

RECEIVED

JUN 18 2018

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

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

---

Case No. 2014-CP-37-0133  
Court of Appeals Appellate Case No.: 2016-1099  
Supreme Court Appellate Case No.: 2018 \_\_\_\_\_

---

Matthew Hinton,..... Petitioner,

v.

State of South Carolina,..... Respondent.

---

APPENDIX VOLUME II

---

Alan McCrory Wilson, Atty. Gen.  
Megan Harrigan Jameson, Asst. Atty. Gen.  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

*Attorney for Respondent*

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

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

*Counsel for Petitioner*

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

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

---

Case No. 2014-CP-37-0133  
Court of Appeals Appellate Case No.: 2016-1099  
Supreme Court Appellate Case No.: 2018\_\_\_\_\_

---

Matthew Hinton,..... Petitioner,

v.

State of South Carolina,..... Respondent.

---

APPENDIX VOLUME II

---

Alan McCrory Wilson, Atty. Gen.  
Megan Harrigan Jameson, Asst. Atty. Gen.  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

*Attorney for Respondent*

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

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

*Counsel for Petitioner*

INDEX

Order Denying Petition for Rehearing..... A-1

Order Denying Petition for Writ of Certiorari..... A-3

Petition for Rehearing..... A-4

Return to Petition for Certiorari..... A-23

Petition for Certiorari..... A-45

Record before the Court of Appeals..... A-71

    Index to the Record..... A-72

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 That would be in the record.
- 2 Q. Now, you did the direct examination on Mr.
- 3 Hinton?
- 4 A. Yes.
- 5 Q. Is that correct?
- 6 A. Uh-huh (affirmative).
- 7 Q. And how much preparation did you do with him for
- 8 that?
- 9 A. You want number of hours?
- 10 Q. All right. And so you walked through direct ---
- 11 A. No, I was asking you do you want the number of
- 12 hours?
- 13 Q. Well, if you have it?
- 14 A. No, I don't.
- 15 Q. Okay.
- 16 A. I have no idea.
- 17 Q. I wouldn't expect you to?
- 18 A. I'm sorry?
- 19 Q. I wouldn't expect you to have the number of
- 20 hours. But I assume you went through his testimony
- 21 with him?
- 22 A. In general parameters, yes.
- 23 Q. And the questions that you asked.
- 24 A. The specific questions, no.
- 25 Q. All right. So let me direct your attention to

1 page 312, lines 22 through 24.

2 A. Okay.

3 Q. And that's where you asked him, were you drawing  
4 unemployment insurance?

5 A. Right.

6 Q. Why did you ask him that?

7 A. I don't know. It seemed like a good idea at the  
8 time, I suppose. I mean, I have no idea why I asked  
9 him if he was drawing unemployment insurance.

10 Q. On page 314, line 5 through 7, you asked -- y'all  
11 were -- the threesome were pretty happy together?

12 A. Yep.

13 Q. And your client said fairly. We had our ups and  
14 downs but fairly.

15 A. Okay.

16 Q. Did you know that was going to be his answer to  
17 that question?

18 A. Did I know that he was going to use the exact  
19 word fairly?

20 Q. No, no. That he had basically said -- the  
21 response was not a yes to that. It was a, well,  
22 fairly.

23 A. The response to the question was an honest  
24 response by my client that reflects the situation with  
25 most people. Maybe I can save you some time. I will

1 tell you that I did not go over specific questions  
2 with my client and I never do. I don't want their  
3 testimony to sound rehearsed.

4 Q. Right. But you ---

5 A. And so if I go over specific questions, if I say,  
6 where did you go to high school and he starts to tell  
7 me about college, I'm going to be back telling him not  
8 to do that. Just to listen to the question. What I  
9 did tell him was to listen to the question, to answer  
10 the question as truthfully and honestly as he could.  
11 If he didn't know the answer, his response was to be,  
12 I don't know. If he knew the answer at some point in  
13 time but forgot, his response was to be, I forgot.  
14 And that if he was on cross-examination by the  
15 prosecutor and I started to say to something, he was  
16 to shut up immediately.

17 Q. All right. Did you -- I believe you asked him  
18 about the text messages that were read in court on  
19 page 323?

20 A. Okay.

21 Q. Again, do you recall ever asking him about the  
22 reason he didn't want Donna Eller over at the house?

23 A. No.

24 Q. On page 334, you were -- asked the question on  
25 line 8 through 13, you asked a question about his

1 broken right hand?

2 A. Wait a minute. And where are you at now?

3 Q. 334?

4 A. Right. Which lines?

5 Q. Line 8.

6 A. Starting with line 8?

7 Q. Well, you can start with line 5. That was your  
8 question?

9 A. Oh, okay.

10 Q. Did you prepare him for that question?

11 A. Did I what?

12 Q. Prepare him for that question?

13 A. I don't believe so specifically. What do you  
14 mean by prepare? Did I tell him I was going to ask  
15 him if he had a broken hand?

16 Q. Yes?

17 A. Or did I tell him what to say?

18 Q. Well, were you going to ask him if he had a  
19 broken hand?

20 A. I don't recall specifically if I asked him if he  
21 had a broken hand, that I was going to ask him that.

22 Again, everyone's trial strategy is different. I gave  
23 him the general parameters that we were going to go  
24 over. I had his statements. We talked on numerous  
25 occasions?

1 Q. What was the purpose of asking him about the  
2 broken hand?

3 A. Probably to try to negate the evidence that he  
4 caused injuries to his daughter.

5 Q. Right. And did you expect, on cross-examination,  
6 for the prosecutor to ask on page 335 ---

7 A. 335?

8 Q. --- line 9, how did you break your hand?

9 A. I knew how he broke his hand. He had told me  
10 that.

11 Q. Right.

12 A. Did I expect her to ask that?

13 Q. Yeah?

14 A. Sure.

15 Q. Did you think that was something you could make a  
16 motion in limine concerning how he broke his hand?

17 Why was that relevant?

18 A. I believed if I asked him if he had a broken hand  
19 or if it -- what was my specific question? I asked  
20 him if there was anything physically wrong with him  
21 and he answered about the broken hand. It would have  
22 been something that would have come out. I think the  
23 line is, I've opened the door.

24 Q. Okay. By simply asking about his physical  
25 limitations you opened the door about what caused

1 those?

2 A. I believe so. I don't believe the judge would  
3 have sustained an objection.

4 Q. Would it have been possible to ask the judge to  
5 rule on that issue before you asked the question?

6 A. Anything's possible.

7 Q. All right. And so you expected the prosecutor to  
8 ask that, but you knew how he broke his hand?

9 A. Right.

10 Q. And that was something that was not exceptionally  
11 beneficial to the Defendant; was it?

12 A. A truthful answer is always beneficial to a  
13 client.

14 Q. All right. Now, do you typically go into the  
15 background of your client on the witness stand more  
16 extensively than you did with Mr. Hinton?

17 A. Every case is different.

18 Q. Okay. So you were just interested in whether or  
19 not he was raised in Greenville and went to high  
20 school?

21 A. I suppose. I don't think his childhood was an  
22 issue in this case. It certainly had nothing to do  
23 with the defense.

24 Q. Now, let me direct your attention to page 391,  
25 the closing statements.

- 1 A. Okay.
- 2 Q. Line 17.
- 3 A. Okay.
- 4 Q. Where the prosecutor said today is the day to  
5 speak for [REDACTED]
- 6 A. All right.
- 7 Q. That's clearly objectionable; isn't it?
- 8 A. Clearly objectionable?
- 9 Q. Yes, sir?
- 10 A. I don't think it's clearly objectionable.
- 11 Q. It's not clearly objectionable to ask the jury --  
12 to state to a jury today is the day to speak for the  
13 victim?
- 14 A. I've had -- objected to it in the past and been  
15 overruled.
- 16 Q. Okay.
- 17 A. You don't want to know why?
- 18 Q. Do what?
- 19 A. You want to know why I didn't interrupt the  
20 prosecutor?
- 21 Q. Yeah?
- 22 A. Juries don't like it.
- 23 Q. Right.
- 24 A. And I don't want the prosecutor interrupting me.
- 25 Q. Right.

- 1 A. I'm trying to keep the jury on my side.
- 2 Q. Right.
- 3 A. If I interrupt the prosecutor -- every time I  
4 interrupt the prosecutor and the Judge overrules me,  
5 it reinforces what the prosecutor's just said to the  
6 jury. It's like telling a little kid to keep his hand  
7 out of the cookie jar.
- 8 Q. Right.
- 9 A. If he wasn't thinking about putting his hand in  
10 the cookie jar before, he certainly is now. It does  
11 about as much good as a curative instruction, in my  
12 opinion.
- 13 Q. And so -- if that were a golden rule violation,  
14 would not that give you grounds for a motion for a  
15 mistrial?
- 16 A. Sure.
- 17 Q. But you didn't consider it that?
- 18 A. I did not object.
- 19 Q. And you understand the reason behind the golden  
20 rule?
- 21 A. Uh-huh (affirmative).
- 22 Q. Is what?
- 23 A. The reason behind it is that you're not -- you're  
24 supposed to base it on the evidence not based on  
25 sympathy. But there are times when I want the jury to

1 be sympathetic to my client.

2 Q. All right.

3 A. So it's a two-edged sword.

4 Q. I understand that. Was that sympathetic to your  
5 client?

6 A. Was that sympathetic? No. I didn't say it was.

7 MR. CHILDS: Just one minute, Your Honor.

8 Q. You were here when we played these disks?

9 A. Yes. Earlier this morning, yes.

10 Q. And do you remember listening to those?

11 A. Not off hand.

12 Q. Do you remember that they stopped?

13 A. If I didn't remember listening to them, I  
14 wouldn't remember that they stopped.

15 Q. All right.

16 A. I'm not trying to be smart.

17 Q. Normally, you would want to hear the rest of  
18 that?

19 A. I'm sorry.

20 Q. Would normally you want to hear the rest of that?

21 MR. WHITMIRE: Objection. Asked and  
22 answered.

23 THE COURT: Overruled.

24 A. I suppose.

25 Q. Particularly the statement -- the interview of

1 Ms. Bright; correct?

2 A. I would think more of the interview of Mr. ---

3 Q. Holland?

4 A. Desmond?

5 Q. Yeah. Would Ms. Bright's audio -- that kind of

6 confirmed your question to the officer about her

7 demeanor; didn't it?

8 A. Sure.

9 Q. Now, did you consider this a close case?

10 A. Yes.

11 Q. Did you consider the fact that the jury could

12 decide it either way?

13 A. I think that's what a close ---

14 Q. It wasn't a slam-dunk for the prosecution?

15 A. I didn't think it was a slam-dunk for the

16 prosecution.

17 Q. And your theory of the case was what?

18 A. That my client did not commit the acts and he was

19 not aware of it; of how they occurred. We don't have

20 to prove anything other than that.

21 Q. Right?

22 A. We don't even have to prove that.

23 Q. Right.

24 A. My client's biggest problem was, as with many

25 clients, I think he was trying to be helpful with the

1 police and he spoke too much.

2 Q. Right.

3 A. Silence is golden. Handcuffs are silver.

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

6 THE COURT: Cross-examination.

7 MR. WHITMIRE: Request a brief recess, Your  
8 Honor, for the restroom.

9 THE COURT: Well, it's five to one. Let's  
10 go ahead and break for lunch and be back here at two  
11 o'clock, please.

12 How many more witnesses do you intend to call?

13 MR. CHILDS: Just two.

14 THE COURT: Just two?

15 MR. CHILDS: Mr. Hinton and possibly Ms.  
16 Richardson.

17 THE COURT: Okay.

18 MR. CHILDS: Depending on if you think it's  
19 relevant.

20 THE COURT: Mr. Senerius, you can't speak  
21 with anybody on the break about your testimony.

22 THE WITNESS: Yes, sir.

23 THE COURT: See you guys back at two  
24 o'clock.

25 MR. CHILDS: Thank you, Your Honor.

1 THE WITNESS: Yes, sir.

2 MR. WHITMIRE: Thank you, Judge.

3 (WHEREUPON, court stood at recess for a lunch  
4 break.)

5 THE COURT: Please be seated. All right.  
6 We're on cross-examination; is that right? Or have  
7 you finished your direct?

8 MR. CHILDS: I've finished my direct.

9 THE COURT: Okay. Would you come around,  
10 please, Mr. Senerius?

11 THE WITNESS: Yes, sir.

12 MR. WHITMIRE: May it please the Court?

13 THE COURT: Yes, sir.

14 **CROSS-EXAMINATION**

15 **BY MR. WHITMIRE:**

16 Q. Mr. Senerius, when you were substituted on this  
17 case, what measures did the originally retained  
18 counsel, Chip Price, take to get you caught up on it?

19 A. He gave me his entire file. Talked to me  
20 telephonically more than once; I can't tell you how  
21 many times. Wrote me a rather extensive letter  
22 outlining his investigation. Provided us with all the  
23 discovery that he had as of that date.

24 Q. Does he have a reputation for thoroughness?

25 A. Chip? Oh, yeah. Chip's a good lawyer. Second

1 best lawyer in South Carolina.

2 Q. Did he share with you the strengths and  
3 weaknesses of the State's evidence?

4 A. We talked about it.

5 Q. Strengths and weaknesses of potential defense  
6 theories that you could pursue?

7 A. We talked about it.

8 Q. What were his impressions on a possible third-  
9 party guilt?

10 A. I don't remember that we got into it heavily. I  
11 don't think it was something that was felt worthy of  
12 pursuing, at least when I was talking with him. We  
13 looked into it ourselves, but we never came up with  
14 what I considered to be sufficient evidence to not --  
15 to be able to get it in front of a jury.

16 Q. In addressing the third-party guilt issue, even  
17 if you could overcome State v. Gregory standard where  
18 you can get the charge, how would the fact that this  
19 is a homicide by child abuse, the elements of the  
20 defense hurt your case?

21 A. Well, this is pretty much of a strict liability  
22 standard. My client had given three statements, I  
23 believe, indicating some trauma to the child. There  
24 was no direct evidence or even strong circumstantial  
25 evidence that any injury had been inflicted by the

1 baby's mother.

2 Q. Particular in mens rea element, extreme  
3 indifference or neglect?

4 A. Right.

5 Q. And he gave a statement that -- he discloses --  
6 in a second statement he later discloses to dropping  
7 the child cause potential leg and head injury?

8 A. Correct.

9 Q. And even under the statute if the jury believed  
10 him, could he still potentially be culpable under  
11 homicide by child abuse?

12 A. Could he still be? Sure. That's a jury  
13 question.

14 Q. You've tried and won homicide by child abuse  
15 cases in the Tenth Circuit?

16 A. Yeah. I've tried them.

17 Q. Cody Sprouse?

18 A. I'm sorry?

19 Q. Cody Sprouse?

20 A. Cody Sprouse wasn't a homicide but it was a great  
21 bodily injury. Either the fortunate or the  
22 unfortunate circumstances, depending on how you look  
23 at it, is that the child in that particular case was  
24 severely brain damaged and was alive the last that I  
25 knew, which was two years ago.

1 Q. Distinguish in your experience dealing in these  
2 cases, some of the differences in that case or any  
3 other cases compared to the facts and the time line in  
4 this case?

5 A. In the Sprouse case the expert testimony was  
6 that, if I recall correctly, that the injuries could  
7 have occurred within any time within a twenty-four  
8 hour period. My client was out of town for a  
9 significant portion of that twenty-four period. He  
10 was only alone with the child for a three or four  
11 period if I recall correctly. There was evidence that  
12 the child had been in the care and custody of others  
13 immediately prior to my client having care and custody  
14 of the child. That the child had been acting fussy  
15 before -- if I recall correctly, that the child had  
16 been acting fussy before my client was the sole person  
17 in custody of the child. And to be fair, that was a  
18 hung jury case. They did not retry it. But it was a  
19 hung jury.

20 Q. And compared to Mr. Hinton's case where he was  
21 the sole -- he had sole custody for the majority of  
22 that day.

23 MR. CHILDS: Objection to relevancy.

24 THE COURT: Sustained.

25 Q. You've had experience cross-examining, working

1 with Dr. Woodard?

2 A. Unfortunately, yes.

3 Q. And what do you know of his reputation, his  
4 abilities that would impact the way you prepared this  
5 case?

6 A. Dr. Woodard is pretty straightforward. I've  
7 never known him to go out on a limb. Not somebody  
8 that I want to have his testimony repeated. He's not  
9 going to change his opinion.

10 Q. Yeah. I don't want to beat a dead horse. You  
11 testified to that earlier?

12 A. That's okay.

13 Q. Dr. Gwinn, same question?

14 A. Yeah. Dr. Gwinn was the, if I remember  
15 correctly, Dr. Gwinn was the key expert witness in the  
16 Cody Sprouse trial, but he's not going to change his  
17 opinion either.

18 Q. Dr. Troupe?

19 A. I don't believe that I was in front of -- had any  
20 prior experience with him. But my experience with  
21 expert witnesses is you get your expert to contradict  
22 them. The expert itself is not going to change his  
23 mind or waiver on cross-examination.

24 Q. And if I understand this correctly, Mr. Hinton's  
25 version of the facts was that he doesn't know how the

1 child got injured to this extent. And/or he had  
2 unintentionally caused it?

3 A. I would say that's a fair characterization of his  
4 statements.

5 Q. Did he ask you to look into any type of third-  
6 party involvement. I mean, outside of even Ashley  
7 Bright?

8 A. Not that I recall.

9 Q. Had he asked you, would you have looked into it?

10 A. Sure.

11 Q. Just a few more questions.

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

13 THE COURT: Yes, sir.

14 MR. WHITMIRE: Let me make this short.

15 Q. If I recall correctly, you testified here today  
16 that character wasn't an issue in this case?

17 A. Correct.

18 Q. Not something you would want to open the door to.  
19 Would that be a concern in how you would cross-examine  
20 or examine a witness?

21 A. Well, it would depend on the witness and whose  
22 character we're talking about.

23 Q. If I recall correctly, addressing the issue of  
24 venue, you've tried similar type cases with similar  
25 type publicity before?

1 A. Yes.

2 Q. Is there any reason you wouldn't want a case in  
3 Oconee County?

4 A. That I would not want a case in Oconee County?  
5 Not so far.

6 MR. WHITMIRE: At this time, Your Honor, no  
7 further questions.

8 THE COURT: Redirect. Responsive redirect.

9 MR. CHILDS: Yes, sir.

10 **REDIRECT EXAMINATION**

11 **BY MR. CHILDS:**

12 Q. You, in fact, did cross-examine Dr. Woodard;  
13 didn't you?

14 A. Yes, sir.

15 Q. And you asked him, did you not, on page 284, line  
16 15 and 16, that you believe -- you said you believe  
17 that the head injury occurred eight hours or less  
18 before EMS arrived. And he said that's correct?

19 A. That's what Dr. Woodard said, yes.

20 Q. And then you asked, so it could have been an hour  
21 before, anywhere from the time EMS arrived to eight  
22 hours earlier?

23 A. That's what I asked him.

24 Q. And basically his answer's there, but he  
25 basically said, yes.

1 A. Basically.

2 MR. CHILDS: That's all.

3 THE COURT: All right. Yes, sir.

4 MR. WHITMIRE: Just one follow-up question  
5 if you don't mind.

6 THE COURT: It has to be responsive. If  
7 it's not, I'm not going to let you.

8 MR. WHITMIRE: It's within the scope.

9 THE COURT: Okay.

10 **RECCROSS-EXAMINATION**

11 **BY MR. WHITMIRE:**

12 Q. I believe Dr. Troupe testified that once the head  
13 injury had been inflicted it would have been obvious  
14 to any normal person around the child that something  
15 was seriously wrong with her?

16 A. I believe that was his testimony.

17 Q. And your client told the mother, don't interrupt  
18 me. Let me sleep with the child?

19 A. That was a text message.

20 THE COURT: Overruled. Stop. Go ahead.

21 MR. WHITMIRE: Strike that, Your Honor.

22 THE COURT: You're welcome.

23 All right. Any reason why Mr. Senerius can't be  
24 excused?

25 MR. WHITMIRE: None, Your Honor.

1 MR. CHILDS: None, Your Honor.

2 THE COURT: Thank you, sir.

3 THE WITNESS: Thank you.

4 THE COURT: You have a box of documents your  
5 daughter left down there?

6 THE WITNESS: Yes, sir.

7 THE COURT: Is there any reason from the  
8 Applicant's standpoint he can't take that box with  
9 him?

10 MR. CHILDS: No, sir. There's no reason.

11 THE COURT: From the State's position?

12 MR. WHITMIRE: Without objection.

13 THE COURT: All right. Thank you, sir.

14 THE WITNESS: I was hoping you were going to  
15 make my daughter come get it.

16 THE COURT: Would you call your next  
17 witness, please, sir?

18 MR. CHILDS: Matthew Hinton.

19 THE CLERK: Place your left hand on the  
20 bible and raise your right hand.

21 Do you solemnly swear or affirm the testimony  
22 you're about give the Court to be the truth, the whole  
23 truth and nothing but the truth?

24 THE WITNESS: I do.

25 MATTHEW HINTON,

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

2                           **DIRECT EXAMINATION**

3   **BY MR. CHILDS:**

4   Q.   Mr. Hinton, how old are you?

5   A.   Twenty-eight.

6   Q.   And what's your present sentence?

7   A.   Forty-one years.

8   Q.   All right. And are you presently incarcerated at  
9   Perry Correctional Institution?

10  A.   Yes, sir.

11  Q.   And do you know when your release date is?

12  A.   June 20-something, 2045.

13  Q.   All right. Now, where are you from originally?

14  A.   Travelers Rest.

15  Q.   All right. And you went to Travelers Rest High  
16  School?

17  A.   Yes, sir.

18  Q.   And what year did you graduate?

19  A.   2004.

20  Q.   All right. And you've heard the testimony about  
21  the service in the military; is that correct?

22  A.   Yes, sir.

23  Q.   Did you have a child with Ashley Bright?

24  A.   Yes, sir.

25  Q.   And what's her name?

1 A. Alana -- Ashley, sorry, [REDACTED]

2 Q. And when was she born?

3 A. [REDACTED] of ---

4 Q. 2009?

5 A. Yeah. 2009, yeah.

6 Q. Now, you have brought this post conviction relief  
7 action based upon the result of your trial?

8 A. Correct.

9 Q. And I've addressed a good number of issues  
10 already. But I want to ask you some things about your  
11 allegations. And let me ask you, first of all, there  
12 was a note in the exhibits that you discussed with Ms.  
13 Senerius, or Tye at the time, the information shown on  
14 Plaintiff's Exhibit Number 3. Do you recognize that?  
15 Probably not.

16 A. No.

17 Q. But let me ask you some questions about this  
18 note. It is indicated here six potential witnesses  
19 for your trial. And they're Alex Hood. And what was  
20 Alex Hood -- what would Alex Hood have testified to,  
21 according to what you told your lawyer?

22 MR. WHITMIRE: Objection, relevance, unless  
23 these witnesses are here to help -- the actual case  
24 restructure.

25 THE COURT: I sustain that objection unless

1 they're here to testify.

2 Q. All right. There's Denise Richardson is listed.

3 That's your mother?

4 A. Correct.

5 Q. And she was listed as a witness. And what did  
6 you tell your lawyer about what she would say?

7 A. I basically told them that she could tell them  
8 her conversation between Ashley Bright, Donna Eller,  
9 and Ashley's grandmother while I was incarcerated at  
10 Oconee.

11 Q. All right. And to your knowledge was she  
12 interviewed?

13 A. No.

14 Q. All right. There's a note here about the  
15 incident itself. It says Ashley checking in three-  
16 thirty. Last feeding. Ashley got home around five-  
17 thirty. Is that what you told your lawyers?

18 A. Yes, sir.

19 Q. And down here it says three forty-five defendant  
20 and child lay down. He was asleep and A woke them up,  
21 moved. [REDACTED] turned her head away from him. Later  
22 A woke them up -- work them, blanket. He did. And  
23 she woke up about ten something, couldn't get her  
24 breathing?

25 A. Correct.

1 Q. Is that what you told your lawyer about the  
2 incident?

3 A. Yes, sir.

4 Q. If you could explain that a little more  
5 thoroughly about what you told your lawyer about that  
6 evening as far as Ashley waking you up and coming into  
7 the bedroom?

8 A. I don't remember much except for when Ashley was  
9 actually next to me, telling me about [REDACTED] The  
10 position she was in. One time was she came in and  
11 said that the blanket was up around [REDACTED] eyes.  
12 And the blanket was pulled down and [REDACTED] moved.  
13 And I went back to sleep. I don't know how much time  
14 it was until she woke me up again. And that was  
15 because [REDACTED] had turned into my side and Ashley  
16 thought that she couldn't breathe that way. And so I  
17 lifted my arm and [REDACTED] actually turned her head.  
18 And that was the last time that I remember being woke  
19 up.

20 Q. All right. Now, there was testimony at trial  
21 about your sleeping in the room with [REDACTED] in the  
22 front room?

23 A. Correct.

24 Q. What did you tell your lawyers about that?

25 A. That was going to be her bedroom. And that was

1 actually more frequent than what was testified to.

2 Q. Okay. What do you mean by that?

3 A. The front bedroom, I had put blankets and stuff  
4 up on the window just so it would be darker during the  
5 day. And so I would sleep with her in there.

6 Q. So that wasn't unusual?

7 A. No. No, sir.

8 Q. Were you asked about that at trial?

9 A. No, sir.

10 Q. Did you talk to your lawyer about Ashley having  
11 ever picked up the child while you and [REDACTED] were in  
12 that bedroom, prior to the date in question?

13 A. No, sir.

14 Q. All right. Was that ---

15 THE COURT: What was that question again,  
16 I'm sorry. I just didn't follow it.

17 MR. CHILDS: I understand. I didn't follow  
18 it too well either.

19 Q. Did you talk to your lawyers about the pattern  
20 that you had with sleeping with [REDACTED] in that  
21 bedroom and Ashley checking on the child. Whether or  
22 not Ashley previously had picked the child up from  
23 that bedroom while you were sleeping?

24 A. We had conversations about that. I wouldn't say  
25 it was in any detail. But it was explained to them

1 that on occasion she would come in there while I was  
2 asleep and grab [REDACTED] feed her, bathe her, anything  
3 like that.

4 Q. Okay. And were you asked about that at trial?

5 A. No, sir.

6 Q. Did you want to be asked about that?

7 A. Yes, sir.

8 Q. Why?

9 A. It would have -- in my opinion, it was important  
10 because they were trying to say that it couldn't have  
11 been done.

12 Q. Now, there was testimony about the -- I think  
13 there's an exhibit about how dark that room was?

14 A. Uh-huh (affirmative).

15 Q. Was that room extremely dark?

16 A. Yes, sir.

17 Q. In fact, I think the affidavit -- the exhibit  
18 would show that the officer had to use a flashlight to  
19 see in the room?

20 A. Yes, sir.

21 Q. Is that how the room was lit?

22 A. By a flashlight?

23 Q. Well, no, I mean, was it that dark?

24 A. Oh, yes, sir.

25 Q. All right. And so when Ashley previously had

1 checked on the child while you were in the room, how  
2 was she able to see and make sure the child was okay?

3 A. I couldn't tell you that.

4 Q. On the night in question, you don't recall her  
5 taking the child; correct?

6 A. No, sir.

7 Q. But what kind of sleeper are you?

8 A. Pretty heavy.

9 Q. Okay. Well, what do you mean by that?

10 A. Meaning -- literally?

11 Q. What do you mean by you're a pretty heavy  
12 sleeper?

13 A. Literally, you could run up and down the hall and  
14 I wouldn't wake up.

15 Q. Okay. Had there been occasions in the past prior  
16 to this incident that Ashley took the child from your  
17 presence and ---

18 MR. WHITMIRE: Objection. Leading question.

19 THE COURT: Rephrase, please?

20 Q. Prior to the date of the incident, had there been  
21 an occasion ever that the child was not still sleeping  
22 with you?

23 A. Yes.

24 Q. Could you tell the Court about that?

25 A. I mean, it was frequently. Like I said, Ashley

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 ██████ that morning?
- 9 A. No, sir.
- 10 Q. Who fed ██████ that morning?
- 11 A. I could assume Ashley did, but I don't know.
- 12 Q. How often did ██████ 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 ██████████ And that indicates that  
10 you took ██████████ 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 be 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]

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

CERTIFICATE OF REPORTER

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

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

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

August 11, 2015

---

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  
CAROLINA  
2  
3 COUNTY OF OCONEE

) IN THE COURT OF GENERAL  
) SESSIONS  
)  
) INDICTMENT NO:  
) 2009-GS-37-01347

4  
5 STATE OF SOUTH  
CAROLINA  
6  
7 PLAINTIFF,  
8 -VS-  
9 MATTHEW TAYLOR HINTON,  
10 DEFENDANT.

)  
) TRANSCRIPT OF RECORD  
) TRIAL  
)  
)  
)

FEBRUARY 28, 2011  
MARCH 1, 2011  
MARCH 2, 2011  
MARCH 3, 2011  
WALHALLA, SOUTH CAROLINA

14 B E F O R E :

15 THE HONORABLE ALEXANDER S. MACAULAY, JUDGE; AND A  
16 JURY.

17  
18 A P P E A R A N C E S :

19 LINDSEY S. SIMMONS, ESQ.  
20 ASSISTANT 10TH CIRCUIT SOLICITOR  
ATTORNEY FOR THE STATE

21 GORDON SENERIUS, ESQ.  
22 BRITTANY TYE, ESQ.  
ATTORNEYS FOR THE DEFENDANT

23  
24 ROBIN SUE HILD, FCRR, RPR  
CIRCUIT COURT REPORTER  
25 POST OFFICE BOX 9  
WALHALLA, SC 29691

## INDEX

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

	1 WITNESSES	PAGE
	2	
66	3 DARYL GWYN	
89	4 DIRECT EXAMINATION BY MS. SIMMONS	246
	CROSS-EXAMINATION BY MR. SENERIUS	258
	5 REDIRECT EXAMINATION BY MS. SIMMONS	264
	RE-CROSS-EXAMINATION BY MR. SENERIUS	265
	6	
107	BRETT WOODARD	
123	7 DIRECT EXAMINATION BY MS. SIMMONS	267
129	CROSS-EXAMINATION BY MR. SENERIUS	282
129	8 REDIRECT EXAMINATION BY MS. SIMMONS	284
	RE-CROSS-EXAMINATION BY MR. SENERIUS	285
	9	
	MATTHEW TAYLOR HINTON	
	10 DIRECT EXAMINATION BY MR. SENERIUS	308
	CROSS-EXAMINATION BY MS. SIMMONS	333
	11	
149	12 THE JURY WAS SWORN	50
	OPENING STATEMENT ON BEHALF OF THE STATE	
153	13 OPENING STATEMENT ON BEHALF OF THE DEFENDANT	62
156	DEFENSE MOTION FOR DIRECTED VERDICT	288
	14 CHARGE CONFERENCE	299
	COURT'S DISCUSSION WITH DEFENDANT/TESTIFYING	302
162	15 COURT'S RE-ADVISEMENT OF DEFENDANT'S RIGHT TO	306
179	TESTIFY OR NOT TO TESTIFY	
185	16 DEFENDANT'S RENEWED MOTION FOR DIRECTED VERDICT	343
186	CHARGE CONFERENCE	347
	17 CLOSING ARGUMENT ON BEHALF OF THE STATE (LAW)	356
	CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT	358
	18 CLOSING ARGUMENT ON BEHALF OF THE STATE (FACTS)	377
201	THE COURT'S CHARGE ON THE LAW	391
	19 VERDICT OF THE JURY	405
	DEFENSE MOTIONS	409
207	20 COURT'S RULING ON DEFENSE MOTIONS	409
217	SENTENCING	409
220	21 CERTIFICATE OF COURT REPORTER	422
	22	
221	23	
236	24	
	25	

1	NUMBER, DESCRIPTION	EXHIBITS	ID./EV.
2			
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 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, CRISSY 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 MCHAKIN,  
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,~~ (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 C  
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 INFLECTION 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

9 A. YES, MA'AM.

10 Q. CAN YOU TELL US A LITTLE BIT ABOUT  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

21 A. AND

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.

REDACTED  
ID

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 A  
 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.

REDACTED

REDACTED

REDACTED

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

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

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.

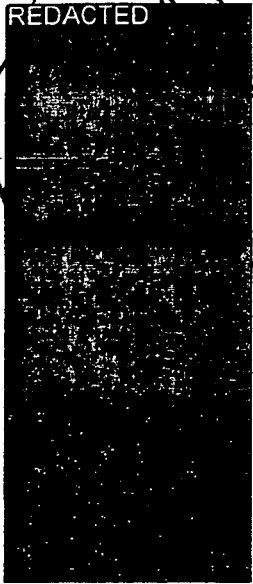
18 Q. DID -- I APOLOGIZE -- BUT DID YOU SAY IT WAS OR  
19 WAS NOT UNUSUAL FOR HIM TO SLEEP WITH HER?

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



REDACTED



1 Q. DID YOUR NETFLIX RECORDS ACTUALLY INDICATE THAT  
2 YOU WATCHED ALL THE SHOWS? RED ACT REDACTED

3 A. IT DID.

4 Q. DID YOU EVER TAKE [ ] 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.

REDACTED

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 [ ]

20 A. 10:45 -- BETWEEN 10:45 AND 11.

21 Q. WHAT DID HE SAY?

22 A. HE SAID THAT [ ] 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?

REDACTED

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

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,  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 CRIE

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 [REDACTED] 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?

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  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.

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

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

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

12 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.

**REDACTED**

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?

10 A. BETWEEN THOSE HOURS, NO.

11 Q. DURING THE ENTIRE DAY WHO HAD ACCESS?

12 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  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?

REDACTE

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 O'CONNOR  
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  
0 SITUATIONS SUCH AS THIS?

1 A. I HAVE EXPERIENCED IT, YES.

2 MR. SENERIUS: OKAY. THANK YOU.

3 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 --

REDACTE  
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.

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

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  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

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   
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

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.

10 Q. DID YOU SEE AT THE AUTOPSY ANY BRUISES ON HER  
11 BACK?

12 A. YES, MA'AM. EXCUSE ME. SORRY. ON HER BACK, ON  
13 EACH SIDE OF HER SPINE WAS THREE OR FOUR FINGERPRINTS ON  
14 BOTH SIDES. THEY WERE AT A DISTANCE OF JUST LIKE I'M  
15 SHOWING YOU NOW ON EACH SIDE OF HER SPINE. SHE DID HAVE  
16 SOME SPOTS ABOUT HER FACE, AND WHEN THEY PULLED BACK THE  
17 SCALP, YOU COULD SEE ON THE SKULL THE INJURIES THERE AS  
18 WELL.

19 Q. YOU SAW SOME BRUISING AND A HEAD INJURY?

20 A. THAT'S CORRECT.

21 Q. DURING THE COURSE OF YOUR INVESTIGATION OF THIS  
22 CASE, WERE YOU LOOKING AT BOTH PARENTS?

23 A. ABSOLUTELY. WHEN WE CONDUCT AN INVESTIGATION LIKE  
24 THIS, EVERYONE RELATED TO THE SITUATION IS A SUSPECT AT  
25 FIRST UNTIL THEY ARE ELIMINATED. WE DO VIEW BOTH PARENTS

RED  
ACT  
ED

REDACTED

D

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

RED  
ACT  
ED

RE  
DA  
CT  
ED

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?

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  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 ,  
23 WHICH IS DIRECTLY UNDER THEIR APARTMENT, .

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 MINUTE  
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 RE CROSS-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  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:  ROAD,

16 TRAVELERS REST, SOUTH CAROLINA.

17 THE COURT: WHO LIVES AT   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  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

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  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 FIANCEE 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 INFLICTED?

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  RESPONSIVE TO ANY PAIN STIMULI WHEN  
8 YOU TREATED HER?

9 A. NO, SHE WAS NOT.

10 Q. IN YOUR MEDICAL OPINION, HAD  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.

RE  
DA  
CT  
ED

12 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.

REDACT  
ED

16 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] DI  
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?

REDACTED

REDACTED

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-PORION, J

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

0  
No finding  
not his exper  
New

0

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.

9               Q. CAN YOU DISCUSS WHAT YOU HAVE CALLED THE  
10 CONSTELLATION OF  INJURIES AND WHAT THEY TELL US  
11 AS A WHOLE?  
12

13              A. WELL, IF WE HAVE A BRUISE ON THE CHEST THAT I  
14 DON'T THINK CAN BE ACCOUNTED FOR BY C.P.R., THAT  
15 CONSTITUTES A FORCE OF SOME TYPE ON HER CHEST. A  
16 COLLAPSED LUNG THAT WAS TREATED IN THE OUTSIDE E.R. CAN  
17 GO ALONG WITH THAT CHEST INJURY OR NOT. IT COULD BE FROM  
18 ANOTHER MECHANISM, FROM ANOTHER TYPE OF POINT OR TYPE OF  
19 TRAUMA. THE BLOOD AROUND THE BRAIN AND THE DARKNESS OF  
20 THE BRAIN IS A PATTERN OF INJURIES THAT I THINK IS NOT  
21 CONSISTENT WITH ANY SIMPLE SINGLE MECHANISM.  
22

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  
10 AT THE END OF THE CHAIN IN A SHAKING INJURY, AND IT TEARS  
11 OFF. BUT THE MAIN THING ABOUT IT IS THEY TEAR OFF IN  
12 MULTIPLE LAYERS. SO YOU CAN GET RETINAL HEMORRHAGES FOR  
13 A LOT OF DIFFERENT REASONS: C.P.R. BEING ONE OF THEM,  
14 SMOTHERING IS ANOTHER ONE, BIRTH TRAUMA IN A VERY YOUNG  
15 CHILD, SEVERAL DAYS OLD, YOU CAN GET RETINAL HEMORRHAGES  
16 BUT THOSE ARE USUALLY ONLY IN ISOLATED LAYERS. RETINAL  
17 HEMORRHAGES IN CHILD ABUSE ARE MULTIPLE-LAYER RETINAL  
18 HEMORRHAGES MADE FROM MULTIPLE-LAYER RETINAL HEMORRHAGES  
19 WHICH WOULD BE ANOTHER PART OF THE CONSTELLATION OF  
20 INJURIES.

21 SO A FIRST RIB FRACTURE IS SOMETHING THAT TAKES A  
22 TREMENDOUS AMOUNT OF FORCE ON A CHILD. RETINAL  
23 HEMORRHAGES DESIGNATE A PARTICULAR TYPE OF ACCELERATION-  
24 DE-ACCELERATION INJURY TO THE CHILD'S EYES THROUGH MOTION  
25 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  
INTENTIONAL CHILD ABUSE THAT CAN CAUSE THIS PATTERN OF  
INJURIES TOGETHER.

Q. SO THESE INJURIES COULD NOT HAVE BEEN CAUSED BY A  
FALL OR ACCIDENT IN THE SHOWER?

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

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 INFLECT 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 COMPRESSIONING.

20 THE COURT: YOU NEED TO SPEAK UP, SIR, PLEASE.

21 THE WITNESS: HE SAID HE WAS COMPRESSIONING 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  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

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 III

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

*Attorney for Respondent*

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

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 WHEREUPON,

2 BRET WOODARD,

3 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION BY MS. SIMMONS:

5 MR. SENERIUS: EXCUSE ME, YOUR HONOR. I'M FAMILIAR  
6 WITH DR. WOODARD AND THE DEFENSE IS PREPARED TO STIPULATE  
7 TO HIS QUALIFICATIONS AS AN EXPERT WITNESS.

8 THE COURT: EXPERT IN FORENSIC PATHOLOGY?

9 MR. SENERIUS: FORENSIC PATHOLOGY, YES, SIR.

10 THE COURT: IS THAT THE QUALIFICATION THAT YOU WANT,  
11 MADAM SOLICITOR?

12 MS. SIMMONS: YES, YOUR HONOR.

13 THE COURT: ALL RIGHT. LET'S DO THIS FIRST, THOUGH.  
14 IF YOU WOULD PLEASE, DR. WOODARD, WOULD YOU GIVE US  
15 YOUR NAME FOR THE RECORD.

16 THE WITNESS: BRET HOUGHTEN WOODARD, W-O-O-D-A-R-D.

17 THE COURT: ALL RIGHT. DR. WOODARD HAS BEEN  
18 QUALIFIED, AT LEAST ACKNOWLEDGED AS AN EXPERT FORENSIC  
19 PATHOLOGIST, SO HE WILL BE ABLE OR WILL BE PERMITTED TO  
20 GIVE HIS OPINION IN THAT AREA OF EXPERTISE. AGAIN, AS  
21 WITH ALL WITNESSES, THE VALUE OF HIS TESTIMONY IS FOR  
22 YOUR DETERMINATION.

23 ALL RIGHT. MADAM SOLICITOR?

24 BY MS. SIMMONS:

25 Q. GOOD AFTERNOON, DR. WOODARD.

1 A. GOOD AFTERNOON.

2 Q. HOW LONG HAVE YOU BEEN THE FORENSIC PATHOLOGIST  
3 FOR ANDERSON AND OCONEE COUNTIES?

4 A. FOR, IN ANDERSON COUNTY SINCE THE EARLY 1980'S;  
5 OCONEE COUNTY, MID 1990'S.

6 Q. AND EXPLAIN TO US IN LAYPERSON'S TERMS WHAT  
7 FORENSIC PATHOLOGISTS DO.

8 A. WELL, FORENSIC PATHOLOGY IS A SPECIALTY AREA IN  
9 THE FIELD OF PATHOLOGY THAT DEALS WITH HUMAN INJURY, WHAT  
10 THAT HUMAN INJURY, INCAPACITY IT MIGHT PUT ON THE  
11 INDIVIDUAL WHO HAS THOSE INJURIES, THE MECHANISMS BY  
12 WHICH THE INJURIES COULD BE PRODUCED, AND THE  
13 DOCUMENTATION OF THOSE INJURIES OR DISEASES, AND HOW THEY  
14 MAY HAVE INTERACTED IN A GIVEN INDIVIDUAL TO PRODUCE  
15 THEIR COMPROMISE UP TO THE POINT OF DEATH.

16 Q. AND OVER THESE YEARS HOW MANY AUTOPSIES DO YOU  
17 ESTIMATE YOU HAVE CONDUCTED?

18 A. I DO ABOUT 250 ON AVERAGE POST-MORTEM EXAMINATIONS  
19 AND HAVE BEEN DOING SO SINCE THE EARLY 1980'S.

20 Q. WELL INTO THE THOUSANDS, THEN?

21 A. THAT'S CORRECT.

22 Q. ARE YOU BEING COMPENSATED FOR YOUR TESTIMONY  
23 TODAY?

24 A. NO, I'M NOT.

25 Q. DID YOU CONDUCT AN AUTOPSY ON

1 A. YES, I DID.

2 Q. HOW OLD WAS [REDACTED]

3 A. BEFORE THE AUTOPSY [REDACTED] WAS FIVE MONTHS AND 20  
4 DAYS OLD.

5 Q. AND WHEN DID YOU PERFORM THE AUTOPSY?

6 A. WE PERFORMED THE AUTOPSY ON THE 20TH OF AUGUST OF  
7 2009.

8 Q. WHAT DOES A COMPLETE AUTOPSY ENTAIL?

9 A. WE START WITH THE INDIVIDUAL AS WE RECEIVE THEM  
10 AFTER MEDICAL CARE OR DIRECTLY FROM THE PLACE THAT THEY  
11 WERE FOUND DEAD. IN THIS CASE THE CHILD WAS BROUGHT FROM  
12 THE GREENVILLE HOSPITAL SYSTEM.

13 WE EXAMINED THE IV'S OR BLOOD LINES THAT WERE  
14 PRESENT ON THE CHILD, ANY TUBES THAT WERE PLACED INTO  
15 THEIR STOMACH OR THEIR MOUTH, OTHER PLACES, ANY MARKS  
16 THAT MAY BE RELATED TO TAPE THAT WAS USED TO HOLD THOSE  
17 THINGS IN PLACE; AND WORK OUR WAY DOWN TO THE ACTUAL  
18 CHILD HERSELF, AND THEN WE EXAMINED FOR THE PRESENCE OF  
19 INJURIES THAT WERE NOT RELATED TO ANY KIND OF MEDICAL  
20 INTERVENTION OR POSSIBLE MEDICAL INTERVENTION, AND  
21 DOCUMENT THOSE INJURIES, THEIR DISTRIBUTION, AND THEN  
22 PROCEED TO THE INTERNAL ORGANS TO SEE HOW THOSE INJURIES  
23 TRANSLATED OR EXPRESSED THEMSELVES IN THE UNDERLYING BODY  
24 PARTS.

25 Q. WORKING FROM YOUR EXTERNAL ANALYSIS OF [REDACTED]

1 EXTERNAL AND INTERNAL, USING THE POINTER AND THE DIAGRAM  
2 BEHIND YOU, CAN YOU TELL ME ABOUT WHAT EXTERNAL INJURIES  
3 YOU SAW ON

4 A. WELL, THE NON-MEDICAL EXTERNAL INJURIES, OR  
5 INJURIES THAT WERE PROBABLY MEDICAL, WOULD HAVE OCCURRED  
6 AS A LARGE BRUISE IN THE CENTER OF THE CHEST, A SMALLER  
7 BRUISE UP ON THE LEFT CHEST, AND A SMALLER BRUISE DOWN ON  
8 THE RIGHT CHEST.

9 ON THE BACK PORTION WE FOUND BRUISES AROUND THE  
10 SPINE JUST TO THE LEFT OF THE CENTERLINE AND DOWN ON THE  
11 BONE AS THE HIP COMES AROUND ON THE LEFT SIDE.

12 AND THEN WHEN WE LOOKED IN THE SCALP, BACK ON THE  
13 RIGHT SIDE WE SAW A BRUISE IN THE BACK PART OF THE SKULL  
14 AND THE SCALP OF THE BACK PART. WE SAW SOME SMALLER  
15 SCRAPES THAT MAY OR MAY NOT HAVE BEEN RELATED TO MEDICAL  
16 INTERVENTION THAT WERE SEEN ON THE TOES, AND THEN WE SAW  
17 A LARGE BRUISE OR -- A LARGE BRUISE UP IN THE SCALP THAT  
18 WAS RELATED TO A PUNCTURE MARK THAT AT ONE TIME HAD BEEN  
19 AN I.V. SITE.

20 Q. THE STERNUM INJURY YOU JUST DESCRIBED, IN YOUR  
21 PROFESSIONAL OPINION IS THAT MOST LIKELY CAUSED BY C.P.R.  
22 OR BLUNT FORCE?

23 A. THAT WAS MOST CONSISTENT WITH BLUNT FORCE. IT WAS  
24 VERY UNLIKELY TO HAVE BEEN A C.P.R. INJURY.

25 Q. IS IT CONSISTENT AT ALL WITH A STERNUM RUB?

1 A. NO. RUBBING PRODUCES THE ENERGY ACROSS THE SKIN.  
2 SO IT, THE PERSON WHO RUBS, PUSHES ACROSS THE SKIN RATHER  
3 THAN DOWN. AND WHAT THIS OFTEN DOES IS PRODUCE, WE USED  
4 TO CALL IT A CHERRY WHEN I WAS WRESTLING IN HIGH SCHOOL  
5 WHEN THE SKIN SCRAPED AWAY, MUCH LIKE WHEN A CHILD DRAGS  
6 THEIR KNEE ACROSS CONCRETE WHEN THEY HAVE AN ACCIDENT AND  
7 PRODUCES WHAT WE CALL AN ABRASION OR A SCRAPE OF THE SKIN  
8 RATHER THAN A BRUISE.

9 Q. AND THIS BRUISE WE'RE DISCUSSING, WAS IT  
10 SUPERFICIAL OR MULTILAYER?

11 A. IT WAS MULTILAYER ALL THE WAY DOWN TO THE BONE  
12 ITSELF.

13 Q. AND HOW LARGE WAS THE BRUISE?

14 A. IT WAS TWO AND THREE FOURTHS OF AN INCH BY ONE AND  
15 A QUARTER INCHES ON ITS SURFACE PRESENTATION.

16 Q. THE BRUISES ON THE SPINE THAT YOU SAW, WHAT WERE  
17 THEY CONSISTENT WITH?

18 A. THEY WERE OF A SIZE AND SHAPE TO BE CONSISTENT  
19 WITH STRONGLY APPLIED FINGERTIPS WHEN THE FINGERS COME  
20 DOWN AND COME ON TO A BONY PROMINENCE SUCH AS THE LITTLE  
21 BUMPS THAT STICK UP FROM THE BACK OF YOUR SPINE, IT WILL  
22 CAUSE THE SKIN TO BE CRUSHED BETWEEN THE FINGER SURFACE  
23 AND THE BONE BENEATH IT PRODUCING A BRUISE INTO THE  
24 TISSUES, AND THIS PRODUCES A SMALL, RELATIVELY ROUND  
25 BRUISE; THERE WILL OFTEN BE MULTIPLE ONES, TWO TO FOUR,

1 DEPENDING UPON EXACTLY HOW THE GRIPPING OCCURRED.

2 Q. DO THESE FINGERTIP INJURIES ON THE SPINE LINE UP  
3 WITH THIS BRUISE ON THE CHEST AT ALL?

4 A. NO. THESE ARE IN THE LOWER PORTION OF WHAT YOU  
5 WOULD CALL YOUR, THE SWAY BACK PORTION OF YOUR BACK OR  
6 YOUR LOWER BACK. THEY LINE UP IN GENERAL POSITION WITH A  
7 RIGHT HAND BEING APPLIED TO THE SPINE AREA AND THUMB  
8 BEING APPLIED TO THE BONY PROMINENCE OVER THE HIP.

9 Q. WHAT DID THE FINGERTIP-LIKE BRUISES SUGGEST TO YOU  
10 AS THE PATHOLOGIST?

11 A. THAT THERE WAS FORCEFUL GRIPPING IN ALL  
12 PROBABILITY BY A RIGHT HAND GRABBING THE LEFT LOWER BACK  
13 AND THE THUMB BEING PLACED AGAINST THE HIP.

14 Q. IS THIS CONSISTENT WITH AN ACCIDENTAL OR  
15 INTENTIONAL GRIPPING?

16 A. IT'S CONSISTENT WITH AN INTENTIONAL VERY FORCEFUL  
17 GRIPPING.

18 Q. ALONG THE LINES OF THE GRIPPING, DID YOU FIND ANY  
19 INTERNAL RIB FRACTURES?

20 A. THERE WAS A FRACTURE OVER THE FIRST RIB ON THE  
21 RIGHT SIDE. THIS WOULD BE HIGH, IF YOU SAW THE SKELETON  
22 IT WOULD BE HIGH ABOVE THE SCAPULA HERE IN THE BACK  
23 PORTION OF THE FIRST RIB WHERE THE RIB ARCHES BACK AND  
24 THEN COMES IN CONTACT WITH THE SPINE AND THE BACK. THIS  
25 TYPE OF FRACTURE IS VERY CHARACTERISTIC OF A GRIPPING AND

1 INWARD FORCE SO THAT WHERE THE RIB APPLIES ITSELF TO THE  
2 VERTEBRAL BODY, IT'S HINGED AGAINST THAT SPINAL BONE AND  
3 THE VERTEBRAL BODY PRODUCES THIS TYPE OF FRACTURE. IT'S  
4 NOT A FRACTURE THAT WOULD OCCUR WITH C.P.R.

5 Q. IS IT A FRACTURE THAT CAN BE CAUSED BY BEING, A  
6 SEVERE DROP, OR A DROP IN A BATHTUB?

7 A. NO. IT WOULDN'T BE WHAT WE CALL -- A POINT BREAK  
8 FRACTURE REQUIRES THIS HINGING MOTION RATHER THAN A BLOW.  
9 CHILDREN'S RIBS ARE MUCH LIKE A WET WISHBONE. IF YOU  
10 EVER TRIED TO BREAK THE WISHBONE AT THANKSGIVING, WHEN  
11 IT'S FIRST CUT OUT OF THE TURKEY YOU CAN ALMOST PULL IT  
12 BOTH DIRECTIONS AND IT WON'T BREAK, IT'S VERY ELASTIC.  
13 CHILDREN'S RIBS ARE VERY ELASTIC AND PEOPLE'S RIBS  
14 MAINTAIN A LOT OF ELASTICITY INTO THEIR LATE TWENTIES AND  
15 EARLY THIRTIES. THOSE OF US WITH GRAY HAIR HAVE RIGID  
16 RIBS AND THAT'S WHY OLDER PEOPLE TEND TO BREAK THEIR RIBS  
17 MORE COMMONLY. OUR RIBS ARE MORE LIKE THE DRIED OUT  
18 TURKEY BONE.

19 Q. DID YOU FIND ANY LEG FRACTURES WHEN YOU ANALYZED  
20 HER LEGS?

21 A. YES. WE EXAMINED HER FEMUR AND HER TIBIA ON THE  
22 RIGHT SIDE AND FOUND THAT WHERE THE GROWTH PLATE MEETS  
23 THE FORMED BONE OR THE GROWING SURFACE HAD BEEN PULLED  
24 AWAY FROM THE BONE. THIS IS A FRACTURE THAT'S PRODUCED  
25 BY A PULLING OR YANKING MECHANISM, OFTEN WITH AN ELEMENT

1 OF TWISTING AT THE SAME TIME THAT THE TWO BONES ARE  
2 PULLED APART.

3 Q. WHAT KIND OF FORCE IS REQUIRED TO GENERATE THAT  
4 KIND OF LEG INJURY?

5 A. SIGNIFICANT FORCE.

6 Q. GIVE ME AN EXAMPLE OF HOW IT HAPPENED?

7 A. IF SOMEBODY WAS GRABBED AND SOMEBODY PULLED BACK,  
8 AN ADULT PULLED BACK AS HARD AS THEY COULD ON THAT LEG  
9 WHEN THE CHILD WAS IN SOMEWHAT OF A FIXED POSITION, THEY  
10 WOULD PRODUCE THAT TYPE OF INJURY, OR COULD.

11 Q. WHAT KIND OF TRAUMA ARE THE SKELETAL INJURIES, THE  
12 WHOLE, THE RIB FRACTURE AND THE LEG FRACTURE INDICATIVE  
13 OF?

14 A. THEY'RE INDICATIVE OF INFLICTED TRAUMA OF A  
15 SIGNIFICANT, WHERE SIGNIFICANT FORCE WAS HAVING BEEN  
16 APPLIED.

17 Q. CAN YOU PRECISELY DATE EITHER ONE OF THOSE  
18 FRACTURES?

19 A. THE LEG FRACTURE IS DIFFICULT TO DATE BECAUSE  
20 UNTIL CALLUS OR FUSION OF BONE BEGINS TO OCCUR, WE DON'T  
21 GET A SENSE FOR DATING THOSE. THE RIB FRACTURE, ON THE  
22 OTHER HAND, WAS RECENT, WITHIN LESS THAN 24 HOURS OF THE  
23 TIME OF DEATH OF THE CHILD. THE BLOOD WAS FRESH AND WELL  
24 FORMED. THOSE CHANGES OF DEGENERATION ON THAT SITE  
25 HADN'T OCCURRED YET. SO IT WAS IN A GENERAL TIME FRAME

1 CONSISTENT WITH A HEAD TRAUMA TIME FRAME.

2 Q. ARE YOU ABLE TO DATE THIS MORE PRECISELY THAN THE  
3 OTHER DOCTORS BECAUSE YOU ACTUALLY SAW THE BONE?

4 A. YES. I HAD THE ADVANTAGE NOT JUST LOOKING AT THE  
5 SHADOWS THAT ARE MADE BY X-RAY, BUT I COULD SEE THE  
6 LIQUIDS THAT ARE AROUND THE BONE. THEY COULD ONLY JUDGE  
7 THE AGING OF THE FRACTURE ONCE CALLUS OR REPAIR STARTS TO  
8 FORM, WHICH TAKES TEN TO 14 DAYS IN A YOUNG CHILD.

9 Q. MOVING ON TO THE OTHER INTERNAL INJURIES, CAN WE  
10 TALK ABOUT THE HEAD INJURY?

11 A. YEAH. THERE WAS A LARGE BRUISE IN THE BACK  
12 PORTION OF THE HEAD WITH HEMORRHAGE INTO THE SKULL BONE.  
13 THE SKULL BONE IS LIKE A SANDWICH. IT'S TWO PIECES OF  
14 BONE THAT ARE CLOSELY APPLIED TO EACH OTHER WITH A SPACE  
15 IN BETWEEN. AND UNDERNEATH THIS LARGE BRUISE THERE WAS A  
16 PALE AREA WITH HEMORRHAGE AROUND THE OUTSIDE.

17 A BABY'S SKULL IS MUCH LIKE A PING PONG BALL.

18 AGAIN, IT'S NOT WELL CALCIFIED, IT'S SOFT. AND SO LIKE A  
19 PING PONG BALL, IT CAN BE PUSHED IN AND THEN POPPED BACK  
20 OUT WITHOUT PRODUCING A FRACTURE. THE ADULT SKULL IS  
21 MORE RIGID, AND WHEN THAT FORCE PUSHES IT IN, IT PRODUCES  
22 AT LEAST A LINEAR FRACTURE BUT THAT'S NOT ALWAYS TRUE IN  
23 A BABY.

24 INSIDE THE BRAIN ITSELF WAS BLEEDING BETWEEN THE  
25 FIBROUS LAYER THAT HOOKS THE SKULL TO THE BRAIN AND THEN

1 SUPPORTS THE BRAIN INSIDE. THERE WAS BLEEDING BETWEEN  
2 THAT LAYER. THAT BLEEDING WAS CAUSED BY TEARS IN LITTLE  
3 VEINS. THE VEINS DRAIN OFF YOUR BRAIN AND COME INTO THAT  
4 FIBROUS LAYER WHERE THEY'RE CARRIED AWAY BY A VEIN THAT'S  
5 ENTRAPED IN THE FIBROUS LAYER. THIS IS USUALLY CAUSED BY  
6 SOME DEGREE OF A ROTATIONAL FORCE ELEMENT INVOLVED WITH  
7 THE INJURY.

8 THERE WAS SEVERE SWELLING OF THE BRAIN, AND THE  
9 SWELLING OF THE BRAIN HAD FORCED PORTIONS OF THE BRAIN  
10 THROUGH CLOSED AREAS OF THE BRAIN THAT RESULTED IN DEATH  
11 OF THE BACK PORTION OF THE BRAIN. WE CALL THIS TEMPORAL  
12 HEMORRHAGE; AND DEATH OF THE VITAL CENTERS OF THE BRAIN  
13 WE CALL THIS TONSILLAR HERNIATION OR BRAIN STEM  
14 HERNIATION. THERE WAS HEMORRHAGE AROUND THE EYES AS THE  
15 NERVE COMES OUT OF THE BRAIN AND IT GOES TO THE BACK OF  
16 THE EYE, AND THEN THERE WAS HEMORRHAGE IN THE EYES  
17 THEMSELVES.

18 Q. IN YOUR EXPERT OPINION, HOW WOULD THIS FATAL HEAD  
19 INJURY BEEN CAUSED? AND IS IT A MULTI-IMPACT OR  
20 SINGLE-IMPACT INJURY?

21 A. WELL, THERE WAS AN IMPACT TO THE FRONT PORTION OF  
22 THE SKULL AS WELL THAT WE HAVEN'T SPOKEN OF, WHICH AGAIN  
23 HAD THE FINGERTIP QUALITY THAT WAS SEEN ON THE RIGHT SIDE  
24 OF THE EYEBROW AND WOULD BE CONSISTENT WITH SOME SORT OF  
25 FORCE BEING APPLIED WITH THE HAND AGAINST THE BABY'S

1 HEAD. THE, SOME COMPONENT OF TORSION OR TWISTING OF THE  
2 HEAD, COUPLED WITH A SUDDEN BLOW TO THE HEAD, WAS HOW THE  
3 INJURY WAS PRODUCED.

4 Q. IN LAYMEN'S TERMS ARE WE TALKING ABOUT A BLUNT  
5 FORCE AND A SHAKING INCIDENT?

6 A. SOME SORT OF RAPID MOTION WHERE THE FORCES ARE NOT  
7 JUST CONVEYED THROUGH THE FRONT AND BACK OF THE HEAD,  
8 THEY'RE CONVEYED OFF ANGLE IN THE HEAD SO THAT THE VEINS  
9 BECOME STRETCHED AS THE BRAIN EITHER IS BEHIND OR IN  
10 FRONT OF THE SKULL MOVING, AND SO THE VEINS GET PULLED  
11 APART AND TORN.

12 Q. WOULD  HAVE CRIED DURING THIS FATAL HEAD  
13 INJURY, THE INFLECTION OF IT?

14 A. BEFORE THE INJURY OCCURRED, BUT ONCE THE INJURY  
15 OCCURRED SHE WOULD HAVE GONE QUIET. SHE WOULD HAVE BEEN  
16 ESSENTIALLY UNCONSCIOUS, AND WITHIN A SHORT TIME PERIOD  
17 COMA WOULD OCCUR WHERE SHE WOULD BE UNAROUSABLE, AND THEN  
18 EVENTUALLY THE VITAL, AS THIS PRESSURE BUILDS AND THE  
19 BRAIN IS PUSHED DOWN SO THE BRAIN STEM IS BEING  
20 COMPROMISED, SHE WOULD BEGIN TO LOSE HER RESPIRATORY  
21 FUNCTIONS. IF THAT WAS PREVENTED EVENTUALLY AT SOME  
22 POINT SHE WOULD ALSO LOSE HER CARDIAC FUNCTION.

23 Q. HOW QUICKLY WOULD THIS INJURY HAVE BEEN APPARENT  
24 TO A CAREGIVER?

25 A. INSTANTLY THE CHILD WOULD HAVE BEEN QUIET. IF THE

1 CHILD HAD BEEN FUSSY BEFOREHAND, IT WOULD BE TOTALLY  
2 SILENT, UNAROUSABLE. IT WOULD NOT TAKE ANY FEEDINGS IF  
3 YOU OFFERED IT FEEDINGS, AND IF YOU STUCK THE NIPPLE IN  
4 ITS MOUTH IT WOULDN'T CHOKE ON THE NIPPLE. IT WOULD BE  
5 OBVIOUS TO A LAYPERSON THAT THERE IS SOMETHING SERIOUSLY  
6 WRONG WITH THIS CHILD.

7 Q. DID YOU SEE ANY EXTERNAL LINEAR INJURIES TO  
8  HEAD OR FACE?

9 A. SHE HAD THE FINGERTIP INJURIES THAT I DISCUSSED ON  
10 HER FOREHEAD AND THEN THE INJURIES ON HER LEFT RIGHT  
11 CHEST AND CENTRAL CHEST.

12 Q. SO THE INJURIES -- THE BRUISES -- THE INJURIES ON  
13 THE HEAD, ARE YOU SAYING THAT'S WITH FINGERTIPS?

14 A. THAT'S AGAIN FINGERS, THEY ARE OF THE SIZE AND  
15 CHARACTER CONSISTENT WITH FINGERS PRESSING VERY FIRMLY  
16 AGAINST THE HEAD AND CATCHING THE SKIN AND SOFT TISSUES  
17 BETWEEN THE SKULL, WHICH IS RIGID, AND THOSE FINGERS  
18 PRESSING.

19 Q. THE LEG INJURY, HAD IT OCCURRED FIRST, WOULD SHE  
20 HAVE BEEN CRYING?

21 A. YES, SHE WOULD HAVE BEEN -- ALMOST EVERY TIME SHE  
22 WAS MOVED, SHE WOULD HAVE BEEN INCONSOLABLE. SHE WOULD  
23 HAVE BEEN EXTREMELY FUSSY, ALWAYS CRYING ALL THE TIME  
24 WOULD HAVE BEEN THE TYPES OF THINGS THAT WOULD BE STATED

25 Q. BUT THE CONSTELLATION OF INJURIES YOU SAW, WOULD

1 IT BE POSSIBLE TO INFLICT THESE INJURIES TO THE CHILD  
2 WITHOUT HER MAKING ANY NOISE AT ALL?

3 A. THEY COULD OCCUR QUICKLY ENOUGH THAT THE CHILD  
4 WOULD MAKE VERY LITTLE NOISE WHEN THEY OCCURRED. AGAIN,  
5 ONCE THE HEAD INJURY OCCURS, THE CHILD IS NOT GONNA MAKE  
6 ANY KIND OF NOISE THAT SOMEBODY WOULD HEAR.

7 Q. BUT THE LEG INJURY, THEY WOULD?

8 A. AFTER THE LEG INJURY, THE CHILD WOULD START  
9 CRYING, YES.

10 Q. ARE  INJURIES CONSISTENT WITH ANY SORT OF  
11 ACCIDENTAL FALL OR MISHAP WITHIN THE HOUSEHOLD?

12 A. IN MY OPINION, NO. IT WOULD REQUIRE THE BABY TO  
13 LITERALLY BOUNCE DURING THIS ACCIDENT, AND BABIES DON'T  
14 BOUNCE. THE BABY WOULD HAVE TO STRIKE ITSELF ON MULTIPLE  
15 BODY SURFACE AREAS AND PRODUCE INJURIES THAT TAKE  
16 DIFFERENT MECHANISMS TO BE PRODUCED DURING THIS SINGLE  
17 ACCIDENT.

18 Q. IS THERE ANY NATURAL CAUSE THAT YOU CAN IMAGINE  
19 FOR THIS CONSTELLATION OF INJURIES?

20 A. NO, THIS IS NOT A NATURAL DISEASE PROCESS.

21 Q. WHAT -- TAKEN TOGETHER AS A WHOLE, WHAT ARE THE  
22 INJURIES CONSISTENT WITH?

23 A. INFLICTED TRAUMA.

24 Q. IS IT UNUSUAL THAT THERE ARE FEW OUTWARD  
25 MANIFESTATIONS OF INJURY WITH SUCH SEVERE INTERNAL

1 INJURIES?

2 A. NO, IT'S NOT UNCOMMON AT ALL. IN FACT, WHEN WE DO  
3 THE AUTOPSY, WE HAVE TO CAREFULLY LOOK UNDER THE SKIN  
4 THROUGHOUT THE BODY IN ORDER TO BE ABLE TO DOCUMENT ALL  
5 THE INJURIES THAT ARE PRESENT. IT'S NOT UNCOMMON AT ALL  
6 THAT A SIGNIFICANT BRUISE CAN BE SEEN UNDER THE SKIN THAT  
7 IS NOT EVIDENT FROM THE, ON THE SURFACE OF THE SKIN.

8 Q. WHAT DID YOU RULE AS  PRIMARY CAUSE OF  
9 DEATH?

10 A. HER HEAD INJURIES, THE BRAIN SWELLING AND THE FACT  
11 THAT IT PUSHED THE BRAIN DOWN THROUGH THESE CLOSED AREAS  
12 AND THAT PRODUCED DEATH AT THOSE CENTERS.

13 Q. COULD IMMEDIATE MEDICAL INTERVENTION HAVE CHANGED  
14 THE RESULT FOR

15 A. IT'S VERY POSSIBLE.

16 Q. IN YOUR PROFESSIONAL OPINION IS IT MORE LIKELY  
17 THAT THESE INJURIES WERE INFLICTED BY A FEMALE OR A  
18 STRONG MALE?

19 A. THEY'RE MORE LIKELY TO HAVE BEEN INFLICTED BY A  
20 STRONGER THAN A WEAKER PERSON, A LARGER THAN A SMALLER  
21 PERSON.

22 Q. DO YOU HAVE AN OPINION AS TO WHEN THESE INJURIES  
23 WERE INFLICTED ON

24 A. THE SKIN INJURIES THAT WE DESCRIBED, THE HEAD  
25 INJURIES, THE INTERNAL HEAD INJURIES AND THE RIB FRACTURE

1 ALL OCCURRED IN A SIMILAR TIME PERIOD. THE LEG INJURY  
2 COULD HAVE OCCURRED BEFORE THIS TIME PERIOD. BUT AT THE  
3 TIME THAT THE HEAD INJURY WAS INCURRED, I DON'T KNOW IF  
4 IT WAS BEFORE OR AFTER THE RIB FRACTURE OCCURRED. ONCE  
5 THE HEAD INJURY OCCURRED, THE CHILD WOULD GO UNCONSCIOUS  
6 AND WOULD PROCEED FROM UNCONSCIOUSNESS INTO COMA AND  
7 FINALLY A RESPIRATORY FAILURE AND DEATH.

8 Q. AND WHEN, BASED ON YOUR RECORDS, WHEN DID HER  
9 RESPIRATORY DISTRESS BEGIN? OR IS IT DOCUMENTED?

10 A. BASED ON MY RECORDS, THE INFORMATION I WAS  
11 SUPPLIED WITH INDICATED THAT RESPIRATORY DISTRESS OR  
12 UNUSUAL BREATHING WAS NOTED BY THE MOTHER SOMETIME AFTER  
13 SHE RETURNED BUT BEFORE THE FATHER AWOKE AND EMS WAS  
14 CALLED.

15 Q. IS THERE A TIME FRAME PRIOR TO THE ONSET OF  
16 RESPIRATORY DISTRESS THAT YOU CAN DATE THIS, THAT YOU CAN  
17 NARROW THIS HEAD INJURY DOWN TO?

18 A. CERTAINLY THE HEAD INJURY HAD TO OCCUR EIGHT HOURS  
19 OR LESS BEFORE EMS WAS CONTACTED.

20 Q. BASED ON THE MEDICAL EVIDENCE YOU SAW AND THE  
21 HISTORY GIVEN, ARE THESE INJURIES CONSISTENT -- THE FATAL  
22 INJURY, WAS IT CONSISTENT WITH BEING INFLICTED ON THE  
23 AFTERNOON OF SUNDAY, AUGUST THE 16TH?

24 A. YES, IT WOULD BE.

25 MS. SIMMONS: PLEASE ANSWER ANY QUESTIONS

1 MR. SENERIUS MAY HAVE.

2 CROSS-EXAMINATION BY MR. SENERIUS:

3 Q. GOOD AFTERNOON, DOCTOR.

4 A. GOOD AFTERNOON.

5 Q. YOU TESTIFIED I BELIEVE THAT IF IMMEDIATE, I'M  
6 ASSUMING LIKE REALLY IMMEDIATE MEDICAL ATTENTION HAD  
7 OCCURRED, IT MIGHT HAVE SAVED THE CHILD'S LIFE?

8 A. SHORTLY AFTER THE TRAUMA OCCURRED, IF THE PERSON  
9 WHO WAS PRESENT HAD CALLED EMS AND MEASURES TO PREVENT  
10 THE CONTINUED BLEEDING COULD THEN BE APPLIED AND ALSO TO  
11 REDUCE OR PREVENT THE SWELLING OF THE BRAIN.

12 Q. BUT IT'S ALSO POSSIBLE THAT IMMEDIATE MEDICAL  
13 ATTENTION WOULD NOT HAVE DONE ANYTHING, EITHER?

14 A. THAT'S CORRECT.

15 Q. YOU SAID THAT YOU BELIEVE THAT THE HEAD INJURY  
16 OCCURRED EIGHT HOURS OR LESS BEFORE EMS ARRIVED?

17 A. THAT'S CORRECT.

18 Q. OKAY. SO IT COULD HAVE BEEN AN HOUR BEFORE,  
19 ANYWHERE FROM THE TIME EMS ARRIVED TO EIGHT HOURS EARLIER  
20 IN THE DAY?

21 A. CERTAINLY WE'LL GIVE A FEW MINUTES BEFORE EMS  
22 ARRIVES, BUT, YEAH, A SHORT TIME BEFORE EMS ARRIVES OR  
23 TO EIGHT HOURS BEFORE THAT CALL WAS MADE.

24 Q. OKAY. AND IT'S YOUR MEDICAL OPINION THAT THE HEAD  
25 INJURY WOULD HAVE RESULTED IN ALMOST INSTANTANEOUS