 35-39, 72-74]. Later that day, Dr. Booker met with Kiser to hear her account of the events. Kiser admitted, among other things, that she was driving at least 85 miles per hour and endangering the students. [H'rg Tr. pp. 35-36, 40-41, 74-75; Sch. Dist. Ex. 3]. Based on the incident report, the students' accounts, and Kiser's admissions, Dr. Booker concluded there were good and sufficient reasons to terminate Kiser. [H'rg. Tr. p. 41].

As a continuing contract teacher, Kiser's termination is governed by the rules and procedures set forth under TEDA. In accordance with TEDA, Dr. Booker notified Kiser in writing of his recommendation to the School District's Board of Trustees (the "School Board") that her employment be terminated immediately for conduct manifesting evident unfitness for teaching "due to the extreme hazard to the safety and well-being of the student-athletes entrusted to your care, misuse of a school district vehicle, and multiple violations of the law and school district policy, not to mention extremely poor judgment." S.C. Code §§ 59-25-430 and -460. [Sch. Dist. Ex. 3]. He also notified Kiser of her right to request a hearing before the School Board. S.C. Code § 59-25-460. [Id.].

Kiser requested a hearing before the School Board. Prior to the hearing, Kiser's attorney deposed numerous witnesses, including Dr. Booker, the Assistant Superintendent for Personnel, the SHS Principal, and the three SHS students. S.C. Code § 59-25-490. In addition, the School District produced Kiser's personnel file, the incident report, and maintenance records for the Suburban. Kiser and her attorney also inspected and took pictures of the interior and exterior of the Suburban. Counsel agreed affidavits could be used at the hearing in lieu of live testimony.

The School Board conducted the dismissal hearing on March 18, 2015. S.C. Code §§ 59-25-460 and -470. The administration was represented by counsel and introduced witnesses and evidence to substantiate the grounds for Dr. Booker's recommendation. S.C. Code §§ 59-25-470. Kiser and her attorney were present for the entire hearing. Id. Kiser was given a full and fair opportunity to cross-examine the administration's witnesses, to present her own testimony, witnesses, and evidence, and to present all available defenses. Id. In addition to the testimony and exhibits presented during the hearing, the School Board also reviewed both parties' pre-hearing briefs, the students' deposition transcripts, and two affidavits. [Ex. A].

After the hearing and deliberation in executive session, the Board voted unanimously to uphold Dr. Booker's recommendation for immediate termination. On March 27, 2015, the Board issued a written decision setting forth its findings of fact and conclusions. [Ex. A]. On April 27, 2015, Kiser filed a Notice of Appeal of the School Board's decision.

II. ARGUMENT

State law vests the School Board with the power and duty to discharge teachers when good and sufficient reasons for so doing present themselves. S.C. Code § 59-19-90(2). State law provides for the immediate removal of any teacher whose conduct manifests evident unfitness to teach. S.C. Code § 59-25-430; Kizer v. Dorchester County Vocational Educ. Bd. of Trustees, 287 S.C. 545, 550, 340 S.E.2d 144, 147 (1986). Courts will not interfere with the exercise of discretion by school boards in matters committed by law to their judgment unless there is clear evidence the board has acted corruptly, in bad faith, or in clear abuse of its powers. Singleton v. Horry County School Dist., 289 S.C. 223, 227, 345 S.E.2d 751, 753 (Ct. App. 1986).

A. Substantial Evidence Supports The Board's Decision To Terminate Kiser

The primary issue on appeal is whether substantial evidence supports the School Board's

decision to immediately terminate Kiser for conduct manifesting an evident unfitness for teaching. Laws v. Richland County School Dist. No. 1, 270 S.C. 492, 495, 243 S.E.2d 192, 193 (1978). "Substantial evidence" is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the School Board reached or must have reached to justify its action. Id. The School Board's decision must be sustained if any charge against Kiser is supported by substantial evidence. Id.

TEDA sets forth a non-exclusive list of conduct exemplifying evident unfitness to teach, "such as, *but not limited to*, the following: persistent neglect of duty; willful violations of rules and regulations of the Board; drunkenness; conviction of a violation of the law of this State or the United States; gross immorality; dishonesty; illegal use, sale or possession of drugs or narcotics." S.C. Code § 59-25-430 (emphasis added). Conduct manifesting evident unfitness for teaching is not limited to, and a judgment on fitness to teach encompasses more than, just classroom performance. *See e.g.,* Felder v. Charleston County School Dist., 327 S.C. 21, 489 S.E.2d 191 (1997) (teacher's participation in an unauthorized student protest and insubordination in encouraging students to protest rather than return to class constituted evident unfitness for teaching); Barrett v. Charleston County School District, 348 S.C. 426, 559 S.E.2d 365 (Ct. App. 2001) (substantial evidence supported the school board's decision to terminate a teacher for evident unfitness to teach based on her dishonesty in handling an ice cream fundraising account). Whether Kiser's conduct was material enough to affect her fitness as a teacher was a determination within the School Board's discretion, and one the School Board was particularly qualified to make. The Court cannot substitute its judgment or interpretation of the facts and evidence for that of the School Board. Felder, 327 S.C. at 25, 489 S.E.2d at 193; Barrett, 348 S.C. at 432, 559 S.E.2d at

368. There is more than sufficient evidence in the record² to support the School Board's decision.

As Dr. Booker testified, it was an essential function and expectation of Kiser's job as both a teacher and a coach to at all times protect the safety and well-being of students entrusted to her care. [H'rg Tr. pp. 43-45, 57]. Kiser's contract, her written job description, and the School District's staff conduct policies, collectively required Kiser to at all times exercise good judgment, exercise a reasonable standard of care for the supervision and protection of students, and to carry out their assigned duties and responsibilities with conscientious "concern and attention toward his/her own and the board's legal responsibility for the safety and welfare of students." [H'rg Tr. pp. 45-48; Sch. Dist. Ex. 5, 6, 7]. The record is replete with evidence that Kiser knowingly and recklessly endangered the safety and welfare of seven students in complete disregard of her duty and responsibility to take all necessary reasonable precautions to protect students.

Despite knowing in advance that she would be driving seven students to Charleston the next day, Kiser admittedly drank three or four glasses of wine and stayed up until about 2:00 a.m. the night before. [H'rg Tr. pp. 51, 57, 97-98, 135; Sch. Dist. Ex. 4]. The next day, Kiser woke up at 6:00 a.m., did not shower, performed "strenuous physical labor" all morning, and had almost nothing to eat or drink all day. [Id.]. Kiser was admittedly tired. [H'rg Tr. 112, 139]. One student described Kiser as "acting like herself but a little more crazy and random." [Sch. Dist. Ex. 16].

The expectation was for the girls' and boys' cross-country teams to caravan to Charleston. [H'rg Tr. pp. 43, 68, 103]. However, immediately after leaving the school, Kiser admittedly made two unauthorized detours, which separated the teams and put the girls' team at least twenty minutes

² The record includes the following: (1) transcript of the March 18, 2015 Board hearing; (2) School District Exhibit No. 1 consisting of a flash drive containing audio recordings of 911 telephone calls and the Highway Patrol dash cam video, and an exhibit notebook containing exhibit tabs 1-20; and (3) Teacher's Exhibit No. 1 consisting of an exhibit notebook containing exhibit tabs A-Q. The School District's exhibits are cited as "Sch. Dist. Ex. _" and "Sch. Dist. Flash Drive."

behind schedule. [H'rg Tr. p. 106]. First, at the girls' request, she went to a student's house to pick up a CD player because the one in the Suburban did not work. [H'rg. Tr. p. 103]. Second, she detoured to her own house to get her e-cigarette charger. [H'rg Tr. p. 104]³.

According to the SHS students' accounts, Kiser's erratic driving began immediately. [H'rg Tr. pp. 72-74; Sch. Dist. Ex. 14-19]. Before leaving Spartanburg, Kiser hit a curb pulling out of the SHS parking lot, was speeding, and ran a red light. [Id.]. On Highway 56 – a two-lane “back road” – Kiser drove “really fast” and was drifting off the edge of the road. [Id.]. At one point, the passenger side mirror clipped a mail box. [Id.]. At the hearing, Kiser conceded “it is possible” she hit the curb and drifted off the road. [H'rg Tr. pp. 104, 107].

Kiser's erratic and reckless driven continued on Interstate 26. All three SHS students recounted that Kiser was “flying” and driving “really, really fast” at speeds of 90 and 95 miles per hour or more. [H'rg Tr. pp. 72-74; Sch. Dist. Ex. 14-19]. Kiser admitted she drives “aggressively and fast,” she was “going along with the flow of traffic,” and “at times I would see myself going 85, 90.” [H'rg Tr. 108, 110]. Kiser and her attorney gave conflicting accounts as to whether she was speeding in order to catch up with the boys' team. [Sch. Dist. Ex. 4].

Kiser repeatedly drifted off the edge of the road and drove on the rumble strips on both sides of the road. [H'rg Tr. 108, 110]. At one point, she swerved off the road to avoid hitting cars in front of her that had slowed down. [Id.]. One student recalled: “And so we were going so fast that she had to pull off the side of the road because if she hadn't we would have slammed full force into the car in front of us. We slid in right next to them. And it would have been really bad.” [Sch. Dist. Ex. 14, 15]. Kiser corroborated the students' accounts that she “had to slam on brakes and

³ Kiser admitted to secretly smoking her e-cigarette while driving with the students in the vehicle, although she knew “the negative connotations of smoking.” [H'rg. Tr. pp. 105, 129-130].

go off to the right of the road" to avoid hitting a car in front of her. [H'rg Tr. 113].

Two other drivers called 911 to report Kiser's erratic, reckless, and dangerous driving on Interstate 26. [H'rg Tr. pp. 52-55; Sch. Dist. Ex. 8, 12; Sch. Dist. Flash Drive]. Both callers described the Suburban as "swerving all over the road," and one caller exclaimed: "I think she might be intoxicated to be honest with you – Oh, my God. They need to stop her." [H'rg Tr. p. 53-54]. One student described the 911 recordings as "accurate." [Sch. Dist. Ex. 19].

Also, while on Interstate 26, an off-duty police officer, Officer Raymond Richards of the Goose Creek Police Department, observed the Suburban tailgating his marked police car. [Sch. Dist. Ex. 9, 10]. After allowing the Suburban to pass him, Officer Richards followed and observed Kiser swerving from side to side across the fog lines and center lines of traffic, drifting across and straddling the center line occupying two lanes, and slamming on the brakes and swerving into the emergency lane to avoid hitting the car in front of her. [Id.].

Due to the 911 reports, a "BOLO reckless driver" was issued for "a blue Suburban swerving all over the road." [Sch. Dist. Ex. 8]. Kiser was stopped by a South Carolina Highway Patrol ("SCHP") Officer. [Sch. Dist. Ex. 9]. Kiser testified, "I thought I was getting a speeding ticket. *I knew I had hit the rumbles. I knew I had veered off there. I knew I had been speeding,* so I thought I was getting a speeding ticket." [H'rg Tr. 115] (emphasis added). She even asked the SCHP Officer to "just go ahead and write me a ticket for speeding." [Id.]

Officer Richards pulled over and told the SCHP Officer that he observed Kiser driving like "an idiot" and like she was intoxicated. [Sch. Dist. Ex. 9, 10]. The SCHP Officer administered a field sobriety test, which he determined she failed. [Id.]. Although Kiser denied she had been drinking, she refused to submit to a breathalyzer test. [Id.]. Kiser was arrested and charged with driving under the influence and child endangerment. [Id.].

The students were a captive audience in the Suburban on the side of the interstate. They watched as Kiser was told to get out of the car, performed sobriety tests, was handcuffed, and was put in a police car. Some of the students cried. [Sch. Dist. Ex. 15]. One student testified she was scared and shocked "because I trusted her." [Sch. Dist. Ex. 17]. Another student testified she was "really stressed out" because the SCHP Officer told the students to call their parents, but neither of her parents were answering her calls. [Sch. Dist. Ex. 15].

The scared and distressed girls were split up, put in police cars, and taken to SCHP headquarters. [Sch. Dist. Ex. 9, 14, 15]. SCHP officials refused to release the girls to the assistant coach for the boys' cross-county team⁴, and informed the Superintendent and the students that they would be placed in DSS custody if their parents did not pick them up. [H'rg Tr. p. 32-33; 69-70; Sch. Dist. Ex. 14, 15]⁵. The girls were detained at the police station four to five hours while their parents drove from Spartanburg to pick them up. [Sch. Dist. Ex. 14, 15].

The students' parents were greatly affected as well when they received the phone calls from their scared children and the SHS Principal. The SHS Principal testified: "They were shaken up. Basically they didn't know the state that their child was in and they worried tremendously for them, especially I guess when they had caught wind that the officer said they would be turned over to DSS custody. I think that kind of alarmed them." [H'rg. Tr. pp. 69-70].

Based on this record, reasonable minds could certainly conclude, as the School Board concluded, that Kiser recklessly endangered the safety of seven School District students and, as a

⁴ Upon learning of the situation, the assistant coach went to the detention center and tried to pick up the girls. Notably, he was put in the impossible position of having to choose between leaving the boys unsupervised at their hotel or leaving the girls at the police station.

⁵ SCHP Call History Records show that calls were made that day to Charleston County DSS and Spartanburg County DSS concerning "6-7 children under the age of 17." [Sch. Dist. Ex. 11].

result, could no longer be entrusted with the supervision and protection of students, which is a primary responsibility of any School District employee. Due solely to her own conduct, Kiser failed to do what she agreed and was entrusted to do – i.e., deliver the seven students safely to Charleston. Kiser's conduct and resulting consequences were exponentially worse than the insubordination in Felder and the dishonesty in Barrett, which in each case was good and sufficient grounds to justify termination for conduct manifesting an evident unfitness for teaching.

There is more than substantial evidence of good and sufficient grounds to support the School Board's decision, and there are no substantial rights of the Appellant that were prejudiced by any error of law or abuse of discretion committed by the School Board.

B. The School Board Did Not Violate TEDA

In grounds (2), (3), and (9), Kiser contends the School Board terminated her employment in violation of TEDA. Her arguments are misplaced and without merit.

1. Kiser's Termination Was Not "Premature"

Kiser's argument that the School Board violated S.C. Code § 59-25-430 by prematurely terminating her employment is flawed. TEDA cites conviction of a violation of state or federal law as an example of conduct manifesting evident unfitness for teaching, and it provides that a teacher who is charged with a violation of the law which upon conviction may lead to or be cited as a reason for dismissal may be suspended pending resolution of the charge. S.C. Code § 59-25-430. However, Kiser's reliance on that provision of the statute is misplaced.

Kiser's argument is fundamentally flawed because she was not terminated based on criminal charges for driving under the influence or child endangerment. The School District did not present any arguments or evidence to prove Kiser was guilty of driving under the influence or child endangerment in violation of any state law. Rather, Kiser's termination was due to the

extreme danger that she put seven students in by her reckless and erratic driving in violation of the School District's policies and a primary responsibility of her employment – conduct which occurred *before* she was stopped by the SCHP Officer and *before* she was arrested and charged with driving under the influence and child endangerment. [H'rg Tr. pp. 6-7, 15].

2. The School Board Did Not Terminate Kiser For "Poor Driving"

In ground (3) of her appeal, Kiser essentially argues her "poor driving" is not conduct manifesting an evident unfitness for teaching in the classroom. However, TEDA clearly intends and contemplates that conduct manifesting evident unfitness for teaching is not limited to, and a judgment on fitness to teach encompasses more than, just classroom performance. S.C. Code § 59-25-430; Hall v. Bd. of Trustees of Sumter County School Dist. No. 2, 330 S.C. 402, 410, 499 S.E.2d 216, 220 (Ct. App. 1998) (recognizing a single act of disobedience may be sufficient to justify a teacher's termination even though it was unrelated to classroom performance).

There is more than sufficient evidence to establish Kiser's driving was reckless and dangerous. Driving a School District vehicle occupied by seven students at speeds of 85 to 95 miles per hour or more, drifting all over the road and off the road, hitting a mailbox, and swerving off the road to avoid a wreck, in blatant disregard for the safety of the seven students entrusted to her care can hardly be trivialized as "poor driving." See Hilliard v. Orangeburg County School Dist. Number Three, 300 S.C. 123, 386 S.E.2d 628 (Ct. App. 1989) (substantial evidence supported charge that teacher allowed student to be unsupervised in work area of welding shop, a blatant safety violation that could not be characterized as trivial). To the contrary, Kiser's complete lack of good judgment and reasonable care in endangering the safety of seven students adversely and materially affects her fitness as a teacher because she cannot be entrusted with the supervision and protection of School District students, which is a primary and essential function of her job.

3. The School District Complied With TEDA Notice Requirements

Kiser's argument (9) that the School District relied on grounds for termination that were not previously disclosed in violation of S.C. Code § 59-25-460 is not preserved for appeal. In sitting as an appellate court, the Circuit Court has a limited scope of review, and it cannot consider issues that were not raised and ruled upon by the School Board. Kiawah Resort Assocs. v. S.C. Tax Comm'n, 318 S.C. 502, 505, 458 S.E.2d 542, 544 (1995) (stating that issues not raised to and ruled on by the agency cannot be considered by the circuit court in its appellate capacity). Kiser did not make any objection, motion, or otherwise obtain any ruling on this issue during the School Board hearing, and is therefore foreclosed from raising this issue on appeal. See, Stukes v. Lee County School Dist. Bd. of Trustees, 2012 WL 10861541 (Ct. App. 2012) (argument that board failed to comply with TEDA notice requirements was not preserved for review); Moody v. Marion County School Dist. Seven, 2006 WL 7285853 (Ct. App. 2006) (argument that teacher's procedural due process rights were violated was not properly preserved for appeal).

Even if the issue is preserved, the argument is without merit. TEDA required the School District to give Kiser written notice specifying the cause of dismissal. S.C. Code § 59-25-460. If any of the charges against Kiser are supported by substantial evidence, the School Board's decision to dismiss must be sustained. Hilliard, 300 S.C. at 126, 386 S.E.2d at 630. Dr. Booker notified Kiser in writing of his recommendation to the School Board that her employment be terminated immediately for conduct manifesting evident unfitness for teaching "due to the extreme hazard to the safety and well-being of the student-athletes entrusted to your care, misuse of a school district vehicle, and multiple violations of the law and school district policy, not to mention extremely poor judgment." S.C. Code §§ 59-25-430 and -460. [Sch. Dist. Ex. 3]. Her lack of notice argument fails because the record is replete with substantial evidence to support the School

Board's finding that Kiser recklessly endangered the safety and well-being of seven students in violation of multiple School District policies governing staff conduct with students.

C. Kiser Was Afforded All Due Process Rights

In grounds (6) and (7) of her appeal, Kiser argues she was denied procedural and substantive due process. These arguments are also without merit.

1. Procedural Due Process

Kiser's argument that the School Board deprived her of procedural due process rights by refusing to issue deposition subpoenas is not preserved for appeal. Kiser did not make any objection, motion, or otherwise obtain any ruling on this issue during the School Board hearing, and is therefore foreclosed from raising this issue on appeal. See Kiawah Resort Assocs., 318 S.C. at 505, 458 S.E.2d at 544; Moody, 2006 WL 7285853 (Ct. App. 2006) (argument that teacher's procedural due process rights were violated was not properly preserved for appeal).

Even if preserved for appeal, the argument is frivolous because Kiser was not denied the opportunity to depose any witnesses and did not suffer any prejudice due to any alleged refusal by the School Board to issue deposition subpoenas. Kiser's attorney sought to depose the three SHS students who were in the Suburban and interviewed by the SHS Principal. The parties' disagreed over the procedure for issuing deposition subpoenas under TEDA, but the issue was ultimately resolved by Consent Order in which the parties agreed counsel was authorized to issue the deposition subpoenas. Kiser's attorney deposed all three students before the School Board hearing. The entire deposition transcripts were submitted to the School Board prior to the hearing, and the administration submitted deposition excerpts at the hearing, without objection from Kiser.

2. Substantive Due Process

Kiser's argument that the School Board deprived her of substantive due process rights by allowing its decision to be swayed by public pressure and inaccurate media portrayals is likewise meritless. Dr. Booker testified that he was not swayed by public pressure or media reports, but rather conducted an investigation before issuing his recommendation, which he based on Kiser's admission, the students' accounts, and the SCHP Incident Report. [H'rg Tr. p. 36]. As discussed in Section D below, the School Board had broad discretion to consider and weigh evidence, including evidence that news of "the Spartanburg High Coach" being arrested was reported throughout the school community and state, which brought discredit to the School District and its ability to maintain community confidence in its ability to protect its students. [Sch. Dist. Ex. 1]. Kiser was not prejudiced by the news reports. She did not object to the news reports or move that they be excluded from evidence. *See Moody, supra*. She was given a full and fair opportunity to discount the media reports, and the School Board listened as she testified that she believed she was unfairly portrayed in the media. However, there is no evidence that any reports were false, but rather the reports that Kiser was arrested while driving the girls' cross country team, and the students were detained by law enforcement until their parents arrived, are corroborated by substantial evidence. Even if the Court were to ignore the media reports, there is still substantial evidence to support the School Board's decision, including, but not limited to, Kiser's own admitted acts. There is no competent evidence in the record to establish the School Board was impartial, or arbitrarily and capriciously based its decision on media reports or public pressure.

D. The School Board Did Not Abuse Its Discretion In Considering The Evidence

In grounds (4), (5), and (8) of her appeal, Kiser contends the School Board committed reversible errors in considering and weighing the evidence. School board hearings under TEDA

are quasi-judicial administrative hearings in which the rules of evidence do not strictly apply. Calhoun v. Marlboro County School Dist., 2004 WL 6334910, *6 (Ct. App. 2004). As a quasi-judicial body, the School Board is afforded a wide latitude of procedure and in permitting the introduction of evidence in a teacher dismissal hearing. Id.; Jacoby v. South Carolina State Bd. of Naturopathic Examiners, 219 S.C. 66, 90, 64 S.E.2d 138, 149 (1951) (an administrative or quasi-judicial body is allowed a wide latitude of procedure and not restricted to the strict rule of evidence adhered to in a judicial court).⁶ The admission or exclusion of evidence in general was within the School Board's discretion. On appeal, the Court is only concerned with the existence of evidence, and not its weight. To warrant reversal based on the admission or exclusion of evidence, Kiser must prove both the School Board erred in its ruling and resulting prejudice.

1. Affidavit of Raymond Richards

The School Board did not abuse its broad discretion by considering the affidavit of Goose Creek Police Officer Raymond Richards. Counsel agreed the parties could submit affidavits at the hearing. [H'rg Tr. p. 90]. Officer Richards' affidavit was relevant because he observed Kiser's reckless driving and reported his observations to the SCHP Officer. [H'rg Tr. p. 89; Sch. Dist. Ex.10]. The SCHP Incident Report, which the School District produced to Kiser's attorney in October 2014, plainly identified Officer Richards as a witness and included a detailed narrative of his account of Kiser's swerving, straddling lanes of traffic, and almost hitting another car. [H'rg Tr. pp. 39-40, 90; Sch. Dist. Ex. 9]. Officer Richard's police cruiser is plainly visible in the SCHP dash cam video. [H'rg Tr. pp. 55, 112-113; Sch. Dist. Flash Drive].

Even if the School Board improperly considered Officer Richards' affidavit, it was a

⁶ Kiser's attorney expressly acknowledged at the hearing, "the evidentiary rules are somewhat relaxed in this type of hearing, and I certainly appreciate that." [H'rg Tr. p. 30].

harmless error that does not warrant reversal of the School Board's decision. The affidavit is cumulative of other competent and substantial evidence of Kiser's reckless and dangerous driving, including the SCHP Incident Report, 911 audio recordings, and three students' deposition testimony, all of which were received into evidence without objection. Calhoun, 2004 WL 6334910, n. 4 (even assuming the admission of hearsay evidence was erroneous, the error was not prejudicial in light of the non-hearsay evidence supporting the board's decision not to renew teacher's contract); State ex rel. Medlock v. Nest Egg Soc. Today, Inc., 290 S.C. 124, 348 S.E.2d 341 (Ct. App. 1986) (asserted error in admitting the affidavits into evidence made no difference in the outcome and was harmless as a matter of law). Even if the affidavit is disregarded, there is still substantial evidence in the record to support the School Board's decision.

2. Students' Testimony

Kiser's argument that the School Board improperly relied upon testimony from students was not preserved for appeal. Kiser did not object to the admission of any particular student's testimony, move to exclude any particular student's testimony, or otherwise obtain any ruling on this issue during the School Board hearing, and is therefore foreclosed from raising this issue on appeal. See Kiawah Resort Assocs., 318 S.C. at 505, 458 S.E.2d at 544; Stukes, 2012 WL 10861541; Moody, 2006 WL 7285853.

Even if the issue is proper for appeal, the School Board did not abuse its broad discretion to consider and weigh the students' testimony, and Kiser was not prejudiced by the School Board's consideration of the testimony. The testimony of students who were in the Suburban with Kiser was relevant. Notably, the students' testimony was generally unfavorable testimony about Kiser's reckless driving which was given in response to Kiser's own attorney's deposition questions. [Sch. Dist. Ex. 15, 17, 19]. Apart from counsel's vague conjecture, there is no evidence in the record

establishing that any particular student's written statement or sworn deposition testimony describing Kiser's driving at excessive speeds of 85 to 95 miles per hour, drifting and swerving all over the road, and nearly slamming into another car was "obviously influenced" by her parents or any other factor. To the contrary, *Kiser admitted* to speeding, drifting, and almost hitting another car. The students' testimony is further corroborated by the 911 audio recordings, the SCHP Incident Report, and Officer Richard's affidavit, all of which is in evidence.

3. Alibi Witnesses

Kiser's vague argument that the School Board disregarded "substantial alibi witnesses" who confirmed Kiser was not under the influence of alcohol or illicit substances is meritless. The School Board did not exclude the testimony of any of Kiser's witnesses, and it had wide discretion to determine the weight to be given to their testimony. The administration did not argue or attempt to prove Kiser was under the influence as a grounds for dismissal. The School Board expressly acknowledged that Kiser denied she was intoxicated or impaired on September 26. [Ex. A at ¶ 25]. None of Kiser's "alibi witnesses" had any knowledge of or offered any testimony contradicting the substantial evidence of Kiser's reckless conduct while driving the students to Charleston. [H'rg Tr. pp. 145, 152, 159]. Regardless of whether Kiser was under the influence or not, there is substantial evidence in the record to support the School Board's finding that her erratic and reckless driving threatened the safety and well-being of seven students, and resulted in her students being taken into protective custody by law enforcement, all in violation of the School District's staff conduct policies and her duty and responsibility to all times exercise good judgment and reasonable care to protect the safety and well-being of the students entrusted to her care.

4. Kiser's Classroom Performance

Kiser's argument that the School Board disregarded her outstanding job performance as a

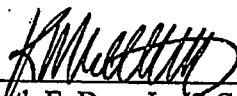
"model classroom teacher" is also meritless. The School Board did not exclude any testimony or evidence concerning Kiser's classroom performance, and it had wide discretion to weigh such evidence against all the other evidence. However, as previously noted, TEDA does not limit "evident unfitness for teaching" to classroom performance. S.C. Code § 59-25-430; Hall, 330 S.C. at 410, 499 S.E.2d at 220. Kiser's self-proclaimed status as "model classroom teacher" is not sufficient to overcome substantial evidence in the record supporting the School Board's conclusion that reckless driving with students in the vehicles, engaging in any conduct that results in a sobriety test and arrest in front of students, and engaging in any conduct that results in students being taken into protective custody by law enforcement does not exemplify "a model classroom teacher" or otherwise comport with the School District's expectations of an exemplary model for students.

III. CONCLUSION

Based on all the foregoing, the School Board's decision must be affirmed. There is substantial evidence in the record to support the School Board's decision, and there is no evidence it acted arbitrarily and capriciously, or otherwise abused its powers and discretion.

Respectfully submitted,

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November 2, 2015
Spartanburg, South Carolina

Attorneys for Respondent

State of South Carolina)
County of Spartanburg)
Dr. Russell W. Booker,)
Petitioner,)
v.)
Dedra H. Kiser)
Respondent.)
_____)

Before the Board of Trustees
Spartanburg School District Seven

**DECISION OF THE SPARTANBURG
SCHOOL DISTRICT SEVEN BOARD OF
TRUSTEES**

INTRODUCTION

This matter came before the Board of Trustees (the "Board") of Spartanburg School District Seven (the "School District") upon the written request of Dedra H. Kiser for a hearing pursuant to the South Carolina Teacher Employment and Dismissal Act ("TEDA").

By letter dated September 29, 2014, Dr. Russell Booker, Superintendent of the School District, notified Ms. Kiser of his recommendation to the Board that her employment be terminated immediately because her conduct on September 26, 2014, demonstrated extremely poor judgment and an evident unfitness for teaching due to the extreme hazard to the safety and well-being of the student-athletes entrusted to her care, misuse of the School District's vehicle, and multiple violations of the law and School District policy. By letter dated October 15, 2014, Ms. Kiser, through her attorney, requested a hearing before the Board. Ms. Kiser waived the fifteen day statutory period for holding the hearing and, at her attorney's request, the Board continued the hearing multiple times.

The hearing commenced at 5:30 p.m. on March 18, 2015, with a quorum of the Board present and was conducted in executive session at Ms. Kiser's request. Ms. Kiser was present for the entire hearing with counsel and had the opportunity to offer her own testimony, evidence and witnesses, to cross-examine the Administration's witnesses, and to present all available defenses to the Superintendent's allegations and recommendation for termination.

The Board has carefully considered both parties' pre-hearing briefs, testimony and exhibits presented by both parties at the hearing, and testimony of witnesses presented by both parties by affidavits and depositions. After deliberating in executive session, and upon proper motion made in open session, the Board voted unanimously to uphold the Superintendent's recommendation for immediate termination and directed the preparation of this Decision.

FINDINGS OF FACT

1. Ms. Kiser is employed for the 2014-2015 school year as a math teacher at Spartanburg High School pursuant to a one year continuing contract. She was also assigned to an assistant coach position for the Spartanburg High School girls cross country team.

2. Ms. Kiser's contract required that she comply with all School District policies and regulations, and her job responsibilities include taking all necessary and reasonable precautions to protect students. Dr. Booker testified that it is an essential and primary responsibility of all staff, including Ms. Kiser in her job as a teacher and a coach, to protect the safety and well-being of students at all times in all curricular and extracurricular activities.

3. The Board expects all School District employees to be exemplary models for students and to provide for their supervision and protection, which expectations are clearly set forth in its written policies. Board Policy GBE states the Board's expectation that all staff members will carry out their assigned responsibilities with conscientious concern, including specifically "concern and attention toward his/her own and the board's legal responsibility for the safety and welfare of students, including the need to insure that students are under supervision at all times." Board Policy GBEB and Administrative Rule GBEB-R set forth examples of staff misconduct while on duty on or off School District property, which include "failure to adhere to safety and health rules as established by state law and the district," and "behaving in any inappropriate manner to the extent of adversely affecting the employee's ability to perform his/her work." Board Policy GBEBB states that "all employees are expected to exercise good judgment and maintain professional boundaries when interacting with students, in all curricular and extracurricular activities, both on and off school property." Administrative Rule GBEBB-R specifically directs that "staff members will maintain a reasonable standard of care for the supervision, control, and protection of students commensurate with their assigned duties and responsibilities."

4. On September 26, 2014, Ms. Kiser was entrusted with transporting seven members of the girls' cross-country team (the "students") from Spartanburg High School to Charleston for a meet. The students were thirteen to seventeen years old. Three of the students attend Spartanburg High School. The other students attend the Freshman Academy or middle school.

5. Ms. Kiser drove the students in a 1999 Chevrolet Suburban owned by the School District. The other assistant coach, John Freed, drove the boys' cross country team in a separate School District owned vehicle. The plan was for the teams to leave the school at 1:45 p.m. and caravan to Charleston so the teams could see the course before dark.

6. Ms. Kiser was late getting to the school. The teams departed about 2:00 p.m., approximately fifteen to twenty minutes behind schedule. The boys' team drove directly to Charleston, but Ms. Kiser made two unscheduled stops before leaving Spartanburg. She first drove to a student's house to get a CD player because the one in the Suburban did not work. She then drove to her own house to get her e-cigarette charger. According to the students, Ms. Kiser stayed

in her house five to ten minutes. As a result, the girls' team was at least fifteen to twenty minutes behind the boys' team and at least thirty to forty minutes behind schedule.

7. Ms. Kiser drove on Highway 56 – a two-lane “back road” – from Spartanburg to Clinton. From Clinton, she drove on Interstate 26 to Charleston.

8. The Board reviewed the written statements and deposition excerpts of the three high school students (who were each interviewed by the principal, gave written statements, and were deposed by Ms. Kiser's counsel). According to these students, Ms. Kiser drove erratically and at dangerous speeds. She hit the curb pulling out of the school parking lot. On the way out of Spartanburg, she ran a red light by turning left into oncoming traffic. On the two-lane Highway 56, Ms. Kiser drove “really fast.” According to the student in the passenger seat, Ms. Kiser was drifting off the road, she felt the wheels leave the pavement, and she heard and saw the side view mirror clip a mailbox. On Interstate 26, Ms. Kiser drove “really, really fast.” The students reported Ms. Kiser was driving 90 to 95 miles per hour. She repeatedly drove too close to other cars and drove off the edge of the road onto the rumble strips on both sides of the road. At one point, Ms. Kiser had to slam on brakes and swerve off the road entirely to avoid hitting a car in front of her that had slowed down. One of the students recalled: “...if she hadn't we would have slammed full force into the car in front of us. We slid in right next to them. And it would have been really bad.”

9. The Board listened to two 911 calls placed by other drivers on Interstate 26 reporting Ms. Kiser's erratic, reckless, and dangerous driving. The first caller reported “a blue Suburban, it's a car full of girls and they are swerving all over the place.” The second caller reported “a blue Suburban with county government plates that is swerving all over the road. I mean she is going to cause an accident.” The second caller further stated “it's really bad...I'm afraid she might be intoxicated.” The Highway Patrol issued a “BOLO reckless driver...a blue Suburban swerving all over the road.”

10. The Board reviewed the affidavit of Officer Raymond Richards, an off-duty traffic safety officer with the Goose Creek Police Department. He also observed Ms. Kiser driving in an erratic and reckless manner that he believed endangered the safety of the Suburban's occupants and other drivers sharing the highway. He initially observed the Suburban tailgating his marked police car. After allowing it to pass, Officer Richards pulled in behind and followed the Suburban. He observed the Suburban swerving from side to side across the fog lines and center lines of traffic and slamming on brakes and swerving into the emergency lane to avoid hitting the car in front of it. When the Highway Patrol officer stopped the Suburban, Officer Richards pulled over and told the Highway Patrol officer what he had observed, that he believed the driver was driving like “an idiot,” and he suspected the driver might be intoxicated.

11. The Highway Patrol officer's Incident Report recounts the 911 calls, the BOLO broadcast, and Officer Richards' comments. The Highway Patrol officer reported Ms. Kiser was swaying and smelled of alcohol. Ms. Kiser denied she had been drinking. The officer administered a field sobriety test, which he determined she failed. The officer placed Ms. Kiser under arrest,

handcuffed her, placed in the patrol car, and turned the dash camera to her. The Board viewed the dash camera video, in which Ms. Kiser wryly acknowledged and talked to the camera, but at the hearing testified she did not know she was on camera. While in the patrol car, Ms. Kiser talks to and curses on camera and repeatedly licks her pants leg and shirt.

12. From inside the Suburban, the students observed portions of the field sobriety test and Ms. Kiser being handcuffed and placed in the patrol car. The three high school students testified in their depositions that they were confused and scared, and some of the girls started crying. One student testified she was "really shocked...because I trusted her."

13. The Highway Patrol took the students into protective custody. The girls were split up, put into patrol cars, and taken to a Highway Patrol station. They were told to call their parents and, if their parents did not pick them up, they would be placed into DSS custody. One student testified in her deposition that she "was really stressed out" because her parents did not answer their phones. The Administration introduced copies of the South Carolina Highway Patrol Call History Record call notes, which verify calls were placed that day to both Charleston County DSS and Spartanburg County DSS concerning "6-7 children under the age of 17."

14. When Coach Freed learned about the situation, he went to the police station and tried to pick up the girls. To do so, he had no choice but to leave the boys' team unsupervised at the hotel. The Highway Patrol would not release the students to Coach Freed.

15. Dr. Booker was informed about Ms. Kiser's arrest that night while attending the Spartanburg High School football team's game at Riverside High School in Greer. He testified the safety of the students was his first and foremost concern. He tried to arrange their release to Coach Freed, but he was told the students could only be released to their parents or DSS custody.

16. The students were detained at the police station at least four to five hours until their parents were notified and drove from Spartanburg to Charleston to pick them up.

17. Ms. Kiser was placed on administrative leave with pay effective Sunday, September 28, 2014, pending the Administration's investigation of the incident.

18. By Monday, September 29, 2014, news of "the Spartanburg High coach" being arrested was widely reported by print and television media throughout the community and state. While Ms. Kiser contended these reports unfairly and inaccurately portrayed the true events, the print news articles reviewed by the Board did accurately report to the community and the state that she was driving the girls' cross country team to a meet at the time of her arrest, and the students were detained by the Highway Patrol until their parents arrived.

19. On Monday morning, September 29, 2014, Mr. Stevens interviewed the three high school students about the incident. Dr. Booker reviewed the students' reports of the events and the Highway Patrol incident report. He met with Ms. Kiser that afternoon to hear her account of

the events. Dr. Booker shared with her the reports that she was driving 90 to 95 miles per hour, struck a mailbox, veered off the road on more than one occasion, and was the subject of at least two 911 calls to the Highway Patrol because of her erratic driving. Ms. Kiser admitted she was driving at least 85 miles per hour, and agreed her driving endangered the students.

20. By letter dated September 29, 2014, the Superintendent notified Ms. Kiser of his recommendation to the Board that her employment be terminated immediately on the grounds that her conduct represents an evident unfitness for teaching due to the extreme hazard to the safety and well-being of the student-athletes entrusted to her care, misuse of the School District's vehicle, multiple violations of the law and School District policy, and extremely poor judgment.

21. By letter to the Superintendent dated October 7, 2014, Ms. Kiser's attorney requested that she be returned to the classroom immediately. He acknowledged, among other things, that Ms. Kiser was "driving quickly," trying to catch up with the boys' team and make it to the site of the meet before dark, and she was "traveling with the faster flow of traffic."

22. At the hearing, Ms. Kiser admitted she was driving 85 to 90 miles per hour and had difficulty controlling the Suburban and keeping it on the road. Ms. Kiser stated she drove the Suburban no differently than she normally drives. She admitted she is an aggressive driver, and her driving record revealed two prior speeding convictions, including one for speeding more than ten miles per hour over the speed limit. She testified she was driving quickly and with the faster flow of traffic. She also admitted to secretly smoking her e-cigarette while driving the Suburban. Ms. Kiser gave conflicting accounts of whether she was trying to catch up to the boys' team.

23. Ms. Kiser attributed her speeding and erratic driving to numerous "mitigating" factors. She claimed she was distracted by the girls' excited talking and music (although she did not instruct them to quiet down because she is a "pushover"). She testified she was unfamiliar with the Suburban (although her attorney admitted in his letter to the Superintendent that Ms. Kiser had driven the Suburban previously), and it was larger than the vehicle she is used to driving. She attributed her speeds of at least 85 to 90 miles per hour to gravity and the Suburban not having cruise control. She attributed her swerving to the Suburban's loose steering, which caused it to pull to the right. She claimed she was in heavy traffic and had difficulty getting one of the students to read the directions, and the Suburban did not have a GPS system.

24. Ms. Kiser did not report loose steering or any other mechanical problems to the Highway Patrol officer or Dr. Booker. The cross country coach, Jack Todd, the assistant coach, John Freed, and the Spartanburg High School Assistant Principal, David Lawson, all testified they had previously driven the Suburban and, while the steering may have had some loose play it was not excessive, and they did not have any difficulty driving the Suburban and keeping it on the road. The students who had ridden in the same Suburban before testified in their depositions that neither Coach Todd nor Coach Freed seemed to have any trouble keeping it on the road or in the lanes of traffic. Coach Todd and Coach Freed testified they would not have allowed the students to be transported in the Suburban on September 26 if they had any reason to believe it was unsafe.

25. Ms. Kiser denies she was intoxicated or impaired on September 26. She attributed her arrest for DUI and child endangerment to an angry and overly aggressive Highway Patrol officer. She testified she had no control over the situation after she was removed from the vehicle.

CONCLUSIONS

1. State law vests the Board with the power and duty to discharge teachers "when good and sufficient reasons for so doing present themselves." S.C. Code § 59-19-90(2). It is the public policy of this State and the policy of this Board to provide for the immediate removal of any teacher whose conduct manifests evident unfitness. Evident unfitness for teaching is manifested by conduct such as, *but not limited to*, the following: persistent neglect of duty; willful violations of rules and regulations of the Board; drunkenness; conviction of a violation of the law of this State or the United States; gross immorality; or dishonesty. S.C. Code § 59-25-430. As illustrated by the non-exhaustive list of examples set forth in the statute, evident unfitness for teaching is not limited to a teacher's classroom performance.

2. Ms. Kiser was acting in her capacity as a School District employee at all times while driving the girls' cross country team to Charleston. The students were entrusted to Ms. Kiser's supervision and care for the entire trip, and it was her duty and responsibility to protect their safety and well-being at all times. School Board policies require Ms. Kiser to exercise good judgment, exercise a reasonable standard of care for the supervision and protection of the students, and to carry out her assigned responsibilities with conscientious "care and concern toward her own and the board's legal responsibility for the safety and welfare of students."

3. The evidence, including Ms. Kiser's own admissions, overwhelmingly establishes that she failed to exercise good judgment and reasonable care by driving at dangerous speeds of at least 85 to 90 miles per hour and by failing to maintain proper control of the vehicle in complete disregard for the safety and welfare of the seven students entrusted to her care and other drivers sharing the highway. Ms. Kiser's driving was so erratic, reckless, and dangerous that two other drivers on Interstate 26 made 911 calls to report her, and an off-duty police officer followed her and reported to the Highway Patrol officer that she was driving "like an idiot."

4. The consequences of Ms. Kiser's extremely poor judgment, failure to exercise reasonable care, and unprofessional conduct adversely affected the students, their parents, and her co-workers. The students watched from the Suburban while Ms. Kiser performed a field sobriety test and was then arrested, handcuffed, and placed in a patrol car. They were left on the roadside, split up and placed into patrol cars, and detained in police protective custody for at least four to five hours while waiting for their parents and in fear of DSS custody if their parents were unable to pick them up. The parents received phone calls from their scared children and the school principal, and were required to drive from Spartanburg to Charleston in the middle of the night to pick up their children from a police station. Coach Freed was placed in the impossible position of having to decide between leaving the boys' team unsupervised in a hotel in violation of his own responsibilities and going to the police station to ensure the safety of the girls. Ms. Kiser's failure

to use good judgment and reasonable care to supervise and protect the safety and well-being of these students also adversely affects the Administration's ability to maintain broad community confidence in its ability to supervise and protect students.

5. Ms. Kiser's claims of mitigating circumstances lack credibility and, even if believed, merely further exhibit a lack of good judgment and reasonable care in her decisions and actions. For example, if she experienced loose steering or any other mechanical problems that made it difficult to keep the vehicle on the road, good judgment and reasonable care dictated that she not drive at speeds of 85 to 90 miles per hour, but rather that she stop the vehicle, or at a minimum drive with extreme caution, and report the problem to School District officials. Likewise, if she was unfamiliar with and not use to driving the Suburban, good judgment and reasonable care dictated that she drive with caution and not at speeds of 85 to 90 miles per hour and not secretly smoke her e-cigarette while driving. If she was distracted by the students' music or excited talking, good judgment and reasonable care dictated that she drive with caution and exert her authority and control to instruct the students to quiet down. Ultimately, it Ms. Kiser's own decisions and conduct that precipitated multiple reports of her reckless driving and resulted in her traffic stop, her arrest, and her students being rendered to protective custody.

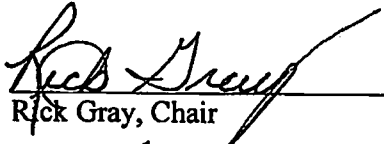
6. The Board finds Ms. Kiser's arguments that she was not intoxicated and that the Superintendent's recommendation is premature under S.C. Code § 59-25-430 because she has not been convicted of DUI or any other crime are misplaced. The Administration did not argue drunkenness or arrest or conviction for any crime as a grounds for dismissal. Regardless of whether Ms. Kiser was intoxicated or is eventually convicted of DUI or any other crime, substantial evidence presented to the Board clearly establishes that her lack of good judgment and failure to exercise reasonable care recklessly endangered the safety and well-being of her students and resulted in her students being taken into protective custody by law enforcement in violation of School District policies governing staff conduct and responsibilities with students.

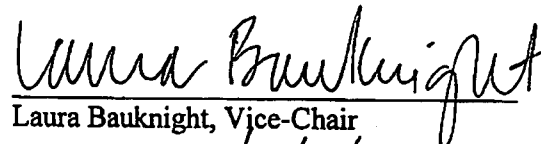
7. The Board finds Ms. Kiser's arguments that she is a model classroom teacher and that her bad driving does not equate to unfitness to teach to be unpersuasive. Ms. Kiser's conduct such as driving at least 85 to 90 miles per hour with students in the vehicle, discretely smoking an e-cigarette in the presence of students, engaging in any conduct that results in a field sobriety test and arrest in front of students, and engaging in any conduct that results in students being taken into protective custody by law enforcement does not exemplify a model teacher or otherwise comport with the Board's expectations of an exemplary model for students. Board policies charge Ms. Kiser with the responsibility to protect the safety and well-being of students at all times, in all curricular and *extracurricular* activities, both on and off school property. Ms. Kiser's reckless driving and poor judgment in blatant disregard for the safety of the seven students entrusted to her care and in violation of Board policies cannot be trivialized as "bad driving."

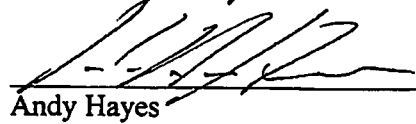
8. Student safety is a paramount concern of the Board. Ms. Kiser recklessly endangered the safety and well-being of seven students in violation of Board policies and expectations governing staff conduct and responsibilities with students. As a result, she cannot be entrusted with the supervision and protection of School District students, which is a primary and essential responsibility of her job as a teacher and a coach.

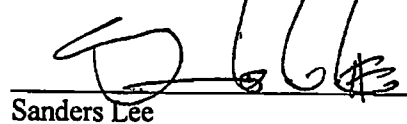
9. Based on the foregoing findings and conclusions, the Board finds there is good and sufficient reason to accept the Superintendent's recommendation for the immediate termination of Ms. Kiser's employment.

SPARTANBURG SCHOOL DISTRICT SEVEN BOARD OF TRUSTEES

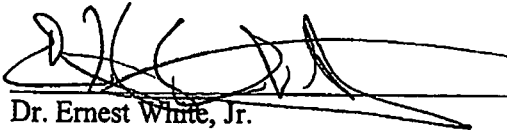

Rick Gray, Chair


Laura Bauknight, Vice-Chair


Andy Hayes


Sanders Lee


Julie Lonon


Dr. Ernest White, Jr.

March 27 2015
Spartanburg, South Carolina

IN THE MATTER OF DEDRA H. KISER
SPARTANBURG SCHOOL DISTRICT SEVEN
BOARD OF TRUSTEES
HEARING: MARCH 18, 2015

PURSUANT TO NOTICE, A SCHOOL BOARD HEARING
REGARDING A TEACHER DISMISSAL WAS HELD AT
SPARTANBURG SCHOOL DISTRICT SEVEN OFFICE,
SPARTANBURG, SOUTH CAROLINA, ATTENDED BY THE
FOLLOWING AND COMMENCING AT THE HOUR OF 5:42 P.M.

REPORTED BY: DIXY MOORE TURNER, VERBATIM REPORTER.



COPY

DIXY MOORE TURNER ASSOCIATES, INC.
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LAURA BAUKNIGHT, VICE-CHAIRPERSON
ERNEST WHITE
ANDY HAYES
SANDERS LEE
JULIE LONON

WILLIAM MCBEE SMITH, ESQUIRE

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(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL
IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

DIXY TURNER ASSOC., INC.

R000113

1 BY CHAIRMAN:

2 GOOD AFTERNOON. I WOULD LIKE TO CALL THIS MEETING
3 TO ORDER. FOR THE RECORD I WOULD JUST LIKE TO SAY WE
4 HAVE HAD AN OPPORTUNITY TO READ THE DEPOSITIONS OVER A
5 COUPLE OF DAYS, SO IF YOU DON'T MIND WE CAN GET PAST
6 THAT PART OF THE HEARING. WE WANT TO ALLOW YOU TO TAKE
7 TEN MINUTES EACH FOR YOUR OPENING STATEMENT. PLEASE
8 LET'S NOT BE REPETITIVE IN TONIGHT'S ACTIVITIES.

9 (COURT REPORTER SWEARS IN ALL WITNESSES AT THIS TIME TO
10 TELL THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH
11 CONCERNING THIS MATTER AND ALL MATTERS)

12 BY MR. DARR:

13 I ASSUME WE ARE IN EXECUTIVE SESSION RIGHT NOW?

14 BY MR. WHITE:

15 I MOVE WE GO INTO EXECUTIVE SESSION.

16 BY MR. HAYES:

17 I SECOND.

18 (UNANIMOUS APPROVAL)

19 BY MR. GRAY:

20 MOTION CARRIES; WE ARE NOW IN EXECUTIVE SESSION.

21 BY MR. DARR:

22 YOU KNOW ME BUT FOR THE RECORD I'LL INTRODUCE
23 MYSELF; I'M KEN DARR WITH THE LAW FIRM OF LYLES, DARR AND
24 CLARK REPRESENTING THE ADMINISTRATION FOR SCHOOL DISTRICT 7
25 IN THIS TEACHER DISMISSAL HEARING. ATTENDING WITH ME IS

26 SUPERINTENDENT DR. BOOKER AND AN ASSOCIATE FROM OUR FIRM
27 NETH NETTLES.

28 YOU HAVE RECEIVED PRE-TRIAL BRIEFS AND EXHIBITS
29 FROM BOTH SIDES, SO YOU ARE FAMILIAR WITH THE CASE TO
30 THE EXTENT YOU'VE HAD AN OPPORTUNITY TO READ THOSE
31 ALREADY. THIS IS A TEACHER EMPLOYMENT AND DISMISSAL
32 HEARING THAT'S BEING HELD AT THE REQUEST OF MS. KISER
33 WHO HAS THE RIGHT UNDER THE STATUTE OF THE TEACHER
34 EMPLOYMENT DISMISSAL ACT.

35 WHAT IT'S NOT IS A CRIMINAL TRIAL. WE'RE NOT
36 HERE TO PROVE THAT SHE WAS DRIVING UNDER THE INFLUENCE
37 OR GUILTY OF CHILD ENDANGERMENT UNDER THE CRIMINAL
38 STATUTES OF SOUTH CAROLINA. THAT'S A PROSECUTOR;
39 THAT'S ANOTHER CASE; THAT'S NOT THE CASE TONIGHT. SO WE
40 WON'T MAKE ANY EFFORT TO DO THAT NOR ARE WE REQUIRED TO
41 DO THAT. THE BURDEN OF PROOF FOR THAT KIND OF CASE IS
42 VERY DIFFERENT. BEYOND A REASONABLE DOUBT, ET CETERA.
43 WE WILL NOT BE HEADING DOWN THAT DIRECTION AT ALL.

44 AND THIS IS NOT A CIVIL TRIAL EITHER. IT'S QUASI
45 JUDICIAL, BUT IT'S NOT A CIVIL TRIAL, SO WE WON'T EVEN
46 HAVE THE BURDEN OF PROOF IN THE CIVIL TRIAL
47 PREPONDERANCE OF THE EVIDENCE. WHAT YOU HAVE TO
48 DETERMINE TONIGHT IS WHETHER THERE IS GOOD AND
49 SUFFICIENT REASON FOR THE RECOMMENDATION FOR
50 TERMINATION AND DISMISSAL THAT WE HAVE RECEIVED FROM

DIXY TURNER ASSOC., INC.

R000115

51 THE SUPERINTENDENT. IN THIS CASE, THE SCHOOL DISTRICT
52 IS GOING UNDER THE PARTICULAR SECTION OF THE TEACHER
53 EMPLOYMENT DISMISSAL ACT THAT REFERS TO EVIDENT
54 UNFITNESS FOR TEACHING. THE STATUTE SETS OUT SOME
55 EXAMPLES AND SAYS SPECIFICALLY "SUCH AS BUT NOT LIMITED
56 TO..." AND THEN THERE IS AN ENUMERATION OF REASONS
57 THAT INCLUDE VIOLATION OF BOARD POLICY, DRUNKENNESS,
58 CRIMINAL CONVICTION AND PERSISTENT NEGLECT OF DUTY AND
59 SO FORTH. THE REASONS THAT ARE BEING USED AS THE BASIS
60 FOR THE RECOMMENDATION FOR TERMINATION IN THIS HEARING
61 FOR THIS CASE ARE SET OUT IN THE ADMINISTRATION'S
62 NOTEBOOK, THE WHITE ONE. THERE THE LETTER THAT THE
63 SUPERINTENDENT WROTE TO MS. KISER ON SEPTEMBER 29 SETS
64 OUT HIS REASONING FOR HIS CONCLUSION THAT HE NEEDED TO
65 RECOMMEND HER TERMINATION. IN A NUTSHELL, IT IS THE
66 EXTREME DANGER THAT SHE PUT SEVEN FEMALE MEMBERS OF THE
67 SPARTANBURG HIGH SCHOOL CROSS COUNTRY TEAM IN BY THE
68 RECKLESS AND ERRATIC DRIVING THAT SHE DID IN TRAVELING
69 TO CHARLESTON FOR A CROSS COUNTRY EVENT.

70 LET ME JUST RUN THROUGH SOME OF THE SEQUENCE OF
71 EVENTS BECAUSE I THINK THAT'S HOW YOU CAN SEE THE BASIS
72 FOR HIS TERMINATION - THE REASONS SET FORTH IN HIS
73 TERMINATION LETTER AND THE BOARD POLICIES THAT WERE
74 VIOLATED IN THE PROCESS OF HER ACTIONS AS WELL AS
75 ENDANGERING THOSE STUDENTS. THERE IS PROOF OF EACH OF

1 THESE THINGS I AM MENTIONING IN THIS NOTEBOOK THAT
2 WE'VE SUBMITTED TO YOU, THE ADMINISTRATION'S NOTEBOOK.
3 SO YOU'LL FIND IT THERE. WHATEVER YOU HAVEN'T ALREADY
4 LOOKED AT YOU'LL SEE TONIGHT AS YOU FLIP THROUGH IT.
5 BUT TO TALK ABOUT WHAT HAPPENED ON SEPTEMBER 26, 2014,
6 WHEN THIS INCIDENT OCCURRED, YOU'VE GOT TO GO BACK TO
7 THE DAY BEFORE WHEN MS. KISER WAS AT HOME, AND
8 APPARENTLY STAYED UP UNTIL TWO O'CLOCK IN THE MORNING,
9 DRINKING WINE. HER LAWYER ADMITS IN HIS LETTER TO DR.
10 BOOKER THAT SHE HAD THREE OR FOUR GLASSES OF WINE, AND
11 WOKE UP AT SIX A.M., SO WE'VE GOT FOUR HOURS OF SLEEP
12 THERE, ACCORDING TO HER ATTORNEY'S ADMISSION, KNOWING
13 THAT SHE HAD TO DRIVE SEVEN STUDENTS DOWN TO CHARLESTON
14 THAT DAY. SHE DIDN'T GO TO WORK, DIDN'T GO TO HER
15 TEACHING JOB THAT DAY. SHE STAYED HOME HELPING WITH
16 SOME PROJECTS AROUND THE HOUSE APPARENTLY. DIDN'T TAKE
17 A SHOWER, SO SHE MUST'VE BEEN REAL BUSY. HAD ALMOST
18 NOTHING TO EAT OR DRINK. EXTREMELY BUSY, IT SOUNDS
19 LIKE. BUT KNOWING ALL THE WHILE SHE NEEDED TO DRIVE
20 STUDENTS TO CHARLESTON. FRIDAY SHE GETS TO SPARTANBURG
21 HIGH SCHOOL LATE, ACCORDING TO THE TESTIMONY OF
22 STUDENTS. EVERYBODY IS THERE WAITING ON HER
23 APPARENTLY. GOT THEIR LUGGAGE IN THE VAN ALREADY.
24 SHE'S DRIVING THE 1999 SUBURBAN; IT'S OWNED BY THE HIGH
25 SCHOOL. THE BOYS TEAM WAS GOING DOWN IN THE OTHER

1 SUBURBAN THAT'S OWNED BY THE HIGH SCHOOL WITH AN
2 ASSISTANT COACH. THE HEAD COACH WAS NOT ABLE TO MAKE
3 THAT TRIP. THINGS STARTED OUT BADLY RIGHT FROM THE
4 GET-GO. SHE DRIVES OUT OF THE PARKING LOT AND HITS A
5 CURB. IT GETS WORSE FROM THERE. SHE MISSES A TURN
6 BECAUSE SHE'S DRIVING TOO FAST TRYING TO GET TO A
7 STUDENT'S HOUSE. SO EVEN THOUGH SHE'S LATE FROM
8 LEAVING LATE, THE BOYS HAVE LEFT AHEAD OF THEM, AT THE
9 SAME TIME BUT ARE NOW AHEAD OF THEM, SHE DECIDED IT WAS
10 PRUDENT TO MAKE TWO STOPS AT TWO SEPARATE HOUSES ACROSS
11 A COUPLE NEIGHBORHOODS ON THE EAST SIDE OF SPARTANBURG:
12 ONE TO PICK UP A CD PLAYER FOR THE STUDENTS TO PLAY A
13 CD IN, AND THE OTHER TO PICK UP, SHE SAYS, HER E
14 CIGARETTE CHARGER. SO NOW WE'RE FURTHER BEHIND BECAUSE
15 THE BOYS ARE TRAVELING ON DOWN THE ROAD. SO THEN THE
16 NEXT EVENT THAT RAISES QUESTIONS ABOUT HER DRIVING AND
17 HER CARE FOR THE SAFETY AND WELL BEING OF THE STUDENTS
18 IS RUNNING A RED LIGHT AT CEDAR SPRINGS; THERE'S
19 TESTIMONY FROM THE STUDENTS THAT SHE HAD TO SLAM ON
20 BRAKES, WAS OUT TOO FAR IN THE INTERSECTION. NOW THE
21 LIGHT WON'T CHANGE BECAUSE SHE'S PASSED THE TRIGGER
22 LINES IN THE ROAD. INSTEAD OF BACKING UP LIKE I WOULD
23 THINK I WOULD DO, SHE SITS THERE; SHE GOES WHATEVER
24 NUMBER OF CYCLES OF LIGHTS AND DECIDES, OH, WELL, AND
25 SHE RUNS IT. ONE OF THE STUDENTS WAS ASKED, "WAS THERE

1 ANY ONCOMING TRAFFIC? AND SHE SAID, "YEAH, BUT WE MADE
2 IT." SO SHE TURNS DOWN 56 TO HEAD TO I-26. SEVERAL
3 STUDENTS CORROBORATE THAT SHE CLIPPED A MAILBOX ALONG
4 THE WAY ON 56. DIDN'T KNOCK IT DOWN, DIDN'T DO ANY
5 DAMAGE TO THE MIRROR, BUT APPARENTLY COMING CLOSE
6 ENOUGH TO THE SIDE OF THAT ROAD THAT SHE HAD SOME
7 CONTACT WITH THE MAILBOX; IT WAS HEARD; IT WAS FELT.
8 SHE MOVES ON, SPEEDING THEY SAID, DRIVING AT A HIGH
9 RATE OF SPEED. GETS TO 26, AND THE SKY'S THE LIMIT.
10 NOW SHE'S UP TO 90, 95 MILES AN HOUR, ACCORDING TO THE
11 STUDENTS. THERE WILL BE AN ATTEMPT TO RAISE DOUBTS
12 ABOUT THEIR VIEWPOINT APPARENTLY OF THE SPEEDOMETER.
13 ONE OF THE PERSONS WAS SITTING DIRECTLY BEHIND HER SO
14 SHE HAD THE SAME VIEW OF THAT SPEEDOMETER THAT THE
15 DRIVER DID. OTHER STUDENTS WERE ADAMANT THAT WHEREVER
16 YOU THINK IT WAS POINTING ON THE FACE OF A CLOCK, WHICH
17 WAS CROSS-EXAMINATION AT A DEPOSITION, THEY SAID 90 AND
18 95 MILES AN HOUR. SO NO QUESTION SHE WAS FLYING. SHE
19 RAN OFF THE LANE OF TRAVEL MULTIPLE TIMES ON BOTH THE
20 RIGHT-HAND SIDE AND THE LEFT-HAND SIDE. THERE'S A LOT
21 OF TALK ABOUT THIS THING MUST HAVE PULLED TO THE RIGHT.
22 I THINK THAT'S ONE OF THE EXCUSES YOU'RE GOING TO HEAR
23 IS THE CAR PULLED TO THE RIGHT. WELL, IT MUST HAVE
24 PULLED TO THE LEFT, TOO, BECAUSE SHE WAS ON THE RUMBLE
25 STRIPS ON BOTH SIDES OF THAT HIGHWAY. THAT KIND OF

1 DRIVING, SWERVING BACK AND FORTH, ERRATIC DRIVING THE
2 STUDENTS REPORTED WAS ALSO REPORTED BY TWO CALLERS, AT
3 MINIMUM, TO 911. THESE WERE THIRD PARTIES UNRELATED TO
4 ANYTHING TO DO WITH SPARTANBURG HIGH SCHOOL, OBSERVED
5 THIS SUBURBAN DRIVING CRAZY DOWN THE HIGHWAY. BEN
6 ELLIOTT CALLED, SAID SHE WAS SWERVING ALL OVER THE
7 ROAD. HE IDENTIFIED THE CAR AS THE NAVY SUBURBAN TAG
8 NUMBER THAT MS. KISER WAS DRIVING. LISA PELLONI, SAME
9 THING. WE'VE GOT THESE 911 TAPES FOR YOU. LISA WENT
10 ON TO SPECULATE THIS PERSON MUST BE - "I BELIEVE SHE
11 MUST BE INTOXICATED." WE'RE NOT HERE TO PROVE THE
12 INTOXICATION, BUT THAT WAS THE IMPRESSION THAT THIS
13 DRIVER - OTHER DRIVER ON THE HIGHWAY HAD. ANOTHER
14 REPORT OF ERRATIC DRIVING CAME FROM A GOOSE CREEK
15 POLICE OFFICER, FROM THE TOWN OF GOOSE CREEK, WHO
16 HAPPENED TO BE DRIVING DOWN THE INTERSTATE AT THAT
17 POINT IN TIME. HE WAS OFF DUTY, AND HE WAS OUT OF HIS
18 JURISDICTION. SO HE WATCHED THE DRIVING BUT COULDN'T
19 INITIATE THE STOP BECAUSE HE WAS OUT OF HIS
20 JURISDICTION AND DIDN'T HAVE THE AUTHORITY TO STOP BUT
21 HE KNEW THIS WAS BAD; HE STAYED IN BEHIND HER UNTIL A
22 HIGHWAY PATROLMAN COULD GET THERE. THE HIGHWAY
23 PATROLMAN PULLED INTO BETWEEN THE POLICE OFFICER AND
24 MS. KISER, AND STOPPED HER. TURNED ON THE BLUE LIGHTS
25 AND STOPPED HER.

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R000120

1 I WON'T GO INTO A LOT OF DETAILS HERE, BUT YOU
2 WILL SEE IT WITH THE DASH CAM OF SEQUENCES WE'VE PULLED
3 OUT AND ONE SCENARIO THAT'S INTERESTING IS EACH STUDENT
4 TESTIFIED THE SAME WAY TO THIS; HE TOLD HER TO PUT THE
5 SUBURBAN IN PARK, AND SHE SAID, "IT IS IN PARK," AND HE
6 SAID "NO, IT'S NOT IN PARK," AND SHE LOOKED DOWN AND IT
7 WASN'T SO SHE HAD TO PUT IT INTO PARK. HE ADMINISTERED
8 A FIELD SOBRIETY TEST WHICH SHE FAILED. THE KIDS ARE
9 IN THE CAR; SHE'S BEHIND IT. HAD TO TAKE A FIELD
10 SOBRIETY TEST. HE HANDCUFFS HER, ARRESTS HER, PUTS HER
11 IN THE PATROL CAR. SHE REFUSES TO TAKE THE
12 BREATHALYZER. THE DASH CAM THAT HAD BEEN POINTED
13 TOWARD THE FIELD SOBRIETY TEST IS NOW TURNED TOWARD HER
14 SITTING IN THE FRONT SEAT AND RECORDS SOME BIZARRE
15 CONDUCT. AS SHE'S GETTING INTO THE CAR SHE MAKES
16 REFERENCE TO "WHAT ABOUT THOSE SEVEN-YEAR-OLDS IN THE
17 CAR UP THERE?" THEN SHE SAYS "SEVEN GIRLS." SHE THEN
18 PROCEEDS TO USE PROFANE LANGUAGE MULTIPLE TIMES: THE
19 INFAMOUS "F" WORD COMING OUT OF HER MOUTH. SHE LOOKS
20 AT THE CAMERA AS SOON AS IT IS TURNED AROUND. SHE KNEW
21 SHE WAS BEING RECORDED AND SHE'S STILL LETTING THE
22 PROFANITIES FLY. SHE HAD THIS BIZARRE ACTION OF
23 CONTINUING TO LICK HER KNEE AND RUB HER LIPS ON HER
24 KNEE, AND THERE'S REFERENCE IN THE INCIDENT REPORT TO
25 SOMETHING ABOUT HER LIPS, BUT I QUIT COUNTING AT

1 TWENTY-SOMETHING TIMES THAT SHE DID IT. YOU CAN WATCH
2 THE WHOLE DASH CAM VIDEO; IT'S IN EVIDENCE. BUT SHE
3 LICKED IT A LOT SUCH THAT IT POINTS, IT LOOKS TO ME,
4 LIKE THE TONGUE IS BLUE BECAUSE SHE'S WEARING BLUE
5 JEANS. I HAVE NO CLUE WHAT WAS GOING ON THERE BUT SOME
6 SORT OF BIZARRE BEHAVIOR. HE CHARGED HER WITH DRIVING
7 UNDER THE INFLUENCE AND CHILD ENDANGERMENT. TOOK HER
8 OFF TO JAIL. THESE GIRLS, SEVEN GIRLS, ONE OF THEM WAS
9 ONLY 13; ONE OF THEM WAS 14; THREE OF THEM WERE AT THE
10 HIGH SCHOOL; THE OTHER ONES WE HAVE STATEMENTS AND
11 DEPOSITIONS ON, THEY'RE LEFT ON THE SIDE OF THE ROAD TO
12 RIDE WITH VARIOUS LAW ENFORCEMENT OFFICERS' CARS,
13 CRYING, SCARED TO DEATH. TOLD THAT THEY HAD TO CALL
14 THEIR PARENTS TO GET THEIR PARENTS TO COME THERE, AND
15 NOT ONLY THAT BUT IF THEIR PARENTS DON'T GET HERE,
16 YOU'RE GOING TO GO TO DSS. YOU'LL BE IN DSS CUSTODY.
17 SO, YOU CAN IMAGINE THE FRIGHT, THE TERROR THAT'S GOING
18 THROUGH THE MINDS OF THOSE KIDS AS THEY WERE TRYING TO
19 FIGURE OUT WHETHER THEIR PARENTS WERE GOING TO GET DOWN
20 THERE OR NOT. FORTUNATELY, THEY ALL DID; LUCKILY NONE
21 WERE ACROSS THE COUNTRY OR AWAY ON A TRIP OR ANYTHING
22 LIKE THAT. THEY WERE ALL ABLE TO GET THERE. THEY
23 WOULDN'T LET THEM LEAVE WITH ANY SCHOOL OFFICIALS OR
24 ANOTHER COACH. THEY HAD TO BE PICKED UP BY A PARENT OR
25 THEY WERE GOING TO DSS CUSTODY. JEFF STEVENS GOT WORD

1 OF IT. NOTIFIED PARENTS. THE KIDS ALL CALLED THEIR
2 PARENTS; SOME, BY THE WAY, DIDN'T GET THERE UNTIL 10:30
3 THAT NIGHT SO THEY'RE SPENDING SEVERAL HOURS, FOUR OR
4 MORE HOURS, IN THE HIGHWAY PATROL OFFICE. SO, SUNDAY I
5 BELIEVE IT WAS THEY TALKED AND TOLD HER SHE'S ON
6 ADMINISTRATIVE LEAVE WHILE THEY INVESTIGATE THIS. HE
7 INTERVIEWED THE STUDENTS AND ASKED THEM TO WRITE
8 STATEMENTS WHICH ULTIMATELY THEY DID. HE REPORTS HIS
9 FINDINGS TO THE SUPERINTENDENT. THE SUPERINTENDENT
10 GETS THE INCIDENT REPORT FROM THE TROOPER. THE
11 SUPERINTENDENT, ASSISTANT SUPERINTENDENT AND PRINCIPAL
12 MEET WITH THE TEACHER, AND IN THAT MEETING, THAT DUE
13 PROCESS AFFORDING HER THAT ACCESS TO THE OPPORTUNITY TO
14 ADDRESS THE ISSUES, SHE ADMITTED SHE WAS DRIVING 85.
15 AND SHE ADMITTED SHE ENDANGERED THE GIRLS; NOT CHILD
16 ENDANGERMENT NECESSARILY UNDER THE CRIMINAL CODE, BUT
17 SHE ACKNOWLEDGED THAT WHAT SHE DID ENDANGERED THOSE
18 GIRLS. SHE ADMITTED TO ONE OR TWO GLASSES OF WINE.
19 YOU KNOW HER LAWYER HAS SINCE SAID THREE OR FOUR, SO
20 I'M NOT SURE WHAT CREDIBILITY HER STATEMENTS ACTUALLY
21 HAVE, BUT SHE SAID NOTHING IN THAT MEETING TO PERSUADE
22 THE SUPERINTENDENT THAT IT WASN'T NECESSARY TO
23 RECOMMEND TERMINATION. THAT THE EXTREME DANGER THAT
24 SHE PUT THOSE CHILDREN IN AND THE BOARD POLICIES SHE
25 VIOLATED IN THE PROCESS AND SO FORTH WERE SO FAR BEYOND

1 WHAT SHE WAS PERMITTED TO DO AND SO FAR SHORT OF WHAT
2 SHE WAS REQUIRED TO DO THAT HE HAD TO RECOMMEND HER
3 TERMINATION. SO HE TOLD HER THAT. HE TOLD HER HE
4 WOULD ACCEPT HER RESIGNATION RATHER THAN DISMISS HER,
5 BUT SHE WOULD NEED TO TELL HIM THAT THE NEXT DAY, AND
6 SHE DIDN'T. SHE CHOSE NOT TO RESIGN, AND SO SHE WAS
7 SENT THE LETTER SAYING "YOU'RE BEING RECOMMENDED AND
8 YOU HAVE A RIGHT TO A BOARD HEARING," AND SHE'S ASKED
9 FOR ONE. SO TONIGHT IS THE JOB OF THE BOARD TO
10 DETERMINE WHETHER THERE IS SUBSTANTIAL EVIDENCE TO
11 SUPPORT THE BASIS FOR THAT RECOMMENDATION.

12 THANK YOU.

13 BY MR. ROTHSTEIN:

14 MR. CHAIRMAN, MEMBERS OF THE BOARD. MY NAME IS
15 DAVID ROTHSTEIN; I'M A LAWYER IN GREENVILLE, SOUTH
16 CAROLINA; IT'S NICE TO BE IN SPARTANBURG. I DON'T GET
17 A CHANCE TO GET OVER HERE VERY OFTEN. RIGHT OUT OF LAW
18 SCHOOL I WORKED FOR JUDGE CHAPMAN, AND HE ALWAYS SAID
19 NICE THINGS ABOUT SPARTANBURG; I APPRECIATE YOUR
20 HOSPITALITY HERE, AND IT'S GOOD TO SEE EVERYBODY.

21 WHEN I FIRST GOT OUT OF LAW SCHOOL I CLERKED FOR A
22 COUPLE OF FEDERAL JUDGES. JUDGE CHAPMAN WAS ACTUALLY
23 MY SECOND JOB. MY FIRST JOB WAS FOR A DISTRICT COURT
24 JUDGE IN THE FEDERAL COURT SYSTEM IN COLUMBIA AND I HAD
25 THE OPPORTUNITY DURING THAT TWO-YEAR CLERKSHIP TO SEE

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R000124

1 DOZENS OF CIVIL AND CRIMINAL TRIALS IN FEDERAL COURT.
2 IT WAS A FANTASTIC OPPORTUNITY FOR ME. I'VE ALWAYS
3 BEEN A BIG BELIEVER IN THE AMERICAN JURY SYSTEM, AND I
4 BELIEVE IN THE CONSTITUTIONAL RIGHT TO A JURY TRIAL,
5 AND THAT'S THE FUNDAMENTAL WAY THAT OUR SYSTEM RESOLVES
6 LEGAL DISPUTES. I AGREE WITH MR. DARR: THIS IS NOT A
7 JURY TRIAL TODAY, BUT IF ANY OF YOU ALL HAVE EVER
8 SERVED ON JURY DUTY, YOU KNOW THAT THE FIRST THING THE
9 JUDGE WILL ASK YOU TO QUALIFY YOU FOR JURY DUTY IS
10 WHETHER YOU ARE RELATED TO ANY OF THE PARTIES OR THE
11 LAWYERS. AGAIN, THAT'S AN IMPORTANT THING: YOU DON'T
12 WANT TO HAVE SOMEBODY WHO'S RELATED TO ONE OF THE
13 PARTIES BECAUSE THEY ARE JUST NOT GOING TO BE A FAIR
14 AND IMPARTIAL JUROR. THE SECOND QUESTION THE JUDGE
15 ALWAYS ASKS IS HAVE ANY OF THE JURORS HEARD ANYTHING
16 ABOUT THIS CASE, SEEN ANYTHING ON TV, READ ANYTHING IN
17 THE NEWSPAPER, DISCUSSED ANYTHING ABOUT THIS CASE WITH
18 ANYBODY? AND IF THE JUROR RAISES THEIR HAND THAT
19 THEY'VE HEARD ABOUT THE CASE, THAT PERSON IS THROWN OFF
20 THE JURY BECAUSE THEY CAN'T BE AN IMPARTIAL JUROR.
21 ALTHOUGH THIS CASE IS NOT A JURY TRIAL, IT'S IMPORTANT
22 THAT THIS CASE BE DECIDED ON THE EVIDENCE AND THE FACTS
23 AND THE LAW THAT'S PRESENTED DURING THIS HEARING, NOT
24 ON WHAT YOU MAY HAVE SEEN ON TV ABOUT MS. KISER WITH A
25 MUG SHOT OR ON TV OR TALKED TO PARENTS ABOUT. THE NEWS

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R000125

1 MEDIA DOESN'T TELL THE WHOLE STORY, OKAY. THE BEAUTY
2 OF THE AMERICAN JUDICIAL SYSTEM IS THIS ADVERSARIAL
3 TRIAL SYSTEM WHERE BOTH SIDES GET TO PRESENT THEIR SIDE
4 OF THE CASE. YOU DON'T JUST MAKE YOUR DECISION AFTER
5 MR. DARR GETS UP HERE AND TELLS WHAT HE BELIEVES THE
6 EVIDENCE WILL SHOW, AND LAWYERS ARE NOT WITNESSES IN
7 THE CASE SO YOU CAN'T BASE YOUR DECISION ON ANYTHING
8 MR. DARR SAYS OR ANYTHING THAT I SAY, OKAY. THAT'S NOT
9 EVIDENCE. THE EVIDENCE COMES FROM THE WITNESSES IN THE
10 CASE, THE DOCUMENTS, THE EVIDENCE THAT'S PROPERLY
11 INTRODUCED BEFORE YOU. SO I WOULD ENCOURAGE YOU ALL
12 - I KNOW YOU ALL HAVE PROBABLY GOT SOME PRECONCEIVED
13 NOTIONS ABOUT WHAT'S HAPPENED IN THIS CASE. I'M HERE
14 TO TELL YOU THAT'S NOT THE WHOLE TRUTH, OKAY, AND I
15 ENCOURAGE YOU TO KEEP AN OPEN MIND AS WE GO THROUGH
16 THIS PROCESS AND LISTEN TO THE EVIDENCE IN THE CASE.
17 NOW, WHAT YOU HAVEN'T HEARD IS MS. KISER'S SIDE OF THE
18 STORY. SHE WAS INSTRUCTED VERY EARLY ON IN THE PROCESS
19 - THE FIRST MEETING SHE HAD WITH DR. BOOKER - NOT TO
20 TALK TO ANYBODY AT THE SCHOOL, NOT TO HAVE ANY CONTACT
21 WITH ANYONE AT THE SCHOOL, NOT TO TALK TO ANY OF THE
22 STUDENTS THAT WERE INVOLVED IN THIS OR ANY OF THE
23 PARENTS. SHE HASN'T HAD AN OPPORTUNITY TO HAVE HER DAY
24 IN COURT, SO TO SPEAK, OR HAVE HER VOICE HEARD IN THIS
25 CASE. SO I WOULD ENCOURAGE YOU TO LISTEN TO HER SIDE

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R000126

1 OF THE STORY. FIRST OF ALL, MS. KISER WILL PRESENT
2 COMPELLING EVIDENCE THAT SHE WAS NOT IMPAIRED OR
3 INTOXICATED IN ANY WAY ON FRIDAY, SEPTEMBER 26, 2014,
4 WHEN SHE WAS DRIVING THE GIRLS CROSS COUNTRY TEAM DOWN
5 TO CHARLESTON FOR THE MEET. SHE HAS AN ALIBI WITNESS
6 THAT WAS WITH HER THAT MORNING. SHE DIDN'T JUST DECIDE
7 TO TAKE OFF. SHE WASN'T UP THE NIGHT BEFORE DRINKING
8 WINE. SHE HAD A GLASS OR TWO OF WINE WITH DINNER, AND
9 THEN SHE STAYED UP TILL TWO O'CLOCK DOING SOME THINGS
10 AROUND THE HOUSE TO HELP PREPARE FOR HER MOTHER GETTING
11 READY TO MOVE IN WITH THEM. SHE HAD AN APPOINTMENT AT
12 9:30 WITH THE CABLE PERSON WHO WAS GOING TO COME AND
13 MOVE THE CABLE BOXES AROUND IN HER HOUSE. THAT CABLE
14 REPAIRMAN WAS IN HER HOUSE WITH HER. SHE WOULD COME IN
15 AND OUT OF THE ROOMS; THEY WOULD TALK ABOUT THEIR
16 CHILDREN AND THAT KIND OF THING - HE WAS WITH HER FOR
17 FOUR HOURS THAT MORNING. FROM 9:30 TILL 1:30 WHEN SHE
18 HAD TO SAY, "LOOK, I'VE GOT TO GET TO THE SCHOOL; I'VE
19 GOT TO TAKE THESE KIDS DOWN TO CHARLESTON," AND HE
20 FINISHED UP THE INSIDE STUFF IN THE HOUSE AND LEFT.
21 HIS NAME IS JEFF CANNON. YOU'LL SEE HIS AFFIDAVIT IN
22 THE MATERIALS THAT WE'VE PROVIDED, AND MS. KISER'S
23 EXHIBITS ARE IN THE BLACK NOTEBOOK. SO WE HAVE A
24 PERFECT ALIBI THAT HE WAS WITH HER ALL MORNING; THERE
25 WAS NOTHING UNUSUAL. DIDN'T SMELL ANY ALCOHOL, DIDN'T

1 SEE HER DRINK ANYTHING. SHE WAS TALKING PERFECTLY FINE.
2 NOT IMPAIRED AT ALL. SO THEN SHE GETS TO THE SCHOOL.
3 SHE'S RUNNING A LITTLE BIT LATER THAN SHE WANTED TO GET
4 THERE, BUT THEY WERE PLANNING TO LEAVE ABOUT 1:45. SHE
5 GOT THERE ABOUT 1:40. MAYBE TEN OR FIFTEEN MINUTES
6 LATER THAN SHE HOPED TO GET THERE, BUT SHE WAS NOT
7 HOLDING ANYBODY UP. THE FIRST THING SHE DOES AT THE
8 SCHOOL IS PUTS HER BAG INTO THE CAR. EVERYBODY SAYS
9 SHE DIDN'T HAVE ANY TROUBLE WITH HER COORDINATION OR
10 MOTOR SKILLS, AND THEN SHE MEETS WITH COACH TODD, THE
11 HEAD CROSS COUNTRY COACH AND COACH FREED, THE ASSISTANT
12 COACH, FOR ABOUT TEN OR FIFTEEN MINUTES, MAYBE FIVE
13 MINUTES BEFORE THEY HEADED OUT. THEY ALL WERE SPEAKING
14 WITH MS. KISER; THEY OBSERVED HER. COACH FREED SAID HE
15 DIDN'T SEE ANYTHING UNUSUAL ABOUT HER BEHAVIOR, DIDN'T
16 SMELL ANY ALCOHOL. IF HE HAD SUSPECTED THERE'S
17 ANYTHING WRONG, HE CERTAINLY WOULD HAVE SAID SOMETHING
18 EITHER TO THE COACH, "ARE YOU OKAY TODAY; ARE YOU OKAY
19 TO DRIVE?" OR SOMETHING LIKE THAT. THAT NEVER
20 HAPPENED. COACH FREED ALSO WAS THE ONE WHO FIRST MET
21 WITH THE GIRLS DOWN AT THE HIGHWAY PATROL OFFICE. MS.
22 KISER, AFTER SHE WAS TAKEN OUT OF THE CAR, FROM THAT
23 POINT FORWARD SHE HAD NO CONTROL OVER WHAT HAPPENED TO
24 THAT SITUATION. SHE WAS HANDCUFFED AND PUT IN THE BACK
25 OF THE CAR. SHE WASN'T ALLOWED AN OPPORTUNITY TO EVEN

1 GET HER PURSE, WASN'T ALLOWED AN OPPORTUNITY TO TALK TO
2 ANY OF THE GIRLS IN THE CAR. THE PATROL OFFICER WAS SO
3 RUDE TO HER, HE THROWS HER IN HANDCUFFS, PUTS HER IN
4 THE CAR. SHE'S IN THE FRONT SEAT OF THE CAR WITH HER
5 HANDS BEHIND HER BACK. SHE HAD BEEN CHEWING GUM, AND
6 THERE WAS SOME - I THINK SHE'LL EXPLAIN ABOUT WHAT
7 HAPPENED SHE WAS LICKING HER HANDS. HER HANDS WERE
8 HANDCUFFED BEHIND HER BACK, AND SHE HAD SOMETHING ON
9 HER MOUTH THAT SHE WAS TRYING TO GET OFF. SO THAT'S
10 WHY SHE WAS - YOU'LL SEE HER IN THE DASH CAM - IT
11 APPEARS SHE IS SORT OF RUBBING HER PANTS OR RUBBING HER
12 MOUTH ON HER PANTS OR SOMETHING LIKE THAT. SHE HAD NO
13 IDEA THAT SHE WAS TAPED, AND THE GIRLS WERE IN THE CAR
14 AHEAD OF HER. SHE DIDN'T NOTICE THE CAMERA ON HER AT
15 THAT TIME, AND SHE WAS VERY FRUSTRATED, AND YOU'LL SEE
16 HER FRUSTRATIONS AND HER CONCERN ABOUT THE GIRLS COMING
17 OUT IN THAT VIDEO. AGAIN, THE GIRLS DIDN'T HEAR HER
18 DROP THE F BOMB. NOBODY ELSE HEARD HER DROP THE F
19 BOMB, BUT IT WAS RECORDED ON THE CAMERA. I DON'T THINK
20 IT SHOWS ANY IMPAIRMENT OR ANY INTOXICATION; IT SHOWS
21 THAT SHE'S SORT OF PANICKED BECAUSE THESE GIRLS ARE ON
22 THE SIDE OF THE ROAD, AND SHE'S IN THE PATROL CAR, AND
23 SHE WAS RESPONSIBLE FOR TAKING CARE OF THEM. YOU'LL
24 ALSO HEAR THAT THAT TROOPER WAS SO UNREASONABLE HE
25 WOULDN'T LET COACH FREED TAKE THE GIRLS BACK TO THE

1 HOTEL. HE SAID, "NO. CAN'T DO IT." THE SUPERINTENDENT
2 ACTUALLY GOT ON THE PHONE WITH THE HIGHWAY PATROLMAN,
3 AND THEY WOULDN'T LET THE HIGHWAY PATROLMAN RELEASE THE
4 GIRLS TO COACH FREED, AGAIN, ANOTHER ASSISTANT COACH ON
5 THE TEAM. I THINK THEY ACTUALLY HAD PERMISSION SLIPS
6 AND PARENTAL FORMS SAYING THEY WERE RESPONSIBLE FOR THE
7 GIRLS THAT WEEKEND. BUT THE TROOPER, IT WAS HIS WAY
8 AND NOBODY ELSE. THAT BEHAVIOR BY THE TROOPER IS VERY
9 CONSISTENT WITH WHAT MS. KISER EXPERIENCED. SHE IS A
10 FORTY-THREE YEAR OLD WOMAN WHO HAD BEEN IN A CAR WITH
11 THESE GIRLS FOR ALMOST FOUR HOURS STRAIGHT COMING FROM
12 SPARTANBURG. THEY DIDN'T STOP FOR GAS OR STOP FOR THE
13 RESTROOM OR A DRINK. NOTHING. SHE'S PULLED OUT OF THE
14 CAR ON THE SIDE OF THE HIGHWAY AND REQUIRED TO DO A
15 FIELD SOBRIETY TEST. I HOPE NONE OF YOU ALL HAVE EVER
16 DONE A FIELD SOBRIETY TEST OR NOT, BUT THERE'S A COUPLE
17 OF DIFFERENT VERSIONS OF IT. ONE, IS THE PATROLMAN
18 MAKES YOU WALK A STRAIGHT LINE ON THE WHITE LINE OF THE
19 HIGHWAY. THE OTHER ONE IS HE'LL ASK YOU TO LIFT YOUR
20 LEG UP AND BALANCE FOR FIVE OR TEN SECONDS TO SEE IF
21 YOU CAN BALANCE ON ONE LEG. THEN I THINK HE LOOKS AT
22 YOUR EYES TO SEE IF YOUR EYES ARE JUMPING AROUND.
23 SOMETHING THAT'S CALLED NYSTAGMUS, AND YOU MAY SEE THAT
24 IN HIS REPORT. MS. KISER THOUGHT SHE DID FINE ON THE
25 TEST BUT AGAIN, SHE'D BEEN SITTING IN THE SAME POSITION

1 FOR ALMOST FOUR HOURS, AND I'M A LITTLE OLDER THAN MS.
2 KISER, BUT IF I SIT IN A CAR FOR FOUR HOURS AND I GET
3 OUT, I'M PRETTY STIFF AND SORE, AND I'M NOT AS LIMBER
4 AS I USED TO BE. BUT IF I WAS REQUIRED TO STAND STILL
5 WITH MY LEGS STRAIGHT OUT FOR FIVE OR TEN MINUTES, I
6 DON'T KNOW THAT I COULD DO THAT, FRANKLY. SO SHE MAY
7 HAVE WOBbled A LITTLE BIT, BUT THE OFFICER WOULDN'T
8 TELL HER WHAT SHE DID WRONG OR WHAT - SHE THOUGHT SHE
9 DID FINE ON THE TEST. AND HE SAID, "NO, YOU'RE GOING
10 TO JAIL." SO MS. KISER, WHEN SHE GETS TO THE HIGHWAY
11 PATROL OFFICE, SHE SAYS, "BEFORE I DO ANYTHING, I WANT
12 TO TALK TO A LAWYER. THIS IS RIDICULOUS; I SHOULDN'T BE
13 HERE. THIS IS CRAZY. I MAY HAVE BEEN SPEEDING A LITTLE
14 BIT, BUT I'M NOT INTOXICATED; I HAVEN'T HAD ANYTHING TO
15 DRINK. I WANT TO SEE MY LAWYER." SO SHE GETS DOWN TO
16 THE - THEY TAKE HER TO THE INTAKE AREA, AND SHE IS
17 HANDED A FORM BY ONE OF THE INTAKE OFFICERS THERE, AND
18 SHE ASKS THE QUESTION ABOUT WHAT SOMETHING ON THE
19 CONSENT FORM MEANS, AND THE WOMAN IS VERY RUDE TO HER,
20 GRABS THE PAPER AND SAYS, "LOOK, IF YOU WON'T SIGN IT,
21 TAKE HER BACK. TAKE HER BACK." SO MS. KISER GOES
22 BACK. AGAIN, SHE ASKS TO SPEAK WITH A LAWYER. THE
23 TROOPER SAYS, "NO, YOU NEED TO TELL ME RIGHT NOW
24 WHETHER YOU WANT TO CONSENT TO GIVE THIS BREATHALYZER
25 TEST." MS. KISER AGAIN ASKS FOR HER LAWYER, AND THEY

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R000131

1 SAY "THAT'S A REFUSAL TO TAKE THE TEST; WE ARE TAKING
2 YOU TO JAIL." THEY SAID MS. KISER REFUSED TO TAKE THE
3 BREATHALYZER TEST BECAUSE SHE ASKED TO TALK TO A LAWYER
4 ABOUT WHETHER SHE NEEDED TO CONSENT TO THAT OR NOT.
5 SO, THAT'S THE EXTENT OF MS. KISER'S ARREST. NOW,
6 FIRST OF ALL, I BELIEVE THAT THIS CASE IS PREMATURE.
7 THIS CASE IS GOVERNED BY A STATUTE IN SOUTH CAROLINA
8 CALLED THE SOUTH CAROLINA TEACHER EMPLOYMENT AND
9 DISMISSAL ACT. I'M SURE YOU ALL ARE FAMILIAR WITH THAT
10 SOMEWHAT. AND A TEACHER WHO HAS A CONTINUING CONTRACT
11 OF EMPLOYMENT WITH A SCHOOL DISTRICT CAN ONLY BE
12 TERMINATED FOR CERTAIN REASONS, FOR CERTAIN JUSTIFIABLE
13 CAUSE. AND THIS CASE IS PREMATURE BECAUSE MS. KISER -
14 THE STATUTE SAYS THAT IF A TEACHER IS ARRESTED AND
15 CHARGED WITH A CRIME THAT COULD LEAD TO HER DISMISSAL,
16 SHE'S SUPPOSED TO BE SUSPENDED WITH PAY PENDING THE
17 OUTCOME OF THE CRIMINAL CASE, OKAY. IF THE CHARGES ARE
18 DISMISSED, IF THE TEACHER GETS A NOT GUILTY VERDICT,
19 THE TEACHER IS SUPPOSED TO BE FULLY REINSTATED, AND THE
20 SUSPENSION IS SUPPOSED TO BE TERMINATED AT THAT POINT.
21 THERE IS NOTHING WRONG WITH THE TEACHER'S EMPLOYMENT.
22 IF THE TEACHER PLEADS GUILTY OR IS FOUND GUILTY, THEN
23 THE DISMISSAL PROCESS SHOULD START, OKAY. SO THIS CASE
24 IS PREMATURE BECAUSE MS. KISER HASN'T BEEN FOUND GUILTY
25 OF ANYTHING. SHE PLEADED NOT GUILTY. SHE ASKED FOR A

1 JURY TRIAL IN CHARLESTON ABOUT THE DUI CHARGES. AGAIN,
2 SHE'S NOT BEEN FOUND GUILTY OF ANYTHING. SECOND, THE
3 STANDARD FOR TERMINATING A TEACHER WITH A CONTINUED
4 CONTRACT IS WHETHER THE TEACHER HAS MANIFESTED AN
5 EVIDENT UNFITNESS FOR TEACHING. EVIDENT UNFITNESS FOR
6 TEACHING. THAT'S THE KEY PHRASE YOU NEED TO FOCUS ON.
7 THE QUESTION IN THIS CASE IS NOT WHETHER MS. KISER IS A
8 GOOD DRIVER OR A BAD DRIVER. THE QUESTION IS NOT
9 WHETHER SHE IS A FIT DRIVER. THE QUESTION IS, IS SHE A
10 FIT SCHOOL TEACHER, AND TEACHING AT THE SCHOOL IS NOT
11 PART OF - I MEAN, DRIVING THE SUBURBAN WAS NOT PART OF
12 MS. KISER'S JOB AS A SCHOOL TEACHER. SHE WAS AN
13 ASSISTANT CROSS COUNTRY COACH FOR THE GIRLS CROSS
14 COUNTY TEAM. SHE HAD A SEPARATE SUPPLEMENT TO HER
15 TEACHING CONTRACT, AND WHETHER YOU THINK SHE'S A GOOD
16 DRIVER OR NOT MAY IMPACT WHETHER SHE SHOULD CONTINUE TO
17 BE A CROSS COUNTY COACH, BUT IT SHOULDN'T AFFECT
18 WHETHER SHE SHOULD BE TERMINATED AS A SCHOOL TEACHER.
19 IF YOU WANT TO SAY, "I'M SORRY, WE DON'T TRUST YOU TO
20 DRIVE CHILDREN AROUND," I CERTAINLY WOULD UNDERSTAND
21 YOU ALL'S DECISION IN THAT REGARD, AND YOU COULD SAY,
22 "WE'RE TERMINATING YOU FROM THE CROSS COUNTRY
23 POSITION," BUT THAT'S MUCH DIFFERENT THAN THE STATUTORY
24 RIGHT THAT SHE HAS UNDER THE SOUTH CAROLINA TEACHER
25 EMPLOYMENT AND DISMISSAL ACT. GETTING TO THE CAR, I

1 BELIEVE THERE ARE A LOT OF MITIGATING FACTORS IN HOW
2 THAT CAR WAS OPERATED ON THAT PARTICULAR DAY BUT I'LL
3 BE FRANK WITH YOU. I'M A PARENT OF A SIXTEEN-YEAR-OLD
4 PUBLIC SCHOOL STUDENT. MY DAUGHTER IS A STUDENT
5 ATHLETE; SHE'S ON THE VOLLEYBALL TEAM AT GREENVILLE
6 HIGH, AND IF I FOUND OUT THAT HER COACH WAS DRIVING HER
7 TO A VOLLEYBALL MATCH DOWN IN CHARLESTON, AND THERE
8 WERE REPORTS OF THE COACH GOING 90 OR 95 MILES AN HOUR,
9 I'D BE PRETTY UPSET ABOUT THAT; I'D BE PRETTY
10 CONCERNED. BUT LET'S STEP BACK AND TAKE A LOOK AT A
11 COUPLE OF THINGS: NUMBER ONE, THIS WAS A '99 SUBURBAN.
12 THE SUBURBAN WAS OLDER THAN EVERY ONE OF THE GIRLS IN
13 THAT CAR. THE CAR HAD OVER 120,000 MILES ON IT. THE
14 WHEELBASE ON THAT CAR IS SIX AND A HALF FEET WIDE. IF
15 YOU ADD IN THE SIDE VIEW MIRRORS ON EITHER SIDE OF THE
16 CAR, THAT IS OVER EIGHT AND A HALF FEET OF CAR GOING
17 DOWN THE HIGHWAY, OKAY. I DRIVE A HONDA PILOT, WHICH IS
18 AN SUV, A FULL-SIZE CAR, BUT IT'S MUCH SMALLER THAN THE
19 SUBURBAN THAT MS. KISER WAS DRIVING. THIS WAS THE
20 FIRST TIME SHE'D EVER DRIVEN THAT PARTICULAR CAR. SHE,
21 I THINK, HAD DRIVEN - I BELIEVE SHE HAD DRIVEN THE 2003
22 CAR A COUPLE OF TIMES BEFORE, BUT THIS WAS THE FIRST
23 TIME SHE THINKS SHE'S DRIVEN THAT 1999 VEHICLE. COACH
24 FREED, THE OTHER ASSISTANT COACH, HE HAD JUST STARTED
25 WORKING AS AN ASSISTANT COACH FOR THE BOYS TEAM, BUT HE

1 DROVE THAT CAR OVER THE SUMMER. THEY TOOK A TRIP, LIKE
2 A CAMP RETREAT FOR THE CROSS COUNTRY TEAM; THEY WENT TO
3 THE MOUNTAINS. COACH FREED TESTIFIED AND I ASSUME WILL
4 SOON TESTIFY THE SAME WAY. THAT '99 DOES NOT DRIVE AS
5 GOOD AS THE 2003, AND HE SAID THE '99 HAD VERY LOOSE
6 STEERING, AND IT TENDS TO DRIFT TO THE RIGHT. I HAD A
7 CHANCE LAST NIGHT - FOR THE FIRST TIME I SAW THE
8 SERVICE AND MAINTENANCE RECORDS ON THIS CAR. I HAVEN'T
9 HAD A CHANCE TO STUDY THEM; THEY WERE FAXED TO ME AFTER
10 - OR, E-MAILED TO ME AFTER SIX O'CLOCK LAST NIGHT, BUT
11 I DID NOTICE A COUPLE THINGS: NUMBER ONE, THE CAR HAD
12 NOT BEEN SERVICED SINCE COACH FREED DROVE IT OVER THE
13 SUMMER AND NOTED THE LOOSE STEERING AND THE DRIFTING TO
14 THE RIGHT. IF THE MAINTENANCE RECORDS ARE ACCURATE,
15 THE CAR HAD BEEN ALIGNED ONE TIME IN THE 16 YEARS THAT
16 IT WAS IN THE POSSESSION OF THE SCHOOL. ONE TIME TO
17 ALIGN THAT CAR. IN 2008 THAT CAR HIT A DEER. THERE IS
18 A REPORT OF A CAR HITTING A DEER, AND IT CAUSED ALMOST
19 \$1,000 DAMAGE TO THE FRONT END OF THAT CAR. IF
20 ANYTHING WAS UNSAFE ABOUT THIS SITUATION, IT'S THE KIDS
21 DRIVING AROUND IN A 1999 CAR. THE OTHER THING ABOUT
22 THAT PARTICULAR CAR - AGAIN, IF YOU'RE USED TO DRIVING
23 A SMALLER CAR, AND MS. KISER WILL TESTIFY WHAT SHE IS
24 USED TO DRIVING, GOING FROM THAT SIZE CAR TO AN EIGHT
25 AND A HALF FOOT VEHICLE IS A PRETTY BIG DIFFERENCE, AND

1 SOMETIMES IT'S HARD TO KEEP THAT KIND OF A VEHICLE IN
2 THE LANE EVERY TIME, AND SO THERE IS SOME TESTIMONY
3 ABOUT MS. KISER HAVING TROUBLE KEEPING THE CAR ALWAYS
4 BETWEEN THE LANES; SHE RAN OVER THE RUMBLE STRIPS A FEW
5 TIMES. I DO THAT ALL THE TIME, AND MY WIFE JUMPS ON ME
6 ABOUT IT, IN MY HONDA PILOT. IT'S NOT EVIDENCE THAT
7 SHE WAS IMPAIRED OR DRIVING RECKLESSLY. NOW, THE
8 ISSUE ABOUT THE SPEEDING, I THINK SHE WILL ACKNOWLEDGE
9 THAT SHE WAS GOING ABOVE THE POSTED SPEED LIMIT; I
10 DON'T THINK THERE IS ANY DISPUTE ABOUT THAT, BUT IF
11 YOU'VE EVER DRIVEN DOWN I-26 ON THE WAY TO CHARLESTON,
12 IF YOU GO 70 MILES AN HOUR, THE POSTED SPEED LIMIT, YOU
13 ARE PASSED LIKE YOU'RE STANDING STILL, OKAY. SHE WAS
14 DRIVING LIKE SHE ALWAYS DROVE, WHAT SHE NORMALLY DROVE.
15 THE CAR DIDN'T HAVE CRUISE CONTROL. I THINK THE GIRLS
16 THAT WERE RIDING WITH HER - WE DID TAKE THEIR
17 DEPOSITIONS, AND MONICA GRIESHOP, I BELIEVE IS HER NAME
18 ----

19 BY MR. DARR:

20 EXCUSE ME; WE'RE NOT USING LAST NAMES.

21 MR. ROTHSEIN RESUMES:

22 I'M SORRY. I'M NOT SUPPOSED TO USE NAMES. THE
23 GIRL WHOSE INITIALS ARE MG TESTIFIED THAT MS. KISER
24 USUALLY DROVE BETWEEN 70 AND 80 ON THE TRIP, OKAY. THAT
25 WAS HER USUAL SPEED. THERE WERE TWO OR THREE OCCASIONS

1 WHERE THEY NOTICED MS. KISER'S SPEED HAD CREPT UP TO
2 MAYBE 90, MAYBE A LITTLE ABOVE 90, AND MS. GRIESHOP
3 SAID SHE ALWAYS TOLD MS. KISER, "MS. KISER, YOU REALIZE
4 YOU'RE GOING THAT FAST?" MS. KISER SAID, "NO, I'M NOT
5 GOING THAT FAST," AND EITHER SHE WOULD SAY "I'M ONLY
6 GOING 80 OR 85," OR SHE WOULD SLOW DOWN AND MODERATE
7 HER SPEED BACK TO HER NORMAL SPEED. AGAIN, IF YOU
8 DRIVE DOWN TO CHARLESTON, YOU'LL NOTE THAT BETWEEN
9 COLUMBIA AND ORANGEBURG WHERE THE FALL LINE IS, YOU GO
10 DOWN SOME PRETTY BIG HILLS, AND IF YOU'RE IN A THREE-
11 QUARTER TON SUBURBAN, GRAVITY TAKES THAT OVER, AND
12 BEFORE YOU KNOW IT YOU MAY BE GOING OVER 85 MILES AN
13 HOUR OR CLOSE TO 90 MILES AN HOUR. IS THAT AGAINST THE
14 LAW? YES, THAT'S SPEEDING. IS THAT RECKLESS? NO,
15 THAT'S NOT RECKLESS. IS IT SOMETHING THAT PRECLUDES A
16 TEACHER FROM BEING A SCHOOL TEACHER UNDER THE TEACHER
17 EMPLOYMENT DISMISSAL ACT? ABSOLUTELY NOT. ANYWAY, I'M
18 SURE MY TIME IS GETTING PRETTY CLOSE TO UP, SO AGAIN, I
19 ENCOURAGE YOU TO LISTEN TO THE EVIDENCE VERY CAREFULLY
20 AND KEEP AN OPEN MIND UNTIL YOU'VE HEARD ALL OF IT.

21 THANK YOU.

22 BY MR. DARR:

23 THANK YOU, MR. CHAIR. WE HAVE PROVIDED NOTEBOOKS
24 WITH COPIES OF ALL EXHIBITS; IT'S BEEN DISTRIBUTED TO
25 THE COURT REPORTER AND TO ALL THE BOARD MEMBERS AND TO

1 MR. ROTHSTEIN, MS. KISER'S ATTORNEY. WE ALSO HAVE
2 DISTRIBUTED TO YOU FLASH DRIVES THAT CONTAIN THE ENTIRE
3 DASH CAM VIDEO AND THE ENTIRE 911 RECORDINGS OF ALL THE
4 CALLS TO 911. THERE ARE ALSO ON THAT FLASH DRIVE A FEW
5 SELECTED SCENES FROM THE DASH CAM VIDEO. THE DASH CAM
6 VIDEO IN ITS ENTIRETY IS ON THERE FOR YOU TO LOOK AT IF
7 YOU CHOOSE AS WELL AS ALL THE 911 CALLS. A DVD OF THE
8 DASH CAM VIDEO FROM WHICH THAT FLASH DRIVE WAS MADE,
9 THERE'S ONLY ONE ORIGINAL OF THAT AND IT CAME FROM THE
10 HIGHWAY PATROL; THAT'S IN THE COURT REPORTER'S NOTEBOOK
11 ALONG WITH A CD THAT CONTAINED ALL THE 911 CALLS. SO
12 THOSE ARE THERE IN THEIR ENTIRETY, BUT ALL YOU HAVE IN
13 YOUR NOTEBOOKS ARE FLASH DRIVES, A COPY OF WHAT WAS
14 SUBMITTED TO THE COURT REPORTER. ALSO YOU WERE SENT A
15 HYPERLINK TO DEPOSITIONS OF THE STUDENTS INVOLVED. I
16 TRY NOT TO SAY THEIR NAMES BECAUSE WE HAVE SOME FOLKS
17 IN HERE WHO AREN'T WITNESSES, AND I THINK IT'S
18 IMPORTANT THAT EVERYBODY UNDERSTAND THAT THIS IS
19 EXECUTIVE SESSION AND WHATEVER IS SAID IS CONFIDENTIAL
20 AND CAN'T BE SHARED OUTSIDE OF THIS ROOM BY ANYBODY WHO
21 IS PRESENT AS WE ARE GOING THROUGH THE HEARING. WE'VE
22 MARKED THAT NOTEBOOK AS EXHIBIT 1 FOR ADMINISTRATION.
23 (COURT REPORTER MARKS NOTEBOOK ADMINISTRATION EXHIBIT
24 ONE)
25 BY MR. ROTHSTEIN:

DIXY TURNER ASSOC., INC.

R000138

1 MR. CHAIR, CAN I JUST PUT AN OBJECTION ON THE
2 RECORD. I UNDERSTAND THAT THE EVIDENTIARY RULES ARE
3 SOMEWHAT RELAXED IN THIS TYPE OF A HEARING, AND I
4 CERTAINLY APPRECIATE THAT. THE CONCERN I HAVE - I
5 HAVEN'T SEEN THE EXCERPTS THAT MR. DARR MADE OF THE
6 DASH CAM VIDEO AND THE - I GUESS IT WAS JUST THE DASH
7 CAM VIDEO OR THE AUDIO RECORDINGS. I'VE LISTENED TO A
8 COMPLETE VERSION OF IT, BUT I DON'T KNOW WHAT HE'S DONE
9 IN TERMS OF CUTTING OUT PARTS OR TAKING OUT PARTS. THE
10 OTHER THING IS I'VE ONLY RECENTLY, PROBABLY 20 MINUTES
11 BEFORE I LEFT FROM GREENVILLE TO COME OVER HERE THIS
12 AFTERNOON, RECEIVED AN E-MAIL WITH MR. DARR'S EXHIBIT
13 NOTEBOOK IN IT OR A LISTING OF EXHIBITS AND WITNESSES.
14 SO I HAVEN'T HAD A CHANCE TO REVIEW EXACTLY WHAT HE
15 INTENDS TO PRESENT, SO I MAY HAVE TO OBJECT. I DON'T
16 WANT TO SAY THE NOTEBOOK IS IN EVIDENCE WITHOUT HAVING
17 A CHANCE TO KNOW EXACTLY WHAT HE'S PUTTING INTO
18 EVIDENCE. SO THAT'S MY OBJECTION I WANTED TO PUT ON THE
19 RECORD.

20 BY MR. DARR:

21 LIKewise, WE DIDN'T GET ANY OF THE EXHIBITS TO MR.
22 ROTHSTEIN'S NOTEBOOK UNTIL HE CAME IN TODAY AND HANDED
23 THEM TO US. APPARENTLY THEY WERE TOO LARGE TO E-MAIL,
24 HE SAID, SO I SAW NOTHING UNTIL HE GOT HERE, AND THERE
25 MAY BE SOME THINGS IN THAT NOTEBOOK WE'LL HAVE TO ASK

1 SOME QUESTIONS ABOUT TO UNDERSTAND, LIKE PHOTOGRAPHS:
2 WHERE THEY CAME FROM AND SO FORTH, BUT THERE ARE
3 RELAXED RULES OF EVIDENCE IN THESE KINDS OF
4 PROCEEDINGS, I UNDERSTAND THAT. WE NEED TO TRY AND
5 VERIFY THE SOURCE; IT'S IMPORTANT FOR THE BOARD AND FOR
6 THE ADMINISTRATION.

7 DR. RUSSELL BOOKER, BEING FIRST DULY SWORN,
8 TESTIFIES ON HIS OATH AS FOLLOWS:

9 DIRECT EXAMINATION BY MR. DARR:

10 Q. DR. BOOKER, I'M GOING TO LET YOU USE THE EXHIBIT. IT'S
11 THE SAME AS YOU WERE EARLIER GIVEN A COPY OF, BUT JUST
12 SO YOU ARE LOOKING AT THE HEARING EXHIBIT WHEN YOU
13 ANSWER THESE QUESTIONS.

14 A. OKAY.

15 Q. STATE YOUR NAME AND TITLE, PLEASE.

16 A. IT'S RUSSELL BOOKER. SCHOOL SUPERINTENDENT.
17 SPARTANBURG SCHOOL DISTRICT NUMBER 7.

18 Q. AND HOW MANY YEARS HAVE YOU BEEN A SUPERINTENDENT?

19 A. FIVE YEARS AT SPARTANBURG 7 AND NINE TOTAL.

20 Q. ALL RIGHT. AND YOU WERE THE SUPERINTENDENT ON
21 SEPTEMBER 26, 2014?

22 A. THAT'S CORRECT.

23 Q. HOW DID YOU LEARN ABOUT THE INCIDENT INVOLVING MS.
24 KISER?

25 A. FRIDAY NIGHT, SEPTEMBER 26, WE WERE AT AN AWAY FOOTBALL

1 GAME IN GREENVILLE. WE WERE PLAYING RIVERSIDE HIGH
2 SCHOOL. THE ATHLETIC DIRECTOR CAME IN DURING THE FIRST
3 QUARTER. HE WAS ON THE TELEPHONE, SAW ME IN THE
4 STANDS, LOOKED AT ME. SAID WE NEEDED TO TALK. AFTER
5 HE GOT OFF THE PHONE, WENT DOWN. WE STEPPED AWAY FROM
6 THE CROWD. I ASKED HIM WHAT WAS WRONG. HE SAID IT
7 WASN'T GOOD. SAID IT INVOLVED OUR GIRLS CROSS COUNTRY
8 TEAM ON THE WAY TO CHARLESTON. MY IMMEDIATE THOUGHT WAS
9 THERE'D BEEN AN ACCIDENT. SO I ASKED HIM IF EVERYTHING
10 WAS OKAY WITH THE GIRLS. WAS ANYBODY HURT? HE SAID
11 NO, EVERYBODY'S FINE. I SAID, WELL, OKAY. I'M OKAY
12 THEN. NO, IT'S PRETTY BAD THOUGH. I ASKED HIM WHAT
13 WAS GOING ON AT THAT POINT, AND HE SAID OUR COACH HAD
14 BEEN ARRESTED AND CHARGED WITH DUI. THEN HE SAID, IT
15 GETS WORSE, AND HE SAID THEY ARE DETAINING OUR GIRLS,
16 AND THEY WON'T LET THEM - THEY WON'T RELEASE THEM TO
17 COACH FREED. SO, I FOUND OUT ABOUT IT DURING THAT
18 FRIDAY NIGHT BY WAY OF COACH TODD'S STATEMENT.

19 Q. OKAY. AND THEN WHAT STEPS DID YOU TAKE OR INSTRUCT
20 OTHERS TO TAKE AT THAT POINT?

21 A. WELL, OF COURSE, THE IMMEDIATE CONCERN AT THAT POINT
22 WAS WHAT DO WE DO WITH OUR GIRLS. I WAS INFORMED THAT
23 SEVEN OF THEM WERE DOWN THERE. I THINK COACH FREED HAD
24 MADE IT TO THE STATION OR WHEREVER THEY WERE HOLDING
25 THE GIRLS. I TALKED WITH COACH FREED; HE EXPLAINED

1 THAT THEY WOULD NOT LET THEM GO. AT SOME POINT DURING
2 THAT CONVERSATION I TALKED WITH THE HIGHWAY PATROLMAN
3 OR WHOEVER WAS THERE WITH THE GIRLS. EXPLAINED TO HIM
4 I WAS SCHOOL SUPERINTENDENT. THESE GIRLS ARE DOWN FOR
5 THE CROSS COUNTRY MEET. COACH FREED IS OUR COACH.
6 COULD YOU TURN THEM OVER TO HIM, AND AS WAS STATED, HE
7 TOLD ME HE COULD NOT DO THAT BECAUSE THEY HAD BEEN
8 TAKEN INTO CUSTODY, THEY COULD ONLY RELEASE THEM TO
9 THEIR PARENTS. I DID PLEAD WITH HIM. TOLD HIM I WAS
10 THE SUPERINTENDENT, YOU KNOW. I NEED FOR YOU TO TRY AND
11 TRUST ME ON THIS, BUT HE SAID BY STATUTE, BY LAW HE
12 COULD NOT TURN THEM OVER. I SAID, WELL, IF THEIR
13 PARENTS AREN'T ABLE TO COME DOWN HERE, YOU KNOW WE'RE
14 FOUR HOURS AWAY FROM CHARLESTON, WHAT OPTIONS DO WE
15 HAVE? HE EXPLAINED AT THAT POINT THAT THEY WOULD HAVE
16 TO BE TURNED OVER TO DSS. I SAID, WELL, WHAT DOES THAT
17 MEAN? HE SAID, THEY MIGHT BE PLACED IN FOSTER CARE OR
18 WHATEVER THEY WOULD HAVE TO DO IF DSS DEEMED IT
19 NECESSARY. GOT BACK ON THE PHONE WITH COACH FREED. HAD
20 A CONVERSATION WITH HIM ABOUT THE BOYS. WHERE WERE
21 THEY AT THE TIME. HE EXPLAINED TO ME THAT THE BOYS
22 WERE BACK AT THE HOTEL. MY QUESTION THEN WAS, WELL,
23 WHO IS WITH THE BOYS. HE EXPLAINED TO ME THAT HE HAD
24 TO MAKE A DECISION, WHICH HE DID. HE MADE THE RIGHT
25 DECISION. SAID THE BOYS WERE ALL IN THE ROOM TOGETHER.

1 IT WAS A GOOD GROUP OF BOYS. THEY'RE FINE. BUT I WAS
2 STILL CONCERNED ABOUT LEAVING THEM DOWN IN CHARLESTON.
3 ONE OF OUR PARENTS WAS THERE AT THE STATION, AND I GOT
4 ON THE PHONE WITH HER. I ASKED HER IF SHE WOULD BE
5 WILLING TO GO BACK TO THE HOTEL AND KEEP AN EYE ON THE
6 BOYS WHILE WE TRIED TO SORT THIS OUT. AFTER THAT, THE
7 NEXT CONCERN WAS TRYING TO GET PARENTS ON THE PHONE AND
8 TO GET PARENTS TO START MAKING THEIR WAY DOWN 26 TO
9 CHARLESTON. WE CALL JEFF STEVENS, APPRISED MR. STEVENS
10 OF THE SITUATION. HE KNEW MOST OF THE FAMILY AND SAID
11 HE WOULD MAKE THE CONTACTS WITH THE PARENTS. I ASKED
12 ONE OF THE YOUNG LADIES TO SEND ME AN E-MAIL WITH ALL
13 OF THE PARENTS' CONTACT INFORMATION SO WE COULD HAVE
14 THAT INFORMATION; SHE DID THAT FOR ME. SO THAT WAS THE
15 CONCERN WAS MAKING SURE THE PARENTS WERE NOTIFIED. WE
16 LET THE PARENTS KNOW WHATEVER WE COULD DO TO HELP YOU,
17 WE ARE WILLING TO DO IT. FORTUNATELY THEY WERE CALM
18 AND WERE ABLE TO GET DOWN TO PICK THE GIRLS UP.

19 Q. THEN AT THAT POINT, DID YOU COMMENCE SOME INVESTIGATION
20 INTO THE FACTS AND WHAT HAD TAKEN PLACE?

21 A. WELL, INVESTIGATIONS ARE ALWAYS GOING ON. I MEAN, AS
22 SOON AS THE SITUATION CAME TO MY ATTENTION, THAT'S WHEN
23 THE INVESTIGATION STARTED, YOU KNOW. SO WHAT ARE THE
24 FACTS? WHAT'S GOING ON WITH ALL OF THIS? AND I'M
25 GOING TO TELL YOU AT THAT TIME THE CONCERN WAS ABOUT

1 THE STUDENTS. I WILL TELL YOU THE HIGHWAY PATROLMAN
2 TOLD ME THAT - HE DID SEEM TO BE A LITTLE AGITATED. HE
3 WAS CONCERNED ABOUT THE GIRLS. SHARED WITH ME THAT MS.
4 KISER SEEMED TO BE MORE CONCERNED ABOUT HER E
5 CIGARETTES THAN ABOUT THE GIRLS.

6 Q. HER E CIGARETTES?

7 A. CORRECT. SO, I'D ALSO HEARD, YOU KNOW, THROUGHOUT THAT
8 EVENING THAT A COUPLE OF BOLO CALLS HAD BEEN MADE AS
9 THEY WERE TRAVELING DOWN TO CHARLESTON.

10 Q. YOU MEAN BE ON THE LOOKOUT ---

11 A. YEAH, THAT WAS MY FIRST TIME EVER HEARING THAT TERM.
12 HADN'T SUBSTANTIATED THAT BUT WAS TOLD THAT THAT HAD
13 HAPPENED AS WELL. SO, AGAIN, THAT NIGHT THE CONCERN
14 WAS MAKING SURE THE PARENTS GOT ON TO CHARLESTON TO
15 TAKE CARE OF THE GIRLS. LATER ON THAT NIGHT FOUND THAT
16 EVERYBODY HAD MADE IT TO CHARLESTON; THE GIRLS WERE
17 WITH THEIR PARENTS; NO ONE WAS LEFT AT THE STATION.
18 SO, WE WERE ABLE TO KIND OF REST EASY WITH THAT. MY
19 INVESTIGATION INCLUDED A NUMBER OF THINGS: CERTAINLY
20 THE REPORTS FROM THE HIGHWAY PATROLMAN, WHICH I WAS
21 ABLE TO GET.

22 Q. THAT WOULD BE THE INCIDENT REPORT?

23 A. THAT WOULD BE THE INCIDENT REPORT.

24 Q. LOOK UNDER TAB 9 IN EXHIBIT 1. IS THAT THE INCIDENT
25 REPORT YOU'RE TALKING ABOUT?

1 A. IT IS.

2 Q. AND YOU WERE ABLE TO OBTAIN A COPY OF THAT?

3 A. I WAS.

4 Q. THIS IS THE SAME ONE?

5 A. THIS IS THE SAME ONE.

6 Q. OKAY. SO IN REVIEWING THAT WHAT CONCERNED YOU?

7 A. THE WHOLE THING CONCERNED ME. OF COURSE, THIS HAD ALSO
8 BECOME PUBLIC AT THAT POINT. IN FACT, I RECEIVED A CALL
9 FROM A MEDIA OUTLET LETTING ME KNOW THAT THEY HAD
10 RECEIVED THE REPORT EVEN BEFORE I HAD RECEIVED IT. I
11 HAD DONE THIS JOB LONG ENOUGH TO BE ABLE TO FILTER THE
12 MEDIA, BUT YOU KNOW, THIS WAS OUT THERE FOR THE PUBLIC.
13 BUT EVEN BEYOND THAT, THIS WASN'T ENOUGH. I WANTED MR.
14 STEVENS TO TALK TO THE YOUNG LADIES AND GET THEIR
15 ACCOUNT OF WHAT WENT ON. HE DID THAT; HE SHARED THAT
16 INFORMATION WITH ME. I ALSO WANTED TO GET MS. KISER'S
17 VANTAGE POINT ON WHAT WENT ON. WE MET; SHE SHARED, YOU
18 KNOW, HER ACCOUNT WITH ME. SO BASED ON HER ACCOUNT,
19 THE STUDENTS' ACCOUNT, THE PATROLMAN'S ACCOUNT, I FELT
20 LIKE THIS WAS THE ONLY RECOMMENDATION I COULD MAKE.

21 Q. MR. STEVENS, AS PRINCIPAL OF THE SCHOOL, IS HE
22 INSTRUCTED TO CONTACT MS. KISER BY TELEPHONE AND TELL
23 HER ---

24 A. HE WAS. IT IS STANDARD PROCEDURE IN THIS DISTRICT AND
25 I THINK YOU'LL FIND IN MOST DISTRICTS, ANY TIME YOU

1 HAVE A SITUATION WHERE YOU NEED TO CONDUCT AN
2 INVESTIGATION THAT EMPLOYEE IS PLACED ON ADMINISTRATIVE
3 LEAVE WITH PAY; THAT EMPLOYEE IS ALWAYS TOLD VIA THAT
4 LETTER NOT TO HAVE CONTACT WITH THE INDIVIDUALS AT THE
5 SCHOOL WHILE THAT INVESTIGATION IS GOING ON, AND THAT
6 IS STANDARD PROCEDURE WITHIN THE SCHOOL DISTRICT.

7 Q. WAS MS. KISER ALSO SENT A LETTER INFORMING HER IN
8 WRITING THAT SHE WAS ON ADMINISTRATIVE LEAVE?

9 A. SHE WAS.

10 Q. LOOK AT TAB 2 IN THE NOTEBOOK. WAS THAT LETTER FROM
11 DR. REDISH TO MS. KISER THE ONE YOU ARE REFERRING TO?

12 A. IT IS.

13 Q. SO IT SETS OUT THE INSTRUCTION ABOUT CONTACT ---

14 A. CONTACT, MAKING SURE YOU'RE AVAILABLE DURING NORMAL
15 SCHOOL HOURS IN THE EVENT WE NEED TO GET IN TOUCH WITH
16 YOU.

17 Q. AND THEN YOU SAID YOU HAD MR. STEVENS INTERVIEW THE
18 STUDENTS. TO YOUR KNOWLEDGE, WHEN DID THAT TAKE PLACE?

19 A. THAT TOOK PLACE ON MONDAY.

20 Q. SO AFTER HE CONDUCTED THOSE INTERVIEWS, DID HE REPORT
21 TO YOU?

22 A. HE DID.

23 Q. AND HE GAVE YOU THE SUMMARY OR THE DETAILS ---

24 A. GAVE ME THE SUMMARY, ENDED UP GETTING HIS NOTES FROM
25 THE INTERVIEWS.

1 Q. SO HE HAD TAKEN THOSE DURING THE INTERVIEWS ---

2 A. CORRECT.

3 Q. - AND YOU GOT THOSE TO READ? WHAT WAS THE GIST OF HIS
4 NOTES OF HIS DISCUSSIONS WITH THE STUDENTS?

5 A. ERRATIC DRIVING; DRIVING 90,95 MILES PER HOUR; LEFT THE
6 SCHOOL; WENT TO STUDENT'S HOME TO GET CD PLAYER. WENT
7 TO HER HOME, WAITED OUTSIDE WHILE SHE WENT INSIDE; FIVE
8 MINUTES, TEN MINUTES. I THINK THAT ACCOUNT MIGHT HAVE
9 VARIED A LITTLE BIT. BUT WENT TO HER HOME. TOOK A
10 BACK ROUTE TO I-26. ON THE WAY, MAILBOX WAS HIT. JUST
11 THE DRIVING AND THEIR CONCERN WITH THE DRIVING.
12 SWERVING, ALMOST HITTING A CAR. HAVING TO PULL OVER TO
13 AVOID HITTING A CAR. AND THEN, OF COURSE, THE ARREST
14 AND THEIR SURPRISE.

15 Q. DID THEY GIVE ANY DETAILS ABOUT THEIR HAVING TO GO AND
16 SIT AT THE POLICE STATION -

17 A. THEY DID.

18 Q. - AND HOW SCARY IT WAS?

19 A. THEY DID.

20 Q. THE STUDENTS THAT HE INTERVIEWED, WE'RE TRYING TO GO
21 WITH JUST A FIRST NAME AND LAST INITIAL HERE -

22 A. YEAH.

23 Q. - BUT THEY WERE THREE STUDENTS THAT ARE AMONG THE SEVEN
24 WHO WERE STUDENTS AT SPARTANBURG HIGH SCHOOL? THE ONLY
25 THREE WHO WERE STUDENTS AT SPARTANBURG HIGH SCHOOL?

- 1 A. YES. AND I THINK A COUPLE OF THEM WERE MIDDLE SCHOOL
2 AGE. ONE OF THEM MIGHT HAVE BEEN A FRESHMAN. I WANTED
3 HIM TO TALK TO THE THREE OLDEST STUDENTS AND GET THEIR
4 ACCOUNT, AND WITH EVERYTHING MATCHING UP FROM THOSE
5 THREE ACCOUNTS, I FELT LIKE THAT WAS SUFFICIENT. I
6 DIDN'T WANT TO PUT A THIRTEEN-YEAR-OLD THROUGH THAT.
- 7 Q. AND THAT WAS MONICA G?
- 8 A. YEAH, I THINK EVERYBODY HAS THE NAMES OF THE STUDENTS,
9 BUT YEAH, MG -
- 10 Q. WAS ONE OF THOSE ELIZA B?
- 11 A. YEAH, ELIZA B. AND COOPER Y.
- 12 Q. SO, AFTER GETTING HIS ACCOUNT OF HIS INTERVIEWS WITH
13 THE STUDENTS, THE INCIDENT REPORT FROM THE TROOPER WITH
14 DETAILS THAT SET OUT THE TROOPER'S VIEW ON WHAT
15 HAPPENED, LET'S LOOK AT THAT DOCUMENT UNDER TAB 9
16 AGAIN. THE INCIDENT REPORT. IT'S A SEVERAL-PAGE
17 DOCUMENT; DO YOU SEE EIGHT LINES DOWN "THE VEHICLE WAS
18 OBSERVED SWERVING ALL OVER THE ROAD."
- 19 A. AND RUN A CAR OFF THE ROAD.
- 20 Q. ON THE NEXT PAGE A COUPLE LINES DOWN, IT MENTIONS A
21 GOOSE CREEK POLICE OFFICER, DOESN'T IT, AND WHAT HE
22 OBSERVED?
- 23 A. THAT'S CORRECT; THAT WAS IN ADDITION TO THE HIGHWAY
24 PATROLMAN.
- 25 Q. AND THE GOOSE CREEK OFFICER STATED WHAT?

1 A. "THE DRIVER OF THAT TRUCK IS AN IDIOT. THEY WERE
2 SWERVING OVER THE FOG LINES, STRADDLING LANES OF
3 TRAFFIC AND ALMOST HIT ANOTHER CAR."

4 Q. AND THEN IT GOES ON WITH DETAILS ABOUT WHAT HE OBSERVED
5 DURING THE SOBRIETY TEST AND HIS INTERACTION WITH MS.
6 KISER, IS THAT -

7 A. CORRECT.

8 Q. AT THE CONCLUSION HE MENTIONS SHE REFUSED TO PROVIDE A
9 BREATH SAMPLE?

10 A. THAT'S CORRECT.

11 Q. CHARGES INCLUDED DRIVING UNDER THE INFLUENCE AND ALSO -

12 A. ONE COUNT OF CHILD ENDANGERMENT.

13 Q. CHILD ENDANGERMENT. SO THE RESULT OF THE INVESTIGATION
14 THAT YOU HAD BEEN ABLE TO DO AT THAT POINT IN TIME, DID
15 YOU SPEAK WITH MS. KISER THEN, AND WHO WAS PRESENT AT
16 THAT MEETING?

17 A. MR. STEVENS, PRINCIPAL OF SPARTANBURG HIGH SCHOOL, AND
18 DR. CARLOTTA REDISH, ASSISTANT SUPERINTENDENT FOR
19 PERSONNEL STUDENT SERVICES.

20 Q. WHAT DID YOU LEARN FROM THAT MEETING?

21 A. I THINK I SUMMARIZED SOME OF THAT IN MY LETTER. SHE
22 SHARED THAT SHE HAD BEEN UP LATE; THAT SHE WAS
23 PREPARING TO MOVE HER MOTHER IN. SHARED THAT SHE HAD
24 HAD ONE, MAYBE TWO GLASSES OF WINE THAT NIGHT. SHARED
25 WITH ME THAT SHE WAS DRIVING MIGHT HAVE BEEN 85 MILES

1 AN HOUR. DIDN'T THINK SHE WAS DRIVING 90,95 MILES PER
2 HOUR. SHARED WITH ME THAT SHE WAS SURPRISED; SHE
3 THOUGHT SHE HAD DONE WELL ON THE SOBRIETY TEST. SHARED
4 WITH ME THAT SHE DID NOT DO THE BREATHALYZER BECAUSE
5 SHE HAD ALWAYS BEEN TOLD THAT YOU'RE NOT TO BLOW, I
6 THINK IS WHAT WAS SHARED DURING THAT CONFERENCE. I'LL
7 TELL YOU WHAT WAS NOT SHARED WITH ME WAS THAT I'D HAD
8 ANY PROBLEMS DRIVING THE VEHICLE, KEEPING IT ON THE
9 ROAD; THAT THERE WAS PROBLEMS WITH THE STEERING; THAT
10 I'M UNCOMFORTABLE DRIVING A SUBURBAN. NONE OF THAT WAS
11 SHARED WITH ME AS A PART OF THAT CONFERENCE.

12 Q. THEN AS A RESULT OF THAT DISCUSSION WITH MS. KISER,
13 WHAT CONCLUSION DID YOU REACH?

14 A. AGAIN, BASED ON THE POLICE REPORTS, BASED ON THE
15 STUDENTS' ACCOUNTS, BASED ON MY INTERVIEW, THERE WAS
16 MORE THAN SUFFICIENT EVIDENCE THERE FOR ME TO MAKE THE
17 DETERMINATION THAT MS. KISER WOULD NOT BE RETURNING AS
18 AN EMPLOYEE IN THIS SCHOOL DISTRICT. AGAIN, OFFERED
19 HER AN OPPORTUNITY TO RESIGN. OF COURSE, SHE DID NOT
20 WANT TO DO THAT, SO I LET HER KNOW THAT MY
21 RECOMMENDATION WOULD BE FOR HER TERMINATION FROM
22 SPARTANBURG 7.

23 Q. MR. ROTHSTEIN SEEMS TO THINK THAT YOU TERMINATED HER
24 BECAUSE SHE WAS ARRESTED FOR DUI AND CHILD ENDANGERMENT
25 AND HAD CHARGES PENDING. IS THAT THE REASON YOU

1 TERMINATED HER?

2 A. NO, NOT AN EXPERT ON DUI. I DON'T KNOW A THING ABOUT
3 FIELD SOBRIETY TESTS. I THINK THAT'S WHAT HIGHWAY
4 PATROL MEN AND WOMEN ARE TRAINED TO DO, BUT I DO KNOW
5 THAT THE FIRST JOB OF A TEACHER IS TO MAKE SURE THE
6 CHILDREN ARE SAFE, AND FROM ALL ACCOUNTS FROM WHAT I'VE
7 SEEN THEN AND EVEN SINCE THAT TIME PERIOD, OUR CHILDREN
8 - THAT WAS NOT THE FIRST PRIORITY DRIVING DOWN TO
9 CHARLESTON ON SEPTEMBER 26, AND THAT'S WHY I MADE THAT
10 RECOMMENDATION.

11 Q. DID YOU PUT YOUR RECOMMENDATION IN THE FORM OF A LETTER
12 THEN?

13 A. I DID.

14 Q. IS THAT THE LETTER BEHIND TAB 3, EXHIBIT 1?

15 A. IT IS.

16 Q. AND IN THAT LETTER YOU STATE THAT YOU HAD GOTTEN
17 REPORTS OF EXTREMELY DANGEROUS DRIVING WHILE
18 TRANSPORTING STUDENTS, AND THEN KIND OF RECOUNTED SOME
19 OF THE THINGS SHE ADMITTED TO YOU DURING THE COURSE OF
20 THAT MEETING, CORRECT?

21 A. THAT'S CORRECT.

22 Q. AND THEN ADDED OTHER THINGS YOU HAD LEARNED FROM THE
23 STUDENTS. FOR INSTANCE, IN THE NEXT PARAGRAPH YOU TALK
24 ABOUT HER TRAVELING 90 MILES AN HOUR AT TIMES, HITTING
25 A MAILBOX, VEERING OFF THE ROAD; THAT MULTIPLE CALLS

1 WERE MADE TO THE HIGHWAY PATROL REPORTING HER VEHICLE
2 BECAUSE OF ITS EXTREMELY ERRATIC DRIVING, AND THE GOOSE
3 CREEK POLICE OFFICER'S COMMENTS, CORRECT?

4 A. THAT, AND OF COURSE, IN THE FIRST PARAGRAPH THAT THE
5 PLAN WAS FOR THE VEHICLES TO CARAVAN TO CHARLESTON.
6 THAT'S A PRACTICE THAT JUST MAKES SENSE IN CASE
7 SOMETHING HAPPENS. SO THAT WAS THE PLAN. BUT THE
8 DECISION WAS MADE NOT TO DO THAT. THE DECISION WAS MADE
9 TO GO TO A STUDENT'S HOME, AND THEN BECAUSE "I LEFT MY
10 CIGARETTE CHARGER TO GO BY MY HOME," SO THAT WAS A
11 CONCERN OF MINE AS WELL. I LED OFF WITH THAT AS WELL,
12 SO MULTIPLE THINGS AGAIN LED ME TO MAKE THAT
13 RECOMMENDATION.

14 Q. SO THE EVIDENT UNFITNESS FOR TEACHING THAT YOU SITE IN
15 THE THIRD PARAGRAPH IS WHAT: EXTREME HAZARD TO THE
16 SAFETY AND WELL-BEING OF STUDENT ATHLETES ENTRUSTED IN
17 YOUR CARE?

18 A. ABSOLUTELY. MISUSE OF THE DISTRICT VEHICLE OR DISTRICT
19 PROPERTY; HOWEVER YOU WANT TO TERM IT. YOU KNOW,
20 MULTIPLE VIOLATIONS OF LAW AND SCHOOL DISTRICT POLICY
21 AND VERY POOR JUDGMENT.

22 Q. THOUGH DRIVING A VEHICLE MIGHT NOT BE A TEACHING DUTY,
23 IS THERE A DIFFERENCE BETWEEN A TEACHER WHEN SHE IS IN
24 THE CLASSROOM OR WHEN SHE'S DRIVING A SUBURBAN WITH
25 STUDENTS IN IT AS A COACH, IS SHE STILL AN EMPLOYEE OF

1 THE DISTRICT IN TERMS OF THEIR JUDGMENT, THEIR SAFETY
2 AND HEALTH AND WELL BEING OF STUDENTS AND SO FORTH?

3 A. YES, NOW, I THINK THAT SHOULD GO WITHOUT SAYING.
4 TEACHERS ARE - WHEN YOU'RE AN EDUCATOR, YOU'RE ALWAYS
5 AN EDUCATOR. NOW, EVEN AFTER HOURS YOU'RE ALWAYS AN
6 EDUCATOR, BUT AT A MINIMUM WHEN YOU HAVE STUDENTS IN
7 YOUR CARE, WHETHER YOU ARE A COACH, WHETHER YOU ARE
8 SPONSORING A CLUB, WHETHER YOU ARE DIRECTING A BAND,
9 YOU KNOW, WHEN YOU HAVE CHILDREN IN YOUR CARE THERE
10 SHOULD BE AN EXPECTATION TO MAKE SURE THAT THE CHILDREN
11 ARE SAFE. WE'VE TALKED ABOUT "THIS IS HOW I ALWAYS
12 DRIVE." WE HAD A BUS TO BREAK DOWN DURING A FIRST TEE
13 EVENT OVER AT THE CREEK NOT TOO LONG AGO, AND WE HAD TO
14 TRANSPORT STUDENTS BACK TO THEIR SCHOOLS. I HAD TO
15 TRANSPORT A GROUP OF STUDENTS BACK TO E. P. TODD, AND
16 I'LL TELL YOU I WAS SCARED TO DEATH BECAUSE THOSE WERE
17 CHILDREN I WAS RESPONSIBLE FOR, AND I HAD THE DISTRICT
18 VEHICLE WHICH ALSO LED ME TO SAY I BETTER BE AWFULLY
19 CAREFUL BECAUSE FIRST OF ALL, THIS ISN'T MY VEHICLE;
20 SECOND OF ALL THESE AREN'T MY CHILDREN. SO I MADE SURE
21 - I DON'T SAY I DRIVE PERFECTLY ALL THE TIME, BUT I
22 MADE SURE I HAD THOSE CHILDREN IN THE CAR, BUT I MADE
23 SURE I GOT THEM THERE SAFELY, AND THAT SHOULD BE THE
24 EXPECTATION WHEN YOU HAVE OTHER PEOPLE'S CHILDREN IN
25 YOUR CAR. NOW, IF YOU DRIVE TO CHARLESTON 80 MILES AN

1 HOUR OR 85 MILES AN HOUR, THAT'S ON YOU, BUT WHEN YOU
2 ARE CARRYING OTHER PEOPLE'S CHILDREN IN ANOTHER
3 DISTRICT'S VEHICLE, THEN THERE SHOULD BE AN EXPECTATION
4 THERE THAT WE DIDN'T FOLLOW.

5 Q. SO YOU SENT THE LETTER NOTIFYING HER THAT YOU ARE
6 RECOMMENDING HER FOR DISMISSAL AND GIVING HER THE
7 OPPORTUNITY FOR A HEARING WHICH IS WHAT BRINGS US HERE
8 TODAY. IN TERMS OF HER RESPONSIBILITIES, SHE HAD A
9 CONTRACT. YOU ISSUE WRITTEN CONTRACTS FOR YOUR
10 TEACHERS, CORRECT?

11 A. THAT'S CORRECT.

12 Q. IS HER CONTRACT FOR THIS CURRENT SCHOOL YEAR THE ONE
13 YOU SEE IN TAB 5, EXHIBIT 1?

14 A. IT IS.

15 Q. OKAY. IN THE THIRD PARAGRAPH OF THAT CONTRACT, DOES IT
16 REQUIRE HER TO COMPLY WITH ALL DISTRICT POLICIES AND
17 REGULATIONS?

18 A. IT DOES.

19 Q. DOES IT ALSO ENCOMPASS EXTRACURRICULAR ASSIGNMENTS
20 INCLUDING COACHING ASSIGNMENTS?

21 A. IT DOES.

22 Q. IN ADDITION TO HER CONTRACT, I BELIEVE THERE IS A SET
23 OF TEACHER PERFORMANCE RESPONSIBILITIES THAT THE
24 DISTRICT HAS PRINTED UP?

25 A. THAT'S CORRECT.

- 1 Q. IS THAT SET OF PERFORMANCE RESPONSIBILITIES FOR
2 TEACHERS THE ONE BEHIND TAB 6 IN EXHIBIT 1?
- 3 A. THAT'S CORRECT. THE JOB DUTIES.
- 4 Q. AND WHAT DOES NUMBER 14 IN THAT LIST OF PERFORMANCE
5 RESPONSIBILITIES SAY?
- 6 A. TAKES ALL NECESSARY AND REASONABLE PRECAUTIONS TO
7 PROTECT STUDENTS AND TO PROPERLY CARE FOR ALL PROPERTY,
8 EQUIPMENT, MATERIALS AND FACILITIES.
- 9 Q. IN TERMS OF BOARD POLICIES MENTIONED IN YOUR DISMISSAL
10 LETTER THAT MS. KISER VIOLATED, I THINK YOU SHOULD
11 SHARE WITH THE BOARD THE ONES THAT MIGHT BE APPLICABLE
12 HERE. ARE THOSE IN TAB 7 OF EXHIBIT 1?
- 13 A. THEY ARE.
- 14 Q. THE FIRST ONE IS POLICY GBE, CORRECT?
- 15 A. CORRECT.
- 16 Q. AND IN THE BULLET POINTS, JUST TO PICK A PHRASE OUT OF
17 HERE, BUT IN THE BULLET POINTS IN THE MIDDLE OF THAT
18 POLICY, WHAT'S THE LAST BULLET POINT?
- 19 A. CONCERN AND ATTENTION TOWARD HIS OR HER OWN AND THE
20 BOARD'S LEGAL RESPONSIBILITY FOR THE SAFETY AND WELFARE
21 OF STUDENTS INCLUDING THE NEED TO INSURE THAT STUDENTS
22 ARE UNDER SUPERVISION AT ALL TIMES.
- 23 Q. THEN THE NEXT POLICY GBEB, THE PURPOSE STATED FOR IT IS
24 TO ESTABLISH THE BOARD'S VISION FOR APPROPRIATE STAFF
25 CONDUCT, CORRECT?

- 1 A. CORRECT.
- 2 Q. AND THEN IT HAS WITH IT A REGULATION ON THE PAGE, GBEB-
- 3 R.
- 4 A. CORRECT.
- 5 Q. AND IT HAS A LIST OF BULLET POINTS AS WELL WHICH ARE
- 6 SOME OF THE ACTIONS THAT ARE CONSIDERED MISCONDUCT
- 7 WHILE ON DUTY. THE SECOND ONE DOWN IS WHAT?
- 8 A. THE SECOND BULLET?
- 9 Q. THE SECOND BULLET DOWN; YES, SIR.
- 10 A. USE OF PROFANITY.
- 11 Q. THEN ABOUT MIDWAY DOWN, THE BULLET THAT BEGINS
- 12 "FAILURE..."
- 13 A. FAILURE TO ADHERE TO SAFETY AND HEALTH RULES AS
- 14 ESTABLISHED BY STATE LAW AND THE DISTRICT.
- 15 Q. WHAT IS THE NEXT-TO-THE-LAST ONE "BEHAVING..."
- 16 A. BEHAVING IN ANY INAPPROPRIATE MANNER TO THE EXTENT OF
- 17 ADVERSELY AFFECTING THE EMPLOYEE'S ABILITY TO PERFORM
- 18 HIS OR HER WORK.
- 19 Q. THEN THE NEXT POLICY AT 7 IS GBEBB.
- 20 A. STAFF CONDUCT WITH STUDENTS.
- 21 Q. STAFF CONDUCT WITH STUDENTS. BELOW THE PURPOSE ARE
- 22 SEVERAL PARAGRAPHS. WHAT DOES THE MIDDLE PARAGRAPH
- 23 SAY?
- 24 A. ALL EMPLOYEES ARE EXPECTED TO EXERCISE GOOD JUDGMENT
- 25 AND MAINTAIN PROFESSIONAL BOUNDARIES IN INTERACTING

1 WITH STUDENTS IN ALL CURRICULAR AND EXTRA-CURRICULAR
2 ACTIVITIES BOTH ON AND OFF SCHOOL PROPERTY.

3 Q. THEN IS THERE A REGULATION FOLLOWING THAT POLICY AS
4 WELL?

5 A. THERE IS.

6 Q. THE FIRST SENTENCE OF THAT REGULATION SAYS WHAT?

7 A. "STAFF MEMBERS ARE EXPECTED TO USE GOOD JUDGMENT IN
8 THEIR RELATIONSHIPS WITH STUDENTS BOTH INSIDE AND
9 OUTSIDE OF THE SCHOOL CONTEXT INCLUDING BUT NOT LIMITED
10 TO..." AND IT GIVES A NUMBER OF GUIDELINES.

11 Q. THEN THE SIXTH BULLET POINT DOWN AMONG THOSE GUIDELINES
12 THAT ARE LISTED IS WHAT?

13 A. STAFF MEMBERS WILL MAINTAIN A REASONABLE STANDARD OF
14 CARE FOR THE SUPERVISION, CONTROL AND PROTECTION OF
15 STUDENTS COMMISERATE WITH THEIR ASSIGNED DUTIES AND
16 RESPONSIBILITIES.

17 Q. SO, IN YOUR OPINION, DID MS. KISER'S CONDUCT ON
18 SEPTEMBER 26 VIOLATE ALL OF THESE POLICIES -

19 A. IT DID.

20 Q. - THAT ARE IN THE REGULATIONS?

21 A. IT DID.

22 Q. ONCE YOU DECIDED YOU WANTED TO RECOMMEND HER FOR
23 DISMISSAL AND SENT HER THE LETTER, DID YOUR
24 INVESTIGATION CONTINUE NEVER THE LESS?

25 A. IT DID, YEAH. WE HAD DONE A REQUEST FOR THE DASH CAM.

1 I HAD DR. WHITE TO SUBMIT THAT REQUEST ON MY BEHALF. IT
2 WOULD BE SOME TIME BEFORE WE GOT THAT, BUT WE LATER GOT
3 IT.

4 Q. DID YOU ALSO GET 911 CALLS?

5 A. WE GOT THE 911 CD A LITTLE LATER ON.

6 Q. DID YOU RECEIVE A LETTER FROM MR. ROTHSTEIN?

7 A. I DID.

8 Q. IS THAT LETTER BEHIND TAB 4 DATED OCTOBER 7, 2014?

9 A. YES, SIR.

10 BY MR. ROTHSTEIN:

11 I WANT TO OBJECT TO MY LETTER BEING ADMITTED INTO
12 EVIDENCE. THE DOCUMENT WAS MARKED PERSONAL AND
13 CONFIDENTIAL; IT WAS SENT TO SUPERINTENDENT BOOKER
14 WITHIN I THINK A WEEK OR SO OF MS. KISER'S SUSPENSION.
15 I DON'T THINK IT'S RELEVANT, AND AGAIN, I THINK IT WAS
16 SENT IN THE NATURE OF A SETTLEMENT OFFER TO TRY AND
17 WORK SOMETHING OUT WITH THE DISTRICT PENDING MS.
18 KISER'S SUSPENSION.

19 BY MR. DARR:

20 MR. CHAIR, IT'S AS RELEVANT AS ANYTHING IN THIS
21 NOTEBOOK. IT CAME FROM AN ATTORNEY; HE DOESN'T HAVE
22 ANY CONFIDENTIALITY WITH THE SUPERINTENDENT AND IT
23 CONSTITUTES ADMISSIONS ON HIS PART AS TO THE CONDUCT OF
24 HIS CLIENT.

25 BY CHAIRMAN:

1 WE'LL RECEIVE THE LETTER.

2 EXAMINATION RESUMED BY MR. DARR:

3 Q. DOES MR. ROTHSTEIN'S LETTER ADMIT THAT MS. KISER HAD
4 DRIVEN THIS SUBURBAN ON A PRIOR OCCASION BEFORE THE
5 INCIDENT ON SEPTEMBER 26?

6 A. (REVIEWING DOCUMENT)

7 Q. I DIRECT YOU TO THE TOP OF PAGE TWO, FIRST PARAGRAPH,
8 THREE OR FOUR LINES DOWN.

9 A. (NO RESPONSE)

10 Q. ON PAGE TWO THREE OR FOUR LINES DOWN, DOES IT STATE
11 THAT SHE HAD DRIVEN THE CAR BEFORE?

12 A. YES, SHE WAS DRIVING A VEHICLE THAT SHE HAD ONLY DRIVEN
13 ONCE BEFORE APPROXIMATELY A YEAR PRIOR.

14 Q. SO CONTRARY TO THE OPENING STATEMENT THAT WAS MADE BY
15 MR. ROTHSTEIN -

16 BY MR. ROTHSTEIN:

17 THIS IS TO ATTACK ME, YOUR HONOR - MR. CHAIR. I
18 THINK IT IS IMPROPER FOR HIM TO SUGGEST THAT A LETTER
19 I WROTE BACK IN OCTOBER IS - I MEAN, HE'S ATTACKING ME
20 PERSONALLY; NOT MS. KISER. I REALIZE I'M MS. KISER'S
21 ATTORNEY, BUT I BELIEVE THAT THIS LINE OF QUESTIONING
22 IS IMPROPER.

23 BY MR. DARR:

24 IT'S NOT IMPROPER. IT'S TO -

25 BY CHAIRMAN:

1 I THINK IT'S INFORMATION AND LET'S PROCEED ON,
2 PLEASE.

3 BY MR. DARR:

4 TO MAKE SURE THE RECORD IS STRAIGHT, AS MR.
5 ROTHSTEIN SAID HIMSELF, IT'S WHAT EVIDENCE IS
6 PRESENTED, NOT WHAT THE LAWYERS SAY THAT YOU ARE
7 SUPPOSED TO BASE YOUR DECISIONS ON. AND THIS LETTER IS
8 IN EVIDENCE; IT'S IN SUBMISSION BY HIM AND OBVIOUSLY
9 SHE HAD DRIVEN THE CAR BEFORE; THAT'S WHAT SHE MUST
10 HAVE TOLD HIM OR HE WOULDN'T HAVE PUT THAT IN THIS
11 LETTER.

12 DIRECT EXAMINATION RESUMED BY MR. DARR:

13 Q. HE ALSO MENTIONS, DOESN'T HE, THAT SHE HAD THREE TO
14 FOUR GLASSES OF WINE, NOT THE ONE OR TWO THAT SHE TOLD
15 YOU?

16 A. THAT'S CORRECT. THIRD PARAGRAPH.

17 Q. SHE DIDN'T HAVE TIME TO TAKE A SHOWER, HAD ALMOST
18 NOTHING TO EAT, STAYED UP UNTIL TWO A.M., CORRECT?

19 A. CORRECT.

20 Q. AND THAT SHE'D ALWAYS HEARD THAT YOU SHOULD NEVER
21 VOLUNTARILY SUBMIT TO ANY TYPE OF CHEMICAL TESTING IF
22 YOU ARE ARRESTED ON SUSPICION OF ANY CRIME. IS THAT IN
23 THERE?

24 A. THAT'S WHAT WAS SHARED IN THIS LETTER.

25 Q. DOES IT SAY ANYTHING ABOUT THE COP WOULDN'T LET HER

1 GIVE A BREATHALYZER SAMPLE-

2 A. NO, IT DOESN'T.

3 Q. - BECAUSE SHE WAS ASKING FOR A LAWYER?

4 A. IT DOES NOT.

5 Q. DOES IT SAY ANYTHING ABOUT HER SMOKING AN E CIGARETTTE
6 ON THE WAY DOWN THERE?

7 A. IT DOES NOT.

8 Q. THAT SHE MIGHT HAVE BEEN AFRAID FOR ISOPROPYL ALCOHOL?

9 A. IT DOES NOT.

10 Q. DOES IT SAY ANYTHING ABOUT THE CAR PULLING TO THE
11 RIGHT, THAT SHE HAD REPORTED PROBLEMS PREVIOUSLY WITH
12 IT OR ANYTHING LIKE THAT?

13 A. IT DOESN'T.

14 Q. IT DOESN'T SAY SHE WAS DRIVING DIFFERENTLY THAN SHE
15 NORMALLY DROVE EVEN WITH HER OWN CHILDREN IN THE CAR?

16 A. IT DIDN'T.

17 Q. SO, WITH RESPECT TO THE DASH CAM VIDEO AND THE 911
18 CALLS, THOSE WERE OBTAINED BY THE DISTRICT, AND YOU
19 REVIEWED THOSE?

20 A. CORRECT.

21 Q. THE FLASH DRIVE THAT I PROVIDED TO THE BOARD AND TO
22 COUNSEL FOR MS. KISER AND TO THE COURT REPORTER, MY
23 COPY IS IN THIS LAPTOP, AND WE'LL WALK YOU THROUGH
24 THAT.

25 BY MR. ROTHSTEIN:

1 I THINK THE BOARD CAN LOOK AT THIS; I THINK WE'RE
2 GETTING PRESSED FOR TIME. I'D PREFER THAT YOU REVIEW
3 THE VIDEO AT YOUR OWN LEISURE.

4 BY CHAIRMAN:

5 LET ME GET A COUNT TO SEE IF EVERYBODY HAD AN
6 OPPORTUNITY TO VIEW THE VIDEO. THREE HAVE NOT SEEN IT
7 SO WE'D LIKE THE OPPORTUNITY TO SEE IT.

8 BY MR. DARR:

9 THANK YOU, MR. CHAIR. I WAS NOT INTENDING TO SHOW
10 THE WHOLE DASH CAM VIDEO NOR ALL THE 911 CALLS. SO I'M
11 JUST GOING TO CLICK ON A COUPLE SO YOU CAN GET A SAMPLE
12 OF 911 CALLS AND CLICK ON A COUPLE OF THE SCENES FROM
13 THE DASH CAM SO YOU CAN GET A FEEL FOR WHAT TOOK PLACE.

14 ...HIGHWAY PATROL, CAN I HELP YOU? I'M ON I-26. --
15 A BLUE SUBURBAN - IS SWERVING ALL OVER THE PLACE.

16 YOU SAID BLUE SUBURBAN? YES, MA'AM. ON I-26
17 EASTBOUND. WHAT MILE MARKER? I JUST PASSED 156.
18 156 EASTBOUND? IT'S SOUTH CAROLINA CHARLIE GOLF 47414.
19 CHARLIE GOLF 47414? YES, MA'AM. WHAT'S YOUR NAME?
20 MY NAME'S BEN ELLIOTT. BEN ELLIOTT? YES, MA'AM. WHAT
21 IS YOUR CELL PHONE NUMBER? 417 5696573. WE'LL GIVE
22 IT OUT, OKAY? THANKS, MA'AM.

23 BY MR. DARR:

24 THAT WAS CALL NUMBER ONE FROM THE HIGHWAY PATROL.
25 THIS IS CALL NUMBER THREE.

1 HIGHWAY PATROL COMMUNICATIONS. WE'RE TRAVELING
2 ON I-26 EASTBOUND AND THERE IS A BLUE SUBURBAN WITH
3 (INAUDIBLE) PLATE WHO IS SWERVING ALL OVER THE ROAD.
4 WHERE AT ON 26? EXIT 104. HEADING WHICH WAY? HEADING
5 TOWARDS CHARLESTON EASTBOUND. I CAN GIVE YOU THE
6 LICENSE PLATE NUMBER. HOLD ON ONE SECOND. WHAT KIND
7 OF VEHICLE, DID YOU SAY? IT'S A NAVY BLUE SUBURBAN,
8 AND IT HAS (INAUDIBLE) PLATES, AND THE PLATE NUMBER IS
9 CG47414. YOU SAID THEY WERE SWERVING ALL OVER THE
10 ROAD? UH, YES. - IT'S REALLY BAD. CAN I GET YOUR
11 NAME AND NUMBER? IT'S LISA PELLONI AND MY NUMBER IS
12 843-270-9347. HOLD ONE MOMENT FOR ME, OKAY?

13 HIGHWAY PATROL COMMUNICATIONS, ERIN.

14 YES, I'M TRAVELING ON I-26...

15 BY MR. DARR:

16 THAT CALL GETS CONTINUED; WE WON'T LISTEN TO ALL
17 OF THIS ONE BECAUSE THERE'S A LOT OF - YOU CAN ONLY
18 HEAR ONE SIDE OF IT FOR A TIME.

19 (INAUDIBLE) ...HE JUST PULLED OVER TO TRY TO LET
20 HER AROUND BUT SHE'S NOT - NOW WE'RE AT MILE MARKER
21 200. I THINK SHE MIGHT BE INTOXICATED TO BE HONEST WITH
22 YOU - OH, MY GOD. THEY NEED TO STOP HER. HE JUST SAID
23 WE'RE AT 198. WE'RE ALMOST AT THE (INAUDIBLE) SHE'S
24 RIGHT IN FRONT OF US; WE'RE NOT TRYING TO KEEP UP WITH
25 HER BY ANY STRETCH OF THE IMAGINATION, BUT SHE'S A

1 COUPLE CARS AHEAD OF US.

2 BY MR. DARR:

3 SO THAT GIVES YOU A FEEL FOR THE PEOPLE WHO WERE
4 SEEING SOMETHING GOING ON AND CALLING IN.

5 THIS IS A SCENE FROM THE DASH CAM VIDEO. YOU
6 SEE THE OFFICER THERE AND THEN THE SUBURBAN, AND HE
7 PULLS IN BETWEEN THEM. YOU CAN SEE THE VANTAGE POINT
8 THE GOOSE CREEK OFFICER HAD. THIS IS THE OFFICER
9 GETTING MS. KISER OUT OF THE CAR. YOU CAN SEE WHAT
10 HAPPENED, WHAT SHE LOOKS LIKE. AFTER THE FIELD
11 SOBRIETY TEST THAT SHE FAILED, HE HANDCUFFS HER AND
12 ARRESTS HER BUT NOT WITHOUT SOME EFFORT. THEN HE PUTS
13 HER INTO THE PATROL CAR. "OH, MY GOD. WHAT HAPPENS TO
14 THESE SEVEN-YEAR-OLD KIDS - OR, SEVEN KIDS?" YOU WERE
15 TOLD EARLIER THAT SHE DIDN'T KNOW SHE WAS ON CAMERA,
16 BUT YOU CAN JUDGE THIS FOR YOURSELF. HERE ARE SOME
17 CLIPS - I TOLD YOU I QUIT COUNTING SOME SORT OF ODD
18 BEHAVIOR WITH EITHER WIPING HER LIPS ON HER BLUE JEANS
19 OR A COUPLE TIMES TAKING A BIG OL' LICK OF THE BLUE
20 JEANS.

21 BY MR. ROTHSTEIN:

22 MR. DARR'S NOT A WITNESS. YOU KNOW, HE'S TESTIFY-
23 ING IN THIS HEARING; I THINK THAT'S IMPROPER. HE CAN
24 LET YOU WATCH THE VIDEO, OR IF HE HAS QUESTIONS FOR DR.
25 BOOKER, I THINK THAT WOULD BE FINE, BUT I DON'T THINK

1 EDITORIALIZING IS PROPER IN THIS REGARD.

2 BY CHAIRMAN:

3 I'LL NOTE YOUR OBJECTION.

4 (VIDEO CONTINUES)

5 DIRECT EXAMINATION RESUMED BY MR. DARR:

6 Q. ARE THOSE SOME OF THE CALLS AND SCENES THAT YOU
7 LISTENED TO WHEN YOU RECEIVED THESE THINGS FROM THE
8 HIGHWAY PATROL?

9 A. THAT'S CORRECT.

10 BY MR. WHITE:

11 I'D LIKE FOR THE BOARD TO TAKE A RECESS FOR ABOUT
12 THREE MINUTES.

13 BY CHAIRMAN:

14 LET'S TAKE A FIVE-MINUTE RECESS.

15 BY MS. LONON:

16 I MAKE A MOTION WE TAKE A BREAK.

17 BY MR. HAYES:

18 SECOND.

19 (BREAK 7:10 PM TO 7:20 PM)

20 BY CHAIRMAN:

21 WE'RE BACK ON THE RECORD IN EXECUTIVE SESSION.

22 BY MR. DARR:

23 MR. CHAIR, I'LL TRY TO WRAP THIS UP VERY QUICKLY.

24 A COUPLE MORE QUESTIONS OF DR. BOOKER. I HAVE ONE MORE
25 LIVE WITNESS ON THE ITEMS THAT ARE IN THE BOOK, AND

1 I'LL BE DONE.

2 DIRECT EXAMINATION RESUMED BY MR. DARR:

3 Q. DR. BOOKER, TO YOUR KNOWLEDGE, THE SCHOOL DISTRICT
4 WOULDN'T SEND THAT SUBURBAN OUT ON THE ROAD WITH CROSS
5 COUNTRY STUDENTS IN IT IF THEY HADN'T DETERMINED IT WAS
6 SAFE, WOULD THEY?

7 A. ABSOLUTELY NOT, AND IT'S BEEN OUT ON THE ROAD; IT'S
8 STILL OUT ON THE ROAD, AND WE HAVEN'T HAD ANY ISSUES.

9 Q. AND MS. KISER KNEW IN ADVANCE SHE WAS DRIVING THESE
10 STUDENTS DOWN TO CHARLESTON, DIDN'T SHE? THAT DIDN'T
11 JUST POP UP THE DAY SHE DROVE, DID IT?

12 A. THAT'S CORRECT.

13 Q. DO YOU CONSIDER SUPERVISING STUDENTS AND MAINTAINING
14 THEIR SAFETY AND WELL BEING AN ESSENTIAL FUNCTION OF A
15 TEACHER'S POSITION?

16 A. YEAH, I THINK THAT'S THE FIRST FUNCTION IS TO MAKE SURE
17 STUDENTS ARE SAFE.

18 Q. AND THAT CARRIES OVER IN WHATEVER CAPACITY THEY ARE
19 INTERACTING WITH THOSE STUDENTS INCLUDING COACHING?

20 A. THAT'S COACHING; THAT'S THE FIELD TRIP WE JUST TOOK TO
21 NEW YORK; THAT'S, AS I SAID, IF YOU'RE SPONSORING A
22 CLUB, IF YOU'RE SUPERVISING DURING A PLAY AFTER SCHOOL.
23 IT'S AT ALL TIMES. THAT'S A BASIC FUNCTION.

24 Q. IN TERMS OF THE SUGGESTION THAT MS. KISER COULDN'T
25 CONTROL THE FACT THAT THOSE KIDS WERE LEFT ALONE ON THE

1 SIDE OF THE ROAD OR LEFT AT POLICE HEADQUARTERS WAITING
2 ON PARENTS TO ARRIVE, IS IT YOUR OPINION THAT THAT
3 CONTROL COULD HAVE BEEN EXERCISED BEFORE THE STOP BY
4 MS. KISER?

5 A. IT SHOULD HAVE BEEN EXERCISED. THERE SHOULDN'T HAVE
6 BEEN A STOP.

7 BY MR. DARR:

8 THAT'S ALL I HAVE, MR. CHAIR. PLEASE ANSWER ANY
9 QUESTIONS MR. ROTHSTEIN MIGHT HAVE.

10 CROSS EXAMINATION BY MR. ROTHSTEIN:

11 Q. DR. BOOKER, I MAY HAVE BEEN A LITTLE CONFUSED BY YOUR
12 TESTIMONY. I ACTUALLY WROTE IT DOWN. I THINK YOU SAID
13 YOU MADE THE DECISION THAT MS. KISER HAD TO GO AFTER
14 YOU TALKED TO THE HIGHWAY PATROLMAN AND SAW THE
15 INCIDENT REPORT, IS THAT RIGHT?

16 A. NO. I SAID AFTER TALKING TO - AFTER GETTING THE
17 STUDENTS' STATEMENTS, I SAID AFTER LOOKING AT THE
18 INCIDENT REPORT, I SAID AFTER INTERVIEWING MS. KISER
19 THE DECISION WAS MADE TO RECOMMEND TERMINATION.

20 Q. I THOUGHT I UNDERSTOOD YOUR TESTIMONY A MINUTE AGO TO
21 SAY AS SOON AS YOU TALKED TO THE TROOPER AND READ THE
22 INCIDENT REPORT YOU SAID YOU MADE THE DETERMINATION
23 SHE'S GOT TO GO. DID YOU SAY THAT?

24 A. I DON'T RECALL SAYING ANYBODY'S "GOT TO GO." I RECALL
25 SAYING AFTER GETTING THE STUDENTS' STATEMENTS, AFTER

1 READING THE REPORT FROM THE HIGHWAY PATROL, AFTER ALL
2 OF THOSE FACTS, THAT'S WHEN I MADE MY DECISION IS WHAT
3 I SAID.

4 Q. THE DECISION YOU COMMUNICATED TO MS. KISER WAS ACTUALLY
5 MADE ON MONDAY, SEPTEMBER 29, 2014. THE MONDAY AFTER
6 THIS EVENT?

7 A. THAT AFTERNOON; THAT'S CORRECT.

8 Q. AND YOU HAD TIME TO MEET WITH MS. KISER AND WRITE A
9 TERMINATION LETTER SAYING I'M RECOMMENDING YOUR
10 TERMINATION, RIGHT?

11 A. I DID.

12 Q. AND YOU COMMUNICATED THAT TO DR. REDISH?

13 A. I DID.

14 Q. WHAT IS HER POSITION AT -

15 A. SHE'S OUR ASSISTANT SUPERINTENDENT FOR PERSONNEL AND
16 STUDENT SERVICES.

17 Q. AND YOU INSTRUCTED DR. REDISH TO NOTIFY THE STATE
18 DEPARTMENT OF EDUCATION ABOUT YOUR DECISION, ISN'T THAT
19 RIGHT?

20 A. WHAT DR. REDISH DID WAS NOTIFY THE STATE DEPARTMENT
21 ABOUT THIS INCIDENT THAT HAS OCCURRED. THAT'S
22 SOMETHING WE DO, THAT WE HAVE TO DO.

23 Q. SHE DID THAT AT YOUR DIRECTION, ISN'T THAT CORRECT?

24 A. THAT'S CORRECT.

25 Q. I'M GOING TO HAND YOU AN EXHIBIT NOTEBOOK WITH OUR

1 EXHIBITS IN IT.

2 BY MR. ROTHSTEIN:

3 HERE ARE THE ORIGINAL EXHIBITS FOR THE RECORD FOR
4 THE COURT REPORTER.

5 (COURT REPORTER MARKS DOCUMENTS COLLECTIVELY TEACHER EXHIBIT

6 1)

7 CROSS EXAMINATION RESUMED BY MR. ROTHSTEIN:

8 Q. AND IF I CAN DIRECT YOUR ATTENTION, DR. BOOKER, TO
9 EXHIBIT C FROM THAT NOTEBOOK. DO YOU RECOGNIZE THAT
10 DOCUMENT?

11 A. I DO.

12 Q. AND THAT'S THE LETTER THAT DR. REDISH WROTE OCTOBER 1,
13 TWO DAYS AFTER YOU MADE THE DECISION THAT MS. KISER HAD
14 TO GO, TO THE SOUTH CAROLINA DEPARTMENT OF EDUCATION,
15 ISN'T THAT RIGHT?

16 A. THAT'S CORRECT.

17 Q. AND SHE WROTE THIS LETTER AT YOUR DIRECTION?

18 A. THAT'S CORRECT

19 Q. AND IN THAT LETTER SHE SAID "I WOULD LIKE TO REPORT THE
20 SEPARATION OF EMPLOYMENT OF MS. DEDRA KISER." ISN'T
21 THAT RIGHT?

22 A. THAT'S CORRECT.

23 Q. MS. KISER HADN'T BEEN TERMINATED AT THAT POINT, HAD
24 SHE?

25 A. SHE HAD NOT.

1 Q. YOU WERE GOING TO RECOMMEND HER TERMINATION, RIGHT?

2 A. CORRECT.

3 Q. MS. KISER TOLD YOU SHE DIDN'T WANT TO RESIGN FROM THE
4 BOARD - UH, FROM THE SCHOOL AS A TEACHER, AND YOU WERE
5 GOING TO TERMINATE HER, ISN'T THAT RIGHT?

6 A. I WAS GOING TO RECOMMEND HER TERMINATION.

7 Q. DR. REDISH SAID I'M REPORTING THE TERMINATION OF MS.
8 KISER, RIGHT?

9 A. THE SEPARATION OF EMPLOYMENT. I'VE ALREADY MADE IT
10 CLEAR IN OUR CONVERSATIONS THAT THAT SHOULD NOT HAVE
11 SAID SEPARATION OF EMPLOYMENT. THE PURPOSE OF THIS
12 LETTER IS TO NOTIFY THE DEPARTMENT THAT WE'VE HAD AN
13 INCIDENT IN THE SCHOOL DISTRICT. THEY DON'T MAKE ANY
14 DETERMINATION ABOUT EMPLOYMENT IN OUR SCHOOL DISTRICT.
15 THE PURPOSE WAS SIMPLY TO LET THEM KNOW WE'VE GOT A
16 SITUATION GOING ON, HEAR ALL THE FACTS AND THE EVIDENCE
17 THAT WE HAVE THUS FAR SO THEY CAN MAKE A RECOMMENDATION
18 ON HER CERTIFICATE. REGARDLESS OF THE BOARD'S DECISION,
19 THEY ULTIMATELY MAKE THE DETERMINATION ABOUT HER
20 CERTIFICATE. SO IT SAYS "SEPARATION." IT SHOULD HAVE
21 - IT SHOULD NOT HAVE SAID SEPARATION BECAUSE SHE HAD
22 NOT BEEN SEPARATED; SHE STILL HASN'T BEEN SEPARATED.

23 Q. I POINTED THIS OUT TO YOU IN YOUR DEPOSITION -

24 A. YOU DID.

25 Q. - BACK IN NOVEMBER SOMETIME, DIDN'T I?

1 A. YOU DID.

2 Q. HAVE YOU WRITTEN OR HAS DR. REDISH WRITTEN TO THE
3 DEPARTMENT OF EDUCATION TO TELL THEM WE MESSED UP. WE
4 HAVEN'T TERMINATED MS. KISER YET. WE'RE GOING TO
5 RECOMMEND HER TERMINATION?

6 A. I HAVE NOT BECAUSE IT'S REALLY NOT RELEVANT TO THEM
7 WHAT OUR DECISION IS ONE WAY OR THE OTHER.

8 Q. THE OTHER THING THAT DR. REDISH SAID IN THE SECOND
9 PARAGRAPH OF THIS LETTER IS THE REASONS FOR MS. KISER'S
10 TERMINATION, RIGHT?

11 A. THAT'S CORRECT. SHE HAD BEEN CHARGED WITH DRIVING
12 UNDER THE INFLUENCE AND CHILD ENDANGERMENT IN
13 CHARLESTON COUNTY.

14 Q. SO, DR. REDISH TOLD THE DEPARTMENT OF EDUCATION THAT
15 THERE WERE TWO REASONS FOR MS. KISER'S TERMINATION: THE
16 CHARGE FOR DUI AND THE CHARGE FOR CHILD ENDANGERMENT,
17 ISN'T THAT RIGHT?

18 A. NO. SHE JUST STATED THE FACT THAT SHE HAD BEEN CHARGED
19 WITH DRIVING UNDER THE INFLUENCE AND CHILD
20 ENDANGERMENT.

21 Q. SHE DOESN'T STATE ANY OTHER REASON FOR MS. KISER'S
22 TERMINATION, RIGHT?

23 A. SHE JUST SAID I'D LIKE TO REPORT THE SEPARATION OF
24 EMPLOYMENT, THE FACT THAT SHE HAD BEEN CHARGED WITH
25 DRIVING UNDER THE INFLUENCE AND CHILD ENDANGERMENT AND

1 CONTACT US WITH ANY OTHER INFORMATION OR NEED FOR
2 DOCUMENTATION.

3 Q. MR. DARR MENTIONED TO YOU - ASKED YOU A COUPLE OF
4 QUESTIONS ABOUT MS. KISER'S TEACHING CONTRACT, AND IT'S
5 IN MR. DARR'S NOTEBOOK, BUT IT'S ALSO IN EXHIBIT D TO
6 MY NOTEBOOK, THE BLACK NOTEBOOK. AND HE TRIED TO SAY
7 THAT THIS CONTRACT IN PARAGRAPH 3 TALKS ABOUT MORE THAN
8 JUST TEACHING; IT TALKS ABOUT EXTRACURRICULAR
9 ACTIVITIES INCLUDING COACHING, ISN'T THAT RIGHT?

10 A. IT DOES.

11 Q. I WANT YOU TO ACTUALLY LOOK AT THE LANGUAGE. I'M GOING
12 TO DIRECT YOUR ATTENTION TO THE LAST TWO SENTENCES IN
13 THAT PARAGRAPH.

14 A. WHICH PARAGRAPH.

15 Q. PARAGRAPH 3 ON EXHIBIT D OF THE BLACK NOTEBOOK. ALL
16 RIGHT. I WANT YOU TO READ ALONG WITH ME AS I'M READING
17 THIS OUT LOUD, OKAY, AND YOU TELL ME IF I'M READING
18 THIS CORRECTLY.

19 A. OKAY.

20 Q. IT SAYS "EXTRACURRICULAR ACTIVITIES INCLUDING COACHING
21 ASSIGNMENTS ARE FOR THE STATED SCHOOL YEAR ONLY AND NO
22 EXPECTATIONS ARE CREATED CONCERNING ASSIGNMENTS FOR
23 FUTURE YEARS. DID I READ THAT CORRECTLY?

24 A. YES, YOU DID.

25 Q. OKAY. THE LAST LINE OF THE PARAGRAPH SAYS ALL EXTRA-

1 CURRICULAR ASSIGNMENTS ARE DISCRETIONARY WITH THE
2 ADMINISTRATION AND MAY BE TERMINATED AT ANY TIME UPON
3 NOTICE TO AND CONSULTATION WITH THE EMPLOYEE, RIGHT?

4 A. THAT'S CORRECT.

5 Q. OKAY. SO THE PURPOSE OF THAT MENTION OF COACHING JOBS
6 AND EXTRACURRICULARS IS TO SAY TO THE TEACHER, YOU HAVE
7 A TEACHING CONTRACT, AND UNDER THE STATUTE YOU HAVE AN
8 EXPECTATION THAT THAT CONTRACT WILL CONTINUE THROUGHOUT
9 YOUR EMPLOYMENT AS LONG AS YOU'RE A TEACHER UNLESS YOU
10 ARE TERMINATED FOR CAUSE, RIGHT? BUT AS TO THE EXTRA-
11 CURRICULAR THINGS AND COACHING ASSIGNMENTS, THOSE ARE
12 REALLY MORE AT WILL, AND WE CAN END THOSE AT ANY TIME
13 FOR ANY REASON; DO YOU UNDERSTAND THAT?

14 A. NO, I DON'T. SAY THAT AGAIN.

15 Q. OKAY. THE PURPOSE OF THOSE TWO SENTENCES IS TO TELL
16 THE TEACHER ALTHOUGH YOU'VE GOT RIGHTS AS A TEACHER TO
17 EXPECT YOUR EMPLOYMENT TO CONTINUE UNDER THE -

18 BY MR. DARR:

19 I OBJECT THAT HE'S TRYING TO STATE WHAT THE
20 PURPOSE IS. HE DIDN'T WRITE THE AGREEMENT. YOU CAN ASK
21 HIM WHAT HE THINKS THE PURPOSE IS INSTEAD OF STATING
22 THE PURPOSE HIMSELF. HE DOESN'T KNOW WHAT THE PURPOSE
23 OF THAT SENTENCE IS ONE WAY OR THE OTHER.

24 BY CHAIRMAN:

25 REPHRASE YOUR QUESTION, PLEASE.

1 BY MR. ROTHSTEIN:

2 MR. CHAIRMAN, I THINK ON DIRECT EXAM DR. BOOKER
3 WAS EXPLAINING WHAT HE THOUGHT THE PURPOSE OF THE WORD
4 "COACHING" AND "EXTRACURRICULAR ACTIVITY" WAS IN THIS
5 CONTRACT.

6 CROSS EXAMINATION RESUMED BY MR. ROTHSTEIN:

7 Q. WELL, LET ME ASK YOU THIS -

8 A. YEAH, IT READS "EXTRACURRICULAR ASSIGNMENTS INCLUDING
9 COACHING ASSIGNMENTS ARE FOR THE STATED SCHOOL YEAR
10 ONLY, AND NO EXPECTATIONS ARE CREATED CONCERNING
11 ASSIGNMENTS FOR FUTURE YEARS, WHICH BASICALLY SAYS: YOU
12 SIGNED A CONTRACT FOR 190 DAYS. YOU'RE GOING TO BE A
13 COACH THIS YEAR, AND THE EXPECTATION IS IF YOU DON'T
14 WANT TO COACH NEXT YEAR, THEN WE CAN HAVE THAT
15 CONVERSATION THE FOLLOWING YEAR, BUT THAT'S TO SAY THAT
16 THAT IS YOUR RESPONSIBILITY FOR THAT YEAR.

17 Q. OR IF THE SCHOOL DOESN'T WANT TO KEEP YOU AS A COACH,
18 YOU HAVE NO RIGHTS UNDER THE TEACHER EMPLOYMENT
19 DISMISSAL ACT TO CONTINUED EMPLOYMENT AS A COACH,
20 RIGHT?

21 A. I DON'T INTERPRET IT TO BE THAT WAY.

22 Q. NOW, THE HIGHWAY PATROLMAN YOU DEALT WITH, YOU WOULD
23 AGREE WITH ME THAT HE IS A PRETTY DIFFICULT FELLOW TO
24 DEAL WITH, RIGHT?

25 A. ABSOLUTELY NOT.

- 1 Q. ALL RIGHT. YOU COULDN'T CONVINCE HIM TO LET THE
2 CHILDREN BE RELEASED INTO THE CUSTODY OF THE OTHER
3 COACH, COULD YOU?
- 4 A. YEAH, I DON'T KNOW THE LAW SURROUNDING STUDENTS WHO
5 HAVE BEEN TAKEN INTO CUSTODY FOR CHILD ENDANGERMENT.
- 6 Q. I UNDERSTAND; THAT'S NOT MY QUESTION. MY QUESTION WAS,
7 YOU WERE INSISTING THAT COACH FREED BE ALLOWED TO TAKE
8 CUSTODY OF THOSE CHILDREN, RIGHT?
- 9 A. I WAS ASK - ABSOLUTELY.
- 10 Q. AND HE WOULDN'T HAVE THAT, RIGHT?
- 11 A. HE COULD NOT TURN THEM OVER TO ANYONE BUT THEIR PARENTS
12 AFTER THEY HAD BEEN TAKEN INTO CUSTODY.
- 13 Q. AND YOU ACTUALLY SAID, "WHO DO I NEED TO TALK TO, WHAT
14 REPRESENTATIVE DO I NEED TO TALK TO TO CHANGE THAT?"
15 DIDN'T YOU?
- 16 A. I ASKED HIM WHAT ALTERNATIVE DID I HAVE.
- 17 Q. HE SAID NO ALTERNATIVE, RIGHT?
- 18 A. THERE WERE NONE.
- 19 Q. SO IT WAS HIS WAY OR NO WAY, ISN'T THAT RIGHT?
- 20 A. NO, HE WAS SAYING THESE ARE THE LAWS. I WISHED HE
21 WOULD HAVE TURNED THEM OVER.
- 22 Q. BUT HE WAS INFLEXIBLE ON HOW HE INTERACTED WITH YOU,
23 ISN'T THAT RIGHT? ACCORDING TO WHAT HE THOUGHT THE LAW
24 WAS.
- 25 A. I CAN'T - HE JUST TOLD ME HE COULDN'T TURN THEM OVER.

1 Q. AND NOTHING YOU SAID OR DID WOULD CONVINCE HIM
2 OTHERWISE, RIGHT?

3 A. NOTHING - HE WOULD NOT TURN THEM OVER BECAUSE HE SAID
4 HE COULDN'T.

5 Q. I DON'T HAVE ANY FURTHER QUESTIONS. OH, I DO HAVE ONE
6 MORE QUESTION. MAYBE TWO QUESTIONS.

7 A. OKAY.

8 Q. YOU TESTIFIED WHAT YOU DIDN'T HEAR MS. KISER SAY IN
9 YOUR MEETING ON THAT MONDAY WAS WHETHER THERE WAS
10 ANYTHING WRONG WITH THE CAR AND WHETHER SHE'D EVER
11 DRIVEN THAT CAR BEFORE; DO YOU REMEMBER THAT?

12 A. MM-HMM.

13 Q. DID YOU ASK MS. KISER WHETHER SHE WAS HAVING ANY
14 PROBLEMS WITH THE CAR SHE WAS DRIVING DOWN TO
15 CHARLESTON?

16 A. I DID NOT.

17 Q. DID YOU ASK HER IF SHE'D EVER DRIVEN THAT CAR BEFORE?

18 A. DIDN'T SEE A REASON TO.

19 BY MR. ROTHSTEIN:

20 NO FURTHER QUESTIONS. THANK YOU.

21 JEFF STEVENS, BEING FIRST DULY SWORN, TESTIFIED ON
22 HIS OATH AS FOLLOWS:

23 DIRECT EXAMINATION BY MR. DARR:

24 Q. WOULD YOU STATE YOUR NAME AND TITLE, PLEASE.

25 A. YES, I'M JEFF STEVENS, PRINCIPAL OF SPARTANBURG HIGH

1 SCHOOL.

2 Q. MR. STEVENS, HOW LONG HAVE YOU BEEN THE PRINCIPAL OF
3 SPARTANBURG HIGH SCHOOL?

4 A. SEVEN YEARS NOW.

5 Q. AND YOU WERE PRINCIPAL DURING THE RELEVANT PERIOD
6 SURROUNDING THE INCIDENT WE'VE BEEN DISCUSSING TONIGHT,
7 RIGHT?

8 A. YES, SIR.

9 Q. WILL YOU TELL US THE CIRCUMSTANCES SURROUNDING MS.
10 KISER COMING TO DRIVE SEVEN CROSS COUNTRY GIRLS IN THE
11 1999 SUBURBAN TO CHARLESTON. WHY WAS SHE DOING THAT?

12 A. YEAH. WELL, THEY HAD A CROSS COUNTRY MEET; I'M NOT
13 SURE IF IT WAS A STATE MEET OR WHATEVER, BUT I KNOW
14 THAT THEY HAD A CROSS COUNTRY MEET THAT THEY WERE GOING
15 TO. SHE WAS TO DRIVE THE SEVEN GIRLS ON THAT TRIP,
16 ALONG WITH THE BOYS AS WELL WHO WERE IN ANOTHER VAN.

17 Q. WERE THEY PLANNING TO CARAVAN, THE BOYS AND GIRLS
18 TOGETHER?

19 A. YES.

20 Q. YOU DIDN'T GO ON THE TRIP, DID YOU?

21 A. NO, SIR.

22 Q. ONCE THEY LEFT THE SCHOOL, WHAT WAS THE FIRST KNOWLEDGE
23 YOU HAD THAT ANYTHING HAD TRANSPIRED?

24 A. WELL, I GOT A CALL. I WAS ACTUALLY NOT AT OUR HIGH
25 SCHOOL GAME THAT NIGHT; MY NIECE WAS ON THE HOMECOMING

1 COURT AT CHAPMAN HIGH SCHOOL, SO I WENT TO THAT
2 FOOTBALL GAME THAT NIGHT. I DON'T KNOW EXACTLY WHAT
3 TIME IT WAS, BUT IT WAS AROUND HALFTIME BECAUSE I GOT A
4 CALL FROM DR. BOOKER AND COACH TODD WHO WERE KIND OF
5 THERE TOGETHER INDICATING TO ME THAT THERE HAD BEEN AN
6 ACCIDENT. EVERYBODY WAS OKAY BUT ACTUALLY A CAR HAD
7 BEEN PULLED OVER; THEY TOLD ME THAT IT WAS THE GIRLS
8 SUBURBAN AND THAT DR. BOOKER KIND OF WENT THROUGH WHAT
9 HAD HAPPENED. THAT SHE GOT STOPPED. THEY WANTED TO
10 MAKE SURE WE CALLED THE GIRLS PARENTS SO I TOLD DR.
11 BOOKER I WOULD GET IN TOUCH WITH ALL THE FAMILIES
12 BECAUSE I KNEW MOST OF THEM ANYWAY. THERE WERE A
13 COUPLE OF THE GIRLS, YOUNG GIRLS, THAT I DID NOT KNOW,
14 SO I MADE THE PHONE CALL TO THEM. TELL THEM HOW
15 EXTREMELY SORRY WE WERE, YOU KNOW, ON BEHALF OF OUR
16 DISTRICT AND SPARTANBURG HIGH SCHOOL. AND WE WANTED
17 THEM TO GO DOWN THERE AND GET THEIR GIRLS. WE HATE
18 THAT WE COULDN'T. THEY WOULD NOT BE TURNED OVER TO US
19 AND THAT ANY EXPENSE THEY INCURRED WHILE THERE, WHETHER
20 IT BE EATING OR MOTEL OR WHATEVER, TO BRING ME THE
21 RECEIPTS AND WE WOULD HANDLE IT FROM SPARTANBURG HIGH
22 SCHOOL AND THE DISTRICT STANDPOINT.

23 Q. WERE THE PARENTS ALARMED?

24 A. YES, THEY WERE SHAKEN UP. BASICALLY BECAUSE THEY
25 DIDN'T KNOW THE STATE THAT THEIR CHILD WAS IN AND THEY

1 WORRIED TREMENDOUSLY FOR THEM, ESPECIALLY WHEN I GUESS
2 THEY HAD CAUGHT WIND THAT THE OFFICER SAID THEY WOULD
3 BE TURNED OVER TO DSS CUSTODY. I THINK THAT KIND OF
4 ALARMED THEM, AND THEN STATING THE EVENTS ON WHAT
5 HAPPENED ON THE WAY DOWN THERE.

6 Q. THE RECKLESS DRIVING, YOU'RE REFERRING TO?

7 A. YES.

8 Q. SO, DID YOU THEN STAY ABREAST ON WHAT WAS TRANSPIRING
9 IN REGARD TO THE STOPPING AND PICKING UP THE KIDS AND
10 THOSE SORTS OF THINGS?

11 A. YES. I CALLED EACH PARENT. ONE WOULD SAY THEY'RE AN
12 HOUR AWAY, AND 30 MINUTES AWAY. I'M STILL TWO HOURS
13 AWAY; WE JUST LEFT. THEN, YOU KNOW, I DID HAVE A
14 CONVERSATION AS WELL -- I KNEW THAT COACH FREED WAS
15 THERE, AND I KNEW THAT A PARENT - I CANNOT RECALL THE
16 PARENT'S NAME THAT I TALKED TO - THE FEMALE LADY THAT I
17 THINK DR. BOOKER HAD ASKED HER FOR HER HELP TO CHECK ON
18 EVERYONE, AND THE TIME I TALKED TO HER SHE WAS IN THE
19 PROCESS OF TRYING TO GET THE GUYS SOME PIZZA TO TRY TO
20 GET THEM TAKEN CARE OF AT THE HOTEL; THAT'S WHERE SHE
21 WAS HEADED ACTUALLY.

22 Q. COACH FREED WAS IN THE POSITION OF LEAVING SOME GROUP
23 OF STUDENTS UNSUPERVISED?

24 A. YES.

25 Q. BECAUSE THESE GIRLS WERE IN THE HIGHWAY PATROL OFFICE?

1 A. YES.

2 Q. THEN FOLLOWING THAT AS THE NEXT DAY OR SO PROGRESSED,
3 AT SOME POINT DID YOU TALK WITH MS. KISER?

4 A. I DID.

5 Q. WHAT DID YOU TELL HER?

6 A. I SPOKE WITH MS. KISER ON THAT SUNDAY; I'M NOT SURE
7 EXACTLY WHAT TIME. ASKED HER WHAT HAPPENED. SHE
8 INDICATED TO ME THAT SHE TOOK THE SOBRIETY TEST; SHE
9 THOUGHT SHE DID WELL. NOT SURE WHAT HAPPENED, AND SO AS
10 OUR CONVERSATION CONTINUED I SAID, "DID YOU KNOW THAT
11 WE'RE GOING TO HAVE TO PLACE YOU ON ADMINISTRATIVE
12 LEAVE? WE'VE GOT TO DO SOME INVESTIGATING," AND THEN
13 SHE WAS PLACED ON ADMINISTRATIVE LEAVE, AND THEN WE
14 TRIED TO CONTINUE OUR INVESTIGATION.

15 Q. SO, AS PART OF THAT CONTINUING INVESTIGATION, DID YOU
16 SPEAK WITH - OF THE SEVEN GIRLS IN THE VAN THREE OF
17 THEM WERE FROM SPARTANBURG HIGH STUDENTS?

18 A. YES.

19 Q. DID YOU SPEAK WITH THEM?

20 A. YES. THE ONES THAT I KNEW, THE OLDER STUDENTS THERE.

21 Q. DID YOU INTERVIEW THEM FACE-TO-FACE?

22 A. YEAH. I BROUGHT THEM IN FACE-TO-FACE. I BROUGHT THEM
23 IN ONE-BY-ONE. I DID NOT ELABORATE MUCH WITH THEM. I
24 WANTED THEM TO START FROM THE VERY BEGINNING, AND THEN
25 I WANTED THEM TO TELL ME EVERYTHING THAT HAD TRANSPIRED

1 FROM THE TIME THAT THEY LEFT SPARTANBURG HIGH SCHOOL,
2 AND THEY HAD INDICATED TO ME THAT THE ERRATIC DRIVING
3 STARTED IMMEDIATELY AFTER THEY PULLED OUT OF
4 SPARTANBURG HIGH SCHOOL, AND THEY TALKED ABOUT THE HIGH
5 SPEEDS. ONE GIRL IN PARTICULAR TALKED ABOUT CLIPPING
6 THE MAILBOX, THE ONE THAT WAS ON THE PASSENGER SIDE
7 ACTUALLY TALKED ABOUT CLIPPING THE MAILBOX. SWERVING
8 OFF THE ROAD. AND THEN GOING DOWN THE HIGHWAY HOW
9 CLOSE THEY WOULD GET TO OTHER CARS AS THEY'RE GOING
10 DOWN THE HIGHWAY, GOING OFF THE SIDE OF THE ROAD AT A
11 VERY HIGH RATE OF SPEED.

12 Q. DID YOU MAKE NOTES OF THOSE CONVERSATIONS?

13 A. I DID.

14 Q. THOSE HANDWRITTEN NOTES?

15 A. I DID.

16 Q. THOSE NOTES I BELIEVE WOUND UP IN THE PERSONNEL FILE OF
17 MS. KISER?

18 A. YES, I TURNED THOSE OVER TO DR. BOOKER ONCE I DID THAT.

19 Q. DID YOU ULTIMATELY ASK EACH STUDENT TO WRITE DOWN A
20 WRITTEN STATEMENT OF WHAT HAD TRANSPIRED ON THAT TRIP?

21 A. YES, EVENTUALLY.

22 Q. WOULD YOU LOOK AT THE WHITE NOTEBOOK; TURN TO TAB 14.
23 IS THAT ELIZA B'S WRITTEN STATEMENT?

24 A. YES.

25 Q. THIS SETS OUT SOME OF THE DETAILS YOU WERE TALKING

1 ABOUT IN TERMS OF HITTING THE CURB AND SO FORTH, RIGHT?

2 A. YES. YES, SIR.

3 Q. MAILBOX, RUNNING A RED LIGHT; ALL THAT'S IN THERE?

4 A. YES.

5 Q. DRIVING 90 MILES PER HOUR?

6 A. YES, SIR.

7 Q. SLIDING TO A STOP TO AVOID HITTING A CAR ON THE

8 HIGHWAY?

9 A. YES, SIR.

10 Q. THEN UNDER TAB 16, IS THAT COOPER Y'S ---

11 A. YES.

12 Q. - WRITTEN STATEMENT?

13 A. YES.

14 Q. ABOUT THE MIDDLE OF HER PAGE, DID SHE ALSO SUMMARIZE

15 SOME OF THE SAME EVENTS: THE MAILBOX, THE RED LIGHT?

16 A. YES.

17 Q. NINETY MILES AN HOUR?

18 A. YES, SIR.

19 Q. TOO CLOSE TO CARS ON THE SIDE AND TOO CLOSE UP BEHIND

20 CARS?

21 A. YES, SIR.

22 Q. THEN TURN TO TAB 18, MONICA G? IS THAT HER WRITTEN

23 STATEMENT THAT WAS PREPARED AT YOUR REQUEST?

24 A. YES, SIR.

25 Q. ARE THESE STATEMENTS CONSISTENT WITH WHAT THE GIRLS

1 TOLD YOU IN YOUR INTERVIEWS?

2 A. YES, SIR; THEY APPEAR TO BE. VERY CONSISTENT.

3 Q. DID YOU THEN HAVE A CONVERSATION WITH THE
4 SUPERINTENDENT ABOUT THE RESULTS OF THESE
5 INVESTIGATIONS OF YOURS, THESE INTERVIEWS WITH THE
6 THREE HIGH SCHOOL STUDENTS?

7 A. YES, SIR.

8 Q. WHAT DID YOU TELL HIM? NOT ALL THE DETAILS, BUT I MEAN
9 DID YOU SUMMARIZE WHAT THEY TOLD YOU -

10 A. YES.

11 Q. - OR GIVE DETAILS OF WHAT THEY TOLD YOU?

12 A. YES, I SUMMARIZED. ACTUALLY I THINK MONICA'S MOM MAY
13 HAVE BROUGHT HER STATEMENT DIRECTLY HERE TO THE
14 DISTRICT OFFICE. I'M NOT SURE I RECEIVED THIS
15 PARTICULAR ONE. SHE MAY HAVE BROUGHT IT STRAIGHT OVER
16 HERE.

17 Q. SO YOU NOTIFIED THE SUPERINTENDENT THE RESULTS OF THESE
18 INTERVIEWS?

19 A. YES, SIR.

20 Q. WERE YOU PART OF THE MEETING WITH THE SUPERINTENDENT
21 AND ASSISTANT SUPERINTENDENT AND MS. KISER LATER ON
22 MONDAY?

23 A. YES.

24 Q. THESE INTERVIEWS WITH THE STUDENTS WERE WHEN: MONDAY
25 MORNING?

- 1 A. MY MEETINGS WITH THEM? YES, THEY WERE MONDAY MORNING.
- 2 Q. AND YOUR INTERVIEW WITH MS. KISER WAS THAT AFTERNOON?
- 3 A. I REALLY DON'T RECALL IF IT WAS THAT AFTERNOON. IT WAS
- 4 AFTER THE STUDENTS' INTERVIEWS, YES.
- 5 Q. DID YOU CONCUR IN THE SUPERINTENDENT'S RECOMMENDATION
- 6 THAT MS. KISER BE DISMISSED FOR THIS -
- 7 A. YES, SIR.
- 8 Q. IN THE INTERVIEW WITH MS. KISER THAT YOU SAT IN ON, IS
- 9 YOUR MEMORY OF WHAT MS. KISER SAID CONSISTENT WITH THE
- 10 SUPERINTENDENT'S THAT SHE ADMITTED TO DRIVING 85 MILES
- 11 AN HOUR, THAT SHE ADMITTED TO HAVING A GLASS OR TWO OF
- 12 WINE THE NIGHT BEFORE?
- 13 A. YES, SIR.
- 14 Q. ENDANGERING THE CHILDREN?
- 15 A. YES, I DO REMEMBER THAT.
- 16 BY MR. DARR:
- 17 THAT'S ALL I HAVE OF THIS WITNESS.
- 18 CROSS EXAMINATION BY MR ROTHSTEIN:
- 19 Q. PRINCIPAL STEVENS, GOOD TO SEE YOU AGAIN.
- 20 A. YES, SIR.
- 21 Q. I'M DAVID ROTHSTEIN.
- 22 A. YES, SIR.
- 23 Q. SEVERAL MONTHS AGO WE MET AT YOUR DEPOSITION. DO YOU
- 24 REMEMBER THAT?
- 25 A. YES, SIR.

1 Q. HOW LONG HAVE YOU BEEN IN PUBLIC EDUCATION?

2 A. TWENTY-THREE YEARS.

3 Q. HAS ALL THAT TIME BEEN IN SPARTANBURG SCHOOL DISTRICT
4 7?

5 A. YES, SIR.

6 Q. HOW LONG HAVE YOU KNOWN DEDRA KISER?

7 A. PROBABLY TEN YEARS MAYBE.

8 Q. WHEN DID YOU FIRST COME TO MEET HER?

9 A. WELL, MAYBE A LITTLE LESS THAN THAT, WHEN I CAME TO THE
10 HIGH SCHOOL. I THINK I KNEW OF DEDRA BEFORE THEN BUT
11 CERTAINLY GOT TO KNOW HER WHEN I BECAME PRINCIPAL OF
12 THE HIGH SCHOOL.

13 Q. HOW WOULD YOU DESCRIBE HER AS A TEACHER, HER JOB
14 PERFORMANCE AS A TEACHER BEFORE THIS INCIDENT THAT
15 OCCURRED IN SEPTEMBER?

16 A. DEDRA'S BEEN A GREAT TEACHER.

17 Q. DO YOU RECALL IN YOUR DEPOSITION TELLING ME THAT SHE
18 WAS A MODEL TEACHER, A STELLAR TEACHER?

19 A. YES.

20 Q. NO DISCIPLINARY ACTION HAS EVER BEEN TAKEN AGAINST HER
21 PRIOR TO THIS?

22 A. NO, SIR.

23 Q. NO COMPLAINTS BY ANY STUDENT ABOUT MS. KISER'S TEACHING
24 ABILITY?

25 A. NO, SIR.

- 1 Q. NO COMPLAINTS BY PARENTS ABOUT MS. KISER'S TEACHING
2 ABILITY?
- 3 A. NO, SIR.
- 4 Q. NO COMPLAINTS BY ANY COLLEAGUES ABOUT HER TEACHING
5 ABILITY?
- 6 A. NO, SIR.
- 7 Q. NO COMPLAINTS BY HER DEPARTMENT CHAIR OF THE MATH
8 DEPARTMENT ABOUT HER TEACHING ABILITIES, RIGHT?
- 9 A. RIGHT.
- 10 Q. ANY PROBLEMS WITH HER FORMAL EVALUATIONS? HER
11 CLASSROOM EVALUATIONS?
- 12 A. NO, SIR.
- 13 Q. WOULD YOU DESCRIBE HER AS A MODEL TEACHER PRIOR TO THIS
14 INCIDENT IN CHARLESTON?
- 15 A. YES.
- 16 Q. DO YOU THINK SHE WAS DEDICATED TO HER PROFESSION AND
17 HER STUDENTS?
- 18 A. I DO.
- 19 Q. WAS HER ATTENDANCE GOOD AT SCHOOL?
- 20 A. YES, SIR.
- 21 Q. DID SHE GET HER GRADING DONE IN A TIMELY MANNER?
- 22 A. YES, SIR.
- 23 Q. DID SHE EVER HAVE ANY PROBLEMS WITH CLASSROOM
24 MANAGEMENT OR MANAGING STUDENTS IN HER CLASSROOM?
- 25 A. NO, NOT THAT I RECALL.

1 Q. ANY CONCERNS AT ALL ABOUT HER JUDGMENTS SHE DISPLAYED
2 AS A TEACHER IN THE CLASSROOM?

3 A. NO, SIR.

4 Q. NOW, YOU WENT THROUGH A COUPLE OF STATEMENTS A LITTLE
5 WHILE AGO, THESE WRITTEN STATEMENTS THAT MR. DARR
6 MENTIONED FROM THE STUDENTS. AT THE TIME YOU MET WITH
7 MS. KISER AND DR. BOOKER WHERE HE SAID "I'M GOING TO
8 RECOMMEND YOUR TERMINATION" YOU DIDN'T HAVE THOSE
9 STATEMENTS, DID YOU?

10 A. NO, I HAD MY WRITTEN NOTES; I DID NOT HAVE THOSE
11 STATEMENTS, NO, SIR.

12 Q. SO DR. BOOKER DIDN'T HAVE THOSE STATEMENTS WHEN HE MADE
13 HIS DECISION TO TERMINATE DEDRA KISER, DID HE?

14 A. I DON'T THINK WE HAD THOSE AT THAT TIME, NO.

15 Q. YOU ASKED THE STUDENTS TO PREPARE THOSE STATEMENTS
16 SEVERAL WEEKS OR MAYBE A MONTH AFTER HE MET WITH MS.
17 KISER THAT DAY, RIGHT.

18 A. YES. I DON'T KNOW THE EXACT TIMEFRAME BUT IT WAS AFTER
19 THAT MEETING, YES, SIR.

20 Q. SO AT THE TIME OF MS. KISER'S TERMINATION MEETING, YOU
21 HAD THREE INTERVIEWS WITH THE STUDENTS - ELIZA B,
22 COOPER Y AND MONICA G, RIGHT?

23 A. MM-HMM.

24 Q. AND YOU SPENT LESS THAN TEN MINUTES WITH EACH STUDENT,
25 ISN'T THAT RIGHT, ON MONDAY MORNING?

- 1 A. I DID.
- 2 Q. PROBABLY LESS THAN FIVE MINUTES WITH EACH STUDENT?
- 3 A. I'D SAY ABOUT SIX OR SEVEN MINUTES A PIECE.
- 4 Q. IN YOUR NOTES OF YOUR INTERVIEWS, THAT'S WHAT YOU
- 5 PROVIDED TO DR. BOOKER, RIGHT?
- 6 A. YES.
- 7 Q. IN YOUR INTERVIEW WITH ELIZA B SHE DIDN'T MENTION
- 8 ANYTHING ABOUT MS. KISER RUNNING A RED LIGHT, DID SHE?
- 9 BY MR. DARR:
- 10 MR. CHAIR, IF HE WANTS TO QUESTION HIM ON THE
- 11 NOTES, HE SHOULD PRESENT THE NOTES TO HIM.
- 12 CROSS EXAMINATION RESUMED BY MR. ROTHSTEIN:
- 13 Q. I HAND YOU THE NOTES. THESE ARE EXHIBIT 1 TO YOUR
- 14 DEPOSITION.
- 15 A. OKAY.
- 16 Q. DO THOSE APPEAR TO BE A COMPLETE AND ACCURATE COPY OF
- 17 THE NOTES THAT YOU MADE DURING THESE INTERVIEWS?
- 18 A. YES.
- 19 Q. IN THOSE NOTES IN YOUR INTERVIEW WITH MISS B SHE
- 20 DOESN'T MENTION ANYTHING ABOUT MS. KISER RUNNING A RED
- 21 LIGHT, DID SHE?
- 22 A. (REVIEWING EXHIBIT) NO, SIR.
- 23 Q. AND ELIZA B DOESN'T SAY ANYTHING ABOUT MS. KISER
- 24 HITTING A MAILBOX ON HIGHWAY 56, DID SHE?
- 25 A. NO, SIR.

1 Q. ELIZA B IS THE FIRST STUDENT YOU SPOKE WITH THAT MONDAY
2 MORNING, RIGHT?
3 A. YES, AT 8:12; YES, SIR.
4 Q. OKAY. AND ELIZA B DIDN'T SAY ANYTHING ABOUT SMELLING
5 ANY ALCOHOL ON MS. KISER'S BREATH, DID SHE?
6 A. NO, SIR.
7 Q. SHE DIDN'T SAY ANYTHING ABOUT MS. KISER RUNNING ANYONE
8 OFF THE ROAD, DID SHE?
9 A. NO, SIR.
10 Q. ELIZA B DIDN'T SAY ANYTHING ABOUT THINKING THAT MS.
11 KISER WAS UNDER THE INFLUENCE OF ANYTHING, DID SHE?
12 A. NO, SIR.
13 Q. SHE DIDN'T SAY SHE WAS IMPAIRED IN ANY WAY, DID SHE?
14 A. SHE DIDN'T STATE THAT EITHER.
15 Q. SHE JUST SAYS THAT MS. KISER DROVE THE CAR QUICKLY DOWN
16 TO CHARLESTON?
17 A. ERRATICALLY.
18 Q. HAD A LITTLE TROUBLE KEEPING THE CAR BETWEEN THE LINES,
19 RIGHT?
20 A. YES.
21 Q. AND THAT SHE HIT A CURB AS THEY WERE PULLING OUT OF THE
22 HIGH SCHOOL, CORRECT?
23 A. SWERVING QUITE A BIT AND GOING REALLY FAST.
24 Q. BUT SHE MENTIONS HITTING THE CURB AS THEY FIRST PULLED
25 OUT OF THE HIGH SCHOOL, RIGHT?

- 1 A. I DON'T THINK ELIZA DID.
- 2 Q. I MAY BE CONFUSING THAT WITH HER STATEMENT.
- 3 A. YEAH.
- 4 Q. ELIZA B IS THE GIRL WHO ASKED MS. KISER TO RUN BY HER
- 5 HOUSE TO PICK UP A CD PLAYER, ISN'T THAT RIGHT?
- 6 A. YES.
- 7 Q. OKAY. AND YOU DIDN'T THINK THERE WAS ANYTHING WRONG
- 8 WITH MS. KISER AGREEING TO RUN BY HER HOUSE TO GET THE
- 9 CD PLAYER, DID YOU?
- 10 A. NO, I DIDN'T AT THE TIME.
- 11 Q. YOU WERE AWARE THAT AFTER GOING TO ELIZA D'S HOUSE, SHE
- 12 ALSO WENT TO HER OWN HOUSE TO PICK UP A CIGARETTE
- 13 CHARGER, RIGHT?
- 14 A. RIGHT.
- 15 Q. AND YOU DIDN'T THINK THERE WAS ANYTHING PROPER OR
- 16 AGAINST DISTRICT IN HER DOING THAT, DID YOU?
- 17 A. NO, NOT AT THE TIME. I KNEW THEY WERE GOING ON AN
- 18 OVERNIGHT TRIP; I KNOW IT'S EASY TO LEAVE STUFF, SO
- 19 THAT'S WHAT I WAS GOING ON.
- 20 Q. OKAY. NOW, THE SECOND STUDENT YOU SPOKE WITH WAS
- 21 COOPER Y, RIGHT?
- 22 A. YES, SIR.
- 23 Q. HAVE YOU HAD A CHANCE TO READ COOPER Y'S DEPOSITION?
- 24 A. NO, I HAVE NOT READ HER DEPOSITION.
- 25 Q. IN FACT, YOU DIDN'T EVEN ASK THE GIRLS WHERE IN THE CAR

1 THEY WERE SITTING ON THE WAY DOWN TO CHARLESTON, DID
2 YOU?

3 A. NO, SIR.

4 Q. YOU DIDN'T KNOW THAT COOPER Y WAS ACTUALLY IN THE
5 PASSENGER SEAT IN THE FRONT NEXT TO MS. KISER, RIGHT?

6 A. I THINK I DID KNOW THAT.

7 Q. OKAY. DO YOU KNOW WHERE ANY OF THE OTHER GIRLS WERE
8 SITTING?

9 A. I KNOW MONICA WAS IN THE BACKSEAT BECAUSE SHE SAID SHE
10 HAD A DIRECT VIEW OF THE SPEEDOMETER; THAT'S HOW SHE
11 KNEW EXACTLY WHAT IT WAS.

12 Q. LOOK AT YOUR NOTES ABOUT YOUR INTERVIEW WITH COOPER Y.
13 SHE DIDN'T SAY ANYTHING ABOUT MS. KISER RUNNING A RED
14 LIGHT, DID SHE?

15 A. NO, SIR.

16 Q. SHE DIDN'T SAY MS. KISER RAN ANYONE OFF THE ROAD ON THE
17 WAY DOWN TO CHARLESTON, DID SHE?

18 A. NO, SIR.

19 Q. MISS Y, COOPER Y DIDN'T SAY ANYTHING ABOUT SMELLING
20 ALCOHOL ON MS. KISER'S BREATH IN THE CAR, DID SHE?

21 A. NO, SIR.

22 Q. SHE DIDN'T SEE MS. KISER EAT OR DRINK ANYTHING ON THE
23 WAY DOWN TO CHARLESTON?

24 A. NO, SIR.

25 Q. SHE DIDN'T SAY ANYTHING ABOUT MS. KISER APPEARING TO BE

1 INTOXICATED OR IMPAIRED IN THE CAR, RIGHT?

2 A. NO, SIR.

3 Q. NOW, WHEN YOU SPOKE WITH MONICA G, THAT WAS THE FIRST
4 STUDENT YOU SPOKE WITH ON THAT MORNING FOR
5 APPROXIMATELY TEN MINUTES, RIGHT?

6 A. YES.

7 Q. MONICA G IN YOUR INTERVIEW SAID "I'M PRETTY SURE WE MAY
8 HAVE CLIPPED A MAILBOX ON HIGHWAY 56." ISN'T THAT WHAT
9 SHE SAID? SHE EQUIVOCATED A LITTLE BIT?

10 A. (REVIEWING DOCUMENT) I DON'T SEE WHERE SHE SAID THAT.
11 COOPER IS THE ONE THAT TOLD ME THAT OUR TIRES RAN OFF
12 THE SIDE OF THE ROAD, AND WE CLIPPED A MAILBOX; COOPER
13 Y IS THE ONE THAT TOLD ME THAT. YEAH, BECAUSE COOPER
14 YOUNG SAID WHEN WE WENT DOWN 56, WE WERE GOING FAST AND
15 THE TIRES KEPT GOING OFF THE SIDE OF THE ROAD, THEN
16 BACK TO THE MIDDLE OF THE ROAD, AND WE CLIPPED A
17 MAILBOX.

18 Q. I'M GOING TO ASK YOU TO LOOK AT PAGE FOUR OF YOUR
19 NOTES. THESE ARE YOUR NOTES ABOUT YOUR INTERVIEW WITH
20 MONICA G, RIGHT?

21 A. YES, SIR.

22 Q. AND SHE SAYS ABOUT A THIRD OF THE WAY DOWN THE PAGE,
23 "WE WERE GOING FAST, AND I AM PRETTY SURE WE CLIPPED A
24 MAILBOX ON THAT ROAD."

25 A. YES.

1 Q. SHE WAS SOMEWHAT EQUIVOCAL ABOUT WHETHER SHE WAS SURE
2 THAT MS. KISER'S CAR HAD CLIPPED A MAILBOX WITH HER
3 REARVIEW MIRROR, RIGHT?

4 A. YES.

5 Q. NOBODY EVER SAID THAT MS. KISER RAN OVER A MAILBOX, DID
6 THEY?

7 A. NO.

8 Q. AND NOBODY SAID THAT MS. KISER KNOCKED A MAILBOX OFF A
9 POST, DID THEY?

10 A. NO.

11 Q. AND MONICA G DIDN'T SAY ANYTHING ABOUT RUNNING A RED
12 LIGHT, DID SHE, IN HER INTERVIEW THE MONDAY AFTER THE
13 INCIDENT?

14 A. NO, SIR.

15 Q. AND MONICA G DIDN'T SAY ANYTHING ABOUT MS. KISER BEING
16 IMPAIRED OR INTOXICATED, DID SHE?

17 A. NO, SIR.

18 Q. MONICA G DIDN'T SAY ANYTHING ABOUT SMELLING ALCOHOL ON
19 MS. KISER'S BREATH ON THE TRIP DOWN THERE, DID SHE?

20 A. NO, SIR.

21 Q. WERE YOU AWARE THAT SPARTANBURG HIGH SCHOOL HAS POSTED,
22 I GUESS IT'S ON THE DISTRICT WEBSITE, AN OPENING FOR A
23 MATH TEACHER AT SPARTANBURG HIGH SCHOOL?

24 A. YES.

25 Q. IS THAT MS. KISER'S POSITION?

- 1 A. IT IS ACTUALLY A POSITION THAT WAS FILLED WITH A MATH
2 TEACHER WHEN MS. KISER HAD HER ACCIDENT, AND WE POSTED
3 THAT POSITION, BUT YES, I WOULD SAY THAT IS HER
4 POSITION.
- 5 Q. SHE DIDN'T HAVE AN ACCIDENT, DID SHE?
- 6 A. THE INCIDENT THAT HAPPENED, YEAH.
- 7 Q. SHE NEVER CRASHED THE CAR WHILE DRIVING?
- 8 A. NO.
- 9 Q. OKAY. DO YOU KNOW WHEN YOU POSTED MS. KISER'S JOB
10 POSITION ON THE DISTRICT WEBSITE?
- 11 A. NO, I DON'T KNOW THE EXACT DATE; I KNOW WE WERE LUCKY
12 TO GET A CERTIFIED TEACHER AT THE TIME THIS HAPPENED TO
13 BE ABLE TO FILL IN WITH HER 80 TO 100 STUDENTS THAT SHE
14 TEACHES EACH DAY.
- 15 Q. THAT OPENING IS STILL ON THE WEBSITE, ISN'T IT?
- 16 A. WELL, THE OPENING NOW, THE LADY THAT TOOK HER SPOT IS
17 RETIRING.
- 18 Q. I'M GOING TO ASK YOU TO LOOK AT EXHIBIT P IN THE BLACK
19 NOTEBOOK. YOU'LL SEE THE PRINT DATE AT THE BOTTOM, IT
20 SAYS 3-16; THAT WAS A FEW DAYS AGO?
- 21 A. YES, SIR.
- 22 Q. AND THAT'S AN ADVERTISEMENT FOR A MATH TEACHER FOR
23 SPARTANBURG SCHOOL DISTRICT 7 -
- 24 A. UH-HUH.
- 25 Q. - AT SPARTANBURG HIGH SCHOOL, CORRECT?

1 A. MM-HMM.

2 Q. AND IT LISTS AN EXPECTED START DATE OF FEBRUARY 25 OF

3 2015, ABOUT A MONTH AGO, RIGHT?

4 A. THAT'S WHEN IT WAS POSTED, YES, SIR. OKAY.

5 Q. THAT'S THE TEACHER'S EXPECTED START DATE, RIGHT?

6 A. NO, I - I SEE WHERE IT SAYS - YEAH.

7 Q. START DATE FEBRUARY 25, 2015?

8 A. YES, BUT WE'VE HAD NO -

9 Q. SO IF YOU'RE TRYING TO GET A TEACHER TO START ON

10 FEBRUARY 25, 2015, YOU PROBABLY POSTED THAT MONTHS AGO,

11 WOULDN'T YOU SAY?

12 A. I WOULD SAY THAT'S A MISPRINT BECAUSE WE HAVEN'T HAD

13 ANYBODY WE'VE NEEDED TO PUT IN THERE BY FEBRUARY 25.

14 Q. IS THAT JOB OPENING SINCE SHE'S RETIRING?

15 A. NO, SHE'S RETIRING AT THE END OF THIS SCHOOL YEAR SO

16 I'M NOT SURE WHY THAT SAYS FEBRUARY 25.

17 Q. WOULD YOU AGREE WITH ME THAT IT'S HARD TO FIND

18 CERTIFIED MATH TEACHERS AT THIS LEVEL IN PUBLIC

19 SCHOOLS?

20 A. ABSOLUTELY. VERY MUCH SO.

21 BY MR. ROTHSTEIN:

22 I DON'T HAVE ANY FURTHER QUESTIONS.

23 REDIRECT EXAMINATION BY MR. DARR:

24 Q. MR. STEVENS, UNDER TAB P OF MS. KISER'S NOTEBOOK ABOUT

25 THE JOB POSTING?

1 A. YES.

2 Q. WHERE HE'S TALKING ABOUT THE START DATE, WHAT DOES IT

3 SAY RIGHT ABOVE THAT?

4 A. APPLICATIONS ACCEPTED.

5 Q. IS THAT START DATE WHEN YOU START ACCEPTING

6 APPLICATIONS?

7 A. YES.

8 Q. IT'S NOT THE START DATE WHEN THE EMPLOYEE WOULD START?

9 A. NO.

10 Q. IT'S THE DATE WHEN YOU WOULD START ACCEPTING

11 APPLICATIONS?

12 A. ACCEPTING APPLICATIONS; YES, SIR.

13 Q. IT WAS A VERY RECENT THING THEN, RIGHT?

14 A. YES. WHEN WE RECEIVED THE TEACHER'S RESIGNATION OR

15 RETIREMENT LETTER.

16 Q. THE DIFFICULTY IN FINDING MATH TEACHERS THAT YOU WERE

17 ASKED ABOUT, IS THAT ONE REASON YOU MIGHT START NOW

18 LOOKING FOR A MATH TEACHER THAT YOU MIGHT NEED FOR NEXT

19 YEAR?

20 A. YES, SIR.

21 Q. BECAUSE THEY ARE HARD TO FIND, RIGHT?

22 A. ABSOLUTELY.

23 Q. YOU DON'T PUT THESE JOB POSTINGS UP YOURSELF ANYWAY, DO

24 YOU?

25 A. NO, SIR.

1 Q. IS THAT DONE BY HUMAN RESOURCES OR PERSONNEL?

2 A. WE SUBMIT A RESIGNATION LETTER OR A RETIREMENT LETTER
3 TO DR. REDISH'S OFFICE AND THEN THE POSTING GOES UP.

4 Q. THE MODEL TEACHER THAT'S BEING DESCRIBED TO YOU -

5 A. YES, SIR.

6 Q. WOULD A MODEL TEACHER DRIVE STUDENTS 90 MILES AN HOUR
7 DOWN AN INTERSTATE AND SWERVE ALL OVER THE ROAD -

8 A. NO, SIR.

9 Q. - RUN A RED LIGHT AND CLIP A MAILBOX, HIT A CURB? WOULD
10 A MODEL TEACHER DO THAT?

11 A. NO, SIR.

12 BY MR. ROTHSTEIN:

13 MR. CHAIRMAN, THIS IS ACTUALLY DIRECT EXAMINATION,
14 AND HE'S LEADING THE WITNESS. HE'S TESTIFYING; THE
15 WITNESS IS SUPPOSED TO BE TESTIFYING; NOT THE LAWYERS.

16 BY MR. DARR:

17 THE LEADING QUESTIONS ARE RELEVANT.

18 BY CHAIRMAN:

19 MR. DARR, CAN YOU PLEASE REPHRASE THAT QUESTION.

20 BY MR. DARR:

21 THAT QUESTION WAS DONE IN REBUTTAL TO THE ISSUE
22 THAT WAS RAISED BY MR. ROTHSTEIN, SO THE OBJECTION HE
23 RAISED WAS INAPPROPRIATE, BUT I'M GLAD TO RESTATE IT.

24 REEXAMINATION RESUMED BY MR. DARR:

25 Q. A MODEL TEACHER THAT MR. ROTHSTEIN WAS DESCRIBING,

1 WOULD THAT INCLUDE A TEACHER THAT DROVE LIKE MS.
2 KISER'S BEEN DESCRIBED AS HAVING DRIVEN TODAY?

3 A. NO, SIR.

4 Q. A MODEL TEACHER, WOULD IT INCLUDE IN YOUR MIND LOOKING
5 OUT FOR THE SAFETY AND WELL BEING OF HER STUDENTS AT
6 ALL TIMES AND PUTTING THAT PARAMOUNT TO EVERYTHING ELSE
7 REGARDLESS OF HER TEACHING ABILITY?

8 A. ABSOLUTELY.

9 BY MR. DARR:

10 THANK YOU. MR. CHAIR, THAT'S ALL THE LIVE
11 WITNESSES THAT THE ADMINISTRATION WILL PRESENT. I'LL
12 NOTE THAT IN THE ADMINISTRATION NOTEBOOK UNDER TAB 10
13 THERE IS AN AFFIDAVIT FROM THE OFFICER FROM GOOSE
14 CREEK. HE FOLLOWED THE SUBURBAN AND WHO IS QUOTED AND
15 REFERENCED IN THE INCIDENT REPORT.

16 BY MR. ROTHSTEIN:

17 I DO HAVE AN OBJECTION TO TAB 10. THIS INDIVIDUAL
18 MR. RAYMOND RICHARDS WAS NEVER IDENTIFIED AS A
19 POTENTIAL WITNESS IN THE CASE. WE ONLY RECEIVED HIS
20 AFFIDAVIT BY E-MAIL THIS AFTERNOON FROM MR. DARR. I HAD
21 PROPOSED TO SUBMIT A WITNESS BY AFFIDAVIT AS WELL, AND
22 I TOLD MR. DARR BACK IN OCTOBER OR NOVEMBER WHO THAT
23 PERSON WAS, GAVE HIM A COPY OF THE AFFIDAVIT THEN AND
24 SAID "IF YOU WANT TO TAKE A DEPOSITION OF THIS PERSON,
25 HERE IS HIS AFFIDAVIT. YOU'RE WELCOME TO QUESTION

1 HIM." I'VE NOT BEEN AFFORDED THE OPPORTUNITY TO CROSS
2 EXAMINE RAYMOND RICHARDS. HE WAS THE GOOSE CREEK
3 POLICE OFFICER AND ON THE TAPE YOU JUST SAW HE FOLLOWED
4 MS. KISER FOR OVER TEN MILES WITHOUT STOPPING HER. IF
5 HE THOUGHT SHE WAS A DANGER TO SOMEONE, WHETHER HE IS
6 ON DUTY OR NOT, HE'S A POLICE OFFICER; HE COULD HAVE
7 TURNED HIS BLUE LIGHTS ON AND STOPPED MS. KISER IF HE
8 THOUGHT SHE WAS DANGEROUS. SO I THINK THIS AFFIDAVIT IS
9 IMPROPER FOR SEVERAL DIFFERENT REASONS, AND WE WOULD
10 ENTER OUR OBJECTION.

11 BY MR. DARR:

12 MR. CHAIRMAN, THE AFFIDAVIT CONTAINS A STATEMENT
13 FROM THE OFFICER WHICH SAYS THAT HE WAS OFF DUTY AND
14 OUT OF HIS JURISDICTION AND HAD NO AUTHORITY TO
15 INITIATE A STOP. THE AFFIDAVIT EXCHANGE THAT WE MADE
16 PREVIOUSLY WHEN MR. ROTHSTEIN ASKED ME ABOUT HIS
17 AFFIDAVIT, I SAID, FINE; WE'RE GOING TO ACCEPT
18 AFFIDAVITS, I'LL ACCEPT YOURS. THERE IS NO DUTY UNDER
19 THE TEACHER EMPLOYMENT DISMISSAL ACT TO EXCHANGE
20 WITNESS' LISTS. WE DID SEND HIM A WITNESS LIST AND THE
21 EXHIBITS. WE FOUND OUT ABOUT THE OFFICER THROUGH DUE
22 DILIGENCE IN CHECKING WITH THE HIGHWAY PATROL. HE
23 COULD HAVE DONE THE SAME THING AND FOUND OUT WHO THIS
24 GUY WAS AND TALKED TO HIM JUST LIKE WE DID AND FOR
25 WHATEVER REASON HE DIDN'T ACCOMPLISH THAT.

1 BY CHAIRMAN:

2 FOR THE RECORD, WE CAN ALLOW THE RECORD TO BE
3 ACCEPTED, BUT I WOULD LIKE TO SAY THIS TO YOU GENTLE-
4 MEN: IT'S VERY IMPORTANT THAT WE STAY FOCUSED HERE AND
5 TRY NOT TO PROLONG THIS HEARING TIT FOR TAT. THANK
6 YOU.

7 BY MR. DARR:

8 CAN MR. STEVENS LEAVE? THERE IS A FOOTBALL
9 BANQUET TONIGHT HE'S MISSING, AND IF EVERYBODY IS
10 THROUGH WITH HIM, I THINK HE'D LIKE TO GET THERE.

11 BY MR. ROTHSTEIN:

12 I'M FINE WITH HIM LEAVING.

13 I CALL DEDRA KISER TO THE STAND, MR. CHAIRMAN.

14 DEDRA KISER, BEING FIRST DULY SWORN, TESTIFIED ON
15 HER OATH AS FOLLOWS:

16 DIRECT EXAMINATION BY MR. ROTHSTEIN:

17 Q. MS. KISER, WILL YOU PLEASE INTRODUCE YOURSELF TO THE
18 BOARD MEMBERS. I'M NOT SURE YOU KNOW ALL OF THEM.

19 A. MY NAME IS DEDRA KISER.

20 Q. DEDRA, WHERE DO YOU LIVE?

21 A. I LIVE AT 189 HENSON STREET.

22 Q. WHAT PART OF SPARTANBURG IS THAT?

23 A. THE EAST SIDE OF SPARTANBURG.

24 Q. WHO DO YOU LIVE AT THAT ADDRESS WITH?

25 A. MY HUSBAND, MY MOM, MY TWO BOYS AND MY DAUGHTER THAT'S

1 AWAY AT COLLEGE.

2 Q. HOW OLD ARE YOU CHILDREN?

3 A. EIGHTEEN, ELEVEN AND TEN.

4 Q. I FEEL LIKE I NEED TO GET THIS UP FRONT, YOU SAW THE
5 VIDEO WITH THE POLICE OFFICER REFERRING TO PILLS?

6 A. YES.

7 Q. CAN YOU TELL THE BOARD WHAT THOSE PILLS WERE IN YOUR
8 PURSE?

9 A. I TAKE A LORAZEPAM IN THE MORNING, AND MY SON IS
10 SEVERELY ADHD, AND HE TAKES RITALIN AND ADDERALL AND
11 PROZAC, AND I HAD THOSE WITH ME IN CASE I NEEDED THEM
12 FOR HIM.

13 Q. DO YOU ALWAYS CARRY THAT MEDICATION IN YOUR PURSE?

14 A. I DO.

15 Q. OKAY.

16 A. NOT ALL OF IT; SOME OF IT.

17 Q. YOUR CHILDREN'S MEDICATION, DO YOU CARRY THAT USUALLY
18 WITH YOU IN YOUR PURSE?

19 A. SOME OF IT; I CARRY THE RITALIN WITH ME.

20 Q. NOW, DO YOU HAVE PRESCRIPTIONS FOR ALL OF THESE
21 MEDICATIONS?

22 A. YES.

23 Q. DO ANY OF THOSE MEDICINES IMPAIR YOUR ABILITY TO DRIVE
24 AN AUTOMOBILE?

25 A. NO, SIR.

- 1 Q. WHERE DO YOUR CHILDREN GO TO SCHOOL?
- 2 A. THE TEN-YEAR-OLD IS AT JESSE BOYD; THE ELEVEN-YEAR-OLD
- 3 IS AT MCCrackEN, AND MY OLDEST IS IN CHARLESTON.
- 4 Q. I KNOW YOU'RE NERVOUS. WHAT IS YOUR CURRENT POSITION
- 5 WITH SPARTANBURG SCHOOL DISTRICT 7?
- 6 A. MATH TEACHER.
- 7 Q. HOW LONG HAVE YOU BEEN A CERTIFIED SCHOOL TEACHER?
- 8 A. TEN YEARS.
- 9 Q. WHAT SUBJECTS ARE YOU CERTIFIED TO TEACH?
- 10 A. I SUPPOSE ANY MATHEMATICS COURSE. EXCEPT AP. I'M NOT
- 11 CERTIFIED FOR AP.
- 12 Q. WAS EDUCATION A SECOND CAREER FOR YOU?
- 13 A. YES. I HAD DONE ACCOUNTING AND I HAD DONE SALES
- 14 BEFORE.
- 15 Q. WHAT LED YOU TO GO BACK AND FURTHER YOUR EDUCATION AND
- 16 GET YOUR TEACHING CERTIFICATE?
- 17 A. I STARTED OUT IN EDUCATION. I GRADUATED HIGH SCHOOL
- 18 WHEN I WAS SEVENTEEN, SO WHEN I STARTED DOING MY
- 19 TEACHING - GETTING READY TO GRADUATE, I WAS ONLY 19
- 20 YEARS OLD AND I WAS IN A CLASSROOM SETTING WITH KIDS
- 21 THAT WERE 14, 15 YEARS OLD, AND I JUST DIDN'T FEEL
- 22 READY SO I GOT MY PURE MATH DEGREE AND WENT THAT
- 23 DIRECTION, AND THEN YEARS LATER 911 HAPPENED AND I WAS
- 24 IN CORRUGATED SALES AND - CORRUGATED BOXES - AND THE
- 25 MARKET JUST PRETTY MUCH CRASHED, AND WE - I LOST MY

1 JOB; I GOT LAID OFF. I WENT BACK TO SCHOOL. THAT
2 SEPTEMBER I FOUND OUT I WAS PREGNANT, AND SO I
3 CONTINUED THROUGH SCHOOL. FOUND OUT I WAS PREGNANT
4 AGAIN. CONTINUED ON THROUGH SCHOOL. STARTED MY
5 STUDENT TEACHING WHEN MY BABY WAS TWO WEEKS OLD.

6 Q. HAVE YOU DONE ANY WORK TOWARDS YOUR MASTERS DEGREE?

7 A. JUST A LITTLE BIT. I'VE BEEN MORE FOCUSED ON WHAT'S
8 GOING ON WITH MY FAMILY, TO DO MORE WITH THAT.

9 Q. OKAY. AFTER YOU GOT YOUR TEACHING DEGREE, YOUR
10 CERTIFICATE, WHERE HAVE YOU TAUGHT?

11 A. ONLY AT SPARTAN HIGH.

12 Q. HAVE YOU BEEN UNDER A CONTINUING CONTRACT OF
13 EMPLOYMENT?

14 A. YES, SIR.

15 Q. HOW LONG HAVE YOU HAD A CONTINUING CONTRACT OF
16 EMPLOYMENT WITH SPARTANBURG HIGH SCHOOL?

17 A. I'M NOT SURE WITH THE ADEPT PROGRAM, HOW THAT WORKS.
18 IF IT WAS AFTER THE FIRST YEAR I GET IT OR IF IT'S
19 AFTER THE THIRD YEAR; I'M NOT - I DON'T REMEMBER HOW
20 THAT WORKED. IT'S BEEN TEN YEARS. SINCE I'VE BEEN
21 THERE I SUPPOSE.

22 Q. DURING YOUR TEN YEARS AT SPARTANBURG HIGH HAVE YOU EVER
23 HAD ANY ISSUES WITH THE DISTRICT NOT RENEWING YOUR
24 CONTRACT -

25 A. NO.

1 Q. WHEN WAS YOUR LAST FORMAL EVALUATION AS A SCHOOL
2 TEACHER?

3 A. THIS FALL. THE FALL BEFORE THE INCIDENT.

4 Q. HOW WAS THAT EVALUATION?

5 A. IT WENT WELL. I DIDN'T KNOW HE WAS COMING AND SO I'M
6 USUALLY ACTIVE WITH THE KIDS ANYWAY. SO I THINK THE
7 SCORE WAS LIKE A 99 OUT OF 100. SO I DID WELL.

8 Q. WHO DID THE EVALUATION?

9 A. MR. LAWSON.

10 Q. DID MR. LAWSON WRITE YOU UP FOR ANY DEFICIENCIES?

11 A. NO, SIR.

12 Q. HAVE YOU EVER HAD ANY NEGATIVE EVALUATIONS, REVIEWS OR
13 CLASSROOM OBSERVATIONS?

14 A. NO, SIR.

15 Q. OKAY. NOW, I'D LIKE TO TURN YOUR ATTENTION TO THE
16 MORNING OF FRIDAY, SEPTEMBER 26, 2014. THIS IS BEFORE
17 YOU WENT TO THE SCHOOL FOR THE CROSS COUNTRY TRIP.
18 WERE YOU WORKING AT SCHOOL THAT DAY?

19 A. I WAS NOT.

20 Q. DID YOU HAVE PERMISSION TO BE OFF FROM SCHOOL THAT DAY?

21 A. I HAD ASKED OFF FOR A HALF DAY, AND THEN THE OTHER PART
22 WAS PART OF COACHING PE. SO I ONLY HAD TO BE OFF FOR
23 THAT MORNING PART.

24 Q. WHAT WERE YOU DOING THAT MORNING?

25 A. WE WERE WORKING ON MY MOM MOVING INTO THE HOUSE, AND SO

1 SHE WAS MOVING INTO ONE OF MY CHILDREN'S ROOMS SINCE I
2 HAD MOVED HIM INTO A ROOM, AND THEN THE OTHER CHILD UP
3 TO ANOTHER ROOM. SO I WAS REORGANIZING ALL THE
4 DIFFERENT ROOMS. THAT'S WHAT I WAS DOING.

5 Q. WHAT TIME OF DAY DID YOU WAKE UP THAT MORNING?

6 A. I HAD TO GET THE KIDS TO SCHOOL, SO I GOT UP AROUND
7 SIX.

8 Q. WAS ANYONE WITH YOU THROUGHOUT THE MORNING BETWEEN SIX
9 O'CLOCK WHEN YOU WOKE UP AND WHEN YOU LEFT TO GO TO
10 SCHOOL FOR THE TRIP?

11 A. WELL, I DON'T HAVE TO GET THE KIDS TO SCHOOL UNTIL
12 ALMOST EIGHT, AND THEN THE AT&T GUY CAME OVER AND SPENT
13 THE ENTIRE MORNING WITH ME FROM 9:30 TILL I LEFT. THEN
14 MY MOM WAS OVER SOME OF THE DAY.

15 Q. DID YOU HAVE ANY INTERACTIONS WITH THE AT&T MAN?

16 A. A LOT OF INTERACTION WITH HIM, YES.

17 Q. DO YOU REMEMBER HIS NAME?

18 A. JEFF.

19 Q. JEFF THE CABLE GUY; NOT LARRY THE CABLE GUY?

20 A. JEFF THE CABLE GUY.

21 Q. WHEN DID JEFF FINISH UP INSIDE THE HOUSE?

22 A. RIGHT AS I WAS LEAVING I HAD TO ASK HIM, I NEED TO GO.
23 CAN YOU HURRY UP. HE SAID, I'M JUST ABOUT DONE; I'M
24 JUST ABOUT DONE. SO HE FINISHED UP AND KEPT EVERYTHING
25 THAT HE HAD TO DO ON THE OUTSIDE FOR THE END. SO THEN

1 HE CONTINUED TO WORK ON THE OUTSIDE. I LEFT.

2 Q. DID YOU HAVE ANY INTERACTIONS WITH JEFF, THE CABLE GUY,
3 THAT MORNING BETWEEN 9:30 WHEN HE GOT THERE AND 1:30
4 WHEN HE LEFT?

5 A. YEAH, SURE. HE WAS MOVING CABLE BOXES INTO MY MOM'S -
6 WHAT WAS TO BE HER ROOM BECAUSE I DIDN'T LET MY
7 CHILDREN HAVE CABLE BOXES IN THEIR ROOMS. SO HE HAD
8 WHAT HE CALLED THE NEW REINSTALL BECAUSE HE HAD TO
9 INSTALL NEW EQUIPMENT IN DIFFERENT AREAS OF THE HOUSE,
10 AND SO HE WAS IN THAT ROOM, WHICH I WAS CLEANING OUT
11 FOR MY MOM. HE WAS IN ALL THE ROOMS THAT I WAS GOING
12 TO. SO YEAH, WE HAD A LOT OF CONTACT.

13 Q. DID YOU GUYS HAVE ANYTHING IN COMMON AS YOU WERE
14 TALKING?

15 A. JUST TALKED ABOUT OUR KIDS AND WHERE THEY WENT TO
16 SCHOOL AND THAT KIND OF STUFF.

17 Q. YOU'VE HEARD IN THE OPENING STATEMENT THAT MR. DARR
18 SAID YOU WERE UP UNTIL TWO O'CLOCK DRINKING WINE. WHAT
19 WERE YOU DOING AT TWO O'CLOCK -

20 A. WELL, I MEAN, WE ATE DINNER LIKE AT 7:30 - 8:00. I HAD
21 A GLASS OF WINE WITH DINNER. SO IF I HAD ONE TO TWO
22 AND THREE TO FOUR, YOU KNOW, IT WAS OVER A SPAN FROM
23 7:30 TO TWO. IT WASN'T LIKE I WAS POUNDING DRINKS AT
24 THE BAR OR SOMETHING. I WAS WASHING CLOTHES, MOVING
25 THINGS AROUND AND JUST BUSY AROUND THE HOUSE.

1 Q. WHEN YOU WENT TO BED THAT NIGHT, DID YOU FEEL
2 INTOXICATED -
3 A. NO.
4 Q. - FROM DRINKING WINE?
5 A. NO.
6 Q. WHEN YOU WOKE UP THE NEXT DAY, WERE YOU HUNG OVER?
7 A. NO, SIR. IT HAD BEEN A SIX-HOUR SPAN I HAD HAD THREE OR
8 FOUR GLASSES OF WINE.
9 Q. WHEN YOU WOKE UP THE NEXT DAY, DID YOU FEEL ANY EFFECTS
10 OF THE ALCOHOL YOU HAD HAD THE NIGHT BEFORE -
11 A. NO.
12 Q. - BETWEEN SEVEN O'CLOCK AND WHEN YOU WENT TO BED?
13 A. NO.
14 Q. DID YOU HAVE ANY ALCOHOL TO DRINK AFTER YOU WOKE UP AT
15 SIX O'CLOCK THAT -
16 A. NO.
17 Q. LET'S TALK ABOUT YOUR RIDE TO SCHOOL. I UNDERSTAND THE
18 CABLE GUY DELAYED YOU A LITTLE WHILE. WHAT TIME WERE
19 YOU PLANNING TO GET TO SCHOOL THAT DAY?
20 A. PROBABLY OPTIMALLY 1:30. 1:20 -1:30.
21 Q. WHAT TIME WERE YOU ALL PLANNING TO LEAVE?
22 A. 1:45.
23 Q. DID YOU GET THERE BEFORE 1:45?
24 A. I'M NOT REAL SURE; I WAS CUTTING IT CLOSE. I GOT THERE
25 RIGHT AT THE TIME WE NEEDED TO LEAVE.

1 Q. WHAT DID YOU DO ONCE YOU GOT TO SCHOOL?

2 A. I IMMEDIATELY PARKED MY CAR AND RAN TO THE SUBURBAN AND
3 PUT MY BAGS IN THE SUBURBAN AND GOT READY TO GO.

4 Q. DID YOU HAVE ANY TROUBLE GETTING FROM YOUR HOUSE IN
5 YOUR OWN CAR TO THE SCHOOL THAT MORNING?

6 A. NO.

7 Q. DID YOU SPEAK TO ANYONE AT THE SCHOOL BEFORE YOU ALL
8 GOT IN THE SUBURBAN AND TOOK OFF?

9 A. BRIEFLY COACH FREED AND TODD.

10 Q. HOW LONG WOULD YOU SAY YOU SPOKE WITH COACH FREED AND
11 COACH TODD?

12 A. I'M NOT SURE; IT WAS A BRIEF CONVERSATION.

13 Q. WHAT DID YOU ALL TALK ABOUT, IF YOU REMEMBER?

14 A. I CAN'T REMEMBER. PROBABLY JUST THE TRIP. I MEAN, I
15 WOULD BE JUST GUESSING. WHAT WE WERE DOING ON THE TRIP
16 AND EVERYTHING, SO...

17 Q. LET'S TALK ABOUT THE SCHOOL VEHICLES FOR A MINUTE. HAD
18 YOU EVER DRIVEN THE SCHOOL SUBURBANS BEFORE?

19 A. I'D DRIVEN THE 2003 AND IF I'M NOT MISTAKEN I BELIEVE I
20 DROVE IT - I KNOW I DROVE IT TO CHARLOTTE, AND I THINK
21 I DROVE IT TO COLUMBIA. BUT THE 1999 I THINK THIS -
22 THIS WAS THE FIRST TIME I HAD DRIVEN IT.

23 Q. MR. DARR POINTED OUT THE LETTER I HAD WRITTEN BACK -
24 THE LETTER I WROTE IN OCTOBER WAS LESS THAN A WEEK
25 AFTER YOU AND I MET FOR THE FIRST TIME, ISN'T -

1 A. RIGHT.

2 Q. - THAT RIGHT?

3 A. RIGHT.

4 Q. AT THAT POINT HAD I DONE ANY INVESTIGATION IN THE CASE?

5 A. NO REALLY. WE HAD NOT SPOKEN VERY MUCH AT THAT POINT.

6 Q. SO, LET'S TALK ABOUT, I MEAN, YOU HAD DRIVEN THE 2003
7 MAYBE ONCE OR TWICE BEFORE.

8 A. RIGHT.

9 Q. THIS MAY HAVE BEEN THE FIRST TIME YOU HAD EVER DRIVEN
10 THE '99, RIGHT?

11 A. RIGHT.

12 Q. HOW WOULD YOU DESCRIBE THAT SUBURBAN IN TERMS OF THE
13 SIZE?

14 A. WELL, IT'S BIG; IT'S MUCH BIGGER THAN WHAT I'M USED TO
15 DRIVING. I KNOW MY HUSBAND AND I HAD TESTED ONE YEARS
16 AGO, AND I TURNED AROUND AND SAID I WOULD NEVER GET
17 THIS CAR. SO, YEAH, IT'S MUCH BIGGER THAN WHAT I'M USED
18 TO DRIVING.

19 Q. I'M GOING TO ASK YOU TO LOOK IN THAT BLACK EXHIBIT
20 NOTEBOOK ON THE TABLE THERE. LOOK AT EXHIBIT K. WERE
21 YOU PRESENT WHEN THIS PHOTOGRAPH WAS TAKEN?

22 A. I WAS.

23 Q. IS THAT YOUR TAPE MEASURE?

24 A. IT IS.

25 Q. IS THIS A FAIR AND ACCURATE REPRESENTATION OF THE WHEEL

1 BASE OF THE REAR OF THAT SUBURBAN?

2 A. IT IS.

3 Q. I KNOW IT'S HARD TO SEE THAT, BUT IT LOOKS LIKE FROM
4 WHEEL TO WHEEL IS ABOUT 75 OR 76 INCHES; WOULD YOU
5 AGREE WITH THAT?

6 A. RIGHT.

7 Q. IS THAT AN ACCURATE MEASUREMENT OF THE WHEEL BASE IN
8 YOUR OPINION OF THE SUBURBAN?

9 A. YES.

10 Q. OKAY. SO, I'M NOT THE MATH TEACHER, BUT ISN'T THAT
11 OVER OR ABOUT SIX AND A HALF FEET WIDE FROM WHEEL TO
12 WHEEL?

13 A. IT IS. YES.

14 Q. NOW, I'M GOING TO ASK YOU TO LOOK AT EXHIBIT L. DO YOU
15 RECOGNIZE EXHIBIT L?

16 A. YES.

17 Q. IS THAT YOU IN THE PICTURE?

18 A. IT IS.

19 Q. IS THAT A FAIR AND ACCURATE REPRESENTATION OF THE 1999
20 SPARTANBURG HIGH SCHOOL SUBURBAN THAT YOU DROVE TO
21 CHARLESTON?

22 A. IT IS.

23 Q. IT LOOKS LIKE THAT RIGHT SIDE, PASSENGER SIDE REARVIEW
24 MIRROR STICKS OUT ABOUT 12 INCHES FROM THE SIDE OF THE
25 CAR?

- 1 A. RIGHT, ABOUT A FOOT.
- 2 Q. IS THE SIDE VIEW MIRROR ON THE OTHER SIDE OF THE CAR
- 3 THERE?
- 4 A. IT IS.
- 5 Q. I'M GOING TO ASK YOU TO LOOK AT EXHIBIT N. IS THAT A
- 6 FULL FRONTAL VIEW OF THE SUBURBAN?
- 7 A. IT IS.
- 8 Q. IS THAT A FAIR AND ACCURATE REPRESENTATION OF WHAT THE
- 9 SUBURBAN LOOKED LIKE AT THE TIME YOU DROVE DOWN TO
- 10 CHARLESTON?
- 11 A. YES, SIR.
- 12 Q. OKAY. AND YOU'LL SEE THERE IS A MIRROR ON THE LEFT
- 13 SIDE AND A MIRROR ON THE RIGHT SIDE THAT LOOK ABOUT THE
- 14 SAME?
- 15 A. MM-HMM.
- 16 Q. SO AGAIN, IF YOU ADD THE SIX AND A HALF FEET FOR THE
- 17 WHEEL BASE TO THE ONE FOOT ON EITHER SIDE OF THAT CAR,
- 18 YOU'RE TALKING ABOUT EIGHT AND A HALF FEET OF WIDTH
- 19 FROM MIRROR TO MIRROR, ISN'T THAT RIGHT?
- 20 A. RIGHT.
- 21 Q. WHAT KIND OF CAR DO YOU USUALLY DRIVE?
- 22 A. I DRIVE A NISSAN PATHFINDER.
- 23 Q. WHAT MODEL YEAR IS THAT?
- 24 A. IT'S A 12.
- 25 Q. 2012?

- 1 A. MM-HMM.
- 2 Q. HOW DID THE SUBURBAN HANDLE COMPARED TO YOUR
- 3 PATHFINDER?
- 4 A. I GUESS MY PATHFINDER IS MORE SPORTY AND THE BRAKES ARE
- 5 BETTER AND THE CONTROL OF THE STEERING WHEEL IS BETTER.
- 6 PLUS IT'S SMALLER.
- 7 Q. NOW, I UNDERSTAND THAT YOU LOADED UP THE GIRLS' CAR AND
- 8 GOT READY TO HEAD TO CHARLESTON WITH THE BOYS' CAR,
- 9 RIGHT?
- 10 A. YES.
- 11 Q. AND I THINK THE TESTIMONY WE HEARD BEFORE WAS THAT THE
- 12 PLAN WAS FOR YOU ALL TO DRIVE DOWN TOGETHER, RIGHT?
- 13 A. RIGHT, BUT I MEAN -
- 14 Q. WHAT HAPPENED TO CHANGE THAT PLAN?
- 15 A. WELL, THE GIRLS ASKED ME TO GO AND GET THE CD PLAYER.
- 16 AND THEY KNOW I'M A PUSHOVER FOR STUFF LIKE THAT, AND
- 17 SO I MEAN THEY'VE MADE IT; I FELT BAD FOR THEM BECAUSE
- 18 THE SUBURBAN DIDN'T HAVE A CD PLAYER, SO WE WENT AND
- 19 GOT IT.
- 20 Q. HAVE YOU EVER BEEN TO ELIZA B'S HOUSE BEFORE?
- 21 A. NO. I KNOW THE NEIGHBORHOOD, BUT I'VE NEVER BEEN THERE,
- 22 NO.
- 23 Q. DID YOU HAVE ANY DIFFICULTY GETTING THE GIRLS TO TELL
- 24 YOU WHERE TO TURN TO GET TO ELIZA B'S HOUSE?
- 25 A. NO, I MEAN, I DON'T KNOW IF THEY SAID "TURN HERE" RIGHT

1 AS I GOT TO THE TURNING, YOU KNOW, BUT I DIDN'T KNOW
2 WHERE I WAS GOING, NO.

3 Q. DO YOU HAVE ANY RECOLLECTION OF RUNNING THE SUBURBAN UP
4 ON A CURB AS YOU FIRST TURNED OUT OF THE HIGH SCHOOL?

5 A. NO, BUT I MEAN I CAN IMAGINE THAT HAPPENING WITH ME
6 JUST GETTING IN THE CAR FOR THE FIRST TIME.

7 Q. WHAT DID YOU DO AFTER YOU PICKED UP THE CD PLAYER FROM
8 ELIZA B'S HOUSE?

9 A. I REALIZED I HAD FORGOTTEN TO GET MY CHARGER AND SO I
10 WENT BACK AND GOT IT AND YOU KNOW, I THINK COOPER SAID
11 SHE DIDN'T KNOW WHAT I HAD GOTTEN OUT OF THE HOUSE.
12 WELL, I DIDN'T REALLY WANT THEM TO KNOW WHAT I HAD
13 GOTTEN OUT OF THE HOUSE, SO...

14 Q. WHEN YOU SAY "CHARGER," WHAT DO YOU MEAN BY THAT?

15 A. IT'S FOR AN E CIGARETTE.

16 Q. DO YOU HAVE THE E CIGARETTE DEVICE WITH YOU?

17 A. I HAVE ONE THAT I WAS USING THAT DAY, BUT IT'S NOT ONE
18 THAT I WOULD USE FOR MY CHARGER.

19 Q. CAN I SEE THAT?

20 A. YES.

21 Q. IT LOOKS LIKE A BALLPOINT PEN, OKAY?

22 A. MM-HMM.

23 Q. DO YOU MIND IF I PASS THIS AROUND TO THE BOARD. MS.
24 KISER, THE E CIGARETTE, IT RUNS ON SOME SORT OF
25 BATTERY?

1 A. IT DOES.

2 Q. AND YOU FORGOT THE CHARGER FOR THE E CIGARETTE?

3 A. FOR THE BATTERY, YES.

4 Q. HAVE YOU BEEN A SMOKER BEFORE?

5 A. TWENTY-SIX YEARS.

6 Q. WHAT HELPED YOU STOP SMOKING TRADITIONAL CIGARETTES?

7 A. THE E CIGS; I TRIED CHANTIX; I TRIED COLD TURKEY; I

8 TRIED WELLBUTRIN; I TRIED THE GUM; I'VE TRIED

9 EVERYTHING AND SO IT'S BEEN OVER TWO YEARS.

10 Q. ARE YOU USING THE E CIGARETTES TO SORT OF STEP DOWN ON

11 YOUR NICOTINE ADDICTION?

12 A. RIGHT.

13 Q. OKAY. DID YOU SMOKE THE E CIGARETTES ON THE WAY TO

14 CHARLESTON?

15 A. I SMOKED THE LITTLE PEN ONE.

16 Q. IS THE LITTLE PEN ONE THAT YOU HAVE IN YOUR POCKET THAT

17 WE JUST SHOWED TO THE BOARD, DOES THAT PRODUCE A LOT OF

18 SMOKE?

19 A. NO. IT'S VAPE. IT DOESN'T HAVE A LOT OF...

20 Q. NOW, WHEN YOU TALK ABOUT VAPE OR VAPOR, WHATEVER, YOU

21 ARE TALKING ABOUT A LIQUID, I GUESS THEY CALL IT,

22 JUICE? THE THING THAT HAS THE LITTLE DEVICE?

23 A. RIGHT.

24 Q. OKAY. AND THAT'S WHAT SORT OF HEATS UP AND YOU INHALE

25 THE VAPOR THAT HAS NICOTINE IN IT?

1 A. RIGHT.

2 Q. NOW, ARE THOSE JUICES FLAVORED?

3 A. RIGHT; YES, THEY ARE.

4 Q. WHAT FLAVOR E CIGARETTE WERE YOU SMOKE GOING DOWN TO -

5 A. AT THE TIME I WAS DOING STRAWBERRY KIWI.

6 Q. DOES IT HAVE KIND OF A FRUITY SMELL?

7 A. IT DOES.

8 Q. DO YOU SMOKE YOUR E CIGARETTES IN YOUR CAR WITH YOUR

9 CHILDREN?

10 A. YES.

11 Q. HAVE YOU SEEN ANYWHERE THE SECOND-HAND SMOKE EFFECTS OF

12 E CIGARETTES ARE LESS THAN TRADITIONAL TOBACCO?

13 A. THAT IT'S LESS?

14 Q. THAT E CIGARETTES HAVE LESS SECOND-HAND SMOKE PROBLEMS

15 THAN TRADITIONAL -

16 A. DEFINITELY BECAUSE IT'S NOT SMOKE; IT'S A VAPOR.

17 Q. AFTER YOU WENT BY YOUR HOUSE, HOW LONG HAD IT BEEN

18 SINCE THE BOYS HAD LEFT AHEAD OF YOU?

19 A. I WOULD GUESSTIMATE 20, 25 MINUTES.

20 Q. CAN YOU TELL THE BOARD WHY YOU DECIDED TO GO FROM YOUR

21 HOUSE IN EAST SPARTANBURG DOWN HIGHWAY 56 TO CLINTON TO

22 MEET UP AT I-26?

23 A. I DON'T KNOW. IT'S JUST THE WAY THAT I GO. WE WERE AT

24 MY HOUSE WHICH WAS NEAR JESSE BOYD ON FERNWOOD-

25 GLENDALE, AND I JUST WENT THROUGH CLIFTON - WELL, NOT

1 CLIFTON BUT GLENDALE AND JUST GOT ON 56 THAT WAY. I
2 JUST HAVE ALWAYS DONE THAT. I WENT TO SCHOOL AT
3 COLLEGE OF CHARLESTON, AND I WOULD DRIVE IT THAT WAY
4 WHEN I WENT TO SCHOOL THERE. SO -

5 Q. DID YOU GROW UP ON THE EAST SIDE OF SPARTANBURG?

6 A. I DID.

7 Q. ARE YOU FAMILIAR WITH THAT SORT OF BACK WAY TO GET TO
8 I-26?

9 A. YES.

10 Q. DO YOU RECALL ANYTHING UNUSUAL HAPPENING IN THE CAR
11 BETWEEN SPARTANBURG AND CLINTON AND DOWN I-26?

12 A. NO, NOT REALLY IN BETWEEN THERE. I MEAN, THE ROADS
13 THERE ARE NARROW, SO IT'S VERY POSSIBLE. I MEAN, IT'S A
14 RURAL AREA, SO IT IS POSSIBLE I COULD HAVE DRIFTED OFF
15 TO THE RIGHT.

16 Q. DID ANY OF THE GIRLS SAY ANYTHING TO YOU ABOUT A
17 MAILBOX ON THE WAY DOWN -

18 A. YOU KNOW, I DON'T EVEN RECALL THAT, BUT I MEAN IT WOULD
19 BE SOMETHING LIKE COOPER TO SAY SOMETHING LIKE THAT AND
20 ME JUST BE LIKE, YEAH, WHATEVER, BECAUSE SHE'S A
21 JOKESTER. SO, YOU KNOW - ---

22 Q. BUT IF SHE SAID HEY, MS. KISER -

23 A. I MEAN I CAN JUST HEAR HER SAYING SOMETHING LIKE THAT,
24 "YOU ALMOST CLIPPED THAT MAILBOX," OR SOMETHING LIKE
25 THAT, BUT UM -

- 1 Q. DID ANYONE IN THE CAR SAY YOU HAD JUST RUN OVER A
2 MAILBOX?
- 3 A. NO.
- 4 Q. DID YOU HAVE ANY SENSATION THAT YOU HAD JUST HIT A
5 MAILBOX?
- 6 A. NO.
- 7 Q. DID YOU TAKE COOPER'S COMMENT SERIOUSLY?
- 8 A. NO.
- 9 Q. WHAT HAPPENED ONCE YOU GOT ON I-26? DID YOU HAVE ANY
10 DIFFICULTY ON I-26?
- 11 A. IT WAS, YOU KNOW, I WAS BASICALLY JUST GOING ALONG WITH
12 THE FLOW OF THE TRAFFIC. YOU KNOW, AT TIMES I WOULD
13 SEE MYSELF GOING 85, 90 AND I WOULD BACK DOWN, BUT THE
14 CAR DOESN'T HAVE -
- 15 Q. CRUISE CONTROL?
- 16 A. - CRUISE CONTROL, SO I WOULD CATCH MYSELF GOING FASTER
17 THAN I WANTED TO AND SO I WOULD BACK OFF, AND I MEAN -
- 18 Q. DO YOU RECALL SOME OF THE GIRLS SAYING TO YOU FROM TIME
19 TO TIME, "MS. KISER, YOU'RE GOING TOO FAST"?
- 20 A. YES, AND I WOULD SAY I'M ONLY GOING 85, AND I WOULD
21 BACK DOWN AS TO WHAT MY SPEED WAS.
- 22 Q. I'M GOING TO ASK YOU TO TAKE A LOOK AT -
- 23 A. AND IT WASN'T INTENTIONALLY GOING 90 MILES AN HOUR; IT
24 WAS - IT JUST HAPPENED, AND I WOULD BACK DOWN TO THE
25 NORMAL SPEED.

- 1 Q. LET ME ASK YOU TO LOOK AT EXHIBIT H IN THE BLACK
2 NOTEBOOK. DO YOU RECOGNIZE THAT PHOTOGRAPH AS THE
3 INSTRUMENT PANEL ON THE '99 SUBURBAN FROM THE VANTAGE
4 POINT OF THE DRIVER?
- 5 A. YES.
- 6 Q. IS THAT WHAT YOU RECALL SEEING AS YOU WERE DRIVING THE
7 CAR DOWN TO CHARLESTON?
- 8 A. YES.
- 9 Q. OKAY. I'M GOING TO ASK YOU TO LOOK AT EXHIBIT I. IS
10 THAT A FAIR AND ACCURATE REPRESENTATION OF THE VIEW OF
11 THE INSTRUMENT PANEL FROM THE PASSENGER SEAT?
- 12 A. FOR COOPER, YES.
- 13 Q. COOPER Y WOULD HAVE SEEN THAT VIEW OF YOUR SPEEDOMETER
14 IF SHE WAS LOOKING ---
- 15 A. YES.
- 16 Q. AND I'M GOING TO ASK YOU TO LOOK AT EXHIBIT J. IS THAT
17 A FAIR AND ACCURATE REPRESENTATION OF THE VIEW OF THE
18 INSTRUMENT PANEL FROM THE SEAT IMMEDIATELY BEHIND THE
19 FRONT SEAT PASSENGER?
- 20 A. YES, AND THAT WOULD HAVE BEEN, I BELIEVE, EITHER MONICA
21 OR GEORGIA, RIGHT.
- 22 Q. DO YOU RECALL HAVING ANY DIFFICULTY WITH THE STEERING
23 OF THE SUBURBAN AS YOU WERE DRIVING DOWN TO CHARLESTON?
- 24 A. IT IS LOOSE. I WOULD HAVE - IT IS A LOOSE STEERING
25 WHEEL. I WOULD HAVE TO FIGHT MORE TO KEEP IT ON THE

1 ROAD THAN SAY, MY CAR, SO IN THAT ASPECT, YES.

2 Q. DO YOU RECALL HITTING ANY OF THE RUMBLE STRIPS OR THE
3 LITTLE REFLECTORS BETWEEN THE LANES?

4 A. SURE, AND I MEAN, THAT'S NOT A BAD THING. THAT'S WHY
5 THOSE THINGS ARE THERE TO REMIND YOU TO, HEY, GET - I
6 MEAN, PEOPLE DRIFT.

7 Q. HOW WOULD YOU DESCRIBE YOUR DRIVING STYLE GENERALLY?

8 A. I DRIVE AGGRESSIVELY AND FAST.

9 Q. I JOKE WITH MY WIFE ABOUT HAVING A LEAD FOOT. HAS
10 ANYONE EVER SAID THAT THEY THOUGHT YOU HAD A LEAD FOOT
11 IN TERMS OF DRIVING?

12 A. YES. MY DAUGHTER WAS DRIVING WITH MOM WHEN SHE WAS
13 LITTLE AND SHE SAID "IF I WAS RIDING WITH MY MOM WE'D
14 ALREADY BE THERE," SO THAT'S BEEN THE RUNNING JOKE IN
15 THE HOUSE: IF YOU'RE RIDING WITH DEDRA, YOU'RE GONNA BE
16 THERE.

17 Q. AS TO THE 20 MINUTES SORT OF DELAY OF LEAVING OUT OF
18 SPARTANBURG, WAS THERE ANY URGENCY OR IMPORTANCE TO GET
19 DOWN TO CHARLESTON AT A CERTAIN PERIOD OF TIME?

20 A. WE WANTED TO GET DOWN THERE TO HAVE THE KIDS TO SEE
21 WHERE THEY WERE GOING TO BE RUNNING THE NEXT DAY.

22 Q. BECAUSE YOU HAD TO GO BY AND GET THE CD PLAYER AND THEN
23 RUN BY YOUR HOUSE, DID YOU FEEL THAT YOU WERE A LITTLE
24 BEHIND SCHEDULE?

25 A. YEAH, BUT I MEAN, I WASN'T PER SE TRYING TO CATCH UP

1 WITH THE BOYS OR ANYTHING LIKE THAT. I THOUGHT WE
2 WOULD BE FINE WITH THE TIMEFRAME. SO THE MAIN THING WAS
3 JUST TRYING TO GET THERE BEFORE IT WAS DARK.

4 Q. LET ME ASK YOU THIS AS A MATH TEACHER: IF YOU LEAVE
5 SPARTANBURG 20 MINUTES AFTER SOMEBODY ELSE HAS LEFT,
6 WHAT IS IT, ABOUT A FOUR-TRIP FROM SPARTANBURG?

7 A. TO CHARLESTON, YES.

8 Q. IF YOU AVERAGED FIVE MILES AN HOUR FASTER THAN THE CAR
9 THAT LEFT AHEAD OF YOU, YOU ALL WOULD ARRIVE AT
10 CHARLESTON ABOUT THE SAME TIME, ISN'T THAT RIGHT?

11 A. CLOSE TO IT, YES.

12 Q. BECAUSE YOU'VE GOT FOUR HOURS, AND IF THERE IS A FIVE-
13 HOUR DIFFERENCE THAT'S TWENTY MINUTES YOU HAVE TO MAKE
14 UP, RIGHT?

15 A. TRUE.

16 Q. SO, IF YOU WERE AVERAGING MORE THAN FIVE MILES AN HOUR
17 FASTER THAN COACH FREED AND YOU ALL LEFT ABOUT TWENTY
18 MINUTES APART, YOU WOULD HAVE BEATEN COACH FREED DOWN
19 TO CHARLESTON, RIGHT?

20 A. POSSIBLY, YES.

21 Q. DID YOU ALL STOP AT ALL ON THE WAY TO CHARLESTON?

22 A. NO, SIR.

23 Q. DID YOU HAVE ANYTHING TO EAT OR DRINK ON THE TRIP TO
24 CHARLESTON?

25 A. NO.

- 1 Q. OTHER THAN SMOKING THE E CIGARETTE, DID YOU INGEST
2 ANYTHING, ANY -
- 3 A. I JUST HAD GUM. NO.
- 4 Q. - PILLS, ANYTHING ON THE WAY DOWN TO CHARLESTON?
- 5 A. NO.
- 6 Q. DID YOU CHEW GUM ON THE WAY -
- 7 A. I CHEWED GUM.
- 8 Q. DID YOU HAVE ANYTHING TO EAT AT ALL THAT DAY PRIOR TO
9 GETTING STOPPED IN CHARLESTON?
- 10 A. I JUST HAD LIKE A SMALL PIECE OF PORK TENDERLOIN.
- 11 Q. DID YOU HAVE ANY BREAKFAST THAT DAY?
- 12 A. NO, I DIDN'T.
- 13 Q. DID YOU HAVE ANYTHING FOR LUNCH?
- 14 A. JUST THE PORK.
- 15 Q. WHEN YOU SAY PIECE OF PORK, IS THAT LIKE A LEFTOVER
16 PIECE OF A PORK TENDERLOIN?
- 17 A. YEAH, JUST LIKE A PORK LOIN, YEAH.
- 18 Q. WERE YOU FEELING OKAY PHYSICALLY ON THE WAY DOWN TO
19 CHARLESTON?
- 20 A. I WAS. I MEAN, I WAS PROBABLY TIRED, BUT YEAH.
- 21 Q. WERE YOU LIGHT-HEADED OR DIZZY OR DISORIENTED IN ANY
22 WAY?
- 23 A. I WOULDN'T SAY SO, NO.
- 24 Q. NOW, WE SAW ON THE VIDEO THAT WHEN THE PATROL OFFICER,
25 HIGHWAY PATROLMAN, TURNED THE BLUE LIGHTS ON, YOU ALL

1 WERE JUST BARELY CRAWLING ALONG ON THE HIGHWAY, IS -
2 A. TRUE.
3 Q. - THAT A FAIR DESCRIPTION? OKAY. HOW LONG HAD THAT
4 PATROLMAN BEEN BEHIND YOU?
5 A. I'M NOT SURE; I DON'T KNOW.
6 Q. IT LOOKS LIKE HE KIND OF WENT AROUND THE GOOSE CREEK
7 POLICE OFFICER -
8 A. AND GOT -
9 Q. - THAT HAD JUST BEEN BEHIND YOU MOMENTARILY BEFORE
10 TURNING THE BLUE LIGHTS ON?
11 A. RIGHT.
12 Q. OKAY. I BELIEVE SOME OF THE GIRLS DESCRIBED AN INCIDENT
13 WHERE YOU WERE GOING DOWN THE HIGHWAY AND ALL OF A
14 SUDDEN YOU CAME UPON A CAR AHEAD OF YOU THAT HAD COME
15 TO A STOP OR WAS VERY SLOW. CAN YOU TELL THIS BOARD
16 WHAT HAPPENED IN THAT -
17 A. THE CAR IN FRONT OF ME SLAMMED ON BRAKES, AND SO I HAD
18 TO SLAM ON BRAKES AND GO OFF TO THE RIGHT OF THE ROAD.
19 I MEAN, WHO HASN'T DONE THAT?
20 Q. YOU'VE DONE THAT BEFORE IN YOUR OWN CAR?
21 A. SURE.
22 Q. NOW, DID YOU HAVE ANY DIFFICULTY AS YOU WERE GETTING
23 TOWARD CHARLESTON, DID YOU KNOW EXACTLY WHERE YOU WERE
24 SUPPOSED TO GO FOR THE -
25 A. I DID NOT KNOW EXACTLY. I HAD GOOGLED THE ADDRESS AND

1 KNEW ABOUT WHERE I NEEDED TO GO.

2 Q. DID THE SUBURBAN HAVE A GPS DEVICE?

3 A. NO.

4 Q. WHO WAS SORT OF ACTING AS YOUR CO-PILOT OR NAVIGATOR?

5 A. COOPER.

6 Q. DID MISS Y HAVE ANY TROUBLE READING YOUR DIRECTIONS
7 THAT YOU HAD PRINTED OUT FROM THE GOOGLE MAP?

8 A. YES, SHE SAID SHE COULDN'T READ THEM, AND I HAD BEEN
9 WITH THEM PREVIOUSLY IN THE PAST WHEN WE WERE IN
10 COLUMBIA, AND WE MISSED THE EXIT, AND ALL THE GIRLS
11 KNEW HOW TO GOOGLE AND GET ME TO COLUMBIA, BUT FOR
12 WHATEVER REASON, THEY COULDN'T GOOGLE IT THIS DAY, AND
13 I'M DRIVING. I CAN'T DO IT. SO, THIS IS RIGHT AROUND -
14 I MEAN, THIS IS ALL GOING ON IN THE CAR. CAN SOMEBODY
15 PLEASE TELL ME WHERE I NEED TO GO AND WHAT EXIT I NEED
16 TO TAKE, AND THESE KIDS ARE GOING WE DON'T KNOW HOW TO
17 DO IT. I'M DRIVING; I CAN'T DO IT.

18 Q. NOW, ON THE WAY DOWN WERE THE GIRLS - YOU SAID THEY
19 STOPPED AND LISTENED TO THIS CD, WERE THEY KIND OF
20 CARRYING ON LIKE HIGH SCHOOL GIRLS DO?

21 A. SURE.

22 Q. SINGING ALONG WITH THE MUSIC?

23 A. SURE.

24 Q. WAS THAT SOMEWHAT DISTRACTING TO YOU AS THE DRIVER?

25 A. WELL, LIKE I SAID EARLIER, I'M A PUSHOVER, AND SO I LET

1 THEM DO THAT KIND OF STUFF.

2 Q. NOW, WHEN YOU FIRST NOTICED THE HIGHWAY PATROLMAN WITH
3 THE BLUE LIGHTS ON, WHAT WAS YOUR REACTION?

4 A. I THOUGHT I WAS GETTING A SPEEDING TICKET.

5 Q. AT THE TIME HE PULLED YOU OVER, DID YOU THINK YOU WERE
6 DOING ANYTHING IMPROPER?

7 A. WELL, I KNEW I HAD HIT THE RUMBLES; I KNEW I HAD VEERED
8 OFF THERE. I KNEW I HAD BEEN SPEEDING, SO I THOUGHT I
9 WAS GETTING A SPEEDING TICKET.

10 Q. NOW, WE SAW THE VIDEO A MINUTE AGO. WHEN HE FIRST
11 PULLED IN BEHIND YOU IT LOOKED LIKE YOU WERE RIGHT IN
12 THE MIDDLE OF THAT LANE, RIGHT?

13 A. MM-HMM.

14 Q. BARELY MOVING ALONG?

15 A. (NODS AFFIRMATIVE)

16 Q. OKAY. WERE YOU SOMEWHAT NERVOUS OR FLUSTERED THAT YOU
17 WERE BEING --

18 A. OH, ABSOLUTELY. I ASKED HIM TO WRITE ME A TICKET.
19 COULD YOU JUST GO AHEAD AND WRITE ME A TICKET FOR
20 SPEEDING, AND HE SAID "NO, YOU HAVE TO GET OUT OF THE
21 CAR."

22 Q. WHAT WAS THE PATROLMAN'S DEemeanOR LIKE TOWARD YOU?

23 A. ROUGH.

24 Q. WHAT DID HE SAY TO YOU WHEN HE FIRST GOT UP TO THE
25 WINDOW?

1 A. I ASKED HIM TO WRITE ME A SPEEDING TICKET, AND HE SAID
2 "NO," THAT I NEEDED TO GET OUT OF THE CAR. AND I SAID
3 "FOR WHAT?" AND HE TOLD ME THAT I WAS GOING TO HAVE TO
4 DO THE FIELD SOBRIETY OR SOMETHING.

5 Q. DID YOU COOPERATE WITH THE POLICE OFFICER WHEN -

6 A. ABSOLUTELY.

7 Q. DID YOU EVER RESIST BY THE POLICE OFFICER?

8 A. NEVER.

9 Q. OKAY. NOW, CAN YOU DESCRIBE THE FIELD SOBRIETY TEST
10 THAT THE OFFICER REQUIRED YOU TO DO ON THE SIDE OF THE
11 ROADWAY?

12 A. I HAD TO - I DON'T KNOW - WALK TEN FEET ON THE LINE; I
13 HAD TO -

14 Q. ON THE VIDEO WE SAW, IT LOOKED LIKE THE SHOULDER WAS
15 SLOPING OFF INTO THE GRASS.

16 A. TRUE.

17 Q. WAS THAT A LEVEL SURFACE THAT YOU WERE WALKING ON?

18 A. NOT REALLY. AND I WAS IN BIRKENSTOCKS SO IT'S NOT THE
19 BEST, YOU KNOW -

20 Q. AND BIRKENSTOCKS ARE OPEN-HEELED -

21 A. OPEN-HEELED TOES, YES, AND NOT MUCH SUPPORT OR ANYTHING
22 IN THEM.

23 Q. DO YOU BELIEVE YOU OBEYED THE POLICE OFFICER'S
24 DIRECTIONS ON HOW TO DO THE TEST?

25 A. SURE. I ASKED HIM A FEW TIMES, I WANTED TO MAKE SURE I

1 UNDERSTOOD WHAT I WAS SUPPOSED TO DO - SO I ASKED FOR
2 CLARIFICATION SEVERAL TIMES AND APPARENTLY THAT MADE
3 HIM MAD THAT I ASKED FOR CLARIFICATION. I WANTED TO DO
4 WHAT I'M SUPPOSED TO DO. I'D NEVER DONE THAT BEFORE,
5 YOU KNOW. I WANTED TO DO IT RIGHT. SO HE GOT AGITATED
6 ABOUT THAT, AND...

7 Q. DID HE TELL YOU WHAT YOU MESSED UP ON THAT CAUSED HIM
8 TO PUT YOU IN HANDCUFFS AND PUT YOU IN THAT PATROL CAR?

9 A. I'M NOT SURE ABOUT - OH, THE WALKING THE STRAIGHT LINE,
10 I DIDN'T GO HEEL TO TOE, SO MY HEEL DID NOT HIT THE TOE
11 AS I WALKED. I DIDN'T KNOW I WAS SUPPOSED TO MAKE MY
12 HEEL GO TO THE TOE. I DIDN'T REALIZE THAT.

13 Q. IS THAT HARD TO DO WITH SANDALS ON?

14 A. WITH THE SANDALS ON, YES. AND THEN -

15 Q. IF YOU SLIDE YOUR FOOT BACK WITH ONE OF THOSE SANDALS
16 ON, WHAT HAPPENS TO YOUR SHOE?

17 A. IT WOULD COME OFF OR GET LOOSE, YEAH. AND ALSO WHEN I
18 DID THE ONE WHERE I STOOD ON MY - HAD MY LEG UP -

19 Q. WOULD YOU STAND UP AND DEMONSTRATE HOLDING YOUR LEG UP
20 THAT HE ASKED YOU TO DO.

21 A. (WITNESS DEMONSTRATES)

22 Q. DO YOU HAVE A LITTLE BIT OF PROBLEMS WITH YOUR BALANCE?

23 A. I DO BUT, YOU KNOW, I FAILED IT BECAUSE I WOBBLED, AND
24 I FAILED IT BECAUSE I PUT MY HANDS OUT.

25 Q. DID HE ALSO LOOK AT THE MOVEMENT OF YOUR EYES?

1 A. HE DID.

2 Q. DO YOU REMEMBER READING ANYWHERE ABOUT A NYSTAGMUS

3 CONDITION WHERE YOUR EYES SORT OF JUMP ---

4 A. I HAVE. YES, I KNOW.

5 Q. HAS ANYBODY TOLD YOU THAT YOU HAVE THAT NATURALLY?

6 A. NO.

7 Q. HAVE YOU EVER READ THAT'S A SIDE EFFECT OF NICOTINE?

8 A. I DO KNOW THAT, YES.

9 Q. NOW, ONCE THE TROOPER TOLD YOU, YOU FAILED THE FIELD

10 SOBRIETY TEST, WHAT HAPPENED NEXT?

11 A. I WAS JUST IN SHOCK, AND HE JUST TOLD ME TO TURN AROUND

12 AND PUT MY HANDS BEHIND MY BACK, AND WHAT YOU SEE IN

13 THAT CAMERA WAS NOT ME RESISTING ARREST AS MR. DARR

14 SEEMS TO THINK. HE WAS GIVING ME INSTRUCTIONS THAT I

15 DIDN'T UNDERSTAND, AND I WAS ASKING FOR CLARIFICATION

16 AGAIN, AND HE DIDN'T LIKE THAT, AND SO YOU DON'T SEE ME

17 RESISTING ARREST AS HE WOULD LIKE YOU TO BELIEVE. YOU

18 SEE ME NOT KNOWING WHAT I'M DOING AND GOING THROUGH AT

19 THAT POINT.

20 Q. DID YOU PUT YOUR HANDS BEHIND YOU BACK AND BEND OVER

21 AND LET ---

22 A. I PUT MY HANDS BEHIND MY BACK AND THEN HE SAID TO BEND

23 OVER, AND I COULDN'T UNDERSTAND WHY HE WANTED ME TO

24 BEND OVER. IT JUST DIDN'T MAKE SENSE TO ME. SO THAT'S

25 WHAT YOU'RE SEEING IN THE CAMERA.

1 Q. AFTER HE CUFFED YOU AND PUT YOU IN THE CAR, WHAT
2 HAPPENED?

3 A. I WAS CHEWING GUM AND I'D PROBABLY HAD THIS GUM IN MY
4 MOUTH SINCE WE LEFT SCHOOL, AND I DON'T KNOW IF IT WAS
5 MY NERVES; I DON'T KNOW IF IT WAS STOMACH ACIDS OR
6 WHAT, BUT THE GUM TURNED TO MUSH IN MY MOUTH. I MEAN,
7 JUST MUSH. AND I WAS NERVOUS AND LICKING MY LIPS, AND
8 THE GUM GOT AROUND MY LIPS.

9 Q. WHY DIDN'T YOU WIPE IT OFF WITH YOUR HANDS?

10 A. BECAUSE I WAS HANDCUFFED AND THAT'S WHAT YOU SEE ME
11 DOING IS WIPING THE GUM OFF OF MY LIPS.

12 Q. DID YOU ---

13 A. AND I DON'T KNOW IF I WAS ABLE TO SPIT THE GUM OUT; I
14 DON'T REMEMBER; I DON'T REMEMBER IF I SWALLOWED IT, BUT
15 I KNOW THAT THAT WAS WHAT WAS AROUND MY LIPS WAS THAT
16 GUM.

17 Q. WHEN YOU WERE IN THE PATROL CAR AND THE DASH CAM GOT
18 TURNED AROUND TO YOU, DID YOU HAVE ANY IDEA THAT YOU
19 WERE BEING AUDIO TAPED AS WELL AS VIDEO TAPED?

20 A. I DO NOT REMEMBER, NO.

21 Q. OKAY. DID YOU EVER CURSE AT THE PATROL OFFICER?

22 A. NO.

23 Q. DID YOU EVER CURSE AT THE GIRLS?

24 A. NO.

25 Q. I KNOW THAT YOU PROBABLY DON'T THINK THAT WAS YOUR

1 FINEST MOMENT ON VIDEO, CAN YOU DESCRIBE TO THE BOARD
2 WHAT YOU WERE GOING THROUGH EMOTIONALLY AT THAT POINT?
3 A. OH, GOSH. I WAS UNBELIEVABLY HUMILIATED. I DIDN'T KNOW
4 WHAT WAS GOING TO HAPPEN WITH THE GIRLS. I WAS
5 FRUSTRATED. I WAS IN DISBELIEF. JUST, I COULDN'T
6 BELIEVE IT, YOU KNOW. SHOCKED.
7 Q. DID YOU ASK THE PATROLMAN TO LET YOU SPEAK TO THE
8 GIRLS?
9 A. I CAN'T REMEMBER; I BELIEVE I DID BUT ---
10 Q. DID YOU ASK TO TRY AND CALL COACH FREED OR SOMEBODY TO
11 MAKE ARRANGEMENTS TO PICK THE GIRLS ---
12 A. WELL, I KNEW THAT THE GIRLS ALL HAD CELL PHONES AND
13 COULD HANDLE THAT THEMSELVES, BUT I WANTED TO MAKE SURE
14 THAT THEY WERE ABLE TO CALL AND GET HIM THERE.
15 Q. AFTER HE PUT YOU IN CUFFS AND PUT YOU IN THE CAR, DID
16 HE LET YOU OUT OF THAT CAR?
17 A. NO..
18 Q. WHAT HAPPENED AFTER THAT?
19 A. UH ---
20 Q. WERE YOU TAKEN AWAY FROM THE SCENE?
21 A. YEAH.
22 Q. DID HE TAKE YOU TO THE HIGHWAY PATROL HEADQUARTERS ---
23 A. I DON'T KNOW WHERE HE TOOK ME, BUT YEAH, HE TOOK ME
24 THERE AND TRIED TO GET ME TO DO THE BREATHALYZER.
25 Q. WHEN YOU GOT TO THE HIGHWAY PATROL STATION, DID YOU

1 HAVE ANY INTERACTION WITH ANYBODY BESIDES THE GUY WHO'D
2 JUST ARRESTED YOU?

3 A. MAINLY HIM. HE PUT ME IN A ROOM, AND I REMEMBER THEN.
4 I DON'T REMEMBER GETTING IN THE CAR HIM TELLING ME
5 THERE WAS GOING TO BE VIDEO TAPE ON ME, BUT WHEN WE
6 WERE IN THAT ROOM I REMEMBER HIM TELLING ME THAT HE WAS
7 VIDEOING ME. AGAIN ---

8 Q. DID YOU ASK TO TALK TO A LAWYER?

9 A. MANY, MANY, MANY TIMES BECAUSE I FELT LIKE IT WAS JUST
10 WRONG, AND I ASKED MANY, MANY, MANY TIMES TO SPEAK TO
11 AN ATTORNEY.

12 Q. DID THE HIGHWAY PATROLMAN ALLOW YOU THE ONE PHONE CALL
13 THAT WE ALL HEAR ABOUT?

14 A. DID NOT GET A PHONE CALL FOR TEN HOURS.

15 Q. DID THE HIGHWAY PATROLMAN EVENTUALLY ASK YOU TO BLOW
16 INTO A BREATHALYZER MACHINE?

17 A. HE DID AND I ASKED HIM FOR AN ATTORNEY.

18 Q. OKAY. DID THE PATROL OFFICER READ YOU THE CONSENT FORM
19 BEFORE DEMANDING THAT YOU BLOW INTO THE MACHINE?

20 A. I CAN'T REMEMBER WHEN HE DID THAT.

21 Q. DO YOU RECALL THE HIGHWAY PATROLMAN TELLING YOU, YOU
22 HAVE THE RIGHT NOT TO BLOW INTO THAT BREATHALYZER
23 MACHINE?

24 A. YES.

25 Q. AND DO YOU RECALL HIM TELLING YOU THAT IF YOU REFUSED

1 TO BLOW INTO THE MACHINE THAT YOUR LICENSE WOULD BE
2 SUSPENDED FOR UP TO SIX MONTHS?

3 A. YES.

4 Q. OKAY. HAVE YOU EVER HEARD FROM ANYONE BEFORE -
5 FRIENDS, ACQUAINTANCES, ANYONE - THAT YOU SHOULD NOT
6 VOLUNTARILY GIVE A BREATHALYZER TEST IF YOU ARE
7 ARRESTED FOR SPEEDING ---

8 A. I JUST HEARD THAT THE BEST SITUATION IS NOT TO BLOW
9 BECAUSE YOU NEVER KNOW WHEN YOU'LL GET A FALSE
10 POSITIVE. WHAT IN YOUR SYSTEM COULD POSSIBLY GIVE A
11 FALSE POSITIVE. AND IF I GIVE A FALSE POSITIVE, THAT'S
12 HARDER TO ARGUE THAN NOT BLOWING AT ALL.

13 Q. IN THE TEN YEARS THAT YOU'VE BEEN A TEACHER, HAVE YOU
14 EVER BEEN ASKED TO GIVE A BREATHALYZER ---

15 A. NO.

16 Q. HAVE YOU EVER BEEN ARRESTED FOR SUSPICION OF DUI IN THE
17 TEN YEARS THAT YOU'VE BEEN A TEACHER?

18 A. NO.

19 Q. WERE YOU CONCERNED ABOUT THE EFFECT THAT THE CIGARETTES
20 YOU WERE SMOKING MIGHT HAVE HAD ON THE BREATHALYZER
21 TEST?

22 A. AT THE TIME I WASN'T SURE WHAT CHEMICALS WERE IN THE E
23 CIGS, SO I WAS A LITTLE CONCERNED ABOUT WHAT WAS IN IT,
24 YES.

25 Q. IF YOU HAD TO DO THINGS ALL OVER AGAIN THAT DAY OR PUT

1 IN THAT SAME SITUATION WITH THAT SORT OF BULLYING OF A
2 POLICE OFFICER, WOULD YOU GIVE THE BREATHALYZER TEST?

3 A. I STILL DON'T KNOW. I MEAN, I STILL DON'T KNOW ABOUT
4 THE FALSE POSITIVE OR ANYTHING LIKE THAT, SO I'M NOT
5 REAL SURE HOW I WOULD - I WOULD PROBABLY SAY "NO, I
6 WOULDN'T TAKE IT."

7 Q. HAVE YOU ASKED FOR A JURY TRIAL ON YOUR ---

8 A. YES, I HAVE.

9 Q. - DUI CHARGES?

10 A. YES.

11 Q. HAS THAT CASE BEEN HEARD YET?

12 A. NO, SIR.

13 Q. DO YOU KNOW WHAT'S HAPPENED TO THIS POLICE OFFICER THAT
14 ARRESTED YOU?

15 A. THE POLICE OFFICER THAT ARRESTED ME WAS FIRED FROM THE
16 HIGHWAY PATROL BECAUSE HE WAS IN THE COURTROOM, AND THE
17 JUDGE DID SOMETHING THAT HE DIDN'T LIKE, AND HE SLAMMED
18 HIS BOOK DOWN ON THE TABLE AND SAID, "THIS IS BS." AND
19 HE GOT FIRED.

20 Q. HOW DID YOU FIND THAT OUT?

21 A. MY ATTORNEY IN CHARLESTON TOLD ME.

22 Q. NOW, HAD YOU HAD ANY ALCOHOL TO DRINK AT ALL FROM
23 FRIDAY MORNING WHEN YOU WOKE UP AT SIX O'CLOCK UNTIL
24 YOU WERE ARRESTED FOR DUI ABOUT 5:00 OR 5:30 THAT DAY?

25 A. NO, I HADN'T.

- 1 Q. NOW, DID YOU END UP SPENDING THE NIGHT IN JAIL - OR,
2 HOW LONG DID YOU END UP SPENDING THE ---
- 3 A. I DID. I WAS THERE FROM - I AM NOT SURE I GOT THERE -
4 FROM FIVE TILL TEN O'CLOCK THE NEXT NIGHT.
- 5 Q. ABOUT 29 HOURS IN JAIL?
- 6 A. YEP.
- 7 Q. WHEN DID YOU SPEAK WITH SOMEONE FROM THE HIGH SCHOOL OR
8 THE DISTRICT OFFICE THE FIRST TIME AFTER YOUR ARREST?
- 9 A. THE FOLLOWING DAY ON SUNDAY. I GOT OUT SATURDAY NIGHT
10 AT TEN.
- 11 Q. DID YOU FULLY COOPERATE WITH THE DISTRICT'S
12 INVESTIGATION?
- 13 A. SURE.
- 14 Q. DID DR. BOOKER OR PRINCIPAL STEVENS SPECIFICALLY TELL
15 YOU NOT TO SPEAK WITH ANY OF THE GIRLS OR THEIR
16 FAMILIES?
- 17 A. YES.
- 18 Q. DURING THE INVESTIGATION WERE YOU AS OPEN AND HONEST AS
19 YOU COULD BE WITH DR. BOOKER AND MR. STEVENS?
- 20 A. YES.
- 21 Q. DID DR. BOOKER DEMAND YOUR RESIGNATION ON MONDAY
22 SEPTEMBER 29, 2014?
- 23 A. I FELT LIKE HE DID, YES.
- 24 Q. OKAY. DID YOU AGREE TO RESIGN FROM THE DISTRICT?
- 25 A. I DID NOT.

1 Q. WHY DID YOU DECIDE TO REQUEST A HEARING ON THIS MATTER?

2 A. I DIDN'T AGREE WITH IT; I WAS APPALLED THAT NO ONE WAS
3 STANDING BEHIND ME. I WAS APPALLED THAT THE MEDIA, YOU
4 KNOW, IN THIS WORLD WE'RE SUPPOSED TO BE PROVEN GUILTY
5 AND NOT ASSUMED TO BE GUILTY, AND I WAS GUILTY WITHOUT
6 ANY HEARING OR ANYTHING.

7 Q. DO YOU BELIEVE THAT YOU'RE A GOOD TEACHER?

8 A. ABSOLUTELY.

9 Q. DO YOU WANT YOUR JOB BACK?

10 A. ABSOLUTELY.

11 Q. DO YOU THINK YOU COULD BE AN EFFECTIVE TEACHER IF YOU
12 WERE RETURNED TO THE CLASSROOM?

13 A. ABSOLUTELY.

14 Q. DO YOU THINK YOU'VE BEEN UNFAIRLY PORTRAYED IN THE NEWS
15 MEDIA?

16 A. ABSOLUTELY.

17 Q. IF YOU WERE GIVEN AN OPPORTUNITY TO TELL THE FAMILIES -
18 THE STUDENTS AND THE PARENTS - - OR, WERE YOU EVER
19 GIVEN AN OPPORTUNITY TO APOLOGIZE TO THEM FOR THIS
20 SITUATION?

21 A. NEVER.

22 Q. IF YOU COULD SAY SOMETHING TO THEM TODAY, WHAT WOULD
23 YOU TELL THEM?

24 A. OH, I WOULD, YOU KNOW, I WOULD APOLOGIZE THAT THEY HAD
25 TO GO THROUGH THIS, AND IT'S HORRENDOUS. I CAN'T

1 IMAGINE MY CHILDREN GOING THROUGH IT. IT WAS A
2 HORRENDOUS THING FOR THOSE KIDS TO HAVE TO GO THROUGH.

3 Q. I'M GOING TO SHOW YOU A DOCUMENT THAT I'VE JUST MARKED
4 AS EXHIBIT Q. THIS IS NOT IN THE NOTEBOOKS. WE JUST
5 GOT THESE. CAN YOU TELL THE BOARD WHAT EXHIBIT Q IS,
6 MS. KISER.

7 A. IT'S LETTERS FROM PARENTS AND TEACHERS THAT I'VE TAUGHT
8 OR TUTORED THROUGH -

9 Q. WAS THIS SOMEWHAT HUMILIATING FOR YOU TO REQUEST
10 LETTERS OF THE STUDENTS' PARENTS IN SUPPORT OF YOU?

11 A. SURE, IT WAS.

12 BY MR. ROTHSTEIN:

13 I DON'T HAVE ANY FURTHER QUESTIONS. ANSWER
14 ANYTHING MR. DARR OR THE BOARD MIGHT HAVE.

15 CROSS EXAMINATION BY MR. DARR:

16 Q. WITH RESPECT TO THE LAST EXHIBIT, THE Q, NONE OF THE
17 PEOPLE WERE IN THE CAR OR HAD CHILDREN IN THE CAR WITH
18 YOU THAT DAY, DID THEY?

19 A. NO, BUT THEIR SOLE PURPOSE WAS JUST TO SAY ABOUT MY
20 TEACHING ABILITY.

21 Q. YES, BUT IN TERMS OF THE ISSUES AT HAND HERE REGARDING
22 YOUR CONDUCT THAT DAY, THEY DON'T KNOW ANYTHING ABOUT
23 THAT, DO THEY?

24 A. NO, BUT THEY KNOW ME.

25 Q. WERE THEY THERE TO SEE WHAT YOU DID THAT DAY? DID THEY

1 SEE -

2 A. NO.

3 Q. - YOU GOING 90 MILES AN HOUR THAT YOU JUST ADMITTED TO
4 A LITTLE WHILE AGO?

5 A. NO.

6 BY MR. ROTHSTEIN:

7 I DON'T BELIEVE SHE EVER ADMITTED TO GOING 90
8 MILES AN HOUR.

9 BY MR. DARR:

10 YES, SHE DID. SHE SAID 85 TO 90 IF YOU WANT TO
11 READ THE RECORD BACK.

12 CROSS EXAMINATION RESUMED BY MR. DARR:

13 Q. WHY WAS IT THE PLAN TO CARAVAN? WAS THAT FOR SAFETY
14 REASONS BECAUSE IT'S BEEN -

15 A. I DO NOT REMEMBER US EVER SAYING WE WERE GOING TO
16 CARAVAN.

17 Q. I THOUGHT YOU STARTED OUT YOUR TESTIMONY SAYING YOU
18 WERE GOING TO RIDE TOGETHER DOWN THERE; THAT WAS THE
19 PLAN?

20 A. NO. FOR INSTANCE, WHEN WE WENT TO CHARLOTTE, WHATEVER.
21 NOT THIS PAST YEAR BUT LAST YEAR. WE GOT SEPARATED.
22 IT'S - I MEAN, AS SOON AS WE GOT OUT OF THE SPARTANBURG
23 HIGH SCHOOL PARKING LOT, WE WERE SEPARATED BECAUSE OF
24 TRAFFIC. THAT'S TYPICAL. SO WE DID NOT MEET UP UNTIL
25 WE WERE IN CHARLOTTE ON THE INTERSTATE.

1 Q. I'M NOT ASKING YOU ABOUT CHARLOTTE. I'M -

2 A. NO, BUT I MEAN -

3 Q. - ASKING YOU ABOUT CHARLESTON.

4 A. THAT'S TYPICAL FOR US TO GET SEPARATED.

5 Q. BUT IS IT TYPICAL TO NOT START OUT TOGETHER?

6 A. YES.

7 Q. IT DIDN'T SOUND LIKE YOUR TESTIMONY EARLIER; IT
8 CERTAINLY WASN'T THE TESTIMONY OF THE SUPERINTENDENT.
9 IS THERE NOT SAFETY IN CARAVANNING?

10 BY MR. ROTHSTEIN:

11 WITH ALL DUE RESPECT, MR. DARR IS TESTIFYING.
12 AFTER EVERY ONE OF HIS QUESTIONS HE'S ADDING AN
13 EDITORIAL COMMENT WHICH I BELIEVE IT'S IMPROPER FOR
14 HIM TO DO THAT. THE BOARD CAN MAKE ITS OWN DETERMINA-
15 TIONS ABOUT MS. KISER'S CREDIBILITY AND HER MEMORY OF
16 THE TESTIMONY WITHOUT MR. DARR'S COMMENTS.

17 WITNESS ANSWERS:

18 A. THIS WAS THE THIRD TRIP I WAS ON WITH THE CROSS COUNTRY
19 TRIP - UH, TEAM, THAT WE HAD DRIVEN TOGETHER. THE TWO
20 PREVIOUS TRIPS THAT WE WERE ON TO CHARLOTTE AND
21 COLUMBIA, WE BOTH TIMES WERE SEPARATED.

22 Q. SO YOU DECIDED THAT IT WAS MORE IMPORTANT TO GO GET THE
23 CD PLAYER AND YOUR E CIGARETTE CHARGER THAN TO GET ON
24 DOWN TO CHARLESTON MORE QUICKLY, IS THAT RIGHT?

25 A. IT TOOK US APPROXIMATELY TWENTY MINUTES TO DO THOSE TWO

1 THINGS.

2 Q. SO YOU'RE SAYING IT WAS MORE IMPORTANT TO TAKE THAT
3 TWENTY MINUTES AND GO GET YOUR E CIGARETTE CHARGER THAN
4 IT WAS TO GET ON DOWN TO CHARLESTON IN A TIMELY
5 FASHION?

6 A. I DID WHAT - THE KIDS WANTED TO GO GET THE CD PLAYER
7 AND I DID IT.

8 Q. AND YOU WANTED YOUR E CIGARETTE CHARGER, RIGHT?

9 A. RIGHT.

10 Q. WHO'S IN CHARGE IN THE CAR: WAS IT YOU OR THE CHILDREN?

11 A. I AM BUT THEY ASKED ME TO DO SOMETHING, AND I DID IT.

12 Q. OKAY, IF THEY ASKED YOU TO GO 100 MILES AN HOUR, WOULD
13 YOU DO THAT BECAUSE -

14 A. NO.

15 Q. - YOU WERE IN A HURRY?

16 A. NO.

17 Q. SO, YOU WEREN'T PUTTING SAFETY FIRST, WERE YOU? YOU
18 WERE PUTTING -

19 A. THEY ASKED ME TO GO GET A CD PLAYER; THEY HAD MADE A
20 SPECIAL CD; I DID IT.

21 Q. WHY DIDN'T YOU LET THEM KNOW YOU WERE GETTING AN E
22 CIGARETTE CHARGER OR SMOKING E CIGARETTES?

23 A. BECAUSE I KNOW THE NEGATIVE CONNOTATIONS OF SMOKING.

24 Q. OKAY. AND THE E CIGARETTE HAS NICOTINE IN IT. IT PUTS
25 NICOTINE IN YOUR SYSTEM, CORRECT?

1 A. YES, IT DOES.

2 Q. AND YOU USED IT IN THE VEHICLE ON YOUR WAY DOWN THERE?

3 A. YES, I DID.

4 Q. YOU SAID IT HAS LESS SECONDHAND SMOKE, BUT IT HAS

5 SECONDHAND SMOKE, CORRECT?

6 A. IT DOESN'T HAVE SMOKE; IT HAS VAPOR.

7 Q. BUT IT -

8 A. IT'S NOT SMOKE; IT IS VAPOR.

9 Q. DOES IT PUT ANYTHING DANGEROUS INTO THE AIR,

10 WHATSOEVER?

11 A. NOT THAT I'M AWARE OF, NO.

12 Q. YOUR ATTORNEY'S QUESTION WAS DOES IT HAVE LESS SECOND-

13 HAND SMOKE, AND YOU SAID "YES."

14 A. I SAID IT'S VAPOR. IT'S VAPOR; IT'S NOT SMOKE.

15 Q. WELL, THAT'S FINE BUT CAN THEY NOT INHALE THE VAPOR?

16 A. NOT THAT I'M AWARE OF, NO.

17 Q. OH, REALLY. WHEN YOU SAID YOU LOOKED DOWN AND SAW

18 YOURSELF GOING 85 AND 90 MILES AN HOUR, AND THAT WAS

19 YOUR TESTIMONY, BUT YOU SAID IT WASN'T INTENTIONAL,

20 CORRECT?

21 A. NO.

22 Q. OKAY. SO WHAT WAS IT THEN? WAS IT JUST CARELESSNESS,

23 RECKLESSNESS? WHY WERE YOU GOING THAT FAST?

24 A. I WOULD JUST NOTICE - I MEAN, IT DOESN'T HAVE LIKE A

25 SPEEDOMETER - I MEAN, NOT A SPEEDOMETER, BUT IT DOESN'T

1 HAVE THE CRUISE CONTROL, AND I GUESS GOING DOWN A HILL
2 OR SOMETHING, GOING WITH THE FLOW OF TRAFFIC, AND I
3 WOULD NOTICE IT AND CUT BACK DOWN TO WHERE I SHOULD
4 HAVE BEEN. AND MONICA G TESTIFIED THAT MOST TIMES I
5 WAS GOING 70 TO 80 MILES AN HOUR.

6 Q. ALL THE STUDENTS TESTIFIED THAT YOU WERE GOING 90 AND
7 95 MILES AN HOUR, DIDN'T THEY?

8 BY MR. ROTHSTEIN:

9 THAT IS NOT WHAT THE STUDENTS TESTIFIED TO. IT
10 ABSOLUTELY IS NOT.

11 BY MR. DARR:

12 THE DEPOSITIONS ARE IN THE RECORD.

13 CROSS EXAMINATION RESUMED BY MR. DARR:

14 Q. THEY ALL TESTIFIED THAT YOU WERE SPEEDING, DIDN'T THEY?

15 A. AT TIMES THEY SAID. AT TIMES ---

16 Q. AND WHEN THEY TOLD YOU -

17 A. - THEY SAID.

18 Q. AT TIMES, CORRECT.

19 A. BUT THEY SAID MOSTLY 70 TO 80.

20 Q. BUT AT TIMES YOU WERE GOING 90, CORRECT?

21 A. SURE. YES. BUT THE MAJORITY 70 TO 80.

22 Q. WHEN THEY BROUGHT THAT TO YOUR ATTENTION DURING THE
23 RIDE DOWN THAT YOU WERE GOING 85 OR 90 MILES AN HOUR OR
24 MORE, DID YOU THINK THEY WERE JOKING THEN?

25 A. NO.

- 1 Q. YOU SAID YOU THOUGHT THAT COOPER WAS JOKING WHEN SHE
2 SAID YOU HIT A MAILBOX.
- 3 A. ABOUT THE MAILBOX, YES.
- 4 Q. DID YOU THINK SHE WAS JOKING WHEN SHE TOLD YOU, YOU
5 WERE GOING 90 AND SLOW DOWN?
- 6 A. NO.
- 7 Q. OKAY. SO YOU DRIVE AGGRESSIVELY AND FAST; THAT'S YOUR
8 TESTIMONY?
- 9 A. I DO.
- 10 Q. AND THAT'S THE REASON FOR YOUR TRAFFIC RECORD THAT'S IN
11 THE EXHIBIT?
- 12 A. UM -
- 13 Q. THAT SHOWS YOU WERE STOPPED IN 2011 FOR GOING 10 MILES
14 - MORE THAN 10 MILES AN HOUR OVER THE SPEED LIMIT?
- 15 A. YEAH.
- 16 Q. THAT'S THE REASON FOR THAT. AND THE YEAR BEFORE THAT
17 FOR ANOTHER SPEEDING VIOLATION?
- 18 A. I'M NOT SURE ABOUT THAT.
- 19 Q. WELL, LET'S REFRESH YOUR MEMORY. BLACK NOTEBOOK TAB G.
20 MAYBE WE SHOULD START AT THE TOP, WHAT'S THE TEMPORARY
21 ALCOHOL NOTATION AT THE TOP?
- 22 A. THAT'S FROM THIS CHARGE.
- 23 Q. THEN ON PAGE 2 AT THE TOP, SPEEDING MORE THAN 10 MILES
24 AN HOUR BUT LESS THAN 25 MILES AN HOUR IN OCTOBER 2011?
- 25 A. MM-HMM.

- 1 Q. THESE ARE YOUR EXHIBITS, RIGHT?
- 2 A. YES.
- 3 Q. AND THE NEXT ONE IS LESS THAN A YEAR, WASN'T IT?
- 4 A. YES.
- 5 Q. FOR SPEEDING AS WELL, CORRECT?
- 6 A. YES.
- 7 Q. SO IS THAT JUST A MANIFESTATION OF YOUR TENDENCY TO
- 8 DRIVE FAST; AGGRESSIVELY AS YOU PUT IT?
- 9 A. YES, I DRIVE FAST. I MEAN, YES.
- 10 Q. WAS IT YOUR PLAN THEN TO AVERAGE FIVE MILES AN HOUR
- 11 FASTER THAN THE BOYS' VAN IN ORDER TO CATCH UP WITH
- 12 THEM?
- 13 A. NO.
- 14 Q. YOUR LAWYER SEEMS TO LEAD US TO THAT CONCLUSION.
- 15 A. NO, HE WAS GIVING YOU AN EXAMPLE OF IF YOU DID DRIVE
- 16 THAT FAST, YOU SHOULD CATCH UP WITH THEM EVENTUALLY. SO
- 17 IN OTHER WORDS, I DIDN'T DRIVE THAT FAST ON A NORMAL
- 18 BASIS.
- 19 Q. WELL, YOU DIDN'T CATCH UP WITH THEM, CORRECT?
- 20 A. NO. THEY WERE STILL - WHEN WE GOT PULLED OVER, THEY
- 21 WERE STILL 15, 20 MINUTES AHEAD OF US.
- 22 Q. WOULD THAT HAVE ANYTHING TO DO WITH THE FACT THAT YOU
- 23 WERE PULLED OVER? HOW DO YOU KNOW HOW FAR AHEAD OF YOU
- 24 THEY WERE -
- 25 A. THE GIRLS WERE IN CONSTANT COMMUNICATION WITH THE BOYS.

1 Q. SO THEY TOLD YOU THAT IS WHAT YOU'RE SAYING?

2 A. THE GIRLS DID.

3 Q. WHAT DO YOU TAKE LORAZEPAM FOR?

4 BY MR. ROTHSTEIN:

5 I THINK GETTING INTO HER SELF HISTORY IS A LITTLE
6 AFIELD HERE. THAT HAS NOTHING TO DO WITH HER
7 RECOMMENDATION FOR TERMINATION. THESE ARE PRESCRIPTION
8 MEDICATIONS; THIS IS HER PRIVATE HEALTH HISTORY; HAS
9 NOTHING TO DO WITH THIS HEARING.

10 BY MR. DARR:

11 MR. ROTHSTEIN OPENED THE DOOR TO THAT BY ASKING
12 HER WHAT MEDICATIONS SHE HAD AND WHAT SHE HAD TAKEN,
13 AND SHE TESTIFIED TO THAT.

14 BY MR. ROTHSTEIN:

15 MR. DARR PUT PILLS UP ON THE BOARD, AND I WAS
16 EXPLAINING WHY THERE WERE PILLS IN HER PURSE. I'M NOT
17 OPENING THE DOOR TO ANYTHING.

18 BY MR. DARR:

19 YOU CERTAINLY DID.

20 BY CHAIRMAN:

21 YOU DID BRING IT UP BUT I THINK THAT'S GOING A BIT
22 INTO HER PERSONAL INFORMATION, MR. DARR.

23 CROSS EXAMINATION RESUMED BY MR. DARR:

24 Q. AND THE MEDICATIONS THAT WERE IN YOUR POCKETBOOK FOR
25 YOUR SON, THE THREE ITEMS THERE, AND YOU SAY YOU ALWAYS

1 CARRY THOSE PILLS WITH YOU, CORRECT?

2 A. I CARRY THE RITALIN.

3 Q. BECAUSE ON THE TAPE YOU'RE SEEN SAYING "I DON'T KNOW
4 WHY THAT WAS IN MY POCKETBOOK," WEREN'T YOU?

5 A. YOU KNOW, I MEAN, AT THAT TIME, I MEAN, CAN YOU IMAGINE
6 HOW FLUSTERED I WAS, BUT I MEAN - BECAUSE USUALLY, AND
7 I DON'T KNOW WHY IT WAS IN MY POCKETBOOK, BUT USUALLY
8 IT'S KEPT IN THE SIDE OF MY CAR DOOR. SO I DON'T KNOW
9 WHY IT GOT IN MY POCKETBOOK, BUT IT WAS THERE.

10 Q. YOU TESTIFIED THAT IF YOU HAD THREE OR FOUR GLASSES OF
11 WINE THAT YOU HAD THEM OVER A SPAN OF 7:30 BECAUSE
12 DINNERTIME -

13 A. 7:30, 8 O'CLOCK TO 1:30, 2:00, YEAH.

14 Q. SO YOU WERE UP ALL NIGHT DRINKING, WEREN'T YOU?

15 A. WELL, I HAD A SIX-HOUR SPAN, BUT NO, I WASN'T UP ALL
16 NIGHT.

17 Q. WELL, TWO A.M. IS NOT ALL NIGHT?

18 A. NO. I STAY UP FREQUENTLY LATE.

19 Q. AND THEN YOU WERE UP AT SIX O'CLOCK A.M. THE FOLLOWING
20 MORNING?

21 A. IT'S PRETTY TYPICAL FOR A MOTHER OF THREE.

22 Q. THEN YOU HAD NO DIRECTIONS; YOU DIDN'T KNOW HOW TO GET
23 TO THE PLACE YOU WERE HEADED -

24 A. I HAD THE DIRECTIONS.

25 Q. BUT YOU DIDN'T KNOW HOW TO FOLLOW THEM APPARENTLY

1 BECAUSE YOU WERE ASKING THE KIDS IN THE CAR TO EXPLAIN
2 THEM TO YOU.

3 A. I COULDN'T READ MY GOOGLE MAP AND DRIVE AT THE SAME
4 TIME, AND YOU SAW THE TRAFFIC WHERE I WAS PULLED OVER.
5 CAN I FINISH? YOU SAW THE TRAFFIC WHERE I WAS PULLED
6 OVER; IT WAS VERY CONGESTED AT THAT POINT. SO, YES,
7 THESE GIRLS ARE VERY SAVVY WITH THEIR I PHONES; THEY
8 HAD GOTTEN ME OUT OF A JAM PREVIOUSLY BEFORE WHEN WE
9 WERE IN COLUMBIA, AND MISSED AN EXIT. THEY KNOW HOW TO
10 USE GOOGLE AND I MAPS. THEY KNOW HOW TO DO THAT.

11 Q. SO THEY WERE JUST SABOTAGING YOU, OR WHY WOULDN'T THEY
12 HAVE HELPED YOU?

13 A. I DON'T KNOW. COOPER SAID SHE COULDN'T DO IT.

14 Q. AND THERE WERE SEVEN PEOPLE IN THE CAR, RIGHT? THE -

15 A. RIGHT.

16 Q. WHY DIDN'T YOU PULL OVER SOMEWHERE AND READ YOUR MAP?

17 A. AGAIN, I DON'T KNOW.

18 Q. WOULDN'T THAT BE THE SAFE THING TO DO? IF THEY
19 COULDN'T HELP YOU AND YOU COULDN'T READ IT AND YOU
20 DIDN'T KNOW WHERE YOU WERE GOING?

21 A. SURE.

22 Q. THE PICTURES THAT ARE IN YOUR EXHIBIT BEGINNING WITH
23 TAB H, WERE YOU INSIDE THE VEHICLE?

24 A. AT THIS POINT?

25 Q. AT ANY POINT WHEN THOSE PICTURES -

1 A. NO.

2 Q DID YOU GET INSIDE THE VEHICLE THAT DAY?

3 A. NO, I DID NOT.

4 Q. SO THE PICTURE YOU CLAIM WAS TAKEN FROM THE VANTAGE
5 POINT OF THE PERSON IN THE PASSENGER SEAT WASN'T TAKEN
6 FROM THE VANTAGE POINT OF THE PERSON IN THE PASSENGER
7 SEAT THEN, WAS IT, UNLESS SHE WAS SITTING IN THE
8 PASSENGER SEAT?

9 A. I DIDN'T TAKE THAT PICTURE.

10 Q. YOUR TESTIMONY WAS THAT THIS PICTURE -
11 BY MR. ROTHSTEIN:

12 HER TESTIMONY WAS SHE WAS PRESENT WHEN THE PICTURE
13 WAS TAKEN. I WAS INSIDE THE VEHICLE AND TOOK THE
14 PICTURE.

15 CROSS EXAMINATION RESUMED BY MR. DARR:

16 Q. SO HOW DID YOUR LAWYER GET INSIDE THE VEHICLE?

17 BY MR. ROTHSTEIN:

18 THIS IS IMPROPER. I MEAN, HE GAVE ME PERMISSION
19 TO INSPECT THE VEHICLE. I WENT THERE BEFORE THE
20 DEPOSITION AND INSPECTED THE VEHICLE. MS. KISER AND I
21 WERE TAKING PHOTOGRAPHS OF THE VEHICLE. HE SAID I
22 COULDN'T DO THE INSPECTION UNTIL AFTER THE DEPOSITION
23 WHICH WOULD HAVE BEEN AT DARK. SO, I GOT THERE BEFORE
24 THE DEPOSITION; I WENT TO THE VAN. I SAID, GOSH, I WISH
25 WE COULD GET IN THE CAR AND TAKE SOME PHOTOGRAPHS

1 INSIDE. MS. KISER LIFTS UP THE DOOR HANDLE, AND THE
2 CAR IS COMPLETELY UNLOCKED. BECAUSE HE HAD GIVEN ME
3 PERMISSION TO INSPECT THE VEHICLE, I WENT INSIDE THE
4 VEHICLE AND TOOK THE PICTURE. THERE IS NOTHING
5 IMPROPER ABOUT THAT. I HAD PERMISSION FROM MR. DARR TO
6 INSPECT THE VEHICLE. IF HE WANTS TO BRING CRIMINAL
7 CHARGES AGAINST ME FOR BREAKING INTO THE SCHOOL VEHICLE
8 HE CAN DO THAT, BUT THAT HAS NOTHING TO DO WITH THIS
9 HEARING.

10 BY CHAIRMAN:

11 GENTLEMEN, THIS ISN'T NECESSARY. LET'S MOVE THIS
12 ALONG, PLEASE. STAY FOCUSED. WE'VE SEEN ALL OF THESE
13 DEPOSITIONS; WE'VE SEEN IT ALL.

14 CROSS EXAMINATION RESUMED BY MR. DARR:

15 Q. SO YOU WERE PRESENT ON THE SPARTANBURG HIGH SCHOOL
16 CAMPUS PRIOR TO YOUR DEPOSITION?

17 A. YES.

18 Q. AND THE DEPOSITION WAS TAKEN HERE IN THIS BUILDING?

19 A. YES.

20 Q. DID YOU GET A LETTER FROM THE ASSISTANT SUPERINTENDENT
21 TELLING YOU NOT TO BE PRESENT ON SCHOOL DISTRICT 7
22 PROPERTY? AS PART OF YOUR ADMINISTRATIVE LEAVE NOTICE.

23 A. YES.

24 Q. AND YOU LEFT THE SCHOOL ABOUT TWO O'CLOCK ON THAT
25 FRIDAY?

- 1 A. SOMEWHERE ALONG IN THERE, YEAH.
- 2 Q. YOU ARE SEEN ON THE DASH CAM VIDEO SAYING YOU LEFT AT
3 ONE O'CLOCK AND THEN LATER SAYING YOU LEFT AT TWELVE
4 O'CLOCK?
- 5 A. YES. I WAS FLUSTERED. IT WAS A STATE OF MADNESS.
- 6 Q. ARE YOU BLAMING SOME MECHANICAL CONDITION OF THE
7 SUBURBAN VEHICLE FOR EVERYTHING THAT'S BEEN DESCRIBED
8 ABOUT YOUR DRIVING AND YOUR BEHAVIOR THAT DAY?
- 9 A. NO.
- 10 Q. SO, WHAT WOULD YOU BLAME THEN?
- 11 A. THE STEERING PERHAPS HAD SOME TO DO WITH IT. ME NOT
12 KNOWING THE VEHICLE HAD SOME TO DO WITH IT. MY
13 SPEEDING MAY HAVE HAD SOME TO DO WITH IT. YOU KNOW.
14 BEING TIRED MAY HAVE HAD SOME TO DO WITH IT. I DON'T
15 KNOW. I DON'T KNOW.
- 16 Q. SO YOU WEREN'T VERY WELL PREPARED FOR THIS TRIP, WERE
17 YOU?
- 18 A. YES, I WAS.
- 19 Q. FOUR HOURS OF SLEEP IS PREPARED?
- 20 A. THAT'S PRETTY TYPICAL FOR ME.
- 21 Q. WHEN YOU TOLD THE POLICE OFFICER TO WRITE YOU A
22 SPEEDING TICKET WHEN YOU GOT TO THE WINDOW, HE DIDN'T
23 REACT WELL WITH THAT?
- 24 A. NO, SIR.
- 25 Q. AND HE ASKED YOU TO GET OUT AND DO A SOBRIETY TEST,

1 RIGHT?

2 A. YES, SIR.

3 Q. YOU DIDN'T KNOW AT THAT POINT, DID YOU, THAT MULTIPLE
4 PEOPLE HAD CALLED THE HIGHWAY PATROL TO REPORT YOUR
5 ERRATIC AND DANGEROUS DRIVING AND SPECULATING THAT YOU
6 WERE INTOXICATED, INCLUDING THE GOOSE CREEK POLICE
7 OFFICER, DID YOU?

8 A. RIGHT. I KNEW I WAS WITH THE GOOSE CREEK POLICE
9 OFFICER.

10 Q. THAT WASN'T MY QUESTION. I ASKED DID YOU KNOW THAT
11 MULTIPLE PEOPLE HAD REPORTED YOUR ERRATIC AND RECKLESS
12 DRIVING TO THE HIGHWAY PATROL?

13 A. NO, NO. HOW WOULD I?

14 Q. WHICH WOULD EXPLAIN POSSIBLY WHY HE WASN'T WILLING TO
15 JUST WRITE YOU A SPEEDING TICKET BUT MADE YOU TAKE A
16 SOBRIETY TEST, IS -

17 A. SURE.

18 Q. AND IF THAT TROOPER DID IN FACT GET FIRED, AND WE HAVE
19 NO WAY OF KNOWING THAT ONE WAY OR THE OTHER, BUT YOU'RE
20 NOT TELLING THIS BOARD THAT THAT HAS ANYTHING TO DO
21 WITH WHETHER OR NOT YOU WERE DRIVING RECKLESSLY,
22 SWERVING, GOING 90 MILES AN HOUR, RUNNING A RED LIGHT,
23 HITTING A MAILBOX OR HITTING THE CURB OR ANYTHING ELSE,
24 ARE YOU?

25 A. NO. STATING THE FACTS.

1 REDIRECT EXAMINATION BY MR. ROTHSTEIN:

2 Q. JUST BRIEFLY. MS. KISER, IF YOU'LL TURN TO THAT
3 EXHIBIT G IN THE BLACK NOTEBOOK, YOUR DRIVING RECORD.
4 HOW MANY POINTS DO YOU CURRENTLY HAVE ON YOUR DRIVER'S
5 LICENSE?

6 A. ZERO.

7 BY MR. ROTHSTEIN:

8 THANK YOU. NO FURTHER QUESTIONS. DOES THE BOARD
9 HAVE ANY QUESTIONS FOR MS. KISER?

10 BY CHAIRMAN:

11 NO QUESTIONS. BEFORE WE MOVE ANY FURTHER, YOUR
12 NEXT WITNESS, HOW MANY MORE DO YOU HAVE?

13 BY MR. ROTHSTEIN:

14 THEY ARE ALL FAIRLY SHORT.

15 BY CHAIRMAN:

16 FAIRLY SHORT TO YOU MAY NOT BE FAIRLY SHORT TO US.
17 WE WANT TO MAKE SURE THAT THEY'RE CUMULATIVE.

18 BY MR. ROTHSTEIN:

19 I CAN KEEP EACH WITNESS TO LESS THAN THREE
20 MINUTES, MR. CHAIRMAN.

21 I CALL ELAINE HEMBREE TO THE STAND.

22 ELAINE HEMBREE, BEING FIRST DULY SWORN,
23 TESTIFIED ON HER OATH AS FOLLOW:

24 DIRECT EXAMINATION BY MR. ROTHSTEIN: