

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

AUG 26 2016

S.C. SUPREME COURT

APPEAL FROM OCONEE COUNTY
COMMON PLEAS COURT
R. Lawton McIntosh, Circuit Court Judge

Case No. 2014-CP-37-0133
Appellate Case No.: 2016-

Matthew Hinton, ... Petitioner,

v.

State of South Carolina, ... Respondent.

APPENDIX VOLUME II

Patrick L. Schmeckpeper, Esq.
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Robert C. Childs, III
Childs Law Firm L.L.C.
2100 Poinsett Hwy., Suite D.
Greenville SC 29609

Attorney for Respondent

J. Falkner Wilkes (SC Bar #12893)
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
(864) 271-6035 (facsimile)

Counsel for Petitioner

INDEX

Order of Dismissal	1
TRANSCRIPT OF PCR HEARING	6
Brittany Senerius	
direct	81
cross	270
redirect	282
Gordon Senerius	
direct	286
cross	335
redirect	341
recross	342
Matthew T. Hinton	
direct	344
cross	385
Denise Richardson	
direct	396
cross	401
Lindsey Simmons	
direct	404
cross	405
TRANSCRIPT OF CRIMINAL TRIAL	
Ashley Bright	
direct	499
cross	522
Ted Roundy	
direct	550
cross	556
redirect	562
recross	562
Chris Kelly	
direct	566
cross	577
Donna Eller	
direct	582
Paige Williams	
direct	586
cross	589

Rory Jones	
direct	595
cross	612
redirect	618
recross	619
Desmond Holland	
direct	628
cross	634
Kathryn Barden	
direct	630
cross	650
redirect	653
Earl Troup, M.D.	
direct	654
cross	659
Daryl Gwyn	
direct	679
cross	691
Brett Woodard	
direct	700
cross	715
Matthew Hinton	
direct	717
cross	766
Closing Argument State	377
PCR Exhibits	
P-1 Letter to Simmons	862
P-2 Letter to James H. Price	864
P-3 Handwritten notes	866
P-4 Letter to Senerius	871
P-5 GHS Medical Records	875
P-6 GHS Medical Records	882
P-7 GHS Consultation Request	888
P-8 GHS Radiology	890
P-9 Oconee Memorial	892
P-10 Statement Mitchell	895
P-11 Interview notes Simmons	898
P-12 Drug Analysis	901
P-13 Pathology Report	903
P-14 Boyd Statement	910
P-15 Fowler Statement	911

P-16 DSS Report	913
P-17 Search Warrant	917
P-18 Police Records Seized Property	921
P-19 Supp Report	926
P-20 Supp Report	927
P-21 Supp Report	930
P-22 Supp Report	932
P-23 Supp Report	934
P-24 Supp Report	936
P-25 Supp Report	938
P-26 Statement Bright	940
P-27 Letter Bright	942
P-28 Letter Bright	945
P-29 Postmortem Report	948
P-30 GHS Radiology	966
P-31 Oconee Medical ER Report	970
P-32 GHS Records	973
P-33 Med Records	976
P-34 Verizon documents	979
P-35 Oconee Medical Records	986
P-36 Payroll Records	996
P-37 Phone Records	998
P-38 Supp Report	1003
P-39 Netflix Reports	1006
Application for Post Conviction Relief (Form 5)	1007
Complaint for Post Conviction Relief	1015
Return	1027
Applicant's Memorandum of Law [from PCR]	1032
Respondent's Memorandum of Law [from PCR]	1037
Motion to Alter or Amend	1051
Return to Applicant's Motion to Alter or Amend	1062
Form 4 [denial of Motion to Alter or Amend]	1065

1 would come in there and get her to feed her or bathe
2 her and I would wake up and she would still have her.
3 Or she would bring her back and I would have no
4 knowledge of either one.

5 Q. Okay. Did you talk to your attorneys about that?

6 A. Not in detail.

7 Q. What do you mean not in detail?

8 A. I mentioned it and it was, I guess, put to the
9 side.

10 Q. Okay. How come you didn't raise it later?

11 A. I couldn't tell you that?

12 Q. At the trial of the case were you concerned about
13 the lack of questions ---

14 MR. WHITMIRE: Objection. Leading question.
15 Ask that counsel restate it, rephrase it.

16 THE COURT: Overruled. Go ahead.

17 Q. Were you concerned about the lack of questions to
18 Ms. Bright and you about those occurrences prior to
19 the date in question?

20 A. Yes, sir.

21 Q. Why?

22 A. Well, for that reason. I mean, there should have
23 been more detail into that situation that happened.
24 Instead, it was more one-sided and not very favorable
25 to me, really.

1 Q. All right. Now, we've introduced a note that the
2 prosecutors sent to your lawyers about the possible
3 testimony of Ms. Bright, her interview notes. Do you
4 recall ever seeing that?

5 A. No.

6 MR. WHITMIRE: Objection, Your Honor. That
7 -- relevance. And also that was discovery that's
8 provided counsel not to the defendant.

9 THE COURT: I'm sorry. I didn't hear that.

10 MR. WHITMIRE: It's relevance because the
11 discovery itself is provided to counsel, not to the
12 defendant.

13 MR. CHILDS: Well, I understand ---

14 MR. WHITMIRE: Foundation.

15 THE COURT: Hang on. Is Ms. Bright going to
16 be her to testify as to what she would have said?

17 MR. CHILDS: I was asking him about the
18 information provided by Ms. Simmons, which is the
19 summary of her interviews with Ms. Bright. I was
20 asking my client if he had seen that, which was a
21 defense document provided by the State to the defense.

22 THE COURT: In your grounds did you allege
23 that defense counsel did not provided discover to him?
24 Is it ground for relief?

25 MR. CHILDS: I'd have to check.

1 THE COURT: Well, it'd take an hour to get
2 through those. I'm going to sustain the objection.
3 Go ahead.

4 MR. CHILDS: Okay.

5 MR. WHITMIRE: Thank you, Your Honor.

6 Q. Were you aware of an allegation that Ms. Bright
7 raised about your drug abuse?

8 A. I was aware of it.

9 Q. Okay. And did you take a drug screen immediately
10 after this incident and have no -- and be negative on
11 everything?

12 A. Yes, sir.

13 Q. And did you talk to your lawyers about that?

14 A. I did.

15 Q. And what did you tell them?

16 A. That I had actually stopped doing any types of
17 drugs or anything shortly after [REDACTED] was born.

18 Q. But in relationship to the allegation that during
19 the summer of '09 you were using drugs?

20 A. Did I talk with them about that?

21 Q. Yeah? About the fact that she said that?

22 A. Not in detail. We went over it.

23 Q. Did you go over your negative drug screen?

24 A. No, sir.

25 Q. Okay. Now, you were asked at trial about the day

1 of the incident. And were you asked any questions

2 about that morning before Ashley went to work?

3 A. At trial?

4 Q. Yes?

5 A. No, sir.

6 Q. What would your testimony have been about Ashley
7 that morning?

8 MR. WHITMIRE: Your Honor, I would object.

9 This is outside the scope of what is relevant and
10 germane in a PCR, conversations between attorney and
11 client in preparation of the case.

12 THE COURT: Overruled.

13 A. Can you repeat that?

14 Q. What would your testimony be about what happened
15 that morning with Ashley and the child?

16 A. That morning, depending on what time you're
17 talking about. Now, early morning I know I got her to
18 wake up because she said that she was sleeping on the
19 couch. I told her to get up and go to bed. She went
20 to bed and she took [REDACTED] with her. And after that,
21 I don't know because I was still in the living room
22 playing X-Box. Before she went to work, I couldn't
23 tell you. Anytime during that period, I don't know.

24 Q. So Ms. Bright had Ashley (verbatim) up until what
25 time that morning?

- 1 A. Before I went into the bedroom?
- 2 Q. Yes?
- 3 A. Probably until four. So we'll say from one to
- 4 four.
- 5 Q. Okay. And then you were basically around her
- 6 from that point forward?
- 7 A. Right.
- 8 Q. And did you feed [REDACTED] that morning?
- 9 A. No, sir.
- 10 Q. Who fed [REDACTED] that morning?
- 11 A. I could assume Ashley did, but I don't know.
- 12 Q. How often did [REDACTED] feed?
- 13 A. It was roughly every two to three hours.
- 14 Q. Okay. And when you went to sleep with her that
- 15 afternoon about four forty-five, were you expecting to
- 16 feed her later or have someone feed her later?
- 17 A. Yes, sir.
- 18 Q. Did that happen?
- 19 A. Not that I know of.
- 20 Q. Okay. Did you and your lawyers talk about that?
- 21 A. No, sir.
- 22 Q. Did you talk about her feeding schedule?
- 23 A. Yes, sir.
- 24 Q. There was testimony at the trial about Ashley's
- 25 behavior at the hospital and also afterwards. Did

1 your lawyers talk to you about that?

2 A. A little bit.

3 Q. And so what was that behavior?

4 A. From what they were saying, it was abnormal.

5 Like the phrase that's been thrown around is flat

6 affect, which, in my opinion ---

7 MR. WHITMIRE: Objection. Proper opinions

8 -- a psychologist.

9 THE COURT: Overruled. Go ahead.

10 Q. Go ahead.

11 A. With living with Ashley for so long, it was kind

12 of abnormal.

13 Q. Okay. And did you observe that as well?

14 A. Yes, sir.

15 Q. How long did that go on?

16 A. I guess through the whole time [REDACTED] was in the

17 hospital.

18 Q. And you were arrested, I think, on the 20th of

19 August?

20 A. Yes, sir.

21 Q. And did Ashley come visit you at the detention

22 center?

23 A. Yes, sir.

24 Q. How frequently.

25 A. Twice a week.

1 Q. And while you were there you were represented by
2 Mr. Price, I believe.

3 A. Yes, sir.

4 Q. And while you were there did you get a copy of
5 the autopsy?

6 A. No, sir.

7 Q. Do you know when the autopsy was done?

8 A. I do not recall.

9 Q. Do you recall talking to Mr. Price or anybody
10 else about the autopsy?

11 A. I do recall talking to him about it, yes, sir.

12 Q. Okay. And after that, did Ashley continue to
13 visit you at the detention center?

14 A. Yes, sir.

15 Q. And when did that stop?

16 MR. WHITMIRE: Objection, Your Honor,
17 relevance. I don't understand how this ---

18 THE COURT: Overruled.

19 A. A few weeks before I made bond. I'm not really
20 sure of the exact time.

21 Q. Okay. And during those visits between the time
22 of your arrest until when you made bond, which I think
23 was about February, ---

24 A. Yes, sir.

25 Q. --- did you have discussions and conversations

- 1 with Ms. Bright?
- 2 A. Yes, sir.
- 3 Q. Did you tell your lawyers what y'all discussed?
- 4 A. No, sir.
- 5 Q. Were those discussions relevant to the case?
- 6 A. Not really.
- 7 Q. Okay. But she remained to be -- continued being
- 8 support to you?
- 9 A. Correct.
- 10 Q. And who brought her, if you know? You may not
- 11 know. But who brought her to the jail to visit with
- 12 you?
- 13 A. My mother.
- 14 Q. So how long -- about how long did she continue to
- 15 visit with you after you heard about the autopsy
- 16 report?
- 17 A. After I heard about it?
- 18 Q. Yeah?
- 19 A. A few month.
- 20 Q. Okay. Now, you told your lawyers about that?
- 21 A. Yes, sir.
- 22 Q. Did you want them to ask Ashley about that?
- 23 A. It would have helped.
- 24 Q. Why?
- 25 A. Because it was stated that pretty much all

1 contact had been severed between Ashley and I after
2 the autopsy.

3 Q. All right. And that's not correct?

4 A. Correct.

5 Q. Was Ashley asked about that?

6 A. Not that I recall.

7 Q. Now, your hands were measured as shown on one of
8 our exhibits about they did a search warrant to
9 measure your hands, the size of your hands and
10 photographed them. Do you remember that?

11 A. Yes, sir.

12 Q. And do you know what that was for?

13 A. I could assume it was to try to match up my hand
14 with the bruises.

15 Q. And did you have discussions with your lawyer
16 about that, about your hands and the bruises?

17 A. It was talked about.

18 Q. All right. And how was it talked about?

19 A. They asked me when the pictures were taken. I
20 told them the time line I thought it was, which was a
21 couple of days after. And then after that, like
22 everything else pretty much, it was basically pushed
23 aside as irrelevant.

24 Q. Were you ever -- did your lawyers discuss with
25 you any kind of theory that they thought the case had

1 -- the state had about how hands were used on the
2 child?

3 A. Yes, sir.

4 Q. Okay. Can you explain that to the Court?

5 A. Tried to say that both of my hands were side-by-
6 side, thumb to thumb, and wrapped around her. I'm not
7 real sure how that's possible, but wrapped around her
8 like that.

9 Q. Okay. And did your lawyer tell you that?

10 A. Yes, sir.

11 Q. Now, to your knowledge were they ever able -- was
12 that confirmed from the examination or did they match?

13 A. It couldn't have been confirmed.

14 MR. WHITMIRE: Objection, hearsay.

15 THE COURT: I sustain that objection.

16 Rephrase. Move on.

17 Q. Could that have confirmed anything?

18 A. No, sir.

19 Q. Why not?

20 MR. WHITMIRE: Objection, speculation.

21 THE COURT: Sustained.

22 Q. Were you ever provided any results of any testing
23 done?

24 A. No, sir.

25 Q. Were you interested in whether or not Ashley had

1 her hands examined?

2 MR. WHITMIRE: Objection. A leading
3 question.

4 THE COURT: Rephrase.

5 Q. To your knowledge, was Ashley's hands examined?

6 A. No, sir.

7 Q. And why do you think that's important or if you
8 do?

9 A. It would have gave ---

10 THE COURT: Do you have any evidence about
11 what her testimony would have shown.

12 MR. CHILDS: About the size of her hands or
13 whether or not they were examined?

14 THE COURT: Yes, sir.

15 MR. CHILDS: Well, I think the testimony
16 already is that she wasn't examined.

17 THE COURT: She was?

18 MR. CHILDS: She was not.

19 THE COURT: That's what I'm saying. Do you
20 have any evidence to show what testing of Ashley
21 Bright's hands would have indicated to this case?

22 MR. CHILDS: No, no, and I'm not trying --
23 I'm not trying to push that point. I'm just trying to
24 push the point that she was never tested and that so
25 ---

1 THE COURT: What's the point? Why are
2 you're bringing it up if you're not leading to another
3 point ---

4 MR. CHILDS: I am leading to another point.

5 THE COURT: What is that point?

6 Q. Did you want your lawyers to cross- ---

7 THE COURT: Tell me, please, sir?

8 MR. CHILDS: Whether or not the officer
9 should have been questioned about that, whether or not
10 they performed test on her hands to match up to the
11 bruises.

12 THE COURT: That goes to the same thing.
13 That you don't have any evidence to show what testing
14 of her hands would have revealed. And it's just
15 throwing speculation out there.

16 MR. CHILDS: Well, Your Honor, I'm not
17 trying to say it would reveal anything.

18 THE COURT: Well, then it's not relevant to
19 this hearing. That's the point I'm trying to make.
20 Either it had to show something or you're just
21 throwing something out there to try to make
22 speculation be part of the record. And none of them
23 are sufficient that I can see. Correct me where I'm
24 wrong.

25 MR. CHILDS: My perspective on it was that

1 the officers should have been crossed on their failure
2 to do that, the fact that they didn't do any of that
3 testing.

4 THE COURT: All right.

5 MR. CHILDS: That was my perspective on it.

6 THE COURT: Overruled. So now for that
7 limited purpose?

8 MR. CHILDS: Yes, sir.

9 Q. And did you want your lawyers to ask the
10 witnesses about that?

11 A. Yes, sir.

12 Q. Now, there's questions about your shower with
13 [REDACTED] and there's testimony about bathing with
14 [REDACTED] at the trial?

15 A. Yes, sir.

16 Q. Could you tell the Court about that situation,
17 about -- did you shower with [REDACTED] and was that
18 something you frequently did?

19 A. I did both. I showered with her and I gave her a
20 bath. Usually, the only time I would shower with her
21 when I was there, when it was just [REDACTED] and I,
22 because there was nobody else to watch her. And in my
23 opinion, that was the safest place for her.

24 Q. All right. I think you testified about that?

25 A. Correct.

1 Q. And did you do that frequently?

2 A. Yes, sir.

3 Q. And so what was -- just trying to clarify. This
4 is different than taking a bath with her or is it?

5 A. Yes, sir.

6 Q. All right. And so explain to the Court how it's
7 different?

8 A. Well, it's different because for one she's not
9 submerged in water. Two, it's I'm in the shower with
10 her. She's in her shower seat. And the water's
11 actually -- it's not hitting her. It's actually going
12 over her. So she's not really getting all the water.
13 The only time she even gets any water is if I pick her
14 up to rinse her off or to bathe her.

15 Q. Okay. Is that something you did frequently?

16 A. Yes, sir.

17 Q. And were you questioned about that during the
18 trial, about your pattern of doing that?

19 A. No, sir.

20 Q. And did your lawyers ask Ashley about that?

21 A. No, sir.

22 Q. All right. Now, there's -- one of our exhibits
23 indicates phone records that were received for Ms.
24 Bright; which is Exhibit Number 34. And let me show
25 you that. Have you seen those?

1 A. No, sir.

2 Q. Did your attorneys share that information with
3 you?

4 A. Not that I know of.

5 Q. Okay. Let me show you the last page about --
6 that shows the 9-1-1 call?

7 A. Okay.

8 Q. And was there testimony about a number of phone
9 calls that Ashley made that evening?

10 A. Not that I recall.

11 Q. Do you think your lawyer should have asked her
12 about that?

13 MR. WHITMIRE: Objection. Calls for a legal
14 conclusion from a lay witness.

15 THE COURT: Overruled.

16 A. I believe it would have helped.

17 Q. Why would it have helped?

18 A. It would have showed that Ashley was doing other
19 things rather than just watching Netflix.

20 Q. And as far as the Netflix is concerned, you've
21 heard the testimony about the Netflix records that
22 were testified to. And it's shown on Plaintiff's
23 Exhibit Number 39. Did that record show a time frame
24 different than what was testified to by Ms. Bright?

25 MR. WHITMIRE: Objection. Asked and

1 answered now for the third time about that record.

2 THE COURT: Who has testified about it?

3 MR. WHITMIRE: Both attorneys about the
4 Netflix accounts and about the timing of other cell
5 phone records.

6 THE COURT: I sustain that as being
7 cumulative. Go ahead.

8 MR. CHILDS: All right.

9 Q. Were you aware of that?

10 A. No, sir.

11 Q. Had you been, would you have wanted your lawyers
12 to cross-examine her about that?

13 A. Yes, sir.

14 Q. Why?

15 A. The time line's different from that and the
16 testimony that was given.

17 Q. And why is that significant?

18 A. Well, because there's a significant amount of
19 time there that's not accounted for.

20 Q. Now, let me direct your attention to page 344 on
21 the transcript.

22 A. To 334?

23 Q. 344. On line 14 through 24. And do you remember
24 your lawyer arguing to the judge that there were --
25 there is -- don't believe there's evidence sufficient

- 1 to exclude other possibilities?
- 2 A. Can you tell me that page number again?
- 3 Q. 344?
- 4 A. 344. And what was the question?
- 5 Q. Do you remember your lawyers arguing to the judge
- 6 on a directed verdict motion that they didn't believe
- 7 there was sufficient evidence to exclude other
- 8 possibilities?
- 9 A. I do not recall.
- 10 Q. Do you think your lawyers cross-examined the
- 11 state's witnesses about those other possibilities
- 12 effectively?
- 13 A. (No verbal response.)
- 14 Q. About the other possibilities?
- 15 A. I'm sorry, I kind of was reading.
- 16 Q. Do you think your lawyers effectively cross-
- 17 examined the state's witnesses about the other
- 18 possibilities in this case?
- 19 A. No, sir.
- 20 Q. Why not?
- 21 A. Most of the witnesses had basically an open
- 22 arena, so to speak, as to what they wanted to say and
- 23 what they could say.
- 24 Q. All right. Now, do you recall the testimony of
- 25 Mr. Holland?

1 A. Yes, sir.

2 Q. About a dog?

3 A. Yes, sir.

4 Q. Did you have two dogs?

5 A. Yes, sir.

6 Q. Were you asked about your dogs?

7 A. No, sir.

8 Q. Was Ashley asked about her dogs?

9 A. No, sir.

10 MR. WHITMIRE: Objection. It's leading and
11 there's no foundation on where he's going. Relevance.

12 THE COURT: Overruled.

13 Again, Mr. Childs, this line by line part of the
14 transcript needs to be stepped up; okay, sir?

15 MR. CHILDS: I understand. Just for the
16 record, I only had him read one line from the
17 transcript.

18 THE COURT: Well, can you just do them
19 without the aid of the transcript; okay.

20 MR. CHILDS: Yes, sir.

21 Q. Now, did you talk to your lawyers about this
22 alleged noise that Mr. Holland supposedly heard in
23 your apartment?

24 A. Yes, sir.

25 Q. And what did you tell them about that?

1 A. I didn't know what he was talking about.

2 Q. These loud noises allegedly heard by Mr. Holland,
3 and I think the testimony was from the front of your
4 house?

5 A. Yes, sir.

6 Q. Did your lawyers ask you anything about the front
7 of your house having anything disturbed in it? When
8 the police arrived was there anything disturbed in the
9 front of your house?

10 A. No, sir.

11 Q. Did you want your lawyers to ask Ashley or the
12 police officers about that?

13 MR. WHITMIRE: Objection, leading question.

14 I want to hear what the witness -- what he wants
15 without words being put in his mouth.

16 THE COURT: I'm sorry. You're so fast, I
17 can't hear you.

18 MR. WHITMIRE: Well, I can actually
19 communicate better. I really want to hear what he has
20 to testify about without interactions of the attorney.

21 THE COURT: Are you withdrawing your
22 objection?

23 MR. WHITMIRE: No. Leading objection.

24 THE COURT: Rephrase your question, please,
25 sir.

1 Q. Were you interested in the issue of the loud
2 noises allegedly heard by Mr. Holland in your front
3 room?

4 A. Yes, sir.

5 Q. And what were you interested in finding out about
6 that?

7 A. Well, he says there was loud noises, so
8 apparently something was disturbed and nobody ever
9 said anything was disturbed.

10 Q. All right. And were any witnesses asked about
11 that?

12 A. No, sir.

13 Q. Now, were you aware of these audio recordings
14 played into evidence?

15 A. No, sir.

16 Q. If you had been aware of those audio recordings,
17 what would you have wanted them to do with it?

18 A. Specifically, Desmond Holland's recording should
19 have been brought up.

20 Q. All right. Why?

21 A. Because there's a lot of things in his audio that
22 would have contradicted his testimony.

23 Q. All right. And can you be more specific?

24 A. About his girlfriend being there compared to her
25 not being there. The dogs. And heard the only one

1 dog.

2 Q. And did you know of any statement by Mr. Holland
3 that he knew Ms. Bright from high school?

4 A. No, sir.

5 Q. And had you known that, what would you have
6 wanted your lawyers to do about that information?

7 A. At least ask him about it.

8 Q. Do you think your lawyers should have done
9 anything different with the doctors' testimonies at
10 trial?

11 THE COURT: I'm not going to let you go into
12 that.

13 MR. CHILDS: All right.

14 THE COURT: I think that would require
15 expert testimony to refute so -- they could have
16 established something else. He's a lay person and I
17 can't ---

18 MR. CHILDS: Right. I understand, Your
19 Honor.

20 Q. Did you want your lawyers to ask more particular
21 questions about that?

22 A. Yes.

23 Q. There was particular testimony about, and I'm
24 trying to stay away from any kind of medical related
25 opinions, but the doctors testified that the child

1 would not have appeared normal after the injury?

2 A. Correct.

3 Q. And I'm summarizing, trying to do that. Did you
4 want your lawyers to ask questions about that as it
5 relates to Ms. Bright's testimony?

6 A. Yes.

7 Q. Why?

8 A. The doctor was stating that [REDACTED] would not
9 have appeared normal after the injuries. Yet,
10 according to Ashley's testimony, [REDACTED] was normal
11 every time she checked in on us.

12 Q. There was testimony about the character of the
13 child introduced by the state. And did you observe
14 what effect that testimony had on the jury?

15 A. Yes, sir.

16 Q. What was that?

17 MR. WHITMIRE: Objection, calls ---

18 THE COURT: I sustain that as to speculation
19 grounds. Also, that's been dealt with multiple times
20 already; so let's move on.

21 MR. CHILDS: All right.

22 THE COURT: You dealt with it with both of
23 the attorneys multiple times.

24 MR. CHILDS: Okay.

25 Q. Now, Exhibit Number 9 -- I'm sorry. I've got

- 1 that wrong. Oh, State's Exhibit Number 9 at the trial
2 of your case was the text messages of you and Ms.
3 Bright, do you remember that?
4 A. I haven't seen these, no.
5 Q. Okay. But they were introduced into evidence?
6 A. Correct.
7 Q. All right. And on one of those is a response
8 that you provided concerning the text message about
9 you not wanting Ms. Eller to come over to your house?
10 A. Correct.
11 Q. And is that on that document?
12 A. About me not wanting her to come over?
13 Q. Well, that part's on there?
14 A. Yes, sir.
15 Q. But is Ashley's response on there?
16 A. No, sir.
17 Q. And what is ---
18 A. It's been marked out.
19 THE COURT: Let's do this. It's in the
20 record sufficiently ---
21 MR. CHILDS: Yes, sir.
22 THE COURT: --- that Ashley responded, what
23 if she's sober or something to that effect. Let's
24 jump -- let's go forward, please, sir.
25 Q. Well, my question is did you agree or have a

1 discussion with your lawyers about striking out that
2 section ---

3 A. No, sir.

4 Q. --- of that evidence? Would you have agreed to
5 that?

6 A. To strike that out?

7 Q. Yeah?

8 A. No, sir.

9 Q. Why not?

10 A. Because it confirmed what I said about Ashley's
11 mother.

12 Q. And were you asked questions by your lawyer about
13 that particular situation?

14 A. Yes, sir.

15 Q. In trial?

16 A. No, sir.

17 Q. In other words, your explanation of why you
18 didn't want Ms. Eller over there that day, you weren't
19 asked at the trial?

20 A. No, sir.

21 Q. Now, as far as the trial preparation of you is
22 concerned, did you meet with Mr. Senerius and go over
23 your testimony?

24 A. The only thing we went over with my testimony was
25 that I should not bring up any character references.

- 1 Q. Why is that?
- 2 A. I'm not sure to be honest with you.
- 3 Q. Okay. Anything else about what specific
- 4 questions he was going to ask you at trial?
- 5 A. No, sir.
- 6 Q. Did he appear, based on the questions he posed to
- 7 you, to know some of the facts in this case?
- 8 A. Can you repeat that?
- 9 Q. Did he appear to know some of the facts in this
- 10 case based on the questions he asked you?
- 11 A. Appeared to.
- 12 Q. All right. Did you discuss with him Ashley's
- 13 behavior before the birth and also after the birth?
- 14 A. Yes, sir.
- 15 Q. And can you describe to the Court what that was?
- 16 A. Before the birth, she was kind, friendly, I mean,
- 17 we got along. Had a good relationship. After the
- 18 birth, it was pretty much the same thing just -- I
- 19 would say it was different in the aspect of [REDACTED]
- 20 and I had a better relationship than Ashley and I did
- 21 or Ashley and [REDACTED]
- 22 Q. Now there's a letter that was recovered from her
- 23 journal in evidence. And are you familiar with those
- 24 -- that letter?
- 25 A. Vaguely.

1 Q. The one of 2008, November?

2 A. I've seen this.

3 Q. Okay. Those aren't really actually letters you
4 received?

5 A. No, sir.

6 Q. Those were letters that were found in her
7 journal; is that correct?

8 A. Correct.

9 Q. And the first letter, which I believe is '08,
10 talks about her concerns about the impending birth?

11 A. Yes, sir.

12 Q. Were you aware of her concerns about that?

13 MR. WHITMIRE: Judge, I'm going to object.
14 That's hearsay on top of hearsay. That's not his
15 document.

16 THE COURT: I sustain that objection.

17 Q. Did you tell your lawyer about whether or not the
18 pregnancy interfered with -- let me rephrase this.

19 Was there an occasion -- did you tell your lawyer
20 about whether or not Ms. Bright wanted the child?

21 A. We talked about it.

22 Q. Okay. And what was that information?

23 A. The information was, when we found out Ashley was
24 pregnant she had made a statement of if she wanted to
25 have an abortion or that she could get one done. And

1 I basically told her that it was not going to happen.

2 Q. Okay. Why is that?

3 A. Well, because I don't -- for one, I don't believe
4 in abortions.

5 MR. WHITMIRE: Objection. That's clearly
6 irrelevant, Your Honor.

7 THE COURT: Sustained.

8 MR. WHITMIRE: Ask that it be stricken from
9 the record.

10 MR. CHILDS: That's probably true.

11 Q. Did you tell your lawyer about that?

12 A. Yes, sir.

13 Q. Do you think your lawyer should have made an
14 inquiry about that?

15 A. Yes, sir.

16 Q. Now, the second letter, Exhibit Number 4 -- 27,
17 talks about stress, about your mom finding out about
18 Bri?

19 A. Yes, sir.

20 Q. And was that an issue in your trial?

21 A. Yes, sir.

22 Q. About your family not knowing about Bri?

23 A. Yes, sir.

24 Q. And was it your testimony at trial that you
25 wanted your family to know about Bri?

1 A. Yes, sir.

2 Q. And was it her testimony that it was you that
3 didn't want your family to find out about Bri?

4 A. Yes, sir.

5 Q. And do you think that letter would have been
6 helpful to support your testimony?

7 A. Possibly.

8 Q. Now, Plaintiff's Exhibit Number 33, that is the
9 doctors' records for [REDACTED] And that indicates that
10 you took [REDACTED] to the doctor?

11 A. Yes, sir.

12 Q. Was that a pattern that you followed?

13 A. Yes, sir.

14 Q. Did your lawyers ask you about that?

15 A. No, sir.

16 MR. WHITMIRE: Objection, relevance.

17 THE COURT: What is the relevance of that?

18 MR. CHILDS: Well, it would be important
19 background information on the Defendant at the trial.

20 THE COURT: Anything other than background
21 information?

22 MR. CHILDS: No, sir.

23 THE COURT: Okay, sir.

24 Q. Now, how many times did you meet with your
25 attorneys, Mr. Senerius and Ms. Senerius?

1 A. Four, maybe five times.

2 Q. All right. And did you go over your testimony at
3 those visits or what did you discuss?

4 A. We discussed the case. We didn't really go over
5 my testimony.

6 Q. All right. And in leading up to the trial of
7 this case, did y'all go over the witnesses and the
8 exhibits?

9 A. I told him about some witnesses that I thought
10 would be helpful. As far as I know, they didn't go
11 out and get them.

12 Q. Okay. Did you have addresses and information on
13 them?

14 A. I did for one. And I actually went out and got
15 the others for them.

16 Q. Okay. And those are the witnesses we described
17 earlier from the notes that -- where they met with
18 you?

19 A. Yes, sir.

20 Q. Was there any discussion about why or if they
21 should be called as witnesses?

22 THE COURT: Are you going to put up
23 testimony from these witnesses?

24 MR. CHILDS: No, sir.

25 THE COURT: It's not relevant. Move

1 forward, please.

2 MR. CHILDS: All right.

3 Q. Now, let me show you what's been marked
4 Plaintiff's Exhibit Number 38 and see if you can
5 identify that?

6 A. What is this?

7 Q. The incident report where they did a search
8 warrant on the house?

9 A. Oh, okay. Yes, sir.

10 Q. Are you familiar with that document or did you
11 see it?

12 A. I did not see this.

13 Q. On the second page of this incident report it
14 indicates they entered bedroom number two and there
15 was a sofa in the room. I saw a dirty diaper rolled
16 up on the back of the sofa. I saw a baby bottle
17 containing what appeared to be formula, one-third
18 full, on the bottom shelf of a TV cart. I saw a baby
19 crib in the far left corner of the room that had a
20 broken mobile. The hanging part of the mobile was
21 lying inside the crib on the mattress. I noticed two
22 of the mobile animals were missing. Had you been
23 aware of this report, would you been concerned about
24 the information I just read to you?

25 A. Yes, sir.

1 Q. Why?

2 A. The bottle and the dirty diaper and the broke
3 mobile stand out to me. For one, everything that I
4 did with [REDACTED] that day was taking place either in
5 the first bedroom or the living room or the bathroom.
6 The master bedroom was never in question. The broken
7 mobile, the only thing that I remember about the
8 mobile is that I had removed some of the little
9 animals that were on it. Other than that, it was
10 intact.

11 Q. And it was not lying in the crib?

12 A. No, sir.

13 Q. And so why do you think that's important?

14 A. It adds another element to what's being stated.

15 Q. How?

16 A. Well, if everything that I stated happened in
17 three rooms and not in the master bedroom, then that
18 warrant, that search warrant would state that
19 something else took place that night.

20 Q. All right. And what do you mean by that?

21 A. That there would be only other person involved.

22 Q. All right. Well, let's be clear with the court
23 about your review of that. The back bedroom is where
24 you and Ms. Bright basically slept; right?

25 A. Yes, sir.

1 Q. And there was a crib there for the baby?

2 A. Yes, sir.

3 Q. So the significance of the mobile being broken
4 laying in the crib and a baby bottle being in the
5 master bedroom is what?

6 A. That, I mean, somebody else was in there. That's
7 as far as I know. The only thing that's coming to
8 mind is that one other person could have done it, that
9 would be Ashley.

10 Q. And so why does that say that to you?

11 A. Because like I stated earlier ---

12 THE COURT: Are you going to put up any
13 forensic testimony about these items in that bedroom?

14 MR. CHILDS: No, sir.

15 THE COURT: Well, the reason I'm asking.
16 Obviously, you bring this up to try to point the guilt
17 on the girlfriend?

18 MR. CHILDS: No, sir. I'm not.

19 THE COURT: Well, what's the purpose.

20 MR. CHILDS: The purpose of it is that the
21 lawyer should have asked the investigating officers
22 about that. It would create other possibilities as
23 there argument was ---

24 THE COURT: What do you mean by other
25 possibilities without it being third-party guilt?

1 MR. CHILDS: Well, yes, that's correct. But
2 I think it would qualify under the facts and
3 circumstances ---

4 THE COURT: You didn't bring up any evidence
5 or testimony about these items in there or anything
6 about that, other than what you've got in the record?

7 MR. CHILDS: No, sir.

8 THE COURT: Okay. Let's move on forward,
9 please, sir.

10 Q. All right. Have I missed anything? I want to
11 make sure because you're filing the PCR and, you know,
12 I want to make sure I've covered everything with you.
13 I know your application has a number of allegations in
14 it. I think we've addressed most of those through the
15 exhibits we've introduced, about the issues of cross-
16 examination and things like that. But it's my
17 obligation to ask you and make sure that I've asked
18 you all the issues that you want to raise in this
19 post-conviction relief action. And so I ask you to
20 think about that and tell me and tell the Court if
21 there's anything else you can think of that your
22 lawyers did or didn't do on your behalf that resulted
23 in your conviction?

24 A. Just a general lack of defending me, really.
25 There was no strategy put forth. Most of the things

1 that I had talked to them about was either put aside
2 as irrelevant or not able to be brought up. The jury
3 selection, I think, could have went a different way,
4 but ...

5 Q. All right. And we've gone over that with the
6 Judge.

7 A. Correct.

8 Q. You know, and I've got a number of issues. But I
9 just want to make sure because you only get one chance
10 at this.

11 A. Yeah.

12 Q. And, you know, I'm not perfect. So I want you to
13 get a chance to think about it and tell the Judge if
14 there's something else that you can think of that you
15 wanted to raise in your post conviction relief action?

16 A. No, sir. I believe you covered it.

17 Q. I'm not trying to give you a hint at all?

18 A. No, sir. I believe you've covered more than I
19 probably would have found myself.

20 Q. And lastly, let me ask you, did you commit this
21 crime?

22 A. No, sir.

23 MR. WHITMIRE: Objection.

24 THE COURT: Sustained.

25 All right. Cross-examination will be in about

1 ten minutes. We're going to take a ten-minute break.

2 MR. WHITMIRE: Thank you, Your Honor.

3 THE COURT: All right. Sir, you may not
4 speak with anybody about your testimony during the
5 break.

6 THE WITNESS: Yes, sir.

7 (WHEREUPON, court stood at recess for a short
8 break.)

9 THE COURT: Please be seated. Cross-
10 examination.

11 MR. WHITMIRE: May it please the Court?

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. WHITMIRE:

15 Q. Between Mr. Price and the Seneriuses, how many
16 times did you meet with your attorneys before this
17 case went to trial, approximately?

18 A. Approximately six or seven.

19 Q. That's it?

20 A. Yes, sir.

21 Q. You were on bond?

22 A. Yep.

23 Q. Were you provided a copy of discovery from Mr.
24 Price, all materials?

25 A. Yes.

- 1 Q. Did the Seneriuses make certainly they got you
2 whatever they could, a copy of?
- 3 A. I believe so.
- 4 Q. This is a pretty serious offense?
- 5 A. Yes, sir.
- 6 Q. Did both attorneys, sets of attorneys, impress
7 upon you the significance of this case?
- 8 A. Mr. Senerius and them did, yes, sir. Chip, I
9 wasn't really involved with him long enough for him to
10 impress anything upon me.
- 11 Q. Did any of your attorneys tell you that twenty-
12 four hour window was absolutely critical to develop
13 the most evidence you could to help your case?
- 14 A. No, sir.
- 15 Q. So Chip Price didn't do that?
- 16 A. I do not recall a twenty-four hour window.
- 17 Q. They didn't give you a window where they wanted
18 to know absolutely everything you could develop?
- 19 A. No, sir.
- 20 Q. The Seneriuses didn't?
- 21 A. No, sir.
- 22 Q. You were facing a potential life sentence for
23 this?
- 24 A. Yes, sir.
- 25 Q. Active service military?

- 1 A. Yes, sir.
- 2 Q. High school athlete. Did you ever call your
3 attorneys and bring matters to their attention?
- 4 A. The witnesses.
- 5 Q. Now, I want to leave that for a second. But the
6 incident report your just testified to, supplemental
7 report, if I recall correctly, you testified you'd
8 just recently discovered this and read it after your
9 trial?
- 10 A. That report, yes, sir.
- 11 Q. But you had a copy of this given to you?
- 12 A. Possibly. I don't recall it in my discovery.
- 13 Q. Did you read everything in your case?
- 14 A. I tried to.
- 15 Q. Did you ever bring it to your attorney's
16 attention that you are going through this and you
17 might need some help having someone explain something
18 to you?
- 19 A. Yes, sir.
- 20 Q. When?
- 21 A. Anytime I met with them. They would talk about
22 certain things and I would ask them to explain it in
23 detail. They would on certain things, other things it
24 just went over my head because of legal wording.
- 25 Q. I meant, from your own independent -- you're on

1 bond. From your own independent, you know, just
2 looking at this stuff ---

3 A. Right.

4 Q. --- did you ever call them and say, hey, can
5 someone tell me what this means?

6 A. I had numerous phone calls with Brittany.
7 Gordon, I don't remember having a phone call where I
8 actually talked to him in detail.

9 Q. But they provided you their office hours and
10 contact information?

11 A. Correct.

12 Q. Did they ever not get back in contact with you
13 when you wanted it?

14 A. Not that I can recall.

15 Q. Employed a private investigator in your case?

16 A. So to speak.

17 Q. Were you aware of that?

18 A. I was aware of an investigator.

19 Q. Did you ever tell him anything you wanted to have
20 looked at?

21 A. It was my opinion of the investigator that he was
22 basically there as somebody with a title. He never
23 really acted -- in my opinion, he never acted on the
24 case, except just to be there.

25 Q. Did you ever share that opinion with the

1 attorneys, that maybe you would want someone else who
2 was a little more involved?

3 A. With Brittany, I did.

4 Q. When did you do that?

5 A. That was probably the second meeting I had with
6 them. And that's when my girlfriend at the time,
7 Brandy, was with me.

8 Q. And you said you had six or seven total meetings
9 prior to trial?

10 A. Between Chip and the Senerius Law Firm.

11 Q. Well, what was Ms. Senerius's response?

12 A. Her response to that was that she understood my
13 concern, that he was having an active role in the
14 investigation, that he was doing things that basically
15 I didn't see.

16 Q. Did you bring it up again?

17 A. No, because at that point to me it was moot.

18 Q. And you say that you just kind of let the
19 attorneys handle these matters because you're not a
20 lawyer?

21 A. They know best.

22 Q. Just like I'm not a doctor?

23 A. Yeah.

24 Q. But you served in the military?

25 A. Correct.

- 1 Q. What did you do?
- 2 A. I was an MP.
- 3 Q. And you're facing basically a very complex case
- 4 that relies on medical evidence?
- 5 A. Correct.
- 6 Q. I mean, you only met with your attorneys six or
- 7 seven times?
- 8 A. Correct.
- 9 Q. While you're on bond?
- 10 A. Correct.
- 11 Q. Also the text, you say you learned about this at
- 12 trial, her text messages?
- 13 A. The text messages, seeing the text messages, the
- 14 actual documents ---
- 15 Q. What we talked about here today?
- 16 A. Right. I actually just recently saw those.
- 17 Q. Just recently?
- 18 A. Just recently.
- 19 Q. So Mr. and Ms. Senerius never gave you a copy of
- 20 that?
- 21 A. Not that I recall, no.
- 22 Q. Did they ever show you a copy of it after they
- 23 had discussed it with the solicitor?
- 24 A. No, sir.
- 25 Q. The audio recording, you never discussed that

- 1 with them?
- 2 A. Never discussed it. The only thing that they
3 gave me was the autopsy photos and that was it.
- 4 Q. When did they give you that?
- 5 A. I believe that was actually given to them by Mr.
6 Price. In turn, they gave it to me some time after I
7 made bond.
- 8 Q. During your interviews when you would drive over
9 to Anderson, did they ever play audio for you of any
10 evidence?
- 11 A. No, sir.
- 12 Q. And your testimony is that you just didn't know
13 it existed?
- 14 A. Correct.
- 15 Q. Until trial?
- 16 A. Correct.
- 17 Q. Netflix records, same thing?
- 18 A. Same thing.
- 19 Q. You never had a copy of it?
- 20 A. Not that I recall.
- 21 Q. Now, moving on -- well, one more question on the
22 text message. Did you ever give your phone to your
23 attorneys to get your cell data?
- 24 A. Yes. I gave my cell phone to Price.
- 25 Q. Did you bring that up with Mr. and Ms. Senerius?

1 A. Yes. I actually asked Brittany and -- excuse me
2 -- Ms. Senerius and Mr. Senerius if they had received
3 my phone from Price. And both times that I asked them
4 they said they had not. The main reason was ---

5 Q. Oh, please tell us?

6 A. The main reason I was trying to get my phone to
7 them in turn so I could get an SD card that had some
8 pictures and stuff like that on it.

9 Q. Exactly. Did you ask if their investigator could
10 look into that for you?

11 A. I did not.

12 Q. There's also some testimony that you wish or now
13 think Ms. Senerius should have more thoroughly cross-
14 examined Desmond Holland; correct?

15 A. Correct.

16 Q. Regarding the source of the loud bangs he
17 testified about hearing?

18 A. Correct.

19 Q. If I'm wrong or misstate something, please
20 correct and let me know.

21 A. Well, that among other things in his testimony.

22 Q. You were provided a pen and paper during trial?

23 A. Correct.

24 Q. Ms. Senerius explained to you the importance of
25 writing notes?

1 A. Correct.

2 Q. Did you ever write a note to her and say can you
3 ask a question about the noise?

4 A. The noise came up in notes, it came -- in
5 meetings it came up considering his statement.

6 Q. Specific question, at trial, did you ever write a
7 note?

8 A. Not as I recall.

9 Q. And when Ms. Bright testified, the first state's
10 witness, did you ever write a note that you wanted the
11 jury to hear about her feeding schedule?

12 A. According to my defense counsel, that wasn't
13 important enough to bring up.

14 Q. I'm just asking if you wrote the note or not?

15 A. Right.

16 Q. And then one more time, the journal about her
17 feelings on -- that you testified to, terminating the
18 pregnancy. Did you ever write a note saying could we
19 please let the jury know about this?

20 A. Yes. They had actually testified that since the
21 prosecutor, the solicitor's office, was not going to
22 bring the notes or the journal up, that they could not
23 bring it up. The note was there.

24 Q. I apologize. I might not have asked that
25 question quite clearly. Did you ever write a note

1 yourself ---

2 A. Yes.

3 Q. --- in trial to your attorney ---

4 A. Yes.

5 Q. --- about that?

6 A. Yes.

7 Q. Really?

8 A. Yes.

9 Q. So you wrote more notes to your attorneys, other
10 than just I don't like this juror?

11 A. Yes. There was actually, if I recall, probably a
12 good two, two and a half pages worth of notes.

13 Q. And what did they do about it, they just ignore
14 you?

15 A. Brittany would actually sit there and look at it
16 and circle things that she thought was important and
17 she would point it out to Gordon as he would make his
18 way back to, I guess, discuss at the table. And then
19 most of the time he would leave it alone. And no
20 further questions would be his answer.

21 Q. Okay.

22 MR. WHITMIRE: I beg the Court's indulgence.

23 Q. Now, leading up to trial probably what would be
24 your final meeting with Mr. and Ms. Senerius, did you
25 talk about things that you wanted the jury to hear

1 during your testimony, subjects?

2 A. My main concern with my testimony was -- in my
3 opinion was my character, my background. And it was
4 Gordon's opinion that that was not the best option.
5 That -- this was actually the day that I was supposed
6 to give my testimony. We were in the conference room
7 and he told me to not bring up anything concerning my
8 character.

9 Q. And feel free to elaborate. You're by no means a
10 dumb man, is the reason I want you to testify to this.

11 So you're by no means a dumb man. What character?

12 Just your whole life or around that time period?

13 A. I guess it would be the background, people that
14 knew me with [REDACTED] knew the situation, knew things
15 about how I was. How I was as a person. Work ethic,
16 things like that.

17 Q. In this case, I believe you testified at trial
18 that the victim fell and hit her head and hurt her leg
19 in the shower?

20 A. It was never testified that she fell and hit her
21 head. It was testified that she hit her heard on my
22 collar bone.

23 Q. And you didn't report that to EMS at the time you
24 called 9-1-1?

25 A. Like I said, at the time of all of that, that was

1 insignificant because she was fine after that.

2 MR. WHITMIRE: No further questions, Your
3 Honor.

4 THE COURT: Responsive redirect?

5 MR. CHILDS: No, sir.

6 THE COURT: Thank you, sir. You may step
7 down.

8 MR. CHILDS: Denise Richardson.

9 THE COURT: Come around, please, ma'am.

10 THE CLERK: Place your left hand on the
11 bible and raise your right hand.

12 Do you solemnly swear or affirm the testimony you
13 give to the court to be the truth, the whole truth and
14 nothing but the truth?

15 THE WITNESS: I do.

16 THE CLERK: Please have a seat.

17 **DENISE RICHARDSON**

18 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

19 **DIRECT EXAMINATION**

20 **BY MR. CHILDS:**

21 Q. Ms. Richardson, you are Matthew Hinton's mother;
22 is that correct?

23 A. I am.

24 Q. And you got involved after his arrest I
25 understand; is that correct?

1 A. I did.

2 Q. Now, after he was arrested did you get involved
3 with Ashley, transporting her to and from the jail to
4 visit your son?

5 A. I did.

6 Q. And do you remember how long that went on?

7 A. About three months.

8 Q. Okay. Now, were you provided a copy of the
9 autopsy?

10 A. I was.

11 Q. And about when was that?

12 A. I believe that was about September.

13 Q. Okay. And so what happened with your taking her
14 -- did she continue to go with -- did you continue to
15 take her to the jail?

16 A. I did.

17 Q. And did that change at any point?

18 A. The only time it changed was in late December or
19 early January, somewhere in that neighborhood, after
20 the solicitor's read her the autopsy report.

21 MR. WHITMIRE: Objection. Hearsay.

22 MR. CHILDS: Right.

23 THE COURT: Just one second. What was her
24 response?

25 MR. CHILDS: She said it changed in December

1 or early January after the solicitors read her the
2 autopsy report.

3 THE COURT: I overrule the objection. Go
4 ahead.

5 MR. WHITMIRE: Well, also I want to make it
6 speculative. Objection on speculation, no foundation.

7 THE COURT: Lay some foundation for it,
8 please, sir.

9 MR. CHILDS: All right.

10 Q. Why do you say that? Did you have discussion
11 with Ms. Bright about that?

12 A. Ashley told me that.

13 Q. All right. And do you remember what she said?

14 THE COURT: That is hearsay. I sustain it
15 and I agree ---

16 MR. CHILDS: Okay.

17 Q. Did you report that information to Mr. Senerius?

18 A. I believe I did. I didn't have a whole lot of
19 interaction with the Senerius Firm.

20 Q. Could you explain that for me, please?

21 A. They didn't want to include me from the beginning
22 of their process with Matthew. I was essentially set
23 to the side after the first meeting.

24 Q. Okay. And did you talk to Matthew about your
25 discussions with her?

1 MR. WHITMIRE: Objection. Leading question.

2 THE COURT: Rephrase.

3 Q. Did you have discussions with your son about your
4 contact with Ms. Bright?

5 A. Yes.

6 Q. And did you tell him about the information you
7 received in January from her?

8 A. From Ashley, what she told me?

9 Q. Yes?

10 A. Yes.

11 Q. And were you able to provide that information to
12 his attorneys?

13 MR. WHITMIRE: Objection. Leading, Your
14 Honor. Attorney -- becoming narrative.

15 THE COURT: Overruled. Go ahead.

16 A. Can you repeat it again?

17 Q. Were you able to provide that information to his
18 attorneys?

19 A. Again, I'm not real sure. I know Matthew and I
20 discussed it. I don't know -- I can't remember
21 exactly if I told Senerius's firm that.

22 Q. And you actually went over to the apartment after
23 the incident?

24 A. Their apartment together, yes.

25 Q. Soon after your son's arrest?

1 A. Yes. That day.

2 Q. And when you went over there did you see anything
3 that had been disturbed or knocked over?

4 A. No.

5 Q. Did you have discussions also with Donna Eller?

6 A. Yes.

7 Q. Did you talk to Matthew about those discussions
8 with Donna Eller?

9 A. Yes.

10 Q. And were you asked about those discussions or did
11 Mr. Senerius ask you about those discussions?

12 A. No.

13 Q. Were you also helping with your son, provide
14 information to them and making appointments and
15 finding witnesses?

16 MR. WHITMIRE: Objection, Your Honor. It's
17 a compound question.

18 THE COURT: Overruled.

19 Q. You can answer the question. Were you helping
20 your son with his attorneys?

21 A. Matthew and I would have discussions together for
22 things that I felt like that he should bring up.

23 Yeah.

24 Q. Okay. And did you go on visits with him to the
25 lawyer's office?

1 A. How many visits did I go on? I went to the
2 attorneys' office twice, I believe.

3 Q. And were you allowed to go in and discuss
4 anything with the lawyers?

5 A. The initial visit to the attorneys' office when
6 they first got the case, I went in there and spent
7 maybe five minutes. And then I was told to sit
8 outside. The second time I went, I just took Matthew
9 and sat outside.

10 Q. Okay. Just one minute?

11 A. Okay.

12 Q. Did you want to testify for your son?

13 A. Yes.

14 Q. And were you listed as a witness?

15 A. I was.

16 Q. And did anybody prepare you to testify?

17 A. No.

18 MR. CHILDS: That's all the questions I
19 have.

20 THE COURT: Cross-examination.

21 MR. WHITMIRE: A few quick questions.

22 **CROSS-EXAMINATION**

23 **BY MR. WHITMIRE:**

24 Q. I think you just testified that there was a
25 period of time in which you would drive Ms. Bright to

1 the detention center?

2 A. Yes.

3 Q. Were you in communication with her?

4 A. Yes.

5 Q. Did you ever offer to turn over any of those
6 communications, the cell phone, to his attorneys?

7 A. I'm sorry?

8 Q. You said you were actively -- let me lay a
9 foundation here. You were actively involved in this
10 case, you wanted to be?

11 A. Yes.

12 Q. Did you try to take evidence or give ideas to the
13 attorneys and pass it on to them?

14 A. Through Matthew?

15 Q. Through Matthew or directly, either way?

16 A. Matthew and I would discuss the case, what was
17 going on.

18 MR. WHITMIRE: No further questions, Your
19 Honor.

20 THE COURT: Thank you.

21 MR. CHILDS: No more questions.

22 THE COURT: All right. Thank you. May this
23 witness be excused?

24 MR. CHILDS: Yes, sir.

25 THE COURT: Mr. Whitmire?

1 MR. WHITMIRE: Five minutes, Your Honor, to
2 determine if ---

3 THE COURT: Five minutes to determine
4 whether she can be excused?

5 MR. WHITMIRE: Oh, no. Excuse me.
6 Absolutely, Your Honor. I thought -- my apologies.

7 THE COURT: You may be excused. Thank you,
8 ma'am.

9 THE WITNESS: Thank you.

10 MR. CHILDS: And I would rest with that
11 witness, Your Honor. I wanted to put in a copy of the
12 State's Exhibit about the text messages that was
13 introduced at the trial, just so you would have it.

14 MR. WHITMIRE: Subject to judicial notice.
15 It's a court document. It came from the clerk's
16 office.

17 MR. CHILDS: I just want to put that in the
18 record for Your Honor. And that's all we would have.

19 THE COURT: Any witnesses on behalf of the
20 State? Is that what you're asking five minutes for?

21 MR. WHITMIRE: That's what I jumped the gun
22 on, Your Honor. Five minutes and I might have a very
23 quick witness.

24 THE COURT: Okay. Step out in the hallway
25 and discuss it and we'll just be at ease in here and

1 wait for your response.

2 (WHEREUPON, the court stood at recess for a short
3 break.)

4 MR. WHITMIRE: Judge, may we approach?

5 THE COURT: Sure.

6 (WHEREUPON, a bench conference was held off the
7 record.)

8 MR. WHITMIRE: Your Honor, the State calls
9 Ms. Lindsey Simmons to the stand.

10 THE COURT: Very good. Come around, Ms.
11 Simmons.

12 THE CLERK: Place your left hand on the
13 bible and raise your right hand.

14 Do you solemnly swear or affirm the testimony you
15 give to the court to be the truth, the whole truth and
16 nothing but the truth?

17 THE WITNESS: I do.

18 THE CLERK: Have a seat.

19 **LINDSEY SIMMONS,**

20 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

21 **DIRECT EXAMINATION**

22 **BY MR. WHITMIRE:**

23 Q. Good afternoon. Ms. Simmons, when did you hand
24 over, disclose, the autopsy report to Ashley Bright?

25 A. To the best of my knowledge it was after

1 Christmas of the incident involving her daughter. It
2 would have been January or February. I met with her
3 at Brad Norton's office at length and discussed it
4 with her.

5 MR. WHITMIRE: Thank you, Your Honor.
6 That's all I have.

7 Please answer questions that opposing counsel may
8 have for you related to this matter.

9 CROSS-EXAMINATION

10 BY MR. CHILDS:

11 Q. So did you tell her what the autopsy report
12 meant?

13 A. Mr. Norton and I were both in the room with her.
14 And we both did explain to her what the -- we showed
15 it to her and explained the injuries to her, yes.

16 Q. All right. But she didn't really read it right
17 there in front of you; did she?

18 A. We met at length and I can't be positive. But we
19 met at length and I do believe she had the opportunity
20 to review it as long as she wanted to. We were there
21 for several hours, I think.

22 Q. All right. And so you just -- but you explained
23 to her what it meant in your opinion.

24 A. Yes.

25 MR. WHITMIRE: Objection. Outside of scope

1 of cross. The one question asked was when did you do
2 it and date.

3 THE COURT: Overruled. There's wide
4 latitude on cross-examination.

5 Q. And that would have been some time after
6 Christmas, early January?

7 A. To the best of my recollection. I have not
8 reviewed my file before today. It would be January or
9 February I met with her.

10 MR. CHILDS: And I'm going to ask the
11 Court's indulgence on this question.

12 THE COURT: I will sparingly consider it;
13 okay?

14 MR. CHILDS: All right.

15 Q. There's a question about a mark-out on the text
16 message exhibit in the state's case in the trial,
17 where the response from Ms. Bright was blacked out
18 that said, even if she's sober. Do you know anything
19 about that?

20 MR. WHITMIRE: I'm going to object, Your
21 Honor. That's completely outside the scope ---

22 THE COURT: It's not outside the scope.
23 There's wide latitude on cross-examination. Thank
24 you, sir.

25 A. I have no recollection of why.

1 Q. All right. Just to clarify it, because nobody
2 really seems to know why that was marked out?

3 A. I just -- I don't remember. I'm sorry.

4 MR. CHILDS: That's all the questions I
5 have.

6 THE COURT: All right. Thank you. Any
7 redirect?

8 MR. WHITMIRE: None, Your Honor.

9 THE COURT: Thank you. Thank you, ma'am.
10 Any reason why this witness can't be excused?

11 MR. CHILDS: No, sir.

12 MR. WHITMIRE: None, Your Honor.

13 THE COURT: Any other witnesses on the
14 State's case?

15 MR. WHITMIRE: None, Your Honor.

16 THE COURT: Any reply?

17 MR. CHILDS: No, sir.

18 THE COURT: Very good. All right. I want
19 to ask the attorneys some questions, please, for my
20 edification.

21 First, since you're the moving party, Mr. Childs,
22 I want to go over some issues with you, make sure I
23 understand what your client's position is in this
24 case. Okay, sir?

25 MR. CHILDS: All right.

1 THE COURT: Number one, does Mr. Hinton
2 maintain that he suffered actual prejudice in this
3 case from the alleged errors of counsel that occurred,
4 that would warrant relief individually by themselves?
5 Or is it solely a cumulative case?

6 MR. CHILDS: I believe that he maintains he
7 suffered prejudice by several of the ---

8 THE COURT: If you maintain prejudice as to
9 any particular error, specify the error and the
10 prejudice, please, sir?

11 MR. CHILDS: Yes, sir. I think the error,
12 first of all, is the golden rule violation under State
13 versus ---

14 THE COURT: Let's take that one off the
15 table right now. We'll come back to that one.

16 MR. CHILDS: All right. I think the failure
17 to -- give me a moment.

18 THE COURT: Yes, sir.

19 MR. CHILDS: I think the failure to review
20 or introduce the audiotapes related to the witnesses
21 that would impeach their testimony or prejudice would
22 warrant relief. I think that the failure -- the
23 allowing State's Exhibit Number 7 into evidence with
24 the mark-out of the reply by Ashley to the effect
25 that, even if she's sober, is sufficient error to

1 warrant relief in that the testimony presented from
2 her was that that was unusual, that he was acting
3 strange or unusual. That particular element of it
4 would have been rebutted by that testimony.

5 I think that the allowing the officers to testify
6 as to documents not into evidence and allowing the
7 officers to testify that a certain witness's story was
8 corroborated by evidence that was not presented. And
9 also by allowing testimony by the officers as to a
10 time line. And as to their opinion about whether or
11 not Mr. -- whether or not any other person was
12 involved in the case. That they have excluded, based
13 on the evidence they had, that they had excluded any
14 other possibilities, and when that testimony was based
15 on hearsay evidence that was not introduced at trial,
16 and that was not adequately reviewed by defense
17 counsel.

18 I think that it was prejudicial error to allow
19 the doctors in their various testimonies to render
20 opinions without requiring a proper foundation for
21 those opinions. And allow them to speculate without
22 objection.

23 THE COURT: Could you be more specific?

24 MR. CHILDS: I can quote you exactly the
25 page, and I will in a minute, as to the -- Dr. Troup's

1 testimony, page 237, line 2 through 10. Basically,
2 there's nothing other than intentional child abuse
3 that could cause this pattern of injuries together.
4 Without a reasonable degree of medical certainty
5 requested, no foundation laid for that testimony. I
6 would say that Dr. Woodard's testimony concerning --
7 the question was on page 282, line 16, in your
8 professional opinion is it more likely that these
9 injuries were inflicted by a male or a strong female?
10 And the answer was they're more likely to have been
11 inflicted by a stronger than a weaker person, a larger
12 than a smaller person. And allowed that testimony
13 without objection, without him laying the proper
14 foundation for why he had that opinion.

15 I think also with the testimony of the police
16 officers, I think it was prejudicial error to not
17 object to the testimony on page 111, line 6.
18 Subsequently, we found the child had some broken bones
19 and severe brain trauma. And the next question was,
20 and did the doctor have a diagnosis for you for your
21 investigation? Answer, no, we call it non-accidental
22 trauma. Question, in laymen's terms what does that
23 mean? Well, the laymen's term that they gave me was
24 shaken baby. Question, child abuse? Answer, child
25 abuse. Page 112, line 21. Based upon your

1 investigation including medical evidence you obtained,
2 were you able to develop a time line for the injury?
3 Again, answer, yes. I was given a time line between
4 two and four o'clock in the afternoon on the -- I
5 believe it was the 16th. And that's prejudicial error
6 in that that time line was testified to consistently
7 by the witnesses. And it was based upon hearsay. And
8 the question to the officer, who did -- who had access
9 to the child on August the 16th of 2009? No objection
10 by the defense. The defendant ---

11 THE COURT: What page is that?

12 MR. CHILDS: 113, line 6 through 8. 113,
13 also line 21. What did your investigation reveal as
14 to the father of the child? Answer, he was home alone
15 with the child. Question, did you investigate if the
16 child's injuries were consistent with a fall, a drop,
17 or accidental mishap? Page 114, line 1 through 2,
18 that was the scenario we were given but the indication
19 was none of those scenarios fit.

20 THE COURT: And you're saying each one of
21 these, in and of themselves, warrants the relief in
22 this PCR?

23 MR. CHILDS: I think so.

24 THE COURT: Okay. What was on 114, please,
25 sir?

1 MR. CHILDS: Line 1 and 2 was the response
2 to the question from 113, line 25.

3 THE COURT: Did the investigation reveal ...
4 Okay.

5 MR. CHILDS: Yeah. And I'll have to check
6 with my client and see if there's any others. And let
7 me check my notes real quick.

8 (WHEREUPON, the court stood at recess for a short
9 break.)

10 MR. CHILDS: I think it was prejudicial
11 error for the defense counsel to allow testimony about
12 the character of the victim at page 68, line 10
13 through 17. And also ---

14 THE COURT: What page?

15 MR. CHILDS: Page ---

16 THE COURT: I remind you, these are things
17 that you are certifying to the Court under Rule 11;
18 okay?

19 MR. CHILDS: Yes, sir.

20 THE COURT: Okay. What is that page,
21 please?

22 MR. CHILDS: Page 68.

23 THE COURT: Okay. Go ahead.

24 MR. CHILDS: Line 12 through 17.

25 THE COURT: Okay, sir.

1 MR. CHILDS: Page 178.

2 THE COURT: What is the issue, please, sir?

3 MR. CHILDS: Line 14, line -- let's see.

4 Line 14 through 20, testimony that the officer was
5 able to corroborate the time frame given by Mr.
6 Holland. And the answer, upon my investigation I did
7 confirm the time frame he'd given me by his
8 girlfriend's work schedule. I think page 216, line 16
9 through 20, was another example of Dr. Barton
10 testifying about a proper foundation, that this was a
11 result of trauma from child abuse. I believe that's
12 it, Your Honor.

13 THE COURT: Thank you. All right. I'll
14 hear from the State and then I'll come back to you,
15 Mr. Childs.

16 MR. WHITMIRE: To make it clear, third-party
17 guilt is not being raised as an allegation to warrant
18 prejudice in and of itself. I just want to make sure
19 I didn't hear it and didn't write something ---

20 THE COURT: I think the testimony during the
21 hearing was he wanted to get that information about
22 the diaper, the broken -- the half full baby bottle
23 and the broken mobile as evidence of third-party
24 guilt. But he was not intending to present any
25 additional testimony with regard to that. It was

1 going to be based on what was in the record. Is that
2 correct, Mr. Childs?

3 MR. CHILDS: Yes, sir.

4 MR. WHITMIRE: So I've got ---

5 THE COURT: So to the extent there's third-
6 party guilt in the record then it's there. To the
7 extent it's not, it's not.

8 MR. WHITMIRE: Okay. I have substantial
9 notes in this case. I will try to make sure I don't
10 mislead the court and I can fundamentally review --
11 thoroughly review them all and brief whatever issues
12 that needs to be briefed.

13 THE COURT: I've listened to this case for a
14 day and a half. I've read your briefs. I've read the
15 transcript. I'm ready to get this case ruled on and
16 I'm ready for you to tell me what your positions are.
17 You should be ready today.

18 MR. WHITMIRE: Oh, I am. I just was
19 apologizing in advance for misquoting anything and
20 having to come back later. The golden rule ---

21 THE COURT: I'm going to let you come back
22 later on one issue and one issue alone at this point.
23 I may change my mind. But at this point I have no
24 intention of letting either side come back later.

25 MR. WHITMIRE: The golden rule?

1 THE COURT: I'm holding that off the table;
2 okay?

3 MR. WHITMIRE: Okay. The rest of the
4 matters there's numerous instances -- the definition
5 of child abuse, it's an intentional infliction of harm
6 or potential neglect that causes an injury on a child.
7 Calling it child abuse, I don't -- it's just
8 semantics. It's certainly -- I'm not certain if you
9 could -- but it's definitely not prejudicial because I
10 believe the evidence in this case against the child is
11 pretty significant.

12 THE COURT: You're saying the
13 characterization of it as child abuse is semantics?

14 MR. WHITMIRE: Yeah. At this point I can't
15 give you ---

16 THE COURT: I'm going to also remind you
17 that your representations are also under Rule 11;
18 okay? Go ahead.

19 MR. WHITMIRE: Starting order, audiotapes.
20 The issue of Desmond Holland, had he known Ms. Bright.
21 The question was posed, personal knowledge, not do you
22 know someone, did you see them in the hallway at
23 school. It's not, on its face, a non-disclosure.
24 There needs to be more that hasn't been shown. Mr.
25 Holland didn't come here and testify. There's

1 extrinsic evidence from him. So I think the record is
2 relatively clear on that.

3 The question of sobriety of Ms. Bright's mother,
4 those text messages, Mr. Senerius testified yesterday
5 it was not relevant. Both witnesses have testified,
6 attorneys, that character was not an issue here. This
7 happened over a twenty-four period specifically where
8 no one witnessed anything. No one's accusing Mr.
9 Hinton who saw this, they wanted to keep it out. And
10 I think we've heard from both Mr. and Ms. Senerius
11 that he did have a drug problem. He testified to it
12 today. Potentially, that would open the door to that.
13 They've given the testimony throughout this
14 proceeding, that they did not want to open the door to
15 potential things that (A) were not prepared for or,
16 two, were concerned about. Mr. Senerius testified the
17 only reason she looked into this relatively minor
18 conviction was because she wanted to make certain they
19 kept the trial on course and didn't make any big
20 mistakes and were prepared to go forward.

21 The issue concerning the police officer
22 testimony, there are some hearsay accounts of matters
23 they testified to that comes in later at trial. It's
24 cumulative, which makes it per se non-prejudicial.
25 And then furthermore, it's not hearsay technically.

1 It's investigative testimony, not offered for the
2 truth but offered ---

3 THE COURT: Do you have a hearsay exception
4 for investigative testimony you can point me to?

5 MR. WHITMIRE: State v. Ellis is on point,
6 Your Honor. I believe it's in my pre-trial brief.
7 There's two other opinions in the last ten years that
8 deal with this specifically, and opinion testimony
9 from what officers observed and would have the
10 capabilities of testifying to. Now, I can point you
11 to numerous ---

12 THE COURT: Hold on. Hold on. Isn't there
13 a distinction to what they observed and what they
14 repeat in court because that's what they were told in
15 this case by doctors and other people and lawyers.

16 MR. WHITMIRE: And as I understand his
17 allegation is two-part. The first part would be what
18 is technically hearsay. I can't give you the cite
19 right now, but I can give you numerous cites. It
20 comes in. The attorneys have testified. This
21 information is coming in. This case is made by Mr.
22 Hinton taking the stand, Ms. Bight taking the stand
23 and by the doctors giving the time frame. Having an
24 officer say a doctor told me this is child abuse, I
25 don't -- I think it's -- in practical terms it's

1 harmless. And if it wasn't coming in, if they didn't
2 know this was happening, it would certainly be a
3 concern. But they understood it and had the
4 opportunities to cross-examine the doctors and Mr.
5 Senerius was adequately prepared and his cross-
6 examination speaks for itself.

7 THE COURT: Well, didn't the officers
8 testify before the doctors?

9 MR. WHITMIRE: They did. And the witness
10 list, I believe, there's testimony ---

11 THE COURT: They absolutely did. I'm
12 looking at it right now.

13 MR. WHITMIRE: Oh, yeah, they did. The
14 witness list that was produce that that was how the
15 trial was going. And that also goes to the issues of
16 time lines. All four doctors testified to it. It
17 becomes repetitive. I believe one of the comments
18 when I opened up with what would have been my opening
19 statement was, numerous of these hundred plus
20 allegations are meritless for the exact same reason.

21 THE COURT: Couldn't it be considered trial
22 strategy not to object to an officer's testimony when
23 you know it's coming in through later medical
24 testimony?

25 MR. WHITMIRE: Well, that's exactly what Ms.

1 Senerius testified to when I cross-examined her and
2 for leading questions, which aren't being alleged
3 right now. It was just the hearsay. You know, it's
4 coming in. You're prepared for it, you've prepared
5 these witnesses for weeks. So would you object if you
6 were caught off guard or if it was improper and you
7 didn't expect that. You can get that testimony later.
8 Absolutely.

9 THE COURT: Okay. So go ahead.

10 MR. WHITMIRE: I believe I've addressed Dr.
11 Troupe and Dr. Woodard many -- their commenting on
12 this being child abuse. I think that's proper. I
13 can't give you it right and I don't want to mislead
14 this court or violate Rule 11. But it's not for the
15 reasons I've stated.

16 THE COURT: I'm not trying to prevent either
17 of you from making your arguments. I just wanted to
18 make sure they are something that is absolutely --
19 it's what you truly believe, not something just to
20 cover ---

21 MR. WHITMIRE: I'm not, Your Honor.

22 THE COURT: --- a voluminous record in this
23 matter.

24 MR. WHITMIRE: And the only thing, as I
25 looked at this now three times, I'm trying my best to

1 make sure I do not do anything to mislead you. One
2 thing I think's concerning, you have off the table
3 right now potentially because of recent case law,
4 that's a matter I guess for later.

5 THE COURT: We'll take up the golden rule in
6 just a minute.

7 MR. WHITMIRE: Yeah. I'll be happy to
8 address any other questions at this point.

9 THE COURT: Okay. All right. I've got
10 that. Let me just say this. My view on what I've
11 heard, what I've seen, what I've read, is that this is
12 a case -- I don't believe and I'm not ruling that at
13 this juncture, I do not believe that any of the seven
14 areas of specified error that is accompanying with
15 prejudice would warrant any independent relief in and
16 of itself. I'm going to look at that. My view is
17 most of that is cumulative or duplicative or would be
18 something that may very well come out in looking at
19 the case in the first place, as well as the other
20 reason why it should not be prejudicial.

21 The question in my mind and this is taking the
22 golden rule argument off of the table, is whether the
23 alleged errors, multiple errors in this case, were so
24 evasive that they're so many that the Applicant is
25 relieved of the duty, the burden, I should say, of

1 giving particularized prejudice as to the particular
2 errors involved in counsels' performance in this case.

3 Number one, that's an unsettled question in South
4 Carolina. Reading Green versus State, there's cases
5 that say that errors coupled with prejudice can
6 cumulatively cause there to be relief to be granted.
7 But the question of un-prejudicial errors being so
8 pervasive as to warrant relief under post conviction
9 relief has not been settled. I think that's probably
10 more appropriate for the appellate courts to
11 determine.

12 My sense of the case is, however, that while they
13 may rise to deficient performance in the multiple
14 areas or some of the areas pointed out to they're not
15 prejudicial such as to warrant relief. In other
16 words, they're not so pervasive as to show that the
17 impact on the trial would be such that due process for
18 the defendant was not had in this matter, pursuant to
19 State v. -- Green versus State.

20 That leads me, and I'm not ruling on any of this.
21 This is my blush. So at this juncture, Mr. Hinton,
22 based on the particularized errors with harm, the non-
23 particularized -- or the errors without prejudice, you
24 don't prevail; okay, sir? I'm just letting you know
25 that that's my feeling. I'm not ruling on it yet.

1 But you're the man here looking at forty-one years and
2 I want to look at you in the eye and tell you that;
3 okay?

4 Now, on the other hand we have a golden rule
5 argument, which I think was a clear violation of the
6 golden rule. In fact, when I was looking up at lunch
7 time ---

8 MR. CHILDS: State versus Reese?

9 THE COURT: Sir?

10 MR. CHILDS: State versus Reese.

11 THE COURT: State versus Reese, exactly.

12 359 S.C. 265, 597 S.E.2d 169, which is the Court of
13 Appeals cite, but that was also affirmed on appeal as
14 far as that aspect of the ruling or the Supreme Court
15 followed that ruling as far as the Court of Appeals is
16 concerned. It was noted by the Supreme Court, though,
17 in that case that there is so many errors in that case
18 -- or that that argument -- excuse me -- infected the
19 trial with that issue such that due process could not
20 be held. That error alone. And they went back
21 through -- if I'm reading the case correctly -- to
22 showed that the evidence is about a man stalking a
23 woman in a neighborhood, something to that effect. I
24 think the issue was not whether or not he had stalked
25 or waited for her, but the issue whether there was

1 malice involved in what he did. There was inferred
2 malice by the use of a deadly weapon in that case,
3 which the court pointed out as being close.
4 Therefore, when they injected the golden rule into the
5 case, in other words, put yourself in the shoes of
6 jurors, then it warranted a new trial. I think on
7 this case the evidence is so overwhelming against this
8 gentleman, that that analysis doesn't hold true to
9 this case. There's been no evidence whatsoever that
10 at any time during the course of this child's exposure
11 to the harmful elements anybody was with her except
12 for him. There's been a hint of third-party guilt
13 being the mother. But there's certainly totally
14 insufficient evidence presented at trial, totally
15 insufficient evidence presented at this hearing that
16 warrant a consideration of the third-party guilt. And
17 I'm looking at State versus Gregory, that's 198 S.C.
18 98, 16 S.E.2d 532. It's cited by the State in its
19 brief and it's progeny, at best, that would raise the
20 suspicion, but it certainly would not raise an
21 inference of the innocence of the defendant or point
22 to his innocence whatsoever. I don't think third-
23 party guilt has any part in this case. There's
24 certainly none been show in this case.

25 Also, Mr. Hinton has not met his burden of proof

1 with regard to multiple of the allegations raised in
2 this case, particularly without limitation, because
3 there's a hundred and seven different allegations.
4 One being jury selection. There's been no proof at
5 all except for a self-serving allegation as to a juror
6 who should have been -- two jurors who should have
7 been struck and a Batson that should have been asked
8 for without any articulation why. That's totally
9 insufficient for meeting his burden of proof in this
10 matter. And there's multiple cases of that
11 throughout. I'm not trying to be all encompassing.

12 So, the only thing I want the attorneys to brief
13 me on is whether or not, under the facts of this case,
14 the golden rule violation would warrant or does it
15 have to warrant relief under Post Conviction Relief
16 Statute; okay. My understanding of the case as they
17 cite the language in Reese, it says the court may
18 constitute reversible error. I do know that this was
19 filed on an Anders Brief. That's not evidence but it
20 was remitted back down without their being asked for
21 any additional briefing on that. That's just a note.

22 All right. With my comments being said, from the
23 Applicant's standpoint, would you like to put anything
24 else on the record?

25 MR. CHILDS: Well, Your Honor, insofar as

1 your brief is concerned, my question would be, is it
2 permissible, based upon your indications from the
3 bench for me to argue the golden rule violation as it
4 relates to the character testimony that was introduced
5 at the trial, the character of the decedent?

6 THE COURT: Say that again.

7 MR. CHILDS: I just wanted to make sure that
8 I could -- it's okay with Your Honor that I could
9 include in the brief my arguments that the golden rule
10 violation ties in to the character of the decedent
11 issue in the trial of the introduction of that
12 testimony.

13 THE COURT: If you want to try to tie in the
14 golden rule to other things, fine.

15 MR. CHILDS: Okay. All right.

16 THE COURT: Okay. And that includes the
17 other ones.

18 MR. CHILDS: Okay.

19 THE COURT: I don't need a hundred pages of
20 briefs. I've read last night over three hundred
21 pages.

22 MR. CHILDS: I agree.

23 THE COURT: And it's not that I don't mind
24 reading. It's just I know the facts of this case.
25 I've heard -- listened to your testimony. I've got an

1 idea what I want to do, but I want to give you a
2 chance to argue. So go ahead.

3 MR. CHILDS: What time frames do you want
4 them.

5 THE COURT: What time frame do you need?

6 MR. CHILDS: Well, I've got a lot of
7 catching up to do.

8 THE COURT: Oh, I understand. You put a lot
9 of hard work in this case and I commend you on that.
10 So did the State.

11 MR. CHILDS: And so what time frame would
12 your court like?

13 THE COURT: The further away you give me,
14 the more I have to go back and redo my notes and
15 refresh. It's not the only case I'll go to.

16 MR. CHILDS: Right.

17 THE COURT: Thirty days give you sufficient
18 time?

19 MR. CHILDS: Yes, sir, that is sufficient.

20 THE COURT: I don't want reply briefs. You
21 submit your briefs. That way we don't get a brief war
22 going on. Is thirty days okay with you?

23 MR. WHITMIRE: Yes, Your Honor.

24 THE COURT: Okay. Just one second. I'm
25 going to let Mr. Childs finish. Anything else you

1 want placed on the record?

2 MR. CHILDS: I did want to get that exhibit
3 in with you.

4 THE COURT: That's the State's Number 9 as
5 to the time line on the Netflix or is that the email
6 ---

7 MR. CHILDS: The text messages.

8 THE COURT: Which exhibit number is that?

9 MR. WHITMIRE: We gave you, I believe, at
10 the start of the hearing a copy of everything.

11 THE COURT: Here you go, guys. Come on up
12 here and look at it. Just one second. Number 9?
13 Here it is.

14 MR. CHILDS: Can we just mark that and put
15 it in?

16 THE COURT: Yes, you may. Absolutely.

17 (WHEREUPON, Plaintiff's Exhibit Number 44 was
18 marked and admitted into evidence.)

19 THE COURT: All right. Now, Mr. Whitmire?

20 MR. WHITMIRE: One thing, Judge. In the
21 brief I'd like the opportunity to address, completely
22 ignored it, trial strategy, the Strickland analysis,
23 and the state of law at the time of trial, nothing
24 else.

25 THE COURT: I read your brief as well and

1 you outlined that pretty thoroughly.

2 Again, gentlemen, I'm not ruling yet, but at this
3 point my view is that the stated errors with the
4 alleged associated prejudice are not sufficient to
5 warrant relief, individually. That the pervasiveness
6 of the alleged errors is not such as to make relief
7 available to the applicant. That leaves whether or
8 not there should be relief under the golden rule
9 scenario. My belief under that is that with the
10 overwhelming evidence of guilt of the defense in this
11 matter, that I view based on my review of the record,
12 that the analysis that they took under Reese is not
13 the same analysis that I would look at in this case.
14 And that relief, because of that violation, is not
15 mandatory; okay? But, I'm going to let y'all brief me
16 on that further. That's my gut feeling. That's where
17 I am. If you feel the compelled need to brief other
18 issues, before you do, call me and let's talk about
19 it; okay?

20 MR. CHILDS: I appreciate that.

21 THE COURT: I appreciate it you guys. Y'all
22 did a fine job presenting this case. Mr. Hinton, your
23 attorney was very well prepared. He did a fine job
24 and I kept reining him, and he kept on going back out
25 again, so he did a good job. So did the State.

1 Anything further from you, Mr. Childs?

2 MR. CHILDS: No, sir, Your Honor. I don't
3 believe so.

4 THE COURT: Anything further from the State?

5 MR. WHITMIRE: Nothing, Judge.

6 THE COURT: I also want to thank the
7 spectators. I know this is an emotional case for
8 everybody on both sides of the case. Y'all have
9 observed. I know it's tough and y'all did so in a
10 very civil fashion; so thank you very much. That
11 being said the hearing is concluded for the day.

12

13 [END OF REQUESTED TRANSCRIPT OF RECORD]

CERTIFICATE OF REPORTER

1
2 I, the undersigned Danette P. Hanks, Official
3 Court Reporter for the Tenth Judicial Circuit of the
4 State of South Carolina, do hereby certify that the
5 foregoing is a true, accurate, and complete transcript
6 of record of all the proceedings had and evidence
7 introduced in the trial/hearing of the captioned case,
8 relative to appeal, in the Court of Common Pleas for
9 Oconee County, South Carolina, on the 9th day of
10 February, 2015.

11 This transcript may contain quoted material.
12 Such material is reproduced as read by the speaker.

13 I do further certify that I am neither of kin,
14 counsel, nor interest to any party hereto.

15 August 11, 2015
16
17
18
19

20

Circuit Court Reporter

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM OCONEE COUNTY

Alexander S. Macaulay, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MATTHEW TAYLOR HINTON,

APPELLANT

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

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

Attorney for Appellant

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

(803) 734-3727

CHRISTINA T. ADAMS
Solicitor, Tenth Judicial Circuit
PO Box 8002
100 S. Main Street
Anderson, SC 29622-8002
(864) 260-4046

Attorneys for Respondent

INDEX

INDEX.....	i
TRIAL TRANSCRIPT.....	1
INDICTMENT	426
CERTIFICATE OF COUNSEL.....	428

1 STATE OF SOUTH) IN THE COURT OF GENERAL
2 CAROLINA) SESSIONS
3 COUNTY OF OCONEE) INDICTMENT NO:
4) 2009-GS-37-01347
5 STATE OF SOUTH)
6 CAROLINA)
7 PLAINTIFF,) TRANSCRIPT OF RECORD
8 -VS-) TRIAL
9 MATTHEW TAYLOR HINTON,)
10 DEFENDANT.)
11)
12) FEBRUARY 28, 2011
13) MARCH 1, 2011
14) MARCH 2, 2011
15) MARCH 3, 2011
16) WALHALLA, SOUTH CAROLINA
17)
18 B E F O R E:
19)
20 THE HONORABLE ALEXANDER S. MACAULAY, JUDGE; AND A
21 JURY.
22)
23 A P P E A R A N C E S:
24)
25 LINDSEY S. SIMMONS, ESQ.
ASSISTANT 10TH CIRCUIT SOLICITOR
ATTORNEY FOR THE STATE
GORDON SENERIUS, ESQ.
BRITTANY TYE, ESQ.
ATTORNEYS FOR THE DEFENDANT
ROBIN SUE HILD, FCRR, RPR
CIRCUIT COURT REPORTER
POST OFFICE BOX 9
WALHALLA, SC 29691

INDEX

1		
2		
3	WITNESSES	PAGE
4	ASHLEY BRIGHT	
5	DIRECT EXAMINATION BY MS. SIMMONS	66
6	CROSS-EXAMINATION BY MS. TYE	89
7	TED ROUNDY	
8	DIRECT EXAMINATION BY MS. SIMMONS	107
9	CROSS-EXAMINATION BY MR. SENERIUS	123
10	REDIRECT EXAMINATION BY MS. SIMMONS	129
11	RECROSS-EXAMINATION BY MR. SENERIUS	129
12	CHRIS KELLY	
13	DIRECT EXAMINATION BY MS. SIMMONS	133
14	CROSS-EXAMINATION BY MR. SENERIUS	144
15	DONNA ELLER	
16	DIRECT EXAMINATION BY MS. SIMMONS	149
17	PAIGE WILLIAMS	
18	DIRECT EXAMINATION BY MS. SIMMONS	153
19	CROSS-EXAMINATION BY MS. TYE	156
20	RORY JONES	
21	DIRECT EXAMINATION BY MS. SIMMONS	162
22	CROSS-EXAMINATION BY MR. SENERIUS	179
23	REDIRECT EXAMINATION BY MS. SIMMONS	185
24	RECROSS-EXAMINATION BY MR. SENERIUS	186
25	DESMOND HOLLAND	
26	DIRECT EXAMINATION BY MS. SIMMONS	195
27	CROSS-EXAMINATION BY MS. TYE	201
28	KATHRYN BARDEN	
29	DIRECT EXAMINATION BY MS. SIMMONS	207
30	CROSS-EXAMINATION BY MR. SENERIUS	217
31	REDIRECT EXAMINATION BY MS. SIMMONS	220
32	EARL TROUP, M.D.	
33	DIRECT EXAMINATION BY MS. SIMMONS	221
34	CROSS-EXAMINATION BY MR. SENERIUS	236
35		
36		

1	WITNESSES	PAGE
2		
3	DARYL GWYN	
4	DIRECT EXAMINATION BY MS. SIMMONS	246
5	CROSS-EXAMINATION BY MR. SENERIUS	258
6	REDIRECT EXAMINATION BY MS. SIMMONS	264
7	RECROSS-EXAMINATION BY MR. SENERIUS	265
8		
9	BRETT WOODARD	
10	DIRECT EXAMINATION BY MS. SIMMONS	267
11	CROSS-EXAMINATION BY MR. SENERIUS	282
12	REDIRECT EXAMINATION BY MS. SIMMONS	284
13	RECROSS-EXAMINATION BY MR. SENERIUS	285
14		
15	MATTHEW TAYLOR HINTON	
16	DIRECT EXAMINATION BY MR. SENERIUS	308
17	CROSS-EXAMINATION BY MS. SIMMONS	333
18		
19	THE JURY WAS SWORN	50
20	OPENING STATEMENT ON BEHALF OF THE STATE	62
21	OPENING STATEMENT ON BEHALF OF THE DEFENDANT	288
22	DEFENSE MOTION FOR DIRECTED VERDICT	299
23	CHARGE CONFERENCE	302
24	COURT'S DISCUSSION WITH DEFENDANT/TESTIFYING	306
25	COURT'S RE-ADVISEMENT OF DEFENDANT'S RIGHT TO	
26	TESTIFY OR NOT TO TESTIFY	343
27	DEFENDANT'S RENEWED MOTION FOR DIRECTED VERDICT	347
28	CHARGE CONFERENCE	356
29	CLOSING ARGUMENT ON BEHALF OF THE STATE (LAW)	358
30	CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT	377
31	CLOSING ARGUMENT ON BEHALF OF THE STATE (FACTS)	391
32	THE COURT'S CHARGE ON THE LAW	405
33	VERDICT OF THE JURY	409
34	DEFENSE MOTIONS	409
35	COURT'S RULING ON DEFENSE MOTIONS	409
36	SENTENCING	422
37	CERTIFICATE OF COURT REPORTER	
38		
39		
40		
41		
42		
43		
44		
45		

1	EXHIBITS	ID./EV.
2	NUMBER, DESCRIPTION	
3	STATE'S EX. # 1, WAIVER 8-17-09	48/141
	STATE'S EX. # 2, STATEMENT 8-17-09	48/141
4	STATE'S EX. # 3, SECOND WAIVER	48/115
	STATE'S EX. # 4, SECOND STATEMENT	48/118
5	STATE'S EX. # 5A, 5B, 5C, 5D, PHOTOS BEDROOM	48/79
	STATE'S EX. # 6A, 6B, 6C, PHOTOS OF BATHROOM	48/79
6	STATE'S EX. # 7A, 7B, 7C, PHOTOS LIVING ROOM	48/79
	STATE'S EX. # 8, PHOTO, BEDROOM WITH CRIB	49/79
7	STATE'S EX. # 9, VERIZON RECORDS	49/75
8	DEFENDANT'S EX 1, STATEMENT - WITNESS HOLLAND	202/--
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 ** START OF REQUESTED CERTIFIED TRANSCRIPT OF RECORD **

2 (WHEREUPON, THE TRIAL OF THE STATE OF SOUTH
3 CAROLINA V. MATTHEW TAYLOR HINTON COMMENCED
4 ON MONDAY, FEBRUARY 28, 2011, AT
5 APPROXIMATELY 11:51 A.M.)(THE JURY PANEL
6 RETURNED TO THE COURTROOM.)

7 THE COURT: ALL RIGHT. IS THE STATE READY?

8 MS. SIMMONS: YES, YOUR HONOR.

9 THE COURT: IS THE DEFENSE READY?

10 MR. SENERIUS: YES, YOUR HONOR.

11 THE COURT: VERY WELL.

12 LADIES AND GENTLEMEN OF THE JURY PANEL, THIS IS A
13 TERM OF GENERAL SESSIONS COURT. IT IS SOMETIMES CALLED
14 CRIMINAL COURT. ITS PURPOSE IS TO RESOLVE QUESTIONS OF
15 ALLEGED CRIMINAL CONDUCT ARISING BETWEEN THE STATE OF
16 SOUTH CAROLINA AND THE DEFENDANT IN A FASHION WHICH WILL
17 ENSURE THAT JUSTICE UNDER THE LAW IS ACCOMPLISHED.

18 NOW, THE TRIAL BEGINS WITH THE SELECTION OF A JURY.
19 BOTH STATE AND DEFENDANT ARE ENTITLED TO JURORS WHO
20 APPROACH A CASE WITH AN OPEN MIND. THE TRIAL JURY MUST
21 BE AS FREE AS HUMANLY POSSIBLE FROM BIAS PREJUDICE OR
22 SYMPATHY FROM EITHER SIDE AND FREE FROM ANY PRECONCEIVED
23 IDEAS ON THE FACTS OF THE CASE OR THE LAW ON THE CASE.
24 THEREFORE, CERTAIN QUESTIONS WILL BE ASKED OF YOU, THE
25 PETIT JURY PANEL. THE QUESTIONS WHICH WILL BE ASKED ARE

1 DESIGNED TO ENSURE EACH SIDE A FAIR AND IMPARTIAL JURY.

2 I MIGHT NOTE FURTHER THAT IF ANY PERSON SHOULD TALK
3 TO YOU OR ATTEMPT TO TALK TO YOU ABOUT ANY CASE SCHEDULED
4 FOR THIS TERM OF COURT, IT WOULD BE YOUR SOLEMN DUTY TO
5 IMMEDIATELY REPORT THAT MATTER TO THE COURT. THE REASON
6 FOR THAT OF COURSE IS THAT YOU ARE NOW THE SWORN JURORS
7 FOR THE COURT OF GENERAL SESSIONS FOR THE CIRCUIT COURT
8 OF OCONEE COUNTY, AND NO ONE IS TO INTERFERE WITH YOUR
9 DUTY AS SUCH.

10 MADAM SOLICITOR, YOU MAY CALL YOUR FIRST CASE.

11 MS. SIMMONS: THANK YOU, YOUR HONOR. THE STATE
12 CALLS 2009-GS-37-1347, THE STATE OF SOUTH CAROLINA VERSUS
13 MATTHEW TAYLOR HINTON, INDICTMENT FOR HOMICIDE BY CHILD
14 ABUSE.

15 THE COURT: LADIES AND GENTLEMEN OF THE JURY PANEL,
16 AS YOU HEARD, THE SOLICITOR ANNOUNCED WE ARE ABOUT TO
17 BEGIN THE STATE OF SOUTH CAROLINA VERSUS MATTHEW TAYLOR
18 HINTON, WHO IS CHARGED IN INDICTMENTS 2009-GS-37-1347
19 WITH THE OFFENSE OF HOMICIDE BY CHILD ABUSE UNDER SECTION
20 16-3-85 OF OUR CODE OF LAWS.

21 NOW, THE STATE OF SOUTH CAROLINA WILL BE REPRESENTED
22 BY MS. SIMMONS.

23 MS. SIMMONS, IF YOU WOULD PLEASE STAND, INTRODUCE
24 YOURSELF AND ANYONE WHO WILL BE ASSISTING YOU IN THE
25 TRIAL OF THE CASE.

1 MS. SIMMONS: GOOD MORNING. MY NAME IS LINDSEY
2 SIMMONS. I'M AN ASSISTANT SOLICITOR HERE IN THE OCONEE
3 SOLICITOR'S OFFICE. I SERVE AT THE PLEASURE OF YOUR
4 ELECTED SOLICITOR, CHRISSY ADAMS.

5 BLAIR STOUDEMIRE AND DAVID WAGNER ARE ALSO
6 SOLICITORS EMPLOYED IN THIS OFFICE; YOU MAY SEE THEM
7 DURING THE COURSE OF THIS TRIAL. I WILL ALSO BE ASSISTED
8 BY SERGEANT RORY JONES OF THE SENECA POLICE DEPARTMENT.

9 THE COURT: THANK YOU VERY MUCH.

10 THE DEFENDANT, MATTHEW TAYLOR HINTON, IS REPRESENTED
11 BY MR. SENERIUS AND MS. TYE.

12 MR. SENERIUS, IF YOU WOULD PLEASE STAND AND
13 INTRODUCE YOURSELF AND YOUR LAW FIRM.

14 MR. SENERIUS: THANK YOU, YOUR HONOR. MAY IT PLEASE
15 THE COURT.

16 GOOD MORNING, LADIES AND GENTLEMEN. MY NAME IS
17 GORDON SENERIUS. I PRACTICE -- MY OFFICE IS IN ANDERSON,
18 MY LAW FIRM IS SENERIUS AND TYE. THIS IS MS. BRITTANY
19 TYE, MY LEGAL PARTNER. WE PRACTICE IN ANDERSON, OCONEE,
20 GREENVILLE, ABBEVILLE, PRETTY MUCH ANYWHERE IN THE
21 UPSTATE, WE PRACTICE BOTH CIVIL CRIMINAL AND FAMILY LAW.

22 THIS IS MATTHEW HINTON. MATTHEW IS THE INDIVIDUAL
23 WHO HAS BEEN CHARGED IN THIS CASE, AND IT IS OUR PLEASURE
24 TO DEFEND HIM IN THIS MATTER. THANK YOU.

25 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL

1 RELATED BY BLOOD OR MARRIAGE TO THE DEFENDANT, MATTHEW
2 TAYLOR HINTON? ANY MEMBER OF THE JURY PANEL RELATED BY
3 BLOOD OF MARRIAGE, NOW OR FORMERLY, CLOSE PERSONAL FRIEND
4 OR BUSINESS ASSOCIATE OF THE DEFENDANT, MATTHEW TAYLOR
5 HINTON? IF YOU WOULD PLEASE STAND AT THIS TIME.

6 LET'S SEE. MADAM SOLICITOR, DO YOU HAVE A COPY OF
7 THE INDICTMENT, PLEASE?

8 MS. SIMMONS: YES, YOUR HONOR (HANDING).

9 (CLERK HANDS INDICTMENT TO COURT).

10 MS. SIMMONS: THANK YOU.

11 THE COURT: IS ANY MEMBER OF THE JURY PANEL RELATED
12 BY BLOOD OR MARRIAGE, CLOSE PERSONAL FRIEND, BUSINESS
13 ASSOCIATE, OF THE DECEDENT, [REDACTED] IF SO,
14 PLEASE STAND. ANY MEMBER OF THE JURY PANEL RELATED BY
15 BLOOD OR MARRIAGE, CLOSE PERSONAL FRIEND OR BUSINESS
16 ASSOCIATE OF THE FAMILY OF [REDACTED] THE DECEDENT?
17 IF SO; PLEASE STAND.

18 NOW I'M GOING TO BE READING THE --

19 OH, YES, SIR.

20 PROSPECTIVE JUROR: DAVID MAKINSON. MY DAUGHTER WAS
21 GOOD FRIENDS WITH ASHLEY BRIGHT.

22 THE COURT: ALL RIGHT. THAT WOULD BE THE MOTHER OF
23 THE DECEDENT?

24 PROSPECTIVE JUROR MAKINSON: I BELIEVE SO.

25 THE COURT: ALL RIGHT. WOULD THAT INTERFERE WITH

1 YOUR ABILITY TO GIVE STATE AND THE DEFENDANT A FAIR AND
2 IMPARTIAL TRIAL?

3 PROSPECTIVE JUROR MAKINSON: I DO NOT THINK SO.

4 THE COURT: NOW, YOU HAVE TO BE CERTAIN ABOUT IT.
5 THE REASON IS TWOFOLD. OF COURSE, BOTH SIDES ARE
6 ENTITLED TO AN IMPARTIAL JURY WHO CAN BE FAIR AND
7 IMPARTIAL TO BOTH SIDES. BUT AT THE SAME TIME THE SECOND
8 THING IS THAT NONE OF YOU ASKED TO BE HERE, AND IF YOU
9 HAVE ANY RESERVATION AT ALL ABOUT SITTING ON A JURY ON A
10 PARTICULAR CASE BY REASON OF YOUR FAMILIARITY WITH ANY OF
11 THE INDIVIDUALS OR PARTIES OR OTHERS INVOLVED, I DO NOT
12 WANT TO IN ANY WAY COMPROMISE YOUR SERVICE, SO,
13 THEREFORE, THAT'S WHY I ASK TO BE CERTAIN THAT IT WOULD
14 NOT INTERFERE WITH YOUR ABILITY TO GIVE BOTH THE STATE
15 AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL.

16 PROSPECTIVE JUROR MAKINSON: RIGHT.

17 THE COURT: WOULD IT ---

18 PROSPECTIVE JUROR MAKINSON: IT WILL NOT. I WILL BE
19 IMPARTIAL.

20 THE COURT: ALL RIGHT. YOU ARE SATISFIED YOU CAN DO
21 THAT?

22 PROSPECTIVE JUROR MAKINSON: I AM SATISFIED.

23 THE COURT: VERY GOOD.

24 PROSPECTIVE JUROR MAKINSON: BUT I WANTED IT TO BE
25 KNOWN.

1 THE COURT: WELL, THAT'S JUST IT. THAT'S EXACTLY
2 WHY WE'RE ASKING THESE QUESTIONS. I WANT TO THANK YOU
3 FOR YOUR CANDOR.

4 YES, MA'AM, YOUR NAME, PLEASE?

5 PROSPECTIVE JUROR: LOUISE SHERIFF.

6 THE COURT: YES, MA'AM.

7 PROSPECTIVE JUROR SHERIFF: A CO-WORKER OF MINE IS
8 AN AUNT OF THE DECEASED CHILD.

9 THE COURT: ALL RIGHT. WOULD THAT IN ANY WAY
10 INTERFERE WITH YOUR ABILITY TO GIVE BOTH THE STATE AND
11 THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

12 PROSPECTIVE JUROR SHERIFF: YES, SIR. I'VE HEARD A
13 LOT ABOUT IT.

14 THE COURT: I'M GOING TO EXCUSE YOU ON THIS CASE.
15 BUT STAY WITH US, IF YOU WOULD, PLEASE, BUT YOU WILL BE
16 EXCUSED. ANYONE ELSE? (NO RESPONSE.)

17 ALL RIGHT. AS I SAID EARLIER, I'M GOING TO BE
18 READING A LIST OF POTENTIAL WITNESSES IN THIS CASE. NOW,
19 WHEN I SAY "POTENTIAL WITNESSES," THEY MAY BE CALLED BUT
20 THEY DO NOT HAVE TO BE CALLED.

21 DENISE RICHARDSON, LYNNETTE STEWART, JOY MCMAKIN,
22 LEE STEWART, WILLIAM FOWLER, RONNIE CRAIG, ALEX OR ALEC
23 HOOD, DANNY STEVENS, DR. ROBERT SEIGLER, M.D.

24 ASHLEY BRIGHT, PAIGE WILLIAMS, DONNA ELLER, SHARON
25 GROGAN, PAM GROGAN, PAT GROGAN, DESMOND HOLLAND, CHRIS

1 KELLEY, TED ROUNDY, TIM WILLIAMSON. DIXIE MCCracken,
2 KENDRA HALL, BRANDON ROBERTS, ANDREA FOSTER, CHARLES
3 GILBERT OF VERIZON WIRELESS, DR. KATHRYN BARDEN, OCONEE
4 MEMORIAL -- OR, EXCUSE ME -- MEDICAL CENTER; LAURA MOORE,
5 OCONEE MEDICAL CENTER; DR. EARL TROUP, GREENVILLE
6 MEMORIAL HOSPITAL; DR. DARYL GWYN, GREENVILLE MEMORIAL
7 HOSPITAL; DR. NANCY HENDERSON, GREENVILLE MEMORIAL
8 HOSPITAL; DR. BRETT WOODARD, ANDERSON AREA MEDICAL
9 CENTER; RORY JONES, SOUTH CAROLINA -- EXCUSE ME -- SENECA
10 POLICE DEPARTMENT; TONY WHEELER, SENECA POLICE
11 DEPARTMENT; MELINDA NICHOLSON, SENECA POLICE DEPARTMENT;
12 SHANE PHILLIPS, SENECA FIRE DEPARTMENT; FREDERICK
13 MITCHELL, SENECA FIRE DEPARTMENT.

14 NOW, IS THERE ANY MEMBER OF THE JURY PANEL RELATED
15 BY BLOOD OR MARRIAGE, NOW OR FORMERLY, CLOSE PERSONAL
16 FRIEND OR BUSINESS ASSOCIATE OF ANY OF THE POTENTIAL
17 WITNESSES IN THIS CASE: DENISE RICHARDSON, LYNNETTE
18 STEWART, JOY MCMAKIN, RONNIE CRAIG, ALEC OR ALEX HOOD,
19 DANNY STEVENS, DR. ROBERT SEIGLER, ASHLEY BRIGHT, PAIGE
20 WILLIAMS, DONNA ELLER, SHARON GROGAN, PAM GROGAN, PATRICK
21 GROGAN, DESMOND HOLLAND, CHRIS KELLEY, TED ROUNDY, TIM
22 WILLIAMSON, BRANDON ROBERTS, ANDREA FOSTER, CHARLES
23 GILBERT, DR. KATHRYN BARDEN, LAURA MOORE, DR. DARYL GWYN,
24 DR. NANCY HENDERSON, DR. BRETT WOODARD, RORY JONES, TONY
25 WHEELER, MELINDA NICHOLSON, SHANE PHILLIPS, FREDERICK

1 MITCHELL? IS ANY MEMBER OF THE JURY PANEL RELATED BY
2 BLOOD OR MARRIAGE, CLOSE PERSONAL FRIEND OR BUSINESS
3 ASSOCIATE OF ANY OF THE POTENTIAL WITNESSES IN THIS CASE?
4 IF YOU WOULD PLEASE STAND AT THIS TIME.

5 ALL RIGHT. WE'LL STAND OVER ON THE FRONT ON THIS
6 SIDE IF YOU WOULD, PLEASE.

7 YES, MA'AM. YOUR NAME, PLEASE.

8 PROSPECTIVE JUROR STACEY SMITH: MY NAME IS STACEY
9 SMITH. I WORK AT OCONEE MEDICAL CENTER AND I DO KNOW
10 LAURA MOORE, BUT NOT, WE DON'T WORK CLOSE TOGETHER.

11 THE COURT: ALL RIGHT. IF SHE WAS A POTENTIAL
12 WITNESS IN THIS CASE WOULD THAT IN ANY WAY AFFECT YOUR
13 ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT A FAIR
14 AND IMPARTIAL TRIAL?

15 PROSPECTIVE JUROR STACEY SMITH: NO, SIR, IT WOULD
16 NOT.

17 THE COURT: VERY GOOD. THANK YOU, MA'AM.
18 YES, SIR.

19 PROSPECTIVE JUROR CARVER: KEVIN CARVER.

20 THE COURT: YES, SIR.

21 PROSPECTIVE JUROR CARVER: RANDY STEVENS IS A CLOSE
22 PERSONAL FRIEND.

23 THE COURT: WOULD IT IN ANY WAY INTERFERE WITH YOUR
24 ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT A FAIR
25 AND IMPARTIAL TRIAL?

1 PROSPECTIVE JUROR CARVER: NO, SIR.

2 THE COURT: VERY GOOD. THANK YOU, SIR.

3 YES, MA'AM.

4 PROSPECTIVE JUROR: I HAVE WORKED IN THE PAST WITH
5 LAURA MOORE AT THE OCONEE MEMORIAL HOSPITAL BUT NOT LIKE
6 A CLOSE RELATIONSHIP, BUT I HAVE WORKED WITH HER IN THE
7 PAST.

8 THE COURT: ALL RIGHT. AND YOUR NAME, PLEASE,
9 MA'AM?

10 PROSPECTIVE JUROR HAWKINS: MARCIA HAWKINS.

11 THE COURT: WOULD THAT IN ANY WAY INTERFERE WITH
12 YOUR ABILITY TO GIVE THE STATE AND THE DEFENDANT A FAIR
13 AND IMPARTIAL TRIAL?

14 PROSPECTIVE JUROR HAWKINS: NO, SIR.

15 THE COURT: YES, SIR.

16 PROSPECTIVE JUROR: PAIGE WILLIAMS IS AN OLD FRIEND.

17 THE COURT: ALL RIGHT. WOULD THAT IN ANY WAY --
18 YOUR NAME, PLEASE.

19 PROSPECTIVE JUROR NELSON: TIM NELSON.

20 THE COURT: ALL RIGHT. WOULD THAT IN ANY WAY
21 INTERFERE WITH YOUR ABILITY TO GIVE BOTH THE STATE AND
22 THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

23 PROSPECTIVE JUROR: NO, SIR.

24 THE COURT: THANK YOU, SIR.

25 YES, SIR.

1 PROSPECTIVE JUROR: LAURA MOORE WAS A GOOD FRIEND OF
2 MINE IN THE PAST.

3 THE COURT: ALL RIGHT. AND YOUR NAME, PLEASE.

4 PROSPECTIVE JUROR JASON SMITH: JASON SMITH.

5 THE COURT: ALL RIGHT. AND WOULD THAT IN ANY WAY
6 INTERFERE WITH YOUR ABILITY TO GIVE BOTH THE STATE AND
7 THE DEFENDANT A FAIR AND IMPARTIAL TRIAL IF SHE WAS A
8 WITNESS?

9 PROSPECTIVE JUROR JASON SMITH: NO.

10 THE COURT: THANK YOU VERY MUCH, SIR.

11 YES, MA'AM.

12 PROSPECTIVE JUROR CATCHINGS: CAROL CATCHINGS.

13 LAURA MOORE WAS MY SUPERVISOR WHERE I WORKED, BUT THERE
14 WAS NO CLOSE PERSONAL TIES.

15 THE COURT: ALL RIGHT. WOULD THAT IN ANY WAY
16 INTERFERE WITH YOUR ABILITY TO GIVE BOTH THE STATE AND
17 THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

18 PROSPECTIVE JUROR CATCHINGS: NO, SIR.

19 THE COURT: VERY GOOD. THANK YOU, MA'AM.

20 WAS ANY MEMBER OF THE JURY PANEL A MEMBER OF THE
21 GRAND JURY THAT FOUND AND RETURNED THE INDICTMENT IN THIS
22 CASE? IF SO, PLEASE STAND. (NO RESPONSE.)

23 HAS ANY MEMBER OF THE PANEL, OF THE JURY PANEL A
24 FAMILY MEMBER OR CLOSE PERSONAL FRIEND EVER BEEN EMPLOYED
25 BY OR PROSECUTED BY THE 10TH CIRCUIT SOLICITOR'S OFFICE?

1 THAT IS THE SOLICITOR'S OFFICE IN ANDERSON AND IN OCONEE
2 COUNTY. ANY MEMBER OF THE JURY PANEL, FAMILY MEMBER OR
3 CLOSE PERSONAL FRIEND EVER BEEN PROSECUTED OR EMPLOYED BY
4 THE 10TH CIRCUIT SOLICITOR'S OFFICE IN ANDERSON AND
5 OCONEE COUNTY, IF YOU WOULD PLEASE STAND AT THIS TIME.

6 YES, MA'AM.

7 PROSPECTIVE JUROR: I'M RHONDA TODD. MY
8 DAUGHTER-IN-LAW, ASHLEY BARNES TODD, USED TO WORK FOR THE
9 SOLICITOR'S OFFICE IN OCONEE COUNTY.

10 THE COURT: ALL RIGHT. WOULD THAT IN ANY WAY
11 INTERFERE WITH YOUR ABILITY TO GIVE THE STATE AND THE
12 DEFENDANT A FAIR AND IMPARTIAL TRIAL?

13 PROSPECTIVE JUROR TODD: NO. NO, SIR.

14 THE COURT: VERY GOOD. THANK YOU, MA'AM.

15 ANYONE ELSE?

16 YES, MA'AM. MS. CATCHINGS?

17 PROSPECTIVE JUROR CATCHINGS: I'M NOT SURE WHETHER
18 OR NOT THIS WOULD APPLY. BUT MY SON, RONALD, WHEN HE WAS
19 IN HIGH SCHOOL, WAS CHARGED WITH A DUI AND THERE WAS A
20 COURT ---

21 THE COURT: WELL, LET ME ASK YOU, WOULD THAT IN ANY
22 WAY INTERFERE WITH YOUR ABILITY TO GIVE BOTH THE STATE
23 AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

24 PROSPECTIVE JUROR CATCHINGS: NO, SIR.

25 THE COURT: VERY GOOD. THANK YOU, MA'AM.

1 ANYONE ELSE? (NO RESPONSE.)

2 HAS ANY MEMBER OF THE JURY PANEL BEEN REPRESENTED BY
3 OR EMPLOYED BY THE LAW FIRM OF SENERIUS AND TYE? IF SO,
4 PLEASE STAND. (NO RESPONSE.)

5 IS THERE ANY MEMBER OF THE JURY PANEL WHO KNOWS
6 PERSONALLY OR PROFESSIONALLY ANY OF THE ATTORNEYS ON
7 EITHER SIDE OF THIS CASE? IF SO PLEASE STAND. BOTH THE
8 SOLICITOR'S OFFICE AND THE SENERIUS FIRM. (NO RESPONSE.)

9 HAS ANY MEMBER OF THE JURY PANEL READ ANYTHING,
10 EITHER ON-LINE OR IN ANY NEWSPAPER OR ANYWHERE ELSE ABOUT
11 THIS CASE OR MR. MATTHEW HINTON, MR. MATTHEW TAYLOR
12 HINTON, SPECIFICALLY BUT NOT LIMITED SPECIFICALLY TO THE
13 SENECA JOURNAL, THE JOURNAL OR THE JOURNAL ON-LINE,
14 PLEASE STAND.

15 ALL RIGHT. WE'LL START OVER HERE ON THIS SIDE
16 AGAIN. THE GENTLEMAN ON THE FRONT.

17 PROSPECTIVE JUROR MAKINSON: YES. DAVID MAKINSON, I
18 READ THE ARTICLES, YEAH.

19 THE COURT: IN THE NEWSPAPER?

20 PROSPECTIVE JUROR MAKINSON: UH-HUH.

21 THE COURT: ALL RIGHT. CAN YOU LAY ASIDE ANY
22 OUTSIDE KNOWLEDGE OR INFORMATION RECEIVED PRIOR TO THIS
23 TRIAL FROM ANY SOURCE WHATSOEVER, AND SETTING ASIDE SUCH
24 KNOWLEDGE AND INFORMATION, RENDER A FAIR AND IMPARTIAL
25 VERDICT BASED SOLELY ON THE LAW AND EVIDENCE PRESENTED

1 AND RECEIVED DURING THE TRIAL OF THIS CASE?

2 PROSPECTIVE JUROR MAKINSON: YES.

3 THE COURT: VERY GOOD. THANK YOU, SIR.

4 YES, MA'AM. YOUR NAME, PLEASE.

5 PROSPECTIVE JUROR TAYLOR: LINDA TAYLOR. I'VE READ
6 THE NEWSPAPER.

7 THE COURT: ALL RIGHT. CAN YOU LAY ASIDE ANY
8 OUTSIDE KNOWLEDGE OR ANY INFORMATION RECEIVED PRIOR TO
9 THE TRIAL FROM ANY SOURCE WHATSOEVER AND, SETTING ASIDE
10 SUCH KNOWLEDGE OR INFORMATION, RENDER A FAIR AND
11 IMPARTIAL VERDICT BASED SOLELY ON THE LAW AND EVIDENCE
12 PRESENTED AND RECEIVED DURING THE TRIAL OF THIS CASE?

13 PROSPECTIVE JUROR TAYLOR: I BELIEVE SO.

14 THE COURT: NOW, AGAIN, AS I EXPLAINED EARLIER, I
15 HAVE TO BE SURE THAT YOU ARE SATISFIED THAT YOU COULD DO
16 THAT WITHOUT RESERVATIONS.

17 PROSPECTIVE JUROR TAYLOR: YES, SIR.

18 THE COURT: YOU ARE SATISFIED YOU COULD RENDER BOTH
19 A FAIR AND IMPARTIAL TRIAL AND A VERDICT AS TO BOTH THE
20 STATE AND THE DEFENDANT?

21 PROSPECTIVE JUROR TAYLOR: YES, SIR.

22 THE COURT: VERY GOOD. THANK YOU.

23 YES, SIR. IF YOU WOULD GIVE US YOUR NAME, PLEASE.

24 PROSPECTIVE JUROR WRIGHT: MY NAME IS MIKE WRIGHT.

25 THE COURT: YES, SIR.

1 PROSPECTIVE JUROR WRIGHT: I READ ABOUT THE CASE
2 WHEN IT HAPPENED. I KEPT UP WITH IT IN THE JOURNAL SINCE
3 THEN AND READ ABOUT WHATEVER NEWS WAS ON THE INTERNET.
4 I'M ALSO A PARENT AND A GRANDPARENT. YOUR HONOR, I DON'T
5 THINK I CAN GIVE A FAIR TRIAL.

6 THE COURT: THAT'S A VERY CANDID ANSWER, AND I THANK
7 YOU, AND FOR THAT REASON I WILL EXCUSE YOU, BUT I DO
8 THANK YOU FOR BEING HERE, THOUGH. IF YOU WOULD STAY WITH
9 US. THANK YOU, SIR.

10 ALL RIGHT. WE'LL START ON THAT SIDE. YOUR NAME,
11 PLEASE?

12 PROSPECTIVE JUROR MCALEER: MY NAME IS NANCY
13 MCALEER. AND I'VE READ ABOUT IT IN THE PAPER. I'M ALSO
14 A SOCIAL WORKER AND HAVE PAST EXPERIENCE WITH CHILD
15 PROTECTIVE SERVICES.

16 THE COURT: ALL RIGHT. WOULD THAT IN ANY WAY -- CAN
17 YOU LAY ASIDE ANY OUTSIDE KNOWLEDGE OR ANY INFORMATION
18 RECEIVED PRIOR TO THIS TRIAL FROM ANY SOURCE WHATSOEVER
19 AND, SETTING ASIDE SUCH KNOWLEDGE OR INFORMATION, RENDER
20 A FAIR AND IMPARTIAL VERDICT BASED SOLELY ON THE LAW AND
21 EVIDENCE PRESENTED AND RECEIVED DURING THE TRIAL OF THE
22 CASE?

23 PROSPECTIVE JUROR MCALEER: HONESTLY, I DON'T KNOW
24 THAT I COULD.

25 THE COURT: VERY GOOD. I'M GOING TO EXCUSE YOU ON

1 THE TRIAL OF THIS CASE. THANK YOU VERY MUCH, MA'AM. YOU
2 HAVE TO STAY WITH US UNTIL I FINISH, BUT YOU WILL BE
3 EXCUSED ON THE CASE. THANK YOU.

4 YES, MA'AM.

5 PROSPECTIVE JUROR: THE SAME. I FOLLOWED THE STORY
6 SINCE THE BEGINNING, AND I BELIEVE I, I WOULDN'T BE A
7 FAIR JUROR.

8 THE COURT: ALL RIGHT. YOUR NAME, PLEASE?

9 PROSPECTIVE JUROR CANTRELL: MY NAME IS TRACY
10 CANTRELL.

11 THE COURT: ALL RIGHT, MS. CANTRELL. BUT THANK YOU.
12 BUT DO STAY WITH US, BUT YOU WILL BE EXCUSED FOR THE
13 TRIAL OF THIS CASE.

14 YES, SIR. YOUR NAME, PLEASE?

15 PROSPECTIVE JUROR: CHRISTOPHER WILLIAMS.

16 THE COURT: YES, SIR.

17 PROSPECTIVE JUROR CHRISTOPHER WILLIAMS: I REMEMBER
18 JUST READING A LITTLE BIT OF BLURBS ABOUT IT AND HEARING
19 SOMETHING ABOUT IT.

20 THE COURT: CAN YOU LAY ASIDE ANY OUTSIDE KNOWLEDGE
21 OR ANY INFORMATION RECEIVED PRIOR TO THIS TRIAL FROM ANY
22 SOURCE WHATSOEVER, AND SETTING ASIDE SUCH KNOWLEDGE AND
23 INFORMATION, RENDER A FAIR AND IMPARTIAL VERDICT BASED
24 SOLELY ON THE LAW AND EVIDENCE RECEIVED DURING THE TRIAL
25 OF THIS CASE?

1 PROSPECTIVE JUROR CHRISTOPHER WILLIAMS: YES, SIR.

2 THE COURT: YOU SURE? YOU CERTAIN?

3 PROSPECTIVE JUROR CHRISTOPHER WILLIAMS: YES, SIR.

4 THE COURT: ALL RIGHT. THANK YOU VERY MUCH, SIR.

5 HAS ANY MEMBER OF THE JURY PANEL FORMED OR EXPRESSED
6 AN OPINION ABOUT ANY MATTER THAT MIGHT BE INVOLVED IN
7 THIS CASE? IF SO, PLEASE STAND. (NO RESPONSE.)

8 NOW, THE NEXT TWO QUESTIONS, I'M GOING TO ASK YOU TO
9 CONSIDER THEM TOGETHER. AND I'M GOING TO ASK YOU TO
10 CONSIDER BOTH QUESTIONS, I'M GOING TO READ BOTH QUESTIONS
11 AND THEN ASK YOU TO STAND IF YOU THINK THE QUESTIONS
12 MIGHT APPLY TO YOU OR EVEN IF YOU HAVE A QUESTION ABOUT
13 THE QUESTIONS THEMSELVES. AND IF YOU DO, I WOULD ASK YOU
14 TO COME FORWARD INDIVIDUALLY SO I MIGHT SPEAK TO YOU
15 PRIVATELY.

16 AGAIN, I'M GOING TO READ THE QUESTIONS TWICE.

17 HAVE YOU OR ANY MEMBER OF YOUR FAMILY OR A CLOSE
18 PERSONAL FRIEND EVER BEEN A VICTIM OF PHYSICAL CHILD
19 ABUSE OF ANY KIND? HAVE YOU OR ANY MEMBER OF YOUR FAMILY
20 OR CLOSE FRIEND OF FAMILY EVER BEEN INVESTIGATED OR
21 ACCUSED OF OR CONVICTED OF PHYSICAL CHILD ABUSE OF ANY
22 KIND? EITHER A BRANCH OF LAW ENFORCEMENT OR THE
23 DEPARTMENT OF SOCIAL SERVICES.

24 AGAIN, I'M GOING TO READ THE TWO QUESTIONS THROUGH
25 BOTH ANOTHER TIME, AND IT'S ONLY AFTER I FINISH READING

1 BOTH QUESTIONS, I'LL ASK ANYONE WHO THINKS THOSE
2 QUESTIONS MIGHT APPLY TO THEM OR HAVE QUESTIONS ABOUT THE
3 QUESTIONS THEMSELVES TO STAND, AND I'LL ASK YOU TO COME
4 FORWARD AND YOU CAN SPEAK PRIVATELY WITH ME.

5 DOES ANY MEMBER OF THE JURY PANEL OR ANY MEMBER OF
6 THEIR IMMEDIATE FAMILY OR CLOSE PERSONAL FRIEND EVER BEEN
7 A VICTIM OF PHYSICAL CHILD ABUSE OF ANY KIND, OR HAS ANY
8 MEMBER OF JURY PANEL OR A MEMBER OF THEIR IMMEDIATE
9 FAMILIES OR CLOSE PERSONAL FRIEND EVER BEEN INVESTIGATED
10 FOR OR ACCUSED OF OR CONVICTED OF PHYSICAL CHILD ABUSE OF
11 ANY KIND, BY EITHER A BRANCH OF LAW ENFORCEMENT OR THE
12 DEPARTMENT OF SOCIAL SERVICES?

13 NOW, IF YOU THINK EITHER OF THOSE QUESTIONS MIGHT
14 APPLY TO YOU, OR IF YOU HAVE A QUESTION ABOUT THE
15 QUESTIONS THEMSELVES, PLEASE STAND AT THIS TIME.

16 (A PROSPECTIVE JUROR APPROACHED THE BENCH.)

17 THE COURT: YES, MA'AM. YOUR NAME?

18 PROSPECTIVE JUROR: MY NAME IS LISHA PUTNAM.

19 THE COURT: YES, MA'AM.

20 WHAT NUMBER?

21 PROSPECTIVE JUROR PUTNAM: 109.

22 THE COURT: 109. THANK YOU.

23 PROSPECTIVE JUROR PUTNAM: MY SON IS 31 NOW. BUT
24 WHEN HE WAS LIKE THREE, A SITUATION HAPPENED TO WHERE MY
25 MOTHER WAS WATCHING HIM, BUT THEN THIS FRIEND THAT I WAS

1 WITH GAVE HER ALCOHOL AND THEN CALLED THE LAW, AND THEY
2 DID DO AN INVESTIGATION BUT THEY FOUND THAT EVERYTHING
3 WAS --

4 THE COURT: LET ME ASK YOU, WOULD THAT IN ANY WAY
5 INTERFERE WITH YOUR ABILITY TO GIVE BOTH THE STATE AND
6 THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

7 PROSPECTIVE JUROR PUTNAM: WELL, TO BE HONEST WITH
8 YOU, I JUST DON'T THINK I COULD SERVE ON THIS.

9 THE COURT: I'M GOING TO EXCUSE YOU.

10 PROSPECTIVE JUROR PUTNAM: YOU KNOW, I APOLOGIZE --

11 THE COURT: NO, NO. YOU DID EXACTLY RIGHT. THAT'S
12 WHY I ASKED THE QUESTION.

13 PROSPECTIVE JUROR PUTNAM: -- BUT I JUST DON'T THINK
14 I COULD BE IMPARTIAL. I'VE GOT THREE KIDS AND I LOVE
15 THEM.

16 THE COURT: THAT'S WHY I ASKED. I'M GOING TO EXCUSE
17 YOU, BUT DO STAY WITH US.

18 (PROSPECTIVE JUROR LISHA F. PUTNAM WAS
19 EXCUSED FROM THE TRIAL OF THIS CASE BY THE
20 COURT.)

21 (A JUROR APPROACHED THE BENCH.)

22 POTENTIAL JUROR HARTMAN: JAMES HARTMAN. MY
23 GRANDDAUGHTER IS DEALING WITH CHILD NEGLECT.

24 THE COURT: ALL RIGHT. I'M GOING TO ASK YOU, WOULD
25 THAT INTERFERE WITH YOUR ABILITY TO GIVE BOTH THE STATE

1 AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

2 PROSPECTIVE JUROR HARTMAN: YES.

3 THE COURT: ALL RIGHT. I'M GOING TO EXCUSE YOU ON
4 THE TRIAL OF THIS CASE, BUT THANK YOU, SIR.

5 (JAMES HARTMAN, PROSPECTIVE JUROR NUMBER 56,
6 WAS EXCUSED ON THE TRIAL OF THIS CASE BY THE
7 COURT.)

8 (A JUROR APPROACHED THE BENCH.)

9 THE COURT: YOUR NAME, PLEASE?

10 POTENTIAL JUROR SULLIVAN: ASHLEY SULLIVAN. MY
11 SISTER'S HUSBAND WAS, HE WAS DRIVING AND MY NIECES WERE
12 BOTH IN THE CAR, AND HE WAS UNDER DRUGS AT THE TIME THEY
13 WRECKED, AND HE WAS PUT IN JAIL.

14 THE COURT: ALL RIGHT. WOULD THAT IN ANY WAY
15 INTERFERE WITH YOUR ABILITY TO GIVE BOTH THE STATE AND
16 THE DEFENDANT A FAIR AND IMPARTIAL TRIAL IN THIS CASE?

17 PROSPECTIVE JUROR SULLIVAN: NO. IT'S JUST HARD TO
18 TALK ABOUT, BUT NO, SIR.

19 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

20 MS. SIMMONS: WHAT WAS HER NUMBER?

21 THE CLERK: 129.

22 (A JUROR APPROACHED THE BENCH.)

23 THE COURT: YES, MA'AM. YOUR NAME, PLEASE?

24 PROSPECTIVE JUROR FASSETT: PANSY FASSETT.

25 THE COURT: DO YOU KNOW WHAT YOUR NUMBER IS?

1 PROSPECTIVE JUROR FASSETT: 46. MY SON WAS
2 INVESTIGATED FOR POSSIBLY ABUSING HIS CHILD, BUT HE
3 WASN'T FOUND GUILTY.

4 THE COURT: THAT WOULD IN ANY WAY INTERFERE WITH
5 YOUR ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT A
6 FAIR AND IMPARTIAL TRIAL IN THIS CASE?

7 PROSPECTIVE JUROR FASSETT: NO.

8 THE COURT: VERY GOOD. THANK YOU.

9 (A JUROR APPROACHED THE BENCH.)

10 THE COURT: GOOD MORNING, SIR.

11 PROSPECTIVE JUROR CHRISTOPHER WILLIAMS: GOOD
12 MORNING. CHRISTOPHER WILLIAMS.

13 THE COURT: DO YOU KNOW WHAT NUMBER HE IS?

14 THE CLERK: 244.

15 THE COURT: 244.

16 PROSPECTIVE JUROR CHRISTOPHER WILLIAMS: I'VE HAD A
17 COUPLE FRIENDS WHO HAVE BEEN, ONE WAS SEXUALLY ABUSED AS
18 A CHILD AND ONE PHYSICALLY ABUSED.

19 THE COURT: WOULD THAT IN ANY WAY INTERFERE WITH
20 YOUR ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT A
21 FAIR AND IMPARTIAL TRIAL IN THIS CASE?

22 PROSPECTIVE JUROR: UM...

23 THE COURT: I AM GOING TO EXCUSE YOU. BUT THANK YOU
24 FOR YOUR CANDOR IN COMING FORWARD, BUT JUST STAY WITH US

25 (A JUROR APPROACHED THE BENCH.)

1 THE COURT: YES, MA'AM. YOUR NAME, PLEASE?

2 PROSPECTIVE JUROR TAYLOR: SUSAN TAYLOR. A FRIEND
3 OF OURS, MY DAUGHTER'S ON THE TRACK TEAM WITH HER, SAID
4 SHE HAD BEEN SEXUALLY ABUSED BY HER STEPFATHER.

5 THE COURT: WOULD THAT IN ANY WAY INTERFERE WITH
6 YOUR ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT A
7 FAIR AND IMPARTIAL TRIAL IN THIS CASE?

8 PROSPECTIVE JUROR: I BELIEVE SO.

9 THE COURT: ALL RIGHT. I'LL EXCUSE YOU.

10 THE COURT REPORTER: WHAT WAS HER NUMBER?

11 THE CLERK: 131.

12 THE COURT REPORTER: THANK YOU.

13 (PROSPECTIVE JUROR NUMBER 131, SUSAN TAYLOR,
14 WAS EXCUSED FROM THE TRIAL OF THIS CASE BY
15 THE COURT.)

16 (A JUROR APPROACHED THE BENCH.)

17 THE COURT: YES, SIR. YOUR NAME, PLEASE.

18 PROSPECTIVE JUROR HOLLINGER: PHILIP HOLLINGER.

19 THE COURT: YES, SIR.

20 PROSPECTIVE JUROR HOLLINGER: MANY PEOPLE AT THE
21 BOYS CAMP ARE AFFECTED BY CHILD ABUSE.

22 THE COURT: WOULD THAT IN ANY WAY INTERFERE WITH
23 YOUR ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT A
24 FAIR AND IMPARTIAL TRIAL?

25 PROSPECTIVE JUROR HOLLINGER: YES.

1 THE COURT: I'LL EXCUSE YOU FROM THE TRIAL OF THIS
2 CASE. BUT STAY WITH US, THOUGH. THANK YOU, SIR.

3 THE CLERK: HE WAS NUMBER 63.

4 (PROSPECTIVE JUROR PHILIP HOLLINGER, NUMBER
5 63, WAS EXCUSED FROM THE TRIAL OF THIS CASE
6 BY THE COURT.)

7 (A JUROR APPROACHED THE BENCH.)

8 THE COURT: YES, MA'AM. YOUR NAME, PLEASE?

9 PROSPECTIVE JUROR: MY DAUGHTER IS INVOLVED IN A
10 CASE --

11 THE COURT: YOUR NAME, PLEASE?

12 PROSPECTIVE JUROR THRIFT: MARTHA THRIFT -- AND
13 SHE'S A PERSONAL FRIEND OF RORY.

14 THE COURT: ALL RIGHT. I'M GOING TO EXCUSE YOU ON
15 THE TRIAL OF THIS CASE. THANK YOU VERY MUCH.

16 (PROSPECTIVE JUROR MARTHA THRIFT, NUMBER 232,
17 WAS EXCUSED ON THE TRIAL OF THIS CASE BY THE
18 COURT.)

19 THE COURT: ANYONE ELSE? (NO RESPONSE.)

20 IS ANY MEMBER OF THE JURY PANEL AWARE OF ANY
21 INTEREST, BIAS OR PREJUDICE TOWARDS EITHER THE DEFENDANT
22 OR THE STATE OF SOUTH CAROLINA? IF SO, PLEASE STAND. (NO
23 RESPONSE.)

24 DOES ANY MEMBER OF THE JURY PANEL KNOW OF ANY REASON
25 WHY HE OR SHE COULD NOT GIVE BOTH THE STATE OF SOUTH

1 CAROLINA AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?
2 IF SO, PLEASE STAND.

3 YES, MA'AM. IF YOU WOULD COME FORWARD, PLEASE.

4 (A JUROR APPROACHED THE BENCH.)

5 THE COURT: YES, MA'AM.

6 PROSPECTIVE JUROR KOGLIN: DIANE KOGLIN. I HAD A
7 STALKER FOR 17 YEARS AND HE CARRIED A CONCEALED WEAPON.

8 THE COURT: I'LL EXCUSE YOU ON THE TRIAL OF THIS
9 CASE, BUT I DO WANT TO THANK YOU.

10 PROSPECTIVE JUROR KOGLIN: SO DO I HAVE TO WAIT
11 HERE?

12 THE COURT: JUST WAIT TILL WE FINISH THIS MORNING.

13 PROSPECTIVE JUROR KOGLIN: OKAY.

14 THE COURT REPORTER: WHAT WAS HER NUMBER?

15 THE CLERK: NUMBER 70.

16 (PROSPECTIVE JUROR DIANE KOGLIN, NUMBER 70,
17 WAS EXCUSED ON THE TRIAL OF THIS CASE BY THE
18 COURT.)

19 (A JUROR APPROACHED THE BENCH.)

20 THE COURT: YES, SIR. YOUR NAME, PLEASE.

21 PROSPECTIVE JUROR OLIVER: I'M KEITH OLIVER, 101. I
22 HAVE TWO ADOPTED CHILDREN, ONE OUT OF A FOSTER HOME; AND
23 I WOULD PROBABLY HAVE A HARD TIME.

24 THE COURT: I WILL EXCUSE YOU ON THE TRIAL. I THANK
25 YOU FOR BEING HERE AND FOR YOUR CANDOR. BUT STAY WITH US

1 UNTIL WE'RE FINISHED. YOU MAY BE EXCUSED.

2 ANYONE ELSE? (NO RESPONSE.)

3 ALL RIGHT. IN THE MODERN AGE WE NO LONGER USE -- I
4 DON'T KNOW IF THEY EVEN HAVE IT HERE -- WE USED TO HAVE A
5 DRUM WHERE WE WOULD PUT EACH JUROR'S NAME IN A CAPSULE
6 AND PUT IT IN A DRUM AND HAVE SOMEONE WHO WAS EITHER
7 LEGALLY BLIND OR A CHILD WHO COULD NOT READ OR WRITE TO
8 DRAW IN THE DRUM AND PULL OUT A CAPSULE AND THEN WHEN
9 THAT NAME WAS READ, THE PERSON WOULD COME FORWARD, AND
10 THAT'S HOW WE WOULD DRAW JURIES.

11 NOW WE HAVE COMPUTERS. THE ONLY THING IS -- AND I
12 HOPE YOU UNDERSTAND THAT IT'S NO REAL -- BUT IT'S ONLY AN
13 OBSERVATION. AND THEY'RE WONDERFUL WHEN THEY WORK. AND
14 SO WE'LL WAIT AND SEE. BECAUSE THIS WILL PREPARE A
15 RANDOM LIST OF YOUR NAMES; IN OTHER WORDS, SO WHEN THE
16 LIST IS PRINTED, THEN WE'LL BE ABLE TO CALL YOU AND IT
17 WILL BE, AS I SAY, A RANDOM SELECTION.

18 AND THEN ONCE THAT PROCESS IS STARTED, THE CLERK
19 WILL CALL THE NAME IN THE ORDER THAT IT APPEARS IN THIS
20 RANDOM SHEET, WHICH WOULD ONLY BE THOSE WHO ARE QUALIFIED
21 FOR THIS PARTICULAR CASE. AND IF YOUR NAME IS CALLED, IF
22 YOU WOULD COME FORWARD, AND BRINGING ANYTHING THAT YOU
23 MIGHT HAVE WITH YOU, AND STAND IN THE FRONT OF THE
24 COURTROOM WHERE THE BAILIFF IS NOW STANDING AND LOOK
25 TOWARDS THE BACK OF THE COURTROOM. AND THEN THE STATE

1 WILL GO FIRST SAYING EITHER "PRESENT THE JUROR" OR
2 "EXCUSE THE JUROR."

3 THEN THE DEFENSE WILL EITHER SAY "SWEAR THE JUROR"
4 OR "EXCUSE THE JUROR." AND THAT WAY WE WILL SELECT THE
5 12 JURORS WHO WILL SIT AS THE TRIAL JURY. AND IN THIS
6 CASE I'M GOING TO ASK THAT WE ALSO HAVE THREE ALTERNATES.

7 IS THAT -- MADAM SOLICITOR?

8 MS. SIMMONS: NO OBJECTION, YOUR HONOR.

9 THE COURT: ANY OBJECTION?

10 MR. SENERIUS: NO, SIR.

11 THE COURT: VERY GOOD. WE'LL ALSO HAVE THREE
12 ALTERNATES. EXCUSE ME. TWO. TWO. I'M SORRY. I GOT
13 THAT CONFUSED.

14 MR. SENERIUS: TWO ALTERNATES?

15 THE COURT: TWO ALTERNATES.

16 ALL RIGHT. AS I UNDERSTAND IT, THIS CASE WILL BE
17 TEN AND TWO --

18 IS THAT CORRECT, MADAM SOLICITOR? TEN AND FIVE.
19 EXCUSE ME. I GOT AHEAD OF MYSELF. TEN AND FIVE?

20 MS. SIMMONS: YES, YOUR HONOR.

21 THE COURT: IS THAT CORRECT, MR. SENERIUS?

22 MR. SENERIUS: YES, SIR.

23 THE COURT: AND THEN ONE AND TWO?

24 MR. SENERIUS: YES, SIR.

25 MS. SIMMONS: YES, SIR.

1 THE COURT: VERY GOOD. THANK YOU.

2 ARE YOU READY, MADAM CLERK?

3 THE CLERK: YES, SIR.

4 THE COURT: ALL RIGHT. GIVE US A JURY, MADAM CLERK.

5 THE CLERK: LADIES AND GENTLEMEN, AS I CALL YOUR

6 NAME, IF YOU WOULD PLEASE COME FORWARD BRINGING YOUR

7 PERSONAL BELONGINGS. IF YOU WILL WALK UP TO THE BAR AND

8 TURN AND FACE THE AUDIENCE.

9 NUMBER 146, HUGH WILSON (WHITE MALE).

10 WHAT SAY THE STATE?

11 MS. SIMMONS: PLEASE PRESENT THE JUROR.

12 THE CLERK: WHAT SAY THE DEFENSE?

13 MR. SENERIUS: PLEASE SWEAR THE JUROR.

14 THE CLERK: PLEASE TAKE A SEAT IN THE JURY-BOX.

15 NUMBER 233, RHONDA TODD, (WHITE FEMALE).

16 WHAT SAYETH THE STATE?

17 MS. SIMMONS: PLEASE PRESENT THE JUROR.

18 THE CLERK: WHAT SAY THE DEFENSE?

19 MR. SENERIUS: PLEASE EXCUSE THE JUROR.

20 THE CLERK: MA'AM, YOU HAVE BEEN EXCUSED FROM THIS
21 CASE. YOU MAY BE SEATED.

22 NUMBER 83, DAVID MAKINSON (WHITE MALE).

23 WHAT SAYETH THE STATE?

24 MS. SIMMONS: PLEASE PRESENT THE JUROR.

25 THE CLERK: WHAT SAY THE DEFENSE?

1 MR. SENERIUS: PLEASE EXCUSE THE JUROR.

2 THE CLERK: SIR, YOU HAVE BEEN EXCUSED FROM THIS
3 CASE. YOU MAY BE SEATED.

4 NUMBER 133, DON TOWE, (WHITE MALE).

5 WHAT SAYETH THE STATE?

6 MS. SIMMONS: PLEASE PRESENT THE JUROR.

7 THE CLERK: WHAT SAY THE DEFENSE?

8 MR. SENERIUS: PLEASE SWEAR THE JUROR.

9 THE CLERK: NUMBER 222, BRENT SMITH (WHITE MALE).

10 WHAT SAYETH THE STATE?

11 MS. SIMMONS: PLEASE PRESENT THE JUROR.

12 THE CLERK: WHAT SAYETH THE DEFENSE?

13 MR. SENERIUS: PLEASE SWEAR THE JUROR.

14 THE CLERK: SIR, IF YOU WOULD PLEASE TAKE A SEAT IN
15 THE JURY-BOX.

16 NUMBER 40, CYNTHIA DOHERTY (WHITE FEMALE).

17 WHAT SAYETH THE STATE?

18 MS. SIMMONS: PLEASE PRESENT THE JUROR.

19 THE CLERK: WHAT SAY THE DEFENSE?

20 MR. SENERIUS: PLEASE EXCUSE THE JUROR.

21 THE CLERK: MA'AM, YOU HAVE BEEN EXCUSED FROM THIS
22 CASE. YOU MAY BE SEATED.

23 NUMBER 181, MARGARET GIBSON (WHITE FEMALE).

24 WHAT SAYETH THE STATE?

25 MS. SIMMONS: PLEASE PRESENT THE JUROR.

1 THE CLERK: WHAT SAY DEFENSE?
2 MR. SENERIUS: PLEASE SEAT THE JUROR.
3 THE CLERK: MA'AM, IF YOU WOULD PLEASE TAKE A SEAT
4 IN THE JURY-BOX.
5 NUMBER 187, DAVID HERRING, (WHITE MALE).
6 WHAT SAYETH THE STATE?
7 MS. SIMMONS: PRESENT THE JUROR.
8 THE CLERK: WHAT SAY THE DEFENSE?
9 MR. SENERIUS: PLEASE EXCUSE THE JUROR.
10 THE CLERK: SIR, YOU HAVE BEEN EXCUSED FROM THIS
11 CASE. YOU MAY BE SEATED.
12 NUMBER 98, RICKIE NELMS (WHITE MALE).
13 WHAT SAYETH THE STATE?
14 MS. SIMMONS: PLEASE PRESENT THE JUROR.
15 THE CLERK: WHAT SAY THE DEFENSE?
16 MR. SENERIUS: PLEASE SEAT THE JUROR.
17 THE CLERK: SIR, IF YOU WOULD PLEASE TAKE A SEAT IN
18 THE JURY-BOX.
19 NUMBER 229, MICHAEL TATE (WHITE MALE).
20 WHAT SAYETH THE STATE?
21 MS. SIMMONS: PLEASE PRESENT THE JUROR.
22 THE CLERK: WHAT SAY THE DEFENSE?
23 MR. SENERIUS: PLEASE SEAT THE JUROR.
24 THE CLERK: SIR, IF YOU WOULD PLEASE TAKE A SEAT IN
25 THE JURY-BOX.

1 NUMBER 157, MAYRA BONILLA (HISPANIC FEMALE).
2 WHAT SAYETH THE STATE?
3 MS. SIMMONS: PLEASE EXCUSE THE JUROR FROM THE TRIAL
4 OF THIS CASE.
5 THE CLERK: MA'AM, YOU HAVE BEEN EXCUSED FROM THIS
6 CASE. YOU MAY BE SEATED.
7 NUMBER 55, JOHN HAMMETT (WHITE MALE).
8 WHAT SAYETH THE STATE?
9 MS. SIMMONS: PLEASE PRESENT THE JUROR.
10 THE CLERK: WHAT SAY THE DEFENSE?
11 MR. SENERIUS: PLEASE SEAT THE JUROR.
12 THE CLERK: NUMBER 246, SHAWN WILLIAMSON (WHITE
13 MALE).
14 WHAT SAYETH THE STATE?
15 MS. SIMMONS: PLEASE PRESENT THE JUROR.
16 THE CLERK: WHAT SAY THE DEFENSE.
17 MR. SENERIUS: SEAT THE JUROR.
18 THE CLERK: SIR, IF YOU WOULD PLEASE TAKE A SEAT IN
19 THE JURY-BOX.
20 NUMBER 62, RYAN HIX (WHITE MALE).
21 WHAT SAYETH THE STATE?
22 MS. SIMMONS: PLEASE PRESENT THE JUROR.
23 THE CLERK: WHAT SAY THE DEFENSE?
24 MR. SENERIUS: PLEASE SEAT THE JUROR.
25 THE CLERK: SIR, IF YOU WOULD PLEASE TAKE A SEAT IN

1 THE JURY-BOX.

2 NUMBER 111, SAMUEL QUALLS (WHITE MALE).

3 WHAT SAYETH THE STATE?

4 MS. SIMMONS: PLEASE EXCUSE THE JUROR FROM THE TRIAL
5 OF THIS CASE.

6 THE CLERK: SIR, YOU HAVE BEEN EXCUSED FROM THIS
7 CASE. YOU MAY BE SEATED.

8 NUMBER 236, PAULUS VOS (WHITE MALE).

9 WHAT SAYETH THE STATE?

10 MS. SIMMONS: PLEASE PRESENT THE JUROR.

11 THE CLERK: WHAT SAY THE DEFENSE?

12 MR. SENERIUS: PLEASE SWEAR THE JUROR.

13 THE CLERK: SIR, IF YOU WOULD PLEASE TAKE A SEAT IN
14 THE JURY-BOX.

15 NUMBER 494, MICHAEL MOSS (BLACK MALE).

16 WHAT SAYETH THE STATE?

17 MS. SIMMONS: PLEASE PRESENT THE JUROR.

18 THE CLERK: WHAT SAY THE DEFENSE?

19 MR. SENERIUS: PLEASE SEAT THE JUROR.

20 THE CLERK: SIR, IF YOU WOULD PLEASE TAKE A SEAT IN
21 THE JURY-BOX.

22 NUMBER 78, GEORGE LIBBY (WHITE MALE).

23 WHAT SAYETH THE STATE?

24 MS. SIMMONS: PLEASE PRESENT THE JUROR.

25 THE CLERK: WHAT SAYETH THE DEFENSE?

1 MR. SENERIUS: PLEASE EXCUSE THE JUROR.

2 THE CLERK: SIR, YOU HAVE BEEN EXCUSED FROM THIS
3 CASE. YOU MAY BE SEATED.

4 NUMBER 208, LORETTA OWENS (WHITE FEMALE).
5 WHAT SAYETH THE STATE?

6 MS. SIMMONS: PLEASE PRESENT THE JUROR.

7 THE CLERK: WHAT SAY THE DEFENSE?

8 MR. SENERIUS: PLEASE SWEAR THE JUROR.

9 THE CLERK: MA'AM, IF YOU WOULD PLEASE TAKE A SEAT
10 IN THE JURY-BOX.

11 THIS IS FOR ALTERNATE NUMBER 1.

12 NUMBER 47, ALLAN FENDLEY (WHITE MALE).
13 WHAT SAYETH THE STATE?

14 MS. SIMMONS: PLEASE EXCUSE THE JUROR FROM THE TRIAL
15 OF THIS CASE.

16 THE CLERK: SIR, YOU HAVE BEEN EXCUSED FROM THIS
17 CASE. YOU MAY BE SEATED.

18 NUMBER 41, ANITA DOST (WHITE FEMALE).
19 WHAT SAYETH THE STATE?

20 MS. SIMMONS: PLEASE PRESENT THE JUROR.

21 THE CLERK: WHAT SAY THE DEFENSE?

22 MR. SENERIUS: PLEASE SEAT THE JUROR.

23 THE CLERK: SIR, IF YOU WOULD PLEASE TAKE A SEAT IN
24 THE JURY-BOX.

25 THIS IS ALTERNATE NUMBER 2.

1 NUMBER 95, THOMAS MUSSELMAN (WHITE MALE).

2 WHAT SAYETH THE STATE?

3 MS. SIMMONS: PLEASE PRESENT THE JUROR.

4 THE CLERK: WHAT SAY DEFENSE?

5 MR. SENERIUS: PLEASE EXCUSE THE JUROR.

6 THE CLERK: SIR, YOU HAVE BEEN EXCUSED FROM THIS
7 CASE. YOU MAY BE SEATED.

8 NUMBER 165, DAVID BULLARD (WHITE MALE).

9 WHAT SAYETH THE STATE?

10 MS. SIMMONS: PLEASE PRESENT THE JUROR.

11 THE CLERK: WHAT SAYETH THE DEFENSE?

12 MR. SENERIUS: PLEASE EXCUSE THE JUROR.

13 THE CLERK: SIR, YOU HAVE BEEN EXCUSED FROM THIS
14 CASE. YOU MAY BE SEATED.

15 NUMBER 14, RHONDA CADDELL (WHITE FEMALE).

16 WHAT SAYETH THE STATE?

17 MS. SIMMONS: PLEASE PRESENT THE JUROR.

18 THE CLERK: WHAT SAY THE DEFENSE FOR CAUSE?

19 MR. SENERIUS: PLEASE SWEAR THE JUROR.

20 THE CLERK: MA'AM, IF YOU WOULD PLEASE TAKE A SEAT
21 IN THE JURY-BOX.

22 OKAY.

23 THE COURT: ALL RIGHT. IS THERE ANY REASON THAT
24 THIS JURY CANNOT BE SWORN FOR THE TRIAL OF THIS CASE FROM
25 THE STATE?

1 MS. SIMMONS: NO, YOUR HONOR.

2 THE COURT: FROM THE DEFENSE?

3 MR. SENERIUS: NO, SIR.

4 THE COURT: VERY GOOD. MR. WILLIAMSON, I'M GOING TO
5 ASK YOU TO SERVE AS THE FOREPERSON OF THIS JURY. WHEN
6 YOU COME BACK FROM THE JURY ROOM, IF YOU WOULD SIT ON THE
7 FRONT ROW ON THE FIRST SEAT. AND LET'S SEE. MS. DOST
8 AND MS. CADDELL, IF YOU TWO WOULD ALWAYS SIT ON THOSE TWO
9 CHAIRS IN THE BACK ROW. THOSE ARE THE ONLY RESERVED
10 SEATS IN THE JURY-BOX. EVERYONE ELSE CAN SIT WHEREVER
11 THEY WANT TO, EXCEPT IN THAT FIRST SEAT IN THE FRONT ROW.
12 THAT'S THE ONE I USUALLY DON'T RESERVE. SO THE
13 FOREPERSON, MR. WILLIAMSON, WILL SIT IN THE FRONT SEAT
14 AND THEN THE TWO ALTERNATES WILL SIT IN THE SEATS ON THE
15 END ON THE BACK ROW.

16 NOW I'M GOING TO ASK YOU TO GO WITH THE BAILIFF WHO
17 WILL SHOW YOU WHICH JURY ROOM THAT YOU WILL BE USING
18 DURING THE TRIAL OF THIS CASE. NOW, MY INSTRUCTION IS
19 GOING TO BE JUST FOR A SHORT TIME BECAUSE I NEED TO TAKE
20 UP SOME THINGS WITH THE LAWYERS AS WELL AS THE BALANCE OF
21 THE JURY PANEL.

22 BUT MY INSTRUCTIONS THROUGHOUT THE TRIAL OF THIS
23 CASE IS GOING TO BE THAT YOU ARE NOT TO TAKE DISCUSSION,
24 EVEN AMONG YOURSELVES, UNTIL IT IS FINALLY GIVEN TO YOU
25 AT THE CONCLUSION OF THE CASE. NOW, THE REASON FOR THAT

1 IS A TRIAL FOLLOWS A CERTAIN PROCEDURE.

2 FIRST YOU HAVE OPENING STATEMENTS BY THE ATTORNEYS,
3 THEN YOU HAVE THE WITNESSES BY THE ATTORNEYS CALLING THE
4 WITNESSES, AND THEN YOU HAVE THE CLOSING ARGUMENT BY THE
5 ATTORNEYS, AND THEN FINALLY YOU HAVE THE CHARGE ON THE
6 LAW BY THE COURT. AND IT'S ONLY AFTER YOU GET ALL OF THE
7 EVIDENCE IN THE CASE THAT IS GIVEN TO YOU FOR YOUR
8 DELIBERATIONS.

9 BECAUSE IT FOLLOWS A CERTAIN ORDER, YOU NEVER KNOW
10 WHAT'S GOING TO BE THE MOST IMPORTANT PART OF THE CASE TO
11 YOU: IT COULD BE THE OPENING STATEMENTS OR THE FINAL
12 ARGUMENTS OR THE FIRST WITNESS OR LAST WITNESS OR THE
13 CHARGE ON THE LAW. BUT YOU NEED TO KEEP AN OPEN MIND
14 THROUGHOUT THE TRIAL OF THE CASE.

15 SO PLEASE DO NOT UNDERTAKE DISCUSSION OF THE CASE,
16 EVEN AMONG YOURSELVES, OR PERMIT ANYONE TO DISCUSS IT
17 WITH YOU. IF ANYONE SHOULD TRY TO DISCUSS THIS CASE OR
18 ANY OTHER CASE WITH YOU AT THIS TERM OF COURT, YOU ARE TO
19 IMMEDIATELY REPORT THAT TO THE COURT AND I WILL TAKE THE
20 APPROPRIATE ACTION.

21 SO IF YOU WOULD PLEASE RETIRE TO THE JURY ROOM WITH
22 THE BAILIFF, AND WHEN WE COME BACK, MR. WILLIAMSON, IF
23 YOU WOULD SIT THERE IN THE FOREPERSON'S SEAT.

24 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES
25 FROM THE COURTROOM.

1 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
2 APPROXIMATELY 12:39 P.M.)

3 THE COURT: LADIES AND GENTLEMEN OF THE JURY PANEL,
4 THOSE OF YOU WHO HAVE NOT BEEN SELECTED FOR THE JURY IN
5 THIS CASE, I'M GOING TO EXCUSE YOU FOR THE BALANCE OF THE
6 DAY AND TOMORROW. IN OTHER WORDS, THIS CASE IS GONNA
7 TAKE SOME TIME TO TRY, SO I'M GOING TO EXCUSE YOU FOR
8 HAVING TO ATTEND COURT.

9 BUT I AM GOING TO REQUEST -- YOU WERE GIVEN -- IS IT
10 A SHEET OF PAPER THERE THAT HAS A TELEPHONE NUMBER AT THE
11 TOP OF THAT PAPER. AND THAT'S AN ANSWERING MACHINE, AND
12 NOT TONIGHT, BUT TOMORROW NIGHT, TUESDAY NIGHT, THERE
13 WILL BE A MESSAGE PUT ON THAT MACHINE TO TELL YOU WHAT
14 YOU NEED TO DO. IT WILL EITHER BE TO CALL BACK THE NEXT
15 NIGHT OR TO COME IN ON WEDNESDAY MORNING IF IT IS
16 NECESSARY TO SELECT ANOTHER JURY.

17 HOWEVER, AS I SAY, YOUR CLERK OF COURT HAS DONE THIS
18 SO IT DOES NOT REQUIRE YOU TO BE HERE EACH DAY. HOWEVER,
19 WHEN IT IS NECESSARY FOR YOU TO BE HERE, IT'S ESSENTIAL
20 THAT YOU ARE HERE. BUT AT LEAST YOU WILL NOT HAVE TO BE
21 HERE TODAY OR THE BALANCE OF TODAY OR TOMORROW. IF YOU
22 WOULD CALL THAT NUMBER AFTER 6:00.

23 IS THERE ANY MEMBER OF THE JURY PANEL THAT DOES NOT
24 HAVE THE TELEPHONE NUMBER? IF SO, RAISE YOUR HAND AND
25 WE'LL GET YOU ANOTHER. IS THERE ANY MEMBER OF THE JURY

1 PANEL WHO DOES NOT UNDERSTAND WHAT NEEDS TO BE DONE? IN
2 OTHER WORDS, CALL THAT NUMBER AFTER 6:00. IT'S AN
3 ANSWERING MACHINE. IT WILL BE ON ALL NIGHT LONG, SO IF
4 YOU DON'T GET THROUGH THE FIRST TIME, IT WILL BE ON ALL
5 NIGHT LONG, SO IF YOU DON'T GET THROUGH THE FIRST TIME,
6 KEEP CALLING UNTIL YOU DO. AND I HATE TO REMIND YOU OR
7 TELL YOU THIS, BUT IF YOU DON'T GET THE MESSAGE FROM THE
8 ANSWERING MACHINE, YOU WILL HAVE TO GET IT FROM ME, AND
9 THAT WILL BE AT 8:30 WEDNESDAY MORNING. SO LET'S GO
10 AHEAD AND CALL THE ANSWERING MACHINE AND DO WHATEVER IT
11 SAYS.

12 AGAIN, I DO LOOK FORWARD TO WORKING WITH YOU AND I
13 THANK YOU FOR YOUR PATIENCE TODAY. BUT YOU WILL BE
14 EXCUSED FOR THE BALANCE OF THE DAY AND TOMORROW. CALL
15 THE NUMBER ON THE PAPER THERE AFTER 6:00 TOMORROW. THAT
16 WILL BE MARCH THE 1ST. ALL RIGHT. ANYBODY HAVE ANY
17 QUESTIONS?

18 YES, MA'AM.

19 PROSPECTIVE JUROR: WHAT ARE OUR OBLIGATIONS? IS IT
20 FOR THE FULL WEEK?

21 THE COURT: IT WILL NOT GO ANY FURTHER THAN THIS
22 WEEK.

23 YES, MA'AM.

24 PROSPECTIVE JUROR: AM I EXCUSED JUST FOR TODAY?

25 THE COURT: NO, JUST FOR THIS PARTICULAR CASE. AND

1 IF WE TRY ANOTHER CASE, YOU'LL COME IN AND BE CONSIDERED
2 FOR THAT CASE. DO YOU UNDERSTAND? IN OTHER WORDS, IF WE
3 DON'T HAVE A CASE TO TRY, THEN YOU WILL BE EXCUSED, BUT
4 WE JUST DON'T KNOW. ALL RIGHT. VERY GOOD. AS I SAY, I
5 DO THANK YOU FOR YOUR PATIENCE TODAY AND I LOOK FORWARD
6 TO WORKING WITH YOU.

7 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES
8 FROM THE COURTROOM.

9 I'VE GOT A NOTE FROM A MEMBER OF THE JURY (READING):
10 JUDGE, I AM SEVEN FEET TALL AND HAVE A SWOLLEN ANKLE AND
11 NEED TO BE ABLE TO RAISE MY FOOT. I AM TOO CRAMPED IN
12 THE OTHER SEATS.

13 SO I'M GOING TO SUGGEST -- I THINK YOU KNOW WHICH
14 JUROR. (LAUGHTER.) BUT I'M GOING TO LET HIM SIT ON THE
15 BACK ROW BUT IN THE THIRD SEAT FROM THE END AND THE
16 ALTERNATES SIT IN THE OTHER TWO SEATS. I THINK WITH THE
17 NEW COURTROOM EVERYONE CAN SEE THE WITNESS BOX FROM THE
18 JURY-BOX. SO WITH THAT CHANGE.

19 I'M NOT GOING TO SWEAR THE JURY UNTIL WE START THE
20 CASE, AND IT IS MY UNDERSTANDING WE'LL START AT 10:00 IN
21 THE MORNING. MADAM SOLICITOR?

22 MS. SIMMONS: YES, SIR.

23 THE COURT: MR. SENERIUS?

24 MR. SENERIUS: YES, SIR.

25 THE COURT: ALL RIGHT. SO I'M GOING TO EXCUSE THE

1 JURY UNTIL 10:00 IN THE MORNING. ALL RIGHT. ANYTHING
2 BEFORE WE BRING THE JURY BACK TO EXCUSE THEM FROM THE DAY
3 FROM THE STATE?

4 MS. SIMMONS: NO, YOUR HONOR.

5 THE COURT: FROM THE DEFENSE?

6 MR. SENERIUS: JUST -- I'M SURE YOU WERE GOING TO DO
7 IT ANYWAYS -- JUST IF YOU WOULD ADMONISH THEM NOT TO READ
8 OR LISTEN TO ANYTHING ABOUT THE CASE.

9 THE COURT: OH, YES. ANYBODY ELSE? ANYTHING ELSE?
10 (NO RESPONSE.)

11 MR. SENERIUS: WE WOULD ASK THAT OUR CLIENT BE
12 CONTINUED ON BOND.

13 THE COURT: WELL, I HAVEN'T -- THE JURY IS NOT SWORN
14 YET, SO WE'LL SEE WHAT HAPPENS.

15 ASK THE JURY TO JOIN US, PLEASE.

16 (THE JURY ENTERED THE COURTROOM AT
17 APPROXIMATELY 12:46 P.M.)

18 THE COURT: MR. VOS, I'M GOING TO ASK YOU TO SIT IN
19 THAT THIRD SEAT ON THE BACK ROW AND SEE IF THAT WON'T BE
20 A LITTLE BIT BETTER.

21 JUROR VOS: YES, SIR.

22 THE COURT: IS THAT BETTER FOR YOU, SIR?

23 JUROR VOS: (THUMBS UP SIGNAL.)

24 THE COURT: VERY GOOD.

25 THERE ARE SOME THINGS I NEED TO TAKE UP WITH THE

1 ATTORNEYS BEFORE WE BEGIN THE TRIAL OF THE CASE, SO
2 RATHER THAN HAVING YOU SIT BACK IN THAT JURY ROOM UNTIL
3 WE ARE READY TO ACTUALLY START THE TESTIMONY AND THE
4 EVIDENCE IN THE CASE, I'M GOING TO EXCUSE YOU FOR THE
5 BALANCE OF THE DAY AND ASK YOU TO COME BACK AT 10:00 IN
6 THE MORNING, AND YOU'LL COME BACK TO THAT JURY ROOM THAT
7 YOU HAVE BEEN SHOWN A FEW MINUTES AGO. IF YOU WILL, COME
8 BACK TO THAT JURY ROOM AT 10:00, AND THEN WE WILL START
9 THE TRIAL OF THE CASE.

10 NOW, MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY,
11 I TELL JURORS THAT THIS IS PROBABLY THE MOST DIFFICULT
12 PART OF YOUR SERVICE. BECAUSE YOU ARE GOING HOME THIS
13 AFTERNOON, AND SOMEBODY WILL ASK YOU, WHAT ARE YOU DOING?

14 AND YOU WILL SAY, I'VE BEEN DRAWN ON A CASE.

15 AND THEN THEY'LL SAY, WELL, WHAT'S IT ABOUT?

16 OF COURSE, YOU HAVEN'T HEARD ANYTHING ABOUT THIS
17 CASE AS YET, BUT EVEN AFTER YOU DO HEAR ANYTHING, MY
18 INSTRUCTIONS WILL BE THE SAME THROUGHOUT, THAT YOU CANNOT
19 DISCUSS IT WITH ANYONE.

20 AND THEY'LL SAY, WELL, WHY NOT?

21 AND YOU'RE GOING TO HAVE TO TELL THEM, BECAUSE THE
22 JUDGE SAID SO.

23 MORE THAN LIKELY THEY'LL SAY SOMETHING TO THE
24 EFFECT, WELL, THAT'S RIDICULOUS.

25 WELL, I THINK ALL OF US KNOW HOW IMPORTANT THIS CASE

1 IS TO EVERYBODY WHO IS INVOLVED, AND IT NEEDS TO BE
2 RESOLVED IN A PROPER FASHION. THE ONLY PROPER RESOLUTION
3 WE CAN HAVE IN THIS CASE IS FOR YOU TO LISTEN CAREFULLY
4 TO ALL THE TESTIMONY AND THE EVIDENCE AND ALL THE OTHER
5 EXHIBITS AND OTHER EVIDENCE THAT WE HAVE THAT IS
6 PRESENTED IN THIS COURTROOM.

7 NO ONE OTHER THAN YOU WILL BE ABLE TO MAKE ANY
8 DECISION ON THIS CASE, AND YOU WILL BE THE ONLY ONES WHO
9 HAVE HEARD THE WITNESSES' TESTIMONY AND SEEN THE EXHIBITS
10 AND THE OTHER EVIDENCE INTRODUCED DURING THE TRIAL OF THE
11 CASE. NO ONE WHO IS NOT SITTING WHERE YOU ARE RIGHT NOW
12 OR WILL BE WITH YOU IN THAT JURY ROOM WHEN THE TIME COMES
13 TO DELIBERATE CAN HELP YOU, THEY CAN ONLY INTERFERE WITH
14 THE PROPER RESOLUTION OF THE CASE. SO IT'S ABSOLUTELY
15 ESSENTIAL THAT YOU DO NOT PERMIT ANYONE DISCUSS IT WITH
16 YOU, NOR YOU DISCUSS IT WITH ANYONE, EVEN AMONG
17 YOURSELVES, AS I'VE ALREADY SAID.

18 IF ANYBODY SHOULD ATTEMPT TO DISCUSS THIS CASE WITH
19 YOU, TELL THEM I'LL BE HERE AT 8:30 AND I'LL BE GLAD TO
20 EXPLAIN IT TO THEM, THE REASON FOR IT. BUT I THINK WE
21 ALL UNDERSTAND.

22 AND WITH THAT -- ALSO, AS WE HEARD, THERE'S BEEN
23 SOME PUBLICITY AND SOME INTEREST IN THIS CASE. SO I AM
24 INSTRUCTING YOU NOW THAT YOU ARE NOT TO LISTEN TO ANY
25 NEWS OR INFORMATION OR REPORTS OR ANYTHING ELSE ON THE

1 RADIO, T.V., OR ANYTHING ELSE, ANY INTERNETS, ANYTHING OF
2 THAT NATURE, NOR ARE YOU TO DO ANY SORT OF RESEARCH ON
3 YOUR OWN THROUGH ANY SORT OF RESEARCH ON THE INTERNET OR
4 GOOGLE OR ANYTHING OF THAT NATURE.

5 YOU ARE TO KEEP YOUR MIND CLOSED, AND IN FACT IF YOU
6 ARE AT HOME AND THE T.V. COMES ON AND THEY HAVE SOME SORT
7 OF COVERAGE ABOUT THIS CASE, YOU SHOULD IMMEDIATELY WALK
8 OUT OF THE ROOM, CUT THE T.V. OFF, OR JUST CHANGE THE
9 CHANNEL, BECAUSE THE ONLY INFORMATION YOU NEED TO MAKE
10 YOUR DECISION IS WHAT YOU RECEIVE FROM SWORN WITNESSES
11 AND THE EXHIBITS AND OTHER EVIDENCE INTRODUCED IN THIS
12 COURTROOM. SO THEREFORE, YOU ARE TO AVOID ANY DISCUSSION
13 OR ANY INFORMATION ABOUT THIS CASE, REGARDLESS OF THE
14 SOURCE.

15 WITH THAT I'LL EXCUSE YOU FOR THE BALANCE OF THE DAY
16 AND I'LL SEE YOU AT 10:00 IN THE MORNING.

17 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES
18 FROM THE COURTROOM.

19 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
20 APPROXIMATELY 12:52 P.M.)

21 THE COURT: ALL RIGHT. I WOULD SUGGEST THAT
22 SOMETIME THIS AFTERNOON TO GET WITH THE COURT REPORTER IF
23 YOU HAVE ANY EXHIBITS THAT YOU CAN AGREE ON, OF COURSE,
24 HAVE THEM -- WELL, HAVE THEM MARKED FOR IDENTIFICATION
25 ANYTHING THAT YOU ARE GOING TO SEEK TO INTRODUCE. BUT IF

1 THERE ARE SOME THAT YOU CAN'T AGREE ON, WE CAN MARK THEM
2 SO YOU CAN USE IT IN YOUR OPENING STATEMENTS. YOU CAN DO
3 THAT. BUT DO AT LEAST, HOWEVER, GIVE THE COURT REPORTER
4 THE EXHIBITS THAT YOU THINK YOU MIGHT USE AND HAVE THEM
5 MARKED FOR IDENTIFICATION. OF COURSE, THEY DON'T HAVE TO
6 BE ADMITTED, BUT AGAIN, IT WOULD HELP THE COURSE OF IT.

7 NOW, IF WE'RE GOING TO START AT 10:00 IN THE
8 MORNING, I WOULD LIKE TO SEE THE ATTORNEYS A LITTLE BIT
9 BEFORE THAT, MAYBE FIVE OR TEN MINUTES, BECAUSE I WOULD
10 LIKE TO START AT 10:00 SINCE WE GOT THE TIME TO DO THAT.
11 NOW IT'S 1:00, SO I'M GOING TO RECEDE FOR LUNCH.

12 AND MADAM SOLICITOR, YOU SAY YOU MIGHT HAVE SOME
13 PLEAS THAT YOU WANT TO TAKE UP THIS AFTERNOON?

14 MS. SIMMONS: YES, YOUR HONOR.

15 THE COURT: ALL RIGHT. DO YOU WANT TO SAY 2:30?

16 MS. SIMMONS: THAT WOULD BE GREAT.

17 THE COURT: VERY GOOD. I LOOK FORWARD TO WORKING
18 WITH YOU, TOO, AND I'LL SEE YOU IN THE MORNING AT 10:00
19 OR A LITTLE BIT BEFORE.

20 WAIT JUST A MOMENT. LET ME DO THIS, MR. SENERIUS.

21 MR. SENERIUS: YES, SIR.

22 THE COURT: LET ME SPEAK TO MR. HINTON. IF YOU
23 WOULD COME FORWARD, PLEASE.

24 YOU ARE MATTHEW TAYLOR HINTON?

25 THE DEFENDANT: YES, SIR.

1 THE COURT: ALL RIGHT. YOU ARE THE DEFENDANT IN
2 THIS CASE?

3 THE DEFENDANT: YES, SIR.

4 THE COURT: ALL RIGHT. AND YOU ARE ON BOND AT THIS
5 TIME; IS THAT CORRECT?

6 THE DEFENDANT: YES, SIR.

7 THE COURT: I DON'T KNOW WHAT THE TERMS OF THE BOND
8 ARE, BUT, OF COURSE, ONE OF THE REQUIREMENTS IS THAT YOU
9 BE HERE IN COURT WHEN THE CASE IS TRIED; AND IF IT'S
10 CONTINUED OR ANYTHING ELSE, THAT YOU STAY AVAILABLE FOR
11 COURT AT ANY TIME. WE'RE GOING TO START THE TRIAL OF
12 THIS CASE AT 10:00 IN THE MORNING, AND IF YOU ARE NOT
13 HERE, YOU WAIVE YOUR RIGHT TO BE PRESENT DURING THE TRIAL
14 AND THE TRIAL WILL GO FORWARD IN YOUR ABSENCE. DO YOU
15 UNDERSTAND?

16 THE DEFENDANT: YES, SIR.

17 THE COURT: IN OTHER WORDS, YOU CAN BE TRIED IN YOUR
18 ABSENCE. THAT MEANS THAT YOU CAN -- IF THE JURY REACHES
19 A VERDICT AND FINDS YOU GUILTY, YOU WILL BE SENTENCED IN
20 YOUR ABSENCE. DO YOU UNDERSTAND THAT?

21 THE DEFENDANT: YES, SIR.

22 THE COURT: ALL RIGHT. IS THERE ANY QUESTION ABOUT
23 THE TRIAL WILL START AT 10:00, THAT WILL BE MARCH THE
24 1ST, 2011, HERE IN THE OCONEE COUNTY COURTHOUSE ON THE
25 4TH FLOOR ON SHORT STREET AND MAIN STREET IN WALHALLA,

1 SOUTH CAROLINA. IF YOU FAIL TO APPEAR AT THAT TIME OR
2 ANY OTHER TIME THAT YOU ARE REQUIRED TO BE HERE, THEN YOU
3 WILL BE TRIED IN YOUR ABSENCE. DO YOU UNDERSTAND THAT?

4 THE DEFENDANT: YES, SIR.

5 THE COURT: ANY QUESTIONS ABOUT IT?

6 THE DEFENDANT: NO, SIR.

7 THE COURT: VERY GOOD. I'LL SEE YOU IN THE MORNING
8 AT 10:00.

9 THE DEFENDANT: YES, SIR.

10 MR. SENERIUS: THANK YOU, YOUR HONOR.

11 (STATE'S EX. # 1, WAIVER 8-17-09, WAS MARKED
12 FOR IDENTIFICATION.)

13 (STATE'S EX. # 2, STATEMENT 8-17-09, WAS
14 MARKED FOR IDENTIFICATION.)

15 (STATE'S EX. # 3, SECOND WAIVER, WAS MARKED
16 FOR IDENTIFICATION.)

17 (STATE'S EX. # 4, SECOND STATEMENT, WAS
18 MARKED FOR IDENTIFICATION.)

19 (STATE'S EX. # 5A, 5B, 5C, AND 5D,
20 PHOTOGRAPHS OF BEDROOM, WERE MARKED FOR
21 IDENTIFICATION.)

22 (STATE'S EX. # 6A, 6B, AND 6C, PHOTOGRAPHS O
23 BATHROOM, WERE MARKED FOR IDENTIFICATION.)

24 (STATE'S EX. # 7A, 7B, AND 7C, PHOTOGRAPHS O
25 LIVING ROOM, WERE MARKED FOR IDENTIFICATION.)

1 (STATE'S EX. # 8, PHOTO, BEDROOM WITH CRIB,
2 WAS MARKED FOR IDENTIFICATION.)
3 (STATE'S EX. # 9, VERIZON RECORDS, WAS MARKED
4 FOR IDENTIFICATION.)
5 (WHEREUPON, THE TRIAL IN THE STATE OF SOUTH
6 CAROLINA V. MATTHEW TAYLOR HINTON ADJOURNED
7 AT APPROXIMATELY 1:27 P.M. ON MONDAY,
8 FEBRUARY 28, 2011, UNTIL APPROXIMATELY 10:00
9 A.M. ON TUESDAY, MARCH 1ST, 2011.)

10 ***
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 *** MARCH 1, 2011 ***

2 (WHEREUPON, THE PROCEEDINGS RESUMED IN THE
3 TRIAL IN THE MATTER OF THE STATE OF SOUTH
4 CAROLINA VERSUS MATTHEW TAYLOR HINTON, ON
5 TUESDAY, MARCH 1ST, 2011, IN OCONEE COUNTY
6 GENERAL SESSIONS COURT, BEFORE THE HONORABLE
7 ALEXANDER S. MACAULAY, AT APPROXIMATELY 10:18
8 A.M.)

9 THE COURT: IS THERE ANYTHING FROM THE STATE BEFORE
10 WE BRING THE JURY IN?

11 MS. SIMMONS: NO, YOUR HONOR.

12 THE COURT: ANYTHING FROM THE DEFENSE?

13 MR. SENERIUS: NO, SIR.

14 THE COURT: VERY GOOD. ALL RIGHT. ASK THE JURY TO
15 JOIN US, PLEASE.

16 (THE JURY ENTERED THE COURTROOM AT
17 APPROXIMATELY 10:19 A.M.)

18 THE COURT: LET THE RECORD REFLECT THAT THE JURY AND
19 ALTERNATE ARE IN THE JURY-BOX.

20 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, I'M
21 NOW GOING TO ASK THE CLERK OF COURT TO SWEAR YOU.

22 (WHEREUPON, THE JURY WAS SWORN BY THE CLERK
23 OF COURT.)

24 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN OF THE
25 JURY --

1 (DISCUSSION OFF THE RECORD BETWEEN COURT AND
2 COURT REPORTER.)

3 THE COURT: AS I WAS SAYING, MR. FOREMAN, LADIES AND
4 GENTLEMEN OF THE JURY, I'M SURE EACH OF YOU NOW FULLY
5 APPRECIATES THAT THIS COURT OF GENERAL SESSIONS FOR
6 OCONEE COUNTY EXISTS FOR THE PURPOSE OF RESOLVING
7 QUESTIONS OF ALLEGED CRIMINAL CONDUCT ARISING BETWEEN THE
8 STATE OF SOUTH CAROLINA AND THE DEFENDANT.

9 IT IS A GUARANTEED RIGHT OF EVERY CITIZEN THAT A
10 CHARGE OF CRIMINAL CONDUCT BE PRESENTED IN OPEN COURT
11 ACCORDING TO CERTAIN RULES OF PROCEDURE. THE STATE HAS
12 NOT ONLY AN EQUAL RIGHT BUT THE DUTY TO PRESENT A CHARGE
13 OF CRIMINAL CONDUCT IN OPEN COURT ACCORDING TO THE SAME
14 RULES OF PROCEDURE.

15 EACH OF THE PARTIES, THEREFORE, BOTH THE STATE AND
16 THE DEFENDANT, THEN, HAVE AN EQUAL RIGHT TO THE
17 OPPORTUNITY OF THIS JUDICIAL PROCEEDING AND TO HAVE AS
18 THE JURY SELECTED AND NOW SWORN FOR THE TRIAL OF THIS
19 CASE.

20 NOW, ONE OF THE MOST IMPORTANT ASPECTS OF YOUR DUTY
21 AS A JURY LIES ESSENTIALLY IN THE OATH THAT YOU HAVE
22 TAKEN, TO WELL AND TRULY TRY AND DETERMINE THE FACTS OF
23 THIS CASE. THAT OATH IN A VERY ESSENTIAL WAY SAYS THAT
24 YOU ARE THE SOLE JUDGES OF THE FACTS OF THE CASE.

25 OBVIOUSLY ANY CASE TRIED IN COURT WOULD INVOLVE A

1 QUESTION ABOUT WHAT HAPPENED OR HOW SOMETHING CAME TO
2 HAPPEN OR WHOM, IF ANYONE, DID ANYTHING IN A PARTICULAR
3 OCCURRENCE OR CIRCUMSTANCE. FROM THIS POINT FORWARD,
4 THEN, NO ONE CONCERNED WITH THIS TRIAL HAS ANY RIGHT TO
5 DECIDE ANY QUESTION OF FACT IN THIS TRIAL OR THE TRUTH OF
6 IT EXCEPT FOR YOU, THE JURY. THE FACTS, THEN, ARE FOR
7 YOUR RESOLUTION AND YOUR DECISION AND YOURS ALONE.

8 NOW, AFTER YOU HEAR ALL THE EVIDENCE IN THE CASE,
9 THEN IT WILL BE YOUR DUTY BY YOUR MUTUAL AND JOINT
10 DISCUSSIONS TO DETERMINE THE TRUTH OF THIS CASE FROM
11 DECIDING THE WEIGHT AND BELIEVABILITY OF EACH PART OF THE
12 EVIDENCE AND BY APPLYING THE LAW IN THE CASE THERETO.

13 AS THE TRIAL JUDGE IN THIS CASE, IT IS ALSO MY
14 RESPONSIBILITY, AMONG OTHER DUTIES, TO PRESIDE OVER THIS
15 TRIAL, TO RULE ON THE ADMISSIBILITY OF EVIDENCE OFFERED
16 DURING THE PROGRESS OF THE TRIAL AND STATE TO YOU, THE
17 JURY, THE LAW APPLICABLE TO THE CASE. THE CONSTITUTION
18 OF SOUTH CAROLINA MANDATES I AS THE TRIAL JUDGE CANNOT
19 DIRECTLY OR INDIRECTLY COMMENT ABOUT THE FACTS IN THIS
20 CASE.

21 THE PROCESS OF A VERDICT, THEN, IS SIMPLY THAT YOU,
22 THE JURY, FIRST DETERMINE WHAT IS THE TRUTH OF THE FACTS
23 AND THEN APPLY TO THAT TRUE STATE OF FACTS THAT PRINCIPLE
24 OF LAW APPLICABLE, AND BY THAT PROCESS DETERMINE OR
25 REPORT TO THIS COURT YOUR FINAL VERDICT IN THE CASE,

1 SPEAKING THE TRUTH OF THE CASE AS YOU DETERMINE IT.

2 NOW, I WILL MORE FULLY AND COMPLETELY STATE TO YOU

3 THE PRINCIPLES OF LAW APPLICABLE TO THE ISSUES IN THIS

4 CASE BEFORE IT IS SUBMITTED TO YOU FOR YOUR DECISION.

5 HOWEVER, THERE ARE CERTAIN PRINCIPLES OF LAW APPLICABLE

6 TO THE FRAMEWORK OF EVERY CASE IN GENERAL SESSIONS COURT.

7 NOW, IN A VERY BASIC WAY, I WILL OUTLINE SEVERAL OF

8 THOSE BASIC PRINCIPLES FOR YOU. THE DEFENDANT HAS

9 ENTERED A PLEA OF NOT GUILTY TO THE CHARGES CONTAINED IN

10 THE INDICTMENT. AN INDICTMENT IN A CASE IS NOT EVIDENCE.

11 IT'S SIMPLY THE WRITTEN INSTRUMENT THAT CONTAINS A CHARGE

12 AGAINST THE DEFENDANT AND IT SERVES AS THE FORMAL

13 DOCUMENT BY WHICH THIS CASE IS PROCESSED INTO THIS COURT.

14 THE PLEA OF NOT GUILTY PLACES UPON THE STATE THE

15 BURDEN OF PROOF IN THIS CASE. WHAT IS MEANT BY THE TERM

16 "BURDEN OF PROOF"? THE DEFENDANT IS PRESUMED IN LAW

17 INNOCENT OF ALL CHARGES CONTAINED IN THE INDICTMENT. THE

18 BURDEN OF PROOF REQUIRES THE STATE TO PROVE GUILT BEYOND

19 A REASONABLE DOUBT, AND THEREFORE, CONSISTENT WITH THAT

20 BURDEN, THE DEFENDANT SHALL BE PRESUMED INNOCENT, AND

21 THAT PRESUMPTION OF INNOCENCE IS SUFFICIENT TO COMPEL A

22 VERDICT OF NOT GUILTY OR A VERDICT OF ACQUITTAL UNLESS

23 YOU, THE JURY, CONCLUDE THAT THE STATE HAS SATISFIED ITS

24 OBLIGATION TO PROVE THE DEFENDANT GUILTY BEYOND A

25 REASONABLE DOUBT. NOW, THE TERM REASONABLE DOUBT MEANS

1 THE KIND OF DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO
2 HESITATE TO ACT.

3 NOW, THE CASE WILL BE OPENED BY THE SOLICITOR, AFTER
4 WHICH THE SAME OPPORTUNITY WILL BE AFFORDED THE DEFENDANT
5 TO MAKE AN OPENING STATEMENT. WHEN ALL OF THE EVIDENCE
6 HAS BEEN RECEIVED BY THE COURT, COUNSEL FOR THE STATE AND
7 COUNSEL FOR THE DEFENDANT WILL STATE TO THE JURY THEIR
8 POSITIONS, AFTER WHICH THE COURT WILL FULLY INSTRUCT TO
9 YOU THE LAW APPLICABLE TO THE CASE.

10 OBVIOUSLY, ALL PARTS OF THE CASE ARE IMPORTANT. YOU
11 DO NOT KNOW WHICH WITNESS IN A CASE WILL IMPRESS YOU THE
12 MOST, WHETHER THE FIRST WITNESS OR THE LAST WITNESS. IN
13 REACHING YOUR FINAL CONCLUSION YOU WILL NEED THE GUIDANCE
14 OR THE JUDGMENT OF THE OTHER JURORS. YOU WILL NEED THE
15 GUIDANCE OF THE PRINCIPLES OF LAW THAT WILL BE STATED TO
16 YOU BY THE COURT. FOR ALL OF THESE REASONS, THEN, IF WE
17 HAVE ANY RECESS PERIODS WHEN YOU RETIRE TO YOUR JURY
18 ROOM, OR DURING OVERNIGHT OR MEAL RECESS, THE COURT
19 INSTRUCTS YOU THAT YOU MUST NOT UNDERTAKE TO DISCUSS THIS
20 CASE AMONG YOURSELVES UNTIL IT IS FINALLY GIVEN TO YOU
21 FOR YOUR DELIBERATION, NOR ARE YOU TO DISCUSS THIS CASE
22 WITH ANYONE, OR PERMIT ANYONE ELSE TO DISCUSS THE CASE
23 WITH YOU. IF THEY TRY TO DO SO, AS I SAID YESTERDAY,
24 REPORT THEM SO I MIGHT TAKE THE APPROPRIATE ACTION.

25 NOW, THE VERDICT IN THIS CASE MUST BE A UNANIMOUS

1 VERDICT OF ALL 12 JURORS. NOW, I MIGHT NOTE THAT,
2 MR. FOREMAN, THE FOREPERSON OF A JURY IS THE SAME AS ANY
3 OTHER JUROR; HOWEVER, YOU ARE THE ONE, THE SPOKESMAN FOR
4 THE JURY, SO IF ANY MATTERS COME UP OR ANY NOTES NEED TO
5 BE GIVEN, IF YOU WOULD PLEASE COLLECT THEM, WRITE THEM
6 OUT, AND SEND THEM TO THE BAILIFF AND I WILL CONSIDER THE
7 RESPONSE.

8 ALSO DURING, WHEN YOU RETIRE TO YOUR JURY ROOM FOR
9 YOUR DELIBERATION WHEN THE CASE IS FINALLY GIVEN TO YOU,
10 OF COURSE, IT IS YOUR DUTY TO BE SURE THAT ALL MEMBERS OF
11 THE JURY HAVE A FAIR AND FULL OPPORTUNITY TO DISCUSS
12 THEIR VIEWS ON THE EVIDENCE AS WELL AS THE LAW OF THE
13 CASE.

14 FINALLY, JUST AS I SAID, IN THE EVENT THAT YOU NEED
15 TO BE, RETURN TO YOUR JURY ROOM OR OVER A RECESS OR
16 SOMETHING LIKE THAT, WHEN YOU ARE READY TO COME BACK TO
17 THE COURTROOM, PLEASE BE SURE THAT ALL MEMBERS OF THE
18 JURY ARE READY TO COME BACK AT THE SAME TIME. THE REASON
19 FOR THAT IS VERY SIMPLE, AS I MENTIONED SEVERAL TIMES
20 NOW. YOU AND YOU ALONE ARE THE JUDGES OF THE FACTS OF
21 THE CASE, AND YOU MUST MAKE YOUR DECISION ON THOSE FACTS
22 BASED ON SWORN TESTIMONY FROM THIS WITNESS STAND AND THE
23 EXHIBITS AND OTHER EVIDENCE INTRODUCED IN THIS COURTROOM.
24 SO IT IS ABSOLUTELY ESSENTIAL THAT ALL MEMBERS OF THE
25 JURY HAVE THE SAME OPPORTUNITY TO SEE AND HEAR THE SAME

1 EVIDENCE AT THE SAME TIME. SO IF SOMEBODY IS NOT QUITE
2 READY TO COME BACK, WAIT UNTIL EVERYONE IS READY TO COME
3 BACK AT THE SAME TIME.

4 NOW I WOULD LIKE TO MAKE A FEW ADDITIONAL COMMENTS
5 ABOUT THE CASE. AS I MENTIONED EARLIER, ALTHOUGH I AM
6 THE ONLY PERSON WHO CAN TELL YOU WHAT THE LAW IS, YOU AND
7 YOU ALONE ARE THE ONLY ONES WHO CAN DETERMINE THE FACTS.
8 I DO NOT HAVE THE RIGHT TO INDICATE HOW I MAY FEEL ABOUT
9 THE EVIDENCE PRESENTED, AND THROUGHOUT THIS TRIAL MY
10 INTENTION WILL BE TO ACT IMPARTIALLY TOWARDS EACH PARTY.

11 SECOND, FROM TIME TO TIME AN ATTORNEY MAY OBJECT TO
12 SOME BIT OF TESTIMONY OR EVIDENCE WHICH THE OTHER SIDE IS
13 SEEKING TO PRESENT. NOW, AS IN SPORTS, BUSINESS, OR ANY
14 OTHER STRUCTURED ACTIVITY, THERE ARE CERTAIN RULES THAT
15 BOTH SIDES MUST OBEY IN PRESENTING EVIDENCE. THESE RULES
16 HAVE A DEFINITE EFFECT OR PURPOSE. THEY ENSURE THAT THE
17 INFORMATION YOU RECEIVE IS THE MOST TRUSTWORTHY AND
18 RELIABLE EVIDENCE AVAILABLE. AN OBJECTION IS A PROCEDURE
19 WE USE FOR AN ATTORNEY TO CALL A POSSIBLE VIOLATION OF
20 THE RULES TO THE COURT'S ATTENTION, AND FOR THIS REASON
21 YOU SHOULD NOT HOLD AN ATTORNEY'S OBJECTION AGAINST HIS
22 OR HER CLIENT, NOR SHOULD YOU CONCLUDE FROM MY RULING ON
23 THE OBJECTION THAT I FAVOR ONE SIDE OR THE OTHER.

24 FINALLY, I WOULD ASK THAT YOU PAY THE CLOSEST
25 ATTENTION POSSIBLE TO THE EVIDENCE PRESENTED TO YOU. I

1 WOULD ASK THAT YOU DO NOT TAKE NOTES, FOR IF THE
2 NOTE-TAKER MAKES AN ERROR, THOSE NOTES CAN BE MORE
3 DETRIMENTAL THAN HELPFUL -- IN FACT NOT HELPFUL DURING
4 THE DELIBERATIONS. THE TIME-TESTED SYSTEM IS FOR EACH OF
5 YOU TO LISTEN CAREFULLY AND I AM CONFIDENT THAT YOU WILL
6 DO THAT.

7 NOW, I SUGGEST THAT YOU NOT TAKE NOTES. THE REASON
8 FOR THAT IS, IT IS MY EXPERIENCE THAT IF YOU TAKE A NOTE,
9 WE HAVE A TENDENCY TO CONCENTRATE ON THE NOTE RATHER THAN
10 WHAT'S HAPPENING AT THE TIME, SO IN OTHER WORDS WE ARE
11 TRYING TO RECORD WHAT WE THINK WE HEAR. AND THAT'S WHERE
12 THE DANGER OF A NOTE COMES IN, BECAUSE SOMETIMES WE DON'T
13 HEAR EVERYTHING. WE MIGHT EVEN HEAR SOMETHING THAT
14 WASN'T ACTUALLY SAID. AND, FOR EXAMPLE, JUST CONSIDER
15 ONE WORD "NOT". IF YOU EITHER PUT IT IN WHEN IT WASN'T
16 SUPPOSED TO BE THERE OR IT WASN'T SAID, OR YOU LEAVE IT
17 OUT WHEN IT WAS SAID, IT CHANGES ENTIRELY THE MEANING OF
18 THE NOTE. AND FOR THAT REASON I SUGGEST THAT IF WE DO
19 HAVE ANY QUESTION ABOUT WHAT OCCURRED OR WHAT WAS SAID,
20 RELY ON YOUR 12 -- OR THE OTHER 11 JURORS TO DISCUSS IT
21 AND IN THAT WAY COME TO THE TRUTH.

22 THE REASON, ALSO, NOWADAYS WE FEEL WE'RE VISUALLY
23 NOW AND WHERE WE PUT OUR ATTENTION. A NOTE IS SOMETHING
24 SOMEBODY CAN HOLD UP AND SAYS, WELL, I'VE GOT IT WRITTEN
25 DOWN RIGHT HERE. BUT I THINK, AS WE KNOW, ANY TIME WE

1 TRY TO RECORD INFORMATION, IT'S ONLY AS GOOD AS WHAT GOES
2 IN AS TO WHAT COMES OUT. SO FOR THAT REASON I SUGGEST
3 THAT WE DO NOT TAKE NOTES, THE JURORS DO NOT TAKE NOTES.

4 NOW, HAVING SAID THAT, I DO TAKE NOTES, BUT IT'S FOR
5 ENTIRELY DIFFERENT REASONS. YOU AND YOU ALONE ARE THE
6 ONLY ONES WHO CAN EVALUATE AND WEIGH THE EVIDENCE. I AM
7 NOT CONCERNED ABOUT THE VALUE OF EVIDENCE. I'M ONLY
8 CONCERNED WHETHER OR NOT THINGS OCCUR THAT ARE REQUIRED
9 TO HAPPEN DURING THE COURSE OF THE TRIAL, SO I AM JOTTING
10 DOWN WHAT HAPPENS, NOT THE SIGNIFICANCE OF IT. THAT'S
11 FOR YOU. SO THEREFORE I WOULD RECOMMEND YOU NOT TAKE
12 NOTES.

13 WE WILL NOW BEGIN THE TRIAL, AND I RECOGNIZE THE
14 SOLICITOR FOR HER OPENING STATEMENT.

15 MS. SIMMONS: THANK YOU, YOUR HONOR, MAY IT PLEASE
16 THE COURT.

17 THE COURT: MS. SIMMONS.

18 OPENING STATEMENT ON BEHALF OF THE STATE:

19 MS. SIMMONS: GOOD MORNING, LADIES AND GENTLEMEN.

20 JURORS: GOOD MORNING.

21 MS. SIMMONS: FIRST OF ALL, I WANT TO THANK YOU FOR
22 YOUR SERVICE THIS WEEK. I'M SURE I'M ONE OF MANY PEOPLE
23 WHO WILL THANK YOU ALONG THE WAY.

24 YESTERDAY I TOLD YOU MY NAME IS LINDSEY SIMMONS. I
25 AM A PROSECUTOR HERE IN THE OCONEE COUNTY SOLICITOR'S

1 OFFICE. I GREW UP IN OCONEE COUNTY, AND WHEN SOLICITOR
2 ADAMS WAS ELECTED IN 2005 I WAS GIVEN AN OPPORTUNITY TO
3 COME AND PROSECUTE IN THE TOWN WHERE I GREW UP.

4 OVER THE NEXT FEW DAYS YOU WILL HEAR ABOUT THE BRIEF
5 LIFE AND DEATH OF [REDACTED] YOU WILL HEAR ABOUT
6 THE DAYS SURROUNDING AUGUST 16TH OF 2009 WHEN HER SHORT
7 LIFE CAME TO AN END.

8 YOU HAVE A VERY IMPORTANT JOB TO DO THIS WEEK. YOU
9 BROUGHT THE MOST IMPORTANT TOOL YOU HAVE AS A JUROR WITH
10 YOU WHEN YOU CAME IN THIS COURTROOM. IT'S YOUR COMMON
11 SENSE. YOU DIDN'T LEAVE IT OUTSIDE THE DOOR WHEN YOU
12 CAME TO JURY DUTY. IT IS THE ONLY TOOL YOU WILL NEED
13 THROUGHOUT THIS CASE.

14 I SIMPLY ASK THAT YOU LISTEN TO THE FACTS OF THIS
15 CASE VERY CAREFULLY, LISTEN TO THE WITNESSES, AND USE
16 YOUR COMMON SENSE. AT THE END OF THIS TRIAL I BELIEVE
17 YOUR COMMON SENSE WILL LEAD YOU TO THE DETERMINATION THAT
18 MATTHEW HINTON IS GUILTY OF KILLING HIS YOUNG DAUGHTER.

19 THE DEFENDANT IS CHARGED WITH HOMICIDE BY CHILD
20 ABUSE. THAT IS A LEGAL TERM PROVIDED FOR IN SOUTH
21 CAROLINA LAW. WHAT THAT MEANS IS THAT MATTHEW HINTON
22 CAUSED THE DEATH OF A CHILD UNDER THE AGE OF ELEVEN UNDER
23 THE CIRCUMSTANCES OF CHILD ABUSE OR CHILD NEGLECT. JUDGE
24 MACAULAY WILL CHARGE YOU AT THE END OF THIS CASE ON WHAT
25 CHILD ABUSE MEANS, WHAT CHILD NEGLECT MEANS.

1 ABUSE IS THE ACTUAL INFLICTION OF THE INJURY.
2 NEGLECT IS THE FAILURE TO PROVIDE SOME SORT OF CARE OR
3 NEED FOR THE CHILD. EITHER ONE OF THOSE THINGS CAUSING
4 THE DEATH OF A CHILD QUALIFIES AS HOMICIDE BY CHILD
5 ABUSE. THESE THINGS MUST OCCUR UNDER CIRCUMSTANCES
6 MANIFESTING AN EXTREME INDIFFERENCE TO HUMAN LIFE. JUDGE
7 MACAULAY WILL CHARGE YOU AT THE END OF THIS CASE THAT
8 THAT IS AKIN TO INTENT.

9 I HAVE TO PROVE ALL OF THOSE ELEMENTS BEYOND A
10 REASONABLE DOUBT. AND AS THE JUDGE TOLD YOU, REASONABLE
11 DOUBT IS NOT ALL DOUBT; IT IS BEYOND A REASONABLE DOUBT,
12 THE KIND OF REASONABLE DOUBT THAT WOULD CAUSE A
13 REASONABLE PERSON TO HESITATE TO ACT.

14 THIS IS NOT CSI, THIS IS NOT *FORENSIC FILES*, THIS IS
15 NOT *LAW & ORDER*. LIFE IN OCONEE COUNTY IS NOT AS
16 EXCITING AS TELEVISION. YOU WILL NOT BE HEARING ABOUT A
17 BUNCH OF D.N.A. EVIDENCE. YOU WILL NOT BE SEEING GRAPHIC
18 CRIME SCENE AND AUTOPSY PHOTOS. YOU WILL BE HEARING
19 FACTS PRESENTED BY WITNESSES.

20 UNLIKE MANY CASES, YOU WILL NOT HEAR FROM THE
21 VICTIM. [REDACTED] IS DECEASED. AND EVEN IF SHE HAD
22 LIVED, SHE WAS FIVE MONTHS OLD. IF SHE HAD LIVED, SHE
23 WOULD NOT BE ABLE TO TELL YOU HER STORY. WE MUST RELY ON
24 LAW ENFORCEMENT AND THE MEDICAL COMMUNITY TO TELL
25 [REDACTED] STORY.

1 THIS IS A CASE OF MEDICAL AND CIRCUMSTANTIAL
2 EVIDENCE. MEDICAL EVIDENCE WILL BE PRESENTED TOMORROW.
3 YOU WILL HEAR FROM THE EMERGENCY MEDICAL DOCTOR THAT
4 TREATED [REDACTED] AT OCONEE MEDICAL HOSPITAL. SHE'LL TELL
5 YOU ABOUT HER INITIAL DIAGNOSIS OF [REDACTED] THE THINGS
6 SHE RULED OUT IMMEDIATELY, AND THE HISTORY SHE WAS ABLE
7 TO GARNER FROM TALKING TO HER PARENTS. YOU WILL HEAR
8 FROM DOCTORS FROM GREENVILLE MEMORIAL HOSPITAL WHERE
9 [REDACTED] WAS TRANSFERRED BECAUSE OF THE HIGH LEVEL OF CARE
10 SHE NEEDED. THOSE DOCTORS WILL TELL YOU [REDACTED]
11 INJURIES WERE SEVERE. THEY WERE MORE -- SHE HAD HEAD
12 INJURIES THAT ULTIMATELY CAUSED HER DEATH. THEY WILL
13 ALSO -- THE DOCTORS FROM GREENVILLE WILL ALSO TELL YOU
14 WHAT INFORMATION THEY GARNERED FROM THE PARENTS.

15 YOU WILL ALSO HEAR FROM A PEDIATRIC NEUROLOGIST, ONE
16 OF THE FEW IN THE SURROUNDING STATES. HE WILL TESTIFY
17 ABOUT THE KIND OF HEAD INJURY [REDACTED] HAD, THE KIND OF
18 FORCE THAT IS NECESSARY TO INFLICT THAT SORT OF HEAD
19 INJURY, THE RETINAL INJURY SHE HAD IN HER EYES, AND HE
20 WILL BEGIN TO PROVIDE YOU A TIME LINE FOR THOSE INJURIES.

21 MEDICAL TESTIMONY WILL WRAP UP WITH DR. BRETT
22 WOODARD. HE IS THE PATHOLOGIST FROM ANDERSON AREA
23 MEDICAL CENTER. HE CONDUCTS ALL AUTOPSIES IN OCONEE AND
24 ANDERSON COUNTIES. HE WILL TELL YOU ABOUT THE BROKEN
25 BONES HE SAW, THE BRUISES, THE HEAD INJURY, AND HE WILL

1 TELL YOU THAT TO A REASONABLE DEGREE OF MEDICAL CERTAINTY
2 [REDACTED] INJURY OCCURRED ON AUGUST 16TH OF 2009.

3 ON THE LAW ENFORCEMENT SIDE YOU WILL HEAR FROM CHRIS
4 KELLY AND TED ROUNDY FROM THE SENECA POLICE DEPARTMENT.
5 THEY WILL TELL YOU THAT THEY INTERVIEWED THIS DEFENDANT
6 DURING THE COURSE OF THIS INVESTIGATION. YOU WILL HEAR
7 FROM THEM THAT A STORY EMERGED FROM THE DEFENDANT AS THE
8 CHILD'S INJURIES WERE REVEALED. THIS STORY WOULD
9 ULTIMATELY LEAD LAW ENFORCEMENT TO INVESTIGATE THE
10 DEFENDANT AS THE PRIMARY SUSPECT IN HIS DAUGHTER'S DEATH.

11 YOU WILL ALSO HEAR FROM THE CHILD'S MOTHER. LAW
12 ENFORCEMENT WILL TESTIFY THAT THEY DID ELIMINATE HER AS A
13 SUSPECT. SHE WILL TELL YOU ABOUT THE EVENTS LEADING UP
14 TO AUGUST 16TH OF 2009. SHE WILL TELL YOU WHERE SHE WAS
15 AUGUST 16TH OF 2009. AND SHE WILL TELL YOU ABOUT THE
16 TIME SURROUNDING [REDACTED] INJURY AND GIVE YOU ALL THE
17 INFORMATION SHE HAS.

18 YOU WILL ALSO HEAR FROM SERGEANT RORY JONES OF THE
19 SENECA POLICE DEPARTMENT. HE PERFORMED A VERY IMPORTANT
20 ROLE THROUGHOUT THIS INVESTIGATION. HE CORROBORATED
21 STORIES, ELIMINATED STORIES. HE EVEN FOUND A NEIGHBOR
22 WHO REPORTED UNUSUAL NOISES COMING FROM THE DEFENDANT'S
23 APARTMENT ON AUGUST 16TH OF 2009. YOU WILL ALSO BE
24 HEARING FROM THAT NEIGHBOR.

25 SERGEANT JONES WILL ALSO TELL YOU HE WAS ABLE TO

1 ESTABLISH THAT ON THE WEEKEND IN QUESTION, SPECIFICALLY
2 SUNDAY, THE DEFENDANT WAS THE CHILD'S PRIMARY CAREGIVER.

3 ALL OF THESE LAW ENFORCEMENT WITNESSES WILL NARROW
4 DOWN A TIME LINE FOR YOU. INTERVIEWS, CORROBORATION,
5 MEDICAL EVIDENCE, THE DEFENDANT'S OWN WORDS. THOSE, THAT
6 CREATED A TIME LINE, THAT NARROWED THE SUSPECT POOL TO
7 ONE PERSON.

8 EVERYTHING YOU WILL HEAR THIS WEEK FROM WITNESSES,
9 THE DEFENDANT'S STATEMENTS, EVERYTHING YOU WILL HEAR IN
10 COURT IS LIKE A PUZZLE. NO ONE PIECE OF THE PUZZLE
11 STANDS ALONE. NO ONE PIECE OF THE PUZZLE WILL TELL YOU
12 THE WHOLE STORY. BUT AT THE END OF THIS CASE, WHEN YOU
13 USE YOUR COMMON SENSE TO PUT EACH PICTURE OF THE PUZZLE
14 TOGETHER, A CLEAR PICTURE WILL EMERGE. THE CLEAR PICTURE
15 WILL SHOW YOU THAT THIS DEFENDANT, MATTHEW HINTON, KILLED
16 HIS FIVE-MONTH-OLD LITTLE GIRL. THANK YOU.

17 THE COURT: MR. SENERIUS.

18 MR. SENERIUS: THANK YOU, YOUR HONOR. MAY IT PLEASE
19 THE COURT, LADIES AND GENTLEMEN OF THE JURY, MS. SIMMONS.
20 OPENING STATEMENT ON BEHALF OF THE DEFENDANT:

21 MR. SENERIUS: FIRST I TOO WANT TO THANK YOU FOR
22 YOUR SERVICE. I'M THANKING YOU AGAIN. YOU HAVE A VERY,
23 VERY, VERY DIFFICULT JOB. AS MS. SIMMONS TOLD YOU, THERE
24 IS LITTLE OR NO DIRECT EVIDENCE. THERE ARE GONNA BE
25 PEOPLE WHO ARE GONNA TESTIFY AS EXPERTS AND THEY'RE GONNA

1 RENDER OPINIONS. AS MY MOTHER ALWAYS TOLD ME, AN OPINION
2 IS LIKE YOUR NOSE, WE ALL HAVE THEM. THEY ARE SOMETIMES
3 RIGHT AND THEY ARE SOMETIMES WRONG. EVEN IF THEY ARE
4 MEDICAL OPINIONS THEY ARE SOMETIMES RIGHT AND SOMETIMES
5 WRONG.

6 I RECENTLY ABOUT A YEAR OR SO AGO WAS HOSPITALIZED
7 FOR FIVE DAYS, INTENSIVE CARE FOR FIVE DAYS AND THREE
8 DAYS AFTER THAT INTO A REGULAR ROOM. AND THEN WHEN THEY
9 SENT ME HOME, YOU KNOW WHAT THEY TOLD ME? "YOU HAD A
10 VIRUS." "YOU HAD A VIRUS." WELL, I'VE ALWAYS BEEN TOLD
11 THAT WHEN THE DOCTOR TELLS YOU THAT YOU'VE GOT A VIRUS,
12 THAT MEANS HE DOESN'T KNOW WHAT YOU HAD AND HE CAN'T
13 FIGURE OUT WHAT WAS WRONG WITH YOU.

14 AND YOU'RE GONNA FIND A LOT OF TESTIMONY HERE THAT
15 IS GOING TO BE ASSUMING A CERTAIN SEQUENCE OF EVENTS.
16 AND IF THOSE EVENTS ARE CORRECT, IF THAT ASSUMPTION IS
17 CORRECT, THEN THAT MAY BE TRUE. BUT IF THAT ASSUMPTION
18 IS WRONG, WE KNOW WHAT HAPPENS WHEN WE ASSUME THINGS,
19 IT'S A VERY DANGEROUS THING TO DO.

20 YOU HAVE BEEN TOLD THAT YOU'RE GONNA HEAR TESTIMONY
21 THAT MY CLIENT, MATTHEW, TALKED WITH LAW ENFORCEMENT.
22 AND HE DID. HE VOLUNTARILY TALKED WITH LAW ENFORCEMENT
23 ON AT LEAST THREE OCCASIONS, GAVE THEM TWO WRITTEN
24 STATEMENTS. HE DIDN'T HAVE TO. ANYBODY WHO WATCHES T.V.
25 KNOWS THAT IF YOU'RE GUILTY OF SOMETHING, MAN, YOU LAWYER

1 UP. BUT HE DIDN'T LAWYER UP. HE GAVE THEM STATEMENTS,
2 AT LEAST THREE STATEMENTS.

3 NOT ONLY THAT, LADIES AND GENTLEMEN, MATTHEW IS
4 GONNA TAKE THE STAND AND HE'S GONNA TELL YOU WHAT HE
5 REMEMBERS HAPPENED ON THAT DAY. NOW, HE DOESN'T HAVE TO
6 TAKE THE STAND. IF THIS CASE WERE TO END RIGHT NOW,
7 JUDGE MACAULAY WOULD INSTRUCT YOU TO ENTER A VERDICT OF
8 NOT GUILTY BECAUSE MATTHEW IS PRESUMED INNOCENT UNTIL THE
9 STATE HAS MET ITS BURDEN OF PROOF.

10 AND I SUBMIT TO YOU THAT THAT BURDEN OF PROOF IS
11 VERY HEAVY. IT'S WHAT WOULD CAUSE A REASONABLE PERSON TO
12 HESITATE IN MAKING THE MOST IMPORTANT DECISIONS, NOT JUST
13 THEIR DECISIONS, THEIR MOST IMPORTANT DECISIONS. WE
14 MIGHT HESITATE IN BUYING A PACK OF GUM OR SOMETHING
15 DISCRETIONARY THAT WE DON'T NEED. YOU MIGHT HAVE SOME
16 DOUBT ABOUT WHETHER WE SHOULD DO THAT OR HAVE THAT.
17 THESE ARE THE IMPORTANT DECISIONS IN YOUR LIFE. WHAT
18 WOULD CAUSE YOU TO HESITATE THEN?

19 YOU KNOW, IN THE STATEMENTS THAT YOU'RE GONNA HEAR
20 FROM LAW ENFORCEMENT AND THAT WILL BE ADMITTED IN, MY
21 CLIENT SAYS, "I WAS THERE. I WAS THE ONE TAKING CARE OF
22 HER FROM THIS PERIOD OF TIME TO THIS PERIOD OF TIME." HE
23 MIGHT AS WELL HAVE PAINTED A BULL'S EYE ON HIS BACK.
24 THIS IS A CASE OF CIRCUMSTANTIAL EVIDENCE AND ASSUMPTIONS
25 AND OPINIONS, AND I'M SURE THAT WHEN YOU GET DONE HEARING

1 EVERYTHING, THAT YOU ARE GOING TO COME TO THE CONCLUSION
2 THAT THE STATE HAS NOT MET ITS BURDEN OF PROOF, NOT
3 PROVEN MATTHEW HINTON GUILTY BEYOND A REASONABLE DOUBT.

4 YOU ARE SERVING WHAT IS NOW, WHAT HAS BEEN REFERRED
5 TO BY MANY POLITICIANS, WINSTON CHURCHILL, THIS IS ONE OF
6 THE MOST IMPORTANT SERVICES A CITIZEN CAN RENDER IN
7 PEACETIME. I TRUST THAT YOU WILL GIVE THIS MATTER YOUR
8 FULL ATTENTION AND THE ATTENTION AND CONSIDERATION IT
9 DESERVES. YOU WERE SELECTED BY MS. SIMMONS AND MYSELF
10 BECAUSE WE FELT, FOR WHATEVER REASONS, THAT YOU COULD
11 RENDER A FAIR AND IMPARTIAL VERDICT.

12 AND IT IS IMPORTANT THAT YOU REMEMBER THAT YOUR
13 VERDICT MUST BE FAIR AND IMPARTIAL BECAUSE WE'RE DEALING
14 WITH A TRAGIC SITUATION. IT'S A TRAGEDY WHEN ANYBODY
15 DIES, WHETHER THEY DIE IN A CAR ACCIDENT, WHETHER THEY
16 DIE IN COMBAT, OR WHETHER THEY DIE OF NATURAL CAUSES.
17 IT'S EVEN MORE TRAGIC WHEN IT'S A CHILD, IN THIS CASE AN
18 INFANT. AND WE ALL FEEL BAD ABOUT THAT.

19 BUT SYMPATHY IS NOT SOMETHING THAT YOU CAN ALLOW TO
20 CLOUD YOUR JUDGMENT IN THIS CASE. AND I DON'T ENVY YOU
21 YOUR TASK. IT WOULD BE VERY DIFFICULT NOT TO FEEL
22 SYMPATHY FOR THIS DECEASED CHILD, OR THE CHILD'S MOTHER,
23 OR THE CHILD'S FATHER. OR THE REST OF THE CHILD'S
24 EXTENDED FAMILY. OR JUST HUMANITY IN GENERAL. WE ALL
25 SHOULD BE ABLE TO COME INTO THIS WORLD AND ENJOY A

1 HEALTHY AND FRUITFUL AND PRODUCTIVE LIFE. UNFORTUNATELY,
2 THAT'S NOT ALWAYS THE CASE. AND THAT'S NOT THE CASE HERE
3 TODAY.

4 I'LL GET ONE MORE OPPORTUNITY TO TALK TO YOU AFTER
5 THE CASE IS -- AFTER THE EVIDENCE, RATHER, IS CONCLUDED,
6 AND I WILL TALK WITH YOU THEN ABOUT WHAT WE FEEL THE
7 EVIDENCE HAS EITHER SHOWN OR HAS NOT SHOWN. UNTIL THAT
8 TIME I TRUST THAT YOU WILL GIVE THIS MATTER YOUR UTMOST
9 ATTENTION AND CONSIDERATION. THANK YOU VERY MUCH.

10 THE COURT: CALL YOUR FIRST WITNESS.

11 MS. SIMMONS: THE STATE CALLS ASHLEY BRIGHT.

12 WHEREUPON,

13 ASHLEY BRIGHT,

14 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION BY MS. SIMMONS:

16 THE COURT: IF YOU WOULD PLEASE, MA'AM, GIVE US YOUR
17 FULL NAME FOR THE RECORD, SPELLING YOUR LAST NAME.

18 THE WITNESS: ASHLEY RENE BRIGHT, B-R-I-G-H-T.

19 THE COURT: VERY GOOD. THANK YOU, MA'AM.

20 BY MS. SIMMONS:

21 Q. GOOD MORNING, ASHLEY.

22 A. GOOD MORNING.

23 Q. WHERE DO YOU LIVE NOW?

24 A. I LIVE IN SENECA, SOUTH CAROLINA, WITH MY MOTHER.

25 Q. AND WHERE DO YOU CURRENTLY WORK?

1 A. I WORK AT BLOOMS.

2 Q. HOW OLD ARE YOU?

3 A. TWENTY-SIX.

4 Q. ARE YOU MARRIED?

5 A. I AM NOT.

6 Q. DO YOU HAVE ANY CHILDREN?

7 A. I DID, BUT SHE WAS KILLED.

8 Q. WOULD THAT BE [REDACTED]

9 A. YES, MA'AM.

10 Q. CAN YOU TELL US A LITTLE BIT ABOUT [REDACTED] AND
11 ABOUT YOUR RELATIONSHIP WITH HER?

12 A. SHE WAS ALWAYS THE HAPPIEST BABY. SHE LOVED TO
13 SMILE AND JUST GIGGLE AND BE PLAYED WITH, AND SHE WAS, I
14 DON'T KNOW, JUST A BETTER BABY THAN I COULD HAVE EVER
15 IMAGINED TO HAVE. AND SHE JUST LOVED BEING OUTSIDE, THE
16 SUN, THE BIRDS. SHE LOVED PEOPLE. JUST EVERYONE MADE
17 HER HAPPY AND SHE MADE EVERYONE ELSE HAPPY.

18 Q. BACK IN AUGUST OF 2009 WHO WERE YOU LIVING WITH?

19 A. MATTHEW HINTON.

20 Q. AND [REDACTED]

21 A. AND [REDACTED]

22 Q. HOW LONG HAD YOU BEEN DATING MATTHEW HINTON BACK
23 IN AUGUST OF 2009?

24 A. SINCE OCTOBER OF 2007.

25 Q. SO ALMOST TWO YEARS?

1 A. ALMOST TWO YEARS.

2 Q. ARE YOU MATTHEW HINTON'S GIRLFRIEND NOW?

3 A. NO.

4 Q. DID YOU -- HOW LONG HAVE YOU BEEN APART?

5 A. SINCE I READ THE AUTOPSY, [REDACTED] AUTOPSY.

6 Q. DID YOU INITIALLY SUPPORT THE DEFENDANT IN THIS
7 CASE?

8 A. I DID. I DIDN'T WANT TO BELIEVE THAT ANYONE COULD
9 DO SOMETHING LIKE THIS TO THEIR CHILD, MUCH LESS THE
10 FATHER OF, YOU KNOW, MY CHILD.

11 Q. WHY AND WHEN DID YOU CHANGE YOUR MIND ABOUT ALL OF
12 THAT?

13 A. THE ENTIRE TIME I ALWAYS HAD A DOUBT JUST BECAUSE
14 STORIES HAD CHANGED, HE TOLD ME DIFFERENT THINGS. BUT
15 WHEN I READ THE AUTOPSY, I JUST KNEW THAT THERE WAS NO
16 WAY THAT A BABY COULD GET THOSE INJURIES ACCIDENTALLY,
17 NOT TO THE EXTENT THAT I WAS TOLD HOW BAD HER INJURIES
18 WERE.

19 Q. WERE YOU WORKING BACK IN AUGUST OF 2009?

20 A. I WAS.

21 Q. WHERE WERE YOU WORKING?

22 A. AT THE SENECA MOVIE THEATER.

23 Q. AND WAS THE DEFENDANT WORKING AT THIS TIME?

24 A. HE WAS NOT.

25 Q. AND HOW LONG HAD IT BEEN SINCE HE HAD HAD A JOB?

1 A. SINCE MID APRIL.

2 Q. SO WAS HE ESSENTIALLY STAYING HOME WITH THE CHILD?

3 A. HE WAS.

4 Q. HOW WAS YOUR RELATIONSHIP WITH MATTHEW HINTON?

5 A. I THOUGHT IT WAS OKAY. IT WASN'T PERFECT. AND HE
6 HAD SAID THINGS THAT LED ME TO BELIEVE THAT IT WAS GOING
7 TO BE ENDING SOON, BUT I DIDN'T REALIZE THINGS WERE AS
8 BAD AS THEY WERE.

9 Q. WHEN YOU BELIEVED THAT YOUR RELATIONSHIP WOULD BE
10 ENDING, WHAT WERE YOUR THOUGHTS OR COMMENTS TO HIM?

11 A. HE HAD MADE THE COMMENT TO ME THAT, HOW LONG DID I
12 THINK WE WOULD BE TOGETHER. AND I TOLD HIM, I DIDN'T
13 KNOW BUT IF HE WAS PLANNING ON LEAVING, TO LEAVE; THAT WE
14 WOULD BE FINE, THAT WE WOULD GET BY.

15 Q. WAS MONEY TIGHT DURING THIS TIME?

16 A. IT WAS.

17 Q. WERE YOU RECEIVING HELP FROM YOUR FAMILY
18 FINANCIALLY WITH

19 A. I WAS.

20 Q. TELL ME ABOUT THAT.

21 A. I'M, I WAS WORKING AND I WASN'T MAKING VERY MUCH
22 SO I WAS PAYING -- MY MOM WAS HELPING ME PAY HALF THE
23 RENT AND I WOULD PAY THE OTHER HALF. SHE WAS HELPING
24 WITH POWER, DIAPERS, SHE WOULD BABY-SIT.

25 Q. DID THE DEFENDANT'S FAMILY HELP YOU OUT?

1 A. THEY DID NOT. THEY DID NOT KNOW THAT HE HAD A
2 CHILD.

3 Q. AND WHY DID THEY NOT KNOW [REDACTED] EXISTED?

4 A. HE WOULD NOT LET US TELL THEM.

5 Q. WAS THAT A SOURCE OF CONTENTION IN YOUR
6 RELATIONSHIP?

7 A. IT WAS. HE HAD TOLD ME ON MULTIPLE OCCASIONS THAT
8 WE WERE GONNA TELL HIS FAMILY. FIRST IT WAS BY
9 THANKSGIVING, THEN BY CHRISTMAS, THEN BY THE BABY SHOWER,
10 THEN IT WAS BY THE TIME SHE WAS BORN. I WANTED HIS
11 FAMILY THERE. AND THEN AFTER SHE WAS BORN IT JUST, IT
12 KEPT GOING.

13 IT WOULD START WITH BY THE TIME SHE WAS A MONTH,
14 THEN TWO MONTHS, THREE MONTHS, FOUR MONTHS. AND I WOULD
15 TELL HIM, WE NEED TO TELL THEM. THIS IS WRONG. THEY
16 DESERVE TO KNOW THAT THEY HAVE A GRANDCHILD. I SAW THE
17 JOY THAT [REDACTED] BROUGHT TO MY WHOLE FAMILY AND ALL OF MY
18 FRIENDS, AND I FELT HIS FAMILY WAS BEING ROBBED BY NOT
19 KNOWING.

20 Q. HOW WAS HE ABLE TO CONCEAL THE EXISTENCE OF THIS
21 CHILD FROM HIS MOM?

22 A. THEY LIVE IN GREENVILLE, TRAVELER'S REST, AND SO
23 WHEN SHE WOULD COME BY, SHE WOULD COME IN OR HE WOULD GO
24 DOWN THERE.

25 Q. WHAT DID HIS FAMILY BELIEVE YOUR RELATIONSHIP WAS

1 WITH HIM?

2 A. ROOMMATE.

3 Q. NOT A GIRLFRIEND?

4 A. RIGHT.

5 Q. LET'S MOVE TO AUGUST 16 OF 2009, THAT WEEKEND.

6 WHAT WAS MOOD IN THE DAYS PRIOR TO AUGUST 16 OF
7 2009?

8 A. SHE WAS TEETHING, SO SHE WASN'T AS HAPPY AS
9 NORMAL, SHE WAS A LITTLE MORE FUSSY. AND SHE WASN'T
10 SLEEPING THROUGH THE NIGHT LIKE SHE NORMALLY WAS; SHE WAS
11 WAKING UP MORE FREQUENTLY. SHE WASN'T WANTING TO FEED
12 LIKE SHE NORMALLY WOULD, AND, YOU KNOW, SHE WAS A LITTLE
13 MORE FUSSY.

14 Q. AND WHEN YOU SAY "FUSSY," WAS THAT MORE CRYING, OR
15 MORE --

16 A. SHE WOULD CRY MORE AND JUST BE...

17 Q. DID -- YOU WORKED DURING THE WEEKEND OF THE 15TH
18 AND 16TH OF AUGUST?

19 A. I DID.

20 Q. DO YOU KNOW WHAT HOURS YOU WORKED EACH DAY?

21 A. 12 TO FIVE. I WOULD LEAVE SOMETIMES AFTER 11:30
22 AND GET HOME BETWEEN FIVE, 5:30.

23 Q. HOW DID YOU GET TO AND FROM WORK?

24 A. MY MOTHER AND MY GRANDMOTHER.

25 Q. DO YOU DRIVE?

1 A. I DON'T.

2 Q. DID ANYONE ELSE HAVE ACCESS TO OTHER THAN
3 YOU AND MATTHEW HINTON, THE DEFENDANT, ON AUGUST 15TH AND
4 16TH OF 2009?

5 A. TWO OF MY FRIENDS CAME OVER ON FRIDAY, SO NO, NOT
6 ON THAT SATURDAY OR SUNDAY THEY DID NOT.

7 Q. AND EITHER YOU OR MATTHEW WERE PRESENT WHEN YOUR
8 FRIENDS CAME OVER?

9 A. RIGHT.

10 Q. HAD YOUR MOM BEEN AROUND THAT WEEK?

11 A. SHE HADN'T. SHE HAD HURT HER LEG AT WORK AND SHE
12 HADN'T BEEN OVER SINCE THE THURSDAY, TWO OR THREE DAYS
13 BEFORE.

14 Q. BUT YOUR MOM, YOU TALK TO HER ON A REGULAR BASIS?

15 A. I DO.

16 Q. TELL ME ABOUT THE DAY AND NIGHT OF THE 15TH, THAT
17 WOULD HAVE BEEN SATURDAY.

18 A. SATURDAY NIGHT I CAME HOME FROM WORK AND, YOU
19 KNOW, EVERYTHING SEEMED FINE. HE WAS PLAYING VIDEO GAMES
20 AND HE PRETTY MUCH PLAYED VIDEO GAMES THE ENTIRE NIGHT.
21 AND I SLEPT ON THE COUCH THAT NIGHT. AND I WOULD HEAR
22 HER WAKE UP OFF AND ON AND HE WOULD GET UP WITH HER SINCE
23 HE DIDN'T HAVE TO WORK.

24 AND WHEN I WAS GETTING READY TO LEAVE THAT
25 MORNING, I TOLD HIM HE NEEDED TO GET SOME REST BECAUSE

1 SHE WASN'T GONNA SLEEP ALL DAY AND HE HAD BEEN AWAKE THE
2 ENTIRE NIGHT PLAYING VIDEO GAMES.

3 Q. THE MORNING OF THE 16TH, WHAT TIME DO YOU THINK
4 YOU GOT UP?

5 A. PROBABLY 11, 11:15, NOT VERY LONG BEFORE I HAD TO
6 LEAVE FOR WORK.

7 Q. WHO KEPT -- WHO WAS TAKING CARE OF [REDACTED] THAT
8 MORNING BEFORE YOU GOT UP?

9 A. MATTHEW.

10 Q. HOW WAS [REDACTED] WHEN YOU WENT TO WORK ON THAT, ON
11 THAT SUNDAY?

12 A. SHE WAS ASLEEP WHEN I LEFT, BUT SHE HAD BEEN UP
13 OFF AND ON. AND SHE WAS FINE, YOU KNOW, FUSSY, BUT
14 AWARE. EVERYTHING OTHER THAN THAT SEEMED COMPLETELY
15 NORMAL.

16 Q. YOU DIDN'T NOTICE ANY INJURIES OR DRASTIC CHANGES
17 IN HER BEHAVIOR?

18 A. NO.

19 Q. HOW WAS THE DEFENDANT'S MOOD WHEN YOU LEFT?

20 A. HE SEEMED TIRED AND HE SEEMED JUST LIKE HE HAD
21 BEEN UP ALL NIGHT. HE DIDN'T SEEM, I WOULDN'T SAY
22 HOSTILE OR ANYTHING, JUST, YOU COULD TELL HE WAS TIRED
23 AND HADN'T SLEPT.

24 Q. WHAT TIME DID YOU LEAVE FOR WORK?

25 A. PROBABLY BETWEEN 20 TILL, 15, 20 TILL.

1 Q. DID, DID YOU HAVE A LOT OF TIME TO INTERACT WITH
2 [REDACTED] THAT MORNING BEFORE YOU LEFT FOR WORK?

3 A. NOT THAT MORNING.

4 Q. DO YOU RECALL PICKING HER UP OR MOVING HER AROUND?

5 A. NO, MA'AM.

6 Q. WHAT SCHEDULE DID YOU WORK THAT DAY?

7 A. I WORKED 12 TILL FIVE, BUT IT WAS A LITTLE AFTER
8 FIVE WHEN I GOT OFF OF WORK, AND THEN I WENT BY
9 WALGREEN'S AND THEN I CAME HOME.

10 Q. DID YOU CHECK IN WITH THE DEFENDANT THAT
11 AFTERNOON, TO CHECK IN ON YOUR CHILD?

12 A. HE DID. HE HAD TEXTED ME, AND HE TOLD ME THAT SHE
13 HAD BEEN FUSSY ALL DAY AND THAT THEY WERE GONNA LAY DOWN
14 AND TAKE A NAP, NOT TO WAKE THEM.

15 Q. ASHLEY, I'M GONNA SHOW YOU WHAT HAS BEEN PREMARKED
16 AS STATE'S EXHIBIT NUMBER 9, AND YOU HAVE SEEN THIS
17 PREVIOUSLY.

18 MS. SIMMONS: YOUR HONOR, MAY I APPROACH THE
19 WITNESS?

20 THE COURT: CERTAINLY.

21 BY MS. SIMMONS:

22 Q. ASHLEY, DO THESE LOOK LIKE THE VERIZON RECORDS OF
23 THE TEXT MESSAGES EXCHANGED BETWEEN YOU AND THE DEFENDANT
24 ON AUGUST 16, 2009?

25 A. YES.

1 Q. ARE THEY A FAIR AND ACCURATE REPRESENTATION OF THE
2 MESSAGES THAT WERE EXCHANGED BETWEEN YOU?

3 A. YES, MA'AM.

4 Q. WHAT WAS YOUR NUMBER BACK THEN?

5 A. [REDACTED] EXTENSION [REDACTED]

6 Q. AND WHAT WAS HIS NUMBER?

7 A. HIS NUMBER WAS [REDACTED]

8 MS. SIMMONS: JUDGE, WE MOVE STATE'S EXHIBIT NUMBER
9 NINE INTO EVIDENCE AND ASK THAT MS. BRIGHT BE ALLOWED TO
10 PUBLISH IT TO THE JURY.

11 MS. TYE: NO OBJECTION, YOUR HONOR.

12 THE COURT: ALL RIGHT. WITHOUT OBJECTION -- STATE'S
13 EXHIBIT NUMBER 9, DID YOU SAY?

14 MS. SIMMONS: YES, YOUR HONOR.

15 THE COURT: -- IS ADMITTED.

16 (STATE'S EX. # 9, VERIZON RECORDS, WAS
17 RECEIVED IN EVIDENCE.)

18 BY MS. SIMMONS:

19 Q. ASHLEY, CAN YOU TO READ TO THE JURY THE TEXT
20 MESSAGES BETWEEN YOU AND THE DEFENDANT, INDICATING WHICH
21 ONE WAS YOU AND WHICH ONE WAS HIM, AND WHAT TIME THEY
22 WERE EXCHANGED?

23 A. OKAY. HE MESSAGED ME, IT WAS AT TWO, AND ASKED
24 WHAT I WAS DOING.

25 I TOLD HIM I WAS WORKING.

1 AND HE TOLD ME AT ABOUT TEN AFTER TWO THAT HE DID
2 NOT WANT MY MOM COMING OVER, AND I DIDN'T UNDERSTAND WHY
3 BECAUSE HE NEVER HAD A PROBLEM WITH HER COMING OVER, SO I
4 ASKED HIM WHAT WAS WRONG, HAD SHE TEXTED HIM?

5 AND HE SAID, NO, HE JUST STARTED THINKING AND HE
6 DIDN'T WANT HER COMING OVER; IF SHE STEPS ONE FOOT IN
7 THIS APARTMENT, HE WOULD LEAVE. AND THAT WAS --

8 Q. WHAT TIME DID HE SAY THAT?

9 A. -- ABOUT 2:15, 2:12, 2:15, 2:12, SOMETHING LIKE
10 THAT.

11 Q. OKAY. JUST READ IT EXACTLY AS IT IS ON THAT PAPER
12 FOR ME.

13 A. I -- AM I SUPPOSED TO USE THE WORD "SHIT"?

14 Q. UH-HUH.

15 A. I JUST STARTED THINKING ABOUT SHIT AND I DON'T
16 WANT HER COMING OVER. IF SHE STEPS FOOT IN THIS
17 APARTMENT, I WILL LEAVE.

18 Q. CONTINUE TO READ, PLEASE.

19 A. HE SAYS, AT 440: I CAN'T HOLD MY EYES OPEN SO BRI
20 AND I ARE LAYING DOWN.

21 AND I TOLD HIM TO LEAVE THE DOOR UNLOCKED AND
22 ASKED WHERE SLEEPING. AND THAT WAS AT 442.

23 AND HE SAID IN THE LITTLE BEDROOM. SHE WON'T
24 SLEEP UNLESS I'M HOLDING HER, SO WE'RE BOTH GONNA BE IN
25 THE BED. PLEASE TRY NOT TO WAKE US.

1 AND I SAID, OKAY, I WON'T COME IN THERE. DO YOU
2 WANT ANY PARTICULAR TIME OR JUST WHENEVER YOU GET UP?
3 AND THAT WAS AT 4:45.

4 AND THEN HE SAID JUST WHENEVER.

5 AND I SAID ALL RIGHT, SLEEP WELL. AND THAT WAS AT
6 4:45.

7 Q. THANK YOU, ASHLEY. DID ANY OF THOSE TEXT MESSAGE
8 THAT YOU JUST READ SEEM ODD TO YOU?

9 A. THEY DID. HE HAD NEVER TOLD ME NOT TO WAKE THEM.
10 BUT I FIGURED SINCE SHE HAD BEEN FUSSY AND NOT SLEEPING
11 WELL, THAT THEY WERE JUST GONNA TAKE A NAP. I THOUGHT
12 EVERYTHING WOULD BE FINE.

13 Q. DID THE TEXT MESSAGE ABOUT YOUR MOM SEEM ODD?

14 A. IT DID. HE HAD NEVER HAD A PROBLEM WITH HER
15 COMING OVER BEFORE. AND JUST THE FACT THAT OUT OF THE
16 BLUE HE SAID HE DIDN'T WANT HER STEPPING FOOT IN THE
17 APARTMENT. IT WAS VERY ODD.

18 Q. AND THE BEDROOM THAT THEY WERE SLEEPING IN, DID
19 YOU CALL IT THE LITTLE BEDROOM OR THE FRONT BEDROOM?

20 A. IT'S THE FRONT BEDROOM. HE SAID IT WAS THE LITTL
21 BEDROOM.

22 Q. IS THAT WHERE HE USUALLY SLEPT WITH [REDACTED]

23 A. NO.

24 Q. WAS THAT YOUR -- WAS THAT IN A SPARE BEDROOM?

25 A. YEAH.

1 Q. DID YOU FIND THAT ODD?

2 A. YEAH. BECAUSE NORMALLY HE SLEPT IN THE BACK
3 BEDROOM AND I DIDN'T KNOW WHY HE WAS SLEEPING IN THE
4 FRONT BEDROOM.

5 Q. WHAT TIME DID YOU GET OFF WORK THAT DAY?

6 A. IT WAS A LITTLE AFTER FIVE, BUT I DIDN'T GET HOME
7 UNTIL 5:45, IT WAS AFTER 5:30.

8 Q. WERE THEY AWAKE OR ASLEEP WHEN YOU GOT HOME?

9 A. ASLEEP.

10 Q. AND THEY WERE IN THE FRONT BEDROOM? ✓

11 A. YES.

12 Q. DID YOU CHECK ON THEM PERIODICALLY? ✓

13 A. I DID.

14 Q. TELL ME ABOUT THAT.

15 A. UM, I WOULD CHECK IN PROBABLY EVERY 45 MINUTES.

16 AND I WOULDN'T GO IN, I WOULDN'T TURN THE LIGHT ON

17 BECAUSE I DIDN'T WANT TO WAKE ANYONE, BUT I WOULD HAVE
18 THE HALL LIGHT ON AND I WOULD OPEN THE BEDROOM DOOR AND I
19 WOULD WALK IN TO MAKE SURE THAT NO BLANKETS WERE OVER HER
20 FACE OR A PILLOW OR NOTHING LIKE THAT AND TO MAKE SURE
21 THAT THEY WERE COVERED AND EVERYTHING.

22 Q. ASHLEY, I'M GONNA SHOW YOU WHAT HAS BEEN PREMARKED
23 STATE'S 7-A, B, C; STATE'S 5-A, 5-B, 5-C AND D; 6-A, 6-B
24 AND 6-C; AND STATE'S 8.

25 MS. SIMMONS: THESE HAVE BEEN PROVIDED PREVIOUSLY TO

REDACTED
D

1 THE DEFENSE.

2 MS. TYE: NO OBJECTION, YOUR HONOR.

3 THE COURT: ALL RIGHT. IF YOU WOULD, PLEASE,
4 STATE'S EXHIBIT NUMBER 5...

5 MS. SIMMONS: JUDGE, WE ARE MOVING ADMISSION OF 6-A
6 THROUGH C; STATE'S 8, AND STATE'S ---

7 THE COURT: 6-A THROUGH C?

8 MS. SIMMONS: 6-A THROUGH C; STATE'S 5-A THROUGH
9 5-C -- I'M SORRY -- 5 D; AND 7-A THROUGH C.

10 THE COURT: ALL RIGHT. STATE'S EXHIBITS 6-A
11 THROUGH, A, B, C, D; STATE'S EXHIBIT 8; STATE'S EXHIBIT
12 5-A, B, C, D; AND STATE'S EXHIBIT 7-A, B, C ARE ADMITTED.

13 MS. SIMMONS: THANK YOU, YOUR HONOR.

14 (RECEIVED IN EVIDENCE WERE STATE'S EXHIBITS
15 5-A, 5-B, 5-C, AND 5-D.)

16 (RECEIVED IN EVIDENCE WERE STATE'S EXHIBITS
17 NUMBERS 6-A, 6-B, 6-C, AND 6-D.)

18 (RECEIVED IN EVIDENCE WERE STATE'S EXHIBITS
19 NUMBERS 7-A, 7-B, AND 7-C.)

20 (RECEIVED IN EVIDENCE WAS STATE'S EXHIBIT
21 NUMBER 8.)

22 MS. SIMMONS: BEG THE COURT'S INDULGENCE FOR ONE
23 MOMENT.

24 BY MS. SIMMONS:

25 Q. ASHLEY, I'M GONNA BRING YOUR ATTENTION TO THE

1 PHOTOGRAPHS BEHIND YOU, AND I'M SORRY YOU HAVE TO TURN
2 AROUND. IS THIS THE PHOTOGRAPH OF THE BEDROOM, OBVIOUSLY
3 IN DAYLIGHT, BUT WHERE THE DEFENDANT WAS SLEEPING?

4 A. YES, MA'AM.

5 Q. AND HE WAS SLEEPING THERE WITH YOUR DAUGHTER?

6 A. YES, MA'AM.

7 THE COURT: IF YOU WOULD PLEASE, I THINK YOU DIDN'T
8 INDICATE WHICH EXHIBIT THAT WAS.

9 MS. SIMMONS: 5-B. I APOLOGIZE, YOUR HONOR.

10 THE COURT: ALL RIGHT, VERY GOOD.

11 BY MS. SIMMONS:

12 Q. I'M GONNA SHOW YOU 5-A. IS THAT ALSO A FAIR AND
13 ACCURATE REPRESENTATION OF THE BED THAT AFTERNOON AND
14 EVENING?

15 A. YES, MA'AM.

16 Q. I'M GONNA GIVE YOU A POINTER. CAN YOU JUST USE
17 THIS BUTTON AND SHOW ME WHERE THE DEFENDANT WAS SLEEPING
18 AND THE VICTIM WAS SLEEPING AT THE TIMES YOU CHECKED IN?

19 A. MATT WAS SLEEPING HERE, AND THEN SHE WAS SLEEPING
20 BETWEEN HIM AND THE WALL RIGHT THERE.

21 Q. OKAY. I'M GONNA SHOW YOU 5-C. IS THIS JUST
22 ANOTHER VANTAGE POINT OF THAT?

23 A. YES.

24 Q. IS THE END OF THE BED CLEAR?

25 A. IT IS, AND YOU CAN WALK, BUT THERE IS SOME STUFF

REDACTED
D

1 THERE YOU WOULD HAVE TO MOVE IT TO...

2 Q. YOU WOULD HAVE TO MOVE IT TO WALK AROUND?

3 A. RIGHT.

4 Q. AND IS THIS THE END OF THE BED?

5 A. IT IS.

6 Q. THAT WOULD BE STATE'S 5-D.

7 WHEN YOU MOVED -- WHEN YOU CAME IN AND OUT OF THE
8 BEDROOM TO CHECK ON THEM, HOW -- DID YOU GO TO THE END OF
9 THE BED OR SIDE OF THE BED?

10 A. THE SIDE OF THE BED.

11 Q. CAN YOU SHOW ME?

12 A. ABOUT RIGHT HERE BUT NOT QUITE AT THE FOOT OF THE
13 BED.

14 Q. DID YOU HAVE TO PHYSICALLY LEAN OVER HIM TO LOOK
15 AT HER?

16 A. I DID. NOT TO THE POINT WHERE I WOULD HAVE TO
17 TOUCH THE BED, BUT JUST LEAN FORWARD TO LOOK OVER.

18 Q. DID -- I APOLOGIZE -- BUT DID YOU SAY IT WAS OR
19 WAS NOT UNUSUAL FOR HIM TO SLEEP WITH HER?

20 A. IT WASN'T NORMAL. THERE HAD BEEN TIMES IN THE
21 BEGINNING WHEN SHE WAS FUSSY, SHE WAS HAVING A PROBLEM
22 WITH HER FORMULA TO WHERE ONE OF US WOULD SLEEP WITH HER,
23 BUT IT HAD BEEN TWO OR THREE MONTHS SINCE THAT HAD
24 HAPPENED.

25 Q. HOW LONG DO YOU THINK THAT THEY SLEPT THAT NIGHT

1 AFTER YOU GOT HOME?

2 A. PROBABLY UNTIL -- IT WAS AFTER TEN.

3 Q. AS A MOTHER DID YOU FIND IT UNUSUAL THAT

4 HAD SLEPT FROM I GUESS FOUR TO 11?

5 A. IT SEEMED UNUSUAL. BUT SINCE SHE HAD BEEN UP OFF
6 AND ON ALL NIGHT, SHE HADN'T BEEN SLEEPING WELL, HE SAID
7 SHE HAD BEEN FUSSY, I JUST ASSUMED SHE HAD TIRED HERSELF
8 OUT. SHE HAD STARTED SLEEPING, YOU KNOW, SEVEN, EIGHT
9 HOURS THROUGH THE NIGHT BEFORE SHE WAS TWO MONTHS ONCE WE
10 GOT FORMULA AND EVERYTHING RIGHT, YOU KNOW, SHE WOULD,
11 YOU KNOW, SLEEP STRAIGHT THROUGH THE NIGHT. THE TIME OF
12 NIGHT WAS ODD, BUT THE AMOUNT OF TIME I WOULDN'T
13 NECESSARILY SAY WAS UNUSUAL.

14 Q. AND WERE YOU FOLKS THE TYPE TO BE ON A REGULAR
15 SCHEDULE ANYWAY?

16 A. NOT REALLY.

17 Q. HOW OFTEN DID YOU CHECK ON THEM?

18 A. IT WAS EVERY, ABOUT 45 MINUTES. I WAS WATCHING
19 NETFLIX, SO WHEN EPISODES WOULD END I WOULD GO AND CHECK.

20 Q. HOW MANY NETFLIX EPISODES DID YOU WATCH?

21 A. I'D SAY FOUR OR FIVE, SOMETHING LIKE THAT,
22 STRAIGHT THROUGH AND THEN I SKIPPED THROUGH SOME BECAUSE
23 I HAD SEEN THEM BEFORE.

24 Q. WHAT WERE YOU WATCHING

25 A. LAW & ORDER SVU. [REDACTED]

RE
DA
CT
ED
RE
DA
CT
RE
RE
DA
DA
CT
CT

RED
ACT

1 Q. DID YOUR NETFLIX RECORDS ACTUALLY INDICATE THAT
2 YOU WATCHED ALL THE SHOWS? [REDACTED] [REDACTED]

3 A. IT DID. [REDACTED]

4 Q. DID YOU EVER TAKE [REDACTED] OUT OF THE BED FROM THE
5 TIME YOU GOT HOME TILL THE TIME THAT THE DEFENDANT --

6 A. I DID NOT.

7 Q. DURING THE TIMES YOU CHECKED ON HER, DID YOU
8 NOTICE ANYTHING UNUSUAL?

9 A. ONE TIME I WENT IN THERE AND HER LEG WAS A LITTLE
10 COLD, IT WAS OUT FROM UNDER THE BLANKET, SO I JUST
11 COVERED HER UP. BUT OTHER THAN THAT, NOT REALLY. MORE
12 TOWARDS THE END OF THE NIGHT, PROBABLY CLOSER TO TEN-ISH
13 I NOTICED SHE WAS BREATHING A LITTLE HEAVY, BUT THAT
14 WASN'T UNCOMMON, EITHER.

15 Q. THE ODD BREATHING, CAN YOU ESTIMATE WHAT TIME THAT
16 WAS?

17 A. NINE -- BETWEEN 9:30 AND TEN.

18 Q. WHAT TIME DID THE DEFENDANT WAKE UP AND ALERT YOU
19 THAT SOMETHING WAS WRONG WITH [REDACTED]

20 A. 10:45 -- BETWEEN 10:45 AND 11.

21 Q. WHAT DID HE SAY?

22 A. HE SAID THAT [REDACTED] WASN'T BREATHING, FOR ME TO
23 CALL 9-1-1.

24 Q. WHAT DID YOU DO?

25 A. I CALLED 9-1-1 IMMEDIATELY.

1 Q. WHAT DID HE DO WHILE YOU WAITED FOR 9-1-1 TO GET
2 THERE?

3 A. IT APPEARED THAT HE WAS TRYING TO DO C.P.R.,
4 THAT'S WHAT IT LOOKED LIKE. HE WAS DOING LIKE CHEST
5 COMPRESSIONS.

6 Q. THE CHEST COMPRESSIONS YOU WITNESSED, DID THEY
7 SEEM TO BE EXTREMELY FORCEFUL OR ROUGH?

8 A. A LITTLE ROUGH, BUT THEN I WASN'T, I DON'T KNOW
9 C.P.R., SO I DIDN'T KNOW HOW HARD THEY NEEDED TO BE DONE
10 AND I DIDN'T KNOW HOW TO DO IT ON AN INFANT, EITHER, SO I
11 DON'T KNOW.

12 Q. HOW DID HE -- WAS HE GETTING INSTRUCTIONS OVER THE
13 PHONE?

14 A. IN THE BEGINNING NO. BUT ONCE THE EMS DISPATCHER
15 GOT THE INFORMATION, SHE WANTED ME TO GIVE HIM THE PHONE,
16 SO I PUT IT ON SPEAKER PHONE SO SHE COULD INSTRUCT HIM ON
17 HOW TO DO C.P.R. ON AN INFANT.

18 Q. THE ACTUAL 9-1-1 CALL WAS YOU, THEN?

19 A. YES.

20 Q. WHERE WAS TRANSPORTED TO?

21 A. TO OCONEE MEDICAL.

22 Q. HOW LONG DO YOU THINK IT TOOK FOR E.M.S. TO GET
23 THERE?

24 A. MAYBE FIVE MINUTES.

25 Q. WHERE WERE YOU ALL LIVING THEN?

1 A. AT NORTHWOODS APARTMENTS.

2 Q. IS THAT -- WHERE IS THAT?

3 A. IN SENECA.

4 Q. AT OCONEE MEDICAL, WHERE [REDACTED] WAS TRANSPORTED,
5 DID YOU ASK THE DEFENDANT WHAT HAD HAPPENED TO [REDACTED]

6 A. IN THE BEGINNING, NO. ONCE WE GOT THERE AND WE
7 WERE ALL PUT IN A ROOM, I ASKED, YOU KNOW, WHAT WAS WRONG
8 BECAUSE THEY WERE TELLING ME THAT SHE HAD ALL THESE
9 DIFFERENT THINGS WRONG WITH HER. AND I ASKED HIM, WHAT
10 HAPPENED? AND HE SAID, NOTHING, HE DIDN'T KNOW.

11 Q. WAS [REDACTED] LATER TRANSPORTED TO GREENVILLE
12 MEMORIAL HOSPITAL?

13 A. SHE WAS.

14 Q. DO YOU REMEMBER TALKING TO DR. GWYN THERE?

15 A. I DO.

16 Q. AT YOUR APARTMENT, AT OCONEE MEMORIAL HOSPITAL, OR
17 AT GREENVILLE MEMORIAL HOSPITAL, DID THE DEFENDANT EVER
18 MENTION AN ACCIDENT OR FALL OR MISHAP RELATING TO THE
19 SHOWER?

20 A. HE DIDN'T UNTIL AFTER WE HAD TALKED TO THE
21 DETECTIVE THAT MET US AT GREENVILLE MEMORIAL.

22 Q. AND DID DR. GWYN ASK YOU ABOUT THE SPECIFIC
23 INCIDENTS LIKE THAT?

24 A. YES.

25 Q. DID HE ASK YOU TO -- DID HE ASK YOU ANY, ANY

1 EVENTS REGARDING [REDACTED] IN THE LAST FEW DAYS?

2 A. HE DID.

3 Q. DID THE DEFENDANT PROVIDE ANY INFORMATION TO
4 DR. GWYN?

5 A. SOMETHING ABOUT REFLUX, BUT NOTHING ABOUT A FALL
6 OR ANY TRAUMATIC TYPE EVENT.

7 Q. SO HE DID REPORT A REFLUX EPISODE?

8 A. RIGHT.

9 Q. WHAT POINT DID THE SHOWER STORY EMERGE TO YOU?

10 A. IT WAS LATER THAT NIGHT. IT WAS PROBABLY FOUR OR
11 FIVE O'CLOCK IN THE MORNING AFTER WE HAD TALKED TO THE
12 DETECTIVE.

13 Q. SPECIFICALLY WHAT DID THE DEFENDANT TELL YOU?

14 A. HE TOLD ME HE WAS GIVING HER A SHOWER AND SHE
15 SLIPPED, AND WHEN SHE DID, HE GRABBED HER BY ONE LEG AND
16 ONE ARM ACROSS HER CHEST AND PULLED UP INTO HIS CHEST AND
17 THAT HER HEAD HIT HIS CLAVICLE.

18 Q. WAS IT UNUSUAL THAT HE WOULD HAVE BEEN SHOWERING
19 WITH YOUR FIVE-MONTH-OLD DAUGHTER?

20 A. IT WAS. HE HAD GIVEN HER A BATH, BUT NEVER A
21 SHOWER.

22 Q. AND HE SPECIFICALLY TOLD YOU HE WAS TAKING A
23 SHOWER WITH HER?

24 A. HE DID.

25 Q. DID HE TELL ANY -- WAS ANYONE ELSE IN YOUR

REDACTED

1 PRESENCE WHEN HE MADE THESE COMMENTS TO YOU?

2 A. NO.

3 Q. DID YOU FIND THAT ODD? ✓

4 A. I DID.

5 Q. WERE THESE COMMENTS MADE TO YOU BEFORE OR AFTER
6 DR. GWYN HAD TOLD YOU ABOUT THE EXTENT OF [REDACTED]
7 INJURIES?

8 A. AFTER.

9 Q. HAD YOU LEARNED ABOUT THE HEAD INJURY AT THAT
10 POINT?

11 A. WE -- I THINK WE LEARNED ABOUT THE HEAD INJURY AT
12 OCONEE.

13 Q. DID YOU GO HOME -- OKAY, SO WE'RE INTO THE 17TH
14 NOW, [REDACTED] IS AT GREENVILLE MEMORIAL. DID YOU GO HOME
15 ON THE DAY OF THE 17TH TO SENECA?

16 A. WE DID. WE WENT HOME. WE HAD TO BE AT D.S.S.
17 THAT MORNING, AND SO WE WENT BY THE APARTMENT AND THEN WE
18 WENT TO D.S.S., AND THEN WE WENT AND HAD BLOOD WORK DRAWN
19 AND THEN TO THE SENECA POLICE DEPARTMENT.

20 Q. AND YOU HAD BEEN REFERRED TO D.S.S. BY LAW
21 ENFORCEMENT?

22 A. YES, MA'AM.

23 Q. DURING THE PERIOD YOU WERE HOME, DID YOU NOTICE
24 ANY UNUSUAL BEHAVIOR BY THE DEFENDANT?

25 A. THAT MORNING NOT SO MUCH. BUT THAT NIGHT AFTER WE

REDACTED

1 HAD GOTTEN HOME FROM THE POLICE DEPARTMENT HE WAS LOOKING
2 UP THINGS ON LINE JUST ABOUT, NOT NECESSARILY HEAD
3 INJURIES, BUT JUST INJURIES, AND NOT RELATED BUT -- I
4 GUESS STORIES THAT COULD BE WITH SIMILAR INJURIES THAT
5 MAYBE COULD HAVE BEEN, YOU KNOW, THIS, IT COULD HAVE BEEN
6 MEDICALLY EXPLAINED WHAT WAS WRONG WITH HER.

7 Q. AFTER YOU HAD BEEN TOLD YOUR CHILD WAS SUFFERING
8 ESSENTIALLY FATAL INJURIES, THE DEFENDANT WAS DOING
9 INTERNET RESEARCH?

10 A. RIGHT.

11 Q. IN THE PERIOD BETWEEN [REDACTED] INJURIES AND THE
12 DEFENDANT'S ARREST, DID HE MAKE ANY OTHER COMMENTS THAT
13 YOU FOUND TO BE ODD?

14 A. IN GREENVILLE WE WERE GETTING READY TO LEAVE, AND
15 HE TOLD ME THAT IF I WOULD TAKE THE RAP FOR THIS, THAT I
16 WOULDN'T GET VERY MUCH JAIL TIME BECAUSE I HAD NO
17 PREVIOUS CRIMINAL HISTORY.

18 Q. AND HOW DID YOU RESPOND TO THAT?

19 A. I SAID THAT I WAS NOT, YOU KNOW, TAKING
20 RESPONSIBILITY FOR SOMETHING THAT I DIDN'T DO; THAT I HAD
21 NO IDEA HOW THESE INJURIES HAPPENED AND I WASN'T
22 RESPONSIBLE AND I WAS NOT GOING TO JAIL FOR SOMETHING I
23 DIDN'T DO.

24 Q. AFTER [REDACTED] DEATH AND WHEN YOU WERE PLANNING
25 THE FUNERAL, CAN YOU REPORT OTHER DISTURBING BEHAVIOR BY

REDACTED

1 THE DEFENDANT?

2 A. WE WERE AT THE FUNERAL HOME AND THEY WERE WORKING
3 ON THE OBITUARY. AND THEN THE MAN WAS ASKING FOR
4 RELATIVES AND PEOPLE, AND HE REFUSED TO LET HIS FAMILY BE
5 PUT IN THE OBITUARY. HE SAID THEY WOULD NOT APPRECIATE
6 THEIR NAMES BEING PUT IN THE PAPER.

7 Q. ASHLEY, AT ANY POINT ON THE WEEKEND OF AUGUST
8 14TH, 15TH, 16TH, WHEN YOU WERE WITH [REDACTED] DURING THOSE
9 TIMES, WAS THE DEFENDANT ALSO WITH HER?

10 A. HE WAS.

11 Q. AND WAS HE THE PRIMARY CAREGIVER FOR [REDACTED] THAT
12 WEEKEND?

13 A. YES, MA'AM.

14 Q. AND DURING THAT WEEKEND DID YOU DO ABSOLUTELY
15 ANYTHING TO HARM YOUR DAUGHTER?

16 A. I DID NOT.

17 MS. SIMMONS: I BEG THE COURT'S INDULGENCE FOR ONE
18 MOMENT.

19 THE COURT: CERTAINLY.

20 MS. SIMMONS: PLEASE ANSWER ANY QUESTIONS THAT
21 MS. TYE MAY HAVE.

22 THE WITNESS: OKAY.

23 CROSS-EXAMINATION BY MS. TYE:

24 Q. GOOD MORNING, ASHLEY.

25 A. HI.

1 Q. ASHLEY, I'M ACTUALLY GONNA TAKE YOU BACK. I KNOW
2 YOU HAVE GONE THROUGH THE PROGRESSION OF TIMES AND DATES
3 AND I'M ACTUALLY GOING TO TAKE YOU BACK TO -- I'M GONNA
4 START ALL OVER, I GUESS.

5 I KNOW THAT YOU TOLD MS. SIMMONS THAT YOU HAD BEEN
6 DATING MATTHEW APPROXIMATELY TWO YEARS BEFORE [REDACTED] WAS
7 BORN. WHEN DID YOU ALL MOVE IN TOGETHER?

8 A. IT WAS RIGHT AFTER WE MET.

9 Q. RIGHT AFTER YOU MET. SO YOU HAD LIVED TOGETHER
10 FOR A WHILE?

11 A. YES, MA'AM.

12 Q. OKAY. WHEN [REDACTED] WAS BORN, YOU SAID THAT
13 MATTHEW'S FAMILY WAS NOT AWARE OF HER BIRTH, CORRECT?

14 A. RIGHT.

15 Q. OKAY. HAD YOU HAD -- YOU SAID YOU HAD NUMEROUS
16 CONVERSATIONS WITH MATTHEW REGARDING THAT?

17 A. RIGHT.

18 Q. AND YOU FELT YOU WANTED TO TELL THEM, CORRECT?

19 A. IN THE BEGINNING HE HAD SAID HE DIDN'T KNOW HOW
20 SHE WOULD REACT, BUT HE WANTED TO BE THE ONE TO TELL HER,
21 SO I SAID OKAY, I AGREED NOT TO TELL HER AT FIRST.

22 AND THEN AFTER THAT, AS MORE TIME WENT ON, I
23 ASSUMED THAT HE WOULD HAVE TOLD HER BY LIKE A CERTAIN
24 POINT AND WE WOULD TALK ABOUT IT. AND IN THE BEGINNING I
25 WAS HESITANT ABOUT TELLING HER BECAUSE OF HOW HE HAD MADE

1 HER OUT TO BE. AND SO IN THE BEGINNING, YES, I DID AGREE
2 NOT TO TELL HER AT FIRST, BUT THEN TALKED ABOUT WE WOULD
3 TELL HER AND IT JUST NEVER HAPPENED.

4 Q. ISN'T IT TRUE THAT YOU WERE CONCERNED ABOUT HOW
5 SHE WOULD VIEW YOU BECAUSE THE TWO OF YOU WERE NOT
6 MARRIED?

7 A. HE HAD TOLD ME THAT SHE WOULD LOOK DOWN ON ME, HE
8 HAD TOLD ME THAT SHE WOULD NOT, YOU KNOW, BE ACCEPTING OF
9 THE SITUATION, SO THAT DID HAVE SOMETHING TO DO WITH IT
10 IN THE BEGINNING.

11 Q. SO YOU WERE CONCERNED HOW SHE WOULD VIEW YOU
12 BECAUSE YOU HAD A CHILD?

13 A. AT FIRST.

14 Q. NOW, AFTER [REDACTED] WAS BORN, WHO WAS THE ORIGINAL
15 PRIMARY CARETAKER?

16 A. I WAS.

17 Q. AND WAS MATTHEW -- AND IT IS CORRECT THAT MATTHEW
18 WAS A VERY ATTENTIVE FATHER, CORRECT?

19 A. HE WAS.

20 Q. AND ISN'T IT TRUE THAT YOU'VE TOLD PEOPLE,
21 NUMEROUS PEOPLE, THAT MATTHEW, IF [REDACTED] WAS FUSSY OR
22 CRYING OR ANYTHING LIKE THAT, YOU WOULD EITHER SET HER
23 DOWN OR GIVE HER TO MATTHEW AND HE WOULD CALM HER DOWN?

24 A. IF I WAS GETTING FRUSTRATED WHERE I COULD NOT CALM
25 HER DOWN, I WOULD GIVE HIM TO HER OR PUT HER IN HER CRIB

1 AND WALK OUTSIDE FOR A LITTLE BIT, BUT, SO YES.

2 Q. SO HE WAS ABLE -- IT'S TRUE THAT HE WAS ABLE TO
3 CALM HER DOWN?

4 A. HE WAS.

5 Q. YOU SAID THAT SHE WAS FUSSY AT THE BEGINNING
6 BECAUSE SHE WAS HAVING THESE PROBLEMS WITH HER FORMULA
7 AND THINGS LIKE THAT. SO IN THE BEGINNING OF HER LIFE
8 SHE WAS VERY CLOSE WITH HER FATHER; HE WAS ABLE TO CALM
9 HER DOWN, CORRECT?

10 A. NOT ONLY HIM, BUT ON SOME INSTANCES, YES.

11 Q. BUT HE WAS ABLE TO. THEY HAD A GOOD RELATIONSHIP
12 AND HE WAS ABLE TO ACTUALLY CALM HER DOWN DURING THESE
13 FUSSY TIMES WHEN DEALING WITH THE DIFFERENT FORMULA ---

14 A. YES. HIM AMONG OTHER PEOPLE.

15 Q. AND YOU MENTIONED THAT ONCE SHE HIT APPROXIMATELY
16 TWO MONTHS AND THE FORMULA WAS SETTLED, THAT SHE WAS ABLE
17 TO SLEEP FOR A PRETTY SIGNIFICANT PERIOD OF TIME,
18 ESPECIALLY FOR SOMEONE HER AGE?

19 A. YES, SHE WOULD SLEEP THROUGH THE NIGHT.

20 Q. AND ACTUALLY I DON'T KNOW IF I SLEEP THAT LONG
21 THESE DAYS, EITHER, SO THAT'S PRETTY IMPRESSIVE THAT A
22 TWO-MONTH-OLD IS SLEEPING APPROXIMATELY SEVEN OR EIGHT
23 HOURS, CORRECT?

24 A. I SUPPOSE SO.

25 Q. OKAY. AND SO THIS HAPPENED YOU SAID APPROXIMATELY

1 TWO MONTHS OLD. DID THIS CONTINUE?

2 A. IT DID UNTIL SHE STARTED TEETHING NOT AS MUCH, SHE
3 WOULD WAKE UP MORE FREQUENTLY.

4 Q. OKAY. HOW LONG HAD SHE BEEN TEETHING PRIOR TO
5 THIS ALLEGED INCIDENT?

6 A. SHE HAD TWO TEETH THAT WERE THROUGH THE SKIN, SO
7 I'M NOT EXACTLY SURE.

8 Q. CAN YOU TELL ME WHERE THOSE TEETH WERE?

9 A. ON THE BOTTOM IN THE FRONT.

10 Q. THE FRONT TWO --

11 A. THE FRONT TWO BOTTOM TEETH.

12 Q. THE FRONT TWO BOTTOM TEETH. OKAY. AND YOU SAID
13 THEY HAD BROKEN THE SKIN?

14 A. THEY HAD.

15 Q. ABOUT -- YOU SAID YOU'RE NOT SURE HOW LONG THIS
16 WAS. CAN YOU TELL ME, TWO WEEKS, THREE WEEKS?

17 A. THREE WEEKS MAYBE. I'M NOT SURE EXACTLY.

18 Q. OKAY. AND WHAT -- WHEN SHE BECAME FUSSY DURING
19 THIS TIME AGAIN, SHE WAS WAKING UP MORE OFTEN, NOT
20 SLEEPING AS OFTEN, WAS MATTHEW ABLE TO CALM HER DOWN AT
21 THIS POINT?

22 A. SOMETIMES YES. SOMETIMES I WOULD GET UP WITH HER
23 AND I WOULD, BOTH OF US.

24 Q. OKAY. NOW, I WOULD LIKE TO MOVE TO THE 16TH.

25 A. OKAY.

1 Q. ON THE 16TH YOU MENTIONED TO MS. SIMMONS THAT YOU
2 LEFT TO WORK. CAN YOU TELL US AGAIN WHAT TIME THAT WAS?

3 A. 15, 20 MINUTES TILL 12.

4 Q. TILL 12, OKAY. SO YOU GOT UP, IS IT FAIR TO SAY
5 THAT YOU DIDN'T GET UP IN A TON OF TIME AND THAT YOU GOT
6 UP, YOU GOT READY, AND YOU LEFT FOR WORK?

7 A. YES.

8 Q. SO YOU DIDN'T SPEND A LOT OF TIME WITH
9 THAT MORNING?

10 A. THAT MORNING, NO.

11 Q. OKAY. AND YOU SAID THAT YOU HAD NOTICED THE NIGHT
12 BEFORE THAT SHE HAD BEEN FUSSY, CORRECT, AND THAT SHE WAS
13 POSSIBLY SUFFERING FROM THESE TEETH STILL AND WAS BEING
14 FUSSY AND WAKING UP OFF AND ON?

15 A. RIGHT.

16 Q. SO SHE WAS PROBABLY GOING TO BE PRETTY TIRED,
17 CORRECT?

18 A. YES.

19 Q. OKAY. NOW, WHEN YOU LEFT FOR WORK THAT MORNING,
20 YOU DIDN'T NOTICE ANYTHING WRONG?

21 A. RIGHT.

22 Q. OKAY. WHEN YOU WERE AT WORK AND YOU RECEIVED
23 THESE TEXT MESSAGES REGARDING MATTHEW AND LAYING
24 DOWN, YOU MENTIONED THAT IT WAS ODD THAT THEY WERE
25 SLEEPING TOGETHER?

1 A. THAT THEY WERE SLEEPING IN THE FRONT BEDROOM
2 TOGETHER, YES.

3 Q. OKAY. NOW, YOU MENTIONED THAT WHEN SHE WAS FUSSY
4 WHEN SHE WAS VERY YOUNG, THAT IF SHE WAS FUSSY TRYING TO
5 GET HER TO SLEEP, SOMEBODY WOULD SLEEP WITH HER? THAT'S
6 CORRECT?

7 A. THAT HAD BEEN MONTHS SINCE THAT HAD HAPPENED.

8 Q. OKAY. BUT SHE HAD STARTED BECOMING FUSSY,
9 CORRECT, WITH THE TEETHING?

10 A. RIGHT.

11 Q. SO IT'S NOT OUT OF -- IT'S NOT ODD THAT SINCE SHE
12 WAS BEING FUSSY AGAIN, SOMETHING HAD WORKED IN THE PAST,
13 WE'LL TRY IT AGAIN NOW?

14 A. RIGHT.

15 Q. NOW YOUR APARTMENT THAT YOU STAYED IN, HOW MANY
16 BEDROOMS WAS THAT?

17 A. TWO.

18 Q. AND YOU AND MATTHEW STAYED IN ONE?

19 A. RIGHT.

20 Q. AND EVENTUALLY WAS THIS SECOND BEDROOM -- THIS WAS
21 GOING TO BE ROOM, CORRECT?

22 A. RIGHT.

23 Q. SO SINCE THIS WAS GOING TO BE HER ROOM, WAS IT ODD
24 THAT MATTHEW WOULD LAY DOWN IN HER POTENTIAL ROOM WITH
25 HER?

1 A. YES. BECAUSE THE MAJORITY OF THE TIME HE SLEPT IN
2 THE BACK ROOM, EVEN WHEN SHE WAS FUSSY, HE WOULD SLEEP IN
3 THE BACK ROOM WITH HER, NOT IN THE FRONT BEDROOM.

4 Q. OKAY. NOW, THE TEXT MESSAGE THAT YOU RECEIVED
5 REGARDING THEM LAYING DOWN, YOU SAID THAT WAS
6 APPROXIMATELY WHAT TIME?

7 A. TWO-ISH.

8 MS. TYE: YOUR HONOR, MAY I APPROACH THE WITNESS,
9 PLEASE?

10 THE COURT: CERTAINLY.

11 BY MS. TYE:

12 Q. I'LL GIVE YOU THE TEXT MESSAGES BACK TO YOU SO YOU
13 WON'T HAVE TO GUESS. I KNOW IT'S BEEN A LONG TIME
14 (HANDING).

15 THE TEXT MESSAGE REGARDING WHEN THEY WERE GONNA GO
16 LAY DOWN, THAT WAS APPROXIMATELY WHAT TIME?

17 A. ABOUT 4:40.

18 Q. 4:40. OKAY. AND YOU NORMALLY GOT UP
19 APPROXIMATELY --

20 A. BETWEEN FIVE AND SIX.

21 Q. BETWEEN FIVE AND SIX. SO WHEN YOU GOT THIS TEXT
22 MESSAGE, WAS IT SURPRISING, CONSIDERING HAD BEEN
23 UP ALL NIGHT, THAT THEY WERE GONNA LAY DOWN FOR A WHILE?

24 A. NO.

25 Q. NO. AND SO YOU DIDN'T REALLY THINK THAT IT WAS

1 STRANGE THAT THEY WERE GONNA GO LAY DOWN?

2 A. NO. SHE USUALLY TOOK A NAP IN THE AFTERNOON, SO I
3 DIDN'T THINK THAT WAS OUT OF THE ORDINARY.

4 Q. OKAY. AND YOU DIDN'T MENTION ANYTHING TO MATTHEW
5 IN THESE TEXT MESSAGES ABOUT IT BEING ODD THAT THEY WERE
6 SLEEPING IN THIS FRONT BEDROOM?

7 A. NO. I JUST FIGURED IT MAY HAVE BEEN DARKER IN THE
8 FRONT BEDROOM AND HE JUST WANTED TO GO LAY DOWN IN THERE.

9 Q. OKAY. WHY WOULD IT HAVE BEEN DARKER IN THAT FRONT
10 BEDROOM?

11 A. THERE WAS SOMETHING OVER THE WINDOW, BUT I DIDN'T
12 KNOW EXACTLY WHERE THE SUN WAS, HOW THE LIGHTING WAS.
13 SOMETIMES THE BACK ROOM WAS DARKER, SOMETIMES THE FRONT
14 ROOM WAS DARKER.

15 Q. SO IT DIDN'T REALLY STRIKE YOU THAT STRANGE?

16 A. NO.

17 Q. NOW, YOU MENTIONED THAT YOU WENT -- YOU GOT OFF
18 WORK A LITTLE AFTER 5:15 -- A LITTLE AFTER FIVE, EXCUSE
19 ME. AND SO YOU THEN WENT WHERE?

20 A. TO WALGREEN'S.

21 Q. TO WALGREEN'S AND THEN HOME?

22 A. HOME.

23 Q. SO YOU ARRIVED HOME APPROXIMATELY 5:30, 5:45?

24 A. SOMETIME BETWEEN 5:45 AND SIX.

25 Q. DID YOU NOTICE ANYTHING STRANGE?

1 A. NO.

2 Q. OKAY. AND YOU HAD RECEIVED THESE TEXT MESSAGES
3 BEFORE THIS SO YOU EXPECTED AND MATTHEW TO BE
4 LAYING DOWN IN THAT FRONT BEDROOM, CORRECT?

5 A. RIGHT.

6 Q.. OKAY. YOU WENT IN THE FRONT BEDROOM AND YOU
7 CHECKED ON THEM. YOU SAID YOU LEANED OVER SO YOU COULD
8 SEE HER, OVER MATTHEW, NOT A SMALL GUY, SO LEAN OVER HER
9 A LITTLE BIT OR LEAN OVER HIM FOR YOU TO SEE HER?

10 A. RIGHT.

11 Q. AND WHEN YOU CHECKED ON HER, YOU DIDN'T NOTICE ANY
12 PROBLEMS?

13 A. NO.

14 Q. NO. DID YOU NOTICE ANY BRUISING, ANY RED MARKS,
15 ANY ISSUES, ANY PROBLEMS WHATSOEVER?

16 A. NO.

17 Q. DID YOU NOTICE ANY PROBLEMS WITH MATTHEW?

18 A. NO.

19 Q. AND THIS APARTMENT THAT YOU GUYS WERE IN, IS IT A
20 LARGE APARTMENT, IS THERE A REALLY LONG WALK TO THE
21 SECOND BEDROOM OR THE FIRST BEDROOM?

22 A. NO.

23 Q. WE'RE TALKING ABOUT A SMALLER SPACE?

24 A. RIGHT.

25 Q. SO COULD YOU, COULD YOU HEAR THEM MOVING AROUND OR

1 ANYTHING LIKE THAT WHILE WATCHING NETFLIX?

REDACTED

2 A. YEAH.

3 Q. OKAY. SO YOU SAID YOU WOULD CHECK APPROXIMATELY
4 EVERY 30 TO 40, WHENEVER THE EPISODE WOULD END, YOU WOULD
5 RUN IN AND CHECK AND MAKE SURE EVERYTHING WAS OKAY AND
6 THEN COME BACK OUT?

7 A. UH-HUH.

8 Q. DID YOU NOTICE -- HOW MANY CHECKS APPROXIMATELY
9 DID YOU MAKE BEFORE HE ALERTED YOU THAT THERE WAS
10 SOMETHING WRONG?

11 A. THREE OR FOUR, SOMETHING LIKE THAT.

12 Q. OKAY. AND DURING THESE CHECKS, YOU DIDN'T NOTICE
13 ANYTHING ODD EXCEPT FOR HER HEAVY BREATHING, CORRECT?

14 A. RIGHT.

15 Q. ISN'T IT TRUE THAT MATTHEW IS A PRETTY HEAVY
16 BREATHER HIMSELF?

17 A. YES.

18 Q. SO IT'S NOT ODD THAT HIS DAUGHTER WOULD ALSO GET
19 THAT LOVELY GENE AND SUFFER FROM HEAVY BREATHING AS WELL,
20 CORRECT?

21 A. YEAH.

22 Q. SO WHEN SHE WAS BREATHING HEAVY, YOU JUST THOUGHT,
23 THERE SHE GOES, BREATHING HEAVY LIKE HER DAD?

24 A. RIGHT.

25 Q. OKAY. NOW, AT THIS TIME WHEN YOU HEARD MATTHEW

1 ACTUALLY ALERT YOU THAT THERE WAS SOMETHING WRONG, YOU
2 SAID YOU CALLED 9-1-1, CORRECT?

3 A. HE WAS SCREAMING, SO I WAS COMING DOWN THE HALL
4 DIALING 9-1-1.

5 Q. OKAY. AND YOU CALLED 9-1-1. ESSENTIALLY YOU SAID
6 YOU SAW MATTHEW DOING WHAT YOU THOUGHT WAS C.P.R. BUT YOU
7 SAID YOURSELF YOU AREN'T C.P.R. CERTIFIED, SO YOU DON'T
8 KNOW WHETHER OR NOT HE WAS DOING IT EXACTLY PROPERLY OR
9 NOT?

10 A. RIGHT.

11 Q. OKAY. DO YOU KNOW WHETHER MATTHEW IS C.P.R.
12 CERTIFIED?

13 A. HE MIGHT BE, BUT I DON'T THINK IT'S FOR AN INFANT.

14 Q. FOR AN INFANT. OKAY. AND IT WOULD NOT SHOCK YOU
15 THAT THERE'S A DIFFERENCE BETWEEN DOING C.P.R. ON AN
16 ADULT VERSUS DOING C.P.R. ON AN INFANT?

17 A. (NODDED HEAD.)

18 Q. OKAY. BUT WHAT YOU THOUGHT YOU SAW WAS HIM
19 PERFORMING C.P.R. ON YOUR DAUGHTER IN AN ATTEMPT TO
20 RESUSCITATE HER, CORRECT, BECAUSE HE SAID SHE WAS NOT
21 BREATHING, CORRECT?

22 A. CORRECT.

23 Q. OKAY. SO THE ATTENDANT ON THE 9-1-1 CALL WANTED
24 TO GIVE MATTHEW SOME INSTRUCTION, CORRECT?

25 A. CORRECT.

1 Q. SO YOU ALLOWED THE -- WAS IT A CELL PHONE?

2 A. CORRECT.

3 Q. SO YOU TURNED THE CELL PHONE ON SPEAKER, SET IT
4 DOWN THERE, AND ALLOWED THEM TO GO FORWARD. WHAT DID YOU
5 DO AT THIS TIME?

6 A. I WAS GOING BACK AND FORTH FROM THE ROOM TO THE
7 FRONT DOOR. I WAS LOOKING FOR AN AMBULANCE.

8 Q. OKAY. AND YOU SAID IT WAS APPROXIMATELY FIVE
9 MINUTES OR SO?

10 A. SOMETHING LIKE THAT. I'M NOT EXACTLY SURE.

11 Q. IT'S KIND OF A STRESSFUL SITUATION, SO IF YOU
12 DON'T REMEMBER EVERY SECOND, THAT'S UNDERSTANDABLE. SO
13 AN AMBULANCE GETS THERE AND I'M ASSUMING TAKES OVER FOR
14 MATTHEW, CORRECT?

15 A. RIGHT.

16 Q. AND THEN TRANSPORTED TO OCONEE MEMORIAL?

17 A. (NODDED HEAD.)

18 Q. NOW, WHEN YOU GOT TO OCONEE, YOU SAID THE DOCTOR
19 ASKED YOU MULTIPLE QUESTIONS?

20 A. RIGHT.

21 Q. AND YOU ANSWERED THE QUESTIONS HOW? DID YOU TEL
22 THEM THAT YOU HAD CHECKED ON MULTIPLE TIMES THA
23 EVENING AND NOTICED NO ISSUES?

24 A. THEY DIDN'T ASK ANYTHING LIKE THAT. THEY WERE
25 JUST ASKING WHAT HAPPENED. AND I DIDN'T SPEND A LOT OF

1 TIME WITH THE DOCTORS. I WAS BETWEEN BEING INTERVIEWED
2 BY THE POLICE AND GOING BACK AND FORTH AND SEEING HER.
3 AND JUST BEING IN THE ROOM. THEY JUST ASKED IF ANYTHING
4 HAD HAPPENED THAT WOULD INJURE HER, AND I TOLD THEM NO,
5 NOT THAT I KNOW OF.

6 Q. OKAY. SO YOU DIDN'T OFFER INFORMATION THAT YOU
7 HAD CHECKED ON [REDACTED] FROM APPROXIMATELY 5:45 UNTIL
8 APPROXIMATELY 11:00 EVERY 45 MINUTES OR SO?

9 A. THE DOCTORS, NO.

10 Q. OKAY. DID YOU TELL ANYONE THAT?

11 A. WHEN THE COP WAS INTERVIEWING ME, YES, I DID, WHEN
12 I GAVE MY STATEMENT, YES.

13 Q. OKAY. NOW, WHEN DID YOU GIVE A STATEMENT?

14 A. FIRST AT OCONEE AND THEN AT GREENVILLE.

15 Q. OKAY. AND DID YOU GIVE TWO WRITTEN STATEMENTS?

16 A. I DID.

17 Q. OKAY. THE STATEMENT THAT YOU GAVE, I BELIEVE IT
18 WAS AT OCONEE, YOU SAID YOU DID MAKE A WRITTEN STATEMENT?

19 MS. TYE: AND, YOUR HONOR, MAY I APPROACH THE
20 WITNESS?

21 THE COURT: CERTAINLY.

22 BY MS. TYE:

23 Q. IS THIS THE WRITTEN STATEMENT THAT YOU GAVE AT
24 OCONEE?

25 A. IT IS.

1 Q. OKAY. AND CAN YOU LOOK THROUGH THAT AND MAKE
2 SURE, THE ONE I GAVE TO YOU, THAT WE'RE TALKING ABOUT THE
3 RIGHT ONE?

4 A. YEAH, IT'S THE ONE FROM OCONEE.

5 Q. OKAY.

6 A. (HANDING).

7 Q. THANK YOU. IN YOUR WRITTEN STATEMENT TO THE
8 POLICE AT OCONEE, ISN'T IT TRUE THAT YOU DIDN'T GIVE THEM
9 ANY INDICATION THAT THERE WERE ANY CONCERNS THAT YOU HAD
10 THIS DAY THAT YOU'VE TOLD US TODAY, ANY OF THE ISSUES
11 WITH SLEEPING IN THE FRONT BEDROOM, ANY OF THE ISSUES
12 WITH YOUR MOTHER?

13 A. AT THE TIME NONE OF THAT REALLY SEEMED RELEVANT.
14 I WAS MORE WORRIED ABOUT WHAT WAS HAPPENING TO HER.

15 Q. OKAY. SO AT THAT POINT YOU WERE JUST TRYING TO
16 GIVE THEM --

17 A. ANSWERS.

18 Q. -- A SHORT VERSION OF -- I'M SORRY. THAT'S OKAY.
19 WE JUST CAN'T TALK OVER EACH OTHER BECAUSE SHE'S GOT TO
20 TAKE THIS DOWN.

21 AT THAT TIME YOUR CONCERN WAS GIVING THEM A
22 STATEMENT, EVERYTHING THAT YOU WERE, YOU KNOW, THAT WAS
23 ON THE FOREFRONT OF YOUR BRAIN AND THEN GOING BACK AND
24 DEALING WITH YOUR DAUGHTER?

25 A. RIGHT.

REDACTED

1 Q. SO WHEN YOU MENTIONED IN YOUR STATEMENT THAT YOU
2 GOT HOME -- YOU DID MENTION IN YOUR STATEMENT THAT YOU
3 GOT HOME AROUND 5:30, AND THEN YOU MENTIONED IN YOUR
4 STATEMENT THAT YOU CHECKED ON MATTHEW AND
5 APPROXIMATELY EVERY 45 MINUTES -- 30 TO 45 MINUTES?

6 A. YES.

7 Q. YOU MENTIONED THAT SHE WAS A LITTLE COLD AND YOU
8 PUT A BLANKET OVER HER?

9 A. RIGHT.

10 Q. WHAT -- CAN YOU DESCRIBE THAT BLANKET? DO YOU
11 REMEMBER WHAT THAT WAS?

12 A. I CAN'T REMEMBER IF IT WAS A QUILT THAT WE HAD HAD
13 MADE FOR HER OR IF IT WAS A BROWN ONE THAT WE BOUGHT FOR
14 HER.

15 Q. OKAY. IF I GAVE YOU YOUR STATEMENT, WOULD IT HELP
16 TO REMEMBER?

17 A. IF IT'S LISTED THERE, YES.

18 Q. STRIKE THAT. WE'LL JUST MOVE FORWARD.

19 OKAY. NOW, YOU MENTIONED THAT YOU -- WHILE YOU
20 WERE AT THE HOSPITAL YOU GAVE THIS STATEMENT. NOW, HOW
21 LONG BEFORE, HOW LONG FROM THE TIME YOU GOT TO THE
22 HOSPITAL UNTIL THE TIME THAT THE OFFICERS ARRIVED AT THE
23 HOSPITAL?

24 A. MAYBE 15 MINUTES.

25 Q. OKAY. SO IT WAS NOT LONG BETWEEN THE TIME THAT

REDACTED

RE
DA
CT
ED

REDACTED

RE
DA
CT
EDRE
DA
CT
ED

REDACTED

REDACTED

RE
DA
CT
EDRE
DA
CT
ED

1 Y'ALL ARRIVED UNTIL THE TIME THAT THE OFFICERS ARRIVED TO
2 TALK TO YOU?

3 A. CORRECT.

4 Q. OKAY. AND AGAIN, DURING THAT TIME YOU NEVER
MENTIONED TO THE DOCTORS AND/OR TO THE POLICE ANY OF THE
CONCERNS THAT YOU HAVE MENTIONED HERE TODAY?

A. RIGHT.

Q. RIGHT.

MS. TYE: BEG THE COURT'S INDULGENCE.

THE COURT: CERTAINLY.

MS. TYE: THAT'S ALL I HAVE FOR THIS WITNESS, YOUR
HONOR.

13 THE COURT: RE-EXAM?

14 MS. SIMMONS: NOTHING FOR THIS WITNESS, YOUR HONOR.

15 THE COURT: YOU MAY STEP DOWN. THANK YOU VERY MUCH,
16 MA'AM.

17 (WITNESS LEAVES STAND.)

18 THE COURT: WILL COUNSEL APPROACH, PLEASE?

19 (DISCUSSION AT SIDEBAR.)

20 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN OF THE
21 JURY, I SUGGEST WE TAKE A SHORT BREAK, A MORNING BREAK AT
22 THIS TIME.

23 ARE THERE ANY REFRESHMENTS BACK THERE?

24 THE BAILIFF: YES, SIR.

25 THE COURT: WHEN YOU ARE READY JUST KNOCK ON THE

1 DOOR AND WE'LL COME BACK AND CONTINUE WITH THE TRIAL OF
2 THE CASE. AGAIN, DO NOT UNDERTAKE DISCUSSION OF THE CASE
3 IN ANY WAY.

4 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES
5 FROM THE COURTROOM.

6 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
7 APPROXIMATELY 11:34 A.M.)

8 THE COURT: ANYTHING FROM THE STATE BEFORE WE TAKE A
9 BREAK?

10 MS. SIMMONS: NO, YOUR HONOR.

11 THE COURT: FROM THE DEFENSE?

12 MR. SENERIUS: NO, SIR.

13 THE COURT: ALL RIGHT. WE'LL STAND AT EASE UNTIL
14 THE JURY IS READY TO COME BACK.

15 (A RECESS WAS TAKEN.)

16 THE COURT: ANYTHING FROM THE STATE BEFORE WE BRING
17 THE JURY BACK?

18 MS. SIMMONS: NO, YOUR HONOR.

19 THE COURT: FROM THE DEFENSE?

20 MR. SENERIUS: NO, SIR.

21 THE COURT: ASK THE JURY TO JOIN US, PLEASE.

22 (THE JURY ENTERED THE COURTROOM AT
23 APPROXIMATELY 11:55 A.M.)

24 THE COURT: LET THE RECORD REFLECT THE JURY AND
25 ALTERNATES ARE IN THE JURY-BOX.

1 YOU MAY CALL YOUR NEXT WITNESS.

2 MS. SIMMONS: THANK YOU, YOUR HONOR. THE STATE
3 CALLS TED ROUNDY.

4 WHEREUPON,

5 TED ROUNDY,

6 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION BY MS. SIMMONS:

8 THE COURT: IF YOU WOULD PLEASE, SIR, GIVE US YOUR
9 FULL NAME FOR THE RECORD, SPELLING YOUR LAST NAME.

10 THE WITNESS: THEODORE WILLIAM ROUNDY, R-O-U-N-D-Y.

11 THE COURT: THANK YOU, SIR.

12 BY MS. SIMMONS:

13 Q. DETECTIVE ROUNDY, WHERE WERE YOU EMPLOYED BACK IN
14 JUNE OF 2009 -- I MEAN AUGUST OF 2009. I APOLOGIZE.

15 A. SENECA POLICE DEPARTMENT.

16 Q. AND HOW LONG WERE YOU AT THE SENECA POLICE
17 DEPARTMENT?

18 A. PARDON?

19 Q. HOW LONG WERE YOU AT THE SENECA POLICE DEPARTMENT?

20 A. 13 YEARS.

21 Q. AND HOW LONG WERE YOU IN LAW ENFORCEMENT?

22 A. 39 YEARS.

23 Q. WHAT DO YOU DO TODAY?

24 A. I'M RETIRED.

25 Q. TELL ME ABOUT YOUR BACKGROUND AND TRAINING AS FAR

1 AS YOUR EMPLOYMENT IN LAW ENFORCEMENT.

2 A. I BEGAN LAW ENFORCEMENT IN 1971 WITH THE ESCAMBIA
3 COUNTY SHERIFF'S OFFICE IN PENSACOLA, FLORIDA. I WENT
4 THROUGH THE POLICE ACADEMY IN FLORIDA. I WENT TO
5 NUMEROUS SCHOOLS AND CLASSES IN REGARDS TO CRIME SCENE,
6 HOMICIDES, INTERVIEWS, INTERROGATION TECHNIQUES.

7 WHEN I CAME UP TO SOUTH CAROLINA I WENT TO THE
8 SOUTH CAROLINA POLICE ACADEMY AND I'VE ALSO BEEN TO A
9 NUMBER OF OTHER CLASSES, BLOOD SPATTER OR ANYTHING THAT
10 HAD TO DO WITH LAW ENFORCEMENT.

11 Q. HOW MANY VIOLENT CRIMES DO YOU THINK YOU HAVE
12 INVESTIGATED OVER THE COURSE OF YOUR CAREER?

13 A. IT WOULD BE HARD FOR ME TO SAY. THOUSANDS.

14 Q. HOW DID YOU BECOME INVOLVED IN THE CASE RELATING
15 TO THIS DEFENDANT, MATTHEW HINTON?

16 A. I RECEIVED A PAGE ABOUT 12:20 ON THE EARLY MORNING
17 HOURS OF AUGUST THE 17TH.

18 Q. WHAT DID THAT PAGE INDICATE?

19 A. THAT WE HAD A -- I BELIEVE IT WAS JUST WE HAD AN
20 INJURY OF A CHILD AT OCONEE MEMORIAL HOSPITAL; THEY ASKED
21 THAT I RESPOND.

22 Q. AND WHERE HAD THE CHILD ORIGINATED FROM BEFORE
23 GOING TO OCONEE HOSPITAL?

24 A. I BELIEVE NORTHWOODS APARTMENTS.

25 Q. AND IS THAT IN OCONEE COUNTY?

1 A. YES, IT IS.

2 Q. DID YOUR INVESTIGATION REVEAL THAT THE CHILD HAD
3 BEEN IN OCONEE COUNTY DURING THE DAYS AND HOURS
4 SURROUNDING AUGUST 16TH? [REDACTED]

5 A. YES.

6 Q. WHEN YOU FIRST SAW THE CHILD, WHAT DID YOUR
7 PHYSICAL EXAMINATION -- OR YOUR PHYSICAL -- WHAT DID YOU
8 PHYSICALLY SEE FROM THIS CHILD?

9 A. MY ORIGINAL CONTACT AT OCONEE MEMORIAL HOSPITAL I
10 DID NOT REALLY GET A CHANCE TO VIEW THE CHILD. SHE WAS
11 BEING ATTENDED BY THE NURSES AND DOCTORS AT THE HOSPITAL.
12 I BASICALLY AT THAT TIME JUST OBSERVED AND LISTENED TO
13 WHAT WAS GOING ON AND WHAT WAS BEING SAID. I DIDN'T VIEW
14 THE CHILD UNTIL THE CHILD WAS AT THE GREENVILLE HOSPITAL,
15 PROBABLY A LITTLE LATER IN THE MORNING WHEN I WENT THERE.

16 Q. SO YOUR FIRST OBSERVATION OF THE CHILD AND YOUR
17 FIRST INTERVIEWS ON THIS CASE ACTUALLY OCCURRED IN
18 GREENVILLE?

19 A. YES.

20 Q. MOVING ON TO GREENVILLE. WHAT INFORMATION WERE
21 YOU GIVEN ABOUT THE CHILD'S CONDITION WHEN YOU GOT THERE?

22 A. WHEN I FIRST ARRIVED, I WAS TOLD THAT THE CHILD
23 WAS SUFFERING SOME HEAD TRAUMA IN THE BRAIN, AND HOW THE
24 TRAUMA OCCURRED, AND WHAT THE EXTENT WAS THE DOCTORS DID
25 NOT KNOW AT THAT TIME.

REDA
CTED

1 THEY HAD A TRAUMA UNIT SPECIALIST COMING IN LATER
2 IN THE DAY AND WE WOULD KNOW MORE THEN AFTER THEY DID
3 THEIR EXAMINATION.

4 Q. AND YOUR SUBSEQUENT MEDICAL EVIDENCE YOU OBTAINED
5 INDICATED WHAT?

6 A. SUBSEQUENTLY WE FOUND THAT THE CHILD HAD SOME
7 BROKEN BONES AND SEVERE BRAIN TRAUMA. RED
ACT

8 Q. AND DID THE DOCTOR HAVE A DIAGNOSIS FOR YOU FOR
9 YOUR INVESTIGATION?

10 A. NO. THEY CALL IT NON-ACCIDENTAL TRAUMA.

11 Q. IN LAYMEN'S TERMS WHAT DOES THAT MEAN?

12 A. WELL, THE LAYMEN'S TERMS THAT THEY GAVE ME WAS
13 SHAKING BABY.

14 Q. CHILD ABUSE?

15 A. CHILD ABUSE.

16 MR. SENERIUS: OBJECTION TO CHILD ABUSE; THAT'S A
17 LEGAL CONCLUSION NOT A MEDICAL ONE.

18 THE COURT: ALL RIGHT. I'M GOING TO SUSTAIN THE
19 OBJECTION AS FAR AS THE TRUTH OF THE MATTER. THE FACT IS
20 THAT IF THAT WAS THE PHRASE THAT WAS USED, THEN OF COURSE
21 HE CAN REPEAT THAT.

22 BUT WHAT WE ARE TALKING ABOUT REALLY IS NOT ONLY
23 QUALIFICATION FOR A WITNESS AS TO MAKING A DIAGNOSIS,
24 OBVIOUSLY THE DEPUTY IS NOT HOLDING HIMSELF OUT AS AN
25 EXPERT IN DIAGNOSTIC MEDICINE. BUT ALSO WE'RE TALKING

REDACTE
D

1 ABOUT, AND WE WANT TO BE CAREFUL THAT HEARSAY, THAT IF
2 SOMETHING IS OFFERED FOR THE TRUTH AS TO WHAT IS BEING
3 RELATED, THEN IT IS HEARSAY UNLESS THE PERSON WHO MAKES
4 THAT STATEMENT IS AVAILABLE.

5 AND THE WHOLE MATTER THAT WE ARE TALKING ABOUT IS
6 SOMETHING THAT WE HAD SAID EARLIER. YOU AND YOU ALONE
7 ARE THE JUDGES OF THE FACTS. IN OTHER WORDS, WHEN A
8 DECISION HAS TO BE MADE AS TO ANY PARTICULAR FACT IN THE
9 MATTER IN THIS CASE AS TO WHAT, IF ANYTHING, HAPPENED AND
10 WHAT WAS THE CAUSE, THAT WAS FOR YOU TO DETERMINE.

11 SO I'M GOING TO SUSTAIN THE OBJECTION AS FAR AS IT
12 BEING A DIAGNOSIS; BUT IF THIS WAS A MATTER THAT WAS
13 RELATED TO HIM, THEN HE CAN AT LEAST MAKE THAT STATEMENT.

14 ALL RIGHT. VERY GOOD.

15 MS. SIMMONS: THANK YOU, JUDGE.

16 BY MS. SIMMONS:

17 Q. SERGEANT ROUNDY, TO SIMPLIFY THINGS, DID THIS
18 INVESTIGATION PROCEED AS A NON-ACCIDENTAL TRAUMA
19 INVESTIGATION?

20 A. YES.

21 Q. BASED ON YOUR INVESTIGATION AND THROUGH THE
22 MEDICAL EVIDENCE YOU WERE OBTAINING, WERE YOU ABLE TO
23 DEVELOP A TIME LINE FOR THE INJURY?

24 A. YES. WE WERE GIVEN A TIME LINE BETWEEN TWO AND
25 FOUR O'CLOCK IN THE AFTERNOON ON THE, I BELIEVE IT WOULD

1 BE THE 16TH.

2 Q. BASED ON THIS TIME LINE YOU WERE GIVEN, DID YOU
3 BEGIN TO CONDUCT AN INVESTIGATION OF PARTIES HAVING
4 ACCESS TO THIS CHILD?

5 A. YES.

6 Q. WHO DID -- WHO HAD ACCESS TO THIS CHILD ON AUGUST
7 THE 16TH OF 2009?

8 A. THE DEFENDANT.

9 Q. ANYONE ELSE?

0 A. BETWEEN THOSE HOURS, NO.

1 Q. DURING THE ENTIRE DAY WHO HAD ACCESS?

2 A. THE MOTHER AND THE FATHER, THE DEFENDANT.

13 Q. ANYONE ELSE?

14 A. NO.

15 Q. ON AUGUST -- SINCE WE WERE DEALING WITH AUGUST THE
16 16TH, DID YOU INVESTIGATE THE MOTHER AT THAT POINT?

17 A. YES. WE BASICALLY CONFIRMED HER LOCATION AND
18 WHEREABOUTS DURING THE DAY.

19 Q. DID YOU TAKE STEPS TO CORROBORATE HER INFORMATION?

20 A. YES, WE DID.

21 Q. WHAT DID YOUR INVESTIGATION REVEAL AS TO THE
22 FATHER OF THE CHILD?

23 A. THAT HE WAS HOME ALONE WITH THE CHILD.

24 Q. DID YOU INVESTIGATE IF THE CHILD'S INJURIES WERE
25 CONSISTENT WITH A FALL, A DROP, OR AN ACCIDENTAL MISHAP?

RED
ACT
ED

1 A. THAT WAS THE SCENARIO WE WERE GIVEN, BUT THE
2 INDICATION WAS NONE OF THOSE SCENARIOS FIT.

3 Q. DID YOU HAVE OCCASION TO INTERVIEW THE DEFENDANT
4 IN THIS CASE?

5 A. YES, I DID.

6 Q. HOW MANY TIMES DID YOU SEE, DID YOU SPEAK WITH THE
7 DEFENDANT?

8 A. I SPOKE WITH HIM TWICE.

9 Q. OKAY. THE TWO FORMAL INTERVIEWS?

10 A. I SPOKE TO HIM AT THE GREENVILLE HOSPITAL TO
11 CONFIRM BASICALLY THE INFORMATION THAT I OVERHEARD HIM
12 GIVING THE DOCTORS AND THE OFFICERS. HE ADDED SOME
13 THINGS TO HIS STATEMENT TO ME THAT I HAD NOT HEARD AND I
14 DID NOT SEE IN HIS ORIGINAL STATEMENT, SO I HAD HIM WRITE
15 OUT ANOTHER STATEMENT ON THE, ON THAT INFORMATION.

16 THE SECOND INTERVIEW WAS AT THE SENECA POLICE
17 DEPARTMENT, AND THAT WAS AGAIN TO BASICALLY CONFIRM
18 INFORMATION AS TO WHO WAS AROUND THE CHILD AND HOUSE AT
19 THE HOURS THAT WE WERE INTERESTED IN.

20 Q. AND DID YOU SPEAK WITH HIM AGAIN AFTER
21 DIED AT GREENVILLE MEMORIAL HOSPITAL?

22 A. I'M SORRY, I DIDN'T HEAR YOU.

23 Q. DID YOU SPEAK WITH HIM AFTER DIED AT
24 GREENVILLE MEMORIAL HOSPITAL IN AN INFORMAL SETTING?

25 A. YEAH. THERE WAS, OUTSIDE THE ROOM HE INDICATED

1 THAT HE WANTED TO SPEAK WITH MYSELF AND SERGEANT JONES,
2 BUT WE COULDN'T AT THAT PARTICULAR MOMENT IN TIME, SO
3 ARRANGEMENTS WERE MADE FOR US TO PICK HIM UP AT 10:00 THE
4 FOLLOWING DAY AND CONDUCT ANOTHER INTERVIEW AT THE SENECA
5 POLICE DEPARTMENT.

6 Q. FOR PURPOSES OF OUR DISCUSSION I'M GONNA CALL IT
7 STORY ONE, STORY TWO AND STORY THREE SINCE THERE ARE
8 THREE TIMES YOU TALKED TO HIM. ALL THE TIMES YOU SPOKE
9 WITH THE DEFENDANT, WAS HE IN CUSTODY DURING ANY OF THOSE
0 INTERVIEWS?

1 A. NO.

2 Q. IS IT UNCOMMON FOR PEOPLE WHO ARE SUSPECTS TO TALK
3 TO LAW ENFORCEMENT?

4 A. OH, YES, THEY'LL TALK.

5 Q. IT'S COMMON?

6 A. IT'S COMMON, YES.

7 Q. WAS HE ALLOWED TO LEAVE AFTER EVERY INTERVIEW HE
8 GAVE YOU?

9 A. OH, YES.

10 Q. AT ANY POINT DID YOU THREATEN, COERCE, OR
11 INTIMIDATE HIM OR DENY HIM ANY COMFORTS IN ORDER TO GET
12 HIM TO MAKE STATEMENTS?

13 A. NO.

14 Q. DID YOU AT ANY POINT PROMISE HIM ANYTHING OR
15 SUGGEST INFORMATION TO HIM?

1 A. NO.

2 Q. I WANT TO TALK TO YOU ABOUT STORY NUMBER ONE,
3 WHICH THIS WOULD HAVE BEEN AT GREENVILLE MEMORIAL
4 HOSPITAL ON AUGUST THE 17TH. DID YOU TAKE A WRITTEN
5 STATEMENT FROM THE DEFENDANT?

6 A. YES, I DID.

7 Q. AND I'M GOING TO SHOW YOU WHAT'S BEEN PREVIOUSLY
8 MARKED AS STATE'S EXHIBIT 4 AND PROVIDED TO THE DEFENSE.

9 (COUNSEL CONFER.)

10 MR. SENERIUS: NO OBJECTION.

11 MS. SIMMONS: MAY I APPROACH THE WITNESS, YOUR
12 HONOR?

13 THE COURT: CERTAINLY.

14 BY MS. SIMMONS:

15 Q. IS THIS THE ORIGINAL STATEMENT THAT WAS TAKEN FROM
16 MATTHEW HINTON ON AUGUST THE 17TH OF 2009?

17 A. YES, IT IS.

18 Q. AND IS THAT STATEMENT WITNESSED BY YOU?

19 A. YES, IT IS.

20 MS. SIMMONS: YOUR HONOR, WE WOULD ASK THAT STATE'S
21 EXHIBIT 4 BE ADMITTED.

22 MR. SENERIUS: NO OBJECTION.

23 THE COURT: ALL RIGHT. WITHOUT OBJECTION STATE'S
24 EXHIBIT NUMBER 4 IS ADMITTED.

25 (RECEIVED IN EVIDENCE WAS STATE'S EXHIBIT

1 NUMBER 4.)

2 BY MS. SIMMONS:

3 Q. SERGEANT ROUNDY, I ASK YOU TO TELL US ABOUT YOUR
4 ORAL INTERVIEW WITH MR. HINTON AND ALSO READ US THE
5 WRITTEN STATEMENT ON THIS AUGUST 17TH AND TELL ME WHEN IT
6 WAS TAKEN.

7 A. THIS STATEMENT WAS TAKEN AT ABOUT 5:20 A.M. ON THE
8 MORNING OF THE 17TH AT GREENVILLE MEMORIAL -- AT
9 GREENVILLE HOSPITAL.

10 Q. AND COULD YOU READ THAT STATEMENT FOR US?

11 A. OKAY (READING): I, MATTHEW T. HINTON, WAS AT THE
12 HOME -- AT THE HOME WITH MY DAUGHTER, [REDACTED]
13 WHEN SHE WOKE UP AROUND 2:00 IN THE AFTERNOON OR P.M.,
14 AROUND 3 P.M. [REDACTED] AND I TOOK A BATH. I GAVE HER A
15 BATH, AND AFTER I WAS FINISHED WITH HER, I SAT HER ON HER
16 BATH SEAT WHILE I TOOK A SHOWER.

17 AFTER MY SHOWER, I WENT TO PICK [REDACTED] UP WITH
18 BOTH HANDS. SHE KICKED AND SLIPPED OUT OF MY GRASP. I
19 CAUGHT HER BY, BY HER LEG AND ABDOMEN AND JERKED HER UP.
20 SHE FUSSED FOR MAYBE THREE MINUTES.

21 AT AROUND 3:20 P.M. I FED HER THREE OUNCES OF
22 FORMULA, WHICH SHE USUALLY -- I CAN'T READ THIS -- AROUND
23 FIVE OUNCES AT A TIME.

24 AFTER I LAID HER DOWN IN HER PLAYPEN, SHE WAS
25 ACTING NORMALLY, SCREAMING AT HER TOYS, REACHING FOR THEM

1 AND ROLLING THEM AROUND.

2 AROUND 4:15 P.M. I NOTICED [REDACTED] RUBBING HER
3 EYES, SO I PICKED HER UP TO ROCK HER TO SLEEP. SHE WAS
4 DOING -- DOZING OFF WHEN I LAID HER BACK IN THE PLAYPEN.
5 SHE WOULDN'T STAY ASLEEP UNLESS I WAS HOLDING HER. SO
6 AROUND 4:46 P.M. I -- I TEXTED MY GIRLFRIEND, ASHLEY
7 BRIGHT, A TEXT TELLING HER THAT [REDACTED] AND I WERE LAYING
8 DOWN.

9 I PLACED [REDACTED] BESIDE ME IN THE BED. THE FIRST
10 STATEMENT GAVEN [SIC] -- THE FIRST STATEMENT I GAVE
11 OFFICERS AT THE OCONEE MEMORIAL HOSPITAL WAS WHAT
12 HAPPENED AFTER THIS.

13 Q. THANK YOU. SO, OFFICER ROUNDY, YOU WERE THE
14 SECOND OFFICER TO INTERVIEW MATTHEW HINTON, THEN?

15 A. YES.

16 Q. WERE YOU PRIVY TO THE FIRST STATEMENT HE HAD
17 GIVEN?

18 A. I WAS ABLE TO READ HIS STATEMENT, YES.

19 Q. AND DID THIS STATEMENT DIFFER AT ALL FROM THE
20 FIRST STATEMENT?

21 A. THIS STATEMENT THAT HE GAVE ME TOLD OF HOW THE
22 CHILD SLIPPED OUT OF HIS HANDS, HE GRABBED HER BY THE LEG
23 AND CAUGHT HER AND THEN JERKED HER UP AND HE ALSO
24 MOTIONED HOW HE DID THIS. THAT WAS THE ONLY DIFFERENCE.

25 THE STATEMENT THAT HE GAVE OFFICER KELLY HAD TO DO

1 WITH WAKING UP AND FINDING THE CHILD NOT BREATHING AND
2 THEN E.M.S. BEING CALLED.

3 Q. OKAY. NOW MOVING TO STORY NUMBER TWO, WHICH WOULD
4 HAVE BEEN AUGUST 17TH AT THE SENECA POLICE DEPARTMENT, DO
5 YOU REMEMBER INTERVIEWING HIM THAT DAY?

6 A. YES. WE BASICALLY WENT OVER WHO HAD ACCESS TO THE
7 CHILD ON THE DATE OF THE INCIDENT.

8 Q. AND DID YOU MIRANDIZE HIM DURING THIS INTERVIEW?

9 A. AT THAT TIME I DID, YES.

10 Q. AND I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
11 EXHIBIT NUMBER 3. IS THIS A FAIR AND ACCURATE
12 REPRESENTATION OF THE MIRANDA RIGHTS YOU GAVE HIM ON
13 AUGUST 17TH?

14 A. YES, IT IS.

15 Q. AT WHAT TIME DID YOU GIVE HIM THOSE RIGHTS?

16 A. 1:47 P.M.

17 Q. OKAY.

18 MS. SIMMONS: YOUR HONOR, WE WOULD MOVE IN STATE'S
19 EXHIBIT NUMBER 3.

20 THE COURT: ANY OBJECTION?

21 MR. SENERIUS: NO, YOUR HONOR.

22 THE COURT: WITHOUT OBJECTION STATE'S EXHIBIT NUMBER
23 3 IS IN EVIDENCE.

24 (RECEIVED IN EVIDENCE WAS STATE'S EXHIBIT
25 NUMBER 3.)

1 BY MS. SIMMONS:

2 Q. TELL ME ABOUT YOUR CONVERSATION WITH HIM, THIS
3 SECOND INTERVIEW.

4 A. IT WAS VERY INFORMAL.

5 THE COURT: I BEG YOUR PARDON? I'M SORRY. I WAS
6 TRYING TO ANSWER SOMEONE ELSE, SERGEANT ROUNDY.

7 BY MS. SIMMONS:

8 Q. CAN YOU REPEAT WHAT YOU JUST SAID, SERGEANT
9 ROUNDY?

10 A. I JUST SAID IT WAS VERY INFORMAL.

11 Q. AND WHAT DID HE TELL YOU?

12 A. WE BASICALLY WENT OVER AS TO WHO HAD BEEN AROUND
13 THE HOUSE, LIKE HIS MOTHER-IN-LAW OR THE BABY'S
14 GRANDMOTHER, AND SOME FRIENDS OF HIS WIFE'S, THE DATE
15 THAT THAT HAPPENED, THE DATE BEFORE OR, YOU KNOW, HAD
16 NOTHING TO DO WITH ON THE DATE OF THE INCIDENT.

17 EVERYTHING HAPPENED I THINK THE DAY BEFORE OR THE NIGHT
18 BEFORE.

19 Q. WERE YOU ABLE TO ASCERTAIN IF THE CHILD HAD BEEN
20 LEFT ALONE WITH ANYONE OTHER THAN THE DEFENDANT OR ASHLEY
21 BRIGHT IN THE WEEK TO TWO WEEKS PRIOR TO THAT SUNDAY?

22 A. HE INDICATED THAT HE NEVER LEFT THE CHILD WITH
23 ANYBODY BECAUSE HE DIDN'T TRUST ANYBODY WITH THE CHILD.

24 Q. DID YOU ALL DISCUSS HIS RELATIONSHIP WITH

25 A. HE INDICATED IT WAS A GOOD RELATIONSHIP, THAT HE

REDACTED

1 BONDED WITH THE CHILD. AND IN THE BEGINNING I THINK HE
2 DIDN'T WANT A CHILD, BUT AFTER THE CHILD WAS BORN HE WAS
3 BONDED WITH HER AND HE, HE LOVED HER VERY MUCH.

4 Q. DID YOU ALL DISCUSS IF ANYONE HAD BEEN OVER TO
5 SPEND THE NIGHT ON SATURDAY, AUGUST THE 15TH?

6 A. I BELIEVE HE INDICATED THAT HIS MOTHER-IN-LAW CAME
7 AND SPENT THE NIGHT.

8 Q. ON SATURDAY, AUGUST 15TH?

9 A. YES.

10 Q. WERE YOU ABLE TO INVESTIGATE THAT WAS INDEED TRUE?

11 A. IT WASN'T UNTIL LONG, LONG LATER I FOUND OUT THAT
12 NOBODY HAD BEEN TO THE HOUSE THAT NIGHT.

13 Q. MOVING ON TO DISCUSSION NUMBER THREE THAT YOU HAD
14 WITH THE DEFENDANT AT GREENVILLE MEMORIAL HOSPITAL ON
15 AUGUST 18TH. THAT WAS THE DAY OF [REDACTED] DEATH.

16 A. YES.

17 Q. DID -- WAS HE IN CUSTODY WHEN YOU ALL SPOKE THEN?

18 A. NO.

19 Q. AT THIS POINT HAD HIS CHILD PASSED AWAY?

20 A. YES.

21 Q. WAS HE FULLY AWARE OF THE SEVERITY OF HER INJURIES
22 AT THAT POINT IN TIME?

23 A. HE WAS BY THIS TIME, YES.

24 Q. WHAT DID HE TELL YOU ON AUGUST 18TH AT GREENVILLE
25 MEMORIAL?

REDACTED
D

1 A. THAT THE CHILD WASN'T WHERE HE PLACED HER WHEN HE
2 WOKE UP AND THAT HE DIDN'T KNOW IF ASHLEY HAD COME IN AND
3 MOVED THE CHILD.

4 Q. DID HE INDICATE HE WOULD HAVE FELT HER MOVE IF HE
5 HAD ROLLED?

6 A. HE INDICATED THAT IF THE CHILD HAD MOVED ON HER
7 OWN, HE WOULD HAVE FELT IT.

8 Q. BUT HE THINKS THAT SOMEONE MAY HAVE MOVED HER AND
9 HE DIDN'T FEEL IT?

RE
DA
CT

10 A. THAT'S WHAT HE INDICATED TO US, YES.

11 Q. DID YOU FIND THESE COMMENTS ODD IN THE WAKE OF HIS
12 CHILD'S DEATH?

13 A. IT DESERVED MORE LOOKING INTO, WHICH WE WERE GOING
14 TO DO THE FOLLOWING DAY WHEN WE WERE ABLE TO GET HIM BACK
15 IN TO THE POLICE DEPARTMENT.

16 Q. AND WAS THIS INTERVIEW WITH HIM ON AUGUST 18TH,
17 WAS THAT THE FINAL TIME YOU WERE ABLE TO SPEAK WITH HIM?

18 A. YES, IT WAS.

19 Q. DURING YOUR INVESTIGATION, HOW WOULD YOU
20 CHARACTERIZE THE EVOLUTION OF THE INFORMATION HE HAD
21 GIVEN FROM THE POINT IN TIME WHERE HE GAVE INFORMATION TO
22 OFFICER KELLY TO WHEN HE WAS TALKING TO YOU THESE THREE
23 TIMES?

24 MR. SENERIUS: OBJECTION, YOUR HONOR.

25 THE COURT: RESTATE YOUR QUESTION.

1 BY MS. SIMMONS:

2 Q. CAN YOU PROVIDE FOR ME THE EVOLUTION OF THE
3 INFORMATION HE PROVIDED?

4 MR. SENERIUS: I'M STILL GONNA OBJECT TO THE
5 CHARACTERIZATION, YOUR HONOR.

6 THE COURT: I THINK SO. IT'S SOMEWHAT EDITORIAL.
7 JUST ASK HIM ABOUT THE STATEMENTS.

8 BY MS. SIMMONS:

9 Q. HOW DID THE STATEMENTS PROGRESS, SERGEANT ROUNDY?

10 A. FROM THE TIME OF HIS FIRST INTERVIEW AT THE OCONEE
11 MEMORIAL HOSPITAL TO MY FINAL INTERVIEW WITH HIM, AS MORE
12 INFORMATION CAME OUT ABOUT THE INJURIES TO THE CHILD, HIS
13 STORIES WOULD SAY -- WOULD START MATCHING THE INJURIES.

14 Q. WERE YOU ABLE -- BASED ON THAT, DID YOU FOCUS ON
15 HIM AS A SUSPECT AT THAT POINT?

16 A. YES, WE DID.

17 Q. AND WHAT DID YOU EVENTUALLY ARREST HIM FOR?

18 A. CHILD ABUSE, DEATH OF A CHILD, CHILD ABUSE BY
19 DEATH. I CAN'T REALLY REMEMBER THE EXACT TERMINOLOGY.

20 Q. TELL ME WHAT YOU BASED OBTAINING THAT WARRANT ON.

21 A. WHAT DID I WHAT?

22 Q. WHAT DID YOU BASE OBTAINING THAT WARRANT ON?

23 A. THE STATEMENTS. AND AFTER THE AUTOPSY, BASED ON
24 THE PATHOLOGIST'S STATEMENT AND REPORT TO US ON THE
25 INJURIES AND MANNER AND CAUSE OF DEATH.

REDACT
ED

1 Q. DID YOU ALSO CONSIDER A TIME LINE IN THAT?

2 A. WE DID.

3 MS. SIMMONS: PLEASE ANSWER ANY QUESTIONS

4 MR. SENERIUS MAY HAVE.

5 CROSS-EXAMINATION BY MR. SENERIUS:

6 Q. GOOD MORNING, DETECTIVE.

7 A. GOOD MORNING.

8 Q. I TRUST YOU DON'T MIND STILL BEING REFERRED TO AS
9 DETECTIVE, EVEN THOUGH YOU ARE RETIRED?

10 A. NO.

11 Q. LET'S TALK ABOUT THIS TIME LINE. SOMEBODY GAVE
12 YOU THAT TIME LINE, RIGHT?

13 A. I DON'T KNOW WHAT YOU MEAN BY...

14 Q. WELL, YOU WERE TOLD BY SOMEONE WHO HYPOTHESIZED
15 THAT THE INJURIES HAD TO OCCUR BETWEEN TWO AND FOUR P.M.
16 IS THAT CORRECT?

17 A. WELL --

18 Q. JUST YES OR NO IS FINE.

19 A. YES.

20 Q. OKAY. NOW, YOU FIRST ARRIVED AT OCONEE MEMORIAL
21 HOSPITAL I THINK YOU SAID AROUND 12:35 IN THE MORNING?

22 A. YES.

23 Q. AND YOU HAD BEEN INFORMED -- STRIKE THAT.

24 AFTER ARRIVING AT OCONEE MEMORIAL HOSPITAL,
25 SHORTLY THEREAFTER THE CHILD WAS TRANSPORTED TO

1 GREENVILLE MEMORIAL HOSPITAL; IS THAT CORRECT?

2 A. THAT IS CORRECT.

3 Q. OKAY. AND YOU OBSERVED THE, BOTH MY CLIENT AND
4 THE MOTHER, ASHLEY BRIGHT, WHILE THEY WERE INTERACTING
5 WITH THE EMERGENCY ROOM PERSONNEL, IS THAT CORRECT, AT
6 GREENVILLE HOSPITAL?

7 A. AT OCONEE MEMORIAL?

8 Q. NO, AT GREENVILLE HOSPITAL.

9 A. NO, I DIDN'T SEE THEM INTERACT WITH PERSONNEL AT
10 GREENVILLE.

11 MR. SENERIUS: MAY I APPROACH THE WITNESS, YOUR
12 HONOR?

13 THE COURT: CERTAINLY.

14 BY MR. SENERIUS:

15 Q. IS THIS THE FOURTH PAGE OF A TEN-PAGE REPORT
16 PREPARED BY YOU?

17 A. YES.

18 Q. YOU NEED TO SPEAK IN THAT MICROPHONE, PLEASE.

19 A. YES.

20 Q. OKAY. AND DOESN'T IT INDICATE THAT YOU DID
21 OBSERVE THE COUPLE INTERACTING IN THE HIGHLIGHTED PORTION
22 WITH THE EMERGENCY ROOM PERSONNEL?

23 A. AT OCONEE MEMORIAL HOSPITAL, NOT GREENVILLE.

24 Q. OKAY, I'M SORRY. AND DURING YOUR OBSERVATION OF
25 THE COUPLE, DID THE MOTHER SHOW ANY EMOTION?

1 A. NO, SHE DID NOT.

2 Q. ARE YOU FAMILIAR WITH THE TERM "FLAT AFFECT"?

3 A. YES.

4 Q. OKAY. WOULD YOU SAY THAT HER AFFECT WAS FLAT?

5 A. YES.

6 Q. MEANING SHE WASN'T HAPPY, SHE WASN'T SAD; SHE WAS
7 JUST KIND OF THERE?

8 A. THAT'S CORRECT.

9 Q. OKAY. NOW, MY CLIENT TOLD YOU AT THAT TIME THAT
10 HE HAD BEEN HOLDING THE BABY, THE BABY WAS FUSSY, PICKED
11 HER UP, CALMED DOWN, PUT THE BABY BACK DOWN, BABY
12 WOULDN'T STAY CALM UNLESS HE WAS HOLDING HER, SO HE SENT
13 A TEXT MESSAGE TO HIS GIRLFRIEND, MS. BRIGHT, HE WAS
14 GONNA LAY DOWN WITH THE BABY; IS THAT CORRECT?

15 A. THAT'S THE STATEMENT HE GAVE OFFICER KELLY, I
16 BELIEVE, AT OCONEE MEMORIAL HOSPITAL.

17 Q. OKAY. WELL, I'M JUST -- IT'S IN YOUR REPORT.

18 A. YES, I STATED IT.

19 Q. NOW, DID YOU TALK WITH ASHLEY BRIGHT ABOUT THE
20 RELATIONSHIP BETWEEN MATTHEW AND

21 A. I BELIEVE SERGEANT JONES DID. I DID NOT INTERVIEW
22 HER.

23 Q. SERGEANT JONES DID THAT, OKAY.

24 SO YOU TOOK ONE WRITTEN STATEMENT AND ONE ORAL
25 STATEMENT FROM MY CLIENT; IS THAT CORRECT?

1 A. YES, SIR.

2 Q. OKAY. DO YOU KNOW IF SOMEONE ELSE TOOK A WRITTEN
3 STATEMENT FROM MY CLIENT?

4 A. OFFICER CHRIS KELLY --

5 Q. CHRIS KELLY?

6 A. -- AT OCONEE MEMORIAL HOSPITAL TOOK A WRITTEN
7 STATEMENT.

8 Q. AND I'M ASSUMING YOU KNOW THAT BECAUSE YOU'VE SEEN
9 THE STATEMENT?

10 A. I HAVE SEEN THE STATEMENT, YES.

11 Q. DID MATTHEW APPEAR TO BE UPSET ABOUT WHAT WAS
12 HAPPENING TO HIS DAUGHTER?

13 A. YES.

14 Q. IN ALL OF THE TIME THAT YOU WERE AROUND MATTHEW
15 DID HE EVER REFUSE TO TALK TO YOU?

16 A. NO.

17 Q. AND CORRECT ME IF I'M WRONG. I THOUGHT YOU SAID
18 THAT HE GAVE YOU THE WRITTEN STATEMENT AFTER HE HAD BEEN
19 INFORMED OF THE BABY'S INJURIES; IS THAT CORRECT?

20 A. AT GREENVILLE HOSPITAL --

21 Q. AT GREENVILLE HOSPITAL, YES, SIR.

22 A. -- YES, HE WAS INFORMED THAT THE CHILD I THINK HAD
23 SOME HEAD INJURIES, BLEEDING IN THE BRAIN. I THINK HE
24 GOT THAT INFORMATION FROM OCONEE MEMORIAL --

25 Q. OKAY.

1 A. -- WHERE THEY DID A C.T. ON THE CHILD, AND IT WAS
2 DISCOVERED THERE WAS BLOOD ON THE BRAIN.

3 Q. OKAY.

4 A. NOW, THE CAUSE OF THAT AT THAT TIME WAS
5 UNDETERMINED.

6 Q. OKAY. DO YOU KNOW WHO DETERMINED THE CAUSE OF THE
7 INJURY?

8 A. I DON'T KNOW, RECALL THE DOCTOR'S NAME. IT WAS
9 SOMEBODY AT GREENVILLE.

10 Q. BUT WHEN YOU SAY THAT SOME DOCTOR AT GREENVILLE
11 DETERMINED THE CAUSE OF THE INJURY, THAT IS THAT PERSON'S
12 OPINION, IS THAT NOT CORRECT?

13 A. I WOULD BELIEVE HE'S A DOCTOR; HE WOULD KNOW WHAT
14 IT IS, I DON'T.

15 Q. BUT IT'S HIS OPINION, THOUGH?

16 A. YES.

17 Q. OKAY.

18 MR. SENERIUS: MAY I HAVE ONE MOMENT, YOUR HONOR?

19 THE COURT: CERTAINLY.

20 (THERE WAS A PAUSE IN THE PROCEEDINGS.)

21 BY MR. SENERIUS:

22 Q. WHEN -- YOU SAID THAT MR. HINTON, MATTHEW HAD BEEN
23 INFORMED OF HIS [SIC] INJURIES PRIOR TO YOU TAKING THE
24 SECOND WRITTEN STATEMENT?

25 A. YES. I BELIEVE HE WAS INFORMED OF THE INJURIES AT

1 OCONEE MEMORIAL HOSPITAL.

2 Q. OKAY. SO, BUT IT WAS YOUR OPINION THAT AT THIS
3 TIME THAT HE HAD BEEN INFORMED OF THE HEAD TRAUMA?

4 A. YES, SIR.

5 Q. WERE THERE ANY OTHER INJURIES THAT HE HAD BEEN
6 INFORMED OF?

7 A. NOT THAT I'M AWARE OF, SIR.

8 Q. AND HE -- SO BEING ONLY AWARE OF HEAD TRAUMA, HE
9 GIVES A STATEMENT SAYING THE CHILD FELL OUT OF HIS ARMS
10 OR SLIPPED OUT OF HIS ARMS OR -- I FORGET EXACTLY HOW IT
11 WAS CHARACTERIZED. SLIPPED, I THINK -- AND THAT HE
12 GRABBED THE CHILD'S LEG AND FLIPPED THE CHILD BACK UP,
13 AND THIS IS WHAT YOU DEMONSTRATED HERE; IS THAT CORRECT?

14 A. THAT'S WHAT HE DEMONSTRATED AND TOLD ME, YES, SIR.

15 Q. AND AT THAT TIME IT'S YOUR OPINION THAT HE KNEW
16 NOTHING ABOUT ANY BROKEN BONES ON THE CHILD?

17 A. FROM WHAT I -- NO, I HAVE NO IDEA IF HE KNEW
18 ANYTHING ABOUT THE BROKEN BONES OR NOT.

19 MR. SENERIUS: THANK YOU VERY MUCH.

20 I DON'T HAVE ANY FURTHER QUESTIONS OF THE DETECTIVE.
21 THE DETECTIVE MAY BE EXCUSED AS FAR AS I'M CONCERNED.

22 THE COURT: WELL, MS. SIMMONS MAY HAVE SOME.

23 MS. SIMMONS: I JUST HAVE A COUPLE QUESTIONS.

24 MR. SENERIUS: OH, SORRY. I DIDN'T MEAN TO SHUT HER
25 OFF, JUDGE.

1 REDIRECT EXAMINATION BY MS. SIMMONS:

2 Q. SERGEANT ROUNDY, YOU WERE ASKED ABOUT ASHLEY'S
3 DEMEANOR AT THE HOSPITAL AND YOUR INTERACTION WITH HER.

4 A. YES.

5 Q. HOW DID YOU -- WHEN DID YOU EVENTUALLY LEARN WHAT
6 HER NORMAL DEMEANOR IS?

7 A. I LEARNED THAT SHE IS AN INDIVIDUAL WHO HOLDS
8 THINGS IN AND DOES NOT DISPLAY EMOTIONS TO ANYBODY EXCEPT
9 MAYBE IN PRIVATE OR WHEN SHE'S NOT BEING VIEWED, AND IT
10 WAS NOTHING UNUSUAL FOR HER TO BEHAVE IN THIS MANNER.

11 Q. AND MR. SENERIUS ASKED YOU IF THE DEFENDANT
12 VOLUNTARILY COOPERATED WITH YOU AND TALKED TO YOU ON
13 THESE THREE OCCASIONS. DO BOTH GUILTY -- HAVE BOTH
14 GUILTY AND INNOCENT PEOPLE COOPERATED WITH YOU IN THE
15 PAST?

16 A. YES.

17 MS. SIMMONS: NOTHING FURTHER.

18 THE COURT: RE CROSS?

19 RE CROSS-EXAMINATION BY MR. SENERIUS:

20 Q. WITH REGARD TO MS. BRIGHT'S AFFECT, THIS IS NOT
21 SOMETHING THAT YOU OBSERVED, THIS WAS -- WAS THIS --
22 STRIKE ALL THAT. THAT WAS A TERRIBLE QUESTION.

23 DID YOU OBTAIN THIS INFORMATION ABOUT MS. BRIGHT'S
24 AFFECT FROM HER FAMILY?

25 A. FROM FAMILY MEMBERS AND FRIENDS.

1 Q. FAMILY MEMBERS AND FRIENDS. SO ALL OF THIS
2 INFORMATION ABOUT HER AFFECT IS, WAS SECONDHAND HEARSAY
3 INFORMATION TO YOU, CORRECT?

4 A. YES.

5 Q. NONE OF IT WAS CONFIRMED BY ANY KIND OF A MEDICAL
6 EXPERT, A PSYCHOLOGIST OR A PSYCHIATRIST?

7 A. NO.

8 Q. AND IN YOUR EXPERIENCE HAVE BOTH GUILTY AND
9 INNOCENT PEOPLE REACTED WITH A FLAT AFFECT TO SERIOUS
10 SITUATIONS SUCH AS THIS?

11 A. I HAVE EXPERIENCED IT, YES.

12 MR. SENERIUS: OKAY. THANK YOU.

13 NOTHING FURTHER, YOUR HONOR. I'M SORRY.

14 THE COURT: ANY RE, RE-EXAM?

15 MS. SIMMONS: NO, YOUR HONOR. AND WE WOULD ALSO ASK
16 THAT DETECTIVE ROUNDY BE EXCUSED.

17 MR. SENERIUS: WITHOUT OBJECTION TO HIM BEING
18 EXCUSED.

19 THE COURT: WITHOUT OBJECTION YOU MAY BE EXCUSED.
20 THANK YOU, SIR.

21 ALL RIGHT. LADIES AND GENTLEMEN, UNLESS I HEAR AN
22 OBJECTION, I THINK THIS WOULD BE A GOOD TIME TO TAKE A
23 LUNCH BREAK. NOW, MR. FOREMAN THIS IS GONNA BE YOUR
24 FIRST RESPONSIBILITY. I'M GOING TO ASK THE JURY HOW LONG
25 THEY WOULD LIKE TO HAVE LUNCH. I'M NOT EXACTLY SURE

1 WHAT'S AVAILABLE IN WALHALLA, IT KEEPS CHANGING WHEN I
2 COME HOME. BUT I WOULD SUGGEST EITHER 1:30 OR A QUARTER
3 TO TWO. THAT'S EITHER AN HOUR OR AN HOUR AND 15 MINUTES.
4 BUT JUST CHECK WITH YOUR JURY THERE IN THE BOX AS TO WHAT
5 TIME Y'ALL WOULD LIKE TO COME BACK AND CONTINUE WITH THE
6 TRIAL OF THE CASE: 1:30 OR A QUARTER TO TWO.

7 THE FOREMAN: 1:30 WOULD BE FINE, YOUR HONOR.

8 THE COURT: 1:30, GOOD. NOW, MR. FOREMAN, LADIES
9 AND GENTLEMEN OF THE JURY, AGAIN, AS YOU CAN SEE, IT'S A
10 VERY IMPORTANT CASE TO EVERYONE INVOLVED AND IT NEEDS TO
11 BE RESOLVED IN A PROPER FASHION. SO PLEASE DO NOT
12 UNDERTAKE THE DISCUSSION AMONG YOURSELVES OR PERMIT
13 ANYONE TO DISCUSS THE CASE WITH YOU.

14 AND WITH THAT I WILL EXCUSE YOU AND SEE YOU AT 1:30.
15 JUST COME BACK TO THE JURY ROOM THAT YOU'VE BEEN USING
16 DURING THE TRIAL. VERY GOOD. THANK YOU VERY MUCH.

17 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES
18 FROM THE COURTROOM.

19 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
20 APPROXIMATELY 12:32 P.M.)

21 THE COURT: ANYTHING FROM THE STATE BEFORE WE TAKE A
22 LUNCH RECESS?

23 MS. SIMMONS: NO, YOUR HONOR.

24 THE COURT: FROM THE DEFENSE?

25 MR. SENERIUS: NO, SIR.

1 THE COURT: WE'LL STAND IN RECESS UNTIL 1:30.

2 MAY I SEE COUNSEL, PLEASE?

3 (DISCUSSION AT SIDEBAR.)

4 (A LUNCHEON RECESS OCCURRED AT 12:32 P.M.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 AFTERNOON PROCEEDINGS

2 (1:46 P.M.)

3

4 THE COURT: ARE WE READY TO PROCEED?

5 MR. SENERIUS: YES, SIR.

6 THE COURT: STATE?

7 MS. SIMMONS: YES, SIR.

8 THE COURT: VERY GOOD. ASK THE JURY TO JOIN US.

9 (THE JURY ENTERED THE COURTROOM AT

10 APPROXIMATELY 1:46 P.M.)

11 THE COURT: ALL RIGHT. WE'LL NOW PROCEED WITH THE
12 TRIAL OF THE CASE.

13 MADAM SOLICITOR, YOU CAN CALL YOUR NEXT WITNESS.

14 MS. SIMMONS: THANK YOU, YOUR HONOR. THE STATE
15 CALLS CHRIS KELLY.

16 WHEREUPON,

17 CHRIS KELLY,

18 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS
19 DIRECT EXAMINATION BY MS. SIMMONS:

20 THE COURT: ALL RIGHT, SIR. IF YOU WOULD PLEASE
21 GIVE US YOUR FULL NAME FOR THE RECORD, SPELLING YOUR LAST
22 NAME.

23 THE WITNESS: MY NAME IS CHRISTOPHER KEITH KELLY.
24 THE SPELLING OF MY LAST NAME IS K-E-L-L-Y.

25 THE COURT: VERY GOOD. THANK YOU, SIR.

1 BY MS. SIMMONS:

2 Q. GOOD AFTERNOON MR. KELLY. WHERE ARE YOU CURRENTLY
3 EMPLOYED?

4 A. I AM CURRENTLY EMPLOYED AS A SECURITY OFFICER AT
5 DUKE ENERGY.

6 Q. AND BACK IN AUGUST OF 2009 WHERE WERE YOU
7 EMPLOYED?

8 A. AT THAT TIME I WAS A PATROL OFFICER FOR THE CITY
9 OF SENECA POLICE DEPARTMENT.

10 Q. AND SINCE THAT TIME DID YOU LEAVE SENECA
11 VOLUNTARILY?

12 A. YES, MA'AM.

13 Q. HOW LONG WERE YOU EMPLOYED IN LAW ENFORCEMENT?

14 A. FOR FIVE AND A HALF YEARS AT SENECA AND THEN A
15 TWO-YEAR TERM AS A CORRECTIONS OFFICER.

16 Q. TELL ME A LITTLE BIT ABOUT YOUR LAW ENFORCEMENT
17 BACKGROUND AND TRAINING.

18 A. I HOLD AN ASSOCIATE'S DEGREE IN CRIMINAL JUSTICE
19 THAT I ACQUIRED IN COLLEGE BACK IN MISSISSIPPI BEFORE I
20 MOVED UP HERE. I GRADUATED FROM THE SOUTH CAROLINA
21 CRIMINAL JUSTICE ACADEMY BEFORE STARTING MY TERM AS A
22 SENECA POLICE OFFICER, PLUS THE HOURS THAT I HAVE ACCRUED
23 IN TRAINING FROM SENECA ITSELF.

24 Q. AND WERE YOU ON DUTY ON AUGUST 16TH AND 17TH,
25 2009?

1 A. YES, MA'AM. I WAS WORKING A NIGHT SHIFT THAT DAY.

2 Q. HOW DID YOU BECOME INVOLVED IN THE CASE RELATING
3 TO THIS DEFENDANT?

4 A. THE INITIAL CONTACT FOR THE CASE WAS I WAS CALLED
5 OUT TO THE APARTMENT COMPLEX, NORTHWOODS APARTMENTS, IN
6 REFERENCE TO AN UNRESPONSIVE BABY AS AN ASSIST TO THE
7 FIRE DEPARTMENT AND E.M.S. FROM THAT TIME THE CHILD WAS
8 TRANSFERRED -- TRANSPORTED TO OCONEE MEMORIAL HOSPITAL.
9 WE RECEIVED A CALL FROM THE NURSING STAFF STATING THAT
10 THERE WERE INJURIES ON THE CHILD AND I WAS CALLED TO COME
11 BACK OUT AND PICK UP THE INVESTIGATION AGAIN.

12 Q. DID YOU ARRIVE ON SCENE ROUGHLY THE SAME TIME AS
13 PARAMEDICS?

14 A. I WAS JUST BEHIND THE FIRE DEPARTMENT'S RESCUE
15 SQUAD.

16 Q. AND YOU, YOU FOUND THE EVENTS IN QUESTION OCCURRED
17 IN THE SENECA CITY LIMITS?

18 A. YES, MA'AM.

19 Q. WHEN YOU ARRIVED ON SCENE AT THE APARTMENT
20 COMPLEX, WHO DID YOU FIND THERE OTHER THAN THE RESCUE
21 PERSONNEL?

22 A. WHEN I ARRIVED AT THE APARTMENT COMPLEX, IT WAS
23 THE DEFENDANT, THE MOTHER, AND THE CHILD WAS IN THE BED.

24 Q. WHAT WAS THE MENTAL STATE OF BOTH PARTIES WHEN YOU
25 ARRIVED?

1 A. UM, I WOULD HAVE TO SAY AGITATED, KIND OF UP-KEY,
2 GIVEN THE SITUATION, WHERE I WOULD HAVE PROBABLY BEEN
3 MYSELF PROBABLY.

4 Q. WERE EITHER ONE OF THEM EMOTIONAL?

5 A. AT THAT TIME BOTH OF THEM DID APPEAR TO BE, YOU
6 KNOW, HAVE SOME EMOTION SHOWING.

7 Q. WHAT DID YOU OBSERVE AT THE SCENE WHILE YOU WERE
8 THERE?

9 A. WHAT I OBSERVED WAS WHEN I ARRIVED THE MOTHER WAS
10 IN THE LIVING ROOM WAITING FOR US TO ARRIVE AND ASSIST.
11 WHEN I WENT IN, THE FIRE DEPARTMENT HAD ALREADY ENTERED
12 INTO THE BEDROOM WHERE THE CHILD WAS AND HAD STARTED
13 THEIR PROCESS OF TRYING TO REVIVE THE CHILD WHO WAS STILL
14 IN THE BED AT THE TIME THE FATHER WAS IN THE ROOM
15 SPEAKING WITH THEM.

16 Q. I BRING YOUR ATTENTION TO THE PHOTOGRAPH BEHIND
17 YOU.

18 A. OKAY..

19 Q. IS THAT THE BEDROOM YOU RECALL SEEING THE CHILD
20 IN?

21 A. YES, MA'AM.

22 Q. OKAY. AND I THINK THERE'S A POINTER UP THERE.

23 CAN YOU KIND OF SHOW ME WHERE YOU SAW THE CHILD?

24 A. UM, WHEN I ARRIVED, THE CHILD HAD BEEN MOVED OR
25 WAS AT THIS PARTICULAR POINT RIGHT HERE --

REDACTED
D

1 Q. OKAY.

2 A. -- WHERE THE FIRE DEPARTMENT WAS TAKING CARE OF
3 TRYING TO REVIVE IT.

4 Q. WHAT DID THE CHILD'S STATE APPEAR TO BE AT THAT
5 TIME?

6 A. AT THAT POINT UNRESPONSIVE.

7 Q. WERE YOU ABLE TO OBSERVE ANY OF HER INJURIES AT
8 THE SCENE OR DID THAT COME LATER?

9 A. ALL THE INJURIES THAT I OBSERVED CAME LATER. WHEN
10 I ARRIVED WE WERE ACTUALLY HOLDING A -- I WAS HOLDING A
11 FLASHLIGHT IN THE DOORWAY ON THE CEILING JUST TO PROVIDE
12 A LITTLE BIT OF LIGHT IN THE ROOM. AS BEST AS I COULD
13 TELL, I NEVER FOUND A LIGHT SWITCH OR A LIGHT BULB IN
14 THAT BEDROOM, SO...

15 Q. THIS BED, IS IT A TWIN BED OR A DOUBLE BED?

16 A. THAT I REALLY COULDN'T TELL YOU. I DON'T KNOW.

17 Q. NOT A QUEEN.

18 A. NOT A QUEEN.

19 Q. OKAY. BASED ON WHERE YOU SAW THE LAYOUT THERE,
20 WOULD YOU SAY THAT SOMEONE COULD CRAWL INTO THAT BED WITH
21 TWO PARTIES IN IT AND GET THE BABY OUT WITHOUT THE OTHER
22 ONE NOTICING?

23 MR. SENERIUS: OBJECTION. CALLS FOR THE OPINION OF
24 THE OFFICER.

25 THE COURT: IF YOU'RE GOING TO USE HIS OPINION, I

REDACTED

RE
DA
CT
ED

1 THINK YOU NEED TO LAY A LITTLE FOUNDATION.

2 MS. SIMMONS: THANK YOU, YOUR HONOR.

3 THE COURT: SUSTAIN THE OBJECTION.

4 BY MS. SIMMONS:

5 Q. OFFICER KELLY, DID YOU PERSONALLY OBSERVE THE
LAYOUT OF THE BEDROOM?

A. YES, MA'AM.

Q. DID YOU PERSONALLY OBSERVE THE BED ITSELF?

A. YES, MA'AM.

Q. BASED ON WHAT YOU SAW, WAS IT FEASIBLE THAT
SOMEONE COULD HAVE GOTTEN IN THAT BED WITHOUT ANOTHER
PERSON NOTICING?

A. I WOULDN'T THINK SO.

Q. HOW LONG DO YOU ESTIMATE YOU WERE AT THE SCENE?

A. ACTUALLY AT THE APARTMENT COMPLEX, IT WOULD HAVE
BEEN JUST ENOUGH TIME FOR THE FIRE DEPARTMENT TO GET
THEIR PART DONE, E.M.S. TO COME IN, TAKE OVER, AND HAVE
THE CHILD TRANSFERRED OUT. SO I WOULD SAY BETWEEN 15, 25
MINUTES TOPS. I REALLY COULDN'T GIVE YOU AN EXACT ON
THAT.

Q. WHERE DID YOU HEAD AFTER YOU LEFT THE SCENE?

A. AT THAT POINT I RETURNED BACK TO MY PATROL. WE
RECEIVED A CALL LATER. THEN I WENT TO THE HOSPITAL.

Q. WHEN YOU WENT TO THE HOSPITAL, WERE YOU THE FIRST
OFFICER THAT INTERVIEWED BOTH THE MOTHER AND THE FATHER

1 IN THIS CASE?

2 A. I ONLY INTERVIEWED THE FATHER. THE OFFICER WHO
3 WAS ASSISTING ME INTERVIEWED THE MOTHER.

4 Q. DID YOU TAKE MATTHEW HINTON'S FIRST OFFICIAL
5 STATEMENT TO LAW ENFORCEMENT?

6 A. YES, MA'AM.

7 Q. I'M GONNA SHOW YOU STATE'S EXHIBITS 1 AND 2.

8 MS. SIMMONS: YOUR HONOR, MAY I APPROACH THE
9 WITNESS?

10 THE COURT: CERTAINLY.

11 BY MS. SIMMONS:

12 Q. OFFICER KELLY, STATE'S 1 AND 2, DO THEY APPEAR TO
13 BE THE ORIGINALS AND FAIR AND ACCURATE REPRESENTATIONS OF
14 THE STATEMENT YOU TOOK FROM MATTHEW HINTON IN THE EARLY
15 MORNING HOURS OF AUGUST 17TH OF 2009?

16 A. YES, MA'AM.

17 Q. REFERRING TO EXHIBIT 1, DID YOU GIVE THE DEFENDANT
18 HIS MIRANDA RIGHTS?

19 A. YES, MA'AM.

20 Q. WAS HE IN CUSTODY AT THE TIME?

21 A. NO, MA'AM.

22 Q. WAS HE UNDER THE -- DID HE APPEAR TO BE UNDER THE
23 INFLUENCE OF ANY DRUGS OR ALCOHOL?

24 A. NOT THAT I COULD TELL.

25 Q. WAS HE OVERLY DISTRAUGHT TO THE POINT THAT HE DID

1 NOT UNDERSTAND WHAT WAS GOING ON IN WRITING HIS
2 STATEMENT?

3 A. HE DID NOT APPEAR TO BE.

4 Q. DID YOU THREATEN, COERCE, OR INTIMIDATE HIM IN ANY
5 WAY IN ORDER TO GET HIM TO WRITE THE STATEMENT?

6 A. NO, MA'AM.

7 Q. AND WAS HE ALLOWED TO LEAVE AFTER HE GAVE THE
8 STATEMENT?

9 A. YES, MA'AM.

10 MS. SIMMONS: JUDGE, WE WOULD MOVE IN STATE'S
11 EXHIBITS 1 AND 2, THAT WOULD BE THE *MIRANDA* WAIVER AND
12 THE SUBSEQUENT STATEMENT.

13 THE COURT: 1, IS STATE'S EXHIBIT NUMBER 1 THE
14 WAIVER?

15 MS. SIMMONS: LET ME CONFIRM THAT NUMBER WITH -- I
16 APOLOGIZE -- 1 AND 2, YOUR HONOR.

17 THE COURT: WELL, 1 IS ONE AND 1 IS THE OTHER. I'M
18 JUST CURIOUS, JUST FOR THE RECORD, THE *MIRANDA* RIGHTS IS
19 WHICH EXHIBIT?

20 MS. SIMMONS: 1, YOUR HONOR.

21 THE COURT: 1. AND THE STATEMENT IS THE EXHIBIT,
22 STATE'S EXHIBIT 2?

23 MS. SIMMONS: CORRECT, YOUR HONOR.

24 THE COURT: ANY OBJECTION?

25 MR. SENERIUS: NO, SIR.

1 THE COURT: WITHOUT OBJECTION STATE'S EXHIBITS AND 1
2 AND 2 ARE ADMITTED.

3 (RECEIVED IN EVIDENCE WAS STATE'S EXHIBIT
4 NUMBER 1, WAIVER DATED 8/17/09.)

5 (RECEIVED IN EVIDENCE WAS STATE'S EXHIBIT
6 NUMBER 2, STATEMENT DATED 8/17/09.)

7 BY MS. SIMMONS:

8 Q. IN ADDITION TO TAKING THIS WRITTEN STATEMENT, DID
9 YOU ALSO TALK TO THE DEFENDANT ABOUT THE EVENTS OF THE
10 NIGHT AND DAY?

11 A. THE, THE WAY THAT I HANDLE MY STATEMENTS WHEN I
12 TAKE ONE IS THAT I WILL SPEAK WITH THE PERSON I'M TAKING
13 THE STATEMENT FROM. AND WHILE WE ARE DISCUSSING THE
14 EVENTS, I WRITE THE STATEMENT AS THEY TELL ME TO WRITE
15 IT. I TAKE THEIR WORDS AND PUT ON PAPER. IT MAKES IT
16 EASIER FOR ME TO READ LATER AND IT MAKES IT EASIER FOR
17 OTHER PEOPLE TO READ IT AS WELL. SO, YES, I DID SPEAK TO
18 HIM WHILE WE WERE WRITING IT.

19 Q. DID YOU LIMIT YOUR QUESTIONING OF HIM TO WHAT
20 HAPPENED THAT NIGHT OR DID YOU ADDRESS THE ENTIRE DAY OF
21 THAT SUNDAY?

22 A. I ADDRESSED IT FOR THE DAY.

23 Q. DID HE OFFER ANY INFORMATION TO YOU ABOUT THE DAY?

24 A. NO, MA'AM. THE FIRST INFORMATION HE GAVE ME WAS
25 FOR BEGINNING AT AROUND 4:30, 4:45.

REDACTED

1 Q. BUT DID YOU SPECIFICALLY INQUIRE ABOUT THE DAY?

2 A. YES, MA'AM.

3 Q. THE INFORMATION HE GAVE YOU STARTING AT 4:45, IS
4 THAT WHAT IS CONTAINED IN THE WRITTEN STATEMENT?

5 A. YES, MA'AM.

6 Q. CAN YOU READ THAT FOR ME?

7 A. CERTAINLY (READING): IT'S THE STATEMENT OF
8 MATTHEW TAYLOR HINTON. IT STATES THAT, I WAS AT HOME
9 WITH MY DAUGHTER, [REDACTED] AND MY GIRLFRIEND,
10 ASHLEY BRIGHT, WAS AT WORK. AT AROUND 4:45 P.M. [REDACTED]
11 WAS DOZING OFF ASLEEP AND I WAS GOING TO LAY DOWN AND
12 TAKE A NAP WITH HER.

13 I SENT ASHLEY A TEXT MESSAGE TO TELL HER THAT WE
14 WERE GOING TO SLEEP.

15 I TOOK [REDACTED] TO THE BEDROOM AND WE LAID DOWN FOR
16 A NAP. WHEN ASHLEY GOT HOME, SHE WOULD WAKE ME UP EVERY
17 30 TO 45 MINUTES TO CHECK ON [REDACTED] ONE TIME ASHLEY
18 WOKE ME UP TO TELL ME TO MOVE THE COVERS; THEY WERE UP
19 AROUND [REDACTED] EYES AND I PULLED THEM DOWN AND AWAY
20 FROM HER FACE. I CHECKED [REDACTED] AND SHE WAS BREATHING
21 FINE AND WAS STILL ASLEEP. ASHLEY WOKE ME UP AGAIN A
22 LITTLE LATER TO TURN [REDACTED] BACK OVER. SHE HAD ROLLED
23 OVER AND HER FACE WAS IN MY PILLOW. I ROLLED HER OVER
24 AND SHE WAS STILL BREATHING FINE.

25 THIS WAS THE LAST TIME I REMEMBER GETTING WOKE UP

1 BY ASHLEY.

2 I WOKE MYSELF UP AND CHECKED [REDACTED] AND I FOUND
3 THAT SHE WASN'T BREATHING. I DO NOT KNOW WHAT TIME THIS
4 WAS. I YELLED AT ASHLEY AND TOLD HER TO CALL 9-1-1
5 BECAUSE [REDACTED] WAS NOT BREATHING.

6 ASHLEY CALLED 9-1-1 AND CAME INTO THE BEDROOM
7 WHILE SHE WAS TALKING TO THEM. I RUBBED [REDACTED] CHEST
8 WITH MY FIRST TWO KNUCKLES TO TRY TO GET SOME KIND OF
9 RESPONSE FROM HER. THE 9-1-1 OPERATOR TOLD ASHLEY HOW TO
10 PERFORM C.P.R. ON AN INFANT AND ASHLEY TOLD ME.

11 I BEGAN DOING C.P.R. WITH TWO BREATHS AND 30
12 COMPRESSIONS. I WOULD RUB HER CHEST BETWEEN THE
13 COMPRESSIONS AND THE NEXT TWO BREATHS. I CONTINUED THIS
14 PATTERN UNTIL E.M.S. ARRIVED AND TOOK OVER.

15 END OF STATEMENT.

16 Q. IN MR. HINTON'S ORAL INTERVIEW AND HIS WRITTEN
17 STATEMENT THAT'S JUST BEEN ADMITTED THAT YOU PUBLISHED,
18 DID HE REFERENCE ANY FALLS OR ACCIDENTS OR INCIDENTS
19 REGARDING [REDACTED] ON SUNDAY?

20 A. NO, MA'AM, HE DID NOT.

21 Q. DID HE HAVE THE OPPORTUNITY TO DO SO?

22 A. I BELIEVE HE DID.

23 Q. DID HE MAKE ANY ALLEGATIONS TOWARDS THIRD PARTIES?

24 A. NOT AT THAT TIME.

25 Q. AND DID YOU SPECIFICALLY ASK FOR HIM TO PROVIDE

REDACTED

1 INFORMATION ABOUT THE ENTIRE DAY IN QUESTION?

2 A. YES, MA'AM.

3 MS. SIMMONS: PLEASE ANSWER ANY QUESTIONS

4 MR. SENERIUS HAS.

5 THE WITNESS: OKAY.

6 CROSS-EXAMINATION BY MR. SENERIUS:

7 Q. WOULD YOU LIKE TO BE ADDRESSED AS MR. KELLY?

8 A. AS WHATEVER YOU WANT TO ADDRESS ME AS, SIR.

9 Q. MR. KELLY, I'M GONNA HAND YOU A DOCUMENT, AND I
10 ADMIT IT'S BEEN HIGHLIGHTED AND SOME OF IT WAS DONE BY
11 ME.

12 A. OKAY.

13 Q. WOULD YOU TAKE A LOOK AT THAT DOCUMENT AND TELL ME
14 IF YOU RECOGNIZE IT, PLEASE?

15 A. YES, SIR.

16 Q. I'D LIKE YOU TO LOOK AT ALL THE PAGES BEFORE YOU
17 ANSWER.

18 A. OKAY. (COMPLIES.) YES, SIR.

19 Q. ALL DONE?

20 A. YES, SIR.

21 Q. PLEASE TELL THE JURY WHAT THAT DOCUMENT IS.

22 A. THAT IS MY INITIAL REPORT FOR THE INCIDENT.

23 Q. OKAY. AND WE COMMONLY REFER TO IT AS AN INCIDENT
24 REPORT?

25 A. YES, SIR.

1 Q. OKAY. AND IN YOUR TRAINING AS A LAW ENFORCEMENT
2 OFFICER, YOU ARE TAUGHT TO FILL THESE REPORTS OUT AS
3 ACCURATELY AS POSSIBLE?

4 A. YES, SIR.

5 Q. NOT TO LEAVE OUT ANY RELEVANT INFORMATION?

6 A. YES, SIR.

7 Q. OKAY. NOW, I THINK THIS IS STATE'S EXHIBIT 2.

8 MR. SENERIUS: I'M SORRY. MAY I APPROACH THE
9 WITNESS AGAIN?

10 THE COURT: CERTAINLY.

11 BY MR. SENERIUS:

12 Q. OKAY. THE HANDWRITING IN THE NARRATIVE, THAT'S
13 YOUR HANDWRITING?

14 A. IN THIS NARRATIVE?

15 Q. YES, SIR.

16 A. YES, SIR.

17 Q. OKAY. AND YOU SAY YOU DO THAT SO YOU CAN READ
18 YOUR OWN HANDWRITING?

19 A. YES, SIR.

20 Q. OKAY. SOMETIMES I CAN'T.

21 NOW I WANT TO SHOW YOU, I GUESS IT WOULD BE THE
22 SECOND PAGE OF YOUR INCIDENT REPORT. AND ONE OF THE
23 WORDS HAS BEEN CHOPPED OFF HERE, I'M GONNA GUESS THAT'S
24 AN "I." WOULD YOU READ THE HIGHLIGHTED PORTION, PLEASE,
25 AS WELL AS THE THING THAT'S UNDERLINED?

1 THE COURT REPORTER: SLOWLY, PLEASE.

2 THE WITNESS: OKAY.

3 A. I ASKED THE FATHER TO WALK ME THROUGH THE EVENTS
4 OF THE DAY FROM THE TIME THAT HE LAST SAW THE CHILD
5 AWAKE.

6 BY MR. SENERIUS:

7 Q. OKAY, THANK YOU. SO YOU ASKED HIM TO WALK YOU
8 THROUGH THE EVENTS OF THE DAY FROM THE LAST TIME HE SAW
9 THE CHILD AWAKE?

10 A. UH-HUH.

11 Q. NOW IF YOU'D LOOK AT STATE'S EXHIBIT NUMBER 2 -- I
12 THINK YOU STILL HAVE IT UP THERE --

13 A. UH-HUH.

14 Q. -- DOESN'T THAT WALK YOU THROUGH THE EVENTS OF THE
15 DAY FROM THE TIME THAT THE CHILD WAS LAST SEEN AWAKE BY
16 MY CLIENT?

17 A. IT STATES THAT IT -- IT GOES FROM THE TIME WHERE
18 THEY LAID DOWN FOR THE NAP.

19 Q. OKAY. WHICH WOULD BE THE LAST TIME HE SAW HER
20 AWAKE?

21 A. IF YOU CAN MAKE THE ASSUMPTION, YES, SIR.

22 Q. WELL, SO YOU ARE ASSUMING THAT THE CHILD WAS
23 UNCONSCIOUS OR NOT AWAKE PRIOR TO THAT TIME?

24 A. I CANNOT ASSUME. I DON'T KNOW IF SHE HAD ALREADY
25 WENT TO SLEEP BEFORE THEY LAID DOWN OR THEY LAID DOWN AND

1 SHE WENT TO SLEEP. I DO NOT.

2 Q. ALL RIGHT. SO YOU DON'T HAVE ANY INFORMATION THAT
3 THAT STATEMENT IS NOT COMPLETELY WHAT YOU ASKED FOR, DO
4 YOU?

5 A. OTHER THAN WHAT I HAVE THERE, RIGHT.

6 Q. RIGHT. YOU ASKED MY CLIENT --

7 A. UH-HUH.

8 Q. -- TO GIVE YOU A STATEMENT FROM THE LAST TIME HE
9 SAW THE CHILD AWAKE. AND HE STARTS OUT BY SAYING THE
10 CHILD IS DOZING --

11 A. UH-HUH.

12 Q. -- WHICH ISN'T REALLY AWAKE TO ME, MAYBE IT IS TO
13 YOU.

14 AND THEN HE GOES THROUGH EVERYTHING UP UNTIL THE
15 TIME THAT THEY CALL 9-1-1.

16 A. UH-HUH.

17 Q. SO THAT WOULD BE A COMPLETE STATEMENT OF WHAT YOU
18 ASKED MY CLIENT TO GIVE YOU, RIGHT?

19 A. IT COULD BE PERCEIVED THAT WAY. I BELIEVE SO.

20 Q. IT COULD BE PERCEIVED THAT WAY?

21 A. YES, SIR.

22 Q. MR. KELLY, IF I WERE TO ASK YOU WHERE YOU WENT TO
23 HIGH SCHOOL --

24 A. YES, SIR.

25 Q. -- AND YOU TOLD ME WHERE YOU WENT TO HIGH

1 SCHOOL --

2 A. UH-HUH.

3 Q. -- AND THEN LATER ON I ASKED YOU WHERE YOU WENT TO
4 GRADE SCHOOL --

5 A. UH-HUH.

6 Q. -- IN A SECOND STATEMENT, OR SOMEBODY ELSE ASKED
7 YOU IN A SECOND STATEMENT WHERE YOU WENT TO GRADE SCHOOL,
8 WOULD IT BE PERCEIVED THAT YOU WEREN'T TELLING ME THE
9 TRUTH WHEN I ASKED YOU WHERE YOU WENT TO HIGH SCHOOL?

10 A. NO, SIR.

11 Q. OKAY. SO THIS IS A COMPLETE, ACCURATE STATEMENT
12 OF WHAT YOU ASKED MY CLIENT TO GIVE YOU.

13 A. OKAY.

14 Q. CORRECT?

15 A. CORRECT.

16 MR. SENERIUS: THANK YOU. NOTHING FURTHER.

17 THE COURT: RE-EXAM?

18 MS. SIMMONS: NOTHING, YOUR HONOR.

19 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

20 (WHEREUPON, THE WITNESS LEFT THE WITNESS
21 STAND.)

22 MS. SIMMONS: JUDGE, MAY MR. KELLY BE EXCUSED?

23 THE COURT: ANY OBJECTION?

24 MR. SENERIUS: OH. NO. HE CAN BE EXCUSED.

25 THE COURT: ALL RIGHT. WITHOUT OBJECTION THE

1 WITNESS MAY BE EXCUSED. THANK YOU, SIR.

2 (WHEREUPON, THE WITNESS WAS EXCUSED AT
3 APPROXIMATELY 2:04 P.M.)

4 THE COURT: ALL RIGHT. YOU MAY CALL YOUR NEXT
5 WITNESS.

6 MS. SIMMONS: THE STATE CALLS DONNA ELLER.
7 WHEREUPON,

8 DONNA ELLER,
9 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:
10 DIRECT EXAMINATION BY MS. SIMMONS:

11 THE COURT: IF YOU WOULD PLEASE, MA'AM, GIVE US YOUR
12 FULL NAME FOR THE RECORD, SPELLING YOUR LAST NAME.

13 THE WITNESS: DONNA LYNN ELLER, E-L-L-E-R.

14 THE COURT: THANK YOU, MA'AM.

15 THE WITNESS: YOU'RE WELCOME.

16 THE COURT: ALL RIGHT, YOU MAY PROCEED.

17 BY MS. SIMMONS:

18 Q. MS. ELLER, WHERE DO YOU LIVE?

19 A. AT [REDACTED] DRIVE WITH MY MOM.

20 Q. ARE YOU RELATED TO ASHLEY BRIGHT?

21 A. I'M HER MOTHER.

22 Q. HOW WELL -- HOW DO YOU KNOW MATTHEW HINTON?

23 A. WELL, HE STAYED AT OUR HOUSE A WHILE AND THEN HIM
24 AND ASHLEY GOT A PLACE AT NORTHWOODS; SO I'VE KNOWN HIM
25 ALL IN ALL CLOSE TO THREE YEARS.

1 Q. AND IS HE THE FATHER -- WAS HE THE FATHER OF YOUR
2 GRANDDAUGHTER, [REDACTED]

3 A. YES, MA'AM.

4 Q. TALKING ABOUT [REDACTED] TELL US A LITTLE BIT ABOUT
5 HER.

6 A. SHE WAS JUST JOY AND HAPPINESS. I MEAN, A VERY
7 HAPPY BABY. SHE WENT TO SLEEP SMILING AND WOKE UP
8 SMILING. I SPENT EVERY MINUTE I COULD WITH HER.

9 Q. HOW OFTEN DID YOU USUALLY SEE [REDACTED]

10 A. I WORKED AT WAL-MART. ON MY DAYS OFF, SOME DAYS
11 WOULD BE THREE DAYS AND SOME DAYS WOULD BE FOUR DAYS, AND
12 I WOULD GO OVER AND SPEND THE NIGHT AND GIVE THEM, YOU
13 KNOW, A LITTLE BIT OF TIME TO THEMSELVES, YOU KNOW.

14 Q. BACK IN 2009 WERE YOU HELPING OUT WITH MATT AND
15 ASHLEY'S HOUSEHOLD?

16 A. YES, MA'AM.

17 Q. OKAY. TELL ME ABOUT THAT.

18 A. WELL, MATT WAS UNEMPLOYED AND HAD BEEN UNEMPLOYED
19 FOR I'D SAY A MONTH, MAYBE TWO MONTHS. ASHLEY PAID HALF
20 THE RENT, I PAID THE OTHER HALF, THE POWER BILL, PLUS I
21 BOUGHT ALL DIAPERS AND ALL CLOTHES FOR [REDACTED]

22 Q. WHEN WAS THE LAST TIME THAT YOU SAW [REDACTED] ALIVE?

23 A. IT WAS EITHER THE 6TH OR THE 9TH. I THREW MY KNEE
24 OUT AND BROKE CARTILAGE OFF AND I WAS IN LIKE AN AIR CAST
25 AND ON CRUTCHES, SO... AND I'M THINKING IT WAS THE

1 THURSDAY NIGHT BEFORE THIS HAPPENED ASHLEY BROUGHT HER
2 DOWNSTAIRS SO THAT I COULD SEE HER.

3 Q. SO THE THURSDAY BEFORE THIS HAPPENED, THAT WOULD
4 BE THE 13TH. DOES THAT SOUND CORRECT?

5 A. YEAH, PRETTY MUCH, YEAH.

6 Q. SPECIFICALLY ON THE FRIDAY, SATURDAY OR SUNDAY OF
7 THE FINAL WEEKEND WHEN SHE WAS ALIVE, DID YOU SEE HER?

8 A. NO.

9 Q. AND WHAT WAS THE REASON FOR THAT?

10 A. MY KNEE.

11 Q. OKAY. AS A RESULT OF THE KNEE WERE YOU FEELING
12 BAD?

13 A. YEAH. AND I WAS ON PAIN MEDICATION AND I WOULDN'T
14 GO AND STAY, SO...

15 Q. WHEN WERE -- WHEN DID YOU FIND OUT ABOUT WHAT
16 HAPPENED TO [REDACTED] WHEN WERE YOU CALLED?

17 A. WE GOT CALLED THAT SUNDAY NIGHT. ASHLEY CALLED
18 HYSTERICAL AND SAID, MOM, SHE'S NOT BREATHING. YOU KNOW,
19 SHE'S NOT BREATHING. SHE WAS JUST LIKE CRAZY, YOU KNOW?
20 SO WE RUSHED UP TO THE HOSPITAL.

21 Q. AND YOU SAW ASHLEY AND MATT THERE?

22 A. BRIEFLY. IT WAS LIKE ONE WAS WITH ONE OFFICER AND
23 ONE WAS WITH ANOTHER.

24 Q. AT ANY POINT IN TIME DID YOU ASK THE DEFENDANT
25 WHAT HAD HAPPENED TO [REDACTED]

1 A. I THINK IT WAS -- I CAN'T SAY A HUNDRED PERCENT
2 SURE, BUT IN GREENVILLE I SAID, MATTHEW, WHAT HAPPENED?

3 AND HE SAID HE DROPPED HER IN THE SHOWER, AND HE
4 SAID -- I MEAN GIVING HER A BATH. THOSE WERE HIS EXACT
5 WORDS TO ME. AND HE DID SAY THAT SHE HIT HER MOUTH.

6 Q. SHE HIT HER MOUTH?

7 A. UH-HUH.

8 Q. DID HE SAY THAT -- WHAT SHE HAD HIT HER MOUTH ON?

9 A. NO. BUT I WOULD ASSUME IT WAS INSIDE OF THAT
10 SHOWER STALL.

11 Q. DID HE SPECIFICALLY SAY THAT OR ARE YOU ASSUMING
12 THAT?

13 A. (NO RESPONSE.)

14 Q. I KNOW IT'S BEEN A LONG TIME, BUT TRY TO THINK.

15 A. SHE HIT HER MOUTH INSIDE ON THE SHOWER STALL.

16 Q. DID YOU INQUIRE FURTHER ABOUT WHAT HE MEANT BY
17 THAT?

18 A. NO.

19 Q. DID YOU ASK WHY HE DID NOT SEEK HELP FOR HER?

20 A. NO. BECAUSE I WAS SO MAD AT HIM I JUST TRIED TO
21 STEER CLEAR AND STAY AWAY FROM HIM.

22 Q. AND DID YOU EVER SUBSEQUENTLY HAVE ANY DISCUSSION
23 WITH MR. HINTON ABOUT THE CHILD'S INJURIES AFTER THAT
24 DAY?

25 A. NO.

1 Q. OKAY.

2 A. HE WENT TO JAIL.

3 MS. SIMMONS: PLEASE ANSWER ANY QUESTIONS THE
4 DEFENSE MAY HAVE.

5 THE WITNESS: OKAY.

6 MS. TYE: YOUR HONOR, WE WOULD HAVE NO QUESTIONS FOR
7 THIS WITNESS.

8 THE COURT: VERY WELL. YOU MAY STEP DOWN. THANK
9 YOU, MA'AM.

10 THE WITNESS: THANK YOU.

11 (WITNESS LEAVES STAND.)

12 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

13 MS. SIMMONS: THE STATE CALLS PAIGE WILLIAMS.

14 WHEREUPON,

15 PAIGE WILLIAMS,

16 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION BY MS. SIMMONS:

18 THE COURT: IF YOU WOULD PLEASE, MA'AM, GIVE US YOUR
19 FULL NAME FOR THE RECORD, SPELLING YOUR LAST NAME.

20 THE WITNESS: IT'S ELIZABETH PAIGE WILLIAMS,

21 W-I-L-L-I-A-M-S.

22 THE COURT: THANK YOU VERY MUCH, MA'AM.

23 THE WITNESS: THANK YOU.

24 BY MS. SIMMONS:

25 Q. GOOD AFTERNOON, PAIGE.

1 A. GOOD AFTERNOON.

2 Q. WHERE ARE YOU EMPLOYED?

3 A. TUPPER LINKS (PHONETIC).

4 Q. AND WHERE DO YOU LIVE?

5 A. SENECA, SOUTH CAROLINA.

6 Q. HOW DO YOU KNOW MATTHEW HINTON AND ASHLEY BRIGHT?

7 A. ASHLEY IS A COUSIN AND A VERY CLOSE FRIEND, AND I
8 KNOW MATTHEW FROM DATING ASHLEY.

9 Q. DID YOU KNOW MATTHEW THE ENTIRE TIME HE DATED
10 ASHLEY?

11 A. YES. I MET HIM AT THE END OF '07.

12 Q. WERE YOU AROUND THE DEFENDANT AND ASHLEY ON AUGUST
13 17TH, 2009, AFTER [REDACTED] WAS INJURED?

14 A. YES. I MET THEM AT GREENVILLE HOSPITAL AND THEN I
15 DROVE THEM BACK TO SENECA, THE D.S.S. OFFICE.

16 Q. AND WHY DID YOU NEED TO DRIVE THEM?

17 A. THEY RODE IN THE AMBULANCE AND THE OTHERS WERE
18 STAYING. I OFFERED TO BRING THEM BACK AND STAYED WITH
19 THEM THROUGHOUT THE DAY.

20 Q. DURING THE COURSE OF THE DAY OF AUGUST 17TH OF
21 2009, DID YOU HAVE OCCASION TO, HAVE OCCASION TO DISCUSS
22 [REDACTED] INJURIES WITH THE DEFENDANT?

23 A. I DID. AT THE D.S.S. OFFICE THEY HAD TO HAVE
24 SEPARATE INTERVIEWS. MATTHEW STEPPED OUT TO SMOKE A
25 CIGARETTE, AND WHILE HE WAS SMOKING, WE TALKED ABOUT WHAT

1 HAPPENED.

2 Q. AND TELL ME WHAT HE TOLD YOU.

3 A. HE TOLD ME THAT HE WAS GIVING HER A BATH IN THE
4 BATHTUB AND THAT WHEN HE WAS GETTING HER OUT, SHE JERKED
5 AND SHE STARTED TO SLIP AND THAT SHE POSSIBLY HIT HER
6 HEAD ON THE SINK.

7 Q. AND HAD YOU BEEN TO ASHLEY AND MATT'S APARTMENT
8 BEFORE?

9 A. YES, MA'AM, MANY TIMES.

10 Q. AND HAD YOU BEEN IN THE BATHROOM?

11 A. I HAVE.

12 Q. OKAY. IS THIS THE BATHROOM YOU RECALL BEING IN AT
13 THEIR APARTMENT?

14 A. YES, MA'AM.

15 Q. OKAY. HOW FAR IS THE SINK FROM THE SHOWER?

16 A. I'D SAY TWO TO THREE FEET AT LEAST.

17 Q. AND HE TOLD YOU SHE POSSIBLY HIT HER HEAD ON THE
18 SINK?

19 A. WHILE HE WAS GETTING HER OUT OF THE BATHTUB, YES.

20 Q. OKAY. DURING THE COURSE OF THE DAY AROUND THIS
21 INCIDENT, DID HE MAKE OTHER COMMENTS TO YOU THAT YOU
22 THOUGHT WERE CONCERNING?

23 A. HE MADE A STATEMENT WHEN WE WERE AT MEE-MAW'S
24 HOUSE ON THE FRONT PORCH. HE STATED -- OR HE ASKED, IF
25 THE POLICE WERE GONNA MAKE AN ARREST, WHEN WOULD THEY

1 MAKE THE ARREST. AND I TOLD HIM THAT THAT WOULD BE AFTER
2 THE AUTOPSY, THAT THAT WOULD DETERMINE IF THEY HAD
3 EVIDENCE OR NOT AS TO WHAT HAD HAPPENED. I THOUGHT THAT
4 WAS A LITTLE ODD. WHY WOULD YOU ASK SOMETHING LIKE THAT?

5 Q. AND WAS MATT -- WHO IS MEE-MAW? I'M SORRY.

6 A. MEE-MAW IS ASHLEY'S GRANDMOTHER.

7 MS. SIMMONS: OKAY. PLEASE ANSWER ANY QUESTIONS
8 THAT MR. SENERIUS OR MS. TYE MAY HAVE.

9 THE WITNESS: YES, MA'AM.

10 CROSS-EXAMINATION BY MS. TYE:

11 Q. GOOD AFTERNOON, MS. WILLIAMS.

12 A. GOOD AFTERNOON.

13 Q. YOU SAID THAT ON AUGUST 17TH THAT YOU DROVE UP TO
14 GREENVILLE MEMORIAL AND MET ASHLEY AND MATTHEW THERE,
15 CORRECT?

16 A. YES.

17 Q. ABOUT HOW LONG WERE YOU AT GREENVILLE MEMORIAL
18 WITH THEM?

19 A. I PROBABLY ARRIVED AROUND 3:30. I'D SAY WE LEFT
20 AT ABOUT SIX. AND THREE HOURS, SOMETHING LIKE THAT. I
21 NEVER WENT UP. I HAD TO STAY DOWN IN THE LOBBY. THERE
22 WAS TOO MUCH FAMILY TO GO UP TO WHERE SHE WAS AT, AND
23 THEN WE HAD STEPPED OUT FOR THEM TO SMOKE. SO FOR ABOUT
24 THREE HOURS.

25 Q. OKAY. AND YOU SAID YOU DROVE THEM BACK TO WHERE?

1 A. WE CAME BACK TO SENECA, I STOPPED AND GOT THEM
2 SOME BREAKFAST BECAUSE THEY HAD NOT EATEN. SO WE WENT
3 TO -- WENT BY THE APARTMENT SO THEY COULD GET WHAT THEY
4 WANTED, CLOTHES AND TOOTHBRUSH AND THAT SORT OF THING.
5 THEY COULDN'T GO IN, SO I DROVE THEM TO THE D.S.S.
6 OFFICE, AND AFTER THAT THEY WENT AND HAD BLOOD WORK DONE
7 ON A PLACE AT 123 THAT THEY REQUIRED.

8 Q. OKAY. AND YOU SAID YOU WERE AT THE HOSPITAL ON
9 THE 17TH BETWEEN 3:30 AND SIX. WHEN DID YOU TAKE THEM --
10 WHEN DID Y'ALL LEAVE? YOU SAID YOU LEFT APPROXIMATELY
11 ABOUT 6:00?

12 A. IT WAS EARLY MORNING, SIX OR SEVEN.

13 Q. SIX OR SEVEN IN THE MORNING. YOU WERE THERE AT
14 3:30 A.M.?

15 A. I WAS THERE AT 3:30; I DON'T KNOW IF I SAW THEM
16 UNTIL MAYBE 4:30 OR FIVE.

17 Q. OKAY. AND YOU DROVE -- ABOUT HOW LONG OF A DRIVE
18 IS THAT BETWEEN WHERE YOU WERE GOING AND WHERE YOU ENDED
19 UP AT THE APARTMENT?

20 A. 45 MINUTES TO AN HOUR FROM GREENVILLE MEMORIAL.

21 Q. OKAY. AND THEN YOU SAID YOU TOOK THEM TO D.S.S.
22 SOMETIME THAT MORNING ON THE 17TH?

23 A. AFTER WE LEFT THE APARTMENT. THEY WERE STILL
24 INVESTIGATING, WE WEREN'T ALLOWED IN THE APARTMENT, SO WE
25 IMMEDIATELY DROVE TO THE D.S.S. OFFICE WHICH IS JUST

1 RIGHT DOWN HERE IN WALHALLA.

2 Q. AND WHEN YOU GOT TO D.S.S., YOU SAID THAT THEY HAD
3 THEM IN SEPARATE ROOMS?

4 A. I DID NOT GO IN, I STAYED IN THE CAR. THEY BOTH
5 WENT IN TOGETHER. AND THEN MATT CAME OUT FIRST AND HE
6 STATED THAT THEY HAD TO BE INTERVIEWED SEPARATELY AND
7 ASHLEY WAS FIRST, AND THAT'S WHEN HE SMOKED.

8 Q. AND YOU SAID THAT HE TOLD YOU SPECIFICALLY THAT
9 POSSIBLY HIT HER HEAD ON THE SINK?

10 A. YES. BECAUSE I HAD SAID -- I THOUGHT TO MYSELF,
11 WELL, WHY, IF YOU THOUGHT THAT SHE POSSIBLY HIT HER HEAD,
12 WHY WOULDN'T YOU SEEK EMERGENCY HELP THEN? WHY WOULD YOU
13 LET HER LAY THERE? BUT I DIDN'T ASK TO GO INTO DETAIL
14 BECAUSE IT WAS A QUICK TALK WHILE HE SMOKED AND JUST WENT
15 BACK IN FOR HIS INTERVIEW.

16 Q. OKAY. DID YOU EVER MENTION THIS TO LAW
17 ENFORCEMENT?

18 A. YES..

19 Q. WHEN?

20 A. I WENT, I GAVE A STATEMENT, I THINK IT WAS THE
21 FOLLOWING MONDAY OR TUESDAY AFTER HER FUNERAL.

22 Q. OKAY, YOU GAVE A STATEMENT. DO YOU REMEMBER WHO
23 YOU GAVE THAT STATEMENT TO?

24 A. I GAVE IT OFFICER RORY JONES AND THEN THE OTHER
25 OFFICER CAME IN LATER ON.

1 Q. OKAY. AND YOU MENTIONED THAT LATER ON THAT -- WAS
2 IT THAT SAME DAY THAT YOU-ALL WERE AT MEE-MAW'S?

3 A. NO, NO. IT WAS, I BELIEVE THAT WAS WEDNESDAY WHEN
4 HE MADE THE STATEMENT AT MEE-MAW'S. THAT WOULD BE ON
5 TUESDAY AND WEDNESDAY WE WERE LOOKING ABOUT THE FUNERAL
6 AND THEN WE WENT BACK TO MEE-MAW'S THAT AFTERNOON.

7 Q. SO IT'S TRUE THAT BETWEEN THIS TIME BOTH ASHLEY
8 AND MATTHEW HAD BEEN DISCUSSING ALL THESE ISSUES WITH LAW
9 ENFORCEMENT, SO LAW ENFORCEMENT HAD BEEN THERE FOR QUITE
10 SOME TIME BY THAT POINT, CORRECT?

11 A. YES. THEY HAD DONE MULTIPLE INTERVIEWS I'M PRETTY
12 SURE.

13 Q. OKAY. SO YOU WOULD SAY THAT IT'S NOT OUT OF THE
14 QUESTION THAT IF SOMEONE IS BEING INTERVIEWED BY LAW
15 ENFORCEMENT REPEATEDLY, THAT THEY WOULD BE CONCERNED
16 ABOUT POSSIBLY BEING ARRESTED OR ABOUT WHEN AN ARREST
17 MIGHT OCCUR?

18 A. THAT, AND IF THEY'RE GUILTY, YES, MA'AM.

19 Q. ALL RIGHT. AND CAN YOU TELL ME HOW -- YOU
20 MENTIONED THAT YOU THOUGHT IT WAS ODD AND THAT YOU TOLD
21 HIM THAT AFTER AN AUTOPSY, THAT'S WHEN THEY MAY ARREST
22 SOMEONE. WHY IS THAT? WHY DO YOU BELIEVE THAT?

23 A. WHY DO I BELIEVE THAT IT WAS ODD THAT HE ASKED IT?

24 Q. NO, MA'AM. I'M SORRY. I APOLOGIZE.

25 A. THAT'S OKAY.

1 Q. I'M NOT STATING MY QUESTION VERY CLEARLY. YOU
2 MENTIONED, WHEN YOU AND MS. SIMMONS WERE SPEAKING, THAT
3 WHEN MATTHEW ASKED YOU WHETHER, WHEN THEY WOULD MAKE AN
4 ARREST, THAT YOU MENTIONED THAT THEY WOULD DO IT AFTER AN
5 AUTOPSY CAME BACK. WHY DID YOU MAKE THAT STATEMENT?
6 WHAT MADE YOU BELIEVE THAT THAT WOULD HAPPEN?

7 A. BECAUSE THEY HAD TO HAVE -- I MEAN, THE AUTOPSY
8 SHOWS PHYSICAL PROOF OF WHAT HER INJURIES WERE, AND HOW
9 THEY WERE AND WHAT KIND OF INJURIES SHE HAD, SO I THINK
10 COMMON SENSE WOULD TELL YOU THAT AFTER THEY HAD PROOF OF
11 HER INJURIES, THAT'S WHEN THEY WOULD MAKE AN ARREST,
12 BECAUSE THEY WOULD HAVE EVIDENCE TO DO SO.

13 Q. OKAY.

14 MS. TYE: BEG THE COURT'S INDULGENCE FOR ONE MOMENT.
15 YOUR HONOR, THAT'S ALL I HAVE FOR THIS WITNESS.

16 THE COURT: RE-EXAM?

17 MS. SIMMONS: NOTHING, YOUR HONOR. WE WOULD ASK
18 THAT MS. WILLIAMS BE EXCUSED.

19 MS. TYE: NO OBJECTION.

20 THE COURT: ALL RIGHT. WITHOUT OBJECTION YOU MAY BE
21 EXCUSED. THANK YOU, MA'AM.

22 (WHEREUPON, THE WITNESS WAS EXCUSED.)

23 MS. SIMMONS: JUDGE, MAY WE APPROACH?

24 THE COURT: CERTAINLY.

25 (DISCUSSION AT SIDEBAR.)

1 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN OF THE
2 JURY, I'M GOING TO SUGGEST THAT WE TAKE AN AFTERNOON
3 BREAK. IT'S A LITTLE EARLIER, BUT THE NEXT WITNESS MIGHT
4 TAKE SOME TIME. SO IF YOU WOULD, PLEASE RETIRE TO THE
5 JURY ROOM, AND WHEN YOU ARE READY TO COME BACK, KNOCK ON
6 THE DOOR AND WE WILL PROCEED AT THAT TIME. AGAIN, DO NOT
7 UNDERTAKE DISCUSSION OF THE CASE AMONG YOURSELVES IN ANY
8 WAY. THANK YOU VERY MUCH.

9 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES
10 FROM THE COURTROOM.

11 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
12 APPROXIMATELY 2:21 P.M.)

13 THE COURT: ANYTHING FROM THE STATE BEFORE WE TAKE A
14 BREAK?

15 MS. SIMMONS: NO, YOUR HONOR.

16 THE COURT: FROM THE DEFENSE?

17 MR. SENERIUS: NO, SIR.

18 THE COURT: VERY GOOD. WE'LL STAND AT EASE WAITING
19 FOR THE JURY.

20 (A RECESS WAS TAKEN.)

21 THE COURT: ALL RIGHT. I UNDERSTAND THE JURY IS
22 READY TO RETURN. ANYTHING FROM THE STATE BEFORE WE
23 INVITE THEM BACK?

24 MS. SIMMONS: NO, YOUR HONOR.

25 THE COURT: FROM THE DEFENSE?

1 MR. SENERIUS: NO, SIR.

2 THE COURT: ASK THE JURY TO JOIN US, PLEASE.

3 (THE JURY ENTERED THE COURTROOM AT

4 APPROXIMATELY 2:36 P.M.)

5 THE COURT: LET THE RECORD REFLECT THE JURY AND
6 ALTERNATES ARE IN THE JURY-BOX.

7 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, WE'LL
8 NOW PROCEED WITH THE STATE'S CASE.

9 MADAM SOLICITOR?

10 MS. SIMMONS: THE STATE CALLS SERGEANT RORY JONES.
11 WHEREUPON,

12 RORY JONES,

13 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:
14 DIRECT EXAMINATION BY MS. SIMMONS:

15 THE COURT: IF YOU WOULD PLEASE, SIR, GIVE US YOUR
16 FULL NAME FOR THE RECORD, SPELLING YOUR LAST NAME.

17 THE WITNESS: RORY RICHARD JONES, J-O-N-E-S.

18 THE COURT: VERY GOOD. THANK YOU, SIR.

19 THE WITNESS: THANK YOU, SIR.

20 BY MS. SIMMONS:

21 Q. SERGEANT JONES, WHERE ARE YOU EMPLOYED?

22 A. I'M WITH THE CITY OF SENECA, SENECA POLICE
23 DEPARTMENT.

24 Q. HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?

25 A. APPROXIMATELY 11 YEARS.

1 Q. TELL ME A LITTLE BIT ABOUT YOUR BACKGROUND AND
2 YOUR TRAINING.

3 A. I'VE BEEN TRAINED -- I GRADUATED FROM THE SOUTH
4 CAROLINA CRIMINAL JUSTICE ACADEMY, ALONG WITH HUNDREDS
5 AND HUNDREDS OF HOURS OF ADDITIONAL TRAINING ALONG WITH
6 NARCOTICS, HOUSE ENTRIES, CRIMINAL DOMESTIC VIOLENCE,
7 CRIME SCENES, HOMICIDE CLASSES, HOMICIDE-BY-CHILD-ABUSE
8 CLASSES, AND SO ON.

9 Q. ARE YOU CURRENTLY THE HEAD OF THE CRIMINAL
10 INVESTIGATIONS DIVISION AT THE CITY OF SENECA?

11 A. YES, MA'AM, I'M THE LIEUTENANT OVER CRIMINAL
12 INVESTIGATIONS.

13 Q. HOW DID YOU BECOME INVOLVED IN THE CASE RELATING
14 TO THIS DEFENDANT AND THE VICTIM,

15 A. ON AUGUST 17 OF 2009 I WAS CONTACTED BY SERGEANT
16 TED ROUNDY IN REFERENCE TO MY ASSISTANCE ON THIS CASE.
17 WHILE HE DONE CERTAIN THINGS, I WOULD THEN DO OTHER
18 THINGS THAT NEEDED TO BE DONE THROUGHOUT THIS CASE.

19 Q. SO ESSENTIALLY YOU DIDN'T REALLY WORK NECESSARILY
20 AS A TEAM, BUT ONE OF YOU DID CERTAIN THINGS AND ONE OF
21 YOU DID OTHER THINGS?

22 A. THAT'S CORRECT. AT TIMES WE WOULD WORK AS A TEAM,
23 BUT THE MAJORITY OF THE TIME HE DONE WHAT HE NEEDED TO DO
24 AND I DONE WHAT HE DIDN'T DO.

25 Q. DID YOU FIND THAT THE VICTIM LIVED IN OCONEE

1 COUNTY?

2 A. YES.

3 Q. WITHIN THE CITY LIMITS OF SENECA?

4 A. YES, MA'AM.

5 Q. AND DID YOUR INVESTIGATION REVEAL THAT SHE HAD
6 BEEN IN THE CITY LIMITS OF SENECA IN THE WEEKS PRIOR TO
7 THIS INCIDENT?

8 A. YES.

9 Q. WERE YOU INVOLVED WITH THE AUTOPSY OF [REDACTED]
10 BRIGHT?

11 A. I WAS.

12 Q. WAS THAT THE FIRST TIME YOU WERE ABLE TO SEE HER
13 PHYSICAL INJURIES IN THIS CASE?

14 A. I HAD ACTUALLY GOT TO SEE HER ONE TIME AT
15 GREENVILLE MEMORIAL HOSPITAL WHERE SHE WAS PRONOUNCED.

16 Q. WHAT PHYSICAL INJURIES AS A LAYPERSON AND A LAW
17 ENFORCEMENT OFFICER DID YOU NOTICE ON [REDACTED]

18 A. WHEN I ORIGINALLY SAW HER AT GREENVILLE MEMORIAL
19 HOSPITAL, I WAS SHOWN SOME BRUISING ABOUT HER CHEST AREA,
20 AND I DID SEE A LOT OF SECONDARY PRECAUTIONARY MEASURES
21 AT THE HOSPITAL WAS TAKEN TO TRY TO ASSIST HER, MAKING
22 HER COMFORTABLE. SHE WAS LIFELESS AT THAT TIME. I WAS
23 ADVISED BY THE HOSPITAL STAFF THAT SHE WAS BASICALLY
24 BRAIN DEAD AT THAT POINT, THEY JUST HADN'T PRONOUNCED HER
25 YET. AND SHE WAS HOOKED UP TO HOSES AND MACHINES. AND

REDACTED

REDACTED

1 IT WAS VERY DISTURBING.

2 Q. THIS BRUISE THAT YOU SAW ON HER, ARE WE TALKING
3 ABOUT A BRUISE THE SIZE OF THE END OF MY THUMB OR A
4 MATTER OF INCHES? JUST GIVE ME A DESCRIPTION A LITTLE
5 BIT.

6 A. AT THE AUTOPSY DR. WOODARD SHOWED AND WALKED US
7 THROUGH THE PROCESS OF THE ENTIRE AUTOPSY. IT APPEARED
8 TO BE APPROXIMATELY TWO INCHES OR TWO THUMBS, TWO THUMBS
9 IN WIDTH AND ABOUT THAT SAME IN DIAMETER AND LENGTH.

RED
ACT
ED

Q. DID YOU SEE AT THE AUTOPSY ANY BRUISES ON HER
BACK?

A. YES, MA'AM. EXCUSE ME. SORRY. ON HER BACK, ON
EACH SIDE OF HER SPINE WAS THREE OR FOUR FINGERPRINTS ON
BOTH SIDES. THEY WERE AT A DISTANCE OF JUST LIKE I'M
SHOWING YOU NOW ON EACH SIDE OF HER SPINE. SHE DID HAVE
SOME SPOTS ABOUT HER FACE, AND WHEN THEY PULLED BACK THE
SCALP, YOU COULD SEE ON THE SKULL THE INJURIES THERE AS
WELL.

Q. YOU SAW SOME BRUISING AND A HEAD INJURY?

A. THAT'S CORRECT.

Q. DURING THE COURSE OF YOUR INVESTIGATION OF THIS
CASE, WERE YOU LOOKING AT BOTH PARENTS?

A. ABSOLUTELY. WHEN WE CONDUCT AN INVESTIGATION LIKE
THIS, EVERYONE RELATED TO THE SITUATION IS A SUSPECT AT
FIRST UNTIL THEY ARE ELIMINATED. WE DO VIEW BOTH PARENTS

REDACTED
D

7 1 AS A SUSPECT UNTIL WE ELIMINATED THE MOTHER. THEREFORE,
2 OUR INVESTIGATION LED TOWARDS THE FATHER. THEREFORE, WE
3 PLACED HIM UNDER ARREST FOR HOMICIDE BY CHILD ABUSE.

4 Q. YOU PERSONALLY INTERVIEWED THE MOTHER OF THIS
5 CHILD?

6 A. YES.

7 Q. WERE YOU ABLE TO -- YOU HEARD HER TESTIMONY. WERE
8 YOU ABLE TO CORROBORATE THE STATEMENTS THAT SHE MADE TO
9 YOU?

10 A. YES, MA'AM. I CORROBORATED THAT SHE WAS AT WORK.
11 I WENT TO THE SENECA MOVIE THEATER, WHICH WAS CALLED
12 DICKINSON THEATERS AT THE TIME, IT MAY STILL BE,
13 CONFIRMED WITH THE GENERAL MANAGER THAT HER SCHEDULE WAS
14 FOR HER TO WORK FROM 12 TO FIVE THAT DAY. HE DID CONFIRM
15 THAT SHE DID WORK THAT DAY.

16 I ALSO CONFIRMED THAT SHE DID GO TO WALGREEN'S
17 AFTER HER JOB ENDED, HER JOB TIME ENDED THAT DAY, WENT TO
18 WALGREEN'S AND PURCHASED A PRESCRIPTION, I BELIEVE IT WAS
19 BIRTH CONTROL. SHE WAS CAUGHT ON SURVEILLANCE WHICH
20 CORROBORATED THAT, AS SHE STATED IN HER STATEMENT, BEFORE
21 SHE WENT HOME AT THAT POINT.

22 Q. YOU ACTUALLY PHYSICALLY SAW HER WORK HOURS?

23 A. YES, I DID. I SAW HER SCHEDULE, HER TIME SHEET
24 AND EVERYTHING.

25 Q. AND YOU CONFIRMED SHE HAD WORKED SATURDAY AND

REDACTED

1 SUNDAY?

2 A. YES, MA'AM.

3 Q. DID YOU ALSO CONFIRM HER STORY REGARDING WATCHING
4 THE *LAW & ORDER* EPISODES WHEN SHE GOT HOME THAT DAY?

REDACTED

5 A. WE DID. WE HAD A COPY OF HER NETFLIX ACCOUNT THAT
6 SHE HAD BEEN WATCHING, AND IT SHOWED I BELIEVE IT WAS
7 FIVE EPISODES OF *LAW & ORDER*. I CAN'T GIVE YOU THE EXACT
8 TITLES OF THE SHOWS, BUT IT SHOWED SHE WAS WATCHING THEM
9 FROM THE FIVE, 5:30, 5:45 AREA UNTIL I BELIEVE IT WAS
10 1900-SOMETHING HOURS THAT EVENING ON THE, ON THE NETFLIX
11 ACCOUNT.

12 Q. AND WERE YOU ABLE TO CORROBORATE THE INFORMATION
13 REGARDING TEXT MESSAGES BEING EXCHANGED BETWEEN THE
14 PARTIES?

15 A. YES, MA'AM. WE CORROBORATED THE SEARCH WARRANT
16 THROUGH VERIZON WIRELESS, WHO SENT IN RETURN AN ITEMIZED
17 LIST YOU GUYS SAW EARLIER OF THE TEXT MESSAGES SENT AND
18 RECEIVED FROM MS. ASHLEY BRIGHT TO THE SUSPECT, MATTHEW
19 HINTON.

20 Q. DID YOU ALSO EXECUTE A SEARCH WARRANT AT THE
21 RESIDENCE OF ASHLEY BRIGHT AND MATTHEW HINTON?

22 A. YES, MA'AM.

23 Q. I'M GONNA SHOW YOU, SERGEANT JONES, SINCE YOU HAD
24 ACCESS TO THE ENTIRE HOUSE, ALL OF THE PHOTOGRAPHS FROM
25 THE HOUSE. I'M GOING TO GO AHEAD AND LET YOU DESCRIBE

1 WHAT YOU SAW SO WE CAN ALL GET AN IDEA OF THE LAYOUT OF
2 THE RESIDENCE.

3 A. OKAY.

4 Q. AND BACKTRACKING ON THIS FOR JUST A SECOND. THE
5 PHONE NUMBERS FOR THE TEXT MESSAGES, WERE YOU ABLE TO
6 CORROBORATE THAT THE NUMBERS EXCHANGED -- THAT THE FOLKS
7 EXCHANGING THOSE TEXTS WERE ASHLEY BRIGHT AND MATTHEW
8 HINTON?

9 A. YES, MA'AM.

10 Q. AND TELL ME A LITTLE ABOUT THE APARTMENTS AT
11 NORTHWOODS, ACTUALLY.

12 A. I'M SORRY?

13 Q. TELL ME A LITTLE ABOUT THE APARTMENTS AT
14 NORTHWOODS.

15 A. THEY'RE -- IT'S ACCORDING TO WHAT YOUR FAMILY SIZE
16 IS -- YOU CAN RENT SINGLE BEDROOMS, DOUBLE BEDROOMS, AND
17 THREE-BEDROOM APARTMENTS. AND THEIR APARTMENT WAS, IT
18 WAS ACTUALLY [REDACTED] DRIVE, APARTMENT [REDACTED] IT
19 WAS A TWO-BEDROOM APARTMENT.

20 WHEN YOU GO IN THE DOOR TO YOUR RIGHT WAS A LIVING
21 ROOM AREA, AND TO THE RIGHT WAS A SMALL DEN, I WOULD CALL
22 IT A DEN, POSSIBLY FOR A DINING ROOM TABLE OR SOMETHING
23 LIKE THAT. AND THEN JUST RIGHT THERE, RIGHT PAST IT YOU
24 HAD A BAR THAT YOU COULD SEE THROUGH TO THE KITCHEN. AND
25 THE MOMENT YOU REACHED THE KITCHEN AREA TO THE RIGHT WAS

1 THE FIRST BEDROOM WHERE THE SUSPECT AND THE VICTIM WERE
2 LAYING, ACCORDING TO THE REPORTS.

3 Q. AND I'M GONNA SHOW YOU THESE PHOTOGRAPHS, SERGEANT
4 JONES. DESCRIBE WHAT YOU ARE SEEING AND TELL ME IF THEY
5 ARE A FAIR AND ACCURATE REPRESENTATION. 7-A.

6 A. THAT'S TAKEN PRETTY MUCH FROM THE DOOR WITH THE
7 DOOR CLOSED UP THERE AT THE DOOR AREA. HERE'S THE
8 PLAYPEN, THE SECTIONAL COUCH AND THE T.V. IN THE CORNER,
9 THAT'S GONNA BE THE LIVING ROOM, AND THE WINDOW BEHIND IT
10 IS ACTUALLY A SLIDING GLASS DOOR.

11 Q. I SHOW YOU 7-B?

12 A. THAT'S GONNA BE BASICALLY FROM THE SAME AREA FROM
13 THE SAME DOOR. THAT'S GONNA BE THE DINING ROOM/DEN AREA
14 WITH A BAR. LOOKING THROUGH YOU CAN SEE THE KITCHEN
15 RIGHT THERE ON THE BACK SIDE. BOTH OF THOSE PICTURES
16 WHEN YOU REACH THE DOOR YOU COME INTO THE LIVING ROOM, OR
17 THIS PICTURE HERE.

18 Q. ARE WE TALKING ABOUT A SMALL APARTMENT?

19 A. YES.

20 Q. I'M SHOWING YOU 7-C.

21 A. THAT'S GONNA BE KIND OF THE AREA WHERE THE LIVING
22 ROOM WAS WHERE THE SLIDING GLASS DOOR WAS, BACK TOWARDS
23 THE OVERVIEW OF THE COUCH, THE LIVING ROOM AREA, AS WELL
24 AS A DEN AREA.

25 Q. AND WERE THERE DOGS PRESENT IN THE APARTMENT WHEN

1 YOU EXECUTED THE SEARCH WARRANT?

2 A. THAT LITTLE BITTY FELLA RIGHT THERE, HE WAS IN THE
3 BATHROOM, AND THEY HAD A BABY GATE ACROSS THE BATHROOM
4 DOOR, THE ONE I HAD UP THERE ORIGINALLY.

5 Q. HOW MANY DOGS WERE IN THE HOUSE?

6 A. I RECALL JUST ONE.

7 Q. OKAY. I'M SHOWING YOU NUMBER 8. WHAT IS THIS IN
8 THE APARTMENT?

9 A. THIS IS GONNA BE THE FAR REAR BEDROOM OF THE
10 APARTMENT. WHEN YOU CONTINUE PAST THE FIRST BEDROOM AND
11 FIRST BATHROOM, IF YOU CONTINUE ALL THE WAY TO THE DEAD
12 END OF THE HALL, YOU DEAD END TO THIS BEDROOM, WHICH
13 CONTAINED A BATHROOM IN IT AS WELL.

14 Q. IS THAT THE MASTER BEDROOM, *PER SE*?

15 A. I WOULD ASSUME SO.

16 Q. I'M HAVING A HARD TIME. WHAT IS THIS? IS IT A
17 COUCH? IF YOU REMEMBER.

18 A. IF MY MEMORY SERVES ME RIGHT, I BELIEVE IT'S A
19 RECLINER WITH A BUNCH OF CLUTTERED CLOTHES ON IT.

20 Q. OKAY. NUMBER 6-C?

21 A. THAT'S THE FIRST BATHROOM, THE SINGLE BATHROOM
22 THAT'S NOT IN THE BEDROOM. IT'S GONNA BE THE ONE ACROSS,
23 KIND OF ACROSS FROM THE FIRST BEDROOM WHERE HE SAID THEY
24 WERE AT.

25 Q. AND THIS IS THE BATHROOM THAT YOUR EVIDENCE

1 INDICATED THAT THE DEFENDANT SHOWERED IN?

2 A. THAT'S CORRECT.

3 Q. I'M SHOWING YOU 6-A. IS THAT STILL IN THAT SAME
4 BATHROOM?

5 A. YES, MA'AM.

6 Q. IS IT A SMALL BATHROOM OR A BIG BATHROOM?

7 A. IT'S SMALL. AS SOON AS YOU WALK IN, YOU SEE THE
8 SINK ON THE RIGHT AND THE TOILET IS WITHIN INCHES OF IT,
9 AS WELL AS THE BATHTUB, IT MAY BE THREE TO FOUR FEET
10 APART, AND THE SHOWER STALL IS RIGHT THERE AS WELL.

11 Q. AND THE SEARCH WARRANT WAS EXECUTED AND THE PHOTOS
12 WERE TAKEN SHORTLY AFTER [REDACTED] INJURIES OCCURRED?

13 A. YEAH. THERE WERE ACTUALLY TWO SEARCH WARRANTS
14 CONDUCTED; I DIDN'T DO THE FIRST ONE, BUT I ASSISTED IN
15 THE SECOND ONE. THESE PHOTOS WERE TAKEN FROM THE SECOND
16 ONE.

17 Q. WHAT IS THE ROUGH TIME FRAME ON THAT?

18 A. I KNOW IT WAS PROBABLY BETWEEN 8:30 AND 9:00.

19 Q. A.M.?

20 A. YES.

21 Q. I'M SHOWING YOU 6-B.

22 A. THAT IS THE BABY SEAT THAT HE HAD PLACED THE BABY
23 IN, ACCORDING TO HIM, WHILE HE TOOK A SHOWER; AND AS YOU
24 CAN SEE, IT'S DIRECTLY ABOVE THE DRAIN, WHICH WOULD BE
25 ALSO DIRECTLY UNDER THE SHOWER HEAD.

1 Q. DO YOU RECALL IF THE BABY SEAT WAS WET OR NOT?

2 A. IT WAS NOT WHEN I WAS THERE.

3 Q. I'M SHOWING YOU 5-A.

4 A. THAT'S THE FIRST BEDROOM THAT YOU COME TO, THE
5 LITTLE BEDROOM THAT THE OFFICERS TESTIFIED EARLIER THAT
6 THE BABY WAS FOUND IN, AS WELL AS THE SUSPECT ADMITTED TO
7 BEING IN WITH THE BABY.

8 Q. 5-B?

9 A. THE SAME.

10 Q. IS THAT JUST THE OTHER VANTAGE POINT?

11 A. YES. IF YOU WERE STANDING, THE PICTURE YOU WILL
12 HAVE NEXT DOES SHOW THE END OF THE BED WITH THE CLUTTER
13 AT THE END, THAT'S BASICALLY STANDING AT THE CLUMP OF
14 CLUTTER, TAKEN BACK TOWARDS THE DOOR.

15 Q. 5-D?

16 A. THAT'S THE END OF THE BED I WAS JUST REFERRING TO.

17 Q. 5-C?

18 A. OVERALL, THE SAME ROOM.

19 Q. SO YOU ACTUALLY OBSERVED ALL THE AREAS WHERE THE
20 EVENTS OF THIS DAY WOULD HAVE TAKEN PLACE?

21 A. YES, MA'AM.

22 Q. AND ALL THOSE PHOTOGRAPHS ARE A FAIR AND ACCURATE
23 DESCRIPTION OF THE WAY THAT YOU FOUND THE APARTMENT EARLY
24 THAT MORNING OF THE 17TH?

25 A. THAT'S CORRECT.

1 Q. BASED ON YOUR EXPERIENCE AS A LAW ENFORCEMENT
2 OFFICER, DID THE SHOWER -- DID THE STORY OF THE SHOWER
3 FALL SEEM TO MAKE SENSE BASED ON THE LAYOUT?

4 A. AFTER CONDUCTING THE SEARCH WARRANT AND LOOKING
5 OVER THE -- KNOWING WHAT HIS STORY WAS AT THAT POINT,
6 LOOKING OVER THE SHOWER, THE SHOWER WAS NOT WET, THE BABY
7 SEAT WAS NOT WET, I DO NOT EVEN RECALL A WET TOWEL IN THE
8 AREA OF THE BATHROOM. SO AT THAT POINT IT DOESN'T SEEM
9 FEASIBLE TO ME AT ALL.

10 Q. WOULD IT SEEM FEASIBLE THAT A DROP IN THE SHOWER
11 COULD RESULT IN HITTING YOUR HEAD ON THE SINK?

12 A. NOT AT ALL.

13 Q. WHY IS THAT?

14 A. THE, THIS IS BETWEEN THE SHOWER AND THE VANITY. I
15 DON'T SEE HOW IT'S POSSIBLE IN MY EYES AT ALL.

16 Q. THE SHOWER STALL, WHAT WAS IT COMPOSED OF? ARE WE
17 TALKING ABOUT THE HARD PLASTIC OR A CHEAP PLASTIC OR
18 TILE?

19 A. IT WAS FIBERGLASS. FIBERGLASS.

20 Q. AFTER YOU OBSERVED THE BRUISES THAT YOU --
21 BACKTRACKING A LITTLE BIT. THE BRUISES WE TALKED ABOUT
22 EARLIER, ON THE CHEST AND THE BACK?

23 A. YES, MA'AM.

24 Q. DURING THE COURSE OF YOUR INVESTIGATION DID YOU
25 OBSERVE THE FATHER'S HANDS IN THIS CASE?

1 A. YES, MA'AM. AS YOU CAN SEE, MR. HINTON IS A VERY
2 BIG FELLA, AS WELL AS I. WE DID ACTUALLY TAKE PHOTOS OF
3 HIS HANDS DUE TO THE SEVERITY OF THE BRUISES AND I GUESS
4 THE VOLUME THAT HIS HANDS COULD HOLD, AND HE, MR. HINTON
5 DOES HAVE VERY LARGE HANDS.

6 Q. BASED ON YOUR PERSONAL OBSERVATIONS, WERE HIS
7 HANDS SIGNIFICANTLY LARGER THAN MS. BRIGHT'S?

8 A. ABSOLUTELY.

9 Q. MOVING BACK TO THE PHOTO OF THE BEDROOM WHERE THE
10 VICTIM WAS FOUND THAT WE JUST TALKED ABOUT, IS THAT A
11 TWIN OR A DOUBLE BED?

12 A. I BELIEVE IT'S GONNA BE A TWIN. I'M NOT SURE.
13 BUT I KNOW IT WAS NOT A FULL OR A QUEEN. I KNOW IT WAS A
14 VERY, VERY SMALL BED.

15 Q. KNOWING THAT YOU HAVE SEEN BOTH THE MOTHER OF THE
16 CHILD AND THE DEFENDANT AND THAT BED ITSELF, WHAT IS THE
17 FEASIBILITY OF SOMEONE GETTING A CHILD OUT OF THAT BED,
18 INJURING THEM, AND PUTTING THEM BACK WITHOUT SOMEONE
19 KNOWING?

20 A. WITH THE SIZE OF THE BED, THE NATURE OF THE ROOM,
21 WITH THE CLUTTER, WHERE THE SUSPECT STATED HE WAS LAYING
22 HIMSELF, AND WITH THE MOTHER'S SIZE AND ALL, WITH THE
23 CAPABILITY OF GETTING AROUND THE ROOM, I DON'T SEE IT
24 HAPPENING.

25 Q. NOW, DURING YOUR SEARCH WARRANT AT THE APARTMENT

1 DID YOU NOTICE ANY LARGE ITEMS THAT APPEAR TO HAVE FALLEN
2 OR HEAVY OBJECTS ON THE FLOOR THAT APPEARED TO BE THROWN
3 OR DAMAGED?

4 A. NO, MA'AM.

5 Q. ARE YOU THE OFFICER WHO FOUND THE NEIGHBOR,
6 DESMOND HOLLAND?

7 A. I AM.

8 Q. AND WHEN -- MR. HOLLAND GAVE YOU A STATEMENT --
9 CORRECT?

10 A. THAT'S CORRECT.

11 Q. DID YOU EVER SUGGEST ANY INFORMATION TO HIM?

12 A. NO, MA'AM. THE ONLY REASON I GOT CALLED OUT
13 THERE, UPON COMPLETING THE SEARCH WARRANT I WENT TO
14 CANVASS ALL OF THE SURROUNDING NEIGHBORS, AND IT TURNED
15 UP SHORT BECAUSE EITHER THAT NO ONE WAS HOME, NO ONE
16 HEARD NOTHING, JUST AN EMPTY APARTMENT.

17 AND THEN I BELIEVE IT WAS THREE, THREE DAYS LATER,
18 I BELIEVE IT'S GONNA BE AUGUST THE 20TH, I THINK, I WAS
19 BACK OVER THERE FOR FURTHER INVESTIGATION. IT MAY HAVE
20 BEEN AUGUST 20TH. BUT IT WAS A COUPLE DAYS LATER I WAS
21 OVER THERE CONDUCTING FURTHER INVESTIGATION. AND LATER
22 IDENTIFIED A DESMOND HOLLAND, WHO CAME OUT OF [REDACTED],
23 WHICH IS DIRECTLY UNDER THEIR APARTMENT, [REDACTED].

24 AND I STARTED THE CONVERSATION BY, WAS: ON
25 SUNDAY, THE 16TH, DID YOU HEAR ANYTHING FUNNY? AND THEN

1 HE WENT TO THE FACT, AS A MATTER OF FACT ---

2 MR. SENERIUS: OBJECTION AS TO WHAT THIS MAN SAID;
3 IT'S HEARSAY.

4 THE COURT: I UNDERSTAND. SUSTAINED.

5 AND AGAIN, I THINK WE'VE MENTIONED HEARSAY BEFORE.
6 HEARSAY IS WHAT SOMEBODY SAYS THEY'VE HEARD. AND, OF
7 COURSE, THAT PROBLEM THERE IS, JUST LIKE THOSE NOTES THAT
8 WE'RE TALKING ABOUT, SOMETIMES YOU DON'T HEAR EVERYTHING
9 OR YOU MIGHT MISCONSTRUE SOMETHING YOU DO HEAR WHERE IT
10 MIGHT BE TAKEN OUT OF CONTEXT. THEREFORE, THAT'S NOT
11 VERY RELIABLE, AND WE HAVE RULES THAT PROHIBIT HEARSAY.

12 AND THESE RULES OF EVIDENCE THAT WE TALKED ABOUT
13 APPLY BOTH TO THE STATE AND TO THE DEFENDANT. BUT I'VE
14 SUSTAINED THE DEFENDANT'S OBJECTION HERE AND ASK THE
15 SOLICITOR TO RESTATE HER QUESTION.

16 MS. SIMMONS: SERGEANT JONES, WE'LL HEAR FROM
17 MR. HOLLAND TOMORROW, SO IF WE COULD KEEP YOUR COMMENTS
18 TO JUST WHAT YOU PERSONALLY SAID.

19 BY MS. SIMMONS:

20 Q. WHEN YOU INTERVIEWED DESMOND HOLLAND, DID YOU FIND
21 OUT WHERE HE LIVED?

22 A. I DID. [REDACTED], WHICH IS DIRECTLY UNDER [REDACTED].

23 Q. AND WHAT'S THE LAYOUT -- BASED ON YOUR
24 INVESTIGATION -- THE LAYOUT OF HIS APARTMENT IN RELATION
25 TO THE DEFENDANT'S?

1 MR. SENERIUS: OBJECTION UNLESS THE LIEUTENANT WENT
2 INTO THE APARTMENT AND OBSERVED IT HIMSELF.

3 THE WITNESS: HIS APARTMENT IS THE SAME.

4 THE COURT: WELL, LAY THE GROUNDWORK.

5 BY MS. SIMMONS:

6 Q. DID YOU SEE INSIDE OTHER APARTMENTS?

7 A. YES.

8 THE COURT: VERY WELL. OVERRULED.

9 BY MS. SIMMONS:

10 Q. IS THE LAYOUT THE SAME?

11 A. IT IS.

12 Q. SO IT WAS DIRECTLY UNDERNEATH?

13 A. THAT IS CORRECT.

14 Q. WERE YOU ABLE TO CORROBORATE THE TIME FRAME GIVEN
15 BY MR. HOLLAND, WITHOUT TELLING ME WHAT HE SAID?

16 A. YES, MA'AM. I, UPON DOING MY INVESTIGATION, I DID
17 CONFIRM THE TIME FRAME THAT HE HAD GIVEN ME BY HIS
18 GIRLFRIEND'S WORK SCHEDULE AT BOUNTYLAND QUICK STOP. I
19 DID TRAVEL THERE AND CONFIRMED BY HER WORK SCHEDULE,
20 WHICH I DID SEE IN PRINT, THE TIME LINE HE DID GIVE ME.

21 Q. DID YOU EVER PERSONALLY INTERVIEW THE DEFENDANT IN
22 THIS CASE?

23 A. I DID NOT.

24 Q. THE PERSON YOU INTERVIEWED WAS ASHLEY BRIGHT?

25 A. THAT'S CORRECT.

1 Q. WERE YOU PRESENT WITH THE DEFENDANT WHEN HE HAD A
2 DISCUSSION WITH SERGEANT ROUNDY ON THE DAY OF [REDACTED]
3 DEATH AT THE HOSPITAL?

4 A. YES, I WAS.

5 Q. WHAT DID YOU OVERHEAR?

6 A. I OVERHEARD, WHEN WE WERE TALKING WITH THE
7 SUSPECT, THE NURSE CAME OUT AND SAID ---

8 MR. SENERIUS: OBJECTION AS TO WHAT THE NURSE MAY
9 HAVE SAID.

10 THE COURT: SUSTAINED.

11 THE WITNESS: YES, I WAS.

12 BY MS. SIMMONS:

13 Q. YOU CAN TELL US WHAT YOU HEARD THE DEFENDANT SAY.

14 A. HE WAS VERY SHOCKED WHEN HE FOUND OUT THAT LITTLE
15 [REDACTED] HAD A BROKEN, A BROKEN LEG. HE WAS VERY TAKEN
16 ABACK WHEN HE FOUND OUT THAT SHE HAD A BROKEN LEG.

17 Q. WAS THERE ANY TALK ABOUT ASHLEY WITH THAT?

18 A. I DO NOT RECALL.

19 Q. BASED ON THE TOTALITY OF YOUR INVESTIGATION, HOW
20 DID YOU ESTABLISH, ALONG WITH SERGEANT ROUNDY, A TIME
21 LINE FOR THESE EVENTS?

22 A. UPON TALKING TO DOCTORS AND THEIR MEDICAL REPORTS
23 AND THEIR EXPERIENCE, IT WAS DETERMINED BY THEIR
24 EXPERIENCE AND EXPERTISE THAT IT DID HAPPEN ON THE DAY OF
25 THE 16TH. BETWEEN THAT AND THE TIME LINE ESTABLISHED BY

1 THE MOTHER BEING AT WORK AND THE DAD ADMITTING TO HAVING
2 FULL SOLE CUSTODY OVER THAT DAY DURING THAT TIME AND
3 WATCHING OVER HER.

4 Q. AND WHAT IS THE TOTALITY OF THE EVIDENCE THAT LED
5 YOU TO ARREST HIM?

6 A. THE TOTALITY OF THE EVIDENCE WAS, OF COURSE, HIM
7 BEING THERE, THE SOLE PROVIDER AT THAT TIME; THE
8 STATEMENT THAT I HAD RECEIVED FROM DESMOND HOLLAND WHICH
9 IS THE DOWNSTAIRS NEIGHBOR, AGAIN YOU WILL HEAR FROM HIM
10 TOMORROW. ALSO, THE AUTOPSY RESULTS ALONG WITH THE
11 DOCTORS' MEDICAL REPORTS.

12 MS. SIMMONS: PLEASE ANSWER ANY QUESTIONS
13 MR. SENERIUS MAY HAVE.

14 THE WITNESS: YES, MA'AM.

15 CROSS-EXAMINATION BY MR. SENERIUS:

16 Q. CONGRATULATIONS ON YOUR PROMOTION.

17 A. THANK YOU, SIR.

18 MR. SENERIUS: MAY I APPROACH THE WITNESS, YOUR
19 HONOR?

20 THE COURT: CERTAINLY.

21 BY MR. SENERIUS:

22 Q. I WANT TO HAND YOU A DOCUMENT AND ASK YOU TO TAKE
23 A LOOK AT THAT AND TELL ME IF YOU RECOGNIZE WHAT THAT
24 DOCUMENT IS.

25 A. YES.

1 Q. WHAT IS THAT DOCUMENT?

2 A. IT'S A RETURN FROM THE SEARCH WARRANT.

3 Q. IS IT THE RETURN FROM THE SEARCH WARRANT THAT YOU
4 WERE PART OF?

5 A. YES, IT WAS.

6 Q. THIS IS YOUR SIGNATURE?

7 A. IT IS.

8 Q. OH. YOU WILL PARDON ME IF I DIDN'T RECOGNIZE IT.

9 A. I UNDERSTAND.

10 Q. IT LOOKS LIKE MINE. WOULD YOU READ THIS LAST
11 HIGHLIGHTED PORTION OF IT FOR ME, PLEASE, SIR, IF YOU
12 CAN?

13 A. IT APPEARS TO BE A BEST BABY GROOM, WHITE TOWEL
14 HEAD SOMETHING WET. I CAN'T READ IT.

15 Q. WET?

16 A. YES.

17 Q. SO THERE WAS A WET TOWEL FOUND IN THE BATHROOM
18 THAT'S PART OF THE SEARCH WARRANT?

19 A. I DIDN'T FIND A WET TOWEL, NO.

20 Q. WELL, THIS IS YOUR SIGNATURE?

21 A. YES.

22 Q. ON THE RETURN?

23 A. YES.

24 Q. AND WHEN SOMEBODY EITHER BRINGS YOU THE OBJECT OR
25 YOU FIND THE OBJECT, YOU LIST IT ON THE RETURN, CORRECT?

1 A. AS YOU READ RIGHT HERE, MELINDA NICHOLSON
2 COMPLETED THE RETURN.

3 Q. I UNDERSTAND.

4 A. AND IT WAS IN THE PRESENCE OF ME, BUT SHE DONE THE
5 INVENTORY.

6 Q. DID YOU SEE THE TOWEL?

7 A. I DON'T RECALL.

8 Q. OH, OKAY. SO YOU CAN'T SAY THERE WASN'T A WET
9 TOWEL THERE?

10 A. AS I STATED EARLIER, I DIDN'T FIND A WET TOWEL.

11 Q. ALL RIGHT. YOU DIDN'T. BUT YOU CAN'T SAY FOR
12 SURE THERE WASN'T ONE THERE, CORRECT?

13 A. I CAN'T.

14 Q. NOW, YOU SEARCHED THIS BEDROOM -- I'M SORRY -- YOU
15 SEARCHED THE APARTMENT. YOU WERE PART OF THE SECOND
16 SEARCH, CORRECT?

17 A. YES, SIR.

18 Q. THERE WAS ONE DONE PREVIOUSLY BY SOMEBODY ELSE?

19 A. SOMEBODY ELSE.

20 Q. OKAY. THE SECOND SEARCH OF THE BATH -- OF THE
21 APARTMENT, NOT JUST THE BATHROOM, THE APARTMENT, WAS DONE
22 SOMETIME YOU SAID AROUND 8:00 THE MORNING OF THE 17TH?

23 A. 8:00-ISH, NINE, I DON'T RECALL THE EXACT. ALL I
24 DO KNOW IS THAT IT WAS THE MORNING OF.

25 Q. OKAY. SO ASSUMING FOR THE SAKE OF ARGUMENT -- AND

1 I DO REALIZE HOW MUCH TROUBLE WE GET IN WHEN WE ASSUME
2 THINGS.

3 A. THAT'S WHAT YOU SAID EARLIER.

4 Q. THAT'S RIGHT -- THAT MY CLIENT GAVE THE CHILD A
5 BATH ABOUT 2:30, 3:00 THE DAY BEFORE. THAT WOULD HAVE
6 BEEN -- YOUR SEARCH WOULD HAVE BEEN 18 HOURS LATER,
7 RIGHT?

8 A. WITHOUT DOING THE MATH, I WOULD THINK SO.

9 Q. YOU DON'T THINK A BATHTUB IS GONNA DRY OUT IN 18
10 HOURS?

11 A. I WOULD THINK SO.

12 Q. OH, OKAY. SO THE FACT THAT YOU DIDN'T FIND ANY
13 WATER IN THE BABY SEAT OR IN THE BATHTUB IS INDICATIVE OF
14 ABSOLUTELY NOTHING?

15 A. WELL, THE TOWEL WOULD BE WET.

16 Q. YOU JUST TOLD ME YOU DIDN'T FIND A WET TOWEL.

17 A. I DIDN'T SAY I DID. BUT YOU'RE TELLING ME THERE
18 WAS A WET TOWEL FOUND AND YOU'RE ASKING ME WHY THERE'S NO
19 OTHER WET STUFF THERE.

20 Q. I DON'T KNOW WHY. I'M ASKING YOU A QUESTION.

21 A. I DIDN'T FIND THE TOWEL AND THE SHOWER STALL WAS
22 DRY AS WELL AS THE BABY SEAT WAS DRY.

23 Q. OKAY. HOW MANY PEOPLE HAVE LARGE HANDS?

24 A. I GUESS ALL LARGE PEOPLE.

25 Q. OKAY. WOULD YOU HOLD YOUR HAND UP FOR ME, PLEASE?

1 A. YES, SIR (COMPLIES).

2 Q. YOU HAVE LARGER HANDS THAN I DO?

3 A. YES, SIR, I DO.

4 Q. SO THE FACT THAT MATTHEW HAS LARGE HANDS IN AND OF
5 ITSELF IS INDICATIVE OF NOTHING?

6 A. I WAS JUST TESTIFYING THAT WE DID TAKE PICTURES OF
7 HIS HANDS AND HIS HANDS WERE LARGE.

8 Q. YES, SIR. YOU ALSO INTIMATED HIS HANDS CAUSED THE
9 MARKS ON THE BABY, ARE YOU NOT?

10 A. NO, I STATED IN MY EARLIER TESTIMONY THAT THE
11 REASON WE TOOK PHOTOS OF HIS HANDS WAS BECAUSE THE
12 FINGERPRINTS, THE BRUISES AROUND THE BACK WERE WIDE
13 ENOUGH TO WHERE IT APPEARED TO BE LARGE HANDS, NOT SMALL
14 HANDS.

15 Q. HOW LARGE OF HANDS?

16 A. I CAN'T TESTIFY TO THAT.

17 Q. YOU DIDN'T MEASURE THE ---

18 A. DR. WOODARD WILL BE ABLE TO.

19 Q. OKAY. AND WHEN YOU SEARCHED THE APARTMENT, THERE
20 WERE NO LARGE OBJECTS THAT APPEARED TO HAVE BEEN KNOCKED
21 ON THE FLOOR?

22 A. NO.

23 Q. DO YOU KNOW HOW SOUND A SLEEPER MATTHEW IS?

24 A. I DO NOT.

25 Q. SOME PEOPLE, IT'S KIND OF LIKE NEEDING AN ACT OF

1 CONGRESS OR AN ACT OF GOD TO WAKE THEM UP IN THE MORNING.

2 A. I CAN'T ANSWER THAT.

3 Q. ARE YOU A SOUND SLEEPER?

4 A. SOMETIMES. SOMETIMES NOT.

5 Q. OKAY. SO YOU CAN'T SAY FOR CERTAIN THAT SOMEONE
6 COULDN'T HAVE MOVED THE CHILD FROM THE BED WHILE MATTHEW
7 WAS STILL SLEEPING IN IT AND HIM NOT WAKE UP?

8 A. I WOULD SAY THAT ACCORDING TO THE BEDROOM, THE WAY
9 IT WAS LAID OUT, THE CLUTTER, THE SIZE OF THE BED, AND
10 AGAIN, THE SIZE OF YOUR CLIENT, HAVING TO REACH OVER HIM
11 OR CLIMBING ON THE BED, NO.

12 Q. YOU DON'T THINK SO?

13 A. NO.

14 Q. OKAY.

15 MR. SENERIUS: IF I MAY HAVE JUST A MOMENT, YOUR
16 HONOR?

17 THE COURT: CERTAINLY.

18 BY MR. SENERIUS:

19 Q. WERE YOU PRESENT WHEN THE CHILD WAS DECLARED
20 LEGALLY DEAD OR PRONOUNCED DEAD?

21 A. YES, SIR.

22 Q. DID MATTHEW SEEM TO BE UPSET?

23 A. UM, BOTH OF THEM DID AT THAT POINT --

24 Q. BOTH OF THEM DID?

25 A. -- WHEN THEY FIRST GOT THE NEWS.

1 THERE WAS TIMES AT THAT POINT HE SEEMED TO BE
2 UPSET, BUT TIMES WHEN I DID SEE THEM THAT THEY WERE, YOU
3 KNOW, APPEARED TO BE, YOU KNOW, THINKING SOMEWHERE ELSE.
4 WHO AM I TO SAY HOW THEY SHOULD BE DOING OR FEELING AFTER
5 THEY LOST A BABY?

6 Q. JUST LIKE WHO ARE YOU TO SAY HOW SOUND A SLEEPER
7 MR. HINTON WAS?

8 A. I NEVER SAID HE WAS.

9 Q. YOU NEVER SAID HE WASN'T. I JUST SAID, YOU MADE
10 THE STATEMENT THAT IT WOULD BE IMPOSSIBLE FOR SOMEONE TO
11 HAVE REMOVED THE CHILD FROM THE BED?

12 A. I FEEL THAT WAY, YES.

13 Q. IMPOSSIBLE?

14 A. I FEEL THAT WAY, YES.

15 Q. THANK YOU, SIR.

16 THE COURT: RE-EXAM?

17 MS. SIMMONS: JUST BRIEFLY, SERGEANT JONES.

18 BEG THE COURT'S INDULGENCE FOR ONE MOMENT.

19 REDIRECT EXAMINATION BY MS. SIMMONS:

20 Q. SERGEANT JONES, MR. HINTON'S WRITTEN STATEMENT
21 SAYS THAT ASHLEY WOULD WAKE HIM UP EVERY 30 TO 45 MINUTES
22 TO CHECK ON

23 A. YES, MA'AM.

24 Q. "AND ONE TIME SHE WOKE ME TO TELL ME TO MOVE THE
25 COVERS."

1 THAT WAS PART OF YOUR INVESTIGATION, RIGHT?

2 A. THAT'S WHAT THE STATEMENT SAYS, YES, MA'AM.

3 Q. SO YOU ARE BASING YOUR ASSUMPTION THAT HE'S NOT A
4 VERY SOUND SLEEPER ON THE FACT THAT HE DOES REMEMBER
5 EVERY TIME THE MOTHER WOKE HIM UP TO CHECK ON THE CHILD?

6 A. THAT'S CORRECT. AND I BELIEVE ONE TIME HE ALSO
7 STATED, HE STATED HE WOKE UP ON HIS OWN AND PULLED THE
8 COVER OFF OF HER EYES, IF I RECALL CORRECTLY.

9 MS. SIMMONS: THANK YOU.

10 RECROSS-EXAMINATION BY MR. SENERIUS:

11 Q. THAT STATEMENT SAYS THAT THE MOTHER WOKE HIM UP,
12 RIGHT? MS. BRIGHT WOKE MR. HINTON UP. ISN'T THAT WHAT
13 YOU JUST TESTIFIED TO?

14 A. "ONE TIME ASHLEY WOKE ME UP TO TELL ME TO MOVE THE
15 COVERS."

16 Q. ASHLEY WOKE HIM UP.

17 A. (READING DOCUMENT) I WOKE MYSELF UP AND CHECKED
18 [REDACTED] AND FOUND OUT SHE WASN'T BREATHING.

19 Q. THAT'S LATER AFTER HE HAD BEEN ASLEEP FOR A LONG
20 PERIOD OF TIME?

21 A. YES.

22 Q. HE WAS AWAKENED TWICE OR AT LEAST TWICE?

23 A. YES.

24 Q. ONCE AFTER HAVING SLEPT FOR SIX OR SEVEN HOURS.
25 CORRECT?

1 A. YES.

2 Q. AND ONCE BY BEING AWAKENED BY SOMEONE?

3 A. YES.

4 Q. IT DOESN'T SAY I AWAKENED TO FIND ASHLEY LEANING
5 OVER THE BED, IT DOESN'T SAY THAT I AWOKE BECAUSE I HEARD
6 SOMETHING IN THE ROOM. IT SAYS "ASHLEY WOKE ME UP"?

7 A. THAT IS CORRECT.

8 MR. SENERIUS: THANK YOU. NOTHING FURTHER.

9 THE COURT: RE, RE-EXAM?

10 MS. SIMMONS: NO, YOUR HONOR.

11 THE COURT: VERY GOOD. ALL RIGHT. YOU MAY STEP
12 DOWN.

13 (WITNESS LEAVES STAND.)

14 THE COURT: MAY I SEE COUNSEL, PLEASE?

15 (DISCUSSION AT SIDEBAR.)

16 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN OF THE
17 JURY, IT APPEARS THAT THIS IS A TIME THAT WE MIGHT HAVE
18 TO BREAK BECAUSE THE NEXT WITNESSES, AS I UNDERSTAND FROM
19 THE STATE, ARE GOING TO BE FROM THE MEDICAL SIDE AND ALSO
20 ARE GONNA BE SOME FROM OUTSIDE OF THIS AREA, SO THEY HAVE
21 HAD TO BE SCHEDULED FOR TOMORROW SO WE DON'T HAVE ANYONE
22 ELSE TO TAKE UP UNTIL THEN.

23 SO I'M GOING TO EXCUSE YOU -- THIS WAS AN EARLY DAY
24 YOU NEVER CAN TELL. BUT THE PACE IS MOVING VERY
25 EFFICIENTLY, SO FOR THAT I'M GOING TO HAVE TO EXCUSE YOU

1 FOR THE DAY.

2 ALSO, I DIDN'T HAVE ANYBODY CONTACT ME THIS MORNING,
3 BUT STILL THE ADMONITION IS IF ANYBODY TRIES TO TALK TO
4 YOU, TELL THEM I'LL BE GLAD TO EXPLAIN WHY. BUT I THINK
5 YOU UNDERSTAND WHY IT'S SO IMPORTANT. NO ONE CAN HELP
6 YOU THAT HASN'T HEARD WHAT YOU'VE HEARD OR HEAR WHAT YOU
7 WILL HEAR, SO THEY CAN ONLY INTERFERE WITH THE PROPER
8 RESOLUTION.

9 SO WITH THAT I'LL EXCUSE YOU UNTIL 10:00 IN THE
10 MORNING AND YOU CAN COME BACK TO THE SAME JURY ROOM THAT
11 YOU HAVE BEEN USING.

12 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES
13 FROM THE COURTROOM.

14 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
15 APPROXIMATELY 3:15 P.M.)

16 THE COURT: IS THERE ANYTHING ELSE FROM THE STATE?

17 MS. SIMMONS: NOT AT THIS TIME, JUDGE.

18 THE COURT: FROM THE DEFENSE?

19 MR. SENERIUS: NO, SIR.

20 THE COURT: NOW, THE JURY HAS BEEN SWORN, THE TRIAL
21 HAS BEGUN.

22 MR. SENERIUS: WE WOULD MOVE TO CONTINUE MR. HINTON
23 ON BOND. HE'S BEEN HERE THROUGHOUT.

24 THE COURT: MADAM SOLICITOR?

25 MS. SIMMONS: JUDGE, THE POTENTIAL PENALTY FOR

1 MR. HINTON IN THIS CASE IS SEVERE. I CONCEDE THAT HE HAS
2 BEEN HERE EVERY TERM OF COURT. HOWEVER, I'VE NEVER
3 CONSENTED TO A DEFENDANT REMAINING OUT ON BOND. WE WOULD
4 ASK OUT OF AN ABUNDANCE OF CAUTION HE WOULD BE REMANDED
5 TO CUSTODY.

6 THE COURT: ALL RIGHT. MR. SENERIUS?

7 MR. SENERIUS: YOUR HONOR, MR. HINTON HAS BEEN OUT
8 ON BOND FOR A SIGNIFICANT PERIOD OF TIME.

9 THE COURT: WHO IS THE BOND?

10 MR. SENERIUS: I'M SORRY, SIR?

11 THE COURT: WHO IS THE BOND?

12 MR. SENERIUS: I BELIEVE HIS FAMILY POSTED \$10,000
13 ON A HUNDRED-THOUSAND-DOLLAR SURETY.

14 MS. SIMMONS: HIS MOTHER IS THE BONDS PERSON.

15 THE COURT: I THINK SOME OF US REMEMBER SOME OF THE
16 CASES WHERE ESTREATMENTS WERE SOUGHT ON BONDING OR
17 SURETIES. AND IF THE SURETIES ARE NOT A PART OF ANY
18 CHANGE IN THE BOND, THEN, OF COURSE, THE BOND IS NOT
19 ENFORCEABLE.

20 ARE THE SURETIES HERE TODAY? DO WE HAVE A COPY OF
21 THE BOND?

22 MS. SIMMONS: YES, YOUR HONOR. I'LL BE HAPPY TO
23 PASS IT UP. MAY I APPROACH?

24 THE COURT: YES, MA'AM. THANK YOU.

25 MS. SIMMONS: JUST FOR THE RECORD I DO BELIEVE

1 MR. HINTON HAS CHANGED HIS ADDRESS WITH OUR OFFICE SINCE
2 HIS BOND. I'M SURE MR. SENERIUS CAN PROVIDE YOU WITH THE
3 CORRECT ADDRESS.

4 THE COURT: SO THE ORIGINAL \$200,000 BOND HAS BEEN
5 REDUCED TO A HUNDRED THOUSAND AND TEN THOUSAND IN SURETY?

6 MR. SENERIUS: TEN THOUSAND DOLLARS CASH POSTED BY
7 THE MOTHER WITH --

8 THE COURT: TEN PERCENT CASH IN LIEU OF SURETY.

9 MR. SENERIUS: SHE IS THE SURETY ON THE BOND.

10 THE COURT: ALL RIGHT. IF YOU WOULD COME FORWARD,
11 PLEASE. COME FORWARD.

12 ALL RIGHT. AND YOUR NAME, PLEASE, MA'AM.

13 DEFENDANT'S MOTHER: DENISE RICHARDSON.

14 THE COURT: AND WHERE DO YOU LIVE?

15 DEFENDANT'S MOTHER: [REDACTED] ROAD,
16 TRAVELERS REST, SOUTH CAROLINA.

17 THE COURT: WHO LIVES AT [REDACTED] STREET?

18 DEFENDANT'S MOTHER: THAT WAS MY ORIGINAL ADDRESS
19 WHEN I FIRST POSTED THE BOND, AND I MOVED SHORTLY
20 THEREAFTER; BUT WE HAVE BEEN THERE SINCE RIGHT AFTER I
21 BONDED HIM.

22 THE COURT: WHAT'S YOUR ADDRESS NOW?

23 DEFENDANT'S MOTHER: IT'S [REDACTED] ROAD.
24 HE ACTUALLY HAS CHANGED IT AND HAS BEEN RECEIVING HIS
25 POSTCARDS FOR APPEARANCE HEARINGS AT THAT ADDRESS.

1 THE COURT: ☐

2 DEFENDANT'S MOTHER: YES, SIR.

3 THE COURT: ALL RIGHT. DO YOU UNDERSTAND THAT THE
4 DEFENDANT HAS REQUESTED THAT HE BE PERMITTED TO CONTINUE
5 ON RECOGNIZANCE OR BOND?

6 DEFENDANT'S MOTHER: I DO.

7 THE COURT: IN OTHER WORDS, THAT UNTIL THIS MATTER
8 IS ULTIMATELY RESOLVED, OR AT LEAST THE CASE IS OVER,
9 THAT HE WILL CONTINUE ON BOND?

10 DEFENDANT'S MOTHER: I DO.

11 THE COURT: AND YOU ALSO UNDERSTAND THAT YOU WOULD
12 CONTINUE TO BE RESPONSIBLE UNDER THAT BOND?

13 DEFENDANT'S MOTHER: I DO.

14 THE COURT: AND OF COURSE, YOU HAD TO POST TEN
15 THOUSAND DOLLARS, BUT THAT'S TEN PERCENT OF THE HUNDRED
16 THOUSAND DOLLARS THAT THE BOND IS. DO YOU UNDERSTAND
17 THAT?

18 DEFENDANT'S MOTHER: RIGHT, I DO.

19 THE COURT: ALL RIGHT. LET'S SEE. IF YOU WOULD
20 RAISE YOUR RIGHT HAND.

21 (WHEREUPON, THE DEFENDANT'S MOTHER WAS SWORN
22 BY THE COURT.)

23 THE COURT: VERY GOOD. ALL RIGHT. I HAVE EXPLAINED
24 TO YOU THE CONSEQUENCES OF CONTINUING YOUR SON ON THE
25 BOND, THAT YOU WOULD BE RESPONSIBLE UNDER THAT BOND AS IN

1 THE ORIGINAL ONE.

2 DEFENDANT'S MOTHER: RIGHT.

3 THE COURT: DO YOU UNDERSTAND THAT?

4 DEFENDANT'S MOTHER: I DO.

5 THE COURT: DO YOU HAVE ANY QUESTIONS ABOUT IT?

6 DEFENDANT'S MOTHER: I DO NOT.

7 THE COURT: ALL RIGHT. I'LL CONTINUE THE DEFENDANT
8 ON HIS BOND, AS WELL.

9 OF COURSE, I NEED TO TALK TO HIM AGAIN, TOO.

10 DEFENDANT'S MOTHER: THANK YOU.

11 THE COURT: YES, MA'AM.

12 YOU ARE MATTHEW TAYLOR HINTON?

13 THE DEFENDANT: YES, SIR.

14 THE COURT: AND I PUT YOU UNDER OATH YESTERDAY WHEN
15 WE WERE TALKING ABOUT...

16 MR. SENERIUS: IT WAS JUST SOMEONE COUGHING.

17 THE COURT: WELL, IF YOU CAN'T HEAR ME, LET ME KNOW.

18 MR. SENERIUS: WE CAN.

19 THE COURT: BUT YESTERDAY I PUT YOU UNDER OATH WHEN
20 WE WERE TALKING ABOUT YOUR APPEARANCE. DO YOU UNDERSTAND
21 THAT?

22 THE DEFENDANT: YES, SIR.

23 THE COURT: YOU UNDERSTAND YOU ARE STILL UNDER OATH
24 FOR PURPOSES OF THESE PROCEEDINGS?

25 THE DEFENDANT: YES, SIR.

1 THE COURT: ALL RIGHT. YOU HEARD YOUR ATTORNEY MOVE
2 THAT YOU BE CONTINUED ON THE BOND DURING THESE
3 PROCEEDINGS?

4 THE DEFENDANT: YES, SIR.

5 THE COURT: YOU DID HEAR THAT?

6 THE DEFENDANT: YES, SIR.

7 THE COURT: AND YOU HAVE HEARD YOUR MOTHER SAY SHE
8 WOULD CONTINUE TO BE RESPONSIBLE ON THAT BOND FOR THE
9 TERMS OF THE BOND EVEN THOUGH YOU ARE GOING TO BE
10 PERMITTED TO CONTINUE OUT ON THE BOND RATHER THAN BEING
11 INCARCERATED?

12 THE DEFENDANT: YES, SIR.

13 THE COURT: ALL OF THE CONDITIONS WILL STAY IN
14 EFFECT. DO YOU HAVE ANY QUESTION ABOUT THOSE CONDITIONS?

15 THE DEFENDANT: NO, SIR.

16 THE COURT: ALL RIGHT. AND YOU AGREE TO BE BOUND BY
17 THEM?

18 THE DEFENDANT: YES, SIR.

19 THE COURT: ALL RIGHT. ANY QUESTIONS AT ALL?

20 THE DEFENDANT: NO, SIR.

21 THE COURT: ALL RIGHT. VERY GOOD. ALSO YOU
22 REMEMBER, AS I SAID, IF FOR ANY REASON YOU ARE NOT
23 PRESENT AT 10:00 HERE IN THE OCONEE COUNTY COURTHOUSE ON
24 THE FOURTH FLOOR BETWEEN SHORT AND MAIN STREETS IN
25 WALHALLA, SOUTH CAROLINA, TOMORROW MORNING, WHICH WOULD

1 BE MARCH THE 2ND, 2011, YOUR CASE WILL CONTINUE IN YOUR
2 ABSENCE; AND IT WILL REACH A VERDICT, WHATEVER THAT
3 VERDICT MIGHT BE, AND IF YOU ARE FOUND GUILTY, YOU WILL
4 BE SENTENCED IN YOUR ABSENCE. DO YOU UNDERSTAND THAT?

5 THE DEFENDANT: YES, SIR.

6 THE COURT: ANY QUESTIONS?

7 THE DEFENDANT: NO, SIR.

8 THE COURT: ALL RIGHT. GOOD LUCK.

9 I'LL CONTINUE HIM ON THE BOND WITH THE SAME SURETY.

10 THANK YOU.

11 MR. SENERIUS: THANK YOU, YOUR HONOR.

12 (WHEREUPON, THE TRIAL ADJOURNED FOR THE DAY
13 AT 3:25 P.M., TO RESUME ON WEDNESDAY MORNING,
14 MARCH 2, 2011, AT APPROXIMATELY 10:00 A.M.)
15
16
17
18
19
20
21
22
23
24
25

1 *** MARCH 2, 2011 ***

2 (WHEREUPON, THE PROCEEDINGS RESUMED ON
3 WEDNESDAY, MARCH 2ND, 2011, IN OCONEE COUNTY
4 GENERAL SESSIONS COURT BEFORE THE HONORABLE
5 ALEXANDER S. MACAULAY, IN THE TRIAL IN THE
6 MATTER OF THE STATE OF SOUTH CAROLINA VERSUS
7 MATTHEW TAYLOR HINTON, AT APPROXIMATELY 10:08
8 A.M.)

9 THE COURT: ALL RIGHT. ARE WE READY TO PROCEED FROM
10 THE STATE?

11 MS. SIMMONS: YES, YOUR HONOR.

12 THE COURT: FROM THE DEFENSE?

13 MR. SENERIUS: YES, YOUR HONOR.

14 THE COURT: ASK THE JURY TO JOIN US, PLEASE.

15 (THE JURY ENTERED THE COURTROOM AT
16 APPROXIMATELY 10:08 A.M.)

17 THE COURT: ALL RIGHT. LET THE RECORD REFLECT THE
18 JURY AND ALTERNATES ARE IN THE JURY-BOX. WE WILL NOW
19 PROCEED WITH THE STATE CASE, MR. FOREMAN, AND LADIES AND
20 GENTLEMEN OF THE JURY.

21 MS. SIMMONS: GOOD MORNING, JUDGE.

22 THE STATE CALLS DESMOND HOLLAND.
23
24
25

1 WHEREUPON,

2 DESMOND HOLLAND,

3 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION BY MS. SIMMONS:

5 THE COURT: IF YOU WOULD PLEASE, SIR, GIVE US YOUR
6 FULL NAME, SPELLING YOUR LAST NAME FOR THE RECORD.

7 THE WITNESS: DESMOND MONDELLS HOLLAND.

8 THE COURT: VERY GOOD, THANK YOU, SIR.

9 BY MS. SIMMONS:

10 Q. GOOD MORNING, DESMOND. SPEAK UP BECAUSE THE
11 ACOUSTICS ARE NOT REAL GOOD IN HERE, OKAY?

12 A. OKAY.

13 Q. WHERE DO YOU LIVE NOW?

14 A. CIRCLE, SENECA, SOUTH CAROLINA.

15 Q. AND WHERE ARE YOU EMPLOYED?

16 A. COPPER RIVER GRILL.

17 Q. WERE YOU LIVING AT NORTHWOODS APARTMENTS BACK ON
18 AUGUST 16, 2009?

19 A. YES, MA'AM.

20 Q. HOW LONG HAD YOU BEEN LIVING THERE?

21 A. PROBABLY ABOUT EIGHT MONTHS.

22 Q. AND WHO DID YOU LIVE THERE WITH?

23 A. MY FIANCÉE AND MY SON.

24 Q. HOW OLD WAS YOUR SON?

25 A. HE WAS ABOUT, AT THE TIME HE WAS ABOUT THREE OR

1 FOUR MONTHS, PROBABLY NOT EVEN THAT OLD.

2 Q. WHAT APARTMENT -- DO YOU REMEMBER WHAT APARTMENT
3 NUMBER YOU LIVED IN?

4 A. I THINK IT WAS .

5 Q. WAS YOUR APARTMENT DIRECTLY UNDERNEATH AN
6 APARTMENT THAT WAS OCCUPIED BY THE DEFENDANT?

7 A. YES.

8 Q. OKAY. AND HOW DO YOU KNOW THAT?

9 A. BECAUSE I SEEN THEM NUMEROUS TIMES GOING IN AND
10 OUT THEIR APARTMENT. WE WERE ON TOP OF EACH OTHER AND WE
11 SPOKE PASSING BY.

12 Q. WERE ALL THE APARTMENTS IN YOUR COMPLEX -- THE
13 COMPLEX WHERE YOU LIVED BACK THEN -- WERE THEY LAID OUT
14 BASICALLY THE SAME?

15 A. YES, MA'AM.

16 Q. SO YOUR LAYOUT WOULD HAVE BEEN EXACTLY THE --
17 PRETTY MUCH CLOSE TO THE SAME UNDERNEATH THEIRS?

18 A. YES, MA'AM.

19 Q. DO YOU KNOW MATTHEW HINTON OR ASHLEY BRIGHT
20 PERSONALLY?

21 A. NO, NO.

22 Q. SO YOU HAVE NO FRIENDS TO REWARD OR ENEMIES TO
23 PUNISH TODAY?

24 A. OH, NO, MA'AM.

25 Q. ON AUGUST 20, 2009, DID YOU APPROACH LAW

RED
X
RE.

1 ENFORCEMENT AND TELL THEM ABOUT SOME UNUSUAL THINGS YOU
2 HAD HEARD ON AUGUST 16TH?

3 A. WELL, THEY WAS OUTSIDE AND I WAS WALKING TO MY CAR
4 GOING TO WORK. AND HE ASKED ME, HE SAID, DID YOU HEAR
5 ANY ---

6 MS. TYE: OBJECTION, YOUR HONOR.

7 THE COURT: HEARSAY?

8 MS. TYE: YES, YOUR HONOR.

9 THE COURT: ALL RIGHT. JUST SAY THAT YOU HAD A
10 CONVERSATION WITH LAW ENFORCEMENT.

11 THE WITNESS: I HAD A CONVERSATION. YES.

12 BY MS. SIMMONS:

13 Q. IN RESPONSE TO YOUR CONVERSATION WITH MR. JONES --
14 AND YOU CAN'T TELL ME WHAT OTHER PEOPLE SAID TO YOU,
15 OKAY?

16 A. ALL RIGHT.

17 Q. IN RESPONSE TO YOUR CONVERSATION WITH MR. JONES,
18 DID YOU PROVIDE INFORMATION TO SERGEANT JONES?

19 A. YES. I TOLD HIM I HEARD A NOISE.

20 Q. OKAY. AT THIS POINT IN TIME DID YOU KNOW ANYTHING
21 HAD GONE ON IN THE APARTMENT ABOVE YOU AS FAR AS
22 CRIMINALLY?

23 A. NO, MA'AM. NO, MA'AM.

24 Q. WAS ANYTHING THAT YOU TOLD SERGEANT JONES --
25 LIEUTENANT JONES NOW -- SUGGESTED TO YOU OR DID YOU TELL

1 HIM JUST WHAT YOU KNEW?

2 A. I TOLD HIM JUST WHAT I HEARD.

3 Q. OKAY. WHAT UNUSUAL HAPPENINGS DID YOU REPORT FROM
4 AUGUST 16, 2009? WAS THAT A SUNDAY?

5 A. YES, MA'AM, IT WAS.

6 Q. TELL ME WHAT YOU HEARD.

7 A. I WAS WALKING MY FIANCEE TO THE DOOR. BY THE TIME
8 I GOT NOT EVEN TO THE FIRST BATHROOM, I HEARD A "BOOM"
9 AND IT SOUNDED LIKE A T.V. OR SOMETHING FALLING. THAT'S
10 WHEN I TURNED AROUND AND WALKED UPSTAIRS, BECAUSE USUALLY
11 THEY MAKE NOISE BUT IT WASN'T THAT LOUD.

12 SO I WALKED UPSTAIRS AND KNOCKED ON THE DOOR AND
13 NOBODY CAME, SO I KNOCKED AGAIN. I STAYED THERE FOR
14 ABOUT THREE MINUTES. ALL I HEARD WAS THE DOG SCRATCHING
15 AND THE BABY WHIMPERING.

16 SO BY THIS TIME I WAS, LIKE, FORGET IT. AND I
17 WALKED BACK DOWNSTAIRS. I GOT BACK DOWNSTAIRS AND I
18 DIDN'T EVEN MAKE IT PAST THE KITCHEN AGAIN WHERE I HEARD
19 IT AGAIN. SO THIS TIME I WENT BACK UP THERE. I WAS A
20 LITTLE AGGRAVATED BECAUSE THEY DIDN'T COME TO THE DOOR,
21 SO I KNOCKED EVEN HARDER, HARDER AND HARDER, AND THIS
22 TIME ALL YOU HEARD WAS THE DOG, NO BABY, NO NOTHING,
23 NOBODY STILL CAME TO THE DOOR.

24 Q. SO THE FIRST TIME YOU HEARD A DOG SCRATCHING AT
25 THE DOOR AND BABY WHIMPERING?

- 1 A. YES, MA'AM.
- 2 Q. AND HOW LONG DO YOU THINK THAT LASTED?
- 3 A. THE WHOLE TIME I STOOD THERE, ABOUT THREE MINUTES.
- 4 Q. AND THE SECOND TIME WHAT DID YOU HEAR?
- 5 A. JUST THE DOG.
- 6 Q. HOW LOUD ARE WE TALKING ABOUT THIS NOISE ON I
- 7 GUESS A SCALE OF ONE TO TEN?
- 8 A. ABOUT A TEN, 11. OR A TEN.
- 9 Q. BOTH OF THE NOISES?
- 10 A. YEAH. WELL, THE SECOND ONE WAS A LITTLE LOWER
- 11 THAN THE FIRST ONE. THE FIRST ONE WAS LOUDER THAN THE
- 12 SECOND ONE.
- 13 Q. AND NO ONE CAME TO THE DOOR EITHER TIME?
- 14 A. NO, MA'AM.
- 15 Q. AND HOW HARD DID YOU KNOCK, DESMOND?
- 16 A. I KNOCKED PRETTY HARD (DEMONSTRATING).
- 17 Q. OKAY. AND ARE THESE SMALL -- YOU HAVE THE SAME
- 18 APARTMENT, RIGHT, ESSENTIALLY LAID OUT?
- 19 A. YES, MA'AM.
- 20 Q. ARE THESE APARTMENTS THAT YOU COULD HEAR SOMEBODY
- 21 KNOCKING AT YOUR DOOR?
- 22 A. YES, MA'AM. YES, MA'AM.
- 23 Q. ONE THING I NOTICE THAT YOU WERE SPECIFIC ABOUT IS
- 24 WHEN YOU HEARD THIS. WHEN DID YOU SPECIFICALLY SAY YOU
- 25 HEARD THIS NOISE?

1 A. IT WAS ABOUT, IT WAS RIGHT BEFORE MY FIANCEE LEFT,
2 SO IT WAS ABOUT -- SHE GOT TO BE AT WORK AT THREE. ABOUT
3 2:45.

4 Q. AND WAS YOUR TIME FRAME CORROBORATED BY YOUR
5 GIRLFRIEND'S WORK SCHEDULE?

6 A. YES, MA'AM.

7 Q. HAD YOU EVER HEARD A NOISE THIS LOUD COMING FROM
8 THE APARTMENT BEFORE?

9 A. NO, MA'AM. USUALLY IT WOULD BE LIKE THE VIDEO
10 GAME, T.V., STEREO OR SOMETHING, BUT I NEVER HEARD A
11 "BOOM" OR A "THUD" THAT LOUD. THAT'S THE ONLY THING THAT
12 MADE ME GET UP.

13 Q. AND HAD YOU EVER HEARD THE BABY WHIMPERING FROM
14 THE APARTMENT?

15 A. NO, MA'AM, NOT REALLY, BECAUSE WE BOTH HAD SMALL
16 CHILDREN, SO...

17 Q. ALL RIGHT. WHEN DID YOU LEARN THAT [REDACTED] THE
18 LITTLE GIRL UPSTAIRS, HAD BEEN SERIOUSLY INJURED?

19 A. IT WAS ABOUT THREE OR FOUR DAYS LATER.

20 Q. AFTER YOU GAVE THE STATEMENT?

21 A. YES, MA'AM.

22 Q. AND DESMOND, WHEN YOU HEARD THESE THINGS ON SUNDAY
23 AND YOU HEARD THE BABY CRYING, WHY DID YOU NOT CALL THE
24 POLICE THEN?

25 A. HONESTLY, I DIDN'T KNOW WHAT WAS GOING ON. I JUST

1 THOUGHT THAT SOMETHING FELL ON THE FLOOR AND I WAS GOING
2 UP THERE TO ASK THEM TO KEEP IT DOWN. AND, I MEAN,
3 THAT'S ABOUT IT, HONESTLY.

4 MS. SIMMONS: DESMOND, ANSWER ANY QUESTIONS MS. TYE
5 MAY HAVE FOR YOU, OKAY?

6 THE WITNESS: OKAY.

7 CROSS-EXAMINATION BY MS. TYE:

8 Q. GOOD MORNING, MR. HOLLAND.

9 A. HEY, HOW ARE YOU DOING?

10 Q. ON THE DAY IN QUESTION IT WAS A SUNDAY, CORRECT?

11 A. YES, MA'AM.

12 Q. AND YOU SAID YOU WERE WALKING YOUR FIANCEE TO THE
13 DOOR?

14 A. YES, MA'AM.

15 MS. TYE: YOUR HONOR, MAY I APPROACH THE WITNESS?

16 THE COURT: CERTAINLY.

17 BY MS. TYE:

18 Q. MR. HOLLAND, I'M GONNA GIVE YOU THIS. CAN YOU
19 PLEASE LOOK THROUGH THAT, TELL ME IF YOU RECOGNIZE IT;
20 AND IF YOU DO, PLEASE TELL ME WHAT THAT IS?

21 A. THIS IS THE STATEMENT I WROTE.

22 Q. THE STATEMENT YOU WROTE?

23 A. YES, MA'AM.

24 Q. AND WHO DID YOU GIVE THAT STATEMENT TO?

25 A. OFFICER JONES.

1 MS. TYE: YOUR HONOR, WE WOULD ASK THAT THIS BE
2 MARKED FOR IDENTIFICATION AS DEFENDANT'S EXHIBIT 1.

3 THE COURT: VERY WELL. DEFENSE EXHIBIT 1 FOR I.D.
4 (MARKED FOR IDENTIFICATION WAS DEFENDANT'S
5 EXHIBIT 1, STATEMENT OF WITNESS HOLLAND.)

6 BY MS. TYE:

7 Q. NOW, WHEN YOU WERE SPEAKING TO THE SOLICITOR, YOU
8 MENTIONED THAT YOU WERE WALKING YOUR FIANCÉE TO THE DOOR
9 WHEN YOU HEARD THIS LOUD NOISE?

10 A. YES, MA'AM.

11 Q. OKAY. CAN YOU PLEASE READ THAT HIGHLIGHTED
12 SENTENCE?

13 A. (READING): I WAS LAYING IN MY BEDROOM WHEN I
14 HEARD THE LOUD NOISE UPSTAIRS.

15 Q. OKAY.

16 A. (READING): I WENT UPSTAIRS AT 2:50 TO TELL THEM
17 TO KEEP THE NOISE DOWN. BUT WHEN I KNOCKED, ALL I HEARD
18 WAS THE DOG BARKING AND THEN JUMPING ON THE DOOR AND THE
19 BABY WHIMPERING.

20 Q. OKAY. SO WERE YOU LAYING ON YOUR BED OR WERE YOU
21 WALKING YOUR FIANCEE TO THE DOOR?

22 A. I HAD GOT JUST OUT OF MY BED, WALKED MY FIANCEE TO
23 THE DOOR, I WAS GOING TO LAY BACK IN THE BED. THAT'S
24 WHERE I WAS HEADED, TO THE BACK BEDROOM.

25 Q. OKAY.

1 A. AND BY THAT TIME I HEARD THE NOISE.

2 Q. OKAY. AND YOU ALSO MENTIONED THAT, YOU SAID WHEN
3 YOU CAME BACK DOWNSTAIRS THE SECOND TIME THAT YOU WERE
4 ALMOST TO YOUR BACK BEDROOM?

5 A. YES. I WAS A LITTLE PAST THE KITCHEN, YES, MA'AM.

6 Q. A LITTLE PAST THE KITCHEN, OKAY. CAN YOU PLEASE
7 READ THE REST OF THIS, STARTING AT THE "SO"?

8 A. (READING): SO I CAME BACK DOWNSTAIRS TO TRY AND
9 LAY BACK DOWN. BY THE TIME I MADE IT TO MY BACK BEDROOM
10 I HEARD THE BOOM AGAIN, AND IT SOUNDED LIKE A 23-INCH
11 T.V. HAD FALLEN.

12 Q. OKAY. NOW, WHEN YOU SPOKE TO THE SOLICITOR, YOU
13 SAID THAT YOU HAD JUST GOTTEN PAST THE KITCHEN. DO YOU
14 REMEMBER EXACTLY WHERE YOU WERE WHEN THESE THINGS
15 HAPPENED?

16 A. YES, MA'AM.

17 Q. OKAY. SO WERE YOU IN YOUR BED WHEN THIS INITIAL
18 NOISE HAPPENED?

19 A. I WAS GETTING UP OUT OF BED WALKING MY FIANCÉE TO
20 THE DOOR, YES, MA'AM.

21 Q. OKAY. SO YOU WEREN'T IN THE BED, YOU WERE
22 WALKING?

23 A. YES, MA'AM. I WAS --

24 Q. YOU GOT UP AND WERE WALKING FURTHER?

25 A. -- I WAS TAKING MY FIANCÉE TO THE DOOR.

1 Q. SO THE STATEMENT YOU GAVE THEM ORIGINALLY WAS A
2 LITTLE INCORRECT?

3 A. I MEAN, NO, MA'AM. BUT IF IT SAYS I WAS LAYING IN
4 BED -- I WAS LAYING DOWN BECAUSE I HAD TO WORK THAT
5 AFTERNOON --

6 Q. OKAY.

7 A. -- SO I WAS TRYING TO CATCH SOME Z'S.

8 Q. OKAY. AND YOU MENTIONED THAT WHEN YOU WALKED
9 UPSTAIRS THAT FIRST TIME YOU HEARD A BABY CRYING AND A
10 DOG SCRATCHING AT THE DOOR?

11 A. YES, MA'AM. IT WASN'T REALLY CRYING, IT WAS LIKE
12 A WHIMPERING, "UH-HMM, HMM, HMM."

13 Q. OKAY. AND IN YOUR STATEMENT YOU SAID THAT YOU
14 HEARD THE DOGS BARKING AND JUMPING ON THE DOOR?

15 A. SAID WHAT?

16 Q. SO WERE THE DOGS BARKING?

17 A. NO, THEY WERE SCRATCHING AT THE DOOR.

18 Q. OKAY. SO THEY WEREN'T BARKING LIKE YOU PUT IN
19 YOUR STATEMENT, CORRECT?

20 A. YES, MA'AM, THEY WERE. YES. I KID YOU NOT. YES,
21 MA'AM.

22 Q. SO YOU HEARD THE BABY WHIMPERING OVER DOGS BARKING
23 AND SCRATCHING?

24 A. YES, MA'AM. YOU COULD HEAR THE DOGS SCRATCHING AT
25 THE DOOR AND THE BABY WHIMPERING. BESIDES, THE BABY WAS

1 IN THE LIVING ROOM.

2 Q. OKAY. NOW, YOU HEARD THE BABY OVER THESE DOGS AND
3 YOU KNOCKED ON THE DOOR --

4 A. YES, MA'AM.

5 Q. -- AND NO ONE CAME TO THE DOOR?

6 A. NO, MA'AM.

7 Q. DID YOU HEAR ANYTHING WHEN YOU KNOCKED ON THE
8 DOOR?

9 A. NOT BESIDES THE BABY AND THE DOG, NO.

10 Q. RIGHT. BUT I MEAN AFTER YOU KNOCKED ON THE
11 DOOR --

12 A. OH, NO, MA'AM.

13 Q. -- YOU DIDN'T HEAR SORT OF WRESTLING OR MOVING
14 OR...

15 A. OH, NO, MA'AM.

16 Q. OKAY. AND WHEN NO ONE CAME TO THE DOOR, YOU JUST
17 WENT BACK DOWNSTAIRS?

18 A. YEAH. I WAS LIKE, WELL, FORGET IT. SO I WALKED
19 BACK DOWNSTAIRS AND TRIED TO LAY BACK DOWN AGAIN. I WAS
20 PLANNING TO LAY BACK DOWN. BY THE TIME I GOT PAST THE
21 KITCHEN, I HEARD IT AGAIN.

22 Q. AND SO WHEN YOU HEARD THIS NOISE YOU GO BACK UP
23 THE SECOND TIME --

24 A. UH-HUH.

25 Q. -- YOU DON'T HEAR THIS CHILD?

1 A. NO, MA'AM.

2 Q. IT DIDN'T CONCERN YOU AT ALL?

3 A. HONESTLY, NO, MA'AM. I DON'T KNOW IF HE TOOK IT
4 TO THE BACK BEDROOM OR, I DIDN'T KNOW.

5 Q. OKAY. SO YOU DIDN'T THINK TO, ESPECIALLY SINCE NO
6 ONE CAME TO THE DOOR, TO CONTACT THE POLICE, POSSIBLY
7 HAVE A WELFARE CHECK DONE OR CONTACT THE MANAGER OF THE
8 APARTMENTS. OR YOU WEREN'T CONCERNED AT ALL THAT THIS
9 NOISE, THAT THE CHILD WAS INJURED AT ALL?

10 A. NO, MA'AM, I DIDN'T. I DIDN'T NEVER THINK ABOUT
11 THAT, HONESTLY.

12 Q. AND SO WHEN YOU WENT BACK DOWNSTAIRS YOU HEARD
13 THAT AFTER THE SECOND TIME YOU WENT UP. YOU WENT BACK
14 DOWNSTAIRS, YOU SAY YOU JUST LEFT?

15 A. YEAH, I WENT OVER TO MY MOTHER'S HOUSE.

16 Q. OKAY. SO YOU HAVE NO OTHER INFORMATION ABOUT THAT
17 DAY AND YOU HAVE NO IDEA WHAT HAPPENED.

18 A. NO, MA'AM. I DON'T HAVE A CLUE. NO, MA'AM.

19 MS. TYE: OKAY. BEG THE COURT'S INDULGENCE.

20 (DEFENSE COUNSEL CONFER.)

21 MS. TYE: I HAVE NO FURTHER QUESTIONS FOR THIS
22 WITNESS, YOUR HONOR.

23 THE COURT: RE-EXAM?

24 MS. SIMMONS: JUDGE, I HAVE NOTHING FURTHER AND I
25 WOULD ASK THAT MR. HOLLAND BE RELEASED.

1 MS. TYE: NO OBJECTION, YOUR HONOR.

2 THE COURT: WITHOUT OBJECTION YOU MAY BE RELEASED,
3 OR EXCUSED. IT'S NOT RELEASED. RELEASED FROM THE
4 SUBPOENA. THANK YOU VERY MUCH, SIR.

5 THE WITNESS: THANK YOU.

6 (WHEREUPON, THE WITNESS WAS EXCUSED.)

7 MS. SIMMONS: YOUR HONOR, THE STATE CALLS
8 DR. KATHRYN BARDEN.

9 WHEREUPON,

10 KATHRYN BARDEN,
11 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:
12 DIRECT EXAMINATION BY MS. SIMMONS:

13 THE WITNESS: DR. KATHRYN DAVIDSON BARDEN,
14 B-A-R-D-E-N.

15 BY MS. SIMMONS:

16 Q. GOOD MORNING, DR. BARDEN.

17 A. GOOD MORNING.

18 Q. WHERE ARE YOU EMPLOYED?

19 A. I'M EMPLOYED WITH BLUE RIDGE EMERGENCY PHYSICIANS
20 CONTRACTED WITH OCONEE MEDICAL CENTER.

21 Q. AND WHAT IS YOUR PROFESSION?

22 A. EMERGENCY PHYSICIAN.

23 Q. AND HOW LONG HAVE YOU BEEN AN EMERGENCY PHYSICIAN?

24 A. 24 YEARS.

25 Q. AND ARE YOU LICENSED IN THE STATE OF SOUTH

1 CAROLINA?

2 A. YES.

3 Q. WHAT MEDICAL COLLEGE DID YOU ATTEND?

4 A. MEDICAL UNIVERSITY OF SOUTH CAROLINA.

5 Q. AND SINCE THAT, AFTER MEDICAL COLLEGE, WHERE DID
6 YOU COMPLETE YOUR RESIDENCY?

7 A. UNIVERSITY SCHOOL OF MEDICINE U.S.C. IN COLUMBIA,
8 SOUTH CAROLINA.

9 Q. AND SINCE THAT TIME WHERE HAVE YOU PRACTICED?

10 A. I'VE PRACTICED IN VARIOUS HOSPITALS AROUND THE
11 STATE OF SOUTH CAROLINA, 14 YEARS AT OCONEE MEDICAL
12 CENTER MOST RECENTLY.

13 Q. IS THE NATURE OF YOUR PRACTICE GENERAL OR
14 SPECIALIZED?

15 A. SPECIALIZED IN EMERGENCY MEDICINE.

16 Q. ARE YOU BOARD CERTIFIED IN EMERGENCY MEDICINE?

17 A. YES, I AM.

18 Q. WHAT DOES THE BOARD CERTIFICATION PROCESS INVOLVE?

19 A. WE HAVE TO COMPLETE A RESIDENCY IN EMERGENCY
20 MEDICINE AND THEN TAKE WRITTEN BOARDS FOLLOWED BY ORAL
21 BOARDS, RECERTIFICATION IN TEN YEARS, AND THEN YEARLY
22 RECERTIFICATIONS.

23 Q. ARE YOU A MEMBER OF ANY MEDICAL GROUPS OR
24 ASSOCIATIONS?

25 A. YES, I AM. THE SOUTH CAROLINA MEDICAL

1 ASSOCIATION, THE SOUTH CAROLINA COLLEGE OF EMERGENCY
2 PHYSICIANS, AND THE AMERICAN COLLEGE OF EMERGENCY
3 PHYSICIANS.

4 Q. HOW MANY TIMES HAVE YOU TESTIFIED IN COURT BEFORE?

5 A. TWICE.

6 Q. ARE YOU BEING COMPENSATED FOR YOUR TESTIMONY
7 TODAY?

8 A. NO.

9 Q. DURING YOUR YEARS OF PRACTICE HOW MANY PATIENTS DO
10 YOU ESTIMATE YOU HAVE TREATED?

11 A. 60,000.

12 MS. SIMMONS: JUDGE, AT THIS POINT WE WOULD MOVE TO
13 ADMIT DR. BARDEN AS AN EXPERT IN EMERGENCY MEDICINE.

14 THE COURT: ANY VOIR DIRE?

15 MR. SENERIUS: NO, SIR, NO OBJECTION.

16 THE COURT: ALL RIGHT. VERY GOOD. THE WITNESS WILL
17 BE QUALIFIED AS AN EXPERT IN EMERGENCY MEDICINE.

18 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, AS
19 YOU WILL NOTE, THE RULES OF EVIDENCE ARE VERY PARTICULAR
20 ABOUT WHAT SOMEONE CAN TESTIFY TO. USUALLY THEY ARE
21 LIMITED TO TESTIFYING TO ONLY THOSE MATTERS WHICH THEY
22 KNOW OF OWN KNOWLEDGE BY REASON OF EXERCISE OF THEIR
23 SENSES; HEARING, TOUCHING OR SOMETHING OF THAT NATURE.

24 HOWEVER, WHEN A WITNESS IS QUALIFIED IN A CERTAIN
25 AREA OR FIELD OF EXPERIENCE BY REASON OF THEIR BACKGROUND

1 TRAINING AND EXPERIENCE, THEN THEY ARE PERMITTED TO GIVE
2 THEIR OPINION AS WELL AS ANYTHING THEY MIGHT KNOW OF
3 THEIR OWN PERSONAL OR DIRECT KNOWLEDGE. AND THIS WITNESS
4 HAS BEEN QUALIFIED IN THE AREA OF EMERGENCY MEDICINE AND
5 WILL BE PERMITTED TO GIVE HER OPINION.

6 DO REMEMBER, ALL WITNESSES' TESTIMONY, EITHER LAY OR
7 EXPERT WITNESSES, THAT THAT TESTIMONY IS FOR YOUR
8 EVALUATION.

9 ALL RIGHT, YOU MAY PROCEED.

10 MS. SIMMONS: THANK YOU, JUDGE.

11 BY MS. SIMMONS:

12 Q. IN THE EARLY MORNING HOURS OF AUGUST 17TH, 2009,
13 WERE YOU WORKING AT THE EMERGENCY ROOM AT OCONEE?

14 A. YES, I WAS.

15 Q. DID YOU HAVE OCCASION TO TREAT AND SEE
16 BRIGHT PROFESSIONALLY?

17 A. YES, I DID.

18 Q. HOW OLD WAS AT THE TIME YOU TREATED HER?

19 A. FIVE MONTHS.

20 Q. WHERE DID YOU SEE HER AND WHAT TIME?

21 A. IT WAS AROUND 11:30 P.M. IN THE EMERGENCY
22 DEPARTMENT AT OCONEE.

23 Q. THAT WOULD BE THE 16TH -- I APOLOGIZE -- THE 16TH
24 INTO THE 17TH?

25 A. YES.

1 Q. OKAY. WHAT WAS HER CONDITION THE FIRST TIME, WHEN
2 YOU FIRST SAW HER?

3 A. SHE WAS NOT RESPONDING TO ANYTHING WE DID TO HER.
4 HER PUPILS WERE DILATED, NOT RESPONDING. SHE WAS NOT
5 ABLE TO BREATHE ON HER OWN. SHE WAS VERY FLOPPY.

6 Q. UNRESPONSIVE?

7 A. UNRESPONSIVE.

8 Q. DID YOU DO AN EXTERNAL EXAM OF

9 A. YES.

10 Q. DR. BARDEN, JUST SO EVERYONE CAN UNDERSTAND WHAT
11 INJURIES YOU SAW, I'M GONNA USE THIS DIAGRAM AND THERE
12 SHOULD BE A POINTER UP ON THE STAND WITH YOU, A LITTLE
13 LASER POINTER.

14 USING THIS DIAGRAM, CAN YOU SHOW ME WHERE YOU SAW
15 EXTERNAL INJURIES ON AND DESCRIBE THOSE INJURIES?

16 A. RIGHT HERE WAS A LARGE BRUISE.

17 Q. WHEN YOU SAY LARGE BRUISE, HOW BIG ARE WE TALKING
18 ABOUT?

19 A. SIX-BY-FOUR CENTIMETERS SO TWO-AND-A-HALF-BY-THREE
20 INCHES.

21 Q. BASED ON YOUR EXPERTISE AS A DOCTOR, IS THIS KIND
22 OF BRUISE CONSISTENT WITH A C.P.R.-INFLECTED INJURY?

23 A. NO, IT IS NOT.

24 Q. DID SHE HAVE ANY OTHER EXTERNAL INJURIES THAT YOU
25 NOTICED AT THAT TIME?

1 A. NOT AT THAT TIME.

2 Q. DID YOU SUBSEQUENTLY CONDUCT TESTING TO FIND
3 INTERNAL INJURIES ON

4 A. YES, I DID.

5 Q. TELL ME WHAT YOU FOUND THERE.

6 A. WELL, SHE HAD CHEST X-RAYS THAT SHOWED A COLLAPSED
7 LUNG AND SOME -- ALSO A CT SCAN WAS DONE, CAT SCAN OF HER
8 HEAD WHICH SHOWED SWELLING IN HER BRAIN AND BLEEDING IN
9 HER BRAIN.

10 Q. THE BLEEDING IN THE BRAIN, HOW EXTENSIVE WAS THAT?

11 A. THERE SEEMED TO BE SOME BLEEDING THROUGHOUT THE
12 INTERNAL PARTS OF THE BRAIN AS WELL AS AN AREA ON THE
13 LEFT FRONTAL REGION OF HER, AND THE SIDE REGION OF HER
14 BRAIN.

15 Q. DID THIS APPEAR TO BE A RECENT INJURY?

16 A. YES, IT DID.

17 Q. WOULD THIS TYPE OF HEAD INJURY THAT YOU ARE
18 DESCRIBING HAVE PRODUCED IMMEDIATE SYMPTOMS IN

19 A. YES, IT WOULD.

20 Q. WOULD THOSE SYMPTOMS HAVE BEEN READILY APPARENT TO
21 A PARENT OR THE CAREGIVER AFTER THEY WERE INFLECTED?

22 A. YES.

23 Q. TO A REASONABLE DEGREE OF MEDICAL CERTAINTY, WHEN
24 DO YOU BELIEVE THIS HEAD INJURY OCCURRED?

25 A. PROBABLY WITHIN THE PREVIOUS SEVERAL HOURS PRIOR

REDACTED

1 TO ARRIVAL IN THE EMERGENCY DEPARTMENT.

2 Q. SO WOULD IT BE SAFE TO SAY ON THE DAY SHE
3 PRESENTED TO YOU?

4 A. YES.

5 Q. AND WITHIN THE PRECEDING HOURS?

6 A. WITHIN THE PRECEDING HOURS.

7 Q. WAS [REDACTED] RESPONSIVE TO ANY PAIN STIMULI WHEN
8 YOU TREATED HER?

9 A. NO, SHE WAS NOT.

10 Q. IN YOUR MEDICAL OPINION, HAD [REDACTED] BEEN TAKEN
11 FOR MEDICAL ATTENTION AT THE TIME THIS INJURY HAD BEEN
12 INFLICTED, COULD THE RESULT IN THIS CASE HAVE BEEN
13 DIFFERENT?

14 A. I REALLY CANNOT ASSESS WHETHER IT WOULD HAVE BEEN
15 ANY DIFFERENT OR NOT.

16 Q. WHAT WERE YOU ABLE TO DO TO TREAT THE CHILD ON
17 THIS PARTICULAR OCCASION?

18 A. THE CHILD HAD ALREADY BEEN INITIALLY TREATED IN
19 THE FIELD BY THE PARAMEDICS WITH, SINCE THE CHILD WAS NOT
20 BREATHING ON HER OWN, SHE WAS INTUBATED, A TUBE PUT IN TO
21 BREATHE FOR HER, C.P.R. HAD BEEN STARTED BY THE
22 PARAMEDICS.

23 WHEN SHE GOT TO THE EMERGENCY DEPARTMENT, INITIAL
24 ASSESSMENT AND TREATMENT WAS DONE INCLUDING PUTTING A
25 TUBE TO RE-EXPAND THAT LEFT LUNG. WE HAD TO CONSIDER

1 OTHER CAUSES FOR HER SYMPTOMS BECAUSE HER TEMPERATURE,
2 BODY TEMPERATURE WAS LOW. WE CONSIDERED PNEUMONIA,
3 SEPSIS, WHICH IS OVERWHELMING INFECTION, AS A POTENTIAL
4 CAUSE AND GAVE HER ANTIBIOTICS. YOU HAVE TO THINK AS AN
5 EMERGENCY PHYSICIAN OF ALL THE POTENTIAL CAUSES BECAUSE
6 YOU DON'T HAVE ALL THE INFORMATION INITIALLY, SO WE
7 TREATED ALL CAUSES. HER BLOOD PRESSURE DROPPED SO WE
8 GAVE HER FLUIDS TO BRING THAT UP. AND I WAS ON THE PHONE
9 WITH THE PEDIATRIC INTENSIVIST AT GREENVILLE MEMORIAL
10 COMMUNICATING BACK AND FORTH ABOUT THE APPROPRIATE
11 TREATMENT FOR THIS CHILD.

REDACTED
Q. COULD ANY OF [REDACTED] INJURIES THAT YOU NOTICED
13 BE CAUSED BY THE RESUSCITATION EFFORTS OR THE TREATMENT
14 EFFORTS AT OCONEE MEMORIAL?

15 A. NO.

REDACTED
Q. AFTER YOU RULED OUT ALL THESE THINGS WE TALKED
17 ABOUT, ALL THESE THINGS, PNEUMONIA, WHAT WAS YOUR FINAL
18 CONCLUSION AS TO HER INJURIES BEFORE YOU TRANSPORTED HER
19 TO GREENVILLE?

20 A. THIS WAS A RESULT OF TRAUMA FROM CHILD ABUSE.

21 Q. DURING THE COURSE OF YOUR TREATMENT OF [REDACTED] DID
22 YOU HAVE OCCASION TO INTERVIEW THE PARENTS OF [REDACTED]

23 A. YES, I DID.

24 Q. AND, DR. BARDEN --

25 MS. SIMMONS: MAY I APPROACH THE WITNESS, YOUR

1 HONOR?

2 THE COURT; CERTAINLY.

3 BY MS. SIMMONS:

4 Q. -- I'M GONNA SHOW YOU THE REPORT THAT YOU
5 GENERATED. DO YOU CONTEMPORANEOUSLY RECORD THE HISTORY
6 OF THE ILLNESS THAT WAS GIVEN BY THE PARENTS THROUGH
7 DICTATION IN YOUR NOTES?

8 A. YES.

9 Q. I'M GONNA ASK YOU TO READ THE FIRST PARAGRAPH ON
10 THE HISTORY OF PRESENT ILLNESS THAT YOU DICTATED ON THE
11 NIGHT YOU TREATED

12 A. (READING): HER FATHER AND PATIENT SLEEPING IN THE
13 BED WITH HER DAD. WHEN THEY WENT TO BED, PATIENT WAS
14 BREATHING FINE.

15 Q. GO AHEAD, DR. BARDEN, THAT WHOLE PARAGRAPH?

16 A. OKAY. (READING): WHEN EMS GOT THERE, HER HEART
17 RATE WAS IN THE 30'S, SHE WAS NOT BREATHING. C.P.R. WAS
18 STARTED AND SHE WAS INTUBATED ORALLY. HEART RATE CAME UP
19 TO THE 150'S, SATURATIONS WERE IN THE 70'S TO 80'S,
20 THAT'S HER OXYGEN LEVEL.

21 FATHER WOKE UP AND NOTICED CHILD WAS NOT
22 BREATHING. THEY HAD BEEN SLEEPING SINCE FOUR IN THE
23 AFTERNOON AND FATHER STATES ONSET WAS EARLY, MINUTES AGO.
24 WHEN HE WOKE UP AND NOTED SHE WAS NOT BLEEDING.

25 GLUCOSE CHECK WAS 340. NO SPONTANEOUS

1 RESPIRATIONS. EMS NOTED NO RESPONSE TO STIMULI, PUPILS
2 WERE DILATED. RAN A FEVER A FEW DAYS AGO. MAY HAVE
3 CHOKED A COUPLE OF DAYS AGO ON FORMULA. NO HISTORY OF
4 TRAUMA.

5 I ASKED IF FATHER MAY HAVE ROLLED OVER ON CHILD.
6 HE DOES NOT APPEAR TO BE AWARE OF IT.

7 Q. THANK YOU, DR. BARDEN. SO BASED ON YOUR NOTES,
8 YOU HAD A PRETTY EXTENSIVE CONVERSATION WITH THE FATHER
9 ABOUT POTENTIAL CAUSES OF INJURY?

10 A. YES, I DID.

11 Q. AND AGAIN, DR. BARDEN, TO A REASONABLE DEGREE OF
12 MEDICAL CERTAINTY, DO YOU BELIEVE THAT FATAL
13 INJURIES WERE INFLICTED ON SUNDAY, AUGUST 16TH, 2009?

14 A. YES, I DO.

15 MS. SIMMONS: PLEASE ANSWER ANY QUESTIONS
16 MR. SENERIUS MAY HAVE.

17 CROSS-EXAMINATION BY MR. SENERIUS:

18 Q. GOOD MORNING, DOCTOR.

19 A. GOOD MORNING.

20 Q. THE BRUISE THAT YOU TALKED ABOUT NOTICING ON HER
21 CHEST -- AND THOSE POINTER THINGS ARE KIND OF HARD TO, AT
22 LEAST FOR ME TO HOLD STEADY -- IT WAS ON THE LEFT SIDE?

23 A. IT WAS IN THE CENTER.

24 Q. IN THE CENTER, OKAY. IT WAS KIND OF WEAVING
25 AROUND THERE AND I WASN'T REAL SURE IF IT WAS SUPPOSED TO

1 BE RIGHT, LEFT, OR CENTER. BUT IT WAS MORE, MORE
2 MIDLINE?

3 A. MIDLINE AND EXTENDING AROUND. IT WAS A
4 CIRCULAR-TYPE LESION.

5 Q. OKAY. AND WAS IT RIGHT -- I MEAN RIGHT SMACK IN
6 THE CENTER?

7 A. AS I RECALL IT WAS IN THE CENTER.

8 Q. OKAY. I THOUGHT I NOTED IN ONE OF YOUR REPORTS
9 THAT LATER SHE BECAME RESPONSIVE; IS THAT CORRECT?

10 A. NO, NOT ACCORDING TO MY REPORT.

11 MR. SENERIUS: MAY I APPROACH THE WITNESS, YOUR
12 HONOR?

13 THE COURT: CERTAINLY.

14 BY MR. SENERIUS:

15 Q. IS THIS PART OF YOUR REPORT?

16 A. THIS IS, THESE ARE THE NURSE'S NOTES.

17 Q. NURSE'S NOTES. OKAY. THANK YOU. SO IT WAS NEVER
18 REPORTED TO YOU THAT SHE WAS IN ANY WAY RESPONSIVE?

19 A. I DON'T RECALL HER EVER BEING RESPONSIVE.

20 Q. YOU SAID SHE HAD A COLLAPSED LUNG?

21 A. YES.

22 Q. AND THAT WAS THE LEFT LUNG?

23 A. THE LEFT LUNG.

24 Q. YOU NOTICED NO EXTERNAL INJURIES ON THE LEFT SIDE
25 OF HER CHEST?

1 A. IN MY CURSORY EXAMINATION, WHICH HAS TO BE DONE
2 VERY QUICKLY IN THE EMERGENCY DEPARTMENT, I DIDN'T SEE
3 ANY OBVIOUS SIGNS OF ANY, ANY EXTERNAL TRAUMA ON THE LEFT
4 SIDE OF HER CHEST.

5 Q. AND THIS BRUISE, WAS IT WELL DEVELOPED?

6 A. IT WAS HARD TO SAY. IT WAS UNUSUAL LOOKING.

7 Q. OKAY. BUT WAS IT SOMETHING THAT IN YOUR OPINION
8 HAD OCCURRED WITHIN HOURS OF THE CHILD BEING SEEN BY YOU,
9 OR DAYS?

10 A. I DON'T KNOW. I MEAN, IT WASN'T DAYS.

11 Q. OKAY.

12 MR. SENERIUS: IF I MAY HAVE JUST A MOMENT, YOUR
13 HONOR.

14 BY MR. SENERIUS:

15 Q. DOCTOR, IS IT FAIR TO SAY THAT YOU HAVE NO DIRECT
16 PERSONAL KNOWLEDGE AS TO HOW ANY OF THESE INJURIES
17 OCCURRED?

18 A. I DO NOT.

19 MR. SENERIUS: ONE MOMENT, YOUR HONOR.

20 BY MR. SENERIUS:

21 Q. DOCTOR, YOU SAID THAT YOU BELIEVE THE INJURIES --
22 AND CORRECT ME IF I'M WRONG, BUT I THOUGHT YOU WERE
23 TALKING MORE SPECIFICALLY ABOUT THE HEAD INJURIES -- HAD
24 OCCURRED WITHIN SEVERAL HOURS OF THE PATIENT BEING
25 PRESENTED TO YOU; IS THAT CORRECT?

1 A. THAT'S CORRECT.

2 Q. ARE YOU FAMILIAR WITH RECENT STUDIES THAT HAVE
3 BEEN DONE THAT SHOW THAT THOSE STUDIES, THAT THESE TYPES
4 OF INJURIES COULD HAVE OCCURRED OVER A PERIOD OF TIME,
5 BRAIN SWELLING, THE SUBDURAL HEMATOMA?

6 A. GENERALLY YOU GET CHANGES THAT ARE DIFFERENT ON CT
7 SCANNING. YES, THAT CAN OCCUR, BUT GENERALLY THE CT SCAN
8 FINDINGS CHANGE.

9 Q. OKAY. INSTEAD OF SEVERAL HOURS ARE YOU FAMILIAR
10 WITH ANY RECENT STUDIES IN THE AREA OF SHAKEN BABY
11 SYNDROME, I BELIEVE IS WHAT IT'S CALLED, THAT HAVE SHOWN
12 THAT THESE SUBDURAL HEMATOMAS COULD HAVE APPEARED
13 GRADUALLY OVER A LONGER PERIOD OF TIME AS OPPOSED TO
14 ACUTELY?

15 A. YES.

16 Q. OKAY, THANK YOU. THAT'S ALL I HAVE. MAYBE WE
17 WERE SAYING THE SAME THING AND I JUST WASN'T
18 UNDERSTANDING.

19 MR. SENERIUS: THANK YOU, DOCTOR, I HAVE NO FURTHER
20 QUESTIONS.

21 REDIRECT EXAMINATION BY MS. SIMMONS:

22 Q. JUST ONE FOLLOW-UP, DR. BARDEN. BUT THIS ONE
23 PARTICULAR SUBDURAL HEMATOMA THAT YOU OBSERVED ON
24 IS IT YOUR OPINION THAT IT WAS A QUICK ONSET OR
25 DID IT OCCUR GRADUALLY?

1 A. QUICK ONSET.

2 MS. SIMMONS: THANK YOU.

3 THE COURT: YOU MAY BE EXCUSED -- OR YOU MAY STEP
4 DOWN.

5 MAY SHE BE EXCUSED?

6 MR. SENERIUS: YES, SIR, I'M SORRY.

7 MS. SIMMONS: OH, YES, JUDGE.

8 THE COURT: ALL RIGHT. THANK YOU.

9 (WHEREUPON, THE WITNESS WAS EXCUSED.)

10 THE COURT: ALL RIGHT. YOU MAY CALL YOUR NEXT
11 WITNESS.

12 MS. SIMMONS: THE STATE CALLS DR. EARL TROUP.

13 WHEREUPON,

14 EARL TROUP, M.D.

15 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION BY MS. SIMMONS:

17 THE COURT: IF YOU WOULD PLEASE, SIR, GIVE US YOUR
18 FULL NAME FOR THE RECORD, SPELLING YOUR LAST NAME.

19 THE WITNESS: EARL CHRISTOPHER TROUP, M.D.,

20 T-R-O-U-P.

21 THE COURT: THANK YOU, SIR.

22 BY MS. SIMMONS:

23 Q. GOOD MORNING, DR. TROUP.

24 A. GOOD MORNING.

25 Q. WHAT'S YOUR OCCUPATION?

1 A. I'M A PEDIATRIC NEUROSURGEON.

2 Q. WHERE ARE YOU CURRENTLY EMPLOYED?

3 A. THE CHILDREN'S HOSPITAL AT GREENVILLE MEMORIAL
4 HOSPITAL.

5 Q. AND SO YOU ARE LICENSED IN THE STATE OF SOUTH
6 CAROLINA?

7 A. YES, MA'AM.

8 Q. TELL ME A LITTLE BIT ABOUT YOUR BACKGROUND,
9 TRAINING, AND EDUCATION.

10 A. I GOT A B.S. IN MICROBIOLOGY FROM UNIVERSITY OF
11 GEORGIA; AN M.D. FROM MERCY UNIVERSITY SCHOOL OF
12 MEDICINE -- WHICH, BY THE WAY, IS THE LAST TIME I
13 DELIVERED A BABY, ALL RIGHT? (LAUGHTER.)

14 I DID AN INTERNSHIP IN GENERAL SURGERY AT CARRAWAY
15 METHODIST MEDICAL CENTER, A NEUROSURGERY RESIDENCY AT THE
16 UNIVERSITY OF MASSACHUSETTS SCHOOL OF MEDICINE, AND
17 DURING THAT TIME SPENT A YEAR AT BOSTON CHILDREN'S
18 HOSPITAL; AND THEN DID A YEAR OF FELLOWSHIP IN JUST
19 PEDIATRIC NEUROSURGERY THROUGH THE UNIVERSITY OF
20 TENNESSEE AT THE LE BONHEUR MEDICAL CENTER, ST. JUDE'S
21 CHILDREN'S RESEARCH HOSPITAL, AND AM BOARD CERTIFIED IN
22 PEDIATRIC NEUROSURGERY AND NEUROSURGERY IN VITRO.

23 Q. HOW MANY PEDIATRIC NEUROSURGEONS ARE IN THE
24 SOUTHEAST?

25 A. NOT A LOT. FOUR IN ATLANTA, ONE IN SAVANNAH, TWO

1 IN GREENVILLE, ALTHOUGH I'M AT THE TIME THE ONLY ONE
2 DOING PEDIATRICS IN GREENVILLE; ONE IN COLUMBIA, ONE IN
3 CHARLESTON, AND A COUPLE AT DUKE. THERE ARE NOT A LOT OF
4 US.

5 Q. YOU ARE AMONG A HANDFUL?

6 A. YES, MA'AM.

7 Q. ARE YOU A MEMBER OF ANY SPECIFIC MEDICAL GROUPS OR
8 ORGANIZATIONS?

9 A. THE AMERICAN MEDICAL ASSOCIATION, SOUTH CAROLINA
10 MEDICAL ASSOCIATION, AMERICAN ASSOCIATION OF NEUROLOGICAL
11 SURGEONS, THE CONGRESS OF NEUROLOGICAL SURGEONS.

12 Q. HAVE YOU LECTURED IN YOUR FIELD?

13 A. YES, MA'AM. SPECIFICALLY IN CHILD ABUSE I
14 PRESENTED A COUPLE PAPERS AS A RESIDENT AND AS A FELLOW
15 AND THERE WAS A CONFERENCE THAT WAS GIVEN YEARLY BY THE
16 OFFICE OF THE GUARDIAN IN THE STATE OF GEORGIA ON CHILD
17 ABUSE, AND I WENT THERE TO LECTURE EVERY YEAR FOR THAT
18 CONFERENCE.

19 Q. AND HOW MANY TIMES HAVE YOU TESTIFIED IN COURT
20 TODAY, BEFORE TODAY?

21 A. TODAY, JUST ONCE TODAY. THROUGH CRIMINAL
22 PROCEEDINGS, CHILD DEPRIVATION HEARINGS AND THOSE KIND
23 THINGS, MULTIPLE TIMES A YEAR OVER 20 YEARS.

24 Q. AND ARE YOU BEING COMPENSATED FOR YOUR TESTIMONY
25 TODAY?

1 A. OH, NO, MA'AM.

2 Q. DURING YOUR YEARS OF PRACTICE HOW MANY PATIENTS DO
3 YOU BELIEVE YOU HAVE TREATED FOR HEAD INJURIES?

4 A. OH. SEVERAL A WEEK FOR 20 YEARS. IT'S FAIRLY
5 COMMON.

6 MS. SIMMONS: JUDGE, AT THIS POINT IN TIME WE WOULD
7 ASK TO QUALIFY DOCTOR -- THAT DR. TROUP BE ADMITTED AS AN
8 EXPERT IN PEDIATRIC NEUROLOGY.

9 THE WITNESS: NEUROSURGERY.

10 MS. SIMMONS: NEUROSURGERY. I APOLOGIZE, DR. TROUP.

11 THE COURT: ANY VOIR DIRE?

12 MR. SENERIUS: NO VOIR DIRE, NO OBJECTION.

13 THE COURT: ALL RIGHT. WITHOUT OBJECTION THE
14 WITNESS ALSO WILL BE QUALIFIED AS AN EXPERT IN PEDIATRIC
15 NEUROSURGERY. AGAIN, AS WITH THE OTHER QUALIFIED EXPERTS
16 THAT ARE QUALIFIED HERE, THEY ARE PERMITTED TO GIVE THEIR
17 OPINIONS; BUT THEIR TESTIMONY, LIKE ANY OTHER WITNESS, IS
18 FOR YOUR EVALUATION.

19 THANK YOU, DOCTOR.

20 BY MS. SIMMONS:

21 Q. DR. TROUP, ON OR AROUND AUGUST 17, 2009, DID YOU
22 SEE ON A PROFESSIONAL BASIS?

23 A. YES, MA'AM.

24 Q. WHERE DID YOU SEE HER?

25 A. AT THE PEDIATRIC INTENSIVE CARE UNIT AT GREENVILLE

1 MEMORIAL HOSPITAL CHILDREN'S HOSPITAL.

2 Q. WHAT WAS [REDACTED] CONDITION WHEN YOU FIRST DEALT
3 WITH HER?

4 A. DO YOU HAVE MY CONSULT NOTE WITH YOU? I DIDN'T
5 BRING IT WITH ME. SO I CAN MAKE SURE I'M CORRECT.

6 MS. SIMMONS: MAY I APPROACH THE WITNESS, YOUR
7 HONOR?

8 THE COURT: CERTAINLY.

9 THE WITNESS: SO I'M NOT DOING IT ALL FROM ROTE
10 MEMORY.

11 THE COURT: IS THAT AN EXHIBIT?

12 MS. SIMMONS: YOUR HONOR, WE CAN HAVE IT ---

13 THE COURT: I MEAN, IF IT WAS, I JUST NEEDED IT FOR
14 THE RECORD.

15 MS. SIMMONS: NO, YOUR HONOR.

16 THE COURT: ALL RIGHT. VERY WELL.

17 (DOCTOR READS NOTES.)

18 THE WITNESS: (READING): SHE WAS UNSTABLE
19 ANATOMICALLY AND HAD REALLY NO RESPONSE TO ANY PART OF A
20 NEUROLOGIC EXAM WHEN I SAW HER.

21 BY MS. SIMMONS:

22 Q. DID YOU, DR. TROUP, USING THE DIAGRAM, DID YOU SEE
23 ANY EXTERNAL INJURIES ON [REDACTED] YOU CAN POINT OUT FOR US
24 DURING YOUR...

25 A. I NOTE THAT SHE HAD A BRUISE IN THE MID-PORTION, A

1 LARGE BRUISE IN THE MID-PORION OF CHEST. I DID NOT
2 SPECIFY SIZE OR EXACT LOCATION, BUT I DID NOTE THAT THERE
3 WAS A LARGE BRUISE IN MID-PORION OF HER CHEST.

4 Q. BUT YOUR PRIMARY CONCERN WAS HER HEAD, OBVIOUSLY?

5 A. YES, MA'AM. AND ACTUALLY FOR ME TO EVEN COMMENT
6 ON BRUISING ON OTHER PARTS OF THE BODY MEANT THAT IT WAS
7 LARGE ENOUGH THAT IT RAISED MY ATTENTION, BECAUSE
8 NORMALLY I WOULD NOT HAVE FOCUSED MY ATTENTION ON A
9 CHEST.

10 Q. THE BRUISE YOU SAW, WAS IT, BASED ON YOUR
11 PARTICULAR EXPERIENCE, WAS IT CONSISTENT WITH A C.P.R.
12 EFFORT OR TRAUMA?

13 A. IT DEPENDS ON WHEN THE C.P.R. WAS DONE. THE FACT
14 THAT IT WAS A FAIRLY WELL DEFINED BRUISE MEANT THAT IT
15 WAS NOT C.P.R. ON ITS WAY IN, ON THE BABY'S WAY IN. IT
16 WAS OLD ENOUGH THAT IT WAS A WELL DEFINED BRUISE, BUT NOT
17 OLD ENOUGH THAT IT ALREADY STARTED TO HAVE BREAKDOWN
18 PRODUCTS. AS ANYBODY THAT'S HAD A BRUISE KNOWS, IT
19 CHANGES OVER TIME. SO AGAIN, IT WAS IN THAT INTERVAL
20 PERIOD WHERE IT WAS WELL DEFINED BUT NOT STARTING TO
21 DECAY.

22 Q. SO YOU CAN'T DATE THIS BRUISE?

23 A. NO, MA'AM. WELL, I THINK I CAN. IT WAS NOT
24 WITHIN 20 OR 30 MINUTES OR AN HOUR BRUISE, BUT IT WASN'T
25 A DAY OR TWO OLD. I MEAN, IT WAS WITHIN A CONFINED TIME

1 PERIOD, NOT FRESH ROLLING IN THE DOOR AND NOT A DAY OR
2 TWO OLD. SO I THINK I CAN NARROW IT DOWN TO THAT TIME
3 FRAME.

4 Q. THANK YOU, DR. TROUP. WERE YOU ABLE TO TREAT
5 IN ANY WAY FOR HER HEAD INJURY?

6 A. SHE WAS REALLY BEYOND TREATMENT BY THE TIME I GOT
7 THERE. WE ATTEMPTED THINGS THAT WOULD REDUCE SWELLING IN
8 HER BRAIN, THOSE TYPES OF THINGS, BUT REALLY THERE WAS
9 NOT A WHOLE LOT THAT COULD BE DONE.

10 Q. SO YOU ORDERED FURTHER TESTING ON HER?

11 A. WE REVIEWED HER CAT-SCAN AND WE DID TESTING AT THE
12 BEDSIDE. I'M NOT SURE WE -- I HAVE TO LOOK BACK AT THE
13 REST OF THE RECORD, BUT I DON'T THINK WE -- I
14 SPECIFICALLY DID NOT DO ANYTHING ELSE.

15 Q. THERE WAS NOT MUCH YOU COULD DO FOR HER?

16 A. YES, MA'AM.

17 Q. THE TYPE OF BRAIN INJURY THAT WE'RE TALKING ABOUT
18 CAN YOU EXPLAIN IT FOR THE JURY AND ME IN LAYMEN'S TERMS?

19 A. YES, MA'AM. YOU WOULDN'T HAPPEN TO HAVE HER
20 CAT-SCAN AVAILABLE, WOULD YOU?

21 Q. NO.

22 A. THAT WOULD BE VERY GRAPHIC FOR EVERYONE TO SEE.
23 SHE HAD TWO THINGS THAT WERE VERY STRIKING. ONE --
24 PARDON THE PUN "STRIKING" -- ON THE OUTSIDE OF HER BRAIN
25 THERE WAS A RIND OF BLOOD. THE BRAIN HAS THREE LAYERS OF

1 COVERING AROUND IT. THE OUTER COVER IS THE DURA, THE
2 THICK PROTECTIVE COVER OF THE BRAIN, THE ONE THAT'S
3 ADJACENT TO THE BRAIN CALLED THE PIA, THEN THE ARACHNOID
4 OVERLYING THAT KIND OF HOLDS THE SPINAL FLUID IN.

5 SHE APPEARED TO HAVE BLOOD IN TWO LAYERS AROUND
6 HER BRAIN, SOME IN THE SPINAL FLUID CALLED THE ARACHNOID,
7 BUT MOST OF HER BLOOD WAS IN THAT SPACE JUST UP UNDER THE
8 LINING AROUND HER BRAIN CALLED THE SUBDURAL SPACE AND
9 THAT WAS THE SUBDURAL HEMATOMA YOU MAY HAVE HEARD
10 DISCUSSED.

11 THAT WAS NOT HER MAIN PROBLEM. THAT WAS A SIGN OF
12 TRAUMA. THERE WAS BLOOD AROUND HER BRAIN. BUT HER
13 BIGGEST PROBLEM WAS THAT HER BRAIN WAS PROFOUNDLY SWOLLEN
14 BY THE TIME SHE GOT TO US. IF YOU'VE EVER HEARD OF
15 SOMETHING CALLED GRAY MATTER AND WHITE MATTER, THE GRAY
16 MATTER IS THE WORKING PART OF THE BRAIN. THE WHITE
17 MATTER -- THE GRAY MATTER IS THE WORKING PART OF THE
18 BRAIN. THE WHITE MATTER IS BASICALLY THE HIGHWAYS THAT
19 CARRY THE SIGNALS FROM ONE PLACE TO ANOTHER.

20 ON A CAT-SCAN YOU SHOULD VERY DISTINCTLY SEE A
21 DIFFERENCE BETWEEN THE GRAY MATTER AND WHITE MATTER. THE
22 WHOLE UPPER PART OF HER BRAIN AND HER BRAIN STEM WAS JUST
23 JET BLACK. THERE WAS NO DIFFERENCE BETWEEN GRAY MATTER
24 OR WHITE MATTER. IT WAS PROFOUND SWELLING AND PROBABLY
25 PROGRESSING TO THE POINT OF ALREADY STARTING TO STROKE OR

1 INFARCT BY THAT POINT. IT WAS SO JET BLACK, WHERE YOU
2 SHOULD SEE VERY GRAYISH GRAY MATTER, AND THEN THE WHITE
3 MATTER WAS ACTUALLY THE DARKER TISSUE ON CAT-SCAN, AND
4 THERE WAS NO SIGN OF ANY OF THAT. IT WAS JUST -- THEN
5 THE NORMAL SPINAL FLUID SPACES INSIDE OF THE BRAIN WERE
6 COMPLETELY OBLITERATED BY THAT MUCH PRESSURE THROUGHOUT
7 HER BRAIN.

8 Q. IS IT SAFE TO SAY THAT THIS IS A MASSIVE HEAD
9 INJURY? L

10 A. IT WAS A PROFOUND HEAD INJURY, YES, MA'AM.

11 Q. IS IT UNUSUAL THAT A HEAD INJURY THIS PROFOUND
12 WOULD NOT HAVE AN EXTERNAL MANIFESTATION ON A CHILD?

13 A. NOT NECESSARILY, BECAUSE I THINK THERE WERE TWO
14 COMPONENTS TO THIS INJURY. THE INJURY WAS, ONE, THE
15 BRAIN CAN SLOSH BACK AND FORTH INSIDE THE HEAD WITHOUT
16 THERE BEING A SKULL FRACTURE OR BRUISING ON THE HEAD OR
17 MASSIVE HEAD SWELLING, SO IT'S NOT UNUSUAL THAT THE
18 SWELLING WAS CONFINED TO INSIDE THE INTRACRANIAL
19 CONTENTS.

20 ALSO, I THINK WITH THIS MUCH SWELLING THIS
21 QUICKLY, THERE WAS A COMBINATION OF THINGS. THERE WAS AN
22 IMPACT INJURY, BUT THERE WAS ALSO WHAT'S CALLED AN ANOXIC
23 COMPONENT, WHICH MEANS THAT THE BRAIN DID NOT GET OXYGEN
24 FOR AN EXTENDED PERIOD OF TIME, LEADING UP TO HER SEEKING
25 INTERVENTION AND HAVING THAT SCAN.

1 Q. AND WITH CHILDREN IS IT COMMON TO HAVE AN IMPACT
2 INJURY BUT NO SKULL FRACTURE?

3 A. YES, MA'AM. BECAUSE A CHILD'S BONES ARE REALLY,
4 REALLY PLIABLE, SO THEY LIKE TO BEND MORE THAN THEY LIKE
5 TO BREAK. SO YOU CAN HAVE A PRETTY PROFOUND IMPACT TO
6 THE HEAD EVEN IF THE HEAD IMPACTS A HARD SURFACE OR A
7 HARD SURFACE IMPACTS THE HEAD, YOU CAN DO THAT WITHOUT
8 HAVING A FRACTURE. BUT ALSO, YOU CAN REALLY, REALLY
9 SLOSH THE BRAIN AROUND INSIDE THE SKULL WITHOUT THE SKULL
10 ITSELF SEEING ANY IMPACT. SO FOR BOTH REASONS YOU CAN
11 HAVE A PROFOUND BRAIN INJURY AND NOT HAVE A SKULL
12 FRACTURE OR EVEN EXTERNAL SIGNS OF A HEAD INJURY.

13 Q. WITH THIS TYPE OF TRAUMATIC BRAIN INJURY, ONCE IT
14 HAD BEEN INFLICTED, WOULD SHE HAVE BEEN IMMEDIATELY
15 SYMPTOMATIC?

16 A. UM, YES AND NO. YES, THIS KIND OF IMPACT WOULD
17 HAVE CAUSED A SUDDEN CHANGE IN THIS CHILD'S NEUROLOGIC
18 STATUS. BUT WHAT'S BEEN DOCUMENTED AT SOME TIME THERE
19 WILL BE A LUCID PERIOD. SO YOU GET THIS IMPACT TO BRAIN.
20 THE BRAIN IS STARTLED, AND THE CHILD MAY LOOK OKAY FOR A
21 LITTLE WHILE, BUT AS THE SWELLING AND THE OTHER ASPECTS
22 TAKE EFFECT, THE CHILD WILL PRETTY RAPIDLY DECAY AFTER
23 THAT. SO ONCE THEY START GOING DOWNHILL, THEY CAN GO
24 DOWNHILL REALLY QUICKLY DEPENDING ON HOW MUCH CELLULAR
25 DAMAGE THERE WAS INSIDE THE BRAIN.

1 Q. AND THE HISTORY THAT YOU WERE GIVEN ON THIS CHILD
2 IS THAT THERE WAS A RAPID DECLINE IN HER ---

3 MR. SENERIUS: OBJECTION, LEADING.

4 THE WITNESS: ACTUALLY, I DON'T KNOW THAT. NO, I
5 DON'T KNOW THAT THERE WAS TRULY A RAPID DECLINE. I KNOW
6 THE DECLINE ---

7 THE COURT: JUST FOR THE RECORD, THE OBJECTION IS
8 SUSTAINED.

9 THE WITNESS: OKAY. I'M SORRY.

10 THE COURT: NO, GO AHEAD.

11 BY MS. SIMMONS:

12 Q. YOU WERE GIVEN THE HISTORY WHEN YOU TREATED

13

14 A. AND ACTUALLY MY HISTORY AT THE TIME THAT I TOOK
15 CARE OF THE CHILD WAS VERY SCANT; THAT THERE WAS NO SIGN
16 OF ANY TRAUMA AND THAT THE CHILD WAS JUST FOUND
17 UNRESPONSIVE.

18 Q. THANK YOU, DR. TROUP.

19 BUT BACK TO THE INITIAL QUESTION. UPON INFLECTION
20 OF THE HEAD INJURY THE CHILD WOULD HAVE BEEN SYMPTOMATIC

21 A. YES, MA'AM.

22 Q. HOW LONG CAN YOU SURVIVE A HEAD INJURY LIKE THIS
23 WITHOUT ANY MEDICAL INTERVENTION?

24 A. IT, NOT KNOWING WHAT THE INITIAL CONDITION OF THE
25 CHILD WAS, SOME CHILDREN WOULD BE BEYOND HELP AT THE

1 MOMENT OF IMPACT. SO IF THIS HAD HAPPENED IN OUR E.R.,
2 WE MIGHT NOT HAVE BEEN ABLE TO SAVE THIS CHILD. IT'S
3 HARD TO KNOW. IF THIS WAS ALL, THE DEFINING INJURY WAS
4 THE ANOXIC COMPONENT OF THIS, IF YOU COULD HAVE DELIVERED
5 OXYGEN TO THAT CHILD'S BRAIN DURING THAT TIME PERIOD,
6 THEN THIS CHILD MIGHT HAVE BEEN ABLE TO SURVIVE THIS.

7 AND SINCE I DIDN'T GET A HOLD OF THE CHILD OR THE
8 IMAGES UNTIL AFTER WE HAD REACHED THAT POINT OF NO
9 RETURN, I DON'T KNOW WHAT INTERVENTION COULD HAVE BEEN
10 CARRIED OUT.

11 Q. THE CONSTELLATION OF [REDACTED] INJURIES, ARE THEY
12 SINGLE-IMPACT OR GLOBAL-IMPACT INJURIES TO THE BRAIN? ✓

13 A. IT IS HARD TO KNOW, BUT THERE IS A GOOD CHANCE
14 THAT THIS COULD HAVE BEEN MORE THAN ONE IMPACT. BECAUSE
15 DEPENDING ON THE STUDY, BETWEEN 60 AND 85 PERCENT OF
16 FATAL HEAD INJURIES ARE USUALLY NOT A SINGLE IMPACT.
17 THEY ARE FREQUENTLY MORE THAN ONE IMPACT. AT DIFFERENT
18 TIME PERIODS. TWO IMPACTS AT THE SAME TIME, AN IMPACT
19 AND THEN LATER A SECOND.

20 Q. WERE [REDACTED] INJURIES THE RESULT OF A SINGLE
21 INCIDENT OR MULTIPLE INCIDENTS BASED ON THE BLOOD STAGES
22 IN THE BRAIN?

23 A. LET ME LOOK BACK IN MY NOTE. WITHOUT HAVING THE
24 CT BACK IN FRONT OF ME, IT'S HARD TO SAY. IF I REMEMBER
25 CORRECTLY, I THINK THERE MAY HAVE BEEN BLOOD PRODUCTS OF

1 DIFFERENT AGES, BUT I DIDN'T HAVE THAT IN MY NOTE AND I
2 DON'T HAVE THAT ON THE SCANS, SO I CAN'T SAY THAT WITH
3 GREAT CONFIDENCE.

4 Q. THE NUMBER OF CHILD ABUSE CASES YOU HAVE WORKED IN
5 YOUR CAREER, IS IT UNUSUAL TO HAVE A SINGLE EPISODE OF
6 TRAUMATIC ABUSE INSTEAD OF A PATTERN OF SYSTEMATIC ABUSE
7 BY A CAREGIVER?

8 A. YOU CAN HAVE BOTH. YOU CAN HAVE SOMEBODY SNAP AND
9 LOSE THEIR CONTROL AT ONE POINT AND FATALLY INJURE THE
10 CHILD THAT ONE TIME. BUT LIKE I HAD SAID, IT HAS BEEN MY
11 EXPERIENCE AND WHAT'S BEEN REPORTED IN THE LITERATURE IS
12 THERE'S HIGH FREQUENCY WITH FATAL HEAD INJURIES OF IT
13 BEING A SERIES OF INJURIES. AND WHAT HAPPENS IS THEY
14 LEARN THEY CAN SHAKE THE CHILD OR THROW THE CHILD ON THE
15 BED WHILE THEY'RE CRYING AND MAKE THEM QUIT CRYING
16 INSTANTLY. THE BABY DOES OKAY, AND THEY THINK, HMM, THAT
17 WORKED PRETTY WELL. AND THAT ESCALATES OVER TIME UNTIL
18 FINALLY THEY REACH THAT THRESHOLD WHERE IT'S NOT
19 SURVIVABLE ANYMORE.

20 Q. AND THAT WOULD BE THE KIND OF HEAD INJURY WE ARE
21 TALKING ABOUT HERE?

22 A. IT COULD BE VERY EASILY, YES.

23 Q. CAN YOU TELL US MORE ABOUT THE CONTUSIONS TO THE
24 BRAIN, THE OCCIPITAL CONTUSION AND THE FRONTAL SCALP
25 CONTUSION?

1 A. I THINK THAT WAS BASED ON, IF I REMEMBER CORRECTLY
2 FROM LOOKING BACK AT THE CHART, THAT WAS AN AUTOPSY
3 FINDING THAT THEY FOUND A SCALP HEMATOMA, AN OCCIPITAL
4 BRAIN HEMATOMA, AND THAT THAT CAN, BECAUSE OF THE BRAIN
5 SLOSHING BACK AND FORTH, AN IMPACT OF THE FOREHEAD CAN
6 MAKE THE BRAIN IMPACT THE BACK OF THE SKULL.

7 THERE WAS NOT A, IN MY EXAM, A VISIBLE SCALP
8 HEMATOMA, AND ON THE CAT-SCAN THERE WAS NOT A FORMED
OCCIPITAL HEMATOMA, BUT I THINK WHEN THEY DID DIRECT
EXAMINATION OF THE TISSUES THEY FOUND THOSE THINGS.

Q. CAN YOU DISCUSS WHAT YOU HAVE CALLED THE
CONSTELLATION OF [REDACTED] INJURIES AND WHAT THEY TELL US
13 AS A WHOLE?

14 A. WELL, IF WE HAVE A BRUISE ON THE CHEST THAT I
15 DON'T THINK CAN BE ACCOUNTED FOR BY C.P.R., THAT
16 CONSTITUTES A FORCE OF SOME TYPE ON HER CHEST. A
17 COLLAPSED LUNG THAT WAS TREATED IN THE OUTSIDE E.R. CAN
18 GO ALONG WITH THAT CHEST INJURY OR NOT. IT COULD BE FROM
19 ANOTHER MECHANISM, FROM ANOTHER TYPE OF POINT OR TYPE OF
20 TRAUMA. THE BLOOD AROUND THE BRAIN AND THE DARKNESS OF
21 THE BRAIN IS A PATTERN OF INJURIES THAT I THINK IS NOT
22 CONSISTENT WITH ANY SIMPLE SINGLE MECHANISM.

23 Q. AND DID YOU NOTE DURING YOUR TREATMENT OF HER ANY,
24 OR WERE YOU PRIVY TO ANY INFORMATION REGARDING FRACTURES?

25 A. ON HER SKELETAL SURVEY THERE WAS A FIRST RIB

1 FRACTURE. AND ANOTHER PART OF THE CONSTELLATION OF
2 INJURIES WERE THE RETINAL HEMORRHAGES. THE VERY BACK
3 PART OF THE EYEBALL, THE RETINA HAS A LOT OF DIFFERENT
4 LAYERS, IT HAS VESSELS THROUGHOUT THOSE. AND IF YOU HAVE
5 EVER WENT TO THE SKATING RINK AND DID THE LITTLE CHAIN
6 WHERE THE PERSON ON THE FRONT END TURNS A LITTLE BIT AND
7 THE PERSON ON THE END OF THE CHAIN GETS WHIPPED AROUND,
8 THEY THINK THAT THE VESSEL, THE MECHANISM THAT'S BEEN
9 MOST POPULARIZED IS THAT THOSE VESSELS IN THE RETINA ARE
0 AT THE END OF THE CHAIN IN A SHAKING INJURY, AND IT TEARS
1 OFF. BUT THE MAIN THING ABOUT IT IS THEY TEAR OFF IN
2 MULTIPLE LAYERS. SO YOU CAN GET RETINAL HEMORRHAGES FOR
3 A LOT OF DIFFERENT REASONS: C.P.R. BEING ONE OF THEM,
4 SMOTHERING IS ANOTHER ONE, BIRTH TRAUMA IN A VERY YOUNG
5 CHILD, SEVERAL DAYS OLD, YOU CAN GET RETINAL HEMORRHAGES
6 BUT THOSE ARE USUALLY ONLY IN ISOLATED LAYERS. RETINAL
7 HEMORRHAGES IN CHILD ABUSE ARE MULTIPLE-LAYER RETINAL
8 HEMORRHAGES MADE FROM MULTIPLE-LAYER RETINAL HEMORRHAGES
9 WHICH WOULD BE ANOTHER PART OF THE CONSTELLATION OF
0 INJURIES.

1 SO A FIRST RIB FRACTURE IS SOMETHING THAT TAKES A
2 TREMENDOUS AMOUNT OF FORCE ON A CHILD. RETINAL
3 HEMORRHAGES DESIGNATE A PARTICULAR TYPE OF ACCELERATION-
4 DE-ACCELERATION INJURY TO THE CHILD'S EYES THROUGH MOTION
5 OF THE HEAD. THE SUBDURALS AND THE DARKNESS OF THE BRAIN

1 ALL GO TOGETHER.

2 IF YOU TAKE ANY ONE OF THESE INJURIES, THEY'RE
3 WHAT'S CALLED HIGH-SPECIFICITY INJURIES. IT'S HARD TO
4 ACCIDENTALLY CREATE ANY OF THESE INJURIES. BUT WHEN YOU
5 PUT THEM ALL TOGETHER, THERE IS NOTHING OTHER THAN AN
6 INTENTIONAL CHILD ABUSE THAT CAN CAUSE THIS PATTERN OF
7 INJURIES TOGETHER.

8 Q. SO THESE INJURIES COULD NOT HAVE BEEN CAUSED BY A
9 FALL OR ACCIDENT IN THE SHOWER?

10 A. IT SHOULD NOT HAVE BEEN.

11 Q. TO A REASONABLE DEGREE OF MEDICAL CERTAINTY DO YOU
12 BELIEVE THAT THE CONSTELLATION OF INJURIES WERE
13 INFLICTED UPON HER DAY OF HOSPITAL ADMISSION?

14 A. MOST LIKELY YES BECAUSE OF SEVERAL THINGS. ONE IS
15 THE BLOOD AROUND THE BRAIN, IT HAS A DIFFERENT APPEARANCE
16 BASED ON THE TIME FROM THE INJURY. SO IT WOULD BE VERY
17 UNLIKELY THAT BLOOD OF THIS DENSITY WOULD BE OVER A
18 24-HOUR PERIOD. YOU WOULD START TO SEE SOME CHANGES IN
19 THE WAY THAT BLOOD APPEARS.

20 ALSO, EVEN THOUGH SWELLING CAN TAKE TIME TO
21 DEVELOP, FOR THIS BRAIN TO BE THIS BLACK BY THE TIME SHE
22 PRESENTS TO US, THERE IS NO WAY SHE COULD HAVE APPEARED
23 NORMAL AT ALL WITHIN THE HOURS LEADING UP TO THIS
24 PRESENTATION IN THE E.R. IF THIS HAD BEEN SLOW
25 PROGRESSION OF THIS EDEMA PATTERN. SO FOR IT TO HAVE

1 BEEN THAT DARK BY THE TIME SHE PRESENTED, SHE EITHER WAS
2 NOT NORMAL A FEW HOURS EARLIER OR THIS WAS A MASSIVE
3 ANOXIC INJURY OVER A SHORT PERIOD OF TIME.

4 MS. SIMMONS: DR. TROUP, PLEASE ANSWER ANY QUESTIONS
5 MR. SENERIUS MAY HAVE.

6 CROSS-EXAMINATION BY MR. SENERIUS:

7 Q. GOOD MORNING, DOCTOR.

8 A. GOOD MORNING, SIR.

9 Q. I JUST HAVE A FEW QUESTIONS FOR YOU.

10 A. YES, SIR.

11 Q. I WANT TO MAKE SURE I TOOK THIS DOWN RIGHT. YOU
12 ARE SAYING THAT THERE COULD HAVE BEEN MORE THAN ONE
13 IMPACT?

14 A. YES, SIR.

15 Q. EITHER ONE SHAKING -- WHEN YOU'RE TALKING ABOUT
16 IMPACT, ARE YOU TALKING ABOUT SHAKING OR ARE YOU TALKING
17 ABOUT HITTING SOMETHING?

18 A. ACTUALLY, THE REASON WHY MOST CLINICIANS HATE THE
19 TERM "SHAKEN BABY SYNDROME" IS VERY SELDOM IS IT SIMPLY
20 SHAKING MECHANISM. MOST OF THE TIME WHEN YOU HAVE
21 SOMEONE WHO HAS EXPLAINED HOW THEY DID THE INJURIES THAT
22 FIT THE PATTERN OF SHAKEN BABY, IT IS MORE OF A SHAKE AND
23 SLAM. SO IT'S FREQUENTLY A SLAM ON A BED, A PILLOW, A
24 CUSHION. SO IT'S NOT JUST THE SHAKING, IT'S ACTUALLY A
25 SUDDEN ACCELERATION, A SUDDEN DE-ACCELERATION. A SHAKE

1 SLAM IS FREQUENTLY WHAT IS DESCRIBED.

2 Q. IT'S KIND OF LIKE WHAT WE IN THE PERSONAL INJURY
3 FIELD CALL A WHIPLASH INJURY: ACCELERATION-DECELERATION,
4 HEAD GOES FORWARD AND HEAD COMES BACK?

5 A. TO A FAIRLY EXTREME DEGREE.

6 Q. RIGHT.

7 A. BUT THE SPECIFIC TERM, THEN YES, I GUESS IT COULD
8 BE THE SAME MECHANISM. JUST, THE OTHER PART IS YOUR
9 WHIPLASH INJURY IN YOUR ADULTS, THEY HAVE FULLY FORMED
10 MUSCULATURE AND STABILITY OF THEIR HEAD ON C-SPINE, SO NO
11 MATTER HOW HARD I TRIED TO SHAKE YOU, YOUR MUSCULATURE
12 WOULD NOT ALLOW ME TO BOBBLE YOUR HEAD.

13 Q. OKAY. I'LL TAKE YOUR WORD FOR IT.

14 A. WHEREAS AN INFANT, IT TAKES VERY LITTLE FORCE, DUE
15 TO THE IMMATURE MUSCULATURE AND SOFT TISSUES, TO REALLY
16 WHIP THEIR HEAD WITH A LOT MORE FORCE.

17 Q. WELL, I WAS JUST TRYING TO GET THE IMAGE, BUT
18 THANK YOU FOR THE --

19 A. I WAS MAKING SURE WE'RE NOT PICTURING A GUY
20 REAR-ENDED IN A -- IT'S A DIFFERENT FORCE.

21 Q. YES. GOING FORWARD, COMING BACK?

22 A. YES.

23 Q. OKAY. AND YOU SAY THAT THIS WOULD -- THIS COULD
24 RESULT -- NOT DID RESULT OR WOULD RESULT -- BUT COULD
25 RESULT FROM SHAKING A BABY AND THROWING IT ON THE BED?

1 A. COULD. NOT IN AN INCIDENTAL FASHION. I MEAN, IT
2 WOULD TAKE A ---

3 Q. NO, NO, NO. I ---

4 A. --- NOT A REASONABLE PERSON DROPPING THEIR CHILD
5 ON A BED.

6 Q. NOT DROPPING THEM. SHAKING THEM AND THROWING
7 THEM. OR SHAKING THEM AND LETTING GO?

8 A. YES. IT'S A TREMENDOUS AMOUNT OF FORCE.

9 Q. OKAY. AND THE POINT OF IMPACT WOULD HAVE BEEN THE
10 FRONT OF THE HEAD, THE INITIAL POINT OF IMPACT?

11 A. BASED ON THE AUTOPSY FINDINGS I THINK THERE WAS A
12 BRUISE THEY FOUND UP UNDER THE SCALP. BUT AGAIN, NOT
13 SAYING THAT THAT WAS THE ONLY PLACE THIS COULD HAVE BEEN
14 IMPACTED. AND MOST WAS ACTUALLY INSIDE THE CRANIAL
15 VAULT, AS MUCH AS ANYTHING, THE BRAIN SLOSHING INSIDE THE
16 HEAD AS IT WAS A PARTICULAR IMPACT ON THE SKULL TO CAUSE
17 THE ENTIRE, TO CAUSE THE DAMAGE.

18 Q. AS I RECALL FROM DR. BARDEN'S TESTIMONY AND SOME
19 OF THE OTHER MEDICAL REPORTS, I BELIEVE IT SAID THAT
20 THERE WAS A SUBDURAL HEMATOMA STARTING ABOUT ON THE
21 FRONT, WHICH WOULD BE THE FRONTAL PART OF THE BRAIN GOING
22 Laterally along the left side. DO YOU RECALL THAT OR
23 NOT?

24 A. ACTUALLY, THAT'S WHY -- IF WE HAD THE CAT-SCAN, I
25 COULD SHOW YOU. IT WAS LIKE THE ENTIRE SIDE OF THAT

REDACTED

1 BRAIN, INTERHEMISPHERIC. BETWEEN THE TWO HALVES UP UNDER
2 THE BRAIN IS SOMETHING CALLED THE TENTORIUM. THAT WHOLE
3 SIDE OF THE BRAIN HAD A CAKING OF BLOOD ALL THE WAY
4 AROUND IT. SO TO SAY WHERE IMPACT WAS, THAT LITERALLY
5 WAS ALL OVER THAT SIDE OF THE BRAIN. SO TO PINPOINT, NO
6 ONE COULD, BASED ON THE PATTERN OF THE SUBDURAL, COULD
7 CLEARLY SAY WHERE THE IMPACT OF THIS BRAIN WAS. WHICH IS
8 ANOTHER REASON WHY I THINK IT MIGHT HAVE BEEN A SLOSHING
9 INJURY.

10 Q. SO YOU CAN'T SAY WHETHER -- AND MAYBE WE'RE
11 TALKING -- WHAT I'M TALKING ABOUT IMPACT, OR WHAT I'M
12 ASKING YOU ABOUT IMPACT RIGHT NOW IS THE EXTERNAL IMPACT.

13 A. RIGHT.

14 Q. OKAY. NOT -- I UNDERSTAND THE BRAIN CAN --

15 A. RIGHT.

16 Q. THE BRAIN IS LIKE A BOWL OF JELLO, YOU SHAKE IT,
17 IT WIGGLES ALL OVER.

18 A. RIGHT.

19 Q. THAT'S WHAT CAUSES US TO GET DIZZY SOMETIMES.
20 THAT AND --

21 A. NOT REALLY, BUT OKAY.

22 Q. OKAY. NOW THE BRUISE THAT YOU SAID WAS ON THE
23 MIDLINE OF THE CHEST, YOU SAID THAT WASN'T AN HOUR OLD?

24 A. OR WITHIN -- YES, IT WAS NOT ON THE WAY INTO THE
25 HOSPITAL.

1 Q. OKAY. SO IT COULD HAVE BEEN CAUSED BY, I WROTE
2 DOWN HERE WAS CONSISTENT WITH A C.P.R. INJURY, BUT NOT ON
3 THE WAY TO THE HOSPITAL?

4 A. I SAID I DON'T THINK IT WAS CONSISTENT WITH A
5 C.P.R. INJURY BASED ON ITS SHAPE, BUT SPECIFICALLY
6 BECAUSE OF THE DEGRADATION OF THE COLORING OF THE BRUISE
7 AND THE DEGRADATION OF THE BRUISE, I DIDN'T THINK IT WAS
8 COMPATIBLE WITH A C.P.R. INJURY ON THE WAY IN.

9 Q. ON THE WAY IN TO THE HOSPITAL. SO IT COULD HAVE
10 BEEN CAUSED BY C.P.R. BEFORE THE CHILD WAS TRANSPORTED?

11 A. AGAIN, TIME FRAMES, WHAT TIME FRAME ARE YOU
12 TALKING ABOUT? IF WE'RE SPLITTING HAIRS, THEN NO. IF
13 WE'RE TALKING, WAS THE CHILD RESUSCITATED IN THE
14 AFTERNOON AND THEN BROUGHT IN LATER ON WHEN THE CHILD
15 DIDN'T GET BETTER, THEN THAT MAY BE ENOUGH TIME FRAME.

16 BUT IF YOU'RE SAYING THIS CHILD WAS RESUSCITATED
17 WHILE THEY WERE WAITING ON EMS TO GET THERE, EMS GOT
18 THERE, GOT THE KID TO THE HOSPITAL, WHO THEN TRANSFERRED
19 HIM [SIC] TO US, THEN NO, THAT'S NOT A CONSISTENT
20 PATTERN.

21 Q. OKAY. SO YOU'RE SAYING IT WOULDN'T BE CONSISTENT
22 FOR A COUPLE OF HOURS THEN. BECAUSE YOU DIDN'T SEE THE
23 CHILD.

24 A. RIGHT.

25 Q. THE CHILD DIDN'T GET TO THE E.R. UNTIL I THINK IT

1 WAS 11:30 OR SOMETHING LIKE THAT.

2 A. I DON'T REMEMBER MY EXACT TIME FRAMES. I'M SAYING
3 THAT IT WAS A WELL-DEFINED-ENOUGH BRUISE THAT IT DID NOT
4 HAPPEN IN THE NEAR RECENT --

5 Q. ALL RIGHT. WE JUST CAN'T SEEM TO AGREE ON WHAT
6 NEAR TIME FRAME WAS?

7 A. RIGHT.

8 Q. OKAY.

9 A. AND THAT'S YOUR JOB NOT TO AGREE WITH TIME FRAME,
10 SO...

11 Q. OH, I DON'T ALWAYS DISAGREE.

12 THE COURT: LET'S MOVE ON.

13 MR. SENERIUS: I'M SORRY.

14 THE COURT: ALL RIGHT.

15 BY MR. SENERIUS:

16 Q. AND I BELIEVE YOU SAID THAT BASED ON YOUR
17 OBSERVATION OF THE BRAIN INJURIES THIS COULD HAVE BEEN
18 MORE THAN ONE SHAKING INCIDENT?

19 A. COULD BE, YES, SIR.

20 MR. SENERIUS: ONE MOMENT, PLEASE.

21 (DEFENSE COUNSEL CONFER.)

22 MR. SENERIUS: THANK YOU. I HAVE NO FURTHER
23 QUESTIONS.

24 THE COURT: RE-EXAM?

25 MS. SIMMONS: WE HAVE NOTHING FURTHER FOR DR. TROUP

1 WE ASK HE BE RELEASED.

2 THE COURT: ANY OBJECTION?

3 MR. SENERIUS: OH, ABSOLUTELY NOT.

4 THE COURT: ALL RIGHT, DOCTOR, WITHOUT OBJECTION YOU
5 MAY BE EXCUSED. THANK YOU, DOCTOR.

6 (WHEREUPON, THE WITNESS WAS EXCUSED.)

7 THE COURT: I'LL TELL YOU WHAT. LET'S TAKE A SHORT
8 BREAK.

9 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, I DO
10 NEED TO KIND OF GET AN IDEA OF SCHEDULING WITH THE
11 ATTORNEYS SO I'M GOING TO SUGGEST YOU TAKE A SHORT BREAK
12 AT THIS TIME, AND WHEN YOU ARE READY TO RETURN, JUST
13 KNOCK ON THE DOOR AND WE'LL COME BACK AND CONTINUE WITH
14 THE TRIAL. AGAIN, DO NOT UNDERTAKE DISCUSSION OF THE
15 CASE AMONG YOURSELVES IN ANY WAY. THANK YOU.

16 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
17 APPROXIMATELY 11:10 A.M.)

18 THE COURT: COULD I SEE THE COUNSEL, PLEASE?

19 (DISCUSSION AT SIDEBAR.)

20 (A RECESS WAS TAKEN.)

21 THE COURT: THE JURY IS READY TO COME BACK. I
22 UNDERSTAND THE JURY IS READY TO RETURN. ANYTHING FROM
23 THE STATE BEFORE WE BRING THE JURY BACK?

24 MS. SIMMONS: NO, YOUR HONOR.

25 THE COURT: ANYTHING FROM THE DEFENSE?

1 MR. SENERIUS: NO, SIR.

2 THE COURT: AS I UNDERSTAND IT, WE DO NOT HAVE
3 WITNESSES UNTIL 2:00 THIS AFTERNOON?

4 MS. SIMMONS: YES, YOUR HONOR, THE DOCTORS THAT WE
5 HAVE COMING THIS AFTERNOON WEREN'T AVAILABLE UNTIL 2:00.

6 THE COURT: AT 2:00. BUT THEY WILL BE HERE AT TWO?

7 MS. SIMMONS: DR. GWYN TELLS ME HE WILL BE READY TO
8 GO AT TWO.

9 THE COURT: WELL, THAT'S WHAT I MEAN. IN OTHER
10 WORDS, WE WILL BE READY TO PROCEED. BECAUSE THE JURY
11 WILL HAVE TO BE OUT FOR SOME TIME, SO I WANT TO BE SURE
12 WE'LL BE READY TO GO AT TWO.

13 MS. SIMMONS: ABSOLUTELY.

14 THE COURT: ALL RIGHT. AND I THINK YOU DID SAY
15 THERE ARE SOME PLEAS OR SOMETHING THE COURT CAN TAKE UP
16 THIS MORNING?

17 MS. SIMMONS: YES. MR. WAGNER HAS A JAIL PLEA.

18 THE COURT: ALL RIGHT. WELL, WHAT I'LL DO IS I'LL
19 ASK THE JURY TO COME IN, I'LL EXCUSE THEM UNTIL 2:00, AND
20 THEN WE'LL CONTINUE WITH THE TRIAL OF THIS CASE.

21 ALL RIGHT. ANYTHING FROM THE STATE?

22 MS. SIMMONS: NO, YOUR HONOR.

23 THE COURT: ANYTHING FROM THE DEFENSE?

24 MR. SENERIUS: NO, SIR.

25 THE COURT: VERY GOOD. ASK THE JURY TO JOIN US,

1 PLEASE.

2 (THE JURY ENTERED THE COURTROOM AT
3 APPROXIMATELY 11:26 A.M.)

4 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN OF THE
5 JURY, IT APPEARS THAT --

6 AND BY THE WAY, LET THE RECORD REFLECT THAT ALL
7 MEMBERS OF THE JURY AND ALTERNATES ARE IN THE JURY-BOX.

8 IT APPEARS THAT OUR NEXT WITNESSES ARE FROM OUT OF
9 TOWN AND WILL NOT BE HERE UNTIL 2:00, THEY CANNOT BE HERE
10 UNTIL 2:00. SO I REGRET I'M GOING TO HAVE TO DO THIS,
11 BUT I ASK YOU TO TAKE A VERY LONG LUNCH RECESS AND THEN
12 COME BACK AT 2:00. I REGRET THAT MANY TIMES WE HAVE TO
13 ACCOMMODATE WITNESSES WHO HAVE, LIKE YOU, WERE SUMMONED,
14 AND WOULD HAVE OTHER THINGS THAT THEY NEED TO DO. SO AT
15 THIS TIME I'M GOING TO EXCUSE YOU UNTIL 2:00.

16 AGAIN, DO NOT UNDERTAKE DISCUSSION OF THE CASE AMONG
17 YOURSELVES OR PERMIT ANYONE TO DISCUSS IT WITH YOU.

18 WHEN YOU COME BACK, COME BACK TO THE JURY ROOM THAT
19 YOU'VE BEEN IN. I'LL SEE YOU AT 2:00.

20 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
21 APPROXIMATELY 11:27 A.M.)

22 THE COURT: ANYTHING FROM THE STATE BEFORE WE RECEED
23 UNTIL TWO?

24 MS. SIMMONS: NO, YOUR HONOR.

25 THE COURT: FROM THE DEFENSE?

1 MR. SENERIUS: NO, SIR.

2 THE COURT: ALL RIGHT. VERY GOOD. I'LL SEE YOU A
3 LITTLE BIT BEFORE TWO. LET'S DO THAT. LET'S JUST PLAN
4 ON BEING BACK AT A QUARTER TILL TWO OR 1:45, AND THAT WAY
5 WE CAN START ON TIME.

6 ALL RIGHT. LET THE COURT TAKE A SHORT BREAK, AND
7 MR. WAGNER, YOU HAVE A...

8 (WHEREUPON, THE TRIAL WAS RECESSED AT
9 APPROXIMATELY 11:29 A.M. AND THE COURT
10 CONSIDERED OTHER MATTERS, AFTER WHICH THE
11 AFTERNOON PROCEEDINGS OF THE TRIAL WERE HAD.)
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 AFTERNOON PROCEEDINGS

2 (APPROXIMATELY 1:57 P.M.)

3 THE COURT: I UNDERSTAND THE JURY IS ALL HERE.
4 ANYTHING FROM THE STATE?

5 MS. SIMMONS: WE ARE READY TO PROCEED.

6 THE COURT: VERY GOOD. FROM THE DEFENSE?

7 MR. SENERIUS: WE'RE READY, YOUR HONOR.

8 THE COURT: VERY GOOD. ASK THE JURY TO JOIN US,
9 PLEASE.

10 (THE JURY ENTERED THE COURTROOM AT
11 APPROXIMATELY 1:58 P.M.)

12 THE COURT: LET THE RECORD REFLECT THE JURY AND
13 ALTERNATES ARE IN THE JURY-BOX.

14 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, WE'LL
15 NOW CONTINUE WITH THE STATE'S CASE.

16 MADAM SOLICITOR?

17 MS. SIMMONS: THANK YOU, JUDGE. WE CALL DR. DARYL
18 GWYN.

19 WHEREUPON,

20 DARYL GWYN,

21 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS
22 DIRECT EXAMINATION BY MS. SIMMONS:

23 THE COURT: IF YOU WOULD PLEASE, SIR, GIVE US YOUR
24 FULL NAME FOR THE RECORD, SPELLING YOUR LAST NAME.

25 THE WITNESS: DARYL R. GWYN, G-W-Y-N.

1 THE COURT: THANK YOU, DOCTOR.

2 BY MS. SIMMONS:

3 Q. DR. GWYN, WHERE ARE YOU EMPLOYED?

4 A. OVER AT GREENVILLE MEMORIAL.

5 Q. ARE YOU LICENSED TO PRACTICE MEDICINE IN THE STATE
6 OF SOUTH CAROLINA?

7 A. YES, I AM.

8 Q. HOW LONG HAVE YOU HELD YOUR LICENSE TO PRACTICE
9 MEDICINE?

10 A. HERE IN SOUTH CAROLINA ABOUT 16 YEARS.

11 Q. WHAT MEDICAL COLLEGE DID YOU ATTEND?

12 A. UNIVERSITY OF MARYLAND.

13 Q. AND WHERE DID YOU COMPLETE YOUR RESIDENCY?

14 A. GEORGETOWN UNIVERSITY.

15 Q. SINCE THAT TIME WHERE HAVE YOU PRACTICED?

16 A. I DID MY FELLOWSHIP AFTER GEORGETOWN AT JOHNS
17 HOPKINS IN BALTIMORE AND I'VE PRACTICED HERE IN
18 GREENVILLE, SOUTH CAROLINA, SINCE ABOUT 1995.

19 Q. ARE YOU SPECIALIZED?

20 A. SPECIALIZED.

21 Q. TELL ME ABOUT THAT.

22 A. I DID MY MEDICAL SCHOOL TRAINING AT THE UNIVERSITY
23 OF MARYLAND AND PEDIATRIC RESIDENCY AT GEORGETOWN AND
24 THEN SUBSPECIALTY TRAINING IN CRITICAL CARE AT JOHNS
25 HOPKINS.

1 Q. ARE YOU BOARD CERTIFIED?

2 A. YES, IN PEDIATRIC CRITICAL CARE MEDICINE.

3 Q. WHAT DOES THE PROCESS ENTAIL?

4 A. IN GENERAL YOU HAVE TO BE EMPLOYED IN YOUR
5 PRACTICE AND DEMONSTRATE COMPETENCY IN THAT FIELD. YOU
6 HAVE TO MAINTAIN YOUR CONTINUING MEDICAL EDUCATION
7 CREDITS, STUDYING UP ON THE FIELD AND TRYING TO KEEP
8 CURRENT OF THAT.

9 AND THEN THERE IS A SHIFTING EXAM NOW, BUT MOVING
10 TOWARD EVERY SEVEN TO TEN YEARS YOU RECERTIFY BY TAKING
11 THE TEST THAT SAYS YOU ARE UP-TO-DATE AND ALSO NEW
12 ONGOING RECERTIFICATIONS TO MAKE SURE YOU ARE CERTIFIED
13 EACH YEAR TO GET CREDITS AND YOU ARE ALSO MAINTAINING AN
14 INTERACTIVE COMPONENT OF WHAT'S GOOD AND RIGHT TO DO IN
15 MEDICINE.

16 Q. ARE YOU A MEMBER OF ANY SPECIFIC MEDICAL GROUPS OR
17 ASSOCIATIONS?

18 A. I'M A MEMBER OF THE SOCIETY OF CRITICAL CARE
19 MEDICINE AND ALSO THE PEDIATRIC CRITICAL CARE MEDICAL
20 SOCIETY.

21 Q. HAVE YOU TESTIFIED IN COURT BEFORE?

22 A. YES, MANY TIMES.

23 Q. ARE YOU BEING COMPENSATED FOR YOUR TESTIMONY
24 TODAY?

25 A. NO.

1 Q. DURING YOUR YEARS OF PRACTICE HOW MANY PEDIATRIC
2 PATIENTS DO YOU BELIEVE YOU HAVE TREATED AS TO PEDIATRIC
3 CRITICAL CARE?

4 A. I WORK IN A GROUP OF FOUR. WE HAVE A 12-BED UNIT,
5 AND IN GENERAL THE CENSUS FLUCTUATES BETWEEN 400 TO 700
6 PEOPLE A YEAR. SO YOU COULD ALMOST CUT THAT IN HALF
7 BECAUSE OF THE ROTATIONAL SCHEDULE AND MULTIPLY THAT BY
8 16 AND THAT WOULD BE ABOUT HOW MANY PEDIATRIC CRITICAL
9 CARE PEOPLE?

10 Q. WELL IN THE THOUSANDS?

11 A. WELL OVER THAT.

12 MS. SIMMONS: YOUR HONOR, AT THIS TIME I'D LIKE TO
13 MOVE DR. GWYN IN AS AN EXPERT IN PEDIATRIC NEUROLOGY.

14 THE COURT: VOIR DIRE?

15 MR. SENERIUS: NO, SIR. WE HAVE NO OBJECTION TO HIS
16 QUALIFICATIONS.

17 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN OF THE
18 JURY, THE COURT RECOGNIZES DR. GWYN AS AN EXPERT IN
19 CRITICAL CARE MEDICINE AND HE WILL BE PERMITTED TO GIVE
20 HIS OPINION AS WELL AS ANYTHING ELSE OF HIS OWN DIRECT
21 KNOWLEDGE IN THAT PARTICULAR AREA. FOR ALL WITNESSES,
22 EXPERT AND LAY, THE EVALUATION OF THE TESTIMONY IS FOR
23 YOU.

24 YOU MAY PROCEED.

25

1 MS. SIMMONS: THANK YOU, YOUR HONOR.

2 BY MS. SIMMONS:

3 Q. DR. GWYN, ON OR ABOUT AUGUST 17 OF 2009, DID YOU
4 BECOME INVOLVED IN THE CARE OF [REDACTED]

5 A. YES. [REDACTED] WAS APPROXIMATELY FIVE MONTHS OLD.

6 Q. DID YOU BECOME INVOLVED BEFORE SHE HIT THE DOOR AT
7 GREENVILLE MEMORIAL?

8 A. I HAD CONVERSATIONS WITH THE DOCTOR AT COUNTY.

9 Q. YOU ACCEPTED HER OVER AT GREENVILLE?

10 A. YES.

11 Q. DESCRIBE HER CONDITION WHEN YOU FIRST SAW HER.

12 A. WELL SHE WAS IN CRITICAL CONDITION. SHE WAS ON A
13 VENTILATOR, NEEDING HELP TO SUPPORT AND KEEP HER BLOOD
14 PRESSURE UP. AND WE WERE GOING OVER ESSENTIALLY THE LIST
15 OF INJURIES THAT SHE HAD TO MAKE A DETERMINATION WHAT SHE
16 WANTED TO DO AFTER WE GOT HER STABILIZED.

17 Q. DID YOU CONDUCT AN EXTERNAL ASSESSMENT OF [REDACTED]
18 WHEN YOU BEGAN TO TREAT HER?

19 A. WE TAKE A LOOK ON THE OUTSIDE, WE TAKE A LISTEN TO
20 SEE IF WE CAN EVALUATE ON THE INSIDE AND LOOK AT HER
21 VITAL SIGNS.

22 Q. DID YOU SEE ANY EXTERNAL MANIFESTATIONS OF INJURY
23 AT THAT POINT IN TIME?

24 A. SHE HAD A BRUISE ON HER STERNUM.

25 Q. USING THE POINTER AND THE DIAGRAM CAN YOU SHOW US

1 THE ROUGH AREA WHERE YOU SAW THAT BRUISE?

2 A. SOMEWHERE ABOUT IN HERE.

3 Q. HOW LARGE IS THAT BRUISE?

4 A. I DON'T REMEMBER EXACTLY THE SIZE OF IT AT THIS
5 POINT IN TIME. I WOULD HAVE TO LOOK AT MY NOTES. WE
6 USUALLY DRAW PICTURES SO WE DON'T HAVE TO GUESS AT THINGS
7 LIKE THAT.

8 Q. DID YOU ORDER TESTING TO FIND OUT WHAT HER
9 INTERNAL INJURIES WERE?

10 A. SHE HAD A SERIES OF SCANS DONE.

11 Q. WHAT DID THOSE SCANS REVEAL?

12 A. I THINK THAT THE PERTINENT SCANS SHOWED THAT SHE
13 HAD DIFFUSE CEREBRAL EDEMA, SWELLING OF THE BRAIN; THAT
14 SHE HAD LEFT-SIDED SUBDURAL BLOOD, RETINAL HEMORRHAGES.
15 SHE HAD A RIGHT FIRST RIB FRACTURE, SHE HAD A DEFINITE
16 RIGHT TIBIAL FRACTURE, AND A PRESUMED RIGHT DISTAL FEMUR
17 FRACTURE.

18 Q. THE BROKEN BONES YOU JUST DESCRIBED, BASED ON YOUR
19 EXPERIENCE IN PEDIATRIC CRITICAL CARE, WHAT KIND OF FORCE
20 IS REQUIRED FOR THOSE KIND OF BREAKS?

21 A. WELL, FOR THE LEG FRACTURES, A LOT OF FORCE. IT
22 DOES NOT HAPPEN ACCIDENTALLY WITHOUT KNOWLEDGE. FOR THE
23 RIB FRACTURE IT'S JUST THE NATURE OF THE LOCATION OF THE
24 FIRST RIB. IT TAKES AN EXTREME AMOUNT OF PRESSURE
25 DIRECTED AT THAT AREA IN ORDER TO BREAK THAT PARTICULAR

1 RIB.

2 Q. ON THAT DIAGRAM AGAIN CAN YOU SHOW US THE ROUGH
3 LOCATION OF THE FIRST RIB THAT WAS BROKEN?

4 A. UM, IT'S GONNA BE ON THE RIGHT SIDE. AND I THINK
5 THAT MOST PEOPLE SEE ON T.V. SKELETONS AND HOW THE RIBS
6 LOOK. AND THE FIRST RIBS ARE SHORT, PROBABLY ABOUT THE
7 SIZE OF YOUR THUMB.

8 Q. THE HEAD INJURY YOU JUST DESCRIBED, WHAT KIND OF
9 FORCE IS REQUIRED TO INFLICT THAT SORT OF HEAD INJURY?

10 A. WELL, DESCRIBING THE SUBDURAL BLOOD, I THINK YOU
11 HAVE TO TAKE INTO ACCOUNT THE RETINAL HEMORRHAGES. BUT
12 TO GET SUBDURAL AND RETINAL HEMORRHAGES YOU ARE TALKING
13 ABOUT A ROTATIONAL FORCE. IT'S A UNIQUE NATURE OF THE
14 RETINA. NOT DIRECT BLOWS LIKE IF YOU PUNCH THEM IN THE
15 EYE OR DURING A FALL YOU GET RETINAL HEMORRHAGES. BY AND
16 LARGE YOU DON'T. IT'S A ROTATIONAL FORCE.

17 AND UNFORTUNATELY, CHILDREN HAVE LARGE HEADS AND
18 SMALL NECKS, SO WHEN THEY BECOME LIMP THEIR HEADS WILL
19 SHAKE AND ROTATE, AND THAT FORCE CAUSES THE STEERING
20 FORCE THAT CAUSES THE TEAR IN THE VESSELS. THAT SAME
21 FORCE CAN THEN CAUSE INTRACRANIAL INJURIES, TOO.

22 SO THE SHORT ANSWER WOULD BE I WOULD ASSUME IT WAS
23 A SHORT, VIOLENT, ROTATIONAL FORCE THAT GENERATED BOTH
24 THE LEFT SIDE SUBDURAL AND THE LEFT -- THERE WERE RETINAL
25 HEMORRHAGES ON THE RIGHT SIDE BUT MOSTLY ON THE LEFT

1 SIDE.

2 Q. HOW WOULD A CHILD BE AFTER THIS TYPE OF INJURY WAS
3 INFLECTED?

4 A. I THINK THAT ALMOST WITHIN, RIGHT AFTER THAT
5 INJURY WAS INFLECTED THAT CHILD WOULD GO SILENT.

6 Q. THE EFFECT IS IMMEDIATE?

7 A. UH-HUH.

8 Q. READILY APPARENT TO A CAREGIVER?

9 A. YES.

10 Q. WOULD THE CHILD DURING THE INFLECTION OF THE
11 INJURY CRY AND MAKE NOISE?

12 A. RIGHT UP UNTIL THE TIME OF THE INJURY.

13 Q. IN YOUR TREATMENT OF BEFORE YOU LOOKED AT
14 THESE INJURIES DID YOU RULE OUT OTHER CAUSES?

15 A. WE GO THROUGH A VERY, VERY EXTENSIVE SET OF
16 QUESTIONING AND TESTING, NOT BECAUSE WE THINK THESE OTHER
17 THINGS ARE THERE, BUT JUST SO THAT WHEN YOU ARE TALKING
18 ABOUT THE INJURIES YOU DON'T HAVE TO WASTE TIME TALKING
19 ABOUT THINGS THAT NEVER HAPPEN. AND THE ANSWER WOULD BE
20 YES, WE TEST FOR EVERYTHING.

21 Q. ARE YOU ABLE TO OFFER A TIME FRAME ON THE
22 INFLECTION OF THAT HEAD INJURY?

23 A. I WOULD ASSUME THAT HEAD INJURY TOOK PLACE SHORTLY
24 WITHIN THAT SAME DAY. THAT DEGREE OF BLOOD AND THOSE
25 RETINAL HEMORRHAGES ISN'T GONNA LOOK FINE FOR A DAY AND

1 SUDDENLY GO BAD. IT'S DEFINITELY THAT DAY.

2 Q. THE DAY OF HOSPITAL ADMISSION IN THIS CASE?

3 A. UH-HUH.

4 Q. HOW LONG CAN A CHILD SURVIVE WITHOUT MEDICAL
5 INTERVENTION WITH THIS TYPE OF HEAD INJURY?

6 A. IT ALWAYS DEPENDS.

7 Q. HAD THERE BEEN IMMEDIATE MEDICAL ATTENTION WHEN
8 THAT HEAD INJURY HAD BEEN INFLICTED, WOULD THAT HAVE
9 CHANGED THE OUTCOME IN [REDACTED] CASE?

10 A. IT MIGHT HAVE.

11 Q. DID YOU, DURING THE COURSE OF YOUR TREATMENT WITH
12 [REDACTED] PERSONALLY DISCUSS WITH HER PARENTS AND DISCUSS
13 THE INJURIES YOU SAW?

14 A. YES.

15 Q. DID YOU INFORM THEM OF ALL THE INJURIES WE HAVE
16 TALKED ABOUT TODAY?

17 A. I DON'T REMEMBER THAT SPECIFIC QUESTIONING. I
18 WOULD SAY THAT JUST KNOWING WHAT I DO AND HAVING BEEN
19 THROUGH THIS BEFOREHAND, WE GENERALLY DON'T SAY ALL THE
20 DIFFERENT INJURIES. WE JUST COME IN AND SAY THAT THEY
21 ARE VERY, VERY HURT.

22 MOST FAMILIES WHO COME TO US TELL US EVERYTHING,
23 NOT ONLY ABOUT THEIR CHILD, BUT THEIR HISTORIES,
24 GRANDPARENTS' HISTORIES, UNCLES' HISTORIES. THEY TRY TO
25 GIVE US EVERYTHING SO WE CAN START TO HELP THE CHILD.

1 AND THEN WE JUST SAY THAT SHE'S INJURED, AND THEN WE
2 LISTEN FOR THE INJURY THAT COULD PRODUCE WHAT WE ALREADY
3 KNOW TO BE THE CASE. AT THAT POINT IN TIME I DON'T THINK
4 WE EVEN KNEW ABOUT THE LEG INJURIES. IT TOOK A LITTLE
5 TIME TO FIND OUT ABOUT THE RIB INJURIES. ALL WE REALLY
6 KNEW AT THAT TIME, I'M PRETTY SURE, IS THAT THE HEAD
7 INJURY WAS REAL, THE CEREBRAL EDEMA WAS REAL, AND I'D
8 SEEN SOME OF THE HEMORRHAGES IN THE EYES BECAUSE WE HAD
9 OPHTHALMOLOGY COME BY AND CONFIRM THOSE.

10 Q. DID YOU SPECIFICALLY ASK THE DEFENDANT, AND IS IT
11 INCLUDED IN YOUR REPORT THAT THERE WERE ANY EPISODES OF
12 ACCIDENT, TRAUMA, INJURY, OR ILLNESS IN THE HOUSEHOLD?

13 A. YES.

14 Q. AND WHAT WAS THE RESPONSE YOU RECEIVED?

15 A. ABSOLUTELY NOTHING. THERE HAD BEEN MAYBE A
16 CHOKING OR REFLUXING SPELL THAT HAD HAPPENED MAYBE
17 TWO-ISH DAYS BEFORE THAT. BUT THAT WAS IT. THE REST WAS
18 A BENIGN, THE REST OF IT WAS AN UNREMARKABLE PAST MEDICAL
19 HISTORY.

20 Q. THEY DID GIVE YOU A CHOKING SPELL TWO DAYS BEFORE?

21 A. YES.

22 Q. DID YOU DISCUSS THE EVENTS OF AUGUST 16TH WITH THE
23 DEFENDANT IN THE COURSE OF TREATING HIS DAUGHTER?

24 A. I'M NOT SURE WHAT YOU MEAN BY THAT.

25 Q. AUGUST 16TH, THE DAY SHE WAS ADMITTED, DID YOU

1 DISCUSS WHAT HAPPENED WITH [REDACTED] THAT DAY WITH HIM TH?

2 A. NO.

3 Q. DID YOU DISCUSS THE C.P.R. EFFORTS HE INDICATED HE
4 HAD PERFORMED ON [REDACTED]

5 A. YES. I HAVE TO REVIEW MY NOTES, BUT I HAD ALREADY
6 TALKED WITH DR. CHROMER (PHONETIC) AND DR. CHROMER HAD
7 INDICATED ---

8 MR. SENERIUS: OBJECTION, HEARSAY.

9 MS. SIMMONS: DR. GWYN, YOU DON'T TESTIFY TO THINGS
10 THAT -- YOU CAN'T TESTIFY WHAT OTHER PEOPLE TOLD YOU.

11 THE WITNESS: OH, I'M SORRY. SO YES, I DID ASK HIM
12 HOW MUCH, HOW DEEP THE COMPRESSIONS HE DID WERE.

13 BY MS. SIMMONS:

14 Q. AND DID HE, IN FACT, DEMONSTRATE ON YOUR ARM?

15 A. YES, HE DID.

16 Q. DO YOU FEEL COMFORTABLE DEMONSTRATING ON MY ARM
17 WHAT HE DID TO YOU?

18 A. SURE. (WITNESS LEAVES STAND.) HE SAID HE WAS
19 COMPRESSING.

20 THE COURT: YOU NEED TO SPEAK UP, SIR, PLEASE.

21 THE WITNESS: HE SAID HE WAS COMPRESSING LIKE THAT
22 (DEMONSTRATES).

23 BY MS. SIMMONS:

24 Q. THE AMOUNT OF FORCE THAT HE DEMONSTRATED ON YOU,
25 IS THAT CONSISTENT WITH A C.P.R. INJURY OR AN INJURY THAT

1 YOU SAW ON HER CHEST?

2 A. IT'S NOT EVEN CLOSE.

3 Q. IN YOUR EXPERT OPINION WHAT DID [REDACTED] INJURIES
4 RESULT FROM?

5 A. WELL, THE WAY WE GO ABOUT THIS, QUITE FRANKLY, IS
6 THAT WE DON'T ASSIGN BLAME TO ANYBODY. WE JUST ASK THE
7 QUESTIONS AND SEE IF THE INJURIES LINE UP. AND YOU LOOK
8 AT THE RIB FRACTURES AND THEY OBVIOUSLY HAPPENED IN LESS
9 THAN TEN DAYS, IT'S JUST THE NATURE OF RIB FRACTURES.
10 ONCE THEY'RE BROKEN, IF THEY'VE BEEN BROKEN FOR LONGER
11 THAN THAT, THEN A CALLUS WILL FORM OVER THE RIB INJURY.
12 SINCE THERE IS NO CALLUS AND THERE'S A BROKEN BONE, BY
13 DEFAULT THE INJURY TOOK PLACE IN LESS THAN TEN TO 14
14 DAYS.

15 YOU LOOK AT THE BLOOD ON HER HEAD, AND IT'S ACUTE
16 BLOOD ON HER CT SCAN, SO YOU KNOW THAT THAT TAKES PLACE
17 IN LESS THAN THREE DAYS, SO THAT MEANS THAT YOU ARE
18 MOVING YOUR TIME FRAME CLOSER. AND THEN YOU LOOK AT THE
19 DEGREE OF BLOOD IN HER HEAD AND THE RETINAL HEMORRHAGES,
20 AND YOU KNOW THAT WHEN THOSE TWO EVENTS HAPPENED, THAT'S
21 WHEN THAT PERSON'S MENTAL STATUS GETS CHANGED. SO IF
22 THEY WERE AWAKE AND ALERT BEFOREHAND, THEY WOULD
23 DEFINITELY NOT BE AWAKE AND ALERT AFTER, SO THAT MEANS
24 IT'S TAKEN PLACE WITHIN THAT DAY. AND THEN WE DON'T TRY
25 TO ASSIGN A DIFFERENT TIME FRAME TO EACH INJURY. THAT'S

1 HOW I WOULD PUT THOSE THREE INJURIES TOGETHER.

2 Q. BASED UPON YOUR ASSESSMENT OF THE CONSTELLATION OF
3 INJURIES, YOU WOULD SAY BASED ON A DEGREE OF MEDICAL
4 CERTAINTY THEY WERE INFLICTED ON THE DAY OF HOSPITAL
5 ADMISSION?

6 A. DEFINITELY WITH THE BLOOD IN THE HEAD AND THE
7 RETINAL HEMORRHAGES, ALL THOSE HAPPENED THAT SAME DAY.

8 Q. AND ALL THESE INJURIES ARE CONSISTENT WITH A
9 NON-ACCIDENTAL TRAUMA?

10 A. THAT'S THE ONLY THING THEY'RE CONSISTENT WITH.
11 THERE'S NOTHING ELSE THAT EXPLAINS SO FAR THE OTHER
12 CONSTITUTION OF SYMPTOMS.

13 MS. SIMMONS: THANK YOU, DR. GWYN. PLEASE ANSWER
14 ANY QUESTIONS MR. SENERIUS MIGHT HAVE FOR YOU.

15 CROSS-EXAMINATION BY MR. SENERIUS:

16 Q. GOOD AFTERNOON, DOCTOR.

17 A. HI.

18 Q. YOU FIRST CAME IN CONTACT WITH ACTUALLY ON
19 THE 17TH OF AUGUST, THE EARLY MORNING HOURS OF THE 17TH
20 OF AUGUST; IS THAT CORRECT?

21 A. SURE.

22 Q. WELL --

23 A. I DON'T KNOW THE EXACT HOUR THAT I MET HER.

24 Q. NO, NO, NO. WELL, THE SUN WASN'T UP AND YOU
25 WEREN'T EATING BREAKFAST?

1 A. (NODDED HEAD.)

2 Q. OKAY. DID MATTHEW SAY ANYTHING TO YOU ABOUT
3 STERNAL RUBBING?

4 A. I DON'T KNOW. IS THAT MATTHEW?

5 Q. I'M SORRY, THAT'S MATTHEW.

6 A. YES, SIR. WE HAD TALKED ABOUT THE CHEST
7 COMPRESSIONS.

8 Q. DID HE SAY ANYTHING TO YOU ABOUT, BESIDES CHEST
9 COMPRESSIONS ABOUT STERNAL RUBBING, RUBBING THE STERNUM?

10 A. I THINK HE HAD SAID THAT TO DR. CHROMER, BUT I
11 CAN'T SPEAK TO THAT.

12 Q. OKAY. MAY I SEE YOUR NOTES THAT YOU ARE LOOKING
13 AT JUST TO MAKE SURE THAT WE'RE --

14 MAY I APPROACH, YOUR HONOR?

15 THE COURT: SURELY.

16 BY MR. SENERIUS:

17 Q. -- JUST TO MAKE SURE WE'RE ALL TALKING OFF THE
18 SAME PAGE HERE.

19 OKAY. THE SAME ONES I HAVE.

20 YOU HAVE NOTED ON THE FIRST PAGE OF YOUR NOTES
21 ABOUT HALFWAY DOWN THAT THE FATHER SAID THAT HE DID DO
22 DEEP STERNAL RUBBING ALONG THE CHEST WHICH MAY HAVE
23 ACCOUNTED FOR THE BRUISING ON THE CHEST?

24 A. THAT'S WHAT DR. CHROMER HAD RELATED TO ME OVER THE
25 TELEPHONE. THAT'S WHAT I SAID IN MY NOTES DR. CHROMER

1 RELATED THAT THE FATHER SAID.

2 Q. DID YOU TALK WITH MATTHEW ABOUT THAT AT ALL?

3 A. I TALKED ABOUT THE CHEST COMPRESSIONS, WHAT HE DID
4 FOR THE RESUSCITATIVE EVENT. THAT'S WHEN HE DEMONSTRATED
5 WHAT HE HAD DONE FOR THEM.

6 Q. YOU DIDN'T ASK HIM ABOUT RUBBING THE STERNUM, JUST
7 THE C.P.R., THE STANDARD C.P.R. MEASURES?

8 A. I WOULD -- I GUESS I'D TAKE WHAT YOU JUST SAID.
9 IT'S RIGHT THERE IN THE NOTES AND THAT'S EXACTLY WHAT I
10 ASKED AND THAT'S WHAT I SAID.

11 Q. OKAY. YOU HAD HAD NO PRIOR CONTACT WITH EITHER
12 [REDACTED] OR MATTHEW OR THE BABY'S MOTHER PRIOR TO --

13 A. NOT TO THE BEST OF MY KNOWLEDGE.

14 Q. YOU SAID, I BELIEVE, THAT THE RIGHT RIB FRACTURE,
15 IT SHOWS POINTING TO THE RIGHT SIDE --

16 A. UH-HUH.

17 Q. -- WAS LESS THAN TEN DAYS OLD?

18 A. TEN TO 14.

19 Q. TEN TO 14 DAYS, OKAY?

20 A. YEAH.

21 Q. WAS THE, DID [REDACTED] AT ANY TIME THAT YOU RECALL,
22 DID SHE, WAS SHE REACTIVE TO ANY PAIN OR TOUCH OR PULLING
23 SENSATIONS?

24 A. NOT FROM THE TIME THAT WE STARTED TAKING CARE OF
25 HER. I CAN'T REMEMBER WHETHER THERE MIGHT HAVE BEEN A

1 MUSCLE JERK OR A MOTION, BUT SHE WAS DEFINITELY WITH A
2 DEPRESSED NEUROLOGIC EXAM FROM THE TIME WE SPOKE. I HAVE
3 TO LOOK AT SOME OF THE OTHER NOTES TO SAY WHETHER SHE WAS
4 ABSOLUTELY UNRESPONSIVE.

5 Q. OKAY. WOULD YOU LOOK AT PAGE 3 OF YOUR NOTES
6 THERE, THE SECTION ENTITLED "NEURO"?

7 A. UH-HUH.

8 Q. AT ABOUT THE...

9 A. THERE ARE GASPING RESPIRATIONS, AND THEN
10 THERE'S -- I'M SORRY.

11 Q. IT WOULD BE THE, ABOUT THE ONE, TWO, THREE, THE
12 FIFTH SENTENCE THERE?

13 A. UH-HUH.

14 Q. FIFTH OR SIXTH SENTENCES?

15 A. TO THE SLOW WITHDRAWING OF HER RIGHT EXTREMITY?

16 Q. YES, SIR.

17 A. THAT WOULD BE CALLED A DEPRESSED NEUROLOGIC EXAM.

18 I'M SORRY I SHORTENED IT UP, BUT --

19 Q. OH, OKAY.

20 A. -- I MEAN, YEAH. THAT MEANS THAT WHEN YOU DO A
21 NEUROLOGIC EXAM YOU ARE LOOKING TO SEE HOW DEPRESSED OR
22 HOW INJURED SOMEBODY IS, AND THE TYPICAL RESPONSE TO DEEP
23 NAIL BEARING PRESSURE IS WHERE EVERYBODY WOULD COMMONLY
24 REMEMBER FROM PUTTING A LIGHTER TO SOMEBODY'S FINGER.
25 YOU JERK BACK.

1 WHAT THIS WOULD BE DESCRIBED AS IS THAT YOU PRESS
2 VERY HARD, USUALLY HARD ENOUGH TO LEAVE A MARK, AND THEN
3 WHAT THE PERSON DOES IS THEY KIND OF MOVE LIKE THAT
4 (DEMONSTRATING). SO IT WOULDN'T BE ANYWHERE CLOSE TO A
5 NORMAL RESPONSE.

6 Q. AND YOU DID THAT ON THE RIGHT LOWER EXTREMITY, IN
7 OTHER WORDS HER RIGHT LEG?

8 A. NO. I WOULD HAVE DONE IT ON ALL OF THE
9 EXTREMITIES, BUT I PUT IN MY NOTE THE POSITIVES THAT YOU
10 FIND.

11 Q. AND THAT WAS ON THE RIGHT LEG?

12 A. RIGHT LOWER EXTREMITY, UH-HUH. I WOULD SAY ALL OF
13 THE EXTREMITIES IN WHICH THE RIGHT WAS THE ONE THAT
14 DEMONSTRATED THE ACTION.

15 Q. AND THAT WAS THE ONE THAT WAS BROKEN?

16 A. UH-HUH.

17 Q. HAD THE FRACTURE?

18 A. UH-HUH. RIGHT.

19 Q. AND DID I UNDERSTAND YOU TO SAY THAT -- YOU
20 DESCRIBED THE HEAD INJURY CAUSED BY A SHORT ROTATIONAL
21 FORCE LIKE A TWISTING OF THE NECK SORT OF THING?

22 A. I GUESS TO BE ACCURATE I WOULD SAY THAT WITHIN THE
23 INJURY PROCESS THERE'S A PERIOD WHERE THERE'S GONNA BE A
24 SHORT ROTATION OF FORCE.

25 Q. OKAY.

1 A. I'M NOT SAYING THAT THAT --

2 Q. OH, NO, NO, I UNDERSTAND.

3 A. -- WAS THE ONLY THING THAT TOOK PLACE.

4 Q. I'M NOT SAYING SOMEBODY GRABBED HOLD OF THE BABY'S
5 HEAD AND TWISTED IT AROUND. BUT THE HEAD, I DON'T KNOW
6 WHICH WAY, BUT THE HEAD WOULD HAVE TWISTED TO THE SIDE TO
7 SOME EXTENT ONE SIDE OR THE OTHER?

8 A. WITHOUT BEING TOO GROSS FOR WANT OF A BETTER WORD,
9 THEY DID EXPERIMENTS WITH I THINK IT WAS MONKEYS, AND
10 THEY WANTED TO FIND OUT HOW RETINAL HEMORRHAGES OCCUR.
11 AND WHAT THEY FOUND IS THAT IF YOU HAVE DIRECTED FORCES
12 GOING BACK AND FORTH, YOU DON'T TEND TO GET RETINAL
13 HEMORRHAGES. IT'S NOT A HUNDRED PERCENT THING. AND WHAT
14 THEY FOUND WITH THAT, IT WAS MORE SO WHEN YOU HAVE THE
15 ROTATIONAL COMPONENTS. SO IT'S NOT A VERTICAL FORCE,
16 IT'S MORE OF A ROTATIONAL FORCE THAT PRODUCES RETINAL
17 HEMORRHAGES. SO THAT WHEN YOU ASKED ME HOW SHE GETS
18 THOSE INJURIES, I SAY TO THAT ANSWER WITHIN HER INJURY
19 THERE WAS A PERIOD WHERE THERE WAS THOSE ROTATIONAL
20 FORCES. AND CHILDREN, UNFORTUNATELY, ARE SET UP THAT
21 WAY. THAT'S WHY YOU TEND NOT TO SEE OLDER CHILDREN, WHO
22 HAVE SMALLER NECK-TO-HEAD RATIOS, WHEN YOU GET TO BE
23 EIGHT, NINE, TEN, YOU DON'T SEE RETINAL HEMORRHAGES AND
24 THAT'S WHY.

25 Q. THESE WERE STUDIES THAT WERE DONE -- I'M NOT EVEN

1 GONNA TRY TO PRONOUNCE THIS GUY'S NAME.

2 A. I DON'T EVEN KNOW THE NAME MYSELF.

3 Q. OH, OKAY. ALL RIGHT. WERE THERE ANY NOTED
4 INJURIES TO NECK?

5 A. ON MY EXAM I CAN SAY THAT WHAT I SAID IS WHAT I
6 SAW. I'M NOT GONNA SAY THOSE ARE THE ONLY INJURIES,
7 THOUGH.

8 Q. OH, NO, I'M NOT ASKING YOU TO TESTIFY TO WHAT
9 SOMEBODY ELSE MIGHT HAVE SAID. ALL RIGHT.

10 MR. SENERIUS: EXCUSE ME ONE MOMENT, PLEASE.

11 (THERE WAS A PAUSE IN THE PROCEEDINGS.)

12 MR. SENERIUS: DOCTOR, THANK YOU VERY MUCH. I
13 APPRECIATE IT.

14 THE COURT: REDIRECT?

15 REDIRECT EXAMINATION BY MS. SIMMONS:

16 Q. DR. GWYN, JUST ONE FOLLOW-UP QUESTION.

17 THE RIB FRACTURES THAT YOU WERE DISCUSSING THAT
18 YOU SAID WERE LESS THAN TEN TO 14 DAYS OLD, IS THAT AS
19 CLOSE AS YOU CAN GET IN DATING A RIB FRACTURE THIS FRESH?

20 A. I THINK SO, YES.

21 MS. SIMMONS: NO FURTHER QUESTIONS.

22 THE COURT: ANYTHING ELSE?

23 MR. SENERIUS: I HAVE JUST ONE QUESTION. I MAY HAVE
24 MISUNDERSTOOD MS. SIMMONS.

25

1 RECROSS-EXAMINATION BY MR. SENERIUS:

2 Q. THERE WAS ONE RIB FRACTURE, NOT RIB FRACTURES?

3 A. JUST THE RIGHT FIRST RIB.

4 MR. SENERIUS: THANK YOU.

5 THE COURT: ANYTHING ELSE?

6 MS. SIMMONS: NO, YOUR HONOR. WE WOULD ASK THAT

7 DR. GWYN BE RELEASED TO GO BACK TO GREENVILLE.

8 MR. SENERIUS: HE MAY BE EXCUSED.

9 THE COURT: VERY GOOD, DOCTOR, YOU WILL BE EXCUSED
10 AND I DO THANK YOU.

11 THE WITNESS: THANK YOU.

12 (WHEREUPON, THE WITNESS WAS EXCUSED.)

13 MR. SENERIUS: YOUR HONOR, MAY WE APPROACH FOR JUST
14 A SECOND?

15 THE COURT: CERTAINLY.

16 (DISCUSSION AT SIDEBAR.)

17 THE COURT: I'M ADVISED THE NEXT WITNESS MIGHT BE
18 RATHER LENGTHY, AS MUCH AS AN HOUR OR SO. SO I'M GOING
19 TO SUGGEST THAT YOU TAKE A VERY QUICK RECESS RIGHT NOW
20 AND WHEN YOU ARE READY TO COME BACK, JUST KNOCK ON THE
21 DOOR AND WE WILL COME BACK AND WE'LL CONTINUE WITH THE
22 TRIAL OF THE CASE. AGAIN, DO NOT UNDERTAKE DISCUSSION OF
23 THE CASE AMONG YOURSELVES IN ANY WAY.

24 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
25 APPROXIMATELY 2:25 P.M.)

1 THE COURT: ANYTHING FROM THE STATE?

2 MS. SIMMONS: NO, YOUR HONOR.

3 THE COURT: FROM THE DEFENSE?

4 MR. SENERIUS: NO, SIR.

5 THE COURT: WE'LL STAND AT EASE UNTIL THE JURY IS
6 READY TO COME BACK.

7 (A RECESS WAS TAKEN.)

8 THE COURT: IS THERE ANYTHING FROM THE STATE BEFORE
9 WE BRING THE JURY BACK?

10 MS. SIMMONS: NO, YOUR HONOR.

11 THE COURT: FROM THE DEFENSE?

12 MR. SENERIUS: NO, SIR.

13 THE COURT: ASK THE JURY TO JOIN US, PLEASE.

14 (THE JURY ENTERED THE COURTROOM AT
15 APPROXIMATELY 2:36 P.M.)

16 THE COURT: LET THE RECORD REFLECT THAT THE JURY AND
17 ALTERNATES ARE IN THE JURY-BOX.

18 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, WE
19 WILL NOW CONTINUE WITH THE TRIAL OF THE CASE.

20 MADAM SOLICITOR?

21 MS. SIMMONS: THANK YOU, YOUR HONOR. THE STATE
22 CALLS DR. BRETT WOODARD.

23 (WHEREUPON, THE WITNESS, DR. BRETT WOODARD,
24 WAS SWORN BY THE CLERK OF COURT.)

25