

23094

ORIGINAL

VOLUME II OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED

Appeal from Lexington County

FEB 02 2017

Honorable Thomas A. Russo, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

FILIBERTO GARCIA CAMPOS,

APPELLANT

APPELLATE CASE NO. 2015-001293

RECORD ON APPEAL

DAVID ALEXANDER
Appellate Defender

ALAN WILSON
Attorney General

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

MARK FARTHING
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

DONALD V. MYERS
Solicitor, Eleventh Judicial Circuit

205 E. Main Street
Lexington, SC 29072
(803) 785-8352

PAGES 501-632

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED JUNE 1 – 3, 2015	1
OPENING STATEMENT BY MR. MCNAIR	90
OPENING STATEMENT BY MS. ZMROCZEK	97
TESTIMONY	
HUNTER REED	
Direct Examination by Ms. Mayes	102
Cross Examination by Ms. Zmroczek	120
Redirect Examination by Ms. Mayes	122
Recross Examination by Ms. Zmroczek	123
JOSHUA RYAN	
Direct Examination by Mr. McNair	124
Cross Examination by Ms. Zmroczek	129
Redirect Examination by Mr. McNair	130
Recross Examination by Ms. Zmroczek	130
DONNA REBECCA KELLY	
Direct Examination by Mr. McNair	131
Cross Examination by Ms. Zmroczek	138
Redirect Examination by Mr. McNair	140
MICHAEL GOODING	
Direct Examination by Ms. Mayes	142
Cross Examination by Ms. Zmroczek	220
Redirect Examination by Ms. Mayes	237
Recross Examination by Ms. Zmroczek	239
BRENDA MCLAIN	
Direct Examination by Mr. McNair	239
Cross Examination by Ms. Zmroczek	250
Redirect Examination by Mr. McNair	252
MELISSA JUERGENS	
Direct Examination by Ms. Mayes	253
Cross Examination by Ms. Zmroczek	261
Redirect Examination by Ms. Mayes	264

DENNIS ROLLINGS

Direct Examination by Mr. McNair	274
--	-----

MARY KAYSE

Direct Examination by Ms. Mayes	282
Cross Examination by Ms. Zmroczek.....	305
Redirect Examination by Ms. Mayes.....	316
Recross Examination by Ms. Zmroczek	318

DENISE TUCKER

Direct Examination by Mr. McNair.....	319
Cross Examination by Ms. Zmroczek.....	324

MICHAEL PHIPPS

Direct Examination by Mr. McNair.....	331
Cross Examination by Ms. Zmroczek.....	342

SHANA SORRELLS

Direct Examination by Ms. Mayes	344
Cross Examination by Ms. Zmroczek.....	350
Redirect Examination by Ms. Mayes.....	355

JEFFREY A. WELSH, M.D.

Direct Examination by Ms. Mayes	356
Cross Examination by Ms. Zmroczek.....	378
Redirect Examination by Ms. Mayes.....	381
Recross Examination by Ms. Zmroczek	383

SUSAN LUBEROFF, M.D.

Direct Examination by Ms. Mayes	396
Cross Examination by Ms. Zmroczek.....	420
Redirect Examination by Ms. Mayes.....	430
Recross Examination by Ms. Zmroczek	433

BILLY PATTERSON

Direct Examination by Ms. Zmroczek.....	456
Cross Examination by Mr. McNair.....	462
Redirect Examination by Ms. Zmroczek	464

ASHLI MITCHELL

Direct Examination by Ms. Zmroczek.....	465
Cross Examination by Ms. Mayes	467

TRACY ROACH

Direct Examination by Ms. Zmroczek.....	468
---	-----

OLIVIA WOODS	
Direct Examination by Ms. Zmroczek	470
Cross Examination by Ms. Mayes	475
Redirect Examination by Ms. Zmroczek	478
PATRICIA LUCAS	
Direct Examination by Ms. Zmroczek	480
Cross Examination by Ms. Mayes	485
Redirect Examination by Ms. Zmroczek	487
CHRISTOPHER WATKINS	
Direct Examination by Ms. Zmroczek	488
Cross Examination by Mr. McNair	501
Redirect Examination by Ms. Zmroczek	506
BETH HOLLIMAN	
Direct Examination by Ms. Zmroczek	508
Cross Examination by Ms. Mayes	509
FILIBERTO GARCIA	
Direct Examination by Ms. Zmroczek	513
Cross Examination by Ms. Mayes	535
Redirect Examination by Ms. Zmroczek	553
Recross Examination by Ms. Mayes	556
CLOSING ARGUMENT BY MS. ZMROCZEK	567
CLOSING ARGUMENT BY MS. MAYES	582
CHARGE OF THE LAW	595
VERDICT	608
SENTENCING	627
DEFENDANT'S MOTION IN LIMINIE-PHOTOGRAPHS	628
INDICTMENT	629
SENTENCE SHEET	631
CERTIFICATE OF COUNSEL	632

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBITS #2 - 3 (PHOTOGRAPHS), STATE'S EXHIBITS #9-43
(PHOTORAPHS), AND STATE'S EXHIBIT #73 (PHOTOGRAPH).**

CROSS-EXAMINATION BY MR. MCNAIR - CHRISTOPHER WATKINS 112

1 Mr. Garcia and Infant , or were there pictures of Ms. Roach
2 and Infant as well?

3 A It -- I -- I looked for pictures for both Mr. -- Mr.
4 Garcia and Infant and also Tracy Roach and Infant and
5 found there were only about four or five pictures in total
6 of Tracy Roach and -- and Infant together.

7 Q And that was a total of how many photos,
8 approximately? Between the ---

9 A Just -- just the ones from the -- well, I mean,
10 because there were thousands of pictures on the -- on the
11 computer. So of the ones that were taken from the Sanyo,
12 there were anywhere from 800 to 1,000.

13 Q Okay. Thank you, Mr. Watkins. Please answer any
14 questions that the state may have.

15 CROSS-EXAMINATION

16 BY MR. MCNAIR:

17 Q How you doing, Mr. Watkins?

18 A Good.

19 Q So all the pictures were taken of Mr. Garcia, which
20 would imply, I guess, Ms. Roach could've been taking those
21 pictures of her child, correct?

22 A There is no way for me to know that.

23 Q That's right. Now, on that Sanyo camera, the last
24 picture of Infant was dated April 13th, 2013, correct?

25 A Yes, sir.

CROSS-EXAMINATION BY MR. MCNAIR - CHRISTOPHER WATKINS 113

1 Q And that picture number was 987. And the way this
2 camera works is that when it takes pictures, they're
3 sequentially ordered, correct?

4 A That is -- that's true. Yes, sir.

5 Q Okay. And -- from 987, the next picture is 988. And
6 that is a picture of Infant -- Infant in a casket, dated
7 September 7th, 2013, correct?

8 A Which number did you read?

9 Q 988, the next photo ---

10 A Okay.

11 Q --- after 987, is dated September 7th, 2013?

12 A That's correct.

13 Q And that's the picture of Infant in a casket?

14 A That's correct.

15 Q So there's 4 1/2 months there where there were no
16 pictures?

17 A It appears so.

18 Q Okay. Now, regarding the computer, you mentioned
19 there was a search about traxodone [sic] in an infant on
20 October 1st, 2012, correct? And it was how long does
21 trazodone show up in a 2-month infant?

22 A Yes, sir. October ---

23 Q Okay.

24 A --- 1st, 2012.

25 Q And was -- was there also a search on that day that

CROSS-EXAMINATION BY MR. MCNAIR - CHRISTOPHER WATKINS 114

1 said if mother takes prescription drugs, can it show up in
2 a 2-month-old baby urine? Do you recall seeing that search
3 as well?

4 A Something to that effect.

5 Q Okay. All right... Now, when that search was done,
6 Infant was about 2 months old. Are you aware of that?

7 A I am.

8 Q Okay. So another 11 months transpired prior to her
9 death?

10 A (Nodded head up and down.)

11 Q Now, are you aware that trazodone was not one of the
12 drugs found in her system at her death?

13 A I am. I'm aware of that. Yes.

14 Q And are you aware that that computer was in the
15 bedroom where the defendant was known to stay?

16 A I don't know where the computer was found.

17 Q You don't know that it was found in the master
18 bedroom?

19 A I know it was found in the home that both defendants
20 lived in.

21 Q Okay. Now, anybody can log onto a computer, right?

22 A Sure.

23 Q Okay. And we don't know whether or not Mr. Garcia was
24 present or not, if -- if Ms. Roach did conduct that search,
25 do we?

CROSS-EXAMINATION BY MR. MCNAIR - CHRISTOPHER WATKINS 115

1 A When I -- when I spoke with Mr. Garcia, it -- it was
2 very apparent to me that his -- his English skills were
3 broken. And I even had him try to read some of -- some of
4 my notes, and he couldn't do it.

5 Q I'm not asking you whether he typed the search.

6 A Okay.

7 Q I'm asking you: There's no way for us to know if he
8 was present when that search was conducted?

9 A There's no way for me know that.

10 Q Are you aware if he -- if he typed in searches on his
11 phone in English?

12 A I'm not aware of that.

13 Q Did you review his Web history?

14 A The -- it doesn't show what the search -- what the
15 search term is on the Web history found on the smartphone.

16 Q Were those Web sites in English?

17 MS. ZMROCZEK: Your Honor, may we approach?

18 THE COURT: Yeah.

19 MR. MCNAIR: I'm not getting into the ---

20 MS. ZMROCZEK: Okay.

21 MR. MCNAIR: --- content.

22 MS. ZMROCZEK: Okay.

23 THE COURT: Just ---

24 MS. ZMROCZEK: That's -- okay.

25 THE COURT: Okay.

CROSS-EXAMINATION BY MR. MCNAIR - CHRISTOPHER WATKINS 116

1 MS. ZMROCZEK: That -- thank you.

2 Q Those Web sites were written in English, weren't they?

3 A It appeared some of them were and some of them were in
4 Spanish.

5 Q Okay. Are you aware that that -- those pills were in
6 the common area of the house, in the living room, in plain
7 view?

8 A I'd find -- I mean, I wasn't there. I ---

9 Q Okay. So you haven't reviewed the crime-scene photos?

10 A I have.

11 Q Okay. You don't recall seeing the pills that were in
12 the bag being in plain view in the living room?

13 A There was a bag in the -- in the living room that the
14 pills were found to be contained in. Yes.

15 Q Okay. And the -- the bottles were in the living room
16 and in the kitchen in plain view?

17 A There were.

18 Q Okay. So just because somebody conducted some
19 computer search, that doesn't tell us whether or not he was
20 aware of it or saw it or participated in it, does it?

21 A No.

22 Q Okay. Now, did you review or see any photos obtained
23 from Mr. Garcia's cell phone?

24 MS. ZMROCZEK: Objection, Your Honor.

25 MR. MCNAIR: I'm not ---

REDIRECT EXAMINATION BY MS. ZMROCZEK - CHRISTOPHER WATKINS 117

1 MS. ZMROCZEK: May we ---

2 MR. MCNAIR: --- getting into the ---

3 MS. ZMROCZEK: Okay.

4 THE COURT: All right. All right.

5 A There ---

6 Q Did you ---

7 A --- were -- there ---

8 Q --- review any photos obtained from Mr. Garcia's
9 phone?

10 A There were some photos in the report.

11 Q Okay. And did you see photos of Infant on the phone?

12 A I don't think so.

13 Q Okay. You don't recall seeing newborn photos?

14 A I don't recall.

15 Q You don't recall that the last photo of Infant on his
16 phone was November 24th, 2012?

17 A I don't recall.

18 Q Okay. That's all the questions I have.

19 MS. ZMROCZEK: I just have one follow-up question,
20 Your Honor.

21 THE COURT: That's fine.

22 REDIRECT EXAMINATION

23 BY MS. ZMROCZEK:

24 Q Mr. Watkins, is it your job to determine who was on
25 that computer or simply provide information for -- to --

REDIRECT EXAMINATION BY MS. ZMROCZEK - CHRISTOPHER WATKINS 118

1 for the jury to make their determination?

2 A My job is to find information and report the facts, as
3 -- as the -- as they are, as they exist.

4 Q Thank you. No further -- no further questions.

5 MR. MCNAIR: Nothing further, Your Honor.

6 THE COURT: All right. Thank you very much, sir. You
7 may ---

8 MS. ZMROCZEK: We ask ---

9 THE COURT: --- step down.

10 MS. ZMROCZEK: --- this witness be excused.

11 (Whereupon, the witness exited the witness stand.)

12 THE COURT: Any objection to this witness being
13 excused?

14 MR. MCNAIR: No objection, Your Honor.

15 THE COURT: All right. Thank you, sir. You're free
16 to go.

17 MS. ZMROCZEK: Your -- Your Honor, our last witness is
18 going to be lengthy and -- and -- and ---

19 THE COURT: All right.

20 MS. ZMROCZEK: --- we may need ---

21 THE COURT: We'll take a short break. (To the jury)
22 Folks, let's take a short break here. If you need
23 something from the -- refreshment-wise, let the bailiffs
24 know, and we'll get started back in just a few minutes,
25 okay? Please have no conversation about the case.

DIRECT EXAMINATION BY MS. ZMROCZEK - BETH HOLLIMAN 119

1 (Whereupon, the jury exited the courtroom at 3:04
2 p.m.)

3 THE COURT: All right. We'll be at ease, then, for a
4 few minutes.

5 (Off the record from 3:04 p.m. until 3:18 p.m.)

6 THE COURT: All right. Let's bring the jury in.

7 (Off the record briefly.)

8 (Whereupon, the jury entered the courtroom at 3:18
9 p.m.)

10 THE COURT: All right, folks. You may ---

11 MS. ZMROCZEK: Thank you.

12 THE COURT: --- call your next witness.

13 MS. ZMROCZEK: We call Beth Holliman.

14 (Whereupon, the witness came forward.)

15 BETH HOLLIMAN, having been first duly sworn,
16 testified as follows:

17 (Off the record briefly.)

18 DIRECT EXAMINATION

19 BY MS. ZMROCZEK:

20 Q Ms. Holliman, will you please tell the jury where
21 you're employed?

22 A I'm employed that Lexington County Sheriff's
23 Department as an evidence custodian.

24 Q Okay. As part of your job, do you receive evidence
25 from different cases involved in your -- with your agency?

CROSS-EXAMINATION BY MS. MAYES - BETH HOLLIMAN

120

1 A Yes, we do.

2 Q Okay. As part of this case, did you -- did you
3 receive several calendars in -- related to this case?

4 A We received sealed packages that were said to contain
5 personal business documents.

6 Q Okay. And were those personal business documents all
7 items that were located in and around the house?

8 A According to the reports, yes. They were located at
9 the residence.

10 Q And were they in English or in Spanish?

11 A Initially, I did not know what they were in. Upon
12 trial preparation we did determine that they were in
13 English.

14 Q Thank you. Please answer any questions the government
15 may have.

16 CROSS-EXAMINATION

17 BY MS. MAYES:

18 Q Do you have with you your documentation concerning
19 where the laptop was found?

20 A I believe I do. Yes.

21 Q Where was it found? That would be the eMachine
22 laptop.

23 A It was located in the master bedroom.

24 Q Nothing further.

25 MS. ZMROCZEK: I have nothing further, Your Honor.

1 THE COURT: All right. Thank you very much, ma'am.
2 You may step down.

3 (Whereupon, the witness exited the witness stand.)

4 MS. ZMROCZEK: And, Your Honor, at this time we'd
5 enter the stipulation.

6 THE COURT: All right. Ladies and gentlemen, there is
7 a -- a statement that was made by Ms. Roach that the
8 parties have stipulated to or -- and a stipulation is
9 simply an agreement. So the parties have agreed that this
10 statement is admissible. And so we'll -- what we're going
11 to do is, because the statement is in evidence, it can be
12 published to you. And so we're going to present that to
13 you now, the contents of that statement.

14 MS. ZMROCZEK: Thank you. Mr. Stancil, will you
15 please read verbatim, word for word, the -- the portions of
16 the statement.

17 MR. STANCIL: Yes, ma'am. (As read): "In the week
18 prior to Infants death, the defendant stated she would
19 get up and be on autopilot. She stated that she would feed
20 her children, but had stopped self-care, grooming, and
21 regular bathing. She was asked if, during this time, she
22 had concerns about her ability to care for her children.
23 And she replied, 'Not about their direct care.' And she
24 was concerned about her ability to care for herself.

25 "The night before Infants death, the defendant

1 stated she had been sleeping on the couch. She stated she
2 was not feeling particularly good on September 2nd, 2013.
3 So she spent the majority of the day napping on the couch.

4 "She reported that she fed Infant at noon and put her
5 in her crib. She stated that Infant was not crying at
6 that time.

7 "She stated that Infant was on a feeding scheduled to
8 be fed every three to four hours. The defendant stated she
9 last checked on Infant after the defendant ate lunch
10 around one or two that afternoon and saw that she was
11 asleep.

12 "She stated that Infants father and the couple's son
13 went out at -- at approximately three or four o'clock in
14 the afternoon. She reported that Infants father returned
15 around five or six that afternoon and the defendant was
16 still sleeping.

17 "She stated that she slept most of the day because she
18 had been drinking. She reported that Infants father
19 discovered Infants body at eight or nine that night.

20 "When he told the defendant that Infant had died, the
21 defendant stated that she thought, No. She's okay. She
22 can't be.

23 "She stated that the -- that they then called the
24 ambulance and followed them to the hospital, where Infant
25 was pronounced dead. She stated that she was not charged

1 for two weeks after Infants death. She stated she had
2 spoken to police, but thought it was part of normal
3 investigation into the sudden death of a child and not a
4 criminal investigation.

5 "The defendant was asked about the report that she had
6 missed several doctor's appointments, and she replied that
7 she missed the six-month checkup and had to cancel the one-
8 year checkup. She stated that Infant last saw the doctor
9 November of 2012. She stated that the reason for poor
10 follow-up -- follow-up was a lack of transportation and
11 anticipation that the family would be moving from the area
12 in the near future.

13 "She was asked about the reported ulcers that Infant
14 had at the time of her death. And the defendant responded
15 that she thought it was diaper rash. She stated that she
16 was treating that and believed it was yeast infection

17 "She was asked about the reported diagnosis of failure
18 to thrive. And she responded that she was unaware that
19 Infant had been called that.

20 "She was asked about the report that Infant had
21 psychiatric medications in her system at the time of her
22 death. And she responded that the medications must have
23 been there from birth.

24 "She stated that she did not breast-feed Infant and
25 stated that she had not given psychiatric medication to her

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 124

1 children. She asked -- she was asked about the statements
2 her son gave investigators about being giving -- given
3 sleeping pills. And she replied that he must have meant
4 his vitamins that he took at night."

5 THE COURT: All right.

6 MS. ZMROCZEK: Your Honor, we call Filiberto Garcia-
7 Campos.

8 THE COURT: All right. Mr. Garcia, if you'd please
9 come around, sir.

10 (Whereupon, the witness came forward.)

11 (Off the record briefly.)

12 FILIBERTO GARCIA, having been first duly sworn,
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MS. ZMROCZEK:

16 Q Filiberto, tell the jury how old you are.

17 A Thirty-five.

18 Q Do you understand and speak English?

19 A Yeah.

20 Q A lot or a little bit?

21 A Little bit.

22 Q Okay. Are you nervous? You okay?

23 A Yeah. I'm fine.

24 Q Okay. Make sure to keep your voice up. Where were
25 you born?

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 125

1 A Mexico.

2 Q What year?

3 A '80.

4 Q Okay. When did you come to the United States?

5 A I come to U.S.A. in 1997.

6 Q How did you come to the U.S.A.?

7 A Legally.

8 Q Illegally?

9 A Yeah.

10 Q Are you here illegally now?

11 A Yeah.

12 Q Why did you come to the United States illegally?

13 A I came for making more money, little more better.

14 Q Okay. How did you -- when you -- when you lived in
15 Mexico, with whom did you live?

16 A Excuse me?

17 Q Who did -- who did you live with?

18 A My mom and my sisters.

19 Q Okay. Where -- and where was your father?

20 A My father die.

21 Q Tell the jury how he died.

22 A My daddy die when I got 2 years old.

23 Q How many years?

24 A Two years.

25 Q Okay. And you said your mom and your sisters, you

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 126

1 lived with?

2 A Yeah.

3 Q Are they still there?

4 A Yeah.

5 Q Okay. Do you -- have you seen them?

6 A Unh-unh.

7 Q You have to say "yes" or "no."

8 A No.

9 Q Okay. Do you speak with them?

10 A Yeah.

11 Q How often do you speak with your family?

12 A For telephone.

13 Q How -- how many time -- how much time?

14 A One hour/two hours.

15 Q Okay. How -- how -- how frequently?

16 A Every week.

17 Q Every week?

18 A (Nodded head up and down.)

19 Q Okay. When you first came to the United States, where
20 did you go?

21 A South Carolina.

22 Q South Carolina?

23 A (Nodded head up and down.)

24 Q Where in South Carolina?

25 A York.

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 127

1 Q Okay. Why did you go to York?

2 A Because I got a one uncle that pay for me for come to
3 right here.

4 Q Okay. Come -- so -- and he paid who?

5 A They pay -- they pay for me come right here. Pay
6 1,700.

7 Q Okay. And -- and what did you do when you were in
8 York?

9 A Work.

10 Q What kind of work?

11 A I work in a nursery?

12 Q In what type -- what kind?

13 A Nursery.

14 THE INTERPRETER: In a nursery.

15 Q Oh. Oh. In a nursery?

16 A (Nodded head up and down.)

17 Q With plants?

18 A Yeah, with plants.

19 Q Okay. Sorry.

20 A My first job.

21 Q Okay. And how long did you live in York?

22 A Like five/six year.

23 Q Five or six years?

24 A (Nodded head up and down.)

25 Q When did you meet Tracy Roach?

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 128

1 A I meet Tracy Roach in 2001.

2 Q Tell the jury how you met her.

3 A I met her -- I cutting grass outside, my yard. So she
4 come -- she come all the time, like then I start -- and
5 then -- and she wanted me ---

6 THE COURT REPORTER: I ---

7 MS. ZMROCZEK: Okay.

8 THE COURT REPORTER: I'm sorry. I -- I can't
9 understand ---

10 MS. ZMROCZEK: Okay.

11 THE COURT REPORTER: --- the witness, Your Honor.

12 THE COURT: If -- if he needs to speak in Spanish and
13 then ---

14 MS. ZMROCZEK: Okay.

15 THE COURT: --- if you translate it ---

16 MS. ZMROCZEK: Yeah. Yeah. The -- if -- it -- it --
17 I know that -- that you want to speak in English. But the
18 court reporter is having a little hard time and the jury
19 might too. So you can go ahead and answer in Spanish and
20 then she'll translate it for you, okay? Okay.

21 Q So you were telling us -- telling the jury how you met
22 Tracy.

23 A I used to be -- I used to cut the yard in my home, and
24 then she would walk by daily. And one day she said hello.
25 And so this went on for a while. And then one day she came

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 129

1 by. She gave me her phone number and I started
2 communicating with her on the phone.

3 Q How long were you friends before you started dating?

4 A One year.

5 Q Okay. And did you ever live with her?

6 A No.

7 Q When was the first time you lived with her?

8 A In 2005.

9 Q In 2005?

10 A (Nodded head up and down.)

11 Q And do you have any children?

12 A No.

13 Q At that time you did not?

14 A No.

15 Q When did you have your first child?

16 A In 2006.

17 Q And tell the jury: Was that child with Tracy?

18 A Yes.

19 Q Okay. And boy or a girl?

20 A Boy. Boy.

21 Q Okay. Where did you live with -- what was -- what's
22 his name?

23 A C.G.

24 Q Okay. And where did you and C.G. and Tracy live?

25 A In Chester.

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 130

1 Q Okay. When did you move to Chester?

2 A In 2007.

3 Q Okay. What kind -- did you work when you lived in
4 Chester?

5 A No. In Chester I wasn't working.

6 Q Okay. When -- did you own any vehicles?

7 A Yes.

8 Q What vehicles did you own?

9 A A Beretta.

10 Q And what vehicles did Tracy own?

11 A One Mustang.

12 Q Okay. When did you buy your truck?

13 A The truck I bought in 2006.

14 Q Have you seen all of the pictures that -- that have
15 been put up of the truck?

16 A Yes.

17 Q When you bought it, did you put -- did you make any
18 changes to the rims or -- or dress it up?

19 A Yes.

20 Q What year was that?

21 A In the same year.

22 Q Okay. When you lived in Chester?

23 A Yes.

24 Q So that -- when you bought it is when you made the
25 modifications?

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 131

1 A Yes. That's when I bought the rims and the headlights
2 and everything.

3 Q Was that before or after Infant was born?

4 A It was a long time ago.

5 Q A long time before?

6 A Yes.

7 Q Okay. When did you buy the Tahoe?

8 A I bought it in 2012.

9 Q And why did you buy a -- an -- another car?

10 A I bought it for my family, for my children.

11 Q Who drove that car mostly?

12 A The mother of my children.

13 Q Okay. When did you move to West Columbia?

14 A I moved here to West Columbia in 2009.

15 Q Did you move -- who did you move with?

16 A With my -- with my son and his mother.

17 Q And do you remember when Tracy got pregnant with

18 Infant

20 Q Tell the jury: Did you know there were problems that
21 Infant was going to have?

22 A Yes.

23 Q How did you know about that?

24 A Because she went to get a checkup. And they told her
25 that the child was going to come out with problems.

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 132

1 Q Did you want to have a child with problems?

2 A Yes.

3 Q And -- and, of course, I meant: Did you want to keep
4 her?

5 A Yes. Because she was already on her way.

6 Q Did Tracy want to keep her?

7 A No.

8 Q What did you tell her when she said she didn't want to
9 keep her?

10 A I told her to have her that way.

11 Q Were you at the hospital when Infant was born?

12 A No. Because there was nobody to take care of my son.
13 I don't have family here. And I stayed with him.

14 Q You stayed with C.G. ?

15 A In -- yes. We only waited until they put her into the
16 room. And then we -- he and I went back.

17 Q Okay. Did Infant come home the next day?

18 A No. She was in the hospital.

19 Q For how long was she in the -- how long was she in the
20 hospital for?

21 A I don't recall very well. But I think it was about a
22 month.

23 Q Okay. Did you visit her in the hospital?

24 A Every day after I got out of work.

25 Q Every day after you got off work?

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 133

1 A Yes. Her mother waited for me to get out of work to
2 go see her.

3 Q What is this picture?

4 MS. ZMROCZEK: It's Defendant's 42, Your Honor.

5 A Of my daughter.

6 Q This what she looked like in the hospital?

7 A Yes.

8 Q And you've -- sorry. And you visited her every day?

9 A Yes.

10 Q Describe her -- describe your visits to the jury in
11 the hospital.

12 A How?

13 Q Were you able to hold her and feed her?

14 A Oh. Yes. I would go in right there where they have
15 all the babies. I would hold her in my arms. And then I
16 would give her the bottle. And the doctors were teaching
17 me how to feed her.

18 Q And was Tracy with you?

19 A Yes. But she would leave and they would -- and I
20 would stay there by myself.

21 Q Were you working when Infant was born?

22 A I don't remember.

23 Q Were you working second shift or first shift?

24 A I think it was the first shift.

25 Q Okay. And did a lot of people at the hospital speak

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 134

1 English or Spanish?

2 A In English.

3 Q Were there people that spoke Spanish?

4 A No. No. Not that I would notice. I didn't see any.

5 Q All right. Describe -- describe what she looked like
6 in the hospital. And do you know how much she weighed when
7 she was born?

8 A No.

9 Q Was she big or little?

10 A Little.

11 Q Did she ever get big?

12 A No.

13 Q Did that worry you that she didn't get big?

14 A Yes.

15 Q What did you do about that?

16 A Well, I would tell her mother to -- to feed her well.

17 Q Okay. Did you know if Infant was being fed?

18 A Yes.

19 Q Okay. How did you know?

20 A Because I was asking her mother.

21 Q And -- and what was her mother telling you?

22 A That she was feeding her.

23 Q Okay. Did -- were you out of work for a period of
24 time?

25 A Yes. When they laid me off.

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 135

1 Q What did you do during that period of time?

2 A Okay. Well, I -- because I don't really like to be
3 idle without doing anything, I would go outside and I'd do
4 things: working on the car or work on the yards or
5 something like that.

6 Q Okay. Did you ever have any interaction with Infant
7 when you were not working?

8 A Yes.

9 Q And was she growing at -- was she big or little then?

10 A Little, the same.

11 Q What was your job in the family?

12 A Working and bringing money home to pay the bills.

13 Q Did you have a bank account?

14 A No.

15 Q Who handled or managed all -- what did you do with the
16 money when you went to work -- when you brought it home
17 from work?

18 A I would give it to the mother of my children.

19 Q Okay. And -- and -- and when we say the mother of
20 your children, are you talking about Tracy Roach?

21 A Yes.

22 Q And what was Tracy's role in the family?

23 A Her role was to take care of the children.

24 Q If she -- do you think that she was doing that?

25 A Yes.

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 136

1 Q What made you think she was doing that?

2 A Because I would ask her.

3 Q Did you ever see people at your house?

4 A No.

5 Q Did people come to your house to help Infant after --
6 after she came home from the hospital?

7 A No.

8 Q Do you ever remember going to the doctor's office with
9 Tracy?

10 A No.

11 Q Okay. Do you ever remember seeing people with DSS
12 come to the house?

13 A Yes.

14 Q Did you understand why they were there?

15 A Yes. A little.

16 Q Okay. Who spoke with the people that worked with DSS
17 when they came to your house?

18 A Tracy.

19 Q Okay. Who did the grocery shopping?

20 A Ella -- I'm sorry. She.

21 Q And was there ever -- ever a time that you started to
22 do the grocery shopping?

23 A Yes. Toward the end I did.

24 Q And -- and when say "towards the end," what -- what do
25 you mean by that?

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 137

1 A When she started to be kind of weird.

2 Q When she started to be kind of weird?

3 A Yes.

4 Q Who -- who started to be kind of weird?

5 A She.

6 Q Is she Tracy?

7 A Yes.

8 Q Okay. And tell the jury what you mean when you say

9 she started to become weird.

10 A Weird is that she wasn't like she was before.

11 Q How -- how long before Infants death did that
12 happen?

13 A For about two months/one month.

14 Q Okay. Did you ever feel like she wasn't able to take
15 care of the children?

16 A No.

17 Q Did you do the dishes in the house?

18 A Yeah. Because she would fill it up and she wasn't
19 cleaning the house anymore. So I would get home and I
20 would come home and I'd see it, and I would wash them
21 because I didn't want it to look so full anymore.

22 Q Did you ever wash bottles?

23 A Yes.

24 Q Every day?

25 A No. Every now and then, when I saw that they were

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 138

1 accumulating, like four or five of them, then I would wash
2 them.

3 Q Did you think Infant was not getting food?

4 A No. What was the question?

5 Q That -- that was the question.

6 Filiberto -- State's 9 -- did you do this to your
7 child?

8 A No...

9 Q Did you know that your child looked like this?

10 A No.

11 Q Tell the jurors how that's possible.

12 A How?

13 Q Tell them -- tell the jury if you ever saw her look
14 like that.

15 A No.

16 Q Did you ever hold her?

17 A Yes.

18 Q Did you ever change her diaper?

19 A Sometimes.

20 Q Did you ever play with her?

21 A Yes.

22 Q Did Tracy ever play with her?

23 A Not a lot.

24 Q Did things change -- you said towards the end ---

25 (Off the record briefly.)

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 139

1 Q Towards the end before you were arrested and Infant
2 died, what kind of -- what kind of -- how often did you
3 hold Infant ?

4 A Every time I saw her.

5 Q Was there ever a time that you were not allowed to see
6 her?

7 A No.

8 Q Let's talk about the weekend of Labor Day weekend. Do
9 you remember that weekend?

10 A Yes.

11 Q Okay. Do you remember Monday on Labor Day?

12 A Yeah.

13 Q What happened on that Monday?

14 A That's the day that she died.

15 Q Did -- how do you know she had died?

16 A Because that day I couldn't hear any noises or sounds
17 or anything.

18 Q How did you normally hear noises or sounds?

19 A So she had a monitor that was connected to the wall.

20 Q And where was the monitor -- who -- who had control of
21 that monitor?

22 A Her mother.

23 Q Did Tracy sleep on the couch?

24 A Yes.

25 Q Why?

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 140

1 A To better hear the -- our daughter.

2 Q And you said you did not hear her?

3 A I didn't hear the question.

4 Q Sorry. You did not hear her on Monday?

5 A No.

6 Q And what did you do?

7 A And -- and that's when I went to look. It was in the
8 evening that I went to check. And -- and then I found her
9 dead.

10 Q What did -- did you have a cell phone?

11 A No.

12 Q Did you have one or -- or did it just not have
13 minutes?

14 A I had a telephone, but I didn't have minutes.

15 Q Who -- who usually put the minutes on the phone?

16 A Tracy.

17 Q Did you know how to do that?

18 A No.

19 Q Did you know how to use the computer?

20 A No.

21 Q Who used that computer?

22 A Tracy.

23 Q When you went in to Infants room on that Monday,
24 what's the next thing you did?

25 A I went in and I saw her and I saw that she was upside-

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 141

1 down ---

2 THE INTERPRETER: I'm -- I'm sorry.

3 A --- upside-up. And I got closer and I saw that she
4 was dead. And I ran out to the store to call 9 -- 911.

5 Q Did you go to the first store?

6 A Yes.

7 MS. ZMROCZEK: Your Honor, at this time we would like
8 to publish and put into evidence Defendant's 11, which is
9 the 911 call.

10 THE COURT: If there's ---

11 MS. MAYES: There's a ---

12 THE COURT: --- no objection.

13 MS. MAYES: --- stipulation as to that, Your Honor.

14 THE COURT: All right. Ladies and gentlemen, again,
15 this is a recording of a 911 call. The state and the --
16 the defense have stipulated to its admissibility. In other
17 words, they've agreed. So that -- we're not going to have
18 to go through witnesses to qualify that -- that -- that
19 piece of evidence. So it -- it is in evidence, and we're
20 going to play it for you at this time.

21 (Whereupon, Defendant's Exhibit 11, previously marked
22 for identification, was entered into evidence.)

23 (Whereupon, the recording was replayed in the
24 courtroom in the presence of the jury.)

25 THE INTERPRETER: "So hello. How are you? What's

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 142

1 going on?"

2 "I think that my daughter is -- is dead because she's
3 very sick."

4 "You think she's dead?"

5 "Yes. She's very dry."

6 "Is -- is she there with you at the store?"

7 "No. She's with her mother right now."

8 "Can you talk to her mother and to find out if she's
9 breathing or not?"

10 "No. She's not breathing anymore. She's already
11 dry."

12 "I have an address for you home. That's Edmund
13 Highway?"

14 "Yes. Yes."

15 "And what is your name?"

16 "Filiberto Garcia."

17 "What is your name?"

18 "Garcia -- Filiberto."

19 "And is there a -- a phone number where I can call you
20 in case I need to get in touch with you?"

21 "No. Because I don't have a phone right now."

22 "Okay. I'm going to send the ambulance to your home.
23 right now."

24 "Thank you very much. I appreciate it."

25 Q Was that you on the 911 call?

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 143

1 A Yes.

2 Q What happened next?

3 A I went back to the home.

4 Q And then what happened?

5 A And I waited for the ambulance and I picked her up.

6 And I waited for them to arrive to give them -- give her to
7 them.

8 Q Where was C.G. ?

9 A He was with us.

10 Q And where was Tracy?

11 A On the sofa.

12 Q Had you been fighting with Tracy that weekend?

13 A Yes.

14 Q Tell the jury why.

15 A For the same reason that she wouldn't let me see the
16 -- the child, the -- my daughter.

17 Q When would -- when -- when would she not let you see
18 your daughter?

19 A It was before that happened.

20 Q Okay. How long before that happened?

21 A Two or three days.

22 Q Why wouldn't she let you see her?

23 A She would feed her, and then she put her to bed.

24 Q And did you ask to see her?

25 A Yes.

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 144

1 Q And did she let you?

2 A No. She said that she needed to sleep.

3 Q Could you hear her on the monitor?

4 A Before she died, yes.

5 Q Okay. Do you drink beer?

6 A Yes. But every now and then.

7 Q Does Tracy drink beer?

8 A Yes. She started ---

9 Q When?

10 A --- she started.

11 Before -- before my child died. I noticed that I
12 would drink beer and I had beer at home. And then I
13 started noticing that there were less beer; that it was --
14 we were running out of beer.

15 Q Did she send you text messages to buy beer?

16 A Yes. She would send me texts.

17 Q Did you -- did you buy the beer?

18 A No. I wouldn't buy her beer.

19 Q And then what happened when you didn't buy her beer?

20 A Well, she would get mad. And that's when we would
21 start fighting. So I would just leave the house so that I
22 -- not to continue arguing.

23 Q How long before Infant died did this start happening?

24 A For about a month.

25 Q But you were still able to see Infant , except for

DIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 145

1 those few days before?

2 A Yes.

3 Q Did you give Infant any medicine or -- or pills?

4 A No. Never.

5 Q Did you know that Tracy had pills?

6 A I knew that she had -- that Tracy had pills and that
7 she took medication, but I didn't know what they were. And
8 I knew that she had a bag and she had a lot of pills in
9 there, but I didn't know what kind of medications they
10 were.

11 Q Did you think that she was giving that medicine to
12 Infant ?

13 A No.

14 Q What would you have done if you knew?

15 A I would've told somebody.

16 Q What would you . . .

17 MS. ZMROCZEK: Beg the Court's indulgence.

18 THE COURT: Yes, ma'am.

19 Q When was the last time you saw Infant before Monday?

20 A On Friday.

21 Q Did she look sick?

22 A No.

23 Q What was she wearing?

24 A Some clothing that was all closed up.

25 Q Did you see her without her clothing?

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 146

1 A No. With clothing.

2 Q If you saw her without clothing and you saw her ribs,
3 what would you have done?

4 A I would've taken her to emergency.

5 Q Did you ever take her to the emergency?

6 A Yes. Once.

7 Q When she was -- was that a -- was that when she was
8 just born?

9 A Yes.

10 Q And why did you take her to the emergency then?

11 A Because her mother told me that she was sick. So we
12 -- we loaded her up and we took her immediately.

13 Q Did you -- what kind of things did you buy for
14 Infant ?

15 A I bought her chair, her bed, her clothes.

16 Q Did you ever know that Tracy was hurting Infant ?

17 A No.

18 Q Did you let Tracy hurt Infant ?

19 A No.

20 Q Did you intend for Infant to die?

21 A No. I love her.

22 Q Please answer any questions the government has.

23 CROSS-EXAMINATION

24 BY MS. MAYES:

25 Q Mr. Garcia, you and your wife and C.G. and Infant

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 147

1 were living in that same house there out on Edmund Highway
2 from the time she was pregnant with Infant until was
3 Infant was born, all the way up until the day she died,
4 correct?

5 A No.

6 Q When Infant came home from the hospital after being
7 born, she came home to that same home that she died in,
8 correct?

9 A Oh. Yes.

10 Q And, Mr. Garcia, you just testified that the last two
11 to three days of Infants life, when you were off of work
12 and in that same house with Infant, that the reason that
13 you did not go check on your child is because Tracy
14 wouldn't let you? Is that what you said?

15 A Yes.

16 Q Mr. Garcia, the night that your daughter died and you
17 came home from the hospital, this officer, this detective,
18 was at your house, talking to you in the yard.

19 A Yes.

20 Q And you told this detective that you did not check on
21 the baby when you woke up because her room was on the other
22 side of the home. Do you remember that?

23 A Yes.

24 Q Okay. I just wanted to get that straight. So you
25 talked to the detective that night, verbally, and you put a

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 148

1 statement in writing -- it's the statement in evidence --
2 that not one time have you ever said until today that you
3 didn't check on Infant because your wife wouldn't let you,
4 correct?

5 A I'm -- I'm getting confused with -- it's just that ---

6 Q Okay. Well, let me ask this: You told this
7 detective, Detective Gooding, that you woke up around one,
8 you made food, and went back to bed.

9 A Yes.

10 Q And you said that your wife, Tracy, had been sick the
11 last couple of days?

12 A Yes.

13 Q And had been sleeping on the couch, correct?

14 A Yes.

15 Q So your wife is sick and sleeping on the couch?

16 A Yes.

17 Q And you're home that entire weekend?

18 A Yes.

19 Q All right. Now, let's take a look at exactly what
20 went on that weekend. And first of all, just to clarify

21 ---

22 (Whereupon, the interpreter and the defendant
23 conferred.)

24 Q --- you are here in the courtroom ---

25 THE INTERPRETER: He wants a drink of water.

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 149

1 MS. MAYES: Okay.

2 THE COURT: Yes.

3 MS. MAYES: Okay?

4 THE INTERPRETER: Okay.

5 Q You were here in the courtroom when Ms. McLain from
6 your workplace, EMR, came and testified, correct?

7 A Yes.

8 Q And there are certain time sheets in evidence about
9 the days that you worked in the summer of 2013. All right.
10 So based on that information, in July you're off multiple
11 days after July 4th, and then multiple days at the end of
12 July. In fact, from July 28th all the way through the 31st
13 and Thursday, Friday, Saturday into August 4th, you had a
14 weeklong vacation?

15 All right. Now, in August you're off every single
16 weekend. And then, August 31st -- I want to talk about
17 that, because it's the weekend that is at issue here.

18 All right. You got off on Friday, August 30th, at 2
19 p.m.

20 MS. ZMROCZEK: Your Honor, he's not -- the -- these
21 aren't questions. And so if -- if -- if -- if ---

22 THE COURT: Well ---

23 MS. ZMROCZEK: --- we can get them in the form of a

24 ---

25 THE COURT: I -- I ---

CROSS-EXAMINATION BY, MS. MAYES - FILIBERTO GARCIA 150

1 MS. ZMROCZEK: --- question just so ---

2 THE COURT: Well, I ---

3 MS. ZMROCZEK: --- he can answer.

4 THE COURT: Here's the thing. If -- if you could just
5 ask somebody in English throughout -- she's having to break
6 it in pieces for the interpreter.

7 MS. ZMROCZEK: Okay.

8 Q You recall getting off on -- on Friday at 2:30 p.m. on
9 August 30th?

10 A I don't remember.

11 Q Okay. I'll show you the time card, State's Exhibit
12 67. And this is you, Filiberto Garcia-Campos. Your clock-
13 out time is 1431, which is 2:31 p.m. Correct?

14 A Yes.

15 Q Okay. So you get off work at 2:30, and you come home
16 to the house, correct?

17 A Yes.

18 Q Okay. And then, you're home that Friday night,
19 Saturday, Sunday, and Monday, correct?

20 A Yes. Yes.

21 Q During all of this time, the month of July, the month
22 of August, into the day that Infant died, you had contact
23 with her, didn't you?

24 A Yes.

25 Q Now, you and Tracy had been together about 12 years;

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 151

1 isn't that right?

2 A Yes.

3 Q And you had both shared responsibilities for C.G. ,
4 right?

5 A Yes.

6 Q So you -- you know what a baby needs in terms of food
7 and how often they need to be fed, don't you?

8 A Yes. But it's different between the boy and a girl.

9 Q All right. So your testimony is that you can't feed a
10 girl?

11 A No. That's not it.

12 Q So you can feed Infant

13 THE INTERPRETER: Did you say you can?

14 MS. MAYES: You can.

15 A Yes. Yes. But her mother always had the time. She's
16 the one that gave her food.

17 MS. MAYES: I'm sorry, Ms. Translator.

18 THE INTERPRETER: I'm sorry.

19 MS. MAYES: I could not hear your response.

20 A Yes. But her mother had time, and she's the one that
21 always gave her, her food.

22 Q Okay. So her mother had time and always gave her, her
23 food. Mr. Campos, you get off from work, when you do work,
24 every day at 2:30?

25 A Yes. But I didn't like -- I have never liked sitting

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 152

1 at home, just watching TV. So I had time, so I always
2 wanted to be doing something. And that's why I would
3 always get out of the house and I would spend my time doing
4 something -- playing with my child or doing something else.

5 Q All right. Playing with your -- your child C.G. ?

6 A Yes.

7 Q So you couldn't be bothered to feed your daughter?

8 A Yes. I would feed her every now and then. But the
9 responsibility was of her mother. That's why I wouldn't
10 let her work: so that she would be home, taking care of
11 the child.

12 Q Mr. Campos, when you're home, it's your responsibility
13 as well to feed your daughter. Do you agree with that?

14 A No. Because in our country, the one that takes care
15 of the daughter is the mother, not the father.

16 Q You're not in your country, Mr. Campos. You are in
17 the United States of America. You are in Lexington County.
18 You cannot feed your daughter, yes or no?

19 A I'm not really familiar with the laws of the United
20 States. Do you understand me? I am illegal. I don't
21 know.

22 Q And you're off every weekend in the month of August
23 when your daughter is starving to death, aren't you?

24 A Yes. Yes. But I thought that my daughter was taken
25 care -- that my wife was taking care of my daughter, of my

1 girl.

2 Q You have to feed your daughter every three hours. And
3 you're living in the same house. And it's a single-wide
4 mobile home, correct?

5 A Yes. But it's her mother that's at home all day long.
6 And she's the one that's -- that has to feed her and every
7 how often. And I don't know when she gave her, her -- her
8 meal. What I did was work and provide for paying the bills
9 and all of that.

10 Q And when you're home all day and you don't hear a
11 sound from your child day after day after day, it's not
12 your job, right?

13 A How? I beg your pardon?

14 Q It's not your job to feed your daughter, is it?

15 A No. It's the mother's.

16 Q And just to clarify exactly what was going on in that
17 house, you were getting almost \$700 a month for your
18 daughter?

19 A Yes. But I never touched that money.

20 Q And you're getting \$500 a month in food stamps?

21 A (No audible response.)

22 Q Correct?

23 A Yes. But that was for the children, for them. I -- I
24 didn't touch that money.

25 MS. MAYES: Beg the Court's indulgence?

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 154

1 THE COURT: Yes, ma'am.

2 (Whereupon, Ms. Mayes and the court reporter
3 conferred.)

4 Q Mr. Campos, you say you didn't touch that money. An
5 -- an August purchase by your family for \$258 and 181 items
6 ---

7 A But who made that purchase? She did.

8 Q She may have made the purchase. You're saying you
9 didn't eat the food: the hamburger buns? the hotdog buns?

10 A No. I don't eat American food. I only eat Mexican
11 food.

12 Q Tortilla crusted jalapeno spear? La Costeno pintos?

13 A Well, every now and then, she would buy me some
14 things. But I did not -- I would always buy my food
15 separately. I'd go to the Mexican store and buy Mexican
16 food.

17 Q Tomatillos and jalapenos?

18 A (No audible response.)

19 Q Now, let's talk about what happened on September 2nd,
20 the day that Infant died. On that date, as you told the
21 officer, you got up around one. Why were you waking up at
22 one?

23 A Because that's when I felt hungry and I got up to fix
24 something to eat.

25 Q Okay. What were you doing before one?

1 A I was sleeping.

2 Q Okay. And in fact, that whole weekend how much Tecate
3 and Budweiser did you and Tracy drink?

4 A I did not drink with her.

5 Q Who drank the three cartons of Tecate?

6 A Those were mine, but I bought them on Saturday.

7 Q Okay. Well, let's start there. I'm going to show you
8 the two pictures, State's Exhibit 25 and 34. Okay.

9 There's a carton of -- an empty carton of Tecate here, an
10 empty carton of Tecate here, and an empty carton of Tecate
11 on top of the empty carton of the 24-pack of Budweiser. So
12 the Tecate is yours and the Budweiser is Tracy's?

13 A Yes. But -- yeah. But those cartons had been there
14 for a while. It's just that she didn't clean the house.
15 She wouldn't throw the -- the trash away. I was the one
16 that was throwing the trash away.

17 Q So the carton -- well, first of all, the Budweiser was
18 purchased on Saturday.

19 A I didn't buy it.

20 Q All right. So the receipt from Food Lion on Saturday
21 at seven o'clock at night, 7:24 p.m., that was Tracy?

22 A I think so. Yes.

23 Q Okay. So Tracy went and bought the 24-pack of
24 Budweiser and bought the Tecate. And both of that happened
25 on Saturday?

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 156

1 A I think -- let me -- wait. Let ---

2 Q Okay.

3 A --- me -- let me recall. It's just that it's been so
4 long ago. I'm not -- I don't recall exactly.

5 Q Okay. So when Tracy went and bought that 24-pack of
6 Budweiser at 7:24 on Saturday night, Infant was there with
7 you, wasn't she?

8 A Yes. She was sleeping.

9 Q Okay. And Infant had a car seat for a car, didn't
10 she?

11 A Yes.

12 Q And she had a bath that was in your room in the master
13 bedroom, correct?

14 A Yes. That's where we bathed the children.

15 Q Where we bathed the children?

16 A What?

17 Q You said we bathed the children, correct?

18 A No. She bathed the girl, the -- my daughter. She was
19 the one who bathe her.

20 Q You can't give her a bath or change her degraded
21 diaper?

22 A (No audible response.)

23 Q Yes or no?

24 A She was the one that changed her. She never told me
25 that the diaper was disintegrating or anything.

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 157

1 Q But you couldn't be bothered to check?

2 A Because -- because we were always fighting over the
3 same things. She always said that she wanted to keep the
4 baby in her bedroom, and she wouldn't let me see her after
5 that.

6 Q Even when you're home alone with her?

7 A Yes.

8 Q Now, I want to take you -- give you a chance to take a
9 look at these photos. This is going to be State's Exhibit
10 77, State's Exhibit 75, and State's Exhibit 76. Do you
11 recognize where these photos were taken?

12 A Yes.

13 Q All right. That's your house, correct?

14 A Yes.

15 MS. MAYES: This would be State's 75, 76, and 77 for
16 evidence.

17 THE COURT: Any objection?

18 MS. ZMROCZEK: I -- I haven't seen them, Your Honor.

19 (Whereupon, Ms. Zmroczek and Ms. Mayes conferred.)

20 MS. ZMROCZEK: No objection.

21 THE COURT: Without objection, those are in evidence.

22 (Whereupon, State's Exhibits 75, 76, and 77 were
23 entered into evidence.)

24 Q Now, 75 is a picture of Infants baby seat, right?

25 A Yes.

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 158

1 Q 77 is her carrier?

2 A Yes.

3 Q That -- in the living room, correct?

4 A Yes.

5 Q And 76 is what? Tell us what that is.

6 A That's the speaker for the monitor.

7 Q It's the baby monitor and unused bottles?

8 A Yes. But those bottles, she never use them because
9 she couldn't latch onto those bottles.

10 Q And where is this a picture -- what part of the house
11 is this a picture of?

12 A It's inside her bed -- her bedroom.

13 Q Inside whose bedroom?

14 A Infants bedroom.

15 Q Now, did I understand you to testify earlier today
16 that you don't remember seeing anyone come to your home;
17 you don't remember seeing Melissa Juergens from Easter
18 Seals at your home when you came home from work on December
19 11th, 2012?

20 THE INTERPRETER: What's the date? I'm sorry.

21 MS. MAYES: December 11th.

22 A I don't remember the day, but I do remember seeing
23 her.

24 Q Okay. And I believe your testimony earlier today is
25 that you didn't remember taking Infant to Brookland

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 159

1 Pediatrics when she got her last checkup -- the last weight
2 check?

3 A Her mother took her.

4 Q Mr. Campos, you weren't working that day. You're --
5 you did not work that day. And the reason you didn't work
6 that day was so that you could go that appointment with
7 her, correct?

8 A I don't remember that.

9 Q Okay. So you're not saying it didn't happen; you're
10 just saying you don't remember?

11 A Yes. I don't remember. Yes. She's the one that --
12 that had the notes on -- on the dates. But that's why I
13 don't remember.

14 Q Now, you testified earlier that you are illegal.

15 A Yes. I am illegal.

16 Q And in fact, all of the cards that you have, they're
17 all fake, aren't they?

18 THE INTERPRETER: Excuse me. Can you repeat the
19 statement. All of the ---

20 MS. MAYES: Yes.

21 THE INTERPRETER: --- cards?

22 MS. MAYES: Yes. His ID cards.

23 A Yes. I got them from the Mexican store. I didn't
24 know that they were fake.

25 Q All right. I want to show you State's Exhibit 74.

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 160

1 A This is from Mexico. This is the Padrigo one.

2 Q All right. The card that you have that says South
3 Carolina Driver's -- South Carolina ID" is fake, isn't it?

4 A The blue one?

5 Q The one that says "South Carolina ID"?

6 A Which one is that one?

7 Q What about the one that says "South Carolina Permanent
8 Resident"?

9 A I don't know. Can you show it to me?

10 Q Well, first of all, the black wallet is yours,
11 correct?

12 A Yes.

13 Q And the black wallet that had \$400 in it on the day
14 you were arrested was yours?

15 A Yes.

16 Q Now, if you look here at State's Exhibit 45, there's a
17 card that says "South Carolina ID."

18 A This one?

19 Q That one. You bought that at the Mexican store,
20 didn't you?

21 A Yeah.

22 Q You didn't -- you didn't buy that -- you didn't go to
23 the highway department and pay a fee and get that like
24 everyone else?

25 A No.

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 161

1 Q And you have a conviction for a criminal offense in
2 2008, which is providing false information to police,
3 correct?

4 A Yes. Yes. Because I'm illegal.

5 Q And for the year 2012, you filed taxes and your salary
6 was \$38,000 a year, correct?

7 A Yes.

8 Q And that year, when you filed taxes, you got over
9 \$6,000 in a tax return from the government, correct?

10 A Yes.

11 Q Here's a copy of that tax return, State's Exhibit 12
12 [sic]. And on this tax return, you claimed C.G. and
13 Infant as dependents, right?

14 A Yes.

15 Q And you got \$1,000 back for each of those children,
16 didn't you?

17 A For each one of them or for all of them?

18 Q For each one.

19 A Yes.

20 Q Correct.

21 A Correct.

22 Q And then, in addition to C.G. and Infant, who did
23 you claim?

24 A My niece and my nephew.

25 Q Your niece and your nephew? You mean Child 1 and Child 2

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 162

1 A Yes.

2 Q Are they real, Mr. Campos? Do they actually exist?

3 A Yes, they exist.

4 Q They exist, but they have I-10 numbers, which means
5 they're not citizens, are they?

6 A No. But when I went to get my taxes prepared, they
7 told me that I could include nieces and nephews were under
8 the age of 18.

9 Q Mr. Campos, those two children never lived with you on
10 Edmond Highway, correct?

11 A No. But why didn't they tell me that? They never
12 said that I couldn't claim them.

13 Q Nobody told you, you couldn't claim two dependents who
14 don't even live with you, and you -- you got \$1,000 back
15 for those two children, who weren't even your dependents?

16 A So then, why did they accept the taxes?

17 Q Because you lied on the taxes, Mr. Campos; isn't that
18 correct?

19 A No. I didn't lie. They accepted those papers from my
20 niece and nephew. They accepted them.

21 Q Mr. Campos, on 9/2, on September 2nd, the day that
22 Infant died, you went to the store. You went to Food
23 Lion, and you bought food. Do you remember that?

24 A I -- what -- what kind of food to see if I remember?

25 Q Okay. I'm going to show you the receipt for Food

CROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 163

1 Lion. And on September 2nd, at 3:18 in the afternoon,
2 around the time you told this officer you had gone to get
3 something and then you came back, you went to Food Lion and
4 got Juanita's Menudito, Little Beef Franks, grape soda,
5 cola, and fruit punch. And here's the receipt.

6 A Yes. This I did buy.

7 Q Okay. And then you came back home, where you're wife
8 was sick on the couch, and you made food in the kitchen,
9 right?

10 A I don't remember that.

11 Q And no one checked on Infant until 9:30 at night?

12 THE INTERPRETER: Did you say 9:30 at night?

13 MS. MAYES: Nine-thirty at night.

14 A What date?

15 Q The day she died.

16 A Yes. That's the time when I went to see her.

17 Q Mr. Campos, isn't it true that it was C.G. who told
18 you to go check on Infant, because he had not heard her
19 make a sound all day long?

20 MS. ZMROCZEK: Objection, Your Honor.

21 THE COURT: All right. Hold on. What's the
22 objection?

23 MS. ZMROCZEK: I -- I can't -- I haven't been able to
24 cross-examine C.G. on what he did or didn't say. It's
25 hearsay.

REDIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 164

1 MS. MAYES: I'll rephrase it.

2 THE COURT: All right.

3 Q C.G. knew that somebody needed to check on Infant ,
4 didn't he?

5 A No. He didn't say anything to me.

6 Q But you couldn't be bothered to check on her until
7 9:30, when she was laying in bed with pressure sores in the
8 same position she'd been in for days? Yes or no?

9 A No. Because the mother, she -- she didn't know -- how
10 can I say it? She told me that -- she told me that she was
11 fine; that she was sleeping, not to wake her up.

12 Q Not to wake her up for a week or two weeks or an
13 entire month?

14 A No. I don't know, because that was her job.

15 Q That was her job and not yours?

16 A Yes. It was hers.

17 Q Nothing further.

18 THE COURT: Redirect?

19 REDIRECT EXAMINATION

20 BY MS. ZMROCZEK:

21 Q Filiberto, was your wife sick or crazy?

22 A I think that she was crazy.

23 Q Did you know it at the time?

24 A No. Until those last months. That's when -- that's
25 when she she started with all of that. That's when it

REDIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 165

1 started happening.

2 Q Right before that -- right before Infant died?

3 A Yes.

4 Q Did you use that fake ID to buy medicine?

5 A No.

6 Q Did you use that tax money to buy the medicine that
7 poisoned your daughter?

8 A No.

9 Q What will happened to you, regardless of whether
10 you're convicted or not?

11 MR. MCNAIR: Objection.

12 MS. MAYES: Objection.

13 THE COURT: Sustained.

14 Q What will happen because you're illegal?

15 A Immigration already has a hold on me.

16 Q A hold, meaning what?

17 MS. MAYES: Objection, Your Honor. He's not qualified
18 to answer that question.

19 THE COURT: Sustained.

20 Q Did you know that you're wife was going to poison your
21 daughter?

22 MS. MAYES: Objection, Your Honor: not responsive to
23 cross.

24 THE COURT: Sustained.

25 Q Would you -- would you have drunk beer that weekend if

REDIRECT EXAMINATION BY MS. ZMROCZEK - FILIBERTO GARCIA 166

1 you knew your wife was going to poison your daughter?

2 THE COURT: All right.

3 MS. MAYES: Objection: not based on facts in
4 evidence.

5 THE COURT: All right. Come on up here.

6 (Whereupon, a bench conference was held off the record
7 in the presence of the jury, but out of the hearing of
8 the jury.)

9 (Off the record briefly.)

10 Q Did you want Infant to die?

11 THE COURT: Okay.

12 MS. MAYES: Objection ---

13 THE COURT: Let's take ---

14 MS. MAYES: --- not responsive.

15 THE COURT: Let's take a break. Ladies and gentlemen,
16 please have no conversation about the case. We're going to
17 take a short break.

18 (Whereupon, the jury exited the courtroom at 4:54
19 p.m.)

20 MS. ZMROCZEK: Your Honor, that last question -- I --
21 I know that they were objecting that they said wasn't in
22 response to cross. But it absolutely was. They were
23 asking about his intentions to not care for his daughter.
24 So that's why I asked about his intention.

25 THE COURT: Well, he -- he responded to it.

RECROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 167

1 MS. ZMROCZEK: I'm sorry?

2 THE COURT: He responded to it.

3 MS. ZMROCZEK: Oh, okay. Well ---

4 THE COURT: He said -- well, okay. Well, just so the
5 record's clear, overrule the objection. And then, his
6 response was no.

7 MS. ZMROCZEK: Okay. Thank you. I -- I -- that's
8 all. I just didn't ---

9 THE COURT: Okay. All right. Well ---

10 MS. ZMROCZEK: --- I just didn't ---

11 THE COURT: --- we're just going to take a short
12 break. Mr. Garcia needed to use the restroom. So if
13 anyone else needs to, we'll take a short break.

14 (Off the record from 4:55 p.m. until 5:03 p.m.)

15 THE COURT: While she's doing that, let's go ahead and
16 get the jury back in, please. Mr. Garcia, if you'd come up
17 and have a seat. Thank you.

18 (Whereupon, the witness came forward.)

19 (Off the record briefly.)

20 (Whereupon, the jury entered the courtroom at 5:03
21 p.m.)

22 RECROSS-EXAMINATION

23 BY MS. MAYES:

24 Q Mr. Garcia, you got a question just a few moments ago
25 about your tax money. You didn't spend your tax money on

RECROSS-EXAMINATION BY MS. MAYES - FILIBERTO GARCIA 168

1 food for Infant , did you?

2 A No.

3 Q And her food was sitting around with dust on it inside
4 your house until after she died, and then it ended up on
5 top of the high chair when police got there, ten days
6 later?

7 A That food -- every now and then, she would give her
8 Gerber. But she hardly ever gave her any of the Gerber
9 food. She would give her something else. How do you say
10 it? It was a -- a tin can.

11 Q She would, but not you?

12 A That's right. Her.

13 Q Nothing further.

14 THE COURT: All right. Thank you very much. You may
15 step down.

16 (Whereupon, the witness exited the witness stand.)

17 THE COURT: All right. Anything further from the
18 defense?

19 MS. ZMROCZEK: Your Honor, the defense rests.

20 THE COURT: All right. Ladies and gentlemen, the
21 defense has rested their case. And just as I did at the
22 close of the state's case, I have legal matters that I have
23 to take up at the close of the defense's case. And I'm
24 going to do that this afternoon. That'll take a little bit
25 of time. So what I'm going to do is I'm going to excuse

1 you. We'll recess for the afternoon as far as the jury's
2 concerned.

3 I'll just give you a -- kind of a snapshot of what
4 we'll be looking at tomorrow. When you come back tomorrow,
5 with the defense having rested their case, that closes all
6 the evidence in the case. So what I anticipate is that
7 when you come back tomorrow, we'll -- the attorneys and
8 myself will -- will talk this evening. I'm not sure
9 exactly what order we'll do it in.

10 But tomorrow will be basically what we call "argue and
11 charge," or "charge and argue." But they are going to have
12 an opportunity to address you with their closing arguments.
13 I'm going to give you the charge on the law. Once you have
14 all of that, you'll then be in a position to go back into
15 your jury room and -- and have the case for your
16 consideration.

17 Now, it is my understanding that somebody needs to be
18 at a graduation, and I'm not going to interrupt that. So
19 if we -- if we start at 10:30 tomorrow, will that give --
20 give you time?

21 THE BAILIFF: Yeah. He's -- he's affirming that.

22 THE COURT: Okay. 10:30, then. If I could ask that
23 -- that all of you be back here at 10:30, ready to go,
24 we'll -- we'll proceed at that point. Okay?

25 Again, same instructions as you -- as you've had all

1 week: Please let your family and friends know that you do
2 anticipate -- don't -- don't talk about the case at all.
3 But you can tell them that you anticipate getting the case
4 at some point tomorrow. And so more than likely, you'll be
5 able to talk to them next time you see them about all that
6 -- you know, whatever they're curious about.

7 But ask them to hang on one more night and -- and just
8 allow you to put your minds at rest and ease and get a good
9 night's rest and then we'll come back tomorrow and we'll --
10 we'll hopefully finish up. Okay?

11 So if everyone else will please remain seated, folks,
12 we'll see you 10:30 tomorrow morning.

13 (Whereupon, the jury exited the courtroom at 5:08
14 p.m.)

15 (Off the record briefly.)

16 THE COURT: And I apologize, not mentioning something
17 to y'all. What -- one of the jurors, his -- his little
18 girl graduates from middle school or -- there's some little
19 graduation he needs to be at. And -- and ---

20 MS. ZMROCZEK: In the morning, you mean?

21 THE COURT: In the morning.

22 MS. ZMROCZEK: Oh, okay. Okay.

23 THE COURT: So that's why we're starting at 10:30.

24 MS. ZMROCZEK: Okay.

25 THE COURT: Because it's in the morning, he can get to

1 that and -- and then he said he could be here by that time,
2 so that's the reason for a late start tomorrow.

3 But at this point, let me -- let me take up any
4 motions at the close of all the evidence.

5 MS. ZMROCZEK: Your Honor, at this time we would ask
6 that, again, the directed verdict be granted. Based on
7 *State v. Avery*, we feel like that there is no substantial
8 -- there is no substantial circumstantial evidence that
9 shows that Mr. Garcia acted or did not act with extreme
10 indifference, as is required by the statute. And for those
11 reasons, we would ask that the directed-verdict motion be
12 granted.

13 THE COURT: All right. And -- and -- and again, I --
14 as -- as I mentioned yesterday, Ms. Zmroczek, I do think
15 it's a -- a question of fact. Depending on how the jury
16 views the evidence, I think there is evidence in the
17 record, depending on the way they view it, that they could
18 convict or acquit.

19 And so I think that evidence is in the record,
20 depending on how the jury views it. And that's their
21 province. And so I won't interrupt or interfere with that.
22 And so I'll respectfully deny that motion.

23 Anything else? We need to talk about the charge. I
24 know you've just passed me a cite of a case that you
25 believe defines extreme indifference, which I haven't

1 looked at. But I ---

2 MS. ZMROCZEK: And I'll e-mail the same to -- I'll e-
3 mail the cite to the solicitors.

4 THE COURT: Okay.

5 MS. ZMROCZEK: But that was the only thing I could
6 really see, Your Honor.

7 THE COURT: Let me ---

8 MS. MAYES: What is the case name?

9 MS. ZMROCZEK: *State v. Jarrell*.

10 THE COURT: Let -- let -- go ahead -- jot this down,
11 if you would, Suzanne. It's -- it's 350 S.C. -- or 350
12 S.C. 90.

13 MS. MAYES: Okay.

14 THE COURT: And it's *State v. Jarrell*, J-a-r-r-e-l-l.
15 I haven't read it. Amy just passed it to me. I pulled it
16 up on Westlaw, but I haven't looked at it yet.

17 Let me do this: The -- I have a draft of a charge.
18 Let me -- before y'all leave here, I'm going to -- I'll do
19 it now. I'm going to shoot it over to Hope and have her
20 make a copy for y'all. Y'all can have that, look at it
21 this evening, and then let -- let us come back at 9:30 in
22 the morning and, if there's any additions or changes or
23 anything we need to do to it, we'll -- we'll go over that
24 at that point.

25 MS. MAYES: Okay.

1 THE COURT: Okay?

2 MS. MAYES: Your Honor, the charges that the state
3 would foresee are the standard charges on -- on direct and
4 circumstantial evidence ---

5 THE COURT: Okay.

6 MS. MAYES: --- expert witnesses, and proximate cause
7 all being the charges within the Court's bench book.

8 THE COURT: Okay. All right. And like I said, if you
9 have anything else and whatever, we'll -- we'll -- we'll
10 deal with that at 9:30. And what -- why don't we do this:
11 It -- Maryann, you -- you don't need to be here till 10.

12 THE COURT REPORTER: Yes, sir.

13 THE COURT: At 9:30 if y'all would, when you -- when
14 you get up here, just come on back to the chambers and
15 we'll -- we'll chat back there. And then, we can come out
16 and put on the record anything that needs to be put on the
17 record.

18 So if there's nothing else for this afternoon, we'll
19 -- we'll -- we'll be adjourned for the afternoon. But hang
20 here and -- and go ahead and let me give you this draft
21 that I've pieced together here.

22 THE COURT REPORTER: So we're off the record now?

23 THE COURT: Yeah. We're done.

24 (Off the record briefly.)

25 MS. ZMROCZEK: Your Honor, since we have the court

1 reporter still here and everybody's still in the courtroom,
2 I forgot to renew one of my objections that I wanted to
3 make sure I did. I know.

4 THE COURT: Are you shut ---

5 MS. ZMROCZEK: Don't kill ---

6 THE COURT: --- down?

7 MS. ZMROCZEK: --- me, court reporter.

8 THE COURT: Are you good?

9 THE COURT REPORTER: Yes, sir.

10 MS. ZMROCZEK: I'm sorry.

11 THE COURT REPORTER: Yes, sir.

12 THE COURT: All right. We're -- we're back on the
13 record. Ms. Zmroczek?

14 MS. ZMROCZEK: Sorry, Your Honor. Thank you. I just
15 was -- after my verdict -- or renew the directed-
16 verdict motion ---

17 THE COURT: Yes, ma'am.

18 MS. ZMROCZEK: --- you asked if I had any other
19 motions. And at this time again, Your Honor, I would renew
20 the objection to the entry of the photographs, which we had
21 already discussed, just especially in light of -- of some
22 of the jurors' reactions ---

23 THE COURT: Okay.

24 MS. ZMROCZEK: --- with the tears. And I just wanted

25 ---

1 THE COURT: Well ---

2 MS. ZMROCZEK: --- to make sure that was preserved.

3 THE COURT: Out -- out of abundance of caution, let --
4 let -- let's -- what I'll do is just we'll just note that
5 you want to preserve all prior objections made during the
6 course of the trial, and those are all noted in the record.
7 And so we'll do that.

8 MS. ZMROCZEK: Thank you.

9 THE COURT: Okay? All right.

10 (Whereupon, the proceedings were adjourned at 5:15 p.m.)
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 TRIAL DAY 5 - 06/05/15

2 (Whereupon, the proceedings were resumed at 11:15 a.m.)

3 THE COURT: All right. While we're waiting -- well,
4 we don't need to wait terribly long for that. I -- let me
5 go ahead, though, because I want to make sure. The charge
6 -- the -- the draft that I gave y'all, the only changes
7 that I've made to that, I included the lengthy, more
8 detailed direct- and circumstantial-evidence charge. And I
9 included the proximate charge -- proximate-cause charge.
10 Other than that, it's -- it's as I gave it to you
11 yesterday. Does that seem to be appropriate?

12 MR. MCNAIR: Yes, Your Honor.

13 MS. ZMROCZEK: Yes, Your Honor.

14 MS. MAYES: Yes, Your Honor.

15 THE COURT: Okay. And I'm just looking -- looking it
16 back over just to make sure that's what -- exactly what
17 I've got. Are we ready to proceed?

18 MS. MAYES: Yes, sir, Your Honor.

19 MS. ZMROCZEK: Yes.

20 THE COURT: All right. Let's bring the jury in,
21 please.

22 (Off the record briefly.)

23 (Whereupon, the jury entered the courtroom at 11:16
24 a.m.)

25 THE COURT: All right. Ladies and gentlemen, welcome

1 back. I hope everyone had a good evening and you're ready
2 to proceed.

3 As I told you yesterday, the evidence in the case has
4 -- is closed. The state and the defense have presented all
5 of the testimony and the evidence that they're going to
6 present. And so that closes the evidentiary portion of the
7 trial. And it gets us to this portion of the trial where
8 the attorneys are going to have an opportunity to argue to
9 you or to address you with what we call closing arguments,
10 or final summation.

11 You recall, when we started this trial, that I told
12 you that the things that the attorneys shared with you in
13 their opening statements was not evidence. They're not
14 under oath; they're not on the witness stand. So it's
15 important that you understand that the evidence portion is
16 closed.

17 As I told you their opening statements is not
18 evidence, the same goes to their closing arguments.
19 They're going to share with you what they believe the
20 evidence in this case has shown. And even though what
21 they're going to share with you is -- is not evidence,
22 they're going to talk about the evidence and what they
23 believe it -- it -- it has shown in this case. So it's
24 important that you listen carefully as they address you
25 with those remarks.

1 Once they've concluded their closing arguments, I'll
2 then give you the charge on the law. And at that point
3 you'll have everything in -- that you'll need to return to
4 the verdict -- jury room. And this time you'll return with
5 the instruction to begin your deliberations and you'll be
6 able to finally discuss the case amongst yourselves.

7 So if you would, please listen very carefully as the
8 attorneys address you with their closing arguments, okay?
9 Ms. Zmroczek?

10 (Off the record briefly.)

11 CLOSING ARGUMENT BY MS. ZMROCZEK

12 MS. ZMROCZEK: Filiberto Garcia-Campos is not guilty
13 of homicide by child abuse. May it please the Court?

14 THE COURT: Yes, ma'am.

15 MS. ZMROCZEK: Good morning, ladies and gentlemen.
16 It's been a long week. And we are finally at the end of
17 the week. And I want to thank you, both individually and
18 collectively, for the attention and time that you have
19 given this case. You will hear that this case is very
20 important to the state, and it's very important to Mr.
21 Garcia.

22 I'm going to try not to ramble on for too, too long.
23 But this is my last opportunity to speak with you. When I
24 finish, I -- I sit down and the state -- I believe Ms.
25 Mayes will get to come up and make their closing arguments.

1 I will tell you that this is the hardest part of my
2 job. Because I have to sit there and I can't respond to
3 anything that they say. They have the last argument. And
4 it's done that way for a reason. It's because they have
5 the burden of proving this case and each and every element
6 beyond a reasonable doubt. And we'll talk about that
7 later, as I get closer to the end of my final arguments.

8 But that burden of beyond a reasonable doubt is the
9 highest burden in American jurisprudence. And it's done
10 that way for a reason. Because you've all been brought
11 here and sat through five days of testimony -- or four days
12 of testimony to answer a very important question of fact:
13 Is Filiberto Garcia guilty of homicide by child abuse?

14 And if you weren't provided the facts that you need,
15 your guidance will be the law. The only facts in evidence
16 came from the testimony from that witness stand and these
17 items.

18 We have no duty as the defense. We could've sat back
19 and not asked any questions, not objected, and not put up
20 any evidence. And even though we did put up a case, that
21 does not change the burden. That doesn't mean we have to
22 now prove beyond a reasonable doubt that he's not guilty.
23 That -- that -- that burden always remains with my
24 colleagues.

25 The reason that we did put up evidence -- and I want

1 to talk about that in a -- just a little bit -- was because
2 just as Dr. Luberoff testified yesterday, you can only make
3 an informed decision when you have more facts. I want to
4 tell you kind of how I'll proceed so hopefully it won't get
5 too confusing. I want to talk about my biggest fear,
6 discuss that with you; I'll get it out on the table.

7 I want to talk about the state's case. I want to
8 address our case. I want to address exactly what Mr.
9 Garcia testified to, and then do a little final discussion
10 on the law.

11 Now, Judge Russo is going to give you the charge, and
12 he's going to tell you what the law is and that you must
13 follow it. And you were all selected because both my
14 colleagues at this table and my -- and myself determined
15 that you could be impartial and follow your duty.

16 My biggest fear -- there's no question as to what my
17 biggest fear is. My biggest fear is that -- and if I were
18 the prosecution, I don't blame them. I would do it; I
19 would take these pictures and I would just parade them in
20 front of you. And I would say, How can this happen? How
21 did he not know? And then I'd sit down.

22 Because my biggest fear is that they want you to make
23 this determination of his guilt on emotion. And the law
24 will instruct you that that is improper. It's -- it would
25 dishonor Infants death to find her father guilty based on

1 emotion.

2 I imagine the state's going to come up and they're
3 going to argue about justice and justice for Infant .
4 Justice and justice for Infant are two different things.
5 Justice is upholding the constitution, listening to the
6 facts, and holding the burden to their -- the state to
7 their burden.

8 The -- the standard isn't how could he not have known,
9 how could he not have known. That's not the standard. And
10 that's not the law.

11 The state put up several witnesses beginning with the
12 EMS worker. And if you recall, I asked him how did he get
13 there, the 911 call. There was a very specific reason that
14 we, the defense, had to put that 911 call in there.
15 Because you can hear (1) who made the call; and (2) you
16 could hear the emotion in his voice.

17 I asked the EMS worker, "Describe what you saw at the
18 scene." Profoundly emaciated.

19 I -- the pictures that showed him and that they will
20 show you were taken at autopsy. And he says, "That --
21 that's what she looked like." We don't know that that's
22 what she looked like when she was found.

23 We know that she was found with vomit in her pharynx
24 and stool in her diaper. And in the -- I recall arguing
25 with several witnesses about the stool and what was that

1 important.

2 Well, why that's important is because she was being
3 fed. She was being fed something. She was being fed
4 something by Tracy Roach, because Tracy Roach had to find a
5 way to get those drugs into her system.

6 And Filiberto is washing the bottles and he's seeing
7 the bottles. And should he have done a better job? Should
8 he have taken over the feeding responsibilities too?
9 That's not the standard.

10 Yeah. The answer is yes; he probably should have.
11 But he didn't. But that doesn't mean he's guilty of
12 homicide by child abuse.

13 The state wants you to ignore the drug evidence in
14 this case. The toxicologist got up and said those drugs
15 were ingested within 12 hours of her death, within 12
16 hours. And the state, I imagine, is going to come up and
17 argue: So what? So she had drugs in her system.

18 These weren't little drugs, and these were a lot of
19 drugs for a lot of -- 150-pound adult male was the average.
20 We're not talking about a small, 36-week, premature child.
21 Those drugs had no business in this system.

22 And the state, I imagine, is going to come up and
23 argue: It doesn't matter. The judge is going to tell you
24 that there is proximate cause and if starvation is the
25 proximate cause, then he should be found guilty.

1 No. That's, again, not the standard. He has to know
2 that she was being starved or know that she was being
3 drugged and do nothing about it. And not just do nothing
4 about it, but act with extreme indifference.

5 I believe Mr. McNair, in his opening, said: "He sat
6 there and watched her die like a potted plant." And if you
7 recall the witnesses that came up here and they sat in this
8 chair and they raised their hand and ask yourselves how
9 many of them said he was bad father.

10 How many of them said he was not a provider? How many
11 of them said he didn't care? Not one. Not one witness
12 said that.

13 Donna Kelly, the neighbor, testified that Mr. Garcia
14 worked on his truck. She saw him outside, working on his
15 truck. And they'd have made a big, big deal about these
16 trucks and these rims. And it's a reason -- one of the
17 reasons that we put these pictures in through the digital
18 forensics expert. And that's because, if you think about
19 all the pictures that Detective Gooding put in about the
20 cars and the rims and look at them and then they're shiny
21 and they're pretty and they're clean, implicating that Mr.
22 Garcia cared more about his cars than his child and/or he
23 spent money on his cars and not his children and not

24 Infant .

25 But now we know that those pictures came -- those

1 pictures from 2008-2009 show that he had those rims. In
2 fact, he went out and bought a Tahoe when they were having
3 a second child. These are things -- these are things that
4 a -- a father who cares about his family does.

5 They're going to say the drugs don't matter because
6 she still would've starved to death. And that's contrary
7 to the evidence that they put up there. On Monday,
8 September 2nd, after fighting with his wife, who clearly
9 has problems -- clearly has problems -- and he didn't go
10 into her bag. And the state says it's -- it was in a
11 common area. Okay.

12 But he did not go in this bag. He did not know what
13 these medicines were for. They didn't call a pharmacist to
14 say that he picked them up. We couldn't call Tracy because
15 she's in the Department of Corrections because she pled
16 guilty to this crime of homicide by child abuse.

17 They're going to say: Well, it was starvation and if
18 the drugs moved her death along, it doesn't matter. It
19 does matter. Recall Dr. Welsh, expert, testified that he
20 has done -- countless, I think, was his number -- countless
21 autopsies. He's the one -- he's the one person that
22 determines cause of death.

23 And did he determine the cause of death to be
24 starvation? No. He wrote it down: lethal neglect.

25 And then, my question to him: Is providing drugs --

1 psychotropic drugs to your child a form of lethal neglect?

2 Yes.

3 How could you not have known? I asked Dr. Luberoff.

4 And I'll admit, I -- I did something that they tell us not
5 to do in law school: Don't ever ask a question you don't
6 know the answer to.

7 But I -- I just had to know. Can this kind of weight
8 loss happen rapidly if someone's being drugged? Without
9 hesitation, answer: Yes. Her answer, state expert in
10 child abuse.

11 And the questions -- the reason I was asking that is
12 because I have the same questions you do: Why would you
13 not have noticed this?

14 And then, you get to hear the rest of the story. You
15 get to hear Filiberto. You get to hear that yes, she did
16 not go to the doctor; that Tracy did not take her to the
17 doctor.

18 But DSS workers were coming to her house twice a
19 month. And yes, she knew what to do to fool those DSS
20 workers. And if this woman knew what to do to fool those
21 DSS workers, I submit, she knew what to do to fool a man
22 that all she had to do was make one phone call and he's
23 gone; he's leaving the country.

24 She still gets her state checks. She still gets her
25 WIC. She doesn't need his \$400 a week money.

1 They're going to put in evidence all the -- all the
2 time that he was at work and the -- the money he made. And
3 they're going to tell you that he lied on his taxes. He
4 paid taxes. An illegal citizen, and he's paying taxes.

5 Does any of that mean that -- mean that he killed his
6 child? No.

7 Neglect -- when -- when you think of the word neglect,
8 you think about indifference, apathetic, uninvolved,
9 unloving. And that was the reason for not just putting in
10 awful death pictures of Infant . But that was the reason
11 for putting in and showing you that, as the expert for the
12 computer testified, a thousand pictures and there are maybe
13 four or five with Tracy with Infant or the children.

14 But there are pictures of Filiberto caring for his
15 children. Because that's what he did. Should he have done
16 a better job? Yes. And there are statutes that he
17 should've been charged under. Yes. But homicide by child
18 abuse is not that statute.

19 Over and over, they're going to ask you: How could he
20 not have known? You -- you -- you're allowed to convict
21 him for doing nothing. No. What the statute says is that
22 it's an act or an omission. And then, it goes on to say
23 "with extreme indifference to human life."

24 That weekend, he testified, she was drinking beer and
25 that she was going a little crazy and she wouldn't let him

1 see Infant . And then Monday he doesn't hear her because
2 the monitor is gone, unplugged; it's not there. And he --
3 what -- what does he do? He goes into the room, finds her,
4 and calls 911. Because that's what somebody who cares
5 does.

6 The question that you have to ask yourself,
7 individually and collectively, as you deliberate is: Did
8 his behavior or lack of behavior rise to the level of
9 criminal intent? Did he exercise poor judgment? Yes.
10 Does -- does exercising poor judgment arise to criminal
11 intent? I submit, it does not.

12 The statute reads child abuse -- and the judge is
13 going to tell you this -- or neglect is an act or failure
14 to act which causes harm to the child's physical health or
15 welfare, inflicted or allowed to be inflicted on the child,
16 physical injury -- there was no testimony of that. In
17 fact, there was opposite testimony: that there were no
18 bruises, no broken bones.

19 The state, I -- I submit, is going to argue that they
20 let the baby lie in bed for weeks and weekends at a time.
21 And the very night that they called 911, these were the
22 pictures that were taken. Detective Gooding testified that
23 he smelled urine. And he also testified there was no urine
24 and no stool in these cribs.

25 And as you look at these pictures and you look at the

1 setup, is this the baby room of -- of a -- of a person who
2 doesn't care? Ask yourself. He goes to work every day.
3 And it may sound odd coming from a female or feminist to
4 say this, but it's his culture that the woman take care of
5 the -- of the -- of the -- of the babies. Is it right? Is
6 it wrong?

7 I -- and I agree with my colleague, Ms. Mayes. This
8 ain't Mexico. This is USA, South Carolina, Lexington
9 County, she said. You are in Lexington County. And unlike
10 Mexico, we have that constitution that holds them to that
11 burden.

12 Do I agree with his parenting skills of letting the
13 woman stay at home? No. Is that criminal intent that
14 rises to extreme indifference under the statute of homicide
15 by child abuse? No.

16 Mr. -- Mr. McNair, in opening, said something that I
17 absolutely agree with: You can't ignore a baby's cry.
18 Absolutely agree with that. You can't. Because she'll
19 keep crying.

20 And Tracy Roach didn't ignore that baby's cry. What
21 she did was she silenced it with her medications. And not
22 one state's witness came up and said he knew about it; he
23 knew she was going to do it; and he let her.

24 He told you that he would wash bottles after they
25 would accumulate. And they made a strong showing of all

1 the bottles in the sink and the food around -- around the
2 counter. And what that shows to a man who goes to work and
3 then comes home and plays with his son and goes outside and
4 works on his car and, on the weekend and holidays, drink
5 some beer -- but what he sees is food, empty bottles with
6 remnants or formula or milk.

7 And he sees his child, who has always -- always been
8 little. That was his testimony: always been little. This
9 was the day she was born -- little.

10 Should she have gained more weight? Yes. Should he
11 have taken a more active role? Yes. Is he guilty of
12 extreme indifference? No.

13 Our system is admired all over the world for the
14 protections it provides each and every one of us if we
15 found ourselves sitting at that table where -- where
16 Filiberto Garcia is sitting. You are the most important
17 part of that system. And in some ways it's the hardest
18 job, because you have the fate and the responsibility of a
19 life's -- man's life in your hands. And that's a
20 responsibility most people don't know and won't know.

21 And on the other hand, your job is easy because you're
22 not asked to -- to figure out what happened, how she died,
23 who did this. What you're asked to do is to look at the
24 facts presented to you and say: Did the government meet
25 their burden beyond a -- a reasonable doubt that he

1 committed this crime, this crime; not that he was
2 neglectful, this crime of homicide by child abuse.

3 Typically, I have a -- a chart for reasonable doubt.
4 I didn't bring that today. Or I did bring it; I'm not
5 going to use it today.

6 Instead, reasonable doubt is a -- is a -- is a theory
7 that -- and the judge -- it's a legal concept. And the
8 judge is going to define what it is.

9 The best way that I can relate to you what it is, is
10 -- is to tell a story. And I have six sisters. My poor
11 dad just wanted one boy. But not one did he get. He got
12 seven of us.

13 And I was the oldest, biggest mouth, a lot of
14 responsibility. And I would always get in trouble, always
15 -- always get in trouble for stuff that my sisters were
16 doing. And I would get so mad.

17 And I would go upstairs and I would slam the door and
18 go in my room. And then I'd come in and get the bite of
19 soap. And as I'm telling this story, I'm thinking, My dad
20 might be guilty of child abuse. But -- but this was also
21 30-some-odd years ago.

22 He would come up in that room. And he'd swing the
23 door open, and he'd bring me to the bathroom. And he'd
24 make me take a bite of the soap. Because it -- I was
25 acting like a child. But a lot of times it's because I

1 didn't do it; I didn't do what I was getting in trouble
2 for.

3 So this one day, I was downstairs and my sister was
4 downstairs and my parents were downstairs. My mom was in
5 the kitchen. And I think it was -- I grew up in Louisiana.
6 It -- it -- I keep thinking it was June. It was hot. And
7 the windows were open, and the breeze is blowing through
8 the wind, through the windows.

9 And my sister runs by the table, and she knocks off
10 this glass. And it falls to the floor and it shatters.
11 And I'm sitting well -- it's on the other side of the room.
12 And I'm just laughing because I know that this time I'm not
13 getting in trouble. I am not getting in trouble this time.

14 And my dad jumps up -- because he's watching a game.
15 And he -- "Allison, get upstairs."

16 And I'm, like, Yes. Here comes the soap. Because I
17 knew it was going to happen. And she goes upstairs and she
18 -- you can hear her stomping the whole way.

19 And my dad gets up out of that chair, and my mom comes
20 running out the kitchen. And I'm following them up the
21 stairs, going, "Yes. Yes."

22 You hear the door slam. And that's when I knew it. I
23 knew it was going to happen. And my dad busted in that
24 room and he opens the door. And she's sitting on the bed.

25 And mom's behind him, going, "Don't."

1 And I'm, like, "Do it. Do it."

2 And he tells her to stand up. And as he does, giant
3 breeze comes through the window and slams the door shut.
4 And he stops.

5 And ladies and gentlemen, that stop is the best way
6 that I can describe to you what reasonable doubt is. And
7 unfortunately, she didn't get to taste the soap that day.
8 But there were times later that she did.

9 As I turn this case over to you -- and I remind you
10 that this is a homicide-by-child-abuse case. And I remind
11 you that you have a duty -- and I've been doing this for
12 many years. I'm an idealist. I believe firmly in the jury
13 system.

14 Ladies and gentlemen, the Court is no better than each
15 of you that sits in front of me. The Court is only as
16 sound as the jury that it's made up of. And the jury is
17 only as sound of each of these -- of each of you
18 individuals.

19 And I am confident that when you review the evidence,
20 that you will do so without passion and you will come to a
21 decision and you will do your duty and you will find
22 Filiberto not guilty.

23 And I can't claim orientate -- origination for that
24 speech. That was Atticus Finch from "To Kill a
25 Mockingbird." But every time I read it, it reminds me that

1 this is the -- the best system and that it's not just the
2 few pictures that they put in. It's everything that you
3 get to consider.

4 And I don't have the chance -- as I told you in the
5 beginning, I don't have the chance to come up here and --
6 and argue and -- and refute what the state is going to say.
7 But what I would ask that you do is each and every time
8 something that's said piques your interest, ask yourself,
9 What would Ms. Zmroczek come up here and argue, or what
10 would she say in response to that. And I ask that you do
11 it.

12 You hold the state to its burden. You ask the tough
13 questions. You light the candles for the constitution.
14 And you do your duty, and you find Filiberto Garcia not
15 guilty of homicide by child abuse.

16 THE COURT: Thank you, Ms. Zmroczek. Ms. Mayes?

17 MS. MAYES: May it please the Court?

18 THE COURT: Yes, ma'am.

19 CLOSING ARGUMENT BY MS. MAYES

20 MS. MAYES: One of the most difficult things in life
21 is to accept something that you cannot change. And none of
22 us can change what happened to Infant . And it forces us
23 to accept a truth that's beyond difficult to accept.

24 Because the cold, harsh, ugly truth, the reality of
25 her situation, is that they just didn't want her. They

1 just didn't care. And that's what happened to Infant .

2 It could've been prevented. It should've been
3 prevented. Yet there was not an ounce of regret in his
4 voice when he testified yesterday that it wasn't his job.
5 It wasn't his job to feed his daughter.

6 Well, that's not the law of the State of South
7 Carolina, nor will it ever be. Because our laws cover
8 child abuse and neglect. And neglect -- the very
9 definition of neglect can never be greater than what we've
10 witnessed in this case.

11 He had every duty, every responsibility, and every
12 reason to feed his daughter, to provide her health care,
13 and to protect her from harm. But the reality that is so
14 hard to accept, they just didn't want her.

15 There was a time when Infant was needed. When he
16 lost his job and was home, laid off from January to June,
17 they needed Infants check. They were living off of
18 Infants check and food stamps.

19 And when you think of the evidence in this case,
20 remember the uncontradicted testimony: That last doctor's
21 visit was November 11th of 2012. And on that day Infant
22 was weighed: just barely under a pound from what she
23 ultimately died at almost a year later at 13 months.

24 But that last medical exam, the last time she ever saw
25 a doctor, she was there. He was there, and so was the

1 mother. So was Tracy.

2 And the reason they both showed up is because Mary
3 Kayse had made it absolutely clear to them: Infants
4 health is at great risk. She's not gaining weight. I've
5 watched her eat. She can eat. Something's wrong.

6 So this baby, who had not managed to gain hardly
7 anything over the course of a month suddenly gained 8
8 ounces in three days because they know she's going to get
9 put in the hospital and people are going to start asking
10 questions if she doesn't gain weight. And in that three
11 days, she gains the 8 ounces that she had to gain. They
12 walk in there and they get her weighed, and then they
13 vanish; go completely under the radar. And I submit, they
14 vanished because there were things they didn't want anybody
15 asking.

16 What would happen if she got put in the hospital?
17 Well, there'd be a drug test. There would be a blood test
18 that could ultimately detect blood -- detect drugs in the
19 blood. But ultimately, what happened is they leave and
20 that's it. She's never seen again.

21 And that whole time period of January to June, he
22 wants to pretend he didn't know she wasn't getting health
23 care? He's home every day. He knows full well she's not
24 getting health care.

25 He could take her himself. He's got a working

1 vehicle. She had a baby seat.

2 They didn't want people asking questions. And the
3 very last time that Melissa Juergens from Easter Seals
4 showed up was December 2012. Who was there when she was
5 getting ready to leave? He walks in the door. He sees
6 her; she sees him. He knows who she is. She was wearing
7 her Easter Seals shirt.

8 He doesn't want people in the house, asking questions.
9 They might lose their food stamps with him living there.
10 And from that moment on, Easter Seals is never allowed back
11 in that house. No home health care, no BabyNet, no home
12 nurse, nothing.

13 And again, he's laid off January to June. He knows
14 full well Easter Seals never came back. He didn't want
15 them to come back.

16 The very idea that he would take this stand yesterday
17 and manufacture, for the first time while he's on the
18 stand, this ridiculous story about: "Oh, well, you know
19 what? That final weekend when I was drunk on Tecate, my
20 wife wouldn't let me see the baby." It's ridiculous.

21 The truth is exactly what he told Detective Gooding
22 that very first night. That's when the truth was to be
23 laid bare. Infant had just died. Law enforcement's at
24 the house. He doesn't have time to make up a story, so
25 what you get is the truth.

1 And the testimony about that was absolutely clear.
2 There was no -- there was no story about, "Oh, my wife
3 wouldn't let me see the baby, blah, blah, blah." He said,
4 "My wife has been sick on the couch. And when she's on the
5 couch, she's sleeping."

6 And then he said the baby had been sick but he hadn't
7 checked on her. Well, what we know is that he had been off
8 for days. And here we see, when we're talking about the
9 month of July, even the days he does work and he's not off,
10 he gets off at 2:30. When we're talking about August, he's
11 home every weekend. And when he works, he gets off at
12 2:30, once again.

13 And that Friday night of course he was home. He had
14 got off at 2:30. And he's home all day Saturday; he's home
15 all day Sunday. He's home all day Monday when he woke up
16 at 1. Wouldn't it be odd to not hear from a 13-month-old
17 toddler during all that time and to not see her? Of course
18 it would.

19 He knows exactly what's going on. This was nothing
20 new. Shutting up Infant , locking her away, not worrying
21 about her for days, is something that had been going on for
22 a while.

23 And that weekend, on that Sunday and then into that
24 Monday, according to his own testimony, the first time he
25 ever even attempted to check on Infant was 9:30 on Monday

1 night. And she was already dead. How long had she been
2 laying there in what Hunter Reed, the EMS worker, described
3 as her degraded diaper? Who knows. Days, that thing had
4 been on her?

5 Did he even call her by her name? Did he ever say
6 Infant ? I heard him say: "the child. It was her
7 responsibility to feed the child."

8 Well, according to his own statement, the wife is sick
9 and sleeping on the couch. He knows she's not feeding

10 Infant .

11 One thing that cannot be denied no matter what happens
12 in this case -- and no matter what, things cannot be
13 changed. One thing that cannot be denied is that the scene
14 tells the real story. Because the way it went down is they
15 find Infant late Monday night, the end of Labor Day
16 weekend, that long -- that long weekend that started when
17 he got off work at 2:30 on Friday. And then they go to the
18 hospital. And when they come back from the hospital, law
19 enforcement's there.

20 And you heard the testimony about Deputy Ryan securing
21 that scene so nobody could get inside; nobody could change
22 anything. So how law enforcement found it when they walked
23 in is exactly how they left it and exactly how it had been
24 for days.

25 Well, what they found is right in the middle of the

1 kitchen, the three empty cartons of Tecate and the empty
2 carton of Bud. And then, of course, there's beer in the
3 refrigerator. That's what had been going on all weekend.

4 And what did the kitchen look like? There were no
5 bottles in the sink. You've got the photographs. You'll
6 get a chance to review them when you get back there. In
7 that sink there's not a single bottle.

8 Why would he even waste his time talking about a
9 bottle washer? There's no bottle washer in that sink.
10 There's no bottle washer in the kitchen. You'll see the
11 evidence.

12 This is what was in the kitchen: curdled milk inside
13 bottles. A couple of bottles had been sitting there for
14 days in his plain view. He knows exactly what's going on.
15 Anybody looking at that kitchen knows there's not a fresh
16 bottle; she hasn't been fed.

17 The couch where Tracy was laying -- his bedroom with a
18 bottle laying on the floor, who knows how long it's been
19 there? But we know he's fed Infant before. We know he
20 could if he wanted to. He's got a bottle in his room.

21 And from that very bed where he lays, all he's got to
22 do is lift his head up and he sees the bathroom where
23 Infants bath is, from his bed a perfect view right there
24 into the bathroom. And her little baby bath, stuff all
25 over it, hadn't been used for days. He knows exactly

1 what's going on.

2 Baby lotion in his bathroom, but he can't even take
3 off that degraded diaper. He can't even check on her. He
4 can't even call a doctor. Because he just doesn't care.

5 You heard the testimony. It's not an issue of
6 finances. He had \$400 in his wallet. This is a con
7 artist. The testimony you heard yesterday came from a con
8 artist who has a conviction for false information to
9 police, somebody who knows how to go to the Mexican store
10 and get enough fake IDs where he can get a job and file
11 taxes.

12 And then, he files taxes, and that's all a lie too.
13 He claims two kids that don't even exist. Or if they do
14 exist, they've never been in his house. Thousands of
15 dollars back from the government, and yet he takes the
16 stand yesterday and for the first time, comes up with this
17 ridiculous story that he wasn't allowed to see Infant .

18 Well, that story is so flimsy. It floats just about
19 as well as that staged scene they tried to come up with.
20 Remember how a moment ago I said it's the scene that tells
21 the story? This is how they found Infants high chair
22 when police got there the night she died and in the early-
23 morning hours of 9/3: pushed away in a corner, trash on
24 top of it. There's her baby-food jars collecting dust.

25 And then when they come back on September 12th, well,

1 there you go: a manufactured scene with a clean baby chair
2 and food on top, as if she's being fed. It's all a farce.

3 And from the time line of what we know, that final
4 weekend, you heard his testimony that he's not the one that
5 went to Food Lion and got the 24-pack of Budweiser on
6 Saturday night. That wasn't him; that was Tracy.

7 Well, where were you? "I was at home with Infant .
8 But she was asleep."

9 What? Didn't he testify that he wasn't allowed to see
10 Infant ? Well, it turns out the wife is gone; she's not
11 even there. He's home alone with her Saturday night.

12 And the undeniable tragedy of it all is that she still
13 could have been saved. You heard the uncontroverted
14 medical testimony from Dr. Welsh and Dr. Luberoff: This is
15 chronic starvation that's not a matter of days or weeks,
16 but months. Dr. Luberoff's estimation was a minimum of two
17 months.

18 And how odd that there's not a single photograph of
19 Infant on his own phone for the entire year of 2013. And
20 then, that camera that they found in the home, the last
21 dated photo of Infant was April 13th, 2013, months before
22 she died. How odd that there's no longer any photos of
23 Infant .

24 Didn't she have a first birthday? She would've turned
25 1 in July. How's there not a single photograph of her

1 first birthday?

2 How long had she been shut away and forgotten? And
3 the testimony of Dr. Welsh was absolutely succinct: lethal
4 neglect. Lethal neglect: no food and no health care, even
5 though Infant not only had an SSI check, she had full
6 Medicaid. They didn't have to pay a dime. All they had to
7 do was dial a doctor or put her in the car and take her
8 there.

9 The law in this case is actually quite simple. It's
10 not like a murder case, where the state is required to
11 prove malice aforethought or premeditation. The element or
12 standard in cases of homicide by child abuse is extreme
13 indifference to human life.

14 And the statute that covers homicide by child abuse
15 requires three elements. These elements are that a person
16 is guilty of homicide by child abuse if the person causes
17 the death of a child under the age of 11 -- Infant, we
18 know, was under the age of 11 -- while committing child
19 abuse or neglect. And I'll get to that in a moment.

20 But as I stated previously, this case encompasses the
21 very definition of neglect under our law. And the death
22 occurs under circumstances manifesting an extreme
23 indifference to human life -- indifference -- indifference.
24 All I got to do is feed her, but it's not my job.

25 And the definitions under this statute make it even

1 more clear how applicable the horrific facts of this case
2 are to the law. Child abuse or neglect means an act or
3 omission by any person which causes harm to the child's
4 health or welfare. When we use the word act or omission,
5 that means doing nothing, just doing nothing. Harm to a
6 child's health or welfare occurs when a person inflicts or
7 allows to be inflicted upon the child physical injury or,
8 as we have here, fails to supply the child with adequate
9 food, clothing, shelter, or health care, and the failure to
10 do so causes a physical injury or condition resulting in
11 death. All of these definitions apply, and all of the
12 elements in this case have been met.

13 When you evaluate the law and apply it to the facts,
14 it covers neglect, as I've previously mentioned. And we
15 know that chronic starvation is an ongoing event that, for
16 Infant resulted in the complete wearing away of any
17 subcutaneous fat or adipose tissue. It was literally eaten
18 up by her organs, her vital organs, in order for her to
19 stay alive and just maintain a heartbeat and take a breath.

20 And in those final days, as Dr. Luberoff testified, or
21 even the final weeks, would she have even been able to have
22 any motor skills whatsoever? She couldn't roll over.
23 She's laying there with the pressure sores. Could she even
24 take a bottle? Could she even swallow?

25 Anybody who saw her would know she was gravely ill.

1 For the weeks that went on, anybody who looked at her would
2 be great -- would know and recognize her to be gravely ill.

3 It was absolutely abundantly apparent to Hunter Reed
4 as soon as he looked at her that night, held her in his
5 arms. He said as soon as he held her, she didn't feel like
6 a 1-year-old; she didn't look like a 1-year-old. And he
7 had to check her age because he couldn't figure out how
8 this 9-pounder who looked like she did, almost a skeleton,
9 was somehow 1 years old.

10 Now, the judge will also charge you on something
11 called proximate cause. Proximate cause means the cause of
12 death. And here you've heard the testimony of Dr. Welsh
13 and Dr. Luberoff that the cause of death is the denial of
14 food; that she could not have maintained life in that
15 condition. She could no longer survive with that extreme
16 starvation.

17 But proximate cause, as the judge will charge you,
18 includes that it doesn't have to be the sole cause. One or
19 both or who knows also gave her drugs. So if the argument
20 is, Well, that somehow contributed to it, even if there's
21 no sound evidence to back it up, if that's the argument,
22 well, that's not the law. The law is if she's in that
23 state because of his actions and his neglect and the
24 chronic malnutrition and starvation, then if she catches a
25 cold and the cold contributes, the cause of death is still

1 starvation.

2 And it's the same whether we're talking about drugs,
3 whether we're talking about an infection from diaper rash.
4 All of it comes out of that first, initial, proximate
5 condition. And that is the starvation. And that's the law
6 as the judge will charge you.

7 And finally, I will address the law on reasonable
8 doubt just briefly, because Your Honor is about to charge
9 you on reasonable doubt. And his charge will be far
10 greater than my summation of it.

11 But I ask that you remember that reasonable doubt does
12 not -- it does not include every possible doubt. The law
13 does not require that the state overcome every possible
14 doubt. Reasonable doubt is proof that leaves you firmly
15 convinced.

16 And in this case I submit the proof is absolutely
17 clear. Infant fought to stay alive until there was
18 nothing left in her to fight. So when you evaluate the
19 evidence, when you look at her, evaluate this baby who
20 struggled to achieve even the smallest amounts of progress.
21 And she was getting there. And then remember the skin and
22 the bones and the long, agonizing fight to the end because
23 this case and the facts of this case demand that it be
24 remembered and demand justice.

25 Let this be the last time -- it must be the last time

1 that a child starves to death in this state and in this
2 county. And the tragedy is that he could've prevented it.
3 He could've prevented it. But he refused to even lift a
4 finger to aid her.

5 The correct verdict in this case is homicide by child
6 abuse, that child abuse being neglect, lethal neglect, of

7 Infant . Thank you.

8 THE COURT: Thank you, Ms. Mayes. Let me ask: My
9 charge, it's -- it's not terribly long, probably ten
10 minutes. Do y'all need a break before that, or are you
11 ready to go -- just continue.

12 FOREPERSON: Go.

13 THE COURT: Continue? Okay.

14 MS. ZMROCZEK: Your Honor, could -- could we get a
15 copy of that? Could we get it?

16 THE COURT: Of what? I ---

17 MS. ZMROCZEK: Of the ---

18 THE COURT: You've got -- you've got what I gave you
19 earlier other than ---

20 MS. ZMROCZEK: Oh, okay.

21 THE COURT: --- those few changes.

22 MS. ZMROCZEK: Okay.

23 CHARGE OF THE COURT

24 THE COURT: Folks, during the course of the trial --
25 well, when we started this case, you recall that I said

1 that you were the judges of the facts and I'm the judge of
2 the law. And during the portion of the trial where the
3 attorneys have been presenting to you the evidence and the
4 facts, it's been appropriate for me to be up there out of
5 the way. But we now have reached the portion of this trial
6 where you and I are in this together: you as the judges of
7 the facts and me as the judge of the law. So I come down
8 to be with you to give you the law on the -- that applies
9 in this case.

10 I'm going to read this verbatim. It's not terribly
11 long. But I'm going to read it verbatim so that I don't
12 misquote anything or leave anything out.

13 Mr. Foreman and members of the jury, you've heard the
14 evidence and the arguments of both parties. I'm now going
15 to explain to you the law which applies to this action.

16 The indictment charges the defendant, Filiberto
17 Garcia-Campos, with the offense of homicide by child abuse.
18 I remind you that the fact that the defendant was arrested,
19 charged, and indicted in this case is not evidence in this
20 case and it cannot be considered by you as evidence of
21 guilt in this case, nor does it create any presumption or
22 inference of guilt. The indictments simply are the formal,
23 written instrument which brings a -- a charge into this
24 Court. It is the charge made against the defendant. It is
25 not in any way evidence in the case.

1 Now, I'm going to give you a copy of these
2 instructions in written form to have with you back in the
3 jury room. During your deliberations you may refer to
4 these instructions to guide you in your decision-making.
5 You must consider these instructions as a whole and not
6 follow some and ignore others.

7 Now, the defendant has pled not guilty to the
8 indictment. And that plea puts the burden on the state to
9 prove the defendant guilty. A person charged with
10 committing a criminal offense in South Carolina is never
11 required to prove him- or herself innocent.

12 I charge you that it is an important rule of law that
13 the defendant in a criminal trial, no matter what the
14 seriousness of the charge may be, will always be presumed
15 to be innocent of the crime for which the indictment has
16 been issued unless guilt has been proven by evidence
17 satisfying you of that guilt beyond a reasonable doubt.

18 This presumption of innocence does not end when you
19 begin your deliberations. But it accompanies the defendant
20 throughout the trial until you reach a verdict of guilt
21 based on evidence satisfying you of that guilt beyond a
22 reasonable doubt.

23 The presumption of innocence is not a mere legal
24 theory. It's not just a legal phrase. But it is a
25 substantial right to which every defendant is entitled

1 until you are -- unless you, the jury, are satisfied from
2 the evidence of the guilt of the defendant beyond a
3 reasonable doubt.

4 So what is a reasonable doubt in the law? Some of you
5 may have served on jurors in civil case, where you were
6 told that is only necessary to prove that a fact is more
7 likely true than not true, such as by the greater weight,
8 or the preponderance of the evidence. In criminal cases
9 the state's proof must be more powerful than that. It must
10 be beyond a reasonable doubt.

11 Proof beyond a reasonable doubt is proof that leaves
12 you firmly convinced of the defendant's guilt. There are
13 very few things in this world that we know with absolute
14 certainty. And in criminal cases the law does not require
15 proof that overcomes every possible doubt.

16 If, based on your consideration of the evidence, you
17 are firmly convinced that the defendant is guilty of the
18 crime charged, you must find the defendant guilty. On the
19 other hand, if you think there is a real possibility that
20 the defendant is not guilty, then you must give the
21 defendant the benefit of the doubt and find him not guilty.

22 I remind you that during this trial, you had I have
23 certain duties to perform. As the trial judge, it is my
24 responsibility to preside over the trial of this case. And
25 I also have the duty to rule on the admissibility of the

1 evidence offered during the trial.

2 I have the additional duty to charge you the law
3 applicable to this case. Is it your duty as jurors to
4 accept and to apply the law as I now state it to you. If
5 you already have any idea as to what the law is or what the
6 law ought to be and it does not agree with what I now tell
7 you the law is, you must abandon your idea, because you are
8 sworn to accept the law and apply the law exactly as I
9 state it to you.

10 As I told you at the start of this case, the jury is
11 the sole and the exclusive judge of the facts of a case.
12 The law does not allow me to have an opinion about the
13 facts in this case. This is a matter solely for you, the
14 members of the jury, to determine. As jurors it is your
15 duty to determine the effect, value, weight, and truth of
16 the evidence presented during the course of this trial.

17 To determine the facts in this case, you're going to
18 have to evaluate the credibility, or the believability, of
19 the witnesses. And credibility simply means that: It just
20 means believability. It becomes your duty as jurors to
21 analyze and to evaluate the evidence and to determine which
22 evidence convinces you of its truth. You can believe as
23 much or as little of each witness's testimony as you think
24 is proper.

25 You, the jury, should assess the credibility of each

1 of the witnesses. You may consider whether any witness has
2 exhibited to you any bias, interest, prejudice, or other
3 motive in the case. You may also consider the appearance
4 and the manner of a witness while on the witness stand.

5 You do not determine the truth merely by counting the
6 number of witnesses presented by each side. Throughout
7 this process you have but one objective. And that is to
8 seek the truth regardless of its source.

9 Now, the rules of evidence ordinarily do not permit
10 witnesses to testify to opinions or conclusions. There's
11 an exception to this rule that exists for witnesses that we
12 call expert witnesses. A witness who, by education and
13 experience, has become an expert in some art, science,
14 profession, or calling may state an opinion as to the
15 relevant and the material matter in which that witness
16 claims to be an expert and may also state the reasons for
17 the opinion.

18 You should consider any expert opinion received in
19 evidence in this case and, like any other evidence, give it
20 the weight that you think it deserves. An expert witness's
21 testimony is to be given no greater weight than that of any
22 other witness simply because that witness is an expert.
23 Further, you're not required to accept an expert's opinion
24 even though it's not contradicted.

25 Now, there are two types of evidence which are

1 generally presented during a trial. There's direct
2 evidence and there's circumstantial evidence. Direct
3 evidence directly proves the existence of a fact, and it
4 does not require deduction. Circumstantial evidence is
5 proof of a chain of facts and circumstances indicating the
6 existence of a fact.

7 Crimes may be proven by circumstantial evidence. The
8 law makes no distinction between the weight or value to be
9 given to either direct or circumstantial evidence.
10 However, to the extent that the state relies on
11 circumstantial evidence, all of the circumstances must be
12 consistent with each other and, when taken together, point
13 conclusively to the guilt of the accused beyond a
14 reasonable doubt. If these circumstances merely portray
15 the defendant's behavior as suspicious, then that proof has
16 failed.

17 The state has the burden of proving the defendant
18 guilty beyond a reasonable doubt. And this burden rests
19 with the state regardless of whether the state relies on
20 direct evidence, circumstantial evidence, or some
21 combination of the two.

22 Now, where a person inflicts a fatal injury on
23 another, that other person -- and that other person dies as
24 a later -- at a later time, you must be convinced beyond a
25 reasonable doubt that the infliction of the first injury

1 was the proximate cause of the victim's death. Proximate
2 cause is the direct cause; it is the immediate cause; it is
3 the efficient cause. It is the cause that, without which,
4 the death of the victim would not have resulted.

5 There must be a chain of causation from the time of
6 the injury inflicted by the defendant until the time of the
7 victim's death. Proximate cause does not necessarily mean
8 that it occurred immediately prior to the death.

9 There may be more than one proximate cause. The acts
10 of two or more persons may combine together to be a
11 proximate cause of the death of a person. The defendant's
12 act may be regarded as the proximate cause if it is a
13 contributing cause of the death of the victim.

14 The fact that other causes also contributed to the
15 death of the victim does not relieve the defendant from
16 responsibility. The defendant's act need not be the sole
17 cause of the death, but must be a proximate contributing --
18 proximate cause contributing to the death of the victim.

19 Now, Mr. Garcia is charged with homicide by child
20 abuse. The state must prove beyond a reasonable doubt that
21 the defendant caused the death of a child under the age of
22 11 while committing child abuse or child neglect.

23 Child abuse or neglect is an act or a failure to act
24 which causes harm to the child's physical health or
25 welfare. Harm to the child's physical health or welfare

1 means that the defendant either: (1) inflicted or allowed
2 to be inflicted on the child physical injury; or (2) failed
3 to supply the child with adequate food, clothing, shelter,
4 or health care, and this failure caused a physical injury
5 or condition which caused the death; or (3) abandoned the
6 child, causing the child's death. The state must also
7 prove beyond a reasonable doubt that the death occurred
8 under circumstances showing an extreme indifference to
9 human life.

10 Now, Mr. Foreman and ladies and gentlemen of the jury,
11 as you return to your -- retire to your deliberations, I
12 want to express to you the hope that each of you will be
13 mindful of the importance of your responsibility. As the
14 presiding officer of this Court, I am vitally concerned
15 that whatever verdict you find will be the result of your
16 going into the jury room and confining your consideration
17 to the evidence and to the law that you've heard in this
18 courtroom, weighing it fairly and impartially, as I have
19 every confidence you will do.

20 Your verdict in this case cannot be based on sympathy,
21 compassion, prejudice, or emotion or some other
22 consideration that's not found in the evidence. Remember,
23 your verdict must be unanimous.

24 Now, Mr. Camp, in the front of this notebook -- this
25 notebook will be back in the jury room with you. And in

1 the front I've placed a form; it's a verdict form. At the
2 top of it, it has the caption of the case.

3 There's only one charge in this -- in this -- in this
4 case; that is the homicide by child abuse. So there are
5 two options. Either you, the jury, would find the
6 defendant not guilty or guilty, based on your view of the
7 evidence.

8 Whatever verdict the jury does agree on, sir, I'd ask
9 that you mark the appropriate spot on the indictment -- or
10 -- excuse me -- on the -- on the sentencing sheet. And --
11 and then, you'll -- you'll sign as the foreman. When you
12 have reached a unanimous verdict, you can knock on the door
13 and let the bailiff know that you've reached a verdict.

14 Now, what I'm going to do is I'm going to send you
15 back into the jury room. But, Mr. Camp, don't begin the
16 deliberations quite yet. I'm going to send you back there.
17 I'm going to just quickly review with the attorneys to make
18 sure that I haven't either misquoted anything or have left
19 anything out. If I do need to make any changes to the
20 instructions, I'll bring you out and -- and give those to
21 you.

22 If there -- if the instructions are good as -- as I've
23 given then, I'll then -- we'll collect these exhibits and
24 you'll get the exhibits and the notebook. When you receive
25 these items, that's your cue to begin your deliberations.

1 Okay?

2 So if you'd please, step back into the jury room and
3 await these items.

4 (Whereupon, the jury exited the courtroom at 12:31
5 p.m.)

6 (Off the record briefly.)

7 THE COURT: Are there any exceptions or objections to
8 the charge from the state?

9 MS. MAYES: None from the state, Your Honor.

10 THE COURT: From the defense?

11 MS. ZMROCZEK: No.

12 THE COURT: Guys, it's going to be a little bit of a
13 task here to go over with Maryann everything that's in
14 evidence because, obviously, she came and pinched-hit ---

15 MS. MAYES: Uh-huh.

16 THE COURT: --- for Steve ---

17 MS. MAYES: Uh-huh.

18 THE COURT: --- in the beginning of the week. So
19 let's -- if y'all will get with her.

20 MS. MAYES: Okay.

21 THE COURT: And, Hope, if you have ---

22 DEPUTY CLERK OF COURT: Yes, sir.

23 THE COURT: --- some help you can give in this ---

24 DEPUTY CLERK OF COURT: Yes, sir. I can do that.

25 THE COURT: And let's make sure that everything that's

1 supposed to be back with the jury is there.

2 (Off the record from 12:32 p.m. until 12:52 p.m.)

3 THE COURT: All right. Make sure you send Mr. Rios
4 out.

5 (Whereupon, the jury began its deliberations at 12:52
6 p.m.)

7 THE COURT: All right. It's my understanding that the
8 jury has reached a verdict. Is the state ready to proceed
9 to receiving the verdict?

10 MS. MAYES: Yes, sir, Your Honor.

11 THE COURT: Is the defense ready?

12 MS. ZMROCZEK: Yes, Your Honor.

13 THE COURT: All right. Please bring the jury in, sir.

14 (Off the record briefly.)

15 THE COURT: Folks, before the jury comes in, let me
16 just remind --- tell them to hold on just ---

17 DEPUTY CLERK OF COURT: (To the bailiff) Hold up.

18 THE COURT: --- just a minute.

19 THE BAILIFF: Okay.

20 THE COURT: I -- I don't know what the verdict is. I
21 -- I sit here as all of you do and -- and just wonder. But
22 the thing is -- and what I tell juries all the time -- or
23 folks all the time, that whether you agree with the jury's
24 verdict or disagree with it, it's important that the jury's
25 verdict is received in a professional manner. So I would

1 ---

2 MS. ZMROCZEK: I -- I just had one question for you.
3 You did release the alternate, right?

4 THE COURT: Yeah.

5 DEPUTY CLERK OF COURT: Yes.

6 MS. ZMROCZEK: Oh, okay. I thought so.

7 THE COURT: But -- so the jury's verdict should be
8 received in a professional manner. I -- I'm not
9 insensitive to the fact that cases that involve the loss of
10 -- of life tend to be highly emotional for the folks that
11 are involved or affected. But I would ask that if you
12 cannot or feel that you cannot contain your emotion,
13 whatever the verdict may be, that you please remove
14 yourself from the courtroom.

15 Because if there are any emotional outbursts, I'm
16 going to have to take action and I don't want to do that.
17 So again, I don't -- I don't ask you to agree or disagree.
18 I simply ask that it be received in a professional manner.

19 Okay? So let's -- let -- go ahead and let's bring the
20 jury in.

21 (Off the record briefly.)

22 (Whereupon, the jury entered the courtroom at 1:20
23 p.m.)

24 THE COURT: Mr. Camp, has the jury reached a unanimous
25 verdict, sir?

1 FOREPERSON: Yes, sir.

2 THE COURT: If you could please pass that to the
3 bailiff for me, I ---

4 FOREPERSON: Yes, sir.

5 THE COURT: --- would appreciate it. Thank you.

6 FOREPERSON: (Complied.)

7 THE BAILIFF: Thank you.

8 THE COURT: All right. And if you would please
9 publish the jury's verdict.

10 VERDICT OF THE JURY

11 DEPUTY CLERK OF COURT: (As read): "Indictment 2014-
12 GS-32-1347, the State v. Filiberto Garcia-Campos, we, the
13 jury, find the defendant, Filiberto Garcia-Campos, on the
14 charge of homicide by child abuse, guilty of homicide by
15 child abuse." And it is so signed by the foreman, dated
16 June 5th, 2015.

17 Mr. Foreman, ladies and gentlemen of the jury, if this
18 is your verdict, please indicate each of you by raising
19 your right hand.

20 JURORS: (Raised right hands.)

21 DEPUTY CLERK OF COURT: All hands raised ---

22 THE COURT: All right.

23 DEPUTY CLERK OF COURT: --- Your Honor.

24 THE COURT: Thank you. Anything further from this
25 jury?

1 MS. ZMROCZEK: We would ask that they be polled
2 individually, Your Honor.

3 THE COURT: All right. Madam clerk, if you would
4 please ---

5 DEPUTY CLERK OF COURT: Yes, sir.

6 THE COURT: --- poll the members of the jury, using
7 their juror number.

8 DEPUTY CLERK OF COURT: Yes, sir. As I call your
9 number, please hold your hand up where I can see it, where
10 I can recognize you. I will ask you -- it's a two-prong
11 question -- as to the verdict, was this your verdict and is
12 it still your verdict. Once I ask the second part, then
13 give me your response, please.

14 Juror No. 45, as to the verdict, was this your verdict
15 and is it still your verdict?

16 JUROR: Yes.

17 DEPUTY CLERK OF COURT: Number 118, as to the verdict,
18 was this your verdict and is it still your verdict?

19 JUROR: Yes.

20 DEPUTY CLERK OF COURT: 112, 45, as to the verdict,
21 was this your verdict? Is it still your verdict?

22 JUROR: Yes.

23 DEPUTY CLERK OF COURT: Number 1, as to the verdict,
24 was this your verdict? Is it still your verdict?

25 JUROR: Yes.

1 DEPUTY CLERK OF COURT: Number 30, as to the verdict,
2 was this your verdict? Is it still your verdict?

3 JUROR: Yes.

4 DEPUTY CLERK OF COURT: Number 128, as to the verdict,
5 was this your verdict? Is it still your verdict?

6 JUROR: Yes.

7 DEPUTY CLERK OF COURT: Number 19 -- oh. I apologize,
8 Your Honor. He was the one that was excused.

9 THE COURT: All right.

10 DEPUTY CLERK OF COURT: Number 25, as to the verdict,
11 was this your verdict and is it still your verdict?

12 JUROR: Yes.

13 DEPUTY CLERK OF COURT: Number 111, as to the verdict,
14 was this your verdict? Is it still your verdict?

15 JUROR: Yes, ma'am.

16 DEPUTY CLERK OF COURT: Number 200, as to the verdict,
17 was this your verdict? Is it still your verdict?

18 JUROR: Yes.

19 DEPUTY CLERK OF COURT: Number 83, as to the verdict,
20 was this your verdict? Is it still your verdict?

21 JUROR: Yes.

22 DEPUTY CLERK OF COURT: Number 142, as to the verdict,
23 was this your verdict? Is it still your verdict?

24 JUROR: Yes.

25 DEPUTY CLERK OF COURT: I think I -- did I get

1 everybody?

2 JUROR: (Gestured.)

3 DEPUTY CLERK OF COURT: No. I thought I missed you.
4 What is your number, ma'am?

5 JUROR: 126.

6 DEPUTY CLERK OF COURT: I skipped right over you. I
7 apologize. Number 126, as to the verdict, was this your
8 verdict? Is it still your verdict?

9 JUROR: Yes.

10 DEPUTY CLERK OF COURT: Thank you. All jurors polled,
11 Your Honor.

12 THE COURT: All right. Thank you very much, ma'am.

13 Ladies and gentlemen, I want to thank you for your
14 service this week. And I know that -- it wasn't easy
15 because it was a weeklong case. There were times I had you
16 coming in early. We started a little bit late. I had you
17 leaving early and it -- it -- jury service isn't easy, but
18 it's even more difficult when you are involved in a
19 weeklong trial and there's a lot of stopping and going.
20 And sometimes you probably felt a little bit like a yo-yo.

21 But your -- your service it -- this week has been
22 greatly appreciated. We can't do what we do here -- the --
23 the work of the Court doesn't exist without good citizens
24 such as yourselves that -- that assist us in doing the work
25 that we do here.

1 I'm going -- you -- you've -- you've earned that
2 exemption that I spoke about on Monday so that if you -- in
3 the next -- balance of this year, all of 2016, and all of
4 2017, if you receive a summons for jury service in circuit
5 court, you can exercise that option on -- on that exemption
6 and be excused. But I tell people all the time, it is just
7 a -- it -- it is just an exemption. It doesn't mean you're
8 not qualified to serve.

9 And if you do receive another summons and you wish to
10 serve, I would encourage you to do so. It -- it's -- it's
11 a very high honor. And it's a very high position that you
12 find yourself in, in serving your community.

13 There -- many people say this, and I tend to agree
14 with them, that -- that other than serving your country in
15 the military, this is probably the greatest service you can
16 give to your country. And so I appreciate that -- your
17 service this week, the seriousness with -- within which you
18 conducted your business. Everyone was very attentive
19 throughout the course of the trial. And I appreciate that.

20 Now, I'm going to excuse you. But -- but I -- I tell
21 juries all the time: You folks are the ones that heard
22 this case and you've done the work. We're going to
23 proceed, in -- in just a few moments, to the sentencing
24 phase of -- of the trial, based on your verdict.

25 And so if you wish to be present for that, I certainly

1 would encourage you to remain if you wish to be here for
2 that. But you also are free to go. So you -- you've got
3 -- you -- either one of those options. And I have -- I
4 have people all the time who some stay and some go. I have
5 some cases where everybody leaves. I have some cases where
6 everybody stays. It's -- it's just personal to you.

7 So if you would like to be excused and -- and you are
8 excused -- if you'd like to leave, you're welcome to do
9 that. But if you want to remain for the sentencing phase,
10 you certainly are -- are welcome to do that as well. Okay?

11 And, Mr. Camp?

12 FOREPERSON: Yes, sir.

13 THE COURT: We -- Hope's going to need you to ---

14 FOREPERSON: Uh-huh.

15 THE COURT: --- sign the indictment as the foreperson.
16 So if you would do that.

17 All right. At this -- at this stage I want to take up
18 any motions that may be at the -- after the reading of the
19 verdict.

20 (Whereupon, the jury exited the courtroom at 1:27
21 p.m.)

22 MS. ZMROCZEK: Thank you, Your Honor.

23 THE COURT: Yes ---

24 MS. ZMROCZEK: With ---

25 THE COURT: --- Ms. Zmroczek.

1 MS. ZMROCZEK: --- with -- with no disrespect to the
2 jury, since members of them are still here, we would ask,
3 by my count -- that the verdict be set aside. By my count
4 there were 16 witnesses and at least 100 exhibits, Your
5 Honor. The jury, by my time clock, was out about 14
6 minutes. Your Honor, we would certainly assert that that
7 certainly -- that was not enough time to have any sort of
8 meaningful deliberation. And we would ask that the verdict
9 be set aside and ---

10 THE COURT: Well, I -- obviously, I'm not in the jury
11 room. And it -- it -- it may very well just speak to the
12 strength of the state's case. And -- and so I'm going to
13 respectfully deny your motion to set aside the verdict on
14 that ---

15 MS. ZMROCZEK: Thank you.

16 THE COURT: --- on that ---

17 MS. ZMROCZEK: And then, lastly ---

18 THE COURT: --- motion.

19 MS. ZMROCZEK: And then, lastly, Your Honor, we would
20 respectfully renew all of our objections specifically to
21 the -- all of the objections, but specifically to the
22 photos that were produced.

23 THE COURT: All right. And those are all -- that's --
24 those are certainly noted. And as -- as -- the Court's
25 ruling on those earlier will stand.

1 All right. Is the state ready to -- anything further
2 from the defense?

3 MS. ZMROCZEK: (Shook head from side to side.)

4 THE COURT: Is the state ready to proceed to
5 sentencing?

6 MS. MAYES: Yes, sir, Your Honor. And just briefly,
7 as a matter for the record, I do want the record to reflect
8 that throughout the trial, both the state and the defense
9 were using the overhead projector for use of the exhibits
10 and many, many of the photos were exhibited to the jury
11 throughout the trial by means of the overhead projector.

12 THE COURT: All right.

13 MS. MAYES: I'm going to go ahead and pass up the
14 sentencing sheet at this time.

15 THE COURT: Yes, ma'am. All right. I'll be more than
16 happy to -- to hear from the state with regards to the
17 issue of sentencing. And if there is anyone who wishes to
18 address the Court, I'll be happy to hear from them.

19 MS. MAYES: Yes, sir, Your Honor. As the Court is
20 aware, there was the prior record from 2008 for providing
21 false information and a public disorderly conduct. That
22 was out of Chester County.

23 Regarding sentencing, Your Honor, per the statute, the
24 sibling of Infant , which is C.G. , is the
25 surviving victim. His foster parents, who have been

1 raising him since time of this ordeal, Cliff and Christina
2 Derienzo, are here, Your Honor, and they would like to
3 present victim-impact testimony on C.G. 's behalf.

4 THE COURT: All right.

5 MS. ZMROCZEK: Your Honor, just to preserve the
6 record, I object to this testimony.

7 THE COURT: On what basis?

8 MS. ZMROCZEK: On the basis that, Your Honor, they --
9 they were not -- they actually stayed with some other
10 people for a while and that there have been numerous
11 psychological reports that I have not been provided
12 regarding the counseling and what's -- what's been
13 discussed with the child. I know that DSS had letters
14 from Mr. Garcia that he kept trying to communicate with his
15 child during the time that -- before he was taken away, and
16 -- and they weren't allowed to do so, Your Honor.

17 It just -- I feel like that the victim-impact
18 statement from an unpresent person who is a minor and who
19 has not been able to be evaluated is -- is just a --
20 unfairly prejudicial.

21 THE COURT: All right. I don't -- I don't see how the
22 Court can refuse to allow a victim ---

23 MS. ZMROCZEK: Certainly..

24 THE COURT: --- to have ---

25 MS. ZMROCZEK: I understand, Your Honor.

1 THE COURT: --- be heard.

2 MS. ZMROCZEK: I was just preserving ---

3 THE COURT: And so I ---

4 MS. ZMROCZEK: --- that issue.

5 THE COURT: --- I -- I would respectfully overrule
6 that objection. And I will hear from -- from the victims.

7 MS. ZMROCZEK: Uh-huh.

8 MS. MAYES: Your Honor, C.G. is 9 years of age.

9 THE COURT: All right.

10 (Whereupon, Ms. Mayes and Ms. Zmroczek conferred.)

11 MS. MAYES: He has been living with the Derienzos.

12 This is -- they are foster parents. This is a DSS
13 placement. They -- he's been with them for over a year.
14 They have their own children as well, and he has
15 assimilated into the family. And they are pursuing
16 adoption.

17 THE COURT: All right. Be happy to hear from you,
18 ma'am.

19 MS. DERIENZO: Thank you very much. I would ask that
20 the Court please consider the following statement when
21 rendering a sentence for Filiberto Garcia. (As read):

22 C.G. entered our home as a broken child, hesitant to
23 trust. He has spent several months adapting to a new life
24 and continues to work on building that trust.

25 C.G. asks us frequently if he will be allowed to

1 stay in our home. And every night he asks us, "Are you
2 tucking me in?" Even after all of this time, he is still
3 unsure if we really mean it.

4 My husband and I attempt to assure him every day that
5 he isn't going anywhere; our love will never change; not a
6 night will go by that he will not be tucked in or that his
7 needs will not be met in our home.

8 His future relationships will forever be impacted by
9 the occurrences in his biological home, as they have
10 crafted a foundation of fear to trust. The reality is that
11 no matter how much love we show C.G. or the fact that
12 we've never once missed a night tucking him in, he will
13 never fully trust us, considering the persons that he
14 trusted most in this life betrayed him by neglecting his
15 needs and ending the life of his sister, Infant .

16 C.G. speaks frequently of specific instances that
17 took place in his biological home. His negative memories
18 can be triggered at any time from things such as food,
19 words, holidays, events, and so forth. For instance,

20 C.G. speaks frequently about being left alone and taking
21 care of Infant . C.G. says he would get Infant from
22 her crib when he could and take care of her.

23 C.G. also speaks of begging to feed Infant , only
24 to be turned away. He says he knew that she needed to eat
25 at 7 years old but doesn't understand why they wouldn't

1 feed her.

2 C.G. still asks us before he gets anything to eat
3 in our home, and that's including a glass of water. He has
4 yet to grasp that basic comforts are given freely by people
5 who love and care for him.

6 C.G. vividly talks about how dry Infants mouth
7 was and that it was so dry, it was hard for him to give her
8 a bottle right before she died. He has told numerous
9 accounts of this to any and everyone that would listen as
10 perhaps a method of coping with this tragedy.

11 C.G. speaks about the night that Infant died and
12 how she was in her crib with her eyes wide open. C.G.
13 says he knows she was dead because her eyes wouldn't close
14 and she would not cry.

15 C.G. talks about all of the flashing lights and
16 sirens when she died. Even now when we pass an ambulance
17 or a police car, he'll make a comment about, "That's who
18 came to get Infant."

19 C.G. loved Infant. And throughout the course of
20 his life, he'll always be taken back to that painful memory
21 of her death by various experiences.

22 Even now C.G. references these memories if he sees
23 a baby, if he hears her name, if he sees something on
24 television about a baby, or if he hears sirens. These
25 memories of her tragic life and death will always haunt him

1 throughout his days and potentially impact C.G. as he
2 has his own family one day.

3 It's hard to predict the future. But I question if
4 C.G. will ever be able to have a normal relationship
5 based on the traumatic experiences suffered in his
6 biological home.

7 Along with the impact that the homicide of Infant
8 had on C.G. , I would ask that the Court can
9 please consider the impact of his educational neglect when
10 rendering your sentence. C.G. unfortunately was not
11 allowed to attend school. His educational neglect has
12 caused him to be years behind his peers, and he is
13 currently enrolled in a first-grade -- first-grade
14 classroom. And it's hard for him to understand why he is
15 still learning kindergarten and first-grade concepts at the
16 age of 9.

17 The impact this will have on him long-term, I assure
18 you, is significant and overwhelming. Children can be very
19 cruel and even more so as they age. I can only imagine the
20 ridicule C.G. will face as a highschool student, should
21 he be able to stay on track and enter the ninth grade as an
22 18-year-old.

23 C.G. still continues to struggle with his everyday
24 life skills. The educational foundation and guidance
25 C.G. was entitled to receive by any parent was never

1 given to him. And throughout the course of his life, he
2 will always endure the consequences of this neglect.

3 As you can see, no matter the home he's in, the school
4 he's in, the positive experiences he may experience in our
5 home and moving forward, he'll never be able to escape his
6 past. I can promise you that every time C.G. revisits a
7 memory, he is victimized to the extent all over again.

8 During the course of this trial, I -- I hear C.G. 's
9 biological father described at one point as being a doting
10 father. I would ask that you think about this statement.
11 The statement as truthful as saying -- saying that Infant
12 is alive and in this courtroom right now.

13 Doting fathers are involved in their children's lives.
14 They love them without reservation. And they'd do anything
15 under their -- their capability to make sure that their
16 children are taken care of. Doting fathers don't allow
17 their -- allow their children to die at the hands of
18 starvation.

19 I would ask the Court to consider imposing the maximum
20 sentence of life in prison for Filiberto Garcia. Please
21 think of how Infant suffered: the days, the weeks, and
22 possible months of pain she endured, all while C.G.
23 watched idly by.

24 Think of how much C.G. has lost in his nine short
25 years of life. He lost his only biological sibling, his

1 biological parents, the ability to trust, good memories of
2 his childhood, holidays and other celebrations with his
3 sister, Infant , the ability to even tell her how much he
4 loves her or even happy birthday. He misses the hugs from
5 her and the ability to stand by Infants side as she
6 experiences major life stones throughout her life, as well
7 as she to stand by his.

8 As C.G. ages, he'll never fully forget the past and
9 be able to move forward. His life has been forever changed
10 and impacted. I asked C.G. : "If you could say one
11 thing to your dad, what will it be?" And I'll read that
12 statement that C.G. wrote.

13 (As read): "Why didn't you feed Infant ? It's your
14 fault, Dad. You ruined my life. I miss Infant ."

15 Justice was served recently, as Tracy Roach received a
16 sentence of life in prison. Your Honor, there are people
17 in this courtroom that love and support Infant and

18 C.G. . We are all seeking the ultimate justice. That
19 justice, Your Honor, would be to impose a maximum sentence
20 of life in prison for Filiberto Garcia-Campos.

21 Please honor -- please, Your Honor, let Infant and
22 C.G. 's voice be heard and justice served today by
23 imposing that maximum life sentence and, I would say, no
24 less than life for a life lost way too soon. Thank you.

25 THE COURT: Thank you, ma'am.

1 MS. MAYES: That is all from the state, Your Honor.

2 THE COURT: All right. I want to thank both of you
3 for -- for your service as foster parents. And it's
4 incredibly special that the two of you have that kind of
5 love for a little boy who you don't even know who you are
6 coming to know, obviously. But I thank you for that
7 service.

8 And I don't know a lot about the family courts. I
9 don't -- I didn't practice in the family courts. But I --
10 I -- I hope and pray that the adoption goes well and that
11 that -- that will -- will come to fruition for you. Thank
12 you.

13 MR. DERIENZO: Thank you.

14 THE COURT: All right. Ms. Zmroczek, I'll be more
15 than happy to hear from you and then anyone else who may
16 wish to address the Court.

17 MS. ZMROCZEK: Thank you. There is no one else. Mr.
18 Garcia's entire family, since C.G. has been taken away
19 from him, is in Mexico. His -- I've been on the phone with
20 his mom and sister. His dad did pass away when he was 2
21 years old.

22 He has worked continuously since he's been in this
23 country. There is an ICE hold. He will be deported if and
24 when he is ever released from prison.

25 He understands that even though he is 35 years old,

1 that any sentence is -- is -- is -- you know, it's a
2 significant impact on his life. So Your Honor ---

3 THE COURT: I think the ---

4 MS. ZMROCZEK: --- is aware of the defense position as
5 far as what statute he should've been -- he should have
6 been convicted under. And I understand that that's an -- a
7 problem for the legislature to address and not for us.
8 But, Your Honor, we would ask that he -- you consider that
9 he has been working full-time; that you look at the
10 pictures.

11 I appreciate the victim-impact statement. But if you
12 were able to see the Dickerson Center interview that
13 occurred two weeks after this case, that it -- it's a
14 completely different presentation of what C.G. said
15 about his father -- not about his mother, but about his
16 father, specifically. And I think that the pictures
17 indicate that he did spend a lot of time with his children.

18 And I'm aware -- and we've said this from the
19 beginning. He was not the perfect father, and he made
20 several mistakes. Mr. Garcia does not wish to speak.
21 Certainly, you can ask him, but he understands that this
22 carries a 20 -- a 20-year mandatory minimum. And we would
23 ask that the Court sentence him somewhere on the lower
24 range to have a possibility to be deported. Thank you.

25 THE COURT: All right. Well, I don't know what --

1 you're right. I haven't seen the -- any other reports or
2 anything of that nature. But even as -- I mean, in giving
3 Mr. Garcia the full benefit of any possible doubt that he
4 may have been a caring father or attentive father to his
5 son, it -- it -- it's glaringly obvious that the victim,

6 Infant , didn't receive any of that.

7 You -- you made a motion regarding the quickness of
8 the jury's verdict. And it's an appropriate motion; I
9 certainly don't criticize you at all for that. But just
10 referencing that, I understand -- and -- and my response to
11 was I think that more an indication of the strength of the
12 state's case.

13 I don't think there's any -- I don't think there's any
14 doubt in -- in this case -- you reference maybe a more
15 appropriate statute. I -- the -- the charges in -- in --
16 the -- the -- the statute in this case fits these actions
17 like a glove. It's what the statute was written for.

18 This -- this was a complete neglect to the extent that
19 -- that a little 1-year-old girl -- little girl suffered
20 what I imagine to be probably the most horrific death a
21 person can suffer. And -- and it was completely avoidable.

22 I understand -- and -- and I'm -- I'm going to make
23 reference to something that -- that Mr. Garcia said on the
24 stand. And -- and this has nothing to do -- and -- and
25 although I agree with Ms. Mayes in her assessment on her

1 cross-examination that -- that this is the United States;
2 this is not Mexico. So whatever your customs are in
3 Mexico, that doesn't apply under the laws of this country.
4 If you're going to live in this country, you're going to
5 live by these laws.

6 I agree with that. But here -- here's where I take
7 issue: Although I've done a little bit of study with
8 regards to the Hispanic culture -- and I do understand that
9 it is a culture that is dominated -- the -- the home is
10 dominated by the female presence -- and that the things he
11 had to say about it was the mother's duties in the home to
12 provide those things, I -- I -- I understand that is part
13 of the Hispanic culture.

14 But I'm confident that not only the Hispanic culture,
15 but any culture on this globe, does not support a father
16 who stands by as the mother neglects her duties and he
17 watches his child literally waste away and die and that he
18 has no right to step in and take over that role. I'm
19 confident that is not the culture that Mr. Garcia came
20 from. And -- and so -- and -- and I'm not aware of any
21 culture on this planet that would support that conduct or
22 that lack of conduct.

23 You asked for the minimum to -- to allow him to go
24 back to his country. That -- that's not a consideration,
25 as far as I'm concerned. I don't -- I don't look to just

1 move people who are here illegally and -- and move them
2 out. I -- that's -- that's not my job. That -- we have a
3 whole department in our government that deals with
4 immigrants and illegal immigrants.

5 But my job is -- is that if you do decide to come into
6 this country and live in this country, and if you decide to
7 become a part of this community, that you obey the laws of
8 this land. And if you don't, then there's a penalty to be
9 paid for that, regardless of where you come from.

10 And -- and so being deported or the risk of
11 deportation is -- is -- is absolutely not anything that I
12 would take into consideration at all with regards to this
13 case. I -- I judge this case as -- as though it were a
14 naturalized, American citizen who committed this crime.

15 SENTENCE OF THE COURT

16 THE COURT: Having said that, on Indictment 2014-GS-
17 32-1347A, the sentence of the Court is that you be
18 committed to the South Carolina Department of Corrections
19 for the remainder of your natural life. That is the
20 sentence of the Court.

21 All right. This trial is adjourned.

22 MS. MAYES: Thank you, Your Honor.

23 (Whereupon, the proceedings were concluded at 1:48 p.m.)

24 --- END OF TRANSCRIPT OF RECORD ---

25

*Filed 6/21/2015
in Court 2:20 PM H*

THE STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

THE STATE

vs.

Filiberto Garcia-Campos,
Defendant.

) IN THE COURT OF GENERAL SESSIONS
) FOR THE ELEVENTH JUDICIAL CIRCUIT

) Indictment No.: 2014GS3201347

) Defendant's Motion in Limine
) Photographs

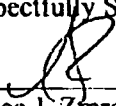
)

)

)

NOW COMES Defendant Filiberto Garcia-Campos, by and through his undersigned attorney, and moves to prohibit the presentation of unnecessary photographs whose prejudice far outweigh the probative effect.

Respectfully Submitted,

By 

Aimee J. Zmroczek, #77193

A.J.Z. Law Firm, LLC

P.O. Box 11961

Columbia, South Carolina 29211

803.400.1918-803-403-8005 (fax)

aimee@ajzlawfirm.com

Attorney for Defendant

June 1, 2015.

Lexington, South Carolina.

DOCKET NO. 2014GS3201347

The State of South Carolina
County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2014

THE STATE
vs.

Filiberto Garcia

CDR #: 2356

Indictment for

Homicide by child abuse

§ 16-03-0085(A)(1) and (B)

DONALD V. MYERS, SOLICITOR

County Sheriffs Department

ding

ent Case #: 13015778

LSM

EST WARRANT NUMBER

01817

GRAND JURY

JE BILL

[Signature]
Grand Jury
14

of Petit Jury

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Homicide by child abuse
 § 16-03-0085(A)(1) and (B)

At a Court of General Sessions, convened on May 2014, the Grand Jurors of Lexington County present upon their oath:

That **Filiberto Garcia** did in Lexington County, South Carolina, on or about 2012 through September 2, 2013, cause the death of a child under the age of eleven while committing child abuse or neglect and the death occurred under circumstances manifesting an extreme indifference to human life; to wit: Infant , date of birth being , 2012, under circumstances manifesting an extreme indifference to human life and while committing child abuse or neglect as defined in S.C. Code Section 16-3-85(B), being an act or omission which caused harm to the child's physical health or welfare, such act or omission including malnutrition and/or dehydration and/or medical neglect and/or failure to supply the child with adequate food or health care and the failure to do so caused a physical injury or condition resulting in the death of Infant , in violation of Section 16-3-85(A)(1) and (B), South Carolina Code of Laws (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

631

COUNTY OF Lexington
 STATE VS.
Filiberto Garcia Campos

AKA: _____
 Race: Hispanic Origin Sex: M Age: 35
 DOB: _____

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Homicide by child abuse (20 Y to Life)

in violation of § 16-03-0085(A)(1) of the S.C. Code of Laws, bearing CDR Code # 2356
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of Life in Prison without Parole days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on;

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5%)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$5
3% to County (if paid in installments)	\$	\$
TOTAL		\$130

Clerk of Court/ Deputy Clerk

Court Reporter: M. Newell

SCCA/217 (03/2011)

INDICTMENT/CASE#: 2014GS3201347 (A)

A/W#: 2013A3210201817

Date of Offense: 12/7/1931 - 9/2/2013

S.C. Code § : 16-03-0085(A)(1)

CDR Code #: 2356

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

PTUP _____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge

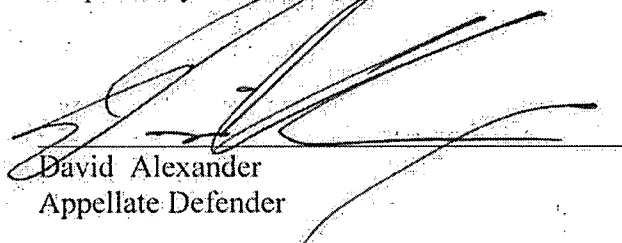
Judge Code: 2194

Sentence Date: June 5, 2015

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

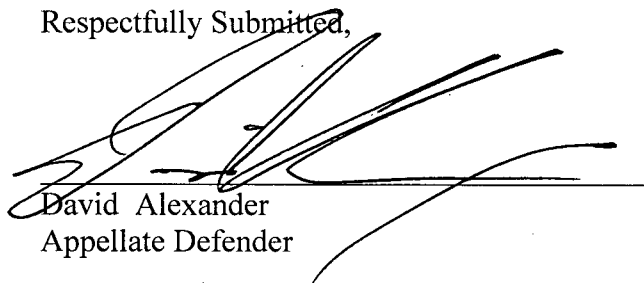
ATTORNEY FOR APPELLANT

This 2nd day of February, 2017.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 2nd day of February, 2017.

RECEIVED

FEB 02 2017

SC Court of Appeals