

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY  
Court of General Sessions

R. Keith Kelly, Circuit Court Judge

Case No. 2016-GS-42-0169  
Appellate Case No: 2016-001651

The State, County of  
Spartanburg,

Respondent,

v.

Danny Vega,

Appellant.

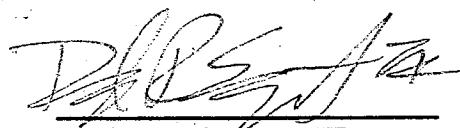
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SC Court of Appeals

RECORD ON APPEAL

July 24, 2016



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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
S-1	BOLO	47	n/a
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MOTIONS AND MATTERS

1 THE COURT: We got any pretrial, anything we need to talk  
2 about?

3 MR. WHELCHER: Yes, sir.

4 THE COURT: Okay.

5 MR. WHELCHER: Your Honor, there are two charges on the  
6 docket for my client, I don't believe we're gonna be able to  
7 just to hear that case in a day on both of those charges,  
8 that'll ---

9 MS. MORICLE: Yes.

10 MR. WHELCHER: --- be the first item.

11 MS. MORICLE: Your Honor, we'd only go forward on the  
12 custodial interference, today.

13 MR. WHELCHER: You're only going forward on what?

14 MS. MORICLE: Custodial interference today.

15 MR. WHELCHER: Okay, so does that mean you're nol-  
16 propping the other charge?

17 MS. MORICLE: No.

18 MR. WHELCHER: Well they're both on the docket.

19 MS. MORICLE: We're gonna try this one first.

20 MR. WHELCHER: They're both on the docket, they all  
21 happened at the same time. You're gonna make my client go  
22 through two different trials from a set of facts that all  
23 happened at the same time?

24 MS. MORICLE: Yes, because the co-defendant whenever  
25 she's picked up.

MOTIONS AND MATTERS

1 MR. WHELCHER: She doesn't have to be tried then.

2 MS. MORICLE: I think they need to be tried on neglect  
3 together.

4 MR. WHELCHER: Okay, well, I I would be opposed to that,  
5 Your Honor. They're both on the docket, they've both been on  
6 the docket, this third time they've both been on the docket  
7 and this is the first notice I've had we're tryin' only one  
8 and not both of.

9 THE COURT: Well, Mr. Whelchel, if they wanna try only  
10 one, they can try the second one or -- well, long as they try  
11 'em -- if they wanna try the second one first or first one  
12 first, I don't really care but if if they, ever how the  
13 solicitor wants to try the case.

14 MR. WHELCHER: Okay, so we're only goin' forward today in  
15 this custodial interference thing?

16 MS. MORICLE: Correct.

17 MR. WHELCHER: Okay. Alright, Your Honor, in that case I  
18 would have a motion, have to file a motion for continuance.  
19 Yesterday I received that e-mail, e-mail is sent as you can  
20 see at 4:30, uh, I opened it at 4:45 and immediately sent my  
21 investigator once I opened it to the solicitor's office to  
22 pick up these items. I'm assumin' these are in in today's  
23 trial?

24 MS. MORICLE: Not all of them, no. Your Honor, we  
25 received some certified copies of orders from DSS on Friday, I

MOTIONS AND MATTERS

1 thought my paralegal had sent them over Monday, she'd scanned  
2 them in but they had not been sent so Mr. Whelchel had them up  
3 front in discovery but I don't think he had 'em up front till  
4 yesterday and if that's going to be a problem I would be happy  
5 to not put them all in but his client's aware of all the  
6 orders, I understand he's been in all the family court  
7 hearings and I don't need to introduce all of them, really  
8 we're going forward on the one custodial interference order  
9 that he's had knowledge of.

10 MR. WHELCHER: Matters not, Your Honor, what my client  
11 allegedly has notice of or she believes he has notice of it,  
12 it matters what's been provided to him in the discovery and  
13 these are certified copies or allegedly certified copies are  
14 are gonna be introduced into court today, is that correct?

15 MS. MORICLE: Well we will use just the one certified  
16 copy that was provided in discovery from the get-go.

17 MR. WHELCHER: No, the certified copies weren't provided  
18 in discovery till yesterday, ---

19 MS. MORICLE: I don't think he ---

20 MR. WHELCHER: --- that's the whole ---

21 MS. MORICLE: --- needed ---

22 MR. WHELCHER: --- point.

23 MS. MORICLE: --- a certified copy.

24 MR. WHELCHER: My client has not seen this at all, Your  
25 Honor.

MOTIONS AND MATTERS

1 MS. MORICLE: Okay.

2 THE COURT: Well, if it's a cerf, uh, and it --  
3 okay, let me do this: If it's a court order he already has,  
4 Mr. Whelchel, or he knows the content of it, it may or may not  
5 be certified. I don't know if he has a certified copy or not.  
6 If he were in, if he were in some kind of an action, I'm sure  
7 he got a copy a the Court's order somewhere ---

8 MR. WHELCHER: It's an ex, ---

9 THE COURT: --- along the way.

10 MR. WHELCHER: --- it's an ex parte order, Your Honor.

11 THE COURT: It's an ex parte order?

12 MR. WHELCHER: He was never served with it.

13 MS. MORICLE: Your Honor, I will go through the facts on  
14 this case so that we can get a clear picture of what happened.  
15 Mr. Vega was not cooperative with DSS. They tried to get in  
16 touch with him and his co-defendant in this case, Alex Liddy,  
17 in regards to missing child. He was not cooperative, wouldn't  
18 tell them his new address, wouldn't tell them where they were  
19 so an ex parte order was issued for the child in DSS. He was  
20 told by Sergeant Tony Brown and the DSS worker over the phone,  
21 they knew they were talking to him, they talked to him, they  
22 then found him with the child, both times they talked to him  
23 before they found the child and co-defendant first on May 5th,  
24 then on the 6th that he needed to bring the child back there  
25 was an ex parte order for the child. I would like to argue,

MOTIONS AND MATTERS

1 Your Honor, that based on that the DSS case was open, they had  
2 been open for over a year, he had already lost one child to  
3 DSS so he knew what the ramifications were, he was then served  
4 and they just had a TPR on this last month so it would be my  
5 understanding that he has had all of the orders especially if  
6 he had an attorney and went through in contesting the TPR.

7 THE COURT: Mr. Whelchel.

8 MR. WHELCHER: Well, Your Honor, there's a host a  
9 problems with all of that. The first thing is this: All that  
10 they allege is just that, allegations on their part. There's  
11 no fact other than somebody I imagine will testify that they  
12 told him there was an order. It is an ex parte order, it  
13 clearly states in the order it's an ex parte order. He was  
14 never served with the order. They told him there was an order  
15 or I'm assuming they will testify that they told him there was  
16 an order. He was not a party to that hearing that took place  
17 on May the 4th, he was not a party to the subsequent probable  
18 cause hearing that took place on May the 6th and I -- but  
19 neither of those cases was he served and given notice to be  
20 there, Your Honor. Uh, he was involved with DSS in a prior  
21 incident involving another child, ---

22 THE COURT: Well let me ask ya this: ---

23 MR. WHELCHER: --- this is a totally separate incident  
24 involving a child that had just been born thirty days before.  
25 Prior to the emergency hearing on May the 4th, I don't have

MOTIONS AND MATTERS

1 any any notice of any kind of action by the Department a  
2 Social Services involving my client and that child.

3 THE COURT: Well let me ask this: It it -- you're saying  
4 he's not a party, you mean he did not participate ---

5 MR. WHELCHER: No, sir.

6 THE COURT: --- but he, but he was named a party.

7 MR. WHELCHER: No, sir, that's not what I'm sayin'. He  
8 was named a party ---

9 THE COURT: Right.

10 MR. WHELCHER: --- at the ex parte hearing ---

11 THE COURT: Right.

12 MR. WHELCHER: --- that he knew nothing about, prior to  
13 that there is no action involving him and that child. The  
14 action involves the mother and the child.

15 THE COURT: But he was told that there was an order?

16 MR. WHELCHER: He was told allegedly by their officer ---

17 THE COURT: Okay.

18 MS. MORICLE: And ---

19 MR. WHELCHER: --- that ---

20 MS. MORICLE: --- DSS ---

21 MR. WHELCHER: --- there was ---

22 MS. MORICLE: --- worker.

23 MR. WHELCHER: --- an order.

24 THE COURT: Is that order on file at the courthouse?

25 MS. MORICLE: Yes, Your Honor, and that was provide in

MOTIONS AND MATTERS

1 discovery.

2 THE COURT: Okay, but nonetheless it was on file at this  
3 courthouse or some other courthouse?

4 MS. MORICLE: Pickens County.

5 MR. WHELCHER: Pickens ---

6 THE COURT: Pickens County?

7 MR. WHELCHER: --- County Courthouse.

8 THE COURT: Okay, and and it's -- okay, alright, well  
9 things that are on file the courthouse, we -- the public is on  
10 notice about, he's on constructive notice, is he not, and he's  
11 told that there's an order, if he wants a copy of it, he won't  
12 tell 'em where he is, he can certainly go get a copy of it.

13 MR. WHELCHER: Well, Your Honor, he didn't tell 'em  
14 that -- that will come out testimony, Your Honor.

15 THE COURT: Okay.

16 MR. WHELCHER: So which order are you goin' under?

17 MS. MORICLE: We will go on the ex parte order which is  
18 the order that this basically is what the charge is for.

19 MR. WHELCHER: May the 4th?

20 MS. MORICLE: Um-hum.

21 MR. WHELCHER: Alright, Your Honor, that order's gonna  
22 have to be redacted.

23 THE COURT: Okay.

24 MS. MORICLE: What parts do you think need to redacted,  
25 Mr. Whelchel?

MOTIONS AND MATTERS

1 MR. WHELCHER: Well let's take it to to judge.

2 (Whereupon, a bench conference was held off the record.)

3 MR. WHELCHER: First thing, Your Honor, has to be  
4 redacted is this minor child 'mitting here (indicating)  
5 1/30/2014, that's the minor child from a previous order, uh,  
6 has nothin' to do with this case whatsoever.

7 MS. MORICLE: Well, Dick, I would argue that the reason  
8 that he's involved with DSS in the first place is because that  
9 child went to foster care because the child was born, uh,  
10 addicted to meth and that that child is his biological child  
11 and that DSS has been involved because of that and then the  
12 second child was consummated two or three months after the  
13 first one was born and they had to continue an open case to  
14 ensure the safety of both children ---

15 MR. WHELCHER: No, ---

16 MS. MORICLE: --- and I think ---

17 MR. WHELCHER: --- preju ---

18 MS. MORICLE: --- there's a ---

19 MR. WHELCHER: --- prejudicial ---

20 MS. MORICLE: --- history ---

21 MR. WHELCHER: --- prejudicial outweighs any probative  
22 value of including that child's name in this order. This  
23 entire case has nothing to do with that child.

24 MS. MORICLE: But that is the reason that DSS is involved  
25 and it's the reason that we have a DSS involvement in first

MOTIONS AND MATTERS

1 place.

2 MR. WHELCHER: The reason that DSS was involved is that  
3 the child's mother left Safe Homes in Pickens, where ---

4 MS. MORICLE: DSS ---

5 MR. WHELCHER: --- ever it was ---

6 MS. MORICLE: --- was involved with mom because of the  
7 first child.

8 MR. WHELCHER: DSS was involved with mom 'cause the first  
9 child ---

10 MS. MORICLE: And ---

11 MR. WHELCHER: --- he ---

12 MS. MORICLE: --- Mr. Vega.

13 MR. WHELCHER: Okay. DSS was involved with mom and the  
14 first child and Mr. Vega 'cause the first child, this action  
15 has nothing to do with the first child.

16 MS. MORICLE: Well I think this would go to motive and  
17 intent as to why they'd hide the child because their first  
18 child's been taken for drugs and the second child tests  
19 positive for drugs after they get the child back.

20 MR. WHELCHER: Well, guess what, you're not trying the  
21 drug case.

22 MS. MORICLE: I'm not but this will go to motive, intent  
23 as to ---

24 MR. WHELCHER: No, ---

25 MS. MORICLE: --- why you would ---

MOTIONS AND MATTERS

1 MR. WHELCHER: --- no, no ---

2 MS. MORICLE: --- custodial interfere and not return the  
3 child.

4 MR. WHELCHER: She wants to bring in the facts involved  
5 in drug case but she don't wanna try the drug case, she can't  
6 have it both ways, Your Honor.

7 MS. MORICLE: And I don't have talk about the drugs but I  
8 think it would go to motive, intent as to keep, why you would  
9 keep a second child out and that there's a foster care, the  
10 first child's in foster care due to drug use. I don't  
11 have ---

12 MR. WHELCHER: You can't ---

13 MS. MORICLE: --- to talk about ---

14 MR. WHELCHER: --- you ---

15 MS. MORICLE: --- the drugs ---

16 MR. WHELCHER: No, you ---

17 MS. MORICLE: --- to say that there ---

18 MR. WHELCHER: --- you can't ---

19 MS. MORICLE: --- is ---

20 MR. WHELCHER: --- bring the first child being in foster  
21 care due to drug use in here at all.

22 MS. MORICLE: I think it's ---

23 MR. WHELCHER: Prejudicial value outweighs it's prob --  
24 probative value, Your Honor.

25 MS. MORICLE: I think it's probative for the jury to know

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1 that DSS is involved 'cause there's a child in foster care, we  
2 don't have to say why and that they are involved and they've  
3 been involved for at least a year and that's how our DSS  
4 worker knows who Mr. Vega is and what he's been doing and why  
5 they would go to hide the second ---

6 MR. WHELCHER: They ---

7 MS. MORICLE: --- child.

8 MR. WHELCHER: --- can testify they know who Mr. Vega is  
9 'cause he's the father of this child, the alleged father of  
10 this child, it says that in the order.

11 MS. MORICLE: He then consents that it's his child ---

12 MR. WHELCHER: What?

13 MS. MORICLE: --- in the later DSS ---

14 MR. WHELCHER: That's not subject here, is it? That's  
15 the order you're going with.

16 MS. MORICLE: That's fine.

17 MR. WHELCHER: Okay.

18 MS. MORICLE: I know there's DSS dictation that's been  
19 provided where he acknowledges he's the father.

20 MR. WHELCHER: DSS dictation is not evidence, it  
21 exists then, ---

22 MS. MORICLE: But she's ---

23 MR. WHELCHER: --- you use ---

24 MS. MORICLE: --- gonna ---

25 MR. WHELCHER: --- that ---

MOTIONS AND MATTERS

1 MS. MORICLE: --- be able ---

2 MR. WHELCHER: --- dictation ---

3 MS. MORICLE: --- to testify to what he told her.

4 MR. WHELCHER: Hah?

5 MS. MORICLE: She's gonna be able to testify to what he  
6 told her.

7 MR. WHELCHER: In a meeting prior to all of this ---

8 MS. MORICLE: Um-hum.

9 MR. WHELCHER: --- about another child?

10 MS. MORICLE: About that -- this particular child.

11 MR. WHELCHER: Well, yeah, this particular child yeah,  
12 but that means that the other child's name needs to be removed  
13 from the order, okay, ---

14 MS. MORICLE: I think it's ---

15 MR. WHELCHER: --- otherwise we have the jury speculating  
16 as to what's happening with the other child, Your Honor.

17 MS. MORICLE: I think it's probative for them to know and  
18 it goes to motive and intent as to why he would hide the  
19 child.

20 MR. WHELCHER: Well well I know what you think.

21 THE COURT: Which child are we ta -- is the -- this  
22 is ---

23 MS. MORICLE: Messiah.

24 THE COURT: Messiah?

25 MS. MORICLE: Um-hum.

MOTIONS AND MATTERS

1 THE COURT: Okay. Uh, I I I I do think I'll be happy to,  
2 I'll be happy to hear, take some testimony if you wanna do it  
3 but I I do think the mentioning of another child or another  
4 case would would be prejudicial, I mean, in pa -- 'cause I  
5 look at that the same way as if, you know, you you got a DUI  
6 second, you wanna talk about the first, you see, so in an  
7 abundance of caution I I I think I wouldn't do that.

8 MS. MORICLE: Well, Your Honor, I would like, I need for  
9 the jury to understand why the DSS worker would know who she  
10 was talking to and that she had known these people and been  
11 involved with them for a period of time in order to establish  
12 how she knew who he was.

13 MR. WHELCHER: How familiar she is has no relevance  
14 whatsoever and, uh, uh, ---

15 THE COURT: I -- explain it to me little bit.

16 MS. MORICLE: She talked to him on the phone, he wouldn't  
17 cooperate and told them he was living at an address in  
18 Spartanburg so they sent the sheriff's office out to serve him  
19 with the order and let him know, that was a vacant residence  
20 and the neighbors had said that he was no longer living there,  
21 hadn't been there in three or four weeks ---

22 THE COURT: Okay.

23 MS. MORICLE: --- so they drive out to co-defendant's  
24 mom's house and she calls Mr. Vega on the phone. She gives  
25 the phone to Sergeant Tony Brown who can testify that as what

MOTIONS AND MATTERS

1 he knew it would be Mr. Vega on the phone. He told them there  
2 was an order. He said he lived at this address in  
3 Spartanburg, Mr. Brown let him know that he had been out  
4 there, it was vacant, there was no furniture, the neighbors  
5 had not seen him and he continued to say he lived there and  
6 then would not provide a new address and told him he was not  
7 coming and he didn't know where they were, so I have to  
8 establish that Ms. Wilson who knew him for a period of time  
9 talked to him on the phone as well and told him there was an  
10 order and that law enforcement also let him know there was an  
11 order. The statute doesn't say has to be written which I  
12 think is why they provide for just a court order because in  
13 these situations people don't wanna be served and they don't  
14 wanna cooperate so I have to establish that she knew who he  
15 was, how she knew who he was and that she knew he was talking  
16 to him on the phone for him to have notice that there is an  
17 order.

18 THE COURT: Alright, can can she say, I know him, I know  
19 his voice and I know who he is?

20 MS. MORICLE: Yes, but I would like to make sure the jury  
21 understands that this wasn't a one time phone call if he's  
22 gonna get up and say it wasn't me.

23 THE COURT: Why don't you ask her if she's had several  
24 phone calls with him, ---

25 MS. MORICLE: Okay.

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1 THE COURT: --- just not allude to the other action ---

2 MS. MORICLE: Okay.

3 THE COURT: --- 'cause I still think, I know where you're  
4 goin' with that and, Dick, she can do, certainly do that, she  
5 can say she knows his voice, um, she had phone calls with him,  
6 she can identify him by his voice and that without  
7 referring specifically to the other action.

8 MS. MORICLE: Your Honor, I reserve the right to recall  
9 her if he opens the door.

10 THE COURT: Oh, yeah. Oh, yeah, yeah, yeah, he opens the  
11 door. Is the jury 'bout ready?

12 THE BAILIFF: I'll check with 'em, ---

13 THE COURT: Okay.

14 THE BAILIFF: --- Your Honor.

15 MR. WHELCHER: Beg court's indulgence, Your Honor, I'm  
16 not through with this redaction.

17 THE COURT: Is that the whole thing?

18 MR. WHELCHER: Excuse me?

19 (Laughter.)

20 THE COURT: That whole thing, yeah.

21 (Whereupon, a discussion was held off the record.)

22 MS. MORICLE: Thank you.

23 THE COURT: Anything else?

24 MS. MORICLE: No, we could have taken care of this  
25 yesterday I guess.

MOTIONS AND MATTERS

1 (Whereupon, a discussion was held off the record.)

2 THE COURT: You have the indictment, Megan?

3 MS. MORICLE: I do.

4 (Whereupon, a discussion was held off the record.)

5 MS. MORICLE: The DSS worker's here, I believe that that  
6 was also for this case.

7 MR. WHELCHER: Deal is prior case, Your Honor.

8 MS. MORICLE: I believe it was part of this case.

9 MR. WHELCHER: Well, directly beneath that it says that  
10 the defendants was involved in a voluntary safety plan, if  
11 it's voluntary it can't be court ordered ---

12 MS. MORICLE: Well DSS ---

13 MR. WHELCHER: --- and can't be ---

14 MS. MORICLE: --- is involved for ---

15 MR. WHELCHER: --- required ---

16 MS. MORICLE: --- drug use ---

17 MR. WHELCHER: --- to do it.

18 MS. MORICLE: --- and they made these services available  
19 and I think that it's privy for -- I don't know ---

20 MR. WHELCHER: DSS ---

21 MS. MORICLE: --- why the jury ---

22 MR. WHELCHER: --- has good ---

23 MS. MORICLE: --- doesn't need ---

24 MR. WHELCHER: --- services ---

25 MS. MORICLE: --- to know that.

MOTIONS AND MATTERS

1 MR. WHELCHER: --- and they will -- these people, doesn't  
2 have anything to do with my client allegedly violating a court  
3 order, that ---

4 MS. MORICLE: Well they're gonna know ---

5 MR. WHELCHER: --- services ---

6 MS. MORICLE: --- he's involved ---

7 MR. WHELCHER: --- they've made ---

8 MS. MORICLE: --- with DSS.

9 MR. WHELCHER: --- available to him may be great  
10 services, may be beneficial services but they have no bearing  
11 whatsoever, excuse me, Your Honor, on the allegation that he  
12 defied this order, I mean, . . .

13 MS. MORICLE: I think the fact that DSS is involved and  
14 that these were the services made available and that they  
15 didn't comply and now this is why the child's being taken for  
16 his own welfare would be fine to keep in the order.

17 MR. WHELCHER: DSS wasn't involved with his child until  
18 that order took place.

19 MS. MORICLE: DSS had been involved with this family ---

20 MR. WHELCHER: No, ---

21 MS. MORICLE: --- and they were keeping an eye on ---

22 MR. WHELCHER: --- family ---

23 MS. MORICLE: --- the ---

24 MR. WHELCHER: --- doesn't matter. DSS wasn't involved  
25 with this child until that order took place. That order took

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1 place because the mamma checked outta the Safe Home she was in  
2 'cause she flunked a drug test.

3 MS. MORICLE: I don't have that she flunked a drug test,  
4 I also don't agree with your assessment. They've been  
5 involved, they were involved because she was pregnant and the  
6 first child tested positive so if the second child were test  
7 positive that child be taken by DSS so they are involved.

8 MR. WHELCHER: Second child didn't test positive, did it?

9 MS. MORICLE: He did.

10 MR. WHELCHER: No. No, he ---

11 MS. MORICLE: Not when he was born, after ---

12 MR. WHELCHER: Not ---

13 MS. MORICLE: --- he had ---

14 MR. WHELCHER: --- when he was ---

15 MS. MORICLE: --- been with your ---

16 MR. WHELCHER: --- born, ---

17 MS. MORICLE: --- client.

18 MR. WHELCHER: --- exactly right.

19 MS. MORICLE: That's right, after ---

20 MR. WHELCHER: Second child ---

21 MS. MORICLE: --- he'd been ---

22 MR. WHELCHER: --- didn't test positive, Your Honor,  
23 until after he was taken into protective custody which is the  
24 case they want to try separate from this one ---

25 MS. MORICLE: That's correct.

MOTIONS AND MATTERS

1 MR. WHELCHER: --- so they can't have it both ways.

2 MS. MORICLE: I'm not askin' for both ways, I'm  
3 asking, ---

4 MR. WHELCHER: Sounds to me like you are.

5 MS. MORICLE: --- I'm asking if the order comes in, we  
6 can redact the parts about the other child but the rest of the  
7 order is in its full and entirety.

8 MR. WHELCHER: Your Honor, as you can see, uh, the  
9 probative value outweighs, excuse me, prejudicial value has  
10 out, greatly outweighs the probative value of whatever it is  
11 they wanna put in because of that, uh, allegation of services  
12 offered, uh, in this case. Uh, the other thing, again I'd,  
13 uh, we offer to Your Honor is that this order has has a  
14 standard of proof the preponderance of the evidence. Standard  
15 of proof in this court is beyond a reasonable doubt, the  
16 standard of proof for that order is much less than is required  
17 in this court and I would object to the entirety based on  
18 that.

19 MS. MORICLE: Your Honor, the order's the basis of the  
20 charge, I don't think that Mr. Whelcher can get the whole  
21 order taken out.

22 THE COURT: Alright, here's what we're gonna do: take out  
23 that right there (indicating) that we talked on the first  
24 page, in an abundance of caution I will take out this  
25 (indicating) and this (indicating) but the rest a that order's

MOTIONS AND MATTERS

1 coming in. Any objection?

2 MR. WHELCHER: Everything that's underlined's coming out?

3 THE COURT: Yeah, that's (indicating) gonna come out,  
4 that's (indicating) gonna come out, that's (indicating) gonna  
5 come out but the order's coming in.

6 MR. WHELCHER: Okay, I'll just go ahead and underline it  
7 all, Your Honor, so I, ---

8 THE COURT: That she'll take it out.

9 MR. WHELCHER: --- so I can see a copy.

10 MS. MORICLE: And, Your Honor, I'd like to get in the  
11 certified copy 'cause I've had the clerk come all the way from  
12 Pickens so I'm probly just gonna have to use Wite-Out or do  
13 something with that to cover it and make sure that we cover  
14 both sides.

15 THE COURT: Uh, we have the certified copy and we're  
16 gonna redact it and, uh, uh, you want a a photocopy of that?  
17 I'm not gonna require the clerk come over since we have a  
18 copy, a certified copy.

19 MR. WHELCHER: That'll have -- your redacted copy's  
20 what's goin' to the jury, Your Honor.

21 THE COURT: Yes.

22 MS. MORICLE: And ---

23 THE COURT: Yes.

24 MS. MORICLE: --- the clerk is here.

25 THE COURT: The clerk is here?

MOTIONS AND MATTERS

1 MS. MORICLE: He is here.

2 THE COURT: Okay.

3 MR. WHELCHER: She can testify if she's here ---

4 THE COURT: Okay.

5 MR. WHELCHER: --- or he.

6 THE COURT: Alright, the clerk is here, that's right, but

7 but we're gonna, we're gonna allow the redacted copy go in ---

8 MR. WHELCHER: Yes, sir.

9 THE COURT: --- instead of this with the seal on it.

10 MR. WHELCHER: Yes, sir.

11 THE COURT: Okay.

12 MS. MORICLE: If I may, may I use that, Your Honor?

13 THE COURT: Sure.

14 MS. MORICLE: Thank you.

15 THE COURT: Anything else before we get -- jury ready?

16 THE BAILIFF: We had two ---

17 THE COURT: Still missin' two?

18 THE BAILIFF: Yes, Your Honor.

19 THE BAILIFF: Yes, sir, received a message from Kimberly.

20 MS. MORICLE: Your Honor, may I go redact this and

21 then ---

22 THE COURT: Sure.

23 MS. MORICLE: --- speak to my witnesses about what we

24 can, can't talk about?

25 THE COURT: Okay.

MOTIONS AND MATTERS

1 MS. MORICLE: Thank you. I'll be right back.

2 THE COURT: That'll give these two jurors time to get  
3 here.

4 (Whereupon, a discussion was held off the record.)

5 THE COURT: And is everybody look at their voir, at their  
6 voir dire, is everybody good with the voir dire?

7 (Whereupon, a discussion was held off the record.)

8 MR. WHELCHER: I'm still lookin' at the redaction, Your  
9 Honor, that she finishes it up.

10 (Pause.)

11 THE COURT: Ready to go?

12 MS. MORICLE: Yes, Your Honor, yes.

13 THE COURT: What about the voir dire? Everything good on  
14 voir dire have we decided?

15 MS. MORICLE: Yes, Your Honor.

16 MR. WHELCHER: Yes, sir, Your Honor.

17 THE COURT: Okay, alright.

18 MR. WHELCHER: Your Honor, I do have a couple other  
19 matters now that we're finished with the redaction.

20 THE COURT: Okay.

21 MR. WHELCHER: Uh, I would ask the solicitor to instruct  
22 all her witnesses not to mention the prior hearing or any any  
23 testimony whatsoever concerning the 2014 hearing 'cause that's  
24 gonna cause me have to make a motion for a mistrial, Your  
25 Honor.

MOTIONS AND MATTERS

1 MS. MORICLE: We've already gone into that, Your Honor.

2 THE COURT: Yes.

3 MR. WHELCHER: I would also make a motion at this time,  
4 Your Honor, to, uh, sequester State's witnesses.

5 MS. MORICLE: I'll admit to that.

6 THE COURT: It's agreed to.

7 MR. WHELCHER: And, finally, Your Honor, uh, I, just so  
8 I'll know, the face a the indictment makes reference to S --  
9 Code Section ~~16-17-495(A)(1)~~ while the body of the indictment  
10 says it's in violation 16-17-495(2), I need the State to tell  
11 me which which section a the statute they're proceeding under.

12 MS. MORICLE: Your Honor, we're gonna proceed under  
13 (A)(1) and I apologize to Mr. Whelcher about that, I think  
14 probably what was meant to go into that was (B) which would be  
15 the penalty statute but I think we're covered since it is  
16 listed on the face of the indictment

17 THE COURT: Okay, it's it's, uh, (A)(1).

18 MR. WHELCHER: Thank Your Honor.

19 THE COURT: Okay. Ready now?

20 MR. WHELCHER: Yes.

21 THE COURT: Okay.

22 MS. MORICLE: Yes, Your Honor.

23 THE COURT: State anything?

24 MS. MORICLE: No thank Your Honor.

25 THE COURT: We have a jury.

MOTIONS AND MATTERS

1 THE BAILIFF: Yes, Your Honor.

2 THE COURT: Let's see five and five, right? We'll pick  
3 one alternate.

4 MR. WHELCHER: I apologize, Your Honor. I would be  
5 opposed to Number 6 of the State proposed voir dire.

6 MS. MORICLE: Oh.

7 THE COURT: Why?

8 MR. WHELCHER: It's prejudicial, it's gonna cause them to  
9 speculate why they're even being asked this, has nothin' to do  
10 with case at hand.

11 MS. MORICLE: I don't think it's prejudicial to him. I I  
12 think anybody involved with DSS that state their parental  
13 rights have been terminated, I mean, it's gonna be prejudicial  
14 to the State, I'd like to know that.

15 THE COURT: Anything else?

16 MR. WHELCHER: That's it, Your Honor.

17 THE COURT: Alright.

18 THE BAILIFF: May I approach, Your Honor?

19 THE COURT: Yes.

20 (Whereupon, a bench conference was held off the record.)

21 THE COURT: Hey, need me?

22 THE CLERK: Yes, sir.

23 THE COURT: C'mon up.

24 (Whereupon, a bench conference was held off the record.)

25 (Whereupon, the jury pool entered the courtroom.)

JURY QUALIFICATION

1 THE COURT: Good morning, ladies and gentlemen, thank you  
2 for bein' attentive and bein' back with us today, uh, we  
3 di -- we find ourselves in need of your services, uh, once  
4 again. Uh, we are here this morning on the matter of  
5 the State of South Carolina vs. Danny Vega, is it Vega,  
6 Mr. Whelchel?

7 THE DEFENDANT: Vega.

8 THE COURT: Vega.

9 MR. WHELCHER: Vega, Your Honor.

10 THE COURT: Danny Vega, uh, uh, who is the defendant in  
11 this case. Uh, I remind you there are some questions that I  
12 must ask and I remind you that you were previously sworn this  
13 week and that you remain, uh, under oath.

14 Uh, ladies and gentlemen, uh, this case is, uh, it is  
15 alleged in the indictment, uh, that the defendant Danny Vega  
16 did in Spartanburg County, South Carolina on or about May 7 of  
17 2015 unlawfully and with intent to violate a court order take  
18 or transport or cause to be taken or transported a minor child  
19 from the legal custodian for purposes of concealing, uh, that  
20 child all in violation of state law. Now, ladies and  
21 gentlemen, as I've told you previously, uh, this week, the  
22 indictment itself is merely a piece of paper, it is the  
23 charging instrument which brings the, uh, individual before  
24 the Court, it is not evidence of his guilt whatsoever, it  
25 cannot be considered by you as evidence of his guilt, I will

JURY QUALIFICATION

1 tell you more about that later. Mr., uh, Mr. Vega has entered  
2 a plea of not guilty and he is presumed not guilty under our  
3 law so Mr., uh, again, Mr. Vega has entered a plea of not  
4 guilty and that will put the burden squarely and on, uh, on  
5 the State of South Carolina to prove, uh, him guilty beyond a  
6 reasonable doubt.

7 Now, ladies and gentlemen, again, there are some  
8 questions I'm required to answer, I'm sorry, to ask and you to  
9 answer, uh, this mornin' about this case and here they are: Is  
10 there any member of the jury panel who is or ever has been  
11 related by blood or marriage to Danny Vega? Mr. Vega, if you  
12 will just kindly stand, please, face face them.

13 (Whereupon, the defendant complied.)

14 THE COURT: Sir, you may sit down at this point, thank  
15 you. Is there any member a the jury panel who is currently or  
16 ever has been related by blood or marriage to Mr. Vega, please  
17 stand.

18 (No response.)

19 THE COURT: Is there any member of the jury panel who has  
20 a close personal or social relationship with Mr. Vega, if so  
21 please stand. Once again, you know him from the neighborhood,  
22 you know him from the grocery store or some other way: work,  
23 whatever it might be, please stand.

24 (No response.)

25 THE COURT: Alright. The following are potential and a

JURY QUALIFICATION

1 potential witnesses in this case and again, I say "potential",  
2 I don't know how many of them, uh, will testify: Sergeant Tony  
3 Brown (stood), Investigator Tray Moss (stood), Cindi [sic]  
4 Wilson (stood), Investigator Fred Lux (stood) and Tim Gossett  
5 (stood). Is there any member, thank you, thank you, you may  
6 be seated, thank you. Is there any member of the jury panel  
7 who is related by blood or marriage or ever has been related  
8 by blood or marriage to any of those potential witnesses, if  
9 so please stand.

10 (No response.)

11 THE COURT: Is there me -- any member a the jury panel  
12 who has a close personal or social relationship with any of  
13 those potential witnesses, again you know them from work,  
14 church, grocery store, whatever it might be, if so please  
15 stand.

16 (No response.)

17 THE COURT: I'm gonna ask the lawyers to introduce  
18 themselves, please. Yes, ma'am.

19 MS. MORICLE: Good mornin', thank you all for being here.  
20 I'm Megan Moricle, I work for Seventh Circuit Solicitor's  
21 Office under Barry Barnette.

22 MR. LEIBERT: I'm Tony Leibert, I also work for solicitor  
23 Barry Barnette as an intern.

24 THE COURT: Mr. Whelchel.

25 MR. WHELCHER: Good morning, my name is Dick Whelchel,

JURY QUALIFICATION

1 I'm a defense attorney and I represent Danny Vega. Thank you.

2 THE COURT: Thank you. Is there any member of the jury  
3 panel who has ever been represented by any of the lawyers in  
4 this case in any matter, whether it was a real estate closing  
5 or they they did a will for you or whatever it might be, any  
6 any member a jury panel ever been represented by any of the  
7 lawyers in this case, please stand.

8 (No response.)

9 THE COURT: Any member of the jury panel have a close  
10 personal or social relationship with any of the lawyers in  
11 this case, if so please stand. Okay, yes, ma'am, your number  
12 please.

13 JUROR NUMBER 19: Uh, 19.

14 THE COURT: Yes, ma'am.

15 JUROR NUMBER 19: Simply a social relationship, I know  
16 Mr. Whelchel from church.

17 THE COURT: Okay, would that interfere with your ability  
18 to be fair and impartial to both sides?

19 JUROR NUMBER 19: No.

20 THE COURT: Ma'am, you may stay with us. Yes, sir, your  
21 number.

22 JUROR NUMBER 66: I know Mr. Whelchel from Wofford  
23 College and from basketball in the past.

24 THE COURT: Okay, and your number, sir?

25 JUROR NUMBER 66: Sixty-six, I ---

JURY QUALIFICATION

1 THE COURT: Would that interfere with your ability to be  
2 fair, impartial?

3 JUROR NUMBER 66: No.

4 THE COURT: Sir, you may stay with us. Anyone else?  
5 (No response.)

6 THE COURT: Is there any member of the jury panel ever  
7 been repres -- and has ever testified for the Seventh Circuit  
8 Solicitor's Office, if so please stand. Ma'am, your number,  
9 please.

10 JUROR NUMBER 61: Sixty-one.

11 THE COURT: Yes, ma'am. Would that interfere with your  
12 ability to be fair and impartial to both sides?

13 JUROR NUMBER 61: No.

14 THE COURT: Thank you. Is there any member a the jury  
15 panel who has a family member or a close personal friend who  
16 is employed by the Seventh Circuit Solicitor's Office, please  
17 stand.

18 (No response.)

19 THE COURT: Is there any member a the jury panel who, uh,  
20 has a cl -- family member or close personal friend who's  
21 employed, uh, with the firm that Mr. Whelchel practices in, if  
22 so please stand.

23 (No response.)

24 MR. WHELCHER: Excuse me, Your Honor, do you want me to  
25 let them know that I'm a public defender just to, outta an

JURY QUALIFICATION

1 abundance a caution?

2 THE COURT: I'd be happy to -- you can do ---

3 MR. WHELCHER: Okay.

4 THE COURT: --- that. I'll -- yeah.

5 MR. WHELCHER: I am, will inform that I do work for the  
6 public defender's office.

7 THE COURT: Is there any member of of the pub, uh, any  
8 member of the jury panel who, uh, has a family member or  
9 personal friend who is employed by the public defender's  
10 office for the Seventh Circuit, that's Spartanburg, Cherokee  
11 County, if so please stand.

12 (No response.)

13 THE COURT: Any member of the jury panel have a family  
14 member or close personal friend who's been represented, uh, by  
15 the public defender's office Seventh Circuit, please stand.

16 THE COURT: Alright, yes, ma'am, your number, please.

17 JUROR NUMBER 41: Forty-one.

18 THE COURT: Yes, ma'am, would that ---

19 JUROR NUMBER 41: They will ---

20 THE COURT: --- interfere ---

21 JUROR NUMBER 41: --- be representing in an upcoming  
22 trial so we've had relations with Mr. Barnette.

23 THE COURT: Okay, would that interfere with your ability  
24 to be fair and impartial in this matter?

25 JUROR NUMBER 41: No.

JURY QUALIFICATION

1 THE COURT: Thank you, ma'am, you may stay with us.  
2 Okay. Is there any member a the jury panel, uh, either  
3 yourself or family member or close personal friend friend who  
4 has an open Department of Social Services case, if so please  
5 stand.

6 (No response.)

7 THE COURT: Is there any member a the jury panel either  
8 yourself, your family member or close personal friend who has  
9 previously been charged with custodial interference, if so  
10 please stand.

11 (No response.)

12 THE COURT: Is there any member a the jury panel who has  
13 heard anything about this case, the State vs. Danny Vega, I  
14 know nothin' about it other than two pieces of paper up here,  
15 anybody know anything about this case, if so please stand.

16 (No response.)

17 THE COURT: Is there a member of the jury panel who has  
18 formed an opinion about this case, if so please stand.

19 (No response.)

20 THE COURT: Is there any member a the jury panel who is  
21 employed or ever been employed by law enforcement agency  
22 whether that be military police, sheriff's department, city,  
23 some city agency, state agency or otherwise, employed by law  
24 enforcement at some point your life, please stand. Alright,  
25 yes, sir, your na -- number, Mr. Walsh?

JURY QUALIFICATION

1 JUROR NUMBER 167: Uh, 167.

2 THE COURT: Alright, sir, would that interfere with your  
3 ability to be fair and impartial to both State and defense?

4 JUROR NUMBER 167: Uh, no, Your Honor.

5 THE COURT: Thank you, sir, please be seated. Anybody  
6 else?

7 (No response.)

8 THE COURT: Is there any member a the jury panel who is a  
9 supporter of police booster organizations or honorary law  
10 enforcement organizations or similar groups which include but  
11 are not limited to the South Carolina Trooper's Association,  
12 South Carolina Law Enforcement Officer's Association, County  
13 Sheriff's Association, Fraternal Order of Police, Mothers  
14 Against Drunk Driving, etc., such organizations you either  
15 belong to that or you have contributed money to that, if you  
16 so please stand. Yes, sir.

17 JUROR NUMBER 167: Your Honor, and I I I think I donated  
18 to the Sheriff's, uh, calendar somethin' or other.

19 THE COURT: Alright, sir. Mr. Walsh, your number again?

20 JUROR NUMBER 167: Uh, 167.

21 THE COURT: Would that interfere with your ability be  
22 fair and impartial?

23 JUROR NUMBER 167: Uh, no, Your Honor.

24 THE COURT: Thank you, sir. Yes, ma'am.

25 JUROR NUMBER 154: One fifty-four.

JURY QUALIFICATION

1 THE COURT: Would that interfere with your ability fair  
2 and impartial?

3 JUROR NUMBER 154: No.

4 THE COURT: Thank you, ma'am, you may stay with us.

5 MR. WHELCHER: Excuse me, Your Honor, I didn't hear the  
6 number.

7 THE COURT: One fifty-four?

8 JUROR NUMBER 154: Yes.

9 THE COURT: One fifty-four.

10 MR. WHELCHER: Thank you, sir.

11 THE COURT: Alright. Is there any member a the jury  
12 panel who's aware of any bias or prejudice either towards the  
13 plaintiff, I'm sorry, either toward the State or the defense,  
14 if so please stand.

15 (No response.)

16 THE COURT: Is there any member a the jury panel know of  
17 any reason why he or she should not serve on this case with  
18 particular emphasis being placed on the ability to be fair and  
19 impartial to both sides, if so please stand.

20 (No response.)

21 THE COURT: Anything further from the State?

22 MS. MORICLE: Nothing, Your Honor.

23 THE COURT: From the defense?

24 MR. WHELCHER: No, sir.

25 THE COURT: Okay. We ready to pick our jury?

JURY QUALIFICATION

1 MS. MORICLE: Yes, Your Honor.

2 THE COURT: Alright, madam clerk.

3 (Pause.)

4 THE CLERK: At this time when I call your name and your  
5 juror number if you'll please get your belongings and come and  
6 face the attorneys and stand at the bailiff and when you -- if  
7 you're selected for jury duty, you're gonna go sit in the jury  
8 box. Juror Number 71, Sarah Harris.

9 (Sarah Harris, a white female came forward.)

10 THE CLERK: What say the State?

11 MS. MORICLE: Please present this juror.

12 THE CLERK: What say the defense?

13 MR. WHELCHER: Please excuse Ms. Harris from the trial  
14 this case.

15 THE CLERK: Juror Number 43, Janice Dunlap.

16 (Janice Dunlap, a white female came forward.)

17 THE CLERK: What say the State?

18 MS. MORICLE: Please present this juror.

19 THE CLERK: What say the defense?

20 MR. WHELCHER: Please present Ms., uh, Dunlap.

21 THE CLERK: Juror Number 101, Khambot Maythong, am I  
22 sayin' that . . .

23 (Khambot Malaythong, an Asian male came forward.)

24 THE CLERK: What say the State?

25 MS. MORICLE: Please present this juror.

JURY QUALIFICATION

1 THE CLERK: What say the defense?  
2 MR. WHELCHER: Please seat the gentleman.  
3 THE CLERK: Juror Number 20, Jennifer Butler.  
4 (Jennifer Butler, a white female came forward.)  
5 THE CLERK: What say the State?  
6 MS. MORICLE: Please present this juror.  
7 THE CLERK: What say the defense?  
8 MR. WHELCHER: Please excuse Ms. Butler from the trial a  
9 this case.  
10 THE CLERK: Juror Number 171, Julie Tran.  
11 (Julie Tran, an Asian female came forward.)  
12 THE CLERK: What say the State?  
13 MS. MORICLE: Please present this juror.  
14 THE CLERK: What say defense?  
15 MR. WHELCHER: Please seat Ms. Tran.  
16 THE CLERK: Juror Number 42, Anita Dolman.  
17 (Anita Dolman, a white female came forward.)  
18 THE CLERK: What say the State?  
19 MS. MORICLE: Please present this juror.  
20 THE CLERK: What say the defense?  
21 MR. WHELCHER: Please seat Ms. Dolk [sic].  
22 THE CLERK: Juror Number 152, Karina Vorobyev.  
23 (Karina Vorobyev, a white female came forward.)  
24 THE CLERK: What say the State?  
25 MS. MORICLE: Please present this juror.

JURY QUALIFICATION

1 THE CLERK: What say the defense?

2 MR. WHELCHER: Please seat the juror.

3 THE CLERK: Juror Number 45, Robert Edwards.

4 (Robert Edwards, a white male came forward.)

5 THE CLERK: What say the State?

6 MS. MORICLE: Please present this juror.

7 THE CLERK: What say the defense?

8 MR. WHELCHER: Please seat Mr. Edwards.

9 THE CLERK: Juror Number 120, Quynh Pham.

10 (Quynh Pham, an Asian female came forward.)

11 THE CLERK: What say the State?

12 MS. MORICLE: Please present this juror.

13 THE CLERK: What say the defense?

14 MR. WHELCHER: Please seat Ms. Pham.

15 THE CLERK: Juror Number 154, Traci Wallace.

16 (Traci Wallace, a white female came forward.)

17 THE CLERK: What say the State?

18 MS. MORICLE: Please present this juror.

19 THE CLERK: What say the defense?

20 MR. WHELCHER: Please excuse Ms. Wallace from the trial a  
21 this case.

22 THE CLERK: Juror Number 116, Joshua Owens -- Owen.

23 (Joshua Owen, a white male came forward.)

24 THE CLERK: What say the State?

25 MS. MORICLE: Please excuse this juror.

JURY QUALIFICATION

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THE CLERK: Juror Number 46, Autumn Eller.

(Autumn Eller, a white female came forward.)

THE CLERK: What say the State?

MS. MORICLE: Please present this juror.

THE CLERK: What say the defense?

MR. WHELCHER: Please seat Ms. Eller.

THE CLERK: Juror Number 132, Angela Ro -- Roseland

[sic].

(Angela Rosenlund, a white female came forward.)

THE CLERK: What say the State?

MS. MORICLE: Please present this juror.

THE CLERK: What what say defense?

MR. WHELCHER: Please 'scuse the lady from the trial this  
case.

THE CLERK: Juror Number 136, Stanford Samples.

(Stanford Samples, a white male came forward.)

THE CLERK: What say the State?

MS. MORICLE: Please present this juror.

THE CLERK: What say the defense?

MR. WHELCHER: Please seat Mr. Samples.

THE CLERK: Juror Number 137, Sheila [sic] Sanders.

(Shelia Sanders, a black female came forward.)

THE CLERK: What say the State?

MS. MORICLE: Please excuse this juror.

THE CLERK: Juror Number 151, Robin [sic] Vernon.

JURY QUALIFICATION

1 (Robbie Vernon, a black female came forward.)

2 THE CLERK: What say the State?

3 MS. MORICLE: Please present this drug -- juror, sorry.

4 THE CLERK: What say the defense?

5 MR. WHELCHER: Please seat the lady.

6 THE CLERK: Juror Number 33, Lynn Crowe.

7 (Lynn Crowe, a white female came forward.)

8 THE CLERK: What say the State?

9 MS. MORICLE: Please present this juror.

10 THE CLERK: What say defense?

11 MR. WHELCHER: Please 'scuse the lady from the trial a  
12 this case.

13 THE CLERK: Juror Number 1, Louisa Adair.

14 (Louisa Adair, a white female came forward.)

15 THE CLERK: What say the State?

16 MS. MORICLE: Please present this juror.

17 THE CLERK: What say defense?

18 MR. WHELCHER: Please seat Ms. Adair down.

19 THE CLERK: Juror Number 99, Zepora Lyles.

20 (Zepora Lyles, a black female came forward.)

21 THE CLERK: Say the State?

22 MS. MORICLE: Please present this juror.

23 THE CLERK: What say the defense?

24 MR. WHELCHER: Please seat Ms. Lyle [sic].

25 THE CLERK: Juror Number 149, Christopher Turner.

JURY QUALIFICATION

1 (Christopher Turner, a white male came forward.)

2 MS. MORICLE: Please ---

3 THE CLERK: What ---

4 MS. MORICLE: --- present ---

5 THE CLERK: --- say the ----

6 MS. MORICLE: --- this, ---

7 THE CLERK: --- State?

8 MS. MORICLE: --- please present this juror.

9 THE CLERK: What say the defense?

10 MR. WHELCHER: Please seat Mr. Turner.

11 THE COURT: Are there any matters regarding jury  
12 selection from State?

13 MS. MORICLE: None, Your Honor.

14 THE COURT: From the defense?

15 MR. WHELCHER: Beg the Court's indulgence, ---

16 THE COURT: Yes.

17 MR. WHELCHER: --- Your Honor. Nothing, Your Honor.

18 THE COURT: Thank you very much.

19 (Whereupon, the remainder of the jury panel was  
20 released.)

21 THE COURT: Okay. Madam clerk, will you swear this jury  
22 to try this case.

23 THE CLERK: Yes. You'll please stand and raise your  
24 right hand.

25 (Whereupon, the jury was sworn.)

MOTIONS AND MATTERS

1 THE CLERK: Thank you.

2 THE COURT: Thank you, ladies and gentlemen, please  
3 be seated. Uh, good morning again. Uh, Juror Number 45,  
4 Mr. Robert Edwards, sir, you are hereby appointed the foreman  
5 of the jury and you are sitting in the correct seat. We  
6 have assigned seating for two people on this jury, one of 'em  
7 is the foreperson and one of 'em is my alternate and  
8 Mr. Alternate, you're sitting in the correct seat as well, so  
9 havin' said that I would ask that you two gentlemen always sit  
10 in the seats that you are sitting in, everyone else is hereby  
11 made an honorary rotarian, you can sit on the front, you can  
12 sit on the back, you can sit left or the right and you can  
13 choose a different seat every time you come in the courtroom  
14 if you like, I'll also tell ya that I stand a lot durin'  
15 trials, uh, I don't like to sit in that chair and I will  
16 invite you to do likewise. If you choose to stand a little  
17 bit and I did have somebody on the last jury that did that  
18 every once in a while, if you have, uh, if you want to stand a  
19 little bit durin' the trial, I would merely ask that you sit  
20 on the back row so that you will not obstruct your brother's  
21 or sister's view, okay. Now you will see me stand some and  
22 sit some, I also wanna tell ya up front that you are to pay no  
23 attention, give no, uh, no credence or credibility to to  
24 whether I'm standing or sitting when a witness testifies, it  
25 does not beli -- it does not mean I believe a witness if I'm

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1 sitting or standing and it does not mean I disbelieve a  
2 witness if I'm sitting or standing, I'll tell you right now  
3 that only thing that means when I'm standing is I'm tired a  
4 sitting and if I'm sitting, I'm tired a standing and that's  
5 all it means, okay, means nothing else.

6 Now, Mr. Foreman, we're gonna let you go to the jury  
7 room, this is gonna be a different room that you have seen,  
8 that that that you've been in before, take your jury with you  
9 to that jury room, do not discuss this case, do not talk about  
10 the case, you don't know anything about it, uh, and nor do I,  
11 again, I truly only have two pieces a paper up here is all I  
12 know about this case, uh, and it just has names on it, that's  
13 all it has, those two numbers, so do not talk about the case,  
14 go back there, the bailiff is gonna show you where that is.  
15 Uh, there's some good coffee here if ya need some coffee, the  
16 restrooms are there, refresh yourself. Uh, I anticipate that  
17 these folks, these lawyers will need just a couple minutes,  
18 they made a projector, I don't know, they may need an easel of  
19 some sort so I gotta give them just a couple a minutes to set  
20 up before we begin this trial but anticipate bein' back in  
21 here in about fifteen minutes, okay.

22 JURY FOREMAN: Yes, sir, Your Honor.

23 THE COURT: Mr. Foreman, take the jury out, please.

24 (The following takes place outside the presence of the  
25 jury.)

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1 THE COURT: Okay, we're gonna be at a quick recess,  
2 everybody refresh yourselves, get some coffee, water, whatever  
3 you might need to do. Uh, Mr., uh, Vega, let me tell ya on  
4 the record, uh, as a courtesy to your lawyer whom I have known  
5 for a very long time, uh, you, I'm gonna allow you to remain  
6 out at this point which means you can go to the restroom,  
7 return to the courtroom at your leisure, I d -- I hope you  
8 don't smoke but if you do and you wanna go outside, you can do  
9 that, you're you're not restricted. Technically when your  
10 case is called you are in custody, you understand ---

11 THE DEFENDANT: (Nodded in the affirmative.)

12 THE COURT: --- but as a courtesy to your lawyer, uh, I  
13 will allow you to remain free. Now he's an officer a the  
14 Court so if he tells me that he asked you to be back in ten  
15 minutes and you're not back in ten minutes I will take you in  
16 custody, ---

17 THE DEFENDANT: Yes, sir.

18 THE COURT: --- okay? Alright, anything?

19 MR. WHELCHER: Thank you, Your Honor.

20 THE COURT: Alright.

21 (Whereupon, a recess was taken.)

22 (BOLO marked State's Exhibit No. 1, photograph marked  
23 State's Exhibit No. 2, photograph marked State's Exhibit No. 3  
24 and ex parte order for protective custody marked State's  
25 Exhibit No. 4 for identification.)

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1 (Whereupon, a discussion was held off the record.)

2 THE COURT: Anyway, we're ready for our jury.

3 THE BAILIFF: Yes, Your Honor.

4 (Whereupon, a discussion was held off the record.)

5 MS. MORICLE: Oh, yes, Your Honor, I'm sorry, I forgot we  
6 are sequestering witnesses. Um, Mr. Go ---

7 THE COURT: Oh, yeah.

8 MS. MORICLE: --- ssett and anyone else. Anyone else?  
9 Even our lead investigator?

10 THE COURT: Not the lead investigator. Lead investigator  
11 can stay and the first witness up, ma'am.

12 MS. MORICLE: Yes, ---

13 THE COURT: Okay.

14 MS. MORICLE: --- Mr. Gossett.

15 (Whereupon, a discussion was held off the record.)

16 (The following takes place in the presence of the jury.)

17 THE COURT: Mr. Foreman, any matters from my jury?  
18 Everything's good?

19 JURY FOREMAN: Yes, sir.

20 THE COURT: Okay. Mr. Foreman, ladies and gentlemen a  
21 the jury, we're about to try the case of the matter of the  
22 State a South Carolina vs. Danny, uh, Vega who is the  
23 defendant in this matter but before we begin this trial I want  
24 to tell ya that this trial will probably be different from  
25 anything that you might come to expect. Many people do not

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1 have a chance to attend an actual court session as you're  
2 doing now and believe from watching television, movies or  
3 reading books that trials are always full of high drama,  
4 intense action and riveting circumstance, now while all of  
5 these things may be true at times, this trial is not for  
6 entertainment purposes, this trial is a fundamental part of  
7 our democracy, it is a search for the truth in an effort to  
8 make sure that justice is done between the parties presently  
9 before the Court. Searching for the truth and making sure  
10 that justice is done is oftentimes slow, deliberate and  
11 repetitive, just the opposite of what you and I have come to  
12 expect from entertainment industry. This courtroom is a place  
13 of honor dedicated to the protection and preservation of  
14 citizen's rights through what many have called the greatest  
15 justice system ever created. I tell you that the lawyers  
16 appearing before you are advocates for the parties they  
17 represent but first and foremost they are officers of this  
18 court sworn to uphold the integrity and the fairness of our  
19 judicial system and to assist you in sear -- in your search  
20 for the truth. Ladies and gentlemen, again we thank you for  
21 accepting your important responsibility of jury service, uh,  
22 this week, again, we could not do what we do without your  
23 service.

24 Now, ladies and gentlemen, what I tell you or what I say  
25 to you, uh, during my introductions and my remarks are not a

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1 charge on the law, I will instruct you on the law in this case  
2 at the end a the trial before you retire to consider your  
3 verdict. My remarks are merely an explanation of the  
4 procedure that we will follow so that you may better  
5 understand what is happening. Ladies and gentlemen, you are  
6 not to take notes during the trial of this case.

7 As I previously told you, the defendant Mr. Danny Vega is  
8 charged by an indictment filed with this court with the  
9 offense of transportation of a child under 16 years of age of  
10 custody order and it's alleged that he did in Spartanburg  
11 County, South Carolina on or about May 7 of 2015 unlawfully  
12 and with the intent to violate a court order take or transport  
13 or cause to be taken or transported a minor child from a legal  
14 custodian for purposes of concealing the child, uh, and that's  
15 in in violation of state law. I tell you again that this  
16 indictment is merely a piece of paper, it is no evidence  
17 whatsoever, uh, of guilt against Mr. Vega, it is merely the  
18 charging instrument which brought him before the Court. I  
19 also tell you and charge you that he has pled not guilty to  
20 this indictment and he is presumed not guilty, uh, at this  
21 time and until such time as the State beyond a reasonable  
22 doubt, uh, convinces you of his guilt, again, that will be a  
23 reasonable doubt standard. Now it is as porant -- is  
24 important for you at this point, uh, to perform your jury duty  
25 of determining facts diligently and conscientiously because

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1 ordinarily there is no way to correct erroneous facts-finding  
2 by the jury.

3 Now, ladies and gentlemen, you are, you twelve are the  
4 finders of fact in this case, State a South Carolina makes it  
5 so that jurors are the finders of fact, by the same law and  
6 with equal emphasis state law makes me the judge of the law in  
7 this case and the law that I -- as I give it to you is the  
8 only law that you may consider, you must accept it and follow  
9 it even if you disagree with it. Ladies and gentlemen, I  
10 cannot tell you what the facts are and you cannot disagree  
11 with me about what the law is or ought to be or should be,  
12 your job durin' this process is to take the law that I give to  
13 you, apply it to the facts as you twelve find them to be from  
14 the testimony of the witnesses and other evidence that is  
15 introduced and after doing so render a verdict, a verdict that  
16 yous previously took as jurors, but until I tell you that you  
17 may begin to deliberate you must not discuss this case with  
18 any family member, with each other or anyone involved in this  
19 case, the lawyers and the par -- and the parties in this case  
20 have been advised by me not to speak to you so I tell you  
21 ahead a time that in the event that you see someone in the  
22 hallway and they do not speak to you they have been instructed  
23 by me not to do so.

24 Ladies and gentlemen, you must decide this case based  
25 solely on the evidence presented in this courtroom. During

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1 this trial you must not conduct any independent research about  
2 the case, any facts in the case, evidence presented, or people  
3 or organizations involved, please do not try to learn  
4 information from any source outside of this courtroom; in  
5 other words, you must not look at dictionaries or other  
6 reference materials, search the Internet, websites, blogs or  
7 use any tool of electronic, uh, communication to send or  
8 receive information about this case or to help you decide it.  
9 You may not use computers, telephones, cell phones,  
10 smartphones, tablets, the Internet or any other tool of  
11 technology with communication capability at any time while in  
12 the courtroom or in the jury room or during deliberations.  
13 During your breaks for meals you, uh, and overnight if  
14 necessary, you may use those devices but you must not use them  
15 to communicate with anyone about this case until it is  
16 ended, that had means that you must not use phone calls,  
17 e-mails, text messages, instant messages, Twitter or any blog,  
18 chat room or website and that includes Facebook, GooglePlus,  
19 Myspace, LinkedIn, YouTube or any social media weds -- website  
20 to send or receive information about this case, information  
21 includes anything about a party, a witness, a lawyer, a court  
22 officer, any news account about the case, if any, research on  
23 any topic raised or any topic that you might think would be  
24 helpful in deciding the case or any testimony presented by a  
25 witness. During the trial do not read, listen to, or watch

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1 any news reports about this case and that includes anything  
2 that might be in a newspaper, on the Internet, radio, or  
3 television; again, you must not consider anything that you  
4 have previously heard or read about this case or anything that  
5 comes to you outside of this courtroom, information on  
6 television, radio and the Internet or other sources might be  
7 wrong or certainly be incomplete and in our judicial system it  
8 is important that you are not influenced by anything or anyone  
9 outside a this courtroom. If you become aware of a fellow  
10 juror's violations of my instructions, please inform me  
11 immediately. It is important that you keep an open mind and  
12 not decide any issue in this case until all evidence has been  
13 presented, parties have made closing statements and I have  
14 instructed you on the law. Ladies and gentlemen, it is your  
15 solemn duty to determine the guilt or innocence of the  
16 defendant and your verdict must be based solely on the  
17 evidence presented to you during this trial and on the law as  
18 I -- at at -- as I instruct it to you at the close a the case.

19 Now, Mr. Foreman, ladies and gentlemen, just a few  
20 moments the solicitor will what -- will make what is called an  
21 "opening statement" in which she will explain to you the  
22 issues in this case or at least what she believes them to be,  
23 the attorney for the defendant may also make an opening  
24 statement although he is not required to do so. I tell you  
25 that what the lawyers say during their opening statements is

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1 not evidence, it is their position, if you will, their  
2 contention of what the case is about. The evidence in this  
3 case will be presented to you by sworn testimony and any  
4 exhibit that is, uh, introduced into evidence.

5 Now, ladies and gentlemen, I will tell ya ahead a time  
6 that at some point you will probably hear one of the lawyers  
7 or maybe both a the lawyers say, Your Honor, we have a matter  
8 of law to discuss with you, in the event that that happens, I  
9 will ask you to leave the courtroom, the reason is is it might  
10 be necessary for me to make a comment about a fact in this  
11 case with regards to whether or not a particular law or court  
12 rule applies in this case. Again, I cannot make a comment in  
13 your presence or speak for you about a fact in this case so  
14 therefore I will remove you from the courtroom so that you  
15 would not be unduly influenced.

16 Now determining the true facts in this case you must  
17 decide whether or not testimony of the witness is believable,  
18 it's my responsibility to rule as a matter of law as to  
19 whether certain testimony is admissible but once the testimony  
20 is admitted, it is for you twelve jurors to decide whether or  
21 not you believe the testimony. In deciding whether to believe  
22 a witness, you have the right to consider the interest of the  
23 witness or any bias or prejudice of that witness and the  
24 opportunity for that witness to have seen or sensed the things  
25 about which he or she might be testifying. You have the right

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1 to consider anything in the record that will help you evaluate  
2 the testimony of the witness and that necessarily means it is  
3 your duty to pay close attention to the witnesses, observe  
4 them, uh, and please do not let your thoughts wander. Again,  
5 ladies and gentlemen, we thank you for your service.

6 Mr. Foreman, uh, it will also be your additional duty to  
7 preside in the jury room and it will be your duty to write the  
8 verdict of the jury, uh, at the c -- uh, end a this trial,  
9 I'll give you more instructions about that when we get to the  
10 closing argument. Anything from the State at this time?

11 MS. MORICLE: Nothing, Your Honor.

12 THE COURT: From the defense?

13 MR. WHELCHER: No, sir.

14 THE COURT: Okay, ready to start, solicitor?

15 MS. MORICLE: Yes, Your Honor.

16 THE COURT: Yes, ma'am.

17 MS. MORICLE: Good morning, ladies and gentlemen, I know  
18 this isn't exactly where most of you wanna be and that we  
19 acquired few teachers here so I'm sure you had a full day or  
20 something more exciting planned or work, uh, we do appreciate  
21 your service and we can't do this without you so we really do  
22 appreciate that you're here.

23 Uh, today's case is a little different than anything I  
24 think I have had before, uh, it's actually the first time I've  
25 seen this charge in the few years that I've been working here

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1 and the basis of it is custodial interference and that the  
2 basic overview of that is that there is a court order in place  
3 by a jurisdiction in South Carolina and in this instance it  
4 would be a family court order and, uh, it is unlawful for  
5 someone to violate that court order and the Court order gives  
6 jurisdiction of that child and I'm gonna gonna say this  
7 instance there was a baby boy and that baby boy would be  
8 placed in the custody of someone else and custodial  
9 interference is when there's a court order in a jurisdiction  
10 and here it would of Spart -- it would have been family court  
11 order and that that family court order is violated when  
12 someone takes that child out of the custody of the person that  
13 custody has been granted to by the court order and then along  
14 with the interference is that they intentionally violated this  
15 order by transporting or intending or helping to transport a  
16 child and intentionally concealing them for the purpose of  
17 evading court order.

18 In this case there is a little baby born born last April,  
19 his name is Messiah Liddy, he's the biological son of the  
20 defendant Mr. Danny Vega. In this case you're gonna hear  
21 about a court order that was done in family court giving  
22 custody of that child to the Department of Social Services,  
23 this child was not able to be located and was missing for  
24 several days. Law enforcement got involved to help DSS find  
25 this missing child. There's gonna be some testimony that

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1 Mr. Vega was spoken to over the phone and notified about this  
2 court order and to please return the child, you're then gonna  
3 hear from law enforcement that they located that child with  
4 the defendant, the biological mother here in the motel in  
5 Spartanburg County. We take this seriously because this is in  
6 the be -- best interest of a child so it's gonna be a little  
7 different than what you've seen on TV, it's gonna be probly a  
8 little quicker than most trials will go through, we won't have  
9 as many witnesses as you might expect but I believe from the  
10 witness stand, all the information you're gonna hear you're  
11 gonna believe that Mr. Vega did violate the law and he he did  
12 interfere with the custody of this child that was properly  
13 placed with the Department of Social Services at that time.  
14 Thank you.

15 THE COURT: Thank you, solicitor. Mr. Whelchel.

16 MR. WHELCHER: Thank Your Honor. Not guilty. Danny Vega  
17 sits here before you this morning having entered a plea of not  
18 guilty. Now when Danny Vega or anybody else who is arrested  
19 and indicted and hauled into a courtroom in the State of South  
20 Carolina and pleads not guilty, the burden of proving to you  
21 that what the solicitor just told you to happen happened the  
22 way they say it happened and for the reasons they say it  
23 happened. Danny Vega and anybody seated in that (indicating)  
24 chair has no burden whatsoever in this trial. Danny Vega does  
25 not have to testify. You'll hear from the judge when he

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1 cha -- charges you and that's, when he charges you that's just  
2 the instruction of the Court but you gotta understand how very  
3 basic and important this is. For over a year now Danny Vega  
4 has been charged with this crime and for about that time I  
5 represented him. Danny Vega is innocent. Now Danny Vega's  
6 not innocent because I tell you he's innocent, Danny Vega is  
7 innocent because that's the way this system works. Judge has  
8 already told ya presumed not guilty. Presumption in this  
9 state and under our Constitution is that everyone is presumed  
10 innocent. The only presumption that exists in the law in this  
11 state is that my client is innocent, not not guilty, innocent.  
12 You'll hear the judge, he may charge you using this language,  
13 I don't know, but the presumption of innocence has in the past  
14 been described as a cloak of righteousness that shrouds any  
15 defendant who's charged with a criminal offense and it is the  
16 obligation and the duty of the solicitor's office, this table  
17 here (indicating), the State a South Carolina, they are the  
18 ones who arrested him, they are the ones who obtained that  
19 indictment and the judge has already told the indictment  
20 doesn't mean anything, the indictment is the equivalent of the  
21 umpires play ball, that's how we start the trial, without an  
22 indictment there is no trial, all of that action happens  
23 'cause of the State. The State makes allegations, State says  
24 that he did this, State says they're gonna prove to you that  
25 he did this.

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1           Now there's a lotta things we probly don't agree on in  
2 this trial: the child was found in the presence of my client,  
3 they'll testify to that, child being in the presence of my  
4 client does not make him guilty of this charge. You're gonna  
5 hear the judge charge you later at the conclusion of the trial  
6 what all the elements are have to be proven and the fact that  
7 this child's mere presence with him in the room for whatever  
8 period of time they may be able to prove if they can he was  
9 there. Just because he's there doesn't mean client is guilty.  
10 This is not a strict violation statute, it's not like you run  
11 a stop sign, it's a done deal you run a stop sign, but what's  
12 important for you to understand and know at this point and  
13 throughout the trial is this: Not only is Danny Vega innocent  
14 now, he's innocent throughout this trial. He's innocent when  
15 you begin your deliberation, he's innocent throughout your  
16 deliberation in the jury room, he is innocent, uh, all the way  
17 up until the time the twelve of you decide that you heard  
18 evidence so strong and so convincing as to remove the cloak of  
19 innocence and find him guilty, that is what they have to prove  
20 to you; again, he has no burden whatsoever. Pardon me.

21           I think you're gonna hear testimony from people from  
22 Pickens County, uh, about an order, the child being taken into  
23 or being given to DSS custody 'cause of what the mother did or  
24 didn't do but the mother's not here, you're gonna hear I  
25 assume when the State testifies that a child that is born in

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1 South Carolina out of wedlock that the custody a that child is  
2 with the mother, the father has no custodial right until and  
3 unless he brings an action in family court, things of that  
4 nature, and you're gonna have evidence presented to you about  
5 an order, an order that was I believe made forth in Pickens  
6 County where my client was not notified of that hearing and  
7 had no knowledge of that order until he's told about it later.  
8 He never got a copy a the order, he never saw the order, never  
9 saw the order till after he was arrested and I became his  
10 lawyer and we filed paperwork for discovery and then we get a  
11 copy a the order months after he's arrested for allegedly  
12 violating that order.

13 Danny Vega is presumed innocent under the law of this  
14 state, Danny Vega is innocent and I believe after you hear the  
15 evidence, whatever there may be, you will agree with me that  
16 the proper verdict in this case would be not guilty. Thank  
17 you.

18 THE COURT: Thank you, Mr. Whelchel. Solicitor.

19 MS. MORICLE: Your Honor, the State would call  
20 Mr. Gossett.

21 (Whereupon, the witness came forward.)

22 THE CLERK: You'll place your left hand on the Bible and  
23 raise your right.

24 TIM GOSSETT, having been first  
25 duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 THE COURT: Mr. Gossett, once you are situated pull that  
3 microphone up to, close, there you go, and tell us your full  
4 name and spell your last name for my court reporter, please.

5 THE WITNESS: My name is Tim Gossett and it's, the last,  
6 uh, is spelled G-O-S-S-E-T-T.

7 THE COURT: Thank you. Solicitor.

8 MS. MORICLE: Thank Your Honor.

9 DIRECT EXAMINATION BY MS. MORICLE:

10 Q. Morning, Mr. Gossett, ---

11 A. Good mornin'.

12 Q. --- how are ya?

13 A. I'm fine.

14 Q. Good. Could you tell the jury where you came from this  
15 morning.

16 A. I came from the Pickens County Courthouse.

17 Q. And what are your duties there?

18 A. I work in the clerk a court's, uh, office, we just, uh,  
19 maintain the files.

20 Q. Okay. And could you tell the jury a little bit about  
21 what that means.

22 A. Well that the both, I deal with s-- uh, specifically  
23 family court and if there's a case, we we're responsible for  
24 gettin' the file up in -- inside the courtroom and then also  
25 after the cases are over to bring 'em back down and file.

1 Q. Okay. And in that instance would that mean all the  
2 pleadings, filings, court orders?

3 A. Yes, any -- everything that deals with that case is in  
4 that file.

5 Q. And where do ya keep those?

6 A. We got a assigned room in the back and it's it's got  
7 about seven or eight rows and it's slam full of cases from  
8 about the past ten to twelve years.

9 Q. Okay. And would you consider yourself a cusco --  
10 custodians clerk?

11 A. Yes.

12 Q. And what makes you qualified for that?

13 A. Well, other than I've been doin' it for about five years  
14 I'm, uh, I'm basically the one that sets the docket, gets the  
15 files up inside the courtroom and responsible for havin'  
16 everything in the file as we bring it back down.

17 MS. MORICLE: Your Honor, may I approach the witness?

18 THE COURT: Yes, ma'am.

19 BY MS. MORICLE:

20 Q. I'm gonna show you what's been s -- marked as State's  
21 Exhibit 4, do you recognize that?

22 A. Yes, it's been a while but I I do remember this.

23 Q. Okay. Could you tell the jury what that is.

24 A. This is an ex parte order for protective custody.

25 Q. And who is it in regards to?

1 A. Uh, DSS vs. Alex Liddy and Danny Vega.

2 Q. Okay. And would that be a certified copy?

3 A. Yes -- oh, wait, let me make sure. Yes.

4 Q. And what does that mean?

5 A. That means that it's been certified by our clerk a court  
6 who is Pat Welborn and it's been, uh, stamped and dated.

7 Q. Okay, so that's a certified copy out of your  
8 courthouse?

9 A. That's correct.

10 Q. And you're a records custodian?

11 A. Yes.

12 Q. And that is currently housed in the Pickens County  
13 Courthouse?

14 A. That's correct.

15 MS. MORICLE: Your Honor, I ask that State's Exhibit 4 be  
16 moved into evidence.

17 MR. WHELCHER: Beg the Court's indulgence, Your Honor.

18 THE COURT: Yes.

19 MR. WHELCHER: Thank you, sir.

20 THE WITNESS: Welcome.

21 (Whereupon, defense counsel examined the exhibit.)

22 MR. WHELCHER: Thank you. No objection.

23 THE COURT: Alright, it's admitted without objection.

24 (State's Exhibit No. 4, ex parte order for protective  
25 custody admitted into evidence.)

1 MS. MORICLE: Thank Your Honor. I have no further  
2 questions for this witness.

3 THE COURT: Mr. Whelchel.

4 MR. WHELCHER: Thank you, Your Honor.

5 CROSS-EXAMINATION BY MR. WHELCHER:

6 Q. Mr. Gossett, you're five years as a custodian of record  
7 with the clerk of court?

8 A. Yes, sir.

9 Q. Okay. Need to ask ya some questions about this. You  
10 said earlier it was an ex parte order?

11 A. Yes, uh-huh.

12 Q. Uh, that means that no notice was given to Danny Vega, is  
13 that correct?

14 A. I I don't handle that part of it, I ---

15 MS. MORICLE: Objection, ---

16 A. --- just ---

17 MS. MORICLE: --- Your Honor, I don't believe this  
18 witness is qualified to testify ---

19 A. I I don't handle ---

20 THE COURT: That that ---

21 A. --- that part of.

22 THE COURT: --- hold on, so -- hold on, sir. Uh, well,  
23 he he he's answerin' that he doesn't, he doesn't know.

24 MR. WHELCHER: Okay.

25 BY MR. WHELCHER:

1 Q. Did you search the records to determine whether Mr. Vega  
2 was notified this hearing?

3 A. No, ---

4 MS. MORICLE: Objection, Your Honor. I don't believe  
5 he's qualified to testify as to what happened during the order  
6 or what was going on that proceeding as far as he's here as to  
7 certify that this is a custodial record that they keep in  
8 their office.

9 MR. WHELCHER: He's the custodian of the record, Your  
10 Honor, she's just put him up as that particular witness.

11 THE COURT: Yes, ma'am, he -- go ahead, overruled.

12 MR. WHELCHER: Thank Your Honor.

13 BY MR. WHELCHER:

14 Q. So you didn't search to see if Mr. Vega was ever notified  
15 of this hearing that took place on May the 4th.

16 A. No.

17 Q. Okay. Do you have any idea what time the hearing was?

18 A. No, I don't.

19 Q. And this here where this (indicating) writing, that's  
20 what called it be "clocked in", is that correct?

21 A. That's correct.

22 Q. Okay. And when an order or any document with a a circuit  
23 court or family court is clocked, it prints up the date and  
24 the time.

25 A. That's correct.

1 Q. Okay. So the hearing was held on the 4th of May of last  
2 year and this order was clocked at 2:08 in the afternoon, is  
3 that ---

4 A. That's correct.

5 Q. --- correct? Okay. You didn't go to the hearing.

6 A. No, sir.

7 Q. Okay. And you don't have any idea based on your search  
8 of the records whether or not Mr. Vega was ever notified about  
9 this hearing.

10 A. No, sir, I don't.

11 Q. You also don't have any idea based on your search of the  
12 records as a custodian whether or not that order was ever  
13 served on him after it was filed.

14 A. No, sir, I don't.

15 Q. Okay. Thank you, sir.

16 THE COURT: Solicitor, anything?

17 REDIRECT EXAMINATION BY MS. MORICLE:

18 Q. Mr. Gossett, do you have time to attend every hearing  
19 that happens in Pickens County?

20 A. No, Im rarely, I'm rarely ever up there.

21 Q. And there multiple hearings going on in multiple  
22 courtrooms at the same ---

23 A. Uh, twenty to thirty a day.

24 Q. And there's multiple courtrooms going on at the same  
25 time?

1 A. Three to four.

2 Q. Okay, but you are records custodian, you can verify that  
3 that order is in your clerk office.

4 A. Yes.

5 MS. MORICLE: No further questions, Your Honor.

6 RE-CROSS-EXAMINATION BY MR. WHELCHER:

7 Q. And if an affidavit of service had been prepared and  
8 filed it would be with that file, wouldn't it?

9 A. More than likely yes, sir.

10 Q. Okay. Well that's affidavit of service has to have the  
11 same caption number, is that correct?

12 A. It it's, yes.

13 Q. Okay. And you can't tell this court whether or not; one,  
14 Mr. Vega was given notice of the hearing, correct, ---

15 A. No, sir.

16 Q. --- or was ever served with that order?

17 A. No, sir.

18 Q. Thank you, sir.

19 THE COURT: Alright, thank you, sir, you may step down,  
20 please be careful.

21 THE WITNESS: Okay.

22 (Whereupon, the witness left the stand.)

23 MS. MORICLE: This witness be excused for the  
24 duration ---

25 THE COURT: Any objection?

1 MR. WHELCHER: No, sir.

2 THE COURT: Sir, you may stay or leave, whichever ya  
3 choose.

4 THE WITNESS: Okay, thank you a lot.

5 THE COURT: Yes.

6 MS. MORICLE: Thank you. Your Honor, the State would  
7 call Candi Wilson and Mr. Brown's going to get her.

8 THE COURT: Okay.

9 (Whereupon, the witness came forward.)

10 THE CLERK: You'll place your left hand on the Bible and  
11 raise your right.

12 CANDI WILSON, having been  
13 first duly sworn, testified as follows:

14 THE CLERK: Thank you.

15 THE COURT: Ma'am, once you're situated there if you'll  
16 pull that microphone close, tell us your name and spell your  
17 last name for my court reporter, please.

18 THE WITNESS: Candi Wilson, W-I-L-S-O-N.

19 THE COURT: Thank you. Solicitor.

20 MS. MORICLE: Thank Your Honor.

21 DIRECT EXAMINATION BY MS. MORICLE:

22 Q. Good morning, Ms. Wilson, how are you?

23 A. Fine, and you?

24 Q. Good. Can you tell us where you came from today.

25 A. Uh, Pickens County Department of Social Services.

1 Q. And can you tell us what your role is there.

2 A. I'm a foster care worker.

3 Q. What does that mean?

4 A. I, uh, care for children once they have been removed from  
5 their, uh, parents or relatives.

6 Q. Okay. How long have you been with the Department a  
7 Social Services?

8 A. Since October 2013.

9 Q. Okay. And can you tell us, uh, what your training and  
10 background are to be part of Department a Social Services.

11 A. I'm certified with twenty plus hours, uh, every year  
12 with, uh, the trainings that we would need to properly care  
13 for our children, to work with parents, relatives. Uh, my  
14 background is in computer science and, uh, mass communication.

15 Q. Okay, thank you. Uh, Ms. Wilson, do you know Mr. Vega?

16 A. I do.

17 Q. And did you speak to him on the phone?

18 A. Yes, I did.

19 Q. How often would you say you've spoke with him on the  
20 phone?

21 A. Multiple times. Uh, I'd been in contact with him since  
22 February 2014 so we regularly talked on the phone.

23 Q. Okay. And you met with him before?

24 A. Yes.

25 Q. After all the time you spent with Mr. Vega on the phone

1 and in person would you say you could recognize his voice?

2 A. Yes.

3 Q. And did you have his number?

4 A. I did.

5 Q. Did you talk to him on that number frequently?

6 A. Yes.

7 Q. And was it usually the same number or sometimes different  
8 numbers?

9 A. Uh, the majority of the time it was the same number. He  
10 was very, uh, good with providing me with new numbers if he  
11 did change his number.

12 Q. Okay. Uh, and did other members of your office also  
13 speak to him on the phone when you were around?

14 A. Yes.

15 Q. And you were there for those conversations?

16 A. For the majority of them, yes.

17 Q. Okay. And was there a baby boy born last year named  
18 Messiah Liddy?

19 A. Yes, ma'am.

20 Q. Do you know when he was born?

21 A. He was born, uh, May 4th -- no, April 6, 2015.

22 Q. Okay. And was there a safety plan in place for  
23 Mr. Liddy?

24 A. Yes, there was.

25 Q. Uh, who signed that safety plan?

1 A. Uh, Alex Liddy did.

2 Q. And who is she?

3 A. She is the mother of the child Messiah Liddy.

4 Q. Okay. And who is the father of Messiah Liddy?

5 A. Danny Vega.

6 Q. Okay. And did he sign the safety plan?

7 A. He did not, at the time, uh, we could not find him.

8 Q. And was he aware there was a safety plan?

9 A. Once we got in contact with him, yes.

10 Q. And how were you able to get in contact with him?

11 A. Uh, via phone.

12 Q. So he answered his phone?

13 A. Yes, he did. Uh, he he he actually called us, I think he  
14 called us first and then we ended up returning the phone  
15 call.

16 Q. Okay. But you spoke to him on the phone several times.

17 A. Yes.

18 Q. Was he always cooperative about coming into the office?

19 A. No, ma'am.

20 Q. Okay. And is Mr. Vega in the courtroom today?

21 A. Yes, he is.

22 Q. Could you please point him out for the jury.

23 A. He's sitting right there (indicating), ---

24 Q. And ---

25 A. --- red shirt.

1 Q. --- and in regards to safety plan for Messiah Liddy, was  
2 it violated?

3 A. Yes, it was.

4 Q. And how was it violated?

5 A. Uh, Ms. Liddy did not, uh, keep communication with us.  
6 Uh, a month had lapsed and we had not seen the child after,  
7 uh, she had signed and agreed that, uh, our agency will be  
8 able to lay eyes on the child and and come out and visit with  
9 her, uh, we did not know where she was.

10 Q. Where was she residing when the safety plan was signed?

11 A. She was in a woman's shelter for, uh, battered women.

12 Q. And it was her and the baby?

13 A. Yes.

14 Q. Okay. And, uh, when you say you were unable to locate  
15 her, does that mean you were unable to locate her at the  
16 shelter?

17 A. We, yes, we were unable to locate her at the shelter. We  
18 made several attempts and calls to, uh, go there and see her,  
19 she did not respond to phone calls, the shelter did not  
20 provide us with information. When she was, uh, when she first  
21 went to the shelter, she had signed a release form allowing me  
22 to be able to come out and talk with her and, uh, to talk with  
23 the caseworker that was assigned to her there, she changed  
24 that after the baby was born and didn't, did not have any  
25 communication with her.

1 Q. Okay. Uh, and while she was at the shelter, uh, did  
2 Mr. Vega know that she was there?

3 MR. WHELCHER: Objection, Your Honor, she can't possibly  
4 know what Mr. Vega knew.

5 THE COURT: Let's see if she's got a foundation.

6 BY MS. MORICLE:

7 Q. Had you talked to Mr. Vega while Ms. Liddy had been at  
8 the shelter?

9 A. I talked to him, uh, towards the end, uh, tryin' to see  
10 if he knew where she was at, uh; he's denied knowin' where she  
11 was at, uh, was very rude to us while talking to him on the  
12 phone, changed the subject, uh, didn't wanna talk about that,  
13 wanted to know why we were asking him questions about her,  
14 stated that he'd never seen the child since the child was  
15 born.

16 Q. Okay, so in an attempt to locate Ms. Liddy you contacted  
17 Mr. Vega?

18 A. Yes, we did.

19 Q. And you were able to speak to him on the phone?

20 A. Yes.

21 Q. And he denied any knowledge?

22 A. Yes, he did.

23 Q. Okay. And what did DSS do in the best interest of  
24 Messiah in order locate him?

25 A. We, uh, ---

1 MR. WHELCHER: Excuse me, Your Honor. Could I ask the  
2 solicitor speak up just a little bit, I'm having trouble  
3 hearing. Uh, if she could start over again on that, I'd  
4 appreciate it.

5 THE COURT: Sure.

6 BY MS. MORICLE:

7 Q. Ms. Wilson, ---

8 A. Yeah.

9 Q. --- what did DSS do in the best interest of Messiah in  
10 order to locate him?

11 A. We made several attempts to go out to the the shelter  
12 where she was at, uh, our on-call worker, uh, went out to the  
13 shelter with law enforcement, uh, to make several attempts,  
14 uh, ---

15 MR. WHELCHER: Your Honor, I'm gonna object to her  
16 testifying what somebody else did. She doesn't know that of  
17 her own knowledge, it may be in a file somewhere, she can't  
18 testify to that.

19 THE COURT: If she knows what they did, she can testify  
20 to that. Go ahead.

21 MS. MORICLE: Thank Your Honor.

22 THE WITNESS: Okay. I also went out to the, uh, shelter  
23 to, uh, to locate her, could not get any information, could  
24 not find her. Um, through a family court hearing, uh,  
25 Sergeant Tony Brown was assigned to the case to find the

1 child, we worked closely with him. Uh, we contacted all  
2 the phone numbers that we had for both, uh, Mr. Vega and  
3 Ms. Liddy, did not receive any return messages, uh, we sent  
4 letters out to the one address that they did ask us to send,  
5 uh, letters to, we also went out to the the, uh, residence  
6 where Mr. Vega said that he was living at, uh, we sent, uh,  
7 Spartanburg, uh, officer out there, uh, the home was noted to  
8 be vacant, the door was open ---

9 MR. WHELCHER: Objection, Your Honor, this again is  
10 hearsay.

11 THE COURT: Uh, that ---

12 BY MS. MORICLE:

13 Q. Ms. Wilson, ---

14 THE COURT: Solic ---

15 Q. --- do you have knowledge of what you're speaking about?

16 A. I do.

17 MR. WHELCHER: Your Honor, she has knowledge because it's  
18 in a report that she's read, she doesn't have knowledge of her  
19 own, I think that's hearsay and I'm objecting to it, ---

20 THE COURT: Solic ---

21 MR. WHELCHER: --- she didn't go to the scene.

22 THE COURT: Solic ---

23 BY MS. MORICLE:

24 Q. Ms. Wilson, did you make an attempt to go to the home?

25 A. I did not to, not to that particular home.

1 Q. Okay.

2 A. We did call the, uh, power company and, uh, they said  
3 that there was no ---

4 MR. WHELCHER: Objection ---

5 A. --- running power.

6 MR. WHELCHER: --- Your Honor, ---

7 THE COURT: That's sustained.

8 MR. WHELCHER: --- that's hears -- thank you, Your Honor.

9 BY MS. MORICLE:

10 Q. We'll move on from that. So you attempted to serve  
11 Mr. Vega with a letter in the mail, ---

12 A. Yes.

13 Q. --- did you attempt to make a phone call to him before  
14 the hearing?

15 A. Yes.

16 Q. Did you attempt to get in touch with him before the  
17 hearing was held?

18 A. Yes.

19 MS. MORICLE: Your Honor, may I approach the witness?

20 THE COURT: Yeah.

21 BY MS. MORICLE:

22 Q. Ms. Wilson, I'm gonna show you what's been marked as  
23 State's Exhibit 4, could you please review that.

24 (Whereupon, the witness examined the exhibit.)

25 Ms. Wilson, do you recognize that order?

1 A. I do.

2 Q. Can you tell the jury what it is.

3 A. It's an ex parte order for the removal of the minor child  
4 Messiah Liddy.

5 Q. And what does that mean?

6 A. That means that, uh, due to the, uh, due to Alex Liddy  
7 not complying with the agency, the agency not knowing whether  
8 the child was safe, uh, the major concerns that we had, uh,  
9 the child was court ordered to come into the custody of  
10 Department of Social Services.

11 Q. And prior to this hearing did you attempt to contact  
12 Mr. Vega or Ms. Liddy to let them know about this hearing?

13 A. Yes, I did.

14 Q. And that was by the phone numbers that you had talked to  
15 him on the phone?

16 A. Yes.

17 Q. And he called you back with those same numbers, right?

18 A. Yes, he did.

19 Q. Okay. Can you tell me who was present for that hearing?

20 A. Uh, present during that hearing, uh, Alex Liddy was  
21 present and Danny Vega was present, uh, they were incarcerated  
22 so ---

23 Q. Uh, ---

24 MR. WHELCHER: Objection, Your Honor. I have a matter  
25 we need to take up outside the presence of the jury.

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1 THE COURT: Mr. Foreman and ladies and gentlemen of the  
2 jury, at this time I'm gonna ask you to go to jury room,  
3 don't discuss -- discuss this case, it's not at an end, it's  
4 certainly just now getting started, just take a quick break,  
5 Mr. Foreman.

6 (The following takes place outside the presence of the  
7 jury.)

8 THE COURT: Mr. Whelchel.

9 MR. WHELCHER: Your Honor, this witness has just  
10 testified that my client was incarcerated at the time this  
11 hearing took place which is news to me and it's nothing that  
12 was ever given to me in any kind of a response to my discovery  
13 motion and it prejudices my client with her testifying to that  
14 before the jury. I had no knowledge of it, I don't think it's  
15 true and it's a mistake but the problem is she's already  
16 testified to it and based on that testimony, Your Honor, I  
17 have no choice but to make a motion for a mistrial at this  
18 point.

19 THE COURT: Well, solicitor.

20 MS. MORICLE: Your Honor, I think Ms. Wilson probably did  
21 testify inaccurately, I don't believe they were incarcerated  
22 at the time either, um, I think that may have been a prior  
23 hearing but I could be incorrect and I would say that we just  
24 ask the jury to, uh, strike what they heard 'cause I believe  
25 it was incorrect information.

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1 MR. WHELCHER: I don't believe you can unring that bell,  
2 Your Honor, when she's, when she's already testified my client  
3 was incarcerated and the other individual involved was  
4 incarcerated too, Your Honor. The problem is they know from  
5 her testimony there's there's prior dealings so they can  
6 speculate that that even if we tell 'em that they weren't  
7 incarcerated there that they were incarcerated before.

8 MS. MORICLE: I would say that Mr. ---

9 MR. WHELCHER: Your ---

10 MS. MORICLE: --- Whelchel ---

11 MR. WHELCHER: --- Your Honor, ---

12 MS. MORICLE: --- has already said that they ---

13 MR. WHELCHER: --- I ---

14 MS. MORICLE: --- were incarcerated, brought into a  
15 courtroom and arrested during his opening statement, they've  
16 been arrested, we we hauled 'em in here.

17 MR. WHELCHER: For this charge, Your Honor.

18 THE COURT: I understand. I understand. Well, uh, is  
19 it, is it, uh, let me just ask is it true that they were  
20 incarcerated at this hearing or is that a mistake?

21 MS. MORICLE: I I did not have any knowledge they're  
22 incarcerated, I thought Ms. Wilson had spoken to him on the  
23 phone the day of the hearing at some point later after the  
24 hearing to let him know and then Mr. Brown also talked to him  
25 the next day to let him know on the phone. I believe if he

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1 was incarcerated they wouldn't be able to do that but I would  
2 like to verify with Ms. Wilson on.

3 THE COURT: Well, can we, can we verify that? Ask  
4 Mr. Vega, Mr. Whelchel, ---

5 MR. WHELCHER: Oh, ---

6 THE COURT: --- I mean, was he in jail on the 4th or not?

7 MR. WHELCHER: Were you in jail on the 4th?

8 THE DEFENDANT: No, sir.

9 MR. WHELCHER: No, sir, and that's the problem.

10 THE COURT: Okay, well, uh, a, uh, a mistrial is a  
11 drastic remedy, uh, in the law as we all know and is  
12 disfavored so I I will offer a curative instruction that we  
13 can fashion. I will charge the jury they disregard that  
14 comment but also, solicitor, you'd a, you you would be nec,  
15 absolutely necessary for you to go back and revisit that that  
16 was a mistake.

17 MS. MORICLE: I will do that, Your Honor, ---

18 THE COURT: Okay.

19 MS. MORICLE: --- uh, and I'd like to just make that  
20 clear with Ms. Wilson we don't talk about anyone being in  
21 jail, uh, and I don't believe he was in jail. I know  
22 Mr. Brown had searched the websites to see if anyone was in  
23 jail when the child was missing and I think he can testify the  
24 fact that he was not in jail.

25 THE COURT: Okay. Well we're gonna clear that up real

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1 quick and then just, and just move right on over that, okay?

2 MS. MORICLE: Thank ---

3 THE COURT: Alright, ---

4 MS. MORICLE: --- Your Honor.

5 THE COURT: --- alright, we'll have ---

6 MR. WHELCHER: I understand Your Honor's gonna give a  
7 curative instruction to the jury ---

8 THE COURT: I I am gonna tell the jury that that they are  
9 to disregard that last comment, uh, and, uh, but that I'll, I  
10 I'm sure you won't, uh, I'm not, I don't speak for ya, but you  
11 want her to clear that up, is is that true, or you don't want  
12 her clear it up?

13 MR. WHELCHER: The problem is, Your Honor, the more we  
14 talk about it the more it becomes the elephant in the room  
15 and, you know, that was offered spontaneously ---

16 THE COURT: Yeah.

17 MR. WHELCHER: --- in this trial. The problem that I  
18 have is when those kinds of things happen I don't think it's  
19 possible to fix 'em. I don't believe a curative instruction  
20 works, that the jury, Your Honor, they can't unhear that, ---

21 THE COURT: Okay, ---

22 MR. WHELCHER: --- it's just impossible.

23 THE COURT: --- you don't want one I won't give it. I  
24 know when I practiced law I didn't want a curative instruction  
25 'cause I didn't want it said twice.

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1 MR. WHELCHER: Well I understand that, Your Honor, but my  
2 problem is without a curative instruction they don't know that  
3 it's not true ---

4 THE COURT: I will ---

5 MR. WHELCHER: --- and then on the other hand I don't  
6 believe that they they listen to a curative instruction, Your  
7 Honor, so, you know, I'm damned if I do and damned if I don't  
8 if I make it.

9 THE COURT: Well which one ya want?

10 (Laughter.)

11 MR. WHELCHER: Beg the Court's indulgence.

12 THE COURT: Yes, sir.

13 (Laughter.)

14 (Attorney/client discussion held off the record.)

15 MR. WHELCHER: If Your Honor is not going grant my motion  
16 for a, uh, mistrial, Your Honor, then we have to have the  
17 curative instruction.

18 THE COURT: You have to have it.

19 MR. WHELCHER: Yes, sir.

20 THE COURT: Very good. Alright, we'll have our jury.

21 THE BAILIFF: Yes, Your Honor.

22 (The following takes place in the presence of the jury.)

23 THE COURT: Mr. Foreman, ladies and gentlemen the jury,  
24 the jury will disregard the answer, the last answer of the  
25 witness and not consider that in your deliberations.

1 Solicitor.

2 MS. MORICLE: Thank Your Honor.

3 BY MS. MORICLE:

4 Q. Ms. Wilson, uh, Your Honor, may I approach the witness if  
5 that's okay with the Court?

6 THE COURT: Yes, ma'am.

7 BY MS. MORICLE:

8 Q. I wanna take a look at this ex parte order with you, now  
9 ex parte means what?

10 A. That the child was court ordered, uh, to come in care  
11 from the bench.

12 Q. Okay. And this was a family court order?

13 A. Yes, it is.

14 Q. Can you tell me who this court order was signed by?

15 A. By Judge Kelly Pope-Black.

16 Q. And she is a family court judge?

17 A. Yes.

18 Q. And where was this order signed?

19 A. In Pickens, South Carolina.

20 Q. Was it Pickens County Courthouse?

21 A. Yes, it was.

22 Q. An attempt was made to get in touch with the parents of  
23 this child ---

24 A. Yes.

25 Q. --- by phone?

1 A. Yes.

2 Q. Okay. When you weren't able get in touch with them, you  
3 got in touch with law enforcement, is that correct?

4 A. That's correct.

5 Q. Okay.

6 MS. MORICLE: Your Honor, may I approach the witness  
7 again?

8 THE COURT: Yes.

9 MS. MORICLE: Thank you.

10 (Whereupon, defense counsel examined the exhibits.)

11 BY MS. MORICLE:

12 Q. Did you send pictures of Mr. Vega and Ms. Liddy to the  
13 law enforcement agency?

14 A. Yes, I did.

15 Q. And what was the purpose of that?

16 A. So they would, uh, have a, be able to identify them if  
17 they see them.

18 Q. Okay. I'm gonna show you what's been marked as State's  
19 Exhibit 2 and 3, would you review those, please.

20 (Whereupon, the witness examined the exhibits.)

21 Do recognize those?

22 A. I do.

23 Q. What are they?

24 A. Pictures of Mr. Vega and Ms. Liddy.

25 Q. And you were able to provide those to law enforcement?

1 A. Yes.

2 MS. MORICLE: Your Honor, I would ask to move those into  
3 State's Exhibit 2, uh, State's Exhibit 2 and 3 into evidence.

4 MR. WHELCHER: No objection.

5 THE COURT: They're without objection, they're admitted.

6 (State's Exhibit Nos. 2 and 3, photographs, admitted into  
7 evidence.)

8 BY MS. MORICLE:

9 Q. And after the order was signed were you able to speak to  
10 Mr. Vega?

11 A. Yes, I was.

12 Q. And did you speak to him over the phone?

13 A. Yes, I did.

14 Q. And what wa -- did that conversation entail?

15 A. Uh, we talked about, uh, the safety plan while the child  
16 was, uh, brought into care, uh, got some updated, tried to get  
17 some updated contact information on him and to explain the  
18 next steps that the agency was taking and what we needed him  
19 to do.

20 Q. And was he aware that the order had been signed?

21 A. Yes.

22 Q. And did he know where the child or the mother was  
23 according to him?

24 A. No.

25 Q. Alright. What did he tell you?

1 A. He did not know where, uh, the child was, he had not seen  
2 Ms. Liddy or the child. Uh, he was very upset, his voice  
3 continued to escalate while talking with us, uh, we tried  
4 several times to calm him down. Uh, he argued that we tried  
5 to send him mail, said that he received mail at his home, uh,  
6 the mail that we sent was returned ---

7 MR. WHELCHER: Your Honor, ---

8 A. --- back ---

9 MR. WHELCHER: --- I don't unders -- I would object to  
10 this, I don't understand what the relevance is of it and I  
11 would object to it.

12 THE COURT: Solicitor.

13 MS. MORICLE: Your Honor, I think Ms. Wilson has already  
14 testified that DSS attempted to contact him via mail at that  
15 address before the hearing was held and that he gave them the  
16 same address.

17 THE COURT: Yes, ma'am, it it's overruled, go ahead.

18 BY MS. MORICLE:

19 Q. So he told you he was still living at the same place,  
20 that he had been receiving mail there?

21 A. Yes.

22 Q. Okay. And do you remember what he told you his address  
23 was?

24 A. Uh, 1224 Edgewood Avenue, Spartanburg, 29301.

25 Q. Okay. And how did you know it was Mr. Vega you were

1 speaking to on the phone?

2 A. Every time I s -- I spoke with him I always verified that  
3 it was him, uh, and just because of how long I had been  
4 working with him knowing his voice.

5 Q. And do you think you talked to him from the same number  
6 you normally talked to him on?

7 A. Yes.

8 Q. Do you know Spartanburg County was able to locate the  
9 child?

10 A. They were.

11 Q. And who was with the child when they located him?

12 A. The child was removed from Ms. Alec -- from Ms. Liddy and  
13 Mr. Vega.

14 Q. And did they first attempt to go to his home that you're  
15 aware of?

16 A. I'm not aware where they went first.

17 Q. Okay. And do you know what, on what day they found  
18 him?

19 A. On May 7th.

20 Q. And what day was the order signed?

21 A. The order was signed on on May 4th.

22 Q. Ms. Wilson, uh, how many times between the date of the  
23 order being signed and the date the child was recovered do you  
24 think you spoke to Mr. Vega to let him know about the order?

25 A. I can't, I can't recall how many times I spoke with

1 him.

2 Q. Would you say once?

3 MR. WHELCHER: Your Honor, she's already said she  
4 couldn't recall, she's already, the question's already been  
5 asked and answered.

6 THE COURT: Alright, it's overruled. Go ahead.

7 MS. MORICLE: Okay.

8 BY MS. MORICLE.

9 Q. At least once?

10 A. At least once.

11 Q. So he was aware there's a court order.

12 A. Yes.

13 Q. And he was aware that that order gave DSS custody of the  
14 minor child?

15 A. Yes.

16 Q. And what else did you tell him to do if he were to find  
17 the minor child?

18 A. To contact us.

19 MS. MORICLE: I have no further questions for this  
20 witness, Your Honor.

21 THE COURT: Mr. Whelchel.

22 MR. WHELCHER: May we approach, Your Honor?

23 THE COURT: Yes.

24 (Whereupon, a bench conference was held off the record.)

25 THE COURT: Solicitor.

1 BY MS. MORICLE:

2 Q. Ms. Wilson, uh, previously the jury had been instructed  
3 to disregard a statement you made and the statement there was,  
4 uh, a misstatement about someone being incarcerated, is that  
5 correct?

6 A. Yes, it was a misstatement.

7 Q. Okay. And that would be that no one was incarcerated  
8 during the time of this hearing?

9 A. That's correct.

10 MR. WHELCHER: Thank you.

11 MS. MORICLE: Thank you. No further questions, Your  
12 Honor.

13 THE COURT: Mr. Whelcher.

14 MR. WHELCHER: Thank you, Your Honor.

15 CROSS-EXAMINATION BY MR. WHELCHER:

16 Q. You were at the hearing that took place on the 4th of May  
17 of last year in Pickens County?

18 A. I was.

19 Q. Okay. What time was that hearing, ma'am, if you  
20 remember?

21 A. I cannot remember if this hearing was at 9 a.m. or 1:30  
22 p.m., those are normally our docket times.

23 Q. Either way the order is clocked at 2:08, correct, ---

24 A. Yes.

25 Q. --- on the May the 4th? Are you the DSS worker who

1 requested the emergency hearing here that brought that order  
2 about or that hearing about?

3 A. Yes.

4 Q. Okay. Correct me if I'm wrong, ma'am, you tried to  
5 contact, wanna make sure I say her name right, Alex Liddy?

6 A. Yes.

7 Q. And this Exhibit 3 is Alex Liddy.

8 A. Yes.

9 Q. She's the mother of the child involved in this case  
10 Messiah Liddy, correct?

11 A. Correct.

12 Q. And the child was born out of wedlock, she was not  
13 married to my client, correct?

14 A. Correct.

15 Q. And when that happens she has custody of the child, is  
16 that correct?

17 A. That's correct.

18 Q. Okay. And when she had custody of the child she went to  
19 this Safe Harbor Place, is that correct?

20 A. She went there before the child was born.

21 Q. Okay. But she was there before the child was born and  
22 after the child was born, ---

23 A. Yes.

24 Q. --- correct? And you had contact with her when she was  
25 at Safe Harbor.

1 A. I did ---

2 Q. Okay.

3 A. --- 'fore the child was born.

4 Q. At some point the child was born April the 6th of last  
5 year, ---

6 A. Yes.

7 Q. --- okay, and this hearing was May the 4th, roughly  
8 thirty days later, correct?

9 A. Correct.

10 Q. Okay. This hearing is the first time that any action was  
11 brought concerning this child in family court, is that  
12 correct, ma'am?

13 A. That's correct.

14 Q. Okay. And the hearing or the action in family court was  
15 brought because this lady Alex Liddy had custody a the minor  
16 child would not respond to your attempts to contact her,  
17 correct?

18 A. Correct.

19 Q. The place where she was staying would not respond to your  
20 attempts to contact her at the end, is that correct?

21 A. At the end, yes.

22 Q. You were even told they won't, she -- they've been told  
23 not to respond to you, is ---

24 A. Yes.

25 Q. --- that correct? Okay. And all of that month that

1 child was in the custody of Alex Liddy, correct?

2 A. Yes.

3 Q. Okay.

4 MR. WHELCHER: Beg the Court's indulgence, Your Honor.

5 (Whereupon, a discussion was held off the record.)

6 BY MR. WHELCHER:

7 Q. This place, uh, where Alex Liddy was that's in what  
8 county, ma'am?

9 A. Anderson County.

10 Q. Okay, but it's a Pickens County case, is that right?

11 A. Correct.

12 Q. Okay. Uh, and my client was in Spartanburg County.

13 A. Said to be in Spartanburg.

14 Q. 'scuse me?

15 A. Said to be in Spartanburg.

16 Q. Well that's where he was found, wasn't he?

17 A. Yes, but they moved all over, that ---

18 Q. Yeah, ---

19 A. --- throughout ---

20 Q. --- I understand what you're sayin', ma'am, where was he  
21 found?

22 A. He was found in Spartanburg County.

23 Q. Okay, thank you. The address that you have is  
24 Spartanburg County in Una, correct?

25 A. Yes, the ---

1 Q. Okay. Now and after ya had that address he was found at  
2 the Main Street Motel in Spartanburg County, correct?

3 A. Yes, along with Ms. Liddy.

4 Q. Well I understand that. Were you there when they  
5 found ---

6 A. I was not the on-call worker.

7 Q. Okay. Thank you, ma'am.

8 THE COURT: Anything, solicitor?

9 MS. MORICLE: Yes, just briefly, ---

10 THE COURT: Alright.

11 MS. MORICLE: --- Your Honor.

12 REDIRECT EXAMINATION BY MS. MORICLE:

13 Q. Ms. Wilson, there is a safety plan in place?

14 A. Yes.

15 Q. It was violated?

16 A. Yes.

17 Q. And at the ex parte order hearing who got custody of this  
18 child?

19 A. The Department of Social Services.

20 Q. And Mr. Vega was made aware of that?

21 A. Yes, ma'am.

22 MS. MORICLE: No further questions, Your Honor.

23 THE COURT: Any?

24 RECROSS-EXAMINATION BY MR. WHELCHER:

25 Q. This, uh, safety plan ya'll keep talkin' about that was

1 violated by that (indicating) lady, correct?

2 A. Correct.

3 Q. Okay, who had custody a child.

4 A. Yes, and it was stated that she was not to allow the  
5 child around Mr. Vega.

6 Q. Oh, I understand that but she's the one that had custody.

7 A. At that time yes.

8 Q. Well she had custody up until that hearing ---

9 A. Yes.

10 Q. --- and the reason that that hearing took place is  
11 because she wouldn't cooperate with you, right?

12 A. Yes.

13 Q. She wouldn't tell you where she was, she wouldn't answer  
14 your phone calls, she wouldn't do anything at there at the  
15 end, am I right?

16 A. Yes.

17 Q. Okay. And that was where she was located in Anderson  
18 County, correct? She was in Anderson County at that place,  
19 whatever, I forget ---

20 A. Yes, at the ---

21 Q. Okay.

22 A. --- shelter.

23 Q. And this action took place in Pickens County.

24 A. It did.

25 Q. Okay. And my client is in Spartanburg County.

1 A. That's what was reported by him.

2 Q. Well, when you contacted him, ya got him on the phone,  
3 you talked to him, he told ya he's in Spartanburg, correct?

4 A. Not necessarily. Um, when I talked to him on the phone,  
5 he wouldn't give us an address ---

6 Q. Okay, ---

7 A. --- at ---

8 Q. --- but ---

9 A. --- first.

10 Q. --- you already had an address in your file.

11 A. Yes, we had an address.

12 Q. And that was in Spartanburg.

13 A. That was.

14 Q. Okay. And ultimately he was found in Spartanburg.

15 A. He was.

16 Q. Okay.

17 THE COURT: Thank you. Ma'am, you may step down, please  
18 be careful.

19 (Whereupon, the witness left the stand.)

20 THE COURT: Solicitor.

21 MS. MORICLE: Your Honor, the State would call Sergeant  
22 Tony Brown.

23 (Whereupon, the witness came forward.)

24 THE CLERK: Place your left hand on the Bible, raise your  
25 right.

1 TONY BROWN, having been first duly  
2 sworn, testified as follows:

3 THE CLERK: Thank you.

4 THE COURT: Officer, tell us who you are, tell your full  
5 name and spell your last name for my court reporter, please.

6 THE WITNESS: My name is Sergeant Tony Brown, B-R-O-W-N.

7 THE COURT: Thank you. Solicitor.

8 DIRECT EXAMINATION BY MS. MORICLE:

9 Q. Good morning, Sergeant Brown, will you please tell the  
10 jury where you work.

11 A. Spartanburg County Sheriff's Office.

12 Q. How long have you been there?

13 A. Uh, twenty, twenty-one years.

14 Q. And what is your duty there?

15 A. I am the supervisor over the Special U -- Special Victims  
16 Unit at sheriff's office.

17 Q. What does that mean?

18 A. We work crimes against children, sex crimes, uh, crimes  
19 like this also.

20 Q. Were you on duty during the week of May 4th ---

21 A. Yes, ma'am, I ---

22 Q. --- 2015?

23 A. --- was.

24 Q. And can you tell me how you got involved with this case.

25 A. DSS from Pickens County contacted me and notified me

1 about the ex parte order.

2 Q. Okay. And what did you do to investigate this missing  
3 child?

4 A. Basically, we went to several different locations looking  
5 for the child, looking for the parents, uh, we went to the  
6 address on Edgewood at 1224 Edgewood Avenue, uh, it's in  
7 Spartanburg but it's actually Una address.

8 Q. And can you tell me what you found there.

9 A. The trailer was completely empty, no furniture  
10 whatsoever.

11 Q. And did you speak to anyone in that area see ---

12 A. We did speak speak to several neighbors, uh, they said  
13 they they hadn't ---

14 MR. WHELCHER: Objection, ---

15 A. --- seen ---

16 MR. WHELCHER: --- Your Honor.

17 THE COURT: Uh, sustained.

18 BY MS. MORICLE:

19 Q. Did you know Mr. Vega had been there past few weeks?

20 A. There ---

21 MR. WHELCHER: Objection, ---

22 A. --- was no evi ---

23 MR. WHELCHER: --- Your Honor. He's already testified  
24 that he went there, nobody was there, calls for him to  
25 speculate at this point.

1 THE COURT: Solicitor.

2 BY MS. MORICLE:

3 Q. Did it appear anyone had been there?

4 A. There was no evidence.

5 Q. Do you see any furniture in the home?

6 A. No, ma'am, I did not.

7 Q. And what did you do after you went to that home and he  
8 couldn't be located?

9 A. Uh, we actually went to Pickens County, uh, 411 Pine  
10 Thickney Road in Pickens County, got Pi -- Pickens County, uh,  
11 Sheriff's Office to accompany us but we went to, uh, speak  
12 with Andrea Johnson which is Alex Lindy's [sic] mother.

13 Q. And she's the mother a the child?

14 A. Alex Lindy is, yes, ma'am.

15 Q. And what happened while you were with Ms. Johnson?

16 A. Uh, Ms. Johnson made a couple a phone calls trying to  
17 help us locate 'em, she was able to finally get someone on the  
18 line. She handed me the phone, identified myself to the  
19 caller, uh, who I was, he iden -- that identified hisself as,  
20 uh, Ms. Vega, or M -- excuse me, Mr. Vega.

21 Q. And what did Mr. Vega (cough) that that when you talked  
22 to him on the phone?

23 A. I'm sorry, I didn't hear you.

24 Q. Wha'd Mr. Vega tell you when you talked to him on the  
25 phone?

1 A. Basically, uh, I explained to him why I was talkin' to  
2 him, uh, asked him, you know, where he was livin' at, he told  
3 me that he was living at the, uh, Edgewood address, I  
4 explained to him that is not, could not be true, there was no  
5 evidence that there was anyone livin' there, asked him to meet  
6 with me, he refused. Uh, I did explain to him at that point  
7 that there was a, uh, statement in a family court order  
8 taking, uh, the child Messiah in into state custody.

9 Q. So he knew there was an order ---

10 A. Yes, ---

11 Q. --- that ---

12 A. --- he did.

13 Q. And wha'd you explain to him to do if he found the  
14 child?

15 A. He needed contact us.

16 Q. Okay. And did he let you know where he was currently  
17 living or agreed to ---

18 A. No, ---

19 Q. --- meet you?

20 A. --- he, uh, refused to tell me that.

21 Q. After you left Ms. Johnson and you hung up with Mr. Vega  
22 did you do anything else to locate the child that day?

23 A. Yes, uh, Ms. Johnson stated, uh, that, uh, they possibly  
24 could be ---

25 MR. WHELCHER: Objection, ---

1 A. --- in Gast ---

2 MR. WHELCHER: --- Your Honor. I'm gonna object to any  
3 kinda hearsay, ---

4 THE COURT: Solicitor.

5 MR. WHELCHER: --- he's testifying what somebody else  
6 said.

7 BY MS. MORICLE:

8 Q. Mr. Brown, were there some leads followed?

9 A. Uh, there was a possible lead in Gaston County, North  
10 Carolina. I, uh, contacted Detective, uh, Heather Forrester  
11 who was in the office at the time, she got in touch with  
12 Gaston County, uh, authorities up there but that lead, uh, was  
13 inaccurate, that they was not there.

14 Q. Were you able locate the child that day?

15 A. Not that night, no, ma'am.

16 MS. MORICLE: Your Honor, may I approach the witness?

17 THE COURT: Yes.

18 (Whereupon, defense counsel examined an exhibit.)

19 BY MS. MORICLE:

20 Q. Mr. Brown, I'm gonna show you what's been marked as  
21 State's Exhibit 1, do you recognize that?

22 A. Yes, I do.

23 Q. Can you tell me what it is.

24 A. This is what we call a "BOLO", a "be on the look-out"  
25 for, uh, you may have heard it on TV as a all-points bulletin

1 but we call it a BOLO.

2 Q. Okay. And what is a BOLO for?

3 A. Basically, just a, uh, BOLO for the, uh, missin' child,  
4 uh, we put it out to all agencies, all police departments and  
5 stuff so they can, uh, uh, know that we are on the look-out  
6 for 'em.

7 Q. Okay. And in that particular one it was for Messiah  
8 Liddy?

9 A. Yes, it is.

10 Q. Okay. And did you receive some pictures of Ms. Liddy and  
11 Mr. Vega from Pickens County?

12 A. Yes, ma'am, I did.

13 Q. Okay, so you knew who you were lookin' for?

14 A. Yes, ma'am.

15 Q. Okay. And were you able to locate, uh, anyone the next  
16 day?

17 A. Yes, we did. We was able to locate them at the Main  
18 Street Motel, 700 West Main Street, Spartanburg, South  
19 Carolina, ---

20 Q. Okay.

21 A. --- Room ---

22 Q. And ca ---

23 A. --- Number 5.

24 Q. --- can you tell me a little bit about that interaction.

25 A. Yes, once we got there we verified they was registered

1 there, uh, we went, uh, and, uh, found them in Room Number 5.  
2 We was able to, uh, find, uh, Messiah Lindy, uh, both, uh,  
3 Mr. Vega and Ms. Lindy was there in the room with, uh, the  
4 child.

5 Q. Okay. And what was the condition of that room, do you  
6 remember?

7 A. It was messy, uh, somethin' that I would not wanna live  
8 in, uh, it was not what I would consider grossly nasty though.

9 Q. Did it appear that anybody had just checked in?

10 A. Uh, no, it does look like someone had been there for a  
11 couple a days at least.

12 Q. And how could you tell that?

13 A. Uh, lots of clothes s -- uh, strewn around, it was lived  
14 in, you could tell it was very lived in.

15 Q. Okay. And based on the phone call you had with Mr. Vega  
16 the day before, he knew there was a court order for this  
17 child?

18 A. Yes, ma'am, he did.

19 Q. And your instructions were to return the child?

20 A. Yes, ma'am, it was.

21 Q. I have no further questions. Oh, I'm sorry, uh,  
22 Mr. Brown, where is the Main Street Motel located?

23 A. It is in Spartanburg City which is in Spartanburg County.

24 Q. Uh, Mr. Brown, I'm not sure I clarified this or not but  
25 did you ask Mr. Vega if he knew where his son was the day

1 before?

2 A. Yes, I did ask him if he knew where, uh, Messiah and Alex  
3 was and he did, he denied knowin' where they was at.

4 Q. Okay, thank you. Please answer any questions  
5 Mr. Whelchel has.

6 THE COURT: Mr. Whelchel.

7 MR. WHELCHER: Thank you, Your Honor.

8 CROSS-EXAMINATION BY MR. WHELCHER:

9 Q. The motel room that Danny Vega was stayin' in looked  
10 lived-in, was that your testimony?

11 A. Yes, sir.

12 Q. Okay. What time did you arrive at the motel room?

13 A. Approximately 6:30 in p.m.

14 Q. At the motel room?

15 A. Yes.

16 Q. Okay. Did you knock on the door?

17 A. We knocked on the door, yes.

18 Q. Who answered the door?

19 A. We actually had a key, no one answered, we had to go  
20 in.

21 Q. Okay. Well when you went in you found my client ---

22 A. Yes, sir.

23 Q. --- and the room was his.

24 A. Yes.

25 Q. Okay. Now you had contacted him and told him the day

1 before, ---

2 A. Yes, sir.

3 Q. --- okay, that there was this order out there from  
4 Pickens County, ---

5 A. Yes, sir.

6 Q. --- did you give him a copy a the order?

7 A. No, sir.

8 Q. Okay. Did you have a copy of the order?

9 A. Yes, sir, I did.

10 Q. Okay. Uh, you got there at 6:30?

11 A. Approximately 6:30, yes, sir.

12 Q. Okay. How long, if you know, had that child and this  
13 (indicating) lady Alex Liddy been there?

14 A. I do not know.

15 Q. Oh. How long were they there the day before?

16 A. I don't know.

17 Q. You don't even know if they were there the day before.

18 A. Don't know, no, sir.

19 Q. You don't know if they arrived five minutes before you  
20 arrived.

21 A. I believe I've answered the question, I do not know.

22 Q. Okay. You contacted Alex Liddy's mother?

23 A. Yes, sir. Yes, sir.

24 Q. And based on your contact with Alex Liddy's mother you  
25 were able to talk to my client Danny Vega.

1 A. Yes, sir.

2 Q. So obviously Alex Liddy's mother knew how to get in  
3 contact with my client ---

4 A. Yes, sir.

5 Q. --- where he was staying.

6 A. Don't know that she, uh, I did not have any evidence that  
7 she knew where he was stayin'.

8 Q. Did you ask her?

9 A. Uh, yes, sir.

10 Q. Did she tell ya she didn't know ---

11 A. She said ---

12 Q. --- or is ---

13 A. --- she didn't ---

14 Q. --- she ---

15 A. --- know.

16 Q. --- just avoidin' the question?

17 A. No, she stated that she did not know.

18 Q. Uh-huh, but what day was this?

19 A. On the 6th.

20 Q. Okay. And the very next day her daughter ends up at his  
21 motel room several counties away from where she was staying  
22 before, correct?

23 A. She was there the next day.

24 Q. Okay. You really have no idea where she was from the  
25 time they could, from the time she left this, uh, halfway

1 house or whatever it was.

2 A. No, sir, I did not know where she was at.

3 Q. Okay.

4 MR. WHELCHER: Beg the Court's indulgence, Your Honor.

5 (Pause.)

6 MR. WHELCHER: That's all I'd have, Your Honor.

7 THE COURT: Anything, solicitor?

8 MS. MORICLE: Yes, Your Honor.

9 THE COURT: Alright.

10 REDIRECT EXAMINATION BY MS. MORICLE:

11 Q. Mr. Brown, you talked to Mr. Vega on the day before,  
12 correct, before the child was found?

13 A. Yes, ma'am.

14 Q. And you weren't able to serve him with a copy of the  
15 order because he wouldn't agree to meet with you.

16 A. That is correct.

17 Q. And he gave you 1224 Edgewood Road, I believe it is in  
18 Una?

19 A. The, uh, 1224 Edgewood Avenue, yes, ma'am.

20 Q. You've checked that out, you knew he wasn't there.

21 A. That is correct.

22 Q. So you weren't able to effect service on him at his  
23 house?

24 A. I'm sorry?

25 Q. You weren't able to affect service on him at his house?

1 A. No, ma'am, I was not.

2 Q. And you talked to him and he wouldn't meet you so you  
3 couldn't give him a copy.

4 A. That is correct.

5 Q. Okay, so would you say that's why you weren't able to  
6 serve him with a copy a the order?

7 A. That is absolutely correct.

8 Q. Okay. And his last known address it appeared no one  
9 lived there.

10 A. That is correct.

11 Q. Okay. And when you went to the, uh, East Main Street  
12 Motel, based on the report that I've seen from you all it  
13 appears that management verified that both Liddy ---

14 MR. WHELCHER: Objection, Your Honor, she's askin' for  
15 hearsay. She's askin' him tell her what management said.

16 THE COURT: Well she hasn't yet. Go ahead, solicitor.

17 BY MS. MORICLE:

18 Q. Was management able to verify that both Liddy and  
19 Vega, ---

20 MR. WHELCHER: Objection, Your Honor.

21 Q. --- Ms. Liddy and Mr. Vega were in the motel room?

22 MR. WHELCHER: He can't testify what management told him.

23 THE COURT: Oh, ---

24 MR. WHELCHER: I ---

25 THE COURT: --- ask him how he verified.

1 BY MS. MORICLE:

2 Q. How were you able to verify Ms. Liddy, Mr. Vega were  
3 there?

4 A. Management told me.

5 MR. WHELCHER: Object ---

6 Q. They gave you, ---

7 THE COURT: Okay, that's sustained.

8 MR. WHELCHER: Obje -- objection.

9 BY MS. MORICLE:

10 Q. --- they gave you a key to Room 5?

11 A. Yes, they did.

12 MR. WHELCHER: Your Honor, I'll object ---

13 A. --- I obtained ---

14 MR. WHELCHER: --- to the line ---

15 A. --- a key ---

16 THE COURT: Hang on. Hang on. Hang on. Sir?

17 MR. WHELCHER: I'm objecting to this whole line a  
18 questioning; one, it's redirect and it's not responsive to  
19 what I crossing him on, Your Honor.

20 THE COURT: Okay, we're gon -- we're gonna be quick about  
21 it. Ms. Moricle, go ahead.

22 BY MS. MORICLE:

23 Q. You had a key to Room 5?

24 A. I obtained a key, yes, ma'am.

25 Q. And who was found in that room?

1 A. Uh, Mr. Vega and, uh, Ms. Liddy and, uh, the baby  
2 Messiah.

3 Q. Okay.

4 MS. MORICLE: No further questions, Your Honor.

5 THE COURT: Thank you. Anything at all?

6 MR. WHELCHER: Yes, sir.

7 RE-CROSS-EXAMINATION BY MR. WHELCHER:

8 Q. How long was it -- were they there?

9 A. I've already testified I do not know how long ---

10 Q. That's what I'm ---

11 A. --- both ---

12 Q. --- askin', ---

13 A. --- was there.

14 Q. --- you don't know?

15 A. I do not know.

16 Q. Okay.

17 THE COURT: Thank you, sir, you may step down, please be  
18 careful.

19 (Whereupon, the witness left the stand.)

20 MS. MORICLE: Your Honor, we would call Investigator Fred  
21 Lux, I believe he's out ---

22 THE COURT: Well, ---

23 MS. MORICLE: --- side.

24 THE COURT: --- let's -- hang on one second, let me see  
25 the lawyers. It's twelve noon here, some a these folks might

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1       wanna eat, I don't know.

2               (Laughter.)

3               (Whereupon, a bench conference was held off the record.)

4               THE COURT: Uh, Mr. Foreman, ladies and gentlemen of the  
5       jury, I understand next witness will take, uh, that few  
6       minutes too but we are at twelve o'clock noon, uh, and I try  
7       to break somewhere around twelve noon up to 12:30, uh, and be  
8       quite honest with ya I also have something else that I have to  
9       do in this courtroom somewhere around one and so I need to  
10      give my staff time to eat too so, uh, it has nothin' do with  
11      this case by the way, uh, so at that we're gonna break for  
12      lunch. I'm gonna ask you, uh, to be back in your jury room at  
13      two o'clock, so that's a good long lunch, uh, I'm not goin'  
14      anywhere, I I bring my lunch and I'm gonna microwave mine and  
15      have lunch and be right back in this courtroom in about fifty  
16      minutes from now to take care of something else, again, has  
17      nothin' to do with this case and nothin' to do with these  
18      lawyers, they won't even be here, uh, but anyway, uh, we're  
19      gonna let you go to lunch.

20              Now, you are not free to talk about the case, discuss the  
21      case, don't do any research please, uh, case is moving along  
22      fairly quickly, wanna keep it, uh, like it's supposed to be  
23      "in a row" as they say back home, so, uh, with that, Mr.  
24      Foreman, I'll let you take your jury out, uh, be back about  
25      ten minutes till two, you'll be back about ten minutes till

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1 two, get that last drink a water, uh, use facilities and be  
2 ready to roll at two and again, I will already be here and be  
3 in the courtroom, uh, waiting on you at that point in time.  
4 Mr. Foreman, if you'll take 'em to the jury room and then be  
5 excused for lunch from there.

6 JURY FOREMAN: Thank you, Your Honor.

7 (The following takes place outside the presence of the  
8 jury.)

9 THE COURT: Anything from the State?

10 MS. MORICLE: Nothing, Your Honor.

11 THE COURT: From defense?

12 MR. WHELCHER: No, sir, Your Honor.

13 THE COURT: Okay. Mr. Vega, once again I'm going to  
14 allow you to remain free now, you be back at two o'clock, if  
15 you're not here at two o'clock or thereabouts we're gonna go  
16 without you and I'll issue a bench warrant for your arrest,  
17 understand?

18 THE DEFENDANT: Yes, sir, yes.

19 THE COURT: Alright, and actually you be back at whatever  
20 time Mr. Whelcher tells you to be 'cause he probly wants to  
21 meet with you before two o'clock, uh, so be sure and be back  
22 and follow his instructions.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay, we'll break for lunch.

25 (Whereupon, a recess was taken.)

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1 THE COURT: Juror Number 43, please.

2 THE BAILIFF: Forty-three? Yes, Your Honor.

3 THE COURT: Mr. Welchel, you better come up, we got a  
4 juror, please.

5 (Whereupon, a discussion was held off the record.)

6 (Whereupon, Juror Number 43 was brought back into the  
7 courtroom.)

8 THE COURT: C'mon in Ms. Dun [sic], how are you? You're  
9 fine. What can I help you with?

10 JUROR NUMBER 43: Um, you had asked and I didn't hear  
11 clearly about being represented by the solicitor's office and,  
12 uh, yes, was back 2004 ---

13 THE COURT: Uh-huh.

14 JUROR NUMBER 43: --- I ---

15 THE COURT: You were ---

16 JUROR NUMBER 43: --- was ---

17 THE COURT: --- represented?

18 JUROR NUMBER 43: --- represented by them.

19 THE COURT: Okay, c'mon up, uh, uh, Megan, so you can get  
20 the -- uh, uh, Ms. Dunlaps didn't hear clearly, uh, me and  
21 it's probly me and my southern accent, uh, I am Woodruff boy  
22 but, uh, that she was represented in 2004 by the solicitor's  
23 office, ---

24 MS. MORICLE: Okay.

25 THE COURT: --- okay, if that makes a difference I can

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1 excuse her and put the alternate there.

2 MR. WHELCHER: That be fine.

3 THE COURT: You want the alternate or ---

4 MR. WHELCHER: Yes, sir.

5 THE COURT: --- or you want -- okay. Well, ma'am, tell  
6 you what, we just gonna let you go and, uh, from this jury ---

7 JUROR NUMBER 43: Sorry.

8 THE COURT: It's okay and we're gonna let the alternate  
9 take your place, that be okay?

10 JUROR NUMBER 43: Um-hum.

11 THE COURT: Don't be upset.

12 JUROR NUMBER 43: Okay.

13 THE COURT: Don't. Uh, I will tell ya ahead a time no  
14 reason to call tonight after six, this will be the last trial,  
15 we got some other stuff to do tomorrow and, uh, and I won't  
16 have a jury tomorrow.

17 JUROR NUMBER 43: Okay.

18 THE COURT: Alright, ---

19 MS. MORICLE: Thank ---

20 THE COURT: --- you may ---

21 MS. MORICLE: --- you so ---

22 THE COURT: --- go.

23 MS. MORICLE: --- much. Okay.

24 JUROR NUMBER 43: Thank you.

25 THE COURT: Yes, ma'am.

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1 MS. MORICLE: Thank you.

2 THE COURT: Take care. Put the alternate in that space.

3 THE BAILIFF: Yes, Your Honor.

4 (Whereupon, a discussion was held off the record.)

5 THE COURT: We're ready.

6 THE BAILIFF: Yes, Your Honor.

7 THE COURT: We're ready for the jury, right?

8 MS. MORICLE: Yes, Your Honor.

9 THE COURT: Okay.

10 THE BAILIFF: We're ready.

11 (The following takes place in the presence of the jury.)

12 (Whereupon, a discussion was held off the record.)

13 THE COURT: Alright, Mr. Foreman, any other matters for  
14 the jury?

15 JURY FOREMAN: No, sir.

16 THE COURT: Everything's good?

17 JURY FOREMAN: Yes, sir.

18 THE COURT: Ready to go?

19 JURY FOREMAN: Yes, sir, Your Honor.

20 THE COURT: You you all can fuss at the AG's Offi --  
21 Attorney General's Office been in here takin' up time, you can  
22 fuss at them 'bout that.

23 (Laughter.)

24 THE COURT: Ready to go, solicitor?

25 MS. MORICLE: I am, Your Honor.

1 THE COURT: Let's go.

2 MS. MORICLE: Your Honor, the State would call  
3 investigator Fred Lux.

4 (Whereupon, the witness came forward.)

5 THE CLERK: You'll place your left hand on the Bible and  
6 raise your right.

7 FRED LUX, having been first duly  
8 sworn, testified as follows:

9 THE CLERK: Thank you.

10 THE COURT: Investigator, once you get seated there, uh,  
11 tell us your full name and spell your last name for my court  
12 reporter, please.

13 THE WITNESS: Yes, Your Honor, it's Fred Lux, L-U-X.

14 THE COURT: Solicitor.

15 MS. MORICLE: Thank Your Honor.

16 DIRECT EXAMINATION BY MS. MORICLE:

17 Q. Good afternoon.

18 A. Good afternoon.

19 Q. Could you please tell the jury where you work.

20 A. Spartanburg County Sheriff's Office.

21 Q. And what do you do there?

22 A. I am an investigator.

23 Q. What does that entail?

24 A. I is a, um, offenses or or incidents are reported to the  
25 sheriff's office, the, uh, the matter is forwarded up to the

1 Criminal Investigations Division, assigned to, depending on  
2 the nature of the incident assigned to investigators for a  
3 follow-up investigation, uh, to pursue the a -- the matter  
4 through to, uh, uh, hopefully to to charges and and  
5 prosecution as a, as appropriate.

6 Q. How long you been with sheriff's office?

7 A. Since 2003 with a couple years off working for another  
8 agency.

9 Q. Okay. And can you tell us how you got involved with this  
10 case.

11 A. I, uh, happened to be the the guy that was on night shift  
12 the particular night that I, that that I, the matter was was  
13 turned over to to, uh, look for Mr. Vega.

14 Q. Okay. And how did, uh, were you part a the investigation  
15 in looking for Mr. Vega?

16 A. In that that final, uh, the final, yes, I've actually had  
17 to bring him out and pursue him, yes.

18 Q. Okay. And can you tell me what your investigation  
19 revealed.

20 A. Uh, I was, uh, ultimately I was advised that that, uh,  
21 Mr. Vega was being sought, uh, uh, with regards to a DSS  
22 matter. Uh, the investigation had, uh, revealed that that he  
23 and, uh, uh, Ms. Liddy were at the, uh, Main Street Hotel on,  
24 uh, West Main Street in Spartanburg, uh, were likely there.  
25 Uh, I along with Sergeant Brown ---

1 MR. WHELCHER: Objection, ---

2 A. --- subject ---

3 MR. WHELCHER: --- Your Honor. I don't know who he's  
4 testifying told him what, I think it's hearsay.

5 THE COURT: Well did did he, did he -- ask him what he  
6 did as a result of the investigation.

7 BY MS. MORICLE:

8 Q. Did you arrive at Main Street Motel?

9 A. I arrived at Main Street Ma -- Motel, yes, ma'am.

10 Q. And who was at that motel?

11 A. Uh, Mr. Vega and, uh, Ms. Liddy.

12 Q. Was the minor child there that's in question today?

13 A. He was or ---

14 Q. And were they found in a room there?

15 A. Yes.

16 Q. Okay. And do you remember what room it was?

17 A. I do not remember the number, no.

18 Q. Do you remember what the condition of the room was?

19 A. I do. Uh, when when we enter the room, uh, we found, uh,  
20 all three, all three parties in the room. Uh, the room was,  
21 uh, was obviously occupied, uh, uh, it was, uh, and, you know,  
22 and I wouldn't say I, uh, uh, unlivable but but a disarray,  
23 uh, clothes all over the place and and disheveled, uh, there  
24 were, uh, uh, baby items throughout the room.

25 Q. Did it appear that anyone had just arrived there?

1 A. Just ---

2 MR. WHELCHER: Objection, ---

3 A. --- arrived ---

4 MR. WHELCHER: --- Your Honor, I -- causal conjecture  
5 relevance by the witness.

6 THE COURT: Rephrase.

7 BY MS. MORICLE:

8 Q. Did it appear someone had been staying there?

9 A. Yes.

10 Q. And was there any indication that a baby had been  
11 there?

12 A. The baby was there.

13 Q. And do you remember seeing baby food or anything else in  
14 the room?

15 A. That there was on the, uh, on the table, yes.

16 Q. What did you see there?

17 A. There were, uh, cans of formula on the table, uh, some,  
18 uh, some kinda herb had spilled across the table from from  
19 where the (cough) baby bottles, presumably baby bottles.

20 Q. And did you all take charge of the minor?

21 A. We did, yes.

22 Q. Okay. Was it your impression that everyone in the room  
23 knew there was on order for the ---

24 MR. WHELCHER: Objection ---

25 Q. --- child?

1 MR. WHELCHER: --- Your Honor. He can't testify about  
2 his impression. His impressions based on what he would have  
3 discerned from people had told and there are people in the  
4 room that are not subject to this trial today and it's  
5 hearsay.

6 THE COURT: Solicitor.

7 BY MS. MORICLE:

8 Q. Mr. Lux, did you take the child from that room?

9 A. Uh, yes.

10 Q. Okay. And he was there with Mr. Vega and Ms. Liddy?

11 A. Yes.

12 Q. And the room was in disarray?

13 A. It was.

14 MS. MORICLE: No further questions, Your Honor.

15 THE COURT: Mr. Whelcher.

16 CROSS-EXAMINATION BY MR. WHELCHER:

17 Q. Mr. Vega being charged with havin' a messy room?

18 A. No, sir.

19 Q. Okay. Do you know of your own knowledge how long that  
20 child and that woman had been in that room that was leased by  
21 Mr. Vega?

22 A. Not specifically, no, sir.

23 Q. Okay. Did you arrest Mr. Vega or did somebody else do  
24 that?

25 A. I, uh, I I actually detained him and then tur --

1 transferred his custody over to another officer to be  
2 transported the jail.

3 Q. Ms. Liddy, you arrest her?

4 A. By the same method, yes.

5 Q. Okay. You see her today?

6 A. No, sir.

7 Q. You did receive information that Ms. Liddy was the one  
8 who had the child, is that correct?

9 A. The information I was provided was that Ms. Liddy and  
10 Mr. Vega would be together in that hotel room.

11 Q. I understand that. The information prior to that was  
12 that Ms. Liddy was the one who left Anderson County with the  
13 child ---

14 A. I wa ---

15 Q. --- or they couldn't find her ---

16 A. I I didn't, ---

17 Q. --- or did you have that information?

18 A. --- I didn't get involved with the investigation until it  
19 came time to go to the hotel.

20 Q. You just know about what happened at the hotel ---

21 A. Correct.

22 Q. --- same as, uh, Mr. Brown, Sergeant Brown.

23 A. Correct.

24 Q. So ---

25 A. No, I I can't attest to what Sergeant Brown knows but I

1 can tell ya that ---

2 Q. Okay.

3 A. --- all I know he was going to the hotel.

4 Q. You were there with Sergeant Brown and others.

5 A. Correct.

6 Q. Okay. And neither one of ya know how long that child had  
7 been in that room prior to your arrival.

8 A. I can't give a spi -- a specific answer but when I noted  
9 that there was no crib or other baby furniture in there, I  
10 questioned where the baby was sleeping and I was told that the  
11 mother and baby were sleeping in that bed together in that  
12 room.

13 Q. Okay, by whom?

14 A. By Ms. Liddy.

15 Q. Ah-ha-ha, who's not here today, right?

16 A. Correct.

17 Q. Thank you, sir.

18 THE COURT: Anything at all?

19 MS. MORICLE: No, Your Honor.

20 THE COURT: Thank you. Sir, you may step down, please be  
21 careful.

22 THE WITNESS: Thank Your Honor.

23 (Whereupon, the witness left the stand.)

24 MS. MORICLE: Your Honor, the State would rest.

25 THE COURT: State rests, okay, alright. Uh, Mr. Foreman

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1 and ladies and gentlemen of the jury, the State has now rested  
2 and that means that the State does not intend to call any  
3 other witnesses, uh, in this case. There's a couple a those  
4 legal matters that I have to take up, uh, at this time and so  
5 I'm gonna have to ask you to leave the courtroom just for a  
6 few minutes here, we don't -- we should not be more than  
7 about, uh, ten minutes, maybe ten or twelve minutes or so.  
8 Mr. Foreman, don't talk about the case, it's not over, it's  
9 just that the State decided that they're not gonna put up  
10 anything else, Mr. Foreman, take your jury.

11 (The following takes place outside the presence of the  
12 jury.)

13 THE COURT: Matters from the State?

14 MS. MORICLE: None from the State, Your Honor.

15 THE COURT: Matters from the defense?

16 MR. WHELCHER: This time, Your Honor, on behalf of my  
17 client I would make a motion for a directed verdict based on  
18 the insufficiency the evidence presented by the State in this  
19 case, specifically, Your Honor, and I am quoting 16-17-495  
20 Section(A)(1) says, When a court of competent jurisdiction in  
21 the state or another state has awarded custody of a child  
22 under the age of sixteen years or when custody of a child  
23 under the age of sixteen years is established pursuant to  
24 16-17-20 B), it is unlawful for a person with the intent to  
25 violate the court order or Section 16-17-20(B) to take or

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1 transport, there's not evidence presented to this court today  
2 that my client took or transported the child or caused to be  
3 taken or transported. There's no evidence before the Court  
4 today that my client caused to be taken or transported the  
5 minor child, the child from the legal custodian for the  
6 purpose of concealing the child, no evidence that my client  
7 did anything to conceal the child. There is evidence, Your  
8 Honor, that the child was found at some point in the presence  
9 of my client and the child's birth mother who had fled  
10 Anderson and was the reason this whole process started and  
11 there's no testimony, Your Honor, that my client acted or with  
12 a purpose of concealing the child or circumventing or avoiding  
13 the custody order of the statute, based on that, Your Honor,  
14 we would ask that court grant a directed verdict of not  
15 guilty.

16 THE COURT: Solicitor.

17 MS. MORICLE: Your Honor, I know what the statute says, I  
18 don't need to reread it for you and I would argue that we have  
19 put in plenty circumstantial evidence that we don't, we don't  
20 know how exactly that child moved from Anderson to  
21 Spartanburg, we know that child was moved from Anderson to  
22 Spartanburg and that she, the mother, the child, Mr. Vega were  
23 all found in a motel room together in Spartanburg after he had  
24 been advised numerous times that there was this order where  
25 DSS was given custody and that he kept saying he didn't know

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1 where they were, he was living at this certain address in  
2 Spartanburg which clearly was vacant and that all three of  
3 them magically appeared in the same motel together so somebody  
4 had to have given her a ride, there was no one else in the  
5 motel, there's no one to say that Mr. Vega didn't give her a  
6 ride or that there's gotta be a way she ended up from Anderson  
7 with this baby that's his child in Spartanburg.

8 MR. WHELCHER: All of which requires the jury speculate  
9 how did the child get there, who brought the child from  
10 Anderson, who made the arrangements for this child to end up  
11 at that motel room, there's no testimony, there's no evidence  
12 'bout any and how any a that happened. Burden of proof is on  
13 the State in this case to make that evidence and present that  
14 evidence to the Court, cannot allow the jury speculate on any  
15 a those matters, Your Honor, based on that I would ask the  
16 Court direct a verdict of not guilty.

17 MS. MORICLE: Your Honor, I would argue we put in  
18 circumstantial evidence that put Ms. Liddy in a abused  
19 shelter, women battered shelter in Anderson, she goes missing,  
20 she res -- revokes her consent, there's plenty a testimony  
21 saying Mr. Vega was not cooperative, he did not give a new  
22 address, he continued to say he didn't know where they were  
23 but then Ms. Liddy ends up in Spartanburg County with her  
24 child and Mr. Vega in a motel room, I think circumstantially  
25 we can allude to the fact that he was involved, he knew and he

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1 was circumventing the police and would not allow to meet them  
2 or to have an order served on him.

3 THE COURT: Well that ---

4 MR. WHELCHER: Another officer testified, Your Honor,  
5 that they knew how long the child had been there. They don't  
6 know if that child had just arrived, they just do not know and  
7 that was their testimony from both of these, honest testimony  
8 from both these investigators. What the State wants to do is  
9 to throw all a this up there and say, Well that child was  
10 there so you gotta convict him, that's not the way it works  
11 this situation, not the way it works in our state. I would  
12 ask that the directed verdict motion be granted, Your Honor.

13 THE COURT: Well as as everyone knows the Court is is,  
14 uh, not weighing the evidence on ruling on a directed verdict,  
15 the Court's concerned with the existence of evidence not its  
16 weight, uh, and certainly the Court must look, uh, most  
17 favorably to in the light to to the non-moving party which is  
18 the State a South Carolina, uh, it's a circumstantial case as  
19 solicitor has said, uh, but there's there's, uh, somethin'  
20 there so; again, court's not weighing, it's just concerned  
21 about the existence, there is existence of evidence well  
22 enough to factor the finders of fact, uh, weigh it. Anything  
23 else ---

24 MR. WHELCHER: No, ---

25 THE COURT: From ---

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1 MR. WHELCHER: --- sir.

2 THE COURT: Okay.

3 MS. MORICLE: Thank Your Honor.

4 THE COURT: Is your client gonna testify?

5 MR. WHELCHER: He is, Your Honor.

6 THE COURT: He is?

7 MR. WHELCHER: Yes, sir.

8 THE COURT: Okay, very good, we'll have our jury. You  
9 ready?

10 MR. WHELCHER: Do do you wanna question him about his  
11 decision to ---

12 THE COURT: I can do that ---

13 MR. WHELCHER: --- testify, ---

14 THE COURT: --- real quick.

15 MR. WHELCHER: --- Your Honor?

16 THE COURT: I can. I usually do that if they do tes --  
17 do not testify but I'll be happy to do that in abundance of  
18 caution, Mr. Whelchel.

19 MR. WHELCHER: For the record, Your Honor, I've  
20 instructed my client that in this situation and in all  
21 criminal cases he does not have to testify, nobody can make  
22 him testify, the fact that he does not testify cannot be held  
23 against him, Your Honor will charge the jury the fact that he  
24 does not testify cannot be held against him him but that  
25 ultimately the decision on whether or not testify is his

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1 decision, Your Honor.

2 THE COURT: Alright, sir. Sir, do you understand what  
3 Mr. Whelchel told me?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you need me to readvise you of that --  
6 those rights?

7 THE DEFENDANT: No, sir.

8 THE COURT: You understand that you have the right under  
9 both the State and the federal Constitution not testify?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: No one can make ya do so.

12 THE DEFENDANT: Sure.

13 THE COURT: You deci -- you, have you decided whether or  
14 not you will testify?

15 THE DEFENDANT: Yes, sir, I will.

16 THE COURT: You will testify.

17 THE DEFENDANT: Yes, sir, I will.

18 THE COURT: And you understand that by testifying that  
19 you waive, uh, you waive those rights to protections and you  
20 will be subject to cross-examination as well as examination.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay, alright. Ready for 'em?

23 MR. WHELCHER: One more thing, Your Honor.

24 THE COURT: Alright.

25 MR. WHELCHER: Uh, I received an NCIC report, there are

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1 no prior convictions for my client.

2 MS. MORICLE: Um, I'm not sure that's, correct, Your  
3 Honor. I believe he has a 2012 simple assault but I won't  
4 anticipate using that unless ---

5 MR. WHELCHER: It's not, it's not useable anyway, Your  
6 Honor. Just wanted to make sure that we had that set 'fore  
7 he ---

8 THE COURT: Okay.

9 MR. WHELCHER: --- testified.

10 THE COURT: Alright, ready for 'em?

11 MR. WHELCHER: Yes, sir.

12 THE COURT: We'll have the jury.

13 THE BAILIFF: Your Honor, ---

14 THE COURT: Yes, ma'am, we're ready.

15 THE BAILIFF: Ready.

16 (The following takes place in the presence of the jury.)

17 THE COURT: Mr. Foreman, any matters for the jury? Any  
18 matters for the jury? Ready to go?

19 JURY FOREMAN: No, sir, Your Honor.

20 THE COURT: Alright. Mr. Whelcher.

21 MR. WHELCHER: Thank Your Honor. Defense calls Danny  
22 Vega, Your Honor.

23 THE COURT: Come forward, Mr. Vega, be sworn.

24 THE DEFENDANT: Yes.

25 (Whereupon, the defendant came forward.)

1 THE CLERK: You'll place your left hand on the Bible and  
2 raise your right.

3 DANNY VEGA, having been first duly  
4 sworn, testified as follows:

5 THE CLERK: Thank you.

6 THE COURT: Mr. Vega, spell, uh, tell us your full name  
7 and spell your last name for my court reporter, please.

8 THE DEFENDANT: Danny Vega, V-E-G-A.

9 THE COURT: Thank you, sir. Mr. Whelchel.

10 MR. WHELCHER: Thank Your Honor.

11 DIRECT EXAMINATION BY MR. WHELCHER:

12 Q. How old are ya, Mr. Vega?

13 A. I am 40-years-old.

14 Q. Okay. Showing you what's been marked State's Exhibits  
15 No. 1, the order from May the 4th 2015, ---

16 A. Um-hum.

17 Q. --- okay, you ever seen that order prior to it being  
18 given to us as ---

19 A. No.

20 Q. --- part of, uh, the discovery in this case?

21 A. No, this the first time.

22 Q. Okay. And you are involved with and had a child with  
23 Alex Liddy?

24 A. Yes.

25 Q. Okay. And when was the first time you saw the child,

1 sir?

2 A. When he was born.

3 Q. Where was that?

4 A. In Spartanburg Regional, uh, ---

5 Q. At the hospital?

6 A. Yeah, at the hospital.

7 Q. Okay. Okay, and that was August 6th, is that correct?

8 A. April 6th.

9 Q. Excu -- uh, I'm sorry, April 6th. Alright, sir, after  
10 the child was born here in Spartanburg Ms. Liddy and the child  
11 went to Anderson and into a halfway home or something like  
12 that, is that correct?

13 A. Yes, sir.

14 Q. That's what you were told, is that right?

15 A. Yes, sir.

16 Q. Okay. When you saw the child, it was the day that the  
17 child was born?

18 A. Yes, sir.

19 Q. You see the child the next day?

20 A. No.

21 Q. Okay. So you were at the hospital with the child, ---

22 A. Yes.

23 Q. --- any idea how long?

24 A. Uh, she gave birf, I signed the birth certificate and I  
25 left.

1 Q. Okay. Alright. After April the 6th, when was the next  
2 time you saw that child?

3 A. May 7th.

4 Q. The day you were arrested.

5 A. Yes, sir.

6 Q. Okay. How did Alex Liddy get to your location?

7 A. She got dropped off.

8 Q. Okay. Did you contact Alex Liddy and say, Look, I'm  
9 staying at the Main Street Motel?

10 A. No, sir.

11 Q. Did you have any contact with Alex Liddy between the  
12 birth of the child and the day she showed up?

13 A. No, sir.

14 Q. Tell us what happened when she showed up at the Main  
15 Street Motel.

16 A. Uh, I opened the door, she was there with my son and Pack  
17 'n Play and Pampers and milk and formula and book bags and  
18 bags a clothes and, um, I told her that, uh, the police had  
19 just called me lookin' for her and the baby, that, uh, you  
20 know, she should call them up and let them know that, you  
21 know, you have the baby. Uh, ---

22 Q. Okay. Well does she drive?

23 A. No, she doesn't.

24 Q. Okay. Does she have an automobile?

25 A. No, she doesn't.

1 Q. Okay. When she showed up in your motel room, was there  
2 an automobile out there?

3 A. No, sir.

4 Q. How did you know to go to the door?

5 A. She knocked on my door.

6 Q. So you heard a knock at the door, ---

7 A. Yes.

8 Q. --- ya open the door and there's Liddy.

9 A. With my son.

10 Q. Okay. This would have been a matter of days after you  
11 had talked to her mother on the phone, correct?

12 A. Yes.

13 Q. Her mother knew where you were staying.

14 A. Yes.

15 Q. At the same time that you talked to her mother you talked  
16 to this (indicating) officer ---

17 A. Yes, sir.

18 Q. --- on the phone.

19 A. Yes, sir.

20 Q. Okay. And he told you there was an order.

21 A. Yes, sir.

22 Q. Okay. But you hadn't seen the order, ---

23 A. Yes, sir.

24 Q. --- you don't know what the order said.

25 A. Yes.

1 Q. You see the order now, right?

2 A. Yes, sir.

3 Q. And you didn't have custody a the child, did ya?

4 A. No, sir.

5 Q. Hadn't seen the child since the day it was born.

6 A. Yes, sir.

7 Q. Okay. And you had had no contact with State's Exhibit

8 No. 3, ---

9 A. Uh-uh.

10 Q. --- Alex Liddy, ---

11 A. No, sir.

12 Q. --- since the child was born?

13 A. Yes.

14 Q. Okay. Why was that?

15 A. That she's crazy.

16 Q. Okay. Where was Alex Liddy and that child when after she  
17 left the, uh, place in Anderson where she was?

18 A. I don't know.

19 Q. Okay. Where was she the next day?

20 A. The next day after ---

21 Q. Yeah, the day after she left.

22 A. I don't know.

23 Q. Let let me back up.

24 A. Um.

25 Q. Do you know where she was on the 4th ---

- 1 A. No.
- 2 Q. --- or the 5th ---.
- 3 A. No.
- 4 Q. --- or the 6th?
- 5 A. No.
- 6 Q. You knew where she was on the 7th when ---
- 7 A. Yeah.
- 8 Q. --- ya answered the door.
- 9 A. Right.
- 10 Q. Right. Did you contact her?
- 11 A. No.
- 12 Q. Did you call her?
- 13 A. No.
- 14 Q. Did you have anybody contact her?
- 15 A. No.
- 16 Q. What was the weather like that day when you answered the
- 17 door?
- 18 A. It was raining.
- 19 Q. Okay. So you answered the door and there stands Alex
- 20 Liddy with a month old child.
- 21 A. Yes, sir.
- 22 Q. Okay, and you told her to come in?
- 23 A. Yeah.
- 24 Q. Okay. And all a that stu -- all that baby stuff that ya
- 25 have to carry with you, ---

1 A. Right.

2 Q. --- you have babies, how did that get in the room?

3 A. I brought it in.

4 Q. Okay. Do you tell her 'bout the conversation you had  
5 with Mr. Brown ---

6 A. Yes, sir.

7 Q. --- and the lady from DSS I forget her name?

8 A. Uh, Candi Wilson, yes, sir.

9 Q. Okay. How long after she showed up did the officer show  
10 up?

11 A. I don't wear a watch as you can see but it wasn't shortly  
12 thereafter she got there that they came in.

13 Q. Okay. She shows up all the way from Anderson about two  
14 days after you talk to her mother.

15 A. Yes.

16 Q. Okay. Mr. Vega, after you got all of the stuff outta the  
17 rain did you have time to call the police?

18 A. No, sir.

19 Q. Okay. They were there.

20 A. They were there.

21 Q. Okay. When they arrived you ultimately were  
22 arrested, ---

23 A. Yes, sir.

24 Q. --- charged with this offense, ---

25 A. Yes, sir.

1 Q. --- as was Alex Liddy, ---

2 A. Yes.

3 Q. --- have you seen her since the day you were arrested?

4 A. No, sir.

5 Q. She's not here, is she?

6 A. No, sir.

7 Q. Answer any questions the prosecutor might have.

8 THE COURT: Mr. Leibert.

9 CROSS-EXAMINATION BY MR. LEIBERT:

10 Q. Forty-years-old you had a son, didn't ya?

11 A. Yes.

12 Q. What wha'd you name him?

13 A. Messiah.

14 Q. Prior -- your pride and joy.

15 A. My baby boy.

16 Q. A baby boy. You went up to that hospital, you signed  
17 that bi -- that's my baby and how old was, uh, the mother a  
18 that child?

19 A. Twenty-five, I ---

20 Q. And and and she just walked outta your life and walked  
21 out there without your baby and you didn't see him again until  
22 the day you were arrested ---

23 A. Yes, sir.

24 Q. --- and you let your baby leave with a woman you call  
25 "crazy" is what you just told these fine ---

1 A. Yeah, ---

2 Q. --- people.

3 A. --- she was told to take him right to the ---

4 Q. You left her with a crazy woman, left ---

5 A. No, ---

6 Q. --- your son with a crazy woman, ---

7 A. --- I did not, ---

8 Q. --- sir, didn't you?

9 A. --- I I did not leave them.

10 Q. You did not stay with her or your baby at that hospital,  
11 did you?

12 A. I did.

13 Q. You said you saw him that day.

14 A. That's it.

15 Q. You were not there when he was released, ---

16 A. No.

17 Q. --- you left.

18 A. Yes.

19 Q. And then lo and behold when the police come May 7th, Oh,  
20 she just walked in the door, right?

21 A. That's right.

22 Q. She just knocked on the door.

23 A. Yes, sir.

24 Q. Hi, honey, oh here's my baby, C'mon in, that's what you  
25 want this court to believe?

1 A. Yes, sir, that's the truth.

2 Q. And you sure it's rainin'?

3 A. Yeah.

4 Q. You sure it's rainin' that day?

5 A. Yes, sir.

6 Q. Right before they got there it was rainin'?

7 A. It was rain -- raining all day.

8 Q. You sure 'bout that?

9 A. I can, I'm not gonna guarantee it but I know it was, it  
10 was moist.

11 Q. And then so on May 5th when when Candi Wilson called you  
12 said and told ya about the order, you said, I don't know  
13 anything, I don't know where they're at.

14 A. I don't know where they're at.

15 Q. And but you didn't give her her mamma's number, did ya?

16 A. I don't know, I had -- why would I give her her mother's  
17 number?

18 Q. 'cause you're tryin' to find your baby with a crazy  
19 woman, sir.

20 A. I'm not tryin' to find them.

21 Q. You you had no concerns for your son?

22 A. Of course I did but they were in DSS's care.

23 Q. DSS had just told you they had an order for your son,  
24 didn't they?

25 A. They did.

1 Q. And you did not give them the number of the girl's  
2 mother, did ya?

3 A. I didn't.

4 Q. And you didn't give 'em her number either, did you?

5 A. I didn't know her number.

6 Q. So you didn't give her a number, did you?

7 A. I didn't have no number to give her.

8 Q. And then Tony Brown calls ya, this man right here  
9 (indicating), didn't he?

10 A. Yes, sir.

11 Q. And you refused to meet with him, didn't you?

12 A. Yes, sir.

13 Q. You said, I'm not telling you where I live, didn't you?

14 A. Yes, sir.

15 Q. And ya told him where you did live the the false address,  
16 that was empty, wasn't it, you weren't livin' there, were ya?

17 A. I moved out, yeah.

18 Q. So you weren't livin' there, were you?

19 A. Yeah.

20 Q. On May the 5th you were not living there.

21 A. I was movin' out, that's how I ended up at the motel.

22 Q. You s -- so your testimony is you were just happen to be  
23 movin' out the 5th so when he went there it just happened to  
24 be vacant 'cause you had just moved out.

25 A. Yes, sir.

1 Q. Did the police just get whatever you need like fifteen to  
2 twenty seconds right after you leave every time you have  
3 somethin' happen?

4 A. I don't understand the question.

5 MR. WHELCHER: Objection, Your Honor.

6 MR. LEIBERT: I'll withdraw that question.

7 MR. WHELCHER: He wants to ask him a question he can but  
8 he can't ---

9 MR. LEIBERT: I ---

10 MR. WHELCHER: --- make conclusions ---

11 MR. LEIBERT: --- withdraw the question, I'll ask him  
12 another question. I think that was a question but I'll ask  
13 him another one.

14 THE COURT: Go right ahead.

15 BY MR. LEIBERT:

16 Q. You told the officer you were livin' in Spartanburg and  
17 you told him there was furniture in that house on May 5th,  
18 there wasn't furniture in that house.

19 A. I didn't say that.

20 Q. You deny saying that?

21 A. Yeah, I didn't say that there was any furniture in  
22 there.

23 Q. So then you go to the Main Street Motel and when the  
24 mother moved in there, what what do ya say she was there, two  
25 min -- two minutes, three minutes?

1 A. Probly five.

2 Q. Five minutes?

3 A. I don't know, I don't wear a watch so I don't know how  
4 long it was but it was shortly after she got there that the  
5 officers came in my room.

6 Q. And yet there was formula on the table, ---

7 A. Um-hum.

8 Q. --- there was bottles, ---

9 A. Um-hum.

10 Q. --- there were clothes ---

11 A. Um-hum.

12 Q. --- throughout the room, ---

13 A. Yes, sir.

14 Q. --- they weren't all stacked right in, right inside where  
15 the rain was, right?

16 A. The ---

17 Q. It was all over the room, correct?

18 A. Yeah, I ---

19 Q. You moved stuff all over.

20 A. --- I just brought it all in.

21 Q. And just put it all over the room, right?

22 A. Yeah, it's only 20 square feet, yeah.

23 Q. And when the police came to the door, well let me take  
24 that back. When when Messiah's mother came to the door,  
25 what's her name?

1 A. Alex.

2 Q. Alex. You answered that door, didn't ya?

3 A. I didn't know who was at the door until I heard a knock.

4 Q. You answered it, didn't you?

5 A. I open the door when I hear a knock, yes, sir.

6 Q. You didn't answer it when he (indicating) knocked, did  
7 ya?

8 A. He didn't knock.

9 Q. You didn't open the door for the police, did you?

10 A. He didn't knock, he came right in with a key that he got  
11 from the manager.

12 MR. LEIBERT: Beg the Court's indulgence.

13 BY MR. LEIBERT:

14 Q. So you knew when the police just came into your room  
15 without knocking, you knew there was c -- a court order for  
16 the State to have custody of your son.

17 A. No, when they told me on the phone, when he called me on  
18 the phone askin' me whereabouts that's when I knew.

19 Q. And you didn't call them and say, uh, The baby just  
20 arrived with that crazy mamma, come and get her, I'm in Room 5  
21 a the Main Street Motel here in Spart -- you didn't do that,  
22 did ya?

23 A. No, sir.

24 Q. Thank you.

25 THE COURT: Mr. Whelchel, anything?

1 REDIRECT EXAMINATION BY MR. WHELCHER:

2 Q. I forgot to ask ya, Mr. Solicitor wanted to know about  
3 you moving from one place to another, why did you move from  
4 the old address to the Main Street Motel?

5 A. Because I had got laid off.

6 Q. Okay. Laid off your job from work?

7 A. Excuse me?

8 Q. Your job at work.

9 A. Yes, sir.

10 Q. Where were you workin'?

11 A. At Spartanburg Signarama.

12 Q. Doin' what?

13 A. Uh, graphics and vehicle wraps.

14 Q. Okay. How'd you get there?

15 A. I had a vehicle.

16 Q. Excuse me?

17 A. I had a vehicle.

18 Q. Okay. Did you take that vehicle to Anderson, pick this  
19 lady up, bring her back to your room?

20 A. No, sir.

21 Q. Okay. Did you have time to call the police before, --

22 A. No, sir.

23 Q. --- I mean, after you unloaded all that stuff, I mean,  
24 babies come with a lotta stuff.

25 A. Yeah.

1 Q. Okay. Thank you, sir.

2 THE COURT: Solicitor, anything?

3 MR. LEIBERT: No, sir, Your Honor, thank you.

4 THE COURT: Alright, very good. Sir, you may step down,  
5 please be careful.

6 (Whereupon, the defendant left the stand.)

7 MR. WHELCHER: Defense rests, Your Honor.

8 THE COURT: Defense rests, okay. Mr. Foreman, I hate to  
9 send you folks back out but the defense has now rested which  
10 means they're not gonna call anymore witnesses at this ti --  
11 at this time, uh, there'll be a little legal matter for me to  
12 take up once again outside a your presence and you're very  
13 close to havin' this jury in your hands so, I mean, the case  
14 in your hands. Don't discuss the case at this time, I do have  
15 to ask a couple a question a the lawyers real quick, we'll be  
16 right back with ya. Take the jury out, please.

17 (The following takes place outside the presence of the  
18 jury.)

19 THE COURT: Matters from the State?

20 MR. LEIBERT: Your H -- Your Honor, we're considering  
21 calling reply witness to establish what the weather was like  
22 on the 7th and I I've I've I've never done that, uh, you know,  
23 I tried to once and I think we got somebody from an almanac or  
24 somethin', I don't know, I guess I could call meteorologist, I  
25 don't know if they would come and testify. Not sure that the

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1 Court would take, uh, if I got a newspaper from May 7th, if  
2 you would take that as, uh, I can't think a the term all of a  
3 sudden, uh, if you would accept that, that we could explore  
4 that fur -- take judicial notice of, uh, the forecast at in  
5 the newspaper.

6 THE COURT: Well, Mr. Whelchel, what about that?

7 MR. WHELCHER: Your Honor, I don't think you can take  
8 judicial notice of ---

9 THE COURT: No?

10 MR. WHELCHER: --- something that they haven't, uh, tried  
11 to enter yet ---

12 THE COURT: No?

13 MR. WHELCHER: --- uh, ---

14 MR. LEIBERT: And I'm thinking if we had and just talkin'  
15 out loud that Mr. Whelchel I knew he's gonna object me, uh,  
16 which I understand my thinking is a lotta times it says, you  
17 know, 30 percent chance, I don't know if it says the day after  
18 but, uh, ---

19 MR. WHELCHER: Your Honor, ---

20 MR. LEIBERT: --- we don't believe it was raining, uh,  
21 when ---

22 THE COURT: Okay, ---

23 MR. LEIBERT: --- the police were there.

24 THE COURT: --- let me do this, uh, uh, it's 9:02  
25 subparagraph 6 so it's a, uh, extrinsic evidence of

MOTIONS AND MATTERS

1 authenticity as a condition preceded to admissibility, not  
2 required, 902, subparagraph 6, Newspapers and periodicals,  
3 printed material purporting to be newspapers or periodical, so  
4 if you have one and you offer it, it, uh, you need not, uh,  
5 otherwise, uh, I mean, that's just authenticity. You wanna  
6 look at this, Dick?

7 MR. WHELCHER: Well problem, Your Honor, is that,  
8 uh, ---

9 THE COURT: I don't know if he has one or not.

10 MR. WHELCHER: --- 30 percent chance of precipitation  
11 doesn't mean a damn thing, 'scuse me, Your Honor, doesn't mean  
12 a darn thing, uh, especially with the weather we've been  
13 having lately, ---

14 THE COURT: I understand.

15 MR. WHELCHER: --- I mean, I I went home the other day  
16 supposed to be at 20 percent and it was 20 percent all over my  
17 neighborhood.

18 THE COURT: I understand.

19 MR. LEIBERT: But if I can, if if I can get that  
20 information, at least take a few min., they may be able to say  
21 after the fact well it didn't rain or it did or it rained from  
22 three to four or we had a few ---

23 MR. WHELCHER: That ---

24 MR. LEIBERT: --- re ---

25 THE COURT: I I don't know what ya have but if ---

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1 MR. LEIBERT: Okay.

2 THE COURT: --- it's a newspaper it's 9026.

3 MR. LEIBERT: Yeah, ---

4 MR. WHELCHER: Nobody can ---

5 MR. LEIBERT: --- somebody ---

6 MR. WHELCHER: --- testify ---

7 MR. LEIBERT: I ---

8 MR. WHELCHER: --- to it, ---

9 MR. LEIBERT: --- I ---

10 MR. WHELCHER: --- Your Honor.

11 MR. LEIBERT: --- I was gonna try to go pull that with  
12 GoUpstate, uh, dot com but I know once before somebody used  
13 somebody from an almanac or something but, uh, I mean, a  
14 meteorologist could tell ya but I don't know, I don't, I don't  
15 know how easily it is to get a meteor all-knowing ---

16 MR. WHELCHER: Meteorologist cannot tell or testify that  
17 it was raining or not raining at that location at that time,  
18 no way they can do it.

19 MR. LEIBERT: Well, I don't know that but they might,  
20 they may ---

21 THE COURT: I don't ---

22 MR. LEIBERT: --- or may ---

23 THE COURT: --- what, ---

24 MR. LEIBERT: --- not be able to.

25 MR. WHELCHER: They ---

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1 THE COURT: --- I don't know what they can testi ---

2 MR. WHELCHER: --- they can't do it, ---

3 MR. LEIBERT: Uh, ---

4 MR. WHELCHER: --- they can only testify  
5 probabilities, ---

6 THE COURT: Well ---

7 MR. WHELCHER: --- possi ---

8 THE COURT: --- anyway that it ---

9 MR. LEIBERT: And I have a detective that'll testify they  
10 were very hot when they went there and and it wasn't rainin'  
11 so, uh, a course he's gonna ask was it raining five minutes  
12 before that and I'm assuming he will say no but I'm trying to  
13 get something a little more if you could give me a few  
14 minutes.

15 THE COURT: I can give ya a few minutes, uh, alright, but  
16 but while we're doin' that are there other motions?

17 MR. LEIBERT: No, ---

18 THE COURT: From the, ---

19 MR. LEIBERT: --- sir.

20 THE COURT: --- anything from the State? Anything from  
21 defense?

22 MR. WHELCHER: I would renew my motion for a directed  
23 verdict, Your Honor.

24 THE COURT: Yes, sir.

25 MR. WHELCHER: Uh, based on the new testimony from my

MOTIONS AND MATTERS

1 client coupled with the old testimony there is insufficient  
2 evidence in this case and I believe that the directed verdict  
3 is proper ---

4 THE COURT: Solicitor.

5 MR. WHELCHER: --- proper response at this time.

6 MR. LEIBERT: Well, Your Honor, as you said it's the  
7 existence of of evidence not it's weight and and I think it  
8 still holds true after he testifies that ---

9 THE COURT: Yes, sir. This court's cannot concerned with  
10 the weight, it's concerned with the existence of testimony in  
11 the light most favorable to the non-movin' party which is the  
12 State, therefore it's denied. Anything else, Mr. Whelcher?

13 MR. WHELCHER: No, sir.

14 THE COURT: Okay.

15 MR. LEIBERT: If if I can try to do this right quick with  
16 some people that are smarter than me upstairs real quick,  
17 maybe ten ---

18 THE COURT: Sure.

19 MR. LEIBERT: --- minutes.

20 THE COURT: Yes, sir, we'll give or we -- I'll give ya  
21 ten minutes.

22 MR. LEIBERT: Alright, thank you.

23 (Whereupon, a recess was taken.)

24 (Whereupon, a discussion was held off the record.)

25 THE BAILIFF: Jury.

1 (The following takes place in the presence of the jury.)

2 THE COURT: Mr. Foreman, any matters for the jury?

3 Everything good?

4 JURY FOREMAN: Everything good, Your Honor.

5 THE COURT: Alright, we're we're, uh, ready. Solicitor.

6 MR. LEIBERT: Your Honor, we'd like to call, uh,

7 Investigator Fred Lux in reply.

8 THE COURT: In reply, alright. Officer come forward.

9 (Whereupon, the witness returned to the stand.)

10 THE COURT: Officer, you were previously sworn, you  
11 remain under oath.

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: Solicitor.

14 DIRECT EXAMINATION BY MR. LEIBERT:

15 Q. On the date in question, May 7th 2015, what time would  
16 you have come on duty on that day, sir?

17 A. I woulda started at 5 p.m. that evening.

18 Q. And I think you said early that was your first  
19 interaction with this case?

20 A. It was yes, sir.

21 Q. Did you escort anyone to the Main Street Motel?

22 A. I accompanied Sergeant Brown, Sergeant Beck and, uh,  
23 Investigator Williams there, uh, with with regard to this  
24 investigation.

25 Q. How -- what time approximately would you say you arrived

1 at this Main Street Motel?

2 A. Somewhere between about 6 and 6:15 that evening.

3 Q. Upon arriving there approximately how long would you  
4 have been there before anybody went into the room?

5 A. Probly about fifteen minutes. Uh, when we pulled in the  
6 parking lot I actually pulled up to the top part a the parking  
7 lot opposite the room that Mr. Vega, Ms. Liddy were in, uh,  
8 just kinda secure the premises and I walked back down so, uh,  
9 it it woulda taken a little while for, uh, for me to have  
10 pulled in, walk back down and allowed the other investigators  
11 to have gone into the, uh, the motel or into the, uh, the  
12 office and and obtain the registry information.

13 Q. Now this is about fourteen months ago, do you have an  
14 independent recollection what the weather was like on May 7th  
15 2015 between 5 p.m. and 6:30 p.m.?

16 A. I do.

17 Q. How could you know that?

18 A. Because that hotel is not somewhere that we would  
19 typically go to, that's actually in the city's jurisdiction so  
20 I only go there a handful a times over the course of of my  
21 time as a law enforcement officer, uh, and and with it that  
22 those so few times, that one, that that particular incident  
23 would stand out in my mind.

24 Q. Alright, and what was the weather like?

25 A. The weather was sunny and hot, ---

1 Q. Okay.

2 A. --- uh, at least hot as far as it would go for for a law  
3 enforcement officer wearing a, uh, a tactical vest.

4 Q. So you, were you wearing a tactical vest?

5 A. I was, yes.

6 Q. And was there any sprinkles that you remember at all  
7 during or any rain during that time at all?

8 A. Not from the time I came on duty to to the point that we  
9 made entry to that room.

10 Q. In the fifteen minutes that you were there approximately,  
11 did you see anyone come in or out of Room 5?

12 A. No.

13 Q. Were you able to see Room 5 that entire time?

14 A. Yes.

15 Q. Alright, thank you, answer any questions Mr. Whelchel may  
16 have or His Honor.

17 CROSS-EXAMINATION BY MR. WHELCHER:

18 Q. Came onto duty what time?

19 A. 5, 5 p.m.

20 Q. And what did it do before 5 p.m.?

21 A. I can't say before 5.

22 Q. Oh, okay. So it could have been hot and muggy 'cause it  
23 had rained before 5 p.m., right?

24 A. It it could have but Mr. ---

25 Q. Okay.

1 A. --- Vega's testified ---

2 Q. Now ---

3 A. --- that there was ---

4 Q. --- had also ---

5 A. --- a fifteen ---

6 THE COURT: Wait a minute, Mr. Whel -- wait, let him, let  
7 him answer. Let him answer. Go ahead, sir.

8 A. Mr. Vega testified that there was a fifteen minute window  
9 or I'm sorry, five minute window between the time that she  
10 arrived and the time we arrived and ---

11 Q. That's what ---

12 A. --- what was ---

13 Q. --- he thought ---

14 A. --- and ---

15 Q. --- but he didn't ---

16 A. --- I swear ---

17 Q. (Indiscernible cross-talk.)

18 A. --- squarely the fifteen minute window we're ---

19 Q. Okay, ---

20 A. --- talkin' about ---

21 Q. --- I understand ---

22 A. --- now ---

23 THE COURT: Let ---

24 Q. --- testify.

25 THE COURT: --- Mr. Mr. Whelchel, please, ---

1 A. Okay.

2 THE COURT: --- Mr. Whelchel let him answer question in  
3 full.

4 BY MR. WHELCHER:

5 Q. Now ---

6 THE COURT: Answer the question ---

7 Q. Oh.

8 THE COURT: --- in full, sir.

9 Q. What you're tellin' us now after you heard Mr. Vega  
10 testify is any a this in your investigative report that you  
11 made that day?

12 A. It is not.

13 Q. Oh, okay, so you're just remembering now after you get  
14 the opportunity to hear Mr. Vega testify that it wasn't  
15 raining.

16 A. It wasn't a matter that that had, that had been brought  
17 up prior to Mr. Vega's testimony.

18 Q. I understand that. Did you put any a the weather in your  
19 report, I mean, do you have it here with ya, don't ya?

20 A. I do.

21 Q. Op -- is there anything in there?

22 A. No, there's nothing about the weather in there.

23 Q. Oh, okay. Alright, that's all.

24 REDIRECT EXAMINATION BY MR. LEIBERT:

25 Q. Uh, are you makin' this up or is this a career case for

1 you or somethin'?

2 A. No, ---

3 Q. Oh, oh, okay.

4 A. --- I'm ---

5 Q. Go ahead.

6 A. --- I'm an arson investigator, I was simply helping out  
7 with this case.

8 Q. Okay, thank you.

9 THE COURT: Thank you. Sir, you may step down,  
10 please ---

11 THE WITNESS: Thank ---

12 THE COURT: --- be careful.

13 THE WITNESS: --- Your Honor.

14 (Whereupon, the witness left the stand.)

15 THE COURT: Anything further, solicitor?

16 MR. LEIBERT: No, sir, Your Honor.

17 THE COURT: Okay.

18 MR. LEIBERT: Thank you.

19 THE COURT: There's gonna be anything from the defense?

20 MR. WHELCHER: No, sir.

21 THE COURT: Okay. Alright. Uh, let me see the lawyers  
22 real quick.

23 (Whereupon, a bench conference was held off the record.)

24 THE COURT: Mr. Foreman, ladies and gentlemen a the jury,  
25 I'm informed by the lawyers that they're ready to make closing

CLOSING ARGUMENTS

1 statements now and after that I will, uh, give you the charge  
2 on the law and some in -- instructions and send you with the  
3 evidence which will be exhibits that were given to you, uh, I  
4 will send you out to begin your deliberation, so at this time,  
5 ladies and gentlemen, please give your attention to the  
6 lawyers.

7 MR. WHELCHER: Ladies and gentlemen of the jury, you're  
8 going to have these exhibits that were presented to you by the  
9 State beginning with Exhibit 1 is yours and Exhibits 2 my  
10 client, Alex Liddy and this (indicating) item that the  
11 sheriff's department made up for you or made up in order to  
12 find this child, you'll have all a these back in the jury room  
13 with you and you'll see where it says biological mother  
14 Alyxandrea Liddy is refusing to turn the child over and is  
15 currently in hiding, state's exhibit. Testimony you heard  
16 throughout this trial is that the custody of that child was  
17 with Ms. Liddy. Now fortunately you cannot find my client  
18 guilty poor judgment, we have all had errors in judgment where  
19 it comes to relationships. What the State is asking you to  
20 believe is this: My client who saw the child when he was born  
21 did not have custody a the child, child as you heard when I  
22 cross-examined I think the DSS worker can't have custody a the  
23 child, custody a the child goes with the mother when their,  
24 uh, parents are not wed. He doesn't have custody, he doesn't  
25 have the child at all and they call him and they want you to

CLOSING ARGUMENTS

1 believe because he can't tell you where she is that he's  
2 guilty of this. They want you to believe that because that  
3 woman and that child may have been in that room for some  
4 amount of time that he's guilty, that he's guilty of  
5 purposefully and intentionally and with the intent to keep  
6 that child away from the State, DSS, 'cause that's who  
7 according to the order now has custody and has custody because  
8 she won't cooperate with them. Coincidence. Within a matter  
9 of days after that woman's mother tells the officers this is  
10 how to get in touch with Danny Vega, that woman shows up where  
11 Danny Vega's now living. You have no testimony whatsoever  
12 before you that there's any kinda conversation, contact,  
13 information flowin' back and forth, anything like that between  
14 Danny Vega and the guilty party. Now there's no question in  
15 anybody's mind who the guilty party is here but for some  
16 reason she's not on trial.

17 Judge is gonna charge you about circumstantial evidence,  
18 he's gonna charge you about mere presence, the fact that  
19 officers ultimately found that child in that room with Danny  
20 Vega and that woman does not mean he's guilty. Listen to the  
21 jury charge, the instructions that the judge gives to you,  
22 he's also gonna talk to you about a circumstantial evidence  
23 case which is what this is. In order for a circumstantial  
24 evidence case to work, all the circumstances must fit together  
25 to the conclu -- to the exclusion of she just talked to her

CLOSING ARGUMENTS

1       mamma and showed up and you can consider what has been  
2       testified to and what has not been testified to and who has  
3       not testified or why she has not testified.

4             If you'll remember back this morning and I told you Danny  
5       Vega is innocent, he still is. Ask yourself this question: Is  
6       there evidence so strong and so convincing they would cause  
7       you, uh, not to have a doubt 'cause if you have a doubt, that  
8       doubt has to be resolved in the favor Danny Vega.

9             Now let's back up. The State would have you believe,  
10       they want you to understand and assume that it doesn't matter  
11       that he wasn't there for the hearing, it doesn't matter that  
12       he ever got served with a copy a this, the twelve of you  
13       determine whether or not that matters and when he's told they  
14       want you to believe that because he didn't tell 'em where she  
15       was 'cause he didn't know. Her own mother didn't tell 'em  
16       where she was, she didn't know. The people from DSS didn't  
17       know where she was, that's why this all got started. She's  
18       the one involved with DSS, she's the one who has to maintain  
19       contact with them and she's the one who did not but but he's  
20       the one on trial. You decide what's right, what's fair, what  
21       you believe, you have the right to believe all or part of  
22       anybody's testimony.

23             It's interesting that the lady from DSS really didn't  
24       know a whole lot about this case other than that (indicating)  
25       woman didn't do what she was supposed to do, in response of

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1 that (indicating) woman Alex Liddy not doing what she is  
2 supposed to do, they went to court and you're gonna have this  
3 in front of you, State's Exhibit No. 1, the order they put  
4 into evidence, the couldn't find her, they couldn't find him,  
5 they knew where she was, they knew where he was and you heard  
6 him testify he got laid off, he moved to the Main Street  
7 Motel. He goes through all these other who was there, things  
8 of that nature and then get close, there's sufficient probable  
9 cause to believe that there exists an imminent substantial  
10 danger to the life, health and physical safety for Messiah  
11 Liddy in the home of defendant Alex Liddy so they issued this  
12 order, ultimately my client was told about the order. He  
13 didn't know where she was, you heard him testify, that doesn't  
14 matter, doesn't matter to them 'cause he gets arrested and she  
15 gets arrested too. She's not here, she's not gonna be here, I  
16 don't imagine, I don't know. You're my client brutally honest  
17 that it it was a mistake to get involved with her, he don't  
18 want anything to do with her and then there she is at the  
19 room. Now ask yourself this, think about it: child is about a  
20 month old, you've seen the child once, you get information  
21 from the police and the Department Social Services that the  
22 child's mother has taken the child and left the establishment  
23 she was in and they can't find her, so what do ya do? If you  
24 believe their version of the facts or what they claim to be  
25 the facts, you go get the child, they don't have any evidence

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1 a that, none whatsoever. The lady testified 'bout him gettin'  
2 in a vehicle, goin' to get the child, havin' a conversation  
3 with the mother, pickin' up the child, contacting the mother  
4 with e-mail, telephone, uh, instant message, you name all a  
5 that stuff, no testimony whatsoever about any contact between  
6 these two individuals until she shows up at the Main Street  
7 Motel and again, who else knew? her mamma.

8 The word verdict comes from combination of two latin  
9 words: vere and dictum and it literally means to speak the  
10 truth. When you consider in this case that the people who  
11 have to prove to you that my client had this child on purpose  
12 with the intent to keep this child from DSS at that time,  
13 intentionally did this, judge is gonna charge you, you listen  
14 closely when he tells you the elements of this charge are or  
15 this offense are, they have to prove all that, they can't  
16 prove it by well, You know, God, we showed up with the cops  
17 and she was there, the baby was there, he was there, can't  
18 speculate as to why. You've heard what he told ya and you've  
19 heard or I think you're gonna hear what they want you to  
20 believe, here's the problem: not one speck of of evidence do  
21 they have about contact between these two until they magically  
22 show up and a man who as I said earlier has seen the child day  
23 one, not at all since is gonna go to all a this trouble now,  
24 going to open the door to get back involved with her, do you  
25 believe it? do you have a doubt? is it reasonable conduct?

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1 You're gonna have those photographs, that order, this one too  
2 but you have to have evidence so strong and so convincing as  
3 to a reasonable doubt, so strong, so convincing that you would  
4 not hesitate to act, so strong so convincing that you could  
5 convict if that were your brother or son or husband or  
6 whatever seated at that table, I submit to you that the proper  
7 verdict today based on the evidence that you have, the verdict  
8 speaks the truth is not guilty. Thank you.

9 MS. MORICLE: Your Honor.

10 THE COURT: Solicitor.

11 MS. MORICLE: Thank Your Honor. Ladies and gentlemen, I  
12 don't know how many of you watched Andy Griffith growin' up  
13 but that's my Dad's favorite show and I remember Monday  
14 through Friday every day after school that is what we did in  
15 the living room: eat Cheetos and watch Andy Griffith and I  
16 always remember watching it thinking how does this happen to  
17 Barney every time. I don't know if you're familiar with it  
18 but every time Barney gets himself in some trouble and it's  
19 just the dominos line up and one thing after another happens  
20 and it's never his fault, it just all of a sudden he's caught  
21 himself in some predicament 'cause it's just lined up  
22 perfectly every single time and that's what Mr. Whelchel would  
23 have you believe happened with Mr. Vega, he's just a Barney  
24 Fife, everything bad happens to him within two minutes of this  
25 just miraculous domino effect: he's at the wrong place at the

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1 wrong time, somebody shows up no warning then someone else  
2 comes and, poof, I'm being arrested, that were the case I  
3 don't think we'd be here. Mr. Vega isn't a Barney Fife.

4 As I started with to tell you about this case, the  
5 statute's custodial interference. I'm gonna go with key word  
6 being "custodial" and "interference". Custodial interference  
7 means there's court order and in this case there was a family  
8 court order signed in Pickens County 'cause this was Pickens  
9 County DSS case, it was signed by Judge Pope-Black who's  
10 actually one of our resident judges but she happens to travel  
11 around the circuit so she was in Pickens County that day, that  
12 order was signed on May 4th of 2015. We've got the order and  
13 then the rest of that statute says someone cannot interfere  
14 with that order and you can't cause to be transported or  
15 transport a child under the age of sixteen and intentionally  
16 violate or intend to hide a child in that statute, so we have  
17 here is there was an order signed because as you heard, and  
18 I'm gonna take you back through what we have heard so far,  
19 'cause as Judge Kelly has requested you do all of your  
20 evidence it came from this witness stand right here  
21 (indicating). First person that testified was the clerk a  
22 court. He verified this is an accurate representation of the  
23 order on file Pickens County and is an ex parte order. Ex  
24 parte means the parties are not present. Mr. Vega was not  
25 present, Ms. Liddy was not present. There was an attempt to

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1 contact them but neither one of them answered their phone or  
2 responded so I don't know how they're supposed to be present  
3 if they don't answer DSS. The ex parte order as he said is in  
4 Pickens County Courthouse. The next person you heard from was  
5 Candi Wilson, she's the DSS worker. She told you if you were  
6 listening that she has been in contact with Mr. Vega for over  
7 a year before this even occurred. She said that she knew his  
8 voice, she talked to him on the phone, she met him in person,  
9 she had the same number that she was able to contact him with  
10 and the address that he'd given her was 120 - 1224 Edgewood  
11 Drive, Una, South Carolina, it's here in Spartanburg. She  
12 tried to call him before they had the hearing, he answered.  
13 She said she knows she talked to him after they had the  
14 hearing and he told her he was still living at that address.  
15 She also said she told him about the order and asked if he  
16 knew the location of Alex and the baby, this 1-month-old baby,  
17 he denied having any knowledge, he's still living at that  
18 address, he's not cooperating, he's not gonna come meet her,  
19 that was the end a that story, so in order to find this child  
20 because the mother has left as she stated a women's battered  
21 shelter in Anderson County with this baby, she violated her  
22 safety plan, there is a a right to think that this child is  
23 now in some sort of danger, gets in touch with Spartanburg  
24 County Sheriff's Office. Tony Brown you've heard from says  
25 that he got this call, he gets some pictures of

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1 Mr. Vega and Ms. Liddy so he does what any normal law  
2 enforcement officer would do: He goes out to the address that  
3 the day before Mr. Vega said I'm still livin' at to the DSS  
4 worker. Well you heard Mr. Brown testify he went out there,  
5 it was vacant, there was no furniture in the home and it  
6 didn't appear there'd been anyone there. Next reasonable  
7 step: let's find Alex's mom, maybe baby is there. Alex's mom  
8 lives in Pickens. Mr. Brown says, We go to Pickens, we talk  
9 to her mom, she doesn't know where her daughter is, she  
10 doesn't know where Danny's living but we've got some phone  
11 numbers. Call Mr. Vega, he adamantly says, I don't know where  
12 they are and I still live 1224 Edgewood which is funny since  
13 Mr. Brown had just been there and knew that wasn't true. When  
14 we realize this Mr. Vega then said I'm not gonna tell you  
15 where I live, I'm not cooperating. Mr. Brown tells him about  
16 the order, he doesn't know where she is, doesn't know where  
17 the baby is and doesn't care to have any further conversation.  
18 They continue looking for this child and they're not able to  
19 find him so here we are order signed May 4th, this baby's been  
20 missing now for two days and we don't know where he is and his  
21 own father is not cooperating and doesn't know where mom is?

22 May 7th you hear from Tony Brown they get some  
23 information they may be at the East Main Street Motel here in  
24 Spartanburg which is why we are all here. They go there, you  
25 heard from reply and Mr. Lux that they were in the parking lot

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1 about fifteen minutes, it was not raining, management gave  
2 them a key to Room Number 5 and guess who is Barney Fife in  
3 the room: Mr. Vega, baby boy Messiah and Alex Liddy. There's  
4 formula spilled all over the table, there's clothes  
5 everywhere, well we just showed up but wait, Fred Lux told us  
6 that mom said she and the baby had been sleeping in that bed  
7 so how, if we believe Mr. Vega and we've only been there for  
8 maybe fifteen minutes, does the room like this and we've been  
9 sleeping here?

10 Ladies and gentlemen, common sense does not leave you  
11 when you come in here. You've been excused a few times and a  
12 lot's gone on today but you have heard how law enforcement  
13 adamantly tried to find this child, DSS tried to find this  
14 child and the entire time Mr. Vega I would say to you knew  
15 where that child was, he also told you mom didn't have a car,  
16 mom doesn't have transportation but he has a vehicle and  
17 transportation so how does mom get from Anderson to  
18 Spartanburg with no help, someone just magically drops her  
19 off? He hasn't talked to her since she was in the hospital  
20 but she knows exactly what room he's in and where he's at and  
21 she magically knocks on the door and, poof, here I am with my  
22 baby in tow and I have no conversation with you to let you  
23 know I'm coming and I've been called by law enforcement, this  
24 is Mr. Vega not doing anything for his child.

25 Custodial interference. Ladies and gentlemen, I submit

JURY CHARGE

1 to you Mr. Vega's not Barney Fife, he was an active  
2 participant hiding this child. There was a family court order  
3 he knew about, he helped transport this child to Spartanburg  
4 County, law enforcement looked for this child for two to three  
5 days before he was found and then he was found with Mr. Vega  
6 and Ms. Liddy in a Main Street Motel, she didn't just show up,  
7 she'd been there, he didn't neglect to forget to tell law  
8 enforcement that he lost a job and, Oh, I moved, he hadn't  
9 been livin' at that house, he knew where she was, he picked  
10 her up, he brought her and her baby here and knew that that  
11 child was now in DSS custody and was not gonna turn him over,  
12 I submit to you, ladies and gentlemen, please use your common  
13 sense and find Mr. Vega guilty. Thank you.

14 THE COURT: Thank you, solicitor. Mr. Foreman, ladies  
15 and gentlemen a the jury, you have seen and heard the evidence  
16 presented as well as the arguments of counsel and it is now my  
17 duty and obligation to instruct you on the law applicable to  
18 this case, it will then be your solemn duty and obligation to  
19 begin deliberations through which process you will decide the  
20 facts, apply the law as I instruct it and render a fair and  
21 impartial decision. It is your exclusive duty to determine  
22 what the facts are in this case, you do that based on your own  
23 common sense examination and evaluation of the testimony and  
24 other evidence received during the trial. You twelve jurors  
25 alone will decide what effect, value and weight is to be given

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1 to any particular testimony or other evidence received, quite  
2 simply your ultimate goal is to find the truth in this case  
3 and by doing so you will fulfill your obligations as jurors in  
4 giving both the State and the defendant a fair and impartial  
5 trial based on the evidence presented and the law applicable  
6 to this case.

7 The indictment in this case charges the defendant with  
8 custodial interference, specifically that Danny Vega did in  
9 the County of Spartanburg, State a South Carolina on or about  
10 May 7, 2015 transport a minor child from the legal custodian  
11 with the intent to violate a family court order in violation  
12 of the laws of the state. I charge you the fact that he was  
13 arrested, charged and indicted is not evidence in this case  
14 and cannot be considered by you as evidence of guilt nor does  
15 the indictment create any presumption or inference of guilt,  
16 these docum -- the document itself is simply the formal  
17 written instrument which brings the charges made against him  
18 before the Court. The defendant pled, uh, entered a plea of  
19 not guilty to the indictment and that plea puts the burden  
20 squarely on the State to prove the defendant guilty. A person  
21 charged with committing a criminal offense in South Carolina  
22 is never required to prove himself innocent. I charge you it  
23 is a cardinal, important and vital rule of law that in a  
24 criminal trial no matter what the seriousness of the charge  
25 may be for which we stands charged the defendant is presumed

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1 to be innocent of the crime for which the indictment was  
2 issued unless guilt has been proven by evidence satisfying you  
3 of that guilt beyond a reasonable doubt. The presumption of  
4 innocence does not end when you begin your deliberations but  
5 it accompanies the defendant throughout the trial until you  
6 reach a verdict of guilt based on evidence satisfying you of  
7 guilt beyond a reasonable doubt. The presumption of innocence  
8 is like a robe of innocence placed about the shoulders of the  
9 defendant which remains with him from the moment of his arrest  
10 and continues until it has been stripped from his shoulders by  
11 evidence satisfying you of his guilt beyond a reasonable  
12 doubt. The presumption of innocence is not mere legal theory  
13 nor a legal phrase, it is a substantial right to which every  
14 defendant is entitled unless you twelve jurors are satisfied  
15 from the evidence of his guilt beyond a reasonable doubt.

16 I remind you, ladies and gentlemen, that durin' the trial  
17 you and I have certain duties to perform. As the trial judge  
18 it is my responsibility to preside over the trial a this case  
19 and I also have the duty, uh, to rule on the admissibility of  
20 evidence offered during the trial. You are to consider only  
21 the competent evidence before you. You are to consider only  
22 the testimony which has been presented from the witness stand,  
23 any exhi -- and exhibits which have been made a part of the  
24 record. Additionally, I have the duty to charge you the law  
25 in this case. As the presiding judge I am the judge of the

JURY CHARGE

1 law and it is your duty as jurors to accept it and apply it as  
2 I now state it to you. If you have any idea as to what the  
3 law is or what the law ought to be or what the law should be  
4 and it does not agree with what I now tell you the law is, you  
5 must abandon your idea because you are sworn to accept the law  
6 and apply it as I state it to you.

7 Ladies and gentlemen, every case tried in this courtroom  
8 before a jury you, the jury, becomes the sole and exclusive  
9 judge of the facts. A trial judge cannot comment on or make  
10 any statement to a jury about a fact in a case. You, the  
11 jury, are the sole judge of the facts in this case and you are  
12 not to infer from what I have said durin' the progress of this  
13 trial in ruling on admissibility of evidence or otherwise or  
14 anything that I now say durin' my instructions that I have an  
15 opinion about this case, the law of this state does not allow  
16 me to have an opinion about the facts in this case, this is a  
17 matter solely for you, the jury, to determine, it is your duty  
18 to determine what effect, value, weight and truth of the  
19 evidence presented is durin' this trial.

20 The State has the burden of proving the defendant guilty  
21 beyond a reasonable doubt. Ladies and gentlemen, proof beyond  
22 a reasonable doubt is proof that leaves you firmly convinced  
23 of the defendant's guilt. There are very few things in this  
24 world that we know with absolute certainty and in criminal  
25 cases the law does not require proof that overcomes every

JURY CHARGE

1 possible doubt. A reasonable doubt may also be described as  
2 the kind of doubt that would cause a reasonable person to  
3 hesitate to act. If you have such a doubt as to the guilt of  
4 this defendant, he is entitled to a verdict of not guilty.  
5 Reasonable doubt may arise from evidence which is in a case or  
6 it may arise from the lack or absence of evidence in a case.  
7 Based on your consideration of the evidence if you are firmly  
8 convinced that the defendant is guilty of the crime charged,  
9 you must find him guilty; on the other hand, if you think  
10 there is a real possibility he is not guilty, you must give  
11 him the benefit of the doubt and find him not guilty. You  
12 twelve alone must make the determination of whether or not  
13 reasonable doubt exists as to the guilt of the defendant.

14 Now, ladies and gentlemen, there are two types of  
15 evidence which are generally presented during a trial: direct  
16 evidence and circumstantial evidence. Direct evidence  
17 directly proves the existence of a fact and does not require  
18 deduction, circumstantial evidence is proof of a chain of  
19 facts and circumstances indicate -- indicating the existence  
20 of a fact. Crimes may be proven by circumstantial evidence.  
21 The law makes no distinction between the weight or value to be  
22 given either direct or circumstantial evidence; however, to  
23 the extent the State relies on circumstantial evidence, all of  
24 the circumstances must be consistent with each other and when  
25 taken together point conclusively to the guilt of the accused

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1 beyond a reasonable doubt. If these circumstances merely  
2 portray the defendant's behavior as suspicious, the proof has  
3 failed. The State has the burden of proving the defendant  
4 guilty beyond a reasonable doubt, this burden rests with the  
5 State regardless of whether the State relies on direct  
6 evidence, circumstantial evidence or some combination of the  
7 two.

8 Now under the Constitution of South Carolina you are the  
9 finder of facts in this case and necessarily you must  
10 determine the credibility of witnesses who have testified.  
11 Credibility simply means believability. It is your duty as  
12 jurors to analyze and evaluate the evidence and determine  
13 which evidence convinces you of its truth. In determining  
14 believability of witnesses who have testified, you may believe  
15 one witness over several or several over one; you may believe  
16 a part of the testimony of a witness and reject the remaining  
17 part of the testimony of the same witness; you may believe the  
18 testimony of a witness in its entirety or reject the testimony  
19 of a witness in its entirety; you may consider whether any  
20 witness has exhibited to you any interest, bias, prejudice or  
21 other motive in this case; you may also consider the  
22 appearance and manner of a witness while on the stand: was  
23 that witness straightforward in answering questions or  
24 hesitant in responding to questions; you may consider how the  
25 witness came to know the facts to which he or she testified

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1 and whether or not the witness had any opportunity to hear,  
2 observe or perceive a fact by means of their senses, ladies  
3 and gentlemen, whatever your good judge judgment and common  
4 sense tells you is most believable is the testimony that you  
5 should accept and reject that testimony which you find not to  
6 be credible or believable.

7 The mere presence of a defendant where a crime as  
8 occurred or the mere association by a defendant with people  
9 who have committed a crime is insufficient proof that the  
10 defendant committed a crime. Evidence that an individual is  
11 present at the time a crime is committed is not in and of  
12 itself sufficient proof that the individual committed a  
13 crime, the burden is on the State to prove every element of the  
14 crime charged. After reviewing all of the evidence if the  
15 State has proved the defendant was only present at the scene  
16 of a crime and that the State has not proved beyond a  
17 reasonable doubt any participation in the crime then you are  
18 required to find the defendant not guilty.

19 Now criminal intent is a necessary element of each crime  
20 that must be proved by the State beyond a reasonable doubt.  
21 Criminal intent is always a matter that must be determined by  
22 you, the jury, from the circumstances surrounding the  
23 situation. Ladies and gentlemen, there is no way to prove  
24 intent to a mathematical certainty. There is no way medical  
25 science can dissect a person's brain and determine what he had

JURY CHARGE

1 in mind so the law says that criminal intent may be inferred  
2 from the circumstances shown to have existed and this is how a  
3 jury makes a determination of whether or not the element  
4 requiring intent was present: Criminal intent is a state of  
5 mind which operated jointly with an act is the commission of a  
6 crime, it is a mental state, a conscious wrongdoing so it is  
7 up to you, the jury, to determine what the defendant intended  
8 to do based on the circumstances shown to have existed. I  
9 tell you that the State must prove criminal intent beyond a  
10 reasonable doubt just as the State must prove every element  
11 beyond a reasonable doubt but it is not necessary to establish  
12 intent by direct and positive evidence but intent may be  
13 established by inference in the same way as any other fact by  
14 taking into consideration the acts of the parties and all of  
15 the facts and circumstances in a case. While the State may  
16 prove motive it is unnecessary that it do so but it must prove  
17 intent.

18 Now the defendant is charged with custodial interference  
19 and Section 16-17-495(A) (1) of our code of laws reads in part  
20 as follows: When a court of competent jurisdiction in this  
21 state or another state is awarded custody of a child under the  
22 age of sixteen years or when custody of the child under the  
23 age of sixteen years is established pur -- to -- pursuant to  
24 statute, it is unlawful for a person with the intent to  
25 violate the court order to take or transport or cause to be

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1 taken or transported the child from the legal custodian for  
2 the purpose of concealing the child or circumventing or  
3 avoiding the custody order or statute.

4 Now, ladies and gentlemen, you have been selected as fair  
5 and impartial jurors sworn to impartially try and determine  
6 the facts of this case and when you do so you will have fully  
7 discharged your duty as jurors. You are to decide this case  
8 according to the testimony that you have heard from the sworn  
9 witnesses along with any other evidence that has been  
10 introduced durin' the trial. Mr. Foreman, ladies and  
11 gentlemen, during your deliberations you may only discuss the  
12 case in the jury room with your fellow jurors because they  
13 have seen and heard the same evidence you have seen and heard;  
14 however, you must not discuss this case with anyone else until  
15 you have returned a verdict and the case is ended. Whenever  
16 a member of the jury requires a break for smoking, restroom or  
17 otherwise, please discontinue your deliberations until that  
18 ju -- that juror rejoins the group; again, Mr. Foreman, all  
19 twelve jurors must be together at all times durin'  
20 deliberations otherwise you must suspend the deliberations  
21 until that juror returns to the group.

22 Ladies and gentlemen, your verdict must be a unanimous  
23 one. Mr. Foreman, when the jury agrees on the verdict, you  
24 will indicate your verdict in the space provided on the  
25 verdict form, sign your name as the foreperson, knock on the

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1 jury room door, inform the bailiff you've reached a verdict,  
2 at that time we will return all twelve of you to the courtroom  
3 and receive your verdict.

4 Now, Mr. Foreman, this (indicating) is the verdict form  
5 of which I speak and I, and I alluded to it in my opening  
6 statements to you, it's a one-page form that my law clerk  
7 who's seated here with me, uh, creates in every case that we  
8 try. There's no significance to it, it's a piece of paper, it  
9 has the caption of the case, it has the number of the  
10 indictment, that's just merely to keep up with it from one  
11 case to another, otherwise it means absolutely nothin'. Here  
12 is the question: We the jury unanimously find beyond a  
13 reasonable doubt the defendant Danny Vega on the charge of  
14 custodial interference not guilty or guilty. There is  
15 absolutely no significance to whether not guilty or guilty  
16 comes first on the piece of paper, it just happens and it's a  
17 form that she created and it's been, it's in this format each  
18 and every time. After the jury reaches its verdict, a  
19 unanimous verdict, sir, you will mark the box, I don't care if  
20 you put initials, an "x" or checkmark, it does not matter,  
21 afterwards you will sign, it says, I certify this decision was  
22 a unanimous decision of the jury, it says foreperson, there's  
23 a place, sir, for you to place your name right there  
24 (indicating), it already has Spartanburg and today's date on  
25 it, uh, so you would just sign it in that line right there

JURY CHARGE

1 (indicating).

2 JURY FOREMAN: Yes.

3 THE COURT: Now this case is about three and a half  
4 minutes from comin' to you, the next thing that's gonna happen  
5 is I'm gonna ask you to leave the courtroom and do not begin  
6 your deliberations, just usin' facilities, get some water,  
7 whatever, just just give me a minute or two. This case only  
8 has a few documents right there (indicating), as soon as you  
9 leave, I'm gonna ask the lawyers to come forward, take those  
10 exhibits right there, come over to madam court reporter, she  
11 keeps up with them on a list right here, you see those red  
12 stickers, she has to verify that those are the same ones she  
13 put on it and the numbers, as soon as she does that, my  
14 bailiff will bring those exhibits to you along with this  
15 (indicating) form. When you receive those exhibits in about  
16 five minutes or less and this form, that is your signal to  
17 begin your deliberations but until then please do not begin,  
18 just gotta make sure they have everything. I tell you that I  
19 practiced law twenty-five years before comin' here, it's so  
20 easy to pick up a, an item over there and be talkin' to the  
21 jury durin' closin' statements and walk back to my table and  
22 lay it down, didn't mean to do it, did it a hundred times,  
23 didn't mean to do it, uh, lawyers just have it in their hand,  
24 I wanna make sure all of those are there, there's only a few  
25 of 'em, won't take very long. Alright, Mr. Foreman, if you'll

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1 take your jury out.

2 (The following takes place outside the presence of the  
3 jury.)

4 THE COURT: Matters from the State?

5 MS. MORICLE: None, Your Honor.

6 THE COURT: From the defense?

7 MR. WHELCHER: None, Your Honor.

8 THE COURT: Alright, if you'll kindly check those.

9 (Pause.)

10 THE COURT: Dick, if you wanna renew any motions now that  
11 we we, uh, ---

12 MR. WHELCHER: Yes, sir.

13 THE COURT: --- make sure we do that.

14 (Whereupon, a discussion was held off the record.)

15 THE COURT: Send 'em out?

16 MS. MORICLE: Thank you.

17 THE COURT: Thank you.

18 MR. WHELCHER: Your Honor, at this time I renew my --  
19 exhibits, 'scuse me.

20 THE COURT: They can begin deliberation.

21 THE BAILIFF: Yes.

22 (Whereupon, the jury began deliberating at 4:23 p.m.)

23 MR. WHELCHER: I will renew my directed verdict motions  
24 based on the insufficiency of the evidence and the testimony  
25 at the conclusion of the redirect, uh, reply, Your Honor.

MOTIONS AND MATTERS

1 THE COURT: Yes. Solicitor.

2 MS. MORICLE: Your Honor, I would state the same  
3 arguments we did before, I -- it is more of a circumstantial  
4 case than direct evidence case. I believe we've put enough  
5 evidence in, that you are not weighing the evidence but there  
6 is enough to go to the jury as a question of fact as to  
7 whether or -- yes, question of fact as to whether ---

8 THE COURT: Yes.

9 MS. MORICLE: --- Mr. Vega would be guilty of this crime.

10 THE COURT: Thank you. Yes, the Court will deny the  
11 motions again, uh, but you are protected, Mr. Whelchel. Uh,  
12 the Court is not concerned with, uh, with the weight of the  
13 evidence but any evidence and it is circumstantial case so  
14 that the finder of fact will decide that, uh, also, I wanna  
15 put on the record just to make sure that you're covered on  
16 that that you, uh, were kind enough to withhold those motions,  
17 uh, so that we could get to the jury and they would put those,  
18 uh, I don't want there to be misin -- any miscommunication or  
19 misconstrued that you did not properly make motions, you did  
20 that at my request, I appreciate it.

21 MR. WHELCHER: Thank Your Honor.

22 THE COURT: Thank you. Anything?

23 MS. MORICLE: No, Your Honor.

24 THE COURT: Sir, I will allow you to remain free, uh, at  
25 this time, otherwise, uh, you, when your case is called,

MOTIONS AND MATTERS

1 you're in custody again, follow directions of your lawyer, you  
2 understand?

3 THE DEFENDANT: Yeah.

4 THE COURT: Thank you.

5 (Whereupon, a recess was taken.)

6 (Whereupon, the Court received two questions from the  
7 jury.)

8 MR. WHELCHER: Two of 'em?

9 MS. MORICLE: Two questions?

10 THE COURT: No, this is what I propose to do.

11 MS. MORICLE: Okay.

12 (Whereupon, the attorneys approached the bench.)

13 (Whereupon, the attorneys examined the Court's written  
14 responses to the jury questions.)

15 MS. MORICLE: That's good. Thank you.

16 THE COURT: Okay, let's mark these and then we can send  
17 those back with madam bailiff.

18 (Question from the jury marked Court's Exhibit No. 1 and  
19 S.C. Statute 16-17-495-Custodial interference marked Court's  
20 Exhibit No. 2 for identification.)

21 (Whereupon, a recess was taken.)

22 (Whereupon, the jury reached a verdict at 5:02 p.m.)

23 THE COURT: Thank you, please be seated. Thank you.

24 Okay, Mr. Whelchel, you might have a minute to talk to your  
25 client that there's no celebrating now one way or -- no

VERDICT

1 outbursts.

2 MR. WHELCHER: Yes, sir.

3 THE COURT: Okay, we ready for the jury?

4 MR. WHELCHER: Yes, please.

5 MS. MORICLE: Yes, Your Honor.

6 THE COURT: We'll have our jury.

7 (The following takes place in the presence of the jury.)

8 THE COURT: Mr. Foreman, has the jury reached its  
9 verdict?

10 JURY FOREMAN: Yes, sir, Your Honor.

11 THE COURT: Okay, would you hand that to my bailiff,  
12 please.

13 (Whereupon, the jury foreman complied.)

14 THE COURT: Madam clerk, will you publish.

15 THE CLERK: State of South Carolina, County of  
16 Spartanburg in the court of general sessions Seventh Judicial  
17 Circuit, Indictment Number 2016-GS-42-0169, the State of South  
18 Carolina vs. Devin -- Danny Vega we, the jury, unanimously  
19 find beyond a reasonable doubt the defendant Danny Vega on the  
20 charge of custodi -- custodial interference guilty, I certify  
21 this decision was a unanimous decision of the jury, signed  
22 foreperson on July 14th 2016. Ladies and gentlemen of the  
23 jury, if this is your verdict and still your verdict, please  
24 raise your right hand.

25 (Whereupon, the jury responded by raising their hands.)

VERDICT

1 THE CLERK: So say you all.

2 THE COURT: Polling of the jury by the State?

3 MS. MORICLE: No, Your Honor.

4 THE COURT: From the defense?

5 MR. WHELCHER: Yes, sir.

6 THE COURT: Okay, poll the jury, please be seated.

7 THE CLERK: Ladies and gentlemen of the jury, I've been  
8 asked to ask you a question and the que -- that -- and that  
9 question being is this your verdict and still your verdict.  
10 As I call your name and juror number, please answer by saying  
11 yes or no. Juror Number 101, Khambot My -- Mythong [sic] is  
12 this your answer and still your answer?

13 JUROR NUMBER 101: Yes.

14 THE CLERK: Juror Number 171, Julie Tran, is this your  
15 verdict and still your verdict?

16 JUROR NUMBER 171: Yes.

17 THE CLERK: Juror Number 42, Anita Dolman, is this your  
18 verdict and still your verdict?

19 JUROR NUMBER 42: Yes.

20 THE CLERK: Juror Number 152, Katrina [sic] Vorbyev, is  
21 this your verdict and still your verdict?

22 JUROR NUMBER 152: Yes.

23 THE CLERK: Juror Number 45, Robert Edwards, is this your  
24 verdict and still your verdict?

25 JUROR NUMBER 45: Yes.

VERDICT

1 THE CLERK: Juror Number 120, Quynh Pham, is this your  
2 verdict and still your verdict?

3 JUROR NUMBER 120: Yes.

4 THE CLERK: Juror Number 46, Autumn Eller, is this your  
5 verdict and still your verdict?

6 JUROR NUMBER 46: Yes.

7 THE CLERK: Juror Number 136, Stanford Samples, is this  
8 your verdict and still your verdict?

9 JUROR NUMBER 136: It is.

10 THE CLERK: Juror Number 151, Robbie Vernon, is this your  
11 verdict and still your verdict?

12 JUROR NUMBER 151: Yes, it is.

13 THE CLERK: Juror Number 1, Louisa Adair, is this your  
14 verdict and still your verdict?

15 JUROR NUMBER 1: Yes.

16 THE CLERK: Juror Number 99, Zepora Lyles, is this your  
17 verdict and still your verdict?

18 JUROR NUMBER 99: Yes.

19 THE CLERK: Juror Number 149, Christopher Turner, is this  
20 your verdict and still your verdict?

21 JUROR NUMBER 149: Yeah.

22 THE CLERK: The jury has been polled.

23 THE COURT: Thank you. Mr. Foreman, uh, if you would,  
24 uh, come forward please, you have to sign the indictment here,  
25 madam clerk will have the indictment.

MOTIONS AND MATTERS

1 (Whereupon, the jury foreman came forward.)

2 JURY FOREMAN: Thank you.

3 THE COURT: Mr. Foreman, ladies and gentlemen a the jury,  
4 I can't thank you enough, uh, for your attendance here in  
5 serving as jurors this week, again, uh, this is our system of  
6 of justice and we could not do what we do, uh, without you. I  
7 very much appreciate your attention to detail, I very much  
8 appreciate your timeliness, uh, nobody was tardy, we we got  
9 our work done here and I really really appreciate that very  
10 much, uh, with that I'm gonna excuse you and you're excused  
11 for the rest a the week, there's a, I'll be here all day  
12 tomorrow, I have what are called "non-jury matters" so I will  
13 be here beginning at 8 a.m., uh, I invite any and all of ya  
14 back to to stay with us tomorrow if you'd like but you won't  
15 be required to do so and I doubt seriously any of you will  
16 come back, you probly wanna go to the mountains, beach or lake  
17 or back to work or somewhere beside come to the courthouse but  
18 nonetheless I do sincerely thank you for your service.

19 Mr. Foreman, if you will take your jury to the jury room,  
20 I think they're gonna collect those, uh, tags from you. Do  
21 you have pay vouchers, madam clerk, or do they just ---

22 THE CLERK: Uh, if then need an excuse for work, it's  
23 already after five o'clock so Carrie won't be in but you can  
24 call tomorrow and she can either fax you one or mail you one,  
25 um, I even think she can fax one to your employer if you need

MOTIONS AND MATTERS

1 one for work. As far as the pay, I think it comes in the  
2 mail.

3 THE COURT: Comes in the mail but when it comes in the  
4 mail, you get to -- you get an armed guard to go with ya  
5 'cause it's a million dollars, you don't want anybody knockin'  
6 you in the head over that million dollar little check that  
7 comes to ya now but if you need a pay voucher, it is after  
8 five, the clerk's office is closed where they can send that to  
9 ya on the e-mail, fax machine or you can drop by, if you need  
10 that please come by and get that from the clerk's office.  
11 Okay, Mr. Foreman, if you'll take 'em back, they gonna collect  
12 those badges and thank you again.

13 (Whereupon, the jury exited the courtroom.)

14 THE COURT: Matters from the State?

15 MS. MORICLE: Just sentencing, Your Honor.

16 THE COURT: From the defense?

17 MR. WHELCHER: No, sir.

18 THE COURT: Okay, alright, a sentencing sheet.

19 (Whereupon, a discussion was held off the record.)

20 (Pause.)

21 THE COURT: Solicitor, anything?

22 MS. MORICLE: Uh, no, Your Honor. I would just like to  
23 put on the record that, uh, there was conditional discharge on  
24 the rap sheet for a domestic violence in 2011, in 2012 simple  
25 assault. This case has been pending for over a year and, uh,

SENTENCE

1 there is still the neglect but we only went forward on the  
2 custodial interference charge.

3 THE COURT: Okay. Mr. Whelchel.

4 MR. WHELCHER: Your Honor, as you've already found out  
5 from his testimony and, stand up, ---

6 (Whereupon, the defendant stood.)

7 MR. WHELCHER: --- Mr. Vega is 40, he has a prior simple  
8 assault from I believe 2012 in New Jersey, that's the extent  
9 of the prior record, Your Honor. We would would ask for a  
10 probationary sentence in this matter.

11 THE COURT: Sir, anything you like to say?

12 THE DEFENDANT: I, um, thank you for allowing me to  
13 utilizin' my rights and in the system and, uh, you know,  
14 things coulda went either way, I guess, sir, I'm I'm sorry for  
15 taking up everybody's time.

16 THE COURT: Okay.

17 MR. WHELCHER: Your Honor, he works outside, he works in  
18 and out of Asheville.

19 THE COURT: Okay. Sir, on 2016-0169 you're confined to  
20 State Department a Corrections for a period of 3 years, give  
21 you credit for any time that you did serve, best of luck to  
22 ya.

23 MS. MORICLE: Thank Your Honor.

24

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CERTIFICATE OF REPORTER

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I, Margaret A. Woods, Court Reporter in and for the State of South Carolina at Large, hereby certify that I reported the preceding case on July 14, 2016 at the time and place heretofore set forth; and that the foregoing pages numbered from 6 through 185, inclusive, constitute a true and accurate transcription of my stenographic notes of the said proceeding.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties connected to the action, nor am I financially interested in the action.

November 6, 2016

Margaret A. Woods

Margaret A. Woods, Court Reporter  
in and for the State of South Carolina at Large.

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE VS. Danny Vega

KA: Race: HISPANIC Sex: M Age: 40

DOB: SS#: [REDACTED]

Address: 700 W Main St Room #5 56 Lively Lane  
City, State, Zip: Spartanburg, SC 29301 - Canby NC 28165

DL#: SID#:

\*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Children / Custody order/pending, transport child under 16 Y, returned within 3 D (0-5)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS4200169

A/W#: 2015A4210201450

Date of Offense: 5/7/2015

S.C. Code § : 16-17-0495(A)(1); 16-17-0

CDR Code #: 2522

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-17-0495(A)(1); 16-17-0 of the S.C. Code of Laws, bearing CDR Code # 2522  
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted Lesser Included Offense Defendant Waives Presentment to Grand Jury (defendant's initials)

The plea is: Without Negotiations or Recommendation Negotiated Sentence Recommendation by the State

ATTEST: MORICIE, MEGAN L. SC Bar# 100822 Defendant Dany Vega Attorney for Defendant SC Bar# 6057

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 3 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 (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

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(U) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$3.75. TOTAL: \$128.75

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, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

TOTAL: Clerk of Court/ Deputy Clerk C. Poole Court Reporter: M. Woods SCCA/217 (07/2016)

Presiding Judge Judge Code: Sentence Date: 19 July 2016

Question:

Could the Court please provide  
a definition of the charge:

Custodial Interference?

Robert Edwards #45

Court's |  
7-14-16 (w)

**STATUTE: 16-17-495. CUSTODIAL INTERFERENCE**

THE DEFENDANT IS CHARGED WITH CUSTODIAL INTERFERENCE. SECTION 16-17-495(A)(1) OF THE SOUTH CAROLINA CODE OF LAWS PROVIDES:

(A)(1) WHEN A COURT OF COMPETENT JURISDICTION IN THIS STATE OR ANOTHER STATE HAS AWARDED CUSTODY OF A CHILD UNDER THE AGE OF SIXTEEN YEARS OR WHEN CUSTODY OF A CHILD UNDER THE AGE OF SIXTEEN YEARS IS ESTABLISHED PURSUANT TO SECTION 63-17-20(B), IT IS UNLAWFUL FOR A PERSON WITH THE INTENT TO VIOLATE THE COURT ORDER OR SECTION 63-17-20(B) TO TAKE OR TRANSPORT, OR CAUSE TO BE TAKEN OR TRANSPORTED, THE CHILD FROM THE LEGAL CUSTODIAN FOR THE PURPOSE OF CONCEALING THE CHILD, OR CIRCUMVENTING OR AVOIDING THE CUSTODY ORDER OR STATUTE.

Court's  
2  
7-14-16