

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

DEC 29 2017

APPEAL FROM PICKENS COUNTY
Court of General Sessions

SC Court of Appeals

Honorable Robin B. Stilwell, Thirteenth Circuit Court Judge

Appellate Case No.: 2017-001609

The State,

Respondent

v.

Matthew Steven Pillon,

Appellant

RECORD ON APPEAL

Alan Wilson
Attorney General

V. Henry Gunter, Jr.
Assistant Attorney General
P.O. Box 11549

Columbia, SC 29211

William W. Wilkins, III
Solicitor, Thirteenth Judicial Circuit
305 East North Street, Suite 325
Greenville, SC 29601

William G. Yarborough, III, Esq. 10271
522 North Church Street
Greenville, South Carolina 29601

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IN THE COURT OF GENERAL SESSIONS

THIRTEENTH JUDICIAL CIRCUIT

**ORDER DENYING DEFENDANT'S
AMENDED MOTION TO
RECONSIDER SENTENCE**

Warrant/Indictment No.: 2013A3910300324
2013A3910300325

Warrant/Indictment No.: 2013A3910300324
2013A3910300325

Warrant/Indictment No.: 2013A3910300324
2013A3910300325

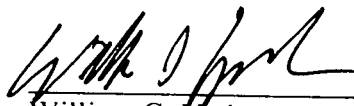
AND IT IS SO ORDERED.

ROBIN B. STILWELL
THIRTEENTH JUDICIAL CIRCUIT

June 12, 2017
Greenville, South Carolina

Atkins when the incident took place, and therefore, it is inequitable that Mr. Pillon should receive a higher sentence than Ms. Atkins under the circumstances. Therefore, we request in this Motion that the Court reconsider Mr. Pillon's sentence upon this and such other and further grounds as may be hereinafter presented.

Respectfully submitted,



William G. Yarborough
522 N. Church Street
Greenville, SC 29601
(864) 331-1612
SC Bar No.: 10271

Greenville, SC
June 1, 2017

2017 JUN 2 AM 11 22
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

THE STATE,)

PLAINTIFF,)

VS.)

MATTHEW STEVEN PILLON,)

DEFENDANT.)

IN THE GENERAL SESSIONS COURT
THIRTEENTH JUDICIAL CIRCUIT

CASE NO.: 2013A3910300324

2013A3910300325

2016 SEP -7 A 9:30

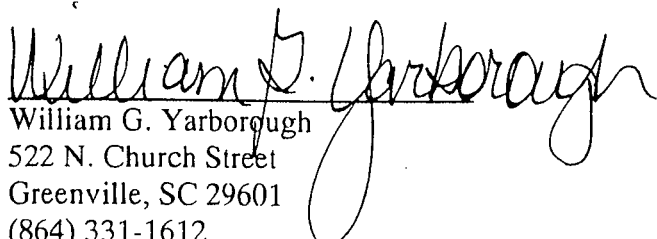
MOTION FOR
RECONSIDERATION OF SENTENCE

2016 SEP -7 AM 9:30
13th Circuit
Clerk's Office

COMES NOW the Defendant, by and through his undersigned counsel, pursuant to Rule 29, South Carolina Rules of Criminal Procedure, and moves this Honorable Court for a reconsideration of the sentence of commitment to the South Carolina Department of Corrections imposed herein on August 31, 2016, pursuant to the charges of Assault and Battery of a High and Aggravated Nature, Unlawful Neglect of a Child, and Abuse/Inflict Great bodily Harm Upon a Child.

The within Motion will be made upon the grounds that the penalty imposed is unnecessarily severe under the circumstances and upon such other and further grounds as may be hereinafter presented.

Respectfully submitted,


William G. Yarborough
522 N. Church Street
Greenville, SC 29601
(864) 331-1612
SC Bar No.: 10271

Greenville, SC
September 6, 2016

WITNESSES

Jan Kelly

Pickens County Sheriff's Office

6/12/2013

ARREST WARRANT NUMBER
2013A3910300325

ACTION OF GRAND JURY

TRUE AND
CORRECT
SEP 24 2013

Steven Richardson
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-39-^{BBH}2507

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

SEP 24 2013 TERM 2013

THE STATE

vs.

MATTHEW STEVEN PILLON

INDICTED

5

Indictment for

3411

ASSAULT AND BATTERY OF A HIGH AND
AGGRAVATED NATURE

VIOLATION § 16-03-0600(B)(1)

WITNESSES

Jan Kelley

Pickens County Sheriff's Office

6/12/2013

ARREST WARRANT NUMBER
2013A3910300324

ACTION OF GRAND JURY

TRUE BILL
Date SEP 24 2013

Steven Richardson
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-39-^{BBH}2508

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

SEP 24 2013 TERM 2013

THE STATE

vs.

MATTHEW STEVEN PILLON

Indictment for

2481

UNLAWFUL NEGLECT OF A CHILD

VIOLATION § 63-05-0070

INDICTED

6

WITNESSES

Jan Kelley

Pickens County Sheriff's Office

6/12/2013

ARREST WARRANT NUMBER
DIRECT PRESENTMENT

DOB: _____

SSN: _____

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
ate:

DOCKET NO. 2016-GS-39-
WDR

1703

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

TERM 2016

THE STATE

vs.

MATTHEW STEVEN PILLON

Indictment for

2766

CHILD ABUSE W/GREAT BODILY INJURY

VIOLATION § 16-03-0095(B)

7

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Pickens

VS.

Matthew Steven Pillon

AKA:

Race: WHITE Sex: M Age: 25

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Assault / Assault & Battery of a High & Aggravated Nature

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS3902507

A/W#: 2013A3910300325

Date of Offense: 6/7/2013

S.C. Code § 16-03-0600(B)(1)

CDR Code #: 3411

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Richardson, Doug

66112

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections; ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. ~~for all time including H.P.~~☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/cu
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$ 133.02

PTUP

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date:

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

18

STATE OF SOUTH CAROLINA

COUNTY OF Pickens
 STATE VS.
Matthew Steven Pillon
 AKA:
 Race: WHITE Sex: M Age: 25
 DOB: SS#
 Address:
 City, State, Zip:
 DL#: SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS3902508
 A/W#: 2013A3910300324
 Date of Offense: 6/7/2013
 S.C. Code §: 63-05-0070
 CDR Code #: 2481

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
 TO: Children / Legal custodian, unlawful neglect of child or helpless person

in violation of § 63-05-0070 of the S.C. Code of Laws, bearing CDR Code # 2481
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Richardson, Doug 66112 SC Bar# Defendant Attorney for Defendant SC Bar#
S. Yarbrough

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 18 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. ALL TIME INCLUDING THIS
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP —
 Total: \$ — plus 20% fee: \$ —
 Payment Terms: —
☐ Set by SCDPPPS —

Recipient: —

*Fine:
 § 14-1-206 (Assessments 107.5 %) \$ —
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$ —
 § 56-5-2995 (DUI Assessment) \$12 \$ —
 § 56-1-286 (DUI Breath Test) \$25 \$ —
 Proviso 47.9 (Public Def/Prob) \$500 \$ —
 § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
 § 14-1-213 (Drug Court Surcharge) \$150 \$ —
 § 50-21-114(BUI Breath Test Fee) \$50 \$ —
 § 56-5-2942(J) (Vehicle Assessment) \$40/ca \$ —
 Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
 3% to County (if paid in installments) \$ 3.90
 TOTAL \$ 133.90

— days/hours Public Service Employment
 Obtain GED ☐
 Attend Voc. Rehab. or Job Corp. —
 May serve W/E beginning —
 Substance Abuse Counseling ☐
 Random Drug/Alcohol testing ☐
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ — beginning —
 \$ — paid to Public Defender Fund
 Other: —

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

COUNTY OF Pickens
 STATE VS.
Matthew Steven Pillon
 AKA:
 Race: WHITE Sex: M Age: 25
 DOB: SS#
 Address:
 City, State, Zip:
 DL#: ID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Abuse / To inflict great bodily injury upon a child

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS3901703
 A/W#: 2016GS3901703
 Date of Offense: 6/6/2016
 S.C. Code § 16-03-0095(A)
 CDR Code #: 2766

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0095(A) of the S.C. Code of Laws, bearing CDR Code # 2766
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lowd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Richardson, Doug 66112 SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 14 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. FOR ALL TIME INCLUDING H.A.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
 Total: \$ plus 20% fee: \$ days/hours Public Service Employment
 Payment Terms:
☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 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 47.9 (Public Def/Prob)	\$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(J) (Vehicle Assessment)	\$40/ca
Proviso 90.5 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$ 133.90

Obtain GED ☐
 Attend Voc. Rehab. or Job Corp.
 May serve W/E beginning
 Substance Abuse Counseling ☐
 Random Drug/Alcohol testing ☐
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ beginning
 \$ paid to Public Defender Fund
 Other:

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: April Hecan

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date: 31 Aug 2016

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Pickens
STATE VS.
Angel Marie AtkinsAKA: _____
Race: WHITE Sex: F Age: 24DOB: SS#

Address: _____

City, State, Zip: _____

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 / Legal custodian, unlawful neglect of child or helpless personin violation of § 63-05-0070 of the S.C. Code of Laws, bearing CDR Code # 2481☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.ATTEST: B. Hinton 77844 Angel Atkins John W. De Jong 01620
Hinton, Brandi Batson SC Bar# Defendant DEJONG, JOHN W. SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 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. 281 days☐ 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 _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$30 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75INDICTMENT/CASE#: 2013GS3902048A/W#: 2013A3910300326Date of Offense: 6/7/2013S.C. Code § 63-05-0070CDR Code #: 2481

SENTENCE SHEET

0-10

☐ CONVICTED OF or ☒ PLEADS

Clerk of Court/ Deputy Clerk

Court Reporter:

Presiding Judge

Judge Code:

Sentence Date:

☐ 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.

CLERK OF COURT
SOUTH CAROLINA
GENERAL SESSIONS DOCKET TRACKING SHEET

Name: ANGEL MARIE ATKINS

Indictment #: 2016GS3901702

Address: _____

2017 MAY 26

Warrant # Ticket # 2016GS3901702

City: Mauldin State: SC ZIP: 29622

No Warrant: _____

SS#: _____ Sex: F Race: W

Offense Code: 3411

Date of Birth: _____

Offense Name: ABHAN

State: Driver's License #: _____

Date of Arrest: June 6, 2013

DATE OF DISPOSITION: 5/25/2017

DISPOSITION:

_____ 1. Guilty Plea	* _____ 7. Remanded
_____ 2. Trial (Guilty)	_____ 8. Dismissed at Prelim
_____ 3. Trial (Not Guilty)	_____ 8. No Bill
* <u>x</u> _____ 4. Dism/Nol Pros/Pros Ended	* _____ 9. Failure to Appear
* _____ 5. Judicial Commitment	* _____ 10. Other
_____ 6. Judicial Dismissal	

* Explain: 04D

Judge: _____

Ct. Reporter: _____

Defense Attorney: DEJONG, JOHN W.

Solicitor: Brandi Batson Hinton

Bar #: 77844

Offense Code: 3411 Offense Name: ABHAN

Sentence: _____

CLERK OF COURT
SOUTH CAROLINA
GENERAL SESSIONS DOCKET TRACKING SHEET

Name: ANGEL MARIE ATKINS

Indictment #: 2013GS3902506

Address: [REDACTED]

2017 MAY 26 P 12:56

Warrant/Filed# 2013GS3902506

City: Mauldin State: SC ZIP: 29622

No Warrant: _____

SS#: [REDACTED] Sex: F Race: W

Offense Code: 2766

Date of Birth: [REDACTED]

Offense Name: Children / Felony Child A

State: Driver's License #:

Date of Arrest: June 6, 2013

DATE OF DISPOSITION: 5/25/2017

DISPOSITION:

☐ 1. Guilty Plea	* ☐ 7. Remanded
☐ 2. Trial (Guilty)	☐ 8. Dismissed at Prelim.
☐ 3. Trial (Not Guilty)	☐ 8. No Bill
* ☒ 4. Dism/Nol Pros/Pros Ended	* ☐ 9. Failure to Appear
* ☐ 5. Judicial Commitment	* ☐ 10. Other
☐ 6. Judicial Dismissal	

* Explain: 04D

Judge: _____

Ct. Reporter: _____

Defense Attorney: DEJONG, JOHN W.

Solicitor: Brandi Batson Hinton | B Hunter

Bar #: 77844

Offense Code: 2766 Offense Name: Children / Felony Child A

Sentence: _____

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

)
) COURT OF GENERAL SESSIONS
) 2013-GS-39-02507-0258;
) 2016-GS-39-01703
)
)
)

ORIGINAL

STATE OF SOUTH CAROLINA

PLAINTIFF)

vs.

) TRANSCRIPT OF RECORD
)
)

MATTHEW PILLON

DEFENDANT)

August 29-31, 2016
Pickens, South Carolina

B E F O R E:

THE HONORABLE ROBIN B. STILWELL, Judge; and a
jury.

A P P E A R A N C E S:

DOUG RICHARDSON, ASSISTANT SOLICITOR
BRANDI HINTON, ASSISTANT SOLICITOR
Attorneys for the State

WILLIAM YARBOROUGH, ESQ.
Attorney for the Defendant

APRIL HERRON
Official Court Reporter

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STATE EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Photograph	100	100
2	Photograph	100	100
3	Photograph	100	100
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ALL EXHIBITS WERE RETAINED BY THE
PICKENS COUNTY CLERK'S OFFICE

1 August 29, 2016

2 (WHEREUPON, jury qualifications and selection of
3 the jury took place. This portion of the record
4 was not requested.)

5 THE COURT: All right, counsel, I know there's a
6 matter of presentment. You may present the
7 indictment.

8 MR. RICHARDSON: Yes, Your Honor, it is a direct
9 present. Indictment number 2016-GS-39-1703. The
10 State vs. Matthew Steven Pillon. This indictment is
11 for child abuse with great bodily injury. We have
12 previously given this indictment to counsel. At this
13 time, we will seek that this matter be arraigned.

14 THE COURT: Okay, have you received a copy of
15 the indictment?

16 MR. YARBOROUGH: I received a copy and I've been
17 over it with my client. He understands the
18 possible -- the charges and the possible punishment.

19 Your Honor, I would note, I think the punishment
20 on the indictment may be incorrect, if they want to
21 amend it. I just -- for clarity, they've got it
22 marked as Section B.

23 THE COURT: Yeah.

24 MR. YARBOROUGH: On the front. I could be wrong
25 from what I was looking --

1 THE COURT: Y'all look at it. Let's make sure
2 before we go to either arraignment or waiver of the
3 same.

4 MR. RICHARDSON: Your Honor, Mr. Yarborough is
5 correct.

6 THE COURT: Okay. This is for child abuse with
7 great bodily injury?

8 MR. RICHARDSON: That's correct, Your Honor.

9 THE COURT: Okay. What's the maximum possibly
10 penalty?

11 MR. RICHARDSON: Twenty years.

12 THE COURT: Twenty years?

13 MR. RICHARDSON: Yes, sir.

14 THE COURT: Okay.

15 Is that your understanding?

16 MR. YARBOROUGH: That's my understanding. I
17 think it was marked incorrectly on the indictment.

18 THE COURT: All right. Good.

19 All right. Mr. Yarborough, does your client
20 require arraignment or will he waive the same, sir?

21 MR. YARBOROUGH: We'll waive presentment.

22 THE COURT: Okay. Good enough. All right.

23 Counsel, any issues or matters we need to take
24 up before we swear this jury and begin opening?

25 MR. YARBOROUGH: Your Honor, one thing I was

1 alerted to was that the individual with the blue
2 uniform on that's on the jury, my client and my
3 client's father said that when they came in, they saw
4 him talking to two of the witnesses that -- and I
5 don't know if they know each other. He didn't say
6 that when it came out. I didn't have a strike left
7 when it came out, but I didn't challenge him for
8 cause, but I'd ask the Court to ask him if he knows
9 them. And if he does, what kind of relationship he
10 has with them.

11 THE COURT: Okay. I know that when I asked that
12 specific question about the witnesses, he stood up
13 and said he had a working relationship with several
14 of the witnesses.

15 MR. YARBOROUGH: Okay. I just -- I guess my
16 question is which ones -- or maybe that's just
17 bringing it too much to the attention.

18 THE COURT: Yeah, I'm reluctant to put too fine
19 a point on it at this time having already asked it
20 generally. So, I will tell you as we go forward in
21 this case, if you begin to suspect an issue that
22 needs to be addressed, let me know. And if
23 appropriate, then we can do specific voir dire. We
24 have two alternates. If he needs to be excused for
25 cause, then we can do that at the appropriate time,

1 just not so certain that it's appropriate. We have
2 no more information now than we had when he stood up
3 and offered the very same information here in jury
4 selection.

5 MR. YARBOROUGH: Thank you, Judge.

6 THE COURT: Okay. All right. Y'all need some
7 tough love on time for opening statements or do you
8 feel as though you can exercise personal discipline?

9 MR. RICHARDSON: I came along with Judge Pyle,
10 so I follow his rules.

11 THE COURT: I think Mr. Yarborough did too.

12 MR. YARBOROUGH: Yes, sir.

13 THE COURT: Who's your first witness?

14 MR. RICHARDSON: It's Elise Morgan. It's an EMS
15 worker. It would not take more than -- from my
16 standpoint, more than 15 minutes.

17 THE COURT: Okay. Any idea for
18 cross-examination?

19 MR. YARBOROUGH: It shouldn't be long, Your
20 Honor.

21 THE COURT: Okay. Well, if it's 15 minutes and
22 we're done with opening statements at about quarter
23 till, then we'll go ahead and call that first
24 witness, okay?

25 MR. RICHARDSON: Yes, sir.

1 THE COURT: Understand, this afternoon, I attend
2 to adjourn about 4:30 because I have a 5:30
3 appointment in Greenville.

4 MR. YARBOROUGH: Just for the Court, I don't
5 expect -- with these doctors and the officers, I
6 don't expect a long cross on any of them. If
7 something changes, I'll tell you, but I don't expect
8 that that's going to happen at all.

9 THE COURT: Okay. Good enough.

10 All right. Y'all ready to go? Anybody need to
11 take break before we get started?

12 Okay. All right.

13 (WHEREUPON, the jury came into open court at
14 approximately 11:32 p.m.)

15 THE COURT: Okay. All right, ladies and
16 gentlemen, before we get started with opening
17 statements, the clerk of court is going to swear you
18 in as jurors in this specific trial. Now, you took
19 an oath earlier to tell the truth, but this is
20 different. This is an oath to try this case truly
21 and verily in accordance with the evidence and the
22 law that you receive.

23 So, Mr. Welborn, you may administer the oath,
24 sir.

25 THE CLERK: If you'd please stand. Again, after

ELISE MORGAN-DIRECT BY MR. RICHARDSON

1 the oath is administered, answer by saying, I will.

2 Raise your right hand.

3 (WHEREUPON, the jury was sworn.)

4 THE CLERK: Thank you. You may be seated.

5 (WHEREUPON, opening statements were made. This
6 portion of the record was not requested.)

7 THE COURT: All right. The State may call its
8 first witness.

9 MR. RICHARDSON: State would call Elise Morgan.

10 ELISE MORGAN, after being duly sworn,
11 testified as follows:

12 THE CLERK: Thank you. If you would have a seat
13 and state your name for the record, please.

14 THE WITNESS: My name is Elise Morgan.

15 MR. RICHARDSON: Okay, Ms. Morgan, if you could
16 pull up close to the microphone. This courtroom is
17 very difficult to hear. Speak into that. Thank you.

18 DIRECT EXAMINATION

19 BY MR. RICHARDSON:

20 Q Ms. Morgan, where are you employed?

21 A Pickens County EMS.

22 Q Okay. And how long have you been employed with
23 Pickens County EMS?

24 A Approximately six years.

25 Q Okay. And were you so employed or working back

ELISE MORGAN-DIRECT BY MR. RICHARDSON

1 in June of 2013, particularly, June 7th, 2013?

2 A Yes, sir, I was.

3 Q Okay. On that particular day, were you
4 dispatched to a particular residence?

5 A Yes.

6 Q Do you recall where that residence was?

7 A I have it right here. It was at Polly Drive in
8 Easley.

9 Q Okay. Is that in Pickens County?

10 A It is.

11 Q Okay. Upon your arrival there, what did you
12 observe?

13 A I saw a woman and this man standing on the front
14 porch.

15 Q Now, when you say this man, are you talking
16 about the Defendant?

17 A Yes.

18 Q Okay. Go ahead. Sorry.

19 A They called us out for an infant. And when we
20 got there, I walked up on the front porch. The child's
21 mother was holding him when I got there. He had blood on
22 his face, on his nose, on his clothes. As soon as I
23 looked at him, I could tell he was not in good condition.
24 So, we just went ahead and took him, put him -- got him
25 directly in our ambulance.

ELISE MORGAN-DIRECT BY MR. RICHARDSON

1 Q Okay. Now, at that particular time when you saw
2 the blood on this child -- by the way, do you know the age
3 of this child at the time?

4 A I believe he was nine days.

5 Q Nine days old?

6 A Nine days old.

7 Q Okay. Now, at the point in time that you
8 noticed blood on this child, were you able to ascertain at
9 that time where the blood had come from?

10 A It looked like it had come out of his mouth and
11 his nose. There was no evidence of it coming from
12 anywhere else at that time.

13 Q Okay. Did you -- were you aware or did you
14 notice any other injuries on the child beside what you saw
15 on his face?

16 A Yes, he was -- had multiple bruises on his body,
17 multiples bruises on his body and multiple bruises on his
18 face. So, looks like cuts, scratches, lacerations.

19 Q Now, at this point in time, what, if anything,
20 did you do?

21 A I'm sorry?

22 Q What did you do at this point in time?

23 A At this point in time, we got him directly into
24 the ambulance. We went ahead and took his clothes off to
25 see where the blood was coming from, if there was anywhere

ELISE MORGAN-DIRECT BY MR. RICHARDSON

1 else it was coming from besides his mouth and his nose.
2 We went ahead -- he was kind of cold, so we turned the
3 heat on, got hot packs, warm packs to try to warm him up a
4 little bit, wrapped him up. Went ahead and started
5 administering oxygen. When we listened to his lungs, he
6 had a gurgling sound, which would indicate some kind of
7 fluid in his lungs, in his airway. We did attempt to
8 suction his upper airway because he had the gurgling and
9 we were trying to clear his airway. At that time, nothing
10 came out of his upper airway. It was established to be in
11 his lower airway at that time.

12 We attempted to start an IV line, but he
13 was -- his vasculature was so tiny, so fragile, so
14 difficult, we were unable to do that. I documented
15 exactly where I attempted to start the IV. It's on here
16 somewhere. But the IV access wasn't successful.

17 Q Okay. Now, so we're clear, was there more than
18 one personnel from EMS, Pickens County EMS there or was it
19 just you?

20 A My partner was with me.

21 Q Okay. Who was driving the unit?

22 A A rescue member.

23 Q Were you working on the child in the back?

24 A Yes.

25 Q Okay. Now, where did you take the child?

ELISE MORGAN-DIRECT BY MR. RICHARDSON

1 A We took him to Greenville Memorial Pediatric ER.

2 Q Did you go with -- was the siren on?

3 A Yes.

4 Q Okay. What was -- was there an urgency as to
5 the transport?

6 A Yes.

7 Q What was that?

8 A This child had obviously gone -- undergone a
9 good bit of trauma. You could -- I mean, he was -- from
10 all the marks on him, from our training, any time you see
11 anything like that, you are going to go ahead and realize
12 there has been some kind of trauma, didn't know what level
13 of trauma. He was also very lethargic, very, very
14 lethargic. The only time that he would cry or whimper was
15 the painful stimulus when I tried to start the IV on him.
16 His breathing deteriorated on the way over there, so we
17 had to start assisting his ventilations. So yeah, he
18 was -- we definitely considered it urgent.

19 Q Okay. Did you have any emergency as to shock?
20 Was there any chance that the baby was going to go into
21 shock?

22 A We were definitely concerned about internal
23 injuries from the extent of the bruising that he had going
24 on, also, just from his presentation. His circulation
25 seemed to be compromised. He was -- his legs and arms

ELISE MORGAN-DIRECT BY MR. RICHARDSON

1 were very pale. His capillary refill was delayed, which
2 could indicate dehydration, could indicate internal
3 bleeding, blood loss. So, we were concerned about that
4 definitely.

5 Q When you say concerned about that, were you
6 concerned about the child going into shock?

7 A Yes.

8 Q Okay. And just can you briefly explain to the
9 jury what shock is?

10 A When you have a -- when your blood volume goes
11 down and you don't have adequate circulation, your body
12 starts pulling all your blood to your vital organs. And
13 at that point in time, that looked like what was happening
14 with him. He didn't have adequate -- necessarily adequate
15 blood volume circulating at that time.

16 Q Okay. Now, if shock is not treated, can it
17 cause death?

18 A Yes.

19 Q Now, upon arrival -- your arrival at the
20 hospital, had the child improved any?

21 A His respiratory status had improved. Nothing
22 else had improved.

23 Q So, what was his condition upon your arrival at
24 the Greenville Hospital System?

25 A He was still in severe stress.

ELISE MORGAN-DIRECT BY MR. RICHARDSON

1 Q And once you arrived at the hospital, what did
2 you do with this baby?

3 A We took him to the pediatric ER and we gave a
4 full report to the nurses, the doctors that were on
5 scene -- or at the hospital and they took over care of
6 that child.

7 Q And at some point, was -- are you what's called
8 a mandatory reporter?

9 A At the time -- yes, I mean, we are required to
10 report any time we suspect abuse, see signs of abuse. At
11 the time, our policy was to immediately report to our
12 supervisor and he would make the call to DSS. So, I
13 immediately -- as soon as I was able to make a phone call,
14 I went ahead and called him and let him know so he could
15 make a phone call to DSS.

16 Q Did that happen in this case?

17 A Yes.

18 Q DSS is Department of Social Services?

19 A Yes.

20 Q And subsequent to that, were you interviewed by
21 the police?

22 A Yes.

23 Q By the Pickens County Sheriff's Office?

24 A Yes.

25 Q Okay.

ELISE MORGAN-DIRECT BY MR. RICHARDSON

1 A I believe it was Detective Kelley. I have the
2 statement here.

3 MR. RICHARDSON: Beg the Court's indulgence.

4 THE COURT: Yes, sir.

5 BY MR. RICHARDSON:

6 Q And when you arrived at the scene, you said you
7 saw the Defendant and the mother of the child?

8 A (The witness nods.)

9 Q Okay. Did they give you any information at that
10 point?

11 A None.

12 Q I'm sorry?

13 A None.

14 Q What did they do? Did they just hand the child
15 over or what?

16 A Yes.

17 Q Okay. Did they give you any explanation as to
18 what caused these injuries?

19 A At that time, no. Not when they were standing
20 on the front porch.

21 Q Okay. And this call came in, did you arrive at
22 about -- what time did you arrive?

23 A Let's see. According to our records, the call
24 came in at 10:01 in the morning. We arrived on scene at
25 10:14.

ELISE MORGAN-CROSS BY MR. YARBOROUGH

1 Q Okay. And I want to go back to the level of
2 care, was this an advanced level of care?

3 A Yes.

4 Q What do you mean by that?

5 A Advanced level of care is the highest level we
6 can provide with Pickens County. You're going to have
7 your paramedic riding. You're going to have any of your
8 advanced level interventions.

9 Q You mentioned having lights and sirens
10 activated?

11 A Yes.

12 Q Would you do that in any case?

13 A No, not in any case. We only use lights and
14 sirens if we feel that -- generally, if the patient's
15 condition is to a point of severity that we feel like we
16 need to get to the hospital as quickly as possible.

17 MR. RICHARDSON: Thank you. That's all the
18 questions I have. Please answer any questions that
19 Mr. Yarborough has for you.

20 THE COURT: Yes, sir, Mr. Yarborough.

21 CROSS-EXAMINATION

22 BY MR. YARBOROUGH:

23 Q So, were you driving?

24 A No.

25 Q So, you were riding?

ELISE MORGAN-CROSS BY MR. YARBOROUGH

1 A I was in the back with the patient.

2 Q Okay. And y'all arrived approximately what
3 time?

4 A 10:14.

5 Q And the call in at like 10:01?

6 A 10:01.

7 Q When you came up to the -- how did you get up to
8 the trailer?

9 A We drove up the driveway, walked up the steps.

10 Q Is it a pretty steep driveway going up the
11 stairs?

12 A I don't recall.

13 Q Okay. You came up to the -- you pulled up, you
14 got out of the car?

15 A Out of the ambulance.

16 Q Out of the ambulance. You looked up and the
17 mother was on the porch -- or there was a woman on the
18 porch?

19 A Yes, sir.

20 Q Okay. And do you know what that woman's name
21 is?

22 A Angel Atkins.

23 Q And Angel Atkins identified herself as the
24 mother of the child?

25 A Not at that time, she did not.

ELISE MORGAN-CROSS BY MR. YARBOROUGH

1 Q But she had the child in her arms?

2 A She did.

3 Q Okay. And did she tell you that the child had
4 had --

5 MR. RICHARDSON: Your Honor, I'm going to
6 object. That's hearsay.

7 MR. YARBOROUGH: Okay.

8 THE COURT: Sustained.

9 BY MR. YARBOROUGH:

10 Q Were you able to observe any type of blood or
11 bleeding coming from the nose of the child?

12 A There was blood on his nose, on his mouth,
13 around his nose and mouth and on his clothes.

14 Q Did you follow up as to how that blood got
15 there?

16 A I asked questions on the way to the hospital
17 after I got him stabilized as much as I could.

18 Q And you asked questions of whom?

19 A Angel Atkins.

20 Q Okay. Is that normal for you to ask questions?

21 A Yes.

22 Q And that is part of your determination of what's
23 going on with the child?

24 A Yes.

25 Q Okay. And based on that determination, could

ELISE MORGAN-CROSS BY MR. YARBOROUGH

1 you tell what had happened to the child in the face?

2 A No.

3 Q Were you aware that the child had been using
4 suction cups -- or the parents were using suction to try
5 to draw stuff from the throat?

6 A No.

7 Q You were not made aware of that?

8 A No.

9 Q Were you made aware that the child had been to
10 the hospital or to the doctor three or four times prior to
11 you coming that night?

12 A She mentioned that they had been at the hospital
13 recently, one time.

14 Q When you say she mentioned, you're talking about
15 Angel Atkins?

16 A Yes.

17 Q Are you -- did you ask how long it had been
18 since the child had been out of the hospital?

19 A Yes.

20 Q And how many days had it been since the child
21 had been out of the hospital?

22 A I'll have to refer back to this report. I don't
23 know if I documented that or not. I don't have
24 documentation of the exact date he was seen at the
25 hospital.

ELISE MORGAN-CROSS BY MR. YARBOROUGH

1 Q Okay. What time did y'all arrive at the
2 hospital?

3 A At Greenville Memorial?

4 Q Yeah.

5 A We arrived at 10:43.

6 Q 10:43. Upon your arrival, were you made aware
7 that that child had been in that hospital before?

8 A No.

9 Q Were you --

10 A Hold on, I believe she said he'd been born
11 there, but as far as any other follow-up care, I was not
12 aware.

13 Q Okay. What type of shape did Ms. Atkins appear
14 when you dealt with her? Was she needing medical
15 attention?

16 A She did not appear to need any medical
17 attention.

18 Q Okay. Were you aware she had just had a
19 C-section?

20 A No.

21 Q Did she identify herself as the mother of the
22 child?

23 A On the way to the hospital, she did.

24 Q Now, you said that you observed my client that
25 day. He was not holding the child?

ELISE MORGAN-CROSS BY MR. YARBOROUGH

1 A He was not.

2 Q Okay. Was he inside the house or on the porch?

3 A On the porch.

4 Q There was not room for him to ride in the
5 ambulance?

6 A No. Our policy is family members can only ride
7 up front and there's only one seat up front they can ride.

8 Q Okay. Did you see him at the hospital after
9 that?

10 A No.

11 Q Was it dark outside?

12 A No.

13 Q It was not dark?

14 A It was not dark.

15 Q So, you had -- were there -- were there animals
16 in the yard?

17 A I don't recall.

18 Q How about small children?

19 A I didn't see any children besides our patient.

20 Q Okay. Did you see four other adults living
21 there?

22 A I don't recall how many other people were on the
23 scene?

24 Q Just a second. Let me just make sure I've got
25 my -- for the record to be clear, the date you arrived out

ELISE MORGAN-CROSS BY MR. YARBOROUGH

1 there is June 7th, 2013, approximately 10:00 o'clock in
2 the morning?

3 A June 7th, 2013, we were on scene at 10:14.

4 Q Were you aware if anyone had done CPR on the
5 baby that morning?

6 A No.

7 Q Did you try to determine what had happened to
8 the child at that point?

9 A Yes, I tried to determine what happened to that
10 child on the way to the hospital. After I got him
11 somewhat stabilized, I asked her multiple questions. I
12 asked Angel Atkins multiple questions. She was a
13 relatively poor historian.

14 MR. RICHARDSON: Your Honor, I'm going to
15 object. We're going into hearsay again.

16 THE COURT: Okay. I don't think she's testified
17 to any of the responses yet. She testified to what
18 she asked. And I'll allow that, but, obviously, if
19 it's hearsay --

20 BY MR. YARBOROUGH:

21 Q What kind of questions did you ask?

22 A I asked her if he had any kind of medical
23 problems, history of medical problems, if he had a
24 traumatic birth, if he was allergic to any medications, if
25 he was on any medications currently. I asked her if he

ELISE MORGAN-CROSS BY MR. YARBOROUGH

1 had any past medical history, what time she noticed blood,
2 when she noticed blood, what could have possibly caused
3 the blood.

4 Q And all of those questions, you asked to the
5 mother?

6 A Yes.

7 Q Who was who you were with in the car -- in the
8 ambulance?

9 A Yes.

10 MR. YARBOROUGH: I don't have anything further.
11 Thank you.

12 THE COURT: Redirect?

13 MR. RICHARDSON: Nothing further, Your Honor.

14 THE COURT: Thank you, ma'am, I appreciate your
15 being here. You may step down.

16 All right. It's 12:00, ladies and gentlemen,
17 let's go ahead and take a break for lunch. Come
18 back, if you will, please, at 1:15. 1:15. Please be
19 on time so we can start as promptly as possible, not
20 out of consideration for me or the parties, but each
21 other. Because if 13 are back and we're waiting on
22 one, then we're waiting on one. Okay. So, please be
23 back out of consideration for one another. Again,
24 please don't discuss the case. I hope y'all have a
25 great lunch.

1 (WHEREUPON, the jury left open court at
2 approximately 12:03 p.m.)

3 THE COURT: All right, ladies and gentlemen, I
4 recognize that this morning the case was called
5 against not only Mr. Pillon, but, also, Angel Marie
6 Atkins. And I recognize that she failed to appear.
7 I've signed a bench warrant. I don't know who wants
8 that, but here it is. All right.

9 MR. RICHARDSON: Your Honor, can Ms. Morgan be
10 excused?

11 THE COURT: Objections?

12 MR. YARBOROUGH: No objection.

13 THE COURT: Yes, she may be excused.

14 Have a great day, great week.

15 Anything else we need to put on the record
16 before we adjourn for lunch?

17 MR. RICHARDSON: Nothing from the State, Your
18 Honor.

19 MR. YARBOROUGH: Nothing.

20 THE COURT: Okay, good enough.

21 (WHEREUPON, a lunch break was taken.)

22 THE COURT: We're back on the record. It's my
23 understanding from the parties that there are
24 statements that may be offered into evidence that we
25 need to conduct a short Jackson v. Denno with regard

1 to statements from the Defendant.

2 Having said that, Mr. Richardson, do you want to
3 call your first witness to the stand?

4 MR. RICHARDSON: Your Honor, the State would
5 call Sandro Jankovic.

6 THE CLERK: Place your left hand on the Bible,
7 raise your right.

8 SANDRO JANKOVIC, after being duly
9 sworn, testified as follows:

10 THE CLERK: Have a seat and state your name for
11 the record, please.

12 THE WITNESS: Officer Sandro Jankovic, GHS
13 Police Department.

14 DIRECT EXAMINATION

15 BY MR. RICHARDSON:

16 Q Okay. Officer, as an employee of GHS Police
17 Department, were you working on June 7th of 2013?

18 A That's correct.

19 Q And at that point in time, were you called to
20 the emergency room regarding the case that we're here
21 today about?

22 A That's correct.

23 Q Okay. And in your capacity as a law enforcement
24 officer, did you, in fact, come in contact with the
25 Defendant, Matthew Pillon?

SANDRO JANKOVIC-DIRECT BY MR. RICHARDSON

1 A I have.

2 Q Okay, sir. Did you approach him or did he
3 approach you, or how did that happen?

4 A Initially, they were in the area of the
5 pediatric ER, kind of gravitated towards me. As kind of
6 running the pediatric ER, one of the job duties that we
7 have there is, essentially, try to control if there is an
8 emotional family or anything like that. Initially, he
9 made the first initial approach to me since I was in
10 regular uniform as I wear today.

11 Q Okay. At that time, did he make a statement to
12 you?

13 A Yeah. One of the statements that kind of stood
14 out more than others was just asking me if he was in any
15 kind of trouble, you know, am I going to get in trouble,
16 something along those lines.

17 Q Now, at that point in time, was the Defendant in
18 custody?

19 A No, he was not.

20 Q Were you interrogating him or questioning him in
21 any way?

22 A Typically, questions would be who are you, what
23 are you doing here? Are you related to, you know, the
24 victim or the patient or anything like that? So, aside
25 from those questions, I wasn't asking any kind of

SANDRO JANKOVIC-CROSS BY MR. YARBOROUGH

1 questions pertaining to any kind of criminal
2 investigation.

3 Q Okay. Was he free to leave the hospital at any
4 time?

5 A Oh, absolutely.

6 Q This statement he made to you, was it voluntary,
7 of his own free will?

8 A Absolutely.

9 Q Did you promise or coerce him in any way to make
10 that statement?

11 A No.

12 MR. RICHARDSON: Thank you. That's all the
13 questions I have. Please answer any questions
14 Mr. Yarborough has for you.

15 CROSS-EXAMINATION

16 BY MR. YARBOROUGH:

17 Q At that point, did Mr. Pillon -- had you had him
18 under arrest?

19 A No.

20 Q Did you take him to another part of the
21 hospital?

22 A No.

23 Q Where was that questioning done?

24 A Excuse me, what questioning are you referring
25 to?

SANDRO JANKOVIC-CROSS BY MR. YARBOROUGH

1 Q The questioning you did of him?

2 A Asking him who he was?

3 Q Yes.

4 A Pediatric ER.

5 Q And where -- is that out in front of the door?

6 A In front of the treatment area?

7 Q Yeah.

8 A Most likely, it was at the -- there's a small
9 hallway that separates the treatment area and the waiting
10 area. The waiting area, if I recall, is where all the
11 family was directed. We try to give them a more private
12 area just for their family.

13 Q So, where were you?

14 A Outside the treatment area.

15 Q Where was my client?

16 A In the waiting area/treatment area hallway. I
17 mean, it's all relatively within a couple of feet of each
18 other.

19 Q And you asked him questions?

20 A Who are you, what's your name, what's your
21 relation, so we can determine if the doctors need to ask
22 any questions and know what they're dealing with.

23 Q And what did he tell you?

24 A That he was the father and gave me his name.

25 Q And he said -- did he say he was the father or

1 did he say -- did he say he was the biological father?

2 A Not that I recall.

3 Q Just that he was the father?

4 A Correct.

5 MR. YARBOROUGH: Thank you.

6 THE COURT: What was the statement?

7 REDIRECT EXAMINATION

8 BY MR. RICHARDSON:

9 Q Officer, can you tell the Judge what statements
10 were made by the Defendant to you?

11 A The -- during my initial encounter, Your Honor,
12 with the Defendant, the questions were -- his behavior
13 was -- looked kind of nervous and asked me if he was in
14 any kind of trouble or if he's getting into any kind of
15 trouble. At that point in time, I knew nothing of the
16 case, nothing of the actual initial incident. Also, he
17 was the father of the child.

18 THE COURT: Okay, I got you.

19 MR. YARBOROUGH: I didn't hear him say before
20 that the Defendant asked him if he was in some kind
21 of trouble.

22 THE COURT: Well, I didn't either, that's why I
23 asked him that this time. I wanted to know the
24 substance of the statement. It's more than just I'm
25 the father of the child.

SANDRO JANKOVIC-RECROSS BY MR. YARBOROUGH

1 MR. RICHARDSON: Yes, I'm sorry, I thought he
2 said that on direct. I apologize.

3 THE COURT: He may have.

4 EXAMINATION

5 BY THE COURT:

6 Q Now, I thought I understood you to say initially
7 on direct examination that he had approached you?

8 A Correct.

9 Q So, before you had posed any questions as to who
10 he was and what he was doing there, he approached you and
11 offered that?

12 A Correct. Correct. Which, in turn, I would ask,
13 Who are you?

14 Q Okay.

15 A What are you doing? What's your relation to
16 this incident as to why you're here?

17 RECROSS-EXAMINATION

18 BY MR. YARBOROUGH:

19 Q And what happened after that?

20 A After I found out who he was?

21 Q Yeah.

22 A I just told him that we segregated an area for
23 the family for this incident in the waiting area that's
24 right there at the pediatric ER.

25 Q I keep going back to -- sometimes you say that

SANDRO JANKOVIC-RE CROSS BY MR. YARBOROUGH

1 he asked if he was in trouble or he didn't, I don't
2 under -- can you explain that answer to me?

3 A My answer to him?

4 Q The question you asked him. What was the
5 question you asked him? You asked him who he was?

6 A Absolutely, yes. Who am I speaking with, which
7 is pretty common.

8 Q Okay. You asked him who he was, then what did
9 you ask him after that?

10 A I asked him the relation to the patient.

11 Q Okay. And what did he say?

12 A He stated that he was the father of the child.

13 Q Then what question did you ask him after that?

14 A I don't recall asking any additional questions,
15 just trying to identify the demographics as to who I'm
16 speaking with.

17 Q Okay. Did he ask you any questions after that?

18 A Afterwards, no.

19 Q Okay. So, the extent of your testimony is not
20 what -- is what he said about being the father, is that
21 correct?

22 A Can you repeat that one more time?

23 Q When did he ask you if he was in trouble, that's
24 what --

25 A Prior to me identifying who he was.

SANDRO JANKOVIC-RECROSS BY MR. YARBOROUGH

1 Q So, he walked up to you?

2 A Correct.

3 Q And out of the blue?

4 A Correct.

5 Q He said, Am I in some kind of trouble?

6 A Correct.

7 Q Had you done something to him to --

8 A No. I had no encounter with this man prior to
9 that whatsoever. We were contacted to the emergency room
10 as one of the protocols that the ER follows, which are to
11 identify as to what's going on. Prior to the treatment
12 area, which is segregated from the hallway and the waiting
13 area is where I encountered Mr. Pillon.

14 Q Okay. So, were you trying to separate the
15 Pillon family, is that what was going on?

16 A If I could identify who they were. One of the
17 things that we try to do is have the family together in a
18 single area in case physicians have any questions for them
19 about the patient, which is pretty common.

20 Q So you had told them that? That's what you had
21 told them at that point?

22 A After I identified who he was, that the
23 physicians and medical staff want them in a specific area,
24 which is what we did, we segregated an area for them.

25 Q And at that point after that he asked you if he

SANDRO JANKOVIC-RECROSS BY MR. YARBOROUGH

1 was in some kind of trouble?

2 A No, no. Once I exited the treatment area is
3 when he approached me and asked me if he was in trouble.
4 Which, in turn, I asked -- tried to identify who I'm
5 speaking with.

6 Q Okay.

7 A By asking his name and the relation.

8 Q I got you. Thank you.

9 THE COURT: Okay. All right. With respect to
10 that statement, I do find that it is voluntary and
11 it's admissible under the salient case law to include
12 Miranda. The question I asked was specifically with
13 respect to whether the response that was offered or
14 the statement that was offered by the Defendant was
15 in response to any questioning or interrogation or
16 whether it was essentially offered gratuitously. And
17 it sounds to me like it was a statement that was
18 offered without any type of provocation from law
19 enforcement. Therefore, it's voluntary, it's
20 admissible. And we can move on to the next one.

21 MR. RICHARDSON: Thank you, Your Honor.

22 Officer you can come down.

23 The State would call J.B. Kelley.

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

J.B.KELLEY-DIRECT BY MR. RICHARDSON

1 J.B. KELLEY, after being duly sworn,
2 testified as follows:

3 THE CLERK: Thank you, sir. If you would, have
4 a seat and state your name for the record, please.

5 THE WITNESS: J.B. Kelley.

6 DIRECT EXAMINATION

7 BY MR. RICHARDSON:

8 Q Sir, you're employed by the Pickens County
9 Sheriff's Office; is that correct?

10 A That's correct.

11 Q Were you working on June the 7th of 2013?

12 A Yes, sir.

13 Q And on that date, were you dispatched to the
14 Greenville Hospital System?

15 A I was.

16 Q Okay. And at that point in time at the
17 Greenville Hospital System, did you have occasion to come
18 in contact with the Defendant?

19 A I did.

20 Q Okay, sir. Was that part of your investigation
21 in this case?

22 A That's correct.

23 Q When you came in contact with him, did you --
24 what did you do at that point in time?

25 A When I made contact with Mr. Pillon, he was

J.B.KELLEY-DIRECT BY MR. RICHARDSON

1 identified to me. Then I approached him, asked him if I
2 could speak with him. I met with him. I advised him of
3 his rights right off before I entered any conversation.

4 Q Where was that that you advised him of his
5 rights?

6 A In the hospital ER waiting area, office I think
7 is where the police department uses.

8 Q Okay. Did you use a form to read him his rights
9 or how did you do it?

10 A I read him his rights, then after reading his
11 rights to him line by line, then I asked him to -- handed
12 him the form, asked him if he would to read each one to
13 ensure that what I had read him -- what I had read was on
14 the paper, to put his initials by each right that I had
15 read to him. And after reading it, then if he would sign
16 it and put his date of birth, social security number,
17 phone number.

18 Q Okay. Let me hand you what's been marked as
19 State's Exhibit No. 13, do you recognize that?

20 A Yes, sir, this is the Waiver of Rights form that
21 I gave Mr. Pillon to reread and to sign to agree that he
22 waived his rights.

23 Q Okay. Does that allow for a place for initials
24 to be made next to each right?

25 A That does.

J.B.KELLEY-DIRECT BY MR. RICHARDSON

1 Q Okay. And did he, in fact, initial every right
2 on that form?

3 A He did.

4 Q Okay. And did he do so voluntary of his own
5 free will?

6 A He did.

7 Q Did you force or coerce him in any way to
8 initial each of those rights?

9 A No, sir, I did not.

10 Q Did he appear to understand those rights as you
11 had given them to him?

12 A Yes, sir, he did.

13 Q Did you make him any promises or threats to
14 initial each and every one of those rights?

15 A No, I did not.

16 Q Okay, sir. And at some point on that form, is
17 there also a waiver of rights?

18 A There is, at the very bottom.

19 Q Okay. Did he, in fact, waive his rights?

20 A Yes, sir, he knowledged the waiver of rights and
21 then he signed it.

22 Q Okay. Did you force or coerce him in any way to
23 waive his rights?

24 A No, sir, I did not.

25 Q And did you make him any promises or threats to

J.B.KELLEY-DIRECT BY MR. RICHARDSON

1 waive his rights?

2 A I did not.

3 Q Okay. Did he appear to understand the waiver of
4 rights?

5 A He did.

6 Q Did you read the waiver of rights to him?

7 A I did.

8 Q Did he also read it?

9 A He did.

10 Q And he subsequently signed it?

11 A That's correct.

12 Q What's the date and time on the waiver of
13 rights?

14 A June 7th, 2013, at 11:34 a.m.

15 Q Okay. And after waiving those rights, did he,
16 in fact, give you a statement?

17 A He did.

18 Q Did he give you an oral statement?

19 A Oral and written statement, that's correct.

20 Q Okay. Were those both given to you just after
21 these rights were read?

22 A That's correct, freely and voluntarily he agreed
23 to.

24 MR. RICHARDSON: That's all the questions I
25 have. Please answer any Defense counsel may have.

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. YARBOROUGH:

4 Q His oral statement was consistent with what you
5 wrote down here?

6 A I'd have to see the form, sir.

7 Q The voluntarily statement that --

8 A Yes, sir, that would be the statement, yes, sir.

9 Q He wrote this?

10 A I believe --

11 Q Or you wrote it?

12 A -- I wrote it for him. He asked me to write it
13 for him.

14 Q Okay. So, you wrote it for him and he signed
15 it?

16 A Yes.

17 MR. YARBOROUGH: Nothing further, Your Honor.

18 THE COURT: All right, with respect to that
19 statement, I do find that it was voluntary and not
20 the product of any threat, force or coercion. The
21 Miranda rights were appropriately administered.
22 There's no evidence in the record that the same were
23 not waived freely and voluntarily by the Defendant.
24 So, that statement shall be admissible as well.

25 MR. RICHARDSON: Your Honor, I will say I

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 misspoke in reference to the exhibit number. The
2 exhibit number is actually 15.

3 THE COURT: Fifteen?

4 MR. RICHARDSON: Fifteen, yes, sir, just for the
5 record.

6 THE COURT: Sure. Thank you for correcting
7 that.

8 Yes, sir, you can step down.

9 Anything further?

10 MR. RICHARDSON: Nothing further from the State.

11 THE COURT: All right, good enough.

12 Well, y'all ready for the jury?

13 MR. RICHARDSON: Sure.

14 MR. YARBOROUGH: Yes, sir.

15 THE COURT: Bring the jury in, please, sir.

16 (WHEREUPON, the jury came into open court at
17 approximately 1:32 p.m.)

18 THE COURT: All right. Welcome back, ladies and
19 gentlemen. I'm sorry we're starting a little bit
20 late, but we took up an evidentiary matter. We've
21 been discussing that for the last 15 minutes.
22 Delayed us getting started a little bit, but,
23 hopefully, it will speed us up with the introduction
24 of evidence going forward.

25 So, Ms. Hinton, Mr. Richardson, you may call

TEENA WATSON-DIRECT BY MR. RICHARDSON

1 your next witness.

2 MR. RICHARDSON: Thank you, Your Honor, may it
3 please the Court. The State would call Ms. Teena
4 Watson to the stand.

5 THE CLERK: Place your left hand on the Bible
6 raise your right.

7 TEENA WATSON, after being duly sworn,
8 testified as follows:

9 THE CLERK: If you would have a seat and state
10 your full name for the record, please.

11 THE WITNESS: Teena Watson.

12 DIRECT EXAMINATION

13 BY MR. RICHARDSON:

14 Q Ms. Watson, where are you employed?

15 A I'm currently employed at DSS, Department of
16 Social Services.

17 Q Okay. And in what capacity today are you
18 employed with DSS?

19 A I license foster homes.

20 Q Okay. Now, how long have you been with DSS, do
21 you recall?

22 A Overall, about six years.

23 Q Okay. So, you were employed with DSS back in
24 June 7th of 2013?

25 A Yes.

TEENA WATSON-DIRECT BY MR. RICHARDSON

1 Q Okay. And back on June 7th, 2013, were you
2 called to the Greenville Hospital System?

3 A Yes.

4 Q Do you recall why?

5 A At that time, I was a DSS investigator for the
6 Department to Social Services. Our office got a report,
7 an intake of abuse and neglect of a ten-year-old baby.

8 Q Ten-year-old?

9 A I'm sorry, ten-day-old.

10 Q That's all right. So, just real quick, can you
11 explain to the jury, a DSS investigator, is this law
12 enforcement?

13 A No, it is not.

14 Q What exactly is the purpose of DSS
15 investigators?

16 A Department of Social Services, we investigate on
17 the DSS level of abuse and neglect. It is completely
18 separate than a criminal investigation. We do our own
19 investigation and if it warrants criminal investigation,
20 then they do their own investigation.

21 Q Okay. Now, when you have an intake of this
22 type, is it rated a certain severity?

23 A Yes.

24 Q And what is that rating?

25 A When you get an intake, you either have a zero

TEENA WATSON-DIRECT BY MR. RICHARDSON

1 to two report or a two to 24-hour, a zero to two-hour.
2 When it comes in as a zero to two, it is pretty imminent
3 that a child is in imminent danger, that you need to be
4 out at the scene as soon as possible.

5 Q So, in this particular case, what was the level
6 of intake?

7 A It was a zero to two.

8 Q Okay. And did you -- did that cause you to
9 immediately respond?

10 A Yes.

11 Q Okay. Did you, in fact, go to the Greenville
12 Hospital System?

13 A I did.

14 Q Okay. When you arrived there, what did you do?

15 A When I first got to the hospital, it was around
16 noon, a little after noon. I met with Officer Kelley.
17 When I was there, he briefed me a little bit on what was
18 going on, what he had done so far. I immediately wanted
19 to see the child and make contact with the child.

20 Q Okay. So, did you, in fact, go see the child?

21 A I did.

22 Q Where was the child when you saw it?

23 A The child was in the pediatric emergency room.

24 Q Okay. Can you tell the jury what you viewed,
25 what you saw on the child?

TEENA WATSON-DIRECT BY MR. RICHARDSON

1 A I entered the room, the baby was laying on the
2 table, the examination table. He was very lethargic, very
3 pale, lifeless in my opinion. I immediately saw bruises
4 all over his body, on his cheeks, on his head, on his
5 torso, on his legs, on his arms. I saw scratches on his
6 nose, around his nose. Blood was -- looked like dried
7 blood coming from his nose. The ER nurse took the diaper
8 down and at that time, I saw scratches on his scrotum
9 area. The scrotum area was very swollen. His penis was
10 swollen, his anus was swollen and very, very red.

11 Q Okay. Now, once you made these observations, at
12 some point in time, did you make contact -- as part of
13 your investigation make contact with the Defendant?

14 A I did.

15 Q Okay. Where was that contact?

16 A That was at the hospital in the room that the
17 GHS uses to interview people. They're right outside the
18 pediatric ER.

19 Q Okay. Now, regarding the living arrangements in
20 the home, did the Defendant give you any information as to
21 the living arrangements in the home in which he and the
22 baby and Ms. Atkins lived?

23 A He did.

24 Q What was that?

25 A He indicated to me that he and Angel and the

TEENA WATSON-DIRECT BY MR. RICHARDSON

1 baby shared a room. They had a full-size bed and there
2 was a crib in the room.

3 Q Okay. And did he make any statements to you
4 about who cared for the child?

5 A He did. He indicated to me on several occasions
6 that he was the primary caregiver for the baby.

7 Q Okay. And what, if anything, did he say about
8 caring for the child during the nighttime?

9 A He indicated -- he indicated to me that he did
10 most of the nighttime duties, that he would feed the baby,
11 change the baby. When the baby was crying, he would get
12 the baby up, re-swaddle the baby. He, basically, again
13 told me he was the primary caregiver.

14 Q Did he give you any information regarding why he
15 was the one that got up at night with the baby?

16 A He indicated to me that Angel was on pain
17 medication. From being in the hospital and having a
18 C-section, that she was taking some form of injections and
19 that she was on pain medication, so she was knocked out
20 pretty much during the nighttime.

21 Q What, if anything, did he tell you about who
22 stayed in that particular room?

23 A The three of them.

24 Q And three being?

25 A Angel, Matthew and the baby, [redacted].

TEENA WATSON-DIRECT BY MR. RICHARDSON

1 Q Did anybody else come into that room, was
2 anybody else allowed in that room?

3 A He indicated to me that no one was ever allowed
4 in the room, that he kept the room locked.

5 Q Did he indicate to you how he kept the room
6 locked?

7 A There was a door lock, but there also were nails
8 on the door that had been crooked over, bent over so that
9 the door would stay shut.

10 Q Okay. Now, as part of your investigation, did
11 you actually at a later date go to that home?

12 A I did.

13 Q Did you observe that door?

14 A I did.

15 Q And in observing that door, did you see what he
16 was talking about?

17 A I did.

18 Q What did you see?

19 A I saw above the doorknob, there were two to
20 three, I can't remember exactly how many, nails. They
21 were crooked over is the only way I can -- bent over. You
22 could swivel them so that you could move them to where it
23 would come in contact with the door.

24 Q Okay. Let me hand you what's been marked
25 State's Exhibit 12. Let me show it to counsel, first. I

TEENA WATSON-DIRECT BY MR. RICHARDSON

1 apologize, ma'am. Once again, State's Exhibit 12. Is
2 that a photo of that door?

3 A Yes, it is.

4 Q Does that accurately depict that door as you saw
5 it?

6 A Yes, it does.

7 Q Is there anything in that picture altered or
8 changed from what you saw when you investigated that?

9 A No.

10 MR. RICHARDSON: Your Honor, at this time, the
11 State would offer State's 12 into evidence.

12 THE COURT: Objection, sir?

13 MR. YARBOROUGH: Without objection.

14 THE COURT: All right, without objection, the
15 same is entered into evidence.

16 (WHEREUPON, State's Exhibit No. 12 was marked
17 for identification and received into evidence.)

18 BY MR. RICHARDSON:

19 Q Now, ma'am, you have -- I know this is hard to
20 see, but you have a pointer up there, a laser pointer.
21 Can you show the jury the nails that you're referring to?

22 A They are really hard to see, but here's one,
23 here's one and here's one.

24 Q Okay. Now, going to the home, that's part of
25 your investigation?

TEENA WATSON-DIRECT BY MR. RICHARDSON

1 A Yes, it is.

2 Q Okay. When you -- I'm going to go back to him
3 telling you that he did the nighttime stuff with the baby.
4 Did you talk to him about the night of June the 7th, 2013,
5 the night this incident took place?

6 A The night before?

7 Q The night --

8 A The evening --

9 Q The evening or the morning of --

10 A Okay.

11 Q -- June 6th, 2013, to June 7th, 2013?

12 A Yes, we did discuss that.

13 Q Okay. Did he say anything to you about anything
14 unusual that happened that night?

15 A He told me that they had been to the ER the
16 night before, that the doctor had given them -- because
17 the baby was just crying and crying. He indicated the
18 baby would continuously cry, would not eat --

19 Q So, let's --

20 A I'm sorry.

21 Q -- break this down a little bit for the jury.
22 So on June 6th, he indicated that he had taken the child
23 to Cannon Memorial?

24 A Correct. Right.

25 Q Why was that?

TEENA WATSON-DIRECT BY MR. RICHARDSON

1 A He indicated that the baby was crying and would
2 not eat. They couldn't get the baby to stop crying, so
3 they took the baby to the ER, to Cannon ER to be evaluated
4 to find out if it was something that they -- if something
5 was wrong with the baby, what they could do to get help
6 for the baby. He indicated that the doctors looked at the
7 baby, the baby was fine, sent the baby home with them.

8 Q Now, after returning to the home, did he
9 indicate to you anything that happened that evening?

10 A He indicated that he helped Angel get her
11 shower. They put the baby down about -- I don't remember
12 exact time frames, I'm sorry, 10:00ish, 10:00. Angel took
13 her medication, she went to bed. The baby woke up several
14 times during the night. He would change the baby's
15 diaper, re-swaddle the baby. Basically, he took care of
16 baby during the night. And he indicated that he woke up
17 around 4:00 and that he heard a gurgling noise and that --
18 he said the baby had stopped breathing and that he
19 performed CPR on the baby.

20 Q Okay. Now, did he tell you -- did he call
21 anybody after he performed CPR on the baby?

22 A No, he said the baby -- after he gave CPR, the
23 baby started breathing. He re-swaddled the baby, put the
24 baby on his side in the crib.

25 Q Okay. Did he indicate to you what his state of

TEENA WATSON-DIRECT BY MR. RICHARDSON

1 mind was at that time?

2 A He stated that he was freaking out.

3 Q But did he give you any indication about -- did
4 he call 911?

5 A He did not give me any indication that he did.

6 Q Now, are you familiar with Tammy Atkins and
7 Terry Marcus?

8 A I am.

9 Q Who are they?

10 A They are Angel's mother and stepfather.

11 Q And during your conversations with the Defendant
12 in the hospital, what, if anything, did he say about
13 Tammy's involvement with the baby or attempted involvement
14 with this baby?

15 A He indicated that they would try to help, would
16 offer help with the baby when the baby was fussing, when
17 the baby was crying and that he insisted he was the father
18 and that he was going to take care of the baby.

19 Q Now, you've made mention of him talking about
20 the baby crying. Did he ever give you an explanation of
21 why the baby was crying?

22 A They did not know why the baby was crying was my
23 understanding.

24 Q Did he ever talk about the baby teething or
25 anything of that nature?

TEENA WATSON-DIRECT BY MR. RICHARDSON

1 A He indicated that they -- the night that they
2 went to Cannon, that the doctor gave them drops for gas,
3 that it could possibly be gas, gave them drops for that,
4 but he also indicated that they were giving the baby
5 Tylenol because the baby was teething.

6 MR. RICHARDSON: Beg the Court's indulgence.

7 THE COURT: Yes, sir.

8 BY MR. RICHARDSON:

9 Q And was there any conversation about pets being
10 allowed into this room?

11 A He -- yes. There are pets in the home. They
12 were not allowed in the room. However, there was --
13 according to Matthew, there was a hole in the floor under
14 the crib where a cat would get in and out occasionally,
15 but Matthew would always remove the cat.

16 Q You went to this room as part of your
17 investigation?

18 A Yes.

19 Q And did you view any hole in the floor?

20 A I did.

21 MR. RICHARDSON: Beg the Court's indulgence.

22 THE COURT: Sure.

23 BY MR. RICHARDSON:

24 Q And did the Defendant, during your
25 investigation, did he ever talk to you, ask you about how

TEENA WATSON-CROSS BY MR. YARBOROUGH

1 the baby was doing?

2 A He did not.

3 Q Okay. What was -- do you recall what his main
4 concern was?

5 A During our interview, he was very anxious to
6 leave. And his statement to me was he just wanted to
7 leave and go take a shower.

8 Q And how long had the Defendant been there when
9 that was stated, do you know?

10 A I'm sorry?

11 Q Do you know how long he had been there when that
12 was stated?

13 A At the hospital?

14 Q Yes.

15 A I had been with him for about two and a half,
16 three hours.

17 MR. RICHARDSON: Thank you. That's all the
18 questions I have.

19 THE COURT: Mr. Yarborough.

20 CROSS-EXAMINATION

21 BY MR. YARBOROUGH:

22 Q Are you familiar with Angel Atkins?

23 A I am.

24 Q Did you interview her for this case?

25 A I did.

TEENA WATSON-CROSS BY MR. YARBOROUGH

1 Q Did you talk to her about the stuff that was
2 going on in the baby's throat?

3 A Angel never discussed any of that with me.

4 Q She discussed with you the --

5 MR. RICHARDSON: Your Honor, I'm going to
6 object. It's hearsay.

7 THE COURT: Okay.

8 BY MR. YARBOROUGH:

9 Q As part of your investigation --

10 THE COURT: You can't say what somebody said.
11 You can discuss the nature of the conversation. So
12 --

13 MR. YARBOROUGH: I'm --

14 THE COURT: You can move on.

15 MR. YARBOROUGH: I'll move on.

16 THE COURT: I got you.

17 BY MR. YARBOROUGH:

18 Q As part of your investigation, did you interview
19 Angel Atkins?

20 A I did.

21 Q And when was that?

22 A It was at the hospital.

23 Q And was it at the time when all this happened?

24 A Yes, it was.

25 Q And what was the purpose of that interview?

TEENA WATSON-CROSS BY MR. YARBOROUGH

1 A It was the same, just to get information from
2 the family as to what had happened, why we were at the
3 point where we were, at the hospital with a 10-day-old.

4 Q Did you know Angel Atkins?

5 A No.

6 Q Did you know her family?

7 A No.

8 Q And so, did you met a woman who said she was
9 Angel Atkins?

10 A Uh-huh.

11 Q Do you know if Matt Pillon over there is the
12 father of this child?

13 A Only by what he told me was that he was the
14 father?

15 Q Do you know how long they had dated prior to
16 this?

17 A It was my understanding they dated six to seven
18 months.

19 Q And the baby was born --

20 A Uh-huh, full term.

21 Q Full term?

22 A Uh-huh.

23 Q And the baby was born with some health issues?

24 A I did not discuss -- I don't know.

25 Q Okay. Did you go to interview the -- any

TEENA WATSON-CROSS BY MR. YARBOROUGH

1 doctors that the baby was taken to?

2 A I got medical records.

3 Q Okay. Did you find out that the baby had been
4 taken to the hospital on four separate occasions?

5 A I'm not sure of the exact number, but yes, the
6 baby did go multiple times.

7 Q And those -- that was for bleeding in the face,
8 is that correct?

9 A I don't know.

10 Q You did not look at the records that you got?

11 A I did, but the bleeding -- there was not any
12 notation of bleeding on the face.

13 Q Okay. What about the blood coming up from the
14 throat?

15 A I did not see anything of blood coming from the
16 throat. I did see when she was discharged after birth
17 that the baby should expect to have mucus.

18 Q What about any blood?

19 A Did not notate any blood?

20 Q Are you familiar with something that was stuck
21 down the baby's throat to try to suction out stuff --

22 A I was told there was a small syringe that they
23 could use to suction that, yes.

24 Q And the purpose of suctioning that would be for
25 what?

TEENA WATSON-CROSS BY MR. YARBOROUGH

1 A I guess to get the mucus out.

2 Q To get the mucus out of the throat?

3 A Uh-huh.

4 Q Okay. Do you know if Angel was trained to do
5 that?

6 A I do not know.

7 Q Do you know if Angel had some health issues from
8 her C-section?

9 A Not that I'm aware of. The only thing was the
10 normal things you have from a C-section. She indicated to
11 me she -- you know, the normal baths that you take and the
12 pain medication following a C-section.

13 Q Are you aware that Angel brought the child into
14 the emergency room on that Saturday morning at 10:00?

15 A Prior to this date?

16 Q Prior to that date.

17 A In the medical records, like I said, I don't
18 know the exact dates.

19 Q What date did you go out there?

20 A I was there on the seventh.

21 Q Did you get those records on the seventh?

22 A No.

23 Q When did you get those records?

24 A I would have to look in -- I don't remember the
25 exact date that I got those.

TEENA WATSON-CROSS BY MR. YARBOROUGH

1 Q Would that have been within a couple of days?

2 A More than likely within a couple of weeks. I
3 was in daily contact with the hospital, but as far as the
4 physical records, I didn't have those.

5 Q And at some point, were you able to determine
6 that the baby had some lacerations to the throat that were
7 caused by that thing being stuck down her throat?

8 MR. RICHARDSON: Your Honor, I object to the
9 question. It calls for speculation. She's not an
10 expert in this area.

11 THE COURT: Okay. You can rephrase the
12 question, please.

13 BY MR. YARBOROUGH:

14 Q Are you familiar with lacerations in the throat
15 for the baby?

16 A For the baby, yes.

17 Q Okay. And you are familiar with the tube drop
18 that was stuck down there; is that correct?

19 A Correct. But it was my understanding from the
20 doctor that that could not have caused that that deep
21 down.

22 Q Okay. Now, what doctor told you that?

23 A I think it was Dr. Henderson.

24 Q Dr. Henderson said that it would not go down
25 that way?

TEENA WATSON-CROSS BY MR. YARBOROUGH

1 A That type of laceration could not have been
2 caused from a bulb syringe.

3 Q Can you explain that to us?

4 A (The witness shook her head.)

5 MR. RICHARDSON: Your Honor, I object. He's
6 asking questions that are medical testimony and she's
7 not a doctor.

8 THE COURT: She offered testimony relating to
9 what the doctor had told her. There was no objection
10 to that testimony. I'll allow her to explain
11 further. But, obviously, she can offer no expert
12 testimony in that regard, only what was related to
13 her only because the door's been opened.

14 BY MR. YARBOROUGH:

15 Q Did Angel -- did you talk to Angel about how she
16 did the --

17 A No, I did not.

18 Q Was she cooperative with you?

19 A She was.

20 Q Okay. And so, were you able to discuss with her
21 what she had tried to do to help the baby?

22 A In my interview with her, she was --

23 MR. RICHARDSON: Your Honor, I'm going to
24 object. She's getting ready to testify to hearsay.
25 He's couching it in a way to get the hearsay out

TEENA WATSON-CROSS BY MR. YARBOROUGH

1 without asking her the question.

2 THE COURT: I sustain as to hearsay. She hasn't
3 answered yet, so it's hard to determine. But I would
4 just caution everyone, you can't say what someone
5 else said. That doesn't mean you can't discuss a
6 conversation, but you can't discuss the specificities
7 of what may have been related to someone who's not
8 here today to testify.

9 Go ahead.

10 BY MR. YARBOROUGH:

11 Q Did you have a substantive conversation with
12 Angel about it?

13 A About the -- about what?

14 Q About the drops or suctioning -- suctioning out
15 of the throat?

16 A No.

17 Q You did not have. Did you have them with the
18 doctor?

19 A Yes.

20 Q That was part of your investigation?

21 A Yes.

22 Q Okay. And as part of your investigation, did
23 you go out to the house?

24 A I did.

25 Q Were you able to determine who was living in the

TEENA WATSON-CROSS BY MR. YARBOROUGH

1 house?

2 A Yes.

3 Q Okay. Can you tell us who was living at the
4 house?

5 A By name?

6 Q By name, yes.

7 A I don't know if I can tell you by name. I can
8 tell you what the relationship was.

9 Q That would be fine.

10 A Okay. So, we had Angel, Matthew and the baby.
11 We had Tammy and Marcus -- I'm sorry, Terry Marcus and
12 Tammy.

13 Q Who is Terry Marcus and Tammy?

14 A That is Angel's mother and stepfather. Then we
15 had Tammy's parents.

16 Q Tammy's parents?

17 A Uh-huh. We have [REDACTED]

18 Q How old is [REDACTED]

19 A [REDACTED] is seven.

20 Q [REDACTED] was living in the trailer?

21 A Correct. And we had [REDACTED] who was also another
22 child, he was living in the home. We had Angel's brother;
23 who was there, and his girlfriend. So, 11 people were in
24 the mobile home.

25 Q How many bedrooms were in that home?

TEENA WATSON-CROSS BY MR. YARBOROUGH

- 1 A Four.
- 2 Q Four. And who owned the home?
- 3 A Tammy's parents.
- 4 Q Okay.
- 5 A The great-grandparents to the baby.
- 6 Q So, Angel and Matt were staying there after
- 7 Angel was released from the hospital?
- 8 A Correct.
- 9 Q Did Angel have other children there?
- 10 A The two I just mentioned.
- 11 Q Go back, and their names are?
- 12 A [redacted] and [redacted].
- 13 Q And their age again?
- 14 A [redacted] was seven, [redacted] if I'm right, was
- 15 three at the time.
- 16 Q Do you know who the father of those children
- 17 are?
- 18 A (The witness shook her head.) No. I do know
- 19 the father of [redacted]. I don't know the father of [redacted].
- 20 Q Okay. Do you now know the father of [redacted]?
- 21 A The only father I know is the one that told me
- 22 he was the father.
- 23 Q Do you now know that's not true?
- 24 A (The witness shook her head.) I don't know if
- 25 the DNA test was done or not.

SANDRO JANKOVIC-DIRECT BY MR. RICHARDSON

1 MR. YARBOROUGH: Thank you. I don't have
2 anything further.

3 Thank you, Your Honor.

4 THE COURT: All right. Thank you, ma'am. I
5 appreciate you being here. You may step down.

6 Any objection to this witness being excused?

7 MR. RICHARDSON: None from the State, Your
8 Honor.

9 THE COURT: All right, you may be excused,
10 ma'am. Thank you.

11 All right. You may call your next witness.

12 MR. RICHARDSON: Thank you, Your Honor. The
13 State calls Sandro Jankovic.

14 THE CLERK: Place your left hand on the Bible,
15 raise your right.

16 SANDRO JANKOVIC, after being duly
17 sworn, testified as follows:

18 THE CLERK: Sir, if you would have a seat, state
19 your name for the record, please.

20 THE WITNESS: Sandro Jankovic, GHS Police.

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY MR. RICHARDSON:

24 Q Okay, sir, how long have you been employed with
25 GHS police?

SANDRO JANKOVIC-DIRECT BY MR. RICHARDSON

1 A On and off since 2011.

2 Q Okay. How long have you been in law
3 enforcement?

4 A Since 2008.

5 Q Just briefly, GHS Police, can you just explain
6 that to the jury? Is that an actual law enforcement
7 agency?

8 A State passed legislation to authorize GHS as a
9 governmental agency to have their own police department
10 with all powers of a regular police department, municipal
11 or county. We utilize municipal as well as county
12 courtrooms, depending upon, I guess, where the
13 jurisdiction power falls in. And if you're familiar with
14 GHS, we're literally all over, so we utilize in multiple
15 different county, multiple different courtrooms. But when
16 it comes to the law enforcement side of it, we are law
17 enforcement one certified as a regular police officer on
18 the street as well as SLED credentials.

19 Q Okay. Now, were you employed back on 6-7-2013?

20 A I was.

21 Q And at that time, were you called to the
22 emergency room at Greenville Hospital System?

23 A I was.

24 Q What was that in inference to?

25 A I was contacted there in reference to a known

SANDRO JANKOVIC-DIRECT BY MR. RICHARDSON

1 situation involving a report of a 10-day-old male infant
2 being brought in. The request came from medical staff as
3 well as Pickens County ambulance on staff that was there
4 on scene at the pediatric ER.

5 Q Okay. Upon your arrival at the emergency room,
6 did you observe the victim in this case, the baby?

7 A I did.

8 Q What did you observe?

9 A Upon my initial arrival, it's very common for us
10 to actually enter into the trauma bay, whether it's an
11 adult over pediatric just so we can get first observations
12 as to what's going on in case an incident like this might
13 take place. So, it's just common practice for us to enter
14 as well as ask any questions as to -- or call us with any
15 kind of help they may have needed.

16 As I entered, it was quite a lot of
17 physicians as well as nursing staff and Pickens County EMS
18 employees. And when I walked in, I saw an infant about 10
19 days old, so a very, very small baby in the pediatric ER
20 trauma room. There's only one, so it was already in the
21 trauma bay. And the baby looked very, very lethargic.
22 Kind of didn't have color, looked very, very low on color,
23 with bruising and lacerations literally from head to toe.
24 Blood appeared to be around the nostrils and the mouth. I
25 was not there for the removal of the diaper, so I'm not

SANDRO JANKOVIC-DIRECT BY MR. RICHARDSON

1 really certain what happened at that specific time when
2 the diaper was removed, but the baby was in a diaper. I
3 could definitely tell there was quite a lot of bruising.
4 Some marks resembling almost like very, very small bite
5 marks even. The baby was quite unresponsive at that time.

6 Q Okay, sir. Now, so we're clear, if you have a
7 situation like this, do you do an investigation?

8 A No. What we do is we try to establish
9 jurisdiction, where an incident took place, and make sure
10 that the one -- the local jurisdiction knows an incident
11 took place. And if they did not, to notify them of a
12 potential incident and if they did know to, at least, try
13 to get an EMT to find out what kind of assistance they may
14 need from us at that time.

15 Q Okay. Did you ascertain the jurisdiction in
16 this case?

17 A Correct. One of the people that I spoke with
18 was the Pickens County paramedics that advised of the
19 location. They already knew that it was Pickens County
20 jurisdiction. So, what we did was we contacted the
21 Pickens County Sheriff's Office dispatch to advise them
22 that an incident took place in inference to an infant and
23 to have an investigator or a sheriff's deputy in route to
24 the location.

25 Q So, at some point in time -- so we're clear, so

SANDRO JANKOVIC-DIRECT BY MR. RICHARDSON

1 at that point in time, you're not investigating this case?

2 A No, absolutely not.

3 Q Okay. But at some point in time, did you happen
4 to make contact with the Defendant?

5 A Correct, I did.

6 Q Okay. Tell the jury what happened on that
7 contact.

8 A Obviously, you know, I'm on job duty, so I'm in
9 and out of the pediatric ER. I don't have any kind of
10 medical professional training to help them out. I'm there
11 just to assist them with whatever they may need as well as
12 to contact law enforcement for them. So, going in and
13 out, I was approached by the Defendant outside of the
14 pediatric ER, which is closed off and locked off, the
15 treatment area is. And there's a hallway there, it's kind
16 of like a honeycomb area with pediatric ER waiting area.
17 I was approached and just --

18 Q When you say you were approached, approached by
19 whom?

20 A By the Defendant, Matthew Pillon.

21 Q Okay.

22 A Just asking me point blank, Hey, what's going
23 on? Am I in some kind trouble?

24 At that point in time, I had no idea who he
25 was, so I asked him to identify himself, which is pretty

SANDRO JANKOVIC-DIRECT BY MR. RICHARDSON

1 common in my job duties, whom am I speaking with.
2 Identified himself as Matthew Pillon. I asked what
3 relation he was to any of the patients inside. He
4 identified himself as the father of Baby [REDACTED] at that
5 time.

6 One of things I did was ascertain who all
7 the family was and who was there and just ask them all to
8 be in the pediatric ER waiting. And it's kind of a
9 dynamic fluid situation as we just kind of segregated that
10 area for them for their family so they could have it and
11 it would be easier for medical staff to go in and ask them
12 any questions they may need as well as any law enforcement
13 if they need to speak with them to find them.

14 Q Okay. Now, is it routine for law enforcement to
15 get called to the emergency room?

16 A Absolutely, everyday.

17 Q So, you've been called to the emergency room on
18 multiple occasions in your time as a law enforcement
19 officer at GHS?

20 A Countless times.

21 Q Okay. And being called down there, did you --
22 let me ask you, did you find the Defendant's statement to
23 be unusual based upon your experience?

24 MR. YARBOROUGH: Objection, Your Honor. He's
25 asking him to be able to say something that he's not

SANDRO JANKOVIC-DIRECT BY MR. RICHARDSON

1 trained to be able to testify to.

2 THE COURT: Okay. All right. I'm going to
3 overrule.

4 You can ask the question, sir.

5 BY MR. RICHARDSON:

6 Q To repeat my question, you've gone to the
7 emergency room, ER on multiple occasions?

8 A Correct.

9 Q Have you dealt with parents on multiple
10 occasions, parents of children in the emergency room?

11 A Correct, I have.

12 Q Okay. Did you find the Defendant's question to
13 you unusual based upon your experience?

14 A I found it to be somewhat irregular, yes.

15 Q And why is that?

16 A One of the first things that you see in the ER
17 is a lot of emotion and, I mean, literally having to hold
18 people back from wanting to go back in the treatment area
19 where their children are at. You know, kicking,
20 screaming, fighting wanting to see them. None of that
21 occurred in this instance.

22 Q Did you find the Defendant to be concerned about
23 his 10-day-old baby at all?

24 A No, I did not. I didn't see any kind of
25 concern.

SANDRO JANKOVIC-CROSS BY MR. YARBOROUGH

1 Q Okay.

2 MR. RICHARDSON: Beg the Court's indulgence.

3 THE COURT: Yes, sir.

4 MR. RICHARDSON: Thank you. That's all the
5 questions I have. Please answer any questions
6 defense counsel may have for you.

7 THE COURT: Cross?

8 MR. YARBOROUGH: Yes, sir.

9 CROSS-EXAMINATION

10 BY MR. YARBOROUGH:

11 Q Are you aware if that's Mr. Pillon's child?

12 A Excuse me, sir?

13 Q Are you aware that that's Mr. Pillon's child?

14 A He identified himself as the father at that
15 time, so I had no reason to assume otherwise.

16 Q Are you -- had the other parts of -- are you
17 aware of who Angel Atkins is?

18 A My knowledge is that is the mother of the child.

19 Q Right. Did you see her there?

20 A I did.

21 Q All right. Did you quarantine her off?

22 A Correct, away from the treatment area.

23 Q And you quarantined her away from where

24 Mr. Pillon was?

25 A I don't recall where she was at. Typically, our

SANDRO JANKOVIC-CROSS BY MR. YARBOROUGH

1 procedure is to keep the family together.

2 Q Okay. But in this case, do you know if you kept
3 the family together or not?

4 A I can't recall who all was there. I do recall
5 we tried to quarantine who was there that identified
6 themselves as family members in a single room?

7 Q And was she worried about the child?

8 A I don't recall.

9 Q Okay. Do you recall anybody else being there
10 for the family?

11 A I do recall Mr. Pillon's father, a gentleman
12 that identified himself as his father, to have showed up
13 at some point in time throughout that incident. I can't
14 recall who -- what time he showed up.

15 Q Okay.

16 MR. YARBOROUGH: Thank you. I don't have
17 anything further.

18 THE COURT: Anything further?

19 MR. RICHARDSON: Nothing further from the State,
20 Your Honor.

21 THE COURT: Thank you. I appreciate it, sir.
22 You may step down.

23 Any objection to this witness being excused?

24 MR. RICHARDSON: None from the State, Your
25 Honor.

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

1 MR. YARBOROUGH: No, Your Honor.

2 THE COURT: You may be excused. Hope you have
3 great day.

4 You may call your next witness.

5 MR. RICHARDSON: Your Honor, the State would
6 call Tammy Atkins.

7 THE CLERK: Place your left hand on the Bible,
8 raise your right.

9 TAMMY ATKINS, after being duly sworn,
10 testified as follows:

11 THE CLERK: If you would have a seat, please,
12 and state your name for the record, please.

13 THE WITNESS: My name is Tammy Atkins.

14 DIRECT EXAMINATION

15 BY MR. RICHARDSON:

16 Q Ms. Atkins, where do you reside?

17 A I live 150 Polly Drive, Easley.

18 Q Okay. Is that in Pickens County?

19 A Yes, sir.

20 Q Okay. And is that where you lived back in June
21 of 2013?

22 A Yes, sir, that's correct.

23 Q Okay. Today, who lives in that house today with
24 you?

25 A Today, it'd be me, Terry Marcus, Ruth M. Atkins,

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

1 which is my mother, and then Scott Marcus and Stephanie
2 Marcus, which is my son and my daughter-in-law.

3 Q Okay. And back in June of 2013, did your mother
4 live in the house at that time, also?

5 A Yes, sir, my mother and my father.

6 Q And your father, he's deceased?

7 A He's deceased now, yes, sir.

8 Q Okay. How about your mother, what's her health
9 like?

10 A She's not in very good health. She can't walk
11 good. I have to look after her 24/7.

12 Q Now, do you have any children?

13 A Yes, Angel is my daughter and Scott Marcus is my
14 son.

15 Q And that's the Scott Marcus that's --

16 A Living in the home, yes, sir.

17 Q And you mentioned Terry Marcus, who is Terry
18 Marcus?

19 A He's my fiance. We've been living together for
20 like 23, 24 years, something like that.

21 Q Okay. And is that this gentleman sitting back
22 here?

23 A Yes, sir, it is.

24 Q Now, I asked you do you have any children. Do
25 you have any grandchildren?

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

- 1 A Yes, I think I've got a total of five.
- 2 Q Five grandchildren?
- 3 A Yes, sir.
- 4 Q Now, this house -- well, is it a house or a --
- 5 A It's a mobile home.
- 6 Q A mobile home?
- 7 A Uh-huh, doublewide.
- 8 Q Who actually owns that house?
- 9 A National Assess, that's where my mother is
- 10 making her payments to. Well, we working together to make
- 11 the payments on the place.
- 12 Q So, your mother owns the house?
- 13 A Yes, sir, she's paying on it.
- 14 Q She doesn't rent?
- 15 A No, sir.
- 16 Q Okay. Now, this house, how many bedrooms does
- 17 it have in it?
- 18 A It's got four -- well, three, actually, but it
- 19 can be four because we have a room off to the back of the
- 20 house. And they was -- the room that Angel and Matt and
- 21 the baby stayed in, it was a small room, but my father had
- 22 built it for them to move in there. And I don't know why
- 23 Matt didn't have his apartment no more and I don't
- 24 understand why they moved in to start, but --
- 25 Q Did that have anything to do with you or was

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

1 that your parents?

2 A That was my parents, nothing to do with me.

3 Q Now, let me ask you, did you and Terry, did
4 y'all have your own bedroom?

5 A Yes, sir, we do.

6 Q And what was the sleeping arrangements regarding
7 the Defendant and, also, your daughter?

8 A They slept in that bedroom my father had blocked
9 off, which was the dinning area for the kitchen table and
10 refrigerator and stuff. He took and built a wall, blocked
11 it off. And the one side that was facing towards the
12 living room, there was a solid wall there and you had to
13 go around to my kitchen part to get to their bedroom door.

14 Q Was the room built by your father specifically
15 --

16 A Yes, sir.

17 Q Specifically for your daughter and the
18 Defendant?

19 A Yes, sir. Because I understood that they lost
20 their apartment for some reason, that -- which they was
21 living in behind Chuck-E-Cheese's in Greenville.

22 Q All right. Now, let me take your memory back to
23 June of 2013. Of course, you recall your daughter having
24 a baby; is that correct?

25 A Right.

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

1 Q Did you go to the hospital?

2 A Yes, sir, I think I went one time when [REDACTED]
3 was born. That's the only time I got to go over.

4 Q All right. Now, at some point in time, did the
5 Defendant and your daughter and the baby come back to this
6 home that you lived in?

7 A Not after all this other stuff took place, no.

8 Q Did they -- I'm sorry, let me go back.

9 A Okay.

10 Q After the birth of the baby, where did they
11 reside?

12 A They resided at 150 Polly Drive, Easley.

13 Q Okay. Now, do you remember them bringing the
14 baby home?

15 A Yes, sir.

16 Q Now, what room did they use?

17 A The one that was actually closed in and built
18 for them to stay in.

19 Q Okay. Is that where the -- the child that we're
20 here today about, is that where that child also stayed?

21 A Yes, sir.

22 Q Okay. Did they have -- what did they have in
23 the room?

24 A I recall their double bed and a crib. They had
25 a TV stand and a TV.

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

1 Q Was this a very large room?

2 A No, sir, it was very small.

3 Q Now, how much time did your daughter and the
4 Defendant and the baby spend in that room after they came
5 home from the hospital?

6 A Just about 24/7, sir.

7 Q Okay. Now, were people in the home, were they
8 allowed into this room?

9 A No, sir.

10 Q Okay. Do you recall how the room was secured,
11 locked?

12 A Yes, sir. If they left the home, they would put
13 a padlock on the door. And if they was there, they would
14 hammer nails in the wall and nail the door shut.

15 Q All right. Now, how did you know that?

16 A By hearing the hammer beating on the door.

17 Q Okay. Now, when they brought this child home
18 initially, was the child fussy, crying, anything of that
19 nature?

20 A Not too bad at the time. Just, I guess, when he
21 got wet or done a dirty or whatever, he would cry some.

22 Q Like -- you've had babies before?

23 A Yes, sir, I have.

24 Q Like a normal baby?

25 A Like a normal child would, yes.

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

1 Q And were you able to see the child?

2 A Well, when they come home from the hospital, we
3 seen it maybe a total amount of five minutes and right off
4 to the bedroom it went.

5 Q So, when you talk about this crying, was the
6 baby in that bedroom at that time?

7 A Yes, sir.

8 Q And was the door opened or closed?

9 A Closed. It was always closed.

10 Q And would people go in and out of that room at
11 all?

12 A Not unless one of them come out to go to the
13 bathroom, but most of the time, they would go to the
14 bathroom together.

15 Q And where was the baby?

16 A They would take it with them.

17 Q All right. And let me take your memory now to
18 June the 6th. Do you recall the baby going to Cannon
19 Memorial Hospital?

20 A Yes, sir, it did.

21 Q Do you recall why the baby was taken to Cannon
22 Memorial?

23 A Well, they said he was having difficulty
24 breathing, so my --

25 Q Had you noticed -- I'm sorry.

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

1 A My father and my mother took them to Cannon in
2 Pickens. I think they was gone like a couple of hours.
3 Then they come back and they said the baby just had
4 asthma, I guess.

5 Q Okay. Had you noticed at this point in time any
6 increased amount of crying by the baby?

7 A Yes, sir. Later that night, I mean, it really
8 cried. Then over in the morning, it just -- it got
9 screaming bloody murder, honestly.

10 Q We'll get to that in a minute. Before when they
11 brought the child back from Cannon Memorial Hospital, was
12 it crying?

13 A Not for maybe about four hours, it did not. It
14 seemed okay. Then later that night, it started getting
15 really fussy and crying.

16 Q All right. Did you see the baby before they
17 went to bed that night?

18 A No, sir.

19 Q Okay. When they got home from Cannon, you
20 didn't see the baby?

21 A Well, I seen them go through my living room and
22 take it to the bedroom. That's the only time I got to see
23 it.

24 Q And at that point in time, did you notice any
25 injuries to the child?

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

1 A No, sir. Because it was like a quick trip going
2 through and I didn't really pay that much attention.

3 Q Did you notice any blood on the child at that
4 time?

5 A No, sir.

6 Q Now, do you recall what time -- after they
7 brought the baby back from Cannon Memorial what time they
8 went into the room with the baby?

9 A I'm not sure about the time. I know it was like
10 five minutes after they had come through the front door,
11 they went straight to the bedroom. I don't want to say
12 for certain on the time because I'm not sure.

13 Q Okay. Do you recall was it light or dark
14 outside?

15 A I'm wanting to say it was just like dusky dark.

16 Q Okay. Now, once they came home and went back to
17 the bedroom, what did you -- did you do anything else that
18 night, watch TV, what did you do?

19 A I sat and watched TV.

20 Q At some point in time, did you go to bed?

21 A Yes, sir. I think I went to bed around 10:00
22 that night.

23 Q Okay. And where was Terry Marcus at that time?

24 A He was already in the bed. He's on medication
25 for his anxiety, depression and all of that. And that

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

1 medicine really makes him sleep and he is hard to get
2 awake.

3 Q Okay. Was he asleep when you went into the
4 bedroom?

5 A Yes, sir. I think he laid down around
6 9:00 o'clock that night.

7 Q All right. Now, at some point in time, did
8 you -- did anything unusual happen that night?

9 A Yeah, like screaming and crying, hollering
10 and --

11 Q Okay. Let me ask you this, at some point in
12 time, did you have an occasion to go to the door of the
13 Defendant, bedroom door of the Defendant?

14 A Yes, sir, I did.

15 Q Okay. What made you do that?

16 A Because [] was crying. He wouldn't quit
17 crying. So, I went around to the bedroom door and I asked
18 are there anything I can do to help, you know.

19 Q Do you know about what time this was?

20 A No, sir. It was probably about 10:30, something
21 to 11:00.

22 Q Okay. Now, you said what when you got to the
23 door.

24 A Are there anything I can do to help, to see if
25 there's anything I could do to help make him quit crying

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

1 or whatever.

2 Q And was the door opened or closed?

3 A It was closed.

4 Q All right. And at that point in time, what, if
5 anything, did the Defendant say?

6 A Well, he said he didn't need any help right
7 then. So, I just went on back and sat down and watched my
8 TV in my bedroom because we do have a television in there.
9 Then the baby just kept getting worser and worser.

10 So, I'm a mother myself and, you know, I
11 get back up, go back to the door. I guess I just made
12 Matt mad, but, you know, I just felt for the baby crying
13 and wanted to try to help him with it. And he finally
14 just told me go on and let me raise my child the way I
15 want to raise it after it done screamed and screamed and
16 screamed and screamed. I beat all the way down that one
17 solid wall trying to get him to let me help. And Angel
18 tried to say something, but I couldn't understand what she
19 said. And she shut up and didn't say no more.

20 Q Well, let me ask you this, what, if anything,
21 did you hear the Defendant say to the baby?

22 A You need to quit your d-a-m crying and shut your
23 mouth. I mean, it was horrible.

24 Q When you say it was horrible, describe it to the
25 jury. Tell the jury --

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

1 A It was awful. He said, You need to shut your
2 damn mouth. You don't need to be damn crying all the
3 time. Calling it a little bastard, all kind of stuff.

4 Q What was the level of his voice when he was
5 doing that?

6 A Like a high pitch hollering.

7 Q And what, if anything, was he saying to the baby
8 about shutting up?

9 A Told it to shut the F up.

10 Q Did you hear him just say that one time or how
11 many times?

12 A Multiple times.

13 Q At this point, what did you do?

14 A Well, I got so frustrated, I went back into my
15 bedroom, which was just right there -- my room -- their
16 room was here and mine was just right here. But like I
17 said, you went through my kitchen to the door, but I was
18 beating on that wall. And so, I just got frustrated, went
19 back to my bedroom, tried to get Mr. Marcus up. And he
20 was just so messed up on his medicine because it causes
21 him to sleep, I couldn't get him awake. Then I just laid
22 on my bed and I remember asking God please just look after
23 this little baby because I just can't get it no help right
24 now.

25 Q And did you -- were you trying to help the baby

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

1 at some point in time?

2 A Yes, I was trying to get it out of there so I
3 could see.

4 Q What was the Defendant's response to you when
5 you were trying to help him out?

6 A He said, No, I'll raise my damn child the way I
7 want to raise it and I don't need your help, but thank you
8 for your help anyway.

9 Q Okay. Now, did the baby cry again that night
10 that you heard?

11 A Yes, that's all it done the whole night, just
12 scream. I mean, literally, a high pitch scream to the
13 bottom of its lungs. That's why I kept getting up
14 multiple times going to the door, going to the wall,
15 begging him to please bring the child out to see if I
16 could help.

17 Q At some point in time, did you actually get to
18 see the child?

19 A Not until the next morning. I think --

20 Q Let's talk about next morning.

21 A Okay.

22 Q What did you see the next morning?

23 A When my daughter come out, she sat in the
24 rocking chair in the living room. I said, That baby is
25 real bad, it needs to go to the hospital.

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

1 We was going to put it in our vehicle and
2 take it ourself, but she handed it to Mr. Marcus and it
3 was not responsive, so he put it right back in Angel's
4 arms.

5 And I said, Well, look, you need to get 911
6 because this baby ain't going to last much longer.

7 And Matt told me I was not calling no 911
8 out to the house. That was his child and he was not
9 letting them come out.

10 Well, I finally done it any way. I finally
11 got 911 out.

12 Q Okay. Now, during that period of time when the
13 baby was out in the living room, where was the Defendant?

14 A He went and locked himself back into the bedroom
15 and nailed the door shut.

16 Q Okay. And at some point in time, did he come
17 out of the room?

18 A Yes, sir, I do believe when the paramedics --
19 when we said the paramedics was there, Angel walked out
20 with the baby onto the front porch and he was out there
21 with her then. And Angel handed the baby over to the
22 lady. And she didn't really give no details or nothing
23 then.

24 Q Now, you recall EMS coming to the house?

25 A Yes, sir.

TAMMY ATKINS-DIRECT BY MR. RICHARDSON

1 Q Okay. And they took the baby to the hospital?

2 A Yes, sir.

3 Q Okay. Did you go to the hospital?

4 A Yes, sir, I did. I packed -- if I remember
5 correctly, I'm not sure, but I think the police asked us
6 if we would bring Matt over to be with Angel because of
7 the -- you know, the baby and stuff. So, that's what we
8 did.

9 Q Okay. So, did Matt ride with you and Terry to
10 the hospital?

11 A Yes, sir.

12 Q Did he make any -- did he say anything about
13 what happened to you?

14 A Not really until -- I think we got part of the
15 way to Greenville, then he said, Well, he had to do CPR on
16 the baby. And we asked why. And he said the baby had
17 fell off of their bed is what he told us.

18 Q Did you ask him if he told anybody, called
19 anybody after doing, allegedly, CPR?

20 A No, sir, he did not call nobody.

21 Q And back in June of 2013, were you working?

22 A No, sir.

23 Q Okay. Were you home during the day?

24 A Yes, sir.

25 Q When you were home during the day, where was the

TAMMY ATKINS-CROSS BY MR. YARBOROUGH

1 Defendant and your daughter and the baby? Where did they
2 stay?

3 A They always stayed in their bedroom.

4 Q Okay.

5 MR. RICHARDSON: Beg the Court's indulgence.

6 THE COURT: Yes, sir.

7 BY MR. RICHARDSON:

8 Q And while you were working -- or excuse me, you
9 weren't working?

10 A No, sir, I was not working.

11 Q Where was Terry Marcus?

12 A He was working at the time. He was working with
13 my uncle, Gary McCall, which lives in Cateechee.

14 Q And at one point in time -- so we're clear, at
15 one point in time, you referred to [REDACTED] crying. The
16 little baby's name is [REDACTED], also; is that correct?

17 A Correct.

18 Q And he's got the same name as the Defendant; is
19 that correct?

20 A Yes, sir.

21 MR. RICHARDSON: That's all the questions I
22 have. Please answer any questions Mr. Yarborough
23 has.

24 THE COURT: Cross.

25 CROSS-EXAMINATION

TAMMY ATKINS-CROSS BY MR. YARBOROUGH

1 BY MR. YARBOROUGH:

2 Q You're Angel's mother?

3 A Correct.

4 Q So, you were talking to her that night about the
5 baby, the night you've been testifying to in here?

6 A Yes.

7 Q And you said she kept yelling something. I
8 didn't hear --

9 A She tried to say something when I went to the
10 door when the baby was crying, but Matt told her to hush
11 her mouth. She didn't say nothing else no more. So, she
12 just kept quiet while the baby screamed and hollered the
13 whole night.

14 Q But they had taken the baby the day before to
15 the hospital, right?

16 A Correct, yes, sir.

17 Q And they had taken it two days before that to
18 the hospital?

19 A Yes, sir, there was multiple times they did take
20 that child to the hospital.

21 Q Okay. And then they were taking him to the
22 hospital for what you're talking about right now?

23 A Yes.

24 Q Okay. And they just -- they just came to stay
25 with you for a little while? Was it -- how long had Matt

TAMMY ATKINS-CROSS BY MR. YARBOROUGH

1 been in the house with you?

2 A Well, when they found out Angel was pregnant --
3 they did live behind Chuck-E-Cheese's in Greenville. I
4 don't understand what happened to that place. So, my
5 father told Angel and Matt that they could come there and
6 live. So, like I said, he fixed them a bedroom on -- from
7 the dining room area and they stayed there until the baby
8 was born. Then after the baby was born, they come back
9 there and stayed, too.

10 Q You said they found out Angel was pregnant.
11 Matt's not the father of this child, right?

12 A My understanding, no, sir, he's not.

13 Q Okay. So, he began dating her after she was
14 pregnant?

15 A Well, they was together -- I'm really not sure
16 on that case. I'm not sure, but I know they was together
17 for while. I'm not even sure how they really met,
18 honestly.

19 Q But you know that Matt's not the dad; is that
20 correct?

21 A Yes, sir, that's what I have been told.

22 Q Okay. And let's see, you know that the baby was
23 born on, I think it's May 28th; is that correct?

24 A Correct.

25 Q Okay. And Angel was released from the hospital

TAMMY ATKINS-CROSS BY MR. YARBOROUGH

1 on May 31st?

2 A Yes.

3 Q Okay. And they came home to your house on that
4 day?

5 A Yes, sir.

6 Q Okay. And three or four times between the 31st
7 and the 7th, they took the child to the hospital?

8 A Yes.

9 Q Okay. And did you go or did you just know that
10 --

11 A No, sir. I just know that they told me that's
12 where they was going. I did not go. Angel, Matt, my mom
13 and my dad went every time.

14 Q Okay. And your mom and your dad were living at
15 the house at that time?

16 A Correct.

17 Q All right. There were several cats and dogs
18 living at the house?

19 A Yes, we have cats and dogs, but there wasn't
20 supposed to be a cat in the house. We had a couple of
21 dogs in, chihuahuas.

22 Q Dogs in the house?

23 A Yes, little chihuahuas.

24 Q Okay. Were you -- did you see the type of
25 equipment that Angel had to try to get the gas out of the

TAMMY ATKINS-CROSS BY MR. YARBOROUGH

1 child's throat?

2 A No, sir, I never did see none of that.

3 Q Did you see the bottles she had to feed the
4 baby?

5 A Yes, sir, I seen the baby bottles, yes.

6 Q So, they were -- and Matt would fix the baby
7 bottles in the kitchen?

8 A Correct. Correct.

9 Q And he'd make sure the baby was fed?

10 A Yes, sir, he did fix bottles.

11 Q Okay. And the night that you heard all the
12 noise, you were told that Matt performed CPR on the baby,
13 correct?

14 A Correct.

15 Q And that's consistent with what you heard that
16 night?

17 A Yes.

18 MR. YARBOROUGH: Just a second, Your Honor.

19 THE COURT: Yes, sir.

20 BY MR. YARBOROUGH:

21 Q Now, did you -- you said there was a lot of
22 noise going on, did you call 911?

23 A No, sir, I did not have a phone at the time.

24 Q Okay. Did you ask to borrow somebody's phone?

25 A Yeah. That's the reason I was trying to get

TAMMY ATKINS-CROSS BY MR. YARBOROUGH

1 them to open the door, so I could borrow their phone.

2 Q And you said that you called somebody about
3 8:00 o'clock in the morning.

4 A No, the next morning when Angel was sitting in
5 the rocking chair is when I decided to call 911 because
6 Matt said 911 didn't come. Like I said, we was going to
7 take the baby in the car --

8 Q But the car wasn't there?

9 A The car was there, but the baby was in such bad
10 condition, you didn't want to put him in your vehicle.

11 Q Okay. So, the baby was in bad condition, so
12 y'all called 911 and got them?

13 A Correct.

14 Q And Angel -- how old is Angel?

15 A I think she's like 24.

16 Q You're her mother, right?

17 A Correct.

18 Q She's got -- how old are her other kids?

19 A I think [] is going to be 10 now, [] is
20 probably six. And I'm not sure about the other ones.

21 Q There's other ones?

22 A Yeah, there's five total.

23 Q When did she stop living at the house?

24 A I think after the incident. They left then
25 after all that. In fact, they went to Matt's dad's and

TAMMY ATKINS-REDIRECT BY MR. RICHARDSON

1 stayed. I'm not sure really where they went, but they
2 went somewhere and stayed other than the house.

3 Q When was the last time you saw her?

4 A Well, about three weeks ago, I saw her and I
5 told her that the police was looking for her, needed to
6 talk to her, plus her attorney needed to talk to her. And
7 then she just took off from my house, she left.

8 Q You haven't seen her since?

9 A No, sir. She won't even talk to me now. I
10 texted her. We tried calling her multiple times. There
11 was no response.

12 Q Okay.

13 MR. YARBOROUGH: I don't have anything further.
14 Thank you, Your Honor.

15 THE COURT: Redirect?

16 MR. RICHARDSON: Your Honor, just briefly.

17 THE COURT: Yes, sir.

18 REDIRECT EXAMINATION

19 BY MR. RICHARDSON:

20 Q Ma'am, you mentioned dogs, were dogs allowed in
21 the Defendant's room?

22 A No, sir.

23 Q Did the door stay opened or closed throughout
24 this --

25 A That door stay closed all the time.

TAMMY ATKINS-REDIRECT BY MR. RICHARDSON

1 Q And you said that Angel and the Defendant after
2 it was over left your house?

3 A Yes, sir, after that happened to _____,
4 they went and stayed somewhere else. They did not come
5 back to the house.

6 Q Okay. So, those two stayed together after all
7 this?

8 A Yes, sir. Well, actually, she -- let me
9 rephrase that. Because when we left the hospital that
10 day -- the baby went to the hospital when we called 911.
11 She come home from the hospital with me. And then I
12 gathered that she talked to Matt and she snuck out the
13 window in the middle of the night.

14 MR. YARBOROUGH: Objection. Objection.

15 THE COURT: Okay, what's the objection? What's
16 the objection?

17 MR. YARBOROUGH: Hearsay. I think she was
18 saying something about talking to Matt.

19 THE COURT: I don't think she said what he said.
20 She just said she talked to Matt. I don't think
21 that, in and of itself, is hearsay. What he may have
22 said would be hearsay, but I don't think she
23 articulated what he said. Having said that, I'd
24 overrule, but I caution you against hearsay.

25 MR. RICHARDSON: Okay.

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 BY MR. RICHARDSON:

2 Q Don't tell me what somebody else said, okay?

3 A Okay.

4 MR. RICHARDSON: That's all the questions I
5 have. Thank you.

6 THE COURT: Any recross, Mr. Yarborough?

7 MR. YARBOROUGH: No, sir. Thank you, Your
8 Honor.

9 THE COURT: All right, thank you, ma'am. I
10 appreciate you being here. You may step down.

11 You may call your next witness.

12 Any of y'all need to take a break before we go
13 to the next witness? Everybody good? Okay.

14 MR. RICHARDSON: Your Honor, the State calls
15 J.B. Kelley to the stand.

16 THE CLERK: Please place your left hand on the
17 Bible, raise your right.

18 J.B. KELLEY, after being duly sworn,
19 testified as follows:

20 THE CLERK: Thank you, please be seated. State
21 your name for the record.

22 THE WITNESS: J.B. Kelley.

23 THE CLERK: Thank you.

24 DIRECT EXAMINATION

25 BY MR. RICHARDSON:

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 Q Officer Kelley, where are you employed?

2 A Pickens County Sheriff's Office.

3 Q And how long have you been employed with Pickens
4 County Sheriff's Office?

5 A This August will be 38 years.

6 Q Okay, sir. How long -- or excuse me, in what
7 capacity are you employed with Pickens County Sheriff's
8 Office?

9 A I'm an investigator in the special victim's
10 unit.

11 Q Okay. And, sir, back in June of 2013, were
12 you -- June 7th, 2013, were you working?

13 A I was.

14 Q Okay. Did you have an occasion to be dispatched
15 to the Greenville Hospital System?

16 A I did.

17 Q And what was that in reference to?

18 A In reference to they had a small 10-day-old
19 child that had been admitted to the hospital pediatric ER
20 with possible injuries that could be fatal.

21 Q Okay, sir. Did you actually go that day to the
22 Greenville Hospital System?

23 A I did.

24 Q What did you do when you arrived?

25 A Upon arrival -- I had already been notified as

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 far as the identity of the child. Upon arrival, I spoke
2 with Mr. Pillon, Matthew Pillon, Sr., who introduced
3 himself to me as being the father of the child.

4 Q Okay, sir. At some point -- well, let me ask
5 you this, did you ever observe the baby we're hear about
6 today?

7 A I did.

8 Q Did you do that before or after dealing with
9 Mr. --

10 A Prior to speaking with Mr. Pillon.

11 Q Okay. What did you -- where did you observe the
12 baby?

13 A In the pediatric unit.

14 Q What did you observe about the baby?

15 A The baby had numerous scratches, marks, bruises,
16 cheeks, over the portions of his body, also, the bottom of
17 his feet.

18 Q Okay. Now, did you at some occasion -- at one
19 point, did you have Pickens County Sheriff's Office ID
20 unit respond?

21 A At my request, yes, sir, they responded.

22 Q Okay. Can you just briefly tell the jury what
23 the ID unit does? What's their purpose?

24 A The ID unit is our forensics unit that takes
25 photographs and collects evidence that we may have when

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 we're doing an investigation. They collect all the
2 evidence and maintain the evidence for examination and/or
3 court purposes until we have to come to trial.

4 Q Okay, sir. Now, did -- in fact, were photos
5 taken by Pickens County Sheriff's Office ID unit?

6 A ID unit, Brian Gibson, yes, sir, at my request,
7 responded and took photographs.

8 Q Were you present during those photographs?

9 A Yes, I was.

10 Q Let me hand you what's been marked State's
11 Exhibit 1, 2, 3, 4, 5 and 6. Can you take look at those
12 photographs, please, sir?

13 A (The witness complies.) These are the
14 photographs that were taken by Officer Gibson at my
15 request of Baby [REDACTED].

16 Q And they're an accurate depiction of what you
17 saw on that baby that day?

18 A That's correct. That's exactly what I viewed
19 the day the photographs were taken, yes.

20 Q Have those photographs been altered in any way
21 or been tampered with in any way?

22 A Not to my knowledge.

23 MR. RICHARDSON: Your Honor, at this time, the
24 State would offer Exhibits 1 through 6 into evidence.

25 THE COURT: Objection, sir?

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 MR. YARBOROUGH: No, Your Honor.

2 THE COURT: All right. Without objection the
3 same are admitted.

4 (WHEREUPON, State's Exhibits Nos. 1-6 were
5 marked for identification and received into
6 evidence.)

7 BY MR. RICHARDSON:

8 Q Okay, sir, I'm going to refer you to what's been
9 marked now into evidence State's Exhibit 1. You have a
10 laser pointer up there. Can you show the jury what is
11 depicted in this photograph?

12 A This particular area here is Baby [REDACTED]
13 [REDACTED]'s skull, the middle of his head. You can see
14 severe bruising and markings there.

15 Q Okay, sir. I'm now referring to State's Exhibit
16 No. 2. Sir, can you show what the picture is depicting on
17 this?

18 A Yes, there's numerous, as far as bruising to the
19 baby's torso, also, marks here where skin has been dug out
20 here and here, also, bruising to here.

21 Q Okay, sir. Now, referring to State's Exhibit
22 No. 3. Can you point out what this picture is depicting?

23 A There again, there's injuries -- facial injuries
24 to the child as well as bruising to the cheeks and chin
25 area.

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 Q Okay. State's Exhibit No. 4, what is this
2 showing?

3 A This is the inside of Baby []'s mouth. And
4 it shows -- as far as my investigation revealed and
5 talking to medical authorities, there was also as if a hot
6 bottle or nipple or something had been entered into the
7 baby's mouth, also, an injury to the upper gum, lip area
8 of the child, which may have resulted from being hit with
9 something.

10 Q Okay, sir. State's Exhibit 5.

11 A Again, this is marks on the baby's arm that you
12 can see, bruising, severe bruising.

13 Q Did you witness that bruising on --

14 A I did.

15 Q And what's the purpose of the measurement down
16 below?

17 A Our ID uses this type of ruler to measure as far
18 as the size of the bruising area or whatever the pictures
19 they may need when they're investigating, photographing to
20 get something to coordinate it with, gives you some
21 depiction of the size of the injuries.

22 Q Okay, sir. And State's Exhibit 6?

23 A There again is the bruising on the arm, the
24 circular bruising as far as, also, that area there has
25 been bruised real bad.

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 Q Okay, sir. Now, after observing the child, what
2 did you do?

3 A After conferring with medical authorities as far
4 as the injuries were non-accidental, then I went to speak
5 with the parents of the child.

6 Q Okay. Did you interview just the parents or did
7 you make a -- any other interviews while you were at the
8 hospital?

9 A I interviewed the EMS personnel that had brought
10 the child to the hospital, obtained statements. Also, I
11 interviewed Ms. Atkins's mother, as well as I think her
12 fiance, as well as Angel Atkins, and as well as Matthew
13 Pillon, Sr.

14 Q Okay, sir. Did you also have an occasion to
15 speak with doctors and nurses?

16 A Variety of them, yes, sir, I did. I talked to
17 them post-interviewing and after.

18 Q When you say post-interviewing, are you
19 referring to interviewing the Defendant?

20 A No, of seeing the child.

21 Q I see. Okay, sir. Now, I want to talk to you
22 about your interview of the Defendant. At some point in
23 time, did you feel in your investigation that you needed
24 to question the Defendant?

25 A That's correct, I did.

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 Q Okay. Where did you do that?

2 A In the Greenville Memorial Hospital down in the
3 area where they were waiting outside, what I call the
4 waiting area. There's also an office that the Greenville
5 City -- I mean, the Greenville Hospital police use. So, I
6 interviewed him there in that location.

7 Q You describe it as an office, is it -- I mean,
8 it is a jail cell, does it have bars or anything of that
9 nature?

10 A No, sir. To be a -- just an office space. It
11 has a desk and basic utilities that a normal office would
12 have.

13 Q Okay. Now, prior to you speaking with the
14 Defendant, did you give him any rights?

15 A I did.

16 Q And in doing so, did you -- do you do that from
17 a form or how do you do it initially?

18 A Yes, we have what's called a Waiver of Rights, a
19 Miranda Waiver of Rights form that we present when we're
20 investigating a case. When we start interviewing
21 individuals and we present their rights to them, I read
22 them to them.

23 Q Now, is this a form that's generated by Pickens
24 County Sheriff's Office?

25 A That's correct.

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 Q Okay. Let me hand you what's been marked
2 State's Exhibit No. 15. I just want you to take a look at
3 that.

4 A This is Pickens County Sheriff's Office Waiver
5 of Rights form, standard form that we use.

6 Q Okay. And is that the form that was used in
7 this particular case?

8 A That's correct..

9 Q Okay. And there's some writing on there, whose
10 writing is that?

11 A Some of the writing is mine as far as the date
12 and the time. I put -- at the top, I put the date, which
13 was June the 7th, 2013. And I put the time I began the
14 Waiver of Rights was 11:34 a.m.

15 Q Okay.

16 MR. RICHARDSON: All right. Your Honor, at this
17 time, we would offer State's Exhibit 15 into
18 evidence.

19 THE COURT: Objection, sir?

20 MR. YARBOROUGH: No objection.

21 THE COURT: All right. Without objection, the
22 same is admitted.

23 (WHEREUPON, State's Exhibit No. 15 was marked
24 for identification and received into evidence.)

25

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 BY MR. RICHARDSON:

2 Q Okay, sir, I'm going to hand these back to you.

3 All right. Now, if you would, if you will read to the
4 jury the rights that you gave the Defendant.

5 A Before we ask you any questions, you must
6 understand your rights. You have the right to remain
7 silent. Anything you say can be used against you in
8 court. You have the right to talk to a lawyer for advice
9 before we ask you any questions, to have him or her with
10 you during questioning. If you have no lawyer to pay --
11 if you have no money to pay a lawyer's fee, the Court will
12 appoint one to represent you without cost if you wish. If
13 you decide to answer questions without a lawyer present,
14 you still have the right to stop answering at any time.
15 You also have the right to stop answering at any time
16 until you talk to a lawyer.

17 Q Okay. Now, those rights, you said you actually
18 read that to the Defendant?

19 A That's correct, I did.

20 Q Okay. At some point in time, do you also have
21 the Defendant read those rights?

22 A I did.

23 Q Okay. How do you know from that form that the
24 Defendant read those rights?

25 A Well, I hand the form to the individual, in this

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 case, Mr. Pillon, Sr., and I instructed him that if he
2 would read each right that I read to him to make sure what
3 I told him was accurate and on the form. And then after
4 he read each right, would he please place his initials on
5 the line to the left of the right to indicate that he
6 understood what I had said to him and read to him.

7 Q Did he, in fact, do that?

8 A He did. He placed his initials, M.P., out to
9 the left of each right as he read them.

10 Q And did you -- did he do so voluntarily and of
11 his own free will?

12 A He did.

13 Q Did you force or coerce him in any way to
14 initial those rights?

15 A I did not.

16 Q Did you make any promises or threat towards him
17 to get him to initial those rights?

18 A I did not.

19 Q Okay. Now, once the rights are read, what
20 happens then?

21 A After that, then I read him the Waiver of
22 Rights, which is on the bottom of the form. It says, I've
23 read the statement of my rights. I understand what my
24 rights are. I'm willing to make a statement and answer
25 questions. I do not want a lawyer at this time. I

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 understand and know what I'm doing. No promises or
2 threats have been made to me. No pressure or coercion of
3 any kind has been used against me.

4 I asked Mr. Pillon to please read over
5 that, make sure he understood it, which he indicated he
6 did. Then I requested he sign that he did understand
7 that, which he affixed his signature to the Waiver of
8 Rights.

9 Q All right. Then, you may have testified to
10 this, but in addition to him reading it, did you read it
11 to him?

12 A Yes, I did.

13 Q Okay. Did you force or coerce him in any way to
14 sign the waiver of his rights?

15 A I did not.

16 Q Did you promise him anything, make any threats
17 against him?

18 A I did not.

19 Q Did he sign the Waiver of Rights voluntarily and
20 of his own free will?

21 A He did.

22 Q And subsequent to him -- so did he, in fact,
23 waive his rights?

24 A He waived his rights freely and voluntarily,
25 yes, sir.

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 Q Subsequent to him waiving his rights, did you
2 speak with him?

3 A Yes, I did.

4 Q Okay. In fact, did you -- were you asking him
5 questions?

6 A Yes, I did.

7 Q Okay. Now, did he answer your questions?

8 A He did.

9 Q Okay. Did he make any statements about who was
10 responsible for the welfare of that child?

11 A Basically, he indicated to me that he took the
12 responsibility of taking care of the child. Mainly, that
13 he was the one that took care of the child more so than
14 the mother to the child did because of her medical
15 condition as far as having a C-Section.

16 Q Okay. Did he indicate who at night got up with
17 the baby?

18 A He said that he did.

19 Q Okay. Did he ever indicate where the baby
20 slept?

21 A He said that he laid it down in the crib as far
22 as on its side the night of the incident. But he gave me
23 a written statement -- well, he gave me a statement and
24 asked me to write it as to his actions before and after
25 he -- the baby was taken to the hospital.

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 Q So, we're clear, he gave you an oral statement
2 and then eventually a written statement?

3 A He asked me to write his statement, yes.
4 Everything that was put in writing in his statement is
5 what he had told me orally.

6 Q Okay. Now, did he make any mention of him
7 giving CPR or anything of that nature?

8 A Not at the time that we talked. Originally, he
9 didn't, but he did say that he had given the baby CPR
10 during the night.

11 Q Okay. What, if anything, did he tell you about
12 what happened with the baby that night as far as the CPR
13 is concerned?

14 A Basically -- if I may read his statement?

15 Q Well, I'll get to that in a minute. Did he tell
16 you orally before the statement was written? Or was this
17 going on at the same time?

18 A It was -- not at the time he gave the written
19 statement.

20 Q Okay. So, before he gave the written statement,
21 what did he say to you about giving CPR to the baby?

22 A If you'll let me refer to my notes just one
23 moment.

24 Q Sure.

25 A He was talking about as far as he had gotten up

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 two or three different times during the night with the
2 baby -- three or four times during the night with the baby
3 prior to taking him to the hospital. On one occasion --

4 Q Are you referring to his written statement? Was
5 his written statement and his oral statement at the same
6 time?

7 A No. We went back over what he had told me
8 orally when he asked me to write down. So, I asked him to
9 repeat what he wanted me to write.

10 Q Okay. Well, let me hand you what's been marked
11 as State's Exhibit 16. What is that?

12 A This is the statement that he had given as far
13 as that I had wrote for him that he gave me to write.

14 Q Okay.

15 MR. RICHARDSON: Your Honor, at this time, we
16 would offer State's Exhibit 16 into evidence.

17 MR. YARBOROUGH: Without objection.

18 THE COURT: All right. Without objection, the
19 same is admitted.

20 (WHEREUPON, State's Exhibit No. 16 was marked
21 for identification and received into evidence.)

22 BY MR. RICHARDSON:

23 Q Okay, Officer, is that the statement that he
24 gave?

25 A Yes, sir. This is his oral statement that he

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 asked me to write, yes, sir.

2 Q Okay. Tell the jury or read to the jury the
3 statement that he gave.

4 A The statement was taken June the 7th, 2013, at
5 Greenville Memorial Hospital at 11:36 a.m. It's a
6 statement of Matthew Steven Pillon, DOB is August 19th,
7 1991. He was born in Santa Ana, California. He indicated
8 he lived at 150 Polly Drive in Easley.

9 And he gave me the statement as follows:
10 That Thursday afternoon, my son was having a hard time
11 breathing, so we took him to Easley Hospital. The doctor
12 evaluated him and asked where the bruises came from. We
13 told him we didn't know. They were there when we woke up
14 the next morning. Every time I get up at night, I make
15 sure that she's up with me and every mark I see when I get
16 him, I tell her. This morning about three or four times,
17 there was two cats in the room. I saw him when he jumped
18 on the bed with the baby, then I threw him out. I woke up
19 to my wife saying he is going to the hospital because we
20 can't -- he can't breathe. So, we followed the ambulance
21 to the hospital.

22 Q Okay. Now, outside of that statement, did he
23 ever give you any information regarding why -- how the
24 baby was crying or why the baby was crying?

25 A No, sir, he did not. He explained he didn't

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 know.

2 Q And did he ever talk about Tammy to you, Atkins?

3 A Not to my recollection.

4 Q Did he ever say anything to you about Tammy
5 Atkins or Marcus, Terry Marcus?

6 A I know that he had told me about them being
7 Angel's mother and father.

8 Q Okay.

9 A But, specifically, you have to -- so much -- as
10 far as the investigation, so many different times I talked
11 to so many different people, if you can be more specific.

12 Q All right. Well, after your investigation at
13 the hospital, did you follow up with another police
14 officer at the house?

15 A Yes. Well, I talked with Captain Marvin Nix,
16 who came to the hospital, who was an officer -- an
17 investigator that had responded to the house at my
18 request.

19 Q Okay. And so, that was at your request that
20 Officer Nix got involved?

21 A Yes.

22 Q Now, after you obtained all the information, did
23 you seek arrest warrants for anybody?

24 A Yes, I did.

25 Q Who?

J.B. KELLEY-DIRECT BY MR. RICHARDSON

1 A For Matthew Pillion, Sr. and Angel Atkins.

2 MR. RICHARDSON: Beg the Court's indulgence.

3 THE COURT: Yes, sir.

4 BY MR. RICHARDSON:

5 Q Did the Defendant ever say anything to you about
6 the baby scratching himself?

7 A Said that he had scratched his face with his
8 fingernails.

9 Q Okay. And that's the way the injuries took
10 place?

11 A That was his explanation what -- that he had
12 indicated he had been told.

13 Q That was his explanation for those injuries?

14 A Yes, sir, but the medical staff told me that
15 didn't --

16 MR. YARBOROUGH: Objection to hearsay.

17 THE COURT: Sustained.

18 BY MR. RICHARDSON:

19 Q I'm just asking, is that his explanation for the
20 injuries caused to this baby?

21 A That's correct.

22 Q And did he give you an explanation for the
23 bruising on the face?

24 A He had explained that when the doctor -- when
25 the baby was taken to the pediatric doctor the day before,

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 that they must have caused the bruising by holding the
2 baby down. Because when he was asked that by the medical
3 staff at Easley, that was his explanation to them, also,
4 that they thought that the doctor that examined the baby
5 previously had held the baby down and caused the bruising.

6 Q And that would be the pediatrician? His
7 explanation for those bruises, the pediatrician did it?

8 A That's correct.

9 Q All right. Did he give you any other
10 explanation?

11 A No, sir.

12 MR. RICHARDSON: That's all the question I have.
13 Please answer any question that Mr. Yarborough has
14 for you.

15 THE COURT: Cross.

16 CROSS-EXAMINATION

17 BY MR. YARBOROUGH:

18 Q He gave you a -- he sat down and talked to you?

19 A That's correct.

20 Q And he told you -- you read him his rights and
21 he answered your questions?

22 A That's correct, yes, sir.

23 Q And he gave you a detailed statement, which you
24 took notes on?

25 A He gave me this explanation that I gave and

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 also -- yes, sir, as far as -- if you're referring to this
2 statement, I can't put anything in there that he didn't
3 want me to write.

4 Q Right, but he talked to you before he gave you
5 this written statement?

6 A Yes, sir. And, basically, what he said, the
7 written statement was what he talked about before?

8 Q Well, there was some other stuff in there, too.
9 I mean, he talked to you about taking the baby to the
10 hospital?

11 A That's correct.

12 Q And he talked about taking the baby to the -- to
13 the pediatric person?

14 A That's correct.

15 Q And you've got notes for that?

16 A I've got my written report that I did based on
17 my --

18 Q And so based on that, you know of four places
19 that they took the baby to before the hospital that last
20 night; is that correct?

21 A There's three, I believe.

22 Q Those three are?

23 A They took it to the pediatrician, I believe.
24 They took it to Cannon Memorial ER and then when they took
25 the baby to Easley Baptist.

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 Q Okay. Then they took it to the emergency room
2 at GHS?

3 A That is correct.

4 Q So, that was four places they took the baby in
5 four days, five days?

6 A I can read you from my report, but --

7 Q How about let's do this, when was the baby
8 released from the hospital?

9 A I would have to review the medical records as
10 far as the exact date. Are you talking about after the
11 baby was born?

12 Q After the baby was born.

13 A Got the -- my medical records began 06/07/2013
14 when the baby was admitted to the hospital.

15 Q Okay. Do you know that the baby was born on May
16 28th?

17 A That's correct, yes.

18 Q And the baby and mother were released on
19 May 31st?

20 A I heard that testimony earlier, yes, sir.

21 Q Okay. And that -- so four times between the
22 first and the seventh, the baby was taken to the hospital;
23 is that correct?

24 A Repeat that.

25 Q Four times between June 1st and June the 7th,

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 the baby was either taken to the hospital, the pediatric
2 ward or the emergency room, and what was the fourth one
3 you said?

4 A That would have been when it was taken to
5 Greenville Hospital.

6 Q Okay. So, four times it was taken to the
7 hospital in seven days?

8 A That would be correct.

9 Q Okay. And when -- the baby had scratches on it
10 at two of those other locations, is that correct, based on
11 your investigation?

12 A The last two, yes.

13 Q The last two. And did you talk to the mother
14 about those scratches?

15 A I did.

16 Q Did you talk to the mother about what was going
17 on with the breathing and the tubes down the throat and
18 nose?

19 A Yes.

20 Q Okay. And what is that -- what's that
21 medical -- I just don't know the medical piece's name, but
22 what's that tube called?

23 A Well, you're referring to two different things.
24 There is the suction mechanism they used, the rubber
25 suction mechanism that was used on the child my

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 investigation revealed. Also, there was the fact that a
2 syringe was used on the child.

3 Q Those were stuck down the throat and down the
4 nose?

5 A They were used. As far as who put them down
6 there, medical investigation -- my investigation revealed
7 that they did not cause the injuries to the larynx
8 according to the medical authorities. That couldn't have
9 been what was used.

10 Q All right. Who did you interview that said
11 that?

12 A Again, if you'll let me refer to my --

13 Q Sure.

14 A I spoke with a Dr. Darrell Gwyn, Dr. Nancy
15 Henderson, Dr. John Wilson, Jr., and R.N., Kayla Reed.

16 Q And all of those people work where?

17 A At Greenville Memorial Hospital.

18 Q And they saw the baby on June the 7th?

19 A That's correct.

20 Q Did you interview anybody that saw the baby
21 before June the 7th?

22 A Yes, Dr. Caldwell at Cannon Memorial ER.

23 Q At that point, there were scratches and bruises
24 on the child as well, right?

25 A I believe my report indicates that the --

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 Dr. Caldwell -- give me one moment.

2 Beg the Court's indulgence. I've got to
3 find where I talked to Dr. Caldwell in my notes.

4 MR. RICHARDSON: Well, Your Honor, I'm going to
5 object to it being hearsay anyway.

6 THE COURT: All right. Let him find it.

7 THE WITNESS: My notes say that I attempted to
8 contact Dr. Caldwell and the medical staff that seen
9 the baby the night it was taken to Cannon ER. I was
10 told he would not return to work until 6/10. On
11 6/10/13, I met with Dr. Caldwell at 8:30 -- between
12 8:30 and 9:00 and showed him the pictures that was
13 taken of [REDACTED] so he could tell
14 me if the scratches and bruises were on [REDACTED]
15 [REDACTED] when he examined him.

16 BY MR. YARBOROUGH:

17 Q Okay. So did you do that --

18 MR. RICHARDSON: Your Honor.

19 THE COURT: He hasn't said any hearsay yet.

20 MR. YARBOROUGH: I'm just asking if he did.

21 THE COURT: I know that. I know that. Y'all
22 are just going to have to be sensitive to it because
23 I can't anticipate it, okay?

24 MR. RICHARDSON: Yes, sir.

25

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 BY MR. YARBOROUGH:

2 Q Did you ask him?

3 A Yes, sir. He indicated they were not --

4 MR. RICHARDSON: Your Honor,, I object.

5 BY MR. YARBOROUGH:

6 Q I'm just asking you if you asked him?

7 A Oh, yes, sir.

8 Q Okay. And my client, Mr. Pillon, was

9 cooperative with you?

10 A Yes.

11 Q You read him his rights, you told him he didn't

12 have to answer your questions,, but he did. He sat down

13 for an interview with you?

14 A He did.

15 Q Right that day at the hospital?

16 A Yes, sir.

17 Q Okay. And y'all had a 20 or 30 minute talk

18 before you wrote out the statement that he signed?

19 A That's correct.

20 Q Okay. And he told you what he knew at that

21 point?

22 A Yes, that he was basically primary caregiver for

23 [REDACTED] The night before, all night, he had

24 took care of him while Angel was asleep, basically.

25 Q And he doesn't know how those marks got on that

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 child?

2 A He indicates he does not.

3 Q Right, that's what he told you?

4 A That's correct.

5 Q Okay. Now, did he not tell you at that same
6 time that he saw the cat jump in the bed?

7 A He saw it and removed it. But also, I want to
8 make sure to explain to you that he was talking about the
9 marks. As far as this part, the bruising on the child and
10 stuff, he indicated that was done by medical staff. That
11 he knew how that was done, it was done by medical staff,
12 the pediatricians.

13 Q And that's when they working on him?

14 A That was his explanation, yes, sir.

15 Q All right. But he also told you about the cat?

16 A That's correct.

17 Q And that the cat had scratched the child?

18 A No, sir. He just said the cat had jumped up on
19 the bed and he threw it back out as soon as he got up on
20 the bed.

21 Q And he told you he thought that, perhaps, the
22 child had scratched himself from his fingernails?

23 A That's correct.

24 Q That he had -- he told you in his statement that
25 he had discussed the marks on the child's face with Angel

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 Atkins?

2 A He said that every time he got up and saw a mark
3 on the child that he would show her, yes, he did.

4 Q Okay.

5 A He would make sure that she was up and he would
6 explain to her what he saw.

7 Q And they kept taking the child back to the
8 doctor, right?

9 A Yes, the child was repeatedly took to the
10 doctor.

11 Q For medical reasons?

12 A Yes, sir. But I --

13 Q I mean, I don't know, but they took him, right?

14 A I only know what I was told by the medical staff
15 of the injuries to the child, that they were not
16 accidental in nature.

17 Q You know something else, you know that he told
18 you he took the child to the hospital, at least, four
19 times in seven days?

20 A That's correct, but the medical explanation --

21 Q Wait a second. Is that what he told you or is
22 that --

23 MR. RICHARDSON: Your Honor, I ask that he be
24 allowed to finish his answer.

25 THE COURT: Okay. I don't know if he cut him

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 off yet.

2 But don't cut him off if he's in between an
3 answer. Go ahead and ask the question.

4 BY MR. YARBOROUGH:

5 Q Okay. Matt Pillon, my client right there, told
6 you he took the child to the doctor four times in seven
7 days?

8 A That is correct, but the --

9 Q Okay. Now --

10 THE COURT: Mr. Yarborough, he can explain. I
11 mean, you can't cut it off. If he wants to explain
12 his answer, he's allowed to.

13 Do you have something additional you'd like to
14 say?

15 THE WITNESS: Yes, sir. His explanation and the
16 medical explanation pertaining to the child do not
17 coincide.

18 MR. YARBOROUGH: Your Honor, that's hearsay.
19 He's commenting on what the doctor said.

20 THE COURT: Okay. All right. You can move on
21 to your next question.

22 BY MR. YARBOROUGH:

23 Q So, did Mr. Pillon tell you why he kept taking
24 the baby to the doctor?

25 A I can't say that he said he took the baby. It

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 was the mother and the mother's mother that insisted on
2 the child being seen medically, not him.

3 Q But he doesn't take the doctor to -- the baby to
4 the doctor four times?

5 A He went with the child, yes.

6 Q He went with the child?

7 A And the mother.

8 Q And the mother goes up there and what's the
9 mother going up there for, to see what's wrong with the
10 child?

11 A That's correct.

12 Q Right. And Matt's right there with her, to see
13 what's wrong with the child?

14 A That's correct.

15 Q And they didn't know what was wrong with the
16 child, did they?

17 A That would be speculation on my part.

18 Q You interviewed him, did he know?

19 A He indicated that he didn't?

20 Q That he didn't know. And he kept -- he kept
21 doing -- you investigate these cases all the time, right?

22 A That's correct, yes, sir.

23 Q And what you want is for the parent to take the
24 child to the doctor, right?

25 A That's correct.

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 Q And he did that, right?

2 A He did do that. It was somewhat delayed in the
3 child being treated from my investigation on the times it
4 was taken.

5 Q Okay. Let's talk about the delay. The mother
6 gets out of the hospital on the 31st of May; is that
7 correct?

8 A That's correct.

9 Q Okay. And the baby's in the hospital on the
10 first, right?

11 A I would have to see the medical records to
12 testify to that.

13 Q Well, you did the investigation, right? But you
14 agree that it's four times between the first and the
15 seventh?

16 A I do.

17 Q Okay. And he told you that on the seventh, the
18 baby was having trouble breathing; is that correct?

19 A That's correct.

20 Q And he told you that he gave the baby the
21 syringe thing that the doctor gave them, the suction cup,
22 the suction tube?

23 A I don't recall him being the one that told me
24 that, but that was told to me, yes, sir.

25 Q So, they were following what the doctors told

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 them to do?

2 A That's correct.

3 Q And he says that he gave the child some form of
4 CPR?

5 A That's correct.

6 Q And child started breathing, right?

7 A That's correct.

8 Q Okay. And then the next morning, the baby was
9 taken to the hospital?

10 A Yes, sir.

11 Q Okay. And that was the third -- fourth time
12 they had taken the baby since the 1st of June?

13 A That's correct.

14 Q Right. And other than -- other than that, you
15 don't know what happened to this child?

16 A I only know what medical explanation I was given
17 by the medical authorities.

18 Q And --

19 A And that he was --

20 Q Hold on. And that medical explanation was based
21 on information that was gathered from that child when
22 Mr. Pillon and Angel Atkins took the child to the doctor?

23 A That would be correct, yes.

24 Q So, they're following what they're supposed to
25 do?

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 A Well, you say when they took. On the child
2 being presented to the ER at Greenville Memorial, they did
3 not take it, the ambulance took the child.

4 Q The ambulance took the child and the ambulance
5 person that testified said that they only had room for one
6 person; isn't that right?

7 A Yes, sir.

8 Q So, Mr. Pillon rode down to the hospital
9 following the ambulance and went in that day?

10 A That would be a correct statement, yes, sir.

11 Q And he was worried about the child?

12 A I can't say that, but.

13 Q Just a second. Okay. You interviewed Mary
14 Martin at Pediatrics Association of Easley?

15 A My report reflects that the child was taken to
16 see Mary Martin.

17 Q Okay. At Pediatrics Associates, that's a child
18 doctor?

19 A That's correct. She was at Greenville Hospital
20 ER the day that I spoke to all the physicians.

21 Q Okay. So, she was -- the child was seen for the
22 first time on -- at 11:00 at Pediatrics Associates by Mary
23 Martin on June the 3rd, 2013?

24 A If you have records that reflect that, that
25 would be true, yes, sir.

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 Q Then the child was taken on June the 4th and
2 arrived at Greenville Hospital emergency room at 9:58 a.m.
3 on June the 4th?

4 A That's what I was informed, yes, sir.

5 Q All right. So, that's first time, second time?

6 A Yes, sir.

7 Q Then the child was taken to -- at the point, the
8 child was examined by a Dr. John Wilson and Dr. Amanda
9 O'Kelly?

10 A That's correct.

11 Q Okay. And at that point, there were two small
12 lacerations on the child; isn't that right?

13 A The larynx, I believe. Is that what you're
14 speaking of?

15 Q The larynx.

16 A Yes.

17 Q And what is that, that's an area in the mouth
18 and down the throat?

19 A Yes.

20 Q And they were told at that point to follow up
21 with the doctor and to take -- to go take the baby [redacted]

22 [redacted] to the doctor on June 5th; is that correct?

23 A That's what the report indicates, yes, sir.

24 Q And that child was seen on June the 5th at
25 Pediatrics Associates of Easley by Dr. Anisha Kumar? I

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 can't pronounce it very well. Does that sound like what
2 your notes reflect?

3 A That's what the medical notes reflect?

4 Q Okay. So, they're following along doing what
5 they're supposed to do, is that right, at that point?

6 A Probably that would be true.

7 Q Okay. Then the baby is taken on June the 6th,
8 the next day, to see Dr. James Caldwell at Cannon Memorial
9 Hospital?

10 A That's correct.

11 Q Okay. And so, the baby's actually taken --
12 that's five doctors the baby's seen from June 3rd until
13 June 6th; is that correct?

14 A Yes, sir.

15 Q Okay. And then the next day, on June the 7th,
16 is when these pictures were taken and when the baby goes
17 to the emergency room at Greenville Hospital?

18 A That's correct.

19 Q Okay. So, every day, according to your
20 investigation notes --

21 MR. RICHARDSON: Your Honor, I'm going to
22 object. This is asked and answered. He's been over
23 this testimony several different times.

24 THE COURT: Is this something new,
25 Mr. Yarborough?

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 MR. YARBOROUGH: I just want to make sure I got
2 it -- how about I'll finish real quick, Judge, I
3 promise.

4 THE COURT: All right. Good enough.

5 BY MR. YARBOROUGH:

6 Q So, every day from June 3rd until the final day
7 on June 7th, the baby's taken to the hospital either once
8 or twice?

9 A I believe that's what the medical dictation
10 would indicate, yes, sir.

11 Q Okay. And that's what your report would
12 indicate?

13 A Partially, yes, sir, some of it.

14 Q And not when you're writing out Matthew's
15 statement, but when you're talking to him, he's relaying
16 that information to you at the hospital on June the 7th?

17 A Some of it, yes, sir.

18 Q He didn't have all the names, but --

19 A That's correct.

20 Q But he told you where they were going?

21 A Yes, sir.

22 MR. YARBOROUGH: I don't have anything else.

23 Thank you.

24 THE COURT: Any redirect, sir?

25 MR. RICHARDSON: Nothing further, Your Honor.

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 THE COURT: All right. Thank you, sir,
2 appreciate you being here. You may step down.

3 All right, Mr. Richardson, do you have
4 additional witnesses this afternoon, sir?

5 MR. RICHARDSON: Your Honor, we have one more
6 this afternoon.

7 THE COURT: One more. Okay. How long do you
8 anticipate that witness will last?

9 MR. RICHARDSON: Thirty minutes. I'm terrible
10 with time.

11 THE COURT: That's okay. I understand. I
12 understand.

13 So, ladies and gentlemen, let's take a short
14 break, take about a 10 minute break. Then we'll come
15 back in and we'll resume testimony. As you know, one
16 additional witness this afternoon is what we expect
17 to have. All right. Thank you. Please don't
18 discuss the case.

19 (WHEREUPON, the jury left open court at
20 approximately 3:31 p.m.)

21 THE COURT: All right. Anything additional to
22 put on the record?

23 MR. RICHARDSON: Not from the State.

24 MR. YARBOROUGH: No, sir.

25 THE COURT: All right. We'll come back on the

MARVIN NIX-DIRECT BY MR. RICHARDSON

1 record when the jury's finished taking a break.

2 (WHEREUPON, a short break was taken.)

3 THE COURT: Ready for the jury?

4 MR. RICHARDSON: State's ready.

5 MR. YARBOROUGH: Yes, sir.

6 THE COURT: All right, let's bring them in.

7 (WHEREUPON, the jury came into open court at
8 approximately 3:35 p.m.)

9 THE COURT: Okay, you may call your next
10 witness, sir.

11 MR. RICHARDSON: Thank you, Your Honor, the
12 State would call Marvin Nix to the stand.

13 THE CLERK: Place your left hand on the Bible,
14 raise your right hand.

15 MARVIN NIX, after being duly sworn,
16 testified as follows:

17 THE CLERK: Thank you, sir. If you would state
18 your name for the record, please.

19 THE WITNESS: Marvin Nix.

20 THE CLERK: Thank you.

21 DIRECT EXAMINATION

22 BY MR. RICHARDSON:

23 Q Sir, where are you employed?

24 A Pickens County Sheriff's Office.

25 Q And how long have you been employed?

MARVIN NIX-DIRECT BY MR. RICHARDSON

1 A Twenty-three years, eight months.

2 Q Okay. In what capacity are you employed with
3 them?

4 A Currently, I'm captain of judicial services with
5 the sheriff's office.

6 Q And back in June of 2013, what capacity were you
7 employed?

8 A At that time, I was assigned to special victim's
9 unit.

10 Q And were you actually working June 7th of 2013?

11 A I was.

12 Q On that day, did you get dispatched to a
13 particular location?

14 A Yes.

15 Q Where was that?

16 A 150 Polly Drive in Easley.

17 Q Okay, sir. Well, let me ask you this, prior
18 to -- did you ever go to the Greenville Hospital System?

19 A After I went to 150 Polly Drive.

20 Q Okay. So, what was your reason for going to 150
21 Polly Drive?

22 A I was contacted by Detective Kelley for a
23 situation -- he was on the way to the hospital in
24 reference to EMS responded to 150 Polly Drive in reference
25 to a small infant child being transported by EMS there

MARVIN NIX-DIRECT BY MR. RICHARDSON

1 with significant trauma, so he wanted me to go to the
2 house and check the location.

3 Q Okay. When you got to the house, was anybody
4 there?

5 A When I arrived, the ambulance was already gone.
6 There was a gentleman by the name of Karl Atkins, which I
7 believe is -- he was the owner of the residence, probably
8 be the great-grandfather of the victim.

9 Q Would that be Tammy Atkins's father?

10 A Yes.

11 Q Did you have a conversation with him?

12 A I did.

13 Q Did you request to search --

14 A Yes.

15 Q -- make a search of the house?

16 A I did.

17 Q Did he consent to that?

18 A Yes, he did. He gave me a written consent.

19 Q Was he the owner of the property?

20 A Yes.

21 Q And after you got the consent to search, did
22 you, in fact, search the property?

23 A I did.

24 Q All right. And did you -- did he show you where
25 the Defendant and the baby stayed and Ms. Atkins stayed?

MARVIN NIX-DIRECT BY MR. RICHARDSON

1 A Yes, he did.

2 Q Did you search that room?

3 A Yes, he took me to -- it was a small room,
4 looked like a room that been built in off of maybe the
5 dining room area. So, he took me to that area, yes.

6 Q And your description of it is small. Do you
7 know the dimensions?

8 A I'm guesstimating maybe an eight by ten. It was
9 a small room. It had a double bed in it, a crib. There
10 was maybe enough room to get between the bed and the crib.
11 There was also a dresser, I believe, and a TV in the room.
12 So, very, very crowded.

13 Q Okay. Let me hand you what's been marked
14 State's Exhibit -- excuse me, 11 -- excuse me, 7, 8 and
15 11. If you can take a look at those, please, sir.

16 A (The witness complies.)

17 Q Now, were you present when those photographs
18 were taken?

19 A Yes, sir.

20 Q Do those photographs accurately depict what you
21 saw in that room back on June 7th?

22 A Yes, sir.

23 Q Okay. And those pictures, have they been
24 changed or altered in any form?

25 A No, sir.

MARVIN NIX-DIRECT BY MR. RICHARDSON

1 MR. RICHARDSON: Your Honor, the State would
2 offer State's Exhibit Nos. 7, 8 and 11 into evidence.

3 THE COURT: Objection, sir?

4 MR. YARBOROUGH: No objection, Your Honor.

5 THE COURT: All right. Without objection, the
6 same is admitted.

7 (WHEREUPON, State's Exhibits Nos. 7, 8 & 11 were
8 marked for identification and received into
9 evidence.)

10 BY MR. RICHARDSON:

11 Q Sir, let me show you State's Exhibit 7. What is
12 this?

13 A I believe it's the crib -- the sheet off the
14 crib.

15 Q Okay. Do you have a pointer? Are there any
16 stains on the sheets?

17 A Yes.

18 Q What are those?

19 A Appears to be like a red substance. I'm
20 assuming maybe blood or mucus and blood.

21 Q All right, sir. You also testified there was a
22 crib in the room?

23 A Yes.

24 Q Let me show you what's been marked State's
25 Exhibit 8. What is that?

MARVIN NIX-DIRECT BY MR. RICHARDSON

1 A That's the crib.

2 Q Is that the crib you saw that day?

3 A Yes.

4 Q Okay. And also, State's Exhibit 11, what is
5 this?

6 A It's just a closer picture of the inside of the
7 crib.

8 Q Okay. Did you take notes of what was inside the
9 crib?

10 A Yeah, it was just piles of clothes, some baby
11 food, the newspaper you see there. Just -- and like the
12 armband from the hospital.

13 Q And do you recall where the sheet that was shown
14 before where that was?

15 A Yeah, it was actually given to me by Mr. Karl in
16 the living room.

17 Q Okay.

18 A It was in a -- they had taken it. It was in a
19 living room area.

20 Q So, it was given to you -- when you said
21 Mr. Karl, you're referring to --

22 A Mr. Atkins, the owner.

23 Q The owner. And after you went to the home,
24 where did you go from there?

25 A After I left the home, I went to Greenville

MARVIN NIX-DIRECT BY MR. RICHARDSON

1 Hospital.

2 Q Okay. And did you have an occasion to speak to
3 the Defendant?

4 A Yes.

5 Q Okay. And was that -- you were present in the
6 courtroom when Officer Kelley referred to the Miranda
7 Rights?

8 A Yes.

9 Q And the waiver of Miranda rights?

10 A Yes.

11 Q Did you speak to the Defendant after those
12 rights were given?

13 A Yes.

14 Q Okay. Did he give you any information about the
15 night of June 7th who was in the room in which he slept?

16 A Yeah, basically, in our conversation, I,
17 basically, asked him between the times of -- because there
18 was some -- he had told us that earlier in the day, they
19 had actually taken the baby to the hospital. They had
20 come home -- if I recollect, I think it was 10:00 or so
21 that they came home, went in the bedroom. And that,
22 basically, it was no one else in the room from I'd say
23 10:00 or so until that morning when he was awoken saying,
24 Hey, the baby's got to go to the hospital.

25 Q And when you say no one else was in the room,

MARVIN NIX-CROSS BY MR. YARBOROUGH

1 who did he say was in that room all night long?

2 A Himself, Angel, then, of course, the baby.

3 Q Did he give you any indication that anyone else
4 was in that room all night long?

5 A No, sir.

6 MR. RICHARDSON: Beg the Court's indulgence.

7 THE COURT: Yes, sir.

8 BY MR. RICHARDSON:

9 Q And just so we're clear, you said 10:00, are you
10 referring to a.m. or p.m.?

11 A P.M.

12 MR. RICHARDSON: Thank you. That's all the
13 question I have. Please answer any questions
14 Mr. Yarborough may have.

15 CROSS-EXAMINATION

16 BY MR. YARBOROUGH:

17 Q This -- these clothes and stuff are in the crib?

18 A Yes.

19 Q Do you know when those clothes were put there?

20 A I have no idea.

21 Q You just know when you went there later on --

22 A Yes.

23 Q -- that the clothes were in the crib and you see
24 baby food?

25 A Yes.

MARVIN NIX-CROSS BY MR. YARBOROUGH

1 Q And then this looks like something from the
2 hospital?

3 A Looks like the armband.

4 Q The armband from the hospital?

5 A Yes, sir.

6 Q That's probably something that they gave them at
7 the hospital, it's your day --

8 A Right.

9 Q -- when the baby was born? Then you see a
10 bottle up there?

11 A Yes.

12 Q Teddy bear?

13 A Yes.

14 Q Normal crib stuff?

15 A Yes.

16 Q See this stuff on the table over there?

17 A If you can flip it, maybe I can.

18 Q Yeah.

19 A Okay.

20 Q See that stuff on the table -- you got that
21 little pointer?

22 A Yes.

23 Q What's all that? You see the bottle?

24 A That?

25 Q That's a water bottle. You see the bottle over

MARVIN NIX-CROSS BY MR. YARBOROUGH

1 there?

2 A That?

3 Q That look like a baby bottle?

4 A I think it's just a baby bottle.

5 Q Does this look like diapers and stuff from the
6 hospital?

7 A Yes, that's probably a diaper, maybe some wipes
8 or something.

9 Q Yeah, pretty normal stuff in there for the baby.
10 And the crib's over there set up?

11 A Yes.

12 Q Okay. Then the bed here?

13 A Yes.

14 Q Then this looks like the baby probably was
15 bleeding?

16 A Yes.

17 Q And that looks like it's probably a blanket, you
18 think?

19 A I think a crib sheet.

20 Q You think it's a crib sheet. So, it was
21 probably -- before this stuff was put in here, it was
22 probably the crib sheet that was in there before, is that
23 --

24 A Maybe.

25 Q Maybe? But it does look like the child was

MARVIN NIX-CROSS BY MR. YARBOROUGH

1 bleeding?

2 A Yes.

3 Q Which is consistent with what was happening at
4 the hospital when the child got there?

5 A Yes.

6 Q Were there -- when you got there, Karl Atkins
7 was there?

8 A Yes.

9 Q Did you know Mr. Atkins?

10 A I did not.

11 Q Is he now deceased?

12 A I believe so.

13 Q Okay. And were three other children there?

14 A I don't recall seeing three other children that
15 day. I know there was one other child there.

16 Q How old was that child?

17 A I believe he was six or seven, maybe.

18 Q And that was a boy?

19 A Yes.

20 Q You didn't see a three year old?

21 A It could have been a three year old that was
22 there. I'm not --

23 Q Was Angel Atkins, the mother, there?

24 A Not when I arrived, no, sir.

25 Q Okay. What about another -- someone between

MARVIN NIX-REDIRECT BY MR. NIX

1 Angel's age and Karl's age, another man? What's his name?

2 A I'm not sure.

3 Q Okay. You didn't investigate who lived in the
4 house?

5 A No.

6 Q Who would have done that?

7 A I'm sure DSS knew whoever was in the house, but
8 I didn't. There were numerous people living in the house,
9 yes.

10 MR. YARBOROUGH: Nothing further. Thank you,
11 Your Honor.

12 THE COURT: Redirect?

13 MR. RICHARDSON: Briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. RICHARDSON:

16 Q Did you testify that there was laundry in the
17 crib?

18 A Yes.

19 Q All right. Do you consider that normal crib
20 stuff?

21 A No.

22 Q Okay. And do you recall what time you went to
23 the house?

24 A It was shortly after EMS had left, so probably
25 10:00 a.m., 9:45, 10:00 a.m.

MARVIN NIX-REDIRECT BY MR. NIX

1 Q And when you went to the house, did you
2 immediately at that point in time go to the bedroom and --

3 A Yes.

4 Q -- do you search?

5 A Yes.

6 MR. RICHARDSON: Thank you. That's all the
7 questions I have.

8 THE COURT: Recross?

9 MR. YARBOROUGH: No.

10 THE COURT: Okay. Thank you, sir. You may step
11 down, appreciate you being here.

12 Mr. Richardson, do you have any additional
13 witnesses this afternoon?

14 MR. RICHARDSON: Not for today, Your Honor.

15 THE COURT: Okay. All right.

16 All right, ladies and gentlemen, we'll take a
17 break and we will come back tomorrow morning. Please
18 be here at 9:30. We'll start as promptly as possible
19 at 9:30. As I told you earlier, please don't discuss
20 the case. Don't do any self-help and look on the
21 internet and see if you can find out any information,
22 any media information about this. I don't suspect
23 that there is, but the only thing that's appropriate
24 for your consideration is the evidence that's
25 presented on the stand.

1 So, go home tonight, maybe there's a preseason
2 Monday night football, at least, I hope so, and watch
3 that. Don't talk about the case. Don't think about
4 the case. Just come back refreshed at 9:30 and we'll
5 start. Y'all have a great evening. I'll see you
6 tomorrow.

7 (WHEREUPON, the jury left open court at
8 approximately 3:51 p.m.)

9 THE COURT: All right, anything additional you
10 want to put on the record this afternoon?

11 MR. RICHARDSON: Your Honor, can my witness
12 Tammy Atkins be excused?

13 THE COURT: Any objection?

14 MR. YARBOROUGH: Your Honor, I -- probably after
15 some of the testimony that came out today, late this
16 afternoon, I would like to have the option of calling
17 Ms. Atkins again. I plan on calling her in my case.

18 THE COURT: Well, do you have contact
19 information for Ms. Atkins? I don't know that it's
20 necessary for her to come and sit all day tomorrow.

21 But I'll remind you, Ms. Atkins, you do continue
22 under your subpoena.

23 MS. ATKINS: Yes, sir.

24 THE COURT: Do you want her to be back here on
25 Wednesday morning and you can make a decision then?

1 MR. YARBOROUGH: Wednesday morning or later
2 tomorrow afternoon, either one, whichever -- to her
3 convenience.

4 THE COURT: How many more witnesses do you think
5 you have?

6 MR. RICHARDSON: Your Honor, we have probably
7 five or six more.

8 THE COURT: Okay. So, you think about the same
9 length of time as all of these witness?

10 MR. RICHARDSON: They're doctors.

11 THE COURT: Okay.

12 MR. RICHARDSON: We have one doctor, our last
13 one, that can't be here until 1:00 in the afternoon,
14 but I think we can get the majority of our doctors
15 done in the morning.

16 THE COURT: Okay. All right.

17 Well then, just to be safe, then,
18 Mr. Yarborough, you want to have Ms. Atkins come back
19 tomorrow afternoon?

20 MR. YARBOROUGH: At 2:30?

21 THE COURT: Yeah -- well, yeah, 2:30 or 3:00. I
22 don't want to inconvenience Ms. Atkins and make her
23 sit here forever just to wait. We'll try to be as
24 surgical as we can, okay.

25 So, come on back tomorrow. And I can't

1 guarantee that we'll get you in tomorrow, but if not,
2 we'll do it first thing on Wednesday if, if the
3 Defense intends to call you, okay, if. I don't know
4 whether he does or not, but he's obviously
5 considering it, okay.

6 MS. ATKINS: Okay.

7 THE COURT: Okay. All right. Good enough,
8 then, ladies and gentlemen, we'll see you tomorrow
9 morning at 9:30. If you need me before then, let me
10 know. I'll be here earlier, so if there's some issue
11 that we need to discuss, let's do it before 9:30, see
12 if we can get it on the record before the jury gets
13 here, okay? All right. Thank you.

14 MR. RICHARDSON: Do you want to address bond?

15 THE COURT: He is currently on bond?

16 MR. YARBOROUGH: He's currently on bond and he's
17 on a monitor, Your Honor. The monitor's tracking
18 him. They know where he is 24/7.

19 THE COURT: How long has he been on bond?

20 MR. PILLON: A year and eight months.

21 THE COURT: A year and eight months.

22 Have you ever had an issue with him failing to
23 show?

24 MR. RICHARDSON: No, sir.

25 THE COURT: Okay. All right. You can remain on

1 bond.

2 MR. YARBOROUGH: Thank you, Your Honor.

3 MR. RICHARDSON: Well, Your Honor, I need to put
4 on the record, that's the reason why he's on the
5 monitor because we did have an issue.

6 THE COURT: Oh, okay.

7 MR. RICHARDSON: Since he's been on -- so I'm
8 clear, since he's been on the monitor, no, sir, we
9 have not had any.

10 THE COURT: Well, we'll leave him on bond. I
11 recognize that.

12 And just know as well that this case is going
13 forward whether or not you're here or not.

14 MR. PILLON: I'll be here.

15 THE COURT: All right, good enough.

16 MR. PILLON: Thank you.

17 MR. YARBOROUGH: Thank you, Your Honor.

18 (WHEREUPON, the proceedings were concluded for
19 the day to be reconvened on August 30, 2016.)
20
21
22
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25

1 August 30, 2016

2 THE COURT: All right. All right, I've been
3 advised we have all our jurors. You ready for them?

4 MR. RICHARDSON: I'm sorry, Your Honor.

5 THE COURT: Okay, that's good.

6 (WHEREUPON, the jury came into open court at
7 approximately 9:38 a.m.)

8 THE COURT: All right, good morning, ladies and
9 gentlemen. Welcome back. Hope y'all had a good
10 evening. Let's go ahead and get started.

11 Ms. Hinton.

12 MS. HINTON: Thank you, Your Honor. The State
13 would like to briefly recall Teena Watson to the
14 stand.

15 THE COURT: Ms. Watson, you continue under the
16 oath that you took yesterday, okay.

17 TEENA WATSON, after previously being
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. HINTON:

21 Q Ms. Watson, if you could just state your name
22 for the record one more time.

23 A Teena Watson.

24 Q Thank you. And I think we discussed yesterday,
25 did you go and view the child in the hospital?

TEENA WATSON-DIRECT BY MS. HINTON

1 A I did.

2 Q Okay. Did you take any pictures of the child?

3 A I did.

4 Q What unit was the child in when you took
5 pictures?

6 A He was in the PICU, pediatric intensive care.

7 Q Okay. I'm going to show you what's been marked
8 as State's Exhibit No. 13. Do you recognize that photo?

9 A I do.

10 Q Is that a photo that you took?

11 A Yes, it is.

12 MS. HINTON: Your Honor, at this time, the State
13 would admit No. 13 into evidence.

14 THE COURT: Any objection, sir?

15 MR. YARBOROUGH: No objection.

16 THE COURT: All right, without objection, the
17 same is admitted.

18 MS. HINTON: Thank you, Your Honor.

19 (WHEREUPON, State's Exhibit No. 13 was marked
20 for identification and received into evidence.)

21 BY MS. HINTON:

22 Q Ms. Watson, is this an accurate depiction of
23 what the child looked like when you saw him in the
24 pediatric intensive care unit?

25 A Yes, it is.

TEENA WATSON-CROSS BY MR. YARBOROUGH

1 MS. HINTON: Your Honor, that's all I have at
2 this time.

3 THE COURT: Any cross-examination, sir?

4 MR. YARBOROUGH: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. YARBOROUGH:

7 Q The child's mother, Angel Atkins, brought that
8 child in; is that correct?

9 A To the hospital?

10 Q Well, I mean, when you took it, was she there?

11 A No.

12 Q She wasn't near the child at that point?

13 A No.

14 Q Was my client there?

15 A No.

16 Q So, you just took it in the hospital?

17 A It was after he had been admitted. It was a
18 couple days later.

19 Q So, that's a couple days later?

20 A Yes.

21 MR. YARBOROUGH: Thank you.

22 THE COURT: Okay. Any redirect?

23 MS. HINTON: No, Your Honor. Thank you.

24 THE COURT: Thank you, appreciate your being
25 here. You may step down.

MARY MARTIN-DIRECT BY MS. HINTON

1 You may call your next witness.

2 MS. HINTON: Thank you, Your Honor. The State
3 would call Dr. Mary Martin.

4 THE CLERK: If you would place your left hand on
5 the Bible and raise your right.

6 MARY MARTIN, after being duly sworn,
7 testified as follows:

8 THE CLERK: Thank you, ma'am. If you would have
9 a seat and state your name for the record, please.

10 THE WITNESS: Mary Martin.

11 DIRECT EXAMINATION

12 BY MS. HINTON:

13 Q Dr. Martin, where are you currently employed?

14 A Pediatric Associates in Easley and Powdersville.

15 Q Okay. How long have you been employed there?

16 A Seven and a half years.

17 Q And in what capacity?

18 A I'm a full-time pediatrician, just general
19 pediatrics.

20 Q Can you tell the jury a little bit about your
21 educational background?

22 A I did my undergrad at Shorter College in Rome,
23 Georgia. Then I did my medical school at Mercer
24 University School of Medicine and that's in Macon,
25 Georgia. Then I did my residency at Greenville Hospital

MARY MARTIN-DIRECT BY MS. HINTON

1 System here in Greenville.

2 Q What did you do your residency in?

3 A Pediatrics.

4 Q Have you been a part of any research or any
5 published articles?

6 A Not really. Not anything since I've been on
7 residency. I just do general pediatrics.

8 Q Okay.

9 MS. HINTON: Your Honor, at this time, the State
10 would move to qualify Dr. Martin as an expert in
11 pediatric medicine.

12 THE COURT: Any voir dire or exceptions to her
13 qualifications?

14 MR. YARBOROUGH: Not at this time, Your Honor.

15 THE COURT: Okay. Ladies and gentlemen, a party
16 may introduce someone as an expert witness by virtue
17 of his or her education, expertise or experience in a
18 given field. Now, the reason someone may want to
19 introduce someone as an expert witness is because an
20 expert witness can testify as to matters that a
21 layperson, a regular witness may not be able to
22 testify to. In certain circumstances, an expert
23 witness can testify as to hearsay that he or she may
24 have relied upon to come to an opinion. And
25 moreover, an expert can offer opinions that a lay

MARY MARTIN-DIRECT BY MS. HINTON

1 witness wouldn't be able to offer.

2 Now, understand this, just because someone is
3 qualified and admitted by the Court as an expert
4 witness doesn't mean that their testimony has any
5 greater weight or value or that they are more or less
6 credible than any other witness who takes the stand.
7 Understand that you decide if an expert witness's
8 testimony has value and you determine whether that
9 expert witness's testimony is credible, just like any
10 other piece of evidence that you receive in a trial.

11 Having said that, ladies and gentlemen, she is
12 so admitted.

13 You may continue with your examination.

14 MS. HINTON: Thank you, Your Honor.

15 BY MS. HINTON:

16 Q Dr. Martin, did you have an occasion to see

17 ?

18 A I did.

19 Q Do you recall the date that you saw him?

20 A No, not specifically.

21 Q When you saw him, what did you see him for?

22 A I saw him for a hospital follow-up, just a
23 regular newborn well-care visit.

24 Q Can you explain to the jury a little bit what a
25 regular newborn visit is?

MARY MARTIN-DIRECT BY MS. HINTON

1 A Typically, the standard of care in any newborn
2 is that we would see them a few days after hospital
3 discharge, make sure they're feeding well, make sure
4 everything is normal, follow up on any problems noted in
5 the hospital. You know, it's really just the standard of
6 care to see every baby within a few days home.

7 Q Now, what is the typical range that you would
8 see a baby for a newborn well check?

9 A We would see them within the first week of life.

10 Q If there were emergency circumstances or
11 complications with their birth, would you possibly see
12 them sooner?

13 A Yeah, 'oh, definitely. If there was a concern,
14 we may even see them the day after they came home from the
15 hospital.

16 Q Okay. But if you're dealing with a child that
17 just has what you would consider a normal, routine birth,
18 what would be the typical amount of time that you would
19 see them?

20 A Somewhere between two, three, four, five days,
21 definitely within that first week home. We want to make
22 sure that they're doing well.

23 Q Okay. Now, when you saw [REDACTED],
24 tell me the process that you go through to do a newborn
25 well check.

MARY MARTIN-DIRECT BY MS. HINTON

1 A Basically, my routine would be before I go in
2 the room, you know, sometime that day, I, again, review
3 the newborn records. Look for any problems that were
4 noted in the hospital by the physicians that saw the baby
5 there. Go ahead and review mom's records, review for any
6 concerns that I might be looking out for. And then,
7 basically, when I go in, I'm going to talk to the parents,
8 discuss the feeding history, voiding and stooling. And
9 then I'm going to examine the baby top to bottom because I
10 want to make sure that any new problems that have come up
11 in the meantime that we notice, make sure the baby's
12 either no longer losing weight or starting to gain weight
13 again. Then, of course, answer any questions the parent
14 might have about their baby.

15 Q Do you recall -- when [REDACTED], came
16 to your newborn well check, do you recall who came with
17 him?

18 A I don't specifically.

19 Q Do you take notes about the visit?

20 A Yeah. I mean, that's part of the medical
21 records.

22 Q Would reviewing those medical records help you
23 in remembering this case?

24 A Yeah.

25 Q Dr. Martin, if you'll just look at this document

MARY MARTIN-DIRECT BY MS. HINTON

1 and see if that is your notes.

2 A Yes, ma'am.

3 Q Okay. So, going back to put my first question
4 of when did you see this baby?

5 A This was on -- looks like it says June 3rd,
6 2013?

7 Q And how old was the baby at that time?

8 A He was six days.

9 Q Okay. So, based on the fact that you saw him at
10 six days old, what would that indicate to you as far as
11 whether or not he had a traumatic birth or a routine
12 birth?

13 A That would be, basically, a regular normal
14 routine follow-up, yeah. For a baby to come in a few days
15 after discharge, I would not expect anything abnormal.

16 Q Do you recall when the baby was presented to you
17 if -- who brought the baby in?

18 A Mom and dad.

19 Q Okay. And when you saw the baby, were they
20 complaining of any particular problems with the baby?

21 A I did notice in my note that they were
22 mentioning that he was spitting up a little bit, so I did
23 sort of give them some anticipatory guidance. You know,
24 the first week of life, their stomach is small. Sometimes
25 parents get a little over anxious about, you know, trying

MARY MARTIN-DIRECT BY MS. HINTON

1 to get them to eat a little bit more each feeding. So, I
2 guided them on, you know, sort of normal guidelines of
3 feeding with a newborn.

4 Q Okay.

5 A But that was the only complaint.

6 Q Now, do you check their weight when they come
7 in?

8 A Yes, always.

9 Q And what are you looking for in a newborn
10 checkup as far as weight?

11 A As far as the newborn, depending on -- you know,
12 some babies are going to be losing weight the first couple
13 days and that's normal, but we would like to see them
14 start to regain some of that birth weight. We'd like them
15 to be at or above birth weight by two weeks.

16 Q And now in this case of [REDACTED]
17 what was his weight gain at that time?

18 A He had been -- on the day of the visit that I
19 saw him, he was seven pounds 14 ounces. And I noticed in
20 the chart that he had -- you know, birth weight was seven
21 pounds 13 ounces. So, he was actually already above birth
22 weight and, certainly, he was above his discharge weight
23 of seven-seven.

24 Q Okay. Now, when he came in, did you notice any
25 bruising or scratching on him?

MARY MARTIN-DIRECT BY MS. HINTON

1 A No, ma'am.

2 Q Would you have taken his clothes off for your
3 examination?

4 A Absolutely. We strip every newborn down
5 completely, including removing the diaper.

6 Q Now, when you examine them, are you holding them
7 or do you put them on a surface?

8 A Typically, what I'm going to do is I'm going to
9 have the parent hold the baby while I talk them. And then
10 I'm going to have them lay them down on the examine table
11 just so that I can look at the baby, you know, completely
12 unobstructed. And then I'm going to examine them and then
13 hand them back to the parent.

14 Q Now, when you're dealing with a six day old
15 baby, are you going to have to use any force to hold that
16 baby down on the table?

17 A No.

18 Q And why is that?

19 A They're pretty, you know -- I mean, they're
20 small, you know. I mean, there's no reason to hold them
21 down. I mean, if they're, you know, fussy and pushing
22 their hands up, I'm just going to listen to their heart.
23 I'm not going to use any force for that.

24 Q Okay. Can a baby at six days old roll?

25 A No.

MARY MARTIN-DIRECT BY MS. HINTON

1 Q What about 10, 11 days old?

2 A (The witness shook her head.)

3 Q Is that a no? Sorry.

4 A No. Sorry.

5 Q That's okay. Did you notice [REDACTED]

6 having any teeth?

7 A No.

8 Q Would that have been typical for a six day old?

9 A It is -- would be very unusual and that would be
10 something I would note in my chart.

11 Q The ability for a child to scratch himself at
12 that age, can you discuss that?

13 A We will see sometimes in a newborn, you know,
14 they'll scratch their face with their fingernails, but
15 this is something very minimal. It's not going to
16 typically cause any damage. It's going to heal on its
17 own. So, it's not usually anything significant.

18 Q Okay. What would be your recommendation as far
19 as administer Tylenol to a baby between six and 10 days
20 old?

21 A I would never recommend that.

22 Q Why is that?

23 A In a baby less than 60 days, we're worried about
24 the risks of sepsis, so that any baby who's more fussy
25 than usual, who's not consolable or has a temperature

MARY MARTIN-DIRECT BY MS. HINTON

1 above 100.4 rectal, we would absolutely recommend they go
2 to the emergency room for an evaluation. So, we would
3 never give Tylenol at that age.

4 Q Okay. Doctor, I'm going to show you a few
5 pictures that have been admitted into evidence. Starting
6 with State's Exhibit No. 1, looking specifically at this
7 area of the head, was that present when you saw the baby?

8 A No.

9 Q Would you have notated that if it was?

10 A Yes.

11 Q Did you do that to that baby?

12 A No.

13 Q State's Exhibit 2, were those marks on the
14 buttocks area and the back present during your
15 examination?

16 A No.

17 Q Would you have notated if they were?

18 A Yes.

19 Q Did you do that to that baby?

20 A No.

21 Q State's Exhibit No. 3, did the baby look like
22 that when you saw him on the 3rd?

23 A No, ma'am.

24 Q Would you have notated if he had?

25 A Absolutely.

MARY MARTIN-DIRECT BY MS. HINTON

1 Q Did you do that to that baby?

2 A No.

3 Q The scratching, would that be something that you
4 would expect to be consistent with a six day old baby,
5 scratching himself?

6 A No.

7 Q State's Exhibit No. 4, looking at the inside of
8 the mouth area, was that present when you examined the
9 baby on the third?

10 A No.

11 Q Would you have notated if it had been?

12 A Yes.

13 Q Did you do that to that baby?

14 A No.

15 Q State's Exhibit No. 5, looking at the bruising
16 on the arm, was that present when you saw the baby on the
17 third?

18 A No.

19 Q Would you have notated if it was?

20 A Yes.

21 Q Did you do that to that baby?

22 A No.

23 Q State's Exhibit No. 6, again, bruising on the
24 arm, was that present on the third?

25 A No.

MARY MARTIN-CROSS BY MR. YARBOROUGH

1 Q Did you do that to that baby?

2 A No.

3 MS. HINTON: Court's indulgence, Your Honor?

4 THE COURT: Sure.

5 MS. HINTON: Dr. Martin, that's all the
6 questions that I have. Please answer any questions
7 that Defense counsel may have.

8 THE COURT: Cross.

9 CROSS-EXAMINATION

10 BY MR. YARBOROUGH:

11 Q Did -- Mr. Pillon, my client, was with Angel
12 when she brought the child in on the day you saw her on
13 June the 3rd?

14 A Yes, sir.

15 Q Okay. They were complaining about some type of
16 mucus and blood coming out of the baby's, was it throat or
17 nose?

18 A No, sir, that was actually not mentioned at my
19 visit. I saw him for a newborn followup.

20 Q You sent him for a followup? I'm sorry.

21 A No, I saw him for a newborn followup. He was
22 completely well at that time, except for spitting up
23 noted.

24 Q Okay. A hundred percent well at that time?

25 A Yes, sir.

MARY MARTIN-CROSS BY MR. YARBOROUGH

1 Q Did they tell you that the baby had gone to the
2 hospital before that?

3 A No.

4 Q Okay. Did -- so on the -- basically, you're
5 saying that on June the 3rd, the baby was fine?

6 A Yes.

7 Q There was no bruising, no bite marks, nothing?

8 A Yes.

9 Q You examined the baby entirely?

10 A Yes.

11 Q Is that what you would expect on a newborn?

12 A What's your question?

13 Q There wouldn't be any bruising?

14 A Yeah.

15 Q Sometimes, aren't babies bruised when their
16 delivery is taking place?

17 A Yeah, but I would see that in the newborn
18 followup or that would typically have been mentioned in
19 the hospital notes.

20 Q And it wouldn't have happened on a C-section --
21 or would it have happened during a C-section where there
22 would be some bruising?

23 A It could, but again, that would be something --
24 that's not going to present days later.

25 Q So, the bruising on a newborn, is it something

MARY MARTIN-CROSS BY MR. YARBOROUGH

1 that -- the bruising shows about an hour, two hours after
2 the bruise is made, would that be consistent?

3 A I'm not really an expert in that timeline, but,
4 typically, if it was birth related, we would see it by the
5 time they went home from the hospital or that first
6 newborn visit.

7 Q You've been qualified as an expert on pediatric
8 medicine, right?

9 A Yes.

10 Q Okay. So, that's an expert on a newborn baby?

11 A Correct.

12 Q Okay. So, bruising on a newborn baby takes how
13 long to show itself?

14 A In my experience, we see it within the first day
15 or two of life.

16 Q You see bruising on the first day or two of life
17 and that's normal?

18 A Are you talking about birth-related bruising?

19 Q Well, let's go birth related first.

20 A Yeah, I would say so, within the first day.

21 Q Now, if -- the bruising on the face, those
22 pictures she showed you on the face, she asked you if you
23 had done them and you said you hadn't. I don't think
24 anybody thinks you had. How long would it take that
25 bruising to show up on the face?

CLIFF CALDWELL-DIRECT BY MS. HINTON

1 A I would say within about a day of injury.

2 Q So, within a 24-hour period?

3 A Yes, sir.

4 Q Okay.

5 MR. YARBOROUGH: Thank you. I don't have any
6 further questions.

7 THE COURT: Redirect?

8 MS. HINTON: No, Your Honor. May she be
9 excused?

10 MR. YARBOROUGH: No objection.

11 THE COURT: Thank you, Doctor. I appreciate
12 your being here. You may be excused.

13 MS. HINTON: Thank you, Your Honor. The State
14 would call Dr. Cliff Caldwell to the stand.

15 THE CLERK: Place your left hand on the Bible,
16 raise your right.

17 CLIFF CALDWELL, after being duly
18 sworn, testified as follows:

19 THE CLERK: Thank you. If you would have a seat
20 and state your name for the record, please.

21 THE WITNESS: James Clifton Caldwell.

22 DIRECT EXAMINATION

23 BY MS. HINTON:

24 Q Dr. Caldwell, where are you currently employed?

25 A I'm an emergency room physician at Cannon

CLIFF CALDWELL-DIRECT BY MS. HINTON

1 Memorial. .

2 Q How long have you been at Cannon?

3 A Twenty years, about.

4 Q How long have you been practicing medicine?

5 A Twenty-five.

6 Q Can you give the jury just a brief overview of
7 your educational background?

8 A I went to Irmo High School, went to Wofford for
9 undergrad, then went to med school in Charleston. Then
10 did my residency in family practice in Self Memorial in
11 Greenwood.

12 Q Okay. When you said you went to Charleston, I'm
13 assuming Medical University of South Carolina?

14 A Yes, I'm sorry.

15 Q That's okay. And you -- currently at Cannon,
16 what is your role?

17 A Just emergency room doctor.

18 Q Have you been a part of any research or any
19 presentations in that field?

20 A No, ma'am.

21 MS. HINTON: Your Honor, at this time, the State
22 would move Mr. Caldwell as an expert in ER medicine,
23 emergency room medicine.

24 THE COURT: Any exceptions or voir dire to his
25 qualifications?

CLIFF CALDWELL-DIRECT BY MS. HINTON

1 MR. YARBOROUGH: No exception or voir dire, Your
2 Honor.

3 THE COURT: Okay. Good enough.

4 Ladies and gentlemen, you remember what I told
5 you about an expert witness, the same applies.

6 So admitted.

7 MS. HINTON: Thank you, Your Honor.

8 BY MS. HINTON:

9 Q Dr. Caldwell, did you have occasion to see
10 Matthew Pillon Jr., at the emergency room at Cannon
11 Memorial?

12 A Yes, ma'am.

13 Q Do you recall what day you saw him?

14 A No, ma'am.

15 Q Did you -- do you have notes that you take?

16 A Yes, ma'am.

17 Q Okay. If I showed you those notes, would that
18 help you refresh your recollection?

19 A Tremendously.

20 Q Doctor, if you will take a look at that, does
21 that look like your notes referring to 

22 ?

23 A Yes, ma'am.

24 Q Okay. Can you tell me what the -- what his date
25 of admission was?

CLIFF CALDWELL-DIRECT BY MS. HINTON

1 A I'm sure it's on here. Date of note 6-6-2013.

2 Q Okay. Does that have an admission time?

3 A 5:26 or 17:26.

4 Q So, would that be a.m. or p.m.?

5 A P.M.

6 Q And then does it have a discharge time?

7 A Yes, ma'am. Disposition at 17:54.

8 Q Okay. So, is it fair to say you saw him roughly
9 30 minutes on that day?

10 A Yes, ma'am.

11 Q Okay. Now, when you saw him, what did you see
12 him for?

13 A Patient was brought in with shortness of breath
14 for approximately nine days. And the onset was acute.
15 Symptoms are moderate. And then they complained --
16 brought him in the emergency room that day because of
17 fussiness that afternoon and shortnesses of breath since
18 being sent home from the hospital.

19 Q So, they -- just to recap, when you -- when they
20 brought him in, who brought him in, do you have that?

21 A Mother and father.

22 Q Mother and father. And you said for fussinesses
23 and shortness of breath?

24 A Yes.

25 Q Now, when you examine the baby, to what extent

CLIFF CALDWELL-DIRECT BY MS. HINTON

1 do you examine the child, are their clothes on or off?

2 A I don't recall exactly that exam, but,
3 typically, we'll take them down to their diaper,
4 occasionally, take the diaper off while we're doing the
5 rectal temp, that type thing.

6 Q Okay. Now, when you -- when the child presented
7 for shortness of breath, what type of test do you run to
8 check the child?

9 A Usually, we'll do a pulse oximeter. Figure out
10 percentage of oxygen in their blood, that's the little
11 finger thing. Then I listen to the heart, lungs to see if
12 they're moving air well. We also look at the color of the
13 skin.

14 Q Did you do all that in this case?

15 A I, typically, do, yes, ma'am.

16 Q Did you notate any issues with any of his vital
17 signs?

18 A I have here that breath sounds were clear. Skin
19 had good color. Throat looked normal. Fairly normal
20 exam.

21 Q Okay. So, at the time that you saw him, did you
22 have any concern about his wellbeing or his life at that
23 point?

24 A No, ma'am.

25 Q Now, did you prescribe him any sort of

CLIFF CALDWELL-DIRECT BY MS. HINTON

1 medication for the shortness of breath or the fussiness?

2 A No, ma'am -- well, I did, I did prescribe Levsin
3 drops.

4 Q What is that?

5 A The colic -- if the baby is kind of colicky,
6 they have a lot of abdominal cramping or something like
7 that, Levsin drops will help a little bit.

8 Q And when you say a baby is colicky, what are
9 some of the signs of a baby being colicky?

10 A That they're fussy, they don't feed well, that
11 kind of thing.

12 Q When you examined the child, did you see any
13 blood coming from his mouth or nose?

14 A No, ma'am. That was commented in the note that
15 parents state that he had some blood from his nose and his
16 mouth, but on exam, I didn't notice any. Throat, no
17 obvious injury. Didn't document any blood from nose or
18 mouth.

19 Q And so, you prescribed the drops for him, but
20 did you recommend that they use Tylenol at all?

21 A No.

22 Q Would you have done that?

23 A No.

24 Q And why not?

25 A Fever in a baby less than a month, sometimes

CLIFF CALDWELL-DIRECT BY MS. HINTON

1 less than two months, is a red flag that something is
2 seriously wrong. And we just don't give Tylenol to cover
3 that up. Because if they're septic, an infection has
4 gotten in their bloodstream, at that age, I mean, it can
5 kill them fairly quickly.

6 Q Okay. Did you notice any teeth?

7 A No, ma'am.

8 Q Okay. How old was he when you saw him, do you
9 recall?

10 A Nine days old.

11 Q Would you expect to see teeth in a nine day old
12 baby?

13 A No, ma'am.

14 Q I'm going to show you a few pictures. State's
15 Exhibit 1, looking at this bruise on the top of the head,
16 was that present when you examined him?

17 A No, ma'am.

18 Q Would you have notated if it was?

19 A Yes, ma'am.

20 Q Did you do that to the baby?

21 A No, ma'am.

22 Q State's 2, back and buttocks area, was that
23 present when you examined the baby?

24 A No, ma'am.

25 Q Would you have notated if it was?

CLIFF CALDWELL-DIRECT BY MS. HINTON

1 A Yes, ma'am.

2 Q Did you do that to the baby?

3 A No, ma'am.

4 Q Okay. State's 3, was that present?

5 A No, ma'am.

6 Q Would you have notated if it was?

7 A Yes, ma'am.

8 Q Did you do that to the baby?

9 A No, ma'am.

10 Q State's 4, did you notice that when you examined
11 his mouth?

12 A No, ma'am.

13 Q Would you have notated if you had?

14 A Yes, ma'am.

15 Q Did you do that to the baby?

16 A No, ma'am.

17 Q State's 5, bruising on the arms, did you notice
18 that when the baby came in?

19 A No, ma'am.

20 Q Would you have notated if you had?

21 A Absolutely.

22 Q Did you do that to the baby?

23 A No, ma'am.

24 Q Okay. State's 6, same type picture, did you do
25 that to that baby?

CLIFF CALDWELL-CROSS BY MR. YARBOROUGH

1 A No, ma'am.

2 Q Would you have held the baby down for his
3 examination at nine days old?

4 A No, ma'am.

5 Q Why would you not have done that?

6 A You don't have to.

7 Q Why?

8 A At that age, they're not -- I mean, our exams
9 are not very forceful and they pretty much tolerate it.
10 You don't have to -- it's not like a three year old, you
11 know, kicking and screaming.

12 Q Was the baby mobile at that time at nine days
13 old?

14 A Yes, yes -- mobile as far as what?

15 Q Was he --

16 A It's moving its arms and all, but it can't roll
17 over or crawl or anything like that.

18 MS. HINTON: Okay. Doctor, that's all I have.
19 Please answer any questions that Mr. Yarborough may
20 have.

21 CROSS-EXAMINATION

22 BY MR. YARBOROUGH:

23 Q So, basically, you saw the baby around 5:26 on
24 June 6th?

25 A Yes, sir.

CLIFF CALDWELL-CROSS BY MR. YARBOROUGH

1 Q And the baby appeared to be okay?

2 A Yes, sir.

3 Q Were you concerned about the shortness of
4 breath, or is that normal?

5 A It's not normal. And I don't recall the
6 specifics other than what's documented here, but that
7 would have been one of our first concerns in the ER.

8 Q Would have been the shortnesses of breath?

9 A Yes, sir.

10 Q Is that what the baby was brought in for?

11 A Well, that was part of the complaints they were
12 brought in for. The fussiness was another thing.

13 Q Okay. So, the parents were -- the mother and
14 father were trying to figure out what was wrong with the
15 child?

16 A Yes, sir.

17 Q And did you notice anything that was wrong with
18 the child?

19 A No, sir. When they commented on bleeding from
20 the nose and mouth, I recall just vaguely that that's an
21 odd complaint for a newborn. And that's one of the
22 reasons I looked in the throat and mouth pretty well.

23 Q You don't -- you couldn't find anything in the
24 throat or mouth?

25 A No, sir.

CLIFF CALDWELL-CROSS BY MR. YARBOROUGH

1 Q Is that -- you see a child and then you send
2 them for follow-up; is that right?

3 A Yes, sir.

4 Q Did you send this child for a follow-up?

5 A Follow-up with primary M.D. if no improvement.
6 If any worsening, consider having child checked at PTR.

7 Q So, that was the next thing, was to have the
8 child checked in and let the nurses or whoever at the
9 hospital watch the baby?

10 A Yes, sir. I mean, recommendation was to follow
11 up with regular pediatrician or the PTR at Greenville.

12 Q Why would you send them over there?

13 A Because they're the people who take care of most
14 of the really sick kids.

15 Q So, that's what you recommend is to send them
16 over to Greenville Hospital System?

17 A Yes, sir.

18 Q And could you -- have you dealt with babies that
19 bled from the mouth and nose before?

20 A Perhaps, I don't recall specific.

21 Q Did the mother and father seemed concerned about
22 the child?

23 A Yes, sir, as I recall.

24 Q So, you told them at that point if things don't
25 get better send him to the Greenville Hospital System?

NANCY HENDERSON-DIRECT BY MS. HINTON

1 A Yes, sir.

2 MR. YARBOROUGH: Okay. Thank you.

3 MS. HINTON: Nothing further. May he be
4 excused, Your Honor?

5 THE COURT: Yes, ma'am.

6 Doctor, thank you. I appreciate your being
7 here.

8 Yes, ma'am.

9 MS. HINTON: Thank you, Your Honor, the State
10 would call Dr. Nancy Henderson.

11 THE CLERK: If you would place your left hand on
12 the Bible and raise your right.

13 NANCY HENDERSON, after being duly
14 sworn, testified as follows:

15 THE CLERK: Thank you. Please be seated and
16 state your name for the record.

17 THE WITNESS: Nancy Henderson.

18 DIRECT EXAMINATION

19 BY MS. HINTON:

20 Q Dr. Henderson, where are you employed?

21 A I'm employed at Greenville Health System.

22 Q And in what capacity?

23 A I'm a child abuse pediatrician and on faculty
24 there.

25 Q When you say you're on faculty, what does that

NANCY HENDERSON-DIRECT BY MS. HINTON

1 mean?

2 A My job involves -- I take call when there's a
3 concern about abuse and neglect and do consults for new
4 patients. I see children in the advocacy center, the
5 Julie Valentine Center, the advocacy center up in
6 Spartanburg when there's outpatient referrals. Also, see
7 children that are coming into foster care in Greenville
8 County and have a follow-up clinic related to that. I'm
9 involved with the residents and med students in their
10 education and supervision and they rotate with me during
11 their rotations.

12 Q Okay. Can you give the jury a little bit of
13 background on your education?

14 A Sure. I attended Rutgers College of Pharmacy,
15 which is New Brunswick, New Jersey and got my BS in
16 pharmacy. Then I attended Bowman Gray School of Medicine
17 in Winston-Salem, North Carolina and got my medical degree
18 there. I then went to TC Thompson Children's Hospital,
19 which is in Chattanooga, Tennessee, and did my pediatric
20 residency.

21 Q Have you been involved in any presentations or
22 research since you've been licensed as a doctor?

23 A Well, I became board certified in pediatrics.
24 And then in 2009, the Academy of Pediatrics, I subboarded
25 area of child abuse pediatrics. You had to have 50

NANCY HENDERSON-DIRECT BY MS. HINTON

1 percent of your practice be related to that and then you
2 had to sit and take a standardized test and it has to be
3 completed every 10 years as well as in the area of general
4 pediatrics, too. So those kind of certifications have to
5 be continued.

6 Q So, have you been certified in that area?

7 A Yes, ma'am.

8 Q And what percentage of your practice is devoted
9 to child abuse pediatrics?

10 A Approximately -- pretty close to a hundred
11 percent.

12 Q Okay.

13 MS. HINTON: Your Honor, at this time, the State
14 would like to admit Dr. Henderson as an expert in
15 child abuse pediatrics?

16 MR. YARBOROUGH: Without objection.

17 THE COURT: All right, so admitted.

18 MS. HINTON: Thank you, Your Honor.

19 BY MS. HINTON:

20 Q Dr. Henderson, did you have the opportunity to
21 observe ?

22 A Yes, I did.

23 Q Do you recall the date that you observed him?

24 A It was on the 7th of June, 2013.

25 Q And where was he --

NANCY HENDERSON-DIRECT BY MS. HINTON

1 MR. YARBOROUGH: What date?

2 THE WITNESS: The seventh.

3 BY MS. HINTON:

4 Q And where did you observe him?

5 A The child had been admitted to the pediatric
6 intensive care unit.

7 Q Do you know -- when you say admitted, do you
8 know how he got to the pediatric unit; the steps that he
9 took to get there?

10 A I think he had been seen at the emergency room
11 at Greenville Hospital. They were initially going to
12 admit him to the floor, then because of all the concerns,
13 he was admitted to the intensive care unit, which is where
14 I saw him.

15 Q Can you just explain, when you say admitted to
16 the floor, just kind of in layman's terms, what does that
17 mean?

18 A Well, when the child is seen in the emergency
19 room, they're trying to decide kind of the level of care
20 that particular patient may need. In this regard, one is,
21 for many reasons, his young age, the condition that -- the
22 breathing difficulties and the other things on his exam,
23 it was felt that he needed more one-on-one observation as
24 opposed to being in a hospital room behind a closed door
25 where there's not medical people right there 24/7.

NANCY HENDERSON-DIRECT BY MS. HINTON

1 Q All right. Why were you called to view Baby

2 [redacted]?

3 A I was called as -- I was on call that day, so I
4 was called from the intensive care physician as a consult
5 because there was concern of non-accidental trauma.

6 Q Can you explain to the jury what non-accidental
7 trauma is?

8 A So, we see a lot of children presenting to the
9 hospital for various reasons. Sometimes fractures,
10 sometimes bruising, sometimes head trauma, sometimes
11 concerns of sexual abuse. And trying to figure out
12 whether there's medical problems that can be causing what
13 is being seen or is there concern that particular type of
14 injury or incident has been inflicted on the child.

15 Q And as part of your examination, tell me kind of
16 the steps that you go through to determine what you're
17 looking at?

18 A So, in general, what I try to do is review the
19 chart and the information that's available on a child.
20 Certainly, if the parents or guardian is present, I want
21 to take a history about what has happened, then a physical
22 exam, look through what tests have been done, offer
23 suggestions of what additional tests I think could be
24 helpful in trying to make the best decisions about the
25 child.

NANCY HENDERSON-DIRECT BY MS. HINTON

1 Q Okay. Did you get a patient history from the
2 parents in this case?

3 A I did not.

4 Q And why is that?

5 A The child had already been taken into emergency
6 protective custody and they were no longer -- they were
7 not at the hospital for me to talk with.

8 Q Do you know if a child is taken into emergency
9 protective custody, are the parents allowed in the
10 pediatric intensive care unit?

11 A They sometimes can come to the intensive care
12 unit with supervision. So, the supervision is usually
13 with law enforcement and DSS. And each case is very
14 individualized, so there may be some differences, just
15 depending on severity of injury and all that is happening
16 with the particular child.

17 Q But while you were there, were the parents
18 present?

19 A No, they were not.

20 Q Now, you said you did a full exam. I'm assuming
21 you mean a full body examine; is that correct?

22 A That is correct.

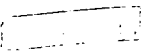
23 Q Okay. And when you did the full exam, what did
24 you notice about the child?

25 A At that time, he was 10 days of age and he

NANCY HENDERSON-DIRECT BY MS. HINTON

1 wasn't very responsive to movement and interaction. He
2 was not intubated at that point in time. He was on some
3 oxygen. He did have bruising to the left side of his
4 head, circular bruising on what we call the temporal
5 parietal area. He also had bruising on the left side of
6 his cheek. He had scratches over his nose. He had some
7 redness on the left ear and abrasion on his right ear. He
8 was always noted to have pattern bruises on his left arm.
9 He also had bruising to his scrotum area as well as some
10 abrasions on his penis. There were some redness around
11 his rectal area and also had a bruise on the bottom of his
12 left foot.

13 Q Doctor, I'm going to show you what's been
14 labeled as State's 9 and 10. Can you just look at those
15 and see if you recognize those photos.

16 A I did not take these photo, but these are photos
17 of .

18 Q Okay. Do they accurately portray what you saw
19 on Matthew?

20 A Yes.

21 MS. HINTON: Your Honor, at this time, the State
22 would move State's 9 and 10 into evidence.

23 MR. YARBOROUGH: Without objection.

24 THE COURT: All right, without objection, so
25 admitted.

NANCY HENDERSON-DIRECT BY MS. HINTON

1 (WHEREUPON, State's Exhibits Nos. 9 & 10 were
2 marked for identification and received into
3 evidence.)

4 BY MS. HINTON:

5 Q Doctor, looking at State's 9, what are we
6 looking at?

7 A This is the posterior part of the right ear.
8 And you can see some bruising, also, looks like what we
9 call an abrasion excoriated area, kind of that yellowish
10 area.

11 Q Why is that significant to you?

12 A Well, in a baby of this age, really, any bruise
13 is significant because they are not mobile at all. So,
14 they don't have opportunity to really have accidents, to
15 bump into things and things like that. So, any kind of
16 bruise is always significant in a baby this age. But when
17 we look at bruises behind the ear, bruises on the feet,
18 those are even more uncommon accidental injuries in young
19 children. Not very common places for children to get
20 injured.

21 Q Why aren't they common places for a child to get
22 injured?

23 A Well, as I mentioned before, in a baby this age,
24 they're not walking. The ears are really fairly
25 protected, so that injuries to the ears are very

NANCY HENDERSON-DIRECT BY MS. HINTON

1 concerning for inflicted trauma.

2 Q And then State's 10, what are we looking at in
3 that photo?

4 A That's the bottom of the left foot.

5 Q What did you notate about the bottom of the left
6 feet?

7 A A bruise.

8 Q Okay. Now, when you saw Baby [] was he
9 having difficulty eating?

10 A Yes.

11 Q Okay. Can you tell us a little bit about that?

12 A Well, there had been consecutive days history of
13 some problems with spitting and history of some bleeding
14 from the mouth and difficulty with secretions. In
15 reviewing the prior medical records, he had been seen in
16 an emergency room for concerns of that and for concerns of
17 some trauma related to that. And that concern continued
18 while he was in the hospital.

19 Q Okay. Now, I believe you said the baby was 10
20 days old when you saw him?

21 A That is correct.

22 Q Now, in a typical 10-day-old baby, would you
23 expect that baby to roll?

24 A No.

25 Q Did [] have any teeth?

NANCY HENDERSON-DIRECT BY MS. HINTON

1 A No.

2 Q The scratching that you observed -- and I'll
3 just to refresh your memory show you State's Exhibit 3,
4 would that have been something that you would have
5 expected a baby to cause himself?

6 A No. Babies do scratch themselves, but their
7 nails are really very pliable. You could just almost peel
8 them off, so when they do cause scratching, they're very,
9 very superficial, which these are not.

10 Q Okay. Would you expect that the bruising and
11 the scratching that Baby [] had on him, would you
12 expect that could have been caused by some sort of animal,
13 a cat or dog?

14 A I don't know that a cat could not do the
15 scratching. I mean, it really would warrant a lot more
16 information related to that. I mean, it would have to be
17 pretty extensive and I would really be concerned if there
18 was an animal in there and kind of the observation of that
19 because it would be right on his face. The bruising is
20 really from an impact, so I'm not exactly sure how an
21 animal would cause that unless it pounced or something on
22 it because it takes an impact to cause bruising to the
23 skin.

24 Q And []'s bruising, was it confined to one
25 area of his body?

NANCY HENDERSON-CROSS BY MR. YARBOROUGH

1 A No, it was not.

2 Q Was it all over his body?

3 A Yes, and even into the genital area, which is
4 protected with a diaper, so certainly even more
5 concerning.

6 Q Now, when you diagnose someone as having
7 non-accidental trauma, are you looking at each individual
8 injury or are you looking collectively at the child?

9 A We're looking at everything about the child.

10 Q Okay. And in this particular case, did you
11 diagnose Baby [] as having non-accidental trauma?

12 A Yes.

13 Q Were his injuries life threatening?

14 A Yes.

15 Q Okay. If he had not gotten treatment, would he
16 have died?

17 A I don't know that, but certainly that potential
18 is definitely there.

19 MS. HINTON: Doctor, that's all the question I
20 have. Please answer any that Mr. Yarborough may
21 have.

22 CROSS-EXAMINATION

23 BY MR. YARBOROUGH:

24 Q You work with children that are -- have been
25 abused on a regular basis, is that kind of what your --

NANCY HENDERSON-CROSS BY MR. YARBOROUGH

1 what you do at the Greenville Hospital System?

2 A Evaluate children that potentially could be
3 abused, yes, sir.

4 Q And you're an expert -- or you've been qualified
5 as an expert in that field?

6 A Yes, sir.

7 Q Now, you're aware in this case that this child
8 was taken to the hospital five times -- either the
9 hospital or to the doctor's office five times before you
10 originally saw him?

11 A I had seen that from 6-3, when he had been seen
12 by Dr. Martin, that he had been seen every day between
13 that time and the seventh that he came to the hospital.

14 Q So, the baby's in the hospital -- I mean, going
15 back and forth to the hospital, basically, every day for
16 those five or six days before you saw him?

17 A Through the seventh, yes, sir.

18 Q And then the baby had been delivered C-section
19 two days, three days, before that on the 28th; is that
20 correct?

21 A Twenty-seventh -- I thought it was the 27th, but
22 maybe the 28th, his birth date.

23 Q Twenty-eighth, 27th, but --

24 A Yes.

25 Q And then the baby had been released from the

NANCY HENDERSON-CROSS BY MR. YARBOROUGH

1 hospital on the 31st?

2 A Yes, sir..

3 Q Okay. And your notes reflect that?

4 A My notes reflect the prior visits.

5 Q Yeah, that's how long the baby had been with the
6 parents since the time -- the time he's released from the
7 hospital until you saw it?

8 A Yes, sir. .

9 Q About seven days?

10 A Yes, sir.

11 Q Been to the hospital or doctor's office five or
12 six times?

13 A Every day from the third until the seventh.

14 Q You know, based on your experience, the parents
15 were trying to take the baby to the hospital to see what
16 was wrong with it?

17 A There definitely was a concern for the parents
18 to come to the hospital each time, yes, sir.

19 Q Right. And that's not usual in a case like
20 this?

21 A Case --

22 Q Well, you said that there was abuse and that's
23 not normal in an abuse case?

24 A It's not abnormal. We see -- I see children
25 that have a parent who not really knowing what's

NANCY HENDERSON-CROSS BY MR. YARBOROUGH

1 happening, but has a worry about their child, they don't
2 know about the abuse, but they have concern because they
3 know that their child is not behaving like they normal do,
4 so they do come to the doctor regularly trying to figure
5 it out. They don't have all the information, so we do see
6 that.

7 Q Are you familiar with the history of the mother
8 in this case?

9 A I didn't have the opportunity to talk to her, so
10 I'm not exactly sure what you're referring to.

11 Q Well, I mean, you don't know who caused these
12 injuries?

13 A No, I do not.

14 Q Did you interview the mother or try to look into
15 her past?

16 A I just had the information from the newborn
17 records, but I did not have the opportunity to talk to the
18 parents.

19 Q But my client was in the emergency room at the
20 time that you're looking at the baby, right?

21 A By that time, the child was already up in the
22 PICU, so there were no parents available to talk to.

23 Q So, didn't have an opportunity to talk to them
24 at that point?

25 A No, sir.

NANCY HENDERSON-CROSS BY MR. YARBOROUGH

1 Q Are you familiar with the dynamics of the living
2 situation that that baby came out of?

3 A In reviewing my note, I did know that there were
4 a lot of people in the home. And there was some
5 information shared from law enforcement, but it is all
6 reflected in the note. I'll be glad to talk about that if
7 you would --

8 Q Do you have your notes with you?

9 A I don't, but I just reviewed it before I came
10 in.

11 Q Did you notice that there were children in that
12 house?

13 A Yes.

14 Q Okay. And those children were seven -- one was
15 seven years old; is that correct?

16 A That is correct.

17 Q Okay. And so, did you note that there were a
18 number of animals in that house?

19 A I did not know about the animals. I did know
20 about the children and had made a recommendation that they
21 be interviewed at the child advocacy center so they might
22 can share some history about what has been happening
23 within the home, which is a fairly common thing that we
24 like to do.

25 Q Have you reviewed those notes?

NANCY HENDERSON-CROSS BY MR. YARBOROUGH

1 A I have not.

2 Q Are you familiar with the -- with young [redacted]
3 being diagnosed with a cleft lung at that time?

4 A I don't ever see -- remember seeing anything
5 about a cleft lung.

6 Q But what would a cleft lung be?

7 A I don't know. I've never --

8 Q You've never heard that term?

9 A No, sir.

10 Q Did you send the child out with a treatment
11 plan?

12 A What I do as far as my consult, I don't
13 discharge the child or anything like that. I make
14 recommendations as far as further evaluation that might
15 need to be done.

16 Q Did you recommend further evaluation?

17 A Yes.

18 Q Do you know if that evaluation was done?

19 A Yes, it was.

20 Q Okay. Do you know if there was anything that
21 you recommend that wasn't done?

22 A No, I think everything that I had recommended
23 was done.

24 Q Okay. Let's look at -- I hate to put these up,
25 but look up here at the picture of the child. Those

NANCY HENDERSON-CROSS BY MR. YARBOROUGH

1 appear to be scrapes on the side over by the lip? Is that
2 a scrape or --

3 A Where are you looking? That to me looks like
4 abrasion, a scratch.

5 Q Scratch. And could the upper part also be a
6 scratch, the upper part, the part by the nose?

7 A It looks more like abraded, that the top of the
8 skin is off.

9 Q The top of the is off and --

10 A On the left side of the nose.

11 Q And oftentimes, children will get that kind of
12 bruise from the wiping of the nose when the nose is
13 bleeding; is that correct?

14 A I would think in this age, in my experience,
15 this would be very uncommon.

16 Q But it's possible?

17 A I would find it very uncommon because if they're
18 bleeding that much, that would be very concerning to me,
19 frequent wiping, I'd be very worried about that.

20 Q Yeah, if they were bleeding that much, they
21 would take the child to the hospital and have it checked
22 out, right?

23 A Correct.

24 Q And that's what was done for this child?

25 A Taken to the hospital to be checked?

NANCY HENDERSON-CROSS BY MR. YARBOROUGH

1 Q Yeah.

2 A Yes.

3 Q And taken to the doctor? It was taken to
4 Dr. John Wilson, you reviewed the notes from that doctor?

5 A Yes, sir.

6 Q And at that point, there was some notations of
7 laceration -- and I'm not good with medical terms, but
8 posterior pharynx?

9 A Pharynx.

10 Q Pharynx. What was discovered two or three
11 millimeters in size. What would that be?

12 A In the back of the throat --

13 Q Right.

14 A -- that's the posterior pharynx and they saw --
15 a millimeter is like a little line on the ruler, so two or
16 three of those little lines, they saw trauma, puncture
17 marks to the back of the throat is what you're saying that
18 he had seen.

19 Q Right. So, that trauma -- I mean, the parents
20 took the child to Dr. Wilson and said Dr. Wilson, What's
21 going on here? And he gave them some drops to put in
22 there; is that right?

23 A I think he had him evaluated by an ENT doctor at
24 that time.

25 Q And that's Dr. Amanda O'Kelly?

NANCY HENDERSON-CROSS BY MR. YARBOROUGH

1 A No, Dr. Amanda O'Kelly is the doctor from the
2 Greenville Hospital. She was the floor attending when the
3 child was going to be admitted to the floor on the day of
4 the 7th.

5 Q Okay. But if you look back at your notes,
6 Dr. Kelley actually saw the child on the fourth as well,
7 right?

8 A I don't think Dr. Amanda O'Kelly saw the child
9 on the fourth.

10 Q The child was in the emergency room at
11 Greenville Memorial Hospital at 9:58 a.m. on June the 4th?

12 A The day after --

13 MS. HINTON: Judge, if I may, I'm going to ask
14 he ask questions. I feel like we're getting into
15 more testimonial --

16 MR. YARBOROUGH: Well, she's been qualified as
17 an expert, Your Honor, about what happened. I'm just
18 trying to make sure what information she has.

19 THE COURT: Okay.

20 MS. HINTON: And I don't mind him asking a
21 question, but making statements is not the way that
22 cross-examination works.

23 MR. YARBOROUGH: I'll rephrase the question.

24 THE COURT: Just ask questions, please.

25

NANCY HENDERSON-CROSS BY MR. YARBOROUGH

1 BY MR. YARBOROUGH:

2 Q Are you aware that the child was in the hospital
3 on June 4th?

4 A The child was in -- I was aware that the child
5 was in the emergency room on June 4th, yes, sir.

6 Q And on June the 4th at 9:58, was the child seen?

7 A I am not aware of the time, but if that's what
8 it says on the record that you're looking at.

9 Q And are -- in looking at your records, did you
10 see that Dr. Wilson saw the child?

11 A Yes.

12 Q Okay. And did you also see that Dr. Amanda
13 Kelley [sic] saw the child?

14 A That I am not remembering that she had seen the
15 child down in the emergency room at that time. I don't
16 remember that.

17 Q But, clearly, you work at Greenville Memorial
18 Hospital, you reviewed those records, that's right?

19 A That's correct.

20 Q All right. And those records show that the
21 child was brought to Greenville Memorial Hospital on June
22 the 4th?

23 A To the emergency room, yes.

24 Q To the emergency room. For what?

25 A The child was -- there was concerns of

NANCY HENDERSON-CROSS BY MR. YARBOROUGH

1 difficulty handling secretions and some bleeding.

2 Q And those concerns were brought to the
3 hospital's attention by who?

4 A I did not see the child at that time, but -- so
5 I don't know if it was mom or dad, if it was both parents.
6 I don't have that records in front of me.

7 Q But you know that it happened?

8 A Yes. Yes.

9 Q Do you know that the child was taken on June the
10 5th to Pediatrics Associates of Easley?

11 A I knew that the child was seen every day from
12 the third to the seventh by a medical person to evaluate
13 the child.

14 Q Okay. And I asked you again, is that normal?

15 A If a child is normal, a child is not going to be
16 taken to the doctor every day. So, obviously, there was a
17 concern, clearly, from the parents about something about
18 their baby. And that is what -- some of it was prompting
19 and some of it was follow-up. So, the initial visit to
20 Dr. Martin was already set up as initial hospital
21 follow-up. Then I think the child was seen in the
22 emergency room at GHS, and then it was recommended for the
23 baby to be followed up the next day. I think that's
24 what -- why the child was seen at Easley. And then the
25 child came back to the emergency room because the parents

NANCY HENDERSON-CROSS BY MR. YARBOROUGH

1 were still concerned and then seen at Cannon, and then
2 back to Greenville Hospital.

3 Q So, they're seen at Cannon, they say for them to
4 bring them to Greenville Hospital on the seventh if
5 they're still concern?

6 A Correct.

7 Q And that's what happened, that's how you saw the
8 baby?

9 A I saw the baby because the baby, by that time,
10 had already been admitted to the hospital.

11 Q So, that's the -- that was the procedure in
12 which the baby got to you?

13 A Yes.

14 Q Okay. Did you find a reason for the baby
15 spitting up blood and mucus?

16 A Eventually, as the child was evaluated by ENT
17 doctors and the pediatric surgeons, they saw signs of
18 trauma in the back of the throat and esophagus to help
19 explain why the baby was having those problems.

20 Q Okay. It's my understanding that that was
21 caused by a tube that was stuck down the baby's throat; is
22 that right?

23 A I believe that is what the surgeon had
24 described.

25 Q Okay. And do you know what type of tube that

NANCY HENDERSON-CROSS BY MR. YARBOROUGH

1 was?

2 A I do not.

3 Q Okay. Does that happen sometimes?

4 A In a normal situation or what -- I'm not sure
5 what your question is.

6 Q Have you ever seen it before?

7 A I think in my experience, the little puncture
8 wounds in the back of the throat as described, I guess on
9 the fourth, was felt to be related to suctioning. I think
10 as I wrote in my consult that I thought it's plausible
11 that the tip of a -- one of those suction bulbs if done
12 too far, too vigorously could have caused that isolated
13 injury.

14 Q Okay. So, the answer is you have seen it
15 before?

16 A I had seen those puncture wounds, not the one to
17 the esophagus. That is certainly much further back and I
18 had never seen that related to parents doing that. It's
19 far for the suction to go.

20 Q Well, I mean, sometimes accidents happen, right?

21 A Correct.

22 MR. YARBOROUGH: Thank you. I don't have any
23 further questions.

24 THE COURT: Yes, ma'am.

25 MS. HINTON: Just one follow-up.

NANCY HENDERSON-RECROSS BY MR. YARBOROUGH

REDIRECT EXAMINATION

BY MS. HINTON:

Q Just for clarification, Dr. Henderson, the puncture in the area that Matthew Pillon, Jr. had his, was it your testimony that you have never seen a puncture that far down?

A The puncture as described by the emergency room doctor on the fourth, I think that could have been done from the suctioning. The later evaluation that was done by Dr. Abrams when he took the child to surgery in the esophagus, I have never seen that as an accidental injury.

MS. HINTON: That's all I have.

THE COURT: Any recross, sir?

RECROSS-EXAMINATION

BY MR. YARBOROUGH:

Q But it could have been an accidental injury?

A I -- if a parent is instructed to suction that far back -- I mean, it would be hard for me to imagine it to be accident because we never would -- as a pediatrician never would recommend a family to do that.

Q All right. Normally, the -- and now I'm not trying to be sexist, but normally the parent that's told that is the mother; is that right?

A I think you look at both parents as parents.

MR. YARBOROUGH: Thank you.

1 THE COURT: Okay. Thank you, Doctor. I
2 appreciate your being here, ma'am.

3 MS. HINTON: Your Honor, may she be excused?

4 THE COURT: Any objection to the doctor being
5 excused, Mr. Yarborough?

6 MR. YARBOROUGH: Sir?

7 THE COURT: Any objection?

8 MR. YARBOROUGH: No objection.

9 THE COURT: Okay. All right. Good enough.

10 All right, ladies and gentlemen, let's take a
11 short break. We'll come back in. I think we've
12 heard three witnesses. We'll refresh and come back
13 in to do the next witness. Please don't discuss the
14 case.

15 (WHEREUPON, the jury left open court at
16 approximately 10:41 a.m.)

17 THE COURT: Okay. State has how many witnesses,
18 two or three?

19 MS. HINTON: We have one more doctor that's
20 present, Judge, and then our next doctor cannot be
21 here until 1:00.

22 THE COURT: Okay. That's fine. Okay. Good
23 enough. So, then you'll rest; is that correct?

24 MS. HINTON: That's correct, Judge.

25 THE COURT: Are you ready to put up your

1 evidence?

2 MR. YARBOROUGH: I am. Your Honor, I think
3 maybe after -- in between -- maybe we can take up
4 some kind of evidentiary issues that we've got.

5 THE COURT: If it's all the same to y'all, maybe
6 we can take some of your witnesses out of order.

7 MR. YARBOROUGH: Okay.

8 THE COURT: Because I don't think we're going to
9 have two hours worth of evidentiary issue to discuss.

10 MR. YARBOROUGH: I agree with you.

11 THE COURT: I'm not saying we can't discuss
12 those issues, we certainly can. But I think we'll
13 have some found time, okay. So, y'all discuss that,
14 that's a thought, okay. That's the way I would
15 prefer to do it as opposed to having three hours
16 down, or two.

17 MS. HINTON: You're saying start with his case
18 and then we would call our doctor when he gets here?

19 THE COURT: Yeah, depending on when the next
20 doctor -- but you've been clipping along at about 15
21 minutes a witness. So, if we come back at, you know,
22 in just 10 minutes, you're going to be done at 11:15.

23 MS. HINTON: Sure. Sure. I understand.

24 THE COURT: So, maybe we can just take a long
25 lunch, maybe not. We'll discuss it.

1 MR. YARBOROUGH: Whatever you want to do, Judge.

2 THE COURT: Y'all talk about it, okay.

3 MS. HINTON: Thank you.

4 THE COURT: You're welcome. Thank you.

5 (WHEREUPON, a short break was taken.)

6 (WHEREUPON, State's Exhibits Nos. 17 & 18 were
7 marked for identification only.)

8 THE COURT: All right, bring them in, please,
9 sir?

10 (WHEREUPON, the jury came into open court at
11 approximately 11:05 a.m.)

12 THE COURT: All right, you may call your next
13 witness.

14 MS. HINTON: Your Honor, the State would call
15 Dr. Darrell Gwyn.

16 THE CLERK: Place your left hand on the Bible,
17 raise your right.

18 DARRELL GWYN, after being duly sworn,
19 testified as follows:

20 THE CLERK: Thank you. Please be seated and
21 state your name for the record.

22 THE WITNESS: Darrell Gwyn.

23 DIRECT EXAMINATION

24 BY MS. HINTON:

25 Q Dr. Gwyn, where are you employed?

DARRELL GWYN-DIRECT BY MS. HINSON

- 1 A Greenville Hospital System.
- 2 Q Can you speak up just a little bit for me?
- 3 A Greenville Hospital System.
- 4 Q In what division?
- 5 A Pediatric critical care.
- 6 Q And how long have you been there?
- 7 A A little more than 20 years.
- 8 Q Are you here today under our subpoena?
- 9 A Yes.
- 10 Q Are you being paid to be here today?
- 11 A No.
- 12 Q Are you working today?
- 13 A Yes.
- 14 Q All right. Dr. Gwyn, tell me -- or tell the
- 15 jury a little bit about your educational background.
- 16 A I went to undergrad at Duke University in North
- 17 Carolina. I did my medical school at the University of
- 18 Maryland. I did my pediatric residency in Georgetown in
- 19 D.C. I did my fellowship at John Hopkins in Baltimore.
- 20 Q Have you ever testified in court before?
- 21 A Yes, I have.
- 22 Q How many times?
- 23 A I've lost count.
- 24 Q Have you ever been qualified as an expert?
- 25 A Yes.

DARRELL GWYN-DIRECT BY MS. HINSON

1 Q How many times?

2 A I've lost count.

3 Q Okay. And how long have you been at the
4 pediatric critical care unit?

5 A I came in '95. 22 years, 21 years, something
6 like that.

7 Q And in your time as being in the pediatric
8 critical care unit, have you participated in any -- on the
9 faculty at the medical school or any research or anything
10 like that?

11 A Not of significance. My name is on something at
12 MUSC, but not of significance.

13 Q Okay.

14 MS. HINTON: Your Honor, at this time, we would
15 move Dr. Gwyn to be admitted as an expert in
16 pediatric critical care.

17 THE COURT: Voir dire?

18 MR. YARBOROUGH: Without objection.

19 THE COURT: All right, without objection, he is
20 so qualified.

21 MS. HINTON: Thank you, Your Honor.

22 BY MS. HINTON:

23 Q Dr. Gwyn, do you recall seeing
24

25 A Yes.

DARRELL GWYN-DIRECT BY MS. HINSON

1 Q Okay. Do you know what date he was admitted?

2 A I couldn't have told before now, but I agree
3 with all the other dates. I think he was admitted on the
4 seventh.

5 Q How many children pass through your unit?

6 A We have a census of somewhere between six to 12
7 a day and we're open 24/7, 365, many, thousands.

8 Q So, what do you do to ensure that your remember
9 a patient or their process?

10 A We write down in detail our account in our
11 notes, daily notes.

12 Q Did you do that in this case?

13 A Yes.

14 Q Now, when he was admitted to the pediatric
15 critical care unit, do you know how long -- Dr. Henderson
16 testified he was on the floor, do you know how long he was
17 on the floor before he was admitted?

18 A Without looking at my notes in detail, I think
19 that he came from the ER. If he spent some time on the
20 floor, it was probably like an hour or 30 minutes. And
21 then he started having respiratory issues, so he came over
22 to the unit. So, it was a very brief time on the floor.

23 Q Okay. Do you recall how long

24 was in your unit?

25 A I couldn't tell you that off the top of my head.

DARRELL GWYN-DIRECT BY MS. HINSON

1 Q Okay.

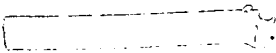
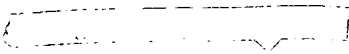
2 A I'd say maybe five days or seven days, but I'd
3 have to look at the notes to see.

4 Q Okay. Do you remember the total amount of time
5 that he was in the hospital? Was he discharged from your
6 unit?

7 A He left our unit and then went to the floor. I
8 know he did spend some time on the floor, but I'd have to
9 look at my notes to say how long.

10 Q Okay. Obviously, when you -- a baby is admitted
11 to the floor, do you view him?

12 A Yes -- well, not to the floor, but when they're
13 admitted to the unit, we view them.

14 Q Okay. I'm going to show you some pictures and
15 I'm going to ask if you this an accurate depiction of
16  First is -- try to get them in order,
17 State's Exhibit No. 1. Is that an accurate depiction of
18  when he was admitted to your unit?

19 A Yes.

20 Q And State's 2, is that an accurate depiction?

21 A Yes.

22 Q State's 3, is that an accurate depiction?

23 A Yes.

24 Q State's 4, is that an accurate depiction?

25 A Yes.

DARRELL GWYN-DIRECT BY MS. HINSON

1 Q Now, what is this tube that we see right there?

2 A That's a nasal cannula to give oxygen.

3 Q Okay. State's 5, is that an accurate depiction?

4 A Yes.

5 Q State's 6, accurate depiction?

6 A Yes.

7 Q And State's 9, is that an accurate depiction?

8 A Yes.

9 Q State's 10, is that an accurate depiction?

10 A Yes.

11 Q Now, what are the tubes that we're seeing in
12 State's 10?

13 A That's an IV.

14 Q And why is there an IV in [redacted]?

15 A It facilitates giving him medicines, fluids that
16 he needs in order to keep him -- give him his best
17 opportunity to recover.

18 Q Okay. I'm going to show you State's 13. Could
19 you please explain what's going on in State's 13?

20 A When he initially came in, he was having some
21 modest respiratory distress that the oxygen in his nose
22 helped him with. But because of some injury you've heard
23 about, the deep pharyngeal injury and the overall
24 bruising, he needed more support. So, he had to be put on
25 a ventilator. So, the white tape is holding in the tube

DARRELL GWYN-DIRECT BY MS. HINSON

1 to help him breath. That tube's connected to the blue
2 tubing, which goes to the ventilator. And then the other
3 things that you see on him are the monitors that we hook
4 him to so we can watch his vital signs and make sure that
5 we are doing all that we can to keep him well.

6 Q Now, when you first saw [REDACTED],
7 what was his state, do you recall?

8 A I'd have to look at my notes for being in
9 detail, but he was less responsive. He was having some
10 respiratory distress, but the oxygen took care of it. He
11 had the skin bruising.

12 Q Now, do you recall notating any injuries to his
13 anus or scrotum?

14 A I remember from pictures I've seen and the notes
15 that I've read.

16 Q Okay.

17 MS. HINTON: May I approach, Your Honor?

18 THE COURT: Certainly.

19 (WHEREUPON, an off-the-record bench conference
20 was held in the presence of the jury but out of
21 the hearing of the jury.)

22 BY MS. HINTON:

23 Q Doctor, I'm going to show you what's been marked
24 as State's 17 and 18. Do you recognize those photos as
25 being consistent with [REDACTED]'s injuries?

DARRELL GWYN-DIRECT BY MS. HINSON

1 A Yes.

2 Q Now, State's 17, could you please explain to the
3 jury what you're looking at in this picture?

4 A It's a little bit harder to see on that, but
5 there's two or three abrasions to the scrotum area.

6 Q And then State's 18.

7 A That's a little bit lower down. There's
8 erythema and irritation to the anal area.

9 Q Okay.

10 MS. HINTON: I'm sorry, Your Honor, the State
11 would move State's 17 and 18 into evidence.

12 THE COURT: Objection, sir? Objection to 17 and
13 18, Mr. Yarborough?

14 MR. YARBOROUGH: No, sir, Your Honor.

15 THE COURT: Okay, without objection, the same
16 are admitted.

17 (WHEREUPON, State's Exhibits Nos. 17 & 18 were
18 admitted into evidence.)

19 BY MS. HINTON:

20 Q Now, Doctor, when [redacted] was
21 admitted into your unit, was he eating on his own?

22 A Not at the time.

23 Q Okay. And would you expect a baby, a normal
24 baby who does not have injuries, to be able to eat on his
25 on at 10 days old?

DARRELL GWYN-DIRECT BY MS. HINSON

1 A Yes.

2 Q Now, were you able to determine what it was that
3 was causing his inability to feed?

4 A Well, he had multiple injuries. He had the
5 bruising that we've seen on the pictures. He had the
6 injury to the gums, so to speak. Then he had the
7 hyper-pharyngeal -- the injuries on the top of his mouth
8 and the injuries in the deep portion of his throat. And
9 the combination of all those injuries put him in a state
10 where he wasn't awake enough or aware enough to be eating.

11 Q So, how do you feed a child that can't feed
12 themselves in your unit?

13 A We have multiple ways. Sometimes, we put tubes
14 in their nose that go into their stomach. Sometimes, for
15 children who can't do it that way, we give it to them
16 through an IV. Sometimes, people get G-Tubes. Depends.

17 Q Okay. Do you recall what
18 received?

19 A When he first came in, we weren't feeding him.

20 Q Okay. Once you began feeding him, do you
21 recall?

22 A I'd have to look back through my notes to say.

23 Q Why were you not feeding him initially?

24 A When children come in and they've had
25 significant injuries, usually, those injuries bring along

DARRELL GWYN-DIRECT BY MS. HINSON

1 the risk of anoxic injury, lack of oxygen. The GI tract
2 can be very sensitive to that. So, that if you have a
3 significant injury within the first 72 hours, we tend not
4 to feed through the enteral route, through the stomach,
5 mouth because it stresses the GI tract. So, we'll let
6 them go without feeding for the first two, three days and
7 then slowly start feedings after that.

8 Q Now, I'm assuming, do you run tests on the child
9 when he's in your unit?

10 A Yes.

11 Q Okay. Do you ever check for hemophilia in a
12 child?

13 A When we -- we look for a constellation of
14 injuries for anybody -- we look for a constellation of
15 symptoms for anybody to come up with one unifying
16 diagnosis, so yes, we do. And we tried to look at his
17 skin injuries, his mouth and deep throat injuries and
18 tried to come up with one unifying diagnosis.

19 Along with that, we refer to Dr. Henderson
20 and her partners, her group for the forensics, but we do a
21 long list of tests to try to look for everything else that
22 could explain things. We try to rule out bleeding
23 disorders. We try to rule out infections. We go through
24 a long list of things to try to explain. And that's -- if
25 we can rule those things out, then we feel comfortable

DARRELL GWYN-DIRECT BY MS. HINSON

1 making the diagnosis of non-accidental trauma.

2 Q And in this particular case, were you able to
3 rule out all those other possibilities?

4 A (The witness nods.)

5 Q Is that a yes?

6 A Yes. I'm sorry.

7 Q That's okay. Were you able to a degree of
8 medical certainty to diagnose him as having non-accidental
9 trauma?

10 A Yes, I think it's quite obvious that he
11 obviously didn't do it to himself. There was no history
12 that explained the constitution -- reasonably explain the
13 constitution of injuries that he had.

14 Q Now, there has been some talk about the
15 laceration in the deep part of the throat and there has
16 been some talk about a possible suction. Are you familiar
17 with the bulb suction?

18 A Yes.

19 Q And that the bulb suction may have caused that
20 laceration deep in the throat. Do you have a medical
21 opinion as to that?

22 A We manipulate airways with things much stiffer,
23 metal, hard plastics, for the things that we do. And it's
24 not -- for a soft bulb syringe to cause that much injury
25 would take more force than a reasonable person would

DARRELL GWYN-DIRECT BY MS. HINSON

1 apply.

2 Q And we're talking about deep down in the throat.
3 Is there a way to better describe that to the jury, what
4 area of the throat we're talking about?

5 A I think most people are used to opening the
6 mouth and you see the uvula, the little punching bag. The
7 area of his injury was past that. So, if you got a bulb
8 syringe that far back, it would take, I think, an abnormal
9 placement for it. And then to use enough force to cause
10 the injury -- I can't remember the exact scan, but I think
11 it was a CT, to cause that degree of injury with a bulb
12 syringe, again, would take even more -- I think any
13 reasonable person wouldn't apply that much force to
14 something. We see a lot of stressed situations in parents
15 and EMTs and multiple caregivers trying to give therapy as
16 best they can and they're very agitated and excited and we
17 don't see injuries like that.

18 Q Okay. Now, in the level of care that's provided
19 at the hospital, I guess, if there was a hierarchy of
20 level of care from extreme to not, where does the
21 pediatric critical care unit fall?

22 A We're at the top end of it.

23 Q Now, [REDACTED] did not have any broken bones; is
24 that correct?

25 A Correct.

DARRELL GWYN-DIRECT BY MS. HINSON

1 Q Okay. Would you expect in a child who is
2 experienced trauma to have broken bones?

3 A They don't have to.

4 Q Why is that?

5 A Children bones are very pliable.

6 Q Doctor, I'm going to show you your notes and --
7 okay, I'm not a doctor, so I'm hoping that these are your
8 notes and that this will assist you in what type of
9 feeding you had to use. But take your time to flip
10 through those.

11 A (The witness complies.) I'm sorry, I need the
12 progress notes.

13 Q Okay. I don't know if this is what you're
14 looking for.

15 A This is closer to it, yes.

16 Q Okay.

17 A So, we had him on TPN.

18 Q What is that?

19 A The best way to describe it is that for people
20 who we can't feed the enteral route, by mouth, stomach,
21 you can break all foods down into three things, fats,
22 carbohydrates and proteins and put it into a solution.
23 The solution looks like Mountain Dew and milk. That's
24 TPN, total parenteral nutrition. Then you can start
25 giving people nutrition that way. And we had him on TPN.

DARRELL GWYN-DIRECT BY MS. HINSON

1 Q Okay. And if you had just fed him formula when
2 he came in, what would have happened to him from a medical
3 standpoint?

4 A He would have run the risk -- if the GI tract is
5 not ready to tolerate food, it can actually start to break
6 down. The GI tract fits together like a hose, but the
7 hose fits together like a zig saw puzzle. When it gets
8 stressed or strained, the zig saw puzzle doesn't fit
9 together tightly. It kind of opens up a little bit. And
10 it is very important for the GI tract to contain the stool
11 and guts, the thing that you see because it keeps a
12 healthy environment. But it needs to stay in the GI
13 tract. If it starts to open in that manner, then it can
14 start to seethe through and seethe body, so that you can
15 get something called necrotizing enterocolitis, I mean,
16 get sepsis, and it's a bad infection to have, if you feed
17 people too quickly who's GI tract has been compromised.

18 Q Okay. And in your expert medical opinion, if
19 [REDACTED] had not been admitted to the hospital
20 that day, would he have died?

21 A More than likely.

22 Q And Doctor, just to follow up, do you determine
23 that it's non-accidental trauma or do you that in
24 conjunction with Dr. Henderson?

25 A We do that in conjunction with Dr. Henderson.

DARRELL GWYN-CROSS BY MR. YARBOROUGH

1 The reason her department was established is that we
2 wanted to kind of separate ourselves from anything other
3 than the child themselves. So, we try to come in, we add up
4 the information and then we start trying to focus on the
5 child. And then when it comes to who did what to the
6 child, we try to leave that up to others.

7 Q And by others, you mean law enforcement?

8 A Law enforcement, DSS, family members?

9 Q So, your area is not who did it?

10 A The way we look at it is we know that []
11 didn't do it to himself. We know that if [] could
12 speak for himself, he'd say somebody please help me. So,
13 we try to do our best to help him get though how injured
14 he is.

15 Q Okay. And is it your unit that contacts
16 Dr. Henderson?

17 A Yes.

18 Q Is that what you did in this case?

19 A Yes.

20 MS. HINTON: Doctor, that's all I have. Please
21 answer any questions that Mr. Yarborough may have.

22 CROSS-EXAMINATION

23 BY MR. YARBOROUGH:

24 Q So, the child being brought into the hospital on
25 the 7th was the right thing to do?

DARRELL GWYN-CROSS BY MR. YARBOROUGH

1 A Yes.

2 Q Are you aware that Mr. Pillon was at the
3 hospital? Did you see him?

4 A I don't think I've ever met the family. If I
5 did, I don't remember it.

6 Q Okay. But that wouldn't -- that wouldn't have
7 been something you normally would have done, met the
8 family?

9 A If the family -- no, we typically do meet
10 family. It's rare for us not to meet families.

11 Q Okay. Did you look for him to try to talk to
12 him?

13 A I want to say -- I do not remember a hundred
14 percent, but by the time he got to us, if he was already
15 in protective custody, then we wouldn't have met the
16 family.

17 Q You're talking about the child?

18 A The child, yes.

19 Q So, the child being brought down to the -- to
20 the hospital was the right thing to do?

21 A Correct, yes.

22 Q So, somebody else made a decision to take the
23 child into custody?

24 A Yes.

25 Q And based on your knowledge, the parents brought

DARRELL GWYN-CROSS BY MR. YARBOROUGH

1 the child down there?

2 A Yes.

3 Q Okay. And if the -- you're talking at length
4 about the baby not eating the right food, y'all got him
5 the right food once the baby got to the hospital?

6 A He did not eat any food when he got to the
7 hospital.

8 Q You gave him the right nutritional -- what's the
9 right word --

10 A We give him the right nutrition that he needed.

11 Q So, y'all got that after the parents brought the
12 child to the hospital?

13 A Yes.

14 Q And are you aware that the child had been in
15 numerous -- at least, been to the Greenville Hospital
16 twice before that?

17 A More so now than I was then. Like I said, my
18 concentration at that point in time was just on him.

19 Q Right. So, when you were focused on him, you
20 weren't focusing on the fact that --

21 A Other people were gathering that information
22 together?

23 Q That wasn't something you were doing?

24 A No, I didn't go about gathering that
25 information.

DARRELL GWYN-CROSS BY MR. YARBOROUGH

1 Q Did you gather the information he had been taken
2 to Cannon Memorial Hospital?

3 A My recollection is that over the course of the
4 time he was there from Dr. Henderson, law enforcement and
5 others, I have heard about these things.

6 Q Okay. And that he had been to two other doctors
7 visits since he was released from the hospital?

8 A I couldn't speak to the details of it. I had
9 heard many different stories, as we do. And again, I
10 listen, but I don't really care because it doesn't affect
11 taking care of [REDACTED]. I leave others to put all that
12 together.

13 Q The tube we're talking about that goes down the
14 throat, that tube is a suction tube?

15 A Are you talking about the bulb syringe?

16 Q The bulb syringe, yes. It's a suction?

17 A Yes.

18 Q So, you stick it down and that's what gets the
19 mucus and the blood out if it's there?

20 A (The witness nods.)

21 Q So, it has a suction top to it?

22 A Well, a little bulb, a little fine ending so
23 that it can create a suction.

24 Q Is it plastic or glass?

25 A They come in lots of different styles.

DARRELL GWYN-CROSS BY MR. YARBOROUGH

1 Q But it's stuck in and then it's --

2 A In the front of the mouth --

3 Q Right.

4 A -- from what you're saying, yes. You open your
5 mouth and you usually don't go past the front of the
6 tongue. Sometimes people scrape the upper portion of the
7 mouth.

8 Q Right. But --

9 A Shouldn't be where that esophageal
10 hyper-pharyngeal injury is under any circumstances.

11 Q Right, it shouldn't be, but it's conceivable?

12 A No. If I did it to anybody and showed you how
13 much force it took to get it there, you would not say that
14 is a conceivable thing, that is a plausible thing, oh, I
15 understand why you did it. Not that deep.

16 Q Then how did that mark get right there?

17 A I don't try to figure those things out. I don't
18 know what caused that mark. I'm just saying that if a
19 bulb syringe caused it -- if your question was, is that a
20 conceivable thing to do, I'd say no, it's not.

21 Q So conceivable, that isn't what did it?

22 A I don't know what did it. I can't say what
23 caused that injury.

24 Q But you're saying that it wasn't caused by the

25 --

DARRELL GWYN-CROSS BY MR. YARBOROUGH

1 A Let me rephrase it. I know [redacted] didn't cause
2 that injury. I know it's not a natural injury. I don't
3 think that the typical use of a bulb syringe would cause
4 that injury. But I don't know what caused it.

5 Q Right. Well, did you try to look to see what
6 caused it?

7 A No.

8 Q What about the stuff on the nose, did you try to
9 figure out what caused that?

10 A I see the bruises in some of those pictures,
11 which show anybody how the bruises are there, so I could
12 come up with a reason for why all the bruises are there.
13 But, you know, that's just one person's opinion.

14 Q Right. Okay. After being in the hospital for a
15 couple of days, was the baby okay?

16 A I want to say everything went well with him. He
17 was very, very fortunate.

18 Q Okay.

19 MR. YARBOROUGH: I don't have any further
20 questions -- hold on a second.

21 BY MR. YARBOROUGH:

22 Q Do you know if the baby had surgery afterwards?

23 A After he left the unit?

24 Q Yeah.

25 A We only work in the unit. So, things that

DARRELL GWYN-RECROSS BY MR. YARBOROUGH

1 happened to him after he left the unit, I wouldn't know
2 about.

3 Q So, you're not sure if that baby was required to
4 have surgery later or not?

5 A I don't know.

6 Q Okay.

7 MR. YARBOROUGH: Thank you.

8 THE COURT: Redirect?

9 MS. HINTON: Just real quick.

10 REDIRECT EXAMINATION

11 BY MS. HINTON:

12 Q We spent a lot of time on bulb suction and down
13 the throat. Is it your medical opinion that that is
14 non-accidental trauma, what has happened to the back of
15 his throat?

16 A Oh, yeah.

17 MS. HINTON: That's all I have.

18 MR. YARBOROUGH: One question.

19 THE COURT: Yes, sir.

20 RECROSS-EXAMINATION

21 BY MR. YARBOROUGH:

22 Q Did you talk to the mother about that?

23 A I'm not sure that I -- if somebody shows me that
24 I did speak with the family, then I'd say whatever I wrote
25 down, but I'm not sure that I spoke with any of the family

1 members. Maybe I have, I just don't remember.

2 MR. YARBOROUGH: Okay, thank you.

3 THE COURT: All right, Doctor. Thank you.

4 Appreciate your being here, sir.

5 MS. HINTON: Judge, may he be excused?

6 THE COURT: Certainly, certainly.

7 Okay. It's my understanding your next witness
8 will be here at 1:00?

9 MS. HINTON: That's correct, Your Honor.

10 THE COURT: All right, ladies and gentlemen --

11 Is this another doctor; am I correct?

12 MS. HINTON: It is. It's one more doctor and
13 that should be the State's case.

14 THE COURT: All right, ladies and gentlemen, you
15 heard that. The next witness will be another doctor.
16 Because of his or her schedule, they cannot be here
17 until 1:00. So, that should be the State's last
18 witness. What we'll do after we've heard from that
19 witness, I'll take up some matters of law with the
20 attorneys, then proceed to Defense's case.

21 Mr. Yarborough, as of right now, do you have any
22 idea how many witnesses you intend to call, if any?

23 MR. YARBOROUGH: Depending on how things go,
24 either one or maybe three or four.

25 THE COURT: Okay. All right, so ladies and

1 gentlemen, you heard that. So, what I'd like to do
2 if we can today is finish all of the testimony today
3 and then come back tomorrow and go into argument and
4 charge. That may happen or it may not. I can't make
5 guarantees because I don't control the witnesses.
6 But that's kind of what I'm looking at right now.

7 So, if y'all would please be back at five
8 minutes to 1:00, five minutes to 1:00, and then we'll
9 begin the examination of the doctor when he or she
10 gets here. Okay. Have a great lunch, please don't
11 discuss the case.

12 (WHEREUPON, the jury left open court at
13 approximately 11:32 a.m.)

14 THE COURT: All right, anything for the record
15 before we adjourn for lunch?

16 MR. YARBOROUGH: Nothing.

17 THE COURT: Okay, y'all come up for a second.

18 (WHEREUPON, an off-the-record bench conference
19 was held.)

20 THE COURT: We're in recess, by the way. I'm
21 not putting anything else on the record. Y'all can
22 go to lunch.

23 (WHEREUPON, a lunch break was taken.)

24 THE COURT: All right, ready for the jury?

25 MS. HINTON: Yes, sir, Your Honor.

1 MR. YARBOROUGH: Yes, sir.

2 THE COURT: Okay.

3 (WHEREUPON, the jury came into open court at
4 approximately 1:20 p.m.)

5 THE BAILIFF: Present, sir.

6 THE COURT: Okay, good enough.

7 All right, you may call your next witness.

8 MS. HINTON: Thank you, Your Honor. The State
9 would call Dr. Nathan Alexander.

10 THE CLERK: Place your left hand on the Bible,
11 raise your right hand.

12 NATE ALEXANDER, after being duly
13 sworn, testified as follows:

14 THE CLERK: Thank you. If you would have a seat
15 and state your name for the record.

16 THE WITNESS: Nathan Alexander.

17 DIRECT EXAMINATION

18 BY MS. HINTON:

19 Q Dr. Alexander, where are you employed?

20 A At GHS in Greenville.

21 Q In what specific unit are you employed?

22 A Director of pediatric otolaryngology or ENT.

23 Q And ENT deals with what orifices?

24 A Ears, nose and throat.

25 Q Okay. And you said you specialize in

NATE ALEXANDER-DIRECT BY MS. HINTON

1 pediatrics?

2 A Yes.

3 Q Can you tell the jury a little bit about your
4 educational background?

5 A Sure. Did undergraduate in Roanoke, Virginia,
6 at Roanoke College and then medical school at LSU in
7 Shreveport. Then residency at UAB in Birmingham, and then
8 one extra year of training for pediatric ENT at Children's
9 Memorial -- or Lurie Children's in Chicago.

10 Q How long have you been practicing medicine?

11 A I'm in my fourth year.

12 Q And do you have any specialization other than
13 just ENT?

14 A No, not outside of ENT.

15 Q Do you deal with any specific disorders in ENT
16 or do you generally just practice?

17 A So, there's a lot of different facets in
18 pediatric ENT, including hearing loss, swallowing
19 disorders, voice dysfunction, head and neck masses, things
20 like that. So, I guess you can call that
21 sub-subspecialization.

22 Q Okay. Do you have a particular
23 subspecialization?

24 A No, I kind of cover it all.

25 Q Okay. All right. Do you deal with swallowing

NATE ALEXANDER-DIRECT BY MS. HINTON

1 disorders?

2 A Yes.

3 Q How many people in the State of South Carolina
4 do what you do?

5 A Probably four or five total.

6 Q Okay.

7 MS. HINTON: Your Honor, at this time, I would
8 move Dr. Alexander as an expert in pediatric
9 swallowing disorders.

10 MR. YARBOROUGH: Without objection.

11 THE COURT: Okay. All right, he is so admitted.
12 You may continue.

13 MS. HINTON: Thank you, Your Honor.

14 BY MS. HINTON:

15 Q Dr. Alexander, did you have an opportunity to
16 view ?

17 A Yes.

18 Q Okay. And do you recall what date you saw him?

19 A Probably early 2014, in January.

20 Q And why did you see him?

21 A One of my partners had asked me to see him
22 because he had difficulty with swallowing and aspiration
23 on the heels of an injury. So, he asked my opinion or my
24 expertise to be able to see if there's anything anatomic
25 to cause him having difficulty swallowing.

NATE ALEXANDER-DIRECT BY MS. HINTON

1 Q Okay. Who is your partner that asked you to do
2 that?

3 A Andrew Rampey.

4 Q Are y'all in the same practice?

5 A Yes.

6 Q All right. Did you end up examining [redacted]
7 [redacted]?

8 A Yeah, I did. I examined him under anesthesia.
9 I met him in clinic and then I examined him under
10 anesthesia and found him to have a pharyngeal cleft that
11 we went in and repaired.

12 Q Did you find him to have any other signs of
13 trauma?

14 A Yeah. He did have a healed laceration on the
15 back wall of the throat.

16 Q Okay. And let's talk about the cleft. Is that
17 something related to trauma?

18 A No.

19 Q Is that something you're born with?

20 A Something you're born with, that's right.

21 Q The laceration, is that something that you're
22 born with or is that as a result of trauma?

23 A That's a result of trauma.

24 Q Now, when you saw him, was he feeding on his
25 own?

NATE ALEXANDER-DIRECT BY MS. HINTON

1 A No. I think he was doing both G-Tube and oral
2 feeding, but the oral feeding needed to be modified
3 because he was having difficulty with aspiration of
4 thinner liquids.

5 Q Okay. And just to refresh, when did you see
6 him?

7 A I believe it was early 2014.

8 Q Okay. And we've discussed the G-Tube a little
9 bit with previous doctors, but can you explain to the jury
10 what a G-Tube is?

11 A Sure. A G-Tube is, essentially, just a
12 prosthetic device that allows direct access. It goes in
13 through the stomach -- the abominable wall into the
14 stomach cavity itself so you can administer nutrition tube
15 feeds, like Ensure or Boost in an adult, but in children,
16 it's different formulation, but, essentially, it's just so
17 they can get their caloric intake if they can't take
18 enough in by mouth.

19 Q And do you have any idea how long [redacted] had
20 that G-Tube in?

21 A It was probably over a year. He had it -- can I
22 look at my clinic notes just to refresh my memory?

23 Q Certainly.

24 A Let's see, he had it placed in June of 2013.
25 And so, I did the surgery in February of 2014. And the

NATE ALEXANDER-DIRECT BY MS. HINTON

1 last time I saw him was in July of '14, so he had it at
2 that point.

3 Q Okay. So, when you saw him in July of 2014, the
4 G-Tube was still in, correct?

5 A Correct.

6 Q And the trauma that he suffered, there has
7 been -- in the throat, what area of the throat are we
8 talking about?

9 A Essentially, the posterior pharyngeal wall. So,
10 the tongue goes back and kind of rests in the back of the
11 pharynx, then it transitions down to the larynx, the voice
12 box. So, essentially, it's a muscular cylinder in the
13 back of the throat, so it's in the back right wall of the
14 throat.

15 Q And I think you testified that it was a healed
16 laceration at that point; is that correct?

17 A Correct.

18 Q All right. Even though it is healed, can you
19 have subsequent effects from that injury?

20 A Sure.

21 Q Did [redacted] have subsequent effects from that
22 injury even though it had healed?

23 A It's certainly possibly that the injury
24 itself -- I mean, there's a lot of nerves that provide
25 sensation to the back area of the throat and the

NATE ALEXANDER-DIRECT BY MS: HINTON

1 coordination of the muscles involved in swallowing. It's
2 certainly possible that there was persistent injury, I
3 guess, from -- or persistent sequelae from the injury,
4 even though the actual surface had healed.

5 Q Did you recommend any sort follow-up treatment
6 for him? Is that your area or --

7 A Typically, if there's continued difficulty with
8 swallowing dysfunction, even after an anatomic cause or
9 culprit is felt to have been fixed or healed, then it's
10 under the purview of speech therapy to continue.

11 Q Do you have any idea whether [] had had
12 speech therapy?

13 A He did have speech therapy.

14 Q Do you have any idea how long he did speech
15 therapy?

16 A No, I don't.

17 Q In your medical opinion, could that injury that
18 you saw be the result of a bulb suction?

19 A No.

20 Q And when I say you saw, is this something that
21 when you look in the throat you can see or do you have to
22 use a tool?

23 A You have to use a tool.

24 Q What kind of tool would you use to look at that?

25 A Initially, when he was diagnosed, he was

NATE ALEXANDER-DIRECT BY MS. HINTON

1 diagnosed with what's called a flexible laryngoscope,
2 which is, essentially, just a flexible camera that has a
3 light on the end of it when we go into a child or an
4 adult's mouth. We go in through the nose and then we turn
5 the corner and look at the back of the throat.

6 So, when he was initially diagnosed, that
7 was the tool that was used. I believe there's a report
8 from the ER that they saw some evidence of injury from
9 looking into the mouth, but it's hard to determine the
10 extent of the laceration. Dr. Rampey was the first one to
11 see that with the flexible laryngoscope through the nose.
12 And then I saw it in the operating room after it had
13 already healed through -- using different tools.

14 Q Now, if a child is having -- would that injury
15 be consistent with a child who's having difficulty feeding
16 or blood coming from their mouth?

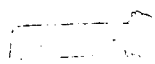
17 A Say that again.

18 Q Would the injury that you saw in  would
19 that be consistent with the child having difficulty
20 feeding?

21 A No. Not in and of itself, no.

22 Q Would that be consistent with blood or -- coming
23 from the nose or mouth area?

24 A Yes.

25 Q Okay. In your medical opinion, had  not

NATE ALEXANDER-CROSS BY MR. YARBOROUGH

1 gotten treatment for that injury, or gotten a G-Tube;
2 would that have been a life-threatening injury for him?

3 A Yeah, potentially. I mean, if he had difficulty
4 with swallowing dysfunction and aspiration, prolonged
5 aspiration is continued insult to the lungs and -- really,
6 the lungs and entire digestive system. So, that can cause
7 issues with pneumonia and whatnot if it's not recognized
8 or modified.

9 MS. HINTON: Doctor, that's all the questions I
10 have. Please answer anything Mr. Yarborough may
11 have.

12 CROSS-EXAMINATION

13 BY MR. YARBOROUGH:

14 Q When did you diagnose the trauma?

15 A The trauma?

16 Q Yeah, when did you diagnose it?

17 A I met Matthew in the operating room in
18 February of 2014.

19 Q So, that's approximately -- so, six months after
20 or seven months after June 7th, 2013?

21 A Yes.

22 Q Did -- are you familiar with when the diagnosis
23 was made?

24 A Uh-huh.

25 Q When was the diagnosis made?

NATE ALEXANDER-CROSS BY MR. YARBOROUGH

1 A When he was in the ICU?

2 Q So, does it show that on your notes?

3 A Not on the notes I have printed out here, but
4 there's a consult note dictated by my partner, Dr. Rampey
5 when he was in the ICU. So, he examined him because he
6 was called for a concern about blood from the mouth and
7 the nose and he used that flexible scope through the nose
8 and that's when he diagnosed pharyngeal swelling, edema
9 and evidence of a laceration.

10 Q Okay. Swelling and stuff is caused sometimes by
11 bleeding in that area?

12 A Not caused by the bleeding.

13 Q It makes it harder, rougher, makes the area more
14 sensitive?

15 A I guess so, yeah, if there's swelling there,
16 yeah.

17 Q If you stuck a tube down the throat, would it
18 also cause -- that wouldn't cause it at all?

19 A No, it's fairly atraumatic. I do it in the
20 clinic every day or every day I'm in the clinic. So, it's
21 very atraumatic, about the size of a piece of spaghetti.

22 Q But if you were sticking a suction cup down the
23 throat, would that cause it?

24 A No.

25 Q What caused it then?

NATE ALEXANDER-CROSS BY MR. YARBOROUGH

1 A I don't know. Suction like a bulb suction, like
2 a rubber bulb suction?

3 Q Yeah, that small one to get mucus out of the
4 throat in a congested early birth baby?

5 A I don't think so because there's -- no, it's not
6 my opinion that would cause it.

7 Q Well, then, what did cause it?

8 A I don't know.

9 Q No way of telling?

10 A No. I mean, I can tell you that something soft
11 like a rubber or a plastic suction is unlikely to have
12 caused that kind of laceration to the back of the throat.

13 Q But it could have it? It's unlikely, but it's
14 possible.

15 A I don't see how it could have.

16 Q I mean, you're the expert, what could have
17 caused it?

18 A Well, I would imagine something sharper or more
19 rigid than a piece of plastic or a piece of rubber.

20 Q And you're not familiar how it was done and all
21 you're doing is reading the report?

22 A Right. Since I met him that far after.

23 Q And everything cleared up and it was okay?

24 A Well, the incision on the throat healed up,
25 yeah.

NATE ALEXANDER-REDIRECT BY MS. HINTON

1 Q And he's okay now?

2 A He -- last time I saw him in July of '14, he was
3 eating much better by mouth after we fixed his laryngeal
4 cleft as well.

5 MR. YARBOROUGH: Thank you.

6 THE COURT: Any redirect?

7 MS. HINTON: Just briefly, Your Honor.

8 THE COURT: Yes, ma'am.

9 REDIRECT EXAMINATION

10 BY MS. HINTON:

11 Q Dr. Alexander, you said that you don't know what
12 specifically caused that trauma, but would you say that
13 that trauma was non-accidental? Are you familiar with
14 non-accidental trauma? I know that's not really your
15 area.

16 A We see non-accidental trauma occasionally. It
17 would be hard -- it would be hard to create that kind of
18 wound, that kind of laceration on accident.

19 Q Would it require some degree of force?

20 A Uh-huh.

21 MS. HINTON: That's all I have.

22 THE COURT: Any recross based on that?

23 MR. YARBOROUGH: No.

24 THE COURT: All right. Thank you, Doctor,
25 appreciate your being here.

1 MS. HINTON: Your Honor, may he be excused?

2 THE COURT: Any objection, sir?

3 MR. YARBOROUGH: No objection.

4 THE COURT: Sure.

5 Anything further from the State?

6 MS. HINTON: No, Your Honor, at this time, the
7 State rests.

8 THE COURT: All right, ladies and gentlemen, at
9 this point in the trial, I have to take up some legal
10 matters. I hope it doesn't take us very long. So,
11 I'm going to ask you to retire to your jury room.
12 After we -- after we conclude the legal matters that
13 I take up, we'll come back and if the Defense is
14 ready to offer evidence into the record, then we'll
15 proceed with that. Okay.

16 (WHEREUPON, the jury left open court at
17 approximately 1:35 p.m.)

18 THE COURT: Motions?

19 MR. YARBOROUGH: Your Honor, at this time, we do
20 not believe that the State has met its burden. They
21 seemed to have proven a case that something happened
22 to that child, and we don't disagree. But at this
23 point, they've presented no evidence that points in
24 any way, shape or form to my client having been
25 involved in it. All he is is a -- sounds like he

1 took the child to the hospital five or six times.
2 The co-defendant is nowhere to be found, the mother
3 of the child. I'd ask that the Court dismiss the
4 case at this point for lack of any evidence pointing
5 towards him.

6 THE COURT: Okay.

7 Position of the state?

8 MS. HINTON: Thank you, Your Honor. As you
9 know, you view the evidence in the light most
10 favorable to the nonmoving party. Judge, I think
11 there's been ample evidence that this child was in
12 the exclusive custody, care and control of Mr. Pillon
13 and Ms. Atkins from 10:00 o'clock to 10:00 a.m.
14 There's been no dispute as to that, at least, at this
15 point. That Matthew could be heard yelling at the
16 child, that he did not want the child to go to the
17 hospital, and that he showed a complete lack of
18 concern for the child once the child was at the
19 hospital.

20 So, it would be the State's opinion that -- and
21 I don't think he's disputing the medical diagnosis of
22 the child and that the child -- that we've reached
23 the burden of the child having the subsequent issues
24 that are required under the statute, but it's merely
25 whether or not his client did it. And I think

1 there's ample evidence in the record, Your Honor.

2 THE COURT: All right. It's incumbent upon the
3 Court in a motion for directed verdict to view the
4 motion in the light most favorable to the nonmoving
5 party. The Court must determine not what -- the
6 weight of the evidence, the sufficiency of the
7 evidence, but if there is any evidence which would
8 support the State's case upon which the jury could
9 decide they have met their burden of proof.

10 Under that standard of any evidence, I do find
11 that there is at the very least circumstantial
12 evidence of which -- upon which the jury could
13 determine the State has met its burden of proof.
14 Therefore, I respectfully deny your motion for
15 directed verdict.

16 MR. YARBOROUGH: Thank you, Your Honor.

17 THE COURT: Anything else?

18 MS. HINTON: Not from the State.

19 THE COURT: You ready to go?

20 MR. YARBOROUGH: I'm ready.

21 THE COURT: All right.

22 (WHEREUPON, the jury came into open court at
23 approximately 1:38 a.m.)

24 THE COURT: All right, Mr. Yarborough, you may
25 call your first witness.

1 MR. YARBOROUGH: Your Honor, I call Matthew
2 Pillon.

3 THE CLERK: Place your left hand on the Bible,
4 raise your right hand.

5 MATTHEW PILLON, after being duly
6 sworn, testified as follows:

7 THE CLERK: Thank you. Please be seated and
8 state your name for the record.

9 THE WITNESS: Matthew Pillon.

10 DIRECT EXAMINATION

11 BY MR. YARBOROUGH:

12 Q Matthew, how old are you?

13 A Twenty-five.

14 Q Okay. And where are you from?

15 A California.

16 Q How long have you been in South Carolina?

17 A Since 2012.

18 Q Okay. And you moved here from California in
19 2012?

20 A Yes, sir.

21 Q What did you move here for?

22 A Try to start a new life, just different changes.

23 Q Did you have family here?

24 A Yes, my father.

25 Q Father here?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A And my stepmother.

2 Q Okay. When you were in California, who did you
3 live with?

4 A My mother and my sister over there.

5 Q Okay. When you moved here, were you married?

6 A No, I was single.

7 Q Did you meet somebody?

8 A I met Angel later on on a website called My
9 Yearbook.

10 Q Angel is Angel who?

11 A Angel Atkins.

12 Q And how old were you when you met her?

13 A Twenty-three.

14 Q And did y'all date for a little while?

15 A It was actually supposed to be just like a
16 one-night stand, then it kind of moved into a little bit
17 of a relationship.

18 Q About when was that?

19 A Sometime almost around December of 2012.

20 Q Okay. And at the time that you met her, was she
21 pregnant?

22 A Yes. She was, I believe, six weeks pregnant.

23 Q And -- but you continued to date her anyway?

24 A Yes. Yes, sir.

25 Q Okay. Did she have any children?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A Yes, sir. She had a three year old, [REDACTED]. And
2 then later on, I met the seven year old, [REDACTED].

3 Q And how did you meet [REDACTED]?

4 A [REDACTED] is -- actually, when I met him, I used
5 to live in an apartment complex off Haywood Road. And we
6 actually all went to --

7 Q Slow down. I just asked you how did you meet
8 [REDACTED]?

9 A Chuck E. Cheese's.

10 Q At Chuck E. Cheese's. And where is that Chuck
11 E. Cheese's?

12 A Haywood Road.

13 Q Then you were telling the jury you lived?

14 A Right behind Chuck E. Cheese's apartment complex
15 off Haywood.

16 Q How did you end up meeting [REDACTED] at Chuck E.
17 Cheese's?

18 A We actually walked there. We just walked to
19 Chuck E. Cheese's. How did I meet him there?

20 Q Yeah.

21 A Well, of course, her family brought him down to
22 Chuck E. Cheese's and then we walked to Chuck E. Cheese's
23 and met them at Chuck E. Cheese's.

24 Q When you say her family, who are you talking
25 about?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A Terry Marcus, Tammy, Karl and Marie.

2 Q Okay. And how do you know all of them?

3 A I really don't, except for just meeting through
4 her.

5 Q Okay. Did there come a time that you lived with
6 them?

7 A Yes, sir.

8 Q Okay. Tell the jury about that.

9 A Well, like I said, I was living in a complex off
10 Haywood Road. And I noticed [] -- one night [] came
11 home from there, there was some complications. She was on
12 her phone. So, the grandparents brought him down. I see
13 handprint marks on his face.

14 Q On whose face?

15 A [], the three year old.

16 MR. RICHARDSON: Your Honor, I'm going to
17 object. I don't see the relevance of this.

18 THE COURT: Okay. What's the relevance of that,
19 sir?

20 MR. YARBOROUGH: Your Honor, we'll move past
21 that.

22 THE COURT: Okay.

23 THE WITNESS: We took off his clothes to give
24 him --

25 MR. RICHARDSON: Your Honor --

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 BY MR. YARBOROUGH:

2 Q Hold on, Matthew. Let's talk about how you met
3 the family.

4 A I met the family at Chuck E. Cheese's.

5 Q You met the family at Chuck E. Cheese's. And
6 when was that?

7 A It was sometime in December.

8 Q Okay. Now, did you eventually move in with
9 them?

10 A I eventually did later on after.

11 Q Okay.

12 A Maybe like a couple months after.

13 Q When would that couple of months be?

14 A Probably about February or March.

15 Q Okay. When you moved in with them, where was
16 that?

17 A 150 Polly Drive.

18 Q Okay. When you moved into 150 Polly Drive, who
19 was living in that house?

20 A Karl Atkins, Marie Atkins, Tammy Atkins, Terry
21 Marcus, Scott Marcus, his girlfriend. Then you had
22 [redacted] and [redacted]. And then, of course, you had Angel
23 Atkins.

24 Q And how -- when you moved in, how pregnant was
25 Angel at that point?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A Really pregnant. She was big. I mean, six
2 weeks -- or a couple months after maybe. I want to say
3 six months, maybe five, six months.

4 Q Was she pregnant with your child?

5 A No.

6 Q Okay. But you've sat in here and you took over
7 responsibility for that child?

8 A Yes.

9 Q Okay. Now, why did you do that?

10 A Because I don't believe a child -- unborn child
11 should live life without a father.

12 Q Okay. So, you wanted to try to help that child?

13 A I wanted a family, yeah. And --

14 Q Why did you want a family?

15 A I was working with my dad, I was doing real
16 good. I thought it was time for me to start a family and,
17 you know.

18 Q Okay. Well, when you say you were working for
19 your dad, did there come a time that you lost that job?

20 A I only lost that job because I moved up there.

21 Q Okay. Because you couldn't get back and forth
22 to work?

23 A No. It had nothing to do about going back and
24 forth to work. We had a car.

25 Q Well then, why did you lose your job with your

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 dad?

2 A I lost my job with my dad because I went up
3 there. I left the apartment complex they was helping me
4 with. I went up there because there was signs of abuse on
5 the child.

6 Q When you -- you moved up to?

7 A 150 Polly Drive.

8 Q Okay. And you lost your job with your dad?

9 A Lost my job.

10 Q And did you get another job?

11 A I did later on down the road. Right before
12 Pickens Wal-Mart opened up, I was working for a company
13 Altruistic Staffing. And, basically, they help Wal-Mart
14 stock shelves when they first opened, so that's what I was
15 doing. And since I got a job, I helped out Terry and
16 Scott Marcus. They ended up working with me.

17 Q And those two individual are Angel Atkins --

18 A Stepfather and brother.

19 Q So, you helped them get a job?

20 A Yes, sir.

21 Q Did they work at Wal-Mart with you?

22 A Yeah, they did. We were stocking shelves.

23 Q And did you try to get your job back with your
24 dad?

25 A I did. But when I went up there, it left a

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 burden between me and my family.

2 Q So, your dad didn't want you move up to Pickens
3 is what you're saying?

4 A Yeah.

5 Q What was it like living in that house in
6 Pickens?

7 A Yelling and screaming all the time. Every time
8 when there's a altercation, I would step in because no one
9 else would. I remember an altercation, [] was --

10 MR. RICHARDSON: Your Honor, I object to this.
11 Once again, I don't see the relevance.

12 MR. YARBOROUGH: I ask him what it was like
13 living in the home.

14 THE COURT: Okay, I'll allow it. Overruled.

15 THE WITNESS: An altercation where Scott put his
16 hands on [] and I had to step in the middle of it.

17 BY MR. YARBOROUGH:

18 Q Let me ask you this, Matt, you seem like a
19 pretty smart guy. What was your thought pattern moving
20 into that place?

21 A Trying to get them kids out, man. I have never
22 hurt a child. I always put my foot down and tried to help
23 them move out, but Angel wouldn't.

24 Q Okay. Angel wouldn't move out?

25 A That's why I was trying to get work all the

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 time.

2 Q Was there a problem with you living there with
3 her?

4 A There was a problem with the whole family.

5 Q Okay. Did y'all have a bedroom?

6 A Yeah. I did help the grandfather put that
7 bedroom up in the kitchen. They had a small kitchen area.
8 Because that house was only a three-bedroom house. And I
9 did help him put up those walls for us. There was a small
10 space -- it was for -- we weren't even supposed to live
11 there for the baby to come back, but Angel --

12 Q Let's don't get there. When did y'all build
13 that room?

14 A As soon as I got up there, like that same week
15 we got up there.

16 Q Now, when is that? How -- let's do this, how
17 pregnant is Angel at that point?

18 A About five months, six months.

19 Q So -- and the baby's born in -- when?

20 A The baby was born May 28th.

21 Q So, three months before that is when?

22 A Three months before that -- three months before
23 that is like what, February?

24 Q Okay. So, y'all set up the room in February?

25 A (The witness nods.)

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 Q And her grandfather helped you build it?

2 A Yeah. I was helping him out and stuff. I mean,
3 I cut up wood for him, whatever measurements he needed, I
4 was helping.

5 Q And did y'all put a bed in there?

6 A Yeah, we put up a bed.

7 Q Did you put a crib in there?

8 A Yes, sir.

9 Q And what was all that set up for, was that to
10 bring the baby home?

11 A Like I said, we didn't want -- I didn't want to
12 bring that baby home to that environment, but she would
13 not want to leave that place. So we ended up putting a
14 crib up.

15 Q Okay. So, she wanted to stay in the house and
16 you wanted to go, but you --

17 A I wanted to take both of them kids and the child
18 and move to a different house away from them people.

19 Q Okay. But you didn't -- you weren't able to do
20 that right then?

21 A I wasn't able to because, technically, those
22 were not my kids to take. And if I would have took them
23 --

24 Q Let me ask you this, are any of these kids
25 yours?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A No.

2 Q Why did you put down that you were the father on
3 the birth certificate?

4 A Like I said, I just don't want a child to not
5 have a father, I mean.

6 Q But you -- she was pregnant when you met her?

7 A Yes, she was pregnant when I met her.

8 Q Now, did she have a very normal child birth?

9 Tell me about that. Did you go to the hospital?

10 A I went to every appointment. I went to the
11 ultrasounds, you know, all the doctor visits that she had.
12 We went to -- before the child was actually born, she had
13 some complications. We thought her water broke because it
14 was all wet down there. We went to Greenville ER and we
15 went up to the ultrasound. And they said everything was
16 fine, we just need to monitor it. They were monitoring
17 the child, the heartbeat and everything.

18 Q Right.

19 A Then a few days later, we came back and -- May
20 28th and we had the child.

21 Q She had the child where?

22 A Greenville Hospital because we had a C-section
23 due date on May 28th.

24 Q So, you knew when you went in, you were going to
25 have the baby?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A Yes.

2 Q Okay. Were there complications for the baby
3 right then?

4 A I mean, not that I know of, except for her --

5 Q When did she -- when did the baby get out of the
6 hospital?

7 A They were in the hospital for like three extra
8 days.

9 Q Why was she in the hospital for three extra
10 days?

11 A I guess that's the procedure of her recovery.

12 Q Were you there the whole time?

13 A I was there in the hospital the whole time.

14 Q And did you give that child your name?

15 A Yes, I did.

16 Q Okay. Now, when the child got out of the
17 hospital, Baby [redacted] got out of the hospital, did you
18 have to take the baby to the pediatrician?

19 A Yeah, they told us we needed to follow up to the
20 pediatric, which was the third.

21 Q Okay. So, the baby gets out on the 31st and you
22 take the baby to the hospital on the -- I mean, to the
23 pediatrician on the third. Do you remember what the name
24 of the pediatrician was?

25 A I don't remember her name. I can show you the

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 office, where it's at.

2 Q Where was that?

3 A In Easley.

4 Q In Easley. Did that pediatrician -- has she
5 testified in this courtroom?

6 A Yeah.

7 Q Okay. And that's the pediatrician you took the
8 baby to?

9 A Yes.

10 Q Who went with you?

11 A It was me and Angel, and then her grandfather
12 and grandmother were in the waiting room.

13 Q Was the baby okay at that point?

14 A The baby was fine. You know, they took off the
15 baby's clothes, I guess, during the original checkup,
16 but --

17 Q Were you in the room when that happened?

18 A I was in the room. I was also in the room when
19 the pediatrician did -- I don't know if she was checking
20 for blood flow, but she did squeeze the child's arms on
21 both sides and squeezed the foot. I don't know if because
22 the child was very just, like, I don't know pale -- not
23 pale, but just -- I don't know.

24 Q Was the baby healthy?

25 A The baby was fine that we know of. Until the

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 complications happened --

2 Q Now, wait a second. At the time you went to the
3 pediatrician the first time, had there been any
4 complications?

5 A No.

6 Q Not that you're aware of?

7 A Not that I'm aware of.

8 Q When did the complications start?

9 A Tuesday -- I'm sorry, the next day, the fourth.

10 Q So, you're in to see the pediatrician on the
11 third. On the fourth, what happened?

12 A Well, see, the child --

13 Q Well, let me ask you this, what time did you go
14 to the pediatrician's office on the third?

15 A It was like, I want to say, 10:00 or 11:00.

16 Q Okay. Did you take the baby home after that?

17 A Yeah, we went straight home.

18 Q Where did you take the baby to?

19 A We took the child into the room because, again,
20 there was a lot of yelling and screaming.

21 Q Yelling and screaming where?

22 A In the household.

23 Q Okay. So, you took the child into the room to
24 get it some rest?

25 A Yes.

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 Q Okay. How was the baby doing that first day?

2 A He was fine. There was no complications of him.
3 He was eating fine. He was just perfectly fine. There
4 was nothing wrong.

5 Q Okay. Did the baby start bleeding after that?

6 A Yeah. It was weird, though. It wasn't -- it
7 wasn't like bleeding at first. This is when -- when I
8 first noticed it, I was like, all right, we're going to
9 Greenville Hospital. This is the first incident we went
10 to Greenville Hospital.

11 Q Well, tell us what happened.

12 A Okay. So, he's got mucus coming out from his
13 mouth and his nose, right. Well, there's discoloration of
14 it being brown. It wasn't blood blood, but it was brown
15 coming out of it, so I was concerned, so that's why we
16 took him to Greenville Hospital. Because I was like, well
17 if it's brown -- the only thing brown could come from a
18 child's body is maybe blood from inside.

19 Q Right.

20 A So, that's why we took him to Greenville
21 Hospital.

22 Q Okay. You took him --

23 A I was concerned --

24 Q -- to Greenville Hospital when?

25 A On the fourth.

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 Q The next day?

2 A The next day.

3 Q Okay. And did y'all -- where did you go to
4 Greenville Hospital?

5 A Went to the ER.

6 Q Okay. And you went to the ER without any kind
7 of appointment?

8 A No, we just went straight in. Left there in a
9 hurry. I said get your stuff. She had -- Karl had to
10 help out Marie to the car and we took off from the house
11 straight to the hospital because I was -- he was -- a lot
12 of mucus was coming up and it was discoloration of brown.
13 And I was worried about that.

14 Q Okay. So --

15 A I didn't think that was normal.

16 Q You didn't think it was normal?

17 A No.

18 Q Had you ever been a dad before?

19 A No, it was my first time.

20 Q You ever been around small children before?

21 A No -- I mean, I've been around small children,
22 like, my cousin and stuff, but I've never raised a child,
23 a baby.

24 Q Is it safe to say you were nervous?

25 A I was nervous and I asked Angel a lot of

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 questions on what to do.

2 Q Let me ask you this, had she raised children
3 before?

4 A Yes, sir, she has a three and a seven year old.

5 Q At that point, she had a three and a seven year
6 old. Were they living with y'all?

7 A Yeah.

8 Q Okay. So, were you relying on what she would
9 tell you?

10 A Yeah. She told me how much water, how much
11 formula and how to mix up the bottles. Then she told me
12 how long I need to put it in the microwave. Then I
13 checked it and put it on my hand and made sure it was not
14 hot and it was not hot. It was --

15 Q Okay. This is all when, when does that start?
16 When do you start doing that?

17 A When the baby came home, she was teaching me a
18 couple of things. She was teaching me how to change a
19 diaper. I tried.

20 Q So, all those pictures you see of those baby
21 bottles, those are the baby bottles that you were using?

22 A Yeah.

23 Q Now, she did it, too?

24 A She did it, too. Majority, she made the bottles
25 and stuff. But when she was very sore and she couldn't

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 get up.

2 Q Why was she sore and couldn't get up?

3 A For the laceration from the C-section.

4 Q Okay. And was the -- was her mother helping?

5 A No, her family didn't help. I mean, the only

6 time --

7 Q Did you feel welcome in that house?

8 A I was never welcome.

9 Q How did you get in there?

10 A What do you mean get in there?

11 Q I mean, if you weren't welcome, how did you end
12 up in that house?

13 A Because it was Angel's choice. So, whatever
14 Angel wanted, she got.

15 Q So, you go and you take the baby to the -- you
16 take Angel to the hospital?

17 A Yes.

18 Q She has a baby. You take her to the -- to the
19 pediatrician and everything's fine. Then there's an
20 emergency and you take the baby to the Greenville Hospital
21 System emergency room?

22 A Yeah.

23 Q Did they put the baby in the hospital at that
24 point?

25 A No, they just told us to keep suctioning out the

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 mucus from the -- from his mouth with the -- what's that
2 thing called? I don't know what it's called, the suction?

3 Q The suction tube?

4 A Yes.

5 Q What does that look like?

6 A It's got a big end like a ball at the top and
7 it's like about that long.

8 Q How wide is it?

9 A About maybe that wide.

10 Q Okay. And they gave you that at the --

11 A At the doctor's, that's what they give us.

12 Q Did they give you that at the pediatrician or
13 did they give you --

14 A No, actually, we got one for -- when the child
15 was originally born. They actually sent it home with us.
16 Because when the child was born, when they did the
17 circumcision on that child, the same day, they had to put
18 a tube down his throat to suction out mucus. That's what
19 the nurse told us.

20 Q So, you're continuing to try to get the mucus
21 out of there?

22 A Yeah, yeah. I didn't -- I did it once and I
23 didn't feel comfortable doing it, so that's why Angel was
24 doing it.

25 Q So, when you say doing it, you're talking about

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 --

2 A Talking about suctioning out the mucus.

3 Q Okay. And you had never done it before?

4 A I never done it before.

5 Q So, when you got to the -- to the emergency room
6 at Greenville Hospital System, did you see a doctor?

7 A Yeah, we saw a doctor.

8 Q Was it one of the doctors that testified in
9 here?

10 A Yeah.

11 Q Were you worried about what was going with the
12 child?

13 A I was very worried. It just -- it was very
14 frustrating at the same time, too, because we're trying to
15 get help for this child. It seemed like -- we went to
16 Greenville, we went to Easley, we went to Pickens and it
17 seemed like we couldn't get the help that the child should
18 have had in the first place.

19 Q Okay. But what was going on with the child when
20 you were in Greenville emergency room that first day?

21 A He was just -- it was just about the mucus, the
22 blood and mucus.

23 Q So, you're taking him up there with that and
24 you're relying on the hospital to help you?

25 A To help us out, yes.

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 Q What's Angel doing? Is she involved in this,
2 too?

3 A She's in the room, but I was mainly the one
4 talking to the doctor, asking him questions. Like I said,
5 again, it was very frustrating because it seemed like the
6 doctor came in and said he was fine, just to suction him
7 out. And I was very frustrated because you don't have
8 discoloration and mucus. And I thought that was --

9 Q When you're saying discoloration, you're talking
10 about the brown and the blood stuff?

11 A Yeah, coming out.

12 Q You didn't know what it was?

13 A I didn't know what it was and that's when I
14 thought it was not normal.

15 Q Okay. But did you eventually take the baby home
16 that day?

17 A Yeah, we ended up taking the baby home.

18 Q Did they check the baby in?

19 A No.

20 Q And what happened when you got home? What day
21 is that? Let me just make sure that everybody knows,
22 that's June the 4th?

23 A Yeah, the fourth.

24 Q So, you take the baby home on June the 4th.
25 Take him back out to Pickens?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A Yeah.

2 Q Okay. And are you trying to take care of the
3 child?

4 A Well, we both are.

5 Q You feeding it?

6 A We both are.

7 Q Those bottles with the food and stuff, that's
8 the food that y'all are feeding the child?

9 A Yeah, I mean, I never fed him any of the -- they
10 saw in the crib, that food in the can, I never fed him
11 that. She always told me to feed him with the bottle.

12 Q So, you were feeding him with the bottle?

13 A Yeah, she would tell me how much to put in, how
14 much water and how much formula to put in and how long to
15 put it in the microwave.

16 Q Now, on the fourth, are there any cuts on that
17 child's face?

18 A No.

19 Q I mean, no cuts?

20 A No cuts.

21 Q And do you think everything's okay?

22 A I thought everything was fine.

23 Q Now, you have a mother that's involved in
24 nursing?

25 A Yeah, ultrasound.

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 Q And do you call her -- I don't want you to say
2 what she said, but do you call her?

3 A I called her.

4 Q Did you ask her for advice?

5 A Yes, everyday.

6 Q Okay. Did she give you advice?

7 A She did.

8 Q Did she live in California?

9 A She did.

10 Q And did you follow the advice she gave you
11 explicitly?

12 A I did.

13 Q Did you follow what the doctors told you
14 explicitly?

15 A I did.

16 Q Okay. And did you try to do what Angel told
17 you?

18 A Yeah, because I didn't know what I was doing.
19 So, I thought she already had two kids, she was telling me
20 how to feed the child and --

21 Q At this point, do you think you've done anything
22 wrong?

23 A I haven't done anything wrong. I know I haven't
24 done anything wrong. All I done was help out.

25 Q I know, but I'm talking about on the fourth. I

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 mean, is there anything wrong with that baby?

2 A Except for the mucus coming up, no. Otherwise,
3 no scratches, no nothing.

4 Q Okay. Now, what happens on the fifth?

5 A The fifth, he started -- that's when the actual
6 blood was coming out. It was actually starting to come
7 out.

8 Q Where is the blood coming out?

9 A It's actually coming out from his mouth and
10 through his nose.

11 Q From here and here?

12 A Yeah, it was coming out -- it was like -- it was
13 coming out like in bubbles.

14 Q How often?

15 A It wasn't often often, it was -- I don't know
16 how to say this. Like when we pick him up from naps, a
17 lot of the time that's when it happened. We would pick
18 him up from the crib and he was --

19 Q You would pick him up from the crib and you'd
20 see the blood on the?

21 A I saw the blood on the crib, the sheet. And
22 then it's coming out of his nose and his mouth.

23 Q These stains right here?

24 A Yeah.

25 Q Is that what you're talking about?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A Yeah.

2 Q Okay. And how often was this happening?

3 A From there on out, it was happening all the
4 time. That's why we kept taking him back to different
5 hospitals to figure out what was going on.

6 Q When you say it's happening all the time, when
7 is the first time you see it happen?

8 A With the blood coming out, it was the 5th.

9 Q So, that's three -- four days after -- is that
10 four days after the baby's come home or five days after
11 the baby's come home?

12 A Let me think.

13 Q If the baby's born on the 28th, the baby comes
14 home on what day?

15 A The 31st, so the first, second, third, fourth.

16 Q And you take the baby to the --

17 A Four days.

18 Q -- pediatrician on the third?

19 A Yeah, third?

20 Q You take it to the Greenville Hospital System on
21 the fourth?

22 A Yeah.

23 Q You saw these doctors that came in here and
24 testified?

25 A Yeah.

MATTHEW PILLON-DIRECT BY MR.. YARBOROUGH

1 Q And then sometime, either the fourth or the
2 fifth, you're saying that you saw that blood?

3 A Yeah.

4 Q Did you see the blood any other places?

5 A Yeah, there was -- well, I -- the only reason
6 why I saw it is because Angel was wiping -- I remember
7 Angel wiping up the child with a binky.

8 Q What's a binky?

9 A A thing that you feed the child with, something
10 that goes around the neck.

11 Q Oh, one of those --

12 A Bibs, I'm sorry, not a binky.

13 Q So, you're seeing blood while she's cleaning up
14 the child?

15 A Yeah.

16 Q Is that when she's feeding it?

17 A No. Like again, when we pick him up from the
18 bed, that's a lot of the times when he's bleeding -- I
19 mean, sometimes you feed him. After she put the bottle
20 down, he would like gargle kind of, gargle like he had
21 bubble inside of him. And yes, it would come up from his
22 hose and his mouth.

23 Q The blood would?

24 A Yeah, with the formula.

25 Q Was that freaking you out?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A Yeah, that's why we took him.

2 Q So, then you're to the fifth, and you go back to
3 the doctor then?

4 A We went to Easley.

5 Q You went to Easley. And where did you go in
6 Easley?

7 A To the hospital, the ER. We always go to the
8 ER.

9 Q Is that Cannon Memorial Hospital, the one they
10 talked --

11 A Yes.

12 Q -- about here? Had you ever been there before?

13 A No.

14 Q But why you did you go to Easley and not to
15 Greenville?

16 A That was the closest at the time.

17 Q Did you go close for a reason?

18 A Well, not just because it was close, but just
19 because when we first went to Greenville, they didn't give
20 us the proper help that we thought they should have.

21 Q Matthew, are you a doctor?

22 A No.

23 Q How do you know if they gave you proper help or
24 not?

25 A Because something abnormal, the blood coming

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH.

1 out, I thought they should have done something, I guess.

2 That's what I think.

3 Q That's what you thought?

4 A That's what I thought.

5 Q And so, you took the -- you and Angel took the
6 kid to Cannon emergency room in Easley?

7 A Yeah.

8 Q What happened when you got there?

9 A They, basically, told us the same thing.

10 Q The same thing as what?

11 A About the mucus.

12 Q Okay. And what is that? What are you doing?
13 What are you doing to help that child at that point?

14 A We're just trying to see what's going on and
15 what help we can get.

16 Q Okay. But are you trying to get the blood out?

17 A I mean, when we got to -- we tried to suction
18 him out, but --

19 Q Are you suctioning that kid out?

20 A No, she was.

21 Q What is she suctioning it out with?

22 A With that bulb.

23 Q With that bulb?

24 A Yeah.

25 Q You see that picture?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A Yeah, I seen it.

2 Q You've seen it? And do you see the spot on the
3 mouth?

4 A (The witness nods.)

5 Q Do you know how that spot got there?

6 A I do not -- I don't know how that spot got there
7 because when I saw the child last, it didn't have that
8 spot..

9 Q Okay. But --

10 A I mean, he said that it could have been some
11 kind of burn, but I didn't burn the baby. Because every
12 time the bottle was made, it wasn't even hot. It wasn't
13 even warm.

14 Q Okay. Did she stick the suction thing down the
15 throat?

16 A Yeah.

17 Q And into her [sic] mouth?

18 A Yeah.

19 Q Okay. And were you watching Angel do some of
20 this?

21 A Yeah, because I was trying to learn how to do
22 things, how to take care of a child, how to do the proper
23 way. Because I thought she was doing it the proper way,
24 again, because she had two other kids.

25 Q Okay. How was she acting?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A Normal. I mean, she's the type of person she
2 doesn't show emotions. She's the type of person where --
3 this is only because of my experience of what I've seen,
4 she's the type of person where she would leave her kids
5 with somebody and go hang out, rather hang out with
6 somebody else.

7 Q When she's trying to do all this, is she getting
8 excited or is she getting nervous?

9 A She's just normal. I mean, she has no
10 expression. So, I don't know if she's --

11 Q How did you end up going to the hospital?

12 A Because I was worried about the child and I got
13 them up and said, Get your grandpa and tell him we need to
14 go to the hospital.

15 So, we all got in the van.

16 Q Okay. So, the family goes trucking off to the
17 hospital?

18 A Well, it was the grandparents, Karl, Marie, me
19 and Angel.

20 Q And Karl and Marie were being helpful?

21 A Yeah.

22 Q Okay. And so, you're to the fifth of June. And
23 did there appear to be any sores on the child at that
24 point?

25 A No.

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH.

1 Q Are you changing the diapers?

2 A I tried to change the diapers, but then Angel
3 took over because I didn't know what I was really doing.

4 Q Did you practice?

5 A Practice?

6 Q Changing the diaper?

7 A I didn't practice changing the diaper, no. I
8 watched her I think maybe one time. But that was -- then
9 I watched the nurse do it at the hospital, but --

10 Q Okay. You just hadn't changed a little baby
11 before?

12 A No.

13 Q Okay. Did you try to help with the baby's
14 bleeding?

15 A Yes, I tried -- that's why, again, we took him
16 to the hospital and wiped off the blood.

17 Q Now, there came a time y'all took him to another
18 doctor?

19 A Yeah, Dr. Caldwell.

20 Q Where was he?

21 A Pickens.

22 Q Pickens. And you took him --

23 A We took him down there -- we took him down to
24 the hospital.

25 Q Was that after you had gone to Cannon?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A Yeah, yes, that was after --

2 Q You go to Cannon on the fifth and then you take
3 him to doctor who?

4 A Caldwell on the sixth.

5 Q So, you go to Dr. Caldwell on the sixth. And
6 what's the purpose of going down there on the sixth?

7 A A lot more blood instead of mucus was coming
8 out. I mean, it was still coming out, but it was more.

9 Q Okay. Did you try to put the baby in the
10 hospital?

11 A Yeah, that's why we were taking him to the
12 hospital. But it started coming out more often, a lot
13 more, just a lot more of it.

14 Q And what --

15 A I was freaking out, man. I didn't know what to
16 do except take him to the hospital.

17 Q And you were calling your mom trying to get --

18 A I was calling my mom, cried to her a lot on the
19 phone because I didn't know what to do, man. I didn't. I
20 just thought taking him to the hospital was the thing that
21 I could have done. Because I'm not a doctor, they know
22 what they're doing. But it's -- I guess it's
23 frustrating -- it's frustrating that -- like it's
24 frustrating when you feel like you're not getting the
25 proper help.

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 Q Well, are they trying to help -- they're trying
2 to help?

3 A I mean, they're trying, but I just felt like
4 they could have done more than what they did.

5 Q What else could you have done?

6 A What else could I have done? I thought I done
7 what I thought I done was right.

8 Q Which is?

9 A Take him to the hospital and let them take care
10 of the child to try to see what was wrong.

11 Q At that point, you've taken the doctor to the --

12 A The child.

13 Q I mean, taken the child to the hospital from
14 June the 1st to June 5th five times?

15 A Yeah.

16 Q Four or five times?

17 A Four or five times.

18 Q Emergency twice?

19 A Emergency room -- emergency room, yeah.

20 Q Well, emergency room at Greenville Hospital. Is
21 that not an emergency room at --

22 A It was an emergency room in Easley and Pickens
23 and Greenville.

24 Q And do you have any idea what's going on with
25 this child?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A No.

2 Q And at that point, had you seen anybody abuse
3 the child?

4 A I have seen -- like I said, the only abuse that
5 I've seen was with --

6 MR. RICHARDSON: Your Honor --

7 THE WITNESS: I'm sorry.

8 BY MR. YARBOROUGH:

9 Q We're talking about the baby?

10 A No, no, no.

11 Q Did you see anybody abuse that child?

12 A No.

13 Q And did -- on the next day, on June the 6th, how
14 is the child doing?

15 A He's -- like I said, a lot more blood. He seems
16 like he's having a hard time breathing because he's like
17 (indicating), like kind of that, so I was really worried
18 about him. So, that's why we took him to the hospital.

19 Q Took him to the hospital?

20 A I believe it was the sixth.

21 Q The sixth?

22 A Yeah.

23 Q How long were you there that day?

24 A Thirty minutes.

25 Q Why only 30 minutes?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A I don't understand. That's what I wasn't
2 understanding.

3 Q Were you getting upset?

4 A Yeah.

5 Q Okay. Did you make a scene in the hospital that
6 day?

7 A Yeah, I did make a scene just because, like I
8 said, again, if it was anybody's child and they didn't
9 think they were getting the proper help, they would have
10 done same thing, especially when you have a doctor giving
11 you acid drops for acid. And I didn't think --

12 Q Giving you what?

13 A Like acid.. I thought he said something like
14 acid drops.

15 Q They're drops for reflux?

16 A Yeah, yeah.

17 Q So, did you give him those drops?

18 A Well, I personally didn't. Angel did.

19 Q Did those drops help?

20 A No, he got worse.

21 Q The child got worse?

22 A Yeah.

23 Q So, were you worried through the night that
24 night?

25 A I was.

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 Q Okay. And that's on June the 6th, the morning
2 of June the 7th?

3 A Yeah.

4 Q Okay. And the morning of June the 7th, did --
5 who was taking care of the baby?

6 A Well, I was asleep.

7 Q Why were you asleep?

8 A I was asleep about 5:30 in the morning.

9 Q Right. You went to bed about 5:30.

10 A Yeah, went back to bed about 5:30 in the morning
11 because we were both up.

12 Q Both up with the child?

13 A Yeah.

14 Q Now, was the child -- what kind of shape was the
15 child in at that point?

16 A He was in -- he was in bad shape, but he was
17 actually breathing okay. She ended giving him a bottle.
18 She said everything was fine. But me and her had an
19 altercation that morning where I told her we needed to
20 take him to the hospital, but she was refusing because she
21 didn't want to wake up her grandparents because they had
22 Jace in their room and she didn't want to go and wake them
23 up.

24 Q Okay. And you couldn't just go get the car and
25 go?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A No, because I don't have a license or else, I
2 would have.

3 Q So, you couldn't take him. Did you get her to
4 call the ambulance?

5 A I tried. I tried to have her do what she can.
6 I mean, I told her to call 911 and she wouldn't. I
7 couldn't because my phone was dead.

8 Q But were you freaking out?

9 A Yeah.

10 Q Did the ambulance come?

11 A The ambulance came in the morning time when I
12 was woken up to yelling and screaming, because I was
13 asleep.

14 Q So, she -- you had fallen asleep?

15 A Yeah.

16 Q Okay. And what time do you think you fell
17 asleep that night?

18 A Again, it was right after we put the child back
19 down.

20 Q Okay. Was any of that --

21 A No, there's nothing there. The child was not
22 bleeding at that time. Again, she give him another
23 bottle. He ate that bottle just fine. So then, we're
24 like okay, we're fine. If it -- I guess if it happens
25 again in the morning, then we seriously need to take

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 him --

2 Q When you're talking about it happening, you're
3 talking about the child stopping -- what you thought was
4 the child stopping to breathe?

5 A Yeah.

6 Q Okay. What did you do about that?

7 A What do you mean?

8 Q About the child's breathing?

9 A I did do a little bit that morning.

10 Q When you say you did a little bit, what --

11 A It was kind of like CPR. Because I didn't think
12 the child was getting enough oxygen.

13 Q So, what did you do?

14 A I put my fingers like this gently and pushed
15 down.

16 Q Right. And did that seem to help?

17 A A lot of blood and mucus came out with him, so
18 then Angel wiped it up. He ended up being fine, seemed
19 like he was okay, then she ended up giving him another
20 bottle. And then we were up with him maybe about an hour,
21 hour and a half, then everything was fine, then we put him
22 back to bed.

23 Q Put him back --

24 A Put him in the crib.

25 Q In the crib?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A Yeah.

2 Q Was everything okay at that point?

3 A Yeah, everything was fine.

4 Q Okay. And you went to bed about 5:00 in
5 morning?

6 A Yeah, it was about 5:00, 5:30.

7 Q Had you been up all night?

8 A Yeah. Up all night with back pain because I
9 throw out my back.

10 Q So, you were hurting --

11 A Yeah.

12 Q -- so you fell asleep? Did you hear anything
13 happen to that child?

14 A I did have some medication that I was taking
15 that was prescribed from a doctor. The doctor -- when I
16 threw out my back -- working with my dad, I threw out my
17 back by carrying concrete. We were working on a job site.
18 I did not have any more Lortabs, so Angel give me two of
19 her Oxys.

20 Q Right.

21 A And I had never took Oxys before, so I said, Is
22 two of them okay?

23 Q That knock you out?

24 A I was knocked out.

25 Q You were out cold from that --

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A From after putting the child down --

2 Q Five o'clock in the morning until 10:00 o'clock
3 in the morning?

4 A Yeah. Well, even when I went to the hospital, I
5 was still groggy, like, still --

6 Q Okay. So, you're still talking about when you
7 got to the hospital and were talking to the people at the
8 hospital the last time, you were still kind of groggy and
9 drowsy?

10 A Yeah, from the medication.

11 Q Okay. Were you trying to find out what
12 happened?

13 A Yeah, I was actually trying to find out -- when
14 we got there, I had to use the restroom, so I went to go
15 use the restroom. They went back --

16 Q When you say they went back, who are you talking
17 about?

18 A When we left from the house, they would not let
19 me ride in the ambulance.

20 Q Okay, why is that, because there wasn't --

21 A I guess there was not enough room.

22 Q Okay.

23 A So, they told me that I had to ride with Terry
24 and Tammy.

25 Q Okay. Did you ride with them?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A I rode with them, yeah.

2 Q Okay.

3 A We rode all the way down there. The only thing
4 that -- one thing I said to them in the car when we got
5 halfway to Greenville is, Why is the ambulance pulling
6 over? Because the ambulance did pull over on the way to
7 Greenville. And they're like, Well, we don't know. I was
8 like, Well, something is wrong if they're pulling over.

9 Q So, the ambulance pulled over. Did you ever
10 find out what was wrong?

11 A No.

12 Q Were you worried when that happened?

13 A Yeah. We drove past the ambulance and they
14 ended up going to the hospital and stuff.

15 Q Okay. When you got to the hospital, do you
16 remember talking to that policeman?

17 A Yeah. The one policeman, yeah.

18 Q Did you say to him, Am I in trouble?

19 A No. That's not how it went. I never told him
20 why am I in trouble. I did tell him, but not that way.
21 They sent me back because I was looking for the child
22 because Angel was back there with the child. I didn't
23 know where to go. So, they sent me back -- I didn't know
24 where to go, so I approached him and asked, Do you know
25 where Baby [redacted] is? He radioed in. Next thing I know,

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 they're taking me to a room and they had -- that's where I
2 saw Angel with Terry Marcus on the other side of the glass
3 and they separated us.

4 Q So, that's why you asked him if you were in
5 trouble?

6 A Yeah, then I asked him, Am I in some kind of
7 trouble? What's going on?

8 Q What in the world could you have been in trouble
9 for?

10 A I don't know. I have never been to a hospital
11 where they pulled me to the side like that.

12 Q Okay. Were you concerned about your son or
13 about --

14 A I was concerned about the child, yes.

15 Q Okay. And were you able to get any information
16 there?

17 A They wouldn't give me any information.

18 Q Okay. Did you abuse this child?

19 A No, sir.

20 Q Would you abuse this child?

21 A No, sir.

22 Q You've seen those pictures, did --

23 A I can't even bear to look at them it's so bad.

24 I would never do anything like that to a child.

25 Q All right. And --

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1 A My mentality could never do that to somebody's
2 child. If I ever saw someone beat a child, I would beat
3 them. And I have witnesses because I have, yeah.

4 Q Are you glad that the child is okay?

5 A Very glad.

6 Q Is it your child?

7 A No.

8 MR. YARBOROUGH: Just a minute, Your Honor.

9 THE COURT: Yes, sir.

10 BY MR. YARBOROUGH:

11 Q Do you have any idea what happened to this
12 child?

13 A No, I don't. I mean, if I -- if -- if I could
14 have stopped something, I would have.

15 Q And you don't know --

16 A But I don't.

17 Q You don't know --

18 A I mean, it's bad. I understand it's bad.

19 Q Right, but you don't --

20 A No.

21 Q Because -- because you tried to do everything
22 you could?

23 A Everything that I thought I could.

24 Q Right. Are you a trained physician?

25 A (The witness shook his head.)

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 Q And you have not raised any small children
2 yourself?

3 A No, no, sir.

4 Q And do you feel bad about what happened to the
5 child?

6 A Yeah, really bad.

7 Q All right. What about your relationship with
8 Angel?

9 A I don't have a relationship with her.

10 Q You seen her in a long time?

11 A I haven't seen her in a long time.

12 Q Did you try to help her kids?

13 A Yeah.

14 Q Did you try to help her parents?

15 A Yeah.

16 Q I'm guessing how many times you took the child
17 to the hospital?

18 A Four or five times just that week, plus the
19 pediatric. I called the pediatrician the hospital because
20 it was a doctor's office, but.

21 Q All right. Did you ever stick anything down
22 that child's throat?

23 A No, sir.

24 Q Did you ever see anybody stick anything down
25 that child's throat?

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 A No, sir. When she did all that stuff and when
2 she would change the child, that was actually my time of
3 going outside and having a cigarette.

4 Q Okay. When she would do that, you would go out?

5 A Yes.

6 Q Because y'all would be switching off times
7 taking care of the child?

8 A Yeah.

9 Q Is Angel the type of person that gets
10 frustrated?

11 A Yes. She's the type of person that if attention
12 is not on her, she's very jealous. So, I was spending --
13 you know, spending a lot of time with the kids. The kids
14 would come in the room play some PS4.

15 Q Her kids?

16 A Yeah.

17 Q That's like a video --

18 A I'm sorry, PS3.

19 Q Is that a video game?

20 A Yeah. And the door was opened one day when they
21 were cooking pork chops for dinner and the kids came in,
22 Nicholas and Jace, did in the room with the baby and I let
23 them play some PS3 on the TV.

24 Q You tried to help those kids out as much as you
25 could?

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1 A What I could do.

2 Q Were the living arrangements out there very
3 good?

4 A No. It could have been better. It was a very
5 small bedroom.

6 Q Right. It's not what you had grown up in?

7 A No.

8 Q Did you want to make it better?

9 A Yeah.

10 Q Is that what your --

11 A That's my intention was trying to get a job and
12 try to get them out of there.

13 Q You don't -- you don't know what caused these
14 marks, right?

15 A I don't.

16 Q Is this the -- is this the crib that y'all set
17 up in there?

18 A Yeah, that's the crib.

19 Q And --

20 A Looks like diapers and bottle. The fan was in
21 there because that room was really hot.

22 Q Is that what y'all would use to take care of the
23 --

24 A That was the stuff we had right there to sit
25 down on. You know, we had bottles and stuff sit down

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1 right there. It was easy access for us. Because like I
2 said, it was a very small room so that's where we kept all
3 the baby stuff on that table right there.

4 Q Right.

5 A But those clothes was never in the baby crib.
6 None of that stuff has ever been in there.

7 Q That you saw?

8 A I first saw those clothes in there and
9 everything when I woke up in the morning time when Angel
10 came in there screaming and yelling at me that the
11 ambulance was coming.

12 Q This outfit up here, is that the baby's?

13 A Yeah. I also bought him -- he also had a
14 Raiders outfit.

15 Q Had a what?

16 A A Raiders outfit because I'm a Raiders fan. I
17 always imagined him watching football with me and
18 everything.

19 Q You know, if you could take it all back, what
20 would you have done differently?

21 A Not take that medicine in the morning.

22 Q When you took that medicine, was the child your
23 responsibility?

24 A It was both of our responsibility.

25 Q But was she watching the child while you took

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 the medicine?

2 A Yeah, she was supposed to.

3 Q To your knowledge, did she?

4 A I don't know.

5 Q Well, from what you see?

6 A Obviously not.

7 Q Before that, the child didn't look like that,
8 right?

9 A No.

10 Q There's been some talk about a cat getting in
11 there?

12 A Yeah, there was a cat. There was -- they had --
13 it was like a black and white -- not black and white, but
14 black and gray cat that would always get in there and it
15 would sit right on top of that child's face. It was kind
16 of like a kitten.

17 Q Okay. But it wasn't trying to hurt it, it was
18 just --

19 A No, it was just -- I don't know, it was just --
20 it would always go up on the baby and try to go up on its
21 face, so that's why I would throw him out.

22 Q Did you try to plug the holes to make sure he
23 didn't get in?

24 A Yeah, I tried too many times. I tried to put
25 anything to block from any animals to come in there.

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 Q Okay. The nails on the door, did you put them
2 there?

3 A Yes, I did.

4 Q Why did you do that?

5 A The reason why I put them nails in the door is
6 because our room kept getting broke into. And you see in
7 the picture, the side of the door was actually -- when it
8 was being kicked in, it was coming off the side. So,
9 those nails were actually intended to hold that molding up
10 on the side of that door. I can't really hammer a nail,
11 so that's why they were crooked.

12 Q So, that's why the nails were there, it wasn't
13 necessarily to --

14 A It wasn't necessarily to lock the door, but that
15 was the only way to lock the door because from the door
16 being kicked in so many times, right where you close the
17 door, that metal prong, it was damaged. So, I couldn't
18 lock the door with the handle. There was no way.

19 Q Right there?

20 A Yeah. You can see -- see the foam around it
21 after trying to fix it. That's the foam, that yellow
22 stuff.

23 Q Yeah.

24 A That's from the -- that's the foam put there in
25 the gap because the door been kicked open so many times.

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1 Q Did you kick it open?

2 A No.

3 Q So, the nails that you're talking about were
4 just put there to try to hold the door shut?

5 A Yeah, hold the trim.

6 Q So, the baby could sleep?

7 A Yeah.

8 Q This here, was that all there?

9 A That was never in the crib until I woke up that
10 morning from the ambulance coming. And see that baby food
11 right there, I never fed him with that baby food. It was
12 always a bottle.

13 Q Because the baby would have been too young at
14 that point?

15 A Yeah.

16 Q Okay. You don't know how this stuff got in
17 there?

18 A No, because it wasn't in there. It wasn't in
19 there until I woke up that morning.

20 Q But there's a bottle up there?

21 A Yeah.

22 Q Then is that something from the hospital down
23 here, this red?

24 A Looks like a baby's armband, when you get a band
25 from the hospital.

MATTHEW PILLON-DIRECT BY MR. YARBOROUGH

1 Q Right.

2 A But, actually, I think that might have been
3 Angel's armband. Looks like it --

4 Q Oh, from when she was in the hospital?

5 A Yeah.

6 Q Where there other places that there was blood
7 besides there?

8 A I think the top of the sheet up top. There's
9 another spot on that sheet.

10 Q Let me ask you just briefly one more time, how
11 many times did you take?

12 A At least, four or five times.

13 Q You did that because of what reason?

14 A Because I was -- there was something going on
15 with the child. I was trying to get the child help.

16 Q All right. You don't -- you don't know what was
17 going on with the child?

18 A No.

19 Q To this day, you don't have any idea?

20 A I still don't know. The only facts that I did
21 find out was later on when my daughter was born, that we
22 had to go to the doctor that has -- when you have a child
23 and that child has a birth defect, they sent us to that
24 doctor. So, that's how I found out [REDACTED] had cleft
25 larynx lung, which that's what they told me, so that's

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1 why -- that's how I found out he had that.

2 Q Had a bad lung?

3 A Yeah, and he had diabetes, too.

4 Q But any of that abuse or trauma that they've
5 talked about, did you do any of that to that child?

6 A No, sir.

7 Q Would you do that to that child?

8 A No, sir.

9 Q You don't know who did it?

10 A I don't know.

11 Q Okay. If you knew Angel did it, would you say
12 it?

13 A Yes, I would. I don't believe in hurting a
14 child that can't defend itself or any child. That's not
15 right. It's like beating an animal.

16 Q You couldn't do that?

17 A I would not do that.

18 MR. YARBOROUGH: Answer any questions

19 Mr. Richardson may have.

20 MR. RICHARDSON: Thank you, Your Honor, may it
21 please the Court?

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. RICHARDSON:

25 Q The trailer that you lived in, that was a three

MATTHEW PILLON-CROSS BY MR. RICHARDSON

1 bedroom trailer?

2 A Yes, sir, it was three bedrooms.

3 Q Okay. And your bedroom was in the middle; is
4 that correct?

5 A Actually, it was off to the right-hand side
6 of -- there was a kitchen right next to the living room.
7 It was attached to the kitchen.

8 Q Okay. As we've seen through the photos, that
9 bedroom is not very large?

10 A No.

11 Q In fact, the trailer is not very large?

12 A No.

13 Q Okay. And you testified that you weren't
14 welcomed in the house, but the fact is that that bedroom
15 was built for you; is that correct?

16 A Well, not just me, it was actually built for
17 Angel.

18 Q I understand, but you slept in the bedroom?

19 A Yes, I slept in the bedroom.

20 Q Angel slept in the bedroom?

21 A Angel slept in the bedroom.

22 Q Okay. It was y'all's room?

23 A It was y'all's [verbatim] room, yeah.

24 Q Now, you testified that Angel has kids?

25 A Yeah.

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1 Q And that she was telling you how to take care of
2 kids?

3 A Yes.

4 Q In fact, Angel had two kids?

5 A Yes, sir.

6 Q So, is it fair to say that she was more
7 experienced in taking care of kids than you are?

8 A Yes.

9 Q In fact, you testified that this is the first
10 kid you've taken care of?

11 A We both took care of that kid, yes, but yeah.

12 Q My question is, is this the first child you've
13 ever taken care of?

14 A Yes.

15 Q And you testified that during this time, Angel's
16 acting normal; is that correct?

17 A Yes.

18 Q Okay. Now, you held yourself out as the father
19 of this child, right?

20 A Yes.

21 Q Okay. And, in fact, the reason you held
22 yourself out as the father of the child is because you
23 were, in fact, taking care of the kid at night; is that
24 correct?

25 A We both were taking care of the kid, even if it

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1 was at night or day..

2 Q Okay.

3 A She was always up with me.

4 Q All right. So, at night when the kid cried, you
5 got up?

6 A We both got up.

7 Q Uh-huh.. Well, my question was did you get up?

8 A Yeah, we both got up.

9 Q Okay. And at some point in time, the child is
10 starting to have problems and he's going to the doctor, is
11 that right?

12 A Yeah.

13 Q Okay. Now, so we're clear, who went to the
14 doctor was Angel, her grandfather, her grandmother and you
15 went with them, right?

16 A Yeah.

17 Q And when you took them to these doctors and the
18 hospital, the child was having problems; is that right?

19 A Yes, sir.

20 Q So, I think after the first well check -- and
21 that was June 3rd, right?

22 A Yeah.

23 Q After that, the baby started having more and
24 more problems as time went on?

25 A Yeah.

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1 Q And in having those problems, the baby certainly
2 was crying; is that right?

3 A Yeah.

4 Q And as time went on, the crying got worse,
5 didn't it?

6 A Yeah.

7 Q Yeah. Okay. When the crying got worse, as
8 you've testified, that was very frustrating to you, wasn't
9 it?

10 A No.

11 Q Did you not testify you were very frustrated?

12 A Not at that situation. Not about the child
13 crying; I wasn't frustrated.

14 Q Do you recall telling Department of Social
15 Services that you were frustrated about the child crying?

16 A No.

17 Q Did you recall telling the Department of Social
18 Services that you were frustrated that night?

19 A No. The department -- they came and saw me when
20 I was locked up. So, that's the only time is when I first
21 met Teena Watson, but never told them I was frustrated
22 that night or I was frustrated at the child crying.

23 Q Well, you told them you were freaking out, did
24 you not?

25 A I was freaking out because of the injury -- the

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1 problems with the child, of the child spitting up blood.

2 I was freaking out, yes. That's why I kept taking the
3 child back to the hospital.

4 Q All right. And you stated that there were
5 problems with the child that obviously got worse and worse
6 over time?

7 A Yes, that's why I kept taking him to the
8 hospital.

9 Q Yes, sir. And when the baby -- obviously,
10 getting worse and worse, the baby at night would cry more
11 and more, would it not?

12 A Well, it just depends. Yes, he -- certain
13 parts, he would cry a lot, so that's when Angel would have
14 him and feed him a bottle or she'd tell me go warm it up,
15 you know, how much to put in there and stuff. Then she
16 would feed him and he would be all right and put him back
17 to sleep. Yeah, the crying got louder, but it wasn't, you
18 know -- I'm trying to think of the word. It wasn't like
19 all the time like people are saying. It was just a
20 stronger cry.

21 Q Okay. The crying got louder, it got stronger
22 over time?

23 A Yeah.

24 Q Obviously, that's -- you testified that you were
25 frustrated that nothing was getting done for the kid's

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1 welfare?

2 A I was frustrated at the hospital.

3 Q Well, you were frustrated?

4 A At the hospital.

5 Q Well, that's right. So, what I'm asking you is
6 were you frustrated?

7 A At the hospital. But when we left the hospital,
8 I was not frustrated at the house. Like I said, I was
9 trying to get the kid -- the child the proper -- the
10 proper -- you know, see what was going on with him, the
11 proper help.

12 Q And, certainly, with this room in this trailer,
13 anything that's happening in your room other people can
14 hear, couldn't they?

15 A Yeah. They could have even -- if they wanted
16 to, they could have came in, but they never did.

17 Q They could have came in when the baby was
18 crying?

19 A Yeah, if they wanted to.

20 Q Okay. When the baby was getting louder and
21 louder?

22 A Yeah, if they wanted to, but they never -- they
23 never came in.

24 Q And who was in that room was you and Angel; is
25 that right?

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1 A Me and Angel.

2 Q And, in fact, you testified that you -- at some
3 point in time, you allegedly gave this child CPR?

4 A Yes, I did.

5 Q Okay. You don't have any medical training?
6 You're not a doctor?

7 A No, that's why I was on the phone with my
8 mother. She has the training. And that's why I was --
9 she was telling me what to do, so.

10 Q And --

11 A Because I was worried.

12 Q -- you did that -- you did that, allegedly did
13 that because the baby had stopped breathing, is that your
14 testimony?

15 A Not stopped breathing, but having a hard time
16 breathing. When I pushed down, there was more blood and
17 more mucus coming out of him. So, we got that wiped up
18 and everything. He was having a hard -- it looked like he
19 was having a hard time breathing because of that mucus and
20 blood.

21 Q In fact, what you told people is that the baby
22 had stopped breathing? That's what you told people.

23 A When I say stopped breathing, it means white,
24 pale in the face, not stop, stop breathing? I can
25 interpret something and it can be totally different.

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1 That's just the way I talk. I don't mean to say stop
2 fully breathing, that's not how he did it. He didn't stop
3 completely, but he was having a hard time breathing.

4 Q In which --

5 A Just like I can say it's nighttime, but it's
6 5:00 in the morning.

7 Q And breathing was evidently to the extent that
8 the baby had turned white?

9 A Yes.

10 Q That's what you just testified to?

11 A Uh-huh.

12 Q After you completed this -- did that happen
13 about 4:00 in the morning?

14 A Yeah, somewhere around there.

15 Q After you completed this so-called CPR --

16 A It was --

17 Q Excuse me, let me finish my question, okay? Did
18 you call 911?

19 A No, we didn't. I was trying to get her to call
20 911 and trying to get her grandparents up, but she didn't
21 want to go in the room to get them up because it would
22 wake up her other child in the room because the other
23 child was sleeping with them.

24 Q Not my question. Did you call 911, yes or no?

25 A No.

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1 Q And, in fact, you just testified that you had a
2 phone in which you were on with your mother, right?

3 A Earlier that evening.

4 Q And you did not call 911 with that phone?

5 A No.

6 Q You did not take the baby to the doctor?

7 A That morning, the child did go to the doctor.

8 Q No, my question is did you take the baby when
9 you gave him the CPR to the doctor?

10 A No.

11 Q In fact, what you testified to is you decided
12 that you're going to take two Oxycontin?

13 A The child was fine after Angel had him. She
14 said that he didn't have to go to the hospital. So, she
15 fed him, he was fine.

16 Q Once again, not my question. After -- listen to
17 me question, okay?

18 A Okay.

19 Q After you gave this baby CPR with his face
20 white, you decide to take two Oxycontin?

21 A Not right away, no.

22 Q Did you take two Oxycontin?

23 A I took them after the baby was actually okay and
24 everything was all right. Because we stayed up about an
25 hour, hour and a half with the child to make sure

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1 everything was fine.

2 Q Well, do you recall talking to law enforcement
3 at the hospital about this case?

4 A Yeah, when I got interrogated.

5 Q Do you recall telling the officers when they
6 asked you if you had taken any medication that you had not
7 taken medication that night?

8 A Because I was scared. Because I thought in my
9 head that if you take someone else's medication you'd be
10 in trouble or something.

11 Q So, you lied to the police?

12 A (There was no response.)

13 Q Yes or no, you lied to the police?

14 A About taking medication?

15 Q Yeah.

16 A Yeah, but they knew I did take Lortabs. So
17 technically, I did not lie, because I did take medication.

18 Q The question that was asked is, didn't you tell
19 the police officers that you did not take medication that
20 night?

21 A No, they knew I took medication.

22 Q That's not my question. My question is did you
23 tell the police --

24 A They knew about it.

25 Q Did you tell the police you did not take any

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1 medication that night?

2 A I mean, not that I recall.

3 Q And that you had taken Lortabs two weeks prior
4 to that?

5 A No, I had Lortabs prior to that week because I
6 have a back injury. So, I just ran out and then Angel
7 said, All right.

8 I was like, Are you sure?

9 Because I never took Oxy before.

10 Q Okay. So, move on from that, from what you told
11 law enforcement. The fact of the matter is, is that if
12 you took Oxycontin, you took it that night after you gave
13 a baby CPR without calling 911 or any doctor; is that
14 correct?

15 A Yes.

16 Q Now -- and, in fact, you never called 911 in
17 this case at all?

18 A No.

19 Q The family called 911?

20 A Angel did.

21 Q And after she calls 911, you're still in your
22 room; is that correct?

23 A I was woke -- like I said, I was woken up to her
24 yelling and screaming at me the ambulance is coming.

25 Q And you were there when the ambulance arrived,

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1 were you not?

2 A Yeah, I was just getting up.

3 Q Okay. And were you outside when the ambulance
4 came?

5 A Yeah, I was walking back and forth from the
6 porch to inside the house.

7 Q And when you were outside -- did you go outside
8 to meet the ambulance?

9 A Yeah, I was outside, but I didn't really meet
10 them. I was -- then I walked back inside -- I saw they
11 were here, walked back inside and grabbed my shoes and
12 stuff because they were telling me that I was riding with
13 them, with Terry and them.

14 Q You saw the ambulance come up, you saw the
15 ambulance personnel get out, you saw them treating the
16 baby, right?

17 A No, I didn't see them treating the baby.

18 Q Did you see them with the baby?

19 A I didn't see the baby that morning.

20 Q Did you go outside and --

21 A I went outside on the porch. I saw the
22 ambulance there, but Angel was not outside with the child
23 at that time when I walked back inside.

24 Q When you were outside on the porch when the
25 ambulance was there, did you ever inform EMS that you had

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1 given that baby CPR, that the baby had turned white, the
2 baby had stopped breathing? Did you ever tell EMS that?

3 A No, because I didn't get a chance to talk to
4 EMS.

5 Q In fact, you didn't tell anybody that that
6 morning?

7 A No, except for Angel did know.

8 Q That wasn't my question.

9 A I know, I was just letting you know.

10 Q So -- well, let me just ask you, do you consider
11 that serious that a baby stops breathing in the middle of
12 the night and turns white? That's a serious condition,
13 isn't it?

14 A Well, again, I interpret him stopped breathing,
15 but he was having a hard time breathing. So, when I say
16 someone stopped breathing, he wasn't fully stopped
17 breathing, he was having a hard time breathing.

18 Q In fact, the first time any mention of you
19 allegedly giving this child CPR is when Tammy starts
20 questioning you about what happened on the way to the
21 hospital, is that not --

22 A She never questioned me.

23 Q Did you tell her in the car that you gave him
24 CPR?

25 A I did not. The only thing I talked about in the

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1 car was why is the ambulance pulling over. That's the
2 only conversation we had in the car.

3 Q When was the first time you told somebody you
4 gave CPR to --

5 A It was actually after law enforcement -- it was
6 actually when I was being interrogated at the hospital.

7 Q Did you ever tell a doctor at the hospital that
8 the baby had stopped breathing?

9 A I never saw a doctor because they separated us
10 right away when I went back there.

11 Q I'm sorry?

12 A When I first went back there, when the child got
13 there, they separated us, so they didn't let me go back
14 there. I mean, they let me go back there, but then they
15 stopped me. Then I asked when they took me to this other
16 room am I in any kind of trouble or something because I
17 didn't know what was going on. ...I was going to see the
18 child.

19 Q And is -- let me ask you this, you're getting up
20 at night with this baby, right?

21 A We both were, yeah.

22 Q And the reason you get up is because the baby
23 starts crying; is that right?

24 A Yes.

25 Q And when the baby starts crying, that wakes you

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1 up?

2 A Yeah, it wakes both of us up. She says either
3 when he cries is because either you got to change him or
4 he's probably hungry, so.

5 Q If -- is it fair to say that in this trailer,
6 that you would be able to hear this baby crying at any
7 time?

8 A Yeah.

9 Q So, if someone in that trailer is causing this
10 baby injury and causing the baby to cry, you would have
11 heard it, right?

12 A Not when I was on -- I would have heard it if I
13 was not on medication. But like I said, I never took Oxy
14 before and I was very knocked out. I was very drowsy. I
15 could hear -- it was like distant sounds if I could hear
16 anything, like you're drugged up or something. Felt very
17 weird, not normal.

18 Q Well, you did wake up to Angel coming in saying,
19 We're taking the baby to the hospital?

20 A Yeah, that was about 10:00 o'clock or something
21 in the morning.

22 Q So, you did wake up to that?

23 A Yeah, screaming and hollering. That's a few
24 hours -- that's three or four hours after I took it. Of
25 course, anybody can hear somebody about three or four

MATTHEW PILLON-CROSS BY MR. RICHARDSON

1 hours after.

2 Q And you say you don't know what happened to the
3 baby?

4 A No, I don't.

5 Q Well, do you recall telling DSS and, also, law
6 enforcement that the baby had made those injuries by
7 scratching itself? You told them that, didn't you?

8 A I told them that. But that's only because I was
9 told the child was scratching himself, that's why we put
10 mittens on the child's hands. I did not physically see
11 it.

12 Q But that's not what you told law enforcement, is
13 it?

14 A That's exactly what I told law enforcement.

15 Q You told them the way the baby injured itself
16 was scratching itself.

17 A Exactly, because that's what I was told.

18 Q That was your explanation in this case, right?
19 That was your explanation as to what happened to this
20 baby?

21 A I didn't know what happened.

22 Q That the baby scratched itself?

23 A That's what I was told, yeah.

24 Q So, your testimony -- what you see is this --
25 these injuries to that baby, that that baby caused his own

MATTHEW PILLON-CROSS BY MR. RICHARDSON

1 injuries and that's what he did?

2 A Well, that's what I was told because I didn't
3 physically see --

4 Q I'm not asking you what you were told, okay.
5 You told law enforcement, you told Department of Social
6 Services that that baby scratched itself?

7 A Yes. That's what I was told. I can only say
8 something -- I can only say what I know and what I was
9 told.

10 Q In fact, you also told law enforcement that
11 Tammy was, in fact, trying to help that baby?

12 A Tammy, she offered that one time, but that was
13 about it. I had no -- I had no -- we don't get along.
14 So, Angel handles with her mom the child, that's on them.
15 I don't come between them because we don't get along. So,
16 that had nothing to do with me.

17 Q After all this, you didn't go back to that
18 house?

19 A No. I went straight to my dad's house. He
20 picked me up from the hospital.

21 Q Right. And you went back and got Angel, did you
22 not?

23 A Yeah, we went back and got Angel, but we did not
24 go into the house or at the house.

25 Q So, after all this was done on the seventh, you

MATTHEW PILLON-REDIRECT BY MR. YARBOROUGH

1 and Angel got back together and stayed together, didn't
2 you?

3 A We got back together to -- you know, 'we didn't
4 get back together together. It was just like what's going
5 on coming back together.

6 Q Well --

7 A Because I was trying to get some answers of what
8 happened and what was going on.

9 Q Let me ask you this, you and Angel had another
10 baby together after this?

11 A Yes, we did. Yeah. And that was after I got
12 out of jail the first time. And her name is [REDACTED]

13 [REDACTED]

14 Q And do you have that baby?

15 A I do not have that child due to this case.

16 MR. RICHARDSON: Beg the Court's indulgence.

17 BY MR. RICHARDSON:

18 Q And the fact of the matter is, is that on that
19 date, on June 6th through June 7th, in that room, it was
20 you, Angel and that baby, right?

21 A Yes.

22 MR. RICHARDSON: Thank you. That's all the
23 questions I have.

24 THE COURT: Redirect?

25 REDIRECT EXAMINATION

MATTHEW PILLON-REDIRECT BY MR. YARBOROUGH

1 BY MR. YARBOROUGH:

2 Q Matthew, let me ask you this. Mr. Richardson
3 kept on asking you if you were getting frustrated, who
4 were you frustrated with?

5 A I was frustrated with the doctors at the
6 hospital, like I said, because I felt the child wasn't
7 getting proper help as a parent or as person. That's why
8 I was frustrated. I was not frustrated at home. I was
9 not frustrated with the child. I was frustrated with the
10 doctors because I didn't think the child was getting the
11 proper help.

12 Q That's what you're saying when you were freaking
13 out?

14 A Yes. I was freaking out -- I mean, anybody
15 would freak out if they see a child or even their own
16 child with blood -- mucus and blood coming out of the
17 mouth and nose. That's not normal.

18 Q All right. Did you continually take the child
19 to the hospital?

20 A Yes.

21 Q Did you talk to the police?

22 A Yes. They interrogated me at the hospital.

23 Q You told them what you knew?

24 A Yeah.

25 Q Now, you said you took a couple of Lortabs.

MATTHEW PILLON-REDIRECT BY MR. YARBOROUGH

1 You'd done that before?

2 A It was Oxys. I'd never taken Oxys before. The
3 Lortabs that I have was prescribed because I injured my
4 back.

5 Q Okay. You took a couple Oxys that Angel gave
6 you?

7 A Yeah.

8 Q Is that because your back was hurting and you
9 hadn't been sleeping?

10 A Yeah, my back -- my back was really bad. I have
11 a thing call a disintegrating disk in my back, my lower
12 back, so.

13 Q Now, did y'all -- did she take care of the baby
14 that night?

15 A Yeah, we were both in there. I mean, we both
16 did.

17 Q But she was in charge because you --

18 A Yeah, after we put the child down, the rest of
19 that morning, she was in charge for the child.

20 Q Okay. At that point, those scratches weren't on
21 that child?

22 A No, I didn't see those scratches.

23 Q Okay. When they asked you about the child
24 scratching itself, you were talking about what you had
25 seen, right?

MATTHEW PILLON-REDIRECT BY MR. YARBOROUGH

1 A Yeah.

2 Q You hadn't seen that picture?

3 A No.

4 Q And y'all actually put mittens on the child's
5 hands?

6 A Yeah. Because she was telling me that the child
7 was scratching his nose, scratching his face. So, we put
8 these little mitten things on his hands.

9 Q Okay. Who told you to do that?

10 A Angel did.

11 Q Did it work or did it seem like it worked?

12 A Yeah, it was kind of weird because I haven't
13 seen a child with mittens, but it was working. I mean,
14 there was no scratches after. I mean, not that I know of,
15 I mean.

16 Q And do you have any idea where Angel is?

17 A No, I haven't talked to her in a long time. I
18 don't care to.

19 Q Mr. Richardson was talking about the baby's
20 crying got louder?

21 A Yeah.

22 Q Did that happen?

23 A Yeah, it did happen. Because it must have been
24 from -- I don't know, from the baby being sick or whatever
25 was going on with the child, I don't know. But the child

MATTHEW PILLON-REDIRECT BY MR. YARBOROUGH

1 did get louder.

2 Q Okay. And do you know what caused it to get
3 louder?

4 A No. That's why we took him to the hospital
5 because we were trying to figure out what's going on with
6 him. Like I said, we knew about the blood and stuff
7 coming up and -- but we didn't know what caused it.
8 That's why we took the child to the hospital many, many
9 times, to figure out what's going on. So personally, I
10 think they should have admitted him the second, third
11 time, maybe even the first time we brought him there.
12 Because, obviously, there was something wrong.

13 Q But they didn't admit him?

14 A They didn't.

15 Q When he asked you if you were getting
16 frustrated, you weren't get frustrated at the child being
17 loud, you were getting frustrated --

18 A Yeah, I was getting frustrated at the doctors.
19 I got frustrated at the hospital because the doctor -- it
20 seemed like we weren't getting any kind of help. They
21 always kept going all right, the child's fine, the child's
22 fine, the child's fine. Give him some drops here, the
23 child's fine. For stuff to happen, blood coming out and
24 you go to the doctor and they always say it's fine, fine,
25 fine, then they give you some acid drops, that's just --

MATTHEW PILLON-REDIRECT BY MR. YARBOROUGH

1 of course, anybody would be frustrated.

2 Q All right. When all this first happened, did
3 you think it was Angel's fault?

4 MR. RICHARDSON: Your Honor, I'm going to object
5 at this time. He's going way beyond cross at this
6 point in time.

7 THE COURT: All right. Is this within the scope
8 of cross-examination?

9 MR. YARBOROUGH: I think he brought it up
10 afterwards.

11 THE COURT: Did he ask anything specifically
12 about aligning or assigning fault? I'm going to give
13 you some latitude, but we all understand that your
14 redirect is limited to the scope of
15 cross-examination, okay.

16 MR. YARBOROUGH: Thank you, Your Honor.

17 THE COURT: Yes, sir.

18 BY MR. YARBOROUGH:

19 Q Your frustration, did it cause these marks on
20 that child?

21 A No, I never once hurt that child.

22 Q Did it cause those bruises on that child?

23 A No.

24 Q And you don't know what caused it?

25 A I don't.

MATTHEW PILLON-REDIRECT BY MR. YARBOROUGH

1 MR. YARBOROUGH: Thank you.

2 THE COURT: Any recross?

3 MR. RICHARDSON: Nothing further, Your Honor.

4 THE COURT: All right. Thank you, sir. You may
5 step down.

6 All right. Does anybody need to take a break
7 before we go to the next witness? Everybody's good.

8 Okay. You can call your next witness.

9 MR. YARBOROUGH: Could I have a couple of
10 minutes?

11 THE COURT: Yeah, that will be fine. That will
12 be fine.

13 Ladies and gentlemen, we'll take a break. Then
14 we'll come back in just a few minutes. Okay. Thank
15 you.

16 (WHEREUPON, the jury left open court at
17 approximately 3:00 p.m.)

18 THE COURT: All right. Anything we need to put
19 on the record? I presume not.

20 MR. YARBOROUGH: Not yet.

21 THE COURT: Fair enough. Thank you. We'll come
22 back in just a few minutes.

23 (WHEREUPON, a short break was taken.)

24 THE COURT: All right, Mr. Yarborough, you
25 ready?

1 MR. YARBOROUGH: I am, Your Honor. If the Court
2 would allow me, I'd like to call one witness who I
3 think we agree is -- I'm going to carefully make sure
4 she doesn't get into any hearsay. And then before I
5 rest -- maybe I can rest tomorrow and we can take up
6 a couple of these -- the tape issue and a couple of
7 those issues, so I can build a record. Then we can
8 go to argument and charge tomorrow, would that work?

9 THE COURT: I think that's fine. It's 3:00 now.
10 So, you're going to call a witness to the stand.

11 Do y'all intend to put up anything in reply?

12 MR. RICHARDSON: Yes, sir.

13 THE COURT: You do?

14 MR. YARBOROUGH: I'm just trying to figure out a
15 way to -- I've got the tape that we've gone on and on
16 about. And I understand that the Court's ruling is
17 it's hearsay and --

18 THE COURT: I don't know how much time you need
19 to protect the record in that regard. I mean, of
20 course, I defer to you because it's your case, but I
21 don't know if it takes you that much time. If you
22 want to articulate your position on the record and
23 then I can make a ruling, it shouldn't take much
24 time, should it?

25 MR. YARBOROUGH: I can probably articulate it

1 right now.

2 THE COURT: That's fine with me.

3 MR. YARBOROUGH: Your Honor, we have a tape that
4 was made, his cousin -- his sister. And the three
5 people that are present when the tape recording is
6 made is Matthew, his sister and Angel Atkins. And on
7 that tape, which there's an argument taking place
8 between Mr. Pillion and Ms. Atkins about what happened
9 to the child.

10 He's asking her, What happened to the child?

11 And she says on that tape that she didn't do it,
12 that her family did it is, basically, the long and
13 the short of how we got it.

14 And, you know, if she was here and she was -- I
15 could cross-examine her. She's not. So, you know, I
16 understand it's hearsay. I think it becomes to the
17 point it's so relevant, she's a party, she's not
18 here. Under different rules of evidence, I just
19 think it's so important to the case that it would --
20 you know, that the Court should, at least, maybe take
21 some judicial notice and think about its
22 admissibility.

23 THE COURT: Okay. All right. I'll tell you
24 what we'll do, if you have the tape --

25 MR. YARBOROUGH: I do, I have --

1 THE COURT: -- I'm more than happy to mark it as
2 a Defendant's Exhibit for identification so it will
3 be part of the record. So, we'll go ahead and do
4 that and I'll let the State make their argument
5 regarding the tape -- actually, let's go ahead and
6 the State make their argument and you collect it up
7 and we can do that at the appropriate time, okay?

8 MR. YARBOROUGH: Yes, sir.

9 MR. RICHARDSON: Quite simply, Your Honor, a
10 voice -- or a party on that tape who is not present,
11 obviously, that's hearsay. It's an out-of-court
12 statement being put in for the truth of the matter
13 asserted. Obviously, I lose my ability to confront
14 that witness if it's allowed in. Therefore, we say
15 it's our position that it's inadmissible.

16 THE COURT: Okay. All right. Good enough.

17 MR. YARBOROUGH: Can I play the tape, Your
18 Honor?

19 THE COURT: How long is it?

20 MR. YARBOROUGH: It's less than a minute, two
21 minutes.

22 THE COURT: Okay.

23 MR. RICHARDSON: Your Honor, I would say also in
24 addition to that, at no time can she be compelled to
25 testify, so that plays into this, also. And I'm

1 talking about -- when I say she, for the record, I'm
2 talking about Angel Atkins.

3 THE COURT: I understand.

4 MR. RICHARDSON: Yes, sir.

5 THE COURT: Just for purposes of the record,
6 I'll take notice that she is also a defendant charged
7 with the very same offenses and has a Fifth Amendment
8 right against self-incrimination. It may or may not
9 be admissible in her trial, but it could be
10 problematic from a Constitutional due process
11 perspective.

12 But let's -- if you'll play --

13 You have a recording device?

14 THE COURT REPORTER: Yes, sir.

15 THE COURT: Can you just record it without
16 actually taking down what it says?

17 THE COURT REPORTER: Yes, sir. And for the
18 record, I don't take it down if I'm not -- if they're
19 not here live because I don't know who's speaking.

20 THE COURT: Okay.

21 (WHEREUPON, a tape was played.)

22 MR. RICHARDSON: I mean, it's filled with
23 hearsay.

24 THE COURT: It is filled with hearsay. I'm
25 going to tell you, Mr. Yarborough, that's almost

1 unintelligible. The vast majority of that tape, I
2 can't understand what anybody is saying. So, I'm not
3 so sure that it has any probative value. And to the
4 extent that she says anything that either increases
5 or decreases hers or Mr. Pillon's culpability, I'm
6 not so sure that it does. I mean, again, I can't
7 understand what anybody is saying.

8 MR. YARBOROUGH: Right. Your Honor, I think
9 I've beaten the horse to death.

10 THE COURT: And I don't mind you making a
11 record. I'm making it clear for the record that I
12 listened to it. It's on her phone. Obviously --
13 unless she wants to give up that phone and make it a
14 Court's Exhibit, it ain't going to be a Court
15 Exhibit. But I listened to it and I'm just stating
16 clearly for the record -- I told you this in chambers
17 and I mean this, every time I conduct a trial, all I
18 want is for it to be fair. And every time there is a
19 defendant on trial who has his liberty at risk, I
20 want that defendant to be able to put in as much into
21 the record as they possibly can. I want there to be
22 a vigorous and full defense. That's my only concern.
23 That, obviously, has hearsay problems.

24 MR. YARBOROUGH: Sure.

25 THE COURT: But also, I'm stating this clearly

1 for the record, I couldn't tell what anybody was
2 saying and I was trying my best to hear it. It
3 wasn't a volume issue, it was inarticulate and
4 unintelligible. Okay.

5 MR. YARBOROUGH: Okay.

6 THE COURT: All right. So, I'm going to find
7 that it's inadmissible. I'm also going to find that
8 under a 403, it's just simply confusing... I also find
9 and I agree with the State that it is full of hearsay
10 testimony. It is fundamentally unfair to the State
11 not to have the opportunity to cross-examine a
12 witness on statements that may have been made. Okay.

13 MR. YARBOROUGH: Thank you, Your Honor.

14 THE COURT: Yes, sir. Okay. Now,
15 Mr. Yarborough, you still going to call your witness?

16 MR. YARBOROUGH: Yes, sir.

17 THE COURT: Okay, good enough. How many
18 witnesses do you have?

19 MR. YARBOROUGH: I think probably one.

20 THE COURT: Okay. Okay.

21 Y'all have one in reply; is that correct?

22 MR. RICHARDSON: Two.

23 THE COURT: Two in reply. I presume those are
24 going to be very short?

25 MR. RICHARDSON: Yes, sir.

1 THE COURT: All right. What I want to do is get
2 all of that in today. Okay. All right.

3 MR. RICHARDSON: Yes, sir.

4 MR. YARBOROUGH: Yes, sir.

5 THE COURT: Bring the jury in.

6 (WHEREUPON, the jury came into open court at
7 approximately 3:16 p.m.)

8 THE COURT: Mr. Yarborough, you may call your
9 next witness, sir.

10 MR. YARBOROUGH: Call Karen Boyce.

11 THE CLERK: Place your left hand on Bible raise
12 your right.

13 KAREN BOYCE, after being duly sworn,
14 testified as follows:

15 THE CLERK: Thank you. If you would have a seat
16 and state your name for the record, please.

17 THE WITNESS: Karen Margaret Boyce.

18 DIRECT EXAMINATION

19 BY MR. YARBOROUGH:

20 Q Where are you from, Ms. Boyce?

21 A Anaheim, California.

22 Q Are you out here for this trial?

23 A Yes, sir.

24 Q Okay. Is the -- you're the mother of the
25 Defendant?

KAREN BOYCE-DIRECT BY MR. YARBOROUGH

1 A Matthew Pillon, yes.

2 Q Did he live with you before he moved back to
3 South Carolina?

4 A Yes.

5 Q And were you familiar -- what do you do for a
6 living?

7 A I'm an ultrasonographer.

8 Q What is that?

9 A In other words, sonographer, ultrasound tech. I
10 specialize in babies, but I do all sorts, vascular, GYN,
11 OB, small parts, abdomens, baby heads, trauma to NICU
12 babies, all that.

13 Q And did there come a time when Matt was calling
14 you regularly about the baby being born?

15 A Yes. Every day, sometimes twice a day.

16 Q And what type of advice would you give him?

17 A When he would explain to me about the mucus, you
18 know, a lot of the times that's very normal in the first
19 few days, just how to suction, keep the baby clean. You
20 know, when you feed the baby, how to hold the baby upright
21 more, not lay him down, especially if there was a lot of
22 mucus coming out. Basically, the normal routine stuff you
23 do for a newborn.

24 Q Did this kind of get things kind of jumping
25 really quickly?

KAREN BOYCE-DIRECT BY MR. YARBOROUGH

1 A As far as the baby getting worse?

2 Q Yes.

3 A Yes.

4 Q Were you concerned?

5 A Yes, I was concerned.

6 Q Why were you concerned?

7 A Well, because that doesn't seem to be normal,
8 the amount and how often it kept happening. So, I would
9 let Matthew know, you guys really need to keep on these
10 doctors, find out what's going on. Maybe they need to run
11 more tests, see what's happening. This is not normal.

12 Q From the -- from the 28th, 31st through June
13 7th, how many times did you talk to your son?

14 A Gosh, every day. Like I said, maybe twice a
15 day, so.

16 Q And your advice starting out was what?

17 A In the beginning, just, you know, how to take
18 care of a newborn. I knew Angel had been a mother twice
19 before. You know, be gentle, but make sure the baby stays
20 clean. We just kind of went over the basic stuff as a
21 mother would to help her child whether it was her son or
22 her daughter.

23 Q And did you give him advice about taking the
24 child to the hospital?

25 A Yes.

KAREN BOYCE-DIRECT BY MR. YARBOROUGH

1 Q And what was that advice?

2 A You need to take the baby in as much as --

3 Q Why did you think that?

4 A With what he was telling me with all the mucus
5 and now there's some blood coming, it didn't seem right
6 that the baby -- and I know C-section babies, they have
7 more fluid in their lungs than a baby that's delivered
8 vaginally due to the canal squeezing the fluid out of the
9 baby's lungs. C-section, it's not like that. But with
10 the condition of the baby as what he was telling me and
11 explaining to me on the phone, it seemed a little bit
12 more, that maybe the baby had more fluid in its lungs than
13 maybe the hospital thought.

14 Q So, did you give that advice to your son?

15 A I did.

16 Q You say -- how often did you talk to him over
17 those four or five days, or six days?

18 A Ten times, at least.

19 Q Ten times?

20 A Yeah, at least. He called me a lot.

21 Q Did you advise him about CPR on the baby?

22 A I have before. I'm in the medical field, have
23 been for a long time, so I've always gone over CPR with my
24 children, both of them. Even before he even knew Angel.
25 You know, I go to a class, I have to get certified every

KAREN BOYCE-DIRECT BY MR. YARBOROUGH

1 two years. I go over it with my kids. This is what I do,
2 this is how you do it when it's a baby versus a toddler
3 versus a child versus an adult.

4 Q Okay. And did you share that information with
5 your son?

6 A I have, yes.

7 Q Okay. Did you share with him about giving CPR.
8 to a baby, a small baby?

9 A Yes.

10 Q Okay. Did you give him the best information you
11 could?

12 A Yes, sir.

13 Q What about the suction cup, can you explain how
14 you understand that?

15 A You mean how do it?

16 Q Yeah.

17 A Just gently. You don't have to go all the way
18 in, just gently suction out. Even with the mouth, just go
19 to the back of the tongue, get what you can. You don't
20 need to go in that far.

21 Q Okay. And you shared that information with
22 Matthew?

23 A Yes.

24 Q And how about with Angel?

25 A Yes.

KAREN BOYCE-CROSS BY MR. RICHARDSON

1 Q That was that best information you had?

2 A Yes.

3 MR. YARBOROUGH: Thank you. I don't have any
4 further questions.

5 THE COURT: Cross?

6 CROSS-EXAMINATION

7 BY MR. RICHARDSON:

8 Q Good afternoon, ma'am.

9 A Hi.

10 Q So, at this period of time back in June of 2013,
11 you were actually living in California?

12 A Yes, sir.

13 Q Okay. You said you're an ultrasound tech?

14 A Yes, sir.

15 Q I'm sorry, I'm not familiar with that. Is that
16 the person that actually does the ultrasound?

17 A I do, yes.

18 Q Okay. Now, back on June 7th of 2013, you stated
19 you gave him some advice about CPR?

20 A The night before, early evening probably before
21 any of this happened --

22 Q So --

23 A -- when he had gone over things and talked about
24 things.

25 Q I apologize, I didn't mean to interrupt.

KAREN BOYCE-CROSS BY MR. RICHARDSON

1 A We had gone over things, talked about things. I
2 asked about how the baby was with the mucus, things like
3 that.

4 Q Was this -- so that would be June the 6th?

5 A Yes, uh-huh.

6 Q So, June the 7th in the early morning hours, you
7 did not have any contact with the Defendant, did you?

8 A No.

9 Q So, there was no phone call from him to you or
10 you to him that morning?

11 A Not until later, no.

12 Q But not at 4:00 that morning?

13 A No.

14 Q Okay. Would you agree with me that if you feel
15 it necessary to give a baby CPR that probably medical
16 attention needs to be had?

17 A Absolutely, yes.

18 Q And like you said, you're in California. You
19 weren't there June 7th. You didn't see the Defendant with
20 the baby any time in June, did you?

21 A That is correct.

22 Q And you don't know what happened that night, do
23 you?

24 A No, I do not.

25 MR. RICHARDSON: That all the questions I have.

KAREN BOYCE-CROSS BY MR. YARBOROUGH

1 Thank you.

2 THE COURT: Redirect, sir?

3 CROSS-EXAMINATION

4 BY MR. YARBOROUGH:

5 Q Did you give him the best advice you had?

6 A Yes, I did.

7 MR. YARBOROUGH: Thank you. I don't have
8 anything further.

9 THE COURT: Anything else?

10 MR. RICHARDSON: Nothing further.

11 THE COURT: Thank you, ma'am. I appreciate it.

12 You may step down.

13 Okay. Yes, sir.

14 MR. YARBOROUGH: We'll rest at this point.

15 THE COURT: Okay, good enough. All right.

16 Mr. Yarborough, without articulating it fully, you
17 wish to renew your directed verdict motions at this
18 point?

19 MR. YARBOROUGH: I move for a directed verdict
20 at this point.

21 THE COURT: My previous ruling is the same.

22 Any motions from the State at this point?

23 MR. RICHARDSON: Not at this point, Your Honor.

24 THE COURT: Okay. Do you have any evidence in
25 reply that you would like to put on the record?

J.B. KELLEY

1 MR. RICHARDSON: Your Honor, we do.

2 THE COURT: All right. You may call your first
3 witness in reply.

4 MR. RICHARDSON: Very briefly. We call J.B.
5 Kelley back to the stand.

6 THE COURT: Officer, I remind you that you
7 continue under your oath from previous testimony.

8 THE WITNESS: Yes, Your Honor.

9 J.B. KELLEY, after being duly sworn in
10 previous testimony, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. RICHARDSON:

13 Q Officer Kelley, you had previously testified
14 that you questioned the Defendant at the hospital?

15 A Yes, sir, I did.

16 Q Okay. And, specifically, did you question the
17 Defendant about him taking medications?

18 A I did.

19 Q Let me just ask you, why do you do that?

20 A Well, in a case like this, you want to know the
21 state of mind as far as with anybody that's involved with
22 the child to see physically and mentally their status at
23 the time that you're investigating the case, what
24 happened -- what state they were in prior to meeting them
25 and after.

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 Q Okay. And, specifically, what did you ask the
2 Defendant during that interview?

3 A I specifically asked him if he had taken any
4 medication the night before.

5 Q And by the night before, what are you referring
6 to?

7 A The night before the baby was brought to the
8 hospital. I documented I specifically asked him, Have you
9 taken any medication last night? And he said that he had
10 not taken any because the prescription he had for the
11 Lortab and Flexeril had run out weeks ago, but he hadn't
12 taken any in the night.

13 Q At any time, did he tell you he had taken two
14 Oxycontin?

15 A No, he did not ever tell me that.

16 MR. RICHARDSON: Thank you. That's all the
17 questions I have. Please answer questions Defense
18 counsel has for you.

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. YARBOROUGH:

22 Q You asked him if he had taken any on the sixth,
23 right?

24 A The night before, yes, sir.

25 Q And he told that he had not?

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 A That's correct.

2 Q Okay. And were you in here for his testimony
3 today?

4 A I was.

5 Q And he said he took it on the morning of the
6 seventh; isn't that correct?

7 A He said he took it later on that morning after
8 the baby was okay is what he said when I heard him
9 testify.

10 Q Right, at 5:55 that morning is when he said he
11 took it?

12 A Yes, sir.

13 Q Okay. So, he didn't give you the whole truth,
14 but he didn't lie to you?

15 A Well, I heard him --

16 Q Well, how about this, you define night and I
17 define --

18 MR. RICHARDSON: I ask that he be allowed to
19 explain his answer.

20 THE COURT: Finish your question, let him
21 answer.

22 THE WITNESS: I can't say that he didn't lie to
23 me because I heard him testify he told me about
24 mittens on the hands and he didn't tell me that
25 either.

J.B. KELLEY-CROSS BY MR. YARBOROUGH

1 BY MR. YARBOROUGH:

2 Q Well, I mean, wait a second. Wait a second.
3 You're saying that the record said that he told you there
4 were mittens on those hands?

5 A No, he never mentioned --

6 Q I know, but he didn't say that in this
7 courtroom. He said that they put mittens on the hands.
8 He never --

9 A I believe I heard him say he told medical and
10 law enforcement.

11 Q Well, weren't there other -- how about this, if
12 he told medical, then he told medical, right?

13 A I don't have any documentation of that.

14 Q And if he didn't tell law enforcement, he didn't
15 tell you; is that right?

16 A He did not tell me, no, sir, no mention.

17 Q You know, you investigate cases all the time?

18 A Yes, sir, I do.

19 Q And clients get nervous -- people get nervous
20 and they don't tell you the whole truth?

21 A That's correct, that's true.

22 Q Right. If things happen and they remember
23 things. You're talking about a 22-year-old kid at the
24 time. That's not unusual for him to tell you a story, is
25 it?

J.B. KELLEY-REDIRECT BY MR. RICHARDSON

1 A I wouldn't say it is usual for someone to lie,
2 but.

3 Q I mean, it wasn't a -- it's not a lie, it's just
4 not a direct statement of the facts. He took it that
5 morning at 5:55 is what he testified to in this courtroom.
6 You asked him if he took anything that night, right?

7 A That's correct.

8 Q Right. So, he didn't lie, he just didn't give
9 you the whole truth?

10 A That's true.

11 Q Okay. Thank you.

12 REDIRECT EXAMINATION

13 BY MR. RICHARDSON:

14 Q Is not giving you the whole truth a lie?

15 A I perceive that, yes, sir.

16 MR. RICHARDSON: Okay. Thank you.

17 THE COURT: Any recross based on that?

18 MR. YARBOROUGH: No.

19 THE COURT: All right, Office. Thank you. I
20 appreciate it. You may step down.

21 Do you have another witness in reply, sir?

22 MR. RICHARDSON: Yes, sir. Ms. Teena Watson.

23 DIRECT EXAMINATION

24 BY MR. RICHARDSON:

25 Q Ms. Watson, previously, you testified you had

J.B. KELLEY-REDIRECT BY MR. RICHARDSON

1 conversations with the Defendant; is that correct?

2 A Correct.

3 Q Okay. And, in fact, the first conversation you
4 had with the Defendant was where?

5 A At the hospital.

6 Q Okay. Not at the law enforcement center?

7 A Correct.

8 Q Okay. And in that conversation, did he state
9 anything to you about being frustrated at the baby?

10 A Yes, he did. My question to him was actually
11 did he ever get aggravated with the baby. He corrected me
12 and said, I don't get aggravated, I get frustrated. When
13 I get frustrated, I go outside on the porch and smoke or I
14 go for a walk.

15 MR. RICHARDSON: Thank you. That's all the
16 questions I have.

17 MR. YARBOROUGH: I don't have anything further.
18 Thank you.

19 THE COURT: Okay. Good enough. You may step
20 down.

21 Anything further from the State?

22 MR. RICHARDSON: Nothing further, Your Honor.

23 THE COURT: All right. So, ladies and
24 gentlemen, at this point, you've heard all the
25 evidence that you're going to hear in this case. So

1 what's left to do is argument from counsel and a
2 final charge on the law.

3 Now, I'm going to wait and do that tomorrow
4 morning. Not because I don't want to give y'all the
5 case, but because, understand, that final argument
6 and my charge on the law is going to take, at least,
7 an hour, maybe as much as an hour and a half. So if
8 you do the math, that means we won't be done until
9 probably 5:00. Well, once you get the case, it may
10 take you 10 minutes to come to a determination and it
11 may take you 10 hours to come to a determination, but
12 it's going to take you some amount of time.

13 Once you get the case, usually, you have the
14 case and you stay until you come to a resolution. I
15 want you to have as much time to consider the
16 evidence and the law in this case as you need. I
17 want you to be deliberate and I want you to be
18 serious in your undertaking and your duty in this
19 case.

20 So as opposed to you being here tonight at 9:00
21 or 9:30 or even midnight thinking boy, I really want
22 to be done with this, I would rather y'all just go
23 home, come back tomorrow and take your time. Okay.
24 I think that's a better way to proceed and it's a lot
25 better than, again, having you here until potentially

1 late into the night this evening.

2 So tomorrow morning, I want you to be back at
3 9:30. When you get here at 9:30, we're going to go
4 straight to argument and charge.

5 Is the State going to open or you waive opening?

6 MS. HINTON: Waive opening, Your Honor.

7 THE COURT: All right, so what will happen, the
8 Defense will argue, then the State will have the
9 opportunity to close, okay, then I give you a closing
10 charge on the law. And then after I've given you
11 that closing charge on the law, I give the case to
12 y'all and you begin your deliberations, okay.

13 So I'm going to ask you to come back tomorrow
14 morning at 9:30. Please don't discuss the case.
15 You'll have plenty of time to discuss the case
16 tomorrow. Hope you have a good evening. Thank you.

17 (WHEREUPON, the jury left the courtroom at
18 approximately 3:33 p.m.)

19 THE COURT: All right, counsel, we'll adjourn
20 for the day. If you'll meet me back in chambers,
21 we'll talk through the charge, okay, so that we'll
22 all be on the same sheet of music. All right.

23 (WHEREUPON, the proceedings were concluded for
24 the day to be reconvened on August 31, 2016.)
25

August 31, 2016

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THE COURT: Okay, ready to proceed?

MR. YARBOROUGH: Yes, your Honor, I just wanted to make one notation for the record.

THE COURT: Yes, sir.

MR. YARBOROUGH: We've had numerous conversations about the charge back and forth. And I still object to the charge on the hand of one, hand of all.

THE COURT: Okay. All right, good enough. And at the -- after I give the parties the opportunity to take exception to the charge, you're welcome to articulate it on the record based on the specific charge that's given to the jury. Okay. And then I'll articulate my position at that point as well. Okay. All right.

Anything further before we bring the jury in? Okay.

So, Mr. Yarborough, you're going to argue.

And then, Ms. Hinton, are you going to give closing arguments?

MS. HINTON: Yes, Your Honor.

THE COURT: Okay. Good enough.

MR. YARBOROUGH: As I just heard, maybe I can ask for it again, just jump up and I can start

1 yelling?

2 THE COURT: You can try, you can try.

3 Bring the jury in, please.

4 (WHEREUPON, the jury came into open court at
5 approximately 9:38 a.m.)

6 THE COURT: All right. All right. Good
7 morning, ladies and gentlemen, welcome back. I hope
8 you that had a good evening. We're going to proceed
9 to argument and charge this morning. So, the first
10 order of business, I need to appoint a foreperson.

11 Ms. Nichols, that's you.

12 MS. NICHOLS: Sir?

13 THE COURT: You're Ms. Nichols, right?

14 MS. NICHOLS: Right.

15 THE COURT: All right, congratulations.

16 MS. NICHOLS: Thank you.

17 THE COURT: You are appointed as foreperson of
18 the jury.

19 MS. NICHOLS: Okay, thank you.

20 THE COURT: You're welcome. You can put that on
21 your resume next time you submit one, okay. Now, the
22 duties of the foreperson of the jury is to ensure
23 that everybody on the jury during deliberations has a
24 voice, has an opportunity to be heard, okay. Any
25 time you get together a group of 12 people to

1 deliberate, there's necessarily going to be some
2 people who are louder and more opinionated than
3 others who are more quiet and reserved. But it's
4 important that everybody has the opportunity to offer
5 their opinion and has a voice in the deliberations.
6 So, Ms. Nichols, it's your job to ensure that
7 everybody has the opportunity to voice their opinions
8 in the deliberations.

9 Now also, among your duties will be to write
10 down any issues or questions that the jury may have
11 during deliberations. I'm hopeful that you don't
12 have questions or issues, but if you do, if there's a
13 question, just write it down on a piece of paper, let
14 the bailiff know, they will deliver it to me. And if
15 I can I'll answer it. Sometimes I get questions from
16 juries that I just can't answer. If you're asking
17 questions about the evidence or your asking questions
18 about whether we have more evidence, you usually get
19 a fairly curt response from me. Which isn't intended
20 to be curt, it's I can't comment on the evidence and
21 I can't give you anymore evidence, you all the
22 evidence that you're going to get.

23 But sometimes I'll get a question that I can't
24 answer. And when I can't answer it I'll do my best
25 to provide you with an answer. Again, I'm hopeful

1 you don't have any questions but from time to time
2 most do. Also, you'll sign the verdict form if the
3 jury has reached a unanimous verdict. Other than
4 that, I can't tell you how to conduct deliberations.
5 I've never been on a jury and as of this moment I'm
6 disqualified from being on a jury. It's unlawful for
7 me to even enter into your jury room. To cross the
8 threshold of your jury room. That will result in an
9 immediate mistrial. So, I don't know how jurors
10 conduct deliberations. I suspect that each jury does
11 it a little bit different. And I'm sure that y'all
12 will settle into the most efficient and effective way
13 in deliberating in this case.

14 All right, ladies and gentlemen, the defense is
15 going to offer its closing argument, then The State
16 will offer its closing argument. Now, like I told
17 you at the beginning of the trial, closing arguments
18 are just like opening statements. And that is it's
19 not evidence to be considered by you. You've already
20 received all the evidence that you will receive in
21 this case. The parties are simply advocating for
22 their respective sides, commenting on the evidence in
23 an attempt to persuade you to their position. After
24 you've heard those closing arguments, then I'll give
25 you a closing charge on the law.

1 All right, so having said that, Mr. Yarborough,
2 I believe it's your argument, sir.

3 (WHEREUPON, closing arguments took place. This
4 portion of the record was not requested.)

5 THE COURT: All right, ladies and gentlemen,
6 we're going to take a short break and we'll come back
7 in and give you the charge on the law. Take 15
8 minutes, maybe 20 minutes. But we'll refresh before
9 we come in and go through that process. Please don't
10 discuss the case yet.

11 (WHEREUPON, the jury left open court at
12 approximately 10:43 a.m.)

13 THE COURT: Yes, sir.

14 MR. YARBOROUGH: Your Honor, I've got an
15 objection to her closing argument. I'd like to ask
16 the Court for a curative instruction. She said
17 during the course of her closing that Angel Atkins
18 had another day in court and there would be another
19 time. Then she talked about another time that Angel
20 was going to be present. I had always maintained
21 that Angel wasn't here and she should have been here.
22 And I had evidence to show that she had an opinion
23 about what happened. And I'd ask the Court to charge
24 that Angel Atkins was supposed to be here today. Or
25 on yesterday. Or Monday. And that there was a bench

1 warrant issue used for her. Instead of leaving the
2 jury with the impression that -- which is what she
3 just said, is we elected to go forward today because,
4 you know, Angel Atkins is going to have another day
5 in court, that's not what happened. What happened
6 was she didn't show up. And I'd ask the Court to
7 give a curative instruction and say that Ms. Atkins
8 was supposed to be here and she did not show. And
9 the bailiff [verbatim] issued a -- called for her and
10 there was a bench warrant that was issued.

11 THE COURT: Okay. All right.

12 Anything from The State?

13 MS. HINTON: Judge, I made that comment because
14 he said it.

15 He said, Where's Angel? You haven't heard from
16 her today.

17 I mean, it needed to be addressed. She will, in
18 fact, have another day in court, hopefully. I mean,
19 I hope that she's picked up. But we will call
20 another jury on her behalf. And but for him saying
21 that, I wouldn't have addressed the issue to begin
22 with.

23 THE COURT: Let me just say, I have heard all
24 the argument. And I was listening to all of that.
25 Both defense's argument in that vain and The State's

1 argument in that vain with regards to her presence.
2 Because potentially it was very sensitive. I think
3 that in context with the argument that was delivered
4 by the defense and the comments that were made by The
5 State, were appropriate. I also think that they
6 accurate. And that is she will get her day in court.
7 I understand that one position that can be taken is
8 that The State tried to try her this time. And she's
9 not here because she didn't show up. But it's also
10 true that The State elected not to try her. Because
11 The State could have elected to try her in her
12 absence. And I indicated before this trial began
13 that I was favorably disposed toward allowing the
14 case to go forward in her absence.

15 So, it is also true that The State elected not
16 to try her this week. So, I think both are true. It
17 just depends on your perspective. And I don't know
18 that a curative charge is going to add anything
19 instructive or helpful to the jury in their
20 deliberations in this case.

21 MR. YARBOROUGH: I think that this is one of
22 those rare exceptions where that they made a point
23 that she's going to be tried another day. So,
24 they've left it saying, Oh, well, we don't have to
25 worry about her today. And the Court could say, you

1 know, she's not here, there was a bench warrant
2 issued and you can also say that flight is a
3 indication of guilt. And I just think it's one of
4 those -- one of those odd ways of -- especially, the
5 way she presented it in her closing argument, that
6 are curative instruction should be given to the jury
7 at this point.

8 THE COURT: Well, it doesn't sound like a
9 curative instruction, it sounds like additional
10 instruction. Because you made a very good argument.
11 It was a very artful argument and it was the very
12 same argument that I would have made in your shoes.
13 But you can't have your cake and eat it too. If it's
14 appropriate for your comment, it's appropriate for
15 The State's comment. And as I sit here, I'm just
16 feeding everybody out of the same spoon.

17 I suspect, I fully anticipate that this jury's
18 going to have a question and they're going to send it
19 to us in writing, Where's Angel? Or why didn't we
20 hear from Angel? Or is Angel going to be tried? And
21 when that comes back, we're going to deal it with
22 appropriately. But until then, I'm going to charge
23 them that The State has the burden of proving the
24 Defendant guilty beyond a reasonable doubt on all of
25 the charges. And we'll address it further if we need

1 to. Because here's the problem with a curative
2 instruction on this. Both parties have an interest
3 in how it's termed and how it's couched. It's better
4 from the Court's perspective to just leave it along.
5 Okay. I let you comment on it and I think that's
6 fair.

7 MR. YARBOROUGH: Thank you.

8 THE COURT: And I also correct an error that I
9 made. I sustained your objection and the basis for
10 my sustaining the objection was that the evidence of
11 the Defendant not having custody of the second child
12 was not in evidence. Upon reflection, I think I'm
13 wrong. I think he did testify to that. So, I will
14 tell you that in context with half an hours worth of
15 argument, I think it was inconsequential and it
16 doesn't mean anything. I will also say that I didn't
17 redact the statement and I didn't strike it from the
18 record. So, ultimately, it was without effect or
19 consequence. I will tell you in this instance, I'm
20 more interested in not bringing attention to it and
21 just everybody moving on, okay. So, I just corrected
22 if for the record and I'll say it, I was wrong.

23 MR. YARBOROUGH: Thank you, Your Honor.

24 THE COURT: Okay.

25 We'll take a short break and we'll come back in.

1 (WHEREUPON, a short break was taken.)

2 THE COURT: Okay, bring the jury in, please.

3 (WHEREUPON, the jury came into open court at
4 approximately 11:00 a.m.)

5 JURY CHARGE

6 THE COURT: All right, ladies and gentlemen of
7 the jury, I'm going to give you a charge on the law
8 at this point. Now, when you came into court, the
9 beginning of this trial, I told you had duties to
10 perform and I had duties to perform. Now, my duty is
11 to give you the law as it relates to the evidence
12 that's been presented in this trial. You took an
13 oath at the very beginning to try the case in
14 accordance with the evidence and the law as I give it
15 to you. So, if you come into this courtroom, into
16 this trial, with any prior opinion or any prior
17 disposition about what the law is or about what the
18 law should be, under your oath you're required to
19 disregard that and accept the law as I give it to you
20 in this case.

21 Now, ladies and gentlemen, in this case, as I
22 told you at the beginning of this trial, just like in
23 any case in the United States of America, the
24 Defendant is presumed innocent until The State meets
25 its burden of proof of proving each and every element

1 of each offense beyond a reasonable doubt. Now,
2 that, again, is not just a legal theory, that is the
3 corner stone of our criminal justice system. So, as
4 we sit here right now in this courtroom, Mr. Pillon
5 wears a cloak of innocence. He will retain that
6 cloak of innocence until such time as 12 deliberating
7 jurors determine that The State has met its burden,
8 again, of proving each and ever element of each
9 offense beyond a reasonable doubt.

10 Now, ladies and gentlemen, there are three
11 charges before the court which you're going to
12 consider today. And you know those charges and
13 you'll have a separate indictment for each one of
14 those charges. The child abuse with great bodily
15 injury, assault and battery of high and aggravated
16 nature and unlawful neglect of a child. Now, three
17 indictments, you will have three verdict forms. And
18 that's important because you must understand that you
19 consider each and every charge, each and every
20 indictment separately and distinctly. And you'll
21 determine whether The State has met its burden of
22 proof with respect to each individual and specific
23 charge.

24 So, by way of example, just by way of example,
25 if you were to find the Defendant not guilty of one

1 of the offenses, that certainly doesn't mean that you
2 are required to find him not guilty of the additional
3 offenses? Again, if you were to find him, for
4 example, guilty of two of the offenses, it doesn't
5 mean that you have to find him guilty of the third
6 offense as well. Again, you look at them all
7 separately and distinctly and determine whether The
8 State has met its burden of proof with respect to all
9 the elements of each offense.

10 Now, we've bandied about this term, reasonable
11 doubt. So, I'll define reasonable doubt for you.
12 Prove beyond a reasonable doubt is that prove which
13 leaves you firmly convinced of the Defendant's guilt.
14 Now, you know that there's nothing on the face of
15 this earth which can be known or proven with absolute
16 certainty. And the law does not require that The
17 State prove its case beyond any possible doubt.
18 However, after your review of all the evidence, if
19 you are firmly convinced of the Defendant's guilt,
20 then you must under your oath find him guilty.
21 However, if you -- after your review of all the
22 evidence, you find that there is a real possibility
23 that the Defendant is not guilty, then you would
24 under your oath find him not guilty of the offense.

25 Now, ladies and gentlemen, you'll determine

1 whether the State has met its burden of proof by
2 weighing the evidence, reviewing the evidence and
3 determining the credibility of witnesses. So, you'll
4 decide what has weight and what has merit and what
5 weight and consideration any piece of evidence should
6 have. You'll also judge the credibility of
7 witnesses. Now, you know from your own common sense,
8 from your own person experiences, that you can tell
9 if someone is telling the truth or not telling the
10 truth. It's not exact science but we all intuitively
11 possess that skill through our own common sense and
12 our common experience.

13 And you can look at a witness' testimony, you
14 can consider what they said. How they said it. Body
15 language, facial expressions. You can determine
16 whether they had something to gain or something to
17 lose as a consequence of their testimony. In looking
18 at that, in context with all of the evidence that you
19 receive, you can determine whether somebody is
20 believable or not believable.

21 Now, you can look at somebody's testimony and
22 decide that a portion of it is believable. And I'm
23 going to accept that and it's going to be a fact in
24 my consideration. That is, when I say my, in the
25 jury's consideration. And then you can take the rest

1 of that person's testimony and discount it entirely
2 and find that it's not credible. There's not rule to
3 be applied for it, you decide what has weight, you
4 decide what's credible and you accept it and you
5 determine what the facts are based on your analysis
6 of the evidence that's presented.

7 Now, evidence that you receive is going to be --
8 come in one of two different forms. It's either
9 going to be direct evidence or it's going to be
10 circumstantial evidence. Now, direct evidence is
11 evidence that immediately establishes a fact to be
12 proven. Circumstantial evidence is evidence which
13 proves a chain of facts or a group of collateral
14 facts that when taken together prove the main fact to
15 be proven.

16 Now, those are pretty simple definitions but I
17 find that it's helpful sometimes to get an example to
18 help you conceptualize it a little bit better. So,
19 I'll give you an example. Let's say that on a
20 January morning you are in your house. And you are
21 going to bed. And you walk past the front door or
22 front window, and you look across the landscape in
23 front of your house. And you see that there's no
24 precipitation on the ground at all. And you go to
25 bed. Then the next day you come pass that very same

1 window or door and you look out and there's a blanket
2 of snow on the ground. And you see in that blanket
3 of snow, footprints which come to your door and
4 footsteps which led away. So, under that set of
5 circumstances you've got direct evidence that it
6 snowed that night. Because the snow is immediately
7 established by its presence. You can touch it, you
8 can feel it, you can throw it, you can taste it, it's
9 there. It's immediately established. That's direct
10 evidence.

11 You got circumstantial evidence, however, that
12 somebody that night or early that morning came to
13 your door and walked away. Now you don't see that
14 person, you can't talk to them, you can't feel them,
15 you can't touch them. But you know as a consequence
16 of the timing of that snow fall and the presence of
17 the footsteps in the snow, that somebody must have
18 come to your door and walked away, that's
19 circumstantial evidence.

20 Now, ladies and gentlemen, the law doesn't
21 prefer direct evidence over circumstantial evidence
22 or circumstantial evidence over direct evidence. You
23 decide what has weight and what has value. You
24 decide if the direct evidence you saw is more
25 valuable or if the circumstantial evidence you saw is

1 more valuable. That's part of your role. Do
2 understand, however, that if The State relies upon
3 circumstantial evidence, that all of the facts and
4 circumstances taken together must point the to guilt
5 of the accused beyond a reasonable doubt. If the
6 circumstantial evidence creates a mere suspicion,
7 then the evidence is not sufficient.

8 Now, ladies and gentlemen, we're going to talk
9 about the specific -- the specific charges in this
10 case. But before I do, I'm going to charge you as to
11 a theory of law called the hand of one is the hand of
12 all. Now, I'm going to read some to you. I don't
13 like to read for a lot of different reasons. First
14 of all, it suggests to you that I don't know the law
15 and I'm either too dumb or too lazy to memorize it.
16 Which some people may say is true. But the fact of
17 the matter is, it's a precise definition. And I need
18 to get precised definitions precisely right. Because
19 this is an important trial for The State and for the
20 Defense. And it's an important trial for you as well
21 because you have invested your very important and
22 valuable time in this case. So, you'll pardon me
23 while I read just a little bit the theory of law of
24 the hand of one.

25 If a crime is committed by two or more people

1 who are acting together in committing a crime, the
2 act of one is the act of all. A person who joins
3 with another to commit an unlawful act, is criminally
4 responsible for everything done by the other person
5 which happened as a probable or natural consequence
6 of the acts done in carrying out the common plan and
7 purpose. For example, two people can be guilty of
8 killing another person when only one of the two had a
9 gun. There was only one bullet and only one of the
10 two fired the shot that caused the death. If two or
11 more people are acting together, acting together,
12 assisting each other in committing the offense, the
13 act of one is the act of all. Or sometimes said, the
14 hand of one is the hand of all.

15 Prior knowledge that a crime is going to be
16 committed without warrant is not sufficient to make a
17 person guilty of that crime. Mere knowledge that
18 another person is going to commit a crime, even if
19 the Defendant is present when the crime is committed,
20 is not sufficient to convict the Defendant as a
21 principle. Guilt is a principle as shown by actual
22 or constructive presence at the scene as result of
23 prior arrangement. Therefore, finding of a prior
24 arranged plan or a common scheme is necessary for a
25 finding of guilt as a principle. The State must

1 prove beyond a reasonable doubt, by competent
2 evidence, the theory of the hand of one is the hand
3 of all.

4 A principle in a crime is one who either
5 actually commits the crime or who is present aiding,
6 abetting or assisting in committing the crime. When
7 a person doesn't act in the presence of and with the
8 assistance of another, the act is done by both. When
9 two or more people acting with a common plan or
10 intent are present at the commission of a crime, it
11 does not matter who actually commits the crime. All
12 are guilty. The hand of one is the hand of all.

13 Present at the commission of the crime means to be
14 sufficiently near, to aid and abet and assist in the
15 commission of the crime. However, mere presence at
16 the scene of a crime is not sufficient to convict as
17 a principle on the theory of aiding and abetting.

18 Intent is also a necessary element. For there must
19 have been a common design or an intent to commit the
20 crime and the crime must have been committed pursuant
21 thereto, with the person aiding and abetting by some
22 overt act.

23 Intent means intending the result which actually
24 occurs, not accidentally or involuntarily. Intent
25 may be shown by acts and conduct of the Defendant and

1 other circumstances from which you may naturally and
2 reasonably infer intent. The State must prove these
3 elements beyond a reasonable doubt.

4 Now, ladies and gentlemen, let's talk about the
5 charges that are before you today. And I will give
6 you definitions. Now, essentially what I'm going to
7 give you is the statutory definitions. The
8 definitions as they have been articulated by the
9 legislature in the State of South Carolina.
10 Understand, as we go through these they will set
11 forth the elements of the crime. The State must
12 prove each and every element of the crime beyond a
13 reasonable doubt.

14 So, ladies and gentlemen, the first charge which
15 is before the court today, is child abuse with great
16 bodily injury. And ladies and gentlemen, it is
17 unlawful to inflict great bodily injury upon a child.
18 That's it. It's very simply and direct. It's
19 unlawful to inflict great bodily injury upon a child.
20 Now, great bodily injury is defined by the
21 legislature as bodily injury which creates a
22 substantial risk of death or which causes serious or
23 permanent disfigurement. Or protracted loss or
24 impairment of the function of any bodily member or
25 organ.

1 Ladies and gentlemen, the second charge that you
2 must consider in which The State must prove beyond a
3 reasonable doubt as to each and every element of the
4 offense, is assault and battery of a high and
5 aggravated nature. Now, ladies and gentlemen, a
6 person the commits the assault -- or excuse me, the
7 offense of assault and battery of a high and
8 aggravated nature if the person unlawfully injures
9 another person and the great bodily injury to another
10 person results, or the act is accomplished by means
11 likely to produce death or great bodily injury. I'll
12 read that to you one more time, it's fairly short and
13 concise. A person commits the offense of assault and
14 battery of a high and aggravated nature if the person
15 unlawfully injures another person and great bodily
16 injury to another person results, or the act is
17 accomplished by means to produce death or great
18 bodily injury.

19 Ladies and gentlemen, the third offense that is
20 before you for your consideration, and for which
21 you'll have a separate verdict form, is unlawful
22 conduct toward a child. Again, The State must prove
23 beyond a reasonable doubt each and every element of
24 the offense. It is unlawful for a person who has
25 charge or custody of a child or who is the parent or

1 guardian of a child or who is responsible for the
2 welfare of the child, to place the child at
3 unreasonable risk of harm effecting the child's life,
4 physical or mental health or safety. Do or caused to
5 be done unlawfully or maliciously any bodily harm to
6 the child so that the life of the child is endangered
7 or likely to be endangered. So, I'll read that to
8 you one more time. Is is unlawful for a person who
9 has charge or custody of a child or who is the parent
10 or guardian of a child or who is responsible for the
11 welfare of the child, to place the child in a
12 unreasonable risk of harm effecting the child's life,
13 physical or mental health or safety. Do or caused to
14 be done unlawfully or maliciously any bodily harm to
15 the child so that the life or health of the child is
16 endangered or likely to be endangered.

17 Now, ladies and gentlemen, in the first part of
18 that it talks about who could potentially be subject
19 to that law. So, the first person is a person who
20 has custody of a child. And custody, ladies and
21 gentlemen, means the lawful, actual possession and
22 control of a child. Ladies and gentlemen,
23 guardianship of a child means one is vested with the
24 duty and the authority for the health and welfare of
25 the child. Ordinarily, as conferred by a Family or a

1 Probate Court.

2 Ladies and gentlemen, a person who is
3 responsible for the child's welfare includes the
4 child's parents, guardian, foster parent, an
5 operator, employee or caregiver of a public or
6 private residential home, institution, agency or
7 childcare facility or an adult who has assumed the
8 role or responsibility of a parent or guardian for
9 the child, but who does not necessarily have legal
10 custody of the child. All right, ladies and
11 gentlemen, that's the law as it relates to the three
12 charges that are before the court.

13 Now, you have three charges to consider. And as
14 I've instructed you already, you have three separate
15 and distinct verdict forms. And you'll consider them
16 all separately and distinctly. But just by way of
17 example, I'll go over the first one with you. Very
18 simple but there's some important points on here that
19 you need to keep in mind. You have the caption and
20 then you have verdict. In this specific one that we
21 were looking at relates to child abuse with great
22 bodily injury, then you simply have a case number.

23 So, the first thing it says is, We, the jury, by
24 unanimous agreement find the Defendant. Now, you'll
25 notice that it says unanimous. Your verdict in this

1 case and in all of these charges must be unanimous.
2 You must all agree on the verdict. It can't be 11 to
3 one and it can't be 10 to two or any other
4 combinations of numbers that equals 12, it must be
5 unanimous. Also, understand that the verdicts must
6 be based upon the evidence and the law that you have
7 received in this case. It cannot be based on
8 sympathy. It can't be based on passion or prejudice
9 or bias or caprice. It must be based on the law and
10 the evidence. And based upon your reason and
11 calculated consideration.

12 Now, ladies and gentlemen, on this verdict form
13 that we're looking at, you have two choices. They're
14 not in any particular order. If they're two choices
15 I've got to put them in some order. So, don't take
16 from that that I have a preference one way or the
17 other, I've already told you that I don't have a
18 preference. My only concern is a fair trial. So,
19 you have here a not guilty and a guilty. So, if you
20 decide that with respect to this indictment, this
21 charge, child abuse, that The State has not met its
22 burden of proof with respect to each and every
23 element of the offense, then you would find not
24 guilty. If on the other hand you feel that The State
25 has met its burden of proof, then, Ms. Nichols, you

1 would just initial guilt, okay.

2 After the jury has reached a unanimous verdict
3 on the first charge, then, Ms. Nichols, you would
4 sign as foreperson of the jury. Then you would move
5 to the next. And we go through the same process.
6 The verdict forms are all the same. After you have
7 reached a unanimous verdict as to all three, then I'd
8 ask you to knock on the door and let the bailiff know
9 that you've reached a unanimous verdict. And what I
10 will do is I'll bring you back in to receive the
11 verdict.

12 Now, I'm done with my charge. And I'm going to
13 ask you to return to your jury room. Don't start
14 deliberations quite yet. Because each side is going
15 to have the opportunity to take exception to the law
16 that I've given you. I may have misstated something,
17 I may have left out something that's important, I may
18 have put something in that I need to redact. This is
19 the parties opportunity to tell me when I've messed
20 up. And they have a right to do that because it
21 happens from time to time. So, don't start
22 deliberating yet. Because if I need to correct
23 something that I've said or add something, then I'll
24 bring you back out and I'll tell you what needs to be
25 corrected. Then, I'll send you back in to begin your

1 deliberations. Now, you'll know when to begin your
2 deliberations because I'll so he understand those
3 verdict forms back with the bailiff and the bailiff
4 will hand you these verdict forms and say, Start
5 deliberating. So, until you have these in your hand,
6 it's not time to start deliberating yet, okay. All
7 right, please return to your jury room.

8 (WHEREUPON, the jury left open court at

9 approximately 11:18 a.m.)

10 THE COURT: All right, any exceptions to the
11 charge?

12 MR. YARBOROUGH: I'm going to note my exception
13 to the hand of one, hand of all charge that was made.

14 THE COURT: Okay. All right, thank you very
15 much. And I know that we had the opportunity to
16 discuss that at some length. I think that the
17 evidence that was presented in this case supports the
18 charge. I had some hesitation about it because I
19 understand why it's sensitive to your position in
20 this case. And it very well should be. But the
21 evidence that -- that was presented by the Defense
22 and by The State as well was that the parties, that
23 is both Defendants, set out to raise the child
24 together. That they were the only two in the room
25 during a very critical period of time in this case.

1 And each jointly cared for the child to include but
2 not limited to taking them jointly to the doctor
3 whenever the child needed care. There's additional
4 evidence in there which would indicate that they
5 shared responsibility. And I don't think anyone
6 necessarily took exception to that, it's a
7 evidentiary matter.

8 I'm going to also say that the theories of the
9 case, which are supported by or argued by each case
10 really bows in favor of a hand of one, hand of all
11 charge. I believe that the Defense's assertion is
12 that, essentially, Angel Atkins was the culprit, is
13 the culpable party in this matter. And that was a
14 very clear assertion both throughout the presentation
15 of evidence and argument that was made by counsel.
16 And I think that it is fair for each party to be able
17 to address that particular assertion. And I think
18 the hand of one and hand of all is a proper legal
19 argument. Which both parties have the opportunity to
20 argument. So, on that basis, after some
21 deliberation, I think it's appropriate under the
22 evidence in the case.

23 MR. YARBOROUGH: Thank you, Your Honor.

24 THE COURT: Okay. All right.

25 Anything from The State?

1 MS. HINTON: No, Your Honor.

2 THE COURT: Okay. All right. Counsel, each of
3 you did an excellent job preparing the case. And I
4 appreciate your professionalism and your civility. I
5 don't know what the verdict will be but it certainly
6 won't be a consequence or any deficiency of legal
7 counsel because it was excellent in both regards.

8 And, Mr. Pillon, I appreciate you and I
9 appreciate your family being civil throughout the
10 proceeding. I know this is difficult on you. And I
11 appreciate you, again, exercising civility in the
12 case.

13 And everyone on The States side as well, I
14 appreciate your conduct as well. It surely makes my
15 job easier when everyone is both compliant,
16 professional and civil. So thank you and good luck
17 to you.

18 Y'all can do an inventory of the exhibits and
19 when you're satisfied that they're all there, send
20 them back to the jury. In the meantime, I'm going to
21 go ahead and send the verdict forms back and tell
22 them to begin deliberations. And I'm going to excuse
23 the alternate jurors from chambers.

24 (WHEREUPON, deliberations began at approximately
25 11:22 a.m.)

1 (WHEREUPON, court was in recess awaiting a
2 verdict.)

3 THE COURT: All right, counsel, it's my
4 understanding that the jury has reached a verdict.

5 Is The State prepared to receive the verdict?

6 MS. HINTON: Yes, Your Honor.

7 THE COURT: Defense prepared to receive the
8 verdict?

9 MR. YARBOROUGH: We are, Your Honor.

10 THE COURT: All right, bring the jury in,
11 please, sir.

12 (WHEREUPON, the jury came into open court at
13 approximately 11:57 a.m.)

14 VERDICT

15 THE COURT: All right, Ms. Nichols, has the jury
16 reached a unanimous verdict, ma'am?

17 THE FORELADY: Yes, Your Honor.

18 THE COURT: Would you hand the verdict form to
19 the Clerk of Court, please.

20 All right, Mr. Welborn, you may publish the
21 verdict, sir.

22 THE CLERK: This is The State of South Carolina
23 vs. Matthew Steven Pillon, Case No. 2016-GS-39-1703,
24 we, the jury, unanimously -- by unanimous agreement
25 find the Defendant guilty. Case No. 2013-GS-39-2508,

1 we, the jury, by unanimous agreement find the
2 Defendant guilty. Case number 2013-GS-39-2507, we,
3 the jury, by unanimous agreement find the Defendant
4 guilty.

5 Is this your verdict and still your verdict, so
6 say you all by raising your right hand.

7 (WHEREUPON, all the members of the jury raised
8 their right side.)

9 THE CLERK: Thank you, very much.

10 Your Honor.

11 THE COURT: Counsel, anything additional for
12 this jury?

13 MR. YARBOROUGH: No, sir, Your Honor.

14 MS. HINTON: No, Your Honor.

15 THE COURT: All right ladies and gentlemen,
16 thank you for your service. I'm going to dismiss
17 you. And I'll probably dismiss you for the week but
18 I'm going to come back and dismiss you informally
19 from your jury room. I'm not going to keep you, I
20 promise. I'm just going to give you the opportunity
21 to ask me any questions or make any comments that you
22 would like to make about jury service. Or about the
23 trial or this case, if you'd like, okay. So, I'll
24 come back in just a few minutes. And we'll release
25 you from there. Thank you.

1 (WHEREUPON, the jury left open court and was
2 dismissed at approximately 12:00 p.m.)

3 (WHEREUPON, a short break was taken.)

4 SENTENCING

5 THE COURT: All right, is there anything
6 additional from The State related to or concerning
7 sentencing in this case?

8 MS. HINTON: Just very briefly, Your Honor.
9 You've heard the facts, I won't belabor those. I do
10 think that when the legislature enacted this statute
11 that they made a broad range from zero to 20 and from
12 zero to 10 for a reason. And that was because a lot
13 of different acts could have been contemplated under
14 these statutes. I do think that this is one of the
15 most egregious acts that could have occurred under
16 these statutes. And I would ask that you take that
17 into consideration during sentencing.

18 THE COURT: Yes, ma'am, thank you.

19 All right, Mr. Yarborough, I'll be happy to hear
20 from you sir.

21 MR. YARBOROUGH: Your Honor, in my dealings with
22 him, he's always been extremely helpful in trying to
23 prepare his defense. His parents have been very
24 supportive. He works hard. He has a good job. But,
25 you know, I know that at one point in testimony it

1 came out that these two individuals had one child
2 after this. And that child lives with the mother
3 who's present in the courtroom that testified. And
4 that child's healthy and happy and lives in
5 California and is progressing along very well. The
6 other child, my understanding, is doing well as well.

7 Mr. Pillon got in way over his head with what
8 happened. He -- he was going through this period
9 where -- a lot of young adults do, try to pull away
10 from his family. He was working in the family
11 business out here and there was -- there was some
12 strife between he and his father and he got into this
13 relationship with Angel and he moved into that house.
14 And what happened out there, the jury spoke, I mean,
15 we can't argue with that. But what happened out
16 there, he was -- he was not acting as a matured adult
17 should. I do know that he -- it's factual that he
18 took the child to the doctor all those times. And
19 something happened. He's been convicted of it. He
20 has no prior record from before. He's always shown
21 up for court, he's shown great deference to the
22 system. I know he went to trial and lost. I would
23 ask The Court to be as lenient on him as possible
24 under the circumstances.

25 THE COURT: Okay.

1 All right, Mr. Pillon, is there anything you'd
2 like to tell me?

3 MR PILLON: I'm sorry for what happened to the
4 child. Even though they said I'm guilty, I know I
5 didn't do it. But I'm glad the child's okay. I
6 treated the child like my son. And I tried to do
7 whatever I could to help that child. I mean, I'm not
8 faking anything, this is my emotion. Because I
9 really tied to that child. You know, I wanted a son
10 to watch football with. And, you know, I use to play
11 baseball when I was younger and teach him how to play
12 baseball. That's all I wanted.

13 THE COURT: All right, Mr. Pillon, I appreciate
14 that, sir. I appreciate your position as well. And
15 I appreciate your addressing the Court. I don't
16 think that you're necessarily a bad, evil or
17 malicious person. But I do think that the evidence
18 demonstrated fairly clearly that you made a
19 significant mistake. Now, whether that mistake was
20 actually personally inflicting any harm on this child
21 or whether it was tolerating and sitting by silently
22 and watching it be done, it was pretty clear. And I
23 will tell you that although I don't, as I indicated
24 to you, think that you're necessarily a bad person or
25 think you did a bad thing.

1 This is not an event which will define you. You
2 got a long life ahead of you. And you will be able
3 to be a contributing member of society, you will be
4 able to be a part of your children's life. The child
5 you have now and perhaps the child -- any children
6 that you have in the future. But understand this is
7 one of the most egregious offense in this state that
8 can be committed. Because there's nothing on the
9 face of the earth that we, as a society, hold more
10 dear and precious than children. Particularly,
11 defenseless babies.

12 All right, with respect to child abuse with
13 great bodily injury, sentence of the Court is that
14 you be committed to the Department of Corrections for
15 a period of 14 years. Concurrent, credit for any
16 time that you may have served to include any time
17 that you may have spent on home incarceration. On
18 the assault and battery, high and aggravated nature,
19 10 years. Consecutive -- excuse me, concurrent;
20 credit for time. And for the unlawful neglect of a
21 child, 10 years, concurrent, credit for time served.

22 Good luck to you, Mr. Pillon, good luck to you.

23 MR. YARBOROUGH: Thank you, Your Honor, just for
24 the record, all those run concurrent?

25 THE COURT: Yes, sir, they're all concurrent.

1 And I noted on the sentencing sheet for all time,
2 including HIP. All right.

3 Good luck to you.

4 MS. HINTON: Thank you, Your Honor.

5 MR. YARBOROUGH: Your Honor, I'd like to protect
6 the record and make my normal -- we feel that there
7 was not enough evidence for a conviction and trial.
8 So, we'd ask that a direct verdict being after the
9 verdict of the jury. And I'd also move for a new
10 trial based on the objections I made during closing
11 arguments.

12 THE COURT: All right, and I'll respectfully
13 deny the same.

14 MR. YARBOROUGH: Thank you.

15 THE COURT: You're protected on the record in
16 that regard.

17 MR. YARBOROUGH: Thank you, Your Honor.

18 (WHEREUPON, the proceedings were concluded.)
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CERTIFICATE OF REPORTER

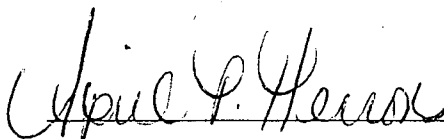
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and partial Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Pickens County, South Carolina, on the 29-31 day of August, 2016.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

March 10, 2017



APRIL P. HERRON, Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)
THE STATE,)
PLAINTIFF,)
VS.)
MATTHEW STEVEN PILLON,)
DEFENDANT.)

IN THE GENERAL SESSIONS COURT
THIRTEENTH JUDICIAL CIRCUIT

CASE NO.: 2013A3910300324
2013A3910300325

**AMENDED MOTION FOR
RECONSIDERATION OF SENTENCE**

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

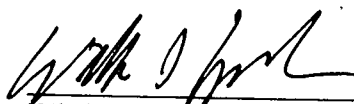
2017 JUN 2 PM 11 22

COMES NOW the Defendant, Matthew Steven Pillon, by and through his undersigned counsel, pursuant to Rule 29, South Carolina Rules of Criminal Procedure, and moves to amend his Motion for reconsideration of the sentence of commitment to the South Carolina Department of Corrections imposed herein on August 31, 2016, pursuant to the charges of Assault and Battery of a High and Aggravated Nature, Unlawful Neglect of a Child, and Abuse/Inflict Great bodily Harm Upon a Child. Mr. Pillon received 10 years for the Assault and Battery of a High and Aggravated Nature charge; 10 years for the Unlawful Neglect of a Child charge, and 14 years for the Abuse/Inflict Great bodily Harm Upon a Child charge. All sentences were to run concurrently. Defendant's Motion to reconsider has not been ruled upon yet by this Honorable Court, and therefore Defendant requests that he be allowed to amend his Motion. (Motion for Reconsideration of Sentence, filed September 6, 2016).

The within Motion is made upon the grounds that the penalty imposed is disproportionate compared to that imposed on his co-defendant, Angel Marie Atkins. Ms. Atkins pled guilty to Unlawful Neglect of a Child and received 5 years. The other charges of Assault and Battery of a High and Aggravated Nature and Abuse/Inflict Great bodily Harm Upon a Child were dropped. The evidence of the case showed that the child was in the joint custody of Mr. Pillon and Ms.

Atkins when the incident took place, and therefore, it is inequitable that Mr. Pillon should receive a higher sentence than Ms. Atkins under the circumstances. Therefore, we request in this Motion that the Court reconsider Mr. Pillon's sentence upon this and such other and further grounds as may be hereinafter presented.

Respectfully submitted,



William G. Yarborough
522 N. Church Street
Greenville, SC 29601
(864) 331-1612
SC Bar No.: 10271

Greenville, SC
June 1, 2017

2017 JUN 2 AM 11 22
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

THE STATE,)

PLAINTIFF,)

VS.)

MATTHEW STEVEN PILLON,)

DEFENDANT.)

IN THE GENERAL SESSIONS COURT

THIRTEENTH JUDICIAL CIRCUIT

CASE NO.: 2013A3910300324

2013A3910300325

2016 SEP -7 A 9:30

MOTION FOR
RECONSIDERATION OF SENTENCE

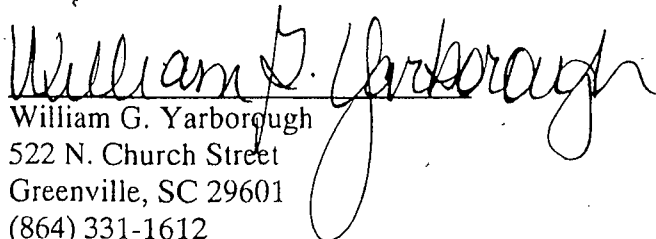
COMES NOW the Defendant,

by and through his undersigned

counsel, pursuant to Rule 29, South Carolina Rules of Criminal Procedure, and moves this Honorable Court for a reconsideration of the sentence of commitment to the South Carolina Department of Corrections imposed herein on August 31, 2016, pursuant to the charges of Assault and Battery of a High and Aggravated Nature, Unlawful Neglect of a Child, and Abuse/Inflict Great bodily Harm Upon a Child.

The within Motion will be made upon the grounds that the penalty imposed is unnecessarily severe under the circumstances and upon such other and further grounds as may be hereinafter presented.

Respectfully submitted,


William G. Yarborough
522 N. Church Street
Greenville, SC 29601
(864) 331-1612
SC Bar No.: 10271

Greenville, SC
September 6, 2016

WITNESSES

Jan Kelly

Pickens County Sheriff's Office

6/12/2013

ARREST WARRANT NUMBER
2013A3910300325

ACTION OF GRAND JURY

TRUE FIND
SEP 24 2013
JURY
0120

Steven Richardson
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-39-^{BBH}2507

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

SEP 24 2013 TERM 2013

THE STATE

VS.

MATTHEW STEVEN PILLON

Indictment for

3411

ASSAULT AND BATTERY OF A HIGH AND
AGGRAVATED NATURE

VIOLATION § 16-03-0600(B)(1)

INDICTED

391

WITNESSES

Jan Kelley

Pickens County Sheriff's Office

6/12/2013

ARREST WARRANT NUMBER
2013A3910300324

ACTION OF GRAND JURY

TRUE COPY
Date: SEP 24 2013

Steven Richardson
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-39-^{BBH}2508

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

SEP 24 2013 TERM 2013

THE STATE

vs.

MATTHEW STEVEN PILLON

Indictment for

2481

UNLAWFUL NEGLECT OF A CHILD

VIOLATION § 63-05-0070

INDICTED

392

WITNESSES

Jan Kelley

Pickens County Sheriff's Office

6/12/2013

ARREST WARRANT NUMBER
DIRECT PRESENTMENT

DOB:

SSN:

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-39-

WDR

1703

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

TERM 2016

THE STATE

vs.

MATTHEW STEVEN PILLON

Indictment for

2766

CHILD ABUSE W/GREAT BODILY INJURY

VIOLATION § 16-03-0095(B)

393

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Pickens

VS.

Matthew Steven Pillon

AKA:

Race: WHITE Sex: M Age: 25

DOB: 3#

Address:

City, State, Zip: Easley, SC 29640

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Assault / Assault & Battery of a High & Aggravated Nature

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS3902507

A/W#: 2013A3910300325

Date of Offense: 6/7/2013

S.C. Code § 16-03-0600(B)(1)

CDR Code #: 3411

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ § 17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

66112

Richardson, Doug

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. for all time including H&P.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BU) Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/cu
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$ 133.00

PTUP days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

394

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Pickens
 STATE VS.
Matthew Steven Pillion
 AKA:
 Race: WHITE Sex: M Age: 25
 DOB: SS#
 Address:
 City, State, Zip: Greenville, SC 29607
 DL#: SID#:

INDICTMENT/CASE#: 2013GS3902508
 A/W#: 2013A3910300324
 Date of Offense: 6/7/2013
 S.C. Code §: 63-05-0070
 CDR Code #: 2481

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Children / Legal custodian, unlawful neglect of child or helpless person

☒ CONVICTED OF or ☐ PLEADS

in violation of § 63-05-0070

of the S.C. Code of Laws, bearing CDR Code # 2481

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Richardson, Doug 66112
 SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. FOR ALL TIME INCLUDING HIA

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>133.90</u>

PTUP

 days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Pickens

VS.

Matthew Steven Pillon

AKA:

Race: WHITE Sex: M Age: 25

DOB: #:

Address: 206 Devon Drive

City, State, Zip: Mauldin, SC

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Abuse / To inflict great bodily injury upon a child

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS3901703

A/W#: 2016GS3901703

Date of Offense: 6/6/2016

S.C. Code §: 16-03-0095(A)

CDR Code #: 2766

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0095(A) of the S.C. Code of Laws, bearing CDR Code # 2766

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Richardson, Doug

66112

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 14 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. FOR ACT TIME INCLUDING P.A.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine: \$

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Pickens
 STATE Pickens VS. Angel Marie Atkins
 AKA: _____
 Race: WHITE Sex: F Age: 24
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: Easley, SC 29640
 DL#: _____ SID#: _____

INDICTMENT/CASE#: 2013GS3902048
 A/W#: 2013A3910300326
 Date of Offense: 6/7/2013
 S.C. Code §: 63-05-0070
 CDR Code #: 2481

SENTENCE SHEET

0-10

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
 In disposition of the said indictment comes now the Defendant who was
 TO: Children / Legal custodian, unlawful neglect of child or helpless person

☐ CONVICTED OF or ☒ PLEADS

in violation of § 63-05-0070 of the S.C. Code of Laws, bearing CDR Code # 2481
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC, §17-25-45 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST: Brandi Batson 77844 SC Bar# John W. DeJong 01620 SC Bar#
 Hinton, Brandi Batson Defendant DEJONG, JOHN W.

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 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. 281 days

☐ 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 PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 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(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 3.75

TOTAL \$ 128.75

_____ 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.

Clerk of Court/ Deputy Clerk: Harold P. Welborn, Jr. Presiding Judge: [Signature]
 Court Reporter: Teresa Johnson Judge Code: 2162
 Sentence Date: 5/28/17

GENERAL SESSIONS DOCKET TRACKING SHEET

CLERK OF COURT
SOUTH CAROLINA

Name: ANGEL MARIE ATKINS

Indictment #: 2016GS3901702

Address: _____

2017 MAY 26

Warrant # Ticket # 2016GS3901702

City: Mauldin State: SC ZIP: _____

No Warrant: _____

SS#: _____ Sex: F Race: W

Offense Code: 3411

Date of Birth: _____

Offense Name: ABHAN

State: Driver's License #: _____

Date of Arrest: June 6, 2013

DATE OF DISPOSITION: 5/25/2017

DISPOSITION:

_____ 1. Guilty Plea

* _____ 7. Remanded

_____ 2. Trial (Guilty)

_____ 8. Dismissed at Prelim

_____ 3. Trial (Not Guilty)

_____ 8. No Bill

* x _____ 4. Dism/Nol Pros/Pros Ended

* _____ 9. Failure to Appear

* _____ 5. Judicial Commitment

* _____ 10. Other

_____ 6. Judicial Dismissal

* Explain: 04D

Judge: _____

Ct. Reporter: _____

Defense Attorney: DEJONG, JOHN W.

Solicitor: Brandi Batson Hinton

Bar #: 77844

Offense Code: 3411

Offense Name: ABHAN

Sentence: _____

CLERK OF COURT
SOUTH CAROLINA
GENERAL SESSIONS DOCKET TRACKING SHEET

Name: ANGEL MARIE ATKINS

Indictment #: 2013GS3902506

Address: _____

2017 MAY 26 P 12:56

Warrant/Fiche # 2013GS3902506

City: _____ State: SC ZIP: 29622

No Warrant: _____

SS#: _____ Sex: F Race: W

Offense Code: 2766

Date of Birth: _____

Offense Name: Children / Felony Child A

State: Driver's License #: _____

Date of Arrest: June 6, 2013

DATE OF DISPOSITION: 5/25/2017

DISPOSITION:

_____ 1. Guilty Plea	* _____ 7. Remanded
_____ 2. Trial (Guilty)	_____ 8. Dismissed at Prelim
_____ 3. Trial (Not Guilty)	_____ 8. No Bill
* <u>x</u> _____ 4. Dism/Nol Pros/Pros Ended	* _____ 9. Failure to Appear
* _____ 5. Judicial Commitment	* _____ 10. Other
_____ 6. Judicial Dismissal	

* Explain: 04D

Judge: _____

Ct. Reporter: _____

Defense Attorney: DEJONG, JOHN W.

Solicitor: Brandi Batson Hinton

Bar #: 77844

Offense Code: 2766

Offense Name: Children / Felony Child A

Sentence: _____